



PLANNING & ZONING DEPARTMENT

Before the Planning & Zoning Commission
Meeting of 23 FEBRUARY 2016

PUBLIC HEARING ITEM NO. 3 STAFF REPORT

Applicant(s)/Engineer(s), Representative(s):

Evans Trust with Horrocks Engineers, Wendy Shrief as representative(s)

File(s): ANN 2130-16

Analyst: Robert Hobbs

Requested Action Approval(s)/Recommendation(s):

- 1. Modification of Annexation/Zoning Development Agreement
(Decision Required: *Recommendation*)**

Between Timbercreek Development LLC and the City of Nampa, recorded 8/7/2014 as Instrument No. 2014-028508, & Ord. # 4129 amending the original conceptual layout & common areas (but not adding additional structures) of four-plexes being requested for "Timbercreek Subdivision" -- hereinafter the "Project"...

Property Area and Location(s):

Some 11.01 total acres of land located within the NE ¼ of Section 34, Township 3 North, Range 2 W, BM addressed as 1149 S. Powerline in a RML (Limited Multiple-Family Residential) Zone in Nampa (see attached "Vicinity Map")

History/Commentary:

Timbercreek Subdivision, originally comprised of 34 four-plex apartment buildings, was entitled in 2014 after a series of revisions post Council but pre-Development Agreement acceptance. Having stalled in construction, a new developer is interested in building out the Project but with a revised layout and building plan. (Please refer to the attached exhibits of the proposed general site plan that bear on the application.)

DEVELOPMENT AGREEMENT MODIFICATION

Criteria to guide the Commission in recommending action on a Development Agreement Modification request and the Council in making a determination/decision whether to allow a Development Agreement Modification as sought by an applicant are absent from state statute or City ordinance. Thus, approving or not in this instance this application becomes a purely subjective matter/decision on the part of the City in reaction to this application coming now before you/them. Hereafter attached is a copy of Ordinance 4129 (Instrument No. 2014-028508).

The parts of the Agreement associated with the Project that are proposed for modification are, expectedly in this instance, language in the RECITALS Section and substitution of some of the exhibits of the [original] Agreement. A copy of the original Agreement, and it's associated site plan and building elevations, is hereto attached along with the Applicant's proposed site plan and building elevations to facilitate comparison and contrasting (see pages 6-9 vs. 10 & 28-31 respectively).

As the process of rezoning and Development Agreement modification is a two step endeavor, Staff will prepare a draft Development Agreement Modification document for Council's review prior to their hearing on this matter.

Public/Agency/City Department Comments:

Any correspondence from agencies or the citizenry regarding this application package [received by noon February 17, 2016] is hereafter attached. Staff has not received commentary from any surrounding property owners or neighbors either supporting or opposing this request.

- a. Code Enforcement has no objection(s) to the requested Project (see attached comments – 1 page email printout dated January 26, 2016); and,

Note:

Any recommended requirements alluded to above will be manifest in the recommended Conditions of Approval presented by Staff in this report hereafter...

RECOMMENDED CONDITION(S) OF APPROVAL

Should the Planning Commission vote to recommend to the City Council that they approve the requested Project related Development Agreement Modification(s) as desired by the Applicant, then Staff would recommend that the Commission consider suggesting to the Council that they impose the following Conditions of Approval on/to the Project/Applicant:

I. As pertaining to the request for Development Agreement Modification Approval:

Generally:

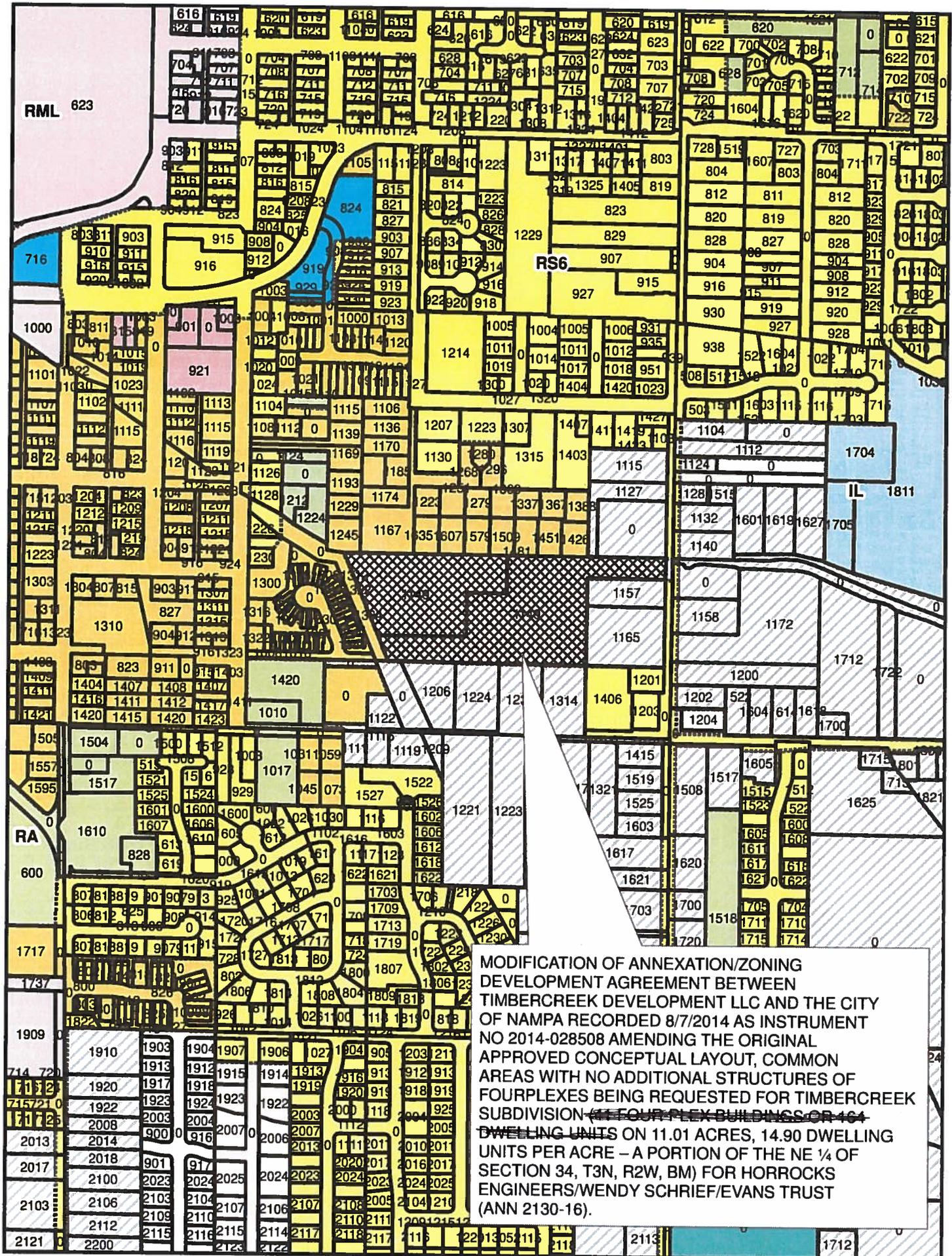
1. Applicant(s) shall comply with all applicable requirements [including obtaining proper permits – like a Building Permit, etc.] as may be imposed by City agencies appropriately involved in the review of this request (e.g., Nampa Fire, Building, Planning and Zoning and Engineering Departments/Divisions, etc.) as the entitlements granted by virtue of the City's approvals of the requested Development Agreement Modification(s) do not, and shall not have, the affect of abrogating requirements from those agencies in connection with [re]entitlement of the Property; and,

Specifically:

2. That the Applicant, as Owner/Developer, [shall] enter into a Modified Development Agreement with the City of Nampa. The Agreement(s) shall contain such conditions, terms, restrictions, representations, exhibits, acknowledgments and timelines as necessary to facilitate development of the Property as contemplated by the Applicant and agreed to and conditioned by the City through its Council or executive departments or outside agencies properly involved in the review of the Applicant's request for the Property to be reconfigured for residential use in a RML Zone versus its original entitlement(s). Inclusively, the Agreement shall contain any/the concept development plans proposed by virtue of this application submittal as ultimately accepted, or accepted with required changes, by the City's Council...

ATTACHMENTS

- Vicinity Map
(page/Exhibit 4)
- Copy of Development Agreement Amendment Modification Application
(page/Exhibit 5)
- Copy of Project new concept site plan & apartments' elevations
(pages/Exhibits 6-9)
- Copy of 2014 Project concept site plan
(page/Exhibit 10)
- Copy of 2014 Development Agreement (Ord. 4129) bearing on Property
(pages/Exhibits 11-35)
- Copies of [responding] agency/department correspondence
(pages/Exhibits 36+)



MODIFICATION OF ANNEXATION/ZONING DEVELOPMENT AGREEMENT BETWEEN TIMBERCREEK DEVELOPMENT LLC AND THE CITY OF NAMPA RECORDED 8/7/2014 AS INSTRUMENT NO 2014-028508 AMENDING THE ORIGINAL APPROVED CONCEPTUAL LAYOUT, COMMON AREAS WITH NO ADDITIONAL STRUCTURES OF FOURPLEXES BEING REQUESTED FOR TIMBERCREEK SUBDIVISION (41 FOUR PLEX BUILDINGS OR 164 DWELLING UNITS ON 11.01 ACRES, 14.90 DWELLING UNITS PER ACRE – A PORTION OF THE NE ¼ OF SECTION 34, T3N, R2W, BM) FOR HORROCKS ENGINEERS/WENDY SCHRIEF/EVANS TRUST (ANN 2130-16).



ANN 2130-15

Development Assessment

APPLICATION FOR AMENDMENT OF ZONING ORDINANCE OR MAP

City of Nampa, Idaho

2/23 PZ
ROBERT

This application must be filled out in detail and submitted to the office of the Planning Director for the City of Nampa, Idaho, accompanied by a nonrefundable fee of \$406.00 (for 1 acre or less), and \$811.00 (for more than 1 acre) for a map amendment; or \$213.00 for a text amendment.

Name of Applicant/Representative: Parkway Partners LLC
Dennis Hourany / Blake Jolley (HCE) Phone: 208-524-0212

Address: P.O. Box 132 City: Freedom State: WY Zip Code: 83120

Applicant's interest in property: (circle one) Own Rent Other

Owner Name: Travis Stroud (Northwest Ventures LLC) Phone:

Address: 1980 S. Meridian Rd Ste #140 City: Meridian State: Id Zip Code: 83642

Address of subject property: 1149 South Powerline Road

Is a copy of one of the following attached? (circle one) Warranty Deed Proof Of Option Earnest Money Agreement.

