



Board of County Commissioners
Goldberg/LGD Ventures, LLC. - Conditional Rezone — RZ2021-0030

Findings of Fact, Conclusions of Law, and Order

Conditional Rezone - RZ2021-0030

Findings of Fact

1. Darren Goldberg of LGD Ventures, LLC, is requesting a conditional rezone of parcel R30117 from an "A" (Agricultural) Zone to a "CR-R-R" (Conditional Rezone Rural Residential) Zone. The request also includes a proposed Development Agreement with conditions.
2. The 78.5-acre property (Parcel No. R30117) is located on the south side of Lewis Lane, approximately 1300 ft. east of the intersection of Sky Ranch Road and Lewis Ln., Nampa, Idaho. The property is located in a portion of the NE¹/₄ of Section 13, T2N, R3W, B.M., Canyon County, Idaho.
3. The conditional rezone is being considered concurrently with the Preliminary Plat for Lewis Heights Subdivision (SD2021-0018).
4. The subject property is not located within an area of city impact.
5. A neighborhood meeting was held on March 16, 2021 pursuant to CCZO §07-01-15.
6. The subject property is located within Nampa Highway District No. 1, Upper Deer Flat Fire District, Nampa School District and Boise Project Board of Control.
7. The public hearing was held by the Planning & Zoning Commission on April 7, 2022, after which the Commission recommended denial of Case No. RZ2021-0030 and SD2021-0018.
8. On November 16, 2022, the Board of County Commissioners held a public hearing at which time they agreed with the applicants request to send the case with new evidence back to the Planning and Zoning Commission review and recommendation.
9. Additional materials from applicant including, but not limited to, updated Preliminary Plat, memo related to community water system, modified letter of intent, and fire district information has been submitted.
10. The public hearing was held by the Planning & Zoning Commission on December 21, 2023, after which the Commission recommended denial of Case No. RZ2021-0030 and SD2021-0018.
11. Notice of the Board of County Commissioners public hearing was provided in accordance with CCZO §07-05-01. Agency notice was provided on January 29, 2024. Full political notice was sent on January 29, 2024. Newspaper notice was published on February 3, 2024. Property owners within 600' were notified by mail on January 29, 2024 and re-noticed on February 9, 2024. The property was posted on February 15, 2024.
12. The record includes all testimony received at the public hearing held on March 14, 2024, as well as public testimony from other hearings, as noted in the minutes of those hearings, the staff report, exhibits, late exhibits entered into the record on March 14, 2024 at the Board of County Commissioner's hearing and documents in Case file No. SD2021-0018.
13. The Board of County Commissioners requested new FCO's to be drafted in the affirmative as well as an updated Development Agreement with conditions be drafted to be presented at a public hearing on May 1, 2024 at 1:30 pm.
14. The record includes all testimony received at the public hearing held May 1, 2024, as well as public testimony from other hearings, as noted in the minutes of those hearings, the staff report, exhibits, late exhibits entered into the record on March 14, 2024 at the Board of County Commissioner's hearing and documents in Case file No. RZ2021-0030.

Conclusions of Law

For this request, the Board of County Commissioners must find and conclude the following regarding the Standards of Review for a Conditional Rezone (CCZO §07-06-07(6)):

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

Conclusion: The proposed conditional is in general conformance with the 2020 future land use map and comprehensive plan.

Finding: The subject property is designated as "residential" on the Future Land Use map within the 2020 Canyon County Comprehensive Plan. The request is in general conformance with the following policies and goals:

Chapter 1. Property Rights

Goal 1. Canyon County will ensure that land use policies, restrictions, conditions and fees do not violate private property rights or create unnecessary technical limitations on the use of property.

Policy 7. Develop ordinances that identify or define uses associated with each land use zone to promote clear understanding of property rights.

Policy 8. Promote orderly development that benefits the public good and protects the individual with a minimum of conflict.

Policy 12. Property owners acknowledge and expect that Canyon County will preserve private property rights and values by enforcing regulations that will ensure against incompatible and detrimental neighboring land uses.

Chapter 2. Population

Goal 1. Consider population growth trends when making land use decisions.

