



PLANNING & ZONING DEPARTMENT

Before the Planning & Zoning Commission
Meeting of 09 AUGUST 2016

PUBLIC HEARING ITEM NO. 1 STAFF REPORT

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

Shannon Robnett as Applicant and representative for Scott Thompson, Crane Creek Investments LLC

File(s): DAMO 005-2016 (x-ref. VAR 011-2016)

Analyst: Robert Hobbs

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

1. Modification of an Annexation/Zoning Development Agreement

(Decision Required: Recommendation)

Between Dan R. Turner and the City of Nampa recorded 6/02/2006 as Inst. No. 200642614 -- amending as necessary the "Recitals", "Conditions" and "Conceptual Plan" to provide for a revised multiple-family residential property development plan, density and building design(s)...

Property Area and Location(s):

For land located at 921 E. Colorado Avenue (a 1.377 acre portion of the NE ¼ of Section 34, T3N, R2W, Boise Meridian, Canyon County, Nampa in the Kurtz Addition (Tax 03750 in Block 135) – hereinafter the "Property" (alternatively the "site")...

History:

A cooperative effort in 2006 between two developers led to the zoning district conversion of 2.792 acres of land located at the convergence of Fern, Colorado and Elder Streets from RD to RMH. The entitlement was made contingent on the developers entering into a land use contract (i.e., a "Development Agreement") to control both the type of development introduced to aggregate property (a grouping of parcels), its layout to some extent, and its density (since the RMH Zone normally allows up to 77.12 dwelling units/acre). Two Agreements were formed under one ordinance -- one for the four parcels on the north of the Property fronting Colorado, and one for the singular parcel on the southern side of the Property. The southern parcel is the

only part under consideration at present for change. Activity on the site to date has been largely, if not completely absent (aside from an old trailer park being removed from the Property).

DEVELOPMENT AGREEMENT MODIFICATION

Criteria to guide the Commission in making a recommendation to Council regarding a proposed Development Agreement Modification, and to subsequently guide the Council in making a determination/decision whether to allow a Development Agreement Modification, are absent from state statute or City ordinance. Thus, approving -- or not -- this application becomes a purely subjective matter/decision on the part of the City in reaction to this DA contract modification application.

Hereafter attached is a copy of Ordinance 3579 (Instrument No. 200642614 which has, as a part thereof, the Development Agreement referenced by this report. The sections of the Agreement proposed for modification are, expectedly in this instance, language in the RECITALS and CONDITIONS Sections, and, in amongst the Exhibits.

As the process of rezoning and Development Agreement modification is a two-step endeavor, Staff will prepare a Development Agreement Modification document for Council's review prior to the 3rd reading of the ordinance that will/would enact the Development Agreement Modification.

Public/Agency/City Department Comments:

Any correspondence from agencies or the citizenry regarding this application package [received by noon August 03, 2016] is hereafter attached. Staff has not received commentary from any surrounding property owners or neighbors either supporting or opposing this request.

- a. City Engineering has no objection(s) to the requested re-entitlement (see attached comments – 1 page email printout dated July 28, 2016); and,
- b. The Nampa Highway District has no objection(s) to the requested re-entitlement (see attached comments – 1 page email printout dated August 01, 2016); and,
- c. The Nampa Building Department has no objection(s) to the requested re-entitlement (see attached comments – 1 page email printout dated July 18, 2016)...

Note:

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

Commentary:

An approved Development Agreement, associated with an approved development plan, building style and type, and, density are already assigned to the Property. That entitlement runs [still] with the land. The present application before the Commission proposes a change to the certain aspects of the original Agreement as already noted including a change to the approved concept site plan (including parking lot and building layout, building design and dwelling unit density allowance). Whether to recommend favorably to the City Council that such changes, as desired, be approved or approved with some alterations is a subjective decision for the Commission to make. You will note in reading the Applicant's representative's letter to file that the application under present review is one part of a two part request. At the time this matter is

discussed with Council at a forthcoming hearing, a Variance Permit will also be reviewed. The Variance's nature and justification are presented in the Applicant's representative's letter hereto attached, but the issues the Variance treats are not at the heart of the matter before the Commission [or Council].

Staff would note that there may be arguably some positive aspects to the current plan. The proposed building count is down from four (4) to three (3), unit count is down from 48 to 36, Property layout has changed such that only one building adjoins the southern property line and parking lots abut the lots to the southeast and southwest of the site, two-way flow through the parking lot is provided vs. one-way parallel drives and parking banks between Fern and Elder, and, the proposed buildings from what can be discerned are more aesthetically pleasing than the prior, approved, structures (see attached Exhibits).

The neighbors to the Property enjoy, expectedly, a more serene neighborhood with the Property vacant; however, the allowance to develop the site in substantial conformance with the current Agreement yet exists. Also, there is a right of property use and development afforded to a property owner. Arguments regarding the proper balance between individual and collective rights, and, the perceived conditions that yield a semblance of quality of life are germane to zoning hearing related actions. Such is the case with this matter.

Should the Commission recommend to the City Council that the Development Agreement Modification application be approved or approved with conditions (including any alterations desired by the Commission), Staff will craft a draft Development Agreement Modification document for the Council's review.

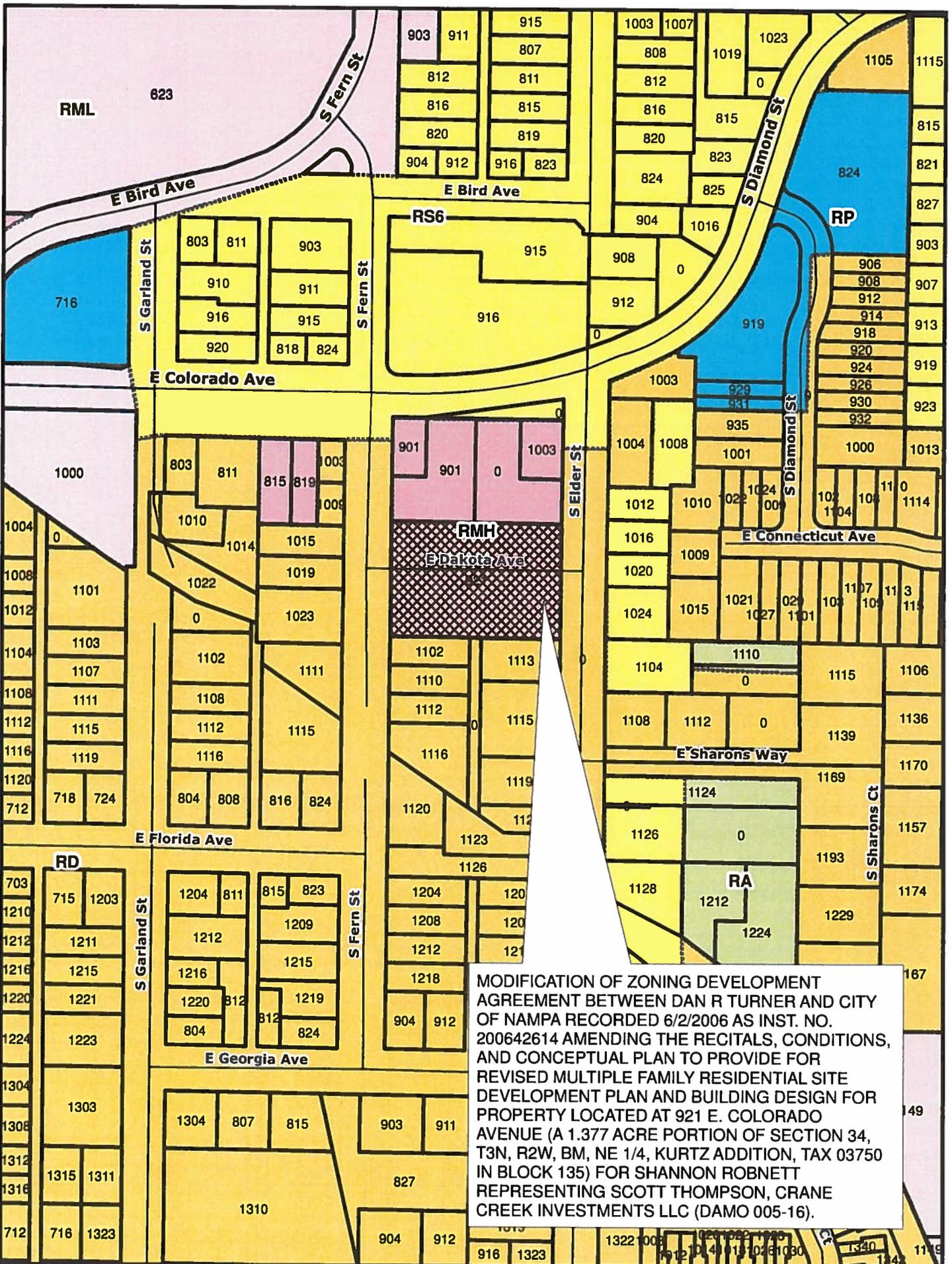
RECOMMENDED CONDITION(S) OF APPROVAL

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

1. 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's entitlement(s) to be revised to allow for [continued] multiple-family residential use in a RMH Zone, but with a new development plan by a different developer.