Subject Property Information

(Please provide one form of the following REQUIRED DOCUMENTATION to complete the amendment):

Original Legal description of property AND a legible WORD formatted document. (Must have for final recording)
Old or illegible title documents will need to be retyped in a WORD formatted document

Subdivision Kurtz Addition Lot _____ Block 170, 171, 172 Book _____ Page _____
See attached Record of Survey

Project Description

State the zoning desired for the subject property: RML

State (or attach a letter stating) the zoning amendment desired, text or map, and the reason for the change, together with any other information considered pertinent to the determination of the matter. In the case of a text amendment please attach the full text of the proposed amendment.

Slight changes to the original approved Conceptual Layout, Common areas. No additional structures or 4-wheelers being requested.

Dated this 30 day of December, 20 15

Blake Jolley (HCE)
Signature of applicant

NOTICE TO APPLICANT

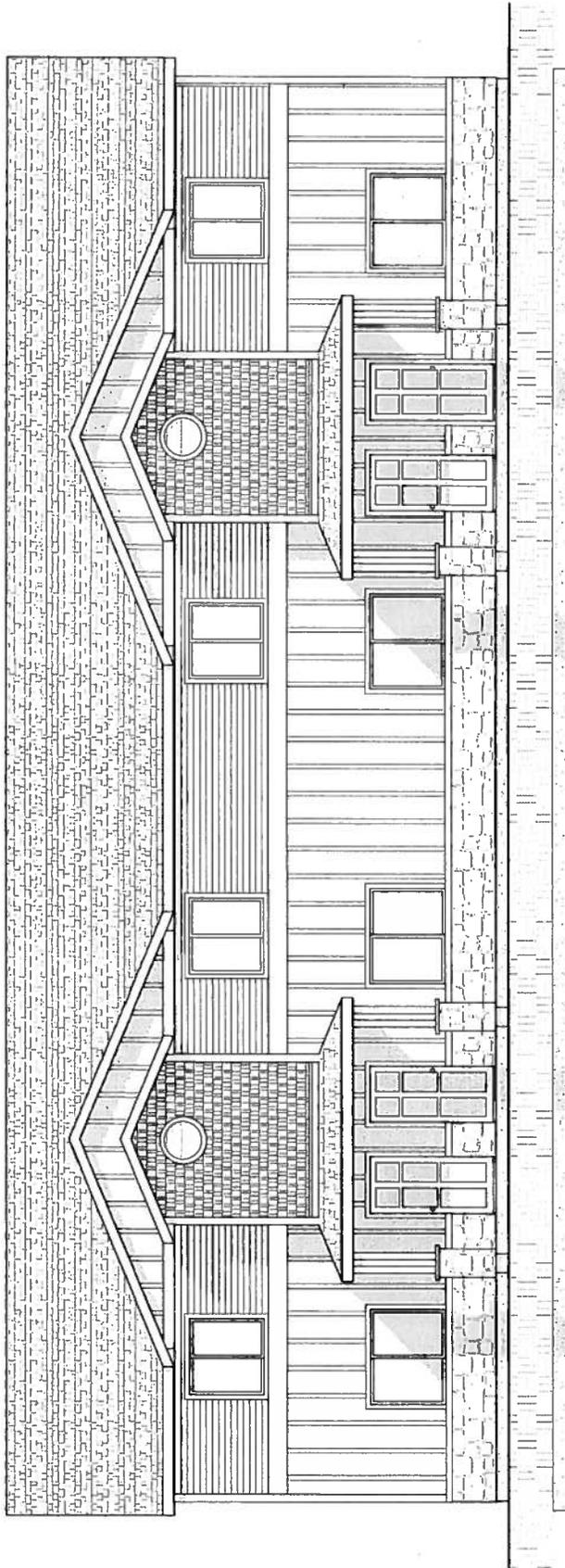
This application will be referred to the Nampa Planning Commission for its consideration. The Planning Commission shall hold a public hearing on the application and will then make its recommendation to the City Council. The City Council will then hold a second public hearing. Notice of the public hearings must be published in the Idaho Press-Tribune 15 days prior to said hearings. In the case of map amendments notice shall also be posted on the premises not less than 1 week prior to the hearings and notices will be mailed to property owners or purchasers of record within 300 feet of the subject property. You will be given notice of the public hearings and should be present to answer any questions.

For Office Use Only:

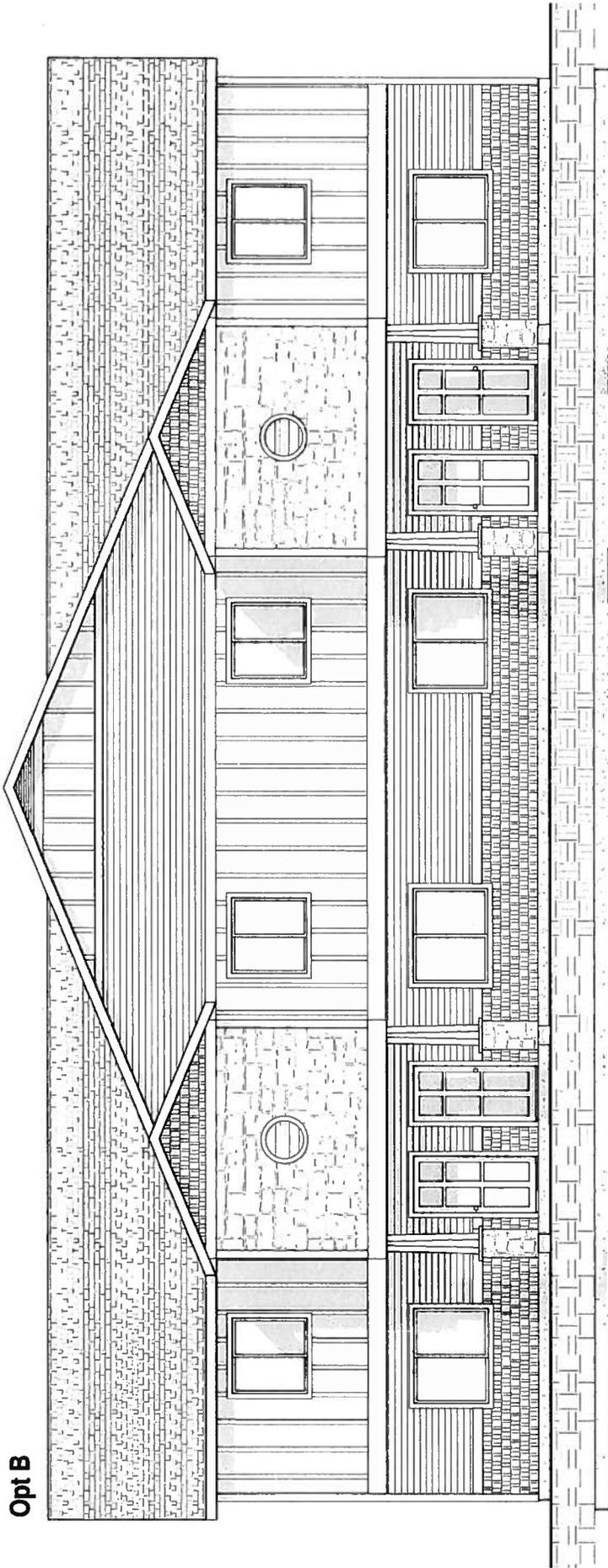
File Number: REZ - 20 _____ Project Name: MODIFICATION OF DEU AGMT
ANN 2130-15 TIMBERCREEK SUB

ORD 4129 FOR PARKWAY PARTNERS

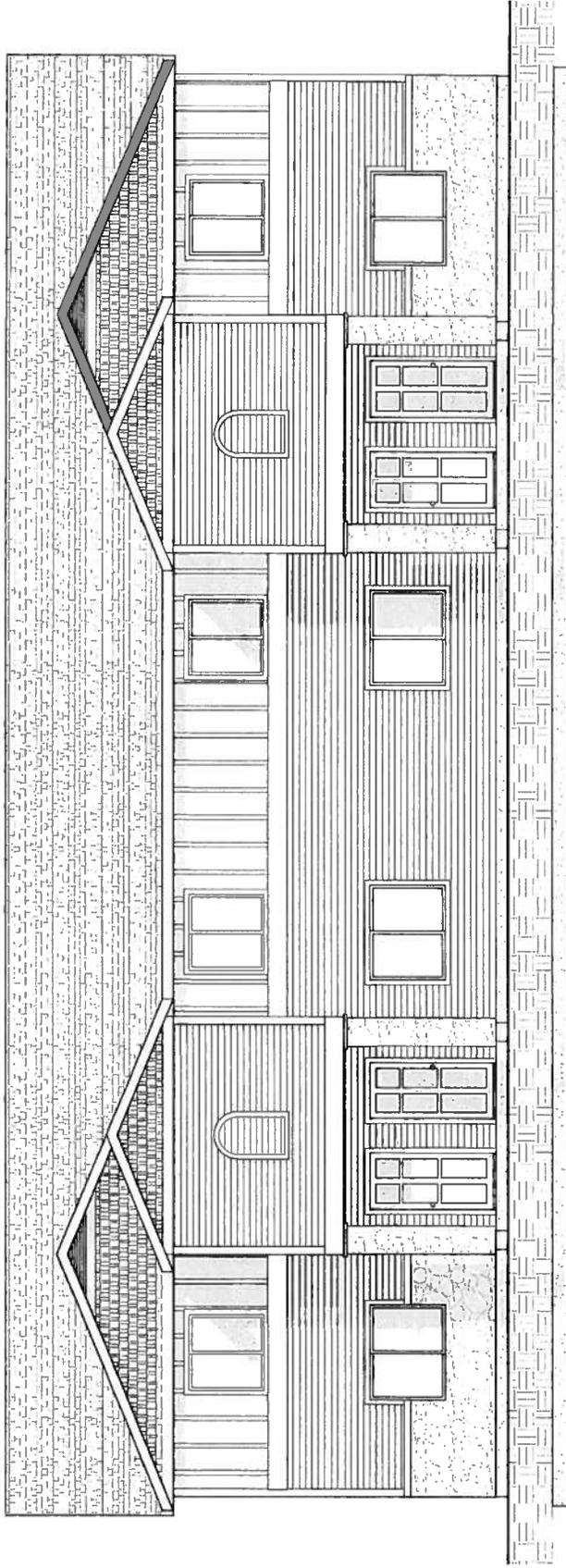
Opt A



Opt B



Opt C



PRELIMINARY PLAT FOR

TIMBERCREEK SUBDIVISION

A PORTION OF NORTHEAST 1/4 OF SECTION 34, TOWNSHIP 3 NORTH, RANGE 2 WEST, B.M., CANYON COUNTY, IDAHO -2013-

SHARON'S BROOKSIDE
ESTATES SUBDIVISION
BOOK 34, PAGE 29

OWNERS
KEVIN & DORIS EVANS TRUST
1149 S. POWERLINE RD
NAMPA, ID 83686

DEVELOPER
TIMBERCREEK INVESTMENTS, LLC
16299 FRANKLIN ROAD
NAMPA, ID 83687
(208) 463-1925

ENGINEER
HORROCKS ENGINEERS
100 EAST FRANKLIN RD
SUITE 160
NAMPA, ID 83687
(208) 463-4197

FIRE DISTRICT
SEWER AND WATER PROVIDER
CITY OF NAMPA

ROADWAY JURISDICTION
CITY OF NAMPA

IRIGATION DISTRICT
CITY OF NAMPA

ACREAGE SUMMARY
TOTAL 11.0 ACRES
COMMON LOTS 1.31 ACRES
STREET RIGHT-OF-WAY 9.69 ACRES

LOT SUMMARY
RESIDENTIAL 27
COMMON 3
ZONING
R.M. - LIMITED MULTIPLE FAMILY RESIDENTIAL

N89°35'15"W 1405.19'
E 1149 S. POWERLINE RD
COMMON

N89°13'15"W 340.05'
SOUTH POWERLINE ROAD
COMMON

N22°45'55"W 507.88'
E 1149 S. POWERLINE RD
COMMON

S58°13'30"E 863.67'
E HAWAII AVE
COMMON

N89°13'15"W 340.05'
SOUTH POWERLINE ROAD
COMMON

N22°45'55"W 507.88'
E 1149 S. POWERLINE RD
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N22°45'55"W 507.88'
E 1149 S. POWERLINE RD
COMMON

