

Valley County Planning & Zoning Department

219 N. Main
PO Box 1350
Cascade, ID 83611
www.co.valley.id.us
Phone 208-382-7115
Fax 208-382-7119



C.U.P. & Preliminary Plat Application

TO BE COMPLETED BY THE PLANNING AND ZONING DEPARTMENT		<input checked="" type="checkbox"/> Check # _____ or <input type="checkbox"/> Cash
FILE # <u>C.U.P. 21-09</u>		FEE \$ <u>800.00</u>
ACCEPTED BY _____		DEPOSIT <u>1000.00</u>
CROSS REFERENCE FILE(S): _____		DATE <u>3-2-2021</u>
<input type="checkbox"/> ADMINISTRATIVE PLAT	COMMENTS: <u>14-lot SF subdivision (1 common lot)</u>	
<input type="checkbox"/> SHORT PLAT		
<input checked="" type="checkbox"/> FULL PLAT		

When an application has been submitted, it will be reviewed in order to determine compliance with application requirements. A hearing date will be scheduled only after an application has been accepted as complete.

The following must be completed and submitted with the conditional use permit application:

- ❖ A preliminary plat containing all of the necessary requirements according to the Valley County Subdivision Regulations.
- ❖ A phasing plan and construction timeline.
- ❖ One 8½ x 11" – 300 scale drawing of the proposed subdivision showing only the street names and lots.
- ❖ A plot plan, drawn to scale, showing existing utilities, streets, easements, ditches, and buildings.
- ❖ A landscaping plan, drawn to scale, showing elements such as trees, shrubs, ground covers, and vines. Include a plant list, indicating the size, quantity, location, and name (both botanical and common) of all plant material to be used.
- ❖ A site grading plan clearly showing the existing site topography and detailing the best management practices for surface water management, siltation, sedimentation, and blowing of dirt and debris caused by grading, excavation, open cuts, side slopes, and other site preparation and development.
- ❖ A lighting plan.
- ❖ A Wildfire Mitigation Plan.
- ❖ Names and addresses of property owners within 300 feet of the property lines. Information can be obtained through the Assessor's Office. Only one list is required.

Ten (10) copies of the application and additional materials are required.

**We recommend you review Title 9 and Title 10 of the Valley County Code online at
www.co.valley.id.us/planning-zoning or**

**at the Planning and Zoning Office, 219 North Main, Cascade, Idaho.
Subject to Idaho Statute 55-22 Underground Facilities Damage Prevention.**

PROPOSED SUBDIVISION NAME OSPREY POINTE SUBDIVISION

APPLICANT BILTMORE INVESTMENTS

PHONE [REDACTED]

Owner ☒

Option Holder ☐

Contract Holder ☐

APPLICANT'S SIGNATURE _____

DATE _____

APPLICANT'S MAILING ADDRESS 1580 W CAYUSE WAY MERIDIAN ID 83646

OWNER SAME AS ABOVE

PHONE _____

OWNER'S MAILING ADDRESS _____

Nature of Owner's Interest in this Development? DEVELOPER

AGENT/REPRESENTATIVE KENT BROWN

FAX _____

PHONE [REDACTED]

AGENT/REPRESENTATIVE ADDRESS 3161 E SPRINGWOOD DR MERIDIAN ID 83642

ENGINEER DAVID BAILEY/BAILEY ENGINEERS

PHONE [REDACTED]

ENGINEER ADDRESS 1119 E STATE ST STE 210 EAGLE ID 83616

1. SIZE OF PROPERTY 4.15 AC

2. NUMBER OF ACREAGE OF ADJACENT LAND HELD BY THIS OWNER 79.42

3. ANY RESTRICTIONS ON THIS PROPERTY?

Easements to NONE

Deed Restrictions N/A

Liens or encumbrances NONE

4. LEGAL DESCRIPTION SEE ATTACHED

5. TAX PARCEL NUMBER RP16N03E161805

(Portion of)

Quarter W 1/2

Section 16

Township 16N

Range 3E

6. EXISTING LAND USES AND STRUCTURES ON THE PROPERTY ARE AS FOLLOWS:

VACANT

7. ARE THERE ANY KNOWN HAZARDS ON OR NEAR THE PROPERTY (such as canals, hazardous material spills, soil or water contamination)? If so, describe and give location: NONE

8. ADJACENT PROPERTIES HAVE THE FOLLOWING BUILDING TYPES AND/OR USES:

North DONNELLY CITY PARK AND BOAT RAMP

South LAUGHING BILL SUBDIVISION

East DAWN DRIVE AND MORE LAND OWNED BY BILTMORE INVESTMENTS

West LAKE CASCADE

- 8a. TYPE OF TERRAIN: Mountainous ☐ Rolling ☐ Flat ☒ Timbered ☐
- 8b. DOES ANY PORTION OF THIS PARCEL HAVE SLOPES IN EXCESS OF 15%? YES
- 8c. DESCRIBE ANY SIGNIFICANT NATURAL RESOURCES SUCH AS ROCK OUTCROPPING, MARSHES, WOODED AREAS: None
- 9a. WATER COURSE: N/A
- 9b. IS ANY PORTION OF THE PROPERTY LOCATED IN A FLOODWAY OR 100-YR FLOODPLAIN?
Information can be obtained from the P&Z Office. Include a map if yes. NONE
- 9c. ARE THERE WETLANDS LOCATED ON ANY PORTION OF THE PROPERTY? NONE
- 9d. WILL ANY PART OF THE PROPERTY BE SUBJECT TO INUNDATION FROM STORMWATER OVERFLOW OR SPRING MELTING RUN-OFF? NONE
- 10a. NUMBER OF EXISTING ROADS: 1 Width _____ Private or Public? PUBLIC
Are the existing road surfaces paved or graveled? _____
- 10b. NUMBER OF PROPOSED ROADS: 0 Proposed width: _____
Will the proposed roads be publicly or privately maintained? public
Proposed road construction: Gravel ☐ Paved ☐
- 11a. EXISTING UTILITIES ON THE PROPERTY ARE AS FOLLOWS:

- 11b. PROPOSED UTILITIES: Cable, Power, Phone

Proposed utility easement width _____ Location Along Down Drive
- 12a. SOLID WASTE DISPOSAL METHOD: Individual Septic ☐ Central Sewage Treatment Facility ☒
- 12b. POTABLE WATER SOURCE: Public ☐ Water Association ☐ Individual ☒
If individual, has a test well been drilled? _____ Depth _____ Flow _____ Purity Verified? _____
Nearest adjacent well 174 Ora Lane Depth 69 Flow _____
13. ARE THERE ANY EXISTING IRRIGATION SYSTEMS? NONE /THERE IS NO SURFACE WATER RIGHTS
Are you proposing any alterations, improvements, extensions or new construction? NO
If yes, explain: _____
14. DRAINAGE (Proposed method of on-site retention): to be done during home construction
Any special drains? NO (Please attach map)
Soil type (Information can be obtained from the Soil Conservation District): Donnel sandy loam
15. WILL STREETS AND OTHER REQUIRED IMPROVEMENTS BE CONSTRUCTED PRIOR TO THE RECORDING OF THE FINAL PLAT? _____
If not, indicate the type of surety that will be put up to ensure the construction of the improvements within one (1) year from the date of filing the plat: _____

16. OUTLINE OF PROPOSED RESTRICTIVE COVENANTS:

Setbacks: Front 20' Sides 7.5 Rear 20'
Mobile homes allowed? _____
Minimum construction value _____ Minimum square footage 2,000sf
Completion of construction required within _____ Days ☐ Months ☐ Years ☒
Resubdivision permitted? n/a
Other _____

17. LAND PROGRAM:

Acreage in subdivision 4.15 Number of lots in subdivision 14
Typical width and depth of lots 95' AND 132'
Typical lot area 12,335 SF Minimum lot area 12,830SF Maximum lot area 14,224 SF
Lineal footage of streets 1,317 Average street length/lot 94
Percentage of area in streets 0 %
Percentage of area of development to be public (including easements) 0 %
Maximum street gradient n/a
Indicate if subdivision is to be completely developed at one time; if not, describe stages _____
SUBDIVISION WILL BE DONE AT ONE TIME

18. COMPLETE ATTACHED PLAN FOR IRRIGATION. N/A ENGINEERING REPORT SPEAK TO IT

19. COMPLETE ATTACHED WEED CONTROL AGREEMENT.

20. COMPLETE ATTACHED IMPACT REPORT. It must address potential environmental, economic, and social impacts and how these impacts are to be minimized. YES



VALLEY COUNTY PLANNING & ZONING DEPARTMENT

219 North Main Street
PO Box 1350
Cascade, ID 83611

Phone 208-382-7115
Fax 208-382-7119
www.co.valley.id.us

APPLICATION FOR IRRIGATION PLAN APPROVAL

submitted with C.U.P. & Subdivision Applications

(Idaho Code 31-3805)

Applicant(s): BUILTMORE INVESTMENTS

1580 E CAYUSE WAY MERIDIAN IDAHO 83646
Mailing Address City, State Zip

Telephone Numbers: [REDACTED]

Location of Subject Property: NORTH AND WEST OF DAWN DRIVE AND DELAYNE ROAD
(Property Address or Two Nearest Cross Streets)

Assessor's Account Number(s): RP 16N03E161805 Section 16 Township 16N Range 3E

C.U.P Number: _____

This land: ☐ Has water rights available to it
☒ Is dry and has no water rights available to it. If dry, please sign this document and return to the Planning & Zoning Department as part of your application.

Idaho Code 31-3805 states that when all or part of a subdivision is "located within the boundaries of an existing irrigation district or canal company, ditch association, or like irrigation water deliver entity ... **no subdivision plat or amendment to a subdivision plat or any other plat or map recognized by the city or county for the division of land will be accepted, approved, and recorded unless:**"

- A. The appropriate water rights and assessment of those water rights have been transferred from said lands or excluded from an irrigation entity by the owner; or
- B. The owner filing the subdivision plat or amendment to a subdivision plat or map has provided for the division of land of underground tile or conduit for lots of one acre or less or a suitable system for lots of more than one acre which will deliver water to those land owners within the subdivision who are also within the irrigation entity with the appropriate approvals:
 - 1. For proposed subdivisions located within an area of city impact, both city and county zoning authorities must approve such irrigation system in accordance with 50-the irrigation system.
 - 2. For proposed subdivisions outside of negotiated areas of city impact, the delivery system must be approved by the Planning and Zoning Commission and the Board of County Commissioners with the advice of the irrigation entity charged with the delivery of water to said lands.

To better understand your irrigation request, we need to ask you a few questions. A list of the map requirements follows the short questionnaire. **Any missing information may result in the delay of your request before the Planning and Zoning Commission and ultimately the approval of your irrigation plan by the Board of County Commissioners as part of final plat approval.**

1. Are you within an area of negotiated City Impact? _____ Yes X No

2. What is the name of the irrigation and drainage entities servicing the property?

Irrigation: N/A

Drainage: N/A

3. How many acres is the property being subdivided? 4.15 AC

4. What percentage of this property has water? 0

5. How many inches of water are available to the property? 0

6. How is the land currently irrigated? ☐ surface ☐ sprinkler ☐ irrigation well
☐ above ground pipe ☐ underground pipe

7. How is the land to be irrigated after it is subdivided? N/A

☐ surface ☐ sprinkler ☒ irrigation well
☐ above ground pipe ☐ underground pipe

8. Please describe how the head gate/pump connects to the canal and irrigated land and where ditches &/or pipes go.
 N/A

9. Is there an irrigation easement(s) on the property? ☐ Yes ☒ No

10. How do you plan to retain storm and excess water on each lot? EACH LOT WILL BE GRADED TO KEEP DRAINAGE ON SITE

11. How do you plan to process this storm water and/or excess irrigation water prior to it entering the established drainage system? (i.e. oil, grease, contaminated aggregates) _____

Irrigation Plan Map Requirements

The irrigation plan **must be on a scalable map** and show all of the irrigation system including all supply and drainage structures and easements. Please include the following information on your map:

- ☐ All canals, ditches, and laterals with their respective names.
- ☐ Head gate location and/or point of delivery of water to the property by the irrigation entity.
- ☐ Pipe location and sizes, if any
- ☐ Rise locations and types, if any.
- ☐ Easements of all private ditches that supply adjacent properties (i.e. supply ditches and drainage ways).
- ☐ Slope of the property in various locations.
- ☐ Direction of water flow (use short arrows on your map to indicate water flow direction →).
- ☐ Direction of wastewater flow (use long arrows on your map to indicate waste water direction →).
- ☐ Location of drainage ponds or swales, if any where wastewater will be retained on property
- ☐ Other information: _____

Also, provide the following documentation:

- ☐ Legal description of the property.
- ☐ Proof of ownership.
- ☐ A written response from the irrigation entity and/or proof of agency notification.
- ☐ Copy of any water users' association agreement currently in effect which shows water schedules and maintenance responsibilities.
- ☐ Copy of all new easements ready for recording (irrigation supply and drainage).
- ☐ If you are in a city area of impact, please include a copy of the approvals by the city planning and zoning commission and city council of your irrigation plan.

=====Applicant Acknowledgement=====

I, the undersigned, agree that prior to the Planning and Zoning Department accepting this application, I am responsible to have all the required information and site plans.

I further acknowledge that the irrigation system, as approved by the Planning and Zoning Commission and ultimately the Board of County Commissioners, must be bonded and/or installed prior to the recording of the plat or building permit.

Signed: _____
Applicant / Property Owner

Date: ____/____/____
(Application Submitted)



VALLEY COUNTY

WEED CONTROL AGREEMENT

The purpose of this agreement is to establish a cooperative relationship between Valley County and the undersigned Cooperator to protect the natural and economic values in the Upper Payette River watershed from damages related to the invasion and expansion of infestations of noxious weeds and invasive plants. This is a cooperative effort to prevent, eradicate, contain and control noxious weeds and invasive plants on public and private lands in this area. Factors related to the spread of weeds are not related to ownership nor controllable at agency boundaries. This agreement formalizes the cooperative strategy for management of these weeds addressed in Valley County's Integrated Weed Management Plan.

