



**Board of County Commissioners**  
**Hearing Date: December 3, 2024**  
*Canyon County Development Services Department*

**PLANNING DIVISION ADDENDUM**

**CASE NUMBER:** SD2023-0006  
**APPLICANT/REPRESENTATIVE:** Derritt Kerner and Darin Taylor, Rodney Evans & Associates  
**PROPERTY OWNER:** Wayne Lippert  
**APPLICATION:** Preliminary Plat for Lippert Subdivision, a two-lot subdivision  
**LOCATION:** 9626 Gilbert Road, Middleton  
Parcel R37431010, 20 acres  
**ANALYST:** Dan Lister, Principal Planner  
**REVIEWED BY:** Carl Anderson, Planning Supervisor  
**P&Z RECOMMENDATION:** Approval with Conditions

**SUMMARY**

The applicant requests approval of a preliminary plat for Lippert Subdivision. The result creates two (2) lots. The request includes a waiver of subdivision improvements. The Planning & Zoning Commission heard the case at a public hearing held on October 3, 2024. After deliberation, the Planning & Zoning Commission recommended approval subject to conditions (**Exhibit A & B**).

The Staff report packet dated October 3, 2024, and all supporting materials are contained in **Exhibit C**. Any additional agency & public comments received for the subject public hearing, or received as a late exhibit at the previous public hearing may be found in **Exhibits D & E**. A draft version of the Board's Findings of Fact, Conclusions of Law & Order (FCO) may be found in **Exhibit F**.

**ADDITIONAL CONSIDERATION**

The request includes a 70' wide ingress/egress easement (Inst. No. 2024-016860, **Exhibit A.2b**) along the south property boundary to serve as access to Lot 1 of Lippert Subdivision and future access to future development on Parcel R37431017A. Parcel R37431017A was conditionally rezoned to "CR-R-R" in 2022 with conditions that require road improvements along Gloria Road and Merlynn Lane unless access was granted through the subject parcel (Codr – RZ2021-0055; **Exhibit A.7**).

The approval of RZ2021-0055 (Codr) restricts development to six (6) lots. Per CCZO Section 07-17-31(1)A, a private road must be a numbered lot in a subdivision. The Codr development will require a private road through the 70' wide easement. Therefore, the easement should be a road lot as part of this application. However, since the Codr development has not been submitted, the 70' width meets the County Code for an easement serving two properties (CCZO Section 07-10-03)(1)B2).

The following condition is recommended if the Board requests compliance with CCZO Section 07-17-31:

- The 70' wide access easement (Inst. #2024-016860) shall become a road lot in accordance with CCZO Section 07-17-31(1)A on the final plat submitted to DSD.

**EXHIBITS:**

- A. Planning & Zoning Commission FCOs, dated October 3, 2024
- B. Planning & Zoning Commission Minutes signed November 7, 2024.

- C. Staff Report Packet, dated October 3, 2024
- D. Agency Comments
  - 1. Highway District #4, dated August 28, 2024 (Submitted by the applicant on October 3, 2024).
- E. Public Comments
  - 1. Ashley Quenzer, dated November 7, 2024
- F. DSD PowerPoint Presentation
- G. Draft FCOs with Attachments



**Planning & Zoning Commission**  
**Lippert Subdivision – SD2023-0006**

Development Services Department



**FINDINGS OF FACT, CONCLUSIONS OF LAW, & ORDER**

Lippert Subdivision - SD2023-0006

**Findings**

1. Wayne Lippert, represent by David Evans & Associates, requests approval of the preliminary plat for Lippert Subdivision, a two-lot subdivision (Attachment A). The request includes a waiver of subdivision improvements such as sidewalks, gutters, street lighting, and landscaping. The subject property is 9626 Gilbert Road, Middleton (Parcel R37431010), also referenced as a portion of the NE¼ of Section 21, T5N, R2W, BM, Canyon County, Idaho.
  - a. The application was submitted as a short plat per CCZO §07-17-17, but due to improvements required by the development agreement, the request does not qualify for the short plat application process.
2. The 20.06-acre parcel is zoned “CR-R-R” (Conditional Rezone – Rural Residential; two-acre average minimum lot size) subject to conditions of a development agreement (RZ2021-0049, Exhibit 5 of the staff report). *See Condition No. 7.*
3. The average residential lot size is 10.03 acres (Attachment A).
4. Each lot will be served by individual domestic wells (Attachment A, Plat Note 7).
5. Each lot will be served by individual septic systems (Attachment A, Plat Note 6). *See Condition No. 4.*
6. Middleton Fire District did not comment. Fire district review and approval of the access and turnaround is required per CCZO Section 07-10-03(2). *See Condition No. 6.*
7. The property does not have irrigation water rights or any Black Canyon Irrigation District facilities (Exhibit 4d of the staff report). Plat Notes 7 through 9 of the preliminary plat, irrigation will be provided to the domestic well per IDWR requirements and standards (Attachment A).
8. Subdivision runoff outside of the public right-of-way is the responsibility of the homeowner’s association, underlying property owner, or adjacent property owner (Plat Note 13, Attachment A).
9. The property contains slopes 15% or greater. The plat states that slopes 15% or greater are non-buildable (Attachment A). The applicant states future road and drainage improvements will not impact slopes 15% or greater (Exhibit 2a of the staff report). *See Condition No. 10.*
10. The east boundary of the property fronts Breezy Lane, an open public right-of-way unmaintained by Highway District #4. Breezy Lane has a recorded road user’s maintenance agreement (Inst. No. 2006-43593, Exhibit 6 of the staff report). Highway District #4 HD4 requires a 40’ wide public right-of-way dedication along Breezy Lane with a 10’ slope easement. The applicant included a 70’ wide ingress/egress easement for future access to Parcel R37431017A as recommended by HD4 (Attachments A and B). *See Condition No. 5 & 8.*

Per Condition No. 2a ii of the development agreement (Exhibit 5 of the staff report), Breezy Lane must be constructed to private road standards (CCZO Section 07-10-03(2) and (3)). *See Condition No. 1.a.*
11. The development is not located within a mapped floodplain (Flood Zone X, Exhibit 1 of the staff report).
12. Notice of the public hearing was provided in accordance with CCZO §07-05-01. Agency notice was provided on October 27, 2023, and August 30, 2024. The newspaper notice was published on August 30, 2024. Property owners were sent a notice on August 30, 2024. The property was posted on September 4, 2024.
13. The record includes all testimony, the staff report, exhibits, and documents in Case File No. SD2023-0006

**Conclusions of Law**

Section 07-17-09(4)A of the Canyon County Zoning Ordinance (CCZO) states, “*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 the 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.”*

Upon review of the preliminary plat, the Planning and Zoning Commission finds that the plat is consistent with the following subject to conditions of approval:

- A. Idaho Code Section 67-6513 (Subdivisions);
- B. Idaho Code Sections 50-1301 through 50-1329 (Platting);
- C. Idaho Code Section 22-4503 (Right-to-Farm Act; Plat Note #5, Attachment A);
- D. Idaho Code, Sections 31-3805 & 42-111 (Irrigation); and
- E. Canyon County Zoning Ordinance, Chapter 7, Article 17 (subdivision Regulations)

The preliminary plat was found to be consistent with the standards of review subject to conditions (Exhibit 4a of the staff report).

#### **Conditions of Approval**

1. All subdivision improvements (public or private roads, irrigation, and drainage swales/basins) and amenities shall be bonded or completed prior to the Board of County Commissioner's signature on the final plat.
  - a. Per Condition No. 2aii of the development agreement (Exhibit 5b of the staff report), Breezy lane shall be constructed in accordance with CCZO Section 07-10-03(2) and (3) unless superseded by Canyon Highway District #4's public road construction standards. Prior to the Board's signing of the final plat, certification from a licensed engineer shall be submitted demonstrating the road has been constructed per CCZO §07-10-03(2) and (3).
2. Historic irrigation lateral, drain, and ditch flow patterns shall be maintained and protected (Exhibit 4a of the staff report).
3. Finish grades at subdivision boundaries shall match existing finish grades. Stormwater runoff shall be maintained on the subject property (Exhibit 4a of the staff report).
4. The development shall comply with Southwest District Health (SWHD) requirements. Evidence shall be SWDH's signature on the final plat (Exhibit 4a of the staff report).
5. The development shall comply with the requirements of Highway District #4 (Attachment B and Exhibit 4a of the staff report). Evidence shall be the Highway District's signature on the final plat.
6. Compliance with the international fire code and access and turnaround approval is required per CCZO Section 07-10-03(2) (Exhibit 4a of the staff report). Evidence of compliance shall be submitted to DSD prior to the Board's signature on the final plat.
7. The recorded development agreement shall be referenced as a plat note on the final plat.
8. Prior to the Board's signing of the final plat, a road user's maintenance agreement shall be recorded per CCZO Section 07-10-03(1)B3 for the proposed 70' wide ingress/egress access easement.
9. Before the Board signs 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.
10. All development on slopes 15% or greater is prohibited. Any changes that require hillside development will be reviewed per CCZO Section 07-17-33(1) through the preliminary plat and final plat application process.

**Order**

Based upon the Findings of Fact, Conclusions of Law contained herein for Case No. SD2023-0006, the Planning & Zoning Commission **recommends approval** of the Preliminary Plat for Lippert Subdivision to the Board of County Commissioners subject to the Conditions of Approval as enumerated herein.

RECOMMENDED FOR APPROVAL on this 3 day of October, 2024.



PLANNING AND ZONING COMMISSION  
CANYON COUNTY, IDAHO

  
Robert Sturgill, Chairman

State of Idaho )

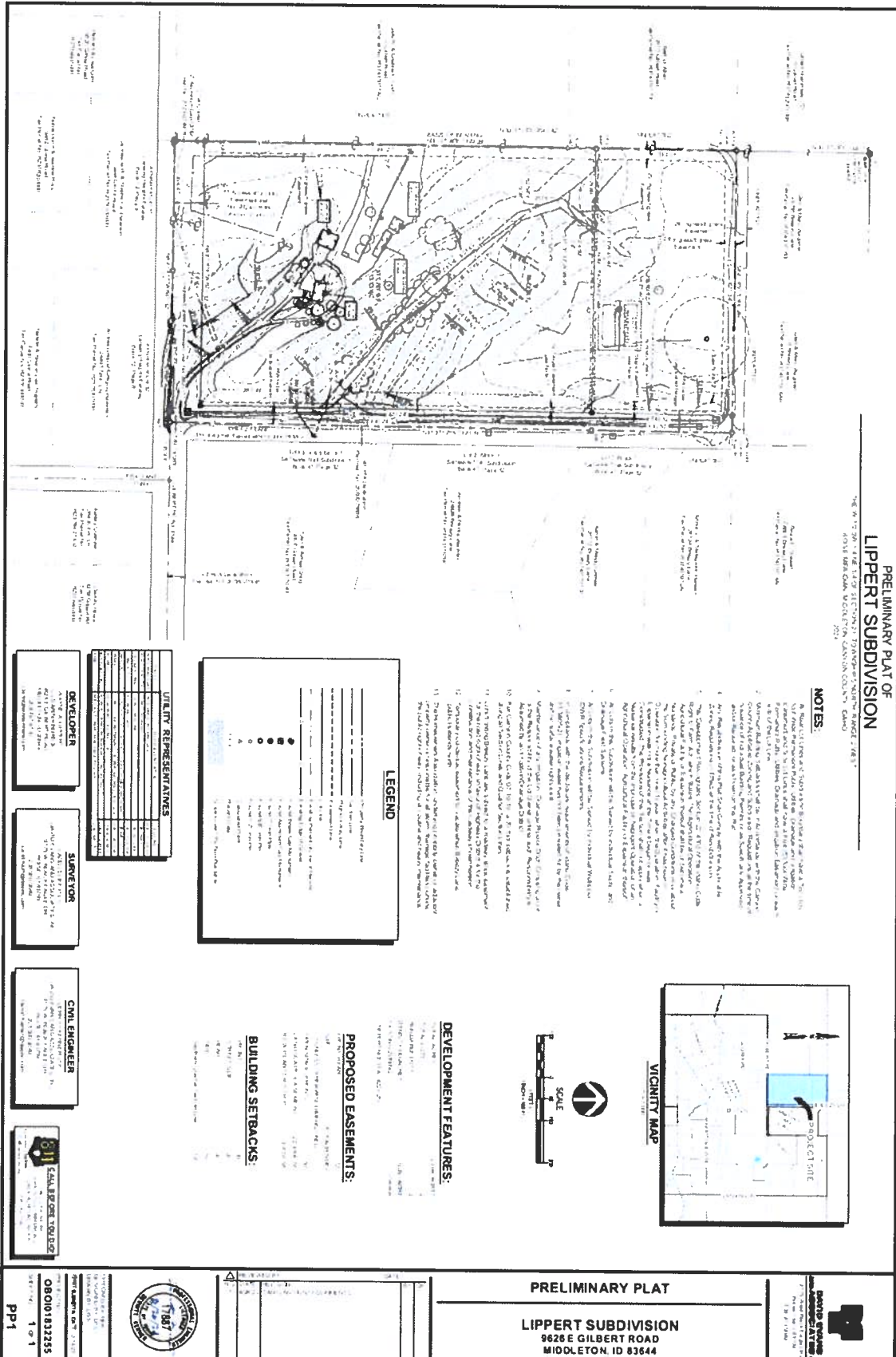
SS

County of Canyon County )

On this 3rd day of October, in the year 2024, before me Amber Lewter, a notary public, personally appeared Robert Sturgill, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she) executed the same.

Notary: Amber Lewter  
My Commission Expires: 10/20/2029

**ATTACHMENT A**



**ATTACHMENT B**



**CANYON HIGHWAY DISTRICT No. 4**

15435 HIGHWAY 44  
CALDWELL, IDAHO 83607

TELEPHONE 208/454-8135  
FAX 208/454-2008

October 10, 2023

Canyon County Board of Commissioners  
and Planning & Zoning Commission  
111 N. 11<sup>th</sup> Street  
Caldwell, Idaho 83605  
Attention: Dan Lister, Planning Director

David Evans and Associates  
9175 W Black Eagle Dr.  
Boise, ID 83709  
Attention: Derritt Kerner, P.E.

RE: **Lippert Subdivision**  
**Canyon County Parcel R374310100**

Dear Commissioners:

Canyon Highway District No. 4 (CHD4) has reviewed the short plat application for Lippert Subdivision of approximately 20 acres, located in T5N R2W Section 21. Applicant is requesting to subdivide the parcel creating 2 lots, Lot 1 of 14.28 Acres and Lot 2 of 4.86 Acres. CHD4 provides the following comments on the proposed development:

**Right-of-way**

Breezy Lane is located on the subject parcel's east side. Samsons Trail Subdivision dedicated a 40' wide strip of land extending east of the 1/64<sup>th</sup> line for a length of approximately 1,320' and terminates at a gravel cul-de-sac at the Lippert Subdivision NE corner. Breezy Lane is classified as open public right-of-way not maintained by CHD4.

Gilbert Road is located on the subject parcel's south side. Said right-of-way extends from Eric Lane and terminates at Merlynn Lane, approximate length of 2,125'. Right-of-way dedication was provided from Lansing Heights Subdivision along the east/west 1/4-section line and extends south 40'. Parcel R37431017A0, parcel directly west of the subject parcel, requested to reclassify this right-of-way.

The Gilbert right-of-way was reclassified to open right-of-way subject to construction. The portion reclassified begins at Merlynn Lane and extends east approximately 1,322'. It was not feasible to construct Gilbert Road as a publically maintained road from Eric Lane extending west due to the topography and limited ROW. Since approval of the reclassification, the surrounding residents have made an application to CHD4 to close that previously opened subject to construction right-of-way. Furthermore, based on multiple inquiries from the public, it appears that parcel owner has listed the parcel for sale. If improvements to the Gilbert Road ROW and Merlynn Lane do not occur to the satisfaction of CHD4 by June 22, 2024 or a request for extension not received at that same time the right-of-way will revert back to closed public right-of-way.

Given parcel R37431017A0 challenges for access, there are at least 3 possible solutions. Below is the order of CHD4 preference:

1. Lippert Subdivision provide 70' wide easement along entire south property line of Lot 1 to benefit parcel R37431017A0. Driveway within this easement to be constructed by parcel R37431017A0 at time of development.
  - a. See Private Road concept for details
    - i. Limits of road construction generally fit within the 70' easement. Future construction of this private road could add a retaining wall approx. 2.5' high to keep limits within easement
  - b. Surrounding residents likely prefer this direction as it locates road away from their homes
2. Parcel R37431017A utilize the previously reclassified ROW (Merlynn to parcel R37431017A)
  - a. ROW improvements along this alignment can meet CHD4 standards
  - b. Residents do not desire this direction and requested this alignment to be closed
    - i. A residence is built less than 20' from ROW
3. (See Public Road Concept) Lippert Subdivision dedicate 40' of ROW as required per standards along the south property line. Outside of the ROW provide a slope easement of at least 30' for Gilbert Road. In addition, Breezy Lane will require significant regrading and likely require a slope easement of approximately 45' in addition to the 40' ROW dedication.
  - a. Costs of regrading Gilbert and Breezy are likely more than the cost of improvements related to option 2.
  - b. Residents likely object to this option as improving this segment of the Gilbert Road ROW will require removal of vehicle storage in the closed right-of-way, relocation or regrading of two private driveways, and make use of ROW which is approximately 20' from a residence.

**Staff requests Canyon County make item 1 a condition of the land use approval.** The Gilbert ROW only benefits 1 parcel. Maintaining a public road for one parcel is not in the interest of the majority of road users within the District. Therefore, a private road is the preferred direction forward.

Breezy Lane provides access for about 12 parcels in excess of 80 acres. Given previous dedication and potential development from the 80 acres, right-of-way dedication and slope easement is required for Breezy Lane (see below for details)

#### **Plat Comments**

##### **Right-of-Way**

1. Breezy Lane Dedicate 40' from 1/64<sup>th</sup> line
2. Add 10' wide slope easement beyond ROW dedication
  - a. Add note, "Lots fronting Breezy Lane are subject to a roadway slope easement for the Road Right-of-way, in favor of Canyon Highway District No. 4 for the construction and maintenance of the roadway shown hereon."
3. Review options 1-3 above for Gilbert, consider dedicating on plat 70' wide ingress, egress, and utility easement for the benefit of parcel R37431017A0 along south property line of Parcel 1



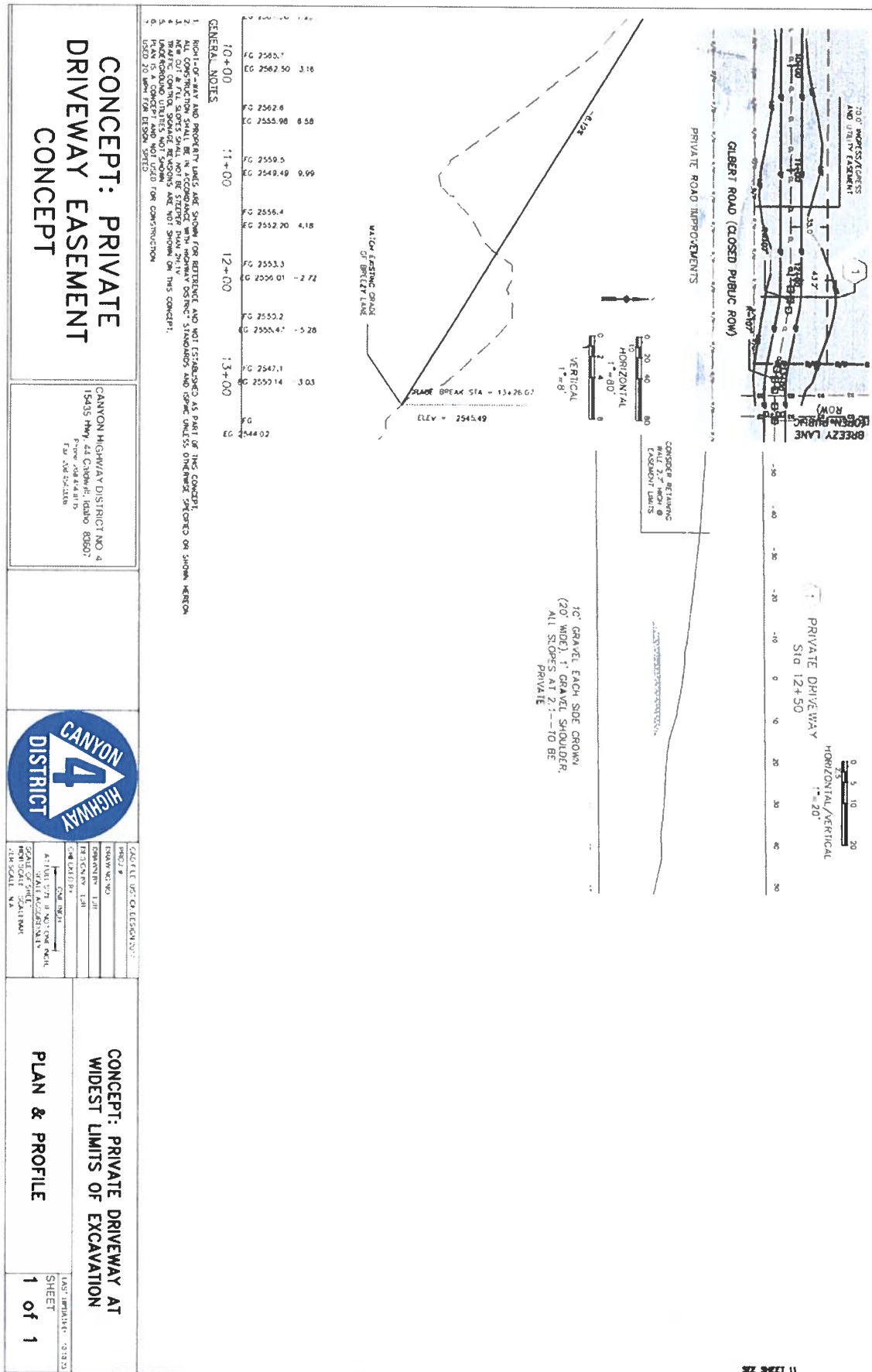
Final Plat

1. Review signature block for CHD4. Dedication of public roads and private road signature block may be most applicable if using option 1:
  - a. Plats with private roads and public road right(s)-of-way dedication(s): Canyon Highway District No. 4 does hereby accept this plat, and the dedicated public streets, highways and rights-of-way as are depicted on this plat, in accordance with the provisions of I.C. § 50-1312. Private streets depicted on this plat are not maintained by or under the jurisdiction of the Highway District. There is no legal obligation or assurances that the private streets will be accepted as public streets in the future.
2. Certificate of ownership—add the word forever at the end of “The public streets...”
3. Add storm drainage note:
  - a. The Homeowners Association, underlying property owner or adjacent property owner is responsible for all storm drainage facilities outside the public right-of-way, including all routine and heavy maintenance.
4. Show temp cul-de-sac easement at north extent of Breezy Lane. May have to locate bulb easement into property Lippert Parcel. Review ACCHD-104 standard drawings for limits of easement (use  $r=65'$  for easement limits).
  - a. Add call out, “Temporary cul-de-sac to vacate when Breezy Lane extends north.”
5. Review right-of-way comments and apply within final plat.

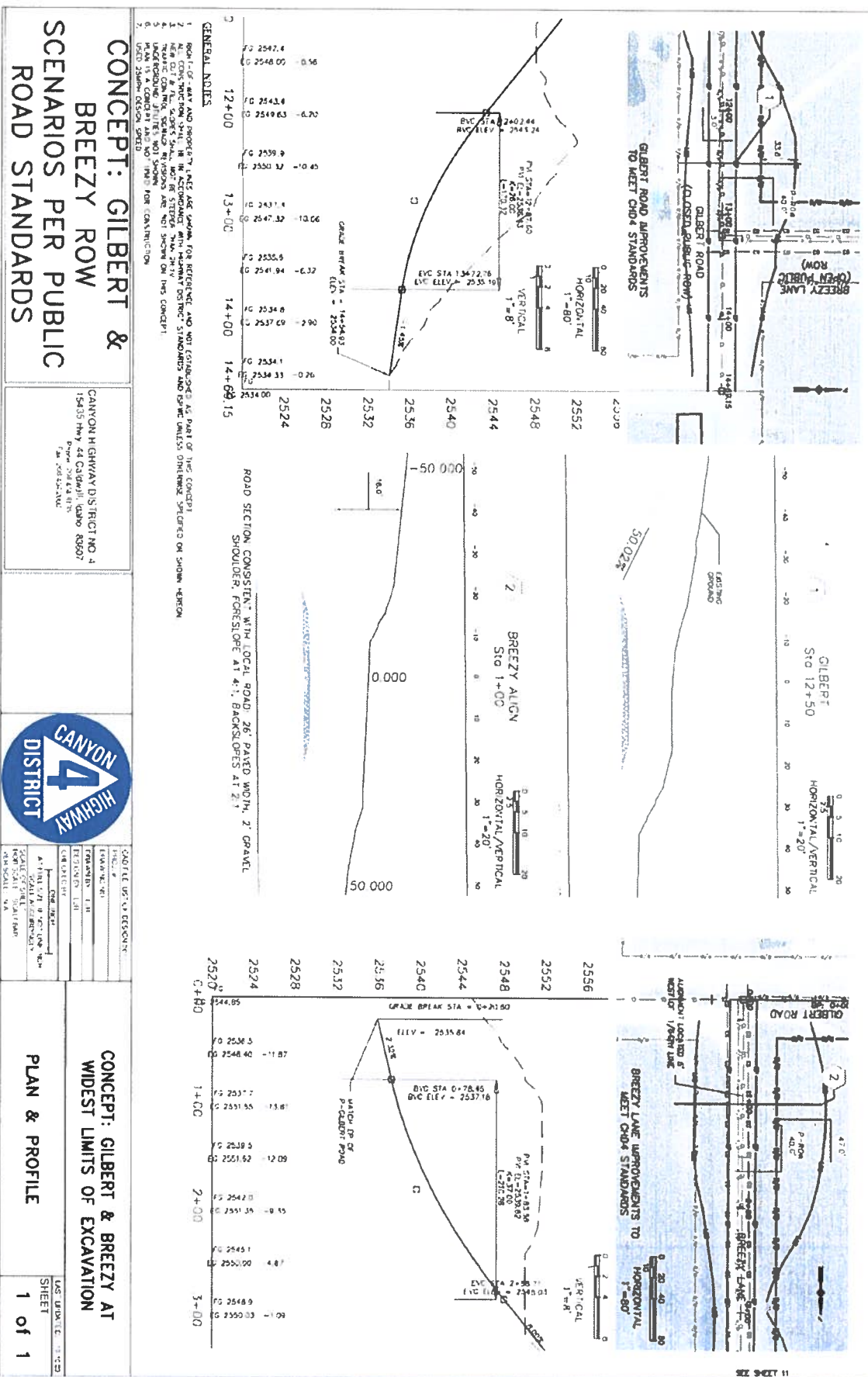
Please revise the plats to address the comments above, and re-submit a single full-size hard copy and an electronic copy of the plats. Feel free to contact me with any questions on this matter.

Regards,

Lenny Riccio, P.E.  
Assistant Engineer  
Transportation Planner









CANYON COUNTY PLANNING & ZONING COMMISSION  
MINUTES OF REGULAR MEETING HELD  
Thursday, October 3, 2024  
6:30 P.M.

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1<sup>ST</sup> FLOOR PUBLIC MEETING ROOM SUITE 130, CANYON COUNTY ADMINISTRATION BUILDING

Commissioners Present : Robert Sturgill, Chairman  
Brian Sheets, Commissioner  
Miguel Villafana, Commissioner  
Patrick Williamson, Commissioner  
Harold Nevill, Commissioner

Staff Members Present: Sabrina Minshall, Director of Development Services  
Jay Gibbons, Assistant Director of Development Services  
Dan Lister, Principal Planner  
Deb Root, Principal Planner  
Arbay Mberwa, Associate Planner  
Amber Lewter, Associate Planner

**Chairman Sturgill** called the meeting to order at 6:30 p.m.

**Commissioner Villafana** read the testimony guidelines and proceeded to the first business item on the agenda.

**Item 1A:**

**Case No. CR2022-0020 & SD2022-0030 – Eells / Landing Spot** – Approve revised FCO's.

Commissioner Nevill noted a typo on the FCOS for SD2022-0030, page 2 of 4, condition no. 11 should state "A water user's maintenance shall be created."

**MOTION:** Commissioner Nevill moved to approve revised FCOs for Case CR2022-0020 and SD2022-0030, with the requested correction, seconded by Commissioner Sheets voice vote, motion carried.

**Item 1B:**

**Case No. OR2021-0006 & RZ2021-0011 – Sand Creek Investments 3, LLC / Springbok Development Inc.**  
– Approve revised FCO's.

Commissioner Sheets noted corrections on the FCOs for OR2021-0006 and RZ2021-0011 to fix the spelling Commissioner Villafana's name.

**MOTION:** Commissioner Sheets moved to approve revised FCOs for Case OR2021-0006 and RZ2021-0011, with the requested correction, seconded by Commissioner Nevill voice vote, motion carried.

**Item 2A:**

**Case No. SD2023-0006 – Lippert Subdivision:** The applicant is requesting approval of a short plat (preliminary and final plat) for Lippert Subdivision, a two-lot subdivision, on parcel R37431010, 20.06 acres. The subject parcel is zoned "CR-R-R" (Conditional Rezone - Rural Residential) and subject to an approved development agreement (DA #22-025) The subdivision will utilize Breezy Lane, an open, unmaintained public right-of-way, for access. The subject property is located at 9626 E. Gilbert Road,

Middleton, also referenced as a portion of the NE¼ of Section 21, T5N, R2W, Canyon County, Idaho. Planner Dan Lister reviewed the Staff report for the record.

Commissioner Nevill asked for clarification between Exhibit 4 A and 4 B. Planner Lister clarified for the record. Commissioner Nevill asked what the access plan is for the development. Planner Lister described the access plan for the record. Breezy Ln is the main access for the project. A 70 ft. easement was provided to provide access to the property to the west. The applicant has worked with the highway district.

Commissioner Williamson asked about the 70 ft easement along the southern boundary and whether or not it would be an extension of Gilbert Rd. Dan Lister stated that the access easement has been worked out with the highway district and it just supplies access to serve the property to the west.

Chairman Sturgill affirmed the witnesses to testify.

**Testimony:**

**Darin Taylor (Representative) – IN FAVOR – 9175 W. Black Eagle Dr., Boise, ID 83709**

Mr. Taylor stated that the request is consistent with the parcels and sizes in the area. The property does not have irrigation water available to it. Mr. Taylor discussed the access to Lippert's property. The 70 ft easement along the south boundary was the preferred option to provide access to the property to the west. Highway District 4 has approved the preliminary plat. Mr. Taylor and his clients have reviewed the conditions of approval and development agreement and agreed with them.

Commissioner Williamson asked if the applicants had talked to the fire department about fire suppression since the property does not have water. Mr. Taylor stated not yet. Mr. Taylor discussed fire turnarounds and fire district requirements.

**Derritt Kerner – IN FAVOR– 9175 W. Black Eagle Dr., Boise, ID 83709**

Mr. Kerner stated that the applicants would only allow one house on the additional lot.

**MOTION:** Commissioner Sheets moved to close public testimony on Case SD2023-0006, seconded by Commissioner Nevill, voice vote, motion carried.

**DELIBERATION:**

Commissioner Sheets noted for the record that the applicant had reviewed the conditions of approval and the development agreement.

**MOTION:** Commissioner Sheets moved to adopt the Findings of Fact, Conclusions of Law & Order as written and recommend approval to the Board of County Commissioners for Case No. SD2023-0006. Seconded by Commissioner Nevill.

**Discussion on the Motion:**

None

Roll call vote: 5 in favor, 0 opposed, motion passed.

**Item 2B:**

**Case No. SD2023-0008 – Sleepy Hollow 2 Subdivision:** The applicants, Kathryn & Christopher Phoenix, are requesting a subdivision of approximately 2.72 acres to two (2) parcels with a 1.36-acre average lot size. The subject property was rezoned to CR-R1 (Conditional Rezone – Single Family Residential) in 2022. The subject property is located at 23117 White Oak Drive, Caldwell, ID 83607, also referenced as Parcel R34484104, a portion of the SE quarter of Section 03, T4N, R3W, BM, Canyon County, Idaho.

**Assistant Director of Development Services, Jay Gibbons** reviewed the Staff Report for the record.

Commissioner Nevill asked if there were secondary dwellings allowed on either lot. Assistant Director, Jay Gibbons replied that there is a restriction not allowing a secondary dwelling on the new proposed lot. Commissioner Nevill asked if the development would have a water user's maintenance agreement. Assistant Director noted that a pressurized system would be provided.

Chairman Sturgill asked about the access road reduction noted in the letter of intent. Assistant Director Jay Gibbons, noted that the ordinance required 60 ft. and the requested road would be 30 ft., thus the request to reduce.

**Chairman Sturgill** affirmed the witnesses to testify.

**Testimony:**

**Kathryn Phoenix –(Applicant) IN FAVOR – 23117 White Oak Dr., Caldwell, ID 83607**

Ms. Phoenix discussed the existing pressurized irrigation system that exists. Ms. Phoenix stood for questions.

Commissioner Nevill asked about the road access and whether or not there is a road user's maintenance agreement. Ms. Phoenix replied yes, and any new lot owner will have to sign into the agreement. Commissioner Nevill asked if there was a water user's agreement. Ms. Phoenix stated yes with Black Canyon Irrigation District. Ms. Phoenix stated the new lot owner would be added. It is based on percentages and it is already in place. The HOA takes care of the payments for water.

Commissioner Sheets asked about the HOA and whether or not the new parcel would be subject to the HOA. Ms. Phoenix replied yes, the CCRs will be updated. Commissioner Sheets noted that he sees the possibility of three (3) homes utilizing the access. Ms. Phoenix stated that is why there is not a secondary allowed.

**MOTION:** Commissioner Sheets moved to close public testimony on Case SD2023-0008, seconded by Commissioner Nevill, voice vote, motion carried.

**DELIBERATION:**

Commissioner Sheets did not see any issues with the proposed conditions or what has been presented in the staff report.

**MOTION:** Commissioner Sheets moved to recommend approval to the Board of County Commissioners and adopt the Findings of Fact, Conclusions of Law & Order for Case SD2023-0008. Seconded by Commissioner Nevill.

**Discussion on the Motion:**

None.

Roll call vote: 5 in favor, 0 opposed, motion passed.

**DIRECTOR, PLANNER, COMMISSION COMMENTS:**

Director Sabrina Minshall noted that Amber Lewter has accepted a promotion as an Associate Planner. The County is working on the Agricultural Protection Areas Ordinance. The ordinance has to be adopted by the end of the year. Director Minshall discussed contracts with Hearing Examiner (s).

**ADJOURNMENT:**

**MOTION:** Commissioner Sheets moved to adjourn, seconded by Commissioner Villafana. Voice vote, motion carried. Hearing adjourned at 7:40 PM.

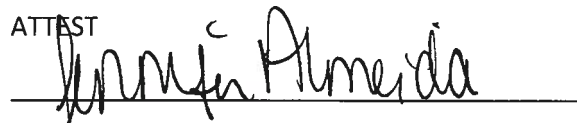
An audio recording is on file in the Development Services Departments' office.

Approved this 7<sup>th</sup> day of November, 2024



Robert Sturgill, Chairman

ATTEST



Jennifer Almeida – Office Manager

**Planning and Zoning Commission**  
**Canyon County Development Services Dept.**

Case No. SD2023-0006

**HEARING DATE** October 3, 2024**OWNER/APPLICANT** Wayne Lippert (Owner); David Evans & Associates  
(Representative)**PLANNER:** Dan Lister, Principal Planner**CASE NUMBER:** SD2023-0006**LOCATION:** 9626 Gilbert Road, Middleton; Parcel R37431010**PROJECT DESCRIPTION**

The applicant requests approval of a preliminary plat for Lippert Subdivision. The result creates two (2) lots. The request includes a waiver of subdivision improvements.

The subject property is 9626 Gilbert Road, Middleton (Parcel R37431010), also referenced as a portion of the NE¼ of Section 21, T5N, R2W, BM, Canyon County, Idaho.