S58°13'30"E 863.67'
E HAWAII AVE
COMMON

UPPLATED

NOT A PART
UPPLATED

NOTES

- COMMON LOTS AS SHOWN ARE TO BE OWNED AND MAINTAINED BY THE UTILITY DRAINAGE AND IRRIGATION DISTRICT AND CONNECTED TO THE CITY OF NAMPA PUBLIC UTILITY DRAINAGE SYSTEM.
- STORM DRAINAGE WILL BE DESIGNED IN ACCORDANCE WITH THE CATALOG OF STANDARD SPECIFICATIONS FOR ROAD DRAINAGE AND IRRIGATION UTILITY DRAINAGE AND IRRIGATION DISTRICTS WILL BE AS FOLLOWS:
- 18 FEET WIDE ADJACENT TO THE SUBDIVISION BOUNDARY AND PARCELS WILL HAVE A 17 FEET WIDE EASEMENT.
- COMMON LOTS ON EACH SIDE OF INTERIOR LOT LINES DRAINAGE PARCELS WILL HAVE A 17 FEET WIDE EASEMENT.
- ALL OTHER EASEMENTS ARE AS SHOWN. DRAINAGE EASEMENT SAID EASEMENT IS GRANTED TO NAMPA METEOROLOGICAL DISTRICT FOR THE MAINTENANCE AND OPERATION OF THE ELIJAH DRAIN AND HATCH DRAIN.
- NO PORTION OF THE SITE IS LOCATED IN A FEMA DESIGNATED FLOOD PLAIN.
- EXISTING BUILDINGS AND STRUCTURES ON SITE WILL BE RELINQUISHED TO THE CITY OF NAMPA.
- OTHER THAN SHOWN, THERE ARE NO EASEMENTS ON THIS PLAT.
- LOCATIONS OF ALL EASEMENTS OWNED AND MAINTAINED BY THE HOMEOWNERS ASSOCIATION ARE SUBJECT TO ANY ACCESS, PARKING, UTILITY, IRRIGATION AND DRAINAGE EASEMENTS AS SHOWN. THE PRIVATE DRIVE AND DRAINAGE WILL BE MAINTAINED BY THE HOMEOWNERS ASSOCIATION.

SHEET INDEX

- 1. SUBDIVISION BOUNDARIES
- 2. SURFACE EASEMENTS

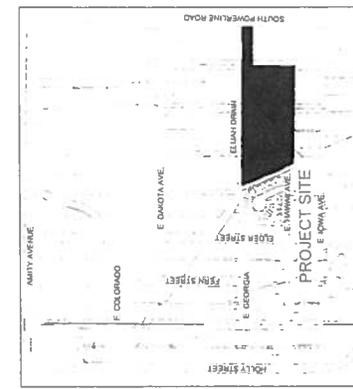
EASEMENT KEYNOTES

- 1. 50' WIDE SEE NOTE 9 (94,207 SF)
- 2. 75' WIDE SEE NOTE 9 (173,724 SF)
- 3. 10' WIDE SEE NOTE 4 (1,001 SF)
- 4. 18' WIDE SEE NOTE 4 (2,814 SF)
- 5. 10' WIDE SEE NOTE 4 (1,001 SF)
- 6. 13' WIDE SEE NOTE 4 (2,868 SF)
- 7. 17' WIDE SEE NOTE 4 (13,312 SF)

LEGEND

- SUBDIVISION BOUNDARY
- ROAD RIGHT-OF-WAY
- LOT LINE
- EXISTING UTILITY EASEMENT USE
- EXISTING RIGHT-OF-WAY
- SECTION LINE
- UTILITY EASEMENT
- COMMON LOT NUMBER
- BLOCK NUMBER
- BRASS CAP
- ALUMINUM CAP
- FOUND SET REBAR
- CALCULATED POINT
- CANAL/DRAIN EASEMENT
- ROAD RIGHT-OF-WAY EASEMENT
- CRUISE ACCESS/UTILITY DRAINAGE EASEMENT
- UTILITY EASEMENT
- SUBDIVISION BOUNDARY EASEMENT

LOT #	AREA	BUILDABLE AREA	LOT #	AREA	BUILDABLE AREA
1	8773	6126	22	8148	5874
2	8128	3450	23	8149	3087
3	8007	4337	24	8111	3717
4	8114	3465	25	8118	4917
5	8082	3017	26	8015	3271
6	9175	3253	27	8000	2613
7	8726	3253	28	8000	2613
8	8834	4747	29	8199	4482
9	8774	3818	30	8802	3259
10	8888	4835	31	8528	3527
11	8748	2574	32	8235	2713
12	8723	2581	33	8142	4149
13	8793	5249	34	8158	4221
14	8008	5509	35	8918	4541
15	8004	3389	36	8771	3085
16	8911	3102	37	8811	4113
17	8923	4707	38	8711	4253
18	8824	3027	39	8758	4123
19	19755	6951	40	8802	3454
20	8927	3087	41	8142	5583
21	8722	3887			



TIMBERCREEK SUBDIVISION
PRELIMINARY PLAT LOT DIMENSIONS

HORROCKS ENGINEERS
5700 East Franklin Rd
Suite 160
Nampa, ID 83687
(208) 463-4197

WARNING
IF THIS DRAWING IS NOT MEASURED, THEN DRAWING IS NOT TO SCALE

SCALE
HORIZONTAL 1" = 50'
VERTICAL 1" = 50'

DATE 11/17/13
BY ERB
CHECKED ERB
DATE 11/17/13
BY ERB
PROJECT NO 1734-1006
SHEET NO 1 of 1
DRAWING PRELIMINARY

10

11

2014-028508

RECORDED

08/07/2014 03:01 PM



00121511201400285080250251

CHRIS YAMAMOTO

CANYON COUNTY RECORDER

Pgs=25 BJBROWN

NO FEE

ORDINANCE

NAMPA CITY OF



Canyon County Recorder's Coversheet



ORDINANCE NO. 4129

AN ORDINANCE OF THE CITY OF NAMPA, CANYON COUNTY, IDAHO ANNEXING REAL PROPERTY LOCATED AT 1149 S. POWERLINE ROAD INTO THE CITY OF NAMPA, CANYON COUNTY, IDAHO; ZONING THE SAME RML, SUBJECT TO THE TERMS OF THAT CERTAIN DEVELOPMENT AGREEMENT ENTERED INTO BETWEEN THE APPLICANT AND THE CITY OF NAMPA; AND DIRECTING THE CITY ENGINEER TO ALTER THE USE AND AREA MAP ACCORDINGLY.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF NAMPA, IDAHO:

Section 1: That the following described real property located at 1149 S. Powerline Road, and all thereof, be, and the same is hereby, ANNEXED and made a part of the City of Nampa, Idaho. That the real property hereby annexed is described as follows, to-wit:

See Exhibit A attached hereto and, by this reference, incorporated herein as if set forth in full.

Section 2: That the real property so annexed and described in Exhibit A shall be ZONED RML.

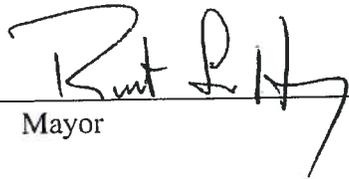
Section 3: That this annexation and zone ordinance is subject to and limited by that certain Development Agreement entered into between the parties which is incorporated herein by this reference.

Section 4: That the City Engineer is hereby directed to alter and change the Use and Area Map of the City of Nampa, Idaho, to comply with this Ordinance.

PASSED BY THE COUNCIL OF THE CITY OF NAMPA, IDAHO, THIS 21ST DAY OF JULY, 2014.

APPROVED BY THE MAYOR OF THE CITY OF NAMPA, IDAHO, THIS 21ST DAY OF JULY, 2014.

Approved:

By 
Mayor

Attest

City Clerk

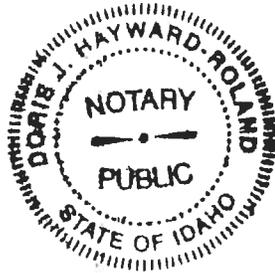
State of Idaho)

Canyon County)

On this 21st day of July, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared Robert L. Henry and Deborah L. Bishop known to be the Mayor and City Clerk of the City of Nampa, Idaho, a municipal corporation, who executed the foregoing instrument.

In Witness Thereof, I have hereunto set my hand and affixed by official seal, the day and year in this certificate first above written.

Doris J. Hayward-Roland
Doris J. Hayward-Roland
Residing at: Nampa, Canyon County, Idaho
My Commission Expires: 08/15/2019



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**LEGAL DESCRIPTION FOR
ANNEXATION
1149 POWERLINE ROAD**

A parcel of land located in the Northeast 1/4 of Section 34, Township 3 North, Range 2 West, Boise Meridian, Canyon County, Idaho. Being further described as follows:

BASIS OF BEARINGS:

The East line of the Northeast 1/4 of Section 34, Township 3 North, Range 2 West, Boise Meridian, derived from found monuments and taken as South 00°36'23" West with the distance between monuments found to be 2645.01 feet.

