



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

Planning Division Staff Report

File Number CAR07-00042/DA, CUP07-00084, CFH07-00022 and SUB07-00065
Applicant Aase's Canyon Pointe Development LLC
Property Address 6890 N. Plano Lane
Public Hearing Date July 14, 2008
Heard by Boise City Planning and Zoning Commission
Planning Analyst Bruce Eggleston, AICP
Planning Supervisor Patricia Nilsson, AICP

Table of Contents	Page
1. Executive Summary	2
2. Facts and Standards of Review	4
3. Background and Analysis	12
4. Reason for the Decision	41
5. General Information	43
6. Boise City Comprehensive Plan	44
7. Boise City Zoning Ordinance	49
8. Recommended Conditions of Approval	53
9. Appendices	

Attachments

Vicinity/Zoning Maps

Site Plan

Applications

Applicant's Support Material

Agency Comments

Exhibit A Boise Fire Department report dated June 27, 2008

Exhibit B Boise City Public Works Department (BCPW) for drainage, and hydrology per department comments dated May 19, 2008

Exhibit C May 20, 2008, Preliminary Hydrology Report, May 28, 2008,

Exhibit D Plano Road Sub Grading

Exhibit E Memorandum from the Solid Waste/Ground Water and Street Lights Managers dated January

16, 2007

Exhibit F Ada County Highway District conditions of approval date stamped received May 30, 2008 and June 4, 2008, and revisions dated July 2, 2008

Exhibit G Boise City Parks and Recreation Department comments dated June 27, 2008

Exhibit H Requirements of the Independent School District of Boise City #1 comments dated July 6, 2007

Exhibit I Boise Planning and Development Services Department Subdivision requirements and conditions of approval, SUB07-00065 (See Subdivision staff report)

Exhibit J Development Agreement from CAR07-00042/DA

Exhibit K Boise Foothills Concept Plan, Total Onion Conservancy

Exhibit L Design Review Criteria For The Plano Road Subdivision

Exhibit M Design Review Overlay Map

Exhibit N Letter from Idaho Department of Fish and Game dated June 30, 2008

Exhibit O Set-aside Open Space Calculations and Zoning

Applications: CAR07-00042/DA, Proposed annexation, zone change with development agreement
CUP07-00084, Proposed conditional use permit for 155 dwelling units between Collister and
Plano Roads
CFH07-00022 Proposed Hillside and Foothills Area Development application for grading and
hydrology
SUB07-00065, Proposed preliminary plat subdivision application

Letters from the Public

1. Executive Summary

Description of Applicant's Request

CAR07-00042/DA is a 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 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). The development agreement would define the more restrictive zoning requirements found in the Foothills Planned Development Ordinance, Sec. 11-06-05.07, pertaining to land use, environmental impacts, traffic impacts and site design.

CUP07-00084 is a request for a Foothills Planned Development to allow 155 dwelling units on 332.75 acres: 152.6 acres dedicated for the preservation of the threatened species of the Aase's Onion plants; and 81.9 acres of dedicated open space for the Homeowners' Association; and 97.8 acres in building lots and infrastructure. The 152.6 acres for the Aase's Onion Conservancy would be donated to the Treasure Valley Land Trust for its continuing care and management. The proposal also includes road and trail head connection to the Boise Polecat Gulch Reserve, as well as set-aside riparian areas and private trails.

The Hillside and Foothills Area Development permit application, CFH07-00022, requests approval for grading and hydrology systems. There is also a preliminary plat application, SUB07-00065.

Staff's Recommendation

Staff recommends approval, with conditions, of the annexation, rezone (with Development Request) Foothills Planned Development, and Hillside Permit. Staff further recommends that the approval not exceed 151 dwelling units.

Summary

The Plano Road Subdivision proposal on one hand is a typical application for a 155 lot residential subdivision, but it is in the very complex setting and environment of the Boise Foothills. The complexities arise from both the land forms and the regulatory structure.

In 1997 Boise City adopted the *Foothills Policy Plan* that was the product of a lengthy community-wide planning effort. The *Interim Foothills Transportation Plan* was adopted in 1997 by Boise City, Ada County and Ada Planning Association (now COMPASS), where it established development levels in the Foothills. In 2002 the "Foothills Planned Development Ordinance" was amended to the *Boise Zoning Ordinance* and represents regulatory measures recommended by the *Foothills Policy Plan*.

The *Foothills Policy Plan* provides guidance for development in the Boise Foothills Planning Area. This is the second application under the Foothills policies and ordinances, and the first to utilize the density bonus policies that assign development value to the preservation of ecological values. The Commission must find a balance between those primary issues represented by this application.

The proposal is for 155 dwelling units on the ridge tops between Plano Lane on the west and upper Collister Drive on the east. To the east is the Boise Parks and Recreation Department's Polecat Gulch Reserve, a recently acquired and undeveloped regional park facility comprised of one of the few Foothills gulches left in its native state. This Reserve and the surrounding Idaho State Department of Lands property provide nearly 700 acres of public lands for the perennial enjoyment by the residents of Treasure Valley. It is also one of the few parks facilities in the West Foothills Planning Area.

To the south are residents of the older Briarhill Subdivision on upper Collister Drive and Quail Ridge, which were built along the ridge lines to the south. Upper Collister Drive, built in the bottom of Polecat Gulch where the water naturally flows, has its drain running down the center of the road. As such it provides an incentive to drive more slowly than one would on a standard road in a similar situation. The people in this neighborhood are very concerned that their safety may be jeopardized by the traffic proposed by this application. Traffic on this road would increase from 570 Average Daily Trips (ADTs) to 1,335 ADTs. Neighbors have also expressed concerns about the loss of wildlife habitat, an issue reinforced by the Idaho Department of Fish and Game comments on the proposal. A third major concern is visual impact. Some feel that the proposed dwellings would appear to loom over the Briarhill neighborhood from the prominent ridge tops.

The primary concern of any Foothills development proposal is the traffic impacts on downstream neighborhoods. The traffic from the proposed subdivision, some 1,500 average daily trips, will all end up on Hill Road with roughly a 60/40 split distribution between Plano Lane and Collister Drive. The Ada County Highway District has recommended approval for the proposal with some significant conditions for off-site improvements. The application has been conditioned to require full improvements of Plano Lane from the subject site to Hill Road, where the intersection will be widened. The City is also recommending a sidewalk to Hill Road. The applicant would also

be responsible for a traffic signal at Collister and Hill Road with lane widenings when the 81st building permit is sought. There would also be some widening of Hill Road around Plano Lane to improve the sight distance. The applicant is concerned that the impacts from the proposal do not warrant his share of the improvements to Hill Road.

The applicant would also have to provide a connecting road between Plano Lane and Collister Drive at the first phase of development as means ingress/egress for public safety. This road would be paved at the ends and gravel in the middle until the 54th building permit is issued, then would be paved the entire length. The neighbors are concerned that this connection will skew the traffic distribution between Plano and Collister Roads. Staff supports the ACHD Commission's recommendation.

The proposal includes a dedication of 169.7 acres of open space with the purpose of protecting the habitat of the Aase's Onion, a federal species of concern. This would also provide the applicant with the majority of the density bonus, in combination with set-aside of some wetlands and riparian areas on Polecat Gulch Creek, the provision of access and a trail head for the Polecat Gulch Reserve, and open space adjacent to the Reserve. The 169 acres would be donated to the Treasure Valley Land Trust which would in turn provide long-term conservation for the species of concern. The Land Trust has agreed to this arrangement which would be executed at Phase One of the Development. This proposal is wholly supported by the Foothills Policy Plan (Plan), but concerns remain with the impact on the onions from the grading and human traffic. The Plan and the Foothills Planned Development Ordinance (the Ordinance) would allow a density bonus only if the conservation of the species can be reasonable assured. The proposal includes four smaller areas with approximately 5.5 acres of Aase's Onion that would be separated from the large onion fields by either roads and/or dwellings. Staff has recommended that all the areas with onion fields should be part of the Treasure Valley Land Trust conservation effort. It seems a difficult task to protect those plants when they are so near the developed part of the proposal.

The development proposal meets the standards and regulations in the Foothills Planned Development Ordinance with the recommended conditions from City Departments and other agencies with jurisdiction, including the Ada County Highway District and Idaho Department of Fish and Game. The anticipated impacts from this proposal seem to be in balance with the mitigation measures. There is never a way to accommodate all impacts and all property rights, but staff believes this application represents a good faith effort to try to achieve that balance.

2. Facts and Standards of Review

Type Application

The applicant requests the following:

To annex +/- 296.12 acres, and rezone that land, combined with +/- 36.63 acres within Boise City Limits, for a total of +/- 332.75 acres 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), CAR07-00042/DA.

A conditional use permit for a Foothills Planned Development, CUP07-00084, comprising 155

dwelling units on 332.75 acres, with dedication of some 152.6 acres for the preservation of the threatened species of the Aase's Onion plants, and 81.9 acres open space for the Homeowners' Association and 97.8 acres in the building lots and infrastructure. It would also include road and trail connection to the Polecat Gulch Reserve, as well as riparian areas and private trails.

The Hillside and Foothills Area Development permit application, CFH07-00022, requests approval for grading and hydrology systems.

There is also a preliminary plat application, SUB07-00065.

Applicant/Status

Stewart Land Group, Kerry Winn, representing Aase's Canyon Pointe, LLC, and Capitol Development, Inc.

Location and Site Description

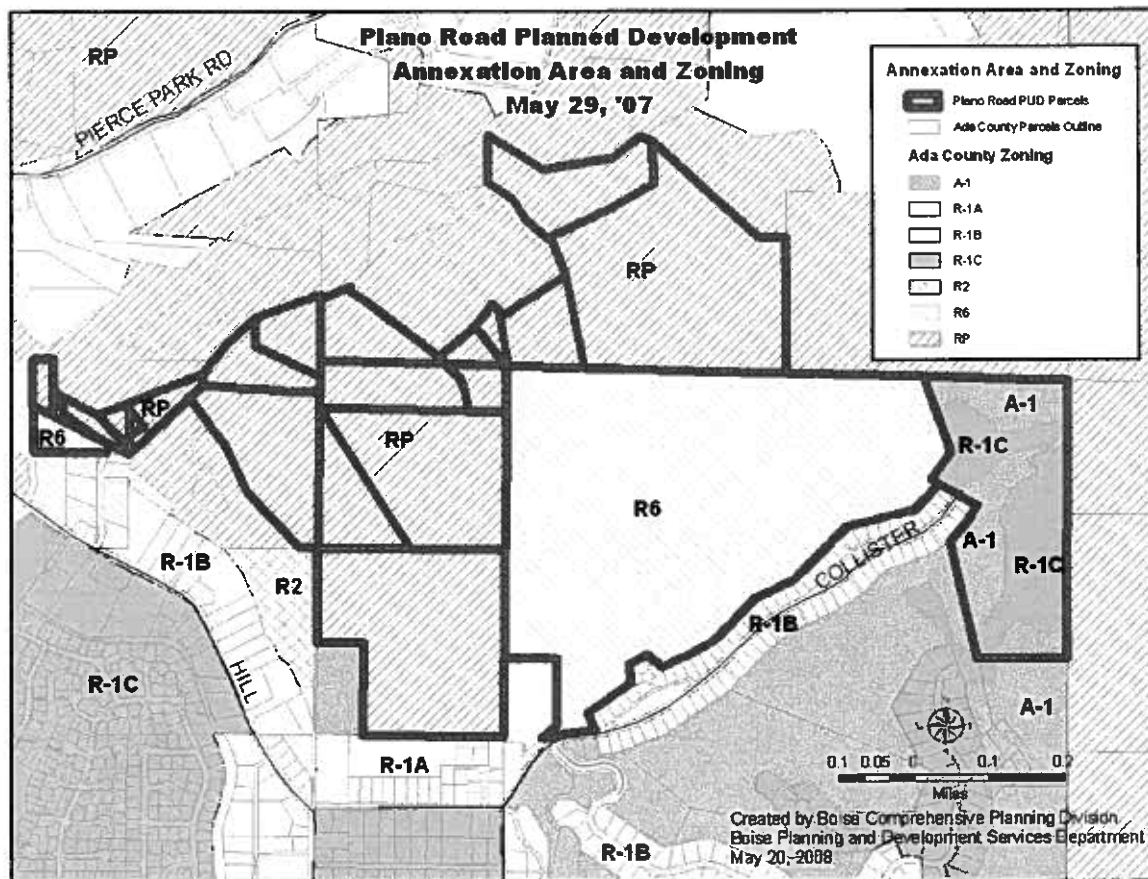
The proposed development is located between Plano Lane and the end of Collister Drive in the Boise Foothills, nominally at 6890 N. Plano Lane. The site is a series of very steep ridges looming above Collister Drive with the relatively flatter areas on the ridge tops. The Boise Polecat Reserve is on the east, the Collister Drive neighborhood is on the south; to the north are a few single family residences; and to the west is largely vacant Foothills land.

Zoning, Zoning Allowances, and Comprehensive Plan Designation

The site is currently zoned R-1C (Single Family Residential), A-1 (Open Space/ 1 unit/acre), RP (Rural Preservation-Ada County) and R6 (Medium Density Residential-Ada County). Planned unit developments require conditional use approval in this Planning Area.

The subject site is zoned as shown in the table and map below:

Current Zoning for the Plano Road Subdivision Application	Current Zoning	Acres in Zone, Approx.	Maximum Density allowed under current zoning = U./Ac.
Sub-Total, Boise City	A-1	16.4	1
Sub-Total, Boise City	R-1C	20.1	8
Sub-Total, Ada County	R6	122.9	6
Sub-Total, Ada County	RP	173.1	0.025
Total		332.5	



Comprehensive Plan Designation

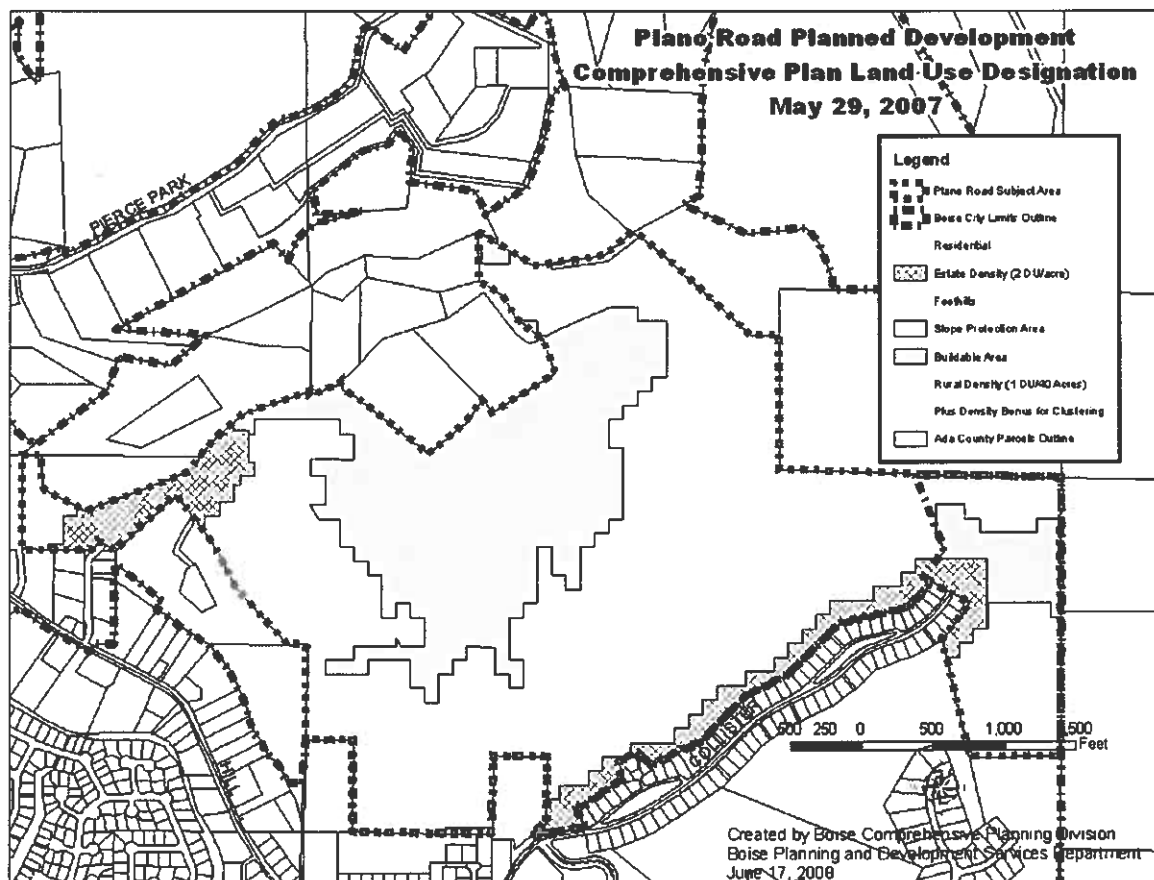
The land is in the Foothills Planning Area within the Boise Area of Impact. As such, it is subject to the Foothills Policy Plan and the "Foothills Planned Development Ordinance," Chapter 11-06-05.07 in the Zoning Ordinance.

The Boise City Comprehensive Plan Land Use Map designates the site as Foothills Buildable (Rural Density (1 DU/40 Acres Plus Density Bonus for Clustering), Foothills Slope Protection and Estate Density Two Units per Acre see table below). The Land Use/Zoning Consistency Matrix lists R-1A, A-1 and A-2, and L-O as a permissible zones for the Estate Density Two Units per Acre land use designation.

The Boise City Comprehensive Plan, Chapter 8, Goal One, Objective 19 Objective 2 states, "The Foothills Policy Plan contains goals, objectives and policies addressing the issues of land use and general development; environmental protection and open space preservation; scenic and aesthetic concerns; recreation and open space preservation; neighborhood protection; and transportation, infrastructure and services. These goals, objectives and policies should guide the land uses and development in the Foothills." This supersedes the land use policies stated the Land Use/Zon-

ing Consistency Matrix for the allowed uses in the R-1A/DA and A-1/DA Zones in the Foothills Planning Area.

Plano Road Subdivision Proposal		
Boise Comprehensive Plan Land Use Designation		
PLANNING AREA	LAND USE DESIGNATION	ACRES
FOOTHILLS	Slope Protection	218.22
FOOTHILLS	Buildable	89.45
FOOTHILLS	Estate Density 2 Units/acre	24.93
	TOTAL ACRES	332.60



Development Proposal

The proposal includes two land uses: 97 acres of built area to include 155 low density residential lots, mostly on the ridge tops; and 234 acres of open space. There would be 82 acres of open space within the proposed homeowners' association and 153 acres proposed to be donated to the Treasure Valley Land Trust for preservation of the threatened plant species, Aase's Onion.

A ten-year build-out is proposed with about half of the project phased for development in the first three years.

The open space would not involve public access. The Aase's Onion Conservancy would be set aside and maintained with the sole purpose of protecting that species in its natural habitat. There would be no public trails within the proposed project. Collister Drive would be extended off-site to provide a cul-de-sac access and trail head for the Polecat Gulch Reserve Boise Parks and Recreation facility adjacent to the subject site.

Plano Lane Subdivision Application			28-May-08
CAR07-00042/DA, CUP07-00084, CFH07-00022, SUB07-00065			
Land Use	Acres	Percent of Total	
Open Space, Aase's Onion Conservancy	152.7	46%	
Open Space, Homeowners' Association	82.0	25%	
Sub-Total Open Land	234.6	71%	
Built Environment	97.8	29%	
Total	332.5	100%	
			Units
Proposed Dwelling Units			155
Density, gross = Units per Acre			0.47
Density, net = Units per Acre			1.58
			Units
Recommended Dwelling Units			150
Density, gross = Units per Acre			0.45
Density, net = Units per Acre			1.53

History of Previous Actions

Approximately 54.8 acres of the subject property was annexed by the City of Boise on June 23, 1991, Ordinance 5318, with a zoning designation of R-1C (Single-family Residential) and A-1 (Open Land). This was part of the Quail Ridge annexation and rezone.

Zoning Standards of Review

Section 11-06-03 ANNEXATION

The corporate boundary of the City may be expanded whenever the Council deems it to be for the public convenience or necessity or for the general welfare. A request for the annexation of property into the City may be initiated by the City Council, the Planning and Zoning Commission or by one or more property owners or holders of valid options to purchase the property. When the annexation request is initiated by the property owner, the Planning and Zoning Commission may expand or modify the annexation request.

Section 11-06-03.01 Application Required

Every person seeking annexation into the City of Boise shall file, with the Planning Director, an application as prescribed in Sections 11-3-2 and 11-3-3.

Section 11-06-03.02 Public Hearing

The Commission shall hold at least one public hearing for each annexation request as prescribed in Section 11-3-6 of this Ordinance.

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.
- B. Honor negotiated area of impact agreements.
- C. Attempt to balance costs of services with anticipated revenues.
- D. Promote other goals of population balance, contiguous development and prevention of costs due to leap frog development.

Section 11-06-01 AMENDMENT, RECLASSIFICATION

Section 11-06-01.03 Public Hearing

The Planning and Zoning Commission shall advertise, provide notice and conduct a public hearing in accordance with Section 11-3-6 of this Ordinance for each application to amend this Ordinance or to reclassify a zoning district.

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

vices.

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

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; and
- B. That the proposed use will not place an undue burden on transportation and other public facilities in the vicinity; and
- 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; and
- D. That the proposed use, if it complies with all conditions imposed, will not adversely affect other property of the vicinity; and
- E. That the proposed use is in compliance with and supports the goals and objectives of the Comprehensive Plan.

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.

Section 11-06-05.07 Foothills Planned Development Ordinance

11-06-05.07.01. Purpose and Intent

The purpose of the Foothills Planned Development Ordinance is to implement residential subdivision density and design elements of the Boise City Foothills Policy Plan (The Plan) and the Boise City Comprehensive Plan. It is also designed to protect and promote preservation of contiguous areas of Foothills open space that contain important and significant natural and cultural resource values, as identified in The Plan and this ordinance.

11-06-05.07.02. Applicability

The Foothills Planned Development Ordinance shall apply to all proposed developments

in the Boise City Foothills Planning Area where an annexation and/or rezone is required.

11-06-05.07.03. General Application and Development Requirements

1. All developments shall be processed as Planned Developments (PDs) under Section 11-06-05 of the Boise City Zoning Ordinance.
2. Planned development proposals shall include applications for an annexation, a development agreement, a preliminary plat subdivision, a "Hillside and Foothill Areas Development" permit, and where applicable, a floodplain permit. The initial applications may consist of conceptual applications as described in Appendix A, Phase II.
3. Upon annexation the buildable areas of the PD shall be zoned R-1A, Single-Family Residential, with the density and design further controlled by the provisions of this ordinance. Slope protection and preserved open space areas shall be zoned "A" Open.
4. Developments shall be required to connect to municipal water and sewer services and participate in other municipal service districts as applicable.
5. Density bonuses do not add to buildable area to be developed, they simply add to the number of units allowed.

11-06-05.07.03. General Application and Development Requirements

1. All developments shall be processed as Planned Developments (PDs) under Section 11-06-05 of the Boise City Zoning Ordinance.
2. Planned development proposals shall include applications for an annexation, a development agreement, a preliminary plat subdivision, a Hillside and Foothill Areas Development permit, and where applicable, a floodplain permit. The initial applications may consist of conceptual applications as described in Appendix A, Phase II.
3. Upon annexation the buildable areas of the PD shall be zoned "R-1A," Single-Family Residential, with the density and design further controlled by the provisions of this ordinance. Slope protection and preserved open space areas shall be zoned A-1 or A-2.
4. Developments shall be required to connect to municipal water and sewer services and participate in other municipal service districts as applicable.
5. Density bonuses do not add to buildable area to be developed, they simply add to the number of units allowed.

3. Background and Analysis

Foothills Policy Plan Background

The Plano Road Subdivision proposal is the second application to seek entitlement under the Foothills Policy Plan (FPP) and the Foothills Planned Development Ordinance (FPDO), and the first to seek the density bonus under the provisions of that ordinance. The FPDO is the implementation of the Foothills Policy Plan and it is a sub-set of the conditional use and planned development sections of the Zoning Code, thereby making this type of application one of the most difficult to prepare and to evaluate. City staff worked with the applicant for over two years to ensure that the application was sufficient to meet the standards of annexation, zone amendment, development agreement, conditional use and hillside/grading application requirements. It is the policy of the City and PDS to assist applicants to create applications that closely meet the spirit and intent of the law.

The first level of review is for compliance with the Boise Comprehensive Plan and the FPP. The second level of review is for compliance with the Boise Zoning Code. The third level of review is for compliance with the more technical codes including the Boise City Subdivision Code, Boise City Fire Codes, Ada County Highway District considerations, the Hillside and Foothills Area Development Ordinance, Boise City sewer, hydrology and streetlight regulations, Independent Boise School District ordinances, and the regulations of all other affected agencies that provide urban services or have jurisdiction over these lands, including Idaho Department of Fish and Game. Because of the geographical and locational constraints inherent in the Boise Foothills the issues are more complex than those associated with development proposals in the valley.

The Boise Comprehensive Plan and the Foothills Policy Plan

The planning process for the Foothills began in the 1970s with a citizens' committee that produced an analysis of the growth issues. This in turn was the impetus for the Foothills Steering Committee that advised in the production of the *Foothills Background Report*, and eventually turned over two drafts of a Foothills Policy Plan. One draft hewed more closely to the policies favored by landowners and developers, the other more thoroughly reflected the concerns of the neighborhood organizations and the environmental community. Boise City Planning and Zoning Commission and the City Council melded those documents into the plan that was adopted by the Council March 5, 1997. Since the time of adoption three implementing plans, a development ordinance and the popular vote for Foothills levy have all been adopted as implementation measures of the *Foothills Policy Plan*. Very few if any issues in local Idaho law have undergone as many debates, planning meetings and public scrutiny.

The breadth of public participation in these plans and issues clearly demonstrate the depth of feeling and concern that the people of Ada County have for the Foothills. It is the City's duty to execute the plans and ordinances resulting from that process. Under the City's jurisdiction, the Foothills deserve the full measure of care and concern to ensure that the dedicated work of the community is embodied in the process and decisions made.

The challenges for the *Foothills Policy Plan* are most clearly and succinctly stated in the Plan's

Introduction quoted here:

The purpose of the plan is to protect existing neighborhoods, to preserve and enhance the environmental, recreational and aesthetic values of the Foothills while allowing for controlled development. The plan recognizes the constraints to Foothills development, including topography, flood hazard areas, wildlife habitat, and the lack of, or inadequacy of, infrastructure and public services.

These issues must be resolved; preferably through a plan that balances the economic and environmental components of quality of life, and satisfies a broad cross-section of community interests. The *Foothills Plan* must preserve and enhance the community's quality of life values, as well as provide guidance for growth and development. Information presented in the *Foothills Policy Plan* and its companion document, the *Foothills Plan Background Report*, will enable the community to chart a new and clear direction in Foothills development.

This *Foothills Policy Plan* allows for continued development in the Foothills within the parameters of physical and infrastructure limitations. Developable areas have been identified based on slope and other physical factors, while land use densities are limited primarily by roadway capacities and plant and animal habitats. The plan promotes clustering and density transfers to protect sensitive environmental areas, such as wildlife habitats, and to allow for dedication of trails and open spaces.

These statements clearly address the subject area in all of its ramifications. The City, in this application, is attempting to resolve those issues, "... preferably through a plan that balances the economic and environmental components of quality of life, and satisfies a broad cross-section of community interests." Fortunately the Plan and its implementation present a means and method to balance economic and environmental issues. The means include the fair application of policies and ordinances through the public hearing process.

The basic development premise of the Foothills Policy Plan is that the three Foothills Planning Sub-Areas are prioritized as follows for open space, traffic, development and development impacts:

Chapter 1 Objective 2 Policy 5) Foothills developments shall be reviewed with the following priority considerations depending upon location:

- a. The Western Foothills (Highway 55 to 36th Street) shall be considered to be the first priority area for development, subject to adequate street capacity and infrastructure.
- b. The Central Foothills (between 36th Street and 8th Street) shall be developed only to the extent that it can be demonstrated that traffic impacts on existing neighborhoods will be minimized. Special designs to minimize eastbound traffic from areas west of 36th Street may be required.
- c. The Eastern Foothills (east of 8th Street) shall be the highest priority area for

open space acquisition. Where clustered developments are proposed, the Idaho Department of Fish and Game shall be asked to provide advice regarding the most desirable locations to maintain open wildlife corridors which comply with the Idaho Department of Fish and Game management plans.

The subject property resides in the Western Foothills Planning Sub-Area, and hence may be developed if it is found in compliance with the other policies and regulations, subject to adequate street capacity and infrastructure. The proposal has received a recommendation for approval from the Ada County Highway District, with conditions, and the subject property is adjacent to public utilities and infrastructure. The proposal thereby meets the first test for compliance with the *Boise Comprehensive Plan*.

The *Foothills Policy Plan* represents many compromises between the values of the landowners and the community, and the balance of federal, state and local laws. It was not intended make development easy, nor to make it so difficult that all development would be excluded. That is why the compromises in the development of the FFP and the FPDO took the better part of 15 years to bring to adoption. It may also have contributed to the reason that this is only the second project in 11 years submitted for entitlement under the FPP. There have been other projects approved in the Foothills Planning Area since 1997, but they all had entitlement prior to adoption of the FPP and the FPDO, and were subject to the law at time of adoption.

The second priority for evaluation of the application is to determine if the property is contiguous to city limits, has access to infrastructure and municipal services and is in an area with sufficient traffic capacity to accommodate a Level of Service C in the supporting road system post development. The subject property has made a case for compliance with these policies. See the Ada County Highway District Staff report with conditions of approval, Exhibit F, where approval was recommended on May 28, 2008 and amended June 25, 2008.

The third priority for evaluation of the application is to look at the slope analysis and the sensitive areas of the subject land to determine if there is viable land for development. If so, are there sensitive areas that would benefit from set-aside in permanent open space as a bonus for development. There is a detailed analysis of the slope analysis in the following section. The findings are that the application does qualify for the density bonus with a resulting allowance for dwelling units, rather than the 155 requested. This number is derived from the slope characteristics, the set-aside of sensitive areas and buildable areas for permanent open space; the protection of the species of concern, the Aase's Onion, some riparian area and a small wetlands. In addition, the proposal would provide access and trail head facilities for the neighboring Polecat Gulch Reserve. The application has complied with the density bonus sections for both the *Foothills Policy Plan* and the Foothills Planned Development Ordinance.

Analyses of the other sections of the *Foothills Policy Plan* are detailed in other parts of this report.

Additional Boise Plans of Record

The *Foothills Policy Plan* is a detailed area plan of the *Boise Comprehensive Plan* and it ex-

presses the goals, objectives and policies for development in the Western Foothill Planning Area. The *Foothills Policy Plan* has several implementing plans and ordinances that describe in more detail those goals, objectives and policies. These are the *Interim Foothills Transportation Plan*, Foothills Planned Development Ordinance (Ch. 11-06-05.03), the *Public Land Open Space Management Plan for the Boise Foothills* (Open Space Plan), and the *Boise Comprehensive Park and Recreation Plan 2004*. The Hillside and Foothills Area Development Ordinance preceded the adoption of the FPP by several years and it regulates the grading and drainage aspects of development in areas with slopes greater than 15%. There are other portions of the Boise City Code that regulate building, fire services and sewer service to the Foothills Planning Area.

The Interim Foothills Transportation Plan

The *Interim Foothills Transportation Plan* set transportation and recommended density policies for the sub-planning areas within the Foothills. The development scenario in Western Foothills Planning Area recommended the development potential for the area as follows.

The assumptions recognize the rural density of the Ada County Comprehensive Plan outside the Boise Area of Impact and provides for the maximum allowable density of the *Boise City Foothills Policy Plan* inside the Area of Impact for a twenty year growth horizon. 80% of the buildable area inside the Area of Impact will be developed. For the private non-buildable land both inside and outside the area of Impact, growth will be based on the past twenty years development trends. For Development outside the Area of Impact, growth will include 915 households in Hidden Springs.

Inside Area of Impact	Households
2,742 acres, buildable area	1,645
3,110 acres, privately owned, non buildable	0
Outside area of Impact	
12,692 acres, privately owned	60
1,724 acres Hidden Springs	915
West Subtotal	2,620 Households

The above policy states that within the Western Foothills Planning Area in the Area of Impact, there are “2,742 acres of buildable area 1,645 [projected households]”, and “80% of the buildable area inside the Area of Impact will be developed.” These policies and projected development levels pertain to the subject area. This means that development at the level proposed by the subject applications is in compliance with this transportation plan. The infrastructure can accommodate up to 1,645 additional dwelling units within the Boise Area of impact.

The FPP and the *Interim Foothills Transportation Policy Plan* (IFTTP) were created prior to the adoption of the County’s Planned Community Ordinance that has allowed large planned communities in the Foothills where none were anticipated under the *Boise City Foothills Policy Plan*. The following table lists the development entitlements and pending applications for development in the Foothills since the adoption of the FPP. What these figures show is that Hidden Springs and Cartwright Ranch exceed the limits set by the *Interim Foothills Transportation Policy Plan*

for development outside the Area of Impact. Yet if we assume that both Cartwright Ranch and Plano Road Subdivision are approved, the traffic capacity in the Western Foothills is within the guidelines of the IFTPP. The subsequent approval of Dry Creek Ranch by Ada County, should it occur, would add 4,300 dwelling units to the assumed 2,620 combined from Dry Creek, Deer Valley, Cartwright Ranch and Plano Road Subdivision. The IFTPP dwelling unit capacity for the Western Foothills Planning Area is 2,620, so the approval of Dry Creek Ranch would put the assumed total at 6,362 dwelling units, or 3,742 dwelling units over the planned capacity for the area. The approval of Dry Creek Ranch would far exceed the planning capacity for the region regardless of the approval of the Cartwright Ranch and/or Plano Road Subdivision. This application was recommended for denial by the Ada County Planning and Zoning Commission on June 26th. The denial was based upon the lack of regional planning and transportation considerations for the region.

Development Entitlements, or pending applications in the Foothills 1997 to Present				25-Jun-08	
From east to west:					
Project description and name	Foothills Planning Area	# of Dwelling Units entitled, approximately	# of Dwelling Units pending, in process, approximately	Entitlements granted before adoption of Foothills Policy Plan & Ordinance	Jurisdiction
The Cliffs- 10 year build-out, not started	Ada County	1,400		No	Ada County
The Terrace, Barber Valley, 5 year build-out, not started	Not in Foothills, in Southwest Planning Area	245		Yes	Boise City
Triplett, 5 year build-out, about 25 units built	Not in Foothills, in Southwest Planning Area	60		No	Boise City
Harris Ranch (Foothills only), 11 year build-out, not started	Eastern Foothills	340		Yes	Boise City
Wildhorse Ranch, mostly sold some built	Eastern Foothills	24		No	Ada County
Boulder Heights Estates, 15 year build-out, about 75 units built	Eastern Foothills	218		Yes	Boise City
Summerset 2, 5 year build-out (?). mostly done	Central Foothills	200		Yes	Boise City
Highlands Hackberry 4 and 5, built	Central Foothills	75		Yes	Boise City
Bonar Subdivision, 5 year build-out, not started	Central Foothills	14		No	Boise City
Cartwright Canyon (2002), mostly done	Central Foothills	25		No	Ada County

Arrowhead, 2 year build-out (?), mostly done	Central Foot-hills	100		Yes	Boise City
Quail Ridge No. 7, 8, 9, 10, mostly done	Central Foot-hills	75		Yes	Boise City
Eyrie Canyon, 2-5 year build-out (?), half done	Central Foot-hills	200		Yes	Boise City
Proposed Plano Road Subdivision, goes to Boise P & Z on July 14, 2008, proposed 10 year build-out (?)	Western Foot-hills		150	No	Boise City
Deer Valley, Pierce Park Road, not started	Western Foot-hills	30		Yes	Boise City
Cartwright Ranch, almost approved, will be on July 16, 2008 at Ada County Commission hearing, six year build-out	Western Foot-hills		682	No	Ada County
Hidden Springs, approved by Ada County, 10 year build-out, about half done?	Western Foot-hills	1,200		No	Ada County
Pending hearing at Ada County Comm: Dry Creek Ranch, 4 million sq. ft. of commercial, 15 year build-out	Western Foot-hills		4,300	No	Ada County
Approximate Total of pending or approved dwelling units		4,206	5,132		

The Public Land Open Space Management Plan for the Boise Foothills

The *Public Land Open Space Management Plan for the Boise Foothills* was the result of seven agencies cooperatively writing the plan and adopting the policies therein for the management of public lands in the Foothills.

The subject area is specifically cited for inclusion in the Idaho Fish & Game Management area should the funds become available. A letter addressing this issue was received from I. D. F. & G. on June 25, 2008.

That plan also designates the western portion of the subject properties as a visually sensitive area. The "Visual Sensitivity Levels" Map-Figure 15 from that document shows the western half of the subject property to be a "Sensitivity 1" Visual Sensitivity Level. This is defined as having "the highest priority for visual protection. Any modifications to the landscape should be carefully planned to match existing landscape character and should not be evident. (Human modifications should be moved to lower-priority landscapes, where possible.)"

The *Public Land Open Space Management Plan for the Boise Foothills* policies would then recommend against development of these properties based upon the visual impacts and the value for big game wildlife habitat, as supported by the letter from the Idaho Department of Fish and Game.

The Boise Comprehensive Park and Recreation Plan 2004

The *Boise Comprehensive Park and Recreation Plan 2004* supports the policies and strategies of the Open Space Plan and cites the key components of the plan on page 12.3. These components are:

- (1) To continue to assess open space impact fees to acquire identified heritage preservation sites.
- (2) Pursue and maintain partnerships for acquisition and management of open space areas.
- (3) Identify alternative funding sources and supplemental revenue streams that enhance limited acquisition and management resources.
- (4) Develop management plans and strategies to promote linkage of and connectivity to public open space parcels, meet wildlife needs, protect rare and endangered plants, provide public education, protect natural resources, and provide for recreational trails.
- (5) Establish strategically located public access trail heads that promote the open space experience by providing adequate parking, rest room amenities, and management signage.

The above policies from the *The Boise Comprehensive Park and Recreation Plan 2004* support the proposed component of the application that would provide access to the land-locked Polecat Gulch Reserve adjacent to the subject site through an extension of Collister Drive. The applicant also proposes to extend sewer, water and power to the Reserve and build a parking area for the trail head that is scheduled to be developed in the next year or two. (See attached letter from Boise Parks and Recreation, Exhibit G, dated June 27, 2008.) To the end of seeking compliance with the above policies from the *The Boise Comprehensive Park and Recreation Plan 2004*, and to qualify for the density bonus under the Foothills Planned Development Ordinance, Boise Parks & Recreation has recommended the following in their letter of June 27, 2008:

BPR requests the following conditions of approval also be attached to this development request.

- Developer shall complete the road from the current North Collister Drive cul-de-sac to Polecat Gulch Reserve and provide the public access on this road.
- Developer shall construct a post and rail fence to BPR standards along the north property line of the subdivision to help protect the Reserve from encroachment by the future adjacent residences.
- Developer shall construct an approved turn-around and trailhead at the new terminus of North Collister Drive to BPR specifications while adhering to ACHD access standards.
- Developer shall stub utilities (water and power) to an acceptable location near the turn-around as approved by BPR and public works department.
- The turn-around and trailhead shall be graded and graveled to include 12 auto spaces with wheel blocks, an area for emergency vehicles to turn around, a boundary two post and rail fence and a trailhead kiosk.
- Neither the riparian area (Polecat Gulch) nor the raptor nesting trees on the east side of the current dirt roadway at the north end of Collister should be disturbed as both provide considerable habitat for wildlife in the area.

- All conditions should be met during Phase I of the development.

The Foothills Planned Development Ordinance was adopted in December 2002 to implement the land use policies of the Foothills Plan. It requires all Foothills developments to apply for a planned development permit, to cluster dwellings in the less steep areas and to provide permanent open space. It allows for a density bonus in exchange for setting aside a percentage of the buildable lands in a project.

The Boise Zoning Code Analysis

The following is a section by section analysis of the Foothills Planned Development Ordinance 11-06-05.07 and the compliance of these applications with that code. The code is in the left column and the analysis is in the right.

11-06-05.07 FOOTHILLS PLANNED DEVELOPMENT ORDINANCE

11-06-05.07.01. Purpose and Intent

The purpose of the Foothills Planned Development Ordinance is to implement residential subdivision density and design elements of the *Boise City Foothills Policy Plan* (The Plan) and the *Boise City Comprehensive Plan*. It is also designed to protect and promote preservation of contiguous areas of Foothills open space that contain important and significant natural and cultural resource values, as identified in The Plan and this ordinance.

11-06-05.07.02. Applicability

The Foothills Planned Development Ordinance shall apply to all proposed developments in the Boise City Foothills Planning Area where an annexation and/or rezone is required.

11-06-05.07.03. General Application and Development Requirements

1. All developments shall be processed as Planned Developments (PDs) under Section 11-06-05 of the *Boise City Zoning Ordinance*.

2. Planned development proposals shall include applications for an annexation, a development agreement, a preliminary plat subdivision, a "Hillside and Foothill Areas Development" permit, and where applicable, a floodplain permit. The initial applications may consist of conceptual applications as described in Appendix A, Phase II.

3. Upon annexation the buildable areas of the PD shall be zoned "R-1A," Single-Family Residential, with the density and design further controlled by the provisions of this ordinance. Slope protection and preserved open

11-06-05.07.01. Purpose and Intent - Analysis

The applications were submitted after extensive review for sufficiency to meet this intent. The degree to which it is met will be the matter for the Planning and Zoning Commission and the City Council to determine. The applications have met the level of sufficiency characterized as the letter of the law to the degree that they can be presented in public hearing as such.

11-06-05.07.02. Applicability - Analysis

The proposal meets these standards as they are in the Foothills Planning Area, and has requested annexation and/or rezone.