**PROJECT INFORMATION** (See *Exhibit 1* for Parcel Information)

The subject parcel is approximately 20 acres. In 2022, the parcel was rezoned to “CR-R-R” (Conditional Rezone - Rural Residential, two-acre average minimum lot size) subject to a development agreement limiting development to two lots (RZ2021-0049, *Exhibit 5a*).



An application to divide the subject parcel per the development agreement (*Exhibit 5b*) was submitted on February 24, 2023 (*Exhibit 2*). The application was submitted as a short plat per CCZO §07-17-17, but due to road improvements required by the development agreement, the application cannot be processed as a short plat. Therefore, a final plat application and associated fee will be required after preliminary plat approval.



## **PROJECT OVERVIEW**

**Criteria:** Pursuant to CCZO §07-17-09(4) – Commission Review:

- A. *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.*

**Lippert Sub. (Exhibit 2)**

- **Acreage:** 20.06 acres
- **Average residential lot size:** 17.84 acres
- **Zoning:** “CR-R-R” (Conditional Rezone - Rural Residential; **Exhibit 5a**)
- **Residential Lots:** Two (2); per Development Agreement #22-025 (**Exhibit 5b**).
- **Roads/Access:** The east boundary of the property fronts on Breezy Lane, an open public right-of-way unmaintained by Highway District #4. Breezy Lane has a recorded road user maintenance agreement (Inst. No. 2006-43593, **Exhibit 6**). The north boundary fronts an existing 28’ wide ingress/egress easement that serves Parcels R37431016 and R37431017. The south boundary of the property fronts on public right-of-way (**Exhibit 5b & 4b**).

Per Condition No. 2a ii of the development agreement (**Exhibit 5b**), Breezy Lane must be constructed to private road standards (CCZO Section 07-10-03(2) and (3)). This will be applied as a condition of approval that must be met before final plat approval.

Highway District #4 (HD4) provided three access options (**Exhibit 4b**). HD4 highly recommends a 70’ wide ingress/egress easement to provide access to Parcel R37431017A. Parcel R37431017A was conditionally rezoned to “CR-R-R” in 2022 with conditions that require road improvements along Gloria Road and Merlynn Lane unless access is granted through the subject parcel (R37431010, **Exhibit 7**). The applicant included the recommended 70’ wide ingress/egress easement for future access to Parcel R37431017A which will serve as access for Lot 1. Lot 2 will have access from Breezy Lane. As a condition of approval, a road user maintenance agreement will be required for shared access within the 70’ ingress/egress easement.

HD4 requires a 40’ wide public right-of-way dedication along Breezy Lane with a 10’ slope easement.

Idaho Transportation Department (ITD) has no concerns regarding the request (**Exhibit 4c**).

- **Fire:** Middleton Fire District did not comment. Per the development agreement (**Exhibit 5b**) Breezy Lane must meet private road construction standards. The proposed access is longer than 150’ (CCZO §07-10-03(2)), fire district access and turnaround approval is required before final plat approval.
- **Water:** Individual domestic wells (Plat Note 7, **Exhibit 2b**).
- **Sewage Disposal:** Individual septic systems (Plat Note 6, **Exhibit 2b**).
- **Irrigation:** The property does not have irrigation water rights or any Black Canyon Irrigation

District facilities (*Exhibit 4d*). Plat Note 7 & 8 of the preliminary plat, irrigation will be provided to the domestic well per IDWR requirements and standards (*Exhibit 2b*).

- Drainage: Subdivision runoff outside of the public right-of-way is the responsibility of the homeowner's association, underlying property owner, or adjacent property owner (Plat Note 13, *Exhibit 2b*).
- Special Development - Hillside: The property has slopes 15% or greater (*Exhibit 8*). Per CCZO §07-17-33(1)A, the developer is proposing slopes 15% or greater to be non-buildable. The applicant states future road and drainage improvements will not impact slopes 15% or greater (*Exhibit 2a*).

Standard of Review for Subdivision Plat:

- A. Idaho Code Section 67-6513 (Subdivisions);
- B. Idaho Code Sections 50-1301 through 50-1329 (Platting);
- C. Idaho Code Section 22-4503 (Right-to-Farm Act; Plat Note #5, *Exhibit 2b*);
- D. Idaho Code, Sections 31-3805 & 42-111 (Irrigation); and
- E. Canyon County Zoning Ordinance, Chapter 7, Article 17 (Subdivision Regulations)

The preliminary plat was found to be consistent with the standards of review subject to conditions (*Exhibit 4a*).

## **COMMENTS**

Notice of the public hearing was provided in accordance with CCZO §07-05-01. Agency notice was provided on October 27, 2023, and August 30, 2024. The newspaper notice was published on August 30, 2024. Property owners were sent a notice on August 30, 2024. The property was posted on September 4, 2024.

See *Exhibit 4* for all agency comments received.

## **RECOMMENDATION**

As conditioned, the plat meets all applicable ordinances and standards. Recommended conditions of approval ensure development meets County and affected agency requirements and standards so the development does not create adverse impacts. Therefore, the staff recommends approval of the request. Draft Findings of facts, Conclusions of law and Order (FCOs) are included for the Commission's consideration (*Exhibit 9*).

## **DECISION OPTIONS**

The Planning and Zoning Commission may:

- Recommend approval of SD2023-0006 with conditions of approval (as presented or as modified);
- Recommend denial of SD2023-0006 and direct staff to return with amended FCOs supporting the decision; or
- Continue the hearing of SD2023-0006 and request additional information to be submitted.

## **EXHIBITS**

1. Parcel Information Report – R37431010
2. Application
  - a. Letter of Intent/Subdivision Worksheet
  - b. Preliminary Plat
  - c. Irrigation Plan
3. Maps
  - a. Aerial



- b. Vicinity
- 4. Comments
  - a. Keller Associates/DSD Review Comments
  - b. Highway District #4
  - c. ITD
  - d. Black Canyon Irrigation District
- 5. RZ2021-0049
  - a. BOCC FCOs
  - b. Development Agreement
- 6. Road User's Maintenance Agreement – Breezy Lane
- 7. RZ2021-0055 - Codr FCOs
- 8. Site Visit: September 5, 2024
- 9. Draft FCOs w/attachment

CANYON COUNTY DEVELOPMENT SERVICES MAKES NO WARRANTY WITH RESPECT TO THE ACCURACY, COMPLETENESS, OR USEFULNESS OF THIS PARCEL INFORMATION TOOL.

# R37431010 PARCEL INFORMATION REPORT

8/1/2024 2:39:18 PM

PARCEL NUMBER: **R37431010**

OWNER NAME: **LIPPERT WAYNE A**

CO-OWNER:

MAILING ADDRESS: **9626 E GILBERT RD MIDDLETON ID 83644**

SITE ADDRESS: **9626 GILBERT RD**

TAX CODE: **0310000**

TWP: **5N** RNG: **2W** SEC: **21** QUARTER: **NE**

ACRES: **20.06**

HOME OWNERS EXEMPTION: **No**

AG-EXEMPT: **No**

DRAIN DISTRICT: **NOT In Drain Dist**

ZONING DESCRIPTION: **CR-RR / CONDITIONAL REZONE - RURAL RESIDENTIAL**

HIGHWAY DISTRICT: **HIGHWAY DISTRICT #4**

FIRE DISTRICT: **MIDDLETON FIRE**

SCHOOL DISTRICT: **MIDDLETON SCHOOL DIST #134**

IMPACT AREA: **NOT In Impact Area**

FUTURE LAND USE 2011-2022 : **Res**

FLU Overlay Zone Desc 2030:

FLU RR Zone Desc 2030:

FUTURE LAND USE 2030: **AG**

IRRIGATION DISTRICT: **BLACK CANYON IRRIGATION DIST**

FEMA FLOOD ZONE: **X** FLOODWAY: **NOT In FLOODWAY** FIRM PANEL: **16027C0150F**

WETLAND: **NOT In WETLAND**

NITRATE PRIORITY: **NO Nitrate Prio**

FUNCTIONAL Classification: **NOT In COLLECTOR**

INSTRUMENT NO. : **8820111**

SCENIC BYWAY: **NOT In Scenic Byway**

LEGAL DESCRIPTION: **21-5N-2W NE W 1/2 SW NE SURFACE RIGHTS ONLY**

PLATTED SUBDIVISION:

SMALL CITY ZONING:

SMALL CITY ZONING TYPE:



## DISCLAIMER:

1. FEMA FLOOD ZONE REFERS TO THE DESIGNATED FEMA FLOOD AREAS. POSSIBLY ONE (1) OF SEVERAL ZONES - SEE FIRM PANEL NUMBER.
2. THIS FORM DOES NOT CALCULATE DATA FOR PARCELS INSIDE CITY LIMITS SO WATCH YOURSELVES.
3. WETLANDS CLASSIFICATION WILL POPULATE IF "ANY" PORTION OF SAID PARCEL CONTAINS A DELINEATED WETLAND.
4. COLLECTORS AND ARTERIALS ARE BASED ON THE SHERIFFS CENTERLINE WITH AN ADDITIONAL 100 FOOT BUFFER.

CANYON COUNTY ASSUMES NO LIABILITY FOR DIRECT, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES RESULTING FROM THE USE OR MISUSE OF THIS PARCEL INFORMATION TOOL OR ANY OF THE INFORMATION CONTAINED HEREIN.



**DAVID EVANS  
AND ASSOCIATES INC.**

February 23, 2023

Stephanie Hailey, CFM  
Canyon County Development Services  
111 N. 11th Ave. Room 310  
Caldwell, ID 83605  
208-454-7254

**SUBJECT: Lippert Subdivision**

Stephanie,

Lippert Subdivision is a 2 lot subdivision comprising of one 15 acre lot and one 5 acre lot. There is an existing private residential home that will be located on the new 15 acre lot and a new private residential home will be constructed on the new 5 acre lot. The original 20 acre parcel is subject to a 25 foot ingress/egress easement along all 4 boundary lines of the parcel. The 2 new lots will maintain these existing ingress/egress easements and access through the privately maintained roads contained within the ingress/egress easements and no new access roads will be required. There will be extremely minimal impact to traffic count and patterns.

The existing home will maintain use of its private well and septic system and the new home will require a new well and septic system to be constructed on the new 5 acre lot.

There are no water rights available to this parcel and therefore no irrigation improvements will be required. No new construction will impact any grading or drainage within this subdivision. The new lot consisting of 5 acres has an existing large and level building pad area to allow for construction of a home, septic system and well. No new grading is proposed, and all existing drainage patterns will be maintained and respected. It is our understanding that this project was preliminarily approved for the short-plat process. Based on our application preparation, no water rights, no proposed grading and no roadway extensions, we also recommend the short-plat process for this simple subdivision.

Sincerely,

**DAVID EVANS AND ASSOCIATES, INC.**

Drayth Sielaff  
Civil Task Leader, LDBU

Copies: 1Application  
Project Number: TORC0000919A  
File Path: P:\T\TORC0000919A\Survey

## Dan Lister

---

**From:** Derritt Kerner <Derritt.Kerner@deainc.com>  
**Sent:** Thursday, August 15, 2024 4:42 PM  
**To:** Dan Lister  
**Cc:** Darin Taylor  
**Subject:** RE: [External] RE: Lippert Subdivision - 2 large lots

Dan – I can confirm there are no improvements needed in the areas with 15% slopes. The existing Breezy Lane meets Private Road requirements. We will simply dedicate the ROW requested by HD4. The only improvements that will follow this subdivision is the construction of a new home, well, and septic on the newly created lot. Thanks,

**Derritt Kerner, P.E.** | Project Manager

Senior Associate | Mountain West Region Land Development Market Leader

**David Evans and Associates, Inc.**

9175 W. Black Eagle Dr. | Boise ID, 83709 | [www.deainc.com](http://www.deainc.com)

d: 208.391.7682 | c: 208.859.5105 | Cisco: 48102 | [derritt.kerner@deainc.com](mailto:derritt.kerner@deainc.com)

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---

**From:** Darin Taylor <Darin.Taylor@deainc.com>  
**Sent:** Thursday, August 15, 2024 4:23 PM  
**To:** Dan Lister <Daniel.Lister@canyoncounty.id.gov>  
**Cc:** Derritt Kerner <Derritt.Kerner@deainc.com>  
**Subject:** RE: [External] RE: Lippert Subdivision - 2 large lots

Derritt's in a meeting. I'll verify with him after and then let you know.

**Darin Taylor, J.D., AICP** | Senior Project Manager

Land Development Business Unit

**David Evans and Associates, Inc.**

9175 W. Black Eagle Dr. | Boise, ID 83709 | [www.deainc.com](http://www.deainc.com)

d: 208.900.9016 | c: 208.899.9556 | Cisco: 47016 | [darin.taylor@deainc.com](mailto:darin.taylor@deainc.com)

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---

**From:** Dan Lister <[Daniel.Lister@canyoncounty.id.gov](mailto:Daniel.Lister@canyoncounty.id.gov)>  
**Sent:** Thursday, August 15, 2024 4:02 PM  
**To:** Darin Taylor <[Darin.Taylor@deainc.com](mailto:Darin.Taylor@deainc.com)>  
**Cc:** Derritt Kerner <[Derritt.Kerner@deainc.com](mailto:Derritt.Kerner@deainc.com)>  
**Subject:** RE: [External] RE: Lippert Subdivision - 2 large lots

Darin,

Regarding hillside development, I understand future dwellings and outbuildings are prohibited from developing on slopes 15% or greater, but will there be any improvements completed on slopes 15% or greater such as, but not limited to, drainage facilities, roads, grading, septic, wells, etc? If so, the hillside development requirements of 07-17-33 must be met.

The hearing date of 9/19 is no longer available. Lippert Sub can be scheduled for October 3, 2024, subject to addressing the hillside development question.

Sincerely,

**Dan Lister, Principal Planner**

DSD Office: (208) 454-7458 - Direct Line: (208) 455-5959

[Daniel.Lister@canyoncounty.id.gov](mailto:Daniel.Lister@canyoncounty.id.gov)

Development Services Department (DSD)

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**From:** Darin Taylor <[Darin.Taylor@deainc.com](mailto:Darin.Taylor@deainc.com)>  
**Sent:** Thursday, August 15, 2024 3:53 PM  
**To:** Dan Lister <[Daniel.Lister@canyoncounty.id.gov](mailto:Daniel.Lister@canyoncounty.id.gov)>  
**Cc:** Derritt Kerner <[Derritt.Kerner@deainc.com](mailto:Derritt.Kerner@deainc.com)>  
**Subject:** RE: [External] RE: Lippert Subdivision - 2 large lots

Dan,

I reviewed your email and the county's preliminary plat checklist and I'm not certain you were looking at the most recent version from June 2024 that included the 70'-wide easement that the highway district preferred in its October 2023 agency comment letter. The attached preliminary plat corrects all red-typed comments in the county's preliminary plat checklist, except labeling the 25'-wide easement along the west boundary. I'm correcting that and will get it to you today or tomorrow. I responded below to the three items mentioned in your email. We think we are good to proceed with the 9/19 P&Z Commission hearing date ... please confirm?

- **Short Plat Process.** Changed in May 2024 to just a preliminary plat process.
- **No hillside development.** Although there are steep portions of proposed Lot 2, no hillside development is proposed because there is adequate land on which construct a residence and outbuildings that is not hillside.
- **Easement Labeling.** It is labeled on the north and south, just not on the west as you note. We're correcting that and will email you a revised plat. How many paper copies would you like delivered to DSD?

**Darin Taylor, J.D., AICP** | Senior Project Manager

Land Development Business Unit

**David Evans and Associates, Inc.**

9175 W. Black Eagle Dr. | Boise, ID 83709 | [www.deainc.com](http://www.deainc.com)

d: 208.900.9016 | c: 208.899.9556 | Cisco: 47016 | [darin.taylor@deainc.com](mailto:darin.taylor@deainc.com)

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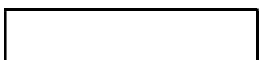
**From:** Darin Taylor <[Darin.Taylor@deainc.com](mailto:Darin.Taylor@deainc.com)>  
**Sent:** Wednesday, August 14, 2024 3:03 PM  
**To:** Dan Lister <[Daniel.Lister@canyoncounty.id.gov](mailto:Daniel.Lister@canyoncounty.id.gov)>; Lenny Riccio <[lriccio@hwydistrict4.org](mailto:lriccio@hwydistrict4.org)>  
**Cc:** Derritt Kerner <[Derritt.Kerner@deainc.com](mailto:Derritt.Kerner@deainc.com)>  
**Subject:** Re: [External] RE: Lippert Subdivision - 2 large lots

Very good, thanks, Dan. I'll review these in detail when I get back to the office in a bit and then get you a response.

**Darin Taylor, J.D., AICP** | Senior Project Manager  
Land Development Business Unit  
**David Evans and Associates, Inc.**  
9175 W. Black Eagle Dr. | Boise, ID 83709 | [www.deainc.com](http://www.deainc.com)  
d: 208.900.9016 | c: 208.899.9556 | Cisco: 47016 | [darin.taylor@deainc.com](mailto:darin.taylor@deainc.com)

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---

**From:** Dan Lister <[Daniel.Lister@canyoncounty.id.gov](mailto:Daniel.Lister@canyoncounty.id.gov)>  
**Sent:** Wednesday, August 14, 2024 12:07:39 PM  
**To:** Darin Taylor <[Darin.Taylor@deainc.com](mailto:Darin.Taylor@deainc.com)>; Lenny Riccio <[lriccio@hwydistrict4.org](mailto:lriccio@hwydistrict4.org)>  
**Cc:** Derritt Kerner <[Derritt.Kerner@deainc.com](mailto:Derritt.Kerner@deainc.com)>  
**Subject:** RE: [External] RE: Lippert Subdivision - 2 large lots

Darin,

See the attached review of the Lippert preliminary plat. I'm trying to get it scheduled for the 9/19 P&Z Commission subject to you addressing the three items in the review regarding the short plat process, hillside development

information, and easement labeling. If hillside development standards need to be met, then the case is not ready for hearing. I'll need an answer by tomorrow to make the 9/19 hearing. If not, then the next hearing is 10/3.

Sincerely,

**Dan Lister, Principal Planner**

DSD Office: (208) 454-7458 - Direct Line: (208) 455-5959

[Daniel.Lister@canyoncounty.id.gov](mailto:Daniel.Lister@canyoncounty.id.gov)

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**From:** Darin Taylor <[Darin.Taylor@deainc.com](mailto:Darin.Taylor@deainc.com)>

**Sent:** Monday, August 12, 2024 10:34 AM

**To:** Dan Lister <[Daniel.Lister@canyoncounty.id.gov](mailto:Daniel.Lister@canyoncounty.id.gov)>; Lenny Riccio <[lriccio@hwydistrict4.org](mailto:lriccio@hwydistrict4.org)>

**Cc:** Derritt Kerner <[Derritt.Kerner@deainc.com](mailto:Derritt.Kerner@deainc.com)>

**Subject:** RE: [External] RE: Lippert Subdivision - 2 large lots

Excellent, thanks Dan!

**Darin Taylor, J.D., AICP** | Senior Project Manager

Land Development Business Unit

**David Evans and Associates, Inc.**

9175 W. Black Eagle Dr. | Boise, ID 83709 | [www.deainc.com](http://www.deainc.com)

d: 208.900.9016 | c: 208.899.9556 | Cisco: 47016 | [darin.taylor@deainc.com](mailto:darin.taylor@deainc.com)

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---

**From:** Dan Lister <[Daniel.Lister@canyoncounty.id.gov](mailto:Daniel.Lister@canyoncounty.id.gov)>  
**Sent:** Monday, August 12, 2024 10:30 AM  
**To:** Darin Taylor <[Darin.Taylor@deainc.com](mailto:Darin.Taylor@deainc.com)>; Lenny Riccio <[lriccio@hwydistrict4.org](mailto:lriccio@hwydistrict4.org)>  
**Cc:** Derritt Kerner <[Derritt.Kerner@deainc.com](mailto:Derritt.Kerner@deainc.com)>  
**Subject:** RE: [External] RE: Lippert Subdivision - 2 large lots

Darin,

Lippert Sub will be reviewed by staff this week. I hope to have an update for you at the end of the week.

Sincerely,

**Dan Lister, Principal Planner**  
DSD Office: (208) 454-7458 - Direct Line: (208) 455-5959  
[Daniel.Lister@canyoncounty.id.gov](mailto:Daniel.Lister@canyoncounty.id.gov)

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**From:** Darin Taylor <[Darin.Taylor@deainc.com](mailto:Darin.Taylor@deainc.com)>  
**Sent:** Monday, August 12, 2024 9:31 AM  
**To:** Lenny Riccio <[lriccio@hwydistrict4.org](mailto:lriccio@hwydistrict4.org)>; Dan Lister <[Daniel.Lister@canyoncounty.id.gov](mailto:Daniel.Lister@canyoncounty.id.gov)>  
**Cc:** Derritt Kerner <[Derritt.Kerner@deainc.com](mailto:Derritt.Kerner@deainc.com)>  
**Subject:** [External] RE: Lippert Subdivision - 2 large lots

Good morning. I didn't hear back from either of you, so following-up to get review comments of the proposed preliminary plat for two large-lot Lippert Subdivision?

**Darin Taylor, J.D., AICP** | Senior Project Manager  
Land Development Business Unit  
**David Evans and Associates, Inc.**  
9175 W. Black Eagle Dr. | Boise, ID 83709 | [www.deainc.com](http://www.deainc.com)  
d: 208.900.9016 | c: 208.899.9556 | Cisco: 47016 | [darin.taylor@deainc.com](mailto:darin.taylor@deainc.com)

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---

**From:** Darin Taylor  
**Sent:** Monday, August 5, 2024 2:19 PM  
**To:** Lenny Riccio <[lriccio@hwydistrict4.org](mailto:lriccio@hwydistrict4.org)>; Dan Lister <[daniel.lister@canyoncounty.id.gov](mailto:daniel.lister@canyoncounty.id.gov)>  
**Cc:** Derritt Kerner <[Derritt.Kerner@deainc.com](mailto:Derritt.Kerner@deainc.com)>  
**Subject:** Lippert Subdivision - 2 large lots

Good afternoon,

I submitted the revised preliminary plat to the highway district and county on or about June 27, 2024. I'm following-up to learn the review/scheduled public hearing status from each of you?

**Darin Taylor, J.D., AICP** | Senior Project Manager

Land Development Business Unit

**David Evans and Associates, Inc.**

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# SUBDIVISION WORKSHEET

## CANYON COUNTY DEVELOPMENT SERVICES DEPARTMENT

111 North 11<sup>th</sup> Avenue, #140, Caldwell, ID 83605

[www.canyonco.org/dsd.aspx](http://www.canyonco.org/dsd.aspx) Phone: 208-454-7458 Fax: 208-454-6633



### GENERAL

1. HOW MANY LOTS ARE YOU PROPOSING?

Residential 2 Non-buildable \_\_\_\_\_ Common \_\_\_\_\_

2. AVERAGE LOT SIZE OF THE RESIDENTIAL PARCELS

10 ACRES

### IRRIGATION

1. IRRIGATION WATER IS PROVIDED VIA:

☒ Irrigation Well ☐ Surface Water

2. WHAT PERCENTAGE OF THE PROPERTY HAS WATER? 0 %

3. HOW MANY INCHES OF WATER ARE AVAILABLE TO PROPERTY? 0

4. HOW DO YOU PLAN TO RETAIN STORM AND EXCESS WATER ON EACH LOT?

MAINTAIN ALL EXISTING DRAINAGE PATTERNS

5. HOW DO YOU PLAN TO PROCESS STORM WATER / EXCESS IRRIGATION WATER PRIOR TO IT ENTERING THE ESTABLISHED DRAINAGE SYSTEM?

PREVENT EROSION BY PRESERVATION OF EXISTING VEGETATION.

### ROADS

1. ROADS WITHIN THE DEVELOPMENT WILL BE:

☐ Public ☐ Private ☒ N/A

\* Private Road names must be approved by the County and the private road application submitted with the Preliminary Plat\*

### HILLSIDE DEVELOPMENT

1. OF THE TOTAL LOTS REQUESTED, HOW MANY OF THE LOTS WILL CONTAIN SLOPES GREATER THAN 15%?

Residential 1, EXISTING Non-Buildable \_\_\_\_\_ Common \_\_\_\_\_

2. WILL THE PROPOSED ROAD (S) BE LOCATED WITHIN ANY AREA THAT HAS SLOPES GREATER THAN 15%?

☐ YES ☒ NO

\*If YES, a grading plan is required.

## **SUBDIVISION WORKSHEET**

### **CANYON COUNTY DEVELOPMENT SERVICES DEPARTMENT**

111 North 11<sup>th</sup> Avenue, #140, Caldwell, ID 83605

[www.canyonco.org/dsd.aspx](http://www.canyonco.org/dsd.aspx) Phone: 208-454-7458 Fax: 208-454-6633



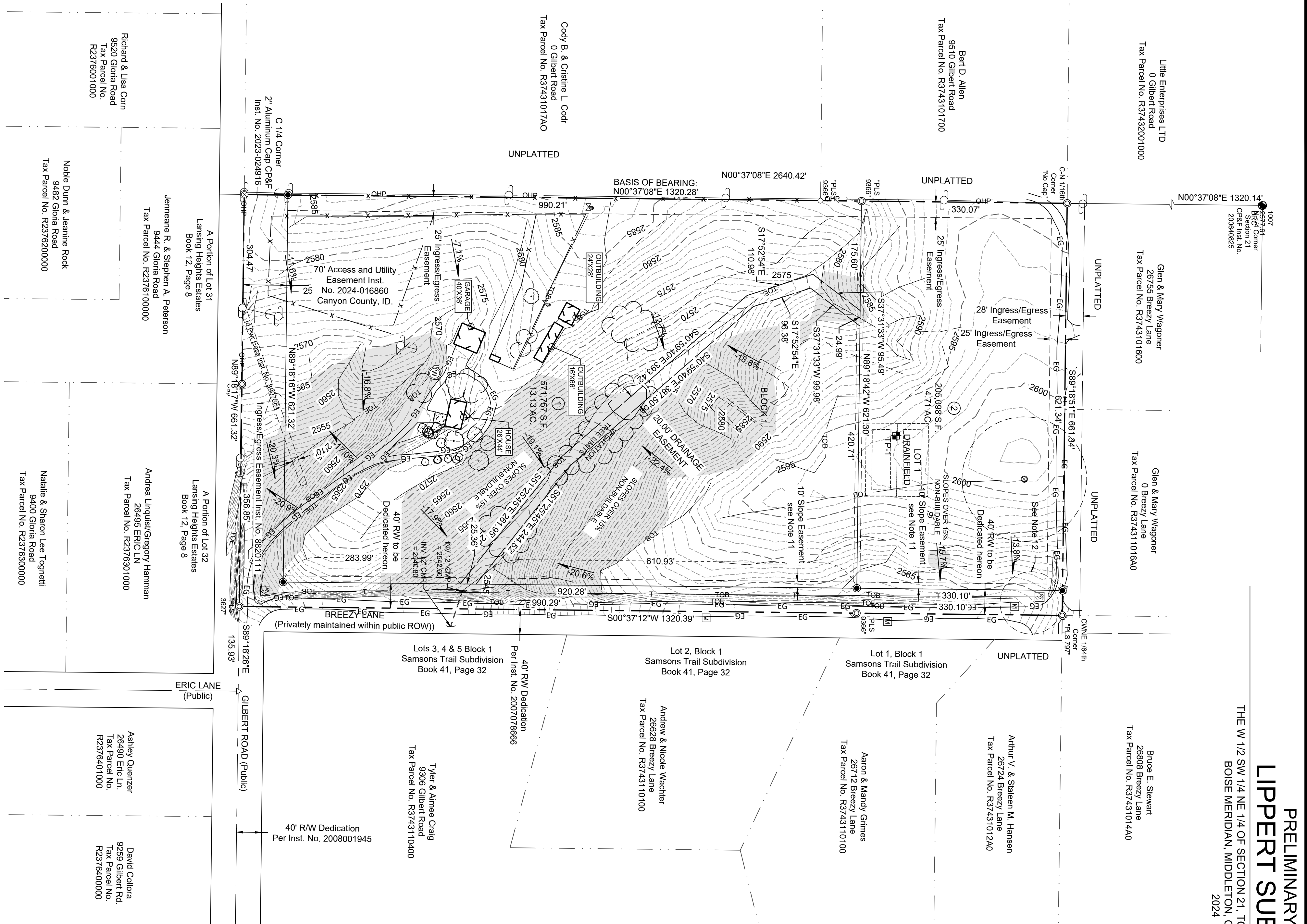
#### **SUBDIVISIONS WITHIN AN AREA OF CITY IMPACT**

N/A

1. **WILL YOU BE REQUESTING WAIVERS OF SUBDIVISION IMPROVEMENT REQUIREMENTS FROM THE CITY?**  
☐ YES ☐ NO
2. **IF YES, WHICH WAIVERS WILL YOU BE REQUESTING?**  
☐ CURBS ☐ GUTTERS ☐ SIDEWALKS ☐ STREETLIGHTS ☐ LANDSCAPING



Plot Date: 8/26/2024 4:33 PM By: John Fitzgerald  
Save Date: 8/26/2024 4:30 PM File: P:\O\OBO\01832255\0400CAD\EC\SHEETS\IEC-PP-OBO\01832255.dwg

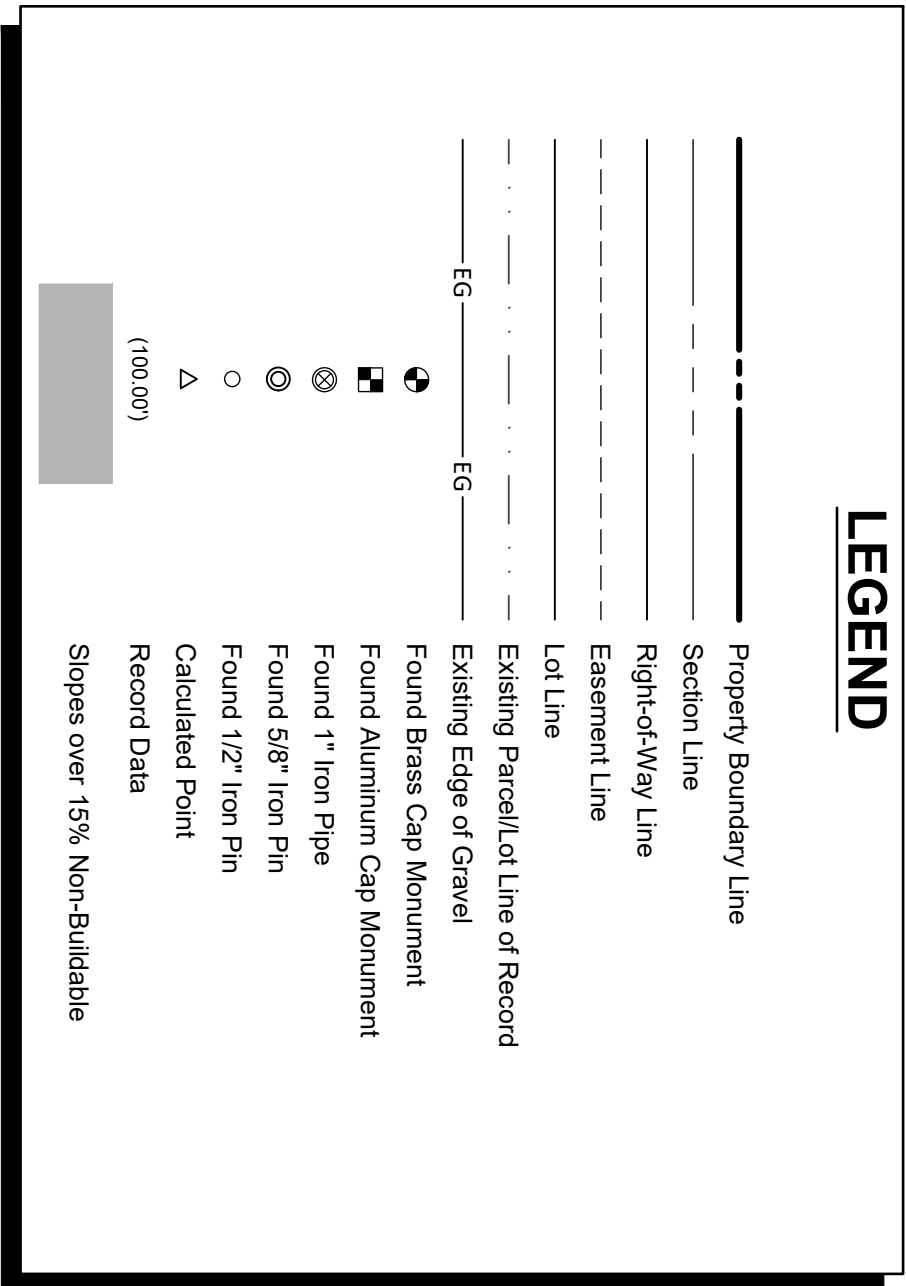


PRELIMINARY PLAT OF  
LIPPERT SUBDIVISION  
THE W 1/2, SW 1/4, NE 1/4 OF SECTION 21, TOWNSHIP 5 NORTH, RANGE 2 WEST,  
BOISE MERIDIAN, MIDDLETON, CANYON COUNTY, IDAHO  
2024

NOTES:

- All Rear Lot Lines and Subdivision Boundary shall have a Ten (10) foot Wide Permanent Public Utilities, Drainage and Irrigation Easement and Side Lot Lines shall have a Five (5) foot Wide Permanent Public Utilities, Drainage and Irrigation Easement on each side of the Lot Line.
- Minimum Building Setbacks shall be in Accordance with the Canyon County Applicable Zoning and Subdivision Regulations at the time of Issuance of Individual Building Permits or as Specifically Approved and/or Required, or as shown on this Plat.
- Any Resubdivision in Effect at the time of Resubdivision.
- This Development Recognizes Section 22-4-503 of the Idaho Code, Right to Farm Act, which States: "No Agricultural Operation, Agricultural Facility or Expansion thereof shall be or become a Nuisance, Private or Public, by any Changed Conditions in or about the Surrounding Nonagricultural Activities after it has been in Operation for more than one (1) year, when the Operation, Facility or Expansion was not a Nuisance at the Time it began or was Constructed. The Provisions of this Section shall not apply when a Nuisance results from the Improper or Negligent Operation of an Agricultural Operation, Agricultural Facility or Expansion thereof."
- All Lots in this Subdivision will be Served by Individual Septic and Drainage Field Systems.
- All Lots in this Subdivision will be Served by Individual Wells per IDWR Specifications/Requirements.
- In compliance with the disclosure requirements of Idaho Code 31-3805(2), Irrigation water has not been provided for by the owner, and no surface water rights exist.
- Maintenance of any Irrigation, Drainage Pipe or Ditch Crossing a Lot is the Responsibility of the Lot Owner unless such Responsibility is Assumed by an Irrigation/Drainage District.
- Per Canyon County Code 07-10-19, a 70-foot setback is established along all Section Lines and Quarter Section Lines.
- Lots fronting Breezy Lane are subject to a roadway slope easement for the road right-of-way, in favor of Highway District 4 for the construction and maintenance of the roadway shown herein.
- Temporary cul-de-sac easement to vacate when Breezy Lane (public) extends north.
- The Homeowners Association, underlying property owner or adjacent property owner is responsible for all storm drainage facilities outside the public right-of-way, including all routine and heavy maintenance.

