



**BOARD OF COUNTY COMMISSIONERS**  
**FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER**

In the matter of the application of:

**Maestrejuan – Case CR2023-0006**

The Canyon County Planning and Zoning Commission considers the following:

1. Conditional Rezone of approximately 27.17 acres from “A” Agricultural to “CR-R-R” (Conditional Rezone - Rural Residential) zone. The request includes a development agreement (Attachment A). [CR2023-0006, 18257 Batt Corner Rd, Wilder, Parcel Number: R37244011; a portion of the SW¼ of Section 09, T3N, R3W, BM, Canyon County, Idaho]

**Summary of the Record**

1. The record is comprised of the following:
  - A. The record includes all testimony, the staff report, exhibits, and documents in Case File CR2023-0006.

**Applicable Law**

1. The following laws and ordinances apply to this decision: Canyon County Code §01-17 (Land Use/Land Division Hearing Procedures), Canyon County Code §07-05 (Notice, Hearing and Appeal Procedures), Canyon County Code §07-06-01 (Initiation of Proceedings), Canyon County Code §07-06-07 (Conditional Rezones), Canyon County Code §07-10-25 (Purposes of Zone), Canyon County Code §07-10-27 (Land Use Regulations (Matrix)), Idaho Code §67-6511 (Zoning Map Amendments and Procedures), and Canyon County Code §09-05-25 (Area of City Impact Agreement).
  - a. Notice of the public hearing was provided per CCZO §07-05-01 and Idaho Code §67-6509.
  - b. The presiding party may establish conditions, stipulations, restrictions, or limitations which restrict and limit the use of the rezoned property to less than the full use allowed under the requested zone, and which impose specific property improvement and maintenance requirements upon the requested land use. Such conditions, stipulations, restrictions, or limitations may be imposed to promote public health, safety, and welfare, or to reduce any potential damage, hazard, nuisance, or other detriment to persons or property in the vicinity to make the land use more compatible with neighboring land uses. *See* CCZO §07-06-07(1).
  - c. All conditional rezones for land use shall commence within two (2) years of the approval of the board. If the conditional rezone has not commenced within the stated time requirement, the application for a conditional rezone shall lapse and become void. *See* CCZO §07-05-01
2. The Board has the authority to exercise powers granted to it by the Idaho Local Land Use and Planning Act (“LLUPA”) and can establish its own ordinances regarding land use. *See* I.C. §67-6504, §67-6511.
3. The Board has the authority to hear this case and make its own independent determination. *See* I.C. §67-6519, §67-6504, 67-6509 & 67-6511.
4. The Board can sustain, modify or reject the Commission’s recommendations. *See* CCZO §07-05-03.
5. The burden of persuasion is upon the applicant to prove that all criteria are satisfied. CCZO §07-05-03.
6. Idaho Code §67-6535(2) requires the following: The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record. The

County's hearing procedures adopted per Idaho Code §67-6534 require that final decisions be in the form of written findings, conclusions, and orders. CCZO 07-05-03(1)(I).

The application, CR2023-0006, was presented at a public hearing before the Canyon County Board of County Commissioners on April 17, 2024. Having considered all the written and documentary evidence, the record, the staff report, oral testimony, and other evidence provided, including the conditions of approval and project plans, the Board of County Commissioners decides as follows:

