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IDAHO

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### STAFF REPORT

Conditional Use Permit Application No. 21-09  
Osprey Pointe Subdivision - Preliminary Plat

**HEARING DATE:** April 8, 2021  
**TO:** Planning and Zoning Commission  
**STAFF:** Cynda Herrick, AICP, CFM  
**APPLICANT/OWNER:** Biltmore Investment Group INC  
1580 W Cayuse Way  
Meridian, ID 83646  
**REPRESENTATIVE** Kent Brown  
3151 E Springwood DR  
Meridian, ID 83642  
**ENGINEER/SURVEYOR:** David Bailey  
Bailey Engineering INC  
111 9 E State ST, Suite 210  
Eagle, ID 83616  
**LOCATION/SIZE:** Portion of parcel RP16N03E161805 in the SWSE Section 16,  
T.16N, R.3E, Boise Meridian, Valley County, Idaho; 4.15 acres  
**REQUEST:** Single-Family Residential Subdivision  
**EXISTING LAND USE:** Bare Land

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### BACKGROUND:

Biltmore Investments is requesting a conditional use permit for a 14-lot single family subdivision on approximately 4.15 acres. The subdivision proposes 13 residential lots and one common area. The residential lots range in size from 12,830 sq.ft. to 14,244 sq. ft. The common lot is 7,774 sq. ft. The current density proposed is 3.3 units per acre; only 2.5 dwelling units per acre are allowed.

No new roads are proposed. Lots will be accessed from Dawn Drive, a public road. Six shared driveways are proposed to minimize access points on Dawn DR.

Individual wells are proposed. Sewer would be provided by Northlake Recreational Sewer and Water District.

CCRs are proposed. The minimum square footage of each home will be 2,000 sq.ft.

The site is adjacent on the south side of the Donnelly City Park and Boat Ramp. It is situated between Dawn Drive and Lake Cascade. No portion of the property is located in the floodplain as identified on the Flood Insurance Rate Maps.

## **FINDINGS:**

1. Application was made to Planning and Zoning on March 2, 2021.
2. Legal notice was posted in the Star News on March 18, and 25, 2021. Potentially affected agencies were notified on March 9, 2021. Neighbors within 300 feet of the property lines were notified by fact sheet sent March 12, 2021. The site was posted on March 30, 2021. The application and notice were posted on the Valley County website "Public Hearing Information" on March 9, 2021.

3. Agency comment received:

Central District Health said that an application and engineering report must be submitted to CDH. (Mar. 9, 2021)

Idaho Department of Environmental Quality (DEQ) provided general comments on air quality, wastewater, drinking water, surface water, hazardous waste, and ground water contamination. (Mar. 19, 2021)

Donnelly Rural Fire Protection District responded by letter dated March 30, 2021. Will need to bury a 10,000-gallon water storage tank that is connected to a well for automatic fill capability. Will require DRFPD approval.

4. Neighbor comments received:

Ed Bulgin, adjacent neighbor, responded by letter dated March 30, 2021, with the following comments:

- Storm Water Containment: concerned with stormwater management from each lot due to the types of soil and historic compaction of dirt. Water should be retained on-site or historical flows.
- CCR's: appreciate the CCR's. How will renters be controlled? Will STRs be allowed or controlled? Should prohibit in the CCR's before it is too late.
- Concerned with impact of new wells.
- Inaccurate Description: state they border the lake when they actually border Bureau of Reclamation property, which is open to the public.
- Overall Comments: development is not unexpected. Developer appears to be working toward a quality development and hope they will incorporate their comments. When the rest of their property is developed, they should consider wider pavement, bike lanes, walking and skiing paths, traffic control, etc.

Brett Shepherd, Valley County Pathways, submitted comments on April 1, 2021. In coordination with Valley County Pathways Master Plan, and the proposed pathway to connect the City of Donnelly to boat dock, they recommend this development include a pathway to the City Park. Pathways are needed on Dawn Drive to move pedestrians and bicyclists in a safe manner.

5. Physical characteristics of the site: Relatively flat.

6. The surrounding land use and zoning includes:

North: Donnelly City Park and Boat Ramp

South: Single-family Subdivision (Laughing Bill) and U.S. Bureau of Reclamation

East: Agricultural/Bare Land Owned By Applicant

West: U.S. Bureau of Reclamation Land and Lake Cascade

7. Valley County Code (Title 9): In Table 9-3-1, this proposal is categorized under:

- 2. Residential Uses (c) Subdivision for single-family subdivision. *and*

Review of Title 9, Chapter 5 Conditional Uses should be done.

#### **9-5A-1: GRADING:**

A. Permit Required: Grading to prepare a site for a conditional use or grading, vegetation removal, construction or other activity that has any impact on the subject land or on adjoining properties is a conditional use. A conditional use permit is required prior to the start of such an activity.

