

ORIGINAL

BEFORE THE EAGLE CITY COUNCIL

IN THE MATTER OF AN APPLICATION)
FOR A PRELIMINARY PLAT FOR)
CASTLEBURY WEST SUBDIVISION)
FOR CAPITAL DEVELOPMENT)

COPY

FINDINGS OF FACT AND CONCLUSIONS OF LAW
CASE NUMBER PP-10-05

The above-entitled preliminary plat application came before the Eagle City Council for their action on August 23, 2005. The Council, having heard and taken oral and written testimony, and having duly considered the matter, makes the following Findings of Fact and Conclusions of Law;

FINDINGS OF FACT:

A. PROJECT SUMMARY:

Capital Development is requesting preliminary plat approval for Castlebury West Subdivision. The 70.56-acre, 82-lot subdivision (72 buildable, 10 common) is located on the northeast corner of Meridian Road and Chinden Boulevard.

B. APPLICATION SUBMITTAL:

The application for this item was received by the City of Eagle on June 7, 2005.

C. NOTICE OF PUBLIC HEARING:

Notice of Public Hearing on the application for the Eagle Planning and Zoning Commission was published in accordance for requirements of Title 67, Chapter 65, Idaho Code and the Eagle City ordinances on July 1, 2005. Notice of this public hearing was mailed to property owners within three-hundred feet (300-feet) of the subject property in accordance with the requirements of Title 67, Chapter 65, Idaho Code and Eagle City Code on July 1, 2005. Requests for agencies' reviews were transmitted on June 10, 2005, in accordance with the requirements of the Eagle City Code.

Notice of Public Hearing on the application for the Eagle City Council was published in accordance for requirements of Title 67, Chapter 65, Idaho Code and the Eagle City ordinances on August 8, 2005. Notice of this public hearing was mailed to property owners within three-hundred feet (300-feet) of the subject property in accordance with the requirements of Title 67, Chapter 65, Idaho Code and Eagle City Code on August 3, 2005.

D. HISTORY OF RELEVANT PREVIOUS ACTIONS: (None)

E. COMPANION APPLICATIONS: A-07-05 & RZ-11-05

F. COMPREHENSIVE PLAN LAND USE MAP AND ZONING MAP DESIGNATIONS:

	COMP PLAN DESIGNATION	ZONING DESIGNATION	LAND USE
Existing	Residential One (1-unit per acre maximum)	RUT (Rural Urban Transition-Ada County Designation)	Agriculture
Proposed	No Change	R-1 (Residential)	Residential
North of site	Residential Estates (1-unit per 2-acres maximum)	Residential Estates (1-unit per 2-acres maximum)	Residential
South of site	Not in City of Eagle Area of Impact	RUT (Rural Urban Transition-Ada County Designation)	Residential / Agriculture
East of site	Residential One (1-unit per acre maximum)	R-1 (Residential)	Residential
West of site	Residential Transition (1-unit per acre maximum)	RUT (Rural Urban Transition-Ada County Designation)	Agriculture/Residential

G. DESIGN REVIEW OVERLAY DISTRICT: Not in the DDA, TDA or CEDA.

H. SITE DATA:

Total Acreage of Site – 70.56

Total Number of Lots - 82

Residential - 72

Commercial - 0

Industrial - 0

Common - 10

Total Number of Units -

Single-family - 72

Duplex - 0

Multi-family - 0

ADDITIONAL SITE DATA	PROPOSED	REQUIRED
Dwelling Units Per Gross Acre	1-unit per acre	1-unit per acre maximum
Minimum Lot Size	37,000-square feet	37,000 square feet
Minimum Lot Width	100-feet (approx.)	100-feet
Minimum Street Frontage	40-feet	35-feet
Total Acreage of Common Area	0.0-acres	0-acres
Percent of Site as Common Area	0%	0%

I. GENERAL SITE DESIGN FEATURES:

Greenbelt Areas and Landscape Screening:

Eagle City Code Section 8-2A-7 (J)(4)(c) requires a minimum 75-foot wide landscape buffer area between principal arterials/freeways and new residential developments.

