

Valley County Planning and Zoning

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STAFF REPORT 2: C.U.P. 24-02 River Fork Ranch Subdivision – Preliminary Plat - Addendum

MEETING DATE: April 11, 2024

TO: Planning and Zoning Commission

STAFF: Cynda Herrick, AICP, CFM
Planning and Zoning Director

**APPLICANT /
PROPERTY OWNER:** Lake Fork Ranch LLC, c/o Dave Callister
3500 Quail Creek LN, Boise, ID 83714

ATTORNEY: Amy K Holm, Millemann Pemberton & Holm LLP
PO Box 1066, McCall, ID 83638

LAND PLANNER Samantha Hammond, Ardurra Group INC
322 N Broadmore Way, Nampa, ID 83687

LOCATION: North of Spink Lane
43.75 acres of RP17N03E227205 in the SE ¼ Section 22, T.17N, R.3E,
Boise Meridian, Valley County, Idaho

SIZE: 43.75 acres

REQUEST: Single-Family Residential Subdivision

EXISTING LAND USE: Agricultural (Dry Grazing) per Valley County Assessor's Office

C.U.P. 24-02 River Fork Ranch Subdivision was tabled on March 14, 2024, after public testimony was taken. The public hearing was not closed in order to hear the rebuttal.

Additional letters from neighbors and a letter of response has been received from the applicant. Central District Health and Dept. of Environmental Quality have asked to testify prior to the rebuttal.

If the Commission believes there is new information provided then they should receive additional public testimony on the new information, only.

FINDINGS:

1. C.U.P. 24-02 River Fork Ranch Subdivision was tabled on March 14, 2024, after public testimony was taken. The public hearing was not closed.
2. The matter was specifically tabled to April 11, 2024, at 6:00 p.m.
3. Legal notice was posted in the *Star News* on March 21, 2024, and March 28, 2024.

4. Additional comments received:

From Applicant:

The applicant's representative submitted a letter from GeoTek INC. GeotTeck was onsite at the site on September 29, 2023. The majority of the soil types throughout the property were classified as B-1 and B-2 which are appropriate for individual septic systems. Groundwater seepage was observed at a range from 6.9-ft below existing ground surface to 9.0+-ft. This should allow for appropriate separation distances as designed by the civil engineer. GeoTek feels that the native onsite soils and groundwater levels at the time of exploration are suitable for construction of standard sewer systems from a geotechnical standpoint. (March 14, 2024, received after meeting had already started)

Steven Millemann and Amy Holm, representing the applicant, responded to questions and comments raised during the public hearing on March 14, 2024. Modifications to proposed COA 8 and 10 are requested. The applicant requests a compatibility rating of a positive 16 or greater from the PZ Commission. The owner/operator of the Mahala Ditch cannot unreasonably withhold consent to move the ditch in accordance with Idaho Code 42-1207. Valley County may not impose more stringent requirements on septic permits than CDH or ID DEQ. The TMDL for phosphorous in Cascade Reservoir does not limit the permitting of new septic systems at the proposed site. A memorandum summarizing the trip generation and distribution analysis is attached. (April 4, 2024)

Exhibits Received During Public Hearing on March 14, 2024:

Vicki Miller, 13541 Farm to Market Road, submitted written testimony in opposition (Exhibit 6 of March 14, 2024).

Marshall Haynes, 13607 Farm to Market Road, submitted written testimony in opposition (Exhibit 7 of March 14, 2024).

Lenard Long, Cascade, submitted a table of Idaho rules and statutes regarding water (Exhibit 8 of March 14, 2024).

Tom Peppersack, owner of property at 28 Spink Lane, submitted written comments of his testimony in opposition and reference to the Valley County Ground Water Quality Improvement and Drinking Water Source Protection Plan of 2022 (Exhibit 9 of March 14, 2024).

Peggy McMillen, 13607 Farm to Market Road, submitted written testimony in opposition (Exhibit 10 of March 14, 2024).

Agency Comments Received After March 14, 2024:

Lance Holloway, Idaho Department of Environmental Quality Boise Region Surface Water Program Manager, supports Mike Reno and fully concurs that he is upholding the rules and responsibilities of Central District Health in his review of the River Fork Project. Becky was trying to provide additional information in the way of BMPs to help protect surface and groundwater. (March 27, 2024)

Comments in Opposition Received After March 14, 2024:

- Disagreement with Staff's Compatibility Rating.
 - A key goal of the Comprehensive Plan is to maintain rural character and working agricultural lands.
 - Disagreement with the applicant's statement about agricultural use of the property.
 - Would harm adjacent cattle production.
 - Concerns include impacts to existing wells, traffic, and dust.
 - The impact report is incomplete.
 - The site is isolated from services, schools, business, and recreation; this will result in increased volume and a change in traffic patterns and timing on Spink Lane, Farm to Market Road, and Highway 55.
 - The road base for Spink Lane needs to be rebuilt.
 - The map received at the neighborhood meeting said this was Subdivision No. 1. Additional residential development would make safety and infrastructure problems worse.
 - Additional lots were shown in public records from Central District health If approved, the compatibility matrix rating for the remainder of the property and all surrounding agricultural properties would change.
 - In October 2023, a new ditch was excavated through wetlands on applicant's property north of the site.
 - High-density development is not acceptable at this site.
 - Starting annual salaries for some Valley County workforce were listed. This development would not aid the workforce housing shortage in Valley County. It would increase the public service burden for all Valley County residents.
 - The Idaho Farm Bureau commissioned a study on the cost of services in 2019. This study found that residential properties received more money in services than they contributed – approximately \$1.16 for every \$1.00 contributed. Agricultural property received \$0.39 for every \$1.00 contributed.
 - The loss of agricultural production also negatively affects the economies of scale for marketing and processing.
 - The County has the authority to deny an application that is incomplete or inconsistent with County Ordinances. The County has the authority to require additional studies.
 - Idaho Code 39-126(2) require county consideration of ground water quality.
1. Jeff Miller, 13 Spink Lane, April 2, 2024
 2. Marshal Haynes and Peggy McMillen, 13607 Farm to Market RD, April 2, 2024
 3. Kathleen Trever and Tom Peppersack, April 3, 2024
 4. Miles S Miller and Dr. Vicki L. Miller, April 3, 2024

STAFF COMMENTS / QUESTIONS:

none

ATTACHMENTS:

- Proposed Conditions of Approval
- Draft Minutes of March 14,2024
- Exhibits 6-10, March 14, 2024
- Additional Responses

Proposed Conditions of Approval

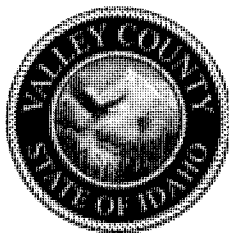
1. The application, the staff report, and the provisions of the Land Use and Development Ordinance are all made a part of this permit as if written in full herein. Any violation of any portion of the permit will be subject to enforcement and penalties in accordance with Title 9-2-5; and, may include revocation or suspension of the conditional use permit.
2. Any change in the nature or scope of land use activities shall require an additional Conditional Use Permit.
3. The issuance of this permit and these conditions will not relieve the applicant from complying with applicable County, State, or Federal laws or regulations or be construed as permission to operate in violation of any statute or regulations. Violation of these laws, regulations or rules may be grounds for revocation of the Conditional Use Permit or grounds for suspension of the Conditional Use Permit.
4. The final plat shall be recorded within two years, or this permit will be null and void.
5. Sanitary Restrictions must be removed by Central District Health prior to recording the final plat.
6. A site grading/stormwater management plan must be approved by the Valley County Engineer prior to construction of the roads or installation of utilities.
7. A letter of approval is required from Donnelly Fire District.
- ~~8. The water tank and hydrants for fire suppression shall be shown on the final plat.~~
9. All easements shall be shown on the final plat.
- ~~10. Written approval of the Mahala Ditch owner to relocate or place the ditch in buried pipe is required.~~
11. A Declaration of Installation of Utilities shall be recorded and noted on the face of the plat.
12. Must bury conduit for fiber optics with utilities.
13. A Declaration of Private Roads shall be recorded and noted on the face of the plat.
14. A shared-driveway maintenance agreement shall be recorded and noted on the face of the plat. Shared driveways shall be constructed prior to recordation of the plat.
15. The Wildland Urban Interface Protection Plan shall be recorded and noted on the face of the plat.
16. CCR's should address lighting; noxious weeds; septic maintenance; wildfire prevention; firewise wildland urban interface landscaping requirements; fertilizer, herbicide, and pesticide use; maintenance of the landscape buffer; maintenance of the water tank and hydrant system; and limit each lot to one wood-burning device.
17. Shall place addressing numbers at the residences and at the driveway entrance if the house numbers are not visible from the road.

18. Must have a fencing plan with neighboring properties if they run livestock for over 30 days per year.
19. The following notes shall be placed in the notes on the face of the final plat:
- “The Valley County Board of Commissioners have the sole discretion to set the level of service for any public road; the level of service can be changed.”
 - “All lighting must comply with the Valley County Lighting Ordinance.”
 - “Only one wood burning device per lot.”
 - “Surrounding land uses are subject to change.”
20. Prior to recording the final plat, the applicant shall work with Valley County Road Department on an agreement for off-site infrastructure improvements that will be approved by the Board of County Commissioners.

END OF STAFF REPORT

Valley County Planning and Zoning Commission

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Phone: 208-382-7115
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Katlin Caldwell, Chairman
Ken Roberts, Vice-Chairman

Scott Freeman, Commissioner
Carrie Potter, Commissioner
Gary Swain, Commissioner

MINUTES

Valley County Planning and Zoning Commission
March 14, 2024
Valley County Court House - Cascade, Idaho
PUBLIC HEARING - 6:00 p.m.

A. OPEN: Meeting called to order at 6:02 p.m. by Chairman Caldwell. A quorum exists.

PZ Director – Cynda Herrick:	Present
PZ Commissioner – Katlin Caldwell	Present
PZ Commissioner – Scott Freeman:	Present
PZ Commissioner – Carrie Potter:	Arrived at 6:16 p.m.
PZ Commissioner – Ken Roberts:	Present
PZ Commissioner – Gary Swain:	Present
PZ Planner II – Lori Hunter:	Present

Commissioner Swain moved to amend the agenda to put P.U.D. 23-02 MacGregor Townsite first on the agenda. Commissioner Freeman seconded the motion. Chairman Caldwell stated P.U.D. 23-02 MacGregor Townsite has been on multiple previous agendas and thus should be at the beginning of tonight's agenda. Director Herrick asked that the two final plats be discussed first and then P.U.D. 23-02 MacGregor Townsite. Commissioner Swain moved to amend the agenda to reflect this request. Commissioner Freeman seconded. Motion passed unanimously.

B. MINUTES: Commissioner Freeman moved to approve the minutes of February 8, 2024, and February 12, 2024. Commissioner Swain seconded the motion. Motion passed unanimously.

C. OLD BUSINESS:

1. C.U.P. 23-26 Legacy Ranch at Whitetail Club Subdivision – Final Plat: Shore Lodge Whitetail LLC is requesting final plat approval. The commission will review the final plat to determine conformance with the preliminary plat, approved densities, and conditional use permit. This plat includes six residential lots and 1.58 acres of open space on approximately 65 acres. Access would be from a new private road onto a private road system in Adams County. Variances are requested to allow a culdesac road longer than 900-ft, an accessory dwelling unit up to 3500-sqft on each lot, and wood-burning devices in each residence. The site is parcel RP18N02E133560 located in W ½ Section 29, T.18N, R.2E, Boise Meridian, Valley County, Idaho. Action Item.

Chairman Caldwell introduced the item, stated that this is not a public hearing, and asked if there was any exparte contact or conflict of interest. Chairman Caldwell stated she has a conflict of interest due to the fact the applicant put in a bid to a family member's business.

3. **VAC 24-02 Harris Vacation of Utility Easement:** Michael Harris and Pepin Corso-Harris are requesting a vacation of a 12-ft utility easement that is centered on the lot line between Lake Cascade Ranch Subdivision Lots 10 and 11 in order to build over the easement. The site is addressed at 142 and 144 Casey Lane and located in the NWNW Section 16, T.16N, R.3E, Boise Meridian, Valley County, Idaho. Action Item.

Chairman Caldwell introduced the item and opened the public hearing. Chairman Caldwell asked if there was any ex parte contact or conflict of interest; there was none. Director Herrick presented the staff report, displayed the plat and GIS map on the projector screen, and summarized the following exhibits:

- **Exhibit 1** – Laura Lacy, Idaho Power Company, stated that records indicate that there are no Idaho Power Company facilities within the requested area. Thus, Idaho Power agrees to relinquish their interest in the public utility easement area as shown while retaining the 12-ft wide public utility easement inside all street and exterior lot lines. (March 14, 2024)

Older plats often have easements along all internal lot lines as this was standard language at the time this plat was recorded in 1970's. North Lake Recreational Sewer and Water District was noticed about this application but did not reply.

The applicant was not present to request the vacation and answer questions.

Commissioner Roberts moved to table VAC 24-02 until April 11, 2024, at 6:00 p.m. Commissioner Potter seconded the motion. Motion carried unanimously.

8:45 p.m.

4. **C.U.P. 24-02 River Fork Ranch Subdivision – Preliminary Plat:** Lake Fork Ranch LLC is requesting a conditional use permit for a residential subdivision on 43.75 acres. Twenty-two lots would be single-family residential; nine lots would be either single-family residential or duplex units. Lot sizes would range from 1.0 acre to 1.78 acres. The proposed density range is 0.69 to 0.91 residential units per acre. Common areas are also included. Individual septic systems and individual wells are proposed. The lots would be accessed by new private roads from Spink Road, a public road. Shared driveways are requested. The site is part of parcel RP17N03E227205, located in the SE ¼ Section 22, T.17N, R.3E, Boise Meridian, Valley County, Idaho. Action Item.

Chairman Caldwell introduced the item and opened the public hearing. Chairman Caldwell asked if there was any ex parte contact or conflict of interest; there was none. Director Herrick presented the staff report; displayed the preliminary plat, the site, and GIS map on the projector screen; and summarized the following exhibits:

- **Exhibit 1** – Valley Soil and Water Conservation District Board of Supervisors response letter detailing concerns. (March 7, 2024) [This letter was delivered to the Commissioners and the applicant with the Staff Report.]
- **Exhibit 2** – Niki Benyakhlef, Idaho Transportation Department Services Coordinator, responded with comments. A traffic analysis of State Highway 55 and Spink Road intersection is requested. ITD recommends Spink Road be realigned to meet State Highway 55 at a 90° angle to meet ITD Standard Drawing 405-1. (Dated February 23, 2024, received March 13, 2024)
- **Exhibit 3** – Amy Holm, applicant's legal representative, responded to the Staff Report. (March 14, 2024)
- **Exhibit 4** – Slide presentation received from applicant on March 14, 2024. The Commissioners also received a hard copy of the presentation slides.
- **Exhibit 5** – 11 x 17-in versions of plat, site plan, landscape plan, lot dimensions, existing

conditions, site grading and road layout, and road profiles. Received from applicant on March 14, 2024.

The proposed site has been split from a larger piece of property owned by the applicant but that has not yet updated on the GIS map. If the conditional use permit is approved, a development agreement should be negotiated with county commissioners. This should be an additional condition of approval.

Commissioner Roberts stated that Idaho Department of Environmental Quality is the authority of point-source pollution and surface water issues. A gap exists for regulation of ground water impacts. These impacts were not addressed in the application; he would like more information from the applicant.

Staff responded to questions from Commissioners. In regard to comments mentioning a plan for additional lots on property owned by the applicant to the north of the site of C.U.P. 24-02, no application has been submitted to the Planning and Zoning office. The property to the south and east is owned by Harry Bettis, a letter was submitted on his behalf.

Chairman Caldwell asked for the applicant's presentation.