LEGEND



UTILITY REPRESENTATIVES

UTILITY	REPRESENTATIVE	PHONE
NATURAL GAS	INTERMOUNTAIN GAS	208.377.8839
ELECTRICITY	IDAHO POWER	208.388.6320
TELEPHONE	CENTURYLINK	208.385.2440
CABLE TV	SPARKLIGHT	208.375.8288
SEPTIC	SOUTHWEST DISTRICT HEALTH DEPARTMENT	208.642.9321
WELL	IDAHO DEPARTMENT OF WATER RESOURCES	208.324.2190
ROADS	HIGHWAY DISTRICT 4	208.454.8155
ENGINEERING	BLACK CAN ENGINEERING DISTRICT	208.588.4171
ENGINEERING	MIDDLETON RURAL FIRE DISTRICT	208.588.7772

DEVELOPER

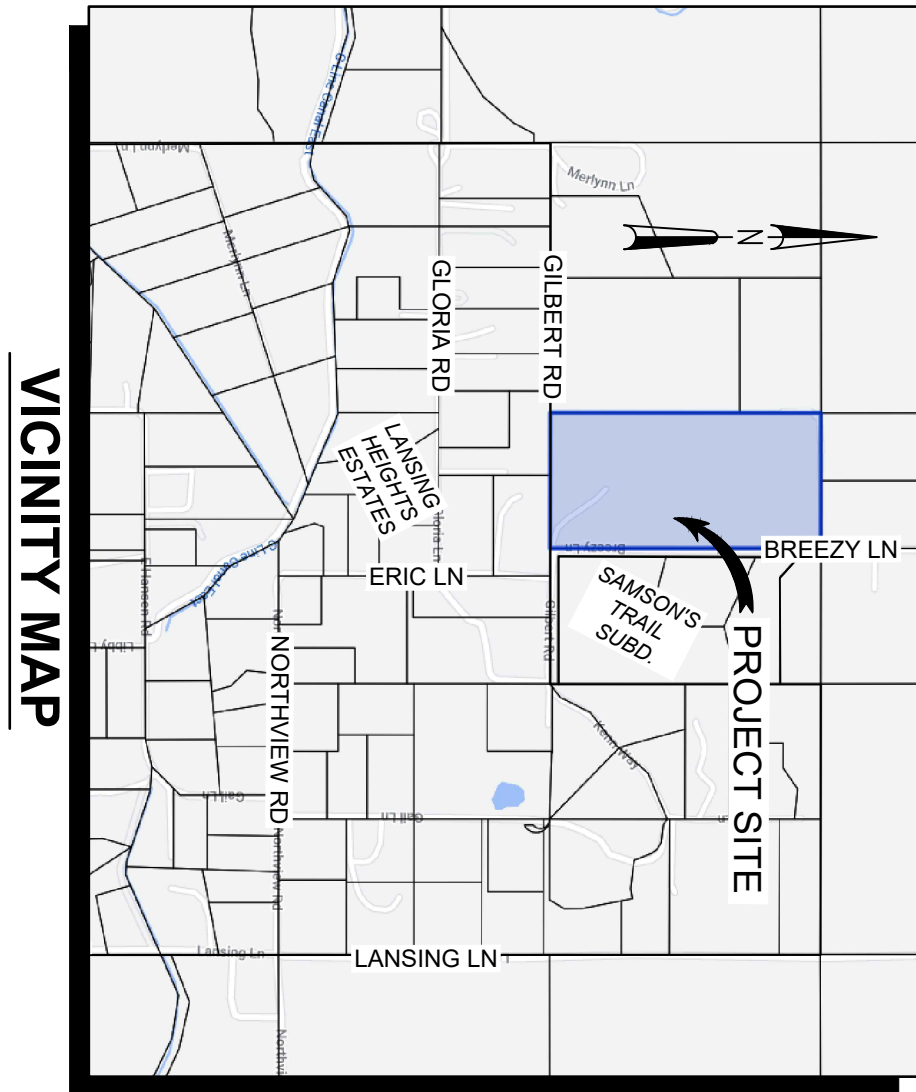
WAYNE A. LIPPERT  
c/o DARIN KINDRICK  
9626 E GILBERT ROAD  
MIDDLETON, ID 83644  
208.761.6100  
Darin@winlpermere.com

SURVEYOR

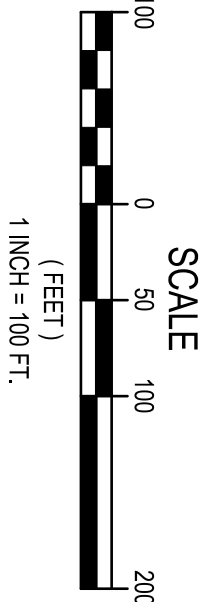
LAOD CLUFF, P.L.S.  
DAVID EVANS AND ASSOCIATES, INC.  
9175 W. BLACK EAGLE DR.  
BOISE, ID 83709  
208.900.9049  
Ladd.Kluff@deainc.com

CIVIL ENGINEER

DETRITT KERNER, P.E.  
DAVID EVANS AND ASSOCIATES, INC.  
9175 W. BLACK EAGLE DR.  
BOISE, ID 83709  
208.900.9049  
Derritt.Kerner@deainc.com



VICINITY MAP



DEVELOPMENT FEATURES:

TOTAL ACRES ..... 20.04 ACRES  
TOTAL LOTS ..... 2  
BUILDABLE LOTS ..... 2  
DENSITY DU/ACRES ..... 0.09 / ACRE  
EXISTING ZONING ..... CR-RR  
(REFERENCE D.A. #22-025)

PROPOSED EASEMENTS:

FRONT, REAR ..... 12'  
SIDE ..... 6' (EACH SIDE)  
\* UNLESS OTHERWISE DIMENSIONED  
OPEN SPACE (FRONT) ..... 50'  
LANDSCAPE EASEMENT ..... 22,664 SF  
ROW PLANTER STRIP ..... 3,600 SF

BUILDING SETBACKS:

FRONT ..... 30'  
STREET SIDE ..... 20'  
REAR ..... 30'  
SIDE ..... 10'  
Southern Quarter Section Line ..... 70'

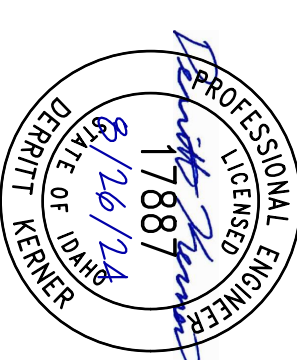
DAVID EVANS AND ASSOCIATES, INC.  
9175 West Black Eagle Drive  
Boise, Idaho 83709  
208.900.9049

PRELIMINARY PLAT

LIPPERT SUBDIVISION  
9626 E GILBERT ROAD  
MIDDLETON, ID 83644

DATE:

NO.	DATE	REVISION	BY	CK
1	6/26/23	CANYON COUNTY COMMENTS		



CHECKED BY: DEK  
DESIGNED BY: DSS  
DRAWN BY: DSS

FIRST SUBMITAL DATE: 2/13/23

PROJECT NO.  
OBO101832255  
SHEET NO. 1 OF 1  
PP1



**IRRIGATION PLAN APPLICATION****CANYON COUNTY DEVELOPMENT SERVICES DEPARTMENT**111 North 11<sup>th</sup> Avenue, #140, Caldwell, ID 83605[www.canyonco.org/dsd.aspx](http://www.canyonco.org/dsd.aspx)

Phone: 208-454-7458

Fax: 208-454-6633



Applicant(s) WAYNE LIPPERT / C/O DARIN KINDRICK 208-761-6100  
 Name Daytime Telephone Number  
9626 GILBERT RD. MIDDLETON, ID 83644  
 Street Address City, State Zip

Representative Name DEARITT KERNER, P.E. 208-391-7682 dearitt.kerner@deainc.com  
 Daytime Telephone Number / E-mail Address  
9175 W. BLACKEAGLE DR. BOISE, ID 83709  
 Street Address City, State Zip

Location of Subject Property: 9626 GILBERT RD. MIDDLETON, ID 83644  
 Two Nearest Cross Streets or Property Address City

Assessor's Account Number(s): R 37431010 Section 21 Township 5N Range 2W

This land:



Has water rights available to it.



Is dry and has no water rights available to it. If dry, please sign this document and  
 return to the Development Services Department representative from whom you received it.

**Idaho Code 31-3805** states that when all or part of a subdivision is "located within the boundaries of an existing irrigation district or canal company, ditch association, or like irrigation water delivery entity ... **no subdivision plat or amendment to a subdivision plat or any other plat or may recognized by the city or county for the division of land will be accepted, approved, and recorded unless:**"

- a. The appropriate water rights and assessment of those water rights have been transferred from said lands or excluded from an irrigation entity by the owner; or
- b. The owner, person, firm, or corporation filing the subdivision plat or amendment to a subdivision plat or map has provided underground tile or conduit for lots of one (1) acre or less, or a suitable system for lots of more than one (1) acre which will deliver water to those land owners within the subdivision who are also within the irrigation entity with the appropriate approvals:
  1. For proposed subdivisions located within negotiated area of city impact, both city and county zoning authorities must approve such irrigation system in accordance with Idaho Code Section 50-1306. In addition, the irrigation entity charged with the delivery of water to said lands must be advised regarding the irrigation system.

2. For proposed subdivisions outside of negotiated areas of city impact, the delivery system must be approved by the Planning and Zoning Commission and the Board of County Commissioners with the advice of the irrigation entity charged with the delivery of water to said lands.

To better understand your irrigation request, we need to ask you a few questions. A list of the map requirements follows the short questionnaire. **Any information missing information may result in the delay of your request before the Planning and Zoning Commission and ultimately the approval of your irrigation plan by the Board of County Commissioners.**

1. Are you within an area of negotiated City Impact? \_\_\_\_\_ Yes \_\_\_\_\_ No  
**If yes, please include a copy of approvals by the City Planning & Zoning Commission and City Council of your Irrigation Plan.**

2. What is the name of the irrigation and drainage entities servicing the property?

Irrigation: \_\_\_\_\_

Drainage: \_\_\_\_\_

3. How many acres is the property being subdivided? \_\_\_\_\_

4. What percentage of this property has water? \_\_\_\_\_

5. How many inches of water are available to the property? \_\_\_\_\_

6. How is the land currently irrigated? ☐ Surface ☐ Irrigation Well  
☐ Sprinkler ☐ Above Ground Pipe ☐ Underground Pipe

7. How is the land to be irrigated after it is subdivided? ☐ Surface ☐ Irrigation Well  
☐ Sprinkler ☐ Above Ground Pipe ☐ Underground Pipe

8. Please describe how the head gate/pump connects to the canal and irrigated land and where ditches and/or pipes go.

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9. Are there irrigation easement(s) on the property? ☐ Yes ☐ No

10. How do you plan to retain storm and excess water on each lot?

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11. How do you plan to remove the storm water /excess irrigation water prior to it entering the established drainage system? (i.e. oil, grease, contaminated aggregates)

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===== Applicant Acknowledgement =====

I, the undersigned, agree that prior to the Development Services Department accepting this application I am responsible to have all of the required information and site plans.

I further acknowledge that the irrigation system, as approved by the Planning and Zoning Commission and ultimately the Board of County Commissioners, must be bonded and/or installed prior the Board's signature on the final plat.

Signed: Wayne Appert Date: 2 / 24 / 23  
Property Owner (Application Submitted)

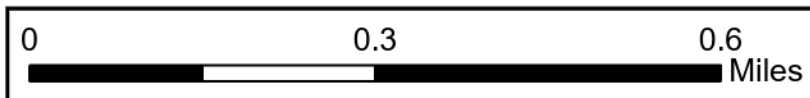
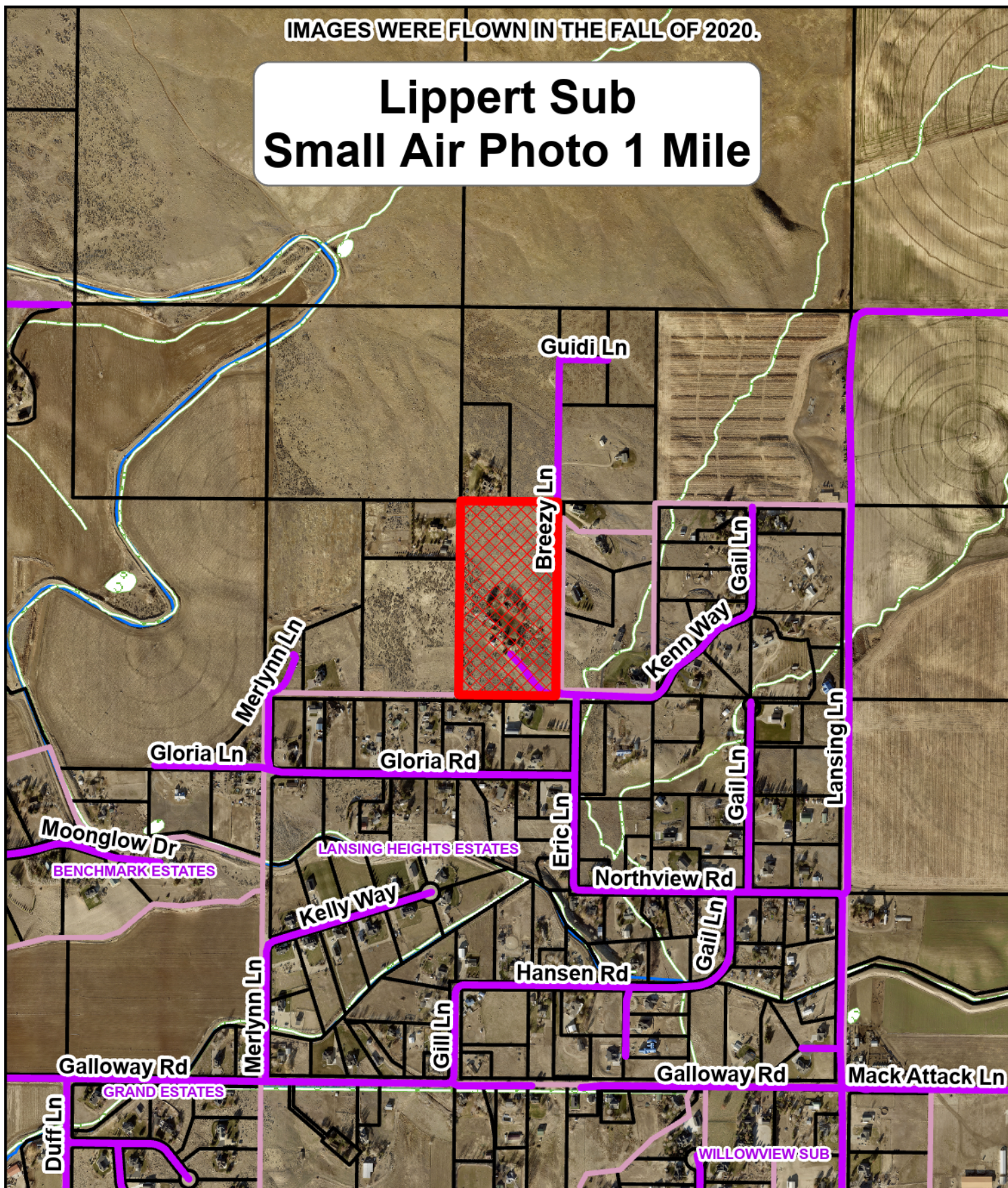
Signed: \_\_\_\_\_ Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_  
Applicant/Representative (if not property owner) (Application Submitted)

Accepted By: S. Hailey Date: 2 / 24 / 23  
Director / Staff



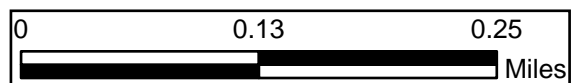
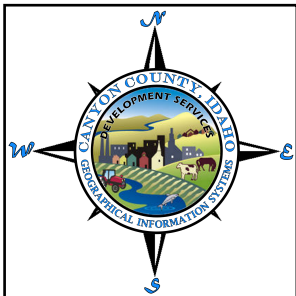
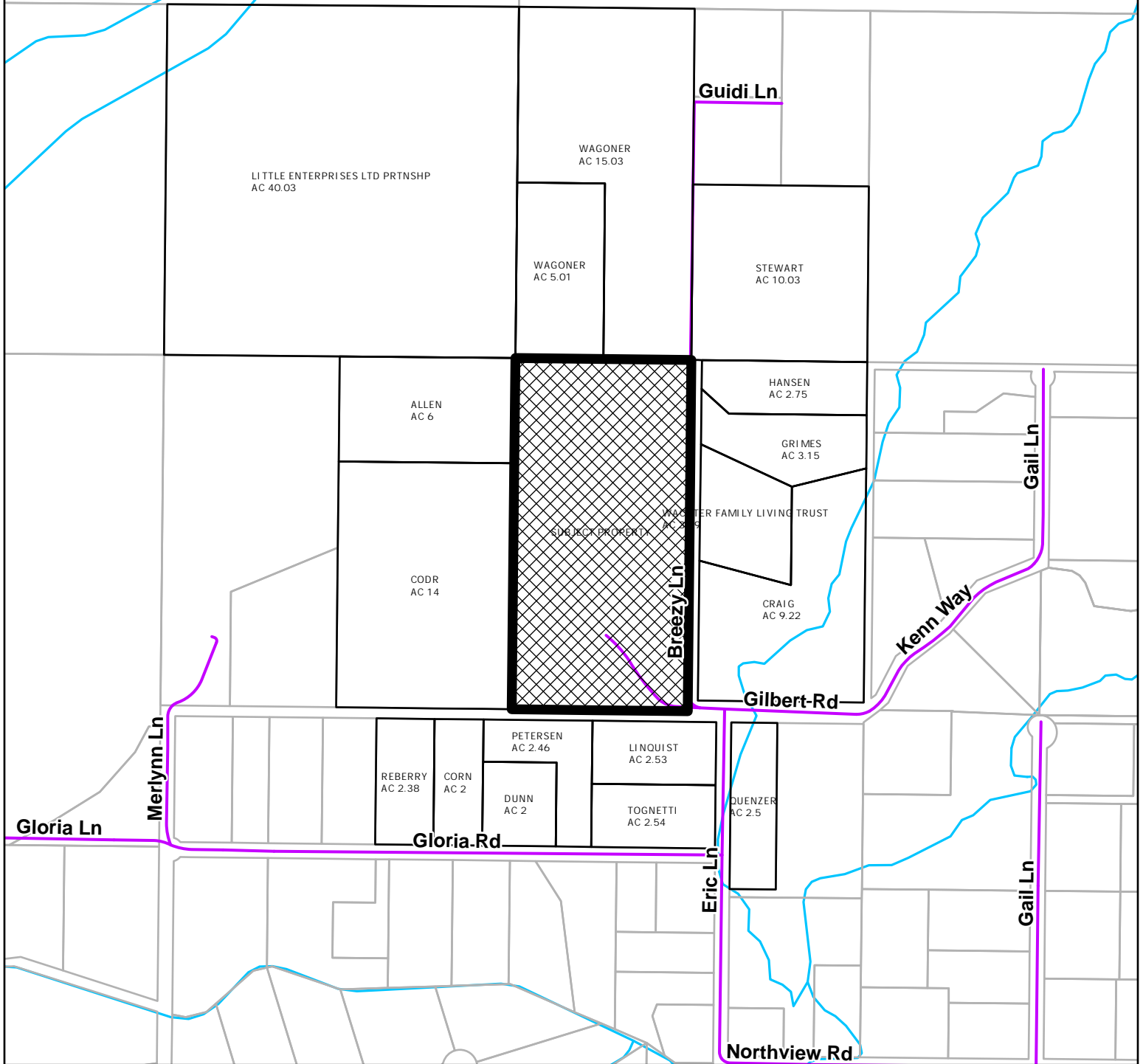
IMAGES WERE FLOWN IN THE FALL OF 2020.

# Lippert Sub Small Air Photo 1 Mile





# Lipper Sub Small Vicinity Map





Canyon County, 111 North 11<sup>th</sup> Avenue, #310, Caldwell, ID 83605  
 ■ Engineering Division ■

### Preliminary Plat Check-List

<b>Applicant:</b> Lippert/Kerner	<b>Case Number:</b> SD2023-0006
<b>Subdivision Name:</b> Lippert Subdivision	<b>Plat Date (Review #2):</b> 10/25/2023 - 7/12/24

#### CANYON COUNTY CODE OF ORDINANCES 07-17-09

The information hereinafter required as part of the preliminary plat submitted shall be shown graphically or by note on plans, and may comprise several sheets showing various elements or required data.

*Italicized items are supplemental to CCZO 07-17-09.*

GENERAL REVIEW ITEMS		Meets Code / Comments	
1. Complete the initial review of <b>all</b> information given graphically and by note on the plat			Meets
2. Check for compliance with FCOs and/or Development Agreement from the entitlement process if applicable		RZ2021-0049/DA #22-025: <ul style="list-style-type: none"><li>Two lots consistent with the concept plan,</li><li>Breezy Lane must meet 07-10-03(2) Fire District, and (3) Construction, and</li><li>RUMA</li></ul> Met/Can be met through conditions of plat approval. <b>Construction that requires engineering cannot be processed through a short plat.</b> <b>7/12/24: Unchanged (DL)</b>	
3. Check for compliance with CCCO Chapter 9 - Areas of City Impact. Chapter 9 lists requirements unless waived.		N/A	
4. Check for applicable agency comments. These comments could have been made at the entitlement stage or after.			
5. Make note of agencies that should be noticed if not typically included on the notice list and pass the information along to the planner		See general conditions listed below.	
<i>Items A through E below are directly from CCZO 07-17-09. Italicized items are checklist items related to requirements found in the ordinance and may not be strictly required.</i>			
A. FORM OF PRESENTATION		Meets Code / Comments	
1. Scale of Drawing (No more than 1” = 100’ unless approved by DSD prior to submission);		Meets	
2. Size of Drawing (No larger than 24’ x 36”); <ul style="list-style-type: none"><li><i>Obtain an electronic version of all submittals</i></li></ul>		Meets	
B. IDENTIFICATION AND DESCRIPTIVE DATA		Meets Code / Comments	
1. Proposed name of subdivision and its location by section, township, and range; <ul style="list-style-type: none"><li><i>Name of sub needs to be reserved through DSD GIS</i></li></ul>		Meets. DSD GIS reserved the subdivision name.	

2. Reference by dimension and bearing to a section corner or quarter section corner;	Meets	Meets
3. Name, address, and phone number of the developer;	Meets. Wayne A. Lippert	
4. Name address and phone number of the person preparing the plat;	Meets. Ladd Cluff, PLS	
5. North arrow;	Meets	
6. Date of preparation;	Shows first submittal date and revision date.	
7. Revision block showing dates if any revisions were subsequent to the original preparation date. The revision block shall be part of the title block which shall be placed along the right edge of the drawing sheet; and	Meets. Revision 6/26/2023	
8. Vicinity map is drawn to scale, clearly showing proposed subdivision location in relationship to adjacent subdivisions, main arterial routes, collector streets, etc. <ul style="list-style-type: none"><li>Check for consistency between pre-plat and vicinity map</li></ul>	Drawn to scale and shows road routes. <b>Missing adjacent subdivisions such as Samsons Trail Sub. and Lansing Heights Estates.</b> <b>7/12/24: Meets (DL)</b>	
<b>C. EXISTING CONDITIONS DATA</b>	<b>Meets Code / Comments</b>	
1. Two (2) foot Contours shown unless otherwise approved; show all areas in excess of 15% slope;	Meets. 1-foot contours. Areas in excess of 15% slopes are shaded and identified as non-buildable.	Meets
2. Location of water wells, streams, canals, irrigation laterals, private ditches, washes, lakes or other water features; direction of flow; location and extent of known areas subject to inundation.	Meets	Meets
3. Location, widths and names of all platted streets, railroads, utility rights of way of public record, public areas, permanent structures to remain including water wells and municipal corporation lines within or adjacent to the tract <ul style="list-style-type: none"><li>Future use of remaining wells, if applicable</li></ul>	Meets	
4. Name, book and page numbers of any recorded adjacent subdivisions having a common boundary with the tract	Meets	
5. Existing zoning classification, by note <ul style="list-style-type: none"><li>Proposed zoning, by note, if new zoning is being proposed concurrently with pre-plat application</li></ul>	Update zoning to “CR-R-R” and include reference to DA Agreement #22-025. <b>7/12/24: Meets (DL)</b>	
6. Approximate acreage of the tract, by note	Meets. 20.04 acres noted under Development Features.	
7. Boundary dimensions of the tract	Meets	
8. Names and addresses of adjoining property owners within three hundred (300) feet of the exterior boundary of the tract	Missing three within 300 feet: Parcels R23764010, R23763 and R23762. <b>7/12/24: Meets (DL)</b>	
<b>D. PROPOSED CONDITIONS DATA</b>	<b>Meets Code / Comments</b>	
1. Road layout, including location, width, and proposed names of roads, alleys, pathways, easements, and roadway connections, if any, to an adjoining platted tract <ul style="list-style-type: none"><li>Confirmation that highway district will allow proposed access if new access is on an arterial</li><li>Check ownership of access location if separate lot</li><li>Check alignment of stub streets with adjacent developments, if applicable</li><li>Private roads shall not have direct access to arterials or local roads within a platted subdivision (ACCHD 2020.040)</li></ul>	Meets. Breezy Lane is an open, unmaintained ROW that requires CDH4 approval. <b>7/12/24: DA22-025, Cond. 2a11 requires fire district access approval and construction to private road standards.</b>	Meets. No additional comments.

<ul style="list-style-type: none"> <li>Private road names need to be reserved through DSD GIS. Private roads require a separate application.</li> <li>Public road names must be checked for availability with DSD GIS</li> <li><i>If typical sections are shown make sure they are consistent with what will be required</i></li> </ul>		
2. Typical lot dimensions including curvilinear data to scale; each lot numbered individually; total number of lots by type and grand total. A private road must be a lot. <ul style="list-style-type: none"> <li><i>Curve table is present and matches data shown graphically</i></li> <li><i>Minimum lot size</i></li> <li><i>Average lot size (calculated as total residential area divided by the number of residential lots)</i></li> <li><i>Check block numbering</i></li> <li><i>Consider any phasing shown</i></li> </ul>	Meets	Meets
3. Location, width, and use of easements <ul style="list-style-type: none"> <li><i>Provide documentation of or reference to any existing easements, especially access easements for existing parcels that are part of the plat.</i></li> <li><i>Show easements for all shared infrastructure</i></li> </ul>	Meets <b>7/12/24: 25' easement along the west boundary unlabeled. Please label (DL)</b>	Meets. No additional comments.
4. Designation of all land to be dedicated or reserved for public use with use indicated	N/A	
5. If the plat includes land for which multi-family, commercial, or industrial use is proposed, such areas shall be clearly designated together with existing zoning classification and status of zoning change, if any	N/A	
6. If the proposed subdivision is part of a larger area intended for development, a development master plan of the entire area shall be provided	N/A	N/A
7. Appropriate information that sufficiently details the proposed development within any special development area such as hillside, PUD, flood plain, cemetery, manufactured home, large scale development, hazardous and unique areas of development <ul style="list-style-type: none"> <li><i>Check mapping layers for the above special development items. Include wetland and natural drainage ways.</i></li> <li><i>Consider recommended conditions related to special development areas and related reports</i></li> </ul>	Hillside Development info not provided. The plat identifies slopes 15% or greater as no-build areas. <b>7/12/24 (DL): This true if slopes are not disturbed by road, drainage and other improvements. If slopes are disturbed by improvements, hillside dev. requirements/plans/reports per 07-17-33(1) are missing.</b>	Show building envelopes outside of shaded areas on construction drawings when drafted and submitted to the County.
8. All roads must be labeled as either “private” or “public” behind or beneath the road name	Meets	
<b>E. PROPOSED UTILITY METHODS</b>	<b><u>Meets Code / Comments</u></b>	
1. <b>Sewage:</b> A statement as to the type of proposed sanitary sewage facilities <ul style="list-style-type: none"> <li><i>Preliminary location/layout of proposed sewage facilities</i></li> <li><i>Nutrient-pathogen study if required by SWDH</i></li> <li><i>If sewage facilities will be shared, provide preliminary arrangements for future operation and maintenance of the facilities, including financial arrangements. Also include a</i></li> </ul>	7/12: Note #6 (DL)	

<p><i>preliminary sewer plan. DSD should complete high-level feasibility review of shared utilities</i></p>			
<p>2. <b>Water Supply:</b> A statement as to the type of proposed water supply facilities</p> <ul style="list-style-type: none"> <li><i>Preliminary location/layout of proposed potable water facilities</i></li> <li><i>If potable water facilities will be shared, provide preliminary arrangements for future operation and maintenance of the facilities, including financial arrangements. Also, include a preliminary potable water plan. DSD should complete high-level feasibility review of shared utilities</i></li> </ul>	<p>7/12: Note #7 (DL)</p>		
<p>3. <b>Storm Water Disposal:</b> A statement as to the type of stormwater disposal facilities which may include evidence as may be required relative to the design and operation of the proposed storm water system</p> <ul style="list-style-type: none"> <li><i>Include a statement that all stormwater shall be retained on site, if appropriate</i></li> <li><i>Consider any required protection for roadside swales during home construction and/or long-term protection from landscaping, roadside parking, regrading/filling swale, etc.</i></li> <li><i>Maintenance easements for storm drain facilities treating drainage from public roads should be in place</i></li> </ul>	<p>7/12: Note #9 (DL)</p>		
<p>4. <b>Irrigation System:</b> A statement as to the proposed irrigation system, which may include evidence as may be required relative to the design and operation of any proposed irrigation system</p> <ul style="list-style-type: none"> <li>Irrigation Supply and Distribution Systems: The developer shall disclose, pursuant to Idaho Code section 31-3805, and file as part of the preliminary plat with DSD, evidence that an adequate irrigation supply and distribution system to serve the land within the plat to be recorded will be provided and must include consideration of using existing water rights that go with the land being platted. Such evidence shall include, but not be limited to, the following: <ul style="list-style-type: none"> <li>Copies of the plans of the proposed distribution system for the lots and areas to be served in the proposed development; and</li> <li>Copies of the community association's or similar organization's documents which may be required precedent to the establishment of an irrigation distribution system within the proposed development.</li> </ul> </li> </ul>	<p>7/12: Note #8 (DL)</p>		
<p>5. <b>Utility Easement:</b> The utility easement width shall be a minimum of ten (10) feet from the exterior boundaries and five (5) feet from the interior boundaries. Utility easements shall be shown graphically on the plat.</p>	<table> <tr> <td>Meets. Note #1 7/12/24 (DL): Noted but not shown</td><td>Meets</td></tr> </table>	Meets. Note #1 7/12/24 (DL): Noted but not shown	Meets
Meets. Note #1 7/12/24 (DL): Noted but not shown	Meets		
<p align="center"><b>GENERAL RECOMMENDED CONDITIONS - PLANNING</b></p> <ol style="list-style-type: none"> <li>Before the Board's signing of the final plat, a road user's maintenance agreement shall be recorded per CCZO Section 07-10-03(1)B3.</li> <li>All subdivision improvements and amenities shall be bonded or completed prior to the Board of County Commissioner's signature on the final plat. <ol style="list-style-type: none"> <li>Breezy lane shall be constructed in accordance with CCZO Section 07-10-03(2) and (3) unless superseded by Canyon Highway District #4's public road construction standards. Prior to the Board's signing of the final plat, certification from a licensed engineer shall be submitted demonstrating the road has been constructed per CCZO Section 07-10-03(2) and (3).</li> </ol> </li> </ol>			

- Before the Board signs 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.

#### GENERAL RECOMMENDED CONDITIONS - ENGINEERING

- Finish grades at subdivision boundaries shall match existing finish grades. Runoff shall be maintained on subdivision property unless otherwise approved.
- Development shall comply with the requirements of the local highway district. Evidence shall include written correspondence from the highway district prior to the first public hearing held for the preliminary plat and highway district signature on the final plat.
- Development shall comply with irrigation district requirements. Evidence shall include written correspondence from the irrigation district prior to the first public hearing held for the preliminary plat and prior to Board of County Commissioner's signature on the final plat.
- Development shall comply with Southwest District Health requirements. Evidence shall include written correspondence from Southwest District Health prior to the first public hearing held for the preliminary plat and Southwest District Health signature on the final plat.
- Development shall comply with Fire District requirements. Evidence shall include written correspondence from the Fire District prior to the first public hearing held for the preliminary plat and prior to the Board of County Commissioner's signature on the final plat.
- Provide approval from HD4 when available.
- After preliminary plat approval applicant shall provide GIS data containing georeferenced lot line and roadway linework to be included in Development Services GIS mapping. (Solo pre-plats only)

### FOR DEVELOPMENT SERVICES INTERNAL USE ONLY

#### Date Reviewed

#### Reviewer

10/25/23	Dan Lister, Principal Planner
7/12/2024	D. Lister
7/19/2024	M. Hickman/J.Walker
7/29/2024	D.Alnajjar

#### COMPLIANCE WITH CONDITIONS OF APPROVAL:

- Unchanged: Amend the application from a short plat to a preliminary plat. The final plat will need to be submitted and reviewed after preliminary plat approval.
  - Fee schedule adopted 6/7/2022 (Resolution #22-137): Short Plat application fee (when no improvements are required).

Pink

Planning

Green

Engineering



## Dan Lister

---

**From:** Tony Almeida  
**Sent:** Wednesday, October 25, 2023 11:09 AM  
**To:** Dan Lister  
**Subject:** RE: Subdivision Name \_Lippert Subdivision (SD2023-0006)

Lipper Sub has been reserved.

Tony

---

**From:** Dan Lister  
**Sent:** Wednesday, October 25, 2023 10:39 AM  
**To:** Tony Almeida <tony.almeida@canyoncounty.id.gov>  
**Subject:** Subdivision Name \_Lippert Subdivision (SD2023-0006)

Tony,

Is the subdivision name Lippert Subdivision reserved? If not, please reserve it.

Thanks!

**Dan Lister, Principal Planner**

DSD Office: (208) 454-7458 - Direct Line: (208) 455-5959

[Daniel.Lister@canyoncounty.id.gov](mailto:Daniel.Lister@canyoncounty.id.gov)

Development Services Department (DSD)

Public office hours

Monday, Tuesday, Thursday and Friday

8am – 5pm

Wednesday

1pm – 5pm

**\*\*We will not be closed during lunch hour \*\***

**PUBLIC RECORD NOTICE:** All communications transmitted within the Canyon County email system may be a public record and may be subject to disclosure under the Idaho Public Records Act and as such may be copied and reproduced by members of the public.



**CANYON HIGHWAY DISTRICT No. 4**15435 HIGHWAY 44  
CALDWELL, IDAHO 83607TELEPHONE 208/454-8135  
FAX 208/454-2008

October 10, 2023

Canyon County Board of Commissioners  
and Planning & Zoning Commission  
111 N. 11<sup>th</sup> Street  
Caldwell, Idaho 83605  
Attention: Dan Lister, Planning Director

David Evans and Associates  
9175 W Black Eagle Dr.  
Boise, ID 83709  
Attention: Derritt Kerner, P.E.

RE: **Lippert Subdivision**  
**Canyon County Parcel R374310100**

Dear Commissioners:

Canyon Highway District No. 4 (CHD4) has reviewed the short plat application for Lippert Subdivision of approximately 20 acres, located in T5N R2W Section 21. Applicant is requesting to subdivide the parcel creating 2 lots, Lot 1 of 14.28 Acres and Lot 2 of 4.86 Acres. CHD4 provides the following comments on the proposed development:

**Right-of-way**

Breezy Lane is located on the subject parcel's east side. Samsons Trail Subdivision dedicated a 40' wide strip of land extending east of the 1/64<sup>th</sup> line for a length of approximately 1,320' and terminates at a gravel cul-de-sac at the Lippert Subdivision NE corner. Breezy Lane is classified as open public right-of-way not maintained by CHD4.

Gilbert Road is located on the subject parcel's south side. Said right-of-way extends from Eric Lane and terminates at Merlynn Lane, approximate length of 2,125'. Right-of-way dedication was provided from Lansing Heights Subdivision along the east/west 1/4-section line and extends south 40'. Parcel R37431017A0, parcel directly west of the subject parcel, requested to reclassify this right-of-way.

The Gilbert right-of-way was reclassified to open right-of-way subject to construction. The portion reclassified begins at Merlynn Lane and extends east approximately 1,322'. It was not feasible to construct Gilbert Road as a publically maintained road from Eric Lane extending west due to the topography and limited ROW. Since approval of the reclassification, the surrounding residents have made an application to CHD4 to close that previously opened subject to construction right-of-way. Furthermore, based on multiple inquiries from the public, it appears that parcel owner has listed the parcel for sale. If improvements to the Gilbert Road ROW and Merlynn Lane do not occur to the satisfaction of CHD4 by June 22, 2024 or a request for extension not received at that same time the right-of-way will revert back to closed public right-of-way.