Policy 3. Encourage future population to locate in areas that are conducive for residential living and that do not pose an incompatible land use to other land uses.

Chapter 5. Land Use

Goal 1. To encourage growth and development in an orderly fashion, minimize adverse impacts on differing land uses, public health, safety, infrastructure and services.

Goal 2. To provide for the orderly growth and accompanying development of the resources within the county that is compatible with the surrounding area.

Goal 3. Use appropriate techniques to mitigate incompatible land uses.

Goal 5. Achieve a land use balance, which recognizes that existing agricultural uses and non-agricultural development may occur in the same area.

Goal 6. Designate areas where rural type residential development will likely occur and recognize areas where agricultural development will likely occur.

Policy 1. Review all residential, commercial and industrial development proposals to determine the land use compatibility and impact to surrounding areas.

Policy 2. Encourage orderly development of subdivisions and individual land parcels, and require development agreements when appropriate.

Policy 6. Review all development proposals in areas that are critical to groundwater recharge and sources to determine impacts, if any, to surface and groundwater quantity and quality.

Agricultural Policy 3. Canyon County supports Idaho's Right to Farm laws (Idaho Code § 22-4501-22-4504), as amended.

Residential This policy recognizes that population growth and the resulting residential development should occur where public infrastructure, services and facilities are available or where there is a development pattern already established.

Chapter 8. Public Services, Facilities and Utilities Component

Policy 3. Encourage the establishment of new development to be located within the boundaries of a rural fire protection district.

Chapter 9. Transportation

Policy 13. Ensure that all new development is accessible to regularly maintained roads for fire protection and emergency service purposes.

Chapter 11. Housing

Goal 1. Encourage opportunities for a diversity of housing choices in Canyon County.

Chapter 12. Community Design

Policy 9. Encourage pressurized irrigation systems using non-potable water where reasonably possible (Idaho Code 67-6537).

Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case RZ2021-0030.

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

Conclusion: The proposed conditional rezone is more appropriate than the current zoning designation of agriculture.

Finding: When considering the surrounding land uses, the proposed conditional rezone is more appropriate than the current zoning of "agriculture." The property is adjacent to platted residential subdivisions on the east, north, west, and south. The site is also within close proximity to residential uses as well as residential zoning. On December 21, 2022, a Conditional Rezone – Rural Residential and Preliminary Plat for 33 lots was approved immediately to the south of this parcel (RZ2020-0019/SD2020-0035).

Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case RZ2021-0030. Evidence includes findings 2, 3 and 4 within this document.

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

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

Finding: The proposed conditional rezone is compatible with the surrounding uses. The property is adjacent to platted residential subdivisions on the east, north, west, and south boundaries. The proposed conditional rezone would not introduce an incompatible land use to the area. On December 21, 2022, a Conditional Rezone – Rural Residential and Preliminary Plat for 33 lots was approved to the south of this parcel (RZ2020-0019/SD2020-0035).

Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case RZ2021-0030. Evidence includes findings 2, 3 and 4 within this document.

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

Conclusion: The proposed conditional rezone will not have a negative impact to the character of the area.

Finding: The property is identified as "residential" on the Canyon County Future Land Use Map. Although the property has an agricultural history, the parcel lacks surface water rights. Agricultural uses have water rights to ground water for irrigation. The character of the area has become residential which makes it increasingly difficult to remain agricultural. (Exhibit I, Attachment 6d of the staff report)

Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case RZ2021-0030. Evidence includes findings 2, 3 and 4 within this document.

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

Conclusion: Adequate sewer, water & drainage will be provided to accommodate the conditional rezone.

Finding: Platting as a residential subdivision is required for the proposed development. The developer shall meet agency requirements at the time of development.