In this continuing effort to control Noxious Weeds, Valley County Weed Control will consult with the undersigned Cooperator and outline weed identification techniques, present optional control methods and recommend proper land management practices.

The undersigned Cooperator acknowledges that he/she is aware of any potential or real noxious weed problems on his/her private property and agrees to control said weeds in a timely manner using proper land management principles.

COOPERATOR

By: _____

Date: _____

By: _____

Valley County Weed Control

Date: _____

IMPACT REPORT (from Valley County Code 9-5-3-D)

You may add information to the blanks below or attach additional sheets.

- ❖ An impact report shall be required for all proposed Conditional Uses.
- ❖ The impact report shall address potential environmental, economic, and social impacts and how these impacts are to be minimized as follows:

1. Traffic volume, character, and patterns including adequacy of existing or proposed street width, surfacing, alignment, gradient, and traffic control features or devices, and maintenance. Contrast existing with changes the proposal will bring construction and after completion, buildout, or full occupancy of the proposed development. Include pedestrian, bicycle, auto, and truck traffic.

- The lots will take access from Dawn Drive. No new roads will be required for access to the Development. There will be one shared driveway for two lots where practicable and access and impact to Dawn Drive has been limited. Said shared driveways will be constructed with the development.

2. Provision for the mitigation of impacts on housing affordability.

- Currently there is a limited number of lots and homes available on the market. With the addition of this subdivision, it will provide added supply giving the market more options than currently exist.

3. Noise and vibration levels that exist and compare to those that will be added during construction, normal activities, and special activities. Include indoor and outdoor, day and night variations.

- Site and Development construction will be minimal. The road access points on Dawn Drive will all be constructed at the time of site infrastructure. Additionally, agricultural use is to the East as well as the property to the east is owned by the same owner as the proposed development. The Bureau of Reclamation owns land to the south and west. There is one residential neighbor adjacent to this subdivision. That neighbor's garage is adjacent to the proposed common lot so views from the existing home will not be reduced by this subdivision.

4. Heat and glare that exist and that might be introduced from all possible sources such as autos in parking areas, outdoor lights, water or glass surfaces, buildings or outdoor activities.

- Subdivision Covenants will include night sky initiative to minimize this impact from artificial light. The subdivision covenants will also encourage the owners to retain as much existing vegetation as possible and use new landscaping to shade new construction as much as possible.

5. Particulate emissions to the air including smoke, dust, chemicals, gasses or fumes, etc. both existing and what may be added by the proposed uses.

- The existing use is agricultural and the Proposed use is single family residential. Single family produces minimal particulate emissions.

6. Water demand, discharge, supply source, and disposal method for potable uses, domestic uses, and fire protection. Identify existing surface water drainage, wet lands, flood prone areas and potential changes. Identify existing ground water and surface water quality and potential changes due to this proposal.

- Individual wells are proposed for the homes within the subdivision. The property is currently dry with no irrigation or existing drainage or wet lands. The development of the property will not increase or change current impacts. Test holes were dug at regular intervals and water not encountered at depths of 11 feet.

7. Fire, explosion, and other hazards existing and proposed. Identify how activities on neighboring property may affect the proposed use.

- The property will be improved with the development of the single-family lots. In addition, as part of the development we will removal the dead trees, snags and underbrush to lessen the possibility of fire and remove the existing fuel source of the dead trees and branches. The neighboring properties are agricultural and residential so the impact of this property will be similar to what is existing.

8. Removal of existing vegetation or effects there on including disturbance of wet lands, general stability of soils, slopes, and embankments and the potential for sedimentation of disturbed soils.

- With the exception of the thinning of dead and dying trees to reduce fire hazards the lots will be left largely undisturbed until home construction begins. Perimeter vegetation, grass, trees and landscape will be required during construction. The vegetation will stabilize soils and provide for quality ground cover.

9. Include practices that will be used to stabilize soils and restore or replace vegetation.

- Typical landscaping including grass, shrubs and trees will stabilize the soil.

10. Soil characteristics and potential problems in regard to slope stability, embankments, building foundation, utility and road construction. Include suitability for supporting proposed landscaping.

- The site is currently relatively flat with the exception of the 4 lots proposed on the north of the project. The 4 northern lots are suitable for daylight basements. A soil study was commissioned by the developer and no issues were encountered that would indicate possible problems with development of the property.

11. Site grading or improvements including cuts and fills, drainage courses and impoundments, sound and sight buffers, landscaping, fencing, utilities and open areas.

- The project will maintain the natural features of the property and utilize both existing topography and vegetation to all extent practicable.

12. Visibility from public roads, adjoining property and buildings. Include what will be done to reduce visibility of all parts of the proposal, but especially cuts and fills and building. Include the affect of shadows from new features on neighboring property.

- Landscaping will be encouraged to screen views from Dawn Drive. Homes will be built utilizing the natural topography of the property thus reducing the need for significant cuts or fills. None of the proposed lots shadow or obstruct views from neighboring properties.

13. Reasons for selecting the particular location including topographic, geographic and similar features, historic, adjoining land ownership or use, access to public lands, recreation, utilities, streets, etc., in order to illustrate compatibility with the opportunities presented by existing land uses or character.

- This property borders Dawn Drive and access is convenient to Dawn Drive. In addition, this property has allotted sewer connections with an existing sewer main in Dawn Drive. The project will limit effects of development due to the existing services and street access.

14. Approximation of increased revenue from change in property tax assessment, new jobs available to local residents, and increased local expenditures.

- The property is currently taxed at less than one dollar per acre as it is agricultural land. With the development of this property then average taxes per lot are estimated to be \$750.00 based on similar property types in the area. The development will consist of 13 lots so annual taxes revenue could be \$9,750.00 which is a significant increase from the existing revenue. Once the homes are completed tax revenue is estimated at \$6,250 per home or \$81,250 annual revenue for the subdivision. With this development the project will not only provide much needed housing but it will also provide local jobs for hundreds of people during construction and the additional homes will provide more customers for local business owners in Valley County.

15. Approximation of costs for additional public services, facilities and other economic impacts.

- This project will have minimal impact on existing services and facilities. The project location will not require additional roads and any required sewer infrastructure will be paid for by the developer.

16. State how the proposed development will impact existing developments providing the same or similar products or services.

- This project will provide similar services as is typical with the nearby developments. There is only one existing single-family home to the south. The placement of the common area will buffer that neighbor.

17. State what natural resources or materials are available at or near the site that will be used in a process to produce a product and the impacts resulting from the depletion of the resource. Describe the process in detail and describe the impacts of each part.

- This subdivision is a residential subdivision and we expect to disturb as little of the property as possible. The subdivision will focus on capitalizing on the existing features of the property. Also, there are a number of trees that are existing on the property many of the trees are dead and have been mismanaged historically.

We will thin the existing trees to eliminate the dead and dying trees and during the ultimate construction of the homes additional trees may need to be removed however the focus of the property will be to maintain as many trees as construction will allow. The site development will be focused on the frontage area along Dawn Drive which will have minimal impact on the property and any resources.

18. What will be the impacts of a project abandoned at partial completion?

- The project will not significantly impact the current infrastructure and the improvements required for construction of this subdivision will be minimal as most of the services are existing. In the unfortunate event of a partially completed project the impact would be nominal.

19. Number of residential dwelling units, other buildings and building sites and square footage or gross non-residential floor space to be available.

- This subdivision is proposing 13 residential dwelling sites. The homes will be constructed in the future and are not a part of this permit request. The minimum square footage of each homes will be 2000 square feet. However, it is difficult to determine the exact square footage that might be constructed in the future as that will be left to the owner of the homes.

20. Stages of development in geographic terms and proposed construction time schedule.

- This will be a single phased development and the construction of infrastructure is expected to be completed six months from commencements.

21. Anticipated range of sale, lease or rental prices for dwelling units, buildings or other site, or non-residential floor space in order to insure compatibility with adjacent land use and development.

- The expected price of house's constructed at this site will range from \$500,000 to \$1,500,000. Prices of homes in the area are currently ranging from the mid \$400,000 and up with many homes that have exceeded \$1,500,000. There is a limited supply of homes on the market and supply is tight.

EXHIBIT A
Description for
Osprey Pointe Subdivision
December 16, 2020

A parcel of land situated within the Southeast 1/4 of the Southeast 1/4 of Section 16, Township 16 North, Range 3 East, Boise Meridian, Valley County, Idaho being more particularly described as follows:

Commencing at the Section corner common to Sections 15, 16, 21, and 22, T.16N. R.3E. B.M., from which the Section corner common to Sections 16, 17, 20, and 21, T.16N. R.3E. B.M. bears, North 89°28'37" West, 5333.79 feet; thence on the South boundary line of Section 16, North 89°28'37" West, 1,257.87 feet to the **REAL POINT OF BEGINNING**;

thence continuing on said South boundary line, North 89°28'37" West, 75.58 feet to the East 1/16 corner common to Sections 16 and 21;

thence North 00°16'50" West, 1,318.29 feet to the Southeast 1/16 corner of Section 16;

thence on the North boundary line of the Southeast 1/4 of the Southeast 1/4 of Section 16, South 89°29'02" East, 153.83 feet;

thence leaving said North boundary line, South 49°59'28" East, 16.88 feet ;

thence 41.98 feet along the arc of a non-tangent curve to the left having a radius of 187.78 feet, a central angle of 12°48'39" and a long chord which bears South 03°23'57" East, 41.90 feet;

thence 25.43 feet along the arc of said reverse curve to the right having a radius of 115.00 feet, a central angle of 12°40'09" and a long chord which bears South 03°28'12" East, 25.38 feet;

thence South 02°51'53" West, 1,082.71 feet;

thence 124.87 feet along the arc of curve to the right having a radius of 465.00 feet, a central angle of 15°23'09" and a long chord which bears South 10°33'28" West, 124.49 feet;

thence South 18°15'02" West, 37.73 feet to the **REAL POINT OF BEGINNING**.

Containing 4.147 acres, more or less.

End of Description.



UNPLATTED
NW 1/4 SE 1/4

S89°29'02"E
153.83'

UNPLATTED
NE 1/4 SE 1/4

SE. 1/16

L2

C2

70'



SCALE: 1"=200'

0 50 100 200 400

±4.147
ACRES

UNPLATTED
SW 1/4 SE 1/4

UNPLATTED
SE 1/4 SE 1/4

N0°16'50"W 1318.29'

S2°51'53"W 1082.71'

DAWN DRIVE

70'



S.17 | S.16
S.20 | S.21

4000.34'

E. 1/16

1257.87'

S.16 | S.15
S.21 | S.22

LAUGHING
BILL SUB.

L1

REAL POINT OF BEGINNING

BASIS OF BEARING
N89°28'37"W 5333.79'

UNPLATTED

LINE TABLE

LINE	BEARING	LENGTH
L1	N89°28'37"W	75.58
L2	S49°59'28"E	16.88
L3	S18°15'02"W	37.73

CURVE TABLE

CURVE	LENGTH	RADIUS	DELTA	CHORD BRG.	CHORD DIST.
C1	41.98	187.78	12°48'39"	S3°23'57"E	41.90
C2	25.43	115.00	12°40'09"	S3°28'12"E	25.38
C3	124.87	465.00	15°23'09"	S10°33'28"W	124.49

P:\Osprey Pointe 20-297\Draw\Plot\Osprey Pointe Sub.dwg 12/16/2020 9:18:48 AM



IDAHO
SURVEY
GROUP, LLC

9955 W. EMERALD ST.
BOISE, IDAHO 83704
(208) 848-8570

EXHIBIT DRAWING FOR
OSPREY POINTE SUBDIVISION
PRELIMINARY PLAT

LOCATED IN THE SE 1/4 OF THE SE 1/4 OF SECTION 16,
T.16N., R.3E., B.M., VALLEY COUNTY, IDAHO

JOB NO.
20-297

SHEET NO.
1

DWG. DATE
12/16/2020

IDAHO DEPARTMENT OF WATER RESOURCES WELL DRILLER'S REPORT

1. WELL TAG NO. D 0077059

Drilling Permit No. 886012

Water right or injection well # _____

2. OWNER: Allen Maki

Name _____

Address 7776 N Pierce Park

City Boise State Id Zip 83714

3. WELL LOCATION:

Twp. 16 North ☒ or South ☐ Rge. 3 East ☒ or West ☐

Sec. 21 NE 1/4 14 NW 1/4 NE 1/4

Gov't Lot _____ County Valley

Lat. 44 ° 42 ' 897 (Deg. and Decimal minutes)

Long. 116 ° 05 ' 660 (Deg. and Decimal minutes)

Address of Well Site 174 ORA Ln

City Dannelly

Lot 30 Blk. _____ Sub. Name Laughing Bill Sub.