COMMENCING at the East 1/4 corner of said Section 34;
thence along the East line of the Northeast 1/4 of said Section 34 North 00°36'23" East a distance of 689.90 feet to the **POINT OF BEGINNING**;
thence leaving said East line North 89°13'15" West a distance of 370.05 feet;
thence South 00°36'23" West a distance of 379.97 feet;
thence North 89°13'30" West a distance of 863.67 feet to a point on the centerline of the Aaron Canal;
thence along the centerline of said Aaron Canal North 22°45'56" West a distance of 507.86 feet to a point on the centerline of Elijah Canal;
thence leaving said centerline and along said centerline of Elijah Canal South 89°35'15" East a distance of 1,435.19 feet to the East line of said Northeast 1/4;
thence leaving said centerline and along said East line South 00°36'23" West a distance of 94.73 feet to the **POINT OF BEGINNING**.

Said Parcel containing 487,221 square feet or 11.19 acres, more or less and is subject to all existing easements and rights-of-ways of record or implied.

END OF DESCRIPTION

Lawrence H. Koerner P.L.S. 8251
Timberline Surveying
847 Park Centre Way, Suite 3
Nampa, Idaho 83651
(208) 465-5687



15



1" = 200'

27 26
34 35
N.E. COR.
BRASS CAP
SEC. 34

1880.38
S00°36'23"W - 2645.01'
BASIS OF BEARING

POWERLINE ROAD

34 35
E. 1/4 COR.
ALUMINUM CAP

S89°35'15"E - 1435.19'
ELIJAH CANAL

1149 POWERLINE RD.
487,221 sq.ft.
11.19 ac.

N22°45'56"W - 507.86'
AARON CANAL

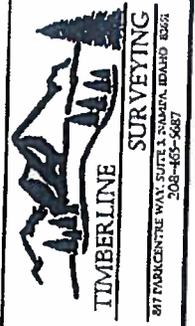
S0°36'23"W
94.73'
N89°13'15"W P.O.B.
370.05'

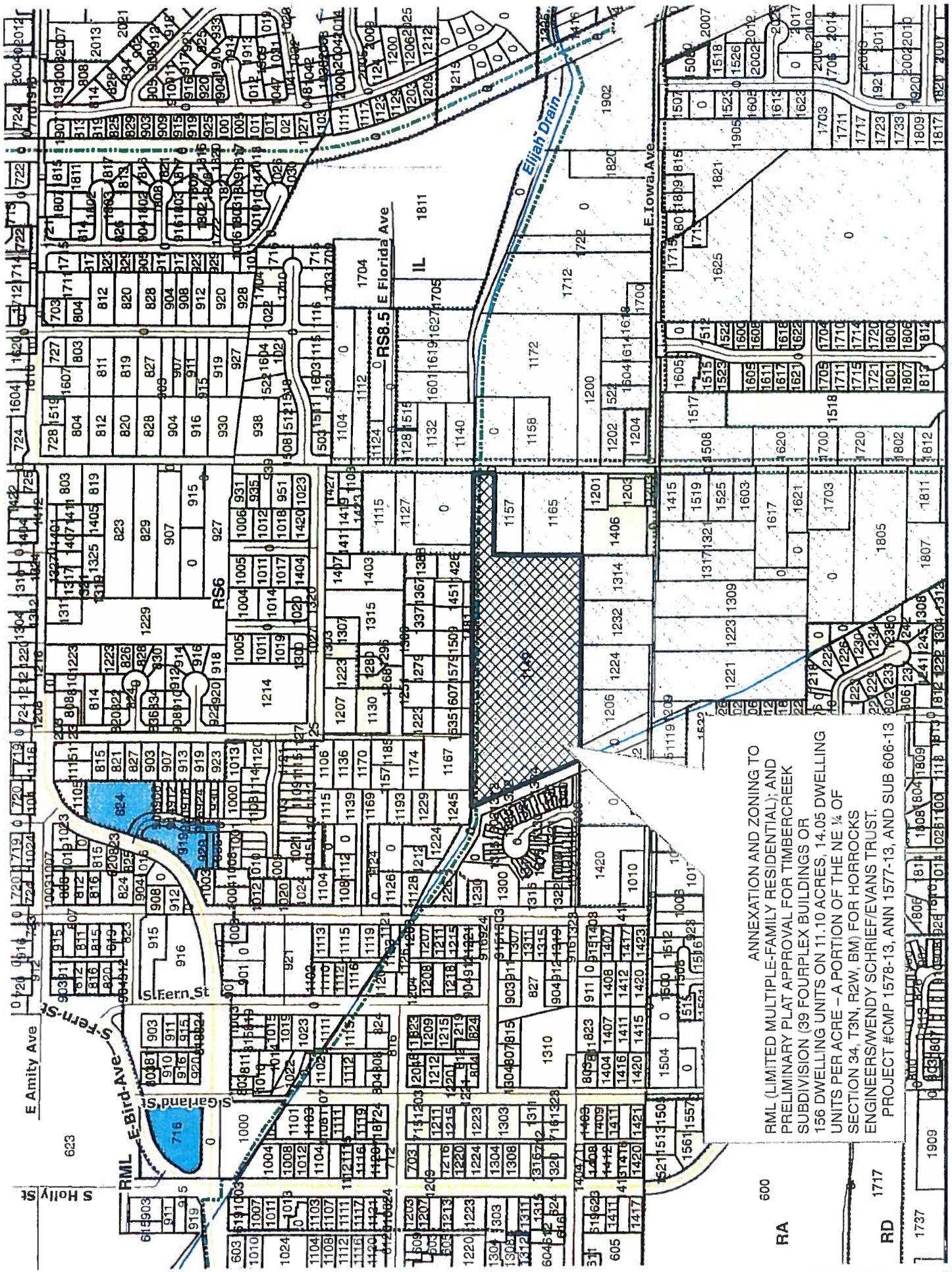
S0°36'23"W
379.97'

N89°13'30"W - 863.67'



ANNEXATION DISPLAY MAP FOR
1149 POWERLINE ROAD
A PORTION OF NORTHEAST 1/4 OF SECTION 34,
TOWNSHIP 3 NORTH, RANGE 2 WEST, B.M.,
CANYON COUNTY, IDAHO





ANNEXATION AND ZONING TO
 RML (LIMITED MULTIPLE-FAMILY RESIDENTIAL); AND
 PRELIMINARY PLAT APPROVAL FOR TIMBERCREEK
 SUBDIVISION (39 FOURPLEX BUILDINGS OR
 156 DWELLING UNITS ON 11.10 ACRES, 14.05 DWELLING
 UNITS PER ACRE - A PORTION OF THE NE ¼ OF
 SECTION 34, T3N, R2W, BM) FOR HORROCKS
 ENGINEERS/WENDY SCHRIEF/EVANS TRUST.
 PROJECT #CMP 1578-13, ANN 1577-13, AND SUB 606-13

RA
 600

RD
 1717

1737

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DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement"), is made and entered into this _____ day of _____, 2014 (the "Effective Date"), by and between the City of Nampa, a municipal corporation, hereinafter referred to as the "City," and:
Timber Creek Development, hereinafter referred to as "Owner/Developer."
LLC

RECITALS

- A. Owner/Developer is the owner of approximately 11.10 acres of real property legally described in **Exhibit "A"** attached hereto and made a part hereof (the "**Property**").
- B. Owner/Developer applied to City on August 22, 2013 (the "**date of application**") for Comprehensive Plan Map Amendment and Annexation and Zoning of the Property to Limited Multiple-Family Residential (RML) zoning in anticipation of the development and construction of a residential, multiple-family subdivision development (the "**Project**") understood to consist of no more than 34 four-plex structures with common lots, landscaping and requisite parking facilities.
- C. City, pursuant to Section 10-2-5, Nampa City Code, and Idaho Code Section 50-222, has the authority to annex the Property for the purpose of allowing, by Agreement, a specific development to proceed in a specific area and for specific purposes and/or uses that are appropriate in the area.
- D. City's Planning and Zoning Commission and City's City Council have held public hearings as prescribed by law with respect to the annexation, zoning district assignment and development of the Property and the terms of this Agreement. City has approved the requested annexation, and, zoning of the Property to RML to accommodate the Project (and its intended lot sizes) subject to the terms and commitments (including density control) contained in this Agreement.

AGREEMENT

NOW THEREFORE, in consideration of the above recitals, which are incorporated below, and of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

- 1. This Agreement shall not prevent City, in subsequent actions applicable to the Property, from applying new ordinances and regulations of general application adopted by City in the exercise of its police powers that do not conflict with the parties' commitments applicable to the Property as set forth herein, or the zoning designation approved hereby as the Property has been deemed suitable for the uses allowed within said zoning designation..
- 2. The Project shall be developed in substantial conformance with the conceptual plans (i.e., site/landscape/building elevation) attached hereto as **Exhibits "B"** and made a part hereof (the

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“**Conceptual Plan(s)**”); provided, however, that Owner/Developer shall have limited flexibility to develop the Property to meet market conditions, and the only specific commitments concerning development of the Project which Owner/Developer is making are set forth herein. Upon recordation of this Agreement, Owner/Developer shall have all approvals required from City for development of the Project in general conformance with the Conceptual Plan.

3. This Agreement is intended to be supplemental to all other local, city, state and federal Code requirements, rules and regulations, and is established to help assure the compatibility of the resulting land use with the surrounding area. Provided, however, that to the extent this Agreement conflicts with any provision of the Nampa City Code, this Agreement shall prevail to the extent permitted by law.

4. Owner/Developer shall mean original applicant(s) for entitlement of the Project, and, each and any/every subsequent owner of the Property or portion thereof, and each other person acquiring an interest in the Property (e.g., successors, heirs, assigns, purchasers, etc.).

5. The provisions and stipulations of this Agreement shall be binding on City and Owner/Developer, and are, in no particular order, as set forth in the Conditions of Approval attached hereto as **Exhibits “B” and “C”**, and by this reference are incorporated herein.

6. This Agreement may be modified only by the written agreement of Owner/Developer and the City after complying with the notice and hearing procedures required under Idaho Code Section 67-6511A or Nampa City Code Section 10-2-5(D) or successor provisions.

7. The execution of this Agreement and the written commitments contained herein shall be deemed written consent to change the zoning of the Property to its prior designation upon failure of Owner/Developer to comply with the terms and conditions of this Agreement. Provided, however, that no such consent shall be deemed to have been given unless City provides written notice of any such failure and Owner/Developer or its successors and/or assigns fails to cure such failure as set forth below.