- *Individual septic systems* are proposed for each residential lot. The site is not located within a nitrate priority area. The requirements of Southwest District Health Department shall be met, including, but not limited to, an approved Subdivision Engineering Report (SER) with the final plat. A Pre-Development meeting was conducted with Southwest District Health showing that groundwater monitoring has begun.
- *Community Water System* is proposed this development. The applicant has provided hydrology studies that demonstrate development will not impact the aquifer or existing property owner's rights to the aquifer. With the updated applicant letter, water memo and proposed community water system, this addresses the concerns of the testimony provided at the April 7, 2022 Planning and Zoning Commission public hearing indicating the water well construction issues in the area.
- *Pressurized irrigation* will be provided to each residential lot. The applicant's letter of intent indicates the existing irrigation well on the property will be used to supply the water. A pump station will be placed within a common lot to be used for irrigation and fire suppression.
- *Storm Water Drainage* will be retained on site via retention ponds.

Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case RZ2021-0030.

6. Does the proposed conditional rezone require public street improvements in order 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 road improvements or traffic impacts?

Conclusion: The conditional rezone of the subject property will not cause undue interference with existing or future traffic patterns as proposed.

Finding: No evidence has been provided that the proposed conditional rezone will require public street improvements to provide adequate access. The number of lots proposed will not trigger a traffic impact study.

The requirements of Nampa Highway District No. 1 shall be met throughout the platting stage of the development.

Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case RZ2021-0030.

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

Conclusion: The property has frontage on Lewis Lane, a public road.

Finding: The requirements of Nampa Highway District No. 1 shall be met for access to the site. The highway district is a signatory on the final plat.

Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case RZ2021-0030.

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: Essential services will be provided to accommodate the use.

Finding: No evidence has been provided that proposed use will require additional public funding to meet the needs created by the requested use and police, fire, and emergency medical services will be provided to the property. Deer Flat Fire District has approved the applicant's plan for fire suppression. (Exhibit C, Attachment 8) Nampa School District is requesting a lighted bus stop area. (Exhibit I, Attachment 7a)

Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case RZ2021-0030.

Order

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Board of County Commissioners **approves** Case #RZ2021-0030, a conditional rezone from an "A" zone (Agricultural) to an "CR-R-R" zone (Conditional Rezone Rural Residential) for Parcel No. R30117 subject to conditions of the development agreement (Attachment A of this document).

DATED this _____ day of _____, 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	_____	_____	_____
_____ Commissioner Brad Holton	_____	_____	_____
_____ Commissioner Zach Brooks	_____	_____	_____

Attest: Rick Hogaboam, Clerk

By: _____
Deputy

Date: _____

DRAFT

ATTACHMENT A

CONDITIONS OF THE DEVELOPMENT AGREEMENT

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 shall be in subjection to the Canyon County Zoning Ordinance Chapter 7, Article 17 for platting with a maximum of 31 buildable lots with an average lot size of 2.00 acres, in substantial conformance of the concept plan (Lewis Heights Preliminary Plat).
3. The applicant 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."
 - a. Commencement shall be the submission of a Preliminary Plat application, submittals and fees to Development Services Department.
4. All storm water drainage shall be retained on site via retention ponds.
5. Internal roadways shall be public roads and built to Nampa Highway District No. 1 standards. The requirements of Nampa Highway District No. 1 shall be met.
6. Pressurized irrigation shall provide irrigation water to each residential lot within the subdivision.
7. A lighted bus stop area shall be placed near the entrance of the subdivision, with coordination with Nampa School District, prior to the Board's signature on the final plat.
8. The development will supply water via a Community Water System.