Representing the applicant were: David Callister, applicant, Garden City; Amy Holm, legal representation, McCall; and Samantha Hammond, Land Use Planner for ARDURRA, Meridian. John Carpenter, the applicant's engineer, was unable to attend due to a family emergency.

Ms. Holm presented a slide show (**Exhibit 4**). This application is for a C.U.P. and preliminary plat. No deviation from Valley County Code is requested. The 40-acre parcel is not ripe for agricultural uses and has no water rights available. The site has good proximity to Highway 55 and Farm to Market Road for access. Spink Lane needs improved; this would be accomplished through a development agreement. The existing timber and elevation gain will screen the site from the Highway 55 corridor. There will be additional screening from Spink Lane; thus, the site will not be a visible mass of houses.

Soil samples are good for septic purposes, road construction, and home construction. There are nine lots that could be built as duplexes resulting in a diverse construction price point. A fire-hydrant system is proposed for fire suppression. Approval would result in an increase in tax revenue.

Ms. Holm referred to VCC 9-5-2 Conditional Use Policy. The application is consistent with VC Code. The compatibility rating by staff was +16. The development would have no unreasonable burden on public infrastructure. The property is not agricultural; thus Line 1 of the compatibility rating should increase. The project is three miles from Jug Mountain Ranch. The lots fit the size of subdivision lots in the surrounding area. The minimum allowable lot size is 1.0 acre; some of the proposed lots are 1.78 acres. The common lots would include landscaping buffers and roads. Lot 11C is a non-buildable lot. The proposed density is 0.89 dwelling units per acre less than the 2.5 dwelling units per acre allowed by VCC. Two private road accesses are proposed for safety. The applicant proposes grading away from Lake Fork Creek. Septic systems are allowed with 1-acre lots. During the March 2022 work session, the Commissioners learned that restrictions do not need to be increased per Central District Health and Idaho Department of Environmental Quality. There is adequate separation between surface water and septic drainfields. A landscape plan is proposed by the applicant to provide a buffer on Spink Lane [**Exhibit 4 Slide 8**].

Ms. Holm responded to the Staff Report comments [**Exhibit 4 Slide 9**]. Ms. Holm has had

conversations with Mr. Bettis' legal representatives and Laura Bettis. Ms. Holm stated there is not a formal Mahala Ditch Irrigation District. However, the applicant cannot impede the flow of water through this property to the Bettis property. Lot 11C is a non-buildable lot. The applicant agrees to bury fiber optics with utilities, will comply with requirements of US Army Corps of Engineers regarding wetlands, and will work with Jeff McFadden, Valley County Road Department Superintendent, to determine a development agreement and improve Spink Lane. A neighborhood meeting was held as required.

Ms. Hammond discussed the relocation of the ditch [**Exhibit 4 Slide 10** and **Exhibit 5 Sheet 1**]. The ditch will be piped where it crosses the road and common lot. The remainder will be left open and maintained within the 30-ft wide easement. Lot 11C will be designated non-buildable to maintain the quality of Lake Fork Creek and wetland areas. Grading will flow inwards, away from Lake Fork Creek. They will work with the Donnelly Fire District to determine whether to use a well or water tank to supply water for the fire hydrants. The geotechnical report was completed with test pits across the property at the location of proposed septic systems [**Exhibit 4 Slide 11**]. The soil is extremely suitable for septic systems. A letter regarding this was sent to Director Herrick this evening. This letter states that the native on-site soils and groundwater levels are suitable for construction of standard sewer systems. The applicant will comply with Central District Health (CDH) requirements. The northwest corner of the property will be non-buildable lot. A wetland delineation will be completed for the southeast portion and a 404 Permit obtained if required [**Exhibit 4 Slide 12**].

Mr. Callister referred to [**Exhibit 4 Slide 13**]. He felt privileged to buy property 15 years ago to west of Highway 55 where he will be able to preserve the ecosystem of a half-mile of Lake Fork Creek. The proposed site is the "ugly duckling" of his property. It is a very dry site with thick lodgepole and sagebrush and no water rights. Soil testing has shown the site has deep gravel with a very thin overburden located close to the highway; thus, the highest and best use of this site is a gravel pit. It is not good for grazing. However, the next best use is residential. The gravel and the natural drainage make it good for residential homes. There were 20 10-ft deep test holes for soil testing. No moisture was found at 7 feet deep. The water table is high throughout much of Valley County which limits septic systems and allowable density. He was told by Mike Reno, CDH, that the site has excellent soil for septic systems and 1-acre lots. Mr. Callister has built many similar 1-acre developments. The market price of lots in the area have increased from \$30,000 to \$200,000. There are not enough lots; supply and demand affects cost of lots. Developing this site as 1-acre lots will reduce the price of each lot. The ability to do duplex lots with separate access road reduces the market price of each residence. Most of the available stock of bare lots in Valley County is greater than one acre resulting in higher land prices. Mr. Callister gave estimated prices of the duplexes once built. The three-bedroom duplex units would be 2400-sqft; 6.5% financing would result in approximately a \$2200 monthly payment for unit, \$4400 per each duplex building.

Mr. Callister stated the application meets VCC; no variances are requested. There would be a low impact on infrastructure. The site is near Highway 55. The fire danger would be reduced due to the fire mitigation plan and addition of fire hydrants. There would be three fully pressurized fire hydrants. They are leaning toward adding a well with 1500 gallons per minute supply and a backup power source. Lot 11C is a non-buildable lot but would not be a common area for the residents to use. People would not be allowed on the lot but could visually appreciate the open space. The additional testholes mentioned in public comments are not part of the planned future. Only 20 test holes have been done; the diagram referred to was completed as part of a possible plan. They will continue to involve Harry Bettis; however, his approval is not required to modify the ditch. The ditch water has to be supplied to Harry Bettis through this property. Surface water on the lots and roads will be graded to keep sediment and

pollutants from flowing to Lake Fork Creek. Water must be maintained on the lot; ground will slope away from the house and then up toward the lot lines. Underground water will be filtered by the existing soil as it flows towards the creek.

Chairman Caldwell asked for proponents.

Heidi Winchel, 640 Brady Drive, McCall, is a realtor who worked with Mr. Callister when he bought the property. Although many of us would love to live on 20 acres on Farm to Market Road, we cannot afford it. Subdivisions with 1-acre lots that people can afford are needed. This beautiful piece of property will not only be for second homeowners. The proposed price is below market value. The average lot price for one-acre to three-acre lots in the in the McCall and Donnelly areas, outside of city limits, is currently \$245,000.

Chairman Caldwell asked for undecided. There were none.

Chairman Caldwell asked for opponents.

Vicki Miller, 13541 Farm to Market Road, owns 10 acres adjacent to the site along with Harry Bettis. She works with Mr. Bettis to run cattle on both sides of Spink Lane. The pastures along Spink Lane have 3-wire fencing. Spink Lane is very dusty, barely 1.5-lane wide, and in very poor condition with dump truck traffic. This development would increase traffic on Spink Lane, as people will drive towards Farm to Market Road due to the dangerous intersection at Highway 55 and Spink Lane. They move cattle back and forth across Spink Lane; a large corral adjacent to Spink Lane is used to load and unload cattle by both her and other people. This proposed development would hinder maintaining agricultural in the area and make it difficult to herd cattle along fences. The traffic and people would negatively affect cattle and inhibit her business. She submitted written comments to dispute the compatibility evaluation (**Exhibit 6**).

Ricky Lyon, 13639 Morris Ranch Road, residence is adjacent to the northeast corner of this property. The applicant has not addressed the elk, deer, and birds that would be negatively impacted.

Marshall Haynes, 13607 Farm to Market Road, lives in the area for its rural characteristics. He noted errors in Staff's compatibility ratings. The scores for questions 1, 2, and 3 do not adequately take into consideration the dominant and overall agricultural uses. Question 4 does not consider that to attain the proposed density almost all the trees will need to be removed for housing, septic, and fire prevention. Question 5 does not consider that all adjacent lots are greater in size. Question 6 does not reflect the added residential traffic volume and times outside of the transfer station hours. Highway 55 and Spink Lane intersection is dangerous. Question 7 ignores the impacts on water resources, neighboring water rights, irrigation access, water quality, and wildlife. Question 8 fails to recognize the impacts to the public. Density in rural areas will further stress emergency services. New subdivisions should be inside or adjacent to the incorporated towns following the Valley County Comprehensive Plan. Question 9 regarding cost effectiveness is unanswerable as applicant did not provide sale values until tonight. The overall score should be negative. He submitted written comments of his testimony (**Exhibit 7**).

Art Troutner, 193 West Lake Fork Road, reference the written comments submitted by the Valley County Soil and Water District (District). The soils are very well drained. Soil types are Archibal and Darnell loams. The 31 proposed septic systems would impact Lake Fork Creek. This is not a good place for septic systems due to water quality concerns of Lake Fork Creek and Lake Cascade. If Lake Cascade water quality is bad, as has occurred the past several years, the local economy is negatively impacted. The District states that the use of septic

systems at this site is actually poor due to the high drainage rates; the Soil Survey says the soils are marginally acceptable for septic systems. There are other alternatives to septic systems.

Peter Miller, 13643 Morris Ranch Road, is opposed. This site has an important waterway, is important to elk migration, and ought to be the last place for a subdivision. It is too close to the greenbelt that runs up the valley.

Lenard Long, Cascade, represented the Friends of Lake Cascade, and states that this application should be put on hold. The real issue would be the impact to the impaired Lake Fork Creek and the number of septic systems that would be added. There is a disconnect between the responsibilities of Central District Health (CDH) and Idaho Department of Environmental Quality (DEQ). There needs to be an approval by DEQ – Source Water personnel as well as stormwater approval. Additional nutrients into the waterway are a concern. CDH is not responsible for anything dissolved in the water, DEQ is. He referred to Idaho Administrative Procedures Act (IDAPA) 58.01.03, 58.01.16.260, 58.01.02.350, and 58.01.11.400. Pollutants cannot be reasonably expected to enter waters of the State in concentrations resulting in injury to beneficial use. Lake Fork Creek is cold water habitat, which is a beneficial use. Septic systems are non-point sources. There are also ground water quality rules. He submitted a table of relevant Idaho rules and statutes (**Exhibit 8**).

Chuck Seubert, 13611 Morris Ranch Road, is opposed to the high density. The adjoining properties are much larger. He is concerned about the addition of 30-40 wells in an area that has well issues. He and his neighbor cannot irrigate at the same time from wells that are located 250-ft apart. Alpha Well Drilling stated a decrease in water levels would result from additional wells. He does not know how the volume for the fire hydrants would be sustained from a well. Septic systems would be impacted by Mahala Ditch. If leach fields get saturated with water, septic drainage will leach into Lake Fork Creek. He referenced the comment letter from the Friends of Lake Cascade as reasons to deny. The application is not well-thought out. He responded to questions from Commissioners. His well in the Morris Ranch Road area is about 68-75 feet deep; these new wells would be below his due to elevation changes.

Tom Peppersack, owner of property at 28 Spink Lane, is opposed. The Valley County Comprehensive Plan includes policies for preserving rural character and natural resources. The proposal would increase the residential density in midst of agricultural and timber areas along the Lake Fork Creek corridor outside of city impact areas. He owns 32 acres of wetlands next to Lake Fork Creek and has worked to clean the area and improve habitat. The application has multiple inaccuracies. The development would impact water supply and quality. Springs are common in the area due to the sand and gravels. He has spring water rights for domestic water and irrigation use. The additional wells would negatively impact neighboring water rights, wells, and ditches; the application does not include a description of impacts or mitigation as required. Compatibility Rating Question 7 should have a negative value due to this impact. He submitted written comments of his testimony and reference to the Valley County Ground Water Quality Improvement and Drinking Water Source Protection Plan of 2022 (**Exhibit 9**).

David Gallipoli, 405 Floyd Street, McCall, concurred with the statements in opposition. Information is lacking. Waters are impaired. How would Lake Fork Creek and existing wells be impacted? Additional 40 homes would fragment the wildlife habitat and compound existing problems in Valley County such as staffing, local housing, and traffic. The Farm to Market Road has become a dangerous alternative to Highway 55; adding more cars will make that worse. A comprehensive traffic study is needed.

David Squires, representing the Spink Family who has own property at 30 Spink Lane since 1905. The family donated 4.6 acres to the State in 1944 which is why Highway 55 right-of-way is wider north of Spink Lane. The intersection with Spink Lane is dangerous. Approval would increase the traffic and dust issue along Spink Lane. He has been involved with agriculture and cattle feeding for 40 years. The site can be used for agricultural grazing, particularly for spring livestock grazing. If the property owner can obtain a well for fire hydrants, then he can get a well for irrigation.

Larry Dolsby, 13627 Morris Ranch Road, is concerned about adding drainage from the septic systems into Lake Fork Creek. The Highway 55 and Spink Lane intersection is dangerous. The impact to ground water is a concern; new homes have affected the level of his pond which he uses for irrigation.

Jeff Miller's home at 13 Spink Lane is less than 70-ft from the property in question. There is already a lot of dust and dirt from transfer station trucks driving on Spink Lane. He and his wife chose the property due to the beautiful site and agricultural setting. The only year that cattle was not on the proposed property was in 2023 when the property was for sale. There were cattle in previous years up to September/October. He has a 68-ft deep well; the first 20-ft is sand, then clay, and gravel at 60 ft. When the foundation for his home was dug, there was no rock, only sand, for the top five feet. Due to the unstable soil, rebar must be used in foundations and footings.

Katy Riker, representing Harry Bettis who owns property east and south of the site, stated that Mr. Bettis is opposed at this time and concurs with previous reasons of concern. He grazes beef cattle on adjacent land irrigated by ground and surface water. The application lacks information for the Commission to make a reasoned decision and is not consistent with the Valley County Comprehensive Plan. The impact report fails to address several matters. Concerns include water demand and approval of duplexes. Mahala Ditch maintenance and care are addressed in the application. The application glosses over particulate emissions and air quality from dirt roads, not just Spink Lane which the applicant might pave, but also the internal gravel roads. Applicant has reached out regarding fencing; however, no arrangements have been made. The Commission should deny or require additional materials to be submitted. Mr. Bettis disagrees with the applicant regarding the ability to move and pipe Mahala Ditch. Ms. Riker responded that not enough information is known when Commissioner Roberts asked if paving Spink Lane would require road base improvement.

Kathleen Trever, 20 Spink Lane, previously submitted comments. The proposal is not compatible with the Valley County Comprehensive Plan. At the neighborhood meeting, they were told that subdivision number 1 would add 30-40 single-family residences and/or duplexes on 43 acres. There is no comparable density in the local vicinity. She discussed the 300-ft area surrounding the proposed site in the "picture frame" of 300-ft surrounding the site, there are only two houses. In the area to the east of Highway 55, there are only four houses and the industrial log home manufacturing business. This development would open a new area of development among agricultural lands which conflicts with the Comprehensive Plan which states this area should remain as agricultural land and open space or at very least lower density development. The County should not ignore the inconsistencies, omissions, and deficiencies in the impact report. Similar to Mr. Haynes comments, the compatibility rating should be negative. At the neighborhood meeting, the applicant stated there would million-dollar homes, tonight he gave a different amount. Agricultural lands have benefits. The compatibility rating should account for benefits of agricultural land to the overall economy of the County and have importance above property tax revenue. The County has ample information on short-term

rentals effect on local housing. The application should be denied so the applicant can pursue other uses of the property.

Peggy McMillen, 13607 Farm to Market Road, purchased their home for the open space and to raise their child in a rural area away from town. This proposal of 40 homes on 43 acres with the potential of 90 additional homes is not compatible with this area. Duplexes are not appropriate for this area. Compatibility rating questions 8 and 9 should be negative due to increased cost to local services. The rural country roads are not designed for subdivision traffic and the intersection of Highway 55 and Spink Lane is hazardous. The development would not provide sufficient tax revenues to offset costs to existing residents. The school district already cannot hire enough teachers or school bus drivers to service the area. The Comprehensive Plan includes goals to protect fish and wildlife, preserve open space buffers, and historic wildlife movement corridors. Lake Fork Creek and the buffer around it are perfect examples of this. Converting agricultural range lands to a subdivision in this location violates the Comprehensive Plan. She submitted written comments of her testimony (**Exhibit 10**).