11-06-05.07.03. General Application and Development Requirements - Analysis

The proposal is being reviewed under the Boise City Code sections regulating annexation, rezone and development agreement, CAR07-00042/DA, the conditional use and planned development, CUP07-00084, the Hillside and Foothill Areas Development, CFH07-00022, and a preliminary plat, SUB07-00065. These are applications for final approval, not conceptual approval.

The applications request R-1A/DA zoning for the developed portions of the project and A-1/DA for the slope protection and preserved open space areas. The density request is based upon the provisions of this ordinance and is reviewed in other sections of this report.

The proposal requests connection to Boise City sewer service and municipal water service from United Water. It would be provided Boise City ser-

space areas shall be zoned A-1 or A-2.

4. Developments shall be required to connect to municipal water and sewer services and participate in other municipal service districts as applicable.

5. Density bonuses do not add to buildable area to be developed, they simply add to the number of units allowed.

11-06-05.07.04. Density Bonus

A density bonus pursuant to the formula in Table 1 shall be granted in return for the provision of preserved open space.

A. Basic Provisions:

1. The base density on parcels proposed for development is that given for the existing Boise City or Ada County zone(s).

2. The density bonus is based upon the ratio of buildable area to be preserved as open space, to the buildable area to be developed. See the Definitions section for the definition of "Buildable Area."

3. The base density units may be added to the density bonus units without the requirement for additional open space preservation.

4. A developer may propose open space/density bonus points between those identified in Table 1, provided that the curve of the formula is unchanged.

5. The density formula may be adjusted to allow density transfers from other non-contiguous parcels at such time as a Transfer of Development Rights (TDR) ordinance is adopted and in effect..

B. Preserved Open Space Eligible for a Density Bonus as per the formula in Table 1, shall meet the following requirements:

1. Lands of 25% slope or less, one acre or greater in size, with a minimum average

vices for fire, police, emergency medical, library, parks and recreation. Street services would be provided by Ada County Highway District. The Independent School District of Boise would provide school services.

11-06-05.07.04. Density Bonus - Analysis

The density bonus formula was the result of years of work by an ad hoc Foothills Advisory Committee, Boise City staff, the Boise Planning and Zoning Commission and finally the Boise City Council.

It is unique in the Boise Zoning Code in that density is based not upon a fixed standard, such as one unit per 20,000 square feet in the R-1A zone. It is derived from a base density of one unit per forty acres plus additional density given the amount of buildable area, dedication of buildable area to open space and dedicated sensitive areas, clustering of units and more practical considerations of health and safety, site design and ingress and egress. It is a combination of all that to achieve the purpose of this ordinance stated above. How well this is achieved by any given application is to some degree subjective and circumstantial, but the terrain and ecological values of the Boise Foothills are too varied to write a one-size-fits-all density standard if the purposes of the FPP and this ordinance are to be achieved. The density ultimately derived from this complex evaluation is then stated in the development agreement that serves as the density standard for that zone. (See Exhibit J - Development Agreement)

This application includes lands not owned by the developer, and whose owners are co-applicants. The three co-applicants agreed to include their properties in this application to provide the right-of-way for the proposed extension of Plano Lane. As such, their lands are also included in the density bonus formula and the proposed annexation and rezone with development agreement, CUP and Hillside applications. Their lands are also part of the proposed preliminary plat necessitated by

width of 30 feet.

2. Public rights-of-way that meet requirements of this section, serve to connect development pockets, and provide access to public open space may be included in the density calculation for open space, but roads within a development pocket shall not be included. Rights-of-way that have dwelling units fronting or siding onto them shall not be included.

3. Other lands classified as Priority Open Space in section C below.

the requirement to plat and dedicate the proposed right-of-way. The City has set the acquisition of the right-of-way for Plano Lane as a primary condition for approval of the preliminary plat. This is because of the several ownerships involved and each of them necessary for the provision of a right-of-way up to current standards.

The base density for this proposal is one unit per forty acres, that equals 8 units on 332.8 acres. There are 73.1 acres of "Buildable" (less than 25% slope) based upon and slope analysis of the subject site.

There are 81.9 acres of Aase's Onion fields (Priority Open Space). The buildable and Priority Open Space are 155 acres combined. This is the amount eligible for the density bonus. The proposal would

Table 1 - Density Bonus Formula*

Built Area Percent	Open Space Dedicated Percent	Density Bonus Units/Acre	Example	
			Buildable Area On 100 acres After Open Space Set-Aside	# of Bonus Units
75%	25%	0.5	75.0	38
69%	31%	0.75	68.8	52
63%	38%	1.0	62.5	63
56%	44%	1.25	56.3	70
50%	50%	1.5	50.0	75
44%	56%	1.75	43.8	77
38%	63%	2.25	37.5	84
31%	69%	3.0	31.3	94
25%	75%	4.0	25.0	100

use 47.8 acres of the 155 bonus acres to build upon, which equals 30.8% of the 155 acres. That leaves 69.2% of buildable plus the Priority Open Space to be permanently set aside to earn the bonus. The 69.2% set-aside yields the density bonus of 2.99 unit per acre according to Table 1 in the opposite column. (See bolded line)
The resulting density bonus is 143 units. Add the eight base density units and the total units allowed would be 151 units. (See Appendix A Density Bonus Formula) The application requests 155 units.

*1) The base density of one unit per forty acres for the entire project area may be added to the number of units allowed by the density bonus formula.

Staff recommends 151 units maximum based on the accompanying calculations.

C. Other Open Space Allowances:

The City recognizes that the foothills provide a great degree of variability in landforms, environmental habitats and cultural resources. Some areas may have a combination of char-

C. Other Open Space Allowances: - Analysis

The adjoining ordinance states it best:
"In order to qualify for a density bonus, Priority Open Space lands must demonstrate at least four of eleven characteristics established for high priority

acteristics that cause them to be considered worthy of special incentives for preservation, even if they do not meet the normal size, slope or dimensional requirements necessary to qualify as Open Space Eligible for a Density Bonus as per Section 11-06-05.7.4.B above. When these areas are identified on a property and proposed for preservation, the Planning and Zoning Commission may classify them as Priority Open Space and allow all or a portion of them to qualify for the granting of a density bonus.

In order to qualify for a density bonus, Priority Open Space lands must demonstrate at least four of eleven characteristics established for high priority open space lands. There must also be a demonstrable increase in the public value of the resource by such allowance that would not be realized by strict adherence to the other provisions of this code.

Priority Open Space Characteristics:

Of the following eleven characteristics of high priority open space, at least four must coexist on a property for consideration as Priority Open Space Eligible for a Density Bonus:

1. Wetlands
2. Riparian areas
3. Rare plant communities
4. Critical deer and elk winter range and migration corridors
5. Boise City Historic Preservation Committee: Potential Public Preservation Sites
6. Unique geologic or visual features
7. Archeologic or other historic sites
8. Trails and trail-heads designated in the Ada County Ridge to Rivers Pathway Plan
9. Other public trails and trail heads

open space lands. There must also be a demonstrable increase in the public value of the resource by such allowance that would not be realized by strict adherence to the other provisions of this code."

The applicant has submitted documentation and studies that substantiates the existence of at least four of the eleven priority open space characteristics required to qualify for the density bonus. They have demonstrated as well that these phenomena would also increase in public value through the preservation of same.

The application includes three environmental study documents that examine the potential for priority open spaces on the subject site. They are "A Report Discussing General Design Criteria, Special Areas Analysis, and Preliminary / Conceptual Design Requirements", June 6, 2008, prepared by Ecological Design, Inc., Boise, Idaho; "A Report Documenting the Presence of Wetlands and Riparian Areas, Boise Foothills Property (Between North Collister Drive and North Plano Lane and a Portion of Quail Ridge Subdivision) Boise, Idaho", February 28, 2007, prepared by Ecological Design, Inc., Boise, Idaho; and, "A Report Documenting a Survey for Occurrences of Aase's Onion (*Allium Aaseae*), Boise Foothills Property (Between North Collister Drive and North Plano Lane and a Portion of Quail Ridge Subdivision) Boise, Idaho", February 28, 2007, prepared by Ecological Design, Inc., Boise, Idaho.

These studies were prepared by qualified professionals with a history at Boise City Planning and development Services Department of developing accurate and thorough environmental reports. Their field and research study techniques are consistent with sound scientific methods and the reports arrive at reasonable conclusions and results.

Staff accepts their findings as reasonably accurate and pertinent to the requirements and issues stated in this section of the FPDO.

Their findings include the following items that go towards fulfilling the priority open space characteristics necessary to allow the density bonus.

- 1) 76.79 acres of Aase's Onion fields greater than

as approved by the Boise City Parks and Recreation Board

10. Lands adjacent to publicly-held open spaces

11. Lands adjacent to areas that are, or have the potential to be, designated and set aside as public open space lands in accordance with the provisions of this ordinance.

Criteria for Determining Demonstrable Increase in Public Value of Priority Open Space:

In allowing density bonus credit for priority open space in steeply sloped areas or in fragmented pieces, there must be a demonstrable increase in the public value of the resource by such allowance. Demonstrable increase in value may include but is not limited to the following:

1. Allowance for public access.
2. Protection from alteration of important vegetation, terrain or scenic views and vistas that could otherwise occur from a permitted use such as mining, logging, grazing or construction of utilities or infrastructure.
3. Linkage of interspersed eligible open space areas into a more biologically complete and continuous wildlife corridor.
4. Dedication or discounted sale to a willing public agency.

Planning and Zoning Commission Consideration of Priority Open Space:

It is not the intent of this section to broadly allow the designation of highly fragmented or steeply sloped land as open space, to the total exclusion of the normal requirements of clustering and set aside of buildable area open space. Priority Open Space, when it exists, should be used in balance with other forms of eligible open space to meet the requirements

one acre in size; and 90.81 acres total in onion fields. This establishes the basis for the potential preservation of rare plant communities under priority open space rules. This resource is characterized as abundant on the subject site making it a worthy area for conservation to aid in the preservation of this "species of concern."

The applicant proposes to deed 152.66 acres containing 80 to 90 acres of the species of concern to the Treasure Valley Land Trust for conservation and management of the species. This would qualify the demonstrable increase in public value of this valuable resource. This transfer of land for conservation is included in the proposed development agreement as part of the zone regulating the use of this land.

2) Documentation of a wetland "isolated seep originating in one of the unnamed draws west of North Collister Drive." This "woody thicket" would be included in the Aase's Onion Fields to be set aside as permanent open space and donated to the Treasure Valley Land Trust for conservation management.

3) There is a second wetland and riparian area that "parallels Polecat Gulch in and immediately adjacent to its deeply incised channel." This also extends upstream to the Boise City Polecat Reserve adjacent to the subject site, which has the effect of enhancing the lower reach of Polecat Gulch and buffering the City Reserve with acreage south of the Gulch and east of the Quail Ridge Subdivision.

The proposal would set aside in total 152.66 acres in an Aase's Onion Conservation Area that would serve several functions. It would protect and conserve the species of concern and a small wetland area in perpetuity. Management practices would discourage public access, particularly during the spring when the onion species is in bloom.

In addition to the findings about the proposed conservation area, there would be approximately 24 acres adjoining the Boise City Polecat Reserve south of Collister Drive that would serve to extend that habitat and the Polecat Gulch riparian area, and buffer the reserve from the residential uses.

of this code.

When the applicant demonstrates that a portion of his property not otherwise qualified as Open Space Eligible for a Density Bonus as per Section 11-06-05.7.4.B, does meet the above-listed criteria, the Commission may classify it as Priority Open Space and allow some or all of it to qualify for the granting of a density bonus. The amount allowed to qualify as Open Space Eligible for a Density Bonus shall be discretionary based upon the degree to which it meets or exceeds the minimum criteria established in this section. The Planning and Zoning Commission shall seek the input of the Idaho Department of Fish and Game, the Boise City Parks and Recreation Board and other public agencies with expertise in the issue at hand, in determining the proper amount to be allowed to be set aside in return for a density bonus.

...

This area constitutes “lands adjacent to publicly-held open spaces” that would fulfill that criteria for the density bonus.

Boise Parks and Recreation Department requested, as a means for the applicant to achieve the “Criteria for Determining Demonstrable Increase in Public Value of Priority Open Space” that the applicant provide a cul-de-sac turn-around, a trail head, vehicle parking, fencing and a gateway into the Polecat Reserve, and other related facilities. The proposed cul-de-sac and trail head facilities would be on the City’s Reserve property and include the extension of public utilities to the trail head.

This would open up the Polecat Gulch Reserve to the public, and allow access to the City’s newest addition to its Foothills Reserve system, acquired through the Foothills Levy funding and gifts from the Blessinger Family and the Dengler Family.

In summary, the applicant is offering the Aase’s Onion Conservation Area, small wetland and riparian areas, lands adjacent to Polecat Gulch Reserve, and public road access, a trail head, parking area and other associated facilities to comply with the density bonus sections of the Foothills Planned Development Ordinance. These areas comprise approximately 176 acres of the 332 acre proposal, or 53% of the property designated for conservation and public access.

Staff has several concerns about this aspect of the proposal. The first has to do with the loss of approximately nine acres of the Aase’s Onion field. The study cites 90.81 acres of onions on the site, and the applicant is claiming 81.9 acres for the density bonus. That means that approximately nine acres of the surveyed onion fields are either within the area to be graded, or they were in concentrations too small to be included in the calculations for the bonus. This issue should be cleared up by the applicant. There is no proposal for restoration of onion fields that might be graded in the proposed built environment.

The onion fields are also shown to be in five discrete areas, separated by the proposed developed areas, Collister Drive and the proposed Daylight

Rim Drive. Two of the areas, the greater south-facing sloped area and the area north of the sand pit are to be included in the proposed conservation property under control of the Treasure Valley Land Trust. There are 5.74 acres, according to their exhibit map, "Boise Foothills Concept Plan" marked received March 27, 2008, that fall out of the proposed conservation area, but within open space that would be controlled by the home owners' association. It is staff's opinion that these 5.74 acres of onion fields would be in some jeopardy if the home owners' were to not follow strict conservation practices to protect these fields.

It is possible to assume that the home owners' association could protect the species of concern, but there is nothing to address these issues in the application. By the applicants own narrative, they claim that these onion fields are significant in their concentration and proximity to another large population in the Polecat Gulch Reserve, so the ability to demonstrate the increase in public value of this priority open space has considerable responsibility attached to it. The applicant should proposed a means to protect all the onion populations on the subject site for the long term. If that is not possible, consideration should be made to reduce the density bonus where this can not be reasonably achieved.

This issue could be resolved by the time of the hearing as the applicant has requested that all of the areas contributing to the density bonus would be put under protection by the Treasure Valley Land Trust. This will be necessary to qualify for the density bonus as stated in this report.

A small area of onion fields would also be in way of the proposed water tank on the upper end of the site and the area where the distribution mains would be. Measures would have to be taken to protect that part of the proposed onion conservation area from harm during construction and maintenance of the water tank installation.

Staff regards the entire onion population on the site to be of value, and would be concerned with destruction of a significant portion of the population. Also the density bonus owes about two third of its value to the onion fields. If a significant part of the

population would be destroyed, then staff would urge a re-calculation of the proposed density bonus to reflect the loss of this species of concern.

The applicant also proposes another 81.98 acres for open space under control of the proposed home owners' association. This would include the sand pit site on the north side of the project that would be restored to a natural geography and vegetation. Nevertheless, the 81.98 acres proposed for open space under control of the home owners' association would not contribute to the criteria to achieve the density bonus.

11-06-05.07.05. General Design Criteria

A. Foothills Planned Developments shall be designed to meet the following general criteria:

1. Residential uses shall be clustered within development pockets rather than scattered throughout the property, while preserving the remaining land in separate parcel(s) of permanent open space.
2. Designated open space areas shall be linked to other open spaces to the greatest extent possible.
3. Road and trail access to adjacent properties shall be provided to prevent landlocked parcels and/or breaks in the trail systems.
4. Disturbance of the land shall be minimized and development shall be avoided in areas that would necessitate excessive grading, cut and fill.
5. Development pockets shall be sited and designed in compliance with policies in The Plan concerning clustering, environmental protection, open space conservation and scenic and aesthetic goals.

11-06-05.07.05. General Design Criteria - Analysis

The design concept of clustering units is important for two related reasons, first to lessen the overall impacts on the land, and second to minimize the extension of public services and infrastructure to and through the site. A scattering of units throughout the subject property is neither good practice on flatlands nor in the Foothills, and is a good description of sprawl. The overall linear design of this proposal has been an ongoing topic of discussion since its inception several years ago.

The facts are that this property is buildable only on the ridge tops or gully bottoms due to the almost uniform steepness of the site. The ordinance prohibits building on slopes greater than 25%, except for roads. Therefore the only possible site pattern must follow the linear patterns of the ridges and gullies. It is a case where the ordinance both prohibits building on areas with steeper slopes and at the same time discourages building on prominent ridge tops, leaving few design choices for the developer. At the same time, the FPP designates this area for development.

The City can't designate an area for development then create an ordinance under which it would be impossible to develop. The City can not permit such a regulatory structure, or interpretation of the code in this manner.

The question then becomes how much clustering is enough?

Boise Foothills Policy Plan

3.0 SCENIC AND AESTHETIC CONCERNS
GOAL

To retain and preserve, and in appropriate cases enhance, the natural scenic values of the Foothills.

Objective 1

Development shall be designed to protect the general shapes and textures of the Foothills.

Policies

- 1) Development shall comply with all guidelines and standards for excavation, grading and placement of building envelopes as provided in the Uniform Building Code, the Hillside and Foothill Area Development Ordinance and the proposed Uniform Foothills Design Guideline Manual when adopted.
- 2) Developments shall maximize the retention of the existing natural topography.
- 3) Cut and fill slopes shall be integrated into the surrounding terrain when viewed from a distance.
- 4) Grading shall seek to blend development into the Foothills' backdrop. Fills and grading shall be contoured to the maximum extent, to avoid a flat or squared off appearance on ridges and toe slopes and to create the appearance of natural topography.

The applicant would contend that they have clustered as much as possible given the terrain and the allowable number of dwelling units. Staff has suggested that the lot dimensions could be reduced to make narrower lot widths facing the street frontages. The response is that the terrain difficulties and the market for large houses on large lots direct the wider lot sizes.

Staff would still recommend an overall lessening of lot widths along the street frontage dimension to promote clustering.

3.0 SCENIC AND AESTHETIC CONCERNS
GOAL - Analysis

Staff is concerned with the lots sited on the most prominent portions of the ridges that create a "sky-lining" issue. The most prominent ridges on the western half of this property have been identified as Visual Sensitivity Level 1 in the *Public Land Open Space Management Plan*. As previously discussed, that plan recommends that any modification should be in character with the existing form and, if possible, uses should be moved to lower priority areas. The FPP policies in the adjoining column also encourage the avoidance of prominent ridge lines for both grading and the siting of structures on the skyline, in which dwellings are sited in manner that defines an area. If the site plan were to cluster dwellings more tightly away from the prominent ridges, the skylining issue would tend to recede as well.

Grading

The grading issues also has been the focus of lengthy effort to find this application sufficient for acceptance and hearing. The proposal for the most part would grade off the tops of the ridges and build on a single-loaded road for considerable stretches. The concept of minimized disturbance and the avoidance of excessive grading is difficult to achieve where the most buildable areas are on the ridge tops. The single loaded road was a significant concession by the applicant to minimize

5) Roadways must be designed to prevent erosion, road slippage and/or breakups.

6) Graded and filled areas shall be revegetated within one growing season from the initial disturbance.

7) Lighting systems on Foothills roadways should be designed to both provide adequate public safety and to lessen the light directed toward the valley.

Objective 2

Development proposals shall take into account unique geologic features and integrate developments around them.

1) Development shall be located on the least intrusive portion of sites having unique geologic features.

2) The natural scenic values of prominent ridges and knolls shall be maintained. Project design shall preserve the natural appearance of prominent ridges and skylines, and concentrate development on more obscured areas of the sites. Prominent ridges and knolls shall be designated by the City in the "Open Space Management Plan," and this term is not intended to include every ridge and knoll in the Foothills.

3) Building site pads will be contoured to resemble the natural slope of the terrain.

4) Use of retaining walls associated with lot pads will be limited in height and bulk and set back from property lines to provide for the integrity of the hillside, the safety of the subject property, and the neighboring properties.

5) The design and colors of structures and retaining walls shall blend with the natural environment to limit sharp contrast. Retaining walls shall be designed and engineered to hold the loads placed upon them.

6) Building forms and roof lines shall help blend the structure with the natural terrain through varied roof levels, and other suitable architectural

grading.

The proposed preliminary grading plan would result in an excess of over one million cubic yards that would be used to fill the existing sand pit. The reason that one million cubic yards of overage seems to fit in the context of the FPDO is that the applicant proposes to fill in the large sand pit on the north end of the project with that very large amount of fill. The sand pit is seen as an undesirable feature and potentially an attractive nuisance, so it is better to fill it and re-vegetate it and make it look like it was before excavation began there. Were the sand pit not available for deposition of the one million cubic yards of fill, that grading proposal would have been rejected as excessive. The proposed development agreement includes a section that would regulate the re-construction and revegetation of the sand pit back to a semblance of its native form.

Our Public Works staff has recommended approval of the preliminary grading plan, as it meets the standards of safety and is in line with the Hillside ordinance and common building practices in the Foothills. This is not quite the same as saying that "disturbance of the land shall be minimized". These two issues, that of safe and logical grading practices compared to policies for minimized grading have been at loggerheads for several decades, particularly since 1997 when the FPP was adopted.

Staff has no good resolution to this without having to get further into the design end of application review. These issues might be better approached through amendments to the Hillside Ordinance to further clarify the policies and ordinances concerning excessive grading.

The recommendation from the Public Works staff is based upon the slope and grading constraints faced in putting the roads into the buildable areas. There is no approach that would allow the roads to be built that would involve less grading. It comes down to the practical engineering criteria and safety standards for road design that dictate the placement of the roads, and therefore the lots, and in turn requires the given amount of cut and fill. The only resolution would be to declare large area of the

treatments.

site unbuildable, which would have to be balanced against all the other issues of entitlement.

Boise Foothills Planned Development Ordinance (Continued)

6. Fire safety and protection measures to reduce the threat of wildfires shall be incorporated into the design in accordance with Uniform Fire Code and Boise City Code Title 7. Such measures shall include internal residential sprinkling systems, defensible space for the structures and the provision of safe evacuation routes for residents in case of wildfire.

7. Gated developments are prohibited due to the potential for such limited access to restrict or delay emergency response in the Foothills.

Foothills Policy Plan - 2.0 ENVIRONMENTAL PROTECTION AND OPEN SPACE CONSERVATION

Objective 3

Where Foothills developments are adjacent to undeveloped areas, wildfire hazards shall be assessed and minimized through subdivision design, street layout, building design and landscape and building materials restrictions.

- 1) Foothills development located outside of the 1.5 mile driving distance or four minute response time from fire stations shall require approved fire sprinkler/suppression systems in dwelling structures.
- 2) The use of Class A (noncombustible) roofs within all Foothills developments shall be required. This shall include retrofit for houses which are to have at least 50% or more of the roof area remodeled or replaced.
- 3) Fire sprinkler systems are required in new residential buildings with a floor area in excess of 5,000 square feet, and are encouraged for all other residences in areas vulnerable to range fires.
- 4) Emergency and/or secondary access shall be

Fire Safety and Emergency Access - Analysis

The requested subdivision has a ten year build-out period with 22 proposed phases. The internal connecting road, Daylight Rim Drive, would eventually connect Plano Lane and Collister Drive. The issues revolving around that connection include the safety of the residents in the existing Plano and Collister neighborhoods, the timing and intensity of traffic on Collister and Plano, the distribution of trips from one to the other, and the provision of emergency access and safety services. Ada County Highway District recommended approval of the road and transportation aspects of the proposal with condition of approval 11 that would require the connecting road to be constructed in the first phase as a public roadway prior to the signing of the first plat.

The City supports this condition because of the following policy from the FPP and Sections 11-06-05.7.5 A. 6 and 7 quoted in the adjoining column.

“Goal 6 Objective 1 Policy 2) All urban density Foothills development projects must have a means of emergency access if a reasonable means of secondary access cannot be provided. All development shall meet the access requirements of the fire district within which the development is located.”

The ACHD staff requested a reconsideration of the timing for making the connection in the first phase as stated in condition 11. Upon reconsideration on June 25, 2008, the Ada County Highway District Commission amended their recommendation that Collister and Plano should be connected as a condition of the first plat to provide for the safety of all the residents in the area, but it can be a gravel road that meets the standards for fire safety equipment. The connecting road, Daylight Rim Drive, should then be paved after the 53 lots proposed for the first four phases are approved for construction.

Staff supports that recommendation with no further amendments, as it meets the standards of the Foothills Planned Development Ordinance and the FPP.

provided in all Foothills subdivisions.

- 5) Structures bordering any open area with natural vegetation shall use fire rated roofing materials, siding, decking material and fencing.
- 6) All newly constructed Foothills structures shall be protected by a landscaped fire break and fire breaks should be encouraged for already constructed structures.
- 7) The maximum building envelope for development sites must be identified on each parcel to provide adequate access around the structure for fire protection, and to provide a fire break.
- 8) Use of common driveways and other design innovations should be used in Foothills developments and should be encouraged to reduce curb cuts on roadways in the Foothills, and to reduce the area of impervious surface in developments.
- 9) A fire safety plan shall be filed with the Planned Unit Development application to include safety measures to be used during the construction phase, and plans for fire prevention and emergency evacuation in the case of a wild fire. This plan will be an enforceable part of the PUD approval agreement.

Boise Foothills Policy Plan

5.0 NEIGHBORHOOD PROTECTION GOAL

To preserve, enhance and protect neighborhoods and developed areas from unacceptable adverse impacts resulting from Foothills development.

Objective 2

Neighborhoods affected by through traffic will be protected.

- 1) Improvements to the transportation system need to balance the long term development objectives with protection of neighborhoods and must be in scale with existing neighborhoods.
- 2) Upgrading of residential streets to collector and arterial status shall be discouraged and shall

Boise City Fire Department submitted a letter dated June 27, 2008 that included as conditions of approval the policies in the adjacent column and those in the Foothills Planned Development Ordinance. The recommended policies for fire-safe site design and landscaping, and structure sprinklering would also be included in the design review criteria for all structures in the proposed project. These design criteria would be incorporated into the CC&Rs for the proposed homeowners' association as well. The purpose would be to both create the basis for safe site design in the range-fire prone area, and to educate the potential residents concerning ways to protect their homes against these types of emergencies.

Staff supports their recommended conditions of approval that address these very important aspects of public safety, and would bring the proposal into compliance with the Fire Code, the Foothills Planned Development Ordinance and the FPP.

5.0 NEIGHBORHOOD PROTECTION

GOAL and Traffic Impacts on Existing Neighborhoods - Analysis

It is a property of urban development that new growth will have impacts on existing neighborhoods. The FPP contains goals and policies that would lessen the impacts of new developments. In the Foothills traffic impacts will always present the most significant potential for impacts to existing neighborhoods due to the limited capacities in the roadway system. This was the over arching issue in the creation of the FPP. The policies from Chapter 5 are listed her to further inform the discussion about the traffic impacts faced by the Collister and Plano neighborhoods.

When it comes to the traffic impacts, the neighbors

only occur where a significant community wide need can be identified as part of the adopted Regional Transportation Plan.

3) Public and urban service requirements for developments, including transportation improvements shall minimize impacts on existing neighborhoods.

4) Mitigation of the effects of increased traffic on existing neighborhoods shall be paid for by the developments causing such effects on a proportionate basis, through the use of mechanisms such as impact fees, installation of traffic calming infrastructure, trail and pathway development and mass transit development.

characterize the permitting of this proposal as pitting their safety against that of the presumed new-comers. They have always had their secluded neighborhoods with only local traffic to contend with.

The Collister Drive issue is tough, as the existing road is problematic, it is narrow, with front-on housing and driveways, gutter in the center of the road, parking on both sides of the road. There are no plans to upgrade this section north of the entry into Quail Ridge.

The road can handle some additional traffic. It has 570 Average Daily Trips (ADTs) now, well below the 9,500 estimated for LOS D on a two lane collector cited by the District as the standard. The District projects 1,335 ADTs for buildout, more than doubling their traffic, yet well below the allowed standard.

The neighbors on Plano Lane are in a similar circumstance, with a 105 ADT traffic count on their road. It is functionally classified as a local road with a build-out impact of 870 ADTs for an eight-times increase. Plano Lane would be improved to 30 feet of pavement with a 4-foot striped bike and pedestrian lane on the east side and 3-foot gravel shoulders on both sides from Hill Road to the current extent of the right-of-way.

The application has 21 lots on the Collister end of the property, for approximately, 210 ADTs, and the connection would add another 565 ADTs, according to ACHD. There would be increased auto and bike traffic from recreationists due to the opening of the road to Polecat Gulch Reserve.

The potential traffic impacts still seem great by comparison to the relatively small amount of traffic experienced today on Plano and Collister Roads, that are essentially dead-end streets.

The Highway District has conditions of approval for this proposal to provide off-site improvements to Plano Lane and Collister Drive. These improvements would be funded by the developer. The required improvements on Plano do seem to mitigate the effects of the traffic impacts to Plano Lane as recommended in Policy 4. The required traffic sig-

nal at the intersection of Collister and Hill Roads are also designed to provide some relief to the neighborhoods and the greater area.

There is little to recommend in the area of mass transit in this proposal that would lessen the impact on the existing neighborhoods.

The proposed improvements to the road system are in scale with the existing neighborhood and the traffic impacts, although much greater than the existing traffic, do not exceed the functional classification standards for the local and collector roads. To that extent the proposal meets the policies of the Neighborhood Protection chapter of the FPP.

Street Connectivity & Sidewalk Design

The proposed street pattern provides connectivity with public right-of-way to all adjoining properties with the exception of the parcel to the northwest. The applicant has provided an access easement to that parcel. The access from the project site to that parcel is very steep and not very practical. If and when that parcel is presented for development, there might be better access from an extended Plano Lane where dirt roads currently provide limited private access.

The sidewalk design will be addressed in the Subdivision analysis, for the most part. Staff was concerned by the lack of recommendation from the Ada County Highway District for a sidewalk on the existing lower Plano Lane. Their conditions would only require a four-foot stripped bike lane on the east side of lower Plano, and three-foot gravel shoulders on both sides.

Staff recommends that sidewalk shall be installed on the east then southerly side of the road from Hill Road and Plano Lane to the point of ingress/egress of the proposed subdivision to provide a safer pedestrian environment.

Staff recommends a detached sidewalk design with a landscaped strip on one side of the local roads within the proposed subdivision.

[Resume the Foothills Planned Development Ordinance]

8. The crossing of designated open space, floodways, wetlands and areas of high wildlife habitat value with roads and infrastructure shall be avoided to the greatest extent possible.

9. A mixture of dwelling unit types is allowed, including single family and multi-family units.

10. Neighborhood commercial and service commercial uses are allowed, but they must be designed to reflect and conform to the height, mass, materials and site design of the residential structures in the PD.

11. Setbacks and other dimensional standards may be varied to suit the conditions.

B. Trails are required in Foothills Planned Developments according to the following:

1. There shall be public access to public trails contiguous to and/or intersecting the subject parcel(s).

2. Trail design should preserve the natural scenic and wildlife habitat values.

3. The *Ada County Ridge-To-Rivers Pathway Plan* shall be used as a guide for trail locations.

4. Trails shall be secured through dedication, easement or other such binding mechanism, and shown on the subdivision plat.

5. If no contiguous and/or intersecting public trails exist or are proposed, private trails may be established through the common open space area, provided that the design preserves the natural character and wildlife habitat value of the open space area.

C. The general design and use of preserved open space shall comply with the following requirements:

Sub-sections 8 through 11 opposite are not issues with this proposal but are included for consistency in review of the FPDO.

Trails - Analysis

There is not much on the subject site offered for trails. There would be a street and sidewalk system, but Boise Parks and Recreation Department (BPR) does not advocate connecting to trails internal to the development.

Staff recommends that a private internal trail should be installed and maintained across the sand pit area that is to be re-constructed from the grading overage. The proposed trail would provide a recreational amenity for the residents and also provide a way to avoid the proposed onion conservancy to better protect that sensitive resource.

Boise Parks and Recreation Department has requested a right-of-way and street connection off-site of the subject property, at the end of the proposed extension of Collister Drive. They have requested an ACHD standard 50-foot radius cul-de-sac dedicated by the City, on the City's Polecat Gulch Reserve property that would provide public access to the Reserve. This request is also part of the proposed Development Agreement and thereby subject to the re-zone ordinance. The Boise Parks and Recreation Department request includes a trail head, a driveway and parking for a dozen vehicles and truck and horse trailer, a sidewalk, sewer,

power and water connections, and fencing. These requests were made in a letter to PDS dated July 7, 2007 and amended in a letter dated June 27, 2008 (See Exhibit G).

The applicant is largely in agreement with the request from BPR with the exception of the timing of the installation. The Foothills Conservation Advisory Committee requested the improvements in the first phase of the proposed project. The applicant has programmed the improvements for the second year of the development.

There are no Ridge-To-Rivers trail segments that intersect the subject site, so no connections are requested from BPR.

1. Preserve contiguous areas of open space, both within the subject parcel and adjacent parcels, by aligning them along common corridors to the extent possible.

2. Maintain open space in a "natural condition," ungraded and left in indigenous plant species as much as possible. Noxious and invasive weeds are not considered part of the indigenous plant population and are not protected by this ordinance.

3. Preserve areas of highest wildlife habitat value and contiguous wildlife migration corridors in designated Wildlife Habitat Areas, as defined on the map, Figure 2-1, in The Plan. This requirement is subject to the approval of the Idaho State Fish and Game Department.

4. Preserve unique geologic and historic features, defined as Heritage sites and sites designated for historic preservation by City, State and Federal agencies.

5. Exclude development from geologic hazard areas, specifically landslide areas, and areas with unstable soils.

Open Space Preservation - Analysis

The request includes approximately 165 acres of open space dedicated to the Treasure Valley Land Trust for the purpose or preservation of approximately 82 acres of the Aase's Onion, a species of concern under Federal guidelines, and one of the three species so sanctioned in the Boise Foothills.

The proposal includes six separate onion fields that are separated by either roads and/or building lots. (See Exhibit J, stamped received dated June 30, 2008) This plan was recently revised due to concerns expressed by staff that the onion fields were not going to be adequately protected in the smaller areas, particularly those between rows of lots.

Exhibit J shows the approximately 5.5 acres of separated onion fields now included in the area to be deeded to the Treasure Valley Land Trust. Yet the small onion fields remain separated from the two largest parcels as discrete shapes irrespective of the adjacent parcel boundaries. One of the concerns all along has been that the smaller onion fields would be more difficult to protect and save from human encroachment.

Staff recommends that a good-faith effort to conserve the small onion fields should include the dedication of the parcel upon which they rest to the Treasure Valley Land Trust as well.

11-06-05.07.06. Building and Grading Disturbance Envelopes

1. Building envelopes depicting the limits of building footprints shall be shown on the final Conditional Use site plan for all structures and facilities in the planned development.

2. Parcels with slopes greater than 25% shall be shown on the Conditional Use permit with a disturbance envelope that defines the area outside of which no grading will be allowed. The purpose is to protect neighboring properties, storm water drainage systems, and other infrastructure from the collapse or failure of non-approved poorly designed cuts and fills.

11-06-05.07.07. Ownership and Maintenance of Open Space

Open space areas may be owned and maintained as follows:

1. Owned and maintained by and for the use of the homeowners' association of the project of which it is a part; or,

2. Joined with preserved open space lands held by any neighboring homeowner's association, or, preservation through an organization with adjacent lands held in permanent open space which would then be jointly maintained under an agreement contained in the Conditional Use Permit and/or Development Agreement with the City; or,

3. Dedicated or sold to the city, if recommended for approval by the Boise City Board of Parks and Recreation Commission, or other public agency, or private land trust for open space uses as may be approved in the Development Agreement and/or the Conditional Use and approved by the City Council; or,

4. Other open space preservation strategies under sole or joint ownership, such as deed restrictions, or conservation easements, may be set up, and executed when approved

11-06-05.07.06. Building and Grading Disturbance Envelopes - Analysis

The application includes a large set of plans, sheets C2.0 through C2.5, dated March 18, 2008, that depict the building footprint envelopes and slopes less than 25%. This set was used to evaluate the slopes for the density bonus. This is the final amended preliminary plat that shows the proposed 155 building lots.

All of the proposed 155 lots have slopes greater than 25%. The grading plans depict the majority of the development on fully graded out pads taken down to the same grade as the proposed road. The plans also show a 30-foot Wild Land Urban Interface building setback line. They also show a 30-foot setback from the edge of the grading.

11-06-05.07.07. Ownership and Maintenance of Open Space - Analysis

The request includes approximately 165 acres of open space dedicated fee simple to the Treasure Valley Land Trust for the purpose or preservation of approximately 82 acres of the Aase's Onion, a species of concern under Federal guidelines.

There would be small areas in control of the homeowners' association, including the reclaimed sand pit.

by the city.

5. Where the goals and policies of the *Ada County Ridge-To-Rivers Pathway Plan*, the Boise City Heritage Preservation Committee: Potential Public Preservation Sites plan, *Boise City Comprehensive Plans* and/or *Ada County Comprehensive Plans* and their referenced plans specify the need for public trails or open space, easements for public lands or trails may be required as part of the development's permanent open space. These trails or open spaces may be held in private ownership with an easement, or may be purchased by the city, or dedicated to the city for that use by the landowner(s).

6. Specific agricultural or utility use exceptions may be permitted in open spaces, including livestock grazing, community gardens, irrigation ponds or storm water retention ponds. These uses shall not include buildings or structures except those necessary appurtenances required by those uses, such as dams and irrigation/drainage systems. These use exceptions shall comply with the policies of The Plan, shall be shown on the conditional use site plan, and shall not degrade the value of the permanent open space.

7. Fencing shall not encroach into or bisect preserved open space areas.

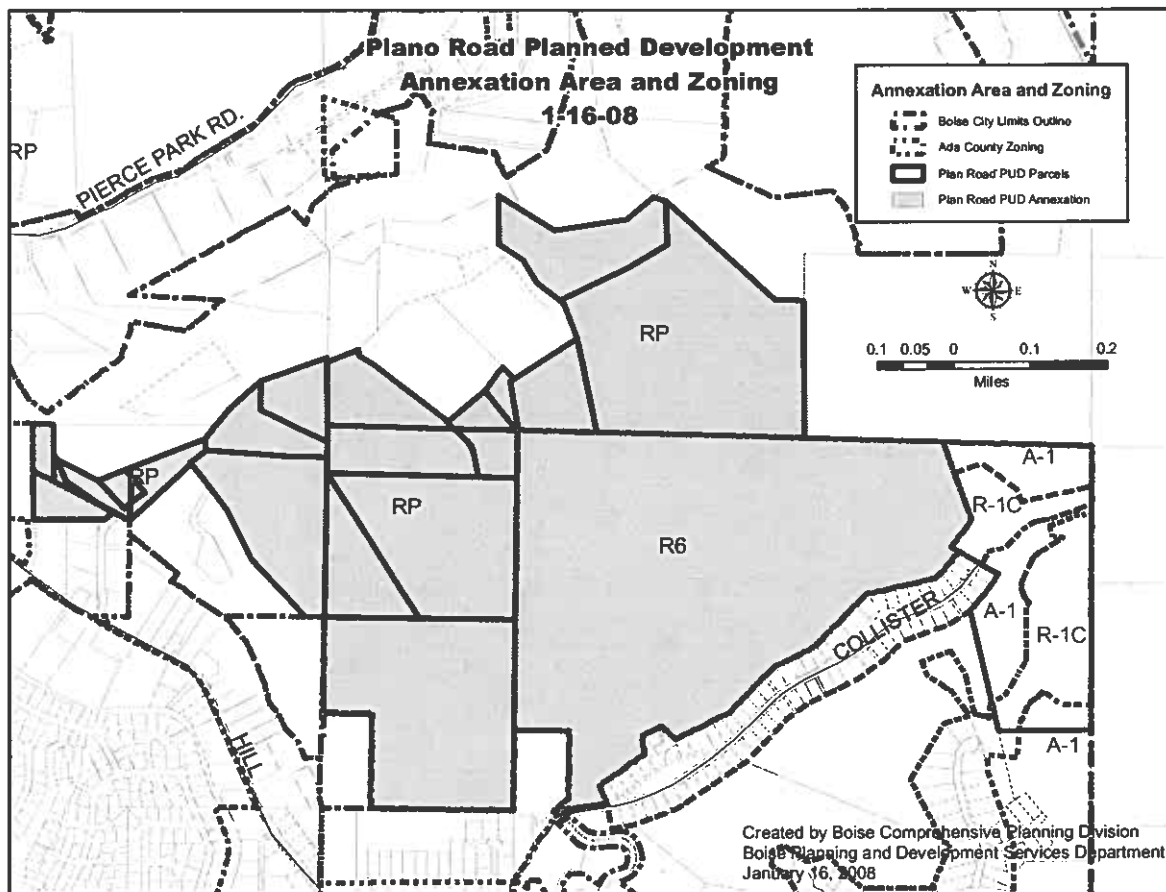
8. The city will accept no responsibility for the costs for maintenance of open space or recreational facilities unless the Boise City Board of Parks and Recreation Commission and the Boise City Council specifically approves such charges.

Annexation

The proposed annexation involves 296 acres in Ada County zoned RP and R6. The remaining of 36.5 of the 332.75 acres are in Boise City Limits as a result of the Quail Ridge annexation, Ord. 5318, June 22, 1992.

The proposed annexation is contiguous with City Boundaries. The area is served by City sewer, Police, Fire 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, if approved. The subject site is adjacent to public rights-of-way.

