



Planning & Development Services

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MEMORANDUM

TO: Mayor and Boise City Council

FROM: Hal Simmons-Planning and Development Services

DATE: January 14, 2014

RE: CAR13-00007, PUD13-00002, CFH13-00019, & SUB13-00017
5237 E. Sawmill Way

This item includes Annexation, Conditional Use, Boise River System Permit and Preliminary Plat applications for a 43-unit planned residential development. The Planning and Zoning Commission recommended denial of the annexation and plat. They subsequently denied the conditional use and Boise River System permits. These are before Council on appeal.



The following record is provided for your review:

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Page 522	Parties of Record (Excluding Petition Signatures)

**A petition with approximately 6,500 signatures (opposition) was also presented to the Commission. It has not been included in the electronic packet, but is available upon request.*

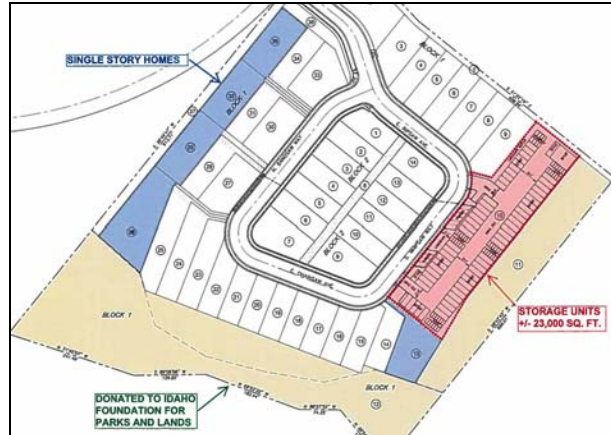
BACKGROUND & SUMMARY OF PLANNING & ZONING COMMISSION ACTION

This item involves four applications, annexation (with a development agreement), preliminary plat, conditional use, and a Boise River System permit. Each is required for construction of the 43-unit planned residential development illustrated below. The 11.97 acre site is located at 5237 E. Sawmill Way. It is currently zoned RP (Rural Preservation) in Ada County.

The Planned Development provisions are intended to provide an opportunity for development that preserves natural features, allows efficient provision of services, and provides common open space or amenities not found in traditional lot-by-lot development. Planned developments are intended to provide benefits to both the public and developer. In exchange for public benefits, developers can request flexibility from certain ordinance standards. In this instance, the applicant is requesting a reduction in lot size and interior setbacks. As a trade-off, a significant portion of the site will be preserved as open space and an extension to the Greenbelt provided.



(Original Site Plan)



(Revised Site Plan)

The applications were originally to be heard by the Planning and Zoning Commission on August 12, 2013. However, after reviewing the [Planning Team's original recommendation](#) the applicant requested deferral. The applicant met further with neighbors and revised the project by replacing four homes along the eastern property line with storage units. They also included a development agreement with the annexation. The agreement tied development of the property to the revised site plan illustrated above. It limited the project to no more than 43 units, restricted the lots in blue to single story homes, and required the area in brown to be donated to the Idaho Foundation for Parks and Lands. The agreement also required the property be part of the Harris Ranch Wildlife Management Association and that an access easement be granted to Ada County for maintenance of facilities associated with Barber Dam. With the changes, the Commission heard the revised application on September 16, 2013.

The property is occupied by sewer ponds currently being decommissioned. It includes a berm and monitoring equipment associated with the Barber Dam (operated by Ada County) to the south. A representative of the Board of County Commissioners testified at the September 16th hearing. They did not oppose the project or annexation. However, they did indicate there were concerns that should be addressed before specific project approval. The Planning and Zoning Commission determined the property should not be annexed until clean-up of the ponds was complete and any unresolved issues with Ada County addressed.

While R-1B (Single Family Residential-4.8 DU/Acre) is an allowed implementing zone according to the Land Use Map, the Commission felt it was inappropriate in this location. It is the highest density of the allowed residential zones. The Commission determined maximizing density in this location would negatively impact the residential neighborhood to the west, Barber Pool to the south, and Idaho Shakespeare Festival to the east. In addition to the annexation, the Commission had concerns with the specific development proposal. They found the proposed subdivision was incompatible with surrounding uses and would negatively impact both the Barber Pool and Idaho Shakespeare Festival. The Commission also felt the applicant had not resolved all issues associated with Barber Dam facilities nor did they demonstrate the project complied with the Boise River System Ordinance.

After reviewing the application materials and listening to a considerable amount of testimony, on a 3-1 vote, the Commission took the following actions:

1. Recommended denial of the annexation and development agreement.
2. Denied the conditional use and Boise River System permits.
3. Recommended denial of the preliminary plat.

Council will need to take up to three actions, in the same order as the Commission. The decision regarding annexation should occur first. Annexation should only occur if Council deems it to be for the public convenience, necessity and for the general welfare of the citizens (BCC 11-03-04-15). If annexation is denied, no action is necessary on the remaining applications.

The conditional use, Boise River System permit and preliminary plat can only be approved upon annexation. In order to approve these applications, Council would need to find error in the lower body decision. BCC 11-03-03.9.C(2)(a) indicates Council may find error on the following grounds:

- i. The decision is in violation of constitutional, state, or city law. An example would be that the review body's decision would be a taking.
- ii. The review body's decision exceeds its statutory authority
- iii. The decision is made upon unlawful procedure. An example would be if notice of a required public hearing was inadequate. In such cases, the matter may be remanded to correct the error.
- iv. The decision is arbitrary, capricious or an abuse of discretion in that it was made without rational basis, or in disregard of the facts and circumstances presented. Where there is room for two opinions, action is not arbitrary and capricious when exercised honestly and upon due consideration.
- v. The decision is not supported by substantial evidence.

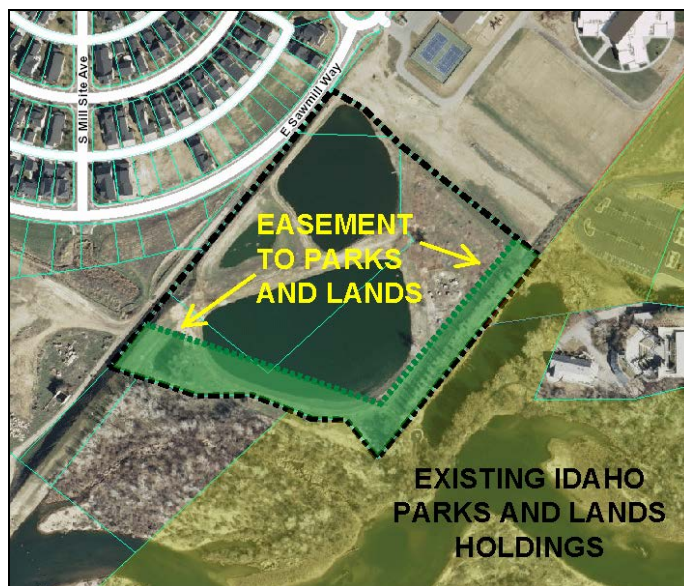
APPEAL

The applicant contends the Planning and Zoning Commission erroneously denied the project and included several grounds in their [appeal and supporting memorandum](#). A portion of the memorandum addresses the annexation. However, there are three grounds focused specifically on the denial of the Boise River System and Conditional Use Permits. Each has been summarized below and is followed by staff's response.

1. There is no substantial evidence of a negative impact on the Barber Pool.

Response: The appellant notes that the entity that manages the Barber Pool Conservation Area is in support of the project. They believe this, combined with the Commission's lack of findings related specifically to wildlife demonstrate error.

The Idaho Foundation for Parks and Lands, owner of the adjacent Barber Pool, confirmed their support of the project in [correspondence dated August 12, 2013](#). They acknowledged an agreement with the applicant to accept donation of not only the 200 foot setback along the river, but also the berm along the eastern property line.



(Idaho Foundation for Parks and Lands)

Even with the easement to Parks and Lands, The Commission ultimately determined that maximizing the number of new residents with the proposed R-1B zone, and the corresponding increase in human activity would negatively impact wildlife in the area. While there was significant testimony regarding wildlife and the Barber Pool, the Commission did not cite specific impacts on habitat or particular species.

In reviewing the deliberation portion of the hearing it appears the number of new residents was the primary concern as there was some discussion regarding a reduction in density to reduce impacts. The record appears to be lacking specific evidence regarding impact to wildlife and the Barber Pool. If Council does not find error, additional evidence should be cited to support this portion of the decision.

2. There is no substantial evidence and no permissible basis for a finding that Barber Mill Estates, on property planned residential, is incompatible with the Idaho Shakespeare Festival.

Response: The applicant believes they provided evidence demonstrating the project would not negatively impact the Festival. Much of this evidence is in the form of sound studies. They believe these studies demonstrate noise from the Festival is within acceptable residential noise standards. They also believe a [number of concessions](#) or features of the project will further mitigate the perceived impacts.

The applicant provided [two independent sound studies](#) and the Shakespeare Festival provided a third. The applicant also submitted excerpts from the [U.S. Department of Housing & Urban Development's noise standards](#). The applicant believes this information all demonstrates compatibility between the project and the Festival. The applicant also believes the Commission incorrectly used the City and County Noise Ordinances in making a land use decision. They believe the Commission erroneously denied the project based on a presumption there will be future conflicts, when the property is designated for residential use, at a density allowed by Blueprint Boise.

The Commission heard significant testimony regarding noise impacts on current residents by the Shakespeare Festival. However, it is true that the property is designated "Residential" on the Land Use Map, and the proposed R-1B zone is allowed in this designation. This issue is closely related to the annexation request. While R-1B is an allowed implementing zone, it is actually one of many. The Commission found:

Given the unique characteristics of surrounding uses, the proposed R-1B zone is inconsistent with the vision for this designation. These lands are typically developed at 1-2 dwelling units per acre, with even lower densities in sensitive areas. The R-1B zone allows up to 4.8 dwelling units per acre. This is the highest density zone allowed in this designation. There are land uses in the area that could be negatively impacted by maximizing the number of new homes in this location. This includes the single family neighborhood to the west, Barber Pool Nature Preserve to the south and Idaho Shakespeare Festival to the east.

In the adopted reason statement, the Commission did suggest a lower density residential zone such as A-1 or R-1A could be requested. They also indicated that with any zone a development agreement should be included restricting the range of uses, densities and project design in a way that responds to the sensitive uses surrounding the site.

The Planning Team does not believe this particular ground demonstrates an error in the Commission's decision. The Comprehensive Plan lists a number of potential implementing zones within each land use designation. Based on the record, it is reasonable to conclude that a lower density zone/project would be more compatible with surrounding uses.

3. The denial of the Boise River System Permit is not based on substantial evidence.

Response: The appellant believes the Commission erroneously determined the project could cause an increase in floodwaters on surrounding properties.

They also believe the Commission incorrectly found the applicant failed to establish that the majority of the site was designated as Class C, as opposed to Class B Lands. Finally, the appellant also takes exception to the fact that the Commission waited until the public hearing was closed to indicate they had “unanswered questions” and thus needed to deny the project.

The Commission heard testimony alleging the project fails to comply with the Boise River System and Floodplain Development ordinances. This contradicted the findings of the Planning Team. Planning relies heavily on input from Public Works Engineers familiar with hydrological factors along the Boise River. Planning Team Members as well as experts from Public Works were in attendance in anticipation of technical questions regarding floodplain and Boise River System topics. The record confirms, that following public testimony, the Commission did not ask questions of City Staff. It was not until deliberation that they mentioned unanswered questions. With the public hearing closed, there was no opportunity for staff or the applicant team (including a wildlife ecologist) to answer these questions or point to the location in written documents to provide clarification.

The Commission did not reference specific information used to justify denial of the Boise River System Permit. If Council does not find error, additional evidence could be cited to support this portion of the decision.

CONCLUSION, REQUIRED MOTIONS & RECOMMENDATION

Annexation with residential zoning is a reasonable request given the fact the property is designated for such use by the Comprehensive Plan. A subdivision comprised of detached single-family homes is consistent with the ‘Residential’ designation. The record demonstrates the project complies with the objective standards of the zoning ordinance. While the record includes a tremendous amount of information, it appears the appeal is ultimately based on two issues; the Commission’s finding that the project is incompatible with surrounding uses and that it will negatively impact other properties.

It will be necessary for Council to take up to three actions, in the following order:

1. Annexation (with development agreement) Council can approve or deny the annexation. The property could also be annexed with an alternative zone or additional restrictions can be added to the proposed development agreement. If annexation is denied, no action is required on the remaining applications.
2. Conditional Use and Boise River System Permits-The Planning and Zoning Commission denied these applications. As a result, Council would need to determine an error was made and overturn the Commission. If error is found, the Commission’s decision may be reversed or modified with substitute findings. If Council elects to uphold the decision, the Planning Team recommends additional evidence and findings be cited to support that action.
3. Preliminary Plat-The plat can only be approved if the annexation, conditional use and Boise River System permits are approved. If this does not occur, the plat must be denied.

ZONING ORDINANCE ON APPEALS / 11-03-03.9.C(2)(a)

- vi. The Council may find error on the following grounds:
- vii. The decision is in violation of constitutional, state, or city law. An example would be that the review body's decision would be a taking.
- viii. The review body's decision exceeds its statutory authority
- ix. The decision is made upon unlawful procedure. An example would be if notice of a required public hearing was inadequate. In such cases, the matter may be remanded to correct the error.
- x. The decision is arbitrary, capricious or an abuse of discretion in that it was made without rational basis, or in disregard of the facts and circumstances presented. Where there is room for two opinions, action is not arbitrary and capricious when exercised honestly and upon due consideration.
- xi. The decision is not supported by substantial evidence.



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NOV 01 2013

PLANNING & DEVELOPMENT
SERVICES

Application for Appeal

Fee: \$ 182.00

I (we) David and Ann Triplett, hereby appeal the decision of the Boise City:

- ☒ Planning & Zoning Commission ☐ Hearing Examiner ☐ Design Review Committee
☐ Historic Preservation Commission ☐ Planning Director

File Number: CAR13-00007, PUD13-00002,
CFH13-00019, SUB13-00017

Address: P.O. Box 1610, Eagle, Idaho 83616

Specific Action Being Appealed:

Denial of Conditional Use permit, Boise River System permit, and PUD application. Council hearing on recommendation regarding annexation and preliminary plat is requested to be consolidated with hearing on this appeal.

Grounds for Appeal

- Decision is a violation of constitutional, state, or city law.
- Decision exceeds statutory authority of the review body.
- Decision was arbitrary, capricious, or an abuse of discretion.
- Decision was not supported by substantial evidence.
- Decision was made on unlawful procedure.

Grounds for appeal will be further described in the memorandum to be submitted pursuant to Boise City Code 11-03-03.9C.

Appeal Contact Person: Hethe Clark (Spink Butler, LLP)

Address: 251 E. Front Street, Suite 200, Boise, Idaho 83702

Home Phone: _____ Work Phone: 208-388-1000 or 208-388-3327

Appeals

- ☐ Appeal of an Administrative Decision to the Planning & Zoning Commission or Design Review Committee (non-refundable fee).
☐ Appeal of a Design Review Committee Decision to the Planning & Zoning Commission.*
☒ Appeal of a Planning & Zoning or Historic Preservation Commission decision to City Council.*
☐ Appeal of a Hearing Examiner decision to City Council.*

* Portion of fee is refundable if appeal is successful.

Notes

- If the reasons for the appeal are resolved prior to the appeal hearing, please contact the Planning Staff at 384-3830.
- The only topics which may be discussed during the appeal hearing are the specific reasons for the appeal as stated in the application.
- Neighborhood groups are encouraged to elect a spokesperson for appeals that are supported by numerous residents of the project to avoid a duplication of testimony.
- Section 11-3-7.2 of the Zoning Ordinance provides that an appeal to Council may not be withdrawn without the consent of Council.

Signature of Appellant/Representative: Hethe Clark

Date: 11/1/13

For Staff Use Only:

If the appellant is not the applicant, the applicant must be contacted immediately following the acceptance of this appeal.

Applicant contacted on _____ by _____. ☐ Appeal is by applicant

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Via Hand Delivery and Email

November 15, 2013

Cody Riddle
City of Boise
Planning & Development Services
150 N. Capitol Blvd.
Boise, ID 83702

RE: Barber Mill Estates - PUD13-00002 & CFH13-00019
SB Matter No. 22973.1

RECEIVED

NOV 15 2013

DEVELOPMENT
SERVICES

Dear Cody:

This firm represents the owners of the Barber Mill Estates ("BME") property, David and Ann Triplett. This memorandum is submitted pursuant to Boise City Code ("BCC") Section 11-03-03.C(1)(e).i in connection with the Triplett's appeal of the October 22, 2013 decision of the Boise City Planning & Zoning Commission (the "Commission") denying the conditional use, Boise River System, and planned unit development permits for the property (the "Decision").¹

Background

BME is proposed on 12 acres planned by the City of Boise for residential use.² If approved, BME will include 43 detached, single-family homes as well as self-storage space. It is an infill development that will redevelop a brownfield site containing sewage ponds that previously served many properties in the Barber Valley – not only Golden Dawn Estates but the Idaho Shakespeare Festival ("ISF") itself.³ In fact, it was the annexation of the Golden Dawn Estates subdivision into the City and connection of the Barber sewer main into the Boise City system that sets the stage for carrying out the City's plan for residential development in this location and removal of the sewage ponds. The sale also serves to fund the Triplett's retirement and health care.

¹ As noted in the appeal application filed on November 1, 2013, we have requested that hearing on the recommendations related to the annexation and plat applications be considered together with this appeal.

² Blueprint Boise, 3-5 (Land Use Map).

³ This service was provided free of charge. September 16, 2013 Project Report ("Project Report"), page 122.

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As mentioned in the Triplett's August 8, 2013 letter, Jim Conger came to the Triplett's last December with an offer to purchase the property. Ann Triplett took the same offer to Mark Hofflund at ISF (multiple times) and to Riverstone School before fully committing to Mr. Conger.⁴ ISF had the opportunity to purchase the Triplett's property and chose not to do so. That ship having sailed, ISF is now attacking BME, claiming ISF's very existence is threatened, circling the wagons to engage in a campaign of letters, surveys, and newspaper stories.

We appreciate ISF as an unquestionable cultural and economic force in the Treasure Valley. That said, one cannot ignore the fact that ISF is located in one of the most desirable and rapidly developing areas in the City. The larger Barber Valley has long been planned by the City for high density residential that will support more than one million square feet of commercial development in Harris Ranch alone. This means rooftops.

Mixed uses are planned and expected to coexist in the Barber Valley. Rather than tilting at a windmill of belief that its isolation will last forever, ISF should look for ways to coexist with its future neighbors—including this nearby property planned residential in Blueprint Boise.

With that in mind, we proceed to the Triplett's appeal of the Commission's denial of the applicant's conditional use, Boise River System, and planned unit development permits.

ARGUMENT

1. Although only a Recommendation, the Commission Applied Incorrect Standards in Recommending Denial of the Annexation Request

The Commission's decision regarding the BME annexation request—while admittedly only a recommendation—requires some discussion before proceeding to the items directly on appeal. Per the Decision, the proposed "annexation is inconsistent with the standards of BCC 11-03-04.15.C6(a). That section of Boise City Code (the "BCC") provides:

The PZC shall hold at least one public hearing for each annexation request. The PZC shall file its recommendation with the City Clerk. The PZC's recommendation shall be that the annexation will:

- i. Incorporate the Boise sewer planning area;*
- ii. Honor negotiated area of impact agreements;*
- iii. Attempt to balance costs of services with anticipated revenues; and*
- iv. Promote other goals of population balance, contiguous development, and prevention of costs due to leap frog development.*

The Staff Report for this application found, with regard to each of these factors, that BME,

... does not constitute leap-frog development and the land is within the City's Area of Impact and Sewer Planning Area, adjacent to previously annexed properties. The site is designated 'Large Lot Residential' on the Land Use Map and R-1B is an allowed implementing zone within this designation. The inclusion of buffering requirements, placement of storage units and other restrictions in the development agreement ensures the property will remain compatible with the unique range of uses surrounding the site.⁵

⁴ Project Report, page 123.

⁵ Project Report, page 5.

The Staff Report identified the correct factors and applied them in reaching Staff's conclusion to recommend approval. Unfortunately, none of the above factors are cited as reasons for the Commission's recommendation of denial. Instead, the Commissioners point to two items: (1) issues "associated with maintenance and access to [the Ada County Barber Dam] facilities"; and (2) the concern with the density of the proposed R-1B zone. Each of these issues, if adopted by the Council in its decision on the annexation, would violate substantial rights of the Triplets and the applicant.⁶

a. The Ada County Barber Dam Concerns

The Commission's first conclusion is that the annexation is inappropriate due to concerns raised by Ada County with regard to the Barber Dam. We address these concerns below; however, before we do so, it is important to recognize that none of the "concerns" raised by Ada County are among the list of criteria in BCC 11-03-04.15.C6(a).

It is also important to note that the applicant has been working closely with Ada County for many months to address its concerns. Testimony to this effect was provided by the applicant, Ada County, and Fulcrum, Inc., the Barber Dam operator.⁷ The Commission states that the County's concerns regarding access to their facilities have not been addressed. This is incorrect. The applicant testified the County's current easement does not contain all of the property needed by the County; as a result, the applicant has been working with the County⁸ to grant a significantly larger easement and include this grant as a condition of approval.⁹ This was illustrated in the below exhibit presented during the hearing before the Commission:



⁶ See *Lane Ranch Partnership v. City of Sun Valley*, 144 Idaho 584, 590, 166 P.3d 374, 381 (2007) (substantial rights of a landowner are violated when a local government improperly interprets its own ordinance).

⁷ Transcript, page 23, 32.

⁸ Project Report, page 259.

⁹ See Staff Report, Condition 12; Development Agreement, Condition 2.3 (Project Report, page 32).

The Commission also states that annexation “without the support of Ada County is not in the best interest of the general welfare of the citizens of Boise.”¹⁰ It would be inappropriate, of course, to delegate the Council’s annexation authority to the County.¹¹ Even taking those concerns at face value, the County does not state it is in opposition to the application *per se*.¹² Instead, Ada County’s August 2, 2013 letter cites two separate concerns and, unfortunately, engages in speculation inappropriate for consideration in these proceedings.

First, Ada County asserts that the FEMA mapping for this project should be revised prior to consideration of the application. As the Council is aware, a Letter of Map Revision will be required in order to address flood insurance requirements. As is typical of these applications, this step will be undertaken once an approval is in place. There is no requirement in Boise City Code that this occur pre-approval—nor does it make sense to require a developer to go to this expense without knowing that a development will be permitted by the local zoning authorities. As the Council is aware, this is common practice. As testified at hearing, given the elevation and buffering of this property that exists, we fully expect a LOMR will remove the property from the floodplain.¹³

Second, Ada County reports that it has been in contact with the Federal Energy Regulatory Commission’s (FERC) for some time looking for FERC’s review of this project. The County has repeatedly indicated that it has not received a response from this federal agency. There is no timeline for this response. This application cannot be forced into a permanent holding pattern while the County waits to hear from FERC in connection with a wholly separate property.

In sum, the applicant has addressed the only concrete issue identified by Ada County¹⁴ and has agreed—as a condition of approval—to grant access to the Barber Dam facilities that is superior to what the County currently enjoys. BME has agreed that it will meet all applicable floodplain requirements. These conversations with appropriate agencies will be decided according to objective measurements. The applicant has previously stated that it would support a condition of approval ensuring this will be the case.¹⁵

¹⁰ Decision, page 3.

¹¹ See Idaho Code (I.C.) § 50-222(1).

¹² Larry Manely (Chief of Staff, Ada County Board of Commissioners): “... the best thing I can tell you is the Commissioners are not against this project, but they are seriously interested in having questions answered and some of the loop closed before you move on with this project.” Transcript, page 23.

¹³ Transcript, page 34.

¹⁴ There are myriad other issues with Ada County’s August 2, 2013 letter. For example, it suggests a residential use is not in conformance with the Boise City Comp Plan. Meanwhile, Blueprint Boise very clearly plans this property for residential use. The letter alleges that this property will flood. Yet, there is no evidence this will be the case. And, as mentioned, a LOMR will be reviewed by FEMA before approval. Finally, the Ada County letter suggests the application should be denied because the Barber Dam will be subject to criminal trespass with nearby residents living nearby. Of course, no application can be denied based solely on speculation as to future, criminal conduct. In any event, if the County’s reporting is correct, this is an existing problem that Fulcrum has already taken steps to address.

¹⁵ There was speculation at hearing that the City would, essentially, be buying the County’s problem if it were to annex the property before the sewer ponds are removed. There is no government ownership of this property and the responsibility to redevelop it falls on the private landowners. This application makes removal of the sewer ponds financially feasible.

b. Concerns Regarding Proposed Density

The Commission also recommended denial of the annexation request due to concerns regarding density. The proposed density is precisely what is planned for this area. As Staff correctly stated, this site is designated “Large Lot Residential” on the City of Boise Land Use Map. The contemplated zoning districts for property planned large lot are shown below in a snapshot from Blueprint Boise (at 3-19):

Zoning and on-road pathways	
ZONE DISTRICTS	A-1, A-2, R-1A, R-1B, L-O, N-O

Clearly, R-1B is an appropriate zoning designation for this property. It is also consistent with the planned densities for Harris Ranch and Barber Valley—which is Blueprint Boise’s foundational requirement for this planning area:

Goal BV-CCN 3: Implement the adopted specific plans for Harris Ranch and Barber Valley.

BV-CNN 3.1: PROPERTIES OUTSIDE OF THE HARRIS RANCH AND BARBER VALLEY SPECIFIC PLANS

Use the adopted specific plans for Harris Ranch and Barber Valley as the policy basis for additional development in the Barber Valley.

Both Harris Ranch and Barber Valley support the proposed R-1B zoning because each promotes “compact” residential neighborhoods and uses.¹⁶ Much of the Harris Ranch Specific Plan (SP01) is planned for six dwelling units per acre or above, going all the way to thirty dwelling units per acre.¹⁷ Barber Valley’s Specific Plan (SP02) has similar density. Near BME, there is “low density” planned for six maximum dwelling units per acre and “medium density” planned for 18. R-1B—with its allowed density of 4.8—is not only legislatively determined as an allowed density, but it perfectly conforms to the more dense Harris Ranch and Barber Valley.¹⁸

Staff agreed, concluding:

Most development in the vicinity is guided by the Harris Ranch and Barber Valley Specific Plans. Principle BVV-CNN3.1 directs the City to use these plans for policy guidance for other sites in the valley. These plans support the proposed density.¹⁹

With its recommendation, the Commission ignores Staff, Blueprint Boise, SP01, and SP02,

¹⁶ Blueprint Boise, BV-14.

¹⁷ Harris Ranch Specific Plan (SP01), page 50.

¹⁸ As Staff correctly indicates, the “lots are larger and the project less dense than the subdivision immediately west of the site. It is also less intense than the continuing care facility to the northwest.” Project Report, page 4.

¹⁹ Project Report, page 5. We note that Commissioner Danley, who stated this conclusion on the record (Transcript, page 36) did so while reading the prior version of the Staff Report—not the version that was produced in connection with the hearing that was actually conducted.

concluding that "there are land uses in the area that could be negatively impacted by maximizing the number of new homes in this location. This includes the single family neighborhood to the west, Barber Pool Nature Preserve to the south and Idaho Shakespeare Festival to the east."²⁰

It appears some members of the Commission either may not have understood this area has been studied and is planned in Blueprint Boise for residential use, or, regardless, would like to condemn the property.²¹ If the Commission's recommendation were adopted by the Council, it would violate City Code and state law on a number of fronts:

First, the decision would be arbitrary, capricious or an abuse of discretion in that it was made without rational basis, or in disregard of the facts and circumstances presented. It would also not be supported by substantial evidence.

- The Commission made no findings to support a conclusion that the homes to the west would be "negatively impacted." There are no traffic impacts—area roadways "are all operating at a fraction of their intended and usable capacity" and there is no negative impact on "public services in the vicinity."²² Density is actually lower than in the homes to the west.²³ Height concerns have been addressed by conditions of approval requiring one-story structures on the west side of BME.²⁴ Without specific finding to substantiate the Commission's conclusion, it does not pass muster.²⁵
- The Commission made no findings to support a conclusion that the Barber Pool would be negatively impacted. In fact, as argued below, the evidence was to the contrary. The Idaho Foundation for Parks and Lands (the "Foundation"), which operates and administers the Barber Pool, has indicated its support of BME.²⁶
- And, finally, BME has no control over the noise that will be generated at the ISF property. As also argued below, sound impacts are within acceptable levels. Even if they were not, there is no negative impact on ISF if the impact is to threaten ISF's ability to continue to violate the Ada County noise ordinance.

²⁰ Decision, page 3.

²¹ Commissioner Morrison stated, "[t]he fact of the matter is [this property] really wasn't ever studied as part of any plan." Transcript, page 36. Of course, this is incorrect. The property has been studied and has been determined appropriate for residential development. Commissioner Morrison also suggests the density proposed was not "anticipated." This is also not true—R-1B is a permitted zoning designation for property planned large lot. Commissioner Morrison's concluding point likely gets to the true philosophy of this decision, where he states: "Lastly, my guiding philosophy is land next to the river should stay next to the river and shouldn't be turned into homes" (Transcript, page 37)—apparently, regardless of the zoning designation planned by the City.

²² Project Report, page 5.

²³ Project Report, page 4.

²⁴ Project Report, page 5; Development Agreement, Condition 1.5 (Project Report, page 32).

²⁵ *Jasso v. Camas County*, 151 Idaho 790, 796 (2011) ("What is needed for adequate judicial review is a clear statement of what, specifically, the decision-making body believes, after hearing and considering all the evidence to be the relevant and important facts upon which its decision is based. Conclusions are not sufficient." (emphasis added)).

²⁶ Project Report, pages 95-97.

Second, the decision would exceed the Council's authority. As noted above, this annexation request is recommended for denial under BCC 11-03-04.15.C6(a), yet none of the factors cited are included in that section of the ordinance. A denial not based on those factors exceeds the Council's authority and would be arbitrary, capricious, and an abuse of discretion.²⁷ It would also exceed the statutory authority provided to the Council for Category A annexations.²⁸

2. The Commission's Denial of the Conditional Use Permit and Planned Unit Development Applications Should Be Overturned

The Commission denied the BME conditional use permit, concluding, in essence, that BME is incompatible with the Barber Pool Conservation Area (BPCA) and ISF. As before, this conclusion is in stark contrast to the findings of Staff. The conclusions are not supported by substantial evidence, are arbitrary, capricious, and an abuse of discretion, and exceed the authority of the Commission in the following ways.

a. There is No Substantial Evidence of a Negative Impact on the Barber Pool

There is no substantial evidence that BME will have a negative impact on the BPCA. Staff found none. The entity that owns and administers the BPCA—the Foundation—has repeatedly stated its support of the project, recognizing the applicant's gifts "above and beyond what is to be protected by Boise City Code" and concluding: "This development will have a positive effect on the Barber Pool."²⁹

Given the lack of substantive evidence to contradict the conclusions of the BPCA owner and operator, the Foundation was rightly "concerned that groups are [mis-]using the Barber Pool as an issue within this process."³⁰ The Commission heard that testimony, but made no findings related to wildlife during their deliberation.³¹

The Foundation—the administrator of the BPCA—is in support. The Commission made no findings related to impact on wildlife during its deliberation. The Commission identified no impacts to wildlife in its Decision. There is, in short, no substantial evidence that the BPCA will be negatively affected.³²

²⁷ *Terrazas v. Blaine County ex rel. Bd. of Com'rs*, 147 Idaho 193, 204, 207 P.3d 169, 180 (2009) (findings must be sufficiently detailed and based upon applicable standards to conclude that a decision was not arbitrary and capricious and was based on substantial evidence in the record).

²⁸ I.C. §50-222(3)(a), 5(a).

²⁹ Project Report, page 96. As mentioned by IFPL, the applicant has agreed to donate the berm on the eastern edge of the property, as well as the area within the 200-foot setback. As a result of discussions with IFPL, the applicant has agreed to provide a permanent fence per IFPL specifications, which, along with the donated property, "will greatly assist the foundation in defining and controlling the borders in this part of the Barber Pool." *Id.* page 97. As noted by IFPL, the applicant also committed to join the Harris Ranch Wildlife Mitigation Association.

³⁰ Project Report, at 96. There were a number of ISF supporters who testified to their belief that BME would have a negative impact on the Barber Pool. Which begs the question: Why are these people not similarly concerned that ISF (and its lack of border control at the BPCA boundary, flashing lights, amplified voices, and crowd noise until 11:00p.m.) is within 100 feet of this sensitive area (vs. 200 feet for BME)?

³¹ Transcript, pages 35 – 42.

³² See, e.g., *Lane Ranch Partnership*, 144 Idaho at 590; *Castaneda v. Brighton Corp.*, 130 Idaho 923, 926, 950 P.2d 1262, 1265 (1998).

b. There is No Substantial Evidence and no Permissible Basis for a Finding that BME—on Property Planned Residential—Is Incompatible with ISF

There is no permissible basis for the Commission to conclude that BME will have a negative impact on ISF. Review of the transcript shows that the primary evidence for this claim was based on concern that sound from the new residents would interrupt the enjoyment of ISF attendees, and that the new neighbors would, conversely, complain about sound from ISF.

The record shows that numerous studies of sound impacts have been performed and were presented to the Commission. ISF's own data shows that ISF's noise is within acceptable residential noise standards.³³ Even given this data, the applicant has agreed to a belt-and-suspenders approach by imposing on itself the following conditions of approval, arrived at over the course of several months of independent investigation, facilitated meetings with stakeholders, and direct discussion with ISF:

- **Maintain the Current Berm.** The applicant is maintaining the current berm in Lot 11, Block 1.³⁴ Staff Report Condition 4.a restricts development of this lot for residential purposes in the future. The vegetative buffering on the berm will also be preserved.
- **Use of Design to Shield Outdoor Areas.** The applicant had previously proposed residential lots on the eastern boundary (west of the berm) that were side-oriented in order to provide further sound buffering. The design presented to the Commission goes above and beyond that proposal by taking the residences out and providing the storage units as a shield for the entire project. The storage units were suggested by stakeholders at facilitated meetings, and are a passive use that serves as a sound barrier for the rest of the project. The combination of the berm and these setbacks creates an effective setback from the property line to residential uses comparable to those found even in industrial zones abutting residential uses or districts.³⁵
- **Single-Story Structures:** The applicant previously proposed to limit homes on the eastern and western boundaries of the property to single story. While several homes have been replaced by storage units on the east side of BME, Condition 1.5 attached to the development agreement continues to limit Lots 13, 26, 29, 32, and 35 of Block 1 (on the west side of BME) to single-story structures.
- **Sound-Proofing Structures:** Although the sound experienced at the Triplets' property is certainly not the same as near the Boise airport, the applicant has agreed to build in accordance with construction techniques identified in Blueprint Boise for the Airport Influence Area. See Condition 2.f attached to the Staff Report.
- **Limits on Construction Activity:** The developer proposed to limit construction activity

³³ Project Report, pages 37-38.

³⁴ Development Agreement, Condition 2.1 (Project Report, at 32).

³⁵ Boise City Code ("BCC"), Table 11-04.10.

from May 15 to October 1 of each year to between 7:00am and 5:00pm. *See* Condition No. 26 attached to the Staff Report. This requirement will be recorded with the development agreement as Conditions 3.2 and 3.3.

- **Deed Restrictions and CCRs:** While we believe that all of the above is adequate to address any reasonable sound concern, Condition 4.e of the Staff Report and Condition 3.1 of the development agreement require the applicant to include language in deeds and in CCRs providing interested purchasers notice of the fact that ISF is located nearby.

All of these proposals are apparently not enough for ISF.

We need to be very clear about this point. BME has no control over the use of ISF property, and cannot control whether ISF will operate in accordance with its conditional use permit or within applicable noise ordinances.³⁶ In order to mask its own issues, ISF has tried to convince the Commission to conflate two very different tests: the City's test for compatibility and the County's test for whether the Ada County noise ordinance has been violated (i.e., whether noise is "plainly audible"). This was improper and caused the Commission to apply an incorrect standard.

Ada County's noise ordinance does not determine whether property uses are compatible. It is not a planning tool. It is an ordinance that provides misdemeanor penalties for broadcasting loud or offensive noise. It applies regardless of the activities of the broadcasting and receiving parties, and regardless of the zoning on those properties.

Put plainly, whether sound from ISF is "plainly audible" can only confirm that ISF is violating the Ada County noise ordinance—a fact that everyone, including the Commissioners, seem to accept.³⁷ The "plainly audible" standard does not control whether uses are compatible—that decision was made when this property was planned residential and R-1B designated as allowed density.

Whether a nearby property owner is violating a noise ordinance is out of BME's control. BME cannot dictate that ISF must live within the noise ordinance; nor can ISF prevent residential use of the Triplett's property because a resident may someday, similarly violate the City's noise ordinance. All we can do is rely on the rules that are in place, and the City has legislatively determined that the BME property will be put to residential use. The City cannot now claim that a proposed residential use—at a density planned by Blueprint Boise—is not compatible with a neighboring property when that claim is based on a violation of the County's noise ordinance.

³⁶ Ada County Code Section 5-13-1, *et seq.*

³⁷ Commissioner Bradbury: "It's pretty clear to me there will be conflicts between the different uses. It's pretty hard to escape that because those conflicts exist today apparently." Transcript, page 37.
Commissioner Demarest: "Both parties, homeowners and Shakespeare Festival folks, none of whom are as close as this particular subdivision, are already having a problem with sound." Transcript, page 35.

3. *The Decision's Denial of the Boise River System Permits is Not Based Upon Substantial Evidence*

With regard to the Boise River System Permits, the Commission made two findings. First, the Commission claims there was "a lack of evidence to demonstrate the development would not cause an increase in floodwaters on surrounding properties." And, second, the Commission claims the applicant "failed to justify" designating Class C, rather than Class B designation.

Once again, this conclusion is in stark contrast to the findings by Staff, which concluded "[t]he majority of the site is Class C Land, where residential development is allowed, and habitat enhancement encouraged."³⁸ This conclusion was based upon multiple conversations with Staff at all levels, based upon detailed observation made by highly qualified consultants.

Rather than pointing to specific evidence in the record, the Commission simply claimed that there were "unanswered questions" on these matters.³⁹ Unfortunately, it did not ask the applicant or City Staff (many of whom, including Jim Wylie, were present throughout the course of the hearing) to answer any of those "unanswered questions." In fact, the Commission did not even let on that it believed questions were unanswered until after the public hearing was closed.

Staff conducted a thorough analysis for the Commission, and Staff, the applicant, and the applicant's consultants were available to answer any questions. Given the evidence presented, there was no substantial evidence for the Commission's conclusions.

The question of whether the property should be treated as Class C or Class B is to be considered "on a case-by-case basis based on available maps, studies, outside agency input and on-site inspections."⁴⁰ Class B lands include, but are not limited to, agricultural lands, gravel pit ponds and small lakes, and intermittent tributary streams;⁴¹ in contrast, Class C lands include former industrial areas and areas surrounding gravel ponds.⁴² Class B lands can improve "natural resource functions and values,"⁴³ while Class C lands "provide limited fish and wildlife habitat."⁴⁴ Karl Gebhardt, a well-respected wildlife ecologist who has conducted many of the studies relied on in connection with the Boise River System Ordinance—has prepared a report showing that the BRSO requirements are satisfied. Mr. Gebhardt has reported:

The current property provides few natural resource function and values because of the sewage treatment ponds, sparse vegetation and protective berm/levee. The biological components within the property are not considered important or even desirable to natural resource function. The property has no surface connection with the Boise River and therefore its value to the Boise River is nearly non-existent with the

³⁸ Project Report, page 5.

³⁹ Commissioner Danley: "There are lots of issues to be addressed with respect to the river floodplain and the cleaning up of the site and so forth..." Transcript, at 38.

⁴⁰ BCC § 11-05-06.1.D(1)(a)

⁴¹ BCC § 11-05-06.1.D(3).

⁴² BCC § 11-05-06.1.D(4).

⁴³ BCC § 11-05-06.1.D(3).

⁴⁴ BCC § 11-05-06.1.D(4).

*exception of providing an access barrier.*⁴⁵

City Staff agreed with Mr. Gebhardt.⁴⁶

The only testimony to the contrary was presented by Rob Tiedemann. In his written testimony, Mr. Tiedemann refers to two down-river projects that have been determined to be Class B. Rather than pointing to any specific attributes of those properties, Mr. Tiedemann's verbal testimony at hearing simply states the Triplett's property should be considered Class B because those other properties "are not that different.... It was done there, it can be done again."⁴⁷

As noted in prior testimony,⁴⁸ the applicant's expert, Mr. Gebhardt, was not only involved in but actually oversaw the restoration of the properties referred to by Mr. Tiedemann. Mr. Gebhardt noted considerable differences, including that they are in a regulatory floodway and/or the 200-foot setback, and that the excavation required for their habitat and floodplain modification does not meet the same difficulties found on the Triplett property, which modifications could potentially impact the Barber Dam.

Application of actual facts shows that these are very different situations. The appropriate classification under the actual facts is Class C.

Given the absence of facts to the contrary, it would have been difficult for the Commission to make a finding on the record that this property should be considered Class B. Not surprisingly, the Commissioners made no such finding on the record. The same is true with regard to the floodplain issues. A LOMR will be prepared. Regardless, there was no evidence presented and no basis for a conclusion that the development of this property will increase floodwaters on surrounding properties.

The Commission did not make any findings specific to the classification of this property or justifying its conclusion that BME would increase floodwaters on surrounding properties. Given this failure, the findings fail to satisfy due process requirements,⁴⁹ are arbitrary, capricious, and an abuse of discretion, and fail to be based upon substantial evidence. The Council can rectify this error by acknowledging the reports prepared by the applicant's well-qualified consultants and Staff's thorough investigation of this issue.

CONCLUSION

This application is an opportunity for the City and for the public in many ways. It provides a wildlife buffer for the benefit of the BPCA and is supported by the Foundation. It will take the current Greenbelt configuration, which functionally ends at the Barber Dam, and connect the "gaps" in the system with a new connection that reduces the number of overall at-grade

⁴⁵ September 12, 2013 Letter to Cody Riddle, page 5.

⁴⁶ Project Report, page 5.

⁴⁷ Transcript, at 15.

⁴⁸ September 12, 2013 Letter to Cody Riddle, page 5.

⁴⁹ See *Jasso*, 151 Idaho at 795 ("... nothing in the Board's conclusion reveals that the Board considered any underlying specific fact or source of law.").

crossings in the current system. In fact, it is the only property that can accomplish Blueprint Boise's goal of extending the Greenbelt eastward from its current dead end at Barber Dam.⁵⁰ It restores former sewer ponds to beneficial use. It proposes density that is perfectly in alignment with SP01 and SP02, as required by Blueprint Boise.⁵¹ It is infill development with services already at its doorstep.

The main opposition comes from ISF. ISF is an outdoor amphitheater in an area planned for dense residential and extensive commercial uses. Given it is outdoors, human and non-human noise will intrude.⁵² Reasonable concerns can be—and, we believe, have been—addressed while still ensuring property rights are protected. While we appreciate ISF's contribution to the community, the Triplets cannot be held hostage to ISF's demands on the City that ultimately result in a taking of the Triplets' property without adequate compensation.

We thank the Council in advance for its careful consideration of this matter and look forward to hearing in January, at which time we respectfully request that the Council overturn the Commission's denial of these applications.

Sincerely,



T. Hethe Clark
THC:g

c via email: David and Ann Triplett
Conger Management Group

⁵⁰ Blueprint Boise, BV-C 2.3.

⁵¹ The September 12, 2013 letter provided by the undersigned and discussing, at length, the elements of the Comprehensive Plan supported by this application is incorporated herein by reference.

⁵² Commissioner Morrison stated during the hearing: "I don't have the privilege of having seen the Shakespeare Festival at Angel's but I do remember the cyclists going by when they were on Parkcenter going, oh that kind of wrecked my show. Then again so did the ducks." Transcript, at 36.



ADA COUNTY
PROSECUTING ATTORNEY

GREG H. BOWER

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November 21, 2013

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Cody Riddle
City of Boise
Planning & Development Services
150 N. Capitol Blvd.
Boise, ID 83702

RE: Barber Mill Estates – PUD13-00002 and CFH13-00019 SB Matter No. 22973.1

Dear Cody:

This letter is in response to the letter from Hethe Clark at Spink Butler regarding the Triplets' appeal of the October 22, 2013 decision of the Boise City Planning and Zoning Commission which denied the conditional use, the Boise River System, and planned unit development permits for the Triplets' planned development [hereinafter "Appeal Letter"].

An affected person is a person who has a bona fide interest in real property which may be adversely affected by approval of an application. *See* Idaho Code § 67-6521. Ada County owns Barber Dam which adjoins the Triplett's property. Approval of the development may adversely affect Ada County's property as discussed in Ada County's prior letters of May 24, 2013 and August 2, 2013 which are attached and incorporated by this reference.

Memoranda and responses during an appeal must not contain new facts or evidence or discuss matters outside the record. Boise City Code 11-03-03:9.C(e)iii. Ada County's letters were provided prior to the hearing on September 16, 2013 and the concerns expressed in both letters are still relevant to this appeal and the information that is in the record.

The Appeal Letter asserts that "the applicant has addressed the only concrete issue identified by Ada County and has agreed—as a condition of approval—to grant access to the Barber Dam facilities that is superior to what the County currently enjoys" *Appeal Letter*, at 4. The easement that is attached to the County's letter to the Triplets of May 24, 2013 demonstrates that the easement provides much more than access. The easement that "the County currently enjoys" provides a flowage easement to the County, the right of the County to construct and maintain embankment dams, and prohibits the Triplets from disturbing and altering and from permitting anyone to disturb or alter the area in "any way, shape, form or manner." The County has made

clear on several occasions that the issue is more than access to its Barber Dam facilities. The County is concerned about protecting the safe operation of the dam including monument locations, Piezometer wells, and the integrity of the embankment area. To date, as the record reflects, the Triplets have not provided the County with a "superior" easement to what the County currently enjoys. Because the County still does not have the protections needed for the safe operation of the dam; the County's concerns have not been addressed.

As illustrated in the attached letter of August 2, 2013, the County is not engaged in "speculation inappropriate for consideration in these proceedings" *Appeal Letter*, at 4. First, the County stands by its concerns regarding FEMA mapping. Second, FERC provides oversight of dam operation in order to protect residences. In the case of a prior subdivision, Ada County expressed its concerns regarding construction in such close proximity to Barber Dam but the subdivision was approved anyway. Consequently, the taxpayers of Ada County were required to pay approximately \$300,000.00 for a berm and to obtain the underlying property for the berm because of FERC's safety concerns. There have been discussions between the Triplets and the County regarding resolving Ada County's concerns; unfortunately, Ada County's issues have not yet been dealt with in a concrete way. Without concrete documents, it is unlikely that FERC will take a position regarding the proposed development. Without FERC's position being known, the County cannot put the taxpayers at risk of subsidizing another subdivision that is built too close to Barber Dam.

Thank you for the opportunity to comment.

Sincerely,

GREG H. BOWER
Ada County Prosecuting Attorney

By: 
Lorna K. Jorgensen
Deputy Prosecuting Attorney

LKJ:dah

Cc: Board of Ada County Commissioners

Attachments: Ada County Letter of May 24, 2013 to Jim Conger and David and Ann Triplett
Ada County Letter of August 2, 2013 to City of Boise

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November 22, 2013

Via e-mail

Boise City Council
150 S. Capitol Boulevard
Boise, Idaho 83702

Re: Barber Mill Estates - PUD13-00002 & CFH-00019
Our File No: 11984-2

Dear Council Members:

This law firm represents the Idaho Shakespeare Festival, Inc. ("ISF"). This letter is the response memorandum on behalf of ISF, the Riverland East Neighborhood Association ("RENA") and the Harris Ranch Neighborhood Association ("HRNA") in opposition to the appeal of the Planning and Zoning Commission's ("P&Z") denial of the conditional use, Boise River System, and planned unit development permits for the Barber Mill Estates development.

ISF, RENA and HRNA submitted extensive testimony to the P&Z that addresses the topics in the appeal. A copy, without exhibits, is attached for the City Council's convenience.

1. Response to Appellant's background statement.

The Appellants' memorandum appears to offer two stories. The first story is that the Appellants are fine people who have done good and neighborly things over the years, such as offering sewer service to ISF at no cost. These things are true and we owe a debt of gratitude to the Triplets for all of that. Part of this story is that the Appellants may be vulnerable financially and need money from this property to fund their retirement and health care. We do not doubt that this is true. However, it is also true ISF and others have offered Appellants compensation equal to what the developer is offering, along with compensation to the developer. Appellants have refused to entertain any such offers. While we cannot force the Appellants to negotiate, we wish to assure them their financial needs can be met even if this application is denied.

The second story is not as sympathetic. It is a story of veiled threats of litigation against the City based on unfounded claims that Appellants are entitled to "high density residential" development on this property. Appellants also make light of documented concerns raised by neighbors and ISF. There is a troubling insensitivity displayed by Appellants and their developer and a lack of understanding that a land use application in an extremely sensitive location like this one requires intense collaboration and a balancing of difficult considerations.

One example tells this story well. The developer originally proposed a 25-unit development spread equally across the site. This was of concern to ISF, RENA and HNRA, but less so than the current proposal. When the development staff suggested clustering the units to minimize impacts on surrounding properties, the developer responded not by clustering but by nearly doubling the density to 46 units. Then when confronted with the noise concerns of ISF, the developer doubled down again, proposing to remove three homes and replace them with 80 storage units. When the P&Z denied the application, the developer responded not with a redesign, but with an appeal.

We contrast the developer's actions on this application, apparently supported by Appellants, with the Boise Police Department's response to the P&Z's denial of the permit for expansion of the Foothills shooting range. Rather than bull forward to the City Council on an appeal, the Police Department has rethought its proposal and now is looking to build its training facility in another location. Appellants and their developer should consider a similar tack.

2. The P&Z's annexation recommendation applies the correct standards.

The P&Z recommended denial of annexation for the following reasons: "Annexation prior to completion of sewer pond clean-up, and without the support of Ada County is not in the best interest of the general welfare of the citizens of Boise." P&Z Action letter, p. 3.

Appellants contend the P&Z was limited to addressing four non-substantive criteria pursuant to BCC Section 11-03-04.15.C.6(a) when it makes its recommendation on annexation to the City Council. This is not so. The City reasonably interpreted its ordinance to permit the P&Z to address the substantive criteria for annexation, which are as follows: "The corporate boundary of the city may be expanded whenever the [City] Council deems it to be for the public convenience or necessity or for the general welfare." BCC 11-03-04.15.A (emphasis added). The recommendation is meaningless otherwise.

Appellants' contention that a denial recommendation based on BCC Section 11-03-04.15.C6(a) would be arbitrary and capricious is wholly without merit. First, it is a recommendation and therefore is not subject to judicial review. Second, as discussed, it is reasonable for the City to interpret its ordinance to allow the P&Z to make recommendations on the substantive annexation criteria.

In short, the City Council has no obligation to annex this parcel. The Council's decision whether or not to approve the developer's request for voluntary annexation is a legislative decision which, contrary to Appellants' implication, is not subject to judicial review. *Black Labrador Investing, LLC v. Kuna City Council*, 147 Idaho 92, 96-97, 205 P. 3d 1228, 1232-33 (2009). A denial of annexation does not implicate the developer or property owner's property rights. The property owner has no right to be annexed to the city or to be served by city services. The property has development rights in the county the property owner can pursue if annexation is denied. In short, the developer has to earn the privilege to be annexed into the City under the criteria by which the City Council evaluates the annexation request.

Given that Appellants have no right to annexation whatsoever, they clearly have no substantial right that the P&Z could violate in making a recommendation on Appellants' annexation request.

a. The P&Z's concerns about the Ada County Barber Dam are sufficient to deny annexation.

The P&Z wisely advised the City Council not to annex the Property due to concerns regarding the unremediated sewage ponds and unresolved questions regarding the impact of the project on the Barber Dam. The Appellants' arguments to the contrary are not persuasive.

First, Appellants argue that it would be inappropriate for the City to delegate the annexation decision to Ada County. Of course it would. But that is not the P&Z's concern. Rather, the issue is the County has expressed several legitimate concerns that need to be addressed prior to annexation.

Second, Appellants claim it is inappropriate to defer annexation until the floodplain mapping exercise is complete because typically a Letter of Map Revision ("LOMR") approval is a condition of approval of an application. That may be so for a typical application but this application is not typical. In this case, the floodplain delineation raises serious questions that need to be addressed before the feasibility of the development can be determined. Half of the property is currently within the floodplain and the bottom of each of the ponds is below the level of the 100-year flood. There are significant questions about where the 100-year floodplain line will be after the FEMA review and whether the pond bottoms can be removed from the floodplain under the FEMA regulations without offsetting the impact on the 100-year flood. Under these circumstances, the P&Z appropriately determined there were sufficient questions about the floodplain to recommend denial of annexation.

Given this information, Appellants statement that there is no evidence the property will flood is baffling.

Appellants next criticize the P&Z for recommending deferral of annexation until FERC's concerns are addressed, stating that it is not appropriate to put the application in a permanent holding pattern. No one is advocating a permanent hold. At the same time, Appellants offer no

answer for why the development should be able to proceed adjacent to a FERC-regulated facility about which FERC itself has raised concerns. The questions are too significant in this case to allow annexation to move forward before the concerns are addressed.

Appellants then comment that the P&Z recommendation includes "speculation" the city would be buying the county's problem if the property were annexed. This is not a speculative concern. As stated in ISF's testimony to the P&Z, if annexation occurs before resolution of the remediation of the sewage ponds and other issues, the City will be first in line to address concerns about odors and flooding, among other things.

Finally, Appellants assert the application makes removal of the sewer ponds possible. This statement is troubling. For one thing, Appellants are responsible for clean-up of the ponds regardless of the success of the development application. For another, Appellants know full well ISF is willing to help them address clean-up of the ponds as well as purchase of the property. They will continue to have that option if the development application fails. The Appellants simply have chosen not to pursue that path. The City is wise not to annex an unremediated environmental problem where it will bear the brunt of concerns about odors, dust, flooding and other concerns if something goes wrong with the de-commissioning.

b. The P&Z's concerns about density are sufficient to deny annexation and the requested zoning.

Appellants repeat the argument they made to the P&Z that the densities it proposes are consistent with the planned densities at Harris Ranch and Barber Valley (and the SP01 and SP02 plans). They seem to argue they have an entitlement to such densities. The P&Z saw through this argument and the City Council should too. While Appellants address this concern only under the heading of "annexation", it also applies to their initial zoning request.

As they did before P&Z, Appellants ignore that Blueprint Boise applies a "low density" designation to the Property, described as follows:

Large lot neighborhoods feature single-family detached homes on lots ranging from ½ to more than one-acre in size. Neighborhoods typically feature more rural characteristics, such as open fencing and rural roadway cross-sections (e.g. no curb and gutter or sidewalks) and in some areas exist as enclaves within urban areas. Topography and other natural features, as well as adjacent ranges and grazing lands, contribute to the overall character of these neighborhoods depending on their location. Clustering homes to preserve features or provide shared open space for residents is encouraged.

Blueprint Boise at 3-19 (emphasis added).

The plan states the allowed density for Large Lot parcels as follows: "Typically 1-2 dwelling units/acre, although densities may be significantly lower in some locations." Id.

These policies clearly support the P&Z's recommendation that far lower densities are appropriate on the Property. This is bolstered by the P&Z's determination that the Project will impact surrounding sensitive uses, "including the single family neighborhood to the west, Barber Pool Nature Preserve to the south and Idaho Shakespeare Festival to the west." P&Z Reason for the Decision, p. 2.

The Appellants contend the Property has been "studied" for a residential designation. The Property has a low-density residential designation in Blueprint Boise, but the record contains no evidence that designation was accompanied by any "study." And certainly no study has occurred that would address how to accommodate compact residential development adjacent to sensitive uses such as ISF and the Barber Pool.

Appellants then argue that the P&Z made no "findings" to support a conclusion that homes to the west would be negatively impacted and no "findings" that the Barber Pool would be negatively impacted. The P&Z is not required to make findings. However, the record is replete with evidence that supports the P&Z's conclusions of adverse impact on adjacent homes and the Barber Pool. For just one example regarding the homes, neighbors testified that the grading plan would cause homes in Barber Mill Estates to tower as much as 30 feet above homes on the other side of Sawmill Way. Regarding the Barber Pool, many testified about how barking dogs, lights, backyard music and parties would disturb the natural peace of the Barber Pool. These are not mere "beliefs" as Appellants characterize them, but rather assessments of the real impacts of the development.

Appellants' arguments that the development will not adversely affect ISF also are not persuasive. Essentially, Appellants contend they can ignore impacts on ISF because they contend ISF is violating the County noise ordinance by producing sound levels that ISF's and one of the developer's experts conclude will be plainly audible at homes in BME. This argument (1) completely ignores the impact of homes in BME on ISF, which will be substantial, and (2) has things entirely backward. In the absence of homes, there is no violation of the ordinance. BME proposes to place homes so as to create violations of the ordinance. This is an adverse impact that justifies denial of the application.

3. The denial of the PUD and CUP should be upheld.

Appellants contend that the P&Z's findings of negative impacts on the Barber Pool and ISF are not supported by substantial evidence and therefore the denial of the PUD and CUP must be overturned. Appellants similarly contend that the P&Z's conclusions denying the Boise River System Ordinance ("BRSO") permit were not supported by substantial evidence. As discussed in the paragraphs below, these contentions are without merit.

a. The P&Z determination of negative impacts on Barber Pool is supported by substantial evidence.

Appellants contend the P&Z wrongly found impact on the Barber Pool because the Idaho Foundation for Parks and Lands supports the project and because the P&Z made no "findings" to support negative impact. IFPL's support or opposition to the project, by itself, is irrelevant to the City's determination of adverse impact. Further, Appellants provide nothing more than this earlier IFPL endorsement (subsequently revisited), which Appellants' initially gained in exchange for a donation of unbuildable land. Further, as discussed above, the P&Z was not required to make "findings." Finally, as discussed above, Appellants dismiss the substantial testimony of ISF supporters regarding negative impacts as mere "belief." This is not the case. These citizens cited real, likely impacts, including blocking the wildlife corridor, barking dogs, car noise, lights and so on. This is sufficient evidence to support denial of the permit.

Appellants also accuse ISF of hypocrisy, stating that ISF must have a greater impact because it is closer to the river than BME. This argument fails to account for the fact that ISF's operations are seasonal, avoiding the most sensitive winter migratory and roosting season for the bald eagles in the Barber Pool. The lack of winter impact was critical to ISF's approval to build its facility when and where it did, and with the assistance of state, municipal and private entities.

b. The P&Z determination of negative impacts on ISF is supported by substantial evidence.

Appellants next attack the P&Z's findings of negative impact on ISF. The Appellants first contend that ISF's own data shows sound impacts are within "acceptable" residential noise standards. This is not so. The standards of which Appellant speaks are appropriate for areas near airports, highways, and urban affordable housing projects. They have no application to a quiet area like Barber Valley.

Appellants then assert ISF asks the City to conflate the test for compatibility and test for violation of the County noise ordinance. Appellant contends that the fact noise would be clearly audible on the Property only confirms ISF is violating ordinance. This is not the case. ISF is not violating anything on the Triplett property until residences are built there. And it is entirely appropriate to contend those residences are not compatible with ISF if approving them as proposed would cause violations of the County ordinance.

Next, Appellant claims the City cannot find that residences are incompatible with ISF at densities allowed elsewhere in Harris Ranch. This is nonsense. Please recall this area is designated as "low density" in the comprehensive plan with an expected density of 1-2 units per acre or less. Appellant is asking to double that maximum density, using the most intense zone allowed in the "low density" area and a PUD to cut virtually all the R1-B lot sizes in half. The City has the authority to find such residential use incompatible with existing uses. In fact, it would be shocking if it did not.

Interestingly, the Appellant does not even mention the impact of the proposed residences on ISF. The record is replete with evidence that leaf blowers, cars, music, parties, and other activities in the proposed development would disrupt ISF performances.

Finally, the Appellant cites mitigation measures it would accept as conditions of approval. While we appreciate these considerations, these measures are insufficient. ISF's consultant concluded that noise would be "plainly audible" at residences on the Property notwithstanding any mitigation measures that may be proposed. There simply is no way to mitigate the impacts of the project as designed.

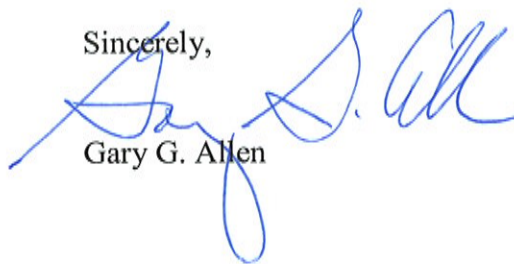
c. The denial of the BRSO permit should be upheld.

The P&Z ruled Appellants had failed to meet their burden of proof that the majority of the property is Class C rather than Class B land for purposes of the BRSO. Appellants argue this determination was not supported by substantial evidence. The argument seems to come down to a plea that the P&Z was required to believe Mr. Gebhart's opinion and not Mr. Tiedemann's. But this is not the case. The P&Z had significant information before it about the nature of the Property and properly determined that it has significant potential as wildlife habitat. The City Council should uphold this determination.

The P&Z also opined that Appellants had not provided sufficient information to support issuance of a Floodplain Development permit. Our understanding is the City has issued no such permit, so this issue is not formally before the City Council at this time.

Thank you for your consideration. I look forward to addressing the Council on January 14.

Sincerely,



Gary G. Allen

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Managing Director

Carolyn Bancroft
Recording Secretary

August 5, 2013

Via e-mail to Cody Riddle (criddle@cityofboise.org)

City of Boise
Planning and Zoning Commission
150 S. Capitol Boulevard
Boise, Idaho 83702

Re: Barber Mill Estates, CAR13-00007, PUD13-00002, CFH13-19, CFH13-20,
SUB13-17

Dear Commissioners:

I am the President of The Idaho Shakespeare Festival ("ISF" or the "Festival"). On behalf of the Festival, I offer the following testimony for the record in the above applications.

ISF opposes the proposed Barber Mill Estates ("BME") development just west of ISF. As discussed in the paragraphs below, the Festival is very concerned about the noise impacts of BME on the Festival and vice versa as well as the potential economic impacts if the Festival were required to move or change its operations. We are also very concerned about the potential for the development to worsen flood conditions and adversely impact the environment of the Barber Pool Conservation Area ("BPCA"), which is an integral part of the ISF experience. We do not know if our operations can be compatible with a next-door residential development of any kind; we are quite sure they are not compatible with this one.

ISF is prepared to put its money where its mouth is and acquire the property, if that opportunity becomes available, and we have discussed this possibility with the property owners.

The sections below provide background on the Festival and describe our concerns.

The Festival may also be supported through gifts to the Foundation for the Idaho Shakespeare Festival.

A little about the Festival

ISF fills a unique cultural niche in the Treasure Valley. Following are a few excerpts from a recent joint grant application that ISF, the City and other partners submitted to the National Endowment for the Arts:

The Festival's mission is to produce great theater, entertain and educate....

Idaho Shakespeare Festival has evolved into one of Idaho's premiere arts organizations, served over 100,000 individuals annually.... It is governed by a 39-member Board of Trustees, managed by twelve permanent staff members, and employs nearly 200 artists, technicians and service personnel seasonally, attracting local and national talent.

... Now celebrating its 37th season, the Festival presents five productions in 93 performances to approximately 58,000 audience members... The school tours, *Idaho Theater for Youth* and *Shakespeareience* reach approximately 50,000 K-12 schoolchildren and their teachers each year... The School of Theater provides recreational classes and vocational training in the theater arts to people of all ages...

Since its founding, the Festival has reached well over a million audience members and over a million K-12 children... The Festival reaches out to a broad spectrum of our community and serves as a premier arts resource for a state of 1.5 million, as well as a cultural destination for those in the region and around the country.

The Festival conducts a wide-reaching Access Program aimed at increasing opportunities for those who otherwise would not be able to participate in theater....

NEA Our Town, FY2013 Grant Application, p. 1.

ISF offers an extraordinary outdoor theater experience with a unique ambience. You may have enjoyed the peace of a quiet summer evening at ISF, with no sound audible except the chirping of birds or perhaps a light breeze blowing through the trees. Or perhaps you have enjoyed a quiet stroll on the paths near the theater or enjoyed a peaceful sunset from our patio. We like to think it is an outdoor theater experience that, in its own way, is unlike any other in the world.

We are deeply concerned about how BME will affect that experience. The developer of BME seeks to develop an extremely sensitive piece of property, adjacent not only to ISF but also to the Barber Pool, Harris Ranch Planned Community and the Riverstone School, all of which involved careful planning and all of which add tremendous value to the area. But rather than treat the site with the care it deserves, the developer has proposed a cookie-cutter subdivision at double or more the density the comprehensive plan contemplates, devoid of meaningful amenities either for the residents of the development or for the community. The City should deny all facets of the development.

Many of our patrons share our concerns. Attached as Exhibit "A" are petitions signed by over 4,500 concerned citizens, as of this date, who have first-hand knowledge of the Festival's experience and understand the fundamental nature of the Festival's relationship to its surroundings.

ISF is deeply concerned about BME

The paragraphs below discuss ISF's concerns, followed by an analysis of whether the development meets the criteria for each of the several applications for which it has applied.

Noise. ISF is boisterous; it is a festival, after all. Lightning strikes, guns go off, whistles blow, actors yell, the crowd cheers! Over the years, our enthusiasm has led to several complaints from ISF's neighbors, including neighbors hundreds of yards away from the theater and across the Boise River. To address these concerns, ISF commissioned a sound study by Wilson Ihrig in 2001, which led to modifications to ISF's amplification system. A copy of this 2001 Wilson Ihrig study is attached as Exhibit "B". We believe we have taken and are taking reasonable measures to control noise from our facility, and it has been some time since we have received noise complaints.

However, the 2001 Wilson Ihrig study contains modeling projections that give us significant concerns about BME. Under certain conditions, particularly as shown in Figures 9 and 11 of the report, noise levels on the Triplett property could reach 70 dBA or greater, equivalent to a vacuum cleaner 10 feet away. Similarly, we expect patrons of ISF could experience disruptive sound levels under similar conditions due to air conditioning units, leaf blowers, parties, or other conditions on the BME home sites.

The developer has submitted two sound studies, prepared by Mr. Earl Mullins and Dr. Pritchard White, respectively. Based on limited sound sampling during spoken word productions (musical productions are louder), which we understand were not conducted during the type of conditions described in Figures 9 and 11 of the Wilson Ihrig report, Mr. Mullins concludes ISF does not have a significant impact on the surrounding community. Dr. White reaches an opposite conclusion, including statements like these that are naturally of concern to ISF:

Sound from the Idaho Shakespeare Festival is clearly audible at a distance of 100 feet, thus making the Festival in violation of Ada County Code 5-13-3.... Bringing the Festival into compliance with the Ordinance will require physical or operational changes.

Sound Survey at Barber Mill Estates and Idaho Shakespeare Festival, July 7, 2013, by Pritchard H. White, Ph.D., M.E., Boise Idaho (the "White Sound Study"), p. 1.

To comply with the Ada County Ordinance and reduce its impact on the surrounding community the Idaho Shakespeare Festival must take steps to reduce its sound radiation. Such steps might include physical noise barriers on their property, changing the speaker configuration, electronically limiting the sound power of its amplification and speaker system, or ceasing activity at 10:00 PM.

White Sound Study, p. 5.

These statements are alarming to ISF. The kind of changes Mr. White describes could be very detrimental to the experience at the Festival. More importantly, they demonstrate the developer's confusion about the noise issue. ISF's compliance with Ada County's noise ordinance is not at issue in these applications and is not even within the City's jurisdiction. Moreover, the County ordinance forbids "loud or offensive noise ... which is plainly audible within any residence or business ... or upon a public right of way or street at a distance of one hundred feet (100') ..." Thus, the ordinance protects existing residences, but creates no per se right to construct a residence in a location that will cause an existing use like ISF to be in violation of the ordinance. To the contrary, the application before the City requires the developer to demonstrate that the residences he intends to build are compatible with adjacent uses and will not cause an undue adverse impact on neighboring properties. Yet his own expert concludes that those residences cannot be built unless ISF substantially changes its operations. This is a critical point: the developer is trying to say ISF must change to accommodate the development. But the opposite is true: the developer needs to show his development can co-exist with ISF.

ISF has also commissioned a new sound study by Wilson Ihrig. The new study has not been completed as of this writing, but will be submitted in advance of the Planning and Zoning Commission hearing. Based on a draft report which has been provided to ISF, we expect Wilson Ihrig will conclude that ISF's impacts on BME will be greater than what Mr. Mullins or Dr. White found because (1) the developer's experts did not take measurements during musicals, which tend to be louder than spoken plays, and (2) the developer's experts measured sound at ground level, which did not account for the height of the structures the developer intends to build. Please see the photographs attached as Exhibit "C", showing balloons depicting the height of the homes the developer intends to construct from locations on the ISF property. We understand Wilson Ihrig's ultimate conclusion is that a new residential development in the

lagoon area would be incompatible with the existing conditions generated by the long-standing ISF summer productions.

ISF recognizes that its noise concerns cannot preclude all development on the BME property. However, as discussed below, the applicable legal standards give the City the clear authority to regulate noise impacts and to deny the development if the developer fails to address them adequately. We submit that what the developer has offered is completely inadequate. We expect noise complaints will be flying in both directions if this development is approved. The developer has offered some concessions, primarily in the form of covenants and deed restrictions restricting the homeowners' rights to complain. We simply do not believe these types of restrictions will be effective. People will complain whatever their deeds and covenants say.

We do not have a complete understanding of what would be required to allay our noise concerns. However, we know that careful planning is part of the solution. We suggested that the developer undertake a design charrette with all stakeholders (including the sound experts) in an attempt to come to a mutually acceptable solution. He rejected that option as too costly, but we continue to think it would be a good idea. We also expect that careful orientation of structures and outdoor space is part of the solution. The design shows none of this, offering instead a standard array of lots with many backyards pointing directly at the Festival. We are open to other ideas but it is not the Festival's place to design the developer's project.

Finally, some of the developer's actions have fundamentally shaken our confidence that any kind of trusting, mutually beneficial relationship can be built with him. As set forth in our letter of June 6, 2013 (available in the administrative record), when ISF did not offer immediate support for BME, the developer threatened to take actions to harm the Festival, including removal of the berm between ISF and the project, tilling the waste in the sewage ponds to generate odors, and running a motocross track on the property during ISF performances. The developer subsequently stated in a June 18, 2013 letter (also in administrative record) that tilling the waste was necessary to dry it out, which is not true, and that he was only suggesting that "friends and family of the Triplets" might want to run their motorcycles on the property. We do not know how to do business with someone who says things like this.

Economic Impact. The Festival has a direct and positive economic impact on the community estimated to be \$4.2 million per year. The Festival creates nearly 200 direct jobs, and provides a bright spot by being one of the few sources of good-paying jobs for young people. The Festival includes additional indirect economic benefits, including food and beverages, hotel rooms, travel, revenues to state and local governments and other impacts estimated to be \$3.7 million annually. More important is the fact the Festival is an integral part of how our community presents and markets itself. Boise is simply not competitive in its quest for employers without a thriving arts community and ISF is an important part of that community. Several letters in the record support this conclusion.

What would happen if conflicts between BME and its neighbors forced ISF to move, or worse yet, to close? This would be a tremendous economic and cultural blow to our community.

Sadly, this prospect is not out of the question. The Oregon Shakespeare Festival ("OSF") in Ashland faced a similar dispute concerning noise issues. To mitigate the problem, it was necessary for OSF to enclose its historic Globe-inspired stage in an enormous stadium-like shell. ISF has no desire to be put in that position. That is not the ambience we want for our theater, and we do not even know if it is feasible to build such a structure on our site. Our community and patrons like what we have, and we all want to keep it.

Health and Safety. As BME's immediate neighbor, ISF is very concerned about the impacts of BME on the potential for flooding at ISF. According to the revised preliminary plat dated June 26, 2013, approximately half of the property is located in the 100-year floodplain. This means the developer is required to "utilize methods and practices that minimize development and prevent the increase in flood damage potential to other properties or other adverse impacts including but not limited to ... increased heights of floodwaters ..." BCC § 11-08-03.2A.1, 11-08-04.2.A.(1). In short, BME has to demonstrate that the homes it builds will not be subject to flood damage and that the development's impact on the floodplain will not increase flood waters on other properties. As of this writing, the planning director has not decided the flood hazard application, but the record is devoid of information that BME will be able to meet the requirements of the flood ordinance.

The flood protection requirements for this property are very complex and involve numerous jurisdictions. A fundamental question is what is BME going to do about the dikes that surround the wastewater ponds? For the developer to answer this question, he needs approvals from five regulatory agencies, including the Federal Energy Regulatory Commission ("FERC") and Ada County relative to the Barber Dam, the Idaho Department of Environmental Quality ("IDEQ") relative to the clean-up of the wastewater ponds, the Federal Emergency Management Agency ("FEMA") relative to the location of the floodplain, and the City relative to the City floodplain ordinance and the BRSO. As of this writing, the developer has none of these approvals, nor even preliminary indications that approvals are possible. In fact, Ada County's letter of August 2 highlights the uncertainties and problems related to the flood hazard issue.

The state of the record leaves myriad questions open that prevent approval of the floodplain application including:

- a. What truth is there to the statement made by Resource Systems Inc. that "[t]he property may be protected from the 100-year flood by a berm/levee constructed and restricted by the Federal Energy Regulatory Commission related to Barber Dam?" Boise River System Permit Supporting Information, at p. 1. Does the berm/levee protect the property or does it remain subject to flooding?
- b. Will the developer rely on the berm constructed adjacent to ISF for flood protection? Is that berm designed for flood protection? What impact would that design have on flooding at ISF?

- c. If the dikes and/or berms are removed, how will the developer offset the increase base elevation the developer will need to provide in order to build homes within the floodplain? How will the safety and viability of Barber Dam be maintained?

ISF believes these questions are fundamental to the compatibility of this development with its neighbors and not matters where the answers can wait for future analysis. If the application is not denied, we join in Ada County's request that consideration of the application be deferred until the many flood hazard questions regarding this application are answered.

Environmental Impacts. The Barber Pool Conservation Area ("BPCA") represents one of the most unique ecologies in the Treasure Valley. We feel very fortunate to be a neighbor to BPCA and we work very hard to protect and nurture the amazing natural environment we are in. The BPCA is extraordinarily peaceful and it is home to a huge variety of wildlife, some of which, such as bald eagles, are extremely sensitive to the presence of humans. BME shows no sensitivity to its surroundings, slapping in standard homes and backyards immediately adjacent to the BPCA. Resource Systems, Inc.'s statement is telling: "No enhancement plan is proposed other than normal residential landscaping. Some enhancement may occur if berm/levee restrictions would allow them." The BPCA deserves better than this.

The opinion of ISF's wildlife ecologist is that BME does not comply with the requirements of the Boise River System Ordinance ("BRSO") that are designed to protect sensitive habitat areas, of which the Barber Pool is a prime example. As discussed in more detail below, the development should be required to comply fully with the 200-foot eagle perching and loafing setback and to comply with the BRSO's mitigation and enhancement requirements for Class B lands. Since the BRSO application does neither, it should be denied.

BME does not meet the development approval criteria

This section discusses the primary approval criteria that BME must satisfy to proceed with the development. These are: the (1) "public convenience or necessity" or "general welfare" criteria required for annexation; (2) several criteria for adoption of initial zoning; (3) the "compatibility" and "adverse impact" criteria necessary for approval of the Planned Unit Development ("PUD") application, (4) the offset criteria necessary to approve the Floodplain application and (5) the Boise River System criteria. The sections below discuss each of these issues in turn.

2. The annexation of this property for the BME development does not serve the public convenience or necessity or general welfare.

The City Council has no obligation to annex this parcel. The Council's decision whether or not to approve the developer's request for voluntary annexation is a legislative decision which is not subject to judicial review. *Black Labrador Investing, LLC v. Kuna City Council*, 147 Idaho 92, 96-97, 205 P. 3d 1228, 1232-33 (2009). A denial of annexation does not implicate the developer or property owner's property rights. The property owner has no right to be annexed to

the city or to be served by city services. The property has development rights in the county the property owner can pursue if annexation is denied. In short, the developer has to earn the privilege to be annexed into the City under the criteria by which the City Council evaluates the annexation request.

The Boise City Code states the following criteria for an annexation: "The corporate boundary of the city may be expanded whenever the [City] Council deems it to be for the public convenience or necessity or for the general welfare." BCC 11-03-04.15.A (emphasis added).

We urge the P&Z to recommend denial of the annexation to the City Council under these criteria. BME is proposed on an extremely sensitive site. It is next to ISF, a critical cultural resource for the community, as well as BPCA, a critical environmental resource. It also bounds existing homes and the Riverstone School. The care with which these neighbors have developed their properties has added enormous value to the developer's property and they all need to be protected. Under these circumstances, the public convenience and necessity along with the general welfare, all require that the developer's plans and approach be as sensitive, careful, well-planned and thoughtful as the location deserves.

Sadly, BME is the opposite of that. It is a cookie-cutter subdivision of unremarkable homes that will substantially impact some of the things we care about most: our arts community, our economic vitality and our natural environment. The City should simply decline to extend its boundaries to include this property until a development comes forward that befits the area.

3. The proposed zoning does not meet the City's criteria for approval.

The Boise City Code requires that any application for initial zoning on annexation cannot be approved unless the City Council finds the zoning:

- i. Is in compliance with the Comprehensive Plan.
- ii. Is in the best interests of the public convenience and general welfare.
- iii. Maintains and preserves compatibility of surrounding zoning and development.

BCC 11-03-04.03.B.(7)(c).

BME cannot meet any of these criteria, for the reasons discussed in the paragraphs below.

Comprehensive Plan. BME fails to comply with comprehensive plan policies in the areas of (1) density, (2) arts and culture, (3) economic impact, (4) environmental stewardship, and (5) Barber Valley specific policies. As a result, the development is not in compliance with the Comprehensive Plan and the P&Z should recommend denial. The enumerated issues are discussed in turn in the paragraphs below.

Density. Blueprint Boise designates the BME parcel as a "Large Lot" residential parcel. The plan describes the allowed land uses this way:

Large lot neighborhoods feature single-family detached homes on lots ranging from ½ to more than one-acre in size. Neighborhoods typically feature more rural characteristics, such as open fencing and rural roadway cross-sections (e.g. no curb and gutter or sidewalks) and in some areas exist as enclaves within urban areas. Topography and other natural features, as well as adjacent ranges and grazing lands, contribute to the overall character of these neighborhoods depending on their location. Clustering homes to preserve features or provide shared open space for residents is encouraged.

Blueprint Boise at 3-19.

The plan states the allowed density for Large Lot parcels as follows: “Typically 1-2 dwelling units/acre, although densities may be significantly lower in some locations.” *Id.*

Our question is: how did the developer read these provisions and come up with BME? BME’s gross density is 3.9 dwelling units/acre, notwithstanding that a significant part of the property is unbuildable because it is in the flood easement for the Barber Dam. The only clustering in evidence was to avoid this area and partially avoid the 200-foot eagle setback. No attempt was made to take advantage of the river environment or to provide shared open space for residents. Lot sizes range from 4,000 to 5,500 square feet, a fraction of the half-acre or larger contemplated by the Comprehensive Plan. The sole hint that BME might fit the Large Lot development criteria is that R-1B zoning is a permitted zoning district in this area. However, the context is clear that R1-B density is allowed only in the context of a clustering plan to protect natural features or provide amenities. BME provides neither. Under the current comprehensive plan designation, the density of this project should be no more than the comprehensive plan allows, with fair warning that densities “significantly lower” than 1-2 units per acre may be appropriate.

ISF wants to be clear the problems with BME are not just about density. Because of noise impacts of ISF on BME and vice versa as well as environmental impacts, significant consideration also needs to be given to design to ensure that the neighboring uses can be compatible.

Arts and Culture. One of the seven themes of Blueprint Boise is that Boise is “[a] community that values its culture, education, art and history.” Blueprint Boise, p. 2-58. Immediately above this title is a scene from ISF’s performance of “The Tempest” and below it this statement:

The quality of Boise’s cultural and performance facilities is a source of community pride. Arts and culture, including visual arts, performing arts, and local history, are integral the city’s

community identity and can be found in community celebrations and events, neighborhoods, and public institutions.

Blueprint Boise at 2-58.

Blueprint Boise supports these statements with two specific goals:

Goals and policies to promote the role of cultural activities, education, arts, and history in Boise are based on the following principles:

- Reinforce the role of visual and performing arts and history within the community;
- Support the development of public spaces that promote community gatherings and cultural events;

...

Blueprint Boise at 2-3 through 2-4.

Indeed, the plan includes a specific policy supporting the protection and indeed, expansion of cultural facilities in CEA 3.5:

CEA 3.5: CULTURAL FACILITIES

Expand Boise's public and private cultural facilities to better meet the needs of the city's creative and historic organizations and improve community access to art and history events, programs, and educational opportunities.

Blueprint Boise at 2-61.

The BME application puts the City's resolve to protect its arts and culture to the test. It requires the City to answer the question: what is more important, a treasured arts institution, or a standard subdivision? The sound studies before the City show that the construction of BME threatens ISF's operations because of sound impacts. The City should not risk the future of ISF for the convenience of this developer.

A Strong, Diverse Economy. ISF's success as an arts organization makes it easy to forget that it is also a business that provides seasonal employment for nearly 200 people, as well as promoting innumerable other businesses as a cultural destination and place where business gets done. Blueprint Boise makes clear that businesses like ISF are to be protected where they are located:

EC 3.2 PROTECT BUSINESSES FROM ENCROACHMENT
Protect existing businesses and industrial areas from encroachment of incompatible or non-complimentary uses that would threaten their viability or ability to continue to operate.

Blueprint Boise at 2-71.

We believe BME is a legitimate threat to ISF's future, and the sound studies prepared by the developer and ISF support this conclusion. BME has failed to demonstrate that it is not a threat to ISF, and therefore the development should be denied.

Environmental Stewardship. Blueprint Boise makes "Environmental Stewardship" a primary focus, and one of the primary stewardship goals is to "[p]reserve and enhance natural resources." Blueprint Boise, p. 2-8. Goal ES7 states as follows:

Goal ES7: Protect and enhance the natural environment

ES7.1: BOISE RIVER SYSTEM ORDINANCE

- (a) Implement and periodically update the Boise River System Ordinance to achieve the goals of flood protection, fish and wildlife protection, pollution and runoff control, recreation, and development opportunities.
- (b) Place priority on the protection of environmentally significant areas and waterways, identified as Class A and Class B in the Ordinance, in that order.
- (c) Allow for urban interface with the river when there is no demonstrated adverse impact on wildlife habitat.

Blueprint Boise, p. 2-12.

Goal ES7.3 addresses wintering bald eagles:

ES7.3 WINTERING BALD EAGLES

- (a) Implement the goals and program recommendations including setbacks and use restrictions to the extent defensible by law of the Wintering Bald Eagle Conservation Plan dated May 1995.
- ...
- (b) ... Preserve wintering eagle day-use habitat and protect perching eagles from human disturbance and maintain healthy diverse aquatic habitat in the Boise River to support wintering bald eagles.

Blueprint Boise, p. 2-13.

BME fails to support these goals. Immediately adjacent to homes in BME is Class A habitat, which among other things, is potential bald eagle perching and loafing habitat. It is also part of BPCA, one of the most sensitive environments in the valley. Notwithstanding, the developer proposes to “smooth” the 200-foot eagle perching and loafing setback in the developer’s favor to allow development closer to this sensitive habitat. Further, the developer inexplicably seeks to designate lands in the 100-year floodplain as “Class C” lands to avoid the requirements for preparation of a wildlife mitigation plan to offset the development’s impacts in these areas. In short, the developer wants to thumb his nose at the wildlife protection provisions of the Comprehensive Plan and BRSO. The City should not allow it.

Policy ES8.4 addresses noise mitigation:

ES8.4: NOISE MITIGATION

Require mitigation measures for development of “noise-sensitive” land uses (such as single-family residences, hospitals, and schools) where noise studies show existing or future noise levels exceed an Ldn of 60 dB(A) exterior and an Ldn of 45 dB(A) interior.

The Wilson Ihrig studies show the potential for sound levels above 60 dB(A) exterior (interior levels were not estimated). Therefore, the development should include mitigation measures including reduced densities and designs to shield outdoor spaces such as patios and yards from ISF. As BME fails to include appropriate measures, it should be denied.

Barber Valley Planning Area Policies. Except for BME and a few other parcels, Barber Valley is carefully planned and protected. Most of the private land is included within the Harris Ranch and Barber Valley Specific Plans. Large amounts of environmentally sensitive land and wildlife habitat are in Barber Valley, including the Boise River Wildlife Management Area, the BPCA and the largest wintering deer herd in the State of Idaho in the nearby foothills. According the map at BV-9, the BME property is within the BPCA.

Specifically applicable policies are as follows:

BV-CNN 1.1: CONTEXT SENSITIVE DEVELOPMENT

Design development to preserve wildlife habitat and connectivity, open space, and context-sensitive recreational opportunities.

Blueprint Boise at BV-7.

Goal BV-NC-1: Maintain the unique character of the Barber Valley through use of design guidelines and plans for development in the Barber Valley.

Blueprint Boise at BV-13.

BME has failed to address the policies in the comprehensive plan requiring the developer to address the context of ISF, the BPCA and other surrounding land uses, and to preserve the unique character of the area. For one of many examples, the development does not make any attempt to screen the BPCA from the backyards of homes adjacent to it. This violates the BRSO as well as the intent of numerous comprehensive plan policies. Similarly, the development plan ignores its context adjacent to Shakespeare and the special noise mitigation requirements that entails.

Best Interests. For all the reasons cited above, granting the requested zoning to BME is not in the best interests of the public convenience and general welfare. The project threatens a cultural icon and an environmental treasure with no discernible public benefit.

Compatibility. Similarly, we do not see that the developer has met its burden of showing that BME is compatible with surrounding land uses. The reasons are stated above.

4. The PUD should be denied because it is not compatible with adjacent uses and because it will cause adverse impacts on other properties.

Approval of the PUD also requires findings of compatibility and no adverse impact on surrounding properties. The developer has failed to meet these findings.

5. The Boise River System Ordinance application should be denied because the 200-foot setback was drawn improperly, and because the portion of the property in the floodplain should be designated as Class B lands and not Class C lands.

As set forth in the letter from Rob Tiedemann of Ecological Design, Inc. attached as Exhibit "D", the developer's BRSO application has two fatal defects. First, the developer proposes to "smooth" the 200-foot eagle perching and loafing setback in the developer's favor to limit the number of lots affected by the setback. In such a sensitive area, there is no basis to compromise the setback.

Second, the developer's consultant improperly characterizes the portion of the property in the floodplain as Class C lands. As Mr. Tiedemann points out, the property has the characteristics of Class B lands and has "good potential for improvements in natural resource functions and values." In addition, similar lands have been treated as Class B in recent BRSO applications.

Class B lands are required to meet the mitigation, enhancement and other requirements of the BRSO. *E.g.* BCC § 11-05-06.A.I & J. The application does not provide this information, and therefore should be denied.

City of Boise
Planning and Zoning Commission
August 5, 2013
Page 14

Thank you for your consideration of these comments. We look forward to talking with you on August 12.

Sincerely,



Lynn Johnston
President, Board of Trustees



Derick O'Neill
Director

Boise City Hall
150 N. Capitol Boulevard

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Planning & Development Services

October 23, 2013

C13, LLC
PO Box 1610
Eagle, Idaho 83616
jconger@congergroup.com
(sent via email)

**Re: CAR13-00007, PUD13-00002, CFH13-00019 & SUB13-00017
Barber Mill Estates / 5237 E. Sawmill Way**

Dear Applicant:

This letter is to inform you of the action taken by the Boise City Planning and Zoning Commission on the Planning Team's return with revised findings for the recommendation of denial of Annexation of 11.97 acres with a zoning designation of R-1B/DA (Single Family Residential-4.8 DU/Acre with a Development Agreement), Conditional Use and Boise River System permits for a 43-unit planned residential development in a proposed R-1B/DA (Single Family Residential with a Development Agreement) zone, as well as the associated preliminary plat.

The Boise City Planning and Zoning Commission, at their meeting on October 22, 2013 **adopted** the revised findings as attached as well as solutions to obtain approval.

May we also take this opportunity to inform you of the following:

1. The decision of the Boise City Planning and Zoning Commission may be appealed to City Council within ten (10) calendar days from the issuance of this decision. The appeal must be written, accompanied by the appropriate fee, and submitted to the Planning and Development Services Department prior to the deadline set forth herein. Appeal application forms are available in the Planning Department or online under Applications at:

<http://pds.cityofboise.org/>
or <http://pds.cityofboise.org/home/documents/apps/100/>

2. All appeals of this permit must be filed by **5:00 P.M.**, on **November 1, 2013**.

If you have any questions, please contact me at (208) 388-4717.

Sincerely,



Cody Riddle
Manager, Current Planning
Boise city Planning and Development Services

CR/mc

Attachment

cc: Kent Brown / Kent Brown Planning Services / kentlb@gmail.com (sent via email)
David Triplett / 3550 S. Triplett Boise, Idaho 83716
Harris Ranch Neighborhood Association / Attn: Chris Hendrickson / icuski2@yahoo.com (sent via email)
Riverland East Neighborhood Association / Attn: Pete White / whitepet@cablone.net (sent via email)
South East Neighborhood Association / Attn: Fred Fritchman / ffritchman@msn.com (sent via email)

REASON FOR THE DECISION

Annexation

The annexation is inconsistent with the standards of *BCC 11-03-04.15.C6(a)*. The property is currently occupied by sewer ponds in the process of being de-commissioned. It is also encumbered by berms and monitoring equipment associated with the Barber Dam, operated by Ada County. Officials from Ada County indicated there were outstanding issues associated with maintenance and access to their facilities that had not been addressed. Annexation prior to completion of sewer pond clean-up, and without the support of Ada County is not in the best interest of the general welfare of the citizens of Boise.

The property is designated 'Large Lot Residential' on the Land Use Map. Given the unique characteristics of surrounding uses, the proposed R-1B zone is inconsistent with the vision for this designation. These lands are typically developed at 1-2 dwelling units per acre, with even lower densities in sensitive areas. The R-1B zone allows up to 4.8 dwelling units per acre. This is the highest density zone allowed in this designation. There are land uses in the area that could be negatively impacted by maximizing the number of new homes in this location. This includes the single family neighborhood to the west, Barber Pool Nature Preserve to the south and Idaho Shakespeare Festival to the east.

Conditional Use & Boise River System Permits

The project is inconsistent with *BCC Sections 11-03-04.7.C(7) and 11-03-04.19.B.7(b)*, in that the residential subdivision is incompatible with surrounding uses, specifically the Idaho Shakespeare Festival to the east and Barber Pool Conservation Area to the south. Additional residences in this location will negatively impact both of these sensitive uses. Added human activity and the lack of secondary corridors will be detrimental to wildlife in the area. Conflicts associated with noise will arise between new residents of the proposed development and the Shakespeare Festival. The project will also have a negative impact on public facilities. Representatives of Ada County voiced concern over unresolved issues associated with the protection of the Barber Dam.

The application materials did not demonstrate compliance with the Boise River System and Floodplain Development Ordinances. There was a lack of evidence to demonstrate the development would not cause an increase in floodwaters on surrounding properties. The information also failed to justify designating the majority of the site as Class C, rather than Class B Lands. Development of Class B Lands requires mitigation and enhancement that the project does not include.

SOLUTIONS TO OBTAIN APPROVAL

A lower density residential zone such as A-1 or R-1A could be requested. The Neighborhood Office (N-O) zone could also be appropriate. With any zone, a development agreement should be included restricting the range of uses, densities and project design in a way that responds to the sensitive uses surrounding the site.

CAR13-00007 / C13, LLC

Location: 5237 East Sawmill Way

ANNEXATION OF 11.97 ACRES WITH A ZONING DESIGNATION OF R-1B/DA (SINGLE FAMILY RESIDENTIAL-4.8 DU/ACRE WITH A DEVELOPMENT AGREEMENT).

PUD13-00002 & CFH13-00019 / C13, LLC

Location: 5237 East Sawmill Way

CONDITIONAL USE AND BOISE RIVER SYSTEM PERMITS FOR A 43-UNIT PLANNED RESIDENTIAL DEVELOPMENT IN A PROPOSED R-1B/DA (SINGLE FAMILY RESIDENTIAL WITH A DEVELOPMENT AGREEMENT) ZONE. A USE EXCEPTION FOR ENCLOSED SELF-STORAGE ON A PORTION OF THE SITE IS INCLUDED.

SUB13-00017 / BARBER MILL ESTATES SUBDIVISION

Location: 5237 East Sawmill Way

PRELIMINARY SUBDIVISION PLAT FOR 43 SINGLE FAMILY LOTS AND 1 COMMON LOT. THE 11.97 ACRE SITE IS LOCATED ON THE EAST SIDE OF EAST SAW MILL WAY APPROXIMATELY 920 FEET SOUTHWEST OF EAST WARM SPRINGS AVENUE IN A PROPOSED R-1B/DA ZONE.

Cody Riddle (Planning Team) – The application before you this evening is a request for Annexation, Conditional Use, Boise River System Permits and a Preliminary Plat. As you can see on the screen the project consists of 43 detached single-family homes and approximately 23,000 square feet of storage space. Ultimately, the Commission will need to take three actions tonight. You'll need to make a recommendation on the Annexation, a recommendation on the Preliminary Plat and a final decision, subject to appeal, on the Conditional Use and Boise River System Permits. As you can see from the aerial photo the property is currently zoned R-P, Rural Preservation in Ada County. The property has supported sewer ponds for a number of years, but due to recent infrastructure improvements that has eliminated the need for these ponds. The property is within the Area of Impact and adjacent to current city limits so the annexation is required. As you can see here the property is designated as large lot rural residential on the Land Use Map and as outlined in your report there are a range of potential implementing zones for the large lot designation which includes single-family residential zones of R-1A and R-1B, as well as the Open Land Zone A-1 and two of the office zones. The applicant is pursuing R-1B zoning which allows residential development up to 4.8 units per acre.

The property is unique in that it is adjacent to a variety of uses and land use designations. To the west, as you can see, is the Mill District at Harris Ranch and also lands at the corner designated for high density residential development. You have the Boise River to the south and both the Riverstone School and East Junior High to the north. To the east is the Idaho Shakespeare Festival separated from the parcels by lands controlled and owned by the Idaho Foundation of Parks and Lands. Based on the layout of the project lot sizes and location adjacent to the Boise River, Conditional Use and Boise River System Permits are required in conjunction with the subdivision. I would note this application package includes no variances from any Ordinance standard this evening. You have a lot of written comments in your packet and I assume you'll hear testimony to that affect this evening. I'd like to focus my presentation on what appears to be the key issues you'll hear about this evening, those being traffic, concerns with the Greenbelt crossing, design, floodplain, wildlife habitat and noise.

Regarding traffic, I'm not going to spend a lot of time here. As noted in the record, the project has been approved by the Ada County Highway District (ACHD) and all of the impacted roadways are operating at a fraction of their intended capacity.

Regarding the Greenbelt, there's a concern with the at-grade crossing located at the entrance of the site. We acknowledge this is not the ideal design solution for a crossing of the Greenbelt; however, the options for north/south connections in this part of town are very limited. Given the low volume of traffic, conflicts should be minimal. We did explore the possibility of relocating the Greenbelt extension to the south and east property lines, but I think there's big tradeoff there in that you introduce increased impact on the Barber Pool to the south and increase activity closer to the Shakespeare Festival, both of which they are clearly concerned with.

You'll probably hear a lot about design compatibility this evening. Things like height and architectural style. The height without restriction for this property would be limited to 35 feet just like the homes across Sawmill to the west. However, the applicant is proposing only single story homes for each of these lots to mitigate some of those concerns. You may hear they are artificially elevating the site. As you can see in the illustration on the screen they are essentially filling the ponds and leveling the site, but not artificially elevating above adjacent grade. You'll likely hear about concerns with the designs of the homes themselves. If you're familiar with the Barber Valley there's actually quite a diversity of homes in the valley from mobile homes to large estate lots. You'll have architectural styles anywhere from modern to more traditional. In any event, we find the homes are compatible and we caution the Commission from dictating the architectural style of detached single-family homes in this situation.

Regarding environmental impacts, you may hear questions regarding the location of the 6,500 CFS (Cubic Feet per Second) line and how that was established. We are confident that was accurately depicted and the project adheres to all setbacks from that line. Public Works City Engineers are here to answer questions regarding that topic this evening and have been involved in making those decisions and determinations for a number of years. He could also provide insight into any concerns raised with the floodplain. I would note if the project is approved, administrative approval of a floodplain development permit will be required prior to any construction activities.

Something you'll likely hear a significant amount of testimony about tonight is noise. This is unique in that we typically have residents who object to the introduction of a noisy business. In this instance it appears to be more the opposite where the Shakespeare Festival and some of their supporters are concerned about introducing homes and the conflicts which may arise there. As outlined in your packet the applicant has provided two sound studies, both indicate minimal or acceptable impacts both on Shakespeare and from Shakespeare on the new residents. In our review of the information we don't believe any of the sound studies have demonstrated residential development is inappropriate in this location. Some of the opposition will provide a third sound study and provide their opinions in that regard. We would mention to the Commission to prohibit a residential use on property designated for that very purpose on the Land Use Map based on concerns that a seasonal use could become problematic. I think this summarizes the key issues. We believe residential zoning is appropriate for the site and have felt that way since the beginning.

However, as indicated in the original report forwarded to the Commission, we felt the application could be refined to better address compatibility and some of the impacts. Thus, as the Commission is aware, the application was deferred August 12th. The applicant made a number of changes and another meeting with the neighbors occurred. I'd like to briefly walk you through some of those changes. Most significantly a number of homes were removed along the eastern property line and replaced with storage. That accomplishes several things in our opinion. First, it provides a decrease in density, although minimal that does increase separation between new residents and the Idaho Shakespeare Festival to the east. We have included conditions regarding height, hours, hours of operation for the storage, architecture and lighting. With those we believe the storage could serve as an amenity to new residents to the project, but also others who live in the immediate neighborhoods surrounding the project site. As outlined in your report the introduction of storage in this location is consistent with the Use Allowance Provision in planned developments. I think the most significant change since the project was originally submitted was the inclusion of the development agreement. We had concerns all along with annexing the property with any of the potential implementing zones. Each of the zones would allow units to be distributed evenly across the entire site and nothing would prevent future applicants from ignoring any of the concessions in the current proposal, which could include removal of the berm along the eastern property line, no restriction on building height for homes adjacent to Shakespeare or the homes located along Sawmill to the west. Again, the agreement will ensure the site is developed as currently proposed, limits development to the specific site plan you see on the screen, include the restrictions on building height for certain lots, hours of construction, participation in funding in the Harris Ranch Wildlife Mitigation Association, donation of common lots to the Idaho Foundation for Parks and Lands and also preserves access to monitoring wells associated with the Barber Dam. To deviate from any of those plans or restrictions would require approval by City Council. Finally, in addition to those restrictions of the agreement we're recommending further series of conditions to ensure compatibility to surrounding properties. In your report you'll notice that includes requirements for enhanced sound proofing in each of the new structures, enhanced crosswalk features for the at-grade crossing, hours of operation for the storage unit, as well as design standards. With those conditions we find the project is in compliance with the applicable ordinance sections and are recommending approval. I'd remind the Commission you need to take three actions tonight. You need to make a recommendation on the annexation with development agreement, a recommendation on the preliminary plat and then in one motion the decision on the Conditional Use and Boise River System Permits. We're recommending approval of each application and suggest the Commission hear from the applicant for testimony on each of those issues.

Commissioner Bradbury – By the way, I do want to clarify one thing I failed to clarify. We're going to hear all 3 of these agenda items; Items 8, 9 and 9a in a single hearing so if someone wishes to testify on any of those 3 items you will have the opportunity to speak on all of them. We're just going to do them all at one time.

Jim Conger (Applicant) – We'd like to thank the Planning Team and the neighboring groups as we've worked very hard on this land for this project. As you've heard from Mr. Riddle, the Boise City conditions memo recommends approval and we have no issues with any of the required conditions within that report.

A quick note, as part of our team I've got our acoustical engineer, our environmental and floodplain engineer behind me to the right if we have any technical questions. Mr. Riddle has done a great job of identifying the site surroundings. I want to point out a few additional items associated with this property.

The first item, schools will all be within a walkable distance to Lucky 13, salon and offices just to get an understanding where we are. I think the important item is the Shakespeare Festival you see on the screen. Ada County owns the property and the Barber Dam, which is to the south of us. Adjacent to the dam is the Harris Family property which is between our subject development property and the Boise River. The berm which there will be several discussions on as we go forward is located on our east property boundary and is on the subject development property. The terraces, assisted living is going to be basically our northwest neighbor. It's 12 acres which will be approximately 400,000 square feet of operational space, so that will be going to the big project which is about to break here shortly. Then we have the Harris Ranch and the Mill District, which is currently going to be our west boundary neighbor and has a density of around 6 units per acre. I will quickly point out the vertical grade difference between our properties at a Sawmill, which is adjacent to the Mill District. Our north boundary will be 4 feet or so vertically higher than Sawmill. At our south boundary you get closer towards our south edge which will be as much as a 10-foot vertical difference. That's why from a floodplain issue we're up quite a bit higher than the surrounding property to the west. As far as Barber Mill Estates and our property, we are going to be approximately at the 3.9 units per acre.

History and conditions of the property; Cody made a good illustration of the ponds. They were operating sewer ponds up to the end of 2012. Clearly, it's a Brownfield site and will have to be reclaimed, but that's its current condition as we move forward with this project.

Now from the planning process, last week we were in front of you at the East Valley project and we listened to the Commission clear back in August. As Cody indicated we requested deferral on this project to go back to rework with the neighboring groups and as importantly get a development agreement solidified. Through several more meetings with neighboring groups and the City of Boise we worked through several planning items. What I've put on the screen is a quick illustration of the meetings. These meetings started January 3rd. This would be meetings and correspondence, none of which with my own team, but either with neighboring groups with the City of Boise. We've gone through additional meetings with Shakespeare, additional meetings with the neighbors and the City Planning Team, which helped us make these last modifications. Mr. Riddle indicated as well to get the development agreement in a format that was able to be submitted and carry these conditions as they will run with the land. Obviously, you've seen the meetings on the previous slide. We've been 10 months into this and have arrived at a third version of a plan. We don't think that's a negative thing, we actually think this will be a move in the progress of the right direction. We resolved as many real issues as possible with all of these meetings.

Basically, along our east boundary single family homes were removed. This allowed the residential homes to be clustered further away from Shakespeare. We continue to preserve the berm which will be on our east boundary and we included the more passive use of the self-storage expanding that east buffer, as you can see right there.

Concessions; I'm going to quickly run through the concessions created by our development team during this planning process. One of the first ones, in meeting with Mill District owners we heard their concerns. Their first concern is our original plan had homes backing up to Sawmill. We actually orientated the sides of the homes to go to Sawmill and reduced any homes looking down on the existing neighbors. At the same time they were worried about homes looming over those existing houses and we put single-story restrictions on five lots inside that development, which is in the development agreement as well. Our goal from the onset was to be as seamless as possible along Sawmill and the adjacent neighbors from the Mill District.

Idaho Foundation for Parks and Lands; which we have been working with very early in the process and obviously to create the safety of the Barber Pool as that's their charter. What we have done is donate just over 3 acres of the development land which increased the current buffer and protection of the Barber Pool. You'll see the south boundary as well and ultimately we'll talk about the east boundary that is protecting their pond and everything on their property right to the east of us. Idaho Foundation for Parks and Land did write a support letter which is in your packet on July 8th and that still stands today. The existing berm, which I've identified earlier, is an important item on the development property, as I noted on the east boundary. You can see some photos which exist today. The Triplets, back in the early to mid-2000's, allowed Shakespeare to have a temporary easement to (inaudible) this berm, landscape it and transfer some water rights to water this portion. It was done at that time. Approximately one acre is what will be donated with the berm portion, which is in favor of Shakespeare as well as the Idaho Foundation for Parks and Lands, as far as the benefits go. The berm is a great buffer and it has served Shakespeare with the visual screen which has benefitted them for the last 16 years as they performed adjacent to an operating sewer lagoon.

Greenbelt pathway; I think Mr. Riddle summed it up fairly decently, but the Commission did recommend approval on June 21st and we will actually donate that property, which will be a little under a half acre, to the City of Boise.

The storage facility, which was again another concession; we heard storage in two or three meetings ago in working with the City and trying to push and continue to increase the east boundary buffer. It seemed to be a logical idea. The City indicated they wanted a more passive use at this point and storage facility definitely fits that bill.

In the buffer on the east side, we actually increased a quarter of the property which is now in that buffer between the berm and the storage facilities combined. It should also be noted we did delete four homes and most people will testify a little bit later that is a minor amount. It is actually 10 percent of the residential product on the board. A little greater than 10 percent, which is actually a pretty good reduction.

Regarding disclaimer, deeds and documents; early in listening to some of the neighbor's concerns and just wanting to further ensure any protection of the future, it was identified putting some deed restrictions would be kind of a belt suspender approach, but it would be a good idea to add it to the project. You'll see in the development agreement we are obligated to create deed restrictions on each closing of the home, as well as the Covenants and Restrictions and we will place a note on the plat.

In total we are donating up to approximately three-and-a-half acres of the property which is one third of the development land. We would like to basically thank this process. Any time we go through these we always end up with something a little better and we thank all parties involved. This project has seen many positive changes since our pre-app with the City of Boise on January 3rd.

We will address sound at this point. From the planning conception we needed to be confident our project achieved the following; would not affect the Shakespeare Festival, as well as making sure up front our project was compatible for our future homeowners as we are investing millions in this project. From a business perspective we would like to be 100 percent certain there would not be any negative impacts from sound in either direction. To assure this we engaged two separate firms, as Mr. Riddle indicated, to perform the sound studies and spent in excess of over \$10,000 analyzing these conditions. Again, our number one goal was to assure our development team this project is compatible and will enhance the Barber Valley. Shakespeare also did a sound study and they released it August 19th. It analyzed a musical which would be one of the loudest events, or the loudest event at Shakespeare. I think for the sake of reviewing reports we're simply going to utilize the Shakespeare sound data created in their report and summarize by their equivalent averages. In basically studying and analyzing for a residential component, one must get into the equivalent averages. As you can see with the Shakespeare's report the musical is the loudest. At the development side of the berm we're going to analyze this in two locations based off their sound figures. Its 49 decibels at the development side of the berm which would basically be our closest point for the storage facility, not even the residential units but we'll still use the 49. We are at 45 decibels for the loudest musical event at Sawmill which would be at the far end of our development, or at the existing neighbors catching a musical for an average of 45 decibels. For spoken work play it is around 39 decibels and 35 decibels per the Shakespeare report and we're fine using that data. I think it's important to summarize on the musical verses spoken words, 24 performances approximately a year, out of 93, of the musical so it is a smaller percentage, 26 percent or so. To be able to make a planning decision it is important to compare the industry standards which regulate the compatibility of noise and the residential housing. The first one I'm going to go into will be HUD (Housing and Urban Development), which is most nationally known for their acceptable ranges for residential development and are not exceeding 65 decibels. I think it's important at our closest point we're at 49 for the average of the decibels. We are well below the thresholds HUD imposes upon single-family detached homes. Attached homes are the next one down which gets above 65 and we're not there, we're detached. I put in the California Land Use Compatibility for Community Noise as they are a little more stringent than HUD. They're normally accepted averages and have the threshold of 60 decibels. Again, that's compared back to the 49 decibels which is at our storage facility on the music nights, on the noisiest nights. I have also put up the information on the Boise City Airport Influence Zone and the City gave Condition 2F which imposed us on the Airport Influence Zone and we are fine with that but decimal rating kicks in between 60 and 65. This is the first threshold the Boise City Ordinance has any teeth in when it comes to noise. Obviously, at our 49 decibels at the loudest event, our averages are much less than the Airport Influence Zone. As we just reviewed there are no issues with the noise created by Shakespeare for the existing neighbors on Sawmill, or the neighbors in our new development.

Traffic; we'll hit it quickly. Cody hit it. We do not take any neighbor's concern of traffic lightly. However, we did go through the ACHD's public training process. They approved the project and identified the following street flows. I'll be quick because you've seen them. Sawmill is at 6 percent and Lysted is at 12 percent. I think the important thing for the neighbors, and I think they'll say it as well, in their approval process ACHD did note they are open for future studies in this area as it becomes built-out. Clearly the percentages on these roadways are going to change after the 400,000 square foot Terraces project facility gets under way.

Wildlife; there are two items on wildlife. We have conditions of approval we are acceptable with from Fish & Game. The corridor exists today on our east boundary in yellow. It will exist in the same spot in the future. Wildlife does not migrate through the chain linked piece in the sewer ponds at the current moment. The second item is we are definitely committing to the Harris Ranch Wildlife Mitigation Fund, just as we did in our previous projects in East Boise.

Next I'm going to discuss floodplain, River System Permit, wetlands and sewer lagoons all in one item. These are all extremely important items but are technical which will go through their own engineering process, must adhere with City Ordinances and Federal requirements. There would simply not be adequate time to get into the engineering makeup of these issues at a public hearing. There are well qualified engineers on our team and City team members who are better equipped to finalize these items.

In our summary we believe the fact Boise City staff report and its recommendations of approval for this infill development is a testament to how long and hard all parties have worked to plan this project. What you see tonight is a culmination of meetings and countless consulting hours to get this plan right. From a planning and development concession standpoint we have bent over backwards and have looked at every possible option to make this development as compatible as possible. Again, we believe by reviewing the positive conditions of approvals and the list of concessions, this planning effort was a huge success. We find it important to remind everyone there's been over a decade of planning of this Barber Valley which has utilized countless hours in the City of Boise, Harris Family and the near Brighton. As important would be the numerous stakeholders and neighbors who have put hundreds, if not thousands, of hours into Specific Plan 01 and Specific Plan 02 which are basically our guidance of the Barber Valley for us to be master planned by.

Commissioner Danley – I didn't have a chance to come up and discuss it again, but a quick question I have is at 900 pages of documents to wade through and one note I noted is there seems to be some early discussion about 22 to 26 lots, as opposed to what's in front of us today. I'm wondering if you can talk a bit about that. When did the change happen?

Jim Conger – I can talk about it and Mr. Allen may be able to as well. Our original plan came in with 26 larger lots scattered throughout the entire property, including removal of the berm that is in place by a temporary easement. It was going to use larger lots which were going to take advantage of viewing towards the river and also viewing on the pond on Idaho Foundation's property. In our first meeting we had neighborhood concerns over Sawmill. Then we started to get concerns at some point over Shakespeare and people being able to see homes and then the noise ultimately came up.

The City of Boise called a meeting and there was actually discussion of clustering. We're not getting more units as far as our 1B goes; we were in the 1B zone the first time. It's too clustered and we pulled away from that east boundary. Obviously, we clustered and pulled away from the south boundary because of the 200-foot setback and at that point we went with the small lots. I think there are two reasons for that. One is the clustering affect to get away from the east boundary. The second item is after further discussion of large lots, or what we'll call right size these lots, downsize them to no yards, no pools and no big backyard parties. Everything we're hearing from the different neighborhood groups, I mean at 10 o'clock they probably don't want the parties in the backyards, so downsizing these lots and clustering away from the east boundaries (inaudible).

Commissioner Bradbury – Cody, would you talk for a minute about the pathway location? The question I really wanted to ask you is has that been approved by Boise Parks & Rec.?

Cody Riddle – It has. The Parks and Recreation Board approved that location. The Planning Team talked to Park's staff about an alternative location along the south and east property lines. Again, in our opinion the trade off with impacts to the Barber Pool, with the pedestrian activity, additional pedestrian activity and the impacts on Shakespeare, we felt the minimal volume and traffic with the at-grade crossing things could be done in terms of tabling of the cross walk, texturing and painting signage could mitigate that, which would be a better solution than those added impacts on wildlife and Shakespeare.

Commissioner Bradbury – Does the path just end or does it connect anything at this point, or would it when constructed?

Cody Riddle – In the southwest corner it would ultimately connect to the Greenbelt extension which was part of the Harris Ranch development.

Commissioner Bradbury – I'm just not getting a mental image of what's down there.

PUBLIC TESTIMONY

Gary Allen (Representing the Idaho Shakespeare Festival pro bono, and speaking on behalf of the Riverland East Neighborhood Association, of which Shakespeare is a part and Harris Ranch Neighborhood Association) – All three groups have presented written testimony. I will provide some highlights, an overall summary and a number of others will speak to fill in the picture. The record gives you a sense of the level of concern about this development. As of tonight the festival has gathered over 6,500 signatures in opposition to this development and many of the concerned citizens are here tonight. Everyone who is opposed to the current development please stand up. Let me paint a picture of the Barber Valley. This area boasts of more natural amenities than almost anywhere in the Treasure Valley. Where else do you get the Boise Foothills, the Boise River and the Barber Pool Conservation Area in one place? Second, it's home to the Festival, a unique cultural treasure which is a vital part of the fabric of our community. Third, it may be the best planned area in our city, home to Harris Ranch and Barber Valley planned areas forged by 15 years of preparation.

The question is, should you approve a compact residential subdivision and a commercial storage facility in a parcel which has not been part of the Barber Valley Master Planning, apparently by choice, adjacent to some of the most sensitive and valuable uses in our community? We strongly assert the answer is no. I will discuss four primary concerns. First is compatibility and undue impact. Compatibility with surrounding uses is a required finding both for the requested zoning and for the PUD (Planned Unit Development). The PUD further requires a finding of undue impact on surrounding lands. Our concerns focus on sound impacts.

Second is consistency with the Comprehensive Plan. The requested zoning cannot be approved unless it is consistent with the plan. The project is inconsistent with several provisions, most strikingly the low density residential designation of the property. Third, there are too many health and safety concerns for the City to risk annexation at this time. The Annexation Ordinance offers the City the discretion to annex when it serves the public convenience or necessity, or protect the general welfare. With open questions on impact on the festival, lagoon remediation, floodplain and FERK (Federal Energy Regulatory Commission) with the dam, this development does not meet the test. Fourth, the project application does not include a Habitat Enhancement and Mitigation Plan required by the Boise River System Ordinance because the applicant incorrectly asserts the floodplain lands on the project site are reparable Class C industrial lands, instead of restorable Class B lands.

Let me turn first to compatibility and undue impact. As the festival said in its letter, it's an exuberant place and we chose the location we did so we could be loud outside without disturbing too many people. Our neighbors can already hear us and now 42 homes are proposed closer than any of our existing neighbors. As Joann said in her letter, the festival faced substantial concerns from the neighbors about noise when the festival sited this facility in 1995. Sites west of Warm Springs Golf Course and in Veteran's Park were rejected in part because of concerns about noise impacts on existing neighborhoods. As a result, the festival came to this location so it would not be close to residential neighbors. Imagine Barber Mill Estates already existed and the festival is applying to build right next to it. My experience in countless land use applications tells me everyone living in that subdivision would sign a petition saying, they love the festival but it should not be here because of the noise. It should find a place farther from people's homes. At the same time the festival itself is a very noise sensitive use. A barking dog can ruin a Hamlet soliloquy. A motorcycle can drown the tender moments in Romeo and Juliet, and a leaf blower or a boom box at a party can spoil the breathtaking finale of Cabaret. The festival already experiences these kinds of impacts which will be multiplied by this development. In an effort to understand the sound impacts related to the project, four sound studies have been prepared. Two by Wilson Ihrig for the festival and two by the developer by Mr. Mullins and Dr. White. Let me boil these studies down. Based on limited data Mr. Mullins says the sound levels are not of concern. In contrast Dr. White says the festival is violating the County Ordinance and needs to change its operations. That's shown on these two excerpts from his report. However, it is not the festival who needs to prove something tonight; rather it's the developer who is required to show his development is compatible with the long standing festival theatre. The Wilson Ihrig studies both show significant concerns. The modeling done in the 2001 study, which was done right when the festival opened, showed high impacts on the Triplett property. You can read this 70 decibel plus under certain conditions which is shown on the map here. Under these conditions noise from the neighborhood also would be very likely to disrupt the festival.

In the 2013 Wilson Ihrig study shows measured impacts not at 45 and 49 decibels as the developer suggested, but 55 to 60 depending on the location, which is high enough to cause complaints from neighbors. Wilson Ihrig measured higher sound levels because of the musical verses the spoken word, as Mr. Conger said. Wilson Ihrig also validates the potential for sound levels consistent with the 2001 modeling. Here are their conclusions: *During inversion conditions, we could see up to 65/70 decibels or more and concludes the proposal is incompatible with the Shakespeare Festival.* Importantly, Wilson Ihrig concludes it is not clear any combination of mitigation measures can resolve the issue. That is this proposal creates a risk of conflict no matter what is done to mitigate. It made all of our hearts skip a beat when we read this conclusion in their study.

Mr. Conger spoke about the sound levels that are acceptable by HUD, by Alameda California and the Boise Airport Influence Area. All of these standards address an urban or highly impacted environment and therefore are irrelevant to the Barber Valley. There are two standards that apply to this application, one for the zoning and PUD applications. The proposed use must be compatible with existing uses. It's a narrative standard. Secondly, the City and County Noise Ordinances prohibit sounds which are plainly audible on adjacent properties. The fact is the people who live in the Barber Valley do not expect and will not expect sound levels like you might experience in a HUD affordable housing project in Chicago or Oakland California, which is in Alameda County, or next to the Boise Airport. In Barber Valley residents expect a quiet, peaceful outdoor feel and quiet is not what you get when you are next to the festival. So what if there's a little noise. Let me offer some examples of the real consequences of encroachment. In our letter we discuss the Oregon Shakespeare Festival which had to enclose its entire theater as the town of Ashland grew up around it. Locally, the Best Bath facility when it was in Kuna received stiff opposition from residential neighbors who lived in a subdivision which forbid them to complain about the preexisting industrial area next to it. Another local company, Sorrento Lactalis which owns the cheese factory in Nampa, had to close its San Jose facility because of residential encroachment. The lesson is once people move into their homes they forget who was there first. They will complain and sooner or later local officials will listen to them. To help you get a better feel for the sound impacts Deborah Jue of Wilson Ihrig will perform a demonstration later of what you might hear if you were sitting on your patio on a summer evening in Barber Mill Estates. Is there a solution to the sound issue? Our expert tells us residential development will not work adjacent to the festival, regardless of density or design. The mitigation developer has proposed it is adequate. The storage units do not provide sufficient separation. Sound proofing is helpful indoors with the windows closed but does nothing for outdoors, which can't be ignored because that's where people are going to want to be on summer evenings. Nothing else is proposed in the development agreement or the conditions of approval except for disclosure of the presence of the festival and that sounds may be audible. This is no protection at all. None-the-less, we recognize some form of development may occur. On September 6th the festival submitted a letter outlining an alternative we could support. Harris Ranch Neighborhood and Riverland East also support these options. In short summary, first low density residential development, one unit per acre, useable acre with substantial mitigation for sound, wildlife, flooding and other conditions. If we have homes we reason that fewer are better than more. Secondly, professional offices or other appropriate neighborhood serving daytime commercial use. Finally, purchase for public use. The festival is willing to lead the effort and has secured a substantial amount of pledges toward a purchase.

Now let me turn to the Comprehensive Plan. Per our letter, this is the density issue. Many Comprehensive Plan policies support our position. The requested zoning does not follow the Comprehensive Plan. To name a few, support for the arts economic development, environmental stewardship and protection of businesses from encroachment. I will focus on one of the Comprehensive Plan's provisions: *The designation of the parcel for large lot residential*. Here are those provisions of the Comprehensive Plan. The plan plainly says: *One to two units per acre or less in certain areas*. It contemplates half acre to one acre lots. At the bottom of this after all the discussion it does mention R-1B is a possible zoning designation. However, nothing suggests it trumps the overall guidance about density. Further, this development doesn't even fit R-1B zoning without using the PUD to strip out most of the substantive restrictions in the zone. For example, the developer asked to cut the minimum lot size of 9,000 square feet in half for virtually all of the lots to exchange R-1B setbacks for R-1C in their entirety, and to add a storage use which is not allowed in the R-1B zone. In fact, we wouldn't be surprised if the developer came back to you to change this based on lack of market demand. In summary, this development does not apply R-1B zoning in any meaningful way. It is an R-1C development which the Comprehensive Plan does not allow. The developer relies on the provision in the Comprehensive Plan that development outside the special plan areas in Harris Ranch should use the approved Harris Ranch and Barber Valley Specific Plans as the policy basis for additional development in the Barber Valley. The developer and the Triplett's attorney seem to say these plans give a cart launch to put compact residential development wherever they want. Nothing could be further from the truth. If you look at the Harris Ranch Plan, Harris Ranch and Barber Valley spent hundreds of thousands of dollars on planning to ensure compact residential development would be compatible with the other uses proposed. Looking at the Harris Ranch Plan for example, there's a huge swath through the middle to accommodate the existing power line. Obviously this area was not appropriate for compact residential development or for any development for that matter. Parks and open spaces are located close to the river as indicated here. This was a better use than compact residential development. We have similar considerations here. Next to the festival, the Barber Pool and the pool of the Barber Dam compact residential development does not fit and it's not compatible. At the end of the day this is a standard subdivision trying to cram itself into a very sensitive space where it doesn't belong. It should be denied.

Our next point is this is not the time to annex. This is a complex project which will require remediation of the sewage lagoons, resolution of issues with FERK and Ada County regarding construction requirements to protect Barber Dam and resolution of floodplain issues with FEMA (Federal Emergency Management Agency) and the City. If any of these aspects are not resolved per the developer plans, the project can fail and the City is left with a problem property within its boundaries. These risks all mitigate the City decline to annex this property until these issues are resolved. First remediation; first of all DEQ (Department of Environmental Quality) has rejected the initial clean-up plan and the site contains well over 10,000 cubic yards of hazardous materials which need to be removed. What happens if the City annexes the parcel and the clean-up doesn't get done? The City will inherit the odor, weed, dust and worse, complaints that will follow. I would expect some decry, the City itself needs to do something about the clean-up. These are vulnerabilities the City should not accept. The property should be cleaned up before it is annexed. Second, both Ada County and FERC have raised questions about the dam. Here's the Ada County letter showing this.

About how this development will affect the operation of the dam and what mitigation is required, these questions remain unresolved. Third, at least half of the property lies below the elevation for the hundred year flood. Mr. Gebhart's latest analysis, as I read it, shows an even larger area below the hundred year flood elevation. The developer is not saying much about this but this development will require 65,000 cubic yards of fill to raise the level of the development lots 2 feet above the floodplain. The question is where will the floodwaters go once the lots are out of the floodplain? We're concerned water will flow right onto neighboring properties including the festival. At this point there's been no action by FEMA to relocate the floodplain and no action by the City on how the Flood Ordinances will be enforced to protect the development's neighbors.

Finally, the current version of the project is being rushed without adequate opportunity for agency feedback. The storage use was added only on August 27th and has not been reviewed by critical agencies including the Department of Fish & Game and the Foundation for Parks and Lands. You saw a wildlife corridor put through there. I'm quite certain the Department of Fish & Game has not reviewed that or accepted it. The City should simply not move forward with annexation without answers to these basic health and safety issue questions.

Let's turn to the Boise River System Ordinance, the Barber Pool and wildlife. This project is the largest and densest development ever proposed within the Barber Pool Conservation Area. This greatly concerns us and we believe it erodes the purpose of the conservation area. First let me clarify this project is within the bounds of the conservation area. We met with the Idaho Foundation for Parks and Lands regarding their letter of August 12th and forwarded the correct information from the BPA (Barber Pool Area) study which you see here. Our understanding is the foundation has accepted this information and submitted a letter today to suggest deferral of this project. The festival, Harris Ranch and Riverland East have worked extremely hard to enhance the conservation area from the creation of the festival's interpretive area, habitat improvements from the river to the Foothills, wildlife corridors, trails, funding for wildlife preservation and protection of sensitive Foothills areas from development. The developer has proposed to comply with the 200-foot eagle's perching and loafing setback, most of which is in an undevelopable flood easement conveyed to the county years ago and to preserve the existing berm built by the festival between the development and the festival. While we appreciate these efforts, we do not believe they comply with the River System Ordinance or are sufficient. Your role tonight on the Boise River System Ordinance is to decide whether a portion of the development in the floodplain is properly classified as Class B, rather than Class C for purposes of the River System Ordinance. This is important because Class B lands require a Mitigation and Enhancement Plan which offers more opportunities to improve the habitat in the area. Class C lands require no mitigation. I'm going to briefly outline the Ordinance framework and Rob Tiedemann, our wildlife ecologist assisting the festival, will discuss the ecology of the property a little later in the public portion of the testimony.

The difference between Class B and Class C is Class B lands have potential for enhancement and restoration, whereas Class C lands don't so the Ordinance compares a gravel pond, which is Class B, and an industrial property, which is Class C. We see a number of reasons so I'll let Mr. Tiedemann address as to why this is Class B, not Class C and is consistent with several examples the City has approved in recent years.

I left a few slides behind here which shows how this property is considered natural character in the Barber Pool Conservation Area Plan. In conclusion, we respectfully request you recommend denial of the annexation and zoning applications before you and to deny the requested PUD and Boise River System applications.

Commissioner Danley – As you're representing the neighborhood association and others, you may not have a good answer for this. I recognize that, but I'm curious, can you give us insight as to the level of involvement the Shakespeare Festival and the neighborhood association had with regard to the Comprehensive Plan process, specifically this particular area and how it was zoned and handled, and so forth?

Gary Allen – Are you speaking specifically of this property?

Commissioner Danley – As much as possible.

Gary Allen – This property was excluded from the Master Planning process for both Harris Ranch and Barber Valley. We understand the property owner chose not to be part of that planning process, so our understanding is this particular parcel has not been through that detailed planning the way other areas of Harris Ranch and Barber Valley have been. There are a few parcels which were not part of this process and have been given this large lot residential designation in the plan, but were not ever addressed in that planning process.

Commissioner Bradbury – We're going to call people up to testify. When you come up, I'm going to do this in the order you are signed up on the three sheets starting with 8, 9 and 9a.

Bob Carigan – I'm the head of Riverstone International School and I'd like to thank the Commission for doing their due diligence and allowing me to speak tonight on behalf of our school. Riverstone International School is a pre K-12 independent school with 325 students located directly north of the property. This year in part, because of the development which has gone on in East Boise, we are at record enrollment. Please be clear we are not against development in this area and support thoughtful growth. However, we ask the Commission to not approve this plan tonight and allow more thought and consideration to ensure this project better addresses the concerns being expressed. Let me briefly outline our concerns.

First and foremost, we are concerned with the safety of our students. We are very concerned about the removal of the sludge from the former sewer ponds. Our students play 100 feet from these ponds and we have been offered no assurance the process will keep them out of harm's way. We have seen a DEQ (Department of Environmental Quality) report which states as expected, this Phase 1 has been identified and there are concerns associated with the onsite sewage wastewater lagoons, sewage affluent and potential related residues from pharmaceutical and personal care products. We are very concerned about the possibility of air borne contaminants. What happens when the wind blows the dust into our playgrounds and fields? Once again, no one has ever guaranteed the safety of our students and by proximity, those students at East Jr. High. This is magnified by the plan to truck the sludge out, these contaminants out and we want this as far from our property line and students as possible. We have also voiced concern about the traffic this will cause.

The congestion in the area has gone up dramatically and we're worried about the increased car trips on Lysted Road which is directly west of our property. We don't know what a storage facility will do to traffic and other developments are planned as well, which will continue to increase the traffic. There was a proposal to create a new Greenbelt between our property and this development. As far as we know it is on hold as the City lost their federal grant bid. Riverstone and the developer agreed to keep this in place as we both saw the value of it. Unfortunately, that plan has been delayed which leaves a border zone between the two properties. We need to be assured a proper buffer zone will be put in place between our two properties. What we oppose is this development in its current configuration. We ask if approved the developer is required to put two fence lines, one on the back of his property and one on ours, creating a buffer zone on both sides of the proposed Greenbelt. This area is adequately landscaped with trees and shrubs until the final Greenbelt solution is reached.

Another major concern for us is, like the Shakespeare Festival, this development puts us in the position to be the bad neighbors. Currently, we enjoy seeing families use our playground and fields after the school day. Because this development has no public or green space planned, that only leaves the children of the neighborhood one place to play and that is our fields and playground. We are very concerned as a non-profit we rely solely on our parents for support as this increased maintenance will become a drain on our limited resources. It will put us in a position to be the bad guys asking kids to leave, putting gin gates and more fences which is not something we want to do as a relationship and good will we have developed with our neighbors and community are essential to our success.

Frances Bolt – We didn't know we were signing up to talk. We're just on the list as being opposed.

Rob Tiedemann - Speaking on behalf of the Shakespeare Festival, but I also speak on behalf of those who were one of the principle authors of the Boise River System Ordinance. I offer you what I've learned from the law, as well as the spirit and intent of the Committee that put the document together. There are two issues I have spoken to with Gary and with members of the Shakespeare Festival. The first has to do with the 6,500 cubic foot per second line.

The second has to do with the designated status when the property is Class B or C. I believe people of science and people of good engineering expertise can answer the question of where the 6,500 cubic foot per second line lies. I leave it to them to do so. However, I will tell you based on my over 30 years of professional experiences as an ecologist, as a certified fishery scientist, as a certified wildlife biologist and as a certified wetland delineator I have no argument with the line which has been laid out. I do have argument with the designation of the property as Class C habitat. Class B habitat is identified as properties which include gravel pits and open ponds that provide good potential for improving fish and wildlife functions and services. This property meets this task.

I say this not just as a professional but I say that as a common man who can look at it and say it's immediately adjacent to one of the most important open spaces in southwest Idaho. It's refuge for deer, its refuge for fish and refuge for rafters. This property provides good potential for improvements for fish and wildlife habitat, not just by definition but also by fact of precedent.

Two downstream properties, the Barber Mill Ponds in particular, which are not that different than the sewage ponds on the Triplett property have been restored. It hasn't been a large effort. It has been an effort of expertise, time and money, but it was accomplished. It was done there, it can be done again. I have nothing more to say except to offer you my expertise and to share with you what I know in my experience administering the Boise River Ordinance as a lay person, not as staff or a professional of the City of Boise. I offer my expertise as an ecologist, as a faculty at the University of Idaho and again my 30 years knowledge of working this valley.

Jeannie Peterson – I was married to Danny Peterson, one of the founding members of the Idaho Shakespeare Festival back in 1997. So I've been involved with this festival for quite a while. The first set was built in a horse pasture in our backyard. They rehearsed in there too, tripping around the horse turds. I've seen this festival go from our gang production where the set was built in our (inaudible). We all did things and participated to a highly sophisticated, well-orchestrated, well performed theatrical experience. The theater is in a very unique location and it's a very unique experience. I would hate for audiences to be denied the unique theater experiences which are wonderful. I think we would be greatly impacted by this development. I think the compatibility is not there and I am in favor of public use.

Laura Lindsey – My house is right across the street from the proposed subdivision, and not only that but the one road in and out of the subdivision is right in front of my house. I want to tell you thank you for listening to us and forgive me, I'm very nervous. I don't normally do anything like this. That's all I can do. I'm a mother of two and I simply want to tell you what it's like for us to live in such close proximity to Shakespeare because this is what I'm in a position to do.

Whenever Shakespeare is performing my family and I can hear everything. Not only can we hear it, but we can understand every word said, even with the windows closed, the doors closed. If the TV is on and the children are playing maybe we don't understand everything but I'm also pursuing a Master's degree and when I want to study and they're performing, I have to go to the back of the house. I don't find it a nuisance because I love Shakespeare and they're a tremendous asset, but I'm pretty sure some of those 43 families who might be living even closer to Shakespeare would be bothered. My 8 year old has trouble falling asleep when Shakespeare is performing. I'm guessing some of those 43 families will have young children they want to put to bed before 10 o'clock at night. I just think it's inevitable there will be complaints both ways. My little dog will bark when there are unexpected noises coming from the festival and if we were closer that would be very disruptive to them. In my opinion it's simply not compatible with what's going on there and it's not compatible with the design of the area in large. There's a sign right across the street which indicates the area belongs to the Barber Pool Conservation Area. When I bought the home and when my neighbors bought their homes, we were directed to look at that sign indicating this was part of the Barber Pool Conservation, which makes sense. That's why it feels like it belongs. There are also concerns about traffic. There are so many children. I watch them coming to from Riverstone and also just the children playing. Our neighborhood has so many young children and the cars already speed down Sawmill, so I think it's a huge concern to add the amount of traffic they are talking about given the number of young children who currently travel on the street to East Jr. High, to Riverstone and also to play at Riverstone.

Mark Hofflund – I'm the Managing Director of the Shakespeare Festival and I'm tasked with talking with the community every night at the theater to find out what they think of the compatibility of this proposal. At the instruction of the Board of Trustees and with the help of counsel we put together a very simple form. We also put protocols in place which did not force people to sign or did not advertise we needed this from the stage. The integrity of the theater experience was maintained for all of the patrons coming, but we did make volunteers available for people to express themselves. If they had further questions and issues, they could of course speak to the management and the Board themselves. We have found now that 6,800 people have signed to the opposition of just the basic idea of the compatibility of these 2 activities in the proximity in which they have been designed. I would add in terms of the development process, the Shakespeare Festival was not formerly contacted until we filed a letter of opposition with the City on April 2, which was more than 3 months after the process had started. So we have not felt like we were included from the beginning and we have felt like there has been the need to use the public process to the best of our abilities to find out what everybody else thinks about compatibility. It has been an instructive process. It has allowed the festival to hear the thoughts and desires of those using the amphitheater this summer. It has affirmed the festival's opposition to the Barber Mill Estates and I submit this to you for the record.

Exhibit 1 handed in.

John Sims – I'm Vice President and Trustee of the Board of Idaho Shakespeare Festival. I wanted to tell you about two brief experiences I've had with sound at the theatre. One is I know a few years ago Mark Hofflund, who just spoke, had to basically hop in a car and drive to one of the existing neighborhoods because somebody was having an outside party. In the middle of our play you could very clearly hear the music they were playing which unfortunately had nothing to do with our play. Thankfully the people were nice enough to turn the music off and the play continued.

The other thing that happened, which I think is very instructive is during Blind Spirit, I don't know if anybody saw the play on the board, but there's a voice of a child which is played over the loud speaker and in sound check they were testing that and the police showed up. Someone had heard a child's voice coming from the theater in the middle of the afternoon and was so alarmed by it they actually sent the police to find out if there was a child in jeopardy. I think those are antidotal stories but I think they are indicative of the fact we can hear things going on outside of the theater and people outside can hear even low level noises coming from the theater.

The other thing I'd like to point out to you is the practical problem. If we have a problem during a performance with sound coming from outside, it is very difficult for us, absent being able to find the person who is making the sound and getting them to agree to stop making the sound. The remedies available to us are very slight. Calling the police, by the time it gets resolved the performance is probably ruined.

Mr. Conger talked about restrictive covenants; those of course would not be enforceable by the Shakespeare Foundation. We would have to find someone on the homeowners association, if they had such a restrictive covenant and ask them to try to enforce it which involves a process.

So the practical effect of us trying to control outside noises in time, our performance or even performances are ruined is really very limited and that's really all I had.

Jan Flynn – I am a close neighbor to the proposed development and also to the Shakespeare Festival. I want to note there have been many well-articulated objections to the proposed development, all of which I support and agree with. I don't need to repeat any of them here. I am here to urge you to very carefully consider the many objections brought up, and not only your duty to look at what the rules are as they apply to this property, but to the common good, the greater good. The fact this is an incalculably important culture resource, not just for East Boise but the entire Treasure Valley. I am very concerned as a neighbor but this is not a "not in my backyard" objection. This is Boise's backyard and I am truly hopeful you will take that very carefully into consideration. I urge you to deny this request as it now stands. There is probably a way to develop this property in a way which isn't conformity with the intention and character, but this is not it.

