 KeyCite Red Flag - Severe Negative Treatment
Overruling Recognized by **Schweitzer Basin Water Company v. Schweitzer Fire District**, Idaho, November 28, 2017
141 Idaho 349
Supreme Court of Idaho,
Idaho Falls, September 2004 Term.

Catherine G. FISCHER; **David Nixon**; Dorothy L. and W. Hunter Simpson, husband and wife; Sally Behnke, Petitioners—Appellants,
and

Paul and Carol S. Fremont—Smith, husband and wife; Timothy and Natalie Redpath, husband and wife; Frank and Jodine Tonnemaker, husband and wife; Lionel S. Mosley; Stanley C. & Gweneth Carlson, husband and wife; Hayward Sawyer; and Bruce D. Armstrong, Petitioners,

v.

CITY OF KETCHUM, an Idaho municipal corporation; the Ketchum City Council; and the Ketchum Planning and Zoning Commission, Respondents,
and

Douglas Delmonte, Intervenor—Respondent.

No. 29469.

March 25, 2005.

Synopsis

Background: Neighbors filed petition for review concerning city council's decision that upheld decision by city planning and zoning commission to approve application for conditional use permit (CUP) concerning construction of four-story duplex. The District Court, Fifth Judicial District, Blaine County, **James J. May, J.**, affirmed council's decision. Neighbors appealed.

Holdings: The Supreme Court, **Burdick, J.**, held that:

^[1] failure of application to include certification of avalanche attenuation device by licensed engineer precluded approval of application;

^[2] commission's decision that approved application was a final, appealable order; and

^[3] award of attorney fees was warranted as sanction for city's failure to act with reasonable basis in fact or law.

Reversed and remanded.

West Headnotes (14)

^[1] **Zoning and Planning** ➤ **Scope and Extent of Review**

Appellate courts will review decisions under the Local Land Use Planning Act (LLUPA) LLUPA and Idaho Administrative Procedures Act (IDAPA) independently of the decision of the district court in action seeking judicial review of zoning agency's decision. **I.C. §§ 67-5201 et seq., 67-6501 et seq.**

^[2] **Administrative Law and Procedure** ➤ **Clear error; "clearly erroneous" standard**

Supreme Court defers to the agency's findings of fact unless they are clearly erroneous.

^[3] **Administrative Law and Procedure** ➤ **Substantial evidence**

Agency's factual determinations are binding on the reviewing court, even where there is conflicting evidence before the agency, so long as the determinations are supported by substantial competent evidence in the record.

3 Cases that cite this headnote

^[4] **Zoning and Planning** ➤ **Decisions of boards or officers in general Zoning and Planning**

🔑 **Harmless error**

Party attacking zoning board's decision must first show that the board erred in a manner specified in statute setting forth grounds for setting aside agency's findings and then it must show that its substantial right has been prejudiced. I.C. § 67-5279(3).

Supreme Court applies the same principles in construing municipal ordinances as it does in the construction of statutes.

[5] **Zoning and Planning**

🔑 **Application; plans and specifications**

Failure of application for conditional use permit (CUP) concerning construction of four-story duplex in city's mountain overlay district to include certification of avalanche attenuation device by licensed engineer precluded approval of application; engineering report was prerequisite under ordinance, and city planning and zoning commission could not issue findings of fact supporting compliance with its ordinance without certification of licensed engineer to the fact that ordinance's underlying requirements had been met. I.C. § 67-6512.

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Municipal Corporations

🔑 **Construction and Operation**

Any analysis of a municipal ordinance begins with the literal language of the enactment.

2 Cases that cite this headnote

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Statutes

🔑 **Other Statutes**

All sections of applicable statutes must be construed together so as to determine the legislature's intent.

[6] **Zoning and Planning**

🔑 **Evidence and fact questions**

Applicant seeking conditional use permit (CUP) to construct four-story duplex in city's mountain overlay district had burden of persuasion to show that all requirements of local zoning ordinance concerning general CUP criteria and proposed avalanche attenuation devices were satisfied.

[10]

Zoning and Planning

🔑 **Finality; ripeness**

Decision of city planning and zoning commission that approved application for conditional use permit (CUP) concerning construction of four-story duplex was a final, appealable order; decision implied that it was a granting of the CUP. I.C. § 67-6512.

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Zoning and Planning

🔑 **Costs; attorney fees**

In proceeding seeking judicial review of city council's decision that upheld decision by city planning and zoning commission to approve application for conditional use permit (CUP) concerning construction of four-story duplex,

neighbors were entitled to award of attorney fees under statute requiring award of attorney fees to person as sanction in administrative or civil judicial proceeding against agency when agency did not act with reasonable basis; neighbors were prevailing parties, city wholly ignored provision of its avalanche zone district ordinance requiring certification by licensed engineer prior to granting of CUP, and statute governing CUPs did not allow for conditional "approval" with conditions. I.C. §§ 12-117, 67-6512.

5 Cases that cite this headnote

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States

Costs

Statute allowing award of attorney fees to person as sanction in administrative or civil judicial proceeding against agency is not discretionary but provides that the court must award attorney fees where a state agency did not act with a reasonable basis in fact or law in a proceeding involving a person who prevails in the action. I.C. § 12-117.

6 Cases that cite this headnote

[13]

Administrative Law and Procedure

Scope and Standards of Further Review
Appeal and Error

Bad faith or meritless litigation

Appellate court exercises free review over the decision of a district court applying statute requiring award of attorney fees to person as sanction in administrative or civil judicial proceeding against agency when agency did not act with reasonable basis. I.C. § 12-117.

3 Cases that cite this headnote

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Costs

Where an agency has no authority to take a particular action, it acts "without a reasonable basis in fact or law," for purposes of statute requiring award of attorney fees to person as sanction in administrative or civil judicial proceeding against state agency when agency acted without a reasonable basis in fact or law. I.C. § 12-117.

6 Cases that cite this headnote

Attorneys and Law Firms

**1093 Werth Law Office, PLLC, Ketchum, for appellants. Douglas A. Werth argued.

Benjamin Wilbur Worst, Ketchum, for respondents. Benjamin W. Worst argued.

Opinion

BURDICK, Justice.

*351 This is a case involving review of a conditional use permit application and a design review application submitted by Douglas Delmonte. Delmonte proposed to build a four-story duplex on his property located in a residential zone within the Mountain Overlay District and the Avalanche Zone District that are governed by specific provisions of the Ketchum Zoning Code. Because the Ketchum City Planning and Zoning Commission (Commission) failed to request an Idaho engineer's certification prior to granting the conditional use permit, the Commission could not legally grant the conditional use permit. The matter is remanded to Ketchum Planning and Zoning Commission for further proceedings.

I. FACTUAL AND PROCEDURAL BACKGROUND

Petitioners/Appellants (hereinafter Fischer) are owners of real property within the City of Ketchum, located on Sage Road in the vicinity of the undeveloped real property

owned by Douglas Delmonte, which is more particularly described as Lot 13, Block 3, Warm Springs Village Subdivision, Fourth Addition. The Delmonte lot is located within the red avalanche zone of the City of Ketchum and is situated on a steep hillside within the City's mountain overlay district.

Delmonte filed an application for design review (Application No. 01-006) of his proposal to construct a 9,000 square foot duplex on his lot. Delmonte also filed an application for a conditional use permit (CUP) (Application No. M001-008) related to an avalanche attenuation device. After proper notice, public hearings were held on the applications on January 14, 2002 and February 11, 2002 by the Ketchum Planning and Zoning Commission. Following the second public hearing, the Commission requested additional materials and information from Delmonte, which he was to provide at the next meeting, scheduled for February 25, 2002. On February 12, 2002, the Commission conducted a site visit.

The Commission issued its findings of fact and conclusions of law on the CUP application and a separate set of findings of fact and conclusions of law on the design review application on March 11, 2002. The Commission concluded that the CUP application complied with the Ketchum Zoning Code Title 17 and the Ketchum Comprehensive Plan and approved the CUP application provided certain conditions were met. The condition which became the subject of the controversy herein was:

The building permit plans shall be signed by an engineer licensed in the State of Idaho certifying that "the proposed construction will withstand the avalanche forces set forth in the avalanche studies on file with the City and that the proposed construction will not deflect avalanches toward the property of others[.]"

With respect to the design review application, the Commission recited facts and concluded that the project "does meet the standards of approval under Chapters 17.96 and 17.104 of Zoning Code Title 17." The Commission approved the design review application subject to seven conditions. The conditions that became issues for the Petitioners were the following:

5. The applicant shall submit with the building permit a construction plan that identifies construction dates for excavation, the construction of the wall and any necessary back fill or building construction needed to avoid increasing the avalanche danger to the Warm Springs neighborhood during the winter months, and shall add construction fencing to the sides of the

property to keep disturbance within the property[.]

6. Prior to the issuance of a building permit and prior to any on-site excavation, a construction mitigation plan shall be submitted to the Planning Department pursuant to Resolution Number 785[.]

Fischer objected to the proposed construction and filed a timely appeal from the decision of the Commission to the City Council, pursuant to Chapter 17.144.020 of the Ketchum Zoning Code and I.C. § 67-6521. The *352 **1094 Council held a hearing on May 14, 2002, and voted two to one in favor of upholding the Commission. The Council issued its decision on June 3, 2002, adopting the findings of fact of the Commission and upholding the Commission's approval of the design review and CUP applications for the Delmonte duplex.

Seeking further review of the decision of the City Council and the adopted findings of the Commission, Fischer filed a petition for review to the district court.

Fischer filed a motion to augment the record in the district court based upon I.C. § 67-5276 which was denied. The denial was based on the rule that the City Council can only consider

Matters which were previously considered by the Commission as evidenced by the record, the order, requirement, decision or determination of the Commission and the notice of appeal, together with oral presentation by the appellant, the applicant, ... and the Commission and/or staff representing the Commission.

The district court found because the City Council was limited to these things only and therefore ruled the new information was "not relevant, untimely and improperly filed."

The district court entered its memorandum decision on February 14, 2003, which affirmed the decision of the Council upholding the Commission's approval of Delmonte's applications for design review and for a CUP. Fischer timely filed a notice of appeal from the district court's memorandum decision.

II. ISSUES ON APPEAL

1. Was the Commission's failure to require an Idaho engineer's certification *prior* to approving Delmonte's conditional use permit a violation of the Ketchum Zoning Code, the Local Land Use Planning Act (LLUPA)?
2. Were the Commission's findings regarding the avalanche application supported by substantial evidence?
3. Were the Commission's findings regarding the design review application supported by substantial evidence?
4. Did the district court abuse its discretion in denying the Appellants' motion to present additional evidence for rebuttal?
5. Should Appellants be awarded attorney fees and costs under the private attorney general doctrine?
6. Should the Appellants be granted attorney fees and costs on appeal pursuant to I.C. § 12-117 and I.A.R. 41?

III. STANDARD OF REVIEW

[1] [2] [3] [4] The appellate courts will review decisions under the LLUPA and IDAPA independently of the decision of the district court. *Evans v. Bd. of Comm'rs of Cassia County* 137 Idaho 428, 430, 50 P.3d 443, 445 (2002). The standards governing judicial review in a case involving the LLUPA provide that this Court

does not substitute its judgment for that of the agency as to the weight of the evidence presented. I.C. § 67-5279(1). Rather, this Court defers to the agency's findings of fact unless they are clearly erroneous. *Price*, 131 Idaho at 429, 958 P.2d at 586 (citing *Castaneda v. Brighton Corp.*, 130 Idaho 923, 926, 950 P.2d 1262, 1265 (1998)) (citing *South Fork Coalition v. Board of Comm'rs of Bonneville County*, 117 Idaho 857, 860, 792 P.2d 882, 885 (1990)). "In other words, the agency's factual determinations are binding on the reviewing court, even where there is conflicting evidence before the agency, so long as the determinations are supported by substantial competent evidence in the record." *Id.*

The Board's zoning decision may only be overturned where its findings: (a) violate statutory or constitutional provisions; (b) exceed the agency's statutory authority; (c) are made upon unlawful procedure; (d) are not supported by substantial evidence in the record; or (e) are arbitrary, capricious, or an abuse of discretion. *Id.* (citing I.C. § 67-5279(3)). The party attacking the Board's decision must first show that the Board erred in a manner specified in Idaho Code § 67-5279(3), and then it must show that its substantial right has been prejudiced. *Id.* (citing *Angstman v. City *353 **1095 of Boise*, 128 Idaho 575, 578, 917 P.2d 409, 412 (Ct.App.1996)).

Friends of Farm to Market v. Valley County, 137 Idaho 192, 196, 46 P.3d 9, 13 (2002).

IV. ANALYSIS

A. March 11, 2002 Approval Of The Conditional Use Permit Application

[5] Fischer argues that the action taken by the Commission on March 11, 2002, was a decision granting a CUP. That decision must be reversed, argues Fischer, because the application did not contain a certification from an Idaho licensed engineer, which is required pursuant to the Ketchum Zoning Code (KZC) § 17.92.010(D)(2) governing avalanche zone districts. The City denies any failure to comply with the procedural requirements of the Code and insists that the Commission has only approved the CUP application with conditions, including a condition that the engineer's certification is provided before the CUP will be granted and a building permit issued. Fischer contends that following the City's reasoning not only allows for the submission of the engineering certification to occur after the Commission's approval, but also she will be denied not only an opportunity to rebut the certification at the public hearing (I.C. § 67-6512(b)) but also obfuscates the final filing date for appeal or judicial review.

KZC Section 17.92.010(D)(2) provides:

Avalanche protective, deflective and preventative structures, devices or earthwork, which threaten to

deflect avalanches toward the property of others or otherwise threaten to increase the danger to persons or property are prohibited. The construction of such structures, devices or earthwork shall be permitted only as a conditional use. *Prior to granting of a conditional use permit*, the applicant shall submit to the City plans signed by an engineer licensed in the state of Idaho, certifying that the proposed construction will withstand the avalanche forces set forth in the avalanche studies on file with the City and that the proposed construction will not deflect avalanches toward the property of others. Other information and engineering studies may be requested in consideration of an application for a conditional use permit. As a further condition of any conditional use permit, appropriate landscaping may be required where such structures, devices or earthwork alter the natural slope or beauty of the land. This shall not apply to reforestation. Alteration or removal of any existing natural barriers is prohibited.

Id. (emphasis added).

KZC Section 17.92.010(D)(3) provides:

Prior to the issuance of building permit for any structure within the Avalanche Zone, except a single-family residence, the applicant shall submit to the Ketchum Building Inspector plans signed by an engineer licensed in the state of Idaho, certifying that the proposed construction will withstand the avalanche forces as set forth in the avalanche studies on file with the City, or the avalanche forces set forth in a study of the property in question prepared at the owner's expense and submitted to the City by a recognized expert in the field of avalanche occurrence, force and behavior.

Id. (emphasis added). Fischer compares the language in the two sections, which in the first instance relates to "the granting of a CUP" and in the second instance relates to

"the issuance of a building permit." Fischer contends only the Commission may grant a CUP, which action is not ministerial in nature and is distinct from the issuance of a building permit. We agree.

Under the Ketchum Zoning Code, conditional uses "shall be allowed only upon the approval of the Commission, subject to such conditions as the Commission may attach. Such approval shall be in the form of a written permit." KZC § 17.116.010. *See also I.C. § 67-6519* (providing for a procedure for processing applications for permits that are to be examined before the commission makes its decision on the permit or makes its recommendation to the governing board). Only when the application demonstrates that conditional use permit criteria have been satisfied, shall the Commission "grant" a conditional use permit. KZC § 17.116.030.

****1096** ^[6] ***354** When deciding whether to grant a CUP, the Ordinance requires the Commissioners to consider whether the application satisfies the general CUP criteria, as well as whether the proposed avalanche attenuation device "threaten[s] to deflect avalanches toward the property of others or otherwise threaten to increase the danger to persons or property." *See* KZC § 17.116.030; KZC § 17.92.010(D)(2). The burden of persuasion is upon the applicant (Delmonte) to show that all of the above requirements were satisfied. *Howard v. Canyon County Bd. of Comm'rs*, 128 Idaho 479, 481, 915 P.2d 709, 711 (1996).

After three public hearings and a site visit, the Commissioners found:

The duplex is proposed to be constructed to withstand the forces of avalanches. The duplex is proposed to have a structural wall positioned mostly perpendicular to the flow of the design avalanche.... The Commission found that, in addition, the proposal would not otherwise threaten to increase the danger to persons or property.

The applicant will need to submit building permit plans which are stamped by the engineer certifying that the proposed construction will withstand avalanche forces set forth in the avalanche studies on file with the City and that the proposed construction will not deflect

avalanches toward the property of others. The Commission found that the design and proposed construction of the building meets this standard only if the working drawings prepared for the building permit are certified by an engineer according to this standard. If the plans are not certified, the applicant does not receive a Conditional Use Permit or a building permit. The Commission found that if the applicant meets the conditions of approval, there will be no increase in danger to the neighborhood.

The Commission thereafter concluded that the application complies with Ketchum Zoning Code Title 17 and the Ketchum Comprehensive Plan and approved the CUP application on February 25, 2002. The Commission attached to its decision approving the CUP a condition that "the building permit plans shall be signed by an engineer licensed in the State of Idaho certifying that 'the proposed construction will withstand the avalanche forces set forth in the avalanche studies on file with the City and that the proposed construction will not deflect avalanches toward the property of others.' "

Fischer argues that pursuant to Title 17, the Commission shall "approve, deny or approve with conditions the application for a conditional use permit." KZC § 17.116.040. Fischer asserts that approval is the "granting" of a CUP, *see* KZC 17.116.050, challenging the City's position that it will grant the CUP upon receipt of the engineer's certification.

[7] [8] [9] We apply the same principles in construing municipal ordinances as we do in the construction of statutes. *Friends of Farm to Market v. Valley County*, 137 Idaho 192, 197, 46 P.3d 9, 14 (2002), (citing *Cunningham v. City of Twin Falls*, 125 Idaho 776, 779, 874 P.2d 587, 590 (Ct.App.1994)). Any such analysis begins with the literal language of the enactment. *Ada County v. Gibson*, 126 Idaho 854, 856, 893 P.2d 801, 803 (Ct.App.1995). All sections of applicable statutes must be construed together so as to determine the legislature's intent. *Friends of Farm to Market*, 137 Idaho at 197, 46 P.3d at 14, (citing *Lockhart v. Dept. of Fish and Game*, 121 Idaho 894, 897, 828 P.2d 1299, 1302 (1992)).

In the instant case, Delmonte made a similar argument as that made by Mr. Daley, in *Daley v. Blaine County* that it is impractical and uneconomical to obtain an engineer's certification until the application is approved. In *Daley v. Blaine County*, 108 Idaho 614, 701 P.2d 234 (1985), the Supreme Court affirmed the Board of Commissioners' denial of a conditional use permit to erect a building for residential use in a flood plain management district. Daley challenged the denial and argued that he could not "see going out and spending \$500 to \$800 to design a [mound]

system that shows it can be done right, and then having the application denied anyway." *Daley*, 108 Idaho at 616, 701 P.2d at 236. Because "the application for the conditional use permit did not contain all *355 **1097 necessary building specifications, or the specifications for sewer and water facilities," the Court determined that serious questions remained unanswered by the applicant, justifying the Commissioners' decision to deny the conditional use application. *Id.*

The CUP application in Delmonte's case does not include an engineer's report to ensure that the avalanche attenuation device will meet the standard of the ordinance, and approval of the application without the required certification avoids compliance with the ordinance.

The Commission cannot issue findings of fact supporting compliance with its ordinance without the certification of a licensed engineer to the fact that the ordinance's underlying requirements have been met. Without the certification of the licensed engineer at the public hearings leading to the issuance of the conditional use permit, the interested public has no meaningful chance to comment on the CUP's impact on community or other facts affecting surrounding property.

The Commission's two-step process of "approval with conditions" prior to granting the CUP, nullifies the importance of the statutory public hearing required under I.C. § 67-6512(b). In the system which exists now, the conditions of the Commission's "approval" are referred to staff. Staff then makes the decision as to whether the conditions have been met and refers the matter back to the Commission for final granting of the CUP. In doing so there is no chance for public comment on the final granting of the CUP. Idaho Code § 67-6512(e) specifically contemplated that further studies may be ordered but those must be done prior to granting the CUP. Again, the interested parties right to a public hearing is weakened or possibly nullified if those studies are not completed prior to the public hearing.

The Ketchum zoning ordinances show only the Commission may grant a CUP, not the staff. By I.C. § 67-6512 the CUP can only be granted, denied, or granted with conditions by the Commission.

[10] Ketchum further argues Fischer has failed to timely file the notice of appeal from the Commission. It is clear the Commission's "approval of Delmonte's CUP was a final appealable order, thus implying it was a granting of the CUP pursuant to I.C. § 67-6512." In *Canal/Norcrest, Columbus Action Committee v. City of Boise*, 136 Idaho

666, 668, 39 P.3d 606, 608 (2001), the issue presented to the Court was whether the approval of the conditional use permit was a final action by the city. The Court inquired into whether further action by the Board or the City is required determines the finality of the approval for appeal purposes and held:

The approval of the conditional use permit by the City in this case provides that the developer obtain the necessary permits to begin construction, including the design review approval. Only if the developer fails to comply with the stated conditions of the permit will the Council be required to take further action on the permit and consider revocation. [The Court held] that the City's approval of the conditional use application is a final, appealable decision subject to judicial review.

Id. at 671–72, 39 P.3d at 610–11. (internal citations omitted). It has previously been held the date on which the decision is made corresponds to the date of the written findings, conclusions and order, which starts the time for filing an appeal. See *White v. Bannock County Comm'rs*, 139 Idaho 396, 80 P.3d 332 (2003). Here, Fischer properly filed the notice of appeal from the decision of the Commission, which the City of Ketchum is asserting is merely the “approval” of the CUP.

Because the Court has found the Commission failed to properly grant a Conditional Use Permit the other issues presented are moot.

E. Attorney Fees

^[11] ^[12] ^[13] Fischer asserts an entitlement to attorney fees under I.C. § 12–117. The statute provides: “In any administrative or civil judicial proceeding involving as adverse parties ... a city ... and a person, the court shall award the person reasonable attorney fees, witness fees and reasonable expenses, if the court finds in favor of the person and also finds that the ... city ... acted without a reasonable basis in fact or law.” The statute *356 **1098 is not discretionary but provides that the court must award attorney fees where a state agency did not act with a

reasonable basis in fact or law in a proceeding involving a person who prevails in the action. See *Dep't of Finance v. Resource Service Co., Inc.*, 134 Idaho 282, 284, 1 P.3d 783, 785 (2000). As previously explained by this Court, one of the purposes of this section is to provide a remedy for persons who have borne unfair and unjustified financial burden attempting to correct mistakes agencies should never have made. *Bogner v. State Dep't of Revenue & Taxation*, 107 Idaho 854, 859, 693 P.2d 1056, 1061 (1984). The appellate court exercises free review over the decision of a district court applying I.C. § 12–117. See *id.*

The City wholly ignored the provision of its avalanche zone district ordinance requiring the certification by an Idaho licensed engineer “prior to the granting of a conditional use permit.”

^[14] The Court finds Fischer is the prevailing party. The Court finds the Commission ignored the plain language of the ordinance that a certification by a licensed engineer concerning an avalanche attenuation device is required before granting a CUP. Where an agency has no authority to take a particular action, it acts without a reasonable basis in fact or law. *Moosman v. Idaho Horse Racing Commission*, 117 Idaho 949, 954, 793 P.2d 181, 186 (1990).

Pursuant to I.C. § 67–6512, the CUP can only be granted or denied—and if granted some conditions may apply. There is no provision for an interim “approval” with conditions. The City had no authority to enact an ordinance inconsistent with I.C. § 67–6512. Attorney fees are awarded to Fischer pursuant to I.C. § 12–117.

Because of the award of attorney fees pursuant to I.C. § 12–117, the Court does not address the request for fees pursuant to the private attorney general's doctrine.