Current Zoning for the Plano Lane Annexation Application	Current Zoning	Acres, Approx.
Sub-Total, Boise City	A-1	16.4
Sub-Total, Boise City	R-1C	20.1
Total Boise City		36.5
Sub-Total, Ada County	R6	122.9
Sub-Total, Ada County	RP	173.1
Total Ada County/Annexation Total		296.0



The *Foothills Policy Plan* Goal 1, Objective 2 Policy 5 supports development in the Western Foothills Planning Area.

The subject property is in the City's Area of Impact and the proposal honors that agreement with Ada County. The site is subject *Boise City Comprehensive Plan* and the *Foothills Policy Plan* and the proposal is generally in compliance with those plans.

Staff recommends annexation of the proposed properties with the zoning prescribed by the Foothills Planned Development Ordinance in R-1A/DA (Single family residential with development agreement) and A-1/DA (Open Space with development agreement) zones.

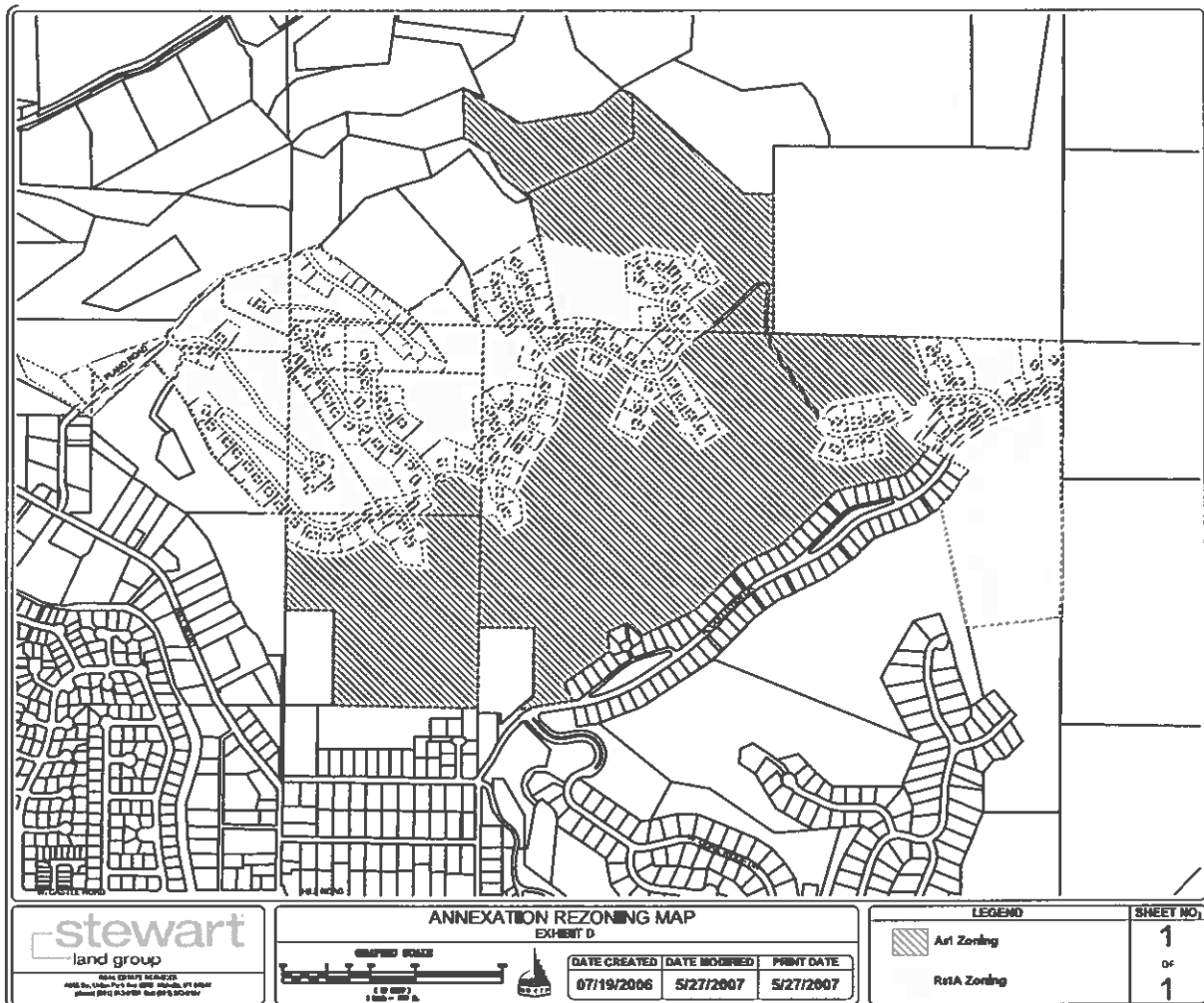
Zone Amendment

The zoning proposal involves 97.84 acres of the developed area in the R-1A/DA (Single family residential with development agreement) and 234.91 acres in the A-1/DA Zone (Open space with development agreement). The respective zones are shown on the following map.

The proposed zones are in compliance with the Foothills Policy Plan and the Foothills Planned Development Ordinance. The R-1A/DA Zones are comprised of the built portion of the proposal and the A-1/DA areas are the set-aside areas for permanent open space as further described in the proposed development agreement, Exhibit J. The delineation of the zoning criteria is found in Section 11-06-05.07.03 General Application and Development Requirements. Item 3 states

3. Upon annexation the buildable areas of the PD shall be zoned R-1A, Single-Family Residential, with the density and design further controlled by the provisions of this ordinance. Slope protection and preserved open space areas shall be zoned "A" Open.

These standards will have been met with the applications under consideration.



Summary:

The Plano Road Subdivision proposal on one hand is a typical application for a 155 lot residential subdivision, but it is in the very complex setting and environment of the Boise Foothills. The complexities arise from both the land forms and the regulatory structure. Development is more difficult and costly on the steep hillsides where human activities compete with the wildlife habitat that is the cherished signature of Boise City and the Treasure Valley. Living in this environment is also richly rewarding.

In 1997 Boise City finally adopted its Foothills Policy Plan that was the product of a community-wide effort or journey that took the better part of twenty years to accomplish. That perseverance of many dedicated individuals and the local governments is telling as to how much the Foothills are loved by this community, and for many well-deserved reasons. The Interim Foothills Transportation Plan was adopted in 1997 by Boise City, Ada County and Ada Planning Association (now COMPASS), where it established development levels in the Foothills. In 2002 the "Foothills Planned Development Ordinance" was amended to the Boise Zoning Ordinance and represents regulatory measures recommended by the Foothills Policy Plan.

The Foothills Policy Plan provides the best chance for a level playing field when it comes to the debate on development activities in the Boise Foothills Planning Area. The policies give voice to the many concerns shared by all members of the community including land owners, developers, neighbors and recreational users of the Foothills. This is the second application under the Foothills policies and ordinances, and the first to utilize the density bonus policies that assign development value to the preservation of ecological values. It is the job of the decision makers to find a balance between those primary issues represented by this application.

The proposal is for 155 dwelling units stretched across the ridge tops between Plano Lane on the west and upper Collister Drive on the east. The neighbor to the east is the Boise Parks and Recreation Department's Polecat Gulch Reserve, a recently acquired and undeveloped regional park facility comprised of one of the few Foothills gulches left in its native state. This Reserve and the surrounding Idaho State Department of Lands property provide nearly 700 acres of public lands for the perennial enjoyment of nature by the residents of Treasure Valley. It is also one of the few parks facilities in the West Foothills Planning Area, and is a wonder to behold.

The neighbors to the south are residents of the older Briarhill Subdivision on upper Collister Drive and Quail Ridge, also developed by Ramon Yorgason, along the ridgelines to the south. Upper Collister Drive is an unusual road with a drain running down the center of the road, as it is built in the bottom of Polecat Gulch where the water naturally flows. As such it provides an incentive to drive more slowly than one would on a standard road in a similar situation. The people in this neighborhood are very concerned that their safety is potentially jeopardized by the traffic proposed by this application. Traffic on this road would increase from 570 Average Daily Trips (ADTs) to 1,335 ADTs, nearly two and a half times the traffic to which they are accustomed. They have also expressed concerns about the loss of wildlife habitat, an issue reinforced by the Idaho Department of Fish and Game comments on the proposal. A third major concern is the visual impact from the proposed dwellings looming over the Briarhill neighborhood from the prominent ridge tops.

The most difficult aspect of any Foothills development proposal is the traffic impacts on downstream neighborhoods. The traffic from the proposed subdivision, some 1,500 average daily trips, will all end up on Hill Road with roughly a 60/40 split distribution between Plano Lane and Collister Drive. The Ada County Highway District has recommended approval for the proposal with some significant conditions for off-site improvements. The application has been conditioned to require full improvements of Plano

Lane from the subject site to Hill Road, where the intersection will be widened. The City is also recommending a sidewalk to Hill Road. The applicant would also be responsible for a traffic signal at Collister and Hill Road with lane widenings when the 81st building permit is sought. There would also be some widening of Hill Road around Plano Lane to improve the sight distance. The applicant is concerned that the impacts from their proposal don't warrant their share of the improvements on Hill Road.

The applicant would also have to provide a connecting road between Plano Lane and Collister Drive at the first phase of development as means ingress/egress for public safety. This road would be paved at the ends and gravel in the middle until the 54th building permit is issued, and then the applicant would pave the entire length. The neighbors are concerned that this connection will skew the traffic distribution between Plano and Collister Roads. Staff supports the ACHD Commission's recommendation.

The proposal includes a dedication of 169.7 acres of open space with the purpose of protecting the habitat of the Aase's Onion, a Federal species of concern. This would also provide the applicant with the majority of their density bonus, in combination with set-aside of some wetlands and riparian areas on Polecat Gulch Creek, the provision of access and a trail head for the Polecat Gulch Reserve, and open space adjacent to the Reserve for buffering that resource. The 169 acres would be donated to the Treasure Valley Land Trust who would, in turn provide long-term conservation for the species of concern. The Land Trust has agreed to this arrangement, which would be executed at Phase One of the Development. This proposal is wholly supported by the Plan, but concerns remain with the impact on the onions from the grading and human traffic. The Plan and Ordinance would allow density bonus only if the conservation of the species can be reasonably assured. The proposal includes four smaller areas with approximately 5.5 acres of Aase's Onion that would be separated from the large onion fields by either roads and/or dwellings. Staff has recommended that all the areas with onion fields should be part of the Treasure Valley Land Trust conservation effort. It seems a difficult task to protect those plants when they are so near the developed part of the proposal.

The development proposal meets the standards and regulations in the Foothills Planned Development Ordinance with the recommended conditions from City Departments and other agencies with jurisdiction, including the Ada County Highway District and Idaho Department of Fish and Game. The anticipated impacts from this proposal seem to be in balance with the mitigation measures. There is never a way to accommodate all impacts and all property rights, but this application represents a good faith effort to try to achieve that balance.

Staff's Recommendation:

Staff recommends approval of the annexation of +/- 296.12 acres, and the rezone of +/- 332.75 acres 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), requested in CAR07-00042/DA with the proposed development agreement, the conditional use permit for 155 dwelling units within a Foothills Planned Development, CUP07-00084, with conditions of approval, and Hillside and Foothills Area Development Permit, CFH07-00022, with conditions of approval.

4. Reasons for the Decision

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 Boise City Comprehensive Plan and the Foothills Policy Plan and the proposal is generally in compliance with those plans.

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. The gross density would be .45 units per acre, the same as found in Boise's R-1A Zone. 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 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 than those 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 City Boundaries. The area is served by City sewer, Police, Fire 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, if approved. The subject site is adjacent to public rights-of-way. This is a logical extension of the city boundaries as all the urban services are available to the site.

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 it 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 Boise City Comprehensive Plan and the Foothills Policy Plan and the proposal is generally in compliance with those plans. The body of this staff report substantiates this

finding in greater detail.

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, 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. The area is served by United Water of Boise 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. It is surrounded by Ada County Rural Preservation (RP) 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 zones.

The proposed zones are R-1A/DA, single family residential with development agreement, and A-1/DA, open space with development Agreement. These zones are 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 in character with and similar in use and density with the surrounding neighborhoods.

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 151 dwelling units and an open space plant conservation area. It is contiguous to residentially zoned neighborhoods on the south and west. It is surrounded by Ada County Rural Preservation (RP) 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, and the proposal meets, in general, the policies of that plan.

Finding: The proposed planned development is sited along prominent ridge tops in a regionally prominent part of the Boise Foothills. That is to say that 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 have the desired effect of blending the structures in with the backdrop of the Boise Foothills. Nevertheless, the proposed development would break up that prominent viewshed forever, however designed. 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.

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. The area is served by United Water of Boise 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.

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 is 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. The site is designed such that the dwellings would be clustered in the area on the west connected to Plano Lane and in the east where Collister Drive would be extended. This built area is approximately 90 acres of the 332 total, with the remainder in open spaces of several types: conservation area, drainage basins, private open space with trails and riparian area next to the

Polecat Reserve.

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. Collister Drive is designated as a local collector by the Ada County Highway District, 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. The proposed development would have a visual impact on the surrounding area.

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

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 Boise City Comprehensive Plan and the Foothills Policy Plan and the proposal is generally in compliance with those plans.

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.

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: The proposed grading plan complies with the technical requirements of the Boise

Hillside and Foothills Areas Development Ordinance and Uniform Building Code, except as noted above, and can be approved with the attached conditions of approval. Final approval of the grading plan and the issuance of a grading permit are contingent upon a more extensive onsite investigation confirming the preliminary opinions of the geotechnical engineer.

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 Geo-logic 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. It complies with the requirements for Foothills gulches through the application for the Hillside and Foothills Areas Development permit.

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.

5. General Information

Notifications:

Neighborhood Meeting held on: April 9, 2008

Newspaper notification published on: June 28, 2008

Radius notices mailed to properties within 300 feet on: June 28, 2008

Staff posted notice on site on: July 24, 2008

Size of Property:

± 332.75 Acres

Land Use

Existing Land Use:

The site is currently vacant for the most part with two parcels occupied by single-family residences.

Hazards:

The site is steep and hilly with the difficulties presented by that type of terrain.

Adjacent Land Uses and Zoning:

North:	Vacant mostly with three single family dwellings on the perimeter / RP Ada County (Rural Preservation)
South:	Single-Family Residences / R-1B (Single-Family Residential)
East:	Vacant, Polecat Gulch Reserve / RP Ada County (Rural Preservation)
West:	Vacant / RP Ada County (Rural Preservation)

Setbacks

R-1A	BUILDING SETBACKS		PARKING LOT AND SERVICE DRIVE SETBACKS	
	Standard	Rear or Side Yard Abutting a Residential Use or District	Standard	Rear or Side Yard Abutting a Residential Use or District
Front/side adj. to street	20'	30'	20'	20'
Interior side & rear yards - 1 story	5'	10'	5'	10'
2 or more stories	5'	10'	5'	10'

Yards adjacent to the Interstate or Connector	20'	NA	10'	NA
---	-----	----	-----	----

*The applicant is proposing to meet or exceed all required perimeter setbacks. The exceptions to interior setbacks are outlined below.

Parking

Land Use	Unit Of Measure	General (Parking Space)
Single Family Residential	Per Unit	2

6. Boise City Comprehensive Plan

This project is located in the Foothills Planning Area with the following specific or applicable goals, objectives and policies in the Boise City Comprehensive Plan and the Foothills Policy Plan.

Policy 8.19

Land use and development policies specific to the Foothills Planning Area shall include the following:

- 1) The Foothills Policy Plan, adopted by the City Council on March 4, 1997, is adopted into and is a part of the Boise City Comprehensive Plan, subject to all of the stated purposes and procedures of the Comprehensive Plan.
- 2) The Foothills Policy Plan contains goals, objectives and policies addressing the issues of land use and general development; environmental protection and open space preservation; scenic and aesthetic concerns; recreation and open space preservation; neighborhood protection; and transportation, infrastructure and services. These goals, objectives and policies should guide the land uses and development in the Foothills.

Additional Boise City Comprehensive Plan Goals, Objectives and Policies

CHAPTER 6 TRANSPORTATION

Objective 6.1.3

Encourage completion of the existing street system and creation of new links, within reasonable constraints, as the transportation system develops.

Policy 6.1.3.6

All new development shall be reviewed for appropriate opportunities to connect to local roads and collectors in adjacent developments.

CHAPTER 7 COMMUNITY QUALITY

Objective 7.2.3

Provide for the protection of character and the enhancement of services in existing residential neighborhoods.

CHAPTER 8 LAND USE

Objective 8.1.1

The land-use map and attendant policies shall be the official guide for development of the planning area and shall be implemented through zoning and development review.

Policy 8.1.1.2

Zone change requests that are consistent with the Land Use/Zoning Consistency Matrix and the policies of the Boise City Comprehensive Plan should be approved by the City pursuant to appropriate findings related to service levels and other requirements of the Boise City Comprehensive Plan.

Objective 8.1.6

Residential landuses shall be designated to provide a variety of housing densities, product types and affordable costs, and shall be located and distributed in a manner that is compatible with adjacent uses and promotes transit and pedestrian activity.

Foothills Policy Plan

Chapter 1 - LAND USE AND GENERAL DEVELOPMENT

GOAL

To share growth throughout the community and to reduce the impacts of urban sprawl, controlled development of appropriate Foothills areas shall be allowed pursuant to standards and conditions that are protective of the Foothills, wildlife and neighborhoods.

Objective 1

The location of development will avoid environmentally sensitive areas such as waterbodies, floodways, landslides and fault zones, steep slopes, and unstable soils, and shall protect wildlife and habitat areas. Development shall be regulated in the flood plain.

POLICIES

1) Development shall be prohibited on slopes of 25% grade or greater, and within designated floodways. Necessary infrastructure and utilities may be placed within these areas subject to proper engineering and compliance with other policies of this plan.

2) Development within areas of landslides, fault zones, and unstable soils shall be prohibited, unless the Project Engineer can demonstrate to the City Engineer that these site limitations can be overcome. The intent is to prevent hazards to life and property, and lessen the adverse effects of development on the safety, use or stability of public ways and drainage channels. The risk evaluation will be based on engineering reports which will be subject to peer review.

3) Environmental and wildlife features, such as wetlands, threatened plant species, riparian areas, big game winter range, and sensitive wildlife habitats shall be maintained through clustering of development away from those features, and development limitations.

Objective 2

The Land Use Map for the Foothills adopted with this plan shall be considered to be a generalized depiction

tion of potentially buildable areas. Further determination of the amount, type and location of development shall be made pursuant to the following policies and other applicable policies contained in the Foothills Policy Plan and the Boise City Comprehensive Plan documents.

- 1) The Foothills Land Use Map provides a generalized depiction of potentially buildable areas based upon slope. At the time of zone change or development application, the developer shall submit detailed documents depicting wildlife habitat areas, existing slopes, geology and soils. This data shall be used to make more detailed determinations regarding the extent of the buildable area governed by the policies of this plan and the "Hillside and Foothill Area Development" ordinance.
- 2) Areas designated on the Land Use Map (Figure 1 - 1) as Buildable are generally characterized by slopes less than 25% grade. The base density shall be 1 unit / 40 acres plus a density bonus formula (See Figure 1 - 2). Within the buildable areas there may be pockets of land greater than 25% slope. The existence of such areas shall be documented by the developer through detailed slope surveys as part of the application. Within such areas, the base density shall be 1 unit / 40 acres and density credits must be transferred to areas of less than 25% slope.
- 3) Areas designated on the Land Use Map as Slope Protection Areas are generally characterized by slopes that exceed 25%. Within such areas, the base density shall be 1 unit / 40 acres. Within Slope Protection Areas there may also be pockets of land that are less than 25% slope. The existence of such areas must be documented by the developer through detailed slope surveys. Density for these pocket areas shall be 1 unit / 40 acres, plus additional units allowed under the density bonus.
- 4) In buildable areas density bonuses may be granted in return for the provision of permanent open space. As the amount of permanent open space increases, the allowable density shall also increase according to the Density Bonus Formula. Only areas of less than 25% slope on parcels greater than 1 acre in size may be counted in the open space/density bonus calculations. All open space credited for density bonus purposes must remain in a primarily natural condition with the goal to maintain it for wildlife habitat and recreational uses. Such areas may remain as private open space, may be used for public trail easements, or may be dedicated to a public land trust or other group for conservation management purposes. Within the mapped Wildlife Habitat Areas, (See Figure 2 - 1) the open space areas shall be located to form continuous corridors subject to the review and recommendation of the Idaho Department of Fish and Game.

[FIGURE 1-1 LAND USE MAP]

- 5) Foothills developments shall be reviewed with the following priority considerations depending upon location:
 - a. The Western Foothills (Highway 55 to 36th Street) shall be considered to be the first priority area for development, subject to adequate street capacity and infrastructure.
 - b. The Central Foothills (between 36th Street and 8th Street) shall be developed only to the extent that it can be demonstrated that traffic impacts on existing neighborhoods will be minimized. Special designs to minimize eastbound traffic from areas west of 36th Street may be required.
 - c. The Eastern Foothills (east of 8th Street) shall be the highest priority area for open space acquisition. Where clustered developments are proposed, the Idaho Department of Fish and Game shall be asked to provide advice regarding the most

desirable locations to maintain open wildlife corridors which comply with the Idaho Department of Fish and Game management plans.

Figure 1 - 2

Base Densities, Density Transfers, and Density Bonus Formula for Open Space Preservation

- 1) Base Densities: The base density shall be one unit per 40 acres for all areas designated as buildable (less than 25% slopes) and non-buildable (greater than 25% slopes).
- 2) Density Credit Transfer: Density credits for non-buildable areas may be transferred to buildable areas at a rate of one unit per 40 acres.
- 3) Density Bonus: Density Bonuses earned through open space preservation will be in addition to the one unit per 40 acres base density.

Density Bonus Formulas

Open Space Preservation Within Buildable Areas	Density Bonus Within Buildable Areas*
25%	.50 units/acre
50%	1.5 units/acre
75%	3.0 units/acre

* The transfer of density rights from one parcel to another is allowed and encouraged under this plan. The method of calculating the available density on a given parcel for transfer to another parcel will be detailed in a future implementing ordinance.

6) All zone change and development applications shall include traffic impact analysis as required by the Streets Section of the Transportation Chapter of the Boise City Comprehensive Plan. Approval of the application shall be contingent upon findings regarding protection of service levels, as designated by the traffic plan of record, and use of traffic management strategies.

7) All zone change and development applications shall be filed as Planned Unit Development (PUD) proposals. The PUD application shall demonstrate compliance with all applicable requirements of the Foothills and Comprehensive Plans, including design guidelines, provision of public facilities, habitat protection and fire protection.

Objective 3

A mixture of land uses and housing densities shall be permitted in the Foothills in order to accommodate a variety of housing, shopping, transportation, public facility, recreation and wildlife needs.

1) Proper development shall reflect the multiple roles that gulches play including, but not limited to, transportation corridors, flood control, trail access, recreation, wildlife and environmental attributes.

2) Limited commercial and office development shall be considered in Foothills planned developments. Commercial and office uses shall be predominantly neighborhood related and located in areas where:

- a. The slopes are 15 percent (15%) or less; and,

- b. They are adjacent to activity centers, clustered development or the intersections of collector or arterial streets; and,
 - c. By their proximity to residential uses would reduce vehicular trip generation. Such development should be compatible with the design and size of the surrounding neighborhoods.
- 3) Employment center uses may be considered as part of Planned Development proposals, given that they meet a standard of land use intensity not unlike adjoining residential uses. Acceptable uses will be held to design and environmental protection standards, and shall not produce traffic greater than that generated by residential uses for the same amount of land.
- 4) A mixture of densities and housing types shall be encouraged in the Foothills. Multiple family dwelling developments shall be located:
- a. Near dedicated open space, schools, or parks; or
 - b. Adjacent to arterial or collector streets; or
 - c. Near commercial/community activity centers.
- 5) Density transfers between parcels of different ownership and/or the same ownership, and clustering of development shall be allowed, and in some areas required, as a means of protecting sensitive areas by maintaining open space and allowing for more efficient urban services.
- 6) Gated developments in the Foothills are prohibited due to the potential for such development to restrict or delay emergency response in the Foothills.

5.0 NEIGHBORHOOD PROTECTION

GOAL

To preserve, enhance and protect neighborhoods and developed areas from unacceptable adverse impacts resulting from Foothills development.

\

Objective 1

Foothills developments shall be compatible with and complementary to adjacent neighborhoods.

Policies

- 1) Substantial density, intensity or design changes shall only be allowed by creating transitional uses or buffers so that abrupt changes are avoided.
- 2) Foothills developments, adjacent neighborhoods, schools, and open spaces shall be linked with a pedestrian pathway system which is distinct and separate, where feasible, from the roadway system.
- 3) Internal neighborhood connections shall be provided through varied design provisions, including sidewalks and paths.
- 4) Sidewalks will be provided on at least one side of all Foothills roads with appropriate landscaped buffers. In lieu of a second sidewalk on the opposite side of the road, an adequate bicycle and pedestrian pathway system shall be provided. Sidewalk buffer requirements and pathway designs will conform to the Foothills Uniform Design Guideline Manual criteria.
- 5) Where streets or other public services within and through the built community will be negatively af-

ected by new developments, new projects will provide or make contributions toward effective mitigation to protect public health, safety, and welfare in the built community as well as in the newly developed areas.

6) The planned unit development is the required Foothill development mechanism, as regulated by Section 11 06 05 on the Boise City Zoning Ordinance, because it is the most effective tool for solving problems associated with traffic, terrain, aesthetics, intra , and inter neighborhood connections for urban density developments. Planned unit developments will be required as a means to provide adequate buffers for transitional uses between adjacent existing developments.

Objective 2

Neighborhoods affected by through traffic will be protected.

1) Improvements to the transportation system need to balance the long term development objectives with protection of neighborhoods and must be in scale with existing neighborhoods.

2) Upgrading of residential streets to collector and arterial status shall be discouraged and shall only occur where a significant community wide need can be identified as part of the adopted Regional Transportation Plan.

3) Public and urban service requirements for developments, including transportation improvements shall minimize impacts on existing neighborhoods.

4) Mitigation of the effects of increased traffic on existing neighborhoods shall be paid for by the developments causing such effects on a proportionate basis, through the use of mechanisms such as impact fees, installation of traffic calming infrastructure, trail and pathway development and mass transit development.

5) The City Planning and Community Development Department shall annually monitor street capacity as it is consumed by Foothills development and shall be prepared to limit Foothills development as capacity is reached. Capacity shall be determined according to a formula to be defined jointly by Boise City, Ada Planning Association (APA) and Ada County Highway District (ACHD) and adopted in a governing Foothills Transportation Plan.

7. Boise City Zoning Ordinance

Section 11-04-04-.01 General Standards

Section 11-04-03.02 Purpose of R-1A, R-1B and R-1C Districts

It is the purpose of the R-1A, R-1B and R-1C District Classifications to provide various regulations and districts for predominantly single family residential uses within the urban community. Land may be classified to these respective classifications in conformity with the goals and objectives of the Comprehensive General Plan, for location, topographic or other reasonable purposes to guide the physical growth and stability of the City.

Section 11-04-09.02.01 Purpose A-1 District

It shall be the purpose of the Open Land or A-1 District classification to provide a zoning district within the City for low density residential use and land uses requiring larger land areas for development such

as parks, schools, golf courses, agriculture, rural residential neighborhoods, and other uses in conformity with the Comprehensive Plan. The regulations set forth in this Section shall apply in addition to the general regulations of this Ordinance, to all land, buildings and structures located in any A-1 District.

Section 11-06-01 AMENDMENT, RECLASSIFICATION

Section 11-06-01.01 Power to Amend

This Ordinance may be amended whenever the Council deems that amendment is required for the public convenience or necessity, or for the general welfare. Any amendment to this ordinance shall be enacted pursuant to this section. The amendment of this Ordinance or the reclassification of zoning districts may be initiated by the City Council, the Planning and Zoning Commission or by one or more property owners or holders of valid options to purchase property. The procedures set forth in this Section shall apply to any measure to change district boundaries, reclassify districts, to change district regulations, to add, repeal or amend district regulations and to add, repeal or amend any other provisions of this Section or the whole of this Ordinance.

Section 11-06-01.03 Public Hearing

The Planning and Zoning Commission shall advertise, provide notice and conduct a public hearing in accordance with Section 11-3-6 of this Ordinance for each application to amend this Ordinance or to reclassify a zoning district.

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

Failure of an application to meet these findings shall not prevent the request from being forwarded to the City Council for consideration after Commission review. Notice of the Commission's recommendation shall be included in the notice of the public hearing of the City Council.

Section 11-06-04 CONDITIONAL USE PERMITS

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; and

- B. That the proposed use will not place an undue burden on transportation and other public facilities in the vicinity; and
- 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; and
- D. That the proposed use, if it complies with all conditions imposed, will not adversely affect other property of the vicinity; and
- E. That the proposed use is in compliance with and supports the goals and objectives of the Comprehensive Plan.
- 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.

Section 11-06-05 PLANNED DEVELOPMENTS

Section 11-06-05.01 Justification

A planned development is a parcel of land which is planned and developed as a unit under single ownership or control, containing one or more uses, buildings and common open space or recreational facilities.

The planned development process provides 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. The process also provides for the consistent application of conditions of approval for the various phases of a planned development. Every planned development requires a conditional use application, and shall be subject to all conditional use procedures.

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.
- B. Honor negotiated area of impact agreements.
- C. Attempt to balance costs of services with anticipated revenues.

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

Section 11-08-04 COUNCIL ACTION, AMENDMENT AND RECLASSIFICATION

The Council is prohibited from amending, supplementing, changing, modifying or repealing any provisions of the Zoning Ordinance or Comprehensive Plan until the substance thereof has first been referred to and reported upon by the Planning and Zoning Commission.
(5916, Amended, 05/18/1999)

Section 11-08-04.01 Amendment and Reclassification: Power to Amend

This Ordinance may be amended whenever the Council deems that amendment is required for the public convenience or necessity, or for the general welfare. Any amendment shall be enacted pursuant to this section, and for purposes of this Section, includes any measure to change district boundaries, establish or disestablish districts, to change district regulations, to add, repeal or amend district regulations, and to add, repeal or amend any other provisions of this Section or the whole of this Ordinance.

If the requested ordinance amendment or reclassification is found by the Council to be in conflict with the adopted Comprehensive Plan, the Council may consider an amendment to the Comprehensive Plan. After the Plan has been amended, the Zoning Ordinance may then be considered for amendment. The zoning districts shall be in accordance with the policies set forth in the adopted Comprehensive Plan.
(6006, Amended, 07/25/2000)

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
- 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
- C. An owner or any person by or with his/her authority requests annexation in writing to the Council; or
- D. A parcel of land is entirely surrounded by the properties lying within the City boundaries.

Section 11-08-09 DEVELOPMENT AGREEMENTS

A. Purpose.

The purpose of a Development Agreement is to provide a vehicle for development in areas and for uses where, in the opinion of the Council or the Commission, approval of a requested rezone by itself does not satisfy the requirements set forth in the Zoning Ordinance for rezone approval; but, that use of a

development agreement will assure compliance with the required rezone findings and conclusions. Development agreements can be used after a determination has been made that the proposed rezone by itself is not appropriate, unless the use of a development agreement could allow development to proceed under stricter restrictions than those imposed generally in the proposed zoning district. Nothing in this section shall be construed as relieving the property which is subject to development agreement restrictions from further compliance with all other permit and code requirements applicable because of the zoning designation of the property. Restrictions imposed upon property as a result of a development agreement are in addition to all other zoning ordinance requirements.

B. After an application for rezone has been received in the Planning Division, a request to enter into a development agreement for that parcel may be submitted by the rezone applicant; or, a development agreement may be required by Council at Council's rezone hearing, or may be required by Council upon recommendation from the Commission following the Commission's rezone hearing.

1. In the event of a recommendation by the Commission that a development agreement should be entered into, the rezone shall be forwarded to the City Council with a recommendation that the requested rezone be denied or that it be remanded to the Commission, with the Council requiring an application for a development agreement to be submitted by the applicant. If, however, the applicant agrees to submit an application for a development agreement, then the Commission shall defer its recommendation to the City Council on the rezone application until a public hearing is held on the development agreement application. After the public hearing on the development agreement application is held, the Commission shall forward its recommendation on both the rezone and development agreement requests to the City Council.
2. In the event of a determination by the Council that a development agreement should be entered into, the Council shall remand the matter back to the Commission, with the Council requiring an application for a development agreement to be submitted by the applicant, unless the applicant has already done so and a public hearing was held under subsection 1. above. The Council shall, upon remand, direct the Commission on the specific issues to be addressed by the development agreement. The Commission shall then proceed as specified in this Section.
3. In the event a developer seeks to enter into a development agreement, the developer's application for a development agreement shall be taken to the Commission at the time of the scheduled rezone hearing. The Commission shall, following consideration of the rezone and development agreement applications, forward its recommendation to the City Council regarding each of the applicant's requests.

C. In the event of (1) or (2) above, all time limits required by the City Code may be stayed upon affirmative vote of the Council or Commission.

Section 11-10-06 OFF-STREET PARKING REQUIREMENTS

Each residence shall have two off-street parking stalls in compliance with the provisions of this ordinance.

8. Recommended Conditions of Approval

Site Specific

1. Construction, use and property development shall be in compliance with plans and specifications on file with the Boise City Planning and Development Services Department date stamped received on March 27, 2008 and amended April 18, 2008, except as may be modified by the Boise City Planning and Zoning Commission, or Staff, or expressly modified by the following conditions:
2. The applicant shall construct sidewalks along the frontage of Plano Lane and the project section of Collister Drive. The sidewalk on Collister Drive shall extend to the off-site cul-de-sac on the Polecat Gulch Reserve property and terminate at the trail head. If the sidewalk is located outside of the right-of-way, the applicant will be required to provide ACHD with an easement for the sidewalk. A sidewalk shall be added on the east side of Plano Lane from Hill Road to where it enters the project site.
3. Provide a recorded cross access agreement among the lots for access to the public street system, prior to issuance of a Building Permit for lots with shared driveways.
4. This approval shall be for a maximum number of 151 dwelling units as specified in the Development Agreement for CAR07-00042/DA.
5. Development of the site shall be subject to design review criteria detailed in Exhibit L of this staff report. The design review process is delineated in the accompanying development agreement, Exhibit J. All structures in the development are subject to the site and landscaping criteria supplied by Boise Fire Department and Idaho Department of Fish and Game. Development lots situated on prominent ridgelines are subject to design criteria for the structures with the goal to minimize the visual impact on the landscape. These lots are depicted in Exhibit M.
6. The following conditions and guidelines from The Idaho Department of Fish and Game letter, dated June 27, 2008, shall be included in the home buyer's disclosure statement and the CC& Rs.
 - a. The following language shall be incorporated into a home buyer's disclosure statement and signed by all residents of the Plano Road Subdivision: This area has been identified as wildlife habitat. Damage to landscaping and personal property from wildlife shall be the responsibility of each individual lot owner and shall not be the responsibility of the State of Idaho or Ada County. Neither Ada County nor

the State of Idaho will be liable for wildlife depredation and/or damage.

- b. The following items shall be included in the homeowner codes, covenants, and restrictions:
 - i. Big game animals shall not be fed under any circumstances unless specifically authorized by or in cooperation with the Idaho Department of Fish and Game.
 - ii. Domestic pets must be confined or under the owner's control at all times. Free roaming dogs and cats pose a threat to many wildlife species.
 - iii. Fences in the Plano Road Subdivision must be of a design that does not pose an undo risk of injury or death to wildlife. Inappropriate fence designs in wildlife habitat are known to injure and kill wildlife. Please contact the Department's Southwest Region Office at (208)465-8465 for additional guidance on wildlife friendly fence design.

In addition, the following list is the Department's general recommendations to minimize the adverse impacts to wildlife from housing developments in wildlife habitat. We would ask that this information be provided to the developer and in turn to potential residents.

- c. Native vegetation communities should be protected to the greatest extent possible. This includes native grasses, forbs, and shrubs. It is much easier to protect this vegetation initially than to attempt to revegetate 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.
- d. Known migration routes or 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. Recommendations include clustering of homes, minimizing roads, maintaining riparian-stream corridors, and maximizing open space.
- e. 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 very vulnerable to predators such as coyotes and fox.

- f. 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.
- g. Effective means to protect ornamental trees and shrubs from being eaten by wildlife include wrapping chicken wire around trees, using animal repellents, or planting vegetation that is less desirable to wildlife
- h. Bird feeders should be routinely cleaned to prevent the spread of disease.
- i. 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.
- j. High numbers of big game animals on limited winter range attract predators such as mountain lions and bears. Precautions that should be followed include a) making noise as you come and go in the morning and at night, b) installing outside lighting, c) make it difficult for predators to approach your house unseen by avoiding planting dense vegetation near your home, d) keep your 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.

7. All conditions of the Boise Fire Department report dated June 27, 2008 (Exhibit A) shall be complied with. Any deviation from this plan is subject to fire department approval. The Developer shall implement the measures spelled out in the “Plano Road Fire Prevention Plan” submitted with the application and dated May 31, 2007, and amended to provide more detail as directed by the Boise Fire Department. The amended plan will be included in the CC&Rs for the Homeowners’ Association, and it will also be part of the design criteria review by PDS staff at the building permit review stage as described in the Development Agreement (Exhibit J) Item Number 8.

- a. Foothills development located outside of the 1.5 mile driving distance or four minute response time from fire stations shall require an approved fire sprinkler/ suppression system in dwelling structures.
- b. The use of Class A (noncombustible) roofs within all Foothills developments shall be required. This shall include retrofit for houses which are to have at least 50% or more of the roof area remodeled or replaced.
- c. Fire sprinkler systems are required in new residential buildings with a floor area in excess of 5,000 square feet.

- d. Emergency and/or secondary access shall be provided in all Foothills subdivisions.
- e. Structures bordering any open area with natural vegetation shall use fire rated roofing materials, siding, decking material and fencing.
- f. All newly constructed Foothills structures shall be protected by a landscaped fire break.
- g. The maximum building envelope for development sites must be identified on each parcel to provide adequate access around structure for fire protection, and to provide a fire break.
- h. A fire safety plan shall be filed with the Planned Unit Development application to include safety measures to be used during the construction phase, and plans for fire prevention and emergency evacuation in case of a wildfire. This plan will be an enforceable part of the PUD approval agreement. The plan shall be based upon a site-specific wildfire risk assessment that includes considerations of location, topography, aspect, flammable vegetation, climatic conditions and fire history. The plan shall address water supply, access, building ignition and fire-resistance factors, fire protection systems and equipment, defensible space and vegetation management. The cost of fire plan preparation and review shall be the responsibility of the applicant. The fire protection plan shall be retained by the code official.
- i. Fire safety and protection measures to reduce the threat of wildfires shall be incorporated into the design in accordance with Uniform Fire Code and Boise City Code Title 7. Such measures shall include internal residential sprinkling systems, defensible space for the structures and the provision of safe evacuation routes for residents in case of wildfire.
- j. 2006 International Wildland-Urban Interface Code 403.3 and 404.3 Fire apparatus access roads shall be all-weather roads with a minimum width of 20 feet and a clear height of 13 feet 6 inches; shall be designed to accommodate the loads and turning radii for fire apparatus; and have a gradient negotiable by the specific fire apparatus normally used at that location within the jurisdiction. Dead-end roads in excess of 150 feet in length shall be provided with turnarounds as approved by the code official. An all-weather road surface shall be any surface material acceptable to the code official that would normally allow the passage of emergency service vehicles typically used to respond to that location within the jurisdiction.
- k. Draft sites. Approved draft sites shall be provided. The design, construction, location, access and access maintenance of draft sites shall be approved by the code official.

- l. 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.
 - m. Fire hydrant location and distribution shall meet requirements of International Fire Code Appendix C.
No fire hydrants have been noted. In the absence of information on existing hydrants it appears that many new hydrants may/will be needed. However, we reserve the right to modify requirements as more information comes to light. Variables affecting hydrant numbers and location include, but are not limited to, area, construction type, existing hydrants, accuracy of information provided in the application, strategic location for fire fighting forces, and required fire flow. New hydrants must be "non-private" installations.
 - n. 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.
 - o. Specific building construction requirements of the International Building Code, International Fire Code, and Boise City Code will apply. However, these provisions are best addressed by a licensed Architect at building permit application.
8. Specific building construction requirements of the Uniform Building and Uniform Fire Codes will apply. However, these provisions are best addressed at the Building Permit application.
9. The applicant shall comply with the requirements of the Boise City Public Works Department (BCPW) for drainage, and hydrology per department comments dated May 19, 2008 (Exhibit B), and May 20, 2008, Preliminary Hydrology Report (Exhibit C), May 28, 2008, Plano Road Sub Grading (Exhibit D), and per the memorandum from the Solid Waste/Ground Water and Street Lights Managers dated January 16, 2007 (Exhibit E). Please contact BCPW at 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 Storm Water Plan must be resubmitted to BCPW for approval.
10. All of the Ada County Highway District conditions of approval related to the development of the subject property shall be complied with per staff report date stamped received May 30, 2008 (Exhibit F), and amended by the following conditions approved by the Commission on June 25, 2008 per a letter date stamped received June 30, 2008.