Board of County Commissioners
Lewis Heights Subdivision — SD2021-0018

FINDINGS, CONCLUSIONS, CONDITIONS, ORDER

Preliminary Plat — SD2021-0018

Findings

1. Darren Goldberg LGD Ventures, LLC, is a preliminary plat (including irrigation & drainage) for Lewis Heights Subdivision (Attachment A).
2. The 78.5-acre property (Parcel No. R30117) is located on the south side of Lewis Lane, approximately 1300 ft. east of the intersection of Sky Ranch Road and Lewis Ln., Nampa, Idaho. The property is located in a portion of the NE' 4 of Section 13, T2N, R3W, B.M., Canyon County, Idaho.
3. The plat is being considered concurrently with a conditional rezone from an "A" (Agricultural) Zone to a "CR-R-R" (Conditional Rezone Rural Residential) Zone (RZ2021-0030). The conditional rezone application was recommended for approval on December 21, 2023.
4. The subject property is not located within an area of city impact.
5. Lewis Heights Subdivision contains 31 residential lots.
6. The Subdivision would be serviced by individual septic systems and a community water system.
7. Internal public roads will provide access to each residential lot.
8. The subject property is located within Nampa Highway District No. 1, Upper Deer Flat Fire District, Nampa School District and Boise Project Board of Control.
9. The development is not located in a floodplain (Flood Zone X).
10. The public hearing was held by the Planning & Zoning Commission on April 7, 2022, after which the Commission recommended denial of Case No. RZ2021-0030 and SD2021-0018.
11. On November 16, 2022, the Board of County Commissioners held a public hearing at which time they agreed with the applicants request to send the case with new evidence back to the Planning and Zoning Commission.
12. Additional materials from applicant including, but not limited to, updated Preliminary Plat, memo related to community water system, modified letter of intent, and fire district information has been submitted.
13. The public hearing was held by the Planning & Zoning Commission on December 21, 2023, after which the Commission recommended denial of Case No. RZ2021-0030 and SD2021-0018.
14. Notice of the Board of County Commissioners public hearing was provided in accordance with CCZO §07-05-01. Agency notice was provided on January 29, 2024. Full political notice was sent on January 29, 2024. Newspaper notice was published on February 3, 2024. Property owners within 600' were notified by mail on January 29, 2024 and re-noticed on February 9, 2024. The property was posted on February 15, 2024.
15. The record includes all testimony received at the public hearing held on March 14, 2024, as well as public testimony from other hearings, as noted in the minutes of those hearings, the staff report, exhibits, late exhibits entered into the record on March 14, 2024 at the Board of County Commissioner's hearing and documents in Case file No. SD2021-0018.
16. The Board of County Commissioners requested new FCO's to be drafted in the affirmative as well as an updated Development Agreement with conditions be drafted to be presented at a public hearing on May 1, 2024 at 1:30 pm.
17. The record includes all testimony received at the public hearing held May 1, 2024, as well as public testimony from other hearings, as noted in the minutes of those hearings, the staff report, exhibits, late exhibits entered

into the record on March 14, 2024 at the Board of County Commissioner's hearing and documents in Case file No. SD2021-0018.

Conclusions of Law

Pursuant to CCZO §07-17-09(4): Commission Action:

“The commission or hearing examiner shall hold a noticed public hearing on the preliminary plat. The hearing body shall recommend that the board approve, approve conditionally, modify, or deny the preliminary plat. The reasons for such action will be shown in the Commission's minutes. The reasons for action taken shall specify:

- 1. The ordinance and standards used in evaluating the application;*
- 2. Recommendations for conditions of approval that would minimize adverse conditions, if any;*
- 3. The reasons for recommending the approval, conditional approval, modification, or denial; and*
- 4. If denied, the actions, if any, that the applicant could take to gain approval of the proposed subdivision.”*

Pursuant to CCZO §07-17-09(5): Board Action:

“The board shall consider the commission's recommendation at a noticed public hearing. The board shall base its findings upon the evidence presented at the board's public hearing, and within thirty (30) calendar days declare its findings. It may sustain, modify or reject the recommendations of the commission and make such findings as are consistent with the provisions of this chapter and the Idaho Code. The findings shall specify:

- 1. The ordinance and standards used in evaluating the application;*
- 2. The reasons for approval or denial; and*
- 3. If denied, the actions, if any, that the applicant could take to gain approval of the proposed subdivision.”*

Standard of Review for Subdivision Plat:

- A. Idaho Code, Sections 67-6512, 6509 and 6535 (Subdivisions, Hearings, Decisions);
- B. Idaho Code, Sections 50-1301 through 50-1329 (Platting);
- C. Idaho Code, 31-3805 (Irrigation)
- D. Canyon County Code §07-17-19 (Preliminary Plat)
- E. Canyon County Zoning Ordinance (CCZO), Article 17 (Subdivision Regulations).
 - a. The preliminary plat was found to be complete by Keller Associates (Exhibit C, Attachment 1) subject to conditions of approval.