Erin Shilt - I am going to read you a letter from Lisa Benjamin who is the General Manager from Hotel 43. As General Manager of Hotel 43 I would like to speak about Idaho Shakespeare Festival's value to Boise's economy and why the festival merits full protection under the City's Comprehensive Plan as a business with particular unusual and well established needs. ISF (Idaho Shakespeare Festival) plays a key role in Boise's travel and hospitality industry. It's a magnet for visitors from across Idaho, from every state in the nation and from many nations around the world. The ISF amphitheater and reserve comprise one of the top venues of this kind nationally, as recognized by the Shakespeare Theatre Association whose international conference was hosted by ISF and the Institute of Outdoor Drama, one of the nation's oldest art source organizations, headquartered in North Carolina. As the first permanent home by ISF the amphitheater and reserve hosted 30 US governors at once, hosted the current and future US Secretaries of the Interior with the day-per-day travel chairman, and hosted ambassadors, members of Congress, Chairman of the National Endowment For the Arts and public officials at all levels of service. ISF is a business with important, as well as commercial functions. The IFS grounds create a distinct public face for both our Capitol City and the region, as well as a cultural gathering place for tens of thousands annually who enjoy theater performances, environmental programs, corporate events and private gatherings.

Isolated along the Boise River, the grounds are perfect for both security and privacy as needed by public and private officials for ease of access to nearby city amenities for offerings of solitude and beauty and for moments of tranquil inspiration. Nothing could be more incompatible with these grounds than a high density residential subdivision immediately adjacent to them, let alone a commercial storage facility. As a baseline of economic vitality brought to the City of Boise during 93 performances of the amphitheater this summer, please consider a log of license plates was taken in the IFS parking lot during 51 performances in order to determine the states and counties from which the vehicles arrived. Five percent came from outside Idaho representing more than 40 states, British Columbia, Germany and the Yaka ma Nation. Twelve percent represented all but 3 of the 43 Idaho counties other than Ada. Twenty five percent had specialty plates locating them in any of Idaho counties and the remaining 58 percent were from Ada County. Many of these visitors patronize Boise's merchants, restaurants and hotels and do so in a steady and reliable way.

It is hard to think of another private sector business that so well represents the community, so comfortably advances public values, serves the public sector and so readily brings visitors and vitality to the local economy. As a volunteer who has spent many evenings with friends and colleagues ushering on the grounds of the amphitheater, let me please note how well integrated the grounds are with the theater facility itself, both the physical landscape architecture...

Lynn Johnson – I am the President of the Board of Trustees for the Idaho Shakespeare Festival. As trustees we are actually entrusted with the oversight and planning for the future of this crown jewel of our city and state. We're very proud to be one of the most often cited reasons people love Boise. We're humbled by the pride our community has in us. Historically, the festival has been forced from its past two locations due to development, the Plantation and Park Center. With the help and support of this wonderful community the ISF finally found a permanent home in the Barber Valley. We've strived to be the best neighbor we can be. We try to be sensitive to our neighbors and this unique environment. Although we've welcomed the well planned and thought out development within Harris Ranch, BME (Barber Mill Estate) is just so ill conceived. We just cannot support this development. The ISF would be threatened and encroached upon by this BME development. The Comprehensive Plan actually does address this situation in Goal EC-3 regarding protecting existing businesses. Specifically EC-3 Section 2 which is on page 2-71. The goal states: *Protect existing business in industrial areas from encroachment of incompatible or non-complimentary uses that would threaten their viability of ability to continue to operate.* Having learned from our experience working with our current neighbors we fear the short distance between these new homes and the festival will be so inadequate that no amount of sound or acoustical mediation is going to be sufficient. We will be jeopardized in our ability to be able to continue to operate as we have for 16 years.

Our concerns are not only with sound coming from the theatre but the normal sounds coming from the neighborhood that are amplified because of the design of an amphitheater. This is a situation that is both incompatible and non-complimentary with the current operations. Our concern is eventually the festival will have to fundamentally change their programming, the theater design or worse yet, possibly even be able to be forced out of its home again. The developer claims the deeply restricted CC&R's (Covenants, Restrictions and Restrictions) and deed restrictions will take care of the complaints. These measures have not saved other businesses from being driven out. We only get one chance to get this right. If we do this and it proves to be wrong, it can't be undone. The City, the festival and the neighborhood will be left in a terrible situation which won't make anyone happy. We believe there is a better option, one that respects the investment of the long term landowner and the desires of the people who live right around the Barber Pool. We ask you to deny this entire application. Give us a clean slate and let us go back to the drawing board and find a better solution for our community.

Chris Hendrickson – I am presenting as the President of the Harris Ranch Neighborhood Association. First, I want to thank the Commission for the opportunity to speak tonight and Mr. Conger's team for including our association in the project planning meetings. We support the comments made by Mr. Allen on our behalf so I won't belabor those.

I'm presenting a few additional items which he didn't have time to discuss and are important to our membership for our neighborhood.

The main point I want to make this evening is the development, as proposed is incompatible with the surrounding uses in numerous ways, as you've heard and will continue to hear. I remind you as Commissioners you have the ability to reject the application based on that evidence alone. One of the reasons it is not compatible is the large amount of fill does cause the development to tower above the adjacent properties in the Mill District. The home foundations for Barber Mill Estates will be approximately 10 feet higher than those directly across the street. The first story homes from Barber Mill will look directly into the second story of the homes across the street and block their view. Keep in mind the single story restriction along the west side of the development is only on the first row of homes. The second row of homes will only be 10 feet behind the first row.

The design of the Barber Mill homes is incompatible with the adjacent, more traditional homes in the Mill District. Homes in the Mill District all have a craftsman style, while in stark contrast the Barber Mill homes propose a modernistic prairie style. In our letter we submitted on August 5th are some attachments which compare or contrast the two different styles. The proposed development provides no open space or play areas for children, which will therefore encourage children to trespass on the Riverstone school playground, Shakespeare Festival grounds and then to the Barber Pool Conservation Area. We believe the applicant's traffic study was not properly done because it did not account for the nearly 2,000 dump truck trips by Riverstone School for the remediation and filling of the property. Traffic counts were done in the summer and not accurate to include the traffic for Riverstone School and East Jr. High. So those should be redone. Capacity on the street isn't our first concern in the first place, it's speed. There's a documented history of complaints from our neighbors about speed on the street which is 20 miles-an-hour, and people using that street as a cut through to avoid the corner at Warm Springs and Eckert. By adding the additional 450 vehicle trips is only going to compound this problem.

In closing, this is a very unique and sensitive piece of land. It's made extra special by the surrounding neighbors and their uses. This project is being rushed through without adequate notification and planning and is an incompatible use for the area as submitted. Our association asks you to deny support of the application until a more appropriate use is brought forward with adequate time and information for all parties to evaluate it.

Yvonne McCoy – I'm a member of the Idaho Shakespeare Festival Board of Trustees and I'd like to speak on my behalf, as well as on behalf of my husband Gary Winske and Bethany Church, widow of US Senator Frank Church, who's Bethany Church River Trail runs near this area we are talking about. I think people chose to live in Boise because of the quality of life we have here. Some aspects of that quality of life are easy to quantify, but other aspects are more difficult. They speak to things of the heart, personal and community health and opportunities for emotional and intellectual growth. The Idaho Shakespeare Festival contributes to the quality of life on the very highest level. It's one of the reasons my husband and I moved here to Boise rather than Seattle or Portland. From the minute we moved here 10 years ago we became season subscribers of the Shakespeare Festival. We often invite friends with their tourist dollars to visit here and offer all sorts of sights and activities to entice them to see the Stanley Basin, the Sawtooth Mountains, open wilderness areas and of course the Idaho Shakespeare Festival here in Boise. Invariably when we attend a production we take a pleasant walk around the reserve after our picnic dinner and before the start of that night's production.

We're lucky to be able to hear every word when we see a hilarious play like *The Foreigner*, as we did last night. No dogs barking, no car alarms going off and no lawn mowers stepping on the punch lines. Not once when we've taken our friends and out of town visitors to the festival have we heard them say afterwards that they love the density of the housing around the festival. It's always about how lucky we are to have the Shakespeare Festival at this beautiful outdoor venue. It's always about the beautiful nature reserve around it. It's always about what great artistic opportunities we have here in Boise, exemplified by the Shakespeare Festival. I ask you to think about this. There's a difference between the right to develop and whether we ought to develop. As we've learned with regard to the great wilderness areas we have here in Idaho, we must protect the spaces we love and value in our community. I urge you, I urge you strongly to help us protect the reserve around the Idaho Shakespeare Festival, the artistic experience we value so much when we bring our families and friends here and the artistic legacy we want to leave for the next generation.

Georgiann Raimondi – I am here speaking as a concerned citizen of Boise, a patron of the Idaho Shakespeare Festival and a member of the Board of Trustees of the Idaho Shakespeare Festival. Aaron Paul, raised in Boise and an award winning co-star of the TV hit show *Breaking Bad*, was quoted in today's *Idaho Statesman*; *You must support your local arts, the local theater when you can.* Without them you have no local history. We have that choice before us today to support our local arts and theater and the beautiful area around it, or to support a misguided and unconceived development. The Idaho Shakespeare Festival has been an integral part of our family's summers over the past 35 years. After several locations around Boise, the current amphitheater on Warm Springs Avenue provides a beautiful, peaceful and enjoyable experience, along with outstanding theater. We have brought many friends and family members to the Shakespeare Festival at this site and reviews are always positive. One example, last July we hosted over 30 members and guests of the National Board of Trustees for the Trey McIntire Project (TMP) for the play *The Imaginary Invalid*. Every one of the TMP Board members have been to our productions and theaters around the country and to a person they raved about the quality of the art and the incredibly beautiful and peaceful theater setting. It is my opinion that this beautiful and peaceful setting is at a significant risk should the current proposal of development adjacent to the festival site be approved. There are numerous things I find fault with in the current proposal; the number of homes proposed, the proximity to the site, noise concerns from both directions, the height of the majority of the housing, the visual impact and the potential damage to the Barber Pool Conservation Area. Further encroachment of residential use adjacent to sensitive wildlife habitat, which ISF has worked hard to protect and respect in cooperation with other members of the community, and the impact on the ISF's business and our community, I strongly recommend you deny the developers annexation and rezone requests and I thank you all for being here.

Gene Ritti – I'm one of the people Yvonne mentioned just a couple of minutes ago. Thirty six years ago I threw what I could in my small car, including my wife to be, and moved to Boise because I wanted to live in Boise. It was a great place in 1977 and it's only gotten better since with things like the Morrison Performing Arts Center, the Boise State Pavilion and Shakespeare. I have never once left a Shakespeare performance, often times with people who don't live in our community, and ever had somebody say, "Well, that was a bummer. Sorry I came to this." Everyone has raved about it because, and it's not just the actors, it's the whole atmosphere.

What I'd like to address briefly this evening is this hint I'm hearing there won't be problems because we can do restrictive covenants. We can put in restrictions and deeds and these people buying these homes know what they're going to get into. Robert Frost in his poem Mending Wall debated whether good fences make good neighbors. Maybe they do, but I can assure you as someone who has tried law suits for over 40 years these types of covenants are not going to prevent litigation. It is going to happen. It's going to be very expensive. It's going to take an emotional toll on everyone and I don't think there's a need to go down that road. If you have some hint, some feeling that maybe this isn't the right thing to do with this piece of ground, I would ask you to follow that instinct, follow that feeling and deny this application.

Cyndi Kay – I'm here tonight as a business woman, a homeowner, a patron of the Idaho Shakespeare Festival, as well as a member of the Board of Trustees. I have concerns about this proposal at each of those levels. My ability to stand up here and talk to you following Gene's comments because he stated probably my greatest concern, as a homeowner I've seen multiple issues in complying with the CC&Rs I signed up for, or I agreed to when I bought my home, not being able to enforce those restrictions and basically being irrelevant. As the Idaho Shakespeare Festival we have, I think it was what John Simms said; *We have no ability to ask these people to be quiet and to be compatible to an organization that has been there for 16 years.* We have been members of the Idaho Shakespeare Festival for 15 years, taking our children since they were 4 and 6 years old to see performances and I will tell you it inspired one of our children to participate in the arts and both of them chose to do reports in high school on Shakespeare, a topic I avoided at all costs when I was in high school. You don't get these kinds of opportunities and treasures all the time. There's a value here and I think Lynn Johnston, Yvonne McCoy and Georgiann Raimondi all stated very succinctly my feelings on this topic. I would ask you to deny this request as it is currently proposed.

Hethe Clark – I represent the Triplets and I'm going to go a little bit off script so if papers are flying, you'll have to forgive me. Some applications are more difficult than others. This obviously falls within that category. Sometimes the difficulty can be self-imposed and sometimes the difficulty comes when an applicant is unwilling to hear a neighbor's concern. That certainly is not the case here. The Triplets have been longtime landowners in this area. They have a lot riding on this application. They are people who have lived and worked in the Barber Valley for decades. They appreciate their neighbors and they appreciate the valley itself, both for what it is and for what it's planned to be. After their offer to Shakespeare to buy the property was refused, Dave and Ann entered into an agreement with this applicant. They've been pleased with what the applicant has done. The applicant has gone above and beyond and showed itself to be reliable and trustworthy. They've conducted a number of meetings many of those have been graciously attended by staff. Those have led to a number of changes in the application which you see before you today. They've also seen an applicant in this case who has been willing to offer up a number of conditions we believe show this property can in fact co-exist with its neighbors. With the result being that under the microscope of an application which has drawn a significant amount of public attention, all of the agencies have reviewed and approved it and staff has recommended it for approval as well. Here's the off script part. Mr. Allen has made a couple of comments with regard to a few things I wanted to address briefly. I want the Commission to focus on the planning which has gone on here and remember this is planned for residential. It's been planned that way for a number of years. It's not planned for commercial.

In fact, we've provided you with evidence that would not be an appropriate use. I'd point you to my letter from last week which goes over a number of the Comprehensive Plan issues, but I want to identify a couple just to focus on. First, looking at the larger lot designation, Mr. Allen would have you believe R-1B somehow is not an appropriate designation, even though it's listed as an appropriate designation. It's already been legislatively decided that R-1B is appropriate for this property. The other issue is SP-O1 and SP-O2 being the policy basis. I want to make clear the Triplett's never declined to participate in the SP-O1 or SP-O2 planning policies. They were never invited to participate because obviously their property is not part of the Harris Ranch or the Barber properties, but Blueprint Boise does show us, Harris Ranch and SP-O1 and SP-O2 do provide guidance. The comparisons Mr. Allen made are simply not going to work. The first comparison he identified was the north/south Idaho Power Corridor. Obviously, there's not going to be any residential development in the north/south Idaho Power Corridor because Idaho Power owns it.

I would wrap up by focusing the Commission as well on the area south of there. Mr. Allen pointed to those as being parks and being the appropriate comparison. This property is not planned as a park. This property is planned residential and the areas of SP-O1 and SP-O2 that are in the area show density greater than this one. This actually buffers into the Barber Pool well and we believe it's an appropriate use.

David Triplett (Owner of the property) – My wife Ann, so I won't have to buy her a dress for not introducing her. Short history, hence dad came home one day and said we bought a town, the old Barber. That area down there had been part of the mill and also part of industrial use. That was in 1967. He developed the Golden Dawn Mobile Home Subdivision where I worked at and helped sell. He then developed Barberton 1 and 2 while I took a break from teaching. He built those temporary ponds and it was cited until City sewer was available. Barber Sewer service was extended to the 250 mobile homes, Shakespeare and the International School. Working closely with the City of Boise, which I appreciated very much, and the DEQ were able to end that service and the City now has total responsibility for all of the sewer. That was January 1, 2013. Our family, our good neighbor policy and my partner Jim Reese signed off on Shakespeare's current location in 1996. It was a condition of requirement. They are there because they shouldn't have been that close to a sewer development, period. So they are there. Then we attended, we like Shakespeare. The little orange stinky things were there and I said, "Why don't you run a line over and I'll give you free service for the next 15 years?" at the tune of about \$10,000 plus dollars. Then they had some free dirt and wanted to build a berm. I said, "You bet 'cha, it's work but I need to be able to have that dirt if I need it". The berm has been a very good thing. I've found in this life there's a price to pay for what you do, or what you don't do. We did approach Shakespeare several times when we found out there's going to be a sale. As well, I talked to the school. They were not interested at the time and I'm sure it was due to the dollars and maybe the liability of cleaning the sewer lagoon itself. I was looked straight in the eye and told even though they couldn't do that; they would not interfere with the sale of what I was going to do. I'm sure their attentions at the time were heartfelt but did not carry weight with the 40 board members of Shakespeare. To rehabilitate, the land costs over \$250,000. As a teacher for 33 years I know what bullying is and I know what propaganda does. I just urge you to look at the science, the issues and the staff report.

Larry Maneely – I'm here as Chief of Staff of the Ada County Board of Commissioners. I actually have lived here long enough that I saw a Shakespeare performance at the original site where Angell's Patio now is at 9th and Main. I also want to say the Commissioners and our staff have a great deal of respect for the Triplets. We've had a great relationship with them for a better part of a decade now. We have some serious concerns though about a project that involves safety and a dam that is a hydroelectric facility, which we are licensed to operate for the United States Government and the Federal Energy Regulatory Commission. We are concerned about the integrity of the dam, which if you look at the map in the lower left corner, you'll see the portion of the dam that is over water, but the dam itself extends for several hundred feet as an earthen embankment and all of it is part of the process of designing a dam and going to protect the citizens who are behind the dam. We're extremely worried about them getting approval from FEMA (Federal Emergency Management Agency). They set insurance rates for flood insurance across the country. They have not weighed positively into the program yet and until they do the tax payers and the property owners are at risk. We're concerned that FERC has not weighed in on this. They share our concerns about the integrity of this embankment and one of the things most important to us is a modification of the easement which has been in place since 2006. This easement protects, or should, the embankment but also a highly sensitive piece of equipment that monitors the integrity of that embankment. At this time through an oversight early the piezometer, it's called, is outside the easement, outside the protected area. Our staff has been working diligently with the Triplets representatives' to try and get an expansion of that easement. It has not been completed yet and until it is the FERC will not approve this project. If they don't approve this project, we have serious issues which could turn into serious issues and could turn into serious financial problems for the owners of the Barber Dam, who in affect are the taxpayers of Ada County. Ada County owns the dam. We are licensed and we have an operator who is co-licensed with us, Fulcrum and their representative Jeremy Clayton are here tonight. I'm not sure whether he signed up to testify but if you would like information from his perspective, they share our concern over the unanswered questions to be resolved. The best thing I can tell you is Ada County Commissioners are not against this project, but they are seriously interested in having questions answered and some of the loops closed before you move on with this project.

Bill Vasconcellos – I turned to Jen a little while ago and said, "first of all I really am glad I don't have your job". Jen and I also attended the first Shakespeare play at Angell's in 1977 and we did write a letter. I didn't see it in your packet so I don't know if we should resend it, but the main point is I'd like to get that letter in the record.

Secondly, I won't take up much time. I wanted to say I agree with what Gary Allen, John Sims, Lynn Johnston, Georgiann Raimondi and Gene Ritti said. I don't think I could say it any better and Steve, you know I'm not much of a guy who does speaking. I'd like to second what's been said here and ask you to deny this request.

Ron Eardley – I'm here speaking as a concerned community member in support of preserving compatible use of the Greater Pool Conservation Area and in opposition to the Barber Mill Estates application. Regularly, Boise is identified as the most livable city and boasts a whole list of best of characteristics. Consistently topping those characteristics are quality of life, our river and park system, public access and use of open space along with its many cultural amenities.

In a recent KBSU community conversation broadcast discussing Boise at 150 years old a discussion panel, including City Council President Mary Ann Jordan, credited the quality of the City we know today to “having done things right”. When asked what it would take to preserve the unique qualities of the City into the future, all agreed we need to continue to do things right. Within this umbrella Council President Mary Ann Jordan specifically stated, “we need to develop properly and with plenty of open space”. I believe the approval of the proposed Barber Mill Estates would fail to live into the spirit and need. While the project may be consistent with Barber Flat Development to the west, it is ill placed to the east of the Lysted Sawmill right-of-ways. It is uniquely incompatible with its surroundings and the uses to the north, east and south. It would encroach into the Barber Pool Conservation Area, intrude into historical and established public use areas and poses from its inception to create conflict and disruptions to one of Boise’s, and arguably Idaho’s, finest arts amenities in the Idaho Shakespeare Festival. Over the years city and county leaders have taken many bold steps to do things right to establish and preserve these amenities. With due respect to staff, to the applicant and the energy put forth to achieve the compromises that have compliance is not synonymous with right. I would ask and encourage you as a Commission to continue to do things right. To be acutely aware of the incompatibility of this project location. I would ask you preserve the intent and integrity of the Barber Pool Conservation Plan, to limit development to the right places, to hold this area for public use that is compatible with its surroundings and to ensure quiet enjoyment of the Idaho Shakespeare location for the benefit of our entire community and our visitors. Accordingly, I ask you to take another bold step and vote to deny the Barber Mill Estate application.

Eileen Barber – I am proud to serve on the Shakespeare Festival Board and to chair their Board Operations Committee. I want to clear up the record about the festival’s efforts to acquire this property. As chair of board ops I have been present at several of the meetings with landowners Dave and Annie Triplett. The Triplett’s are wonderful people who have been supporters of the festival right from the get go. When I (inaudible) in 1998 it was considered well outside the City, as such city sewer was not available. The Triplett’s generously allowed ISF to tie into their lagoons and they have been providing sewage at no charge from 1998 until just recently when the City sewer made its way out there. The Triplett’s have been good neighbors and they are good people. We met with them and Mr. Reese at their home April 10th where we were hoping to discuss presenting them with a written offer after the developer’s offer expired, which was the end of April. But instead, at the meeting they informed us they extended the developer’s option by two months until June 28th. Also at this meeting they asked us to make a backup offer in writing and not wait for the developer’s option until it was up.

Initially, the task force, we were concerned with interfering with the contract and thought we should not present a written offer until the developer’s option had fully expired. We then discussed it with our legal counsel, Gary Allen, and he advised us a backup written offer appropriately honors the existing contract and we could proceed. Please understand we are a nonprofit organization with a 40 plus person board. Material decisions such as acquiring land cannot be made by one person alone. It requires a vote by the full board.

At our executive meeting on May 13th we were given the authority to make a backup offer on the property subject to full board approval. We met again with Mr. Triplett and Mr. Reese on May 20th, well ahead of the June 28th option expiration date.

We had anticipated discussing deal structure to let them know we started fund raising efforts and we had earnest money deposit which we'd like to get this all in writing ASAP. Instead, the meeting started with them informing us they again extended the developer's option, this time until the end of November. Since our main meeting we have received considerable pledges from individuals, families and organizations. These supporters are not only interested in protecting and preserving Shakespeare, but also in protecting and preserving the Barber Pools. At our most recent meeting with the developer we mentioned we would consider compensating him for reasonable expenses for an (inaudible) this option, which is also stated in our letter September 6th. This parcel is a unique piece of property and I believe the Triplets should be fairly compensated for it. It's truly a special place and a spot which can be a treasure for the entire community. We all know Boise is one of the best places to live and we can make it even better.

Mike Reineck – I stand in awe of the great effort and the amount of time City staff, developers and the owners have taken to keep the public informed and engaged. However, I am agreeably disagreeing with this application. I'd like to also report I'm with the Harris Ranch Neighborhood Association and the Harris Ranch Homeowners Association has also voted unanimously to stand opposed to this. They couldn't be here tonight because they're having their own board meeting.

First, I have two points. One is inadequate notification to other agencies and the first of these is on August 27th. On August 27th the latest plat was formerly submitted. So the new plat came in on the 27th and Idaho Fish & Game was able to comment on the 28th. Unfortunately, it was on the wrong plat. So it's happening too fast in this particular case and you might hear in reputation that Idaho Fish & Game on the phone today said; *Well we looked at the new plat and it looks like it might not have changed*, but that's not the kind of staffing we want to look at as the poetic or probably anybody wants to look at. As such, we haven't been able to find any comments from ACHD regarding the new plat. Whether we missed them in the 900 plus pages is entirely possible. In addition, the developer mentioned tonight the Idaho Foundation for Parks and Land's support in August is standing but today a letter came up which says they would now support a 30 day delay in the process. So it sounds like their position may be shifting which is critical because of how critical that land is right next to Barber Pool.

My final point is look at the City staff's statement on the 12th of August in which they said; *There are sensitive land uses in the area that could negatively be impacted by the proposed zoning*. That zoning hasn't changed with the new proposal. They also said; *This is a potential to create conflicts between incompatible land uses*. Well, those are still in compatible. They have taken our 4 units but added 80 to 120 storage units, which actually adds to the density of human activity, not reduces it. One last recommendation, allow the property owners and Shakespeare time to attempt to reach a purchase agreement.

Mark Templeton – My wife and I operate Templeton Real Estate which focuses primarily on East Boise real estate which includes the Barber Valley, and we are extremely knowledgeable on the area's real estate values, activity and options. We also live in the area and have followed closely the implementation of the Master Plan of the Barber Valley over the last several years. As a realtor I support growth as long as it is thought out and adds value to the area.

We have supported recent developments and proposed development in the area such as Lucky 13 by Boise Hunter Homes, Privada Estates, Antelope Springs, Mill District Square by Brighton and Riverheights Extension by Brighton, just to name a few. In fact, we have not opposed any residential development in the area as they all seem to fit the overall vision of the Barber Valley Comprehensive Plan. Barber Mill Estates however is misplaced, not compatible and will not add value to the area. In fact, I would argue it could devalue the adjacent community. When the project was first brought to my attention it included 23 unit single family homes. Since then I've seen it change to 47 units, and now 43 units with an additional 80 to 120 storage units. The changes are knee jerk reactions which are devaluing the project and are in no way supported by the adjacent residential community. The addition of these storage units will have a negative impact on the value of proposed homes in Barber Mill Estates, as well as the value of homes in the adjacent community. The proposed development has no amenities, no open space and no yards. Adding the storage units with only one access road through the development further degrades the project's value and appeal. While I do not believe this site is suitable for residential development, the Comprehensive Plan did indicate large lots. Therefore I would potentially support a development with 12-unit single family development with no storage units and one which takes into account the concerns of the adjacent property owners.

In closing, as a realtor I do support growth and those of us who live and work in the Barber Valley depend on the Planning and Zoning Commission and City Council to deny projects that are a blatant diversion from the Barber Valley Comprehensive Plan and only benefit a small few. I ask you to deny this project.

Dawn Templeton – I would like to address the addition of the storage units to the Barber Mill Estates, which is being touted as a concession and an enhancement to the new proposed project. As you can see there are currently 6 storage units within 4.7 miles of Barber Mill Estates, but City staff reported, and I quote, *“Residents in this area currently have no other options for storage in the immediate vicinity”*. This is clearly inaccurate based on the table above. We have six storage units within a 4.7 mile radius. Also, the City staff report said; *“The storage will function as an amenity for residents of the project”*. In my combined 13 years of real estate experience I have never once seen a buyer say; *Oh, I love a neighborhood that also has storage units*, and actually look at that as an amenity. In fact, my 13 years of real estate experience tells me this is a detriment to the community. No one wants the visual distraction or the unknown people coming at all times of the day. The City staff report also said many of the homes in the adjacent subdivision were constructed with small garages and minimal storage. Again, this is inaccurate. Many of the adjacent home owners have larger garages in comparison to other areas of Boise City. As a real estate agent I am in homes and garages every day. I know this is true.

Lastly, the City report regarding the storage says; *Replacing the building lots with the storage units will increase setback between homes and Shakespeare Festival*. This should reduce conflict associated with the noise. I don't believe there is a guarantee these storage units will reduce the conflicts with noise.

In conclusion, the storage units are not needed. They are not sound buffers and they are definitely not amenities. This proposal is not the only option for this property. Therefore I ask you deny this current proposal.

Linda Dixon – I want to join with Bill Vascon cellos. I would hate to do what you do. Thank you for doing it. I am a long time Shakespeare attendee from the very beginning at Angells. But what I want to talk to you about is my first experience of the Barber Pools. In the late 1960's I was a biology major at Boise State University, it may have been Boise State College at that time, and we were brought up to the Barber Dam by a biology teacher who was lecturing us on ecology and he said; *I've got this place I want to show you.* We hiked in from the dam up along the north rim of the river. It was spectacular. There was nobody there. There were eagles, ospreys, deer and elk. I mean there was so much wildlife there I was just blown away. The next time I saw the Barber Pool was when Mark Hofflund was organizing expeditions out here to take a look at it and I was astounded at how unspoiled it still was. There was some development across the river but it was still the way I remembered it, spectacular and today I think it still is. It's an absolutely wonderful place to visit. If this subdivision is built, the view from the river which has been protected, I mean it looks almost the same as it did when I walked through the first time, will be destroyed. I think it is to the interest of everyone in the City of Boise we maintain this corridor, this Barber Pool, this wonderful, wonderful thing we have.

Ben Andrick – I am a resident in the Mill District near the proposed BME (Barber Mill Estates) development. My wife Jo and I submitted a letter in opposition and most of these points were made tonight. One item I did not bring up in the letter is we hear Idaho Shakespeare performances inside our home when it's closed up with the AC running. We live about a quarter of a mile away. It would be basically the equivalent of a spoken word. We would not want to live any closer.

The main item I'd like to talk about tonight is the sewer lagoons. Through the process the applicant has indicated the development is a way to get the ponds decommissioned, when in reality the ponds need to decommission regardless of this development. The DEQ rejection of the lagoon closure application says just that. Let's talk about the lagoons. They stink. They are a nuisance to those who live on Sawmill Way and force these residents, including myself, to alter the way we go about our lives. Opening up our homes in the evening is unthinkable for fear of waking up with the odor of an outhouse on a hot summer day. Entertaining on our patio is not an option. The odor has been an issue for three years. One question I repeat asking is what are the health risks with living and breathing this odor? No one seems to have this answer. Yet it seems the landowner is more concerned with developing his parcel rather than taking responsibility for closing the sewage lagoons to standards. The closure process should have started last January when those using the Barber Sewage System were hooked up to the city system. As neighbors, our concern is to date no plan has been approved. The landowner submitted a plan which was rejected by DEQ with two-and-a-half pages of objections. The number of objections indicates a lack of adequate planning and preparation for use of land in such a sensitive area. The lack of planning has been common throughout this process. I will not dive into the detail of these objections as I realize the intent of tonight's meeting is not about sewer lagoon odor or proper disposal of sewer sludge. I do want to make it clear considering the approval of this development should taking a back seat at least until the a proper decommission plan is in place and approved by DEQ. The record clearly shows there is no guarantee an approved plan is affordable or at hand.

Gregory Taylor – I'm a school teacher in the Boise School District and I'm also on the Shakespeare Festival Board of Trustees. As somebody who gets to teach Shakespeare to ninth graders and expose them to Shakespeare for the first time in their school curriculum and as somebody who is a big fan of Shakespeare and at the festival every chance I get, I'm out at that amphitheater not just for the professional productions, but also every time there are other events going on, tours, special productions and student things. In fact, the staff good naturedly call me a super fan. It even says that on my Board of Trustee name tag. I've also been out there when little kids are performing who aren't professionals, or the teenage apprentices, people who don't know how to project their voice and who don't have the whole lavish production behind them. So sound is very important for some of those quieter events which happen out there as well, and smaller performances with very small audiences. I've been out there for student matinees with some of my own students. We've heard a lot of expert testimony about the sound and I couldn't hope to compete with that. I can just support it and say I've been out there where performances have been affected by sound, but I want to tell you my personal reaction when I first heard about this housing development. First of all thinking about how that sound, lawn mowers, dogs, traffic and everything that might affect the festival concerned me, but just from a personal reaction I thought I'm super fan. I should be the prime candidate for wanting a house right there. I have often wished I lived closer to the festival because I'm traveling out there so often. I would never want to live that close because I've been out at the amphitheater for tech rehearsals and fight calls where they play the same sound queue, or sound affect, or run the same lines of dialog dozens of times in a row over and over and that's not even the performances which run all summer for almost 100 performances. Just thinking from that perspective I was interested to hear the testimony earlier from the neighbor, who lives not even as close as this development would be, about how that would be, about how the sound affects their household every single night.

Aaron Milette – I'm the IT Systems Administrator for the Shakespeare Festival and I just want to play a brief video which illustrates the experience at Shakespeare for people who might not be familiar with it. (Video played)

Commissioner Bradbury – Just so we're all clear that was set as if we're standing behind the berm which is on the east boundary of the property.

JoAnn Uberuaga – In addition to submitting a letter to you on September 9th, I'm here to share a few of those comments on why I oppose the proposed development, some background information. I live in the East End near Warm Springs Park near the water treatment plant. Nearly 20 years ago the Idaho Shakespeare Festival had the encouragement of the City Parks Department, the City Council and the Mayor of Boise to locate a permanent home very close to my existing neighborhood. It would have been very convenient for many of the festival attendees who could park on the south side of the river, incorporate lots on Park Center and sodded across a footbridge with picnic and blankets in hand to an empty field at the western edge of the Warm Springs Golf Course. It all looked perfect and the festival was proceeding with the approval process but there was one big problem. Many of my neighbors and I who knew and loved the festival also knew this would be a huge encroachment on both our lives and our property, located about 500 feet or so downstream from the site proposed.

We felt horrible yet we knew we would be miserable listening to sound queues every night of the summer and we knew the cumulative impact of tens of thousands of people would drastically change the field and intimacy of our little neighborhood, regardless of how many people did or did not park their cars and walk to the theater through our streets and yards. I think we surprised the festival with our views. Again, we felt very bad at the time since there were no other alternatives for Shakespeare and the festival had been told it needed to move quickly, but we were there first and they knew it. The festival then did a very noble and classy thing and changed course. They said they didn't want to harm anyone nor did they want to create any enemies. Their project needed the whole community to support it and needed all the friends possible to make it happen in the right way. The rest is history. Working with state, the county and Garden City, as well as Boise opened the door ultimately for the amphitheater we have known and loved for 16 years. I said I would support the right location and I was true to my word. As for more than 2,800 families and organizations who gave to build our Shakespeare Festival, I request the City tonight remember Shakespeare was here first. I urge you to please uphold, please uphold the special harmony and public benefits currently in place. I suggest it is the appropriate and right thing to do as for the actions of Shakespeare 20 years ago, knowing if the tables turned today this development would be opposing a Shakespeare. This proposed development is simply not compatible and I urge you to deny the application.

James Strite – My concerns have been addressed.

Commissioner Bradbury – For the record Mr. Strite waived the opportunity to Commission.

Ralph Hammer – What I was going to say I threw out because I heard something a little bit more interesting on the whole development and that's the storage units. If you've ever been to storage units there are no time limits. You can put anything in there; a motorcycle, car, engines, guns and they can go off at any given time at all hours, any day of the week. Looking at the development I was also struck as it's like a golf course. The developer wants to paint this beautiful picture and I'm sure it's a nice picture in his mind. Just like any golf course is to any golfer loves to hit that hole in one. Once the developer leaves the golf course the community has to take it and the City has seen some golf courses go under, go bad because they did not take care of what's around it because the developer is gone. I don't believe people are going to want to live right next to storage units that were brought in earlier. I urge you to look at it as being a golf course.

Kay Hummel – I grew up in 83712 and I have a longtime history with the East End near the river playing in it, and later being part and observer of the Boise River System Ordinance as it was developed and many subsequent plans using it or not using it, as the case may be. I have a long history as well with the original approvals of the Harris Ranch development in this valley where the present application is adjacent.

I have great concerns about the water issues, the river flows, the fill which will be required and may alter flood flows. In particular I want to draw your attention to something Dr. Rob Tiedemann brought to your attention in his testimony and I hope you will review it carefully. That is, much has been made about the 200-foot setback.

However, the jurisdiction of the Boise River System Ordinance goes clear back to the FEMA floodplain line, not just to the 200-foot setback from 6,500 cfs line. It's really important in understanding our River System Ordinance. What Dr. Tiedemann and the rest of us are concerned about in this issue is the preliminary floodplain line is the orange one shown on the last page of his testimony. This is where the Ordinance applies to; in this case the applicant has not given you a Mitigation Plan. The Mitigation Plan needs to go to this line, absent FEMA, defining the floodplain anywhere else. That has not happened because the applicant has not sent the normal letter that most applicants in an incredible riparian area like this would. They would send the typical (inaudible) letter for a map revision, as Harris Ranch did back in 1997. They have not sent one because they think they don't have to, I guess. I won't speak for them but that seems to be what's going on and they think they are excluded from this requirement. I present to you this application, not only is it incompatible for all the other reasons stated tonight by many others, it is truly in violation of an annexation and development planning because no Mitigation Plan has been provided that can conform to the correct line, which is the current FEMA floodplain line. So that needs to be attended to. I think staff needs to make a finding and I hope you Commissioners will urge them the present application must be turned down for failure to comply with the Boise River System Ordinance. In addition, I would add my wonderful childhood in the East End included trespassing everywhere on everyone's land. I ran along the railroad tracks before there was a Greenbelt, I played in front of the trains, I rode other people's horses around there, I swam all over the river valley and kids will do that.

The other concern I have with this project is the open space is not very usable for children who will live in this very highly dense neighborhood. They will trespass, as people have said, onto Riverstone's playground, onto the Shakespeare property and more importantly into the Barber River Pool. They'll be everywhere and it will be a problem so the project is too dense, is my second point.

Richard O'Hara – I want to thank you for the opportunity tonight and you have a very friendly and supportive atmosphere here. It's really refreshing to see that. I wanted to talk tonight about conservation and the conservancy zoning. We heard about the possibility of acquisition of this property for public use which is a possible outcome. I've been involved in similar issues of land use politics when I lived in Illinois and I know these things can be done. It takes time and what's very helpful is if you would refrain from making any decisions which create any rights, which don't already exist. That would complicate the process to seek alternative uses for this land. I've lived in Boise now for 10 years. I'm a real fan of the Idaho Shakespeare Festival but I really like the wildlife in this town. The first month I lived here I was walking across the parking lot in January going into my office and a bald eagle went overhead holding a fish. I'd never seen that. This is really a unique town. That was the start of my love affair with Boise. I've been all over the world and I've never seen anything like this. That painting behind you is the spirit of the City. The little piece of urbanity surrounded by hundreds of miles of mountains and deserts and what's really important in that painting is the edges, the way the Foothills come down to the City and become parks and then backyards and the way the river goes through town. That's what we're talking about tonight from an ecological perspective are the edges, a very important element. Those ecological values I'm talking about provide some guidance for your decision making tonight. One of the things you learn in ecology is when you're dealing with an edge issue is; take away a little, you lose a lot.

So you take away 11 acres and you say, “well, does that matter?” But you put in 42 estates and you put in 92 cars and the ATV, the motorcycles, the RVs and the boats, the 29 cats, the 39 dogs, 105 human consumers and they take a lot away. What would be lost? Let me tell you. Last Thursday night I was at the Shakespeare Festival watching the Foreigner and in the second scene in the first act there was a little flash of lightning and all of a sudden a Great Northern Heron sprung out and went flying stage left, right through the scene bobbing and weaving up and down off into the mist. That’s Boise. What I’d ask you to do tonight is recommend to City Council that the annexation be denied. That’s the key issue. This property should be retained in conservancy zoning. When you do that every other issue becomes moot. I ask you to allow the magic to continue to occur and to vote tonight as I’ve recommended.

Eric Shaw – I’m definitely impacted by this development. My first concern is the storage units. I find it a little bit irresponsible to put a storage facility imbedded in a neighborhood. We’re not even talking it has direct access to a main feeder so I’m concerned for my kids. I have young kids and not only now do I have to contend with new residences cutting through Sawmill Lane, I now have to contend with people with trailers, boats, every other piece of traffic that comes through there. That’s one of my big concerns and I think everyone who spoke before me have done an incredible job of hitting all the points that I fully support.

One thing I do want to remind everyone is the issue Boise City is competing with right now for the Police Gun Range. For everyone that doesn’t know the gun range is a facility which has been in the Foothills since 1960. At the time who would have thought you could shoot a gun in the Foothills and offend somebody because there was none there. As we can see, 50 years later residents have built around the gun range and now they want to expand the gun range. The neighbors are up in arms because they don’t want to hear the sound of gun shots.

The City has said they will put in thicker concrete and do all these sound proofing issues but the residents are unchanged and I guarantee over the next decades whether it’s 10 years, 20 or 30 the residents will become annoyed with the sound from Shakespeare and you guys will be in the same position fighting a battle, or trying to mitigate a battle between Shakespeare and residents. I think the gun range is a classic example on the table today for Boise.

Michael Shaughnessy – I’m not too far from where the development will go in and everyone has made eloquent points so I’ll be concise. I have controlled traffic on that street personally. I have seen with the limited traffic flow that’s on there that’s mentioned at peak times at 8 vehicles. I will guarantee this is not the case during peak hours during school season, during the fall. I would invite all of you if you’d like to come and sit on my front lawn and watch, but I have personally stopped vehicles. I’ve chased vehicles and I’ve called the police on many occasions and with an additional 450 vehicles on that road every day, it will be significantly worse. There are an unbelievable number of children and I’m very concerned about their wellbeing, especially my own child. I ask you deny this request based on the current density, the amount of traffic flow going through there, the size of the roads and the only access to that development through the neighborhoods.

Jenna Vasconcellos – I want to go on record as I’m also on the Advisory Board of the Shakespeare Festival and in 1977 was at the first production. I’ve been a great supporter.

I want to go on record as supporting the opposition and the great testimony that's gone before me against this proposal. I would also like to submit a letter received earlier today from one of the actors, Lynn Allison Hofflund. I won't read it because most of her points have already been discussed, but I'd like to have this put into the record.

Exhibit handed in.

Doug Kay – I came forward as a patron but also as a concerned citizen. I've actually worked as a home owner association president for many years. One of the concerns that appeared to me as soon as I saw this design was, and I don't want to quote City Code, I would have to double check it but it looks like, I know there's over 700 feet of roadway with a single access point. My concern is some of those are common homes served by a common driveway. Has the Fire Chief reviewed this application? It seems like they've tried to herd this through in a quick manner. I would ask you decline this application.

Jeremy Clayton – I'm the dam man. I'm with Fulcrum Inc. and we don't stand in opposition to or support of the proposal. Our concerns are the same as Ada County's. If you can look and see where that area is, it looks like its right in the middle like its dug out there. This is where the end of the embankment is if you go right in the middle there. There's a piezometer well there. Also if you come back diagonally down the screen this way this would be towards the dam. There are two serving markers also. As was said before, the way the easement, which Dave and Ann Triplett were kind to help us get in 2006 as we were pressured by FERC to do so, doesn't include that piezometer well, so we are certainly in need of getting that. We're working right now with Jim Conger. I think we're on our way of doing which shouldn't be too far out. I think we should have that to him very soon, so that's what our issue is. There is one other thing which hasn't been mentioned. FERC has said they share our concerns, but they haven't come out and said these are the only concerns they'll have. There could be additional concerns coming up.

Kevin Richmond – I'm the Business Director at Riverstone International School. I wanted to follow up on a lot of the comments made about the sound, specifically generating from Shakespeare towards the neighborhood. As John Sims mentioned we have actually been on the receiving end of a drive over to tell us our music from our fall carnival was too loud and it was distracting the performance there. It was occurring closer to the gym which would be a significant distance further away than where these houses are going to be. We didn't feel our music was loud but as the partnership we've developed over the years with the Shakespeare Festival and the rest of the community, we definitely turned the music down to accommodate their request. Having these additional houses in that area, having the storage units in that area, I've worked with companies in the past who have used storage units for production facilities. They are running saws and using them as places of business. I'm not privy to what restrictions may or may not be put upon these specific storage units as far as hours of operations and specific activities which occur within them. There are so many more unanswered questions. Yet from what I've seen and from what I've heard those are the biggest concerns, the unanswered questions as additional questions come up, the plan changes to address them. I definitely respect Jim Conger and his group and the work they've done to accommodate these, but they still continue. There are new questions every time I'm in a meeting, every time I'm in a conversation there are new questions coming up.

I feel at this time having a hasty decision leaving so many unresolved issues, the spirit of this area, the Barber Pool area, the Barber Valley, the work Shakespeare has done, the homeowners have done, Riverstone has done to create that community, at this point I think having so many unanswered questions is going to lead to potentially one group against the other. Having this development come in there and upset the neighborhood which has been established, I definitely can't support it.

Trent Reagan – One concern I didn't see addressed very thoroughly was a traffic impact study. In the application it states over 240 trips per day would require a traffic impact study. ACHD thinks it will be over 447 per day. In thoughts of kids and all those kind of things headed to Riverstone, I think that will be worth making any decisions on this application contingent upon the traffic impact study.

Jamie Richmond – I have two little girls who wanted to come and see how government works. This affects them because they go to Riverstone and they love Shakespeare Festival. When I told them we were going to go to this hearing my littlest one who is five said; *does that mean no more Shakespeare?*. I said; *no, if the people who live there think Shakespeare is too loud, yes there might be some arguing and Shakespeare might have to shut down for a while*. Tears just started rolling down her face. We took them to Blithe Spirit at the beginning of the season and the Foreigner. They want to go again and just to let you know it's only 10 o'clock here and Shakespeare is able to keep them awake until 10:45, so you guys need to pick it up. I'm speaking on behalf of them. They wanted to get up and say they were opposed to this. That's all I have to say for them. Next time jazz it up and maybe they'll be able to stay awake.

REBUTTAL

Jim Conger – Thank you for the time and thanks for all the testimony. Clearly, we're in complete agreement with everything you've heard today as far as values of Shakespeare, values of the Barber Pool and values of the entire Barber Valley. This is why so many people, including myself, live in East Boise. We're lucky enough to live there as opposed to travel there just to watch Shakespeare.

I'll go through and address the items we've heard. First was from Mr. Hofflund regarding them not being involved in the process. That couldn't be further from the truth. In fact, you'll find on the record Shakespeare had submitted the first opposition letter prior to our application even being submitted. They've been involved in the process the entire time.

Let's go to slide four of ours. We're going to address the wetlands issue and Mr. Tiedemann. Mr. Tiedemann was on the original task force. Carl Gerhardt, who is our consultant, was also on that original task force. This is a 1983 River Study Map which was utilized and clearly shows Class C wetlands in their original intent. All those applications are in and you have very competent staff at the City of Boise to go through those.

I would go to slide three quickly to show the bottom area as well, in its current condition. Everybody is enjoying the view of the Barber Valley. Our low area I'm certain isn't one of those areas they are currently enjoying the view of. That will be mitigated.

That will be pulled out, but right now that is the view of our lower areas that will ultimately be wetlands. Currently, the Army Corp. has established there are no jurisdictional wetlands on this property. To carry on in the concerns of the Barber Pool, we have as much concerns and we'll talk about the Idaho Foundation and where we stand, but I want to currently show what Shakespeare's been able to do and pull off successfully. Go to slide 5. They have a 100-foot setback. City of Boise is more restrictive than Ada County. We have a 200-foot setback. As you can see the festival came in within 100-foot of the wildlife, of the Barber Pool and the entire area and have masterly pulled off a wonderful facility and live within it. Probably too many of their patrons are walking through the Barber Pool because it's actually to be protected from humans. They're at 100 feet. We're going to be at 200 feet.

Sewer ponds, we've heard a lot about the sewer ponds. We're in the middle of the DEQ process and we should possibly say it's the EPA (Environmental Protection Agency) process but DEQ is the jurisdictional requirement. They don't have any rules and regulations to close sewer lagoons so they use EPA's, which is going through the system. As far as the homeowners next to it, the school next to it, the sewer ponds were there. They built next to it. Everybody understands they are going away which is why they moved next to them. That is in process and will take care of itself in very due time.

As far as the 6,400 cubic yards of fill, the floodplain and the dikes. This property, due to what we will call the FERC easement, or Ada County, or the Energy Company easement has dikes on this property. They are anywhere from 2 to 4 feet taller than our eventual floodplain elevation, which is why the great flood of 1983, or any other flood that ran a little over 10,000 cfs. This property doesn't flood because it's protecting a sewer pond which has been operating since within the last 40 years or longer. I think it's important to quickly touch base on the 6,500 yards of fill. That's not a surprise. We are filling the ponds which are currently sewer ponds. They will be mitigated and they will be filled up to the flood elevation, which is a lower elevation than the FERC easement we're going to talk about shortly. So there is no net flood displacement or anything of that nature and that's well documented in our application.

Traffic study, ACHD doesn't require a traffic study. This is minimal impact on streets that are well below the capacity. It doesn't hit the threshold for requirement. You will see in the packet the Boise City Fire Chief has approved this layout, the entrance and the distances. ACHD has seen the new plat and will not act on the new plat. They have given us notification it will most likely be staff approval, or staff modification of their base approval. They will not act on it again until we get through Boise City.

I will wrap up. Deed restrictions were built in suspenders. We already said that. We committed to leaving the berm. We talked about the land use, we talked about the buffering, the clustering of homes, everything of that nature. I think it's important to follow up on Ada County or I can conclude and you can ask me a question what Ada County is saying. We are working with Ada County. Show the easement. While we're pulling up the easement, Shakespeare is not going anywhere. They have a Conditional Use Permit from 1996 which allows them to be the intimate theater they've masterly pulled off as well. They aren't going anywhere. They have a conditional use and they can't disrupt their use.

Quickly, touching base on Ada County, the yellow strip is all they have today for an easement. Our goal in Ada County is doing the survey instead of having our surveyor do it, which is fine, it's going to be the blue area. The entire area is going to be overlaid. And what this is for Ada County is a storage easement. It's a water storage easement. Yes, several items of their facility are outside the current easement and will be taken care of. We have no issues with that. Idaho Foundation hasn't changed their approval letter. Their approval letter still stands and we have a lifetime fence which will be put to keep all humans and all animals out of the preserve.

PUBLIC HEARING CLOSED

Commissioner Bradbury – We'll take a minute to remind ourselves what we have in front of us. We have three applications; an annexation of 11.97 acres with a zoning designation of R-1B/DA which is a recommendation to City Council, and Conditional Use and Boise River System Permit applications for a planned unit development which is a decision matter by the Commission, and we have a preliminary subdivision plat which is a recommendation to City Council.

Commissioner Demarest – I'm not ready to make a motion but I would like to weigh in based on what I've heard and what I've read prior to this evening. I've been on the Planning & Zoning Commission for about a year-and-a-half and this is by far the hardest of the decisions we've had. As I think about where we are, it seems to me this is a very unique application. I think it's unique because the agencies, the entities and the area are unique. We've got the Shakespeare Festival, we've got Boise River issues, we've got a school and we have sewer ponds. We've got a dam. I would say that's a pretty unique set of influences in a fairly small area. I want to also confirm, how shall I say, the goodness of all the parties involved. I've heard lots of good will amongst them. The Triplett's, the land owners and of course I have a lot of regard for the Idaho Shakespeare Festival, which I'm involved in going there for a number of years now and all of the good will of the people who work for us here. With that said, what I keep coming back to is a big old question mark. There are lots of questions and some of them are really big. When the Ada County Board of Commissioners has a representative saying they have many questions. Well, because they have questions, we have questions. There are a lot of other things too. If I'm going to get specific one of those is the issue of sound. Both parties, homeowners and Shakespeare Festival folks, none of whom are as close as this particular subdivision, are already having a problem with sound.

The other is safety of the dam. It's a concern which raises red flags. These lagoons and the drainage there seem to be somewhat unprecedented as well. So I have many, many questions. By the way, I hope everybody realizes we don't get paid for what we're doing up here except for the good will of making such decisions.

Commissioner Danley – I have a similar position in the sense of how to get to a motion. I certainly think this warrants further discussion amongst the Commission. First of all I want to say to everybody who is here, thank you for coming out. It means a lot. I know to watch government in action takes its toll and does put you to sleep. You are still here and many have testified and have gone through the process. I think all of us thank you for doing so.

There are a few things I want to get out. One, Mr. Conger, I would like to address you in a sense that I think you've done a pretty good job in trying to work with the folks who are out there trying to make a lot of different changes to the site plan, and trying to accommodate some of the needs. I want to recognize that. I think it's important to do so. One other thing and this is sort of anecdotal. A month-and-a-half ago some of you in this room may have went to a Steely Dan concert as I did. I knew this was going to be in front of us and the noise issue for me was something I wanted to get a feel for. The concert wasn't over until about 10 PM and I rode my bike home that night. I was all the way to the River Run clubhouse and I could still hear the concert. Where the concert was being held was being broadcast away from the direction I was, towards the Foothills. Yes, I could still hear it. I don't know how many trees, berms and everything that was in between, but I could still hear it. I got home and I was curious. I was a mile away and I could still hear that pretty clearly. That's important because I do believe this is going to be an issue. But it's not the reason why I feel the way I do and I want to read a couple of things, if you will, just to highlight. We have a staff report that says: *"Properties designated large lots are typically developed at 1 to 2 units per acre, with clustering of homes to preserve natural features and open space. This designation is generally located in fringe areas where conventional, suburban and compact residential development might not be appropriate."* Going to another area in the staff report and there are sensitive land uses in this area which could be negatively impacted by the requested R-1B implementing zone. This is the highest density zone allowed. It will maximize the number of dwellings in close proximity to the Shakespeare Festival which has the potential to create conflicts between incompatible land uses. A lower density and the inclusion of a development agreement could mitigate these issues. One last part of this is annexation with a residential zone is reasonable and somewhat anticipated. However, there are two alternatives to the zone being discussed. It would be more appropriate given the unique characteristics of the site surrounding uses and it goes into detail of what those are. R-1A with the lower density residential of up to 2.1 units per acre, and then even open land. When I read this I see what works and what we're talking about is we're right up against the crest of what was always envisioned for this area or at least the recent plan and there are lots of concerns. Lots of concerns in the report and more importantly, I think there are alternative suggestions within the report which is helpful to us in this particular situation.

Commissioner Morrison – I've had a lot of thoughts on this for a long time. I don't have the privilege of having seen the Shakespeare Festival at Angel's but I do remember the cyclists going by when they were on Park Center thinking, oh that kind of wrecked my show. Then again so did the ducks. All in all I think we're all very interested in all of the same things. The question really comes about with annexing sewer ponds which haven't been decommissioned yet and are kind of a problem because it's putting responsibility on the City to deal with something that is currently the County's problem. Secondly, is the zoning of it because it doesn't have any zoning right now because it's sewer ponds? I recognize the Triplett's great gift to the old Southeast Boise area by allowing the sewer ponds to go in. How that happened is beyond me and that's only because I've been doing Wincos in California, so I can't imagine anything like that ever happening over there but it happened here.

Lastly is compatibility with the neighborhood. The fact of the matter is it really wasn't ever studied as part of any plan. It's sewage for the lagoons so we'll not deal with it because its sewage lagoons. When it first came to my attention its like what a win.

We're taking sewer out and we're giving it back to the community, but then the whole density issue kind of came up with it all. I'm really having trouble with it because we need to look at the area and just look at the map up there. It was never anticipated to go dense. That was never the plan. It was even in the Blueprint to Boise. It was yellow. We can argue how dense yellow is in the Boise Blueprint, but the fact of the matter is it's the closest property that's privately owned and adjacent to the river and we are being asked to annex it, rezone it and approve a PUD (Planned Unit Development) for compatibility with the neighborhood. At this point I think truthful discussion this evening brought up more questions than it answered, especially when the County says no we're not quite there yet. That's bothersome to me because I don't want the City to annex property the County and federal government still aren't sure what they want to do with. That's really my biggest issue this evening. I think we're getting annexation before resolution of all the rest of the issues out here. Lastly, my guiding philosophy is land next to the river should stay next to the river and shouldn't be turned into homes.

Commissioner Bradbury –I'll toss out a couple of my ideas. On one hand a couple of things I think about is this is private property owned by private individuals. It's not public land. We may wish it was public land but it isn't. As a result, it has some right to be put to a beneficial use in essence. That's one thing rattling around in the back of my mind. The other things I'm thinking about are this site, according to our Comprehensive Plan this is planned for a residential development. Maybe it wasn't very good planning but it's the plan which is on the books. I'm struggling with the notion it's okay to put 8 or 10 or 20 houses in there with 10 or 20 residences out there. That's somehow more compatible than 40 some houses out there? It's still houses and there are still people living there who are going to be affected by what's going on in the surrounding neighborhood. I understand the debate which is fewer people, lower likelihood of complaints from fewer people. Maybe, maybe not. It's pretty clear to me there will be conflicts between the different uses. It's pretty hard to escape that because those conflicts apparently exist today. When we look at this, I keep glancing up as I speak because I'm struck with the fact there are few houses out there now. So, what do you do about it? How do you reconcile those competing interests? Frankly, I don't have a good answer for it and maybe because, unlike some of the kids who can sit up until 10:45 PM, it's getting late for me. That's kind of what I'm thinking about. In my mind we've got a classic case of new development encroaching on an existing use. You see them all the time. This isn't really anything new. Sometimes it's a little bit more. Sometimes it's a bigger conflict and sometimes it's a lesser conflict. We see them all the time, but we also have a very unique site and because it's a unique site it needs unique scrutiny. It's down there by the river and we try to take care of the river so there's a lot of competing interests and concerns. I'm not sure I have a solution to them but now you know where I am. Is there any discussion or would someone like to add a motion?

Commissioner Demarest – I have a procedural question and I would like response from the City Attorney. Can you tell us what our options are? I understand denial is one of them. I assume defer is one of them but I think we can only do that for one month. Am I correct about that?

Mary Watson (Legal) – Yes.

Commissioner Demarest - With no action on our part, would that amount to denial?

Mary Watson – There is the possibility at this stage. Because you've had an initial public hearing tonight you are limited and restricted by the City Code to 44 days if the applicant is not in agreement to any sort of deferral. If you were going that route you would first want to check with the applicant on whether they willingly want to defer for whatever reason, to get more information, to work with parties, etc. But on your own you're limited to the 44 days per code which is essentially next month, next month's hearing. You can't take the route of non-action tonight. You have before you three decisions to make. The annexation, you can certainly choose to annex at the requested zone or annex with a recommendation of a lower zone. This is a recommendation to Council. That's already been noted tonight. The Conditional Use Permit is the next step with the River System Permit, which stops here with you unless it's appealed to Council, and you do need to make a decision on that tonight and finalize it. The third of course is the subdivision which is like the annexation, a recommendation to City Council. This is one big package and denial of one could get tricky if you're approving some and denying others. I'd just like you to take this into consideration.

Commissioner Danley – I agree with you 100 percent regarding the notion of reducing the number of homes, with respect to the noise issue in particular. I don't know how big of a deal that's going to be. Going back to the staff report, it mentions the fact there are concerns going both directions but it does say, going back to your point particularly, it respects the private property issue. While these might be valid concerns, the property is delineated as residential. As a result annexation with residential zoning is a reasonable and somewhat anticipated request. We've heard from multiple representatives, specifically Mr. Allen, that there was willingness, I think I heard, to look at one unit per acre. Maybe there's a reasonable or little bit of give in between. The point is we have alternatives which still fit within the overall zone or overall district and are not specific zones being applied for and seem to be more compatible, at least with even one representative of the Shakespeare Festival of course saying it is okay. I've still got concerns. There are a lot of issues to be addressed with respect to the river floodplain and the cleaning up of the site and so forth, but specific to the zoning and to the density and so forth, I do see a little ground there.

Commissioner Morrison – I also agree with Commissioner Danley that annexation, if you think of what we were doing last month when we had 97 landlocked parcels annexed without much debate, this one is right on the edge and is not a burden to the City, from the annexation standpoint, for providing utilities or services because it's already a served area. Staff did not express any concerns about the annexation and the burden which annexation would place on the City. As Commissioner Danley pointed out, annexation with the underlying zone is still a viable recommendation because both of those have little effect on the PUD. The initial action this evening which would validate the other two is if we could achieve a successful vote on annexation and then we could consider the PUD and the subdivision plat.

Commissioner Bradbury – We'll take three separate motions starting with the motion on the annexation.

Commissioner Danley – Before making a motion I want to make sure, based on what we heard from the City Attorney as well, that all of what we're suggesting comes right back to the applicants themselves, and whether or not this would even be something in their interest.

We have a couple of options. We can make the motion to annex with a denial of the PUD under the current plat as proposed to us, with the idea it comes back in front of us with a lower zoning. That's an assumption on our part and is okay with them. The alternative I heard was that by deferring and with that being okay with the applicant under the assumption we have concerns we feel need to be reworked which would then allow them to make those changes and come back before us next month with any changes to the design of the plat. Are we permitted to ask the applicant?

Commissioner Bradbury – What do you want to ask the applicant?

Commissioner Danley – I'd like to ask the applicant if we made a motion for deferral would there be a willingness to make more changes....part of my question right off the bat is from the first meetings there was a number of 22 to 26 units being discussed. That's closer to what we're hearing from the Shakespeare Festival representative and the neighborhood association. Not exactly, but it's closer. Is this a reasonable request or is that off the table?

Commissioner Bradbury – Before you answer the question I want to make sure we're all in the right place. It's okay if we ask the applicant a procedural question but we can't ask the applicant a substantive question since we've closed the hearing. In other words, if the applicant is prepared to consider a deferral for purposes of revisiting their plan we can probably do that. Are you alright with that? We're not asking anything substantive.

Mary Watson – I understand your question. Let me add regardless of the applicant's opinion on a deferral you could independently defer for a month. If you want to go longer than that you'll need to have the applicant's buy-off.

Commissioner Bradbury – Commissioner Danley, did you understand the distinction? We can defer for up to 44 days, but this means we're back here on October 7th because 44 days doesn't get us all the way to a November meeting. Do we have a second meeting scheduled in October?

Cody Riddle – We do.

Commissioner Bradbury – It could be October 14th and we can get out a month all by ourselves. The question is whether the applicant would be willing to defer for a longer period of time. We could ask the applicant that question because we need the applicant's approval to defer for longer than 44 days.

COMMISSIONER DEMAREST MOVED TO DEFER CAR13-00007 FOR THE MAXIMUM AMOUNT OF TIME FOR DEFERRAL, WHICH IS 44 DAYS.

Commissioner Bradbury – There's a motion on the floor to defer and we're only talking about Item #8 on our agenda at the moment, but this can certainly be the case for all three of the items.

A couple of things now that you've made the motion, we don't have a second yet, but I'll get around to that in a quick second. One of the things I'm going to ask the Commission to do, if we do get a second to the motion, is to articulate what it is we expect from the applicant, staff, from

the public or from ourselves during this deferral period. There's a motion on the floor to defer to our second meeting in October which is, does anybody have that date for us?

Pam Baldwin (Planning Team) – October 14th.

Commissioner Bradbury – October 14th. Is there a second to the motion? Motion dies for lack of a second. Does somebody have another idea?

COMMISSIONER MORRISON MOVED FOR THE DENIAL OF CAR13-00007 (ANNEXATION OF 11.97 ACRES), PUD13-00002 AND CFH13-00019.

Commissioner Bradbury – Why don't we handle one at a time?

COMMISSIONER MORRISON MOVED TO DENY CAR13-00007.

COMMISSIONER DEMAREST SECONDED THE MOTION.

Commissioner Bradbury – Any discussion on the motion?

Commissioner Danley – I'm going to support this motion. Ultimately what it boils down to is there are a lot of unanswered questions. The vision we heard amongst ourselves and discussed, and what we heard from the audience is ultimately we're landing in a very different place than what's being presented to us. Even if a deferment was thrown out, we're a far ways away. This is where I'm landing and I hope that's understood, but this is why I will support the motion.

Commissioner Demarest – I was trying to land on a deferral and it didn't work so this is the next stop on the journey. I want to weigh in with Commissioner Danley. There are just too many questions on this thing for me to feel okay about voting for Item #8. I would add I do believe the applicant does have the option to come back to us at any time in the future.

Commissioner Morrison – I don't think the efforts today have all been fruitless, but I do think it's important the various agencies have a given approval prior to coming to the Planning & Zoning Commission for recommendation of annexation and zoning to City Council.

Commissioner Bradbury – Commissioner Morrison, as the maker of the motion, I think the City Council might like to have a little bit more information as to why we're recommending denial. I know we've talked a little bit about it, but maybe you could articulate a little bit more for us.

Commissioner Morrison – At the fundamental level it's currently county property and the County operates a facility on that. They've expressed concerns to us this evening and I hate to use this phrase, having all of their ducks in a row prior to this annexation going forward. There are still some issues which need to be resolved. There are legal issues and survey issues that can be resolved and they should be resolved before they're brought back before this Commission.

Secondly, there are some issues between DEQ (Department of Environmental Quality), EPA (Environmental Protection Agency) and FERC (Federal Energy Regulatory Commission) which have to do with the retirement of the lagoon, the lines in the floodplain and who has jurisdiction over all of this. All of this was brought up this evening and inadequately answered as to whether or not they have been put to bed. On top of all that you have a fundamental issue of compatibility with the overall proposed plan and the neighbors, which has yet to be addressed in a satisfactory fashion so the project could go forward.

Commissioner Bradbury – Any further discussion on the motion? Hearing none, Pam will you please call the roll?

ROLL CALL VOTE

COMMISSIONER MORRISON	AYE
COMMISSIONER DEMAREST	AYE
COMMISSIONER DANLEY	AYE
COMMISSIONER BRADBURY	NO

THREE IN FAVOR, ONE AGAINST MOTION CARRIES.

Commissioner Bradbury – #9, PUD13-00002 and CFH13-00019, a Conditional Use and Boise River System Permits. These are matters for decision by the Commission.

COMMISSIONER MORRISON MOVED TO DENY PUD13-00002 AND CFH13-00019.

COMMISSIONER DANLEY SECONDED THE MOTION.

Commissioner Morrison – With respect to some of the testimony this evening, there appear to be issues with the Boise River System Permit and it's not clear the project adequately addresses those standards.

Commissioner Bradbury – As a voter I voted no on the last motion and the reason I did is because this could be made to work. I probably would have gone the deferral route and tried to give the applicant an opportunity to address some of these things but, we'd have to tell them what they are. As I said before, I have to admit I'm a little bothered by the status of the Boise River System permitting. There is some serious doubt in my mind about that one. Nevertheless the bottom line is I am not prepared to actually just flat out deny it but, I'm just one vote.

ROLL CALL VOTE

COMMISSIONER MORRISON	AYE
COMMISSIONER DANLEY	AYE
COMMISSIONER DEMAREST	AYE
COMMISSIONER BRADBURY	NO

THREE IN FAVOR, ONE AGAINST MOTION CARRIES.

Commissioner Bradbury – Now Item #9a on the agenda, SUB13-00017. This is the preliminary subdivision plat which is also a recommendation to City Council.

COMMISSIONER MORRISON MOVED TO RECOMMEND DENIAL OF SUB13-00017 TO CITY COUNCIL.

COMMISSIONER DANLEY SECONDED THE MOTION.

ROLL CALL VOTE

COMMISSIONER MORRISON	AYE
COMMISSIONER DANLEY	AYE
COMMISSIONER DEMAREST	AYE
COMMISSIONER BRADBURY	NO

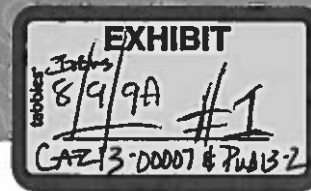
THREE IN FAVOR, ONE AGAINST MOTION CARRIES.

Hearing adjourned.

Approved:

Jay Story, Chairman
Boise City Planning & Zoning Commission

Date: _____



September 16, 2013

Boise Planning and Zoning Commission
150 N. Capitol Boulevard
Boise, ID 83702

Ref: CAR13-00007 & PUD13-00002 Barber Mill Estates (BME)

Dear Commissioners:

Please find enclosed:

- Additional petitions opposing BME, not previously submitted to P&Z; and
- An internal ISF Task Force document ("Frequently Asked Questions") to address questions from ISF board members and to help them share information.

A total of more than 6,800 signatures have been gathered during the most recent 12 weeks of performances in the theater. Signatures were gathered only when:
a) volunteers were able to fill all existing usher jobs, and b) volunteers offered voluntarily to collect the signatures. Because gathering of signatures was not among the normally-assigned volunteer duties, there are 17 nights in which 50 or fewer signatures were gathered, as well as 46 nights in which more than 50 were gathered. With the exception of the first night of collecting signatures, the petition was never mentioned or promoted from the stage (to the full audience), nor was it associated with the reason audience members were at the theater – to dine, enjoy performances, and share time with colleagues, friends and loved ones. Nonetheless, thousands have offered to sign it, especially after viewing an aerial of BME's proposed location.

As a result of these protocols, the Festival believes these signatures represent a more thoughtful and objective measure of audience opposition to BME than had ISF recruited volunteers and "pushed" audiences to participate. Naturally, there were patrons who graciously declined to sign the petition, who graciously considered it, who were unaware of it on many evenings, and who took the opportunity not only to sign but also to discuss the issues with board members, volunteers and Festival management. It has been an instructive process, as it has allowed the Festival to hear the thoughts and desires of those using the amphitheater this summer. It also affirms the Festival's opposition to BME.

Thank you for your time and consideration.

Sincerely,


Mark Hofflund
Managing Director

Frequently Asked Questions

Re: Petition in opposition to proposed Barber Mill Estates (BME) subdivision

Who is behind this petition?

Idaho Shakespeare Festival (ISF) is governed by a volunteer Board of Trustees, which holds fiduciary responsibility for the Festival and the public benefits it provides as a cultural, not-for-profit, 501(c)(3) organization. The Board is led by four officers, three standing committees, and a 13-member executive committee – under the advice of counsel donated by the law firm of Givens Pursley. The Festival also is advised by a group of former trustees, called the ISF Advisory Board, who serve the Festival in an honorary capacity. Both bodies include individuals from a broad spectrum of the community, a variety of public and private-sector professions, and a diversity of ages, incomes and social backgrounds.

The ISF Board of Trustees hires two executives, who manage the operations of the Festival. The executives, in turn, employ a fulltime staff of nine (in charge of marketing, finance, educational programming, fundraising, technology, patron services, and company management), a number of independent contractors (including directors and designers, a master gardener, and a café operator), and a seasonal staff of artists, technicians and administrators – totaling about 200 individuals. More than 1000 volunteers also participate in the Festival's operations.

What is the Festival's concern?

The Board has determined that the facilities and experience developed during two decades at the Festival's present location, off of Warm Springs Avenue in the Barber Pool Conservation Area (BPCA), would be significantly compromised by a proposed development of 40+ single-family homes, located within several hundred feet of the ISF Amphitheater and Reserve.

What's the nature of this "significant compromise"?

There are two primary issues, a third overarching issue, and a number of tangential concerns.

Of primary concern is the acoustic environment created by an outdoor performance venue. This environment includes the use of unexpected, short, loud, and inconsistent noises that produce a disconcerting and random effect on auditors not seeing the immediate purpose and cause for these sounds, which can include thunder and lightning, explosions and gunfire, subtle and unidentifiable psychological effects, bursts of music, and recordings of people in distress, as well as sounds of celebration, exuberance and joy. When homes are located in close proximity to an outdoor theater, homeowners become captive to an environment of sounds and daily public events that impact, intrude upon, and disrupt their private lives. This would be especially true for residents trying to enjoy their residential surroundings and personal property during the 120 summer nights of operations for the ISF Amphitheater – producing live theater (plays and musicals), with both acoustic and amplified sound, in an open setting which can hold as many as 800 patrons, who also contribute a variety of expressive sounds to the ambient environment through their responses to the performances.

A second primary issue would be the impact of 40+ homes on the operations and ambience of the Amphitheater. Most homeowners are not conscious of, nor sensitized to, the routine noises they make during the course of daily residential activity. The accumulation of 40+ homes, in immediate proximity

to an outdoor theater, would exponentially raise the level of general and specific acoustic interference entering the Amphitheater – through the use of air conditioners, automobiles, motorcycles, landscaping and other equipment, outdoor entertainment, outdoor cooking, social gatherings, and even televisions, radios, pets, and casual conversation. All the normal activities of outdoor, summertime, residential life would increase the potential impact on the public cultural activities of the programs in the theater, which require moments of stillness and silence – and a focus on the expressive language and emotions of a performance – often in artistic juxtaposition to moments of heightened sound and dramatic activity. Were moments of nearby residential life to intrude upon the stillness of the stage, audiences would be distracted and artists would experience a resulting loss in the meaning and impact of the performances.

A third overarching concern of the Festival is the historic context of its residence in the Barber Pool Conservation Area, which took a decade of careful planning to locate and design. This first “permanent home” for the company – following three temporary locations over 21 years provided by leaders of the business community – would not be easily, quickly, or inexpensively replicated elsewhere in Boise. In locating within the BPCA, the Festival worked with the Idaho Foundation for Parks and Lands (IFPL, a nonprofit organization), the Idaho Department of Parks and Recreation (IDPR, a public agency), and scores of private and public consultants to collaborate on the design and use of facilities that observed the cultural and environmental prerogatives of the BPCA, in a manner unique not only to Idaho, but possibly to the 49 other state parks systems across the country. The collaborative design, use, and management of the ISF Amphitheater are particular to the habitat in which it is located, and emerged over many years of careful planning. Approximately 40 other locations were given consideration by architects, engineers, and public officials, during the process that concluded with ISF’s location in the BPCA; and the collaborative design was so specific to the property and its surroundings (including careful retention of cottonwood trees and the positioning of the stage to coincide with the setting of the sun at the 8:00 PM starting time on the longest day of summer) that the company would be considerably challenged to alter or redesign its BPCA facilities without considerable time, effort, and community support – should they be compromised by an incompatible private development within the BPCA.

What are the boundaries of the BPCA and what development is included within it today?

The BPCA has four longstanding boundaries. These boundaries are observed in the BPCA study and master plan conducted and published by the U.S. Army Corps of Engineers during 1999-2000, at a cost of \$100,000 and in association with 12 partnering organizations: IFPL, IDPR, Ada County Parks and Waterways, Boise Cascade Corporation, Boise Parks and Recreation, Golden Eagle Audubon Society, Idaho Department of Fish and Game, Idaho Shakespeare Festival, Land Trust of the Treasure Valley, The Nature Conservancy, U. S. D. I. Bureau of Land Management, U. S. Bureau of Reclamation.

Three of the BPCA boundaries represent three sides of a large triangle (two curvilinear and one straight), associated with geographic landmarks and dating back more than a century: The New York Canal to the south; the 1904 Barber Dam and its embankment/access road to the west; and Warm Spring Avenue (former State Highway 21) along the north. The eastern boundary (at the tip of the triangle) is the mouth of a basaltic canyon dating back millennia, from which the Boise River emerges from the foothills of the Rocky Mountains – currently marked by Diversion Dam and the “high bridge” of SH 21 crossing above the Boise River. Both historically and today, the Barber Dam broadens, slows, and disperses the waters behind it, as the Boise River emerges from the mountains and enters the historic Barber Pool, initially used for timber storage in service of a lumber mill operating until the 1930s. In the subsequent decades, the Pool has been reclaimed by nature, becoming indigenous cottonwood habitat and home to

200 species of wildlife. In 1993, the Barber Pool was ranked #1 by the Boise City Heritage Preservation Committee, on a list of 41 parcels of land, "because of its unique environmental, recreational, natural, aesthetic and historical characteristics."

Adjacent to the proposed BME parcel (containing sewage lagoons dating back a number of decades) is another industrial site on which the historic Pullman Brick Company was located. Both this parcel (17 acres) and the gifted Pool parcel from Boise Cascade (estimated at 480 acres) were divided through one-time splits for the public purposes of locating IDPR and IFPL in permanent headquarters, as well as ISF in a permanent amphitheater. Also in the northwest corner of the BPCA is the permanent home of Riverstone International School (RIS), located on land that, within recent decades, was variously used by the U.S. Forest Service for offices, by the Harris Family for agricultural interests (a hay field), and as a recreational vehicle storage site. There has been no subdivision of the few, historic, privately-owned parcels within the northwest corner of the BPCA; all current entities occupying these lands serve a public purpose (including the containment of sewage); and the proposal of private residences – in a Planned Urban Development (PUD) – would introduce conflicting interests of a new and considerable private magnitude not only within the last remaining parcel of yet-to-be-developed, historically-open and publicly-purposed lands in the northwest corner of BPCA, but potentially would subject other scattered lands within the Pool to the precedents and pressures of commercial, private development at the cost of historic uses and current public values.

Has the Festival any record of interest or activity, in lands surrounding its Amphitheater?

Yes. ISF has developed – through community generosity and collaboration with its neighbors – approximately 10 acres of parkland and public amenities surrounding its 2-acre amphitheater parcel. It also has a right of first refusal to purchase two parcels of undeveloped land owned by IFPL; and has discussed possibilities of collaboration with IDPR and RIS to extend ISF irrigation rights to adjacent grounds serving community interests. ISF also has developed, landscaped, and irrigated a portion of the proposed BME property, under the blessing of its current owners, who have entertained the long-term hope of ISF's acquisition of the parcel in question. Additionally, the current owners have donated to ISF the use for 15 years of the sewage lagoons currently located on the property, and ISF serves a water line onto the property to fill a trough for a herd of domestic goats and a llama on the property. The landowners also have deeded an easement to ISF, in order that the existing ISF sewer line may be utilized to hook up to new City sewerage, located in the RIS property adjacent to the parcel in question.

So far as known, what caused the current landowners to facilitate the direction currently proposed?

The anticipated use of the lagoons was unexpectedly shortened by 5 years, when its owners in the fall of 2012 sought to forgo a DEQ inspection of their lagoons. Any shortcomings from the inspection (such as river or groundwater contamination) would have required the expense of reparations, and the landowners explained that termination of usage eliminated the need for an inspection. Then, faced with a subsequent need to decommission the lagoons, the owners gave a free option to the proposed developer, whose initial plat three months later was so poorly researched and conceived that it did not even identify ISF as a neighbor. When the omission was brought to the developer's attention, the developer ceded ground that likely was not developable, minimized the size of his lots and homes, and doubled the number of residences in order to maintain the business model initially conceived. Other omissions caused the developer's onsite activities to be halted by the County; and, while the landowners sought support from ISF (in the form of a backup offer), they also twice have extended the option given

to the developer – who seeks P&Z approval in advance of the lagoons’ remediation and sale of the property.

Has the Festival opposed any other developments in the area?

Apart from a cellular phone tower, which was lowered by a third of its original height (to accommodate the view corridor of the amphitheater), the Festival has not opposed development; and, indeed, has collaborated both with Harris Ranch and River Heights (naming streets after ISF-inspired references) on nearby residential developments in Barber Valley.

What are other tangential issues, which cause ISF to oppose BME?

ISF’s longstanding relationships with educational and cultural interests, as well as environmental organizations, causes it to align with public values that would seek to protect the Barber Pool, to control the human impact on the Pool (the “heart” and the “nursery” of the Boise River), as well as the migratory flyways that include the Barber Pool as critical habitat, proceeding north into the mountains or south across the desert expanse of the Great Basin.

ISF also believes that its many artists, technicians, and service employees deserve a work environment that allows them to focus their full time and energy free from conflicts with competing interests ... including nighttime lighting, late-night audience traffic, early-morning stage construction, and the needs of maintaining the William Shakespeare Park and its public facilities directly adjacent to the BME.

In estimating the value of the Amphitheater and Reserve, the developer’s agent surmised that it was worth about \$40 million. The value of this asset to Boise, and the citizens who created it and continue to maintain it, should logically be enhanced rather than compromised by any projects in its immediate vicinity. It also is a project of national interest, having hosted the annual conference of the National Governors Association; the signing of a historic water rights agreement among the U.S. Secretary of Interior, the Nez Perce tribal chairman, and the Governor of Idaho; multiple meetings of the previous two chairmen of the National Endowment for the Arts, under presidents Bush and Obama; the international conference of the Shakespeare Theater Association; and the first American production of Shakespeare ever to appear on the stages of the Royal Shakespeare Company, in Shakespeare’s birthplace of Stratford-upon-Avon, England.

What do you hope to gain from this petition?

We want to perform due diligence through exploring the public’s response to BME, among those who enjoy the Festival. In order to protect all parties, as much as possible, we are not circulating the petition electronically or beyond the operation of the performances themselves, even though a number of people have requested physical or electronic copies in order to gather more signatures. We want to keep the petition within the physical domain of the Amphitheater, for the time being. By doing so, we hope to determine whether the community using the amphitheater shares in the ISF Board’s concerns regarding the developer’s proposal. As such, we have confined its use to “live and in person,” at the site of the facilities whose use is considered to be in possible jeopardy.

As always in public processes, the informed opinions of the public (on either or both sides of these issues) are sought and appreciated.



SEP 16 2013

Dear Planning and Zoning Commissioners:

As a long-standing member of the Idaho Shakespeare Festival acting company, as well as a concerned member of the Boise community, I'd like to add my voice in urging careful consideration regarding the best, most appropriate use of the land adjacent to the Shakespeare Festival. While not opposed to development in principal, wisdom and common sense would suggest that the placement of a 47-unit subdivision a mere stone's throw from a live, outdoor performance venue is risky business at best, a recipe for problems down the line, and cannot be considered an "improvement" or good use of the land. It seems clear that proponents of such a development do not fully comprehend the impact such a development would have upon the experience of the Festival-goer as well as the homeowner.

A recent article in *The Idaho Statesman* highlighted neighborhood concerns regarding over-flow noise from an indoor performance venue. Imagine the inconvenience and distraction of nightly outdoor performances upon neighbors 400 feet from the stage! (Dear friends and supporters of ISF who reside on Boise River Lane comment every summer on the sounds they hear rising up from the Festival...a quarter of a mile across the river.) The Festival sounds vary, depending upon the production, and occur nightly, except Mondays, June through September. It seems highly unlikely that a homeowner who has been forewarned—and perhaps even agreed not to complain—will tolerate such an inconvenience for long.

But the sound concerns go both ways. Homeowners will naturally wish to enjoy their patios during the summer, perhaps entertain family and guests, and even play music of their own. These activities can also interfere with the experience within the amphitheater and prove a distraction to both the audience and acting company. Just last week, several children playing nearby were clearly audible from within the theater. The potential challenges and neighborhood conflicts that could arise from the placement of 47 homes within close proximity of ISF should really give the developer pause, along with everyone involved with city planning and management of conflicting public interests.

I need not reiterate what a treasure ISF is to Boise, the state, and even the nation. This amphitheater is the envy of many outdoor theater festivals around the country. It took extensive work, the commitment of multiple public and private entities, and the generous goodwill of countless community members to find an appropriate location in the valley for ISF and to build a permanent home for the Festival. We trust your good sense and wisdom to ensure that this cherished and valued community asset is not jeopardized.

Thank you for your consideration.

Lynn Allison Hofflund

1420 N. 11th Street, Boise, ID 83702

Planning and Development Services Commission

Sept. 9, 2013

Re: CAR13-00007 / C13, LLC
PUD 13-00002 & CFH13-00019 / C13, LLC

Dear Commission:

I live ¾ to 1 mile down river from Shakespeare (ISF). We hear noise from every play and performance and it is particularly loud from the musicals, such as the recent Sweeney Todd. We are advocates of the ISF and do not complain, because we consider it one of the area's icons. Not only that, they were there before we moved in.

The proposed sub-division of 43 houses will receive much more noise than we get, and there will surely be some complaining. ISF has no exemption for noise and realistically cannot reduce it without an impact on the performance. I am afraid that the result of continual complaining will be that they are forced to move. And, where to this time?

I am not complaining about this sub-division simply because I do not want it there. I cannot see it or will be impacted by it like others in the immediate area. It just seems that it is an opportunity to consider the overall plan of the area without destroying one of the valley's great assets.

I suppose if a development passes all the tests that are typically on the Development Services criteria, then it gets approval. In this case I would think the Planning part of the commission could see the negative impact and potential results that will occur in the future.

The property owners deserve to be paid and I happen to know that ISF has made provision for this. Also, they have offered to cover costs to the developer to transfer their current option on the property.

There are many hundreds of acres of land in Harris Ranch that are already approved for development. Please give consideration to leaving these 12 acres intact as a buffer for both ISF and the river.

Sincerely;


Raleigh Jensen
4900 Boise River Lane

RECEIVED
SEP 16 2013
DEVELOPMENT
SERVICES



Planning & Development Services

Boise City Hall, 2nd Floor
150 N. Capitol Boulevard
P. O. Box 500
Boise, Idaho 83701-0500

Phone: 208/384-3830
Fax: 208/384-3753
TDD/TTY: 800/377-3529
Website: www.cityofboise.org/pds

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9a

MEMORANDUM

MEMO TO: Boise City Planning and Zoning Commission

FROM: Cody Riddle
Planning and Development Services

RE: Barber Mill Estates-Project Revisions
CAR13-00007, PUD13-00002, CFH13-00019, & SUB13-00017

DATE: September 16, 2013

BACKGROUND

The applicant is seeking approval of an annexation, conditional use and Boise River System permits, and a preliminary plat to construct a residential development on 11.97 acres located at 5237 E. Sawmill Way. In an August 12, 2013 report, The Planning Team recommended the project be deferred so the applicant could return with a development agreement to accompany the annexation. The applicant was also encouraged to modify the project to mitigate potential impacts on the Idaho Shakespeare Festival to the east. The applicant agreed to the deferral and has made a number of changes to the proposal. The four homes closest to the eastern property line have been removed and replaced with self-service storage units. Most significantly, this change and the previous concessions made by the applicant have been included in a development agreement that will be attached to the annexation. The changes were presented to representatives of the impacted neighborhood associations and Idaho Shakespeare Festival on August 23rd.

RECOMMENDATION

As detailed in the attached analysis, the revised project and inclusion of a development agreement demonstrate compliance with the applicable findings. As a result, the Planning Team recommends **approval** each application.

ATTACHMENTS

Analysis, Reason for Decision, and Recommended Conditions of Approval
Revised Project Drawings
Draft Development Agreement
Correspondence and Agency Comments Received after Publication of Original Report
August 12, 2013 Planning Division Report

ANALYSIS

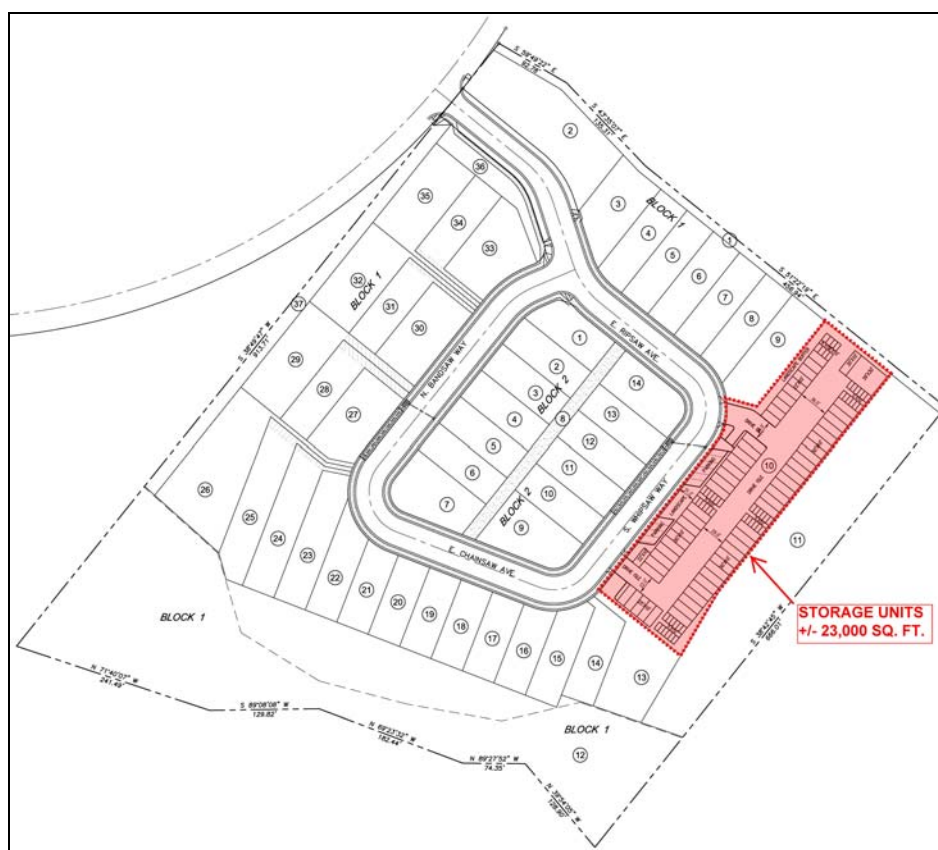
There is clearly opposition to this project. However, it is important to recognize the property is designated Residential in the Comprehensive Plan. As a result, there is a reasonable expectation to develop the property with single-family homes. That being said, the property is situated in a unique location, surrounded by a variety of uses. To the west is the Mill District at Harris Ranch, a moderately dense subdivision with single-family homes on small lots. To the northwest is a 12-acre parcel designated for high-density residential development. A continuing care retirement community with approximately 400,000 square feet of finished floor space including over 200 residential units and additional skilled nursing and memory care units has been approved on that site. To the north is the Riverstone School, and to the east, the Idaho Shakespeare Festival. The Idaho Foundation for Parks and Lands controls a significant amount of property in the vicinity (The Barber Pool Conservation Area). As illustrated below, this includes land between the project site and the Idaho Shakespeare Festival.



The Foundation for Parks and Lands supports the project, and an August 12, 2013 letter stated the following:

"This development will have a positive effect on the Barber Pool. The developer has entered into an agreement with the Idaho Foundation for Parks and Lands to donate the Southwest edge of the property that falls within the 200 setback from the river as identified in the Boise River Ordinance. In addition, the developer is also donating the portion of the property on the East side that borders the Idaho Foundation for Parks and Land property referred to in documents as "the berm." This second piece of property does not fall within the 200 foot setback area and is a gift above and beyond what is to be protected by Boise City Code." ... "The developer is following the Boise River Ordinance, with no requests for variances..." "Idaho Foundation for Parks and Lands fully supports this development as an improvement to the Barber Pool. The addition of the property to the Idaho Foundation for Parks and Lands and the continuous fence on the private property side will benefit the Barber Pool more than the Idaho Shakespeare Festival."

In addition to the Idaho Foundation for Parks and Lands, the applicant has worked extensively to address concerns of other public agencies, neighborhood associations, and Boise City. The project has evolved through these efforts, and the Planning Team finds the resulting proposal to be consistent with the standards required for approval. A number of concessions have been made to ensure compatibility with surrounding uses and minimize conflicts. Most of these changes were outlined in the August 12th report. However, the applicant has made another significant change since that time. Building lots along the eastern property line have been replaced with storage units. This accomplishes several things. Most significantly, it provides a slight reduction in residential density, and increases the setback between new homes and the Shakespeare Festival. This should reduce conflicts associated with noise and have only a minimal impact on traffic (approximately 20 additional trips per day). The storage units could also provide some measure of trip capture.



(Revised Site Plan)

The inclusion of storage units is allowed as a use exception through B.C.C. 11-03-04.7.B (2). The intent for such exceptions is that they provide services or facilities supportive of the primary use. The storage will function as an amenity for residents of the project, but also provide a service to the greater neighborhood as residents in the area currently have no other options for storage in the immediate vicinity and many of the homes in the adjacent subdivision were constructed with small garages and minimal storage.

The most significant change to the proposal is the inclusion of a development agreement. As mentioned in the August 12th report, the Planning Team was concerned with annexing the property with any of the potential implementing zones. Each would allow units to be evenly distributed across the site, and nothing would prevent future applicants from ignoring the concessions included in the current proposal. That could include the removal of the berm along the eastern property line, no restriction on building height, and new homes much closer to the Shakespeare Festival. The proposed development agreement will ensure the site is developed as currently proposed. As drafted, the agreement limits development to the proposed site plan and includes restrictions on building height for certain lots and hours of construction. It also includes a requirement for participation in the Harris Ranch Wildlife Mitigation Association, donation of common lots to the Idaho Foundation for Parks and Lands, and preserves access to monitoring wells associated with the Barber Dam. To deviate from these plans, or modify any of the requirements, would require approval by City Council. A copy of the agreement, with all of the proposed restrictions, is attached to this report.

In addition to the restrictions of the development agreement, the Planning Team is recommending a series of conditions to ensure compatibility with surrounding properties. As listed below, this includes requirements for sound proofing, enhanced crosswalk features for the Greenbelt, design standards and hours of operation for the storage units, participation in the Harris Ranch Wildlife Mitigation Association, and additional disclaimers in the subdivision covenants. With these conditions, the Planning Team finds the revised project to be in compliance with the applicable ordinance standards and recommends **approval** subject to the attached conditions.

In conclusion, while the project is not a conventional subdivision typically associated with lands designated "Large Lot", it is consistent with the density allowance for this Land Use Classification. The lots are larger and the project less dense than the subdivision immediately west of the site. It is also less intense than the continuing care facility to the north west. The buffer/conservation lots to the south and east provide a transition to the Barber Pool and Idaho Shakespeare Festival. This is consistent with the desire to preserve open space and natural features in lands designated "Large Lot".

Additional analysis and background information can be found in the attached August 12, 2013 report.

The Commission needs to make three separate motions as follows:

1. A recommendation to City Council on the annexation.
2. A decision on the Conditional Use and Boise River System Permits.
3. A recommendation to City Council on the Preliminary Plat.

REASON FOR THE DECISION**Annexation**

The annexation is consistent with the objective standards of *BCC 11-03-04.15.6(a)*. It does not constitute leap-frog development and the land is within the City's Area of Impact and Sewer Planning Area, adjacent to previously annexed properties. The site is designated 'Large Lot Residential' on the Land Use Map and R-1B is an allowed implementing zone within this designation. The inclusion of buffering requirements, placement of storage units and other restrictions in the development agreement ensures the property will remain compatible with the unique range of uses surrounding the site.

Conditional Use & Boise River System Permits

The project is consistent with *BCC Sections 11-03-04.7.a and 11-03-04.19.B.7(b)*. With the attached conditions of approval, the development is compatible with the surrounding neighborhood. This residential subdivision is located between a higher density residential development to the west, two schools to the north, and an outdoor theater used during summer months to the east. The Boise River is located to the south. The project includes design features to prevent adverse impacts on other property in the vicinity. The inclusion of a passive use (storage) on the eastern third of the site provides additional separation between the new homes and the Idaho Shakespeare Festival. An existing landscape berm will also be preserved along this entire property line. To mitigate impacts on the residents to the west, homes will be limited to one-story along this entire property line.

The project is in conformance with the Comprehensive Plan. The site is designated 'Large Lot Residential' on the Land Use Map. The primary intended use in this designation is detached single-family homes. An extension of the Greenbelt has been provided. This is supported by general connectivity principles well as those specific to the Barber Valley (*BV-CCN 1.1, BV-C2.1, BV-C2.2, and BV-C2.3*). Most development in the vicinity is guided by the Harris Ranch and Barber Valley Specific Plans. *Principle BV-CNN 3.1* directs the City to use these plans for policy guidance for other sites in the valley. These plans support the proposed density. Both allow for compact, pedestrian oriented designs at a range of densities, depending on surrounding uses.

The site includes both Class A and C Lands as designated by the Boise River System Ordinance, and adheres to the standards for both. The Class A Lands are located immediately adjacent to the Boise River along the southern property line. The Class A Lands currently occupied by sewer lagoons will be returned to a natural state. The majority of the site is Class C Land, where residential development is allowed, and habitat enhancement encouraged. An existing berm along the eastern property line will be preserved. Both the Class A Lands and the existing berm will be dedicated to the Idaho Foundation for Parks and Lands, and maintained as an extension to the Barber Pool.

Agency comments confirm the project will not place an undue burden on the transportation system or any other public service in the vicinity. The Ada County Highway District approved the application on July 17, 2013. The confirmed the impacted roadways of Sawmill Way, Lysted Avenue and Warm Springs are all operating at a fraction of their intended and useable capacity.

RECOMMENDED CONDITIONS OF APPROVAL

Site Specific

1. Compliance with plans and specifications submitted to and on file in the Planning and Development Services Department dated received **May 24, 2013 and the revised site plan dated August 27, 2013**, except as expressly modified by the following conditions.
2. **Planned Unit Development**
 - a. Lighting for the storage units is limited to wall mounted fixtures installed below the lowest portion of the roof. Lighting fixtures are prohibited on the eastern side of the building adjacent to the existing berm.
 - b. The roof of the storage buildings shall not exceed the height of the berm along the eastern property line.
 - c. The storage units shall be limited to operating between the hours of 7:00 a.m. and 8:00 p.m. daily, between May 20th and September 30th of each year.
 - d. The storage units shall be designed with features to ensure compatibility with residences in the project. An emphasis shall be placed on facades oriented to Whipsaw Way. A combination of deciduous and evergreen landscaping shall be provided between the structures and street. Plans demonstrating compliance with this requirement shall be submitted to Planning and Development Services prior to issuance of any construction permits.
 - e. Gravel surfacing for the storage units is prohibited.
 - f. All homes shall be constructed to provide a sound level reduction of 25 dB. Documentation demonstrating compliance with this requirement shall be included in the building permit application for each dwelling.
 - g. The entrance to the site shall include features such as a raised table, a change in texture or material, signage, painting, or a combination of features delineating the greenbelt crossing. Final written approval of the crosswalk from the Ada County Highway District and Boise City Parks and Recreation Department is required prior to issuance of any construction permits.
 - h. Approval of a Floodplain Development Permit is required prior to issuance of any construction permits.
 - i. Lots 13 and 14, Block 1 shall take access from a common driveway.
 - j. All lots in Block 2 shall take access from the alley. Curb cuts to the street are prohibited for these lots.

3. **Development Agreement**

- a. Upon City Council approval of the annexation, the applicant shall submit a signed copy of the development agreement for final approval by Legal and Planning staff. This copy shall include any changes required by Council.
- b. After the final document is approved, the City will record the agreement and schedule the three required ordinance readings.
- c. Failure to record the development agreement within one year of annexation shall automatically render the annexation null and void.

4. **Subdivision**

- a. A note on the face of the Final Plat shall state: *"Lots 1, 2, 11, 12, 36 and 37, Block 1 are common lots to be owned and maintained by the Barber Mill Estates Homeowner's Association. These lots cannot be developed for residential purposes in the future."* This note/requirement does not restrict the owner's ability to donate these lots to Boise City Parks and Recreation or the Idaho Foundation for Parks and Lands.
- b. A note on the face of the Final Plat shall state: *"The development of this property shall be in compliance with the Boise City Zoning Ordinance or as specifically approved by CAR13-00007, PUD13-00002, and CFH13-00019."*
- c. A note on the face of the final plat shall state: *"This subdivision is located adjacent to the Idaho Shakespeare Festival. Sound from the theater may be audible during the operating season."*
- d. An easement to Ada County for access to facilities associated with operation of the Barber Dam shall be delineated on the final plat or addressed in a plat note.
- e. Covenants, homeowners' association by-laws or other similar deed restrictions acceptable to the Boise City Attorney, which provide for the use, control and maintenance of all common areas, storage facilities, recreational facilities or open spaces shall be reviewed and approved by the Boise City Attorney. In addition to these standard contents, the following restrictions/requirements and documents shall be included:
 - 1) Language shall be included notifying residents of the presence of the Idaho Shakespeare Festival and that sound from the theater may be audible during the operating season.
 - 2) A requirement for participation in the Harris Ranch Wildlife Mitigation Association. This includes financial contributions as follows:

- a. A Conservation Deed Transfer Fee of \$300.00 will be assessed and collected at the time of the deed transfer for all property in Barber Mill Estates. This includes all initial and subsequent deed transfers.
 - b. Purchasers of the property can be refunded two thirds (\$200) of the Conservation Deed Transfer Fee by attending two conservation education classes and/or habitat enhancement volunteer activities approved by Harris Ranch Wildlife Mitigation Association within two years of the date of purchase.
 - c. An Annual Conservation Fee of \$100 per household will be assessed and included in the homeowners' association dues and will be funded to HRWMA biannually.
 - d. The aforementioned fee(s) may be adjusted on an annual basis using the Boise Area Consumer Price Index (CPI).
- 3) A copy of the Idaho Department of Fish and Game Publication "Home Builders and Owners Guide to Living with Wildlife" shall be attached.
- f. Prior to the City Engineer's Certification of the Final Plat and prior to earth disturbing activities, an erosion and sediment control (ESC) permit must be obtained. An ESC plan conforming to the requirements B.C.C. Title 8 Chapter 17, is to be submitted to Planning and Development Services for review and approval. No grading or earth disturbing activities may start until an approved ESC permit has been issued.
- g. No building permit for the construction of any new structure shall be accepted until the Final Plat has been recorded pursuant to the requirements of the Boise City Subdivision Ordinance.
- h. The developer shall make arrangements to comply with all requirements of the Boise City Fire Department and verify in one of the following ways:
 - 1) A letter from the Boise City Fire Department stating that all conditions for water, access, and/or other requirements have been satisfied,
 - OR
 - 2) A non-build agreement has been executed and recorded with a note on the face of the Final Plat identifying the instrument number.
- i. The Final Plat shall include delineations that describe the boundaries of the perpetual ingress/egress common driveway easements for Lots 13 and 14, and 23-35, Block 1.
 - 1) The street address numbering shall be in accordance with Boise City Code. Final written approval from the Fire Department of the addressing for lots located along common driveways shall be provided prior to issuance of construction permits.

- 2) A note on the face of the Final Plat shall state: *"Vehicular access to Lots 13 and 14 and 23-35, Block 1 shall be provided from a common driveway and not from the street."*
 - 3) A plat note shall set forth the legal description of the driveway(s) and conveys to those lot owners taking access from the driveway(s) and easement(s), the perpetual right of ingress and egress over the described driveway(s), and provides that such perpetual easement(s) shall run with the land.
 - 4) A restrictive covenant or other similar deed restriction(s) acceptable to the Boise City Attorney shall be recorded at the time of recording the plat which provides for the perpetual requirement for the maintenance of the driveway(s) and cross easement, and that said restrictions shall run with the land, and that said easement and restriction(s) shall be reviewed and approved by the Boise City Attorney.
- j. The name, **Barber Mill Estates**, is reserved and shall not be changed unless there is a change in ownership, at which time, the new owner(s) shall submit their new name to the Ada County Engineer for review and reservation. Should a change in name occur, applicant shall submit, in writing, from the Ada County Engineer, the new name to the Department of Planning and Development Services and re-approval by the Council of the "revised" Final Plat shall be required. Developer and/or owner shall submit all items including fees, as required by the Planning and Development Services Department, prior to scheduling the "revised" Final Plat for hearing.
- k. Correct street names as approved by the Ada County Street Name Committee shall be placed on the plat (I.C. Title 50, Chapter 13).
- l. A letter of acceptance for water service from the utility providing same is required (B.C.C. 9-20-8.C).
- m. Developer shall provide utility easements as required by the public utility providing service (B.C.C. 9-20-7.F).
- n. Developer shall provide a letter from the United States Postal Service stating, "The Developer and/or Owner has received approval for location of mailboxes by the United States Postal Service."

Contact: Dan Frasier, Postmaster
770 S. 13th St.
Boise, ID 83708-0100
Phone No. (208) 433-4300
FAX No. (208) 433-4400

- o. Prior to submitting the Final Plat for recording, the following endorsements or certifications must be executed: Signatures of owners or dedicators, Certificate of the Surveyor, Certificate of the Ada County Surveyor, Certificate of the Central District Health Department, Certificate of the Boise City Engineer, Certificate of the Boise City Clerk, signatures of the Commissioners of the Ada County Highway District and the Ada County Treasurer (I.C. Title 50, Chapter 13).
- p. Developer shall comply with B.C.C. 9-20-5.D.2 which specifies the limitation on time for filing and obtaining certification. Certification by the Boise City Engineer shall be made within two years from date of approval of the Final Plat by the Boise City Council.
 - 1) The developer may submit a request for a time extension, including the appropriate fee, to the Boise City Planning and Development Services Department for processing. Boise City Council may grant time extensions for a period not to exceed one year provided the request is filed, in writing, at least twenty working days prior to the expiration of the first two year period, or expiration date established thereafter.
 - 2) If a time extension is granted, the Boise City Council reserves the right to modify and/or add condition(s) to the original preliminary or Final Plat to conform with adopted policies and/or ordinance changes.
 - 3) The Final Plat shall be recorded with the Ada County Recorder within one year from the date of the Boise City Engineer's signature. If the Final Plat is not recorded within the one-year time frame it shall be deemed null and void.

Agency Requirements

- 5. The applicant shall comply with the requirements of the Ada County Highway District as stated in comments dated **July 17, 2013**.
- 6. Comply with the requirements of the Boise City Public Works Department (BCPW) for grading, drainage, irrigation, sewer, street lights, floodplain, and solid waste per Department comments dated **May 31, 2013**. Please contact BCPW at 208-384-3900. All items required by BCPW shall be included on the plans/specifications that are submitted for a Building Permit. Please note that any changes or modifications by the owner to the approved plans must be submitted to the Public Works Department for approval.
- 7. Comply with any conditions of the Boise Fire Department from the memo dated **September 3, 2013** including the standards for development in the Wildland Urban Interface. Any deviation from this plan is subject to Fire Department approval. For additional information, contact Romeo Gervais at 208-570-6567.
- 8. Comply with the requirements of Boise Parks and Recreation as stated in comments dated **June 21, 2013**.

9. Comply with the requirements of the Idaho Department of Environmental Quality as outlined in comments dated **June 3, 2013 and June 4, 2013.**
10. Comply with the requirements of Central District Health as outlined in comments dated **May 29, 2013.**
11. Comply with the requirements of the Idaho Department of Fish and Game as outlined in comments dated **August 28, 2013.**
12. Prior to construction, provide final written approval from Ada County regarding access to facilities associated with operation of the Barber Dam.

Standard Conditions of Approval

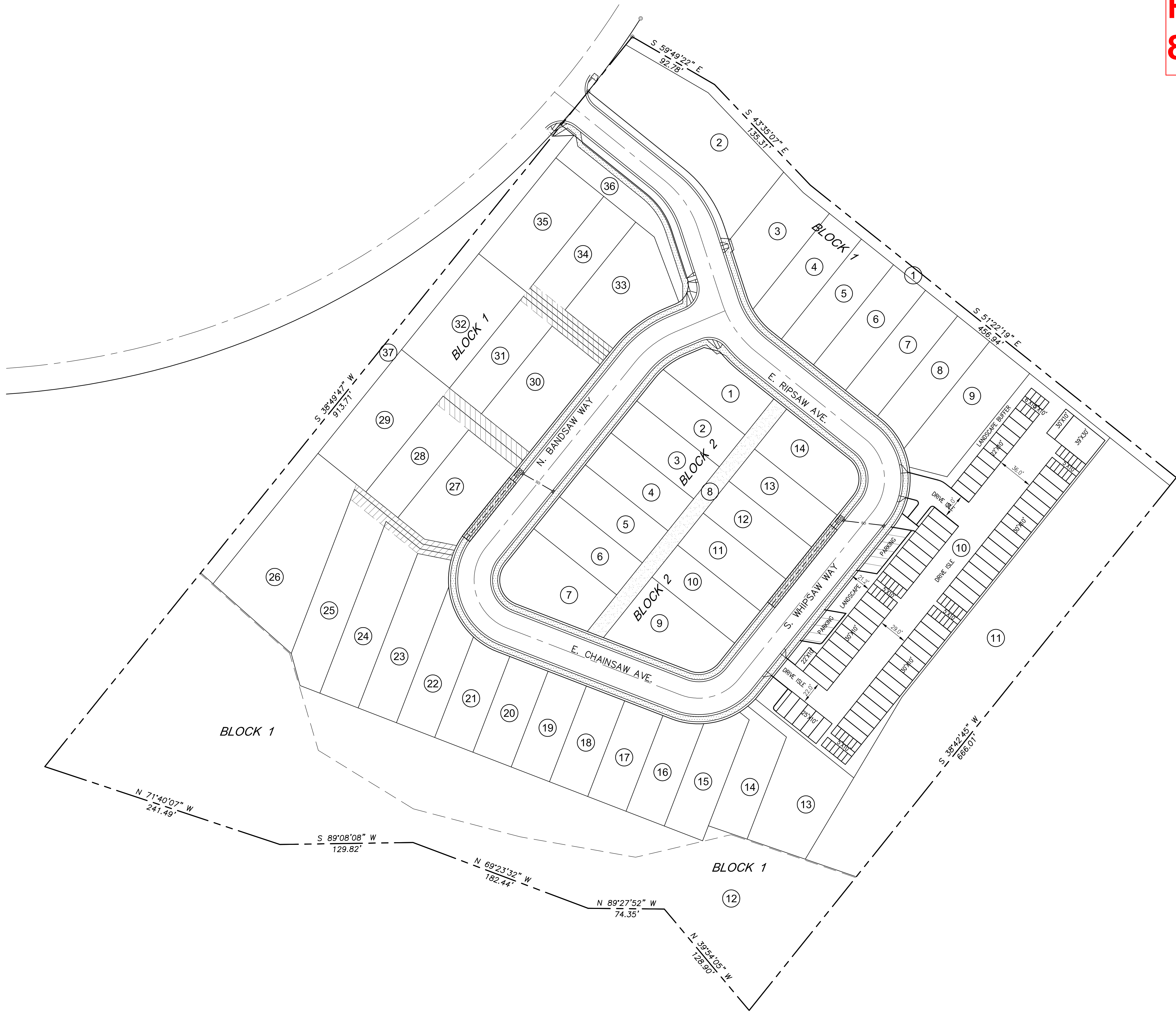
13. All landscaping areas shall be provided with an underground irrigation system. Landscaping shall be maintained according to current accepted industry standards to promote good plant health, and any dead or diseased plants shall be replaced. All landscape areas with shrubs shall have approved mulch, such as bark or soil aid. This condition does not apply to the existing landscape in Lots 11 and 12 of Block 1.
14. In compliance with Title 9, Chapter 16, Boise City Code, anyone planting, pruning, removing or trenching/excavating near any tree(s) on ACHD or State right-of-ways must obtain a permit from Boise City Community Forestry at least one (1) week in advance of such work by calling 384-4083. Species shall be selected from the Boise City Tree Selection Guide.
15. Deciduous trees shall be not less than 2" to 2 1/2" inch caliper size at the time of planting, evergreen trees 5' to 6' in height, and shrubs 1 to 5 gallons, as approved by staff. All plants are to conform to the American Association of Nurseryman Standards in terms of size and quality.
16. Any outside lighting shall be reflected away from adjacent property and streets. *The illumination level of all light fixtures shall not exceed two (2) footcandles as measured one (1) foot above the ground at property lines shared with residentially zoned or used parcels.*
17. Utility services shall be installed underground.
18. The applicant or his/her contractor shall obtain approval from the Ada County Highway District prior to any construction in the right-of-way.

19. An Occupancy Permit will not be issued by the Planning and Development Services Department until all of these conditions have been met. In the event a condition(s) cannot be met by the desired date of occupancy, the Planning Director will determine whether the condition(s) is bondable or should be completed, and if determined to be bondable, a bond or other surety acceptable to Boise City will be required in the amount of 110% of the value of the condition(s) that is incomplete.
20. No change in the terms and conditions of this approval shall be valid unless in writing and signed by the applicant or his authorized representative and an authorized representative of Boise City. The burden shall be upon the applicant to obtain the written confirmation of any change and not upon Boise City.
21. Any change by the applicant in the planned use of the property, which is the subject of this application, shall require the applicant to comply with all rules, regulations, ordinances, plans, or other regulatory and legal restrictions in force at the time the applicant, or successors of interest, advise Boise City of intent to change the planned use of the property described herein, unless a variance in said requirements or other legal relief is granted pursuant to the law in effect at the time the change in use is sought.
22. This approval shall be valid for a period not to exceed two years from the date of approval by the Planning and Zoning Commission. Within this period, the holder of the permit must commence the use permitted by the permits in accordance with the conditions of approval or record the final plat.
23. Prior to the expiration of this approval, the Commission may, upon written request by the holder, grant a two year time extension. A maximum of two extensions may be granted.
24. Failure to abide by any condition of this approval shall be grounds for revocation by the Planning and Zoning Commission.

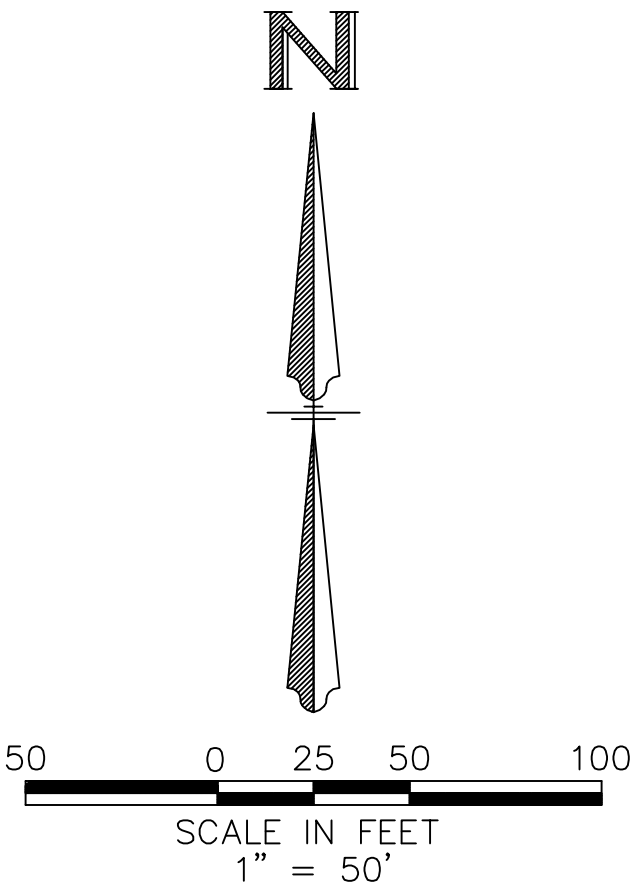
Construction Site Practices


25. The applicant shall obtain Building Permits prior to any work commencing on the property. Specific building construction requirements of the International Building Code and Uniform Building Code will apply. However, these provisions are best addressed at Building Permit application.
26. All exterior construction activities shall be limited to the hours between 7:00 a.m. and 5:00 p.m. from May 15th to October 1st of each calendar year. For the remainder of the year, construction is limited to the hours between 7:00 a.m. and 7:00 p.m. Monday through Friday and 8:00 a.m. to 6:00 p.m. on Saturday. Low noise activities such as surveying, layout and weather protection may be performed at any time.

REVISED SITE PLAN
8/27/13



TOTAL AREA.....12.0 AC
BUILDABLE LOTS.....43
COMMON LOTS.....6/4.03 AC
COMMERCIAL LOT.....1/1.05 AC
STORAGE BUILDINGS.....23,090 SF






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AGENCY REVIEW NOT APPROVED FOR CONSTRUCTION-

Project Name		Project No.	
BARBER MIL ESTATES		RSC-1303	
Sheet Name		Drawn By:	
CONCEPTUAL LAYOUT		RLC	
Stamp		Date: August 27, 2013	
Sheet No.		C1	
1		of 1	

Revisions

Date	Description
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3	
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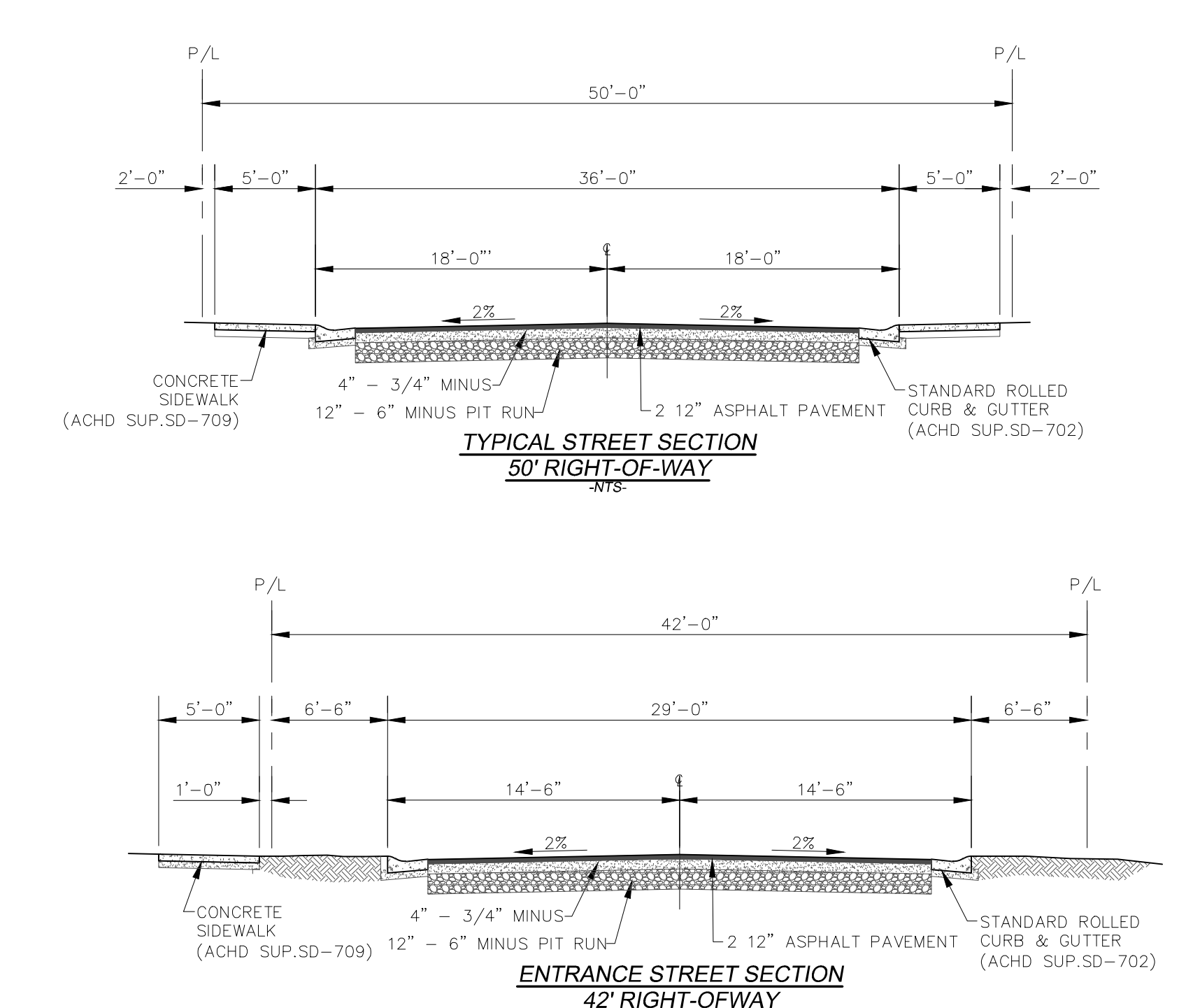
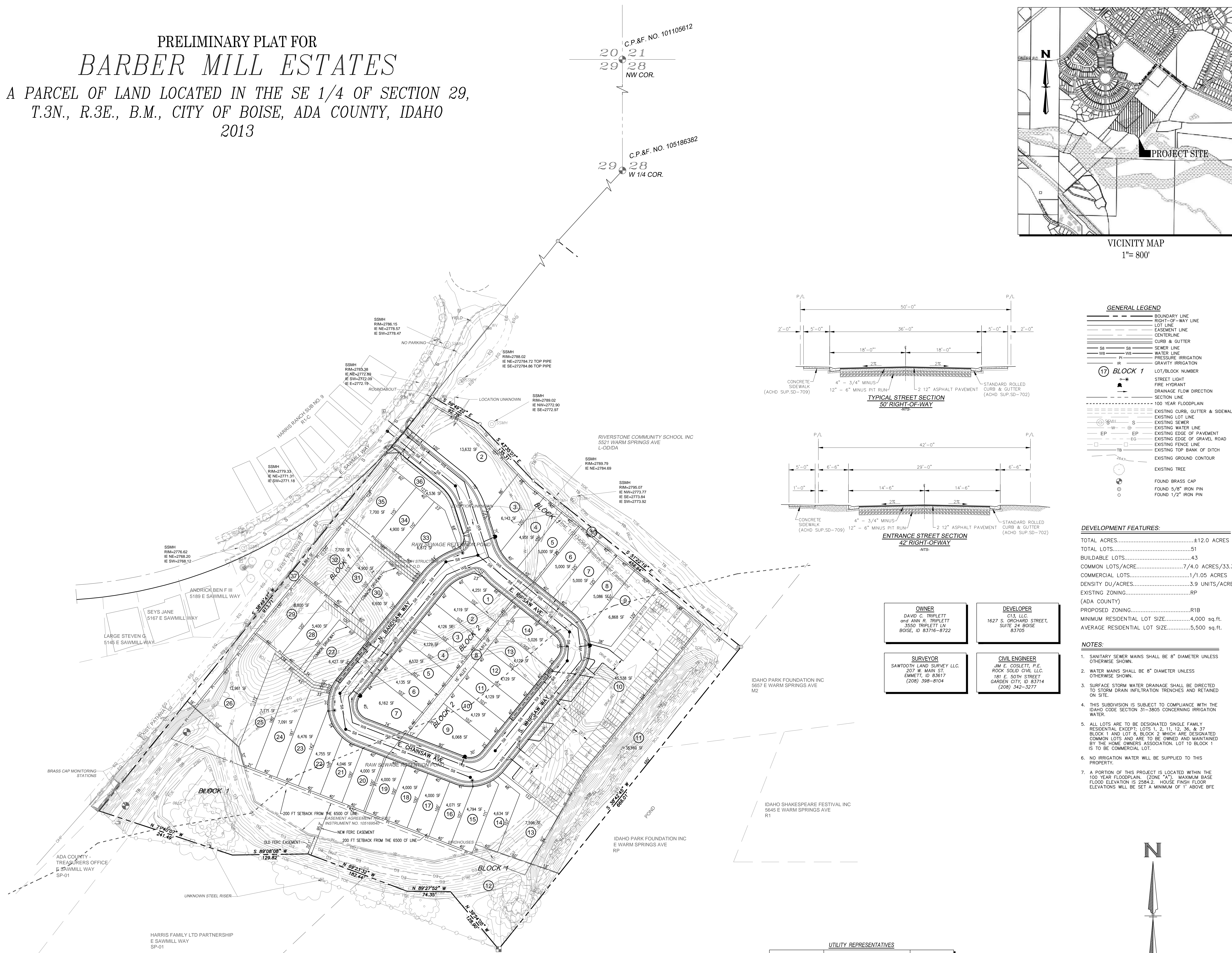


ROCK SOLID CIVIL
Civil Engineering and Land Development Consulting
181 East 50th Street, Garden City, ID 83714
Phone: 208-342-1585
www.rocksolidcivil.com

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PRELIMINARY PLAT FOR
BARBER MILL ESTATES

A PARCEL OF LAND LOCATED IN THE SE 1/4 OF SECTION 29,
T.3N., R.3E., B.M., CITY OF BOISE, ADA COUNTY, IDAHO
2013



GENERAL LEGEND

---	BOUNDARY LINE
---	RIGHT-OF-WAY LINE
---	LOT LINE
---	EASEMENT LINE
---	CENTERLINE
---	CURB & GUTTER
S8	SEWER LINE
W8	WATER LINE
IR	PRESSURE IRRIGATION
IR	GRAVITY IRRIGATION
17	LOT/BLOCK NUMBER
★	STREET LIGHT
▲	FIRE HYDRANT
---	DRAINAGE FLOW DIRECTION
---	SECTION LINE
---	100 YEAR FLOODPLAIN
---	EXISTING CURB, GUTTER & SIDEWALK
---	EXISTING LOT LINE
---	EXISTING SEWER
---	EXISTING WATER LINE
---	EXISTING EDGE OF PAVEMENT
---	EXISTING EDGE OF GRAVEL ROAD
---	EXISTING FENCE LINE
---	EXISTING TOP BANK OF DITCH
---	EXISTING GROUND CONTOUR
---	EXISTING TREE
---	FOUND BRASS CAP
---	FOUND 5/8" IRON PIN
---	FOUND 1/2" IRON PIN

DEVELOPMENT FEATURES:

TOTAL ACRES.....±12.0 ACRES
TOTAL LOTS.....51
BUILDABLE LOTS.....43
COMMON LOTS/ACRES.....7/4.0 ACRES/33.3%
COMMERCIAL LOTS.....1/1.05 ACRES
DENSITY DU/ACRES.....3.9 UNITS/ACRE
EXISTING ZONING.....RP
(ADA COUNTY)
PROPOSED ZONING.....R1B
MINIMUM RESIDENTIAL LOT SIZE.....4,000 sq.ft.
AVERAGE RESIDENTIAL LOT SIZE.....5,500 sq.ft.

- NOTES:**
1. SANITARY SEWER MAINS SHALL BE 8" DIAMETER UNLESS OTHERWISE SHOWN.
 2. WATER MAINS SHALL BE 8" DIAMETER UNLESS OTHERWISE SHOWN.
 3. SURFACE STORM WATER DRAINAGE SHALL BE DIRECTED TO STORM DRAIN INFILTRATION TRENCHES AND RETAINED ON SITE.
 4. THIS SUBDIVISION IS SUBJECT TO COMPLIANCE WITH THE IDAHO CODE SECTION 31-3805 CONCERNING IRRIGATION WATER.
 5. ALL LOTS ARE TO BE DESIGNATED SINGLE FAMILY RESIDENTIAL EXCEPT LOTS 1, 2, 11, 12, 36, & 37. BLOCK 1 AND LOT 8, BLOCK 2 WHICH ARE DESIGNATED COMMON LOTS AND ARE TO BE OWNED AND MAINTAINED BY THE HOME OWNERS ASSOCIATION. LOT 10 BLOCK 1 IS TO BE COMMERCIAL LOT.
 6. NO IRRIGATION WATER WILL BE SUPPLIED TO THIS PROPERTY.
 7. A PORTION OF THIS PROJECT IS LOCATED WITHIN THE 100 YEAR FLOODPLAIN. (ZONE "A"). MAXIMUM BASE FLOOD ELEVATION IS 2584.2. HOUSE FINISH FLOOR ELEVATIONS WILL BE SET A MINIMUM OF 1" ABOVE BFE.

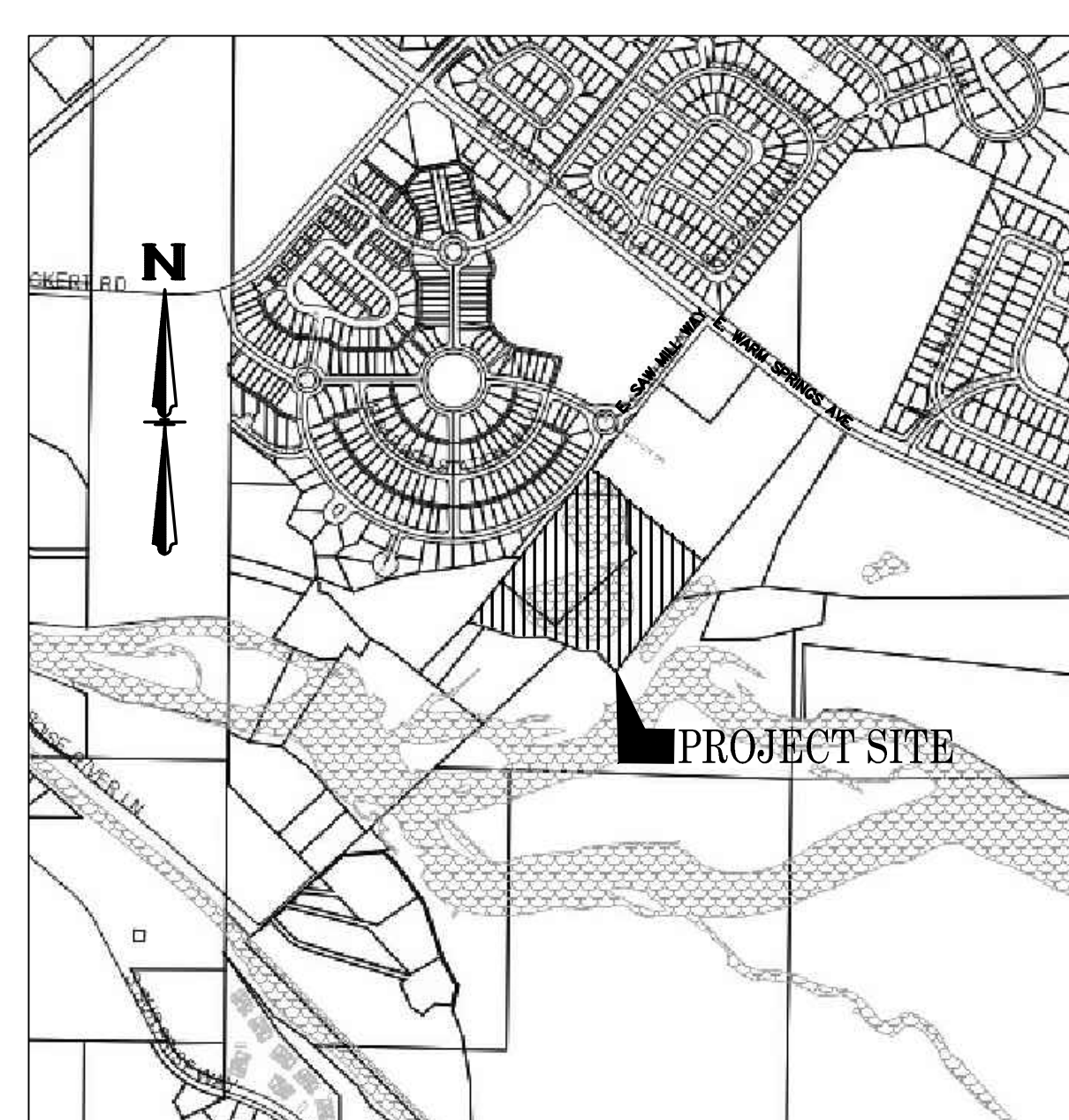
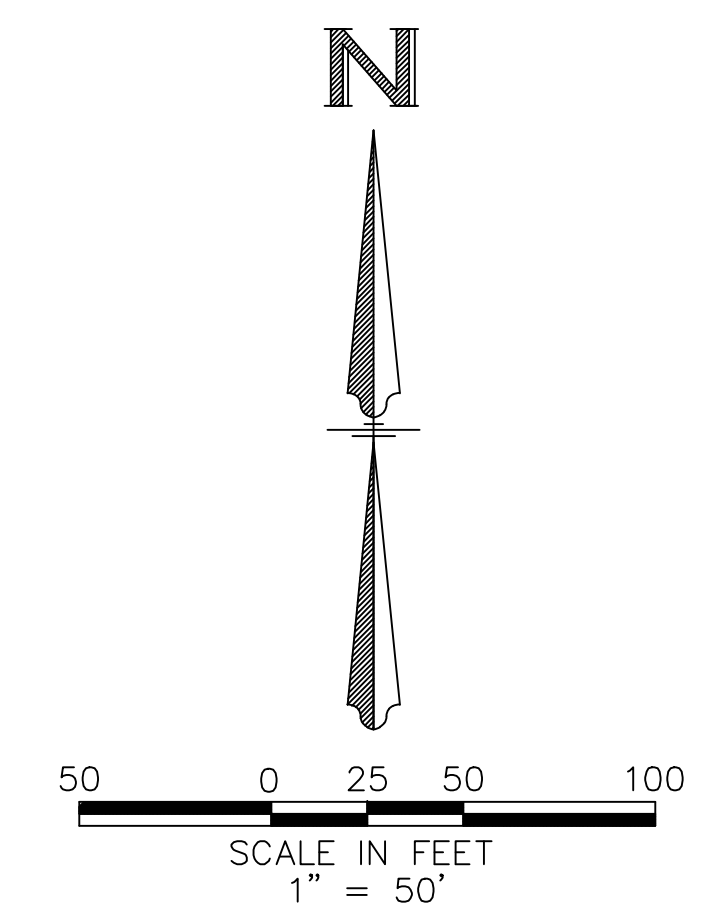
OWNER DAVID C. TRIPLETT 207 W. MAIN ST. EMMETT, ID 83617 (208) 398-8104	DEVELOPER C13, LLC 1827 S. ORCHARD STREET, SUITE 24 BOISE 83705
SURVEYOR SAWTOOTH LAND SURVEY LLC 207 W. MAIN ST. EMMETT, ID 83617 (208) 398-8104	CIVIL ENGINEER JIM E. COSLETT, P.E. ROCK SOLID CIVIL LLC 181 E. 50TH STREET GARDEN CITY, ID 83714 (208) 342-3277

UTILITY REPRESENTATIVES

UTILITY	REPRESENTATIVES	PHONE
GAS	INTERMOUNTAIN GAS	(208) 377-6835
ELECTRICITY	IDAHO POWER	(208) 388-6320
TELEPHONE	CENTURY LINK	1-877-290-5458
CABLE TV	CABLE ONE	(208) 378-6288
SEWER	CITY OF BOISE	(208) 384-3800
WATER	UNITED WATER OF IDAHO	(208) 362-7200
ROADS	ADA COUNTY HIGHWAY DISTRICT	(208) 387-6100
IRRIGATION	N/A	
FIRE	CITY OF BOISE	(208) 576-6500

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208-342-1585



Revisions

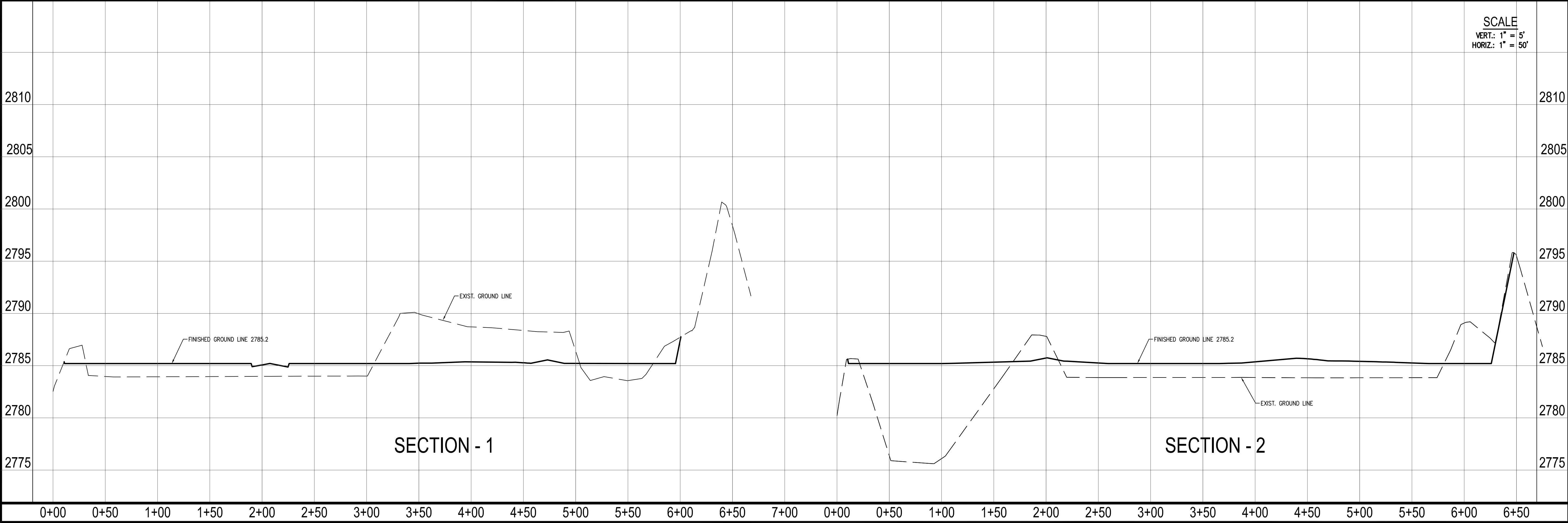
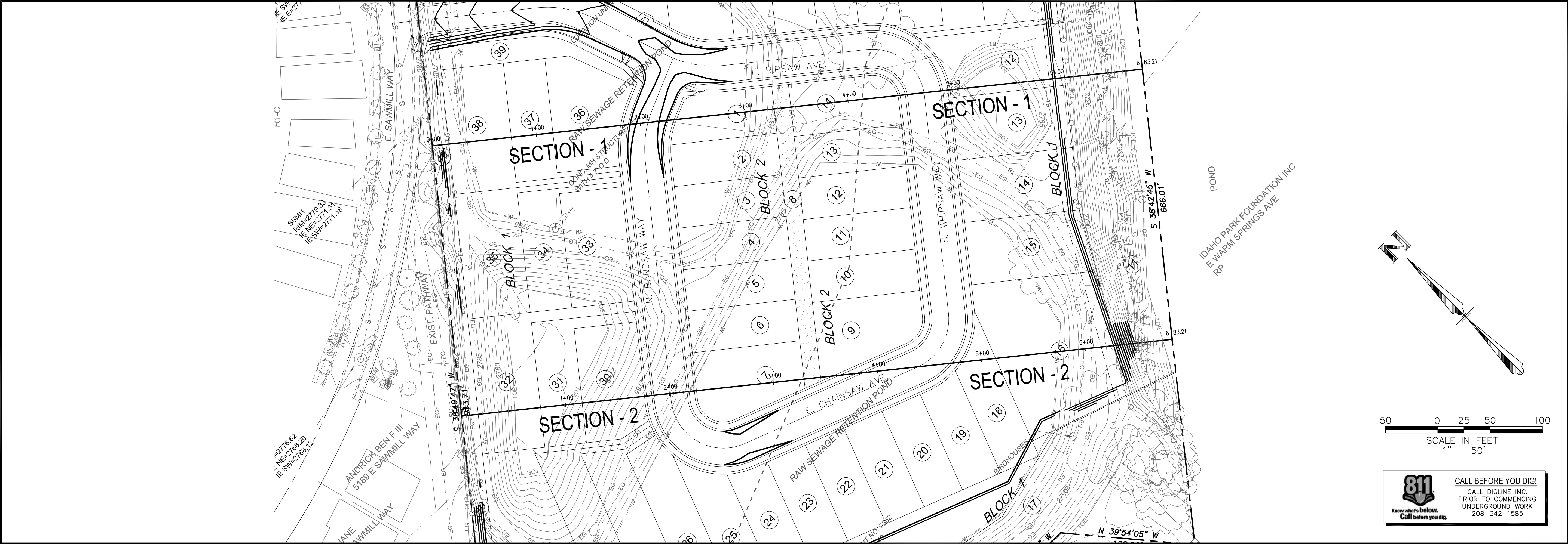
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PROJECT INFORMATION


Project Name: BARBER MILL ESTATES
Sheet Name: PRELIMINARY PLAT
Project No.: RSC-1303
Drawn By: RLC
Date: September 6, 2013
Sheet No.: PP1
1 of 1

PROFESSIONAL ENGINEER
REGISTERED
10692
STATE OF IDAHO
JIM E. COSLETT

ROCK SOLID CIVIL
Civil Engineering and Land Development Consulting
181 E. 50th Street, Suite 24
Boise, ID 83714
Office Phone: 208.342.3277



Revisions	
Date	Description
1	
2	
3	
4	



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Project Name	BARBER MILL ESTATES
Sheet Name	SECTIONS

Project No.	RSC-1303
Drawn By:	RLC
Date:	August 6, 2013
Sheet No.	1

1 of 1





N SAGUARO HILLS AVE

STOP















After Recording
Return to:

Jim Conger
Conger Management Group
1627 S Orchard St, Suite 24
Boise, Idaho 83705

DEVELOPMENT AGREEMENT
[CAR13-00007]

This Development Agreement (this "**Agreement**") is entered into effective this ____ day of _____, 2013, by and between the City of Boise City ("**City**") and C13 LLC (the "**Developer**"). The City and the Developer are sometimes collectively referred to herein as the "**Parties**," and individually as a "**Party**."