8. This Agreement and the commitments contained herein shall be terminated, and the zoning designation reversed, upon the failure of Owner/Developer, or each subsequent owner or each person acquiring an interest in the Property, to comply with the commitments contained herein within two (2) years after the Effective Date, and after the notice and hearing requirements of Idaho Code Section 67-6509 have been complied with by City. Exception: the failure to begin site development of all or a portion of a project proposed under this Agreement does not necessarily serve as impetus to allege that the commitments contained herein are not being fulfilled. Rather, commencement of site work and/or construction then left in abandon or failure to abide by the terms of this Agreement, as herein iterated, shall serve as impetus to consider termination of this Agreement and reversion of zoning. Provided, however, no such termination or reversal shall occur unless City provides written notice of Owner/Developer’s failure to comply with the terms and conditions of this Agreement to Owner/Developer and Owner/Developer fails to cure such failure within six (6) months of Owner/Developer’s receipt of such notice. The two (2) year period of time for compliance with commitments may be

extended by City for good cause upon application for such extension by Owner/Developer, and after complying with the notice and hearing provisions of Idaho Code Section 67-6509.

9. Except as specifically set forth in this Agreement, the rules, regulations and official policies governing permitted uses of land, density, design, improvements and construction standards and specifications applicable to the Project and the Property shall be those rules, regulations and official policies in effect as of the date of annexation. Provided, however, that the applicable building codes for structures shall be the codes in effect when a complete application for a building permit is filed. Development impact fees, if imposed by ordinance, shall be payable as specified in said ordinance even if the effective date is after the date of this agreement or the annexation pursuant thereto.

10. It is intended by the parties that this Agreement shall be recorded on the Effective Date or as soon as practicable thereafter. The parties further intend that the provisions of this Agreement shall run with the Property and shall be binding upon City, Owner/Developer, each subsequent owner of the Property, and each other person or entity acquiring an interest in the Property.

11. If any term or provision of this Agreement, to any extent, shall be held invalid or unenforceable, the remaining terms and provisions herein shall not be effected thereby, but each such remaining term and provision shall be valid and enforced to the fullest extent permitted by law.

12. This Agreement sets forth all promises, inducements, agreements, conditions and understandings between Owner/Developer and City relative to the subject matter hereof. There are no promises, agreements, conditions or understandings, either oral or written, express or implied, between Owner/Developer and City, other than as are stated herein. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the parties hereto unless reduced to writing and signed by the parties or their successors-in-interests or their assigns, and pursuant, with respect to the City, to a duly adopted ordinance or resolution of the City.

13. Should any litigation be commenced between the parties hereto concerning this Agreement, the prevailing party shall be entitled, in addition to any other relief as may be granted, to court costs and reasonable attorneys' fees as determined by a court of competent jurisdiction.

14. This Agreement may be executed in counterparts, each of which shall constitute an original, all of which together shall constitute one and the same Agreement.

15. In the event Owner/Developer, its successors, assigns or subsequent owners of the Property or any other person acquiring an interest in the Property, or in the event City, fail to faithfully and materially comply with all of the terms and conditions included in this Agreement, enforcement of this Agreement may be sought by either City or Owner/Developer or by any successor or successors in title or interest or by the assigns of the parties hereto, in an action at law or in equity in any court of competent jurisdiction.

a. A waiver by City of any default by Owner/Developer of any one or more of the covenants or conditions hereof shall apply solely to the breach waived and shall not bar

20

any other rights or remedies of City or apply to any subsequent breach of any such or other covenants and conditions. A waiver by Owner/Developer of any default by City of any one or more of the covenants and conditions hereof shall apply solely to the breach waived and shall not bar any other rights of remedies of Owner/Developer or apply to any subsequent breach of any such or other covenants and conditions.

b. Notwithstanding anything to the contrary herein, in the event of a material default of this Agreement, the parties agree that City and Owner/Developer shall have thirty (30) days after delivery of notice of such default to correct the same prior to the non-defaulting party's seeking of any remedy provided for herein; provided, however, that in the case of any such default which cannot with diligence be cured within such thirty (30) day period and thereafter shall prosecute the curing of same with diligence and continuity, then the time within which such may be cured shall be extended for such period as may be necessary to complete the curing of the same with diligence and continuity, but in any event not to exceed six (6) months; and provided further, however, no default by a subsequent owner of a portion of the Property shall constitute a default by Owner/Developer for the portion of the Property still owned by Owner/Developer.

c. In the event the performance of any obligation to be performed hereunder by either Owner/Developer or City is delayed for causes that are beyond the reasonable control of the party responsible for such performance, which shall include, without limitation, acts of civil disobedience, strikes or similar causes, the time for such performance shall be extended by the amount of time of such delay.

d. In addition to the remedies set forth above, in the event of a default by Owner/Developer, or any other party claiming an interest herein, City may withhold building permits for any remaining lots within the development until such time as the default is cured.

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EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

EXHIBIT A, part 1

LEGAL DESCRIPTION FOR
ANNEXATION
1149 POWERLINE ROAD

A parcel of land located in the Northeast 1/4 of Section 34, Township 3 North, Range 2 West, Boise Meridian, Canyon County, Idaho. Being further described as follows:

BASIS OF BEARINGS:

The East line of the Northeast 1/4 of Section 34, Township 3 North, Range 2 West, Boise Meridian, derived from found monuments and taken as South 00°36'23" West with the distance between monuments found to be 2645.01 feet.

COMMENCING at the East 1/4 corner of said Section 34;
thence along the East line of the Northeast 1/4 of said Section 34 North 00°36'23" East a distance of 689.90 feet to the POINT OF BEGINNING;
thence leaving said East line North 89°13'15" West a distance of 370.05 feet;
thence South 00°36'23" West a distance of 379.97 feet;
thence North 89°13'30" West a distance of 863.67 feet to a point on the centerline of the Aaron Canal;
thence along the centerline of said Aaron Canal North 22°45'56" West a distance of 507.86 feet to a point on the centerline of Elijah Canal;
thence leaving said centerline and along said centerline of Elijah Canal South 89°35'15" East a distance of 1,435.19 feet to the East line of said Northeast 1/4;
thence leaving said centerline and along said East line South 00°36'23" West a distance of 94.73 feet to the POINT OF BEGINNING.

Said Parcel containing 487,221 square feet or 11.19 acres, more or less and is subject to all existing easements and rights-of-ways of record or implied.

END OF DESCRIPTION

Lawrence H. Koerner P.L.S. 8251
Timberline Surveying
847 Park Centre Way, Suite 3
Nampa, Idaho 83651
(208) 465-5687



25



1" = 200'

27 26
34 35
N.E. COR.
BRASS CAP
SEC. 34

1860.38
500°36'23"W - 2645.01'
BASIS OF BEARING

POWERLINE ROAD
689.90'

34
E. 1/4 COR
ALUMINUM CAP

S0°36'23"W
94.73'
N89°13'15"W P.O.B.
370.05'

S0°36'23"W
379.97'

S89°35'15"E - 1435.19'
ELIJAH CANAL

1149 POWERLINE RD.
487,221 sq.ft.
11.19 ac.

N89°13'30"W - 863.67'

AARON CANAL
N22°45'56"W - 507.86'

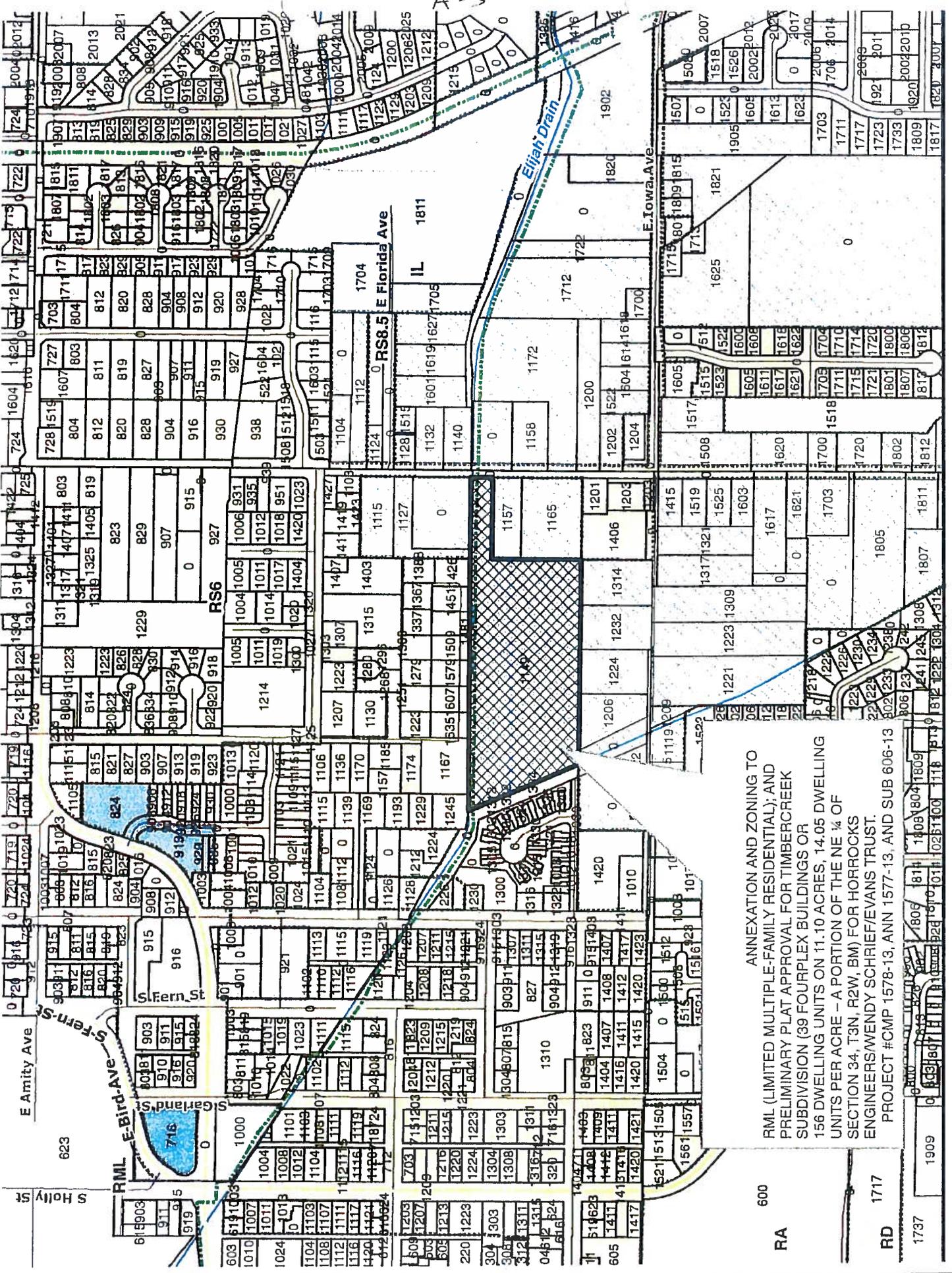
ANNEXATION DISPLAY MAP FOR
1149 POWERLINE ROAD
A PORTION OF NORTHEAST 1/4 OF SECTION 34,
TOWNSHIP 3 NORTH, RANGE 2 WEST, B.M.,
CANYON COUNTY, IDAHO