Conditions of Approval

1. All subdivision improvements and amenities shall be bonded or completed prior to the Board of County Commissioner's signature on the final plat.
2. Historic irrigation lateral, drain, ditch flow patterns, and easements shall be maintained unless approved in writing by the local irrigation entity.
3. Finish grades at subdivision boundaries shall match existing finish grades. Runoff shall be maintained on subdivision property unless otherwise approved (Exhibit C, Attachment 1).
4. Plat shall comply with the requirements of Nampa Highway District No. 1 (Exhibit I, Attachment 7b). Evidence of compliance shall be Nampa Highway District No. 1 signature on the final plat.
5. The development shall comply with Southwest District Health requirements (Exhibit C, Attachment 9). Evidence of compliance shall be Southwest District Health's signature on the final plat.

6. An Irrigation Water User’s Maintenance Agreement for all lots within the development shall be recorded with the Canyon County Recorder’s Office prior to the Board signing the final plat.
7. Prior to the Board signing the final plat, an easement or common lot shall be added to provide a United States Postal Service community mailbox unless waived by the United States Postal Service.
8. Plat shall comply with the International Fire Code as administered through Upper Deer Flat Fire District.
9. A lighted bus stop area shall be placed near the entrance of the subdivision, with coordination with Nampa School District, prior to the Board's signature on the final plat.

Order

Based upon the Findings of Fact, Conclusions of Law contained herein for Case No. SD2021-0018 the Board of County Commissioners **approves** the Preliminary Plat (irrigation & drainage plan) for Lewis Heights Subdivision.

DATED this _____ day of _____, 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	_____	_____	_____
_____ Commissioner Brad Holton	_____	_____	_____
_____ Commissioner Zach Brooks	_____	_____	_____

Attest: Rick Hogaboam, Clerk

By: _____
Deputy

Date: _____



CANYON COUNTY DEVELOPMENT SERVICES DEPARTMENT

111 North 11th Avenue #310 • Caldwell, Idaho • 83605 • Phone (208) 454-7458
www.canyoncounty.id.gov

**DEVELOPMENT AGREEMENT
BETWEEN CANYON COUNTY AND APPLICANT**

Agreement number: _____

THIS AGREEMENT, made and entered into this _____ day of _____, 2024, by and between Canyon County, Idaho, a political subdivision of the state of Idaho, hereinafter referred to as “COUNTY” and LGD Ventures, LLC, Darren Goldberg, hereinafter referred to as “Applicant.”

RECITALS

WHEREAS, The Applicant has applied to the County for a conditional rezone from an “A” (Agricultural) Zone to “CR-R-1” (Conditional Rezone – Single Family Residential) Zone (RZ2021-0030), which are legally described in the attached EXHIBIT “A,” incorporated by reference herein (hereinafter referred to as “Subject Property”); and

WHEREAS, Parcel R30117, approximately 78.55 acres, is owned by the Applicant; and

WHEREAS, on the _____ day of _____, 2024, the Canyon County Board of Commissioners approved a conditional rezone with conditions of the Subject Property to a “CR-R-1” Zone, which was done with Applicant’s approval. The conditions of the approval for the conditional rezone are attached hereto as EXHIBIT “B”; and

WHEREAS, the parties desire to enter into an agreement to comply with Canyon County Code of Ordinances §07-06-07(2) & 07-06-07(7), Canyon County Zoning Ordinance, or as amended, and to ensure the Applicants will implement and be bound by the conditions of the rezone order issued by the Canyon County Board of Commissioners; and

NOW THEREFORE, the parties hereto do hereby agree to the following terms:

SECTION 1. AUTHORIZATION.

This Agreement is authorized and required by Idaho Code §67-6511A; Canyon County Code of Ordinances 07-06-07 (Conditional Rezoning).

SECTION 2. PROPERTY OWNER.

Applicants are the owner(s) of Subject Properties which is located in the unincorporated area of Canyon County, Idaho, more particularly described in EXHIBIT “A”, attached hereto and incorporated herein, which real property is the subject matter of this Agreement. Applicants represent that they currently hold complete legal or equitable interest in the Subject Properties and that all persons holding legal or equitable interests in the Subject Properties or the operation of the business are to be bound by this Agreement.