Commissioner Roberts moved to table the public hearing of C.U.P. 24-02 River Fork Ranch Subdivision and Preliminary Plat to April 11, 2024, at 6:00 p.m., at the Valley County Courthouse. Commissioner Freeman seconded the motion. Motion passed unanimously.

10:37 p.m.

5. C.U.P. 24-03 Valley County Road and Bridge Department Office, Shop, and Storage

Yard: Valley County Road and Bridge Department is requesting a conditional use permit for an office, shop, and equipment storage yard. An individual well and individual septic system is proposed. Access would be from the existing driveway onto Gold Dust Road, a public road. The 40-acre parcel is RP13N04E090605, addressed at 55 Gold Dust Road, and located in the NWNE Section 9, T.13N, R.4E, Boise Meridian, Valley County, Idaho. Action Item.

Commissioner Freeman moved to table the public hearing of C.U.P. 24-03 Valley County Road and Bridge Department Office, Shop, and Storage Yard to April 11, 2024, at 6:00 p.m., at the Valley County Courthouse. Commissioner Roberts seconded the motion. Motion passed unanimously.

E. FACTS AND CONCLUSIONS – Action Items:

- C.U.P. 23-53 Troutner Multiple Residences
- C.U.P. 23-54 Lake Port Storage Amendment to C.U.P. 18-11
- Tamarack Resort P.U.D. 98-1 Amendment and C.U.P. 23-51 Phase 3.4 – Lower Sugarloaf Custom Chalets – Preliminary Plat

Commissioner Roberts moved to approve the Facts and Conclusions as presented and authorize the chairman to sign. Commissioner Potter seconded the motion. Motion carried unanimously.

Chairman Caldwell adjourned the meeting at 10:38 p.m.

Dr. Vicki L. Miller
13541 Farm to Market Road
McCall, ID 83638

March 14, 2024

RE: C.U.P. 24-02 /River Fork Ranch Subdivision: Proposed phase of Subdivision No. 1, Staff Report

Planning and Zoning Commission,

In addition to my comments, I'm providing further information to dispute the Compatible Evaluation for the proposed subdivision.

Items 1-3. Is the proposed use compatible with the dominant adjacent land use?

The proposed subdivision is not compatible with the adjacent agricultural use. There are 110+ cattle grazed on this ranch and close proximity of the presence of humans and traffic on Spink Lane are not conducive to this business operation. The ranch is divided by Spink Lane and cattle are continually moved from one section of pasture to another across Spink Lane. Likewise, the ranch is irrigated, and water is piped across Spink Lane for the cattle. Ranch personnel are continually traveling on 4-wheelers on Spink Lane to manage the cattle, irrigate, and repair fences. The noise level from additional traffic also interrupts the environment and is not conducive to breeding and raising cattle.

The ranch also has a corral on Spink Lane that is used to manage the cattle. Large cattle trucks are continually parked on Spink Lane to transport the cattle. The corral is also a main entrance for this section of ground and continually used by the ranch personnel on 4-wheelers to access the land for cattle and irrigation maintenance.

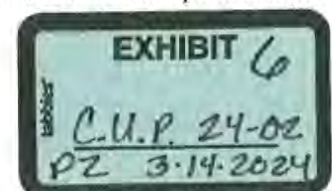
Spink Lane is narrow, dusty, and in poor condition. There is a large drainage ditch on both sides of Spink Lane for snow and irrigation run-off, making the present road inconducive to a large amount of traffic. This winter, one person went off the road and destroyed one section of fence. Likewise, another wreck occurred on the Farm to Market Road on the same section of land and destroyed another section of fence. Increased traffic from a subdivision is not conducive to agricultural and excessive road usage. The current infrastructure is directed for agricultural usage and an increase of population that requires upgraded roads and drainage ditches would cost the Valley County additional funding to build and maintain.

Future phases of this subdivision are directly adjacent to the section of the ranch on the northwest corner. Cattle have constant access to graze this area and it is maintained with a three-wire fence. This is not conducive to multiple rental properties and people directly on the other side of the fence. The cattle would not graze the areas along this fence line because of the noise and proximity of people. Likewise, the natural habitat would forfeit the safe environment.

This ranch has been in the Miller family for three generations and is a source of income. If the proposed subdivision is approved, it would jeopardize the ability to rent the grazing land due to the change of environment from increased population in the summer and in the winter with snow mobiles in the area. The problem of people cutting the fence wires to access the land for snowmobiling is also an issue. The additional trash along the roadway, noise, and air pollution are incompatible with the agricultural environment.

Therefore, I request that the Compatibility Evaluation is re-evaluated as it currently demonstrates that this agricultural ranch and community is compatible with the proposed subdivision. The community has identified multiple issues that support the denial for this proposed subdivision and subsequent phases. If the Planning and Zoning Commission choose to approve this proposed subdivision, there maybe litigation filed to prevent this proposed subdivision. The people of this agricultural community have voiced their disapproval of this subdivision. I sincerely hope the Planning and Zoning Commission will listen and heed their voices and decline this application for building a subdivision on Spink Lane.

Dr. Vicki L. Miller
Dr. Vicki L. Miller



March 14, 2024

My name is Marshall Haynes and I have lived full time in Valley County for almost 13 years while my family has lived and run a business here for over 30 years. My wife and I both work in Valley County and we chose to raise our son here because of its rural and small-town characteristics.

I speak to you today in opposition to the proposed C.U.P. 24-02 River Fork Ranch Subdivision. Please see my full comments included in the staff report, but tonight I would like to respectfully note for the record what I believe are errors in the Compatibility Rating for this proposal.

The scores for questions 1, 2, and 3 do not adequately take into consideration the “dominant and overall” agricultural land uses which are both adjacent to and in the vicinity of this proposal.

The score for question 4 does not consider that to attain the housing density proposed almost all the trees will need to be removed for housing, septic and fire prevention.

The score for question 5 does not consider that all adjacent lots are greater in size, some over one hundred times, to the proposal.

The score for question 6 does not reflect the added residential traffic volume and times outside of transfer station hours. The traffic impact report is insufficient, especially considering the danger of the Hwy 55 and Spink intersection. A full ITD traffic safety study should be completed at the applicant’s expense if this proposal is considered.

The score for question 7 ignores the impacts on water resources, neighboring water rights, irrigation access, and the grave risks to water quality and wildlife with the proposed development in the Lake Fork Creek corridor.

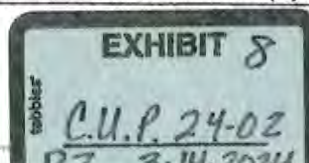
Question 8 notes the impacts to roads, schools and open areas, yet the score fails to recognize the impacts to the public. My wife works in health care in the county, and I work in law enforcement. For the past 12 years I have supervised law enforcement officers who also work and live in Valley County. I have firsthand experience trying to assist them to find housing here. This proposal will not provide affordable workforce housing. The unknown cost of a lot, plus septic, wells, and house construction, with no restrictions on short term rentals, will make the price of a home out of reach for workforce public servants. I also have concerns how future high quantity developments such as these will stress our law enforcement, fire and emergency medical services, which are already stretched thin over a large geographic area. New subdivisions with this lot size should be inside or adjacent to the incorporated towns of Cascade, Donnelly or McCall following the Valley County Comprehensive Plan.

Question 9 regarding cost effectiveness is essentially unanswerable because the applicant has failed to provide the sale value of the lots and dollar costs to the county are not sufficiently identified. Increasing unknown tax revenue alone is not a justification for blanket approval.

For the above reasons the overall compatibility evaluation of this application should score a negative value and I ask you to deny it based on the totality of the information provided. Thank you.



CODE	Excerpt Description pertaining to Septic
Idaho Code § 39-126, - "Duties of State and Local Units of Government,"	...requires all state agencies to incorporate the adopted ground water quality protection plan into their programs
<p>IDAPA 58.01.03 - "Individual/Subsurface Sewage Disposal Rules</p> <p>NOTE: on Health District limits:</p> <ul style="list-style-type: none"> Health Districts administer the minimum standards in IDAPA 58.01.03 for septic design, construction, siting, and use of individual and subsurface sewage disposal systems. The HDs specialize in sanitary conditions and whether or not a septic system will meet sanitary requirements. The HDs do not specialize in GW quality, especially as it affects a TMDL water body. The HDs are not responsible for anything that is dissolved in the drain field leachate (phosphates, nitrates, etc.) are therefore do not determine whether or not GW contaminants leach out of the septic systems. There may be a disconnect somewhere in the Valley County P&Z on what it means when the HDs approve a septic system or lift sanitary restrictions. 	...establish minimum standards for the design, construction, siting, and use of individual and subsurface sewage disposal systems. These rules are administered by Idaho's seven public health districts under a memorandum of understanding (MOU) with DEQ.
IDAPA 58.01.16.260. - SUBSURFACE SEWAGE OR WASTE DISPOSAL.	Subsurface sewage or wastewater disposal facilities must be designed and located so that pollutants cannot be reasonably expected to enter water of the state in concentrations resulting in injury to beneficial uses
IDAPA 58.01.02.350 - governs nonpoint source activities	Nonpoint source pollution management, including best management practices, is a process for protecting the designated beneficial uses and ambient water quality.
IDAPA 58.01.11 – GROUND WATER QUALITY RULE	02. Existing and Projected Future Beneficial Uses. The policy of the state of Idaho is that existing and projected future beneficial uses of ground water shall be maintained and protected, and degradation that would impair existing and projected future beneficial uses of ground water and interconnected surface water shall not be allowed.
	03. Ground Water-Surface Water Interconnection. The beneficial uses of interconnected surface water shall be recognized when evaluating ground water quality protection. The implementation of water quality programs shall ensure that the quality of ground water that discharges to surface water does not impair the identified beneficial uses of the surface water and that surface water infiltration does not impair beneficial uses of ground water.
IDAPA 58.01.11.400 GROUND WATER CONTAMINATION.	01. Releases Degrading Ground Water Quality. No person shall cause or allow the release, spilling, leaking, emission, discharge, escape, leaching , or disposal of a contaminant into the environment in a manner that: <ul style="list-style-type: none"> a. Causes a ground water quality standard to be exceeded; b. Injures a beneficial use of ground water; or c. Is not in accordance with a permit, consent order or applicable best management practice, best available method or best practical method.
Idaho Statute 39-126 – Duties of state and local units of government	(2) Notwithstanding any other provision of law to the contrary, except as provided in subsection (3) of this section, whenever a state



Leonard Long

	<p>agency, city, county or other political subdivision of the state issues a permit or license which deals with the environment, the entity issuing the permit or license shall take into account the effect the permitted or licensed activity will have on the ground water quality of the state and it may attach conditions to the permit or license in order to mitigate potential or actual adverse effects from the permitted or licensed activity on the ground water quality of the state.</p>
<p>Idaho Statute Title 39-3610 - GENERAL LIMITATIONS ON POINT AND NONPOINT SOURCES FOR WATER BODIES NOT FULLY SUPPORTING BENEFICIAL USES</p>	<p>The director shall assure, in a manner consistent with existing statutes or rules, that for each category of water body, as described in section 39-3609(1) through (3), Idaho Code, the following limitations shall apply: (1) For waters in the "high," category a total maximum daily load or equivalent process as described in this chapter shall be undertaken. Provided however, that nothing in this section shall be interpreted as requiring best management practices for agricultural operations which are not adopted on a voluntary basis. (2) For waters in the "medium" category, such changes in permitted discharges from point sources on the water body or to the best management practices for nonpoint sources within the watershed deemed necessary to prohibit further impairment of the designated or existing beneficial uses. (3) For waters in the "low" category, such changes in permitted discharges from point sources on the water body or to the best management practices for nonpoint sources within the watershed deemed necessary to prohibit further impairment of the designated or existing beneficial uses.</p> <p>Comment: New nonpoint sources within the watershed are prohibited from further impairment of Lake Cascade. A release of sanitary restrictions does not address the issue of phosphorus from a new nonpoint source.</p>
<p>IDAPA 58.01.02 080 - VIOLATION OF WATER QUALITY STANDARDS</p>	<p>01. Discharges Which Result in Water Quality Standards Violation. a. "Will or can be expected to result in violation of the water quality standards applicable to the receiving water body or downstream waters" and b. "Will injure designated or existing beneficial uses".</p>

Good evening commissioners, my name is Tom Peppersack and ~~my wife and I own property on 28 Spink Lane.~~ —I'm here because I strongly oppose CUP 24-02.

I support the Valley County Comprehensive Plan, which includes policies for preserving rural character and our natural resources such as water and wildlife.

This subdivision significantly increases the residential density in the midst of ag lands and timbered areas along the Lake Fork Creek corridor outside of city impact areas and is inconsistent with Plan objectives.

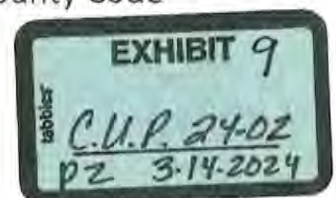
In 2017 my wife and I purchased 32 acres consisting mostly of wetlands along both sides of Lake Fork Creek and is next to the proposed subdivision. It's taken years of hard work and money, but we've cleaned up a big hoarding issue, improved sanitary conditions, improved wetlands habitat, and nearly completed the home rebuild so we can move in later this year. We hunt and fish on our property.

This application has so many omissions and inaccuracies that I cannot speak to them all in the time allotted, so I will express my concerns about the impacts this subdivision would have on water supply and water quality.

Springs are common in this area due to the porous sands and gravels along Lake Fork Creek. There are springs on our property and all along the break in slope above Lake Fork Creek, including on the proposed subdivision. We have 2 spring-based water rights for domestic water and a small amount of irrigation use. We do not have a well. These springs all flow down into the wetlands and then into Lake Fork Creek and eventually to Lake Cascade.

The application is inadequate in basic details. In some places it says there are no wetlands, when clearly there are. The application does not describe impacts that a swarm of wells in the area will have on neighboring water rights, wells and ditches, let alone define how they would mitigate them. Others in the vicinity have had well levels drop because of neighbor well activities.

At our neighborhood meeting, the applicant's response to our concerns about the water supply was that water and soil conditions are suitable for wells and septics. The application simply describes that they'll use wells to provide domestic water. That's not the description of impacts or mitigation that Valley County Code requires on an application.



The **Valley County Ground Water Quality Improvement and Drinking Water Source Protection Plan** has a **Local Government Checklist for Project Proposals** and other tools in chapter 13 to help plan and assess a project's location and appropriateness. The proposed density of individual wells and septic systems clearly have potential adverse impacts in the form of lowering ground water levels, changing groundwater flow patterns, and other issues described in various opposition letters in the staff report.

We consider water to be one of our most valuable resources, and the unmitigated adverse effect from this proposed density of residential water use should result in a negative value to **Question 7 of the compatibility matrix**.

Due to the time limit, I'll rely on written comments in the staff report and others comments tonight to address other issues of importance to me.

Thank you.

Valley County Ground Water Quality Improvement and Drinking Water Source Protection Plan



2022

Valley County Ground Water Quality Improvement and Drinking Water Source Protection Plan

2022

Plan developed and finalized for publication in 2022

First Update: _____

Sections updated: _____

**Prepared by
State of Idaho, Department of Environmental Quality
Boise Regional Office
1445 North Orchard St.
Boise, ID 83706**

March 14, 2024

My name is Peggy McMillen and I have lived full time and worked in Valley County for almost 13 years. My family and I put our faith in Valley County because we wanted open space, and the ability to raise our son in a rural lifestyle. We purposely bought land in an area away from town and dense subdivisions.