WITNESSETH:

WHEREAS, the Developer is the owner of record of that certain real property legally described on **Exhibit A**, attached hereto and made a part hereof (the "**Property**"); and

WHEREAS, the Developer is the applicant before the City of Boise seeking approval of applications CAR13-00007, PUD13-0002, CFH13-0019, and SUB13-0017; and

WHEREAS, the Property is currently zoned RP (Rural Preservation (Ada County)) and holds two abandoned sewer retention ponds. The Property is located in the Barber Valley Planning Area pursuant to the City's current comprehensive plan, Blueprint Boise; and

WHEREAS, the Developer has applied to the City for a conditional rezone to R-1B/DA of the Property described herein (Exhibit A) to develop the Property into a 43-unit planned residential development comprised of detached, single-family homes and self-storage; and

WHEREAS, the Developer has proposed that the Property be annexed and developed pursuant to and in accordance with the City's Comprehensive Plan and Zoning Ordinance in effect on the date of application, and in accordance with the terms and conditions of this Agreement and any amendments hereto; and

WHEREAS, the Developer held with the City a pre-application meeting pursuant to Boise City Code Section 11-03-03.1 on _____; and

WHEREAS, the City's Planning & Zoning Commission and City Council held public hearings as prescribed by law with respect to the development of the Property and this Agreement, including a hearing before the Planning & Zoning Commission on September 16, 2013 and a hearing before the City Council on _____; and

WHEREAS, the City determined that the proposed annexation and initial zoning are appropriate under the conditions and restrictions imposed by this Agreement; and

WHEREAS, all public hearings pursuant to notice as required by law or other action required to be held or taken prior to the adoption and execution of this Agreement have been held and/or taken; and

WHEREAS, the City has the authority pursuant to Section 11-03-04.2 and 11.03-04.15 of the Boise City Code and Sections 50-222 and 67-6511A of Idaho Code to annex and conditionally zone the Property and to enter into this Agreement for the purpose of allowing, by agreement, the proposed development to proceed; and

WHEREAS, the Developer desires to be assured that it may proceed with development of the Property in accordance with this Agreement; and

WHEREAS, it is the intent and desire of the Parties that development of the Property proceed as provided herein, subject to the terms and conditions of this Agreement; and

WHEREAS, the Parties do enter into this Agreement with mutual consideration as reflected in the covenants, duties, and obligations herein set forth.

AGREEMENT:

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

1. Development Permitted by this Agreement. This Agreement shall vest the right to develop the Property, as described on **Exhibit A**, with respect to the following approved applications: CAR13-00007, PUD13-00002, CFH13-00019, and SUB13-00017 (the "**Approvals**"), as specifically restricted by those certain conditions of approval identified on **Exhibit B** attached hereto and made a part hereof (the "**Conditions**").

2. Site Plan. This Agreement incorporates as **Exhibit C** and makes a part hereof that certain site plan submitted and approved by the City with the Approvals (the "**Site Plan**").

3. Conditional Zoning. This conditional R-1B/DA zone shall apply to the Property owned by Developer that is specifically legally described in Exhibit A. The Property is approximately 11.97 acres located at 5237 E. Sawmill Way, Boise. The City shall, following recordation of this Agreement, enact a valid and binding ordinance annexing and zoning the Property R-1B/DA.

4. Recordation. The Developer shall record this Agreement, including all of the exhibits attached hereto, and submit proof of such recording to the City prior to the third reading of the zoning ordinance and formal adoption of CAR13-00007 by the City Council. Failure to comply with this section shall be deemed a default of this Agreement by the Developer. If for any reason after such recordation the City Council fails to adopt the Approvals by appropriate ordinance, the City shall execute and record an appropriate instrument of release of this Agreement.

5. Effective Date. In accordance with Idaho Code Section 67-6511A, this Agreement will be effective upon publication of the ordinance approving the rezone for the Property.

6. Development to be Consistent with the Approvals and this Agreement. The residential development and site work shall be consistent with the approved applications, the conditions of approval, and this Agreement. Failure to construct the development consistent with the approved applications, conditions of approval, and this Agreement shall be considered default of this Agreement by the Developer and subject Developer to the default provisions contained herein.

7. Default. In the event the Developer, its heirs, successors, assigns or subsequent owners of the Property or any other person acquiring an interest in the Property, fails to faithfully comply with all of the terms and conditions included in this Agreement, this Agreement may be modified or terminated by the Boise City Council upon compliance with the requirements of Boise City Code. By entering into this

Agreement, the Developer, for itself and the Developer's heirs, successors, assigns, and personal representatives, does hereby agree that in the event there shall be a default in the terms and conditions of this Agreement, after compliance with the requirements of Boise City Code, that this Agreement shall serve as consent to a rezone of the Property to A-2 zoning, as provided in Idaho Code Section 67-6511A and Boise City Code 11-03-04.2.C(10)(b).

8. Notices: Any and all notices, demands, requests, and other communications required to be given hereunder by either of the Parties shall be in writing and be deemed properly served or delivered, if delivered by hand to the Party to whose attention it is directed, or when deposited in the U.S. mail, postage prepaid, addressed as follows:

To the City:

City of Boise City
c/o Director, Planning & Development Services Department
P.O. Box 500
Boise, Idaho 83701-0500

To the Developer:

C13 LLC
1979 N. Locust Grove
Meridian, Idaho 83646
P.O. Box 1610
Eagle, Idaho 83616

or at such other address or to such other Party which any Party entitled to receive notice hereunder designates to the other in writing as provided above. Developer expressly agrees to notify any successors and assigns of the need to provide the City with current address information. In the event any successor or assign fails to provide an address, the City's obligations of mailing shall be deemed accomplished by use of the address on file with the Secretary of State or similar reporting entity.

9. Attorneys' Fees. Should any litigation be commenced between the Parties concerning this Agreement, the prevailing Party shall be entitled, in addition to any other relief as may be granted, to court costs and reasonable attorneys' fees as determined by a Court of competent jurisdiction. This provision shall be deemed to be a separate contract between the parties and shall survive any default, termination, or forfeiture of this Agreement.

10. Time is of the Essence. The Parties acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, and provision hereof, and that the failure to timely perform any of the obligations hereunder shall constitute a breach of and a default under this Agreement by the Party so failing to perform.

11. Binding upon Successors. This Agreement shall be binding upon and inure to the benefit of the Parties' respective heirs, successors, assigns, and personal representatives, including the City's corporate authorities and their successors in office. This Agreement shall be binding on the owner of the Property, each subsequent owner and each other person acquiring an interest in the Property. Nothing herein shall in any way prevent sale or alienation of the Property, or portions thereof, except that any sale or alienation shall be subject to the provisions hereof and any successor owner or owners shall be both benefitted and bound by the conditions and restrictions herein expressed. This Agreement shall run with the land.

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

This Agreement shall not preclude the application of any law that is specifically mandated and required by changes in state or federal laws or regulations. In the event such law prevents or precludes compliance with one or more provisions of this Agreement, the City and the Developer shall meet and confer to determine how provisions of this Agreement would need to be modified or suspended in order to comply with the law and shall prepare and process the necessary amendment or amendments to this Agreement.

13. Invalid Provisions. If any provision of this Agreement is held not valid, such provision shall be deemed to be excised therefrom and the invalidity thereof shall not affect any of the other provisions contained herein.

14. No Agency, Joint Venture or Partnership. The City and the Developer hereby agree that nothing contained herein or in any document executed in connection herewith shall be construed as making the City and the Developer joint venturers or partners.

15. Construction. This Agreement has been reviewed and revised by legal counsel for both the City and the Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

16. Choice of Law. This Agreement and its performance shall be construed in accordance with and governed by the laws of the State of Idaho, with venue for any action brought pursuant to this Agreement to be in the Fourth Judicial District, Ada County, State of Idaho.

[end of text – signatures on following page]

IN WITNESS WHEREOF, the Parties, having been duly authorized, have hereunto caused this Agreement to be executed, on the day and year first above written, the same being done after public hearing, notice and statutory requirements having been fulfilled.

THE CITY:

CITY OF BOISE CITY,
an Idaho municipal corporation

ATTEST:

By: _____
David H. Bieter, Mayor

By: _____
Jade Riley, Ex-Officio City Clerk

THE DEVELOPER:

C13 LLC,
an Idaho limited liability company

By: _____
_____, _____

EXHIBITS:

Exhibit A: Legal Description of the Property
Exhibit B: Conditions of Approval
Exhibit C: Site Plan

[notary signatures on following page]

STATE OF IDAHO)
) ss.
County of Ada)

On this _____ day of _____ 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared DAVID H. BIETER and JADE RILEY, known or identified to me to be the MAYOR and EX-OFFICIO CITY CLERK of the CITY OF BOISE CITY, the municipal corporation that executed the instrument or the person who executed the instrument on behalf of said municipal corporation, and acknowledged to me that such municipal corporation executed the same.

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

Notary Public for Idaho
Residing at _____
My commission expires: _____

STATE OF IDAHO)
) ss.
County of Ada)

On this _____ day of _____ 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, known or identified to me to be the _____ of _____, the person who executed the within and foregoing instrument on behalf of said _____, and acknowledged to me that such _____ executed the same.

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

Notary Public for Idaho
Residing at _____
My commission expires: _____

Exhibit A

Legal Description of the Property Barber Mill Estates

Located within the SE 1/4, of Section 29, T. 3 N., R. 3 E., B.M., Ada County, Idaho, more particularly described as follows:

Commencing at a found brass cap, marking the W 1/4 corner of said Section 29;

Thence South 42°27'24" West, 649.80 feet to a found 5/8" rebar/cap PLS 7880, shown on Record of Survey No. 5828, Ada County Records;

Thence South 38°49'47" West, 869.76 feet, to a found 1/2" rebar (no cap) and the **Point of Beginning**;

Thence South 59°49'22" East, 92.78 feet, to a found 1/2" rebar (no cap, bent);

Thence South 43°35'07" East, 135.31 feet, to a found 1/2" rebar (no cap);

Thence South 51°22'19" East, 456.94 feet, to a found 5/8" rebar/cap PLS 7880;

Thence South 38°42'45" West, 666.01 feet, to a found aluminum cap PLS 972;

Thence North 39°54'05" West, 128.90 feet;

Thence North 89°27'52" West, 74.35 feet;

Thence North 69°23'32" West, 182.44 feet;

Thence South 89°08'08" West, 129.82 feet;

Thence North 71°40'07" West, 241.49 feet;

Thence North 38°49'47" East, 913.71 feet to the **Point of Beginning**;

The above described parcel contains 11.97 acres, more or less.

EXHIBIT B

Conditions of Zoning Approval

1. GENERAL

- 1.1 The total number of residential units shall not exceed 43 (See Exhibit C- Site Plan)
- 1.2 The development shall have one non-residential building lot for self-storage. It shall be approximately 1.05 acres in size and include no more than 23,000 square feet of storage. (See Exhibit C- Site Plan)
- 1.3 All lots shall comply with the dimensional standards illustrated on Exhibit C.
- 1.4 Residential building setbacks shall be as follows:
 - a. Front: 15' Living Space / 20' Parking
 - b. Street Side: 15' Living Space / 20' Parking
 - c. Interior Side: 5'
 - d. Rear: 15' (30' from northern property boundary)
 - e. Alleys: 6'
- 1.5 Lots 13, 26, 29, 32 and 35, Block 1 are restricted to single story structures. (Exhibit C)
- 1.6 The development shall become a part of Harris Ranch Wildlife Mitigation Association.
- 1.7 Lots 1 and 37, Block 1 shall be dedicated to the Boise City Parks and Recreation Department for the future Greenbelt. (Exhibit C)

2. BARBER POOL CONSERVATION AREA

- 2.1 Lots 11 and 12, Block 1 shall be donated to the Idaho Foundation for Parks and Land.
- 2.2 A six foot tall wrought iron fence lined with chain-link or a storage structure shall be installed to provide a barrier between the development and Idaho Foundation for Parks and Lands property.
- 2.3 An easement shall be provided to Ada County for access to facilities associated with operation of the Barber Dam.

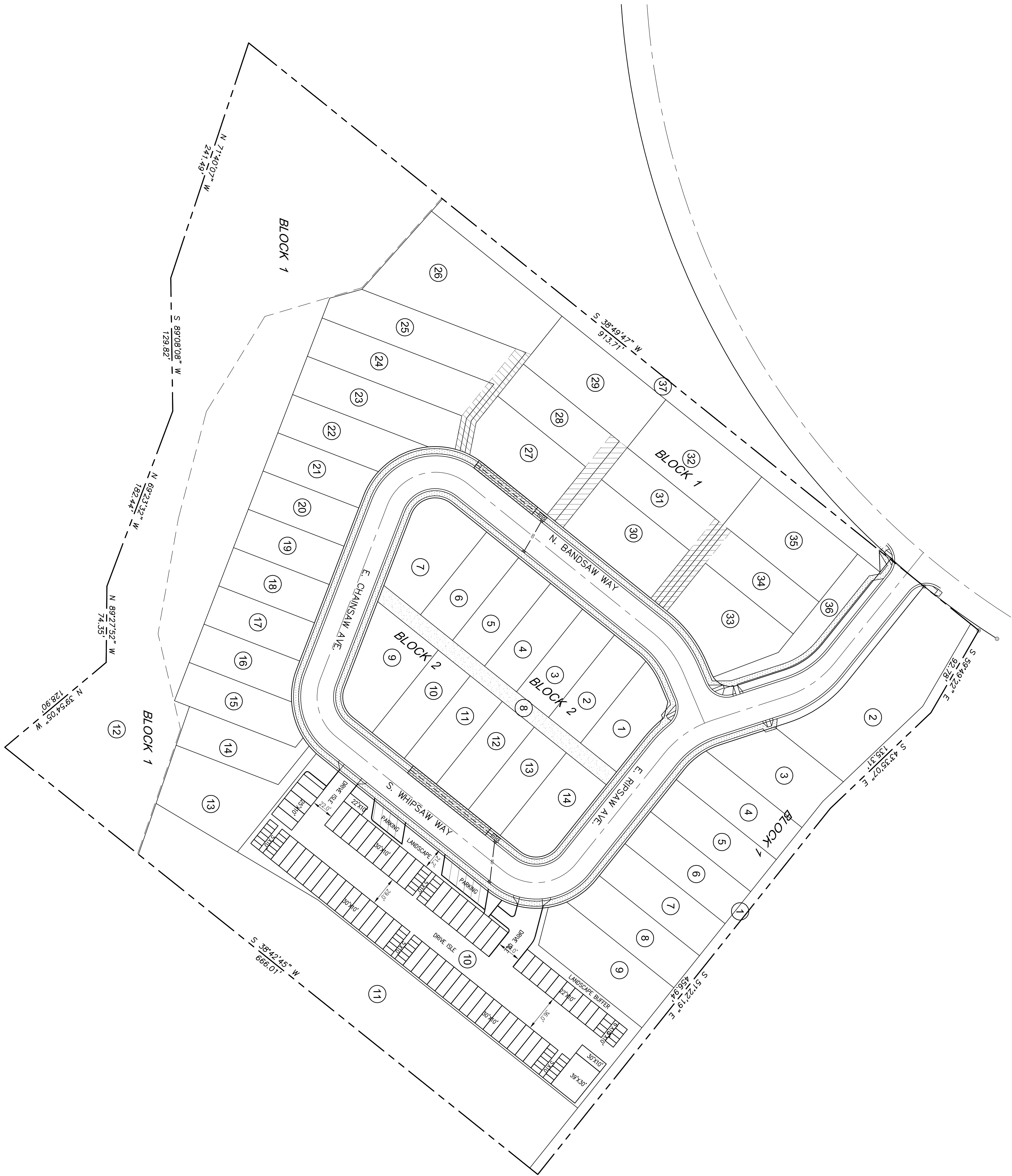
3. SPECIAL CONSIDERATIONS

- 3.1 Barbermill Development will be required to create a disclaimer document that will be executed by the first time and future homebuyers upon the transfer of the property deed. The disclaimer language will be:
 - Homebuyer is aware that there is an outdoor theater venue in a close proximity of Barbermill Estates. Known as the Idaho Shakespeare Festival (ISF). The ISF facilities and associated performances will possibly produce audible events on conjunction with ISF performances.
- 3.2 The developer shall restrict all construction activities at the Barbermill Estates site after 5pm from May 15th to October 1st of each calendar year.
- 3.3 Hours of construction for subdivision infrastructure and residential improvements shall be limited to between 7am to 5 pm May 15 to October 1 of each calendar year.

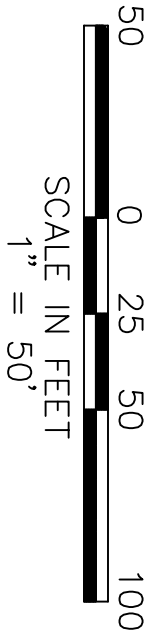
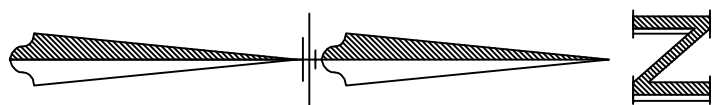
EXHIBIT C

Site Plan

DRAFT



TOTAL AREA.....12.0 AC
BUILDABLE LOTS.....43
COMMON LOTS.....6/4.03 AC
COMMERCIAL LOT.....1/1.05 AC
STORAGE BUILDINGS.....23,090 SF





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208-342-1585

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FOR ALL TYPES OF
UNDERGROUND WORK
208-342-1585

AGENCY REVIEW NOT APPROVED FOR CONSTRUCTION-

Revisions		
△	Date	Description
1		
2		
3		
4		


Stamp	Project Name	BARBER MIL ESTATES
	Sheet Name	CONCEPTUAL LAYOUT

Project No.	RSO-1303
Drawn By	RLC
Date	August 27, 2013
Sheet No.	

1 of 1

REUSE OF DRAWINGS

THIS DOCUMENT AND THE IDEAS AND DESIGNS INCORPORATED HEREIN, AS AN INSTRUMENT OF PROFESSIONAL SERVICE IS THE PROPERTY OF ROCK SOLID CIVIL LLC AND IS NOT TO BE USED IN WHOLE OR PART, FOR ANY OTHER PROJECT WITHOUT THE EXPRESS WRITTEN AUTHORIZATION OF ROCK SOLID CIVIL LLC.



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www.rocksolidcivil.com



Memorandum

From: Conger Management Group
Jim Conger

Date: September 6, 2013

To: Cody Riddle, City of Boise

Re: **Barber Mill Estates**
Sound studies and compatibility

We would like to enter into the record the three sound studies (Exhibits A, B & C) that have been completed at the request of both the Developer and the Idaho Shakespeare Festival. All three studies were conducted in similar locations around the proposed Barber Mill Estates development and they will show very similar results.

EXHIBIT A

Mullins Acoustics

Barber Mill Estates Theatre Noise Study

July 5, 2013

Study done at the request of Developer

Noise levels were measured June 25th-June 28th.

Performances monitored: Green Show (June 25th - main act was cancelled that night)
Blithe Spirit (June 26th) and Much Ado About Nothing (June 28th).

The logged average sound levels that were audible and attributable to the theatre during the show times were:

- Voices, dialogue 44-49 dB
- Music 38-48 dB (44 typical)
- Audience sounds/applause 40-51 dB (45 typical)

No portion of the show's speech or audio content was identifiable or intelligible, but it was audible.

Levels observed from the festival stage were generally less than many pre-existing sounds in the area. Things like birds, wind in the trees, aircraft overflights, and vehicle traffic on Warm Springs Road and E. Sawmill Way were almost always equal to or louder than noise levels attributed to the festival. While amplified sound and occasional crowd noise was intermittently audible, the levels were equal to or less than regularly occurring natural or transportation sounds in the vicinity. One aircraft overflight would have more measurable impact than an entire show.

EXHIBIT B

Pritchard H. White

Sound Survey at Barber Mill Estates and Idaho Shakespeare Festival

July 7, 2013

Survey done at the request of the Developer

Noise levels were measured May 16th – May 17th (8pm-11pm) and May 31st (8p-11pm)
Performances monitored: Blithe Spirit (May 31st)

- Location on the berm at SE corner during the performance of Blithe Spirit
 - Sounds averaging 38dB-55dB – the sound peaked at 9pm and 10pm with a loud scream and other loud theatrical performance.
- Location at Sawmill Way during the performance of Blithe Spirit
 - Sounds averaging 35dB-52dB – the sound peaked at 11pm with music. During the performance between 8pm-10pm sounds attributed to the Idaho Shakespeare Festival were barely audible (35-38dB) at this location.

EXHIBIT C

Wilson Ihrig & Associates

Memorandum – Idaho Shakespeare Festival, Ambient conditions

July 16, 2013

Survey done at the request of Idaho Shakespeare Festival

Ambient noise levels were measured July 16th – July 24th
Performances monitored: Sweeney Todd (July 16th)

- Musical performances or similar: 40dB – 60dB, with an average located below the berm registered at 49 dB.
- Spoken word: 35-45dB.

The Wilson Ihrig & Associates report also provided “expected” sound levels from the Idaho Shakespeare Festival comparing musicals to spoken word performances and is summarized as follows:

- *Location nearest Shakespeare / Below the berm*
 - Musical Leq (equivalent average) = 49dB (The musical Sweeney Todd was performed 24 times out of the 93 total Idaho Shakespeare Festival performances during the 2013 season)
 - Spoken Word Leq (equivalent average) = 39dB (this concurs with the studies performed by the Developer)
- *Location at Sawmill Way (further point as well as adjacent to existing homes):*
 - Musical Leq = 45dB (same comment as above)
 - Spoken Word Leq = 35dB (same comment as above)

NOISE STANDARDS

The Following is a summary of Noise Standards from U.S. Department of Housing & Urban Development (HUD) as well as a typical County in California and the City of Boise’s Airport Influence Zone standards.

EXHIBIT D

U.S. Department of Housing & Urban Development (HUD)

Section 51.103 item c. 2. of 24 CFR Part 51 identifies the Site Acceptability Standards as follows:

- Acceptable: Not exceeding averages of 65dB
- Normally Unacceptable: Averages above 65dB but not exceeding 75dB
- Unacceptable: Averages above 75dB

As the Shakespeare Sound Study clearly identifies the loudest event will have an equivalent average of 35- 49dB, which is well below the HUD acceptable average of 65dB.

EXHIBIT E

California – County of Alameda: Land Use Compatibility for Community Noise Environment

This standard was chosen as a reference due to the fact that it is more stringent than the noise standards set above by HUD. The average noise exposure limits for are as follows:

Single Family Residential:

- Normally Acceptable Day Night Average: 60 dB
- Conditionally Acceptable Day Night Average: 60 – 75dB

Multi Family Residential:

- Normally Acceptable Day Night Average: 65db
- Conditionally Acceptable Day Night Average: 65 – 75dB

As the Shakespeare Sound Study clearly identifies the loudest event will have an equivalent average of 35- 49dB, which is lower than the more stringent noise standard for Alameda County at 60dB for single family residential developments and 65dB for multi family residential developments.

EXHIBIT F

Boise City – Airport Influence Area Design Principles

The Boise City Blueprint Boise Chapter 3 identifies the Airport Influence Area Design Principles and they are the most restrictive Noise policy that we were able to compare. The intent of the Boise City requirement is to impose sound level reduction requirements to new residential housing to address soundproofing and compatibility in specific planning areas. The restrictions start in the Airport Influence Area A Zone and are as follows:

Single Family Residential:

- Area A: Day Night Average 60 – 65db is required to provide a sound level reduction of 25dB.
- Area B-1: Day Night Average 65 – 70db is required to provide a sound level reduction of 30dB.

As the Shakespeare Sound Study clearly identifies the loudest event will have an equivalent average of 35- 49dB during the performances. This project will be significantly under the City of Boise's initial threshold of 60 – 65dB Day Night Average; however, the Developer is willing to accept the Airport Influence Area A requirement of a sound level reduction in every residential dwelling of 25dB.

SUMMARY

Per the Wilson Ihrig & Associates sound study that was directed by the Idaho Shakespeare Festival the equivalent average sound levels will range from 35 – 49dB. Using the Boise City Airport Influence Area Design Principles the concerns for sound start at 60 – 65dB for Day Night Average. A second reference would be the Site Acceptability Standards of the U.S. Department of Housing & Urban Development (HUD) which identified an "Acceptable" rating up to 65dB for the Day Night Average. The sound levels on the subject property are well below any Sound Standards which further supports that this residential use as designed is compatible with the surrounding uses as well as the land planning guidelines from the City of Boise.



Barber Mills Estates Theater Noise Study

prepared for:

C13 Development LLC
1627 S. Orchard Street, Suite 24
Boise, Idaho 83705

July 5, 2013

prepared by:

Earl Mullins, PE

A handwritten signature in black ink, appearing to read 'Earl Mullins'.

The Idaho Shakespeare Festival is located at least 375 feet to the east of the nearest property line and 480 feet from the proposed location of the nearest home in the planned development. This study has been undertaken to evaluate whether sound from the theater events is likely to be an ongoing source of complaints from the residents of this new neighborhood. These will be upscale new homes, some located near the festival property. The city wants to avoid creating a situation of recurring complaints against this pre-existing theater.

Noise levels were measured during the week of June 25-28. On Tuesday June 25, a noise monitor was set up on site at roughly the location of Lot #14 to log data occurring before, during, and after a show. The monitor ran for a total of 48 hours, until 5 pm on Thursday June 27. This covered the Wednesday evening performance of *“Blithe Spirit”*, a different play. This also captured data for the quietest nighttime hours and the throughout the daytime.

Spot measurements / live observations were made on Tuesday evening June 25 at the north end of Lot #38, along Sawmill Way, to quantify the levels reaching the existing neighborhood along this street. There were periods of moderate rainfall during the measurements, and some periods with no rainfall.

The scheduled show for Tuesday was *“Much Ado About Nothing”*. However, the rain caused the cancellation of the main show. The green show (opening act) went on from about 7:45 until about 8:10 pm according to observations, but the main performance was cancelled. This was verified by asking some of the few departing patrons in the parking lot after 9:00 pm.

Field measurements were performed again on Friday June 28 for the next scheduled performance of *Much Ado About Nothing*. This Friday show looked to be a capacity crowd, with the parking lot almost completely full (and beyond full, with many cars parked along the entrance road and driveways) before the show as of 7:30 pm. The show started at about 8:10 pm and ran past 10 pm.

Noise Data

Equivalent Level (Leq) is an integrated summation of time-varying sounds. While not mathematically precise, Leq can be thought of as the “average” sound level for the period. Leq is the most common quantity used to evaluate environmental noise levels.

Noise levels were typically Leq 46 - 50 during most evening hours. (It is normal to have some variation from hour to hour and day to day). The daytime logged high was Leq 55 and the nighttime low was Leq 41 for a given hour.

There was no noticeable increase in Leq levels during the afternoon peak traffic hour, which usually occurs between 5-6 pm. Levels during that time were Leq 46-50, and there were many hours before and after the peak hour that had comparable levels. The nearest lots on the project site are set back about 860 feet from Warm Springs Road, with an existing school on the property to the northeast, so traffic noise was fairly minimal. The sound measurement locations were about 1100 feet from Warm Springs Road.

Based on the hourly data, there appeared to be a small spike in sound level for the period of 10:30 – 11:00 pm. Presumably this corresponds to when the show ends and the audience departs, creating stop and go traffic departing the site. The sound level prior to that time slot was Leq 50-53, and the apparent traffic spike was Leq 55-60, an increase of 5-7 dB in the average level or Leq for that period.

The following intermittent levels were observed:

birds	42-63 dBA	47-57 typical
bullfrogs	38-41 dBA	evening, near dark
cars on Warm Springs	40-46 dBA	
cars on Sawmill Way	48-60 dBA	from west side of project. lot #38
jet aircraft	41-52 dBA	
turboprop overflights	52-70 dBA	Horizon Q-400
wind	46-56 dBA	variable from 0-12 mph
rain	46-52 dBA	typically 46-48 dB
construction equipment	46-53 dBA	across Warm Springs Road

There was earthmoving and other construction equipment audibly operating on a different project located across Warm Springs Road, east of this project site. This activity stopped around 6:30 pm.

Jet aircraft noise was generally from distant overflight at cruising altitude, or from distant straight-in approaches to the airport. Turbo prop aircraft (Bombardier Q-400's operated by Horizon Air) on several occasions flew almost directly over the site on their turning approach back to Boise airport runway 28.

Sound levels were also logged during scheduled show times. Sounds identifiable and attributable to the theater were:

voices, dialogue	44 - 49 dBA	
music	38 - 48 dBA	44 typical
audience sounds / applause	40 - 51 dBA	45 typical

No portion of the show's speech or audio content was identifiable or intelligible, but it was audible.

The levels observed from the festival stage were generally less than many pre-existing sounds occurring in the area. Things like birds, wind in the trees, aircraft overflights, and vehicle traffic on Warm Springs Road and E. Sawmill Way were almost always equal to or louder than the levels attributable to the festival. While amplified sound and occasional crowd noise was intermittently audible, the levels were equal to or less than regularly occurring natural and transportation sounds in the vicinity. At no point did the festival sound control or appreciably raise the Leq level during any observation. Usually sound from birds controlled the Leq for the time period, being closer to the microphone and more consistent in duration. One aircraft overflight would have more measurable noise impact than an entire show.

Noise Ordinance

After completing the planned noise measurements for the evening, I entered the festival site parking lot. At 10:37 pm the theatrical lights were still on, sound was still coming from the theater, almost no one was leaving the show yet, and all cars were still in place. By 10:45 pm, there was a security guard at the main entrance on Warm Springs Road to direct the first trickle of departing traffic.

Based on these observations, we conclude that at least this one show went past 10 pm, and presumably other shows run past this deadline too. This is important because the theater is located just outside Boise city limits, and is governed by the Ada County Noise Ordinance (Chapter 13, Ada County Codes). The Ada County noise ordinance specifically mentions 10 pm as the cutoff for audible amplified sound impinging on residential areas. The text of the ordinance states in part:

5-13.3: Prohibited Acts (abridged text)

A. Between the hours of 10:00 pm one day and 7:00 am the next day, it shall be unlawful for any person or business to make, cause, or allow loud offensive noise by means of voice, musical instrument, horn, loudspeakerother sound amplifying equipment.....which disturbs the peace, quiet and comfort of any reasonable person of normal sensitivities residing in that area. Loud or offensive noise is plainly audible within any residence or business or upon a public right of way or street at a distance of 100 feet or more from the source of said sound.

According to this ordinance language any amplified sound that is plainly audible more than 100 feet from its source is considered to be a nuisance and is prohibited. Sound from the festival stage, audience, and the audio system is audible at the proposed location of the nearest new homes particularly lots 9-17. Since show sound was also comparably audible at the west end of the property on Tuesday, we conclude that show sound would be intermittently audible throughout all the parcels of this project.

The Boise noise ordinance has similar language describing a violation as amplified sound “plainly audible within 100 feet of a residence”.

“Plainly audible” is a subjective and therefore challenging term to define, with some inherent vagueness. If one can understand the words being spoken or identify specific melodies, or if the levels from amplified sound are roughly 10 dB above the ambient noises, that would clearly be considered as “plainly audible”. In this case, the loudest stage sounds are audible only on an intermittent basis, and no content is intelligible. Sound coming from the stage is not continuously audible. Only the loudest of intermittent stage sounds such as loud dialogue, music closing a scene, or hearty audience reactions are audible. The observed sounds fall into a “gray area” where they are audible at times, but would probably not be considered plainly audible according to a person of reasonable sensitivities.

Conclusions

Based on the data and direct observations, the sound from the festival stage is reasonably well controlled by:

- the aiming / configuration of the audio system
- the design and orientation of the amphitheater, facing eastward
- the fairly substantial berm along the property line at the eastern end of this parcel

Show sounds are equal to or lower than natural pre-existing noises in the neighborhood. All of the observed show sounds were at or below the levels of pre-existing environmental noises in the area such as birds, local traffic, and aircraft flyovers. At no time did the show levels add appreciably to the sound levels.

No noise impact is expected for the newly planned homes that are part of this development. There would appear to be no adverse noise impact from the festival theater on the existing homes along Sawmill Way.



**Sound Survey
at
Barber Mill Estates and Idaho Shakespeare Festival
July 7, 2013**

**by
Pritchard H. White, Ph. D., M. E.
Boise, ID**

Summary

In order to evaluate the sound environment of potential residents of Barber Mill Estates, measurements of evening and night noise in the area have been made. Subjective evaluations and quantitative measurements indicate typical suburban/rural noise characteristics, with audible intrusions from Idaho Shakespeare Festival.

These measurements were made at two locations on the Barber Mill Estates property: adjacent to the gate in the chain link fence beside Sawmill Way, and on the berm near the south-east corner of the property closest to Idaho Shakespeare Festival. Numerous measurements were made at these locations between 7:30 PM and 11:00 PM on evenings with and without a performance of Idaho Shakespeare Festival. Additionally, audio samples were recorded to document the general sound environment.

It has been determined that the ambient sound in the two locations is determined primarily by natural sounds (geese, birds, crickets, frogs, etc) and by distant and local vehicular traffic on Eckert and Warm Springs Avenue. Both these sources tend to decrease during the evening and are minimal by 11:00 PM. The sounds of loud events from the Idaho Shakespeare Festival are clearly audible at both locations.

Sound from the Idaho Shakespeare Festival is clearly audible at a distance of 100 feet, thus making the Festival in violation of Ada County Code 5-13-3. (See attached Ordinance). Bringing the Festival into compliance with the Ordinance will require physical or operational changes.

Noise associated with aircraft, geese, and vehicle traffic will be audible in the Idaho Shakespeare Festival during a performance, but It is unlikely that normal human generated sounds in the Barber Mills Estates will be audible.

Sound Measurements.

No Performance, 5/16/13 and 5/17/13

Location	Time	dBA	Comments
Beside Sawmill at gate	8:00	41-43	Kids playing at school
			Geese fly by
			Cars & bikes on WSA
	9:00	39-46	Geese, cars on WSA
			Kids at school, airplanes
	10:00	40-46	Geese, birds, crickets
			Frogs
		59 peak	Airplane
		38-41	Ambient
	11:00	40-41	Geese, frogs, crickets,
			water sprinklers
		36-39	Distant city hum, cars on
			Eckert, frogs, crickets

No Performance, 5/16/13 and 5/17/13

Location	Time	dBA	Comment
On berm at SE corner of BME	8:00	41-43	Kids at school
closest to ISF			Cars & bikes on WSA
			Birds, wind in trees
		47 peak	Geese fly over
		40-42	No geese, just crickets, birds
	9:00	41-43	Geese, kids at school
			Traffic on WSA
	10:00	38-41	No kids, no geese, no cars
		59 peak	Airplane fly over
	11:00	37-40	Few birds, crickets, cars
		40-45	Cars on WSA & Eckert
		38-39	Distant city hum, ambient

In all cases there is a basic steady ambient noise at a level of about 38-40 dBA in the early evening and dropping to around 36-38 dBA in the late evening (11:00 PM). On top of this come various events that are very audible and often measurable such as children playing at Riverstone school, geese flying over,

airplanes, and loud cars and motorcycles on Warm Springs Avenue or Eckert Street.

Similar measurements were made when Idaho Shakespeare Festival was giving a performance.

ISF Performance "Blithe Spirit", 5/31/13

Location	Time	dBA	Comment
Beside Sawmill Way at gate	8:00	40-44	Cars on WSA, kids playing
			No ISF sounds
Strong wind from west			Dog barks, voices
10-15 MPH		50	Kids yelling loud
	9:00	41-43	Birds, kids, WSA cars
		38-41	No wind, kids gone
			Some ISF audible
	10:00	35-38	Ducks, frogs, WSA cars
Wind calm			ISF barely audible
	11:00	35-38	Ambient, no cars
		52 peak	Music & FX very audible
		45-50	Final music & applause

Location	Time	dBA	Comment
On berm at SE corner of BME	8:00	38-40	Between wind phases
next to ISF		46	Applause
		44-46	Kids at school, speech on PA
		40-41	Music audible
		40-41	Speech audible
	9:00	40-42	Performance barely audible
			Kids at school audible
		43-45	Loud performance, kids
		49 peak	Loud performance
		55 peak	Loud performance
		50-51	Music
wind calm	10:00	39-41	Ambient
		55 peak	Loud scream, thunder
		43-46	Loud performance
		49	Music & applause
	11:00	47-52	Final music & applause
		35-38	Ambient

In all cases there is a basic steady ambient noise at a level of about 38-40 dBA. On top of this come various events that are very audible and often measurable such as children playing at Riverstone school, geese flying over, airplanes, and loud cars and motorcycles on Warm Springs Avenue or Eckert Street. For most of the evening the performance is weakly audible, but there are some dramatic moments of loud speech, special effects, and music.

It must be noted that this performance (Blithe Spirit) is primarily a drama, with little music. Musical performances must be measured to determine if an orchestra, sound effects, and singing make a different environment.

In the above tables the term "ambient" refers to the sound environment when there are no obvious extraneous sources such as cars, children, geese, etc. It would include distant traffic, wind in the trees, crickets, and distant city hum.

Noise of Proposed Development

The proposed development is composed of 47 single family residences on small lots. The noise signature of this development would be of similar nature to that of the Sawmill Way and Mill District development. The major noise sources would be cars or motorcycles on the streets, outdoor backyard loudspeakers, and children playing. Neighbor politeness and consideration will likely reduce loudspeaker noise, and because there are no pools or recreation facilities in the development, children noise will be minimal. However, children from this development could use the Riverstone School facilities and create more noise at that site.

As humans, we are less sensitive to the absolute level of noise but quite sensitive to the variations or intermittent events. Living in an urban area with a steady background noise level of about 45 - 50 dBA can be very acceptable and usual for many people. On the other hand, suburban and rural residents with an ambient level of 35 to 40 dBA will find random incursions of noisy cars, airplanes, trains, or animals disturbing, even though their noise exposure measured over a complete day is less than for city dwellers.

It is expected that the residents of Barber Mill Estates will enjoy a relatively quiet night time noise environment, with base levels about 35 to 40 dBA. This is considerably quieter than in areas closer to the central city. Sounds intruding into this community will emanate from geese and other birds, crickets, cars on Warm Springs Avenue and Eckert Street, children playing at Riverstone school, and Idaho Shakespeare Festival. Their tolerance for these intrusions, will depend to a great extent, on the resident's attitudes toward these sources.

Noise in Other Boise Neighborhoods

Noise in other Boise neighborhoods has been measured and is given in the table below. Night time noise in Barber Mill Estates will be somewhat less than in other residential neighborhoods on the east side of Boise.

Boise Ambient Noise

Location	7 -8 AM	5 - 6 PM	10 - 11 PM
ParkCenter & Broadway		68-72	
ParkCenter Blvd, front of #380		59-64	
Behind Park Suite Hotel	50-52	53-54	44-47
Bike path behind building site	50-51	53-54	42-43
Apartment by bike path	50-52	51-53	
Bike path by river		52-54	43-44
Greenbelt Wildlands Trail		46	
Southshore Village, River Run Dr.		47-49	
Pennsylvania Avenue		48-49	42-44
MK Nature Center	49-51	48-50	42-43
Kimberly Town Houses	48-51	48-50	
Warm Springs Meadows, Lewis St		47-49	
Warm Springs Estates, Lamar St.	46-47	45-46	40-42
Holly St. dead end		48-52	
Elevation Ridge		42-65*	
Riverland Terrace			32-36

* exclusive of aircraft noise

Idaho Shakespeare Festival Noise Considerations

There is concern that the sound from performances at ISF are intrusive in the surrounding community and may lead to neighbor complaints and legal action. While ISF is a great asset to the City and Barber Valley, neighbors who are annoyed by performance sound interrupting their sleep or TV watching may be less forgiving. The situation is somewhat clouded because the noise ordinances of Boise City (where the neighbors are), and Ada County (where ISF is) are different.

According to Boise City Attorney the County Ordinance is primary here because that is where the noise source is located. The ordinance seeks to abate loud and offensive noise between 10:00 PM and 7:00 AM. It defines such noise as being "plainly audible" on a public street or right of way at a distance of 100 feet. (See Noise Ordinance at end of report) Noise of this nature has been observed and measured at Sawmill Way, a distance about 1000 feet from ISF. Comments from Harris Ranch Mill District residents on Sawmill Way support this observation. It should therefore be plainly audible on the proposed public streets in the Barber Mill Estates compound at a distance of about 500 feet.

To comply with the Ada County Ordinance and reduce its impact on the surrounding community the Idaho Shakespeare Festival must take steps to reduce its sound radiation. Such steps might include physical noise barriers on their property, changing the speaker configuration, electronically limiting the sound power of its amplification and speaker system, or ceasing activity at 10:00 PM.

An alternate option would be to request a waiver or variance to the Ordinance from Ada County. Such a waiver would reduce the legal liability, but would not reduce the intrusion into the surrounding community.

Impact of Community Noise on Shakespeare Festival

There is concern by ISF that noise from the adjacent Barber Mill Estates development would be detrimental to the performances at ISF. There is no factual basis for such concerns.

The acoustic environment in the ISF during a theatrical performance will range from about 45 to 85 dBA, with a background noise (no speech, no audience talking) of 35 to 40 dBA. The loudest interfering sounds will be from aircraft (50 to 60 dBA) or geese formations (40 50 dBA). Such noise will definitely be audible to the audience. There are no measures that ISF can take to reduce these noise levels.

The next most significant noise source is vehicular traffic on Warm Springs Avenue. Cars, trucks, and motorcycles produce peak levels of about 45 dBA in audience area, and would be definitely audible during some of the performance. ISF cannot control the noise of the vehicular sources, but can install sound shielding walls on that side of the facility to reduce the sound in the audience area.

It must be noted that there is much development occurring along Warm Springs Avenue and the vehicle traffic will increase significantly in the next few years. This increase in traffic will likewise increase the frequency of loud intrusions to ISF. A doubling in population density (people per square mile) would increase the ambient noise in the Valley by about 3 dBA. Reducing the speed limit from 45 MPH to 35 MPH on Warm Springs Avenue and Eckert would reduce the traffic generated noise by about 3 dBA.

Of slightly less strength than vehicles are the sounds of children on the Riverstone School playground. The shrill yelling of the children would be audible to the audience during the quieter portions of the performance. Generally speaking, the children leave the playground about sundown and are not a factor by 9:30 or 10:00 PM. Other than restricting access to the play ground, only a noise wall at the ISF facility can reduce the noise in the audience area.

Noise generated in the adjacent Barber Mill Estates will be primarily from radio and television, human conversations, dogs barking, children playing, and water sprinklers. Vehicles on the street and garage door operating will be additional sources. It is not expected that motor powered yard maintenance equipment will be operating after sundown. In general, the noise environment in this development will be in the range of 35 - 40 dBA in the evenings.

There might be an occasional specific or unusual noise source in the Barber Mill Estates community, such as from power tools, revving engines, or squealing tires, but given the socio-economic status of the community this would not be

long tolerated by nearby neighbors. After all, the Boise City Noise Code prohibits such noise from being audible at 100 feet from the source, and law enforcement can be summoned..

Legally generated noise in the Barber Mills Estates community may be barely audible at a distance of 100 feet, but would be diminished by 14 dB at the 500 foot distance from the community to the ISF. The berm, arena configuration, and ground attenuation would reduce it by another 5 dB in getting to the audience. At this distance the BME community noise would be well below the threshold of local ambient noise in the ISF and would not be audible.

Conclusion:

Noise generated by performances at the Idaho Shakespeare Festival is currently audible at distances of 500 to 1000 feet from the venue. Therefore it is in violation of the Ada County Noise Code. If this noise were to be reduced to a legal level at 100 feet it would be inaudible in the BME community at 500 to 1000 feet. It would also be inaudible to Harris Ranch Mill District residents on Sawmill Way.

Noise generated in Barber Mills Estates that meets the Boise City Noise Code will not be audible in the Idaho Shakespeare Festival.

If the noise ordinances of Ada County and Boise City are obeyed by all parties, there is no reason for conflicting activities. Should the parties exceed the noise limits, law enforcement actions can be called into play.

**Qualifications of
Pritchard H. White, Ph. D., M. E.
Boise, ID 83716**

Dr. White is a Professional Engineer with over 45 years experience in the measurement, prediction and control of noise and vibration. For 25 years he was engaged in the aerospace industry, working for USAF, NASA, US Navy, and private contractors on noise issues with space vehicles, rocket engines, jet engines, wind tunnels, submarines and torpedoes. For the last 21 years he has been an acoustical consultant in Boise, working on a variety of noise problems for local government and private industry. Clients include City of Boise, Hewlett-Packard, J. R. Simplot and Idaho Power. Additional contract work has been done with architects B R. Strite, Charles Hummell, and Andy Erstad.

Ada County Codes
Chapter 13
NOISE

5-13-1: SHORT TITLE:

5-13-2: AUTHORITY AND PURPOSE:

5-13-3: PROHIBITED ACTS:

5-13-4: EXEMPTIONS:

5-13-5: PENALTY:

5-13-1:

This chapter shall be known and cited as the ADA COUNTY NOISE ORDINANCE. (Ord. 331, 6-3-1997)

5-13-2: AUTHORITY AND PURPOSE:

This chapter is enacted pursuant to authority conferred by article 12, section 2, Idaho constitution, and sections 31-714, 31-801, Idaho Code. Its purpose is to provide for and further the safety, health, peace, good order, comfort and convenience of the inhabitants of Ada County by providing a procedure for abating loud or offensive noises within the county between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. (Ord. 331, 6-3-1997)

5-13-3: PROHIBITED ACTS

A. Between the hours of ten o'clock (10:00) P.M. one day and seven o'clock (7:00) A.M. the next day, it shall be unlawful for any person or business to make, cause, or allow loud or offensive noise by means of voice, musical instrument, horn, radio, loudspeaker, automobile, machinery, other sound amplifying equipment, domesticated animals, or any other means which disturbs the peace, quiet, and comfort of any reasonable person of normal sensitiveness residing in the area. Loud or offensive noise is that which is plainly audible within any residence or business, other than the source of the sound, or upon a public right of way or street at a distance of one hundred feet (100') or more from the source of said sound.

B. Due to extreme heat during the summer months of June, July and August construction noise may begin at six o'clock (6:00) A.M.

C. Due to extreme heat during the summer months of June, July and August landscape maintenance noise may begin at six o'clock (6:00) A.M. (Ord. 331, 6-3-1997; amd. Ord. 710, 9-2-2008; amd. Ord. 753, 6-21-2010)

5-13-4: EXEMPTIONS

This chapter shall not apply to emergency vehicles, while acting in response to an emergency; locomotive or other railway equipment; airplanes and other FAA regulated aircraft; scheduled, organized sporting events; agricultural fairs; nor public displays of fireworks authorized and approved under chapter 26, title 39, Idaho Code. (Ord. 331, 6-3-1997; amd. Ord. 332, 6-26-1997)

5-13-5: PENALTY

Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable as provided in section 18-113, Idaho Code as it may from time to time be amended and/or retitled. (Ord. 331, 6-3-1997; amd. Ord. 603, 1-30-2006)



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Memorandum

19 August 2013

TO: Mark Hofflund
FROM: Deborah A. Jue
SUBJECT: Idaho Shakespeare Festival, Ambient conditions

Following is a summary of the results obtained from observations of the “Sweeney Todd” production on 16 July 2013 and the ambient noise survey we conducted from 16 through 24 July 2013.

Background

- An application has been filed to build 47 new single family residences known as the Barber Mill Estates (BME). This development would be located on a parcel currently containing sewage lagoons (Triplett property) to the west of the Idaho Shakespeare Festival (ISF) amphitheater. The existing fence on the eastern side of the Triplett property is very close to the property line of the proposed BME development.
- A noise study conducted by Mr. Earl Mullins of Mullins Acoustics, dated July 5, 2013, concludes that while sound from the ISF productions is audible in this area of the BME development (lots 9 – 17), it is similar in level to existing sources; nor would there be adverse impact from ISF on new homes along Sawmill Way at the western side of the development, where ISF productions also are audible.
- In contrast, a noise study conducted by Dr. Pritchard White, dated July 7, 2013, concludes that the existing spoken word ISF productions such as “Blithe Spirit” would be plainly audible within the proposed BME development.
- The productions that Mr. Mullins and Dr. White observed were “spoken word” productions (“Blithe Spirit” and “Much Ado about Nothing”), for which microphones and speakers are used to provide speech reinforcement of the actors’ voices and improve speech intelligibility; the intention of speech reinforcement in this kind of production is to augment the direct sound from the actors’ voices, and to amplify the voice as little as possible.
- There is an earth berm on the Triplett property bordering the ISF pond, approximately 8 to 10 feet above the surrounding topography. The ISF amphitheater is visible through the trees at this location. At some areas along the berm the sound is partly shielded by the ISF interpretive center.
- At some areas inside the Triplett property, the berm blocks line of sight to the ISF amphitheater.
- Assuming that the new development will have a comparable ground elevation as the highest ground on the lagoon property, the roofline of single story homes would be slightly higher than the berm. The second floor of homes in the new development would have direct line of sight to the ISF amphitheater.

- Based on noise measurements and modeling that WIA conducted in 2001¹, we expect that amplified sound levels on the order of 40 dBA Leq and higher will be audible at residential receivers.
- It has been reported to us that despite the information provided in Mr. Mullins' report, spoken word ISF productions are clearly audible in the nearby Harris Ranch neighborhood, for instance near homes on E. Sawmill Way and on Barber Station.

Observations

- Figure 1 illustrates the study area and the noise measurement locations used during our noise survey.
- Figures 2 and 3 summarize the daily variations in noise levels at each of the noise logger locations (1a and 2a). The sound was measured continuously, with the statistical values stored for each 15-minute interval. Comparing Figures 2 and 3 indicates that the sound levels in the amphitheater and near the berm for "Sweeney Todd" were typically 10 dBA higher than "Much Ado About Nothing". These figures are discussed more fully below.
- On the evening of 16 July 2013, Deborah Jue, a Principal consultant with WIA, observed sound levels within the ISF amphitheater and near the new development property line from a production of "Sweeney Todd", a musical with a live orchestra and amplification of the actors. Musicals require more amplification than spoken word productions. Ms. Jue's observations were as follows:
 - The voices and music from the production were clearly audible near the berm, with the highest and most prominent sounds generated during singing.
 - The intervening trees are not expected to provide any significant sound reduction to the BME development; typically a dense wood 100 ft deep is required to provide substantial noise reduction.
 - Near the BME property line closest to ISF, the most audible and highest noise levels from the production were experienced at Location 2c, where the berm drops off and there is a clear acoustic line of sight to the ISF amphitheater.
 - There was a thunderstorm that occurred around 8:20 PM to 8:40 PM. The show was paused during this time, and resumed at approximately 9 PM. Strong winds gradually kicked up shortly after this, eventually causing the show to be called off around 10:30 PM. Thus, this accounts in part for the differences between Figures 2 and 3 between the other nights when "Sweeney Todd" was run.
 - Shortly before 10:00 PM, Ms. Jue relocated to E. Sawmill Way. The strong winds made it difficult to hear anything, but the opening musical number of the second act was clearly audible, prior to the rest of the performance being cancelled for actors' safety around 10:30 PM.
 - Table 1 summarizes the sound levels observed at each location. The data is presented in terms of the equivalent noise level, Leq, and the typical range defined by the statistical descriptors: L10 – frequently occurring maximum sounds and L50 – median noise level.

¹ "Idaho Shakespeare Festival Amphitheater, Acoustical Study – Propagation of Amplified Sound/Effect of Traffic Noise on the Amphitheater," 16 January 2001.

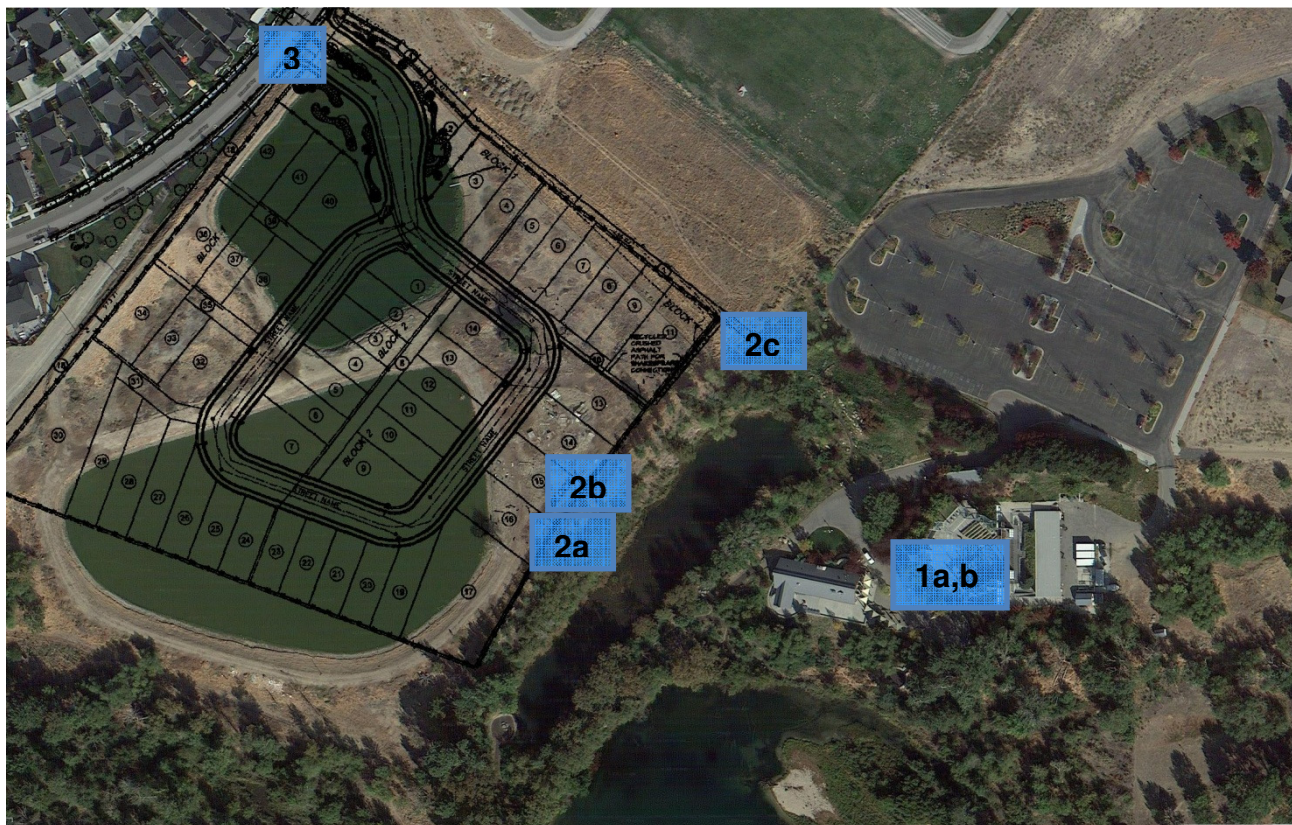


Figure 1 ISF, Proposed New Development and Noise Measurement Locations

Table 1 Summary of Measured Sound Levels - July 16 (Short-term)

Location	Time	Observed Sound Levels			Comment
		Leq	L10	L50	
1b: ISF back of house	7 pm – 8:30 pm	72	76	64	Greenshow and beginning of 1 st act into rain storm
2a: On berm	8:38pm -8:45pm	50	52	45	Middle of 1 st act
2b: Fence line behind berm	8:47 – 8:53	49	52	41	Towards end of 1 st act, shielded by berm
2c: Near ISF parking lot (path) – no berm	8:55pm	57	60	54	3 minute observation, end of 1st act
3: E. Sawmill Way	10:30pm +	n/a	n/a	n/a	2 nd act, before show called for high wind. Singing audible around 60 dBA (with wind)
Leq: Equivalent sound level – equivalent sound energy as a time varying event L10: Frequently occurring maximum sound level L50: Median sound level					

Ambient Long-Term Noise Survey Preliminary Results:

As mentioned above, two long-term noise surveys were conducted to document the outdoor ambient conditions over several days. One noise logger was placed in the ISF amphitheater to document the variation of sound during ISF productions. The second noise logger was located in a tree on top of the berm, to document the noise levels on the Triplett property near the BME development.

Figure 2 summarizes the 15 minute Leq sound levels documented at Location 1a in the ISF amphitheater. During the evening hours, this data shows a 10 dBA difference between the “Sweeney Todd” productions and the “Much Ado About Nothing” productions. Figure 3 similarly presents the data documented at Location 2a on the berm, and the noise levels corresponding to the “Sweeney Todd” productions show a similar 10 dBA difference. The “Much Ado About Nothing” productions are almost indistinguishable from the ambient conditions measured on July 22 with the ISF stage silent.

Figure 4 also shows the frequently occurring maximum events measured at Location 2a, which are possibly comparable to Mr. Mullins’ intermittent noise observations. Mr. Mullins observed ISF-related sounds on the order of 38 to 51 dBA, with 44 to 45 dBA being typical. At the berm, the results from “Much Ado About Nothing” are very similar to Mr. Mullins’s results, however during “Sweeney Todd” the sound levels measured by WIA were about 10 dBA higher.

Except for the evening period on 16 July during the thunderstorm, no other measureable precipitation occurred during the noise survey, and no other periods experienced the same high winds.

Table 2 Expected¹ Sound Levels from ISF – Musicals vs Spoken Word

Location	Musical or Similar		Spoken Word	
	Leq	L10	Leq	L10
Top of Berm	50	52	40	42
* Fence line (below and behind berm)	49	52	39	42
BME property line (no berm)	55	60	45	50
* E Sawmill Way	45	55	35	45
Note 1: Expected sound level based on distance, topography and observed sound levels on 16 July Leq: Equivalent sound level – equivalent sound energy as a time varying event L10: Frequently occurring maximum sound level				

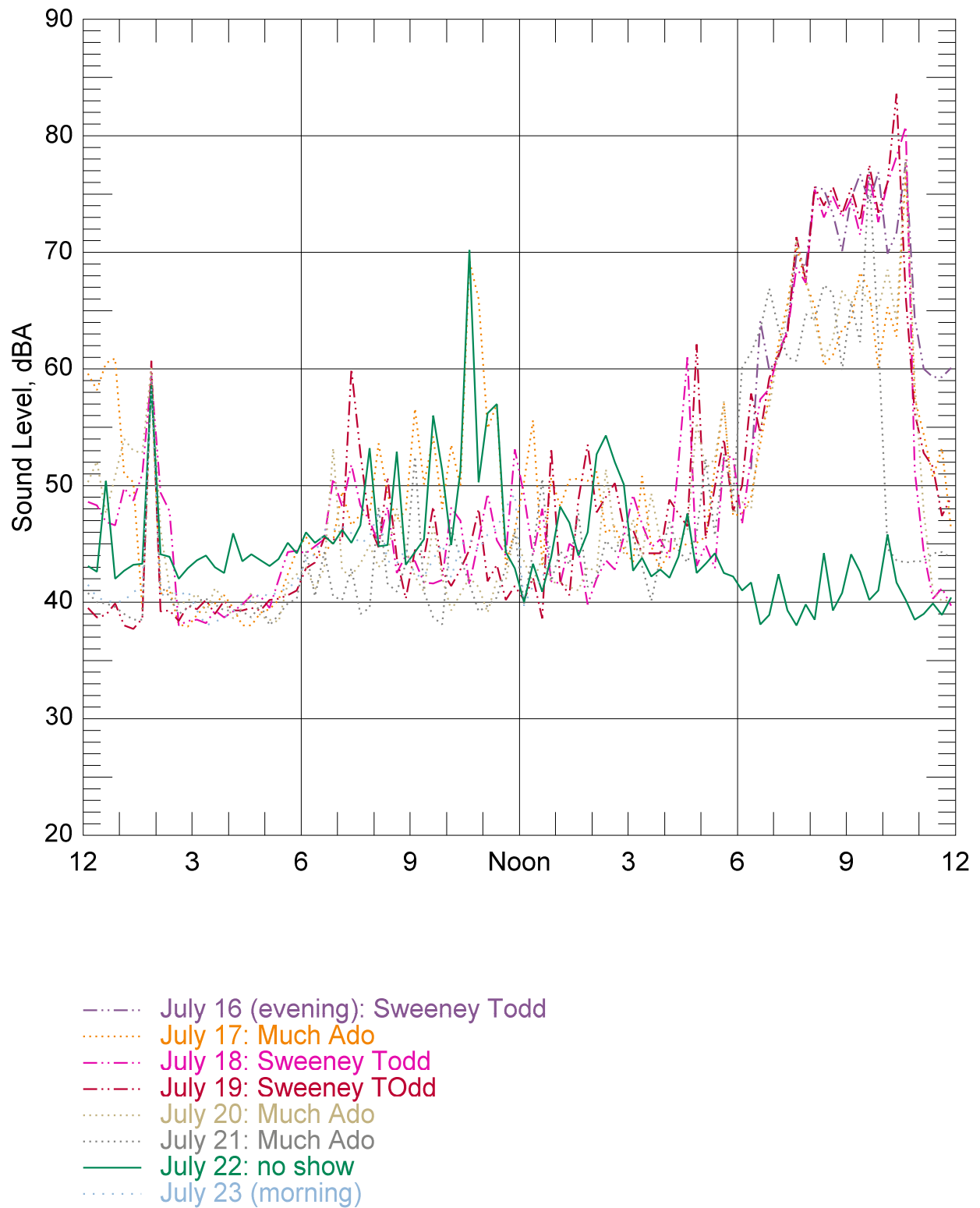


Figure 2 Noise Survey Results at ISF Amphitheater, 15-minute Equivalent Noise Levels (Leq)
Location 1a

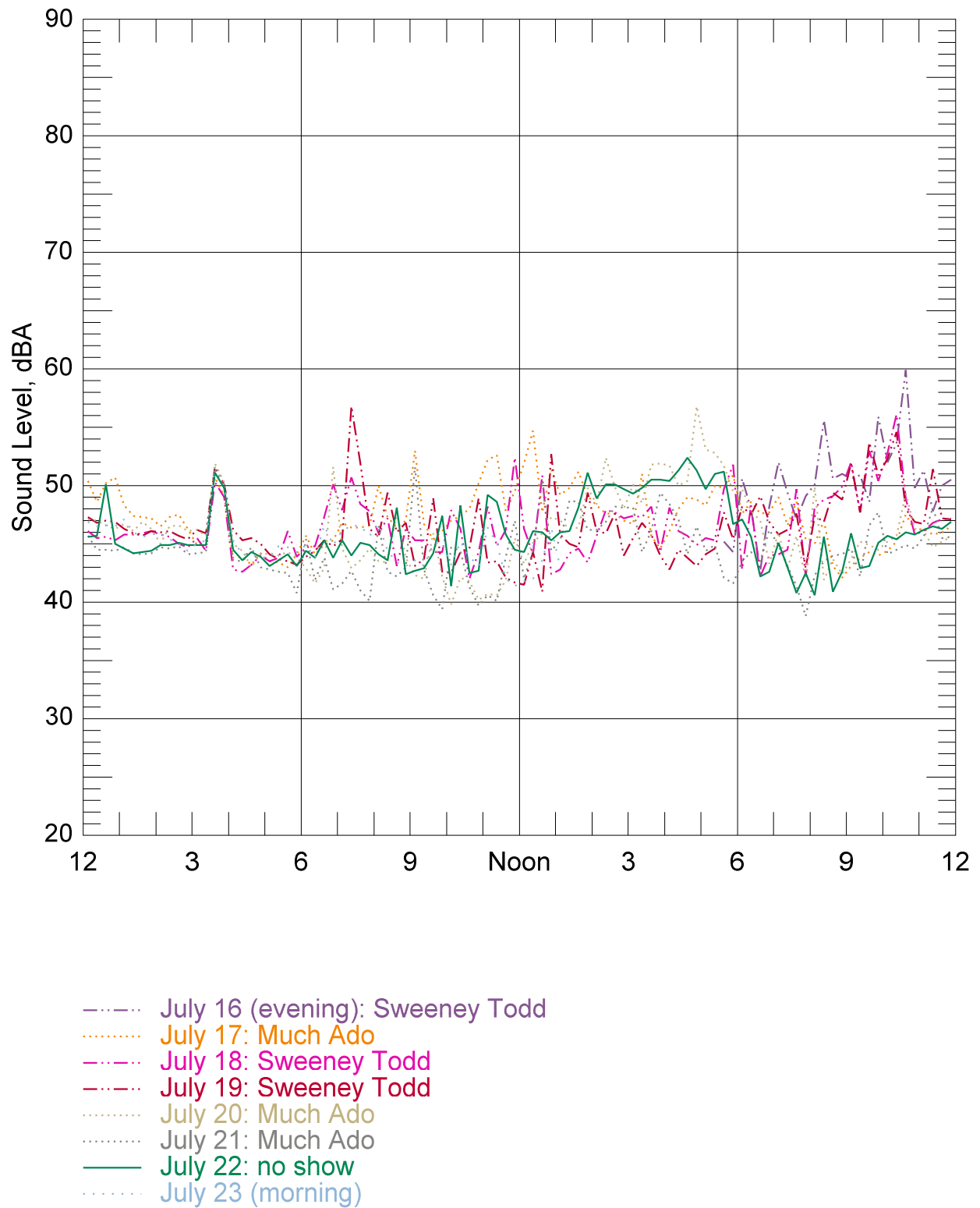


Figure 3 Noise Survey Results at Berm, 15-minute Equivalent Noise Levels (Leq)
Location 2a

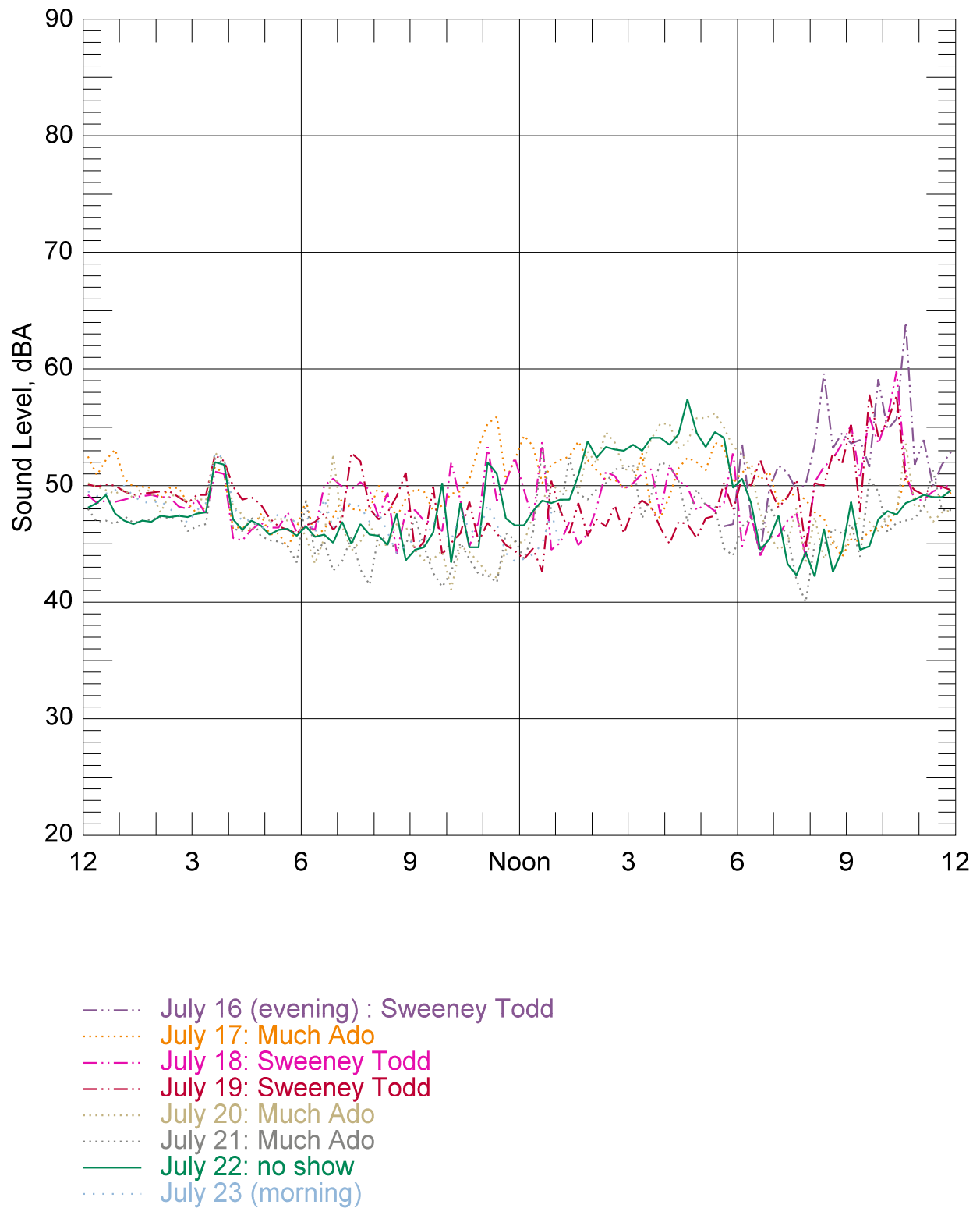


Figure 4 Noise Survey Results at Berm, 15-minute Interval Frequently Occurring Maximum Events
Location 2a

Conclusions

- Sound levels from musical productions, and other productions with music and effects (e.g., ISF's production of Othello with taiko drumming throughout) generate higher levels in the amphitheater and in the community than spoken word productions such as "Blithe Spirit" and "Much Ado about Nothing".
- The noise survey results show that "Sweeney Todd" is approximately 10 dBA higher than "Much Ado About Nothing", and spoken word productions appear to be comparable in sound level to the ambient conditions without any ISF production.
- Sound with information content such as speech and music can be easier to detect and identify than the general ambient sounds caused by weather or the natural environment. Further, in our experience, such sounds which are only 5 to 10 dBA below the ambient conditions can be easily identifiable. Thus, while Mr. Mullins' conclusions indicate that the sounds from ISF were audible but not "identifiable or intelligible", we believe that he underestimates what might bother or annoy NEW residential neighbors in the proposed BME development. Dr. White concludes that the sounds from ISF would be plainly audible in the BME development.
- Further, we believe that Mr. Mullins' conclusions underestimate the effect of many other theater productions that ISF presents.
- Based on the sound levels measured and observed, we have calculated the expected noise levels under similar meteorological conditions near the BME property line and E. Sawmill Way for musical productions similar to "Sweeney Todd", shown in Table 2.
- These sound levels from musical productions in Table 2 are higher than those observed by Mr. Mullins and Dr. White, and based on observations from 16 July 2013 we expect that these kinds of ISF productions are clearly audible.
- The sound levels in Table 2 are consistent with the modeled results from our 2001 report².
- Based on modeling results reported in the 2001 report, the effect of a strong temperature inversion could increase the sound levels on the order 5 to 10 dBA³ or more at the lagoon property compared to the typical summer weather conditions encountered during the noise survey.
- Contrary to Mr. Mullins' conclusions, we believe that a new residential development in that lagoon area would be incompatible with the existing conditions generated by the long-standing ISF summer productions.
- We expect that some noise control measures in the new development design could be effective at reducing the sound from ISF to the proposed development; however, we are not confident that such measures would be sufficient to mitigate the ISF productions to be inaudible or less than "plainly audible" for outdoor areas at the new development.
- Dr. White has proposed some noise control concepts for ISF, all of which have been taken into consideration in our 2001 study. Any new sound barrier would have to be constructed in close proximity to the amphitheater which would likely negate the open-air concept of the ISF design, or in close proximity to the proposed BME development, which would require a barrier of substantial height which could be unappealing to potential residents at the BME development.

² Modification 1, "lower board" levels, as summarized in Table 2 of that 2001 report. The sound levels in the community are about 8 to 10 dBA lower than the data shown in Figure 10 of the 2001 report.

³ Compare Figures 10 and 11

EXHIBIT D**24 CFR Part 51 - Environmental Criteria and Standards****Subpart B - Noise Abatement and Control**[51.100 Purpose and Authority](#)[51.101 General policy](#)[51.102 Responsibilities](#)[51.103 Criteria and standards](#)[51.104 Special requirements](#)[51.105 Exceptions](#)[51.106 Implementation](#)

For more information visit: www.hud.gov

Sec. 51.100 Purpose and authority.

a. It is the purpose of this subpart B to:

1. Call attention to the threat of noise pollution;
2. Encourage the control of noise at its source in cooperation with other Federal departments and agencies;
3. Encourage land use patterns for housing and other noise sensitive urban needs that will provide a suitable separation between them and major noise sources;
4. Generally prohibit HUD support for new construction of noise sensitive uses on sites having unacceptable noise exposure;
5. Provide policy on the use of structural and other noise attenuation measures where needed; and
6. Provide policy to guide implementation of various HUD programs.

b. Authority. Specific authorities for noise abatement and control are contained in the Noise Control Act of 1972, as amended (42 U.S.C. 4901 et seq.); and the General Services Administration, Federal Management Circular 75-2; Compatible Land Uses at Federal Airfields.

[44 FR 40861, July 12, 1979, as amended at 61 FR 13333, Mar. 26, 1996]

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Sec. 51.101 General policy.

a. It is HUD's general policy to provide minimum national standards applicable to HUD programs to protect citizens against excessive noise in their communities and places of residence.

1. Planning assistance. HUD requires that grantees give adequate consideration to noise exposures and sources of noise as an integral part of the urban environment when HUD assistance is provided for planning purposes, as follows:
 - i. Particular emphasis shall be placed on the importance of compatible land use planning in relation to airports, highways and other sources of high noise.
 - ii. Applicants shall take into consideration HUD environmental standards impacting the use of land.
2. Activities subject to 24 CFR part 58.
 - i. Responsible entities under 24 CFR part 58 must take into consideration the noise criteria and standards in the environmental review process and consider ameliorative actions when noise sensitive land development is proposed in noise exposed areas. Responsible entities shall address deviations from the standards in their environmental reviews as required in 24 CFR part 58.
 - ii. Where activities are planned in a noisy area, and HUD assistance is contemplated later for housing and/or other noise sensitive activities, the responsible entity risks denial of the HUD assistance unless the HUD standards are met.
3. HUD support for new construction. HUD assistance for the construction of new noise sensitive uses is prohibited generally for projects with unacceptable noise exposures and is discouraged for projects with normally unacceptable noise exposure. (Standards of acceptability are contained in Sec. 51.103(c).) This policy applies to all HUD programs providing assistance, subsidy or insurance for housing, manufactured home parks, nursing homes, hospitals, and all programs providing assistance or insurance for land development, redevelopment or any other provision of facilities and services which are directed to making land available for housing or noise sensitive development. The policy does not apply to research demonstration projects which do not result in new construction or reconstruction, flood insurance, interstate land sales registration, or any action or emergency assistance under disaster assistance provisions or appropriations which are provided to save lives, protect property, protect public health and safety, remove debris and wreckage, or assistance that has the effect of restoring facilities substantially as they existed prior to the disaster.
4. HUD support for existing construction. Noise exposure by itself will not result in the denial of HUD support for the resale and purchase of otherwise acceptable existing buildings. However, environmental noise is a marketability factor which HUD will

consider in determining the amount of insurance or other assistance that may be given.

5. HUD support of modernization and rehabilitation. For modernization projects located in all noise exposed areas, HUD shall encourage noise attenuation features in alterations. For major or substantial rehabilitation projects in the Normally Unacceptable and Unacceptable noise zones, HUD actively shall seek to have project sponsors incorporate noise attenuation features, given the extent and nature of the rehabilitation being undertaken and the level or exterior noise exposure. In Unacceptable noise zones, HUD shall strongly encourage conversion of noise-exposed sites to land uses compatible with the high noise levels.
6. Research, guidance and publications. HUD shall maintain a continuing program designed to provide new knowledge of noise abatement and control to public and private bodies, to develop improved methods for anticipating noise encroachment, to develop noise abatement measures through land use and building construction practices, and to foster better understanding of the consequences of noise. It shall be HUD's policy to issue guidance documents periodically to assist HUD personnel in assigning an acceptability category to projects in accordance with noise exposure standards, in evaluating noise attenuation measures, and in advising local agencies about noise abatement strategies. The guidance documents shall be updated periodically in accordance with advances in the state-of-the-art.
7. Construction equipment, building equipment and appliances. HUD shall encourage the use of quieter construction equipment and methods in population centers, the use of quieter equipment and appliances in buildings, and the use of appropriate noise abatement techniques in the design of residential structures with potential noise problems.
8. Exterior noise goals. It is a HUD goal that exterior noise levels do not exceed a day-night average sound level of 55 decibels. This level is recommended by the Environmental Protection Agency as a goal for outdoors in residential areas. The levels recommended by EPA are not standards and do not take into account cost or feasibility. For the purposes of this regulation and to meet other program objectives, sites with a day-night average sound level of 65 and below are acceptable and are allowable (see Standards in Sec. 51.103(c)).
9. Interior noise goals. It is a HUD goal that the interior auditory environment shall not exceed a day-night average sound level of 45 decibels. Attenuation measures to meet these interior goals shall be employed where feasible. Emphasis shall be given to noise sensitive interior spaces such as bedrooms. Minimum attenuation requirements are prescribed in Sec. 51.104(a).
10. Acoustical privacy in multifamily buildings. HUD shall require the use of building design and acoustical treatment to afford acoustical privacy in multifamily buildings pursuant to requirements of the Minimum Property Standards.

[44 FR 40861, July 12, 1979, as amended at 50 FR 9268, Mar. 7, 1985; 61 FR 13333, Mar. 26, 1996]

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Sec. 51.102 Responsibilities.

a. Surveillance of noise problem areas. Appropriate field staff shall maintain surveillance of potential noise problem areas and advise local officials, developers, and planning groups of the unacceptability of sites because of noise exposure at the earliest possible time in the decision process. Every attempt shall be made to insure that applicants' site choices are consistent with the policy and standards contained herein.

b. Notice to applicants. At the earliest possible stage, HUD program staff shall:

1. Determine the suitability of the acoustical environment of proposed projects;
2. Notify applicants of any adverse or questionable situations; and
3. Assure that prospective applicants are apprised of the standards contained herein so that future site choices will be consistent with these standards.

c. Interdepartmental coordination. HUD shall foster appropriate coordination between field offices and other departments and agencies, particularly the Environmental Protection Agency, the Department of Transportation, Department of Defense representatives, and the Department of Veterans Affairs. HUD staff shall utilize the acceptability standards in commenting on the prospective impacts of transportation facilities and other noise generators in the Environmental Impact Statement review process.

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Sec. 51.103 Criteria and standards.

These standards apply to all programs as indicated in Sec. 51.101.

a. Measure of external noise environments. The magnitude of the external noise environment at a site is determined by the value of the day-night average sound level produced as the result of the accumulation of noise from all sources contributing to the external noise environment at the site. Day-night average sound level, abbreviated as DNL and symbolized as L_{dn}, is the 24-hour average sound level, in decibels, obtained after addition of 10 decibels to sound levels in the night from 10 p.m. to 7 a.m. Mathematical expressions for average sound level and day-night average sound level are stated in the Appendix I to this subpart.

b. Loud impulsive sounds. On an interim basis, when loud impulsive sounds, such as explosions or sonic booms, are experienced at a site, the day-night average sound level produced by the loud impulsive sounds alone shall have 8 decibels added to it in assessing the acceptability of the site (see Appendix I to this subpart). Alternatively, the C-weighted day-night average sound level (L_{Cdn}) may be used without the 8 decibel addition, as indicated in Sec. 51.106(a)(3). Methods for assessing the contribution of loud impulsive sounds to day-night average sound level at a site and mathematical expressions for determining whether a sound is classed as "loud

impulsive" are provided in the Appendix I to this subpart.

c. Exterior standards.

1. The degree of acceptability of the noise environment at a site is determined by the sound levels external to buildings or other facilities containing noise sensitive uses. The standards shall usually apply at a location 2 meters (6.5 feet) from the building housing noise sensitive activities in the direction of the predominant noise source. Where the building location is undetermined, the standards shall apply 2 meters (6.5 feet) from the building setback line nearest to the predominant noise source. The standards shall also apply at other locations where it is determined that quiet outdoor space is required in an area ancillary to the principal use on the site.
2. The noise environment inside a building is considered acceptable if:
 - i. The noise environment external to the building complies with these standards, and
 - ii. the building is constructed in a manner common to the area or, if of uncommon construction, has at least the equivalent noise attenuation characteristics.

Site Acceptability Standards

	Day-night average sound level (in decibels)	Special approvals and requirements
Acceptable	Not exceeding 65 dB(1)	None
Normally Unacceptable	Above 65 dB but not exceeding 75 dB.	Special Approvals (2) Environmental Review (3) Attenuation (4)
Unacceptable	Above 75 dB	Special Approvals (2) Environmental Review (3) Attenuation (5)

Notes:

1. Acceptable threshold may be shifted to 70 dB in special circumstances pursuant to Sec. 51.105(a).
2. See Sec. 51.104(b) for requirements.
3. See Sec. 51.104(b) for requirements.
4. 5 dB additional attenuation required for sites above 65 dB but not exceeding 70 dB and 10 dB additional attenuation required for sites above 70 dB but not exceeding 75 dB. (See Sec. 51.104(a).)
5. Attenuation measures to be submitted to the Assistant Secretary for CPD for approval on a case-by-case basis.

[44 FR 40861, July 12, 1979, as amended at 49 FR 12214, Mar. 29, 1984]

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Sec. 51.104 Special requirements.

a. Noise attenuation. Noise attenuation measures are those required in addition to attenuation provided by buildings as commonly constructed in the area, and requiring open windows for ventilation. Measures that reduce external noise at a site shall be used wherever practicable in preference to the incorporation of additional noise attenuation in buildings. Building designs and construction techniques that provide more noise attenuation than typical construction may be employed also to meet the noise attenuation requirements.

1. Normally unacceptable noise zones and unacceptable noise zones. Approvals in Normally Unacceptable Noise Zones require a minimum of 5 decibels additional sound attenuation for buildings having noise-sensitive uses if the day-night average sound level is greater than 65 decibels but does not exceed 70 decibels, or a minimum of 10 decibels of additional sound attenuation if the day-night average sound level is greater than 70 decibels but does not exceed 75 decibels.
2. Noise attenuation measures in Unacceptable Noise Zones require the approval of the Assistant Secretary for Community Planning and Development, or the Certifying Officer for activities subject to 24 CFR part 58. (See Sec. 51.104(b)(2).)

b. Environmental review requirements. Environmental reviews shall be conducted pursuant to the requirements of 24 CFR parts 50 and 58, as applicable, or other environmental regulations issued by the Department. These requirements are hereby modified for all projects proposed in the Normally Unacceptable and Unacceptable noise exposure zones as follows:

1. Normally unacceptable noise zone.
 - i. All projects located in the Normally Unacceptable Noise Zone require a Special Environmental Clearance except an EIS is required for a proposed project located in a largely undeveloped area, or where the HUD action is likely to encourage the

establishment of incompatible land use in this noise zone.

ii. When an EIS is required, the concurrence of the Program Assistant Secretary is also required before a project can be approved. For the purposes of this paragraph, an area will be considered as largely undeveloped unless the area within a 2-mile radius of the project boundary is more than 50 percent developed for urban uses and infrastructure (particularly water and sewers) is available and has capacity to serve the project.

iii. All other projects in the Normally Unacceptable zone require a Special Environmental Clearance, except where an EIS is required for other reasons pursuant to HUD environmental policies.

2. Unacceptable noise zone. An EIS is required prior to the approval of projects with unacceptable noise exposure. Projects in or partially in an Unacceptable Noise Zone shall be submitted to the Assistant Secretary for Community Planning and Development, or the Certifying Officer for activities subject to 24 CFR part 58, for approval. The Assistant Secretary or the Certifying Officer may waive the EIS requirement in cases where noise is the only environmental issue and no outdoor noise sensitive activity will take place on the site. In such cases, an environmental review shall be made pursuant to the requirements of 24 CFR parts 50 or 58, as appropriate.

[44 FR 40861, July 12, 1979, as amended at 61 FR 13333, Mar. 26, 1996]

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Sec. 51.105 Exceptions.

a. Flexibility for non-acoustic benefits. Where it is determined that program objectives cannot be achieved on sites meeting the acceptability standard of 65 decibels, the Acceptable Zone may be shifted to Ldn 70 on a case-by-case basis if all the following conditions are satisfied:

1. The project does not require an Environmental Impact Statement under provisions of Sec. 51.104(b)(1) and noise is the only environmental issue.
2. The project has received a Special Environmental Clearance and has received the concurrence of the Environmental Clearance Officer.
3. The project meets other program goals to provide housing in proximity to employment, public facilities and transportation.
4. The project is in conformance with local goals and maintains the character of the neighborhood.
5. The project sponsor has set forth reasons, acceptable to HUD, as to why the noise attenuation measures that would normally be required for new construction in the Ldn 65 to Ldn 70 zone cannot be met.
6. Other sites which are not exposed to noise above Ldn 65 and which meet program objectives are generally not available.

The above factors shall be documented and made part of the project file.

[44 FR 40861, July 12, 1979, as amended at 61 FR 13334, Mar. 26, 1996]

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Sec. 51.106 Implementation.

a. Use of available data. HUD field staff shall make maximum use of noise data prepared by others when such data are determined to be current and adequately projected into the future and are in terms of the following:

1. Sites in the vicinity of airports. The noise environment around airports is described sometimes in terms of Noise Exposure Forecasts, abbreviated as NEF or, in the State of California, as Community Noise Equivalent Level, abbreviated as CNEL. The noise environment for sites in the vicinity of airports for which day-night average sound level data are not available may be evaluated from NEF or CNEL analyses using the following conversions to DNL: $DNL \sim NEF + 35$ $DNL \sim CNEL$
2. Sites in the vicinity of highways. Highway projects receiving Federal aid are subject to noise analyses under the procedures of the Federal Highway Administration. Where such analyses are available they may be used to assess sites subject to the requirements of this standard. The Federal Highway Administration employs two alternate sound level descriptors: (i) The A-weighted sound level not exceeded more than 10 percent of the time for the highway design hour traffic flow, symbolized as L10; or (ii) the equivalent sound level for the design hour, symbolized as Leq. The day-night average sound level may be estimated from the design hour L10 or Leq values by the following relationships, provided heavy trucks do not exceed 10 percent of the total traffic flow in vehicles per 24 hours and the traffic flow between 10 p.m. and 7 a.m. does not exceed 15 percent of the average daily traffic flow in vehicles per 24 hours: $DNL \sim L10$ (design hour) -3 decibels $DNL \sim Leq$ (design hour) decibels Where the auto/truck mix and time of day relationships as stated in this section do not exist, the HUD Noise Assessment Guidelines or other noise analysis shall be used.
3. Sites in the vicinity of installations producing loud impulsive sounds. Certain Department of Defense installations produce loud impulsive sounds from artillery firing and bombing practice ranges. Noise analyses for these facilities sometimes encompass sites that may be subject to the requirements of this standard. Where such analyses are available they may be used on an interim basis to establish the acceptability of sites under this standard. The Department of Defense uses day-night average sound level based on C-weighted sound level, symbolized LCdn, for the analysis of loud impulsive sounds. Where such

analyses are provided, the 8 decibel addition specified in Sec. 51.103(b), is not required, and the same numerical values of day-night average sound level used on an interim basis to determine site suitability for non-impulsive sounds apply to the LCdn.

4. Use of areawide acoustical data. HUD encourages the preparation and use of areawide acoustical information, such as noise contours for airports. Where such new or revised contours become available for airports (civil or military) and military installations they shall first be referred to the HUD State Office (Environmental Officer) for review, evaluation and decision on appropriateness for use by HUD. The HUD State Office shall submit revised contours to the Assistant Secretary for Community Planning and Development for review, evaluation and decision whenever the area affected is changed by 20 percent or more, or whenever it is determined that the new contours will have a significant effect on HUD programs, or whenever the contours are not provided in a methodology acceptable under Sec. 51.106(a)(1) or in other cases where the HUD State Office determines that Headquarters review is warranted. For other areawide acoustical data, review is required only where existing areawide data are being utilized and where such data have been changed to reflect changes in the measurement methodology or underlying noise source assumptions. Requests for determination on usage of new or revised areawide data shall include the following:

- i. Maps showing old, if applicable, and new noise contours, along with brief description of data source and methodology.

- ii. Impact on existing and prospective urbanized areas and on development activity.

- iii. Impact on HUD-assisted projects currently in processing.

- iv. Impact on future HUD program activity. Where a field office has determined that immediate approval of new areawide data is necessary and warranted in limited geographic areas, the request for approval should state the circumstances warranting such approval. Actions on proposed projects shall not be undertaken while new areawide noise data are being considered for HUD use except where the proposed location is affected in the same manner under both the old and new noise data.

b. Site assessments. Compliance with the standards contained in Sec. 51.103(c) shall, where necessary, be determined using noise assessment guidelines, handbooks, technical documents and procedures issued by the Department.

c. Variations in site noise levels. In many instances the noise environment will vary across a site, with portions of the site being in an Acceptable noise environment and other portions in a Normally Unacceptable noise environment. The standards in Sec. 51.103(c) shall apply to the portions of a building or buildings used for residential purposes and for ancillary noise sensitive open spaces.

d. Noise measurements. Where noise assessments result in a finding that the site is borderline or questionable, or is controversial, noise measurements may be performed. Where it is determined that noise measurements are required, such measurements will be conducted in accordance with methods and measurement criteria established by the Department. Locations for noise measurements will depend on the location of noise sensitive uses that are nearest to the predominant noise source (see Sec. 51.103(c)).

e. Projections of noise exposure. In addition to assessing existing exposure, future conditions should be projected. To the extent possible, noise exposure shall be projected to be representative of conditions that are expected to exist at a time at least 10 years beyond the date of the project or action under review.

f. Reduction of site noise by use of berms and/or barriers. If it is determined by adequate analysis that a berm and/or barrier will reduce noise at a housing site, and if the barrier is existing or there are assurances that it will be in place prior to occupancy, the environmental noise analysis for the site may reflect the benefits afforded by the berm and/or barrier. In the environmental review process under Sec. 51.104(b), the location height and design of the berm and/or barrier shall be evaluated to determine its effectiveness, and impact on design and aesthetic quality, circulation and other environmental factors.

[44 FR 40861, July 12, 1979, as amended at 61 FR 13334, Mar. 26, 1996]

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Appendix I to Subpart B to Part 51--Definition of Acoustical Quantities

1. Sound Level. The quantity in decibels measured with an instrument satisfying requirements of American National Standard Specification for Type 1 Sound Level Meters S1.4-1971. Fast time-averaging and A-frequency weighting are to be used, unless others are specified. The sound level meter with the A-weighting is progressively less sensitive to sounds of frequency below 1,000 hertz (cycles per second), somewhat as is the ear. With fast time averaging the sound level meter responds particularly to recent sounds almost as quickly as does the ear in judging the loudness of a sound.
2. Average Sound Level. Average sound level, in decibels, is the level of the mean-square A-weighted sound pressure during the stated time period, with reference to the square of the standard reference sound pressure of 20 micropascals. Day-night average sound level, abbreviated as DNL, and symbolized mathematically as L_{dn} is defined as: [GRAPHIC OMITTED] Time t is in seconds, so the limits shown in hours and minutes are actually interpreted in seconds. $LA(t)$ is the time varying value of A-weighted sound level, the quantity in decibels measured by an instrument satisfying requirements of American National Standard Specification for Type 1 Sound Level Meters S1.4-1971.3.
3. Loud Impulsive Sounds. When loud impulsive sounds such as sonic booms or explosions are anticipated contributors to the noise environment at a site, the contribution to day-night average sound level produced by the loud impulsive sounds shall have 8 decibels added to it in assessing the acceptability of a site. A loud impulsive sound is defined for the purpose of this regulation as one for which:

- i. The sound is definable as a discrete event wherein the sound level increases to a maximum and then decreases in a total time interval of approximately one second or less to the ambient background level that exists without the sound; and
- ii. The maximum sound level (obtained with slow averaging time and A-weighting of a Type 1 sound level meter whose characteristics comply with ANSI S1.4-1971) exceeds the sound level prior to the onset of the event by at least 6 decibels; and
- iii. The maximum sound level obtained with fast averaging time of a sound level meter exceeds the maximum value obtained with slow averaging time by at least 4 decibels.

[44 FR 40861, July 12, 1979; 49 FR 10253, Mar. 20, 1984; 49 FR 12214, Mar. 29, 1984]

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EXHIBIT E

Land Use Category	Exterior Noise Exposure (L _{dn})					
	55	60	65	70	75	80
Single-Family Residential						
Multi-Family Residential, Hotels, and Motels		(a)				
Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
Schools, Libraries, Museums, Hospitals, Personal Care, Meeting Halls, Churches						
Office Buildings, Business Commercial, and Professional						
Auditoriums, Concert Halls, Amphitheaters						

(a) Residential development sites exposed to noise levels exceeding 60 L_{dn} shall be analyzed following protocols in Appendix Chapter 12, Section 1208A, Sound Transmission Control, California Building Code.



Normally Acceptable

Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special insulation requirements.



Conditionally Acceptable

Specified land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features included in the design.



Unacceptable

New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies.

FIGURE 7-1

LAND USE COMPATIBILITY FOR COMMUNITY NOISE ENVIRONMENT

COUNTY OF ALAMEDA
EDEN AREA GENERAL PLAN

Airport Influence Area Design Principles

GENERAL DESIGN PRINCIPLES FOR THE AIRPORT INFLUENCE AREA (GDP- AIA)

These General Design Principles apply to all development occurring within the Airport Influence Area, as identified on the Airport Influence Area map. The principles address soundproofing and compatible uses for each zone of the Airport Influence Area. These principles should be applied in conjunction with relevant planning area-specific policies contained in Chapter 4.

Principle GDP-AIA.1: Noise-Sensitive Uses

- (a) Limit new development within Airport Influence Area C to non-residential uses; residential uses are prohibited.
- (b) Limit expansion of existing noise-sensitive land uses.
- (c) Protect existing uses within the Federal Way and Airport heavy industrial area from encroachment by residential and other “noise-sensitive” uses.

residential development is allowed. Non-noise sensitive manufacturing, industrial and commercial uses are allowed. All compatible uses are required to provide sound insulation in noise sensitive areas of a facility.

Principle GDP-AIA.2: Soundproofing and Use Restrictions

All new development and existing structures within the Airport Influence Area must comply with the following:

- (a) All new residential development and new schools in **Airport Influence Area A**, which are affected by average sound levels in the **60-65 DNL** and/or aircraft traffic patterns below 1,000 feet, are required to provide a sound level reduction of 25 dB.
- (b) All development within Airport Influence Area B is affected by average sound levels in the 65-70 DNL and/or aircraft traffic patterns below 1,000 feet. Residential development is not allowed within Area B. All compatible uses will be required to provide sound insulation in noise sensitive areas of a facility.
- (c) All development within **Airport Influence Area B-1** is affected by average sound levels in the **65-70 DNL** and/or aircraft traffic patterns below 1,000 feet. New residential development will be required to provide a sound level reduction of 30 dB. For new residential development, the maximum density is three residential units per acre. No new schools are allowed. Office and commercial use are compatible. All compatible uses will be required to provide sound insulation in noise sensitive areas of a facility.
- (d) All development within Airport Influence Area C is affected by average sound levels greater than 70 DNL. The approved Airport Noise Compatibility Plan identifies that existing residential uses in this area are to undergo sound insulation. Residential uses in this area will be considered non-conforming and no new



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David Eberle

Elaine Clegg
Lauren McLean
TJ Thomson
Ben Quintana

Fire Department

September 3, 2013

Cody Riddle
PDS - Planning

Re: Preliminary Plat – Barber Mill Estates Subdivision; SUB13-00017
5237 E. Sawmill Way

Dear Cody,

This is a request for a preliminary plat for a subdivision with 47 buildable lots and 11 common lots on 11.97 acres.

The Boise Fire Department has reviewed and can approve the application subject to compliance with all of the following code requirements and conditions of approval. Any deviation from this plan is subject to Fire Department approval. Please note that unless stated otherwise, this memo represents the requirements of the International Fire Code (IFC) as adopted and amended by Ordinance 6308.

Comments:

1. For streets having a width less than 36 feet back of curb to back of curb parking shall be restricted on (1) one side; for streets having a width less than 29 feet back of curb to back of curb parking shall be restricted on both sides; and for standard ACHD cul-de-sacs parking shall be restricted on both sides. A note on the face of the final plat is required noting the parking restriction prior to signing of the final plat by the Boise City Engineer. In addition, No Parking signs shall be installed in accordance with the requirements of the IFC.
2. Fire hydrants, capable of producing the required fire flows, shall be located in accordance with the IFC. Fire hydrants are not shown on the drawings and additional hydrants maybe required. (IFC 507.5, IFC Appendix B).

General Requirement:

Specific building construction requirements of the International Building Code, International Fire Code, International Residential Code and Boise City Code will apply. However, these provisions are best addressed by a licensed Architect at building permit application.

Fire Department required fire hydrants, access, and street identification shall be installed prior to construction or storage of combustible materials on site. Provisions may be made for temporary access and identification measures.

Please feel free to have the applicant contact Romeo Gervais at 570-6567 if they have any questions.

Regards,

Romeo P. Gervais, P.E.
Deputy Chief – Fire Marshal
Boise Fire Department



IDAHO DEPARTMENT OF FISH AND GAME

SOUTHWEST REGION
3101 South Powerline Road
Nampa, Idaho 83686

C.L. "Butch" Otter / Governor
Virgil Moore / Director

August 28, 2013

Cody Riddle
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150 N. Capital Boulevard
P.O. Box 500
Boise, ID 83701
CRiddle@cityofboise.org

RE: Barbermill Estates Subdivision Annexation application, Case # CAR13 – 00007

The Idaho Department of Fish and Game (Department) has reviewed the annexation application for the proposed Barbermill Estates located at 5237 E. Sawmill Way in Boise. The proposal calls for the development of a 47 unit single-family subdivision and will occupy approximately 11.97 acres of land. The Boise River Wildlife Management Area (Boise River WMA) is approximately 0.52 miles east of the proposed subdivision.

The purpose of these comments is to assist the decision-making authority by providing technical information addressing potential effects to fish, wildlife, and habitats and how any adverse effects might be mitigated. It is not the purpose of Department to support or oppose this proposal. Resident species of fish and wildlife are property of all Idaho citizens, and the Department and the Idaho Fish and Game Commission are expressly charged with statutory responsibility to preserve, protect, perpetuate and manage all fish and wildlife in Idaho (Idaho Code 36-103(a)). In fulfillment of our statutory charge and direction as provided by the Idaho Legislature, we offer the following comments and suggestions.

The Boise River Wildlife Management Area (BRWMA) provides crucial winter range habitat to large populations of migratory mule deer. During this time, these deer regularly move between the foothills and the Boise River to satisfy certain habitat needs. In addition, the area provides habitat for resident mule deer. The Department is concerned about the continued reduction of wildlife corridors, or areas of land that provide connectivity among habitat patches, within the City of Boise.

One area of particular concern is between the BRWMA and the riparian and river floodplain habitat along the Boise River. Permanent conversion of habitat to residential and commercial uses in the Barber Valley will likely have a measurable effect on big game in the region. Cumulatively, these developments could act as a barrier keeping big game and other wildlife from moving to and from the Boise River corridor. Due to the habitat connectivity it provides, the proposed Barbermill Estates subdivision project area likely serves as an important wildlife corridor.

Furthermore, the proposed subdivision will be constructed near the Barber Pool Conservation Area, a Class A land and water habitat. This property, owned by the Idaho Parks and Lands Foundation (IPLF), is one of the most heavily used sections of the Boise River by wintering bald eagles. Eagles utilize the area both as day perch sites and communal night roost area sites (Kaltenecker and Tiedemann 1994). Kaltenecker and Tiedemann (1994) considered Barber Pool to be the most important habitat for wintering bald eagles in the Boise River corridor. In addition, an active bald eagle nest is located within the Barber Pool Conservation Area. This nest site has been used repeatedly over several years and produced numerous bald eagle fledglings over that time.

The Department understands that the developer has agreed to transfer a 200-foot setback area to IPLF that is intended to serve as a wildlife movement corridor and maintain connectivity between the BRWMA and the riparian and river floodplain habitat along the Boise River. It is understood by the Department that this setback would be considered off-limits to residents and will be protected by a chain-link fence. The Department recommends that in order to minimize injury to wildlife, especially mule deer, the proposed chain-link fence be replaced with a privacy fence as described under item #4 of the Department's Baseline Recommendations for Development in Wildlife Habitats (attached). Additionally, the Department recognizes that the developer has followed the 200-foot building setback from the 6,500 cfs line for bald eagle habitat (Section 11-16-03.2 Class A Lands & Waters in the Boise River System Ordinance).

The Department expects some deer to enter the subdivisions by street access. Therefore, we recommend that at least one secondary wildlife corridor be incorporated into the development plan. These corridors consist of an entrance and an exit for wildlife trapped within the subdivision. They not only allow permeability through the subdivision, but also provide additional connectivity to large contiguous habitats. Entrance and exit points could be designed to accommodate pedestrians as well, but should follow IDFG fencing recommendations.

Finally, the Department recommends that future residents of the proposed subdivision be educated about the wildlife amenities they have nearby and the sensitivity of those wildlife to human disturbance. The Department refers the City to our Baseline Recommendations for Development in Wildlife Habitats, as well as the Department publication *Home Builders and Owners Guide to Living with Wildlife*, available here:

<http://idahodocs.contentdm.oclc.org/cdm/compoundobject/collection/p15100coll7/id/2733/rec/10>.

We ask that this information be provided to the developer and in turn to potential residents.

Thank you for the opportunity to comment. Please contact Rick Ward in the Southwest Region office at (208) 465-8465 or via e-mail at rick.ward@idfg.idaho.gov, or Krista Muller at the Boise River Wildlife Management Area at (208)334-2115, or via email at krista.muller@idfg.idaho.gov if you have any questions.

Sincerely,



Scott Reinecker
Southwest Regional Supervisor

SR/rw/km

ecc: Kiefer/ HQ, Deal/R3

cc: Gold file

Literature Cited

Kaltenecker, G.S. and R.B. Tiedemann. 1994. Boise River Wintering Bald Eagle Study; Boise River Corridor, Lucky Peak Dam to Ada/Canyon County Line. 76 pp.

VerCauteren, K.C., M. J., and S. Hygnstrom. 2006. Fences and Deer-Damage Management: A Review of Designs and Efficacy. *Wildlife Society Bulletin* 34(1) 191-200.

Home Builders and Owners Guide to

LIVING with WILDLIFE



A Resource for Reducing Wildlife Property Damage.

Deer Resistant Landscaping Plants

Botanical Name

Common Name

Ground Cover

Ajuga reptans
Convallaria majali
Lamium spp.
Pachysandra terminalis
Vinca major
Vinca minor

Carpet Bugle
 Lily-of-the-Valley
 Dead Nettle
 Pachysandra
 Large Periwinkle
 Periwinkle

Flowers

Achillea spp.
Aquilegia spp.
Astilbe spp.
Coreopsis spp.
Dianthus spp.
Dicentra spp.
Echinacea spp.
Epimedium spp.
Geranium spp.
Helleborus spp.
Helianthus spp.
Iberis spp.
Iris spp.
Lavendul spp.
Liatris spicata
Lupinus spp.
Lychnis coronaria
Narcissus spp.
Pulmonaria spp.
Rudbeckia spp.
Solidago spp.
Veronica officinalis
Yucca spp.

Yarrow
 Columbine
 Astilbe
 Tickseed
 Pinks
 Bleeding Heart
 Purple Coneflower
 Epimedium
 Geranium
 Hellebore
 Sunflower
 Candytuft
 Iris
 Lavender
 Spike Gay-feather
 Lupines
 Rose Campion
 Daffodil
 Lungwort
 Coneflower
 Goldenrod
 Speedwell
 Yucca

Vines

Celastrus spp.
Hedera helix baltica
Lonicera spp.

Bittersweet
 Baltic Ivy
 Honeysuckle

Botanical Name

Common Name

Shrubs

Amorpha canescens
Berbis spp.
Caragana spp.
Ceanothus velutinus
Cornus sericea
Cornus stolonifera
Eleagnum sommutata
Kolkwitzia amabilis
Lonicera spp.
Rosa spp. (Some)
Rhus spp.
Rhamnus cathartica
Sheperdia argentea
Spiraea spp.
Syringa villosa
Syringa vulgaris
Viburnum spp.
Yucca filamentosa

Lead Plant
 Bayberry
 Caragana
 Snowbush Ceanothus
 Red Osier Dogwood
 Osier Dogwood
 Silverberry
 Beautybush
 Honeysuckle
 Rose
 Sumac
 Common Buckthorn
 Buffaloberry
 Spiraea
 Late Lilac
 Common Lilac
 Viburnum
 Adams Needle

Trees

Betula papyrifera
Betula pendula
Crataegus spp.
Elaeagnus angustifolia
Gleditsia tricanthos
Picea abies
Picea glauca
Picea pungens
Pinus nigra
Pinus mugho
Pinus sylvestris

Paper Birch
 European White Birch
 Hawthorn
 Russian Olive
 Honey Locust
 Norway Spruce
 White Spruce
 Colorado Blue Spruce
 Austrian Pine
 Mugo Pine
 Scotch Pine

Sources: Deer Resistant Ornamental Plants for Your Garden, by R.E. Gough, MSU Extension Hort. Specialist
 Prevention and Control of Wildlife Damage, Cooperative Extension, University of Nebraska, 1994

Home Builders and Owners Guide to

LIVING with WILDLIFE

For More Information

If you have any questions that were not answered in this brochure, or would like more information on preventing wildlife damage or enhancing your property for wildlife, please contact your regional Fish and Game office.

Anna Owsiak, Editor.

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Idaho is known for its abundant wildlife and scenic beauty. These wonders of nature have encouraged many people to reside here. This publication highlights important items to consider when developing property and provides information to help prevent and solve problems associated with wildlife.

Designing a Home Site

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Designing a Home Site

Wildlife may already live where you may want to build a home. With careful planning, a home can be constructed with minimal disruption to existing wildlife and habitat.

Layout and Design

Carefully study your property to evaluate where your house and buildings can be located to disturb the least amount of wildlife habitat. Locate buildings as close together as possible. Grading, site preparation and vegetation alterations should all be kept to a minimum to preserve aesthetic qualities and reduce potential erosion hazards. By preserving the existing vegetation, landscape costs, water requirements and maintenance efforts may be reduced.

Protecting Wetlands and Riparian Areas

Locate homes and buildings away from creeks, springs and other natural water sources. This will reduce the amount of disturbance your activities cause to the wildlife that depends on them. Also, in the event of flooding, your home is less likely to be damaged if it is not located in or near a wetland.

When developing and fencing pastures, limit the amount of access livestock have to streams and riparian areas. This will reduce erosion damage to stream banks. Erosion reduces fish and wildlife habitat and can lead to changes in water tables and stream courses. Water gaps can be installed in the stream to allow livestock access to water (Figure 1).



Carefully consider the placement of driveways, bridges or culverts. Locate driveways as far as possible from flowing water to prevent erosion and sediment deposits. If possible, use bridges instead of culverts since they result in less disturbance of stream flows. When using culverts, make sure they are large enough to handle any high water flows that may occur.

Figure 1. Water gap for livestock



This shed is not secure from wildlife. Notice the gap under the shed, the open eaves and holes in the outside walls that can serve as wildlife entryways.

Building Construction

Houses are usually constructed solidly enough to keep wildlife out, however, many garages and sheds are not. When constructing or upgrading a garage or shed, build it to be as structurally sound as a house. Place it on a foundation that is free of cracks and holes, and seal all gaps. Construct solid, continuous walls, leaving no openings that could serve as entryways. Use quality doors and windows that will lock from the inside, and install them securely into frames. Keep in mind that most aluminum screen doors and fiberglass garage doors are not solid enough to keep out a determined bear.

Seal any gaps found around windows, doors, foundations, ventilation or dryer screens, and where pipes enter buildings. A mouse needs only a 1/4 inch gap and a rat a 1/2 inch gap to enter. Use wire screening, lightweight sheet metal or coarse steel wool to seal gaps. Do not use wood or plastic since rodents can gnaw through these. Gaps above ground level must also be sealed, since rodents are excellent climbers.

Make sure that entrances to crawl spaces and basements, as well as areas under sheds, porches and decks are secured, screened or sealed. This will prevent skunks, raccoons, snakes and other wildlife from taking up residence. To prevent birds and bats from entering buildings, seal gaps around the roof, attic vents and under eaves.

Landscaping

A well landscaped homesite is beautiful to look at and can also benefit wildlife. Butterfly and hummingbird gardens provide food and shelter to these insects and birds and adds countless hours of viewing enjoyment. Shrubs and trees can attract nesting songbirds, and provide shelter for small animals. Consider enhancing a backyard or other parts of your property with a wildlife habitat area, using plants that provide wildlife with food and shelter. Idaho Fish and Game biologists can provide information to help you create a backyard habitat area.

Landscaping also attracts browsing animals, resulting in damaged trees, shrubs and other ornamental plants. Deer, elk and other “browsers” are found throughout Idaho, and each year more homes are constructed in their habitat. Expect to have these animals on your property year-round.

To prevent damage to landscaping plants, use non-native varieties that are less attractive to browsing wildlife. Be sure to check with your County Extension Agent to be sure non-native plants are not toxic or invasive species. A list of these plants is located at the front of this brochure. Native vegetation can be used for landscaping where browsing damage is of less concern. Keep in mind that fencing, repellents or other other means of protection may be required to prevent plant damage, especially during winter.



Gardens and flowers are very attractive to browsing deer.

Various types of repellents can be applied to trees and shrubs to deter browsing. Most work by either smelling or tasting nasty. Repellents including Hinder®, Deer Away®, Miller's Hot Sauce® and Ro-pel® can be purchased at local nurseries and feed stores. Hanging bars of soap or mothballs in trees and shrubs can also deter browsing animals. Not every repellent will work in every situation, so you may have to experiment with several types. Also, repellents wash off and need to be reapplied after rain or snow.

Gardens

When developing gardens or orchards, remember to include plans to protect them from wildlife damage. A permanent enclosure is the best protection and should be eight feet tall and solidly constructed (*Figure 2*). Use fine meshed woven wire near ground level to prevent smaller animals from entering. When landscaping, locate gardens and

fruit trees close enough together so that one fence can be used to protect everything.

If permanent fencing is not an option, consider using temporary fencing when wildlife is most likely to visit your garden, or until trees and shrubs are large enough not to be permanently damaged by browsing. Woven wire fencing and posts or 8' x 4' haystack panels work best for temporary fencing. Chicken wire

is not strong enough to protect plants against deer or elk. Deer will occasionally rub their antlers on ornamental and fruit trees, so temporarily fence trees to protect them from damage in the fall.

Big game repellents can be applied to fruit trees to prevent browsing damage. Not all commercial repellents are approved for application on edible crops, so be sure to check the label before applying them.

Fruit trees of any type will attract bears. If you live in town, this may not be an issue, however, if your property is more rural, there is a good chance that bears will find you. Not planting fruit trees is the best way to prevent unwanted visits by bears. Small orchards can also be fenced with multiple strands of electric fencing to keep bears out (see **Bears**).

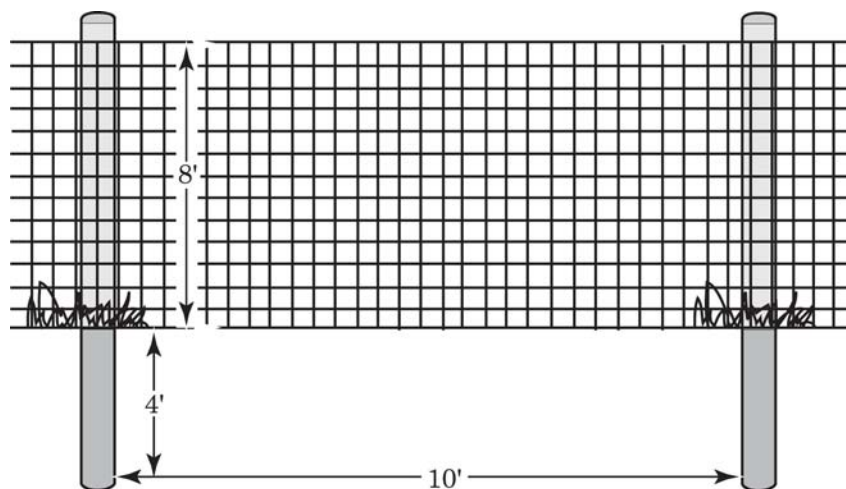


Figure 2. Deer and elk proof fence suitable for protecting stackyards, gardens and orchards. Sink posts 4' deep and space them 10' apart.

To prevent skunks from burrowing under a garden fence it will need to extend about 18" underground. Raccoons are usually not a problem except near creeks or waterways. The top of a garden enclosure may have to be covered with woven wire or other fencing to prevent raccoons from climbing over. Electric fencing around gardens can also successfully repel raccoons. Use two wires, one 6" and one 12" above ground level. Turn the fence on at dusk and off at sunrise.

Fencing

Fences frequently disrupt wildlife movements and can cause injuries and/or death to animals caught in them. Consider using the least amount of fencing possible around your property. Signs, natural features or vegetation can be used to mark property boundaries instead of fences.

Fencing the yard around a home will have very few impacts on wildlife. It will, however, be effective at controlling pets and preventing unwanted pet/wildlife encounters from occurring.



Temporary woven wire fencing protects landscaping.

When installing livestock fencing, consider using wildlife friendly designs. Use barbed wire, smooth wire or electric fencing instead of woven wire. When installing barbed or smooth wire, use three strands instead of four with a top strand height no greater than 38 inches which allows deer or elk to jump over. Use smooth wire for the lowest wire and place it at least 16 inches above ground level so fawns can crawl under. Where fences cross well defined game trails use pole fence with a lowered top rail to reduce fence damage and wildlife injuries. Let-down fences can be used in areas where livestock graze seasonally (*Figure 3*).

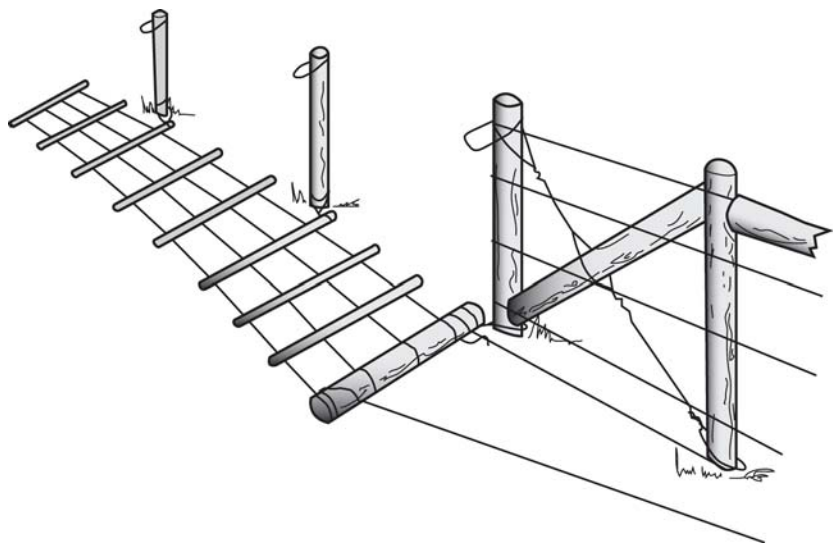


Figure 3. Let-down fence.

Other Concerns Around the House



Excess construction materials or junk piles can serve as homes for nuisance wildlife.

Pets

Controlling pets is very important to prevent harassment or killing of wildlife. Free-roaming cats will stalk and kill small animals and birds, and dogs will chase and kill all types of wildlife. There are regulations in place regarding pets harassing wildlife, and law enforcement officials are authorized to destroy domestic pets that are observed doing so. Keep in mind, pets can also be injured or killed by wildlife. Such encounters can result in unexpected veterinary bills or the loss of a beloved family pet.

For the safety of your pet and wildlife, control your pet. A fenced yard, kennel or run is a good way to keep pets under control, yet allow them room to exercise. Keeping your pet indoors when you are not able to supervise it will help prevent wildlife conflicts from occurring.

Wildlife can use two-way pet doors to enter homes and garages. If you install a pet door, have it open into a secure kennel to prevent wildlife entry.

Raccoons, skunks, bears and rodents are all attracted to pet food on porches or stored in garages. Feed and store pet food indoors to prevent outdoor food odors from attracting wildlife.

Contain Garbage

Improper storage of garbage is one of the fastest ways to attract unwanted wildlife. Bears, raccoons, skunks, coyotes, ravens, rodents and feral pets will all make use of garbage. Prevent problems by storing all garbage in rodent proof containers that are secured in a building. Containers should be emptied frequently and washed to reduce odors. Do not store garbage outdoors; it will just be an invitation for an unwanted wildlife visit. Some animals, especially bears, can become very aggressive around homes and people after several visits to a garbage container.

Outdoor composting should not be done in bear country. The odor of decomposing materials is attractive to many wild animals, especially bears. Burying compostable materials will not prevent bears from getting to them since they are very accomplished diggers. Treat all compostable materials like other garbage - store it securely and dispose of it regularly.

Remove brush piles, old vehicles and other sources of junk from your property. They can serve as shelter for rodents, skunks, raccoons, rattlesnakes and feral pets.

Storing Livestock Feeds

Ideally, all livestock feeds should be stored in a building that cannot be accessed by wildlife. Grain and pellets should be stored in rodent-proof containers in securable feed rooms.

A permanent stackyard provides the best protection for outdoor haystacks. Stackyards are usually constructed of woven wire and wood or steel posts, and should be at least 8 feet tall (Figure 2). Elk and moose are very strong and are capable of finding any weakness in a fence design, so stackyards should be solidly constructed. Haystacks can also be temporarily paneled

to prevent big game, especially elk, from feeding on them. Tarps can be used to protect haystacks from deer, but they will not protect against elk. Haystack panels and tarps can be purchased at local farm and ranch supply stores.

Please Don't Feed the Wildlife

It is only human nature to want to feed and care for animals that we see around our homes, especially during winter months. It is important to resist this temptation, because feeding leads to future problems for those very animals.

Wild animals are well adapted to finding food and surviving winter on their own. Animals that do die are often unhealthy and no amount of feeding will help them survive. Their remains will provide food sources for other wildlife, such as foxes, coyotes, ravens and eagles.

Providing food to wildlife encourages animals to concentrate in small areas, and this can lead to increased disease transmission between them. If this concentration occurs around homes, damage to ornamental plants will result. Also, the native habitat surrounding feeding areas will receive heavier use than normal, resulting in lowered productivity and permanent damage over time.

Animals may also become dependent on feeding, and starve when feeding stops, or feeding may prevent them from migrating to more suitable wintering areas. Recreational feeding also draws animals closer to roads and highways, resulting in increased incidents of road kill, damage to vehicles and injuries to people. Over time, these problems magnify, as more and more animals show up each year at the feed site. The best way to prevent these problems from occurring is to not feed wildlife.



Preventing Wildlife Damage

Viewing wildlife around our homes can be relaxing, enjoyable and educational.

Under the wrong circumstances, however, wildlife can cause property damage or dangers to people and pets. The following information should help homeowners prevent and resolve wildlife conflicts.

Bears

Bears are found throughout Idaho and rarely cause problems during years of abundant natural food supplies. However, in drought years, or when berry crops fail, bears will travel long distances in search of new food sources. Occasionally, even in good forage years, bears will find an easy source of human foods,

like garbage, fruit trees, bird feeders or bee hives and continue to visit them.

The most effective way to prevent unwanted visits from bears is to bear proof your home. This is best done by removing or securing all potential food sources. Store all garbage in a secure building and dispose of it regularly. Do not put garbage containers outdoors until the morning they are to be collected. Frequently wash garbage containers to reduce odors. Do not bury garbage; bears are very good diggers. Treat all compostable materials like other garbage - store it securely and dispose of it regularly. Do not bury pet or livestock carcasses, rather, dispose of them at the county landfill. Bears have been known to dig to depths of seven or eight feet to retrieve a buried carcass.

Bears are attracted to pet foods, so feed and store pet foods indoors. Do not install 2-way pet doors, bears can crawl through them to investigate food odors coming from inside a home. Bird feeders will also attract bears. If you feed birds in bear country, clean up under feeders frequently and consider feeding birds only during winter months. If a bear appears, remove feeders temporarily to eliminate any temptations.

Fruit trees are very attractive to bears. If you decide to plant fruit trees, plan to install some form of permanent fencing to protect them. Fences constructed of multiple strands of electric wire may be the best option for excluding bears (Figure 4).

Barbeques and freezers stored on porches, decks and in unsecured garages are an open invitation to bears. Clean your barbeque after each use to reduce odors and store it in a secure building. Do not use a freezer outdoors. Bears are very capable of removing locked freezer doors to get at food.

While bears may look cute, they can be very dangerous. If a bear visits your home, remove all possible food sources to discourage it from staying. If it persists, contact a regional Fish and Game or county sheriff's office.

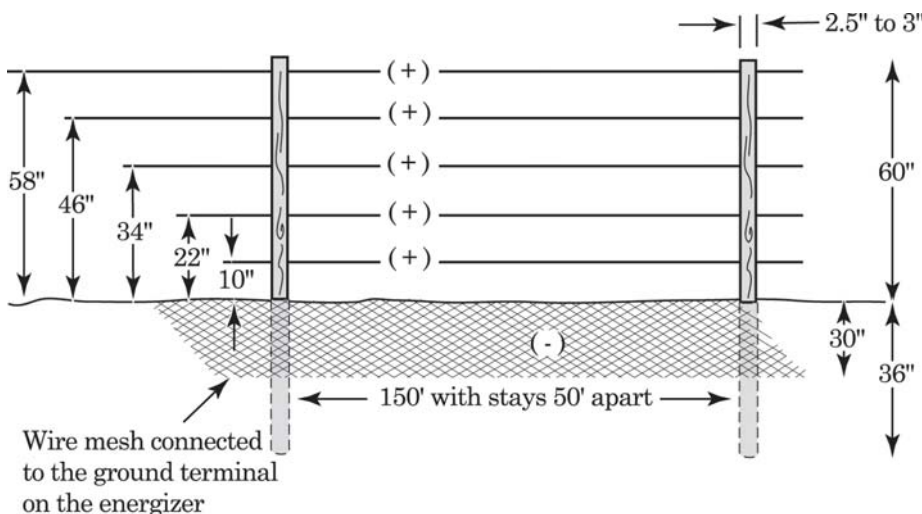


Figure 4. Bear proof electric fencing.

Deer, Elk and Moose

Many homes and ranches are located on big game winter ranges. Problems associated with big game do not usually occur until the animals move onto these areas for the winter, where they find ornamental trees and shrubs plus various livestock feeds to eat. Prevent big game animals from feeding on plants and livestock feeds by protecting them ahead of time. Refer to the **Gardens** and **Fencing** sections for information on repellents and fencing options.

Deer and elk do most of their feeding at night, so feed livestock in the morning instead of the evening to prevent big game from feeding with stock. Tying an aggressive dog near a haystack can also effectively deter big game visits.

It is very important that big game not have access to livestock feeds, or be intentionally fed. Feeding will result in a host of future problems, with few if any benefits to the animals themselves. Fed wild animals can become very aggressive and potentially dangerous to humans, pets and livestock.

Beaver

Beaver are abundant in most waterways of Idaho. Unfortunately, their amazing engineering abilities can sometimes result in serious problems for homeowners. If you live near a river or creek, it is inevitable that you will have beaver conflicts.



Elk damage to an unprotected haystack.

Ornamentals and trees along waterways can be protected from damage by wrapping the trunks with several wraps of chicken wire from ground level to about three feet up the trunk. Constructing a two to three foot tall woven wire fence, tight against the ground, around landscaped areas also prevents beaver damages.

Beaver dams located in irrigation ditches can easily be removed at any time. Existing dams, less than one year old, in natural waterways affecting private property can be removed without a permit. However, dams older than one year will need to be evaluated and a removal permit issued by the Corp of Engineers to prevent stream damage and sedimentation problems.



Elk browsing damage to unprotected aspens.



Tree trunk wrapped in chicken wire to prevent beaver damage.

Skunks and Raccoons

Skunks and raccoons are primarily active at night, and although usually not seen around homes, evidence of their activities is quite obvious. The odor of skunk is unmistakable and raccoons are notorious for making a mess of garbage. Both live in and near towns, and they forage for insects, small mammals, eggs, fruit or whatever else is available.

If one of these two mischief makers should appear at your home, but find no food or

possible den sites, it will probably leave on its own. Otherwise, it may stay as long as you let it. To prevent skunks and raccoons from hanging around, store all garbage in a secure building, and dispose of it regularly. Don't leave pet food outside; it is usually the main attractant for both skunks and raccoons. Seal all holes under porches, decks, sheds, and in foundations and crawl spaces to prevent entry. Remove all brush, woodpiles and abandoned junk that could serve as den sites. Doing so will also discourage rodents that may otherwise serve as a food source.

Fence gardens with mesh wire to keep skunks and raccoons out. Regularly pick up and dispose of fallen fruit from under fruit trees to remove that attraction.

Don't let pets, especially dogs, run loose at night. Skunks and raccoons are very capable of defending themselves, with unpleasant results to your pets.

Skunks and raccoons are easily trapped in a live trap baited with canned fish or cat food. Cover the trap with black plastic before placing it out to prevent being sprayed if you catch a skunk. The nuisance skunk or raccoon should be released at least 10 miles from town and the nearest residence. Don't release it near someone else's property - it will just cause problems there.

Mountain Lions

Mountain lions are commonly found throughout Idaho. Because of their secretive nature, they are rarely seen and will avoid most areas of human activity. Many times the only evidence of their presence are tracks left in the mud or snow. Occasionally a young lion or one in poor health will appear near homes or even in town. Since mountain lions can be dangerous to people, pets and livestock, encounters with them should be avoided.



Mountain Lion Track



Dog Track

Lions prefer to follow corridors of heavy brush during their travels. To reduce the potential for mountain lions to ambush livestock or pets, remove all brush in the area around buildings and livestock areas. Having a barking dog present outdoors and around livestock can deter lions or alert you to their presence. If a lion appears in your yard and does not leave, keep all pets and people indoors. Call a regional Fish and Game or county sheriff's office for assistance in dealing with a mountain lion.

Birds

Birds are enjoyable to watch and they rarely cause problems to homeowners. However, woodpeckers, English sparrows and starlings can be the exceptions.

Woodpeckers will occasionally damage wooden buildings in the spring or while looking for insects. First, make sure that your home or other buildings are not infested with wood boring insects, or damage prevention techniques will not be effective. Then, patch all holes with caulk, wood or metal flashing and coat them with a very strong solution of cayenne pepper. The pepper will sting the woodpecker's tongue and encourage it to move elsewhere. Make sure all gaps leading behind walls are sealed to prevent birds from nesting there. Putting up a wooden post or attaching a board loosely to a nearby tree may entice the birds away from drumming on your home. Woodpeckers are protected and may not be killed without a permit from Wildlife

Services (A branch of the U.S. Dept. of Agriculture).

Gardens and fruit trees can be protected from bird damage with chicken wire or tree netting. Either of these placed over the top of a garden will exclude birds. Various types of tree netting are available from garden centers and supply catalogues.

To prevent flocks of starlings, sparrows and pigeons from roosting, enclose trusses in open buildings and under eaves. Trusses can also be covered with plastic bird spikes to prevent roosting. Keep spilled grain or livestock feed cleaned up to eliminate this food source.

Bats

Bats can enter buildings through amazingly small holes. Seal all holes and gaps, especially around upper story windows and roofs. If you already have bats in the attic, seal all holes except one; it can be sealed after the

bats have left for the evening. To prevent baby bats from becoming trapped and dying, do not seal gaps until early fall, after the bats have matured and migrated away.

Rattlesnakes

Rattlesnakes are fairly common throughout Idaho. They hunt rodents and other small animals for food, and are very beneficial for rodent control. Because they are venomous, they are usually not wanted around homes, pets or livestock.

Many myths surround rattlesnakes, giving them an undeserved bad reputation. Rattlesnakes do not chase people or animals, they cannot spit or throw their venom, nor can they jump off the ground to strike. Rattlesnakes will almost always move away to safety if given the opportunity to do so. If not, they rattle to warn and strike to defend themselves.



Buildings with rotten boards can attract woodpeckers looking for insects and places to nest.

Rattlesnakes are frequently found near rocky areas, junk piles and other hiding places. Removing these piles should help eliminate them. Be cautious and look closely before picking up objects from the ground. Rattlesnakes blend in with their environment and may not be noticed. Also, they do not always rattle before striking.

If you wish to remove a rattlesnake from your yard or garden, seek assistance from someone familiar with handling snakes or use a shovel to push the snake into a large bucket (with a secure lid).

Do not attempt to pick up a rattlesnake by hand or you may be bitten. If you or a pet are bitten, stay calm and seek immediate medical or veterinary treatment. If you must kill a rattlesnake, remove the body using a shovel. Do not pick it up with your hands. People have been bitten by the reflex action of a dead rattlesnake. Before you kill any snake in your yard, make sure it is indeed poisonous. Many harmless snakes inhabit yards, providing years of free rodent control.



Diseases

Wild animals and birds can carry parasites and diseases that are transmissible to people, pets and livestock. Lice, ticks, worms and other parasites can infect you and your pets. Diseases such as distemper, hantavirus, bubonic plague and rabies are transmissible to people.

Because of the potential for disease transmission, it is important to avoid handling wildlife unless absolutely necessary. If you must handle wildlife, make sure to wear sturdy leather gloves, a long sleeved jacket and any other clothing that will protect you from bites or scratches. If you are bitten or scratched, seek immediate medical attention. Take the animal with you if you can safely do so. Do not destroy the head of any animal that may have bitten a person, because it is necessary to have the brain intact for rabies testing.

Unhealthy animals may show symptoms that include hair or feather loss, weakness, broken bones, tremors, salivation, a lack of coordination, or the inability to walk, stand, or move properly.

Abnormal behaviors can include aggression, passiveness, or unusual responses to normal events.

Rabies is the disease most often associated with wildlife. Because the symptoms of rabies can be similar to other animal diseases, any wild animal you encounter acting abnormally should be considered rabid. Be especially cautious of live bats lying on the ground during daylight hours, or of normally nocturnal animals, like skunks, out during the day. Animals that are usually secretive, like bobcats or foxes, but are acting boldly, should not be approached.

Any mammal can contract rabies. It occurs most often in skunks, bats, raccoons and canids (dogs, coyotes, foxes), but it has also been found in deer, moose, cattle, horses, antelope, cats, squirrels, muskrats, badgers, rats and mice. Keep your pets' rabies vaccinations current to protect them and yourself.

DO NOT let children, pets or others approach abnormally acting wildlife. Call your regional Fish and Game Office or the county sheriff immediately to report sick or abnormally acting wildlife. If possible, keep track of the location of the animal **from the safety of your home** until assistance arrives. That way you will be able to direct personnel to where the animal was last observed.

Plants Susceptible to Deer Damage

Botanical Name

Common Name

Flowers

Allium spp.

Flowering Onion

Tulipa spp.

Tulip

Vines

Clematis spp.

Clematis

Hedera helix

English Ivy

Parthenocissus

quinquifolia

Virginia Creeper

Thuja orientalis

Oriental Arborvitae

Botanical Name

Common Name

Shrubs

Acer spp.

Maple

Alnus spp.

Alder

Amelanchier spp.

Serviceberry

Juniperus spp.

Juniper

Physocarpus

malvaceous

Ninebark

Prunus spp.

Cherry, Plum

Ribes spp.

Currant

Rosa (x) spp.

Hybrid Rose

Rubus spp.

Raspberry

Salix spp.

Willow

Sorbus aucuparia

European Mountain Ash

Taxus spp.

Yew

Trees

Abies spp.

Fir

Acer spp.

Maple

Cercis canadensis

Eastern Redbud

Malus spp.

Apple

Pinus contorta

Lodgepole Pine

Pinus monticola

Western White Pine

Pinus ponderosa

Ponderosa Pine

Populus spp.

Aspen, Cottonwood

Prunus spp.

Cherry, Plum

Pyrus spp.

Pear

Quercus spp.

Oak

Thuja spp.

Cedar

Thuja occidentalis

American Arborvitae

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Boise, ID 83707-0025





IDAHO DEPARTMENT OF FISH AND GAME

SOUTHWEST REGION
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C.L. "Butch" Otter / Governor
Virgil Moore / Director

August 27, 2013

Hal Simmons
City of Boise Planning and Development Services
150 N. Capital Boulevard
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Boise, ID 83701

RE: IDFG's Baseline Recommendations for Development in Wildlife Habitats

Dear Mr. Simmons,

On Thursday, August 8, 2013, representatives from the City of Boise Planning and Development Services (City) met with Idaho Department of Fish and Game (Department) representatives to discuss the Department's recommendations regarding development applications and other proposed improvements in the Barber Valley and Foothills. Per the City's request, the following are the Department's current baseline recommendations to minimize adverse effects to wildlife and their habitats from residential and commercial development in areas serving as wildlife habitat. Additional recommendations from the Department specific to a proposed development project may be provided by written comment after a formal application has been reviewed.

1. As a "goal of maintaining viable access to the Boise River for deer and elk from the WMA, as well as protection for non-game wildlife species" and to "minimize impacts to wildlife corridors as private lands and public facilities are developed over time (BV-CNN 2.1: WILDLIFE CORRIDORS, Blueprint Boise)", the Department recommends that developments in key locations include primary and secondary wildlife corridors in their plans*. Department staff will assist the City and developer consultants on the appropriate placement and design of these corridors, keeping in mind that deer and elk are known to change movement patterns in response to changes in their environment, such as predation and/or development.
2. Native vegetation communities should be protected to the greatest extent possible. This includes native grasses, forbs, shrubs and trees. It is much easier to protect this vegetation initially than to attempt to re-vegetate disturbed areas. Native plants are generally difficult to locate in nurseries, they can be extremely challenging to restore, and are quite expensive. Disturbed sites should be mitigated elsewhere on the property. Disturbance can be minimized through clustering of homes, which results in a minimum of infrastructure development. The common definition of a clustered housing development is one in which roughly the same number of houses that would be constructed under a conventional

dispersed development plan are grouped more closely together on smaller lots and the remaining area is protected as open space under a conservation easement (Lenth et al. 2006).