SECTION 3. RECORDATION.

Pursuant to Idaho Code §67-6511A and Canyon County Code of Ordinances, this Agreement shall be recorded by the Clerk in the Canyon County Recorder's Office and will take effect upon the adoption, by the Board of County Commissioners, of the amendment to the zoning ordinance as set forth herein.

SECTION 4. TERM.

The parties agree that this Agreement shall run with the land and bind the Subject Property in perpetuity, and shall inure to the benefit of and be enforceable by the parties, and any of their respective legal representatives, heirs, successors, and assignees. Provided, however, this Agreement shall terminate if the Board of County Commissioners subsequently rezones the property to allow for a higher density use or if annexation of the Subject Property by a city occurs. In this event, however, the Agreement shall only terminate in regards to the portion of the Property that is actually rezoned or annexed, while the remainder of the Property shall remain subject to the Agreement.

If any of the privileges or rights created by this Agreement would otherwise be unlawful or void for violation of (1) the rule against perpetuities or some analogous statutory provision, (2) the rule restricting restraints on alienation, or (3) any other statutory or common law rules imposing time limits, then such provision shall continue until twenty-one (21) years after the death of the last survivor of the now living lawful descendants of George Herbert Walker Bush, former President of the United States, or for such shorter period as may be required to sustain the validity of such provision.

SECTION 5. MODIFICATION.

This Agreement may be modified only in writing signed by the parties, or their successors in interest, after complying with the notice and hearing procedures of Idaho Code §67-6509 and the requirements of Canyon County Code of Ordinances. The modification proposal must be in the form of a revised Development Agreement and must be accompanied by a statement demonstrating the necessity for the requested modification.

SECTION 6. APPLICATION OF OTHER LAWS TO THE SUBJECT PROPERTIES.

This Agreement shall not prevent the County in subsequent actions applicable to the Subject Properties from applying new rules, regulations, or policies that do not conflict with this Agreement.

SECTION 7. COMMITMENTS.

Applicants will fully and completely comply with the conditions of the approved conditional rezone of the Subject Property from "A" (Agricultural) Zone to "CR-R-1" (Conditional Rezone – Single Family Residential) Zone, which conditions are attached hereto as EXHIBIT "B".

SECTION 8. USES, DENSITY, AND HEIGHT AND SIZE OF BUILDINGS

The density or intensity of use of the Subject Properties is specified in the commitments of Section 7 unless conditioned otherwise (see EXHIBIT "B"). The uses and maximum height and size of the buildings on the Subject Properties shall be those set pursuant to law, including those contained in the Canyon County Code of Ordinances, that are applicable to an "CR-R-1" (Conditional Rezone – Single Family Residential) zone and those provisions of law that are otherwise applicable to the Subject Property.

SECTION 9. LIABILITY AND INDEMNITY OF COUNTY.

A. COUNTY REVIEW.

Applicants acknowledge and agree that the County is not and shall not be, in any way, liable for any damages or injuries that may be sustained as a result of the County's review and approval of any plans or improvements, or the issuance of any approvals, permits, certificates or acceptances, relating to the use and development of the property described in EXHIBIT "A," and that the County's review and approval of any such plans and the improvements or the issuance of any such approvals, permits, certificates, or acceptances does not, and shall not, in any way, be deemed to insure or ensure Applicants or any of Applicants' heirs, successors, assigns, tenants, and licensees, against damage or injury of any kind and/or at any time.

B. COUNTY PROCEDURES.

Applicants acknowledge that notices, meetings, and hearings have been lawfully and properly given and held by the County with respect to Applicant's conditional rezone application in Development Services Department Case Number RZ2021-0030 and any related or resulting development agreements, ordinances, rules and regulations, resolutions or orders of the Board of County Commissioners. Applicants agree not to challenge the lawfulness, procedures, proceedings, correctness or validity of any of such notices, meetings, hearings, development agreements, ordinances, rules, regulations, resolutions or orders.