Staff has reviewed the issues and concerns raised by the Commission at the May 28th Commission Meeting and recommends the Findings and Site Specific Conditions of Approval be revised to reflect the following:

1. To address the concerns of fire safety, emergency services and mitigation of construction traffic staff recommends:
 - a. Require the applicant to construct an emergency/construction access road between Collister Drive and Plano Road with the first phase of the development.
 - b. The access road shall be a minimum 20-feet wide gravel roadway meeting the loading requirements of the Boise City Fire Department.
 - c. The access road shall be gated and access restricted to emergency services and construction traffic only.
2. To improve safety at the Plano Lane / Hill Road intersection with the anticipated construction traffic staff recommends:
 - a. Require the applicant to widen Plano Road at the Hill Road intersection to 40-feet of pavement to allow a right turn lane and left turn lane southbound on Plano and one northbound lane as well as the 4-foot bike/pedestrian area on the east side. The additional pavement width should extend 50-feet back from Hill Road and then taper to the 30-foot street section.
 - b. The design of the Plano Lane / Hill Road intersection should be coordinated with District staff to explore and implement measures to improve the site distance and awareness at this intersection, and shoulders along Hill Road should be widened as much as possible within the confines of the existing right-of-way. As noted in the original staff report, the site distance meets the minimum required for the posted speed. However, a speed study did indicate that a significant number of drivers are exceeding the posted limit. Measures could include trimming vegetation in the existing right-of-way or within any easement areas the District may be able to voluntarily acquire.
 - c. The District should provide a report and special recommendation to the City of Boise regarding the speed study conducted by the District to request increased enforcement in this area.
3. To address concerns of winter safety staff recommends:
 - a. The roadway connection not be made until necessitated by traffic demands from the development. If the roadway is opened prematurely the District

will be required to perform winter maintenance for a limited number of drivers to reduce the risk of accidents.

4. To address the concerns of general connectivity staff recommends:

- a. A public roadway shall be required to connect Plano Lane and Collister Drive.
- b. The applicant has proposed an alternative to the original threshold of 80 lots recommended by staff. The applicant proposes that the connection be constructed as a public roadway after platting 53 lots, 36 lots off of Plano Lane and 17 lots off of Collister Drive. Staff supports this proposal as a reasonable compromise when considered in total with the other recommendations above. Therefore, staff recommends that the public roadway connection between Plano Lane and Collister Drive shall be completed after the platting of a maximum of 36 buildable lots accessing from Plano Lane and/or a maximum of 17 buildable lots accessing from Collister Drive for a total of 53 buildable lots. The public roadway would be required prior to signature of a final plat that included either the 54th buildable lot total in the development, or the 37th buildable lot accessing from Plano Lane, or the 18th buildable lot accessing from Collister Drive.

11. The applicant shall comply with the requirements of the Boise City Parks and Recreation Department (BPR) for public right-of-way connection, cul-de-sac, parking area and trail head per Department comments dated June 27, 2008 (Exhibit G).

- a. The developers will be required to provide for emergency services at the new terminus of North Collister Drive. The configuration of the terminus has yet to be determined. In order to accommodate these road requirements, the City would consider dedicating ROW for a public turn-around at the end of the proposed new North Collister Drive extension. The turn-around would provide public and emergency access.
- b. Should development be approved at this location, Boise Parks and Recreation (BPR) and the developer could consider entering into a development agreement. This agreement would necessitate recognition of the value of the city property being used as an emergency turn-around and require infrastructure related improvements, such as utility stubs be constructed to meet BPR and other required agency approvals.
- c. Boise Parks and Recreation requests the following conditions of approval also be attached to this development request.
- d. Developer shall complete the road from the current North Collister Drive cul-de-sac to Polecat Gulch Reserve and provide the public access on this road.

- e. Developer shall construct a post and rail fence to BPR standards along the north property line of the subdivision to help protect the Reserve from encroachment by the future adjacent residences.
 - f. Developer shall construct an approved turn-around and trailhead at the new terminus of North Collister Drive to BPR specifications while adhering to ACHD access standards.
 - g. Developer shall stub utilities (water, sewer and power) to an acceptable location near the turn-around as approved by BPR and public Works Department.
 - h. The turn-around and trailhead shall be graded and graveled to include 12 auto spaces with wheel blocks , an area for emergency vehicles to turn around, a boundary two post and rail fence and a trailhead kiosk.
 - i. Neither the riparian area (Polecat Gulch) nor the raptor nesting trees on the east side of the current dirt roadway at the north end of Collister should be disturbed as both provide considerable habitat for wildlife in the area.
 - j. All conditions should be met during Phase I of the development.
12. Provide detailed information on the design and layout of the trail head and parking site on the Polecat Reserve property. Site plan shall be approved by PDS and Parks and Recreation Department. At a minimum, the following shall be provided to staff prior to submittal for any construction permits on the site:
- a. Site Plan, at scale, showing existing vegetation, contours trail head and dirt road.
 - b. Layout of cul-de-sac, sidewalks, parking area, connection to trail head, fences;
 - c. Signage to be approved at staff level by PDS and Parks and Recreation;
 - d. Location of stubs for sewer and water hook-ups;
 - e. Landscaping.
13. The applicant shall comply with the requirements of the Independent School District of Boise City #1 for signage in the cul-de-sacs, per District comments dated July 6, 2007 (Exhibit H).
14. The applicant shall comply with the requirements of the Boise Planning and Development Services Department Subdivision requirements and conditions of approval, SUB07-00065 per Department comments dated May 30, 2008 (Exhibit I).

15. Conserve the small onion fields through the dedication of the parcel upon which they rest to the Treasure Valley Land Trust.

General

16. The applicant shall submit a revised, detailed revegetation plan. This plan must be prepared and stamped by a licensed landscape architect. The plan should include the following information at a minimum:

- a. The location of all existing trees larger than 2" in caliper and whether they are to be retained or removed. Any tree larger than 2" in caliper removed from the site shall be replaced with a tree or tree(s) with an equal or greater caliper.
- b. The location of all proposed plant materials including trees and shrubs. All species should be represented by their approximate size at maturity.
- c. The plant palette shall be expanded to include a variety of drought-tolerant deciduous and evergreen trees and shrubs that will provide for year-round interest.
- d. All new deciduous trees shall have a minimum caliper of 2" and evergreen trees shall be a minimum of 6' in height at the time of planting.

17. All exterior mechanical and utility equipment at the front of the structures shall be screened by vegetation or decorative fencing. Proposed screening must be indicated on the landscape plan and submitted with the application for a Building Permit.

18. All amenities shall be constructed or bonded for prior to the issuance of the first building permit.

19. The minimum unobstructed interior width of a two-car private residential garage shall be twenty (20) feet. The minimum unobstructed depth of the stalls must be twenty (20) feet for the first stall and may be sixteen (16) feet for the second stall. These dimensions must be kept clear of any permanent obstructions including, but not limited to mechanical units.

20. A common party wall agreement shall be provided for all zero line units.

21. A condominium plat must be approved by Boise City and recorded with the Ada County Recorder prior to sale of any condominium units.

22. The applicant shall comply with the standards and conditions of the City of Boise Solid Waste Commercial and Multi-Family Centralized Trash Requirements.

23. Occupancy Permit will not be issued by the Boise City Building Department until all conditions of approval have been complied with. In the event a condition(s) cannot be met by the

desired date of occupancy, the Boise City Planning and Development Services Department Planning Director will determine whether the condition(s) is bondable or should be completed, and if determined to be bondable, a bond will be required in the amount of one hundred ten percent (110%) of the value of the condition(s) which are incomplete.

24. Vision Triangles as defined in Section 11-01-03 and Section 11-10-04.4G. of the Boise City Zoning Ordinance shall remain clear of all sight obstructions.

25. The applicant or his/her contractor shall obtain a right-of-way permit from the Ada County Highway District prior to any construction in the public right-of-way.

26. All private streets must be approved and constructed prior to the issuance of any Building Permit for this property.

27. All parking areas and driveways shall be paved, marked and provided with approved wheel restraints, and shall be designed and laid out to conform to the minimum standards required by the Boise City Zoning Ordinance.

28. Existing mature vegetation shall be retained wherever possible.

29. Street trees, as selected from the City Forester's list of approved trees, shall be provided. Each tree will be a minimum 2-inch caliper at time of planting.

30. A detailed landscaping plan shall be submitted to the Planning and Development Services Department Staff for review and approval prior to issuance of a Building Permit. Such plan shall indicate existing and proposed plant and landscaping materials, method of irrigation, quantities, locations, approximate size at maturity, and minimum size at time of planting and locations of existing trees to be removed.

31. All landscaping shall be maintained in a healthy and attractive condition and shall be irrigated by an appropriate underground irrigation system.

32. Development on the site shall not obstruct the flow of water through any irrigation ditches on or adjacent to the site. If any watercourse is to be altered, written approval shall be obtained from the appropriate agency.

33. Hook-up to wet line sewers shall be required prior to issuance of an Occupancy Permit.

34. A detailed grading and drainage plan shall be submitted for review and approval by the Ada County Highway District and Boise City Public Works Department before a Building Permit is issued.

35. This approval does not include approval of any signage. A separate Sign Permit will be required from the Boise City Planning and Development Services Department prior to installation of sign(s).

36. Exterior lighting fixtures must be designed and located so as to prevent glare or direct light from falling onto adjoining properties or streets.
37. Utility services shall be provided underground.
38. Trash receptacles, on-grade and roof-top mechanical and electrical equipment shall be screened from public view by use of an approved sight-obscuring fence and/or hedging.
39. All drainage and irrigation ditches, laterals or canals crossing, intersecting and lying adjacent or contiguous to the site shall be covered or fenced with a chain link fence at least four feet (4') high as required by Section 11-06-04.14(J) of the Boise City Code. (Required for multiple family dwelling(s), kindergarten, school, nursery or mobile home park uses. May be waived by the Commission if found the fence will not serve the public interests)
40. 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 the City of Boise. The burden shall be upon the applicant to obtain the written confirmation of any change and not upon the City of Boise.
41. 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 its successors in interest advises the City of its 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.
42. This conditional use shall be valid for a period not to exceed eighteen (18) months from the date of approval by the Planning and Zoning Commission. Within this period, the holder of the permit must:
 - a. Acquire construction permits and commence placement of permanent footings and structures on or in the ground. The definition of structures in this context shall include sewer lines, water lines, or building foundations; or
 - b. Commence the use permitted by the permits in accordance with the conditions of approval; or
 - c. For conceptual conditional use permits, submit an application for detailed conditional use permit; or
 - d. For projects, which require platting, the plat must be recorded within this period. The Commission may also fix the time or period within which the permit shall be completed, perfected or bonded. If the conditions of approval shall not be completed or bonded within such period, said permit shall lapse.

43. Any future division of these parcels into individual lots or parcels, for the purpose of selling the separate lots to individual owners, will be required to comply with all provisions of Boise City Code, Title 9, Chapter 20, including lot frontage on a public or approved private street, and all requirements for preliminary and final platting. Such a subdivision would also require a zone amendment and amendment of the development agreement adopted with the subject zone reclassification ordinance associated with CAR07-00042/DA.

44. Construction, use and property development shall be in conformance with all applicable requirements of the Boise City Code.

45. Upon written request by the holder, prior to expiration of this Conditional Use Permit, the Commission may grant a one-year time extension. A maximum of three (3) one-year time extensions may be granted to an unexpired permit. The Commission reserves the right to require additional conditions or modifications to the revised plans.

46. Failure to abide by any condition of this approval may be grounds for revocation by the Boise City Planning and Zoning Commission.

47. The Conditional Use Permit shall be completed within sixty (60) months of the Commission's approval or a new Conditional Use Permit shall be required.

Construction Practices

48. The practices required below are intended to mitigate the impact and disturbance of residential property owners during the construction of adjacent buildings or structures. The following conditions apply to all construction-related activities ranging from grading and demolition activities to final occupancy on any land or parcel falling under the proprietary ownership of the permit applicant.

- a) Prior to the issuance of a building permit and prior to the commencement of any construction on-site, an Erosion and Sediment Control (ESC) permit must be obtained from the Planning and Development Services Department. No grading, demolition or earth disturbing activities may start until an approved ESC permit and the associated site work or grading permits have been issued.
- b) Applicant shall submit and receive approval from Planning and Development Services and Ada County Highway District for a construction, transportation and parking plan. The plan shall also comply with all construction standards of Ada County Highway District to those streets contiguous to the construction site and surrounding neighborhood. The approved plan shall be posted at each street abutting the construction site and shall address the following:
 - Ingress/egress of construction equipment and trucks;
 - Hours of operation for the loading and unloading of construction equipment and materials;

- Truck access routes, to and from site, for excavation and construction phases;
 - Street closures (if any); and
 - Location of off street parking for construction workers.
- c) Measures shall be taken to manage construction debris and trash on the construction site and efforts shall also be made to provide reasonable controls to minimize fugitive dust on the construction site. Such measures may include, but are not limited to:
- Provide suitable containers for solid waste generated by construction activity;
 - Wet demolition of existing buildings;
 - Watering of driving surfaces and earth moving activities;
 - Installation of wind screening around property and each open floor above grade; and
 - Daily broom cleaning of above grade floors, adjacent streets and sidewalks.
- d) To reduce the noise impact of construction on nearby residential properties, all exterior construction activities shall be 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. for Saturday and Sunday. Low noise impact activities such as surveying, layout and weather protection may be performed at any time. After each floor of the structure or building is enclosed with exterior walls and windows, interior construction of the enclosed floors can be performed at any time.
- e) A minimum height of six foot (6') rigid security fencing, either wood or metal, shall be installed around the construction site within 30 days of the date when the first city permit is issued on projects where construction activity shall exceed 90 days.
- f) Exterior lighting and other illuminating equipment or materials shall be positioned, shielded, directed and located to not reflect or impact adjacent residential property and streets.
- g) Applicant shall comply with Boise City Fire Department requirements for water, access, and/or other requirements as determined by the Fire Marshal.
- h) Any conditions to be enforced during construction shall remain posted at each street abutting the construction site for the duration of the project. In addition to the posted conditions the permit holder shall also post an 11"x 17" laminated sign containing a project contact phone number, name of project contact and the Boise City contact number, 384-3845, to address issues as they arise. Failure to abide by any conditions set forth shall be grounds for revocation of Conditional Use Permit

and/or Building Permits and may be subject the owner or owner's agents to fines and criminal citations.

B.P.E. July 11, 2008

Appendix A
Density Bonus Formula

May 29, 2008

PROPOSED PLANO LANE SUBDIVISION FOOTHILLS AREA DENSITY BONUS CALCULATION			
SUMMARY			
PARAMETERS	OWNERSHIP	ACRES	FORMULA/SOURCE
1. Total Land in Slope Analysis:	Aase's Canyon LLC, Capital Development, Marie E. Casey, Kelly E. Troutner and Perry Harding		1. Application
TOTAL ACRES		332.8	1. Application
2. Total Buildable Land (Slopes less than 25 %:)			
Used (proposed development)		47.8	2. Application
Not used (Open Space Dedicated)		25.3	3. Application
*Aase's Onion fields (Open Space Dedicated)		81.9	4. Application
TOTAL ACRES		155.0	5. Sum
*See Zoning Code 11-06-05.07.04 Density Bonus			
Proposed developed land		47.8	2. Application
Percent of Buildable land to be developed		30.8%	2. Application / 5. Sum
Percent of Buildable land to be set aside in open space =		69.2%	100% - 30.8%
Density Bonus on remaining buildable land - in units/acre		2.99	+see calculations below
		UNITS	FORMULA
DENSITY BONUS - Based on analysis of plans SUBMITTED March 27, 2008, using a maximum of 47.78 acres of the 332.8 acres of slopes less than 25%, including the credit for the Aase's Onion fields, the density bonus value is =		143	47.8 ac. X 2.99 Units/ac. Density Bonus =
Base Density =		8	Base Density = Total Land-acres/40 u/acre
TOTAL POTENTIAL UNITS =		151	DENSITY BONUS + BASE DENSITY

Table 1 - Density Bonus Formula (Boise City Zoning Code 11-06-05.07.04, Page 17 of 51)					
Density Bonus Formula - Foot-hills Planned Development Ordinance					
PROPOSED PLANO LANE SUBDIVISION			Total acres =		332.75
Base Density = 1 unit per 40 acres			Base Units @ 1/40 =		8
PROPOSED PLANO LANE PROJECT TOTAL BUILT ACREAGE < 25% SLOPES =					47.8
Built Area	Open Space Dedicated Per Cent	Density Bonus Units /Acre	Buildable Area On 332.8 acres	# of Bonus Units	Potential Total Units
75%	25%	0.5	116.2	58	66
69%	31%	0.75	106.6	80	88
63%	38%	1	96.9	97	105
56%	44%	1.25	87.2	109	117
50%	50%	1.5	77.5	116	124
44%	56%	1.75	67.8	119	127
38%	63%	2.25	58.1	131	139
31%	69%	3	48.4	145	153
25%	75%	4	38.7	155	163

6

STAFF MEMORANDUM TO P & Z

Aug. 7th, July 20th, July 18th, 2008



Bruce D. Chatterton
Director

Boise City Hall
150 N. Capitol Boulevard

Mailing Address
P. O. Box 500
Boise, Idaho 83701-0500

Phone
208/384-3830

Fax
208/384-3814

TDD/TTY
800/377-3329

Web
www.cityofboise.org/pds

Mayor
David H. Bieter

City Council
President
Elaine Clegg

Council ProTem
David Eberle

Vernon L. Bisterfeldt
Maryanne Jordan
Alan W. Shealy
Jim Tibbs

Planning & Development Services

August 7, 2008

Memorandum

To: Boise City Planning and Zoning Commission

From: Bruce Eggleston, AICP Planner II

Subject: The Plano Road Subdivision proposal, results of the July 31st work session and the August 5th meeting with concerned parties about phasing of connecting roads and Parks facilities for cases CAR07-00042/DA, CUP07-00084, CFH07-00022 and SUB07-00065

The July 14, 2008 hearing on the above cases resulted in a work session held on July 31st and a hearing to be continued on August 11, 2008. This memorandum will address the issues that were discussed in the work session and directions that were given to staff at that time to explore phasing proposals and threatened plant and wildlife habitat.

At the work session The Commission directed staff to do the following:

- 1) Work with the applicant and the Briarhill Subdivision representative on the phasing for completion of the proposed Daylight Rim Drive to find the best solution to provide for public safety.
- 2) Consider the issues around phasing of the extension of Collister Drive to the Boise City Polecat Gulch Reserve and the installation of a parking lot and trailhead.
- 3) Solicit a review from Idaho Department of Fish and Game of the deer corridor map submitted by the applicant.
- 4) Work with applicant to expand the management program proposal for the onion conservancy.

These items are discussed in detail on the following pages.

Table of Contents

1) Phasing for completion of the proposed Daylight Rim Drive	2
2) Phasing of the extension of Collister Drive to City Polecat Gulch Reserve	2
3) Review from Idaho Department of Fish and Game of the deer corridor map	3
4) Management program proposal for the onion conservancy	4
Attachments	5
Exhibit 17 – Agenda for the August 5 meeting with applicant and Briarhill Sub. Rep.	5
Exhibit 18 – Letters from John Watts, Briarhill Subdivision representative	6
Exhibit 19 – Letter from Land Trust of the Treasure Valley 8/6/'08	11
Exhibit 20 – Correspondence from the Public since July 14, 2008	14
Exhibit 21 – Corrected zone change map	18
Exhibit 22 – Plano Road/Polecat Gulch Planned Development Vicinity Map	19

Topics for further discussion and testimony:

1. Work with the applicant and the Briarhill Subdivision representative on the phasing for completion of the proposed Daylight Rim Drive to find the best solution to provide for public safety.

Staff had a meeting on August 5th with the following: Applicants Representatives Ramon Yorgason, Chris Yorgason, Robert Burns; Hal Simmons, Planning Director; Bruce Eggleston, Planner II; Dave Selvage, Boise Parks and Recreation Department; Teresa Sobotka, City Attorney's Office; John Watts, Briarhill Subdivision Representative; Dave Hanneman, Boise City Fire Department; Terry Records, Public Works; Scott Spjute, Zoning Supervisor; the Honorable Charles McDevitt, Foothills Conservation Advisory Committee Chair.

The issues concern the timing of the proposed connecting road between Plano Lane and Collister Drive, the safety issues presented to the Briarhill Subdivision by additional traffic from the proposed subdivision and visitors to Polecat Gulch Reserve and the emergency services access to the proposed development were thoroughly discussed. More specifically we discussed the timing of the installation of a through road; the phasing of the development with finished segments of the road, the question of whether or not to put a gate on the unfinished road, and the timing of the final improvements to ACHD standards and recommendations.

There was a lot of discussion on the impacts on Collister Drive from new traffic generated by the proposed development and visitors to the Polecat Gulch Reserve. Mr. Watts presented his ideas on phasing the development to the west end of the proposal to delay the impacts on Collister Road as long as possible. He suggested that the access to Polecat Gulch Reserve should be from the area presently available on Cartwright Road. Parks stated that the Cartwright Road access is not adequate for the public. Parks is receiving great pressure from the public for a direct access to the Reserve as soon as possible. The Polecat Gulch Reserve is comprised of 240 acres of land adjacent to the proposed subdivision. There is an additional 360 acres of Idaho State land on three sides of that. The current access to the Reserve is through the State land, there is no direct access to it. The land was acquired through the Foothills Levy and donations from the previous owners, and the City would like to make this reserve accessible to the public as soon as possible.

The recommendations coming from the consensus of the participants are:

- a) stay with the ACHD recommendations to install the connecting road, Daylight Rim Drive at final plat of Phase 1 with paving, curb, gutter and sidewalk for the road with platted lots and a gravel surface built to Fire Department standards on the remainder;
- b) prior to a through road being completed, a gate would be installed near the middle of the connecting road and would be operated by remote OPTICOM mechanism for emergency services vehicles;
- c) maintain the number of allowed units at 53, as recommended by ACHD, before Daylight Rim Drive would be fully paved to the end of Collister Drive;

- d) the 53 units would be platted on the western end of the proposed subdivision taking access from Plano Road to provide a delay to increased traffic on Collister Drive;
- e) the proposed gate must be removed when the road is finished.

2. Consider the issues around phasing of the extension of Collister Drive to the Boise City Polecat Gulch Reserve and the installation of a parking lot and trailhead.

The issues of concern for the Polecat Gulch Reserve are: the dedication of the proposed right-of-way, the phasing of the installation of the road improvements, the phasing of the proposed improvements for the parking lot and trail facilities on Parks and Recreation land.

The Applicant and the Parks Department quickly agreed that the trail head should be established in an unfinished gravel form immediately. As stated above, Mr. Watts favored this opening remained closed for the time being with access solely from Cartwright Road. The discussion focused on the timing of the fully functioning trailhead, paved and with utilities. The details of this agreement have yet to be worked out. The applicant didn't want to be obligated to make improvements until the corresponding subdivision phases came to fruition. Parks timeline is to get access and improvements within the next two years, regardless of the fate of the proposed subdivision. Mr. Watts proposed that the trail head not be open for 7 or 8 years. The Parks Department felt that it was unrealistic and labor intensive to rely on temporary bathroom accommodations for that long of a time period. The discussion ended up un-resolved, but was focused on an offer to the Applicant from Parks to secure right-of-way to the Reserve at Phase 1 final plat, and a gravel road surface for the road and parking lot. The final paving and facilities would be done two years after the first final plat. The Applicant requested an additional year to provide the final paving and facilities. That is where the discussion ended in the meeting. The discussion is still continuing vis a vis Parks' note below.

The recommendations coming from the consensus of the participants are:

Boise City Parks and Recreation Department is still negotiating a proposal with the Applicant on the phasing of the access to Polecat Gulch Reserve, and the installation of a cul-de-sac, parking lot and trail head facilities. See Parks' comment below on the status of their discussion with the Applicant.

Status of Foothills Conservation Advisory Committee (FCAC) Negotiations With the Applicant: The FCAC and the Department of Parks & Recreation continue to seek access across the applicant's property in as timely a manner as possible. To that end, the FCAC continues to discuss with the applicant various options for accomplishing this goal. As of Thursday afternoon FCAC is awaiting a response to a proposal made to the applicant Thursday morning, following a review and approval of that proposal by FCAC at its monthly meeting Wednesday, August 6. FCAC and the Department will provide the Commission with an updated report, either orally or in writing, at its Monday meeting.

3. Solicit a review from Idaho Department of Fish and Game of the deer corridor map submitted by the applicant.

The applicant submitted a map showing potential wildlife corridors through the project as an aspect of the requirements for increased public value in return for the density bonus. The City and the applicant both requested a review of this exhibit from Idaho Department of Fish and Game at the first of this week. Fish and Game will try to provide a response prior to the hearing on August 11th.

There is no recommendation yet on this aspect of the proposal.

4. Work with applicant to expand the management program proposal for the onion conservancy.

Staff received a revised management program from The Land Trust of Treasure Valley today. It is attached as Exhibit 18. The revised plan brings in additional material on potential threats to the species, funding for the long-term management of the conservancy and monitoring of the fields and plants.

Staff recommends that the present proposal should undergo refinement in the areas of integration with the fire safety plan for the development, the methodology for both pre- and post-construction protection of the species, and thresholds and responsibilities for the monitoring. The contract with the applicant will have to be provided prior to the adoption of the zone change and the development agreement. This would include a legal description of the conservation area, and a description of the ownership and control of the land. As part of the development agreement, the program must be complete at the time of adoption.

Other items:

The minutes for the July 14, 2008 hearing are being sent out today in a separate file.
The minutes for the July 31, 2008 work session will be sent out Friday August 8th.

Attached is a corrected zone change map, Exhibit 20, from the applicant. The map in the packet for July 11, 2008 was erroneous in the proposed zone for the land south of Collister Drive.



Bruce D. Chatterton
Director

Boise City Hall
150 N. Capitol Boulevard

Mailing Address
P. O. Box 500
Boise, Idaho 83701-0500

Phone
208/384-3830

Fax
208/384-3814

TDD/TTY
800/377-3329

Web
www.cityofboise.org/pds

Mayor
David H. Bieter

City Council

President
Elaine Clegg

Council ProTem
David Eberle

Vernon L. Bisterfeldt
Maryanne Jordan
Alan W. Shealy
Jim Tibbs

Planning & Development Services

August 4, 2008

Memorandum

To: The Applicants for the proposed Plano Road Subdivision, Hal Simmons, Planning Director, Dave Selvage, Boise Parks and Recreation Department, Teresa Sobotka, City Attorney's Office, John Watts, Dave Hanneman, Boise City Fire Department, Terry Records, Public Works, Scott Spjute, Zoning Supervisor

From: Bruce Eggleston, AICP Planner II

Subject: Meeting on phasing of connecting roads and Parks facilities for the proposed Plano Road Subdivision, CAR07-00042/DA

The Boise Planning and Zoning Commission requested at their work session on the above case July 31st that staff and the applicant work out a phasing plan for the proposed connection of Daylight Rim Drive.

The issues of concern are:

- 1) The timing of the installation of a through road,
- 2) The phasing of the finished segments of the road,
- 3) The question of whether or not to put a gate on the unfinished road, and
- 4) The timing of the final improvements to ACHD standards and recommendations.

We must also arrive at a recommendation for the extension of upper Collister Drive to the Boise City Parks Polecat Gulch Reserve, the dedication by the City of land for a right-of-way cul-de-sac, and the installation of the proposed parking lot and trail facilities on the Park land.

The issues of concern for the Polecat Gulch Reserve are:

- 5) The dedication of the proposed right-of-way,
- 6) The phasing of the installation of the road improvements,
- 7) The phasing of the proposed improvements for the parking lot and trail facilities on Parks and Recreation land.

From: "John Watts" <john@veritasadvisor.com>
To: "BRUCE EGGLESTON" <Beggleston@cityofboise.org>, <hsimmons@cityofboise.or...>
CC: <citycouncil@cityofboise.org>, <tbasin@mbelaw.net>, <qabarker@dds.state...>
Date: 8/5/2008 2:39 PM

August 5, 2008

Good afternoon Ms. Sobotka, Mr. Eggleston and Mr. Simmons:

Thank you for allowing me to join the meeting yesterday. I and my Briarhill neighbors appreciate the chance to remain involved and be part of the dialogue. I will offer however, I was disappointed the meeting was not as productive as I had envisioned going in, albeit was interesting.

My personal impression is that the meeting was conducted and treated as a pure negotiation of numbers with lines being drawn in the sand just for position sake. For example, numbers such as if and when to build a secondary access road between north Collister and Plano subdivision (80 lots, 0 lots, 53 lots, now 45 lots as suggested by the city yesterday, 36 lots or 17 lots, or, frankly, if at all), and when during the development should the developer should be required as a condition of development to build a bicycle parking lot, for example, immediately, 18 months, 3 years, 5 years or 7 years.

To me, the almost immediate move to a number negotiation approach lead to a discussion for negotiation and resolution sake, not for a discussion leading to consideration (and ideally resolution) of conflicting ordinances surrounding public safety, excessive traffic conditions onto "downstream" roads, private property rights and bicycle trespass, and the desire for the city leaders to build its city in a coherent organized manner. Parties at the meeting seemed to strain at times for some objective or analytical logic or rationale reflecting city ordinances and driving decisions toward solid timing and development of the bicycle parking lot and emergency road construction. Clearly this development and the attended decisions have conflicting ordinances governing roads and public safety, property rights and trespass. These values really should be worked through yet before any decision is rendered.

In my mind, and in the mind of my Briarhill neighbors, anything we can do for daily public safety is paramount as we live currently on a substandard, 6% slopped road with street-side parking on both sides, the presence of children in the street, and a storm gutter down the middle. These conditions and the application of permanent meaningful public safety for 75 existing families should be measured in light of conflicting current ordinances calling for no negative impact to existing neighborhoods from new developments, traffic may have to be inconvenienced, need for secondary roads, requirements for sprinkled houses, adequacy of emergency roads to fulfill a public safety mission, phasing of development for some form of mitigation to all of the aforementioned, and the construction of a parking lot adding heretofore unaccounted for traffic trips.

Briarhill residents have worked hard, for as citizens without any staff or paid help or government employee to aid in research or analysis, we

have tried to be thoughtful, measured, objective and honest, and we have tried to be constructively helpful to find solutions. Thus far, we have found that our ideas continue to be overshadowed for mere expeditiousness of this proposed development and needs of a city proper today versus the needs or requests of citizens that constitute the city government genesis. Perhaps we should slow down and examine carefully the above outstanding issues. The decision rendered will last a lifetime and its impact will not go away, ever, even when a new development proposal comes along to turn our attention.

Significantly, a P&Z and City Council nearly twenty years ago prioritized Briarhill's public safety over more housing lots atop north Collister (that would have generated additional traffic) and a connection road or extension of north Collister Drive up to Quail Ridge. That was their ruling and I would hope it serves as a precedent at some level to draw upon today. To your peers before you, it was a safe and prudent action to take.

Today, except for drainage culverts scattered down the center-road gutter on north Collister, the pavement conditions, housing density, traffic volume, parking arrangements and deteriorated condition of the road remains the same, nothing has been done to the road, but, yet, somehow, it seems okay today to connect this substandard road to a different ridge top development; a connectivity our neighborhood has collectively and publicly opposed via petitions, in letters to the editor, and in public ACHD and P&Z meetings via testimony.

Furthermore, the voting and tax paying residents of Briarhill are being forced to accept traffic from a foothills bicycle park that the developer is required to construct because the city Parks Department can't or won't wait until they "save" enough money to build this amenity for people that ride bicycles in the dirt. A parking lot exists on Cartwright today for egress and ingress to the foothills park and seems to be working fine serving to keep excessive traffic removed from Collister. That Cartwright access seems quite sufficient for the foreseeable future. A few years ago Briarhill residents publicly asked the Foothills Advisory Committee that this parking lot be located only on Cartwright road. We were told that would be the case until the city parks department could save the money for a structure near where a ranch house now stands and that we could be part for the review of the plan. To date we have not been included in any detail of the parking lot plan except as set out in the development proposal. Certainly, the city leaders and parks and department can wait, save their money and attain a better, clearer sense of utilization and potential traffic impact from this city park upon north Collister and the residents of Briarhill just to accommodate a closer-in vehicle driving convenience for people that ride bicycles in the dirt.

All this said, what too is to become of north Collister's cramped conditions when the horse riders drive their (more than likely) dual wheel, extended cab, 4x4 pickups dragging a 4-6 capacity horse trailer through our neighborhood to the two parking lot spots for trucks and horse trailers designated in the plan? A constant, steep, 6% downhill grade with the weight of multiple horses and large steel pickups and horse trailers competing with little children on or near the street is not a good scenario.

Lastly, neighbors have taken their time and personal resources to drive the length of the north foothills and found that from Highway-55 to Bogus Basin park there are virtually no north-south gulch to ridge-top

connections, virtually none; but there is precedent of two existing locked and gated emergency roads to ridge top developments, Quail Ridge and Bison (?) Ridge (end of Quail Hollow Drive) providing the fire department with appropriate alternative emergency access.

We appreciate the difficult job you and the P&Z commissioners have, and respect the public service you provide to our community, but a meeting to negotiate numbers for numbe4rs sake without reliance upon current city ordinance and efforts to resolve policy conflicts are frustrating. We can all do better.... Boise can do better.

Thank you,

jw

From: "John Watts" <john@veritasadvisor.com>
To: "BRUCE EGGLESTON" <Beggleston@cityofboise.org>, <TSobotka@cityofboise.or...
CC: <bwilson@ch2m.com>, <citycouncil@cityofboise.org>, <tbasin@mbelaw.net>,...
Date: 8/6/2008 1:15 PM
Subject: phasing plan and park development

Aug 6, 2008

Good afternoon P&Z associates,

Thank you again for taking time to consider my views and inviting me to the meeting the other day. It was illustrative.

Regarding the phasing plan which we didn't discuss in detail, I believe it is worth mentioning again because it has direct bearing on the stages and timing of park development, emergency access and impact to the existing neighborhood.

I recently heard that Mr. McDevitt is presenting (or presented this morning) to the Parks Board a Jorgenson/McDevitt bi-laterally negotiated/discussed proposal to build the park a permanent completed condition at either the 23rd lot on top, or after 3 years from the sale of the first lot, or upon the first lot at the end of Collister. I wish I could have been included in this discussion as a follow-up to our Monday meeting. I'm not sure what happened or how it took place but does impact directly the immediately adjacent Briarhill neighborhood.

I don't believe the "development milestones" from the Tuesday discussion were so clearly enumerated at the meeting I attended Monday, but rather it was more a negotiation of 18 months vs. 5 years vs. 7 years, then maybe 2 years, etc.

Certainly, I wish and respectfully request again P&Z leaders give consideration to the proposed development phasing plan offered by Briarhill. It addresses multiple components and has support of the applicant. Please indulge me to present the detail in full here so that it is a least in everyone's hands from this point forward.

If we utilize the proposed new phasing plan it becomes easier to tie certain secondary triggers to the primary development.

1. Build original Phases 1,3,5; then review need or take action on a gravel emergency road - functional analysis to determine if all or what portion of residential and construction traffic would utilize the brand new up-to-code and constructed egress/ingress from Hill to Plano and the suitability of the main entrance to serve the development for the next short interim period. Phases 1,3,5 would yield 53 lots, less than the 80 houses ACHD sets as their standards for 1,000 vehicle trips triggering a dual access. 80 lots is a quantifiable and accepted measurement ACHD uses to determine impact via vehicle trips per day and triggers decisions about dual access. (year 1)
2. Then proceed with phase #14; given market conditions and the reality there may still be a glut of houses available and no one is interested yet in very large, very expensive houses on a hill (54 lots total) (year 2)
3. Then phases 7-8 (+18 lots totaling 72 lots); this reaches the

mid-point of the development and a more measured discussion can take place about traffic flow, traffic direction, bicycle park utilization (using the Cartwright access point), emergency access, down road impact, and Hill road traffic signaling considerations. (Year 3)

4. Then phase 15 (1 lot and total of 73 lots); this respects/acknowledges again market conditions (see same rationale for phase 14 above) (year 4)

5. Then phases 9-10 (24 lots totaling 97 lots) which puts the development well onto the back of the hill and emergency roads remaining as gravel or converted to pavement makes functional sense as the distance to Hill road becomes functionally shorter using north Collister.

6. Then phase 11, again see # 2 and #4 above (total 98 lots) (year 6)

7. Then phases 2 and 12. This triggers the bicycle park parking lot by the contractor if the city hasn't saved the funding for its own development timeline, and adds 20 more lots for a total of 131 lots. (year 7)

I hope you do not feel this is a selfish proposal. I believe it recognizes construction costs to the applicant, public safety needs of Briarhill residents, emergency needs for city/ACHD control of road maintenance/city policing/city fire costs associated with any secondary road until all parties are satisfied it is needed and useful, recognizes functional drive time needs of eventual Plano subdivision residents, creates a modern up-to-code entrance onto Hill from Plano for the new residents, accepts the reality that north Collister will not be upgraded and new subdivision and bicycle park traffic impact onto north Collister can be measured to see if the original ACHD decision is worthy of a reconsideration, and acknowledges the slow economy and checks us all from not getting too far out in front of the reality of the market needs so that if a default may occur Boise isn't left forever with a legacy of foothills cuts and skyline ridge contours leaving a scarred up mountain side, altered ridge lines and partially disrupted onion.

I think it contains many win-win components and invite again to consider it; you may gain many new allies.

Thank you for taking the time to review and consider this. I hope that if any more discussions are had about the park or the road we have a chance to be involved. I look forward to your discussions and deliberations at the August 11 meeting.

Good luck and thank you

jw



Conserving natural, scenic, recreation and farm lands in the Treasure Valley.

August 5, 2008

Bruce Eggleston
Boise City Planning and Zoning
150 N. Capital Blvd.
Boise, Id 83702

RE: Plano Road – CAR07-00042/DA

Dear Bruce:

The Land Trust of the Treasure Valley has been asked by the applicants of Plano Road Subdivision to assist in creating and implementing a conservation strategy for the protection of the rare and sensitive plant species, Aasae's onion. This letter will outline the general approach with further detail, as desired by the Planning and Zoning Commissioners.

The Land Trust will be granted a conservation easement over the rare plant areas. The terms of the easement will include a monitoring requirement, permitted and restricted uses and other items that will be detailed in an associated management plan referenced below. The land will be owned in fee by the HOA or others. The Land Trust will provide a report to the city annually in the first five years and bi annually thereafter, or as determined necessary by Boise City.

In the Land Trust's letter of December 3, 2007 a framework for development of a rare plant management agreement was presented. To assist Boise City staff and decision makers, the applicants and the Land Trust have agreed to develop the details of this management plan and proposed funding structure to be included in a packet of information for Boise City Council consideration.

The components of the management plan will include:

Threats

- A draft of possible threats is listed below. This information is a rough draft and is in discussion stages with US Fish and Wildlife Service, Boise City and Ada County. This is not considered a final version. The plan will focus on those threats that relate to the Collister site.

	<i>Threat</i>
1	Habitat loss and fragmentation
	- land conversion for agricultural and urban/commercial development
	- landfill development
2	Habitat degradation/disturbance
	- nonnative weed species invasion
	- wildfire - major contributor to habitat degradation/non-native weed species invasion

	<i>Threat</i>
	- livestock use – historical and ongoing
	- motorized recreation
	- non-motorized recreation
	- trail/road construction and maintenance
	- off trail use and recreation
	- soil/habitat disturbance
	- powerline construction and maintenance
3	Mining
4	Seeding non-native plant species
5	Existing regulatory mechanisms
6	Hybridization
7	Data gaps
8	Public/agency awareness of species of conservation of concern
9	Over utilization for commercial, recreational, scientific, or educational purposes
10	Herbicide and pesticide application
11	Herbivory
12	Drought
13	Climate change
14	Military training/operations

Pre-Construction protection:

- A pre-construction education effort will be created to guide initial grading activities.
- It is anticipated that the Land Trust will work closely with Boise City and the applicants or their successors during the initial site preparation and grading.

Post-Construction protection:

- A post-construction education effort for homeowners and neighbors will be developed.
- The education effort will be closely linked to the Homeowners Association and will be designed as an environmental education effort.

Monitoring:

- Monitoring protocol will be created to include a site visit and report each year for the first five years and bi-annually thereafter. This report will be provided to the Homeowners Association and Boise City.
- The monitoring will include the establishment of a minimum of 2 transects that will measure the ecological integrity of the onion conservancy area.
- The Land Trust reserves the right to conduct additional research on the conservancy site to further information about the rare plant.

Enforcement:

- An enforcement/ compliance process will be established to assure corrective actions are taken in the event of non-compliance.

Transplanting.

- The potential will be explored for transplanting the small amount of rare plants that will be disturbed during initial construction. Success cannot be guaranteed, but the feasibility of such action will be reviewed and considered.

Funding Mechanism:

- A real estate transfer fee will pay for monitoring and protection of the plants.
- This real estate transfer fee will be assessed at ¼% of the value of the lot and home.
- This fee will apply in perpetuity and will be assessed each time a property is sold and is paid by the buyer at closing.
- The fee will be established in the Conditions, Covenants and Restrictions and referenced in the Conservation Easement Document and recorded, assuring its perpetual nature.
- The funds will be held by the Land Trust of the Treasure Valley in a restricted account and used for monitoring and stewardship of the rare plant conservancy area.
- A method of funding monitoring of the initial site preparation in advance of home sales will be identified, as it will take time to build the monitoring fund.

Institutionalizing the Conservation Plan:

- The necessary documentation to assure protection of the plant in perpetuity will include the Development Agreement, the Conservation Plan, the Conservation Easement and the Conditions, Covenants and Restrictions.
- These documents will need to be developed in harmony to assure there are no conflicting statements.

It is anticipated that this Conservation Plan will be reviewed by staff prior to its submittal to City Council. In addition, the Land Trust will use the proposed Conservation Agreement being created by federal, state and local agencies as a guide, when it is completed.

We look forward to working with the applicants and Boise City staff to create a program that will be successful in assuring long term protection of this sensitive plant species.

Thank you.