**CONDITIONAL REZONE CRITERIA – CCZO §07-06-07(6)**

**1. Is the proposed conditional rezone generally consistent with the comprehensive plan?**

**Conclusion:** The proposed conditional rezone is consistent with the 2030 Canyon County Comprehensive Plan.

- Findings:**
- (1) The Canyon County Future Land Use Map designates the subject property as “Rural Residential” (Exhibit 3c, Staff Report). The designation provides for rural transitional areas to create a boundary between agricultural and urban areas. (Comp Plan 2030, Pg. 26).
  - (2) The parcel lies within the Area of Impact for the City of Homedale. Pursuant to 09-05-17 of the Canyon County Code, the County recognizes that the City of Homedale has also developed a comprehensive plan that addresses this area of impact. Conversations with the City of Homedale revealed that the City has no zonings for the Area of Impact and defers to the county for zonings and future land use of properties in the AOCI (Section 09-05-19 Canyon County Code).
  - (3) This request aligns with the following goals, policies, and actions of the 2030 Comprehensive Plan:
    - **P1.01.01** No Person should be deprived of private property without due process of law.
    - **P1.01.03** Ordinances and land use decisions should avoid imposing unnecessary conditions or procedures on development approvals
    - **P2.01.01** Plan for anticipated population and households the community can support with adequate services and amenities.
    - **G2.02.00** Promote housing, business, and service types needed to meet the demands of the future and existing population.
    - **P4.01.01** Maintain a balance between residential growth and agriculture that protects the rural character
    - **P4.03.02** Encourage the development of individual parcels and subdivisions that do not fragment existing land use patterns
    - **P4.03.03** Recognize that each land use application is unique and that agricultural and non-agricultural uses may be compatible and co-exist in the same area and in some instances may require conditions of approval to promote compatibility.
    - **P4.05.01** Promote future development and land use decisions that do not create hardship for farmers and agricultural operators.
    - **P4.06.03** Development should sustainably provide roadway and pathway connections, downward lighting, drainage, stormwater runoff, landscaping, revegetation of disturbed areas, underground utilities and weed control.
    - **P11.01.01** Encourage a variety of housing sizes that meet the needs of families, various age groups, and incomes.
  - (4) Evidence includes the conclusions and evidence provided in criteria 2 through 8.
  - (5) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2023-0006.

**2. When considering the surrounding land uses, is the proposed conditional rezone more appropriate than the current zoning designation?**

**Conclusion:** As conditioned, the proposed conditional rezone is more appropriate when considering the 2030 Canyon County Comprehensive Plan's future land use map and previous land use decisions in the area.

- Findings:**
- (1) The Canyon County Future Land Use Map designates the subject property as Rural Residential (Exhibit 3c, Staff Report). The designation provides for rural transitional areas to create a boundary between agricultural and urban areas. (Comp Plan 2030, Pg. 26).
  - (2) Residential zoning is predominant south of Ustick Road, approximately 2,500 feet south of the subject property, as it nears the Snake River and the entry into the City of Homedale (Exhibit 3a & 3d, Staff Report). Within one (1) mile of the subject property, there are seven (7) platted subdivisions totaling 48 lots (Exhibit 3e, Staff Report).
  - (3) The following are similar land use decisions made within the vicinity:
    - a. R33716 (9.19 acres), R33716012 (3.65 acres), and R33716011 (5.65 acres), located approximately 1,800 feet southwest of the subject property, were created via conditional rezone to "CR-R-R" (Conditional Rezone – Rural Residential). The development agreement locks development to no more than three parcels, a 6.16-acre average lot size (PH2013-12; Exhibit 6a, Staff Report).
    - b. R37244010 (1.82 acres) and R37244010A (1.18 acres), located approximately 140 feet west of the subject parcel, were approved for a 2020 Comprehensive Plan Map Amendment to a residential future land use designation and a rezone to "R-1" (Single Family Residential) in 2017 (PH2017-50; Exhibit 6b, Staff Report).
    - c. Parcel R37255013 (5 acres), located approximately 1,900 feet northwest of the subject property, was conditionally rezoned to "CR-R-R" (Conditional Rezone – Rural Residential, PH2017-48; Exhibit 6c, Staff Report). The development agreement allows a building permit on Parcel R37255013 subject to approximately 14 acres remaining in agricultural use in perpetuity (R37257010A).
    - d. Parcels R37251 (16.65 acres), R37251011 (3.01 acres), and R37251012 (3.01 acres), located approximately 1,310 feet north of the subject parcel, were created via conditional rezone to "CR-R-R" (Conditional Rezone – Rural Residential). The development agreement required approximately 14 acres on parcel R37251 to remain agricultural in perpetuity leaving the existing dwelling and accessory structures within a two-acre building envelope (CR2019-0018; Exhibit 6d, Staff Report).
  - (4) Conditions of the development agreement minimize potential impacts of the residential uses to adjacent agricultural properties (Attachment A).
  - (5) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2023-0006.