Berming, fencing and landscaping details are required for Design Review Board review and approval prior to City approval of a final plat

Open Space:

0% common area is required for this zoning district.

Storm Drainage and Flood Control:

Specific drainage system plans are to be submitted to the City Engineer for review and approval prior to the City Engineer signing the final plat. The plans are to show how swales, or drain piping, will be developed in the drainage easements. Also, the CC&R's are to contain clauses to be reviewed and approved by the City Engineer and City Attorney, requiring that lots be so graded that all runoff runs either over the curb, or to the drainage easement, and that no runoff shall cross any lot line onto another lot except within a drainage easement.

Utility and Drainage Easements, and Underground Utilities:

Eagle City Code section 9-3-6 requires utility easements to be not less than 12 feet wide.

Fire Hydrants and Water Mains:

Hydrants are to be located and installed as may be required by the Eagle Fire District.

On-site Septic System (yes or no) - no

Preservation of Existing Natural Features:

Staff is not aware of any existing natural features on the site.

Preservation of Existing Historical Assets:

Staff is not aware of any existing historical assets on the site which would be required to

be preserved. If during excavation or development of the site, any historical artifacts are discovered, state law requires immediate notification to the state.

J. STREET DESIGN:

Private or Public Streets: Public

The applicant is proposing to construct all internal roadways as 36-foot street sections with concrete shoulders and abutting borrow ditches within 50-feet of right-of-way.

Applicant's Justification for Private Streets (if proposed): None proposed

Blocks Less Than 500': None

Cul-de-sac Design:

There are six (6) cul-de-sacs proposed, two (2) at 125-feet in length, one at 250-ft in length, one at 300-feet in length, one at 375-feet of length, and one at 450-feet in length. Each cul-de-sac is planned to be located within a radius of 50-feet of right-of-way with landscape islands centered in the turnaround.

Curbs, Gutters and Sidewalks:

The applicant proposes a five-foot detached sidewalk through out the development.

Lighting:

Lighting for the proposed public streets is required. Location and lighting specifications shall be provided to the City Zoning Administrator prior to the City Engineer signing the final plat.

Street Names:

Street name approval by the Ada County Street Names Committee has not been received to date. Approval from that committee is required prior to final plat approval.

K. ON AND OFF-SITE PEDESTRIAN/BICYCLE CIRCULATION:

Pedestrian Walkways:

The applicant proposes a five-foot separated sidewalk through out the development.

Bike Paths:

Eagle City Code section 9-4-1-7 states that a bicycle pathway shall be provided in all subdivisions as part of the public right-of-way or separate easement, as may be specified by the City Council.

L. PUBLIC USES PROPOSED: None

M. PUBLIC USES SHOWN ON FUTURE ACQUISITIONS MAP: No map currently exists

N. SPECIAL ON-SITE FEATURES:

Areas of Critical Environmental Concern - no

Evidence of Erosion - no

Fish Habitat - no

Floodplain - no
Mature Trees – yes, proposed to remain
Riparian Vegetation - no
Steep Slopes - no
Stream/Creek: no
Unique Animal Life - unknown
Unique Plant Life - unknown
Unstable Soils - unknown
Wildlife – various species of birds were observed on site

O. SUMMARY OF REVIEW OF ENVIRONMENTAL ASSESSMENT PLAN (IF REQUIRED): A complete environmental plan is not required.

P. AGENCY RESPONSES:

The following agencies have responded and their correspondence is attached to the staff report. Comments, which appear to be of special concern, are noted below:

City Engineer: All comments within the Engineer's letter dated June 29, 2005, are of special concern (see attached).

ACHD
Chevron Pipeline
DEQ
Eagle Sewer District
Idaho Power
Idaho Transportation Department
Joint School District No. 2

Q. LETTERS FROM THE PUBLIC: None received to date.

STAFF ANALYSIS PROVIDED WITHIN THE STAFF REPORT:

A. COMPREHENSIVE PLAN PROVISIONS, WHICH ARE OF SPECIAL CONCERN REGARDING THIS PROPOSAL:

9.5 PATHWAYS AND GREENBELTS

Pathways are non-motorized multi-use paths that are separate features from bicycle and pedestrian lanes constructed as a part of a roadway.