TIMBERLINE
SURVEYING
217 DAKOTA CENTRAL WAY, SUITE 200, SANDOZ, IDAHO 83854
208-465-5687



A-3



ANNEXATION AND ZONING TO
 RML (LIMITED MULTIPLE-FAMILY RESIDENTIAL); AND
 PRELIMINARY PLAT APPROVAL FOR TIMBERCREEK
 SUBDIVISION (39 FOURPLEX BUILDINGS OR
 156 DWELLING UNITS ON 11.10 ACRES, 14.05 DWELLING
 UNITS PER ACRE - A PORTION OF THE NE ¼ OF
 SECTION 34, T3N, R2W, BM) FOR HORROCKS
 ENGINEERS/WENDY SCHRIEF/EVANS TRUST.
 PROJECT #CMP 1578-13, ANN 1577-13, AND SUB 606-13

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RA

1717
RD

1737

623

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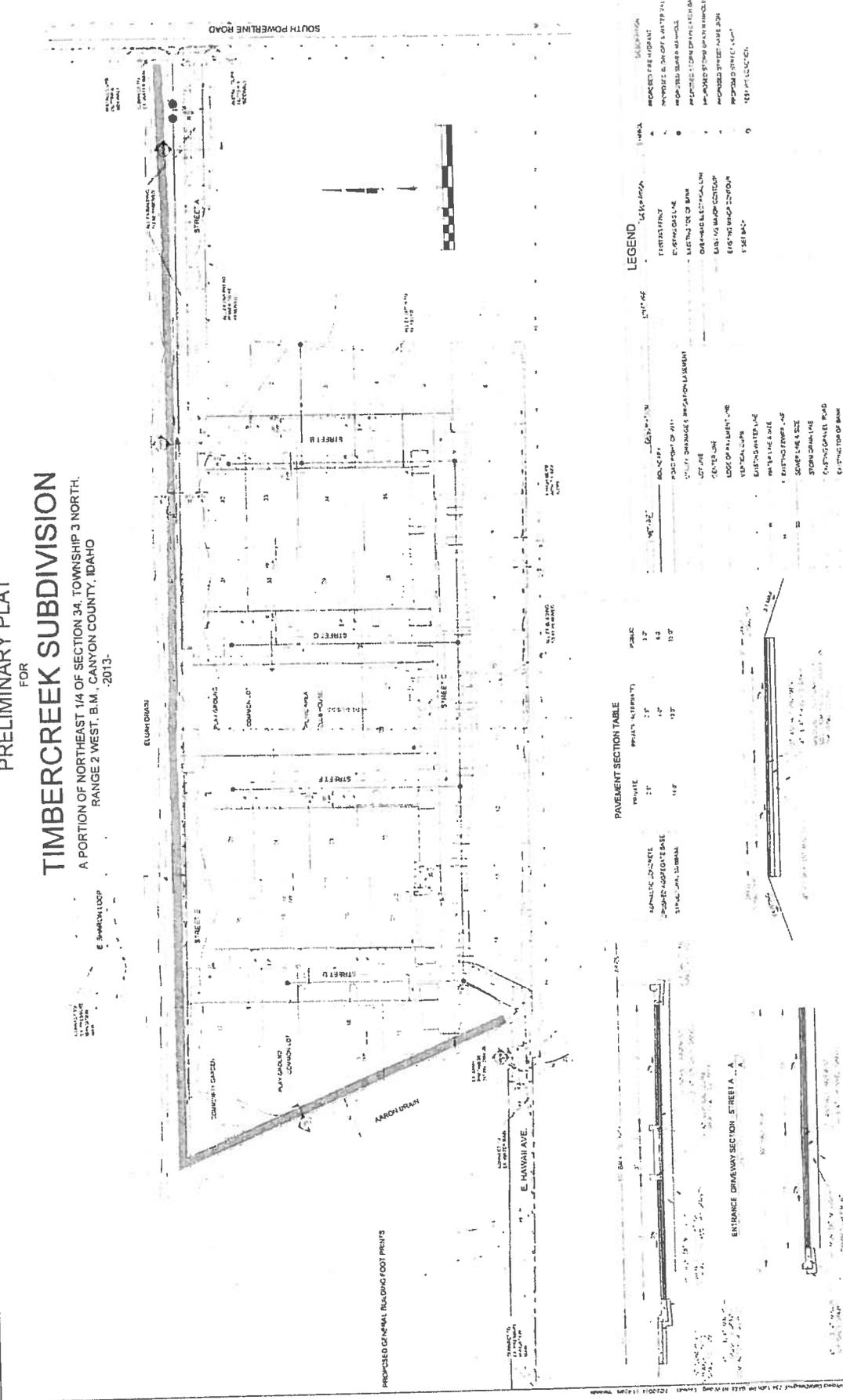
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27

EXHIBIT(S) "B"
CONCEPTUAL PLAN(S)

PRELIMINARY PLAT
FOR
TIMBERCREEK SUBDIVISION
A PORTION OF NORTHEAST 1/4 OF SECTION 34, TOWNSHIP 3 NORTH,
RANGE 2 WEST, B.M., CANYON COUNTY, IDAHO
-2013-



PAVEMENT SECTION TABLE

PRIVATE	PUBLIC	PRIVATE (INTERLUM)	PUBLIC
1.5"	1.5"	1.5"	1.5"
1.5"	1.5"	1.5"	1.5"
1.5"	1.5"	1.5"	1.5"
1.5"	1.5"	1.5"	1.5"

LEGEND

- 1.5" WATER MAIN
- 1.5" SEWER MAIN
- 1.5" GAS MAIN
- 1.5" ELECTRIC MAIN
- 1.5" TELEPHONE MAIN
- 1.5" CABLE MAIN
- 1.5" FIBER OPTIC MAIN
- 1.5" SANITARY MAIN
- 1.5" STORM SEWER MAIN
- 1.5" DRAINAGE MAIN
- 1.5" IRRIGATION MAIN
- 1.5" FLOOD CONTROL MAIN
- 1.5" OTHER MAIN
- 1.5" OTHER UTILITY
- 1.5" OTHER EASEMENT
- 1.5" OTHER PROPERTY
- 1.5" OTHER

REVISIONS

NO.	DATE	BY	DESCRIPTION
1	11/12/13	MDH	ISSUED FOR PERMIT
2	11/22/13	MDH	REVISED PER PERMIT
3	11/22/13	MDH	REVISED PER PERMIT
4	11/22/13	MDH	REVISED PER PERMIT
5	11/22/13	MDH	REVISED PER PERMIT
6	11/22/13	MDH	REVISED PER PERMIT
7	11/22/13	MDH	REVISED PER PERMIT
8	11/22/13	MDH	REVISED PER PERMIT
9	11/22/13	MDH	REVISED PER PERMIT
10	11/22/13	MDH	REVISED PER PERMIT
11	11/22/13	MDH	REVISED PER PERMIT
12	11/22/13	MDH	REVISED PER PERMIT
13	11/22/13	MDH	REVISED PER PERMIT
14	11/22/13	MDH	REVISED PER PERMIT
15	11/22/13	MDH	REVISED PER PERMIT
16	11/22/13	MDH	REVISED PER PERMIT
17	11/22/13	MDH	REVISED PER PERMIT
18	11/22/13	MDH	REVISED PER PERMIT
19	11/22/13	MDH	REVISED PER PERMIT
20	11/22/13	MDH	REVISED PER PERMIT

TIMBERCREEK SUBDIVISION
SURFACE FEATURES AND UTILITIES

HORROCKS
SURVEYORS
2000 1st Avenue NE
Harrison, ID 83401
(208) 483-4187

WARNING
IF THIS BAR DOES NOT MEASURE TO THEN DIMENSIONS NOT TO SCALE

SCALE
AS NOTED

ENTRANCE DRIVEWAY SECTION STREET A

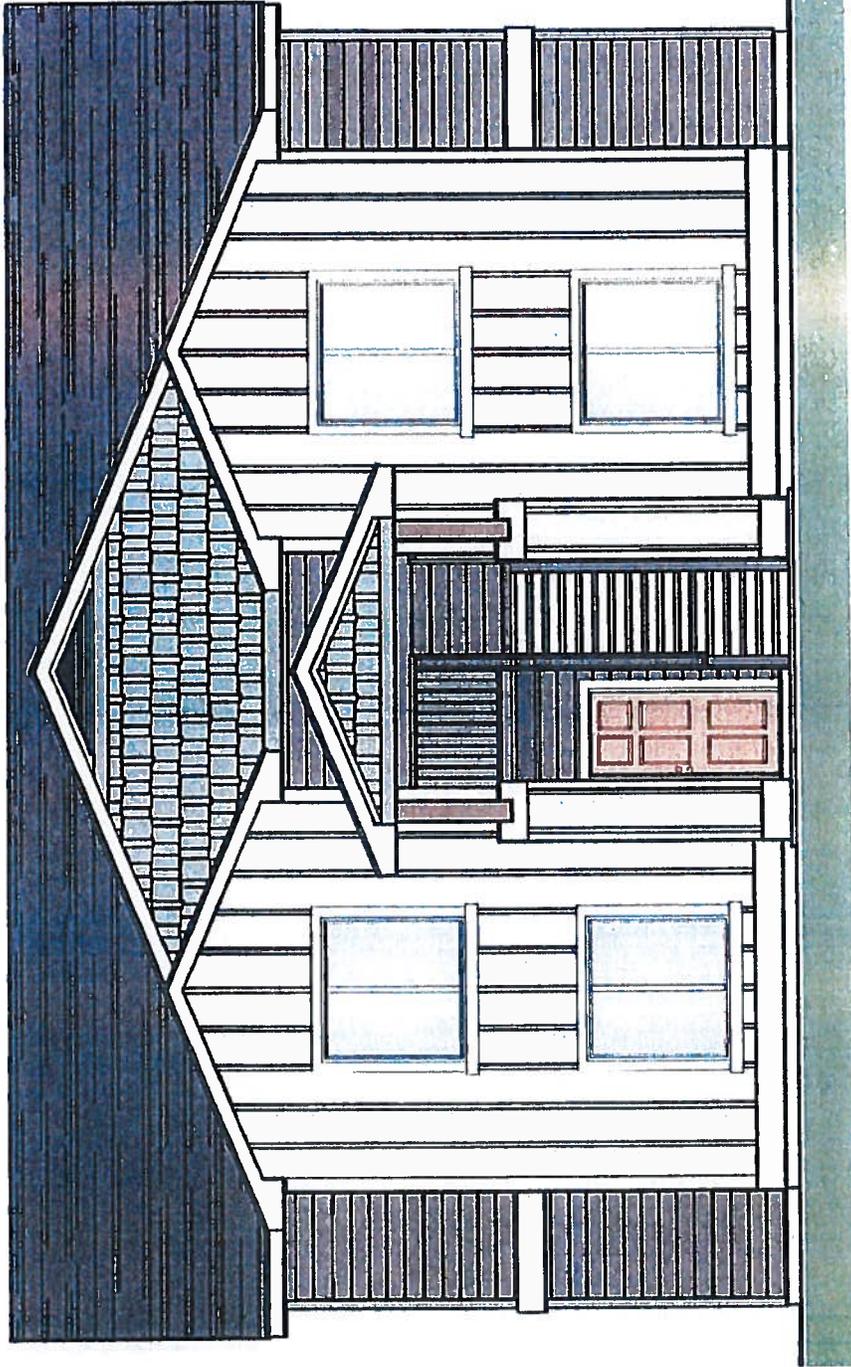
E JAWWAVE DRIVEWAY SECTION

ELUM DRIVEWAY SECTION

[Handwritten signature]