I ask you to oppose C.U.P. 24-02 River Fork Subdivision. The proposal does not blend into the surrounding open land uses or even the three-mile vicinity of homes. In no way is 40 homes on 43 acres, with the future potential of around 90 houses compatible with this specific area. Duplexes especially are not appropriate in the country.

For the record, I believe the Compatibility Evaluation for this proposal needs to be revised. The negatives far outweigh the positives. I disagree with many of the scores, but I would especially like to point out the added costs to local services and the public in questions 8 and 9. Spink Lane and Farm to Market Road are rural country roads not designed for high density subdivision traffic. I used to be able to walk on Farm to Market with my son in a stroller and feel safe. This is no longer the case.

The intersection of Hwy 55 and Spink Lane is already hazardous. I have talked to ER nurses who have taken care of accident victims from that location. The applicant, additionally did not provide sufficient information to estimate the added tax revenues which would help offset the large costs to the rest of us for placing high density housing in a rural area.

The McCall-Donnelly schools do not have enough teachers or bus drivers for the current number of kids in the district. Approval of high-density subdivisions in the country, with no short term rental restrictions or ensured affordability, will only add to the burden.

The Valley County Comprehensive Plan has some very specific goals which include "protecting fish and wildlife as natural resources of critical importance." It goes on to say that "Valley County shall encourage a) Preservation, protection, and enhancement of wildlife and fish. b) Preservation of open space buffers adjacent to rivers and creeks for wildlife and fish habitat. c) Preservation of historical wildlife movement corridors." Lake Fork Creek and the buffer around it are perfect examples of this. The approval of the conversion of agricultural range lands to a subdivision in this location violates each of those objectives.

If this application is approved, it essentially opens the floodgates for all high-density development approval anywhere in the county. The Comprehensive Plan is what protects us as residents because we do not have strict zoning. Your role as a planning and zoning commissioner is to PLAN for WISE development and to protect those values identified in the County Plan. I respectfully ask you to deny C.U.P. 24-02.

Thank You



River Fork Ranch | Geotek Updated Letter

From: Samantha Hammond [REDACTED]

Sent: Thursday, March 14, 2024 6:23 PM

To: Cynda Herrick <cherrick@co.valley.id.us>

Cc: AMY HOLM [REDACTED]

Subject: River Fork Ranch | Geotek Updated Letter

Cynda-

We just received this letter from Geotek regarding our project, if possible, please attach as an exhibit to the record.

Thank you,



Samantha Hammond
Land Use Planner

O: [REDACTED]

2471 S. Titanium Place, Meridian, Idaho, 83642

[REDACTED] | www.ardurra.com





GeoTek, Inc.
320 East Corporate Drive Suite 300 Meridian, ID 83642-3511
www.geotekusa.com

March 14, 2024

Lake Fork Ranch, LLC
3500 E. Quail Creek Ln.
Garden City, Idaho 83714

Summary Letter

In response to your question regarding soil suitability, GeoTek, Inc. was onsite at the "Lake Fork Ranch" project on September 29th, 2023 to perform logging and sampling of soils during exploratory test pit excavation. The majority of the soil types throughout the property were classified as B-1 and B-2 which are appropriate for individual septic systems. During our exploration, groundwater seepage was observed at a range from 6.9 feet below existing ground surface to 9.0+ feet (groundwater not encountered in test pit to 9.0 feet). This should allow for appropriate separation distances as designed by the civil engineer.

Based on our findings onsite as well as additional laboratory testing, we feel that the native onsite soils and groundwater levels at the time of our exploration are suitable for construction of standard sewer systems from a geotechnical standpoint. If you have any questions on this matter, please contact our office at 208-888-7010.

Respectfully submitted,



Taylor S. Hedrick, EI
Staff Professional

David C. Waite, PE
Senior Engineer



MILLEMANN PEMBERTON & HOLM LLP
ATTORNEYS AT LAW

Mailing Address: P.O. Box 1066, McCall, ID 83638
Physical Address: 706 North First St., McCall, ID 83638

STEVEN J. MILLEMANN
AMY N. PEMBERTON
AMY K. HOLM
JEANNE C. BAUGHMAN
HANNAH R. DRABINSKI
FREDERICK CORIELL

TELEPHONE
FACSIMILE

April 4, 2024

VIA: Email cherrick@co.valley.id.us

Cynda Herrick
Valley County
Planning and Zoning Director
PO Box 1350
Cascade, ID 83611

Re: C.U.P. 24-02 and Preliminary Plat Application – River Fork Ranch Subdivision

REBUTTAL NARRATIVE

Dear Cynda and Planning & Zoning Commission:

This letter serves as a response to the key questions or comments raised during the March 14, 2024, public hearing before the Valley County Planning & Zoning Commission. We appreciate Staff, P&Z Commissioners, and the public's comments, questions, and concerns, and hope to address some of the key points as C.U.P. 24-02 preliminary plat for River Fork Ranch Subdivision is deliberated.

I. CONDITIONS OF APPROVAL

The Staff Report includes 19 conditions of approval which are agreeable to the Applicant provided that the applicant's comments and requests highlighted below are incorporated:

1. The application, the staff report, and the provisions of the Land Use and Development Ordinance are all made a part of this permit as if written in full herein. Any violation of any portion of the permit will be subject to enforcement and penalties in accordance with Title 9-2-5; and, may include revocation or suspension of the conditional use permit.
2. Any change in the nature or scope of land use activities shall require an additional Conditional Use Permit.
3. The issuance of this permit and these conditions will not relieve the applicant from complying with applicable County, State, or Federal laws or regulations or be construed as permission to operate in violation of any statute or regulations. Violation of these laws, regulations or rules may be grounds for revocation of the Conditional Use Permit or grounds for suspension of the Conditional Use Permit.
 4. The final plat shall be recorded within two years, or this permit will be null and void.
 5. Sanitary Restrictions must be removed by Central District Health prior to recording the final plat.
 6. A site grading/stormwater management plan must be approved by the Valley County Engineer prior to construction of the roads or installation of utilities.
 7. A letter of approval is required from Donnelly Fire District.
 8. The water tank and hydrants for fire suppression shall be shown on the final plat.

The Applicant objects to Condition #8 and requests that it be removed. The water tank and well(s) for fire suppression will be located outside the platted area. Additionally, since further direction from the Project Engineer and/or Donnelly Fire District may be necessary, the final plat is not the appropriate document to depict hydrant locations. Hydrants for fire suppression will be depicted on the construction drawings.

9. All easements shall be shown on the final plat.
10. Written approval of the Mahala Ditch owner to relocate or place the ditch in buried pipe is required.

Regarding Condition #10, the Applicant asks that this read “Written approval of the Mahala Ditch owner or Declaration of Easement Covenant be recorded to relocate or place the ditch in buried pipe.”

11. A Declaration of Installation of Utilities shall be recorded and noted on the face of the plat.
12. Must bury conduit for fiber optics with utilities.
13. A Declaration of Private Roads shall be recorded and noted on the face of the plat.
14. A shared-driveway maintenance agreement shall be recorded and noted on the face of the plat. Shared driveways shall be constructed prior to recordation of the plat.
15. The Wildland Urban Interface Protection Plan shall be recorded and noted on the face of the plat.
16. CCR's should address lighting; noxious weeds; septic maintenance; wildfire prevention; firewise wildland urban interface landscaping requirements; fertilizer, herbicide, and pesticide use; maintenance of the landscape buffer; maintenance of the water tank and hydrant system; and limit each lot to one wood-burning device.
17. Shall place addressing numbers at the residences and at the driveway entrance if the house numbers are not visible from the road.
18. Must have a fencing plan with neighboring properties if they run livestock for over 30 days per year.
19. The following notes shall be placed in the notes on the face of the final plat:
 - "The Valley County Board of Commissioners have the sole discretion to set the level of service for any public road; the level of service can be changed."
 - "All lighting must comply with the Valley County Lighting Ordinance."
 - "Only one wood burning device per lot."
 - "Surrounding land uses are subject to change."

END OF STAFF REPORT

II. COMPATABILITY QUESTIONS AND EVALUATION

The Staff Report provided a compatibility rating of +16. The Applicant requests that P&Z Commission consider Staff's evaluation in its compatibility rating, the application, and the following comments. The Applicant requests that P&Z Commission provide a compatibility rating of +16 or above.

1. Is the proposed use compatible with the dominant adjacent land use?

Agricultural and residential use are adjacent to this property. There exist many single-family residences and subdivisions located in proximity to the property as depicted in this map:

3. Is the proposed use generally compatible with the overall land use in the local vicinity?

Same comment as above.

4. Is the property large enough, does the existence of wooded areas, or does the lay of the land help to minimize any potential impacts the proposed use may have on adjacent uses?

The topography of the property and trees help minimize any potential impacts. The proposed landscaping on Spink Lane will also help to buffer any impacts.

5. Is the size or scale of proposed lots and/or structures similar to adjacent ones?

Yes, adjacent structures are single family homes on lots smaller than 5 acres which would be similar in size and scale to this proposal.

6. Is the traffic volume and character to be generated by the proposed use similar to the uses on properties that will be affected by proximity to parking lots, on-site roads, or access roads?

Traffic volume for a 35-lot subdivision is minimal as provided in our traffic study submitted herewith. The traffic study's review of historic crash data found one intersection-related collision involving a southbound rearend over a five-year period beginning on January 1, 2018. Additionally, site distance for the existing SH 55 / Spink Lane intersection meets AASHTO passenger car standards for both south bound and north bound turning vehicles.

7. Is the potential impact on adjacent properties due to the consuming or emission of any resource or substance compatible with existing uses?

Noise, emissions or impacts on resources would be minimal for a 30-lot subdivision. Also, the improvements to Spink Lane to be agreed upon by the Applicant and Valley County Road Superintendent and the benefit to that road should be considered. The Applicant will minimize noise, dust, or other emission during development of the subdivision. The Applicant will adhere to Idaho Department of Environmental Quality requirements related to the storm water pollution prevention.

8. Is the proposed use compatible with the abilities of public agencies to provide service or of public facilities to accommodate the proposed use demands on utilities, fire and police protection, schools, roads, traffic control, parks and open areas?

Use demand would be reasonable and mitigated by tax benefits to public agencies, fire protection in an otherwise unprotected area, and improved roads.

9. Is the proposed use cost effective when comparing the cost for providing public services and improving public facilities to the increases in public revenue from the improved property?

Tax revenue will be significant considering the development of 30 residential lots.

III. Mahala Ditch

The Mahala Ditch traverses a portion of the property, and the Applicant proposes relocating a small portion of it, which specifications are included in the application site plans. The Mahala Ditch is not a formalized irrigation district. There is an adjacent landowner, Harry Bettis, who is a downstream owner with water rights conveyed by the Mahala Ditch. The Applicant's engineer, John Carpenter, met onsite with Ben Rydalch, who Mr. Carpenter understood to be Mr. Bettis's ranch manager, and they discussed the technical aspects of relocating a small portion of the Mahala Ditch. The Applicant's attorney and engineer have had telephone conferences and exchanged information with attorneys for Mr. Bettis. The Applicant's actions to date and future goals are to work with Mr. Bettis's representatives to relocate a small portion of the Mahala Ditch, which specifications have been shared with Mr. Bettis's attorneys. The applicant believes relocation will improve this section of the Mahala Ditch.

A. The owner or operator of the Mahala Ditch cannot unreasonably withhold consent to move the ditch in accordance with Idaho Code §42-1207

In Idaho, ditch rights and water rights are separate and independent from one another. *Savage Lateral Ditch Water Users Assoc. v. Pulley*, 125 Idaho 237, 242, 869 P.2d 554, 559 (1993). An irrigation ditch right, unlike a water right, acts like an easement in land. I.C. § 42-1102 ("The existence of a visible ditch, canal or conduit shall constitute notice to the owner, or any subsequent purchaser, of the underlying servient estate, that the owner of the ditch, canal or conduit has the right-of-way."); *see also Zingiber Inv., LLC v. Hagerman Highway Dist.*, 150 Idaho 675, 681 (2011) *overruled on other grounds by City of Osburn v. Randall*, 152 Idaho 906, 908 n.3 (2012).

The "owner" of the ditch is therefore the dominant-estate owner. "Although the person who has an easement for a ditch across the land of another does not thereby gain legal title to any portion of that land, *Reynolds Irrig. Dist. v. Sproat*, 69 Idaho 315, 206 P.2d 774 (1948), the owner of such an easement is often called the 'owner' of the ditch." *Camp v. E. Fork Ditch Co., Ltd.*, 137 Idaho 850, 857, 55 P.3d 304, 311 (2002). "Because a ditch right acts as an easement, the "ditch owner" the statute refers to is the owner of the dominant estate, and the "landowner" the statute refers to is the owner of the servient estate." *Zingiber Inv., LLC*, 150 Idaho 675, 682 (2011). As noted below, the recent revision to I.C. § 42-1207 clarifies these rules.

The current version of I.C. § 42-1207 requires written consent from the ditch "owner" before a landowner relocates or pipes an existing ditch running across their property. However,

I.C. § 42-1207 was revised and will go into effect on July 1, 2024. These revisions track the above-noted case law interpreting the statute. Importantly, the new law clarifies that written permission cannot be “unreasonably withheld.” As the Idaho Supreme Court has repeatedly analogized I.C. § 42-1207 to easement law, this clarification makes explicit what the old law implied: written permission is necessary because the servient estate (River Fork Ranch) cannot unreasonably interfere with property rights of the dominant estate. Arguably, the new (and old) version of the statute identifies when withholding written permission would be deemed unreasonable:

- The relocation maintains the flow of water that downstream water users are entitled to;
- The relocation maintains the same access, use, operation, maintenance, cleaning, or repair of the ditch;
- The relocation does not injure any person or entity using such ditch (“injure” refers to interfering with downstream users’ water rights or ditch operator’s ability to maintain the ditch and flow of water therein);
- The servient-estate owner makes adequate provisions for the payment of any increased operation and maintenance costs, including rehabilitation and replacement (this can be waived by the ditch owner);
- The servient-estate owner makes adequate provisions to document, protect, and perpetuate the ditch pursuant to I.C. § 42-1102.

River Fork Ranch fully intends facilitate all the above-noted actions, including improving water flow for downstream water users, bearing any increased operating and maintenance costs attributed to the relocation, accommodating an identified ditch rider, and recognizing the rights of downstream water users in the CC&Rs. Thus, given applicant’s proposed course of action and continued engagement with attorneys for Mr. Bettis, it would be unreasonable to withhold written permission to relocate a small portion of the Mahala Ditch.

IV. Whether Valley County can impose more stringent conditions on septic permits than Central District Health or Idaho Department of Environmental Quality.

No. Because Central District Health vis-à-vis Idaho Department of Environmental Quality is tasked with regulating septic permits and systems, Valley County may not impose more stringent requirements on such permits. Idaho is a “Dillon’s Rule” state. This means that county governments may “exercise all powers and perform all functions of local self-government in city affairs as are not specifically prohibited by or in conflict with the general laws of the constitution of the state of Idaho.” I.C. § 50-301; Idaho Const. art. XII § 2.

For certain land use permitting decisions, like the CUP at-issue here, municipal governments must operate within the bounds of Idaho’s Local Land Use and Planning Act (LLUPA). Although LLUPA contains several provisions that touch on ground water quality, it does not authorize local governments to regulate individual septic systems. That authority lies

with Idaho Department of Environmental Quality and the public health districts. *See* I.C. § 39-101 *et seq.*; I.C. § 39-401 *et seq.* Pursuant to this authority, IDEQ and the public health districts have entered a Memorandum of Understanding whereby the health districts will permit an individual septic system *if, and only if* the proposed individual septic system is in accordance with IDEQ’s Subsurface Sewage Disposal (SSD) Rules (IDAPA 58.01.03) and the Technical Guidance Memorandum.¹

The argument that a county government must study these rules in detail prior to approving a conditional use permit for a subdivision application is without merit for several reasons. First, as explained above, local governments lack express authority to regulate individual septic permits—even though the SSD Rules set the minimum standards for such sewage disposal systems—because that authority is vested in IDEQ, which regulates individual septic systems in conjunction with the public health districts. Thus, imposing additional requirements on a septic permit would be beyond the power of a local government.