Kind regards,



Tim M. Breuer

Cc: Kerry Winn, Stewart Land Group

From: Mark Fogarty <mark_fgty@hotmail.com>
To: BRUCE EGGLESTON <beggleston@cityofboise.org>
Date: 7/21/2008 8:07 PM
Subject: RE: Work session topics for the July 31, 2008 on the Plano RoadSubdivision proposal,

We are so screwed.....Thanks politicians> Date: Fri, 18 Jul 2008 12:05:36 -0600> From: Beggleston@cityofboise.org> To: miltc62@aol.com; sbacon@boisestate.edu; keslers@cableone.net; lowellandbarbara@cableone.net; dyorgason@cableone.net; fbsmithiv@cableone.net; jenstevens@cableone.net; johndifford@cableone.net; ryorgason@cableone.net; bwilson@ch2m.com; butterfly@clearwire.net; president@collistercna.org; ebrennan@ddrs.net; brian@ekcconstruction.com; jefftucker@gmail.com; trick.walker@gmail.com; janelbrown12@hotmail.com; mark_fgty@hotmail.com; run_1@hotmail.com; kevin.mcintyre@hp.com; rward@idfg.idaho.gov; tbreuer@lttv.org; boisebook@mac.com; lauren.mclean@mac.com; tbaskin@mbelow.net; dougc@mckibbencooper.com; mdwa@micron.net; rbb@moffatt.com; dghiger@msn.com; GeneWortham@msn.com; justingwortham@msn.com; middleton11@msn.com; mkclawson@msn.com; gene.fadness@puc.idaho.gov; parkerb@pwnpcpa.com; ganne_barker@q.com; jimmy@steelhead.com; kwinn@stewartlandgroup.com; doug@thelandgroupinc.com; katie@tvlitho.com; john@veritasadvisor.com; chucklink@worldnet.att.net; jnclocke@yahoo.com; joanie4c@yahoo.com; karenlynnfox@yahoo.com; pattiraino@yahoo.com; pijcourtright@yahoo.com> CC: woody@azimutheng.com; Cynthia.Sewell.-csewell@idahostatesman.com; JWright@stewartlandgroup.com> Subject: Work session topics for the July 31, 2008 on the Plano Road Subdivision proposal,> > July 18, 2008> > Memorandum> > > To: Boise City Planning and Zoning Commission Hearing> > From: Bruce Eggleston, Planner II> > Subject: Work session topics for the July 31, 2008 meeting on the Plano Road Subdivision proposal, CAR07-00042/DA, CUP07-00084, CFH07-00022 and SUB07-00065 > > > At the July 14, 2008 hearing on the Plano Road Subdivision applications the Commission scheduled a work session to gather more information about the requests. A second hearing date was set for August 11, 2008 in the Le Bois Room on the Third Floor of City Hall. It was noted that the hearing will be open on new topics and evidence resulting from the work session. > > The July 31, 2008 work session on the above applications will be held at 6:00 p.m. in the Bonneville Room on the Third Floor of City Hall.> > Bruce Eggleston, AICP> Boise Planning and Development Services Department> >

Time for vacation? WIN what you need- enter now!
http://www.gowindowslive.com/summergiveaway/?ocid=tag_jlyhm

From: "Gene Wortham" <GeneWortham@msn.com>
To: "Milt Coffman" <miltc62@aol.com>, <sbacon@boisestate.edu>, <keslers@cabe...
CC: <woody@azimutheng.com>, <Cynthia.Sewell-.csewell@idahostatesman.com>, "...
Date: 7/25/2008 1:24 PM
Subject: Re: Work session topics for the July 31, 2008 on the Plano RoadSubdivision proposal,

Bruce, I was talking to a major earth moving contractor in the Boise area. The biggest job he said in their history for excavation was the new land fill. He said there was 3.2 million cy of excavation.

This development being proposed has 2 million cy of excavation. With this much excavation being planned, no doubt the hill tops and ridgeline will be reduced drastically in height. This is where the majority of the excavation will come from as the hillside cuts for the roads will not require this quantity.

Please review this plan closely as this is a MAJOR EARTH MOVING operation and will change the topography as it now exists.

Thank you,

Gene Wortham

----- Original Message -----

From: BRUCE EGGLESTON<mailto:Beggleston@cityofboise.org>
To: Milt Coffman<mailto:miltc62@aol.com>; sbacon@boisestate.edu<mailto:sbacon@boisestate.edu>; keslers@cabelone.net<mailto:keslers@cabelone.net>; lowellandbarbara@cabelone.net<mailto:lowellandbarbara@cabelone.net>; Dave Yorgason<mailto:dyorgason@cableone.net>; fbsmithiv@cableone.net<mailto:fbsmithiv@cableone.net>; Jennifer Stevens<mailto:jenstevens@cableone.net>; John E. Clifford<mailto:johnclifford@cableone.net>; Ramon Yorgason<mailto:ryorgason@cableone.net>; Brandy Wilson<mailto:bwilson@ch2m.com>; Nancy Brennan<mailto:butterfly@clearwire.net>; Julie Klocke<mailto:president@collistercna.org>; Erin Brennan<mailto:ebrennan@ddrs.net>; Brian Ellsworth<mailto:brian@ekconstruction.com>; Jeff Tucker<mailto:jefftucker@gmail.com>; Julia Wright<mailto:trick.walker@gmail.com>; Janel Brown<mailto:janelbrown12@hotmail.com>; Mark Fogarty<mailto:mark_fgty@hotmail.com>; run_1@hotmail.com<mailto:run_1@hotmail.com>; Kevin MCintyre<mailto:kevin.mcintyre@hp.com>; Rick Ward<mailto:rward@idfg.idaho.gov>; tbreuer@ltv.org<mailto:tbreuer@ltv.org>; Ethel Ficks<mailto:boisebook@mac.com>; Lauren McLean<mailto:lauren.mclean@mac.com>; Tom Baskin<mailto:tbaskin@mbelaw.net>; Doug Cooper<mailto:dougco@mckibbencooper.com>; Mike Wardle<mailto:mdwa@micron.net>; Robert Burns<mailto:rbb@moffatt.com>; Dale Higher<mailto:dghiger@msn.com>; Gene Wortham<mailto:GeneWortham@msn.com>; JUSTIN WORTHAM<mailto:justingwortham@msn.com>; Stacy Beeson<mailto:middleton11@msn.com>; Sharon Clawson<mailto:mclawson@msn.com>; Gene Fadness<mailto:gene.fadness@puc.idaho.gov>; Bruce Parker<mailto:parkerb@pwnpcpa.com>; Anne Barker<mailto:ganne_barker@q.com>; Jimmy Smith<mailto:jimmy@steelhead.com>; Kerry Winn<mailto:kwinn@stewartlandgroup.com>; Douglas Russell<mailto:doug@thelandgroupinc.com>; Katie Watts<mailto:katie@tvliho.com>; John Watts<mailto:john@veritasadvisor.com>; Chuck Link<mailto:chucklink@worldnet.att.net>; Julie Klocke<mailto:jnclocke@yahoo.com>; Joanie Fauci<mailto:joanie4c@yahoo.com>; Karen Knudtsen<mailto:karenlynnnefox@yahoo.com>; Patti Raino<mailto:pattiraino@yahoo.com>; pijcourtright@yahoo.com<mailto:pijcourtright@yahoo.com>
Cc: woody@azimutheng.com<mailto:woody@azimutheng.com>; Cynthia.Sewell-.csewell@idahostatesman.com<mailto:Cynthia.Sewell-.csewell@idahostatesman.com>; Josh Wright<mailto:JWright@stewartlandgroup.com>
Sent: Friday, July 18, 2008 12:05 PM
Subject: Work session topics for the July 31, 2008 on the Plano RoadSubdivision proposal,

July 18, 2008

Memorandum

To: Boise City Planning and Zoning Commission Hearing

From: Bruce Eggleston, Planner II

Subject: Work session topics for the July 31, 2008 meeting on the Plano Road Subdivision proposal, CAR07-00042/DA, CUP07-00084, CFH07-00022 and SUB07-00065

At the July 14, 2008 hearing on the Plano Road Subdivision applications the Commission scheduled a work session to gather more information about the requests. A second hearing date was set for August 11, 2008 in the Le Bois Room on the Third Floor of City Hall. It was noted that the hearing will be open on new topics and evidence resulting from the work session.

The July 31, 2008 work session on the above applications will be held at 6:00 p.m. in the Bonneville Room on the Third Floor of City Hall.

Bruce Eggleston, AICP
 Boise Planning and Development Services Department

From: TERRY RECORDS
To: EGGLESTON, BRUCE
Date: 7/25/2008 10:55 AM
Subject: Plano

Bruce,

I would like to respond to a the issues raised the Planning and Zoning commission that are engineering related.

Question. Are alternatives to building on the ridgetops?

Answer. The areas where houses can be located is severely restricted by the prohibition on building on slopes that are currently steeper than 25% This leaves only the very narrow corridors along the tops of the ridges and along the valley floors. If this prohibition were relaxed there would be a much larger area where houses could potentially be located so that the visibility from the valley below could be reduced.

Q. Is there going to be an impact on the downstream wells?

A. The report by SPF Water Engineering looked at the impact of the proposed retention basins on the down gradient wells along Plano Lane. It concluded that the wells are adequately protected by a thick clay layer and a relatively thick unsaturated zone that will provide filtration and or adsorption of suspended solids and dissolved materials. Further the report indicates that well contamination is much more likely to be caused by surface activities and septic drainfields in the immediate vicinity of the wells.

Q. Can homes be placed in the area of the sand pit?

A. Yes. Any grading that is done on the site will be engineered and will be able to support roads and structures.

From: <Doger14@aol.com>
To: <Beggleston@cityofboise.org>, <PNilsson@cityofboise.org>
CC: <Doger14@aol.com>
Date: 8/6/2008 8:00 PM
Subject: Re: Plano Road Subdivision application

In a message dated 8/6/2008 11:53:44 A.M. Mountain Daylight Time, Beggleston@cityofboise.org writes:

Dear Don,

I would be glad to talk to you about the proposed subdivision and the downstream impacts that might ensue.

Please contact at 384-3839, or e-mail me.

Thanks,

Bruce

Bruce,

Would it be reasonable to say that the language in the Foothills Policy Plan (FPP) and the Foothills Planned Development Ordinance (FPDO) are encouraging the development in the Western Foothills partially because of the available traffic capacities downstream from that particular area.?

If so, that would mean that the traffic generated from these developments should be encouraged, through intersection design measures, to continue South through the Hill Road intersections to the major arterial State Street, NOT East towards the North End streets that are already beyond capacity. It is Boise City's responsibility when approving these developments to recognize this fact and include designs for these intersections as a condition of approval.

From reading the staff report, I know that you understand the purpose and intent of the FPP and FPDO. Based on the public input provided for these two plans, a decision was made to allow/promote foothills development in the western foothills. These applications come to you years in advance of these type of public hearings. City staff has worked hard with the developer to come up with the best application that fits the intent of the plans.

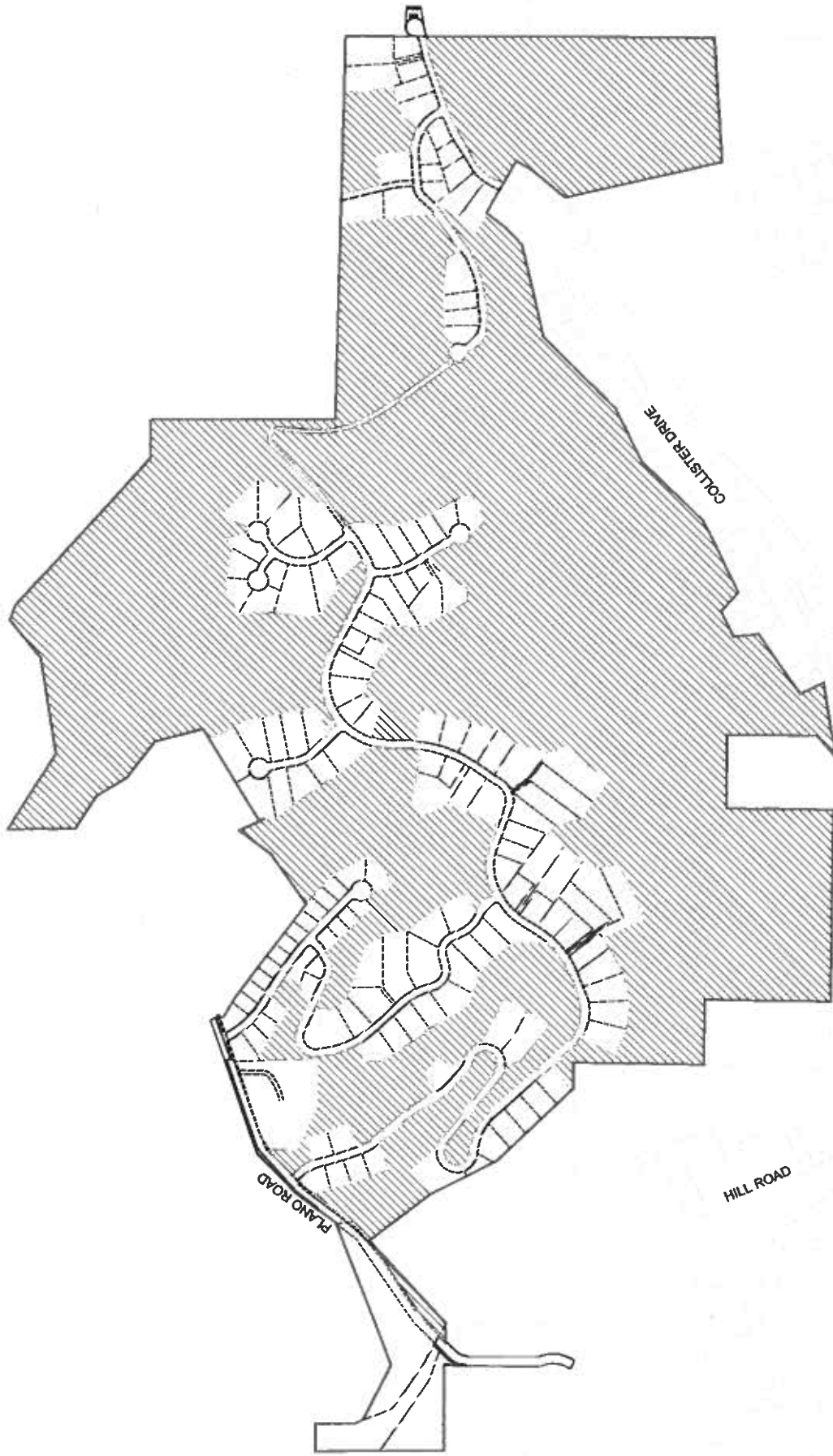
It is also your responsibility to address the capacity issues and the reason given to allow these developments. There is capacity downstream from this development, but only directly south and not to the east. I don't see this addressed in the staff report. If staff is to recommend approval, staff should write a condition of approval that would say that Boise City recognizes the downstream traffic impacts of these western foothills developments and we will do everything in our power to keep the traffic on the roads that have the capacity.

I would be happy to talk more about this by phone or e-mail.

Regards,

Don Plum
1221 N. 15th
Boise, Id
doger14@aol.com (mailto:doger14@aol.com)
631-6036

*****Looking for a car that's sporty, fun and fits in your budget?
Read reviews on AOL Autos.
(<http://autos.aol.com/cars-BMW-128-2008/expert-review?ncid=aolaut00050000000017>)



LEGEND		SHEET NO.
ZONE - R-1A	ZONE - A-1	1
Concealment	Property Boundary	OF
Adm. Parcels		1

BOISE FOOTHILLS ZONING MAP			
DATE CREATED	DATE MODIFIED	PRINT DATE	
07/19/2006	7/28/2008	7/28/2008	

Stewart
Land Group

AN AMTEC DEVELOPMENT SERVICES COMPANY

REAL ESTATE SERVICES
9999 So. Union Park Ave #300 Meridian, UT 83447
phone: (801) 253-4128 fax: (801) 253-9187

Plano Road Planned Development Application Vicinity and Zoning

May 29, '07

Idaho State Dept. of Lands

Boise City

Boise City Polecat Gulch Reserve

Boise City

RP

Application Area and Zoning

Zoning

Plano Road Proposed PUD Parcels

Ada County Parcels Outline



0 125 250 500 750 1,000 ft

Created by Boise Planning and Development Services Department
May 20, 2008

PIERCE PARK RD.

RP

RP

R6

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

A-1

R-1C

R-1A

OUTLOOK

HILLSIDE

HILL

R-1C

R-1B

R-2

RP

RP

RP

RP

RP

RP

RP

RP

RP

RP

RP

RP

RP

RP

RP



Bruce D. Chatterton
Director

Boise City Hall
150 N. Capitol Boulevard

Mailing Address
P.O. Box 500
Boise, Idaho 83701-0500

Phone
208/384-3830

Fax
208/384-3814

TDD/TTY
800/377-3529

Web
www.cityofboise.org/pds

Mayor
David H. Bieter

City Council
President
Elaine Clegg

Council ProTem
David Eberle

Vernon L. Bisterfeldt
Maryanne Jordan
Alan W. Shealy
Jim Tibbs

Planning & Development Services

July 30, 2008

Memorandum

To: Boise City Planning and Zoning Commission

From: Bruce Eggleston, AICP, Planner II

Subject: Work session report for the July 31, 2008 meeting on the Plano Road Subdivision proposal, CAR07-00042/DA, CUP07-00084, CFH07-00022 and SUB07-00065

The July 14, 2008 hearing on the above cases resulted in a work session scheduled for July 31st and a hearing to be continued on August 11, 2008. The attached report is comprised of questions that arose at the hearing and the staff's responses and the applicant's responses to those questions.

Table of Contents	
Density	2
Design and Grading	12
Environmental Issues	17
Traffic and Roads	18
Comprehensive Plan Policies and Zoning Ordinances	20
Attachments	21
Exhibit 1 - "Boise Foothills Concept Plan"	21
Exhibit 2 - Applicant's Responses To Plano Road Subdivision Proposal Work Session Topics	22
Exhibit 3 - Plano Road Planned Development Application, Zoning, May 29, '07	33
Exhibit 4 - Plano Road Proposal - Building Envelope Placement Within Buildable Area & Plano Land Subdivision Maps C2.0 through C2.5	34
Exhibit 5 - Proposed Mule Deer Daily Movement Corridors, June 6, 2008	42
Exhibit 6 - Foothills Policy Plan and Ordinance Review	43
Exhibit 7 - ACHD Letter to Boise Planning and Zoning Commission dated July 30, 2008	47

Plano Road Subdivision Proposal Work Session Topics

Density

1. Show how the density bonus was calculated and how base density was calculated. The following tables show how the density bonus was calculated. The acreages come from a GIS map file dated March 25, 2008. The same data is portrayed on the attached exhibit "Boise Foothills Concept Plan" dated 6/26/2008.

May 29, 2008

PROPOSED PLANO LANE SUBDIVISION FOOTHILLS AREA DENSITY BONUS CALCULATION			
SUMMARY			
PARAMETERS	OWNERSHIP	ACRES	FORMULA/SOURCE
1. Total Land in Slope Analysis:	Aase's Canyon LLC, Capital Development, Marie E. Casey, Kelly E. Troutner and Perry Harding		1. Application
TOTAL ACRES		332.8	1. Application
2. Total Buildable Land (Slopes less than 25 %:)			
Used (proposed development)		47.8	2. Application
Not used (Open Space Dedicated)		25.3	3. Application
*Aase's Onion fields (Open Space Dedicated)		81.9	4. Application
TOTAL ACRES		155.0	5. Sum
*See Zoning Code 11-06-05.07.04 Density Bonus			
Proposed developed land		47.8	2. Application
Percent of Buildable land to be developed		30.8%	2. Application / 5. Sum
Percent of Buildable land to be set aside in open space =		69.2%	100% - 30.8%

Density Bonus on remaining buildable land - in units/acre		2.99	+see calculations below
		UNITS	FORMULA
DENSITY BONUS - Based on implementation of Plan SUBMITTED March 27, 2008, using a maximum of 47.78 acres of the 332.8 acres of slopes less than 25%, including the credit for the Aase's Onion fields, the density bonus value is =		143	47.8 ac. X 2.99 Units/ac. Density Bonus =
Base Density =		8	Base Density = Total Land-acres/40 u/acre
TOTAL POTENTIAL UNITS =		151	DENSITY BONUS + BASE DENSITY

FOOTHILLS AREA DENSITY BONUS CALCULATIONS

+Find y, Units per acre multiplier, given the percentage of set-aside buildable land below		FORMULA
% of Set-aside buildable land =	69.17%	
	2.99	y=mx+b
Density Bonus on remaining buildable land - units/acre	2.99	Calculated by y=mx+b from Table 1 below
Y intercept is	-1.389	Constant per ordinance derived from Table 1
Slope is	6.333	Constant per ordinance derived from Table 1

Table 1 - Density Bonus Formula (Boise City Zoning Code 11-06-05.07.04, Page 17 of 51)

Density Bonus Formula - Foothills Planned Development Ordinance

PROPOSED PLANO LANE SUBDIVISION			Total acres =		332.75
Base Density = 1 unit per 40 acres			Base Units @ 1/40 =		8
PROPOSED PLANO LANE PROJECT TOTAL BUILT ACREAGE < 25% SLOPES =					47.8
Built Area	Open Space Dedicated Per Cent	Density Bonus Units /Acre	Buildable Area On 332.8 acres	# of Bonus Units	Potential Total Units
75%	25%	0.5	116.2	58	66
69%	31%	0.75	106.6	80	88
63%	38%	1	96.9	97	105
56%	44%	1.25	87.2	109	117
50%	50%	1.5	77.5	116	124
44%	56%	1.75	67.8	119	127
38%	63%	2.25	58.1	131	139
31%	69%	3	48.4	145	153
25%	75%	4	38.7	155	163

City staff calculation regarding base density and density bonus

The City calculated base density at 1 per forty for 8 units and the bonus density at 143 units = 151 units total.

Response to Applicant's comments on base density.

The applicant gave testimony at the hearing and in the attached "Applicant's Responses to Plano Road Subdivision Proposal Work Session Topics" to the effect that the base density for the proposal is at least 917 dwelling units. They state, "... that, because the 917-unit base density is far greater than the 155 homes proposed by the Applicants, no density bonus is actually being utilized by the Applicants. Or put otherwise, the actual size of the density bonus is largely irrelevant to the pending development proposal."

In working with the Applicant for 3 years on this project, all were in agreement to utilize a base density of one unit per forty acres. Staff agrees that the ordinance allows a base density in accordance with Section 11-06-05.07.04. A 1. This section states that the base density for development is that given for the existing Boise City and Ada County zones. However, the base density is also regulated by the ordinance in its entirety, not just one statement in the Foothills Planned Development Ordinance according to the following statements from that section of the Code.

Boise Zoning Code 11-06-05.07.03. General Application and Development Requirements

1. All developments shall be processed as Planned Developments (PDs) under Section 11-06-05 of the *Boise City Zoning Ordinance*.

2. The base density of one per forty acres for the entire project area may be added to the number of units allowed by the density bonus formula.
3. Upon annexation the buildable areas of the PD shall be zoned "R-1A," Single-Family Residential, **with the density and design further controlled by the provisions of this ordinance (emphasis added)**. Slope protection and preserved open space areas shall be zoned A-1 or A-2.

One of the most significant concerns with the Developer's contention concerning the base density is that he fails to take in consideration the buildable slope and cluster density into his analysis. That is to say that the FPP and FPDO restrictions against siting development clusters on slopes greater than 25% still prevail in development proposal in both the City and the County. Thus, applying all of the ordinance requirements, a realistic estimate of base density is 332 units, as estimated by the applicant. This number would be reduced further by traffic impact constraints on the road system. Thus a maximum estimated density is 290 to 300 units as demonstrated in the table below.

The subject site is zoned as shown in the table below and map, Exhibit 1:

Current Zoning for the Plano Road Subdivision Application	Current Zoning	Acres in Zone, Approx.	Maximum Density allowed under current zoning = U./Ac.	Buildable acres in Zone
Sub-Total, Boise City	A-1	16.4	1	
Sub-Total, Boise City	R-1C	20.1	8	
Sub-Total, Ada County	R6	122.9	6	
Sub-Total, Ada County	RP	173.1	0.025	
Total		332.5		73.1

Staff concurs with the interpretation of the base density allowances in Section 11-06-05.07.04. A 1 for the existing Boise City and Ada County zones. Staff calculated the base density in accordance with the Foothills Policy Plan at the rate of one unit per forty acres. Staff also concurs that the base density given the existing zoning would exceed the 155 units requested by the applicant. An exact number would require map analysis that there was not time to do. Therefore the density bonus methodology is not necessary to qualify for 155 units.

For purposes of this application, the applicant is bound by densities reflected in the application and proposed development agreement. The applications express the intent of the applicant for the proposal. Their applications (zone change, development agreement and conditional use permit) invoked the density bonus regulations and went to great lengths to comply with those regulations. The applicant followed the density bonus and the calculations are expressed on the (24" x 36") aerial map and site plan labeled "Foothills Concept Plan" and in several work sheets in the record.

Furthermore, in **KMST v County of Ada**, the Supreme Court found that there was no taking when the developer voluntarily agreed to a condition on his application. Likewise, the Applicant has limited his development proposal to 155 units on his application. That is the application being processed and the Applicant cannot, request a greater number at this point.

Also, when land is annexed into the City, a zone is assigned based upon the policies of the Comprehensive Plan, its ordinances and other considerations such as availability of services and infrastructure. The most pertinent policies are cited above from the FPP in regards to the density bonus and the base density. The application includes a development agreement that would govern the zone change and density; it is also based on the 1 unit per 40-acre base density. The proposed development agreement (DA) refers to compliance with the Foothills Planned Development Ordinance (FPDO) in the recitals D and E on page 1, and in sub-sections 1 and 2 on page 2 and in Exhibit D depicting the lot layout and set-aside of permanent open space. Sub-section 4 and Exhibit F also shows the lands proposed for permanent open space for the onion conservancy. Upon annexation, the City does not have to assign a zone that is equivalent to the County zoning.

There are other parts of the ordinance that also address the density issues. 11-06-05.04, item 3 the table and the line below the table all refer to the City's analysis.

3. Upon annexation the buildable areas of the PD shall be zoned "R-1A," Single-Family Residential, with the density and design further controlled by the provisions of this ordinance. Slope protection and preserved open space areas shall be zoned A-1 or A-2.

11-06-05.07.04.B. Table 1 - Density Bonus Formula*

Table 1 - Density Bonus Formula*

Built Area Percent	Open Space Dedicated Percent	Density Bonus Units /Acre	Example	
			Buildable Area On 100 acres After Open Space Set-Aside	# of Bonus Units
75%	25%	0.5	75.0	38
69%	31%	0.75	68.8	52
63%	38%	1.0	62.5	63
56%	44%	1.25	56.3	70
50%	50%	1.5	50.0	75
44%	56%	1.75	43.8	77
38%	63%	2.25	37.5	84
31%	69%	3.0	31.3	94
25%	75%	4.0	25.0	100

- *1) The base density of one unit per forty acres for the entire project area may be added to the number of units allowed by the density bonus formula.

Even if the Commission believes the Applicants contention that the density is high enough without the density bonus, they would still need to protect priority Open Spaces. The FPDO and the Comp. Plan still require this compliance. Refusing to acknowledge the existence and

protection of the 11 priority open space characteristics refutes the entire reason for the Foothills Plan and its goals to tailor development to the environmental values of the land.

The City contends that the whole of the Boise Zoning Code, Subdivision Code, the Uniform Fire Code, recommendations from Ada County Highway District, and the *Boise City Comprehensive Plan* must also be taken into consideration in the matter of density in this location.

Relevance of Maximum Density

The potential maximum density could come into play if the City does not annex the property. The City has entered into an area of impact agreement with Ada County. Part of that agreement states that when land is contiguous to the City, the landowner must request annexation from the City. If the City denies the annexation request, the landowner may develop the land through the County. The County has agreed that for County development within Boise's area of impact, the County shall adopt and apply the City's Comprehensive Plan. However, the agreement also states that County zoning will apply in the area of impact.

As stated in the case of *Bone v City of Lewiston*, the comprehensive plan and the zoning ordinance are distinct concepts serving different purposes. A comprehensive plan does not operate as legally controlling zoning law, but rather serves to guide and advise the governmental agencies responsible for making the zoning decisions. Further, in *Urrutia v Blaine County, Idaho*, the Idaho Supreme Court held that a governing board should not rely only on the comprehensive plan in denying a specific application, and should instead craft its findings of facts and conclusions of law to demonstrate that the goals of the comprehensive plan were considered, but were simply used in conjunction with the zoning ordinances in evaluating the proposed development. Thus, when reviewing a development application, Ada County would need to consider the *Boise Comprehensive Plan* and *The Boise Foothills Policy Plan* (FPP), but would also need to consider existing zoning. A County analysis would have to recognize the restrictions on 25% slope. Therefore, the claim for a potential of 917 dwelling units under current zoning is based solely upon the theoretical maximum allowed density for the zones and not the real world of steep geography and slope-constrained site design.

The following policies from the FPP apply regardless of whether development is in the City or County.

Boise Foothills Policy Plan Figure 1 - 2

Base Densities, Density Transfers, and Density Bonus Formula for Open Space Preservation

- 1) Base Densities: **The base density shall be one unit per 40 acres for all areas designated as buildable (less than 25% slopes) and non-buildable (greater than 25% slopes).**
- 2) Density Credit Transfer: **Density credits for non-buildable areas may be transferred to buildable areas at a rate of one unit per 40 acres.**
- 3) Density Bonus: **Density Bonuses earned through open space preservation will be in addition to the one unit per 40 acres base density.**

Density Bonus Formulas

Open Space Preservation Within Buildable Areas	Density Bonus Within Buildable Areas*
25% .50 units/acre	
50% 1.5 units/acre	
75% 3.0 units/acre	

2. Demonstrate how the public benefit requirements were met for the density bonus, that is the intent of the ordinance with respect to public benefits and how those were determined.

This would only apply if the applicant required credit for open space in steeply sloped areas. This is not needed for density, but it is required to satisfy the parts of the FPDO and FPP to protect and conserve sensitive areas.

The following analysis demonstrates that the applicant has made an effort to establish at least five of the eleven Priority Open Space Characteristics. It is up to the Commission to make the determination as to how well the application establishes these characteristics.

Staff analysis: [The following Times New Roman font sections are from the Foothills Planned Development Ordinance, 11-06-05.07, the plain Aerial font is the staff analysis.]

See (in the July 14, 2008 Planning and Zoning Commission Packet, not reprinted here for space considerations) Ecological Design, Inc. Reports: "A Report Documenting the Presence of Wetlands and Riparian Areas, February 28, 2008 Boise Foothills Property Between North Collister Drive and North Plano Lane and a Portion of Quail Ridge Subdivision, Boise, Idaho"; "A Report Documenting a Survey For Occurrences of Aase's Onion (*Allium Aaseae*), February 28, 2008, Boise Foothills Property Between North Collister Drive and North Plano Lane and a Portion of Quail Ridge Subdivision, Boise, Idaho"

C. Other Open Space Allowances:

The City recognizes that the foothills provide a great degree of variability in landforms, environmental habitats and cultural resources. Some areas may have a combination of characteristics that cause them to be considered worthy of special incentives for preservation, even if they do not meet the normal size, slope or dimensional requirements necessary to qualify as Open Space Eligible for a Density Bonus as per Section 11-06-05.7.4.B above. When these areas are identified on a property and proposed for preservation, the Planning and Zoning Commission may classify them as Priority Open Space and allow all or a portion of them to qualify for the granting of a density bonus.

In order to qualify for a density bonus, Priority Open Space lands must demonstrate at least four of eleven characteristics established for high priority open space lands. There must also be a demonstrable increase in the public value of the resource by such allowance that would not be realized by strict adherence to the other provisions of this code.

Priority Open Space Characteristics:

Of the following eleven characteristics of high priority open space, at least four must co-exist on a property for consideration as Priority Open Space Eligible for a Density Bonus:

1. Wetlands

The application includes and environmental site analysis "A Report Documenting the Presence of Wetlands and Riparian Areas" (PWRA) that delineated a small patch of wetlands in the lower south-central part of the subject property north of upper Collister Drive.

2. Riparian areas

The PWRA report documents a riparian area at the bottom of Polecat Gulch in and around its deeply incised channel.

3. Rare plant communities

This is documented in "A Report Documenting a Survey For Occurrences of Aase's Onion (*Allium Aaseae*)," February 28, 2008, Boise Foothills Property Between North Collister Drive and North Plano Lane and a Portion of Quail Ridge Subdivision, Boise, Idaho. The location and the treatment of the species are discussed in detail in other parts of this topic paper.

4. Critical deer and elk winter range and migration corridors

The applicant contends that the priority open space on the site provides deer and elk winter range and migration corridors. See attached map submitted July 28, 2008, Exhibit 5.

5. Boise City Historic Preservation Committee: Potential Public Preservation Sites

N/A

6. Unique geologic or visual features

N/A

7. Archeologic or other historic sites

N/A

8. Trails and trail-heads designated in the Ada County Ridge to Rivers Pathway Plan

N/A

9. Other public trails and trail heads as approved by the Boise City Parks and Recreation Board

The applicant has proposed a trailhead facility at the end of Collister Drive on the City's property in the Polecat Gulch Reserve.

10. Lands adjacent to publicly-held open spaces

The application includes property at the end of Collister Drive that is proposed for priority open space and is adjacent to Polecat Gulch Reserve.

11. Lands adjacent to areas that are, or have the potential to be, designated and set aside as public open space lands in accordance with the provisions of this ordinance.

N/A

Criteria for Determining Demonstrable Increase in Public Value of Priority Open Space:

In allowing density bonus credit for priority open space in steeply sloped areas or in fragmented pieces, there must be a demonstrable increase in the public value of the resource by such allowance. Demonstrable increase in value may include but is not limited to the following:

1. Allowance for public access.

Public access would be provided to Polecat Gulch Reserve through the extension of upper Collister Drive and the construction of a cul-de-sac, parking area and trailhead on the City's property. The extension of upper Collister Drive to the adjoining property, regardless of the

ownership, reflects a standard requirement of the subdivision and conditional use processes. The City usually requires the provision of public r-o-w access to adjoining properties, particularly when they are landlocked.

2. Protection from alteration of important vegetation, terrain or scenic views and vistas that could otherwise occur from a permitted use such as mining, logging, grazing or construction of utilities or infrastructure.

The proposed Aase's Onion Conservancy fulfills part of this criterium.

3. Linkage of interspersed eligible open space areas into a more biologically complete and continuous wildlife corridor.

The application includes a parcel adjacent to Polecat Gulch Reserve, south of the proposed extension of upper Collister Drive that would provide some open space buffering to the Reserve and protection of the riparian area at the bottom of the Gulch. This could be argued as a fulfillment of this criterium.

4. Dedication or discounted sale to a willing public agency.

The proposed Aase's Onion Conservancy is designed as conservation easement over property that would be conveyed fee simple to the Land Trust of the Treasure Valley, according to the proposed development agreement.

Planning and Zoning Commission Consideration of Priority Open Space:

It is not the intent of this section to broadly allow the designation of highly fragmented or steeply sloped land as open space, to the total exclusion of the normal requirements of clustering and set aside of buildable area open space. 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.

When the applicant demonstrates that a portion of his property not otherwise qualified as Open Space Eligible for a Density Bonus as per Section 11-06-05.7.4.B, does meet the above-listed criteria, the Commission may classify it as Priority Open Space and allow some or all of it to qualify for the granting of a density bonus. The amount allowed to qualify as Open Space Eligible for a Density Bonus shall be discretionary based upon the degree to which it meets or exceeds the minimum criteria established in this section. The Planning and Zoning Commission shall seek the input of the Idaho Department of Fish and Game, the Boise City Parks and Recreation Board and other public agencies with expertise in the issue at hand, in determining the proper amount to be allowed to be set aside in return for a density bonus.

The proposal attempts to meet the requirements for priority open space and staff recommends that the applicant has met the minimum criteria for this section of the Code. The Commission will make the decision on this issue.

8. Some of the building pads themselves, not just the building lots, exceed the 25% slope pre-grade contours. Does this meet the intent of the Foothills Ordinance?

The proposed development meets the definition for development pockets. These areas will be largely less than 25% slope, but may contain fragments of steeper areas as needed. The attached Exhibit 4 is the review staff did of the individual lots that demonstrate the

methodology used to evaluate the compliance with the ordinance. See ordinance definition for development pockets below.

11. What are the issues concerning the timing of the proposed facilities on the Parks' Polecat Gulch Reserve?

The Boise Foothills Advisory Committee and the Parks and Recreation Department have requested in a letter dated June 27, 2008, that the Developer install the proposed access road, cul-de-sac, trailhead and parking lot as part of phase one of the project. Staff supports that request.

The Developer requests that those features would not be required to be built until phase 4, potentially two+ years into the project. Their concern is that the installation is not warranted until there are dwelling lots along the proposed extension of Collister Drive to support the cost of the proposed installation of the Parks facilities.

- 14. Examine the issue of buildable vs. non-buildable areas of the proposed site; are they truly buildable. If not, then they should be removed from the calculation. I had asked the applicant about the sandpit and why the development wasn't being placed there on ground that had already been disturbed. His response was that it wasn't really constructible, that the amount of fill that you would have to put in there to be able to engineer it to support housing, that he was much more comfortable placing the housing on ground that has been there for hundreds of years rather than new ground that would be filled and constructible.**

Buildable is defined below as it pertains to the development pockets, where some areas of non-buildable land are allowed to accommodate the site design. The attached table and detailed maps, Exhibit 4, Plano Road Proposal - Building Envelope Placement Within Buildable Area, also examines each proposed lot to determine if they comply with the standards.

11-06-05.07.09. Definitions

BUILDABLE AREA:

Lands with a slope of 25% or less are buildable areas, if outside floodways or geologic hazards. Buildable areas must be designated in the Conditional Use site plan as either development pockets or permanent open space in the ratio chosen under the density bonus formula. Buildable area is determined by natural topography, not by post-construction graded contours.

DEVELOPMENT POCKETS:

These are the buildable areas designated on the site plan and plat map where the structures and appurtenances will be clustered. These areas will be largely less than 25% slope but may contain fragments of steeper areas as needed to accommodate the site design.

11-06-05.07.06. Building and Grading Disturbance Envelopes

1. Building envelopes depicting the limits of building footprints shall be shown on the final Conditional Use site plan for all structures and facilities in the planned development.
2. Parcels with slopes greater than 25% shall be shown on the Conditional Use permit with a disturbance envelope that defines the area outside of which no grading will be allowed. The purpose is to protect neighboring properties, storm water drainage systems, and other infrastructure from the collapse or failure of non-approved poorly designed cuts and fills.

The sand pit can only be built upon if materials from ridge tops are utilized to build up the sand pit. This would be counter to the policies.

15. What we actually are looking at when we are calculating the 25% slope or less, is it pre-built?
How do we define "excessive fill"?

The slope analysis is based upon the original contours, pre-grading. In order for the areas to count as buildable they must be at least one acre in size, with a minimum average width of 30 feet and must be connected or in close proximity to other such areas.

Excessive fill is not defined. The amount of fill could possibly be defined by the harm that it is causing. Public Works believes that the fill is okay as it will be utilized on site. Another factor could be a determination as to whether this development adequately protects ridge tops. A third factor could be how visible the development is from the valley. The intent of the foothills ordinance was for development to blend in with the foothills. However, this factor should be weighed against safety requirements for a safe development.

Excessive fill is not defined, even though the FPDO and the Hillside Ordinances both recommend against it through various descriptions such as, "4. Disturbance of the land shall be minimized and development shall be avoided in areas that would necessitate excessive grading, cut and fill." See discussion on this in next section.

16. Look at the sandpit as a possible alternative for reconfiguring the lots on some parts of this development.

See the discussion under item three below.

17. What are some alternatives to sky lining dwellings on the ridge lines?

See the discussion below in the Design and Grading section on this issue.

18. The density bonus and clustering are subjective in so many ways and are we really getting the most bang for the buck here by protecting these onions the way that the applicant has proposed?
Or should we recognize that perhaps we aren't obtaining that much value and that the density bonus shouldn't be as high.

Onions are specifically listed in the ordinance and the Foothills Policy Plan as something that needs to be protected as development occurs. So we have to adhere to the ordinance. The application has to be processed pursuant to the ordinance in place at the time the application was filed. Further, the Applicant is entitled to rely on the ordinance in designing his development. We can make sure that adequate protection is in place. Also, onions are only 1 of 4 reasons for density bonus. Staff has made findings in this report and in the July 14, 2008 staff report that the applicant has met the letter of the law in regards to the criteria for open space.

19. I'm interested in comments about the statutory provision that states "there must also be demonstrable increase in the public value of the resource that such allowance that would not be realized to strict adherence to other provisions of this code".

See the discussion above in item 2.

Design and Grading

3. Explore any alternatives that might be available to building on the ridge tops.

There are two significant areas with buildable land that have been set aside for permanent open space. They are the sand pit and the area south of Collister Drive. Each area would be less visible from off-site and each would be accessible from the proposed roads. The sand pit is not buildable as is; it would have to be filled, graded and compacted to be buildable. The area south of Collister has significant riparian areas in the Polecat Gulch and some onion population. Either area could be used for building sites if efforts were made to protect the sensitive areas therein.

Ridge tops are largely less than 25% slopes and represent the majority of the buildable areas capable of providing areas for development clusters. The only way to prevent all ridge top development on this site would be to deny the conditional use permit and Hillside permit then recommend annexation with a holding zone.

Design is governed by 11-06-05.07.05.A General Design Criteria. Cited and discussed below.

11-06-05.07.05.A General Design Criteria

A. Foothills Planned Developments shall be designed to meet the following general criteria:

1. Residential uses shall be clustered within development pockets rather than scattered throughout the property, while preserving the remaining land in separate parcel(s) of permanent open space.

Analysis: This criterion remains problematic in its application of the design criteria. The proposed clustering is on the ridge tops, as that is where the buildable land is found, but the layout is linear, not clustered. The applicant has been advised to tighten up the layout with narrower lots, with consideration for attached dwellings in the lower areas.

The open space component of these criteria is in compliance.

2. Designated open space areas shall be linked to other open spaces to the greatest extent possible.

Analysis: The open space areas are linked for the most part, but are separated by the road system in all cases. The area south of Collister Drive is not linked, but it is adjacent to Polecat Gulch Reserve.