**3. Is the proposed conditional rezone compatible with surrounding land uses?**

**Conclusion:** The conditional rezone is compatible with the surrounding land uses.

- Findings:**
- (1) Residential zoning is predominant south of Ustick Road, approximately 2,500 feet south of the subject property, as it nears the Snake River and the entry into the City of Homedale (Exhibit 3a & 3d, Staff Report). Within one (1) mile of the subject property, there are seven (7) platted subdivisions totaling 48 lots (Exhibit 3e, Staff Report).
  - (2) The following are similar land use decisions made within the vicinity:
    - o R33716 (9.19 acres), R33716012 (3.65 acres), and R33716011 (5.65 acres), located approximately 1,800 feet southwest of the subject property, were created via conditional rezone to "CR-R-R" (Conditional Rezone – Rural Residential). The development

agreement locks development to no more than three parcels, a 6.16-acre average lot size (PH2013-12; Exhibit 6a, Staff Report).

- R37244010 (1.82 acres) and R37244010A (1.18 acres), located approximately 140 feet west of the subject parcel, were approved for a 2020 Comprehensive Plan Map Amendment to a residential future land use designation and a rezone to “R-1” (Single Family Residential) in 2017 (PH2017-50; Exhibit 6b, Staff Report).
- Parcel R37255013 (5 acres), located approximately 1,900 feet northwest of the subject property, was conditionally rezoned to “CR-R-R” (Conditional Rezone – Rural Residential, PH2017-48; Exhibit 6c of the Staff Report). The development agreement allows a building permit on Parcel R37255013 subject to approximately 14 acres remaining in agricultural use in perpetuity (R37257010A).
- Parcels R37251 (16.65 acres), R37251011 (3.01 acres), and R37251012 (3.01 acres), located approximately 1,310 feet north of the subject parcel, were created via conditional rezone to “CR-R-R” (Conditional Rezone – Rural Residential). The development agreement required approximately 14 acres on parcel R37251 to remain agricultural in perpetuity leaving the existing dwelling and accessory structures within a two-acre building envelope (CR2019-0018; Exhibit 6d, Staff Report).

(3) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2023-0006.

**4. Will the proposed conditional rezone negatively affect the character of the area? What measures will be implemented to mitigate impacts?**

**Conclusion:** As conditioned, the proposed rezone will not negatively affect the surrounding character of the area.

- Findings:**
- (1) The character of the area is primarily agricultural with associated dwellings and accessory structures and uses. The character changes south of Ustick Road to a residential character and setting closer to the entry into the City of Homedale and the Snake River (Exhibit 3a, Staff Report). The surrounding properties in the area are prime farmland. The property and surrounding area consist of Class III soils (Exhibit 3f, Staff Report). The majority of properties in the area appear to be in active agricultural use (Exhibit 3a & 7, Staff Report).
  - (2) Property owners within 600 feet were noticed on September 24, 2023. A newspaper notice was published on September 24, 2023. A notice was posted on the subject property on September 29, 2023. During the comment period, a mix of support and opposition letters were received (Exhibit 5 of the Staff Report and Exhibits 17 through 21 of the Staff Report Addendum):
    - a. Support comments find a rural residential development in the proposed location is necessary to meet the demands for housing that encourages a rural lifestyle (CCZO Section 07-10-25(2)) while reducing the impacts associated with smaller lot size on surrounding agricultural uses.
    - b. Letters of opposition expressed concerns about future subdivision impacts on groundwater, irrigation, traffic, and farmland.
  - (3) The applicant has submitted a rough draft of the subdivision CC&Rs which include stipulations that prohibit further divisions of platted lots, add provisions for maintenance, and encourage agricultural uses on each lot. The following added conditions were recommended by DSD staff:
    - a. Secondary dwellings (CCZO Section 07-02-03, 07-10-27 and 07-14-25) shall be prohibited. Secondary residences are allowed subject to the property owner living on-site in the primary dwelling. By prohibiting secondary dwellings, residential development will be limited to only primary dwellings which will reduce average daily trips from 228.48 to 114.24.