Second, local governments are required to make subdivision plats subject to “sanitary restrictions” that must be lifted by the landowner prior to constructing a dwelling. *See* I.C. § 50-1326. In other words, state law expressly recognizes the entities that authorize subsurface sewage disposal systems (IDEQ and the public health districts) while ensuring that local governments provide notification of those authorities and their requirements on a recorded subdivision plat.

Third, although I.C. § 39-126 requires municipalities *to consider* ground water quality in certain permitting decisions, it does not permit local governments to regulate where other state agencies are already required to do so by statute. Moreover, it is unlikely that this provision applies to land use entitlements because the statute is expressly limited to “a permit or license that deal with the environment.” I.C. § 39-126(2). Since IDEQ and Idaho Department of Water Resources are the state agencies that regulate ground water quality and quantity, respectively, local governments have limited authority to impose conditions on conditional use permits in an effort to regulate groundwater quality and supply. I.C. § 39-126(3) (“Nothing in this section shall be deemed to permit . . . counties . . . to regulate ground water quality with respect to any activity for which another statute or other statutes may have expressly or impliedly preempted such local ground water quality regulation.”); *see also Ralph Naylor Farms v. Latah Cnty.*, 144 Idaho 806 (2007). Indeed, I.C. § 39-120 makes IDEQ (and not county governments) “the primary agency to coordinate and administer ground water quality protection programs for the state.”

Finally, ordinance 9-5-3(D)(2) requires the County to address “potential environmental, economic, and social impacts and how these impacts are to be minimized.” It does not authorize the County to regulate these enumerated topics where such regulation would be contrary to the laws of the state of Idaho. Indeed, 9-5-3(D)(2)(f) only requires the applicant to “[i]dentify existing groundwater and surface water quality” and to “[i]dentify . . . potential changes”

¹ MEMORANDUM OF UNDERSTANDING BETWEEN DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE PUBLIC HEALTH DISTRICTS 8 (Nov. 24, 2021), <https://www2.deq.idaho.gov/admin/LEIA/api/document/download/5959>.

resulting from the land use proposal. This is a far cry from regulating the Applicant beyond what is necessary to comply with Idaho law. Protecting and regulating groundwater and surface water quality (see I.C. § 39-3601 *et seq.*) is expressly tasked to the IDEQ, which therefore preempts any express or implied regulation by Valley County.

In sum, the application must consider impacts to groundwater and surface water quality, but Valley County cannot impose more stringent or additional requirements on septic permits because that authority rests entirely with IDEQ vis-à-vis the public health districts, which here is the responsibility of Central District Health. In fact, representatives from both IDEQ and Central District Health plan to attend the hearing on April 11, 2024, to address unfounded concerns raised by commenters and clarify that Idaho's onsite sewage disposal rules are protective of groundwater and surface water, including for the soil types on the property.

V. Whether the TMDL for phosphorous in Cascade Reservoir limits permitting of new septic systems in River Fork Ranch

No. This issue assumes that septic drain fields cause surface water runoff that runs directly into surface water bodies. While this may be the case for an improperly functioning drain field, it is not typical. (One commentor noted that in 2002, EPA calculated a 20% (one in five) failure rate for Idaho "on-site disposal systems"). However, this is based on twenty-year-old data and does not account for improvements in system design and materials or better education through homeowner operation and maintenance manuals. Moreover, the 20% percent number is based on a granular data set that may not be reflective of current systems installed in Idaho, especially systems installed in the past 20 years. The Idaho Technical Guidance Memorandum (TGM) recognizes this fact and even goes so far as stating that there is "no right to repair or replace an existing system with a system that does not meet the intent of these rules."

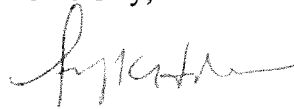
As stated in the TGM, septic tank effluent contains both nitrogen and phosphorus, which are nutrients that pose a eutrophication threat to surface water. Based on this, IDEQ and the public health districts regulate septic drain fields setbacks to surface water. *See* IDAPA 58.01.03.008.17. For certain soil types, including Loamy Sand, the minimum distance increases to 300-feet. IDAPA 58.01.03.008.02. These set-back distances are based on the fact that soluble pollutants of concern, like phosphorus, migrate through groundwater at particular rates. IDEQ sets these distances to ensure that where the surface water body is gaining groundwater, pollutants do not overload the surface water body. These limits are science-based and are some of the strictest standards in the United States.

River Fork Ranch is near Lake Fork Creek, which is a tributary of the North Fork Payette River and Cascade Reservoir. Unlike other nearby surface water bodies, Lake Fork Creek is not TMDL-limited for phosphorus. Even if it were, the SSD Rules are specifically designed to regulate placement of the septic system to protect surface water quality. Central District Health is required to follow these rules when permitting a septic system. Indeed, an individual septic

system could not be permitted if it did not comply with the SSD Rules or the TGM. The drain fields proposed in River Fork Ranch are all more than 300-feet from Lake Fork Creek and its mapped floodplain boundary for Lake Fork Creek. The proposed drain fields are more than 50-feet from the Mahala Ditch, which exceeds the standards set forth in the SSD Rules and TGM. Thus, proposed drain field sites comply with IDEQ criteria to protect surface water bodies—even those that are TMDL-limited by phosphorus.

We intend to provide further rebuttal during the continued hearing on April 11, 2024, and we wanted Staff and the P&Z Commission to have this analysis in writing before April 11, 2024. Thank you, and please let us know if you have questions or need any additional information.

Sincerely,



Steven J. Millemann
Amy K. Holm

Enclosures

Traffic Study Technical Memorandum



TO: Jeff McFadden, Superintendent, Valley County

FROM: Larry Frostad, P.E. PTOE
Jamie Kowalski, Planner

DATE: April 2, 2024

JOB NO.: 230441

RE: River Fork Ranch, Trip Generation and Distribution Letter

Digitally signed by
Lawrence L. Frostad
Date: 2024.04.02
15:22:40-07'00'

Lawrence L. Frostad



This technical memorandum summarizes the trip generation and distribution (TG&D) analysis prepared for the River Fork Ranch development proposed in Valley County, Idaho. The study was prepared as an initial traffic impact assessment provided to support the project. Valley County is the lead review agency for the study and application, administering the plat approval process, and will make determinations. Additional agencies can comment per invite of Valley County.

PROJECT DESCRIPTION

The River Fork Ranch Subdivision is a +/- 43.75 acre proposed development north of Spink Lane approximately 0.35 miles from SH-55. SH-55 is classified as a principal arterial, while Spinks Road is unclassified. Zoning is Conditional Use. The project envisions 30 building lots, with 21 single-family homes and nine duplexes. Five lots will be common areas, with a focus on open space and landscaping buffers. Full completion date of the homes is not known. **Figure 1** provides a site location map. **Figure 2** shows the project site plan.

TRIP GENERATION POTENTIALS

Development traffic was forecast using the methodologies of the Trip Generation Manual (ITE, 11th Edition, September 2021). The Manual is a nationally recognized and locally accepted resource for forecasting traffic for commercial, institutional, and residential developments. The methods were developed based on the survey of other existing land uses situated throughout the U.S.

Trip generation was forecast using ITE Land Use Codes 210 – Single-Family Detached Housing and 215 – Single-Family Attached Housing. A description of these Codes are as follows:

Single-Family Detached Housing (ITE Code 210). Single-family detached housing includes all single-family detached homes on individual lots. A typical site surveyed is a suburban subdivision.

Single-Family Attached Housing (ITE Code 215). Single-family attached housing includes homes that share a wall with an adjoining dwelling unit (townhomes/duplexes).

Trip generation was calculated based on variables that relate the number of units to trips. Fitted Curve Equations were used to calculate trips for LUC 210 as ITE criteria was met: 1) R² value met, 2) equations were developed from more than 10 field studies, and 3) line/curve-fit to sufficient distribution of plotted points. The resulting trip generation is slightly more

conservative than if the average trip generation rates are used. The Average Rate was used for LUC 215 due to the inapplicability of the Fitted Curve Equation for the low number of dwellings.

As indicated, the project proposes a total of 39 single-family units. Trip generation was forecast for the weekday, AM, and PM peak hours of adjacent street traffic, representing the impacts of the project on the morning and evening rush hours/commute traffic. **Table 1** provides a summary of project trip generation at full project buildout.

Table 1. Trip Generation Potentials, River Fork Ranch

ITE Land Use	Units	Weekday	AM Peak Hour			PM Peak Hour		
			In	Out	Total	In	Out	Total
210 – Single Family Detached Housing	21	240	5	14	18	14	9	23
215 – Single Family Attached Housing	18	130	2	7	9	6	4	10
Totals	39	370	6	21	27	20	13	33

Source: ITE Trip Generation Manual (11th Edition)

As shown, the development of the River Fork Ranch project is forecast to generate about 370 weekday trips. About 27 trips are generated during the AM peak hour and 33 trips during the PM peak hour. Peak hour trips comprise 16 percent of weekday trip totals.

TRIP DISTRIBUTION AND ASSIGNMENT

Trip distribution and assignment is the process of forecasting likely travel routes for development-related traffic to identify the impacts of a development on adjacent streets. For this study, the trip distribution is based on the classification of the local street network, location of business activity in Valley County and location of major employment areas in the vicinity. In this case, much of the travel is projected to the north:

- Spink Lane West to Hwy 55 – 90 percent
 - North on Hwy 55 to McCall – 75 percent
 - South on Hwy 55 to Donnelly – 25 percent
- Spink Lane East– 10 percent

Trip distribution for the AM and PM Peak hours is shown in **Figure 3**.

COLLISION HISTORY

Intersection collision history from the Local Highway Technical Assistance Council was examined at the SH-55 / Spink Lane intersection for the five-year period January 1, 2018 through December 31, 2022 (most recent available). Over those five years, there has been one Intersection-related collision, a southbound rearend (Same Direction Turning). Two additional crashes were not intersection-related and involved wild animals.

SIGHT DISTANCE

Intersection sight distance was reviewed for the existing SH 55 / Spink Lane intersection, which is under Idaho Transportation Department jurisdiction. The measurements are provided in



Figure 4. The measurement to the north indicates +/- 985, meeting AASHTO passenger car standards. Additional sight distance to the north can easily be achieved by trimming tree branches on the inside of the radius.

SUMMARY

River Fork Ranch Subdivision, a 40-acre parcel near HWY 55, includes 35 lots for single-family homes, duplexes, and common areas.

The project is forecast to generate 370 weekday trips with 27 trips generated during the AM peak hour and 33 trips generated during the PM peak hour. A total of roughly 67 percent of trips are anticipated to the west and north, with the balance of trips distributed to the east and south departure routes. Noted impacts are minor, and either have no mechanism for mitigation or are beyond the development's scope to address.

Collision history and sight distance was reviewed and reported for the SH-55 / Spink Lane intersection.

This ends the trip generation and distribution analyses prepared for the River Fork Ranch Subdivision project in the Valley County, as a function of the project plat application process. Please contact our office with questions or comments.



SCALE: 1:15,000

**River Fork Ranch
Project Location and Vicinity
Figure 1**

DATE: March 28, 2024

COORDINATE SYSTEM: WGS 1984 WEB
MERCATOR AUXILIARY SPHERE

PROJECT # 230441	DRAWN BY JKK	APPROVED BY LF
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1717 S. RUSTLE STREET, SUITE 201
SPOKANE, WA 99224
PHONE [REDACTED] WWW.ARDURRA.COM

Figure 2



CURVE TABLE			
CURVE	LENGTH	BELT	CHORD
C1	100.00	10.00	98.02
C2	100.00	10.00	98.02
C3	100.00	10.00	98.02
C4	100.00	10.00	98.02

COLOR LEGEND	
[Green Box]	LANDSCAPED AREA COMMON LOT
[Orange Box]	EMPALELOT
[Red Box]	NO BUILT ZONE
[Black Box]	EMPALE ZONE
[Blue Box]	EMPALE ZONE





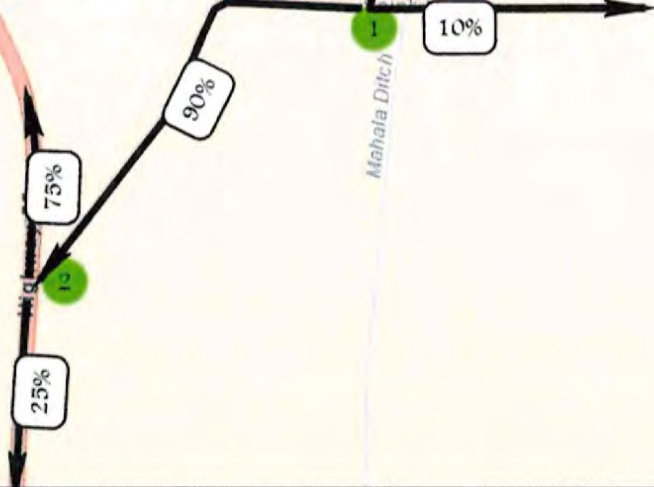
Highway 55

Smylie Ln

Project Area

Spink Road

Mahala Ditch

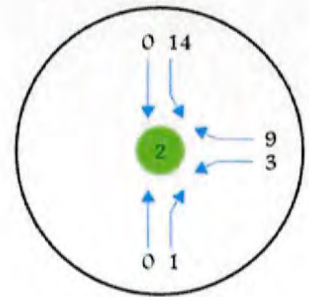
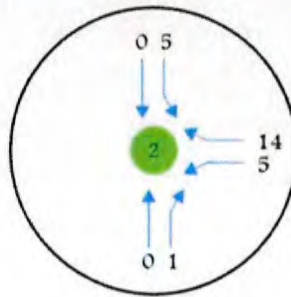
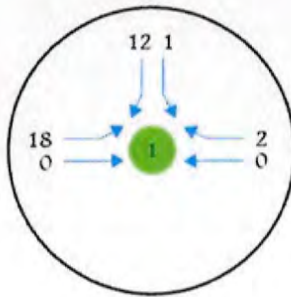
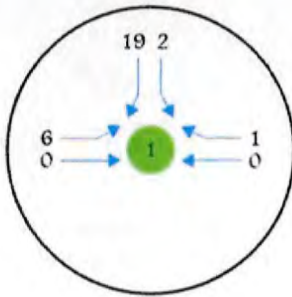


AM

PM

AM

PM



DOCUMENT PATH: L:\230441\05_Preliminary_Design\TIS\RiverFork.aprx

SCALE 1:15,000

COORDINATE SYSTEM WGS 1984 WEB MERCATOR AUXILIARY SPHERE

PROJECT # 230441	DRAWN BY JKK	APPROVED BY LF
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**River Fork Ranch
Figure 3**