4. USE:

☒ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation ☐ Thermal ☐ Injection

☐ Other _____

5. TYPE OF WORK:

☒ New well ☐ Replacement well ☐ Modify existing well

☐ Abandonment ☐ Other _____

6. DRILL METHOD:

☒ Air Rotary ☐ Mud Rotary ☐ Cable ☐ Other _____

7. SEALING PROCEDURES:

Seal material	From (ft)	To (ft)	Quantity (lbs or ft ³)	Placement method/procedure
<u>barite mud</u>	<u>0</u>	<u>38</u>	<u>1000 lb</u>	<u>using barrel from top</u>

8. CASING/LINER:

Diameter (nominal)	From (ft)	To (ft)	Gauge/Schedule	Material	Casing	Liner	Threaded	Welded
<u>6</u>	<u>1</u>	<u>59</u>	<u>250</u>	<u>ST-1</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>4</u>	<u>8</u>	<u>64</u>	<u>544</u>	<u>PRC</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Was drive shoe used? ☐ Y ☒ N Shoe Depth(s) _____

9. PERFORATIONS/SCREENS:

Perforations ☐ Y ☒ N Method _____

Manufactured screen ☒ Y ☐ N Type Johson wire wrap

Method of installation set in place

From (ft)	To (ft)	Slot size	Number/ft	Diameter (nominal)	Material	Gauge or Schedule
<u>64</u>	<u>69</u>	<u>2020</u>		<u>4</u>	<u>PRC</u>	<u>544</u>

Length of Headpipe _____ Length of Tailpipe _____

Packer ☐ Y ☒ N Type _____

10. FILTER PACK:

Filter Material	From (ft)	To (ft)	Quantity (lbs or ft ³)	Placement method
<u>6-12 coarse sand</u>	<u>60</u>	<u>67</u>	<u>200 lb</u>	<u>poured from top</u>

11. FLOWING ARTESIAN:

Flowing Artesian? ☐ Y ☒ N Artesian Pressure (PSIG) _____

Describe control device _____

12. STATIC WATER LEVEL and WELL TESTS:

Depth first water encountered (ft) 58 Static water level (ft) 7

Water temp. (°F) 48 Bottom hole temp. (°F) _____

Describe access port sanitary well seal

Well test:	Discharge or yield (gpm)	Test duration (minutes)	Test method:	Pump	Bailer	Air	Flowing artesian
<u>62</u>	<u>30</u>	<u>60</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Water quality test or comments: good

13. LITHOLOGIC LOG and/or repairs or abandonment:

Bore Dia. (in)	From (ft)	To (ft)	Remarks, lithology or description of repairs or abandonment, water temp.	Water
<u>11</u>	<u>0</u>	<u>12</u>	<u>brn sand</u>	<u>Y</u>
<u>11</u>	<u>12</u>	<u>18</u>	<u>gray brn sandy clay</u>	<u>Y</u>
<u>11</u>	<u>18</u>	<u>38</u>	<u>gray green sandy clay</u>	<u>Y</u>
<u>6</u>	<u>38</u>	<u>58</u>	<u>gray sand w/ clay streaks</u>	<u>Y</u>
<u>6</u>	<u>58</u>	<u>69</u>	<u>gray sand</u>	<u>30 gpm</u>

RECEIVED

JUN 05 2018

WATER RESOURCES
WESTERN REGION

Completed Depth (Measurable): 69'
Date Started: 5-15-18 Date Completed: 5-18-18

14. DRILLER'S CERTIFICATION:

We certify that all minimum well construction standards were complied with at the time the rig was removed.

Company Name Positiv well Drill Co. No. 408

Principal Driller Robert W. McIntire Date 5-22-18

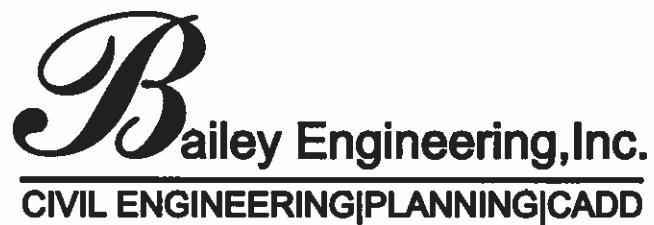
Driller Laughlin Date 5-20-18

Operator II _____ Date _____

Operator I _____ Date _____

* Signature of Principal Driller and rig operator are required.

Closest
well report



Preliminary Engineering Report

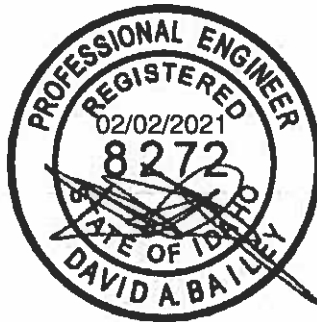
For

Osprey Pointe Subdivsion
Donnelly, Idaho

SEWER/WATER

IRRIGATION

STORM DRAINAGE



PROJECT NO: C2020-019

DATE: 02-02-2021

DEVELOPER
Biltmore Company
1580 W. Cayuse Creek Dr.
Meridian, Idaho 83646
(208) 895-0500

Preliminary Sewer & Water Report

- The proposed Osprey Pointe Subdivision is located in Donnelly, Idaho. The project site is 4.19 acres and will be subdivided into 14 lots: 13 buildable single family residential, and 1 common.
- The property is comprised of 1 parcel that is predominantly open land. Dawn Dr. crosses the parcel near the west boundary. Land east of Dawn Dr. will be protected in place (approx. 73.7 acres).

Sewer

- A sewer lift station will be constructed to serve the lots. The lift station will be located in the common lot in the southwest corner of the site. The lift station will be owned & maintained by North Lake Sewer and Water District
- As shown on the preliminary plat, it is believed that an existing 8" force main is in Dawn Drive that can be connected to for lift station discharge.
- IDAPA 58.0103 provides estimated average wastewater flows of 250 gallons/day/unit for single family homes. The average sewer flow rate was obtained by multiplying the total number of lots in the development by the average daily flow.
- $Q = 250 \frac{\text{gal}}{\text{day} \cdot \text{EDU}} * 13 \text{ EDUs} = 3,250 \frac{\text{gal}}{\text{day}} = 2.3 \text{ gpm}$
- The proposed subdivision is expected to create an average daily flow of 3,250 gal/day or 2.3 gpm. The peak flow rates were calculated by using Figure 1 of the Ten State Standards.
- $PF (\text{peaking factor}) = \frac{18 + \sqrt{P}}{4 + \sqrt{P}} = \frac{18 + \sqrt{(2.62 * 13) / 1000}}{4 + \sqrt{(2.62 * 13) / 1000}} = 4.35$
- $Q_{\text{peak}} = PF * Q = 4.35 * 3,250 \frac{\text{gal}}{\text{day}} = 14,138 \text{ gpd} = 9.81 \text{ gpm}$
- The proposed subdivision is expected to create a peak hourly flow of 14,138 gpd or 9.81 gpm.

Water

- Each lot will have an individual well, designed by another consultant.
- Water flow requirements should be assumed to have the same flow rate demand as developed by the sewer flow calculations listed above.

Preliminary Irrigation Report

Gravity Irrigation

- The subject property does not lie within an irrigation district. Roseberry Irrigation District is the closest district to the property (approx. 3300 feet away).
- Lake Cascade is directly west of the project site; backyards will be against the lake.

Pressurized Irrigation

- The individual wells for potable water will provide irrigation water as well.

Preliminary Drainage Calculation Report

- Stormwater from Dawn will be infiltrated via roadside swales with appropriately sized/continuous sand lenses.
- Geotech report, dated 01/21/2021 from Allwest noted the following:
 - Design infiltration rate of 6"/hour
 - Groundwater was not encountered at depths of up to 11' and Allwest does not anticipate groundwater shallower than 10' below existing grade.
 - It should be noted that test pits were dug during December, a typically low groundwater time of year.
- Each buildable lot will retain all stormwater.



GEOTECHNICAL | ENVIRONMENTAL
MATERIALS TESTING | SPECIAL INSPECTION

AN EMPLOYEE-OWNED COMPANY

January 21, 2021

Jason Polson
Biltmore Company
1580 W. Cayuse Creek Drive
Meridian, Idaho 83642
jason@biltmoreco.com

**RE: Geotechnical Evaluation
 Osprey Pointe Subdivision
 Donnelly, Idaho
 ALLWEST Project No. 520-436G**

Mr. Polson:

ALLWEST has completed the authorized geotechnical evaluation for the proposed Osprey Pointe Subdivision to be located between Dawn Drive and Lake Cascade, just south of the airport, in Donnelly, Idaho. The purpose of this evaluation was to characterize subsurface soil conditions at the site and provide geotechnical recommendations to assist design and construction of the proposed development. Based on our evaluation, the site is suitable for the planned development. The attached report presents the results of our field evaluation, laboratory testing, and our recommendations.

We appreciate the opportunity to be of service to Biltmore Company. If you have any questions or need additional information, please contact us at (208) 895-7898.

Sincerely,

ALLWEST

Adrian Mascorro, P.E.
Area Manager



255 N. Linder Rd., Suite #100, Meridian, ID 83642

Phone: 208.895.7898 • Fax: 208.898.3959

Hayden, ID • Lewiston, ID • Meridian, ID • Spokane Valley, WA • Missoula, MT

www.allwesttesting.com

**GEOTECHNICAL EVALUATION
OSPREY POINTE SUBDIVISION
DONNELLY, IDAHO
ALLWEST PROJECT NO. 520-436G**

January 21, 2021

Prepared for:
Biltmore Company
1580 W. Cayuse Creek Drive
Meridian, Idaho 83642

Prepared By:
ALLWEST
255 North Linder Road, Suite 100
Meridian, Idaho 83642



TABLE OF CONTENTS
ALLWEST Project No. 520-436G
Osprey Pointe Subdivision
Donnelly, Idaho

	Page
1.0 SCOPE OF SERVICES	2
2.0 PROJECT UNDERSTANDING.....	3
3.0 FIELD EVALUATION PROCEDURES	3
4.0 SITE CONDITIONS	3
4.1 General Geologic Conditions.....	3
4.2 General Soil Conditions.....	4
5.0 EXPLORATION AND SAMPLING	4
5.1 Subsurface Soil Conditions	4
5.2 Subsurface Water.....	5
6.0 LABORATORY TESTING	5
7.0 CONCLUSIONS AND RECOMMENDATIONS	5
7.1 Slope Discussion.....	5
7.2 Site Preparation.....	6
7.3 Subgrade Stabilization	6
7.4 Excavation.....	7
7.5 Materials.....	8
7.6 Fill Placement and Compaction.....	8
7.7 Utility Trenches.....	9
7.8 Wet Weather Construction	9
7.9 Cold Weather Construction	9
7.10 Stormwater Disposal	10
8.0 ADDITIONAL RECOMMENDED SERVICES	10
9.0 EVALUATION LIMITATIONS.....	11

Appendix A – Site Vicinity Map, Exploration Location Plan

Appendix B – Test Pit Logs, Unified Soil Classification System

Appendix C – Laboratory Test Results



GEOTECHNICAL | ENVIRONMENTAL
MATERIALS TESTING | SPECIAL INSPECTION

AN EMPLOYEE-OWNED COMPANY

**Geotechnical Evaluation
Osprey Pointe Subdivision
Donnelly, Idaho**

ALLWEST has completed the geotechnical evaluation for the proposed Osprey Pointe Subdivision to be located between Dawn Drive and Lake Cascade, just south of the airport, in Donnelly, Idaho. The general location of the site is shown on Figure A-1 – *Site Vicinity Map* in Appendix A of this report. The purpose of this evaluation was to identify subsurface soil conditions at the site, and provide opinions and recommendations for the proposed development, relative to earthwork and stormwater disposal, as well as to evaluate the slope to the west (adjacent to Lake Cascade). This report details the results of our field evaluation and presents recommendations to assist design and construction.

1.0 SCOPE OF SERVICES

Our scope of services for the project included the following:

- 1) Notified Idaho Digline to locate on-site utilities, as required by Idaho state law.
- 2) Observed the excavation of 6 test pits throughout the site to a maximum depth of 11 feet. Biltmore Company provided the backhoe and operator.
- 3) Visually described, classified, and logged the soils encountered within test pits in general accordance with ASTM D 2487 and ASTM D 2488, which utilizes the *Unified Soil Classification System* (USCS), and we logged the subsurface profiles. We obtained soil samples within select test pits.
- 4) Performed seepage tests within select test pits to evaluate subsurface seepage.
- 5) At completion of exploration, the test pits were loosely backfilled with excavated soil approximately level with the ground surface.
- 6) Performed laboratory tests on select soil samples to assess some of the soil engineering properties and characteristics.
- 7) Reviewed the results of the field evaluation and laboratory testing, performed engineering analyses, and provided recommendations to assist project design and construction.
- 8) Prepared this report with our field evaluation results, subsurface logs, and geotechnical-related opinions and recommendations.

We provided our services for the project in general accordance with our geotechnical proposal (520-436P) dated November 9, 2020.



GEOTECHNICAL | ENVIRONMENTAL
MATERIALS TESTING | SPECIAL INSPECTION

AN EMPLOYEE-OWNED COMPANY

2.0 PROJECT UNDERSTANDING

Based on review of the *Preliminary Plat* and *Conceptual Engineering* plans (dated November 2, 2020) by Bailey Engineering, we understand the project will consist of an approximate 4½-acre residential subdivision with 13 buildable lots, and associated infrastructure, stormwater disposal, and asphalt-paved roadways. We did not review proposed grading plans, but we anticipate earthwork to achieve final site grades will consist of cuts and fills for utility construction, roadway construction, and to create level building pads, which will remain similar to existing site grades. Pavement section design was not requested; this will be provided by Bailey Engineering.

Based on review of the *Conceptual Engineering* plan, the buildable portions of the six northern-most lots (Lots 1 to 6) are planned to be approximately 10 to 20 feet from the west down-slope. The remaining lots (Lots 7 to 13) are planned to be 60 feet or more from the west down-slope. These west down-slope areas, which slope down toward Lake Cascade, are relatively shallow, with approximate 3H:1V to 5H:1V (horizontal to vertical) slopes.

Foundation-related recommendations are not provided in this evaluation. If requested, we can provide these recommendations on a building-by-building basis once house plans are developed, and we have reviewed structural and grading plans. Depending on the type and size of proposed homes, additional exploration, testing, and evaluation may be required. Additional services will be required (with associated fees), and reporting can be provided on a building-by-building basis, if requested.

3.0 FIELD EVALUATION PROCEDURES

To complete this evaluation, we observed the excavation of 6 test pits on December 15, 2020. We obtained select soil samples for further identification and laboratory testing, and we performed field seepage testing within select test pits to help evaluate subsurface soil seepage. Approximate test pit locations are shown on Figure A-2 – *Exploration Location Plan* in Appendix A.

4.0 SITE CONDITIONS

At the time of exploration, majority of the site was covered with pine trees. The site is bordered by Cascade Lake to the west, private residential lots to the south, Dawn Drive to the east, and an undeveloped area with pine trees to the north.

4.1 General Geologic Conditions

The geologic conditions at the site are mapped as outwash deposits of younger Pinedale age (Qopo) on the “*Surficial Geologic Map of the Donnelly Quadrangle, Valley County, Idaho*” (by Breckenridge and Othberg, 2006). Surficial soils consist of silty sand and areas of clay and silt, overlying silty sand and pebble sand down 30 feet. The soils encountered within test pits are generally consistent with geologic mapping.