TIMBERCREEK SUBDIVISION

EXHIBIT B-2



Unit A - Front Elevation

Exterior Materials

- Painted Cottage Lap Siding
- Painted Board & Batt Siding
- Painted Shake Shingle Siding
- Painted Wood Vent at Gables
- 30 year Architectural Composition Roofing
- Painted Iron Railing
- Heavy Timber Wood Accent



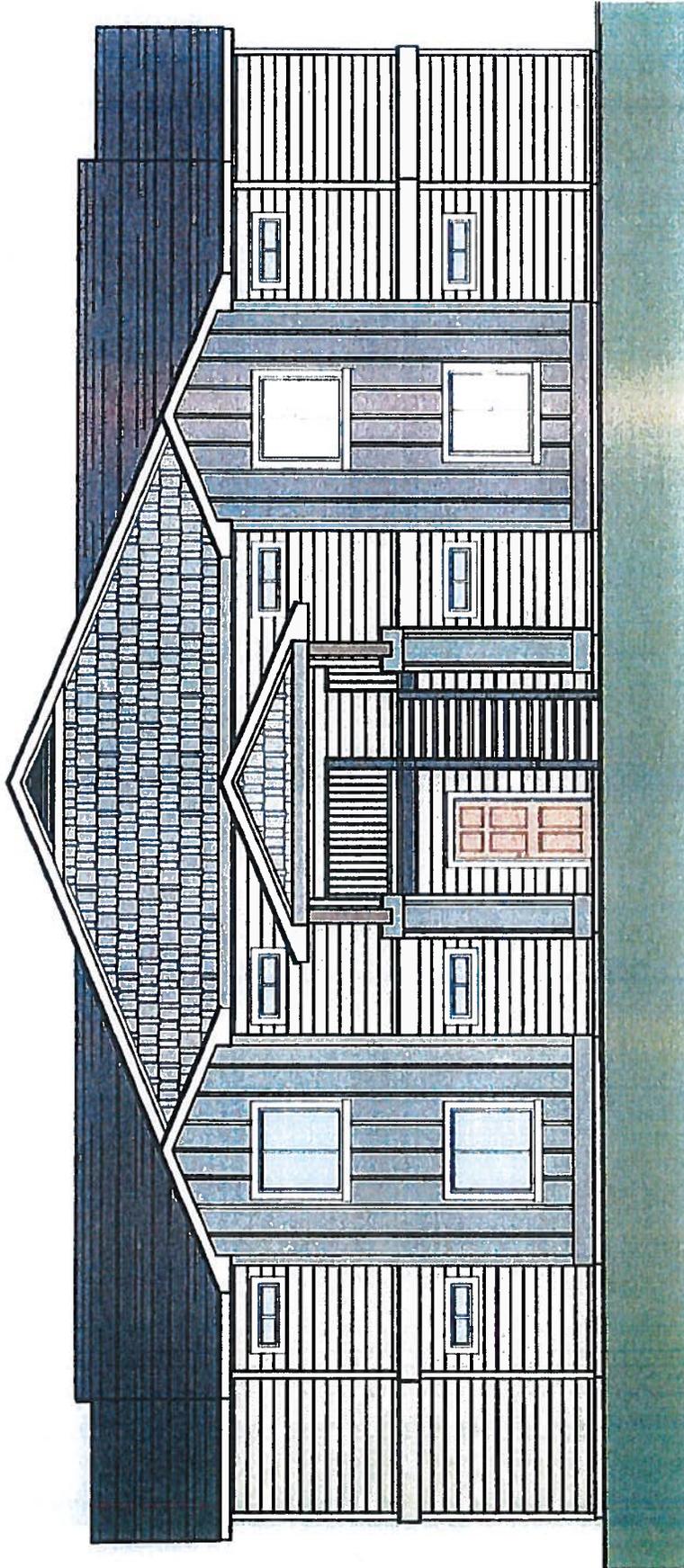
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MAY 27 2011

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TIMBERCREEK SUBDIVISION

EXHIBIT B-3



Unit B - Front Elevation

Exterior Materials

- Painted Cottage Lap Siding
- Painted Board & Batt Siding
- Painted Shake Shingle Siding
- Painted Wood Vent at Gables
- 30 year Architectural Composition Roofing
- Painted Iron Railing
- Heavy Timber Wood Accent

RECEIVED

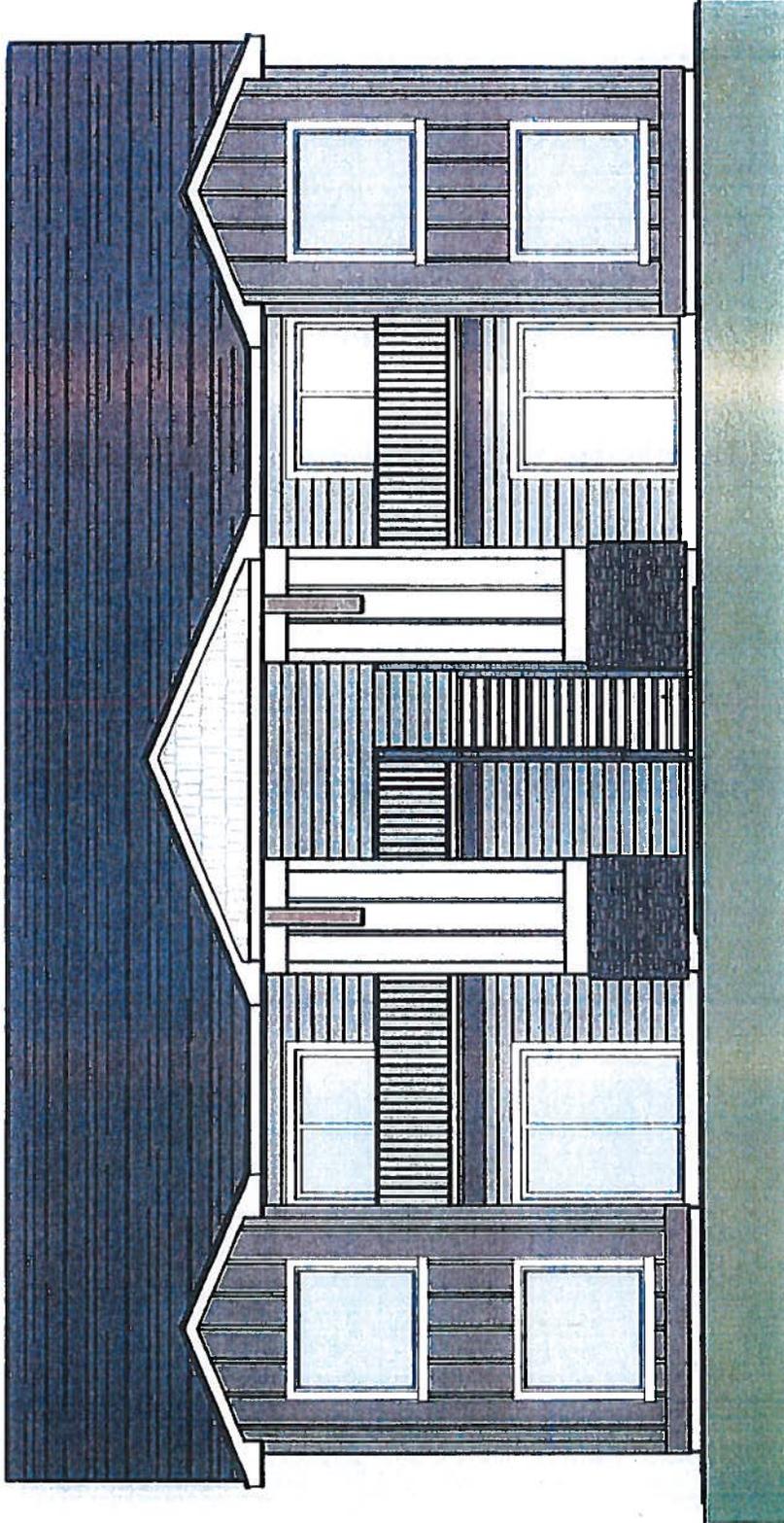
11/11/11



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TIMBERCREEK SUBDIVISION

EXHIBIT B-4



Unit C- Front Elevation

Exterior Materials

- Painted Cottage Lap Siding
- Painted Board & Batt Siding
- Painted Shake Shingle Siding
- Painted Wood Vent at Gables
- 30 year Architectural Composition Roofing
- Painted Iron Railing
- Heavy Timber Wood Accent
- Cultured Stone Accent

RECEIVED



COMMERCIAL • RESIDENTIAL • PLANNING • CONSULTING

EXHIBIT(S) "C"

CONDITIONS OF APPROVAL

1. Prior to the third reading of the annexation and zoning ordinance, the Owner/Developer shall dedicate any additional right-of-way if and as needed by the City, as defined by the City Engineer, adjacent the frontage of the Property required for the ultimate "build out" of South Powerline Road and East Hawaii Avenue (the adjacent public roadways) where they abut/adjoin the Property. Inclusively, the Owner/Developer shall dedicate [the] right-of-way necessary for the extension of Hawaii Avenue across the Aaron Drain, and construct the crossing as shown on the preliminary plat. (Any additional access to the extension of Hawaii Avenue is/will be under the City's jurisdiction.)