V. CONCLUSION

There was no certification of the avalanche attenuation device by an Idaho licensed engineer submitted to the Commission. Its absence precludes the approval of the conditional use permit, which has as a prerequisite the engineering certification. The Commission has never properly granted the CUP and therefore the Court need not address any other issues until the proper procedure has been utilized.

Fischer is found to be the prevailing party and the Court finds that the City acted without a reasonable basis in fact or law, and therefore awards attorney fees pursuant to **I.C. § 12-117**. The matter is remanded to the Planning and Zoning Commission for further proceedings consistent with this opinion.


Chief Justice **SCHROEDER** and Justices **TROUT**, **EISMANN** and **KIDWELL**, Pro Tem concur.

All Citations

141 Idaho 349, 109 P.3d 1091

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Reversed and remanded.

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☞ **Applicability of statutory construction rules**

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States

Costs

Statute allowing award of attorney fees to person as sanction in administrative or civil judicial proceeding against agency is not discretionary but provides that the court must award attorney fees where a state agency did not act with a reasonable basis in fact or law in a proceeding involving a person who prevails in the action. I.C. § 12-117.

6 Cases that cite this headnote

113]

Administrative Law and Procedure

Scope and Standards of Further Review
Appeal and Error

Bad faith or meritless litigation

Appellate court exercises free review over the decision of a district court applying statute requiring award of attorney fees to person as sanction in administrative or civil judicial proceeding against agency when agency did not act with reasonable basis. I.C. § 12-117.

3 Cases that cite this headnote

114]

States

Costs

Where an agency has no authority to take a particular action, it acts "without a reasonable basis in fact or law," for purposes of statute requiring award of attorney fees to person as sanction in administrative or civil judicial proceeding against state agency when agency acted without a reasonable basis in fact or law. I.C. § 12-117.

6 Cases that cite this headnote

Attorneys and Law Firms

**1093 Werth Law Office, PLLC, Ketchum, for appellants. Douglas A. Werth argued.

Benjamin Wilbur Worst, Ketchum, for respondents. Benjamin W. Worst argued.

Opinion

BURDICK, Justice.

*351 This is a case involving review of a conditional use permit application and a design review application submitted by Douglas Delmonte. Delmonte proposed to build a four-story duplex on his property located in a residential zone within the Mountain Overlay District and the Avalanche Zone District that are governed by specific provisions of the Ketchum Zoning Code. Because the Ketchum City Planning and Zoning Commission (Commission) failed to request an Idaho engineer's certification prior to granting the conditional use permit, the Commission could not legally grant the conditional use permit. The matter is remanded to Ketchum Planning and Zoning Commission for further proceedings.

I. FACTUAL AND PROCEDURAL BACKGROUND

Petitioners/Appellants (hereinafter Fischer) are owners of real property within the City of Ketchum, located on Sage Road in the vicinity of the undeveloped real property

owned by Douglas Delmonte, which is more particularly described as Lot 13, Block 3, Warm Springs Village Subdivision, Fourth Addition. The Delmonte lot is located within the red avalanche zone of the City of Ketchum and is situated on a steep hillside within the City's mountain overlay district.

Delmonte filed an application for design review (Application No. 01-006) of his proposal to construct a 9,000 square foot duplex on his lot. Delmonte also filed an application for a conditional use permit (CUP) (Application No. M001-008) related to an avalanche attenuation device. After proper notice, public hearings were held on the applications on January 14, 2002 and February 11, 2002 by the Ketchum Planning and Zoning Commission. Following the second public hearing, the Commission requested additional materials and information from Delmonte, which he was to provide at the next meeting, scheduled for February 25, 2002. On February 12, 2002, the Commission conducted a site visit.

The Commission issued its findings of fact and conclusions of law on the CUP application and a separate set of findings of fact and conclusions of law on the design review application on March 11, 2002. The Commission concluded that the CUP application complied with the Ketchum Zoning Code Title 17 and the Ketchum Comprehensive Plan and approved the CUP application provided certain conditions were met. The condition which became the subject of the controversy herein was:

The building permit plans shall be signed by an engineer licensed in the State of Idaho certifying that "the proposed construction will withstand the avalanche forces set forth in the avalanche studies on file with the City and that the proposed construction will not deflect avalanches toward the property of others[.]"

With respect to the design review application, the Commission recited facts and concluded that the project "does meet the standards of approval under Chapters 17.96 and 17.104 of Zoning Code Title 17." The Commission approved the design review application subject to seven conditions. The conditions that became issues for the Petitioners were the following:

5. The applicant shall submit with the building permit a construction plan that identifies construction dates for excavation, the construction of the wall and any necessary back fill or building construction needed to avoid increasing the avalanche danger to the Warm Springs neighborhood during the winter months, and shall add construction fencing to the sides of the

property to keep disturbance within the property[.]

6. Prior to the issuance of a building permit and prior to any on-site excavation, a construction mitigation plan shall be submitted to the Planning Department pursuant to Resolution Number 785[.]

Fischer objected to the proposed construction and filed a timely appeal from the decision of the Commission to the City Council, pursuant to Chapter 17.144.020 of the Ketchum Zoning Code and I.C. § 67-6521. The *352 **1094 Council held a hearing on May 14, 2002, and voted two to one in favor of upholding the Commission. The Council issued its decision on June 3, 2002, adopting the findings of fact of the Commission and upholding the Commission's approval of the design review and CUP applications for the Delmonte duplex.

Seeking further review of the decision of the City Council and the adopted findings of the Commission, Fischer filed a petition for review to the district court.

Fischer filed a motion to augment the record in the district court based upon I.C. § 67-5276 which was denied. The denial was based on the rule that the City Council can only consider

Matters which were previously considered by the Commission as evidenced by the record, the order, requirement, decision or determination of the Commission and the notice of appeal, together with oral presentation by the appellant, the applicant, ... and the Commission and/or staff representing the Commission.

The district court found because the City Council was limited to these things only and therefore ruled the new information was "not relevant, untimely and improperly filed."

The district court entered its memorandum decision on February 14, 2003, which affirmed the decision of the Council upholding the Commission's approval of Delmonte's applications for design review and for a CUP. Fischer timely filed a notice of appeal from the district court's memorandum decision.

II. ISSUES ON APPEAL

1. Was the Commission's failure to require an Idaho engineer's certification *prior* to approving Delmonte's conditional use permit a violation of the Ketchum Zoning Code, the Local Land Use Planning Act (LLUPA)?
2. Were the Commission's findings regarding the avalanche application supported by substantial evidence?
3. Were the Commission's findings regarding the design review application supported by substantial evidence?
4. Did the district court abuse its discretion in denying the Appellants' motion to present additional evidence for rebuttal?
5. Should Appellants be awarded attorney fees and costs under the private attorney general doctrine?
6. Should the Appellants be granted attorney fees and costs on appeal pursuant to I.C. § 12-117 and I.A.R. 41?

III. STANDARD OF REVIEW

[1] [2] [3] [4] The appellate courts will review decisions under the LLUPA and IDAPA independently of the decision of the district court. *Evans v. Bd. of Comm'rs of Cassia County* 137 Idaho 428, 430, 50 P.3d 443, 445 (2002). The standards governing judicial review in a case involving the LLUPA provide that this Court

does not substitute its judgment for that of the agency as to the weight of the evidence presented. I.C. § 67-5279(1). Rather, this Court defers to the agency's findings of fact unless they are clearly erroneous. *Price*, 131 Idaho at 429, 958 P.2d at 586 (citing *Castaneda v. Brighton Corp.*, 130 Idaho 923, 926, 950 P.2d 1262, 1265 (1998)) (citing *South Fork Coalition v. Board of Comm'rs of Bonneville County*, 117 Idaho 857, 860, 792 P.2d 882, 885 (1990)). "In other words, the agency's factual determinations are binding on the reviewing court, even where there is conflicting evidence before the agency, so long as the determinations are supported by substantial competent evidence in the record." *Id.*

The Board's zoning decision may only be overturned where its findings: (a) violate statutory or constitutional provisions; (b) exceed the agency's statutory authority; (c) are made upon unlawful procedure; (d) are not supported by substantial evidence in the record; or (e) are arbitrary, capricious, or an abuse of discretion. *Id.* (citing I.C. § 67-5279(3)). The party attacking the Board's decision must first show that the Board erred in a manner specified in Idaho Code § 67-5279(3), and then it must show that its substantial right has been prejudiced. *Id.* (citing *Angstman v. City* *353 **1095 of *Boise*, 128 Idaho 575, 578, 917 P.2d 409, 412 (Ct.App.1996)).

Friends of Farm to Market v. Valley County, 137 Idaho 192, 196, 46 P.3d 9, 13 (2002).

IV. ANALYSIS

A. March 11, 2002 Approval Of The Conditional Use Permit Application

[5] Fischer argues that the action taken by the Commission on March 11, 2002, was a decision granting a CUP. That decision must be reversed, argues Fischer, because the application did not contain a certification from an Idaho licensed engineer, which is required pursuant to the Ketchum Zoning Code (KZC) § 17.92.010(D)(2) governing avalanche zone districts. The City denies any failure to comply with the procedural requirements of the Code and insists that the Commission has only approved the CUP application with conditions, including a condition that the engineer's certification is provided before the CUP will be granted and a building permit issued. Fischer contends that following the City's reasoning not only allows for the submission of the engineering certification to occur after the Commission's approval, but also she will be denied not only an opportunity to rebut the certification at the public hearing (I.C. § 67-6512(b)) but also obfuscates the final filing date for appeal or judicial review.

KZC Section 17.92.010(D)(2) provides:

Avalanche protective, deflective and preventative structures, devices or earthwork, which threaten to

deflect avalanches toward the property of others or otherwise threaten to increase the danger to persons or property are prohibited. The construction of such structures, devices or earthwork shall be permitted only as a conditional use. *Prior to granting of a conditional use permit*, the applicant shall submit to the City plans signed by an engineer licensed in the state of Idaho, certifying that the proposed construction will withstand the avalanche forces set forth in the avalanche studies on file with the City and that the proposed construction will not deflect avalanches toward the property of others. Other information and engineering studies may be requested in consideration of an application for a conditional use permit. As a further condition of any conditional use permit, appropriate landscaping may be required where such structures, devices or earthwork alter the natural slope or beauty of the land. This shall not apply to reforestation. Alteration or removal of any existing natural barriers is prohibited.

Id. (emphasis added).

KZC Section 17.92.010(D)(3) provides:

Prior to the issuance of building permit for any structure within the Avalanche Zone, except a single-family residence, the applicant shall submit to the Ketchum Building Inspector plans signed by an engineer licensed in the state of Idaho, certifying that the proposed construction will withstand the avalanche forces as set forth in the avalanche studies on file with the City, or the avalanche forces set forth in a study of the property in question prepared at the owner's expense and submitted to the City by a recognized expert in the field of avalanche occurrence, force and behavior.

Id. (emphasis added). Fischer compares the language in the two sections, which in the first instance relates to "the granting of a CUP" and in the second instance relates to

"the issuance of a building permit." Fischer contends only the Commission may grant a CUP, which action is not ministerial in nature and is distinct from the issuance of a building permit. We agree.

Under the Ketchum Zoning Code, conditional uses "shall be allowed only upon the approval of the Commission, subject to such conditions as the Commission may attach. Such approval shall be in the form of a written permit." KZC § 17.116.010. *See also I.C. § 67-6519* (providing for a procedure for processing applications for permits that are to be examined before the commission makes its decision on the permit or makes its recommendation to the governing board). Only when the application demonstrates that conditional use permit criteria have been satisfied, shall the Commission "grant" a conditional use permit. KZC § 17.116.030.

****1096** ⁽⁶⁾ *354 When deciding whether to grant a CUP, the Ordinance requires the Commissioners to consider whether the application satisfies the general CUP criteria, as well as whether the proposed avalanche attenuation device "threaten[s] to deflect avalanches toward the property of others or otherwise threaten to increase the danger to persons or property." *See* KZC § 17.116.030; KZC § 17.92.010(D)(2). The burden of persuasion is upon the applicant (Delmonte) to show that all of the above requirements were satisfied. *Howard v. Canyon County Bd. of Comm'rs*, 128 Idaho 479, 481, 915 P.2d 709, 711 (1996).

After three public hearings and a site visit, the Commissioners found:

The duplex is proposed to be constructed to withstand the forces of avalanches. The duplex is proposed to have a structural wall positioned mostly perpendicular to the flow of the design avalanche.... The Commission found that, in addition, the proposal would not otherwise threaten to increase the danger to persons or property.

* * *

The applicant will need to submit building permit plans which are stamped by the engineer certifying that the proposed construction will withstand avalanche forces set forth in the avalanche studies on file with the City and that the proposed construction will not deflect

avalanches toward the property of others. The Commission found that the design and proposed construction of the building meets this standard only if the working drawings prepared for the building permit are certified by an engineer according to this standard. If the plans are not certified, the applicant does not receive a Conditional Use Permit or a building permit. The Commission found that if the applicant meets the **conditions of approval**, there will be no increase in danger to the neighborhood.

The Commission thereafter concluded that the application complies with Ketchum Zoning Code Title 17 and the Ketchum Comprehensive Plan and approved the CUP application on February 25, 2002. The Commission attached to its decision approving the CUP a condition that "the building permit plans shall be signed by an engineer licensed in the State of Idaho certifying that 'the proposed construction will withstand the avalanche forces set forth in the avalanche studies on file with the City and that the proposed construction will not deflect avalanches toward the property of others.' "

Fischer argues that pursuant to Title 17, the Commission shall "approve, deny or **approve** with **conditions** the application for a conditional use permit." KZC § 17.116.040. Fischer asserts that approval is the "granting" of a CUP, *see* KZC 17.116.050, challenging the City's position that it will grant the CUP upon receipt of the engineer's certification.

[7] [8] [9] We apply the same principles in construing municipal ordinances as we do in the construction of statutes. *Friends of Farm to Market v. Valley County*, 137 Idaho 192, 197, 46 P.3d 9, 14 (2002), (citing *Cunningham v. City of Twin Falls*, 125 Idaho 776, 779, 874 P.2d 587, 590 (Ct.App.1994)). Any such analysis begins with the literal language of the enactment. *Ada County v. Gibson*, 126 Idaho 854, 856, 893 P.2d 801, 803 (Ct.App.1995). All sections of applicable statutes must be construed together so as to determine the legislature's intent. *Friends of Farm to Market*, 137 Idaho at 197, 46 P.3d at 14, (citing *Lockhart v. Dept. of Fish and Game*, 121 Idaho 894, 897, 828 P.2d 1299, 1302 (1992)).

In the instant case, Delmonte made a similar argument as that made by Mr. Daley, in *Daley v. Blaine County* that it is impractical and uneconomical to obtain an engineer's certification until the application is approved. In *Daley v. Blaine County*, 108 Idaho 614, 701 P.2d 234 (1985), the Supreme Court affirmed the Board of Commissioners' denial of a conditional use permit to erect a building for residential use in a flood plain management district. Daley challenged the denial and argued that he could not "see going out and spending \$500 to \$800 to design a [mound]

system that shows it can be done right, and then having the application denied anyway." *Daley*, 108 Idaho at 616, 701 P.2d at 236. Because "the application for the conditional use permit did not contain all *355 **1097 necessary building specifications, or the specifications for sewer and water facilities," the Court determined that serious questions remained unanswered by the applicant, justifying the Commissioners' decision to deny the conditional use application. *Id.*

The CUP application in Delmonte's case does not include an engineer's report to ensure that the avalanche attenuation device will meet the standard of the ordinance, and approval of the application without the required certification avoids compliance with the ordinance.

The Commission cannot issue findings of fact supporting compliance with its ordinance without the certification of a licensed engineer to the fact that the ordinance's underlying requirements have been met. Without the certification of the licensed engineer at the public hearings leading to the issuance of the conditional use permit, the interested public has no meaningful chance to comment on the CUP's impact on community or other facts affecting surrounding property.

The Commission's two-step process of "**approval** with **conditions**" prior to granting the CUP, nullifies the importance of the statutory public hearing required under I.C. § 67-6512(b). In the system which exists now, the conditions of the Commission's "approval" are referred to staff. Staff then makes the decision as to whether the conditions have been met and refers the matter back to the Commission for final granting of the CUP. In doing so there is no chance for public comment on the final granting of the CUP. Idaho Code § 67-6512(e) specifically contemplated that further studies may be ordered but those must be done prior to granting the CUP. Again, the interested parties right to a public hearing is weakened or possibly nullified if those studies are not completed prior to the public hearing.

The Ketchum zoning ordinances show only the Commission may grant a CUP, not the staff. By I.C. § 67-6512 the CUP can only be granted, denied, or granted with conditions by the Commission.

[10] Ketchum further argues Fischer has failed to timely file the notice of appeal from the Commission. It is clear the Commissions "approval of Dalmonte's CUP was a final appealable order, thus implying it was a granting of the CUP pursuant to I.C. § 67-6512." In *Canal/Norcrest, Columbus Action Committee v. City of Boise*, 136 Idaho

666, 668, 39 P.3d 606, 608 (2001), the issue presented to the Court was whether the approval of the conditional use permit was a final action by the city. The Court inquired into whether further action by the Board or the City is required determines the finality of the approval for appeal purposes and held:

The approval of the conditional use permit by the City in this case provides that the developer obtain the necessary permits to begin construction, including the design review approval. Only if the developer fails to comply with the stated conditions of the permit will the Council be required to take further action on the permit and consider revocation. [The Court held] that the City's approval of the conditional use application is a final, appealable decision subject to judicial review.

Id. at 671–72, 39 P.3d at 610–11. (internal citations omitted). It has previously been held the date on which the decision is made corresponds to the date of the written findings, conclusions and order, which starts the time for filing an appeal. See *White v. Bannock County Comm'rs*, 139 Idaho 396, 80 P.3d 332 (2003). Here, Fischer properly filed the notice of appeal from the decision of the Commission, which the City of Ketchum is asserting is merely the “approval” of the CUP.

Because the Court has found the Commission failed to properly grant a Conditional Use Permit the other issues presented are moot.

E. Attorney Fees

^[11] ^[12] ^[13] Fischer asserts an entitlement to attorney fees under I.C. § 12–117. The statute provides: “In any administrative or civil judicial proceeding involving as adverse parties ... a city ... and a person, the court shall award the person reasonable attorney fees, witness fees and reasonable expenses, if the court finds in favor of the person and also finds that the ... city ... acted without a reasonable basis in fact or law.” The statute *356 **1098 is not discretionary but provides that the court must award attorney fees where a state agency did not act with a

reasonable basis in fact or law in a proceeding involving a person who prevails in the action. See *Dep't of Finance v. Resource Service Co., Inc.*, 134 Idaho 282, 284, 1 P.3d 783, 785 (2000). As previously explained by this Court, one of the purposes of this section is to provide a remedy for persons who have borne unfair and unjustified financial burden attempting to correct mistakes agencies should never have made. *Bogner v. State Dep't of Revenue & Taxation*, 107 Idaho 854, 859, 693 P.2d 1056, 1061 (1984). The appellate court exercises free review over the decision of a district court applying I.C. § 12–117. See *id.*

The City wholly ignored the provision of its avalanche zone district ordinance requiring the certification by an Idaho licensed engineer “prior to the granting of a conditional use permit.”

^[14] The Court finds Fischer is the prevailing party. The Court finds the Commission ignored the plain language of the ordinance that a certification by a licensed engineer concerning an avalanche attenuation device is required before granting a CUP. Where an agency has no authority to take a particular action, it acts without a reasonable basis in fact or law. *Moosman v. Idaho Horse Racing Commission*, 117 Idaho 949, 954, 793 P.2d 181, 186 (1990).

Pursuant to I.C. § 67–6512, the CUP can only be granted or denied—and if granted some conditions may apply. There is no provision for an interim “approval” with conditions. The City had no authority to enact an ordinance inconsistent with I.C. § 67–6512. Attorney fees are awarded to Fischer pursuant to I.C. § 12–117.

Because of the award of attorney fees pursuant to I.C. § 12–117, the Court does not address the request for fees pursuant to the private attorney general's doctrine.

V. CONCLUSION

There was no certification of the avalanche attenuation device by an Idaho licensed engineer submitted to the Commission. Its absence precludes the approval of the conditional use permit, which has as a prerequisite the engineering certification. The Commission has never properly granted the CUP and therefore the Court need not address any other issues until the proper procedure has been utilized.

Fischer is found to be the prevailing party and the Court finds that the City acted without a reasonable basis in fact or law, and therefore awards attorney fees pursuant to **I.C. § 12-117**. The matter is remanded to the Planning and Zoning Commission for further proceedings consistent with this opinion.

Chief Justice **SCHROEDER** and Justices **TROUT**, **EISMANN** and **KIDWELL**, Pro Tem concur.

All Citations

141 Idaho 349, 109 P.3d 1091

End of Document

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Entered as paid w/
wired 11/18

November 18, 2019

Heather Soelberg, City Clerk
City of Cascade
105 S. Main
Cascade, ID 83611

Subject: The River District Market Absorption

As additional clarification for the project we have provided an analysis of how the project will come online, and an anticipated build out of the site. The first phase of the development consists of 260 residential units and 12 commercial lots. It is anticipated that this site will be approved late 2019 or early 2020, design will take approximately 2-3 months, with plan approval taking approximately 2-3 months. Construction would begin early to mid summer 2020. The site construction would take approximately 4-6 months, thus recording the first phase in early 2021. There are 208 multifamily units, 43 townhouse units, 9 cottage lots, and 12 commercial lots in phase one. The following is an anticipated absorption rate with the unit type for the first phase:

1. Single Family Cottage Lots (9): These would all be absorbed first year 2021 and built on.
2. Townhouse lots (43): roughly half would be absorbed 2021 with the remainder absorbed 2022.
3. Multifamily Units (208): it is assumed that these will be build in approximately 3 phases of approximately 70 units per phase, which equates to full buildout by 2023.
4. Commercial Units (12): this use will be one of the last uses developed in the project and is the more difficult to project absorption. That said, one could predict potentially two of the commercial lots within the first five years, 2026, and full buildout 2046. This will be the last to build out in the entire development.

Phase two final plat would be submitted upon substantial absorption of phase one, and that is anticipated to be submitted in late 2023 or early 2024. Assuming the final plat and construction drawings are approved by early summer, and construction completed late 2024, lots would become available in early 2025. There are 48 multifamily units and 48 single family homes in phase two. The following is an anticipated absorption rate for phase two:

1. Multifamily Units (48): all 48 would be completed in 2025.
2. Single Family Units (48): it is assumed that it will take approximately four years for abortion, with final completion in late 2029.

Assuming that the final plat for phase three is submitted late 2029, lot construction would again begin in early summer with site construction finishing late that year with lots

coming on late spring 2030. There are 15 estate lots within this third phase of development. The following is an absorption rate of those lots:

1. Single Family River lots (15): due to the nature of the price of these lots it is assumed that these lots will take approximately 2 years to be absorbed. The lots would be absorbed by 2032, but it will be likely that market demand for more estate lots, so phase four would begin in 2031.

Phase four is proposed to be submitted in late 2031 with construction and final plat recordation in late 2032, and lots becoming available to construct on in early summer of 2033. There are 39 single family lots within phase four. The following is the absorption rate for phase 4:

1. Single Family Estate lots (39): it will take approximately three year for absorption of this phase with final build out in 2036.

Phase five is proposed to be submitted in late 2034 with construction and final plat recordation in late 2035, and lots becoming available to construct on in early summer of 2036. There are 28 single family lots within phase five. The following is the absorption rate for phase five:

1. Single Family Estate lots (28): two years with full buildout 2038.

Our intention is to provide a projection based on current market conditions and apply them to a higher end project then project the market absorption on this site. Many factors went into the projection including site location, product type, market demand, and Valley County economic forecasts. If there are any question or additional clarification needed, please do not hesitate to call me at (208) 871-7020, and I would be happy to discuss or provide additional information for them.