Given parcel R37431017A0 challenges for access, there are at least 3 possible solutions. Below is the order of CHD4 preference:

1. Lippert Subdivision provide 70' wide easement along entire south property line of Lot 1 to benefit parcel R37431017A0. Driveway within this easement to be constructed by parcel R37431017A0 at time of development.
  - a. See Private Road concept for details
    - i. Limits of road construction generally fit within the 70' easement. Future construction of this private road could add a retaining wall approx. 2.5' high to keep limits within easement
  - b. Surrounding residents likely prefer this direction as it locates road away from their homes
2. Parcel R37431017A utilize the previously reclassified ROW (Merlynn to parcel R37431017A)
  - a. ROW improvements along this alignment can meet CHD4 standards
  - b. Residents do not desire this direction and requested this alignment to be closed
    - i. A residence is built less than 20' from ROW
3. (See Public Road Concept) Lippert Subdivision dedicate 40' of ROW as required per standards along the south property line. Outside of the ROW provide a slope easement of at least 30' for Gilbert Road. In addition, Breezy Lane will require significant regrading and likely require a slope easement of approximately 45' in addition to the 40' ROW dedication.
  - a. Costs of regrading Gilbert and Breezy are likely more than the cost of improvements related to option 2.
  - b. Residents likely object to this option as improving this segment of the Gilbert Road ROW will require removal of vehicle storage in the closed right-of-way, relocation or regrading of two private driveways, and make use of ROW which is approximately 20' from a residence.

**Staff requests Canyon County make item 1 a condition of the land use approval.** The Gilbert ROW only benefits 1 parcel. Maintaining a public road for one parcel is not in the interest of the majority of road users within the District. Therefore, a private road is the preferred direction forward.

Breezy Lane provides access for about 12 parcels in excess of 80 acres. Given previous dedication and potential development from the 80 acres, right-of-way dedication and slope easement is required for Breezy Lane (see below for details)

## **Plat Comments**

### Right-of-Way

1. Breezy Lane Dedicate 40' from 1/64<sup>th</sup> line
2. Add 10' wide slope easement beyond ROW dedication
  - a. Add note, "Lots fronting Breezy Lane are subject to a roadway slope easement for the Road Right-of-way, in favor of Canyon Highway District No. 4 for the construction and maintenance of the roadway shown hereon."
3. Review options 1-3 above for Gilbert, consider dedicating on plat 70' wide ingress, egress, and utility easement for the benefit of parcel R37431017A0 along south property line of Parcel 1

Final Plat

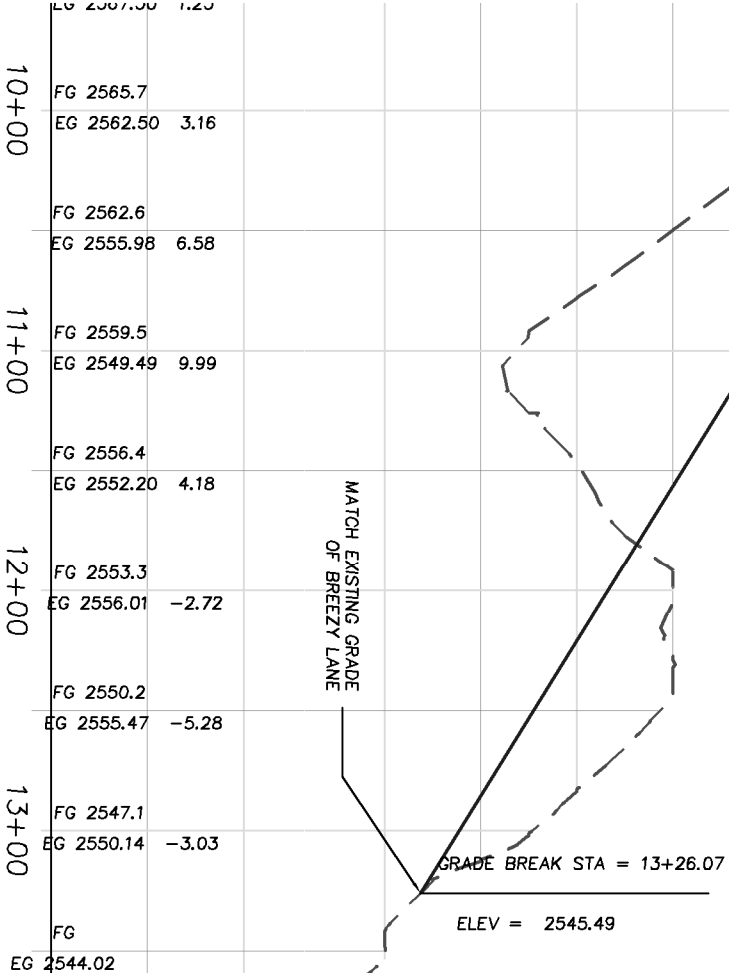
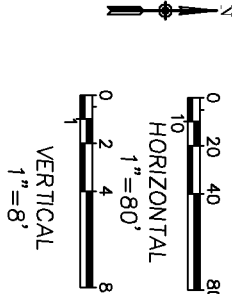
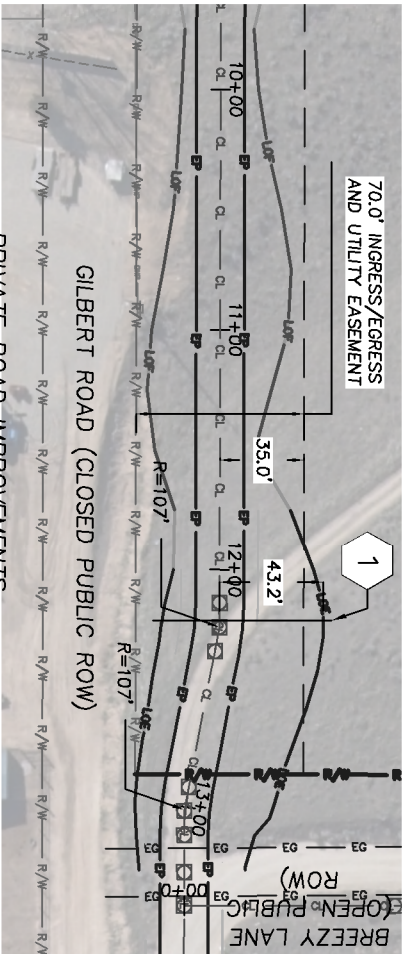
1. Review signature block for CHD4. Dedication of public roads and private road signature block may be most applicable if using option 1:
  - a. Plats with private roads and public road right(s)-of-way dedication(s): Canyon Highway District No. 4 does hereby accept this plat, and the dedicated public streets, highways and rights-of-way as are depicted on this plat, in accordance with the provisions of I.C. § 50-1312. Private streets depicted on this plat are not maintained by or under the jurisdiction of the Highway District. There is no legal obligation or assurances that the private streets will be accepted as public streets in the future.
2. Certificate of ownership—add the word forever at the end of “The public streets...”
3. Add storm drainage note:
  - a. The Homeowners Association, underlying property owner or adjacent property owner is responsible for all storm drainage facilities outside the public right-of-way, including all routine and heavy maintenance.
4. Show temp cul-de-sac easement at north extent of Breezy Lane. May have to locate bulb easement into property Lippert Parcel. Review ACCHD-104 standard drawings for limits of easement (use  $r=65'$  for easement limits).
  - a. Add call out, “Temporary cul-de-sac to vacate when Breezy Lane extends north.”
5. Review right-of-way comments and apply within final plat.

Please revise the plats to address the comments above, and re-submit a single full-size hard copy and an electronic copy of the plats. Feel free to contact me with any questions on this matter.

Regards,



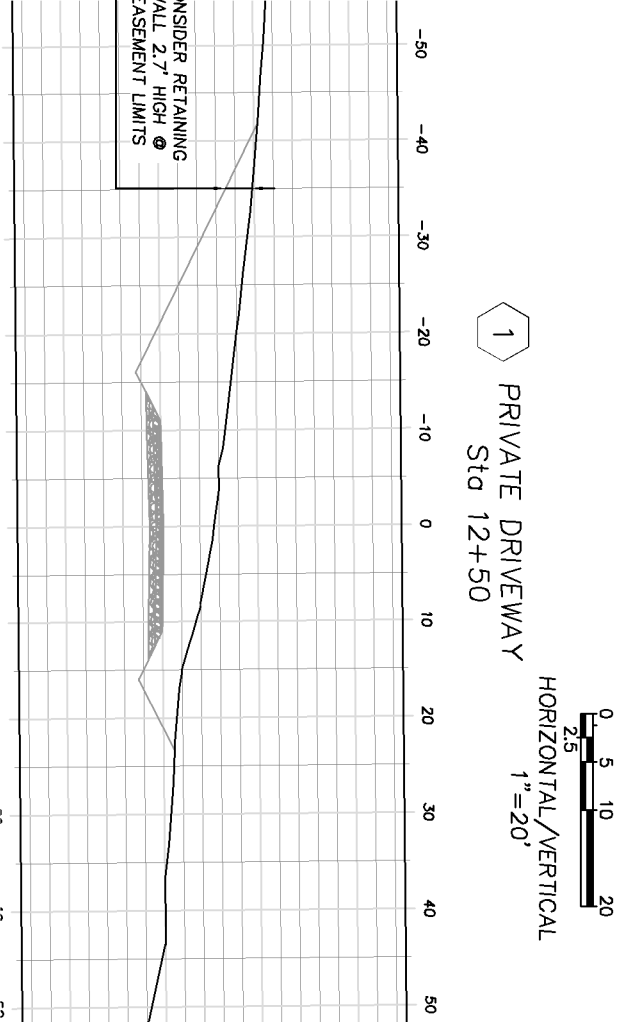
Lenny Riccio, P.E.  
Assistant Engineer  
Transportation Planner



- GENERAL NOTES**
1. RIGHT-OF-WAY AND PROPERTY LINES ARE SHOWN FOR REFERENCE AND NOT ESTABLISHED AS PART OF THIS CONCEPT.
  2. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH HIGHWAY DISTRICT STANDARDS AND ISPCW UNLESS OTHERWISE SPECIFIED OR SHOWN HEREON.
  3. NEW CUT & FILL SLOPES SHALL NOT BE STEEPER THAN 2H:1V.
  4. TRAFFIC CONTROL SIGNAGE REVISIONS ARE NOT SHOWN ON THIS CONCEPT.
  5. UNDERGROUND UTILITIES NOT SHOWN
  6. PLAN IS A CONCEPT AND NOT USED FOR CONSTRUCTION
  7. USED 20 MPH FOR DESIGN SPEED

# CONCEPT: PRIVATE DRIVEWAY EASEMENT CONCEPT

CANYON HIGHWAY DISTRICT NO. 4  
15435 Hwy. 44 Caldwell, Idaho 83607  
Phone: 208.454.8135  
Fax: 208.454.2008



CAD FILE: USTICK DESIGN 2017	
PROJ. #:	
DRAWING NO.:	
DRAWN BY: LJR	
DESIGN BY: LJR	
CHECKED BY:	
AT FULL SIZE, IF NOT ONE INCH, SCALE ACCORDINGLY	
SCALE OF SHEET	
HOR SCALE: SCALEBAR	
VER SCALE: N/A	

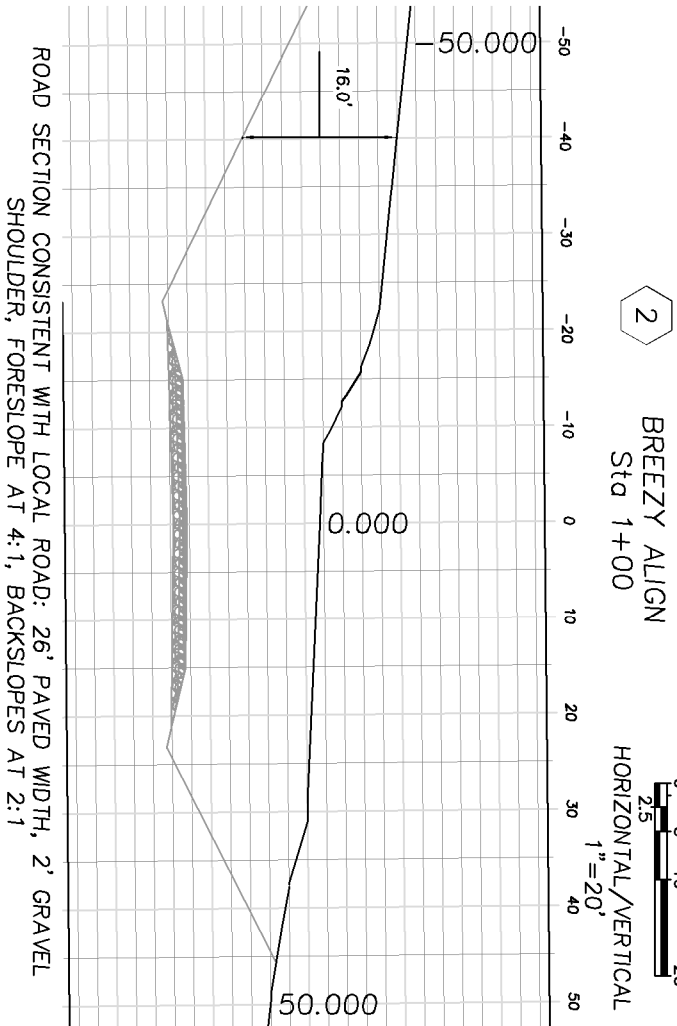
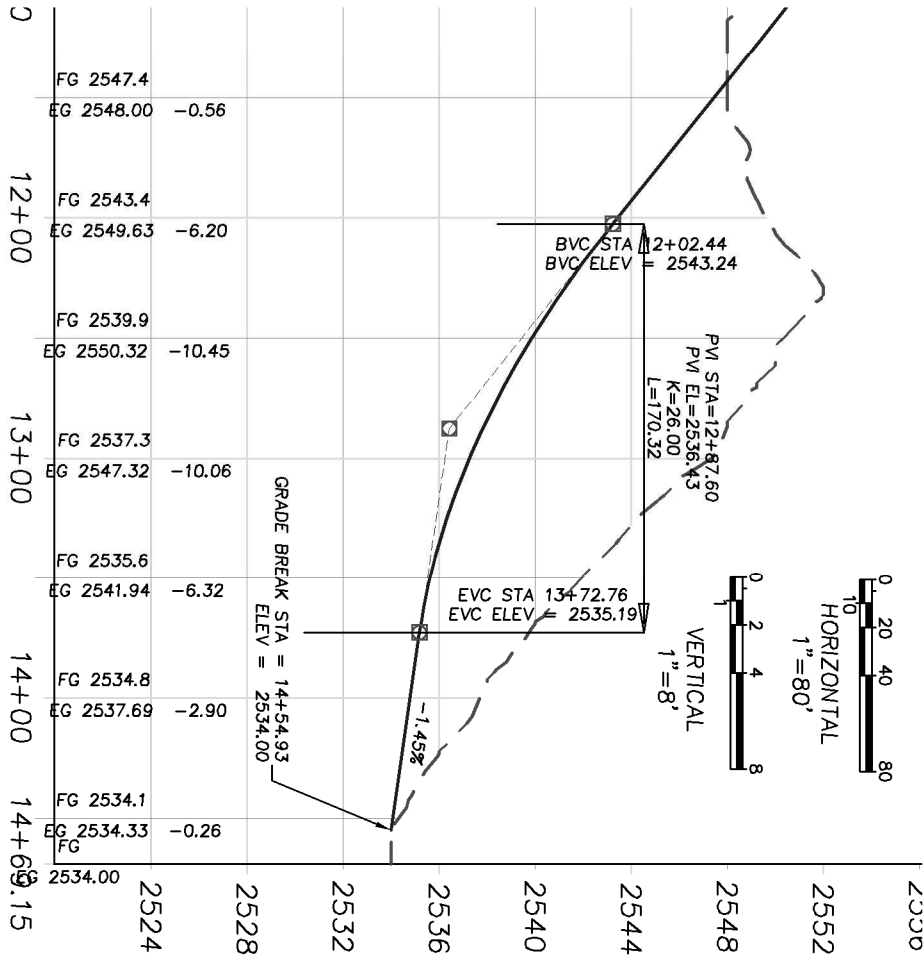
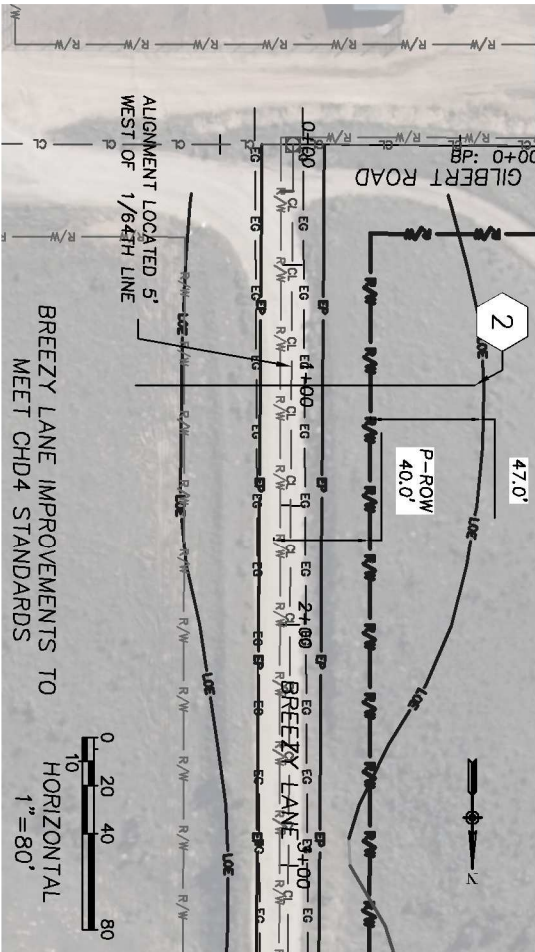
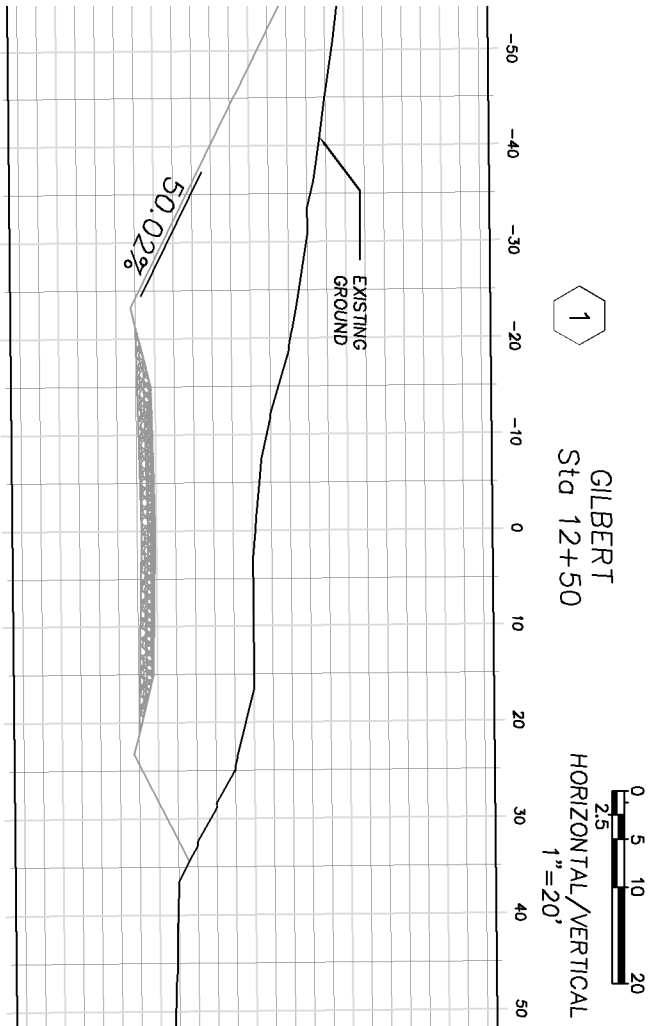
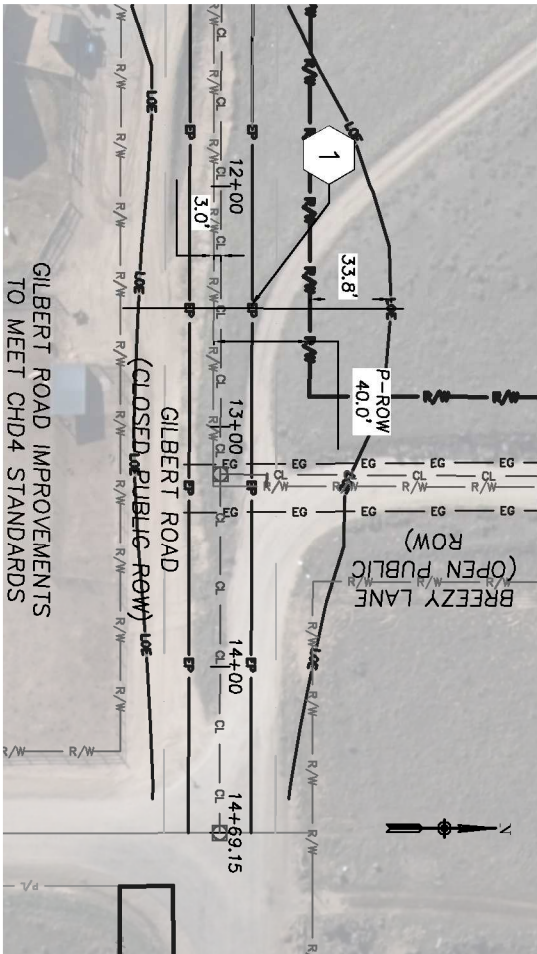
CONCEPT: PRIVATE DRIVEWAY AT WIDEST LIMITS OF EXCAVATION

PLAN & PROFILE

LAST UPDATED: 10/10/23

SHEET 1 of 1





GENERAL NOTES

1. RIGHT-OF-WAY AND PROPERTY LINES ARE SHOWN FOR REFERENCE AND NOT ESTABLISHED AS PART OF THIS CONCEPT.
2. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH HIGHWAY DISTRICT STANDARDS AND ISPMC UNLESS OTHERWISE SPECIFIED OR SHOWN HEREON.
3. NEW CUT & FILL SLOPES SHALL NOT BE STEEPER THAN 2H:1V.
4. TRAFFIC CONTROL SIGNAGE REVISIONS ARE NOT SHOWN ON THIS CONCEPT.
5. UNDERGROUND UTILITIES NOT SHOWN
6. PLAN IS A CONCEPT AND NOT USED FOR CONSTRUCTION
7. USED 25MPH DESIGN SPEED

CONCEPT: GILBERT &  
BREEZY ROW  
SCENARIOS PER PUBLIC  
ROAD STANDARDS

CANYON HIGHWAY DISTRICT NO. 4  
15435 Hwy. 44 Caldwell, Idaho 83607  
Phone: 208.454.8135  
Fax: 208.454.2008



CAD FILE: USTICK DESIGN 2017  
PROJ. #:  
DRAWING NO. :  
DRAWN BY: LJR  
DESIGN BY: LJR  
CHECKED BY:  
AT FULL SIZE, IF NOT ONE INCH,  
SCALE ACCORDINGLY  
SCALE OF SHEET  
HOR SCALE: SCALEBAR  
VER SCALE: N/A

CONCEPT: GILBERT & BREEZY AT  
WIDEST LIMITS OF EXCAVATION

PLAN & PROFILE

LAST UPDATED: 10/10/23  
SHEET

**Dan Lister**

**From:** Niki Benyakhlef <Niki.Benyakhlef@itd.idaho.gov>  
**Sent:** Monday, October 30, 2023 8:20 AM  
**To:** Dan Lister  
**Subject:** [External] FW: Agency Notification SD2023-0006/ Lippert Subdivision  
**Attachments:** Agency Response Requested Notification Form 2-23.pdf

Good Morning, Dan –

After careful review of the transmittal submitted to ITD on October 27, 2023 regarding SD2023-0006/ Lippert Subdivision, the Department has no comments or concerns to make at this time. The application is proposing adding only 1 additional residence and is greater than 3.5 miles north of SH-55, therefore minimal impact is anticipated.

Thank you,



Niki Benyakhlef  
*Development Services Coordinator*

**District 3 Development Services**

O: 208.334.8337 | C: 208.296.9750

Email: [niki.benyakhlef@itd.idaho.gov](mailto:niki.benyakhlef@itd.idaho.gov)

Website: [itd.idaho.gov](http://itd.idaho.gov)

**From:** Amber Lewter <Amber.Lewter@canyoncounty.id.gov>  
**Sent:** Friday, October 27, 2023 8:50 AM  
**To:** 'lgrooms@msd134.org' <lgrooms@msd134.org>; 'mgee@msd134.org' <mgee@msd134.org>; 'permits@starfirerescue.org' <permits@starfirerescue.org>; 'chopper@canyonhd4.org' <chopper@canyonhd4.org>; 'lriccio@canyonhd4.org' <lriccio@canyonhd4.org>; 'brandy.walker@centurylink.com' <brandy.walker@centurylink.com>; 'bkinney@idahopower.com' <bkinney@idahopower.com>; 'easements@idahopower.com' <easements@idahopower.com>; 'mkelly@idahopower.com' <mkelly@idahopower.com>; 'monica.taylor@intgas.com' <monica.taylor@intgas.com>; 'jessica.mansell@intgas.com' <jessica.mansell@intgas.com>; 'shayne.watterud@ziply.com' <shayne.watterud@ziply.com>; 'developmentreview@blackcanyonirrigation.com' <developmentreview@blackcanyonirrigation.com>; 'mitch.kiester@phd3.idaho.gov' <mitch.kiester@phd3.idaho.gov>; 'anthony.lee@phd3.idaho.gov' <anthony.lee@phd3.idaho.gov>; D3 Development Services <D3Development.Services@itd.idaho.gov>; Niki Benyakhlef <Niki.Benyakhlef@itd.idaho.gov>; Brian Crawforth <Brian.Crawforth@canyoncounty.id.gov>; 'westerninfo@idwr.idaho.gov' <westerninfo@idwr.idaho.gov>; Stephanie Hailey <Stephanie.Hailey@canyoncounty.id.gov>  
**Subject:** Agency Notification SD2023-0006/ Lippert Subdivision

**CAUTION:** This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Please see the attached agency notice. You are invited to provide written testimony or comments by **November 27, 2023**, although as of this point, no hearing date has been set. You will receive a separate notification when the hearing date has been set for this case. The deadline for written testimony or additional exhibits is to ensure planners can

# BLACK CANYON IRRIGATION DISTRICT

NOTUS, IDAHO

October 30, 2023

Canyon County Development Services Department  
111 North 11<sup>th</sup> Ave. Suite 140  
Caldwell, ID 83605  
(208) 454-7458

RE: Short Plat. Parcel R37431010  
Case No. SD2023-0006  
Applicant: Wayne Lippert  
Planner: Daniel Lister

The parcels are located at 9626 E Gilbert Rd, Middleton, Idaho.

According to the District's records, this parcel does not receive irrigation water and has no District facilities on or adjacent to the parcel. Black Canyon Irrigation District does not have any additional comments.

Thank You,

*Donald Popoff*

Donald Popoff P.E.  
District Engineer  
Black Canyon Irrigation District





**Board of County Commissioners**  
**Lippert – Conditional Rezone – RZ2021-0049**

*Development Services Department*

**FINDINGS, CONCLUSIONS, & ORDER**

Conditional Rezone with Development Agreement – RZ2021-0049

**Findings of Fact**

1. The applicant, Wayne Lippert, represented by Windermere Real Estate, is requesting a Conditional Rezone of Parcel R37431010 from an “A” (Agricultural) Zone to an “R-R” (Rural Residential) Zone. The request includes a Development Agreement limiting future development to no more than two (2) parcels. The property is located at 9626 Gilbert Road, Middleton; also referenced as a portion of the NE¼ Section 21, T5N, R2W, Canyon County, Idaho.
2. The subject property is designated as Residential on the 2020 Canyon County Comprehensive Plan Future Land Use Map.
3. The subject property is not located within an Area of City Impact.
4. The subject property is located within Canyon Highway District No. 4, Middleton Rural Fire District, Middleton School District, and Black Canyon Irrigation District.
5. The neighborhood meeting was held on July 26, 2021 in accordance with CCZO §07-01-15.
6. Notice of the public hearing was provided in accordance with CCZO §07-05-01. Agency notice was provided on March 8, 2022. A full political notice was provided on March 8, 2022. Newspaper notice was published on March 19, 2022. Property owners within 600’ were notified by mail on March 18, 2022. The property was posted on March 25, 2022.
7. The record herein consists of exhibits provided as part of the public hearing staff report, exhibits submitted during the public hearing on April 5, 2022, and all information in case file RZ2021-0049.

**Conclusions of Law**

For Case File RZ2021-0049, the Board of County Commissioners finds and concludes the following regarding the Standards for Review for a Zoning Amendment §07-06-07(6)(A):

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

**Conclusion:** As conditioned, the proposed conditional rezone is consistent with the 2020 Canyon County Comprehensive Plan and Future Land Use Map.

**Finding:** The 2020 Canyon County Comprehensive Plan Future Land Use Map designates the property as Residential. The request is consistent with several goals and policies of the Comprehensive Plan, including, but not limited to:

**Chapter 1. Property Rights**

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

**Policy 11.** Property owners shall not use their property in a manner that negatively impacts upon the surrounding neighbors or neighborhoods.

**Chapter 2. Population**

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

**Goal 3.** To guide future growth in order to enhance the quality and character of the county while providing and improving the amenities and services available to Canyon County residents.

**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 4. Economic Development**

**Policy 6.** Encourage commercial and residential development in a controlled, planned, and constructive manner, which will enhance, not destroy, the existing lifestyle and environmental beauty of Canyon County.

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

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

**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.

**Policy 2.** Encourage residential development in areas where agricultural uses are not viable.

**Policy 3.** Encourage compatible residential areas or zones within the county so that public services and facilities may be extended and provided in the most economical and efficient manner.

**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 11. Housing**

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

**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 than the current zoning designation.

**Finding:** The conditional rezone with development agreement conditions (Exhibit “B” of Attachment “A”), is compatible to uses existing in the area and will promote the rural character.

The subject property is zoned “A” (Agricultural) and is not located within an area of city impact. The property is surrounded by “A” (Agricultural) and “R-R” (Rural Residential) zoning designations. CCZO §07-10-25 (2) defines the purpose of the “R-R” zone to *“encourage and guide growth in areas where a rural lifestyle may be determined to be suitable.”* Pursuant to CCZO §07-02-03, a conditional rezone is defined as: *“The rezoning of land with conditions imposed so that if the conditions are not complied with, the rezone may be withdrawn and the land reverts back to its former zoning classification.”*

The average minimum lots size in the “R-R” (Rural Residential) zone is two (2) acres. The “R-R” (Rural Residential) zone has the potential to allow approximately ten lots to be developed on the subject parcel. However, the request includes a development agreement with conditions (Exhibit “B” of Attachment “A”) to only allow the property to divide once to create an approximate 5.011-acre parcel and an approximate 15.033-acre parcel that contains the existing homesite.

The property consists of moderately and least suited soil, and is not prime farmland. The conditional rezone will not consume or fragment viable farmland.

Pursuant to the development agreement with conditions (Exhibit "B" of Attachment "A") the property owner will not divide the property into no more than two parcels. The conditional rezone and future preliminary and final plat will allow the two properties to obtain building permits.

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

**Conclusion:** As conditioned by the development agreement conditions (Exhibit "B" of Attachment "A"), the proposed conditional rezone is compatible with the surrounding land uses.

**Finding:** The proposed conditional rezone is compatible with the surrounding land uses. There are residential uses to the north, west, east, and south. No documented feedlots, dairies, or gravel pits are located within two miles of the property.

The property consists of moderately and least suited soil, and is not prime farmland.

The subject property is located within a one-mile radius of eight platted subdivision and the average lot size in the area is 6.73 acres.

The result of the request is consistent and compatible with the rural character of the area. Pursuant to the development agreement conditions (Exhibit "B" of Attachment "A") the property owner shall not divide the property to more than two parcels.

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

**Conclusion:** As restricted by the development agreement, the proposed conditional rezone will not negatively affect the character of the area and no mitigation is proposed at this time.

**Finding:** The result of the request preserves the rural character of the area. Pursuant to the development agreement conditions (Exhibit "B" of Attachment "A") the property owner will not divide the property into more than two parcels. No evidence has been provided that the proposed conditional rezone would have a negative impact to the character of the area and no mitigation measures are proposed at this time.

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

**Conclusion:** Adequate sewer, drainage, irrigation, and storm water drainage facilities and utility systems will be provided to accommodate the proposed zoning map amendment at the time of preliminary and final plat.

**Finding:** Individual well and individual septic is proposed. The property is not within a nitrate priority area. The property is located within Black Canyon Irrigation District. No comments or concerns were received from the district. The applicant shall be required to meet agency requirements at the time of platting.

The existing property is served by individual well and septic. Additional homesites shall require the review and approvals from Southwest District Health and Idaho Department of Water Resources.

**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 traffic impacts?**

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

Finding: Canyon Highway District No. 4 has reviewed the application and found that traffic impacts could be addressed through conditions. A traffic impact study is not required. Public and private road improvements shall be required at the time of platting.

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

Conclusion: The property has access via Gilbert Lane.

Finding: The subject property currently has access to Gilbert Lane and frontage on Breezy Lane. The proposed 5.011-acre parcel shall be required to meet Canyon Highway District No. 4 requirements and a Road Users Maintenance Agreements shall be required at the time of platting.

**8. Will the proposed conditional rezone 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. No mitigation is proposed at this time.

Finding: The requested conditional rezone with development agreement conditions (Exhibit "B" of Attachment "A") is not anticipated to impact essential services. Middleton Rural Fire District and Canyon County Sheriff serve the area and no comments were received.


**Order**

Based upon the Finding of Fact, Conclusions of Law, the reason contained herein, the Board of County Commissioners orders that Case RZ2021-0049, a request for a **Conditional Rezone** of Parcel R37431010 from an "A" (Agricultural) zone to a "CR-R-R" (Conditional Rezone – Rural Residential) subject to conditions of the development agreement (Attachment A).

APPROVED this 18 day of April, 2022.

	Yes	No	Did Not Vote
 _____ Commissioner Leslie Van Beek	<u>/</u>	_____	_____
 _____ Commissioner Keri Smith	<u>S</u>	_____	_____
 _____ Commissioner Pamela White	<u>✓</u>	_____	_____

Attest: Chris Yamamoto, Clerk

By:   
Deputy

Date: 4-18-22



## ATTACHMENT "A"

### CANYON COUNTY DEVELOPMENT SERVICES DEPARTMENT

111 11<sup>th</sup> Ave. #140 • Caldwell, Idaho • 83605 • Phone (208) 454-7458

Fax: (208) 454-6633 • [www.canyoncounty.org/dsd](http://www.canyoncounty.org/dsd)

## DEVELOPMENT AGREEMENT BETWEEN CANYON COUNTY AND APPLICANT

Agreement number: \_\_\_\_\_

**THIS AGREEMENT**, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between Canyon County, Idaho, a political subdivision of the state of Idaho, hereinafter referred to as "COUNTY" and Wayne Lippert, hereinafter referred to as "Applicants."

### RECITALS

**WHEREAS**, Applicants have applied to County for a conditional rezone from an "A" (Agricultural) zone to a "CR-R-R" (Conditional Rezone – Rural Residential) zone, which are legally described in the attached Exhibit "A," incorporated by reference herein (hereinafter referred to as "Subject Property"; and

**WHEREAS**, Parcels R37431010 is owned by Wayne Lippert.

**WHEREAS**, on the \_\_\_\_ day of \_\_\_\_\_, 2022 the Canyon County Board of Commissioners approved a conditional rezone with conditions of the Subject Property to a "CR-R-R" (Conditional Rezone – Rural Residential) Zone, which was done with the Applicants' approval. The conditions of the approval for the conditional rezone are attached hereto as Exhibit "B" with conceptual site plan attached hereto as Exhibit "C";

**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 No. 16-007 as amended, and to ensure the Applicants will implement and be bound by the conditions of the conditional rezone order issued by the Canyon County Board of Commissioners; and

**WHEREAS**, the County and Applicants desire to formalize their respective rights and responsibilities as required by Canyon County Amended Resolution Number 95-232 entitled, "Rules Governing the Creation, Form, Recording, Modification, Enforcement and Termination of Written Commitments (Development Agreements)" and the Canyon County Code.