3. Road and trail access to adjacent properties shall be provided to prevent landlocked parcels and/or breaks in the trail systems.

The extension of upper Collister Drive would provide access to the landlocked Polecat Gulch Reserve and a trailhead facility.

There are no public trails proposed on this project site.

4. Disturbance of the land shall be minimized and development shall be avoided in areas that would necessitate excessive grading, cut and fill.

Analysis: This finding can't be made with a certainty either pro or con even though the proposed development is focused on the more or less buildable ridge tops. The reason for some of the excessive cut and fills results from the effort to minimize filling gulch areas that contain parts of the proposed onion conservancy. Under other circumstances these areas

would be filled and the overage would be considerably less than the current proposal. So the issue becomes a trade-off between minimizing either grading or the impacts on the sensitive species. The resulting plan minimizes the impact on the sensitive species. On this site any development plan would face the same task of minimizing either grading or the impacts on the sensitive species with the hope of finding a balance between the two.

5. Development pockets shall be sited and designed in compliance with policies in The Plan concerning clustering, environmental protection, open space conservation and scenic and aesthetic goals.

Analysis: This finding can be made in part as the proposed development is focused on the more or less buildable ridge tops, provisions have been made for open space conservation and environmental protection. The scenic and aesthetic goals have been met to some extent through the proposed mitigation of the visual impacts of the structures through the design review process. The clustering of the development pockets could be tighter and could utilize attached housing and/or smaller lots. Lots and structures could be designed for "hill-hugging" styles of dwellings in some areas, to avoid grading, or excessive grading. Another attempt could be made to come up with a site layout and grading plan that reduces the overage situation for the fill. Tighter clustering may provide part of the solution for this issue. Another approach would involve routing the proposed road on the front side of the ridge (the southwest facing ridge), flipping the design to the northeast instead of the southwest side of the road as proposed. Another method to minimize fill would entail placing the level of the ridge roads below relative level of the building envelopes, so that most driveways would slope up from the road. The net result would be less earth moved when compared to the current approach to lower the building envelope to the same level as the road. This would also narrow the overall width of the grading on the ridge tops.

This finding is difficult to make fully either pro or con. The applicant has made some efforts to address these concerns, but staff feels that there are additional measure that could be taken to further comply with the spirit of this requirement.

The City cannot re-design this project and is not aware of what the difficulties would be with either suggested approach. The Commission may want to discuss this matter with the Applicant. A re-design would have to be agreed to by the Applicant. Otherwise, the Commission would need to make decisions based on the application as submitted.

6. Fire safety and protection measures to reduce the threat of wildfires shall be incorporated into the design in accordance with Uniform Fire Code and Boise City Code Title 7. Such measures shall include internal residential sprinkling systems, defensible space for the structures and the provision of safe evacuation routes for residents in case of wildfire.

Analysis: This finding can be made. The development agreement and the design guidelines address these issues. The protection measures would also become part of the CC&Rs.

7. Gated developments are prohibited due to the potential for such limited access to restrict or delay emergency response in the Foothills.

Analysis: Compliance with this prevails in the discussion of the proposed road connecting Plano Lane and Collister Drive. Staff does not support the proposal to place a gate on the proposed Daylight Rim Drive, because to do so might compromise the safety of potential residents and the activities of public safety personnel. Further, if gate placement would make

this into a gated development, a gate would be prohibited under the ordinance. This requirement is not discretionary and must be complied with.

8. The crossing of designated open space, floodways, wetlands and areas of high wildlife habitat value with roads and infrastructure shall be avoided to the greatest extent possible.

Analysis: The compliance with this is adequate given the terrain and the location of the buildable area on the site.

9. A mixture of dwelling unit types is allowed, including single family and multi-family units.

Analysis: Some attempt should be made to incorporate this into the design and layout of the proposal. It would provide more affordable housing and may present a partial means to intensify the clustering of the development pockets. Presumably this would help to minimize grading as well.

10. Neighborhood commercial and service commercial uses are allowed, but they must be designed to reflect and conform to the height, mass, materials and site design of the residential structures in the PD.

N/A

11. Setbacks and other dimensional standards may be varied to suit the conditions.

Analysis: Some instances of this are proposed.

Summary:

The Commission must evaluate the application presented; however, alternatives may be suggested to the applicant to bring the project more into compliance with the code. Alternatives include flipping the road to the front side of the ridge and building the dwellings on the back, or far side; tightening the lots along the road frontage, making them narrower in width and smaller; build in sand pit, post filling; multifamily or attached housing could be placed in the lower parts of the site; put more units in the bottom of the gulley, along the proposed Doe Valley Drive, and move units off the prominent ridges; require minimum of 30 ft. frontage for all properties (no shared driveways). The ridge top building envelopes could be graded to a level higher than the road, thereby lessening the amount of dirt to be moved.

The areas where houses can be located are severely restricted by the prohibition on building on slopes that are currently steeper than 25%.

4. How do we evaluate the policy and requirement of minimum grading to create the layout of the subdivision? Explore a little bit more on the large amount of overage. If in fact we are seeing the largest amount of grading overage in all of the Foothills development history that we have seen so far, then I think we are really calling into question what minimize grading means.

Minimized grading is a judgment call based on 11-06-05.07.05 (4) and (5) cited above. The City cannot require applicant to leave all the open space and not give them the benefit of clustered developable area. On the other hand, this development is not hill hugging development – another design could reduce grading and more closely adhere to 11-06-05.07.05 (4) and (5). The Ordinance is designed for minimum grading in development and increased grading for roads and infrastructure to allow proper access and serviceability.

12. What are the standards and regulations concerning excessive grading?
General design is regulated by Sections 11-06-05.07.05 (4) and (5) cited above, and the provisions of the Hillside Ordinance.

The following section is for the Hillside Ordinance, 11-14, and it contains the standards that would seek to minimize grading.

Section 11-14-04 HILLSIDE DEVELOPMENT AND STANDARDS

All development proposals shall take into account and shall be evaluated by the way in which land use planning, soil mechanics, engineering geology, hydrology, civil engineering, environmental and civic design, architectural and landscape design, and related disciplines are applied in hillside areas, including but not limited to:

A. Planning of development to take into account the topography, soils, geology, vegetation, outstanding features such as outcropping and cliffs, hydrology and other conditions existing on the proposed site;

This finding can be made inasmuch as the basic criteria of site design have been taken into account in the grading and drainage plans and they have been deemed functional by the Public Works Department.

B. Orientation of development on the site so that grading and other site preparation is kept to a minimum;

This speaks to the ridge top layout that has been discussed elsewhere in this report. If the priorities are to prevent excessive grading of the ridge tops along with the prominent citing of the structures then this finding can't be made, where there are other places to build on the site.

C. Completion of essential grading during site preparation, rather than left for future lot owners so that:

1. Shaping shall blend in with existing natural land forms to minimize the necessity of padding and/or terracing of building sites; and

This finding can't be made as the plans do not minimize the necessity of padding or terracing building sites.

2. Building pads and terracing shall be graded with contour rounding and other techniques to blend into the natural contours.

This finding can be made inasmuch as the basic criteria of site design have been taken into account in the grading plans and they have been deemed functional by the Public Works Department.

D. Projects shall be phased into workable units for which construction shall be scheduled to minimize soil disturbance and to control erosion in accordance with the approved erosion control plan.

This finding can be made inasmuch as the basic criteria of site design have been taken into account in the grading plans and they have been deemed functional by the Public Works Department. These items are also addressed by the Subdivision and Building Codes.

E. Completion of paving within sixty (60) days after final grading (final grading deemed to be the grading done after the placement of utilities).

Standard condition of approval and platting.

F. Allocation for open spaces and recreational uses of areas not well suited for development because of soil, geology, vegetation or hydrology limitations.

This finding can be made given the amount of dedicated open space proposed that would serve to protect sensitive areas of the site.

G. Minimizing disruption of existing plant and animal life.

This finding can be made given the amount of dedicated open space proposed that would serve to protect sensitive areas of the site.

H. Minimizing soil disturbance.

This finding can't be made as the plans do not minimize the necessity of padding or terracing building sites, with the presumed results of 1,000,000 cubic yards of overage that would be used to fill the sand pit.

21. We need to be looking at the less visible locations to site dwellings. There is not only that sandpit area and I know that fill can be engineered to support anything. There are also some portions on the far eastern side that probably don't have highly desirable views and that is why they are not being used.

See earlier answer – you can request that they redesign, but you need to rule on this design unless they acquiesce to a re-design.

Any grading that is done on the site will be engineered and will be able to support roads and structures.

Environmental Issues

5. Take a look at big game migration routes and how these are impacted by development and how these have been accommodated if at all within the project

Report came in late, but the City is asking the Developer to preserve migration routes. Fish and Game states some protection is necessary as this is big game winter range. A wildlife migration map was received from the applicant July 28, 2008 that depicts wildlife corridors on the site. The Developer has stated that migration routes are being preserved. The City has asked them to get a sign off from Fish and Game. See Exhibit 5 – Proposed Mule Deer Daily Movement Corridors, June 6, 2008.

7. What are the potential impacts on down streams wells and runoff and whether or not these are issues.

The report by SPF Water Engineering, LLC, July 1, 2008, looked at the impact of the proposed retention basins on the down gradient wells along Plano Lane. It concluded that the wells are adequately protected by a thick clay layer and a relatively thick unsaturated zone that will provide filtration and or adsorption of suspended solids and dissolved materials. Further the report indicates that well contamination is much more likely to be caused by surface activities and septic drain fields in the immediate vicinity of the wells.

22. What are the obligations of the Treasure Valley Land Trust in the management of the proposed onion conservancy? Are there specific tasks and benchmarks required of the Land Trust in order to protect the onion species? Should the conservation plan be more detailed and specific? The only other thing I would mention is some question about the Land Trust's obligation in terms of hearing for the onion preserve. Looking back to the Harris Ranch proposal there were specific tasks that the Land Trust had to undertake each year in inspecting the preserved land in that development, which is much larger than this.

Ask Developer to enhance the conservation plan. The provisions of Harris Ranch analogous to this involve the wildlife habitat management program that was funded through a real estate fee exaction. Ask Developer to address what happens if Land Trust goes under.

23. There should be a more detailed plan to protect the threatened species of onion. There is a letter from the Land Trust, but I feel that with Harris Ranch we had much more accountability when it came to a protection plan. If we could get more information either from them or from a proposal from City staff to see how we follow up with that in the future.

See above.

25. Staff mentioned that they would have liked to have seen a little tighter build. I would like to see a drawing of what the City would have liked to have seen as far as density where and the tightness that they didn't get in this proposal. How could the project be redesigned to enable a tighter clustering of the proposed dwellings?

Staff can't redesign their project. We can say there are some other ideas that could be explored – such as: flipping the road to the front side; tightening the lots making them narrower and smaller; build in sand pit post fill; they could do some multifamily or attached housing in the gulley; put more units in the bottom of the gulley and move off the prominent ridges; require minimum of 30 ft. frontage for all properties (no shared driveways), etc. per the discussions above.

Traffic and Roads

6. Should there be improvements on Collister Drive to the pavement and drainage systems? What is needed to accommodate the traffic volumes that are projected?

ACHD is the expert in this area and they say there are no concerns. We cannot ask the Developer to resolve issues that ACHD has not identified. ACHD has recommended that the proposal is good to go.

Please review the Ada County Highway District's comments in the attached ACHD Letter to Boise Planning and Zoning Commission dated July 30, 2008, Exhibit 7.

ACHD Staff Response: While the rideability and aesthetics of upper Collister Drive are not ideal, the condition of the roadway is not a limiting factor for increased traffic from the proposed Plano Road development. The upper portion of Collister Drive is sufficient to accommodate both current and projected traffic volumes and drainage requirements at build-out of this proposed development. Members of the public have expressed concerns that although upper Collister Drive is currently classified as a collector roadway, that it is too narrow and degraded to operate as one. However, projected build-out traffic volumes will be approximately 1,335 north of Quail Ridge Drive. This is well below the 2,000 daily trip threshold for even an existing local street.

9. Explore the issue of placing a gate along the proposed Daylight Rim Drive that would connect Plano Lane and Collister Drive. Can it be similar to what we see in other subdivisions and emergency roads that could be gated?

ACHD does not want a gate and Fire would prefer there to be no gate. The FPDO and the FPP do not allow gated communities, as cited above.

ACHD Staff Response: The ACHD Commission considered the proposal of a gated emergency access, and rejected it in the interests of connectivity and safety goals. In addition to connectivity and safety goals, ACHD Commissioners and staff have concerns over the long term maintenance of a private gated emergency access between two public streets. ACHD Commission determined that, due to the size and scope of the proposed development, that a full public street connection between Plano Lane and Collister Drive shall be required at build-out. After significant deliberations on the timing of this requirement, the ACHD Commission decided that a gated emergency access road shall be required prior to the first final plat, and that the full public street connection shall be required prior to the final plat of more than 53 buildable lots. Once Daylight Rim Drive is opened as a public street, it cannot be gated.

The ACHD Commission WILL NOT approve a final plat of more than 53 buildable lots in Plano Road Subdivision prior to the dedication of Daylight Rim Drive as a full public street connection between Plano Lane and Daylight Rim Drive.

10. Does the traffic light at Hill and Collister Roads required by ACHD do more harm than good? ACHD is the expert in this area and they say there are no concerns. We cannot ask the Developer to resolve issues that ACHD has not identified. ACHD has recommended that the proposal is good to go.

ACHD Staff Response: The installation of a traffic signal at the intersection of Hill and Collister Drive will improve its peak hour capacity and level of service. This is particularly true for the westbound approach, which currently experiences the greatest delays at this intersection during the PM peak hour. This intersection is currently four-way stop controlled. Although the Hill Road approaches experience the greatest volumes and delays at this intersection, the limited site distance onto Hill Road from the Collister Drive approaches precludes the possibility configuring it as a two-way stop control (with stops on the Collister approaches) in order to improve its level of service. If a traffic signal is not installed, and the intersection remains under all-way stop control, the Plano Road development will cause the intersection to operate at an unacceptable level of service due to average vehicle delay time. Even without the Plano Road development, this intersection is projected to operate at an unacceptable level of service in 2015.

13. Mr. Watt had some interesting phase-in proposals that I would like to see the applicant respond to that would address some of the issues on Plano Road and resolve those issues. It seems that these suggestions had something to do with phasing access to the Polecat Gulch Reserve to a later phase when the homes are built, and advocating a gated emergency road for the Daylight Rim Drive proposed connecting road. ACHD does not want a gate and Fire would prefer there to be no gate. The FPDO and the FPP do not allow gated communities, as cited above. Staff does not support either part of these suggestions to the extent that the information about them is correct.

24. In addition to looking at the Plano Lane ideas, can we get anything more without going into ACHD's territory on Collister Road improvements; sidewalk, safety issues that are going to come from this development if we approve it?

ACHD is the expert in this area and they say there are no concerns. We cannot ask the Developer to resolve issues that ACHD has not identified. Some of the safety issues come from a local practice of residents parking along the road rather than in their garages and driveways. ACHD has recommended that the proposal is good to go.

ACHD Staff Response: Boise City may levy requirements above and beyond what is required by ACHD. Collister Drive north of Hill Road currently exceeds what the District would normally require for off-site improvements in accordance with District policy 7203.3 (24-feet of pavement and 3-foot gravel shoulders on each side). Even if the existing portion of Collister Drive were internal to the proposed Plano Road development, the existence of sidewalk on the south/east side of Collister meets the requirements of District policy of 7204.4.7 for developments in hillside areas. Boise City can choose to direct the installation of sidewalk along the north/west side of Collister Drive. There appears to be sufficient right-of-way along the north/west side of Collister Drive north of Outlook Avenue to allow for the installation of a 5-foot attached sidewalk. However, the installation of sidewalk on this side of Collister Drive would require coordination with and approval of the adjoining homeowners, as well as a substantial degree of grading, encroachment removal, and retaining wall installation. ACHD staff is willing to discuss any proposals that Boise City might have to address their concerns regarding Collister Drive.

Comprehensive Plan Policies and Zoning Ordinances

20. It gets down to what is the intent of the Foothills Policy Plan. I think what we see here may be construed to meet the letter of the plan. I don't think it meets the intent. It is staff's duty to present the facts, provide an analysis of those facts and make recommendations and findings based upon them. The Ordinance and Foothills Policy Plan each contain standards and requirements that call for application of policy and/or regulation that aren't well defined or may be prioritized one above another. One example is the discussion on how much of each buildable footprint should be on land with less than 25% slope. Staff's recommendation dwells more in the "Letter" of the Plan where the facts reside. The ordinance, in Section 11-06-05.07.04.C, gives the power to the Commission to accept all or part of the Density Bonus allows the intent to be respected. "...the Commission may classify it as Priority Open Space and allow some or all of it to qualify for the granting of a density bonus."

Please Review Exhibit 6 - Foothills Policy Plan and Ordinance Review – Presented to City Council on 7/08/08 that provides a discussion of the many issues surrounding Foothills development and open space preservation.

26. It seems to me that a lot of the staff report hinged on this idea that the western Foothills area is the highest priority for development in the Foothills. Yet there was very little in the report that gave us anything more than that. I would like to see more about that. What the intent was. How they, meaning the Foothills Policy Committee back in the 1990's, how they came up with that. What it was based on. I know that Hal did a Foothills Plan and Ordinance Review training with the Commission prior to my time on the Commission. But I know from the handout that he gave me, all I have for that particular point is that it is a priority development area based on lack of

wildlife, and availability of street capacity. It seems to me based on the packet that we have and the information we have from the Idaho Department of Fish & Game, that there is evidence of ample wildlife as well as from the testimony we heard tonight.

Foothills development issues have been studied for 20 years. The foothills plan and ordinance took 7 years to bring to fruition. It is an intricate plan that looks at all areas of the foothills. This area is not void of wildlife; rather it simply has less wildlife than other areas. Further, eastern foothills are set up to protect wildlife while this area is not set up that way. Eastern foothills – top priority is protection of wildlife habitat; Central foothills has limited development capability due to limited road capacity. Western Foothills are the priority area for development due to minimal wildlife and availability of street capacity. Legally, the Developer is allowed to rely on the plan and the ordinance and we cannot change it mid application.

27. Testimony states that this is going to be another Quail Ridge, or it is going to look exactly like Quail Ridge. Does the *Foothills Policy Plan*, the way it is construed in the staff report, really provide just another way to get us a Quail Ridge, and if so, what was the vision of that plan. The plan requires sensitivity to the Foothills. Quail Ridge did stair-step grading plan that was not very sensitive. The current proposal requires design review and restrictions on material and colors for exteriors of the homes and the landscape design. Quail Ridge did not require design review or restrictions on material and colors for exteriors of the homes. There is also a proposed Wildland and Urban Interface setback required to enable more protection from wild fires and enables better fire-fighting access to the area. Fire safety access, plans and construction techniques are required with the current proposal, where they were not a feature of Quail Ridge.

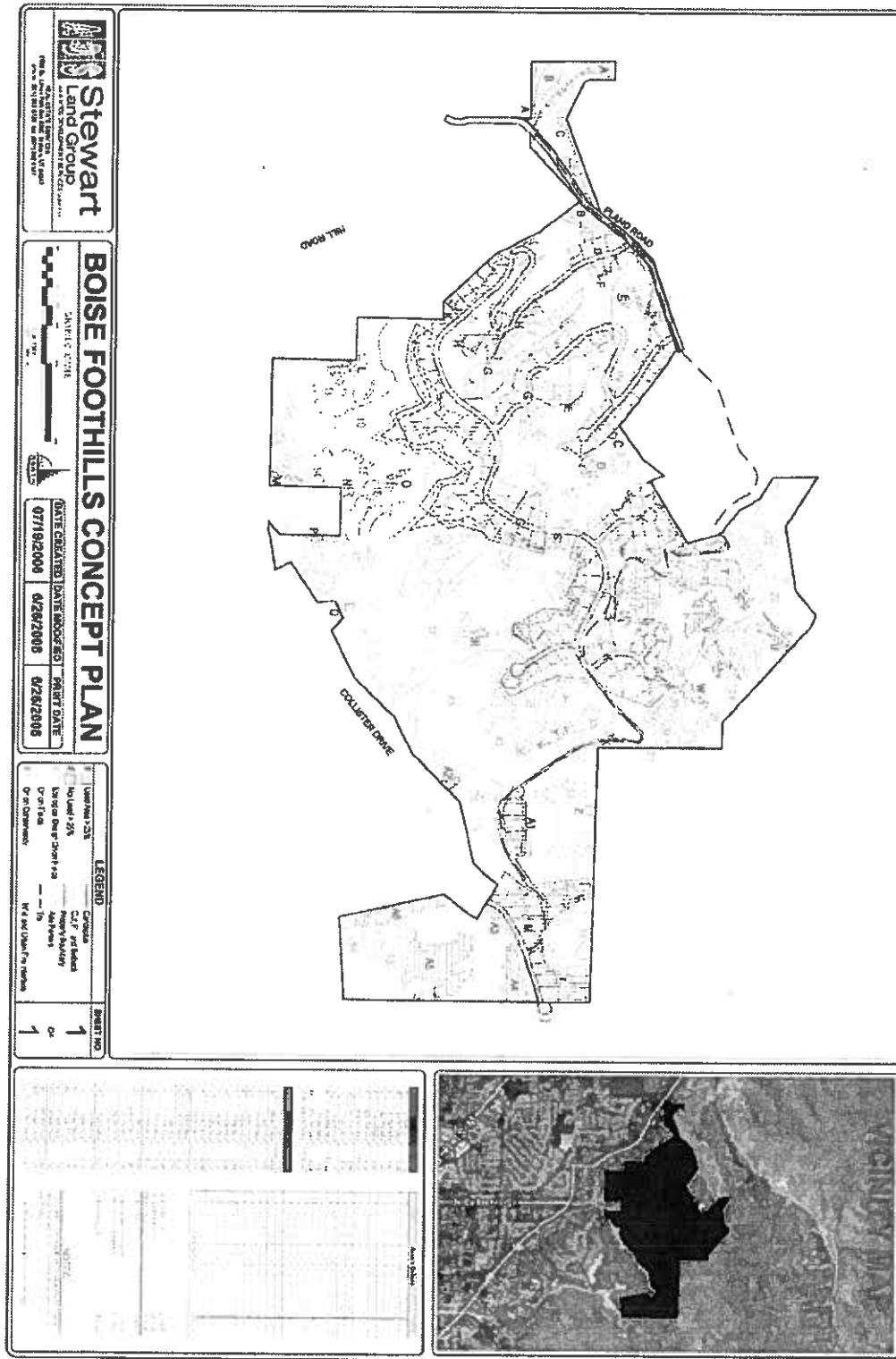
The plan is designed to create a balance between development, open space preservation, and community development. Quail Ridge does not include a component of the Ridge-to-Rivers Trail system, which is a feature of the current proposal. As an example, the City could not afford to put the trailhead in for 5 to 10 years, and with the development the community will get a trailhead several years earlier. Another difference is the proposed preservation of a species of concern. The Plan and ordinance require set-aside of open land and protection for threatened and endangered species. There is no such set-aside of land, nor protection of sensitive areas in Quail Ridge.

The density is a function of the proposal is controlled by slope and the set-aside of buildable open land and the cumulative efforts to conserve sensitive areas and species. The density in Quail Ridge was a function of the standard zone modified by the conditional use permit and Hillside regulations. The net result may seem similar, but the regulatory basis is very different.

The vision of the plan was to allow developments in the Western Foothills Planning Area that provided set-aside of open space around clustered lot layouts. The difficulty in achieving that vision lies in the unique geography and location of developable properties and the task of fitting the standards and requirements to a unique piece of land. How well this proposal fits the pattern or vision of the *Foothills Policy Plan* is up to the Planning and Zoning Commission to decide.

Exhibits

Exhibit 1- "Boise Foothills Concept Plan"



Applicants' Responses

To

Plano Road Subdivision Proposal Work Session Topics

Density

1. Show how the density bonus was calculated and how base density was calculated.

~~Response-1:~~ The formula and calculations showing how the density bonus was calculated are set forth in Exhibit A to the Planning Division Staff Report, as amended (the "Staff Report"). The base density for the project is prescribed by the Foothills Planned Development Ordinance ("Foothills Ordinance") as follows:

The base density on parcels proposed for development is that given for the *existing Boise City or Ada County zone(s)*.

Foothills Ordinance § 11-06-05.07.04 (emphasis added). Thus, the project's base density of 917± homes is readily determined by the mere mathematical extension of the information set forth in the table found on page 5 of the Staff Report, as reflected in **Exhibit 1** attached hereto.

It should be noted that, because the 917-unit base density is far greater than the 155 homes proposed by the Applicants, no density bonus is actually being utilized by the Applicants. Or put otherwise, the actual size of the density bonus is largely irrelevant to the pending development proposal. See Foothills Ordinance § 11-06-05.07.03.5 ("Density bonuses do not add to buildable area to be developed, they simply add to the number of units allowed.").

2. Demonstrate how the public benefit requirements were met for the density bonus, that is the intent of the ordinance with respect to public benefits and how those were determined.

~~Response-2:~~ Foothills Ordinance Section 11-06-05.07.04.C provides that each of the following criteria, among others, demonstrates an increase in public value of "Priority Open Space":

"1. Allowance for public access." – Here, the Applicants are constructing a public trail through the project from N. Collister Drive to Plano Road, together with access to the trailhead at Polecat Gulch Reserve.

"2. Protection from alteration of important vegetation . . . that could otherwise occur from a permitted use" – Here, as reflected in Exhibit 1, Boise's denial of the project could result in the development of up to 917 homes on the subject property by the Applicants' development of their property in accordance with the existing Ada County and Boise City zoning, which alternative developments would be exempt from the protections afforded by the Foothills Ordinance. See Foothills Ordinance

§ 11-06-05.07.02 (ordinance applies “where an annexation or rezone is required.”).

“4. Dedication or discounted sale to a willing public agency.” – Here, 165 acres of open space (including 82 acres of onion fields) are being conveyed to the Land Trust of the Treasure Valley (the “Land Trust”), with the Applicants agreeing to the perpetual endowment of the Land Trust’s maintenance and preservation of the dedicated area through the payment of .25% of the sales price for each sale or resale of a lot or home on the property (estimated at \$1,500 to \$2,500 based on current values). See Applicants’ Narrative, Plano Road Subdivision, at p. 3 (“Rare plant communities”) and proposed Development Agreement at Section 4.

8. Some of the building pads themselves, not just the building lots, exceed the 25% slope pre-grade contours. Does this meet the intent of the Foothills Ordinance?

~~Response 8:~~ “Development Pockets” are defined in the Foothills Ordinance as follows:

These are the buildable areas designated on the site plan and plat map where the structures and appurtenances will be clustered. These areas will be *largely less than 25% slope* but may contain fragments of steeper areas as needed to accommodate the site design.

Foothills Ordinance § 11-06-05.07.09 (emphasis added). Here, as set forth in the detailed analysis included in the Staff Report, 75% of all the building pads are being constructed where none of the slope exceeds 25%; 16% of the pads are being constructed where not more than 10% of the slope exceeds 25%; 8% of the pads are being constructed where not more than 20% of the slope exceeds 25%; and none of the pads are being constructed where more than 25% of the slope exceeds 25%. Thus, unless “largely less than 25% slope,” as such phrase is used in the Foothills Ordinance, means something less than a quarter of the area, all of the Applicants’ proposed building pads meet the intent of the Foothills Ordinance.

11. What are the issues concerning the timing of the proposed facilities on the Parks’ Polecat Gulch Reserve?

~~Response 11:~~ Because the Applicants intend to start the project on the western (or opposite) side of their property, they are requesting that they not be required to construct the improvements required by the Department of Parks and Recreation (“Parks & Rec.”) until the earlier of either (a) starting phase two (instead of phase one) of the project or (b) starting the improvement of lots along the northerly extension of N. Collister Dr. The Applicants’ full performance is assured by the terms of the proposed Development Agreement (see Section 5). It should be noted (i) that the Applicants do not contest the specified timing for the dedication of the right-of-way necessary to get to Boise’s Polecat Gulch Reserve, but only the requirement for the premature and uneconomic construction of improvements that could result in the delay of any improvements at all being constructed (including those required by Parks & Rec.) because of the imposition of additional front-end costs, and (ii) that none of the contributions required by Parks & Rec. (including the dedication of the right-of-way necessary to get to Polecat Gulch Reserve) can or will be made by the Applicants until it is economically possible to commence construction

on their project. Thus, the Applicants' proposed modification of Condition of Approval 11.j is in both Boise's and the Applicants' best interests.

14. Examine the issue of buildable vs. non-buildable areas of the proposed site; are they truly buildable. If not, then they should be removed from the calculation. I had asked the applicant about the sandpit and why the development wasn't being placed there on ground that had already been disturbed. His response was that it wasn't really constructible, that the amount of fill that you would have to put in there to be able to engineer it to support housing, that he was much more comfortable placing the housing on ground that has been there for hundreds of years rather than new ground that would be filled and constructible.

~~Response-14:~~ The Applicants' civil engineer confirmed after the July 14 hearing that the sand pit and other areas having a slope of 25% or less located on the property are "buildable." The Applicants apologize for any confusion caused by the erroneous response to the contrary given at the hearing. However, because no density bonus is actually being utilized by the Applicants, the question of whether the sand pit and other areas are buildable is largely irrelevant to the pending development proposal.

15. What we actually are looking at when we are calculating the 25% slope or less, is it pre-built? How do we define "excessive fill"?

~~Response-15:~~ The 25% slope requirement is measured "pre-grading." See Foothills Ordinance § 11-06-05.07.09 (first two definitions). The term "excessive grading, cut and fill," as used in Foothills Ordinance § 11-06-05.07.05.A.4, is not defined in the ordinance. However, by its logical definition, the term must be viewed in the context of what grading would otherwise occur if the proposed project were not approved. Here, the Applicants maintain that the only economically viable alternative to the development being proposed is to develop their property in accordance with the existing Ada County and Boise City zoning, which alternative developments would be exempt from the protections afforded by the Foothills Ordinance and allow for a density of up to 917 homes (with the possibility of significantly more grading). Moreover, as depicted in the Applicants' computer modeling of the project presented at the July 14 hearing, the proposed grading is designed to protect the general shapes and textures of the foothills by integrating the cut and fill slopes into the surrounding terrain.

16. Look at the sandpit as a possible alternative for reconfiguring the lots on some parts of this development.

~~Response-16:~~ The Applicants maintain that the only economically viable alternative to the development being proposed is to develop their property in accordance with the existing Ada County and Boise City zoning, which alternative developments would be exempt from the protections afforded by the Foothills Ordinance and allow for a density of up to 917 homes. Thus, the reconfiguration of the proposed project to allow for the construction of significantly less valuable lots would also require the development of a substantially greater number of homes.

17. What are some alternatives to sky lining dwellings on the ridge lines?

~~Response 17:~~ As depicted in the Applicants' computer modeling of the project presented at the July 14 hearing, there is, in fact, virtually no sky lining of dwellings on the ridge lines. (The one limited exception being the view from a small portion of Hill Road looking directly up the hill.) Moreover, the color, materials, height, and setback restrictions being imposed as conditions of approval (*see also* Section 8 of the proposed Development Agreement) will mitigate any visual impacts from homes to the extent reasonably possible. *See also* Response 16 (p. 4), above.

18. The density bonus and clustering are subjective in so many ways and are we really getting the most bang for the buck here by protecting these onions the way that the applicant has proposed? Or should we recognize that perhaps we aren't obtaining that much value and that the density bonus shouldn't be as high.

~~Response 18:~~ *See* Responses 1 and 2 (pp. 1-2), above.

19. I'm interested in comments about the statutory provision that states "there must also be demonstrable increase in the public value of the resource that such allowance that would not be realized to strict adherence to other provisions of this code".

~~Response 19:~~ *See* Responses 1 and 2 (pp. 1-2), above.

Design and Grading

3. Explore any alternatives that might be available to building on the ridge tops.

~~Response 3:~~ *See* Response 16 (p. 4), above.

4. How do we evaluate the policy and requirement of minimum grading to create the layout of the subdivision? Explore a little bit more on the large amount of overage. If in fact we are seeing the largest amount of grading overage in all of the Foothills development history that we have seen so far, then I think we are really calling into question what minimize grading means.

~~Response 4:~~ The amount of the grading being proposed is driven largely by the road requirements (particularly the $\leq 10\%$ slope limitation), the requirement that storm water run-off be maintained on site, and the quantity of material required to mitigate and restore the unsightly and potentially dangerous sand pit located on the property. Further, by its logical definition, the minimization of grading must be viewed in the context of what grading would otherwise occur if the proposed project were not approved. *See also* Response 15 (p. 3), above.

12. What are the standards and regulations concerning excessive grading?

~~Response 12:~~ *See* Response 15 (p. 3), above.

21. We need to be looking at the less visible locations to site dwellings. There is not only that sandpit area and I know that fill can be engineered to support anything. There are also some portions on the far eastern side that probably don't have views and that is why they are not being used.

~~Response 21:~~ *See* Response 16 (p. 4), above.

Environmental Issues

5. Take a look at big game migration routes and how these are impacted by development and how these have been accommodated if at all within the project.

Response 5: The Idaho Department of Fish and Game ("IDFG") has identified no migration routes on the property. Nevertheless, the Applicants have implemented multiple open-space corridors in their design and agreed to implement fencing policies proposed by IDFG that will allow for the free movement of wildlife throughout the property, over 70% of which will remain in or be restored to its natural condition.

7. What are the potential impacts on down streams wells and runoff and whether or not these are issues.

Response 7: As reflected by the storm water infiltration analysis that was prepared by SPF Watering Engineering, LLC and included in the Staff Report, there are no expected adverse impacts to existing domestic wells. Moreover, because the project is designed to divert all runoff within the development footprint to a series of on-site detention ponds, existing residences along Plano Road will realize a 90% reduction of possible water flows from a 100-year event (from a current 6.8 cubic feet per second to .5 cubic feet per second) and existing residences along N. Collister Drive will realize a similar reduction (from a current 25 cubic feet per second to 3.5 cubic feet per second).

22. What are the obligations of the Treasure Valley Land Trust in the management of the proposed onion conservancy? Are there specific tasks and benchmarks required of the Land Trust in order to protect the onion species? Should the conservation plan be more detailed and specific? The only other thing I would mention is some question about the Land Trust's obligation in terms of hearing for the onion preserve. Looking back to the Harris Ranch proposal there were specific tasks that the Land Trust had to under take each year in inspecting the preserved land in that development, which is much larger than this.

Response 22: As set forth in Section 4 of the proposed Development Agreement: "Prior to recording a final plat for any portion of the Property, [the Applicants] shall . . . (b) enter into a written agreement with the Land Trust or other approved entity for the protection and preservation of [the] onion fields *on terms approved by the Planning Director.*" (Emphasis added.) Thus, the specific tasks and benchmarks required of the Land Trust to protect the onions are open to direction by P & Z and the Boise City Council.

23. There should be a more detailed plan to protect the threatened species of onion. There is a letter from the Land Trust, but I feel that with Harris Ranch we had much more accountability when it came to a protection plan. If we could get more information either from them or from a proposal from City staff to see how we follow up with that in the future.

Response 23: See Response 22 (p. 6), above.

25. Staff mentioned that they would have liked to have seen a little tighter build. I would like to see a drawing of what the City would have liked to have seen as far as density where and the

tightness that they didn't get in this proposal. How could the project be redesigned to enable a tighter clustering of the proposed dwellings?

~~Response-25~~: See Response 16 (p. 4), above.

Traffic and Roads

6. Should there be improvements on Collister Drive to the pavement and drainage systems? What is needed to accommodate the traffic volumes that are projected?

~~Response-6~~: The ACHD projects that the intersection of Collister Drive and Hill Road will operate at Level of Service E or F in 2013 even if the Applicants build nothing on their property. Thus, by both constructing improvements to Plano Lane and the signalized intersection at Collister and Hill required by the ACHD and, in addition, contributing over \$531,000 in traffic impact fees to the ACHD, the Applicants are contributing to the mitigation of existing road and traffic problems, not causing them. Further, the traffic impact fees can, of course, be utilized for constructing additional improvements on N. Collister Dr. if such improvements can be shown to be needed.

9. Explore the issue of placing a gate along the proposed Daylight Rim Drive that would connect Plano Lane and Collister Drive. Can it be similar to what we see in other subdivisions and emergency roads that could be gated?

~~Response-9~~: The Applicants support the proposal.

10. Does the traffic light at Hill and Collister Roads required by ACHD do more harm than good?

~~Response-10~~: See Response 6 (p. 6), above.

13. Mr. Watt had some interesting phase-in proposals that I would like to see the applicant respond to that would address some of the issues on Plano Road and resolve those issues.

~~Response-13~~: The Applicants are unclear on what "phase-in proposals" are at issue, but would be happy to address the issue at the July 31 work session if requested to do so. See also Response 9 (p. 6), above.

24. In addition to looking at the Plano Lane ideas, can we get anything more without going into ACHD's territory on Collister Road improvements; sidewalk, safety issues that are going to come from this development if we approve it?

~~Response-24~~: See Response 6 (p. 6), above.

Comprehensive Plan Policies and Zoning Ordinances

20. It gets down to what is the intent of the Foothills Policy Plan. I think what we see here may be construed to meet the letter of the plan. I don't think it meets the intent.

Response 20: The Applicants have worked for three years with Staff to design a project that meets the letter and intent of the Foothills Ordinance, while still providing an economically viable development. In this regard, the Applicants fully concur with the following conclusion set forth in the Staff Report:

The development proposal meets the standards and regulations in the Foothills Planned Development Ordinance with the recommended conditions from City Departments and other agencies with jurisdiction, including the Ada County Highway District and Idaho Department of Fish and Game. The anticipated impacts from this proposal seem to be in balance with the mitigation measures. There is never a way to accommodate all impacts and all property rights, but staff believes this application represents a good faith effort to try to achieve that balance.

Id. at p. 4. Moreover, the Applicants wish that it be clearly understood that a denial of the proposed project will necessarily result not in the preservation of the Applicants' highly valuable (and expensive) property as undeveloped open space, but in the Applicants developing their property in accordance with the existing Ada County and Boise City zoning, which alternative developments would be exempt from the protections afforded by the Foothills Ordinance.

26. It seems to me that a lot of the staff report hinged on this idea that the western Foothills area is the highest priority for development in the Foothills. Yet there was very little in the report that gave us anything more than that. I would like to see more about that. What the intent was. How they, meaning the Foothills Policy Committee back in the 1990's, how they came up with that. What it was based on. I know that Hal did a Foothills Plan and Ordinance Review training with the Commission prior to my time on the Commission. But I know from the handout that he gave me, all I have for that particular point is that it is a priority development area based on lack of wildlife, and availability of street capacity. It seems to me based on the packet that we have and the information we have from the Idaho Department of Fish & Game, that there is evidence of ample wildlife as well as from the testimony we heard tonight.

Response 26: The Applicants will have to rely on Staff to provide the requested historical information, with respect to which the Applicants have no particularized knowledge. Additionally, although the Applicants fully acknowledge that there is wildlife on their property, they rely on the report by Ecological Design, Inc. contained in the Staff Report (entitled, A Report Discussing General Design Criteria, Special Areas Analysis, and Preliminary/Conceptual Design Requirements) for the proposition that the property has been determined by IDFG to comprise merely "low density" winter range.

27. Testimony states that this is going to be another Quail Ridge, or it is going to look exactly like Quail Ridge. Does the *Foothills Policy Plan*, the way it is construed in the staff report, really provide just another way to get us a Quail Ridge, and if so, what was the vision of that plan.

Response 27: See Response 17 (p. 4), above. Additionally, as summarized in the conclusion to the Applicants' Narrative, Plano Road Subdivision, contained in the Staff Report:

As a base for comparison, the neighboring Quail Ridge Subdivision was developed with 176 lots on 250 acres, for an average

density of one lot for every 1.42 acres. When compared with Quail Ridge Subdivision, and after adjustment for the differential in acreage, the Plano Road Subdivision reflects a reduction of over 80 building lots and 37% in grading. Moreover, in order to minimize grading, most of the homes will be located along “single-loaded” streets, rather than using the “double-loaded” street alignment found in the Quail Ridge Subdivision. Thus, by virtually any measure, the Plano Road Subdivision will impose significantly fewer impacts on the surrounding area and environment—while at the same time providing significantly greater benefits—than did perhaps the premiere residential subdivision in northwest Boise, the neighboring Quail Ridge Subdivision.

Id. at p. 5.