DATE March 28, 2024



ARDURRA

1717 S. RUSTLE STREET, SUITE 201
SPOKANE, WA 99224
PHONE [REDACTED] WWW.ARDURRA.COM

Figure 4



Crash Data from LHTAC - 2018-2022, SH-55 / Spink Lane vicinity

FID	serial_number	highway_system	severity	units	accident_year	accident_date	accident_time	day_of_week	intersection_related	street1	street2	reference_street	dist from intersection	intersection_type
crash_mv.21606	19C527105	state	Property Dmg Report	2	2019	9/16/2019	18:58	Monday	TRUE	SH 55	Spink Ln			T-Intersection
crash_mv.121686	18C492598	state	Property Dmg Report	1	2018	7/25/2018	22:31	Wednesday	FALSE	SH 55		MP 135	0.100 Mile N	Not at intersection
crash_mv.127118	18C498971	state	Property Dmg Report	1	2018	9/18/2018	20:40	Tuesday	FALSE	SH 55		MP 135	0.100 Mile N	Not at intersection

road_type	speedlimit_street1	speedlimit_street2	direction of travel	driver_action	vision obstruction	impaired	lane_dep	first_harmful_event	most_harmful_event	events	contrib_circ_1	contrib_circ_2
2-Way & No Divider	65	35	S	Going Straight	None	FALSE	FALSE	Same Direction Turning	Same Direction Turning	Same Direction Turning, Animal - Wild, Animal - Wild,	Following Too Close	None
2-Way & No Divider	65		N	Going Straight	None	FALSE	FALSE	Animal - Wild	Animal - Wild	Animal - Wild,	None	None
2-Way & No Divider	65		S	Going Straight	None	FALSE	FALSE	Animal - Wild	Animal - Wild	Animal - Wild,	Animal(s) in Roadway	None

contrib_circ_3	road_surface	road_surface condition	other road conditions	weather condition1	weather condition2	light_condition	traffic control device	traffic control function	geometrics horizontal	geometrics vertical	age	state of drivers license	latitude	longitude	local agency code
None	Paved (Asphalt)	Dry	None	Clear	Day	Day	None	Straight	Level	Level	29	Utah	44.78542647	-116.0764882	430
None	Paved (Asphalt)	Dry	None	Clear	Dark, No Street Lights	Dark, No Street Lights	None	Straight	Level	Level	31	Idaho	44.7853805	-116.076466	430
None	Paved (Asphalt)	Dry	None	Clear	Dark, No Street Lights	Dark, No Street Lights	None	Straight	Level	Level	19	Idaho	44.78559372	-116.0764472	430

local_agency_name	road_juris_code	road_juris_name	crash_mv_id	the_geom
Valley County	430	Valley County	21606	POINT (-116.076488172926 44.78542646505199)
Valley County	430	Valley County	121686	POINT (-116.07646595337299 44.785380503842006)
Valley County	430	Valley County	127118	POINT (-116.07644717791 44.78559371775899)

River Fork Ranch Subdivision discussion

Lance Holloway <Lance.Holloway@deq.idaho.gov>

Wed 3/27/2024 10:58 AM

To: Cynda Herrick <cherrick@co.valley.id.us>

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Cynda,

On behalf of DEQ I want you to know we support Mike Reno and fully concur that he is upholding the rules and responsibilities of Central District Health in his review of the River Fork Project. Becky was trying to provide additional information in the way of BMPs to that can help protect surface and groundwater, but those ideas seemingly have been miscommunicated and or misconstrued by some well knowing these types of projects become emotional and political for locals. I apologize that information we have provided has derailed productive discussion at the PZ meetings recently. If you would like to have a call on this myself and the Regional Administrator Aaron Scheff would be happy to call you at your convenience to discuss further? I am also making myself available to attend the April 11th meeting to support Mike if needed.

Either way, been a while since I've seen you, (maybe the boat wake issues were the last time..) hope alls well!

Thank you, Lance

Lance Holloway | Boise Region Surface Water Program Manager

Idaho Department of Environmental Quality

1445 N. Orchard, Boise ID 83706

(208) 373-0564

www.deq.idaho.gov

River Fork Subdivision Information

From: Elt Hasbrouck <ehasbrouck@co.valley.id.us>

Sent: Tuesday, April 2, 2024 11:06 PM

To: Cynda Herrick <cherrick@co.valley.id.us>

Subject: Fwd: River Fork Subdivision Information

FYI

Begin forwarded message:

From: Jeff Miller [REDACTED]

Date: April 2, 2024 at 9:24:06 PM MDT

To: Valley County Commissioners <commissioners@co.valley.id.us>

Subject: River Fork Subdivision Information

My name is Jeff Miller. I live with my wife Janelle at 13 Spink Lane. Our home is located at the northwest corner of Harry Bettis's property. It is also directly south of the 320-acre property that Callister LLC recently purchased. The subdivision application is for the 43 acres just across Spink Lane from our home. This proposal has twenty-two single family properties and nine duplex properties. This is a total of 40 individual residences.

In the limited time at the March 14, 2024, I addressed the Applicant's misstatements about agricultural use of the property. The property proposed for subdivision has supported cattle production for years without additional irrigation.

At the hearing, Mr. Callister presented a different picture than the one he shared at our neighbor meeting in December. For example, in December he was vague on lot prices, but described future occupancy as people with second homes who would pay lot prices for building million-dollar homes.

Some of my neighbors spoke about potential impacts to our supply of well water and other direct impacts to our property. I share those concerns.

I wanted to talk a bit more about changes to traffic and dust, because our home is very close to Spink Lane.

The application's impact report on traffic does not meet county requirements. It does not describe impacts to traffic volume, character, patterns, and adequacy of existing streets. The report does not meet requirements to address pedestrian, bicycle, auto, and truck traffic.

The application's impact report simply lists what the access roads are. It doesn't describe impacts or mitigation. The compatibility rating in the staff report for the traffic and dust questions don't seem to factor in obvious adverse impacts.

The Transfer Station is the destination for most current vehicle traffic on Spink Lane. That's traffic during business hours, and consists of pickup trucks with trailers, dump trucks, and garbage trucks. I have talked with several Transfer Station truck drivers, and they typically avoid Farm to Market because it's in worse condition than Spink and uncomfortably narrow.

The proposed subdivision is one-acre lots, isolated from services, school, businesses and recreation. So that will result in increased volume, character, and patterns on Spink Lane, Farm-to-Market and Highway 55, all of which already have a combination of hazardous and safety issues that this proposal will make worse.

There would initially be increased construction traffic. After buildout, there would be increased volume and change in travel patterns and hours after buildout, whether that's commuting or trips to towns for services or recreation sites. I understand that Road & Bridge estimates traffic on multiple trips daily per residence. These roads don't have separate paths for pedestrians and bikes. When the Transfer Station is closed, there is little or no vehicle traffic on Spink Lane, and it's a decent walking and biking route. The subdivision would change that.

There is no night-time traffic now, and increased residential traffic means more safety issues whether between vehicles or collisions with wildlife. Vehicle lights after dark affects our house and negative impacts to dark sky visibility overall, even if homes comply with the lighting ordinance.

The Highway 55 – Spink Lane intersection is dangerous, combining a sharp angle turn that's unacceptable under current road standards with a curved and blind approach when heading southbound. The staff report didn't contain information from ITD, but this is an obvious hazard that would be made worse with more volume and additional travel, including peak times and at night. Because of the terrain, I don't see how to fix the issue without moving the intersection. This type of infrastructure investment leads to more proposals for more residential subdivisions, an outcome that's the opposite of the County Comprehensive Plan.

The County Advisory Committee and Road & Bridge have discussed the Farm To Market situation and what it would take to buy out rights of way and move ditches. Improving Spink Lane to a paved road would involve putting in an actual roadbase rather than relying on original surface.

The application doesn't explain how to solve the current capacity problems and would only make matters worse.

The Spink lane gravel surface gets pulverized into silt during the dry summer months, causing dust clouds that hover for several minutes after a vehicle passes. This is unhealthy to breathe and makes maintenance to decks, furniture, vehicles, and house siding a daily chore. During snowmelt, the road can turn into a mud hole. Adding trips coming and going from the subdivision to Spink Lane and new internal gravel roads just adds to the difficulty.

The map we received at our neighborhood meeting said this was Subdivision No. 1. Additional residential development would just make safety and infrastructure problems worse.

This application should be a non-starter for this area. At a minimum, this should be sent back to the drawing board until the county and neighbors have an explanation of impacts and proposed mitigation.

April 2, 2024

Dear Chairman Caldwell and the Valley County Planning and Zoning Commissioners,

Thank you for your attention to the written and verbal comments opposing the proposed C.U.P. 24-02 River Fork Ranch Subdivision. I hope you have had the opportunity to review the information in detail to make a wise decision for our county. Please see the March 14th verbal comments from myself and my wife attached below. As you have seen there are a great number of adjacent, vicinity and other Valley County residents who oppose this development at this location.

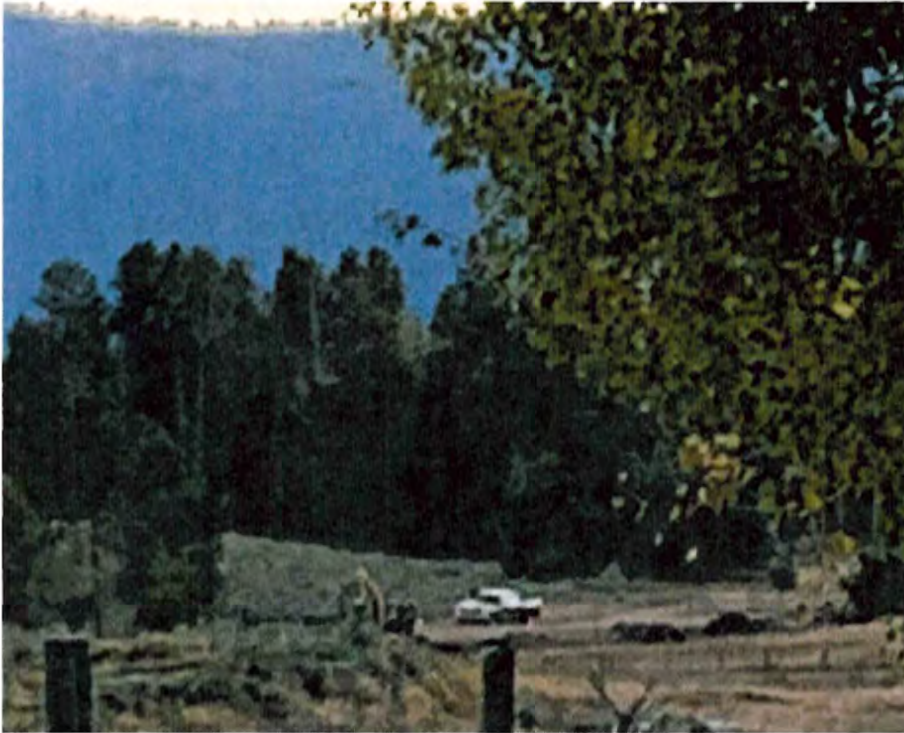
I would like to provide further comments based on the information presented at the planning and zoning meeting on March 14, 2024. At the prior public meeting many issues of concern and reasons to deny C.U.P. 24-02 were presented. The compatibility rating for this proposal needs to be revised based upon further input from public comments.

One of our areas of concern is that we do not believe the applicant is being completely transparent with intentions for the entirety of the property with P&Z and the public. If approval of C.U.P. 24-02 were to be granted it would change the compatibility matrix rating for the remainder of the property and all surrounding agricultural properties. During the neighborhood meeting on December 8, 2023 and at the March 14, 2024 Planning and Zoning public meeting the applicant was unclear or dodged answering questions regarding future phases of development.

We also lack confidence in the applicant's vague references to best management practices for wetland delineation, grading, and storm water management for the C.U.P.

In October of 2023 the applicant or his agent used an excavator to dig a new ditch through wetlands on his property north of the proposed C.U.P. 24-02. This is a lengthy ditch not associated with water rights which changes wetland drainage without apparent concern for best management practices.

See photos below:



Above excavator digging lengthy new ditch on applicant's property next to CUP24-02, altering wetlands drainage, 10-4-2024.

New Drainage Ditch as of 4-2-2024



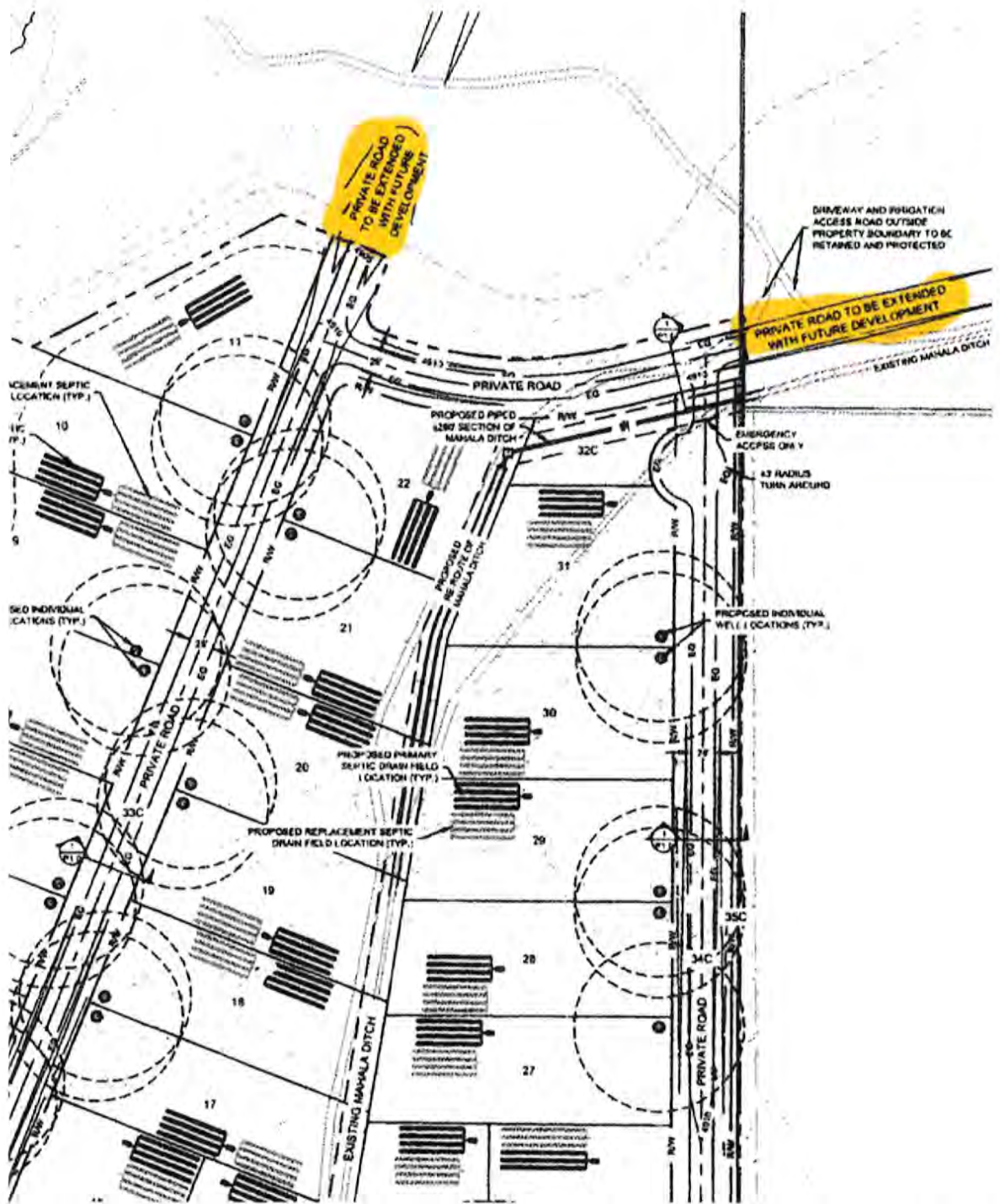


Figure 6. Excerpt of draft Preliminary Plat Septic Layout Provided to P&Z by Applicant's Project Engineer shortly before submittal of CUP 24-02, indicating extension of the two private roads with "future development" (available as public record).

Public records with the Central District Health revealed correspondence between the applicant and the developer for future lots of greater impact to the area and county. See below:



Bottom Line:

The public and the Planning and Zoning Commission have the right to know the full intentions of the applicant before making any decisions.

Regarding the need for affordable workforce housing in Valley County, we want to be clear that we do not oppose all building. In fact, if such a development actually provided \$300,000 to \$500,000 housing and was planned inside the impact areas of McCall, Donnelly, or Cascade with available sewer and water, we would support such a development. But the high-density development at this location is unacceptable.