ATTACHMENTS

- Vicinity Map
(page/Exhibit 5)
- Copy of Development Agreement Amendment Modification Application
(page/Exhibit 6)
- Copy of Applicant's representative's explanation/justification narrative
(pages/Exhibits 7-8)
- Copy of concept site plan and small scale building renderings
(page/Exhibit 9)
- Copy of aerial photo of Property and surrounds
(page/Exhibit 10)
- Copies of [responding] agency/department correspondence
(pages/Exhibits 11-13)
- Copy of 2006 Development Agreement (Ord. 3489) bearing on Property
(pages/Exhibits 14+)



MODIFICATION OF ZONING DEVELOPMENT AGREEMENT BETWEEN DAN R TURNER AND CITY OF NAMPA RECORDED 6/2/2006 AS INST. NO. 200642614 AMENDING THE RECITALS, CONDITIONS, AND CONCEPTUAL PLAN TO PROVIDE FOR REVISED MULTIPLE FAMILY RESIDENTIAL SITE DEVELOPMENT PLAN AND BUILDING DESIGN FOR PROPERTY LOCATED AT 921 E. COLORADO AVENUE (A 1.377 ACRE PORTION OF SECTION 34, T3N, R2W, BM, NE 1/4, KURTZ ADDITION, TAX 03750 IN BLOCK 135) FOR SHANNON ROBNETT REPRESENTING SCOTT THOMPSON, CRANE CREEK INVESTMENTS LLC (DAMO 005-16).



Development Agreement

APPLICATION FOR AMENDMENT OF ZONING OR PLANCE OR MAP

84/16 PE ROBERT

City of Nampa, Idaho

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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: Devon Robnett / Shannon Robnett Phone: 208-577-8003

Address: 3818 E Newby St STE 101 City: Nampa State: ID Zip Code: 83687

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

Owner Name: Scott Thompson Phone: _____

Address: 971 E Colorado Ave. City: Nampa State: ID Zip Code: 83686

Address of subject property: 971 E Colorado Ave. Nampa, ID 83686

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):

[X] 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 _____ Lot _____ Block _____ Book _____ Page _____

Project Description

State the zoning desired for the subject property: RMH (current zoning)

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.

Attached

Dated this 27th day of June, 2016

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: 052 - 20 Project Name: MAD Dev Agreement Terms DAMO-005-2016

Request for Variance

Our proposal to develop a multi family apartment complex on 1.38 acres of RMH located at 921 Colorado Nampa Idaho includes 36 units ranging from 1 bedroom 1 bath units that are less than 900 sq. ft. to larger 3 bedroom 2 bath units of approximately 1000 sq.ft. with 50% of the units being 2 bedroom 2 bath units. Our RMH zoning allows for up to 55 units on 1.38 acres, however we are only looking to build 36 units in a configuration of 3 3 story 12 plex buildings. Based on the requirement set forth by the City of Nampa regarding RMH, we are required to have 2 parking spaces per unit plus 2 handicap accessible spots per building with one of those being van accessible. Due to the limitations of the 1.38 acre site and our attempt to achieve a reasonable density with an eye toward open space, we have designing a layout that gives us enough room to fit the units, the required handicap parking and 66 additional parking spaces. According to Nampa Zoning Ordinance 10-22-6: "Special parking and landscape corridor districts and spaces required" section B states the number of spaces required, in the chart it states that "Fraternities, Sororities, Cooperatives and Dormitories only require 1 space for each 3 occupants for which sleeping accommodations are provided." Meaning we would only be required to provide 1 parking space for every 2-3 bedrooms that our project has. Our proposed floor plans show a total of 72 bedrooms, and under this ruling we would need somewhere in the neighborhood of 24-36 parking spaces. We understand that we are not classified as a dormitory but being as close to Northwest Nazarene University as we are, expect most of our tenants to be University students with many of them walking and riding bicycles to the campus. With this in mind we are asking for a variance allowing us to reduce our parking to accommodate the handicap parking and *&^ spaces per 12 unit building.

Additionally the property to the immediate North of the subject property is approximately 8' difference in elevation, with a fairly gradual slope. According to Nampa city Code 10-12-5 we are required to provide a minimum setback of 8' with an additional 5' of setback for every 10' feet of increase in height over 30 ft on any interior lot. We are viewing it as an interior lot line based on the fact that the property to the North is zoned RMH as well. We are asking for the variance to allow the one building on the north boundary to remain at the 8' setback based on the fact that the height from the base of the property to North to the top of our building will be less than 30'. The intention of this particular code was to mitigate large 3 and 4 story facades from feeling imposing only 8' off the property lines. We believe with the grade difference we will appear to have a 2 story facade visible from Colorado, and would not be an imposing 3 story structure at the same ground elevation as viewed from the property to the North when looking South. We are also well spaced from our East and West property lines with approximately 23' of setback, which we believe correlates to the intent of the Nampa city code .

These variances will allow us to maintain our density of 26 units per acre and allow for more open space and parking. We feel these would improve our overall site layout and ultimately allow for a successful project in Nampa.



ne:|design
ARCHITECTS
123 S. PARKWAY
MURKIN, MO 63042
314.881.2874
CONSULTANT

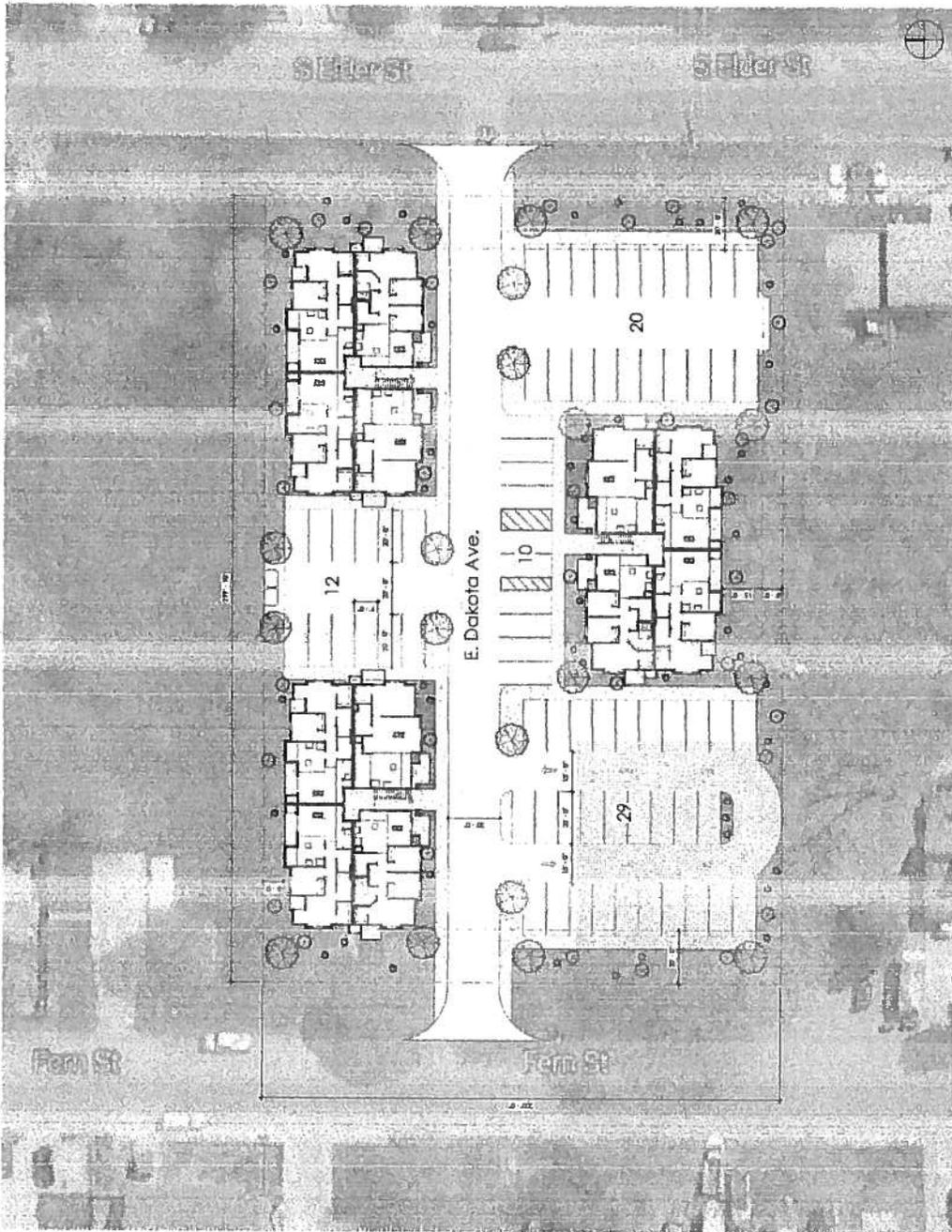
THIS DOCUMENT IS THE
PROPERTY OF NE:|DESIGN
ARCHITECTS, LLC AND IS
NOT TO BE REPRODUCED
OR TRANSMITTED IN ANY
FORM OR BY ANY MEANS
ELECTRONIC, MECHANICAL,
PHOTOCOPYING, RECORDING,
OR BY ANY INFORMATION
SYSTEMS WITHOUT THE
WRITTEN PERMISSION OF
NE:|DESIGN ARCHITECTS
LLC

DESIGN
Shannon Robnett
Tabor Complex Multifamily
931 E Colorado St, Nampa, ID 83855
PROFESSIONAL SEAL