3. The Department recommends that riparian vegetation within floodplains be maintained to the maximum extent possible, particularly in the floodway and along the banks of the Boise River. Riparian vegetation, particularly woody vegetation, provides a range of environmental, economic, and social benefits, including:
 - Provision of habitat for fish and wildlife
 - Streambank stabilization and reduced channel erosion
 - Removal of sediment from runoff
 - Removal of nutrients and contaminants
 - Storage of flood waters, and thereby, reduced property damage
 - Maintenance of water quality
4. To allow wildlife access to adjacent lands and the Boise River corridor, the Department recommends that there be no perimeter fencing around developments, thereby permitting wildlife to move freely through the area and preventing wildlife entrapment within the subdivision. If a perimeter fence is necessary, the Department recommends the following:
 - Construction of a privacy fence around the perimeter of the development to deter deer and elk from entering the subdivision.
 - Privacy fences should be solid, forming a visual barrier with no spaces between components, and at least 6' tall, with a smooth top surface and in contact with the ground.
 - Installing privacy fences on top of a berm or other elevated surface reduces the likelihood of deer attempting to jump the fence into the yard (VerCauteren, et al. 2006).
5. Wrought iron fences should be designed and constructed using the following guidelines:
 - A minimum of 6' in height to deter deer and other wildlife from entering yards.
 - Horizontal or vertical bars spaced closer than 4" apart or wider than 8" apart to avoid accidental wildlife entrapment.
 - The top of the fence must include a continuous flat piece or straight edge top boards (no spikes, protruding objects or rails) to help prevent injury to wildlife.
6. The Department strongly recommends against any use of chain link fencing anywhere in the development with the exception of enclosed dog runs within a fenced back yard. Chain link fences have the potential to trap and injure deer, including impalement when deer attempt to jump over these fences.
7. Fences using horizontal wires or rails can result in negative encounters between deer and fencing. Such fences constructed as property boundaries or for aesthetic purposes should have spacing between the top two horizontal wires or rails of at least 12 inches and 18 inches between the lower cross member and the ground, with a total height not exceeding 40 inches (VerCauteren, et al. 2006).

8. Known migration routes and movement corridors of big game animals should not be disturbed by development. Migrating big game animals generally follow traditional migration routes from summer ranges to lower elevation transition and winter ranges. Deer migrate along well-established routes and are fairly predictable, while elk are more nomadic. Movement corridors are associated with daily animal movements within seasonal home ranges, such as regular movements to water sources. Department recommendations include wildlife-friendly fence designs, clustering of homes, minimizing roads, maintaining riparian-stream corridors, and maximizing open space.
9. Property owners should be aware of the potential for wildlife to damage ornamental vegetation, particularly deer and elk feeding on green lawns, gardens, flowers, ornamental shrubs and trees. People owning property and living in wildlife habitat need to be aware that big game depredation problems are going to occur and these problems are the responsibility of the property owners and not the Department or the City of Boise. The Department recommends deer and elk resistant landscaping be used in commercial and residential developments, including common areas, to reduce landscape depredation. The Department further encourages property owners to protect their vegetation by using fencing, netting, repellents, etc. to avoid wildlife conflicts. A list of deer and elk-resistant plants can be found in the *Home Builders and Owners Guide to Living with Wildlife*, available here: <http://idahodocs.contentdm.oclc.org/cdm/compoundobject/collection/p15100coll17/id/2733/rec/10>.
10. Domestic stock such as horses, llamas, and cows should be fed in distinct, fenced enclosures that are off-limits to big game. All feed should be stored in sheds or enclosures out-of-sight of big game animals. If deer and elk can see it, they will attempt to eat it! Elk are big, strong animals and can wreak havoc on exposed feed areas. Domestic fowl should be housed in wildlife-proof homes since they are vulnerable to predators such as coyotes and fox.
11. Pet foods and feeding dishes left outside and unsecured garbage will attract raccoons and other animals, which could pose a threat to property and pets.
12. Free-roaming dogs and cats pose a threat to many wildlife species. Pets should be confined or under owners control.
13. When observing wildlife, maintain a safe distance. Do not disturb their normal activities. Resist the temptation to “save” baby animals, as their parent(s) are generally nearby.
14. Big game animals should not be fed under any circumstances unless specifically authorized by or in cooperation with the Idaho Department of Fish and Game.
15. Bird feeders should be routinely cleaned to prevent the spread of disease.
16. Any burning of trash or vegetation on properties adjacent to wildlands should be carefully monitored and under control at all times. Fireworks should be avoided. Dry, brittle vegetation lights easily and fires spread rapidly. Wildfires are dangerous and pose a tremendous threat to human life and property, public lands, and wildlife habitat.

17. High numbers of big game animals on limited winter range attract predators such as mountain lions and bears. Homeowners should use the following precautions a) make noise when coming and going in the morning and at night, b) installation of outside lighting, c) avoid planting dense vegetation near homes, making it difficult for predators to approach houses d) keep pets under control and bring them indoors at night since they are easy prey for predators, e) place livestock in enclosed sheds or barns at night.

Thank you for the opportunity to comment. Please contact Rick Ward in the Southwest Regional Office at (208) 465-8465 or via e-mail at rick.ward@idfg.idaho.gov, or Krista Muller at the Boise River Wildlife Management Area at (208)334-2115, or via email at krista.muller@idfg.idaho.gov if you have any questions.

Sincerely,



Scott Reinecker
Southwest Regional Supervisor

SR/rw/km

ecc: Kiefer/ HQ

cc: Gold file

* Primary Wildlife Corridor: used by a wide variety of wildlife species that are more wary of human activities and less inclined to venture close to settled areas (e.g., migrating mule deer). Primary corridors connect large contiguous habitats and wildlife populations. In addition, the vegetation characteristics in these areas meet security and thermal cover requirements and may provide limited foraging opportunity.

* Secondary Wildlife Corridor: The Department expects some deer to enter the subdivisions by street access. Therefore, we recommend that at least one secondary wildlife corridor be incorporated into each development plan. These corridors consist of an entrance and an exit for wildlife trapped within the subdivision. They not only allow permeability through the subdivision, but also provide additional connectivity to large contiguous habitats. Entrance and exit points could be designed to accommodate pedestrians as well, but must follow fencing recommendations above (#3)

Literature Cited

Lenth, B.A., R.L. Knight, and W.C. Gilbert. 2006. Conservation value of clustered housing developments. *Conservation Biology* 20:1445-1456.

VerCauteren, K.C., M. J., and S. Hygnstrom. 2006. Fences and Deer-Damage Management: A Review of Designs and Efficacy. *Wildlife Society Bulletin* 34(1) 191-200.



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DEVELOPMENT
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August 12, 2013

Boise City Planning and Zoning Commission
c/o Planning and Development Services
P.O. Box 500
Boise, Idaho 83701-500

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Caldwell, ID

WENDY JAQUET
Director
Ketchum, ID

LYDIA KADING PRIMAVERA
Executive Director
lydia@idaholands.org

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Re: CAR13-00007 5237 E Sawmill Way

Dear Commissioners;

The Idaho Foundation for Parks and Lands feels the need to clarify some information that has been stated in documents that have been submitted in this development proposal and are now part of public record.

Idaho Foundation for Parks and Land, a private non-profit corporation, is the sole owner of 382 acres of the Barber Pool that was acquired from Boise Cascade in 1978.

The Idaho Foundation for Parks and Lands has worked with the U.S. Army Corps of Engineers, Walla Walla District to develop a master plan for the long term ecological health and maintenance of the Barber Pool. It was in the 2002 Army Corp of Engineers report that the term "Barber Pool Conservation Area" was first used. The Barber Pool Conservation Area is comprised of 686.5 acres.

The ownership of the 686.5 acres is as follows;

- Idaho Foundation for Parks and Lands – 382 acres
- Privately held land – 149.4 acres
- Ada County – 36.1 acres
- State of Idaho – 24.8 acres
- IDPR – 18.1 acres
- Federal Government – 5.5 acres
- Idaho Shakespeare Festival – 2.6 acres

The parcels that are proposed for the Barber Mill Estates are outside of the Barber Pool Conservation Area.

The Parcels that are proposed for the Barber Mill Estates are outside of the Harris Ranch Mitigation Plan area.

There are comments identifying issues with eagles and roosting trees near the proposed development area. To the Foundation's knowledge, Idaho Fish and Game has not identified any trees on the northwest side of the Barber Pool as eagle roost or nesting trees.

Eagles are not the only raptors of importance in the Barber Pool area. The Army Corp of Engineers' study identified year round populations of red-tail hawks, great-horned owls, northern harriers, American kestrels and western screech owls. There has never been a study performed to determine the possible detrimental effect of crowds, lights and sound on these year-round populations of raptors within the Barber Pool.

The Foundation would also like to identify the properties owned by the Foundation. The hashed area with the black border is owned by the Idaho Foundation for Parks and Lands. The yellow bordered area is the land owned by the Idaho Shakespeare Festival.



The Idaho Foundation for Parks and Lands is pleased to work with other groups who have an interest in the unique habitat that makes up the Barber Pool. We have always attempted to be open in our management plans and goals for the area. We are concerned that groups are using the Barber Pool as an issue within this process. These groups have no responsibility for the Barber Pool, and we wonder where they have been these past 35 years as we have worked to protect and nurture what we consider to be a unique property.

This development will have a positive effect on the Barber Pool. The developer has entered into an agreement with Idaho Foundation for Parks and Lands to donate the Southwest edge of the property that falls within the 200 foot setback from the river as identified in the Boise River Ordinance. In addition, the developer is also donating the portion of the property on the East side that borders the Idaho Foundation for Parks and Lands property referred to in documents as "the berm". This second piece of property does not fall within

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the 200 foot setback area and is a gift above and beyond what is to be protected by Boise City Code.

The developer has agreed to place a fence on the private property that borders these property gifts to the Idaho Foundation for Parks and Lands. This permanent fence exceeds the design standards of the Idaho Foundation for Parks and Lands and will be protected in the HOA CC&Rs. The primary purpose for this continuous fence is to prevent humans and domestic pets from entering the Pool Area. The greatest threat to the wildlife in the Pool is from feral and domestic dogs and cats, and humans. This property and fence will greatly assist the foundation in defining and controlling the borders in this part of the Barber Pool.

The developer has stated that the HOA will join in the Harris Ranch Wildlife Mitigation Association, contributing money to assist in the environmental protection and improvement in the Barber Valley.

The developer is following the Boise River Ordinance, with no request for variances. This protects the Barber Pool far more than the Shakespeare Festival, which built the Interpretive Center and Catering Kitchen within 90 feet of the Boise River and the Festival Amphitheater building within 130 feet of the Boise River.

Idaho Foundation for Parks and Lands fully supports this development as an improvement to the Barber Pool. The addition of the property to the Idaho Foundation for Parks and Lands and the continuous fence on the private property side will benefit the Barber Pool more than the Idaho Shakespeare Foundation.

Very truly yours,



Brian McDevitt
Director, Board of Directors



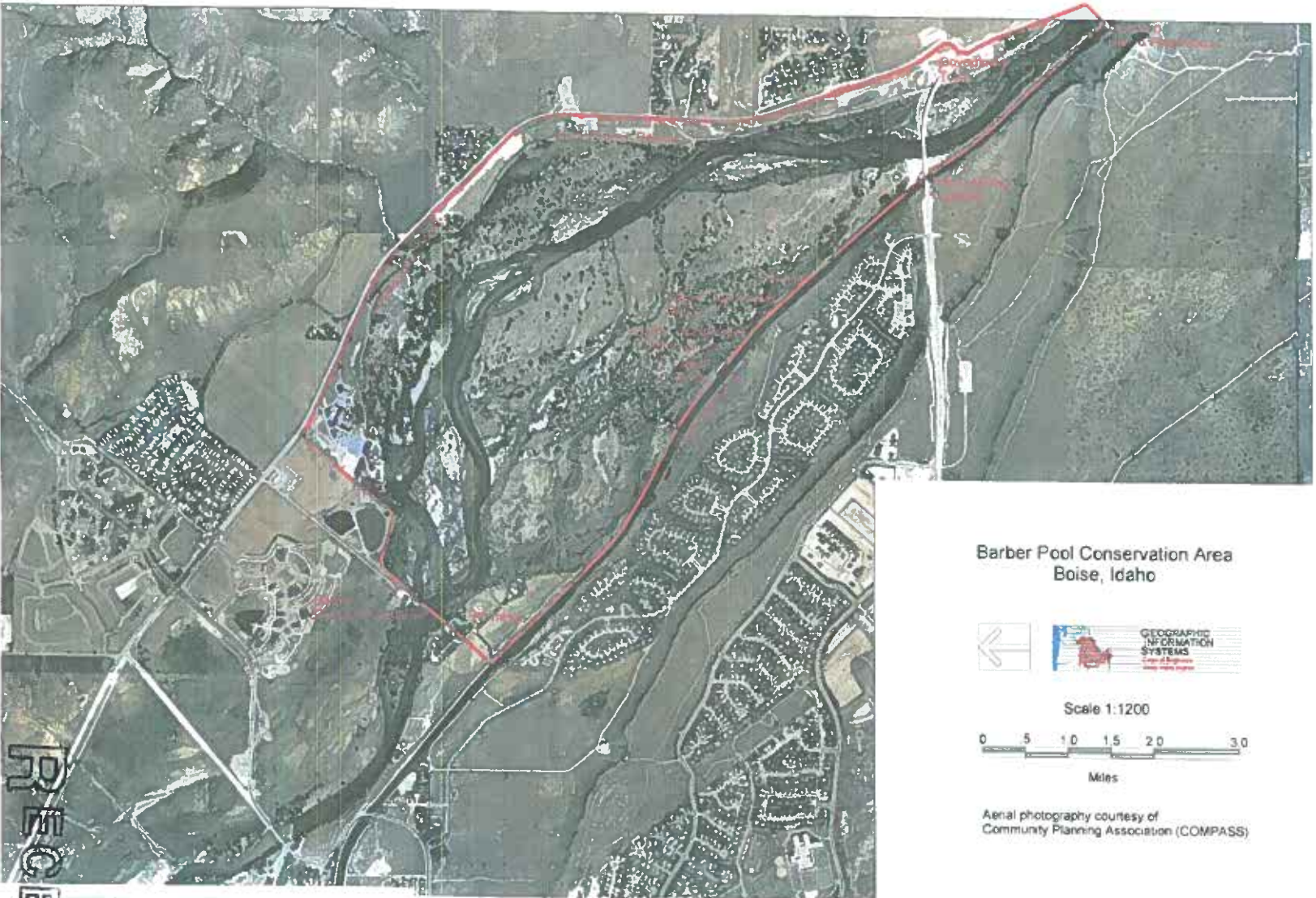
Maryellen Waters
Executive Director

cc: Jim Conger, Conger Management Group
Mike Reineck, Harris Ranch Neighborhood Association
Lynn Johnston, Board President, Idaho Shakespeare Festival
Mark Hofflund, Managing Director, Idaho Shakespeare Festival
Bob Carignan, M.A., Head of School, Riverstone International School
Kent Brown, Kent Brown Planning Services
Brandy Wilson, CH2MHill
Lydia Primavera, Harris Ranch Wildlife Mitigation Association

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Barber Pool Conservation Area

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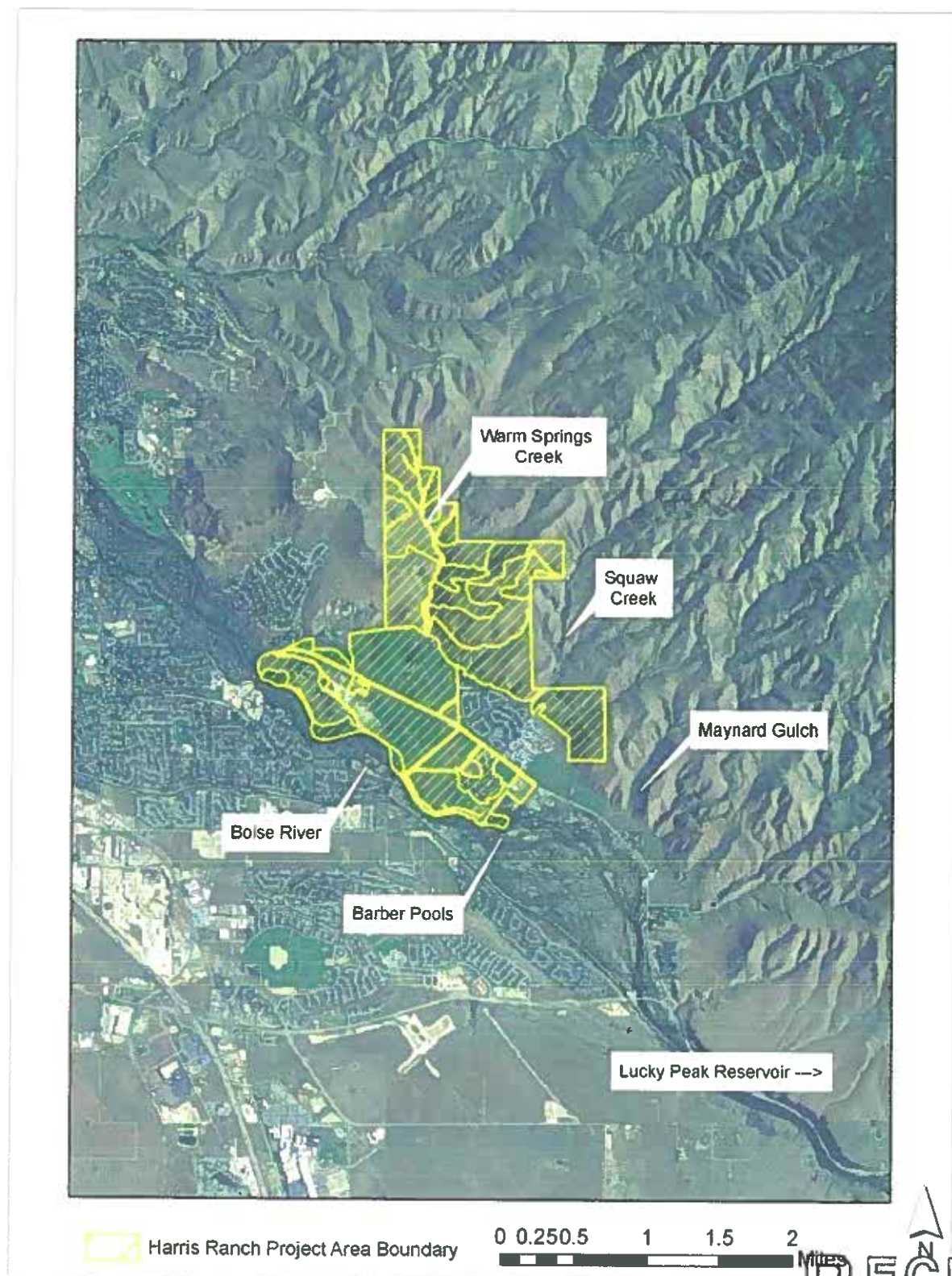


Figure 2. Harris Ranch Project Area Boundary Map.

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FEDERAL ENERGY REGULATORY COMMISSION
Office of Energy Projects
Division of Dam Safety and Inspections
Portland Regional Office
805 SW Broadway, Suite 550
Portland, Oregon 97205
AUG 5 2013

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AUG 09 2013

In reply refer to:
P-4881-ID
NATDAM-ID00207

Mr. Kevin Webb
Environmental Affairs Coordinator
Enel North America, Inc.
One Tech Drive, Suite 220
Andover, MA 01810

Ms. Lorna Jorgenson
General Counsel
Ada County
200 West Front Street
Boise, ID 83702

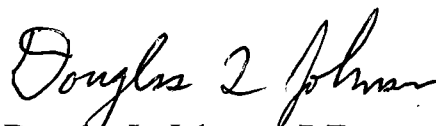
Subject: Development Adjacent to the Barber Dam Project.

Dear Mr. Webb and Ms. Jorgenson:

~~This is in response to Mr. Webb's June 27, 2012 efiled letter transmitting~~
information regarding the proposed housing development on the site of the wastewater lagoons adjacent to the Barber Dam Hydroelectric Project, FERC No. 4881. Included in the submittal is a May 24, 2013 letter from Ada County indicating the concern of the project licensee over the impact of the potential development of property that is currently being used to house dam safety instrumentation. We share this concern and support the licensee's effort to maintain the current dam safety practices for the project.

Thank you for your efforts in dam safety. If you have any questions, please contact Ms. Brooke Weeks of this office at (503) 552-2705.

Sincerely,



Douglas L. Johnson, P.E.
Regional Engineer

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Brandy Stemmler

Nicholas C. Sutton

Macey Prince Swinson

Gregory Taylor

Jerry Van Engen

Henry Yun

Charles Fee

Producing Artistic Director

Mark Hofflund

Managing Director

Carolyn Bancroft

Recording Secretary

September 6, 2013

Mr. Jim D. Conger
Conger Management Group
1627 S. Orchard Street, Suite 24
Boise ID 83705

Re: Barber Mill Estates

Dear Mr. Conger:

At our recent meeting, convened by Deanna Smith in City Hall, Ms. Smith inquired about other possible solutions or new ideas that might be useful for the group to explore. We shared that the Idaho Shakespeare Festival's Executive Committee had discussed possible development conditions that might be acceptable to the Festival. The landowners' counsel has asked that we share these thoughts in writing, which we are happy to do.

Our approach begins with the fact that experts in physics and acoustics do not believe sound impacts from the Festival can reasonably be mitigated below levels that would be plainly audible on the Triplett property, especially during musicals and in inversion conditions. Based on this information, the Festival remains extremely concerned about noise complaints from new residential neighbors who will be closer to the Festival than any existing neighbors, many of whom can already hear the Festival.

Equally concerning is the knowledge that residential activity produces its own noise. A high density of homes next to a quiet natural area with an open-air theater invites conflict in both directions. The distraction of vehicles, home equipment, barking dogs, etc. compromises a quiet setting like the Festival grounds, and disturbs an audience's attention and enjoyment of listening to Shakespeare. After a recent storm in a nearby development, a team of heavy equipment operators spent an hour sweeping up superficial remains. Their significant noise could be heard beyond the development, and it easily would have ruined a performance of *Blithe Spirit* or *Richard III* a few doors down.

With these concerns in mind, we, nonetheless, understand that the Triplett property is entitled to one residence, under its current County zoning (rural preservation). We also understand that zoning for a low density residential development might be possible if the City were to annex this property. With some trepidation, we also reason that fewer homes than those proposed in the current application, especially if well situated and designed, might be far less incompatible than those currently proposed.

The Festival may also be supported through gifts to the Foundation for the Idaho Shakespeare Festival.

With these thoughts in mind, the Festival's Executive Committee would consider exploring the following development concepts for the property.

1. Withdrawal of the current proposal.
2. Re-submittal of residential development at no more than 1 unit per usable acre not including lands in the flood easement and the berm adjacent to ISF. We estimate this is 9 units. The property would receive appropriate zoning, presumably A-1, for the density of the development and would be subject to a development agreement.
3. Resolution of FERC issues pertinent to Barber Dam and floodplain location and mitigation requirements to the satisfaction of FEMA and Ada County, prior to city development approval.
4. Sound mitigation based on recommendations from Wilson Ihrig after review of the new lot layout. Sound mitigation could include some or all of the following measures:
 1. Maintain the current berm
 2. Sound walls
 3. Vegetative buffering
 4. Water features
 5. Increased setbacks adjacent to ISF
 6. Restrictions on design to require shielding of outdoor areas
 7. One-story limits on some or all units
 8. Sound-proof windows and similar requirements to reduce indoor sound.
 9. Deed restrictions and covenants regarding noise complaints
 10. Developer support for ISF application(s) to obtain exception to city/county noise ordinances or to change ordinance(s).
5. Agreement to treat floodplain areas as Class B lands, subject to city-approved mitigation and enhancement plan pursuant to Boise River System Ordinance.
6. Reassessment of 200-foot eagle setback based on new information submitted by Rob Tiedemann.
7. As an alternative, we would support appropriate office, professional office and commercial uses with hours of operation that do not conflict with ISF performances. The permitted uses would be designated in the development agreement.
8. As another alternative, ISF would consider compensating the developer for reasonable expenses to date in exchange for an assignment of the developer's option to ISF.

Please contact Mark Hofflund at 429-9908 x.202 or our legal counsel Gary Allen at 388-1200 if you are interested in discussing any of these options. As we discussed, these options have been given serious consideration by the Festival's Executive Committee (and were approved for discussion at the meeting convened by Deanna Smith) but have not been recommended by the ISF Executive Committee to the ISF Board for adoption.

We appreciate your patience with the Festival and its deliberative processes. As a charitable organization with a public mission governed by volunteers and dependent on public good will, we request your understanding of the Festival's desires to partner with Riverstone International School and two neighborhood associations (Riverland East and Harris Ranch); to observe and honor longstanding

Page 3
Mr. Jim D. Conger
Conger Management Group
September 6, 2013

collaborations with Idaho Foundation for Parks and Lands and Idaho Department of Parks and Recreation; and, in general, to seek and support the common good.

In these efforts, the Festival is willing to devote time and resources toward further remediation and development of the subject parcel, and to do its best to participate in timely discussions with all interested parties, even on short notice. If you were to believe that time has expired, that all reasonable possibilities have been thoroughly examined, or that you simply are no longer interested in considering collective concerns, we would appreciate the courtesy of notification.

We ask that this letter be part of the City record for the applications.

Sincerely,



Lynn Johnston
President, Board of Trustees

cc: Joanne Butler, Esq.
Brandy Wilson, Riverland East Neighborhood Association
Mike Reineck, Harris Ranch Neighborhood Association
Bob Carignan, Riverstone International School
Maryellen Waters, Idaho Foundation for Parks and Lands
Nancy Merrill, Idaho Department of Parks and Recreation
✓Cody Riddle, City of Boise

September 6, 2013

Mr. Jay Story, Chairman
Planning and Zoning Commission
City of Boise
P.O. Box 500
Boise, ID 83701-0500

Ref: CAR13-00007, PUD13-00002, CFH13-19, CFH13-20, SUB13-17 Barber Mill Estates (BME)

Dear Mr. Story:

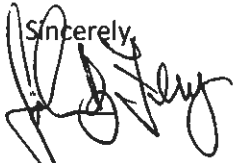
In 1978 I was chairman and CEO of Boise Cascade Corporation when the Barber pool and adjacent land were gifted by the company to Idaho Foundation for Parks and Lands. Boise Cascade could have developed this area of nearly 800 acres, but instead the company recognized that in the years since manufacturing ceased on the site, it had been largely reclaimed by nature, allowing for the abundant return of wildlife. The company's management believed that rather than being developed, this unique property, as the Gift Deed states, should instead be preserved "in order to encourage development of a park and recreation area for the benefit of the citizens of the state of Idaho."

Twenty years later, those of us involved in the decision to make this gift to the people of Idaho were gratified by the move of the Idaho Shakespeare Festival amphitheater to a location on the shores of the historic mill pond. The Festival had continued to grow while performing in three different locations—all of which had severe limitations. This new site seemed like a perfect home for the Festival—a public use very much in the spirit of the original gift. The joint efforts of the state, county, Idaho Foundation for Parks and Lands, and the Idaho Department of Parks and Recreation provided a textbook example of cooperation in facilitating the establishment of this new home for the Idaho Shakespeare Festival.

Subsequently, my wife Dee and I provided financial assistance to help create the William Shakespeare Park so that the public might have appropriate access to the rehabilitated grounds adjacent to the amphitheater. Located on Pool property donated by Boise Cascade to IFPL, made available by IFPL for public purposes, funded by private dollars, overseen and protected year round by IDPR, and developed and maintained by the Festival, the park acreage may be modest in the overall scope of the Barber Pool, but it represents the best of public collaboration and is today a unique community amenity.

The private investments in the ISF Amphitheater and the Park are today thought to have a value in the tens of millions of dollars. More important than this investment, however, is the public value that the Shakespeare Festival brings to Boise's reputation as a great community in which to live, conduct business, and raise a family. I respectfully urge the Commission to take no action regarding the adjacent property which would endanger the Festival or the tranquility of this special place.

Sincerely,

A handwritten signature in black ink, appearing to read "John B. Fery". The signature is stylized with a large, looped initial "J" and a long, sweeping horizontal stroke.

John B. Fery

Cc: Mark Hofflund

Sue Froshiesar
1311 Jackson Street
Boise, ID 83702
629-6277

August 20, 2013

Boise City Planning & Development Services
P.O. Box 500
Boise, ID 83701

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AUG 22 2013

DEVELOPMENT
SERVICES

Re: Proposed development


To Whom It May Concern:

When I read an article in the Idaho Statesman on July 26th regarding a new development next to the Idaho Shakespeare Festival my mind instantly went back to my friend's dairy farm on Franklin Rd. You see, the Simunich family settled in the Boise Valley many many years ago. They owned the land where St. Alphonsus RMC is now located. There are streets on the bench named Anna, Marko, named after this family. They owned a lot of land off Vista Ave., and owned a dairy farm on Franklin Rd. between Curtis and Cole roads. Just like the Idaho Shakespeare property, the Simunich dairy got surrounded by Bishop Kelly High School, which I believe the Simunich family donated the land and then there was a housing development to the east. I'm sure that when those new homeowners moved into their new homes, they had no idea how loud the dairy cows could be and how bad the smell was going to get in the summer. The homeowners tried to file suit against the dairy farm, which they all lost but it still cost my friend's time and money to defend.

Just like for the Idaho Shakespeare Festival surrounding property. Those new homeowners have no idea how long and loud the noise is going to be. How bright the lights are going to shine at night. And God forbid all those cars driving out of the parking lot so late at night. You see there are times when it doesn't make since to put homes so close to a performing arts facility where their hours are so different than homeowner hours. The new homeowner will have small children that go to bed about the time the theater starts up. The loud cheers the audience gives to the cast members will even wake up mom and dad because they went to bed before the play was over.

I know, the developer just sees dollar signs but mark my words; the Idaho Shakespeare Festival will have to spend valuable dollars and time defending the hours and noises during their summer performances. Please DO NOT let the proposed land be developed into single family housing.

Sincerely,



Sue Froshiesar

Cody Riddle

From: Theresa Ensign <tensign7@yahoo.com>
Sent: Tuesday, August 13, 2013 11:02 AM
To: Cody Riddle
Cc: mikereineck@mac.com
Subject: CAR13-00007

Dear Mr. Riddle,

Be advised that the Shakespeare folks have been recently performing random, unannounced sound checks. Saurday, 08/10 @ 0815, was EXCEPTIONALLY offensive with LOUD, SPORATIC, BLASTING music clips from the musical 'Fame', combined with continuous doorbell ringing that persisted until the early afternoon. The doorbell ringing has continued to be audible through the morning of 08/12. Though scenarios of this type are nothing out-of-the-ordinary, the peacefulness of an otherwise beautiful Saturday morning was destroyed, and I was prematurely roused out of bed after an exhausting nite at work ... arg!!!

My point: the Conger's/Center's 'noise-deadening-berm' (presently under construction) had absolutely NO effect on reducing the noise level as was most notable from my second-floor bedroom elevation. Any unbiased sound study would surely prove this to be a fact!!!!

I stand firm in my conviction that the proposed Barber Estates housing development is an irresponsible act of developer greed that will only bring devastating results to the future value/quality/viability of the Shakespeare Festival. Equally as important will be the profoundly heinous effects upon the fragile eco systems of the Barber Pools conservation area, our eagle nesting grounds, etc., etc. These are examples of IRREPLACEABLE treasures that will be FOREVER altered ... as will the quality of life in our Treasure Valley.

I thank you for your time in scrutinizing the facts relative to this delicate situation.

Respectfully,
Theresa L. Ensign
5242 East Sawmill Way
Boise, ID. 83716

August 27, 2013

Boise Planning and Zoning Commission
City Hall, 3rd Floor
150 N. Capitol Boulevard
Boise, ID 83702

RECEIVED
AUG 30 2013
DEVELOPMENT
SERVICES

Re: CAR13-00007, PUD 13-00002, CFH13-19, CFH13-20, SUB13-17

Dear Planning and Zoning Commissioners:

We feel compelled to write and express our opposition to the proposed Barber Mill Estates, ideally hoping for denial, in favor of other uses for this land, whose decades-long industrial history is now in transition. As both a mill pond for timber and a sewage lagoon for human waste (recently maintained and operated by the developers of the Golden Dawn Estates), this land is now open for a new plan, and we hope the future plan is complementary with the activities of its immediate neighbors, including the Idaho Shakespeare Festival, Riverstone International School, the Idaho Department of Parks and Recreation, and the hundreds of acres of open space conserved and reserved for the public by the Idaho Foundation for Parks and Lands.


We want to add our voices to the larger Boise City and Ada County community of dedicated theater-goers and nature-lovers, who regard the Idaho Shakespeare Festival as an important amenity essential to the health and vitality of our region. Its long and successful history (we attended the first Shakespeare play in 1977 on the lawn at One Capital Center) is a testament to the enjoyment and value people place on the experience. ISF has an admirable working relationship with the other entities close by, but a housing development so near would not be compatible, either for patrons or for residents.

Once split and privatized among numerous owners, this land's use could never be "undone," so it is extremely important to get it right this first time. To have neighboring parties come to a respectful agreement and thorough understanding of existing needs, in order to alleviate any problems now and in the future, would seem to be at the heart of P&Z's purpose as a public body. Please consider this role carefully, and utilize your public prerogative to maintain the standards and desired compatibilities established when Boise Cascade Corporation first donated this historic industrial area for future public good.

Please consider the generosity, sacrifices, and beneficial visions of other landowners who have made further public good possible by preserving our first dam on the Boise River (the Barber Dam), locating our first state parks headquarters along the only roadway access to this area, creating the first permanent home for our Shakespeare Festival here, and enabling our first international school to locate on the doorstep of this unique habitat area.

We know you can find the right solution, and we thank you for your time and thoughtfulness.

Sincerely,


Jena and Bill Vasconcellos
1330 Candleridge Drive
Boise, ID 83712

August 21, 2013

Ref: CAR13-00007 & PUD13-00002 Barber Mill Estates (BME)

Dear Members of the Boise Planning and Zoning Commission,

Numerous statements have been made regarding the incompatibility of residential development in close proximity to the Idaho Shakespeare Festival, largely based on sound issues. This incompatibility has been supported by the three studies done by professional experts. Two of were funded by the developer and one by ISF. Both studies funded by the developer claimed that ISF was in violation of noise ordinances.

While these studies provided very useful data and interpretation, their target audience was people who are accustomed to interpreting the values and language of acoustic experts. The intent of this letter is to use basic laws of physics to provide a visual and intuitive description of the intensity profile of sounds generated by a musical performance vs. distance from the stage, both within and beyond the outdoor theater. As stated below, the analysis used neglects second-order ground effects that may have a minor influence on sound intensity (either positively or negatively) and focuses on the primary attenuation mechanism that is simply due to distance from the source. As we all know, distance makes the sound grow fainter. For those who may be interested in more details on these laws of physics, please refer to Appendix 1 at the end of this letter. I truly hope you find this letter to provide useful information.

This letter makes the following assumptions:

- All sound emanates from the pair of speakers above the stage, as is common for amplified musical performances. These speakers are treated as a point source for this discussion.
- Sound diminishes due only to the scattering effect. All ground effects are neglected. The justification for this simplification is that the speakers are high enough above the ground (including the berms) that the effect of these ground features will be negligible. In essence, the sound path in this case is very close to being line-of-sight.
- Due to these assumptions, the sound pressure level can be estimated to diminish by half (6 dB) for every doubling of distance from the source.

This model neglects the following effects that in this situation would have a minor effect:

- Features such as berms, topographical barriers, and foliage may cause the sound pressure level to diminish more rapidly with distance.
- Features such as thermal inversions which, depending on weather and position of the setting sun, can cause the sound to curve downward toward the earth with a resulting increase in sound pressure level at ground level.
- Features such as buildings and other reflective surfaces may cause multipath effects that could either increase or decrease the sound pressure level at various locations through constructive or destructive interference, depending on frequency of the sound.
- Energy absorption in the atmosphere which can be neglected at the frequencies and distances of interest.

The results of this simplified analysis are shown in Figure 1. This figure is based on the following assumptions:

- The sound pressure level for clearly audible speech is 20 dB above ambient. Please see Appendix 2 for more on ambient levels.
- The minimum sound pressure level at the rear of the theater during speech is therefore 20 dB above ambient.

- Due to need to achieve a quality production, the dynamic range of the sound level should be at least 20 dB. Sound at the high end of this range will be very occasional, and may not occur in all productions, but it is expected to happen.
- The following are estimated distances from the speaker to to:
 - Rear of theater: 93 feet
 - Nearest proposed residence: 409 feet
 - Nearest existing residence (on Sawmill Way): 1067 feet

Based on these distances and the previous assumptions, the sound pressure level at the proposed nearest residence would be approximately 8 dB higher than the sound pressure level at the nearest existing residence.

From Figure 1 the following observations can be made:

- At the nearest Sawmill Way residence, the typical minimum sound level is below the ambient sound level. Occasional sound peaks will be audible but rarely reach the level where there can be readily distinguished.
- At the nearest proposed residence, the typical minimum sound level is well above the ambient sound level, by about 7 dB. Sound peaks will be well above the clearly audible level. Please see Appendix 3 for more on this.

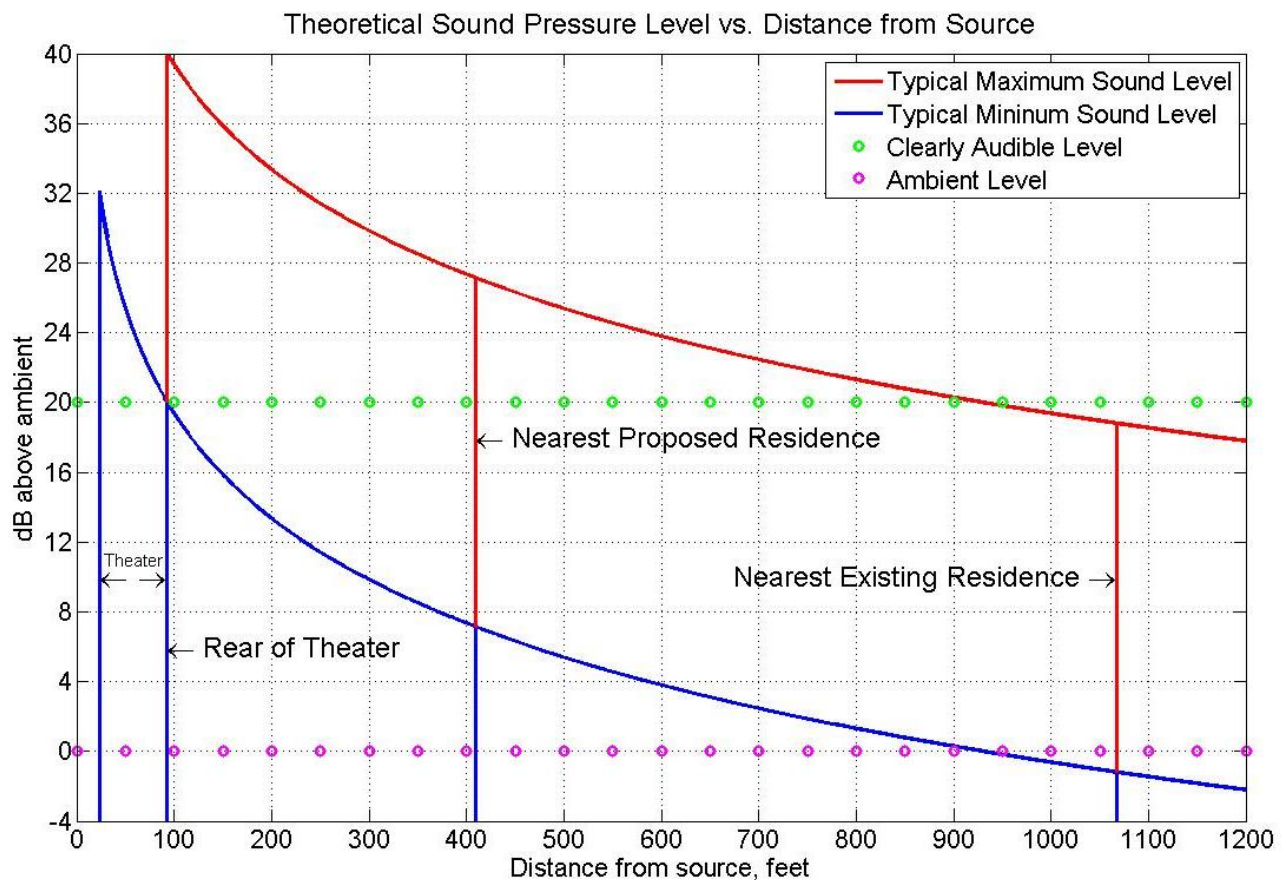


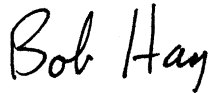
Figure 1 Sound Pressure Profile

Both of these observations are entirely consistent with what one hears at both locations during a performance of a musical such as Sweeney Todd.

One may conclude from this theoretical analysis that the nearly 700 feet of sound buffer distance to the nearest residence that has been provided by the Triplett property is very important to address the sound compatibility of the theater with existing residential properties. It might be possible to encroach closer

to the theater with additional residences on the far end of the property, but doing so rapidly increases the risk of disgruntled neighbors. Please see Appendix 4 for more on this.

Best regards,



Bob Hay

President, AlloSys Corporation (design of wireless communication and radar systems)

Member and Past President, Idaho Shakespeare Festival Board of Directors

Professor Emeritus, Boise State University College of Engineering

Professional Engineer, State of Idaho (License 14245)

Appendix 1 A bit about sound level vs. distance from the source

For those who are experts in acoustics, please skip this appendix – it is not my intention to offend anyone. For the rest, please let me point out a few fundamentals.

Most important – if you generate a watt of acoustic power in a (non-directional) point source, the power will radiate outward from that source in a spherical fashion. The area of that sphere is proportional to the square of its radius, which is the same as the distance from the source. Assuming that the acoustic power is uniform over that sphere, then the acoustic power that one's ear (of a given area) can intercept on the surface of that sphere will diminish as the total area of that spherical surface increases. Consequently, the acoustic power delivered to one's ear will diminish by the square of the radius, or the square of the distance from the source.

The next piece of the story might be a bit more confusing but for some saving simplifications. It turns out that the ear is actually sensitive to sound pressure, which happens to be proportional to the square root of sound power. So all of this square and square root stuff is cancelled out, and the sound pressure perceived by the ear is simply proportional to radius or the distance from the source. Nice!

Here is an important piece of the puzzle. The ear is non-linear. In general, its perceived “loudness” happens on a logarithmic scale. This means that every time the sound pressure diminishes by half, the ear perceives this as the same decrease in loudness as from the previous halving of sound pressure.

So here is the beautiful simplicity of all of this based on the laws of physics. If we start at some distance x from the source, every time we move away from the source such that we double the distance x , the ear will have the perception that the loudness has diminished by a factor of two. This turns out to be equivalent to a reduction of almost exactly 6 dB reduction in sound pressure. If you are interested in an explanation of this beyond the simple calculation that $20 \log 2 \approx 6$, you might start by checking out the excellent description of dB at <http://en.wikipedia.org/wiki/Decibel>.

Now for one final tidbit. Acoustics folks frequently refer to terms like dBA (or dBB, dBC, dBD, dBZ). These are weighted values of dB that are intended to compensate for the fact that the ear is more sensitive to some frequencies than to others. These weightings are based on considerable data, although they all have limitations (<http://en.wikipedia.org/wiki/A-weighting>). They can also lead to confusion. Suppose a sound is characterized as having a level of 50 dBA at a certain distance from a given source. Assuming no ground effects and a spherical acoustic radiation pattern, the level would be 44 dBA at twice the distance from the source. In the manner in which technical folks use decibels, it would be equivalent to state that doubling this distance results in a reduction of 6 dB or 6 dBA in the sound level. The use of the term 6 dB is generally preferable because it independent of the frequency weighting used in the initial level assessment. That is why the plot in Figure 1 uses the more general units of dB.

If you have read all of this, I hope you found it to be useful!

Appendix 2 Ambient noise

All studies of ambient (background) noise in the vicinity of ISF and BME listed in the reference section below were quite consistent. The evening ambient noise when there was no ISF performance was typically in the range of 45 – 50 dBA according to both Mullins and Jue, who specified the standard Leq measurement method. The sound survey from Dr. Pritchard White suggested that evening ambient noise

in the BME area is around 36 - 40 dBA but he did not seem to specify the measurement method. He did state that “‘ambient’ refers to the sound environment when there are no obvious extraneous sources such as cars, children, geese, etc.” This will explain the difference in the results.

Appendix 3 Legal perspectives

Both Mr. Mullins and Dr. White commented on any audible sound 100 feet from the source being illegal, neglecting the fact that some of our audience is 100 feet from the source of the sound. They both choose to view the source as the stage rather than the property boundary, thus making any sound that crosses the ISF boundary 400 feet from the source as being prohibited. Note that this perspective among these sound consultants places a significantly higher constraint on ISF than on a homeowner whose boom box on their patio 5 feet from their property boundary can travel 100 feet of being audible and even disturbing without being prohibited.

It might be noted that Mr. Mullins, under contract with McAlvain Construction regarding the Boise Police Department Outdoor Firing Range Noise Study (referenced below), suggested that firearm noise with peak acoustic sound pressure level orders of magnitude higher than the sound produced by ISF, should not be offensive to nearby residents.

One can conclude from all of this that it is very difficult to characterize sound in a quantitative manner that all will agree with. That is why it is so important for urban planning commissions to address sound compatibility in a very careful manner that prevents future problems.

Appendix 4 Sound mitigation considerations

All reports discuss the difficulty of useful sound mitigation except near the source or recipient.

Mr. Mullins, in his report for the Outdoor Firing Range, was not able to develop a noise mitigation solution that would be successful given the operational constraints.

Dr. White was very concerned about “performance sound interrupting their sleep or TV watching” suggested that ISF should take such steps as “includ[ing] physical noise barriers on their property, changing the speaker configuration, electronically limiting the sound power of its amplification and speaker system, or ceasing activity at 10:00 PM.”

It is generally agreed among sound experts that sound barriers need to be very near either the source or recipient of the sound in order to be effective. (Think about the growing number of sound walls on freeways, which are near the source). As Ms. Jue has pointed out:

“Dr. White has proposed some noise control concepts for ISF, all of which have been taken into consideration in our 2001 study. Any new sound barrier would have to be constructed in close proximity to the amphitheater which would likely negate the open-air concept of the ISF design, or in close proximity to the proposed BME development, which would require a barrier of substantial height which could be unappealing to potential residents at the BME development.

So we get back to the irrefutable laws of physics – the way to address sound problems is through distance. Unfortunately, alternative approaches to sound mitigation are limited except under special circumstances, which don’t apply in this situation without major detrimental changes in the operations of the ISF.

References:

Earl Mullins BME Study July 5, 2013

<http://pdsonline.cityofboise.org/pdsonline/Documents.aspx?id=201307241323068860>

Pritchard White BME Study July 7, 2013

<http://pdsonline.cityofboise.org/pdsonline/Documents.aspx?id=201307241324074610>

Earl Mullins Outdoor Firing Range Noise study June 20, 2013

<http://pdsonline.cityofboise.org/pdsonline/Documents.aspx?id=201306271122032760>

Deborah Jue ISF noise study, August 19, 2013 report
Not yet posted.



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Memorandum

19 August 2013

TO: Mark Hofflund
FROM: Deborah A. Jue
SUBJECT: Idaho Shakespeare Festival, Ambient conditions

Following is a summary of the results obtained from observations of the “Sweeney Todd” production on 16 July 2013 and the ambient noise survey we conducted from 16 through 24 July 2013.

Background

- An application has been filed to build 47 new single family residences known as the Barber Mill Estates (BME). This development would be located on a parcel currently containing sewage lagoons (Triplett property) to the west of the Idaho Shakespeare Festival (ISF) amphitheater. The existing fence on the eastern side of the Triplett property is very close to the property line of the proposed BME development.
- A noise study conducted by Mr. Earl Mullins of Mullins Acoustics, dated July 5, 2013, concludes that while sound from the ISF productions is audible in this area of the BME development (lots 9 – 17), it is similar in level to existing sources; nor would there be adverse impact from ISF on new homes along Sawmill Way at the western side of the development, where ISF productions also are audible.
- In contrast, a noise study conducted by Dr. Pritchard White, dated July 7, 2013, concludes that the existing spoken word ISF productions such as “Blithe Spirit” would be plainly audible within the proposed BME development.
- The productions that Mr. Mullins and Dr. White observed were “spoken word” productions (“Blithe Spirit” and “Much Ado about Nothing”), for which microphones and speakers are used to provide speech reinforcement of the actors’ voices and improve speech intelligibility; the intention of speech reinforcement in this kind of production is to augment the direct sound from the actors’ voices, and to amplify the voice as little as possible.
- There is an earth berm on the Triplett property bordering the ISF pond, approximately 8 to 10 feet above the surrounding topography. The ISF amphitheater is visible through the trees at this location. At some areas along the berm the sound is partly shielded by the ISF interpretive center.
- At some areas inside the Triplett property, the berm blocks line of sight to the ISF amphitheater.
- Assuming that the new development will have a comparable ground elevation as the highest ground on the lagoon property, the roofline of single story homes would be slightly higher than the berm. The second floor of homes in the new development would have direct line of sight to the ISF amphitheater.

- Based on noise measurements and modeling that WIA conducted in 2001¹, we expect that amplified sound levels on the order of 40 dBA Leq and higher will be audible at residential receivers.
- It has been reported to us that despite the information provided in Mr. Mullins' report, spoken word ISF productions are clearly audible in the nearby Harris Ranch neighborhood, for instance near homes on E. Sawmill Way and on Barber Station.

Observations

- Figure 1 illustrates the study area and the noise measurement locations used during our noise survey.
- Figures 2 and 3 summarize the daily variations in noise levels at each of the noise logger locations (1a and 2a). The sound was measured continuously, with the statistical values stored for each 15-minute interval. Comparing Figures 2 and 3 indicates that the sound levels in the amphitheater and near the berm for "Sweeney Todd" were typically 10 dBA higher than "Much Ado About Nothing". These figures are discussed more fully below.
- On the evening of 16 July 2013, Deborah Jue, a Principal consultant with WIA, observed sound levels within the ISF amphitheater and near the new development property line from a production of "Sweeney Todd", a musical with a live orchestra and amplification of the actors. Musicals require more amplification than spoken word productions. Ms. Jue's observations were as follows:
 - The voices and music from the production were clearly audible near the berm, with the highest and most prominent sounds generated during singing.
 - The intervening trees are not expected to provide any significant sound reduction to the BME development; typically a dense wood 100 ft deep is required to provide substantial noise reduction.
 - Near the BME property line closest to ISF, the most audible and highest noise levels from the production were experienced at Location 2c, where the berm drops off and there is a clear acoustic line of sight to the ISF amphitheater.
 - There was a thunderstorm that occurred around 8:20 PM to 8:40 PM. The show was paused during this time, and resumed at approximately 9 PM. Strong winds gradually kicked up shortly after this, eventually causing the show to be called off around 10:30 PM. Thus, this accounts in part for the differences between Figures 2 and 3 between the other nights when "Sweeney Todd" was run.
 - Shortly before 10:00 PM, Ms. Jue relocated to E. Sawmill Way. The strong winds made it difficult to hear anything, but the opening musical number of the second act was clearly audible, prior to the rest of the performance being cancelled for actors' safety around 10:30 PM.
 - Table 1 summarizes the sound levels observed at each location. The data is presented in terms of the equivalent noise level, Leq, and the typical range defined by the statistical descriptors: L10 – frequently occurring maximum sounds and L50 – median noise level.

¹ "Idaho Shakespeare Festival Amphitheater, Acoustical Study – Propagation of Amplified Sound/Effect of Traffic Noise on the Amphitheater," 16 January 2001.

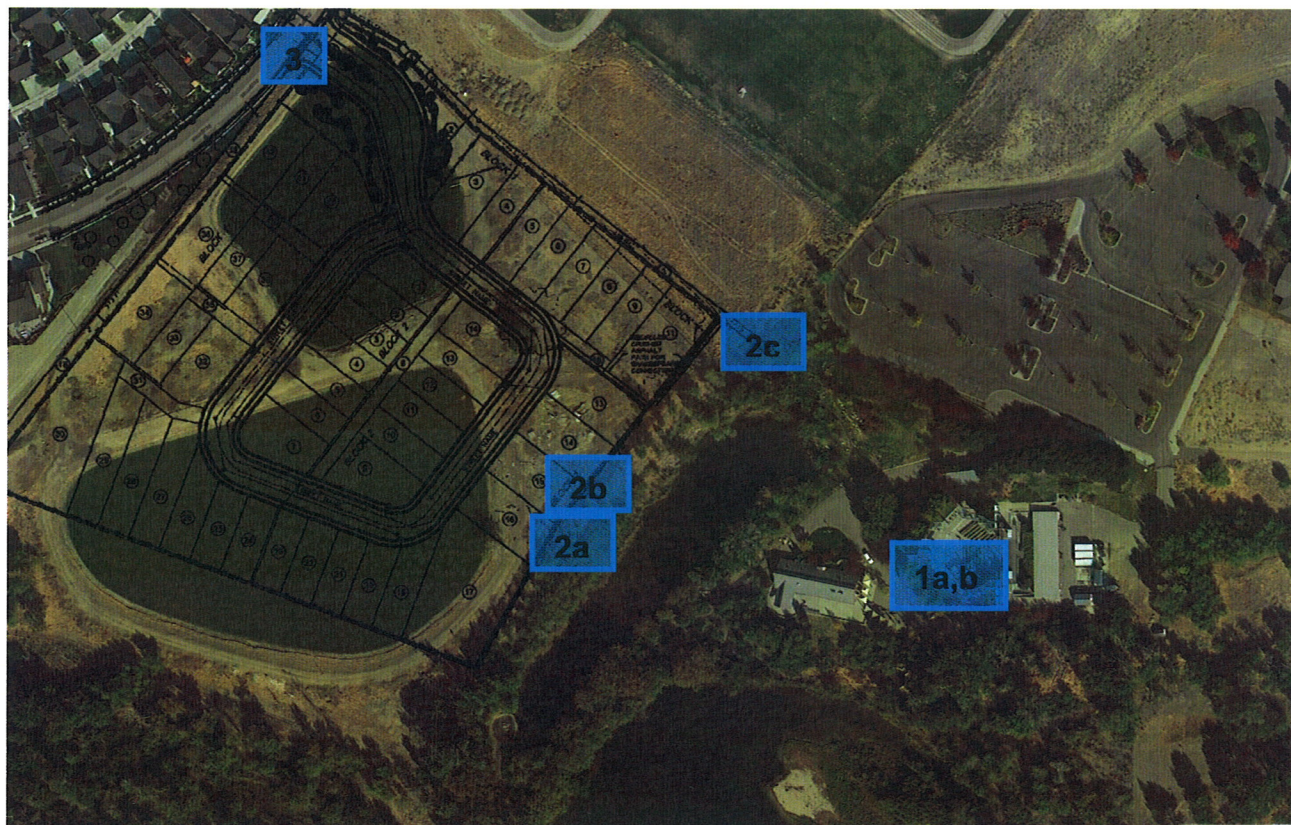


Figure 1 ISF, Proposed New Development and Noise Measurement Locations

Table 1 Summary of Measured Sound Levels - July 16 (Short-term)

Location	Time	Observed Sound Levels			Comment
		Leq	L10	L50	
1b: ISF back of house	7 pm – 8:30 pm	72	76	64	Greenshow and beginning of 1 st act into rain storm
2a: On berm	8:38pm -8:45pm	50	52	45	Middle of 1 st act
2b: Fence line behind berm	8:47 – 8:53	49	52	41	Towards end of 1 st act, shielded by berm
2c: Near ISF parking lot (path) – no berm	8:55pm	57	60	54	3 minute observation, end of 1st act
3: E. Sawmill Way	10:30pm +	n/a	n/a	n/a	2 nd act, before show called for high wind. Singing audible around 60 dBA (with wind)
Leq: Equivalent sound level – equivalent sound energy as a time varying event L10: Frequently occurring maximum sound level L50: Median sound level					

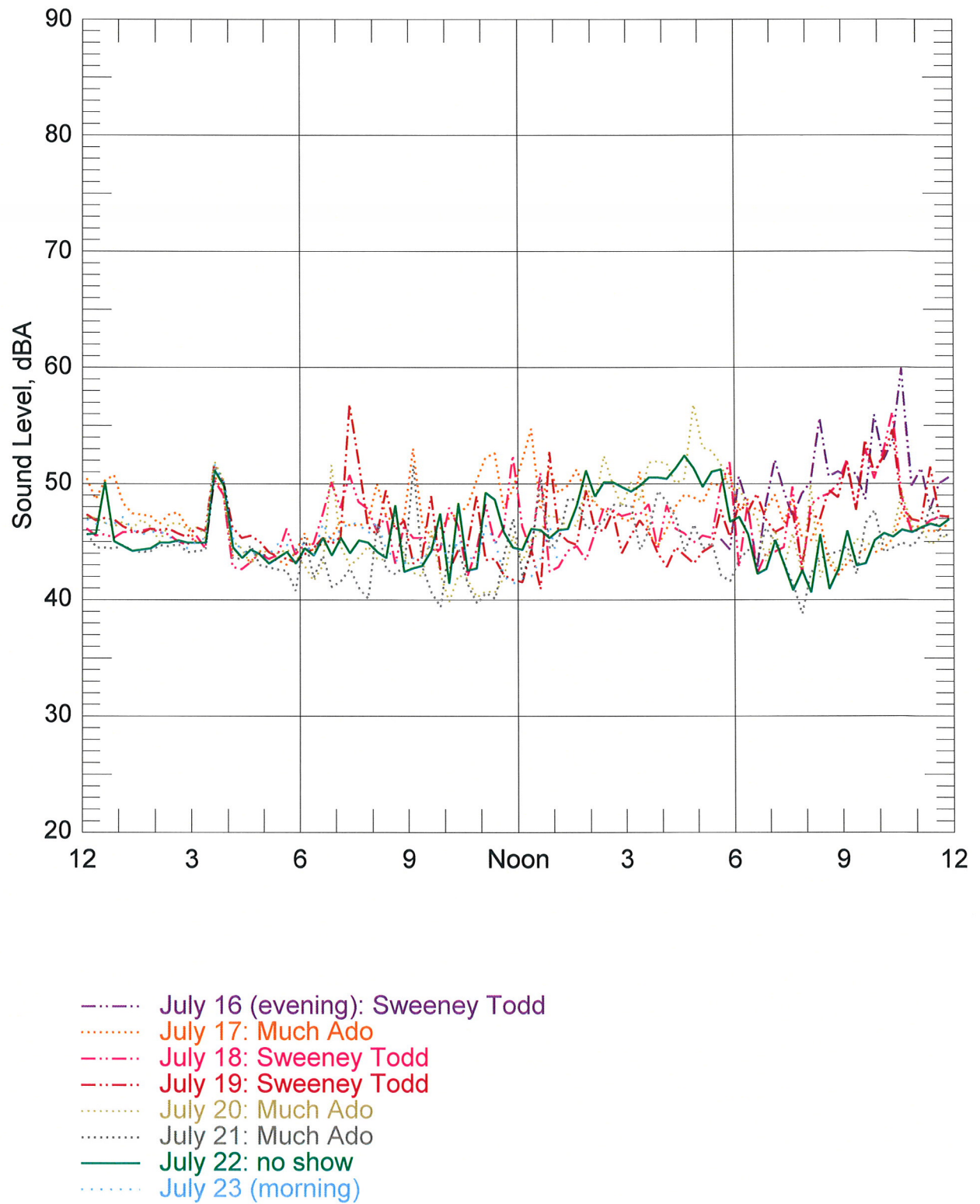


Figure 3 Noise Survey Results at Berm, 15-minute Equivalent Noise Levels (Leq)
Location 2a

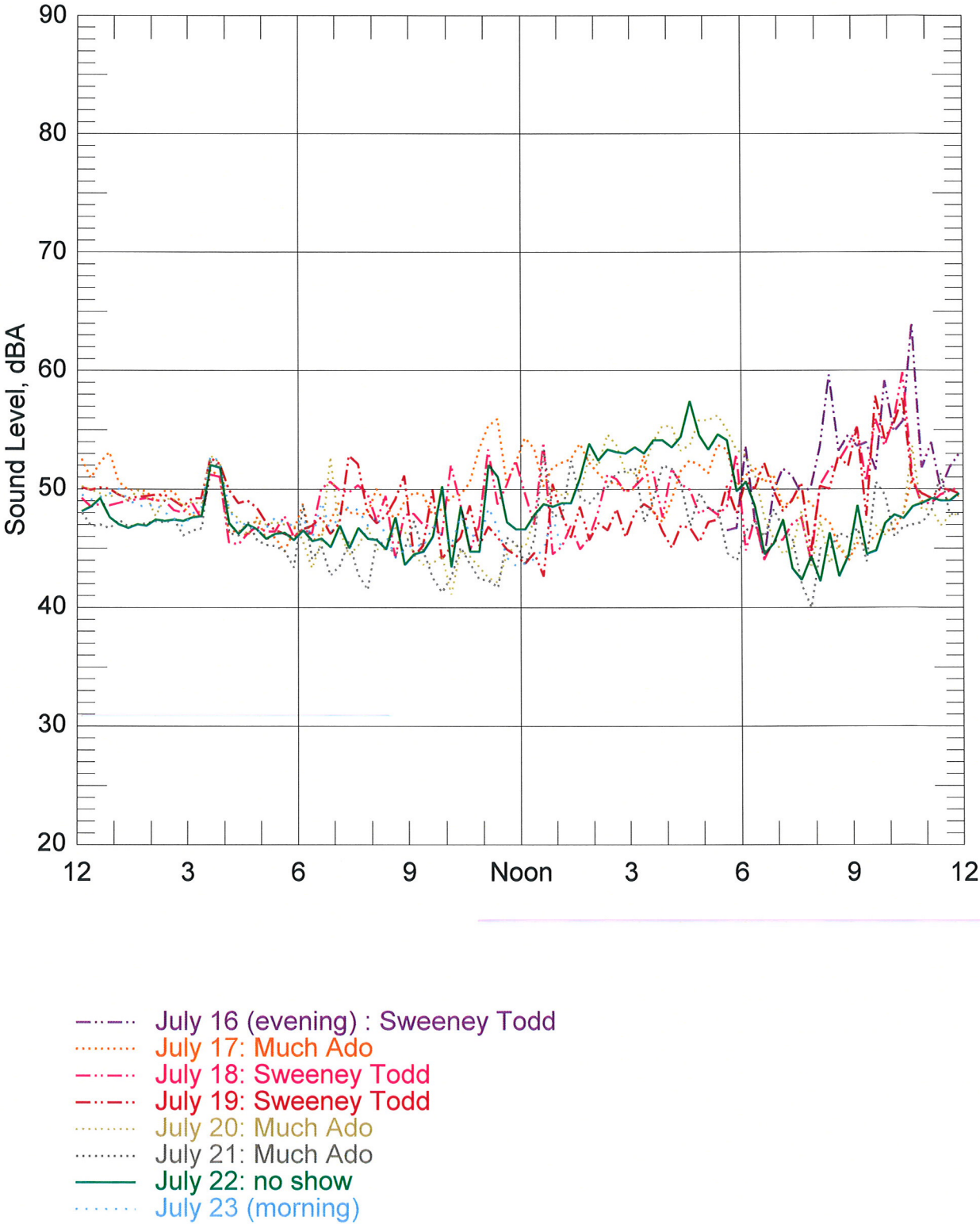


Figure 4 Noise Survey Results at Berm, 15-minute Interval Frequently Occurring Maximum Events
Location 2a

Conclusions

- Sound levels from musical productions, and other productions with music and effects (e.g., ISF's production of Othello with taiko drumming throughout) generate higher levels in the amphitheater and in the community than spoken word productions such as "Blithe Spirit" and "Much Ado about Nothing".
- The noise survey results show that "Sweeney Todd" is approximately 10 dBA higher than "Much Ado About Nothing", and spoken word productions appear to be comparable in sound level to the ambient conditions without any ISF production.
- Sound with information content such as speech and music can be easier to detect and identify than the general ambient sounds caused by weather or the natural environment. Further, in our experience, such sounds which are only 5 to 10 dBA below the ambient conditions can be easily identifiable. Thus, while Mr. Mullins' conclusions indicate that the sounds from ISF were audible but not "identifiable or intelligible", we believe that he underestimates what might bother or annoy NEW residential neighbors in the proposed BME development. Dr. White concludes that the sounds from ISF would be plainly audible in the BME development.
- Further, we believe that Mr. Mullins' conclusions underestimate the effect of many other theater productions that ISF presents.
- Based on the sound levels measured and observed, we have calculated the expected noise levels under similar meteorological conditions near the BME property line and E. Sawmill Way for musical productions similar to "Sweeney Todd", shown in Table 2.
- These sound levels from musical productions in Table 2 are higher than those observed by Mr. Mullins and Dr. White, and based on observations from 16 July 2013 we expect that these kinds of ISF productions are clearly audible.
- The sound levels in Table 2 are consistent with the modeled results from our 2001 report².
- Based on modeling results reported in the 2001 report, the effect of a strong temperature inversion could increase the sound levels on the order 5 to 10 dBA³ or more at the lagoon property compared to the typical summer weather conditions encountered during the noise survey.
- Contrary to Mr. Mullins' conclusions, we believe that a new residential development in that lagoon area would be incompatible with the existing conditions generated by the long-standing ISF summer productions.
- We expect that some noise control measures in the new development design could be effective at reducing the sound from ISF to the proposed development; however, we are not confident that such measures would be sufficient to mitigate the ISF productions to be inaudible or less than "plainly audible" for outdoor areas at the new development.
- Dr. White has proposed some noise control concepts for ISF, all of which have been taken into consideration in our 2001 study. Any new sound barrier would have to be constructed in close proximity to the amphitheater which would likely negate the open-air concept of the ISF design, or in close proximity to the proposed BME development, which would require a barrier of substantial height which could be unappealing to potential residents at the BME development.

² Modification 1, "lower board" levels, as summarized in Table 2 of that 2001 report. The sound levels in the community are about 8 to 10 dBA lower than the data shown in Figure 10 of the 2001 report.

³ Compare Figures 10 and 11

Ambient Long-Term Noise Survey Preliminary Results:

As mentioned above, two long-term noise surveys were conducted to document the outdoor ambient conditions over several days. One noise logger was placed in the ISF amphitheater to document the variation of sound during ISF productions. The second noise logger was located in a tree on top of the berm, to document the noise levels on the Triplett property near the BME development.

Figure 2 summarizes the 15 minute Leq sound levels documented at Location 1a in the ISF amphitheater. During the evening hours, this data shows a 10 dBA difference between the “Sweeney Todd” productions and the “Much Ado About Nothing” productions. Figure 3 similarly presents the data documented at Location 2a on the berm, and the noise levels corresponding to the “Sweeney Todd” productions show a similar 10 dBA difference. The “Much Ado About Nothing” productions are almost indistinguishable from the ambient conditions measured on July 22 with the ISF stage silent.

Figure 4 also shows the frequently occurring maximum events measured at Location 2a, which are possibly comparable to Mr. Mullins’ intermittent noise observations. Mr. Mullins observed ISF-related sounds on the order of 38 to 51 dBA, with 44 to 45 dBA being typical. At the berm, the results from “Much Ado About Nothing” are very similar to Mr. Mullins’s results, however during “Sweeney Todd” the sound levels measured by WIA were about 10 dBA higher.

Except for the evening period on 16 July during the thunderstorm, no other measureable precipitation occurred during the noise survey, and no other periods experienced the same high winds.

Table 2 Expected¹ Sound Levels from ISF – Musicals vs Spoken Word

Location	Musical or Similar		Spoken Word	
	Leq	L10	Leq	L10
Top of Berm	50	52	40	42
Fence line (below and behind berm)	49	52	39	42
BME property line (no berm)	55	60	45	50
E Sawmill Way	45	55	35	45
Note 1: Expected sound level based on distance, topography and observed sound levels on 16 July Leq: Equivalent sound level – equivalent sound energy as a time varying event L10: Frequently occurring maximum sound level				

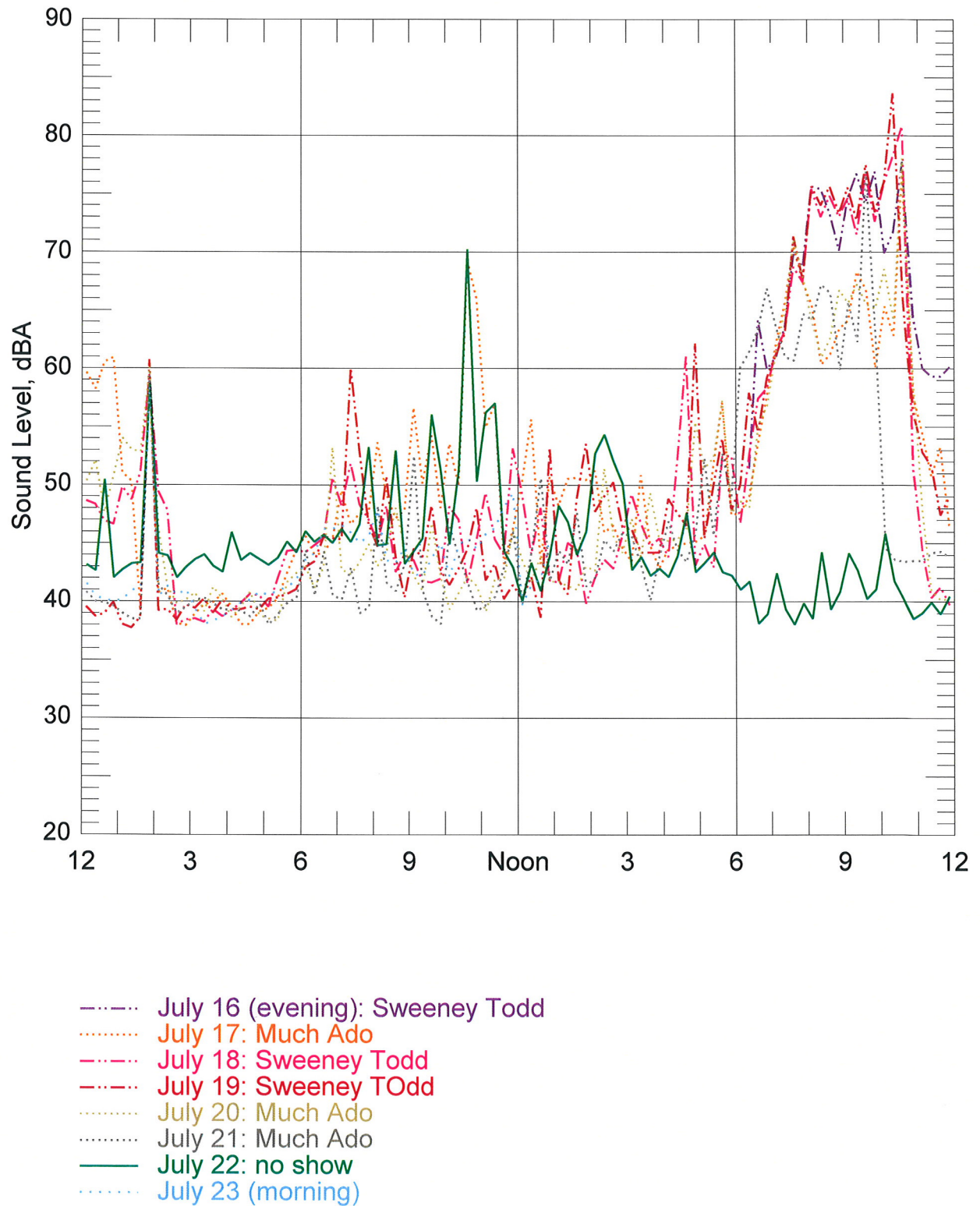


Figure 2 Noise Survey Results at ISF Amphitheater, 15-minute Equivalent Noise Levels (Leq)
Location 1a



Planning & Development Services

Boise City Hall, 2nd Floor
150 N. Capitol Boulevard
P. O. Box 500
Boise, Idaho 83701-0500

Phone: 208/384-3830
Fax: 208/384-3753
TDD/TTY: 800/377-3529
Website: www.cityofboise.org/pds

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MEMORANDUM

MEMO TO: Boise City Planning and Zoning Commission

FROM: Cody Riddle
Boise City Planning and Development Services

RE: CAR13-00007, PUD13-00002, CFH13-00019 & SUB13-00017
Additional Information

DATE: August 9, 2013

The attached correspondence was received after publication of the planning report for the items referenced above. Each letter was submitted prior to the deadline on August 8, 2013.

August 8, 2013

Boise City Planning & Zoning Commission
c/o Cody Riddle
150 N. Capitol
Boise, ID 83702

Dear Planning & Zoning Commissioners:

My wife Ann and I, as owners of the property, are writing today in support of Barber Mill Estates and our good friend and developer, Jim Conger and Conger Management Group. We have some concerns about some of the statements in the Staff Report that we will touch on here, but we have full confidence that Mr. Conger will be able to work with the City to move forward.

Working with one of our neighbors may prove more difficult. Our letter today responds, mainly, to the August 5th letter the Commissioners received from Idaho Shakespeare Festival ("ISF"). That letter left us stunned at how ISF has decided unilaterally not to work together with us but rather seems to want to kick Ann and me off our property! Ann's reaction was that she understands that ISF has concerns but that this is the letter of a bully. I have to agree.

ISF told you a lot about itself, so let me tell you something about us. Ann's family has lived in the Barber Valley all of her adult life. When we were married, I taught science at Capital High School and coached football, wrestling and track. I eventually left teaching and came to work with Ann's dad; we developed Golden Dawn and Barberton. Ann has her teaching degree and was a substitute teacher for many years. She served as President of the St. Luke's Board, head of the Quarter Horse Association as well as kept the books for Barberton Construction Company and the Barberton/Golden Dawn Sewer Company. I became a certified wastewater operator. Ann and I (and our partner, Jim Rees) through the Sewer Company provided sewer service to our neighbors for over 40 years until Boise City extended sewer into the Barber Valley. The Barber sewer main was connected to the Boise City system in January.

The Shakespeare Festival became our new neighbor in 1996. We welcomed them. As the Sewer Company, we gave Ada County our approval of their development plan as a condition of that approval. We provided sewer service to ISF; over the years; we did not bill for this service, viewing it as a public service. We still have a memorandum that Mark Hofflund wrote to his Board thanking us: "We are deeply grateful to both Mr. Triplett and Mr. Rees for their kindness. The Festival couldn't hope for better, more generous neighbors. We hope to return their cordial, friendly support in any way we can."

When ISF applied for County approval in 1996, ISF told the County how it was going to be a good neighbor to all of us who lived in Barber Valley then and to the new residents as Barber Valley developed. Their application narrative states:

- Large landowners in the Barber Valley are master planning their land for orderly, future mixed-use growth. Given the large blocks held by few individuals, ISF may become an integral part of the future master-planned community design.
- ISF will add an attraction that the neighborhood already holds.
- ISF's plans are compatible and in harmony with the Barber Valley area.

The application acknowledged the future neighborhood trends in Barber Valley and how those trends made Barber Valley attractive. ISF told the County, and all of us, that it would positively impact the neighborhood trends by designing a site to control noise impacts (both incoming and outgoing). Concluding, ISF said (and underlined): "The applicant believes that the proposal is in the best interest of existing and future neighborhoods."

After ISF moved in, all of us in the Barber Valley, including ISF, became involved with intense planning for Barber Valley. Mike Wardle for Harris Ranch and later Brighton Corporation, Doug Fowler for Harris Ranch, and ISF. Mark Hofflund, representing ISF, is listed in the City's Comprehensive Plan (Blueprint Boise) as a member of the Committee of Champions. What was most important for those of us who owned land just outside of the Harris Ranch and Barber Valley Specific Plans, like Ann and me, was that Blueprint Boise said that the City would "use the adopted specific plans for Harris Ranch and Barber Valley as the policy basis for additional development in the Barber Valley."

We have had many conversations with ISF over the years, reminding them that one day the sewer lagoons would be gone and we would be developing our property. Always, before now, ISF would tell us that it understood and that ISF would not interfere with that development. We didn't think development would happen for a few more years because, once the sewer business was gone, Ann and I would lose our livelihood. City services have been extended to this area, and today, with our sewer business gone, developing our property is our source of funds for retirement and health care.

Jim Conger came to us last December with a proposal to purchase our property. Before we decided to work again with Jim, who had helped us develop Triplett Ranch, Ann took the very same offer to Mark Hofflund and had at least half a dozen conversations with Mark on whether ISF would want to buy the property. Each time we were told no, ISF was busy working on its Macy's building project and that it did not have the money. We also made the same offer to Riverstone before fully committing to Mr. Conger.

There have been no further discussions about, as ISF says in its letter "putting its money where its mouth is." The only conversations that have occurred were comments from Mr. Hofflund who gave Ann a hug and told her not to worry; that all "this" will be over in October. Because Mark knows that Jim's option to purchase may expire in October, Mark's comment supports what we have believed for some time now; that ISF intends to make this process as expensive and publicly painful as possible for both Jim and us, hoping that Jim will go away and ISF can try to buy our property.

We started to understand that ISF was not being forthright when our friends went to a play and were asked to sign a petition against a developer who wanted to build houses between the theater

and the river. Our friends, like us, would never want that, and they signed. It was only later that they found out that they had been misled. They never would have signed that petition if they had known the truth. Others have told us they were told various misleading things in order to get a signature. The petition should be ignored.

Some people at ISF have tried to explain by telling us that they “love us” and are not trying to hurt us; instead it’s Jim Conger and his company they are targeting. That is just wrong. Jim Conger has been nothing but an honest, forthright, gentleman with us over the years. He is a conscientious developer and the mean-spirited comments in ISF’s letter are unfair and reveal the bullying tactics we have experienced.

We believe there is a way for us to live together as neighbors; however, ISF is not being realistic when it starts its August 5th letter by saying that it doesn’t know if its “operations” can be compatible with residential development. Residential development is exactly what we worked hard to plan for and it’s what the City plans for our property. ISF was involved in that planning. ISF’s August 5th letter feels like our neighbor is pulling the rug out from Ann and me, and ISF is asking the City to sanction our demise.

We want the development of our property to be something we are proud of. We have seen nothing but Jim designing and redesigning plans for the property in response to what the neighbors and the City have said they would like to see there.

At the very first neighborhood meeting, Jim proposed 21-26 larger lots across our 12-acre property. The design included removing the existing berm on the east boundary that we had permitted ISF to use. The design went over like a lead balloon. Jim went back to the drawing board to come up with a new starting point to review with neighbors, creating a redesigned Barber Mill that took into consideration the requests of ISF, the Mill District, the City, and other neighbors in over a dozen meetings.

Still, ISF says the developer is not listening and wants the developer to do a design charette and chides the developer for not complying with their demands. A 4-5 session design workshop is prohibitively costly for a 12-acre parcel. Whatever happened to neighbors talking directly to neighbors – especially in this situation?

The redesign based on the numerous neighbor meetings includes:

- Clustering the lots away from the ISF site leaving the berm platted as an unbuildable lot and conveyed to the Idaho Foundation for Parks & Lands (“IFPL”), which has agreed to protect it. The berm is 80 feet wide along our entire eastern boundary. Since our property is only a total of 685 feet wide (east to west), the berm makes up a total of 8% of our property being set aside for free.
- In response to ISF’s stated desire for housing for its actors, and because ISF said it wanted more space between it and the proposed homes, Jim offered ISF a right of first refusal to purchase the row of lots immediately west of the berm at a price to be determined by an appraiser chosen by ISF.

When I was at a recent neighborhood meeting, someone expressed surprise to me that ISF would have to buy the lots rather than just being given even more of our property as open space between ISF and the houses. I was just as surprised that someone would say that. I guess it comes down to the fact that ISF lives in a world where people donate things to it like money and property. That's not the world that Ann and I live in. We can't afford to just give away our property because no one is going to fund the removal of the sewer lagoons except us; no one is going to fund our retirement except us.

- Homes on the eastern and western property lines will be limited to single-story structures. This was a request by both ISF (on the east) and the residents of the Mill District (on the west). In addition, homes on the western boundary will be side-oriented so that the residents of the Mill District will not face the back of Barber Mill homes.
- After meeting with IFPL in early Spring, Jim decided to convey the 200-foot setback area to the IFPL to augment the Barber Pool Conservation Area. A lifetime fence all along the boundary with IFPL ensures that that people and pets do not travel into the Barber Pool from our property. This dedication totals 17% of our property.

We have heard Jim being criticized for conveying this 200-foot setback area to IFPL because the City doesn't allow the area to be developed anyway. That's correct, but Jim didn't have to dedicate it to IFPL; he could have left our property as unbuildable open space within Barber Mill. With the redesign, this property is in the public domain under the stewardship of IFPL.

In its August 5th letter, ISF says that we are slapping the Barber Pool in the face by placing homes next to the donation to the IFPL. But the managers of the Barber Pool don't believe that. The City received a letter praising the developer for all that it is doing to both enhance and protect the Barber Pool.

- Related to the wildlife in the area, a commitment was made that Barber Mill would join the Harris Ranch Wildlife Mitigation Association.
- Boise Parks & Recreation worked with Jim to design an extension of the Greenbelt. This would avoid the current dead-end at Barber Dam and ensures the Greenbelt bypasses the Barber Pool area. The Greenbelt is almost 3.5% of our property.
- Through Jim, we have been working with Ada County in connection with the Barber Dam. A portion of the Barber Dam monitoring facility right now is outside of any access easement. We are working to fix this.

Ann and I attended a meeting with ISF where Jim reviewed the Barber Mill plan and kept asking Lynn Johnston and the other ISF representatives there what additional design elements did they want to see? They could not provide any suggestions (other than the ones Jim had already

designed into Barber Mill such as the dedication to IFPL and the screening fence along the Barber Pool), and when we asked for further guidance, all we were told was the particular members at the meeting could not speak for the rest of the ISF Board.

This has been particularly frustrating because in the same meetings they would tell Jim or us that they wanted to work with us yet they could come up with no suggestions. Perhaps the only forthright statement came from the ISF attorney who made it very clear that the proposed subdivision would not be built on our property under his watch.

For all of the cost, the developer hired Deanna Smith to conduct a facilitated meeting for all interested parties at Riverstone School. That meeting took place on August 1st. Over the course of 3-4 hours, neighbors sat and discussed the redesign and the possibilities and constraints for development. Deanna identified the changes in design prompted by the neighbor meetings.

In its August 5th letter ISF paints the redesign of our property as “devoid” of meaningful amenities for future residents or the community. This is such a mischaracterization. Our small property and the vast residential areas of Harris Ranch and Barber Valley are surrounded by great amenities: the Greenbelt (with an extension through our property); great parks with Alta Harris, Marianne Williams and Barber Parks; good public and private schools within walking distance; developing commercial in Harris Ranch and Barber Valley; enhancements to the Barber Pool (including the addition of our property) and, of course, ISF. To deny 47 new families from participating in the bounty of the Barber Valley would be a travesty – and certainly not what the City Council decided when it approved the Comprehensive Plan.

ISF moved to our neighborhood and has actively participated in the Barber Valley planning process. ISF knows how the Barber Valley is planned to grow. However, today, ISF apparently no longer sees the value in the master planned process for the Barber Valley, and some ISF Board members (or their attorney) have stated their desire that there be absolutely no development on our property. ISF appears to be out of step with the Barber Valley plan to develop all of Barber Valley into a thriving, urbanizing area that supports wildlife, recreation, and cultural amenities.

ISF says it understands that its noise can't prevent residential development on our property. So how do we all share the benefits and burdens of living together in the Barber Valley? For its part, ISF says that it has commissioned sound studies that helped it redesign its amplification system. For our part, Barber Mill Estates has been designed to cope with the sound that ISF says that it produces:

- The developer commissioned sound studies that conclude that, due to distance (approximately 500 feet from the proposed homes to the front portion of the theater) and the berm, there is no likely impact on ISF by new residents. ISF is more likely to be affected by sounds from aircraft, geese, and vehicle traffic than by Barber Mill residents. Still, sound from Barber Mill would be restricted. For example:
 - Hours of construction within Barber Mill would end by 5 pm each day during ISF's production season.

- ISF says that its concern goes in the opposite direction: the ISF noise impact on the Barber Mill. As a private property owner there are various techniques that can be used and have been proposed to condition Barber Mill to accommodate ISF's noise trespass into Barber Mill. These include:
 - Construction methods for homes in Barber Mill that meet the City's construction requirements for homes in the City's Airport Noise Transition Zone.
 - Barber Mill has been working to develop a disclaimer document prepared to be signed and recorded by each new home owner as property transfers in Barber Mill. (It's similar to the "Right to Farm" note that is found on subdivision plats. People are put on notice that there may be farming in the area, which is allowed to continue. Do people complain? They might. ISF might have to field some phone calls.)
 - Barber Mill would record restrictive covenants (CC&Rs), a plat note, and a deed restriction putting future buyers on notice of the possibility of audible events in connection with ISF performances. A similar note will be included on the final plat.

ISF says in its letter that it simply doesn't believe that these restrictions will prevent people from complaining. No one can guarantee that there won't be complaints. But we can do what we can do as a private property owner to ensure we can abide together and don't lose the use of our property.

ISF also says in its letter that its patrons like what they have and want to keep it that way. We appreciate what ISF has, but we also understand that we have lost our livelihood and must develop our property so that our obligations to remove the sewer lagoons are met and our retirement and health care is funded for our remaining years. ISF has just as much an obligation to be a good neighbor as we have been and plan to be.

ISF has certainly made this a public fight at our expense. ISF has told us that it needs to aggressively protect its "operations" and believes development of our property is a threat to ISF's future. This is speculative. We can say with all honesty that ISF's actions clearly put Ann's and my livelihood in jeopardy. Our investment, our expectations are being threatened to be taken from us and ISF is asking the City to do this.

Ann is in Montana today so I am signing this letter on behalf of both of us.

Sincerely,

A handwritten signature in black ink that reads "David Triplett". The signature is fluid and cursive, with the first name "David" and last name "Triplett" clearly legible.

David Triplett

c via email: Jim Rees (j39rees@gmail.com)
 Jim Conger (jconger@congergroup.com)
 Lynn Johnston (lynn@idahoshakespeare.org)
 Mark Hofflund (mark@idahoshakespeare.org)
 Derick O'Neill (DONeill@cityofboise.org)
 Kent Brown (kentlkb@gmail.com)
 Maryellen Waters (maryellen@idaholands.org)
 Brian McDevitt (President@southeastboise.org)
 Nancy Merrill (nancy.merrill@idpr.idaho.gov)
 Bob Carignan (bcarignan@riverstoneschool.org)
 Kurt Liebich (kliebich@riverstoneschool.org)
 Michael Reineck (mikereineck@mac.com)
 Chris Hendrickson (icuski2@yahoo.com)
 Brandy Wilson (brandy.wilson@ch2m.com)
 Dave Case (boccl@adaweb.net)
 Deanna Smith (dehtsmith@cableone.net)

a dance company.

August 5, 2013

Dear Mr. Riddle,

I'm writing to express concern over the following pending application numbers: CAR13-00007; PUD12-00002; CFH13-00019; CHF13-00020 and SUB13-00017, referred to as Barber Mill Estates. I'd like to express concern over their effect on The Idaho Shakespeare Festival. The development of these homes near the Idaho Shakespeare Festival site and the noise associated has the potential to seriously deter the quality of audience enjoyment and overall experience. Idaho Shakespeare Festival site is a jewel of this area, and adds to the quality of life for the area and Boise as a whole, and should be respected. Please take these concerns into consideration when looking at the approval of the above mentioned applications.

Thank you,



Trey McIntyre
Artistic Director, President

Trey McIntyre Project

P.O. Box 2698

Boise, ID 83701

treymcintyre.com | facebook.com/TreyMcIntyreProject | [@treymcinproject](https://twitter.com/treymcinproject)

August 8, 2013

City of Boise

Attn: Planning and Development Services

Boise City Hall, 2nd floor

150 N. Capitol Boulevard

Boise, Idaho 83701-0500

Re: CAR13-00007, CFH13-00019, CFH13-00020, and PUD13-00002

Dear Commissioners:

I am the owner of Tahoe Homes, and the home builder member of the development team at Barber Mill Estates and would like to provide you with a quick overview of the efforts we have made with the project. We are trying very hard to be good neighbors, and it is important to us to make every effort to contribute to the successful integration of this infill development.

In the Spring, we met with residents in the Mill District Subdivision and heard the concerns from neighbors on the south side of Sawmill about Barber Mill Estates homes looking down into their backyards. Based on those concerns we reoriented the plat so that none of the new homes would look down on them, I also made a commitment to them that all homes adjacent to Mill District would be single level.

There was quite a bit of neighbor concern about traffic so ACHD traffic counters were put up in front of the development on Sawmill. The results showed that Sawmill Road is currently being used at 6% of planned capacity.

We have also taken steps to ensure the future planned Greenbelt extension will connect through this area by committing to dedicate property to the Boise Parks Department on the west and north side of the project. We also agreed to donate 3 acres of our platted land to the Idaho Parks and Lands Foundation ("IFPL") to further buffer our development from the Barber Pool Conservation Area ("Barber Pool"). We have worked with IFPL on a fence design and have agreed to build a 6' tall, all metal, lifetime fence to keep people and domestic pets from entering the Barber Pool from Barber Mill Estates. The IFPL has written a nice letter in support of our cooperative efforts to be good neighbors.

We have had many meetings with the Idaho Shakespeare Festival and have offered the following concessions to try to be a cooperative neighbor with them:

1. Reoriented the plat to direct all backyards away from the Festival.
2. Revisited the plat to preserve the "berm" buffer which is approximately $\frac{3}{4}$ acre of property with water front views. A very conservative value of this concession would be well over \$200,000.
3. To allow ISF to have direct control over the lots closest to their Festival, since they were having such a concern about it, I offered the Idaho Shakespeare Festival the first right to purchase the 6 closest lots to the festival at market value to be dictated by an appraisal chosen by ISF. As the home builder of this project that means I gave up the right to the profits on building those 6 homes to try to pacify ISF.

4. If ISF passes on purchasing the lots, then we committed to single level homes on those 6 lots, to keep the homes to a lower profile behind the berm.
5. ISF had some concerns about how the sound they generate could affect BME residents and also had a concern about how BME residents may affect the festival. Everyone was making speculations as to the answers so ISF asked us to do a sound study to determine if there would be any adverse impact on the festival. We did too. Both independent sound studies were conducted by overly qualified sound engineers and their studies both concluded the same thing; that there is no impact on the Festival. I am quite disappointed that the results of two expensive, professional sound studies received a total of 3 sentences in a 720 page staff report.
6. As a further “belt and suspenders” concession we agreed to build all homes in the development to Boise City Airport aviation easement standards, which adds considerable expenses to construction.
7. We committed to insert special disclaimer language on the plat, in the CCR’s and record a separate special document informing buyers that there is an outdoor venue in proximity to the property.
8. There was a concern about noise from construction of BME so I committed to halting all construction activity after 5:00 PM during the Festival season, again costing us time and money to accommodate ISF.

We have not received a single concession or an ounce of cooperation from the Idaho Shakespeare Festival in regards to Barber Mill Estates.

Barber Mill is an infill project that clusters homes in a way that allows for 32% of the site to be preserved in open space, it will provide land for the City to make the Greenbelt connection to Warm Springs. BME conforms with Blueprint Boise, just adopted in 2011, and we do not ask for any greater density than what the comprehensive plan allows. We follow the guidelines and recommendations of Idaho Smart Growth, and finally this development will allow us to pay the over \$300,000 to address the reclamation of the old sewer lagoons, turning the brownfield into a productive residential, context-sensitive addition to the Barber Valley.

We have met with neighbors, homeowners’ associations and the neighborhood association. We heard concerns and we have made every attempt to address what we can. We are committed to providing a quality development and have not taken this lightly. Hopefully this is evident by the effort, money and resources put into doing the right thing with this project.

We respectfully ask for approval of our infill project based on the guidelines set for the Comprehensive Plan, no traffic issues, and bringing a brownfield site back to life. We have taken every measure possible to ensure there are no potential disturbances with Idaho Shakespeare Festival and have worked hard to receive approval from all agencies that have reviewed Barber Mill Estates, and hope to gain your approval as well.

Respectfully,

Jake

August 6, 2013

990 W. Greenhead St.
Meridian, Idaho 82642
208-884-1124
208-870-1460

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AUG 07 2013
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Boise Planning and Zoning Commission
P.O. Box 500
Boise, Idaho 83701-0500

Dear Commission,

I am writing in regard to your upcoming hearing scheduled for August 12th. Specifically, as it pertains to :

CAR 13 -00007
PUP 13-00002
CFH 13-19
CFH 13-19
SUB 13-17

The Idaho Shakespeare Festival (ISF) picked the Barber Pool area for its outdoor amphitheater, partially at least, to become part of an ecological habitat of peace, ambience and tranquility that would become a haven for lovers of the arts and entertainment. This habitat is the home of 200 species of wildlife, including bald eagles, elk and mule deer. It is therefore an area of tremendous significance to wildlife, conservationists, and the scientific community. The management of the ISF is exceedingly proud of the fact that during the construction of the theater site only one bird was disturbed by a photographer. The ISF has done all it can do within its power to maintain the habitat as it is intended, a habitat that shelters one of the last stands of Black Cottonwoods in the rapidly expanding urbanization of Boise, and the depletion of a beautiful area once overlooked by Oregon Train pioneers from what is now called Barber Observation Point. It is an area the theater inhabits for a mere four (4) months out of the year. An area that is proud to put the Birds of Prey on display for the entire community.

Barber Pool is within the length of river that stills and cools the high desert mountain waters, thus providing foliage, cover and a resting place for migratory birds before they attempt to cross the Great Basin. Barber Pool and the ISF should not be encroached upon by a year around sub division. Too much is at stake artistically and environmentally. Our ISF world renowned Festival was found so attractive to the Shakespeare Theater Association, that it held its 2001 annual worldwide meeting at the Barber Pool facility. This following the 2000 meeting which was held at Stratford-Upon-Avon, Shakespeare's home in England.

The denseness of a 47 tract sub division on less than 10 acres is bound to interfere with the ecologically sound habitat at Barber Pool, to say nothing of the noise, congestion and disruption

(2)

which would constantly plague the theater during its four month run. Despite any tests on sound etc., which have been already run, it hard to believe that a housing development of this magnitude would not deplete and add to the ruination of a the scientifically sound wildlife habitat; one of a few remaining areas functioning at the highest level on scientific, historical, ecological and artistic principals. To literally contaminate and destroy this area would be akin to greedy urbanites in Cleveland bull dozing down Playhouse square and its four magnificent turn of the Century Theaters to make room for a parking lot.

Surely there must be some other area in Cleveland to build a structure of cement and steel that wouldn't destroy an artistic and historical area that has housed some of the finest plays, musicals and entertainers of the last Century and a half. One that functions today as ambient escape for Clevelandites from the drudgery of blacktop and the everyday 24/7 world. Surely there must be somewhere else in the Boise Valley to build a habitat suitable for myriad of distractions and depreciations found in the highest levels of human conditions.

It would be in the best interests of Boise to turn down the afore-mentioned sub division proposal in favor of retaining the historical, artistic, ecological and mentally substantiating features of the current Barber Pool. Leave Barber Pool to the tender care of the ISF and others, and leave in tack one of the last bastions of the past woven in tapestry with the artistic arts of today. A firm reminder of what we all must attempt to maintain in our clean and healthy world of the future.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave and Mitzi Smith", enclosed within a hand-drawn oval.

Dave and Mitzi Smith

Cody Riddle

From: Linda Secretan <lsecretan@gmail.com>
Sent: Tuesday, August 06, 2013 6:01 PM
To: Cody Riddle
Subject: Barber Mill Estates

Dear Mr. Riddle,

Newly arrived in Boise from Los Angeles, my husband and I embraced Idaho Shakespeare Festival right away. This is a jewel in Boise's cultural crown and deserves to go forward in its current rural setting – for which it has been zoned already. We want to add our voices in opposition to the Barber Mill Estates subdivision. It is a large part of the charm of the theater that one enters a conservation area. From a busy street one enters a magical world, ready to participate fully in a unique theater experience.

Sincerely,
Linda Secretan
1130 W Colchester Dr
Eagle, ID 83616

Cody Riddle

From: Robert Sandberg <rsandberg36@gmail.com>
Sent: Thursday, August 08, 2013 3:46 PM
To: Cody Riddle
Cc: info@idahoshakespeare.org
Subject: CAR13-00007 and PUD13-00002

Mr. Riddle,

I have been a season ticket holder for the Idaho Shakespeare Festival for the past eleven years. Their amphitheater and surrounding grounds are every bit as valuable to me as the performances the festival produces. I value the quiet and remote beauty of that property, with the only interruptions during performances coming from flying geese or the occasional airplane.

During the most offensive of interruptions, the cast can pause or simply go on, knowing that it soon will pass.

Locating an urban development like Barber Mills Estates so close to the Festival property would irrevocably harm the atmosphere and unique experience of Idaho's best outdoor theater. Nearby noise and lights, extra traffic and movements of people would be detrimental disruptions to the audience experience, disruptions that would persist, not the natural ones the cast could ignore or pause briefly for. The damage from BME would be immense.

I highly value the beauty and experience of the Idaho Shakespeare Festival. Such a development as BME, located so close, is not in Boise's best interest, nor in the best interest of the residents and visitors who come to Idaho to attend Idaho Shakespeare Festival performances.

Please reject the above proposals for Barber Mills Estates.

Thank you,

Robert Sandberg
344-3483



Micron Technology, Inc.
8000 S. Federal Way
P.O. Box 6
Boise, ID 83707-0006
208.368.4000

July 31, 2013

RECEIVED
AUG 07 2013
DEVELOPMENT
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Boise City Planning and Zoning Commission
c/o Planning and Development Services
Boise City Hall
150 N. Capitol Blvd.
Boise, ID 83701-0500

Ref: **CAR13-00007 & PUD13-00002 Barber Mill Estates (BME)**

Dear Planning and Zoning Commissioners:

On behalf of my family, and colleagues, at both Micron Technology and the Micron Technology Foundation (which has sponsored the Idaho Shakespeare Festival's summer season productions since 1999), I wish to inform you of my opposition to the proposal to annex county property into the City for the sole purpose of building private residences in close proximity to the ISF Amphitheater and Reserve.

It is hard to imagine that City officials would consider any proposal that jeopardizes the welfare of such a longstanding community asset, recognized as pre-eminent among facilities of its kind worldwide. Micron is pleased and proud of its affiliation with the Festival, and trusts the Festival's protection to the public bodies that maintain and uphold all the cultural assets of our community – including those with the Barber Pool Conservation Area, as identified by a public study undertaken by the US Army Corps of Engineers at considerable public expense, and with considerable public and private collaboration.

In denying this application, the City would have an exemplary opportunity to shine a light on those who perform lip service, rather than professional-grade homework, who speak to collaboration without engaging in its rigorous processes, and who seemingly fail to bring public value to their business endeavors.

I encourage you to uphold the highest standards of public procedure, by which the Shakespeare Festival not only was located on its current grounds, but also by which it continues to serve the public statewide and to maintain its value to more than 100,000 participants, of all ages, who engage in its educational and cultural programs annually.

If I may be of further assistance in this matter, I would look forward to receiving your requests. Thank you for your devotion to public service.

Very truly yours,

Mike Sadler
VP of Corporate Development
Micron Technology, Inc
Member, Idaho Shakespeare Advisory Board

Riverland East Neighborhood Association

August 1, 2013

Boise City Planning and Zoning Commission
c/o Planning and Development Services
Boise City Hall
150 N. Capitol Blvd.
Boise, ID 83701-0500

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AUG 05 2013

DEVELOPMENT
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RE: CAR13-07; PUD12-02; and CFH13-00019

Dear Planning and Zoning Commissioners,

Thank you for taking time to carefully consider this rezone and application. Unfortunately, the Riverland East Neighborhood Association (RENA) cannot support this application as presented.

Our primary concern is encroachment upon the Idaho Shakespeare Festival (ISF) outdoor amphitheater. ISF is located within RENA and is important to our membership as the cultural center of our neighborhood. We also recognize it as an important piece of land in the Barber Pool Conservation Area, the ecological center of our neighborhood. As described in the *Blueprint Boise*, ISF and the Barber Pool area are critical aspects of our neighborhood setting and character.

The Barber Valley embodies harmonious relationships between the Boise River riparian ecosystem, the foothills, the Wildlife Management Area, and area residents. Throughout the SP01 and SP02 planning processes, every step we have taken with the Planning and Zoning Commission and City Council has been geared toward maintaining those relationships as the Barber Valley grows. We've worked together to establish wildlife corridors, create funding sources for preserving wildlife, add open space and parks, and protect sensitive foothills areas from development. At the same time, we've supported higher-density and mixed-use development that helps the entire community, adding to the tax base and reducing carbon emissions and vehicle miles traveled by encouraging development near the downtown core. Together, we have been careful stewards of our economy, from supporting the critical statewide hunting resource of the Wildlife Management Area to allowing robust economic development.

It is in that spirit we ask you to help us preserve another critical piece of our regional economy, the Idaho Shakespeare Festival. Residential encroachment is a threat to the Festival, and is not supported by RENA, Harris Ranch Neighborhood Association (HRNA), or *Blueprint Boise*. RENA would welcome a transitional use with operating hours that would not conflict with the continued operation of ISF, but we have had no options from the applicant other than incompatible residential housing. We firmly believe that a profitable solution can be found for this parcel that would not jeopardize the overall economy of the region.

For the record, RENA supports the comments of our neighbors in HRNA.

Issues

The proposed rezone from Rural Preservation to residential use is inappropriate in this area. No amount of mitigation can eliminate noise impacts from ISF to neighbors, or from neighbors to ISF, short of enclosing or walling off the amphitheater. In earlier correspondence between ISF and the applicant, which is part of the record for this application, one of the proposed instruments for addressing the issue was adding an item to the CC&Rs prohibiting residents from complaining about noise from ISF. Aside from the freedom of speech issues imposed upon future RENA residents, this is the clearest evidence that moving forward with a residential application on this parcel is going to create headaches for all of us in the future—city staff, law enforcement, ISF, and neighborhood association volunteers. The only party unaffected by this issue would be the applicant, who will move on after building the homes. Residential on this parcel is analogous to placing homes adjacent to high-intensity commercial or industrial. Deliberately placing incompatible land uses next to each other represents poor planning and exactly the situation that planning and zoning regulations are intended to prevent.

The proposed use for this parcel violates several principles of the Barber Valley Area Plan in *Blueprint Boise*, as listed on the table below.

Blueprint Boise Guidance	Failure of the Application to Meet Guidance
CC1.1: Reduce vehicle miles traveled (VMT). (b) Encourage compact development with a mix of use.	Policy CC1.1 guides the City's infill development policies, and its call for "mixed use" is the backbone for Specific Area Plans SP01 and SP02, which guide the Harris Ranch and Barber Valley developments and the majority of design in this area. ISF is located near downtown and on the Greenbelt, reducing VMT. The ISF signs next to the theater are identified on page BV-13 as good examples of pedestrian-oriented signage. If ISF is forced to another location, the nightly VMT will increase dramatically. There is more to "mixed use" than "more homes," and those are options that must be explored for this piece of land.
CEA4.3: Cultural Tourism. Develop and implement a long-range plan to promote cultural tourism.	ISF, as an existing cultural tourism destination, is not supported by the application. As a baseline indicator of ISF's tourism impact, an average of nearly 20% of the cars in its parking lot come from outside of Ada County; and other visitors arrive by motorcoach, taxi, bicycle, and transportation provided locally. As a cultural ambassador for Boise City, ISF is entitled to long-range protection through the planning process.
Goal EC3: Protect the economic climate for existing businesses and promote opportunities for expansion	The application as proposed limits the potential for expansion, and for a collaborative, creative use among ISF, Riverstone International School, East Junior High, and the broader community for cultural enrichment and environmental education.

Blueprint Boise Guidance	Failure of the Application to Meet Guidance
<p>EC3.2: Protect businesses from encroachment. Protect existing businesses from encroachment of incompatible or non-complimentary uses that would threaten their viability or ability to continue to operate.</p>	<p>Encroachment of residential use into the Barber Pools area and immediately adjacent to ISF represents a threat to continued operation. This is not fear, but is rather based on the facts of what has happened to other festivals around the country. We have the opportunity to learn from the planning missteps of others and preserve this setting, which is more than a business, and, indeed, an important component of Boise's attractiveness and livability.</p>
<p>BV-CNN 2.1: Wildlife. (e) Foster the creation of one wildlife management plan for Barber Valley.</p>	<p>The applicant must be required to participate in the Harris Ranch Wildlife Mitigation Association along with SP01, or the Idaho Fish and Wildlife Foundation agreement currently espoused in SP02. This should be considered a fundamental component of any development in the Barber Valley, but particularly on this property, given its prime location for wildlife and its immediate proximity to one of the most critical habitat lands along the urban corridor of the Boise River.</p>
<p>BV-C 2.1. Connections to new development. Make connections among new developments and the Greenbelt...provide public safety along Warm Springs Avenue.</p>	<p>The proposed at-grade Greenbelt crossing was approved by the Boise Parks Commission; however, the approval letter makes it clear that the Commission was concerned and recommended additional signage along with a number of other Conditions of Approval. The fact remains that at-grade crossings are infrequent along the Greenbelt because they are dangerous. A more creative use of this parcel could also bring about an improved Greenbelt alignment, as well as removal of at-grade crossings.</p>
<p>BV-NC 1.1: Joint use parks and open space. Design parks and open space to serve both the human and wildlife populations in the Barber Valley.</p>	<p>Although this policy specifically addresses parks, these design principles have been successfully woven into developments in SP01 and SP02. We also have a park-like area composed largely of public lands and uses in the Barber Pools Conservation Area, of which this parcel is a part. Although merely being within the boundary of the Conservation Area does not carry specific responsibilities tied to the land, it is important to recognize that this application was not designed with joint use in mind. The area proposed to be "donated" to the Idaho Foundation for Parks and Lands is unbuildable because of an Ada County/FERC easement. Therefore, the application does not specifically designate area for a new wildlife use nor for any other habitat enhancements, as has been done with SP01 and SP02 wildlife areas. This is a plan that puts homebuilding first and wildlife, cyclists, the arts, and pedestrians last.</p>

Recommendations

We respectfully request that the applicant and property owner go back to the drawing board on this application. Taking the view that homebuilding is the only profitable way to address the sewage lagoons is erroneous. Both Idaho Shakespeare Festival and Riverstone International School have beautiful facilities, built to last by for-profit construction companies, funded by generous donations from our community, and maintained by ongoing support from businesses and individuals. It is worth noting that ISF and Riverstone serve our immediate community interests and bring national and international interests to our neighborhood, enhancing the reputation of our City and State, and strengthening our economy from external sources.

We recommend that the current P&Z board members carefully study, understand, and support the success of the adjacent nonprofit businesses—success attributable, in part, to the visionary efforts of numerous public bodies, including the past work of Ada County's and Boise City's planning and zoning volunteers and agencies. This location represents innovative collaboration and shared use: one has to look no farther than a parking lot shared with the Idaho Department of Parks and Recreation, located at the Robert Smylie State Office Building, which was named after the governor who established our state parks system.

In keeping with the transition from previous industrial and agricultural uses (a brickyard and an alfalfa field were the land uses prior to ISF and Riverstone), we also recommend that the Commission ask the applicant to study appropriate transitional strategies for a parcel dedicated to sewage containment. Please note that building residential properties requires the highest standards of remediation, while other uses may be less costly and allow for in-place remediation instead of hauling material to an offsite landfill. Assuming that the only thing that will pay for remediation is residential is erroneous.

Finally, it is the City's responsibility to protect the Barber Valley's cultural, ecological, and economic gems from encroachment by incompatible uses. The P&Z Commission will make a recommendation to City Council about whether a more intense residential zone is appropriate for this area, and therefore will make a judgment about what is the highest and best use for this parcel to the community. We hope that you will ask the applicant to come to the table with something other than residential, and allow all parties the opportunity to create a future that will profit the landowner, benefit the neighbors, and suit the guidelines, intent, and neighborhood character described in the Barber Valley Planning Area Policies.

Sincerely,



Brandy Wilson, RENA Vice-President
6668 Glacier Drive
Boise, ID 83716



Trent Reagan, RENA Board Member
6885 Highland Valley Road
Boise, ID 83716

Cody Riddle

From: Vicki Funaiole <vickifuni@aol.com>
Sent: Thursday, August 08, 2013 10:32 AM
To: Cody Riddle
Subject: Barber Mills Estates

Dear Mr. Riddle,

I understand that a development is being proposed adjacent to the Shakespeare Theater. I hope that the Planning and Zoning committee will consider the importance of the theater to the Treasure Valley community. It would be unfortunate to build a community in the proximity of the theater that would limit performance times. You have the opportunity to choose zoning that will not interfere with performances. I urge the committee to carefully consider how the proposed community would affect the outstanding performances offered to area citizens. Either limiting development or prohibiting development in this area is very important.

Thanks You
Vicki Funaiole
2304 E. Serene Dr.
Boise



Planning & Development Services

Boise City Hall, 2nd Floor
150 N. Capitol Boulevard
P. O. Box 500
Boise, Idaho 83701-0500

Phone: 208/384-3830
Fax: 208/384-3753
TDD/TTY: 800/377-3529
Website: www.cityofboise.org/pds

4/5

AUGUST 12, 2013 PLANNING REPORT

CAR13-00007, PUD13-00002, CFH13-00019, & SUB13-00017 / C 13, LLC

Summary

CAR13-00007: Annexation of 11.97 acres located at 5237 E. Sawmill Way with a zoning designation of R-1B (Single Family Residential-4.8 DU/Acre)

PUD13-00002, CFH13-00019 & SUB13-00017: Conditional Use, Boise River System Permit & Preliminary Plat for a 47-unit planned residential development.

Recommendation

The Planning Team recommends the Commission request the applicant revise the application to include a development agreement.

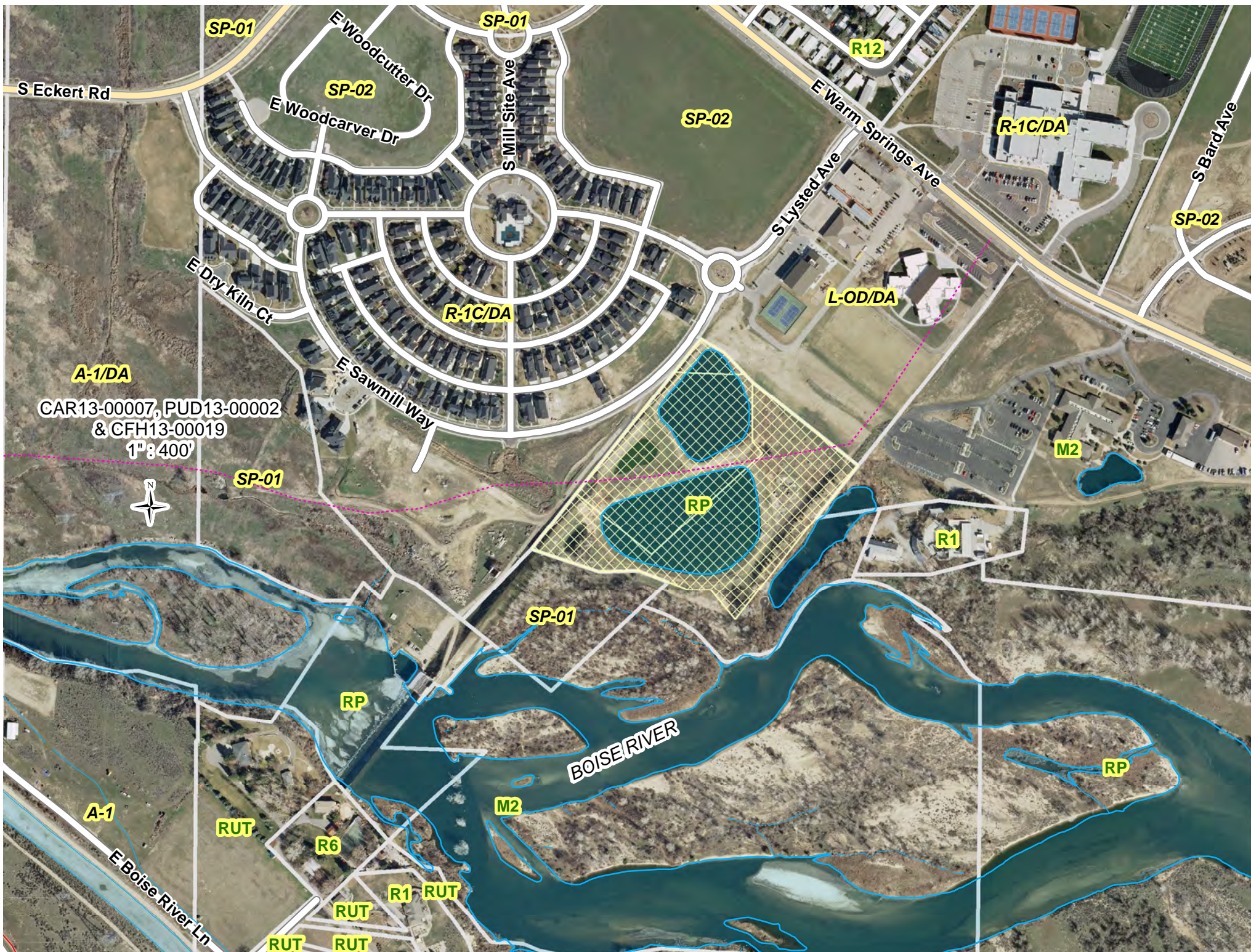
Reason for the Decision

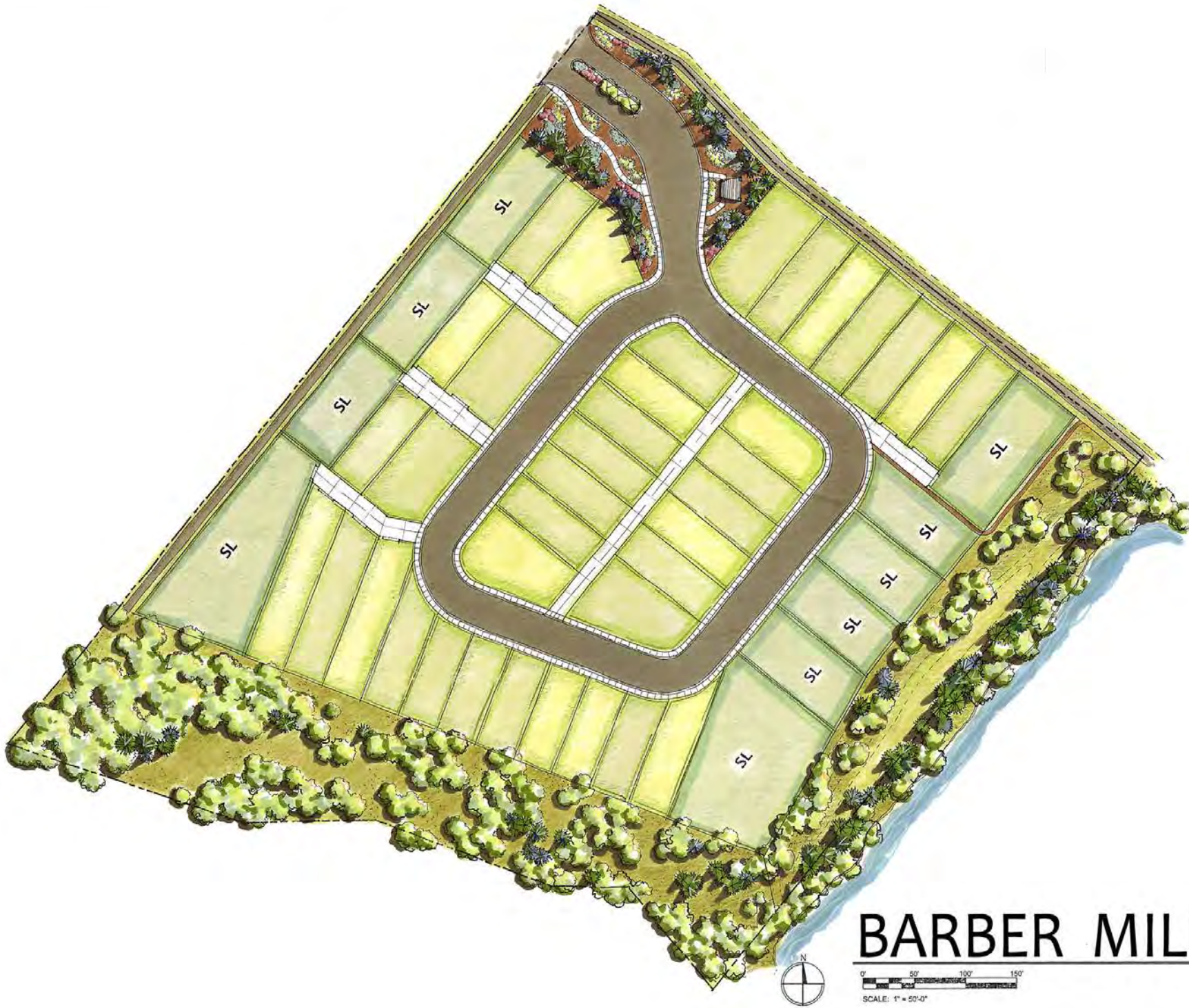
Annexation

The annexation is consistent with the objective standards of BCC 11-03-04.15.6(a). It does not constitute leap frog development and the land is within the City's Area of Impact and Sewer Planning Area, adjacent to previously annexed properties. However, while the site is designated 'Large Lot Residential' on the Land Use Map, there are sensitive land uses in the area that could be negatively impacted by the requested R-1B implementing zone. This is the highest density zone allowed in the 'Large Lot' designation, and it will maximize the number of dwellings allowed in close proximity to the Idaho Shakespeare Festival. This has the potential to create conflicts between incompatible land uses. A lower density and the inclusion of a development agreement requiring additional setback and buffering could mitigate these issues.

Conditional Use & Boise River System Permits

The conventional layout of the project is inconsistent with the purpose and intent of the Planned Development Ordinance and Large Lot Designation. The density has been distributed across the site in a way that provides minimal buffering for adjacent uses. As designed, the project is incompatible with surrounding uses. Specifically, the Idaho Shakespeare Festival to the east. The Festival is an established cultural hub of the Barber Valley and maximizing the number of residents, with minimal buffering, could adversely impact its long-term viability. Modifications to the design could mitigate many of the potential conflicts.





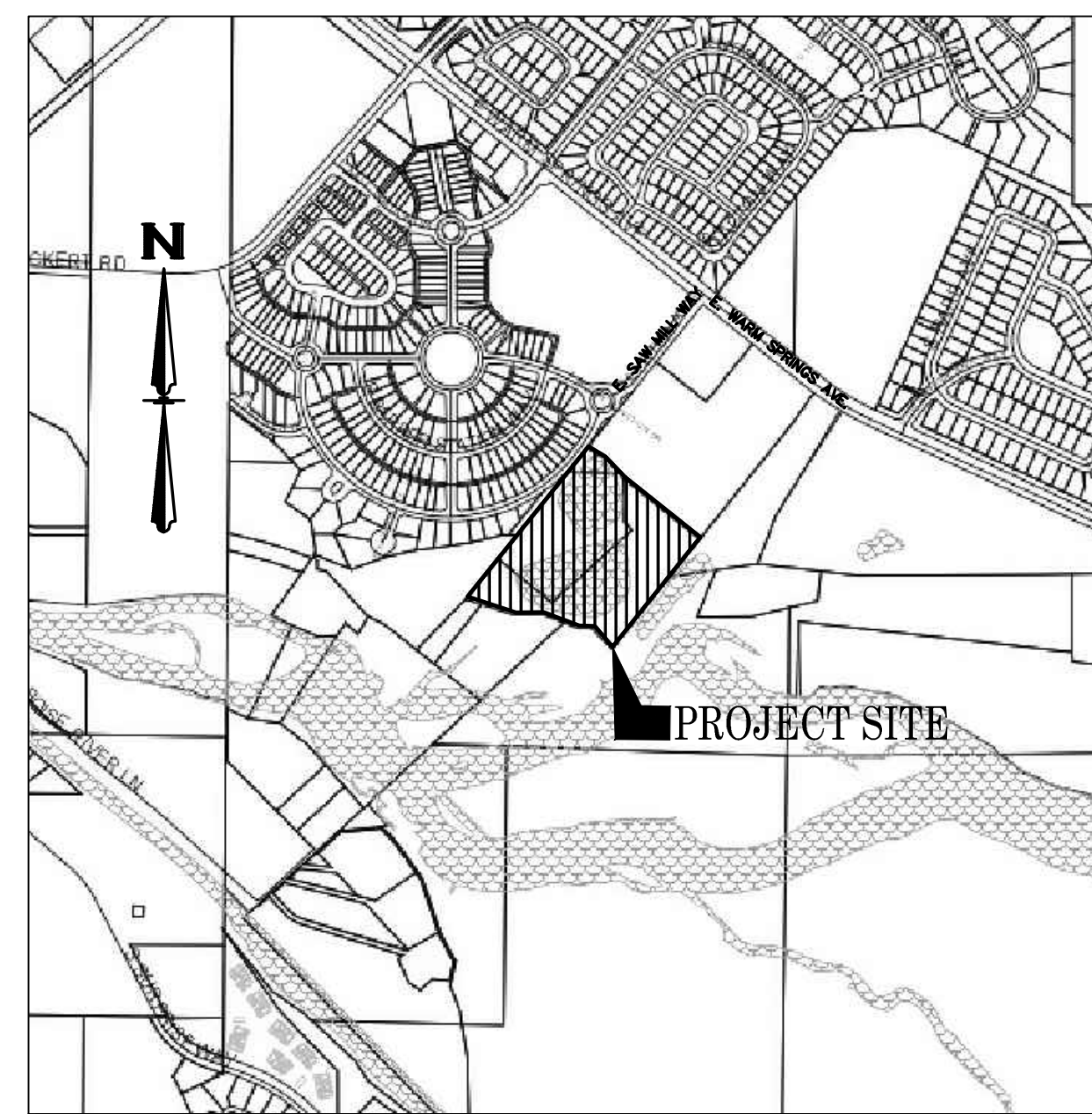
BARBER MILL ESTATES



0' 50' 100' 150'
SCALE: 1" = 50'-0"

PRELIMINARY PLAT FOR
BARBER MILL ESTATES

A PARCEL OF LAND LOCATED IN THE SE 1/4 OF SECTION 29,
T.3N., R.3E., B.M., CITY OF BOISE, ADA COUNTY, IDAHO
2013



VICINITY MAP
1"= 800'

Revisions

Date	Description
1	
2	
3	
4	



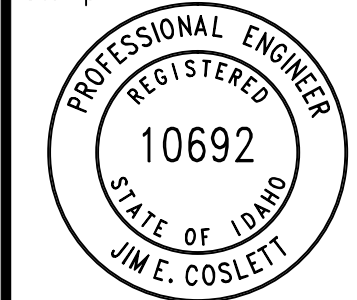
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BARBER MILL ESTATES

PRELIMINARY PLAT

Project Name

Stamp



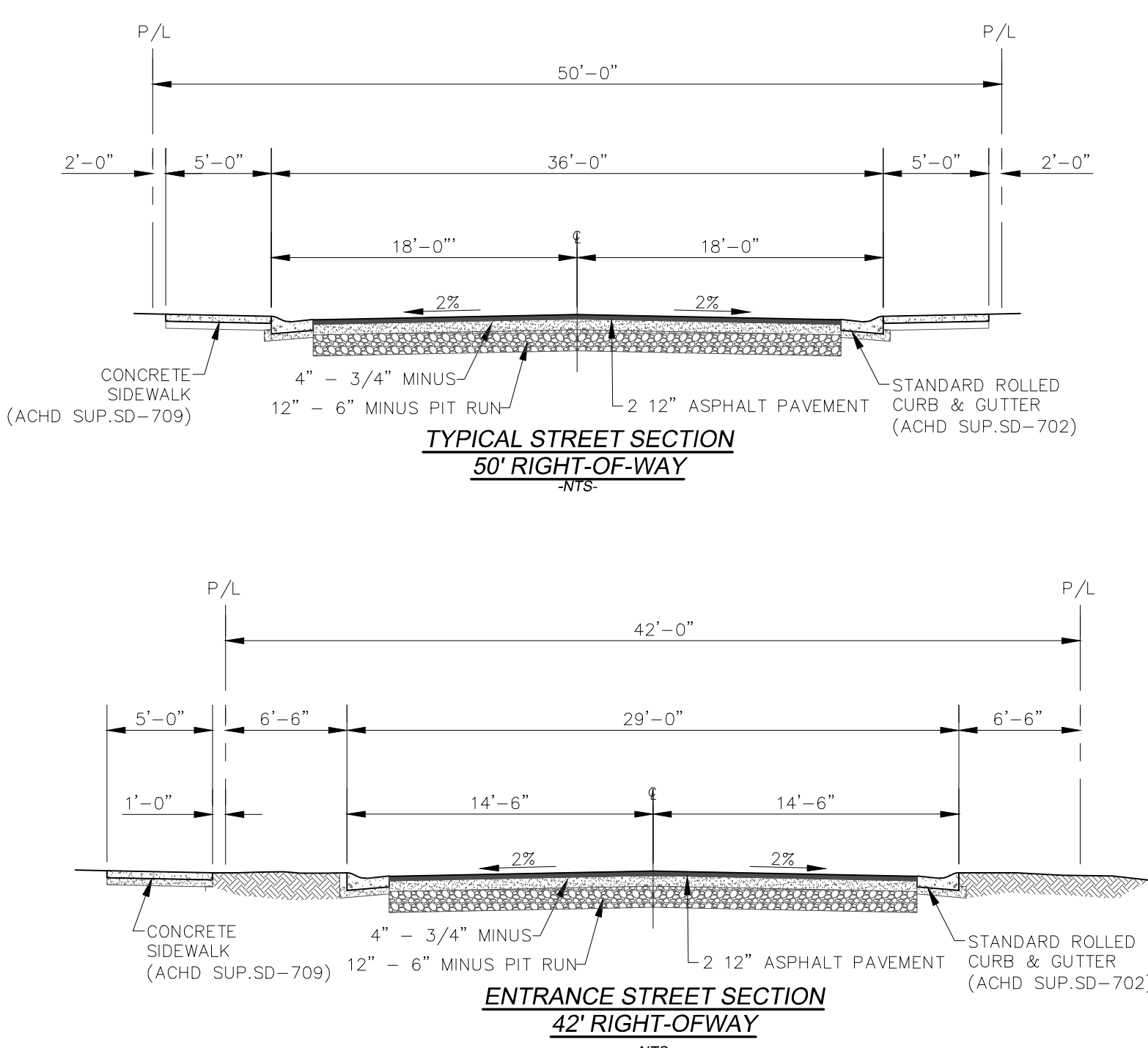
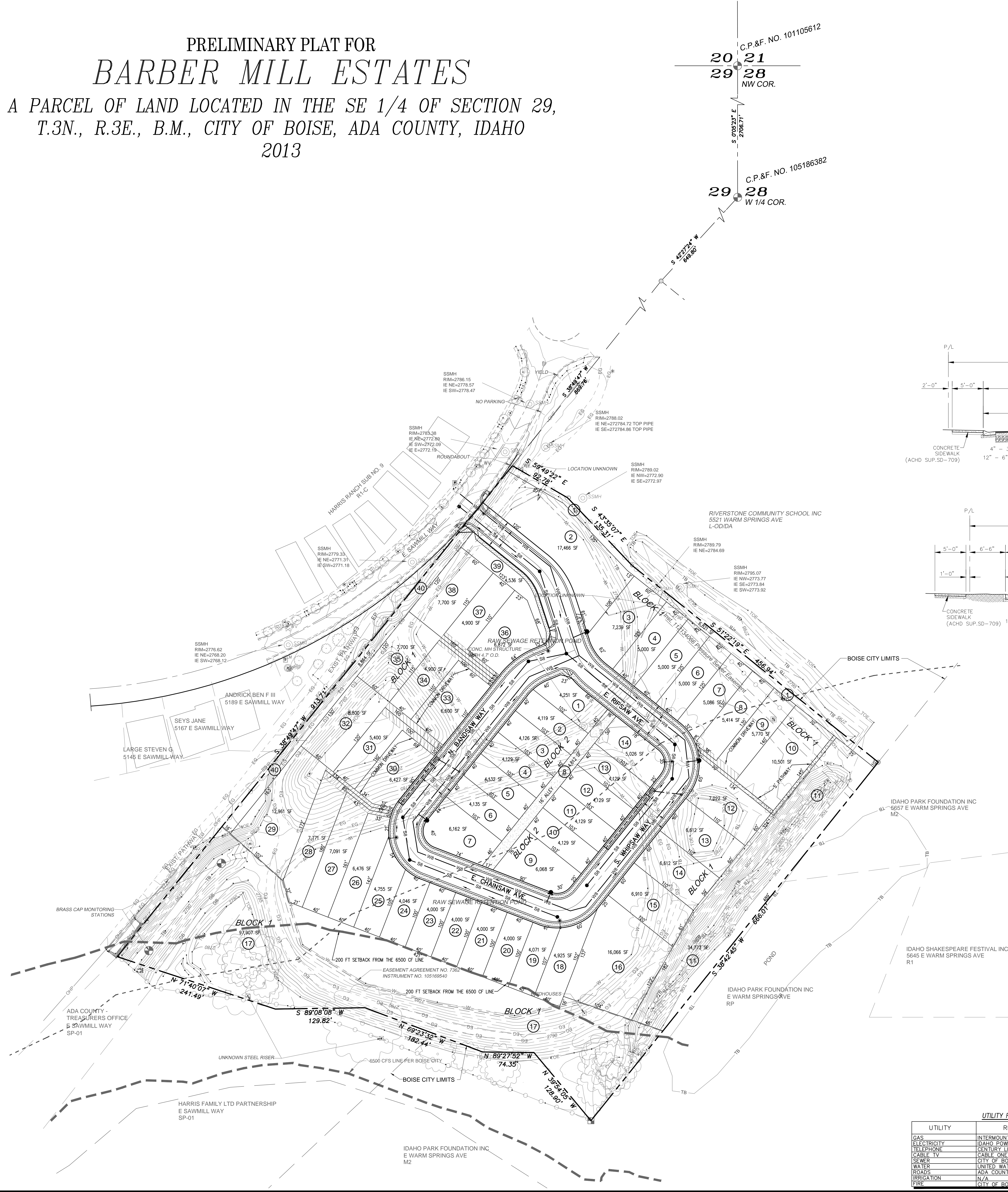
Project No. RSC-1303

Drawn By: RLC

Date: June 26, 2013

Sheet No.

PP1
1 of 1



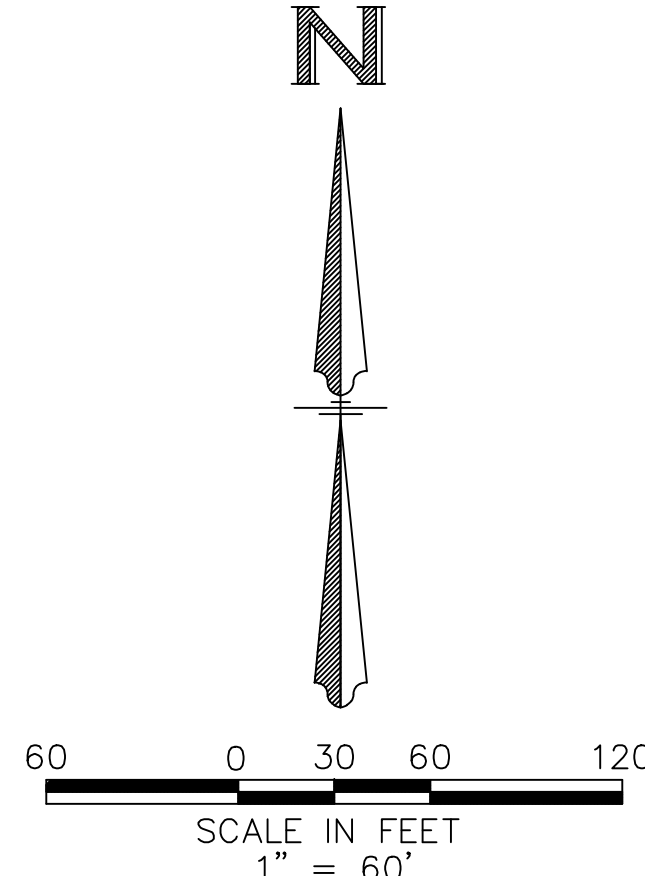
GENERAL LEGEND	
---	BOUNDARY LINE
---	RIGHT-OF-WAY LINE
---	LOT LINE
---	EASEMENT LINE
---	CENTERLINE
---	CURB & GUTTER
S8	SEWER LINE
W8	WATER LINE
IR	PRESSURE IRRIGATION
IR	GRAVITY IRRIGATION
17	LOT/BLOCK NUMBER
*	STREET LIGHT
*	FIRE HYDRANT
---	DRAINAGE FLOW DIRECTION
---	SECTION LINE
---	100 YEAR FLOODPLAIN
---	EXISTING CURB, GUTTER & SIDEWALK
---	EXISTING LOT LINE
---	EXISTING SEWER
---	EXISTING WATER LINE
---	EXISTING EDGE OF PAVEMENT
---	EXISTING EDGE OF GRAVEL ROAD
---	EXISTING FENCE LINE
---	EXISTING TOP BANK OF DITCH
---	EXISTING GROUND CONTOUR
---	EXISTING TREE
---	FOUND BRASS CAP
---	FOUND 5/8" IRON PIN
---	FOUND 1/2" IRON PIN

DEVELOPMENT FEATURES:

TOTAL ACRES.....12.0 ACRES
TOTAL LOTS.....57
BUILDABLE LOTS.....47
COMMON LOTS/ACRE.....7/4.0 ACRES/33.3%
DENSITY DU/ACRES.....3.9 UNITS/ACRE
EXISTING ZONING.....RP
(ADA COUNTY)
PROPOSED ZONING.....R1B
MINIMUM RESIDENTIAL LOT SIZE.....4,000 sq.ft.
AVERAGE RESIDENTIAL LOT SIZE.....5,500 sq.ft.




- NOTES:**
- SANITARY SEWER MAINS SHALL BE 8" DIAMETER UNLESS OTHERWISE SHOWN.
 - WATER MAINS SHALL BE 8" DIAMETER UNLESS OTHERWISE SHOWN.
 - SURFACE STORM WATER DRAINAGE SHALL BE DIRECTED TO STORM DRAIN INFILTRATION TRENCHES AND RETAINED ON SITE.
 - THIS SUBDIVISION IS SUBJECT TO COMPLIANCE WITH THE IDAHO CODE SECTION 31-3805 CONCERNING IRRIGATION WATER.
 - ALL LOTS ARE TO BE DESIGNATED SINGLE FAMILY RESIDENTIAL EXCEPT: LOTS 1, 2, 11, 17, 39, & 40. BLOCK 1 AND LOT 8, BLOCK 2 WHICH ARE DESIGNATED COMMON LOTS AND ARE TO BE OWNED AND MAINTAINED BY THE HOME OWNERS ASSOCIATION.
 - NO IRRIGATION WATER WILL BE SUPPLIED TO THIS PROPERTY.
 - A PORTION OF THIS PROJECT IS LOCATED WITHIN THE 100 YEAR FLOODPLAIN, (ZONE "A"). MAXIMUM BASE FLOOD ELEVATION IS 2584.2. HOUSE FINISH FLOOR ELEVATIONS WILL BE SET A MINIMUM OF 1' ABOVE BFE.