**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.**

Applicant is the owner(s) of Subject Property 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) to "CR-R-R" (Conditional Rezone – Rural Residential) zoning, 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. 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 a "CR-R-R" (Conditional Rezone – Rural 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 RZ2021-0049 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 Properties to its prior designation upon failure to comply with the terms and conditions imposed by the approved conditional rezone 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 rezone action, i.e., the Subject Property conditionally rezoned from "A" (Agricultural) Zone designation to "CR-R-R" (Conditional Rezone – Rural 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 Properties.

### **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 11<sup>th</sup> Avenue, #140  
Caldwell, Idaho 83605

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

Name: Wayne Lippert  
Street Address: 9626 E Gilbert Road  
City, State, Zip: Middleton, ID 83644

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 Applicants, 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 White

\_\_\_\_\_  
Wayne Lippert

\_\_\_\_\_  
Commissioner Smith

\_\_\_\_\_  
Commissioner Van Beek

ATTEST:      Chris Yamamoto, 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**

**Parcel No R37431010**

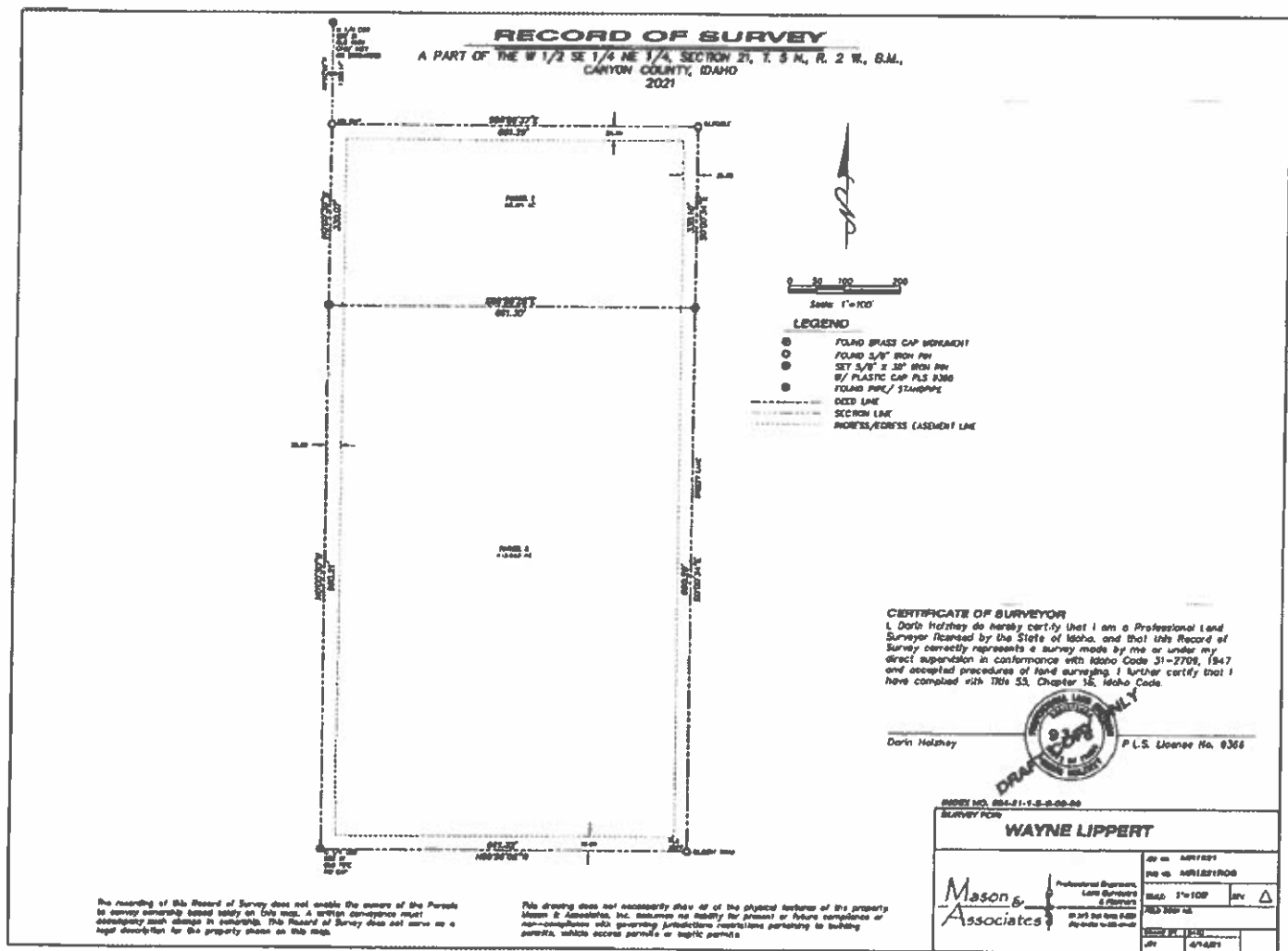
The West Half of the Southwest Quarter of the Northeast Quarter of Section 21, Township 5 North, Range 2 West, Boise Meridian, Canyon County, Idaho.

## 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 property, parcel R37431010 shall be platted in compliance with Chapter 7 Article 17 of Canyon County Zoning Ordinance (Subdivisions) subject to the following restrictions:
  - a. Future subdivision/development shall be in substantial compliance with the conceptual site plan herein attached as Exhibit "A" subject to the following restrictions:
    - i. The development shall not exceed two (2) lots and each lot shall contain no less than two (2) acres.
    - ii. The existing public road that is privately maintained, Breezy Lane, also known as Veral Lane on Lansing Heights Estates Subdivision Plat, shall meet the minimum requirements of CCZO Section 07-10-03(2) and (3).
    - iii. The applicant shall construct future private driveways to meet Canyon County Zoning Code Standards (Section 07-10-03 - Private Road and Driveway Standards), and record a Road User's Maintenance agreement at the time of building permit submittal.
3. 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."
4. Development of more than two lots are prohibited unless approved by subsequent comprehensive plan amendment, rezone and platting applications.

# **EXHIBIT "C"** **CONCEPTUAL SITE PLAN**



## EXHIBIT "D"



**CANYON HIGHWAY DISTRICT No. 4**  
15435 HIGHWAY 44  
CALDWELL, IDAHO 83607

TELEPHONE 208/454-8135  
FAX 208/454-2008

January 3, 2022

Canyon County Board of Commissioners and Planning & Zoning Commission  
111 N. 11<sup>th</sup> Street  
Caldwell, Idaho 83605  
Attention: Elizabeth Allen, Planner

RE: **RZ2021-0049 Rezone from A to R-R Rural Residential**  
**Canyon County Parcel R3743010 Aka 9626 Gilbert Lane**

Dear Commissioners:

Canyon Highway District No. 4 (CHD4) has reviewed the application for a Rezone for the above described parcels from Agricultural to R-R Rural Residential, and offers the following comments on the proposed use:

### **General**

The subject property consists of 1 parcels totaling approximately 20.0 acres, located in the SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  Section 21 T5N R2W. The subject property has approximately 1,320 feet of frontage on Breezy Lane (Open Public Right-of-Way, Privately Maintained) along the easterly boundary, and approximately 660 feet of frontage along Gilbert Lane (Closed Public Right-of-Way) along the southerly boundary.

Breezy Lane along the easterly boundary of the subject property is a privately maintained road, lying partially within a 40-foot half-width public right-of-way dedicated in 2007 (Inst. No. 2007078666) by the 20 acres parcel east of the subject property. Breezy Lane is not classified on the functional classification maps adopted by Canyon County and CHD4, and would be considered a future local road, intended for access to numerous parcels lying north of Lansing Heights Estates Subdivision. Ultimate right-of-way width for a local road is 60-feet, although rolling or mountainous terrain can require additional right-of-way to accommodate grading and drainage improvements.

Gilbert Lane along the southerly boundary of the subject property is a Closed Public Right-of-Way (not open for public travel) created by plat of Lansing Heights Estates Subdivision in 1973, with a 40-foot half-width. Gilbert Lane is not classified, and would be considered a local road for purposes of providing access to the subject property and other parcels west of the subject property, and would have the same 60-foot ultimate right-of-way width as for Breezy Lane. CHD4 has received a request to reclassify portions of this Gilbert Lane right-of-way to provide access to Parcel R37431017A, 13 acres lying immediately west of the subject property. Notice of this reclassification request has been made to Canyon County; the hearing is scheduled for January 19<sup>th</sup> at 2:00 pm. At the hearing, the CHD4 Board will consider the request to open the Gilbert Lane right-of-way (including the portion along the southerly boundary of the subject property) to allow access to Parcel R37431017A for purposes of residential development.

The nearest publically maintained highway is the Gilbert Lane/Eric Lane intersection, approximately 110-feet east of the southeast corner of the subject property.

Page 1 of 3

**Outparcels**

For purposes of development, parcels created by land division may be considered outparcels in relation to future subdivision of the other portions of this property if the criteria established in HSDP Section 2030.030 are satisfied, and may be subject to requirements for right-of-way dedication and/or frontage improvements. Any such requirements to be determined at the time of preliminary plat approval by the highway district.

**Existing Access- Subject Property**

Existing access to the subject property consists of a private driveway to Gilbert Lane at the Gilbert/Eric Lane intersection.

**Future Residential Access- Local Area**

Approximately 160 acres lying north and west of Lansing Heights Estates Subdivision (see attached Local Area Map) has no publically maintained roads available to serve the area. The existing 10 residential dwellings in the area are served by several privately maintained roads within public rights-of-way (Breezy Lane, Merlynn Lane), and/or by private road easement or ingress/egress easement. Some of these easements are not recorded, or documented, and legal access to these parcels may be difficult to prove.

Approximately 45 acres, or 25% of this local area is currently under application for rezone to R-R or higher density. This zoning could create up to an additional 24 new residential parcels, with potential for an additional 60 residential parcels if R-R zoning is approved for the remainder of this 160 acre local area. Higher densities may be realized if subdivision plats are proposed within this area.

CHD4 strongly recommends the County consider the future needs for property access in this area, and either require public roadway dedication or private road creation (with recorded easements and maintenance agreements) to serve existing private road users and/or otherwise landlocked parcels. It appears to be in the public interest to establish and preserve access to properties within this area; continued unplanned development through the administrative land division process is not conducive to this goal.

**Future Residential Access- Subject Property**

Access to the public highway system is currently available at the Gilbert Lane/Eric Lane intersection. Future residential development of the subject property should be planned to take access at this location via the existing driveway for 9626 Gilbert Rd. or by agreement with the current road users to use the existing privately maintained Breezy Lane.

For purposes of future development of both the subject property and the surrounding area, CHD4 recommends dedication of an additional 20-feet of public right-of-way along both the easterly and southerly boundaries of the subject property to provide for future improvements to Breezy Lane and Gilbert Lane. This dedication would provide a 60-foot right-of-way width for each roadway, which meets the minimum County requirement for a private road easement, and the CHD4 minimum standard for a local road.

**Transportation Impacts:**

The proposed rezone, which could allow up to 10 residential lots (counting the existing residences) or approximately 95 vehicle trips/day, does not meet the minimum threshold for requiring a Traffic Impact Study (TIS).

New traffic impacts from the proposed development will have a cumulative effect on the existing transportation network. The proportionate share of these impacts have been estimated at \$5,050 per new



residential unit for this area (*Mid-Star Capital Improvement Plan, 2021*), to provide for additional intersection and roadway capacity to serve new developments within the Middleton-Star service area. These off-site impacts are best and most fairly mitigated through collection of transportation impact fees for each new development unit. CHD4 has provided Canyon County with the traffic study, impact fee schedule, and draft ordinance to enact impact fees for this area, and recommends the County do so as quickly as possible. On-site or near-site traffic impacts can be partially mitigated by dedication of public right-of-way, and frontage improvements to public roadways adjacent to or within the subject property during future development actions.

#### **Administrative Land Division**

Canyon County code Chapter 7 Section 18 provides that parcels rezoned from agricultural to any other zone may be divided into up to four parcels administratively. Administrative land divisions resulting from this rezone are subject to the access restrictions and/or limitation identified in these comments. Right-of-way dedication for existing or future public roadways may be required as part of the administrative land division or access permit process as provided under CHD4 policy. Other development requirements, such as frontage improvements, construction of public roadways, traffic impact studies, and offsite traffic mitigation may also apply to future development activities on the subject property.

#### **Section Line Setbacks**

The southerly boundary of the subject property is the east-west quarter section line for Section 21, and the section line setback of 70-feet is applicable per Canyon County Code 07-10-19.

CHD4 does not oppose the requested zoning changes, but requests the Commission make these comments conditions of any approved land use action, and strongly consider the other recommendations made above regarding future property access and transportation impact fees.

Please feel free to contact me with any questions on this matter.

Respectfully,



Chris Hopper, P.E.  
District Engineer

File: Gilbert Lane- RZ2021-0049 Lippert Rezone

2022-021104

RECORDED

04/19/2022 03:36 PM



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CHRIS YAMAMOTO

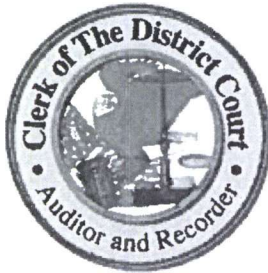
CANYON COUNTY RECORDER

Pgs=15 MBROWN

NO FEE

AGR

CANYON COUNTY



**Canyon County  
Recorder's Office  
Document  
Cover Sheet**





## CANYON COUNTY DEVELOPMENT SERVICES DEPARTMENT

111 11<sup>th</sup> Ave. #140 • Caldwell, Idaho • 83605 • Phone (208) 454-7458

Fax: (208) 454-6633 • [www.canyoncounty.org/dsd](http://www.canyoncounty.org/dsd)

### DEVELOPMENT AGREEMENT BETWEEN CANYON COUNTY AND APPLICANT

Agreement number: 22-025

**THIS AGREEMENT**, made and entered into this 18 day of April, 2022, by and between Canyon County, Idaho, a political subdivision of the state of Idaho, hereinafter referred to as "COUNTY" and Wayne Lippert, hereinafter referred to as "Applicants."

#### RECITALS

**WHEREAS**, Applicants have applied to County for a conditional rezone from an "A" (Agricultural) zone to a "CR-R-R" (Conditional Rezone – Rural Residential) zone, which are legally described in the attached Exhibit "A," incorporated by reference herein (hereinafter referred to as "Subject Property"; and

**WHEREAS**, Parcels R37431010 is owned by Wayne Lippert.

**WHEREAS**, on the 5 day of April, 2022 the Canyon County Board of Commissioners approved a conditional rezone with conditions of the Subject Property to a "CR-R-R" (Conditional Rezone – Rural Residential) Zone, which was done with the Applicants' approval. The conditions of the approval for the conditional rezone are attached hereto as Exhibit "B" with conceptual site plan attached hereto as Exhibit "C";

**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 No. 16-007 as amended, and to ensure the Applicants will implement and be bound by the conditions of the conditional rezone order issued by the Canyon County Board of Commissioners; and

**WHEREAS**, the County and Applicants desire to formalize their respective rights and responsibilities as required by Canyon County Amended Resolution Number 95-232 entitled, "Rules Governing the Creation, Form, Recording, Modification, Enforcement and Termination of Written Commitments (Development Agreements)" and the Canyon County Code.

**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.**

Applicant is the owner(s) of Subject Property 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

Development Agreement # 22-025  
Lippert RZ2021-0049

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) to "CR-R-R" (Conditional Rezone – Rural Residential) zoning, 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. 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 a "CR-R-R" (Conditional Rezone – Rural Residential) zone and those provisions of law that are otherwise applicable to the Subject Property.

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**A. COUNTY REVIEW.**

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**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 RZ2021-0049 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.

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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

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The execution of this Agreement shall be deemed written consent by Applicants to change the zoning of the Subject Properties to its prior designation upon failure to comply with the terms and conditions imposed by the approved conditional rezone 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 rezone action, i.e., the Subject Property conditionally rezoned from "A" (Agricultural) Zone designation to "CR-R-R" (Conditional Rezone – Rural Residential) Zone designation shall revert back to the "A" (Agricultural) Zone designation.

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

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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:

Development Agreement # 22-025  
Lippert RZ2021-0049

22-025

5



Director  
Development Services Department  
Canyon County Administration  
111 North 11<sup>th</sup> Avenue, #140  
Caldwell, Idaho 83605

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

Name: Wayne Lippert  
Street Address: 9626 E Gilbert Road  
City, State, Zip: Middleton, ID 83644

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 Applicants, 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.**

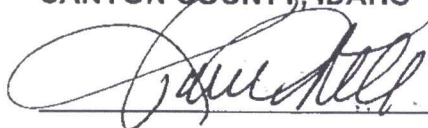
The commitments contained in this Agreement shall take effect in the manner described in this Agreement upon the County's adoption of the amendment to the zoning ordinance as set forth herein.

#### **SECTION 20. TIME OF ESSENCE.**

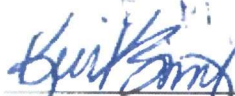
Time is of the essence in the performance of all terms and provisions of this Agreement.

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



Commissioner White



Commissioner Smith



Commissioner Van Beek

ATTEST: Chris Yamamoto, Clerk

BY:

Deputy

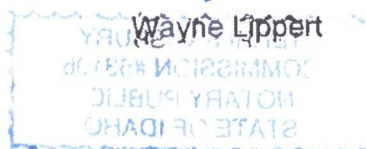
DATE:

4/18/22

APPLICANT



Wayne Lippert

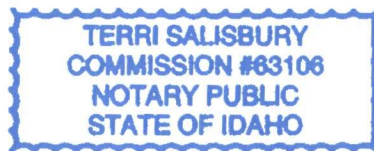


Development Agreement # 22-025  
Lippert RZ2021-0049

STATE OF IDAHO )  
 ) ss.  
County of Canyon )

*Tai Nakagawa*  
Notary Public for Idaho

My Commission Expires: 2/19/26



8



EXHIBIT "A"

LEGAL DESCRIPTION  
Parcel No R37431010

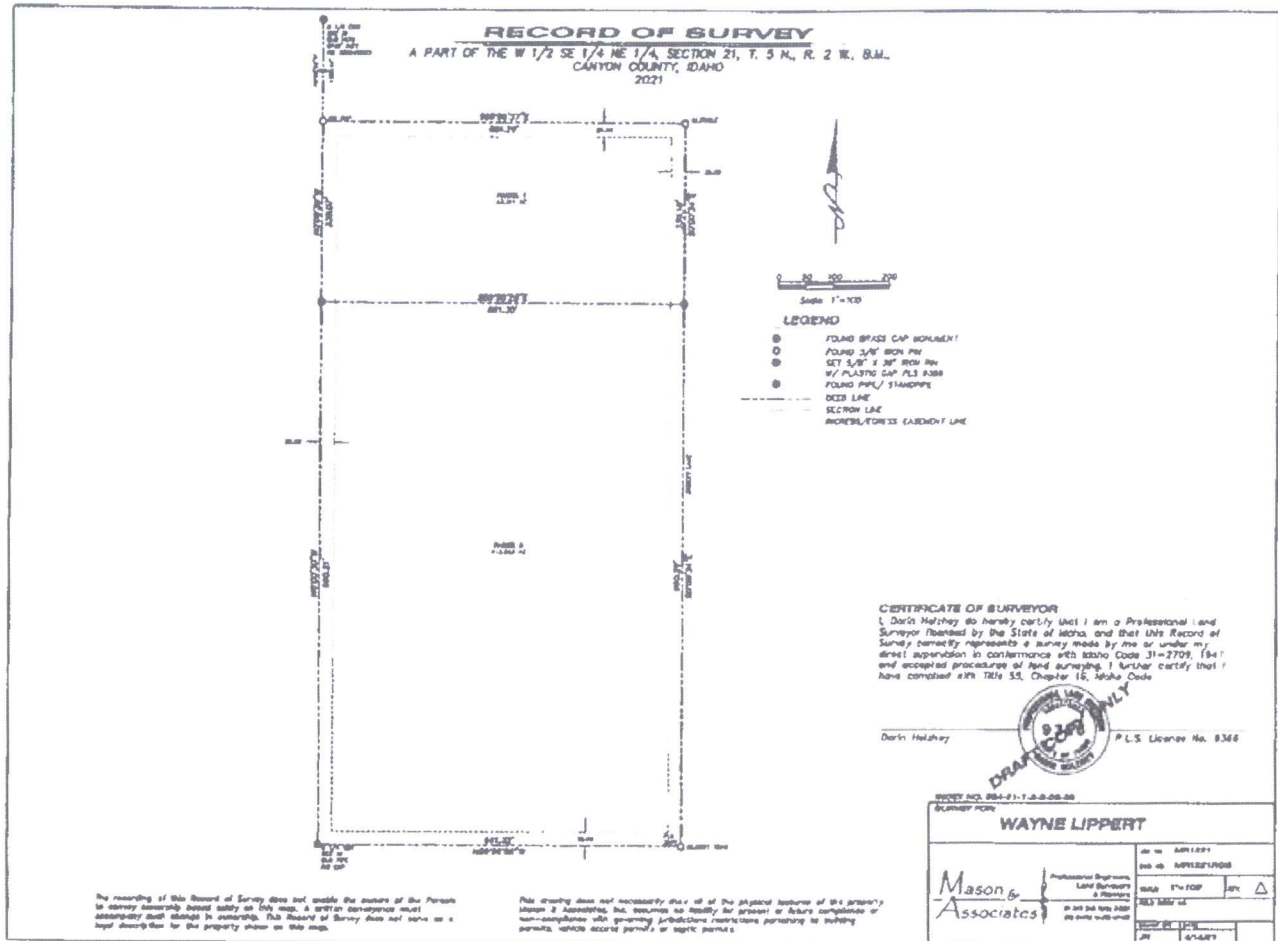
The West Half of the Southwest Quarter of the Northeast  
Quarter of Section 21, Township 5 North, Range 2 West,  
Boise Meridian, Canyon County, Idaho.

**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 property, parcel R37431010 shall be platted in compliance with Chapter 7 Article 17 of Canyon County Zoning Ordinance (Subdivisions) subject to the following restrictions:
  - a. Future subdivision/development shall be in substantial compliance with the conceptual site plan herein attached as Exhibit "C" subject to the following restrictions:
    - i. The development shall not exceed two (2) lots and each lot shall contain no less than two (2) acres.
    - ii. The existing public road that is privately maintained, Breezy Lane, also known as Veral Lane on Lansing Heights Estates Subdivision Plat, shall meet the minimum requirements of CCZO Section 07-10-03(2) and (3).
    - iii. The applicant shall construct future private driveways to meet Canyon County Zoning Code Standards (Section 07-10-03 - Private Road and Driveway Standards), and record a Road User's Maintenance agreement at the time of building permit submittal.
3. 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."
4. Development of more than two lots are prohibited unless approved by subsequent comprehensive plan amendment, rezone and platting applications.

Development Agreement # 22-025  
Lippert RZ2021-0049

# EXHIBIT "C" CONCEPTUAL SITE PLAN



Development Agreement # 22-025  
Lippert RZ2021-0049

## EXHIBIT "D"



### CANYON HIGHWAY DISTRICT No. 4

15435 HIGHWAY 44  
CALDWELL, IDAHO 83607

TELEPHONE 208/454-8135  
FAX 208/454-2008

January 3, 2022

Canyon County Board of Commissioners and Planning & Zoning Commission  
111 N. 11<sup>th</sup> Street  
Caldwell, Idaho 83605  
Attention: Elizabeth Allen, Planner

RE: RZ2021-0049 Rezone from A to R-R Rural Residential  
Canyon County Parcel R3743010 Aka 9626 Gilbert Lane

Dear Commissioners:

Canyon Highway District No. 4 (CHD4) has reviewed the application for a Rezone for the above described parcels from Agricultural to R-R Rural Residential, and offers the following comments on the proposed use:

#### General

The subject property consists of 1 parcels totaling approximately 20.0 acres, located in the SW  $\frac{1}{4}$  NE  $\frac{1}{4}$ , Section 21, T5N R2W. The subject property has approximately 1,320 feet of frontage on Breezy Lane (Open Public Right-of-Way Privately Maintained) along the easterly boundary, and approximately 660 feet of frontage along Gilbert Lane (Closed Public Right-of-Way) along the southerly boundary.

Breezy Lane along the easterly boundary of the subject property is a privately maintained road lying partially within a 40-foot half-width public right-of-way dedicated in 2007 (Inst. No. 200707866-6) by the 20 acres parcel east of the subject property. Breezy Lane is not classified on the functional classification maps adopted by Canyon County and CHD4, and would be considered a future local road, intended for access to numerous parcels lying north of Lansing Heights Estates Subdivision. Ultimate right-of-way width for a local road is 60-feet, although rolling or mountainous terrain can require additional right-of-way to accommodate grading and drainage improvements.

Gilbert Lane along the southerly boundary of the subject property is a Closed Public Right-of-Way (not open for public travel) created by plat of Lansing Heights Estates Subdivision in 1973, with a 40-foot half-width. Gilbert Lane is not classified, and would be considered a local road for purposes of providing access to the subject property and other parcels west of the subject property, and would have the same 60-foot ultimate right-of-way width as for Breezy Lane. CHD4 has received a request to reclassify portions of this Gilbert Lane right-of-way to provide access to Parcel R37431017A (13 acres lying immediately west of the subject property). Notice of this reclassification request has been made to Canyon County; the hearing is scheduled for January 19<sup>th</sup> at 2:00 pm. At the hearing, the CHD4 Board will consider the request to open the Gilbert Lane right-of-way (including the portion along the southerly boundary of the subject property) to allow access to Parcel R37431017A for purposes of residential development.

The nearest publicly maintained highway is the Gilbert Lane / Erie Lane intersection, approximately 110 feet east of the southeast corner of the subject property.

Page 1 of 3

Development Agreement # 02-025  
Lippert RZ2021-0049

**Outparcels**

For purposes of development, parcels created by land division may be considered outparcels in relation to future subdivision of the other portions of this property if the criteria established in HSDP Section 2030.030 are satisfied, and may be subject to requirements for right-of-way dedication and/or frontage improvements. Any such requirements to be determined at the time of preliminary plat approval by the highway district.

**Existing Access- Subject Property**

Existing access to the subject property consists of a private driveway to Gilbert Lane at the Gilbert/Eric Lane intersection.

**Future Residential Access- Local Area**

Approximately 160 acres lying north and west of Lansing Heights Estates Subdivision (see attached Local Area Map) has no publically maintained roads available to serve the area. The existing 10 residential dwellings in the area are served by several privately maintained roads within public rights-of-way (Breezy Lane, Merlynn Lane), and/or by private road easement or ingress/egress easement. Some of these easements are not recorded, or documented, and legal access to these parcels may be difficult to prove.

Approximately 45 acres, or 25% of this local area is currently under application for rezone to R-R or higher density. This zoning could create up to an additional 24 new residential parcels, with potential for an additional 60 residential parcels if R-R zoning is approved for the remainder of this 160 acre local area. Higher densities may be realized if subdivision plats are proposed within this area.

CHD4 strongly recommends the County consider the future needs for property access in this area, and either require public roadway dedication or private road creation (with recorded easements and maintenance agreements) to serve existing private road users and/or otherwise landlocked parcels. It appears to be in the public interest to establish and preserve access to properties within this area, continued unplanned development through the administrative land division process is not conducive to this goal.

**Future Residential Access- Subject Property**

Access to the public highway system is currently available at the Gilbert Lane/Eric Lane intersection. Future residential development of the subject property should be planned to take access at this location via the existing driveway for 9626 Gilbert Rd. or by agreement with the current road users to use the existing privately maintained Breezy Lane.

For purposes of future development of both the subject property and the surrounding area, CHD4 recommends dedication of an additional 20-feet of public right-of-way along both the easterly and southerly boundaries of the subject property to provide for future improvements to Breezy Lane and Gilbert Lane. This dedication would provide a 60-foot right-of-way width for each roadway, which meets the minimum County requirement for a private road easement, and the CHD4 minimum standard for a local road.

**Transportation Impacts:**

The proposed rezone, which could allow up to 10 residential lots (counting the existing residences) or approximately 95 vehicle trips/day, does not meet the minimum threshold for requiring a Traffic Impact Study (TIS).

New traffic impacts from the proposed development will have a cumulative effect on the existing transportation network. The proportionate share of these impacts have been estimated at \$5,050 per new

Page 2 of 3



residential unit for this area (*Mid-Sun Capital Improvement Plan 2021*), to provide for additional intersection and roadway capacity to serve new developments within the Middleton Stn service area. These off-site impacts are best and most fairly mitigated through collection of transportation impact fees for each new development unit. CHD4 has provided Canyon County with the traffic study, impact fee schedule, and draft ordinance to enact impact fees for this area, and recommends the County do so as quickly as possible. On-site or near-site traffic impact can be partially mitigated by dedication of public right-of-way, and frontage improvements to public roadways adjacent to or within the subject property during future development actions.

#### Administrative Land Division

Canyon County Code Chapter 7 Section 18 provides that parcels rezoned from agricultural to any other zone may be divided into up to four parcels administratively. Administrative land divisions resulting from this rezone are subject to the access restrictions and/or limitation identified in these comments. Right-of-way dedication for existing or future public roadways may be required as part of the administrative land division or access permit process as provided under CHD4 policy. Other development requirements, such as frontage improvements, construction of public roadways, traffic impact studies, and offsite traffic mitigation may also apply to future development activities on the subject property.

#### Section Line Setbacks

The southerly boundary of the subject property is the east-west quarter section line for Section 3E, and the section line setback of 70 feet is applicable per Canyon County Code 07-10-19.

CHD4 does not oppose the requested zoning changes, but requests the Commission make these comments conditions of any approved land use action, and strongly consider the other recommendations made above regarding future property access and transportation impact fees.

Please feel free to contact me with any questions on this matter.

Respectfully,



Chris Hopper, P.E.  
District Engineer

File: Gilbert Lane- RZ 2021-0049 Lippert Rezone

Page 3 of 3



200621744

RECORDED

2006 MAR 24 PM 4 07

CANYON COUNTY RECORDER  
BY *[Signature]*REQUEST *[Signature]*  
TYPE *[Signature]*REQUEST TYPE *[Signature]* FEE *45-*

CANYON COUNTY RECORDER

6 NINE EIGHTS

2006 JUN 6 PM 12 23

RECORDED

200643593

**PRIVATE ROAD EASEMENT, USE AND MAINTENANCE AGREEMENT**  
*Rerecorded to add Wagons' signatures*

This Agreement, effective the 22<sup>nd</sup> day of March, 2006, is entered into by and between five parties: 1) GLEN D. WAGONER and MARY S. WAGONER, husband and wife ("Wagoner"), 2) MARK A. DEUTSCH and RUTH E. DEUTSCH, husband and wife ("Deutsch"), 3) BRUCE STEWART, an unmarried person ("Stewart"), 4) JOHN B. ALDINE, an unmarried person ("Aldine"), and 5) JOSEPH C. CALLAHAN and SHAUNA P. CALLAHAN, husband and wife ("Callahan").

**RECITALS**

**WHEREAS**, Wagoner owns approximately 20 acres of real property identified as Canyon County, Idaho Assessor Parcel Nos. R37431-016 and R37431-016A, shown on Exhibit A and legally described in Exhibit B attached hereto and incorporated herein;

**WHEREAS**, Deutsch owns approximately 10 acres of real property identified as Canyon County, Idaho Assessor Parcel No. R37431-014, shown on Exhibit A and legally described in Exhibit C attached hereto and incorporated herein;

**WHEREAS**, Stewart owns approximately 10 acres of real property identified as Canyon County, Idaho Assessor Parcel No. R37431-014A, shown on Exhibit A and legally described in Exhibit D attached hereto and incorporated herein;

**WHEREAS**, Aldine owns approximately 6 acres real property identified as Canyon County, Idaho Assessor Parcel No. R37431-017, shown on Exhibit A and legally described in Exhibit E attached hereto and incorporated herein; and

**WHEREAS**, Callahan owns 20 acres of real property identified as Canyon County, Idaho Assessor Parcel No. R37431-012, shown on Exhibit A and legally described in Exhibit F attached hereto and incorporated herein.

**WHEREAS**, the parties use an existing private road named Breezy Lane for vehicular ingress/egress to access their respective parcels from Gilbert Road, which is a public road maintained by the local road jurisdiction.

**WHEREAS**, the parties desire to enter into an easement, use and maintenance agreement to administer use and maintenance of Breezy Lane and to comply with Canyon County Zoning Ordinance provision(s) pertaining to existing private roads, especially 07-10-03 and as amended.

UNOFFICIAL COPY

**NOW THEREFORE**, in exchange for the mutual promises contained herein and the expected benefits resulting from mutual performance, the parties agree as follows:


1. Breezy Lane is a private road and is not maintained by a city or highway district.
2. Each party hereby grants to the others across their respective properties a non-exclusive ingress-egress, utility, irrigation and drainage easement over, across and under the 28-foot contiguous on each side of the Breezy Lane centerline that is described as follows: from the southern boundary of the northeast quarter of Section 21, Township 5 North, Range 2 West, Boise Meridian, Canyon County, Idaho, north along the 1/64 line a distance of 1600 feet. Said easement is for the benefit of the parties' respective real properties ("dominant estate"), and burden's the parties' respective properties, except for Aldine's ("servient estate").
3. Pay to maintain and/or improve Breezy Lane so it is passable year-round and in compliance with Canyon County Zoning Ordinance. Parties owning a parcel that has an existing dwelling, or a building permit for an inhabited structure, are responsible to pay for maintenance/improvement of Breezy Lane. Parties are not responsible to pay for maintenance/improvement of Breezy Lane until their parcel has on it a dwelling or building permit for an inhabited structure.
4. The parties responsible for maintenance and/or improvement expenses will discuss and approve desired maintenance/improvements with a favorable vote of a majority of the responsible parties, one vote per parcel. Votes are invalid for parcels with unpaid balance amounts due for prior road maintenance/improvement.
5. If damage occurs to Breezy Lane by the act(s) of one party, or a guest or agent of a party, then that party, at that party's sole expense, shall have the damage(s) repaired within thirty (30) calendar days after the incident that caused the damage(s), weather permitting.
6. To use Breezy Lane to access the parties' properties now and as they may be subdivided according to County ordinances in the future.
7. Use of Breezy Lane is restricted to vehicles of the parties, or a guest or agent of a party, and is restricted to ingress/egress to single-family residences and incidental outbuildings. No party, or a guest or agent of a party, will permanently or temporarily unreasonably obstruct the travelway of Breezy Lane, or drive or park a semi-truck and/or semi-trailer on or along Breezy Lane.
8. Meet as needed:
  - a) To discuss and approve maintenance and improvements needed;
  - b) To estimate the costs of maintenance and improvements, and
  - c) To receive payment of the estimated costs of maintenance and improvements. A reconciliation, if necessary, by the return or addition of funds to meet the actual costs of maintenance and improvements will be made within thirty (30) days of completion of the maintenance and/or improvements; or otherwise as determined by responsible parties.
9. This Agreement contains all of the terms agreed to by the parties, and neither party makes any representations or warranties, including any warranty of habitability or fitness for a particular purpose. The Agreement may be amended only in writing signed by the parties and recorded in Canyon County, Idaho.

10. If any party is required to obtain legal services to enforce the terms of this Agreement through mediation, arbitration or litigation, then the prevailing party(ies) shall be entitled to recover from the others costs and reasonable attorney's fees.

11. This agreement and the easements granted herein are binding on the grantors, grantees and their respective heirs, representatives and successors-in-interest.

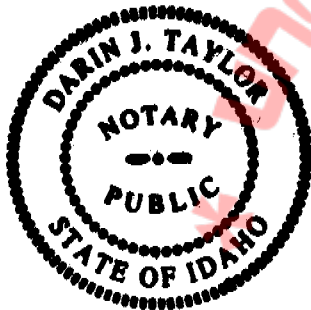
12. Time is of the essence for performance of each obligation under this Agreement.

IN WITNESS WHEREOF, the following have affixed their signatures.


