

September 9, 2008

AASE's Canyon Point Development, LLC
3750 West 500 South
Salt Lake City, UT 84104

Re: **CAR07-00042/DA, CUP07-00084, CFH07-00022 & SUB07-00065 /
6890 N. Plano Road**

Dear Applicant:

This letter is to inform you of the action taken by the Boise City Planning and Zoning Commission on your request for annexation of 296.12 acres, and a rezone of 36.63 acres within Boise City Limits for a total of +/- 332.75 acres at 6890 N. Plano Road with zoning designations of R-1A/DA (Single family Residential with a Development Agreement, 2.1 DU/Acre) and A-1/DA (Open Land with a Development Agreement). In addition, a Conditional Use Permit to build a 155 dwelling unit Planned Residential Development with a Hillside and Foothill Area Development Permit; and a Subdivision Preliminary Plat.

The Boise City Planning and Zoning Commission at their meeting on August 11, 2008, recommended to the Mayor and the Boise City Council approval of the annexation of the +/- 296.12 acres, and a rezone for the total +/- 332.75 acres to an A-2/DA holding zone with a Development Agreement that contains the following condition:

- 1) Any development application shall be required to comply with the *Boise Foothills Policy Plan*, the Foothills Planned Development Ordinance 11-06-05.07, and the Hillside and Foothill Areas Development Ordinance 11-14.

The Commission also denied the request for a Conditional Use Permit, CUP07-00084; the Hillside and Foothills Area Development permit application, CFH07-00022; and the preliminary plat application, SUB07-00065.

Staff was instructed to prepare new findings for all the application and these were to be presented at the next Planning and Zoning Commission hearing. At the September 8, 2008 hearing, the attached findings were adopted by the Planning and Zoning Commission.

This decision may be appealed to the Boise City Council. This appeal must be filed with the Boise City Planning and Development Services Department within ten (10) days of the date of this denial. The Appeal must be written, accompanied by the appropriate fee, and submitted to the Boise City Planning and Development Services Department prior to the deadline set forth herein. Appeal Application forms are available in the Planning Department. The appeal must be submitted by 5:00 P.M., September 18, 2008.

If you have any questions, please contact this department at 384-3830.

Sincerely,

Bruce Eggleston, AICP
Planner II
Boise City Planning and Development Services Department

BE/bjc

cc: Capital Development, Inc. / 6200 N. Meeker Place / Boise, ID 83713
Stewart Land Group / 6995 S. Union Park Ctr. / Midvale, UT 84047

Reasons for the Decision

COMMISSION'S FINDINGS AUG. 11, 2008

ANNEXATION AND RE-ZONE CAR07-00042/DA IS RECOMMENDED FOR APPROVAL for 332+/- acres with an A-2/DA Zone designation.

ANNEXATION

Section 11-06-03.03 Commission Shall File Recommendation

The Commission shall file its recommendation on each annexation application with the City Clerk in accordance with Section 11-6-3.4. The Commission's recommendation on annexation applications shall be in accordance with the following policies:

- A. That the annexation shall incorporate the Boise sewer planning area.

Finding: The proposed annexation is contiguous with City Boundaries, and it is within the Boise Sewer Planning Area.

- B. Honor negotiated area of impact agreements.

Finding: The proposed annexation area is in the City's Area of Impact and the proposal honors the Area of Impact Agreement with Ada County in compliance with Boise City Code 11-15. The site is subject to the *Boise City Comprehensive Plan* and the *Foothills Policy Plan*.

- C. Attempt to balance costs of services with anticipated revenues.

Finding: The proposed land use within this annexation is single family residential dwellings with approximately 27% of the land in development and 73% in open space in the A-2/DA Zone. The proposed development would represent low-density residential use.

Higher densities represent a smaller cost per unit for the urban services package. It is a matter of efficiency and economies of scale; the greater the density per acre, the lower overall costs would be to service the area on a per unit basis. The site is accessed up steep hills and is perched on ridge tops, which tends to increase the costs of road maintenance, sewer maintenance and water maintenance due to the hilly terrain. The cost of school bus transportation would be higher for the same reasons, and because the proposed neighborhood would be at the end of a gulch, requiring a looping back to access other neighborhoods. The proposed neighborhood may increase the potential for property damage and fire coverage due to wildfires, as the site is within the area where this phenomenon occurs. Wildfires are more difficult and costly to fight and contain in proximity to Foothills developments, than fires in the more urbanized parts of the city, and they require specialized equipment to fight them, at an additional cost to the city.

The revenues from the proposal would tend to be on the high end for assessed value per residence. It is not clear if the revenues would balance the costs of services, as that data is not available.

- D. Promote other goals of population balance, contiguous development and prevention of costs due to leap-frog development.