4.2 General Soil Conditions

The *USDA Natural Resources Conservation Service* (NRCS), which represents the upper 5 feet of soil profile, has mapped the soils on the site as Donnel sandy loam. The parent material is mixed alluvium, consisting of sandy loam and stratified loamy sand to sandy loam. The soils encountered within test pits are generally consistent with NRCS mapping.

5.0 EXPLORATION AND SAMPLING

We observed the excavation of test pits using a backhoe with a 4-foot-wide bucket. We obtained Google Earth latitude and longitude coordinates of test pit locations with a hand-held cellular device. These coordinates can be found on individual test pit logs in the Appendix B and should be considered accurate to the degree implied by the method used.

We visually described, classified, and logged soil conditions observed and we obtained soil samples from select test pits. We also performed seepage testing within two test pit areas on-site. Seepage test locations are noted on Figure A-1 – *Exploration Location Plan* in Appendix A. At completion of exploration, the test pits were loosely backfilled with excavated soils approximately level with existing ground surfaces.

5.1 Subsurface Soil Conditions

The site contained approximately 9 inches of surficial roots and vegetation at the ground surface. Where trees are encountered, large roots may be encountered between 2 and 3 feet below ground. In general, subsurface soils within the observed test pits consisted of surficial silty sands down to the maximum exploration depths, with select areas where silty sand was underlain by sandy silt or poorly-graded sand.

Specific descriptions of soils observed throughout our field exploration follow:

Silty sand (SM) (native) – At the ground surface we observed silty sand down to depths ranging from 6 feet to the maximum test pit termination depth of up to 11 feet. We described silty sand as brown to light brown to tan, medium dense, and moist. Within select areas greater than 9 feet, we observed silt nodules within the silty sand.

Sandy silt (ML) – Underlying silty sand within test pit TP-3, we observed sandy silt down to the test pit termination depth of 10½ feet below ground. We described silty soils as tan, medium dense, and moist.

Poorly-graded sand (SP) – Underlying silty sand within test pit TP-6, we observed poorly-graded sand down to the test pit termination depth of 10½ feet below ground. We described poorly-graded sand as tan, medium dense, and moist. At a depth of 9 feet, we observed silt nodules within the poorly-graded sand.



Detailed soil descriptions, depths and notes are presented on individual test pit logs in Appendix B. The descriptive soil terms used on the test pit logs in this report, can be referenced by the USCS. A copy of the USCS is included in Appendix B. Subsurface conditions may vary between exploration locations. Such changes in subsurface conditions may not be apparent until construction, and if they change significantly from those observed, then accordingly, construction timing, plans, and costs may change.

5.2 Subsurface Water

At the time of exploration, we did not encounter groundwater within test pits down to a maximum depth of 11 feet. Groundwater will be associated with the elevation of Lake Cascade to the west. Groundwater will fluctuate throughout the different seasons of the year, but will most likely be affected during seasonal snow melt and irrigation seasons in the area (April to September).

6.0 LABORATORY TESTING

We performed laboratory testing to supplement field classifications and to assess some of the soil engineering properties and parameters. The laboratory tests conducted included moisture content (ASTM D 2216) and gradation (ASTM D 1140). Laboratory test results are summarized in Appendix C, and are also presented on test pit logs in Appendix B.

7.0 CONCLUSIONS AND RECOMMENDATIONS

Based on our observations, testing and evaluation, in our opinion the site is suitable for the planned residential development, provided our recommendations are adhered to. The following recommendations are presented to assist with design and construction of the development, relative to earthwork, infrastructure, and stormwater disposal.

These recommendations are based on our understanding of the proposed development, the conditions observed within exploration locations, laboratory test results, and engineering analysis. If the scope of construction changes, or if conditions are encountered during construction that differ from those described herein, we should be notified so we can review our recommendations and provide revisions, if necessary. Foundation-related recommendations are not provided as part of this evaluation.

7.1 Slope Discussion

Based on our observations of the existing down-slopes to the west, the subsurface conditions observed, and our knowledge of the planned development, it is our opinion the down-slopes will remain stable, provided structures are maintained a minimum of 15 feet away from down-slopes of 3H:1V or steeper, and a minimum of 10 feet away from down-slopes shallower than 3H:1V. If any existing slopes or land that gradually grades down toward existing slopes are disturbed during construction, they must be revegetated immediately, or protected with erosion mats, to prevent surface erosion.



7.2 Site Preparation

- Prior to conducting site grading, surficial soil containing vegetation, roots and organics should be removed below proposed site grading fill areas, pavements areas, and any other development areas. In general, we anticipate approximately 9 inches of site stripping will be required for majority of the site to remove surficial vegetation and roots.
- Where trees are encountered and will be removed as part of the development, large root systems should be completely over-excavated and replaced with suitable fill soils. Tree roots depths will not fully be known until construction, but we anticipate a minimum of 2 to 3 feet of over-excavation will be required to remove tree roots.
- Loose test pit backfill will settle with time, so where any test pits are located below proposed structures or any development areas, the loose test pit backfill soil must be re-excavated its entire depth and replaced with suitably moisture-conditioned and compacted fill soil. Existing over-excavated soils can be reused to backfill the test pits, provided the soils are not overly saturated, and they can achieve the required compaction criteria (as required in section 7.6 *Fill Placement and Compaction*). We recommend test pit areas be accurately surveyed so that they may be located and remediated, prior to earthwork construction and development.
- After site stripping, any over-excavations, loose test pit remediation, and prior to site grading, utility backfill, or roadway construction, the exposed subgrades should be proof-rolled with a minimum of 5-ton vibratory roller, or with a vibratory hoe-pack, to confirm subgrade stability. This will also assist in identifying any soil associated with loose test pit backfills or wet/soft soils due to precipitation. If native subgrade soil is observed to significantly deflect or pump, it should be over-excavated and replaced with properly compacted fills, or stabilized to firm, non-yielding soil as recommended in section 7.3 *Subgrade Stabilization*.

7.3 Subgrade Stabilization

If the subgrade soils are observed to pump or deflect significantly during grading, the subgrades should be stabilized prior to fill placement. Subgrades may be stabilized using geosynthetic reinforcement in conjunction with imported granular structural fill. The required thicknesses of granular structural fill (used in conjunction with geosynthetic reinforcement) will be dependent on the construction traffic loading, which is unknown at this time. Therefore, a certain degree of trial and error may be required during construction to verify recommended stabilization section thicknesses.

Geosynthetic reinforcement should consist of Tensar TX-160 or equivalent. Alternatives to Tensar TX-160 must be approved by the geotechnical engineer prior to use on site. The following recommendations are provided for subgrade stabilization using geosynthetic reinforcement.



- Geosynthetic reinforcement materials should be placed on a non-disturbed subgrade with smooth surface. Loose and disturbed soil should be removed prior to placement of geosynthetic reinforcement materials.
- A minimum weight 4-ounce, non-woven filter fabric should be placed on the undisturbed subgrade. The geosynthetic reinforcement should be placed directly on top of the filter fabric. The filter fabric and geosynthetic reinforcement should be unrolled in the primary direction of fill placement and should be overlapped at least 3 feet.
- The geosynthetic materials should be pulled taut to remove slack.
- Construction equipment should not be operated directly on the geosynthetic materials. Fill should be placed from outside the excavation to create a pad to operate equipment on. We recommend a minimum of 12 to 18 inches of granular structural fill be placed over the geosynthetic reinforcement before operating construction equipment on the fill. Low pressure, track-mounted equipment should be used to place fill over the geosynthetic reinforcement.
- Granular structural fill placed directly over geosynthetic reinforcement should be properly moisture-conditioned prior to placement, and once placed, be statically rolled. This section is the "bridge" section over soft subgrades.
- After the first "bridge" lift has been placed, the remaining fill material above the "bridge" section should be compacted to structural fill criteria in section 7.6 *Fill Placement and Compaction*, utilizing vibratory compaction methods.
- Vibration should be discontinued if it reduces the subgrade stability. If compaction criterion is not met within the fill lift above the "bridge" section, the "bridge" section thickness is not enough, and subgrade stabilization must be attempted again with a greater "bridge" section.

The geotechnical engineer or a representative of the geotechnical engineer must be on-site during subgrade stabilization to verify our recommendations are followed, and to provide additional recommendations, as needed.

7.4 Excavation

Excavation of on-site soil can be accomplished with typical excavation equipment. We recommend excavations greater than 4 feet deep be sloped no steeper than 1.5H:1V (horizontal to vertical). Alternatively, deeper excavations may be shored or braced in accordance with *Occupational Safety and Health Administration* (OSHA) specifications and local codes. Regarding trench wall support, the site soil is considered Type C soil according to OSHA guidelines. Ultimately, the contractor is responsible for site safety, excavation configurations and following OSHA guidelines.



7.5 Materials

Stripped soils and soils containing vegetation or debris are only suitable for use in non-structural landscape areas. Existing on-site soils may be reused as site grading fill, provided they are stockpiled separately, they meet the criteria below, and they are compacted as required in this report. Imported granular soils should be free of organics, debris and other deleterious material and meet the following criteria. Import materials should be approved by ALLWEST prior to delivery to the site.

Fill Type	Criteria
Site Grading Fill	Maximum size \leq 6 inches; Retained on $\frac{3}{4}$ -inch sieve $<$ 30%; Liquid limit $<$ 50%
Granular Structural Fill, Granular Subbase	Maximum size \leq 6 inches; Retained on $\frac{3}{4}$ -inch sieve $<$ 30%; Passing No. 200 sieve \leq 15%; Non-plastic Alternatively, meet ISPWC section 801 (6 inches)
Crushed Base Course	Maximum size \leq 1 inch; Retained on $\frac{3}{4}$ -inch sieve $<$ 10%; Passing No. 200 sieve $<$ 10%; Non-plastic Alternatively, meet ISPWC section 802 (Type I)
Utility Trench Backfill	Maximum size \leq 2 inches; Retained on $\frac{3}{4}$ -inch sieve $<$ 30%; Passing No. 200 sieve \leq 10%; Non-plastic Alternatively, meet ISPWC section 305 (Type I)

7.6 Fill Placement and Compaction

Fill should be placed in lift thicknesses which are appropriate for the compaction equipment used. Typically, 8- to 12-inch-thick loose-lifts are appropriate for typical rubber-tire and steel-drum compaction equipment. Lift thicknesses should be reduced to 4 inches for hand-operated compaction equipment. Fill should be moisture-conditioned to within 2% of the optimum moisture content prior to placement to facilitate compaction. Fill should be compacted to the following percentages of the maximum dry density as determined by ASTM D 1557 (modified Proctor).

For roadway and utility trench construction only, the local governing jurisdiction may provide their own method of determining the maximum dry density and compaction requirements (including subgrade).

Fill Area	Compaction (%)
Subgrade ¹	Proof-roll ²
Site Grading Fill / Granular Structural Fill / Pavements	95
Granular Subbase / Crushed Base Course	95 ²
Utility Trench Backfill	92 ²

¹Subgrade stability must be verified and approved by a representative of the geotechnical engineer prior to any fill placement or construction.

²For roadway and utility trench construction only, the local governing jurisdiction may provide their own method of determining the maximum dry density and compaction requirements (including subgrade).



7.7 Utility Trenches

Support soils for underground utilities will most likely consist of silty sands. These soils should provide adequate support for utilities, provided utility subgrades are compacted utilizing vibratory methods, such as with a large vibratory hoe-pack. If utility pipe subgrades are soft, yielding, and/or saturated at the time of construction, subgrade over-excavation and replacement with competent structural fill may be required below utilities. If support soils yield and/or are saturated at the time of construction, we should be notified to observe these soils and provide additional recommendations, as necessary.

We strongly recommend backfilling trench excavations with fill soils which meet criteria in section 7.5 *Materials*, as on-site fine-grained soils (silts) may be difficult to moisture-condition and compact in utility trenches.

7.8 Wet Weather Construction

We recommend earthwork for this site be scheduled for the drier seasons of the year. If construction is undertaken in wet periods of the year, it will be important to slope the ground surface to provide drainage away from construction. If construction occurs during or immediately after excessive precipitation, it may be necessary to over-excavate and replace saturated subgrade soil, which might otherwise be suitable.

The on-site soils are sensitive to disturbance when wet. If these soils become wet and unstable, we recommend construction traffic is minimized where these soils are exposed. Low ground-pressure (tracked) equipment should be used to minimize disturbance. Soft and disturbed subgrade areas should be excavated to undisturbed soil and backfilled with structural fill, compacted to requirements stated in this report.

In addition, it should be noted the on-site soils tend to have notable adhesion when wet and may be easily transported off-site by construction traffic.

7.9 Cold Weather Construction

The on-site soils are frost susceptible. If site grading and construction are anticipated during cold weather, we recommend good winter construction practices be observed. Snow and ice should be removed from excavated and fill areas prior to additional earthwork or construction. Pavement and flatwork portions of the construction should not be placed on frozen ground, nor should the supporting soils be permitted to freeze during or after construction. Frozen soils must not be used as fill.

If native subgrades, or suitably moisture-conditioned and compacted fill lifts, will be left exposed to freezing temperatures overnight, those areas should be protected with a minimum of 12 inches of loose soil, or covered with heated construction blankets, so construction subgrades do not freeze. Any frozen soils should be removed prior to additional fill placement or construction of any kind.



Earthwork construction during cold inclement weather will require a higher level of attention and detail to achieve required earthwork construction and compaction criteria and may lead to additional earthwork requirements and extended construction schedules.

7.10 Stormwater Disposal

During our field investigation we performed field seepage testing within two test pits adjacent to the roadway, east of test pits TP-1 and TP-6, where we obtained a field-measured seepage rate of 15 inches per hour (in/hr) within silty sand.

Due to our observation of sandy silt nodules within silty sand with depth, and our experience with similar soils, we recommend the following allowable seepage rate be utilized for on-site stormwater disposal into on-site silty sand:

- Silty sand 6 in/hr

Stormwater disposal facilities, including filter sand windows, should be “burrito wrapped” or otherwise maintain a separation/filter fabric between native soils and filter sand to help prevent fine-soil migration into drainable/filtering media.