  
GLEN D. WAGONER

  
MARY S. WAGONER

#### ACKNOWLEDGMENT CERTIFICATE



On this 12<sup>th</sup> day of ~~March~~ <sup>April</sup>, in the year of 2006, before me a notary public for the State of Idaho, personally appeared GLEN D. WAGONER and MARY S. WAGONER, personally known to me, or proved to me on the basis of satisfactory evidence, to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

  
Notary Public  
My Commission Expires on Oct. 27, 2008

MARK A. DEUTSCH

RUTH E. DEUTSCH

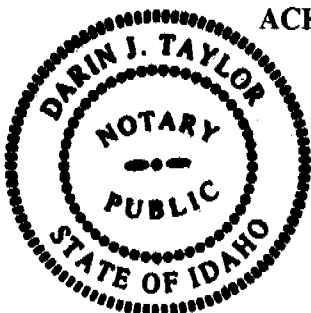
#### ACKNOWLEDGMENT CERTIFICATE

On this \_\_\_\_\_ day of March, in the year of 2006, before me a notary public for the State of OHIO, personally appeared MARK A. DEUTSCH and RUTH E. DEUTSCH, personally known to me, or proved to me on the basis of satisfactory evidence, to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

\_\_\_\_\_  
Notary Public  
My Commission Expires on \_\_\_\_\_

Bruce E Stewart  
BRUCE STEWART

\_\_\_\_\_  
JOHN E. ALDINE



### ACKNOWLEDGMENT CERTIFICATE

On this 22 day of March, in the year of 2006, before me a notary public for the State of Idaho, personally appeared BRUCE STEWART, personally known to me, or proved to me on the basis of satisfactory evidence, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

Darin J. Taylor  
Notary Public  
My Commission Expires on Oct. 27, 2008

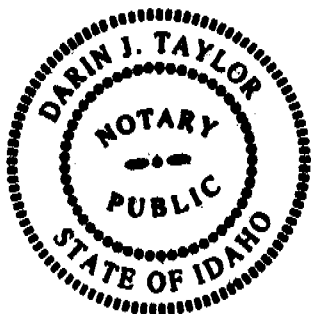
On this \_\_\_\_\_ day of March, in the year of 2006, before me a notary public for the State of Idaho, personally appeared JOHN E. ALDINE, personally known to me, or proved to me on the basis of satisfactory evidence, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

\_\_\_\_\_  
Notary Public  
My Commission Expires on \_\_\_\_\_

Joseph C. Callahan  
JOSEPH C. CALLAHAN

Shauna P. Callahan  
SHAUNA P. CALLAHAN

### ACKNOWLEDGMENT CERTIFICATE



On this 23<sup>rd</sup> day of March, in the year of 2006, before me a notary public for the State of Idaho, personally appeared JOSEPH C. CALLAHAN and SHAUNA P. CALLAHAN, personally known to me, or proved to me on the basis of satisfactory evidence, to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

Darin J. Taylor  
Notary Public  
My Commission Expires on Oct. 27, 2008

T5N, R2W, Sec. 21  
Canyon County, IDA

R37431016

R37431015

R37431014A

R37431015

LANE

BREEZY

LANE

LANE

LANE

LANE

LANE

GORDON

R23771  
T 96202

R23770  
T 29

R23770010  
T 24

R23769  
T 22

R23769010  
T 21

R23768  
T 97282

GILBERT

R23761  
T 99443

R23763010  
T 99279

R23762  
T 15

R23763

R23764

R23767

T 16

R23766

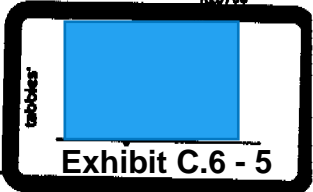


Exhibit C.6 - 5

RIA

ROAD

UNOFFICIAL COPY



200118414

RECORDED

MAY 11 PM 3 05

G NOEL WALES  
CANYON CNT RECORDER  
BYREQUEST Glen Wagoner  
TYPE 0000 REC 6-00A298-10  
R298-04

## QUITCLAIM DEED

THIS QUITCLAIM DEED, Executed this      day of May, 2001 (year),  
by first party, Grantor, Glen D. and Mary S. Wagoner  
whose post office address is 26705 Breezy Ln. Middleton, Id 83644  
to second party, Grantee, Glen D. and Mary S. Wagoner  
whose post office address is 26755 Breezy Ln. Middleton, Id 83644

WITNESSETH, That the said first party, for good consideration and for the sum of  
Dollars (\$      ) paid by the said second  
party, the receipt whereof is hereby acknowledged, does hereby remise, release and quitclaim  
unto the said second party forever, all the right, title, interest and claim which the said first party  
has in and to the following described parcel of land, and improvements and appurtenances there-  
to in the County of Canyon, State of Idaho to wit:

The North  $\frac{1}{2}$  of the west half of the Northwest  
Quarter of the Northeast Quarter, Section 21,  
Township 5 North, Range 2 west, Boise meridian,  
Canyon County, Idaho.

1AFAA (1)

Rev. 4/99

If your state requires 8 1/2" x 11" forms, cut off the bottom of this page at the dotted line.





IN WITNESS WHEREOF, The said first party has signed and sealed these presents the day and year first above written. Signed, sealed and delivered in presence of:

Signature of Witness

Print name of Witness

Signature of Witness

Print name of Witness

Signature of First Party

GLEN D. WAGONER  
Print name of First Party

Signature of First Party

MARY S. WAGONER  
Print name of First Party

State of Idaho  
County of Canyon

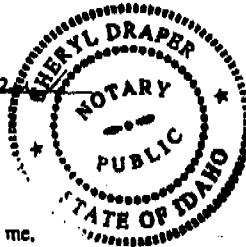
On 5-11-01 before me,

appeared Glen D. Wagoner and Mary S. Wagoner

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature of Notary



Affiant Known Produced ID  
Type of ID ID (Seal)

State of  
County of  
On

before me,

appeared

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature of Notary

Affiant Known Produced ID  
Type of ID (Seal)

Signature of Preparer

Print Name of Preparer

Address of Preparer

(2)

If your state requires 8 1/2" x 11" forms, cut off the bottom of this page at the dotted line.

AN 97044803  
The Grantees herein have read and approved the following: *edw mw*

Title File No.: T97-41415

**9705737 CORPORATE WARRANTY DEED**

FOR VALUE RECEIVED,  
STETSON HOMES, INC.

a corporation organized and existing under the laws of the State of Idaho, with its principal office at  
595 E. State Street Eagle, Idaho 83616 of County of Ada, State of Idaho,

GRANTOR(s), does(do) hereby GRANT, BARGAIN, SELL and CONVEY unto  
GLEN D. WAGONER AND MARY S. WAGONER, husband and wife

GRANTEES(s), whose current address is: 9454 Breezy Lane, Middleton, Idaho 83644  
the following described real property in Canyon County, State of Idaho,  
more particularly described as follows, to wit:

SEE ATTACHED EXHIBIT "A"

*excepting 20018414*

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s), and Grantee(s) heirs and assigns forever. And the said Grantor(s) does(do) hereby covenant to and with the said Grantee(s), that Grantor(s) is/are the owner(s) in fee simple of said premises; that said premises are free from all encumbrances, EXCEPT those to which this conveyance is expressly made subject and those made, suffered or done by the Grantee(s); and subject to reservations, restrictions, dedications, easements, rights of way and agreements, (if any) of record, and general taxes and assessments, (including irrigation and utility assessments, if any) for the current year, which are not yet due and payable, and that Grantor(s) will warrant and defend the same from all lawful claims whatsoever.

The officers who sign this deed hereby certify that this deed and the transfer represented thereby was duly authorized under a resolution duly adopted by the board of directors of the Grantor at a lawful meeting duly held and attended by a quorum.

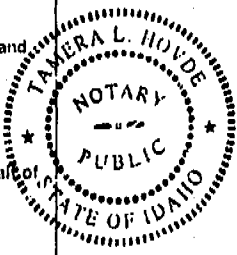
In witness whereof, the Grantor has caused its corporate name to be hereunto affixed by its duly authorized officers this 20th day of February, in the year of 1997.

Stetson Homes, Inc.

By *[Signature]*  
John S. Viehweg President

Attest: \_\_\_\_\_  
Secretary

STATE OF Idaho, County of Ada, ss.  
On this 20th day of February in the year of 1996, before me, the undersigned, a Notary Public in and for said State, personally appeared John S. Viehweg known or identified to me to be the Vice-President of the corporation that executed the instrument or the person who executed on behalf of said corporation, and acknowledged to me that such corporation executed the same.  
Signature: *Tamera L. Hoyde*  
Name: Tamera L. Hoyde  
Residing at: Eagle, Idaho  
My commission expires: 11/29/97



ORDER NO. 97014865

## EXHIBIT "A"

## PARCEL I:

THE WEST HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER, SECTION 21, TOWNSHIP 5 NORTH, RANGE 2 WEST, BOISE MERIDIAN, CANYON COUNTY, IDAHO.

## PARCEL II:

AN EASEMENT FOR INGRESS AND EGRESS OVER THE WESTERLY 28 FEET OF THE FOLLOWING DESCRIBED PROPERTY.

THE EAST HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 5 NORTH, RANGE 2 WEST OF THE BOISE, MERIDIAN, CANYON COUNTY, IDAHO.

## ALSO

AN EASEMENT FOR INGRESS AND EGRESS OVER THE EASTERLY 25 FEET OF THE FOLLOWING DESCRIBED PROPERTY.

THE WEST HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 5 NORTH, RANGE 2 WEST OF THE BOISE MERIDIAN, CANYON COUNTY, IDAHO.

REQUESTED BY  
ALLIANCE - NAMPA  
TYPE Deed FEE 6.00

CANYON COUNTY RECORDER  
Jude D. Brown

97 FEB 23 AM 9 59

9705737

W-6564

# 9210077 QUITCLAIM DEED

FOR VALUE RECEIVED David G. Goncz and Wanda M. Goncz, husband and wife.

do hereby convey, release, remise and forever quit claim  
unto Mark D. Deutsch and Ruth E. Deutsch, husband and wife.  
whose address is 6086 Stewart-Sharon Rd, S.E. Hubbard, OH 44425.  
the following described premises, to-wit:

The Northeast 1/4 or the Northwest 1/4 of the Northeast 1/4 of Section 21,  
Township 5 North, Range 2 West of the Boise Meridian, Canyon County, Idaho.

REQUEST  
TYPE Deed No. 300  
PIONEER - NAMP

RECORDER  
CANYON CNT RECORDER  
D. G. Goncz

92 MAY 8 PM 3 55

RECORDED

9210077

together with their appurtenances.

Dated:

David G. Goncz  
Wanda M. Goncz

STATE OF IDAHO, COUNTY OF ADA

On this 7th day of MAY, 1992,  
before me, a notary public in and for said State, personally  
appeared David G. Goncz and Wanda M.  
Goncz, husband and wife

known to me to be the person who name  
subscribed to the within instrument, and acknowledged to  
me that they executed the same.

Notary Public

Residing at Ada, County, Boise, Idaho  
Coman Expires 4/21/94

STATE OF IDAHO, COUNTY OF

I hereby certify that this instrument was filed for record  
at the request of

at minutes past o'clock m.  
this day of  
Be in my office, and duly recorded in Book  
of Deeds at page

Ex-Officio Recorder

By Deputy

Fees \$  
Mail to:

PIONEER TITLE COMPANY  
OF ADA COUNTY  
1110 W. Jefferson St.  
Boise, Idaho 83702 208 336-6709  
Representing Pioneer National Title Insurance

W-6564

FOR:

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The Sout

Township

together

Dated:

STATE

before me  
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me that

Residing

tabbist

Exhibit C.6 - 10

200207528

# ALLIANCE

TITLE & ESCROW CORP.

## QUITCLAIM DEED

ORDER NO.: 5100210090SK

FOR VALUE RECEIVED, Kelly Stewart, former spouse of Grantee who took title as Kelly Stewart Do(es) hereby convey, release, remise and forever quit claim unto

Bruce Stewart, an unmarried man

whose current address is: 26808 Breczy Lane, Middleton, ID 83644

the following described premises:

The Southeast Quarter of the Northwest Quarter of the Northeast Quarter of Section 21, Township 5 North, Range 2 West of the Boise Meridian, Canyon County, Idaho.

TO HAVE AND TO HOLD the said premises, unto the said grantees, heirs and assigns forever.

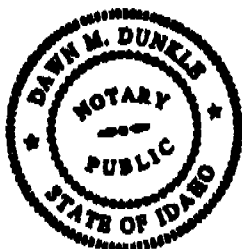
February 10, 2002

Kelly Stewart  
Kelly Stewart, former spouse of Grantee

State of Idaho

County of Canyon

On this 11th day of February, 2002, before me, a Notary Public in and for said state, personally appeared Kelly Stewart known or identified to me to be the person(s) whose name(s) are subscribed to the within instrument and acknowledged to me that they executed same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Dawn M. Dunkle  
Notary Public for the State of Idaho  
Residing at: Boise, Idaho  
Commission Expires: 01-09-07

REQUEST  
TYPE: Quitclaim FEE: 3

ALLIANCE - NAMP

CANYON CNTY RECORDER  
BY: Jack Hales

2002 FEB 15 PM 4 03

RECORDED

200207528

tabler



200259733

RECORDED

2002 DEC 18 PM 4 48

CINDEL HALE  
CANYON CNTY RECORDER

REQUEST STEWART TITLE NAME

TYPE Fee 6.00



WARRANTY DEED

For Value Received MIKE MARTIN AND JEANETTE MARTIN, husband and wife

the Grantor hereby grants, bargains, sells, conveys and warrants unto JOHN E. ALDINE, an unmarried person

the Grantee whose current address is: 9510 GILBERT RD., MIDDLETON, ID 83649  
the following described premises, to-wit:

AS PER LEGAL DESCRIPTION ATTACHED HERETO

Parcel Number: R37431017 0

SUBJECT TO: Current General Taxes, a lien in the process of assessment, not yet due or payable. Easements, restrictions, reservations, provisions of record, and assessments, if any.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, their heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that it is the owner in fee simple of said premises; that said premises are free from all encumbrances and that he will warrant and defend the same from all lawful claims whatsoever.  
Dated December 16, 2002

MIKE MARTIN

JEANETTE MARTIN

State of IDAHO

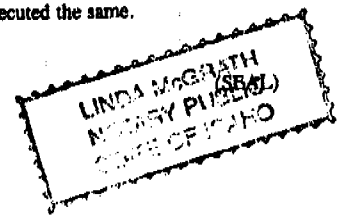
County of ADA

On this 17th day of December, 2002, before me, the undersigned, a Notary Public, in and for said State, personally appeared MIKE MARTIN AND JEANETTE MARTIN

known to me, and/or identified to me on the basis of satisfactory evidence, to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that they executed the same.

WITNESS MY HAND AND OFFICIAL SEAL.

Notary Public LINDA MCGRATH  
Residing at: MERIDIAN IDAHO  
Commission Expires: May 28, 2005



UNOFFICIAL COPY

LEGAL DESCRIPTION

Order Number: 02003132-AMENDED

THIS PARCEL IS A PORTION OF THE EAST HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 5 NORTH, RANGE 2 WEST OF THE BOISE MERIDIAN, CANYON COUNTY, IDAHO AND IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID EAST HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER; THENCE

SOUTH 00°00'29" EAST ALONG THE EAST BOUNDARY OF SAID EAST HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER A DISTANCE OF 395.65 FEET; THENCE

SOUTH 89°55'35" WEST PARALLEL WITH THE NORTH BOUNDARY OF SAID EAST HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER A DISTANCE OF 660.56 FEET TO A POINT ON THE WEST BOUNDARY OF THE EAST HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER; THENCE

NORTH 00°01'20" WEST ALONG SAID WEST BOUNDARY A DISTANCE OF 395.65 FEET TO THE NORTHWEST CORNER OF SAID EAST HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER; THENCE

NORTH 89°55'35" EAST ALONG THE NORTH BOUNDARY OF SAID EAST HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER A DISTANCE OF 660.66 FEET TO THE POINT OF BEGINNING.

SUBJECT TO A 28.00-FOOT WIDE INGRESS-EGRESS AND UTILITY EASEMENT ALONG THE WEST, EAST AND NORTH BOUNDARIES OF SAID PARCEL.

200111198

RECORDED

31 MAR 28 PM 3 10

G NOEL HALES

CANYON CITY RECORDER

BY

*Sherryn*

REQUEST

*Shauna Callahan*

TYPE

*Deed Fee Paid*

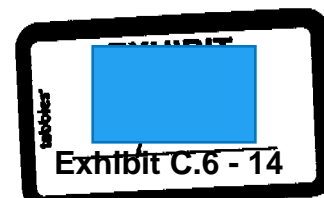
DEED OF GIFT

THIS INDENTURE, Made the 27 day of March, 2001,  
between GEORGE C. CALLAHAN and SHERRY C. CALLAHAN, husband and  
wife, of the County of Canyon, State of Idaho, the Grantors and  
JOSEPH C. CALLAHAN and SHAUNA P. CALLAHAN, the Grantees, whose  
address is 355 Creekview Drive, Meridian, Idaho 83642,  
Witnesseth:

That the said Grantors, for and in consideration of the  
payment of certain mortgage obligations by the grantees and the  
familial duty which the said Grantors have and bear unto the said  
Grantees, as also for the better maintenance, support, protection,  
and livelihood of the said Grantees, does by these presents give,  
grant, alien, and confirm unto the said Grantees and to their heirs  
and assigns forever, all of their interest in the following  
described real estate, situated in the, County of Canyon, State of  
Idaho, to-wit:

The East 1/2 of the Southwest 1/4 of the  
Northeast 1/4 of Section 21, Township 5 North,  
Range 2 West of the Boise Meridian, Canyon  
County, Idaho.

DEED OF GIFT



UNOFFICIAL COPY

Together, With all and singular, the tenements, hereditaments, and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and the rents and profits thereof shall be applied to his sole and separate use.

TO HAVE AND TO HOLD, All and singular the said premises, together with the appurtenances, unto the said grantees, their heirs and assigns forever, as the separate property of the said grantees and not in anywise community property.

IN WITNESS WHEREOF, the grantors hereunto set their hand on the day and year first above written.

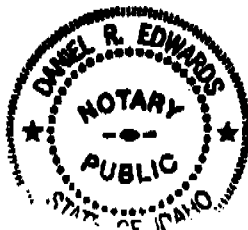
George C. Callahan  
GEORGE C. CALLAHAN

Sherry C. Callahan  
SHERRY C. CALLAHAN

STATE OF IDAHO )  
                          )  
County of Ada )

On this 21 day of MARCH, in the year 2001, before me, a Notary Public, in and for said State, personally appeared GEORGE C. CALLAHAN and SHERRY C. CALLAHAN, known to me to the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.



DR Edwards  
Notary Public for State of Idaho  
Residing at MELTDALE, Idaho  
My Commission Expires: 12/22/01

DEED OF GIFT

Exhibit C.6 - 15





**Board of County Commissioners**  
**Codr – Conditional Rezone – RZ2021-0055**

*Development Services Department*

**FINDINGS, CONCLUSIONS, & ORDER**

Conditional Rezone – RZ2021-0055

**Findings of Fact**

1. The applicant, Western Consulting representing Cory and Cristine Codr, is requesting a **Conditional Rezone** of Parcel R37431017A from an “A” (Agricultural) zone to an “R-R” (Rural Residential) zone. The request includes a development agreement limiting future development to no more than six (6) lots (Attachment “A”).
2. The property is located approximately 802-feet west of the Eric Lane and Gilbert Road intersection and approximately 540-feet north of Gloria Road, Middleton, ID; also referenced as a portion of the NW¼ of Section, T5N, R2W, BM, Canyon County, Idaho.
3. The subject property is designated as Residential on the 2020 Canyon County Comprehensive Plan Future Land Use Map.
4. The subject property is not located within an Area of City Impact.
5. The subject property is located within Canyon Highway District No. 4, Middleton Rural Fire District, Middleton School District, and Black Canyon Irrigation District.
6. The neighborhood meeting was held on April 29, 2021 in accordance with CCZO §07-01-15.
7. Notice of the BOCC public hearing was provided in accordance with CCZO §07-05-01. Agency notice and full political notices was provided on October 13, 2022. Newspaper notice was published on October 28, 2022. Property owners within 600’ were notified by mail on October 28, 2022. The property was posted on November 4, 2022.
8. The record herein consists of exhibits provided as part of the public hearing staff report, exhibits submitted during the public hearing on November 14, 2022 all information in case file RZ2021-0055.

**Conclusions of Law**

For Case File RZ2021-0055, the Board of County Commissioners find and conclude the following regarding the Standards for Review for a Zoning Amendment §07-06-07(6)(A):

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

**Conclusion:** As conditioned (Attachment “A”), the proposed conditional rezone is consistent with the 2020 Canyon County Comprehensive Plan and Future Land Use Map.

**Finding:** The 2020 Canyon County Comprehensive Plan Future Land Use Map designates the property as Residential. The request is consistent with several goals and policies of the Comprehensive Plan, including, but not limited to:

**Chapter 1. Property Rights**

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

**Policy 11.** Property owners shall not use their property in a manner that negatively impacts upon the surrounding neighbors or neighborhoods.

**Chapter 2. Population**

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

**Goal 3.** To guide future growth in order to enhance the quality and character of the county while providing and improving the amenities and services available to Canyon County residents.



**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 4. Economic Development**

**Policy 6.** Encourage commercial and residential development in a controlled, planned, and constructive manner, which will enhance, not destroy, the existing lifestyle and environmental beauty of Canyon County.

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

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

**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.

**Policy 2.** Encourage residential development in areas where agricultural uses are not viable.

**Policy 3.** Encourage compatible residential areas or zones within the county so that public services and facilities may be extended and provided in the most economical and efficient manner.

**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 11. Housing**

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

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

**Conclusion:** As conditioned (Attachment "A"), the proposed conditional rezone is more appropriate than the current zoning designation.

**Finding:** The conditional rezone with development agreement conditions is compatible to uses existing in the area and will promote the rural character.

The subject property is zoned "A" (Agricultural) and is not located within an area of city impact. The property is surrounded by "A" (Agricultural) and "R-R" (Rural Residential) zoning designations. CCZO §07-10-25 (2) defines the purpose of the "R-R" zone to "encourage and guide growth in areas where a rural lifestyle may be determined to be suitable." Pursuant to CCZO §07-02-03, a conditional rezone is defined as: "The rezoning of land with conditions imposed so that if the conditions are not complied with, the rezone may be withdrawn and the land reverts back to its former zoning classification."

The average minimum lot size in the "R-R" (Rural Residential) zone is two (2) acres with the option to reduce the lot sizes by 15% with the dedication of right-

of-way. The "R-R" (Rural Residential) zone has the potential to allow approximately seven lots to be developed on the subject parcel. However, the request includes a development agreement with conditions to only allow the property to develop with six lots.

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

Conclusion: As conditioned by the development agreement (Attachment "A"), the proposed conditional rezone is compatible with the surrounding land uses.

Finding: The proposed conditional rezone is compatible with the surrounding land uses. There are residential uses to the north, west, east, and south. No documented feedlots, dairies, or gravel pits are located within two miles of the property.

The subject property is located within a one-mile radius of eight (8) platted subdivisions and the average lot size in the area is 6.73 acres. The properties to the south have an average lot size of 3 acres. The request creates lot size commensurate with parcels to the south.

The result of the request is consistent and compatible with the rural character of the area. Pursuant to the development agreement conditions the property owner shall not divide the property to more than six parcels.

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

Conclusion: As restricted by the development agreement (Attachment "A"), the proposed conditional rezone will not negatively affect the character of the area and no mitigation is proposed at this time.

Finding: The result of the request preserves the rural character of the area. No evidence other than access issues has been provided.

The opening of Merlynn Road and Gilbert Road public right of way by Canyon Highway District #4 (CHD4) to the west of the subject property will negatively impact a number of properties along those right-of-way. CHD4 finds the access for the future development of the property to be the best option. Conditions have been applied to the development agreement for the applicant to seek access from the east through the Lippert property as promoted by the Board of County Commissioners prior to moving forward with CHD4 options. Future access will require construction that meets CHD4 and Canyon County standards.

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

Conclusion: Adequate sewer, drainage, irrigation, and storm water drainage facilities and utility systems will be provided to accommodate the proposed zoning map amendment at the time of preliminary and final plat.

Finding: Individual well and individual septic is proposed. The property is not within a nitrate priority area. The property is located within Black Canyon Irrigation District. Drainage and irrigation shall be required to be maintained. No comments or concerns were received from the district. The applicant shall be required to meet agency requirements at the time of platting. Homesites shall require the review and approvals from Southwest District Health and Idaho Department of Water Resources.



- 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 traffic impacts?**

Conclusion: The rezone as conditioned (Attachment "A") will not cause undue interference with existing or future traffic patterns.

Finding: Canyon Highway District No. 4 has reviewed the application and has established right-of-way for the subject property. Associated street improvements will be required at the time of platting. CHD4 does not find the use to create traffic impacts that require a TIS (Exhibit 4b of the staff report).

- 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 will exist at the time of development.

Finding: Legal access exist for the development. Per Exhibit 4b of the staff report, the access is via an open right-of-way from Gloria Road, Merlynn Road and through Gilbert Road west of the subject parcel. As conditioned (Attachment A) if access can be approved to the east of the subject parcel through the Lippert property as preferred by the Board, the applicant shall work with CHD4 and Canyon County regarding the alternative approach. If not, the access option requested by CDH4 shall meet CHD4 and Canyon County standards at the time of platting.

- 8. Will the proposed conditional rezone 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. No mitigation is proposed at this time.


Finding: The requested conditional rezone with development agreement conditions (Attachment "A") is not anticipated to impact essential services. Middleton Rural Fire District and Canyon County Sheriff serve the area and no comments were received.

**Order**

Based upon the Findings of Fact, Conclusions of Law contained herein, the Board of County Commissioners **approves** Case RZ2021-0055, a **Conditional Rezone** of parcel R37431017A from an "A" (Agricultural) zone to an "R-R" (Rural Residential) zone subject to conditions of the development agreement (Attachment "A").


APPROVED this 23 day of Nov., 2022.

  
\_\_\_\_\_  
Commissioner Leslie Van Beek

  
\_\_\_\_\_  
Commissioner Keri Smith

  
\_\_\_\_\_  
Commissioner Pamela White

Attest: Chris Yamamoto, Clerk

By:   
\_\_\_\_\_  
Deputy

Yes

No

Did Not  
Vote

—

X

—

X

—

—

✓

—

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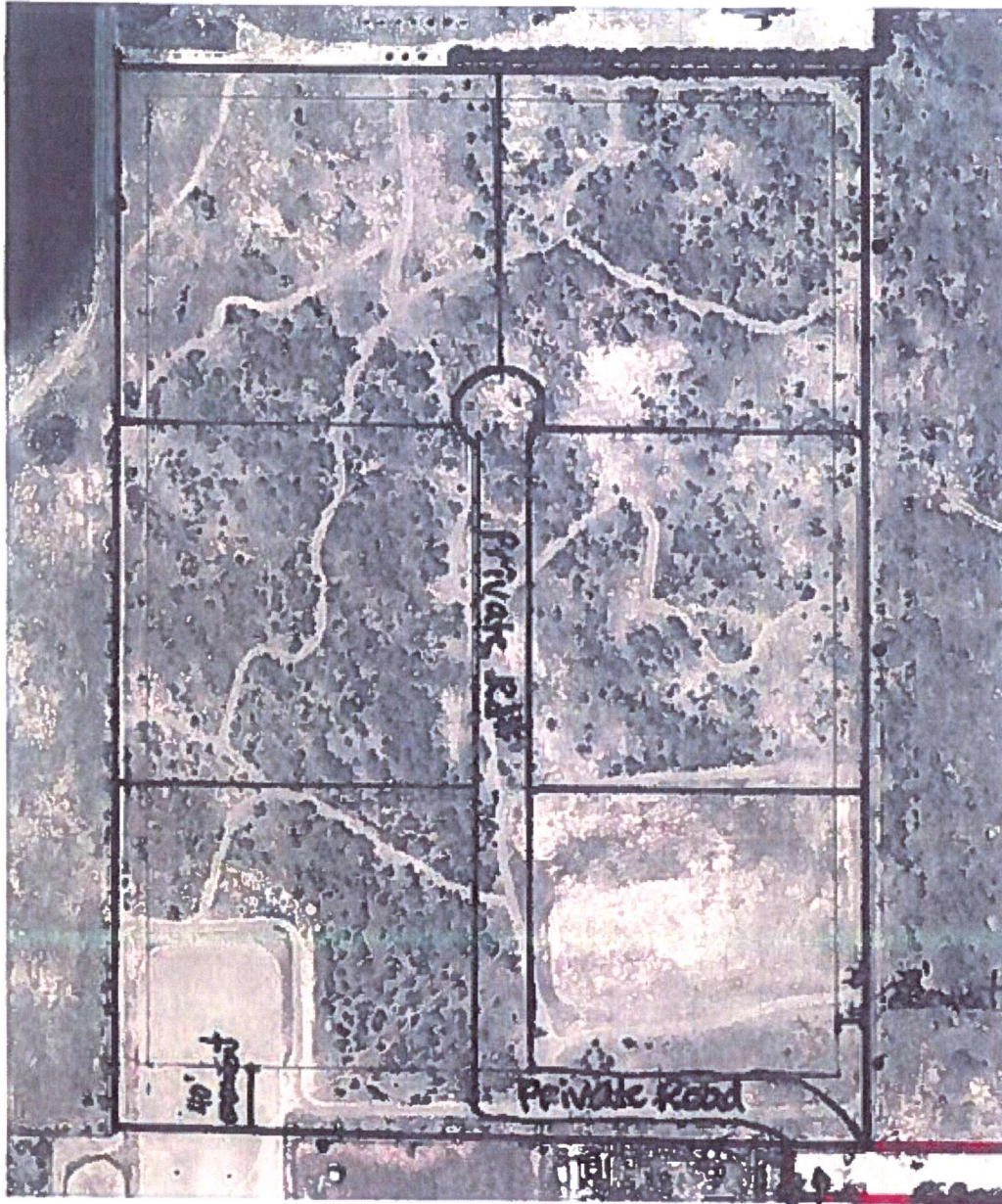
Date: 11-23-22

**ATTACHMENT "A"**  
**Development Agreement - 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 property, parcel R37341017A, shall be platted in compliance with Chapter 7 Article 17 of Canyon County Zoning Ordinance (Subdivisions) subject to the following restrictions:
  - a. Future subdivision/development shall be in substantial compliance with the conceptual site plan herein attached as Attachment "B" subject to the following restrictions:
    - i. The development shall not exceed six (6) lots.
    - ii. The applicant shall construct future private driveways and private roads to meet the Canyon County Zoning Code Standards (Section 07-10-03 - Private Road and Driveway Standards).
  - b. At the time of preliminary plat submittal, the development shall either (1) demonstrate access has been obtained from the east from through the Lippert property to Gilbert Road/Breezy Lane; or (2) demonstrate through documentation the attempts to gain access through the Lippert property and how it was not possible.
  - c. Historic irrigation lateral, drain and ditch flow patterns shall be maintained unless approved in writing by Black Canyon Irrigation District prior to any encroachment or modification to easements or flow patterns.
3. Development of the property shall be required to meet Canyon Highway District No. 4 requirements, and a Road Users Maintenance Agreement shall be required at the time of platting.
4. No golf courses or secondary residences shall be permitted on the property or future lots.
5. 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"  
SITE PLAN







## SD2023-0006 – Lippert Sub.

Site Visit: 9/5/2024















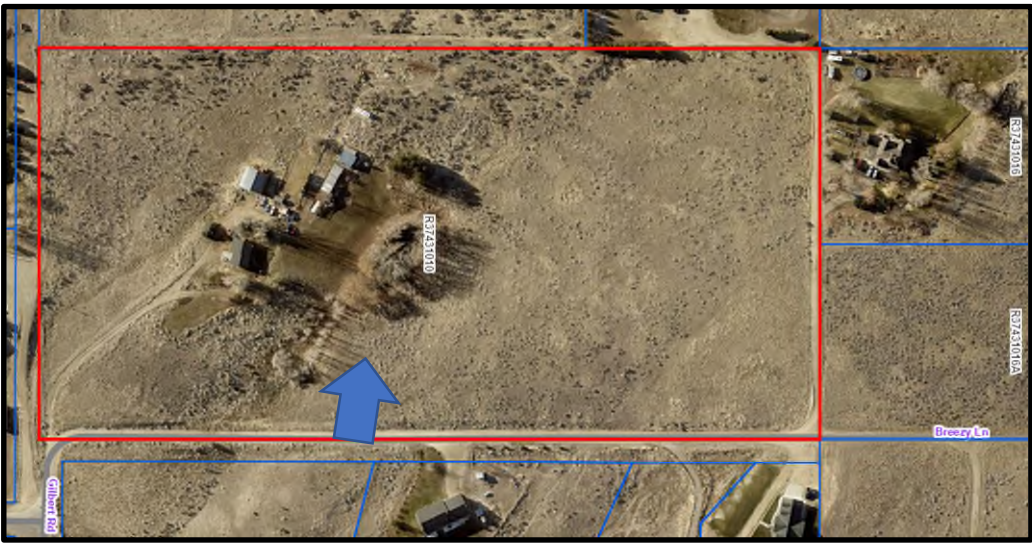








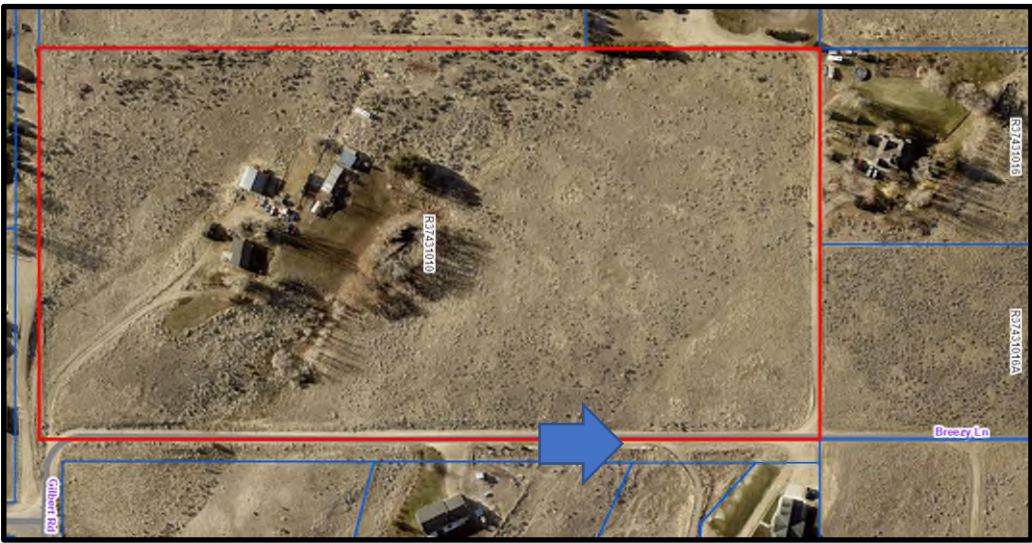




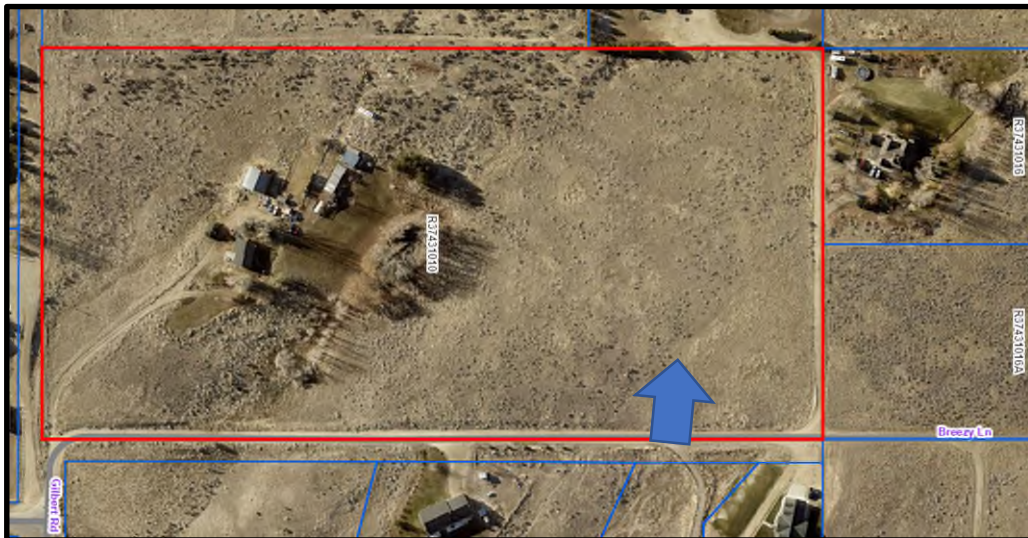
























**Planning & Zoning Commission**  
**Lippert Subdivision – SD2023-0006**  
 Development Services Department

**FINDINGS OF FACT, CONCLUSIONS OF LAW, & ORDER**

Lippert Subdivision - SD2023-0006

**Findings**

1. Wayne Lippert, represent by David Evans & Associates, requests approval of the preliminary plat for Lippert Subdivision, a two-lot subdivision (Attachment A). The request includes a waiver of subdivision improvements such as sidewalks, gutters, street lighting, and landscaping. The subject property is 9626 Gilbert Road, Middleton (Parcel R37431010), also referenced as a portion of the NE¼ of Section 21, T5N, R2W, BM, Canyon County, Idaho.
  - a. The application was submitted as a short plat per CCZO §07-17-17, but due to improvements required by the development agreement, the request does not qualify for the short plat application process.
2. The 20.06-acre parcel is zoned “CR-R-R” (Conditional Rezone – Rural Residential; two-acre average minimum lot size) subject to conditions of a development agreement (RZ2021-0049, Exhibit 5 of the staff report). *See Condition No. 7.*
3. The average residential lot size is 17.84 acres (Attachment A).
4. Each lot will be served by individual domestic wells (Attachment A, Plat Note 7).
5. Each lot will be served by individual septic systems (Attachment A, Plat Note 6). *See Condition No. 4.*
6. Middleton Fire District did not comment. Fire district review and approval of the access and turnaround is required per CCZO Section 07-10-03(2). *See Condition No. 6.*
7. The property does not have irrigation water rights or any Black Canyon Irrigation District facilities (Exhibit 4d of the staff report). Plat Notes 7 through 9 of the preliminary plat, irrigation will be provided to the domestic well per IDWR requirements and standards (Attachment A).
8. Subdivision runoff outside of the public right-of-way is the responsibility of the homeowner’s association, underlying property owner, or adjacent property owner (Plat Note 13, Attachment A).
9. The property contains slopes 15% or greater. The plat states that slopes 15% or greater are non-buildable (Attachment A). The applicant states future road and drainage improvements will not impact slopes 15% or greater (Exhibit 2a of the staff report). *See Condition No. 10.*
10. The east boundary of the property fronts Breezy Lane, an open public right-of-way unmaintained by Highway District #4. Breezy Lane has a recorded road user’s maintenance agreement (Inst. No. 2006-43593, Exhibit 6 of the staff report). Highway District #4 HD4 requires a 40’ wide public right-of-way dedication along Breezy Lane with a 10’ slope easement. The applicant included a 70’ wide ingress/egress easement for future access to Parcel R37431017A as recommended by HD4 (Attachments A and B). *See Condition No. 5 & 8.*  
  
 Per Condition No. 2a ii of the development agreement (Exhibit 5 of the staff report), Breezy Lane must be constructed to private road standards (CCZO Section 07-10-03(2) and (3)). *See Condition No. 1.a.*
11. The development is not located within a mapped floodplain (Flood Zone X, Exhibit 1 of the staff report).
12. Notice of the public hearing was provided in accordance with CCZO §07-05-01. Agency notice was provided on October 27, 2023, and August 30, 2024. The newspaper notice was published on August 30, 2024. Property owners were sent a notice on August 30, 2024. The property was posted on September 4, 2024.
13. The record includes all testimony, the staff report, exhibits, and documents in Case File No. SD2023-0006

**Conclusions of Law**

Section 07-17-09(4)A of the Canyon County Zoning Ordinance (CCZO) states, “*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 the 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.”*

Upon review of the preliminary plat, the Planning and Zoning Commission finds that the plat is consistent with the following subject to conditions of approval:

- A. Idaho Code Section 67-6513 (Subdivisions);
- B. Idaho Code Sections 50-1301 through 50-1329 (Platting);
- C. Idaho Code Section 22-4503 (Right-to-Farm Act; Plat Note #5, Attachment A);
- D. Idaho Code, Sections 31-3805 & 42-111 (Irrigation); and
- E. Canyon County Zoning Ordinance, Chapter 7, Article 17 (subdivision Regulations)

The preliminary plat was found to be consistent with the standards of review subject to conditions (Exhibit 4a of the staff report).