- b. A one-acre building envelope shall be established on each lot. The envelopes shall be located along the frontage of each lot. Areas outside the building envelope shall remain open for agricultural uses. After testimony by the applicant, including Exhibit 14 of the Staff Report Addendum with conceptual building envelope plans, the Board finds the staff recommended building envelope would not provide open space or buffer from adjacent parcels that would be beneficial (Exhibit 15, Staff Report). Therefore, the condition was removed.

As conditioned (Attachment A), potential impacts will be minimized and aligned with the intent of the rural residential designation in the 2030 Canyon County Comprehensive Plan.

- (4) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2023-0006

**5. Will adequate facilities and services including sewer, water, drainage, irrigation, and utilities be provided to accommodate the proposed conditional rezone?**

**Conclusion:** Adequate facilities for sewer, water, irrigation, and drainage will be provided for the proposed conditional rezone and subsequent development.

**Findings**

- (1) The development will use private well and septic systems provided for in the applicant's letter of intent (Exhibit 2a, Staff Report). Per prior IDWR's recommendations regarding individual and community wells, the request does not create 15 lots or more where a community well would be highly recommended.

A nitrate priority study conducted by Atlas Consultants concluded that the concentration for the individual septic tank systems ranged from 1.3 to 1.8 mg/L under the EPA Point of Compliance of 2.0 mg/L (Exhibit 2g, Staff Report). Southwest District Health approved the study (Exhibit 2h, Staff Report).

- (2) Irrigation will be provided via a 4-inch pressurized irrigation pipe from a pressurized pump house located outside the right of way alongside Boehner Road. These facilities are to be operated and maintained by the Homeowner's Association. A crossing agreement between the application and the Bureau of Reclamation ensures that the development does not disrupt irrigation facilities on or adjacent to the property (Exhibit 2i, Staff Report).
- (3) A nitrate priority study conducted by Atlas Consultants concluded that the concentration for the individual septic tank systems ranged from 1.3 to 1.8 mg/L under the EPA Point of Compliance of 2.0 mg/L (Exhibit 2g, Staff Report). Southwest District Health approved the study (Exhibit 2h, Staff Report).
- (4) The City of Homedale has approved the request of the applicant to waive the requirement for the development to connect to the city water service. The city's main well is located directly south of the proposed rezone and development. A water model was completed and reviewed by the City of Homedale (Exhibit 4f, Staff Report). The City of Homedale rejected the request to connect to the city well (Exhibit 16, Staff Report Addendum).
- (5) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2023-0006

**6. Does the proposed conditional rezone require public street improvements to provide adequate access to and from the subject property to minimize undue interference with existing or future traffic patterns? What measures have been taken to mitigate traffic impacts?**

**Conclusion:** The proposed conditional rezone will not require public street improvements to provide access to and from the subject property. Measures to mitigate traffic increases include utilizing Batt Corner Road for access. Access to the property will not be allowed off of Boehner Road.

**Findings:**

- (1) The applicant intends to utilize Batt Corner Rd, a minor collector. A 25' right of way pre-existing right of way runs along Boehner Road (Exhibit 4c, Staff Report).

- (2) Golden Gate Highway District #3 (GGHD3) indicated that the lot has legal access and that no undue interference with existing or future traffic patterns will be created by this proposed use (Exhibit 4c, Staff Report).
- (3) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2023-0006

**7. Does legal access to the subject property for the conditional rezone exist or will it exist at the time of development?**

**Conclusion:** Legal access to the subject property and proposed lots will exist through a private road.

- Findings:**
- (1) A private road application, RD2021-0030 (Exhibit 6e, Staff Report), was approved during the first attempt at rezoning and development (Exhibit 6g, Staff Report). The road is required to be a road lot on the plat.
  - (2) GGHD3 also indicated in their response that the site has legal access to Batt Corner Rd. (Exhibit 6e, Staff Report).
  - (3) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2023-0006

**8. Will the proposed conditional rezone amendment impact essential public services and facilities, such as schools, police, fire, and emergency medical services? What measures will be implemented to mitigate impacts?**

**Conclusion:** The proposed conditional rezone and subsequent subdivision will not impact essential public services including schools, police, fire, and EMS.