Sincerely,
A Team Land Consultants



Steve Arnold
Project & Real Estate Manager

Cc: Josh & Phil Davis
Peggy Breski
Dan Dunn, PLS
David Sterling, P.E
Stephen Bradbury

Entered as part of
memo 11/18

Jennifer Hill

From: Peggy Breski <peggyb@horrocks.com>
Sent: Monday, June 03, 2019 2:12 PM
To: Heather Soelberg
Subject: RE: CRR City Impact Statement

He doesn't ask very clearly so it's not your fault.

Thanks so much,

Peggy Breski
Senior Planner | Project Manager



2775 W. Navigator Dr., Suite 210
Meridian, Idaho 83642

Direct 208-895-2520
Email peggyb@horrocks.com
Web www.horrocks.com

From: Heather Soelberg <clerk@cascadeid.us>
Sent: Monday, June 3, 2019 2:10 PM
To: Steve Arnold <steve@ateamboise.com>; Judith R. Nissula <mayor@cascadeid.us>
Cc: Carrie Rushby <deputyclerk@cascadeid.us>; Peggy Breski <peggyb@horrocks.com>; 'Matthew A. Johnson' <mjohnson@WHITEPETERSON.com>; 'Stephen Bradbury' <steve@williamsbradbury.com>; Peggy Breski <peggyb@horrocks.com>
Subject: RE: CRR City Impact Statement

Well, I over thought what you were asking. Attached is the approved budget for the current fiscal year.

Building Department: The City averages 1 new resident permit and 6 remodel/addition permits per year; a total number of permits being an average of 50

- P&Z:** The Commission receives less than 5 applications per year.
- Streets:** The City maintains 2.5 miles of paved roads and approximately 12 miles of dirt roads.
- Water:** The City has 632 water connections.
- Sewer:** The City has 582 sewer connections



Heather M. Soelberg
Clerk / Treasurer
(208) 382-4279 phone
(208) 382-7204 fax

clerk@cascadeid.us

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From: Steve Arnold <steve@ateamboise.com>
Sent: Monday, June 03, 2019 1:52 PM
To: Heather Soelberg <clerk@cascadeid.us>; Judith R. Nissula <mayor@cascadeid.us>
Cc: Carrie Rushby <deputyclerk@cascadeid.us>; 'Peggy Breski' <peggyb@horrocks.com>; 'Matthew A. Johnson' <mjohnson@WHITEPETERSON.com>; 'Stephen Bradbury' <steve@williamsbradbury.com>; 'Peggy Breski' <peggyb@horrocks.com>
Subject: RE: CRR City Impact Statement

Heather,

I am a little confused, I thought we were providing the impact statement, and the City was just providing us the budget numbers to use as a projections of our impact? The lot count for phase one is 12 commercial lots, 47 townhouse lots 40 multifamily lots (240 units), and 10 cottage lots. The total roadway length is 2.7 miles, with approximately 2,500-feet in phase one.

Thanks,



Steve Arnold, Project Manager
(208) 871-7020
1785 S Whisper Cove, Boise, Idaho 83709
steve@ateamboise.com

From: Heather Soelberg <clerk@cascadeid.us>
Sent: Monday, June 3, 2019 1:39 PM
To: Steve Arnold <steve@ateamboise.com>; Judith R. Nissula <mayor@cascadeid.us>
Cc: Carrie Rushby <deputyclerk@cascadeid.us>; 'Peggy Breski' <peggyb@horrocks.com>; 'Matthew A. Johnson' <mjohnson@WHITEPETERSON.com>; 'Stephen Bradbury' <steve@williamsbradbury.com>; 'Peggy Breski' <peggyb@horrocks.com>
Subject: RE: CRR City Impact Statement

I need two items for you to finish up my calculations, the miles of paved roads and the number of water and Sewer connects are required for River Ranch. Once I have that information I will be able to finish up.



Heather M. Soelberg
Clerk / Treasurer
(208) 382-4279 phone

(208) 382-7204 fax
clerk@cascadeid.us

CONFIDENTIALITY NOTICE: This electronic mail transmission may contain legally privileged, confidential information belonging to the sender. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or taking any action based on the contents of this electronic mail is strictly prohibited. If you have received this electronic mail in error, please contact sender and delete all copies. Also, please be aware that if you are not the intended recipient, any review, disclosure, copying, distribution or any action or reliance based on this message is prohibited by law.

From: Steve Arnold <steve@ateamboise.com>
Sent: Monday, June 03, 2019 1:30 PM
To: Judith R. Nissula <mayor@cascadeid.us>; Heather Soelberg <clerk@cascadeid.us>
Cc: Carrie Rushby <deputyclerk@cascadeid.us>; 'Peggy Breski' <peggyb@horrocks.com>; 'Matthew A. Johnson' <mjohnson@WHITEPETERSON.com>; 'Stephen Bradbury' <steve@williamsbradbury.com>; 'Peggy Breski' <peggyb@horrocks.com>
Subject: RE: CRR City Impact Statement

Judith,

Sorry to keep bugging you but we have been asked to have our impact analysis to the City by this Wednesday so we are running out of time. With that said could you please get us the budget information today.

Thanks,



Steve Arnold, Project Manager
(208) 871-7020
1785 S Whisper Cove, Boise, Idaho 83709
steve@ateamboise.com

From: Judith R. Nissula <mayor@cascadeid.us>
Sent: Friday, May 31, 2019 4:08 PM
To: Steve Arnold <steve@ateamboise.com>; Heather Soelberg <clerk@cascadeid.us>
Cc: Carrie Rushby <deputyclerk@cascadeid.us>; 'Peggy Breski' <peggyb@horrocks.com>; 'Matthew A. Johnson' <mjohnson@WHITEPETERSON.com>; 'Stephen Bradbury' <steve@williamsbradbury.com>; 'Peggy Breski' <peggyb@horrocks.com>
Subject: RE: CRR City Impact Statement
Importance: High

Oh yes, I jumped the gun – Heather is normally is out on Friday's however I have asked that if possible to get this information to you over the weekend.

Thanks!

From: Steve Arnold <steve@ateamboise.com>
Sent: Friday, May 31, 2019 4:03 PM
To: Judith R. Nissula <mayor@cascadeid.us>; Heather Soelberg <clerk@cascadeid.us>
Cc: Carrie Rushby <deputyclerk@cascadeid.us>; 'Peggy Breski' <peggyb@horrocks.com>; 'Matthew A. Johnson' <mjohnson@WHITEPETERSON.com>; 'Stephen Bradbury' <steve@williamsbradbury.com>; 'Peggy Breski' <peggyb@horrocks.com>
Subject: RE: CRR City Impact Statement

Judith,

I have those agencies numbers and I have spoke with them, it was the other information in the e-mail below that I was seeking additional information on. Any help would be greatly appreciated.

Thanks,



Steve Arnold, Project Manager

(208) 871-7020

1785 S Whisper Cove, Boise, Idaho 83709

steve@ateamboise.com

© 2019 ATEAM Land Development & Real Estate Services

From: Judith R. Nissula <mayor@cascadeid.us>

Sent: Friday, May 31, 2019 3:46 PM

To: Steve Arnold <steve@ateamboise.com>; Heather Soelberg <clerk@cascadeid.us>

Cc: Carrie Rushby <deputyclerk@cascadeid.us>; Peggy Breski <peggyb@horrocks.com>; 'Matthew A. Johnson' <mjohnson@WHITEPETERSON.com>; Stephen Bradbury <steve@williamsbradbury.com>; Peggy Breski <peggyb@horrocks.com>

Subject: RE: CRR City Impact Statement

Cascade Rural Fire District -- Fire Chief Steven Hall (208) 631-6108 direct

Cascade School District #422 -- (208) 630-6057

From: Steve Arnold <steve@ateamboise.com>

Sent: Friday, May 31, 2019 3:43 PM

To: Heather Soelberg <clerk@cascadeid.us>; Judith R. Nissula <mayor@cascadeid.us>

Cc: Carrie Rushby <deputyclerk@cascadeid.us>; Peggy Breski <peggyb@horrocks.com>; 'Matthew A. Johnson' <mjohnson@WHITEPETERSON.com>; Stephen Bradbury <steve@williamsbradbury.com>; Peggy Breski <peggyb@horrocks.com>

Subject: CRR City Impact Statement

Heather,

I'm trying to wrap up our Impact Statement and still looking for information from you concerning:

Sewer: City Budget, and number of units served
Water: City Budget, and number of units served.
City Administration Budget
Any Other deemed important.

I have the School, Fire, Police, EMS figured out, but I also need the trash, to you have a contact for them?

I'm working against a deadline so the sooner that you can get that to us the better.

I appreciate the help.

Thanks,



Steve Arnold, Project Manager

(208) 871-7020

1785 S Whisper Cove, Boise, Idaho 83709

steve@ateambolse.com

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M/F/V/D/AAE

Entered as per mtg 11/18

Jennifer Hill

From: Peggy Breski <peggyb@horrocks.com>
Sent: Friday, June 28, 2019 8:18 AM
To: Heather Soelberg
Cc: Judith R. Nissula
Subject: RE: Fiscal Impact Report

This is EXCELLENT information, heather – WOW. I think we should definitely discuss how we want to address this.

Thanks so much,

Peggy Breski
Senior Planner | Project Manager



2775 W. Navigator Dr., Suite 210
Meridian, Idaho 83642

Direct 208-895-2520
Email peggyb@horrocks.com
Web www.horrocks.com

From: Heather Soelberg <clerk@cascadeid.us>
Sent: Thursday, June 27, 2019 5:15 PM
To: Peggy Breski <peggyb@horrocks.com>
Cc: Judith R. Nissula <mayor@cascadeid.us>
Subject: RE: Fiscal Impact Report

I have some concerns with there evaluation.

To begin the heading of "tax revenue" is misleading. Most of these identified are fees. State law states: (1) That an imposed fee bears a reasonable relationship to the cost of the particular fee being assessed, and the spread between the actual cost of administration and the amount of fees collected is not so great as to be a revenue rather than an actual measure; (2) The fee is actually an assessment to provide benefits or facilities for the general public; and (3) Fees for proprietary. So in short fees are not "revenue generation."

The Sewer and Water hook-up fees recover the costs associated with providing water and/or sewer capacity to new users, the fee is based upon past investments and future anticipated investments into the water and/or sewer infrastructure. Therefore, this is not a revenue but a cost that City will have to expend to provide services to The River District.

The Mechanical Fees and Building Permits are a fee paid by the homebuilder to ensure compliance with building codes. Again these costs should cover the actual costs of administering of building permits and the actual cost of the building inspector. Therefore, again this is not a revenue but a cost that City will have to incur to provide services to The River District.

Annual Taxes and Fees, I am not clear what they are defining as an “annual water fee” or “annual sewer fee.”

Highway Distribution Account (Highway User Tax) is revenue from vehicle registration, fuel taxes, and other transportation related fees that are distributed amongst ITD, ISP, and local highway districts. Of the local highway district percentage (which is 32 1/3% of the total amt collected), cities receive 30% of that at a per capita basis. The current estimated amount received from HAD is \$46,182. While the assumption the population of the City might double, any increase of revenue would only take place following a census reporting. Additionally, HAD funds are dedicated funds for maintenance, construction and development of roads/streets/bridges. Not having a clear understanding if the roads are going to be private or public, their estimate of \$32,250 will not even cover the actual costs to the City to maintain these additional roads/streets if turned over the City. Currently the City budget for streets is approx. \$407,000, this provides the bare essentials for maintaining dirt roads and very little towards paved roads.

Annual Property Taxes are the only true discretionary revenue the City will see from The River District. This money may be used to help redistribute the tax burden currently born by the citizens of Cascade. BUT, keep in mind this estimated tax revenue has many variables (ie, are the primary residence or second home, for profit or non-profit ownership, the amount time between approval and full build-out). Additionally, the City can only legally increase its tax levy by 3% from the highest tax levy amount taken within the last three years. By the time full buildout takes place this current year will be the highest tax levy the City will have taken in a three-year period MEANING, each year the City will be limited to increasing its property tax by 3% possibly burdening the City limited revenue sources. So if The River District takes 5 years to reach full build out the City will only see a realized increase of property tax revenue of less than \$100,000 – even though there is a real possibility of property tax values within the City doubling.

Items that will have a positive impact to the City’s revenue will be franchise fees collected by Idaho Power and Cable One. Additionally, if the City is able to pass a LOT tax, monies spent by these new residents will help provide additional income via a local option tax.



Heather M. Soelberg
Clerk / Treasurer
(208) 382-4279 phone
(208) 382-7204 fax

clerk@cascadeid.us

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From: Peggy Breski <peggyb@horrocks.com>
Sent: Thursday, June 27, 2019 3:38 PM
To: Heather Soelberg <clerk@cascadeid.us>
Subject: RE: Fiscal Impact Report

Of course! Attached.

Thanks so much,

Peggy Breski
Senior Planner | Project Manager

HORROCKS
ENGINEERS

2775 W. Navigator Dr., Suite 210
Meridian, Idaho 83642

Direct 208-895-2520
Email peggyb@horrocks.com
Web www.horrocks.com

From: Heather Soelberg <clerk@cascadeid.us>
Sent: Thursday, June 27, 2019 3:36 PM
To: Peggy Breski <peggyb@horrocks.com>
Subject: RE: Fiscal Impact Report

I don't see that I have it in my email. Can you send it to me (again). And I'll review it tonight.



Heather M. Soelberg
Clerk / Treasurer
(208) 382-4279 phone

(208) 382-7204 fax
clerk@cascadeid.us

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From: Peggy Breski <peggyb@horrocks.com>
Sent: Thursday, June 27, 2019 3:30 PM
To: Heather Soelberg <clerk@cascadeid.us>
Cc: Judith R. Nissula <mayor@cascadeid.us>
Subject: Fiscal Impact Report
Importance: High

Has anyone had a chance to review the Fiscal Impact Report provided by the Applicant yet?

If not (I understand) should I say that Applicant submitted and so we're fine there?

Thanks so much,

Peggy Breski
Senior Planner | Project Manager

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Meridian, Idaho 83642

Direct 208-895-2520
Email peggyb@horrocks.com
Web www.horrocks.com

Entered as paid w/
received 11/18

Jennifer Hill

From: Peggy Breski <peggyb@horrocks.com>
Sent: Monday, June 03, 2019 2:46 PM
To: Steve Arnold; Heather Soelberg; Judith R. Nissula
Cc: Carrie Rushby; 'Matthew A. Johnson'; 'Stephen Bradbury'
Subject: RE: CRR City Impact Statement

Thank you. Final confirmation:

The number of hook-ups the development in will require, in total, is minimally:

- 455 residential hook-ups
- 48 commercial hook-ups (assuming 4 hook-ups per lot, but which could easily be more)

TOTAL: 503 hook-ups minimally

Thanks so much,

Peggy Breski
Senior Planner | Project Manager

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ENGINEERS

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Meridian, Idaho 83642

Direct 208-895-2520
Email peggyb@horrocks.com
Web www.horrocks.com

From: Steve Arnold <steve@ateamboise.com>
Sent: Monday, June 3, 2019 2:33 PM
To: Peggy Breski <peggyb@horrocks.com>; 'Heather Soelberg' <clerk@cascadeid.us>; 'Judith R. Nissula' <mayor@cascadeid.us>
Cc: 'Carrie Rushby' <deputyclerk@cascadeid.us>; 'Matthew A. Johnson' <mjohnson@WHITEPETERSON.com>; 'Stephen Bradbury' <steve@williamsbradbury.com>
Subject: RE: CRR City Impact Statement

Peggy,

You are correct on the single family, towns, and cottages, plus we have 12-commercial lots. The 24-plex buildings you are correct, 96 total units. I attached the cover sheet which has it broken out in the parking and lot counts.

Thanks,



Steve Arnold, Project Manager
(208) 871-7020

1785 S Whisper Cove, Boise, Idaho 83709

steve@ateamboise.com

From: Peggy Breski <peggyb@horrocks.com>

Sent: Monday, June 3, 2019 2:11 PM

To: Steve Arnold <steve@ateamboise.com>; 'Heather Soelberg' <clerk@cascadeid.us>; 'Judith R. Nissula' <mayor@cascadeid.us>

Cc: 'Carrie Rushby' <deputyclerk@cascadeid.us>; 'Matthew A. Johnson' <mjohnson@WHITEPETERSON.com>; 'Stephen Bradbury' <steve@williamsbradbury.com>

Subject: RE: CRR City Impact Statement

Here is how I'm seeing it right now, can you fill in the blank for me below, Steve?

Estate/Large lots "single family": 158 units

Cottage/small: 10 units

Townhome: 47 units

Four-plex: 144 units

Apartments: ____ units (96? 4 buildings of 24 units?)

Thanks so much,

Peggy Breski

Senior Planner | Project Manager

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ENGINEERS

2775 W. Navigator Dr., Suite 210
Meridian, Idaho 83642

Direct 208-895-2520

Email peggyb@horrocks.com

Web www.horrocks.com

From: Steve Arnold <steve@ateamboise.com>

Sent: Monday, June 3, 2019 1:52 PM

To: 'Heather Soelberg' <clerk@cascadeid.us>; 'Judith R. Nissula' <mayor@cascadeid.us>

Cc: 'Carrie Rushby' <deputyclerk@cascadeid.us>; Peggy Breski <peggyb@horrocks.com>; 'Matthew A. Johnson' <mjohnson@WHITEPETERSON.com>; 'Stephen Bradbury' <steve@williamsbradbury.com>; Peggy Breski <peggyb@horrocks.com>

Subject: RE: CRR City Impact Statement

Heather,

I am a little confused, I thought we were providing the impact statement, and the City was just providing us the budget numbers to use as a projections of our impact? The lot count for phase one is 12 commercial lots, 47 townhouse lots 40 multifamily lots (240 units), and 10 cottage lots. The total roadway length is 2.7 miles, with approximately 2,500-feet in phase one.

Thanks,



Steve Arnold, Project Manager

(208) 871-7020

1785 S Whisper Cove, Boise, Idaho 83709

steve@ateamboise.com

From: Heather Soelberg <clerk@cascadeid.us>

Sent: Monday, June 3, 2019 1:39 PM

To: Steve Arnold <steve@ateamboise.com>; Judith R. Nissula <mayer@cascadeid.us>

Cc: Carrie Rushby <deputyclerk@cascadeid.us>; 'Peggy Breski' <peggyb@horrocks.com>; 'Matthew A. Johnson'

<mjohnson@WHITEPETERSON.com>; 'Stephen Bradbury' <steve@williamsbradbury.com>; 'Peggy Breski'

<peggyb@horrocks.com>

Subject: RE: CRR City Impact Statement

I need two items for you to finish up my calculations, the miles of paved roads and the number of water and Sewer connects are required for River Ranch. Once I have that information I will be able to finish up.



Heather M. Soelberg

Clerk / Treasurer

(208) 382-4279 phone

(208) 382-7204 fax

clerk@cascadeid.us

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From: Steve Arnold <steve@ateamboise.com>

Sent: Monday, June 03, 2019 1:30 PM

To: Judith R. Nissula <mayer@cascadeid.us>; Heather Soelberg <clerk@cascadeid.us>

Cc: Carrie Rushby <deputyclerk@cascadeid.us>; 'Peggy Breski' <peggyb@horrocks.com>; 'Matthew A. Johnson'

<mjohnson@WHITEPETERSON.com>; 'Stephen Bradbury' <steve@williamsbradbury.com>; 'Peggy Breski'

<peggyb@horrocks.com>

Subject: RE: CRR City Impact Statement

Judith,

Sorry to keep bugging you but we have been asked to have our impact analysis to the City by this Wednesday so we are running out of time. With that said could you please get us the budget information today.

Thanks,



Steve Arnold, Project Manager

(208) 871-7020

1785 S Whisper Cove, Boise, Idaho 83709

steve@ateamboise.com

From: Judith R. Nissula <mayor@cascadeid.us>

Sent: Friday, May 31, 2019 4:08 PM

To: Steve Arnold <steve@ateamboise.com>; Heather Soelberg <clerk@cascadeid.us>

Cc: Carrie Rushby <deputyclerk@cascadeid.us>; 'Peggy Breski' <peggyb@horrocks.com>; 'Matthew A. Johnson' <mjohnson@WHITEPETERSON.com>; 'Stephen Bradbury' <steve@williamsbradbury.com>; 'Peggy Breski' <peggyb@horrocks.com>

Subject: RE: CRR City Impact Statement

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Thanks!

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Subject: RE: CRR City Impact Statement

Judith,

I have those agencies numbers and I have spoke with them, it was the other information in the e-mail below that I was seeking additional information on. Any help would be greatly appreciated.

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Steve Arnold, Project Manager

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steve@ateamboise.com

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Subject: RE: CRR City Impact Statement

Cascade Rural Fire District – Fire Chief Steven Hall (208) 631-6108 direct

Cascade School District #422 – (208) 630-6057

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<peggyb@horrocks.com>
Subject: CRR City Impact Statement

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Water: City Budget, and number of units served.
City Administration Budget
Any Other deemed important.

I have the School, Fire, Police, EMS figured out, but I also need the trash, to you have a contact for them?

I'm working against a deadline so the sooner that you can get that to us the better.

I appreciate the help.

Thanks,



Steve Arnold, Project Manager

(208) 871-7020

1785 S Whisper Cove, Boise, Idaho 83709

steve@ateamboise.com

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Entered as part of
MUSD 11/18

**THIRD STAFF REPORT
for SPECIAL P&Z MEETING
The River District (f.k.a. Cascade River Ranch)
ANNEX-19-01, ZON-19-01, PUD-19-01, SUB-19-01**

Staff: City of Cascade
SPECIAL MEETING: July 1, 2019
Applicant: Steve Arnold, A-Team Land Development & Real Estate
Owner: Cascade River LLC
Location: North-east of Highway 55, adjacent to the Payette River
Size of Site: 121.17 acres
Existing Zone: Mixed Use (MU)
Proposed Use: C Zone (portion) and R-3 Zone (portion)

This Staff Report is for the Special Meeting called by Planning & Zoning Commissioners at the June 17, 2019 Public Hearing.

REQUEST

Steve Arnold, A-Team Land Development & Real Estate (hereby "Applicant" or "Developer") made a request for approval of a mixed-use development for The River District fka River Ranch Subdivision. The application packet consisted of an Annexation Application, Rezone Application, Planned Unit Development Application and a Preliminary Plat Application.

The development consists of: (i) 7.47 acres of commercial use; (ii) 13.7 acres of multi-family use; (iii) 36.2 acres of single-family use; and (iv) 34.4 acres of open space. The subject property is located northeast of Highway 55, adjacent to the Payette River along the southern bank. The property is further described as W/2 E/2; NE4 NW4; GOV'T. LOTS 1, 2, & 5; GOV'T. LOT 6, LYING N. AND E. OF HWY. 55 S31 T14N R4E.

BACKGROUND

ANNEXATION AND INITIAL ZONING DESIGNATION

The applicant is requesting annexation of the 121.17 acres currently zoned as MU. The site is located outside of the City limits within the area of impact and is currently used as agricultural/grazing land. The property is contiguous with existing City limits to the west (at the river point, wherein the river is not considered a separator). The applicant has requested the property be initially zoned in portions to R-3, and after Staff recommendation, portions to C.

PLANNED UNIT DEVELOPMENT / PRELIMINARY PLAT (*Applicant narrative*):

The site is situated on and accessed from State Highway 55, the major corridor into the City of Cascade. The developer wishes to create a sense of place as you enter the City. The fact that the site is situated within a floodplain and floodways, is abutting the Payette River, and contains a large amount of wetlands creates challenges to develop; but the developer and owners believe these features can become great amenities to the project.

The residential portion of the property includes 158 estate lots, 10 cottage lots, 47 townhouse lots and 51 multifamily lots (47 '4-plex' lots and 4 apartment lots); this equates to a total of 499 individual residential units. The commercial portion of the property includes 12 separate commercial lots on approximately 7.47 acres. The gross density of the areas ranges from 1.9 du/ac (dwelling units per acre) for a single family up to 22 du/ac for the multifamily.