Finding: The proposed annexation is contiguous with Boise City Boundaries. The area is served by City Police, Fire, sewer, and Parks and Recreation resources. United Water has indicated that they would provide municipal water supply via a water tank installation at the top elevation of the subject site. The subject site is adjacent to public rights-of-way on Collister Drive and Plano Lane. This is a logical extension of the city boundaries as all the urban services are available to, or near enough to the site to meet City standards for delivery.

Section 11-08-05 ANNEXATION

Requests for annexation of property into the City of Boise must be heard by the City Council after receiving recommendation by the Planning and Zoning Commission, and must meet one or more of the following conditions:

- A. The land lies contiguous or adjacent to the City or to any addition or extension thereof has been divided into parcels containing not more than five (5) acres of land each; or

Finding: The proposed annexation is contiguous with City Boundaries, and is proposed to be subdivided into a residential neighborhood.

- B. Any property owner by or with his/her authority has sold or begun to sell off such contiguous or adjacent land by metes and bounds into parcels not exceeding five (5) acres; or

Finding: Not applicable as items A and C are met.

- C. An owner or any person by or with his/her authority requests annexation in writing to the Council; or

Finding: The proposed annexation comes at the request of the landowners.

- D. A parcel of land is entirely surrounded by the properties lying within the City boundaries.

Finding: Not applicable as items A and C are met.

RECLASSIFICATION OF ZONING DISTRICTS

Section 11-06-01.01 Power to Amend

Any recommendation of the Commission relating to change, modification and reclassification of zoning districts and land use classifications and the regulations and standards thereof shall be in

writing. The recommendation shall include findings of fact supporting the purposes and objectives of zoning and otherwise securing public health, safety and general welfare. The recommendation shall specifically find that such changes, modifications and reclassifications of zoning districts and land use classifications and the regulations and the standards thereof:

A. Comply with and conform to the Comprehensive Plan; and

Finding: The proposed annexation and zone change area is in the City's Area of Impact and the proposal honors the Area of Impact Agreement with Ada County in compliance with Boise City Code 11-15. The site is subject to the *Boise City Comprehensive Plan* and the *Foothills Policy Plan*.

B. Provide and maintain sufficient transportation and other public facilities, and does not adversely impact the delivery of services by any political subdivision providing services.

Finding: The proposed zone change and annexation area is in the City's service area for police, parks, sewer and library services. The area is served by Ada County Highway District for street services and has received a recommendation for approval from their Commission on June 25, 2008. The Independent Boise School District includes the site in its service area. United Water of Boise serves the area for municipal water services.

C. Maintain and preserve compatibility of surrounding zoning and development.

Finding: The proposed zone change and annexation area is contiguous to City residentially zoned neighborhoods on the south. Ada County Rural Preservation (RP) surrounds it on the north and east, and a residential neighborhood with R6 zoning on the west. The proposed use and zone change are compatible with the surrounding uses and zones.

The proposed zone is A-2/DA (Open Space/Low Intensity Use), with Development Agreement. This zone is derived from the regulations of the Boise City Zoning Code Chapter 11 Section 11-06-05.07, the Foothills Planned Development Ordinance. The ordinance requires that requests for annexation and/or zone change would result in the R-1A/DA and A-1/DA or A-2/DA Zones, as are so requested in this application.

The proposed development is low density residential in character, similar in use and density with the surrounding neighborhoods.

CONDITIONAL USE PERMIT

The development application filed under CUP07-00084 is denied.

CONDITIONAL USE PERMIT

Section 11-06-04.13 Criteria and Findings

The Commission, following the procedures outlined below, may approve a conditional use permit when the evidence presented at the hearing is such as to establish:

- A. That the location of the proposed use is compatible to other uses in the general neighborhood;

Finding: The proposed planned development is for a residential neighborhood with a maximum of 155 dwelling units and an open space plant conservation area. It is contiguous to residentially zoned neighborhoods on the south and west. Ada County Rural Preservation (RP) surrounds it on the north and east, and a residential neighborhood with R6 zoning on the west. To the east is the Boise City Polecat Gulch Reserve, a recent addition to the City Parks and Recreation system. The residential use is compatible in scale and density with the contiguous neighborhoods, Briarhill Subdivision and Quail Ridge Subdivisions, and the small Plano Lane Subdivision on the west. The open space component of some 160 acres would make this compatible with the Polecat Reserve. The location of the use is supported by the policies of the *Foothills Policy Plan*.

The proposal meets the SOME of the comprehensive plan policies, but it fails to comply with the policies concerning density, grading and cluster design.