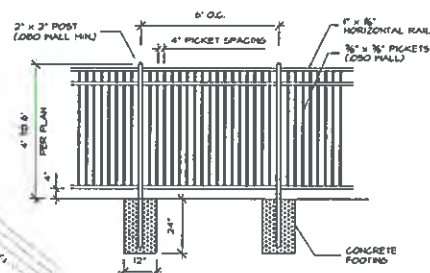
UTILITY	REPRESENTATIVES	PHONE
GAS	INTERMOUNTAIN GAS	(208) 377-6835
ELECTRICITY	IDAHO POWER	(208) 386-6330
TELEPHONE	CENTURY LINK	1-877-290-5458
CABLE TV	CABLE ONE	(208) 378-6288
SEWER	CITY OF BOISE	(208) 384-3800
WATER	UNITED WATER OF IDAHO	(208) 362-7200
ROADS	ADA COUNTY HIGHWAY DISTRICT	(208) 387-6100
IRRIGATION	N/A	
FIRE	CITY OF BOISE	(208) 576-6500



1. ALL PLANTING AREAS TO BE WATERED WITH AN AUTOMATIC UNDERGROUND IRRIGATION SYSTEM.
2. ALL LANDSCAPE SHALL BE INSTALLED IN ACCORDANCE WITH BOISE CITY LANDSCAPE ORDINANCE
3. TREES SHALL NOT BE PLANTED WITHIN THE 40-FOOT ZONE OF ALL ACAD STORM DRAIN PIPE, STRUCTURES OR FACILITIES. SEWERAGE BEDS SHALL BE PROTECTED FROM ANY AND ALL CONTAMINATION DURING THE CONSTRUCTION AND INSTALLATION OF THE LANDSCAPE IRRIGATION SYSTEM.
4. NO TREES SHALL IMPED THE 40' STREET AND DEPARTURE VISION TRIANGLES AT ALL INTERSECTIONS. NO COMMERCIAL TREES OR SHRUBS OVER 3' HIGH AT MATURITY SHALL BE LOCATED WITHIN VISION TRIANGLE OR ACAD ROW. AS TREES MATURATE, THE OWNER SHALL BE RESPONSIBLE FOR TRIMMING AND MAINTAINING THE TREES TO MEET THE CRITERIA FOR MAINTAINING GOOD VISIBILITY WITHIN 40' STREET AND DEPARTURE VISION TRIANGLE.
5. TREES SHALL BE PLANTED NO CLOSER THAN 50' FROM STOP SIGNS.
6. TREES SHALL NOT BE PLANTED WITHIN 5' OF WATER METERS OR UTILITY LINES.
7. EXISTING TREE ON LOT 10 TO BE BLOCK 1 AND EXISTING TREE IN PROPOSED STREET TO BE REMOVED. EXISTING TREES ON LOT 10 AND 12, BLOCK 1, SHALL BE RETAINED AND PROTECTED. BOISE OR EXTENDING ALONG

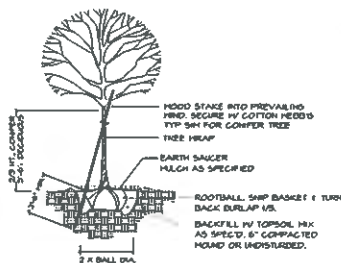


SYM	COMMON NAME	BOTANICAL NAME	SIZE
<u>EVERGREEN TREES</u>			
	KARL PUCHI MHALATAN CEDAR	GEDRUS DEODARA KARL PUCHI	10-12' HT D10
<u>SEMI-DECIDUOUS TREES, ILIGAL, U</u>			
	CHAMTICLEER PEAR	PIRUS CALLERYANA BLENN'S FORM	2' CAL D10
<u>SEMI-DECIDUOUS TREES, GRASSES, PERENNIALS</u>			
	BLACK EYED SUSAN	RHODECKIA FULGIDA SOLISTRUM	1 GAL
	DWARF FOUNTAIN GRASS	PENISTEMUM ALOPECUROIDES NAMEN	3 GAL
	CLUB ROSETTE BIRD GRASS	POGON CHINENSIS ANTHURUS U.I.	3 GAL
	HARDY GRASS	PERISTEMUM BARENS GRACILLIUS	3 GAL
	SPERM GRASS	PIRUS VIGINTI	3 GAL
	BLUE OAT GRASS	HELIOTRICHUM SERRIFOLIUM	3 GAL



NOTE: SM STYLE TO MATCH EXISTING

1 WROUGHT IRON FENCE.



② TREE PLANTING/STAKING

TOTAL AREA:	4.130 ACRES
TOTAL LOTS:	59
BUILDABLE LOTS:	47
COMMON LOTS:	10
PROPOSED TOTAL OPEN SPACE:	84 ACRES (32.5%)

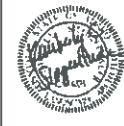
4. 12.0 ACRES
51
41
10
2.4 ACRES (3258)

DEVELOPÉE

C13. LLC
C/O CONGER MANAGEMENT GROUP
1827 S. ORCHARD ST. STE 24
BOISE, IDAHO 83705
Phone (208) 336-3355



Issue Description	Date
ISSUE	5/24/19



Site Planning
Landscape Architecture
495 Main Street
Bainbridge, GA 31707
Ph. (706) 343-7125
Fax (706) 343-7128
e-mail jpa@jensenberia.com

BARBER MILL ESTATES
PRELIMINARY PLAT

Job Number 1526

Drawn	Checked
KCS	KCS
Scale	AS SHOWN
Sheet Title	

LANDSCAPE
PLAN

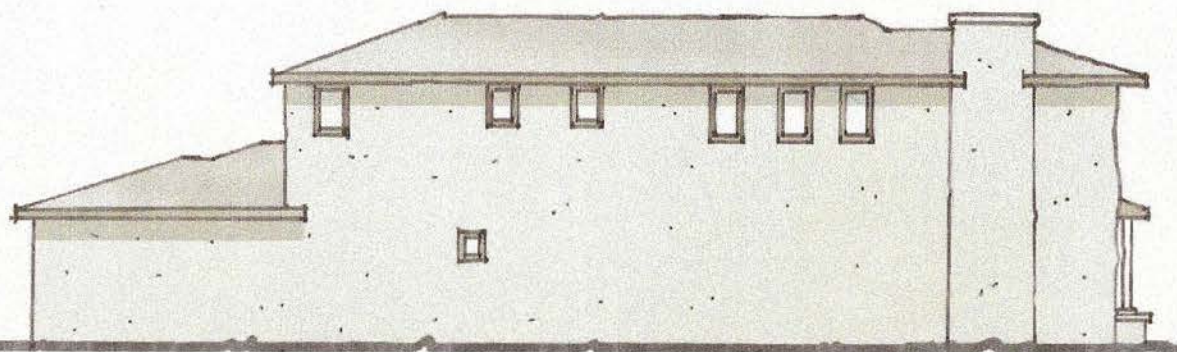
Sheet Number

L1.0

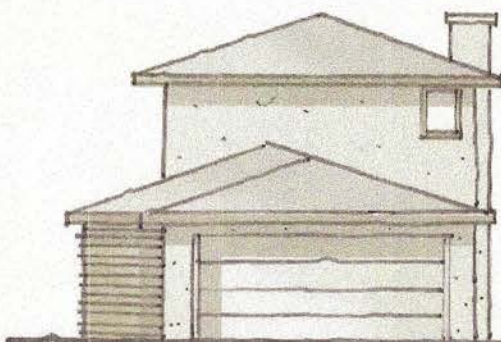
Of Sheets



FRONT ELEVATION



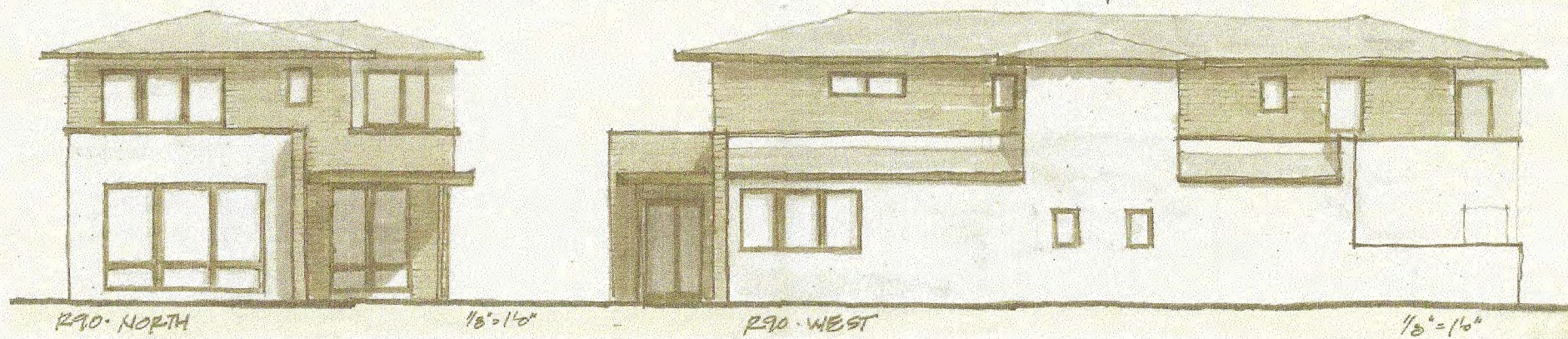
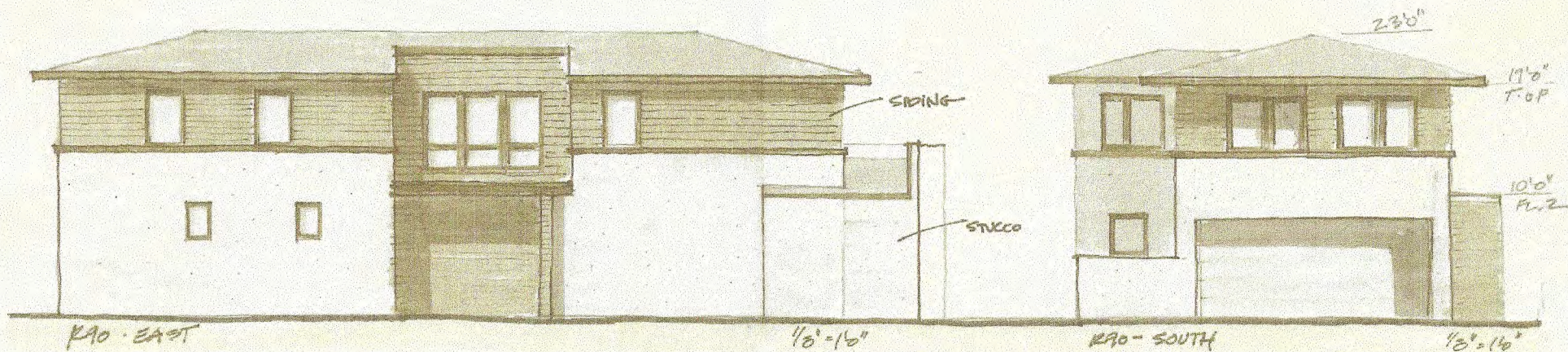
LEFT ELEVATION

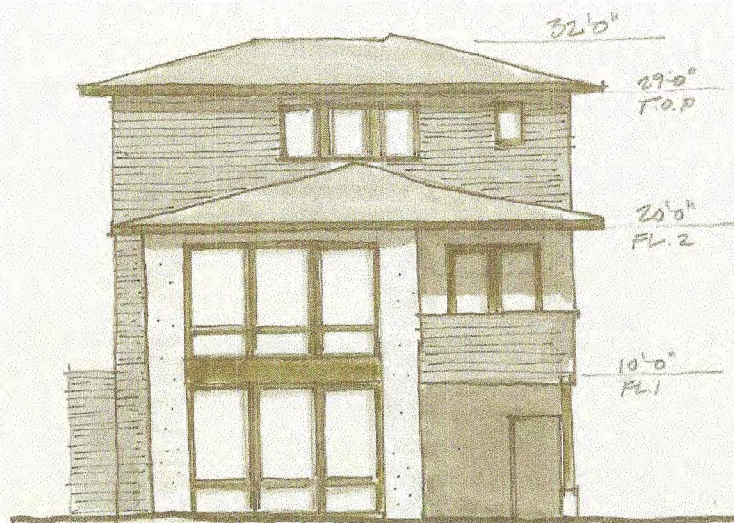


BACK ELEVATION



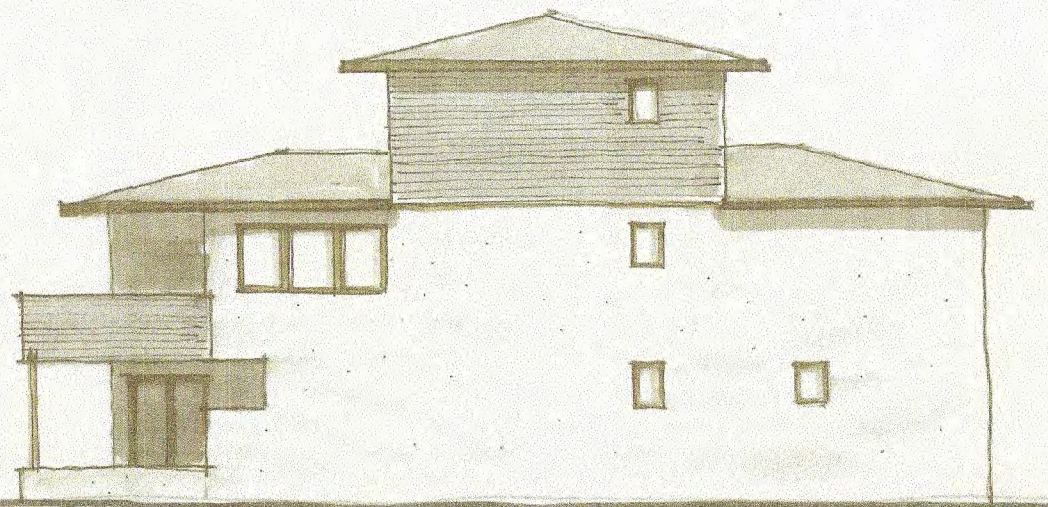
RIGHT ELEVATION





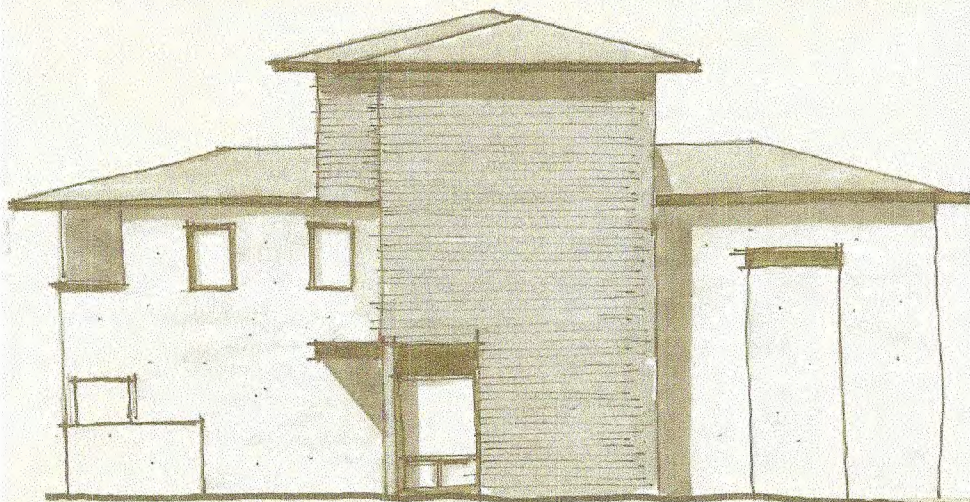
R30 - NORTH

$\frac{1}{8}'' = 1'0''$



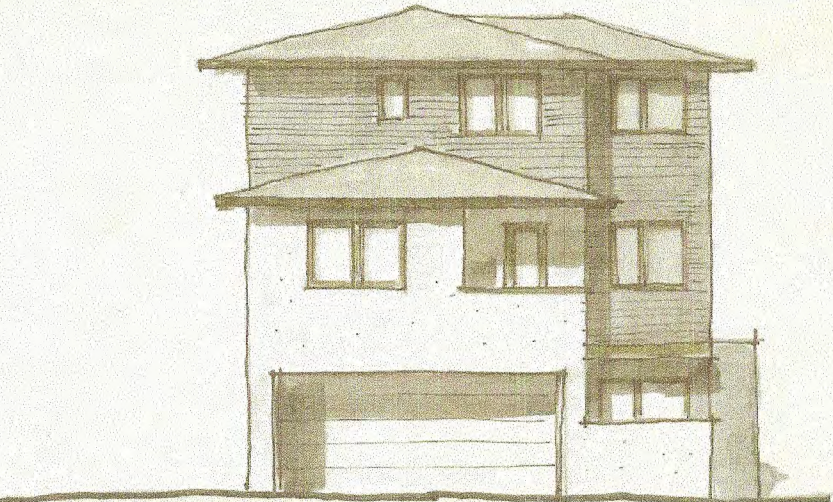
R30 - WEST

$\frac{1}{8}'' = 1'0''$



R30 - EAST

$\frac{1}{8}'' = 1'0''$

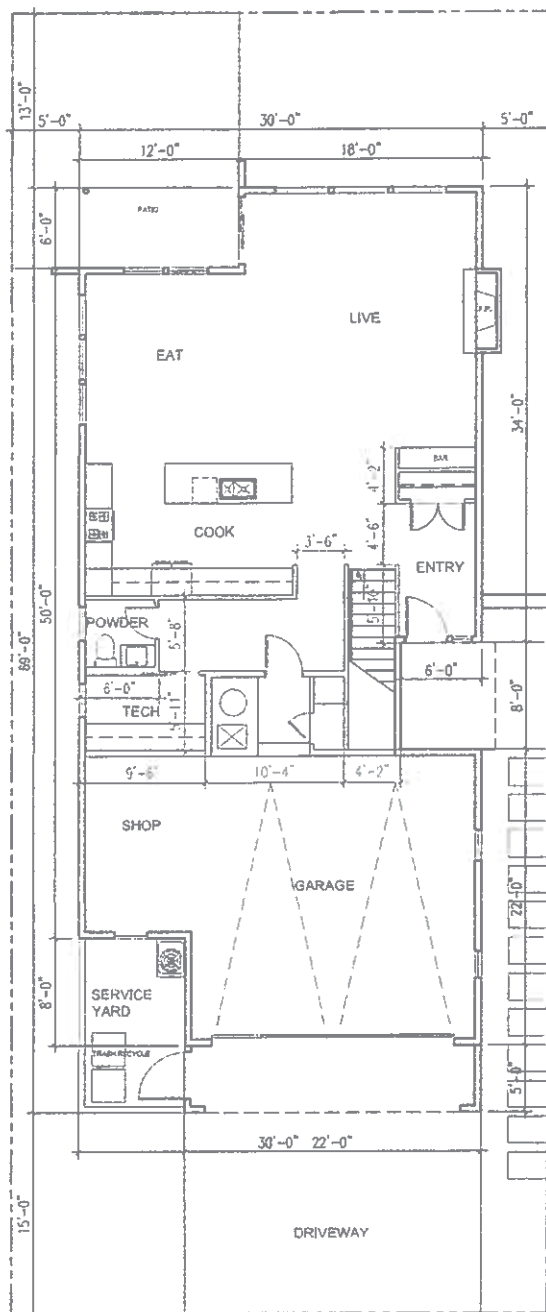


R30 - SOUTH

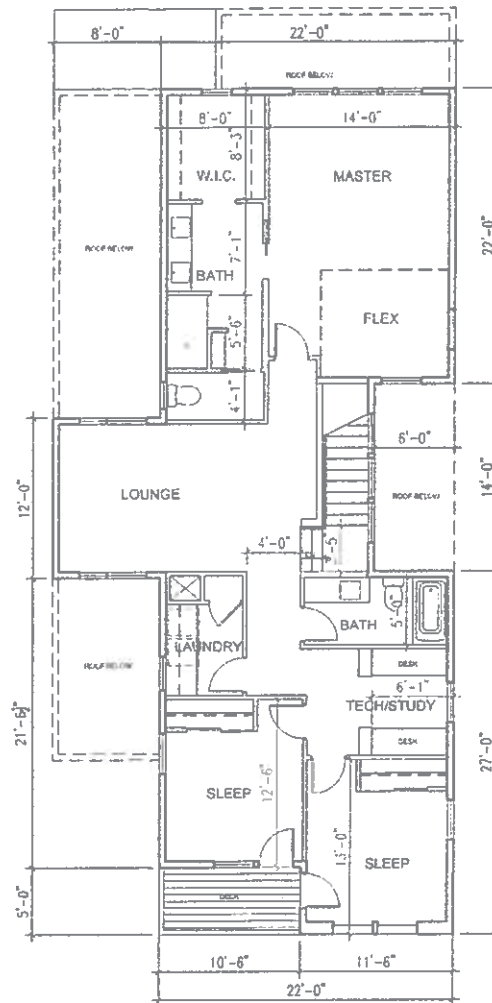
$\frac{1}{8}'' = 1'0''$







FIRST FLOOR



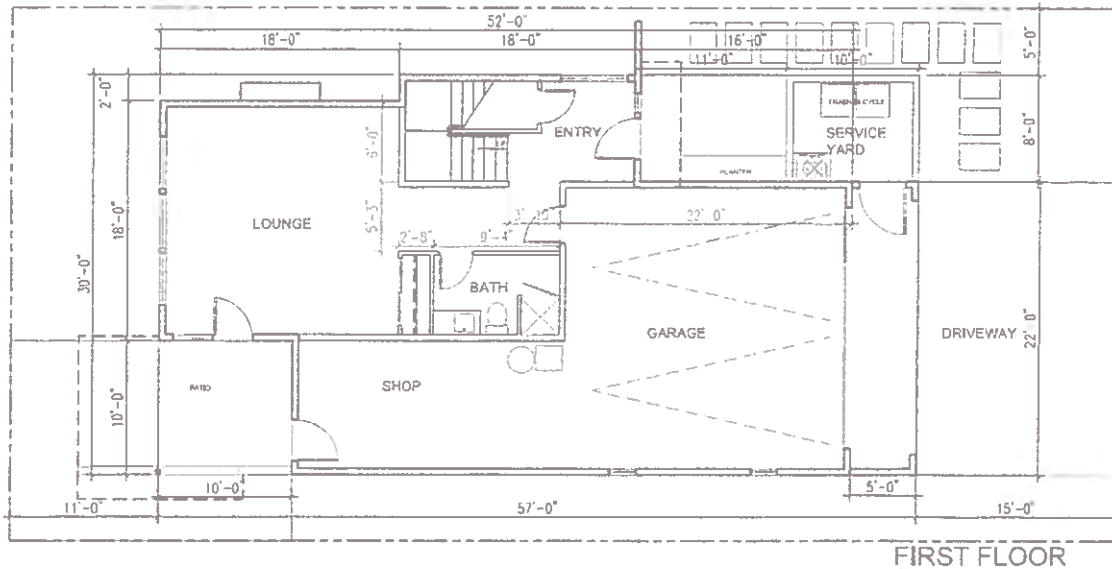
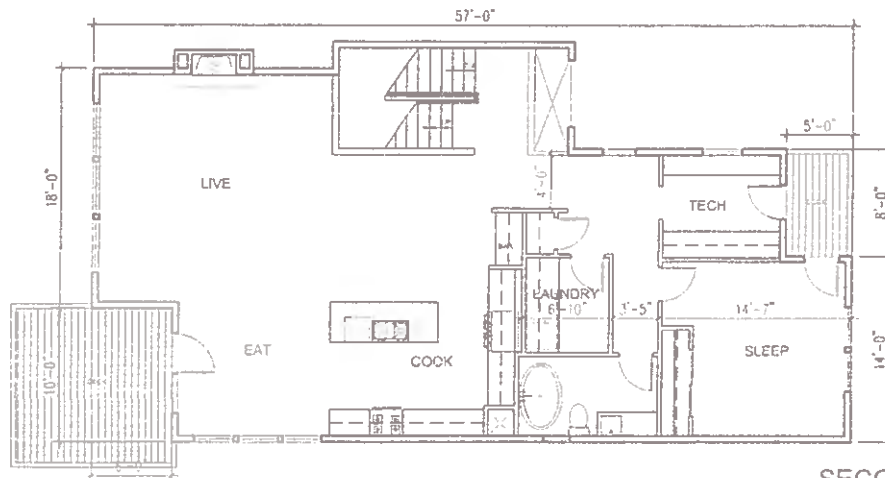
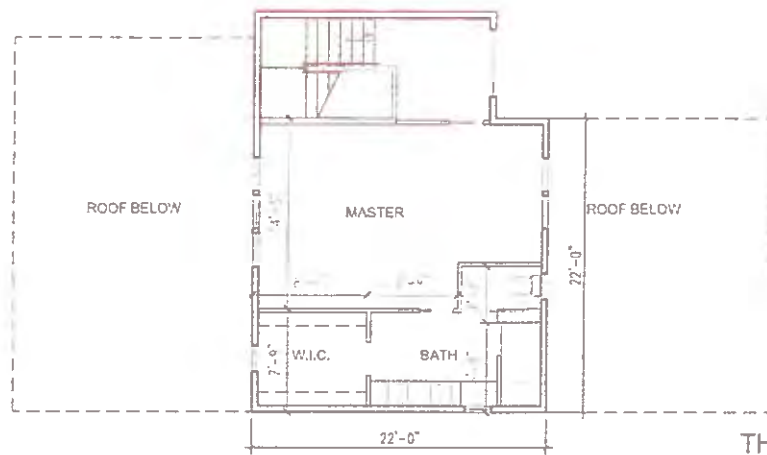
SECOND FLOOR

SCALE: 1"=1'-0"

R90

1ST FLR:	1100
2ND FLR:	1165
TOTAL:	2295
GARAGE/SHOP:	535

PUD 13 - 00 0 0 2

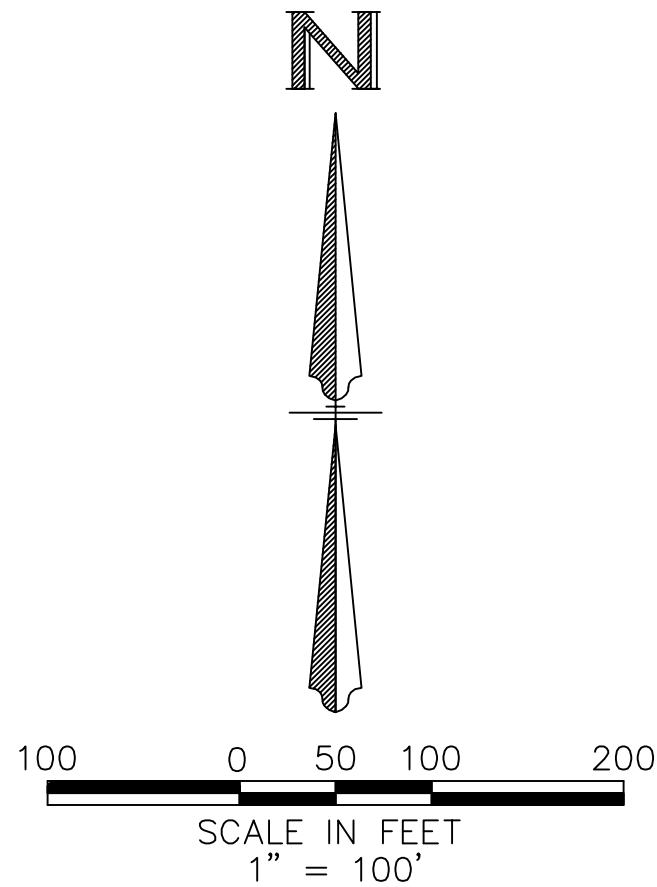



SCALE: 1/8"=1'-0"

R80

1ST FLR:	605
2ND FLR:	1120
3RD FLR:	450
TOTAL:	2245
GARAGE S-10P:	690

PUD 13-00002






CALL BEFORE YOU DIG!
CALL 811
PRIOR TO COMMENCING
UNDERGROUND WORK
208-342-1585

AGENCY REVIEW NOT APPROVED FOR CONSTRUCTION

Project Name		Project No.	
BARBER MIL ESTATES		RSC-1303	
Sheet Name		Drawn By:	
CONCEPTUAL LAYOUT		RLC	
Stamp		Date: July 29, 2013	
		Sheet No.	
		C1	
		1 of 1	

Revisions	
△	Date
1	
2	
3	
4	



ROCK SOLID CIVIL
Civil Engineering and Land Development Consulting
181 East 50th Street, Garden City, ID 83714
Office Phone: 208.342.3277
www.rocksolidcivil.com

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Planning & Development Services

Boise City Hall, 2nd Floor
150 N. Capitol Boulevard
P. O. Box 500
Boise, Idaho 83701-0500

Phone: 208/384-3830
Fax: 208/384-3753
TDD/TTY: 800/377-3529
Website: www.cityofboise.org/pds

4/5

Planning Division Staff Report

File Numbers	CAR13-0007, PUD13-0002, CFH13-0019 & SUB13-0017
Applicant	C 13, LLC
Property Address	5237 E. Sawmill Way
Public Hearing Date	August 12, 2013
Heard by	Planning and Zoning Commission
Analysts	Cody Riddle & Todd Tucker
Checked By	Hal Simmons

Public Notification

Neighborhood meeting conducted: March 18, 2013 and May 7, 2013
Newspaper notification published on: July 20, 2013
Radius notices mailed to properties within 300 feet on: July 19, 2013
Staff posted notice on site on: July 15, 2013

Table of Contents

1. Project Data and Facts	2
2. Land Use	2
3. Zoning Ordinance	3
4. Comprehensive Plan	3
5. Transportation Data	3
6. Analysis/Findings	4

Exhibits

Agency Comments
Public Correspondence

1. Project Data and Facts

Project Data	
Applicant/Status	C 13, LLC
Architect/Representative	Kent Brown
Location of Property	5237 E. Sawmill Way
Size of Property	11.97 Acres
Existing Zoning	RP (Rural Preservation-Ada County)
Comprehensive Plan Designation	Large Lot Residential
Planning Area	Barber Valley
Neighborhood Association/Contact	Riverland East / Pete White
Procedure	The Planning and Zoning Commission will make a recommendation to City Council on the annexation and preliminary plat, and render a final decision on the conditional use and Boise River System permits.

Current Land Use & Site Characteristics
The property is currently comprised of three abandoned sewer retention ponds.

Description of Applicant's Request
The applicant is requesting annexation with residential zoning to support a 47-unit planned residential development comprised of detached single family homes.

2. Land Use

Description and Character of Surrounding Area
The area surrounding the site has a mix of uses. The property to the west is comprised of single-family residential homes. The property north of the development is a private school with elementary, middle, and high school students. Located to the east and southeast is the Boise River. Both public and privately owned land identified as open space is located to the south and southwest of the subject property.

Adjacent Land Uses and Zoning

North:	Private School / L-OD/DA (Limited Office with Design Review)
South:	Boise River / SP-01 (Harris Ranch Specific Plan) – M2 (Ada County)
East:	Boise River & Parking Lot / M2 (Ada County)
West:	Single-Family Residential / R-1C/DA (Single-Family Residential)

3. Zoning Ordinance

Section	Description
11-03-04	Specific Procedures (Annexation, Conditional Use & Boise River System)
11-04-03	Residential Districts
11-05-06.1	Boise River System Overlay Districts
11-07-02.1.C	Common Driveways
11-07-03	Off-Street Parking and Loading Standards
11-07-06.5	Planned Unit Development Standards

4. Comprehensive Plan

Chapter	PRINCIPLES, GOALS, & POLICIES
Citywide Policies	Goal CC 7 Goal CC 8 Goal SHCC 12 Principle SHCC 12.1 Goal SHCC 14
Chapter #3 – Community Structure & Design	Principle GDP-N.1 Principle GDP-N.3 Principle GDP-N.8 Principle GDP-N.10
Barber Valley Planning Area	BV-CCN 1.1 BV-CCN 3.3 BV-C2.1 BV-C2.2 BV-C2.3

5. Transportation Data

Roadway	Functional Classification	PM Peak Hour Traffic Count	PM Peak Hour Level of Service	Existing Plus Project
Sawmill Way	Local	8	N/A	N/A
Lysted Avenue	Local	13	N/A	N/A
Warm Springs	Minor Arterial	241	Better than “D”	Better than “D”

* Acceptable level of service for a three-lane minor arterial is “D” (720 VPH).

6. Analysis/Findings

The applicant is requesting annexation of approximately 12 acres located at 5237 E. Sawmill Way with a zoning designation of R-1B (Single Family Residential-4.8 Dwelling Units / Acre). The annexation will facilitate development of the 47 unit planned residential development illustrated below. In addition to annexation, the project requires Conditional Use and Boise River System Permits. The conditional use permit is required for the reduction in some of the lot sizes and interior setbacks.



(Proposed Site Plan)

Annexation

The property is currently zoned RP (Rural Preservation) in Ada County, and has supported sewer ponds for a number of years. Recent infrastructure improvements have eliminated the need for the ponds and the owner is pursuing entitlement for residential development. The property is within the area of impact and adjacent to current City Limits. As a result, annexation is required for the proposed development. As illustrated below, the site is designated "Large Lot" on the Land Use Map. Development with this classification is typically between one and two units per acre, with clustering of homes encouraged to preserve natural features and open space. This designation is generally located in "fringe" areas where conventional suburban or compact residential development might not be appropriate. There is a range of potential implementing zones for "Large Lot" lands. In addition to Single Family Residential (R-1A and R-1B), this includes the Open Land (A-1) and Office zones (N-O and L-O). The applicant is pursuing the residential zone with the highest density allowance. The R-1B zone allows up to 4.8 dwelling units per acre.

The property is unique in that it is adjacent to a variety of uses and land use designations. To the west is the Mill District at Harris Ranch and lands designated for high density residential development.



(Land Use Map)

The Boise River is located to the south, and the Riverstone International School and East Junior High are to the north. To the east are the Idaho Shakespeare Festival and Idaho State Parks and Recreation Headquarters.



(Vicinity Map)

There is resistance to residential use of the property. To date, along with numerous residents, letters of opposition have been received from the Riverstone School, Idaho Shakespeare Festival, Riverland East and Harris Ranch Neighborhood Associations. Concerns vary, but focus on traffic, noise, wildlife habitat and design.

The Festival already receives complaints regarding noise generated from their functions. They are opposed to introducing additional residents who might have similar complaints. There is also a concern that noise generated by the new residents could negatively impact performances. While these might be valid concerns, the property is delineated as residential on the Land Use Map. As a result, annexation with residential zoning is a reasonable, and somewhat anticipated request. However, there are two alternatives to the R-1B zone that could be more appropriate given the unique characteristics of the site and surrounding uses. The R-1A zone is the lowest density residential district in the City. It allows up to 2.1 units per acre compared to the 4.8 allowed in the proposed R-1B zone. While it would not eliminate residential development on the property, it could conceivably reduce the number of conflicts associated with noise. The A-1 (Open Land) zone also allows residential development at up to one dwelling unit per acre. In theory, it would reduce the potential for conflicts even further. The following table provides a comparison of the density allowance and minimum lot size in the three zones.

ZONE	DENSITY LIMIT	MAXIMUM UNITS	MINIMUM LOT SIZE
R-1B	4.8 DU / ACRE	57	9,000 SQUARE FEET
R-1A	2.1 DU / ACRE	25	20,000 SQUARE FEET
A-1	1 DU / ACRE	11	1 ACRE

(Density/Minimum Lot Size Comparison)

The office zones (N-O and L-O) are also potential implementing zones given the property's land use designation. However, with limited access and visibility, office zoning/uses might not be feasible. Further, this zoning allows residential development at up to 43.5 units per acre, smaller setbacks and building heights of up to 45 feet. This has the potential to introduce a number of compatibility issues with surrounding properties.

Conditional Use, Subdivision and Boise River System Permits

Based on the layout, lot sizes and location adjacent to the Boise River, a conditional use and Boise River System permit are required in conjunction with the subdivision. The conditional use permit is required for the reductions in lot sizes and interior setbacks. The lots range in size from 4,000 to almost 18,000 square feet and the applicant is proposing 5 foot side and 15 foot rear yard setbacks. The minimum lot size in the R-1B zone is 9,000 square feet. A minimum setback of 10 feet on the side and 30 feet in the rear is also required. These dimensions can be reduced through the planned development (conditional use permit). The purpose of the planned development is to preserve natural features, allow efficient provision of services and provide common open space or amenities not found in traditional subdivisions. Planned developments are intended to provide benefits to both the developer and public. The project provides a couple public benefits.

A significant portion of the southern and eastern property boundaries are being preserved in a common lot as natural open space. This includes the riparian area to the south and existing landscape berm to the east. The Idaho Foundation for Parks and Lands owns the property adjacent to each of these areas, and all of the land between the site and the Idaho Shakespeare Festival. In a July 8, 2013 letter they confirmed unanimous support of the project by their Board of Directors. An agreement is in place for them to assume an easement to protect the area along the southern property line and they have also offered to protect the berm along the eastern property line. This would essentially result in an extension/expansion of the Barber Pool Conservation area and provide a permanent buffer between the site and Festival.



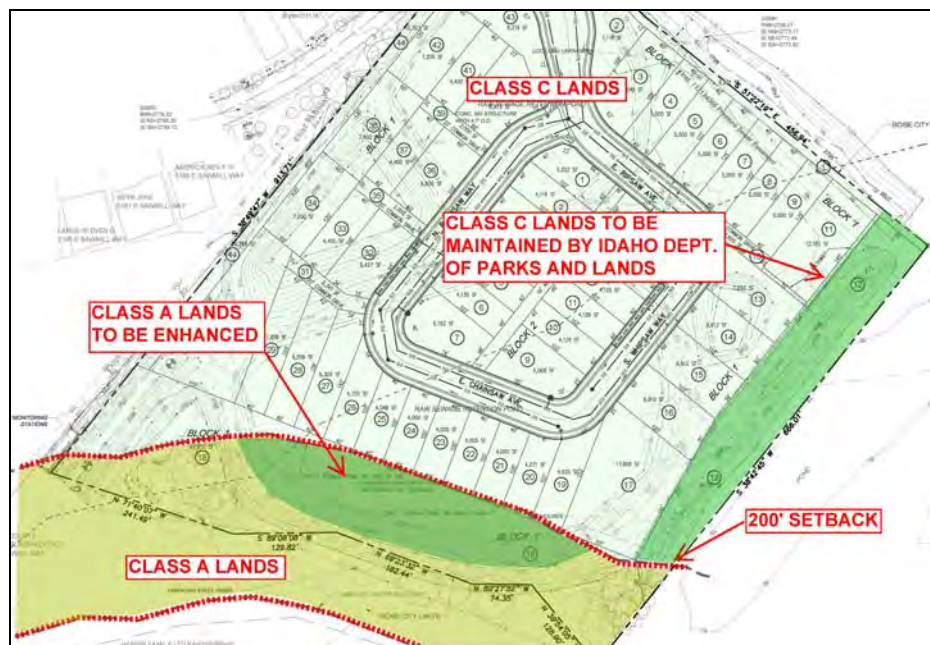
(Idaho Foundation for Parks and Lands)

The project also provides an extension of the Greenbelt from the southwest to the northeast corner of the site. Residents have expressed concern with the at-grade crossing near the entrance to the project. The low volume of traffic at this intersection should minimize the number of conflicts. Further, a variety of design features could be provided to delineate the crossing. As an alternative, the path could potentially be relocated along the southern/eastern property lines. While this would eliminate the at-grade crossing, it could have a negative impact on the wildlife habitat and introduce additional noise and activity in closer proximity to the Shakespeare Festival.



(Greenbelt Location)

The project complies with the objective standards of the Boise River System Ordinance. As illustrated below, the developed portion of the site (former sewer lagoons) is comprised exclusively of Class C lands. These are identified as the least important for preservation as they typically provide limited fish and wildlife habitat. However, it is intended that projects in Class C Lands include landscaping and habitat improvements. As previously mentioned, the Idaho Foundation for Parks and Lands is willing to assume responsibility for maintaining the berm along the eastern property line as an extension to the Barber Pool. This will provide the intended enhancement to Class C Lands. Finally, a portion of the existing sewer lagoon is located in Class A Lands. The intent is to restore that area as wildlife habitat, also to be preserved by the Idaho Foundation for Parks and lands.



(Boise River System Classifications)

Connectivity & Sidewalk Design

Policy CC2.1(b) promotes a connected system of road ways to alleviate congestion, reduce travel distances, and increase circulation options. The connectivity index for this development is 1.66 (5 links and 3 nodes). This exceeds what is generally considered to be an acceptable score of 1.5. However, the calculation is not extremely valuable in this instance. The site is essentially served by a loop road and alley. There are no opportunities for public street connections to adjacent parcels. The Boise River is located to the south and an existing pond to the east. To the north is property owned by the Riverstone International School. This area will likely support an expansion to their facilities in the future. In terms of sidewalks, Sawmill Way is currently improved with a four foot wide attached walkway where it abuts the site. No changes are proposed along this street. A five foot wide attached sidewalk is proposed for streets within the development. Due to limited traffic and anticipated slow vehicle speed, the Planning Team finds this to be an acceptable design.

FINDINGS

ANNEXATION (11-03-04.15.6.a)

i. Incorporate the Boise sewer planning area.

The subject property is located in the Boise Sewer Planning Area.

ii. Honor negotiated area of impact agreements.

The site is within the Area of Impact, adjacent to City Limits along the northern and eastern property boundaries.

iii. Attempt to balance costs of services with anticipated revenues.

The annexation should have minimal impact on cost of services. The property is adjacent to lands already within city limits.

iv. Promote other goals of population balance, contiguous development and prevention of costs due to leap frog development.

The annexation will have no impact on population balance. It will bring a parcel adjacent to previously annexed properties into the City.

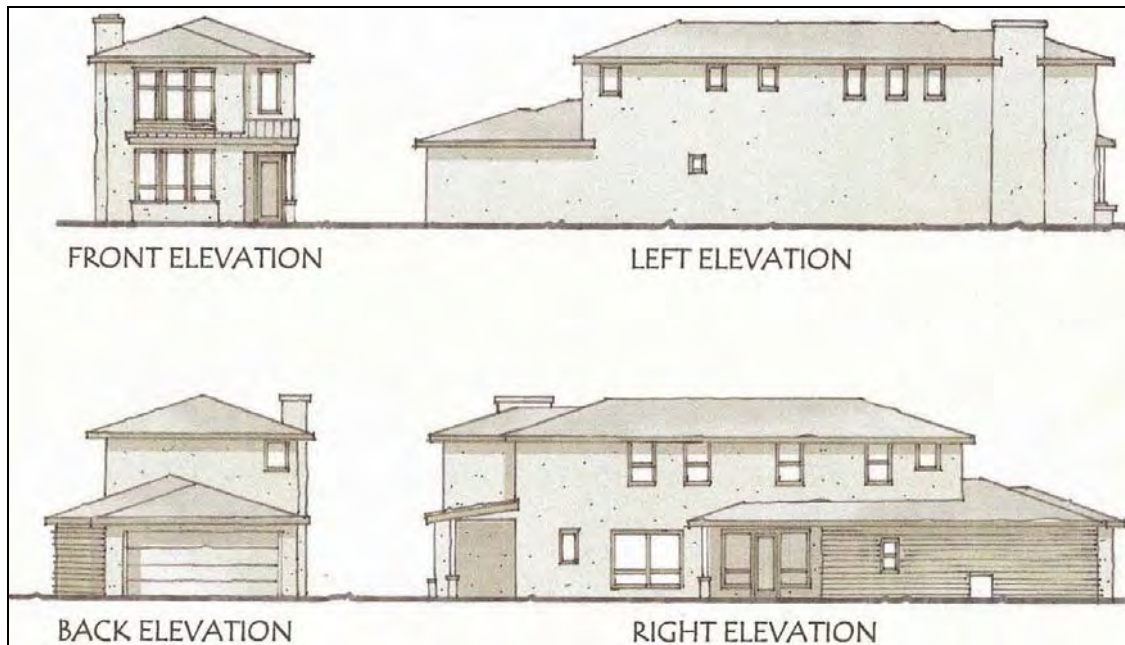
CONDITIONAL USE PERMIT (11-03-04.7.a)

i. The location is compatible to other uses in the general neighborhood;

The use of the property is compatible with the neighborhood including immediately adjacent parcels. The site is located between higher density residential development to the west and a school and outdoor theater to the north and east. The Boise River is located to the south. It is the design that creates compatibility concerns. Rather than focus the development on the northwest portion of the site, away from sensitive land uses, the lots have been distributed evenly across the property. This issue could be addressed through the inclusion of additional open space or a passive use located between the homes and the eastern property line.

In a letter dated August 1, 2013, the Harris Ranch Owners Association cites a concern with the height and design of the proposed structures. Height is not an issue as any new homes would be required to comply with the same 35' limit that applies to the adjacent existing neighborhood. Further, the applicant has proposed single story homes along the entire western property line to mitigate this concern.

In terms of architectural style, the proposed homes are consistent with others in the Barber Valley. As illustrated below, while not identical, the new homes are consistent with those located immediately across Sawmill to the west.



(Conceptual Elevations)



(5212 Sawmill)



(5242 Sawmill)



(5258 Sawmill)

- ii. *The proposed use will not place an undue burden on transportation and other public facilities in the vicinity;*

The Ada County Highway District (ACHD) approved the application on **July 17, 2013**. They raised no concerns with any of the proposed street or sidewalk improvements. They also indicated the road network in the vicinity is capable of supporting the 447 additional vehicle trips per day anticipated with the proposed development.

As illustrated below, each of the impacted roadways is operating at a fraction of capacity.



(ACHD Traffic Data)

In correspondence dated May 24, 2013, the Ada County Commissioners indicated any project would need to honor a 2005 easement for access to the Barber Dam, located southwest of the site. The County responded further on August 2, 2013, raising concerns with a lack of information regarding the floodplain/floodway location and absence of comments from the Federal Energy Regulatory Commission (FERC). The County recommended the Commission delay action on the applications until FERC has commented, or that conditions be placed on the project to ensure protection of the Barber Dam.

The remaining agency comments raised no significant concerns that could not be addressed through conditions of approval.

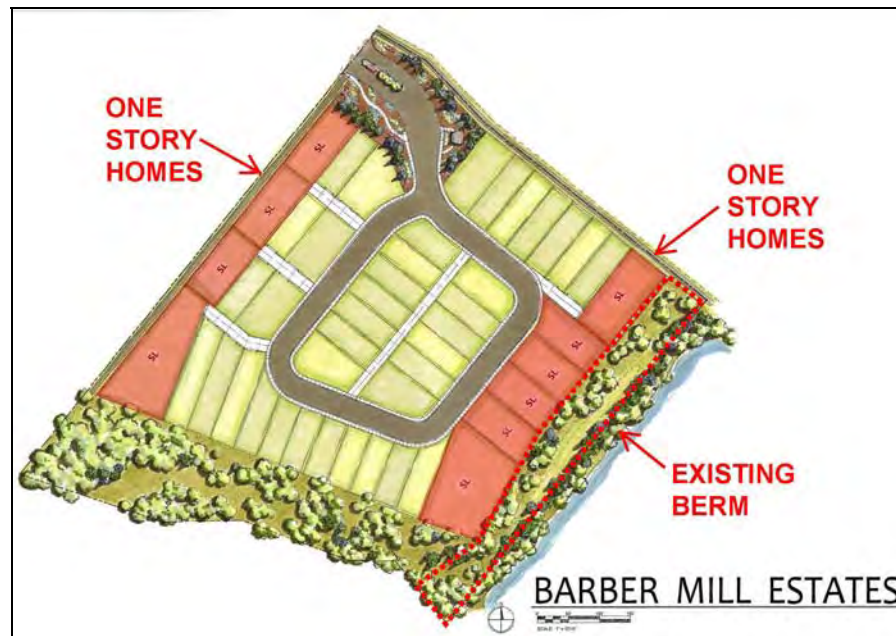
iii. *The site is large enough to accommodate the proposed use and all yards, open spaces, pathways, walls, fences, parking, loading, landscaping, and such other features as are required by this Code;*

The site is large enough to accommodate the proposed use. The density does not exceed the limitations of the requested zone and all perimeter setbacks have been met. The R-1B zone has a maximum density of 4.8 dwelling units per acre. The subdivision has 47 buildable lots on 11.97 acres for a density of 3.93 units per acre. Parking requirements have been met. Each home will have at least two parking spaces, located outside required setbacks within enclosed garages. Guest parking is available on driveway aprons to each home and the public street is wide enough to allow parking on both sides.

A planned development of this size requires a minimum of two amenities. This has been accommodated with the preservation of approximately 32% of the site as open space to be dedicated to the Idaho Foundation for Parks and Lands and a greenbelt extension along the western and northern boundaries.

iv. *The proposed use, if it complies with all conditions imposed, will not adversely affect other property of the vicinity;*

As currently designed, the project could adversely impact other property in the vicinity. It will place additional residents in close proximity to the Idaho Shakespeare Festival. This is somewhat similar to areas around the airport, or where residential abuts industrial users. In these instances, density is typically limited and/or soundproofing is required. In addition to the potential conflicts with Shakespeare, the Harris Ranch Owners Association has cited concerns with the height of structures abutting Sawmill Way. As illustrated below, the applicant has proposed single level construction along the entire western property line to address this concern. The same design feature has been included to the east.



(Single Story Home Illustration)

The applicant is also preserving a berm along the eastern property boundary that has served as a buffer between the Shakespeare Festival and residences to the west for a number of years. While some mitigation has been provided, additional setback in the form of passive open space, enhanced landscaping, a reduction in density, or a combination of these changes could further reduce conflicts.

v. *The proposed use is in compliance with the Comprehensive Plan.*

There are elements of the Comprehensive Plan that support the project. The site is designated 'Large Lot Residential' on the Land Use Map. The primary intended use in this designation is detached single family homes. Consistent with CC 7 and 8, the project includes important connections for bicyclists and pedestrians. An extension of the Greenbelt along the western and northern boundaries will be provided. As encouraged by Goal SHCC 12 and Principle GDP-N.8, the environmentally sensitive areas (Class A Lands) will be preserved. The Greenbelt extension and preservation of open space is also supported by elements of The Plan specific to the Barber Valley Planning Area (*Principles BV-CCN 1.1, BV-C2.1, BV-C2.2, and BV-C2.3*).

The majority of development in the valley is guided by the Harris Ranch and Barber Valley Specific Plans. Principle BV-CNN 3.1 directs the City to use these plans for policy guidance for other sites in the valley. From a broad policy perspective, these plans support the density proposed by the applicant. Both allow for compact, pedestrian oriented designs at a range of densities. In general the higher density areas are concentrated near commercial or activity nodes. The lower density areas are primarily in transitional locations between higher density development and the foothills. The subject property is located in a similar transitional area, between the Mill District (8 DU/Acre) and the Barber Pool. If designed appropriately, the concepts of the specific plans would suggest the proposed density of approximately 4 DU/Acre is appropriate.

There are however elements of the Plan that suggest a lower density project might be more appropriate. As previously mentioned, the property is designated "Large Lot Residential" on the Land Use Map. This designation is identified as follows:

Large lot neighborhoods feature single-family detached homes on lots ranging from ½ to more than one-acre in size. Neighborhoods typically feature more rural characteristics, such as open fencing and rural roadway cross-sections (e.g., no curb and gutter or sidewalks) and in some areas exist as enclaves within urban areas. Topography and other natural features, as well as adjacent ranges and grazing lands, contribute to the overall character of these neighborhoods depending on their location. Clustering homes to preserve these features or provide shared open space for residents is encouraged.

The density range in this designation is identified as typically being between one and two units per acre. At approximately four units per acre, the project exceeds this range. However, the density is consistent with R-1B zoning, an allowed district in the Large Lot areas. Principle GDP-N.10 and BV-CNN 3.3 address this allowance by promoting clustering of development to preserve natural features and create better transitions between areas of different development intensity. While the natural features have been preserved, the project could incorporate more of a transition to surrounding uses.

BOISE RIVER SYSTEM PERMIT (11-03-04.19.B.7(b))

- i. The proposed development is in compliance with the applicable Standards for Uses in Class A, B or C lands and waters.*

The project is comprised of both Class A and C Lands. It adheres to the standards for those designated as Class A, located immediately adjacent to the Boise River along the southern property line. Those lands will be placed in a common lot for preservation. Further, a portion of the Class A Lands are currently occupied by one of the sewer lagoons. That area will be returned to natural habitat. The majority of the site is Class C Land, or those least important for preservation. While residential development is generally considered an appropriate use for Class C Lands, projects are to include habitat improvements and landscaping to provide additional screening for wildlife habitat areas. The berm along the eastern property line will be dedicated to the Idaho Foundation for Parks and Lands, and maintained as an extension to the Barber Pool. This provides the intended habitat to Class C Lands.

- ii. The proposed development complies with all the policies and standards of the Boise Comprehensive Plan, the Boise River Plan, the Floodplain Ordinance and the Boise River System Ordinance.*

The project complies with the applicable policies and standards of Blueprint Boise. In accordance with *SHCC12.1*, the environmentally sensitive areas (Class A Lands) have been protected. This includes the Bald Eagle setback along the river. Consistent with *BV-C 2.2 and 2.3*, an extension of the Greenbelt has been included along the western and northern property lines. In the event a project is approved, a separate application will address compliance with the Floodplain Ordinance.

- iii. The proposed development includes measures designed to insure that natural resource functions and values are preserved or enhanced and maintained.*

The project includes measures to insure natural resource functions are preserved. The Class A Lands along the southern property line, that include the 200' Bald Eagle Setback, will be placed in a common lot for preservation. The berm along the eastern property line will be preserved and dedicated to the Idaho Foundation for Parks and Lands. This will enhance natural resource functions by expanding the Barber Pool.

- iv. The proposed development complies with or shall comply with all local, State and Federal laws and regulations.*

Comments received from local, state and federal agencies include conditions to ensure compliance with applicable regulations. A complete analysis of the impacts on the adjacent Barber Dam will need to be complete prior to issuance of any approval.

Conclusion / Recommendation

The Planning Team recognizes the substantial opposition from the Shakespeare Festival, their supporters and the surrounding neighborhood. However, residential zoning is appropriate for the site. The applicant provided two independent sound studies to support their request. Each concludes that sounds from events at Shakespeare are comparable to the natural pre-existing noises in the neighborhood. This includes noises from birds, local traffic and airplanes. The studies also find that noise generated from residents of the new project will not be audible at the Festival.

While the project complies with the minimum objective standards of the ordinance, there are aspects that could be refined. This includes addressing the outstanding concern with impacts on the Barber Dam and adjusting the project to better respond to neighborhood concerns. It appears more could be done to mitigate concerns from the Idaho Shakespeare Festival and other neighbors. This cannot be accomplished with the selection of the zoning district alone. Each of the potential implementing zones allows units to be evenly distributed across the site as long as the minimum lot sizes are provided. This does not ensure clustering of homes to preserve additional open space (as encouraged in the Large Lot Designation) or mitigate impacts on the theater to the east. If the annexation is approved as requested, a revised subdivision could be submitted that allowed removal of the entire berm along the eastern property line. This would result in a loss of habitat and buffering.

To prevent this from occurring, and ensure compliance with ordinance standards and the Comprehensive Plan, a development agreement could be attached to the annexation. At a minimum, this agreement should tie the project to the site plan included in the current application. However, the agreement could also include any combination of the following:

1. Density could be reduced by removing units along the eastern property line.
2. Residential units along the eastern property line could be restricted from having rear yard patios and mechanical equipment.
3. Homes along the eastern property line could be replaced with additional open space or a low-intensity land use restricted from operating during the typical performance hours of the Shakespeare Festival.
4. Supplemental landscaping could be provided on the eastern berm with an emphasis on buffering and wildlife habitat.

BCC 11-03-04.2.C(3)(a)ii, grants the Commission authority to recommend the applicant enter into a development agreement. **The Planning Team recommends the Commission defer action on the application until September 16, 2013.** The applicant should be directed to return with a draft agreement that restricts development to a specific site plan. To allow time for review by all interested parties, this agreement and associated plan should be submitted to City Staff prior to August 29, 2013. This additional time will also allow the applicant time to seek final approval by the parties operating the Barber Dam.

KENT BROWN PLANNING SERVICES

May 22, 2013

Boise City Planning & Development Services
150 N Capital Blvd
PO Box 500
Boise ID 83701-0500

RE: Barbermill Estates Annexation Application

Dear Commissioners:

On behalf of C13 LLC, we are requesting approval of an Annexation for the Barbermill Estates Subdivision. This site includes the following parcels S0929417600, S0929449100, and S0929449200, totaling 11.97 acres. The current zoning of all three parcels is RP in Ada County. We are requesting annexation into the city with R-1B zoning.

Existing use on site is an abandoned sewer retention pond. Once IDEQ has reviewed the state of the ponds, and given permission, we plan to remediate and fill them in. Then the site will be prepared for a 47 unit single-family subdivision.

Our requested R-1B zoning falls in line with surrounding developments. The Mill District and Harris Ranch to the West are zoned R-1C. To fit in with the surrounding uses we feel the an R-1B zoning will be a good transition from the R-1C zoning to the West, and to the M2 zoning on the East (Water Pond), and the L-OD to the North (International School).

After reviewing Blueprint Boise, specifically the section on the Barber Valley Planning Area we feel that Barbermill Estates fulfills the recommendations for this area. Furthermore we feel that Barbermill Estates will be a key property in the continued development of the Barber Valley Planning Area. Below we have highlighted a few of the Blueprint Boise Goals that are being satisfied by the proposed Barbermill Estates annexation.

- **Goal BV-CCN 1: Respect the Barber Valley's unique development context**
 - *Impacts to wildlife habitat, open space, and other natural resources should be minimized as the Barber Valley develops over time.*
 - **1.1: Context Sensitive Development**
 - *Design development to preserve wildlife habitat and connectivity, open space, and context-sensitive recreational opportunities.*

We have followed the Large Lot guidelines found in Blueprint Boise to preserve local wildlife, and provide shared open spaces. With a donation along our southern property edge we have ensured that the Barber Pool Preserve will be protected by the Idaho Foundation for Parks and Lands

CAR 13 - 00007

- **Goal BV-CNN 3.3: Open Space Protection**
 - *Identify opportunities to combine and cluster land uses to preserve open space in the Foothills and wildlife corridor areas.*

In our proposed Site Plan we have clustered our home layout to better provide open spaces on the North, East, and West sides of our site.

- **Goal BV-C2: Connect land uses within the Barber Valley and create connections to adjacent areas.**
 - **2.1: Connections to New Development**
 - *Make connections between Barber Valley trails, new developments, and existing developments, as well as the Green Belt. Link gaps in the existing sidewalk system to provide connectivity and public safety along Warm Springs Avenue*
 - **2.2: Bike Routes**
 - *Maintain alternative transportation routes for bicycles and provide bike lanes on redesigned Warm Springs Avenue. Ensure bicycle routes and sidewalks connect the Boise River Greenbelt to the foothills.*
 - **2.3: Trail Connections**
 - *Extend the Greenbelt eastward from the current dead-end at Barber Dam*

All three of these goals will be satisfied by the Greenbelt connection that we propose along the West and North side of our properties. Our site will be especially critical in extending the Greenbelt eastward from the dead-end at Barber Dam. The Boise Parks Department is very interested in completing this portion of Blueprint Boise (**See Exhibit A**). Without our connection the Greenbelt won't be able to bypass the protected Barber Pool Preserve.

We look forward to your approval of this Annexation Approval.

Sincerely,

A handwritten signature in black ink, appearing to read "Kent Brown", with a stylized, cursive script.

Kent Brown
Planner

KENT BROWN PLANNING SERVICES

May 22, 2013

Boise City Planning & Development Services
150 N Capital Blvd
PO Box 500
Boise ID 83701-0500

RE: Barbermill Estates PUD Application

Dear Commissioners:

On behalf of C13 LLC, we are requesting approval of a PUD for the Barbermill Estates Subdivision. This site includes the following parcels S0929417600, S0929449100, and S0929449200. We are requesting approval of a PUD of 47 units on 11.97 acres.

The current zoning of all three parcels is RP in Ada County. We are also submitting to the city an Annexation request to have R-1B zoning. The requested R-1B zoning is in compliance with the Barber Valley Planning Area. We specifically are requesting approval of a PUD for reduced setbacks and lot sizes for R-1B zoning.

BACKGROUND

From the very start of our planning process we have known that extra care would be needed for this area of the Barber Valley. We have met with many neighbors, Boise City, the Idaho Foundation for Parks and Land, and the Idaho Shakespeare Festival. We would like to list the meetings that we have had in preparing for our application to Boise City. Our reason for making sure to meet with all interested parties is so that we could try and address everyone's concerns.

- January 3rd, 2013
 - Pre Pre-App meeting with Boise Planning
- February 21st, 2013
 - First Pre-App meeting with Boise Planning
- March 14th, 2013
 - Informal meeting with The Harris Ranch Neighborhood Association
- March 18th, 2013
 - First Neighborhood Meeting
- April 4th, 2013
 - On-site meeting with Boise Parks
- April 11th, 2013
 - Informal meeting with Boise Planning
- April 18th, 2013
 - Meeting with Idaho Shakespeare Festival Board Members
- April 25th, 2013
 - Second Pre-App meeting with Boise Planning
- April 29th, 2013
 - Meeting with Idaho Foundation for Parks and Land's President and Board Members

- May 7th, 2013
 - Second Neighborhood Meeting
- Plus other meetings, e-mails, and phone calls the developer and his consultants have had with staff over the last four months. We have attached a number of the correspondences between us and interested parties (**Exhibits A-J**).

What we originally proposed for Barbermill Estates, was a submittal of a straight 21-26 lot subdivision in compliance to the R-1B zoning standards. After discussion with Boise City and Idaho Shakespeare Festival we have clustered smaller units away from the Idaho Shakespeare Festival site. Also after hearing neighbors concerns we re-oriented the lots to face North and South away from existing Mill District neighbors. We have also committed to single level homes on our West and East to better transition to our neighbors. We feel that this redesigned subdivision will better satisfy the needs of all the interested parties.

After reviewing Blueprint Boise, specifically the section on the Barber Valley Planning Area we feel that Barbermill Estates fulfills the recommendations for this area. Furthermore we feel that Barbermill Estates will be a key property in the continued development of the Barber Valley Planning Area. Below we have highlighted a few of the Blueprint Boise Goals that are being satisfied by the proposed Barbermill Estates.

- **Goal BV-CCN 1: Respect the Barber Valley's unique development context**
 - *Impacts to wildlife habitat, open space, and other natural resources should be minimized as the Barber Valley develops over time.*
 - **1.1: Context Sensitive Development**
 - *Design development to preserve wildlife habitat and connectivity, open space, and context-sensitive recreational opportunities.*

We have followed the Large Lot guidelines found in Blueprint Boise to preserve local wildlife, and provide shared open spaces. With a donation along our southern property edge we have ensured that the Barber Pool Preserve will be protected by the Idaho Foundation for Parks and Lands

- **Goal BV-CNN 3.3: Open Space Protection**
 - *Identify opportunities to combine and cluster land uses to preserve open space in the Foothills and wildlife corridor areas.*

In our proposed PUD we have clustered our home layout to better provide open spaces on the North, East, and West sides of our site.

- **Goal BV-C2: Connect land uses within the Barber Valley and create connections to adjacent areas.**
 - **2.1: Connections to New Development**
 - *Make connections between Barber Valley trails, new developments, and existing developments, as well as the Green Belt. Link gaps in the existing sidewalk system to provide connectivity and public safety along Warm Springs Avenue*
 - **2.2: Bike Routes**
 - *Maintain alternative transportation routes for bicycles and provide bike lanes on redesigned Warm Springs Avenue. Ensure bicycle routes and*

sidewalks connect the Boise River Greenbelt to the foothills.

- **2.3: Trail Connections**

- *Extend the Greenbelt eastward from the current dead-end at Barber Dam*

All three of these goals will be satisfied by the Greenbelt connection that we propose along the West and North side of our properties. Our site will be especially critical in extending the Greenbelt eastward from the dead-end at Barber Dam. The Boise Parks Department is very interested in completing this portion of Blueprint Boise (**See Exhibit J**). Without our connection the Greenbelt won't be able to bypass the protected Barber Pool Preserve.

The challenge in redesigning Barbermill Estates has been in the amount of land that will be donated after development completion. Once completed the following percentages of the site will be donated; 3.3% to Boise City Parks for future Greenbelts on the North and West side, 7% is to be donated to the Idaho Shakespeare Festival, this consists of the berm along the East side of the site, 17% will be donated to the Idaho Foundation for Parks and Land for the Barber Pool Conservation this includes the 200' setback area. This reduces our overall site by 27.3%. This led us to create a design that still falls well under the 4.8 units per acre that are allowed for in R-1B zoning.

We are asking for approval of reduced rear and side setbacks. Because of the overall reduction of the site some of the rear yards will overlap with common or soon to be public lots. We are asking that the rear setbacks be reduced from 30' to 15', and the side yard setbacks will be reduced from 10' to 5'.

Sincerely,

A handwritten signature in black ink, appearing to read "Kent Brown". The signature is stylized with a large, sweeping initial "K" and a cursive "Brown".

Kent Brown
Planner

KENT BROWN PLANNING SERVICES

May 23, 2013

Boise City Planning & Development Services
150 N Capital Blvd
PO Box 500
Boise ID 83701-0500

RE: Barbermill Estates Subdivision Preliminary Plat Application

Dear Commissioners:

On behalf of C13 LLC, we are requesting approval of the Preliminary Plat application for the Barbermill Estates Subdivision. The site is currently an abandoned sewer pond/s for the Golden Dawn Mobile Home Park. The proposed subdivision has 47 residential lots and 10 common or open space lots or City Greenbelt lots.

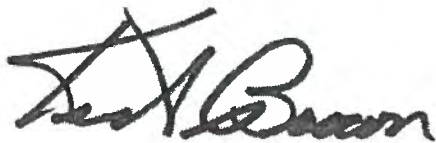
The Barbermill Estates has 27.3% of the site reserved for public use as detailed below:

- 3.3% of the overall site is reserved for future City Greenbelt in two lots in subdivision
- 17% of the site is reserved for the Barber Pool Conservation area in Lot 18, Blk. 1
- 7% of the site is reserved for a berm between Barbermill Estates and the Nature Center near the Shakespeare Festival.

We are requesting a waiver of 9-20-8.J 1. *"No subdivision plat shall be approved for residential development unless the applicant has provided for the design, construction, and installation of a pressurized individual lot irrigation system."* Due to the fact that we have no surface irrigation water rights.

If you have any questions regarding this or any other of our applications for Barbermill Estates feel free to contact me.

Sincerely,



Kent Brown
Planner

SUB 13-00017

Exhibit A

January 24, 2013
Sent via email

Shane Weston
Boise Parks & Recreation

Re: 11.92 +/- acres, East Boise River Lane

Dear Mr. Weston:

C4 Land LLC ("C4L") is under contract to purchase the above-referenced +/- 11.92 acres, East Boise River Lane in southeast Boise (the "River Property"). Currently, C4L is conducting planning approvals and moving through the entitlement process identifying appropriate uses for the River Property. Once C4L moves forward with closing, it would be in a position to work with the City of Boise regarding a potential greenbelt location.

The location at this point would be extremely tentative and would need to be agreed upon, but could possibly be across the northwest corner and potentially encumbering the north seven feet of the River Property. This would mean sharing the greenbelt designation with the adjacent property owner to the north, i.e., seven feet designation by both parties to create a fourteen foot greenbelt.

This letter is intended only to outline C4L's willingness to consider use of a portion of the River Property as outlined above, and is not intended to create any obligation on C4L in any way to move forward with a greenbelt designation. C4L is stating only that there is a potential for this use in the location above-identified.

With that being understood, C4L will continue its planning approval process and moving forward toward closing.

Sincerely,

C4 Land LLC

By: 

Its: Member

C4L/ja

The Harris Ranch Neighborhood Association

From: The HRNA Board
Subject: March Meeting Minutes

May 23, 2013

The meeting started on March 14th at 6:35 with 22 residents representing Harris Ranch areas.

Barbermill Estates. Jake Centers (Tahoe Homes) and Jim Conger (Conger Management) spoke and answered questions regarding the proposed development south of Riverstone School on land to be reclaimed from sewage lagoons. The intent is for 22 -26 single resident homes with the lagoons to be reclaimed this summer upon Department of Environmental Quality approval. While the sludge is being removed the odor will be worse. Concurrently the approval process from Boise City and the Ada County Highway District (ACHD) will be underway with a target of May for the first ACHD hearing. The target demographic was generally described as couples in their 50s looking for single level homes of up to 3000 square feet. The lots are larger than most areas in Harris Ranch. The grade would not be lower than now and might be slightly higher with the units bordering Sawmill Way having a stated 80% certainty of being single level. Residents expressed concerns regarding traffic safety on Sawmill Way, the intersection with Sawmill Way, river set backs and drainage. It will not be a part of the Harris Ranch Homeowners Association. More information, including conceptual graphics, will be available at the public meeting at the site on Sawmill Way on Monday, March 18th from 6 -7pm.

Bus Service. Valley Ride has developed a proposal to extend service to Harris Ranch which will be discussed with the City Planners, Kelli Fairless, Executive Director, Valley Regional Transit, Lenir (Harris Ranch), and others. The HRNA board will also be represented. Funding for bus pads and pick up shelters and timing will be issues. The meeting is Tuesday March 19th 3:30pm at the Foothills Room, City Hall.

Traffic Safety Status: ACHD has put up a “cross traffic does not stop” sign at the Warm Springs turn at the Fire Station 15 intersection. Dick Rapp will follow up with Ross Oyen, ACHD traffic engineer, on other actions agreed to during the January meeting that were pending better weather, including pedestrian actuated beacon crossings at East Jr High and at the mail kiosk on Warm Spring Ave in the Dallas Harris area as well evaluation of round about plantings.

Antelope Springs. After several wildlife mitigation and fencing concessions from the developer, Chris Hendrickson testified to P&Z for the HRNA’s support of the 17 unit single family development south of the Barber Hills Nursery. P&Z unanimously recommended approval of the final plat to City Council.

New Board Members. Mark Templeton (Mill District), Leslie Wright (Spring Creek), and Janet Brown (Dallas Harris Estates) are new board members. Thank you!

Other: Boise School District advised that there are currently no plans to build an elementary school at Harris Ranch as there is still capacity at both Riverside and Adams. Capacity is continually evaluated. When it is forecast to go over, a bond election to pay for constructions will be held. Harris Ranch has set aside land to donate.

Mike Reineck
HRNA Secretary and Treasurer

Exhibit C

Board of Trustees
Lynn Johnston, President
John Sims, Vice President
Karen Meyer, Secretary
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Jerry Van Engen
Henry Yun

Charles Fee
Producing Artistic Director

Mark Hofflund
Managing Director

Carolyn Bancroft
Recording Secretary

April 2, 2013

**Mr. Derick O'Neill, Director
Planning and Development Services
City of Boise
P.O. Box 500
Boise, ID 83701**

Dear Mr. O'Neill:

It has come to the attention of Idaho Shakespeare Festival (ISF) that Kent Brown Planning Services of 3161 E. Springwood Drive, Meridian, ID 83642 has been retained to advance a 23-lot subdivision in the environs of the Barber Pool Conservation Area, upstream of the historic Barber Dam and on ground partly developed by ISF, courtesy of its current property owners.

The ISF, mobilizing community resources and in cooperation with the current owners, has improved and maintained an earthen berm with vegetation and irrigation. Not only do these improvements add aesthetic value to the Barber Pool Conservation Area for all to enjoy, they also provide value to the outdoor amphitheater and surrounding area in the way of sound and sight screening during performances in the amphitheater.

Mr. Brown's plan would require the removal of this earthen berm which currently provides some modicum of sound and sight abatement for the surrounding area. By doing so, he would place homes directly adjacent to the theater without any barrier whatsoever between the subdivision and theater activity.

The Festival may also be supported through gifts to the Foundation for the Idaho Shakespeare Festival.

Exhibit C

Page 2

Mr. Derick O'Neill, Director

Boise Planning and Development Services

April 2, 2013

We are an outdoor entertainment venue and we believe the proposed plan is incompatible with such a venue, likely causing undue hardship and threatening the ISF as we know it. During their planning, neither Mr. Brown nor his clients reached out voluntarily to contact ISF to learn of any impacts their proposed development might cause. In addition, the ISF grounds were not even identified on the proposed plat drawing. This is of great concern to the ISF and signals an unwillingness on the part of the developer and his agents to work with their neighbors on any proposed plan.

The Idaho Shakespeare Festival enjoys widespread community support for its programs and was recently named a Cultural Ambassador for the City of Boise. Patrons enjoy the unique experience that attending live theater in such a unique outdoor environment gives them. Much of the ISF's success is due to the compatible neighbors we currently have such as Riverstone International School, the Idaho Foundation for Parks and Lands, the Idaho Department of Parks and Recreation (each located in non-residential facilities) and the abundant wildlife that occasionally wanders through during a show.

We appreciate the role Planning and Development Services plays in the growth and development of our community and we hope the value of our outdoor amphitheater venue can be protected and even enhanced by any development of the adjacent property. Unfortunately, we believe the plan as proposed is incompatible with an outdoor entertainment venue and we will vigorously oppose it.

Most sincerely,



Lynn Johnston, President

Idaho Shakespeare Festival Board of Trustees

cc: Hon. David H. Bieter, Mayor, City of Boise

Mr. Doug Holloway, Director, Boise Parks and Recreation

Ms. Lydia Primavera, Executive Director, Idaho Foundation for Parks and Lands

Ms. Nancy Merrill, Director, Idaho Department of Parks and Recreation

Mr. Kent Brown, Kent Brown Planning Services ✓

Exhibit D

Joanie Adam

From: Jim Conger
Sent: Monday, April 22, 2013 6:48 AM
To: mark@idahoshakespeare.org
Subject: Barber Mill Estates - Meeting with Idaho Shakespeare Festival

Mark,

Jake and I would like to thank you and your directors for the time spent with us last Thursday at your first class facility. As a follow-up to our meeting, please find the following summary of what we discussed:

- The existing berm (that is on the Barber Mill Estates (BME) property) would be platted as an unbuildable lot in the subdivision and deeded over to Idaho Shakespeare Festival (ISF) 30 days after the plat is recorded at no cost to the ISF.
- All lots adjacent to BME Eastern property line would be restricted to single level homes.
- Jake will offer a "first right to purchase" the 4 lots that back to the existing berm to ISF. Subject lots would need to comply with the same architectural control and covenant restrictions as the remaining lots in the Barber Mill Estates Subdivision. The first right of purchase would require a written contract for purchase within 45 days of recording the plat and closing on the lots within 120 days after plat recordation. Lot pricing would be determined by a licensed residential land appraiser chosen and paid for by ISF.
- BME would be bound by a set of Covenants, Conditions and Restrictions (CC&Rs) that will contain language that will restrict the homeowners as follows:
 - No homeowner may produce any noise or disturbing behavior during Festival events.
 - No homeowner may complain or make complaints as long as ISF is following the required Noise Ordinance as outlined by the conditions of the Festival.
- ISF and BME to develop a disclaimer document with the same language as above that will be signed by each homeowner at the time of title and closing.
- The layout of BME would be as depicted on the site plan discussed in our meeting on April 18, 2013 which contained 45 buildable lots.
- BME will research odor masking options for the dewatering/drying process.
- Developer will restrict all construction activities at BME to stop prior to 5pm from May 15th to November 1st.

We understand the concern of the dewatering/reclamation process's potential effects on the festival and will do everything we can to mitigate the issue. One thought we had was the possibility of getting started with the dewatering/drying process right away and depending on weather conditions maybe even have it almost wrapped up by the start of this years Festival season. If ISF is in agreement with what we have noted above and would issue a letter to the City of Boise stating as such, we would feel comfortable spending the money and starting the dewatering/drying process immediately.

We would be happy to meet with you again or come to a Board meeting to further discuss if you feel it is necessary.

Thank you

Exhibit E



RIVERSTONE
INTERNATIONAL SCHOOL

Inspiring. Empowering. Achieving.



April 24, 2013

Mr. Thomas Jay Le Claire, Commissioner
Ada County Planning and Zoning Commission
C/O Development Services
200 W. Front St
Boise, ID 83702

Dear Mr. Le Claire:

It has come to the attention of Riverstone International School that Kent Brown Planning Services has been retained to propose the development of the parcel of property that was formerly the holding ponds for the Golden Dawn Estates. This parcel is directly adjacent to our school's property, in particular our playing fields and playground.

First and foremost, our primary concern is the safety of our students. While I won't speak for them, I'm sure this is also true of the administration of East Junior High School, which is across the street from Riverstone. We are very concerned about the fate of the potentially toxic holding ponds. They are not being maintained currently and the odor from the ponds is beginning to increase. We are very anxious about the lack of any immediate plans to remediate and contain what may be a health risk to our students. I am even more concerned as the weather heats up and we finish our school year and begin our summer programs. In the longer term, the dust from these ponds will blow across our fields and school buildings.

If possible, could you please let us know what is being done and what needs to be done to ensure the safe remediation of these ponds?

Riverstone has been a presence on the eastern edge of Boise for 13 years, and we have wonderful ties with our neighbors in Harris Ranch, The Idaho Shakespeare Festival, the Idaho Foundation for Parks and Lands, and the Idaho Department of Parks and Recreation. Because of this, and the fact that we are responsible for the safety of over 300 students who arrive every day, we are very disappointed that the developer has not bothered to make contact with us directly or to let us know of his plans.

We appreciate that Ada County takes the safety of its residents very seriously and we are grateful for your work. Riverstone looks forward to working in partnership with you as we look to solve this issue, which is of grave concern to us.

Thank you,

Exhibit E



Inspiring. Empowering. Achieving.



Bob Carignan, M.A.
Head of School
Co-Director of College Counseling
(208) 473-0056
bcarignan@riverstoneschool.org

cc: Ada County Board of County Commissioners
Mr. Kent Brown, Kent Brown Planning Services
Mr. Mark Hofflund, Managing Director, Idaho Shakespeare Festival
Mr. Kurt Liebich, Chairman, Riverstone International School Board of Trustees

Exhibit E



Inspiring. Empowering. Achieving.



April 24, 2013

Mr. Derick O'Neill, Director
Planning and Development Services
City of Boise
P.O. Box 5000
Boise, ID 83701

Dear Mr. O'Neill:

It has come to the attention of Riverstone International School that Kent Brown Planning Services has been retained to propose the development of the parcel of property that was formerly the holding ponds for the Golden Dawn Estates. This parcel is directly adjacent to our school's property, in particular our playing fields and playground.

First and foremost, our primary concern is the safety of our students. While I won't speak for them, I'm sure this is also true of the administration of East Junior High School, which is across the street from Riverstone. We are very concerned about the fate of the potentially toxic holding ponds. They are not being maintained currently and the odor from the ponds is beginning to increase. We are very anxious about the lack of any immediate plans to remediate and contain what may be a health risk to our students. I am even more concerned as the weather heats up and we finish our school year and begin our summer programs. In the longer term, the dust from these ponds will blow across our fields and school buildings.

We have welcomed the development of the Harris Ranch area around our school over the past 13 years. Well planned and executed development has made the East Boise area one of the most popular areas in all of Boise. The parcel adjacent to the school has always been held as riparian open space with settlement ponds that have provided a significant habitat for water fowl and other wildlife. We are in support of any development that works to preserve the beauty and wildlife in the area.

Thus far, we have heard that there are several proposals to build homes on this parcel that range from "just a few" to as many as 43? Unfortunately, the developer has not contacted us to show us exactly what they are proposing to build so we are unable to formulate any specific opinion about the project.

We are also concerned that this project needs to offer an adequate "buffer zone" to our property. As you can imagine, our students are active (and sometimes loud) and our fields are used throughout the entire school day. Please note that we also have pre-kindergarten students on our property, which is an additional concern, as we think about new homes with cars in close proximity.

Riverstone has been a presence on the eastern edge of Boise for 13 years, and we have wonderful ties and have worked with our Harris Ranch neighbors, The Idaho Shakespeare Festival, the Idaho Foundation for Parks and Lands, and the Idaho Department of Parks and Recreation. Because of this, and the fact that we are responsible for the safety of over 300 students who arrive every day, we are very disappointed that the developer has not bothered to make contact with us directly or to let us know of his plans.

Exhibit E



RIVERSTONE
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We understand and appreciate the work that you and your organization do to ensure orderly and thoughtful growth for our community, and we are very proud of the role we play in educating members of that community. Riverstone understands that the right development could enhance our ability to serve more students. However, we feel that any proposed development should be done responsibly with input from all of the affected stakeholders.

Thank you,

Bob Carignan, M.A.
Head of School
Co-Director of College Counseling
(208) 473-0056
bcarignan@riverstoneschool.org

cc: Hon. David H. Bieter, Mayor, City of Boise
Mr. Doug Holloway, Boise Parks and Recreation
Ms. Lydia Primavera, Executive Director, Idaho Foundation for Parks and Lands
Ms. Nancy Merrill, Director, Idaho Department of Parks and Recreation
Mr. Kent Brown, Kent Brown Planning Services
Mr. Mark Hofflund, Managing Director, Idaho Shakespeare Festival
Mr. Kurt Liebich, Chairman, Riverstone International School Board of Trustees

Exhibit F

RECEIVED

MAY - 2 2013

CMG

April 30, 2013

Mr. Jim D. Conger
Conger Management Group
1627 S. Orchard Street, Suite 24
Boise, ID 83705

Dear Mr. Conger:

Our thanks to you and Jake Centers for joining three Idaho Shakespeare Festival trustees and its managing director to discuss the Barber Mill Estates Subdivision (BME), this past April 18th on the Festival grounds. We believe plans for BME, as currently understood, include:

- Plat the existing berm as an unbuildable lot, to be deeded to the Festival;
- Restrict all homes along the eastern border of BME to single-level construction, using "prairie style" architecture which features lower, flatter roof lines;
- Offer the Festival a right of first refusal to purchase lots adjacent to the unbuildable lot, at a price determined by a licensed appraiser in an appraisal commissioned by the Festival;
- Develop a disclaimer to serve as a "deed restriction" on all BME lots, protecting the Festival from complaints by all future residents of BME about the noise created at the Festival, similar to restrictions created for homes within airport zones, as successfully modeled in Boise and other cities under the guidance of the FAA;
- Develop a set of Covenants, Conditions and Restrictions (CC&Rs) to restrict the residents of BME from noisemaking or conducting any disturbing behavior during Festival events;
- Establish protocols of communication and enforcement agreed upon by all BME residents, in conjunction with the purchase and use of properties within BME;
- Restrict construction and other such types of non-residential activity in BME to times outside the operating hours of the Festival Amphitheater;
- Lay out the BME plat of 40-plus lots as presented to us at the April 18 meeting; and
- Research, propose and implement a plan by which the current sewage lagoons would be decommissioned so as to eliminate the possibility of their creating a nuisance during the 2013 Festival season.

Exhibit F

Page 2

Mr. Jim D. Conger

Conger Management Group

April 30, 2013

These above ideas point toward creating a framework within which the Festival believes it might be able to manage a long-term relationship with BME residents, and we are not opposed to exploring its further development.

We believe keeping the berm intact is a positive change and we appreciate your offer to place it under the Festival's ownership, thereby also retaining the Festival's management of it. We also appreciate the design of the homes to minimize their aesthetic impact on the Amphitheater and Reserve, as well as to reduce their visual presence for patrons and users of the Festival grounds.

We, as a board, have new questions about the greater density of this latest proposal and the corresponding impact of a subdivision that would contain twice as many residences as the earlier design. The doubling of the subdivision, from 23 homes to 46, increases the noise risk and potential management needs the Festival would face; and we believe that a professional acoustic study would be a principled approach toward gaining information on decibel levels (coming to and from several locations in the Festival and the area of development) and on the use of design options and appropriate building strategies (within the proposed development) to mitigate the potential conflicts of future high-density residential activities in proximity to an outdoor entertainment venue. Would orientation of the homes, for instance, make a difference? Would special windows be of benefit? Would strategically-placed and architecturally-integrated sound barriers create, for residents, an acoustic separation from the amphitheater? Would ambient aesthetic solutions, such as water features, help separate BME from the Festival, and improve the quality of residential life for those inhabiting acoustic "hot spots" identified by a professional study? What other pieces of advice might an expert sound consultant offer, in terms of an integrated acoustical design?

Of more pressing concern to the Festival's Board of Trustees is the condition of the lagoons. As discussed during our April 18th meeting, if our understanding is correct that Tahoe Homes is responsible for these lagoons, we would hope this responsibility is taken seriously and without delay – in respect for the health and well-being of those living, working, educating and recreating in proximity to them. We are concerned that time is running short for a successful remediation before the start of our 2013 season.

Because resolving the issue of the lagoons is so important to the Festival, the Board of Trustees is not prepared at this time to advise the City of Boise that it is endorsing the BME Plan – outlined in the first paragraph of this letter – as requested in your April 22, 2013 email. Instead, the Festival's Board is in the process of obtaining professional advice from a licensed expert on the present and anticipated disposition of the lagoons, which have been stagnant during the four months Mr. Centers has been responsible for them.

Exhibit F

Page 3

Mr. Jim D. Conger

Conger Management Group

April 30, 2013

Accordingly, the Festival's consultant has requested that the Festival obtain the following information, in order to make a determination of the risk the Festival incurs through the delay in treating the stabilization and/or remediation of the existing refuse contained in this "dying lagoon," which also may contain a significant amount of human waste and other agents of possible environmental concern. As you stated in our meeting, some testing and evaluation of the lagoons has been completed. If you please would kindly provide the following information at your earliest convenience, we would appreciate it:

- How were the lagoons constructed, i.e., below grade, above grade, combination?
- How deep are the lagoons?
- How much sludge is in each lagoon?
- How much water is in each lagoon now?
- How large (square feet) is each lagoon?
- Were the lagoons designed to be total containment? Or?
- What were the average daily flows? Specifically, what percentage of the lagoon capacity was added annually?
- Is there a history of odors?
- Is there a likelihood (or possibility) that the City (or another) party will step forward with commitment to do something in the near term?
- There is little doubt that draining the lagoons and pushing in the dikes would be a preferable scenario. Of course, that has its own issues such as how to physically drain them. Are any permits required? Timing?

Answers to these questions and a plan to remediate the lagoons are imperative for us to better understand the potential negative impact to the summer season, which commences in late May, includes 93 public performances (for an estimated 60,000 ticketholders), features a number of additional special events, and concludes September 29, 2013.

With this in mind, there are grave ISF financial concerns associated with the condition of these lagoons. Without the assurance of an uninterrupted summer season, the Festival's year-round operations (including educational programs to students statewide in grades K-12) would be in jeopardy. Unfortunately, one malodorous evening could cause a cascade of ticket cancellations that could devastate our season and cause severe financial harm. The potential decline of this season's revenue, tied to a drop in attendance due to perceived concerns of audience health and comfort, likely would affect future seasons (and attendance), as well.

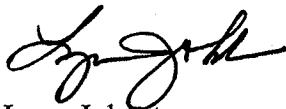
Page 4

Mr. Jim D. Conger
Conger Management Group
April 30, 2013

Exhibit F

We appreciate that Mr. Centers and you have both been Festival patrons and would not want to see harm come to the Festival that means so much to our city and community at large. We also appreciate your willingness to work toward mutual solutions that would create a product that would benefit and enhance the entire community. We hope you understand the urgency of this situation, and the need for information in order to take timely action. We appreciate your ability to respond with your full knowledge, plans, and possible solutions, as you kindly indicated was your desire at our meeting.

Very truly yours,



Lynn Johnston
President, Board of Trustees

cc: Hon. David H. Bieter, Mayor, City of Boise

Mr. Derick O'Neill, Director, Boise Planning and Development Services

Mr. Kent Brown, Kent Brown Planning Services

Ms. Lydia Primavera, Executive Director, Idaho Foundation for Parks and Lands

Ms. Nancy Merrill, Director, Idaho Department of Parks and Recreation

Mr. Bob Carignan, M.A., Head of School, Riverstone International School

Mr. Kurt Liebich, Chairman, Riverstone International School Board of Trustees

Hon. Dave Case, Chairman, Ada County Board of Commissioners

Exhibit G



May 3, 2013

Ms. Lynn Johnston
President, Board of Trustees
Idaho Shakespeare Festival
PO Box 9385
Boise Idaho 83707

Re: **Barber Mill Estates**

Dear Ms. Johnston:

I am in receipt of your letter dated April 30, 2013. We are very pleased Idaho Shakespeare Festival is in general agreement with the concessions offered by the developer of Barber Mill Estates. The list of eight or so items, reiterated in your letter, were intended to, among other things, provide tangible proof of the developer's understanding of the Festival's value to the community and therefore, the developer's desire to put forth ideas to mitigate potential Festival concerns, as well as to establish a mutually-beneficial long-term relationship. We look forward to refining these items and to putting appropriate agreements in place as we proceed through the City of Boise's process.

In response to your more pressing concern, the lagoons/ponds, please be advised first that Tahoe Homes is not the developer of Barber Mill Estates and is not responsible for the ponds. Tahoe Homes is the potential builder for this project. Second, the developer's first concern has been and continues to be the status of the ponds. A consultant was hired and material testing has been ongoing in order to prepare a Workplan to mitigate the ponds and maintain safety – environmental, animal and human. We have been working with the Department of Environmental Quality and other necessary governmental agencies. In other words, we have engaged the professionals and are working very hard to finalize the Workplan and obtain appropriate permits to allow us to de-water the ponds, remove waste, dry the area and add clean structural soil. Based on reviews conducted, there are no health threats, only the potential for unpleasant odor, which, if we conduct our activities, will be minimized.

However, as time passes and the weather warms, the dewatering process is happening on its own. If left to the natural process, we believe the amount of time neighbors adjacent to the ponds will be subjected to potential odor, dust and the general unattractiveness of the area will be lengthened. We would

Exhibit G

prefer for our work to commence immediately so these issues can be mitigated in a timely manner. We have identified various blackout dates on the Festival's calendar on which days the pond soils and remaining water could be turned to aid in the drying process. The developer has already agreed to stop construction activities after 5:00pm May 15th to November 1st, and working on these blackout dates would further minimize disruption to the Festival.

In a continuing effort to work with the Festival and provide it with information it feels it needs for whatever reasons, please find the following responses to your consultant's list of questions:

How were the lagoons constructed? Excavation and fill

How deep are the lagoons? +/- 10 feet

How much sludge is in each lagoon? 1' sludge in larger pond; 2' sludge in smaller pond

Were the lagoons designed to be total containment? Yes.

What were the average daily flows? Specifically, what percentage of the lagoon capacity was added annually? Unknown.

Is there a history of odors? Unknown. The facility was improved and installed prior to surrounding uses.

Is there a likelihood (or possibility) that the City (or another) party will step forward with commitment to do something in the near term? No.

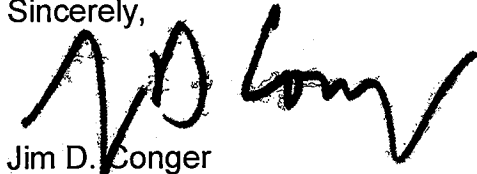
There is little doubt that draining the lagoons and pushing in the dikes would be a preferable scenario. Of course, that has its own issues such as how to physically drain them. Are any permits required? Timing? This is exactly what the developer wants to do. However, as you can understand, it takes time to go through the process of testing the material and getting approval through the City of Boise Public Works.

Ms. Lynn Johnston
President, Board of Trustees
Idaho Shakespeare Festival
Page 3

Exhibit G

I have been on the phone with Mark Hofflund today and we are trying to schedule a meeting as early as this afternoon or tomorrow afternoon at 3:30. In the meantime, I hope this letter offers additional proof of the developer's willingness to work with the Festival, provides insight and alleviates concern that remediation of the ponds has been of deep concern and deliberate and timely action.

Sincerely,



Jim D. Conger
President

JDC/ja

cc: Hon. David H. Bieter, Mayor, City of Boise
Mr. Derick O'Neill, Director, Planning and Development Services
Thomas Jay Le Claire, Commissioner, Ada County Planning and Zoning
Commission
Ada County Board of Commissioners
Mr. Doug Holloway, Boise Parks and Recreation
Ms. Lydia Primavera, Executive Director, Idaho Foundation for Parks and
Lands
Ms. Nancy Merrill, Director, Idaho Department of Parks and Recreation
Mr. Kent Brown, Kent Brown Planning Services
Mr. Mark Hofflund, Managing Director, Idaho Shakespeare Festival
Mr. Kurt Liebich, Chairman, Riverstone International School Board of
Trustees

From: Jim Conger
Sent: Monday, April 22, 2013 6:48 AM
To: mark@idahoshakespeare.org
Subject: Barber Mill Estates - Meeting with Idaho Shakespeare Festival

Mark,

Jake and I would like to thank you and your directors for the time spent with us last Thursday at your first class facility. As a follow-up to our meeting, please find the following summary of what we discussed:

- The existing berm (that is on the Barber Mill Estates (BME) property) would be platted as an unbuildable lot in the subdivision and deeded over to Idaho Shakespeare Festival (ISF) 30 days after the plat is recorded at no cost to the ISF.
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 - No homeowner may complain or make complaints as long as ISF is following the required Noise Ordinance as outlined by the conditions of the Festival.
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We understand the concern of the dewatering/reclamation process's potential effects on the festival and will do everything we can to mitigate the issue. One thought we had was the possibility of getting started with the dewatering/drying process right away and depending on weather conditions maybe even have it almost wrapped up by the start of this years Festival season. If ISF is in agreement with what we have noted above and would issue a letter to the City of Boise stating as such, we would feel comfortable spending the money and starting the dewatering/drying process immediately.

We would be happy to meet with you again or come to a Board meeting to further discuss if you feel it is necessary.

Thank you

From: Mark Hofflund [mark@idahoshakespeare.org]
Sent: Tuesday, May 21, 2013 5:16 PM
To: Joanie Adam; Jim Conger
Subject: RE: Barber Mill Estates

Greetings, Jim (and Joanie). Hope Africa was a productive and beneficial trip, and that you're back safe and sound.

In addressing the lagoon situation and appreciating Jake's candor (to the Harris Ranch rep at the neighborhood meeting on 5/7) that he didn't know the specifics of lagoon evaporation, having no prior experience in this department -- along with your suggestion in terms of exploring with the landowners alternatives other than letting the ponds just go as they may -- we met with Jim Rees and Dave Triplett yesterday.

Dave offered that he would be happy to give our two engineers (Anderson and Moeller who know each other and share a professional respect, as I understand) access to the site, in order to evaluate the situation; and provide their best counsel. We know that Moeller would like to get a closer look; and we assume Anderson would like to share in the discussion, too. And, of course, Dave wants to open the gate and listen to what they have to say...

Dave said he is available on Tues and Thurs afternoons, and I confirmed with him this afternoon that he likely would be available on other days, too.

We want to do the courtesy of including you and the BME developers, of course, and working with your schedules as convenient.

Are there any dates you'd like me to avoid? Or any you might want to focus on?

Thanks for all your kindness and generous consideration.

Best,
M

371-3856

From: Joanie Adam [mailto:cmgadmin@congergroup.com]
Sent: Sunday, May 12, 2013 9:34 AM
To: mark@idahoshakespeare.org
Cc: Jim Conger
Subject: FW: Barber Mill Estates
Importance: High

Sir

I apologize for the confusion, but Jim has asked me not to schedule a meeting until he returns. As a result, please ignore my email below and we will be back in touch the week of the 20th to get a meeting on the calendar.

Thank you.

Joanie Adam
Secretary to Jim D. Conger
208-336-5355
cmgadmin@congergroup.com

Exhibit I

From: Joanie Adam
Sent: Friday, May 10, 2013 9:40 AM
To: mark@idahoshakespeare.org
Cc: Jim Conger
Subject: FW: Barber Mill Estates

Mr. Hofflund:

Thank you for your response.

Jim has been called for jury duty the week of the 20th, but we are hoping he doesn't get chosen. He has asked me to go ahead and schedule a meeting time.

Would Thursday, May 23rd work for you and Ms. Johnston? At 1:00 or 1:30 -- I expect you will either meet on site or at the Shakespeare facility, but I will confirm that at a later date.

Please let me know if this date/time will work.

Joanie Adam
Secretary to Jim D. Conger
208-336-5355
cmgadmin@congergroup.com

From: "Mark Hofflund" <mark@idahoshakespeare.org>
Date: May 9, 2013, 6:03:18 AM GMT
To: "Joanie Adam" <cmgadmin@congergroup.com>
Cc: "Jim Conger" <jconger@congergroup.com>
Subject: RE: Barber Mill Estates

Hi, Joanie... I'm very open the week of the 20th...as is Lynn Johnston.

I gather Jim returns next week...which happens to be packed for me. (Perhaps he's busy, too?) (Had a good Neighborhood Meeting last night. Jake and the Browns represent the project very well. Admire their professionalism.) (Understand Jim may be doing good things in Ghana? I tip my hat, in gratitude and admiration...) The only window next week is Thursday 5/16 in the afternoon. Company is arriving...intensely busy time. By the 20th, they're all busy and moving forward...if that works for Jim.

Best,
M

-----Original Message-----

From: Joanie Adam [<mailto:cmgadmin@congergroup.com>]
Sent: Monday, May 06, 2013 9:38 AM
To: mark@idahoshakespeare.org
Cc: Jim Conger
Subject: FW: Barber Mill Estates

Mr. Hofflund:

Exhibit I

Per Jim Conger's email below, will you please forward to me a couple of dates and times that would be convenient for you and for Ms. Johnston to meet? I will coordinate with Mr. Centers. I assume meeting at the Shakespeare facility is the easiest for you?

Thank you.

Joanie Adam
Secretary to Jim D. Conger
208-336-5355
cmgadmin@congergroup.com

-----Original Message-----

From: Jim Conger
Sent: Sunday, May 05, 2013 8:45 AM
To: Mark Hofflund
Cc: Joanie Adam
Subject: RE: Barber Mill Estates

Mark

We will start with our group on the discussions as we are working on the work plan as noted with DEQ as well as we understand the timing with our approvals and the city.

Joanie will work with you tomorrow to find a time that will fit you and Lynn. I am out for a little more than a week.

Thank you and have a great week.

Jim D. Conger
Conger Management Group
www.congergroup.com
Office 208/336-5355
Cell 208/713-2527
Fax 208/336-2282

-----Original Message-----

From: Mark Hofflund [<mailto:mark@idahoshakespeare.org>]
Sent: Sunday, May 05, 2013 8:33 AM
To: Jim Conger
Cc: Joanie Adam
Subject: RE: Barber Mill Estates

Thanks, Jim. Actually, we know the existing landowners. They gave us domestic water when we moved in; and donated the use of the lagoons up until last December. Would it be okay if we tried to approach them, perhaps, and see if they're open to any alternatives?

From: Cheyne Weston [cweston@cityofboise.org]
Sent: Tuesday, May 14, 2013 3:43 PM
To: Joanie Adam
Subject: RE: Barber Mill Estates

Jim:

Thank you for your letter of May 13, 2013. Yes, we are in agreement as to the proposed Greenbelt extension along Lysted Road (and Barber Mill plat) as mentioned in your letter.

BPR is appreciative that Barber Mills will dedicate up to 10' along its Northern Boundary. Typically our Greenbelt width is 12' wide concrete with 1' either side of the path for gravel drainage shoulders for a total of 14'. Your proposed 10' dedication while generous may exceed what is needed.

The Barber Mills developer state they will also dedicate 18' along its entire Western Boundary to facilitate the entire width requirement for the Greenbelt. We realize this may be necessary due to the existing hillside condition along Lysted Road. If a retaining wall were installed this extra width could well be needed. Again, our standard is 12' wide with 1' of shoulder on each side for a total of 14'.

Please know that the federal decision making process will not take place until sometime this summer, presumably in July (2013). If approved, the project would be constructed somewhere between 2014 and 2017 (i.e. – the federal window for this particular funding program).

It may be very beneficial to proceed with dedicating the two lots within your plat as indicated in your letter. BPR has been notified we are finalists in the decision-making process, however should we fail in our attempt to receive this specific funding, we will attempt to find other funding opportunities in order to complete this segment of pathway as referenced in the Harris Ranch Specific Plan 2006.

Again, thank you for your letter of support and if there is any further information you need please don't hesitate to call or e-mail me. I will keep you abreast of any correspondence regarding this federal funding opportunity.

Best regards,
Cheyne Weston, BPR Park Planner

From: Joanie Adam [mailto:cmgadmin@congergroup.com]
Sent: Monday, May 13, 2013 3:00 PM
To: Cheyne Weston
Cc: Jim Conger
Subject: Barber Mill Estates

Mr. Weston,

Attached please find a letter from Jim Conger for your review and consideration.

Thank you.

Joanie Adam
Secretary to Jim D. Conger
208-336-5355
cmgadmin@congergroup.com



Barber Mill Estates – Boise River System Permit Supporting Information

This document provides additional information for the Boise River System Permit application for Barber Mill Estates.

Prepared by: Resource Systems, Inc., Karl Gebhardt, P.E., P.H. Hydrologist/Environmental Engineer, project manager for Boise River Fish and Wildlife Habitat Study (Sather-Blair, et al. 1983) referenced by the Boise River Ordinance.

I. Floodplain Related Issues

The property may be protected from the 100-year flood by a berm/levee constructed and restricted by the Federal Energy Regulatory Commission related to Barber Dam. The property is currently classified "Zone A" meaning no 100-year base flood elevation has been established. The floodplain is currently being investigated by Resource Systems, Inc. and Quadrant Consulting, LLC. We anticipate a Letter of Map Revision being prepared to revise the current flood zone.

II. Setback Lands and Waters

The property boundary appears to be located further than 70 feet from the 6500 cfs line and the property adjacent to the river is owned by the Idaho Foundation for Parks and Lands for the management of the Barber Pool Conservation Area.

No Heron Rookery setbacks currently apply to this property.

The property has some portion within the 200' bald eagle setback.

The property has no riparian setback because of its distance from the 6500 cfs line.

III. Class A, Class B, Class C Issues

The ponds on the property are sewage treatment ponds and not specifically included as a gravel pit pond or small lake. The property does not currently possess the qualities of Class B Lands and Waters unless the ponds could be adequately restored. The potential for improvement is limited because of the restoration/treatment and modification that would be necessary on the property to create natural resource functions and values, which are primarily limited by the high berms surrounding the ponds and the contents of the ponds. The property best fits under a Class C designation although the criteria is a little unclear. Class C Lands include former industrial areas, which may fit the current use on the property. Class C lands also include lands surrounding gravel ponds which may fit the areas around the ponds because they have this characteristic. Therefore, the property appears to best fit a Class C designation at this time.

Emergency Access - Direct emergency access to the river is restricted by the Barber Pool Conservation Area. Emergency access along the top of Barber Dam is currently available and is assumed to be available in the future.

Public Access - No greenbelt opportunities exist because of the restrictions by the Barber Pool Conservation Area. There also may be additional restriction to access near the dam imposed by the Department of Homeland Security.

Parks - No parks are proposed at this time.

Water Amenity - No water amenities are proposed.

Emergent Wetland - No emergent wetland, other than some sparse shoreline vegetation on some the sewage treatment ponds, exist.

IV. Barber Mill Estates Assessment of Conditions, Constraints, and Natural Resource Functions and Values – Mitigation Plans

Current Conditions - Barber Mill Estates, approximately 12 acres, is located just east of Barber Dam, west of the Idaho Shakespeare Theater, and west of Riverstone International School on the north side of the Boise River. The site currently supports abandoned sewage treatment ponds. See Figure – Vicinity. Much of the site is sparsely vegetated and is currently grazed. See Site Photos. The site is bordered on the west and south by Barber dam and a protective berm/levee that provides exclusion of Boise River flooding. The amount of protection provided is currently being evaluated, but the berm/levee was required by the Federal Energy Regulatory Commission and is thought to exclude the 100-year event from reaching the northern approach to Barber Dam. The sewage treatment ponds provide a surface water but do not support any significant wetland or riparian vegetation. Essentially, the site is cut off from the Boise River other than through subsurface hydrologic connection.

Constraints - A number of constraints to future use exist on the property including: sewage ponds, Barber Dam and protective berm/levee, Barber Pool Conservation Area, and setbacks imposed by the Boise River Ordinance. The sewage ponds would require filling with a suitable material if the site is to be used as a residential development. The existing sediment in the pond may require some treatment to assure there are no health concerns. Barber Dam and the protective berm/levee likely have restrictions on building, landscaping, and/or modification which could hinder some types of site improvements. The Barber Pool Conservation Area, a Class A land and water, would be considered off-limits to residents and is currently protected by a chain-link fence. This section of the river also falls under the setback restrictions for bald eagles and as such requires a 200-foot building setback from the 6,500 cfs line that is determined by the Boise City Engineer.

Natural Resource Function and Values - The current property provides few natural resource function and values because of the sewage treatment ponds, sparse vegetation and protective berm/levee. The biological components within the property are not considered important or even desirable to natural resource function. The property has no surface connection with the Boise River and therefore its value to the Boise River is nearly non-existent with the exception of providing an access barrier.

No mitigation plan is proposed since no impacts to natural resource function and values are anticipated.

Enhancement Plans

No enhancement plan is proposed other than normal residential landscaping. Some enhancement may occur if berm/levee restrictions would allow them.



Barber Mills Estates Theater Noise Study

prepared for:

C13 Development LLC
1627 S. Orchard Street, Suite 24
Boise, Idaho 83705

July 5, 2013

prepared by:

Earl Mullins, PE

A handwritten signature in black ink, reading "Earl Mullins".

The Idaho Shakespeare Festival is located at least 375 feet to the east of the nearest property line and 480 feet from the proposed location of the nearest home in the planned development. This study has been undertaken to evaluate whether sound from the theater events is likely to be an ongoing source of complaints from the residents of this new neighborhood. These will be upscale new homes, some located near the festival property. The city wants to avoid creating a situation of recurring complaints against this pre-existing theater.

Noise levels were measured during the week of June 25-28. On Tuesday June 25, a noise monitor was set up on site at roughly the location of Lot #14 to log data occurring before, during, and after a show. The monitor ran for a total of 48 hours, until 5 pm on Thursday June 27. This covered the Wednesday evening performance of "*Blithe Spirit*", a different play. This also captured data for the quietest nighttime hours and the throughout the daytime.

Spot measurements / live observations were made on Tuesday evening June 25 at the north end of Lot #38, along Sawmill Way, to quantify the levels reaching the existing neighborhood along this street. There were periods of moderate rainfall during the measurements, and some periods with no rainfall.

The scheduled show for Tuesday was "*Much Ado About Nothing*". However, the rain caused the cancellation of the main show. The green show (opening act) went on from about 7:45 until about 8:10 pm according to observations, but the main performance was cancelled. This was verified by asking some of the few departing patrons in the parking lot after 9:00 pm.

Field measurements were performed again on Friday June 28 for the next scheduled performance of *Much Ado About Nothing*. This Friday show looked to be a capacity crowd, with the parking lot almost completely full (and beyond full, with many cars parked along the entrance road and driveways) before the show as of 7:30 pm. The show started at about 8:10 pm and ran past 10 pm.

Noise Data

Equivalent Level (Leq) is an integrated summation of time-varying sounds. While not mathematically precise, Leq can be thought of as the "average" sound level for the period. Leq is the most common quantity used to evaluate environmental noise levels.

Noise levels were typically Leq 46 - 50 during most evening hours. (It is normal to have some variation from hour to hour and day to day). The daytime logged high was Leq 55 and the nighttime low was Leq 41 for a given hour.

There was no noticeable increase in Leq levels during the afternoon peak traffic hour, which usually occurs between 5-6 pm. Levels during that time were Leq 46-50, and there were many hours before and after the peak hour that had comparable levels. The nearest lots on the project site are set back about 860 feet from Warm Springs Road, with an existing school on the property to the northeast, so traffic noise was fairly minimal. The sound measurement locations were about 1100 feet from Warm Springs Road.

Based on the hourly data, there appeared to be a small spike in sound level for the period of 10:30 – 11:00 pm. Presumably this corresponds to when the show ends and the audience departs, creating stop and go traffic departing the site. The sound level prior to that time slot was Leq 50-53, and the apparent traffic spike was Leq 55-60, an increase of 5-7 dB in the average level or Leq for that period.

The following intermittent levels were observed:

birds	42-63 dBA	47-57 typical
bullfrogs	38-41 dBA	evening, near dark
cars on Warm Springs	40-46 dBA	
cars on Sawmill Way	48-60 dBA	from west side of project. lot #38
jet aircraft	41-52 dBA	
turboprop overflights	52-70 dBA	Horizon Q-400
wind	46-56 dBA	variable from 0-12 mph
rain	46-52 dBA	typically 46-48 dB
construction equipment	46-53 dBA	across Warm Springs Road

There was earthmoving and other construction equipment audibly operating on a different project located across Warm Springs Road, east of this project site. This activity stopped around 6:30 pm.

Jet aircraft noise was generally from distant overflight at cruising altitude, or from distant straight-in approaches to the airport. Turbo prop aircraft (Bombardier Q-400's operated by Horizon Air) on several occasions flew almost directly over the site on their turning approach back to Boise airport runway 28.

Sound levels were also logged during scheduled show times. Sounds identifiable and attributable to the theater were:

voices, dialogue	44 - 49 dBA	
music	38 - 48 dBA	44 typical
audience sounds / applause	40 - 51 dBA	45 typical

No portion of the show's speech or audio content was identifiable or intelligible, but it was audible.

The levels observed from the festival stage were generally less than many pre-existing sounds occurring in the area. Things like birds, wind in the trees, aircraft overflights, and vehicle traffic on Warm Springs Road and E. Sawmill Way were almost always equal to or louder than the levels attributable to the festival. While amplified sound and occasional crowd noise was intermittently audible, the levels were equal to or less than regularly occurring natural and transportation sounds in the vicinity. At no point did the festival sound control or appreciably raise the Leq level during any observation. Usually sound from birds controlled the Leq for the time period, being closer to the microphone and more consistent in duration. One aircraft overflight would have more measurable noise impact than an entire show.

Noise Ordinance

After completing the planned noise measurements for the evening, I entered the festival site parking lot. At 10:37 pm the theatrical lights were still on, sound was still coming from the theater, almost no one was leaving the show yet, and all cars were still in place. By 10:45 pm, there was a security guard at the main entrance on Warm Springs Road to direct the first trickle of departing traffic.

Based on these observations, we conclude that at least this one show went past 10 pm, and presumably other shows run past this deadline too. This is important because the theater is located just outside Boise city limits, and is governed by the Ada County Noise Ordinance (Chapter 13, Ada County Codes). The Ada County noise ordinance specifically mentions 10 pm as the cutoff for audible amplified sound impinging on residential areas. The text of the ordinance states in part:

5-13.3: Prohibited Acts (abridged text)

A. Between the hours of 10:00 pm one day and 7:00 am the next day, it shall be unlawful for any person or business to make, cause, or allow loud offensive noise by means of voice, musical instrument, horn, loudspeakerother sound amplifying equipment.....which disturbs the peace, quiet and comfort of any reasonable person of normal sensitivities residing in that area. Loud or offensive noise is plainly audible within any residence or business or upon a public right of way or street at a distance of 100 feet or more from the source of said sound.

According to this ordinance language any amplified sound that is plainly audible more than 100 feet from its source is considered to be a nuisance and is prohibited. Sound from the festival stage, audience, and the audio system is audible at the proposed location of the nearest new homes particularly lots 9-17. Since show sound was also comparably audible at the west end of the property on Tuesday, we conclude that show sound would be intermittently audible throughout all the parcels of this project.

The Boise noise ordinance has similar language describing a violation as amplified sound “plainly audible within 100 feet of a residence”.

“Plainly audible” is a subjective and therefore challenging term to define, with some inherent vagueness. If one can understand the words being spoken or identify specific melodies, or if the levels from amplified sound are roughly 10 dB above the ambient noises, that would clearly be considered as “plainly audible”. In this case, the loudest stage sounds are audible only on an intermittent basis, and no content is intelligible. Sound coming from the stage is not continuously audible. Only the loudest of intermittent stage sounds such as loud dialogue, music closing a scene, or hearty audience reactions are audible. The observed sounds fall into a “gray area” where they are audible at times, but would probably not be considered plainly audible according to a person of reasonable sensitivities.

Conclusions

Based on the data and direct observations, the sound from the festival stage is reasonably well controlled by:

- the aiming / configuration of the audio system
- the design and orientation of the amphitheater, facing eastward
- the fairly substantial berm along the property line at the eastern end of this parcel

Show sounds are equal to or lower than natural pre-existing noises in the neighborhood. All of the observed show sounds were at or below the levels of pre-existing environmental noises in the area such as birds, local traffic, and aircraft flyovers. At no time did the show levels add appreciably to the sound levels.

No noise impact is expected for the newly planned homes that are part of this development. There would appear to be no adverse noise impact from the festival theater on the existing homes along Sawmill Way.

**Sound Survey
at
Barber Mill Estates and Idaho Shakespeare Festival
July 7, 2013**

**by
Pritchard H. White, Ph. D., M. E.
Boise, ID**

Summary

In order to evaluate the sound environment of potential residents of Barber Mill Estates, measurements of evening and night noise in the area have been made. Subjective evaluations and quantitative measurements indicate typical suburban/rural noise characteristics, with audible intrusions from Idaho Shakespeare Festival.

These measurements were made at two locations on the Barber Mill Estates property: adjacent to the gate in the chain link fence beside Sawmill Way, and on the berm near the south-east corner of the property closest to Idaho Shakespeare Festival. Numerous measurements were made at these locations between 7:30 PM and 11:00 PM on evenings with and without a performance of Idaho Shakespeare Festival. Additionally, audio samples were recorded to document the general sound environment.

It has been determined that the ambient sound in the two locations is determined primarily by natural sounds (geese, birds, crickets, frogs, etc) and by distant and local vehicular traffic on Eckert and Warm Springs Avenue. Both these sources tend to decrease during the evening and are minimal by 11:00 PM. The sounds of loud events from the Idaho Shakespeare Festival are clearly audible at both locations.

Sound from the Idaho Shakespeare Festival is clearly audible at a distance of 100 feet, thus making the Festival in violation of Ada County Code 5-13-3. (See attached Ordinance). Bringing the Festival into compliance with the Ordinance will require physical or operational changes.

Noise associated with aircraft, geese, and vehicle traffic will be audible in the Idaho Shakespeare Festival during a performance, but It is unlikely that normal human generated sounds in the Barber Mills Estates will be audible.

Sound Measurements.

No Performance, 5/16/13 and 5/17/13

Location	Time	dBA	Comments
Beside Sawmill at gate	8:00	41-43	Kids playing at school
			Geese fly by
			Cars & bikes on WSA
	9:00	39-46	Geese, cars on WSA
			Kids at school, airplanes
	10:00	40-46	Geese, birds, crickets
			Frogs
		59 peak	Airplane
		38-41	Ambient
	11:00	40-41	Geese, frogs, crickets,
			water sprinklers
		36-39	Distant city hum, cars on
			Eckert, frogs, crickets

No Performance, 5/16/13 and 5/17/13

Location	Time	dBA	Comment
On berm at SE corner of BME	8:00	41-43	Kids at school
closest to ISF			Cars & bikes on WSA
			Birds, wind in trees
		47 peak	Geese fly over
		40-42	No geese, just crickets, birds
	9:00	41-43	Geese, kids at school
			Traffic on WSA
	10:00	38-41	No kids, no geese, no cars
		59 peak	Airplane fly over
	11:00	37-40	Few birds, crickets, cars
		40-45	Cars on WSA & Eckert
		38-39	Distant city hum, ambient

In all cases there is a basic steady ambient noise at a level of about 38-40 dBA in the early evening and dropping to around 36-38 dBA in the late evening (11:00 PM). On top of this come various events that are very audible and often measurable such as children playing at Riverstone school, geese flying over,

airplanes, and loud cars and motorcycles on Warm Springs Avenue or Eckert Street.

Similar measurements were made when Idaho Shakespeare Festival was giving a performance.

ISF Performance "Blithe Spirit", 5/31/13

Location	Time	dBA	Comment
Beside Sawmill Way at gate	8:00	40-44	Cars on WSA, kids playing
			No ISF sounds
Strong wind from west			Dog barks, voices
10-15 MPH		50	Kids yelling loud
	9:00	41-43	Birds, kids, WSA cars
		38-41	No wind, kids gone
			Some ISF audible
	10:00	35-38	Ducks, frogs, WSA cars
Wind calm			ISF barely audible
	11:00	35-38	Ambient, no cars
		52 peak	Music & FX very audible
		45-50	Final music & applause

Location	Time	dBA	Comment
On berm at SE corner of BME	8:00	38-40	Between wind phases
next to ISF		46	Applause
		44-46	Kids at school, speech on PA
		40-41	Music audible
		40-41	Speech audible
	9:00	40-42	Performance barely audible
			Kids at school audible
		43-45	Loud performance, kids
		49 peak	Loud performance
		55 peak	Loud performance
		50-51	Music
wind calm	10:00	39-41	Ambient
		55 peak	Loud scream, thunder
		43-46	Loud performance
		49	Music & applause
	11:00	47-52	Final music & applause
		35-38	Ambient

In all cases there is a basic steady ambient noise at a level of about 38-40 dBA. On top of this come various events that are very audible and often measurable such as children playing at Riverstone school, geese flying over, airplanes, and loud cars and motorcycles on Warm Springs Avenue or Eckert Street. For most of the evening the performance is weakly audible, but there are some dramatic moments of loud speech, special effects, and music.

It must be noted that this performance (Blithe Spirit) is primarily a drama, with little music. Musical performances must be measured to determine if an orchestra, sound effects, and singing make a different environment.

In the above tables the term "ambient" refers to the sound environment when there are no obvious extraneous sources such as cars, children, geese, etc. It would include distant traffic, wind in the trees, crickets, and distant city hum.

Noise of Proposed Development

The proposed development is composed of 47 single family residences on small lots. The noise signature of this development would be of similar nature to that of the Sawmill Way and Mill District development. The major noise sources would be cars or motorcycles on the streets, outdoor backyard loudspeakers, and children playing. Neighbor politeness and consideration will likely reduce loudspeaker noise, and because there are no pools or recreation facilities in the development, children noise will be minimal. However, children from this development could use the Riverstone School facilities and create more noise at that site.

As humans, we are less sensitive to the absolute level of noise but quite sensitive to the variations or intermittent events. Living in an urban area with a steady background noise level of about 45 - 50 dBA can be very acceptable and usual for many people. On the other hand, suburban and rural residents with an ambient level of 35 to 40 dBA will find random incursions of noisy cars, airplanes, trains, or animals disturbing, even though their noise exposure measured over a complete day is less than for city dwellers.

It is expected that the residents of Barber Mill Estates will enjoy a relatively quiet night time noise environment, with base levels about 35 to 40 dBA. This is considerably quieter than in areas closer to the central city. Sounds intruding into this community will emanate from geese and other birds, crickets, cars on Warm Springs Avenue and Eckert Street, children playing at Riverstone school, and Idaho Shakespeare Festival. Their tolerance for these intrusions, will depend to a great extent, on the resident's attitudes toward these sources.

Noise in Other Boise Neighborhoods

Noise in other Boise neighborhoods has been measured and is given in the table below. Night time noise in Barber Mill Estates will be somewhat less than in other residential neighborhoods on the east side of Boise.

Boise Ambient Noise

Location	7 -8 AM	5 - 6 PM	10 - 11 PM
ParkCenter & Broadway		68-72	
ParkCenter Blvd, front of #380		59-64	
Behind Park Suite Hotel	50-52	53-54	44-47
Bike path behind building site	50-51	53-54	42-43
Apartment by bike path	50-52	51-53	
Bike path by river		52-54	43-44
Greenbelt Wildlands Trail		46	
Southshore Village, River Run Dr.		47-49	
Pennsylvania Avenue		48-49	42-44
MK Nature Center	49-51	48-50	42-43
Kimberly Town Houses	48-51	48-50	
Warm Springs Meadows, Lewis St		47-49	
Warm Springs Estates, Lamar St.	46-47	45-46	40-42
Holly St. dead end		48-52	
Elevation Ridge		42-65*	
Riverland Terrace			32-36

* exclusive of aircraft noise

Idaho Shakespeare Festival Noise Considerations

There is concern that the sound from performances at ISF are intrusive in the surrounding community and may lead to neighbor complaints and legal action. While ISF is a great asset to the City and Barber Valley, neighbors who are annoyed by performance sound interrupting their sleep or TV watching may be less forgiving. The situation is somewhat clouded because the noise ordinances of Boise City (where the neighbors are), and Ada County (where ISF is) are different.

According to Boise City Attorney the County Ordinance is primary here because that is where the noise source is located. The ordinance seeks to abate loud and offensive noise between 10:00 PM and 7:00 AM. It defines such noise as being "plainly audible" on a public street or right of way at a distance of 100 feet. (See Noise Ordinance at end of report) Noise of this nature has been observed and measured at Sawmill Way, a distance about 1000 feet from ISF. Comments from Harris Ranch Mill District residents on Sawmill Way support this observation. It should therefore be plainly audible on the proposed public streets in the Barber Mill Estates compound at a distance of about 500 feet.

To comply with the Ada County Ordinance and reduce its impact on the surrounding community the Idaho Shakespeare Festival must take steps to reduce its sound radiation. Such steps might include physical noise barriers on their property, changing the speaker configuration, electronically limiting the sound power of its amplification and speaker system, or ceasing activity at 10:00 PM.

An alternate option would be to request a waiver or variance to the Ordinance from Ada County. Such a waiver would reduce the legal liability, but would not reduce the intrusion into the surrounding community.

Impact of Community Noise on Shakespeare Festival

There is concern by ISF that noise from the adjacent Barber Mill Estates development would be detrimental to the performances at ISF. There is no factual basis for such concerns.

The acoustic environment in the ISF during a theatrical performance will range from about 45 to 85 dBA, with a background noise (no speech, no audience talking) of 35 to 40 dBA. The loudest interfering sounds will be from aircraft (50 to 60 dBA) or geese formations (40 50 dBA). Such noise will definitely be audible to the audience. There are no measures that ISF can take to reduce these noise levels.

The next most significant noise source is vehicular traffic on Warm Springs Avenue. Cars, trucks, and motorcycles produce peak levels of about 45 dBA in audience area, and would be definitely audible during some of the performance. ISF cannot control the noise of the vehicular sources, but can install sound shielding walls on that side of the facility to reduce the sound in the audience area.

It must be noted that there is much development occurring along Warm Springs Avenue and the vehicle traffic will increase significantly in the next few years. This increase in traffic will likewise increase the frequency of loud intrusions to ISF. A doubling in population density (people per square mile) would increase the ambient noise in the Valley by about 3 dBA. Reducing the speed limit from 45 MPH to 35 MPH on Warm Springs Avenue and Eckert would reduce the traffic generated noise by about 3 dBA.

Of slightly less strength than vehicles are the sounds of children on the Riverstone School playground. The shrill yelling of the children would be audible to the audience during the quieter portions of the performance. Generally speaking, the children leave the playground about sundown and are not a factor by 9:30 or 10:00 PM. Other than restricting access to the play ground, only a noise wall at the ISF facility can reduce the noise in the audience area.

Noise generated in the adjacent Barber Mill Estates will be primarily from radio and television, human conversations, dogs barking, children playing, and water sprinklers. Vehicles on the street and garage door operating will be additional sources. It is not expected that motor powered yard maintenance equipment will be operating after sundown. In general, the noise environment in this development will be in the range of 35 - 40 dBA in the evenings.

There might be an occasional specific or unusual noise source in the Barber Mill Estates community, such as from power tools, revving engines, or squealing tires, but given the socio-economic status of the community this would not be

long tolerated by nearby neighbors. After all, the Boise City Noise Code prohibits such noise from being audible at 100 feet from the source, and law enforcement can be summoned..

Legally generated noise in the Barber Mills Estates community may be barely audible at a distance of 100 feet, but would be diminished by 14 dB at the 500 foot distance from the community to the ISF. The berm, arena configuration, and ground attenuation would reduce it by another 5 dB in getting to the audience. At this distance the BME community noise would be well below the threshold of local ambient noise in the ISF and would not be audible.

Conclusion:

Noise generated by performances at the Idaho Shakespeare Festival is currently audible at distances of 500 to 1000 feet from the venue. Therefore it is in violation of the Ada County Noise Code. If this noise were to be reduced to a legal level at 100 feet it would be inaudible in the BME community at 500 to 1000 feet. It would also be inaudible to Harris Ranch Mill District residents on Sawmill Way.

Noise generated in Barber Mills Estates that meets the Boise City Noise Code will not be audible in the Idaho Shakespeare Festival.

If the noise ordinances of Ada County and Boise City are obeyed by all parties, there is no reason for conflicting activities. Should the parties exceed the noise limits, law enforcement actions can be called into play.

**Qualifications of
Pritchard H. White, Ph. D., M. E.
Boise, ID 83716**

Dr. White is a Professional Engineer with over 45 years experience in the measurement, prediction and control of noise and vibration. For 25 years he was engaged in the aerospace industry, working for USAF, NASA, US Navy, and private contractors on noise issues with space vehicles, rocket engines, jet engines, wind tunnels, submarines and torpedoes. For the last 21 years he has been an acoustical consultant in Boise, working on a variety of noise problems for local government and private industry. Clients include City of Boise, Hewlett-Packard, J. R. Simplot and Idaho Power. Additional contract work has been done with architects B R. Strite, Charles Hummell, and Andy Erstad.

Ada County Codes
Chapter 13
NOISE

5-13-1: SHORT TITLE:

5-13-2: AUTHORITY AND PURPOSE:

5-13-3: PROHIBITED ACTS:

5-13-4: EXEMPTIONS:

5-13-5: PENALTY:

5-13-1:

This chapter shall be known and cited as the ADA COUNTY NOISE ORDINANCE. (Ord. 331, 6-3-1997)

5-13-2: AUTHORITY AND PURPOSE:

This chapter is enacted pursuant to authority conferred by article 12, section 2, Idaho constitution, and sections 31-714, 31-801, Idaho Code. Its purpose is to provide for and further the safety, health, peace, good order, comfort and convenience of the inhabitants of Ada County by providing a procedure for abating loud or offensive noises within the county between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. (Ord. 331, 6-3-1997)

5-13-3: PROHIBITED ACTS

A. Between the hours of ten o'clock (10:00) P.M. one day and seven o'clock (7:00) A.M. the next day, it shall be unlawful for any person or business to make, cause, or allow loud or offensive noise by means of voice, musical instrument, horn, radio, loudspeaker, automobile, machinery, other sound amplifying equipment, domesticated animals, or any other means which disturbs the peace, quiet, and comfort of any reasonable person of normal sensitiveness residing in the area. Loud or offensive noise is that which is plainly audible within any residence or business, other than the source of the sound, or upon a public right of way or street at a distance of one hundred feet (100') or more from the source of said sound.

B. Due to extreme heat during the summer months of June, July and August construction noise may begin at six o'clock (6:00) A.M.

C. Due to extreme heat during the summer months of June, July and August landscape maintenance noise may begin at six o'clock (6:00) A.M. (Ord. 331, 6-3-1997; amd. Ord. 710, 9-2-2008; amd. Ord. 753, 6-21-2010)

5-13-4: EXEMPTIONS

This chapter shall not apply to emergency vehicles, while acting in response to an emergency; locomotive or other railway equipment; airplanes and other FAA regulated aircraft; scheduled, organized sporting events; agricultural fairs; nor public displays of fireworks authorized and approved under chapter 26, title 39, Idaho Code. (Ord. 331, 6-3-1997; amd. Ord. 332, 6-26-1997)

5-13-5: PENALTY

Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable as provided in section 18-113, Idaho Code as it may from time to time be amended and/or retitled. (Ord. 331, 6-3-1997; amd. Ord. 603, 1-30-2006)



July 29, 2013

Jim Conger
Conger Management Group
1627 S. Orchard Street, Suite 24
Boise, Idaho 83705

Subject: Barber Mills Estates

Project #3318

Dear Jim:

I previously prepared my report (dated July 5) describing noise measurements and the findings about sound from the Idaho Shakespeare Festival theater and its potential effects on the homes you are proposing to build. The gist of that noise study was that amplified sounds, music, crowd noise were only intermittently audible at the closest home sites. As a result, little or no noise impact is predicted from the theater on the new homes.

I understand that the converse issue has now been raised – the potential for noise from the homes affecting the operation of the theater. Residences are not typically major sources of noise. The kinds of sound emanating from homes usually include some local traffic, landscaping, and outdoor activities. Most residential landscaping (lawnmowers, leaf blowers) would be finished by the evening when the shows occur, and would not normally have the magnitude of sound levels that would be audible inside the theater.

It is hard to imagine a plausible situation where a backyard party or barbecue at your homes could make noise even remotely comparable to that created by hundreds of audience members and a full theatrical sound system with dozens of loudspeakers driven by thousands of Watts of amplified power.

In order to be loud enough to possibly affect the theater, noise emanating from the homes that you plan to build would grossly exceed the limits of the Boise noise ordinance, and the police would certainly be called in response -- if not by the immediate neighbors within your complex, then very likely by existing neighbors from across Sawmill Way or even homes on Warm Springs Road. To use an analogy, the magnitude of the excessive noise would be like driving 70 mph in a school zone. It is far more likely that other residential neighbors would complain about any such noise long before the theater would ever be adversely affected.

The same distance (about 480 feet between the theater stage and the nearest possible homes) and the substantial berm that protects the homes from festival sound will also work in the opposite direction. Any noise created at the homes would have to travel hundreds of feet, traverse over a tall berm, and pass through some substantial

tree cover. The construction of the amphitheater itself further shields the audience from any noise that the homes might make. Since theater sounds were observed to be barely audible at the home sites, it is difficult to picture a situation where the opposite case would be an issue.

As part of the field work, I measured sound levels on the west side of your property nearest the existing row of homes along Sawmill Way. Levels attributable to the homes and residential activities were generally less than sounds from birds, distant traffic on Warm Springs Road, local traffic on Sawmill Way, distant over-flying aircraft and other pre-existing environmental noises that are unrelated to the residences.

In my professional opinion, there is virtually no way for noise at homes to have any adverse impact on the Shakespeare theater or its operations. And as previously stated, no adverse noise impact is expected from the theater affecting the homes that you propose to build.

Let me know if there are any other questions about this information.

Sincerely,

A handwritten signature in black ink, appearing to read "Earl Mullins". The signature is fluid and cursive, with the first name "Earl" written in a larger, more prominent script than the last name "Mullins".

Earl Mullins, PE

THORNTON OLIVER KELLER
COMMERCIAL REAL ESTATE
Experience Results.

May 29, 2013

Mr. David Triplett
3550 Triplett Lane
Boise, ID 83716

Re: Broker's Opinion
Parcels S0929449100, S0929449100, S0929417600

Dear Mr. Triplett,

Per your request, I have reviewed your property located off E. Boise River Lane. To be specific, I have evaluated your property regarding an office use versus residential use. Accordingly, I can offer the following opinions:

Location: In general, office locations usually offer some form of visibility to arterials with easy access to same. Your property is tucked back off E. Warm Springs Avenue with access via the street that services the East and North portions of the Mill District residential area. Via the Specific Plans developed for Barber Valley, there are areas designated for office and service retail. One of the main areas is Barber Station, which just came on line this year with the opening of Marianne Williams Park. Between Barber Station and the other areas designated in Barber Valley, office needs will be met without the need to bring on additional office land.

Value: With the established Mill District residential area being immediately adjacent to the property, I believe the highest value proposition for your property will be residential development. It will not only provide the best value for the parcel but will also enhance the values for the existing residences. This will occur first and foremost by the removal and re-development of the lagoons but also by the development of like-kind residential product.

In conclusion, I see this as an excellent opportunity for residential development in an infill location. Needless to say, the re-development of the lagoons will be a benefit to all. There are ample existing office opportunities in Barber Valley which provide the commercial access and visibility mentioned previously. In addition, the office market in Boise is just starting to heal with ample supply for the foreseeable future. Barber Valley is just starting to get noticed.

Please don't hesitate to call me with any questions or comments you may have.

Sincerely,

THORNTON OLIVER KELLER



Peter Oliver

Brokerage - Property Management

250 S. 5th Street, 2nd Floor Boise, Idaho 83702 Phone: 208.378.4600 Fax: 208.947.0869 www.tokcommercial.com





MARK BOTTLES
REAL ESTATE SERVICES
839 S. Bridgeway Place
Eagle, Idaho 83616

June 6, 2013
David Triplett

Purpose of BPO

We understand that the following Broker's Opinion is intended to be used by David Triplett in the valuation and analysis of +/-11.92 acres of bare ground near the Boise River, to the south of the intersection of Warm Springs Avenue and S. Lysted Ave, Boise, ID 83716.

Brief Description of Property

The subject property is bare ground, currently also comprising a couple large ponds that will need to be filled prior to development, and is located in desirable Southeast Boise between the Shakespeare Festival, and part of the Harris Ranch residential development. The property is an ideal infill piece, though some work would be required to make it buildable.

Highest and Best Use

The subject parcel is especially difficult for commercial because of the lack of frontage, little to no visibility from a main arterial, and weak retail demographics because of the difficult access in between the Boise River and the foothills. Additionally, Barber Valley just brought on a significant amount of commercial ground, as well as available commercial ground that is part of the Harris Ranch master plan, which have created significant inventory and has kept prices down. The Boise housing market has been incredibly hot, especially in the last 6 months, and has been a leader in many categories for the national housing recovery. Much of the strength in the local housing market has been centered around the Southeast Boise region, which along with the North End of Boise, has seen the greatest percentage price increase because of the lack of inventory and vast amounts of demand. Commercial dirt for office, retail, etc, has been lagging the housing market in the region. Commercial is typically a lagging property type by nature, but especially in the Southeast Boise sub-market, commercial dirt has been more difficult because of the previously discussed different demographics and difficult access inherent in the area.

Ironically, both of those factors contribute to the demand for housing in the area, so we've seen an unusually large spread between residential prices and commercial prices in Southeast Boise. Because of this, **I believe the Highest and Best Use for this property is as residential lots, both currently, and well into the future.** Residential dirt is becoming difficult to come by in the area, and will drive a premium.

Sincerely,

Mark Bottles
Mark Bottles Real Estate Services



May 3, 2013

Ms. Lynn Johnston
President, Board of Trustees
Idaho Shakespeare Festival
PO Box 9385
Boise Idaho 83707

Re: **Barber Mill Estates**

Dear Ms. Johnston:

I am in receipt of your letter dated April 30, 2013. We are very pleased Idaho Shakespeare Festival is in general agreement with the concessions offered by the developer of Barber Mill Estates. The list of eight or so items, reiterated in your letter, were intended to, among other things, provide tangible proof of the developer's understanding of the Festival's value to the community and therefore, the developer's desire to put forth ideas to mitigate potential Festival concerns, as well as to establish a mutually-beneficial long-term relationship. We look forward to refining these items and to putting appropriate agreements in place as we proceed through the City of Boise's process.

In response to your more pressing concern, the lagoons/ponds, please be advised first that Tahoe Homes is not the developer of Barber Mill Estates and is not responsible for the ponds. Tahoe Homes is the potential builder for this project. Second, the developer's first concern has been and continues to be the status of the ponds. A consultant was hired and material testing has been ongoing in order to prepare a Workplan to mitigate the ponds and maintain safety – environmental, animal and human. We have been working with the Department of Environmental Quality and other necessary governmental agencies. In other words, we have engaged the professionals and are working very hard to finalize the Workplan and obtain appropriate permits to allow us to de-water the ponds, remove waste, dry the area and add clean structural soil. Based on reviews conducted, there are no health threats, only the potential for unpleasant odor, which, if we conduct our activities, will be minimized.

However, as time passes and the weather warms, the dewatering process is happening on its own. If left to the natural process, we believe the amount of time neighbors adjacent to the ponds will be subjected to potential odor, dust and the general unattractiveness of the area will be lengthened. We would

prefer for our work to commence immediately so these issues can be mitigated in a timely manner. We have identified various blackout dates on the Festival's calendar on which days the pond soils and remaining water could be turned to aid in the drying process. The developer has already agreed to stop construction activities after 5:00pm May 15th to November 1st, and working on these blackout dates would further minimize disruption to the Festival.

In a continuing effort to work with the Festival and provide it with information it feels it needs for whatever reasons, please find the following responses to your consultant's list of questions:

How were the lagoons constructed? Excavation and fill

How deep are the lagoons? +/- 10 feet

How much sludge is in each lagoon? 1' sludge in larger pond; 2' sludge in smaller pond

Were the lagoons designed to be total containment? Yes.

What were the average daily flows? Specifically, what percentage of the lagoon capacity was added annually? Unknown.

Is there a history of odors? Unknown. The facility was improved and installed prior to surrounding uses.

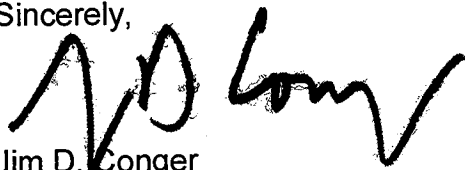
Is there a likelihood (or possibility) that the City (or another) party will step forward with commitment to do something in the near term? No.

There is little doubt that draining the lagoons and pushing in the dikes would be a preferable scenario. Of course, that has its own issues such as how to physically drain them. Are any permits required? Timing? This is exactly what the developer wants to do. However, as you can understand, it takes time to go through the process of testing the material and getting approval through the City of Boise Public Works.

Ms. Lynn Johnston
President, Board of Trustees
Idaho Shakespeare Festival
Page 3

I have been on the phone with Mark Hofflund today and we are trying to schedule a meeting as early as this afternoon or tomorrow afternoon at 3:30. In the meantime, I hope this letter offers additional proof of the developer's willingness to work with the Festival, provides insight and alleviates concern that remediation of the ponds has been of deep concern and deliberate and timely action.