The multifamily component of the project can provide needed housing for the valley, and commercial will be developed as the project progresses. High-end estate lots will be created along with Payette River, and will most likely consist of second homes and/or vacation homes. Other residential development such as townhomes, cottages and standard single family residential lots will also be developed.

All wetland areas will consist of a pedestrian pathway system near or adjacent to open rail fencing. There will be CC&R's and an Architectural Control committee, a uniform design scheme and color scheme will be implemented. The HOA will maintain all common areas through imposed assessments. Access to the commercial lots will be via approaches off the main collector. As with the residential portion of the development, there will be CC&R's along with an Architectural Control committee, a uniform design scheme and color scheme will be implemented. A separate association will maintain all common areas through imposed assessments.

STANDARDS REVIEWED AND APPLIED FOR APPLICATIONS:

1. Idaho Statute Sections: 67-6512, 6509, 6535, 50-222(3), 50-223, 63-2215, 67-6525, 67-6511
2. Idaho Code Section 5-1301 through 50-1329
3. Cascade City Codes: CCC 3-2-6-C-6, CCC 3-1-12-A-7(j), CCC 3-2-6-C-7, CCC 3-2-4-A, CCC 3-2-4-C/D, CCC 3-2-6-E-1(a-d), CCC 3-2-3-C-4, CCC 3-1-8-D-2(f-g), CCC 3-1-8-D-2(d), CCC 3-1-8-D-2(a), CCC 3-2-4-D-1, CCC 3-1-8-F, CCC 3-2-3-B-5-c-1, CCC 3-5-4-E-3-h, CCC 3-1-14-A-2-b-2, and Section 3.2.2 Functional Classification of the Comprehensive Plan

Final Plat for the subdivision will be considered after approval of Construction Drawings.

COMPREHENSIVE PLAN

Staff has reviewed Application(s) for compliance with the Comprehensive Plan as a matter of Code requirement. Staff finds the Applications generally comply with the Comprehensive Plan. Applicant submitted a detailed Narrative on June 14, 2019 explaining how the Applications align with the Comprehensive Plan, which is attached hereto.

SIGNIFICANT IMPACTS

The scale and scope of this development is anticipated to have significant impacts to the residents of Cascade, and to the City. With the likely potential that once fully built out the development will at least double the population of Cascade, in as little as five years' time, City and Staff must take a cautious but open approach to the proposal. Impacts to be considered are impacts to infrastructure, public services, traffic, community organizations and businesses, housing availability, as well as recreational areas. Environmental impacts will also be substantial due to the existing constraints of the site (including floodway, floodplain, wetlands, and river

bank), and so environmental assessments should be considered. None of this is to say or imply that the impacts are either positive or negative, but simply that the impacts will be far reaching and should be contemplated when making any determinations regarding approving or denying the applications.

FINDINGS

1. A pre-application meeting was held on November 1, 2018 at Cascade City Hall. The applicants were present as well as the land developer, city staff and representatives from ITD, Horrocks Engineering, City Public Works and Cascade Rural Fire.
2. The application was submitted on January 22, 2019.
3. Notice for the February 19, 2019 Public Hearing was provided in accordance with Idaho and City Code. Agency notice was provided on February 4 and/or 5, 2019. Newspaper notice was provided on Jan 31, 2019 and Feb. 7, 2019. Property owners within 300' were notified by mail on February 4 and/or 5, 2019. The site was posted on February 11, 2019.
 - a. Commissioner Perkins made a motion to re-open the public hearing on March 4, 2019 for Cascade River LLC, ANNEX-19-01, ZON-19-01, PUD-19-01, SUB-19-01. Commissioner White seconded the motion.
 - b. Commissioner Perkins amended her motion to reopen the public hearing on March 4, 2019 for Cascade River LLC, ZON-19-01, PUD-19-01, SUB-19-01. Commissioner White amended the seconded. Roll call vote: LH, yes; HP, yes; CW, yes.
4. Notice for the May 20, 2019 Public Hearing was provided in accordance with Idaho and City Code. Agency notice was provided on May 2, 2019. Newspaper notice was provided on April 25, 2019 and May 2, 2019. Property owners within 300' were notified by mail on May 2, 2019. The site was posted on May 2, 2019.
5. Notice for the June 17, 2019 Public Hearing was provided in accordance with the Idaho and City Code. Agency notice was provided on May 2, 2019 and followed up on June 13, 2019. Newspaper notice was provided on May 30, 2019 and June 6, 2019 (*confirm*). Property owners within 300' were notified by mail on May 3, 2019. The site was posted on June 4, 2019.
6. At the June 17, 2019 Planning and Zoning Commission Public Hearing the Commission made a motion to table the River District applications to a Special Meeting, to be held Monday, July 1, 2019 for a decision. This was posted on the City's website and posted on the City's Notice Board.

COMMENTS

PUBLIC COMMENTS

For a list of public comments received prior to the May 20, 2019 Hearing please see previous Staff Reports or make request with the Deputy Clerk. Staff received one public comment between May 20 - June 30, 2019.

1. Letter received from Linda L. Thacker, 107 Cabarton Road, Unit 1: wrote Opposed to the Applications. Copy of this public comment is attached.

AGENCY COMMENTS

For a list of agency comments received prior to the May 20, 2019 Hearing please make request with the Deputy Clerk. Comments listed below are those that have been received between May 20 - June 30, 2019.

1. Comments from an Agency meeting held Monday, June 24, 2019 at ITD District 3 Offices: A meeting with Applicant, Staff and the Idaho Transportation Department ("ITD") determined that Applicant may have adequate frontage along State Highway 55 to allow for two (2) separate, public accesses into the development; if approved these two (2) accesses will allow for compliance of primary and secondary accesses to the site as required by Fire Code. The preliminary, tentative approval is subject to the ITD required Traffic Impact Study ("TIS") and associated permitting if approved by ITD after review of the TIS.
2. Email correspondence received from Ken Couch, Permits Coordinator, Idaho Transportation Department on June 11, 2019 with the following comments (this email is also attached to this report):
 - a. Secondary access spacing is covered under the Idaho Administrative Procedures Act (IDAPA) in section 39.03.42. Due to spacing restrictions only one of the access points shown can be accepted as a public road. Accesses upstream from a public road must be a minimum of 660'. Accesses downstream from a public road is a minimum of 360'. If the area is annexed into the City the minimum spacing for a full access is 360' between approaches that are not public roads where highway speeds are greater than 35mph. Any spacing less than the minimums requires a traffic impact study. Also, since their build out is in excess of 100 residential units, IDAPA requires submittal of a traffic impact study. This study needs to analyze all points of access.
 - b. ITD has concerns that locating a commercial approach too close may cause traffic to backup into the highway. Most local agencies have a minimum spacing requirement similar to ITDs (typically around 600' or more) to allow for traffic storage space. This question may be better addressed by our Technical Engineer, Erika Bowen.
3. Letter from Paul H. Scoresby, Schiess & Associates on June 11, 2019 with the following comments (*paraphrased to condense*):
 - a. Wastewater treatment facility has the **current capacity to service approximately 100 more hook-ups**; installing aeration improvements would provide treatment for an additional 200 homes – for a total of 300 hook-ups but only after aeration improvements are installed. Additional aeration and facility design will need to be considered to increase the treatment plant capacity to 500+ additional hookups. Additional wastewater treatment issues will also need to be addressed including the addition of a vertical screen and other permitting (IPDES) requirements by the DEQ.
 - b. Wastewater collection pipe capacity appears to be adequate, capacity of these lines should be verified. The proposed lift station would only be able to serve the homes and businesses within the first phase of proposed development.
 - c. DEQ has other concerns relating to the City's suction lift station design, infiltration, stand-by generator that should be considered as part of the preliminary plat approval.
 - d. Drinking water supply capacity would fall outside the minimum service levels outlined in the Idaho Drinking Water Rules. Conceptually, the City will have to drill another well and add more storage. Additional studies will need to be conducted to determine if the distribution pipe network will be adequate to deliver needed water supply and pressure to the development.

Staff Comment: For clarification purposes, the intent of the development is not to use City water for irrigation but rather to use on-site water resources. The above conditions (namely Item d) still apply but it is important to make this distinction.

- e. The City should apply for the DEQ drinking water facility planning study grant in January 2020.

STAFF COMMENTS

The City and the developer have undertaken three (3) written/documented efforts, three (3) working meetings and two (2) public meetings toward resolution of Code required City review and comments, and with each effort progress has been made. While minor revisions remain to be completed on the Preliminary Plat, **Staff will recommend approval of Preliminary Plat and Planned Unit Development applications subject to all of the conditions contained in each of the following sections of this Staff Report:**

- A. Staff Findings and Recommendations;
- B. Standard Conditions;
- C. Special Conditions;
- D. Conditions of Approval; and
- E. Staff Draft of Findings of Fact, Conclusions of Law, and Recommendation on ANNEX-19-01 and ZON-19-01 (not contained in this document).

A. Staff Findings and Recommendations

1. Staff finds that two (2) potential public accesses have been determined, and such accesses will be included in Applicant's Traffic Impact Study as required by ITD. Staff finds that these accesses must be reflected on an updated Preliminary Plat for City Council review and contemplation.
2. Staff finds that Exception Requests by Applicant had been determined by P&Z Commissioners at the June 17, 2019 public meeting, however they were not voted upon. Staff recommends that Commissioners vote to ratify the determinations as made on June 17, 2019 (which are attached hereto), and that the approved exceptions be reflected on an updated Preliminary Plat for City Council contemplation.
3. Staff review of the Fiscal Impact Report indicates that the numbers as prepared by Applicant do not accurately reflect the fiscal impact to the City. Staff review [giving consideration and estimation to unknown and/or variable items] indicate that the development as proposed may [is likely to] cause financial impact in the form of a deficit to the City. Staff recommends that Development Agreement include stipulation(s) for Applicant to provide fiscal relief in order for the passage of Planned Unit Development.
4. Staff recommends that Applicant and City enter into and execute a Development Agreement as required by Code: CCC 3-7-1 and 3-7-2. Staff recommends this resolution of a Development Agreement should occur concurrent with City Council's final passage of Annexation and Zoning Designation Ordinance adoption (CCC 3-7-4).
5. Staff finds that existing water and sewer capacity will allow for entitlement of up to 65 water & sewer hook-ups; this allowance is based upon the attached letter from Schiess Engineers. Staff finds that upon submittal of the developments 50th building permit, Applicant and City shall undertake improvements for added capacity, as shall be stipulated in the Development Agreement.
6. Staff finds that the Preliminary Plat and PUD submittals provide sufficient information of Applicant's intent to be considered by the Commission, therefore Staff makes recommendation to approve the Preliminary Plat and PUD applications, and forward said applications to City Council for deliberation,

subject to compliance of all conditions in this document including provision of updated Preliminary Plat prior to City Council review.

B. STANDARD CONDITIONS

1. The applicant shall comply with all requirements of City of Cascade Ordinances, unless waived for good cause shown as approved by the Commission.
2. Street names shall be in accordance with Title 8 Chapter 5 (with proper designations), and shall be placed on the plat prior to City Engineer signing the final plat.
3. Complete construction plans, including, but not limited to, water, sewer, storm drainage, erosion and sediment control, SWPPP, grading, and irrigation shall be reviewed and approved by City Engineer prior to commencing construction.
4. Per Idaho Code, Section 31-3805, concerning irrigation water rights, transfer and disclosure, the water rights appurtenant to the lands in said subdivision; the subdivider shall provide for underground tile or other like satisfactory underground conduit or system to permit the delivery of water to those landowners within the subdivision who are also within the irrigation entity and entitled to irrigation water. Plans showing the irrigation delivery system must be prepared by a Registered Professional Engineer and shall be approved by the City Engineer prior to City Engineer signature on final plat.
5. The applicant shall submit a letter from the appropriate drainage entity approving the drainage system and/or accepting said drainage; or submit a letter from a Registered Professional Engineer certifying that all drainage shall be retained on site prior to the City Engineer signing the final plat. A copy of the construction drawings shall be submitted with the letter.
6. Storm water retention and treatment plans shall be submitted for review and approval by the City Engineer prior to City Engineer signing the final plat. The plans will clearly show how the storm water will be treated and the infrastructure will be constructed. The system must be constructed prior to City Engineer signing the final plat. Lots must be graded so stormwater runoff is contained on site. No runoff shall cross any lot line onto another lot.
7. Lighting Plan (as required by application) shall be submitted and approved prior to City Engineer signature on final plat. The plans shall detail location, height, and wattage of lights. If street light construction is not in the dedicated public right of way, an easement for the installation and maintenance of the street light, including fixtures, conduit and wiring, shall be depicted on the final plat. Dark Sky Code Ordinance shall be considered with design of street light plan if applicable.
8. All utilities necessary to service the development shall be extended 'to and through' the development, as may be necessary to provide for the orderly expansion of services in the City. The applicant shall provide all easements, as required, for installation of all utilities necessary to service the subject development.
9. An approval letter from the Cascade Rural Fire Protection District or applicable Agency shall be submitted to the City prior to City Engineer signing the final plat.
10. Covenants, restrictions, homeowners association bylaws, or other similar deed restrictions which provide for the use, control, and mutual maintenance of all common areas, storage facilities, recreational facilities, street lights, or all open spaces shall be reviewed by the City Attorney prior to the City Engineer signing the final plat.
11. A note shall be placed on the final plat stating "Minimum building setback lines shall be in accordance with the applicable zoning and subdivision regulations at the time of issuance of the building permit, or as specifically approved and/or required in Development Agreement."

12. The development in total and its impact on wetlands and other natural waterways shall be approved in writing by the US Army Corps of Engineers and any other jurisdictional agency including but not limited to the Idaho Department of Water Resources, the Idaho Department of Lands, DEQ and the State Floodplain Administrator prior to the City Engineer signature on the final plat.
13. No land disturbance shall occur without written approval(s) by US Army Corps of Engineers and other jurisdictional agencies.
14. Cascade City Code, International Building Code, and all applicable County, State, and Federal Codes and Regulations shall be met. All design and construction shall be in conformance with City of Cascade Codes and Idaho Standard for Public Works Construction where City Code does not exist.
15. Any changes to the approved plans and specifications will require submittal of an amendment request for the modification, to be submitted to the City. The application for amendment must be approved prior to the change. Any change in the planned use of the property under this application shall require the applicant to comply with all rules, regulations, ordinances, plans, or other regulatory and legal restrictions applicable at the time the applicant (or its successors) submits an application to the City of Cascade for a change in the planned use of the property.
16. In conformance with City of Cascade Code 3-2-3(C)(11)(a), failure to file the final plat within one (1) year after written approval from the City shall cause this approval to be null and void. A time extension submitted prior to the expiration date of the final plat approval may be granted.
17. Applicant must submit updated landscape plan once Exceptions Requests and other pertinent Plat updates have been integrated into the final Preliminary Plat and PUD submittal; approval of updated Landscape Plan will be a condition of Final Plat Approval.
18. Development in its entirety must make allowance and include area at each lot to accommodate for underground/buried heating apparatus (fuel tanks).
19. Plat must include/show cross access easements in public/common lots as required for pedestrian and resident access across lot lines. Easements shall provide for perpetual legal access that cannot be vacated in the future without express permission and approval of City Council.

C. SPECIAL CONDITIONS

1. The Applicant shall be required to obtain an Avigation Easement.
2. Applicant shall provide items as previously requested by Staff:
 - a. Show dimensions and radii at all corners, turns, approaches, accesses and cul-de-sacs. Updated Preliminary Plat showing these revisions will be required no later than the Wednesday immediately prior to the City Council Hearing date in order to be included in the Council Packet.
 - b. Show all easements, existing and proposed, within and at the boundary of the site to be shown. Updated Preliminary Plat showing these revisions will be required no later than the Wednesday immediately prior to the City Council Hearing date in order to be included in the Council Packet.
 - c. Written approval from US Army Corps of Engineers of the wetland delineation and studies as mentioned on page 4 of Applicant's original application narrative.
 - d. Determination of roadways in the townhome area. Updated Preliminary Plat showing these revisions will be required no later than the Wednesday immediately prior to the City Council Hearing date in order to be included in the Council Packet.
 - e. Correct roadway widths at cul-de-sacs as required by Code to allow for exception in cul-de-sac length. Updated Preliminary Plat showing these revisions will be required no later than the Wednesday immediately prior to the City Council Hearing date.

- f. Survey data utilized to design the PUD and Preliminary Plat; Staff has concern that survey data utilized may be outdated which creates a risk to the City and Staff would like opportunity for City Engineer to review.
3. Applicant to provide, per Code 3-2-6(H)(2-3) and PUD Application, submittal of an Environmental Assessment from Professionals qualified to perform such Assessment. This will be required prior to approval of Construction Drawings which will be subject to any findings or recommendations contained in said report.
4. Applications are subject to Chapter 5 (Flood Damage Prevention) CCC 3-5-3.
5. Applicant shall meet all requirements set forth in City Engineer's Comments dated March 7, 2019.
6. Compliance with riverfront building setbacks, which remain To-Be-Determined pending US Army Corps of Engineers determinations.
7. Cottage lot widths and sizes shall be a minimum of 5,000 s.f. in size.
8. Where delineated wetlands remain subsequent to earth movement, "no build zones" will be delineated on all buildable lots and called out in Plat notes.
20. Show calculation points with bearings of distances in all wetland delineated areas and "no build zones" on Preliminary and Final Plats.
21. All water sources shall be depicted on Final Plat including new and existing well(s).

D. CONDITIONS OF APPROVAL

1. Approval of Annexation and Rezone shall be conditioned upon approval of Preliminary Plat and Planned Unit Development.
2. Approval of Planned Unit Development and Subdivision is subject to the conditions as referenced in this document: Staff Findings and Recommendations, Standard Conditions, Special Conditions, and these Conditions of Approval; as well as to Findings of Fact and Conclusions of Law which are contained in a separate document.
3. Approval of Final Plat remains contingent upon review and approval of the Traffic Study by ITD.
4. Acceptance of Staff recommendations and P&Z Commissioner determinations of the applicant's Exceptions Request (dated 6/6/19) as set forth at the June 17, 2019 meeting.
5. Developer will be responsible to fund aeration improvements to existing facilities to add estimated additional 200 hook-ups and will be required to participate in the funding of subsequent facility improvements in order to reach 500+ hookups as required by the PUD. Terms shall be included within the Development Agreement.
6. Roadways shall be designed per Code, except at Townhome area of PUD, and are subject to approval by Fire District.
7. Applicant to provide legal descriptions for separate rezone areas (C Zone description and R3 Zone description). Recommend approval of this finding subject to the condition of submission and administrative verification of the legal descriptions describing the different zone boundaries.

Attachments:

- I. Applicant Exceptions Request, Staff Response - Updated from 6/17/19 P&Z Meeting
- II. ITD Email dated June 11, 2019
- III. Schiess Engineers Letter dated June 11, 2019
- IV. Applicant submitted Fiscal Impact Statement dated June 4, 2019
- V. City Engineer Comments Letter dated March 7, 2019
- VI. Applicant's Narrative dated June 14, 2019
- VII. Applicant's email responses to P&Z Commission 6/17/19 public hearing, dated 6/28/19.
- VIII. Public Comment Letter from Linda L. Thacker

105 S. Main
PO Box 649
Cascade, ID 83611



Phone: 208-382-4279
Fax: 208-382-7204
Email: clerk@cascadeid.us
Web: www.cascadeid.us

Red font indicates determinations made by P&Z Commissioners at the June 17, 2019 Public Hearing.

DATE: June 6, 2019
TO: Steve Arnold, A-Team
FROM: City of Cascade
SUBJECT: The River District (formerly Cascade River Ranch)

The City of Cascade has reviewed the A-Team's Submittal of Requested Exceptions for [now] The River District Planned Unit Development [formerly Cascade River Ranch]. The following determinations and comments apply:

- 1) **Cul-de-sac length for "Resort Court" and "Cascade Court":** **P&Z Approved this 6/17/19.**
 - a) Cascade Rural Fire Department ("CRFD") is not in favor of allowing cul-de-sac lengths *in excess* of 750-feet, and as the responding agency the City yields to their discretion. Request for any cul-de-sac to exceed 750-feet in length is therefore denied.
 - b) CRFD and the City will allow for an exception of cul-de-sac length from 500-feet up to 750-feet, so long as all related requirements are also met: Per Appendix D "Fire Apparatus Access Roads, Table D103.4", any cul-de-sac exceeding 500-feet in length, up to 750-feet, are required to be 26-feet wide, edge of pavement to edge of pavement. Additionally, the cul-de-sac bulb will be required to be 96-feet in diameter, per D103.1 of the same document.
- 2) **Building Height:** **Applicant rescinded this 6/17/19.**
 - a) This request must be denied due to the fact that CRFD is not equipped to respond to fires or emergencies exceeding 25-feet in height. The Department has 35-foot ladders, and per IFSTA (International Fire Service Training Association), responders are required to have no less than 3-5 rungs above the roofline; this means CRFD would be required to have 40+-foot ladders (giving allowance to roof pitches). Additionally, assuming CRFD had 40+-foot ladders the volunteer firefighters have not received the specialized

training required to serve at this level, nor do they have the auxiliary equipment necessary to support the 40+-foot ladder service.

3) **Parking: Applications are now in compliance.**

- a) The City will need to revisit this Exception Request once all other details are adequately addressed and represented in the Plat (most specifically roadways, lot sizes and setbacks).

4) **Lot Sizes: P&Z Commissioners determined changes as shown below:**

- a) The Townhome lot widths have already been recommended for approval at 30-feet wide as requested; as long as there is adequate depth to the lot to allow for the ~~20-foot~~ **10-foot** deep driveway in addition to complying with the setbacks as recommended in the City Comments dated May 17, 2019, a 3,000 sq.ft. lot would be considered for approval.
- b) The City had requested an exhibit showing lot lines as required by Code (during May 20, 2019 meeting), and how the lot lines would cross over and intersect in the given area; this document was requested and is still being requested to demonstrate the need for the City to approve a request that contradicts Code. **Staff created exhibit and recommended approval.**
- c) The City will not rezone residential areas to Zone C.

5) **Setbacks:**

- a) The setback table as provided by the City in the City Comments dated May 17, 2019 (and as shown below) shows the request for Townhomes specifically being allowed.
- b) The City acknowledges the request for Exception on other setbacks but **the table as shown below illustrates the minimum the City is willing to recommend for approval;** allowing the setbacks as requested for exception would go directly against the Comprehensive Plan components and would create potentially unsafe, and unsightly community design.
- c) The Riverside Setback is still under review with outside Agencies; this item is TBD.
- d) The City will not rezone residential areas to Zone C.

Setbacks: **Commissioners approved the following changes:**

UNIT TYPE	FRONT/ Street	REAR/ Yard	SIDE
Single Family	20'	20'	15'
Cottage	15'	15'	5'
Townhome	15' 10'	10' ^a	0' inside / 5' outside ^b
Multi-family	15'	10'	10'

Commercial	15'	0'	0'
Riverside	-	TBD	

^a Except where rear setback is riverside, then riverside setback applies

^b Updated from first set of City Comments

- 6) **Storage Areas: P& Z Commissioners waived this Code requirement.**
- a) Storage areas may not be “typical” in non-resort areas like the Treasure Valley, however due to the lifestyle of residents of the City of Cascade, storage area requirements are a pertinent City Code. With good planning and design there is no reason the integration of storage would be “aesthetically awkward”; the City Staff have contemplated numerous options in design as solutions to this problem and can be available to provide recommendations if Application wishes.
 - b) A Planned Unit Development of this scale cannot depend upon off-site facilities to support the development; providing storage is a Code requirement and one that must be met for orderly growth and expansion of the community.
 - c) Given the above considerations, and given that other solutions have been identified and are available, this exception request must be denied.

Thank you.