NOT FOR PERMIT

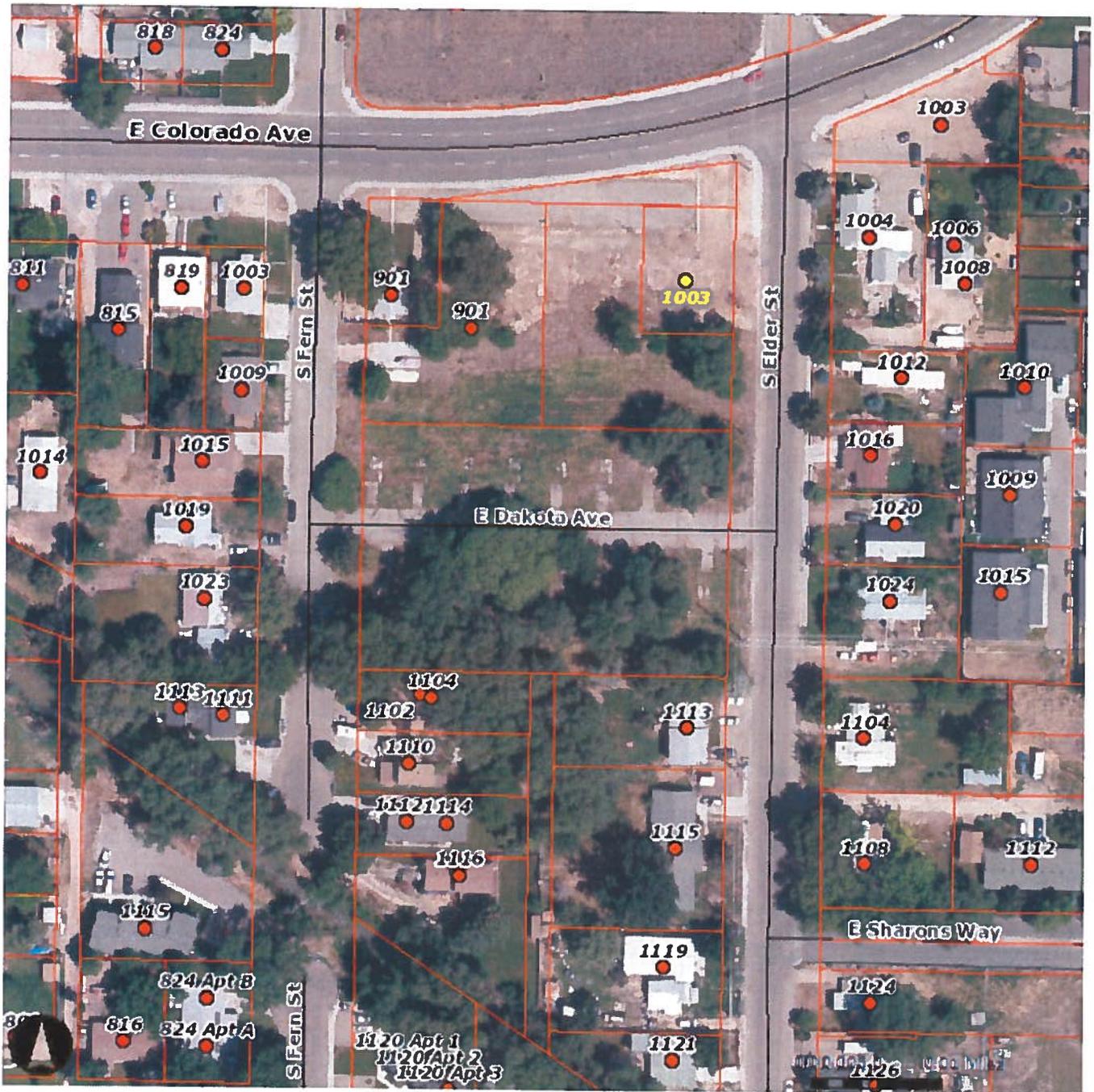
DATE
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Site Plan
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A-101
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Memorandum

To: Planning and Zoning
Cc: Tom Points, P. E., City Engineer
Cc: Daniel Badger, P. E., Staff Engineer
Cc: Michael Fuss, P. E., MBA, Nampa City Public Works Director
From: Jim Brooks – Engineering Division
Date: July 28, 2016
Re: Development Agreement Modification-912 E. Colorado Avenue
Applicant: Dean Robnett
Applicant Address: 3818 E. Newby St. Ste. 101, Nampa, Idaho 83687
Parcel Address: 912 E. Colorado Avenue

DAMO 005-16 for August 9, 2016 Planning & Zoning Meeting

The Engineering Division does not oppose the granting of this Development Agreement Modification request.

Norm Holm

From: Eddy Thiel <eddy@nampahighway1.com>
Sent: Monday, August 01, 2016 9:48 AM
To: Norm Holm
Subject: DAMO05-16

Good Morning Norman,

The Nampa Highway District #1 has no objection to the Modification of Zoning Development Agreement between Dan R. Turner and the City of Nampa recorded 6/2/2006 as Inst. No. 200642614 for Property located at 921 E. Colorado Ave for Shannon Robnett representing Scott Thompson, Crane Creek Investments LLC as it is not within the Highway District's jurisdiction.

If you have any questions or comments feel free to contact us.

Thank you,

Eddy

Eddy Thiel
ROW
eddy@nampahighway1.com
4507 Highway 45. • Nampa, id 83686
TEL 208.467.6576 • FAX 208.467.9916

Shellie Lopez

From: Neil Jones
Sent: Monday, July 18, 2016 7:24 AM
To: Shellie Lopez
Cc: Bret Caulder
Subject: RE: Modification of Zoning Development Agreement / DAMO 005-16

The Building Department has no conditions at this time.

Neil Jones

Plans Examiner Supervisor
P: 208.468.5492 F: 208.468.4494
[Department of Building Safety](#), [Like us on Facebook](#)

From: Shellie Lopez
Sent: Wednesday, July 06, 2016 1:55 PM
To: Amanda Morse <morsea@cityofnampa.us>; Beth Ineck <ineckb@cityofnampa.us>; Brent Hoskins <hoskinsb@cityofnampa.us>; Carl Miller <CMiller@compassidaho.org>; Craig Tarter <tarterc@cityofnampa.us>; Daniel Badger <BadgerD@cityofnampa.us>; Don Barr <barrd@cityofnampa.us>; Eric Skoglund <skoglundl@cityofnampa.us>; Jennifer Yost <yostj@cityofnampa.us>; Jim Brooks <brooks@cityofnampa.us>; Michael Fuss <fussm@cityofnampa.us>; Neil Jones <jonesn@cityofnampa.us>; Patrick Sullivan <sullivanw@cityofnampa.us>; Ray Rice <ricer@cityofnampa.us>; Robin Collins <collinsrr@cityofnampa.us>; Soyla Reyna <reynas@cityofnampa.us>; Sylvia Mackrill <mackrill@cityofnampa.us>; Tina Fuller <tfuller@compassidaho.org>; Tom Laws <tlaws@compassidaho.org>; Vickie Holbrook <holbrookv@cityofnampa.us>
Subject: Modification of Zoning Development Agreement / DAMO 005-16

Good Afternoon!

DAMO 005-16

Dean Robnett representing Scott Thompson, Crane Creek Investments LLC has requested a Modification of Zoning Development Agreement between Dan R Turner and City of Nampa recorded 6/2/2006 as Inst. No. 200642614 amending the recitals, conditions, and conceptual plan to provide for revised multiple family residential site development plan and building design for property located at 921 E. Colorado Avenue (A 1.377 acre portion of Section 34, T3N, R2W, BM, NE 1/4, Kurtz Addition, Tax 03750 in Block 135).

The application is scheduled to go before the Planning and Zoning Commission as a public hearing item on the August 09, 2016 agenda.

Please find attached the DAMO 005-16 file for your review and send all comments to my attention or to Sylvia Mackrill (mackrill@cityofnampa.us) prior to July 27, 2016.

Thank you & have a great day!

40.

ORDINANCE NO. 3579

AN ORDINANCE OF THE CITY OF NAMPA, CANYON COUNTY, IDAHO CHANGING THE ZONE IDENTIFICATION SO AS TO REZONE APPROXIMATELY 2.792 ACRES IN VACATED BLOCK 135 OF THE AMENDED PLAT OF KURTZ ADDITION IN THE CITY OF NAMPA, CANYON COUNTY, IDAHO FROM RD TO RMH 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 approximately 2.792 acres of real property, and all thereof, located in Vacated Block 135 of the Amended Plat of Kurtz Addition in the City of Nampa, Canyon County, Idaho, which has been until this date zoned RD be, and the same is hereby, rezoned RMH, and the use district or zone changed to RMH, which said property so rezoned is described as follows, to wit:

See Exhibit A attached hereto and incorporated herein by this reference.

Property Address: vacated block of 135 of the amended plat of Kurtz Addition in the City of Nampa

Section 2: That this rezone ordinance is subject to and limited by that certain Development Agreement entered into between the parties.

Section 3: That the City Engineer is hereby directed to alter the Use and Area Map in accordance with this Ordinance.

PASSED BY THE COUNCIL OF THE CITY OF NAMPA, IDAHO, THIS 15th DAY OF May, 2006.

APPROVED BY THE MAYOR OF THE CITY OF NAMPA, IDAHO, THIS 15th DAY OF May, 2006.

Approved: [Signature]
By _____
Mayor

Attest: [Signature]
By _____
City Clerk

State of Idaho)

Canyon County)

On this 15th day of May, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared Tom Dale and Diana Lambing 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.