The proper separation from bottom of stormwater disposal facilities and seasonal high groundwater should be maintained. We did not observe groundwater to maximum exploration depths of up to 11 feet, and we do not anticipate groundwater will be encountered shallower than 10 feet below ground.

8.0 ADDITIONAL RECOMMENDED SERVICES

To maintain continuity and efficiency, we recommend ALLWEST be retained to provide observations and testing throughout construction. As an independent testing company, ALLWEST can document the recommendations included in this report are properly implemented, provide quality control testing, and observe earthwork for conformance to project specifications. As a minimum, we recommend the following testing and observations be provided by ALLWEST:

- Observe site stripping, any over-excavations, and compaction of test pit backfill, and any other soil backfills.
- Observe subgrade proof-rolling and approve subgrades prior to fill construction, materials placement, or roadway section construction.
- Observe removal of disturbed soil and subgrade stabilization, if required.
- Conduct compaction testing of fill for general site grading, utilities, and pavement areas.



- Observe placement of/test asphalt for compaction, oil content and gradation.

If we are not retained to provide the recommended construction observation and testing services, we shall not be responsible for soil engineering-related construction errors or omissions.

If foundation-related recommendations are required to assist individual home construction, we remain available to provide these recommendations on a building-by-building basis, as requested, once structural and grading plans have been provided for our review. Fees for providing additional services and reporting can be provided at the time of request.

9.0 EVALUATION LIMITATIONS

This report has been prepared to assist design and construction of the proposed Osprey Pointe Subdivision in Donnelly, Idaho. Our services consist of professional opinions and conclusions made in accordance with generally accepted geotechnical engineering principles and practices in our local area at the time this report was prepared. This acknowledgement is in lieu of all warranties either expressed or implied.

The following plates complete this report:

- Appendix A – Site Vicinity Map, Exploration Location Plan
- Appendix B – Test Pit Logs, Unified Soil Classification System
- Appendix C – Laboratory Test Results



Appendix A

A-1 – Site Vicinity Map

A-2 – Exploration Location Plan





Figure A-1 - Site Vicinity Map

Geotechnical Evaluation

Osprey Pointe Subdivision

Donnelly, Idaho

255 N. Linder Road, Suite 100

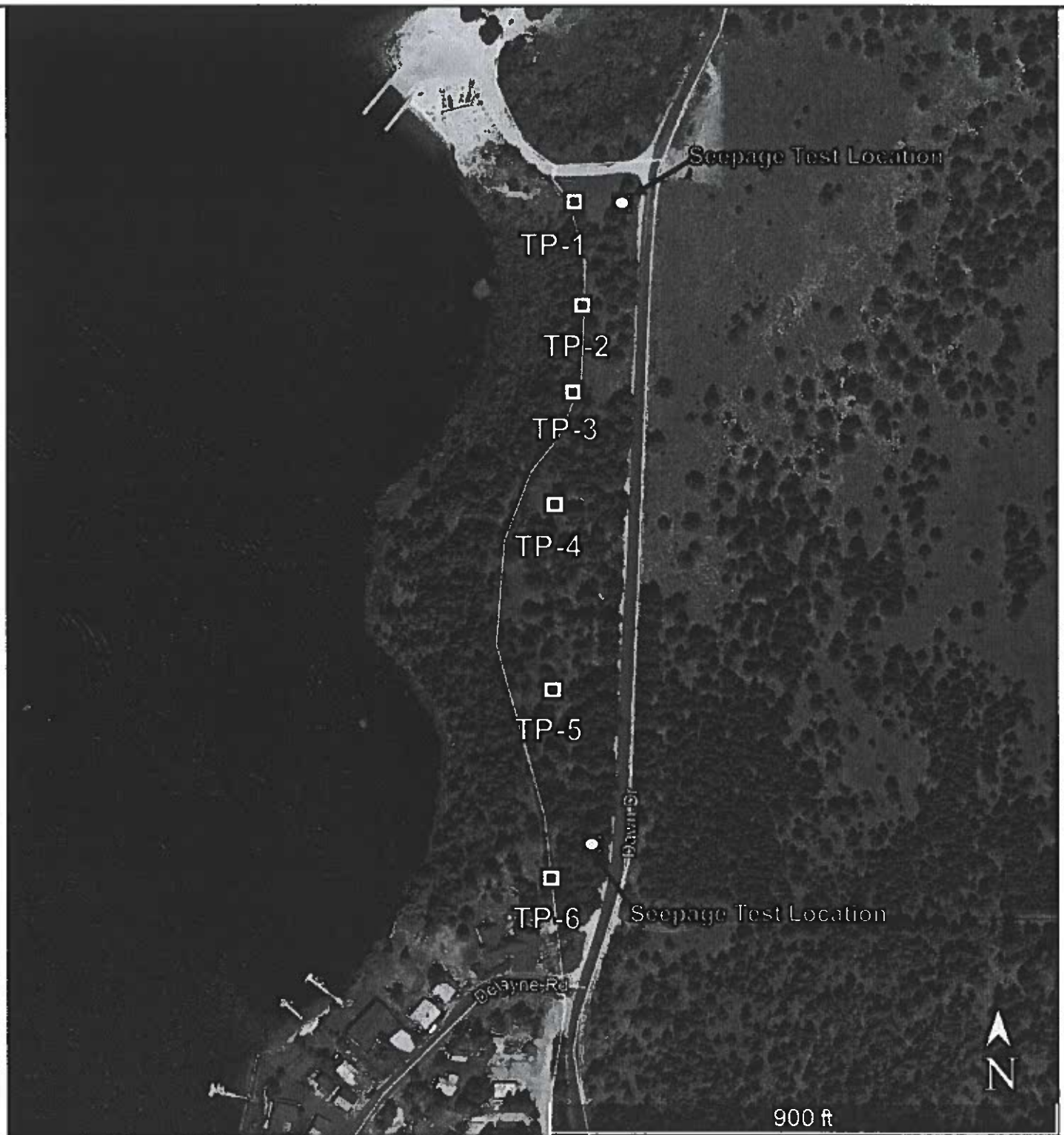
Meridian, Idaho 83642

Phone: (208) 895-7898 Fax: (208) 898-3959

Client: Biltmore Company

Project No.: 520-436G

Date: January 2021



Legend

- Approximate location of test pit observed by ALLWEST.



Figure A-2 - Exploration Location Plan

Geotechnical Evaluation

Osprey Pointe Subdivision

Donnelly, Idaho

255 N. Linder Road, Suite 100

Meridian, Idaho 83642

Phone: (208) 895-7898 Fax: (208) 898-3959

Client: Biltmore Company

Project No.: 520-436G


Date: January 2021

Appendix B
Test Pit Logs
Unified Soil Classification System (USCS)



ALLWEST MERIDIAN, IDAHO GEOTECHNICAL SECTION TEST PIT LOG			DATE STARTED: 12/15/2020 DATE FINISHED: 12/15/2020 OPERATOR: Kevin Amar COMPANY: Biltmore Company LOGGER: Maxwell Thomas WEATHER: Sunny		TP - 1 EXCAVATOR: CASE 580C EXCAVATION METHOD: 4-ft wide bucket	
PROJECT: 520-436G Osprey Pointe Subdivision			NOTES: See Figure A-2 in Appendix A for approximate test pit location.			
DEPTH (ft)	USCS	LATITUDE (DEGREES): N 44°43'12.5796" (44.720161°) LONGITUDE (DEGREES): W -116°5'35.7612" (-116.093267°) TOTAL DEPTH: 10.5'		GRAPHIC LOG	SAMPLE	NOTES
		DESCRIPTION				
0	SM	Silty SAND; brown, medium dense, moist			BG	Significant roots and vegetation observed to 9 inches. Passing No. 200 sieve = 22% Moisture content = 13%
1		... color changed to light brown			BG	Passing No. 200 sieve = 22% Moisture content = 8%
2						
3						
4		... color changed to tan		BG	Passing No. 200 sieve = 22% Moisture content = 4%	
5					Field seepage test performed near roadway to the east. Field seepage rate = 15 in/hr.	
6						
7				BG	Passing No. 200 sieve = 24% Moisture content = 4%	
8						
9						
10	... silt nodules observed from 9 to 10 feet					
11	Test pit terminated at 10-1/2 feet.					
12						
13						
14						
15	WATER LEVELS					
	<input checked="" type="checkbox"/> WHILE EXCAVATING <input checked="" type="checkbox"/> AT COMPLETION <input checked="" type="checkbox"/> AFTER EXCAVATING					

ALLWEST MERIDIAN, IDAHO GEOTECHNICAL SECTION TEST PIT LOG			DATE STARTED: 12/15/2020 DATE FINISHED: 12/15/2020 OPERATOR: Kevin Amar COMPANY: Biltmore Company LOGGER: Maxwell Thomas WEATHER: Sunny		TP - 4 EXCAVATOR: CASE 580C EXCAVATION METHOD: 4-ft wide bucket	
PROJECT: 520-436G Osprey Pointe Subdivision			NOTES: See Figure A-2 in Appendix A for approximate test pit location.			
DEPTH (ft)	USCS	LATITUDE (DEGREES): N 44°43'7.1904" (44.718664°) LONGITUDE (DEGREES): W -116°5'36.2508" (-116.093403°) TOTAL DEPTH: 10.5'		GRAPHIC LOG	SAMPLE	NOTES
		DESCRIPTION				
0	SM	Silty SAND; brown, medium dense, moist				Significant roots and vegetation observed to 9 inches. Tree roots observed to 2 feet.
1		... color changed to light brown				
2						
3						
4						
5						
6		... color changed to tan				
7						
8						
9						
10	... silt nodules observed from 9-1/2 to 10-1/2 feet					
11	Test pit terminated at 10-1/2 feet.					
12						
13						
14						
15	WATER LEVELS					
	<input type="checkbox"/> WHILE EXCAVATING <input type="checkbox"/> AT COMPLETION <input type="checkbox"/> AFTER EXCAVATING					

ALLWEST MERIDIAN, IDAHO GEOTECHNICAL SECTION TEST PIT LOG			DATE STARTED: 12/15/2020 DATE FINISHED: 12/15/2020 OPERATOR: Kevin Amar COMPANY: Biltmore Company LOGGER: Maxwell Thomas WEATHER: Sunny		TP - 5 EXCAVATOR: CASE 580C EXCAVATION METHOD: 4-ft wide bucket	
PROJECT: 520-436G Osprey Pointe Subdivision			NOTES: See Figure A-2 in Appendix A for approximate test pit location.			
DEPTH (ft)	USCS	LATITUDE (DEGREES): N 44°43'3.8784" (44.717744°) LONGITUDE (DEGREES): W -116°5'36.3192" (-116.093422°) TOTAL DEPTH: 10.5'		GRAPHIC LOG	SAMPLE	NOTES
		DESCRIPTION				
0	SM	Silty SAND; brown, medium dense, moist			BG	Significant roots and vegetation observed to 9 inches. Tree roots observed to 2 feet. Passing No. 200 sieve = 47% Moisture content = 10%
1		... color changed to light brown				
2						
3		... color changed to tan				
4						
5						
6						
7						
8						
9		... silt nodules observed from 9 to 10 feet				
10		Test pit terminated at 10 feet.				
11						
12						
13						
14						
15	WATER LEVELS					
	▽ WHILE EXCAVATING ▽ AT COMPLETION ▽ AFTER EXCAVATING					

ALLWEST MERIDIAN, IDAHO GEOTECHNICAL SECTION TEST PIT LOG			DATE STARTED: 12/15/2020 DATE FINISHED: 12/15/2020 OPERATOR: Kevin Amar COMPANY: Biltmore Company LOGGER: Maxwell Thomas WEATHER: Sunny		TP - 6 EXCAVATOR: CASE 580C EXCAVATION METHOD: 4-ft wide bucket	
PROJECT: 520-436G Osprey Pointe Subdivision			NOTES: See Figure A-2 in Appendix A for approximate test pit location.			
DEPTH (ft)	USCS	LATITUDE (DEGREES): N 44°43'0.5196" (44.716811°) LONGITUDE (DEGREES): W -116°5'36.3516" (-116.093431°) TOTAL DEPTH: 10'	GRAPHIC LOG	SAMPLE	NOTES	
0	SM	Silty SAND; brown, medium dense, moist		BG	Significant roots and vegetation observed to 9 inches. Tree roots observed to 3 feet. Passing No. 200 sieve = 17% Moisture content = 3% Field seepage test performed near roadway to the east at 4 feet. Field seepage rate = 15 in/hr.	
1		... color changed to light brown		BG		
2						
3		... color changed to tan		BG		
4						
5						
6	SP	Poorly-graded SAND; tan, medium dense, moist		BG	Passing No. 200 sieve = 3% Moisture content = 2%	
7						
8						
9		... silt nodules observed from 9 to 10 feet				
10		Test pit terminated at 10-1/2 feet.				
11						
12						
13						
14						
15	WATER LEVELS					
	<input type="checkbox"/> WHILE EXCAVATING <input type="checkbox"/> AT COMPLETION <input type="checkbox"/> AFTER EXCAVATING					

Unified Soil Classification System

MAJOR DIVISIONS			SYMBOL	TYPICAL NAMES
COARSE GRAINED SOILS	GRAVELS	CLEAN GRAVELS	GW	Well-Graded Gravel, Gravel-Sand Mixtures.
			GP	Poorly-Graded Gravel, Gravel-Sand Mixtures.
		GRAVELS WITH FINES	GM	Silty Gravel, Gravel-Sand-Silt Mixtures.
			GC	Clayey Gravel, Gravel-Sand-Clay Mixtures.
	SANDS	CLEAN SANDS	SW	Well-Graded Sand, Gravelly Sand.
			SP	Poorly-Graded Sand, Gravelly Sand.
		SANDS WITH FINES	SM	Silty Sand, Sand-Silt Mixtures.
			SC	Clayey Sand, Sand-Clay Mixtures.
FINE GRAINED SOILS	SILTS AND CLAYS LIQUID LIMIT LESS THAN 50%		ML	Inorganic Silt, Silty or Clayey Fine Sand.
			CL	Inorganic Clay of Low to Medium Plasticity, Sandy or Silty Clay.
			OL	Organic Silt and Clay of Low Plasticity.
	SILTS AND CLAYS LIQUID LIMIT GREATER THAN 50%		MH	Inorganic Silt, Elastic Silt, Micaceous Silt, Fine Sand or Silt.
			CH	Inorganic Clay of High Plasticity, Fat Clay.
			OH	Organic Clay of Medium to High Plasticity.
Highly Organic Soils			PT	Peat, Muck and Other Highly Organic Soils.