Sincerely,



Jim D. Conger
President

JDC/ja

cc: Hon. David H. Bieter, Mayor, City of Boise
Mr. Derick O'Neill, Director, Planning and Development Services
Thomas Jay Le Claire, Commissioner, Ada County Planning and Zoning
Commission
Ada County Board of Commissioners
Mr. Doug Holloway, Boise Parks and Recreation
Ms. Lydia Primavera, Executive Director, Idaho Foundation for Parks and
Lands
Ms. Nancy Merrill, Director, Idaho Department of Parks and Recreation
Mr. Kent Brown, Kent Brown Planning Services
Mr. Mark Hofflund, Managing Director, Idaho Shakespeare Festival
Mr. Kurt Liebich, Chairman, Riverstone International School Board of
Trustees



Project Management / Site Development / Construction Management

May 3, 2013

Mr. Bob Carignan, M.A.
Head of School
Co-Director of College Counseling
Riverstone International School
5521 Warm Springs Avenue
Boise Idaho 83716

Re: **Barber Mill Estates**

Dear Mr. Carignan:

Conger Management Group is the construction project manager for Barber Mill Estates. We have been provided with copies of your letters dated April 24, 2013 to Mr. Le Claire at the Ada County Planning and Zoning Commission and to Mr. Derick O'Neill, Director, Planning and Development Services. When we received copies of these letters, we immediately initiated an attempt to reach you with the desire to schedule a meeting to fully discuss the plans for Barber Mill Estates; however, as your email to my secretary stated, you have had "particularly and unexpectedly busy days" and are unable to meet with me prior to my leaving on a business trip which will take me out of the country beginning Sunday, May 5th. Please consider this letter both as a response to your letters as well as a brief overview of the plans for Barber Mill Estates.

Conger Management Group (CMG) is the project manager for the developer of Barber Mill Estates. Please note that Mr. Jake Centers' involvement in Barber Mill Estates is through Tahoe Homes, who potentially may enter into contract with the developer to build homes in the development.

The first and foremost concern outlined by you is the safety of your students. Please be advised that CMG strongly supports safe operations and has done so for the more than 13 years it has been in existence. We "fight" safety concerns with more safety. To that end, existing fencing, already in place keeping the public safe for 30 years has been maintained.

Further, you mention a concern regarding new homes and cars in close proximity to pre-kindergarten students. Please be advised that Tahoe Homes has been efficiently and safely building quality homes in quality neighborhoods in the Treasure Valley for thirty years and fully intends to maintain its high standards for safety in this development.

Mr. Bob Carignan, M.A.
Riverstone International School
Page 2

I am concerned regarding your statement that the developer has not made contact with Riverstone directly. In fact, an on-site meeting took place and a representative from Riverstone was present at that on-site meeting. Notwithstanding this meeting, please understand that the developer's first concern has been and continues to be the status of the ponds. A consultant was hired and testing has been ongoing in order to prepare a plan to mitigate the ponds and maintain safety – environmental, animal and human. In addition, we have been working with the Department of Environmental Quality and other necessary governmental agencies. In other words, we have engaged the professionals and are working very hard to finalize a Workplan and obtain appropriate permits to allow us to de-water the ponds, remove waste, dry the area and add clean structural soil. Based on reviews conducted, there are no health threats, only the potential for unpleasant odor, which, when we conduct our activities, will be minimized.

However, as time passes and the weather warms, the dewatering process is happening on its own. If left to the natural process, the amount of time neighbors adjacent to the ponds will be subjected to potential odor, dust and the general unattractiveness of the area will be lengthened. We would much prefer for our work to commence immediately so these issues can be mitigated in a timely manner.

Due to the fact that I will be out of the country and unable to meet you next week, Jake Centers has agreed to make himself available to discuss further concerns regarding the Barber Mill Estates development. We will be in touch via email to find a mutually-convenient time. In the meantime, I hope this letter provides some insight and alleviates some concern that remediation of the situation with the ponds has been of deep concern and deliberate and timely action.

Sincerely,



Jim D. Conger
President

JDC/ja

cc: Hon. David H. Bieter, Mayor, City of Boise
Mr. Derick O'Neill, Director, Planning and Development Services
Thomas Jay Le Claire, Commissioner, Ada County Planning and Zoning
Commission
Ada County Board of Commissioners
Mr. Doug Holloway, Boise Parks and Recreation
Ms. Lydia Primavera, Executive Director, Idaho Foundation for Parks and
Lands
Ms. Nancy Merrill, Director, Idaho Department of Parks and Recreation
Mr. Kent Brown, Kent Brown Planning Services
Mr. Mark Hofflund, Managing Director, Idaho Shakespeare Festival
Mr. Kurt Liebich, Chairman, Riverstone International School Board of
Trustees

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Gregory Taylor
Jerry Van Engen
Henry Yun

Charles Fee
Producing Artistic Director

Mark Hoffund
Managing Director

Carolyn Bancroft
Recording Secretary

City of Boise

JUN 07 2013

PDS Department

June 6, 2013

Mr. Jim D. Conger
Conger Management Group
1627 S. Orchard Street, Suite 24
Boise, ID 83705

Dear Mr. Conger:

This letter responds to your letter of May 3, 2013 and to our meeting on May 29, 2013. As we discussed, the Festival appreciates the concessions you have offered. Nonetheless, we remain very concerned about having residential neighbors in close proximity. We are willing to listen to new information, and have specifically suggested that a sound study and a design charrette may be useful to address the Festival's primary concerns. But we cannot guarantee that even these efforts will eliminate our deep-seated concern that we cannot live harmoniously with such close-by residential neighbors.

As we discussed, the sewage ponds also are a major issue, for everyone in the area. We understand that you plan to allow the ponds to dry naturally over the summer. If you intend to take any other action, please notify us immediately. Please understand that we will do everything in our power to ensure that odors from the ponds do not disrupt the Festival this season.

We were shocked at some of the things you said in the meeting on the 29th. Among other things, you said that if the Festival did not support your project, you would consider (1) disturbing the sludge in the waste ponds to create odors; (2) removal of the berm, landscaping and irrigation adjacent to the Festival, and (3) operation of a motorcycle course on the property. Please be advised we would consider any of these actions to be unlawful and we will evaluate legal action if you attempt any of them. If we have misunderstood anything and you would like to set the record straight, please do so.

Please understand, our board and our community have an extraordinary resolve to protect the Festival in this location. It is a treasure for our community. As trustees, we can only support development that assures the long-term viability of the Festival. Unfortunately, the current proposal falls far short and we will oppose it in its current form. If you are ready to go back to the drawing board, we are willing to listen.

The Festival may also be supported through gifts to the Foundation for the Idaho Shakespeare Festival.

Page 2

Mr. Jim D. Conger
Conger Management Group
June 6, 2013

We ask that this letter be placed in the record for applications CAR13-00007 and PUD13-00002 at the City of Boise.

Sincerely,



Lynn Johnston
President, Board of Trustees

cc: Mr. Derick O'Neill, Director, Boise Planning and Development Services ✓
Mr. Kent Brown, Kent Brown Planning Services
Mr. Jake Centers, Developer of Barber Mill Estates, Owner of Tahoe Homes
Ms. Maryellen Waters, Executive Director, Idaho Foundation for Parks and Lands
Ms. Nancy Merrill, Director, Idaho Department of Parks and Recreation
Mr. Bob Carignan, M.A., Head of School, Riverstone International School
Mr. Kurt Liebich, Chairman, Riverstone International School Board of Trustees
Mr. Michael Reineck, Secretary and Treasurer, Harris Ranch Neighborhood Association
Hon. Dave Case, Chairman, Ada County Board of Commissioners



Project Management / Site Development / Construction Management

June 18, 2013

Ms. Lynn Johnston
President, Board of Trustees
Idaho Shakespeare Festival
PO Box 9385
Boise Idaho 83707

Re: Barber Mill Estates

Dear Ms. Johnston:

I received your letter dated June 6, 2013, which I shared with the property owners, David and Ann Triplett. I want to respond to your comments regarding the Festival's continuing concern regarding noise and the sewer lagoons. As you know, we have been corresponding and meeting about these issues over the last two months. We have appreciated working with the Festival representatives and believe we have made great progress toward a well-planned residential development. We were taken aback by the tone of your letter but I hope we can work together.

As suggested to us by the Festival, we are beginning the process of engaging a sound expert. A sound study will be under way shortly. Once the study has been completed, we will schedule a meeting with the City of Boise, the Festival and others to discuss the results and any potential mitigating actions.

I am enclosing a copy of my April 22nd email to Mark Hofflund, which I assume you have seen. The 4th and 5th bullet points addressed the noise issue early in our conversations with the Festival. At that time, a concern was expressed that we make potential home purchasers aware of the Festival's location and also that we work to reduce potentially noisy activities in the neighborhood during Festival productions. We committed to working with the City to condition our proposal so that appropriate CC&Rs and disclaimer notices are prepared. We have been consistent with the Festival and the City to point out that we are committed to do all that is needed to ensure that potential homeowners in Barber Mill Estates are very much aware that they are moving close to the Festival and that the Festival appreciates a quiet surrounding.

As we talked about at the late May meeting, the sewage ponds will be allowed to dry naturally. We were encouraged to hear that consultants hired by the Festival also think drying the ponds naturally is the correct process. As we mentioned at that May meeting, per the Work Plan developed with the Idaho Department of Environmental Quality, the material needs to be turned to encourage the drying process so that material may be removed in October. The Triplett's have committed to do this type of work activity at times during the summer season when the Festival is not operating. We will be happy to notify you of pending work so that we can coordinate with you. There is no intent on the owner's part to cause odor or dust or any other form of discomfort to neighboring property owners, including the Festival.

June 18, 2013
Ms. Lynn Johnston
President, Board of Trustees
Idaho Shakespeare Festival
Page 2

You mentioned in your June 6th letter that you were "shocked" to hear Dave Triplett mention that the berm on his and Ann's property might be removed. Just to clarify, the berm is actually not adjacent to the Festival's property, but is separated from the Festival property by property owned by the Idaho Parks Foundation. As you know, following conversations with the Festival, the Triplett's instructed the Barber Mill Estates designers to design the housing development to include the berm as common open space. This common open space would be maintained by the homeowners -- at the homeowners' costs. This commitment is referenced in the first bullet point of the attached email.

Still -- and this cannot be a shock -- if Barber Mill Estates is not approved and the Triplett's must design their property for another use, the reality is that the berm may be removed by the Triplett's.

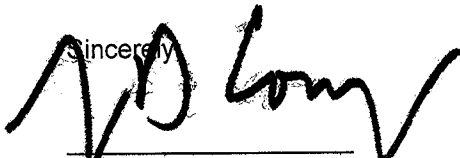
You also say that you were "shocked" to hear of a motorcycle course, but there was never a discussion of starting a motorcycle course on the property. There was a discussion of friends and family of the Triplett's using the land for this purpose from time to time.

Unfortunately, we have to express our being shocked at the change in the Festival's tone found in your letter and the change in tone at the recent meeting. At that meeting, several members of the Festival's Board of Directors and its attorney emphatically suggested that the Triplett's property would never be developed on their watch. While the Festival has "an extraordinary resolve to protect the Festival in this location" so do Mr. and Mrs. Triplett have a resolve to protect their rights of asset ownership and the use of their property. The Triplett's have worked diligently in listening to their neighbors, including the Festival, to design a quality residential development (no doubt to be filled with future Festival patrons!).

We don't disagree that the Shakespeare Festival is a "treasure for our community." At the same time, there are many treasures of the community that have welcomed growth and co-exist with their neighbors. To single out the Festival as a community asset unable or unwilling to accept new neighbors cannot be acceptable. We sincerely hope that the Festival does not mean to misuse Boise's land use process in an attempt to preclude the Triplett's use of their property.

On behalf of Dave and Ann Triplett, who have been a good neighbor to the Festival for decades, and on behalf of the developer who has undertaken extraordinary actions, studies and who has given and continues to give considerable concessions to the Festival, we look forward to working with you and hope the Festival will find the current Barber Mill Estates application to be a good neighbor. We will contact you as soon as the noise study is available.

We also respectfully request this letter be placed in the record for applications CAR13-00007 and PUD13-00002 at the City of Boise.

Sincerely,

Jim D. Conger, President
Conger Management Group

JDC/ja
Attachment

June 18, 2013
Ms. Lynn Johnston
President, Board of Trustees
Idaho Shakespeare Festival
Page 3

c: David and Ann Triplett
Hon. David H. Bieter, Mayor, City of Boise
Mr. Derick O'Neill, Director, Planning and Development Services
Hon. Dave Case, Chairman, Ada County Board of Commissioners
Ada County Board of Commissioners
Mr. Doug Holloway, Boise Parks and Recreation
Ms. Maryellen Waters, Executive Director, Idaho Foundation for Parks and Lands
Ms. Nancy Merrill, Director, Idaho Department of Parks and Recreation
Mr. Kent Brown, Kent Brown Planning Services
Mr. Mark Hofflund, Managing Director, Idaho Shakespeare Festival
Mr. Kurt Liebich, Chairman, Riverstone International School Board of Trustees
Mr. Michael Reineck, Secretary and Treasurer, Harris Ranch Neighborhood Association

R-1B vs. R-1A Zoning Analysis (Outline)

R-1B zoning (with a PUD) is in conformance with Blueprint Boise and is the most appropriate zoning designation for this property.

1. Blueprint Boise calls for development of the type proposed here

- a. One of the primary goals of Blueprint Boise for the Barber Valley is to use the specific plans for Harris Ranch and Barber Valley as the policy basis for additional development. (BV-CNN 3.1) **TEXT OVERRIDES MAP OF LOW DENSITY**

- ✓ i. Both Harris Ranch and Barber Valley promote "compact" residential neighborhoods and uses. (BV-14).
- ✓ ii. "Harris Ranch neighborhoods are compact, pedestrian-friendly and mixed-use." (Harris SP01, at 1). Much of the project is planned for six dwelling units per acre or above, going all the way to thirty dwelling units per acre. (Harris SP01, at 50).
- ✓ iii. Barber Valley has low-density and medium-density residential in the area, with minimum interior lot sizes of 3,500 and 2,000 square feet, respectively. (Table 11-013.9). Maximum dwelling units per acre are in the low-density area is 6 and maximum dwelling units in the medium-density area is 18.

- ✓ b. In addition, the Barber Valley plan also seeks to protect open space through combining and clustering land uses. (BV-CNN 3.3). **WE DID - SOUTH & EAST**

- i. The applicant is proposing a PUD to do just that... cluster the development away from the Barber Pool and other area properties, including ISF.

- ✓ c. The Barber Valley plan also promotes the Greenbelt and planning to "link gaps" in the existing sidewalk system. (BV-C 2.1)

- i. The applicant is donating property on the west and north sides of the property to allow for future installation of the Greenbelt.

- ✓ d. Finally, the Barber Valley plan also promotes parks and open space to serve both the human and wildlife populations in the Barber Valley. (BV-NC 1.1)

- i. The applicant is donating 2.3 acres on the southern portion of the property to the Idaho Foundation for Parks and Lands

✓ 2. R-1B Zoning (with PUD) Promotes the Goals of Blueprint Boise and Allows for the Proposed Use

- ✓ a. Purpose of R-1B¹ Districts:

- i. "To provide a range and variety of districts for predominantly single-family residential uses within the urban community. Land may be classified to these respective classifications for location, topographic, or other reasonable purposes, and to guide the physical growth and stability of the city." (11-04-03.1.A).

- ✓ b. R-1B Parameters:

- i. Interior lots at 9,000 square feet, with average lot width of 75 feet
- ii. Maximum density of 4.8 units per acre

- ✓ c. PUD Purpose

¹ Same for R-1A and R-1C

- ✓ i. "To provide an opportunity for land development that preserves natural features, allows efficient provision of services, and provides common open spaces or other amenities not found in traditional lot-by-lot development." (11-03-04.7.A) **CLUSTER TO PRESERVE**
 - ✓ ii. Allows for a "variety of housing types" (11-03-04.7.B(1)(a)), reduction of lot sizes (11-03-04.7.B(1)(b)), and, importantly, clustering "to preserve foothills, river areas, and other environmentally sensitive areas as open space." (11-03-04.7.B(1)(g)).
- ✓ 3. R-1B Zoning is More Appropriate than the R-1A
- a. R-1A zoning calls for far less dense development and does not promote the goals and policies identified in Blueprint Boise, SP01, or SP02.
 - i. Minimum lot size (interior lots): 20,000 square feet
 - 1. Compare R-1B: 9,000 square feet
 - ii. Maximum density: 2.1
 - 1. Compare R-1B: 4.8
 - 2. Compare Harris Ranch (predominantly 6 and above) and Barber Valley (area plans at 6 or 18)
 - ✓ b. R-1C is actually more compatible with Barber and Harris plans



Sara M. Baker, President
John S. Franden, Vice President
Rebecca W. Arnold, Commissioner
Mitchell A. Jaurena, Commissioner
Jim Hansen, Commissioner

Date: July 18, 2013

To: C13, LLC (via e-mail)
P.O. Box 1610
Eagle, Idaho, 83616

Subject: Barber Mill Estates Subdivision
5237 East Sawmill Way

On July 17, 2013 the Ada County Highway District Commission acted on your application for the above referenced project. The attached report lists site-specific requirements, conditions of approval and street improvements, which are required.

If you have any questions, please feel free to contact me at (208) 387-6218.

Sincerely,

Lauren Watsek
Planner I
Development Services
Ada County Highway District

CC: Project file
City of Boise (sent via email)
Kent Brown (sent via email)
David Triplett



Project/File: **Barber Mill Estates (CAR13-00007/ PUD13-00002/ SUB13-00017)**
 This is an annexation, rezone, planned unit development, and preliminary plat application to subdivide approximately 12 acres into 47 residential lots and 10 common lots. The site is located at 5237 E Sawmill Way in Boise, Idaho.

Lead Agency: City of Boise

Site address: 5237 E. Sawmill Way

Commission Hearing: July 17, 2013
Regular Agenda

Applicant: C12, LLC
 P.O. Box 1610
 Eagle, ID 83616

Representative: Kent Brown
 Kent Brown Planning Services
 P.O. Box 36
 Meridian, ID 83680

Staff Contact: Lauren Watsek
 Phone: 387-6218
 E-mail: lwatsek@achdidaho.org



A. Findings of Fact

1. **Description of Application:** The applicant is requesting approval of an annexation and rezoning, planned unit development, and preliminary plat application to subdivide approximately 12 acres into 47 residential lots and 10 common lots. The applicant is requesting a R-1B zone which
2. **Description of Adjacent Surrounding Area:**

Direction	Land Use	Zoning
North	Limited Office (International School)	L-OD
South	General Industrial	M2
East	General Industrial (Water Pond)	M2
West	Single Family Residential	R-1C
3. **Site History:** ACHD has not previously reviewed this site for a development application.
4. **Adjacent Development:** The following developments are pending or underway in the vicinity of the site:
 - Harris Ranch Subdivision is in various stages of development located adjacent to Barber Mill Estates to the west of Sawmill Way.

5. **Transit:** Transit services are not available to serve this site.
6. **Impact Fees:** There will be an impact fee that is assessed and due prior to issuance of any building permits. The assessed impact fee will be based on the impact fee ordinance that is in effect at that time.

7. **Capital Improvements Plan (CIP)/Five Year Work Plan (FYWP):**

The following improvement is listed in the District's Capital Improvement Plan (CIP).

- The intersection of Warm Springs and SH-21 is planned to be widened to 3 lanes on the north leg, 2 lanes on the south leg, 3 lanes on the east leg, and 4 lanes on the west leg between 2027 and 2031,

B. Traffic Findings for Consideration

1. **Trip Generation:** This development is estimated to generate 447 additional vehicle trips per day (none existing); 47 additional vehicle trips per hour in the PM peak hour (none existing), based on the Institute of Transportation Engineers Trip Generation Manual, 9th edition.

2. **Condition of Area Roadways**

Traffic Count is based on Vehicles per hour (VPH)

Roadway	Frontage	Functional Classification	PM Peak Hour Traffic Count	PM Peak Hour Level of Service	Existing Plus Project
Sawmill Way	N/A	Local	8	N/A	N/A
Lysted Avenue	N/A	Local	13	N/A	N/A
Warm Springs	N/A	Minor Arterial	241	Better than "D"	Better than "D"

* Acceptable level of service for a three-lane minor arterial is "D" (720 VPH)

3. **Average Daily Traffic Count (VDT)**

Average daily traffic counts are based on ACHD's most current traffic counts.

- The average daily traffic count for Sawmill Way south of Lysted Avenue was 132 on June 24, 2013.
- The average daily traffic count for Lysted Avenue south of Warm Springs Avenue was 243 on June 24, 2013.
- The average daily traffic count for Warm Springs Avenue east of Eckert Road was 5,200 on July 12, 2012.

C. Findings for Consideration

1. **Access to the Site**

The applicant has proposed to access the site via the construction of a new public street, Ripsaw Avenue, onto Sawmill Way an existing public street adjacent to the site. After submittal of the development application, the applicant notified ACHD staff of a spite strip between the existing right-of-way for Sawmill Way and the site. The applicant has been working to remedy this and has prepared a warranty deed to dedicate the necessary street frontage to ACHD. The owner of the spite strip has indicated that they will sign the warranty deed dedicating the right-of-way to ACHD after the preliminary plat receives its approvals from Boise City.

The applicant should be required to complete the warranty deed for the right-of-way dedication prior to plan approval and signature on the first final plat.

2. Sawmill Way

- a. **Existing Conditions:** Sawmill Way is improved with 2 travel lanes, 33 feet of pavement vertical curb, gutter, and 5 foot wide sidewalk. There is 50 feet of right-of-way for Sawmill Way (25 feet from centerline).
- b. **Policy:**
Local Roadway Policy: District Policy 7207.2.1 states that the developer is responsible for improving all local street frontages adjacent to the site regardless of whether or not access is taken to all of the adjacent streets.
Minor Improvements Policy: District Policy 7203.3 states that minor improvements to existing streets adjacent to a proposed development may be required. These improvements are to correct deficiencies or replace deteriorated facilities. Included are sidewalk construction or replacement; curb and gutter construction or replacement; replacement of unused driveways with curb, gutter and sidewalk; installation or reconstruction of pedestrian ramps; pavement repairs; signs; traffic control devices; and other similar items.
- c. **Applicant's Proposal:** The applicant is not proposing any improvements to Sawmill Way, abutting the site.
- d. **Staff Comments/Recommendations:** Sawmill Way is already improved with 33 feet of pavement with curb, gutter and sidewalk abutting the site. As such, staff does not recommend any additional street improvements or right of way dedication as part of this application.

Consistent with District Policy 7203.3, the applicant should be required to replace any broken curb, gutter or sidewalk and to update the pedestrian ramps, abutting the site.

3. Entry Road

- a. **Existing Conditions:** There are no existing roads internal to the site.
- b. **Policy:**
Reduced Urban Local Street—29-foot Street Section and Right-of-Way Policy: District Policy 7207.5.2 states that the width of a reduced urban local street shall be 29-feet (back-of-curb to back-of-curb) with curb, gutter, and minimum 5-foot concrete sidewalks on both sides and shall typically be within 42-feet of right-of-way. Although some parking is allowed by the following subsections, the District will further restrict parking on a reduced width street if curves or other physical features cause problems, if actual emergency response experience indicates that emergency vehicles may not be able to provide service, or if other safety concerns arise.

Design Condition #1: Parking is allowed on one side of a reduced width street when all of the following criteria are met:

- The street is in a residential area.
- The developer shall provide written approval from the appropriate fire department or emergency response unit in the jurisdiction.
- The developer shall install "NO PARKING" signs on one side of the street, as specified by the District and as specified by the appropriate fire department.
- Vertical curbs with attached 5-foot (minimum) wide sidewalks, or rolled curbs with 5-foot (minimum) wide detached sidewalks and 8-foot (minimum) wide planter strips, are required.
- Traffic volumes on the street shall not exceed 1,000 vehicle trips per day. There shall be no possibility that another street may be connected to it in a manner that would allow

more than 1,000 vehicle trips per day.

Design Condition #2: Parking is allowed on both sides of a reduced width street when the street layout has the qualities of a road grid system and when all the following criteria are met:

- The street is in a residential area.
- The developer shall provide written approval from the appropriate fire department or emergency response unit in the jurisdiction.
- The block length of the street shall not exceed 500-feet, measured between centerlines.
- Traffic volumes on the street are not forecast to exceed 400 vehicle trips per day.
- A minimum of two street connections shall be provided to each end of the street with the reduced width. The two connecting streets shall each connect to the larger street system to provide the intended alternate routes of access. A street system that has one street connection to the large street network on one end and a loop/circle street on the other end with no outlet shall not be approved.
- Vertical curbs with attached 5-foot (minimum) wide sidewalks, or rolled curbs with 5-foot (minimum) wide detached sidewalks and 8-foot (minimum) wide planter strips, are required.

Design Condition #3: Parking is allowed on both sides of a reduced width residential street with passing pockets that are created when two driveways are constructed near the same property line, where a 50-foot segment will not have on-street parking on the side of the street with the driveways, and when all the following criteria are met:

- The street is in a residential area.
- The developer shall provide written approval from the appropriate fire department or emergency response unit in the jurisdiction.
- Driveway locations are predetermined with curb cuts for the driveways to be installed when the street is constructed. The curb cuts shall be 20-feet wide. Each lot on the street will be "paired" with an adjacent lot. If there are an odd number of lots, one lot at either end of the street will not be "paired." Each pair of lots shall locate its driveway 5-feet from the shared lot line of the pair.
- Vertical curbs with attached 5-foot (minimum) wide sidewalks, or rolled curbs with 5-foot (minimum) wide detached sidewalks and 8-foot (minimum) wide planter strips, are required.
- The lots cannot abut an alley.
- Traffic volumes on the street are not forecast to exceed 400 vehicle trips per day.

Sidewalk Policy: District Policy 7207.5.7 states that five-foot wide concrete sidewalk is required on both sides of all local street, except those in rural developments with net densities of one dwelling unit per 1.0 acre or less, or in hillside conditions where there is no direct lot frontage, in which case a sidewalk shall be constructed along one side of the street. Some local jurisdictions may require wider sidewalks.

The sidewalk may be placed next to the back-of-curb. Where feasible, a parkway strip at least 8-feet wide between the back-of-curb and the street edge of the sidewalk is recommended to provide increased safety and protection of pedestrians and to allow for the planting of trees in accordance with the District's Tree Planting Policy. If no trees are to be planted in the parkway strip, the applicant may submit a request to the District, with justification, to reduce the width of the parkway strip.

Detached sidewalks are encouraged and should be parallel to the adjacent roadway. Meandering sidewalks are discouraged.

A permanent right-of-way easement shall be provided if public sidewalks are placed outside of the dedicated right-of-way. The easement shall encompass the entire area between the right-

of-way line and 2-feet behind the back edge of the sidewalk. Sidewalks shall either be located wholly within the public right-of-way or wholly within an easement.).

- c. **Applicant Proposal:** The applicant is proposing to construct one entry road with a 29 foot street section, curb, gutter, and 6.5 foot wide planter strips on both sides of the entrance street within 42 feet of right-of-way. A 5 foot wide sidewalk is proposed on the south side of the entry road outside of the dedicated right-of-way.
- d. **Staff Comments/Recommendations:** The applicant's proposal meets District Policy with the exception of the proposal to not construct a sidewalk on the north side of the roadway into the site. The applicant should be required to construct a 5 foot wide attached or detached concrete sidewalks on both sides of Ripsaw Avenue. The applicant should provide a permanent right-of-way easement for any sidewalks placed outside the dedicated right-of-way.

The applicant has proposed to construct 6.5 feet planter strips between back of curb and sidewalk. ACHD's Tree Planting Policy requires planter strips be a minimum of 8 feet wide for street trees or the installation of continuous root barrier.

4. Internal Roads

- a. **Existing Conditions:** There are no roads internal to the site.

- b. **Policy:**

Local Roadway Policy: District Policy 7207.2.1 states that the developer is responsible for improving all local street frontages adjacent to the site regardless of whether or not access is taken to all of the adjacent streets.

Street Section and Right-of-Way Policy: District Policy 7207.5 states that right-of-way widths for all local streets shall generally not be less than 50-feet wide and that the standard street section shall be 36-feet (back-of-curb to back-of-curb). The District will consider the utilization of a street width less than 36-feet with written fire department approval.

Standard Urban Local Street—36-foot to 33-foot Street Section and Right-of-way Policy: District Policy 7207.5.2 states that the standard street section shall be 36-feet (back-of-curb to back-of-curb) for developments with any buildable lot that is less than 1 acre in size. This street section shall include curb, gutter, and minimum 5-foot concrete sidewalks on both sides and shall typically be within 50-feet of right-of-way.

The District will also consider the utilization of a street width less than 36-feet with written fire department approval. Most often this width is a 33-foot street section (back-of-curb to back-of-curb) for developments with any buildable lot that is less than 1 acre in size.

Sidewalk Policy: District Policy 7207.5.7 states that five-foot wide concrete sidewalk is required on both sides of all local street, except those in rural developments with net densities of one dwelling unit per 1.0 acre or less, or in hillside conditions where there is no direct lot frontage, in which case a sidewalk shall be constructed along one side of the street. Some local jurisdictions may require wider sidewalks.

The sidewalk may be placed next to the back-of-curb. Where feasible, a parkway strip at least 8-feet wide between the back-of-curb and the street edge of the sidewalk is recommended to provide increased safety and protection of pedestrians and to allow for the planting of trees in accordance with the District's Tree Planting Policy. If no trees are to be planted in the parkway strip, the applicant may submit a request to the District, with justification, to reduce the width of the parkway strip.

Detached sidewalks are encouraged and should be parallel to the adjacent roadway. Meandering sidewalks are discouraged.

A permanent right-of-way easement shall be provided if public sidewalks are placed outside of the dedicated right-of-way. The easement shall encompass the entire area between the right-

of-way line and 2-feet behind the back edge of the sidewalk. Sidewalks shall either be located wholly within the public right-of-way or wholly within an easement.

- c. **Applicant's Proposal:** The applicant is proposing to construct all other internal local streets as 36 foot street sections with curb, gutter, and 5 foot wide attached concrete sidewalks within 50 feet of right of way.
- d. **Staff Comments/Recommendations:** The applicant's proposal meets District policy and should be approved as proposed.

5. Roadway Offsets

- a. **Existing Conditions:** There are no roadway offsets within the site.
- b. **Policy:**
Local Offset Policy: District policy 7207.4.2, requires local roadways to align or provide a minimum offset of 125-feet from any other street (measured centerline to centerline).
- c. **Applicant's Proposal:** The applicant has proposed to construct one new roadway to intersect Sawmill Way, located approximately 240 feet south of Arrow Junction Drive. (Measured near edge to centerline.)
- d. **Staff Comments/Recommendations:** The applicant's proposal meets District policy and should be approved as proposed.

6. Alleys

- a. **Existing Conditions:** There are no alleys within the site.
- b. **Policy:**
New Alley Policy: District Policy 7210.3.1 requires the minimum right-of-way width for all new residential alleys shall be a minimum of 16-feet or a maximum of 20-feet. If the residential alley is 16-feet in width building setbacks required by the land use agency having jurisdiction shall provide sufficient space for the safe backing of vehicles into the alley (see Section 7210.3.3). The minimum right-of-way width for all new commercial or mixed-use alleys shall be 20-feet. All alleys shall be improved by paving the full width and length of the right-of-way.

Dedication of clear title to the right-of-way and the improvement of the alley, and acceptance of the improvement by the District as meeting its construction standards, are required for all alleys contained in a proposed development.

Alley Length Policy: District Policy 7210.3.2 states that alleys shall be no longer than 700-feet in length. If the lead land use agency having jurisdiction requires a shorter block length, the alley shall be no longer than the agency's required block length.

Alley Parking & Setbacks Policy: District Policy 7210.3.3 states that parking within the alley right-of-way is prohibited. "No Parking" signs are required to be installed by the developer. The signs should be located at the alley/street intersections. Parking which is entered from the alley shall be designed so the minimum clear distance from the back of the parking stall to the opposite side of the alley is 20-feet for all perpendicular parking.

Setbacks for structures taking access from the alley should be closely coordinated with the lead land use agency. The setbacks shall either discourage parking within the alley (where it may partially block or occur within the right-of-way) or allow adequate area for one perpendicular parking pad. In order to discourage parking, building setbacks shall be minimal from the alley right-of-way line, while still achieving the required 20-feet of back-up space from a garage or other parking structure to the opposite side of the alley (i.e. 4-foot setback + 16-foot alley= 20-feet for back-up space).

Alley/Local Street Intersections Policy: District Policy 7210.3.7.2 states that alleys may intersect all types of local streets including minor local streets. Alleys shall generally be designed with a curb cut type approach when intersecting a local street. Alleys shall generally intersect streets in the middle of the block equally offsetting the intersecting streets. Alleys shall either align with alley/street intersections or provide a minimum 100-foot offset (measured centerline to centerline) from other local street intersections. For alley intersections with local streets, the District may consider a reduced offset if the lead land use agency's required lot size allows for shorter buildable lots.

c. **Applicant Proposal:** The applicant is proposing to construct one new 16 foot wide north/south alley within the site. That alley is proposed midblock and to run between Ripsaw and Chainsaw Avenues.

d. **Staff Comments/Recommendations:** The applicant's proposal meets District policy and should be approved as proposed.

7. Tree Planters

Tree Planter Policy: Tree Planter Policy: The District's Tree Planter Policy prohibits all trees in planters less than 8-feet in width without the installation of root barriers. Class II trees may be allowed in planters with a minimum width of 8-feet, and Class I and Class III trees may be allowed in planters with a minimum width of 10-feet.

8. Landscaping

Landscaping Policy: A license agreement is required for all landscaping proposed within ACHD right-of-way or easement areas. Trees shall be located no closer than 10-feet from all public storm drain facilities. Landscaping should be designed to eliminate site obstructions in the vision triangle at intersections. District Policy 5104.3.1 requires a 40-foot vision triangle and a 3-foot height restriction on all landscaping located at an uncontrolled intersection and a 50-foot offset from stop signs. Landscape plans are required with the submittal of civil plans and must meet all District requirements prior to signature of the final plat and/or approval of the civil plans.

D. Site Specific Conditions of Approval

1. Complete the warranty deed for the right-of-way dedication to provide street frontage onto Sawmill Way prior to plan approval and signature on the first final plat.
2. Replace any broken curb, gutter or sidewalk and to update the pedestrian ramps on Sawmill Way, abutting the site.
3. Construct one entry road to intersect Sawmill Way, 240 feet south of Arrow Junction Drive, as a 29 foot street section with curb, gutter and 5 foot wide attached or detached concrete sidewalks on both sides of Ripsaw Avenue within 42 feet of right-of-way. Provide a permanent right-of-way easement for any segment of the sidewalk placed outside the dedicated right-of-way.
4. Construct all other internal local streets as proposed with 36 foot street sections with curb, gutter and 5 foot wide attached concrete sidewalks within 50 feet of right of way.
5. Construct one new 16 foot wide north/south alley within the site, as proposed. That alley is midblock and will run between Ripsaw and Chainsaw Avenues.
6. Payment of impacts fees are due prior to issuance of a building permit.
7. Comply with all Standard Conditions of Approval.

E. Standard Conditions of Approval

1. Any existing irrigation facilities shall be relocated outside of the ACHD right-of-way.

2. Private sewer or water systems are prohibited from being located within the ACHD right-of-way.
3. In accordance with District policy, 7203.3, the applicant may be required to update any existing non-compliant pedestrian improvements abutting the site to meet current Americans with Disabilities Act (ADA) requirements. The applicant's engineer should provide documentation of ADA compliance to District Development Review staff for review.
4. Replace any existing damaged curb, gutter and sidewalk and any that may be damaged during the construction of the proposed development. Contact Construction Services at 387-6280 (with file number) for details.
5. A license agreement and compliance with the District's Tree Planter policy is required for all landscaping proposed within ACHD right-of-way or easement areas.
6. All utility relocation costs associated with improving street frontages abutting the site shall be borne by the developer.
7. It is the responsibility of the applicant to verify all existing utilities within the right-of-way. The applicant at no cost to ACHD shall repair existing utilities damaged by the applicant. The applicant shall be required to call DIGLINE (1-811-342-1585) at least two full business days prior to breaking ground within ACHD right-of-way. The applicant shall contact ACHD Traffic Operations 387-6190 in the event any ACHD conduits (spare or filled) are compromised during any phase of construction.
8. Utility street cuts in pavement less than five years old are not allowed unless approved in writing by the District. Contact the District's Utility Coordinator at 387-6258 (with file numbers) for details.
9. All design and construction shall be in accordance with the ACHD Policy Manual, ISPWC Standards and approved supplements, Construction Services procedures and all applicable ACHD Standards unless specifically waived herein. An engineer registered in the State of Idaho shall prepare and certify all improvement plans.
10. Construction, use and property development shall be in conformance with all applicable requirements of ACHD prior to District approval for occupancy.
11. No change in the terms and conditions of this approval shall be valid unless they are in writing and signed by the applicant or the applicant's authorized representative and an authorized representative of ACHD. The burden shall be upon the applicant to obtain written confirmation of any change from ACHD.
12. If the site plan or use should change in the future, ACHD Planning Review will review the site plan and may require additional improvements to the transportation system at that time. Any change in the planned use of the property which is the subject of this application, shall require the applicant to comply with ACHD Policy and Standard Conditions of Approval in place at that time unless a waiver/variance of the requirements or other legal relief is granted by the ACHD Commission.

F. Conclusions of Law

1. The proposed site plan is approved, if all of the Site Specific and Standard Conditions of Approval are satisfied.
2. ACHD requirements are intended to assure that the proposed use/development will not place an undue burden on the existing vehicular transportation system within the vicinity impacted by the proposed development.

G. Attachments



Doug Holloway
Director

Parks & Recreation

1104 Royal Boulevard
Boise, Idaho 83706-2840

Phone
208/608-7600

Fax
208/608-7648

TDD/TTY
800/377-3529

Web
www.cityofboise.org/parks

Mayor
David H. Bieter

City Council
President
Maryanne Jordan

Council Pro Tem
David Eberle

Elaine Clegg
Lauren McLean
Ben Quintana
TJ Thomson

Boise Parks & Recreation

June 21, 2013

Cody Riddle and Todd Tucker .
City of Boise, Planning & Development Services
150 North Capitol Blvd.
Boise, ID 83702

RE: Boise Parks & Recreation (BPR) Commission Action regarding Barber Mill Estates, Request for a Boise River Ordinance System permit (CFH13-00019). 5237 E. Sawmill Way.

A regularly scheduled meeting of the Boise Park & Recreation Commission was held Thursday, June 20, 2013. The Commission voted unanimously to support the proposed residential subdivision in accordance with staff recommended conditions of approval.

The Request:

The applicant requests a Boise River System Ordinance Permit to develop a 47 residential subdivision on approximately 11.92 acres. The property is situated along former Lysted Road which leads south from Warm Springs Avenue to Barber Dam. The property is the site of the former Triplett ponds and utilized for sewer treatment until recently when Golden Dawn Estates (adjacent to Harris Ranch development north of Warm Springs Ave.) was annexed to the City of Boise and connected to city water and sewer. Use of the property for sewer treatment was then no longer necessary. The applicant proposes to reclaim/restore the property for residential purposes. The property is composed on Class A and C lands. Class A lands are considered most important for protection of wildlife values and habitat. The east and southeast boundaries of the proposed subdivision are situated adjacent to the Barber Pools Reserve. According to the applicant all buildable lots requested will respect the Class A determined boundaries.

The applicant acknowledges that egress/ingress to the proposed residential subdivision near the northwest corner of the subdivision respects the fact that the city proposes to extend a future Greenbelt from Eckert Road to Warm Springs Avenue along the west and north boundary of the subject property. BPR attempts to avoid at-grade crossings when at all possible, and is always concerned when public safety is an issue. The location of this residential entry should be carefully considered. Safety stop bars, bollards with stop signs, speed demon decals should be installed to prevent any accidents to the greatest extent possible. The angle of the proposed Greenbelt path as makes the curve around the northwest corner of the property should be constructed to be as visually safe as possible to avoid blind spots or sight obscuring challenges for both motorists and pedestrian/bicyclists.

BPR Commission Findings:

- 1) The proposed project meets the spirit and intent of both the Boise Parks & Recreation (BPR) Comprehensive Plan and City of Boise's Blueprint for Good Growth comprehensive plan goals, objectives and policies.
- 2) The property has no surface connection with the Boise River and therefore not adversely affect the water quality of the Boise River.
- 3) At at-grade crossing will be necessary at the northwest corner of the property for purposes of egress-ingress to the proposed residential development. BPR tries hard to limit at-grade crossings. Bollards will be installed with warning features to insure Greenbelt user safety.
- 4) Noise impacts shall be kept to a minimum. Contractor construction schedules shall be coordinated with Parks design staff.
- 5) There are no identified bald eagle perch and/or roosting trees on-site. The property however borders the Barber Pool Reserve. 33% of the project site will not be constructed upon to limit adverse impact to the Reserve. Another 3% is dedicated for public Greenbelt use.
- 6) There are no aesthetic features as viewed from the Greenbelt set back area in need of protection.
- 7) There are no views of cultural or geographical landmarks in need of preservation.
- 8) The property served as a former sewer treatment facility for Gold Dawn Estates. This prior use qualifies the parcel as having special and unique characteristics. DEQ is currently evaluating the ponds. While the ponds previously provided surface water they did not support any significant wetland or riparian vegetation according to Karl Gebhardt, Hydrologist and Environmental Engineer.
- 9) The property is located primarily on Class C designated lands. Class C Lands are areas which are least important for preservation. Certain portions of the property to the east and southeast, adjacent to the Barber Pools Reserve, are considered Class A Habitat and should be protected.
- 10) Emergency access to the river is not applicable to this site.
- 11) There is no riparian area adjacent to the on the west side of the property

BPR Commission Recommendation

Boise Parks & Recreation Commission (BPR) support the proposed Barber Mill Estates Subdivision request for a Boise River System Ordinance permit with the following conditions of approval:

- 1. Any Greenbelt pathway extension constructed along the west side of the proposed subdivision will include safety bollards (complete with stop sign and speed demon decal warning as well as stop bar pavement markings alongside any proposed at-grade crossing. Other safety related measures may also be deemed necessary (i.e. – safety lighting). Design plans for any at-grade crossing will coordinated, approved and inspected by BPR design staff.***
- 2. Developer shall comply with applicable local, State and Federal, requirements for grading and construction activities within the Boise River Floodplain.***
- 3. Residential lots shall be separated from Class A habitat by secured fencing that Prevents domestic pets from entering habitat areas.***

Respectfully,

**Cheyne Weston, BPR Park Planner
cweston@cityofboise.org
(208) 608-7637**

BOISE CITY PUBLIC WORKS DEPARTMENT

DEPARTMENT CORRESPONDENCE

Date: May 31, 2013

To: Boise City Planning & Zoning

Re: CAR 13-00007/ PUD 13-00002; 5237 E. Sawmill Way

CONDITIONS OF APPROVAL

SEWER CONDITIONS – MIKE SHEPPARD (384-3920)

If the proposed structure contains plumbing fixtures, connection to central sanitary sewer is required. Sewers are available in E. Sawmill Way.

Prior to granting final sewer construction plan approval, the Boise City Council recommendations of approval must be adopted.

DRAINAGE / STORM WATER CONDITIONS – BRIAN MURPHY (384-3752)

A drainage plan must be submitted and approved by Public Works. Drainage conditions shall be placed during the subdivision platting process. Approvals of subdivision building pads are conditional to slab on grade structures only (not structures with basements).

High groundwater at this site may preclude use of a subsurface stormwater system.

STREET LIGHT CONDITIONS – MIKE HEDGE (388-4719)

Street lights are required. The specific location and type of facilities to be installed will be identified in the conditions of subdivision plat approval.

PERSON MAKING OTHER COMMENTS – JIM WYLLIE (384-3925)

OTHER COMMENTS –

See attached memo.


PUBLIC WORKS REPRESENTATIVE


PUBLIC WORKS REPRESENTATIVE

RECEIVED
JUN 04 2013
DEVELOPMENT
SERVICES

cc: Applicant

CITY OF BOISE

INTRA-DEPARTMENT CORRESPONDENCE

Date: May 31, 2013

To: Rob Bousfield

From: Jim Wyllie 

Subject: Barber Mill Estates
Floodplain and Subdivision Review Comments
CFH13-00020 & SUB13-00017
FPR 999

I have reviewed the Floodplain Review Application and Preliminary Plat Application for Barber Mill Estates and have the following comments:

1. Portions of the subject project are located in the floodplain of the Boise River. Property development is subject to the regulations and requirements of Chapter 8, Boise City Zoning Ordinance.
2. Three sewage lagoons are located on the subject property. The lagoons will need to be environmentally mitigated and then filled to a developable elevation. Fill volumes are anticipated to be approximately 80,000 cubic Yards. Based upon the amount of earthwork required to do this project the Developer will be required to:
 - a. Submit a geotechnical report specifying fill placement and compaction requirements.
 - b. Obtain a Grading permit from the Building Department.
 - c. Comply with Grading permit conditions to be established by Public Works.
3. The Preliminary Plat shows most of lots will be approximately forty feet in width. In order to insure adequate drainage between lots, recommend that the Developer be required to prepare a subdivision grading plan that specifies finish floor heights and finish grades for each individual lot. Compliance with this condition should be a requirement for each building in order to minimize site drainage problems such as water in crawl spaces or ponded nuisance water in back, front or side yard areas.

Call if you have questions.

cc: sf FPR 999 2.4

FPR999CFH13-00020SUB13-00017BarberMillEstates

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[Standard Grading and Drainage Conditions](#)
[Standard Irrigation Conditions](#)
[Standard Sewer Conditions](#)

[Standard Street Light Conditions](#)
[Standard Hillside Conditions](#)
[Misc. Engineering Conditions](#)
[Misc. Solid Waste Conditions](#)

PW SUBDIVISION COMMENTS

REV 12/03/12

Date Due: 06/05/2013
Transmittal Date: 05/29/2013
Tentative Hearing Date: 08/05/2013
Subject: Barber Mill Estates; SUB13-00017
Plat: Preliminary

Engineer/Surveyor/Planner: Kent Brown
Phone: 871-6842

When finished with comments, please type initials below.

To:					Initials
<input checked="" type="checkbox"/>	Public Works	Rob Bousfield	Drainage, Hillside, Misc. Engineering	384-3914	RJB
<input checked="" type="checkbox"/>	Public Works	Mike Hedge	Municipal Lighting	388-4719	MH
<input checked="" type="checkbox"/>	Public Works	Mike Sheppard	Sewer	384-3920	MS
<input checked="" type="checkbox"/>	Public Works	Mike Sheppard	Pressure Irrigation	384-3920	MS
<input checked="" type="checkbox"/>	Public Works	Peter McCullough	Solid Waste	384-3906	PJM

B.C.C 9-20-05.C.4, *Procedures; Preliminary Plat* of the Boise City Subdivision Ordinance provides that if no written recommendation from any agency listed herein is received within five (5) days after such notification, the approval of the Final Plat by such agency will be considered granted.

If you would like access to better resolution drawings (i.e., site and landscape drawings) please refer to: <http://pdsonline.cityofboise.org/pdsonline/CaseSearch.aspx> by using the case number.

1. STANDARD GRADING AND DRAINAGE CONDITIONS

REV 9/12/07

- a. Subdivision drainage shall be in accordance to B.C.C. 9-20-8.E. The developer shall submit a letter from the appropriate drainage entity approving the drainage system or accepting the drainage there from. A copy of the construction drawing(s) depicting all site drainage improvements shall be submitted with the letter.
 - i) Developer may either construct improvement prior to final platting or post bond in the amount of 110% of the estimated construction costs. Estimated construction costs shall be provided by the developer's engineer.
 - ii) For drainage facilities located outside of the public right-of-way, the developer shall dedicate a storm drainage easement. Said easement shall be labeled as either an Ada County Highway District storm drainage easement or a homeowners' association storm drainage easement, depending on what entity will assume responsibility for the operation and maintenance of the storm drainage system.
 - iii) Should the homeowners' association be responsible for the operation and maintenance of the storm drainage facilities, covenants, homeowners' association by-laws or other similar deed restrictions acceptable to the Boise City Attorney shall be reviewed and approved by the Boise City Attorney.
- b. If fills greater than one foot in depth are to be placed in subdivision lots inside of building envelopes, as defined by the applicable subdivision building setbacks, the Developer shall obtain a grading permit from the Boise City Building Department (Commercial Rough Grading Permit). Grading permit must be acquired prior to the start of construction or final plat signature by the Boise City Engineer, whichever comes first.

Special Conditions:

- a) Obtain a grading permit for filling in the sewage lagoons. Provide a geotechnical report specifying fill placement and compaction requirements. Comply with grading permit requirements.
- b) Provide subdivision grading plan for approval by Public Works which verifies adequate drainage for the narrow lots.

2. STANDARD IRRIGATION CONDITIONS

REV 12/6/07

- a. Comply with Boise City Code Section 9-20-8.J concerning pressure irrigation requirements prior to signing of the final plat by the Boise City Engineer.

- i) The owner, person, firm or corporation filing the subdivision plat shall provide a pressurized irrigation system. The system must conform to the minimum design standards and specifications of Boise City, or of the entity that will operate and maintain the system, if that entity has published standards; or
 - ii) The owner, person, firm or corporation filing the subdivision plat shall provide written documentation that a valid waiver of the requirement to provide a pressure irrigation system and that Idaho Code 31-3805(1)(a) regarding transfer of water rights, has been complied with.
- b. Prior to either commencing construction or signing of the final plat by the Boise City Engineer, developer shall:
 - i) Submit for approval by the Department of Public Works, construction plans and specifications for the pressurized system, stamped by a registered engineer.
 - ii) Provide written assurance that provisions have been made for ownership, operation, and maintenance of the system.
 - iii) Delineate all necessary irrigation easements on the final plat (B.C.C. 9-20-7.F).
- c. Developer shall provide for an independent inspection of the installation of irrigation facilities and written certification by the design or project engineer that the system was installed according to the approved plans. In addition, the Department of Public Works must be present for the system pressure test and participate in a final inspection.
- d. Developer may construct prior to final platting or bond in the amount of 110% of the estimated construction costs based on the approved plans.
- e. **Fees:** Developer and/or owner shall pay the current inspection and plan review fees applicable to the proposed subdivision prior to signing of the final plat by the Boise City Engineer (B.C.C. 9-20-11).

Special Conditions:

3. STANDARD SEWER CONDITIONS

REV 12/03/12

City Subdivision Conditions

- a. Wetline sewers are required (Boise City Code 9-20-08.D, *Improvements; Sanitary Sewers*).
 - i) Plans shall be submitted to and approved by the Boise City Department of Public Works prior to commencing with construction. Developer and/or owner may either construct improvements prior to final platting or execute a performance agreement and provide surety in the amount of 110% of the estimated costs. The developer and/or owner shall coordinate with the Department of Public Works for construction inspection prior to and during construction. Unless otherwise approved by the Public Works Department, all sewer construction shall be completed and accepted within 90 days of plat recordation, or within 30 days of issuance of the first building permit within the subdivision, whichever comes first.

NOTE: All bonding shall conform to Boise City Code 1-19, *Surety Bonds*.

- ii) Developer and/or owner shall pay the current sewer inspection fees for the proposed subdivision prior to signing of the final plat by the Boise City Engineer.
 - iii) Developer and/or owner shall be responsible for repairs of any failures that occur within one (1) year of the project acceptance by the appropriate sewer entity (Boise City Code 9-20-08.D.3, *Improvements; Sanitary Sewers*).
- b. Developer and/or owner shall delineate all necessary Boise City sanitary sewer easements on the final plat prior to signing of the final plat by the Boise City Engineer (Boise City Code 9-20-07.F, *Design Standards; Easements*).
- c. Unless previously paid, developer and/or owner shall pay a sewer assessment along E. Sawmill Way and/or as may be approved by the Boise City Public Works Commission prior to signing of the final plat by the Boise City Engineer. Contact the Department of Public Works for specific costs.
- d.

NOTE: All bonding shall conform to Boise City Code, 9-20-08.B.3, *Improvements; Filing of Plans and Surety*, which specifies that the improvements to be made shall be done in a time period not to exceed one year from the date of approval of the final plat.
- e. Developer and/or owner shall pay a pump station upgrade fee of \$100 per lot in accordance with Boise City Code 8-11-06.03.I, *Capital Fees; Temporary Lift Station Upgrade Fee*.

Special Conditions:

Require that the sewer treatment facilities on the site are properly closed, as regulated by the Idaho Department of Environmental Quality, and that the developer comply with other federal, state and local requirements that may apply. Proof of DEQ approval should be provided prior to final signature of the plat.

Place a note on the plat advising of the former use of the property.

4. STANDARD STREET LIGHT CONDITIONS

REV 9/12/07

City Subdivision Conditions

- a. Developer shall delineate on the face of the final plat a Boise City street light easement, acceptable to the Boise City Department of Public Works, for the purpose of installing and maintaining city-owned street light fixtures, conduit, and wiring lying outside the dedicated public right-of-way (B.C.C. 9-20-7.F).
- b. The developer shall be required to install, at their expense, street lights in accordance with Boise City Public Works specifications and standards at locations designated by the Public

Works Department (B.C.C. 9-20-08.H). Plans shall be reviewed and approved by the Boise City Public Works Department prior to commencement of construction or bonding.

- c. **Fees:** Developer shall pay the current street light inspection and plan review fees on the proposed subdivision (B.C.C. 9-20-11).
- d. The street lights shall be installed and accepted by the Boise City Public Works Department at the following locations. Unless otherwise noted, street lights shall be installed at a 25-foot minimum mounting height, 100 W.H.P.S.
 - i) Light Locations:
 - Lot 2, Block 1, northeast side of the curve approx 140 ft from E. Sawmill Way.
 - Lot 1, Block 2, Northeast corner.
 - Lot 7, Block 2, Southwest corner.
 - Lot 9, Block 2, Southeast corner.
 - Lot 14, Block 2, Southeast corner.
- e. If approval for bonding is granted by the Boise City Public Works Department, developer may bond in the amount of 110% of the estimated street light costs. Street lights shall be installed within 90 days of the issuance of the first building permit in the development, if building permits are obtained prior to completion of street light improvements.

Special Conditions: None.

5. STANDARD HILLSIDE CONDITIONS

REV 9/12/07

N/A

6. MISC. ENGINEERING CONDITIONS

REV 9/12/07

- a. A portion of the property is within the floodplain. Comply with Boise Floodplain Ordinance.

Special Conditions:

7. MISC. SOLID WASTE CONDITIONS

REV 3/11/11

Requirements for Residential Subdivisions

The following requirements for trash and/or recycling service apply to any residential subdivision or development in the City of Boise. Solid Waste collection vehicles utilize mechanical arms to collect 48 to 95 gallon plastic wheeled carts which require certain space and access specifications. If the following conditions cannot be met, commercial service or separate collection locations may be required.

a. General Requirements

- i) All streets must be designed so that collection vehicles are not forced to back up at any time. (Hammerhead drives may be permitted only with prior approval from Public Works, 384-3906)
- ii) All developments utilizing residential service, including, condominiums, town homes, and patio homes, must provide a minimum of 9 feet of curb space per dwelling unit for the carts to be placed at the curb for collection.
- iii) Cul-de-sacs must have an unobstructed 70' minimum diameter.
- iv) Alleyways and service drives designated for solid waste collection shall be a minimum of 16' (curb to curb) with no parking permitted.
- v) Trees, street lights, wiring and other overhead obstacles shall not impede trash or recycling collection and will be maintained to provide an 18' high clearance above the cart collection location(s).
- vi) Designated parking areas shall not impede curbside solid waste collection, including parking in cul-de-sacs.
- vii) Developers of gated subdivisions shall provide the solid waste hauler with access to the subdivision.

Special Conditions: Homes located on private driveways will be required to take their trash and recycling to the nearest street for collection. This information should be provided to prospective homers prior to purchase.

[Back to top](#)

Finalized/Sent: LR 06/05/13
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STATE OF IDAHO
DEPARTMENT OF ENVIRONMENTAL QUALITY
BOISE REGIONAL OFFICE
1445 North Orchard Street•Boise, ID 83706-2239•(208) 373-0550

DEQ Response to Request for Environmental Comment

Date: 6/3/2013
Agency Requesting Comments: Boise Planning & Development
Date Request Received: 5/28/2013
Applicant/Description: CFH13-19, CFH13-20, CFH13-17

Thank you for the opportunity to respond to your request for comment. While DEQ does not review projects on a project-specific basis, we attempt to provide the best review of the information provided. DEQ encourages agencies to review and utilize the Idaho Environmental Guide to assist in addressing project-specific conditions that may apply. This guide can be found at <http://www.deq.idaho.gov/ieg/>.

The following information does not cover every aspect of this project; however, we have the following general comments to use as appropriate:

1. Air Quality

- Please review IDAPA 58.01.01 for all rules on Air Quality, especially those regarding fugitive dust (58.01.01.651), trade waste burning (58.01.01.600-617), and odor control plans (58.01.01.776).

For questions, contact David Luft, Air Quality Manager, at 373-0550.

- IDAPA 58.01.01.201 requires an owner or operator of a facility to obtain an air quality permit to construct prior to the commencement of construction or modification of any facility that will be a source of air pollution in quantities above established levels. DEQ asks that cities and counties require a proposed facility to contact DEQ for an applicability determination on their proposal to ensure they remain in compliance with the rules.

For questions, contact the DEQ Air Quality Permitting Hotline at 1-877-573-7648.

2. Wastewater and Recycled Water

- DEQ recommends verifying that there is adequate sewer to serve this project prior to approval. Please contact the sewer provider for a capacity statement, declining balance report, and willingness to serve this project.
- IDAPA 58.01.16 and IDAPA 58.01.17 are the sections of Idaho rules regarding wastewater and recycled water. Please review these rules to determine whether this or future projects will require DEQ approval. IDAPA 58.01.03 is the section of Idaho rules regarding subsurface disposal of wastewater. Please review this rule to determine whether this or future projects will require permitting by the district health department.

All projects for construction or modification of wastewater systems require

preconstruction approval. Recycled water projects and subsurface disposal projects require separate permits as well.

- *DEQ recommends that projects be served by existing approved wastewater collection systems or a centralized community wastewater system whenever possible. Please contact DEQ to discuss potential for development of a community treatment system along with best management practices for communities to protect ground water.*
- *DEQ recommends that cities and counties develop and use a comprehensive land use management plan, which includes the impacts of present and future wastewater management in this area. Please schedule a meeting with DEQ for further discussion and recommendations for plan development and implementation.*

For questions, contact Todd Crutcher, Engineering Manager, at 373-0550.

3. Drinking Water

- *DEQ recommends verifying that there is adequate water to serve this project prior to approval. Please contact the water provider for a capacity statement, declining balance report, and willingness to serve this project.*
- *IDAPA 58.01.08 is the section of Idaho rules regarding public drinking water systems. Please review these rules to determine whether this or future projects will require DEQ approval.*

All projects for construction or modification of public drinking water systems require preconstruction approval.

- *DEQ recommends verifying if the current and/or proposed drinking water system is a regulated public drinking water system (refer to the DEQ website at <http://www.deq.idaho.gov/water-quality/drinking-water.aspx>). For non-regulated systems, DEQ recommends annual testing for total coliform bacteria, nitrate, and nitrite.*
- *If any private wells will be included in this project, we recommend that they be tested for total coliform bacteria, nitrate, and nitrite prior to use and retested annually thereafter.*
- *DEQ recommends using an existing drinking water system whenever possible or construction of a new community drinking water system. Please contact DEQ to discuss this project and to explore options to both best serve the future residents of this development and provide for protection of ground water resources.*
- *DEQ recommends cities and counties develop and use a comprehensive land use management plan which addresses the present and future needs of this area for adequate, safe, and sustainable drinking water. Please schedule a meeting with DEQ for further discussion and recommendations for plan development and implementation.*

For questions, contact Todd Crutcher, Engineering Manager at 373-0550.

4. Surface Water

- *A DEQ short-term activity exemption (STAE) from this office is required if the project will involve de-watering of ground water during excavation and discharge back into surface water, including a description of the water treatment from this process to prevent excessive sediment and turbidity from entering surface water.*
- *Please contact DEQ to determine whether this project will require a National Pollution*

Discharge Elimination System (NPDES) Permit. If this project disturbs more than one acre, a stormwater permit from EPA may be required.

- *If this project is near a source of surface water, DEQ requests that projects incorporate construction best management practices (BMPs) to assist in the protection of Idaho's water resources. Additionally, please contact DEQ to identify BMP alternatives and to determine whether this project is in an area with Total Maximum Daily Load stormwater permit conditions.*
- *The Idaho Stream Channel Protection Act requires a permit for most stream channel alterations. Please contact the Idaho Department of Water Resources (IDWR), Western Regional Office, at 2735 Airport Way, Boise, or call 208-334-2190 for more information. Information is also available on the IDWR website at:
<http://www.idwr.idaho.gov/WaterManagement/StreamsDams/Streams/AlterationPermit/AlterationPermit.htm>*
- *The Federal Clean Water Act requires a permit for filling or dredging in waters of the United States. Please contact the US Army Corps of Engineers, Boise Field Office, at 10095 Emerald Street, Boise, or call 208-345-2155 for more information regarding permits.*

For questions, contact Lance Holloway, Surface Water Manager, at 373-0550.

5. Hazardous Waste And Ground Water Contamination

- ***Hazardous Waste.*** *The types and number of requirements that must be complied with under the federal Resource Conservation and Recovery Act (RCRA) and the Idaho Rules and Standards for Hazardous Waste (IDAPA 58.01.05) are based on the quantity and type of waste generated. Every business in Idaho is required to track the volume of waste generated, determine whether each type of waste is hazardous, and ensure that all wastes are properly disposed of according to federal, state, and local requirements.*
- *No trash or other solid waste shall be buried, burned, or otherwise disposed of at the project site. These disposal methods are regulated by various state regulations including Idaho's Solid Waste Management Regulations and Standards, Rules and Regulations for Hazardous Waste, and Rules and Regulations for the Prevention of Air Pollution.*
- ***Water Quality Standards.*** *Site activities must comply with the Idaho Water Quality Standards (IDAPA 58.01.02) regarding hazardous and deleterious-materials storage, disposal, or accumulation adjacent to or in the immediate vicinity of state waters (IDAPA 58.01.02.800); and the cleanup and reporting of oil-filled electrical equipment (IDAPA 58.01.02.849); hazardous materials (IDAPA 58.01.02.850); and used-oil and petroleum releases (IDAPA 58.01.02.851 and 852).*

Petroleum releases must be reported to DEQ in accordance with IDAPA 58.01.02.851.01 and 04. Hazardous material releases to state waters, or to land such that there is likelihood that it will enter state waters, must be reported to DEQ in accordance with IDAPA 58.01.02.850.

- ***Ground Water Contamination.*** *DEQ requests that this project comply with Idaho's Ground Water Quality Rules (IDAPA 58.01.11), which states that "No person shall cause or allow the release, spilling, leaking, emission, discharge, escape, leaching, or disposal of a contaminant into the environment in a manner that causes a ground water*

quality standard to be exceeded, injures a beneficial use of ground water, or is not in accordance with a permit, consent order or applicable best management practice, best available method or best practical method."

For questions, contact Aaron Scheff, Waste & Remediation Manager, at 373-0550.

6. Additional Notes

- *If an underground storage tank (UST) or an aboveground storage tank (AST) is identified at the site, the site should be evaluated to determine whether the UST is regulated by DEQ. EPA regulates ASTs. UST and AST sites should be assessed to determine whether there is potential soil and ground water contamination. Please call DEQ at 373-0550, or visit the DEQ website (<http://www.deq.idaho.gov/waste-mgmt-remediation/storage-tanks.aspx>) for assistance.*
- *If applicable to this project, DEQ recommends that BMPs be implemented for any of the following conditions: wash water from cleaning vehicles, fertilizers and pesticides, animal facilities, composted waste, and ponds. Please contact DEQ for more information on any of these conditions.*

We look forward to working with you in a proactive manner to address potential environmental impacts that may be within our regulatory authority. If you have any questions, please contact me, or any of our technical staff at 208-373-0550.

Sincerely,

Danielle Robbins

Danielle Robbins
danielle.robbsins@deq.idaho.gov
Boise Regional Office
Idaho Department of Environmental Quality

C: File # 1872



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1445 North Orchard • Boise, Idaho 83706 • (208) 373-0550

C.L. "Butch" Otter, Governor
Curt Fransen, Director

June 4, 2013

Boise Planning and Development
Boise City Hall, 2nd Floor
150 North Capital Boulevard.
Boise, ID 83701-0500

RECEIVED
JUN 10 2013
DEVELOPMENT
SERVICES

RE: CFH13-19, CFH13-20, CFH13-17 (Boise, Ada County)
Request for Environmental Comment

To whom it may concern

On May 28, 2013, DEQ received a request for environmental comment regarding the property at 5237 East Sawmill Way (CFH13-19, CFH13-20, CFH13-17) from Boise Planning and Development. DEQ provided an initial response dated June 3, 2013. In this letter DEQ is providing additional comments for item 2 (Wastewater and Recycled Water) in the original letter (June 3, 2013).

The proposed development for this property will require proper closure of the lagoons in accordance with DEQ rules. The sludge from the ponds must be disposed of in accordance with DEQ and EPA requirements. Details regarding the requirements are listed below:

1. Proper closure of the lagoons in accordance with IDAPA 58.01.16, "Wastewater Rules." Section 493.10. The rule states:

Closure. The owner shall notify the Department at least six (6) months prior to permanently removing any wastewater lagoon facility from service, including any treatment or storage pond. Prior to commencing closure activities, the facility shall:

- a. Participate in a pre-closure on-site meeting with the Department;*
- b. Develop a site closure plan that identifies specific closure, site characterization, or cleanup tasks with scheduled task completion dates in accordance with agreements made at the pre-site closure meeting; and*
- c. Submit the completed site closure plan to the Department for review and approval within forty-five (45) days of the pre-site closure meeting. The facility must complete the Department approved site closure plan.*

Note: The current owner has completed item a. listed above. Items b. and c. still need to be completed.

Boise Planning and Development
CFH13-19, CFH13-20, CFH13-17
June 4, 2013
Page 2

2. The owner shall properly dispose of sludge from the lagoon to an approved landfill or may land apply the sludge in conformance with 40 CFR Part 503 (Code of Federal Regulations). A disposal plan must be submitted to DEQ and approved prior to disposing of the sludge in any manner, except at an approved landfill. The disposal plan shall be in accordance with IDAPA 58.01.16, "Wastewater Rules." Section 650.

Please call me with any questions at (208) 373-0184 or contact me via e-mail at kevin.ryan@deq.idaho.gov.

Sincerely,



Kevin P. Ryan, P.E.
Staff Engineer

KPR:

PDF: Todd Crutcher, P.E., Boise Regional Office

RICHARD MURGOITIO
CHAIRMAN OF THE BOARD

KENNETH COLE
VICE CHAIRMAN OF THE BOARD

TIMOTHY M. PAGE
PROJECT MANAGER

ROBERT D. CARTER
ASSISTANT PROJECT MANAGER

APRYL GARDNER
SECRETARY-TREASURER

JERRI FLOYD
ASSISTANT SECRETARY-
TREASURER

BOISE PROJECT BOARD OF CONTROL

(FORMERLY BOISE U.S. RECLAMATION PROJECT)

2155 OVERLAND ROAD
BOISE, IDAHO 83705-3155

OPERATING AGENCY FOR 167,000
ACRES FOR THE FOLLOWING
IRRIGATION DISTRICTS

NAMPA-MERIDIAN DISTRICT
BOISE-KUNA DISTRICT
WILDER DISTRICT
NEW YORK DISTRICT
BIG BEND DISTRICT

TEL: (208) 344-1141
FAX: (208) 344-1437

14 June 2013

Boise City Planning & Development – Subdivisions
150 North Capitol Boulevard
P O Box 500
Boise, Idaho 83701-0500

RE: C 13, LLC
5237 E. Sawmill Way
Outside of District
Sec. 29, T3N, R3E, BM.

CAR13-00007 & PUD13-00002
X-Ref: CFH13-19, CFH13-20, SUB13-17
No District Water Rights

Boise City Planning:

There are no Boise Project facilities located on the above-mentioned property

Local irrigation/drainage ditches that cross this property, in order to serve neighboring properties, must remain unobstructed and protected by an appropriate easement.

If you have any further questions or comments regarding this matter, please do not hesitate to contact me at (208) 344-1141.

Sincerely,



Bob Carter

Assistant Project Manager- BPBC

bdc/bc

cc Phil Comegys
File

Watermaster, Div; 2 BPBC



CENTRAL DISTRICT HEALTH DEPARTMENT
Environmental Health Division

Return to:

- ☐ ACZ
☒ Boise
☐ Eagle
☐ Garden City
☐ Kuna
☐ Meridian
☐ Star

Rezone # _____

Conditional Use # CAR13-0007

Preliminary / Final / Short Plat PUD13-00002

Barbermill Estates Sub.

- ☐ 1. We have No Objections to this Proposal.
- ☐ 2. We recommend Denial of this Proposal.
- ☐ 3. Specific knowledge as to the exact type of use must be provided before we can comment on this Proposal.
- ☐ 4. We will require more data concerning soil conditions on this Proposal before we can comment.
- ☐ 5. Before we can comment concerning individual sewage disposal, we will require more data concerning the depth of:
☐ high seasonal ground water ☐ waste flow characteristics
☐ bedrock from original grade ☐ other _____
- ☐ 6. This office may require a study to assess the impact of nutrients and pathogens to receiving ground waters and surface waters.
- ☐ 7. This project shall be reviewed by the Idaho Department of Water Resources concerning well construction and water availability.
- ☒ 8. After written approval from appropriate entities are submitted, we can approve this proposal for:
☒ central sewage ☐ community sewage system ☐ community water well
☐ interim sewage ☒ central water
☐ individual sewage ☐ individual water
- ☒ 9. The following plan(s) must be submitted to and approved by the Idaho Department of Environmental Quality:
☒ central sewage ☐ community sewage system ☐ community water
☐ sewage dry lines ☒ central water
- ☐ 10. This Department would recommend deferral until high seasonal ground water can be determined if other considerations indicate approval.
- ☐ 11. If restroom facilities are to be installed, then a sewage system MUST be installed to meet Idaho State Sewage Regulations.
- ☐ 12. We will require plans be submitted for a plan review for any:
☐ food establishment ☐ swimming pools or spas ☐ child care center
☐ beverage establishment ☐ grocery store
- ☐ 13. Infiltration beds for storm water disposal are considered shallow injection wells. An application and fee must be submitted to CDHD.
- ☐ 14. _____ Reviewed By: Rowdy

Date: 5/29/13



Green Power

ENEL RENEWABLE ENERGIES DIVISION
NORTH AMERICA AREA

Enel Green Power North America, Inc.

1755 E. Plumb Lane, Suite 155
Reno, NV USA 89502
T 775 329 0700 F 775 329 0717

FULCRUM, Inc.

A SUBSIDIARY OF ENEL GREEN POWER NORTH AMERICA, INC.

August 2, 2013

City of Boise

Re: Barber Mill Estates Project

Dear Council:

Fulcrum, Inc. ("Fulcrum"), a subsidiary of Enel Green Power North America, Inc. (EGPNA), is the Operator of the Barber Dam Hydroelectric Project (the "Facility"), and the FERC co-licensee along with Ada County. Fulcrum has been informed that there is a potential for residential development on the Triplett Property near the Facility. As further explained below, Fulcrum is not opposed to the development based upon certain conditions, the foremost of which is consent of FERC. .

Fulcrum's primary concerns are safety, including public safety, and operation of the Facility.. We have contacted the FERC to get its feedback on the proposed development and at this time have not received their response.. It is of utmost importance to the safety and operation of the Facility that the existing piezometer wells and survey monuments on the dam are not affected in any way at any time by the developer or home owners, as these are key features of our FERC-mandated dam safety monitoring program. We have requested to have our existing protective easement on the Triplett property modified to ensure these existing components are protected. We have met on-site with the developer and are working toward a revised easement agreement but nothing is complete at this time.

If these conditions are met AND FERC has no issues involving the safety of the dam or personnel then Fulcrum and EGPNA do not have an issue with the development moving forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Brad Platt", written over a horizontal line.

Brad Platt
General Manager West Region



July 8, 2013

Boise City Planning and Zoning Commission
c/o Planning and Development Services
P.O. Box 500
Boise, Idaho 83701-500

DON K. WEILMUNSTER
President
Garden Valley, ID

H. LARRY LEASURE
Vice President
Boise, ID

CHAS F. McDEVITT
Assistant Secretary
Boise, ID

TERRY GESTRIN
Director
Donnelly, ID

TONY VARILONE
Director
Soda Springs, ID

JUDY PEAVEY-DERR
Director
Boise, ID

BRIAN McDEVITT
Director
Boise, ID

CHARLES C. JUST
Director
Idaho Falls, ID

LEON SMITH
Director
Twin Falls, ID

PATRICIA BARCLAY
Director
Boise, ID

SHARON HUBLER
Director
Caldwell, ID

WENDY JAQUET
Director
Ketchum, ID

LYDIA KADING PRIMAVERA
Executive Director
lydia@idaholands.org

ADVISORY BOARD

SHERMAN AKERS, POCA TELLO
RONALD F. DALY, BOISE
JERRY L. WRAY, BUHL

Re: CAR13-00007 5237 E Sawmill Way

Dear Commissioners;

The Board of Directors of the Idaho Foundation for Parks and Lands has unanimously voted to support the Barber Mill Estates development project.

The Idaho Foundation for Parks and Lands (the Foundation) is actively involved with the developer for the project because we own adjoining land to the project and the project falls within the Boise River System Overlay District (11-05-06.1).

The developer made direct contact with the Foundation to discuss his intent and discuss how the development would impact the Barber Pool. The Foundation is the major property owner of the Barber Pool and has had a conservation interest in the property since 1978.

The Foundation is pleased that the developer is not requesting any variance from the Boise River System Overlay ordinance. In addition, the developer and the Foundation have an agreement in place for the transfer of the 200-foot setback area to the Foundation. The 200-foot setback area will be placed in the Barber Pool Conservation area of the Foundation for critical deer habitat.

The Foundation has offered to protect the southeast edge of the property (sometimes referred to as the berm) which adjoins the Foundation property, should the developer wish to transfer it to the Foundation. This would add to the total property that the Foundation protects in the Barber Pool, rather than further splinter ownership of a sensitive area.

Very truly yours,

Don Weilmunster
President

Maryellen Waters
Executive Director



ADA COUNTY

COMMISSIONERS' OFFICE
200 W. Front Street, 3rd Floor
Boise, Idaho 83702
(208) 287-7000
Fax (208) 287-7009
bocc1@adaweb.net
www.adaweb.net

May 24, 2013

Jim D. Conger, President
Conger Management Group
1627 S. Orchard Street, Suite 24
Boise, ID 83705

David C. and Ann R. Triplett
3550 S. Triplett
Boise, ID 83716

Dear Mr. Conger and Mr. and Mrs. Triplett:

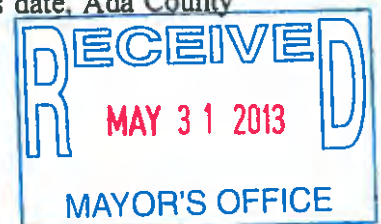
As you aware, Ada County is the owner of the hydroelectric project known as Barber Dam located directly downstream from the property owed by Mr. And Mrs. Triplett. The project is leased to Fulcrum, Inc.

It is our understanding that development is under consideration for the Triplett property to be known as Barber Mill Estates. At the present time, such property is in unincorporated Ada County and as owners and developer you are in the process of making an annexation request to Boise City to be followed by the permitting necessary for development of residential lots.

Ada County and Fulcrum entered into an easement agreement with Mr. And Mrs. Triplett attached hereto as Exhibit 1 and recorded on November 8, 2005. This easement was requested by the Federal Energy Regulatory Commission (FERC) to permit maintenance of and flowage use for dam operation. Because of our commitment to the safe operation of the dam both Ada County and Fulcrum will look to you to protect the safe operation of the dam throughout the development process. This includes, but is not limited to, protecting all monument locations, Piezometer wells, and the integrity of the embankment area adjacent to the dam either owned by Ada County directly or upon which it has easement rights. Additionally, any development should be such that there is no risk of flooding exposure to any proposed structures.

Representatives of Ada County will be making a dam visit on May 29, 2013, and as part of that visit will be on the easement site.

We were concerned that neither Ada County nor Fulcrum received the notice from Kent Brown Planning Services dated March 8, 2013, of the neighborhood meeting held on March 18, 2013, regarding the proposed development. As of today's date, Ada County



May 24, 2013

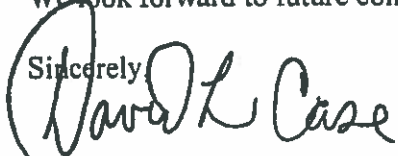
Page 2

has still not been formally contacted regarding the proposal. As an adjoining landowner with an easement on the property, we request that as you proceed through the various processes that you keep Ada County advised of your intentions. Further, we want to remind you that since the property is in unincorporated Ada County it is subject to county zoning requirements, such as permits for grading.

Please contact Dave Logan, County Operations Director and Angela Gilman, County Engineer regarding your project. The County will be working closely with Fulcrum, Inc. Mr. Logan and Ms. Gilman and Fulcrum will provide any necessary input on issues such as FEMA flood zones, hydraulic studies, and dam safety issues, etc. The Department of Environmental Quality will be involved in permits for the decommissioning of the sewer lagoons. As you decommission the lagoons pursuant to DEQ requirements, Ada County requests that any debris from that process not impede dam operations or the terms and conditions of the easement agreement.

We look forward to future communications from you.

Sincerely,



David L. Case, Commissioner



Jim Tibbs, Commissioner



Rick Yzaguirre, Commissioner

Enclosure

CC: The Honorable David H. Beiter, Mayor, City of Boise
Hal Simmons, Boise City Planning Director
Kevin Webb, EGP North America
Dale Higbee, EGP North America
Jeremy Clayton, EGP North America
Doug Hardman, Ada City-County Emergency Management Director
Jim Coslett, Rock Solid Civil
Karl Gebhardt, P.E.
Todd Crutcher, Department of Environmental Quality

EASEMENT AGREEMENT

DATE: August 16, 2005

PARTIES: David C. Triplett and Ann R. Triplett, husband and wife, (hereinafter "Grantor"), and

FULCRUM, INC., an Idaho corporation, and Ada County (hereinafter "Grantee").

WHEREAS, Grantee owns a hydroelectric project (the "Project") on land adjacent to and easterly of land owned by Grantor (the "Adjacent Land"); and

WHEREAS, Grantee desires to obtain a flowage easement over and a restrictive covenant with respect to a portion of Grantor's Land (the "Easement Land"); and

WHEREAS, Grantor is willing to grant an easement and enter into a restrictive covenant with respect to the Easement Land with Grantee;

NOW, THEREFORE, for valuable consideration, receipt of which is hereby acknowledged,

1. Grantor hereby grants and conveys to Grantee an easement to flood and flow water in, upon, over and through the Easement Land as more particularly described in Exhibit A and shown on Exhibit B, each attached hereto and incorporated herein and the right, but not the obligation to enter upon the Easement Land to construct and maintain embankment dams thereon.
2. Grantor hereby agrees that it shall not, and shall not permit others except permitted herein to, disturb or alter the topography of the Easement Land in any way, shape, form or manner, including, but not limited to the creation of streambeds, drainage ditches or swales.

The above described easement and restrictive covenant shall remain in full force and effect for so long as the dam on the Adjacent Land exists.

Grantor warrants that it is the owner in fee simple of the Easement Land.

Grantee shall have the right to assign its interest in this Easement Agreement and the grant of easement and restrictive covenant provided herein, in whole or in part to any owner of the Adjacent Land.

7
AMOUNT .00
ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 11/08/05 03:36 PM
DEPUTY Bonnie Oberling
RECORDED - REQUEST OF
Ada County Prosecutor
105169540

EASEMENT AGREEMENT

DATE: August 16, 2005

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WHEREAS, Grantor is willing to grant an easement and enter into a restrictive covenant with respect to the Easement Land with Grantee;

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The above described easement and restrictive covenant shall remain in full force and effect for so long as the dam on the Adjacent Land exists.

Grantor warrants that it is the owner in fee simple of the Easement Land.

Grantee shall have the right to assign its interest in this Easement Agreement and the grant of easement and restrictive covenant provided herein, in whole or in part to any owner of the Adjacent Land.

The terms, conditions and provisions of this Easement Agreement and grant of easement and restrictive covenant shall extend to and be binding upon the heirs, personal representatives, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Easement Agreement and grant of easement and restrictive covenant on the day and year first above written.

GRANTORS: David C. Triplett
David C. Triplett

Ann R. Triplett
Ann R. Triplett

WITNESS:

Craig Combs

WITNESS:

Craig Combs
CRAIG COMBS

GRANTEE: FULCRUM, INC.
an Idaho corporation

By: John A. Engh
Title: Vice President

APPROVED

Stephen Champagne
Secretary
Stephen Champagne

GRANTEE: ADA COUNTY

By: Phil Chapman
Title: CHAIRMAN

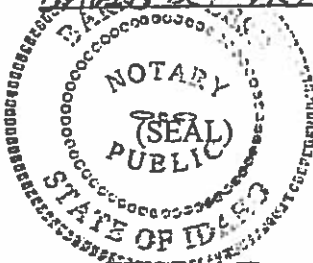
APPROVED

Sp
Secretary

David Nason
attest:

STATE OF IDAHO)
County of ADA,) ss.

On this 12TH day of OCT, in the year 2005, before me, the undersigned, a notary public in and for said State, personally appeared, ~~DANIEL D. TRIPLETT~~ who executed the instrument as his/her free act and deed.

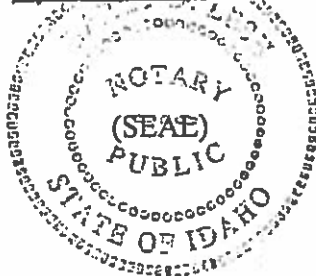


[Signature]
Notary Public:

My Commission Expires: 10-27-10

STATE OF IDAHO)
County of ADA,) ss.

On this 12TH day of OCT, in the year 2005, before me, the undersigned, a notary public in and for said State, personally appeared, ~~RNN K. TRIPLETT~~ who executed the instrument as his/her free act and deed.



[Signature]
Notary Public:

My Commission Expires: 10-27-10

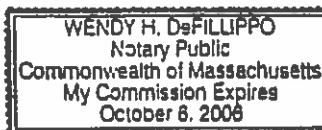
STATE OF Massachusetts)
County of Essex,) ss.

On this 19th day of October, in the year 2005, before me, the undersigned, a notary public in and for said State, personally appeared, Victor A. Engel and Stephy Champagne known or identified to me to be the Vice President and Secretary of Fulcrum Inc., the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

(SEAL)

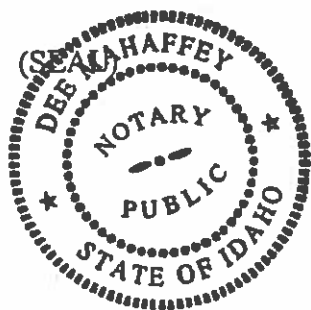
[Signature]
Notary Public:

My Commission Expires:



STATE OF Idaho
County of Ada, ss.

On this 8th day of November, in the year 2005, before me, the undersigned, a notary public in and for said State, personally appeared, Rick Yzaguirre and _____, known or identified to me to be the CHAIRMAN and Secretary of THE BOARD OF ADA, ^{COUNTY} the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.



Deb Mahaffey
Notary Public:

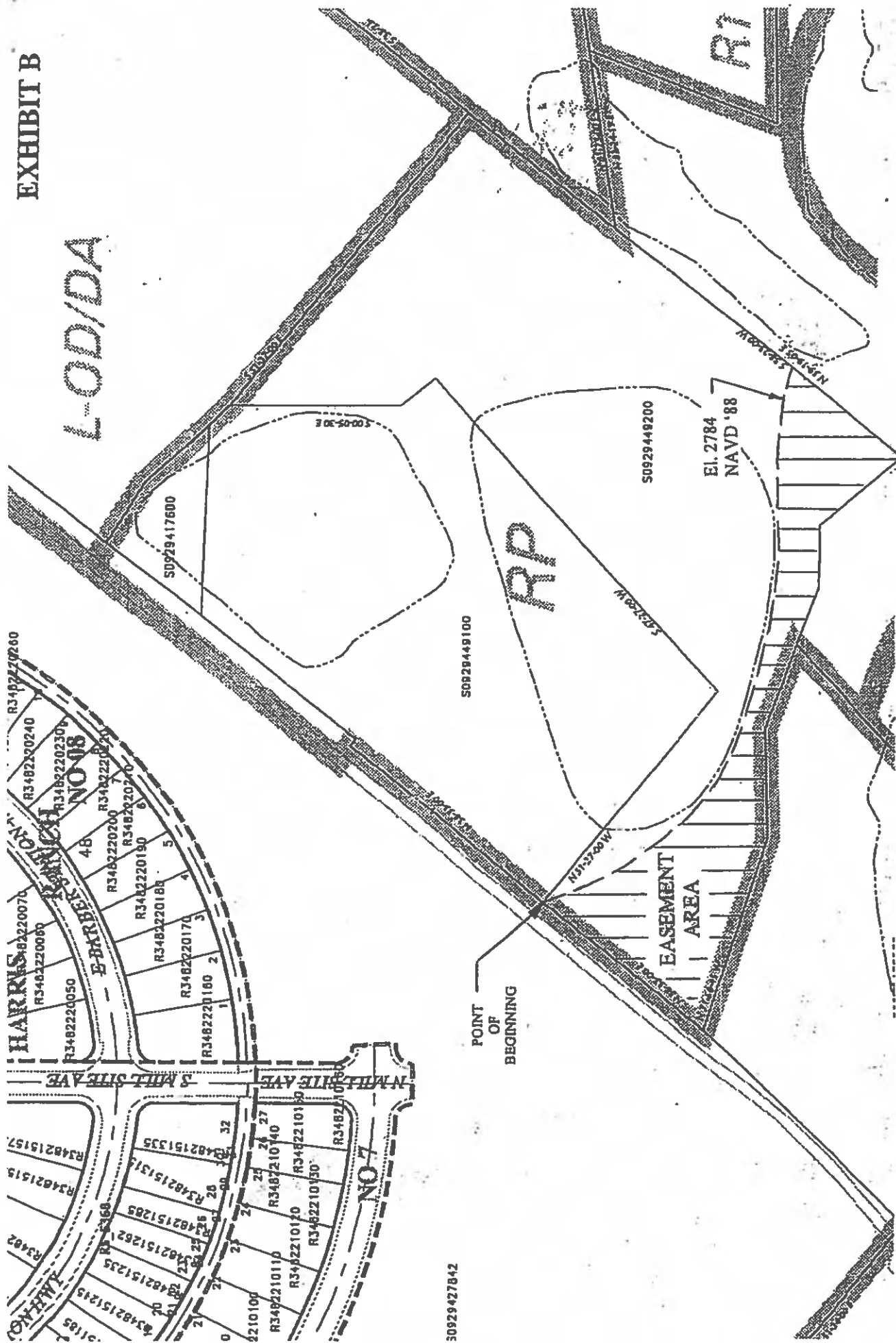
My Commission Expires: 00/00/00

EXHIBIT A

PARCEL B

Easement for flowage in part of the SE ¼ of Section 29, T 3 N, R 3 E, B.M., in Ada County, State of Idaho described as follows:

Beginning at the quarter section corner common to section 28 and 29, T 3 N, R 3 E, B.M., thence South 42° 08' 40" West 650.72 feet to a point; thence South 38° 33' West 868.49 feet to a steel pin; thence South 38° 33' West 672.18 feet to a point approximately at Elevation 2784 North American Vertical Datum of 1988, being the real point of beginning; thence Southeasterly along said contour to a point; thence South 38° 23' West 166.01 feet to a steel pin; thence North 39° 43' West 128.98 feet to a steel pin; thence North 89° 46' 30" West 74.35 feet to a steel pin; thence North 69° 42' 10" West 182.44 feet to a steel pin; thence South 88° 49' 30" West 129.82 feet to a steel pin; thence North 71° 58' 45" West 242.56 feet to a steel pin; thence North 38° 33' East 242.12 feet to the real point of beginning.





ADA COUNTY

COMMISSIONERS' OFFICE
200 W. Front Street, 3rd Floor
Boise, Idaho 83702
(208) 287-7000
Fax (208) 287-7009
bocc1@adaweb.net
www.adaweb.net

August 2, 2013

City of Boise
Planning and Zoning Commission
Boise City Hall
Boise, Idaho 83702

RECEIVED

AUG 02 2013

DEVELOPMENT
SERVICES

RE: Barber Mill Estates Subdivision Applications: CAR 13-00007; PUD 13-00002;
& CHF13-00019

Dear Members of the Commission:

The Board of Ada County Commissioners is providing comment on the above noted applications. Ada County's interest in these applications relate to Barber Dam, an electrical generation facility owned by Ada County, and operated by co-licensee, Fulcrum, Inc., a wholly owned subsidiary of EGP North American, under the jurisdiction of the Federal Energy Regulatory Commission (FERC). Barber Dam is located adjacent to the proposed subdivision, directly southwest of the site. The County has reviewed the applications associated with the Barber Mill Estates project and has a number of concerns.

The primary concern is that the Boise City Planning and Zoning Commission (Commission) does not have adequate information to make a reasoned decision on the referenced applications due to what appears to be a lack of complete application submittal material.

- Part of the project currently lies in a FEMA unnumbered floodway. The term 'unnumbered' indicates the area has not been studied in detail. It is our understanding that the developer has retained the services of a professional hydrologist to perform a hydraulics analysis of the Boise River to determine more precisely the floodway boundary; however that analysis is not currently before the Commission. The floodway boundary affects whether homes will be in the floodway or not, which affects homeowners' safety as well as whether or not the homeowners will be required to obtain flood insurance. This analysis has not yet been submitted or reviewed by Boise City staff or Ada County staff. This analysis and the results of it are necessary for the Commission to make a sound decision on

these applications as to whether the public health, safety and general welfare is protected.¹ Without this analysis, the Commission should rely on the FEMA determination of the floodway.

- FERC has been informed of the proposed development and has indicated verbally that they intend to provide a written response regarding their position concerning the development and dam safety. FERC's input is vital as their role is to evaluate and classify dams based on probable loss of human life and the impacts on economic, environmental, and lifeline interests. FERC will consider the proposed development and its potential effect on the dam's hazard potential classification. Until FERC has provided its analysis on the proposed development, the impacts to the safety of the homeowners from the dam and the impact of the development on dam operations cannot be determined.

We respectfully request you delay the Commission hearing until these two pieces of crucial information have been received and reviewed by Boise City, Ada County, and other interested parties.

In the event that the Commission chooses to not delay the public hearings for the Barber Mill related applications, Ada County requests the following concerns be taken into consideration and that if the Commission should decide to act favorably on the applications, we request conditions of approval be placed on the approval to address these concerns.

Public Safety. The project site is connected physically to the end of the Barber Dam via an embankment as shown on the attached Google Map.² Fulcrum Inc. regularly monitors onsite piezometer wells and survey monuments as they are key features of FERC-mandated dam safety monitoring program and indicators as to the integrity of the dam. *The fact that the piezometer wells and survey monuments are located in the embankment is evidence that the embankment is an extension of the dam.* Locating a subdivision adjacent to a dam and active electrical generation facility does not maintain and preserve compatibility of surrounding zoning and development.³ Nor is it in compliance with the Boise City Comp Plan.⁴ In a flood event, the Boise River is

¹ Boise City Code 11-03-04.19 River System Permits

² See Exhibit A.

³ Boise City Code 11-03-04, Review and Decision Procedures.

⁴ Boise Comp Plan ES7.1: Boise River System Ordinance; ES 7.8 Special Resource Water Designation (Goal SHCC#3; SHCC3.1; SHCC3.2)

constricted by the dam and ground around the project site is under water. It is not a question of if the Boise River and surrounding area will experience a significant flood event; it is when it will happen again. As recent as 1983 the Boise River crested at 9,840 cubic feet per second.⁵

The 100 year floodplain as currently shown on the Ada County FEMA maps crosses the applicant's project site.⁶ Putting homes in an area known to be at risk for flooding is not in the best interest of the public. Additionally, Fulcrum, Inc. has stated that they have had occasions where persons have entered the dam site, climbed to the roof, and jumped into the electrical generator spillway channel. Fulcrum has taken measures to prohibit this dangerous activity, but expanding residential development in close proximity will only add to the potential for this kind of dangerous interaction.

Protection of Barber Dam. In addition to permitting dams, the Federal Energy Regulatory Commission (FERC) provides oversight of dam operations and classifies dams according to their hazard potential classification system. FERC considers residential placement as part of the hazard potential analysis for dams. Barber Dam currently has a low hazard rating. That hazard rating was in jeopardy when Harris Ranch No. 9 was built. In order to maintain the low hazard rating for the dam, the taxpayers of Ada County had to expend funds to protect the residences that were built within the FERC determined six hundred (600) foot inundation zone of the dam. The taxpayers should not be required to subsidize another subdivision. Should there be increased costs to operate the electricity-producing Barber Dam, a prior and established use; or should Ada County have to mitigate the impacts of the development in the cost of operating the dam, the developer must be responsible for those costs, not the taxpayers.

In 1983 FERC issued a license to Ada County and Fulcrum's predecessor for Barber Dam and electrical generation facility. Ada County, as co-licensee of Barber Dam, cannot simply cease operation of the Dam or eliminate the dam because of additional costs for dam mitigation because of residential development. It's not an option. The FERC license is absolute in its requirements and we cannot simply walk away. Ada County and Fulcrum Inc., are bound to the license requirements and are mandated to continue to operate the dam.

With the proposed encroaching residential development it is unclear whether the facility could still meet a higher factor of safety and maintain that rating or what costly

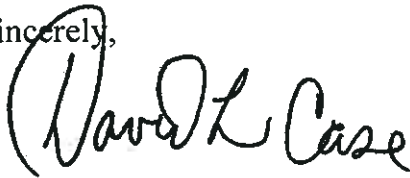
⁵ See Exhibit B.

⁶ See Exhibit C.

mitigation measures FERC could require. The Barber Dam is one hundred and nine (109) years old. Keeping it protected and undisturbed is critical to its safety and longevity, as well as protecting the Barber Pool Conservation area.⁷ Impacting its safety and thereby increasing the cost to operate the dam due to a new subdivision in close proximity could cost Ada County, and ultimately county taxpayers.

The Barber Valley Policies portion of Boise City Comprehensive Plan⁸ states that Boise City will coordinate with Ada County and the Ada County Open Space Task Force regarding planning issues and development within Barber Valley's geographic boundary. We respectfully request that this policy be adhered to and discussion about this proposed development be scheduled in order to ensure that we can collaborate and together evaluate if it meets the requirements of the City's Comprehensive Plan, our concerns, and ultimately what is in the best interest of Boise City and Ada County citizens.

Sincerely,



David L. Case, Commissioner

ABSENT

Jim Tibbs, Commissioner



Rick Yzaguirre, Commissioner

cc: Federal Energy Regulatory Commission
Fulcrum Inc. (EGP North America)

⁷ The City of Boise has designated the area of the proposed subdivision as part of the Barber Pool Conservation Area. See Exhibit D. This designation by the City of Boise puts environmental constraints on building.

⁸ Boise City Comp Plan, Barber Valley Policies, BV-CNN1.3: Multi-Jurisdictional Coordination

ADA COUNTY RESPONSE EXHIBITS



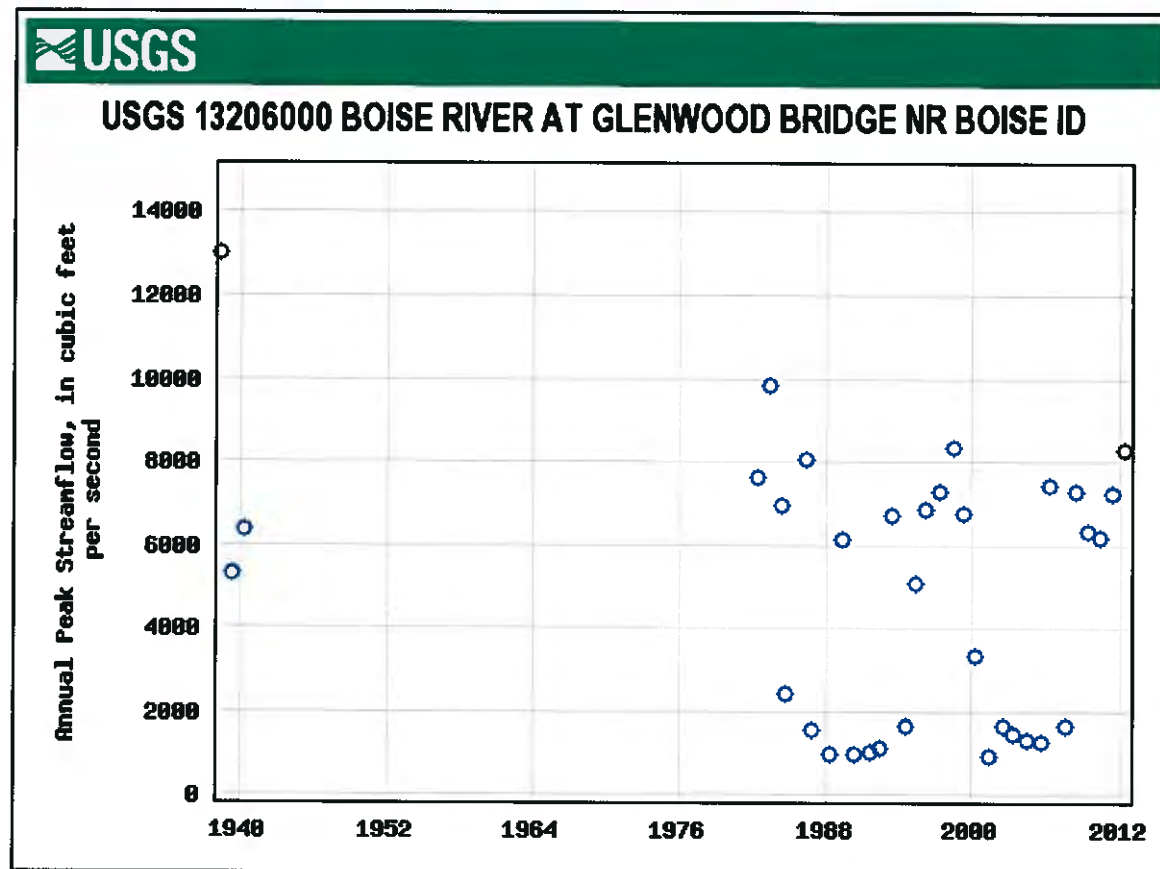
EXHIBIT

A

Z13206000	USGS		
H13206000	4339381161645001616001SW170501142773		
N13206000	BOISE RIVER AT GLENWOOD BRIDGE NR BOISE ID		
Y13206000			
313206000	19380502	130005	33.27
313206000	19390404	53005	31.15
313206000	19400415	63505	31.80
313206000	19820629	76306	10.54
313206000	19830613	98406	11.54
313206000	19840529	69506B	10.372
313206000	19841001	24206	7.86
313206000	19860607	80306	10.61
313206000	19861122	15406	7.02
313206000	19880529	10006	6.46
313206000	19890423	613016	
313206000	19900423	9596	6.34
313206000	19910724	10306	6.43
313206000	19920625	11206	6.52
313206000	19930523	67306	10.24
313206000	19940626	16406	6.89
313206000	19950524	50806	9.16
313206000	19960315	68706	10.19
313206000	19970327	73006	10.52
313206000	19980531	835016B	
313206000	19990325	677016	
313206000	20000419	333016	
313206000	20010520	94716	
313206000	20020626	16706	6.97
313206000	20030611	148016	
313206000	20040629	132016	
313206000	20050811	12706B	6.26
313206000	20060430	74406	10.63
313206000	20070723	16706	6.32
313206000	20080520	72706	10.56
313206000	20090607	63206	9.84
313206000	20100611	61806	9.72
313206000	20110518	72306	10.07
313206000	20120505	83106	10.93

EXHIBIT

B



IDAHO Department of Water Resources Floodhazard Mapping Tool

Zoom In
 Zoom Out
 Full Extent
 Pan
 Print
 Locate: Panel, Address, Towns



maps.idwr.idaho.gov/FloodHazard/Map

Legend

1234 Base Flood Elevation

Parcels

FEMA Data Status

City FIRM

DFIRM Available

Scanned FIRM or Q3 Available

Alert!

Floodways may not be shown on some scanned FIRMs with AE zones. Check at your local floodplain administrator's office or FEMA's Map Service Center (MSC) website for a companion Flood Boundary and Floodway Map if you are using a scanned Flood Insurance Rate Map panel that has an AE zone with Base Flood Elevations. Floodway maps are with the effective Flood Insurance Studies on the MSC website (<https://msc.fema.gov>). Look in the Product Catalog, accessed from the banner on top of the MSC homepage under the FEMA logo. The FEMA FIRM or DFIRM is the official map used for regulating floodplain development. This mapping application is for informational purposes.

County No FIRM

Flood Hazard Area

0.2% Annual Chance Flood Hazard

A

AE

AE/Floodway

AH

AO

Scanned FIRM

Public Land Survey

Township/Range

Section

Quarter-Quarter

Parcels

Public Land Survey

EXHIBIT

C

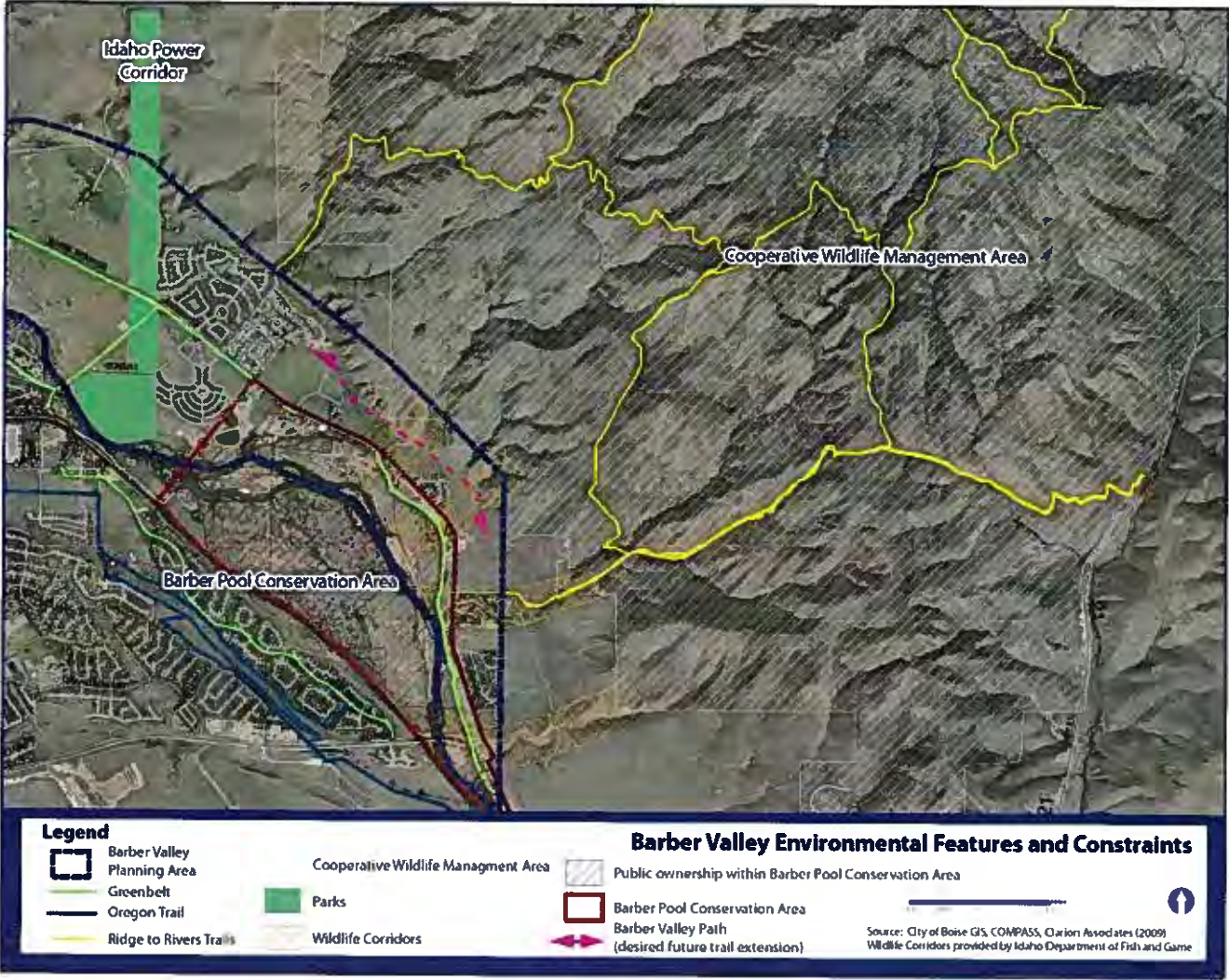


Figure 15: Barber Valley Environmental Features and Constraints

July 2, 2013

RECEIVED
JUL 03 2013
DEVELOPMENT
SERVICES

Mr. Cody Riddle
City of Boise, Planning and Development
P.O. Box 500
Boise, ID 83701-0500

Dear Mr. Riddle,

This letter is one of support for the incredible experiences that the Idaho Shakespeare Festival provides to the citizens of our community, and the visitors who come to our area during the summer. I am a longtime patron, supporter, and former Board Member of the Festival. This letter is to communicate my unflagging support of the Festival's staff and board, in opposition to the proposed development adjacent to the outdoor amphitheater.

First, one must wonder why a developer would take the positions it has, in the early stages of developing a relationship with an important neighbor. The Festival has been operating in this location for over fifteen years, enjoying fine relationships with the neighboring state agencies, schools, and residential neighbors. The entertainment and cultural aspects the Festival brings to the entire Treasure Valley, and to our many visitors, contribute to a strong summer economy. Enter a developer—keen on making life as the Festival knows it—difficult at best. Without proper sound baffling, berms, landscaping, etc, one can only imagine new neighbors' reactions once they move in. There is, of course, sound from the stage, voices upon exiting the theater close to 11pm, and the inevitable traffic during the Festival's 90 performance season. The density of the development, and the lack of "barriers" to these issues is a concern. Moreover, the current condition of the neighboring ponds has become detrimental to the peaceful enjoyment of the Festival's site.

I am sure that you and your colleagues will take into consideration the impact this development will have on the long term success of the Festival. Your careful deliberations are greatly appreciated. On behalf of myself, and the many others who enjoy the benefits of living in Boise, this letter is respectfully submitted.


Joy Kealey
2041 Silver Creek Lane
Boise, ID 83706ov

Terry E. Pape', Psy.D.

Cody Riddle
City of Boise, Planning and Development Services
P.O. Box 500
Boise, ID 83701-0500

RECEIVED

JUL 23 2013

DEVELOPMENT
SERVICES

Dear Mr. Riddle,

I am writing to you to express my concerns about the proposed development of a "47-unit single family subdivision", called Barber Mill Estates "BME" (CAR13-00007 and PUD13-00002), within 300 feet of the Idaho Shakespeare Festival (ISF) Amphitheater and Reserve.

I, and members of my family have been supporting, attending and enjoying ISF performances for many years prior to their current location and at the current location on Warm Springs Ave. Each of the previous locations for the Festival had their own sound issues which impacted the overall quality of enjoying fully the ISF productions. Many years ago, when ISF secured the rights to build an outdoor amphitheater on its current location, the previous issues negatively impacting performances ceased to exist. There is no question that allowing a residential development so close to the amphitheater will have an impact. Exactly what that impact would be is not hard to imagine even though it might be difficult to exactly quantify. Appropriate sound is very necessary for a theatrical performance to be appreciated and successful. Inappropriate sound can easily and quickly decrease an audience's enjoyment of the performance. With multiple neighbors living so close to the amphitheater and with the prevailing westerly winds, disruptive sounds are basically assured to happen.

The sound issue is also not just a one-way issue. ISF productions also produce a certain volume of sound, as is the nature of outdoor theater. Being an outdoor amphitheater, sound will travel in the direction of the proposed homes. This sound could certainly be an unpleasant issue for the residents of those homes, interrupting and interfering with their quality of life. Therefore, having single-family homes so close to the ISF facilities is a double negative. An issue that I hope you will carefully think through before granting any approval to this proposed development.

It is for these stated reasons that I believe this proposed residential development to be incompatible with the existing ISF facilities. The Festival's productions are enjoyed by thousands of patrons each summer. It has been a very positive community partner for the city of Boise and the whole Treasure Valley for over thirty years. ISF is considered to be a major positive element for individuals, families and businesses choosing to locate in the Boise area. To allow land bordering ISF facilities, to be zoned for development that will certainly have a negative impact on the quality of ISF productions, would not appear to be in the best interest of the community as a whole. There are alternative developments possible for this plot of land that could be very compatible with ISF productions and be an asset to the community. Therefore, I am urging you to not allow the approval of "BME" as a residential development.

Sincerely,

A handwritten signature in black ink, reading "Terry E. Pape, Psy.D." in a cursive script.

Terry E. Pape', Psy.D.



July 24, 2013

Boise Planning and Zoning
c/o Planning and Development Services
P.O. Box 500
Boise, ID 83701-500

RECEIVED

JUL 25 2013

DEVELOPMENT
SERVICES

Dear Commissioners;

I am writing on behalf of myself and the Board of Directors of Riverstone International School in regards to the proposed Barber Mill Estates development project.

We are concerned that this project needs to offer an adequate "buffer zone" to our property. As you can imagine, our students are active (and sometimes loud) and our fields are used throughout the entire school day. Please note that we also have pre-kindergarten students on our property, which is an additional concern. As no traffic study has been done, and with the fact that the traffic in the larger area will continue to increase greatly, we are concerned about the safety of our 300 plus students, many of who walk from adjacent neighborhoods. The building of an at-grade Greenbelt Crossing in the project will exacerbate the pedestrian and bicyclist safety issue.

Our second major safety issue is the holding ponds themselves. We have not been given any guarantees that the ponds are safe and that the removal of the sludge is not a cause for concern. In the:

ENVIRONMENTAL SITE ASSESSMENT
PHASE I REPORT
BARBER WASTEWATER LAGOONS
BOISE, IDAHO
OCTOBER 2007, REVISION 1 (JANUARY 2008)

it is stated, "As expected, this Phase I has identified that there are RECs associated with the on-site sewage wastewater lagoons (sewage effluent and potential related residues from pharmaceuticals and personal care products)." We again ask that guarantees be given for the safety of our students.

We have welcomed the development of the Harris Ranch area around our school over the past 13 years. Well-planned and executed development has made the East Boise area one of the most popular areas in all of Boise. We are not against thoughtful development of the area; in fact it is in our best interest to support it. The parcel adjacent to the school has always been held as riparian open space with settlement ponds that have provided a significant habitat for waterfowl and other wildlife. We are in support of any development that works to preserve the beauty and wildlife in the area.



To that point, The Idaho Shakespeare Festival has been a wonderful steward of the land and a great neighbor and partner to Riverstone. We have used their classrooms and partnered with them in our Drama Program. They are part of what makes Boise a special place to live and they share in our desire to foster world-class arts and education. This development will quickly pit neighborhood concerns against those of the Festival; this development will not create harmony and continuity and puts one of the Valley's greatest cultural resources at risk. It is just a matter of time, with this development, before Riverstone as a supporter of the Festival is sitting with you again, across the table from our neighbors, helping the Festival fight for its life at this location. I can't imagine that this is the outcome that anyone wants.

When considering whether or not to accept the annexation of this parcel into the city, P&Z should endeavor to ensure that enough of a buffer exists between the Shakespeare Festival and any homeowners to avoid future disturbance of either the homeowners or the Shakespeare Festival in their normal operations and enjoyment of their property. In a circumstance that there is no agreement amongst the parties with regard to what constitutes a reasonable buffer, the city may wish to decline the annexation of this parcel until such time as these issues can be appropriately addressed.

Sincerely,

Bob Carignan, M.Ed.

Head of School
Co-Director of College Counseling
bcarignan@riverstoneschool.org

Cody Riddle

From: Michael Flynn <pigalle@flynnphoto.com>
Sent: Thursday, July 25, 2013 6:44 PM
To: Cody Riddle
Subject: CAR13-00007 & PUD13-00002 Barber Mill Estates

Dear Mr. Riddle:

As residents of Harris Ranch Mill District, and after listening to various presentations regarding Barber Mill Estates, we don't think it would be a constructive addition to the area.

We base this on a number points: first and foremost, we give great weight to the opposition of the two biggest non-residential neighbors, Riverstone School and Idaho Shakespeare Festival. Both have significant and seemingly irremediable problems with this development (Riverstone regarding student safety and increased traffic; and ISF regarding noise.)

Combine this with the two significant problems literally facing our Mill District neighborhood directly: the looming 30+ foot wall-of-homes facing Sawmill, and the fact that this development will produce, at minimum, hundreds of additional car trips through our neighborhood. (This is in addition to the additional traffic load from the approved Terraces development.)

Two other problems are glaringly apparent: there is no public space in the proposal, meaning that their children and adults will want to use the Mill District's (and probably Riverstone's) amenities. Neither is there appropriate consideration given to the stewardship of the fragile public land directly adjacent to this ill considered project; through which, hopefully, at some future date the Greenbelt will be rerouted.

And there's yet another problem: the style of the homes is nothing like the existing homes to which they would be adjacent in the Mill District.

Nothing about this development bodes well for the quality or home values of our neighborhood. There is seemingly no motivation behind this Barber Mill Estates travesty other than short-term thinking and desperate grasping for dollars.

We thank you for your time, service and consideration- -Michael & Jan Flynn
4879 E. Arrow Junction
Boise, ID 83716

Harris Ranch

Harris Ranch Owners Association
P.O. Box 5343
Boise, Idaho 83705

Boise City Planning and Zoning Commission
c/o Planning and Development Services
Boise City Hall
150 N. Capitol Blvd.
Boise, ID 83701-0500

Ref: CAR13-00007 & PUD13-00002 Barber Mill Estates (BME)

August 1, 2013

Dear Planning and Zoning Commissioners:

The Harris Ranch Owners Association (HROA) board, after meeting with the applicant team and then reviewing our residents and other neighborhood stakeholders' concerns, cannot support this application. We base our objection on several criteria that degrade the quality, safety and home values in our Association. We also believe it is debatable whether the application is in compliance with the City's Comprehensive Plan (Blue Print Boise).

Traffic/Safety: Residents have filed numerous complaints with the Boise Police and ACHD regarding drivers exceeding the posted 20 mph speed limit on Sawmill Way/Lysted when using it as cut-through to/from Eckert Rd and Warm Springs Ave, avoiding a four way stop. Riverstone and East Junior High students use these streets to walk and bike to school, often during dark mornings.

A feature of Sawmill Way and the Mill District homes in general is their alley loaded, rear-entry garages. Considering there are no nearby parks, children often play in their front yard along the frontage sidewalk and near the street.

Adding an additional 447 vehicle trips per day to a section of roadway that already poses a significant safety hazard for students and resident children significantly increases risk to our Association's children and is not good stewardship.

Decreased Property Values: If approved, BME homes will sit on ground 12' -15' higher than homes on Sawmill Way (See attached photos). Although the applicant has verbally offered to build single level homes closest to Sawmill, residents of these homes will be at the same level and be able to look into the second floor of Sawmill Way homes. Additionally, the second rows of homes in BME are only 10' directly behind the first and could be as high as 35' in height. This wall of homes high above Sawmill will decrease property values.

Another problem is the incompatible design between Mill District (predominately Craftsmen Style) and the proposed "Prairie" style front-loading style. Please see attached photos. This stark contrast will further reduce property values.

This application will destabilize our neighborhood by introducing an unpredicted development. Sawmill Way residents were universally told that the area would never be developed and a large Barber Pool Conservation Area sign (see photo) near the properties' gate confirmed this incorrect perception.

Harris Ranch

Harris Ranch Owners Association
P.O. Box 5343
Boise, Idaho 83705

The Idaho Shakespeare Festival (ISF) is the cultural center of the Harris Ranch/Barber Valley. We believe ISF's future is threatened at its current location due to sound going both way from homes starting at only 370' from the ISF stage. The current homes on Sawmill Way are approximately 1000' from the stage; thus while residents often hear music or the sounds of stage battles, it doesn't have the same impact. In addition the sound from Mill District lawnmowers or air conditioners does not interfere with performances. With over 120 performance nights per year, it is likely that residents in BME will complain regardless of CC&Rs that, although limiting at first, can always be changed.

We believe if ISF leaves, our cultural and property values will be compromised by the loss of a major regional amenity.

Comprehensive Plan: The plan states, "*A development approved or undertaken shall be in accordance with the Comprehensive Plan if the land uses, densities or intensities, capacity or size, timing, and other aspects of the development are compatible with and further the goals, objectives, policies, and programs of the Comprehensive Plan as it existed on the date of the application to the City.*"

The Plan also states "Boise will be known for:
*Environmental stewardship;
A predictable development pattern;
Stable neighborhoods and mixed-use activity centers;
Being a connected community;
Being a community that values its culture, education, arts, and history,
Having a strong, diverse economy; and
Being a safe, healthy, caring community.*"

This application puts homebuilding first and wildlife, pedestrians, cyclists, the arts, schools, and adjoining neighborhood far in the rear and as such is not compatible with major elements of the Comprehensive Plan.

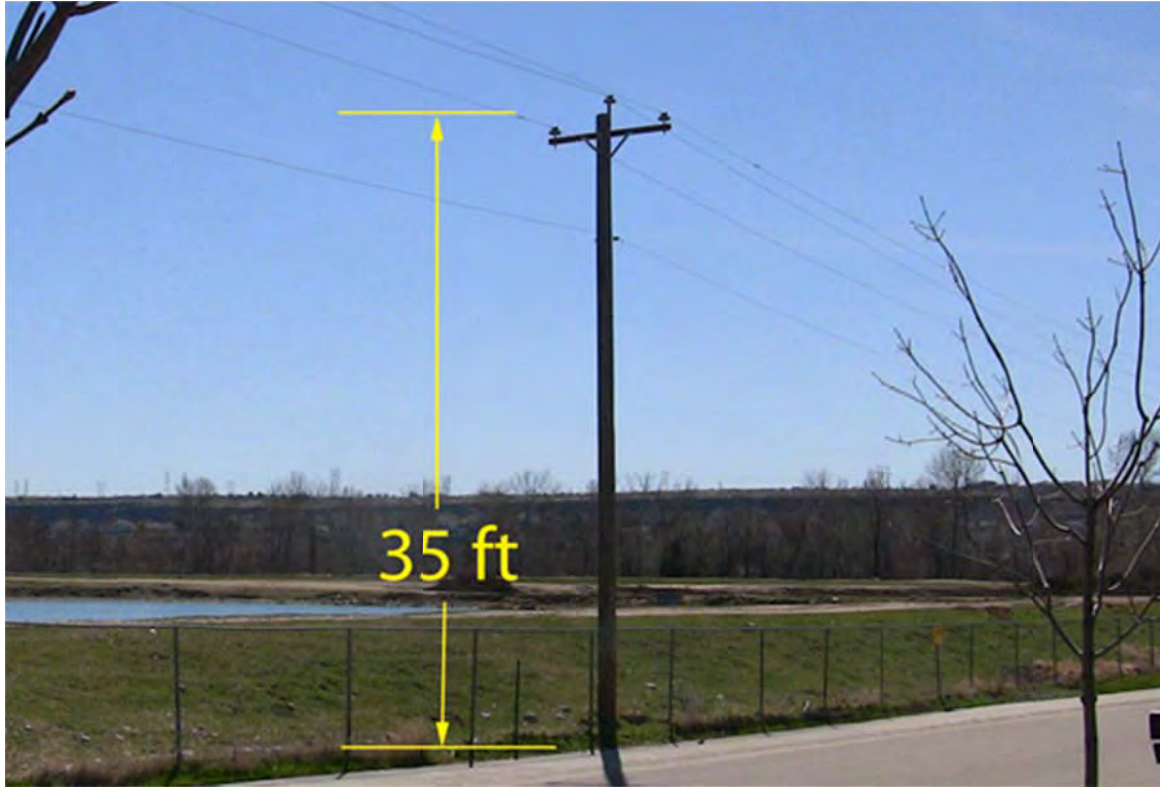
Recommendation: That the City work with the property owner, applicant and neighborhood stakeholders to develop a new plans which meets the Comprehensive Plan goals and objectives.

Sincerely,



Jeff Steele
President, HROA

Encl: Four photos





Cody Riddle

From: John Regis <jregis@cablone.net>
Sent: Sunday, July 28, 2013 1:20 PM
To: Cody Riddle
Cc: Harris Ranch Neighborhood Association
Subject: CAR13-00007 Barber Mills Estates

Greetings,

I'm writing in regard to the pending application for rezoning to accommodate a proposed development, Barber Mills Estates (CAR13-00007). I am a homeowner in the Harris Ranch Mill District subdivision which is adjacent to the proposed development. I oppose the application for rezoning and the development for a variety of reasons, namely:

- While other Barber Valley proposed developments have been conspicuous and transparent about mitigating adverse impacts such as traffic and wildlife, this project does neither. Nor does the developer appear particularly interested in the concerns of area homeowners in regards to these items.
- The development will have a significant impact on street traffic in the Mill District neighborhood (447 additional trips per day).
- Noise from the development could have an adverse impact on the next door Shakespeare festival, a cultural icon that I personally support and would hate to see driven out due to incoming noise --- or complaints about outgoing noise.
- The style and design of the development is out of sync with adjacent neighborhoods, and in addition, will be jacked up to a high elevation due to the need to build on top of the filled sewage lagoons on the property.
- With the ever expanding development of the Barber Valley there is a my mind a real need to strike a better balance in planning. between all the new residential / commercial development and the natural resources and wildlife the valley offers.
- The location of this property presents a real potential to further protect the Barber Pools Conservation Area, Boise River, and all the wildlife that will greatly need a refuge from all the other planned development.

Please consider these factors in weighing whether or not to change the zoning on this property.

Thank you, and regards
John Regis
4810 E. Arrow Junction Drive
Boise, ID 83716
208/629-8159

Cody Riddle

From: Stephanie Bender-Kitz <sbkitz@cableone.net>
Sent: Friday, July 26, 2013 3:46 PM
To: Cody Riddle
Cc: Chris Hendrickson
Subject: reference CAR13-00007

Dear Boise City Planning and Zoning,

We are avid supporters of the Barber Pools Conservation area and the Idaho Shakespeare Festival. We write to oppose the Barber Mills Estate development as proposed. Dense development in this area is incompatible with the Conservation area and creates opportunities for conflict with the Shakespeare Festival. The Shakespeare Festival is an excellent example of great culture in an outstanding venue at an affordable cost, and it has made the arts accessible for so many Boise residents. The Shakespeare Festival has also done all it can to be a good neighbor and steward of its location. Please do not allow the development of a subdivision that will create conflict between neighbors and with wildlife in the conservation area.

Thank you for your consideration of our concerns.

Best regards,
Stephanie Bender-Kitz and Kevin Kitz
5078 E. Stemwood St. Boise 837136

Cody Riddle

From: Deborah Dakins <debdak@cableone.net>
Sent: Sunday, July 28, 2013 11:02 AM
To: Cody Riddle
Cc: jregis@cableone.net
Subject: CAR13-00007 Barber Mills Estates

Greetings,

I'm writing in regard to the pending application for rezoning to accommodate a proposed development, Barber Mills Estates (CAR13-00007). I am a homeowner in the Harris Ranch Mill District subdivision which is adjacent to the proposed development. I oppose the application for rezoning and the development for a variety of reasons, namely:

- While other Barber Valley proposed developments have been conspicuous and transparent about mitigating adverse impacts such as traffic and wildlife, this project does neither. Nor does the developer appear particularly interested in the concerns of area homeowners in regards to these items.
- The addition of residents in 47 homes will infringe on the Barber Pools Conservation Area and nearby wildlife.
- The development will have a significant impact on street traffic in the Mill District neighborhood (447 additional trips per day).
- Noise from the development could have an adverse impact on the next door Shakespeare festival, a cultural icon that I personally support and would hate to see driven out due to incoming noise --- or complaints about outgoing noise.
- The style and design of the development is out of sync with adjacent neighborhoods, and in addition, will be jacked up to a high elevation due to the need to build on top of the filled sewage lagoons on the property.

Please consider these factors in weighing whether or not to change the zoning on this property.

Thank you, and regards,

Deborah R. Dakins
4810 E. Arrow Junction Drive
Boise, ID 83716
208/629-8159

Cody Riddle

From: Michael Shaughnessy <mikshaughnessy@hotmail.com>
Sent: Monday, July 29, 2013 9:16 AM
To: Cody Riddle
Subject: CAR-00007 Barber Mill Estates

I live at 5036 E. Sawmill Way in the Mill District. I am very close to the proposed development and can regularly hear the performances. I work early. so go to bed early and with the windows open, the sound of the performances are clearly discernible, both music and some voices. We are far enough away that is not bothersome, but it is also a "sound of summer" to us and we enjoy the facility. We believe houses much closer would likely experience much greater volume and potential for noise complaints.
Please let me know if you have additional questions.
Thank you,

Mike Shaughnessy
(208)401-4951
5036 E. Sawmill Way
Boise, ID 83716

Cody Riddle

From: DeVand <devand@cableone.net>
Sent: Monday, July 29, 2013 12:33 PM
To: Cody Riddle
Subject: CAR13-00007/C13, LLC Barber Mill Estates Development

Dear Mr. Riddle,

We will be out of town on August 12th when the P&Z meeting occurs about this development. This email is to let you know that we strongly oppose this 47 home development. There are many reasons for our opposition:

- ACHD says the development will add 447 trips per day on Sawmill Way/Lysted roads which they say the streets are underutilized, but interestingly enough, they conducted their study when both the Riverstone International and East Junior High Schools were closed for the summer...so this is not accurate at all.
- Threatens the Shakespeare performance site. Interesting too how they conducted their "sound study" on a weeknight when there was a thunderstorm and the performance was a quiet show with no music. C13, LLC is owned by Jake Centers, but they don't want everyone to know that. He and Jim Conger will stop at nothing to make money. They have certainly not been honest in Home Owner meetings telling us that they have Riverstone and Shakespeare's agreement with the development. Shakespeare is the cultural center of Barber Valley/Harris Ranch and would be a huge loss for Boise and our community.
- Development degrades our property values.
- Wildlife Mitigation
- Closeness to the pools in the Barber Pool Conservation Area – wildlife will be effected.
- No playground or open space for kids.
- Development is not in line with plans for Harris Ranch development.

Please consider our plea to not approve this development as it is not good for the Barber Valley, Harris Ranch, Shakespeare Theatre and Boise as a whole.

Feel free to contact me if you have any questions or need further information.

Sincerely,

Cathy DeVand
208.869-1570
5140 E. Sawmill Way
Boise, Idaho 87316

Cody Riddle

From: Eric Shaw <ericshaw@gmail.com>
Sent: Monday, July 29, 2013 10:32 PM
To: Cody Riddle
Subject: Concern with development near Shakespeare Festival (CAR13-00007)

I am writing to express my concern and displeasure with the proposed development near the Shakespeare Festival. I believe this area of Boise contains some of the most treasured items that makes Boise special - the Boise River (including the Barber Pool Conservation Area) and the Shakespeare Festival Theater. I believe the current zoning for this area of land should remain zoned as one home per 40 acres. The idea of adding 47+ homes encroaches on both the Barber Pool Conservation Area and all its wildlife but also the Shakespeare Festival Theater. I have no doubt that the future home owners of these homes will grow tired of the noise that comes from the summer long season at Shakespeare. The noise studies that were paid for by the developer were “conveniently” taken during 2 of the quietest shows - Much Ado About Nothing and Blythe Spirit. So to hear that there is no impact is far-fetched at best.

This proposed development is one that the City of Boise MUST not allow to move forward. This is nothing more than a greedy developer trying to get as much out of a parcel of land with disregard for everything that makes Boise special. Allowing this to move forward jeopardizes the wildlife habitat as well as the Shakespeare Festival. I urge you to keep the current zoning in place and allow this parcel of land to be sold to a group with a better plan that fits with the core values of Boise and its master plan - <http://pds.cityofboise.org/planning/comp/blueprint-boise/>).

Thank you,
Eric Shaw

30 July 2013

To: Boise City Planning and Zoning

Reference: CAR13-00007/C13, LLC and PUD13-00002 & CFH13-00019/C13, LLC

Dear Members of the Boise City Planning and Zoning,

I am Dr. Charles G. Davis, Professor Emeritus from Boise State University. I have attended the Idaho Shakespeare Festival from its first production and have served two terms on the Idaho Shakespeare Festival Board for a total of twenty-one years.

I was a member of the Board of Directors when the current site was selected and the theater completed in 1998. At the time, the Festival had performed over a number of years at three locations that challenged professional actors and was seeking a permanent home. Since an outdoor theater has special needs, much time and study went into selection of the site, including tests for competing sounds, potential disturbance of neighbors, access, and setting.

One of the reasons the present site was selected was that there was no competing noise and no neighbors close enough to be disturbed. The Barber Homeowners Association placed a sign welcoming the Festival. Patrons and community corporations donated over six million dollars to build the theater because they believed the theater management had done due diligence in theater design and site selection. The existence of a state of the art theater and a world class site has allowed ISF to acquire a national reputation and to serve as a recruitment tool for Boise corporations and Boise tourism. I have taught seminars on various productions and have witnessed visitors becoming enthralled and saying they will tell their neighbors to come to Boise.

The request to annex 11.97 acres at 5237 E. Sawmill Way with R1B zoning, next door to the theater, threatens the viability of the Idaho Shakespeare Festival theater. The dense housing requested is not compatible with the surrounding area. Examples of such retro fits of houses and commercial enterprises can be found in permitting housing next to an airport. Sooner or later the residents become annoyed by planes.

The incompatibility of housing next to an outdoor theater guarantees continuing complaints, perhaps from both parties. While new residents may well believe they can accept being next to a theater, over time noise, traffic, and the timing of performances will be the subject of complaints. The Festival may have grievances about disruptive resident behavior. Both

the Festival and the city will be involved in ongoing complaints and possible litigation best prevented by denying rezoning of the area.

The Festival has been resident in the area for fifteen years, and the dynamics of an outdoor theater are well known. It is also well known that the Festival is an economic powerhouse benefitting the community and tens of thousands of patrons. Since the Festival carefully positioned itself, it would seem unwise to alter its environment and endanger this gem of an organization.

I appreciate your time and consideration.

Sincerely,

Charles G. Davis, PhD

Re: CAR-00007

Planning and Zoning:

The following concerns I have regard the proposed Barber Mill Estates is in regard to the sound, noise, traffic and compatibility with the comprehensive plan.

My wife and I live at 4935 E. Sawmill Way which is exactly 2,272' away from the stage of ISF. We also hold season tickets to the Shakespeare Festival and I have some concerns about the proposed development, Barber Mill Estates.

Both sound studies were performed during a showing of *Blithe Spirit*, a play about ghosts and paranormal activity. Although I don't have any first hand accounts with ghosts, the ghosts in this play were characteristically quiet and subdued. At my home, I was unable to hear this play. However, the recent musical of *Sweeney Todd: Demon Barber of Fleet Street*, was plainly audible at my mailbox outside my home. I can plainly hear the opening act when I am outside. My wife attended the show without me on the night of July 16. While at home, I stepped outside and perceived several clearly distinguishable chorus lines despite the severe rainstorm that eventually canceled the show. We both saw the show on July 19, and I thought the sound level was entirely appropriate for a musical. During the 2012 season, ISF performed *The Imaginary Invalid*, which I thought was noticeably louder.

The additional concern is the traffic. There will be ~447 trips per day. The majority of the traffic will during the 8 hours between 10am and 6pm. This equates to a car crossing the greenbelt about every minute ($8\text{hrs} * 60\text{ minutes} = 480\text{ minutes}$. $447\text{ trips}/480\text{ minutes} = 0.9$). This is true if the traffic is evenly distributed and will be considerably worse during peak traffic times. A round-about at the intersection of Sawmill Way and Arrow Junction raises safety concerns about visibility and children, particularly in light of the death of a 12 year old last year on a round-about. I have 3 children that board the bus for Adams School at a bus stop about 100' from the round-about. I continually nag them about using the sidewalk and not cutting across the round-about to get home.

Sawmill and Lysted were not designed to handle this much traffic. The developer indicated that the streets are at only 6% capacity. Capacity is not a fair metric. Using the developer's logic, I could say that my driveway, which is almost as wide as Sawmill or Lysted streets, is below capacity. The City approved my neighborhood to be designed to be pedestrian friendly with alley loaded garages and narrow streets. It was not designed as a thoroughfare. The traffic study should have been performed during the school year when Sawmill Way and Lysted are used by Riverstone and East Jr. High parents to transport their children.

Planning and zoning failed to adequately address the sewage ponds when they allowed Golden Dawn estates to be annexed into the city. The owner of the sewage lagoons saved a considerable amount in fines, fees and testing of the lagoons by soliciting the city to annex the property and hook up to city sewage in advance of new regulations. During the P&Z minutes of 11/5/2012 regarding the annexation of Golden Dawn Estates, Commissioner Barker asked "what's to become of the lagoons?" This should have been considered prior to annexation.

Additionally, this development could be considered encroachment of the Barber Dam and possibly change its hazard classification. These concerns were addressed during the approval of Harris Ranch Subdivision No. 9 in 2007. I believe they should be considered as well for this development.

Finally, I would like to add that I think the houses are, simply put, ugly. They are garages with a couple of windows on top. We were told by the developer at a homeowner meeting last Spring that these would be 24 high end homes with large setbacks. The developer is now doubling the density and I feel "double-crossed" so to speak. In light of the developer's past EPA violations, I have reservations about the site being properly prepared for residential homes.

Sincerely,

Josh Lunn

4935 E. Sawmill Way

Boise, ID 83716

July 29, 2013

Boise City Planning and Zoning Commission
c/o Planning and Development Services
Boise City Hall
150 N. Capitol Blvd.
Boise, ID 83701-0500

Ref: **CAR13-00007 & PUD13-00002 Barber Mill Estates (BME)**

Dear Planning and Zoning Commissioners:

My wife and I first moved to Boise twenty years ago. We attended Idaho Shakespeare Festival performances at the Park Center location. A series of job transfers took us away from Boise for a number of years. When we returned to Boise in 2003, we started to attend performances at the current ISF location next to the Barber Pool.

The ISF amphitheater, in my view, is an absolutely wonderful setting to enjoy top class performances. This, among the other Boise Sesquicentennial Icons, is what makes living here so special.

I have been fortunate to serve on the Board of Trustees of the Festival and volunteer my time in order to continue to support the good that ISF does for our community. Professionally, I am a banker and also understand and support appropriate development that allows ongoing economic vitality in our region. I am concerned that the Barber Mill Estates development plan as currently proposed puts at risk the ability of the Shakespeare Festival to continue to provide artistic and economic value to Boise.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert P. Aravich, Jr.", written over the printed name.

Robert P. Aravich, Jr
2218 W. Burns Street
Eagle, ID 83616

July 30, 2013

Boise Planning and Zoning
P.O. Box 500
Boise, ID 83701


Dear Commissioners:

We are Patrons of the Idaho Shakespeare Festival. Idaho Shakespeare Festival draws people not only from Boise but from out of town and out of state. The proposed development just east of the Shakespeare Festival is like trying build a subdivision next to the Morrison Center. This proposed development means nothing but trouble if approved by Boise P&Z.

During the summer when the theatre is operating noise in evenings up to 11:30 or almost midnight is intense and loud. Complaints and threatened lawsuits from residents in this subdivision are sure to follow. We urge P&Z to turn down this application.

At the very least the ordinances should include a clause exempting the Shakespeare Festival from complaints or legal proceedings of any kind.

Sincerely,


Fred and Dottie Christensen
20805 Lowell Road
Caldwell, ID 837607

RECEIVED
JUL 31 2013
DEVELOPMENT
SERVICES

July 31, 2013

VIA EMAIL

Boise City Planning and Zoning Commission
c/o Planning and Development Services
Boise City Hall
150 N Capitol Blvd.
Boise ID 83701-0500

Re: CAR13-00007 and PUDI3-00002 Barber Mill Estates (BME)

Dear Commissioners:

I am writing to you to express my concern over the above proposed development and its impact on the future of the Idaho Shakespeare Festival (ISF). In my opinion, the proposed development jeopardizes the long term viability of the Festival.

I first became a patron of the ISF in 1991 when the "theater" was along the river on ParkCenter Boulevard. Having moved to Boise from a small town in Montana, I was amazed by this event and thoroughly entertained by the production and setting. I had never enjoyed Shakespeare more up to that point. Almost 15 years ago, my husband and I became season ticket holders and started bringing our children, then 4 and 6, to family night productions. It has become a summer tradition for our family. It instilled a love of performing in one of our daughters and a passion for Shakespeare in both. No high school English program could have performed that miracle.