9.5.1 Goal

To create a pathway system that provides interconnectivity of schools, neighborhoods, public buildings, businesses, and parks and special sites.

9.5.2 Objectives

a. To create a pathway system that reflects desire to have a pedestrian and bicycle friendly community.

b. To provide a network of central and neighborhood paths where residents are able to safely access and utilize pathways for alternative forms of transportation.

e. All development should provide developed pathways for connection to Eagle's public pathway system and/or adjoining development's public pathway system.

B. ZONING ORDINANCE PROVISIONS, WHICH ARE OF SPECIAL CONCERN REGARDING THIS PROPOSAL:

- Section 8-2A-7 (J)(4)

Major Roadways: New residential developments, including, but not limited to, subdivisions and multi-family developments, shall be buffered from streets classified as collectors, arterials, freeways, or expressways, to protect residential communities from noisy, potentially dangerous, high speed roads. The "buffer area" shall be defined as the distance from the outside wall of the lowest story of any single-family attached or detached dwelling and the right of way line of the roadway. The lowest story must be screened from the view of any street classified as a collector, arterial, freeway, or expressway. This buffer is required either on individual lots or as an easement, or as part of the common open space owned and maintained by a homeowners' association. Any landscaping proposed to be within the public right of way shall not be included as a part of the buffer area required below. The height for berming/fencing, as noted below, shall be measured from the elevation of the final grade of the adjacent roadway (measured at the centerline) to the top of the proposed berming/fencing. The required buffer area width, plantings, and fencing are as follows:

a. Any road designated as an urban or rural collector on the Ada County long range highway and street map:

A minimum of thirty five feet (35') wide buffer area (not including right of way) shall be provided with the following plants per one hundred (100) linear feet of right of way: four (4) shade trees, five (5) evergreen trees, and twenty four (24) shrubs. Each required shade tree may be substituted with two (2) flowering/ornamental trees, provided that not more than fifty percent (50%) of the shade trees are substituted.

A minimum five foot (5') high, maximum eight foot (8') high, berm, decorative block wall, cultured stone, decorative rock, or similarly designed concrete wall, or combination thereof shall be provided within the buffer area. The maximum slope for any berm shall be three feet (3') horizontal distance to one foot (1') vertical distance. If a decorative block wall, cultured stone, decorative rock, or similarly designed concrete wall is to be provided in combination with the berm, a four foot (4') wide flat area shall be provided for the placement of the decorative wall. Chainlink, cedar, and similar high maintenance and/or unsightly fencing shall not be permitted.

c. Any road designated as a principal arterial on the Ada County long range highway and street map and/or any freeway or expressway:

A minimum of seventy five feet (75') wide buffer area (not including right of way) shall be provided with the following plants per one hundred (100) linear feet of right of way: six (6) shade trees, ten (10) evergreen trees, four (4) flowering/ornamental trees, and twenty four (24) shrubs. Each required shade tree may be substituted with two (2) flowering/ornamental trees, provided that not more than fifty percent (50%) of the shade

trees are substituted.

A minimum ten foot (10') high, maximum twelve foot (12') high, berm, decorative block wall, cultured stone, decorative rock, or similarly designed concrete wall, or combination thereof shall be provided within the buffer area. The maximum slope for any berm shall be three feet (3') horizontal distance to one foot (1') vertical distance. If a decorative block wall, cultured stone, decorative rock, or similarly designed concrete wall is to be provided, in combination with the berm, a four foot (4') wide flat area shall be provided for the placement of the decorative wall. Chainlink, cedar, and similar high maintenance and/or unsightly fencing shall not be permitted.

SUBDIVISION ORDINANCE PROVISIONS WHICH ARE OF SPECIAL CONCERN REGARDING THIS PROPOSAL:

- Section 9-4-1-6 A

Sidewalks shall be required on both sides of the street; except, that where the average width of lots, as measured at the street frontage line or at the building setback line, is over one hundred feet (100'), sidewalks on only one side of the street may be allowed.