Appendix C
Laboratory Test Results



Summary of Laboratory Test Results

Test Pit No.	Depth (Feet)	Moisture Content (%)	Gradation									Sample Classification (USCS)
			Gravel (%)	Sand (%)	Silt/Clay (%)							
1	0.5 - 1	13		78	22							Silty SAND (SM)
1	1.5 - 2	8		78	22							Silty SAND (SM)
1	3.5 - 4	4		78	22							Silty SAND (SM)
1	7 - 7.5	4		76	24							Silty SAND (SM)
3	9.5 - 10	20		41	59							Sandy SILT (ML)
5	3 - 3.5	10		53	47							Silty SAND (SM)
6	3 - 3.5	3		83	17							Silty SAND (SM)
6	6 - 6.5	2		97	3							Poorly-graded SAND (SP)

Table C-1

**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR
OSPREY POINTE SUBDIVISION**

_____, 2021

NOTICE

THE FOLLOWING IS A VERY IMPORTANT DOCUMENT WHICH EACH AND EVERY POTENTIAL OWNER OF PROPERTY WITHIN THE OSPREY POINTE SUBDIVISION SHOULD READ AND UNDERSTAND. THIS DOCUMENT DETAILS THE OBLIGATIONS AND PROHIBITIONS IMPOSED UPON ALL OWNERS AND OCCUPANTS.

TABLE OF CONTENTS

ARTICLE I: PROPERTY AND PURPOSES.....	1
<u>Section 1.</u> <u>Property Covered/Benefit of Declaration</u>	1
<u>Section 2.</u> <u>Purposes of Declaration</u>	1
ARTICLE II: DECLARATION.....	1
ARTICLE III: DEFINITIONS	1
<u>Section 1.</u> "Architectural Committee"	1
<u>Section 2.</u> "Assessments"	1
<u>Section 3.</u> "Association"	1
<u>Section 4.</u> "Board"	1
<u>Section 5.</u> "Common Lots"	2
<u>Section 6.</u> "Declarant"	2
<u>Section 7.</u> "Dwelling Unit"	2
<u>Section 8.</u> "Improvement"	2
<u>Section 9.</u> "Limited Assessment"	2
<u>Section 10.</u> "Lot"	2
<u>Section 11.</u> "Member"	2
<u>Section 12.</u> "Mortgage"	2
<u>Section 13.</u> "Owner"	2
<u>Section 14.</u> "Person(s)"	2
<u>Section 15.</u> "Plat"	2
<u>Section 16.</u> "Property"	3
<u>Section 17.</u> "Regular Assessments"	3
<u>Section 18.</u> "Restrictions"	3
<u>Section 19.</u> "Special Assessments"	3
ARTICLE IV: GENERAL USES AND REGULATION OF USES	3
<u>Section 1.</u> <u>Single Family Lots</u>	3
<u>Section 2.</u> <u>Common Lots</u>	3
<u>Section 3.</u> <u>Home Occupations</u>	4
<u>Section 4.</u> <u>Vehicle and Other Storage</u>	4
<u>Section 5.</u> <u>Compliance With Laws, Rules and Ordinances</u>	4
<u>Section 6.</u> <u>Signs</u>	4
<u>Section 7.</u> <u>Pets</u>	5
<u>Section 8.</u> <u>Nuisance</u>	5
<u>Section 9.</u> <u>Exterior Improvements, Appearance and Emergency Maintenance</u>	5
<u>Section 10.</u> <u>Outbuildings</u>	6
<u>Section 11.</u> <u>Fences</u>	6
<u>Section 12.</u> <u>Antennae/Dishes</u>	6
<u>Section 13.</u> <u>Insurance</u>	6
<u>Section 14.</u> <u>Drainage</u>	6
<u>Section 15.</u> <u>Garages</u>	7
<u>Section 16.</u> <u>Construction Commencement, Completion and Other Activities</u>	7
<u>Section 17.</u> <u>Construction Equipment</u>	7
<u>Section 18.</u> <u>Damage to Improvements</u>	7
<u>Section 19.</u> <u>Garbage Pick-Up</u>	8
<u>Section 20.</u> <u>No Further Subdivision</u>	8

<u>Section 21.</u>	<u>Use of Pool.</u>	8
ARTICLE V: IRRIGATION.		8
ARTICLE VI: INSURANCE		8
<u>Section 1.</u>	<u>Insurance</u>	8
<u>Section 2.</u>	<u>Premiums Included in Assessments.</u>	9
ARTICLE VII: MEMBERSHIP AND VOTING RIGHTS.		9
<u>Section 1.</u>	<u>Membership</u>	9
<u>Section 2.</u>	<u>Voting Classes</u>	9
ARTICLE VIII: ASSESSMENTS.		9
<u>Section 1.</u>	<u>Creation of the Lien and Personal Obligation of Assessments</u>	9
<u>Section 2.</u>	<u>Purposes of Assessments</u>	10
<u>Section 3.</u>	<u>Uniform Rate of Assessment</u>	10
<u>Section 4.</u>	<u>Date of Commencement of Annual Assessments; Due Dates</u>	10
<u>Section 5.</u>	<u>Effect of Nonpayment of Assessments; Remedies of the Association</u>	10
<u>Section 6.</u>	<u>Subordination of the Lien to Mortgages</u>	10
ARTICLE IX: AUTHORITY OF BOARD/ASSUMPTION OF RISK.		10
<u>Section 1.</u>	<u>Authority of Board.</u>	10
<u>Section 2.</u>	<u>Easement</u>	11
<u>Section 3.</u>	<u>Non-Waiver</u>	11
<u>Section 4.</u>	<u>Limitation of Liability</u>	11
<u>Section 5.</u>	<u>Indemnification of Board Members.</u>	12
<u>Section 6.</u>	<u>Assumption of Risk; Waiver of Claims.</u>	12
ARTICLE X: ARCHITECTURAL COMMITTEE		12
<u>Section 1.</u>	<u>Charter of Architectural Committee</u>	12
<u>Section 2.</u>	<u>Architectural Control</u>	12
<u>Section 3.</u>	<u>Review of Proposed Improvements</u>	13
<u>Section 4.</u>	<u>Inspection of Approved Improvements</u>	13
<u>Section 5.</u>	<u>Review of Unauthorized Improvements</u>	13
ARTICLE XI: GENERAL PROVISIONS.		14
<u>Section 1.</u>	<u>Enforcement.</u>	14
<u>Section 2.</u>	<u>Severability</u>	14
<u>Section 3.</u>	<u>Term and Amendment</u>	14
<u>Section 4.</u>	<u>Annexation.</u>	14
<u>Section 5.</u>	<u>Duration and Applicability to Successors</u>	14
<u>Section 6.</u>	<u>Attorneys Fees/Collection of Fines.</u>	14
<u>Section 7.</u>	<u>Governing Law/Applicability of Declaration Versus Governmental Rules.</u>	15
<u>Section 8.</u>	<u>Notices.</u>	15
EXHIBIT A - LEGAL DESCRIPTION OF THE PROPERTY		17
EXHIBIT B - DESCRIPTION OF OVERALL Osprey Pointe SUBDIVISION		18
EXHIBIT C - LEGAL DESCRIPTION OF COMMON LOTS		19
EXHIBIT D - Osprey Pointe SUBDIVISION NO. 1 FINAL PLAT		20

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR Osprey Pointe SUBDIVISION**

This Declaration of Covenants, Conditions and Restrictions for Osprey Pointe Subdivision (this "Declaration") is made effective this ____ day of December, 2021, by Biltmore Company LLC, an Idaho limited liability company ("Declarant").

ARTICLE I: PROPERTY AND PURPOSES

Section 1. Property Covered/Benefit of Declaration. The initial property subject to this Declaration is legally described on the attached Exhibit A, which is made a part hereof ("Property"). The Property is phase 1 of the overall Osprey Pointe Subdivision as described on the attached Exhibit B, which is made a part hereof ("Osprey Pointe Subdivision"). **It is currently anticipated that additional phases of the Osprey Pointe Subdivision will be platted, annexed into the Property and made subject to this Declaration. Declarant, the Association and each Owner covenants and agrees that 1) additional phases of the Osprey Pointe Subdivision can be platted, annexed into the Property and made subject to this Declaration, and 2) he/she/they/it shall not contest any such platting, annexation and/or subjection to this Declaration.**

This Declaration is for the benefit of the Declarant, the Association and all Owners of any portion of the Property.

Section 2. Purposes of Declaration. The purposes of this Declaration are to set forth the basic Restrictions, as hereinafter defined, and uses that will apply to the Property. The Restrictions contained herein are designed to protect, enhance and preserve the value, amenities, desirability, and attractiveness of the Property in a cost effective and administratively efficient manner.

ARTICLE II: DECLARATION

Declarant hereby declares that the Property, including each Lot, Dwelling Unit, Common Lot, parcel or portion thereof, is and/or shall be held, sold, conveyed, encumbered, used, occupied and improved subject to the following terms and Restrictions, all of which are declared and agreed to be in furtherance of a general plan for the protection, maintenance, subdivision, improvement and sale of the Property, and to enhance the value, desirability and attractiveness thereof.

ARTICLE III: DEFINITIONS

Section 1. "Architectural Committee" shall mean the architectural committee of the Association established pursuant to Article X herein.

Section 2. "Assessments" shall mean Regular Assessments, Special Assessments and Limited Assessments.

Section 3. "Association" shall mean the Osprey Pointe Subdivision Homeowners' Association, Inc., its successors and/or assigns.

Section 4. "Board" shall mean the Board of Directors of the Association.

Section 5. "Common Lots" shall mean all real property (including the Improvements thereto) owned by the Association for the common benefit and enjoyment of the Owners. The Common Lots are legally described on the attached Exhibit C, which is made a part hereof.

Section 6. "Declarant" shall mean Biltmore Company LLC, an Idaho limited liability company, or its permitted assigns.

Section 7. "Dwelling Unit" shall mean single family, detached residential houses to be constructed on each Lot.

Section 8. "Improvement" shall mean any structure, facility or system, or other improvement or object, whether permanent or temporary, which is erected, constructed, placed upon, under or over any portion of the Property, including, without limitation, Dwelling Units, fences, landscaping, streets, roads, drives, driveways, parking areas, sidewalks, bicycle paths, curbs, walls, rocks, signs, lights, mail boxes, electrical lines, pipes, pumps, ditches, waterways, recreational facilities, grading, utility improvements, dog runs and/or kennels, play equipment, and any other exterior construction or exterior improvement which may not be included in the foregoing. Improvement(s) includes both original improvements existing on the Property on the date hereof and/or all later additions and/or alterations.

Section 9. "Limited Assessment" shall mean a charge against a particular Owner and such Owner's Lot, directly attributable to the Owner, equal to the costs and expenses incurred by the Association, including, without limitation, for any specific maintenance detailed in this Declaration, for any corrective action taken by the Association or fines levied by the Association pursuant to this Declaration or otherwise as necessitated by any intentional or negligent act or omission by any Owner or the family members, licensees, invitees, agents, contractors or employees thereof, and/or for legal fees and costs, whether or not suit has been filed. Such costs, expenses and fines shall include, without limitation, damage to the Common Lots or the failure of an Owner to keep his or her Lot or Dwelling Unit in proper repair.

Section 10. "Lot" shall mean any lot shown on the Plat (or any other plat of the Property) with the exception of the Common Lots.

Section 11. "Member" shall mean each Person holding a membership in the Association, including Declarant.

Section 12. "Mortgage" shall mean any mortgage, deed of trust, or other document pledging any portion of the Property or interest therein as security for the payment of a debt or obligation.

Section 13. "Owner" shall mean the record owner, other than Declarant, whether one or more Persons, of a fee simple title to any Lot which is a part of the Property, including contract sellers and builders, but excluding those having such interest merely as security for the performance of an obligation.

Section 14. "Person(s)" shall mean any individual, partnership, corporation or other legal entity, including Declarant.

Section 15. "Plat" shall mean the Osprey Pointe Subdivision No. 1 final plat filed in Book

XXX of Plats at Pages XXXXX through XXXXX, Records of Valley County, Idaho, a copy of which is attached hereto as Exhibit D, and made a part hereof.

Section 16. "Property" shall mean that certain real property legally described on the attached Exhibit A, and such other annexations or other additions thereto as may hereafter be brought within the jurisdiction of this Declaration.

Section 17. "Regular Assessments" shall mean the cost of maintaining, improving, repairing, managing and operating the Common Lots, including all Improvements thereon or thereto, and all other costs and expenses incurred to conduct the business and affairs of the Association which is levied against the Lot of each Owner by the Association, pursuant to the terms of this Declaration or any supplemental declaration.

Section 18. "Restrictions" shall mean the restrictions, covenants, limitations, conditions and equitable servitudes that will apply to the Property and use of any and all portions thereof as specified in this Declaration.

Section 19. "Special Assessments" shall mean that portion of the costs of capital improvements or replacements, equipment purchases and replacements or shortages in Regular Assessments which is levied against the Lot of each Owner by the Association.

ARTICLE IV: GENERAL USES AND REGULATION OF USES

Section 1. Single Family Lots. Each Lot within the Property shall be used for detached single family residential purposes only, and for the common social, recreational or other reasonable uses normally incident to such use, and also for such additional uses or purposes as are from time to time determined appropriate by the Board. Lots may be used for the purposes of operating the Association and for the management of the Association if required. The provisions of this Section shall not preclude Declarant from conducting sales, construction, development and related activities from Lots owned by Declarant.