C. INDEMNITY.

Applicants agree to, and do hereby, defend, hold harmless and indemnify the County, the Board of County Commissioners, all County elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any such parties in connection with (i) the County's review and approval of any plans or improvements, or the issuance of any approvals, permits, certificates, or acceptances relating to the use and/or development of the Subject Properties; (ii) any actions taken by the County pursuant to Subsection 9(B) of this Agreement; (iii) the development, construction, and maintenance of the property; and (iv) the performance by County of its obligations under this Agreement and all related ordinances, resolutions, or other agreements.

D. DEFENSE EXPENSES.

Applicants shall, and do hereby agree, to pay, without protest, all expenses incurred by the County in defending itself with regard to any and all of the claims identified in Subsection 9 of this Agreement. These expenses shall include all out-of-pocket expenses, including, but not limited to, attorneys' and experts' fees, and shall also include the reasonable value of any services rendered by any employees of the County.

SECTION 10. PERIODIC REVIEW.

The County's Development Services Department will administer the Agreement after it becomes effective and will conduct a review of compliance with the terms of this Agreement on a periodic basis, including, but not limited to, each time a development of the Property is platted. Applicants shall have the duty to demonstrate Applicants' compliance with the terms of this Agreement during such review.

SECTION 11. REQUIRED PERFORMANCE.

Applicants shall timely carry out all steps required to be performed and maintain all commitments set forth

in this Agreement and as set forth in County laws, ordinances, rules and regulations as they pertain to the Subject Property including, but not limited to, those concerning the commencement of development, completion of development, preliminary platting and final platting.

SECTION 12. DEFAULT AND REMEDIES.

In the event of a default or breach of this Agreement or of any of its terms or conditions, the party alleging default shall give the breaching party not less than thirty (30) days, Notice of Default, in writing, unless an emergency exists threatening the health and safety of the public. If such an emergency exists, written notice shall be given in a reasonable time and manner in light of the circumstances of the breach. The time of the giving of the notice shall be measured from the date of the written Notice of Default. The Notice of Default shall specify the nature of the alleged default and, where appropriate, the manner and period of time during which said default may be satisfactorily cured. During any period of curing, the party charged shall not be considered in default for the purposes of termination or zoning reversion, or the institution of legal proceedings. If the default is cured, then no default shall exist and the charging party shall take no further action.

SECTION 13. ZONING REVERSION CONSENT.

The execution of this Agreement shall be deemed written consent by Applicants to change the zoning of the Subject Property to its prior designation upon failure to comply with the terms and conditions imposed by the approved conditional rezoning and this Agreement. No reversion shall take place until after a hearing on this matter pursuant to Idaho Code §67-6511A. Upon notice and hearing, as provided in this Agreement and in Idaho Code §67-6509, if the properties described in attached EXHIBIT "A" are not used as approved, or if the approved use ends or is abandoned, the Board of County Commissioners may order that the property will revert to the zoning designation (and land uses allowed by that zoning designation) existing immediately prior to the rezoning action, i.e., the Subject Property conditionally rezoned from "A" (Agricultural) Zone designation to "CR-R-1" (Conditional Rezone – Single Family Residential) Zone designation shall revert back to the "A" (Agricultural) Zone designation.

SECTION 14. COMPLIANCE WITH LAWS.

Applicants agree that they will comply with all federal, state, county and local laws, rules and regulations, which appertain to the Subject Property.

SECTION 15. RELATIONSHIP OF PARTIES.

It is understood that this Agreement between Applicants and the County is such that Applicants are an independent party and are not an agent of the County.

SECTION 16. CHANGES IN LAW.

Any reference to laws, ordinances, rules, regulations, or resolutions shall include such laws, ordinances, rules, regulations, or resolutions as they have been, or as they may hereafter be amended.

SECTION 17. NOTICES.

Except as otherwise provided in this Agreement and/or by law, all notices and other communications in connection with this Agreement shall be in writing and shall be deemed delivered to the addressee thereof, (1) when delivered in person on a business day at the address set forth below, or (2) in the third business day after being deposited in any main or branch United States post office, for delivery by properly addressed, postage paid, certified or registered mail, return receipt requested, at the addresses set forth below.