D. DISCUSSION:

- For annexation purposes the City requests that application number A-07-05/RZ-11-05, the companion application to this subdivision, show a survey to the center line of the public right of way it does not grant development rights to the improved right of way. Working with ITD and ACHD it seems this applicant has used right of way deeded to ITD during Meridian Road intersection improvements to calculate their base density for the project. At the time of this report ITD had not yet been able to give staff a deed number but it is anticipated in the near future.
- The Eagle Comprehensive Plan designates the property as Residential One, one unit per acre. The proposed development exceeds the maximum allowable gross density, 1 unit per acre, showing 72 units on 70.56 acres. The applicant should provide a revised preliminary plat containing no more than 70 buildable lots.
- The required buffer to Chinden Boulevard and Meridian Road is contained an easement in the residential lots oppose to a separate common lot. This practice results in diminishing the buildable area of the buildable area of Block 2 Lots 3-5, 10-15, 27-32 by as much as 64% creating buildable areas as small as 13,068 square feet. Staff recommends that the two lots to be removed be taken from this area to diminish the impacts of the buffer area on these lots.
- ITD is currently undergoing a Highway 20/26 corridor study to determine ROW needs along Chinden Boulevard in the future. ITD requests that all structures and berms be set back an additional 30-foot from the edge of the existing ROW.
- The applicant proposes a vinyl privacy fence to be located at the back of the berm. Vinyl is not be allowed if the fence is visible from the front of the berm.
- The applicant is proposing to remove all existing structures from the site.

- The applicant proposes to retain the existing trees on the site.
- The Soaring 2025 Plan details an activity node west of this site at the intersections of Meridian and Chinden Roads to allow for pedestrian access to the future transit stop a 5-foot detached meandering sidewalk along Chinden Boulevard should be considered. Neither Banbury or Castlebury Subdivisions to the East have pedestrian facilities along Chinden. The applicant should provide a revised preliminary plat showing: 1) a 5-foot wide detached meandering sidewalk with vertical curb and gutter along Chinden Boulevard, 2) a cross section of the road, sidewalk, and streetscape within the buffer area prior to submittal of the final plat.

STAFF RECOMMENDATION PROVIDED WITHIN THE STAFF REPORT:

Staff recommends approval with the site specific conditions of approval and the standard conditions of approval provided within the staff report.

PUBLIC HEARING OF THE COMMISSION:

- A public hearing on the application was held before the Planning and Zoning Commission on July 18, 2005. Testimony was taken, the public hearing was closed, and the Commission made their recommendation at that time.
- Oral testimony in opposition to the application was presented by one individual requesting compatibility with the 5 acre lots in River Heights Subdivision to the north of the site.
- Oral testimony in favor of the application was presented by no one (not including the applicant/representative).

COMMISSION DECISION:

The Commission voted 3 to 0 (Lien and Marks absent) to recommend approval of PP-10-05 for a preliminary plat for Castlebury West Subdivision with the specific and standard conditions of approval shown within their findings of fact and conclusions of law document, dated August 1, 2005.

PUBLIC HEARING OF THE COUNCIL:

- A public hearing on the application was held before the City Council on August 23, 2005. Testimony was taken, the public hearing was closed, and the Council made their decision at that time.
- Oral testimony in opposition to the application was presented by no one.
- Oral testimony in favor of the application was presented by no one (not including the applicant/representative).

COUNCIL DECISION:

The Council voted 4 to 0 to approve PP-10-05 for a preliminary plat for Castlebury West Subdivision with the following Planning and Zoning Commission recommended site specific and standard conditions of approval.