Julie Lockey
Julie Lockey
Residing at: Nampa, Canyon County, Idaho
My Commission Expires: 05/11/2011



**HASTINGS LAND SURVEYING
5921 CHESTNUT DRIVE
BOISE, IDAHO 83704
208-658-9199, 371-3245 cell**

**SECTION: 34
T3N, R2W, B.M.**

**May 3, 2006
Job # 2005-010**

DESCRIPTION OF A TRACT OF LAND – Parcel B – Part of Vacated Right of Way for East Colorado Avenue on the North Side of Block 135 and part of Vacated Block 135 of the Amended Plat of Kurtz Addition to Nampa, Idaho, Plat Book 2, Page 37. 0.142 Acre. FOR: Dan Turner – Existing Duplex

A portion of the Northeast 1/4 of Section 34, Township 3 North, Range 2 West of the Boise Meridian in Nampa, Canyon County, Idaho, more particularly described to wit:

Commencing at a set 5/8" iron pin with a plastic cap marking the intersection of South Fern Street and East Wyoming Avenue Vacated;

thence North 00°09'44" West 380.12 feet to a set 5/8" iron pin with a plastic cap on the center line of South Fern Street and the center line of East Colorado Avenue Vacated;

thence South 89°59'46" East 40.00 feet to a set 1/2" iron pin with a plastic cap on the Easterly right of way of South Fern Street and the center line of East Colorado Avenue Vacated, the INITIAL POINT of this description.

thence continuing South 89°59'46" East 60.02 feet along the said center line of East Colorado Avenue Vacated to a set 1/2" iron pin with a plastic cap;

thence South 00°09'06" East 103.00 feet to a set 1/2" iron pin with a plastic cap;

thence North 89°59'33" West 60.00 feet to a set 1/2" iron pin with a plastic cap;

thence North 00°09'44" West 103.00 feet along the Easterly right of way of South Fern Street to the Initial Point of this description.

This tract contains 0.142 acre, more or less, and is subject to all other existing rights of way and easements.



EXHIBIT "A-2"

HASTINGS LAND SURVEYING
5921 CHESTNUT DRIVE
BOISE, IDAHO 83704
208-658-9199, 371-3245 cell

SECTION: 34
T3N, R2W, B.M.

May 3, 2006
Job # 2005-010

DESCRIPTION OF A TRACT OF LAND – Parcel C – Part of Vacated Right of Way for East Colorado Avenue on the North Side of Block 135 and part of Vacated Block 135 of the Amended Plat of Kurtz Addition to Nampa, Idaho, Plat Book 2, Page 37. 0.460 Acre. FOR: Dan Turner – West 4-Plex

A portion of the Northeast 1/4 of Section 34, Township 3 North, Range 2 West of the Boise Meridian in Nampa, Canyon County, Idaho, more particularly described to wit:

Commencing at a set 5/8" iron pin with a plastic cap marking the intersection of South Fern Street and East Wyoming Avenue Vacated;

thence North 00°09'44" West 380.12 feet to a set 5/8" iron pin with a plastic cap on the center line of South Fern Street and the center line of East Colorado Avenue Vacated;

thence South 89°59'46" East 100.02 feet to a set 1/2" iron pin with a plastic cap on the center line of East Colorado Avenue Vacated, the INITIAL POINT of this description.

thence continuing South 89°59'46" East 85.64 feet along the said center line of East Colorado Avenue Vacated to a set 1/2" iron pin with a plastic cap;

thence South 00°09'06" East 180.13 feet to a set 1/2" iron pin with a plastic cap;

thence North 89°59'33" West 145.63 feet to a set 1/2" iron pin with a plastic cap;

thence North 00°09'44" West 77.12 feet to a set 1/2" iron pin with a plastic cap;

thence South 89°59'33" East 60.00 feet to a set 1/2" iron pin with a plastic cap;

thence North 00°09'06" West 103.00 feet to the Initial Point of this description.

This tract contains 0.460 acre, more or less, and is to all other existing rights of way and easements.



**HASTINGS LAND SURVEYING
5921 CHESTNUT DRIVE
BOISE, IDAHO 83704
208-658-9199, 371-3245 cell**

SECTION: 34
T3N, R2W, B.M.

May 3, 2006
Job # 2005-010

DESCRIPTION OF A TRACT OF LAND – Parcel D – Part of Vacated Right of Way for East Colorado Avenue on the North Side of Block 135 and part of Vacated Block 135 of the Amended Plat of Kurtz Addition to Nampa, Idaho, Plat Book 2, Page 37. 0.460 Acre. FOR: Dan Turner – Middle 4-Plex

A portion of the Northeast 1/4 of Section 34, Township 3 North, Range 2 West of the Boise Meridian in Nampa, Canyon County, Idaho, more particularly described to wit:

Commencing at a set 5/8" iron pin with a plastic cap marking the intersection of South Fern Street and East Wyoming Avenue Vacated;

thence North 00°09'44" West 380.12 feet to a set 5/8" iron pin with a plastic cap on the center line of South Fern Street and the center line of East Colorado Avenue Vacated;

thence South 89°59'46" East 185.66 feet to a set 1/2" iron pin with a plastic cap on the center line of East Colorado Avenue Vacated, the INITIAL POINT of this description.

thence continuing South 89°59'46" East 79.21 feet along the said center line of East Colorado Avenue Vacated to a set 1/2" iron pin with a plastic cap;

thence South 00°09'06" East 103.00 feet to a set 1/2" iron pin with a plastic cap;

thence South 89°59'33" East 75.00 feet to a set 1/2" iron pin with a plastic cap;

thence South 00°09'06" East 77.13 feet to a set 1/2" iron pin with a plastic cap;

thence North 89°59'33" West 154.21 feet to a set 1/2" iron pin with a plastic cap;

thence North 00°09'06" West 180.13 feet to the Initial Point of this description.

This tract contains 0.460 acre, more or less, and is subject to all other existing rights of way and easements.



**HASTINGS LAND SURVEYING
5921 CHESTNUT DRIVE
BOISE, IDAHO 83704
208-658-9199, 371-3245 cell**

**SECTION: 34
T3N, R2W, B.M.**

**May 3, 2006
Job # 2005-010**

**DESCRIPTION OF A TRACT OF LAND – Parcel E – Part of Vacated Right of Way for East Colorado Avenue on the North Side of Block 135 and part of Vacated Block 135 of the Amended Plat of Kurtz Addition to Nampa, Idaho, Plat Book 2, Page 37. 0.177 Acre.
FOR: Dan Turner – East 4-Plex with existing building**

A portion of the Northeast 1/4 of Section 34, Township 3 North, Range 2 West of the Boise Meridian in Nampa, Canyon County, Idaho, more particularly described to wit:

Commencing at a set 5/8" iron pin with a plastic cap marking the intersection of South Fern Street and East Wyoming Avenue Vacated;

thence North 00°09'44" West 380.12 feet to a set 5/8" iron pin with a plastic cap on the center line of South Fern Street and the center line of East Colorado Avenue Vacated;

thence South 89°59'46" East 264.87 feet to a set 1/2" iron pin with a plastic cap on the center line of East Colorado Avenue Vacated, the INITIAL POINT of this description.

thence continuing South 89°59'46" East 75.00 feet along the said center line of East Colorado Avenue Vacated to a set 1/2" iron pin with a plastic cap;

thence along the Westerly right of way of South Elder Street, South 00°09'06" East 103.00 feet to a set 1/2" iron pin with a plastic cap;

thence North 89°59'33" West 75.00 feet to a set 1/2" iron pin with a plastic cap;

thence North 00°09'06" West 103.00 feet to the Initial Point of this description.

This tract contains 0.177 acre, more or less, and is subject to all other existing rights of way and easements.



**HASTINGS LAND SURVEYING
5921 CHESTNUT DRIVE
BOISE, IDAHO 83704
208-658-9199, 371-3245 cell**

**SECTION: 34
T3N, R2W, B.M.**

**May 3, 2006
Job # 2005-010**

**DESCRIPTION OF A TRACT OF LAND – Parcel F – Part of Vacated Block 135 of the Amended Plat of Kurtz Addition to Nampa, Idaho, Plat Book 2, Page 37. 1.377 Acres.
FOR: Dan Turner**

A portion of the Northeast 1/4 of Section 34, Township 3 North, Range 2 West of the Boise Meridian in Nampa, Canyon County, Idaho, more particularly described to wit:

Commencing at a set 5/8" iron pin with a plastic cap marking the intersection of South Fern Street and East Wyoming Avenue Vacated;

thence South 89°59'33" East 40.00 feet along the center line of East Wyoming Avenue Vacated to a set 1/2" iron pin with a plastic cap, the INITIAL POINT of this description.

thence North 00°09'44" West 200.00 feet to a set 1/2" iron pin with a plastic cap on the Easterly right of way of South Fern Street of Vacated Block 135;

thence South 89°59'33" East 299.84 feet to a set 1/2" iron pin on the Westerly right of way of South Elder Street;

thence South 00°09'06" East 200.00 feet along the said Westerly right of way of South Elder Street to a set 1/2" iron pin with a plastic cap on the right of way of said Block 135 extended and the center line of Vacated East Wyoming Avenue;

thence North 89°59'33" West 299.80 feet along the center line of Vacated East Wyoming Avenue to the Initial Point of this description.

This tract contains 1.377 acres, more or less, and is subject to all other existing rights of way and easements.