Finding: The proposed planned development is sited along prominent ridge tops in a regionally prominent part of the Boise Foothills. This development would be highly visible from many parts of the region. The proposal includes siting and structural design restrictions that would lessen the visual impact to some degree. These design restrictions would somewhat blend the structures in with the backdrop of the Boise Foothills. Nevertheless, the proposed development would impact that prominent viewshed forever. The geography of the land is such that the majority of buildable portions of the site are on the ridge tops, with some available areas in a gully on the north and at the end of Collister Drive. The concerns about the policies and regulations addressing the visibility on the ridge tops of the proposal must be balanced with the policies that would allow this type of development in the West Foothills Planning Area. Part of that balance must include the proposal to set aside a conservation area for the Aase's Onion, a Federal species of concern and protected by policies in the Boise *Foothills Policy Plan*.

Finding: There is too much sky-lining development on prominent ridges. Some units could be put on the sand pit area to avoid sky lining on the most prominent ridgeline. The *Foothills Open Space Management Plan* has designated the western ridges on the site to be visual resources of value and recommends that development should not be allowed in these areas on the Boise Front Foothills.

- B. That the proposed use will not place an undue burden on transportation and other public facilities in the vicinity;

Finding: The proposal is in the City's service area for police, sewer, parks and library services. The area is served by Ada County Highway District for street services and has received a recommendation for approval from their Commission on May 25, 2008. The Independent Boise School District includes the site in its service area. United Water of Boise serves the area for municipal water services. These agencies have all indicated by letters in the file that they could provide services to the project site. The provision of services to this site would not diminish services to other parts of the region with the exception of the traffic impacts on the adjoining neighborhoods and the neighborhoods accessed from Hill Road to the east of the project site. Traffic from the project would increase the level of service on Harrison Boulevard beyond LOS C.

- C. That the site is large enough to accommodate the proposed use and all yards, open spaces, pathways, walls and fences, parking, loading, landscaping and such other features as are required by this title;

Finding: The site may be large enough for the use to accommodate the proposed site and lot layout. It would include 160 acres of permanent open space for the conservation of a species of concern, and several areas of open space available to the homeowners' for private use. Some internal pathways would be provided as well as sidewalks and bike paths. However, the site is designed such that the dwellings are not properly clustered, and an insufficient amount of flat open space is provided.

Finding: The proposed deer corridors are too narrow to meet the standard dimensions from Idaho Department of Fish and Game.

- D. That the proposed use, if it complies with all conditions imposed, will not adversely affect other property of the vicinity;

Finding: The proposed use is largely compatible with the plans and the Municipal Code of the City and the Ada County Highway District as discussed in detail in this staff report. The primary concern is for the safety of the current residents and the future residents. The focus of that concern rests on the traffic impacts on the Plano Lane neighborhood, the Briarhill Neighborhood and the Quail Ridge Neighborhood taking access from upper Collister Drive. The Ada County Highway District designates Collister Drive as a local collector, and by their calculations the proposed traffic increases could be accommodated by this road. Plano Lane is a local road, and ACHD has also substantiated that it could handle the proposed traffic increases.

- E. That the proposed use is in compliance with and supports the goals and objectives of the Comprehensive Plan.

Finding: The site is subject to *Boise City Comprehensive Plan*, the *Foothills Policy Plan* and the Foothills Planned Development Ordinance. The proposal falls short of general compliance with those plans and the ordinance in the areas of clustering and site

design; density calculation, protection of the sensitive areas and wildlife; and traffic impacts on the adjoining neighborhoods.

Finding: There is too much density bonus granted for the Slope Protection areas. The sensitive species Aase's Onion doesn't need public ownership or conservation efforts to protect, according to the applicant's botanist who said that the onions aren't that sensitive to impacts, related to weeds and fire hazards, so they only need to be left alone to survive. Therefore the density bonus credit given for the sensitive species habitat on slopes greater than 25% is not entirely warranted. There is some value for the set-aside and proposed conservation, but the conservation is not worth the 76% of the density bonus allocated to it, or the equivalent of 107 dwelling units of the 141 derived from the density bonus. The ordinance states that, "Priority Open Space, when it exists, should be used in balance with other forms of eligible open space to meet the requirements of this code." In this case the priority open space onion conservancy does not meet that standard of balance with other qualified sensitive areas.

Finding The proposal does not represent a significant protection of Priority Open Space features. More detailed plans should be made to establish protection for the sensitive plant conservation area, and to protect the riparian and wetland areas.

Finding: Not all areas in Priority Development Area are equally developable. This area is too steep with too many prominent ridges for large-scale development.

F. Multiple family building (any building containing more than 2 residential units) must be designed to include features which add to the visual and aesthetic appearance of the structure and help prevent a sterile, box-like appearance. Such features may include the use of brick or stone, roof or facade modulation, planter boxes, bay windows, balconies, porches, etc. The Commission or committee must make a finding that specific design features have been added to enhance the physical appearance of such multiple-family residential structures.

Finding: This is not applicable to the application.