SITE SPECIFIC CONDITIONS OF APPROVAL:

1. Comply with all applicable requirements of the City Engineer.
2. The applicant shall submit payment to the City for all outstanding Engineering fees incurred for reviewing this project, prior to the City Clerk signing the first final plat.
3. Comply with all requirements of the Ada County Highway District, specifically (but not limited to) roadway design and construction of sidewalks.
4. Provide a revised preliminary plat that reflects no more than 70 residential lots.
5. Provide a revised preliminary plat that changes the rear and side lot easement width (as stated in Note #2) to a minimum of 12-feet wide on the rear and 6-feet wide on the side.
6. Provide a landscape plan showing berming, fencing, and planting details within the required 75-foot wide buffer area along Chinden Boulevard abutting this site for review and approval by the Design Review Board prior to the submittal of a final plat.
7. Provide a landscape plan showing berming, fencing, and planting details within the required 35-foot wide buffer area along Meridian Road abutting this site for review and approval by the Design Review Board prior to the submittal of a final plat. Special concern shall be placed on the right-of-way preservation at the time of the Design Review submittal and review.
8. Provide plans showing street lighting details for review and approval by the Zoning Administrator with the submittal of the final plat. The plans shall show how the streetlights will facilitate the "Dark Sky" concept of lighting.
9. The entire Castlebury West Subdivision shall remain under the control of one Homeowner's Association.
10. The three (3) structures located near the southeast corner of the site shall be removed from the site prior to the issuance of any building permits for the site. Demolition permits shall be obtained prior to the removal of said structures.
11. Provide a letter from Zinger Lateral Ditch Company approving the irrigation and drainage design for this subdivision prior to the City Clerk signing the final plat.
12. The applicant shall submit a design review application showing: 1) proposed subdivision signage, 2) planting details within the proposed and required landscape islands and knuckles and required buffers. The design review application shall be reviewed and approved by the Design Review Board prior to the submittal of a final plat.
13. The developer shall provide 3-inch minimum caliper shade-class trees (landscape plan to be reviewed and approved by the Design Review Board) along both sides of all streets within this development. Trees shall be placed at the front of each lot on the side lot lines, or as approved by the Design Review Board and within five-feet (5') of the edge of the roadway. Prior to the City Clerk signing the final plat, the applicant shall either install the required trees, sod, and irrigation or provide the City with a letter of credit for 150% of the cost of the installation of all landscape and irrigation improvements within the landscape strip. Trees shall be installed prior to obtaining any occupancy permits for the homes. A temporary occupancy may be issued if weather does not permit landscaping.

14. All living trees that do not encroach upon the buildable area on any lot shall be preserved, unless otherwise determined by the City Forester. A detailed landscape plan showing how the trees will be integrated into the buffer areas or private lots (unless approved for removal by the City Forester and the Design Review Board) shall be provided for Design Review Board approval prior to the submittal of a final plat. The applicant shall have an on-site meeting with the City Forester to survey all existing trees. Subsequent to the on-site meeting, construction fencing shall be installed (pursuant to the City Forester's direction) to protect all trees that are to be preserved, prior to the commencement of any construction on the site.
15. Provide a revised preliminary plat plan showing: 1) a meandering 5-foot wide detached sidewalk with vertical curb and gutter along Meridian Road, 2) a cross section of the road, sidewalk, and streetscape within the buffer area prior to submittal of the final plat.
16. The applicant shall provide a license agreement from ACHD and ITD approving the landscaping located within the public rights-of-way abutting and within this site, prior to approval of a final plat.
17. The applicant shall take care to locate and protect from damage existing utilities, pipelines and similar structures. Documentation indicating that "Digline" has performed an inspection of the site shall be submitted prior to the issuance of any building permits for the site.
18. The applicant shall install at the entrances to Castlebury West Subdivision a 4' x 4' plywood or other hard surface signs (mounted on two 4"x 4" posts with the bottom of the signs being a minimum of 3-feet above the ground) noticing the contractors to clean up daily, no loud music, and no dogs off leash.