**HASTINGS LAND SURVEYING
5921 CHESTNUT DRIVE
BOISE, IDAHO 83704
208-658-9199, 371-3245 cell**

**SECTION: 34
T3N, R2W, B.M.**

**May 3, 2006
Job # 2005-010**

**DESCRIPTION OF A TRACT OF LAND – Parcel H – Part of Vacated Right of Way for East Colorado Avenue on the North Side of Block 135 of the Amended Plat of Kurtz Addition to Nampa, Idaho, Plat Book 2, Page 37. 0.076 Acre.
FOR: Dan Turner – Quitclaim from Northwest Nazarene University**

A portion of the Northeast 1/4 of Section 34, Township 3 North, Range 2 West of the Boise Meridian in Nampa, Canyon County, Idaho, more particularly described to wit:

Commencing at a set 5/8" iron pin with a plastic cap marking the intersection of South Fern Street and East Wyoming Avenue Vacated;

thence North 00°09'44" West 380.12 feet to a set 5/8" iron pin with a plastic cap on the center line of South Fern Street and the center line of East Colorado Avenue Vacated;

thence South 89°59'46" East 40.00 feet to a set 1/2" iron pin with a plastic cap on the center line of East Colorado Avenue Vacated, the INITIAL POINT of this description.

thence continuing South 89°59'46" East 299.87 feet along the said center line of East Colorado Avenue Vacated to a set 1/2" iron pin with a plastic cap;

thence along the Westerly right of way of South Elder Street, North 00°09'06" West 31.94 feet to a point;

thence North 52°55'54" West 6.51 feet to a point;

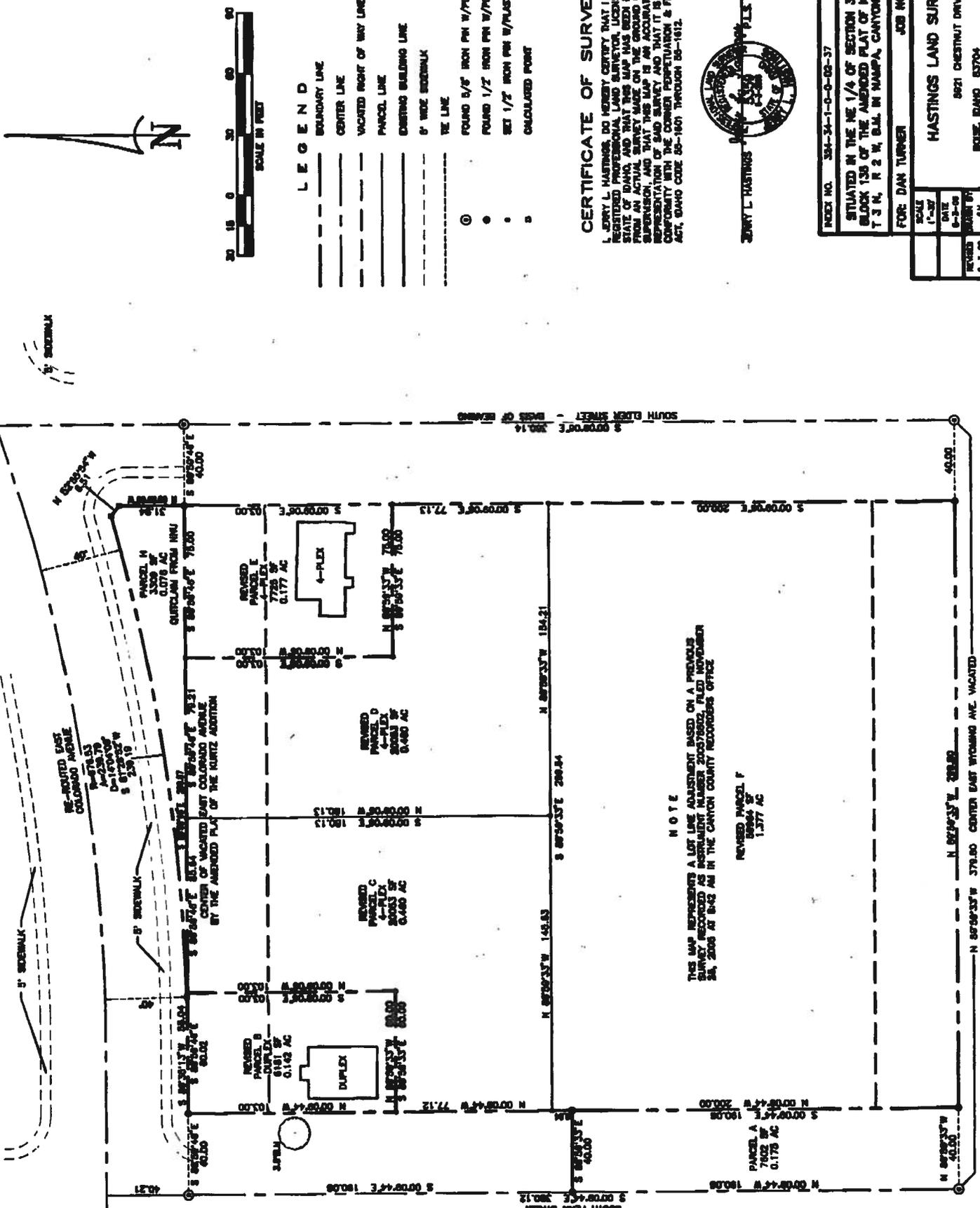
thence curving to the right 239.79 feet along the arc of a curve having a radius of 976.53 feet, a central angle of 14°04'09", and a chord bearing South 81°28'52" West 239.19 feet to a point;

thence South 89°35'13" West 58.04 feet to the Initial Point of this description.

This tract contains 0.076 acre, more or less, and is subject to all other existing rights of way and easements.



LOT LINE ADJUSTMENT RECORD OF SURVEY

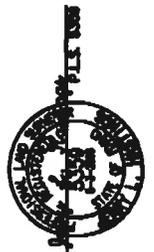


LEGEND

- BOUNDARY LINE
- CENTER LINE
- VACATED RIGHT OF WAY LINE
- PARCEL LINE
- EXISTING BUILDING LINE
- 8" WIDE SIDEWALK
- 16" WIDE SIDEWALK
- VE LINE
- FOUND 5/8" IRON PIN W/PLASTIC CAP
- FOUND 1/2" IRON PIN W/PLASTIC CAP
- SET 1/2" IRON PIN W/PLASTIC CAP
- CALCULATED POINT

CERTIFICATE OF SURVEY

I, JERRY L. HASTINGS, DO HEREBY CERTIFY THAT I AM A REGISTERED PROFESSIONAL LAND SURVEYOR LICENSED BY THE STATE OF IDAHO AND THAT THIS MAP HAS BEEN PREPARED FROM AN ACTUAL SURVEY AND THAT THE DISTANCES AND BEARINGS THEREON ARE TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT IT IS IN CONFORMITY WITH THE CORNER PRESERVATION & PLUMBING ACT, IDAHO CODE 58-1601 THROUGH 58-1612.



JERRY L. HASTINGS
 15421 LICENSE NO.
 REGISTERED PROFESSIONAL LAND SURVEYOR
 STATE OF IDAHO

INDEX NO. 384-34-1-0-0-02-37

SITUATED IN THE NE 1/4 OF SECTION 34, IN VACATED BLOCK 135 OF THE AMENDED PLAT OF KURTZ ADDITION, T 3 N., R 2 W., S.M. IN NAMPWA, CANYON COUNTY, IDAHO

FOR: DAN TURNER JOB NO. 2005-010-8

SCALE	1"=30'
DATE	6-2-05
PLANNED BY	JLH
DATE	6-2-05

HASTINGS LAND SURVEYING
 8621 CHESTNUT DRIVE
 BOISE, IDAHO 83704 606-6199

24

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "**Agreement**"), is made and entered into this 10th day of May, 2006 (the "**Effective Date**"), by and between the City of Nampa, a municipal corporation, hereinafter referred to as the "**City**," and AI Real Estate LLC, an LLC, hereinafter referred to as "**Owner/Developer**."

RECITALS

A. Owner/Developer is the owner of approximately 1 1/2 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 Dec 5, 2005 (the "**date of application**") for annexation of the Property into City and for rezoning of the Property to R m H in anticipation of the development and construction of a residential subdivision (the "**Project**").

C. City, pursuant to Section 10-2-5, Nampa City Code, and Idaho Code Section 67-6511A, has the authority to rezone the Property and enter into a development agreement 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, rezoning and development of the Property and this Agreement. City has approved the annexation and requested rezoning of the Property to R m H subject to the terms and commitments 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 general conformance with the conceptual plan attached hereto as **Exhibit "B"** and made a part hereof (the "**Conceptual Plan**"); 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. The Owner/Developer further agrees that acceptance of the conceptual plan attached hereto as Exhibit "B" shall not be construed as City endorsement of said plan as the final design of the preliminary and/or final plat to be subsequently submitted, and that acceptance of the conceptual plan shall not preclude the City from requiring revision of the concept at the time of platting to address other planning issues and concerns, including but not limited to, the interconnectivity of streets between adjoining subdivision areas and undeveloped property, and the location of open space or parks.

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. The provisions and stipulations of this Agreement shall be binding on City, Owner/Developer, each subsequent owner of the Property or portion thereof, and each other person acquiring an interest in the Property and are, in no particular order, as set forth in the conditions of approval attached hereto as **Exhibit "C"**, and by this reference incorporated herein.

5. 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.

6. 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.

7. 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. 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.

8. 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 file. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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 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.

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

CITY OF NAMPA



Tom Dale
Tom Dale, Mayor

Diana Lambing
Attest: Diana Lambing, City Clerk

OWNER/DEVELOPER

Calvin Tabor as member of AI Real Estate

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

EXHIBIT "A"
HASTINGS LAND SURVEYING
5921 CHESTNUT DRIVE
BOISE, IDAHO 83704
208-658-9199, 371-3245 cell

SECTION: 34
T3N, R2W, B.M.