The Hillside and Foothills Areas Development application CFH07-00022 is denied.

Hillside and Foothills Areas Development Ordinance - Section 11-14-03.05 Findings of Fact and Conclusions of Law

A. The findings of facts and conclusions of law to support decisions on hillside and foothill development permit applications must be based upon compliance with this chapter and may only be approved when the evidence presented supports the following finding of fact and conclusions of law:

1. That the proposed development is in compliance with the technical requirements of this chapter including those related to grading, drainage, hazardous areas, revegetation, preservation of outstanding and unique features;

Finding: There is too much grading proposed in subdivision design. The proposal includes one million cubic yards of overage from the ridge top grading which seems excessive by the standards of the Hillside and Foothills Areas Development Ordinance and the policies of the *Foothills Policy Plan*.

Finding: Under Section 11-14-04 of the Hillside Development Ordinance there is not enough consideration given to allocation for open spaces and protection of soil, geology, vegetation and minimizing disruption of existing plant and animal life. In addition, Section 11-14-08 of Section C, existing vegetation should not be disturbed or removed beyond the limits of the cuts and fills of the approved grading plan.

Finding: Because of the degree of cut and fill proposed by this development, it is questionable whether it meets the spirit and intent of the Hillside Ordinance to preserve, or enhance, the existing or future appearance and resources of Hillside areas. It does not meet the spirit of that purpose and intent language of the Hillside and Foothills Areas and Development Ordinance.

Finding: In moving over one million cubic feet of material as proposed violates the intent of the Hillside Ordinance with respect to excessive grading.

Finding The proposed development is generally in compliance with the technical requirements of Section 11-14-03.05 as conditioned in a letter from Boise City Public Works Exhibit D Plano Road Sub Grading, dated May 28, 2008.

2. That the proposed development, if it complies with all conditions imposed, will not adversely affect other property in the vicinity;

Finding: The Preliminary Soil and Geologic Evaluation, although very preliminary in nature and not based on onsite investigation, indicated that the proposed development could be conceptually approved. A Stormwater Well Report was submitted July 1, 2008 that substantiates that the stormwater retention proposal would not adversely affect other property owners in the vicinity.

3. That the land itself is capable of the volume and type of development proposed as determined by geological, hydrological and soils engineering analysis;

Finding: The site will comprise about 91 acres of developed land and approximately 241 acres of undeveloped land. There is enough land to accommodate the proposal. The preliminary Soil and Geologic Evaluation, although very preliminary in nature and not based on onsite investigation, indicated that the proposed development could be conceptually approved. Yet, one of the conditions of approval from Public Works is that the proposed grading plan shows some off-site disturbance that would require either re-design or permission from the land owner.

4. That the project does not create a potential hazard of flooding, soil instability, fire, erosion, etc.

Finding: The proposed project would not create a potential for hazards of flooding, soil instability, fire or erosion.

5. That the proposal complies with all requirements of the Zoning Ordinance for foothills gulches including the requirements of this chapter and the Floodway and Floodplain Ordinance.

Finding: The proposal meets the application sufficiency standards, and does not require a Floodplain permit.

Finding: The proposal does not comply with the requirements for Foothills gulches through the application for the Hillside and Foothills Areas Development permit inasmuch as the proposal includes one million cubic yards of excess grading material.

B. The hillside and foothills development permit process is established to assure project compliance with this chapter and to provide a public notification and hearing process for all Category I and II projects. Annexations, zone changes, conditional use permits and subdivision applications submitted prior to or in conjunction with hillside and foothill development permit applications must comply with all respective zoning ordinance requirements including compliance with the Boise Metropolitan Plan.

Finding: The Hillside and Foothills Areas Development permit application was made in conjunction with applications for annexation, zone change, conditional use permit and a preliminary plat subdivision application so this standard has been met.

SUBDIVISION PRELIMINARY PLAT

The proposed preliminary plat application SUB07-00065 is denied based upon the denial of the proposed conditional use permit CUP07-00084, and the proposed Hillside and Foothills Areas Development permit application CFH07-00022.

Finding: The preliminary plat application, SUB07-00065, is denied for the same reasons stated above for the conditional use permit and Hillside applications.

Finding: The subdivision as proposed for 155 lots is excessive in number for the reasons previously stated in the connection with the CUP and the density bonus provisions of the Foothills Planning and Development Ordinance. The subdivision as proposed places too many dwelling units on prominent ridges. This is something that is discouraged in the *Foothills Policy Plan*; it is not a matter for our discretion. The *Foothills Policy Plan* says that prominent ridges shall be protected from development. This is identified as a prominent ridge.

Finding: The development is too linear; it does not meet the clustering requirements of the

Foothills Planned Development Ordinance. Other parts of the property could be developed instead of the ridgelines.