#### **Conditions of Approval**

1. All subdivision improvements (public or private roads, irrigation, and drainage swales/basins) and amenities shall be bonded or completed prior to the Board of County Commissioner's signature on the final plat.
  - a. Per Condition No. 2a(ii) of the development agreement (Exhibit 5b of the staff report), Breezy lane shall be constructed in accordance with CCZO Section 07-10-03(2) and (3) unless superseded by Canyon Highway District #4's public road construction standards. Prior to the Board's signing of the final plat, certification from a licensed engineer shall be submitted demonstrating the road has been constructed per CCZO §07-10-03(2) and (3).
2. Historic irrigation lateral, drain, and ditch flow patterns shall be maintained and protected (Exhibit 4a of the staff report).
3. Finish grades at subdivision boundaries shall match existing finish grades. Stormwater runoff shall be maintained on the subject property (Exhibit 4a of the staff report).
4. The development shall comply with Southwest District Health (SWHD) requirements. Evidence shall be SWDH's signature on the final plat (Exhibit 4a of the staff report).
5. The development shall comply with the requirements of Highway District #4 (Attachment B and Exhibit 4a of the staff report). Evidence shall be the Highway District's signature on the final plat.
6. Compliance with the international fire code and access and turnaround approval is required per CCZO Section 07-10-03(2) (Exhibit 4a of the staff report). Evidence of compliance shall be submitted to DSD prior to the Board's signature on the final plat.
7. The recorded development agreement shall be referenced as a plat note on the final plat.
8. Prior to the Board's signing of the final plat, a road user's maintenance agreement shall be recorded per CCZO Section 07-10-03(1)B3 for the proposed 70' wide ingress/egress access easement.
9. Before the Board signs 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.
10. All development on slopes 15% or greater is prohibited. Any changes that require hillside development will be reviewed per CCZO Section 07-17-33(1) through the preliminary plat and final plat application process.

Based upon the Findings of Fact, Conclusions of Law contained herein for Case No. SD2023-0006, the Planning & Zoning Commission **recommends approval** of the Preliminary Plat for Lippert Subdivision to the Board of County Commissioners subject to the Conditions of Approval as enumerated herein.

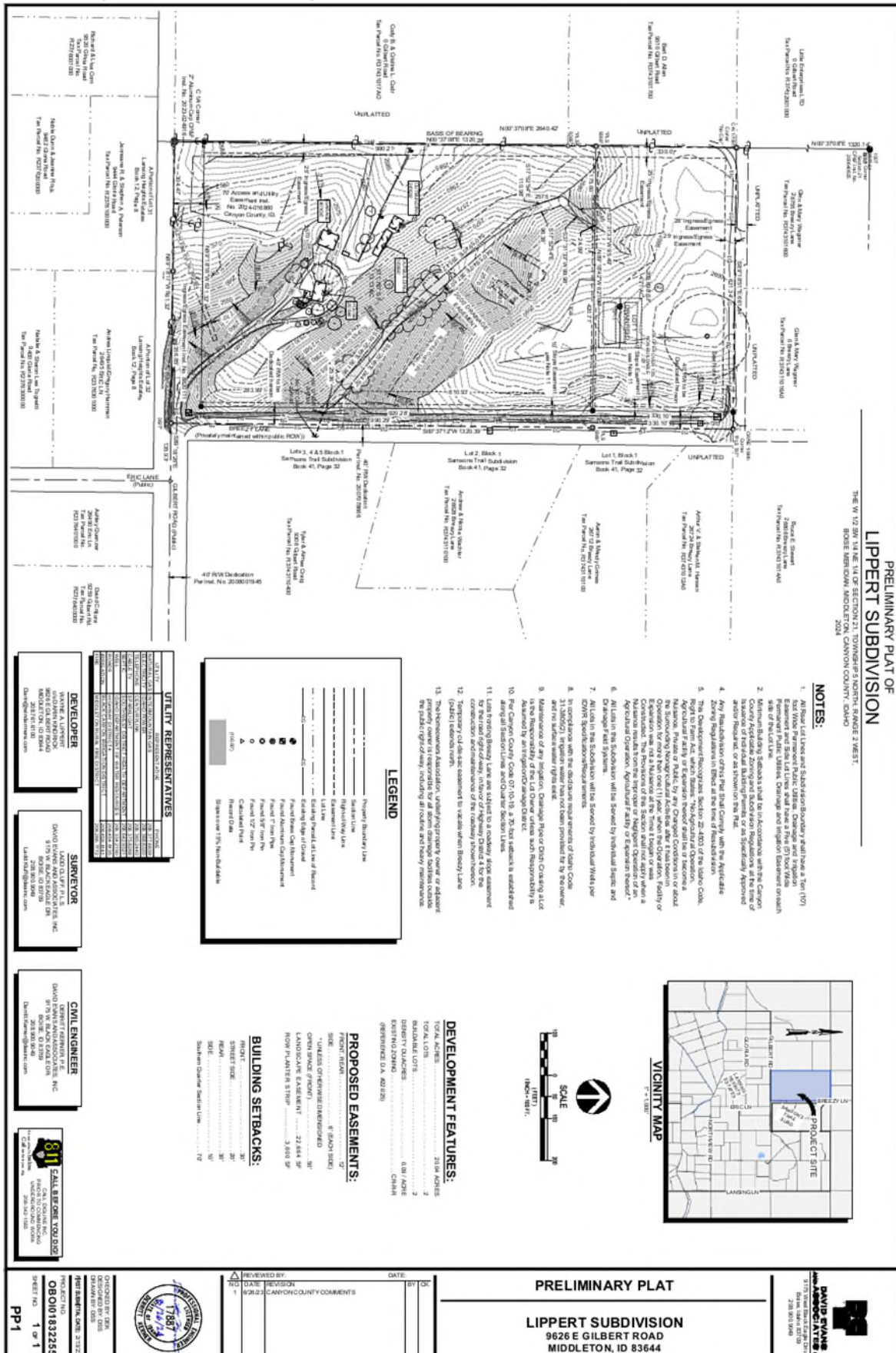
**PLANNING AND ZONING COMMISSION  
CANYON COUNTY, IDAHO**

SS

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 2024, before me \_\_\_\_\_, a notary public, personally appeared \_\_\_\_\_, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she) executed the same.

My Commission Expires: \_\_\_\_\_





**ATTACHMENT B**



**CANYON HIGHWAY DISTRICT No. 4**

15435 HIGHWAY 44  
CALDWELL, IDAHO 83607

TELEPHONE 208/454-8135  
FAX 208/454-2008

October 10, 2023

Canyon County Board of Commissioners  
and Planning & Zoning Commission  
111 N. 11<sup>th</sup> Street  
Caldwell, Idaho 83605  
Attention: Dan Lister, Planning Director

David Evans and Associates  
9175 W Black Eagle Dr.  
Boise, ID 83709  
Attention: Derritt Kerner, P.E.

**RE: Lippert Subdivision  
Canyon County Parcel R374310100**

Dear Commissioners:

Canyon Highway District No. 4 (CHD4) has reviewed the short plat application for Lippert Subdivision of approximately 20 acres, located in T5N R2W Section 21. Applicant is requesting to subdivide the parcel creating 2 lots, Lot 1 of 14.28 Acres and Lot 2 of 4.86 Acres. CHD4 provides the following comments on the proposed development:

**Right-of-way**

Breezy Lane is located on the subject parcel's east side. Samsons Trail Subdivision dedicated a 40' wide strip of land extending east of the 1/64<sup>th</sup> line for a length of approximately 1,320' and terminates at a gravel cul-de-sac at the Lippert Subdivision NE corner. Breezy Lane is classified as open public right-of-way not maintained by CHD4.

Gilbert Road is located on the subject parcel's south side. Said right-of-way extends from Eric Lane and terminates at Merlynn Lane, approximate length of 2,125'. Right-of-way dedication was provided from Lansing Heights Subdivision along the east/west ¼-section line and extends south 40'. Parcel R37431017A0, parcel directly west of the subject parcel, requested to reclassify this right-of-way.

The Gilbert right-of-way was reclassified to open right-of-way subject to construction. The portion reclassified begins at Merlynn Lane and extends east approximately 1,322'. It was not feasible to construct Gilbert Road as a publically maintained road from Eric Lane extending west due to the topography and limited ROW. Since approval of the reclassification, the surrounding residents have made an application to CHD4 to close that previously opened subject to construction right-of-way. Furthermore, based on multiple inquiries from the public, it appears that parcel owner has listed the parcel for sale. If improvements to the Gilbert Road ROW and Merlynn Lane do not occur to the satisfaction of CHD4 by June 22, 2024 or a request for extension not received at that same time the right-of-way will revert back to closed public right-of-way.

Given parcel R37431017A0 challenges for access, there are at least 3 possible solutions. Below is the order of CHD4 preference:



1. Lippert Subdivision provide 70' wide easement along entire south property line of Lot 1 to benefit parcel R37431017A0. Driveway within this easement to be constructed by parcel R37431017A0 at time of development.
  - a. See Private Road concept for details
    - i. Limits of road construction generally fit within the 70' easement. Future construction of this private road could add a retaining wall approx. 2.5' high to keep limits within easement
  - b. Surrounding residents likely prefer this direction as it locates road away from their homes
2. Parcel R37431017A utilize the previously reclassified ROW (Merlynn to parcel R37431017A)
  - a. ROW improvements along this alignment can meet CHD4 standards
  - b. Residents do not desire this direction and requested this alignment to be closed
    - i. A residence is built less than 20' from ROW
3. (See Public Road Concept) Lippert Subdivision dedicate 40' of ROW as required per standards along the south property line. Outside of the ROW provide a slope easement of at least 30' for Gilbert Road. In addition, Breezy Lane will require significant regrading and likely require a slope easement of approximately 45' in addition to the 40' ROW dedication.
  - a. Costs of regrading Gilbert and Breezy are likely more than the cost of improvements related to option 2.
  - b. Residents likely object to this option as improving this segment of the Gilbert Road ROW will require removal of vehicle storage in the closed right-of-way, relocation or regrading of two private driveways, and make use of ROW which is approximately 20' from a residence.

**Staff requests Canyon County make item 1 a condition of the land use approval.** The Gilbert ROW only benefits 1 parcel. Maintaining a public road for one parcel is not in the interest of the majority of road users within the District. Therefore, a private road is the preferred direction forward.

Breezy Lane provides access for about 12 parcels in excess of 80 acres. Given previous dedication and potential development from the 80 acres, right-of-way dedication and slope easement is required for Breezy Lane (see below for details)

## **Plat Comments**

### Right-of-Way

1. Breezy Lane Dedicate 40' from 1/64<sup>th</sup> line
2. Add 10' wide slope easement beyond ROW dedication
  - a. Add note, "Lots fronting Breezy Lane are subject to a roadway slope easement for the Road Right-of-way, in favor of Canyon Highway District No. 4 for the construction and maintenance of the roadway shown hereon."
3. Review options 1-3 above for Gilbert, consider dedicating on plat 70' wide ingress, egress, and utility easement for the benefit of parcel R37431017A0 along south property line of Parcel 1



### Final Plat

1. Review signature block for CHD4. Dedication of public roads and private road signature block may be most applicable if using option 1:
  - a. Plats with private roads and public road right(s)-of-way dedication(s): Canyon Highway District No. 4 does hereby accept this plat, and the dedicated public streets, highways and rights-of-way as are depicted on this plat, in accordance with the provisions of I.C. § 50-1312. Private streets depicted on this plat are not maintained by or under the jurisdiction of the Highway District. There is no legal obligation or assurances that the private streets will be accepted as public streets in the future.
2. Certificate of ownership—add the word forever at the end of “The public streets...”
3. Add storm drainage note:
  - a. The Homeowners Association, underlying property owner or adjacent property owner is responsible for all storm drainage facilities outside the public right-of-way, including all routine and heavy maintenance.
4. Show temp cul-de-sac easement at north extent of Breezy Lane. May have to locate bulb easement into property Lippert Parcel. Review ACCHD-104 standard drawings for limits of easement (use  $r=65'$  for easement limits).
  - a. Add call out, “Temporary cul-de-sac to vacate when Breezy Lane extends north.”
5. Review right-of-way comments and apply within final plat.

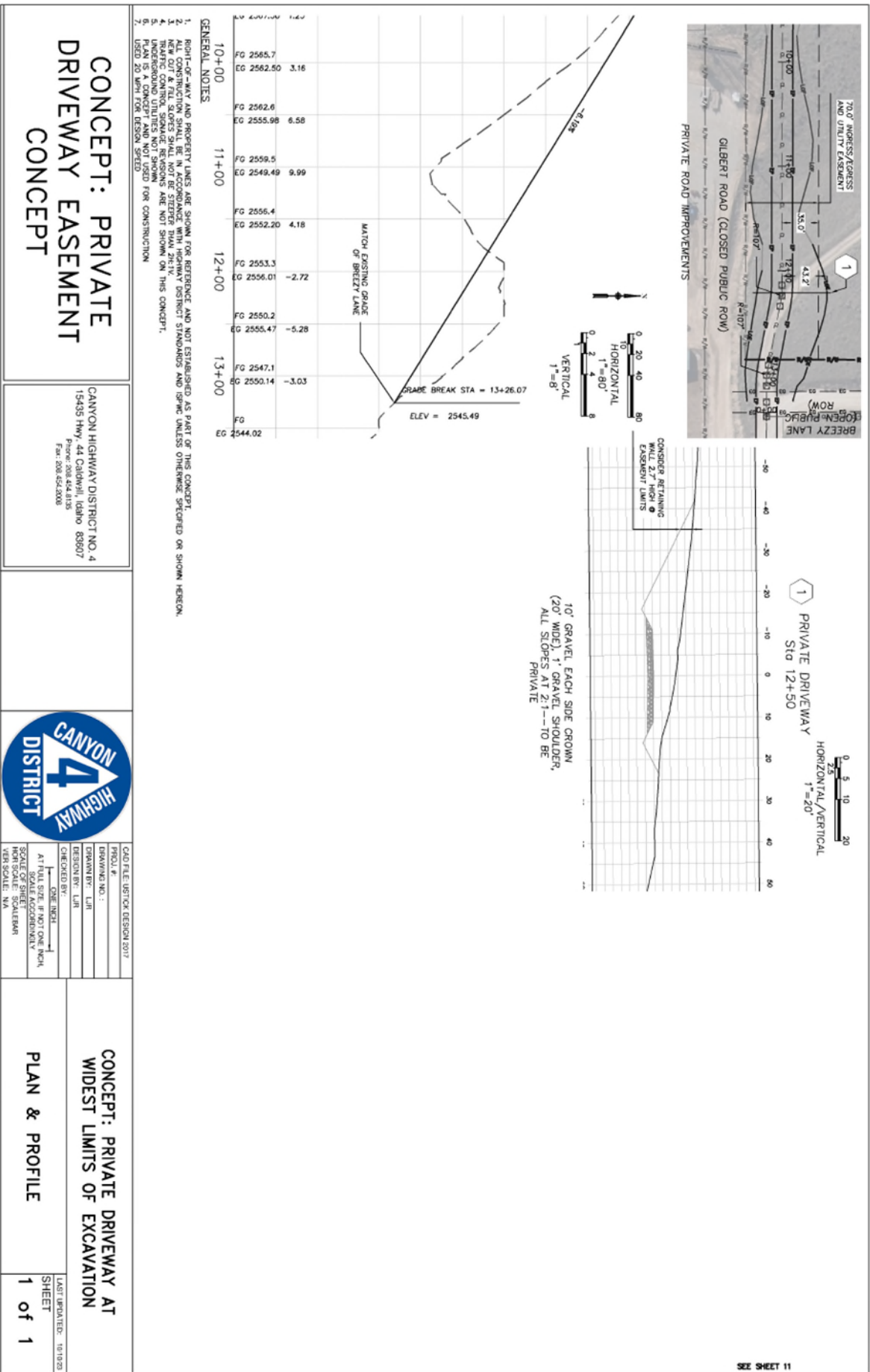
Please revise the plats to address the comments above, and re-submit a single full-size hard copy and an electronic copy of the plats. Feel free to contact me with any questions on this matter.

Regards,



Lenny Riccio, P.E.  
Assistant Engineer  
Transportation Planner











**HIGHWAY DISTRICT No.4**  
**15435 HIGHWAY 44**  
**CALDWELL, IDAHO 83607**

**TELEPHONE 208.454.8135**  
**FAX 208.454.2008**

**August 28, 2024**

**RE: HD4 Board of Commissioners**  
Gilbert Road and Breezy Lane--Lippert Subdivision  
Preliminary Plat

**Attachments:**

- Vicinity Map
- Preliminary Plat
- Inst No. 2024-016860 (70' Easement)—separate document

Staff is recommending Board review of preliminary plats for several reasons:

- Provide opportunity for the Board to review and comment on proposed developments prior to final plat approval. Current HD4 policy requires that any public road improvements be designed, constructed, and approved prior to final plat approval. This preliminary plat review allows the Board opportunity to review compliance with adopted transportation plans and provide input on required public improvements and other public interests before final design.
- Provide the applicant assurance that the preliminary layout and proposed transportation improvements meet the District's standards and requirements prior to funding design and construction.
- Provides staff the opportunity to seek Board approval for certain portions of current policy that use language such a "may require..." or "unless otherwise determined by the District..." related to the adoption of adjacent city standards, or requirements for arterial or collector roadway improvements.

In this specific case, staff is requesting review and consideration of a preliminary plat for Lippert Subdivision.

**Project Background**

The subject parcel, R37431010, is located approximately 150' west of Eric Lane on the west side of open public right-of-way Breezy Lane. More specifically located in Section 21 of T5N R2W and consists of about 20.04 acres. Parcel was rezoned to conditional rural residential. Current request is for a preliminary plat and is seeking a 2 lot subdivision within Canyon County.

**Proposal**

- Preliminary plat request
  - 2 lots on 20.04 acres, gross density 0.10 DU/Acres
- Dedicate 40' ROW for Breezy Lane measured from 1/64<sup>th</sup> line. Provide 10' slope easement on west side of 40' ROW to allow HD4 maintenance of slopes.
  - This width plus existing 40' wide ROW that extends the length of the Lippert Parcel on east side should allow future public road construction by others

- Provides 70' ingress/egress and utility easement along south property line. This easement will benefit the Codr property R37431017A
- Provide cul-de-sac turnaround easement at north limits of Breezy Lane public
  - Turnaround was constructed by others and exists today

#### General

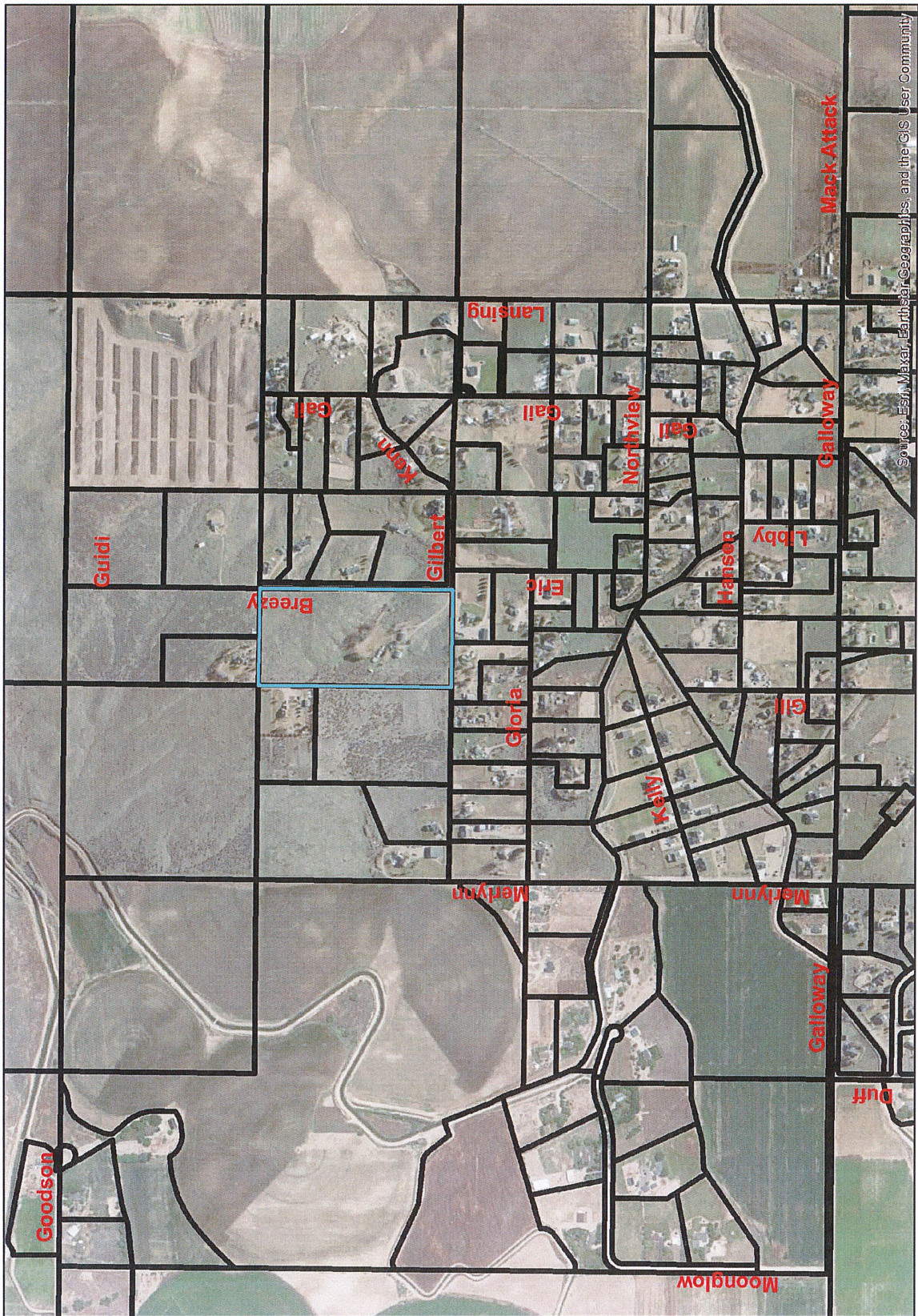
- Once Codr constructs a road within the 70' access easement to his parcel, Codr will be required to make improvements to the public ROW Breezy and Gilbert.
  - These improvements may affect Lippert's approach. Codr will be required to continue access to Lippert parcel. This will be reviewed at time of Codr's improvement drawings

HD4 staff has reviewed and commented on one previous revision of the preliminary plat. **HD4 staff recommends the Board approve the preliminary plat dated 8/16/24 with the following conditions:**

1. Correct Note 12 to, "Temporary cul-de-sac easement to vacate when Breezy Lane (public) extends north."



## Lippert Subdivision- Vicinity Map





[illegible]

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

Arkoosh Law Offices  
913 W. River Street, Suite 450  
Boise, Idaho 83702

With a copy to:

Wayne Lippert  
9626 E. Gilbert Road  
Middleton, Idaho 83644

2024-016860

RECORDED

05/31/2024 03:45 PM



00813693202400168600080087

RICK HOGABOAM

CANYON COUNTY RECORDER

Pgs=8 PBRIDGES

\$31.00

EASEMENT

DENNIS CODER

(Space Above For Recorder's Use)

## EASEMENT AGREEMENT

This Easement Agreement ("Easement Agreement") is made and entered into this 30 day of May, 2024, by and between WAYNE A. LIPPERT ("Grantor"), whose current address is 9626 E. Gilbert Road, Middleton, Idaho 83644 (Canyon County Parcel Number R3743101000), and CORY B. CODR and CRISTINE L. CODR (collectively "Grantee"), whose current address is 0 Gilbert Road, Middleton, Idaho 83644 (Canyon County Parcel Number R37431017A0).

### 1. Background.

**1.1 Grantor Real Property.** Grantor is the owner of the real property described in *Exhibit A*, attached hereto and incorporated herein (the "Grantor Real Property").

**1.2 Benefited Real Property.** Grantee is the owner of the real property described in *Exhibit B*, attached hereto and incorporated herein (the "Benefited Real Property").

**1.3 Request for Easement.** Grantee has requested Grantor to convey to Grantee a nonexclusive access easement on a portion of the Grantor Real Property in favor of the Benefited Real Property for the purposes described herein. The portion of the Grantor Real Property requested for the easement is described in *Exhibit C*, attached hereto and incorporated herein (the "Easement Real Property").

**1.4 Purpose of Agreement.** The purposes of this Easement Agreement are (i), to describe the easement granted, and (ii), to establish the relative rights and obligations of the parties regarding the easement granted under this Easement Agreement.

## **2. Grant of Easement.**

**2.1 Grant.** For value received, Grantor hereby **GRANTS AND CONVEYS** to the Grantee a nonexclusive ingress-egress, access, utility, and power easement on the Easement Real Property (the "Easement"). Said Easement is described in *Exhibit C*, burdens the Grantor Real Property in *Exhibit A*, and nonexclusively benefits the Benefited Real Property in *Exhibit B*.

**2.2 Purposes of Easement.** The Easement is granted solely for the purpose of non-exclusive ingress-egress, access, utility, power, and the construction and maintenance of a road over the Easement, and for no other purposes.

**2.3 Term of Easement.** This Easement Agreement shall continue in perpetuity and may only be terminated upon mutual agreement in writing entered, executed, and recorded in Canyon County by Grantee and Grantor.

**2.4 Covenants and Agreements of the Grantor.** Grantor, on behalf of Grantor and Grantor's heirs, successors, assigns, purchasers, or transferees of any kind, covenants and agrees with Grantee and Grantee's heirs, successors, assigns, purchasers, or transferees of any kind, that the provisions of this Easement Agreement (i) shall run with and bind the Easement Real Property, and (ii) shall inure to the benefit of, and be enforceable (at law or in equity) by any owner of all or part of, the Benefited Real Property.

**2.5 Covenants and Agreements of the Grantee.** Grantee, on behalf of Grantee and Grantee's heirs, successors, assigns, purchasers, or transferees of any kind, covenants and agrees with Grantor and Grantor's heirs, successors, assigns, purchasers, or transferee of any kind, as follows:

**2.5.1 Consideration to Grantor.** To pay Grantor the single lump sum of Fifty Thousand Dollars (\$50,000.00), the receipt of which is hereby acknowledged, as consideration for Grantee's grant of the Easement pursuant to this Easement Agreement.

**2.5.2 Repair and Maintenance.** To construct, maintain in good and sufficient repair, and pay for all improvements desired by the Grantee on the Easement Real Property, including moving utility poles if needed, and control within the Easement Real Property weeds per Canyon County Code and noxious weeds per Idaho Code.

## **3. General Provisions.**

**3.1 Governing Law, Jurisdiction, and Venue.** This Easement Agreement shall be construed and interpreted in accordance with the laws of the State of Idaho. The parties agree that the courts of Idaho shall have exclusive jurisdiction and that Canyon County is the proper venue.

**3.2 Time of the Essence.** Time is of the essence with respect to the obligations to be performed under this Easement Agreement.



**3.3 Rights Cumulative.** Except as expressly provided in this Easement Agreement, and to the extent permitted by law, any remedies described in this Easement Agreement are cumulative and not alternative to any other remedies available at law or in equity.

**3.4 Nonwaiver of Remedies.** The failure or neglect of a party to enforce any remedy available by reason of the failure of the other party to observe or perform a term or condition set forth in this Easement Agreement shall not constitute a waiver of such term or condition. A waiver by a party (i) shall not affect any term or condition other than the one specified in such waiver, and (ii) shall waive a specified term or condition only for the time and in a manner specifically stated in the waiver.

**3.5 Successors and Assigns.** This Easement Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, assigns, heirs, personal representatives, purchasers, or transferees of any kind.

**3.6 Entire Agreement.** All Exhibits to this Easement Agreement constitute a part of this Easement Agreement. This Easement Agreement, together with the accompanying Exhibits, constitutes the entire agreement among the parties and supersedes all prior memoranda, correspondence, conversations, and negotiations.

**4. Signatures.**

**GRANTOR:**

Dated: 5-31-24

Wayne A. Lippert  
WAYNE A. LIPPERT

**GRANTEE:**

Dated: 05/30/24

Cory B. Codr  
CORY B./CODR

Dated: 05/30/24

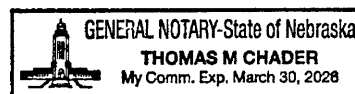
Cristine L. Codr  
CRISTINE L. CODR

STATE OF NEBRASKA     )  
  : SS  
COUNTY OF DOUGLAS    )

On the 30<sup>th</sup> day of May, 2024, before me the undersigned, a notary public in and for said state, personally appeared CORY B. CODR, known or identified to me to be the Grantee and owner of the Benefited Real Property, and the person who executed the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Thomas M Chader  
Notary Public  
My commission expires: 03-30-2026

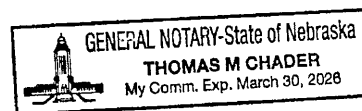


STATE OF NEBRASKA     )  
  : SS  
COUNTY OF DOUGLAS    )

On the 30<sup>th</sup> day of May, 2024, before me the undersigned, a notary public in and for said state, personally appeared CRISTINE L. CODR, known or identified to me to be the Grantee and owner of the Benefited Real Property, and the person who executed the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

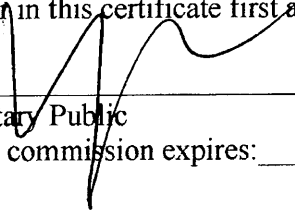
Thomas M Chader  
Notary Public  
My commission expires: 03-30-2026

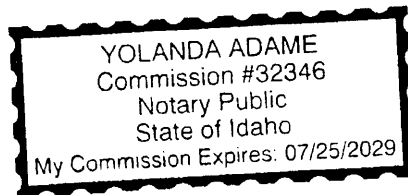


STATE OF IDAHO                    )  
  : ss  
COUNTY OF CANYON            )

On the 31 day of May, 2024, before me the undersigned, a notary public in and for said state, personally appeared WAYNE A. LIPPERT, known or identified to me to be the Grantor and owner of the Grantor Real Property, and the person who executed the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

  
\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_





## **EXHIBIT A**

### **Grantor Real Property**

The following described real property in Canyon County, State of Idaho, more particularly described as follows to wit:

**The West Half of the Southwest Quarter of the Northeast Quarter of Section 21, Township 5 North, Range 2 West, Boise Meridian, Canyon County, Idaho.**

## **EXHIBIT B**

### **Benefited Real Property**

The following described real property in Canyon County, State of Idaho, more particularly described as follows to wit:

**A parcel of land being a portion of the East Half of the Southeast Quarter of the Northwest Quarter of Section 21, Township 5 North, Range 2 West of the Boise Meridian, Canyon County, Idaho and is more particularly described as follows:**

**COMMENCING at the Northeast corner of said East Half of the Southeast Quarter of the Northwest Quarter; thence South 00°00'29" East along the East boundary of said East Half of the Southeast Quarter of the Northwest Quarter a distance of 395.65 feet to the TRUE POINT OF BEGINNING; thence continuing**

**South 00°00'29" East along said East boundary a distance of 924.71 feet to the Southeast corner of said East Half of the Southeast Quarter of the Northwest Quarter; thence**

**North 89°59'00" West along the South boundary of said East Half of the Southeast Quarter of the Northwest Quarter a distance of 660.33 feet to the Southwest corner of said East Half of the Southeast Quarter of the Northwest Quarter; thence**

**North 00°01'20" West along the West boundary of said East Half of the Southeast Quarter of the Northwest Quarter a distance of 923.67 feet; thence**

**North 89°55'35" East parallel with the North boundary of said East Half of the Southeast Quarter of the Northwest Quarter a distance of 660.56 feet to the TRUE POINT OF BEGINNING.**

## **EXHIBIT C**

### **Easement Real Property**

The following described real property in Canyon County, State of Idaho, more particularly described as follows to wit:

#### **70-Foot Ingress-Egress, Access, Utility, and Power Easement.**

**A 70-Foot Ingress-Egress, Access, Utility, and Power Easement that is located in the Southwest ¼ of the Northeast ¼ of Section 21, Township 5 North, Range 2 West of the Boise Meridian, Canyon County, Idaho described as:**

**Beginning at the Southwest corner of the Southwest ¼ of the Northeast ¼ of Section 21, Township 5 North, Range 2 West of the Boise Meridian, Canyon County, Idaho and running thence N00°00'30"W 70.00 feet along the West line of the Southwest ¼ of the Northeast ¼ of said Section; thence S89°56'02"E 661.32 feet; thence S00°00'34"E 70.00 feet to a point on the South line of the Southwest ¼ of the Northeast ¼ of said Section; thence N89°56'03"W 661.32 feet along said South line to the Point of Beginning.**



**Dan Lister**

---

**From:** ASHLEY QUENZER <ashley\_quenzer@live.com>  
**Sent:** Wednesday, November 6, 2024 11:03 AM  
**To:** Dan Lister  
**Subject:** Re: [External] Restirct Development

November 6, 2024

To Board of County Commissioners,

Thank you for sending your development proposal for Lippert Subdivision, Case no. SD2023-0006. I appreciate your time and effort put in to request approval from the community members living in this area. However, after careful consideration I do not believe that more land being developed in this area is beneficial.