May 3, 2006
Job # 2005-010

DESCRIPTION OF A TRACT OF LAND – Parcel F – Part of Vacated Block 135 of the Amended Plat of Kurtz Addition to Nampa, Idaho, Plat Book 2, Page 37. 1.377 Acres.
FOR: Dan Turner

A portion of the Northeast 1/4 of Section 34, Township 3 North, Range 2 West of the Boise Meridian in Nampa, Canyon County, Idaho, more particularly described to wit:

Commencing at a set 5/8" iron pin with a plastic cap marking the intersection of South Fern Street and East Wyoming Avenue Vacated;

thence South 89°59'33" East 40.00 feet along the center line of East Wyoming Avenue Vacated to a set 1/2" iron pin with a plastic cap, the INITIAL POINT of this description.

thence North 00°09'44" West 200.00 feet to a set 1/2" iron pin with a plastic cap on the Easterly right of way of South Fern Street of Vacated Block 135;

thence South 89°59'33" East 299.84 feet to a set 1/2" iron pin on the Westerly right of way of South Elder Street;

thence South 00°09'06" East 200.00 feet along the said Westerly right of way of South Elder Street to a set 1/2" iron pin with a plastic cap on the right of way of said Block 135 extended and the center line of Vacated East Wyoming Avenue;

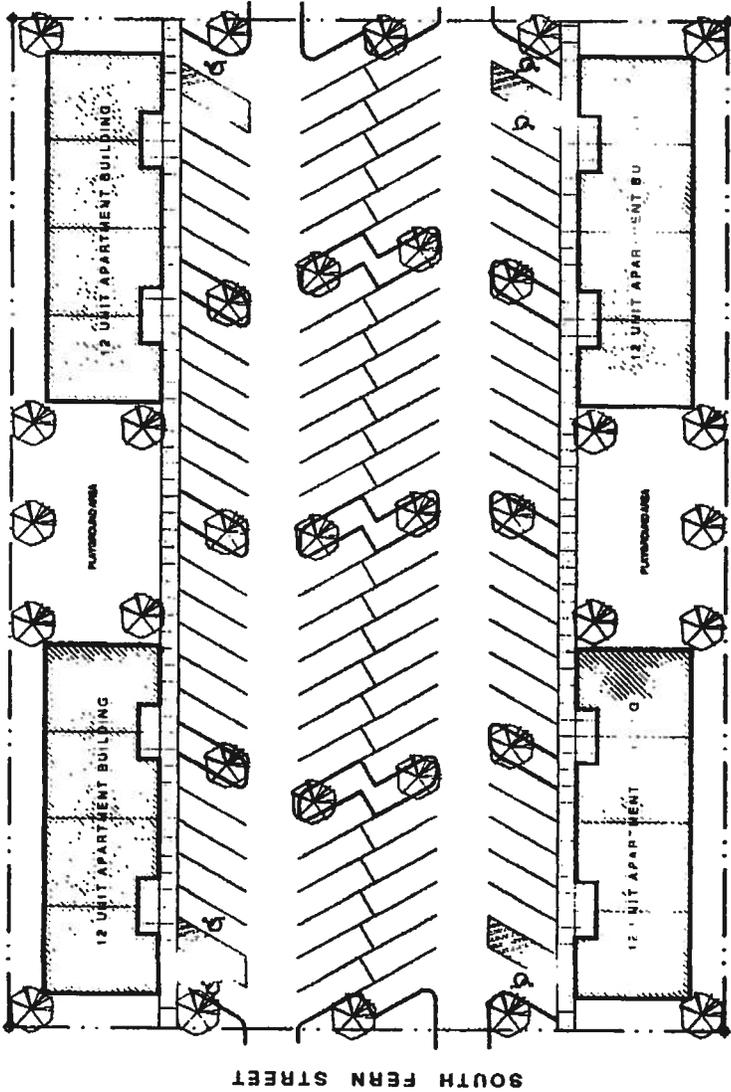
thence North 89°59'33" West 299.80 feet along the center line of Vacated East Wyoming Avenue to the Initial Point of this description.

This tract contains 1.377 acres, more or less, and is subject to all other existing rights of way and easements.



EXHIBIT "B"
CONCEPTUAL PLAN

TABOR APARTMENT COMPLEX



SOUTH ELDER STREET

SOUTH FERN STREET

GENERAL NOTES

- PROPERTY SIZE: 46,100 SQUARE FEET
- LANDSCAPE AREA TOTAL: 17,400 SQUARE FEET, 38% OF SITE IS LANDSCAPED
- BUILDING FOOTPRINT COVERS A TOTAL OF 13,000 SQUARE FEET, 28% OF SITE
- EACH APARTMENT UNIT SHALL BE 410 SQUARE FEET
- ALL PARKING SPACES PROVIDED SHALL BE INDICATED BY HATCHING PATTERNS
- ALL UTILITIES SHALL BE SHOWN AND SHALL BE THE RESPONSIBILITY OF THE OWNER
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- ALL UTILITIES SHALL BE SHOWN AND SHALL BE THE RESPONSIBILITY OF THE OWNER

Exhibit "B"

SITE PLAN
SCALE: 1"=80'

1721 12th Avenue South, Suite 100, Boise, Idaho 83721
Phone: (208) 453-4200, Fax: (208) 453-4201
www.jgtarchitecture.com

jgt architecture

APARTMENT COMPLEX
FOR
CALVIN TABOR
Nampa, IDAHO

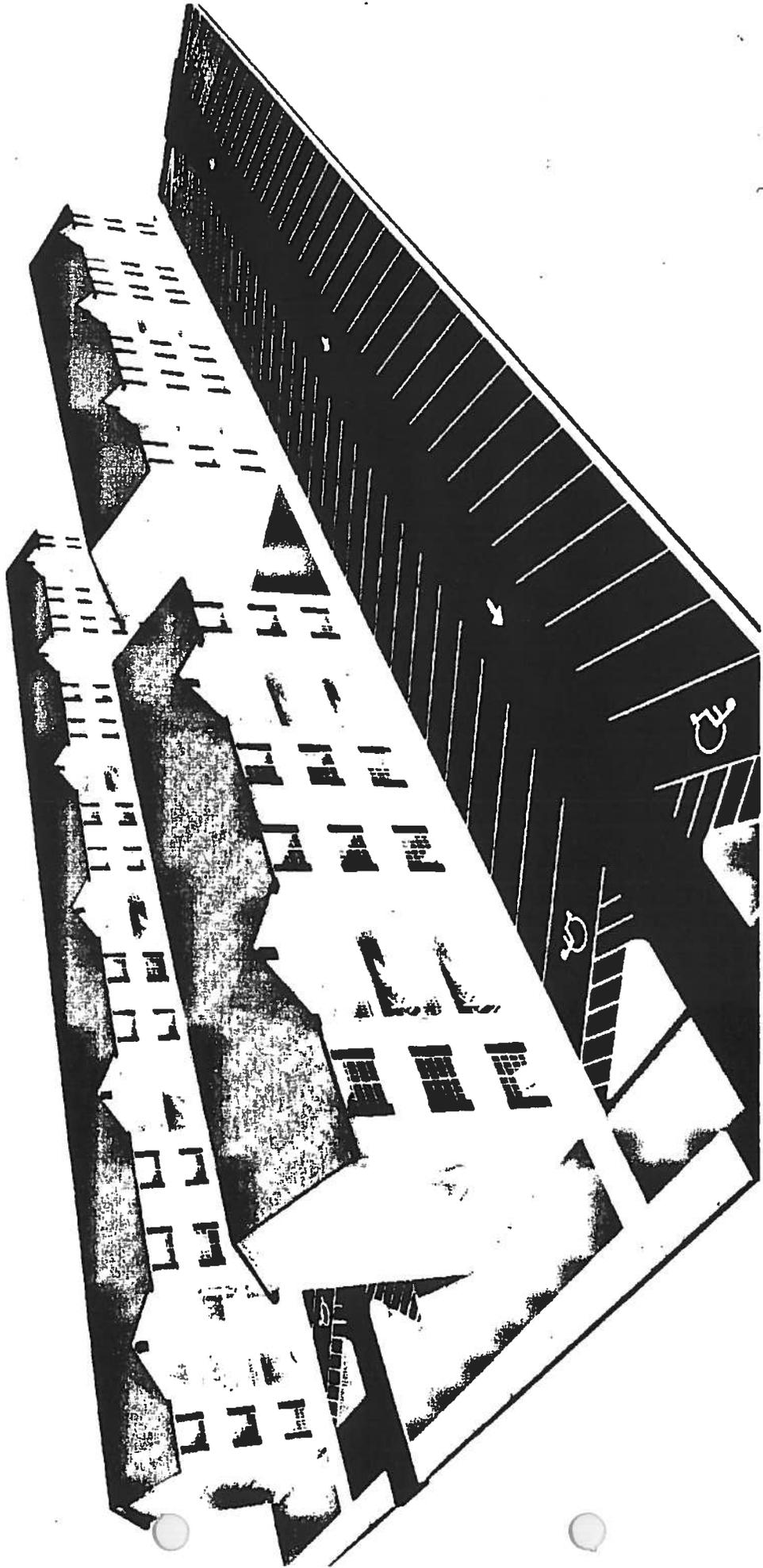
DATE:	DRAWN BY:	CHECKED BY:	SCALE:

CONSISTENT WITH
ENERGY CODE AND
LOCAL ORDINANCES

A-1.0

SHEET NO. 1 OF 10

Exhibit "B"



35

EXHIBIT "C"