STANDARD CONDITIONS OF APPROVAL:

1. The applicant shall comply with all requirements of the Ada County Highway District and/or the Idaho Transportation Department, including but not limited to approval of the drainage system, curbs, gutters, streets and sidewalks.
2. Correct street names, as approved by the Ada County Street Name Committee, shall be placed on the plat prior to the City Engineer signing the final plat.
3. Complete water and sewer system construction plans shall be reviewed and approved by the City Engineer. Required improvements shall include, but not be limited to, extending all utilities to the platted property. The developer may submit a letter in lieu of plans explaining why plans may not be necessary.
4. Idaho Department of Health & Welfare approval of the sewer and water facilities is required prior to the City Engineer signing the final plat (I.C. Title 50, Chapter 13 and I.C. 39-118).
5. Written approval of all well water for any shared or commercial well shall be obtained from the Idaho Department of Water Resources prior to the City Engineer signing the final plat.
6. Unless septic tanks are permitted, wet line sewers will be required and the applicant will be required to furnish the City Engineer with a letter from the sewer entity serving the property, accepting the project for service, prior to the City Engineer signing the final plat (B.C.C. 9-20-8.4)
7. All homes being constructed with individual septic systems shall have the septic systems placed on the street side of the home or shall have their sewer drainage system designed with a stub at the house front to allow for future connection to a public sewer system.
8. Per Idaho Code, Section 31-3805, concerning irrigation rights, transfer and disclosure, the water

rights appurtenant to the lands in said subdivision which are within the irrigation entity will be transferred from said lands by the owner thereof; or the subdivider shall provide for underground title or other like satisfactory underground conduit to permit the delivery of water to those landowners within the subdivision who are also within the irrigation entity.

See Eagle City Code Section 9-4-1-9(C) which provides overriding and additional specific criteria for pressurized irrigation facilities.

Plans showing the delivery system must be approved by a registered professional engineer and shall be approved by the City Engineer prior to the City Engineer signing the final plat.

9. The applicant shall submit a letter from the appropriate drainage entity approving the drainage system and/or accepting said drainage; or submit a letter from a registered professional engineer certifying that all drainage shall be retained on-site prior to the City Engineer signing the final plat. A copy of the construction drawing(s) shall be submitted with the letter.
10. Drainage system plans shall be submitted to the City Engineer for review and approval prior to the City Engineer signing the final plat. The plans shall show how swales, or drain piping, will be developed in the drainage easements. The approved drainage system shall be constructed, or a performance bond shall be submitted to the City Clerk, prior to the City Engineer signing the final plat. The CC&R's shall contain clauses to be reviewed and approved by the City Engineer and City Attorney, prior to the City Engineer signing the final plat, requiring that lots be so graded that all runoff runs either over the curb, or to the drainage easement, and that no runoff shall cross any lot line onto another lot except within a drainage easement.
11. No ditch, pipe or other structure or canal, for irrigation water or irrigation waste water owned by an organized irrigation district, canal company, ditch association, or other irrigation entity, shall be obstructed, routed, covered or changed in any way unless such obstruction, rerouting, covering or changing has first been approved in writing by the entity. A Registered Engineer shall certify that any ditch rerouting, piping, covering or otherwise changing the existing irrigation or waste ditch (1) has been made in such a manner that the flow of water will not be impeded or increased beyond carrying capacity of the downstream ditch; (2) will not otherwise injure any person or persons using or interested in such ditch or their property; and (3) satisfied the Idaho Standards for Public Works Construction. A copy of such written approval and certification shall be filed with the construction drawing and submitted to the City Engineer prior to the City Engineer signing the final plat.
12. Street light plans shall be submitted and approved as to the location, height and wattage to the City Engineer prior to the City Engineer signing the final plat. All construction shall comply with the City's specifications and standards.

The applicant shall delineate on the face of the final plat an easement, acceptable to the City Engineer, for the purpose of installing and maintaining street light fixtures, conduit and wiring lying outside any dedicated public right-of-way, prior to the City Engineer signing the final plat.