In response to the commissioner's question regarding what is affordable workforce housing? We gathered some information which may be helpful for future decisions which the Planning and Zoning Board may face. These numbers are approximate starting annual salaries for some Valley County workforce:

Valley County Sheriff's Deputy:	\$56,000
Valley County 911 Dispatcher:	\$42,286
MDS Teacher:	\$51,500
Valley County P&Z code enforcement:	\$39,145

IDFG Conservation Officer: \$52,000

McCall Police Officer: \$58,000

The U.S Census statistics for Valley County may also be helpful: [Valley County, Idaho - Census Bureau Profile](#).

This CUP application has no restrictions on short-term rentals, and no firm figures for the sale price of lots proposed by the applicant, or other figures for construction or square footage. The applicant has given mixed messages about the CUP (everything from "million-dollar vacation homes" to "duplexes with relaxed building standards"). We do not believe this development will aid the workforce housing shortage in Valley County. It will increase the public services burden for all Valley County residents.

For all the information included in totality, we urge the Valley County Planning and Zoning to deny C.U.P. 24-02.

Sincerely,

Marshall Haynes and Peggy McMillen

13607 Farm To Market Road

McCall, Idaho 83638

Verbal Comments, March 14, 2024

My name is Marshall Haynes and I have lived full time in Valley County for almost 13 years while my family has lived and run a business here for over 30 years. My wife and I both work in Valley County and we chose to raise our son here because of its rural and small-town characteristics.

I speak to you today in opposition to the proposed C.U.P. 24-02 River Fork Ranch Subdivision. Please see my full comments included in the staff report, but tonight I would like to respectfully note for the record what I believe are errors in the Compatibility Rating for this proposal.

The scores for **questions 1, 2, and 3** do not adequately take into consideration the “dominant and overall” agricultural land uses which are both adjacent to and in the vicinity of this proposal.

The score for **question 4** does not consider that to attain the housing density proposed almost all the trees will need to be removed for housing, septic and fire prevention.

The score for **question 5** does not consider that all adjacent lots are greater in size, some over one hundred times, to the proposal.

The score for **question 6** does not reflect the added residential traffic volume and times outside of transfer station hours. The traffic impact report is insufficient, especially considering the danger of the Hwy 55 and Spink intersection. A full ITD traffic safety study should be completed at the applicant’s expense if this proposal is considered.

The score for **question 7** ignores the impacts on water resources, neighboring water rights, irrigation access, and the grave risks to water quality and wildlife with the proposed development in the Lake Fork Creek corridor.

Question 8 notes the impacts to roads, schools and open areas, yet the score fails to recognize the impacts to the public. My wife works in health care in the county, and I work in law enforcement. For the past 12 years I have supervised law enforcement officers who also work and live in Valley County. I have firsthand experience trying to assist them to find housing here. This proposal will not provide affordable workforce housing. The unknown cost of a lot, plus septic, wells, and house construction, with no restrictions on short term rentals, will make the price of a home out of reach for workforce public servants. I also have concerns how future high quantity developments such as these will stress our law enforcement, fire and emergency medical services, which are already stretched thin over a large geographic area. New subdivisions with this lot size should be inside or adjacent to the incorporated towns of Cascade, Donnelly or McCall following the Valley County Comprehensive Plan.

Question 9 regarding cost effectiveness is essentially unanswerable because the applicant has failed to provide the sale value of the lots and dollar costs to the county are not sufficiently identified. Increasing unknown tax revenue alone is not a justification for blanket approval.

For the above reasons the overall compatibility evaluation of this application should score a negative value and I ask you to deny it based on the totality of the information provided. Thank you.

Verbal Comments, March 14, 2024

My name is Peggy McMillen and I have lived full time and worked in Valley County for almost 13 years. My family and I put our faith in Valley County because we wanted open space, and the ability to raise our son in a rural lifestyle. We purposely bought land in an area away from town and dense subdivisions.

I ask you to oppose C.U.P. 24-02 River Fork Subdivision. The proposal does not blend into the surrounding open land uses or even the three-mile vicinity of homes. In no way is 40 homes on 43 acres, with the future potential of around 90 houses compatible with this specific area. Duplexes especially are not appropriate in the country.

For the record, I believe the Compatibility Evaluation for this proposal needs to be revised. The negatives far outweigh the positives. I disagree with many of the scores, but I would especially like to point out the added costs to local services and the public in **questions 8 and 9**. Spink Lane and Farm to Market Road are rural country roads not designed for high density subdivision traffic. I used to be able to walk on Farm to Market with my son in a stroller and feel safe. This is no longer the case.

The intersection of Hwy 55 and Spink Lane is already hazardous. I have talked to ER nurses who have taken care of accident victims from that location. The applicant, additionally did not provide sufficient information to estimate the added tax revenues which would help offset the large costs to the rest of us for placing high density housing in a rural area.

The McCall-Donnelly schools do not have enough teachers or bus drivers for the current number of kids in the district. Approval of high-density subdivisions in the country, with no short-term rental restrictions or ensured affordability, will only add to the burden.

The Valley County Comprehensive Plan has some very specific goals which include “protecting fish and wildlife as natural resources of critical importance.” It goes on to say that “Valley County shall encourage a) Preservation, protection, and enhancement of wildlife and fish. b) Preservation of open space buffers adjacent to rivers and creeks for wildlife and fish habitat. c) Preservation of historical wildlife movement corridors.” Lake Fork Creek and the buffer around it are perfect examples of this. The approval of the conversion of agricultural range lands to a subdivision in this location violates each of those objectives.

If this application is approved, it essentially opens the floodgates for all high-density development approval anywhere in the county. The Comprehensive Plan is what protects us as residents

because we do not have strict zoning. Your role as a planning and zoning commissioner is to PLAN for WISE development and to protect those values identified in the County Plan. I respectfully ask you to deny C.U.P. 24-02.

Thank You

Miles S. & Dr. Vicki L. Miller
P.O. Box 315
Star, ID 83669

April 34, 2024

Valley County Planning & Zoning Commission
P.O. Box 1350
Cascade, ID 83611

RE: C.U.P. 24-02 River Fork Ranch Subdivision – Preliminary Plat

I have additional comments for the Commission as you look at CUP 24-02 (River Fork Ranch). I previously commented on how putting one-acre residential lots next to producing pastureland is incompatible use that can directly harm my cattle production. CUP 24-02 is also inconsistent with the County Comprehensive Plan's overall direction to support continued agricultural production and rural character in the valley. I ask the Commission to consider the adverse effects from CUP 24-02 to my private property rights to run an agricultural business that is an economic contributor.

I am submitting some additional information to address the misconception that a residential subdivision is a net benefit to county revenue. There have been numerous studies in Idaho that prove that counties spend more on services than they receive in tax revenues from residential subdivisions. In 2019, the Idaho Farm Bureau commissioned a study on the cost of services for agricultural, commercial, and residential subdivisions. The study looked at Kootenai, Bonneville, Canyon, and Cassia County, and it is reasonable to apply these results to Valley County.

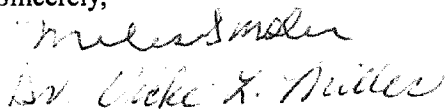
The 2019 study found that residential properties received *more* money in services than they contributed - approximately \$1.16 for every \$1.00 contributed. In the study, commercial property was \$0.53 for every \$1.00 contributed and agricultural property was \$0.39 for every \$1.00 contributed. The cost drivers included schools, health care, emergency services, and law enforcement.

When the local budget grows to accommodate more demand for residential services from more houses, my agricultural property can result in a higher tax burden without receiving additional services. Higher taxes also reduce my income from agriculture production. Moreover, the loss of agricultural production also negatively affects the economies of scale for marketing and processing.

While people need places to live, simply building more homes anywhere without looking at where actual tax and economic support comes from is a recipe to make infrastructure and service crises worse rather than better.

I request Planning and Zoning deny this request to approve a subdivision in the center of agricultural lands.

Sincerely,



Miles S. Miller
Dr. Vicki L. Miller

Additional Comments on CUP 24-02

Kathleen Trever [REDACTED]

Wed 4/3/2024 1:39 PM

To: Cynda Herrick <cherrick@co.valley.id.us>; Lori Hunter <lhunter@co.valley.id.us>

1 attachments (327 KB)
CUP Comments 4-3-2024.pdf;

Ms. Herrick & Ms. Hunter:

Please find attached additional comments from us in opposition to CUP 24-02.

The first two pages of the attachment are exhibits that Kathleen referred to in her comments at the March 14, 2024 hearing.

Please let us know if there is any difficulty in viewing or printing the PDF.

Thanks.

Kathleen Trever & Tom Peppersack

CUP 24-02 River Fork Ranch, Exhibit 1 to Kathleen Trever Testimony, March 14, 2024

Valley County Planning & Zoning Compatibility Questions and Evaluation

Matrix Line#/ Use: Line 5: Multi-family Subdivision

Prepared by: Trever/Peppersack

Line 6 Single-Family Subdivision

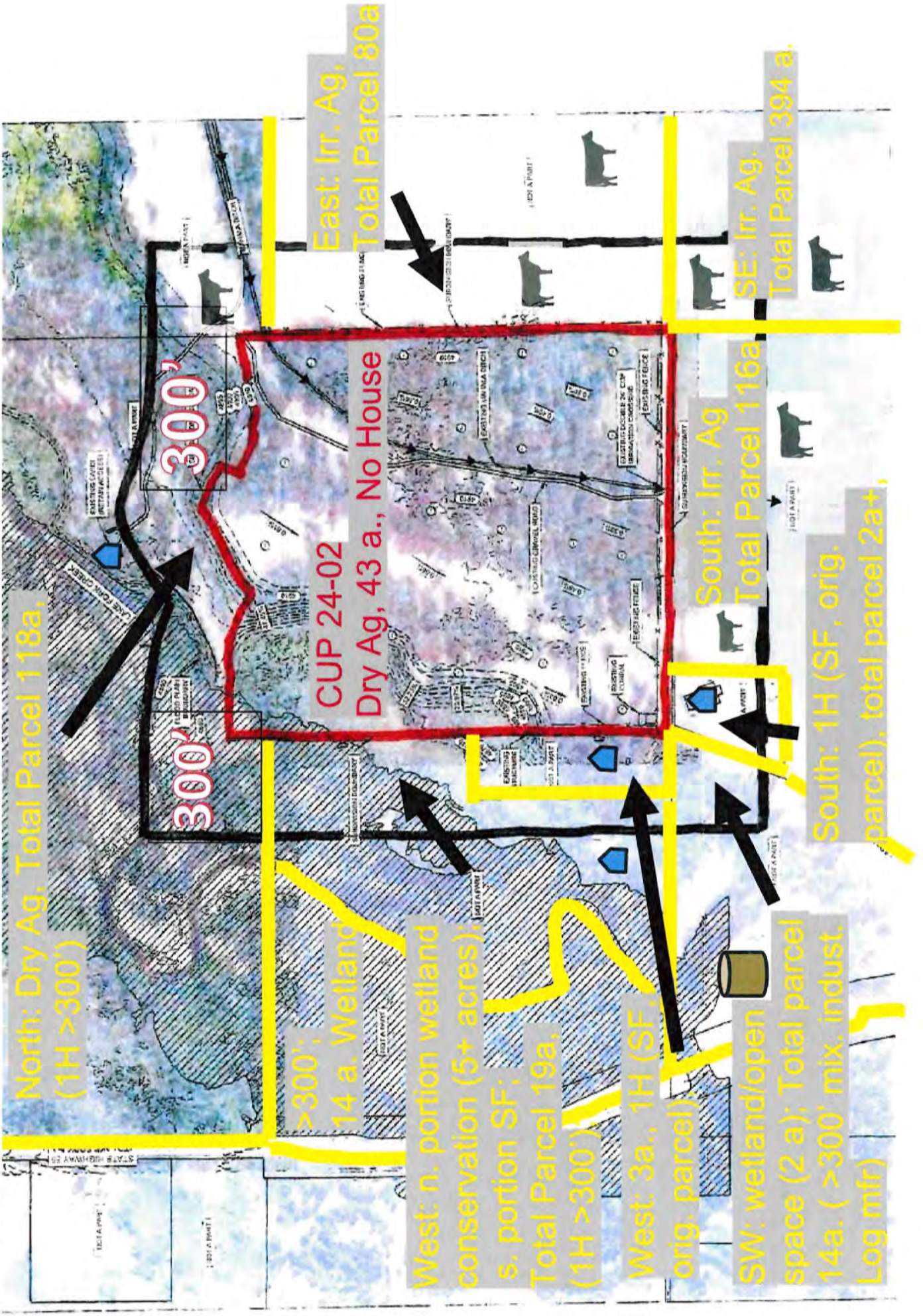
Compatibility (+ 2/- 2)	Multiplier	Response Value	<u>Use Matrix Values (Use Matrix Table)</u>
-1.5	X 4	- 6	1. Is the proposed use compatible with the dominant adjacent land use? NO. Well over 80% of adjacent land use (see map) is in ag use (e.g., livestock, wetland/floodplain conservation)
+1.5	X 2 [X 1]	+3 [+1.5]	2. Is the proposed use compatible with the other adjacent land uses (total and average)? Yes, but the combo of Qs 1 & 2 presents unique compatibility considerations here. Because ag use is so dominant, it is arbitrary to apply the Q2 formula such that <20% of use provides a 50% offset for Q1 incompatibility with >80% ag use. Adjacent "single family residential" use is on original parcels; two SF house are in the 300' zone. [Appropriate to reduce Multiplier.]
-1.5	X 1	-1.5	3. Is the proposed use generally compatible with the overall land use in the local vicinity? NO. Agricultural use dominates the local vicinity, and SF/MF . Single family residential use in the vicinity is considerably lower density (scattered on original parcels or more distant larger lot subdivisions; small amt of heavy/light industrial uses along highway 55).
<u>Site-Specific Evaluation (Impacts and Proposed Mitigation)</u>			
info insuff. -2 ?	X 3	- 6?	4. Is the property large enough, does the existence of wooded area, or does the lay of the land help to minimize any potential impacts the proposed use may have on adjacent uses? Insufficient information available to score this question. Although the area may be 85% wooded now, the proposed use will have minimal wooded area due to tree removal for home construction, WUI Fire Plan, septic and other setbacks. Lack of mitigation/accountability/enforceability means negative impacts on adjacent ag uses/open space Comp. Plan objectives; water quantity and quality from individual well and septic, lawncare and other subdivision activities are likely to persist (see Valley County Groundwater and Source Water Protection Plan).
-2	X 1	-2	5. Is the size or scale of proposed <u>lots and/or</u> structures similar to adjacent ones? NO. Adjacent parcels (see map) are all larger, some >100 acres, with zero or 1 homes per lot.
info insuff. -1 ?	X 2	-2?	6. Is the traffic volume and character to be generated by the proposed use similar to the uses on properties that will be affected by proximity to parking lots, on-site roads, or access roads? Insufficient information, but appears to increase volume and change character. Higher-density residential adds volume & change traffic character (commuting hours/weekends/nights outside of transfer station hours) – Farm-to-Market, Spink, & Highway 55 (very hazardous turn); and will increase motorized/ pedestrian/bike/other traffic without capacity. Spink Lane has no road base. (see ITD and Road & Bridge comments)
info. insuff. -1.5 ?	X 2	-3?	7. Is the potential impact on adjacent properties due to the consuming or emission of any resource or substance compatible with that of existing uses? Insufficient information to score this question. No assessment of impacts on adjacent well, ditch and spring rights from groundwater consumption/change in drainage. No assessment on emissions from higher density of wood stoves or dust impacts from new private unpaved roads not presented.
-1	X 2	-2	8. Is the proposed use compatible with the abilities of public agencies to provide service or of public facilities to accommodate the proposed use demands on utilities, fire and police protection, schools, roads, traffic control, parks, and open areas? No. Per various Advisory Committee & BCC comments, demands exceed infrastructure/staffing capacities <i>without</i> new development (e.g., EMS, fire, law enforcement, schools, Farm-to-Market/Spink/Hwy 55 turning). CUP compounds problems.
info insuff. -1 ?	X 2	-1?	9. Is the proposed use cost-effective when comparing the cost for providing public services and improving public facilities to the increases in public revenue from the improved property? Insufficient information to score; unlikely to be cost-effective. The application indicates sale/lease prices and building sizes are "unknown," so there is no reasonable basis for tax revenue estimates. In addition, there is no evidence that potential revenue increase from property improvements can effectively address or offset capacity exceedances on public services and facilities. (e.g., address hiring needs for critical services, Farm-to-Market expansion, etc.) (See Qs 6 & 8 above). Although property tax revenue may increase over the ag exemption, various studies indicate the increased demand for services resulting from ag land conversion to residential is a net deficit.