I understand that the subdivision is already approved to be developed; however, I would like to request that within these lots that all development be on 1 acre building envelopes.

Much of the beautiful open habitat, in this great town, gives character to what this town has always been. This area is surrounded by sagebrush which is a beautiful habitat with certain wildlife diversity. Many sagebrush habitats are being destroyed because of development. We need to conserve this habitat the best we can.

I urge you to please consider my request to conserve Middleton as an open country with beautiful sagebrush habitat, to maintain this character as much as possible. If this request is approved, 1 acre will still be developed with building but the rest of land can be conserved.

Thank you for your time, and I appreciate the request for this approval.

Sincerely,

Ashley Quenzer

Sent from my T-Mobile 5G Device  
Get [Outlook for Android](#)

---

**From:** Dan Lister <Daniel.Lister@canyoncounty.id.gov>  
**Sent:** Wednesday, November 6, 2024 10:57:10 AM  
**To:** 'ASHLEY QUENZER' <ashley\_quenzer@live.com>  
**Subject:** RE: [External] Restirct Development

Ashley,

The link provided requires a Google account to access. A comment letter should either be written as an email or attached in a pdf. format.

Sincerely,

**Dan Lister, Principal Planner**

DSD Office: (208) 454-7458 - Direct Line: (208) 455-5959

[Daniel.Lister@canyoncounty.id.gov](mailto:Daniel.Lister@canyoncounty.id.gov)

Development Services Department (DSD)

Public office hours

Monday, Tuesday, Thursday and Friday

8 am – 5 pm

Wednesday

1 pm – 5 pm

\*\*We will not be closed during lunch hour \*\*

**PUBLIC RECORD NOTICE:** All communications transmitted within the Canyon County email system may be a public record and may be subject to disclosure under the Idaho Public Records Act and as such may be copied and reproduced by members of the public.

---

**From:** ASHLEY QUENZER <ashley\_quenzer@live.com>

**Sent:** Wednesday, November 6, 2024 9:22 AM

**To:** Dan Lister <Daniel.Lister@canyoncounty.id.gov>

**Subject:** [External] Restirct Development

<https://docs.google.com/document/u/1/d/1B-s0bdWE0yq4flcH0ry0F21aUzkEZt6eTCD9gNCwCMI/mobilebasic>

Sent from my T-Mobile 5G Device

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# **SD2023-0006 – LIPPERT SUB.**

Board of County Commissioners

December 3, 2024



# REQUEST

- The applicant requests approval of a preliminary plat for Lippert Subdivision. The result creates two (2) lots. The request includes a waiver of subdivision improvements.
- The subject property is 9626 Gilbert Road, Middleton (Parcel R37431010), also referenced as a portion of the NE<sup>1</sup>/<sub>4</sub> of Section 21, T5N, R2W, BM, Canyon County, Idaho.

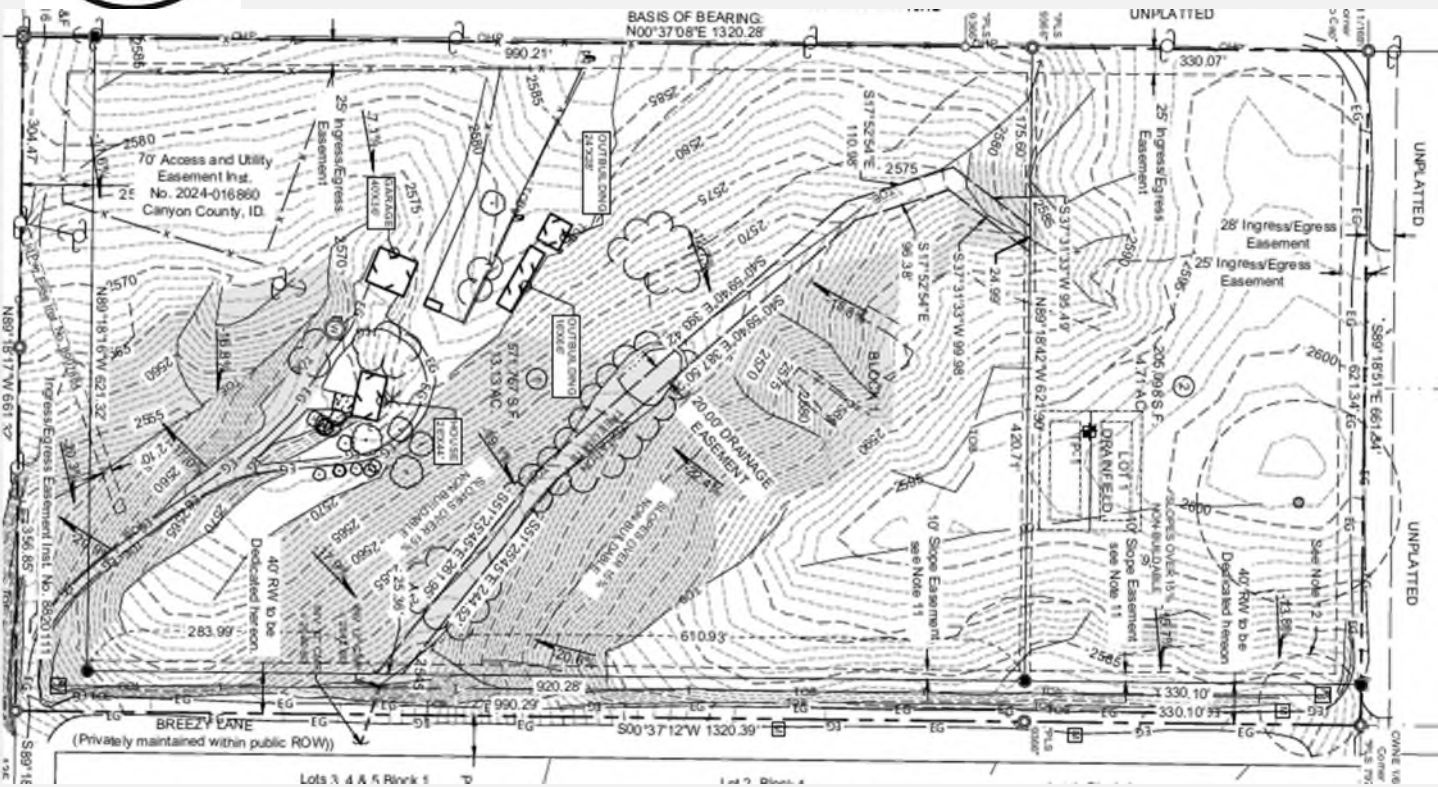


# REQUIRED FINDINGS

## Section 07-17-09(5) Board Action:

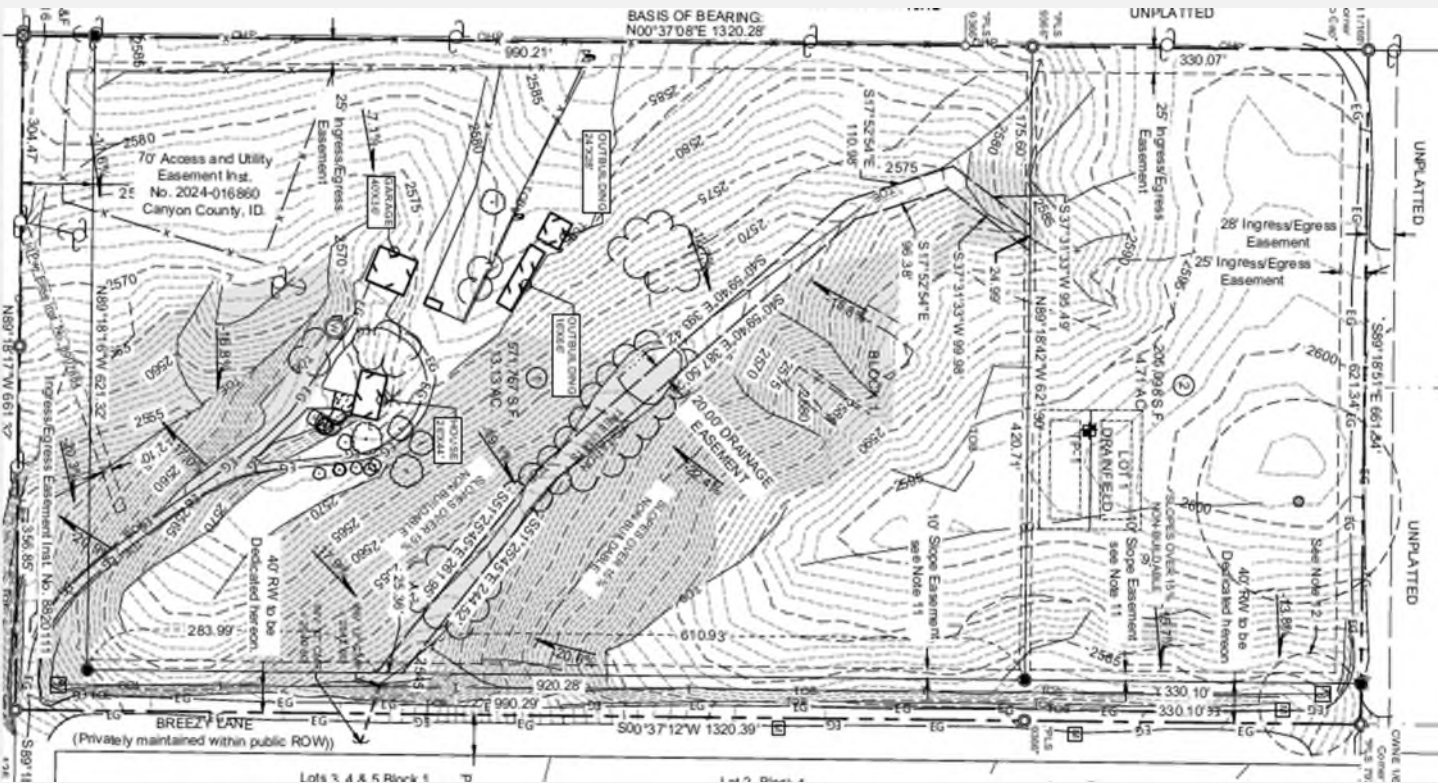
- A. The board shall consider the commission's recommendation at a noticed public hearing.*
- B. The board shall base its findings upon the evidence presented at the board's public hearing, and within thirty (30) calendar days declare its findings. It may sustain, modify, or reject the recommendations 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.*



**Exhibit F - 4**

Fire: Middleton Fire District did not comment. Per the development agreement (***Exhibit C.5b***) Breezy Lane must meet private road construction standards. The proposed access is longer than 150' (CCZO §07-10-03(2)), fire district access and turnaround approval is required before final plat approval.





- Water: Individual domestic wells (Plat Note 7, **Exhibit C.2b**).
- Sewage Disposal: Individual septic systems (Plat Note 6, **Exhibit C.2b**).
- Irrigation: The property does not have irrigation water rights or any Black Canyon Irrigation District facilities (**Exhibit C.4d**). Plat Note 7 & 8 of the preliminary plat, irrigation will be provided to the domestic well per IDWR requirements and standards (**Exhibit C.2b**).
- Drainage: Subdivision runoff outside of the public right-of-way is the responsibility of the homeowner's association, underlying property owner, or adjacent property owner (Plat Note 13, **Exhibit C.2b**).
- Special Development - Hillside: The property has slopes 15% or greater (**Exhibit C.8**). Per CCZO §07-17-33(1)A, the developer is proposing slopes 15% or greater to be non-buildable. The applicant states future road and drainage improvements will not impact slopes 15% or greater (**Exhibit C.2a**).



# REVIEW COMMENTS

- Notice of the public hearing was provided in accordance with CCZO §07-05-01.
- Highway District #4 (Exhibit C.4b): Provided access options, plat corrections and conditions. HD4 provided a recommendation of approval (Exhibit D.1).
- ITD (Exhibit C.4c): No comments or concerns.
- Black Canyon Irrigation District (Exhibit Cd): The property does not have irrigation water rights or any Black Canyon Irrigation District facilities.
- Ashley Quenzer (Exhibit E.1): Concerned about open space/habitat. Recommends building envelopes to provide habitat conservation.



# DECISION OPTIONS

The Board may:

- Approve of SD2023-0006 with conditions of approval (as recommended by the P&Z or as modified);
- Deny of SD2023-0006 and direct staff to return with amended FCOs supporting the decision; or
- Continue the hearing of SD2023-0006 and request additional information to be submitted.

P&Z Recommendation (Exhibit A & B):

- As conditioned, the plat meets all applicable ordinances and standards. Recommended conditions of approval ensure development meets County and affected agency requirements and standards.

## Standard of Review for Subdivision Plat

- Idaho Code Section 67-6513 (Subdivisions);
- Idaho Code Sections 50-1301 through 50-1329 (Platting);
- Idaho Code Section 22-4503 (Right-to-Farm Act; Plat Note #5, **Exhibit C.2b**);
- Idaho Code, Sections 31-3805 & 42-111 (Irrigation); and
- Canyon County Zoning Ordinance, Chapter 7, Article 17 (Subdivision Regulations)



# CONDITIONS

1. All subdivision improvements (public or private roads, irrigation, and drainage swales/basins) and amenities shall be bonded or completed prior to the Board of County Commissioner's signature on the final plat.
  - a. Per Condition No. 2a(ii) of the development agreement (Exhibit 5b of the staff report), Breezy Lane shall be constructed in accordance with CCZO Section 07-10-03(2) and (3) unless superseded by Canyon Highway District #4's public road construction standards. Prior to the Board's signing of the final plat, certification from a licensed engineer shall be submitted demonstrating the road has been constructed per CCZO §07-10-03(2) and (3).
2. Historic irrigation lateral, drain, and ditch flow patterns shall be maintained and protected (Exhibit C.4a of the staff report).
3. Finish grades at subdivision boundaries shall match existing finish grades. Stormwater runoff shall be maintained on the subject property (Exhibit C.4a of the staff report).
4. The development shall comply with Southwest District Health (SWHD) requirements. Evidence shall be SWDH's signature on the final plat (Exhibit C.4a of the staff report).
5. The development shall comply with the requirements of Highway District #4 (Attachment B and Exhibit C.4a of the staff report). Evidence shall be the Highway District's signature on the final plat.
6. Compliance with the international fire code and access and turnaround approval is required per CCZO Section 07-10-03(2) (Exhibit C.4a of the staff report). Evidence of compliance shall be submitted to DSD prior to the Board's signature on the final plat.
7. The recorded development agreement shall be referenced as a plat note on the final plat.
8. Prior to the Board's signing of the final plat, a road user's maintenance agreement shall be recorded per CCZO Section 07-10-03(1)B3 for the proposed 70' wide ingress/egress access easement.
9. Before the Board signs 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.
10. All development on slopes 15% or greater is prohibited. Any changes that require hillside development will be reviewed per CCZO Section 07-17-33(1) through the preliminary plat and final plat application process.
11. **The 70' wide access easement (Inst. #2024-016860) shall become a road lot per CCZO Section 07-17-31(1)A. The amendment shall be shown on the final plat.**





This aerial map displays a residential neighborhood with various property boundaries and parcel numbers. A large parcel, R37431010, is highlighted with a red border. Other parcels are labeled with numbers such as R23760010, R23762, R23761, R23763, R23763010, R23764010, R37431101, R3743100, R37431012A, and R3743104. Streets shown include Breezy Ln, Gilbert Rd, and Gloria Rd.







**Board of County Commissioners**  
**Lippert Subdivision – SD2023-0006**  
 Development Services Department

**FINDINGS OF FACT, CONCLUSIONS OF LAW, & ORDER**

Lippert Subdivision - SD2023-0006

**Findings**

1. Wayne Lippert, represented by Rodney Evans & Associates, requests approval of the preliminary plat for Lippert Subdivision, a two-lot subdivision (Attachment A). The request includes a waiver of subdivision improvements such as sidewalks, gutters, street lighting, and landscaping. The subject property is 9626 Gilbert Road, Middleton (Parcel R37431010), also referenced as a portion of the NE¼ of Section 21, T5N, R2W, BM, Canyon County, Idaho.
  - a. The application was submitted as a short plat per CCZO §07-17-17, but due to improvements required by the development agreement, the request does not qualify for the short plat application process.
2. The 20.06-acre parcel is zoned “CR-R-R” (Conditional Rezone – Rural Residential; two-acre average minimum lot size) subject to conditions of a development agreement (RZ2021-0049, Exhibit C.5 of the staff report). *See Condition No. 7.*
3. The average residential lot size is 10.03 acres (Attachment A).
4. Each lot will be served by individual domestic wells (Attachment A, Plat Note 7).
5. Each lot will be served by individual septic systems (Attachment A, Plat Note 6). *See Condition No. 4.*
6. Middleton Fire District did not comment. Fire district review and approval of the access and turnaround is required per CCZO Section 07-10-03(2). *See Condition No. 6.*
7. The property does not have irrigation water rights or any Black Canyon Irrigation District facilities (Exhibit C.4d of the staff report). Plat Notes 7 through 9 of the preliminary plat, irrigation will be provided to the domestic well per IDWR requirements and standards (Attachment A).
8. Subdivision runoff outside of the public right-of-way is the responsibility of the homeowner’s association, underlying property owner, or adjacent property owner (Plat Note 13, Attachment A).
9. The property contains slopes 15% or greater. The plat shows that slopes over 15% are non-buildable (Attachment A). The applicant states future road and drainage improvements will not impact slopes 15% or greater (Exhibit C.2a of the staff report). *See Condition No. 10.*
10. The east boundary of the property fronts Breezy Lane, an open public right-of-way unmaintained by Highway District #4. Breezy Lane has a recorded road user’s maintenance agreement (Inst. No. 2006-43593, Exhibit C.6 of the staff report). Highway District #4 HD4 requires a 40’ wide public right-of-way dedication along Breezy Lane with a 10’ slope easement. The applicant included a 70’ wide ingress/egress easement for future access to Parcel R37431017A (Codr – RZ2021-0055, Exhibit C.7) as recommended by HD4 (Attachments A and B). *See Condition No. 5 & 8.*
11. The 70’ easement (Inst. No 2024-016860) will serve Lot 1 of Lippert Subdivision and the future development of R37431017A (Exhibit C.7). Therefore, the 70’ easement must become a road lot per CCZO Section 07-17-31(1)A. *See Condition No. 11.*
12. Per Condition No. 2a ii of the development agreement (Exhibit C.5b of the staff report), Breezy Lane must be constructed to private road standards (CCZO Section 07-10-03(2) and (3)). *See Condition No. 1.a.*
13. The development is not located within a mapped floodplain (Flood Zone X, Exhibit C.1 of the staff report).
14. Notice of the public hearing was provided per CCZO §07-05-01. Agency notice was provided on October 27, 2023, August 30, 2024 (P&Z Commission), and November 1, 2024. The newspaper notice was published on November 1, 2024. A notice was sent to property owners on August 30, 2024 (P&Z Commission) and November 1, 2024. The property was posted on September 4, 2024 (P&Z Commission) and November 1, 2024.

15. The record includes all testimony, the staff report, exhibits, and documents in Case File No. SD2023-0006

### **Conclusions of Law**

Section 07-17-09(5) Board Action:

- A. *The board shall consider the commission's recommendation at a noticed public hearing.*
- B. *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.*

The Planning & Zoning Commission heard the case at a public hearing held on October 3, 2024. After deliberation, the Planning & Zoning Commission recommended approval subject to conditions (Exhibit A & B of the staff report).

The plat was reviewed per the following code:

- A. Idaho Code Section 67-6513 (Subdivisions);
- B. Idaho Code Sections 50-1301 through 50-1329 (Platting);
- C. Idaho Code Section 22-4503 (Right-to-Farm Act; Plat Note #5, Attachment A);
- D. Idaho Code, Sections 31-3805 & 42-111 (Irrigation); and
- E. Canyon County Zoning Ordinance, Chapter 7, Article 17 (subdivision Regulations)

The preliminary plat is consistent with the standards of review subject to conditions (Exhibit C.4a of the staff report).

### **Conditions of Approval**

1. All subdivision improvements (public or private roads, irrigation, and drainage swales/basins) and amenities shall be bonded or completed prior to the Board of County Commissioner's signature on the final plat.
  - a. Per Condition No. 2a(ii) of the development agreement (Exhibit 5b of the staff report), Breezy lane shall be constructed per CCZO Section 07-10-03(2) and (3) unless superseded by Canyon Highway District #4's public road construction standards. Prior to the Board's signing of the final plat, certification from a licensed engineer shall be submitted demonstrating that the road has been constructed per CCZO §07-10-03(2) and (3).
2. Historic irrigation lateral, drain, and ditch flow patterns shall be maintained and protected (Exhibit C.4a of the staff report).
3. Finish grades at subdivision boundaries shall match existing finish grades. Stormwater runoff shall be maintained on the subject property (Exhibit C.4a of the staff report).
4. The development shall comply with Southwest District Health (SWHD) requirements. Evidence shall be SWDH's signature on the final plat (Exhibit C.4a of the staff report).
5. The development shall comply with the requirements of Highway District #4 (Attachment B and Exhibit C.4a of the staff report). Evidence shall be the Highway District's signature on the final plat.
6. Compliance with the international fire code and access and turnaround approval is required per CCZO Section 07-10-03(2). Evidence of compliance shall be submitted to DSD prior to the Board's signature on the final plat.
7. The recorded development agreement shall be referenced as a plat note on the final plat.
8. Prior to the Board's signing of the final plat, a road user's maintenance agreement shall be recorded per CCZO Section 07-10-03(1)B3 for the proposed 70' wide ingress/egress access easement.

- 9. Before the Board signs 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.
- 10. All development on slopes 15% or greater is prohibited. Any changes requiring hillside development will be reviewed per CCZO Section 07-17-33(1) through the preliminary and final plat application process.
- 11. The 70’ wide access easement (Inst. #2024-016860) shall become a road lot per CCZO Section 07-17-31(1)A. The amendment shall be shown on the final plat.

**Order**

Based upon the Findings of Fact, Conclusions of Law contained herein for Case No. SD2023-0006, the Board of County Commissioners **approve** the Preliminary Plat for Lippert Subdivision to the Board of County Commissioners subject to the Conditions of Approval as enumerated herein.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**CANYON COUNTY BOARD OF COMMISSIONERS**

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

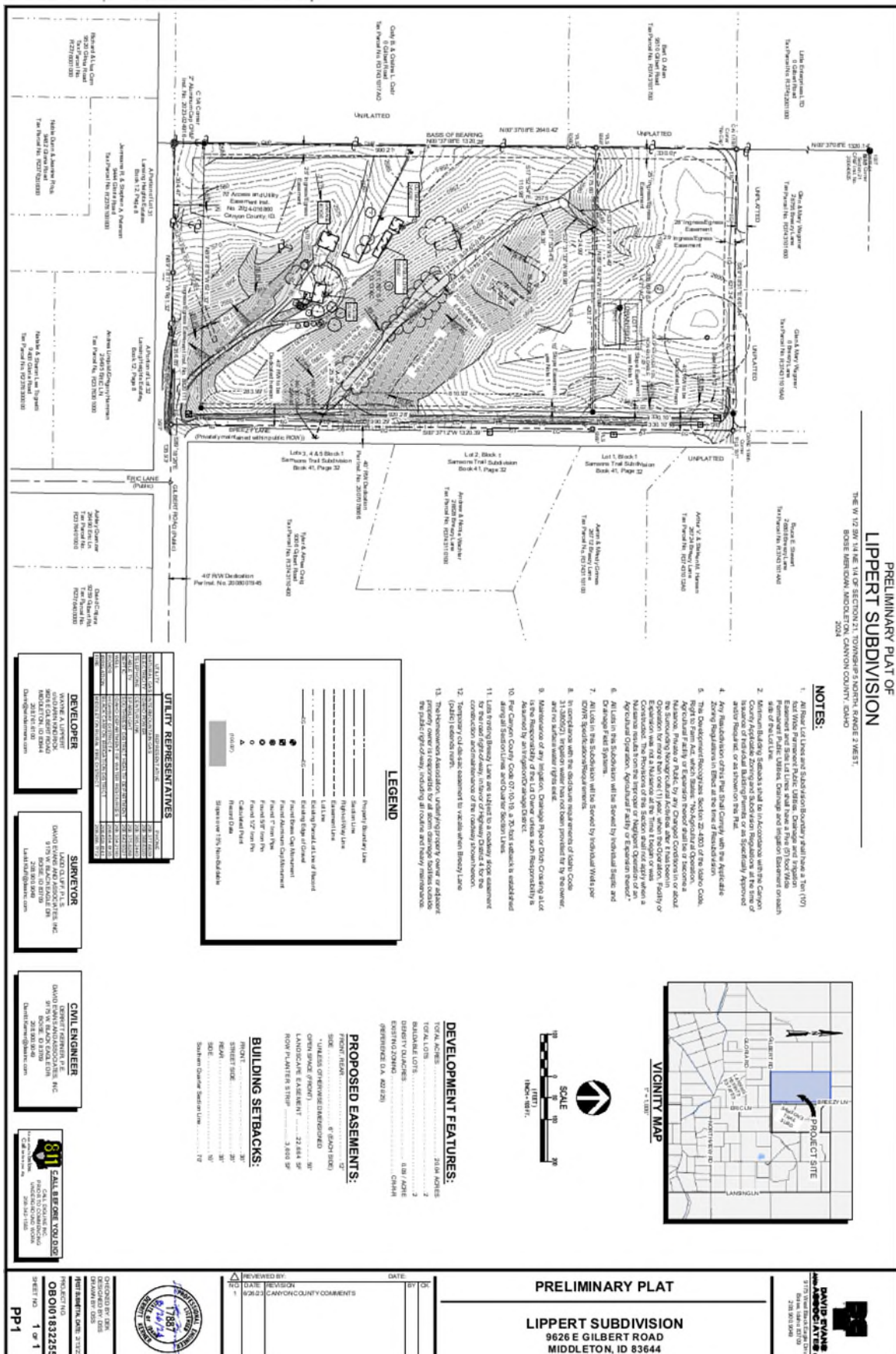
	Yes	No	Did Not Vote
_____ Commissioner Leslie Van Beek	_____	_____	_____
_____ Commissioner Brad Holton	_____	_____	_____
_____ Commissioner Zach Brooks	_____	_____	_____

Attest: Rick Hogaboam, Clerk

By: \_\_\_\_\_  
Deputy

Date: \_\_\_\_\_





## ATTACHMENT B



HIGHWAY DISTRICT No.4  
15435 HIGHWAY 44  
CALDWELL, IDAHO 83607

TELEPHONE 208.454.8135  
FAX 208.454.2008

August 28, 2024

**RE: HD4 Board of Commissioners**  
Gilbert Road and Breezy Lane--Lippert Subdivision  
Preliminary Plat

Attachments:

- Vicinity Map
- Preliminary Plat
- Inst No. 2024-016860 (70' Easement)—separate document

Staff is recommending Board review of preliminary plats for several reasons:

- Provide opportunity for the Board to review and comment on proposed developments prior to final plat approval. Current HD4 policy requires that any public road improvements be designed, constructed, and approved prior to final plat approval. This preliminary plat review allows the Board opportunity to review compliance with adopted transportation plans and provide input on required public improvements and other public interests before final design.
- Provide the applicant assurance that the preliminary layout and proposed transportation improvements meet the District's standards and requirements prior to funding design and construction.
- Provides staff the opportunity to seek Board approval for certain portions of current policy that use language such as "may require...", or "unless otherwise determined by the District..." related to the adoption of adjacent city standards, or requirements for arterial or collector roadway improvements.

In this specific case, staff is requesting review and consideration of a preliminary plat for Lippert Subdivision.

### **Project Background**

The subject parcel, R37431010, is located approximately 150' west of Eric Lane on the west side of open public right-of-way Breezy Lane. More specifically located in Section 21 of T5N R2W and consists of about 20.04 acres. Parcel was rezoned to conditional rural residential. Current request is for a preliminary plat and is seeking a 2 lot subdivision within Canyon County.

### **Proposal**

- Preliminary plat request
  - 2 lots on 20.04 acres, gross density 0.10 DU/Acres
- Dedicate 40' ROW for Breezy Lane measured from 1/64<sup>th</sup> line. Provide 10' slope easement on west side of 40' ROW to allow HD4 maintenance of slopes.
  - This width plus existing 40' wide ROW that extends the length of the Lippert Parcel on east side should allow future public road construction by others

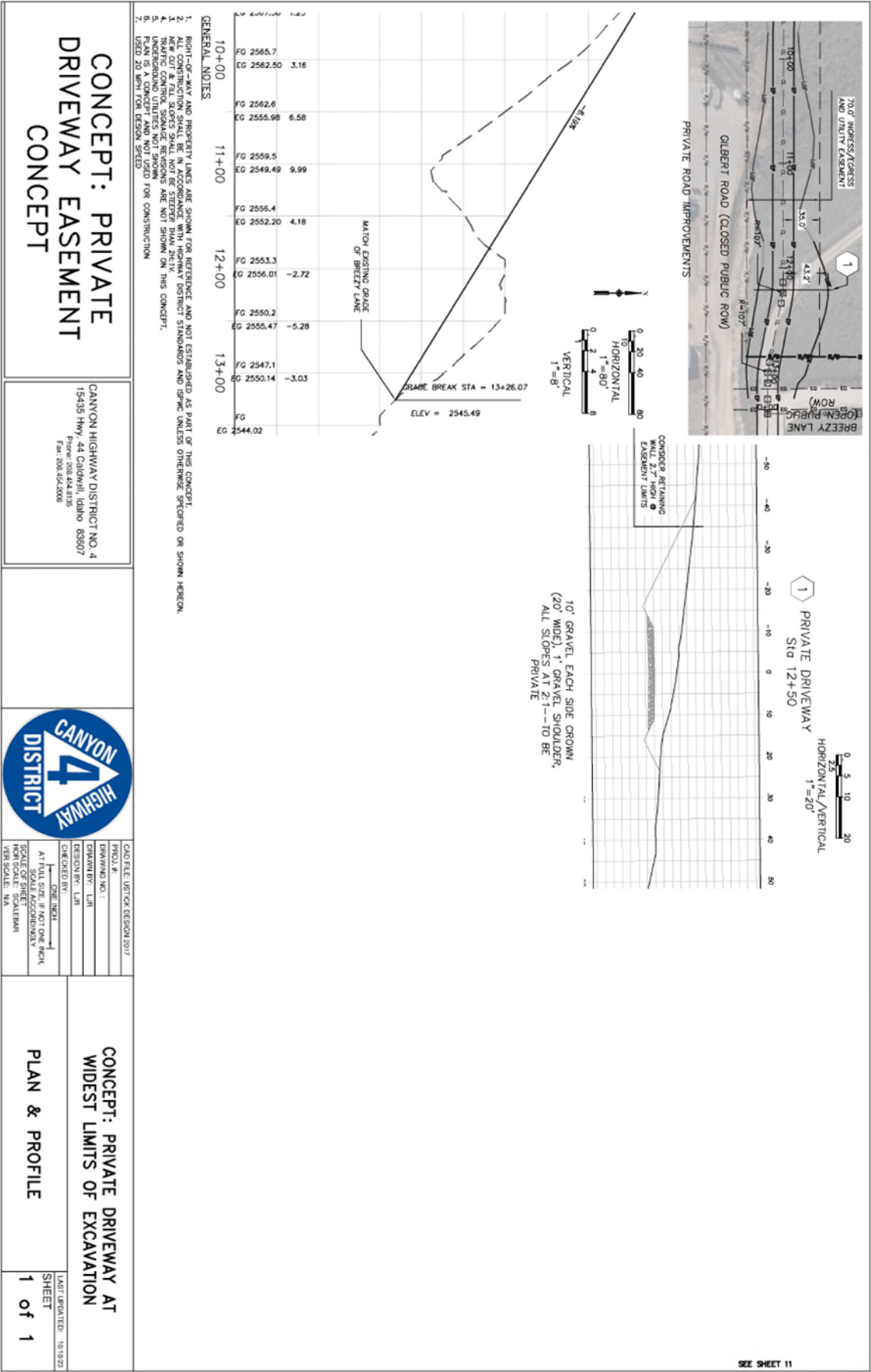
- Provides 70' ingress/egress and utility easement along south property line. This easement will benefit the Codr property R37431017A
- Provide cul-de-sac turnaround easement at north limits of Breezy Lane public
  - Turnaround was constructed by others and exists today

#### General

- Once Codr constructs a road within the 70' access easement to his parcel, Codr will be required to make improvements to the public ROW Breezy and Gilbert.
  - These improvements may affect Lippert's approach. Codr will be required to continue access to Lippert parcel. This will be reviewed at time of Codr's improvement drawings

HD4 staff has reviewed and commented on one previous revision of the preliminary plat. **HD4 staff recommends the Board approve the preliminary plat dated 8/16/24 with the following conditions:**

1. Correct Note 12 to, "Temporary cul-de-sac easement to vacate when Breezy Lane (public) extends north."







RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

Arkoosh Law Offices  
913 W. River Street, Suite 450  
Boise, Idaho 83702

With a copy to:

Wayne Lippert  
9626 E. Gilbert Road  
Middleton, Idaho 83644

2024-016860

RECORDED

05/31/2024 03:45 PM



00813693202400168600080087

RICK HOGABOAM

CANYON COUNTY RECORDER

Pgs=8 PBRIDGES

\$31.00

EASEMENT

DENNIS CODER

(Space Above For Recorder's Use)

## EASEMENT AGREEMENT

This Easement Agreement ("Easement Agreement") is made and entered into this 30 day of May, 2024, by and between WAYNE A. LIPPERT ("Grantor"), whose current address is 9626 E. Gilbert Road, Middleton, Idaho 83644 (Canyon County Parcel Number R3743101000), and CORY B. CODR and CRISTINE L. CODR (collectively "Grantee"), whose current address is 0 Gilbert Road, Middleton, Idaho 83644 (Canyon County Parcel Number R37431017A0).

### 1. Background.

**1.1 Grantor Real Property.** Grantor is the owner of the real property described in *Exhibit A*, attached hereto and incorporated herein (the "Grantor Real Property").

**1.2 Benefited Real Property.** Grantee is the owner of the real property described in *Exhibit B*, attached hereto and incorporated herein (the "Benefited Real Property").

**1.3 Request for Easement.** Grantee has requested Grantor to convey to Grantee a nonexclusive access easement on a portion of the Grantor Real Property in favor of the Benefited Real Property for the purposes described herein. The portion of the Grantor Real Property requested for the easement is described in *Exhibit C*, attached hereto and incorporated herein (the "Easement Real Property").

**1.4 Purpose of Agreement.** The purposes of this Easement Agreement are (i), to describe the easement granted, and (ii), to establish the relative rights and obligations of the parties regarding the easement granted under this Easement Agreement.