The applicant shall pay applicable street light inspection fees on the proposed subdivision prior to signing of the final plat by the Eagle City Engineer.
13. The applicant shall provide utility easements as required by the public utility providing service, and as may be required by the Eagle City Code, prior to the City Engineer signing the final plat.
14. An approval letter from the Eagle Fire Department shall be submitted to the City prior to the City Engineer signing the final plat. The letter shall include the following comments and minimum requirements, and any other items of concern as may be determined by the Eagle Fire Department officials:

- a. The applicant has made arrangements to comply with all requirements of the Fire Department.
 - b. The proposed fire hydrant locations shall be reviewed and be approved in writing by the Eagle Fire Department prior to the City Engineer signing the final plat.
 - c. Minimum flow per hydrant shall be 1,000 gallons per minute for one and two family dwellings, 1,500 gallons per minute for dwellings having a fire area in excess of 3,600 square feet, and 1,500 gallons per minute for non-residential uses (i.e.; Commercial, Industrial, Schools, etc.). Flow rates shall inspected in accordance with all agencies having jurisdiction, and shall be verified in writing by the Eagle Fire Department prior to issuance of any building permits.
 - d. The proposed fire protection system shall be reviewed and approved by the Eagle Fire Department prior to issuance of a building permit.
15. Covenants, homeowner's association by-laws or other similar deed restrictions, acceptable to the Eagle City Attorney which provide for the use, control and mutual maintenance of all common areas, storage facilities, recreational facilities, street lights or open spaces shall be reviewed and approved by the Eagle City Attorney prior to the City Engineer signing the final plat.
- A restrictive covenant must be recorded and a note on the face of the final plat is required, providing for mutual maintenance and access easements.
- Appropriate papers describing decision-making procedures relating to the maintenance of structures, grounds and parking areas shall be reviewed and approved by the Eagle City Attorney prior to the City Engineer signing the final plat.
16. Should the homeowner's association be responsible for the operation and maintenance of the storm drainage facilities, the covenants and restrictions, homeowner's association by-laws or other similar deed restrictions acceptable to the Eagle City Attorney shall be reviewed and approved by the Eagle City Attorney prior to the City Engineer signing the final plat.
17. The applicant shall submit an application for Design Review, and shall obtain approval for all required landscaping, common area and subdivision signage prior to the City Engineer signing the final plat.
18. Any recreation area, greenbelt area or pathway area along the Boise River, Dry Creek or any other area designated by the City Council or Eagle City Pathway/Greenbelt Committee for a path or walkway shall be approved in writing by the Eagle City Pathway/Greenbelt Committee prior to approval of the final plat by the City Council.
19. Conservation, recreation and river access easements (if applicable) shall be approved by the Eagle City Pathway/Greenbelt Committee and shall be shown on the final plat prior to approval of the final plat by the City Council.
20. The applicant shall place a note on the face of the plat which states: "Minimum building setback lines shall be in accordance with the applicable zoning and subdivision regulations at the time of issuance of the building permit or as specifically approved and/or required".
21. The applicant shall comply with the provisions of the Eagle City Code, pertaining to floodplain and river protection regulations (if applicable) prior to the City Engineer signing the final plat.
22. The development shall comply with the Boise River Plan (if applicable) in effect at the time of City Council consideration of the final plat.
23. The applicant shall obtain written approval of the development relative to the effects of the Boise River Flood Plain (if applicable) from the Corps. of Engineers prior to approval of the final plat

by the City Engineer.

24. The applicant shall obtain approval of the development relative to its effects on wetlands or other natural waterways (if applicable) from the Corps. of Engineers and the Idaho Department of Water Resources and/or any other agency having jurisdiction prior to the City Engineer signing the final plat.
25. Basements in homes in the flood plain are prohibited.
26. The Americans with Disabilities Act, Uniform Building Code, Eagle City Code, Eagle Comprehensive Plan, and all applicable County, State and Federal Codes and Regulations shall be complied with. All design and construction shall be in accordance with all applicable City of Eagle Codes unless specifically approved by the Commission and/or Council.
27. No change in the terms and conditions of this approval shall be valid unless they are in writing and signed by the applicant or the applicant's authorized representative and an authorized representative of the City of Eagle. The burden shall be upon the applicant to obtain written confirmation of any change from the City of Eagle.
28. No public board, agency, commission, official or other authority shall proceed with the construction of or authorize the construction of any of the public improvements required by the Eagle City Code Title 9 "Land Subdivisions" until the final plat has received the approval of the City Council (ECC 9-6-5 (A) (2)).