NOTE: Draft plats and other maps provided by applicant to P&Z and Central District Health indicate applicant plans additional residential development on adjacent property owned by applicant, which would have additional adverse or unknown impacts.

Sub-Total (+): +1.5 Sub-Total (-): -23.5 (?) Total Score: -22 (?)

The resulting values for each question shall be totaled so that each land use and development proposal receives a single final score.

EXHIBIT 2 to K.Trever Testimony 3-14-24 hearing CUP 24-02: Parcel Size & Adj. Use (300') – Ag, Wetland, 2



To: Valley County Planning & Zoning Commission
Valley County Planning & Zoning Director Cynda Herrick, AICP, CFM

From: Kathleen Trever & Tom Peppersack (Adjacent Property Owners -- 28 Spink Lane)

Date: April 2, 2024

Re: CUP 24-02: Additional Information Relative to Applicant Presentation on 3/14/2024 and P & Z Staff Report

Dear P&Z Commissioners and Director Herrick:

We continue to oppose CUP 24-02 as adjacent landowners and as a matter of community interest.

We write to add to our written comments provided on March 5, 2024 (included in the pre-hearing staff report) and at the hearing on March 14, 2024. The Applicant's presentation at the hearing contained new information that differed from the Application and from what the Applicant shared at our neighborhood meeting in December. We have also had some time to review the staff report and comments from other agencies.

As explained below, the County has the authority to deny this application and a factual basis to do so. We renew our request for the Commission to exercise its authority to deny this application.

The application is not able to comply with the fundamental principles of the County Comprehensive Plan and related County Ordinances. Instead, CUP 24-02 is an example of an incompatible use that erodes rural character and working ag lands. The application's bring-your-own builder framework and allowance for short-term rentals follows a path that contributed to—and is likely to worsen—the County's critical situations for workforce housing, schools, child care, government services, and infrastructure. The applicant described "million dollar" homes to us at our neighbor meeting in December, provided no cost information on the application, and stated different numbers for lot prices at the March 14 meeting. Vague information about revenue and housing affordability does not justify a new spreading center for conversion of timber or pasturelands into higher-density residential development in this part of the Lake Fork Creek corridor. Our next generation of Idaho family includes a kindergarten teacher, experienced construction, skilled trades, manual labor workers, and administrative workers, and even the "affordable" lot price mentioned vaguely by the Applicant is not within their reach.

The March 14 presentation did not fill in the gaps we previously identified in the application, and it remains incomplete. Based on our review of the information that *is* available, cumulative impacts to rural character, water demand, water quality, service demand, transportation, and other key resources are not adequately mitigated. Similarly, the mitigation that would be required to address the development's impact on infrastructure (such as outbuilds for Spink Lane, Farm-to Market, and Highway 55; water and wastewater infrastructure) is then likely to lead to additional subdivision and residential development away from city impact areas—the opposite of preserving rural character. This level of mitigation speaks to the incompatibility of the proposed use and its inconsistency with the Comprehensive Plan.

Our concerns are amplified with additional development by the Applicant beyond CUP 24-02. Mr. Callister said at the March 14 hearing that he didn't know how people got the idea of additional development. However, Applicant's Engineer (Ardurra) sent Planning and Zoning and Central

Health District documents indicating additional development is planned. For example, a draft preliminary plat from Ardurra to Planning and Zoning noted future extension of proposed private roads “with additional development,” and Ardurra provided an aerial overlay to Central District Health showing ~90 residential lots total. The handout at our neighbor meeting in December referred to subdivision “No. 1” (see our comments in the staff report for the march 14 meeting for these documents).

At the March 14 presentation, Mr. Callister described the CUP 24-02 property as the “ugly duckling” of the 320 acres that Callister LLC bought, and that this acreage had no use except for residential development. As various people commented at the hearing, this 1/16 section has been used for cattle production for years. While Mr. Callister described some acreage he owns elsewhere in Valley County, Mr. Callister did not explain his plans for using the remainder of the 320 acres.

A key goal of the Valley County Comprehensive Plan is to maintain rural character and working ag lands. This CUP takes the County in an opposite direction. The Valley County Plan for Groundwater and Source Water Protection and other plans also speak to the important of water, wetlands, and wildlife resources that this proposal would negatively affect.

We have heard Valley County Commissioners and P&Z Commissioners repeatedly say that Valley County wants to avoid following the Treasure Valley pattern of ag land conversion to houses. State laws, the County Comprehensive Plan, and county ordinances allow the County to support working agricultural lands, wetlands, water and other resources and to prevent Valley County from being houses from West Mountain to East Mountain. Authorities are in place to prevent approving applications that will aggravate existing challenges and crises with emergency services, services for health and child care and overall, workforce needs, water quality, water demand, and workforce.

County Authorities to Deny the Application, Require Studies, or Impose Approval Conditions

Some portions of the staff report and other P&Z communication are inconsistent with our understanding of the County’s authorities relative to CUP applications.

The County has the authority to deny an application that is incomplete or inconsistent with County Ordinances. For example, the County can deny the application because it is:

- Inconsistent with the Valley County Comprehensive Land Use Plan (VCC 10-1-5)
- Inconsistent with Policy for Conditional Uses (VCC 9-5-2) and Standards, including required identification of impacts (VCC 9-5-3) and the incompatibility of proposed use (VCC 9-11-1)
- Incomplete (does not meet Ordinance application requirements for submittal of preliminary site, stormwater, and outdoor lighting plans, and for a description of specified impacts) (VCC 9-5A-1) (VCC 9-5A-3) (9-5B-2) and (VCC 9-5-3)

The County has the authority to require additional studies regarding impacts *before* granting a permit. Under Idaho Code 67-6512 (e):

Prior to granting a special use permit, studies may be required of the social, economic, fiscal, and environmental effects and any aviation hazard as defined in section 21-501(2), Idaho Code, of the proposed special use.

Although we believe the application can be denied without further study, the County has the authority to require additional studies on environmental effects (such as potential effects on water

quality, water availability, traffic, and socio-economics) before granting a permit.

The County has the authority to establish conditions of approval. Under [Idaho Code 67-6512 \(d\)](#): Upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those:

- (1) Minimizing adverse impact on other development;
- (2) Controlling the sequence and timing of development;
- (3) Controlling the duration of development;
- (4) Assuring that development is maintained properly;
- (5) Designating the exact location and nature of development;
- (6) Requiring the provision for on-site or off-site public facilities or services;
- (7) Requiring more restrictive standards than those generally required in an ordinance;
- (8) Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction.

For example, in this instance the county may impose requirements on proposals for individual septic systems and wells that are more restrictive than the ordinance minimum lot size, may require community wells, may require mitigation of adverse water supply impacts to neighboring properties, and may require certain levels of maintenance and standards through development agreements.

Again, we cannot identify a list of conditions that can adequately mitigate adverse impacts, including Comprehensive Plan provisions relative to conversion of ag land from the perspective of other ag lands, our wetland conservation lands, or to the rural character and open space in the valley center in the Lake Fork Creek corridor. So compiling a lengthy list of approval conditions that are ultimately unable to adequately mitigate adverse effects of incompatible use seems a poor use of multiple agency resources and unfair to both the applicant and the rest of us.

Groundwater Quality: Idaho Code 39-126(2) requires county consideration of ground water quality relative to this application. Idaho Code 39-126(3) does not apply to county authority relative to this application.

Under Idaho Code 39-126(2), when Valley County considers a conditional use permit under its Local Land Use Planning Authority (which deals with the environment), it “shall take into account the effect the permitting or licensed activity will have on the ground water quality of the state and it may attach conditions to the permit or license in order to mitigate potential or actual adverse effects from the permitted or licensed activity on the ground water quality of the state.”

Although the staff report to CUP 24-02 highlights a restriction in Idaho Code 39-126(3) relative to county authority regarding ground water quality, that restriction does not appear to apply to CUP 24-02. Because individual septic systems are proposed, it does not appear there is any “state agency” permit that will take into account the effect on groundwater quality for the proposed subdivision. Central District Health is not a “state agency” (see [Idaho Code 39-401](#)), and CDH’s review of applications for septic systems do not fall within the scope of Idaho Code 39-126(3). If there is an applicable Idaho Department of Environmental Quality permit application pending for wastewater, we’d like to know what permit that is.

In addition, provisions of the [Valley County Groundwater Quality Improvement and Drinking Water Source Protection Plan](#) are consistent with the requirement of Idaho Code 39-126(2) for the County

to consider impacts to ground water. (for example, Valley County Groundwater Plan, p. 13-3, “Local Government Checklist for Individual Project Proposals; the Plan also specifically references additional consideration before approving subdivision with individual wells and septics, see p. 8-12).

At the March 14, 2024 hearing, the Applicant described depth to groundwater of 7 feet or less, with extensive gravels. The area also has shallow soil depth springs connecting to Lake Fork Creek. These factors counsel against this level of septic density.

In its comment letter, Central District Health stated it could not comment on the proposal without more data concerning the depth of high seasonal groundwater. The Valley Soil & Water Conservation District described how individual septics will not remove the primary water quality limited nutrients of nitrogen and phosphorus in close proximity to the currently quality impaired Lake Fork Creek, which flows to the impaired Lake Cascade.

Idaho law and the Valley County Groundwater Plan provide the direction and authority for the County to address this issue independently of the Central District Health septic permitting process.

Compatibility Matrix: Questions 1, 2, 3, & 5 *Adjacent/ Vicinity Land Use and Parcel Size*

We have included as an exhibit (Exhibit 1) our calculation of the Compatibility Matrix, which yields a negative number. Our matrix identifies where the application and information is incomplete.

We also included an exhibit (Exhibit 2) to visually depict how we ended up with an overall negative score for Q1-3.

The 300’ “adjacent area” frame around the proposed subdivision is approximately 44 acres. The adjacent area is dominated by ag land. In the 300’ frame there are only two single family homes, and they are on original parcels. There are no subdivisions. Our house is not in the 300’ adjacent use frame, but about 7 acres of our property is. Even though we have chosen not to continue the prior owner’s tax exemption for timberlands, the vast majority of our acreage, including 5 acres or so of adjacent use, is agricultural use as wetland conservation (described in VCC 9-3-1).

Compatibility Matrix: Question 4 Impact Mitigation

Q4 (mitigation of impacts) is the second highest multiplier factor on the table (x3), and it is not logical to limit consideration of this factor only to visible impacts (e.g., tree cover). Even if the score is based largely on tree cover, it is clear from the preliminary plat, setbacks for septics, driveways, and the WUI plan that the CUP is comparable to a clear cut with limited replacement.

Compatibility Matrix: Questions 6 & 8 **Impacts on Traffic and Services**

Overburdened service infrastructure is well-known and documented in discussions by County Commissioners and other local officials. It is not reasonable to interpret a lack of a comment letter on an individual CUP from already overburdened school districts, EMS districts, law enforcement or other service agencies as confirmation of their ability to provide services for new residential subdivisions. This is especially the case when the application is not forthcoming about expected housing occupancy, and gives agencies little or no information to comment on. A search of County

agency and advisory committee minutes, or the internet yields ready examples of the critical situations regarding various community services and infrastructure:

<https://boisedev.com/news/2023/03/20/valley-co-ems-funding/>

<https://www.idahoednews.org/top-news/mccall-donnely-spearheads-solutions-to-workforce-struggles/>

As for traffic, the Comment Letters from the Idaho Transportation Department and Valley County Road and Bridge briefly address the inadequacies of Highway 55 turning safety, Spink Lane, and Farm-To-Market. The Farm-to-Market situation has been discussed at the various county meetings, including Valley County Advisory Committee meetings. See, for example, <https://twistcms-shared.s3.us-west-2.amazonaws.com/meetings/110/minutes/511.pdf>.

In addition to our prior comments on traffic, we also note that increased residential traffic, including potential short-term renters differs from Transfer Station traffic. The CUP proposal puts more vehicle-dependent people in a location and design that has no specific accommodation for pedestrian, stock, or bicycle use. This changes the character of use on Spink Lane outside of Transfer Station hours.

Compatibility Matrix: Question 9

Cost-effectiveness of Community Services: Agricultural (Net Revenue) versus Residential (Net Loss)

We disagree with the staff compatibility analysis and any reliance on application's superficial statements about "job creation" and "increased tax revenue." These statements lack evidentiary support, especially as to cost-effectiveness and economic benefit of ag land conversion to residential development. Our family-owned pasture and croplands are not in Valley County, but we are familiar with various studies that show residential development property is almost always a net loss from a community service cost standpoint because of the greater demand for services. While we all have to live somewhere, the economic engine of government services comes from revenues from lands used for commercial purposes (industry, agriculture, timber, mining, and other commerce). Revenue from agricultural, timber, and commercial use property is a net positive because these uses generally require fewer local services. Tax policy is complex, and increased revenue from residential property use is still typically a net loss.

Multiple studies in Idaho and elsewhere over several decades, show that increased tax revenue from residential development does not equate with "cost-effectiveness." As was the case with studies done in the late 1990s, recent studies show that every \$1 of residential property revenue requires more than \$1 in service (over \$2 in services in some areas). The evidence does not support Valley County making conditional use decisions for converting ag land to residential subdivision based on increase in tax revenue. The evidence is to the contrary.

This pattern was illustrated in 1997 studies for Kootenai, Cassia, Bonneville, and Canyon Counties (*Cost of Community Services, Cost of Community Services*, by Leighton and Meyer) <https://objects.lib.uidaho.edu/uiext/uiext31303.pdf>. This pattern is still the case in a 2019 comparison for these same four counties (the gap between revenue and services widening in 2019) (*Cost of Community Services, Idaho Counties Redux*, by Walburger). https://legislature.idaho.gov/wp-content/uploads/sessioninfo/2019/interim/191021_ptwg_COCS%20Research%20Paper%20Walburger.pdf. The Walburger study estimated agricultural land typically used 39 cents of community services for every \$1 of revenue generated.

Multiple Cost of Community Service Studies in 19 states have found that farm, ranch and forest properties generate more revenue than they receive in services. (*Cost of Community Services Studies, by Freedgood 2002*) https://s30428.pcdn.co/wp-content/uploads/sites/2/2019/09/AFT_COCS_Making_the_Case_Final.pdf.

Conclusion

As we have said before, we realize the challenge of making decisions to address competing interests in the County. We continue to support meeting development needs in the city impact areas, with associated infrastructure investments services, water & sewer, and other needs. It is important to us to proceed in ways that are in concert with preserving rural character, working ag and timber lands, water, wildlife and other important resources outside of city impact areas. Thank for your considering our concerns as adjacent landowners and as a matter of community interest. We ask you to deny CUP 24-02 as an incompatible use without adequate mitigation of adverse impacts to our adjacent property and to the community, based on Idaho law, County Ordinances and the Comprehensive Land Use Plan.

Sincerely,
Kathleen Trever & Tom Peppersack