June 4, 2019

Heather Soelberg, City Clerk
City of Cascade
105 S. Main
Cascade, ID 83611

Subject: The River District

The applications that have been submitted are an annexation, rezone, preliminary plat, and a planned unit development (PUD) application. As part of the development applications and process, the developer may request for certain exceptions from direct use of City Code. The submitted plan has been designed to minimize the impact to neighboring properties and native wetlands, while providing for a mix of uses. In doing so it has created certain challenges with the design, and there are certain areas within the City Code that my need additional clarification or exceptions to allow this type of use. The following is a list of exceptions the developer is requesting from current City Code:

1. **Cul-de-sac length for "Resort Court" and "Cascade Court":** City Code requires that the maximum length of a cul-de-sac is 500-feet. The proposed length of both is approximately 750-feet. This exceeds the length due to an attempt to limit access on our main north south collector and limit the number of wetland crossings.
2. **Building Height:** City Code currently does not speak to 3-story multifamily buildings, but it does speak to high density. You cannot have high density without going up with a building. The developer is proposing a high-density product central to the development, that is in great demand in Valley County. The proposed height of the three-story building is 35-feet, the maximum height allowed by the two-story buildings within the development will be 35-feet. The exception is being requested because the three-story building will not negatively impact adjacent properties, nor will it exceed the building height of any other building within the development.
3. **Parking:** as noted by City Staff the code is inconsistent when it talks to parking in one area of the code it speaks to parking and requires two stalls per unit, in another area of code it asks for two per unit plus an additional 25-percent for guest parking. Good planning principals calls for two stalls per dwelling unit plus an additional 5-percent of the total parking for guest parking. Our proposal provides close to 9-percent additional guest parking or 76-guest parking stalls. The developer believes this to be more than adequate parking for the proposed multifamily portion of the development. All other uses will comply with City Code.
4. **Lot Size:** It is unclear how City Code speaks to townhouse units, it does talk to a duplex, and requires a duplex to be 6,000-square feet. For this matter we are requesting that the townhouse lot be allowed at 3,000-square feet, so

they can be sold individually and provide for a mix use development. Also, the multifamily lots are below the required 9,000-square feet and the 39,000 square feet. For the four plex lots we are reducing the lot size so that we can keep the private road in its own lot and separate the building on its own lot so that the buildings could be owned individually. The buildings for the 24-plex units are being platted for the same reason. However, if we place these uses within a C zone, the exception would not be required.

5. **Set Backs:** In order to provide the varied product type and a high-end mixed-use development, we are requesting an exception to the City Code for our townhome units and our multifamily lots for setbacks. For the townhouse units City requires a 5-foot side yard setback which would not allow for the construction of this product type, we are also asking for front and year exceptions for those units, as well as the alley setback of 20-feet. The river setback we are requesting to be 35-feet. Allowing the exception will provide for a greater street presence and a mixed used development that is recommended by the City's Comprehensive Plan. If it is determined that the multifamily portion of the development is to be located within the C zone, an exception of setback and area requirement will not be needed. The other traditional single family lots will adhere to City Code.
6. **Storage Areas:** The single-family portion of this development will have lots adequately sized for the storage of recreational vehicles, and rules concerning the storage of those vehicles will be discussed in the CC&R's. It is not typical to provide storage in multifamily, townhomes, or cottage lots, and providing it would be aesthetically awkward. Should those units require the storage of a recreational vehicle they will be required to store it off-site. This exception is being requested for the sole purpose of providing a high-end mixed-use development that does not look awkward. There are out door storage facilities very near to this development that could be utilized for that purpose.

Our intention is to provide a project that will make a statement as you enter the City and purpose of the requested exception is to have a mixed-use product type and not do a typical "cookie cutter subdivision". By allowing these exceptions the City will have a true mix of uses and provide existing residents a highly needed housing product in Valley County. If there are any question or concerns with the requested exceptions, please do not hesitate to call me at (208) 871-7020, and I would be happy to discuss or provide additional information for them.

Sincerely,
A Team Land Consultants



Steve Arnold
Project & Real Estate Manager

Cc: Josh & Phil Davis
Peggy Breski
Dan Dunn, PLS
David Sterling, P.E
Stephen Bradbury

Peggy Breski

From: Ken Couch <Ken.Couch@itd.idaho.gov>
Sent: Tuesday, June 11, 2019 4:58 PM
To: Peggy Breski
Cc: Sarah Arjona; Erika Bowen; Shona Tonkin
Subject: RE: [EXTERNAL] PUD in Cascade Idaho - reference ITD Comment Letter
Attachments: IDAPA 39.03.42 Encroachments.pdf; Highway Policy Corridor Tiers 6-2014.pdf

Hi Peggy!

Your seemingly innocent questions don't have super easy answers! 😊

1. Requirement was to include a secondary access to the development. It has been added on the southern edge of the development site. See 2nd attachment which reflects the added access. Our concern lies with the proximity of this access to the main access, maybe only 400' away. What is the minimum distance ITD would want accesses to be on the highway?

This question has a few "It depends" segments. Access spacing is covered under the Idaho Administrative Procedures Act (IDAPA) in section 39.03.42. I have attached a copy, as well as the Corridor Tiers map for reference. This route has been identified as a Regional Highway Type. Due to spacing restrictions only one of the access points that are shown can be accepted as a public road. I am going to assume that all of this is annexed. Accesses upstream from a public road must be a minimum of 660'. Accesses downstream from a public road is a minimum of 360'. If the area has been annexed into the City or is in the City's area of impact, the minimum spacing for a full access is 360' between approaches that are not public roads where highway speeds are greater than 35mph. Any spacing less than the minimums requires a traffic impact study. Also, since their build out is in excess of 100 residential units, IDAPA requires submittal of a traffic impact study. This study needs to analyze all points of access.

2. Second question is – when looking at the main access into the PUD, there is very close to the highway an approach/access into commercial lots; it looks to me like this is not much more than 110' feet away from the highway/intersection. What is the minimum distance ITD would want to see an access from the highway?

ITD does not necessarily have jurisdiction over how close to the highway they place the commercial approach on the local road, but we do have concerns that locating an approach too close may cause traffic to backup into the highway. Most local agencies have a minimum spacing requirement similar to ITDs (typically around 600' or more) to allow for traffic storage space. This question may be better addressed by our Technical Engineer, Erika Bowen.

Just FYI, we requested traffic analysis information from the developer back in November 2018 for the originally proposed development. We have not received traffic analysis information as of this date, and with the additional of a second access, we will need that to be part of the study as well. Currently the access to the parcel appears to be an agricultural access and we will not approve any change to the type of access without the submittal and review of a traffic impact study.

Thanks!
Ken Couch

Permits Coordinator
Idaho Transportation Department
District 3
208-332-7190 Office
Ken.Couch@itd.idaho.gov

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From: Peggy Breski <peggyb@horrocks.com>
Sent: Tuesday, June 11, 2019 1:39 PM
To: Ken Couch <Ken.Couch@itd.idaho.gov>
Subject: [EXTERNAL] PUD in Cascade Idaho - reference ITD Comment Letter

--- This email is from an external sender. Be cautious and DO NOT open links or attachments if the sender is unknown. ---

Hi, Ken,

We're currently working with the City on processing this PUD submittal in Cascade, ID – of which ITD has already provided initial comments (ITD letter attached). We're writing today to get ITD initial feedback on 2 of the changes the developer has included with the 2nd submittal (also attached):

1. Requirement was to include a secondary access to the development. It has been added on the southern edge of the development site. See 2nd attachment which reflects the added access. Our concern lies with the proximity of this access to the main access, maybe only 400' away. **What is the minimum distance ITD would want accesses to be on the highway?**
2. Second question is – when looking at the main access into the PUD, there is very close to the highway an approach/access into commercial lots; it looks to me like this is not much more than 110' feet away from the highway/intersection. **What is the minimum distance ITD would want to see an access from the highway?**

I tried to look it up in your standards online but decided to just save myself a headache and ask the question. Your guidance would be greatly appreciated!

Thanks so much,

Peggy Breski
Senior Planner | Project Manager

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June 11, 2019

Mayor Judith R. Nissula
City of Cascade
P.O. Box 649
105 S. Main St.
Cascade, Idaho 83611

Re: Preliminary Review of City Drinking Water System and Wastewater System Capacity
Considering the Addition of Cascade River Ranch Development

Dear Mayor Nissula:

This letter addresses impacts that the Cascade River Ranch Development would have on the City of Cascade's drinking water and wastewater systems. This is done within the limits of currently available data. DEQ raised wastewater capacity issues upon reviewing the Preliminary Engineering Report (PER) prepared for the lift station that will be designed to serve the Cascade River Ranch development.

The primary issues brought up by DEQ in the PER review include the following: 1) Does the City of Cascade's wastewater treatment system have the capacity to treat wastewater from this development? 2) Does the collection system have the capacity to transport the sewage from this development to the treatment plant? 3) Various lift station concerns brought up as a result of DEQ's review of the PER. We will address these concerns in the same order. A discussion of drinking water system capacity will be given last.

Wastewater Treatment Plant Capacity

Based on the findings of the Preliminary Engineering Report for Aeration and Screen Improvements prepared by Schiess & Associates in May 2017 and the City resolution to stop accepting septage beginning in the spring of 2017, the treatment plant today has capacity to serve approximately 100 more homes.ⁱ The Schiess PER also states that the addition of a minimum amount of aeration (40 Hp configured as described) would provide treatment for an additional 200 homes (or hookups). This covers 300 of the 500+ hookups planned in the River Ranch Development. Additionally, room would need to be held open for empty lots remaining in the City and for other developments. Aeration design can be considered to increase the treatment plant capacity to 500+ additional hookups. The lift station PER states that the development will likely take 10-15 years to build out.ⁱⁱ

Other related wastewater treatment issues the City is facing includes addition of the vertical screen to final lift station wet well (to improve the operation of the final lift station and rid the lagoons of inorganic solids) and resolution of the disinfection issue at the treatment plant. The solution to the latter issue is hopefully proving to DEQ that natural disinfection is occurring underground prior to the rapid infiltration filtrate water reaching the N. Fork of the Payette River. The effort to determine adequate subsurface disinfection is underway. If not successful,

adding mechanical or chemical disinfection prior to discharge into the rapid infiltration basins will be required.

It is understood that DEQ will shortly deliver to the City an Idaho Pollutant Discharge Elimination System (IPDES) draft permit for review and comment. This permit, upon activation, will necessitate action on the part of the City to complete disinfection compliance under an agreed-to time frame. The necessity to resolve the disinfection problem, increase treatment capacity by the addition of aeration to the lagoons and addition of the vertical screen can all be dealt with simultaneously. The instrument to do this is an update to the 2010 Sewer Facility Planning Study. The City could apply for grant funding in early January 2020 with the study to begin in July 2020, if funded. We like the City's chances for funding eligibility due to a compliance schedule agreement that may be part of the IPDES permit to resolve the disinfection issue.

The wastewater issues are ongoing issues that are exacerbated by the addition of Cascade River Ranch. Like buildout of this subdivision, addressing the City wastewater treatment issues will take time. The City has charged us with updating the wastewater service availability fee. This fee puts new users on an equitable basis with existing users. These fees can only be used for capital improvements. New and old users alike will benefit from new improvements paid for with service availability fees and potential grants and loan.

Wastewater Collection System Capacity for River Ranch Development

The collection system between the River Ranch Development and the existing final lift station include segments of new force main and 8-inch gravity collection lines. These lines were reported to be newly installed with the improvements project in 2014ⁱⁱⁱ. The estimated pumping capacity needed at buildout of the development according the PER is 307 gpm. There appears to be adequate capacity in these new lines to handle this build-out flow. As part of the proposed facility planning study update, the capacity of these lines could be verified. The proposed lift station will only be able to serve homes and businesses within the proposed development.

Other DEQ Concerns with the River Ranch Lift Station PER

We read DEQ's review comments and called and discussed the PER with the author at TO Engineers, City public works and Horrocks Engineers. The PER was designed around a lift station with submersible pumps. This is the style of all existing lift stations in the City except for the final lift station, which is a special suction-lift type designed around the future vertical screen. Due to the depth of the proposed lift station, a submersible pump type is a reasonable choice. The City may want to plan as part of the proposed facility planning study update effort to standardize all submersible type lift stations to improve the ease of maintenance.

The lift station PER is generally a good document. TO Engineers expressed a desire to provide a quality design that eliminates the threat of infiltration, includes a stand-by generator, considers build-out of the subdivision and provides a link to the City SCADA monitoring system. We can give specific, detailed PER review comments later. The nature of specific and detailed comments to this PER is not relevant unless the City approves the preliminary plat.

Mayor Nissula
June 11, 2019
Page 3 of 4

Drinking Water Supply Capacity and Distribution System Capacity

The City currently serves approximately 1004 residents. Cascade River Ranch would add 1032 residents, which would approximately double the population of the City. The Public Works Director informed us that the City currently serves its residents with three wells and three storage tanks as follows:

Well 1: 300-350 gpm	Duffer Tank 1: 500,000 gal
Well 2: 300-350 gpm	Duffer Tank 2: 500,000 gal
Well 3: 600-650 gpm	Bogie Tank: 300,000 gal

During the summer months when outside irrigation is occurring, Well 3 runs all the time and is supplemented 2-4 hours a day with the other two wells. This tells us that if Well 3 was out of service for a few weeks during this summer, that the City would barely get by. Well's 1 and 2 are mostly redundant to Well 3.

The City will not get by with the same facilities under the same situation (Well 3 down for service in the summer) when the water demand in the City nearly doubles due to addition of the development. The redundancy of water supply would be eliminated. Storage capacity would be stressed. The City would fall outside of the minimum service levels outlined in the Idaho Drinking Water Rules. Conceptually, the City will have to drill another well approximately the size of Well 3 and add more storage. Allowance should also be made for infill of existing vacant lots within the City.

A cursory review of City water rights listed on the IDWR website illustrates that the City can pump Well 3 and either Well 1 or Well 2 simultaneously and fall within the allowable diversion rate. To add this development plus allow for infill of vacant lots, additional groundwater rights will be needed to provide non-consumptive in-house use of approximately 1.0 cubic feet per second (cfs). The City has potential options to explore regarding the provision of irrigation water to the new hookups in the proposed development; but it will take some work. The effort to find a reasonable solution should occur sooner rather than later. A listing of the water rights we found on the IDWR website is attached to this letter.

At present, we do not know whether the existing distribution pipe network could deliver needed water supply and pressure to the development during the outside irrigation season or for fire suppression. Resolution of these unknowns is best accomplished with water modeling of the existing distribution system. This would be best accomplished as part of a drinking water facility planning study.

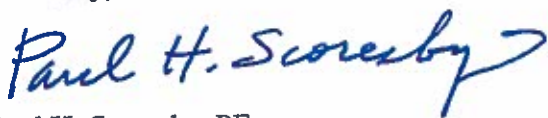
The Public Works Director reported that the City has not undertaken a water system facility planning study effort in recent memory. DEQ could not locate one in their archives. The City is overdue for a drinking water facility planning study. The City should apply for a DEQ drinking water facility planning study grant in January 2020. The study would document the existing system, model the distribution system and supply systems, determine what is lacking and set forth a capital improvement plan to allow the City to take on additional hookups. The study would also provide a blueprint for resolution of any water right needs and identify capital

Mayor Nissula
June 11, 2019
Page 4 of 4

improvements to upgrade existing facilities that are aging and depreciating. A funding plan would be laid out that would illustrate that improvements would be paid for with service availability fees collected from new hookups and potentially grants and a loan.

This concludes our brief review of the capacities of the City drinking water and wastewater systems and gives some guidance as to the next steps the City should take to work toward resolving them. Please feel free to call if you have any questions.

Sincerely,



Paul H. Scoresby, PE

Cc: Horrocks Engineers

Attachment: City of Cascade Water Rights from IDWR Website

ⁱ See first paragraph on Page 6 of said report. See also the first paragraph on Page 64 of the Cascade Sewer Facilities Planning Study dated September 2010.

ⁱⁱ See Page 8 of the TO Engineers PER dated May 2019.

ⁱⁱⁱ This was determined via phone calls with Horrocks Engineers and the City Public Works Director.

City of Cascade Water Rights from IDWR Website

<u>Type</u>	<u>Basin Sequence</u>	<u>Suffix</u>	<u>Application Number</u>	<u>Basis</u>	<u>Status</u>	<u>Priority Date</u>	<u>Rate (cfs)</u>	<u>Source</u>	<u>Water Use</u>	<u>Owner</u>
WR	65	3138		Decreed	Active	6/1/1899	2.34	CAMPBELL CREEK	MUNICIPAL	CITY OF CASCADE
WR	65	10353		Decreed	Active	3/1/1919	0.8	SKEIN CREEK	MUNICIPAL	CITY OF CASCADE
WR	65	10354		Decreed	Active	7/16/1888	2.34	HAZARD CREEK	MUNICIPAL	CITY OF CASCADE
WR	65	12726		License	Active	12/13/1984	0.44	GROUND WATER	MUNICIPAL	CITY OF CASCADE
WR	65	13311		License	Active	3/11/1991	0.66	GROUND WATER	MUNICIPAL	CITY OF CASCADE
WR	65	13485		License	Active	10/26/1993	1	GROUND WATER	MUNICIPAL	CITY OF CASCADE
WR	65	23581		License	Active	4/5/2014	0.1	GROUND WATER	WILDLIFE	CITY OF CASCADE

Total Groundwater Rights Used in Water System =

2.1 cfs
942 gpm

**ESTIMATE OF TAX REVENUE GENERATION
FOR
CASCADE RIVER RANCH**

**STATE HIGHWAY 55
CASCADE ID 83611
Valley County, Idaho**

4-Jun-2019

**Property Details:
Section 31 T.14N R.4E**



**1785 Whisper Cove Avenue
Boise, Idaho 83709
208-871-7020**



Project
Residential
Lot Count

Cascade River Ranch
215

ESTIMATE OF TAX REVENUE GENERATION

ONE-TIME FEES

<u>Item</u>	<u>Per Lot</u>	<u>Total</u>
Sewer Hook-up Fee	\$4,834	\$1,039,310
Water Hook-up Fee	\$1,694	\$364,102.50
Mechanical Fee-w/o Gas Fireplace-%25	\$93	\$4,999
Mechanical Fee-with Gas Fireplace-%75	\$128	\$20,640
Building Permit-Zoning Fee	\$40	\$8,600
Building Permit-Application Fee	\$30	\$6,450
Building Permit-Energy Fee	\$25	\$5,375
Building Permit-Average SF Fee	\$1,500	\$322,500
6/4/2019 Preliminary Submittal-Application Fee		\$0
TOTAL ONE-TIME FEES	\$8,344	\$1,771,976

ANNUAL TAXES AND FEES

<u>Annual Fees</u>	<u>Per Lot</u>	<u>Total</u>
Annual Water Fee	\$186	\$39,990
Annual Sewer Fee	\$210	\$45,150
Annual Highway User Tax	\$150	\$32,250
Total Annual Fees	\$546	\$117,390

<u>Annual Taxes</u>			
<u>Description</u>	<u>Levy</u>	<u>Per SF Home</u>	<u>Total</u>
Assessed Property Value	\$275,000		
Valley County	0.0016810860	\$462.30	\$99,394
City of Cascade	0.0069846250	\$1,920.77	\$412,966
School #422 Bond	0.0005392900	\$148.30	\$31,886
School #422 Supp	0.0008988160	\$247.17	\$53,142
School #422 Tort	0.0000124850	\$3.43	\$738
Cascade Cemetery	0.0000391090	\$10.75	\$2,312
Cascade RFPD	0.0000692526	\$19.04	\$4,095
Cascade Medical Center	0.0001001293	\$27.54	\$5,920
V.C EMS DIST	0.0002190310	\$60.23	\$12,950
Total Annual Taxes		\$2,899.55	\$623,404



Project **Cascade River Ranch**
 Commercial
 Lot Count **12**

ESTIMATE OF TAX REVENUE GENERATION

ONE-TIME FEES

<u>Item</u>	<u>Per Lot</u>	<u>Total</u>
Sewer Hook-up Fee	\$8,500	\$102,000
Water Hook-up Fee	\$4,500	\$54,000
HVAC (\$1,019/commercial lot)	\$1,019	\$12,228
Building Permit-Zoning Fee	\$40	\$480
Building Permit-Application Fee	\$30	\$360
Building Permit-Energy Fee	\$25	\$300
Building Permit-Average SF Fee	\$4,500	\$54,000
Preliminary Submittal-Application Fee		\$0
###	\$18,614	\$223,368

ANNUAL TAXES AND FEES

<u>Annual Fees</u>	<u>Per Lot</u>	<u>Total</u>
Annual Water Fee	\$250	\$3,000
Annual Sewer Fee	\$450	\$5,400
Annual Highway User Tax	\$250	\$3,000
Total Annual Fees	\$950	\$11,400
<u>Annual Taxes</u>		
Assessed Property Value*	\$6,769,140	
<u>Description</u>	<u>Levy</u>	<u>Per Lot</u>
Valley County	0.0016810860	\$11,380
City of Cascade	0.0069846250	\$47,280
School #422 Bond	0.0005392900	\$3,651
School #422 Supp	0.0008988160	\$6,084
School #422 Tort	0.0000124850	\$85
Cascade Cemetery	0.0000391090	\$265
Cascade RFPD	0.0006925260	\$4,688
Cascade Medical Center	0.0010012930	\$6,778
V.C EMS DIST	0.0002190310	\$1,483
Total Annual Taxes		\$81,691.75

*Property Value is a weighted average based on Value/SF of comparable Commercial properties in Cascade. For properties with a footprint of <25,000 sf the estimated Value/SF is \$125/sf. For properties with a footprint of >25,000 sf the estimated Value/SF is \$100/sf. Total square footage assumed is 64,468, which is 20-percent coverage of 7.4-acres of commercial at an average of \$105/square foot value.