About 3 years ago, I was asked to serve on the board of the ISF and eagerly agreed. I continue to be impressed at the level of professionalism as well as the spirit of community and collaboration that all involved on the board and employed by the ISF display. As a Boise resident, I am proud and so grateful to have access to such an organization, venue and events to share with friends near and far. Boise is blessed with many cultural opportunities, not the least of which is ISF. It leads me to believe that these opportunities are valued and supported by our community as being important.

Boise City Planning and Zoning Commission

July 31, 2013

Page 2

While I can appreciate the economic impact that housing developments have on our community, I am very concerned that this particular project, *as it is proposed*, would jeopardize the cultural opportunity and economic impact that ISF provides in its current venue. I am additionally concerned about the impact this development will have on this ecologically sensitive area, the Barber Pool. ISF has been a good steward of the property on which it sits. I like to think it is a role model in that sense and would encourage developers and neighbors to follow the same path.

I strongly support the right of land owners to develop their land. As a Trustee of the ISF board, I understand that additional homes surrounding ISF would draw more patrons to the shows and further enhance the viability of ISF for the long term. However, it is my opinion the density of this development would do more harm than good to the neighborhood which includes ISF. I am asking the Commission to consider approving a lower density (and perhaps non-residential) use, or neighborhood amenity of some kind, following collaborative negotiations with the ISF and other neighbors to ensure noise levels and other concerns for all involved are adequately addressed to minimize the impact on each.

I am most grateful for your time and consideration of my concerns.

Sincerely,

A handwritten signature in black ink, reading "Cyndi Friend Kay". The signature is fluid and cursive, with the first name "Cyndi" being the most prominent.

CYNDI FRIEND KAY

4258 E Palm St.

Meridian ID 83646

(208) 850-7865



101 S. Capitol Boulevard, Suite 1900
Boise, Idaho 83702
main 208.389.9000
fax 208.389.9040
www.stoel.com

August 1, 2013

J. WALTER SINCLAIR
Direct (208) 387-4248
jwsinclair@stoel.com

VIA EMAIL

Cody Riddle - criddle@cityofboise.org

Re: CAR13-00007/C13, LLC and PUD13-00002 & CFH13-00019/C13, LLC

Dear Mr. Riddle:

Although not against development per se, I, as a member of the ISF Board of Trustees, feel that as proposed, this particular development is incompatible with the long-term success of the Idaho Shakespeare Festival (ISF). Among the issues of serious concern to me are noise impacts to both ISF and residents in the proposed subdivision, and the probable long-term, ongoing management problems for ISF in having to deal with what is anticipated to be ongoing complaints by the residents of the proposed development about noise and other issues arising from their proximity to ISF's outdoor theater. Equally important is the obvious incompatibility of the developer's proposal with the overall plan for the Barber Pool Conservation Area, further encroachment of intensive residential use adjacent to sensitive wildlife habitat, which ISF has worked hard to protect and respect in cooperation with other members of the community, and the encroachment on ISF's long-standing and ongoing business interest.

I have been a long time attendee of the ISF, as are many in our Valley. ISF is a huge resource both culturally and civilly. Please help protect this crown jewel for our State.

Very truly yours,

J. Walter Sinclair

cc: Mark Hofflund

Boise City Planning and Zoning Commission

c/o Planning and Development Services

Boise City Hall

150 N. Capitol Blvd.

Boise, ID 83701-0500

**Ref: CAR13-00007 & PUD13-00002 Barber Mill
Estates (BME)**

Dear Planning and Zoning Commissioners:

Since we moved to Boise from the Midwest 11 years ago, we have been season ticket holders at the Idaho Shakespeare Festival. What drew us to the performances was not just the excellent level of the actors, but also the outdoor theater close by the river. The first day I started my job at Albertsons I was told that the Festival was one of the real attractions in Boise and we couldn't wait for the season to begin. When we went to our first performance in 2002, we found that the praise had not been exaggerated. We loved sitting outside and having the surrounding natural beauty of the area actually become part of the scenery for the play. Being able to sit outside and enjoy a great play in a beautiful setting is an almost uniquely Boise experience. This experience is put in great jeopardy by the planned development adding 47 residences so near the Festival.

Despite what the Developer may contend, the

sound of the Theater will filter through every room of the houses built in such close proximity. The sound level of some plays is very different from that of others. For example, the sound level of "Blithe Spirit" will not be near the level of a musical like "Sweeney Todd." You should also know that there are over 90 performances of plays every summer, not including sound checks and rehearsals. The Developer may say that the Festival will actually draw people to the homes but remember that the folks buying them will likely not try them out during a performance before they buy them. Picture someone buying a house there in November and then being shocked at the noise level in their homes night after night during the performance season. To whom will they complain? Not to the Developer who will be long gone after the homes are sold. We have all seen news reports of people buying houses in an airport flight path and then complaining about the noise. The Statesman also recently reported that the homeowners close to the City's gun range are complaining about the noise from the range. There is no reason to believe that allowing homes to be built so close to the Festival will not result in exactly the same situation.

We have actually experienced a similar situation in Boise. We are members of Crane Creek Country Club. A homeowner close to the course became upset over the sound of mowers early in the morning and for the last two years he has trained a radio playing heavy metal music toward one of the greens. While it is somewhat annoying, both to golfers and his neighbors, it apparently doesn't rise to a level that violates the City's sound ordinances. But consider the impact of the same sort of behavior if some one who has purchased one of these homes becomes disgruntled over the sounds from the festival. The performance of a play such as Romeo and Juliet could be completely ruined by the background sound of rock

music or countless other noises coming from this development, whether they are deliberate or not.

You should also consider where youths from this Development would go in their spare time. I would fear that the Festival grounds and Riverstone School grounds will constitute attractive places to congregate at times when they are not otherwise in use. Unfortunately this will also occur at times when no one is around to supervise their behavior.

One final suggestion is that you should also very carefully consider the impact of allowing for the first time a development in the bounds of the previously protected area of the Barber Pools. This area is a National treasure and allowing a housing development to be built within its bounds seems a poor decision.

Thank you for your thoughtful consideration of this matter.

Sincerely,

John R. Sims

Cody Riddle

From: Theresa Ensign <tensign7@yahoo.com>
Sent: Thursday, August 01, 2013 11:09 AM
To: Cody Riddle
Subject: CAR-00007

To whom this may concern:

Relative to the proposed Barber Estates housing development adjacent to Shakespeare Festival property and having lived directly across from the proposed building site, and directly in-line with the Shakespeare amphitheater since August 2010, I can attest to the audible 'noise' that is generated by Shakespeare daily practice sessions, sound check sessions, and live productions. Though I have not filed formal complaints, those of us within earshot of the performances have shared our mutual annoyances regarding the clarity and degree of 'loudness' generated by the productions. One cannot enjoy patio solitude without also enjoying the music, laughter, blood curdling 'death' scene theatrics, etc., riding the airwaves from the Shakespeare stage. We, the residents of the Mill District, joke amongst ourselves about the noise of the previous evening's performance, but we absolutely embrace Shakespeare's presence as being an integral part of our neighborhood and culture of Barber Valley.

I was witness to one of Jim Conger's sound studies performed during a Tuesday evening, the last week of June. The data was collected during a relatively quiet, dramatic performance. Further biasing the data was the fact that it was a chilly evening compounded with rain. A timeframe before one of the busiest holidays of the year in which people are out of town, dismal weather conditions for an outside theater presentation, and ... a relatively serious, quite drama without music, etc all combined to make an unrealistic and biased sound study.

Until Jim Conger can prove that all of his sound studies were nonbiased and representative of the every Shakespeare production will these studies have any value. None of the developers have ever sat in our homes, or on our patios to hear what we hear. None of the developers live in the neighborhoods adjoining the Festival productions. Conger's quote in the July 26th Boise Statesman referring 'Shakespeare noise being on average with other neighborhoods, and less than honking geese and planes flying overhead' is an insult to our plight. He doesn't live here. We live here. We hear it ... every single season!!

A proposed housing development atop sewage lagoons, abutting sensitive wildlife habitat and eagle nesting grounds and directly in-line (and profoundly close proximity to) with unpredictable decibel ranges generated by Shakespeare productions is TOTALLY irresponsible, detrimental to environmental sensitivity and nothing more than another example of developer greed and quest for the most profitable bottom line for them.

Thank for your time and consideration regarding my issues relative to the Barber Estates development.

Theresa Ensign
5242 East Sawmill Way
Boise 83716
(928) 899-5083

Thank you for you



1213 Kimberley Ln.
Boise, ID 83712-7736
email rhay@allosys.com
Bob Hay, Ph.D., P.E.

Office 208-377-0246
Mobile 208-850-5230
President

August 1, 2013

Ref: CAR13-00007 & PUD13-00002 Barber Mill Estates (BME)

Dear Members of the Boise Planning and Zoning Commission

I moved with my family to Boise in 1977, just prior to the first performance of the Idaho Shakespeare Festival's two-week run of *A Midsummer Night's Dream* for an audience sitting on the lawn leading to what is now Angell's Bar and Grill. As newcomers, we were excited by the energy and talent created by Doug Copsey and his cast of actors. This team had a clear opportunity to fill a cultural vacuum that characterized Boise in that era.

I recall asking people I met during the next several years if they had attended any of the Festival performances, and the answer was a surprisingly consistent "I had to read *Hamlet* in high school, and that was enough Shakespeare for me." I remember wondering whether our community was ready for a Shakespeare Festival.

Fast forward to its 37th season and well over a million audience visits later. I now enjoy talking to various people from all walks of life and asking them if they have attended any shows at the Festival. The typical response is "I was there last week and really enjoyed it." I rarely hear the "*Hamlet*" response any more.

The Idaho Shakespeare Festival has clearly made great strides in elevating the cultural awareness of its audience and the community. It has become, by any measure, the largest performing arts organization in Idaho. Its theater performances are augmented by the largest arts education reach in the state, providing live performances to students in all of Idaho's 44 counties. Locally, this education focus provides theatrical experiences for a broad demographic of Boise students as well as patients at the St. Luke's Children's Hospital.

The economic value of this cultural icon in the community has grown immensely. Aside from its significant budget of three million dollars, which contributes to the local and state economies, and the visitors it brings to the community who patronize our hotels and restaurants, the Festival plays a major role in raising the cultural status of the community, enabling our local employers to better attract and retain the highly skilled and creative employees so important for their success.

But suddenly the very existence of this cultural icon of 37 years in the making is being threatened by a clearly incompatible development proposal that would dramatically reduce the distance from the theater to its nearest residential neighbor. The acoustic interference issues, ever more problematic as residential neighbors move closer, would increase measurably. The sound survey funded by the BME developer and conducted by P. H. White stated: "There is concern that the sound from performances at ISF are intrusive in the surrounding community and may lead to neighbor complaints and legal action. While ISF is a great asset to the City and Barber Valley, neighbors who are annoyed by performance sound interrupting their sleep or TV watching may be less forgiving." Complying with Dr. Whites mitigation suggestions would be to make performances of the quality our audiences expect unpredictable at best and impossible at worst.

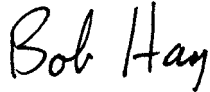
I am greatly encouraged by the statement found in Blueprint Boise:

"Boise's pride in its town, people, and culture is still evident more than 100 years after Clarence Darrow's visit. The expansive park and open space system, Boise River Greenbelt, foothills protection, diverse neighborhoods, numerous business start-ups **and cultural activities** don't happen by accident but by the hard work and contributions of citizens. As Boise strives to be the most livable city in the United States, we continually set high standards for new growth. While many places are tempted to relax standards

during uncertain economic times, our high expectations will hold value many decades later.

Given that the City of Boise has included among its key values “A Community That Values Its Culture, Education, Arts, and History,” I humbly encourage our Commission to deny approval of this development proposal so incompatible with its values and offer an opportunity for alternative proposals that would achieve significantly greater compatibility with both the neighborhood and the ISF Theater.

Best regards,

A handwritten signature in black ink that reads "Bob Hay". The signature is written in a cursive, slightly slanted style.

Bob Hay
President, AlloSys Corporation
Member and Past President, Idaho Shakespeare Festival Board of Directors
Professor Emeritus, Boise State University College of Engineering

August 1, 2013

Boise City Planning and Zoning Commission
c/o Planning and Development Services
Boise City Hall
150 N. Capitol Blvd.
Boise, ID 83701-0500

Ref: **CAR13-00007 & PUD13-00002 Barber Mill Estates (BME)**

Dear Planning and Zoning Commissioners:

As a long time subscriber, supporter and member of the board of trustees of the Idaho Shakespeare Festival I would like to go on record as opposing the Barber Mill Estates proposed subdivision. It will impact the theater and the Barber Pool Conservation Area by just the normal noise and traffic of a neighborhood, but compounded by the fact that it will be high density with very little planned landscaping in evidence in the plan. We have such a treasure in this theater and we need to protect it for the future. Please consider another use for this parcel of land.

I have attended plays produced by ISF since the beginning at Angell's. The noise of the traffic both there and at the Park Center location were distracting and the move to the present location was such a boon for the patrons. Let's keep the area as quiet as we can.

The Board of Trustees gives their time and energy to raising funds and promoting both the performances and educational events that are the heart of the ISF. We are also supporters of the Barber Pool Conservation area and the jewel that is our site.

The Treasure Valley is so lucky to have such a wonderful facility that can serve so many people with quality theater in addition to a delightful outdoor experience. Please consider these facts in your decision. This is not just a subdivision to be added to the city of Boise, it has a much larger impact.

Respectfully,

Linda F. Dixon
Member, Board of Trustees Idaho Shakespeare Festival
12777 W Ginger Creek Drive
Boise, ID 83713
lindafox@msn.com
208-376-6718

August 2, 2013

File Numbers: CAR13-00007 / C13, LLC

PUD13-00002 & CFH13-00019 / C13, LLC

(Proposed Barber Mill Estates Next to Shakespeare)

Dear Boise Planning and Zoning Commission,

The issues surrounding the proposed Barber Mill Estates subdivision next to Shakespeare can be distilled down to two questions:

- 1) How is building 47 homes 300 feet from the front stage of an outdoor amphitheater with nightly productions smart growth?
- 2) Is Boise better served by having our iconic Shakespeare outdoor amphitheater with 47 homes backed up against it?

I believe the very clear answer is NO. Simply put, Shakespeare and the proposed Barber Mill Estates are incompatible. The source of this incompatibility is noise. Shakespeare is loud. Their productions run nightly, often until 11:00 pm. We have lived a quarter mile away from the front of Shakespeare's stage for almost three years on 5190 East Sawmill Wy. During their production season, from our porch, we can often clearly hear the actor's lines, audience applause and laughter and especially the music. The noise is often most audible from 9:30 pm – 11:00 pm, particularly in July & August. From our distance, the noise is annoying. For someone living 300 feet away from the front of Shakespeare's stage, this noise would be unbearable. In short order the new Barber Mill Estates homeowners would file a noise complaint with the City, followed by a noise lawsuit against Shakespeare, very likely forcing Shakespeare to shut down. This would be a self inflicted loss for Boise.

Jim Conger of Conger Management Group, who is developing Barber Mill Estates, told the Idaho Statesman, "We are very confident there is no noise issue". Mr. Conger's statement is disingenuous and intellectually dishonest. His sound studies were conducted on some of the quietest productions of year with no musicals. The first sound study was on a rainy night and the sound testing ended at 9:00 (the play lasted until 11:00). In the second sound study, the audio engineer Mr. White noted in his report:

"It must be noted that this performance (Blithe Spirit) is primarily a drama, with little music. Musical performances must be measured to determine if an orchestra, sound effects, and singing make a different environment."

Sound travels both ways. Residents living in the Barber Mill Estates having an outdoor party with music, mowing their lawn or riding their Harleys to and from their homes would disrupt Shakespeare

productions as well. Ada County has this parcel of land zoned RP (Rural Preservation). I believe their intent was to provide a buffer zone for Shakespeare.

To be frank and candid, I believe the Conger Management Group would like to see Shakespeare shut down, so they could build another subdivision on the Shakespeare grounds and parking lot.

There is an alternative option for this land that would allow current land owner Mr. Triplett to be made whole (It is understood that he has an option agreement to sell his land to the Conger Management Group to mitigate the sewage ponds clean up). I am told that a land trust and a consortium of other parties would like to purchase this land and preserve it and develop it in a manner that would be compatible with Shakespeare.

I urge the Boise Planning and Zoning Commission to annex the 11.97 acres located next to E. Sawmill Wy with a zoning designation of RP and to reject Barber Mill Estates' permits. This would allow the opportunity for a much better alternative use of this land to come to fruition.

Sincerely,

A handwritten signature in black ink, reading "Richard J. Pagoaga Jr." with a stylized flourish at the end.

Richard J Pagoaga Jr.

5190 East Sawmill Wy

Boise, ID 83716

Boise City Planning and Zoning
C/O Planning and Development Services
Boise City Hall
150 N. Capitol Blvd.
Boise, Idaho 83701-0500

RE: CAR 13-00007 and PUD 13-00002 B Mill Estates

Dear Commissioners,

I am writing to express my concern about the above referenced property development and its impact on the Idaho Shakespeare Festival.

I am a life long Idahoan, a supporter and practitioner of the Arts. My passion for dramatic storytelling which has resulted in a career as a Hollywood film director, has its roots in ISF. I was one of the founding members of the company and have worked with ISF as an actor and director. It is an experience I treasure, and a connection of which I'm deeply proud. I cannot tell you how excited I am with the growth and development of the company. When I have professional colleagues in town from LA or New York or London, I always take them to the Festival. They are blown away by the quality of what they see. I'm out in the world a lot and can tell you the Idaho Shakespeare Festival is known and respected all over this country. I believe a special Tony Award for Excellence in the Regional Theater is in ISF's grasp.

What ISF does for the community is so impressive! As I write this, my youngest is preparing a musical theater performance with actors from the Festival community. She is so excited and has learned so much through working closely with talented professionals. ISF provides an opportunity for all of us to expand ourselves intellectually and creatively. It's certainly been that for my family and for countless others.

The proposed development will, I believe, encroach on ISF's ability to function. I see it as a recipe for conflict between the Theater and the residents of the new development about noise and traffic which are necessary parts of what 'Shakespeare' does. It's too many houses too close to the theater. I worry also that the density of new residences will endanger the eco-sensitive pool and wetland of which ISF have been wonderful stewards.

I believe ISF is the single most important Cultural Institution in Boise and in the State of Idaho. It is a special organization very well and responsibly run by Charlie Fee and Mark Hoffland. The City has made a commitment in its comprehensive plan, Blue Print Boise, to protect our cultural institutions. We are extremely lucky to have ISF in Boise. This is the moment to step up and protect the tremendous gift Idaho Shakespeare Festival is for all of us.

Sincerely,

Michael Hoffman
2675 Warm Springs Avenue

Steven L. Pline
330 3rd Ave W Unit 323
Seattle, WA 98119

August 2, 2013

Boise City Planning and Zoning Commission
c/o Planning and Development Services
Boise City Hall, 2nd Floor
150 N. Capitol Boulevard
P.O. Box 500
Boise, ID 83701-0500

Dear Planning and Zoning Commissioners,

RE: file number CAR13-00007/C13, LLC and PUD13-00002 & CFH13-00019/C13, LLC: Barber Mill Estates

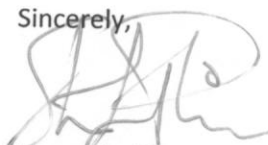
I first attended the Idaho Shakespeare Festival at the Parkcenter location for a company sponsored evening. I was hooked. In recent years we have joined thousands of other people to experience most of the ISF productions in its current setting two, three and even five times per show; often with guests who have never before experienced live theatre. For us, the Festival is an important contributor to the high quality of life which forward thinking and planning has created in Boise. Thank you for your contributions toward making Boise a great place to live.

Unfortunately for us, the State of Idaho is not nearly so friendly as the City of Boise, so it was with great regret last year that we moved to Washington State and took with us a high paying, high-tech job. Our household income is comfortably in the top 5% nation-wide. This high-tech job with associated taxes and spending at local businesses will not be coming back to Idaho until the state government becomes friendly to a more widely diverse population. We are hopeful: we continue to own a home within the Boise city limits.

Fortunately for the City of Boise in the interim, we simply cannot stay away from ISF productions situated in the incredible Barber Pool Conservation area. Even though we travel every year to high-profile theatre locations such as London, New York City and Ashland, OR; we prioritize seeing ISF productions in this incomparable setting. This summer that meant four days in Boise during the month of June and a full week booked for August. During our trips, we stay in a downtown Boise hotel, eat in Boise restaurants, and purchase fuel from Boise gas stations. A September trip is still in planning.

I understand that the Planning and Zoning Commission is constantly faced with difficult tradeoffs. I hope that the Commission will prioritize low-density zoning for the proposed annex (preferably A-1 or A-2 as a protected environmental site, and absolutely no higher than R1-A) to enable a high-quality-of-life for thousands at all income levels over a high-quality-of-life for a privileged few. Thank you for continuing to make a growing and developing Boise, "the City of Trees", a true oasis in the Idaho desert.

Sincerely,



Steven L. Pline

Cody Riddle

From: Patrick Knibbe <wpknibbe@earthlink.net>
Sent: Saturday, August 03, 2013 5:51 PM
To: Cody Riddle
Subject: Fw: Barber development

correction of typo in address. wpk

-----Forwarded Message-----

>From: Patrick Knibbe <wpknibbe@earthlink.net>
>Sent: Aug 3, 2013 1:38 PM
>To: criddle@citofboise.org
>Cc: Mark Hofflund <mark@idahoshakespeare.org>
>Subject: Barber development
>

>Dear Mr. Criddle: as a long time supporter of the Idaho Shakespeare Festival I would like to comment on the development being considered adjacent to the site. In my view, a development in that location has a very great chance of destroying the very character of a culture asset to Boise that is invaluable. The potential for noise pollution, parking and traffic disturbance and the like is very great. This desirable location for amenities for the Festival next door should instead stimulate planning that would compliment, not detract from the Festival site in my opinion.

>

>For example, the city has a need for medium sized indoor theatre space and the Festival has been discussing an indoor theatre for years. It seems to me that this use for the land would enhance the rest of the Barber valley community and create opportunity for collaboration with both public and private schools that would be a truly enhancing amenity for the neighborhood, rather than a high density housing project for which the down side is considerable. The developer of this parcel could, of course, be involved with the project and with state and federal grants anticipated reap a very great public opinion payoff for such a project, rather than the negative impact that going forward with this project is likely to foster. Of course, other creative projects other than an indoor theatre could be considered by those with knowledge and vision for the area.

>

>W. Patrick Knibbe, MD
>1542 East Braemere Road
>Boise, ID 83702
>208-860-2054

>



The Harris Ranch Neighborhood Association

Boise City Planning and Zoning Commission
c/o Planning and Development Services
150 N. Capitol Blvd.
Boise, ID 83701-0500

August 5, 2013

Ref: CAR13-00007 & PUD13-00002 Barber Mill Estates (BME)

Dear Planning and Zoning Commissioners:

The Harris Ranch Neighborhood Association (HRNA), representing an area with over 750 homes, cannot support these applications. Taken in the context of the cumulative impact on the neighborhood, Barber Valley, and Boise City, they are not in compliance with the goals, policies, and objectives of the City's Comprehensive Plan. A narrative for each area of non-compliance follows:

Impact on the Harris Ranch Mill District

Please refer to the attached RENA/HRNA letter to ACHD regarding documented traffic safety issues on Lysted/Sawmill Way which is used as high speed traffic cut-through.

As the letter indicates, with 447 more trips per day, safety is being significantly degraded. At least twenty Riverstone students reside in the Mill District, Spring Creek, and the Dallas Harris Estates neighborhood areas. There are even more neighborhood children who attend East Junior High. Many walk or bike to school daily on a local street with documented speeding and reckless operation violations. The greatest concern with the addition of almost 450 vehicle trips per day is vehicle speed rather than street capacity. The neighborhood has a documented history of safety concerns with drivers exceeding the posted 20 mph limit. The additional trips would only exacerbate this issue.

Another impact is the plat's elevation at approximately 15 feet higher than the bordering 18 homes on Sawmill Way, making them incompatible with their surroundings. The first (ground) floor of BME units would be higher than the second floor of facing Sawmill Way homes. Please review attached photos as well as the Harris Ranch Owners Association letter regarding the wall of elevated homes that would be created.

To further understand Sawmill Way residents' feelings, many were told the sewage lagoons were part of the Barber Pool Conservation area and wouldn't be built upon. Large signs near the entry to the development's site declaring the area off limits reinforce this impression today (see attached).

In Blueprint Boise, Citywide Policy #2 is to create "a predictable development pattern" in which each part of the community has a distinct character and style." The proposed application was not predictable, nor does it fit with the character and style of the Mill District, Spring Creek, or River Heights in two respects:

- First, the small lots with houses 10 to 12 feet apart do not provide room for at home outdoor play equipment as is used in the Mill District, Spring Creek, and River Heights. Children in the BME development will be playing in the street, or at Riverstone's soccer field and playground, or in the Barber Pool habitat.
- Second, BME's home designs are not the Craftsman, neighborly style but rather a barren "Prairie" style" that is a modernistic mismatch not compatible with homes in the Mill District or most other area homes. In neighborhood meetings, the homebuilder has indicated that designs would be similar to those he's building at Elevation Ridge in Boise. See attached photos for the stark contrast between Mill District and BME designs.

Tremendous effort has gone into defining the character of the Barber Valley in terms of architectural styles in Specific Area Plan SP01 and SP2, which created the bulk of Harris Ranch and Barber Valley developments. It is important to us as neighbors that these standards and values be upheld as the rest of the valley develops.

In summary, the proposed application is incompatible in terms of density, aesthetics, height, and traffic safety.

Traffic Impact Study Requirement

The applicant's PUD Application **Section 24. Street Layout**, subsection **B. PRIVATE Street Layout Review** states:

"The impacts of proposed development on adjacent land uses and transportation facilities must be considered. A Traffic Impact Study" (TIS) prepared by a traffic engineer will be required by Public Works and Planning & Development Services for the interior roadway and parking system. This requirement may be waived when it can be shown by the applicant that no section of on-site roadway will exceed 240 vehicle trips per day. (emphasis added). Is a Traffic Impact Study required? Yes ☒ No"

The applicant's answer indicated by an "X" was "No" TIS required; however, ACHD estimates Barber Mill Estates will generate 447 vehicle trips per day on Ripsaw Ave. It appears the City should require a Traffic Impact Study

We recommend a Site Specific Condition of Approval requiring the applicant to complete a Traffic Impact Study.

While none of the above objections may be grounds for denial, they do add the first dark layer to a cumulative negative impact and incompatibility. More layers follow.

Riverstone International School

The HRNA fully agrees with and supports Riverstone's opposition. Riverstone has an unfenced young children's playground and soccer field on land bordering BME. With BME not providing open space to the public for playgrounds, residents' children can be expected not only to play in ACHD streets, but also to impact Harris Ranch, East Jr. High, ISF, and Riverstone facilities

and the Barber Pool area. The proposed plat creates traffic and safety concerns for children crossing Warm Springs and within the neighborhood.

Barber Pools Conservation Area

We have great respect for the Idaho Foundation for Parks and Land (IFPL) and its Barber Pool Conservation Area stewardship that has created a nationally recognized showcase. We must, however, respectfully disagree with IFPL's letter to the Commission supporting the proposed application. The Barber Pool originated as a Gift Deed from Boise Cascade in recognition of the outstanding riparian habitat created by the pools behind Barber Dam. This bequest would not likely have been made if allowances included a 47 unit development, with houses 10 to 12 feet apart, on the border of the actual pools in the Barber Pool Conservation Area.

While the IFPL letter implies fencing will protect the pools and is appropriate to its mission to create an area just for wildlife, it is more likely that fences are not going to stop residents from considering the adjacent pools an amenity and use them that way. As previously noted, the application provides no internal recreational facilities or areas. There are swimming pools in the neighboring Mill District, Spring Creek, River Heights, and under construction in the Dallas Harris Estates area. The only local pools available to BME children are the pools in the Barber Pool Conservation Area.

Further, the letter's closing states "This would add to the total property that the Foundation protects in the Barber Pool, rather than further splinter ownership of a sensitive area." A development with 47 owners on the Barber Pool border is inarguably splintering ownership, which in this case has continued primarily intact for perhaps more than a century since the building of the Barber Dam under a single entity; and whose proposed "splintering" into 47 units would fly in the face of what continues to be a bedrock value of IFPL and all others with stewardship interests in the Pool.

Fragmenting ownership within the Barber Pool Conservation area will lead to habitat degradation over time. It is estimated that there are 18 private residences in or immediately bordering the 700-acre Conservation Area; and no public streets or subdivisions. The applicant would more than quadruple the number of houses in the Conservation Area and introduce a domestic impact on the Pool that inevitably would lead to the loss of its wildlife and habitat values, as originally envisioned and donated for public purposes by Boise Cascade Corporation.

Finally, considering that 47 residential units will limit wildlife access to the pools and Boise River, access will be blocked to the 200 foot set-back area that would be deeded to IFPL.

We believe that the application undermines the integrity of the Barber Pool and its original vision to remain a quality resource in perpetuity.

Recommendation: That a neutral party conduct and submit a wildlife impact study to the Commission.

The Idaho Shakespeare Festival (ISF)

The HRNA entirely agrees with ISF's concerns about noise impacts both to and from high-elevation, adjacent residences. ISF's intensive use with over 100 evening performances includes approximately 300 cars, buses, motorcycles, and other vehicles exiting its parking lot late in the evening, along with night-time crews working in the amphitheater to change scenery and adjust lights and sound; plus a number of special events throughout the year, such as Bald Eagle Days, which draw outdoor gatherings of more than 1000 people at a time, onto the Festival grounds. Smaller events and daytime use of the William Shakespeare Park also would draw the public into immediate proximity with the proposed subdivision, especially should the developer fail to retain the landscaped berm allowed by the present landowners.

While the applicant has been made aware of the importance of this berm, an initial plat called for its demolition and also failed even to identify the presence of the adjacent Festival and its Park. Would anyone suggest a subdivision next to the Boise Art Museum, Zoo Boise, the Rose Garden, or other cultural amenities within Julia Davis Park? We believe the Shakespeare Festival within the Barber Pool Conservation Area should remain a long-term public amenity, as well, free from subdivisions and condensed residential encroachment.

We also note that Mr. White's Sound Survey state's "*It must be noted that this performance (Blithe Spirit) is primarily a drama, with little music. Musical performances **must be** (emphasis added) measured to determine if an orchestra, sound effects, and singing make a different environment.*" Mr. White also tells us "*As humans, we are less sensitive to the absolute level of noise but quite sensitive to the variations or intermittent events.*" Over 100 evening performances including sound effects, battle scenes, and music will turn into constant complaint events regardless of deed restrictions or CC&Rs. An aggravated family with children who cannot sleep will not be consulting documents. CC&Rs can be changed. Both restrictions are an ugly threat to freedom of speech.

Mr Mullin's survey isn't worth commenting on as his measurements indicate ambient sounds are louder than ISF's during the quiet performances measured; and it fails to comment upon or address issues raised by the White study.

Comprehensive Plan Incompatibility

The HRNA concurs with RENA's and ISF's position that the application violates the Comprehensive Plan's overall goals, objectives, and strategies.

In addition, the label "infill", used by the developer in neighborhood meetings, is not relevant to the proposed application, as it is not surrounded by similar, adjacent uses; instead, it is situated in the middle of a sensitive area that supports large game animals, occasional predators, migratory birds, a summer amphitheater, two schools, and a parks administrative center. It should be noted that previous owners of adjacent lands (engaged in brickmaking and alfalfa farming) facilitated the public purposes of current users; and that the current landowners of the parcel have been similarly inclined to consider many other uses in preference to the encroachment of an incompatible subdivision.

Rezoning is not an absolute right granted by a land use map; rather the land use map indicates

zoning decisions that **may** be made when in compliance and compatibility with the Comprehensive Plan's overall objectives, goals, and strategies. The application fails in this regard.

Summary of Recommendations:

- Have the Applicant complete a Traffic Impact Study per the PUD requirement.
- Have a wildlife impact study done by an independent expert.
- Disregard developer paid-for sound studies taken during quiet shows.
- Disapprove this application based on its non-compliance with the overall goals, objectives and strategies of Blueprint Boise.

The HRNA is a strong organization that promotes community and has set an example of creative and cooperative partnerships since 2003 while participating in the development and changes to SP01 and SP02, support of Triplett Ranch and Antelope Springs, and the start of Valley Transit Bus Service to Harris Ranch. As such, we are not opposed to a more compatible transitional zoning.

The Comprehensive Plan states: *"Boise will be known for: Environmental stewardship; A predictable development pattern; Stable neighborhoods and mixed-use activity centers; Being a connected community; Being a community that values its culture, education, arts, and history, ; Having a strong, diverse economy; and Being a safe, healthy, caring community."*

Will Boise be known as the City that allowed the Idaho Shakespeare Festival to be driven away? Not if the City, the landowners, and other Treasure Valley interests work to formulate a mutually agreeable solution that is compatible with the immediate surroundings and the City's Comprehensive Plan.

We ask the Commission **not** to recommend approval of the submitted applications and to encourage the landowners to go back to the drawing board with the invested stakeholders to develop a more Barber Valley centric use for the property.

Sincerely,



J. Chris Hendrickson
President



Michael Reineck
Secretary and Treasurer

Attachments: HRNA/RENA Aug 1 Ltr to ACHD and photos

Two and three story Prairie Style units in Boise's Elevation Ridge...same as planned for BME.



New homes being built in the Mill District with open areas



BME elevation above Sawmill Way homes creates wall of homes

35 ft above grade until 10' behind first row

35 ft

15 ft above grade until 10' behind first row



Elevation above homes on Sawmill Way

Note Craftsman style homes



BME parcel fenced in background



07/18/2013 12:36

July 8, 2013

Ada County Highway District
Attn: Lauren Watsek
3775 N. Adams St
Garden City, ID 83714

RE Project/File: Barber Mill Estates (CAR13-00007 & PUD13-00002)

Dear Ms. Watsek:

We believe ACHD staff failed to take several important factors related to increased traffic impacts and public safety into consideration when making their staff report Findings of Consideration for this application. They have failed to consider three critical areas of the plan:

1. Technical Issue- Traffic Impact Study

The applicant's Planned Unit Development Application (PUD13-00002) dated 5/22/13, **Section 24. Street Layout**, subsection **B. PRIVATE Street Layout Review** (page 7) states:

"The impacts of proposed development on adjacent land uses and transportation facilities must be considered. A "Traffic Impact Study" (TIS) prepared by a traffic engineer will be required by Public Works and Planning & Development Services for the interior roadway and parking system. This requirement may be waived when it can be shown by the applicant that no section of on-site roadway will exceed 240 vehicle trips per day.

Is a Traffic Impact Study required? Yes X No"

ACHD Staff estimates Barber Mill Estates will generate 447 vehicle trips per day on Ripsaw Ave. It appears a **Traffic Impact Study should be required** due to vehicle trips exceeding the allowed maximum waiver limit of 240 vehicle trips per day per Section 24 of the PUD application. We request that you add a Site Specific Condition of Approval requiring the applicant to complete a Traffic Impact Study prior to City of Boise plan approval. The Study will aid in determining the impact the additional 447 trips per day and the cumulative traffic flow increase will have on the surrounding street network.

Another Traffic Study concern is the cumulative effect of traffic on Warm Springs Ave with the rapid development of Harris Ranch, River Heights, Mill District Square, Mill Station, The Terraces at Harris Ranch and the proposed East Valley development adjacent to Highland Valley Rd. These new residences will add thousands of day trips to Eckert Rd and Warm Springs. When is a Barber Valley traffic study due?

2. Student and Resident Safety

There is a documented history of traffic safety concerns on the section of E. Sawmill Way that fronts this planned development. The Harris Ranch Neighborhood Association and concerned residents have filed numerous complaints with the Boise Police Dept. and ACHD regarding drivers exceeding the posted 20 mph speed limit on Sawmill Way and using Sawmill as a short cut to/from Eckert Rd and Warm Springs Ave, avoiding the 4-way-stop intersection at Warm Springs and Eckert Rd. Riverstone International School and East Junior High students use this section of Sawmill Way to walk and bike to school, often during dark mornings. An increased level of speeding drivers is a significant safety concern for students and limits their ability to travel to school on foot or bike safely.

A unique feature of homes on E. Sawmill Way and the Mill District in general is their alley-loaded, garage in the back concept. This type of design leaves little or no room for backyard child play areas. Considering there are no nearby parks, children often play in their front yard space, along the frontage sidewalk and near the street. We fear **adding an additional 447 vehicle trips per day to a section of roadway that already poses a significant safety hazard for students and resident children is inappropriate, irresponsible and incompatible** with ACHD's Complete Streets Policy for a residential local street.

3. Greenbelt At-grade Crossing

The currently proposed path for the Greenbelt east of Eckert Rd creates an at-grade crossing at Ripsaw Ave near E Sawmill Way. Once the Barber Valley reroute of the Greenbelt is complete, an at-grade crossing in this location would be one of only three at-grade crossings for the entire northern path from Lucky Peak Reservoir all the way to Eagle. The other two crossings will continue to experience minimal automobile traffic as the valley population grows. Adding this 447 vehicle per day crossing to what could be an uninterrupted, 25 mile bike and walking path will greatly impact the Greenbelt user's safety and experience as they travel east of Boise. Boise Parks & Rec has a goal to minimize at-grade crossings of the Greenbelt. **Allowing an at-grade crossing with the projected amount of vehicle traffic levels conflicts with Boise Parks and Rec Greenbelt design goals, creates an undue safety hazard and is incompatible with surrounding uses.**

As you consider this application, we respectfully ask that you fully take into account the cumulative impact the traffic from Barber Mills Estates will have on not only what was designed to be a quiet, safe neighborhood street, but the Barber Valley community as a whole. Adding an additional +/-400 vehicle trips per day to this section of road is not appropriate or compatible, especially considering the Neighborhood Association's history of identified safety concerns for this section of street.

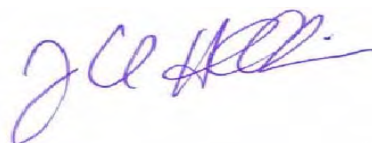
In the event the ACHD approves the application, HRNA and RENA request ACHD's assistance in increasing neighborhood safety by including conditions of approval directing development and implementation of courses of actions to mitigate increased safety risks. Suggestions we can offer at this point are: adding speed bumps to E Sawmill Way and a raised intersection at Ripsaw Ave in an effort to reduce traffic speeds, adding school zone signs along Sawmill Way to alert drivers of students, and creating measures to notify Greenbelt users of the potentially dangerous, high vehicle crossing at Ripsaw Ave.

Please feel free to contact board members Chris Hendrickson at 208-853-6980, icuski2@yahoo.com, or Brandy Wilson at 208-954-9512, fleabane@cableone.net if you have any questions or would like to discuss further.

Sincerely,



Riverland East Neighborhood Association
Brandy Wilson, Vice President



Harris Ranch Neighborhood Association
Chris Hendrickson, President

Cody Riddle

From: Mary Holden <maryholden@cableone.net>
Sent: Monday, August 05, 2013 7:36 AM
To: Cody Riddle
Subject: CAR13-00007 Barber Mill Estates

Dear Mr. Riddle,

I am writing to express my opposition to the proposed Barber Mill Estates development. I am on the board of the Harris Ranch Owners Association but am writing to you as a resident of the Mill District in Harris Ranch. We were specifically told that nothing would be built on the property in question. Given its location so close to Shakespeare and to Riverstone School it makes no sense to build 47 homes in this area. I love living in Harris Ranch and know that development is going to happen in the Barber Valley. What I have issue with is this particular development because it is so outside of what has been built out here to date. The fact that it will be built so much higher than other homes is crazy and I don't care what the developers say the impact on Shakespeare will be enormous. If you had been out here Saturday night you would have seen that vividly. Mr. Conger made a veiled threat at one of the meetings I attended that they could "tear down the berm between Shakespeare and the property with just a few days notice". I so hope he doesn't do that out of spite - Shakespeare is such a treasure to everyone in our valley not just for those of us who live in Harris Ranch. This development will have a very negative impact on our neighborhood and I am hoping that this will be taken in to account by P & Z. Harris Ranch has a history of people working together to create a truly unique community with homes and businesses keeping with the same architectural designs. Mr. Conger and Mr. Centers are not concerned about any of this and are operating from a place of anger. There are better uses for that property that would be of benefit to everyone involved and it is my hope that this development will be stopped as we research the feasibility of some of our other ideas. I have been contacted by many neighbors who are becoming more and more active in opposing this development. I would encourage P & Z to take to heart all of the comments in the letters from the neighborhood associations and individuals who care deeply about the place that they live. Thank you for the opportunity to express my opinion.

Mary Holden and Randy Schubert
5156 E. Sawmill Way
Boise, ID 83716

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Mary Holden
208-850-4771
maryholden@cableone.net

To: Cody Riddle

From: Georgiann and Rich Raimondi

Subject: CAR13-00007/C13, LLC and PUD13-00002 & CFH13-00019/C13, LLC

Date: August 5, 2013

We are writing as concerned citizens of Boise, patrons of the Idaho Shakespeare Festival and a member of the Board of Trustees of the Idaho Shakespeare Festival.

The Idaho Shakespeare Festival (ISF) has been an integral part of our family's summers over the past 35 years. After several locations around Boise, the current amphitheater on Warm Springs Avenue provides a beautiful, peaceful and enjoyable experience along with outstanding theater. We have brought many friends and family members to Shakespeare at the festival site and the reviews are uniformly positive. One example – last July we hosted over thirty members and guests of the national Board of Trustees for the Trey McIntyre Project (TMP) for the play "The Imaginary Invalid". Every one of the TMP Board members have been to arts productions and theaters around the country and, to a person, they raved about the quality of the art and the incredibly beautiful and peaceful theater setting.

It is our opinion that this beautiful and peaceful setting is at significant risk should the current proposal to develop 47 single family homes adjacent to the festival site be approved. There are numerous things we find fault with in the current proposal – the number of homes proposed; the proximity to the site and the noise concerns from both directions – the theater to residents and the residents to the theater; the height of the majority of the housing and the visual impact; the potential damage to the Barber Pool Conservation Area due to the incompatibility of the developer's proposal with the overall plan for the Area; further encroachment of intensive residential use adjacent to sensitive wildlife habitat, which ISF has worked hard to protect and respect in cooperation with other members of the community; and, the impact on ISF's business and our community.

We strongly recommend you deny the developer's annexation and rezone request.

Sincerely,

Georgiann and Rich Raimondi

807 Wyndemere Drive

Boise, ID 83702

(208)331-2121

August 1, 2013

RECEIVED
AUG 05 2013
DEVELOPMENT
SERVICES

Boise City Planning & Zoning Commission
c/o Planning & Development Services
Boise City Hall
150 N. Capitol Boulevard
Boise, ID 83701-0500

REF: CAR13-00007 & PUD13-00002 BARBER MILL ESTATES (BME)

Dear Planning & Zoning Commissioners:

I am an Idaho native and graduate of Boise State University and have lived in the Treasure Valley for the past twenty years. I have been a loyal patron and supporter of the Idaho Shakespeare Festival for many, many years. In addition to attending all the performances every summer, I donate not only my personal time but also financially to the Festival.

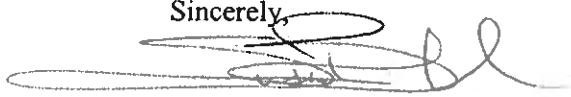
Personally, I consider one of my favorite pastimes to be attending the shows and being able to take my family and guests to performances. There are few things that are more impressive in regards to entertainment in the Treasure Valley.

My love of the Festival is also very important to me professionally. I am the Chief Human Resource Officer for Saint Alphonsus Health System responsible for all facilities in Idaho and Oregon. As an HR professional, I am responsible for, among other things, the recruitment and retention of medical staff and employees.

We have a special, somewhat hidden paradise here in the Treasure Valley and it is often overlooked as a prime destination to relocate to, especially when coming from much larger urban areas. However, once someone visits here, they are often hooked! I have continually used the cultural opportunities and events that are offered in the Treasure Valley as enticements to new recruits and the biggest seller I have is the Idaho Shakespeare Festival. As we recruit physicians, surgeons, registered nurses and other medical staff, not only to Boise but also for our Nampa and Ontario sites, a major attraction is the Festival and the impressive theatre grounds and surroundings.

I feel that it is critical that we support and maintain this unique and fantastic benefit of the Treasure Valley and ensure that we do not jeopardize its future by allowing a dense residential project that will eventually result in issues between the new home owners and their proximity to an outdoor theatre.

Sincerely,


Susan T. Bundgard
Vice President of Human Resources

August 5, 2013

Boise City Planning and Zoning Commission
c/o Planning and Development Services
150 N. Capitol Blvd
Boise ID 83701-0500

Dear Commissioners:

We oppose the Barber Mill Estates (BME) development proposal by C13, LLC referenced by file numbers CAR13-00007, PUD13-00002 & CFH13-00019.

One of the main attractions to building in the Barber Valley was the comprehensive planning and vision of the Harris Ranch development. It is clear to us that this plan, when complete, will be a national example of how future communities should be built. The BME as proposed does not fit with this broader Barber Valley plan.

- It places homes inside the Barber Pool Conservation Area in a community that clearly values open space.
- It takes no consideration with its placement and density of homes in proximity to the river and the Idaho Shakespeare Festival. The high density of BME is incompatible with all barber valley neighborhoods. The proposed density and modern design of BME belongs on a vacant lot in a downtown urban environment, not on the outskirts of Boise.
- The proposed elevation, which is significantly above neighboring properties, questions any flood plain analysis or discussions, especially given the amount of effort that went into the levy behind the Mill District.
- BME puts the Boise Green Belt and its users last. The proposed route places a neighborhood between the Green Belt and the river, adds three 90 degree turns along with the busiest at grade crossing.

Given the proper planning, this valuable land can be developed in a way benefiting not only the existing neighbors, but the community as a whole. Please deny the Barber Mill Estates application to allow time for better proposals to surface.

Sincerely,
Ben & Jill Andrick
5189 E. Sawmill Way
Boise, ID 83716

Cathy R. Silak

920 Warm Springs Ave.

Boise, Idaho 83712

Boise City Planning and Zoning Commission

Attn: Cory Riddle

References: CAR 13-00007 (annexation); PUD 13-00002; CFH 13-00019 (development)

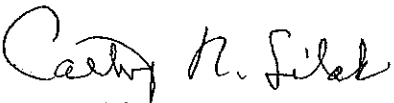
Dear Planning Commission:

As a resident of Boise for over 30 years, I write to express support for the unique asset to the Boise community that the Idaho Shakespeare Festival represents. The Festival provides an enriching cultural, educational, and aesthetic experience that is of the highest quality. Very often over the years since the Festival site has been in operation, my family and I, as well as friends and visitors to the Treasure Valley, have enjoyed the professional and high quality performances of Shakespeare plays, as well as other classic plays and musicals. We particularly enjoy the setting of the Festival, with the Barber pool area available for pre-theatre picnics and strolls.

Over the last few years I have been involved in developing the new law school here in downtown Boise under the auspices of Concordia University. The law school has attracted many faculty and staff from outside the Boise area, and the high quality of our cultural offerings, including very prominently the Idaho Shakespeare Festival, ensures that we are able to recruit high quality employees from around the United States.

Please accept this statement of support for the Idaho Shakespeare Festival, along with the hope that all planning and zoning decisions are made with due care for the importance to the Festival of the aesthetics and functionality of its setting.

Sincerely,



Cathy R. Silak

Board of Trustees

Lynn Johnston, President
John Sims, Vice President
Karen Meyer, Secretary
Robert P. Aravich, Jr., Treasurer

Rhea Allen
Eileen Barber
Cindy Bateman
John Bender
Lisa Benjamin
Carol A. Brown
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J. Walter Sinclair
James A. Steele, Jr.
Brandy Stemmler
Nicholas C. Sutton
Macey Prince Swinson
Gregory Taylor
Jerry Van Engen
Henry Yun

Charles Fee
Producing Artistic Director

Mark Hoffund
Managing Director

Carolyn Bancroft
Recording Secretary

August 5, 2013

Via e-mail to Cody Riddle (criddle@cityofboise.org)

City of Boise
Planning and Zoning Commission
150 S. Capitol Boulevard
Boise, Idaho 83702

Re: Barber Mill Estates, CAR13-00007, PUD13-00002, CFH13-19, CFH13-20,
SUB13-17

Dear Commissioners:

I am the President of The Idaho Shakespeare Festival ("ISF" or the "Festival"). On behalf of the Festival, I offer the following testimony for the record in the above applications.

ISF opposes the proposed Barber Mill Estates ("BME") development just west of ISF. As discussed in the paragraphs below, the Festival is very concerned about the noise impacts of BME on the Festival and vice versa as well as the potential economic impacts if the Festival were required to move or change its operations. We are also very concerned about the potential for the development to worsen flood conditions and adversely impact the environment of the Barber Pool Conservation Area ("BPCA"), which is an integral part of the ISF experience. We do not know if our operations can be compatible with a next-door residential development of any kind; we are quite sure they are not compatible with this one.

ISF is prepared to put its money where its mouth is and acquire the property, if that opportunity becomes available, and we have discussed this possibility with the property owners.

The sections below provide background on the Festival and describe our concerns.

The Festival may also be supported through gifts to the Foundation for the Idaho Shakespeare Festival.

A little about the Festival

ISF fills a unique cultural niche in the Treasure Valley. Following are a few excerpts from a recent joint grant application that ISF, the City and other partners submitted to the National Endowment for the Arts:

The Festival's mission is *to produce great theater, entertain and educate....*

Idaho Shakespeare Festival has evolved into one of Idaho's premiere arts organizations, served over 100,000 individuals annually.... It is governed by a 39-member Board of Trustees, managed by twelve permanent staff members, and employs nearly 200 artists, technicians and service personnel seasonally, attracting local and national talent.

... Now celebrating its 37th season, the Festival presents five productions in 93 performances to approximately 58,000 audience members... The school tours, *Idaho Theater for Youth* and *Shakespeareance* reach approximately 50,000 K-12 schoolchildren and their teachers each year... The School of Theater provides recreational classes and vocational training in the theater arts to people of all ages...

Since its founding, the Festival has reached well over a million audience members and over a million K-12 children... The Festival reaches out to a broad spectrum of our community and serves as a premier arts resource for a state of 1.5 million, as well as a cultural destination for those in the region and around the country.

The Festival conducts a wide-reaching Access Program aimed at increasing opportunities for those who otherwise would not be able to participate in theater....

NEA Our Town, FY2013 Grant Application, p. 1.

ISF offers an extraordinary outdoor theater experience with a unique ambience. You may have enjoyed the peace of a quiet summer evening at ISF, with no sound audible except the chirping of birds or perhaps a light breeze blowing through the trees. Or perhaps you have enjoyed a quiet stroll on the paths near the theater or enjoyed a peaceful sunset from our patio. We like to think it is an outdoor theater experience that, in its own way, is unlike any other in the world.

We are deeply concerned about how BME will affect that experience. The developer of BME seeks to develop an extremely sensitive piece of property, adjacent not only to ISF but also to the Barber Pool, Harris Ranch Planned Community and the Riverstone School, all of which involved careful planning and all of which add tremendous value to the area. But rather than treat the site with the care it deserves, the developer has proposed a cookie-cutter subdivision at double or more the density the comprehensive plan contemplates, devoid of meaningful amenities either for the residents of the development or for the community. The City should deny all facets of the development.

Many of our patrons share our concerns. Attached as Exhibit "A" are petitions signed by over 4,500 concerned citizens, as of this date, who have first-hand knowledge of the Festival's experience and understand the fundamental nature of the Festival's relationship to its surroundings.

ISF is deeply concerned about BME

The paragraphs below discuss ISF's concerns, followed by an analysis of whether the development meets the criteria for each of the several applications for which it has applied.

Noise. ISF is boisterous; it is a festival, after all. Lightning strikes, guns go off, whistles blow, actors yell, the crowd cheers! Over the years, our enthusiasm has led to several complaints from ISF's neighbors, including neighbors hundreds of yards away from the theater and across the Boise River. To address these concerns, ISF commissioned a sound study by Wilson Ihrig in 2001, which led to modifications to ISF's amplification system. A copy of this 2001 Wilson Ihrig study is attached as Exhibit "B". We believe we have taken and are taking reasonable measures to control noise from our facility, and it has been some time since we have received noise complaints.

However, the 2001 Wilson Ihrig study contains modeling projections that give us significant concerns about BME. Under certain conditions, particularly as shown in Figures 9 and 11 of the report, noise levels on the Triplett property could reach 70 dBA or greater, equivalent to a vacuum cleaner 10 feet away. Similarly, we expect patrons of ISF could experience disruptive sound levels under similar conditions due to air conditioning units, leaf blowers, parties, or other conditions on the BME home sites.

The developer has submitted two sound studies, prepared by Mr. Earl Mullins and Dr. Pritchard White, respectively. Based on limited sound sampling during spoken word productions (musical productions are louder), which we understand were not conducted during the type of conditions described in Figures 9 and 11 of the Wilson Ihrig report, Mr. Mullins concludes ISF does not have a significant impact on the surrounding community. Dr. White reaches an opposite conclusion, including statements like these that are naturally of concern to ISF:

Sound from the Idaho Shakespeare Festival is clearly audible at a distance of 100 feet, thus making the Festival in violation of Ada County Code 5-13-3.... Bringing the Festival into compliance with the Ordinance will require physical or operational changes.

Sound Survey at Barber Mill Estates and Idaho Shakespeare Festival, July 7, 2013, by Pritchard H. White, Ph.D., M.E., Boise Idaho (the "White Sound Study"), p. 1.

To comply with the Ada County Ordinance and reduce its impact on the surrounding community the Idaho Shakespeare Festival must take steps to reduce its sound radiation. Such steps might include physical noise barriers on their property, changing the speaker configuration, electronically limiting the sound power of its amplification and speaker system, or ceasing activity at 10:00 PM.

White Sound Study, p. 5.

These statements are alarming to ISF. The kind of changes Mr. White describes could be very detrimental to the experience at the Festival. More importantly, they demonstrate the developer's confusion about the noise issue. ISF's compliance with Ada County's noise ordinance is not at issue in these applications and is not even within the City's jurisdiction. Moreover, the County ordinance forbids "loud or offensive noise ... which is plainly audible within any residence or business ... or upon a public right of way or street at a distance of one hundred feet (100') ..." Thus, the ordinance protects existing residences, but creates no per se right to construct a residence in a location that will cause an existing use like ISF to be in violation of the ordinance. To the contrary, the application before the City requires the developer to demonstrate that the residences he intends to build are compatible with adjacent uses and will not cause an undue adverse impact on neighboring properties. Yet his own expert concludes that those residences cannot be built unless ISF substantially changes its operations. This is a critical point: the developer is trying to say ISF must change to accommodate the development. But the opposite is true: the developer needs to show his development can co-exist with ISF.

ISF has also commissioned a new sound study by Wilson Ihrig. The new study has not been completed as of this writing, but will be submitted in advance of the Planning and Zoning Commission hearing. Based on a draft report which has been provided to ISF, we expect Wilson Ihrig will conclude that ISF's impacts on BME will be greater than what Mr. Mullins or Dr. White found because (1) the developer's experts did not take measurements during musicals, which tend to be louder than spoken plays, and (2) the developer's experts measured sound at ground level, which did not account for the height of the structures the developer intends to build. Please see the photographs attached as Exhibit "C", showing balloons depicting the height of the homes the developer intends to construct from locations on the ISF property. We understand Wilson Ihrig's ultimate conclusion is that a new residential development in the

lagoon area would be incompatible with the existing conditions generated by the long-standing ISF summer productions.

ISF recognizes that its noise concerns cannot preclude all development on the BME property. However, as discussed below, the applicable legal standards give the City the clear authority to regulate noise impacts and to deny the development if the developer fails to address them adequately. We submit that what the developer has offered is completely inadequate. We expect noise complaints will be flying in both directions if this development is approved. The developer has offered some concessions, primarily in the form of covenants and deed restrictions restricting the homeowners' rights to complain. We simply do not believe these types of restrictions will be effective. People will complain whatever their deeds and covenants say.

We do not have a complete understanding of what would be required to allay our noise concerns. However, we know that careful planning is part of the solution. We suggested that the developer undertake a design charrette with all stakeholders (including the sound experts) in an attempt to come to a mutually acceptable solution. He rejected that option as too costly, but we continue to think it would be a good idea. We also expect that careful orientation of structures and outdoor space is part of the solution. The design shows none of this, offering instead a standard array of lots with many backyards pointing directly at the Festival. We are open to other ideas but it is not the Festival's place to design the developer's project.

Finally, some of the developer's actions have fundamentally shaken our confidence that any kind of trusting, mutually beneficial relationship can be built with him. As set forth in our letter of June 6, 2013 (available in the administrative record), when ISF did not offer immediate support for BME, the developer threatened to take actions to harm the Festival, including removal of the berm between ISF and the project, tilling the waste in the sewage ponds to generate odors, and running a motocross track on the property during ISF performances. The developer subsequently stated in a June 18, 2013 letter (also in administrative record) that tilling the waste was necessary to dry it out, which is not true, and that he was only suggesting that "friends and family of the Triplets" might want to run their motorcycles on the property. We do not know how to do business with someone who says things like this.

Economic Impact. The Festival has a direct and positive economic impact on the community estimated to be \$4.2 million per year. The Festival creates nearly 200 direct jobs, and provides a bright spot by being one of the few sources of good-paying jobs for young people. The Festival includes additional indirect economic benefits, including food and beverages, hotel rooms, travel, revenues to state and local governments and other impacts estimated to be \$3.7 million annually. More important is the fact the Festival is an integral part of how our community presents and markets itself. Boise is simply not competitive in its quest for employers without a thriving arts community and ISF is an important part of that community. Several letters in the record support this conclusion.

What would happen if conflicts between BME and its neighbors forced ISF to move, or worse yet, to close? This would be a tremendous economic and cultural blow to our community.

Sadly, this prospect is not out of the question. The Oregon Shakespeare Festival ("OSF") in Ashland faced a similar dispute concerning noise issues. To mitigate the problem, it was necessary for OSF to enclose its historic Globe-inspired stage in an enormous stadium-like shell. ISF has no desire to be put in that position. That is not the ambience we want for our theater, and we do not even know if it is feasible to build such a structure on our site. Our community and patrons like what we have, and we all want to keep it.

Health and Safety. As BME's immediate neighbor, ISF is very concerned about the impacts of BME on the potential for flooding at ISF. According to the revised preliminary plat dated June 26, 2013, approximately half of the property is located in the 100-year floodplain. This means the developer is required to "utilize methods and practices that minimize development and prevent the increase in flood damage potential to other properties or other adverse impacts including but not limited to ... increased heights of floodwaters ..." BCC § 11-08-03.2A.1, 11-08-04.2.A.(1). In short, BME has to demonstrate that the homes it builds will not be subject to flood damage and that the development's impact on the floodplain will not increase flood waters on other properties. As of this writing, the planning director has not decided the flood hazard application, but the record is devoid of information that BME will be able to meet the requirements of the flood ordinance.

The flood protection requirements for this property are very complex and involve numerous jurisdictions. A fundamental question is what is BME going to do about the dikes that surround the wastewater ponds? For the developer to answer this question, he needs approvals from five regulatory agencies, including the Federal Energy Regulatory Commission ("FERC") and Ada County relative to the Barber Dam, the Idaho Department of Environmental Quality ("IDEQ") relative to the clean-up of the wastewater ponds, the Federal Emergency Management Agency ("FEMA") relative to the location of the floodplain, and the City relative to the City floodplain ordinance and the BRSO. As of this writing, the developer has none of these approvals, nor even preliminary indications that approvals are possible. In fact, Ada County's letter of August 2 highlights the uncertainties and problems related to the flood hazard issue.

The state of the record leaves myriad questions open that prevent approval of the floodplain application including:

- a. What truth is there to the statement made by Resource Systems Inc. that "[t]he property may be protected from the 100-year flood by a berm/levee constructed and restricted by the Federal Energy Regulatory Commission related to Barber Dam?" Boise River System Permit Supporting Information, at p. 1. Does the berm/levee protect the property or does it remain subject to flooding?
- b. Will the developer rely on the berm constructed adjacent to ISF for flood protection? Is that berm designed for flood protection? What impact would that design have on flooding at ISF?

- c. If the dikes and/or berms are removed, how will the developer offset the increase base elevation the developer will need to provide in order to build homes within the floodplain? How will the safety and viability of Barber Dam be maintained?

ISF believes these questions are fundamental to the compatibility of this development with its neighbors and not matters where the answers can wait for future analysis. If the application is not denied, we join in Ada County's request that consideration of the application be deferred until the many flood hazard questions regarding this application are answered.

Environmental Impacts. The Barber Pool Conservation Area ("BPCA") represents one of the most unique ecologies in the Treasure Valley. We feel very fortunate to be a neighbor to BPCA and we work very hard to protect and nurture the amazing natural environment we are in. The BPCA is extraordinarily peaceful and it is home to a huge variety of wildlife, some of which, such as bald eagles, are extremely sensitive to the presence of humans. BME shows no sensitivity to its surroundings, slapping in standard homes and backyards immediately adjacent to the BPCA. Resource Systems, Inc.'s statement is telling: "No enhancement plan is proposed other than normal residential landscaping. Some enhancement may occur if berm/levee restrictions would allow them." The BPCA deserves better than this.

The opinion of ISF's wildlife ecologist is that BME does not comply with the requirements of the Boise River System Ordinance ("BRSO") that are designed to protect sensitive habitat areas, of which the Barber Pool is a prime example. As discussed in more detail below, the development should be required to comply fully with the 200-foot eagle perching and loafing setback and to comply with the BRSO's mitigation and enhancement requirements for Class B lands. Since the BRSO application does neither, it should be denied.

BME does not meet the development approval criteria

This section discusses the primary approval criteria that BME must satisfy to proceed with the development. These are: the (1) "public convenience or necessity" or "general welfare" criteria required for annexation; (2) several criteria for adoption of initial zoning; (3) the "compatibility" and "adverse impact" criteria necessary for approval of the Planned Unit Development ("PUD") application, (4) the offset criteria necessary to approve the Floodplain application and (5) the Boise River System criteria. The sections below discuss each of these issues in turn.

2. The annexation of this property for the BME development does not serve the public convenience or necessity or general welfare.

The City Council has no obligation to annex this parcel. The Council's decision whether or not to approve the developer's request for voluntary annexation is a legislative decision which is not subject to judicial review. *Black Labrador Investing, LLC v. Kuna City Council*, 147 Idaho 92, 96-97, 205 P. 3d 1228, 1232-33 (2009). A denial of annexation does not implicate the developer or property owner's property rights. The property owner has no right to be annexed to

the city or to be served by city services. The property has development rights in the county the property owner can pursue if annexation is denied. In short, the developer has to earn the privilege to be annexed into the City under the criteria by which the City Council evaluates the annexation request.

The Boise City Code states the following criteria for an annexation: “The corporate boundary of the city may be expanded whenever the [City] Council deems it to be for the public convenience or necessity or for the general welfare.” BCC 11-03-04.15.A (emphasis added).

We urge the P&Z to recommend denial of the annexation to the City Council under these criteria. BME is proposed on an extremely sensitive site. It is next to ISF, a critical cultural resource for the community, as well as BPCA, a critical environmental resource. It also bounds existing homes and the Riverstone School. The care with which these neighbors have developed their properties has added enormous value to the developer’s property and they all need to be protected. Under these circumstances, the public convenience and necessity along with the general welfare, all require that the developer’s plans and approach be as sensitive, careful, well-planned and thoughtful as the location deserves.

Sadly, BME is the opposite of that. It is a cookie-cutter subdivision of unremarkable homes that will substantially impact some of the things we care about most: our arts community, our economic vitality and our natural environment. The City should simply decline to extend its boundaries to include this property until a development comes forward that befits the area.

3. The proposed zoning does not meet the City’s criteria for approval.

The Boise City Code requires that any application for initial zoning on annexation cannot be approved unless the City Council finds the zoning:

- i. Is in compliance with the Comprehensive Plan.
- ii. Is in the best interests of the public convenience and general welfare.
- iii. Maintains and preserves compatibility of surrounding zoning and development.

BCC 11-03-04.03.B.(7)(c).

BME cannot meet any of these criteria, for the reasons discussed in the paragraphs below.

Comprehensive Plan. BME fails to comply with comprehensive plan policies in the areas of (1) density, (2) arts and culture, (3) economic impact, (4) environmental stewardship, and (5) Barber Valley specific policies. As a result, the development is not in compliance with the Comprehensive Plan and the P&Z should recommend denial. The enumerated issues are discussed in turn in the paragraphs below.

Density. Blueprint Boise designates the BME parcel as a “Large Lot” residential parcel. The plan describes the allowed land uses this way:

Large lot neighborhoods feature single-family detached homes on lots ranging from ½ to more than one-acre in size. Neighborhoods typically feature more rural characteristics, such as open fencing and rural roadway cross-sections (e.g. no curb and gutter or sidewalks) and in some areas exist as enclaves within urban areas. Topography and other natural features, as well as adjacent ranges and grazing lands, contribute to the overall character of these neighborhoods depending on their location. Clustering homes to preserve features or provide shared open space for residents is encouraged.

Blueprint Boise at 3-19.

The plan states the allowed density for Large Lot parcels as follows: “Typically 1-2 dwelling units/acre, although densities may be significantly lower in some locations.” *Id.*

Our question is: how did the developer read these provisions and come up with BME? BME’s gross density is 3.9 dwelling units/acre, notwithstanding that a significant part of the property is unbuildable because it is in the flood easement for the Barber Dam. The only clustering in evidence was to avoid this area and partially avoid the 200-foot eagle setback. No attempt was made to take advantage of the river environment or to provide shared open space for residents. Lot sizes range from 4,000 to 5,500 square feet, a fraction of the half-acre or larger contemplated by the Comprehensive Plan. The sole hint that BME might fit the Large Lot development criteria is that R-1B zoning is a permitted zoning district in this area. However, the context is clear that R-1B density is allowed only in the context of a clustering plan to protect natural features or provide amenities. BME provides neither. Under the current comprehensive plan designation, the density of this project should be no more than the comprehensive plan allows, with fair warning that densities “significantly lower” than 1-2 units per acre may be appropriate.

ISF wants to be clear the problems with BME are not just about density. Because of noise impacts of ISF on BME and vice versa as well as environmental impacts, significant consideration also needs to be given to design to ensure that the neighboring uses can be compatible.

Arts and Culture. One of the seven themes of Blueprint Boise is that Boise is “[a] community that values its culture, education, art and history.” Blueprint Boise, p. 2-58. Immediately above this title is a scene from ISF’s performance of “The Tempest” and below it this statement:

The quality of Boise’s cultural and performance facilities is a source of community pride. Arts and culture, including visual arts, performing arts, and local history, are integral the city’s

community identity and can be found in community celebrations and events, neighborhoods, and public institutions.

Blueprint Boise at 2-58.

Blueprint Boise supports these statements with two specific goals:

Goals and policies to promote the role of cultural activities, education, arts, and history in Boise are based on the following principles:

- Reinforce the role of visual and performing arts and history within the community;
- Support the development of public spaces that promote community gatherings and cultural events;

...

Blueprint Boise at 2-3 through 2-4.

Indeed, the plan includes a specific policy supporting the protection and indeed, expansion of cultural facilities in CEA 3.5:

CEA 3.5: CULTURAL FACILITIES

Expand Boise's public and private cultural facilities to better meet the needs of the city's creative and historic organizations and improve community access to art and history events, programs, and educational opportunities.

Blueprint Boise at 2-61.

The BME application puts the City's resolve to protect its arts and culture to the test. It requires the City to answer the question: what is more important, a treasured arts institution, or a standard subdivision? The sound studies before the City show that the construction of BME threatens ISF's operations because of sound impacts. The City should not risk the future of ISF for the convenience of this developer.

A Strong, Diverse Economy. ISF's success as an arts organization makes it easy to forget that it is also a business that provides seasonal employment for nearly 200 people, as well as promoting innumerable other businesses as a cultural destination and place where business gets done. Blueprint Boise makes clear that businesses like ISF are to be protected where they are located:

EC 3.2 PROTECT BUSINESSES FROM ENCROACHMENT

Protect existing businesses and industrial areas from encroachment of incompatible or non-complimentary uses that would threaten their viability or ability to continue to operate.

Blueprint Boise at 2-71.

We believe BME is a legitimate threat to ISF's future, and the sound studies prepared by the developer and ISF support this conclusion. BME has failed to demonstrate that it is not a threat to ISF, and therefore the development should be denied.

Environmental Stewardship. Blueprint Boise makes "Environmental Stewardship" a primary focus, and one of the primary stewardship goals is to "[p]reserve and enhance natural resources." Blueprint Boise, p. 2-8. Goal ES7 states as follows:

Goal ES7: Protect and enhance the natural environment

ES7.1: BOISE RIVER SYSTEM ORDINANCE

- (a) Implement and periodically update the Boise River System Ordinance to achieve the goals of flood protection, fish and wildlife protection, pollution and runoff control, recreation, and development opportunities.
- (b) Place priority on the protection of environmentally significant areas and waterways, identified as Class A and Class B in the Ordinance, in that order.
- (c) Allow for urban interface with the river when there is no demonstrated adverse impact on wildlife habitat.

Blueprint Boise, p. 2-12.

Goal ES7.3 addresses wintering bald eagles:

ES7.3 WINTERING BALD EAGLES

- (a) Implement the goals and program recommendations including setbacks and use restrictions to the extent defensible by law of the Wintering Bald Eagle Conservation Plan dated May 1995.
- ...
- (b) ... Preserve wintering eagle day-use habitat and protect perching eagles from human disturbance and maintain healthy diverse aquatic habitat in the Boise River to support wintering bald eagles.

Blueprint Boise, p. 2-13.

BME fails to support these goals. Immediately adjacent to homes in BME is Class A habitat, which among other things, is potential bald eagle perching and loafing habitat. It is also part of BPCA, one of the most sensitive environments in the valley. Notwithstanding, the developer proposes to “smooth” the 200-foot eagle perching and loafing setback in the developer’s favor to allow development closer to this sensitive habitat. Further, the developer inexplicably seeks to designate lands in the 100-year floodplain as “Class C” lands to avoid the requirements for preparation of a wildlife mitigation plan to offset the development’s impacts in these areas. In short, the developer wants to thumb his nose at the wildlife protection provisions of the Comprehensive Plan and BRSO. The City should not allow it.

Policy ES8.4 addresses noise mitigation:

ES8.4: NOISE MITIGATION

Require mitigation measures for development of “noise-sensitive” land uses (such as single-family residences, hospitals, and schools) where noise studies show existing or future noise levels exceed an Ldn of 60 dB(A) exterior and an Ldn of 45 dB(A) interior.

The Wilson Ihrig studies show the potential for sound levels above 60 dB(A) exterior (interior levels were not estimated). Therefore, the development should include mitigation measures including reduced densities and designs to shield outdoor spaces such as patios and yards from ISF. As BME fails to include appropriate measures, it should be denied.

Barber Valley Planning Area Policies. Except for BME and a few other parcels, Barber Valley is carefully planned and protected. Most of the private land is included within the Harris Ranch and Barber Valley Specific Plans. Large amounts of environmentally sensitive land and wildlife habitat are in Barber Valley, including the Boise River Wildlife Management Area, the BPCA and the largest wintering deer herd in the State of Idaho in the nearby foothills. According the map at BV-9, the BME property is within the BPCA.

Specifically applicable policies are as follows:

BV-CNN 1.1: CONTEXT SENSITIVE DEVELOPMENT

Design development to preserve wildlife habitat and connectivity, open space, and context-sensitive recreational opportunities.

Blueprint Boise at BV-7.

Goal BV-NC-1: Maintain the unique character of the Barber Valley through use of design guidelines and plans for development in the Barber Valley.

Blueprint Boise at BV-13.

BME has failed to address the policies in the comprehensive plan requiring the developer to address the context of ISF, the BPCA and other surrounding land uses, and to preserve the unique character of the area. For one of many examples, the development does not make any attempt to screen the BPCA from the backyards of homes adjacent to it. This violates the BRSO as well as the intent of numerous comprehensive plan policies. Similarly, the development plan ignores its context adjacent to Shakespeare and the special noise mitigation requirements that entails.

Best Interests. For all the reasons cited above, granting the requested zoning to BME is not in the best interests of the public convenience and general welfare. The project threatens a cultural icon and an environmental treasure with no discernible public benefit.

Compatibility. Similarly, we do not see that the developer has met its burden of showing that BME is compatible with surrounding land uses. The reasons are stated above.

4. The PUD should be denied because it is not compatible with adjacent uses and because it will cause adverse impacts on other properties.

Approval of the PUD also requires findings of compatibility and no adverse impact on surrounding properties. The developer has failed to meet these findings.

5. The Boise River System Ordinance application should be denied because the 200-foot setback was drawn improperly, and because the portion of the property in the floodplain should be designated as Class B lands and not Class C lands.

As set forth in the letter from Rob Tiedemann of Ecological Design, Inc. attached as Exhibit "D", the developer's BRSO application has two fatal defects. First, the developer proposes to "smooth" the 200-foot eagle perching and loafing setback in the developer's favor to limit the number of lots affected by the setback. In such a sensitive area, there is no basis to compromise the setback.

Second, the developer's consultant improperly characterizes the portion of the property in the floodplain as Class C lands. As Mr. Tiedemann points out, the property has the characteristics of Class B lands and has "good potential for improvements in natural resource functions and values." In addition, similar lands have been treated as Class B in recent BRSO applications.

Class B lands are required to meet the mitigation, enhancement and other requirements of the BRSO. *E.g.* BCC § 11-05-06.A.I & J. The application does not provide this information, and therefore should be denied.

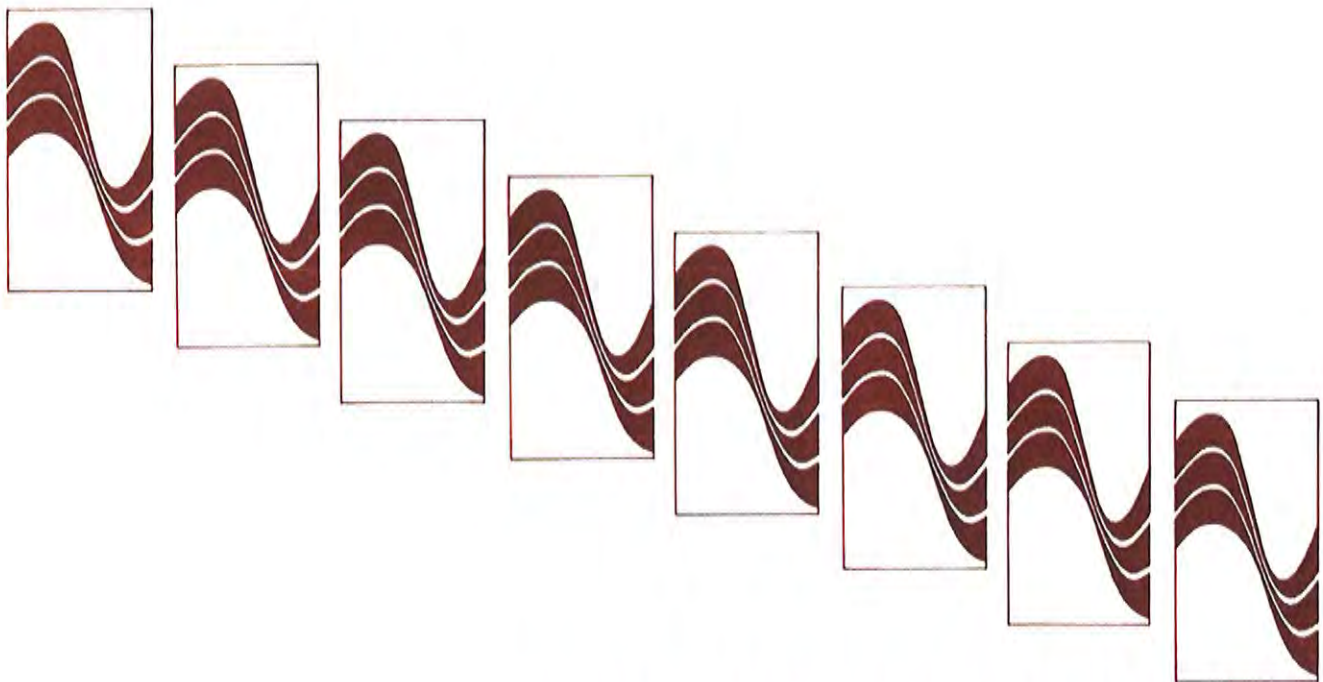
City of Boise
Planning and Zoning Commission
August 5, 2013
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Thank you for your consideration of these comments. We look forward to talking with you on August 12.

Sincerely,



Lynn Johnston
President, Board of Trustees



WILSON, IHRIG & ASSOCIATES, INC.

ACOUSTICAL CONSULTANTS

IDAHO SHAKESPEARE FESTIVAL AMPHITHEATER
Acoustical Study -
Propagation of Amplified Sound
Effect of Traffic Noise on the Amphitheater

16 January 2001

EXHIBIT B



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IDAHO SHAKESPEARE FESTIVAL AMPHITHEATER

Acoustical Study -
Propagation of Amplified Sound
Effect of Traffic Noise on the Amphitheater

16 January 2001

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1. Introduction

The Idaho Shakespeare Festival (ISF) inaugurated the new Amphitheater and nature Reserve with the 1998 season. During development and design of the Amphitheater, consideration was made to find a suitable acoustic environment far from noise sources and remotely located from residential areas (reference letters from David Jensen, July 1994, and March 1995).

The existing Amphitheater site located southeast of downtown Boise along Warm Springs Avenue, lies adjacent to Idaho Parks and Recreation Park land and the Boise River. Noise sources include airplane and helicopter flyovers, traffic on Warm Springs Avenue and wildlife.

For the initial three seasons at the new Amphitheater site, the ISF has utilized six speakers: a pair of large speakers (JBL 4725) mounted centrally on the motorized lighting truss for audio playback and sound reinforcement of the actors' speaking voices; a pair of smaller speakers (Technomad Noho C) mounted at the front of the house; a third pair of speakers (Technomad Noho C) located at the mid house position, one each on the north and south towers near the center row.

In response to complaints from residents on Boise River Lane, mid-way through the 2000 season the mid-house speakers were disconnected. Boise River Lane is located to the southwest, across the Boise River, approximately 2000 ft away from the Amphitheater.

In addition, while the traffic volume on Warm Springs Avenue is not particularly high, the noise from individual vehicles is noticeable and distracting during theater productions. The existing earth berms were designed to provide some protection from traffic noise, however noise from vehicles on Warm Springs is still intrusive and distracting.

2. Goals of this Study

As requested by ISF, Wilson, Ihrig & Associates, Inc. (WIA) have pursued two objectives in this study:

1. To measure the typical propagation of amplified sounds from the existing speaker set-up and a mock-up of the recommended set-up and provide recommendations to control the propagation of amplified sound beyond the perimeter of the Festival grounds.
2. To measure the existing noise levels from non-Festival ambient sources in the amphitheater and provide recommendations to provide natural enhancement of the actors' voices and to control the intrusion of non-Festival ambient noise (e.g., traffic noise from Warm Springs Avenue) into the amphitheater.

This report provides a summary of the noise measurements taken, modeling results and a discussion of possible solutions. Our recommendations are briefly summarized on pages 12 and 13. Figure 1 presents a site plan of the study area and shows the noise measurement locations.

3. Background on Noise

Environmental noise and issues of annoyance require some understanding of different descriptors of noise. Humans have less sensitivity to the low frequencies and high frequencies; thus A-weighting was derived to model how the human ear responds to sound. This report will discuss sound pressure levels in A-weighted decibels, abbreviated dBA. However, different sounds may have the same A-weighted level but be entirely different in character. If relevant, individual 1/3-octave band frequencies of particular sounds will be discussed. We have provided a Glossary in the Appendix for your convenience. See Figure 2 for a comparison of typical environmental noise levels.

The average, or energy-equivalent, noise level is denoted L_{eq} , and it is a single number to describe the time-varying sound over a given time interval. When it is important to compare a noise to the ambient environment, we look at descriptors such as the L_1 , and L_{90} , which indicate the noise level exceeded n% of the time. The former indicates the typical maximum noise level observed during a given time period, and the latter indicates the typical background noise level, little affected by local, infrequent events.

Generally speaking, when two sounds of equal sound pressure level are added together, the overall noise increases by 3 dBA. If one sound is louder than the other (e.g., 55 dBA plus 60 dBA), the overall noise may increase by 1 or 2 dBA (from 60 to 62 dBA). However, the character of the noise may change, causing the perception that the noise has increased a lot, when, in fact, it is only the nature of the sound that has changed.

In addition, the frequency content of a noise may be instrumental in how it affects others. Driving bass sounds from car stereos bothers some people; others are bothered by the hum of fans or machinery. The Harley Davidson motorcycles which frequent Warm Springs Avenue during the summer months are soothing to some and not to others. Low frequencies will tend to travel distances and overcome barriers more easily than the higher frequencies. Humans, however, are most sensitive the frequencies in the mid-spectrum (600 to 6,000 Hz).

While the wind itself is generally not audible under normal circumstances, it can cause leaves and grasses to rustle, adding to the ambient noise environment and making it difficult to hear unamplified sounds.

A noise can be annoying simply due to its level relative to the background noise. Noises that do not cause significant disturbances in an urban environment may cause dramatically different results in a quiet rural environment; the absolute noise level is not troublesome, it's the difference in level between the background and the offending noise.

Design Guidelines

Unlike machines, humans possess the ability to be selective in what we hear (e.g., someone speaks your name across a room; air movement from the ventilation system). However, this does not happen voluntarily, and our brains are always trying to make sense out of the multitude of sounds it processes. Thus, sounds with information content (e.g., music, speech) can be

particularly annoying noises. To minimize annoyance from these types of noises, some "experts" indicate the offending noise should not cause the total ambient noise level to increase significantly. In fact, we recommend that a noise of different character than the ambient should be 10 to 15 dBA less than the existing ambient without the noise. While this will minimize annoyance, this will not necessarily make the offending noise "inaudible".

Conversely, to attain optimal speech recognition within the amphitheater the actors' voices should be 20 to 25 dBA higher than the ambient noise level, so that the audience is able to understand the speech and not be distracted by the other ambient sounds.

We understand that the City of Boise Noise Ordinance (Chapter 6-20) does not have any specific noise limit; rather, it is a subjective Ordinance, applicable to amplified music. While the Ordinance does not indicate any particular time of enforcement, we have been informed that it is generally not enforced before 10 PM. The Ordinance states that an amplified noise is in violation if it:

- A. Is plainly audible within any place of residence not the source of sound, or,
- B. Is plainly audible upon a public right-of-way or street at a distance of one hundred (100) feet or more from the source of sound.

The term plainly audible is defined:

Sound for which the information content is clearly communicated to the listener, including, but not limited to understandable spoken speech, comprehension of whether a voice is raised or normal, comprehensible musical rhythms, melody, or instrumentation, and the source of which is identifiable to the listener.

We also understand that there may be a separate "peace and quiet" statute, which Mrs. McDevitt cited, which protects an individual's "peace and quiet" at any time of the day. We have not received any information that documents this particular statute.

Keep in mind that homes serve as sound filters. Sounds that are not audible outside may be plainly heard inside, where the ambient noise level is lower. Not all frequencies are treated alike as sound travels through a wall or window. Thus, it is not accurate to assume that a sound that is inaudible outside is also inaudible at the interior of a home.

Outdoor Sound Propagation

Outdoor sound propagation is generally affected by conditions on the ground and conditions in the air. Sound will travel more efficiently over a hard surface (i.e., asphalt, water), as compared to a soft surface (i.e., lawn, fresh snow). In the air, sound propagates more quickly in warmer air, and wind speed and direction can play a large role in the way sound travels.

When studying sound propagation over long distances (greater than a few hundred feet), the rate at which the air temperature changes with altitude (temperature gradient) and wind conditions have the most significant effect on how sound travels from source to receiver. Barriers and ground type have some affect, but with long distance propagation, most of the sound arriving at the receiver has traveled only through the air. During a normal sunny day, the temperature near

the ground is higher than that further from the ground, causing a negative temperature gradient. The typical adiabatic lapse rate is 9.8°C/kilometer, or about 5.4°F loss per 1000 ft of rise. Since sound travels faster in warm air than in cold, a sound wave front (e.g., generated by a stationary speaker) will tend to "bend" up, as the sound near the ground travels faster than that further from the ground. To an observer, listening to the speaker at a distance, the noise will seem to be quieter. During a typical evening in the fall (and perhaps generally true in high altitude Boise), once the sun has set, the earth's surface temperature cools rapidly, causing the air temperature near the surface to be colder than the air further from the surface. The temperature gradation is inverted ("temperature (or thermal) inversion"); a strong inversion is defined by a *gain* in temperature of 54°F per 1000 ft elevation. Typically, a hot, sunny day followed by a cool evening, with wind up to 20 mph, can generate a strong inversion. A sound wave front will tend to "bend" down, as the portion of the wave front further from the ground travels faster than the portion close to the ground. To an observer at a distance (perhaps 1/4 to 3 miles away), the sound will seem to be louder.

Consider the "normal" condition for ISF summer productions: the play typically begins at 8 PM (7 PM on Sundays and in September) and runs until 10:30 or 11:30 PM. During the summer months, the sun sets after 9 PM (June through July), between 8 and 9 PM (August) and between 7 and 8 PM (September). During the summer and early fall the daytime air temperature is typically 80 to 90°F dropping down to 50 or 60 °F several hours after sunset, with a relative humidity in the range of 20 to 50%. Thus, we expect that as the sun sets earlier (during the late summer), there is the potential for a strong inversion to develop once the atmospheric temperatures have normalized. Under the right conditions, a strong inversion can cause an increase in long distance noise levels of up to 10 to 12 dBA.

Some helpful figures illustrating the effects of weather are available in the excerpted information I understand you have received previously (*Yamaha Sound Reinforcement Handbook*, JBL *Sound System Design Reference Manual*, *Sound and Video Contractor* (S&VC) January 2000 online edition).

A light wind, as low as 3.5 mph, can cause the noise levels to change by 10 to 15 dBA. During the summer months, we understand that the wind generally blows from the east, north or southeast. During the winter the winds generally blow from the west, south or southwest. Information in the Appendix suggests that the dominant wind direction is primarily N or NW during most of the year, except during January and February. When combined with a temperature inversion, the effect of the wind and the inversion can be additive. At higher wind speeds, however, the temperature gradient and wave front tend to be dispersed, eliminating or minimizing the possible meteorological effects.

4. Possible Solutions To Be Considered

Sound Barriers: As a noise control measure, barriers are often the simplest to design and implement. However, to be most effective, barriers should be located either very close to the source or very close to the receptor. The noise reduction provided is tied to the additional distance a sound must travel as it passes over the barrier (path length difference), thus, a 6 ft barrier close to the source can be much more effective than a 12 ft barrier located somewhere between the source

and the receiver. Typically, given geometrical and site limitation, under the best conditions, a barrier can only provide 15 to 20 dBA noise reduction. Since it is possible to place a barrier close to the roadway, a sound barrier is a likely candidate for reducing noise from Warm Springs Avenue. Barriers added to the Amphitheater design can also be helpful in decreasing the interfering noise. It is not likely that suitable barriers can be integrated into the amphitheater design to control noise from the speakers.

Masking Noise: Masking noise may also be an effective means of minimizing annoyance. This technique increases the background noise level with a pleasant noise (such as a waterfall) to minimize the difference between the background and the traffic noise. Thus cars would be less noticeable and less annoying.

Sound Reinforcement – Revision: Amplification of the actors' voices is still another possibility to minimize the impact of traffic and other background noises. We understand that the limitation of the existing configuration (JBL speaker at center stage), is that the sound level from the JBL speaker is too low, since it is placed behind the microphones, and very little amplification is possible without incurring feedback. Speakers placed forward of the microphones (toward the audience) will allow more signal to be broadcast. Another drawback of the current speech reinforcement design is that microphones placed on the stage (traditional location) will pick up footfall and movement on the stage as well as the actors' voices. One solution to that issue would be to place microphones overhead or to use telescopic microphones with a focusing dish.

Audio Playback Speaker – Reconfiguration: With respect to audio playback in the amphitheater, there appear to be three options: lower the sound levels in the Amphitheater, lower the elevation of the speakers to minimize the possibility that the wind will carry the sound and/or use speakers with a narrower beamwidth to minimize directing significant sound energy towards the affected residences while still providing suitable coverage within the Amphitheater.

5. ISF and Vicinity - Ambient Noise Environment

To measure the existing ambient noise environment at noise sensitive areas, we mounted digital noise loggers, which continuously monitored the noise levels and stored the noise descriptors every 15 minutes. These units were placed at the following locations

- Location 1: ISF - House Left, Rear Lawn
- Location 2: Harris Ranch/Mill Village - unit placed on a light pole at the intersection of S. Mill Site and S. Barber Station
- Location 3: Surprise Valley - unit placed on the porch of second floor unit 205 (with partial line of sight to ISF Amphitheater).

Sue Daly of Sunsaara, Inc. and Brian Rawlinson of Angell and Rawlinson Architects provided assistance in these measurements. The very helpful ISF staff, including Seth, Monica and Aaron provided assistance with the set-up of the speakers and audio playback.

Summaries of the measured energy equivalent levels are plotted in Figures 3 through 5. High noise levels at Location 1 were generated by our tests of different speaker configurations. The high noise levels at Location 2 are generally attributable to the on-going construction during the

daytime. High noise levels at Location 3 are probably due to local events (e.g., residents leaving for work in the morning). More detailed noise survey data, indicating the background noise levels and typical maximum noise levels are included in the Appendix, Figures A-1 to A-11

Short-term measurements were also taken at each location, to document the ambient noise spectrum and any noises detected from the ISF Amphitheater. Short-term measurements were also performed at Harris Ranch closer to the property line (Location 2A), Surprise Valley inside Unit 205 (Location 3A), and on the porch of Unit 206, with full view of the ISFA and inside Unit 206 (Locations 3B, 3C), and on Boise River Lane (Location 4). The measurement at Boise River Lane was located in front of the homes, on the far side from ISF. Since it was dark, we were not able to determine a clear line of sight to the ISF Amphitheater.

Table 1 summarizes the ambient noise levels measured at each location. Detailed noise spectra at selected locations are provided in the Appendix (Figures A-11). From the data in Table 1, we expect that amplified sound levels on the order of 40 dBA will be audible at residential receivers at Surprise Valley, Boise River Lane and Harris Ranch. Noise levels exceeding the ambient would probably be classified as "plainly audible", and while we anticipate that amplified sound levels, as heard at the residences, less than 30 dBA are likely not to be plainly audible, it is not obvious that a clear line can be drawn. On an A-weighted basis, we expect that modern construction provides a minimum 20 dBA noise reduction for exterior noises with windows closed and about 10 to 15 with windows open. The typical maximum noise levels (L_1) at each residential location were about 2 to 4 dBA higher than the L_{eq} , while the typical background noise levels (L_{90}) were about 2 to 3 dBA lower than the L_{eq} .

TABLE 1 – SUMMARY OF MEASURED AMBIENT NOISE LEVELS, dBA (L_{eq})

Location	Noise Level	Comments
1 – ISF House Left, Rear Lawn	42	Warm Springs traffic and aircraft
ISF House Right, Rear Lawn	46	Bathroom fan
ISF Center Box	38	Afternoon
2 – Harris Ranch	41-44	Warm Springs traffic & construction
Harris Ranch – Brighton Home (inside)	35-38	Daytime, Construction noise
3,3B – Surprise Valley – Outside	41-43	Evening, Traffic on Surprise Valley
3A, 3C – Surprise Valley – Inside	21-25	Evening, Music barely audible
4 – Boise River Lane	37	Evening

6. ISF - Amplified Music

We measured noise levels from three basic configurations:

- Original: Single JBL Speaker (Front Matrix) and four house speakers (Front House and Mid House)
- Modification 0: Mid House speakers detached
- Modification 1: Front Matrix speaker refocused, Front House speakers refocused, Mid House speakers relocated and focused, Six Technomad Vienna speakers are mounted on the rear towers (three on each side of the house), facing the berm area.

The sound cues used were taken from this past season: techno-drumming cue from *Two Gentlemen of Verona*, and two vocal cues from other 2000 productions (Natalie Imbruglia cue and *The Verve* cue). Pink noise was also played through the Modification 1 set-up. (White noise has equal energy in each 1-Hz band, which causes the energy to double with each higher octave and sounds "hissy". Pink noise has equal energy in each octave-band, which sounds more "rumbly" than white noise.) The measurements for the original configuration were made with the board settings equivalent to the levels used this past season. Charlie Fee set the board settings for Mod 1. A final set of board levels was determined on the morning of 17 November 2000, by determining what level produced audible but not necessarily identifiable noise levels at Harris Ranch.

Correlated measurements were taken of different speaker configurations and sound board levels in the amphitheater and out in the community. Table C in the appendix provides a summary of the A-weighted noise levels measured at each location, listing the L_{eq} , L_1 and L_{90} (where available). Figures A-12 to A-15 in the appendix present typical noise spectra at each location, comparing the ambient noise spectra with music noise spectra - we see here that in some cases particular frequencies of the music spectra are very similar or less than the ambient without the music - only the human ear is able to determine that in fact something different was occurring at that time.

In some cases the ambient noise levels are the same as or greater than the noise levels measured from amplified music. While we endeavored to perform the measurements under the quietest typical conditions, noise from car or airplane passbys may have influenced the ambient noise levels.

These measured noise levels were used to calibrate a noise model (created with the software Environmental Noise Model). Adjustments for ground type, topography and meteorological effects were made. This model may be somewhat conservative; that is, while the model calculates dramatic changes in the noise levels under different meteorological conditions, they may paint a picture that is perhaps too alarming. However, for purposes of evaluating the relative benefits of different configurations, we will use the modeled results at face value.

Figure 6 presents a sketch to identify the speaker locations for the different configurations investigated. Figure 7 illustrates the expected noise contour plot for the conditions during our measurements in November 2000 with the original configuration (all six speakers). Figures 8 through 11 illustrate the expected noise contours during a typical summer's evening for the Original configuration and the Mod 1 configuration.

Table 2 presents a sample comparison of the effect of different meteorological and topographic conditions at different receptor locations. Note that in order to maintain maximum noise levels which are approximately equal to the existing (winter time) ambient, a reduction in noise level of 25 dBA is required so that productions which occur during temperature inversions or light winds have minimal impact.

Three additional configurations were modeled (but not implemented in mock-up measurements):

- Modification 2: Proposed by Sue Daly, which moves the Front House speakers to a Rear House position, flanking the control tower, and moves both JBL speakers from the Front Matrix position to the Front House position.
- Modification 3: Experimental configuration to assess the effect of directing the speakers to face the ground (80 degrees off horizontal; Mid House only, assume Front House used for speech reinforcement only)
- Modification 4: Experimental configuration to assess the effect of lowering the speakers and directing them to face the ground (80 degrees off horizontal; Mid House only, assume Front House used for speech reinforcement only)

Figures 12 and 13 present the noise contour results for Mod 4, under calm and inversion with light wind conditions, respectively.

TABLE 2 – SUMMARY OF MODELED NOISE LEVELS

TABLE 2 – SUMMARY OF MODELED NOISE LEVELS

Location	Meteorological Conditions	Configuration			
		Original/ (Mod 0) ¹	Mod 1	Mod 1- Lower Board	Mod 2 ²
ISF Amphitheater Center Box – “source”					
	Lapse	85/80	85	74	86
	Zero gradient	””	””	75	””
	Strong Inversion	””	””	75	””
	Inversion and light wind NE	””	””	74	””
Surprise Valley 206 Porch – Receiver					
	Lapse	48/40	41	37	41
	Zero gradient	48/40	47	38	47
	Strong Inversion	54/47	53	44	53
	Inversion and light wind NE	67/63	68	58	67
Boise River Lane – Receiver					
	Lapse	44/38	42	34	42
	Zero gradient	45/37	44	35	43
	Strong Inversion	55/48	55	45	54
	Inversion and light wind NE	69/64	70	61	69
Harris Ranch – Receiver					
	Lapse	54/45	52	44	52
	Zero gradient	54/45	54	44	53
	Strong Inversion	59/52	59	50	58
	Inversion and light wind NE	70/64	71	61	69

1: Second number shows noise level with Mid House disconnected – does not agree with observed results; in the field the difference sounded much smaller, perhaps 3 dBA at the most.

2: Modeled levels only, no noise measurements were performed.

For the configurations Mod 2, Mod 3 and Mod 4, the modeled noise levels from the Back House and Mid House speaker locations only are shown in Table 3. Note that with these widebeam speakers, pointing them virtually at the ground has very little effect on the noise level at distance receivers, but lowering them by as much as 20 to 25 ft provides substantial noise reduction.

TABLE 3– SUMMARY OF MODELED NOISE LEVELS – ADDITIONAL CONFIGURATIONS

Location	Meteorological Conditions	Configuration		
		Mod 2 (MH and BH)	Mod 3 80 lower height	Mod 4 80 deg off horiz and lower height
ISF Amphitheater Center Box – Source				
	Zero gradient	83	83	85
	Strong Inversion	83	83	85
	Inversion and light wind NE	83	83	85
Surprise Valley 206 Porch – Receiver				
	Zero gradient	41	41	29
	Strong Inversion	47	31	23
	Inversion and light wind NE	59	59	49
Boise River Lane – Receiver				
	Zero gradient	39	39	33
	Strong Inversion	48	26	28
	Inversion and light wind NE	61	61	50
Harris Ranch – Receiver				
	Zero gradient	50	50	38
	Strong Inversion	54	34	35
	Inversion and light wind NE	63	62	54

As indicated above, measurements were performed inside three residences (two units at Surprise Valley, 205 and 206 and inside a model home at Harris Ranch). These measurements were only sufficient to determine if any amplified sound was audible at the interior; they are not suitable to determine the detailed noise reduction properties of the exterior walls and windows. To determine the noise reduction properties of the exterior shells of these homes properly, a loud noise source is required, so that the interior noise levels are measurably higher than the background noise levels. During our measurements, typically the exterior noise levels (ambient or ISF Amphitheater noise) were 40 to 45 and the interior noise levels were 20 to 40 dBA with the windows closed. This data suggests that the buildings (all new construction) are capable of providing a noise reduction on the order of 20 dBA. In the case of the homes at Surprise Valley, while the exterior noise from ISFA may have been classified as “plainly audible”, at the interior, the music was difficult to distinguish from the background noise of the residences (with all appliances off). At the exterior of the model home at the Harris Ranch, the sounds from the

Amphitheater were not quite "plainly" audible in the presence of the construction activity, and not audible at the interior of the home.

From these results, it is apparent that lowering the height of the speakers is helpful during strong inversion conditions, however with a light wind the directional characteristics the speakers allow the sound to travel out to the residents. Through a combination of turning the speakers to face the ground and lowering the speakers, a noise reduction of 10 to 20 dBA is possible under all conditions. However, further reduction is recommended to minimize disturbance at the neighbors. It is possible that further restricting the speaker directionality will provide additional noise reduction. There are three basic solutions that are evident at this time:

1. Reduce the sound levels in the amphitheater. While it may be possible to lower the sound levels somewhat within the Amphitheater (perhaps reducing 5 dBA, allowing a maximum of 80 dBA), this approach constrains the artistic direction in ways which may be unacceptable. It is our understanding that the maximum noise levels experienced with the cue from *Two Gentlemen* is desired for short-duration effect, while the lower sound levels measured with the other cues (about 75 dBA) are more indicative of the typical sound level for most cues. Nevertheless, with the configuration as modeled for the original configuration and Modifications 0 through 3, with unfavorable wind and temperature conditions, a significant further noise reduction of at least 25 dBA is required (30 dBA total) to provide noise levels which are comparable or slightly less than the existing ambient at affected residences. An *additional* 10 to 15 dBA (40 to 45 dBA total) is recommended to minimize the likelihood that the ISF sound will be "plainly audible".
2. Lower the elevation of the speakers or construct a sound barrier. As placed now, the speakers have little or no barriers to block sound traveling to the west or south and contain the sound within the Amphitheater. The required height of a sound barrier is prohibitive and likely not consistent with the aesthetic design. However, it may be possible to place speakers at a lower elevation so that their sound does not "carry" so easily beyond the Festival grounds. This appears to provide a significant noise reduction during thermal inversions, but not much effect during other weather conditions.
3. Redirect the speakers/Use narrower beamwidth speakers. Sue Daly presented an alternate configuration (Mod2), which faced a pair of speakers to the east. This could allow the levels at the backhouse speakers to be increased and lowered at the front house and mid house speakers to minimize transmission to the residential areas. Another solution would be to use speakers with less coverage, or to move the speakers so that they are directly overhead. However, even with re-direction, the fact remains that unless the sound is somehow focused and contained within the Amphitheater area, the wind and thermal inversions will allow the sound to propagate out to the neighbors. In combination with lowering the speakers, a noise reduction of 10 to 20 dBA appears to be possible.

7. ISF - Traffic Noise from Warm Springs Avenue

An additional noise logger was placed adjacent to Warm Springs Avenue to monitor the noise environment there and document traffic noise. Location 5 was mounted on a tree adjacent to Warm Springs Avenue, approximately 40 ft from the edge of the road. Figure 14 shows the variation in the L_{eq} acquired at this location.

Data from the Ada County Highway District (*Traffic Management study for Warm Springs Avenue*, February 4, 2000, included in the Appendix) indicates that July has the highest traffic volume. Since data is available only through 1999, we have assumed that the traffic volume for the year 2000 was similar for year 1999. Thus, the noise levels from traffic on Warm Springs Avenue in July 2000 (5759 average daily traffic, ADT) are expected to be approximately 1 dBA higher than during November 2000 (4535 ADT). The future traffic projections in the study (assuming completion of the East Park Center) indicate that for the year 2015 (assuming similar seasonal variations), July will have an ADT of 23,533, representing an increase in the average noise level of 7 dBA over the existing summer condition. This will present a noticeable and significant increase over the existing conditions.

The existing berms at ISF provides approximately 6 to 10 dBA noise reduction in the lower half of the amphitheater and 0 to 6 dBA noise reduction in the upper half of the amphitheater. However, there is a clear line of sight (during the winter) to Warm Springs Avenue through the stage; the summer foliage which block the line-of-sight provides no significant reduction in noise levels. Extension of the eastern berm or construction of a barrier or building behind the stage, approximately 10 to 13 ft higher than the elevation of the stage, would provide an additional noise reduction of 4 to 8 dBA for seating areas in the reserved areas of the amphitheater, but the rear lawn would be unaffected. In fact, since the rear lawn seating is so high compared to the bowl area, the only effective means of reducing noise from Warm Springs Avenue will be to construct a berm adjacent to the roadway. The berm should be a minimum 6 ft high and extend for approximately 100 to 1500 ft along the edge of the roadway. Such a barrier would provide a reduction of 3 dBA at the rear lawn area and up to 7 dBA within the lower seating areas. However, with a light wind, as discussed above, a steady 3.5 mph wind from the northeast would increase the traffic noise within the amphitheater by 10 to 20 dBA. With a new roadside berm and a light wind, the berm would provide only a 2 to 5 dBA reduction.

Extending the height of the north berm would not provide any improvement in the noise reduction; the berm is too far away from the seating area. Adding height to the south berm (without filling in the top of the retaining wall/ticket office) also does not seem to yield significant results, but another option would be to modify the south berm to the west. However, extending the south berm to the east (with a wall above the ticket office and extending around the House Left, rear lawn area may provide noticeable relief. This barrier configuration has not been evaluated.

We have mentioned above the possibility of using masking noise, such as a water feature, to mask the noise from the traffic. Masking noise can "magically" make the traffic noise disappear, but at the expense of increasing the background noise level. The "magic" involves filling in the low points of the noise environment so that interfering noise such as traffic only generates a

small change in noise level. However, as discussed, below, the absolute sound level from actors' un-reinforced voice is not much higher than the background noise level; unless speech reinforcement techniques are used, masking noise is not likely to provide an acceptable environment within the Amphitheater.

8. ISF – Actor's Spoken Word

We measured the speech noise levels at the center box location and at the rear of the lawn area without amplification. At the center box, the normal speaking level from center stage was 50 to 53 dBA, while the "forced" speaking level was 55 to 59 dBA. The ambient noise level was approximately 38 to 40 dBA during these measurements, and in both cases the actor's voice was clear. Thus, at worst case a minimum separation between the background ambient and the actor's voice should be 10 dBA. At the rear lawn the normal speaking level was 45 to 46 dBA while the "forced" speaking level was 49 to 50 dBA. The ambient noise level was approximately 46 dBA during these measurements. It was hard to focus on the actor's voice, but with no distractions, it was possible to understand every word spoken. The forced voice was definitely clearer. If an additional 5 to 7 dBA separation between the voice and background can be achieved, then the audibility of the actor's voices at the rear lawn area would be marginally acceptable. Note that during these tests, it was determined that no audible benefit was obtained by patching the signal through the front matrix speaker.

Subsequently, surface microphones on the stage were used to feed the signal through the new Technomad Vienna speakers. While it was possible to amplify the stage voice significantly, it possible to maintain the direct sound from the stage as the main sound source, so that the "acoustic" image of the actor/talker was now coming from the new Vienna speakers. There was some carry over to the reserved area with this configuration of speakers, but it was agreed that in the main bowl area, the direct sound was still dominant.

Since the traffic volume is projected to increase on Warm Springs Avenue, it seems advisable to determine a way to reinforce the spoken voice may be more effective. We have already mentioned using different microphone placement to minimize extraneous stage noise picked up by the microphones. To avoid the imaging problem, it will be important to 1) minimize the background traffic noise, 2) place speakers to enhance the image rather than destroy the image, 3) add architectural features which would provide additional reflective elements to project the sound towards the audience. This latter method would include: floating clouds above the stage, adding a hard reflective surface behind the stage, adding hard surfaces to the sides of the house, or under the reflective sails. There are, of course, aesthetic and artistic limitations, which may make these options difficult or impossible to implement.

9. Conclusions and Recommendations

- Meteorological conditions can dramatically affect the noise levels at remote receptors. Depending on the wind direction and speed and temperature gradient, amplified sound from the amphitheater can change by -10 to +20 dBA. A light wind appears to be the most significant factor in affecting the noise levels, which can be added to the effect of a temperature inversion.

- Lowering the speakers and using more directional speakers is likely to decrease the sound that is transmitted to the neighboring areas. We did not model the effect of narrower beamwidth speakers, however turning the existing speakers so that they are 80 degrees off the horizontal and lowering them so that they are only at 2800 to 2805 ft elevation appears to provide a significant drop in distant noise levels. As a preliminary recommendation, we suggest that different speakers be used in the main bowl (maximum 90 degree beamwidth, mounted at a maximum height of 2800 to 2805 ft). Speakers that face the south and west should have a vertical beamwidth of 60 degrees or less. We also recommend that the front house position be used only for speech reinforcement, or that they are used sparingly for music.
- Introduction of additional speakers, within the Amphitheater, may also improve the situation, by reducing the sound power requirements at each source. A possible configuration would comprise additional speakers at the sides of the house, and perhaps mounting or rigging speakers in the center of the amphitheater.
- Traffic noise on Warm Springs is likely to increase over the next 15 years as development continues in this area. Based on the projected increase in traffic, we expect an increase in the average noise level of 7 dBA.
- Masking noise, which can minimize the distraction of traffic noise from Warm Springs Avenue, will increase the background noise level in the Amphitheater; unless other measures are taken to increase the sound level from the actor's voices, masking noise will not be a suitable technique to minimize annoyance from traffic.
- The existing berm configuration provides no protection from cars on Warm Springs Avenue, east of the amphitheater. A barrier (berm, wall or building) extending the south berm and constructed at the east end of the amphitheater would be capable of blocking the line of sight to Warm Springs Avenue. A barrier of 10 to 13 ft height above the stage level would provide noticeable reduction of traffic noise. There may be other configurations which may help to reduce the noise at the rear lawn area, for instance, one that extends the height of the south berm and fills in the gap of between the retaining wall/ticket office and swings west, to protect the rear of the lawn area.
- We understand that the McDevitt's have reported that they recorded noise levels of 60 dB at their home. We do not know the conditions under which those measurements were performed, but based on the modeled results, it appears possible that such noise levels were recorded if there was a light wind and/or strong inversion in place at the time.
- It should be possible to reduce the noise from the bathroom fan, which raises the ambient noise level at the house right, rear lawn area.
- We recommend that an additional set of measurements be performed during the 2001 season to document the actual noise environment during theater productions and to verify if the changes effected for the 2001 season have improved the situation.

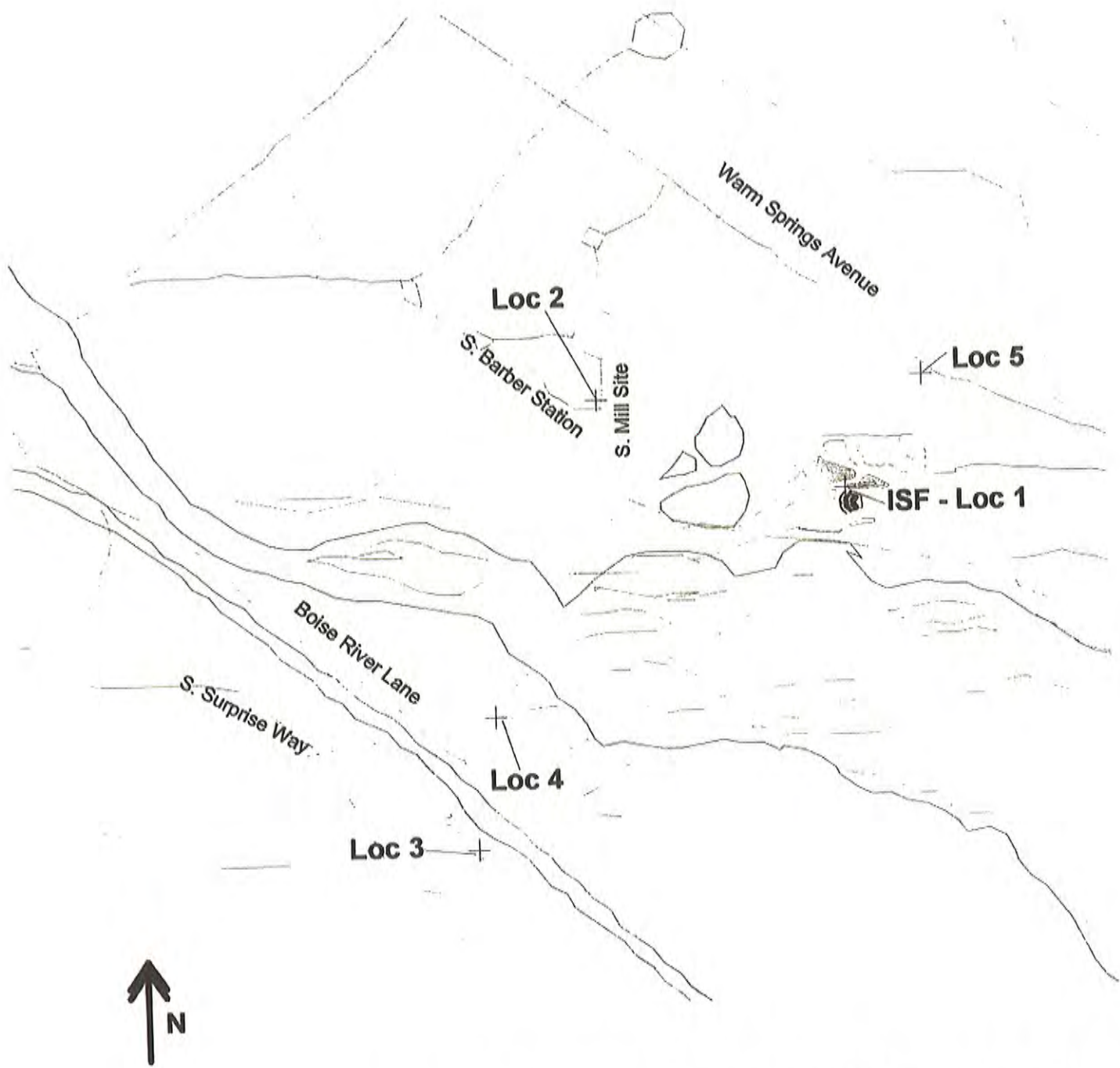


FIGURE 1 STUDY AREA AND NOISE COMMUNITY NOISE MEASUREMENT LOCATIONS

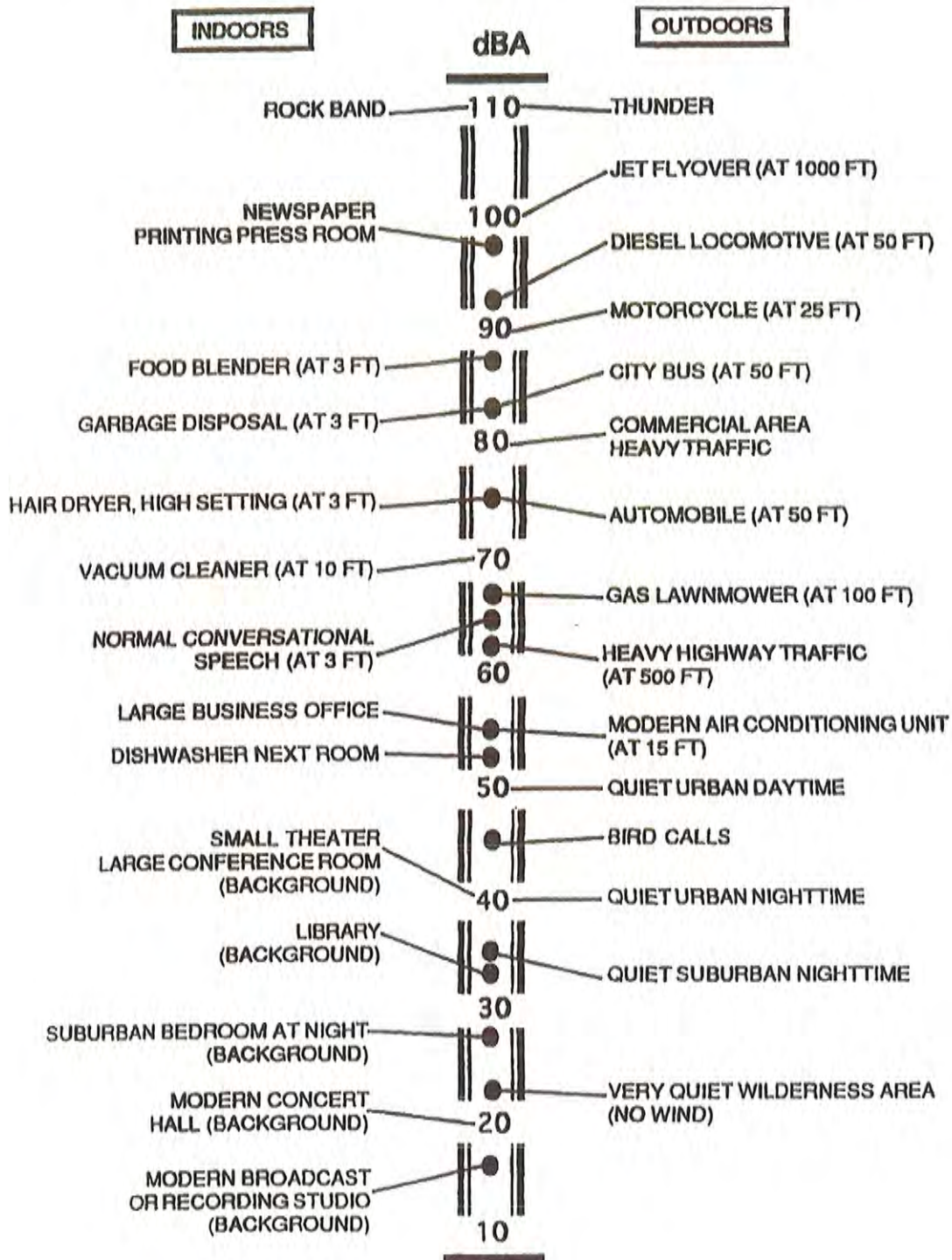


FIGURE 2 TYPICAL ENVIRONMENTAL NOISE LEVELS

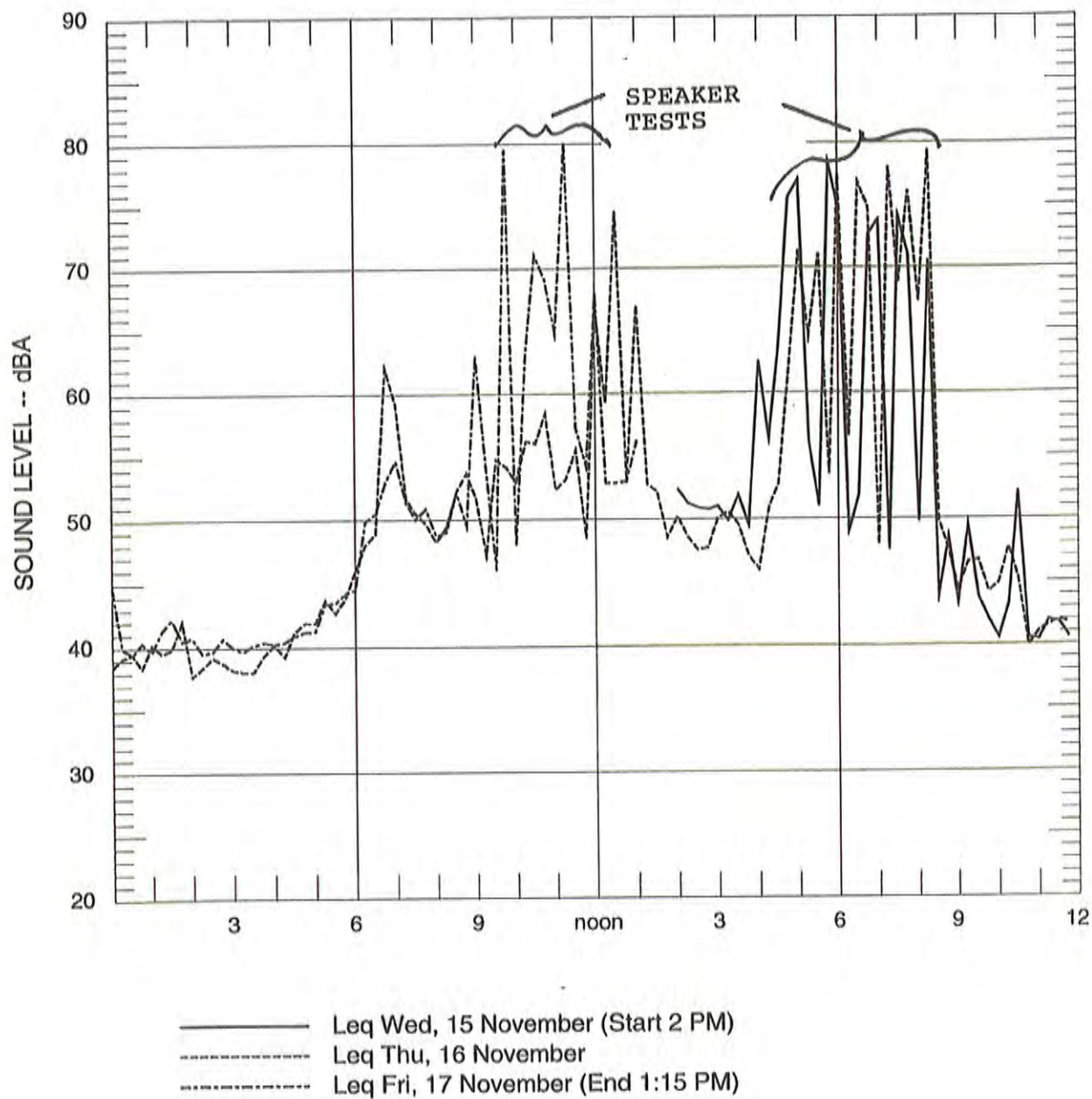


FIGURE 3 TIME HISTORY SUMMARY OF LEQ MEASURED AT LOCATION 1
AMPHITHEATER - 15 TO 17 NOVEMBER 2000
HOUSE LEFT, REAR LAWN

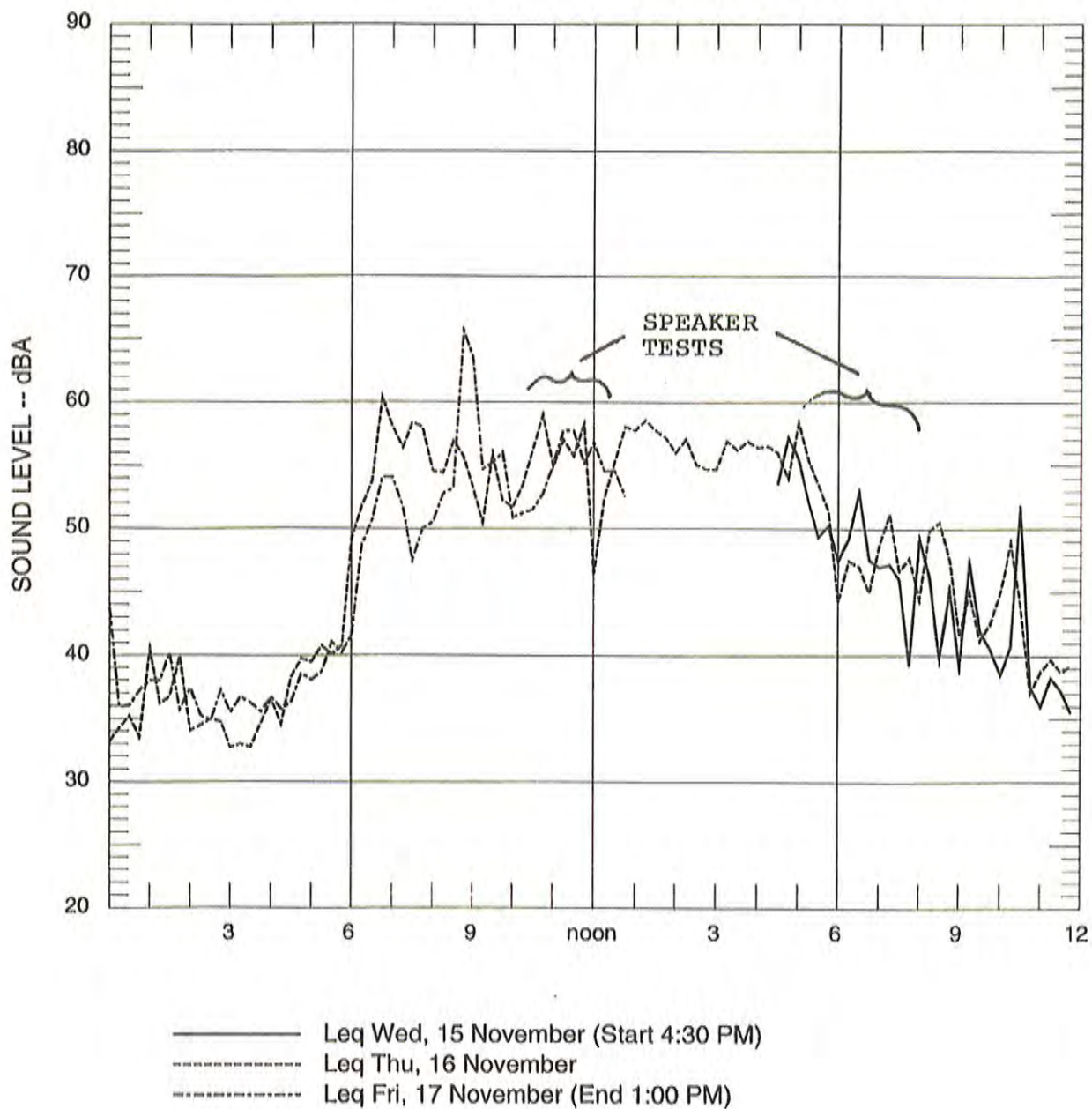


FIGURE 4 TIME HISTORY SUMMARY OF LEQ MEASURED AT LOCATION 2
HARRIS RANCH - 15 TO 17 NOVEMBER 2000
AT S. MILL SITE AND S. BARBER STATION

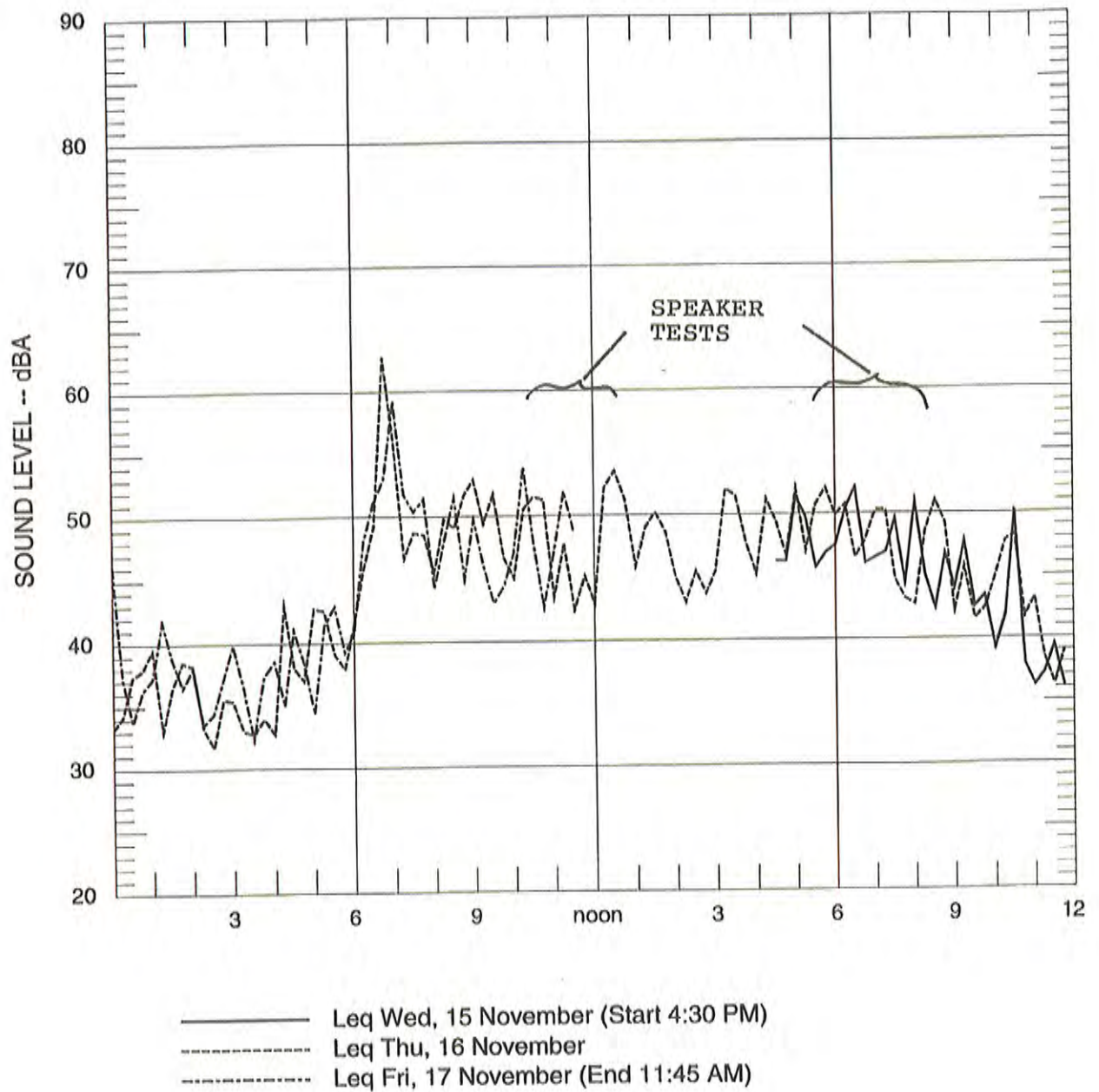


FIGURE 5 TIME HISTORY SUMMARY OF LEQ MEASURED AT LOCATION 3
SURPRISE VALLEY - 15 TO 17 NOVEMBER 2000
SECOND FLOOR UNIT #205

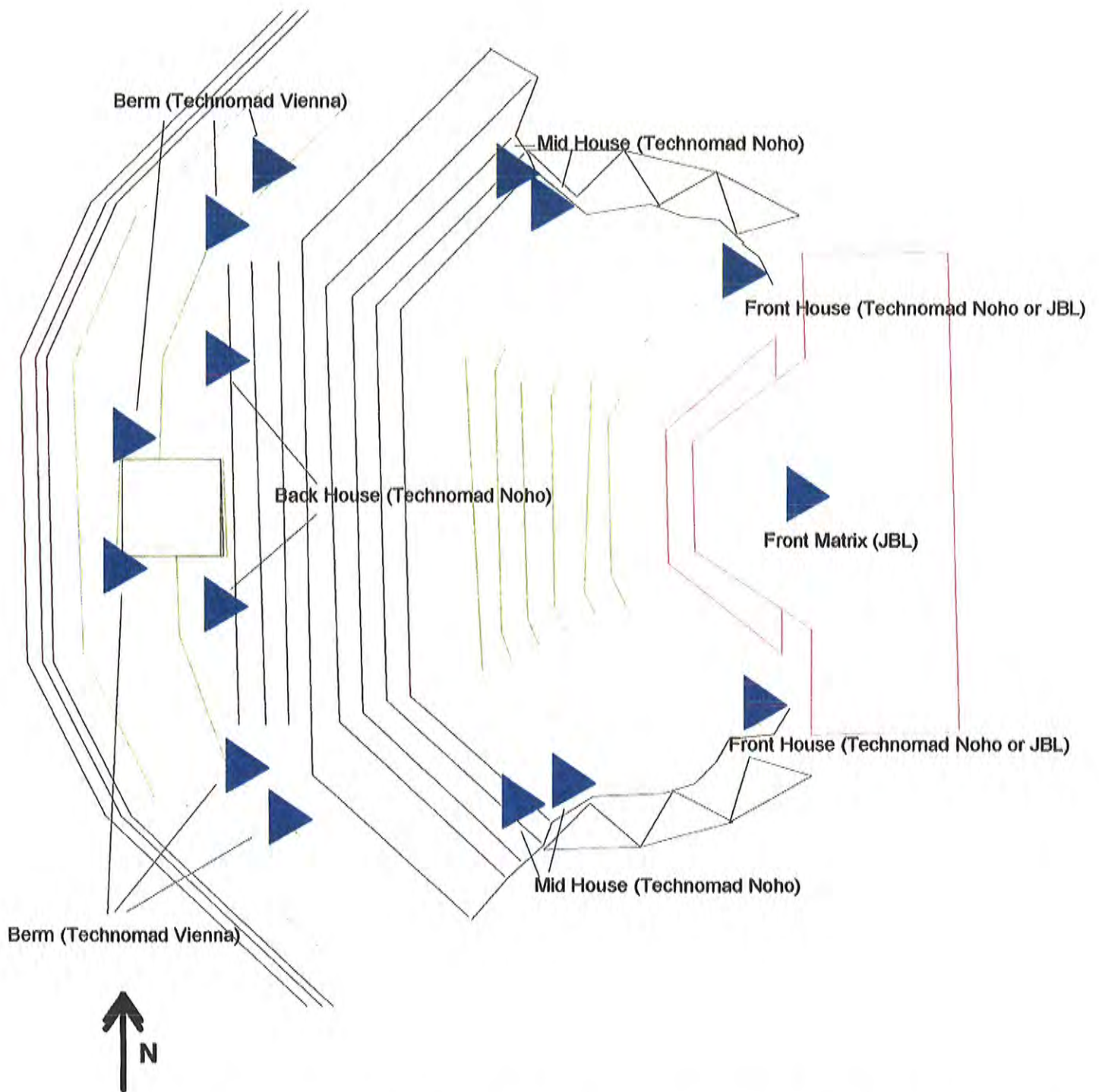
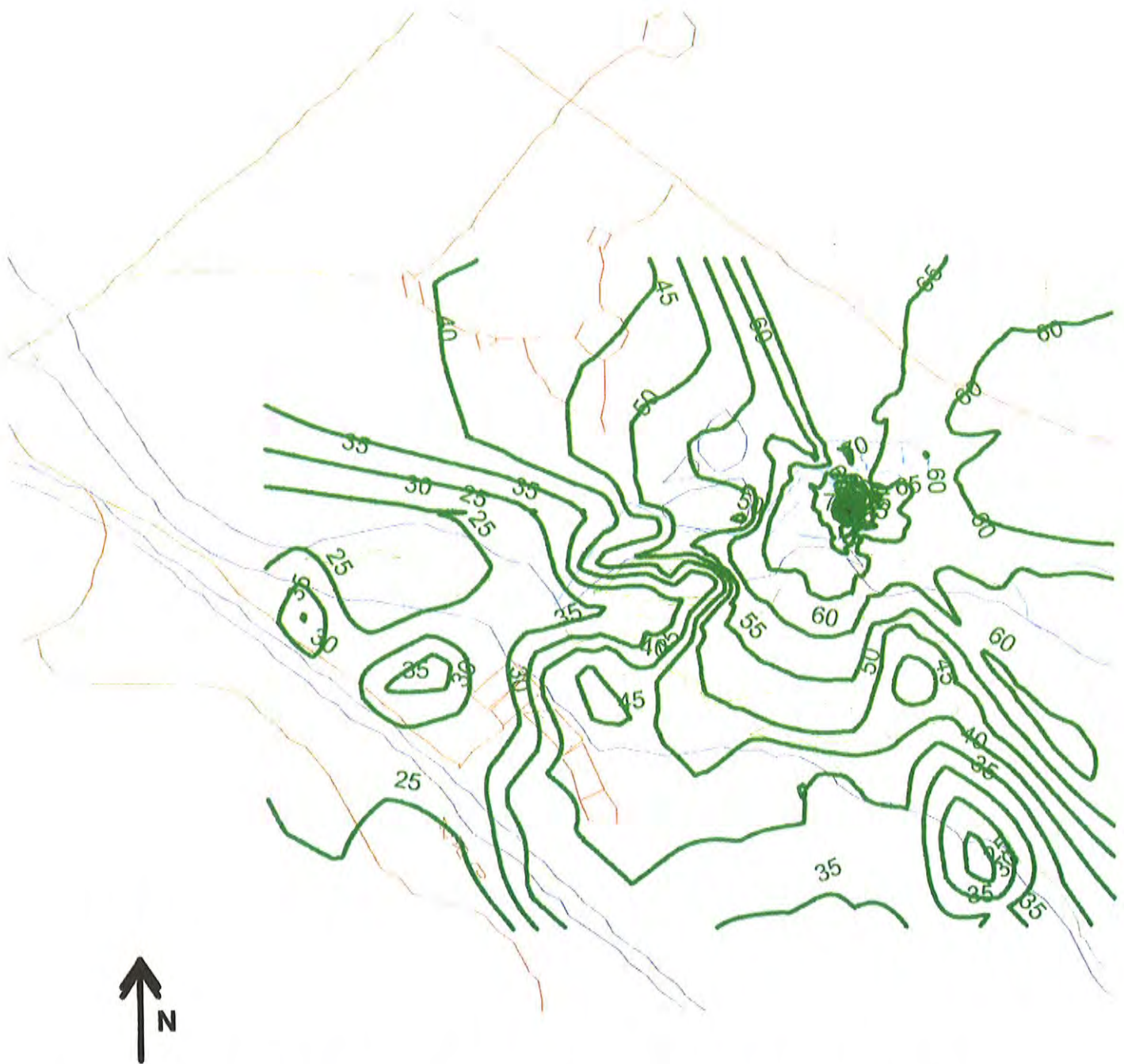
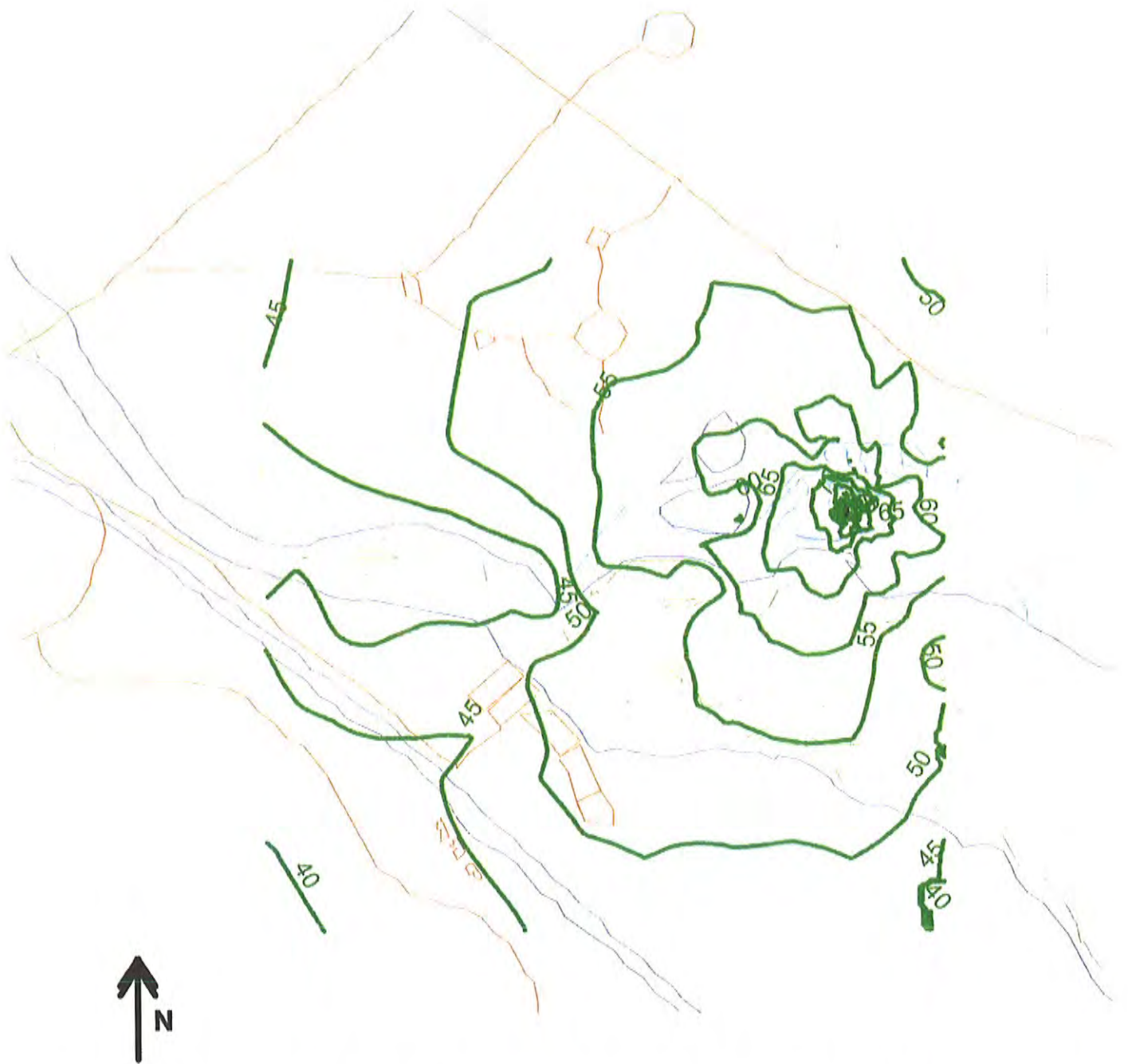


FIGURE 6 IDAHO SHAKESPEARE FESTIVAL AMPHITHEATER AND SPEAKER LOCATIONS



**FIGURE 7 PROJECTED NOISE CONTOURS - ORIGINAL CONFIGURATION
30 DEG, 80% HUMIDITY, .5 MPH WIND NW, NO TEMP GRADIENT**



**FIGURE 8 PROJECTED NOISE CONTOURS - ORIGINAL CONFIGURATION
80 DEG, 80% HUMIDITY, NO WIND, ZERO DEGREE TEMP. GRADIENT**



**FIGURE 9 PROJECTED NOISE CONTOURS - ORIGINAL CONFIGURATION
60 DEG, 30% HUMIDITY, 3.5 MPH NE WIND, STRONG INVERSION**



**FIGURE 10 PROJECTED NOISE CONTOURS - MOD 1 CONFIGURATION
80 DEG, 80% HUMIDITY, NO WIND, ZERO DEGREE TEMP. GRADIENT**



**FIGURE 11 PROJECTED NOISE CONTOURS - MOD 1 CONFIGURATION
60 DEG, 30% HUMIDITY, 3.5 MPH NE WIND, STRONG INVERSION**

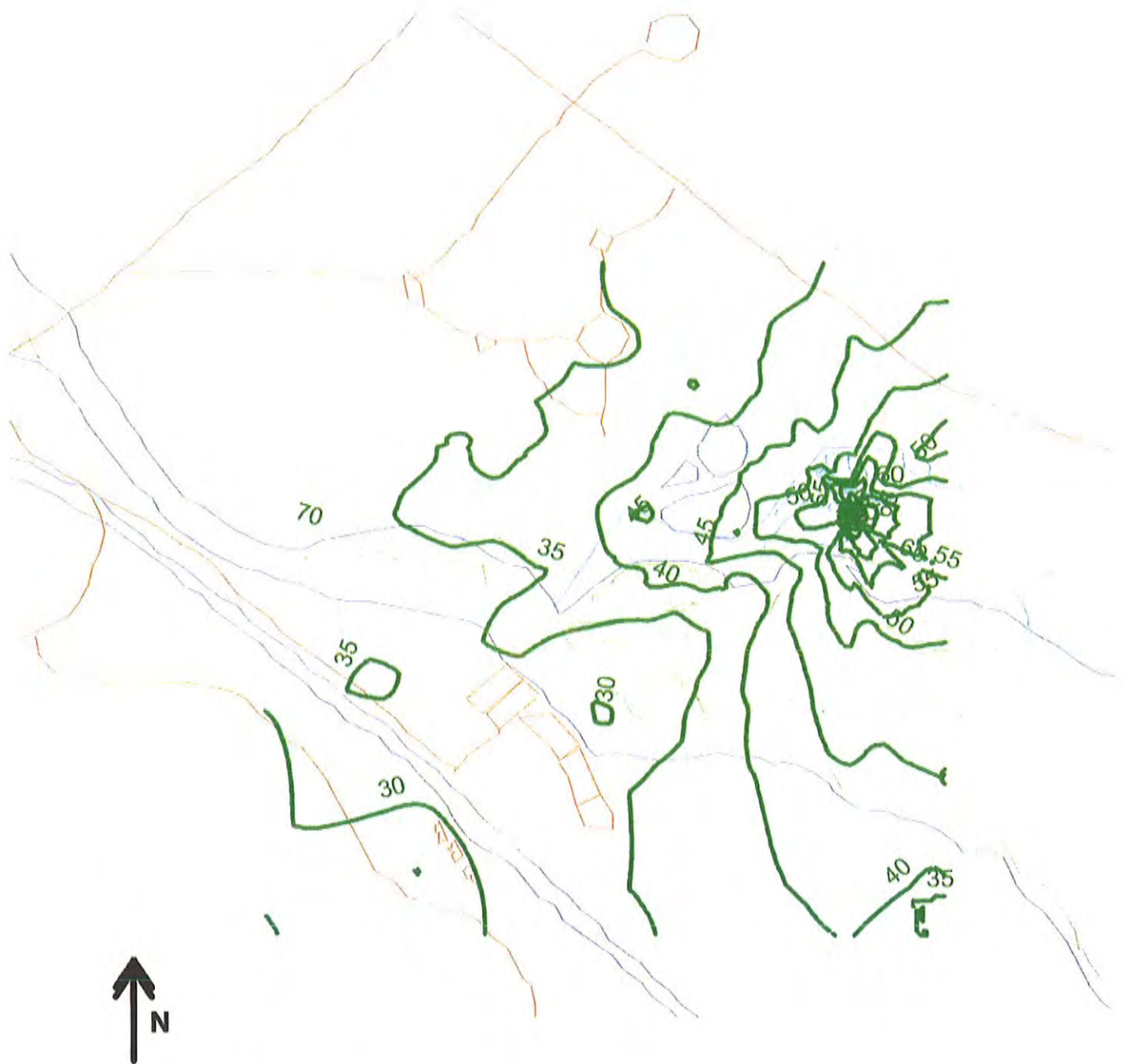
**FIGURE 12 PROJECTED NOISE CONTOURS - MOD 4 CALM CONDITIONS**



FIGURE 13 PROJECTED NOISE CONTOURS - MOD 4
WITH LIGHT WIND (FROM NE) AND INVERSION

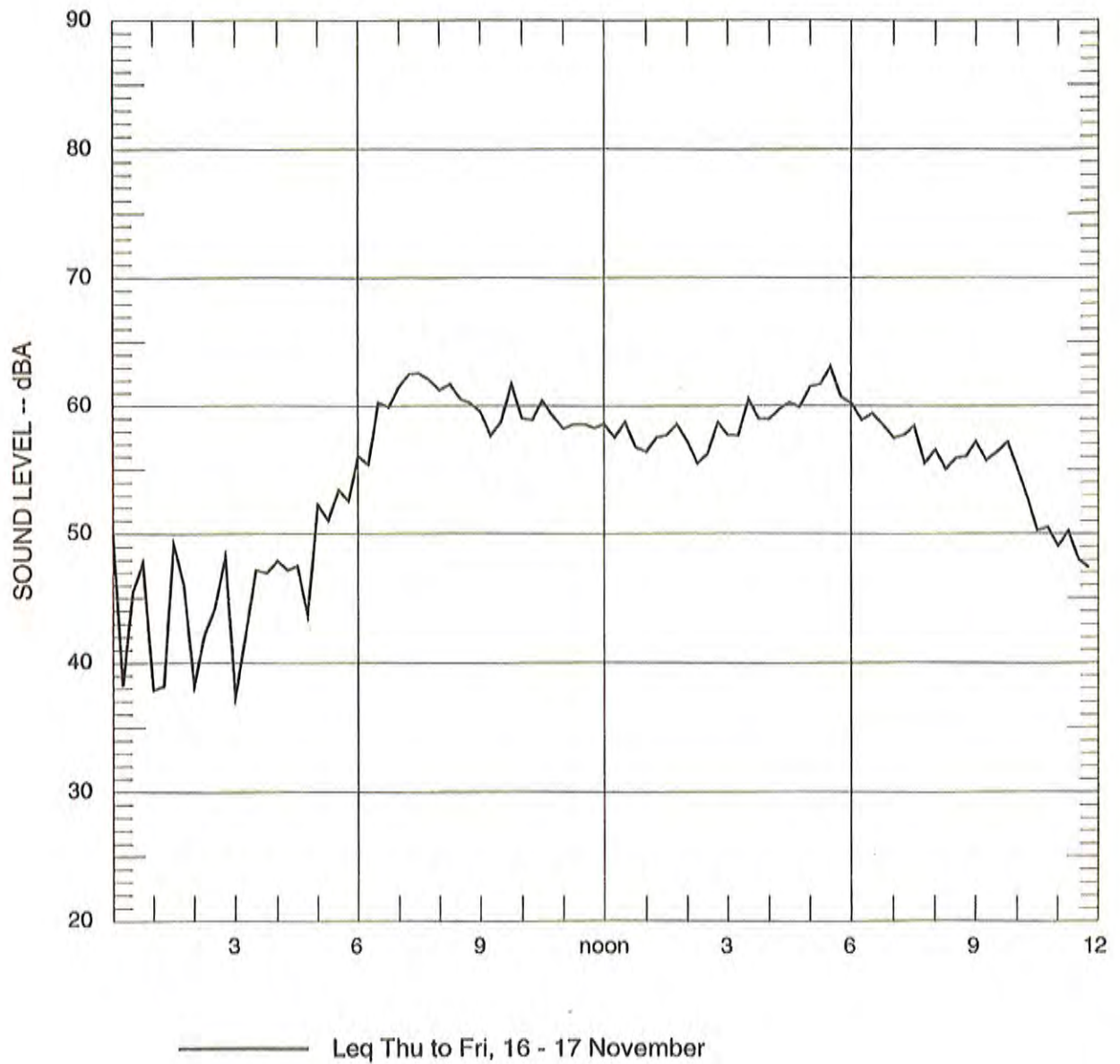


FIGURE 14 TIME HISTORY SUMMARY OF NOISE LEVELS MEASURED AT LOCATION 3
WARM SPRINGS AVENUE - 16 TO 17 NOVEMBER 2000
SECOND FLOOR UNIT #205

WILSON, IHRIG & ASSOCIATES, INC.