Notices and communications required to be given to County shall be addressed to, and delivered at, the following address:

Director
Development Services Department
Canyon County Administration
111 North 11th Avenue, #310
Caldwell, Idaho 83605

Notices and communications required to be given to the Applicant shall be addressed to, and delivered at, the following addresses:

Name: LGD Ventures, LLC, Darren Goldberg
Street Address: PO Box 9325
City, State, Zip: Boise, ID 83707

A party may change its address by giving notice, in writing, to the other party, in the manner provided for in this section. Thereafter, notices, demands, and other pertinent correspondence shall be addressed and transmitted to the new address.

SECTION 18. TERMINATION.

This Agreement may be terminated in accordance with the notice and hearing procedures of Idaho Code §67-6509, and the zoning designation upon which the use is based reversed, upon failure of Applicant(s), a subsequent owner, or other person acquiring an interest in the property described in attached EXHIBIT "A" to comply with the terms of this Agreement. Applicants shall comply with all commitments in this Agreement prior to establishing the approved land use.

SECTION 19. EFFECTIVE DATE.

The commitments contained in this Agreement shall take effect in the manner described in this Agreement upon the County's adoption of the amendment to the zoning ordinance as set forth herein.

SECTION 20. TIME OF ESSENCE.

Time is of the essence in the performance of all terms and provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

**BOARD OF COUNTY COMMISSIONERS
CANYON COUNTY, IDAHO**

APPLICANT

Commissioner Leslie Van Beek

Darren Goldberg, LGD Ventures, Property
Owner

Commissioner Brad Holton

Commissioner Zach Brooks

ATTEST: Rick Hogaboam, Clerk

BY: _____
Deputy

DATE: _____

(All Applicants must sign and their signatures must be notarized)

STATE OF IDAHO)
) ss.
County of Canyon)

On this _____ day of _____, 20____, before me, a notary public, personally appeared _____, known to me to be the person whose name is subscribed to the within and foregoing instrument and acknowledged to me that he/she executed the same on behalf of the Applicant.

Notary Public for Idaho

Residing at: _____

My Commission Expires: _____

EXHIBIT "A"

LEGAL DESCRIPTION

The Northwest Quarter of the Northeast Quarter and then Northeast Quarter of the Northwest Quarter of Section 13, Township 2 North, Range 3 West, Boise Meridian, Canyon County, Idaho;

Excepting therefrom:

Commencing at the Northeast corner of the Northwest Quarter of the Northeast Quarter

of Section 13, Township 2 North, Range 3 West., Boise Meridian, Canyon County, Idaho, the INITIAL POINT of this road right-of-way; thence

South 0°05'02" East (formerly stated at South 0°13'25" West) 1,325.25 feet along the East line of the said Northwest Quarter of the Northeast Quarter, to the Southeast corner thereof; thence

South 89°44'01" West 60.00 feet along the South line of the said Northwest Quarter of the Northeast Quarter; thence

North 0°05'02" West 1,325.22 feet parallel with the said East line to a point on the North line of said Northwest Quarter of the Northeast Quarter; thence

North 89°42'12" East 60.00 feet along the said North line to the INITIAL POINT of this road right-of-way.

EXHIBIT "B"

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 shall be in subjection to the Canyon County Zoning Ordinance Chapter 7, Article 17 for platting with a maximum of 31 buildable lots with an average lot size of 2.00 acres, in substantial conformance of the concept plan (Lewis Heights Preliminary Plat).
3. The applicant 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."
 - a. Commencement shall be the submission of a Preliminary Plat application, submittals and fees to Development Services Department.
4. All storm water drainage shall be retained on site via retention ponds.
5. Internal roadways shall be public roads and built to Nampa Highway District No. 1 standards. The requirements of Nampa Highway District No. 1 shall be met.
6. Pressurized irrigation shall provide irrigation water to each residential lot within the subdivision.
7. A lighted bus stop area shall be placed near the entrance of the subdivision, with coordination with Nampa School District, prior to the Board's signature on the final plat.
8. The development will supply water via a Community Water System.