Exhibit 3 - Plano Road Planned Development Application, Zoning, May 29, '07

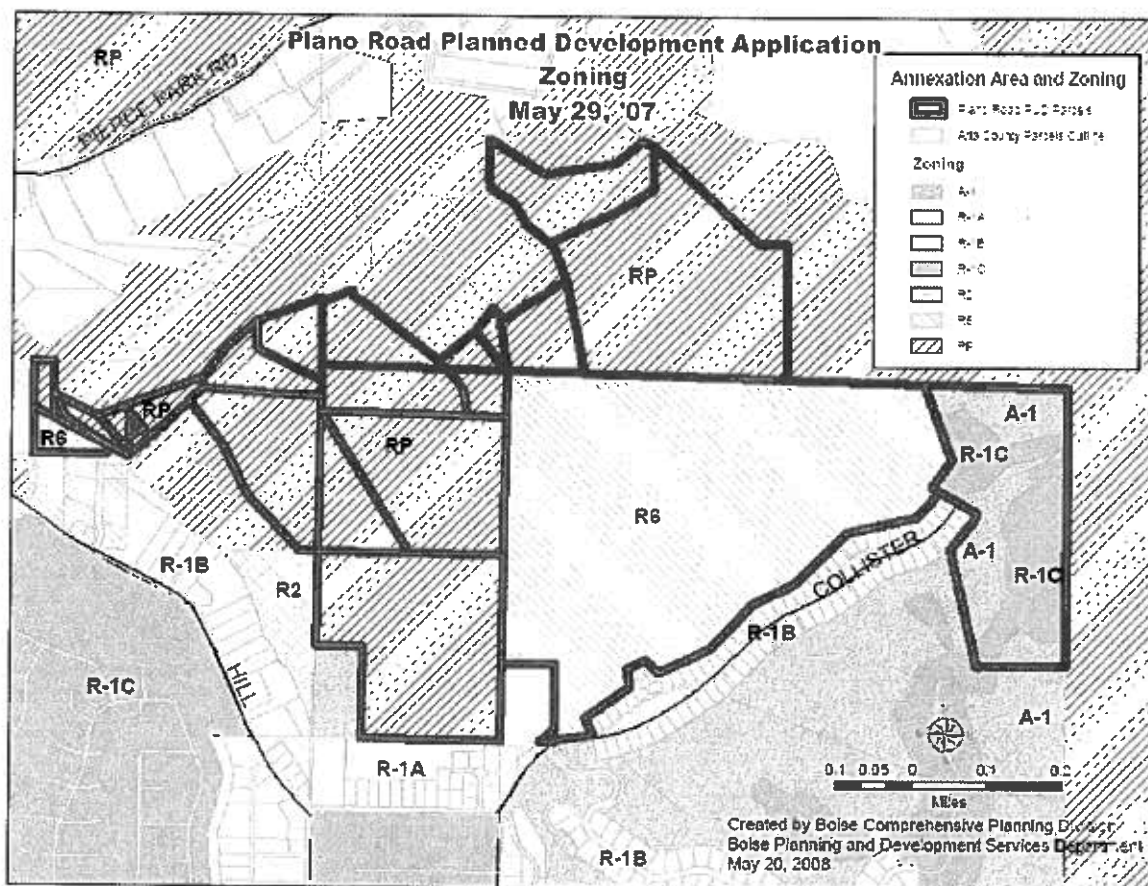


Exhibit 4 - Plano Road Proposal - Building Envelope Placement Within Buildable Area

Plano Road Proposal - Building Envelope Placement Within Buildable Area

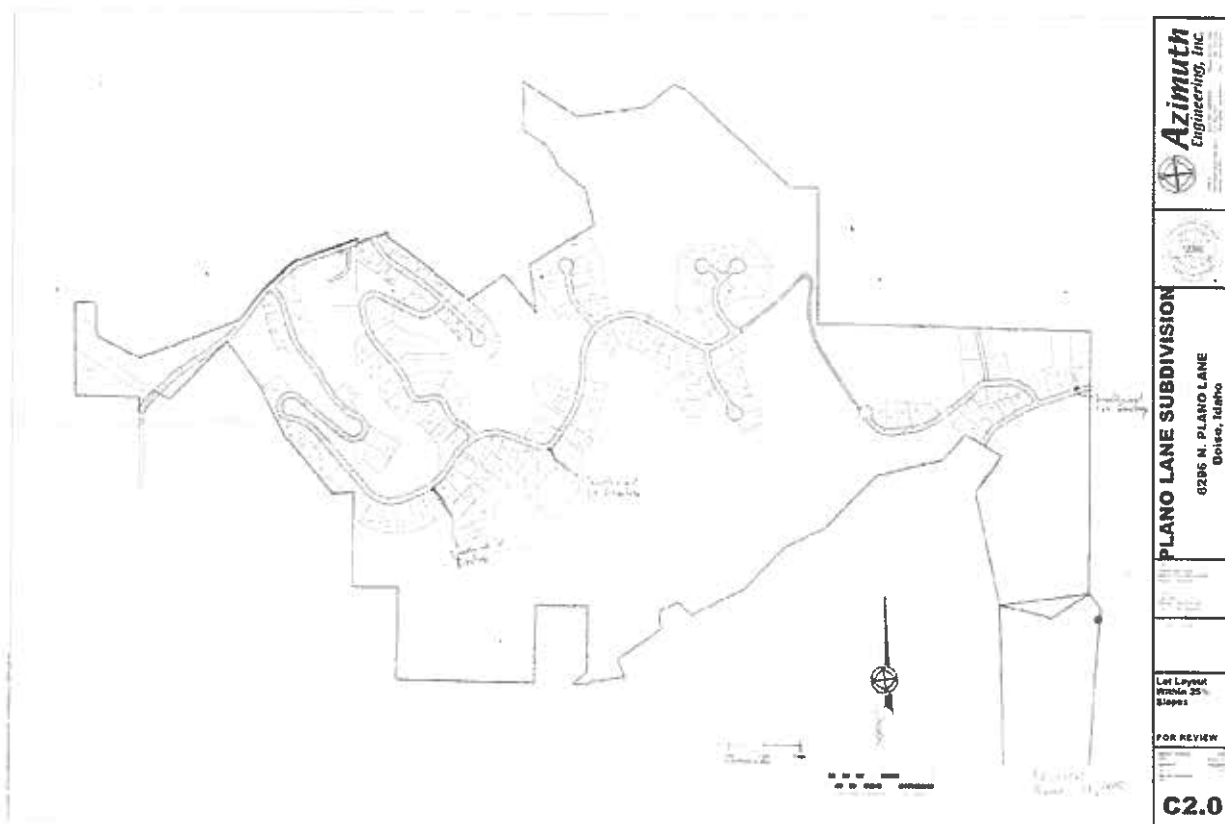
21-Jun-08

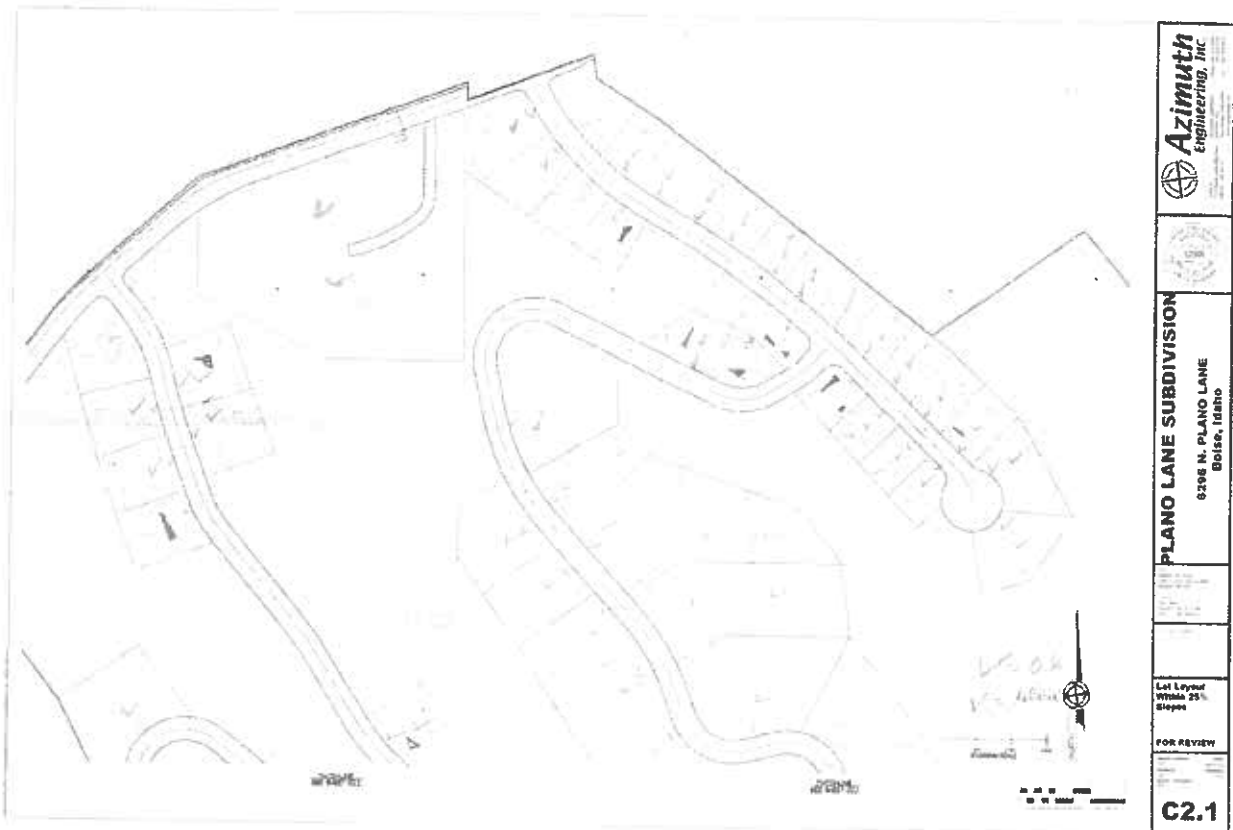
Lot #	Less than 50%, fail	Less than 85%	O.K. > 85%	Setback(s) short	Notes
1			1		
2			1		Short on frontage-failed
3		1			Short on frontage-failed
4			1		
5			1		
6			1		
7			1		
8			1		Requires private road status
9			1		
10			1		
11			1		
12			1		
13			1		
14			1		
15			1		
16			1		Reduced envelope size
17			1		Reduced envelope size
18			1		Reduced envelope size
19			1		Reduced envelope size
20			1		
21			1		
22			1		
23			1		
24			1		
25			1		
26			1		
27			1		Rear yard short-failed
28			1		
29			1		
30			1		Front yard short, can be fitted
31			1		
32		1			Front yard short, can be fitted, reduced envelope size
33			1		
34			1		
35			1		
36			1		
37			1		
38			1		
39			1		Envelope size reduced

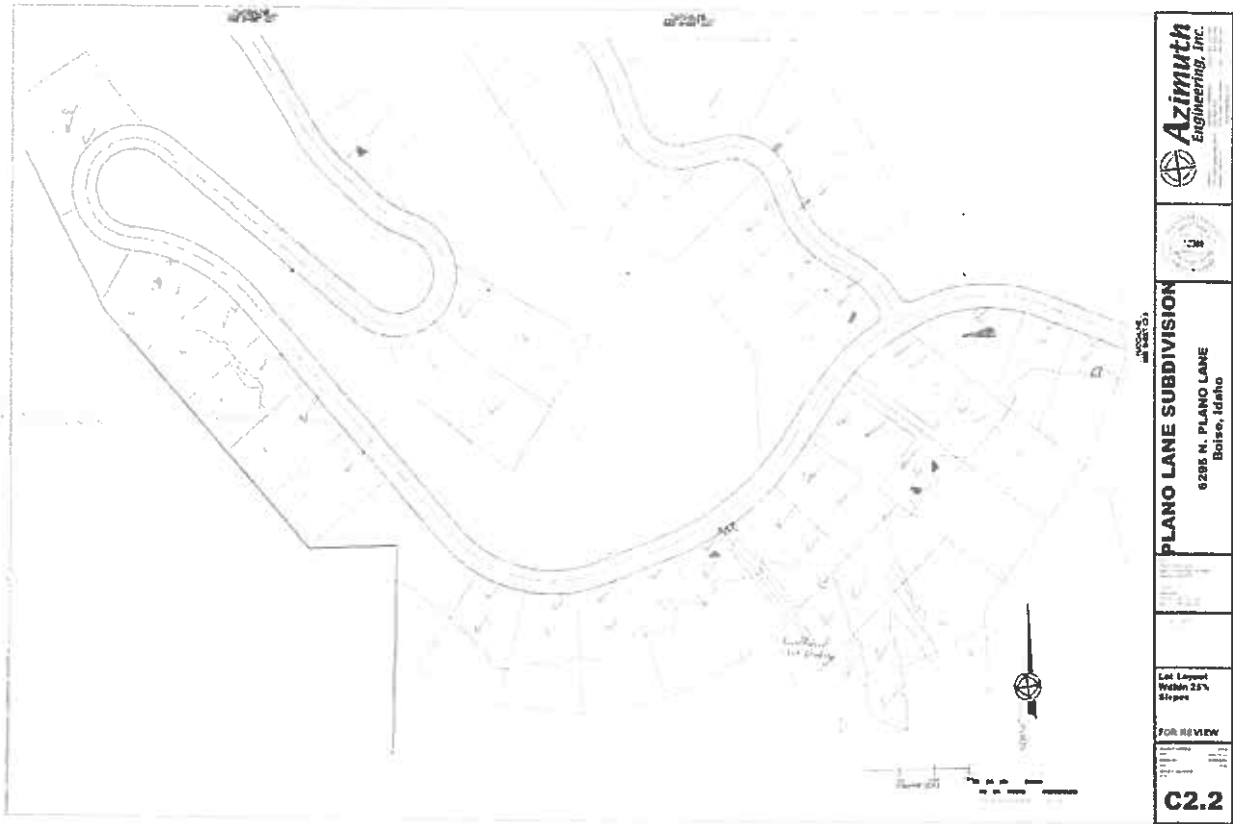
40	1	
41	1	Short on lot frontage-failed
42	1	Short on lot frontage-failed
43	1	
44	1	
45	1	
46	1	
47	1	
48	1	
49	1	Envelope size reduced
50	1	
51	1	
52	1	
53	1	
54	1	
55	1	
56	1	
57	1	
58	1	
59	1	
60	1	
61	1	
62	1	
63	1	
64	1	
65	1	
66	1	
67	1	
68	1	
69	1	
70	1	
71	1	
72	1	
73	1	
74	1	Short on lot frontage-failed
75	1	Short on lot frontage-failed
76	1	Short on lot frontage-failed
77	1	
78	1	
79	1	
80	1	
81	1	
82	1	
83	1	

84	1	
85	1	
86	1	
87	1	Short on lot frontage-failed
88	1	Short on lot frontage-failed
89	1	Short on lot frontage-failed
90	1	
91	1	
92	1	
93	1	
94	1	
95	1	
96	1	
97	1	
98	1	
99	1	1 Front setback short
100	1	
101	1	
102	1	1 sideyard short
103	1	
104	1	
105	1	
106	1	
107	1	
108	1	
109	1	Envelope depth reduced
110	1	
111	1	
112	1	
113	1	
114	1	
115	1	
116	1	
117	1	
118	1	
119	1	1 Front setback short
120	1	
121	1	
122	1	
123	1	
124	1	
125	1	
126	1	Envelope size reduced
127	1	Envelope size reduced

128		1		Envelope size reduced
129		1		Envelope size reduced
130		1		Envelope size reduced
131		1		Envelope size reduced
132		1		
133		1		
134		1		Envelope size reduced
135		1		Envelope size reduced
136		1		Envelope size reduced
137		1		Envelope size reduced
138		1		Envelope size reduced
139		1		Envelope size reduced
140		1		Envelope size reduced
141		1		Envelope size reduced
142		1		Envelope size reduced
143		1		Envelope size reduced
144		1		Envelope size reduced
145		1		
146		1		
147		1		Envelope size reduced
148		1		Envelope size reduced
149		1		Envelope size reduced
150	1		1	Rear setback short, Envelope size reduced
151		1		Envelope size reduced
152		1		
153		1		
154		1		
155		1		
Totals	0	8	147	4
			155	

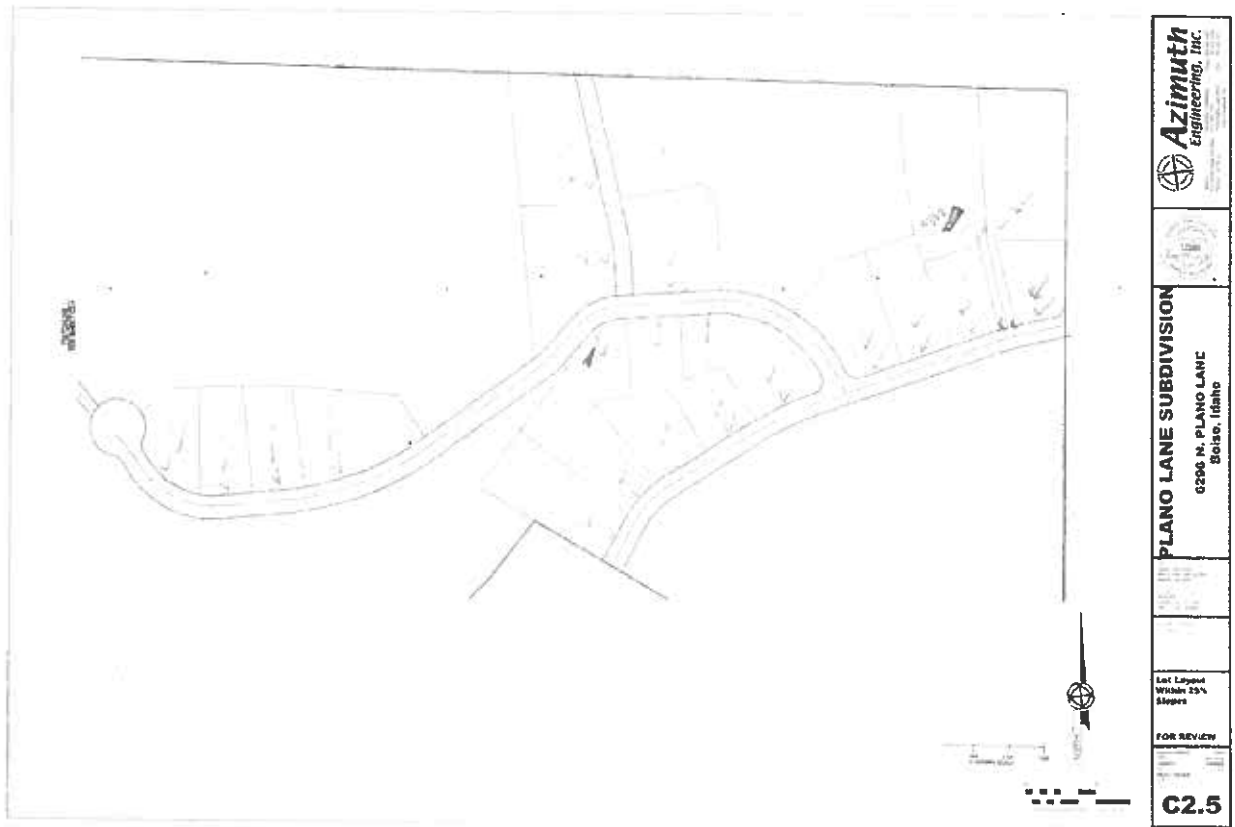














Planning & Development Services

Exhibit 1

Bruce
Director

CAR07-00042 DA, CUP07-00084, CFH07-00022, SUB07-00065
Boise City Planning and Zoning Commission / July 14, 2008

1-3

Boise
150 N

Mailing
P O Bo
Boise, Id

Phone
208/384

Fax
208/384

TDD/TT
800/377

Web
www.cit

dwelling units on 332.75 acres, with dedication of some 152.6 acres for the preservation of the threatened species of the Aase's Onion plants, and 81.9 acres open space for the Homeowners' Association and 97.8 acres in the building lots and infrastructure. It would also include road and trail connection to the Polecat Gulch Reserve, as well as riparian areas and private trails.

✓
✓
✓

The Hillside and Foothills Area Development permit application, CFH07-00022, requests approval for grading and hydrology systems.

There is also a preliminary plat application, SUB07-00065.

Applicant/Status

Stewart Land Group, Kerry Winn, representing Aase's Canyon Pointe, LLC, and Capitol Development, Inc.

Mayor
David H

City Cc
Preside
Elaine C

Council
David E

Vernon
Maryon
Alan W
Jim Tibb

Location and Site Description

The proposed development is located between Plano Lane and the end of Collister Drive in the Boise Foothills, nominally at 6890 N. Plano Lane. The site is a series of very steep ridges looming above Collister Drive with the relatively flatter areas on the ridge tops. The Boise Polecat Reserve is on the east, the Collister Drive neighborhood is on the south; to the north are a few single family residences; and to the west is largely vacant Foothills land.

Zoning, Zoning Allowances, and Comprehensive Plan Designation

The site is currently zoned R-1C (Single Family Residential), A-1 (Open Space/ 1 unit/acre), RP (Rural Preservation-Ada County) and R6 (Medium Density Residential-Ada County). Planned unit developments require conditional use approval in this Planning Area.

The subject site is zoned as shown in the table and map below:

Current Zoning for the Plano Road Subdivision Application	Current Zoning	Acres in Zone, Approx.	Maximum Density allowed under current zoning - U./Ac.	Current Maximum Allowed Density
Sub-Total, Boise City	A-1	16.4	1	16
Sub-Total, Boise City	R-1C	20.1	8	160
Sub-Total, Ada County	R6	122.9	6	737
Sub-Total, Ada County	RP	173.1	0.025	4
Total		332.5		917

Exhibit 1

Exhibit 5 –

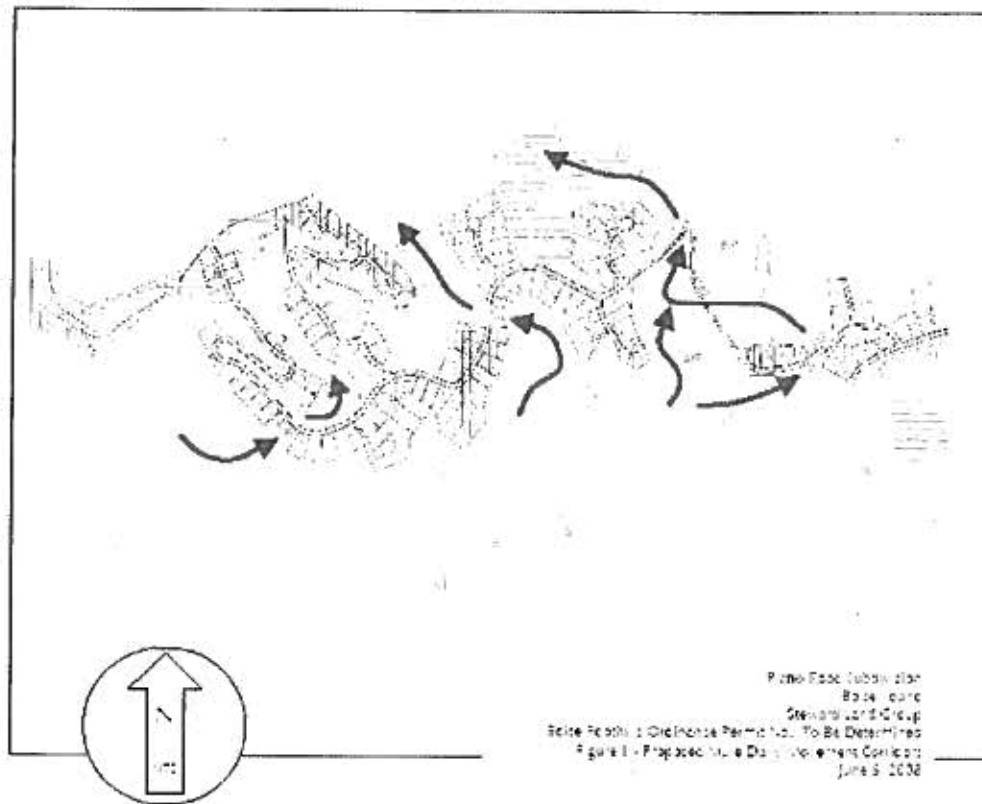


Exhibit 6 – Foothills Policy Plan and Ordinance Review
-Presented to City Council on 7/08/08-

Foothills Policy Plan the outcome of 10-years of public debate. Adopted in 1997.

Basic Policy Decisions

1. Foothills will share in growth of the community.
2. Development will be limited to slopes of less than 25%
3. Development should be clustered away from sensitive areas
4. Establishment of three Foothills Areas of differing priority:
 - a. Eastern Foothills – Wildlife habitat protection first priority
 - b. Central Foothills – Development okay but limited by traffic capacity
 - c. Western Foothills – Priority development area based on lack of wildlife and availability of street capacity.
5. Creation of Density Bonus Formula
 - a. Base Density of 1 Unit/40 Acres, increasing to 3 units per acre as flat open space is set aside.
6. Foothills Development to be protective of environment, shapes and texture of foothills
7. Street improvement plan to include:
 - a. 36th Street extension to Cartwright Road/Bogus Basin Road
 - b. Diversions from Hill Road to State Street,
 - c. No connection to Table Rock from Warm Springs
8. Foothills to meet Urban Standards for Services and Infrastructure
 - a. Sewer
 - b. Fire
 - c. Paved roads and secondary access

Foothills Planned Development Ordinance Adopted in 1999

1. Added quantification and detail to the concepts in the Policy Plan
2. Density bonus process needed much more detail.
 - a. Minimum size to count as eligible open space (1 acre)
 - b. More points defined in formula
 - c. More areas (Priority Open Space) eligible for open space bonus
 - i. Protection of sensitive species/areas
 - ii. Protection of unique geologic/archeological sites
 - iii. Provision of public access
 - iv. Dedication of land to public ownership

v. Linkage of natural corridors

3. Design Criteria

- d. Clustering
- e. Linking of Open Space
- f. Minimizing of grading
- g. Building/disturbance envelopes
- h. Prohibition on gating
- i. Trail access (Ridge to Rivers)
- j. Maintenance of Open Space in natural condition

4. Review and Approval Process

- a. CUP and Development Agreement required
- b. Properties with existing urban zoning not subject to Foothills Ordinance

5. Required Process of Analysis

- a. Preliminary/Conceptual Designs Based on:
 - i. Slope analysis
 - ii. Special Area analysis
 - iii. Infrastructure analysis
 - iv. Adjacent Parcel analysis

Gray Areas in Foothills Planning and Development

- 1. How much grading around the edges of < 25% slope areas to create development pads is acceptable?
- 2. To what extent can Priority Open Space that is NOT flat land count toward the required open space set-aside for Density Bonus purposes?
- 3. What does “minimize grading” (cut and fill) really mean?
- 4. How tight does clustering have to be?
- 5. How much “sky-lining” of ridges is acceptable?
- 6. Are all urban services feasible in foothills settings?

Key Points to Remember About Foothills Development

- 1. Existing policy plan specifically allows for foothills development
- 2. No two sites in the foothills are the same. It is almost impossible to create standards that will apply equally well to all properties.
- 3. Foothills development is expensive and it takes a significant amount of development to cover those costs.
- 4. The priority development area in the foothills (Western Foothills) is difficult to develop from a technical standpoint, due to steep slopes.

5. Most developable land is on ridge lines, where it will be most visible.

6. There is a dichotomy between getting extra density credit for protecting rare species on a site, when that credit results in more intensive development of that same site.

Exhibit 7 – ACHD Letter to Boise Planning and Zoning Commission dated July 30, 2008



Carol A. McKee, President
Sherry R. Huber, 1st Vice President
Dave Bivens, 2nd Vice President
John S. Franden, Commissioner
Rebecca W. Arnold, Commissioner

July 30, 2008

TO: Boise City Planning and Zoning Commission

RE: Plano Road Subdivision

On June 25, 2008 the Ada County Highway District Commission approved the applications for annexation, rezone, preliminary plat, and conditional use regarding Plano Road Subdivision. This memorandum is in response to questions raised at the Boise City Planning and Zoning Commission Hearing held on July 14, 2008 regarding this proposed development.

Item 6: Should there be improvements on Collister Drive to the pavement and drainage systems? What is needed to accommodate the traffic volumes that are projected?

ACHD Staff Response: While the rideability and aesthetics of upper Collister Drive are not ideal, the condition of the roadway is not a limiting factor for increased traffic from the proposed Plano Road development.

The upper portion of Collister Drive is sufficient to accommodate both current and projected traffic volumes and drainage requirements at build-out of this proposed development. Members of the public have expressed concerns that although upper Collister Drive is currently classified as a collector roadway, that it is too narrow and degraded to operate as one. However, projected build-out traffic volumes will be approximately 1,335 north of Quail Ridge Drive. This is well below the 2,000 daily trip threshold for even an existing local street.

Item 9: Explore the issue of placing a gate along the proposed Daylight Rim Drive that would connect Plano Lane and Collister Drive. Can it be similar to what we see in other subdivisions and emergency roads that could be gated?

ACHD Staff Response: The ACHD Commission considered the proposal of a gated emergency access, and rejected it in the interests of connectivity and safety goals. In addition to connectivity and safety goals, ACHD Commissioners and staff have concerns over the long term maintenance of a private gated emergency access between two public streets.

ACHD Commission determined that, due to the size and scope of the proposed development, that a full public street connection between Plano Lane and Collister Drive shall be required at build-out. After significant deliberations on the timing of this requirement, the ACHD Commission decided that a gated emergency access road shall be required prior to the first final plat, and that the full public street connection shall be required prior to the final plat of more than 53 buildable lots. Once Daylight Rim Drive is opened as a public street, it cannot be gated.

The ACHD Commission WILL NOT approve a final plat of more than 53 buildable lots in Plano Road Subdivision prior to the dedication of Daylight Rim Drive as a full public street connection between Plano Lane and Daylight Rim Drive.

Ada County Highway District • 3775 Adams Street • Garden City, ID • 83714 • PH 208-357-6100 • FX 345-7650 • www.achd.ada.id.us

Item 10: Does the traffic light at Hill and Collister Roads required by ACHD do more harm than good?

ACHD Staff Response: The installation of a traffic signal at the intersection of Hill and Collister Drive will improve its peak hour capacity and level of service. This is particularly true for the westbound approach, which currently experiences the greatest delays at this intersection during the PM peak hour.

This intersection is currently four-way stop controlled. Although the Hill Road approaches experience the greatest volumes and delays at this intersection, the limited site distance onto Hill Road from the Collister Drive approaches precludes the possibility configuring it as a two-way stop control (with stops on the Collister approaches) in order to improve its level of service.

If a traffic signal is not installed, and the intersection remains under all-way stop control, the Plano Road development will cause the intersection to operate at an unacceptable level of service due to average vehicle delay time. Even without the Plano Road development, this intersection is projected to operate at an unacceptable level of service in 2015.

Item 24: In addition to looking at the Plano Lane ideas, can we get anything more without going into ACHD's territory on Collister Road improvements; sidewalk, safety issues that are going to come from this development if we approve it?

ACHD Staff Response: Boise City may levy requirements above and beyond what is required by ACHD.

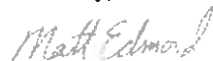
Collister Drive north of Hill Road currently exceeds what the District would normally require for off-site improvements in accordance with District policy 7203.3 (24-feet of pavement and 3-foot gravel shoulders on each side). Even if the existing portion of Collister Drive were internal to the proposed Plano Road development, the existence of sidewalk on the south/east side of Collister meets the requirements of District policy of 7204.4.7 for developments in hillside areas.

Boise City can choose to direct the installation of sidewalk along the north/west side of Collister Drive. There appears to be sufficient right-of-way along the north/west side of Collister Drive north of Outlook Avenue to allow for the installation of a 5-foot attached sidewalk. However, the installation of sidewalk on this side of Collister Drive would require coordination with and approval of the adjoining homeowners, as well as a substantial degree of grading, encroachment removal, and retaining wall installation.

ACHD staff is willing to discuss any proposals that Boise City might have to address their concerns regarding Collister Drive.

If you have any questions, please feel free to contact me at (208) 387-6187.

Sincerely,



Matt Edmond
Planner II
Right-of-Way and Development Services

CC: Project file
Bruce Eggleston, Boise City Planning & Development Services

Ada County Highway District • 3775 Adams Street • Garden City, ID • 83714 • PH 208-387-6100 • FX 345-7650 • www.achd.ada.id.us

**Boise City Planning & Zoning Commission Work Session
July 31, 2008
Council Chambers, Third Floor, City Hall
Work Session Will Start at 6 P.M.**

<u>Item</u>	<u>Presenter</u>	<u>Time</u>
1. CAR07-00042/DA, SUB07-00065 CUP07-00084 & CFH07-00022	Bruce Eggleston	2 hrs.



Bruce D. Chatterton
Director

Boise City Hall
150 N. Capitol Boulevard

Mailing Address
P. O. Box 500
Boise, Idaho 83701-0500

Phone
208/384-3830

Fax
208/384-3814

TDD/TTY
800/377-3529

Web
www.cityofboise.org/pds

Mayor
David H. Bieler

City Council
President
Elaine Clegg

Council ProTem
David Eberle

Vernon L. Bisterfeldt
Maryanne Jordan
Alan W. Shealy
Jim Tibbs

Planning & Development Services

July 18, 2008

Memorandum

To: Boise City Planning and Zoning Commission Hearing

From: Bruce Eggleston, Planner II

Subject: Work session topics for the July 31, 2008 meeting on the Plano Road Subdivision proposal, CAR07-00042/DA, CUP07-00084, CFH07-00022 and SUB07-00065

At the July 14, 2008 hearing on the Plano Road Subdivision applications the Commission scheduled a work session to gather more information about the requests. A second hearing date was set for August 11, 2008 in the Le Bois Room on the Third Floor of City Hall. It was noted that the hearing will be open on new topics and evidence resulting from the work session.

The July 31, 2008 work session on the above applications will be held at 6:00 p.m. in the Bonneville Room on the Third Floor of City Hall.

Plano Road Subdivision Proposal Work Session Topics

Commissioner Barker:

1. Show how the density bonus was calculated and how base density was calculated. In the report – Bruce to point out and clarify with graphics
2. Demonstrate how the public benefit requirements were met for the density bonus, that is the intent of the ordinance with respect to public benefits and how those were determined. See Tiederman Report of June 6, 2008
3. Explore any alternatives that might be available to building on the ridge tops. 1- the pit is not buildable as is – it would have to be filled to be buildable. 2- ridge tops are flat and buildable 3 – ordinance design is governed by 11-06-05.07.05 4- the Commission must evaluate the application presented, however, alternatives include flipping the road to the front side; tightening the lots making them narrower and smaller; build in sand pit post fill; they could do some multifamily or attached housing in the gulley; put more units in the bottom of the gulley and move off the prominent ridges; require minimum of 30 ft. frontage for all properties (no shared driveways), Build "hill-hugging houses, cascade down slope,
4. How do we evaluate the policy and requirement of minimum grading to create the layout of the subdivision? Explore a little bit more on the large amount of overage. If in fact we are seeing the largest amount of grading overage in all of the Foothills development history that we have seen so far, then I think we are really calling into question what minimize grading means. Judgment call based on 11-06-05.07.05 (4) and (5) - we cannot require them to leave all the open space and not give them the benefit of clustered developable area. To avoid a regulatory taking, developable area must include to some degree the cost of infrastructure and to ensure that the building area is somewhat safe. On the other hand, this development is not hill hugging development – another design would reduce grading and more closely adhere to 11-06-05.07.05 (4) and (5). Ordinance is designed for minimum grading in development and increased grading for infrastructure – see ordinance definition for development pockets, also see Hillside Ord. & Foothills Poling Plan
5. Take a look at big game migration routes and how these are impacted by development and how these have been accommodated if at all within the project Report came in late, but City is asking the Developer to preserve migration routes – Fish and Game states some protection is necessary as this is ^{part of the F.H.} big game winter range. *Will there be enough open space to provide for sustainable habitat?*
6. Should there be improvements on Collister Drive to the pavement and drainage systems? What is needed to accommodate the traffic volumes that are projected? ACHD is the expert in this area and they say there are no concerns. We cannot ask the Developer to resolve issues that ACHD has not identified. ACHD has clarified ^{the proposal is} good to go. *on Collister. There are no recommendations to improve Collister in the ACHD conditions of approval. The projected traffic volumes are under 2,000, which is the standard for a local road.*

7. What are the potential impacts on down streams wells and runoff and whether or not these are issues. According to report from SPF water engineering LLC July 1, 2008, there will be no impacts. Public Works agrees.
8. Some of the building pads themselves, not just the building lots, exceed the 25% slope pre-grade contours. Does this meet the intent of the Foothills Ordinance? see ordinance definition for development pockets – these areas will be largely less then 25% slope, but may contain fragments of steeper areas as needed...

Commissioner Fadness:

9. Explore the issue of placing a gate along the proposed Daylight Rim Drive that would connect Plano Lane and Collister Drive. Can it be similar to what we see in other subdivisions and emergency roads that could be gated? ACHD does not want a gate and Fire would prefer there to be no gate.
10. Does the traffic light at Hill and Collister Roads required by ACHD do more harm than good? ACHD are the experts – they have held two hearings and a reconsideration and feel this is the best way to go.
11. What are the issues concerning the timing of the proposed facilities on the Parks' Polecat Gulch Reserve? See Developer and letter from Julia Grant – Parks and Rec – the Commissions call.
12. What are the standards and regulations concerning excessive grading? General design sec. 4 and 5
13. Mr. Watt had some interesting phase-in proposals that I would like to see the applicant respond to that would address some of the issues on Plano Road and resolve those issues. ACHD does not want a gate and Fire would prefer there to be no gate.
- 14.

Chairwoman Wilson:

15. Examine the issue of buildable vs. non-buildable areas of the proposed site; are they truly buildable. If not, then they should be removed from the calculation. I had asked the applicant about the sandpit and why the development wasn't being placed there on ground that had already been disturbed. His response was that it wasn't really constructible, that the amount of fill that you would have to put in there to be able to engineer it to support housing, that he was much more comfortable placing the housing on ground that has been there for hundreds of years rather than new ground that would be filled and constructible. Buildable is a slope analysis only - quote ordinance – Sand Pit can only be built on if ridge tops are utilized to build up sand pit – this would be counter to the policies - see Terry

Commissioner Baskin:

16. What we actually are looking at when we are calculating the 25% slope or less, is it pre-built? How do we define “excessive fill”? - see earlier answer
17. Look at the sandpit as a possible alternative for reconfiguring the lots on some parts of this development. - see earlier answer
18. What are some alternatives to sky lining dwellings on the ridge lines? - see earlier answer
19. The density bonus and clustering are subjective in so many ways and are we really getting the most bang for the buck here by protecting these onions the way that the applicant has proposed? Or should we recognize that perhaps we aren’t obtaining that much value and that the density bonus shouldn’t be as high. Onions are specifically listed in the ordinance as something that needs protected. So we have to adhere to the ordinance. We can make sure that adequate protection is in place. Also, onions are only 1 of 4 reasons for density bonus.
20. I’m interested in comments about the statutory provision that states “there must also be demonstrable increase in the public value of the resource that such allowance that would not be realized to strict adherence to other provisions of this code”. Re-state the 4, plus wildlife migration route

Commissioner Cooper:

21. It gets down to what is the intent of the Foothills Policy Plan. I think what we see here may be construed to meet the letter of the plan. I don’t think it meets the intent. This would be a good place to put in Hal’s document.
22. We need to be looking at the less visible locations to site dwellings. There is not only that sandpit area and I know that fill can be engineered to support anything. There are also some portions on the far eastern side that probably don’t have views and that is why they are not being used. See earlier answer – you can request that they redesign, but you need to rule on this design unless they acquiesce.
23. What are the obligations of the Treasure Valley Land Trust in the management of the proposed onion conservancy? Are there specific tasks and benchmarks required of the Land Trust in order to protect the onion species? Should the conservation plan be more detailed and specific? The only other thing I would mention is some question about the Land Trust’s obligation in terms of hearing for the onion preserve. Looking back to the Harris Ranch proposal there were specific tasks that the Land Trust had to under take each year in inspecting the preserved land in that development, which is much larger than this. Ask Developer to tighten plan – pull out Harris Ranch and show them that we are about there. Ask Developer to address what happens if Land Trust goes under.

Commissioner McLean:

24. There should be a more detailed plan to protect the threatened species of onion. There is a letter from the Land Trust, but I feel that with Harris Ranch we had much more

accountability when it came to a protection plan. If we could get more information either from them or from a proposal from City staff to see how we follow up with that in the future. Ask Developer to tighten plan – pull out Harris Ranch and show them that we are about there. Ask Developer to address what happens if Land Trust goes under.

25. In addition to looking at the Plano Lane ideas, can we get anything more without going into ACHD's territory on Collister Road improvements; sidewalk, safety issues that are going to come from this development if we approve it? We could ask Developer to work with ACHD to see if any education of neighbors is needed – like park along the road and cause hazards.
26. Staff mentioned that they would have liked to have seen a little tighter build. I would like to see a drawing of what the City would have liked to have seen as far as density where and the tightness that they didn't get in this proposal. How could the project be redesigned to enable a tighter clustering of the proposed dwellings? Be careful here – we can't redesign there project – we can say there are some other ideas that could be explored – such as : flipping the road to the front side; tightening the lots making them narrower and smaller; build in sand pit post fill; they could do some multifamily or attached housing in the gulley; put more units in the bottom of the gulley and move off the prominent ridges; require minimum of 30 ft. frontage for all properties (no shared driveways)

Commissioner Stevens:

27. It seems to me that a lot of the staff report hinged on this idea that the western Foothills area is the highest priority for development in the Foothills. Yet there was very little in the report that gave us anything more than that. I would like to see more about that. What the intent was. How they, meaning the Foothills Policy Committee back in the 1990's, how they came up with that. What it was based on. I know that Hal did a Foothills Plan and Ordinance Review training with the Commission prior to my time on the Commission. But I know from the handout that he gave me, all I have for that particular point is that it is a priority development area based on lack of wildlife, and availability of street capacity. It seems to me based on the packet that we have and the information we have from the Idaho Department of Fish & Game, that there is evidence of ample wildlife as well as from the testimony we heard tonight. Foothills development issues have been studied for 20 years. The foothills plan and ordinance took 7 years to bring to fruition. It is an intricate plan that looks at all areas of the foothills. This area is not void of wildlife, rather it simply has less wildlife then other areas. Further, eastern foothills are set up to protect wildlife while this area is not set up that way. Eastern foothills – top priority is protection of wildlife habitat; Central foothills has limited development capability due to limited road capacity. Western foothills is the priority area for development due to minimal wildlife and availability of street capacity. Legally, the Developer is allowed to rely on the plan and the ordinance and we cannot change it mid application.
28. Testimony states that this is going to be another Quail Ridge, or it is going to look exactly like Quail Ridge. Does the *Foothills Policy Plan*, the way it is construed in the staff report, really provide just another way to get us a Quail Ridge, and if so, what was the vision of that

plan. The plan requires sensitivity to the foothills. Quail Ridge did stair step development that was not very sensitive. We are requiring design review and restrictions on material and colors for exteriors of the homes. Quail Ridge did not require design review or restrictions on material and colors for exteriors of the homes. The plan is designed to create a balance between development, open space preservation, and community development. As an example, the City could not afford to put the trail head in for 5 to 10 years, and with the development the neighbors will get a trailhead years earlier.