28 Idaho Shakespeare Festival - Acoustical Study

APPENDICES

GLOSSARY
ACOUSTICAL TERMS RELEVANT TO ENVIRONMENTAL PROJECTS

A-Weighted Sound Level (dBA):

The sound pressure level in decibels as measured on a sound level meter using the internationally standardized A-weighting filter or as computed from sound spectral data to which A-weighting adjustments have been made. A-weighting de-emphasizes the low and very high frequency components of the sound in a manner similar to the response of the average human ear. A-weighted sound levels correlate well with subjective reactions of people to noise and are universally used for community noise evaluations.

Airborne Sound:

Sound that travels through the air, as opposed to structure-borne sound.

Ambient Noise:

The prevailing general noise existing at a location or in a space, which usually consists of a composite of sounds from many sources near and far.

Background Noise:

The general composite non-recognizable noise from all distant sources, not including nearby sources or the source of interest. Generally background noise consists of a large number of distant noise sources and can be characterized by L_{90} or L_{99} .

Community Noise Equivalent Level (CNEL):

The L_{eq} of the A-weighted noise level over a 24-hour period with a 5 dB penalty applied to noise levels between 7 p.m. and 10 p.m. and a 10 dB penalty applied to noise levels between 10 p.m. and 7 a.m.

Day-Night Sound Level (L_{dn}):

The L_{eq} of the A-weighted noise level over a 24-hour period with a 10 dB penalty applied to noise levels between 10 p.m. and 7 a.m.

Decibel (dB):

The decibel is a measure on a logarithmic scale of the magnitude of a particular quantity (such as sound pressure, sound power, and sound intensity) with respect to a standardized quantity.

Energy Equivalent Level (L_{eq}):

The level of a steady noise that would have the same energy as the fluctuating noise level integrated over the time period of interest. L_{eq} is widely used as a single-number descriptor of environmental noise. L_{eq} is based on the logarithmic or energy summation and it places more emphasis on high noise level periods than does L_{50} or a straight arithmetic average of noise level over time. This energy average is not the same as the

average sound pressure levels over the period of interest, but must be computed by a procedure involving summation or mathematical integration.

Frequency (Hz):

The number of oscillations per second of a periodic noise (or vibration) expressed in Hertz (abbreviated Hz). Frequency in Hertz is the same as cycles per second.

Groundborne Noise:

Noise propagated through soil and building structures. It is normally radiated by the ground in open air and by walls, floors and ceilings inside a building as a result of vibration which, after being produced by a source some distance away, travels through the soil in the form of elastic waves.

Octave Band - 1/3 Octave Band:

One octave is an interval between two sound frequencies that have a ratio of two. For example, the frequency range of 200 Hz to 400 Hz is one octave, as is the frequency range of 2000 Hz to 4000 Hz. An octave band is a frequency range that is one octave wide. A standard series of octaves is used in acoustics, and they are specified by their center frequencies. In acoustics, to increase resolution, the frequency content of a sound or vibration is often analyzed in terms of 1/3 octave bands, where each octave is divided into three 1/3 octave bands.

Sound Pressure Level (SPL):

The sound pressure level of sound in decibels is 20 times the logarithm to the base of 10 of the ratio of the RMS value of the sound pressure to the RMS value of a reference sound pressure. The standard reference sound pressure is 20 micro-pascals as indicated in ANSI S1.8-1969, "Preferred Reference Quantities for Acoustical Levels".

Statistical Distribution Descriptors (L_1 , L_{10} , L_{50} , L_{90} , etc):

Also called *Exceedance Levels*, they represent the level of the noise (A-weighted for environmental studies) which is exceeded a percentage of the duration of the measurement period, as denoted by the subscript. So, for instance, L_{10} is the level of the noise exceeded for 10% of the measurement period (usually 1 hour in long-term environmental studies)

L_{99} and L_{90} are descriptors of the typical minimum or "residual" background noise (or vibration) levels observed during a measurement period, normally made up of the summation of a large number of sound sources distant from the measurement position and not usually recognizable as individual noise sources. Generally, the prevalent source of this residual noise is distant street traffic. L_{90} and L_{99} are not strongly influenced by occasional local motor vehicle passbys. However, they can be influenced by stationary sources such as air conditioning equipment.

L_{50} represents a long-term statistical median noise level over the measurement period and does reveal the long-term influence of local traffic.

L_{10} describes typical levels or average for the maximum noise levels occurring, for example, during nearby passbys of trains, trucks, buses and automobiles, when there is relatively steady traffic. Thus, while L_{10} does not necessarily describe the typical maximum noise levels observed at a point, it is strongly influenced by the momentary maximum noise level occurring during vehicle passbys at most locations.

L_1 , the noise level exceeded for 1% of the time is representative of the occasional, isolated maximum or peak level which occurs in an area. L_1 is usually strongly influenced by the maximum short-duration noise level events which occur during the measurement time period and are often determined by aircraft or large vehicle passbys.

MODELING DATA AND CALIBRATION MEASUREMENTS**TABLE A - COORDINATES AND ORIENTATION FOR SPEAKERS**

(original and Mod 1 to Mod 2 configurations)

Speaker	Coordinates			Rotation ¹	Tilt ²
	x	y	z		
Front Matrix (JBL)	4	0	2814	180	0, 30 Mod 1
Right Front House (Noho)	-14	-33	2818	165 135	30
Left Front House (Noho)	-14	33	2818	195 225	30
Right Mid House (Noho)	-50	-48	2824	165	25
Mod 1	-44	-45	2823	100	
Left Mid House (Noho)	-50	48	2824	195	25
Mod 1	-44	48	2823	260	
Right Tower (Vienna)	-94	-9	2828	290	40
Left Tower (Vienna)	-94	9	2828	70	40
Right Mid berm(Vienna)	-82	-40	2812	90	15
Left Mid Berm (Vienna)	-82	40	2812	270	15
Right Side berm (Vienna)	-77	-44	2812	190	45
Left Side berm (Vienna)	-77	44	2812	170	45
Right House Rear (Noho)	-85	-12	2830	0	25
Left House Rear (Noho)	-85	12	2830	0	25

1: rotation CCW with respect to positive x-direction (East)

2: rotation CW with respect to positive x-direction

TABLE B - COORDINATES FOR RECEPTOR LOCATIONS (FT)

Location	X	Y	Z
Center Box	-50	0	2792.8
Surprise Valley	-2321	-2033	2860
Boise River Lane	-2179	-1219	2820
Harris Ranch	-1174	499	2770

TABLE C - TYPICAL SUSTAINED NOISE LEVELS DURING TWO GENTS CUE

Location	Noise Level "Original"	Noise Level Mod 0	Noise Level Mod 0- lower board levels
Center Front		~ Center box-2	
Center Box	90		
FM		75	67
FH		84	70
MH		82	66
All		87	74
Right center row	89	~ same as C Box	
Left center row	88		
Right rear lawn	90		
Left rear lawn	88		
Surprise valley first	50		
Surprise valley second			Not audible during daytime
FM		45	
FH		47	
MH		41	
All		48	
Boise river lane			
FM		40	
All		40	
Harris ranch l/d			
FM		42	
FH		42	
MH		45	
All	43	43	
Harris ranch near Pline			(audible -construction)
FM			44
FH			44
MH			44
All			43

Meteorological Modeling Conditions:

Lapse Condition – 80 degrees F, no wind, 80% humidity, 0.54 deg/100 ft adiabatic lapse rate

Calm – 80 degrees F, no wind, 80% humidity

Strong Inversion – 60 degrees F, no wind, 30% humidity, -5.5 deg/100 ft temperature gradient

Light Wind – 3.5 mph from the Northeast

WILSON, IHRIG & ASSOCIATES, INC.

DETAILED SOUND MEASUREMMENT DATA

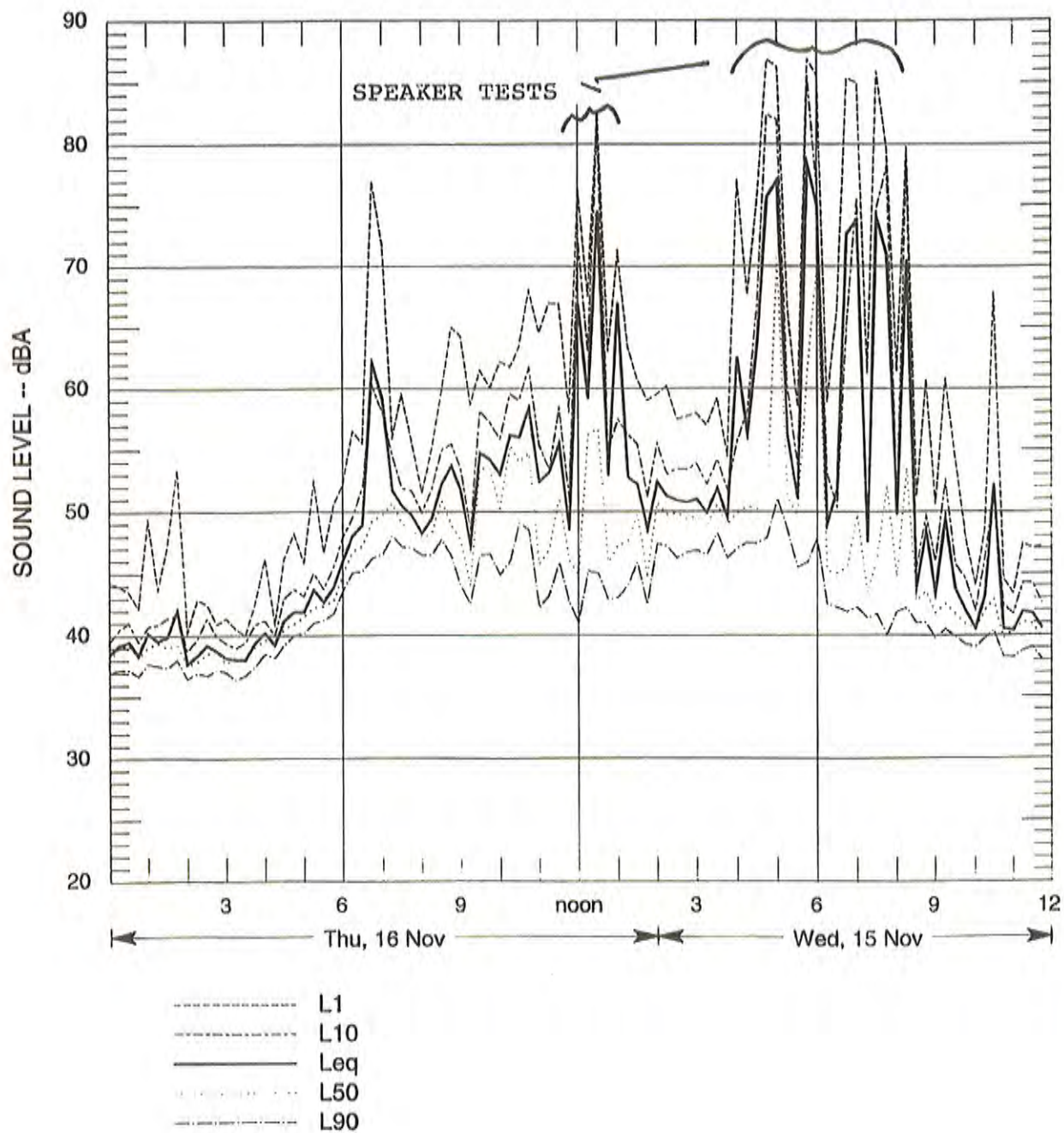


FIGURE A-1 TIME HISTORY OF NOISE LEVELS AT LOCATION 1
15 NOVEMBER 2000
HOUSE LEFT, REAR LAWN

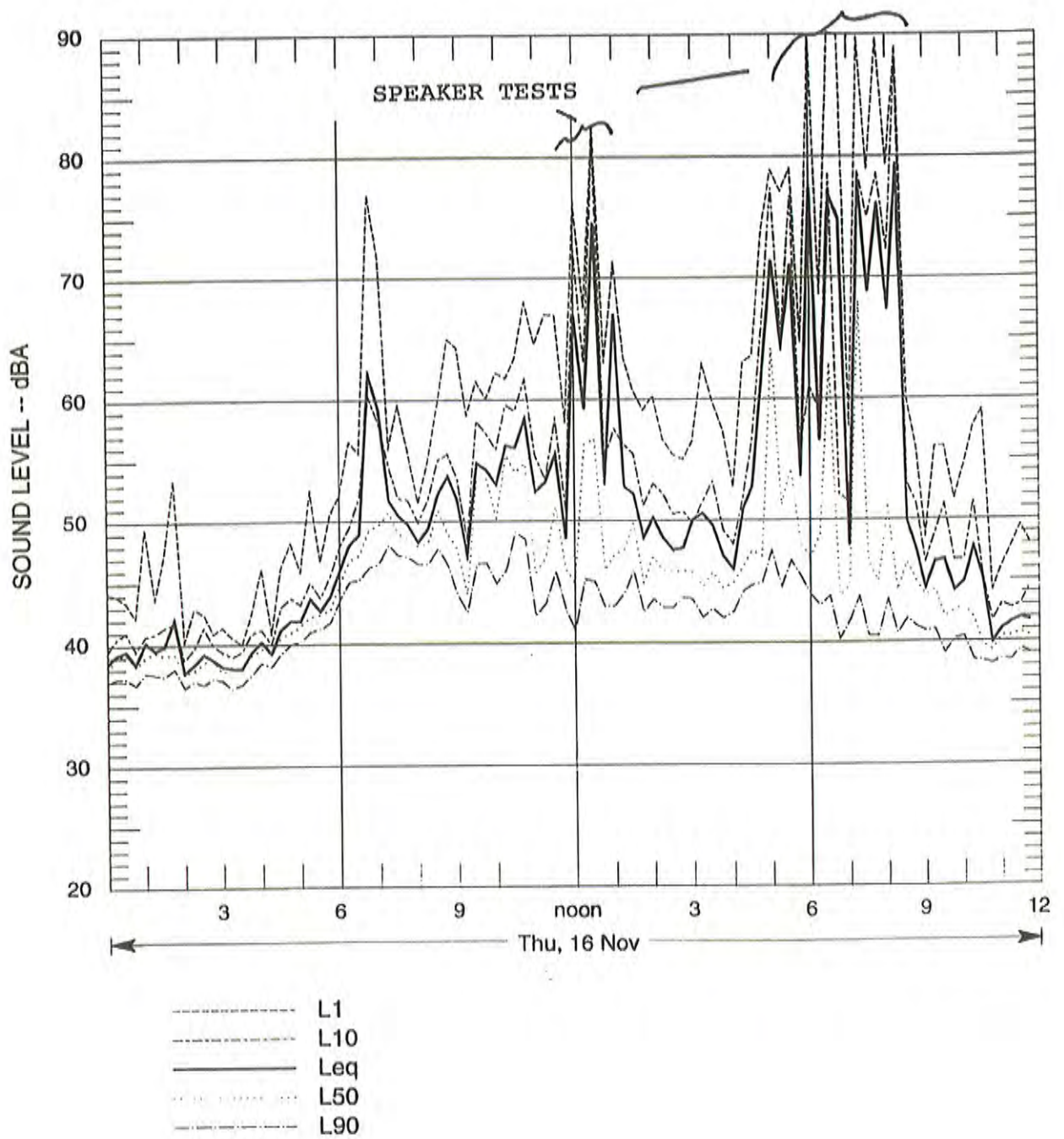


FIGURE A-2 TIME HISTORY OF NOISE LEVELS AT LOCATION 1
16 NOVEMBER 2000
HOUSE LEFT, REAR LAWN

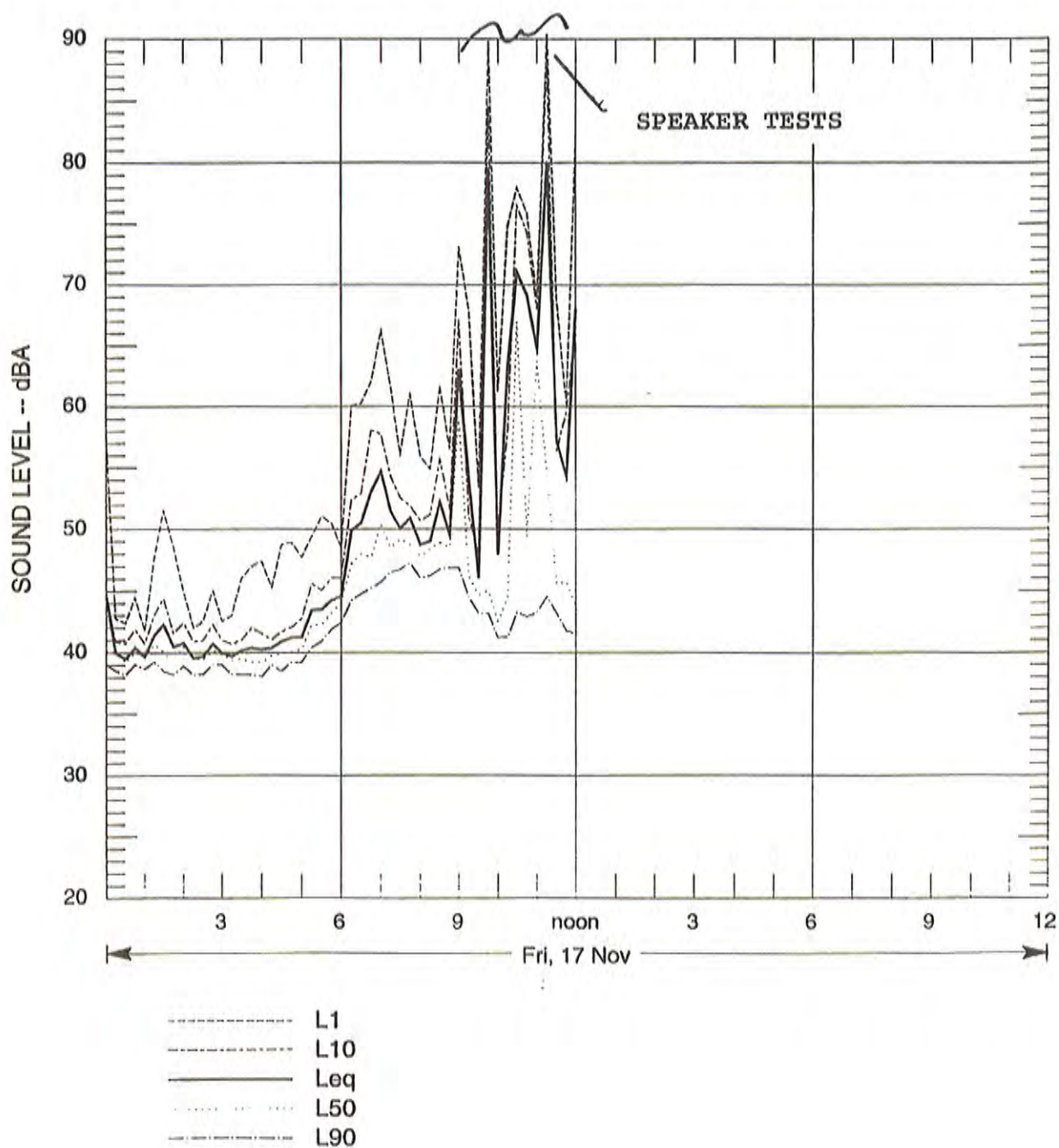


FIGURE A-3 TIME HISTORY OF NOISE LEVELS AT LOCATION 1
17 NOVEMBER 2000
HOUSE LEFT, REAR LAWN

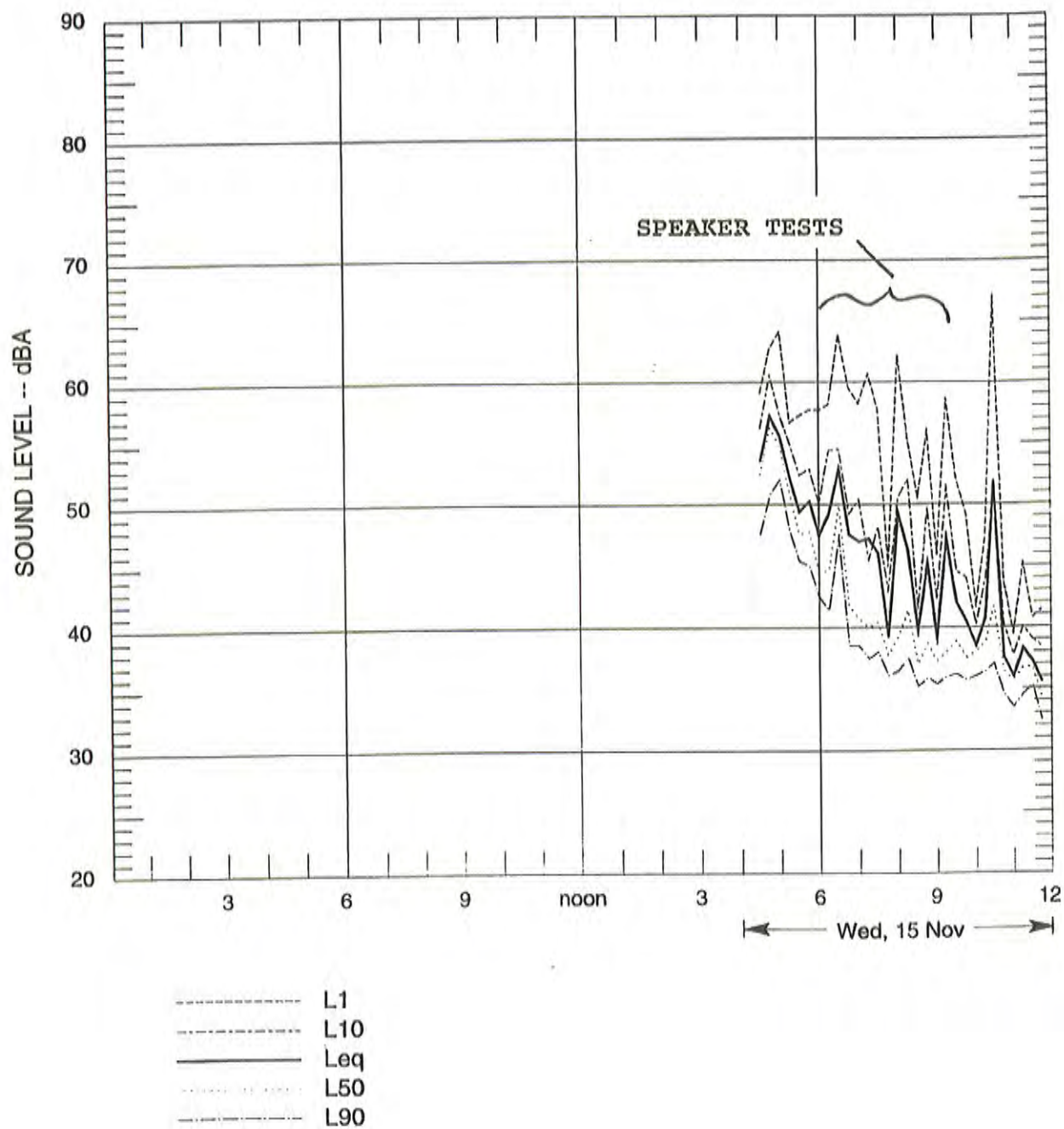


FIGURE A-4 TIME HISTORY OF NOISE LEVELS AT LOCATION 2
15 NOVEMBER 2000
AT S. MILL SITE AND S. BARBER STATION

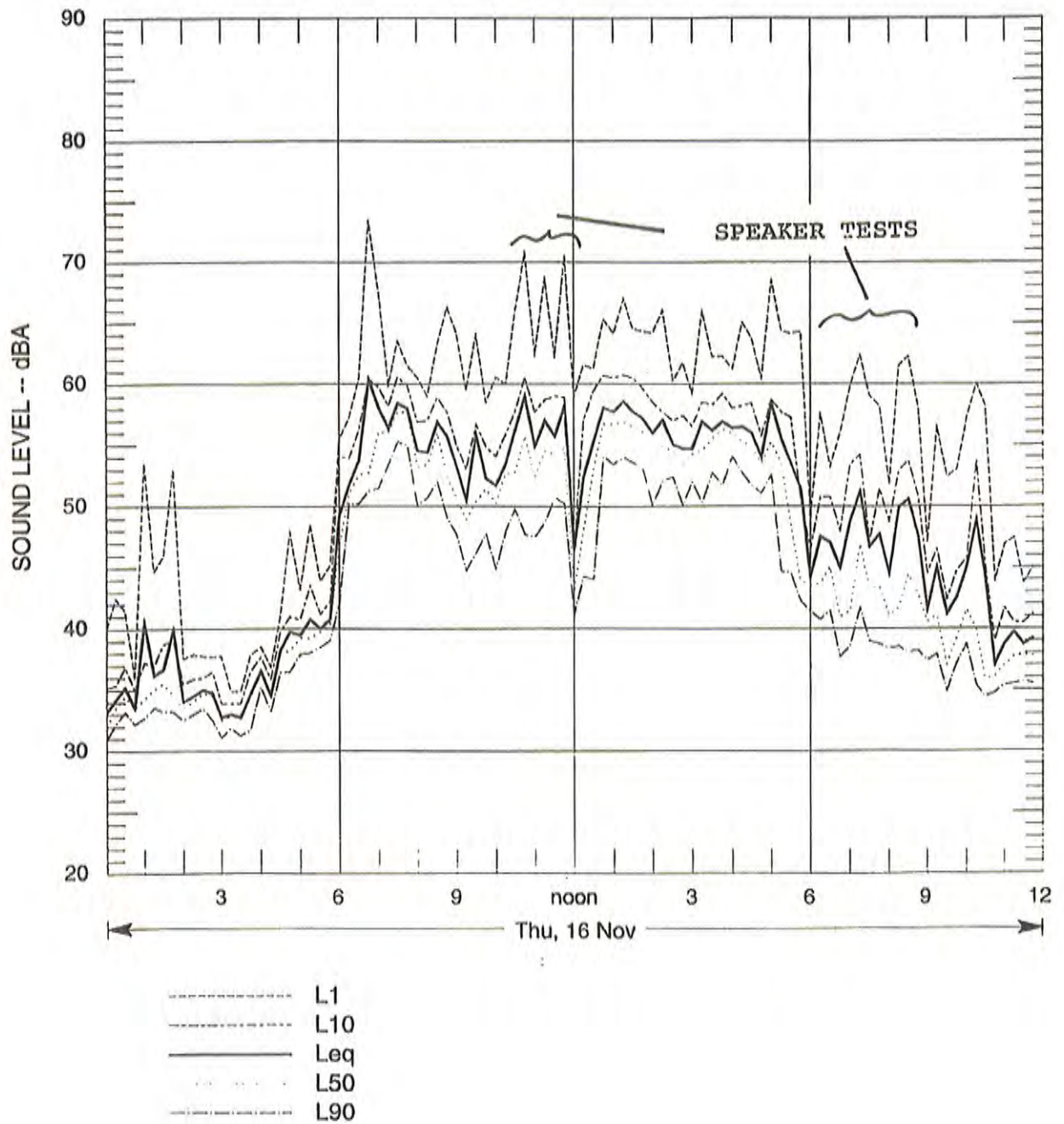


FIGURE A-5 TIME HISTORY OF NOISE LEVELS AT LOCATION 2
16 NOVEMBER 2000
AT S. MILL SITE AND S. BARBER STATION

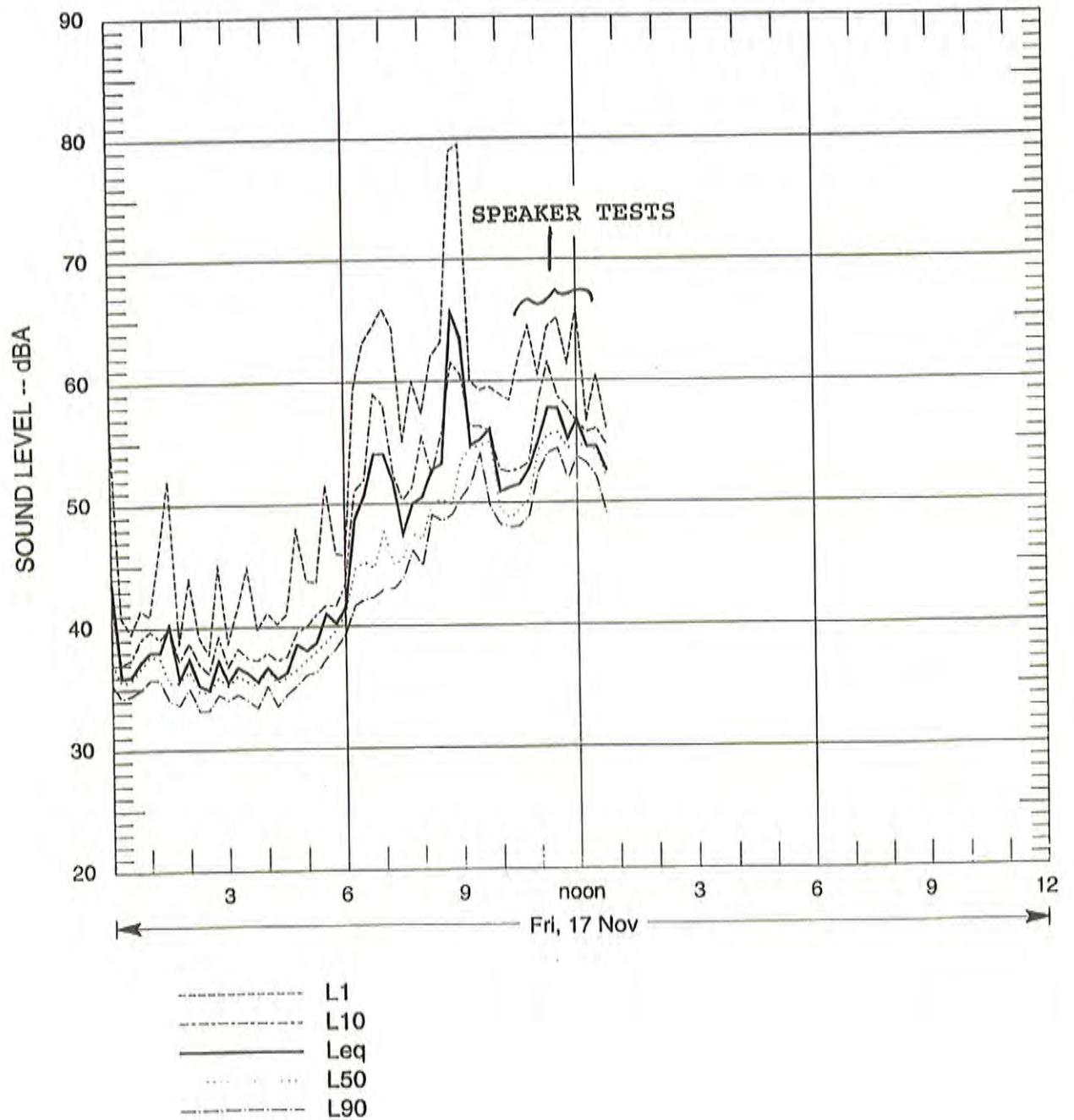


FIGURE A-6 TIME HISTORY OF NOISE LEVELS AT LOCATION 2
17 NOVEMBER 2000
AT S. MILL SITE AND S. BARBER STATION

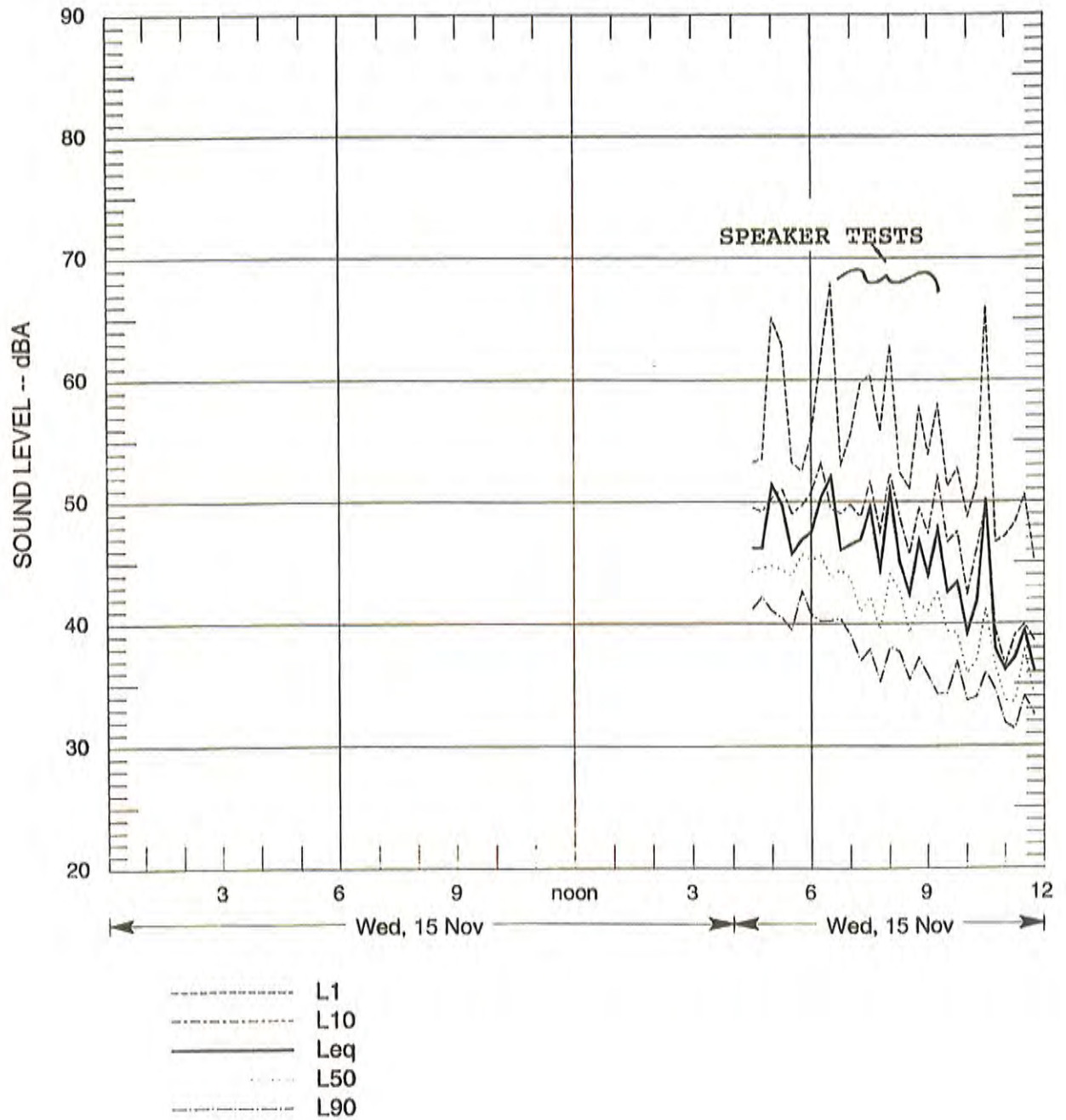


FIGURE A-7 TIME HISTORY OF NOISE LEVELS AT LOCATION 3
15 NOVEMBER 2000
SURPRISE VALLEY, UNIT #205

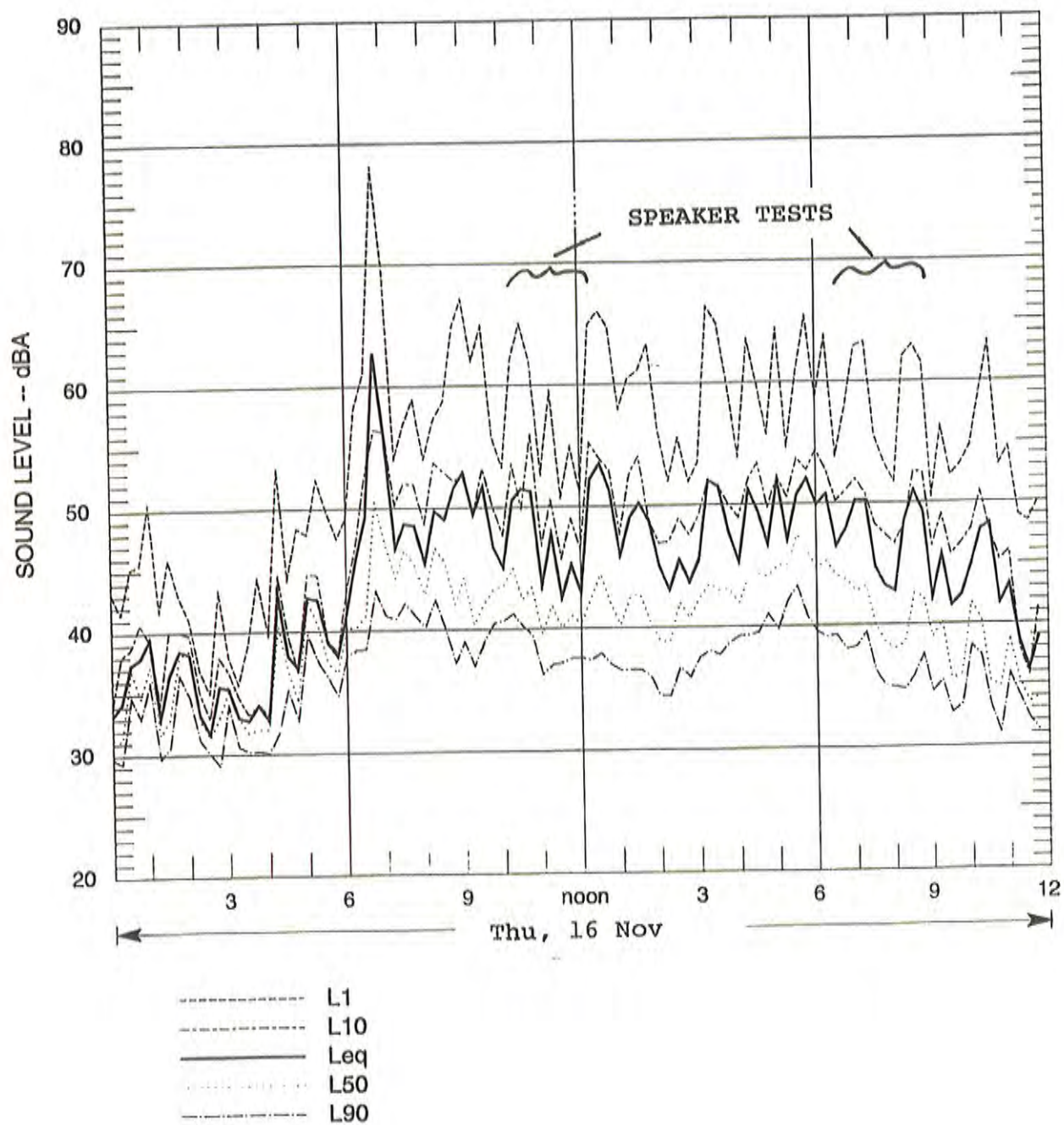


FIGURE A-8 TIME HISTORY OF NOISE LEVELS AT LOCATION 3
16 NOVEMBER 2000
SURPRISE VALLEY, UNIT #205

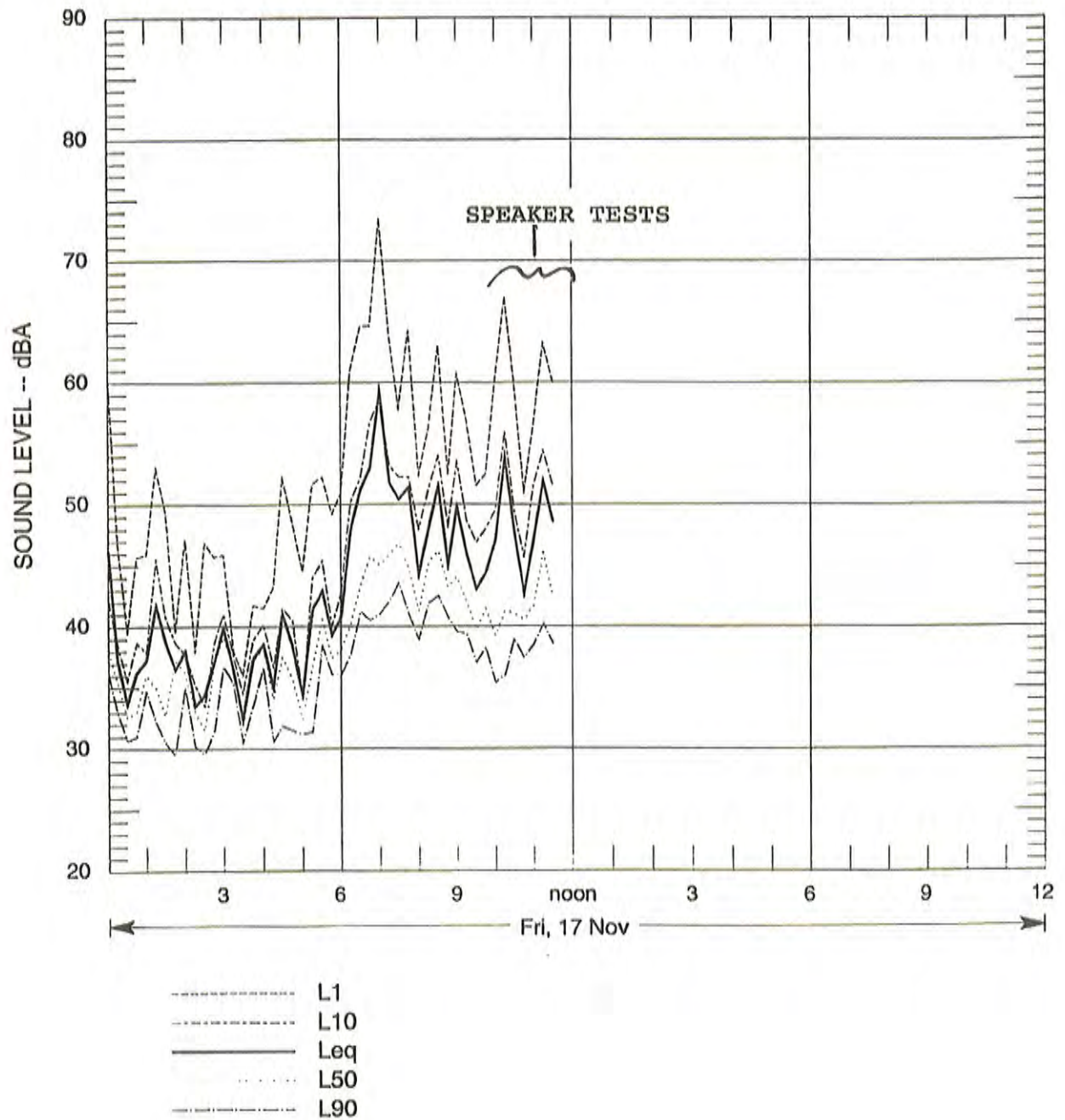


FIGURE A-9 TIME HISTORY OF NOISE LEVELS AT LOCATION 3
17 NOVEMBER 2000
SURPRISE VALLEY, UNIT #205

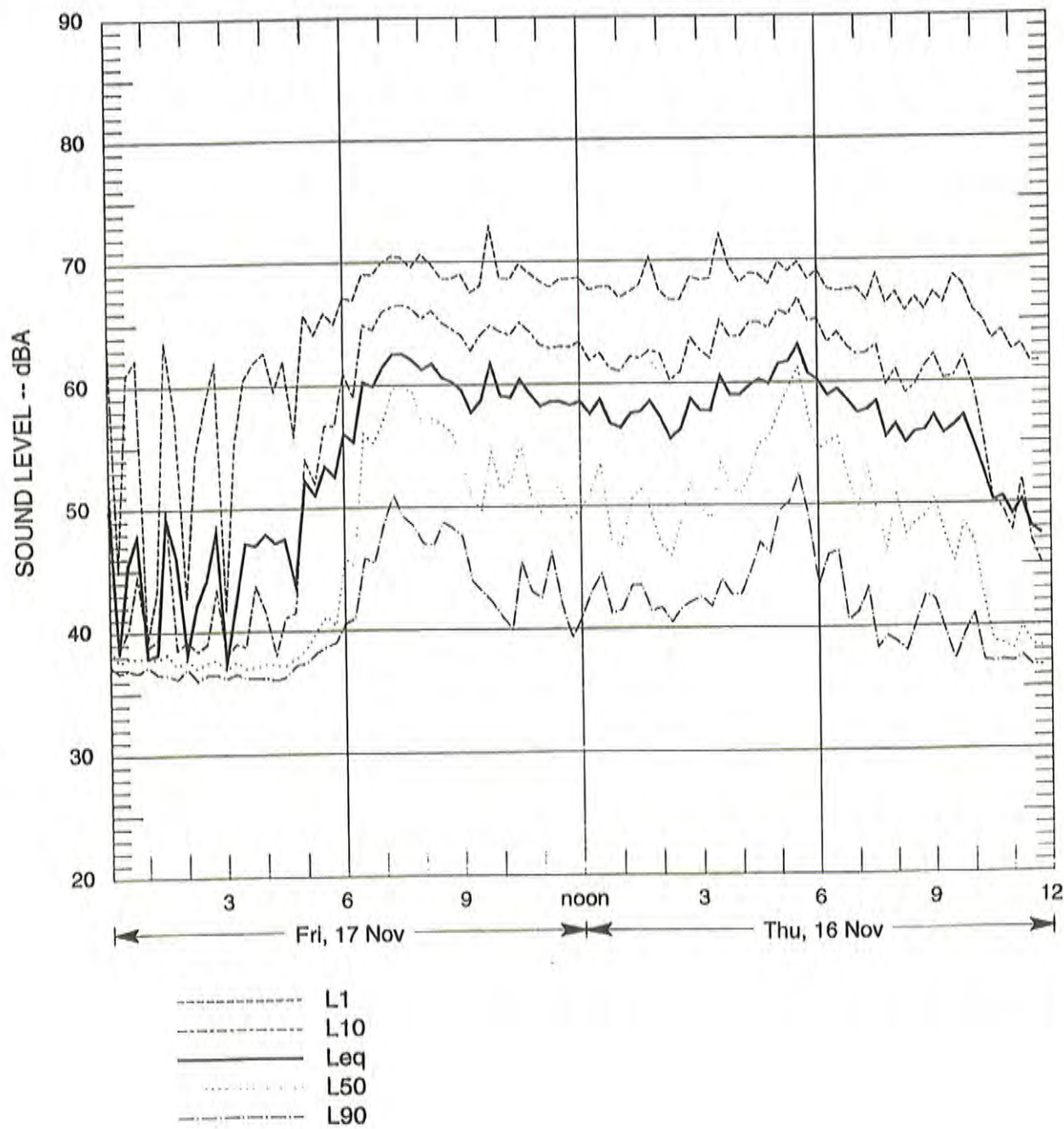


FIGURE A-10 TIME HISTORY OF NOISE LEVELS AT LOCATION 4
16 - 17 NOVEMBER 2000
WARM SPRINGS ROAD

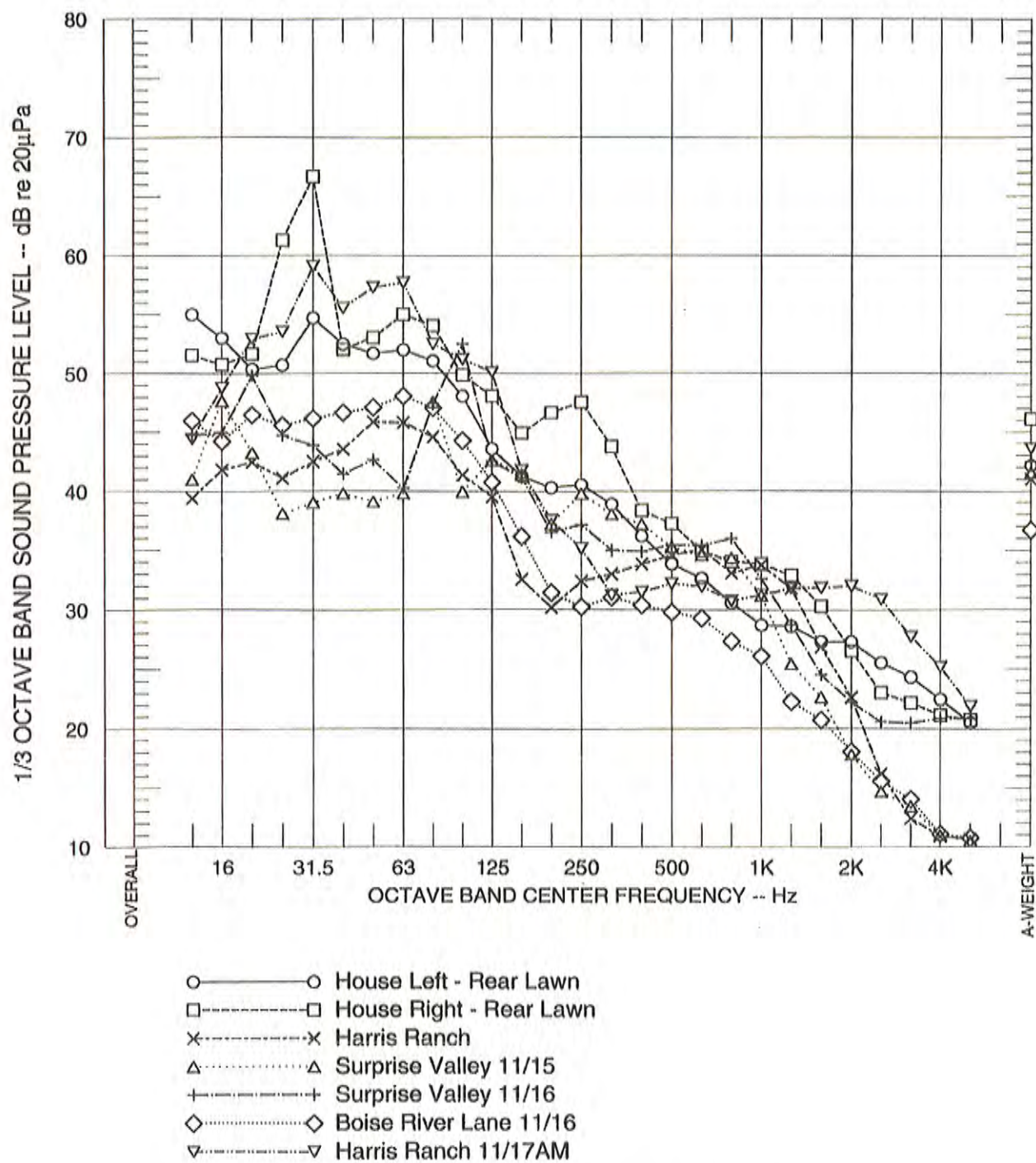


FIGURE A-11 AMBIENT NOISE SPECTRA - NO AMPLIFIED MUSIC
ENERGY-AVERAGE NOISE LEVELS, LEQ

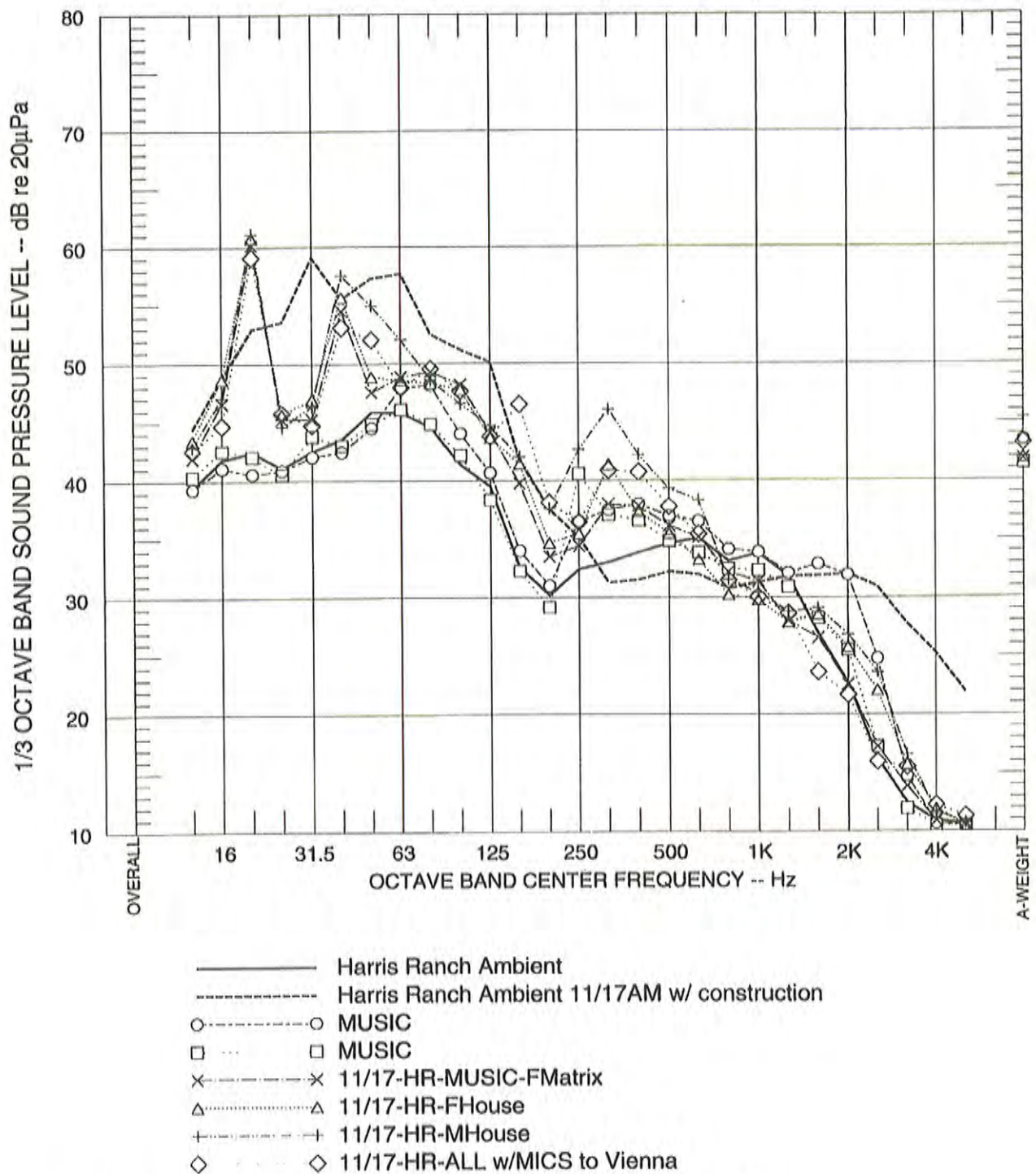


FIGURE A-12 SAMPLE NOISE MEASUREMENTS - HARRIS RANCH
 ENERGY-AVERAGE NOISE LEVELS, LEQ
 ORIGINAL CONFIG (11/15)/MOD 1-LOWER BOARD LEVELS (11/17)

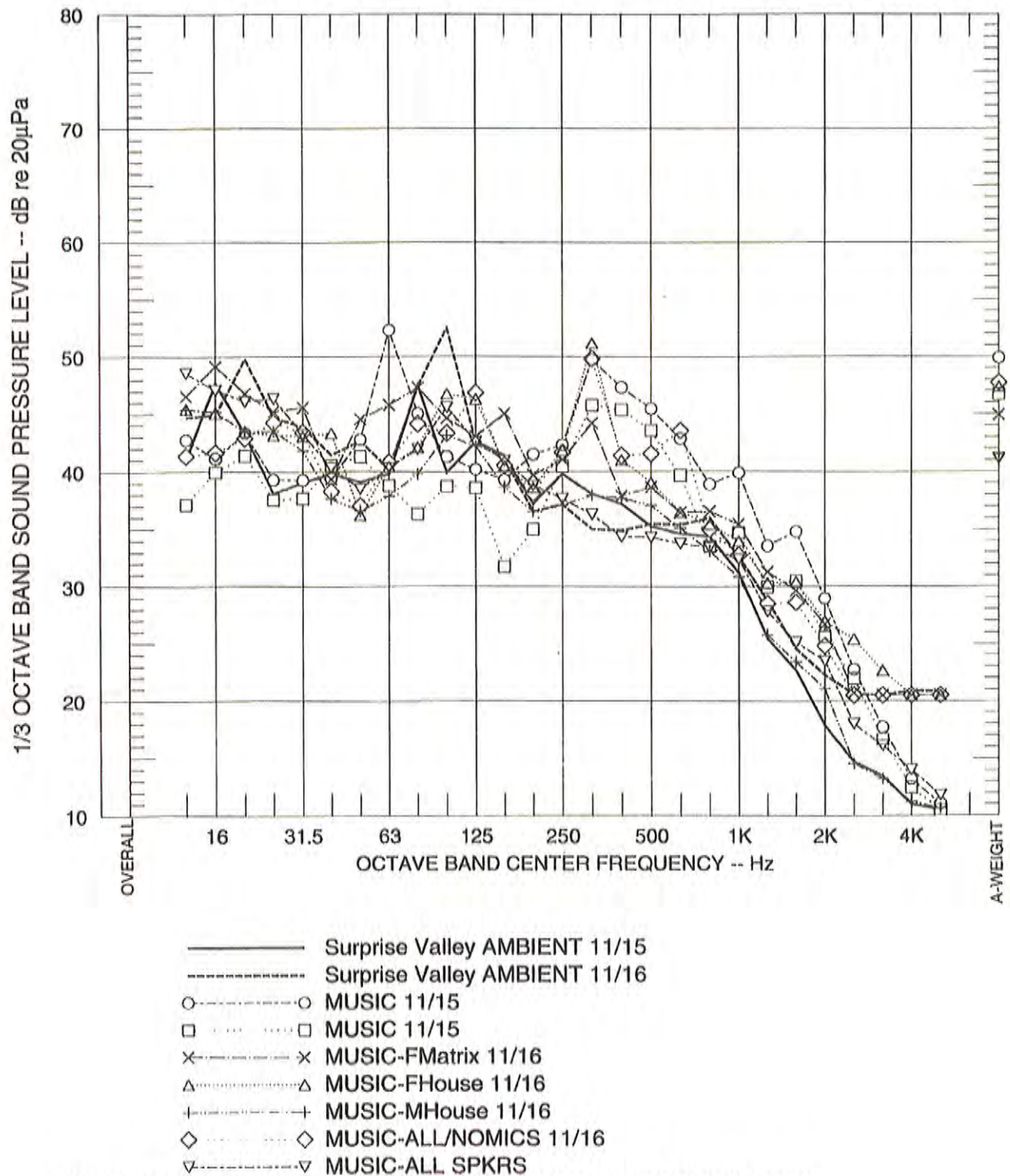


FIGURE A-13 SAMPLE NOISE MEASUREMENTS - SURPRISE VALLEY
ENERGY-AVERAGE NOISE LEVELS, LEQ
ORIGINAL CONFIG (11/15)/MOD 1 (11/16)

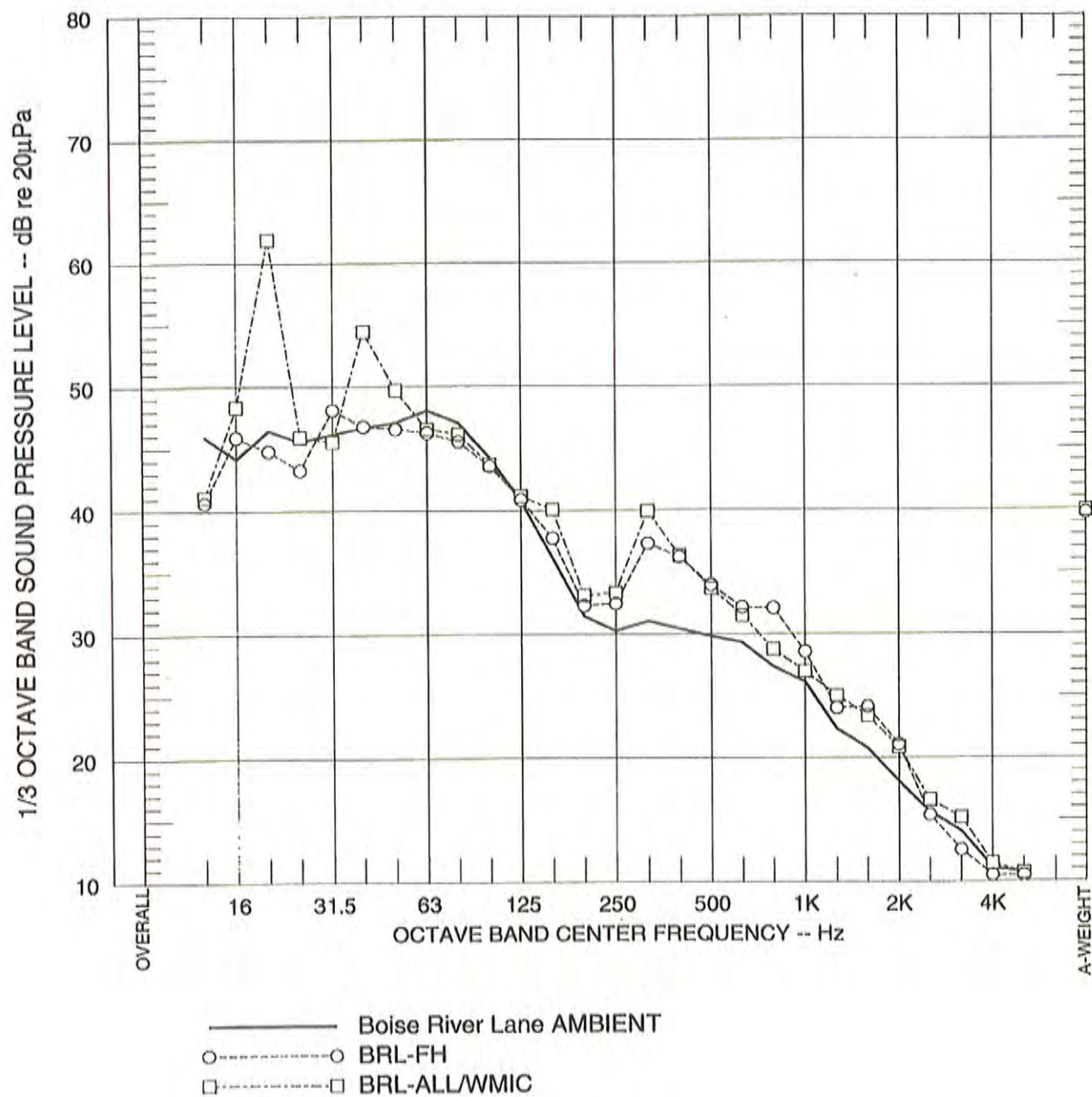


FIGURE A-14 SAMPLE NOISE MEASUREMENTS - BOISE RIVER LANE
ENERGY-AVERAGE NOISE LEVELS, LEQ
NOVEMBER 16, 2000 (MOD 1)

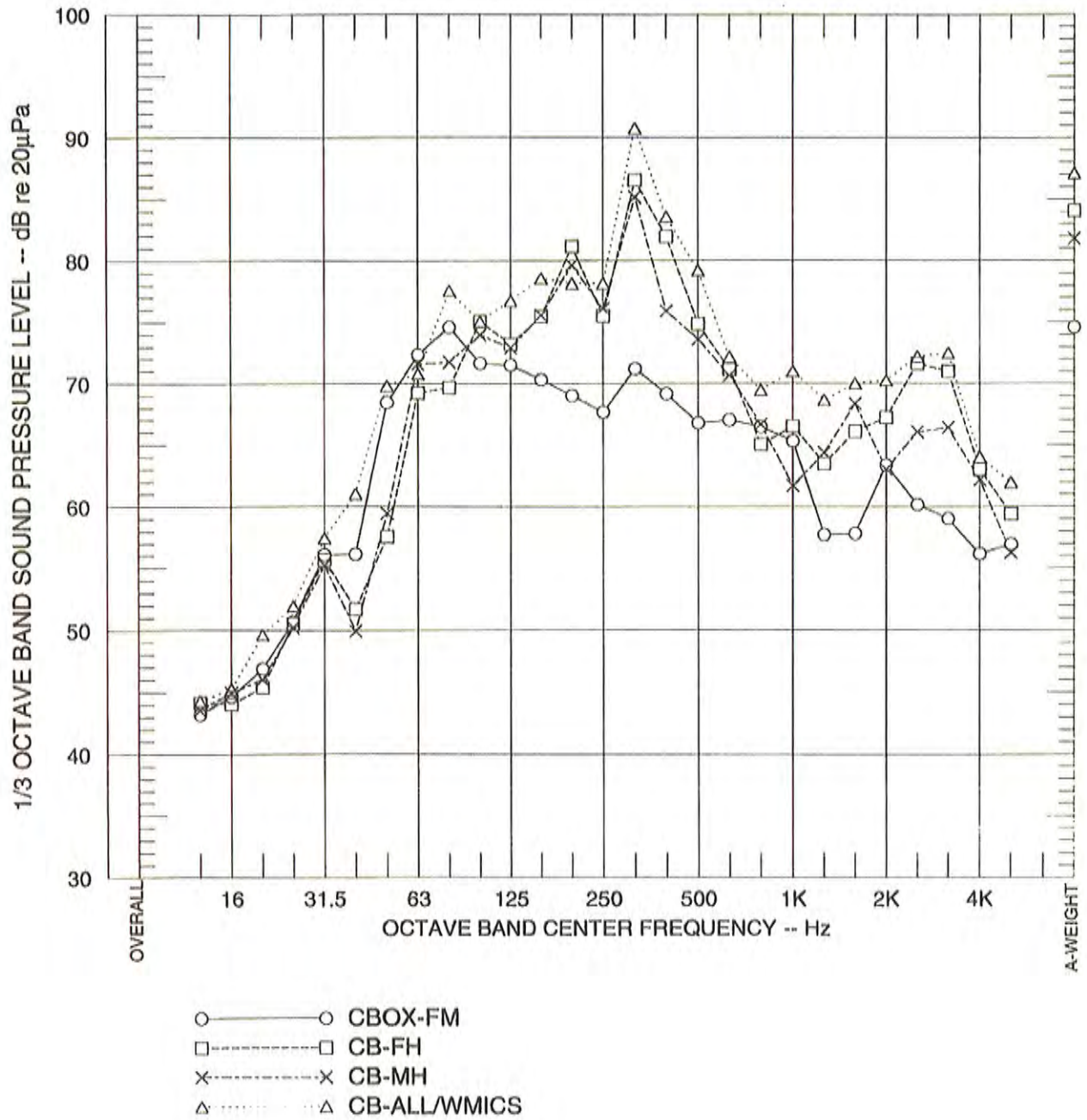


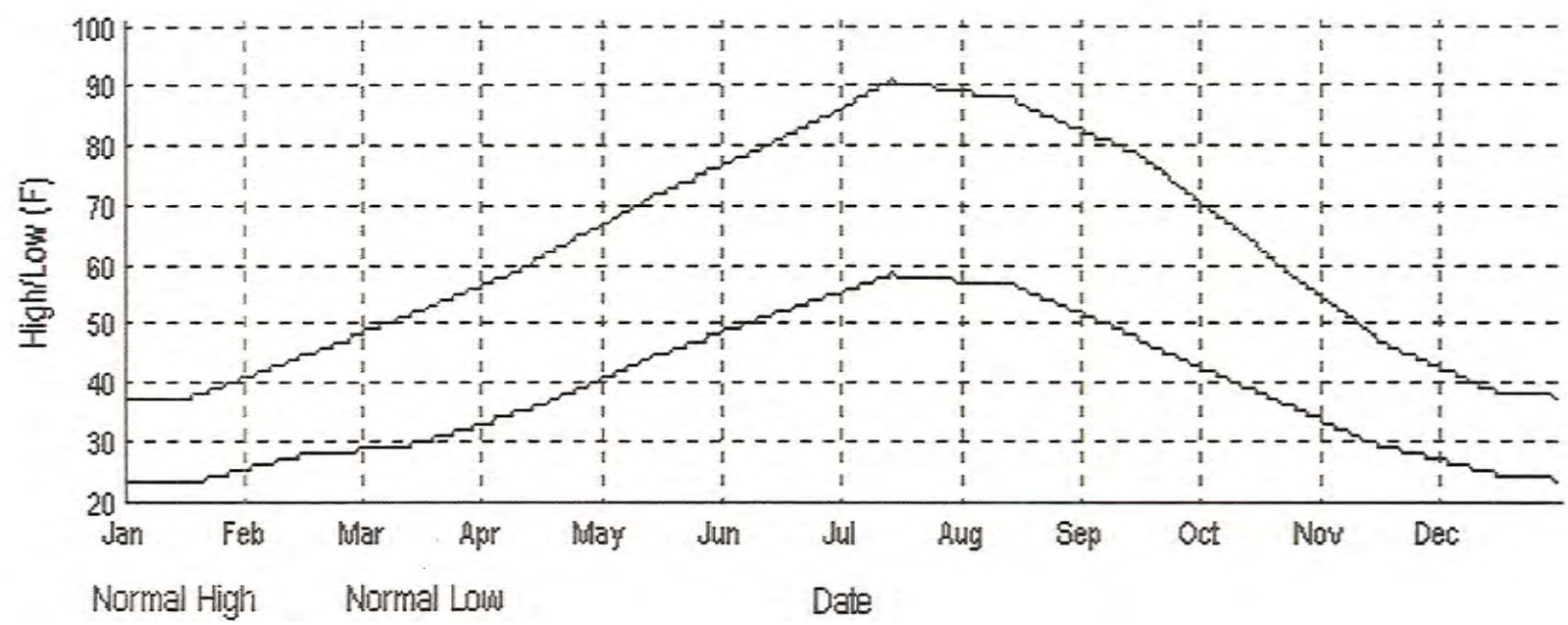
FIGURE A-15 COMPARISON OF NOISE SPECTRA IN ISF
MEASURED NOV.16 2000 WITH MODIFIED CONFIG 1
CENTER BOX

WILSON, IHRIG & ASSOCIATES, INC.

METEOROLOGICAL DATA

50 Idaho Shakespeare Festival - Acoustical Study

Normal Temperatures for Boise, ID



SOURCE: WEATHER UNDERGROUND

Meteorological Data

source: Weather Underground

Date	Time	Temp °F	Dewpoint °F	Pressure inches	Visibility miles	Wind speed mph	Gust Speeds mph	Precipitation	Events	Conditions
1-Jun-00	0:56	46.4°	35.6°	30.18	10	8.1	N/A	N/A		Clear
	1:56	42.8°	35.6°	30.18	10	5.8	N/A	N/A		Clear
	2:56	41.0°	35.6°	30.18	10	4.6	N/A	N/A		Clear
	3:56	42.8°	35.6°	30.18	10	0	N/A	N/A		Clear
	4:56	39.2°	33.8°	30.18	10	0	N/A	N/A		Clear
	5:56	37.4°	33.8°	30.18	10	4.6	N/A	N/A		Clear
	6:56	41.0°	33.8°	30.18	10	6.9	N/A	N/A		Clear
	7:56	46.4°	35.6°	30.18	10	3.5	N/A	N/A		Clear
	8:56	51.8°	35.6°	30.18	10	0	N/A	N/A		Clear
	9:56	57.2°	33.8°	30.18	10	4.6	N/A	N/A		Clear
	10:56	62.6°	32.0°	30.15	10	10		18.4	N/A	Clear
	11:56	64.4°	30.2°	30.12	10	12.7		17.3	N/A	Clear
	12:56	66.2°	30.2°	30.09	10	4.6	N/A		N/A	Clear
	13:56	69.8°	28.4°	30.06	10	8.1	N/A		N/A	Clear
	14:56	73.4°	26.6°	30.04	10	8.1		17.3	N/A	Clear
	16:56	75.2°	23.0°	30.01	10	6.9	N/A		N/A	Clear
	15:56	75.2°	24.8°	30.04	10	5.8	N/A		N/A	Clear
	17:56	78.1°	24.1°	29.98	10	8.1	N/A		N/A	Clear
	22:56	59.0°	33.8°	29.98	10	5.8	N/A		N/A	Clear
	23:56	57.2°	35.6°	29.98	10	4.6	N/A		N/A	Clear
15-Jun-00	0:56	69.8°	50.0°	29.98	10	5.8	N/A		N/A	Clear
	1:56	69.8°	51.8°	29.98	10	15	N/A		N/A	Clear
	2:56	66.2°	53.6°	30.01	10	10.4	N/A		N/A	Clear
	18:56	75.2°	28.4°	29.95	10	27.6		33.4	N/A	Clear
	19:56	73.4°	28.4°	29.95	10	29.9		35.7	N/A	Clear
	20:56	71.6°	26.6°	29.95	10	24.2		31.1	N/A	Clear
	21:56	68.0°	24.8°	29.95	10	21.9		31.1	N/A	Clear
	22:56	64.4°	33.8°	29.98	10	18.4		26.5	N/A	Clear
	23:56	62.6°	33.8°	30.01	10	15	N/A		N/A	Clear
1-Jul-00	0:56	75.2°	46.4°	29.74	10	8.1	N/A		N/A	Clear
	1:56	68.0°	46.4°	29.74	10	8.1	N/A		N/A	Clear
	2:56	66.2°	42.8°	29.77	10	4.6	N/A		N/A	Clear
	3:56	64.4°	41.0°	29.8	10	5.8	N/A		N/A	Clear
	4:56	64.4°	41.0°	29.8	10	8.1	N/A		N/A	Clear
	5:56	62.6°	41.0°	29.83	10	5.8	N/A		N/A	Clear
	6:56	60.8°	42.8°	29.83	10	4.6	N/A		N/A	Clear
	7:56	64.4°	42.8°	29.86	10	6.9	N/A		N/A	Clear

Meteorological Data

source: Weather Underground

Date	Time	Temp °F	Dewpoint °F	Pressure inches	Visibility miles	Wind speed mph	Gust Speeds mph	Precipitation	Events	Conditions
	8:56	68.0°	44.6°	29.89	10	8.1	N/A	N/A		Clear
	9:56	71.6°	44.6°	29.89	10	9.2	N/A	N/A		Clear
	10:56	75.2°	44.6°	29.89	10	9.2	N/A	N/A		Clear
	11:56	78.1°	44.1°	29.86	10	11.5	N/A	N/A		Clear
	12:56	80.6°	39.2°	29.86	10	11.5	N/A	N/A		Clear
	13:56	84.2°	39.2°	29.86	10	11.5	N/A	N/A		Clear
	14:56	86.0°	39.2°	29.83	10	16.1	N/A	N/A		Clear
	15:47	87.8°	39.2°	29.8	10	11.5	N/A	N/A		Clear
	15:56	87.8°	41.0°	29.8	10	12.7	N/A	N/A		Clear
	16:56	87.8°	39.2°	29.77	10	11.5		20.7	N/A	Clear
	17:56	87.8°	39.2°	29.77	10	10.4		18.4	N/A	Clear
	18:56	87.8°	39.2°	29.74	10	9.2	N/A	N/A		Clear
	19:56	86.0°	41.0°	29.74	10	9.2	N/A	N/A		Clear
	20:56	78.8°	46.4°	29.77	5	26.5		39.1	N/A	Haze
	21:56	73.4°	46.4°	29.83	10	17.3	N/A	N/A		Clear
	22:56	71.6°	46.4°	29.83	10	15	N/A	N/A		Clear
	23:56	68.0°	48.2°	29.83	10	11.5	N/A	N/A		Clear
15-Jul-00	3:56	62.6°	46.4°	30.06	6	6.9	N/A	N/A		Smoke
	4:56	60.8°	46.4°	30.06	9	3.5	N/A	N/A		Smoke
	5:56	59.0°	44.6°	30.09	9	3.5	N/A	N/A		Clear
	6:56	59.0°	41.0°	30.09	5	6.9	N/A	N/A		Smoke
	7:56	60.8°	39.2°	30.12	7	4.6	N/A	N/A		Clear
	8:56	64.4°	41.0°	30.12	6	8.1	N/A	N/A		Haze
	9:56	68.0°	42.8°	30.12	6	9.2	N/A	N/A		Haze
	10:56	73.4°	42.8°	30.09	10	12.7	N/A	N/A		Clear
	11:56	75.2°	44.6°	30.09	10	12.7	N/A	N/A		Clear
	12:56	77.0°	46.4°	30.09	10	17.3	N/A	N/A		Clear
	13:56	78.8°	46.4°	30.06	10	16.1	N/A	N/A		Clear
	14:56	82.4°	46.4°	30.04	10	17.3	N/A	N/A		Clear
	15:56	87.8°	44.6°	30.01	10	17.3	N/A	N/A		Clear
	16:56	84.2°	46.4°	30.01	10	18.4	N/A	N/A		Clear
	17:56	87.8°	44.6°	29.98	10	17.3	N/A	N/A		Clear
	22:56	73.4°	42.8°	29.95	10	8.1	N/A	N/A		Clear
	23:56	69.8°	42.8°	29.95	10	3.5	N/A	N/A		Clear
4-Aug-00	0:56	82.4°	51.8°	29.89	10	15	N/A	N/A		Clear
	1:56	82.4°	51.8°	29.89	10	17.3	N/A	N/A		Partly Cloudy
	2:56	82.4°	53.6°	29.92	10	13.8	N/A	N/A		Clear

Meteorological Data

source: Weather Underground

Date	Time	Temp °F	Dewpoint °F	Pressure inches	Visibility miles	Wind speed mph	Gust Speeds mph	Precipitation	Events	Conditions
	13:56	91.4°	48.2°	29.98	10	8.1	N/A	N/A		Clear
	14:56	93.2°	48.2°	29.95	10	3.5	N/A	N/A		Clear
	15:56	91.4°	48.2°	29.95	10	8.1	N/A	N/A		Clear
	16:08	78.8°	55.4°	29.98	3	24.2	40.3	N/A	Thunderstorms	Unknown
	16:10	78.8°	57.2°	29.98	1.8	13.8	40.3	N/A	Thunderstorms	Unknown
	16:22	84.2°	48.2°	29.98	4	25.3	31.1	N/A	Thunderstorms	Unknown
	16:45	80.6°	50.0°	29.98	10	26.5	36.8	N/A	Rain, Thunderstorms	Light Thunderstorms and Rain
	16:56	82.4°	48.2°	29.98	9	27.6	33.4	N/A	Thunderstorms	Thunderstorm
	17:38	84.2°	48.2°	29.98	10	21.9	26.5	N/A		Clear
	17:56	82.4°	50.0°	30.01	10	24.2	29.9	N/A		Mostly Cloudy
	18:04	80.6°	55.4°	30.04	10	19.6	31.1	N/A	Rain	Light Rain
	18:56	78.8°	53.6°	30.01	10	19.6	25.3	N/A	Rain	Light Rain
	19:56	80.6°	53.6°	29.95	10	11.5	N/A	N/A		Clear
	20:56	78.8°	51.8°	30.01	10	8.1	N/A	N/A		Partly Cloudy
	21:56	78.8°	51.8°	29.98	10	9.2	N/A	N/A		Clear
	23:56	78.8°	50.0°	29.98	10	9.2	N/A	N/A		Clear
15-Aug-00	3:56	64.4°	30.2°	29.95	10	6.9	N/A	N/A		Clear
	4:56	64.4°	30.2°	29.95	10	8.1	N/A	N/A		Clear
	5:56	62.6°	30.2°	29.98	10	3.5	N/A	N/A		Clear
	6:56	62.6°	30.2°	30.01	10	8.1	N/A	N/A		Clear
	7:56	64.4°	33.8°	30.04	5	0	N/A	N/A		Haze
	8:56	69.8°	35.6°	30.06	10	0	N/A	N/A		Clear
	9:56	73.4°	37.4°	30.06	10	4.6	N/A	N/A		Clear
	10:56	78.8°	37.4°	30.09	10	9.2	N/A	N/A		Clear
	11:56	80.6°	37.4°	30.09	10	11.5	N/A	N/A		Clear
	12:56	82.4°	37.4°	30.09	10	9.2	N/A	N/A		Clear
	13:56	84.2°	39.2°	30.09	10	12.7	N/A	N/A		Clear
	14:56	87.8°	37.4°	30.09	10	13.8	N/A	N/A		Clear
	15:56	89.6°	37.4°	30.06	10	15	N/A	N/A		Clear
	16:56	89.6°	35.6°	30.06	10	10.4	18.4	N/A		Clear
	17:56	89.6°	35.6°	30.04	10	17.3	N/A	N/A		Clear
	22:56	71.6°	37.4°	30.06	10	6.9	N/A	N/A		Clear
	23:56	66.2°	42.8°	30.06	10	3.5	N/A	N/A		Clear
6-Sep-00	0:56	48.2°	44.6°	30.15	10	0	N/A	N/A		Clear
	1:56	48.2°	44.6°	30.15	10	0	N/A	N/A		Clear
	2:56	44.6°	44.6°	30.18	10	3.5	N/A	N/A		Clear
	3:56	46.4°	42.8°	30.18	10	0	N/A	N/A		Clear

Meteorological Data

source: Weather Underground

Date	Time	Temp °F	Dewpoint °F	Pressure inches	Visibility miles	Wind speed mph	Gust Speeds mph	Precipitation	Events	Conditions
	4:56	44.6°	42.8°	30.18	10	4.6	N/A	N/A		Clear
	5:56	44.6°	42.8°	30.21	10	0	N/A	N/A		Clear
	6:56	44.6°	42.8°	30.21	10	0	N/A	N/A		Clear
	7:56	44.6°	42.8°	30.24	9	0	/A N	/A		Clear
	8:56	48.2°	44.6°	30.27	10	0	N/A	N/A		Clear
	9:56	53.6°	44.6°	30.27	10	9.2	N/A	N/A		Clear
	10:56	57.2°	44.6°	30.27	10	10.4	N/A	N/A		Clear
	11:56	60.8°	44.6°	30.27	10	12.7	N/A	N/A		Clear
	12:56	62.6°	44.6°	30.27	10	12.7	N/A	N/A		Clear
	13:56	64.4°	42.8°	30.27	10	17.3		21.9	N/A	Clear
	14:56	66.2°	41.0°	30.24	10	12.7		19.6	N/A	Clear
	15:56	68.0°	39.2°	30.24	10	10.4		18.4	N/A	Clear
	16:56	68.0°	39.2°	30.21	10	12.7	N/A	N/A		Clear
	17:56	68.0°	39.2°	30.21	10	12.7	N/A	N/A		Clear
	18:56	68.0°	39.2°	30.21	10	11.5	N/A	N/A		Clear
	19:56	64.4°	39.2°	30.18	10	10.4	N/A	N/A		Clear
	20:56	60.8°	41.0°	30.21	10	5.8	N/A	N/A		Clear
	21:56	59.0°	42.8°	30.21	10	0	N/A	N/A		Clear
	22:56	55.4°	42.8°	30.18	10	0	N/A	N/A		Clear
	23:56	51.8°	42.8°	30.18	10	4.6	N/A	N/A		Clear
16-Sep-00	0:56	66.2°	50.0°	29.92	10	4.6	N/A	N/A		Clear
	1:56	62.6°	51.8°	29.92	10	4.6	N/A	N/A		Clear
	2:56	60.8°	51.8°	29.95	10	5.8	N/A	N/A		Clear
	3:56	57.2°	51.8°	29.95	10	5.8	N/A	N/A		Clear
	4:56	59.0°	51.8°	29.95	10	0	N/A	N/A		Clear
	5:56	57.2°	51.8°	29.95	10	3.5	N/A	N/A		Clear
	6:56	55.9°	50.0°	29.95	10	3.5	N/A	N/A		Clear
	7:56	55.4°	50.0°	29.98	10	4.6	N/A	N/A		Clear
	8:56	60.8°	51.8°	29.98	10	4.6	N/A	N/A		Clear
	9:56	66.2°	53.6°	29.98	10	5.8	N/A	N/A		Clear
	10:56	69.8°	53.6°	29.98	10	4.6	N/A	N/A		Clear
	11:56	73.4°	53.6°	29.98	10	5.8	N/A	N/A		Clear
	12:56	75.2°	53.6°	29.98	10	6.9	N/A	N/A		Clear
	22:56	71.6°	51.8°	29.92	10	0	N/A	N/A		Clear
	23:56	69.8°	53.6°	29.95	10	10.4	N/A	N/A		Clear
15-Nov-00	0:39	30.2°	30.2°	29.95	1.5	5.8	N/A	N/A		Light Snow
	0:56	30.2°	30.2°	29.95	1.8	6.9	N/A	N/A		Light Snow

Meteorological Data

source: Weather Underground

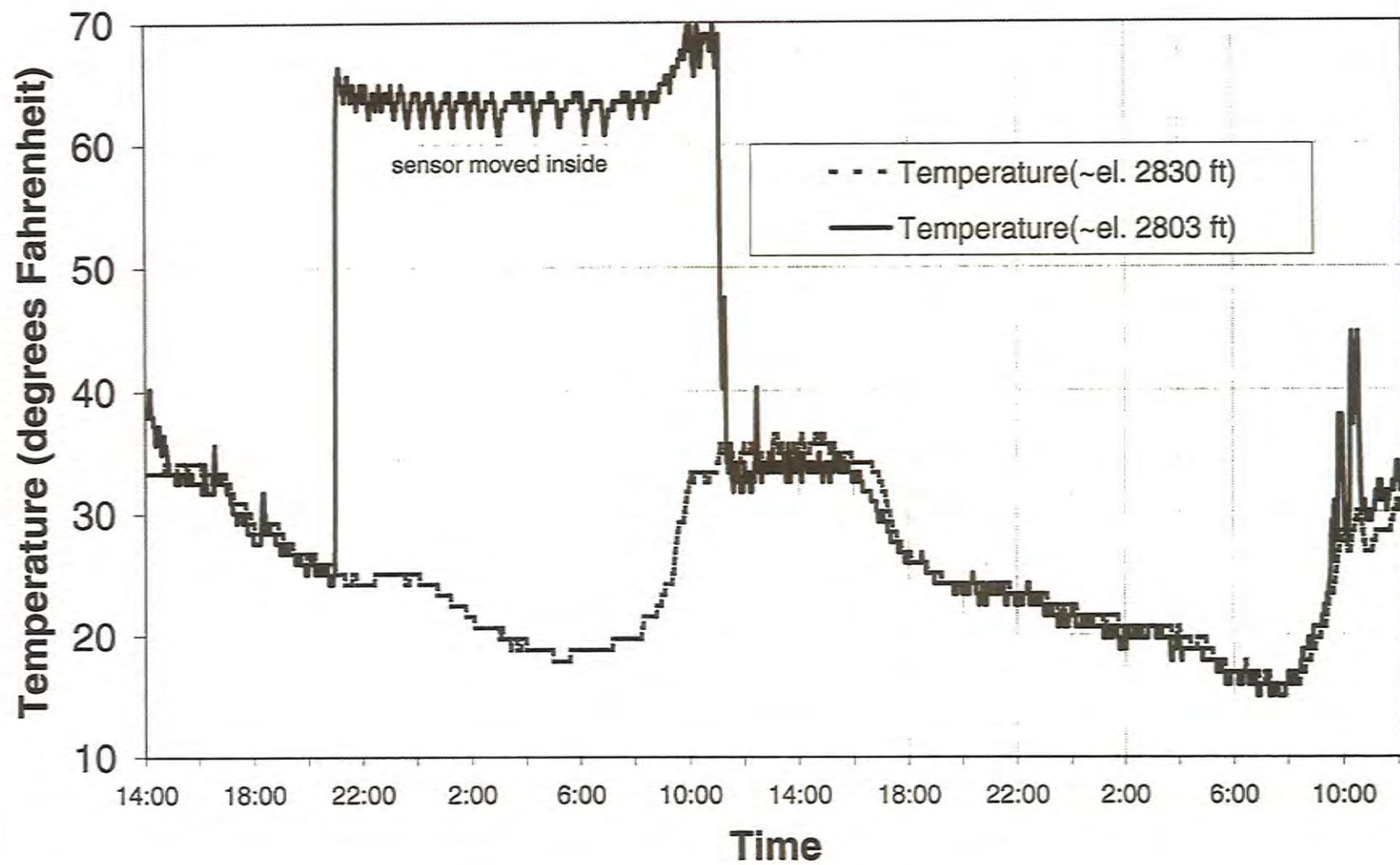
Date	Time	Temp °F	Dewpoint °F	Pressure inches	Visibility miles	Wind speed mph	Gust Speeds mph	Precipitation	Events	Conditions
	1:36	30.2°	30.2°	29.95	1.2	8.1	N/A	0 in	Snow	Light Snow
	1:56	30.2°	30.2°	29.95	1.2	9.2	N/A	N/A		Light Snow
	2:10	30.2°	30.2°	29.95	1.8	10.4	N/A	N/A		Light Snow
	2:17	30.2°	30.2°	29.98	2	9.2	N/A	N/A		Light Snow
	2:40	30.2°	30.2°	29.98	1.2	9.2	N/A	N/A		Light Snow
	2:56	30.2°	28.4°	29.98	1.2	9.2	N/A	N/A		Light Snow
	3:17	30.2°	28.4°	N/A	10.5	10.4	N/A	0 in	Snow	Light Snow
	3:26	30.2°	28.4°	29.98	2	9.2	N/A	0 in	Snow	Light Snow
	3:46	30.2°	28.4°	N/A	10.8	8.1	N/A	0 in	Snow	Light Snow
	13:56	32.0°	26.6°	30.06	10	8.1	N/A	N/A		Overcast
	14:56	32.0°	26.6°	30.06	10	6.9	N/A	N/A		Overcast
	15:56	32.0°	24.8°	30.06	10	5.8	N/A	N/A		Overcast
	16:56	30.2°	24.8°	30.06	10	4.6	N/A	N/A		Clear
	17:56	28.4°	24.8°	30.09	10	5.8	N/A	N/A		Clear
	18:56	28.4°	26.6°	30.09	9	3.5	N/A	N/A		Clear
	19:56	28.4°	26.6°	30.09	7	0	N/A	N/A		Clear
	20:56	24.8°	21.2°	30.09	6	3.5	N/A	N/A		Mist
	21:56	24.8°	23.0°	30.09	7	3.5	N/A	N/A		Clear
	22:56	26.6°	23.0°	30.09	9	3.5	N/A	N/A		Clear
	23:56	23.0°	21.2°	30.12	9	0	N/A	N/A		Clear
16-Nov-00	0:56	21.2° F	19.4°	30.12	7	0	N/A	N/A		Clear
	1:56	19.4° F	19.4°	30.12	8	3.5	N/A	N/A		Clear
	2:56	19.4° F	17.6°	30.15	9	0	N/A	N/A		Clear
	3:56	19.4° F	17.6°	30.15	10	0	N/A	N/A		Clear
	4:56	15.8° F	12.2°	30.15	10	0	N/A	N/A		Clear
	5:56	17.6° F	15.8°	30.15	10	5.8	N/A	N/A		Clear
	6:56	17.6° F	15.8°	30.18	10	6.9	N/A	N/A		Clear
	7:56	19.4° F	15.8°	30.21	10	8.1	N/A	N/A		Clear
	8:56	21.2° F	17.6°	30.21	10	8.1	N/A	N/A		Clear
	9:56	25.0° F	19.9°	30.24	10	6.9	N/A	N/A		Clear
	10:56	26.6° F	21.2°	30.24	10	8.1	N/A	N/A		Clear
	11:56	28.9° F	21.9°	30.24	10	6.9	N/A	N/A		Clear
	12:56	30.2° F	24.8°	30.24	8	9.2	N/A	N/A		Clear
17-Nov-00	3:56	19.4°	15.8°	30.3	9	3.5	N/A	N/A		Clear
	4:56	17.6°	14.0°	30.3	10	3.5	N/A	N/A		Clear
	5:56	15.8°	12.2°	30.33	8	0	N/A	N/A		Clear
	6:56	15.8°	12.2°	30.33	8	3.5	N/A	N/A		Clear

Meteorological Data

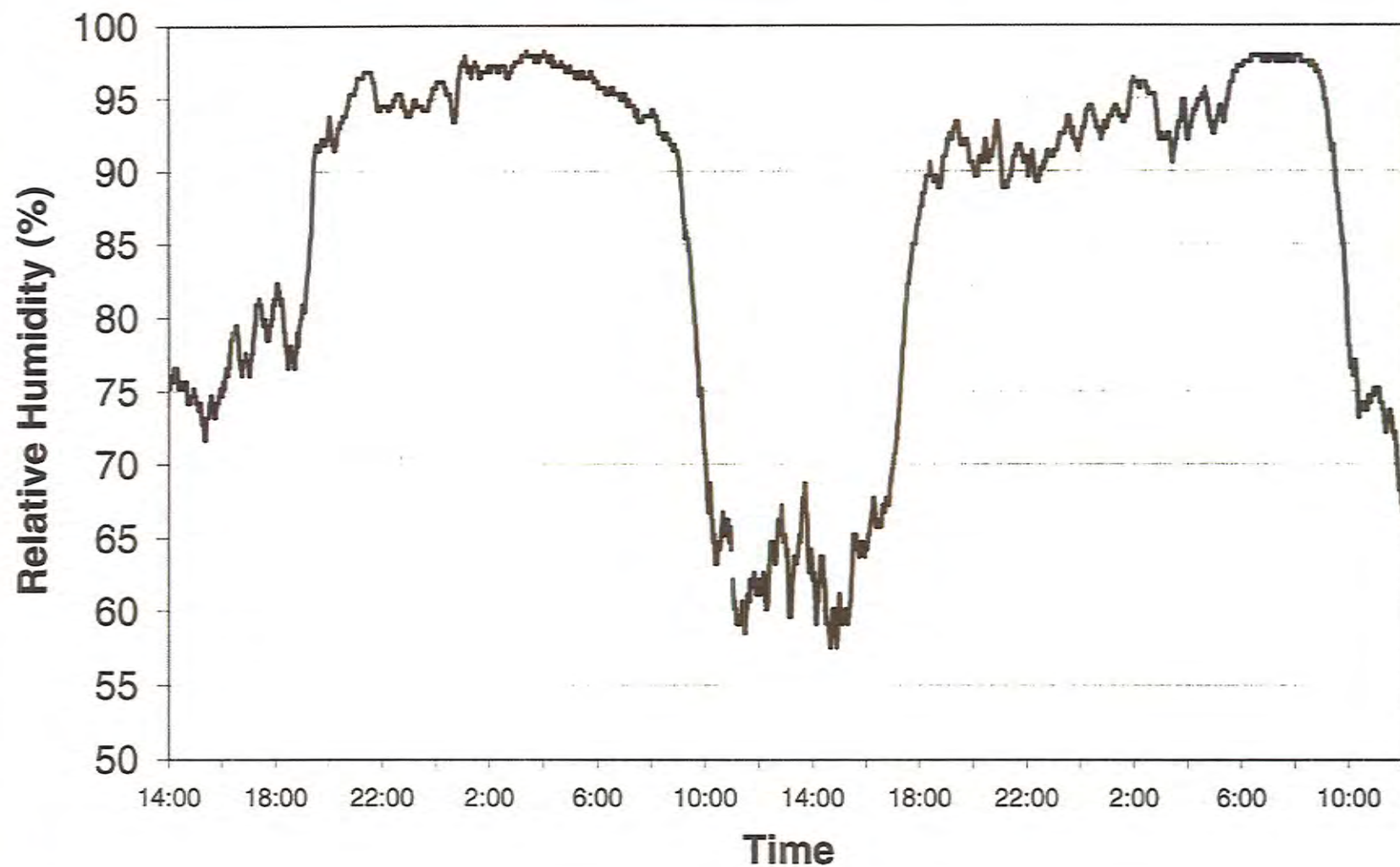
source: Weather Underground

Date	Time	Temp °F	Dewpoint °F	Pressure inches	Visibility miles	Wind speed mph	Gust Speeds mph	Precipitation	Events	Conditions
	7:03	15.8°	12.2°	30.33	8	0	N/A	N/A		Scattered Clouds
	7:11	17.6°	14.0°	30.36	8	0	N/A	N/A		Mostly Cloudy
	7:56	15.8°	14.0°	30.36	5	3.5	N/A	N/A		Mist
	8:04	15.8°	12.2°	30.36	1.8	4.6	N/A	N/A		Mist
	8:08	14.0°	12.2°	30.36	0.8	3.5	N/A	N/A		Mist
	8:15	14.0°	12.2°	30.39	0.2	3.5	N/A	N/A	Fog	Freezing Fog
	8:23	15.8°	14.0°	30.39	0.8	3.5	N/A	N/A		Mist
	8:44	17.6°	15.8°	30.39	1.5	0	N/A	N/A		Mist
	8:56	17.6°	17.6°	30.39	1.5	0	N/A	N/A		Mist
	9:25	19.4°	17.6°	30.39	2	0	N/A	N/A		Mist
	9:56	21.2°	19.4°	30.42	3	3.5	N/A	N/A		Mist
	10:56	24.8°	21.2°	30.45	3	6.9	N/A	N/A		Mist
	11:56	26.6°	21.2°	30.45	3	9.2	N/A	N/A		Overcast
	12:56	28.4°	21.2°	30.42	3	4.6	N/A	N/A		Overcast
	22:56	21.2°	17.6°	30.45	9	9.2	N/A	N/A		Clear
	23:56	21.2°	17.6°	30.45	10	9.2	N/A	N/A		Clear

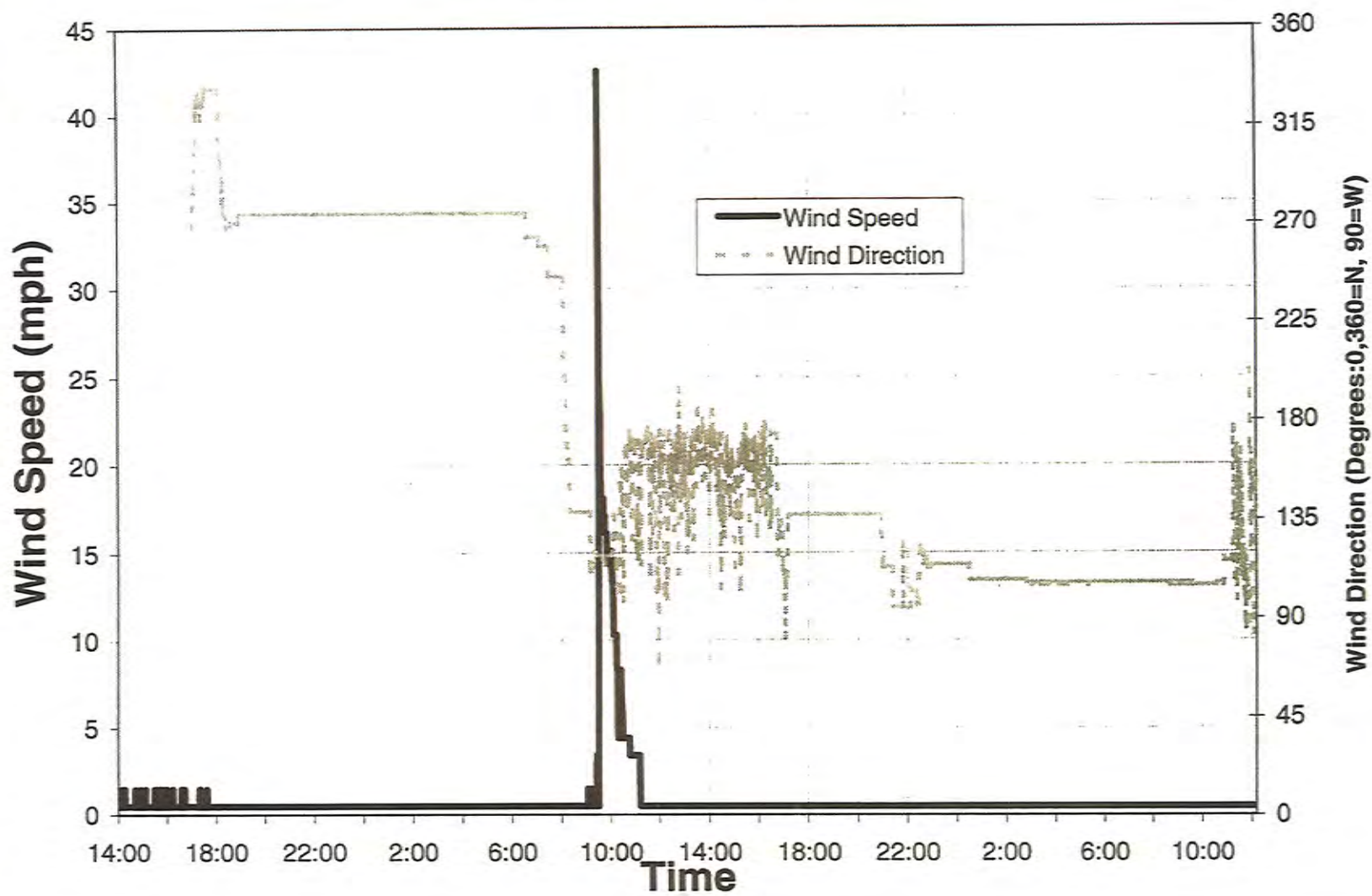
Temperature at ISF Amphitheater (November 15 - 17, 2000)



Relative Humidity at ISF Amphitheater (November 15 - 17, 2000)



Wind Speed at ISF Amphitheater (November 15 - 17, 2000)



Year 2000 ANNUAL CLIMATOLOGICAL SUMMARY

NAME: Pattie St CITY: Boise STATE: Idaho
 ELEV: 2861' LAT: N 43 38' 84" LONG: W 116 18' 60"

TEMPERATURE (°F), HEAT BASE 65.0, COOL BASE 65.0															
		MEAN		DEP. FROM NORM		HEAT DEG DAYS		COOL DEG DAYS				MAX	MAX	MIN	MIN
YR	MO	MAX	MIN	MEAN				HI	DATE	LOW	DATE	>=90	<=32	<=32	<=0
0	1	44.9	28.1	36.4	0.0	602	0	59.1	16	15.4	29	0	0	13	0
0	2	51.9	31.9	41.3	0.0	669	0	62.5	21	19.3	19	0	0	15	0
0	3	55.5	30.8	43.2	0.0	647	0	67.9	26	22.4	21	0	0	20	0
0	4	69.0	40.4	54.4	0.0	309	0	86.6	27	30.7	7	0	0	1	0
0	5	73.2	46.5	59.6	0.0	177	18	86.9	21	31.3	12	0	0	1	0
0	6	84.3	50.4	68.4	0.0	41	111	97.9	30	37.3	1	8	0	0	0
0	7	92.2	55.9	74.4	0.0	6	286	102.1	28	42.9	4	22	0	0	0
0	8	91.8	53.7	73.0	0.0	4	244	100.9	3	42.5	28	22	0	0	0
0	9	76.0	45.2	60.2	0.0	176	43	98.5	14	30.6	24	2	0	1	0
0	10	63.1	38.5	49.7	0.0	441	0	82.6	9	27.3	22	0	0	7	0
0	11	42.5	23.9	32.4	0.0	954	0	59.4	4	12.1	18	0	1	28	0
0	12	38.2	24.6	31.1	0.0	1041	0	46.7	1	17.1	18	0	7	29	0
		65.8	39.5	52.4	0.0	5066	702	102.1	JUL	12.1	NOV	54	8	115	0

PRECIPITATION (in)

YR	MO	TOTAL	DEP. FROM NORM	MAX OBS. DAY	DATE	DAYS OF RAIN OVER .01 .1 1
0	1	1.74	0.00	0.79	10	10 4 0
0	2	2.03	0.00	0.65	23	9 6 0
0	3	1.56	0.00	0.38	9	8 6 0
0	4	0.86	0.00	0.24	13	8 3 0
0	5	1.14	0.00	0.40	7	8 5 0
0	6	0.19	0.00	0.11	12	2 1 0
0	7	0.17	0.00	0.17	18	1 1 0
0	8	0.01	0.00	0.01	4	0 0 0
0	9	0.43	0.00	0.21	2	5 1 0
0	10	2.17	0.00	0.76	12	10 7 0
0	11	0.77	0.00	0.19	27	7 3 0
0	12	0.77	0.00	0.19	14	8 4 0
		11.84	0.00	0.79	JAN	76 41 0

WIND SPEED (mph)

YR	MO	AVG.	HI	DATE	DOM DIR
0	1	2.4	28.0	13	SE
0	2	2.9	32.0	14	SE
0	3	3.3	32.0	19	NW
0	4	2.9	31.0	2	NW
0	5	2.6	28.0	5	N
0	6	2.6	31.0	15	NW
0	7	1.9	44.0	18	NW
0	8	1.9	27.0	23	NW
0	9	1.9	29.0	8	NW
0	10	1.7	28.0	21	NNW

0	11	1.6	30.0	4	NNW
0	12	2.0	36.0	15	NW

		2.3	44.0	JUL	NW

Traffic Management Study

Warm Springs Avenue

Boise, Idaho

Prepared for:

Ada County Highway District
318 East 37th Street
Boise, Idaho 83714

Prepared by:

Earth Tech
1299 North Orchard, Suite #301
Boise, Idaho 83706
(208) 375-8324

February 4, 2000

Ada County Highway District

Judy Peavey-Derr, President
Dave Bivens, Vice President
Marlyss Meyer, Secretary
Sherry R. Huber, Commissioner
Susan S. Eastlake, Commissioner

318 East 37th Street
Garden City, Idaho 83714-6499
Phone (208) 387-6100
Fax (208) 387-6391
E-mail: tellus@achd.ada.id.us

December 4, 2000

Deborah Jue
WIA
5776 Broadway
Oakland, CA 94618

Re: Warm Spring

Dear Deborah:

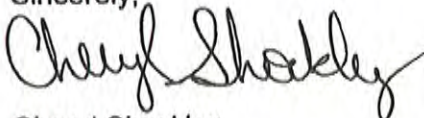
I hope this is what you requested per our conversation on December 1st.

This information was from our Traffic Management Study and I hope that this will be helpful.

If you have any questions please feel free to talk with Joe Rosenlund (208) 387-6140. Paula Rice will be taken over my position on December 11, 2000. I will also let her know what you had asked for.

Joe wanted me to emphasize on the recommendation page that we will not be implementing the alternative until construction can coincide with the opening of both the east and west ParkCenter Bridges. (I tagged the page)

Sincerely,



Cheryl Shockley
Administrative Assistant.

RECEIVED
WILSON, IHRIG & ASSOCIATES
DEC - 7 2000
ACOUSTICAL CONSULTANTS



EXHIBIT C
BALLOON 30 FEET HIGH
AND PLACED AT FENCE ON OTHER SIDE
OF BERM



EXHIBIT C
BALLOON 25 FEET HIGH



EXHIBIT C
ENTRY TO ISF PAST TICKET BOOTH
ON RIGHT
WEST TO SOUTHWEST



ECOLOGICAL DESIGN, INC.

217 North Walnut Street • Boise, Idaho 83712
208.338.5852 • ecodesigninc@mac.com

Gary Allen
Partner
Givens Pursley, LLP
227 North 6th Street
Boise, ID 83702

RE: Barber Mill Estates
Boise Development Code, Chapter 11-05-06

August 5, 2013

Dear Gary:

Please consider this letter my brief summary of what I know to be issues of compliance for the proposed Barber Mill Estates project with Boise Development Code, Chapter 11-05-06 (March 2013).

I offer my analysis with the background that I am one of the reviewers of the 1983 Boise River Study and one of the principal authors of the Boise River System Ordinance (1993) that has been reorganized into Chapter 11 of Boise Development Code and that is now known as the Waterways Overlay Districts (WOD).

Please share this letter with the Boise Planning and Zoning Commission as you see fit.

I will briefly discuss two issues, namely: (1) the location of the 200-foot setback line from the 6,500 CFS water line of the Boise River, and (2) the required mitigation for lands and waters affected by a development project. I am prepared to discuss with you and the commission these issues in great detail at their convenience.

1. The physical location of the waterline of the Boise River at a flow of 6,500 CFS is the datum from which all setbacks for bank protection (25 feet), Greenbelt (70 feet), and protection of wildlife habitat (200 feet) are measured. For this reason I have investigated methods of locating that line and have pursued what I believe to be the best to share with you. Those methods - in order of likely reliability - include: (1) staking and surveying on-the-ground the location of sediment deposits, drift lines, and scour marks on both the earth and trees; (2) physical modeling using common applications such as HEC-RAS; and (3) staking and surveying on-the-ground the actual waterline during a 6,500 CFS event.

The attached aerial photographs - that are the base layer of all figures referenced in this letter - show the waterline of the Boise River on February 26, 1996 when it was measured by the US Geologic Survey at the Glenwood Gauge at a flow of 6,400 CFS. No upriver irrigation diversions were operating at this time. The US Army Corps of Engineers flew and photographed the river at this flow. It has archived all for use in their regulatory duties under the Clean Water Act §404.

I have used these photographs to produce Figures 1A, 1B, and 2 by photo-interpretation of the waterline as it is shown on them. Where obscured by shadow, I erred on the side of caution and placed the line at the nearest location where water is seen. I like this method because it is a real world measure, not an abstraction by a physical model such as HEC-RAS. As such, it is an accurate representation bettered only by staking during a 6,500 CFS flow event.

Valid criticisms of its use are: (1) the photographed event is 100 CFS less than 6,500 CFS, (2) the photographs are large in scale, and (3) the method relies on a person to accurately photo-interpret aerial photographs. There are satisfying answers to each of these concerns that I am happy to share with you in the future.

All being said, I judge Figures 1B and 2 to be the most accurate and complete representation of the 6,500 CFS waterline of the Boise River currently available. Greater accuracy, perhaps may be achieved by placing measured ground contours - available as LIDAR data - over the aerial photograph and measuring the 200-foot setback from points where a single elevation contour and the observed waterline coincide.

2. The WOD regulates all development with the 100-year floodplain of the river and some areas beyond. The location of the current FEMA FIRM 100-year floodplain and floodway is determined by the Federal Emergency Management Agency (FEMA) and shown in Figure 3. Within it are classes of wildlife habitat (i.e. Class A, B, and C) identified by the 1983 Boise River Study and, as prescribed by the WOD, that must be studied to determine their present status.

Development in Class A and B lands and waters must mitigate for adverse impacts due to development. The WOD prescribes that both a preliminary and final/approved mitigation plan be prepared by the developer and reviewed by Federal, State of Idaho, and local experts. The Boise Planning and Zoning Commission approves those plans.

The WOD describes Class B Lands and Waters as:

- (3) **Class B Lands and Waters - Moderately Important for Preservation** Class B lands and waters provide good potential for improvements to natural resource functions and values. Development should improve natural resource functions and values and avoid negative. Class B lands and waters include, but are not limited to:
- (a) Agricultural lands;
 - (b) Gravel pit ponds and small lakes; and
 - (c) Intermittent tributary streams.

The intent of the committee - on which I served - that debated ideas, authored language, and approved publication of the Boise River System Ordinance in 1993 is clearly stated in this definition and further explained by the example "gravel pit ponds and small lakes" provided by it.

Based on my field review on July 9, 2013 the Barber Mill Estates project area has "good potential for improvements in natural resource functions and values". Now more commonly referred to by restoration ecologists as "functions and services" they include:

(2) Natural Resource Functions and Values

Natural resource functions and values are:

- (a) Water quality,
- (b) Habitat for fish and wildlife,
- (c) Nutrient retention and removal,
- (d) Channel stability,
- (e) Food chain support,
- (f) Flood storage and de-synchronization,
- (g) Groundwater recharge and discharge,
- (h) Recreation,
- (i) Aesthetics, and
- (j) Cultural resources.

(Source: Chapter 11-05: Overlay and Specific Plan Districts, Section 11-05-06:
Waterways Overlay Districts, Subsection 1: Boise River System Overlay Districts)

For these reasons of fact, I believe any portion of the Barber Mill Estates project area within the 100-year flood plain and/or 200 feet from the 6,500 CFS waterline is Class B habitat.

In addition, two down river projects have recently complied with the mitigation requirement that is part of the ordinance. The first is restoration of the three abandoned Barber Mill log ponds, and the second the breached dike approximately 300 yards down river from the Eckert Road bridge. Both are a part of the Harris Ranch development and Marianne Williams Park. Both improved "natural resource functions and values" by practical means and methods.

For the sake of consistency with the precedent set by Harris Ranch and the Boise Department of Parks and Recreation, I also believe any portion of the Barber Mill Estates project area within the 100-year flood plain and/or 200 feet from the 6,500 CFS waterline is Class B habitat.

Barber Mill Estates
August 5, 2013
Page 4

Sincerely,
Ecological Design, Inc. by

A handwritten signature in black ink that reads "Rob Tiedemann". The signature is written in a cursive, flowing style with a large, stylized "R" and "T".

Rob Tiedemann, Ph.D.

Principal

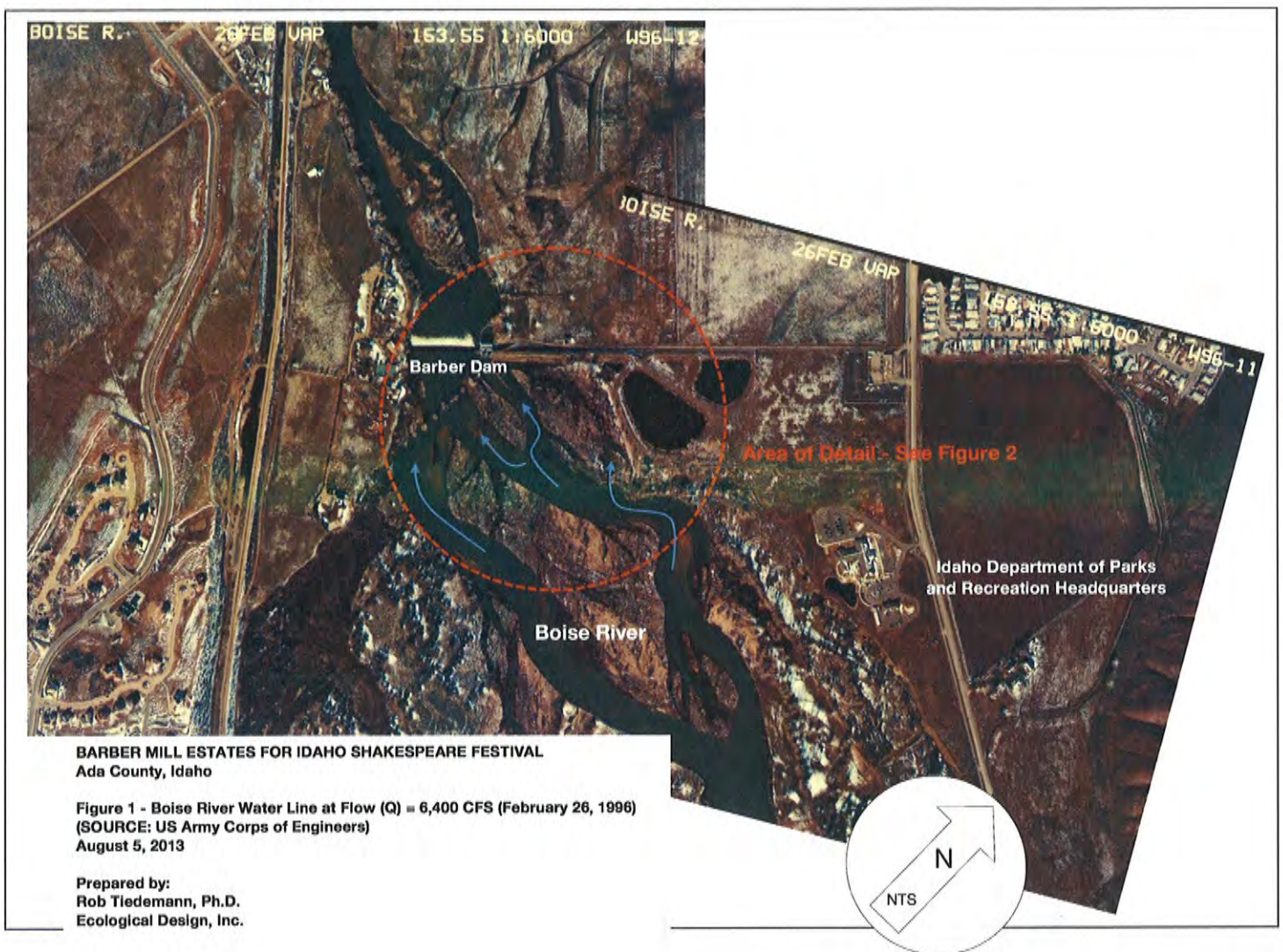
Certified Professional Wetland Scientist - Society of Wetland Scientists No. 0000702

Certified Wetland Delineator - US Army Corps of Engineers April 15, 1994

Certified Fisheries Scientist - American Fisheries Society No. 1,717

Certified Wildlife Biologist - The Wildlife Society December 10, 1986

Certified NPDES BMP Designer - Idaho Transportation Department 1996



BARBER MILL ESTATES FOR IDAHO SHAKESPEARE FESTIVAL
Ada County, Idaho

Figure 1 - Boise River Water Line at Flow (Q) = 6,400 CFS (February 26, 1996)
(SOURCE: US Army Corps of Engineers)
August 5, 2013

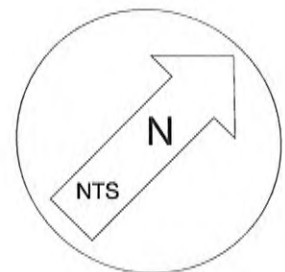
Prepared by:
Rob Tiedemann, Ph.D.
Ecological Design, Inc.



BARBER MILL ESTATES FOR IDAHO SHAKESPEARE FESTIVAL
Ada County, Idaho

Figure 2A - DETAIL: Boise River Water Line at Flow (Q) = 6,400 CFS (February 26, 1996)
(SOURCE: US Army Corps of Engineers)
August 5, 2013

Prepared by:
Rob Tiedemann, Ph.D.
Ecological Design, Inc.

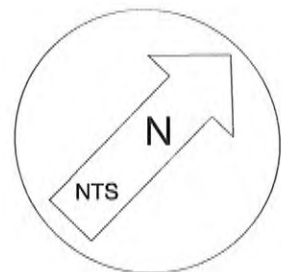




BARBER MILL ESTATES FOR IDAHO SHAKESPEARE FESTIVAL
 Ada County, Idaho

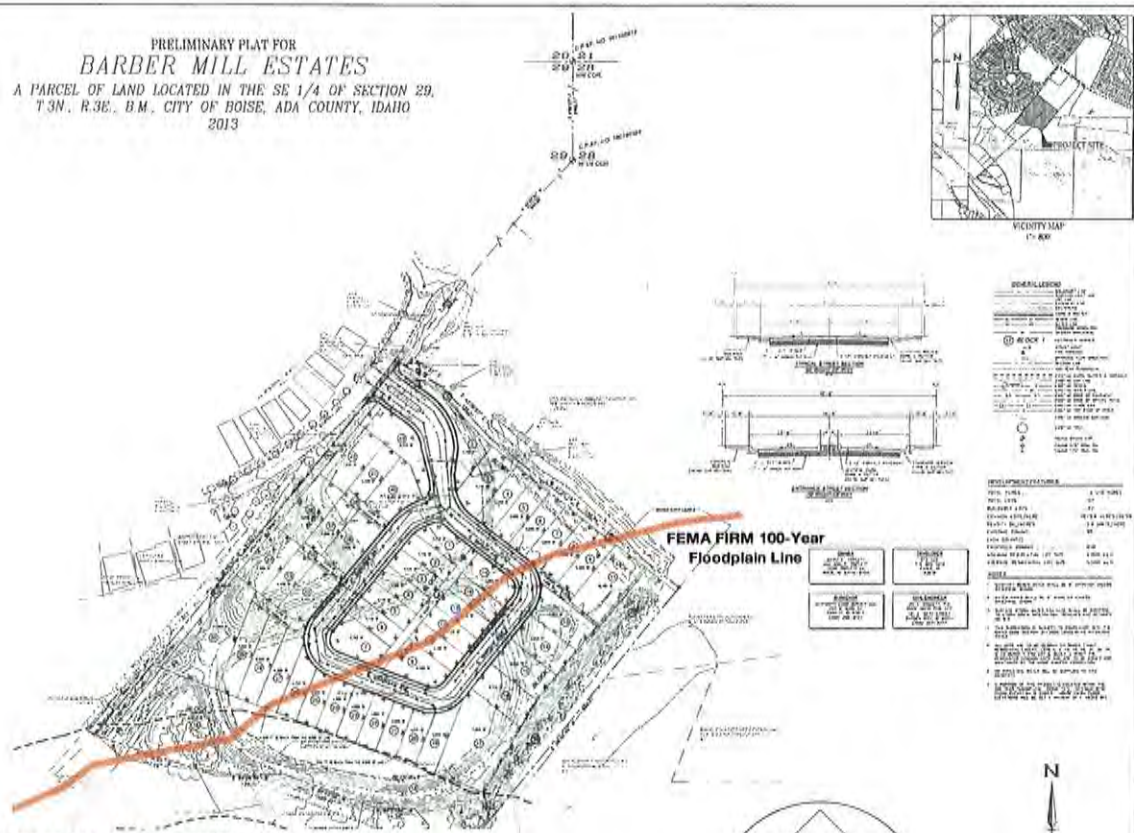
Figure 2B - DETAIL: Boise River Water Line at Flow (Q) = 6,400 CFS (February 26, 1996)
 With Boise River Ordinance 200-Foot Setback
 (SOURCE: US Army Corps of Engineers)
 August 5, 2013

Prepared by:
 Rob Tiedemann, Ph.D.
 Ecological Design, Inc.



PUD 13 - 00002

PRELIMINARY PLAT FOR
BARBER MILL ESTATES
A PARCEL OF LAND LOCATED IN THE SE 1/4 OF SECTION 29,
T3N, R3E, B.M., CITY OF BOISE, ADA COUNTY, IDAHO
2013

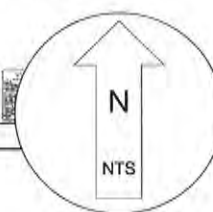


DEVELOPER'S CERTIFICATE	
PROJECT NAME:	BARBER MILL ESTATES
PROJECT LOCATION:	SE 1/4 SECTION 29, T3N, R3E, B.M., CITY OF BOISE, ADA COUNTY, IDAHO
PROJECT AREA:	1.00 ACRES
PROJECT OWNER:	BARBER MILL ESTATES, LLC
PROJECT ENGINEER:	ROCK SOLID CIVIL, INC.
PROJECT DATE:	8/5/2013
PROJECT STATUS:	PRELIMINARY
PROJECT DESCRIPTION:	PRELIMINARY PLAT FOR BARBER MILL ESTATES, A PARCEL OF LAND LOCATED IN THE SE 1/4 OF SECTION 29, T3N, R3E, B.M., CITY OF BOISE, ADA COUNTY, IDAHO.
PROJECT PURPOSE:	TO SHOW THE PRELIMINARY PLAT FOR BARBER MILL ESTATES, A PARCEL OF LAND LOCATED IN THE SE 1/4 OF SECTION 29, T3N, R3E, B.M., CITY OF BOISE, ADA COUNTY, IDAHO.
PROJECT SCOPE:	TO SHOW THE PRELIMINARY PLAT FOR BARBER MILL ESTATES, A PARCEL OF LAND LOCATED IN THE SE 1/4 OF SECTION 29, T3N, R3E, B.M., CITY OF BOISE, ADA COUNTY, IDAHO.
PROJECT LIMITATIONS:	THIS PLAT IS PRELIMINARY AND IS NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN CONSENT OF ROCK SOLID CIVIL, INC.
PROJECT ASSUMPTIONS:	THIS PLAT IS BASED ON THE INFORMATION PROVIDED BY THE PROJECT OWNER AND IS NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN CONSENT OF ROCK SOLID CIVIL, INC.
PROJECT NOTES:	THIS PLAT IS PRELIMINARY AND IS NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN CONSENT OF ROCK SOLID CIVIL, INC.

Barber Mill Estates for Idaho Shakespeare Festival
Ada County, Idaho

Figure 3 - Preliminary Plat Showing FEMA FIRM 100-Year Floodplain Line
August 5, 2013

Prepared by:
Rob Tiedemann, Ph.D.
Ecological Design, Inc.



Rock Solid Civil, Inc.
1000 S. 10th St., Suite 100
Boise, ID 83725
Phone: (208) 333-1111
Fax: (208) 333-1112
www.rocksolidcivil.com

Barber Mill Estates
Preliminary Plat
PP1
1 of 1

Party of Record
PUD13-00002 CFH13-00019

Last Name	First name	Address	SUBUNITTYP	SUBUNITNUM	CITY	STATE	ZIP CODE	EMAIL
Allen	Gary							garyallen@givenspursley.com
Allen	Rhea							rhea@peppershock.com
Andrick	Ben	5189 E. Sawmill Way			Boise	ID	83716	
Andrick	Sonny							sonnyandrick@gmail.com
Aravich	Robert							robert.aravich@usbank.com
Barber	Eileen	120 Mobley Dr.			Boise	ID	83712	
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