Section 2. Common Lots. The Association shall own and be responsible for the maintenance, repair and replacement of the Common Lots including any and all Improvements located thereon. The Association shall maintain and operate these Common Lots in accordance with the Valley County Code and in a competent and attractive manner, including the watering, mowing, fertilizing and caring for any and all lawns, shrubs and trees thereon. Nothing shall be altered or constructed in or removed from the Common Lots except upon written consent of the Board and in accordance with procedures required herein and by law. Every Owner shall have a right and easement of enjoyment in and to the Common Lots which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions (and subject to all other terms contained in this Declaration):

- (a) the right of the Association to charge reasonable admission and other fees or Assessments for the use of any recreational facility situated upon a Common Lot;
- (b) the right of the Association to adopt rules and regulations governing the use of any recreational facility situated upon a Common Lot; and
- (c) the right of the Association to suspend the voting rights and use of any

recreational facility by an Owner for any period during which any Assessment remains unpaid and/or for any infraction of its rules and regulations.

The Common Lots cannot be mortgaged, conveyed or encumbered without the approval of at least two-thirds (2/3) of the Class A Members. If ingress or egress to any Lot is through any portion of the Common Lots, any such conveyance or encumbrance shall be subject to an easement of the Owners for the purpose of ingress and egress.

Section 3. Home Occupations. Assuming all governmental laws, rules, regulations, and ordinances are complied with, home occupations may be conducted from the interior of Dwelling Units **provided such home occupations 1) are pre-approved in writing by the Association, 2) do not increase the burdens on the public streets (including increased traffic) and 3) do not unreasonably interfere with any other Owner's use and enjoyment of his or her Lot.** If the Board determines, in its sole and absolute discretion, that a home occupation may increase the burden on the public streets and/or unreasonably interfering with any other Owner's use and enjoyment of his or her Lot, the Board shall have the right to deny or terminate any Owner's ability to conduct a home occupation from his or her Dwelling Unit. Notwithstanding the foregoing, Declarant may conduct any business operation it sees fit from any portion of the Property owned by it, regardless of the impact on the public streets or the use and enjoyment of an Owner's Lot.

Section 4. Vehicle and Other Storage. Unenclosed areas, which include driveways and all other unenclosed paved areas within the Property, are restricted to use for temporary parking of operative motor vehicles of Owners and their family members, invitees and licensees, provided that such vehicles are parked so as to not interfere with any other Owner's right of ingress and egress to his or her Dwelling Unit.

The Board may remove any inoperative vehicle, or any unsightly vehicle, and any other vehicle, improperly parked or stored after three (3) days' written notice, at the risk and expense of the owner thereof.

Notwithstanding anything in this Section to the contrary, all Owners, as well as their family members, invitees and licensees, must abide by all parking and other signs posted within the Property by the Declarant and/or the Association, if any.

Section 5. Compliance With Laws, Rules and Ordinances. No Owner shall permit anything to be done or kept in his or her Lot or Dwelling Unit or any part of the Common Lots which would be in violation of any laws, rules, regulations or ordinances.

Section 6. Signs. No sign of any kind shall be displayed on any Lot or Dwelling Unit without the prior written consent of the Board; provided however, one sign of not more than five (5) square feet advertising the Lot for sale may be installed on any Lot, but the sign shall be removed within five (5) days following sale. Notwithstanding the foregoing, Declarant may display any sign it sees fit on any portion of the Property owned by Declarant.

Section 7. Pets. No animals (which term includes livestock, domestic animals, poultry, reptiles and any other living creature of any kind) shall be raised, bred or kept in any Dwelling Unit, Lot or in the Common Lots, whether as pets or otherwise; provided however, that this provision shall not prohibit Owners from having a reasonable number of dogs and/or cats. The Board may at any time

require the removal of any animal, including domestic dogs and cats, which it finds is creating unreasonable noise or otherwise disturbing the Owners unreasonably, in the Board's determination, and may exercise this authority for specific animals even though other animals are permitted to remain. All dogs shall be walked on a leash only and shall not be allowed to roam or run loose, whether or not accompanied by an Owner or other person. All Owners shall be responsible for picking up and properly disposing of all organic waste of their domestic dogs and cats.

Section 8. Nuisance. No noxious or offensive activity shall be carried on in any Dwelling Unit, Common Lots or Lot, nor shall anything be done therein which may be or become an annoyance or nuisance to other Owners. No rubbish or debris of any kind shall be placed or permitted to accumulate anywhere upon the Property, including the Common Lots, and no odor shall be permitted to arise from any portion of the Property so as to render the Property or any portion thereof unsanitary, unsightly, offensive or detrimental to the Property or to its occupants or residents, or to any other property in the vicinity thereof. No noise, obstructions to pedestrian walkways, unsightliness, or other nuisance shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to the Property or to its occupants or residents or to other property in the vicinity thereof, as determined by the Board, in its reasonable judgment, or in violation of any federal, state or local law, rule, regulation or ordinance. Without limiting the generality of any of the foregoing, no whistles, bells or other sound devices (other than security devices used exclusively for security purposes which have been approved by the Architectural Committee), flashing lights or search lights, shall be located, used or placed on the Property. No unsightly articles shall be permitted to remain on any Lot so as to be visible from any other portion of the Property. Without limiting the generality of the foregoing, refuse, garbage, garbage cans, trash, trash cans, dog houses, equipment, gas canisters, propane gas tanks, barbecue equipment, heat pumps, compressors, containers, lumber, firewood, grass, shrub or tree clippings, metals, bulk material, and scrap shall be screened from view at all times. No clothing or fabric shall be hung, dried or aired in such a way as to be visible to any other portion of the Property. In addition, no activities shall be conducted on the Property, and no Improvements shall be constructed on any Property which are or might be unsafe or hazardous to any Person or property.

Section 9. Exterior Improvements, Appearance and Emergency Maintenance. No Owner shall install or place any item or construct any Improvement on any Lot or the exterior of his or her Dwelling Unit without the prior written consent of the Architectural Committee. In addition, all Owners shall keep and maintain their Lots and Dwelling Unit exteriors in a repaired, attractive, clean and habitable condition as determined by the Board in its reasonable judgement. In the event any Owner does not satisfy this standard, the Board and its agents or employees, may, after thirty (30) days' prior written notice to such Owner: 1) levy a fine, in an amount as determined by the Board, against said Owner for as long as the violation persists and/or 2) enter such Lot to make such repairs or perform such maintenance as to bring such Lot and/or Dwelling Unit exterior into compliance with this Section. Any such fines and any cost incurred by the Association for repairs and maintenance shall be treated as Limited Assessments to such Owner.

In the event an emergency which in the judgment of the Board presents an immediate threat to the health and safety of the Owners, their family members, invitees or licensees, or an immediate risk of harm or damage to any Lot, Dwelling Unit or any other part of the Property, the Board and its agents or employees, may enter any Lot to make repairs or perform maintenance. Such entry shall be repaired by the Board out of Regular or Special Assessments (unless the emergency was caused by an Owner, his or her family members, invitees or licensees, in which case the cost shall be treated as a Limited

Assessment and charged only to that Owner). If the repairs or maintenance were requested by an Owner, the costs thereof shall be treated as a Limited Assessment to such Owner.

Section 10. Outbuildings. All outbuildings shall be pre-approved in writing by the Architectural Committee and be constructed of quality building material, completely finished and painted on the outside and shall be of quality and character that will be in harmony with the other buildings on the Property.

Section 11. Fences. Fences are not required. If a fence is desired, plans for such fence shall be pre-approved in writing by the Architectural Committee. Fences shall be of good quality and workmanship and shall be properly finished and maintained. Fences shall not be built closer to the front of a Lot than the corner of the Dwelling Unit on either side. The location of fences shall be so situated as to not unreasonably interfere with the enjoyment and use of any other portion of the Property and shall not be allowed to constitute an undesirable nuisance or noxious use.

Section 12. Antennae/Dishes. Antennae and/or satellite or other dishes shall be placed in the back yards or mounted on the back or side of all Dwelling Units and shall be placed and/or mounted in such a way to minimize the visual impact to all other portions of the Property.

Section 13. Insurance. Nothing shall be done or kept in any Dwelling Unit, Lot or Common Lots which will increase the rate of insurance on the Common Lots or any other Dwelling Unit or Lot. Each Owner must maintain a homeowner's insurance policy insuring the homeowner from loss by fire, theft, and all other loss or damage.

Section 14. Drainage. Each lot is required to retain all drainage within the confines of the property lines of said lot. No drainage is permitted to run off said property

There shall be no interference with the established drainage pattern over any portion of these Lots and Common Lots unless an adequate alternative provision is made for proper drainage and is first approved in writing by the Architectural Committee. For the purposes hereof, "established" drainage is defined as the system of drainage, whether natural or otherwise, which exists at the time the overall grading of any portion of these Lots and Common Lots are completed by the Declarant.

All Owners, at his/her/their sole cost and expense, shall be responsible for the maintenance, repair and/or replacement of any storm water drainage system located on, and serving only, his/her/their individual Lot. Such maintenance, repair and/or replacement shall be done in accordance with all applicable laws, rules, regulations and/or ordinances.

Notwithstanding the forgoing, all Lots and Common Lots shall be graded such that all storm water and other water drainage shall run across a curb or to a drainage easement and no drainage shall cross from a Lot or Common Lot onto another Lot or Common Lot except within an applicable drainage easement.

Section 15. Garages. Garages shall be well constructed of good quality material and workmanship. All Dwelling Units shall have attached, enclosed garages which hold no less than two vehicles. To the extent possible, garage doors must remain closed at all times.

Section 16. Construction Commencement, Completion and Other Activities. Each Owner of a Lot originally purchased from Declarant must commence construction of his or her Dwelling Unit and all other Lot Improvements within XXX year from the closing date thereof, unless otherwise agreed by Declarant. Once such construction has commenced, such Owner shall have twelve months from the commencement date in which to complete construction of the Dwelling Unit and all other Lot Improvements.

Section 17. Construction Equipment. No construction machinery, building equipment, or material shall be stored upon any Lot until the Owner is ready and able to immediately commence construction. Such machinery, equipment and materials must be kept within the boundaries of the Lot.

Section 18. Damage to Improvements. It shall be the responsibility of an Owner to leave street, sidewalks, fences, utility facilities, tiled irrigation lines, if any, and any other existing Improvements free of damage and in good and sound condition during any construction period. It shall be conclusively presumed that all such Improvements are in good condition at the time building has begun on each Lot unless the contrary is shown in writing at the date of conveyance or by date of possession, whichever date shall first occur, which notice is addressed to a member of the Architectural Committee.

Section 19. Garbage Pick-Up. Garbage and recycle containers shall be placed on the appropriate driveways only on garbage and recycle collection days, and such containers must be removed no later than 8:00pm that evening.

Section 20. No Further Subdivision. No Lot may be further subdivided; provided, however, that this Section is not applicable to Declarant who may further subdivide any Lot owned by it.

ARTICLE VI: INSURANCE

Section 1. Insurance. The Association may obtain insurance from insurance companies authorized to do business in the State of Idaho, with an AM Best Rating of A or better, and maintain in effect any insurance policy the Association deems necessary or advisable, which may include, without limitation, the following policies to the extent it is possible for the Association to obtain the same:

(a) Property insurance for the Improvements, equipment and other property located within the Common Lots with special form coverage, a replacement cost valuation provision and blanket coverage. The Association may also insure for flood or earthquake if determined by the Board.

(b) Commercial General Liability (CGL) insurance insuring the Association, as well as its agents, employees, invitees and licensees, against any liability incident to the ownership, management, maintenance and/or use of the Common Lots and/or any other portion of the Property.

(c) Directors and Officers Liability (D&O) insurance insuring the Association and/or its board members and/or officers.

(d) Such other insurance or bonds to the extent necessary to comply with all applicable laws and such indemnity, faithful performance, fidelity and other bonds as the Association shall deem necessary or required to carry out the Association functions or to insure the Association against any loss from

malfeasance or dishonesty of any employee or other person charged with the management or possession of any Association funds or other property.

Section 2. Premiums Included in Assessments. Insurance premiums for the above insurance coverage shall be deemed a common expense to be included in the Regular Assessments levied by the Association.

ARTICLE VII: MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Declarant and every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. Voting Classes. The Association shall have two (2) classes of voting memberships:

Class A. Class A Members shall be all Owners and shall be entitled to one vote for each Lot owned. When more than one Person holds an interest in any Lot, all such Persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. The Class B Member shall be the Declarant and shall be entitled to ten (10) votes for each Lot owned. The Class B membership shall cease when, and if, Declarant has sold all Lots within the Property.

ARTICLE VIII: ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. **Each Owner of any Lot by acceptance of a deed therefore is deemed to covenant and agree to pay to the Association all Assessments levied thereby. In addition, each Owner upon the purchase of a Lot shall pay reasonable start-up and/or transfer fee assessments for use by the Association.** These start-up and transfer fee assessments shall only be used by the Association for the operation of the Association and/or the performance of its duties and obligations contained herein. All Assessments, together with interest, costs, late fees and reasonable attorneys' fees, shall be a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with interest, costs, late fees and reasonable attorneys' fees, shall also be the personal obligation of the Person who was the Owner of such Lot at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to his or her successors in title unless expressly assumed by them. **Declarant has no obligation to pay Assessments.**

Notwithstanding any of the foregoing, the imposition, perfection and/or foreclosure of any Association lien must also comply with any and all requirements contained in the Idaho Code.

Section 2. Purposes of Assessments. The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners and occupants of the Property and for any construction, maintenance, and operation of the Common Lots, as well as for the proper operation of the Association.

Section 3. Uniform Rate of Assessment. Regular and Special Assessments must be fixed at a uniform rate for all Lots.