2. Prior to the third reading of the annexation and zoning ordinance, the Owner/Developer shall:

a. Dedicate a twenty foot (20') wide strip of land to the City of Nampa along the Elijah Drain (from the top of the ditch bank) for the extent of the Property's abutment to/along that Drain; and,

b. Construct a ten foot (10') wide pathway within the above dedicated property compliant with standards contained within the 'Nampa Bicycle and Pedestrian Master Plan'. The northern pathway segment running along the Elijah Drain shall be constructed with the first phase of the development. Easements for the same will be shown on the plat and dedicated at the time of first final plat recording; and,

c. Dedicate a twenty foot (20') wide strip of land to the City of Nampa along the Aaron Drain (including 20 feet from the top of the ditch bank) for the extent of the Property's abutment to/along along that Drain; and,

d. Construct a ten foot (10') wide foot pathway within the above dedicated property compliant with standards contained within the 'Nampa Bicycle and Pedestrian Master Plan', and, connect the pathway to the proposed sidewalk that will cross the Aaron Drain on East Hawaii Avenue; and,

3. The residential subdivision development proposed by Owner/Developer on the Property shall conform to the code required design standards applicable to the RML Zone (including setbacks). Further, Project plat shall conform to all conditions of approval imposed by the Planning and Zoning Commission as set forth in the Staff "Action Letter" (with attachments) dated March 13, 2014 and attached hereto (Exhibit C-3) unless allowed otherwise in writing by those departments/agencies (and adjusted as needed per City Council's decision/action of April 21, 2014 affecting Project density and layout); the City shall be interpreted as being the prevailing authority in case of any conflicting conditions/requirements; and,

4. The Owner/Developer shall emplace a landscaped, fenced berm along the southern and eastern extents of the Property prior to beginning construction of any apartment structures on the Property. The City Council approved, by subdivision exception making authority, the nature, size, fencing atop and landscaping (to include large trees) of/atop the berm as described/depicted

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by Exhibit C-2 hereafter attached. The City will hold issuance of Building Permits for structures within the Project until construction and inspection of the berming and associated six foot (6') high sight/site obscuring fencing reveals the same to be acceptable to the City; and,

5. Owner/Developer shall maintain the berm and associated fencing and landscaping in a safe and attractive condition; and,

6. (Aaron Drain accessibility) Owner/Developer shall provide a replacement, year-round and continuous access for cattle to water/drink from the east side of the Aaron Drain at a point at the northwest corner of County Parcel # R11803000 0 (a 1.31 acre parcel of ground addressed as 1224 East Iowa Avenue currently under the ownership, as of the date of signing of this document, of Mr. Paul D. and Mrs. Roxie Lee Miller husband and wife) if the culvert and roadway required by the City to extend East Hawaii Street across the Aaron Drain and into the southwest corner of the Project disrupts the current livestock access to the Aaron Drain for water/drink that is located in the northwest corner of 1224 East Iowa Avenue. Any replacement access shall include a concrete pad (no smaller than the current access which is approximately eight feet (8') wide by sixteen feet (16') long) set down into, and below, the water level of the Aaron Drain. If additional structures are disrupted in the process, Owner/Developer will promptly provide replacements that meet the reasonable expectations of the owner of 1224 East Iowa; and,

7. Project will consist of four, 10-structure phases. Owner/Developer agrees that if more than one phase is proposed for construction at a time, then Owner/Developer will provide notice to neighbors and conduct a meeting with City officials in the Engineering/Public Works and Planning and Zoning Divisions/Departments to determine whether adequate infrastructure is in place to allow for accelerated "buildout" of the Project as proposed at that time; and,

8. Owner/Developer will work in good faith with all adjacent property owners during all phases of construction of the Project in order to minimize damage and/or disruption to adjacent properties and amenities. Written notice will be mailed to neighbors seven (7) days prior to commencement of major construction activities. In the case of disruption, Owner/Developer will work promptly and in good faith to implement correction of any damage or disruption. Maintaining functional and adequate livestock fencing is of utmost importance; any damage to livestock fencing must be remedied immediately upon incident; and,

9 The Project shall consist of no more than 136 apartment units (e.g., 34 four-plexes) -- extra land in the development not given over to required parking/service drive, trailway/pathway or building yards shall be devoted to open space amenities. The common lots are, and shall remain, ineligible for [future] residential building permits; and,

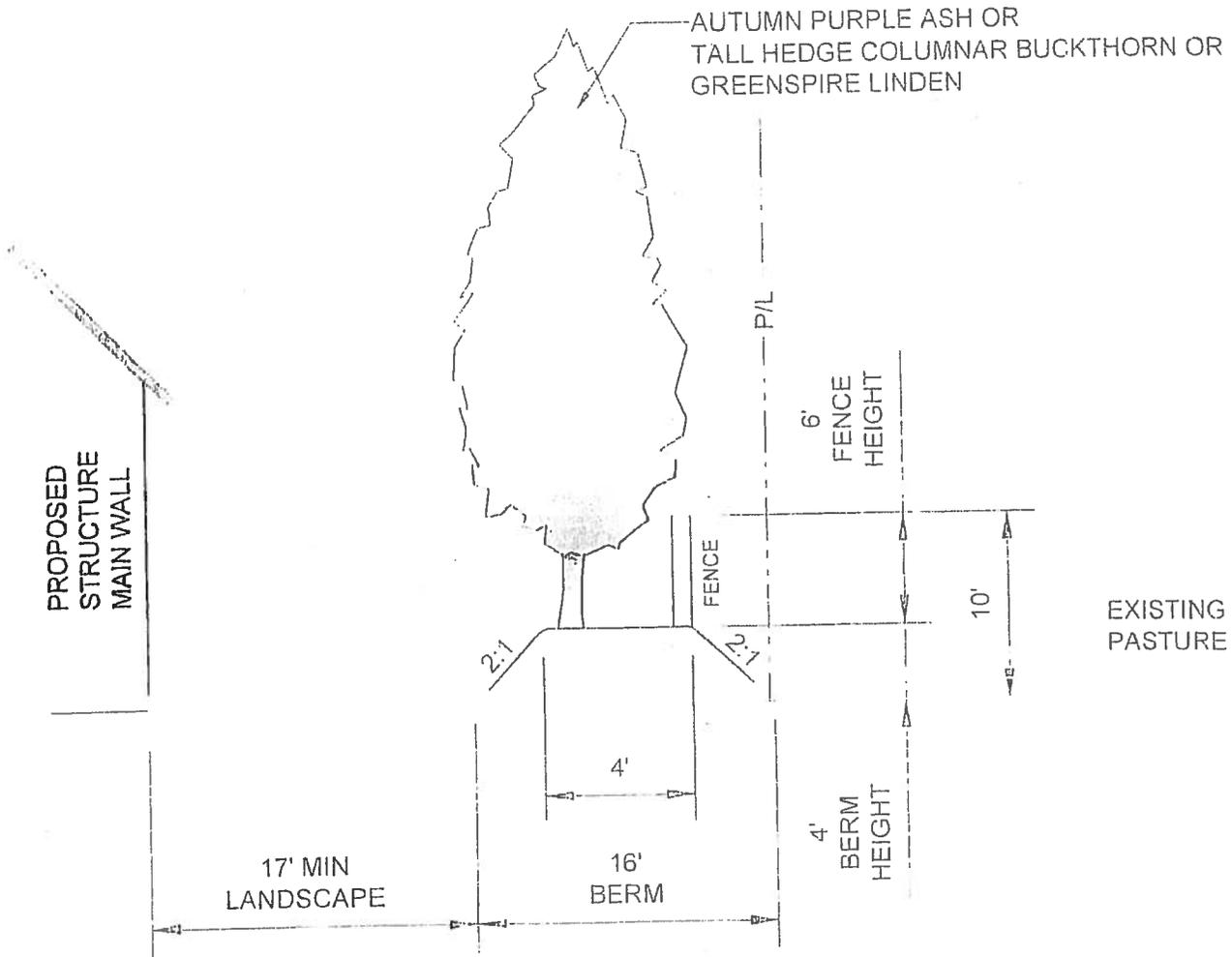
10. Owner/Developer shall provide proper irrigation drainage works on the south and east boundaries of the Project and provide ongoing and perpetual maintenance of said irrigation drainage works in accordance with Idaho statutes and local irrigation districts to ensure proper operation of drainage systems so as not to impact/overflow adjacent properties with excess(ive) water; and,

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11. Each development phase of the Project shall comply with the requirements of the City of Nampa as adopted for the Project as a whole. Additionally, each phase shall comply with the most current, City adopted Building Code requirements in force at the time of application for Building Permits. Substantial deviations from the originally approved Project proposal and plat shall require new public hearing review of the Project or aspect thereof as required in the Agreement Section of this contract under item no. 2; and,

12. As required by law, the Project shall comply with requirements imposed via the Fair Housing Act. Specific requirements addressing ADA access and ADA accessibility of units will be addressed at the building permit stage of Property "buildout". Additional FHA regulations regarding the prohibition of discrimination related to the leasing of the units in the Project will be in effect throughout the life of the Project.

26 35



SECTION @ SOUTH PROPERTY LINE
TIMBERCREEK SUBDIVISION

36

Sylvia Mackrill

From: Marlen Salinas
Sent: Tuesday, January 26, 2016 3:16 PM
To: Sylvia Mackrill
Subject: RE: ANN 2130 16 Modification of Development Agreement for Timbercreek Subdivision Annexation at 1149 S Powerline Rd

No code violations found as per Martin B.

From: Sylvia Mackrill
Sent: Tuesday, January 26, 2016 11:42 AM
To: Amanda Morse; Beth Ineck; Brent Hoskins; Carl Miller; Compass (tlaws@compassidaho.org); Craig Tarter; Daniel Badger; Don Barr; Jeff Barnes; Jennifer Yost; Jim Brooks; Kent Lovelace; Marlen Salinas; Michael Fuss; Neil Jones; Patrick Sullivan; Ray Rice; Robin Collins; Tina Fuller; Vickie Holbrook
Subject: ANN 2130 16 Modification of Development Agreement for Timbercreek Subdivision Annexation at 1149 S Powerline Rd

ANN 2130-16:
Parkway Partners, Dennis Hourany representing, has submitted an application for Modification of the Development Agreement attached to the Annexation Ordinance 4129, dated 07/21/2014, for the proposed Timbercreek Subdivision, a 34 four-plex development.
The applicants are requesting modification to the originally approved conceptual site layout, common areas. The applicants state there will be no additional structures or 4-plexes proposed.
The property, currently addressed as 1149 S Powerline, is located on the west side of South Powerline Rd, north of E Iowa Ave and south of E Florida Ave, within an RML (Limited Multiple Family) zoning district, on 11.19 acres.
The application will go before the Planning and Zoning Commission as a public hearing item on their February 23, 2016 agenda.
Please review and forward any comments to my attention prior to February 12, 2016.
Thank you,

Sylvia Mackrill
City of Nampa Planning Department
City Hall
411 3rd St S
Nampa, Id 83651
mackrill@cityofnampa.us
208-468-5484

Notice: All communication transmitted within the City of Nampa Email system may be a public record and may be subject to disclosure under the Idaho Public Records Act (Idaho Code 74-101 et seq.) and as such may be copied and reproduced by members of the public. In addition, archives of all City emails are generally kept for a period of two years and are also subject to monitoring and review.