Project
Multifamily

Cascade River Ranch
52

ESTIMATE OF TAX REVENUE GENERATION

ONE-TIME FEES

Item	Per Lot	Total
Sewer Hook-up Fee	\$8,000	\$416,000
Water Hook-up Fee	\$4,000	\$208,000
Mechanical Fee-w/o Gas Fireplace-%25	\$93	\$4,836
Mechanical Fee-with Gas Fireplace-%75	\$128	\$6,656
Building Permit-Zoning Fee	\$40	\$2,080
Building Permit-Application Fee	\$30	\$1,560
Building Permit-Energy Fee	\$25	\$1,300
Building Permit-Average SF Fee	\$3,000	\$156,000
6/4/2019 Preliminary Submittal-Application Fee		\$0
TOTAL ONE-TIME FEES	\$15,316	\$796,432

ANNUAL TAXES AND FEES

Annual Fees	Per Lot	Total
Annual Water Fee	\$400	\$86,000
Annual Sewer Fee	\$450	\$96,750
Annual Highway User Tax	\$200	\$43,000
Total Annual Fees	\$1,050	\$225,750

Annual Taxes			Per Lot	Total
Description	Levy	\$575,000		
Valley County	0.0016810860		\$966.62	\$50,264
City of Cascade	0.0069846250		\$4,016.16	\$208,840
School #422 Bond	0.0005392900		\$310.09	\$16,125
School #422 Supp	0.0008988160		\$516.82	\$26,875
School #422 Tort	0.0000124850		\$7.18	\$373
Cascade Cemetery	0.0000391090		\$22.49	\$1,169
Cascade RFPD	0.0000692526		\$39.82	\$2,071
Cascade Medical Center	0.0001001293		\$57.57	\$2,994
V.C EMS DIST	0.0002190310		\$125.94	\$6,549
Total Annual Taxes			\$6,062.70	\$315,260



Project **Cascade River Ranch**
503 Total Units

ESTIMATE OF CITY IMPACT

City Services Impacted

<u>Item</u>	<u>Budget</u>	<u>Per Unit</u>	<u>Dev. Addition</u>	<u>Site Impact</u>
Police	\$228,774	\$254	216	\$54,864
Fire District	\$315,000	\$105	216	\$22,680
School District	\$2,600,000	\$6,700	50	\$335,000
Sewer	\$375,547	\$645.27	431	\$278,111
Water	\$251,929	\$398.62	431	\$171,806
Roads: snow removal	\$20,000	\$1,000	3	\$2,700
Trash		\$13	250	\$3,347.50
Emergency Services	\$300,000	\$100	280	\$28,000
6/4/2019 City Administration	\$249,663	\$265.88	53	\$14,092
TOTAL CITY SERVICE IMPACT	\$4,340,913	\$9,482		\$910,601

TOTAL ONE TIME FEES	\$2,975,568
TOTAL ANNUAL FEES	\$354,540
TOTAL ANNUAL TAX REVENUE	\$1,093,108
TOTAL FEES	\$4,423,216

Key Notes:

1. There are approximately 934 permanent resident.
2. Fire Budget is \$315,000 for 3,000 residents within the District
3. School Budget for current school year is \$2,600,000, for approximately 200 students.
 There is an average cost of \$6,700/student in Idaho.
4. The existing snow removal is \$20,000/year with approximately 20 miles of roads
5. There are 582 sewer connection
6. There are 632 water connections.
7. Population is based on 939 residents
8. Single Family and Cottage Units is 168 with a 30-percent impact, 70-percent secondary homes
9. Total Townhome units is 47 units with a 30-percent impact, 70-percent secondary homes
10. Total Multifamily units is 288 with a 75-percent impact, this is a national average
11. There is approximately 2.7 miles of new paved roads
12. City Administration is impacted by 10-percent of the total units

March 7, 2019

Carrie Rushby
Deputy Clerk/
Planning and Zoning Administrator
PO Box 649
Cascade, ID 83611

Subject: River Ranch PUD Preliminary Plat Application

Dear Carrie:

In response to David Sterling's response dated February 26, 2019 to my review comments dated February 11, 2019, I have revised Comment 6 the River Ranch PUD Preliminary Plat, Annexation Application, Land Use Application, and Rezone Application. There are no other changes to my February 11, 2019 review comments,

I recommend approval of the Preliminary Plat satisfactorily addressing the following comments

1. The number of lots included in the proposed plan exceeds the current capacity of the City water and sewer systems. In order for the City to provide adequate services, the applicant shall submit a more detailed Phasing Plan to
 - a. Indicate the number and type of lots in each phase
 - b. Estimated Construction Timeline for each phase
2. Water and Sewer Services
 - a. Clearly indicate if it is the applicant's intent to connect to City water and sewer services
 - b. Indicate if it is the applicant's intent retain ownership and maintain and operate the water and sewer facilities within the development or have the City accept ownership of them and maintain and operate them
3. Fire Protection
 - a. Verify that water system connected to River Ranch Development can provide adequate fire flows by use of a water model.
 - b. If the fire hydrants are to be connected to the City water system, develop a water model with City-provided information of their system or provide information to the City that can be used to update its water model
4. Pedestrian and Bike Path Network
 - a. Enhance the appeal and value of the development by ensuring that the Bike/Pedestrian path network is fully connected
 - i. The Preliminary Plat includes heavy gray lines that are not included on the legend
 - ii. The roadway street sections appear to be curb and gutter sections, but a roadside ditch section may be most appropriate for the development
 - iii. Some or all of the roadways may need shared use shoulders, sidewalk, or separated paths to provide a fully connected bike/pedestrian network
5. Roadways

- a. Clearly indicate if it is the applicant's intent to retain ownership and maintenance of the roadways or have the City accept ownership and maintenance of the roadways
 - b. Roadways shall include adequate shoulders. These may be shared use (pedestrian and bicycle)
 - c. All roadways and intersections shall be designed to accommodate emergency vehicles (fire truck)
 - d. All dead end roadways shall have a hammer head or cul-de-sac designed to accommodate emergency vehicles (fire truck)
6. Flood Plain/wetland
- ~~a. Applicant shall provide a copy of the final grading plan approved by FEMA prior to approval of the Final Plat~~
 - ~~b. Applicant shall provide a copy of the US Army Corps of Engineers permit for the final grading plan prior to approval of the Final Plat~~
 - a. Applicant shall obtain an approved Joint 404 permit prior to approval of the Final Plat.
 - b. Applicant shall obtain an approved Flood Plain Development permit in accordance with Cascade City Code Title 3, Chapter 5.
 - c. Because the proposed development is within the City's impact area and includes a request for annexation, the City Clerk will coordinate with the Valley County Floodplain Ordinance Administrator, and the permittee will be required to conform to the more stringent requirements of Valley County Code Title 11- Flood Control and Cascade City Code Title 3, Chapter 5 – Flood Damage Prevention.
7. Stormwater Management plan (Prior to Construction)
- a. Provide a comprehensive Stormwater Management Plan prepared by an Engineer licensed in the State of Idaho that describes the basin characteristics, conveyance system, Erosion and Sediment Control measures, and Operation and Maintenance of the Stormwater Management System
 - b. The Stormwater Management System shall be designed so that post-development stormwater runoff leaving the development area is no larger than pre-development runoff leaving the development area
8. ITD Approach Permit
- a. Applicant shall obtain an approved ITD permit for all approaches to SH-55 prior to approval of the Final Plat

Please contact me if you have any questions regarding this matter.

Sincerely,
HORROCKS ENGINEERS



Trevor Howard, PE
Project Engineer

cc: Josh Davis



June 14, 2019

Heather Soelberg, City Clerk
City of Cascade
105 S. Main
Cascade, ID 83611

Subject: The River District Comprehensive Plan Analysis

Our team has reviewed the City's Comprehensive Plan to analyze the proposed River District Development with the elements of the comprehensive plan. There are numerous elements that the proposed development complies with, and in many areas greatly accentuates the City's Plan. The following is a summary of the element within the comprehensive plan and an analysis of how the proposed development complies with that elements of the plan.

Economic Statement:

The loss of the longtime sawmill and most mining activities in the area as well as the decline of the availability of timber from local forests and the abandonment of the railroad have had a negative impact on the area's economy. Should mining become viable again, all efforts should be made to accommodate this industry. Midas believes it can build a mining project that restores the environment, creates economic opportunity and benefits the surrounding community. Along with this development, a demand for higher-density, community amenity-oriented housing should emerge. Multi-family housing, lofts, and townhomes would all be appropriate and complementary product types.

Applicant Comments: The proposal will provide the needed housing type for economic growth to occur within or near the City, and in no way hinders that economic growth. In fact, this proposed development may generate economic activity by demonstrating the ability to provide housing to a work force by any interested businesses. The proposed development complies with the elements of the comprehensive plan by providing a mix of housing types which aligns with this goal and will likely foster good economic growth.

Transportation Statement:

The Transportation Element represents Cascade's overall transportation plan and plays an important role in shaping the overall structure and form of the city, and in the movement of people, goods, and freight within and through Cascade. Highway 55 (Main Street) traverses the city in a north-south direction and is the predominant transportation corridor in Cascade. Perhaps the most overlooked factor in transportation planning is the fact that streets are an integral part of the built environment. As factors that determine the character and qualities of a community, they are just as important as parks, schools, and neighborhoods. Livable communities are walkable and bike able communities. Pursuant to the adopted pathways plan, any new subdivision should have development agreements that allow for a trail system connecting all lands within the Cascade Impact Area to the present City limits.

Applicant Comment: The applicant is proposing to comply with all City Codes as it relates to public or private roadway construction. The design of the roadway will be reviewed and approved prior to construction. The applicant will comply with best management practices as it relates to storm drain, so ground water will see little if any impact from this development. The site has numerous pathways

provided throughout the development. The CC&R's will provide direction concerning the maintenance of the pathways and common areas, along with the maintenance of the drive isles for the commercial and multifamily units. This development will also provide a major north south arterial roadway for future expansion of the City and development within the area. By providing multiple transportation opportunities, our development exceeds this component of the Comprehensive plan.

Natural Resource Statement:

This element provides an analysis of the uses of rivers and other waters, forests, rangeland, soils, harbors, fisheries, wildlife, minerals, thermal waters, beaches, watersheds, and shorelines. The abundant natural resources found throughout the Cascade impact zone are vitally important to the long-term growth and development of the Cascade area. Cascade continues to develop as an all-season recreational paradise due in large to the trees, the mountain topography that encompasses the area, and the abundant supply of water resources, including Lake Cascade and the North Fork of the Payette River. **Objective:** Ensure that all new developments are planned and designed to recognize and minimize impacts to the Cascade area's environmental and scenic resources.

The Federal Emergency Management Agency, with the assistance of the Army Corps of Engineers, has designated certain areas along Lake Cascade and the North Fork of the Payette River as being within the 100-year floodplain. The city has adopted a Flood Hazard Areas Ordinance to control development in these areas. Enforcement of this ordinance should be continued so that potential hazards due to flooding are reduced and in order for property owners of structures within these floodplains to continue to be eligible for federal flood insurance.

Creek bed alterations can create higher velocities, which in turn are leading to the erosion of creek banks, sediment transport into fish habitat, loss of important riparian vegetation, and log dams, flooding, and other impacts to downstream properties. Preservation of functioning sections and restoration of non-functioning sections of the Payette River should be encouraged and supported. Control of livestock access to the river should see regulations from the County to enforce no contact with water or banks of the Payette River. Sediment and nitrate controls should be put in place on all tributaries or creeks going through grazing land to lessen the pollution to the river.

Applicant Comment: The site has been designed to minimize impact to all-natural resources. There have been extensive studies to determine wetlands and flood prone areas. The applicant has already submitted permits to the USACE for approvals for some of the design of the site. Those permits will be approved and completed prior to construction of any area that impacts jurisdictional wetlands. The applicant is not proposing to alter the channel of the Payette River, and no alteration have been proposed with this application. By reducing the cattle grazing in this area, it is anticipated there will be an improvement to the riparian area. The entire site has designed to minimize impact on natural resources.

Special Area Statement:

This element provides an analysis of areas, sites, or structures of historical, archeological, architectural, ecological, wildlife, or scenic significance. Before any development takes place, consideration of wildlife habitats, corridors, breeding grounds, wetlands, and fisheries should first take place to ensure the preservation of wildlife and critical wildlife habitat.

Applicant Comment: *Portions of this development have jurisdictional wetlands. The applicant has submitted a wetland study to the USACE, and the preliminary findings of that study has been reviewed, and preliminarily approved. The site has been designed to minimize any impact to those wetlands. Every effort has been done to minimize impact to the wetlands and wildlife habitats.*

Community Design & Vision Statement:

This element provides analysis for regulating landscaping and trees, building design, and signage. The suggested patterns and standards for community design, development, beautification should foster preservation of significant sites. Broad statutory authority for local governments to plan for and regulate community design elements is set forth in the Idaho Code:

67-6518 STANDARDS "Each governing board may adopt standards for such things as: building design; blocks, lots, and tracts of land; yards, courts, greenbelts, planting strips, parks, and other open spaces; trees; signs; parking spaces; roadways, streets, lanes, bicycle ways, pedestrian walkways, rights-of-way, grades, alignments, and intersections; lighting; easements for public utilities; access to streams, lakes, and viewpoints; water systems; sewer systems; storm drainage systems; street numbers and names; house numbers; schools, hospitals, and other public and private development.

Standards may be provided as part of zoning, subdivision, planned unit development, or separate ordinance adopted, amended, or repealed in accordance with the notice and hearing procedures provided in section 67-6509, Idaho Code.

Expanding and planning for connecting walking/bike paths to the downtown from all points of the city impact area, including the Strand, Fischer Pond, Cascade Sports Park, Kelly Whitewater Park, Cascade Golf Course, and Lake Cascade State Park, is a priority objective. The City wishes to improve the continuity of trails system by connecting walking/bike paths in new and existing subdivisions. The community's vision is to enhance Cascade as a destination area with inviting walkable, drivable, safety conscious neighborhoods that are family friendly; and through providing a supportive environment for year around residents and an economy to support them. Cascade must also take advantage of the natural recreational opportunities that can be expanded upon without adversely affecting the quality of the environment upon which they are based.

Objective: Incorporate Smart Growth Principle into Community Design decisions and programs.

Smart Growth Principles

Mixed Land Uses.

I Mixed Land Uses.

II Take Advantage of Compact Building Design.

III Create a Range of Housing Opportunities and Choices.

IV Create a Walkable Community with connections between developed areas that will create a connected trail system to any part of the impact area. (See Map 4, Chapter 11.1)

V Foster a Distinctive, Attractive Community with a Strong Sense of Place.

VI Preserve Open Space, Farmland, Natural Beauty, and Critical Environmental/Wildlife Areas.

VIII Provide a Variety of Transportation Choices.

IX Make Development Decisions Predictable, Fair, and Cost-Effective.

X Encourage Community and Stakeholder Collaboration in Development Decisions.

VII Strengthen and Direct Development towards the City Limits within the impact area until build out and the City can support more expansion.

Cascade's desire to preserve and enhance its unique, scale, character, and qualities is a reflection of its community values. The City wishes to improve the continuity of trails system by connecting walking/bike paths in new and existing subdivisions. The community's vision is to enhance Cascade as a destination area with inviting walkable, drivable, safety conscious neighborhoods that are family friendly; and through providing a supportive environment for year around residents and an economy to support

them. Cascade must also take advantage of the natural recreational opportunities that can be expanded upon without adversely affecting the quality of the environment upon which they are based.

Every effort should be made to co-exist with the area's native wildlife. Wildlife is an attraction to the city, but it must be protected, and the public educated to the advantages of these creatures as well as the dangers they may pose.

***Applicant Comment:** The proposed development has a mix use of housing type and conforms to the principals of smart growth. There are mixes of uses and housing types throughout the development. Along with the mix of uses, there are numerous pathways provided throughout the site that will be an asset to the City as this project progresses. The proposed pathways will be maintained by the HOA, so they will not impose additional costs to the City. The proposed development preserves a significant amount of open space and wetland areas, along with a public access to the Payette River. This development will provide for the housing types that are in need within the City and County and may spur economic growth. With wide pathways and landscape buffers, this development has an integrated design of a higher end community while providing for work force housing. The housing types have been place on the map so as to not negatively impact one another.*

Housing Statement:

This element provides an analysis of housing conditions and needs; plans for improvement of housing standards; and plans for the provision of safe, sanitary, and adequate housing. It also includes strategies and recommendation for the provision for low cost conventional housing, the sitting of manufactured housing and mobile homes in subdivisions and parks and on individual lots where zoning regulations allow.

***Applicant Comment:** The proposed development supplies the City with the needed work force housing and a mix of housing types. There will be a range of housing from the work force housing, to townhomes, cottage lots, and estate lots along the Payette River. This proposed subdivision will provide a great mix close to the downtown core, with minimal impact to the City.*

Public Services and Facilities Statement:

This element provides descriptions and analyses of the general plans for sewage, drainage, water supply, fire stations and firefighting equipment, health and welfare facilities, libraries, cemeteries, solid waste disposal, schools, public safety facilities and related services.

Cascade's public water supply is pumped from groundwater wells into above-grade storage tanks. The wells are located outside the city limits, but within the city impact area. The three wells pump directly into a pair of water tanks located above Duffers Lane. The two tanks are located at higher elevations than most residents so pumping for residential use is not necessary. Fresh water daily usage varies from 60,000 gallons in the winter to over 1,000,000 gallons in the summer. At the present there are no plans to expand or create more wells. The water supply is stable and should be able to serve the entire City and Impact Area well into the future for any growth that should occur.

The City of Cascade's wastewater treatment plant is a three-cell facultative treatment pond system along with four rapid infiltration basins. Wastewater flows from the City of Cascade are received at the City Shop lift station located immediately west of City Shop near Cell 1. This lift station is used to transport the wastewater vertically 15 feet to a structure that diverts flows to the different cells.

A preliminary engineering report was prepared pursuant to meeting the preliminary engineering report requirements given in Section 411 of IDAPA 58.01.16, better known as the Idaho Wastewater Rules

(hereinafter called Wastewater Rules). The technical portion of the City of Cascade's Sewer Facility Planning Study (Project Engineering Consultants; Schiess & Associates) was completed and approved by DEQ on March 29, 2011. Since that time, the City replaced thousands of feet of old sewer mainline in an effort to eliminate infiltration and reduce the hydraulic loading on the treatment plant. The collection system project included replacement of the final lift station located near the lagoon treatment plant. This is the sum of all of the wastewater improvements that the City has done since the completion of the Sewer Facility Planning Study.

The City of Cascade now desires to turn their focus to incrementally improving the efficiency and the reliability of treatment at the wastewater treatment plant by adding a minimum amount of aeration and a vertical fine screen. Much of the collection system improvements identified in the facility plan have been made. The treatment aspects of the facility plan are not outdated, remain in force and still provide a capital plan for treatment plant improvements. A preliminary engineering report for treatment plant improvements was prepared to initiate improvements.

The 20-year design condition is assumed to be the addition of 200 homes from the present condition and the buildout condition is too far into the future to be relevant at this time. The addition of 200 homes yields a non-transient population of 1,500 and a summer population of 2,000 or more. Aeration and mixing added to each of the three lagoon cells will provide immediate treatment improvement. The operators should see a noticeable effect of reduced BOD effluent results and odor at seasonal turnover (when the ice on the surface of the lagoons melt off and the warmer water near the bottom of the lagoons during the winter changes places with the warming water on the top of the lagoons as winter gives way to spring) in the late winter and in the later fall when cooler lagoon surface temperatures tend to change places with the warmer water at the bottom of the lagoons. The vertical fine screen is a one-time installation item that will function for current flows all the way to buildout of the capacity of the entire WWTP.

The City of Cascade is one of 114 municipal wastewater treatment plants with NPDES permits. From the period of January 2014 to December 2016 was one of 22 municipal wastewater treatment plants (19%) which had no violations.

The city has an underground storm water collection system. The storm water is discharged into three collection basins near the river. The collection basins act as settling ponds for sediments before the water flows to the river. System upgrades include improving storm drains. The system is designed to meet Idaho Department of Environmental Quality (DEQ) best management practices (BMPs) for storm water.

The best practices manual from DEQ contains recommendations to address water quality concerns with storm water run-off. These include the following:

1. Education – Increase awareness among homeowners and businesses regarding practices for proper disposal of waste, lawn care, and auto maintenance to minimize non-point pollutants.
2. Incorporate low-impact development techniques for new construction and subdivisions to reduce erosion and construct proper storm water collection systems.
3. Road and highway departments should maintain storm drains, drainage systems and other infrastructure related to storm water control.

Police protection is provided by Valley County Sheriff's Office (VCSO) on a contractual basis. Increased police protection may be achieved by contracting with VCSO for additional services. Assistance is also provided by the Idaho State Patrol, who has responsibility for traffic enforcement on state highways. The Sheriff's Office also operates the County Correctional Facility in Cascade and the Valley County

Emergency Services. The County is served by 911 emergency response through the Sheriff's Office and Valley County Emergency Services.

Cascade is now served by the Cascade Rural Fire Protection District. The District has a significant number of volunteers and professionals that serve the area from the Southern end of Round Valley County line north to Arling Hot Springs on the North end. The Fire District provides both suppression and prevention services within its service area. There are mutual aid agreements in place with all fire departments in the valley floor along Highway 55. SIPTA provides Wildland fire protection in the area.

The "Valley County, Idaho Wildland-Urban Interface Wildfire Mitigation Plan" was adopted in 2004. The plan encompasses the entire county and was developed under the direction of a committee with representatives from federal and state land agencies and local city and county governments. Each county in the state has adopted a plan under the National Fire Plan guidelines. The plans include a risk assessment, mitigation strategies and processes to monitor and update the plan.

The WUI plan recommends the following mitigation strategies.

1. Public awareness campaign regarding defensible space techniques.
2. Community evacuation plan
3. Vegetative treatments to reduce fuels and the potential for crown fires.
4. Provide for proper ingress and egress in new developments.

Electric service is provided to Cascade by Idaho Power, an investor owned utility based in Boise that provides service in southern Idaho and eastern Oregon. The utility is engaged in generation, transmission, distribution, sale, and the purchase of electrical power. Generation capacity comes primarily from hydroelectric facilities and coal fired power plants. This includes a hydroelectric facility located on the Cascade Reservoir. The plant was originally built in 1926 on a Payette River diversion by the U.S. Bureau of Reclamation. The generation plant was rebuilt in 1984 to add capacity and now has two generators with a total capacity of 12, 420 kilowatts. Generation is tied to seasonal reservoir releases for irrigation.

Action Items applicable to this development:

1. Adopt and implement guidelines and standards for energy conservation practices.
2. Incorporate energy conservation requirements as approval criteria for planned unit developments

Idaho is the State of Idaho broadband planning initiative to plan advanced broadband services and to promote adoption of broadband technologies. The initiative is funded through a federal grant from the National Telecommunications and Information Administration (NTIA). As part of the grant, a statewide broadband coverage map was developed and is available on-line. The grant also funded regional planning efforts to work with local teams to develop deployment and adoption strategies. communities and planned unit developments.

Cascade is under contract for waste disposal with Lake Shore Disposal. Cascade has a Valley County recycle collection point within the City. Lakeshore Disposal is responsible for the collection and hauling of refuse to their collection sites in McCall, Cascade, and Donnelly. Lakeshore also operates recycling bins at the same locations. After the waste is hauled to the collection sites it is then transported to Idaho Waste Systems' landfill in Elmore County. Each community has a collection fee for refuse collection and hauling.

Cascade Medical Center serves Cascade and the surrounding areas, from Donnelly south to Smith's Ferry. Cascade Medical Center provides a wide variety of medical services to meet the needs of the surrounding community. Cascade Medical Center provides twenty-four-hour emergency care, inpatient hospital care, and a rural health clinic. A local EMS team is available for medical emergencies in and around this area, including the large backcountry. The Cascade Medical Center partners with Saint Alphonsus Regional Medical Center, which supplies both tertiary care and life flight transfer service.

The Cascade Public Library provides service to residents within city limits, as well as the outlying areas. As a full-service library, it provides free access on six public computers, along with free Wi-Fi. The library offers a variety of services such as, 3-D printer, faxing, copying, audio books, videos, interlibrary loan, a large selection of educational databases, and children and adult programming throughout the year, to name a few.

The City of Cascade has one cemetery within city limits. Margaret Cemetery, often called the Cascade Cemetery is located at 118 Gardner Place, Cascade. Other cemeteries in the local area include Crown Point Cemetery located at 1263 Shore Drive, Cascade and Alpha Cemetery located on Alpha Lane, Cascade.

Applicant Comment: The existing water system should be adequate to serve the first phase of this proposed development. An additional well may be required to supply adequate fire suppression for later phases. The applicant will provide evidence that adequate water and fire suppression is available prior to construction and final plat approval. There is between 200-400 EDU capacity within the existing sewer treatment plant, upgrades to that system will be required to service this entire site at full build out. Our plan will be to stop development once our service units have been used up. The developer plans to enter into an agreement with the City for their portion to improve the treatment plant once existing capacity is used up. The development plans to maintain Best Management Practices concerning storm drain disposal, so there should be minimal impact to ground or surface water. Currently the School District is seeing a decline in students, so the District should be able to handle the addition of students from this development, in conversations with the District it appears they have a demand for 20 students currently. The existing City services will adequately supply the proposed development, and existing facilities will not be negatively affected.

Hazardous Areas and Sites Statement:

An understanding and identification of potentially hazardous areas is important to land use planning. Identifying areas at high risk of hazards will definitely impact where future developments are planned and developed, and what mitigation strategies can reduce risk to property owners and avoid the loss of life and property in the event of natural disasters. Fire may be more of a factor than anything previously mentioned here for Cascade. A large fuel load exists to the west, south and north. These areas need to be managed for fire prevention and yet preserved for wildlife habitat.

The flood hazard areas of the City of Cascade are subject to periodic inundation that can result in; loss of life and property, health and safety hazards, disruption of commerce and government services, extraordinary public expenditures and impairment to tax base, all of which adversely affect the public health, safety and general welfare. The City of Cascade has adopted a flood damage prevention regulation to regulate development within flood hazard areas to promote public health, safety and minimize public and private losses due to flood conditions. The City has adopted the Flood Insurance Study (FIS) for Valley County and incorporated Areas" dated February 1, 2019 and accompanying Flood Insurance Rate Maps (FIRM). The FIS and FIRM show both a Floodway (including the Payet River and a portion of the land adjacent to the River) and Special Flood Hazard Area "AE" also referred to at the 100-year floodplain on portions of the development. The City code requires a floodplain development

permit and elevating new structures above the Flood Protection Elevation defined as BFE plus 2 feet along with other regulations.