CONDITIONS OF APPROVAL

1. The Owner/Developer agree that they will not oppose the formation of a local improvement district for the construction of any infrastructure associated with the development of the Property.
2. Prior to the third reading of the annexation and zoning ordinance the Owner/Developer shall dedicate any additional right-of-way, as defined by the City Engineer, adjacent the sides of the Property required for the ultimate "build out" of all adjacent public roadways.
3. The residential apartment project and its buildings as proposed by Owner/Developer, on the Property, shall conform to the following minimum bulk, density and design standards in addition to generally conforming to concept design elevations presented to the City Council and incorporated into this Agreement by way of "Exhibit B":
 - a. The residential density of the project shall not exceed 48 units.
 - b. The minimum allowable residential buildable lot size within the development shall be in accordance with RMH zoning standards (6,000 square feet for a single or two-unit structure, and 500 square feet for each additional unit in a building).
 - c. All multi-unit dwelling buildings shall be provided with eaves which project not less than twelve (12) inches beyond the side of the exterior wall.
 - d. The roof pitches for multi-unit dwelling buildings shall be a minimum of 5/12 pitch.
 - e. Roof coverings for multi-unit dwelling buildings shall be of materials generally accepted as the industry standard. If the roof covering is asphalt shingles, shingles shall be "architectural" in style with a minimum warranty of twenty-five (25) years.
 - f. Elevations of dwelling buildings shall coincide with those elevations presented to the City Council, and approved by them, at time of approval of the rezone and this Agreement. Suggest that apartments incorporate varied wall planes or roof forms, and main entries be defined by incorporating architectural elements such as roof gables, dormers, stairways, vestibules, wainscoting, lighting, etc. Apartment buildings might include architectural features such as, but not limited to, roof lines, belly band, pop-outs, cantilevers, material variations, color variations, eve eyebrows constructed with a minimum overhang of 36" across the full width of any garages to break the plane of the upper and lower levels of buildings where garages may be incorporated therein.
 - g. Multi-unit dwelling buildings shall include design features such as recessed windows and entrance doors, pop-outs, or other architectural details around windows, entrance doors, sliding glass doors, and garage doors. Window treatments may also include additional trim, mullions, or shutters.
 - h. No frontal or rear elevation of any multi-unit dwelling building shall have less than five (5) percent of the gross wall area in glazing, excluding garage areas.
 - i. Each dwelling unit shall have access to a small front porch, stoop, balcony, landing or courtyard.
 - j. Multi-unit dwelling buildings constructed as part of "build out" of the project shall not exceed three (3) stories in height.

36.

Where restrictions in conditions a-1 above are found to be more restrictive than the concept plan design drawings depicted in and as "Exhibit B", these standards shall govern.

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DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "**Agreement**"), is made and entered into this 11th day of May, 2005 (the "**Effective Date**"), by and between the City of Nampa, a municipal corporation, hereinafter referred to as the "**City**," and Dan R. Turner, hereinafter referred to as "**Owner/Developer**."

RECITALS

- A. **Owner/Developer** is the owner of approximately 1.23 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 Dec. 5th 2005 (the "**date of application**") for rezoning of the Property to RMH, in anticipation of the development and construction of a subdivision (the "**Project**").
- C. City, pursuant to Section 10-2-5, Nampa City Code, and Idaho Code Section 67-6511A, has the authority to rezone the Property and enter into a development agreement 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, rezoning and development of the Property and this Agreement. City has approved the requested rezoning of the Property to RMH zoning, subject to the terms and commitments 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 general conformance with the conceptual plan attached hereto as **Exhibit "B"** and made a part hereof (the "**Conceptual Plan**"); 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. The provisions and stipulations of this Agreement shall be binding on City, Owner/Developer, each subsequent owner of the Property or portion thereof, and each other person acquiring an interest in the Property and are, in no particular order, as set forth in the conditions of approval attached hereto as Exhibit "C", and by this reference incorporated herein.

5. 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.

6. 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.

7. 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. 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.

8. 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 file. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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 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.

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.

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



CITY OF NAMPA

Tom Dale

Tom Dale, Mayor

Diana Lambing

Attest: Diana Lambing, City Clerk

OWNER/DEVELOPER

an _____

By *Dan R. Turner*

owner of said Property

By _____

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

SEE ATTACHED

LOT LINE ADJUSTMENT RECORD OF SURVEY



LEGEND

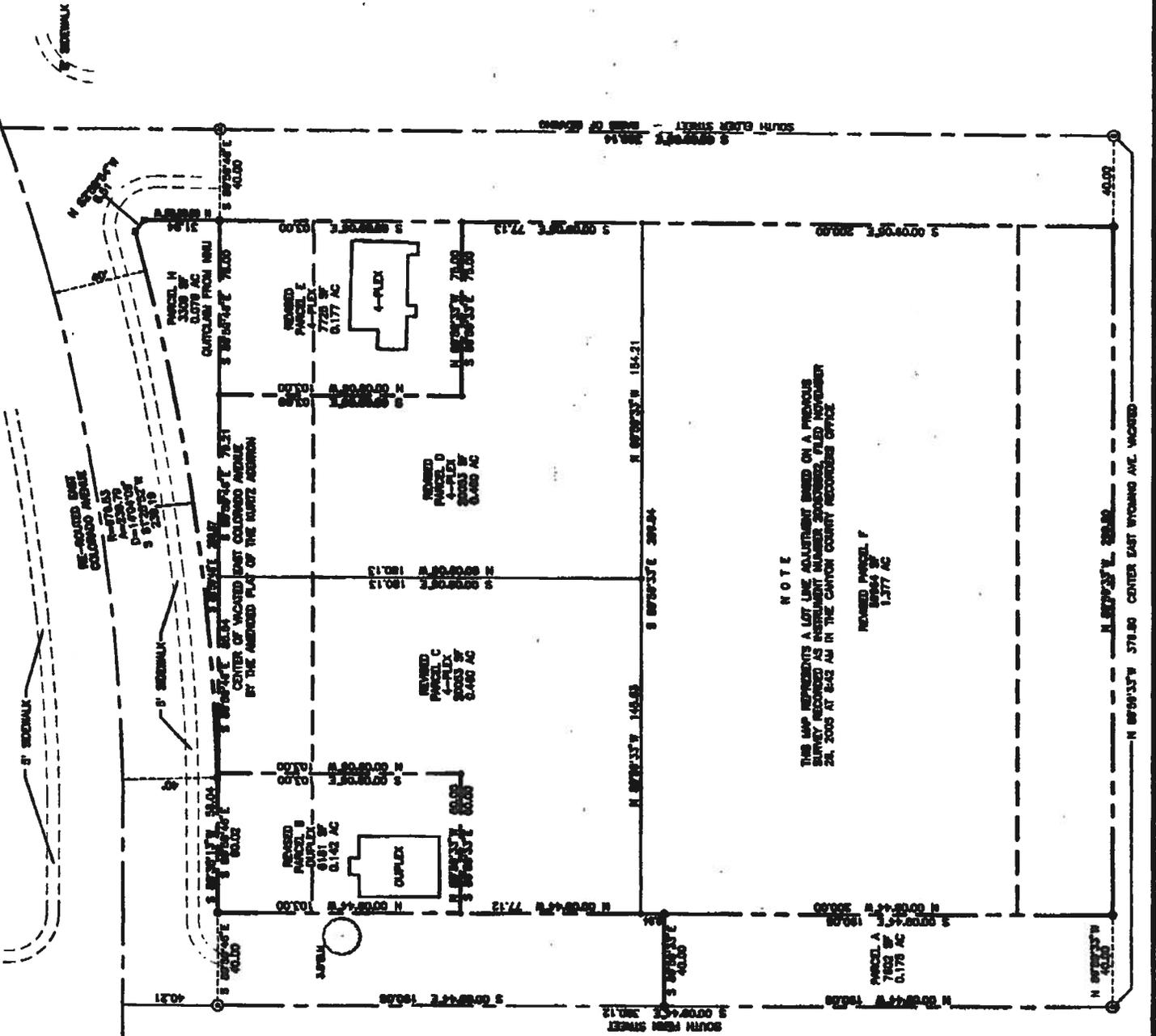
- BOUNDARY LINE
- CENTER LINE
- VACATED RIGHT OF WAY LINE
- PARCEL LINE
- EXISTING BUILDING LINE
- 6" WIDE SIDEWALK
- 10" WIDE SIDEWALK
- THE LINE
- FOUND 5/8" IRON PIN W/PLASTIC CAP
- FOUND 1/2" IRON PIN W/PLASTIC CAP
- SET 1/2" IRON PIN W/PLASTIC CAP
- CALCULATED POINT

CERTIFICATE OF SURVEY

I, JERRY L. HASTINGS, DO HEREBY CERTIFY THAT I AM A REGISTERED PROFESSIONAL LAND SURVEYOR, LICENSED BY THE STATE OF KANSAS, AND THAT THIS MAP HAS BEEN PREPARED FROM AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY SUPERVISION AND THAT THIS MAP IS AN ACCURATE REPRESENTATION OF SAID SURVEY AND THAT IT IS IN CONFORMITY WITH THE COMMON PRACTICE AND USUAL ACT, KANSAS CODE 66-1601 THROUGH 66-1612.



INDEX NO.	284-34-1-0-0-02-37
SITUATED IN THE NE 1/4 OF SECTION 34, IN VACATED BLOCK 135 OF THE AMENDED PLAT OF KURTZ ADDITION, T 3 N, R 2 W, S 1/2 BL IN NAWPA, CANYON COUNTY, KANSAS	
FOR	DAN TURNER
JOB NO.	2003-010-9
SCALE	1" = 40'
DATE	8-3-03
BY	JLH
REVISION	8-3-03
HASTINGS LAND SURVEYING	
8621 CHESTNUT DRIVE	
BOZE, KANSAS 67004	
609-9188	



NOTE
THIS MAP REPRESENTS A LOT LINE ADJUSTMENT BASED ON A PREVIOUS SURVEY RECORDED AS INSTRUMENT NUMBER 2003022, FILED NOVEMBER 26, 2003 AT 8:43 AM IN THE CANYON COUNTY RECORDING OFFICE.