- Findings:**
- (1) Wilder Fire is the responsible fire district for this area. Per Exhibit 4a of the Staff Report, they expect no more than an eight to ten-minute response time under normal conditions. Wilder Fire will review the plat to determine if emergency access is required and if the turnaround meets their requirements.
  - (2) The development is located in the Homedale School District. No comments were received.
  - (3) Policing will be serviced by the Canyon County Sheriff’s Department. No response was received.
  - (4) The City of Homedale, after considering a water model completed by the applicant (Exhibit 6f, Staff Report) has approved the request of the applicant to waive the requirement for the development to connect to the city water service (Exhibit 16, Staff Report Addendum).
  - (5) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2023-0006

**Canyon County Code §09-05-25 (Area of City Impact Agreement) - AREA OF CITY IMPACT AGREEMENT ORDINANCE**

**Conclusion:** The property is located within the Homedale Area of City Impact. A notice was sent to the City of Homedale per Canyon County Code Section 09-05-25(3).

- Findings:**
- (1) The City of Homedale was notified on May 15, 2023, according to 09-05-25(3) and (09-05-17(3).
  - (2) The subject property is located within the Homedale Area of City Impact. The City of Homedale defers to County requirements and standards (Section 09-05-19 Canyon County Code). The City of Homedale, after considering a water model completed by the applicant (Exhibit 6f, Staff Report) has approved the request of the applicant to waive the requirement for the development to connect to the city water service (Exhibit 16, Staff Report Addendum). The applicant’s letter of intent (Exhibit 2a, Staff Report) states the preliminary plat includes curb and gutters along the private road as requested by Homedale. Improvements such as

sidewalks were requested to be waived.

- (3) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2023-0006.

**Order**


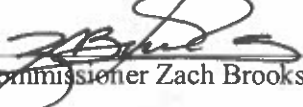
Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Board of County Commissioners **approve** Case # CR2023-0006, a conditional rezone of approximately 27.17 acres from "A" Agricultural to "CR-R-R" (Conditional Rezone - Rural Residential) zone subject to conditions of the development agreement (Attachment A).

According to Section 67-6535 of the Idaho Code, the applicant has 14 days from the date of the final decision to seek reconsideration before seeking judicial review.

DATED this 17 day of April, 2024.

CANYON COUNTY BOARD OF COMMISSIONERS

- Motion Carried Unanimously
- Motion Carried/Split Vote Below
- Motion Defeated/Split Vote Below

	Yes	No	Did Not Vote
 _____ Commissioner Leslie Van Beek	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Did not participate</u> _____ Commissioner Brad Holton	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 _____ Commissioner Zach Brooks	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Attest: Rick Hogaboam, Clerk

By: M. Beames  
Deputy

Date: 4-17-24

**ATTACHMENT A**  
**CONDITIONS OF APPROVAL**

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to the property.
2. The subject parcel, approximately 27 acres, zoned "R-R" (Rural Residential, two-acre average lot size) shall be divided in compliance with Chapter 7, Article 17 (Subdivision) of the Canyon County Zoning Ordinance (CCZO) in substantial compliance with the conceptual site plan (Attachment B) subject to the following restrictions:
  - a. A secondary dwelling (CCZO §07-10-27 & 07-14-25) is prohibited.
  - b. Irrigation water rights shall be utilized via a pressurized system (Idaho Code Sections 31-3805 & 65-6737. Irrigation Agreement between the applicant and neighbor (Attachment C) shall be recorded and honored.
  - c. Conditions of the draft CC&Rs provided by the applicant (Attachment B) shall be adhered to whether recorded as CC&Rs or not.
3. Historic irrigation lateral, drain, and ditch flow patterns shall be maintained and protected. Modifications or improvements shall be approved in writing by the local Irrigation District. A crossing agreement between the applicant/owner and the Bureau of Reclamation is required unless waiver by said jurisdiction.
4. The developer shall comply with CCZO §07-06-07 (4) Time Requirements: "All conditional rezones for a land use shall commence within two (2) years of the approval of the board."