Section 4. Date of Commencement of Annual Assessments; Due Dates. The Regular Assessments provided for herein shall commence as to all Lots on the first day of the month following the closing of the sale of a Lot from Declarant to an Owner. The first annual assessment shall be pro-rated according to the number of months remaining in the calendar year. Subsequently, the Board shall fix and notify all Owners in writing of the amount of the Regular Assessments against each Lot at least thirty (30) days in advance of each annual Regular Assessment period. The due dates shall be established by the Board, which may be annually, quarterly or monthly as the Board, in its sole discretion, shall determine. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specific Lot have been paid. A properly executed certificate of the Association as to the status of Assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 5. Effect of Nonpayment of Assessments; Remedies of the Association. Any Assessment not paid within thirty (30) days after the due date shall bear interest from that date at a rate equal to the lesser of twelve percent (12%) or the highest rate allowed by applicable law. Additionally, a late fee of \$50.00 shall be added to and charged on each Assessment which is not paid within this payment period. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Lots or abandonment of his or her Lot.

Section 6. Subordination of the Lien to Mortgages. The lien of the Assessments provided for herein shall be subordinate to the lien of any first Mortgage. Sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

ARTICLE IX: AUTHORITY OF BOARD/ASSUMPTION OF RISK

Section 1. Authority of Board. The Board, for the benefit of Declarant, the Association and the Owners, shall enforce the provisions of this Declaration and the Association's articles and bylaws, shall have all powers and authority permitted to the Board under the Association's articles and bylaws and this Declaration, and shall acquire and shall pay for all goods and services requisite for the proper functioning of the Association and the Property, including, but not limited to, the following:

(a) Operation, maintenance and management of the Common Lots, including repair and replacement of property damaged or destroyed by casualty loss.

(b) Water, sewer, garbage collection, electrical, and any other utility service as required for the Common Lots. The Board may arrange for special metering of utilities as appropriate.

(c) Maintenance and repair of storm drainage systems located on the Property, if required herein.

(d) Policies of insurance providing coverage for fire and other hazard, public liability and property damage, and fidelity bonding as the same are more fully described in the bylaws or this Declaration. **Each Owner shall be responsible for the insurance for his or her Lot, Dwelling Unit and personal property.**

(e) The services of Persons as required to properly manage the affairs of the Association to the extent deemed advisable by the Board as well as such other personnel as the Board shall determine are necessary or proper for the operation of the Property.

(f) Legal and accounting services necessary or proper in the operation of the Association's affairs, administration of the Property, or the enforcement of this Declaration.

(g) Any other materials, supplies, labor services, maintenance, repairs, structural alterations, insurance, taxes or assessments which the Board is required to secure by law or which in its opinion shall be necessary or proper for the operation of the Property or for the enforcement of this Declaration.

(h) The Board shall not incur any non-budgeted expenditure in excess of \$3,000.00 without the approval thereof by two-thirds (2/3) of each class of Members, except for an emergency threatening the security of any Improvement on the Property.

The Board shall have the absolute right to adopt any rules and regulations it deems to be in the best interest of the Property and the Owners. By accepting a deed to any portion of the Property, all Owners hereby covenant that they will adhere to any such rules or regulations. In addition, the Board shall have the absolute right to hire or otherwise contract with independent third parties to operate, maintain and manage the Common Lots, and to perform any other right, duty or obligation of the Board or Association.

Section 2. Easement. The Association and Board, and their agents and employees, shall have, and are hereby granted, a permanent easement of ingress and egress to enter upon each Lot for the purposes of performing repairs, maintenance and care of the Property as provided herein and for otherwise discharging the responsibilities and duties of the Association and Board as provided in this Declaration.

Section 3. Non-Waiver. The failure of the Board in any one or more instances to insist upon the strict performance of any of the terms or Restrictions of this Declaration, or of the Association's articles or bylaws, or to exercise any right or option contained in such documents, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future of such term or Restriction, but such term or Restriction shall remain in full force and effect. Failure by the Board to immediately enforce any such term or Restriction shall not be deemed a waiver of the right to do so thereafter, and no waiver by the Board of any provision hereof shall be deemed to have been made unless expressed in writing and signed for the Board. This Section also extends to the Declarant exercising the powers of the Board during the initial period of operation of the Association.

Section 4. Limitation of Liability. The Board shall not be liable for any failure of any utility or other service to be obtained and paid for by the Board, or for injury or damage to a Person or property caused by the elements, or by another Owner or Person; or resulting from electricity, gas, water, rain, dust or sand which may lead or flow from pipes, drains, conduits, appliances, or equipment, or from articles used or stored by Owners on the Property or in Dwelling Units. No diminution or abatement of Assessments shall be claimed or allowed for inconveniences or discomfort arising from the making of repairs or Improvements to the Property or from any action taken to comply with any law, ordinance, or order of a governmental authority. This Section shall not be interpreted to impose any form of liability by implication, and shall extend to and apply also for the protection of the Declarant exercising the powers of the Board during the initial period of operation of the Association and the Property.

Section 5. Indemnification of Board Members. Each member of the Board shall be indemnified by the Association and the Owners against all expenses (including attorneys' fees and costs), judgments, liabilities, fines and amounts paid in settlement, or actually and reasonably incurred, in connection with any action, suit or proceeding, whether civil, criminal, administrative or investigative instituted by or against the Association or against the Board member and incurred by reason of the fact that he or she is or was a Board member, if such Board member acted in good faith and in a manner such Board member believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe that such Board member's conduct was unlawful. This Section shall extend to and apply also to the indemnification of the Declarant.

Section 6. Assumption of Risk; Waiver of Claims. All Owners, for themselves and their family members, invitees and licensees, shall store their property in and shall occupy and use their Lots, Dwelling Units, Common Lots and all other portions of the Property solely at their own risk. All Owners and the Association, for themselves and their family members, invitees and licensees, hereby waive any and all rights to recover claims against Declarant, and its respective members, managers, employees and agents, of every kind, including loss of life, personal or bodily injury, damage to equipment, fixtures or other property, arising, directly or indirectly, out of or from or on account of the occupancy and/or use of any portion of the Property by such indemnifying Persons, or resulting from any present or future conditions or state of repair thereof, except to the extent such claims are directly caused by the gross negligence or willful misconduct of Declarant (or its respective members, managers, employees or agents) and are not covered by insurance required to be carried by such Persons pursuant to this Declaration. Declarant, and its respective members, managers, employees and agents, shall not be responsible or liable for damages to any Owners and/or the Association, or their respective family members, invitees and licensees, for any loss of life, bodily or personal injury, or damage to property that may be occasioned by or through the acts, omissions or negligence of any other Person.

ARTICLE X: ARCHITECTURAL COMMITTEE

Section 1. Charter of Architectural Committee. The Association or Declarant is authorized to appoint an Architectural Committee. The charter of the Architectural Committee is to represent the collective interests of all Owners, and to help Owners wishing to make exterior Improvements. **Each Owner is deemed to covenant and agree to be bound by the terms and conditions of this Declaration, including the standards and process of architectural review and approval. This Article does not apply to the Declarant.**

Section 2. Architectural Control. No exterior Improvement, including, without limitation, Dwelling Unit, building, deck, patio, fence, landscaping, permanent exterior affixed decoration, exterior lighting or heating, cooling and other utility systems shall be altered, erected, or placed on the Property unless and until the building, plot or other plan has been reviewed in advance by the Architectural Committee and same has been approved in writing, and an appropriate building permit has been acquired, if required by law. The review and approval may include, without limitation, topography, finish, ground elevations, landscaping, lighting, drainage, color, material, design, conformity to other residences in the area, and architectural symmetry. Approval of the architectural design shall apply only to the exterior appearance of said Improvements. It shall not be the intent of these restrictions to control the interior layout or design of said structures.

Section 3. Review of Proposed Improvements. The Architectural Committee shall consider and act upon any and all proposals or plans and specifications submitted for its approval pursuant to this Declaration, and perform such other duties from time to time as may be assigned to it by the Board and/or Declarant, including the inspection of construction in progress. The Architectural Committee may condition its approval of proposals upon the agreement of the Owner to an additional Assessment for the cost of maintenance and the payment of an architectural review processing fee. The Architectural Committee may require submission of additional plans or review by a professional architect. The Architectural Committee may issue guidelines setting forth design criteria and/or procedures for the submission of plans for approval. The Architectural Committee may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, drainage plans, elevations, drawings and description of samples of exterior material and colors. Until receipt by the Architectural Committee of any required plans and specifications the Architectural Committee may postpone review of plans. Decisions of the Architectural Committee and the reasons therefor shall be transmitted by the Architectural Committee, in writing, to the applicant at the address set forth in the application for approval within thirty (30) days after filing all materials required by the Architectural Committee. If the Architectural Committee has not accepted (either conditionally or otherwise) or rejected an Owner's application within this thirty (30) day period, such application shall be deemed approved.

Section 4. Inspection of Approved Improvements. Inspection of work and correction of defects therein shall proceed as follows:

(a) Upon completion of any work for which approved plans are required under this Article, the Owner shall give written notice of completion to the Architectural Committee.

(b) Within sixty (60) days thereafter, the Architectural Committee, or its duly authorized representative, may inspect such Improvement. If the Architectural Committee finds that such work was not done in substantial compliance with the approved plans, it shall notify the Owner and the Board in writing of such noncompliance within such sixty (60) day period, specifying the particulars of noncompliance, and shall require the Owner to remedy the same.

(c) If upon the expiration of thirty (30) days from the date of such notification the Owner shall have failed to remedy such noncompliance, the Board may, at its option, exercise its right to enforce the provisions of this Declaration by proceeding at law or in equity on behalf of the Association and/or correcting such noncompliance itself, and may take such other actions as are appropriate, including the levy of a Limited Assessment against such Owner for reimbursement associated with correcting or removing the same pursuant to this Declaration.

Section 5. Review of Unauthorized Improvements. The Architectural Committee may identify for review, Improvements which were not submitted to the approval process as follows:

(a) The Architectural Committee or its duly authorized representative may inspect such unauthorized Improvement.

(b) If the Architectural Committee finds that the work is in noncompliance with this Declaration and/or its standards or guidelines, it shall notify the Owner and the Board in writing of such noncompliance and its request to remedy such noncompliance.

(c) If the Owner has not remedied such noncompliance within a period of not more than forty-five (45) days from his or her receipt of the noncompliance notice, then the Board may, at its option, exercise its right to enforce the provisions of this Declaration by a proceeding at law or in equity on behalf of the Association and/or correcting such noncompliance itself, and may take such other actions as are appropriate, including the levy of a Limited Assessment against such Owner for reimbursement of the costs associated with correcting or removing the same pursuant to this Declaration.

ARTICLE XI: GENERAL PROVISIONS

Section 1. Enforcement. The Association, Declarant and/or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all terms and Restrictions now or hereafter imposed by the provisions of this Declaration.

Section 2. Severability. Invalidation of any one of these terms or Restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Term and Amendment. The terms and Restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by an instrument signed by Declarant (assuming Declarant owns one or more Lots) and the consent of two-thirds (2/3) of the Class A Members. Amendments shall be in the form of supplemental declarations, and must be recorded in the records of Ada County, Idaho.

Section 4. Annexation. **As described in Article I, Section 1, additional real property consisting of additional phases of the Osprey Pointe Subdivision may be annexed into the Property. These future annexations will be accomplished by Declarant, or any other owner of such additional phases, at its or their sole and absolute discretion, without the consent of any Person.** In addition, additional residential property not currently anticipated to be a part of the remainder of the Osprey Pointe Subdivision may be annexed into the Property by Declarant or with the consent of two-thirds (2/3) of the Class A Members. Annexations shall be accomplished by supplemental declarations to this Declaration recorded in the records of Ada County, Idaho.

Section 5. Duration and Applicability to Successors. The terms and Restrictions set forth in this Declaration shall run with the land and shall inure to the benefit of and be binding upon the Declarant, the Association and all Lot Owners and their successors in interest. **Declarant shall have the absolute right, at its sole and absolute discretion, to assign any and all of Declarant's rights, duties and/or obligations under this Declaration to any third party. Any such assignment shall be in writing signed by both the assignor and assignee.**

Section 6. Attorneys Fees/Collection of Fines. In the event it shall become necessary for the Association, Declarant or any Owner to retain legal counsel to enforce any term or Restriction contained within this Declaration, the prevailing party to any court proceeding shall be entitled to recover their reasonable attorneys' fees and costs of suit, including any bankruptcy, appeal or arbitration proceeding.

Notwithstanding any other provision contained in this Declaration, the imposition and collection of any fines, as well as the award and collection of attorneys' and costs, by the Association, must comply with any and all requirements contained in the Idaho Code.

Section 7. Governing Law/Applicability of Declaration Versus Governmental Rules. This Declaration shall be construed and interpreted in accordance with the laws of the State of Idaho.

In the event any term or Restriction contained herein is less restrictive than any government rules, regulations or ordinances, then the more restrictive government rule, regulation or ordinance shall apply. The terms and Restrictions contained herein are subject to all rules, regulations, laws and ordinances of all applicable government bodies. In the event a governmental rule, regulation, law or ordinance would render any term or Restriction herein unlawful, then in such event that term or Restriction shall be deemed to be amended to comply with the applicable rule, regulation, law or ordinance.

Section 8. Notices. Any notices permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by regular mail. If delivery is made personally, the notice shall be deemed properly delivered immediately upon delivery. If delivery is made by regular mail, it shall be deemed to have been delivered seventy-two (72) hours after the same has been deposited in the United States mail, postage prepaid. All notices shall be addressed to the Owner at the last known address on the Association's records or to the address of the Owner's Lot if no other address for notices has been given in writing by such Owner to the Association. Such address may be changed from time to time by notice in writing to the Association given in compliance with the foregoing.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hands as of the date first above written.

Declarant:

Biltmore Company LLC,
an Idaho limited liability company

By:

Kevin F. Amar, Manager

STATE OF IDAHO)
) ss.
County of Ada)

This record was acknowledged before me on _____, 2021, by Kevin F. Amar, as a
Manager of Biltmore Company LLC.

Signature of Notary Public

My commission expires: _____

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

EXHIBIT B
DESCRIPTION OF OVERALL Osprey Pointe SUBDIVISION

See attached.

EXHIBIT C
LEGAL DESCRIPTION OF COMMON LOTS

EXHIBIT D
Osprey Pointe SUBDIVISION NO. 1 FINAL PLAT

See attached.