Applicant Comment: Due to the limited amount of timber on this site there will be minimal fire hazards. However, a significant portion of this development is impacted by a floodplain. The applicant is proposing to dig a pond and raise those areas out of the floodplain. That pond will become a source of fill material and will also become a nice amenity to the subdivision. Our plan will be that once the lots are filled and raised out of the Floodplain we will submit the necessary permits to officially raise the building lots out of the floodplain and that the proposed building meet the regulations of the City Flood damage prevention regulation. The applicant is not proposing any construction within the Floodway.

School Facilities Statement:

The Cascade School District #422 is located at 209 N. School St. in Cascade. The 96,000 square foot facility educates students P-12. The building includes two gymnasiums, a small cafeteria, eleven elementary classrooms, sixteen secondary classrooms, three administrative offices, a counselor's office and storage closets. The building has the capacity to house approximately 500 students. An elementary playground exists on site. Athletic fields are provided by a partnership with the City and the Southern Valley County Recreation District. Enrollment has been in a state of decline. Projected enrollment is expected to remain the same or decline until the local and state economic conditions improve.

Applicant Comment: Due to the nature of enrollment being in a decline, there exists a surplus in available student capacity of approximately 20 students. This proposed development will be mainly housing an existing demand for the work force housing, that should not increase demands on school facilities, and suppling second homes to people within the region. These second homeowners will be paying taxes for schooling, but many will not be adding any impact, therefore, the District will have the benefit of the tax money without the burden of additional students. The proposed development will not negatively impact the School District, and it will supply the housing that will be required to house future educators.

Recreation and Open Space Statement:

This element provides an analysis of the existing system of recreation areas, including parks, parkways, trails, river walks, athletic facilities, playgrounds, and other recreation areas and programs. It also sets forth the community's goals and objectives for expanded and enhanced recreational opportunities. Parks, trails and open spaces provide vital green space in the fast-changing landscape. They provide buffers, transitional areas, and visual relief that can reduce the impacts of development. These areas are also instrumental in providing access to rivers, lakes and adjoining public lands. Just as importantly parks, trails and open space maintain open view sheds, and provide groundwater recharge areas, floodplain protection, natural sound barriers, habitat for urban wildlife, and filter pollutants from the air. Parks and open spaces contribute to both community sustainability and public health.

Applicant Comment: The proposed development provides the City over 34-acres of open space and several miles of walking pathways. Pathways and open spaces are the number one utilized amenity within a subdivision. All of the pathways and open space will be maintained by the HOA, therefore, the City can enjoy the benefit without the cost of maintenance. Our proposed development exceeds the intents of the comprehensive plan for open space and recreational walking paths.

Land Use Statement:

This section contains an analysis of natural land types, existing land covers and uses, and the intrinsic suitability of lands for uses such as agriculture, forestry, mineral exploration and extraction, preservation, recreation, housing, commerce, industry, and public facilities.

Smart Growth Principals

1. Mixed Land Uses.
2. Take Advantage of Compact Building Design.
3. Create a Range of Housing Opportunities and Choices.
4. Create a Walkable Community with connections between developed areas that will create a connected trail system to any part of the impact area. (See Map 4, Chapter 11.1)
5. Foster a Distinctive, Attractive Community with a Strong Sense of Place.
6. Preserve Open Space, Farmland, Natural Beauty, and Critical Environmental/Wildlife Areas.
7. Strengthen and Direct Development towards the City Limits within the impact area until build out and the City can support more expansion.
8. Provide a Variety of Transportation Choices.
9. Make Development Decisions Predictable, Fair, and Cost-Effective.
10. Encourage Community and Stakeholder Collaboration in Development Decisions.

Land Use Decisions will be guided by Smart Growth Principles. The need for new townhomes, condominiums, apartments and other higher density, smaller lot residences will increase as the local business climate enhances. Ideally, a significant share of higher density development would be within walking or biking distance of the central business district and have close access to recreation areas and major roads.

A continuing demand for additional "high-end" or higher priced estate lot developments for second homeowners is anticipated. These neighborhoods should encompass the outlying areas of the city and take advantage of open space and view sheds.

Applicant Comment: The proposal complies with the Comprehensive Land Use Plan as adopted by Cascade, by incorporating the following; a mix of different housing options in or near the neighborhood core while promoting in-fill methodologies and a quality housing project. The proposed site has been designed to best utilize the site while providing for a nice development. The housing type is in great demand and we believe that we can integrate this housing in a well planned out subdivision that will be a benefit to all residents.

This is an analysis of how our proposed project complies with the intent and direction of the City of Cascade's Comprehensive Land Use Plan. If there are any requested clarifications to this analysis, please do not hesitate to call me at (208) 871-7020, and I would be happy to discuss it in more depth with you.

Sincerely,
A Team Land Consultants



Steve Arnold
Project & Real Estate Manager

Cc: Josh & Phil Davis
Steve Bradbury & Mathew Johnson
Peggy Breski
David Sterling P.E
Trevor Howard P.E

Peggy Breski

From: Steve Arnold <steve@ateamboise.com>
Sent: Friday, June 28, 2019 12:03 PM
To: Peggy Breski
Cc: 'Matthew A. Johnson'; 'Stephen Bradbury'
Subject: RE: Submittals for Special Meeting
Attachments: CRR_EXISTING CONDITIONS_01-17-2019 (005).pdf

Follow Up Flag: Follow up
Flag Status: Completed

Peggy,

In response to the items that are called out as outstanding we offer the following feedback:

1. & 2: After meeting with ITD there appears to be a solution to their offset requirements and the requirement to provide secondary access. When we met on Monday, it appears that we can move our main access road to the west, closer to the bridge, while keeping the full access "Little Approach". In discussing the required offsets ITD believe these two locations will work, and that when we direct our traffic study, these locations should be identified in the study.
3. & 4. The Planning and Zoning Commission did discuss the townhouse area and the reduction of the setback, but there was no motion of approval and formal action on a direction. Because we have submitted an application that is requesting a reduced setback, greater than was being discussed, we feel it premature to change the maps and applications until after the Commission makes their recommendation.
5. We have agreed to meet the lot width of the townhouse units and the cottage units as requested by staff, but there needs to be further discussion on the 4-plex units and the 18-plex units to determine if the Commission is going to allow for reduced lot square footages. If the Commission does grant the exception we will make sure the final plat is correct prior to final plat and construction plan preparation.
6. We did have a conversation with Fire at our last Planning and Zoning Commission meeting that created room for follow up. So on Tuesday afternoon we had a conversation with the Fire Chief, Steven Hall. It was concerning the alleys that we were proposing for the townhouse units. At our Commission meeting there came up question on the inside and outside radius for the alley, which is 28' and 48' and that meets the international fire code as it relates to turning radius's for a public or private street. In further discussion with Steve, it was not so much about the radius but more of the width of the alley, which is 20'. There was concern that a 20' alley with snow could hinder the operation of an emergency vehicles. There are ways to mitigate this concerns, but for the minimal amount of alley product that we were proposing it was determined that it would be best to just eliminate all the alleys and just construct all public roads. So the previously proposed Ogden and Smith Alley will be construction as a 26' street section, two 11' travel lanes and one 4' bike/pedestrian lane, within 40' of Right-of-way; these two roads will be the only roads within the 40' right-of-way. This change should eliminate the concern for additional parking along those alley's because the proposed sections will have on street parking, and the lane width was preferred to the Fire Department.
7. Attached is a map of "Existing Conditions" that we submitted with the original application. We kept the topo off the other maps because it made them too busy. We have more detailed topo maps but in

talking with you it did not appear that those were necessary at this point. When they are needed I can have our engineer deliver to your engineer a digital copy of those maps. I believe that most of the items have been provided except the Army Corps of Engineers, but that will be coming soon.

8. Two legal descriptions for annexation: as discussed with the City, these will be provided when it is time to adopt the annexation and zoning.

As a note to the comment that our narrative was incorrect when it spoke to sewer capacity, the statement was an approximate. We still don't know what we have for certain, we are now seeing discussion of 65 sewer and water connections. We are aware that we will have "X" amount and that there will be efforts to get the "Y" amount. This is part of the development process that we will fully participate in the Development Agreement to create a solution that will call out existing and future conditions along with costs associated with improving those conditions. Please let me know if there are any other questions or clarifications needed to complete the City's review.

Thanks,



Steve Arnold, Project Manager

(208) 871-7020

1785 S Whisper Cove, Boise, Idaho 83709

steve@ateamboise.com

From: Peggy Breski <peggyb@horrocks.com>

Sent: Monday, June 24, 2019 9:52 AM

To: steve@ateamboise.com

Cc: Matthew A. Johnson <mjohnson@WHITEPETERSON.com>; 'Stephen Bradbury' <steve@williamsbradbury.com>

Subject: Submittals for Special Meeting

Hi, Steve,

Just checking in now that I'm back. P&Z special meeting is just a week from today, and it would keep the process smooth if you could provide all remaining items by Wednesday end of day; this will give us Thursday to review and prep the Staff Report, and get the packets to Commissioners by Friday.

What I'm showing as outstanding:

1. ITD road access (preliminary approval on location(s))
2. Second access location (maybe off highway?)
3. Amendments at townhome area to reflect the 10' setback from roadway
4. Amendment at townhome area to show snow storage
5. Corrections to lot widths (total 8 still not meeting standard)
6. Correction of roadway widths where applicable, including alleyway (to meet standard even if private) as required by Fire District
7. Items as listed on Page 7 of the Staff Report from 6/17 meeting (Items 2(b-f, h-i), 20, 21)
8. Item #8 on page 8 of Staff Report – should have had enough time by now to get those 2 descriptions for zoning areas

I'll work on setting up a time for all to meet to begin Development Agreement.

Also, I think it's important to note, for your planning efforts, that your comments in your updated Narrative dated June 14, 2019, page 7, relative to EDU capacity is incorrect. Your narrative indicates 200-400 capacity; as per the letter from Scheiss Engineers, there is a total of only 100 at this time. Per PW Department the City will only be able to entitle 65 hook-ups prior to any improvements being made. There are a few other assumptions in that narrative that need to be corrected in order for you to accurately plan, but I think those can wait for another discussion/day.

Thanks so much,

Peggy Breski
Senior Planner | Project Manager

HORROCKS
ENGINEERS

2775 W. Navigator Dr., Suite 210
Meridian, Idaho 83642

Direct 208-895-2520
Email peggyb@horrocks.com
Web www.horrocks.com

Linda L. Thacker
107 Cabarton Road, Unit 1
Cascade, ID 83611
linthacker@gmail.com

June 27, 2019

Cascade Planning & Zoning Commission
Cascade City Council
Mayor Judy Nissula

Re: Cascade River Ranch

Dear All;

After reading the proposals by Steve Arnold of A-Team Land Development submitted May 10 and June 4 of this year I am stunned and appalled. Please be very cautious because I believe you are being played for fools. These documents are so poorly written that I compare them to the scams you might get from a third world country!

The scope of this development is overwhelming. It makes Avimor look small. Cascade does not need a multi-use development; more sensible and affordable housing maybe, but not tenement style and high density multi-family structures on a built-up flood plain. Seriously! What could possibly go wrong there?

The cavalier approach to the flood plain issue is a HUGE red flag. Has anyone paid attention to the effects of climate change and the record-breaking rainfall with subsequent flooding in places that have never experienced flooding before? Think that can't happen here? Do not bet that insurers won't demand flood insurance as Mr. Arnold suggests. You know what will wash away first if the water rises? That's right—all the fill that the structures sit upon will wash away and take the foundations with it. I'm not a genius, this is just common sense folks. And this is just one of many concerns, namely traffic and infrastructure for example, that are barely glossed over before an expected go-ahead.

Please do not approve any of this. It is a complete folly that will take the City of Cascade down with it. With approval comes liability and I think the risks are enormous. Do any of you want to be named in a lawsuit if something terrible happens?

I believe there is another location that would be more appropriate for possible development, namely the northeast corner of Highway 55 and Warm Lake Road: better accesses on two different roads, not on a flood plain, flat. Not rocket science.

Also, consider this: the next real estate crash is just a matter of time. Who gets left in the lurch? Don't let it be all the people you currently represent. The residents count on your good judgement.

Sincerely,

Linda Thacker



**Your Safety • Your Mobility
Your Economic Opportunity**

IDAHO TRANSPORTATION DEPARTMENT
P.O. Box 8028 • Boise, ID 83707-2028
(208) 334-8300 • itd.idaho.gov

*Entered as part
received 11/18 ✓*

February 20, 2019

Carrie Rushby
Planning and Zoning
105 South Main Street
Cascade, Idaho 83611

VIA EMAIL

Development Application	ANNEX-19-01, ZON-19-01, PUD-19-01, SUB-19-01
Project Name	CASCADE RIVER RANCH
Project Location	Adjacent to the Payette River in the northeast corner of SH-55 and the Payette River, north of SH-55 milepost 113.72
Project Description	Full buildout will include 12 commercial lots, 145 single family lots, 11 cottage lots, 46 townhouse lots, and 64 multi-family lots
Applicant	Cascade River, LLC

The Idaho Transportation Department (ITD) reviewed the referenced annexation, rezone, planned unit development, and preliminary plat applications and has the following comments:

1. This project abuts the State highway system.
2. The access to this parcel is permitted under ITD Permit No. 3-05-116. This approach is currently permitted as residential. Changing the use of the approach to commercial to allow for commercial development as well as the increase in trip generation will require the property owner re-apply for access. For assistance please contact Shona Tonkin at (208) 334-8341 or Shona.Tonkin@itd.idaho.gov.
3. Traffic generation numbers were not provided with this application. Based on the size of this proposed subdivision and its proximity to SH-55, ITD is requesting that the applicant provide a Traffic Impact Study (TIS) reflecting full build out of the development. ITD needs more information on the trip generations to determine what mitigations, if any, that the applicant may be required to construct on the State Highway system. Any necessary mitigation for traffic impacts identified by the Traffic Impact Study shall be the responsibility of the applicant to install. ITD reserves the right to make further comments upon review of any submitted traffic generation data or other documents.
4. Applicant has contacted ITD for a scope of work for the required TIS, however ITD has received no traffic analysis information as of this date. ITD cannot approve of the application without receiving, reviewing, and accepting a TIS for this development.



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IDAHO TRANSPORTATION DEPARTMENT
P.O. Box 8028 • Boise, ID 83707-2028
(208) 334-8300 • itd.idaho.gov

5. Applicant has indicated the intent to accommodate an alternate route for the City of Cascade. At this time, ITD has no intention of creating an alternate route around the City of Cascade.
6. Idaho Code 40-1910 does not allow advertising within the right-of-way of any State highway.
7. The Idaho Administrative Procedures Act (IDAPA) 39.03.60 governs advertising along the State highway system. The applicant may contact Justin Pond, Right-of-Way Section Program Manager, at (208) 334-8832 for more information.
8. ITD objects to the proposed application due to traffic concerns as noted in items 2, 3 and 4.
9. Once traffic concerns have been resolved with ITD Staff, ITD will withdraw any objection to the proposed application.

If you have any questions, you may contact Ken Couch at (208) 332-7190 or me at (208) 334-8338.

Sincerely,

A handwritten signature in blue ink that reads 'Sarah Arjona'.

Sarah Arjona
Development Services Coordinator
Sarah.Arjona@itd.idaho.gov

Carrie Rushby

From: Sarah Arjona <Sarah.Arjona@itd.idaho.gov>
Sent: Thursday, June 13, 2019 10:54 AM
To: Carrie Rushby
Subject: RE: [EXTERNAL] Just checking in....

Hello Carrie!

Unfortunately, we have not received any traffic analysis from The River District as of this date. We were contacted by Peggy Breski, who I believe is the City Engineer. She asked about ITD's spacing requirements because The River District is now proposing two access points as opposed to one. We will make sure to let you know when we receive a Traffic Impact Study from The River District.

Thank you for keeping us in the loop!

*Sarah Arjona
Development Services Coordinator
ITD District 3
(208) 334-8338*



7103 SOUTH 45TH WEST, IDAHO FALLS, ID 83402
OFFICE: (208) 522-1244 FAX: (208) 522-9232

Entered as paid of
memo, 11/18

June 11, 2019

Mayor Judith R. Nissula
City of Cascade
P.O. Box 649
105 S. Main St.
Cascade, Idaho 83611

Re: Preliminary Review of City Drinking Water System and Wastewater System Capacity
Considering the Addition of Cascade River Ranch Development

Dear Mayor Nissula:

This letter addresses impacts that the Cascade River Ranch Development would have on the City of Cascade's drinking water and wastewater systems. This is done within the limits of currently available data. DEQ raised wastewater capacity issues upon reviewing the Preliminary Engineering Report (PER) prepared for the lift station that will be designed to serve the Cascade River Ranch development.

The primary issues brought up by DEQ in the PER review include the following: 1) Does the City of Cascade's wastewater treatment system have the capacity to treat wastewater from this development? 2) Does the collection system have the capacity to transport the sewage from this development to the treatment plant? 3) Various lift station concerns brought up as a result of DEQ's review of the PER. We will address these concerns in the same order. A discussion of drinking water system capacity will be given last.

Wastewater Treatment Plant Capacity

Based on the findings of the Preliminary Engineering Report for Aeration and Screen Improvements prepared by Schiess & Associates in May 2017 and the City resolution to stop accepting septage beginning in the spring of 2017, the treatment plant today has capacity to serve approximately 100 more homes.ⁱ The Schiess PER also states that the addition of a minimum amount of aeration (40 Hp configured as described) would provide treatment for an additional 200 homes (or hookups). This covers 300 of the 500+ hookups planned in the River Ranch Development. Additionally, room would need to be held open for empty lots remaining in the City and for other developments. Aeration design can be considered to increase the treatment plant capacity to 500+ additional hookups. The lift station PER states that the development will likely take 10-15 years to build out.ⁱⁱ

Other related wastewater treatment issues the City is facing includes addition of the vertical screen to final lift station wet well (to improve the operation of the final lift station and rid the lagoons of inorganic solids) and resolution of the disinfection issue at the treatment plant. The solution to the latter issue is hopefully proving to DEQ that natural disinfection is occurring underground prior to the rapid infiltration filtrate water reaching the N. Fork of the Payette River. The effort to determine adequate subsurface disinfection is underway. If not successful,

adding mechanical or chemical disinfection prior to discharge into the rapid infiltration basins will be required.

It is understood that DEQ will shortly deliver to the City an Idaho Pollutant Discharge Elimination System (IPDES) draft permit for review and comment. This permit, upon activation, will necessitate action on the part of the City to complete disinfection compliance under an agreed-to time frame. The necessity to resolve the disinfection problem, increase treatment capacity by the addition of aeration to the lagoons and addition of the vertical screen can all be dealt with simultaneously. The instrument to do this is an update to the 2010 Sewer Facility Planning Study. The City could apply for grant funding in early January 2020 with the study to begin in July 2020, if funded. We like the City's chances for funding eligibility due to a compliance schedule agreement that may be part of the IPDES permit to resolve the disinfection issue.

The wastewater issues are ongoing issues that are exacerbated by the addition of Cascade River Ranch. Like buildout of this subdivision, addressing the City wastewater treatment issues will take time. The City has charged us with updating the wastewater service availability fee. This fee puts new users on an equitable basis with existing users. These fees can only be used for capital improvements. New and old users alike will benefit from new improvements paid for with service availability fees and potential grants and loan.

Wastewater Collection System Capacity for River Ranch Development

The collection system between the River Ranch Development and the existing final lift station include segments of new force main and 8-inch gravity collection lines. These lines were reported to be newly installed with the improvements project in 2014ⁱⁱⁱ. The estimated pumping capacity needed at buildout of the development according the PER is 307 gpm. There appears to be adequate capacity in these new lines to handle this build-out flow. As part of the proposed facility planning study update, the capacity of these lines could be verified. The proposed lift station will only be able to serve homes and businesses within the proposed development.

Other DEQ Concerns with the River Ranch Lift Station PER

We read DEQ's review comments and called and discussed the PER with the author at TO Engineers, City public works and Horrocks Engineers. The PER was designed around a lift station with submersible pumps. This is the style of all existing lift stations in the City except for the final lift station, which is a special suction-lift type designed around the future vertical screen. Due to the depth of the proposed lift station, a submersible pump type is a reasonable choice. The City may want to plan as part of the proposed facility planning study update effort to standardize all submersible type lift stations to improve the ease of maintenance.

The lift station PER is generally a good document. TO Engineers expressed a desire to provide a quality design that eliminates the threat of infiltration, includes a stand-by generator, considers build-out of the subdivision and provides a link to the City SCADA monitoring system. We can give specific, detailed PER review comments later. The nature of specific and detailed comments to this PER is not relevant unless the City approves the preliminary plat.

Drinking Water Supply Capacity and Distribution System Capacity

The City currently serves approximately 1004 residents. Cascade River Ranch would add 1032 residents, which would approximately double the population of the City. The Public Works Director informed us that the City currently serves its residents with three wells and three storage tanks as follows:

Well 1: 300-350 gpm	Duffer Tank 1: 500,000 gal
Well 2: 300-350 gpm	Duffer Tank 2: 500,000 gal
Well 3: 600-650 gpm	Bogie Tank: 300,000 gal

During the summer months when outside irrigation is occurring, Well 3 runs all the time and is supplemented 2-4 hours a day with the other two wells. This tells us that if Well 3 was out of service for a few weeks during this summer, that the City would barely get by. Well's 1 and 2 are mostly redundant to Well 3.

The City will not get by with the same facilities under the same situation (Well 3 down for service in the summer) when the water demand in the City nearly doubles due to addition of the development. The redundancy of water supply would be eliminated. Storage capacity would be stressed. The City would fall outside of the minimum service levels outlined in the Idaho Drinking Water Rules. Conceptually, the City will have to drill another well approximately the size of Well 3 and add more storage. Allowance should also be made for infill of existing vacant lots within the City.

A cursory review of City water rights listed on the IDWR website illustrates that the City can pump Well 3 and either Well 1 or Well 2 simultaneously and fall within the allowable diversion rate. To add this development plus allow for infill of vacant lots, additional groundwater rights will be needed to provide non-consumptive in-house use of approximately 1.0 cubic feet per second (cfs). The City has potential options to explore regarding the provision of irrigation water to the new hookups in the proposed development; but it will take some work. The effort to find a reasonable solution should occur sooner rather than later. A listing of the water rights we found on the IDWR website is attached to this letter.

At present, we do not know whether the existing distribution pipe network could deliver needed water supply and pressure to the development during the outside irrigation season or for fire suppression. Resolution of these unknowns is best accomplished with water modeling of the existing distribution system. This would be best accomplished as part of a drinking water facility planning study.

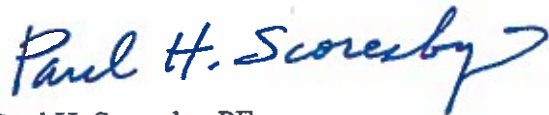
The Public Works Director reported that the City has not undertaken a water system facility planning study effort in recent memory. DEQ could not locate one in their archives. The City is overdue for a drinking water facility planning study. The City should apply for a DEQ drinking water facility planning study grant in January 2020. The study would document the existing system, model the distribution system and supply systems, determine what is lacking and set forth a capital improvement plan to allow the City to take on additional hookups. The study would also provide a blueprint for resolution of any water right needs and identify capital

Mayor Nissula
June 11, 2019
Page 4 of 4

improvements to upgrade existing facilities that are aging and depreciating. A funding plan would be laid out that would illustrate that improvements would be paid for with service availability fees collected from new hookups and potentially grants and a loan.

This concludes our brief review of the capacities of the City drinking water and wastewater systems and gives some guidance as to the next steps the City should take to work toward resolving them. Please feel free to call if you have any questions.