## ATTACHMENT B

### Flying Arrow Landing Subdivision Proposed CC&R's

#### General Provisions:

1. I require owner acknowledgement that owners waive all protests regarding the surrounding farm operations, control of plant and/or animal species, to include the use of herbicides, pesticides, traps, or other methods of eradication. Owners will be asked to sign and agree to the disclosure that no complaints will be made formally to the HOA against the existing neighbors and farm operations unless that mentioned neighbor is breaking local governmental laws.
2. Owners are not prohibited from growing small crops, gardens, have animals or livestock, and will not be prohibited from doing business in the subdivision. A right to farm clause will be established in the HOA.
3. Owners may keep domesticated animals or livestock for their own purposes so long as they do not become a nuisance and if they do not violate any governmental laws regarding care, housing, pasturing etc.
4. Animal owners indemnify and hold harmless the developer, other owners, and the HOA from all damages caused to natural persons, personal property, real property etc. by their domesticated animals or livestock. This includes pollution, infection, contamination caused by their presence or the presence of their urine, feces, or dead bodies or body parts, medicines used to treat them etc.
5. Any animal found roaming, running, straying or being away from owner's lot will be declared to be a nuisance and the animal may be impounded according to applicable county ordinance.
6. Weed control- All owners are financially responsible for weed control of noxious plants to their platted lot and may work with others to maintain and control the spread of noxious weeds in the subdivision, adjacent neighbors, or local farm operations.
7. All lot owners are responsible for providing clean up of the constructions site, resulting from construction activities (building waste, vegetation clean up, landscaping, etc.), and for any manure produced from livestock or animal wastes.
8. All lot owners must provide for sufficient on-site parking and shall not allow any vehicles, at any time, to be parked on the private roadway of the subdivision.
9. No burning of trash, rubbish, or vegetation unless a county permit is obtained, and local fire jurisdictions are aware of such controlled burns.
10. Each lot owner(s) shall be responsible for compliance with all applicable federal, state, county and/or governmental statutes, ordinances and regulations, and any amendments relating in any way to the ownership and/or improvement of the lots within the plat.
11. No future land splits will be available to the platted lots and that disclosure will be agreed upon by the owner upon purchase.
12. All owners will be responsible for their easements and their respective maintenance on their property. All easements for utilities, drainage, etc. shall remain free of obstructions

## ATTACHMENT C

### **Proposed Development Agreement**

**Current property owner: Martin Maestrejuan**

**18257 Batt Corner Rd.**

**Wilder, ID 83676**

**Recipient: Chester Mervin**

**26747 Boehner Rd.**

**Wilder, 83676**

**Responsibilities of developer to recipient upon project approval from Canyon County are as follows:**

- 1. Developer will be responsible for providing new pump irrigation station on recipient's property. Pressurized irrigation system will be installed on recipient's property and financial responsibility from the power pole to the end of the existing underground irrigation water line only. Does not include any above ground irrigation equipment such as wheel lines, hand lines, solid set sprinklers, etc.**

**Developer's Responsibilities Itemized:**

- A. Power pole, electrical panel, sized irrigation pump, and all underground irrigation pipe from pump station to existing main line with risers running east and west on south end of property. Will also install continuous pipe fence with woven no climb wire material from property corner next to pump station adjacent to residence to corner that turns next to irrigation risers.**

**Recipients' Responsibilities:**

- A. Electrical permitting with Idaho Power and the Division of Building Safety.**
- 2. A proposed easement of 20' will be granted on Lot #5 of the preliminary plat to allow recipient access of agricultural equipment only to the property from the private road access in the subdivision. Any future sale agreement of Lot #5 that occurs, the new owner will agree to this condition upon purchase of the property and will also be informed of this condition prior to the sale. Communication responsibilities will need to be established between the recipient and the future property owner of Lot #5, not the developer.**

3. Upon completion of Item #1- Recipient agrees to review and possibly sign a proposed release agreement with developer to conclude irrigation responsibilities made to the recipient's property.

Both parties agree to the proposed development agreement with signature:

Owner: Mark Montoya

Recipient: Chris [Signature]

Date: 4-20-23

Date: 4-20-23