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**HASTINGS LAND SURVEYING
5921 CHESTNUT DRIVE
BOISE, IDAHO 83704
208-658-9199, 371-3245 cell**

**SECTION: 34
T3N, R2W, B.M.**

**May 3, 2006
Job # 2005-010**

**DESCRIPTION OF A TRACT OF LAND – Parcel B – Part of Vacated Right of Way for East Colorado Avenue on the North Side of Block 135 and part of Vacated Block 135 of the Amended Plat of Kurtz Addition to Nampa, Idaho, Plat Book 2, Page 37. 0.142 Acre.
FOR: Dan Turner – Existing Duplex**

A portion of the Northeast 1/4 of Section 34, Township 3 North, Range 2 West of the Boise Meridian in Nampa, Canyon County, Idaho, more particularly described to wit:

Commencing at a set 5/8" iron pin with a plastic cap marking the intersection of South Fern Street and East Wyoming Avenue Vacated;

thence North 00°09'44" West 380.12 feet to a set 5/8" iron pin with a plastic cap on the center line of South Fern Street and the center line of East Colorado Avenue Vacated;

thence South 89°59'46" East 40.00 feet to a set 1/2" iron pin with a plastic cap on the Easterly right of way of South Fern Street and the center line of East Colorado Avenue Vacated, the INITIAL POINT of this description.

thence continuing South 89°59'46" East 60.02 feet along the said center line of East Colorado Avenue Vacated to a set 1/2" iron pin with a plastic cap;

thence South 00°09'06" East 103.00 feet to a set 1/2" iron pin with a plastic cap;

thence North 89°59'33" West 60.00 feet to a set 1/2" iron pin with a plastic cap;

thence North 00°09'44" West 103.00 feet along the Easterly right of way of South Fern Street to the Initial Point of this description.

This tract contains 0.142 acre, more or less, and is subject to all other existing rights of way and easements.



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**HASTINGS LAND SURVEYING
5921 CHESTNUT DRIVE
BOISE, IDAHO 83704
208-658-9199, 371-3245 cell**

**SECTION: 34
T3N, R2W, B.M.**

**May 3, 2006
Job # 2005-010**

DESCRIPTION OF A TRACT OF LAND – Parcel C – Part of Vacated Right of Way for East Colorado Avenue on the North Side of Block 135 and part of Vacated Block 135 of the Amended Plat of Kurtz Addition to Nampa, Idaho, Plat Book 2, Page 37. 0.460 Acre. FOR: Dan Turner – West 4-Plex

A portion of the Northeast 1/4 of Section 34, Township 3 North, Range 2 West of the Boise Meridian in Nampa, Canyon County, Idaho, more particularly described to wit:

Commencing at a set 5/8" iron pin with a plastic cap marking the intersection of South Fern Street and East Wyoming Avenue Vacated;

thence North 00°09'44" West 380.12 feet to a set 5/8" iron pin with a plastic cap on the center line of South Fern Street and the center line of East Colorado Avenue Vacated;

thence South 89°59'46" East 100.02 feet to a set 1/2" iron pin with a plastic cap on the center line of East Colorado Avenue Vacated, the INITIAL POINT of this description.

thence continuing South 89°59'46" East 85.64 feet along the said center line of East Colorado Avenue Vacated to a set 1/2" iron pin with a plastic cap;

thence South 00°09'06" East 180.13 feet to a set 1/2" iron pin with a plastic cap;

thence North 89°59'33" West 145.63 feet to a set 1/2" iron pin with a plastic cap;

thence North 00°09'44" West 77.12 feet to a set 1/2" iron pin with a plastic cap;

thence South 89°59'33" East 60.00 feet to a set 1/2" iron pin with a plastic cap;

thence North 00°09'06" West 103.00 feet to the Initial Point of this description.

This tract contains 0.460 acre, more or less, and is to all other existing rights of way and easements.



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**HASTINGS LAND SURVEYING
5921 CHESTNUT DRIVE
BOISE, IDAHO 83704
208-658-9199, 371-3245 cell**

**SECTION: 34
T3N, R2W, B.M.**

**May 3, 2006
Job # 2005-010**

**DESCRIPTION OF A TRACT OF LAND – Parcel D – Part of Vacated Right of Way for East Colorado Avenue on the North Side of Block 135 and part of Vacated Block 135 of the Amended Plat of Kurtz Addition to Nampa, Idaho, Plat Book 2, Page 37. 0.460 Acre.
FOR: Dan Turner – Middle 4-Plex**

A portion of the Northeast 1/4 of Section 34, Township 3 North, Range 2 West of the Boise Meridian in Nampa, Canyon County, Idaho, more particularly described to wit:

Commencing at a set 5/8" iron pin with a plastic cap marking the intersection of South Fern Street and East Wyoming Avenue Vacated;

thence North 00°09'44" West 380.12 feet to a set 5/8" iron pin with a plastic cap on the center line of South Fern Street and the center line of East Colorado Avenue Vacated;

thence South 89°59'46" East 185.66 feet to a set 1/2" iron pin with a plastic cap on the center line of East Colorado Avenue Vacated, the INITIAL POINT of this description.

thence continuing South 89°59'46" East 79.21 feet along the said center line of East Colorado Avenue Vacated to a set 1/2" iron pin with a plastic cap;

thence South 00°09'06" East 103.00 feet to a set 1/2" iron pin with a plastic cap;

thence South 89°59'33" East 75.00 feet to a set 1/2" iron pin with a plastic cap;

thence South 00°09'06" East 77.13 feet to a set 1/2" iron pin with a plastic cap;

thence North 89°59'33" West 154.21 feet to a set 1/2" iron pin with a plastic cap;

thence North 00°09'06" West 180.13 feet to the Initial Point of this description.

This tract¹ contains 0.460 acre, more or less, and is subject to all other existing rights of way and easements.



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**HASTINGS LAND SURVEYING
5921 CHESTNUT DRIVE
BOISE, IDAHO 83704
208-658-9199, 371-3245 cell**

**SECTION: 34
T3N, R2W, B.M.**

**May 3, 2006
Job # 2005-010**

DESCRIPTION OF A TRACT OF LAND -- Parcel E -- Part of Vacated Right of Way for East Colorado Avenue on the North Side of Block 135 and part of Vacated Block 135 of the Amended Plat of Kurtz Addition to Nampa, Idaho, Plat Book 2, Page 37. 0.177 Acre. FOR: Dan Turner -- East 4-Plex with existing building

A portion of the Northeast 1/4 of Section 34, Township 3 North, Range 2 West of the Boise Meridian in Nampa, Canyon County, Idaho, more particularly described to wit:

Commencing at a set 5/8" iron pin with a plastic cap marking the intersection of South Fern Street and East Wyoming Avenue Vacated;

thence North 00°09'44" West 380.12 feet to a set 5/8" iron pin with a plastic cap on the center line of South Fern Street and the center line of East Colorado Avenue Vacated;

thence South 89°59'46" East 264.87 feet to a set 1/2" iron pin with a plastic cap on the center line of East Colorado Avenue Vacated, the INITIAL POINT of this description.

thence continuing South 89°59'46" East 75.00 feet along the said center line of East Colorado Avenue Vacated to a set 1/2" iron pin with a plastic cap;

thence along the Westerly right of way of South Elder Street, South 00°09'06" East 103.00 feet to a set 1/2" iron pin with a plastic cap;

thence North 89°59'33" West 75.00 feet to a set 1/2" iron pin with a plastic cap;

thence North 00°09'06" West 103.00 feet to the Initial Point of this description.

This tract contains 0.177 acre, more or less, and is subject to all other existing rights of way and easements.



**HASTINGS LAND SURVEYING
5921 CHESTNUT DRIVE
BOISE, IDAHO 83704
208-658-9199, 371-3245 cell**

**SECTION: 34
T3N, R2W, B.M.**

**May 3, 2006
Job # 2005-010**

**DESCRIPTION OF A TRACT OF LAND – Parcel H – Part of Vacated Right of Way for East Colorado Avenue on the North Side of Block 135 of the Amended Plat of Kurtz Addition to Nampa, Idaho, Plat Book 2, Page 37. 0.076 Acre.
FOR: Dan Turner – Quitclaim from Northwest Nazarene University**

A portion of the Northeast 1/4 of Section 34, Township 3 North, Range 2 West of the Boise Meridian in Nampa, Canyon County, Idaho, more particularly described to wit:

Commencing at a set 5/8" iron pin with a plastic cap marking the intersection of South Fern Street and East Wyoming Avenue Vacated;

thence North 00°09'44" West 380.12 feet to a set 5/8" iron pin with a plastic cap on the center line of South Fern Street and the center line of East Colorado Avenue Vacated;

thence South 89°59'46" East 40.00 feet to a set 1/2" iron pin with a plastic cap on the center line of East Colorado Avenue Vacated, the INITIAL POINT of this description.

thence continuing South 89°59'46" East 299.87 feet along the said center line of East Colorado Avenue Vacated to a set 1/2" iron pin with a plastic cap;

thence along the Westerly right of way of South Elder Street, North 00°09'06" West 31.94 feet to a point;

thence North 52°55'54" West 6.51 feet to a point;

thence curving to the right 239.79 feet along the arc of a curve having a radius of 976.53 feet, a central angle of 14°04'09", and a chord bearing South 81°28'52" West 239.19 feet to a point;

thence South 89°35'13" West 58.04 feet to the Initial Point of this description.

This tract contains 0.076 acre, more or less, and is subject to all other existing rights of way and easements.



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EXHIBIT "B"
CONCEPTUAL PLAN
SEE ATTACHED