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

Planning Division Staff Report Work Session January 26, 2009

File Number	CAR07-00042/DA, CUP07-00084, CFH07-00022 and SUB07-00065
Applicant	Aase's Canyon Pointe Development LLC
Property Address	6890 N. Plano Lane
Work Session Date	January 26, 2009
Heard by	Boise City Planning and Zoning Commission
Planning Analyst	Bruce Eggleston, AICP
Planning Supervisor	Patricia Nilsson, AICP

Table of Contents

1. Summary	2
2. Questions Raised in the Appeal	2
3. Exhibit A - Memo to Mayor and Council, October 14, 2008	7
4. Exhibit B - Action Letter from City Council Hearing to Applicant	18
5. Exhibit C - Transcript of Council's motion on the appeal	20

1. Summary

History

The applications for Aase's Canyon Pointe Development LLC at 6890 N. Plano Lane were heard by the Planning and Zoning Commission on August 11, 2008 and the findings and conditions were approved on September 8, 2008, as stated below.

The Boise City Planning and Zoning Commission annexation and zone change 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.

They 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.

The applicant appealed the decisions and recommendation to City Council. The Boise City Council, at their meeting of December 9, 2008, concurred with the appeal and determined that the Planning & Zoning Commission erred by not recognizing the base rights associated with the current zoning on the applicant's parcels. They found that the Foothills Planned Development Ordinance does allow the current zoning to be used to establish the base unit count for a subdivision in the foothills. They remanded all of the associated applications back to the Planning & Zoning Commission to be reviewed and heard again in consideration of this determination on base zoning rights. They specifically directed that the Foothills Ordinance be followed and that the Commission address the applicant's three questions as stated in their appeal Memorandum.

Staff arranged a public work session on January 26, 2009 for the forum where these issues could be addressed.

Topics for the Work Session

The purpose of the work session is to:

- 1) Address the questions at issue in the appeal;
- 2) Address the project design issues raised by the public and the Planning and Zoning Commission;
- 3) Establish the process for review of the applications. The Commission should determine the process to get this proposal back to a hearing. The applicant has indicated that they intend to proceed as quickly as possible to move this proposal forward.

2. Questions Raised in the Appeal

The applicants raised these questions in their appeal for consideration in light of the recommendations and decisions made by the Commission. The public testimony and Council discussion on the motion to

remand provided some insight and direction for the following issues.

1. Does FPDO establish that the base density on parcels proposed for development is that given for the existing zones on the property?
2. Does the Foothills Planned Development Ordinance (FPDO) require that upon annexation, the buildable areas be zoned R-1A?
3. Does FPDO implement by reference the intent to allow for density transfers among parcels within a project in accordance with the Foothills Policy Plan?

The Council also asked the applicant to work further with the neighborhood in an effort to arrive at a project design that is more acceptable to them. They suggested that a City-initiated Mediation process may be used if agreement cannot be reached.

There was considerable discussion on the motion about the subject property being located in the “Western Foothills ... first priority area for development, subject to adequate street capacity and infrastructure”. (*Foothills Policy Plan* Goal 1 Objective 2 Policy 5) It is clearly within that area, the ACHD has found that adequate street capacity exists, with proposed off-site improvements, and the infrastructure is available. The subject property also has urban density zoning on 43% of the proposal which establishes entitlement for some level of development in compliance with the Comprehensive Plan.

Detailed Discussion:

1. Does FPDO establish that the base density on parcels proposed for development is that given for the existing zones on the property?

Yes, but it is dependant on the conditional use permitting process to determine the allowable density and the areas upon which the units could be distributed.

Commentary:

The Council’s decision states that, “They found that the Foothills Planned Development Ordinance does allow the current zoning to be used to establish the base unit count for a subdivision in the foothills.”

There has been much discussion on the manner in which base density is calculated under the FPDO. The ordinance only says that, “The base density on parcels proposed for development is that given for the existing Boise City or Ada County zone(s)”. (Boise Municipal Code 11-06-05.07.04.A.1. Density Bonus)

Staff has examined several methodologies to calculate the base density that would apply to all applications in the Foothills Planning Area. The method that is consistent with the density calculations for planned developments under Chapter 11-06 is as follows in the Base Zoning Table, the map and the expanded base zoning density table:

Base Density for Existing Zoning =
(Buildable Area* minus 20% for roads, infrastructure and terrain)
divided by
(Minimum lot size for given zone)

Base Density Units in Existing Zoning for the Plano Road Subdivision application

R6 Zone= (446,070 square feet) divided by (1 unit per 6,000 square feet) = 74 units

R-1C Zone= (360,090 square feet) divided by (1 unit per 5,000 square feet) = 72 units

A-1 Zone= (136,643 square feet) divided by (1 unit per 5,000 square feet) = 3 units

RP Zone= (173.1 acres) divided by (1 unit per 40 acres) = 4 units

RP Zone includes three permitted lots in County under other ownership = 3 units

Total Base Units **157 units**

The map demonstrates hypothetically how those base density units might be distributed on the buildable areas in compliance with the FPDO.

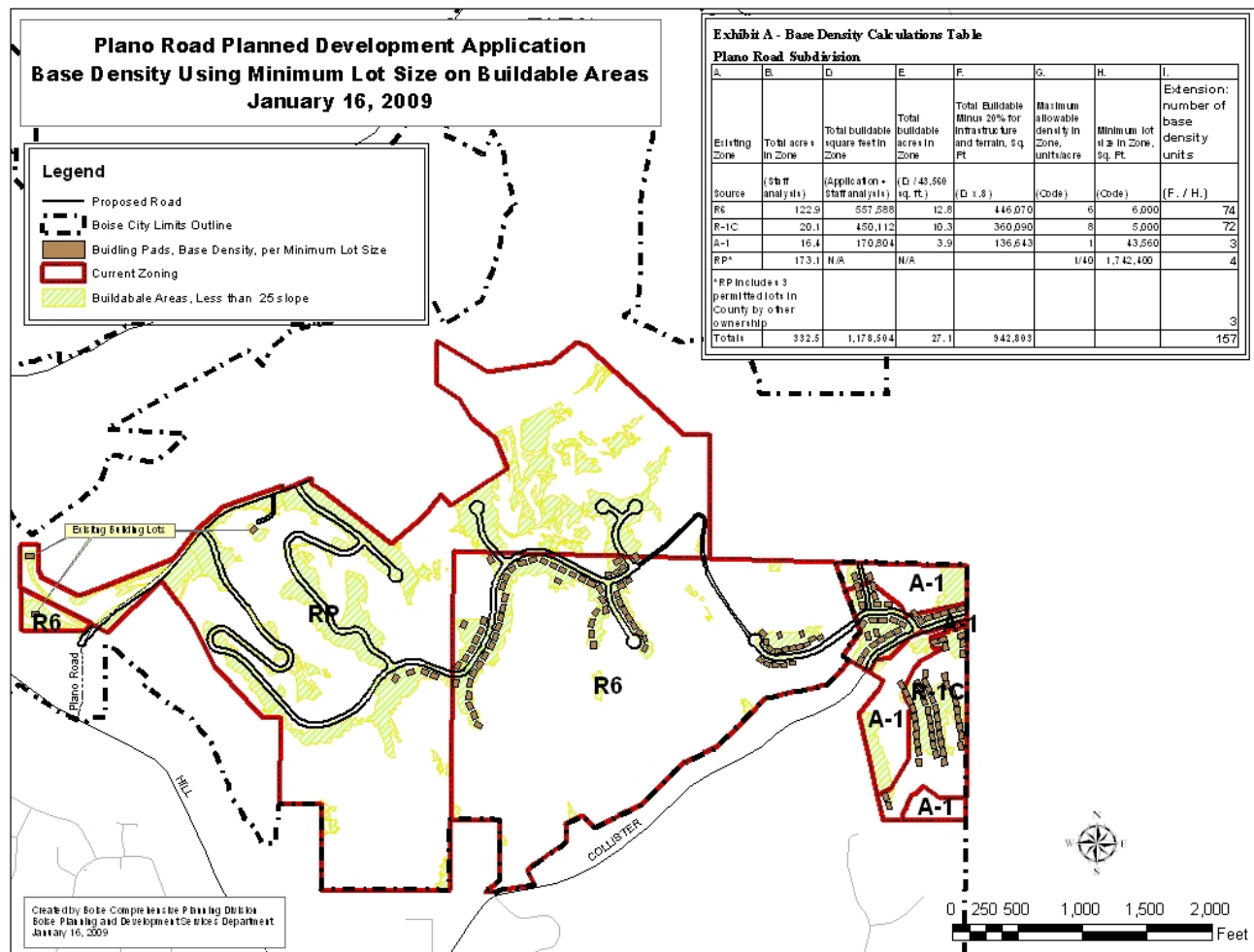


Exhibit A - Base Density Calculations Table**Plano Road Subdivision**

A.	B.	C.	D.	E.	F.	G.	H.	I.	J.
Existing Zone	Total acres in Zone	Percent of Total Acreage	Total buildable square feet in Zone	Total buildable acres in Zone	Total Buildable Minus 20% for infrastructure and terrain, Sq. Ft.	Maximum allowable density in Zone, units/acre	Minimum lot size in Zone, Sq. Ft.	Extension: number of base density units	Proposed lots in the Zone
Source	(Staff analysis)	(B. / Total Acres)	Staff analysis)	(D. / 43,560 sq. ft.)	(D. x .8)	(Code)	(Code)	(F. / H.)	(Application)
R6	122.9	37%	557,588	12.8	446,070	6	6,000	74	38
R-1C	20.1	6%	450,112	10.3	360,090	8	5,000	72	13
A-1	16.4	5%	170,804	3.9	136,643	1	43,560	3	3
RP*	173.1	52%	N/A	N/A		1/40	1,742,400	4	101
*RP includes 3 permitted lots in County by other ownership								3	
Totals	332.5	100%	1,178,504	27.1	942,803			157	155

As defined by the Foothills Planned Development Ordinance in 11-06-05.07.09.Definitions*AREA WITH A SLOPE OF 25% OR LESS:**

An area with a natural (pre-grading) slope of 25% or less, mapped to a minimum resolution of 6,000 square feet in area, also called a Buildable Area.

BUILDABLE AREA:

Lands with a slope of 25% or less are buildable areas, if outside floodways or geologic hazards. Buildable areas must be designated in the Conditional Use site plan as either development pockets or permanent open space in the ratio chosen under the density bonus formula. Buildable area is determined by natural topography, not by post-construction graded contours.

DEVELOPMENT POCKETS:

These are the buildable areas designated on the site plan and plat map where the structures and appurtenances will be clustered. These areas will be largely less than 25% slope but may contain fragments of steeper areas as needed to accommodate the site design.

2. Does the Foothills Planned Development Ordinance (FPDO) require that upon annexation, the buildable areas be zoned R-1A?

Yes. The conditional use permitting process determines the buildable areas where this zoning could be granted.

Commentary:

The Council's discussion and the staff report on the appeal make clear that a development proposal that meets the policies of the *Foothills Policy Plan* and the requirements of the FPDO should receive the R-1A Zone for buildable or developable areas as described in 11-06-05.07.03.

The Planning and Zoning Commission's findings for the denial of the conditional use permit and Hillside and Foothill Areas Development permit applications demonstrate that the applicant has a challenge to comply with the *Foothills Policy Plan* and FPDO. The applicant's appeal failed to address those findings.

3. Does FPDO implement by reference the intent to allow for density transfers among parcels within a project in accordance with the *Foothills Policy Plan*?

Yes. The conditional use permitting process determines the buildable areas where this zoning could be granted.

Commentary:

The only way to transfer density is through a CUP/PUD process. The problem is that the Plano Lane developer has no approved County or City CUP to transfer those units (a CUP independent of the Foothills CUP process). The City Code doesn't consider something potentially allowable under a theoretical CUP to be counted as base zoning rights. The base zoning rights are only what could be developed by straight subdivision without CUP flexibility. It must be clear that this non-allowed, not Foothills PUD-related transfer is not the same as the transfer that can be allowed through the Foothills PUD process.

Some confusion with this issue may relate to the applicant's contention that they have a base right to 917 units. The only way they could ever achieve 917 units under the existing R6 and R1-C zoned (and steeply sloped) properties would be to transfer the otherwise non-achievable units from the non-buildable sloped areas and cluster them at very high density on the small flat areas on the ridge tops. The only way to do that would be through a CUP/PUD process. The problem is that the Plano Lane developer has no approved County or City CUP to transfer those units.



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

MEMORANDUM

TO: Mayor and Boise City Council

FROM: Hal Simmons
Planning Director
Boise City Planning and Development Services

DATE: October 14, 2008

RE: Staff Memorandum of Response to the APPEAL of DENIAL for CUP07-00084, Conditional Use Permit application; CFH07-00022, the Hillside and Foothills Areas Permit; and SUB07-00065, Preliminary Subdivision Plat application,; located at 6890 Plano Road; and, RECOMMENDATION FOR APPROVAL of CAR07-00042/DA Annexation and Zone Change with Development Agreement

The following applications have been scheduled for **hearing on December 9, 2008:**

Aase's Canyon Pointe Development LLC and Capitol Development, Inc. are appealing the Planning and Zoning Commission's denial of the Conditional Use Permit CUP07-00084 to build 155 dwelling units in the Boise Foothills Planning Area, as well as the supporting Hillside and Foothills Areas Development application, CFH07-00022, and Preliminary Plat application SUB07-00065 located at 6890 Plano Road in an Ada County R6 (Medium density residential zone) and RP (Rural preservation zone), and Boise City R-1C (Single Family Residential) and A-1 zones.

The Planning and Zoning Commission recommended approval of CAR07-00042/DA, annexing in the entire project site, 332 acres +/-, into the City with an A-2/DA Zone with Development Agreement, (Open space with a density of one unit per forty acres with a development agreement).

PUBLIC NOTIFICATION

Newspaper publication: November 22, 2008

Radius Notices: November 21, 2008

Site Posting: November 21, 2008

TABLE OF CONTENTS

Page 2	P & Z Action
Page 2	Zoning Ordinance on Appeals
Page 3	Appeal
Page 11	Staff Recommendation
Page 13	Vicinity Map
Page 14	Site Plan
Page 15	Appeal Application
Page 17	Appeal Memoranda
Page 28	Action Letter from August 11, 2008 P & Z Hearing
Page 30	Minutes from August 11, 2008 P & Z Hearing
Page ___	Planning & Zoning Commission Staff Report Packet from August 11, 2008

ACTION BY THE BOISE CITY PLANNING AND ZONING COMMISSION

After reviewing the evidence, and hearing all testimony, the Planning and Zoning Commission **denied** the conditional use permit CUP07-00084 to build 155 dwelling units in the Boise Foothills Planning Area, as well as the supporting Hillside and Foothills Areas Development application, CFH07-00022, and preliminary plat application SUB07-00065 located at 6890 Plano Road in an Ada County R6 (Medium density residential zone) and RP (Rural preservation zone), and Boise City R-1C (Single Family Residential) and A-1 zones.

After reviewing the evidence, and hearing all testimony at their August 11, 2008 hearing, the Planning and Zoning Commission **recommended approval** of CAR07-00042/DA, annexing in the entire project site, 332 acres +/-, into the city with an A-2/DA Zone with Development Agreement, (Open space with a density of one unit per forty acres with a development agreement). The development agreement shall state that development proposals shall comply with the *Foothills Policy Plan*, the "Foothills Planned Development Ordinance" and the "Foothills and Hillside Area Development Ordinance".

ZONING ORDINANCE

11-03-07 - Quasi-judicial Appeals; Form; Content:

Any administrative, committee or Commission level decision may be appealed to the appropriate Commission, or Council in accordance with the procedures established herein. All such appeals must be written, accompanied by the appropriate fee and submitted to the Planning Director prior to the deadlines set forth herein. If the appeal deadline falls on a weekend or holiday the appeal period is automatically extended to the next workday. Each appeal must clearly state the name, address and phone number of the person or organization appealing and specify the issues, items or conditions that are being appealed.

11-03-07.2: Quasi-judicial Appeals to City Council of Decisions of the Planning & Zoning Commission, Hearing Examiner and Historic Preservation Commission

7. The City Council may find error on the following grounds:

(a) The decision below is in violation of constitutional, State or City provisions. An

example would be that the review body's decision would be a taking or failed to comply with mandatory notice required under the local planning act.

- (b) The review body's decision exceeds its statutory authority. An example would be when there is no authority for the decision in federal or Idaho law, local ordinance or the Comprehensive Plan. Because the decision-makers below are experts in their substantive areas, the City Council shall give due consideration to a reasonable interpretation of a City Ordinance adopted by the review body.
- (c) The decision below is made upon unlawful procedure. An example would be if inadequate notice of the hearing was provided.
- (d) The decision below is arbitrary, capricious or an abuse of discretion. For the City Council's actions to be deemed arbitrary or capricious, it must be shown that that its actions were done without rational basis; or in disregard of the facts and circumstances presented; or without adequate determining principles. Where there is room for two opinions, action is not arbitrary and capricious when exercised honestly and upon due consideration, even though it may be believed that an erroneous conclusion has been reached.
- (e) The decision below is not supported by substantial evidence.

APPEAL

The appellant contends the Planning and Zoning Commission committed error in denying the conditional use permit, the Hillside permit and the preliminary plat, based on improper procedure. Four grounds were included in the appeal and supporting memoranda. Each ground has been summarized below, along with staff's response.

1. The decisions below are in violation of constitutional, state or city law.

Response: The appellant contends that the Planning and Zoning Commission's decisions violate constitutional, state or city law.

The appellant's memorandum of October 2, 2008 largely addresses the issues of annexation and zone change that the Boise Planning and Zoning Commission (P&Z) at their hearing of August 11, 2008 made as recommendations to City Council. Recommendations to City Council on annexation and zone change are not subject to appeal, and the normal statutory course of hearing review and decision-making on these issues reside only at City Council. Because the issues of annexation and zone change are so intertwined with the application for conditional use permit in this case, we will address those issues as well in this memorandum stating the City's analysis of the appeal of the conditional use permit.

Staff disagrees as City code is clear that the Planning and Zoning Commission has the authority to make decisions concerning requests for conditional use permits, Hillside and

Foothill Areas Development permits and preliminary plats as outlined in the following code sections:

Section 11-06-04.04 Commission Action

Following the hearing, the Commission shall approve, deny or modify the application for a conditional use permit, imposing any conditions needed to establish the findings of Section 11-06-04.11.

Section 11-06-05.03 Development Standards

The Planning and Zoning Commission may approve planned unit developments in accordance with the following standards:

A. Changes from the development standards of the underlying zone may be approved.

Section 11-06-05.07 FOOTHILLS PLANNED DEVELOPMENT ORDINANCE

11-06-05.07.01. Purpose and Intent

The purpose of the Foothills Planned Development Ordinance is to implement residential subdivision density and design elements of the *Boise City Foothills Policy Plan* (The Plan) and the *Boise City Comprehensive Plan*. It is also designed to protect and promote preservation of contiguous areas of Foothills open space that contain important and significant natural and cultural resource values, as identified in The Plan and this ordinance.

11-06-05.07.02. Applicability

The Foothills Planned Development Ordinance shall apply to all proposed developments in the Boise City Foothills Planning Area where an annexation and/or rezone is required.

11-06-05.07.03. General Application and Development Requirements

1. All developments shall be processed as Planned Developments (PDs) under Section 11-06-05 of the Boise City Zoning Ordinance.

2. In excess of the statutory authority of the agency.

Response: The appellant contends that the Planning and Zoning Commission's decisions exceed its statutory authority.

Staff disagrees as City code is clear that the Planning and Zoning Commission has the authority to make decisions concerning requests for conditional use permits (CUP), Hillside and Foothill Areas Development (Hillside) permits and preliminary plat as outlined in the code sections cited in the previous section. The appellant's claims to this effect address the recommendations for annexation and zone change, not the findings for the CUP, Hillside and preliminary plat. Therefore this basis for appeal has not been demonstrated in regards to the P&Z's decision on CUP07-00084, and the supporting Hillside and Foothills Areas Development application, CFH07-00022, and preliminary plat application SUB07-00065.

3. The decisions are arbitrary, capricious or an abuse of discretion.

Response: The appellant further argues that the decisions are arbitrary, capricious or an abuse of discretion. Staff disagrees in light of the testimony from all parties, and that the discussion, findings and conclusions of the Commission were relevant to the body of evidence and a response to that evidence. The appellant's discussion of this is again focused on the recommendations for annexation and zone change and do not address the findings and conclusions approved by the Commission on September 11, 2008.

4. The decisions are not supported by substantial evidence.

Response: The appellant further argues that the decisions by P&Z are not supported by substantial evidence. Staff would agree that this may be the case in regard to the issue of base density associated with current zoning on the parcels and the extent to which the base density may have impacted the applicant/appellants need for a density bonus under the terms of the CUP. While Staff made every effort to provide the Commission with the entire body of evidence pertaining to the CUP, Hillside and Preliminary Plat, it became evident during the public hearing that there was an unresolved question about how the Foothills Planned Development Ordinance addressed base zoning and base dwelling unit allowances. As described in the narrative that follows, that unresolved issue may constitute error on the part of the Planning & Zoning Commission in a portion of their justification for denial of the CUP.

The following is a narrative developed by Staff to summarize the history of this application; the Planning & Zoning Commission's rationale for their actions; the appellant's bases for appeal; staff's responses and a discussion of possible remedies; and a recommendation to City Council.

Project Proposal

Aase's Canyon is a request for Annexation/Zoning, Conditional Use Permit, Hillside Permit and Subdivision for a 155-unit Foothills planned development on 332.5 acres. The property is located in the Western Foothills north of Hill Road and west of Collister Drive. The majority of the property is currently in the unincorporated County and is contiguous to Boise City limits. The property has a combination of R6 (six units per acre) and RP (one unit per 40 acres) county zoning as well as some R-1C and A-1 city zoning. The geography of the property is characterized by unbuildable steep slopes topped with a relatively narrow ridgeline that constitutes the majority of the buildable area less than 25% in slope. The steep hillsides are heavily populated with Aase's Onion, a relatively rare plant species of concern.

The applicant has proposed a CUP for development of the property in accordance with the standards of the *Foothills Policy Plan* and Foothills Planned Development ordinance. Their proposal is to develop the ridgelines with single-family homes and to provide vehicular access from both Plano Lane and Collister Drive. In accord with the *Foothills Policy Plan*, the applicant and staff assumed a starting base density of one dwelling unit per 40 acres with an option to increase to a density of 2 units per acre on the 73 buildable acres in return for set-aside of open

space consistent with the density bonus formula in the Foothills Planned Development Ordinance. With a starting base density of one unit per 40 acres, the property initially only qualifies for eight dwelling units.

Under normal circumstances, open space set-aside to qualify for the density bonus must be on developable lands of less than 25% slope. However, the ordinance also makes provision for steeply sloped lands to count toward the density bonus if they meet the definition of "Priority Open Space." In this case, the steep slopes of the property:

- 1) contain a strong population of Aase's Onion (a threatened plant species) that will be placed in a land trust for management;
- 2) are contiguous to public open space (Polecat Gulch Reserve);
- 3) include a small area of wetlands/riparian zone that will be protected; and
- 4) the project will provide public access and a trailhead for the Polecat Gulch Reserve.

In consideration of these factors, the applicant has proposed that these sloped areas should be termed "Priority Open Space" as defined by the ordinance and used to calculate their density bonus. Consequently, the project proposes that almost all of the available flat area be developed and that the majority of the steeply sloped areas, which cannot be developed under the ordinance, be counted as their set-aside open space. The amount of sloped area set-aside (83 acres) and buildable area set-aside (25.97 acres) has yielded a density bonus that raised the allowable unit count on the property from eight units to 155 units.

Planning Commission Action

The Planning and Zoning Commission held a public hearing, followed by a work session and another public hearing. After hearing testimony from the applicant, their various consultants and the public, the Commission voted to deny the CUP/Hillside Permit and Subdivision and recommend to the City Council annexation with A-2 (Open Space - One Unit/40 Acres) rather than the applicant's requested combination of R-1A and A-2 zoning. The Planning Commission based this decision on a number of findings.

Density Bonus. The Commission's most significant concern was that the applicant had placed too much reliance on the use of steeply sloped onion conservation areas for their density bonus and as a result had received more density bonus than was appropriate for the property or consistent with the intent of the Foothills Plan and Ordinance. They based this decision in part upon testimony from the applicant's own biological consultant and the land trust representative who both testified at the work session that they had no definitive management plan in mind for the Aase's onion fields and that in fact none was necessary since all the onions really needed to survive was to be left alone and not disturbed by grading or development.

The Commission noted that the basic standards of the Foothills Ordinance said that steeply sloped areas could not be developed, so the onions were already adequately protected by the ordinance and did not need public ownership or management to be adequately protected. As such, the Commission did not believe that the onion-populated slopes should be counted as "Priority Open Space" and should not be used to calculate the density bonus. The Commission further stated that the wetlands areas were similarly protected already and also should not count

as Priority Open Space. They also discounted the suggestion that deer corridors had been adequately demarcated as part of the Priority Open Space formula. The result of these determinations was that the applicant should have set aside flat land on the ridge tops for their density bonus credit.

Subdivision Design. The Commission also expressed concerns with the layout of the subdivision. They noted that the front ridge (southwest-facing ridgeline) was a visually prominent ridge and should not have been developed to the extent proposed by the applicant. They suggested that the most prominent ridges should have been preserved as open space set-aside with development concentrated on the northern and western portions of the property, primarily in the area currently occupied by a sand and gravel pit, which was proposed by the applicant to be filled and used as open space.

Grading. Lastly, the Commission expressed general disagreement with the amount of grading proposed by the applicant for the project overall. They felt that the proposed 1-million cubic yards of grading was excessive and inconsistent with the Hillside Ordinance and the Foothills Plan/Ordinance which both require “minimizing” grading.

Zoning. After stating reasons for denial of the CUP, the Commission debated what zoning to place on the property. The applicant had requested a combination of R-1A zoning for the developable areas and A-2 zoning for the sloped and non-built areas. Ultimately, the Commission voted to recommend A-2 zoning for the entire property along with a Development Agreement requiring that the property cannot be developed or rezoned in any way until a CUP application consistent with the *Foothills Policy Plan* and Foothills Planned Development Ordinance is approved. This zoning recommendation was made despite the applicant’s contention that based on current City and County zoning, they really have a starting density of up to 12 units per acre on the 73 buildable acres of their development, not one unit per 40 acres. The P&Z Commission disagreed and cited the *Foothills Policy Plan* statement that one unit per 40 acres is the base.

Grounds for Appeal

The applicant has appealed the Planning and Zoning Commission’s denial of the CUP/Hillside Permit/Subdivision and is also contesting the recommended zoning of A-2 Open for the entire property. Their primary contention is that they have a base right to development of up to 917 units on the property (based on current city and county zoning) and that the Commission should have approved their request for 155 units on that basis, or at least approved the R-1A zoning on the 73.5 buildable (less than 25% slope) acres of their property.

Their contention of a base allowance of 917 units comes from a statement in the Foothills Planned Development ordinance regarding how base (starting) density in the Foothills should be calculated. Although the *Foothills Policy Plan* states that the base density is one unit per 40 acres, the Foothills Ordinance provides additional clarification that base density is actually to be calculated using the existing zoning on the property as follows: “The base density on parcels proposed for development is that given for the existing Boise City or Ada County zones;” and “the base density may be added to the density bonus units without the requirement for additional open space preservation.”

In this case, the applicant has 122.8 acres currently zoned R6 in the County, 165.5 acres zoned RP in the County, 20.1 acres zoned R-1C in the City and 16.4 acres zoned A-1 in the City. Based

on the zones and the acreages associated with each, the applicant is claiming a base right to construct up to 917 dwelling units on the property. Accordingly, they are arguing that they have no need for the density bonus formula requirements contained in the Foothills Ordinance, and that all they need to gain approval of a 155-unit subdivision is a CUP and Hillside permit that demonstrate basic consistency with the design requirements of the Foothills and Hillside ordinances.

During the Planning & Zoning Commission work session and public hearing the applicant noted that their project design provides “linear” clustering of the units along the buildable areas of the ridgelines, with single-loading of the roadway used in some locations to minimize grading and other disturbance of the ridge. In order to minimize visual impacts (skylining) of the ridge tops, the applicant’s design includes extra-large setbacks for the homes from the ridge slopes, thus preventing the homes from looming over the tops of the slopes and becoming less visible from vantage points below the project. They submitted perspectives from various points in Boise to demonstrate that the setbacks will minimize the visual impact of the units on the ridge tops. They also proposed design review conditions and building height limitations for the homes on the prominent ridges in order to further ensure non-intrusive home designs.

The applicants also contend that the layout of the subdivision includes breaks in the development at critical locations that will allow for passage by resident mule deer and other wildlife in the area. They also contend that the grading is minimal given the steepness of the property and the fact that the excess grading will be used to fill in and restore the existing gravel pit on the back of the property in order to create useable open space and eliminate an unattractive scar on the landscape.

Lastly, the applicants have asserted that they are providing significant protection and enhancement of the priority open space in and around their development by dedicating the sloped areas to a land trust for ownership and management, by providing access to and trailhead development for Polecat Gulch Reserve, and by protecting existing wetlands and riparian areas from development. They have argued that this combination of factors meets the intent of the Foothills Ordinance for Priority Open Space and as a result the steeply sloped portions of their property should be allowed to be counted toward their open space set-aside in order to meet the density bonus formula requirements.

In summary, the applicants/appellants contend that:

1. Their project complies with the Foothills Policy Plan/Foothills Planned Development Ordinance and Hillside Ordinance in all respects including density bonus allowances, cluster design, environmental protection and aesthetics.
2. The density bonus/open space set aside portion of their application is essentially voluntary since they have a base zoning right for 917 units, or nearly six times the number of 155 units they are actually requesting.
3. The P&Z Commission erred in not giving them credit for a base allowance of 917 units and thus erred in denial of the CUP based on lack of proper open space set aside.



4. Based on the existing zoning rights associated with their property, they should be annexed with R-1A zoning on the 73 acres of buildable (less than 25% slope) land area on their property.

Planning Staff Response

This application has provided a difficult case for interpretation and use of the *Foothills Policy Plan* and Foothills Planned Development Ordinance. The subject property is located within the portion of the Western Foothills that is designated as the area of highest priority for development based primarily upon downstream traffic capacity as well as upon general lack of critical deer and elk winter range on the property itself. The property is located adjacent to the recently City-acquired Polecat Gulch Reserve and is positioned to provide much needed public access to the park. High quality and biologically valuable Aase's onion fields on the steep southern slopes characterize much of the property. Planning staff agreed that if these onion fields were actively owned, managed and protected by a public agency or land trust and if public access and related improvements were granted to the City owned Polecat Gulch Reserve, it may be within the standards of the Foothills Planned Development Ordinance to allow the steeply sloped portions of the property to count toward their open space/density bonus requirements. Staff took an admittedly liberal approach to this issue largely in recognition that this property was within the priority development area defined in the Foothills Plan.

A key part of staff's agreement to this approach also had to do with the potential long term value to the onion fields of active management and protection. However, the applicant prepared an inadequate management plan for the onion fields and their own consultants discounted the value or feasibility of such a plan. The Planning & Zoning Commission, therefore, determined that in the absence of a more detailed management plan that the sloped areas should not be allowed to qualify as Priority Open Space to the extent that they were. In light of the applicant's own testimony, Planning staff cannot disagree with the Planning & Zoning Commission's decision and thus we do not believe that they erred in this regard. We do believe, however, that there should be some credit given for access granted to the public property to the northeast (Polecat Gulch) and that some density credit for the sloped areas may be factored into this, but not to the extent proposed by the applicant and initially agreed to by staff.

In regard to the subdivision design and grading issues, staff would offer the following commentary. Steeply sloped areas in the Foothills are inherently difficult to develop in an unobtrusive manner because in most cases the only area that meets the slope criteria for development is on the ridge tops. That is the situation with this property. While the Policy Plan and Ordinance both say that grading and ridge toping should be minimized, we believe that the intent is to minimize grading in the context of the individual unique nature and constraints of the property that is being developed. In this case is it not possible to develop the property without significant grading. Nor is it possible to define large areas for development apart from the ridge tops. We do not believe it was the intent of either the Policy Plan or the Foothills Ordinance to disallow development of a property if the strictest interpretation of the design standards cannot be met.

We believe that the applicant has made efforts to minimize grading by proposing single-loaded sections of the roadway in some areas. We believe they have also addressed aesthetic concerns by establishing large setbacks in conjunction with design review conditions for the homes on the most prominent ridges. However, we also agree in some regards with the Planning & Zoning Commission that too much emphasis was placed on conventional development of the ridge lines

and that additional effort should have been made to locate units in other areas such as the filled gravel pit on the upper end of the property and/or to reduce lot widths so that units could be clustered along the ridge tops rather than spread uniformly upon them. The proposed breaks in development along the ridgelines are minimal. Staff believes that rather than outright denial of the subdivision design, the Commission could have considered directing the applicant to explore design modifications such as smaller lot widths to better meet the intent of the ordinance. But such direction should not have implied that development of the ridge tops is prohibited or that grading could be significantly reduced.

A most significant difficulty with this application arose during the public hearing process when the applicant suddenly changed their position on how base density for their project should be calculated. They had initially agreed with staff that the base density was one unit per 40 acres as stated in the *Foothills Policy Plan*. When they realized that there may be concerns with the Priority Open Space/Density Bonus determinations they were proposing, they then focused their argument on the existing zoning of the property and the fact that they may have enough base zoning rights to avoid the need for a density bonus all together. The Planning & Zoning Commission was not swayed by this last-minute argument and determined that the applicants' initial agreement to a base density of one unit per 40 acres had committed them - and the City - to that approach and that it should not be changed at this late point in time.

Planning staff believes that the applicants are correct in their assertion that the starting or base density should be based upon the combination of city and county zoning that currently exists on the property. As noted at the beginning of this memorandum, the property is zoned RP (one unit per 40 acres), R6 (6 units per acre), R-1C (8 units per acre) and A-1 (one unit per acre). It is clear what the base unit allowance of the RP zoned property is, but the base allowance of the other properties is subject to interpretation. The most logical method may be to apply the minimum lot size of the zone to the amount of buildable area of the property, where it is applied after first subtracting a percentage of land for roads. Since the majority of the R6 zoned property is very steep and unbuildable under any possible scenario, the buildable area is much less than the total acreage of the property.

The buildable area is in fact only what the applicant has already proposed to develop under the CUP. They have proposed a total of 38 units on the R6 property and 13 units on the R-1C property. Since the proposed lot size is equal to or greater than the minimum lot size of the R6 and R-1C zones, that may be considered a reasonable starting point for determining the base allowance of that property. The same general approach may hold true for their A-1 zoned properties, although no subdivision lots are currently proposed for the A-1 properties and staff would need to assume a subdivision layout with one-acre lots to generate a base right for that property. Planning staff did in fact verbally suggest this approach to determining base density or unit allowance at the August 11th public hearing, so this issue is a part of the public record. Staff had suggested a base unit allowance of at least 54 units.

The applicant, however, is not taking actual buildable area into account under their base unit calculations, nor are they taking into account roads, grading or minimum lot sizes. Rather, they are taking the maximum density allowed in the zone by CUP and multiplying that number by total acreage to arrive at 917 units as a base right. Further, they are assuming the ability to spread that unit count across all their lots despite the low density (RP) zoning on 52% of the subject property. Planning staff and the Planning & Zoning Commission strongly disagree with this approach to determining base zoning rights.

Planning staff would note that the Foothills Planned Development Ordinance contains an overly simplified statement about how to calculate base unit allowances and essentially leaves it up to the planning review process to resolve a reasonable base allowance, taking into account the unique circumstances of the property. In this case, planning staff can see a potential base allowance of at least 54 units and perhaps significantly more, depending upon which exact set of assumptions about lot size, buildable area, zone density allowances, subdivision layout and averaging of density across parcels are applied; perhaps even approaching the requested 155-units. However, such an upper end calculation would rely almost entirely upon the R6 and R-1C zoned portions of the property where in this case the fewest number of units are actually proposed and assume some right to apply that excess density to the RP zoned property where the majority of development is actually proposed to occur.

It is unfortunate that this base allowance approach was not resolved early on by staff and the applicant. However, our initial assessment of the site and the proposal seemed to suggest enough confidence in the ability to obtain adequate density bonus through Priority Open Space set aside that there was no need to tackle the difficult issue of base zoning allowances other than one unit per 40 acres. The applicant was in agreement with this approach at the time.

In consideration of the potential base zoning rights associated with the property, it seems clear to staff that the applicant does in fact have an ability to assume a much higher starting unit count prior to putting into effect the density bonus formula. However, it is not proven that the base rights equal the 155 units that they have requested and there may still be a need for set-aside of either flat developable land or sloped Priority Open Space land, or some combination of the two in the context of the Foothills Ordinance.

Staff's assessment is that the Planning & Zoning Commission did err in determining that the applicant's base density was only one unit per 40 acres. We also believe that the applicant is incorrect in the assertion that they have a right for 917 units. Staff believes that a more appropriate action for the Planning Commission to have taken may have been to defer action on all of the applications so that staff and the applicant could jointly work to resolve the base unit allowance issue. Two or three reasonable approaches for determining base unit allowance could have been prepared for consideration by the Commission. We believe it could be determined they acted on the density issue with insufficient information and should instead have set the items over for further work.

STAFF RECOMMENDATION

Planning staff recommends that the City Council find that the Commission erred in not adequately resolving the base zoning allowance for the property. Not resolving the base density issue prevented the Commission from fully understanding how many units were permitted on the property by CUP either with or without the requested density bonus. Planning staff also does not agree with the applicant/appellant that the R-1A zoning should be applied to the buildable portion of the property in the absence of an approved CUP.

Recommendation: City Council should remand all of the applications back to the Planning & Zoning Commission for further study, revision and recommendation/action.

Staff would also ask that the City Council provide some policy guidance on how to resolve the issues related to Priority Open Space and subdivision clustering, design and grading.

Exhibit B

December 11, 2008

AASE's Canyon Point Development, LLC
8899 South 700 East, Ste. 180
Sandy, UT 84070

Capital Development, Inc.
6200 N. Meeker Place
Boise, ID 83713

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

Dear Applicants:

This letter is to inform you of the action taken by the Boise City Council on your request to annex ± 296.12 acres, combined with ± 36.63 acres within Boise City Limits for a total of ± 332.75 acres located 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). Also your appeal of the Planning and Zoning Commission's denial of Conditional Use CUP07-00084, Hillside and Foothills Development Areas Permit CFH07-00022 and Subdivision SUB07-00065 for the construction of a 155 unit Planned Residential Development on ± 332 acres located at 6890 N. Plano Road in a proposed R-1C/DA (Single Family Residential) and A-1/DA (Open Space with a Development Agreement) zones.

The Boise City Council, at their meeting of December 9, 2008, voted to remand the entire application back to the Planning and Zoning Commission with explicit directions to follow the ordinance as detailed in their decision.

The Boise City Council finds that the Commission erred in their findings and decisions and directed a reconsideration of the applications based upon the following:

zoning ordinance 11-06-05.07.03 which addresses the buildable lot during the annexation the buildable lot area being zoned as R-1A.

Secondly, the appellant raised the issue of the base density and that was referred to as the buildable lot and I specifically direct the Planning and Zoning Commission to look at the section ordinance 11-01-03.01 which sets forth the decision of a buildable lot and reconcile that with the section 11-06-05.07.03.

Third, that they discuss they wanted clarification of the ruling on the density transfer issue and I referred them as was also articulated by the appellant themselves to the density transfer was to meet the objectives of the foothills ordinance and that is in fact section 11-14-01.01 and that is the area where most of you probably wanted to

discuss tonight is that these density transfers must meet the objectives of the foothill policy.

The Council issued specific instructions that will need to be followed. A workshop to discuss these issues will be scheduled for late January.

You will be notified when dates for the workshop and the Planning and Zoning hearings have been made.

If you have any questions, please contact Bruce Eggleston in this department at 208/384-3830.

Sincerely,

Hal Simmons
Planning Director
Boise City Planning and Development Services

cc: Moffatt Thomas Barrett Rock & Fields, CHTD. / Robert Burns /
US Bank Plaza Building / 101 S. Capitol Blvd., 10th Fl. / Boise, ID 83701

Exhibit C

City Council Hearing December 9, 2008

Aasee's Canyon Pointe Development, LLC, CAR07-00042, CUP07-00084, CFH07-00022 & SUB07-00065 Appeal

Transcription of the Motion:

Council Member Eberle:

I move that the Council finds that the Commission erred in their findings and that the error was such that it made the decision of the Planning and Zoning Commission essentially defective. That we remand the entire application back to the Planning and Zoning Commission with explicit directions to follow the ordinance.

Now, the appellant asked for a couple of points of clarification therefore I would direct the Planning and Zoning Commission to specifically address... zoning ordinance 11-06-05.07.03 which addresses the buildable lot during the annexation the buildable lot area being zoned as R-1A.

Secondly, the appellant raised the issue of the base density and that was referred to as the buildable lot and I specifically direct the Planning and Zoning Commission to look at the section ordinance 11-01-03.01 which sets forth the decision of a buildable lot and reconcile that with the section 11-06-05.07.03.

Third, that they discuss they wanted clarification of the ruling on the density transfer issue and I referred them as was also articulated by the appellant themselves to the density transfer was to meet the objectives of the foothills ordinance and that is in fact section 11-14-01.01 and that is the area where most of you probably wanted to discuss tonight is that these density transfers must meet the objectives of the foothill policy.

Now I suspect as they go through those and address them specifically, this subdivision will not look the same as it was brought forth tonight. And that there should be opportunity to get your concerns aired at the Planning and Zoning level.

Motion passes, All in favor