After Council approval of the final plat, the applicant may construct any approved improvements before the City Engineer signs the final plat. The applicant shall provide a financial guarantee of performance in the amount of 150% of the total estimated cost for completing any required improvements (see resolution 98-3) prior to the City Engineer signing the final plat. The financial guarantee shall be a Letter of Credit, Certificate of Deposit, cash deposit or certified check.

29. In accordance with Eagle City Code, failure to obtain a recorded final plat for the subdivision within one year following City Council approval shall cause this approval to be null and void, unless a time extension is granted by the City Council.
30. Prior to submitting the final plat for recording, the following must provide endorsements or certifications: Owners or dedicators, Registered Land Surveyor, County Engineer, Central District Health Department, Ada County Treasurer, Ada County Highway District Commissioners, City Engineer, and City Clerk.
31. The City's actions on the application does not grant the applicant any appropriation of water or interference with existing water rights. The applicant indemnifies and holds the City harmless for any and all water rights, claims in any way associated with this application.

CONCLUSIONS OF LAW:

1. The application for this item was received by the City of Eagle on June 7, 2005
2. Notice of Public Hearing on the application for the Eagle Planning and Zoning Commission was published in accordance for requirements of Title 67, Chapter 65, Idaho Code and the Eagle City ordinances on July 1, 2005. Notice of this public hearing was mailed to property owners within three-hundred feet (300-feet) of the subject property in accordance with the requirements of Title 67, Chapter 65, Idaho Code and Eagle City Code on July 1, 2005. Requests for agencies' reviews were transmitted on June 10, 2005 in accordance with the requirements of the Eagle City Code.

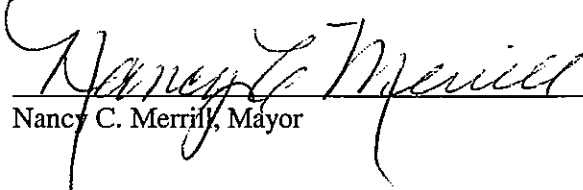
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3. The Council reviewed the particular facts and circumstances of this proposed preliminary plat (PP-10-05) and based upon the information provided concludes that the proposed preliminary plat application is in accordance with the City of Eagle Title 9 (Subdivisions) because:
 - a. The requested preliminary plat complies with the density of the approved zoning designation of R-1 (Residential); and
 - b. Will be harmonious with and in accordance with the general objectives of Title 9 of the Eagle City Code since the development is consistent with the Comprehensive Plan and provide the requires improvements for a subdivision; and
 - c. Will be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing and intended character of the general vicinity and that such use will not change the essential character of the same area; and
 - d. Will not create excessive additional requirements at public cost for facilities and services as the site will be served by central sewer from the Eagle Sewer District and will use public water to be served from United Water. Fire protection will be available from the Eagle Fire District and fire hydrants will be provided were required; and
 - e. Will have vehicular approaches to the property designed to not create an interference with traffic on surrounding public thoroughfares since the project is reviewed and approved the highway district having jurisdiction and is subject to the conditions therein; and
 - f. This development is in continuity with the capital improvement program since the required public improvements have been installed on site, or are expected to be installed with the development of individual lots as conditions of approval; and
 - g. That based upon agency verification and additional written comments of the Eagle Fire Department and the Ada County Highway District, or as conditioned herein, there is adequate public financial capability to support the proposed development; and
 - h. That any health, safety and environmental problems that were brought to the Council's attention have been adequately addressed by the applicant or will be conditions of final plat approval as set forth within the conditions of approval above.

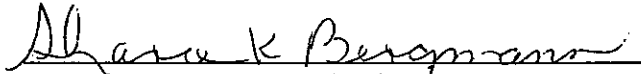
DATED this 13th day of September 2005.

CITY COUNCIL
OF THE CITY OF EAGLE
Ada County, Idaho



Nancy C. Merrill, Mayor

ATTEST:



Sharon K. Bergmann, Eagle City Clerk