Sincerely,



Paul H. Scoresby, PE

Cc: Horrocks Engineers

Attachment: City of Cascade Water Rights from IDWR Website

ⁱ See first paragraph on Page 6 of said report. See also the first paragraph on Page 64 of the Cascade Sewer Facilities Planning Study dated September 2010.

ⁱⁱ See Page 8 of the TO Engineers PER dated May 2019.

ⁱⁱⁱ This was determined via phone calls with Horrocks Engineers and the City Public Works Director.

City of Cascade Water Rights from IDWR Website

<u>Type</u>	<u>Basin</u>	<u>Sequence</u>	<u>Suffix</u>	<u>Application Number</u>	<u>Basis</u>	<u>Status</u>	<u>Priority Date</u>	<u>Rate (cfs)</u>	<u>Source</u>	<u>Water Use</u>	<u>Owner</u>
WR	65	3138			Decreed	Active	6/1/1899	2.34	CAMPBELL CREEK	MUNICIPAL	CITY OF CASCADE
WR	65	10353			Decreed	Active	3/1/1919	0.8	SKEIN CREEK	MUNICIPAL	CITY OF CASCADE
WR	65	10354			Decreed	Active	7/16/1888	2.34	HAZARD CREEK	MUNICIPAL	CITY OF CASCADE
WR	65	12726			License	Active	12/13/1984	0.44	GROUND WATER	MUNICIPAL	CITY OF CASCADE
WR	65	13311			License	Active	3/11/1991	0.66	GROUND WATER	MUNICIPAL	CITY OF CASCADE
WR	65	13485			License	Active	10/26/1993	1	GROUND WATER	MUNICIPAL	CITY OF CASCADE
WR	65	23581			License	Active	4/5/2014	0.1	GROUND WATER	WILDLIFE	CITY OF CASCADE

Total Groundwater Rights Used in Water System =

2.1 cfs
942 gpm



Approved by P+Z Sept. 16
"with Tracy's changes"

Entered as
PUD, 11/18
11/18

**BEFORE THE PLANNING AND ZONING COMMISSION OF THE
CITY OF CASCADE**

In the Matter of the)	
Application of:)	Case No. PUD-19-01, SUB-19-01
)	
Steve Arnold, A-Team Land Development)	FINDINGS OF FACT/
& Real Estate, agent for)	CONCLUSIONS OF LAW AND
Cascade River, LLC)	DECISION AND
applicant/owner)	RECOMMENDATIONS TO CITY
)	COUNCIL
For annexation and zoning)	
designation upon annexation)	

This matter having come before the Cascade Planning and Zoning Commission ("Commission") for hearing pursuant to Cascade City Code §3-2-6 on July 1, 2019, the Commission does hereby make the following findings of fact, conclusions of law and recommendations:

I. THE RECORD

The record of the proceedings of the above-referenced matter consists of the following:

1. Application for Annexation, designated as ANNEX-19-01, and associated Findings with approval by the Commission,
2. Application for Zoning, designated as ZON-19-01, and associated Findings with approval by the Commission,
3. Application for Planned Unit Development, designated as PUD-19-01,
4. Application for Subdivision Preliminary Plat, designated as SUB-19-01,

5. Third Staff Report for Special P&Z Meeting, dated July 1, 2019, and incorporating previous staff reports and all other documents referenced in such report;
6. Notice of Hearing dated [REDACTED], 2019.
7. Public Hearing: Public hearing on July 1, 2019, before the Commission, which included presentation and testimony from city staff and from the Applicant, as well as receipt of recorded testimony via both written and verbal public comment.

II. DECISION

Whereupon the Commission having been duly informed upon the premises and having reviewed the record, evidence and testimony received and being fully advised does hereby make the following findings of fact, conclusions of law and decisions and recommendation to the City Council:

A. FINDINGS OF FACT

1. That Cascade River, LLC, is the Owner who has existing interest in the real property which is the subject of the applications on the Record.
2. On January 22, 2019, Steve Arnold, A-Team Land Development and Real Estate, as a duly authorized agent for Owner, (jointly "Applicant") submitted written applications for annexation, zoning district designation, subdivision, and planned unit development, including applicable fees at that time, with respect to the Property, described as follows:

W/2 E/2; NE4 NW4; GOV'T. LOTS 1,2, & 5; GOV'T. LOT 6,

LYING N. AND E. OF HWY. 55 S31 T14N R4E
3. Applicant requested annexation of 121.17 acres currently within Valley County into the City of Cascade, with proposed zoning for a mixed-use development with a portion of the Property

requested to be zoned R-III (High Density) and a portion to be zoned C (Commercial). This Commission has previously recommended such annexation and initial zoning designation for approval to the City Council, contingent upon later action and approval on the PUD and subdivision applications.

4. The applications for planned unit development, and subdivision are appropriately considered in combination in order to reduce error, misunderstanding, confusion, or unnecessary delay for all involved. Cascade City Code 3-2-1(G).

5. The Property proposed for subdivision and development will utilize City services for water and sewer. All roads within the proposed subdivision will be public and will be dedicated to the City of Cascade.

6. The Property is contiguous and adjacent to the present city limits of the City of Cascade.

7. The Property is included in the impact area of the City.

8. The Property is located within a flood zone and as such shall be subject to all flood controls and regulations of the State of Idaho and City of Cascade.

9. The proposed request is in accordance with the adopted comprehensive plan of the City by reason of the following:

a. The proposed development encourages a level of population growth that enhances community vitality and culture without exceeding public service capacity; and

b. The proposed development of the subject real property will provide for additional housing and commercial economic development within the community; and

c. The proposed development of the subject real property will facilitate creation of new business and economic development; and

- d. The proposed development of the subject real property can be accommodated within the Cascade transportation system so as to provide safe, functional, and efficient means for movement of people and goods into and through Cascade; and
- e. The proposed development has the capability to ensure that such new development is planned and designed to recognize and minimize impacts to the Cascade area's environmental and scenic resources, including use of buffering to protect water quality and wildlife habitat along the North Fork of the Payette River; and
- f. The proposed development seeks to satisfy and achieve smart growth principles, including Mixed Land Uses, Range of Housing Opportunities and Choices, Walkable Community, Foster a Distinctive and Attractive Community, Preserve Open Space and Critical Environmental/Wildlife Areas, Directing Development towards the City Limits; and
- g. The proposed development seeks to meet housing needs and provide a range of housing options that are affordable, safe, and attractive with efficient delivery of public services; and
- h. The proposed development protects and preserves private property rights; and
- i. The proposed development provides for a mix of land uses that meet the community's needs and are suitably related to each other and their natural setting, within an efficient pattern of development; and

- j. The proposed development is within an appropriate area to support the development of adequate housing quantities and types of meet projected housing needs, within a framework of interconnected neighborhoods; and
 - k. The proposed development is within an appropriate area to support desired economic development; and
 - l. The proposed developed is appropriately buffered from incompatible uses.
10. The proposed development contains minimum areas satisfying the requirements of Cascade City Code 3-2-6(C)(2) with respect to a planned unit development (“PUD”).
11. Applicant has provided an appropriate site development plan satisfying the criteria of Cascade City Code 3-2-6(C)(3).
12. The proposed development sufficiently satisfies street construction standards for proposed public and private streets, as based upon recommendations and comments from the City Engineer.
13. The proposed development includes intent to establish a home owner’s association, which shall be subject to further review and approval by the City Council in this process per Cascade City Code 3-2-6(C)(5).
14. The proposed development provides satisfactory storage areas, as contemplated by Cascade City Code 3-2-6(C)(6), based upon the particular plan and needs of this development.
15. The proposed development provides satisfactory parking spaces, as contemplated by Cascade City Code 3-2-6(C)(7), based upon the particular plan and needs of this development.
16. The proposed development provides a satisfactory maintenance building, sufficient to satisfy Cascade City Code 3-2-6(C)(8).

17. The proposed development provides for appropriate open space of such shape and area to be usable and convenient, satisfying Cascade City Code 3-2-6(C)(9).

18. The proposed development provides for such ownership and site control, and phasing and time limits as necessary and to be committed to in an associated development agreement, sufficient to satisfy Cascade City Code 3-2-6(C)(10).

19. The proposed development has provided the required and sufficient information to the City regarding portions of the development within flood areas, with such information being satisfactory to evidence justification for the development per the criteria set forth under Cascade City Code 3-2-6(G).

20. The proposed development sufficiently meets and satisfies the purposes of the City of Cascade Subdivision Regulations (Cascade City Code Title 3, Chapter), including:

- i) Promoting the public health, safety, and general welfare;
- ii) Providing for harmonious development of the area;
- iii) Coordinating streets and roads within the proposed development with existing or planned streets and roads;
- iv) Providing adequate transportation, water drainage, and sanitary facilities;
- v) Avoiding scattered subdivision of land that would result in a detrimental lack of public service or unnecessarily impose excessive expenditure of public funds;
- vi) Providing for the creation and improvement of roads, water and sewer facilities, and other necessary public infrastructure

21. Applicant's filing of a preliminary plat is complete and satisfies the preliminary plat requirements of Cascade City Code 3-2-3(C), with a final plat to be submitted, reviewed, and approved at a later date.
22. The proposed subdivision conforms with the Comprehensive Plan, for those reasons set forth in Finding 9 above.
23. The proposed subdivision provides for sufficient availability of public services to accommodate the proposed development.
24. The proposed development does not disrupt the continuity of the City's capital improvement plans and programs.
25. The proposed subdivision appropriately considers the public capability to provide supporting services for the proposed development.
26. The proposed subdivision appropriately remedies or mitigates other health, safety, or environmental problems raised to the Commission's attention.
27. Notice and the holding of public hearing for the combined consideration of PUD-19-01 and SUB-19-01 was duly published and served in accordance with the requirements of Idaho Code and the Cascade City Code.
28. The Commission may approve, conditionally approved, disapprove, or table a preliminary plat as a final decision, not a recommendation to the Council, subject to appeal.
Cascade City Code 3-2-3(C)(9)(c)
29. However due to the combination of the PUD and subdivision applications, concurrent with associated annexation and zoning applications, the Commission finds it appropriate that the

complete and combined applications all be submitted to the Council as recommendations for a final decisions and actions by the Council as deemed appropriate.

B.

CONCLUSIONS OF LAW

1. Idaho Code §67-6515 authorizes and provides for a city to set a process for the application and consideration of planned unit development permits.
2. Idaho Code §67-6513 authorizes and provides for a city to establish a process for the application and consideration of subdivision permits.
3. Idaho Code Title 50, Chapter 13 authorizes and provides for certain considerations and requirements for a city in evaluating, establishing, and providing for subdivisions plats.
4. Idaho Code §67-6509, as referenced in Idaho Code §67-6513, provides for certain notice and hearing procedures for the processing of subdivision permits.
5. Pursuant to Cascade City Code 3-2-6(C), planned unit development applications are subject to the requirements of both the City's zoning ordinance and the subdivision regulations; therefore, a PUD is appropriately considered initially by the Commission for recommendation and then recommended to the City Council for a final decision.
6. Pursuant to Cascade City Code 3-2-3(C)(9)(c) the Commission may make a final decision on a preliminary plat application; but it is contemplated and appropriate in combined permit circumstances of this nature for the Commission to include a preliminary plat as part of a combined permit in a combined recommendation to the City Council for decision.
7. A final plat will later be required to go to the City Council for review and a final decision, per Cascade City Code 3-2-3(D).

8. Cascade City Code Title 3, Chapter 7 authorizes and provides for a development agreement as a condition of annexation and zoning.

C.

RECOMMENDATION TO CITY COUNCIL

Based upon the above and foregoing Findings of Fact/Conclusions of Law and good cause appearing from the record, the Planning and Zoning Commission makes the following recommendations to the City Council:

1. That the application for planned unit development, PUD-19-01, satisfies the regulations and conditions as specified above and is approved;
2. That the application, SUB-19-01, as considered in combination with PUD-19-01, satisfies the regulations and conditions as specified above and is approved as a preliminary plat;
3. That such approvals, once final and in conjunction with the approval and execution of a Development Agreement, will satisfy the contingencies for the approvals of ANNEX-19-01 and ZON-19-01, thus allowing those approvals to be finalized and executed as necessary.
4. Upon approval and satisfaction of the above, that the Mayor is authorized to sign and effectuate the associated permits.

DATED _____, 2019.

Lori Hunter, Planning & Zoning Commission Chair

ATTEST:

Heather Soelberg, City Clerk

Entered as part of record 11/18

**BEFORE THE PLANNING AND ZONING COMMISSION OF THE
CITY OF CASCADE**

In the Matter of the)	
Application of:)	Case No. PUD-19-01, SUB-19-01
)	
Steve Arnold, A-Team Land Development)	FINDINGS OF FACT/
& Real Estate, agent for)	CONCLUSIONS OF LAW AND
Cascade River, LLC)	DECISION AND
applicant/owner)	RECOMMENDATIONS TO CITY
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For annexation and zoning)	
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3. Application for Planned Unit Development, designated as PUD-19-01,
4. Application for Subdivision Preliminary Plat, designated as SUB-19-01,

- OK
5. Third Staff Report for Special P&Z Meeting, dated July 1, 2019, and incorporating previous staff reports and all other documents referenced in such report;
 6. Notice of Hearing dated [REDACTED], 2019.
 7. Public Hearing: Public hearing on July 1, 2019, before the Commission, which included presentation and testimony from city staff and from the Applicant, as well as receipt of recorded testimony via both written and verbal public comment.

II. DECISION

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A. FINDINGS OF FACT

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W/2 E/2; NE4 NW4; GOV'T. LOTS 1,2, & 5; GOV'T. LOT 6,

LYING N. AND E. OF HWY. 55 S31 T14N R4E
3. Applicant requested annexation of 121.17 acres currently within Valley County into the City of Cascade, with proposed zoning for a mixed-use development with a portion of the Property

requested to be zoned R-III (High Density) and a portion to be zoned C (Commercial). This Commission has previously recommended such annexation and initial zoning designation for approval to the City Council, contingent upon later action and approval on the PUD and subdivision applications.

4. The applications for planned unit development, and subdivision are appropriately considered in combination in order to reduce error, misunderstanding, confusion, or unnecessary delay for all involved. Cascade City Code 3-2-1(G).

5. The Property proposed for subdivision and development will utilize City services for water and sewer. All roads within the proposed subdivision will be public and will be dedicated to the City of Cascade.

Comment [PB1]: This is now a topic of concern. The City may not be able to provide water.

6. The Property is contiguous and adjacent to the present city limits of the City of Cascade.

7. The Property is included in the impact area of the City.

8. The Property is located within a flood zone and as such shall be subject to all flood controls and regulations of the State of Idaho and City of Cascade.

9. The proposed request is in accordance with the adopted comprehensive plan of the City by reason of the following:

- a. The proposed development encourages a level of population growth that enhances community vitality and culture without exceeding public service capacity; and
- b. The proposed development of the subject real property will provide for additional housing and commercial economic development within the community; and

Comment [PB2]: This is not technically accurate; the developer will be required to install updates in infrastructure at the current facility to accommodate the added capacity. As it stands now the PUD would exceed capacity. Not sure if this should be amended?

- c. The proposed development of the subject real property will facilitate creation of new business and economic development; and
- d. The proposed development of the subject real property can be accommodated within the Cascade transportation system so as to provide safe, functional, and efficient means for movement of people and goods into and through Cascade; and
- e. The proposed development has the capability to ensure that such new development is planned and designed to recognize and minimize impacts to the Cascade area's environmental and scenic resources, including use of buffering to protect water quality and wildlife habitat along the North Fork of the Payette River; and
- f. The proposed development seeks to satisfy and achieve smart growth principles, including Mixed Land Uses, Range of Housing Opportunities and Choices, Walkable Community, Foster a Distinctive and Attractive Community, Preserve Open Space and Critical Environmental/Wildlife Areas, Directing Development towards the City Limits; and
- g. The proposed development seeks to meet housing needs and provide a range of housing options that are affordable, safe, and attractive with efficient delivery of public services; and
- h. The proposed development protects and preserves private property rights; and

- i. The proposed development provides for a mix of land uses that meet the community's needs and are suitably related to each other and their natural setting, within an efficient pattern of development; and
 - j. The proposed development is within an appropriate area to support the development of adequate housing quantities and types of meet projected housing needs, within a framework of interconnected neighborhoods; and
 - k. The proposed development is within an appropriate area to support desired economic development; and
 - l. The proposed developed is appropriately buffered from incompatible uses.
10. The proposed development contains minimum areas satisfying the requirements of Cascade City Code 3-2-6(C)(2) with respect to a planned unit development ("PUD").
11. Applicant has provided an appropriate site development plan satisfying the criteria of Cascade City Code 3-2-6(C)(3).
12. The proposed development sufficiently satisfies street construction standards for proposed public and private streets, as based upon recommendations and comments from the City Engineer, and Fire District.
13. The proposed development includes intent to establish a home owner's association, which shall be subject to further review and approval by the City Council in this process per Cascade City Code 3-2-6(C)(5).
14. The proposed development ~~provides satisfactory storage areas, as contemplated by Cascade City Code 3-2-6(C)(6), based upon the particular plan and needs of this development.~~

Comment [PB3]:

Comment [PB4]: The PUD does not include any storage as allowed by P&Z Commissioners.

15. The proposed development provides satisfactory parking spaces, as contemplated by Cascade City Code 3-2-6(C)(7), based upon the particular plan and needs of this development.

~~16. The proposed development provides a satisfactory maintenance building sufficient to satisfy Cascade City Code 3-2-6(C)(8).~~

17.16. The proposed development provides for appropriate open space of such shape and area to be usable and convenient, satisfying Cascade City Code 3-2-6(C)(9).

18.17. The proposed development provides for such ownership and site control, and phasing and time limits as necessary and to be committed to in an associated development agreement, sufficient to satisfy Cascade City Code 3-2-6(C)(10).

19.18. The proposed development has provided the required and sufficient information to the City regarding portions of the development within flood areas, with such information being satisfactory to evidence justification for the development per the criteria set forth under Cascade City Code 3-2-6(G).

20.19. The proposed development sufficiently meets and satisfies the purposes of the City of Cascade Subdivision Regulations (Cascade City Code Title 3, Chapter), including:

- i) Promoting the public health, safety, and general welfare;
- ii) Providing for harmonious development of the area;
- iii) Coordinating streets and roads within the proposed development with existing or planned streets and roads;
- iv) Providing adequate transportation, water drainage, and sanitary facilities;

Comment [PB5]: There is no maintenance building on the plans. This was not brought up as a comment as it was discussed with City and not a concern on their part. This should be removed.

- v) Avoiding scatted subdivision of land that would result in a detrimental lack of public service or unnecessarily impose excessive expenditure of public funds;
- vi) Providing for the creation and improvement of roads, water and sewer facilities, and other necessary public infrastructure

~~21-20.~~ Applicant's filing of a preliminary plat is complete and satisfies the preliminary plat requirements of Cascade City Code 3-2-3(C), with a final plat to be submitted, reviewed, and approved at a later date.

~~22-21.~~ The proposed subdivision conforms with the Comprehensive Plan, for those reasons set forth in Finding 9 above.

~~23-22.~~ The proposed subdivision provides for sufficient availability of public services to accommodate the proposed development.

~~24-23.~~ The proposed development does not disrupt the continuity of the City's capital improvement plans and programs.

~~25-24.~~ The proposed subdivision appropriately considers the public capability to provide supporting services for the proposed development.

~~26-25.~~ The proposed subdivision appropriately remedies or mitigates other health, safety, or environmental problems raised to the Commission's attention.

~~27-26.~~ Notice and the holding of public hearing for the combined consideration of PUD-19-01 and SUB-19-01 was duly published and served in accordance with the requirements of Idaho Code and the Cascade City Code.

Comment [PB6]: I would check on this with Heather as when we reviewed the cost analysis provided by Applicant there were concerns of shortages.

~~28-27.~~ The Commission may approve, conditionally approved, disapprove, or table a preliminary plat as a final decision, not a recommendation to the Council, subject to appeal. Cascade City Code 3-2-3(C)(9)(c)

~~29-28.~~ However due to the combination of the PUD and subdivision applications, concurrent with associated annexation and zoning applications, the Commission finds it appropriate that the complete and combined applications all be submitted to the Council as recommendations for a final decisions and actions by the Council as deemed appropriate.

B.

CONCLUSIONS OF LAW

1. Idaho Code §67-6515 authorizes and provides for a city to set a process for the application and consideration of planned unit development permits.
2. Idaho Code §67-6513 authorizes and provides for a city to establish a process for the application and consideration of subdivision permits.
3. Idaho Code Title 50, Chapter 13 authorizes and provides for certain considerations and requirements for a city in evaluating, establishing, and providing for subdivisions plats.
4. Idaho Code §67-6509, as referenced in Idaho Code §67-6513, provides for certain notice and hearing procedures for the processing of subdivision permits.
5. Pursuant to Cascade City Code 3-2-6(C), planned unit development applications are subject to the requirements of both the City's zoning ordinance and the subdivision regulations; therefore, a PUD is appropriately considered initially by the Commission for recommendation and then recommended to the City Council for a final decision.

6. Pursuant to Cascade City Code 3-2-3(C)(9)(c) the Commission may make a final decision on a preliminary plat application; but it is contemplated and appropriate in combined permit circumstances of this nature for the Commission to include a preliminary plat as part of a combined permit in a combined recommendation to the City Council for decision.

7. A final plat will later be required to go to the City Council for review and a final decision, per Cascade City Code 3-2-3(D).

8. Cascade City Code Title 3, Chapter 7 authorizes and provides for a development agreement as a condition of annexation and zoning.

C.

RECOMMENDATION TO CITY COUNCIL

Based upon the above and foregoing Findings of Fact/Conclusions of Law and good cause appearing from the record, the Planning and Zoning Commission makes the following recommendations to the City Council:

1. That the application for planned unit development, PUD-19-01, satisfies the regulations and conditions as specified above and is approved;
2. That the application, SUB-19-01, as considered in combination with PUD-19-01, satisfies the regulations and conditions as specified above and is approved as a preliminary plat;
3. That such approvals, once final and in conjunction with the approval and execution of a Development Agreement, will satisfy the contingencies for the

approvals of ANNEX-19-01 and ZON-19-01, thus allowing those approvals to be finalized and executed as necessary.

4. Upon approval and satisfaction of the above, that the Mayor is authorized to sign and effectuate the associated permits.

DATED _____, 2019.

Lori Hunter, Planning & Zoning Commission Chair

ATTEST:

Heather Soelberg, City Clerk

6. Pursuant to Cascade City Code 3-2-3(C)(9)(c) the Commission may make a final decision on a preliminary plat application; but it is contemplated and appropriate in combined permit circumstances of this nature for the Commission to include a preliminary plat as part of a combined permit in a combined recommendation to the City Council for decision.

7. A final plat will later be required to go to the City Council for review and a final decision, per Cascade City Code 3-2-3(D).

8. Cascade City Code Title 3, Chapter 7 authorizes and provides for a development agreement as a condition of annexation and zoning.

C.

RECOMMENDATION TO CITY COUNCIL

Based upon the above and foregoing Findings of Fact/Conclusions of Law and good cause appearing from the record, the Planning and Zoning Commission makes the following recommendations to the City Council:

1. That the application for planned unit development, PUD-19-01, satisfies the regulations and conditions as specified above and is approved;
2. That the application, SUB-19-01, as considered in combination with PUD-19-01, satisfies the regulations and conditions as specified above and is approved as a preliminary plat;
3. That such approvals, once final and in conjunction with the approval and execution of a Development Agreement, will satisfy the contingencies for the

approvals of ANNEX-19-01 and ZON-19-01, thus allowing those approvals to be finalized and executed as necessary.

4. Upon approval and satisfaction of the above, that the Mayor is authorized to sign and effectuate the associated permits.

DATED _____, 2019.

Lori Hunter, Planning & Zoning Commission Chair

ATTEST:

Heather Soelberg, City Clerk