D. Wetlands: Grading or disturbance of wetlands is subject to approval of the U.S. corps of engineers under the federal clean water act. The federal permit, if required, shall be part of the conditional use permit.

E. Site Grading Plan:

1. The conditional use permit application shall include a site grading plan, or preliminary site grading plan for subdivisions, clearly showing the existing site topography and the proposed final grades with elevations or contour lines and specifications for materials and their placement as necessary to complete the work. The plan shall demonstrate compliance with best management practices for surface water management for permanent management and the methods that will be used during construction to control or prevent the erosion, mass movement, siltation, sedimentation, and blowing of dirt and debris caused by grading, excavation, open cuts, side slopes, and other site preparation and development. The plan shall be subject to review of the county engineer and the soil conservation district. The information received from the county engineer, the soil conservation district, and other agencies regarding the site grading plan shall be considered by the planning and zoning commission and/or the board of county commissioners in preparing the conditions of approval or reasons for denial of the applications. (Ord. 10-06, 8-23-2010)
2. For subdivisions, preliminary site grading plans and stormwater management plans must be presented for review and approval by the commission as part of the conditional use permit application. However, prior to construction of the infrastructure, excavation, or recordation of the final plat, the final plans must be approved by the county engineer. (Ord. 10-06, 8-23-2010; amd. Ord. 11-5, 6-6-2011)

G. Stormwater Management Plan: Prior to issuance of building permits, the administrator must receive a certification from the developer's engineer verifying that the stormwater management plan has been implemented according to approved plans. (Ord 10-06, 8-23-2010)

**9-5C-6: DENSITY:**

The density of any residential development or use requiring a conditional use permit shall not exceed two and one-half (2.5) dwelling units per acre, except for planned unit developments. Density shall be computed by dividing the total number of dwelling units proposed by the total acreage of land within the boundaries of the development. The area of existing road rights of way on the perimeter of the development and public lands may not be included in the density computation. (Ord. 11-5, 6-6-2011)

8. Valley County Code (Title 10): Subdivision Regulations. This title should be reviewed for determination of technical issues of the plat.

**10-5-1: STREET AND UTILITY IMPROVEMENTS:**

D. Declaration Of Installation Of Utilities: A declaration of installation of utilities shall also be recorded. The declaration shall describe the utilities that will be placed by the subdivider, verify when the utilities will be installed and state that Valley County will have no responsibility for the installation or maintenance of utilities. If all utilities are not installed prior to recordation of the plat, a note shall be placed on the face of the plat that states: "Utilities have not been installed at the time of recordation of this plat".

**SUMMARY:**

Compatibility Rating: Staff's compatibility rating is a +25.

**The Planning and Zoning Commission should do their own compatibility rating prior to the meeting (form with directions attached).**

**Staff Questions/Comments/Recommendation:**

The legal description on the preliminary plat should be SWSE Section 16 rather than W/2 of Section 15.

This is in the McCall/Donnelly school district and not Cascade.

Will you be able to bury the tank and place the well on Lot 14?

Setbacks from property lines shared with U.S. Bureau of Reclamation are 7.5 feet. All buildings must be a minimum of 30 feet from the high water line.

Need to place floodplain note on the final plat.

Change name of subdivision – conflict with Osprey Point – State Parks / 4-H camp across the lake.

Will public continue to be able to use the path across Lot 14; there is a gap in the BOR fence.

Will you place fiber optic conduit when other utility lines are placed?

Valley County only allows 2.5 dwelling units per acre. Your application states you have 3.3 dwelling units per acre. You should include a 70' public road right-of-way on the east side of the property as part of this development. With inclusion of this 70' x 1300' you will have enough acreage in the subdivision to obtain 2.5 dwelling units per acre.

Is there a pathway along Dawn Drive in this area? Will you be working with Valley County Pathways on locating a pathway?

Do you really need to require minimum square footages of 2000 sq.ft. for structures?

Will daylight basements be allowed? If so, how will stormwater be maintained on-site? Is there room on lots 1-5 to construct a home on solid ground?

Will you allow Accessory Dwelling Units?

Will you allow Short Term Rentals?

Since this property is within one mile of the city of Donnelly, they will have additional time to review the plat. The final plat should be submitted 45 days before the Planning and Zoning Commission meeting.

#### **ATTACHMENTS:**

- Conditions of Approval
- Blank Compatibility Evaluation
- Compatibility Evaluation
- Vicinity Map
- Aerial View
- Assessor Plat – T.16N R.3E Sec. 16
- Floodplain Map
- Pictures Taken March 30, 2021
- Response Letter from Applicant – March 11, 2021
- Responses

#### **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.
2. Any change in the nature or scope of land use activities shall require an additional Conditional Use Permit.
3. The final plat shall be recorded within two years or this permit will be null and void.
4. 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.

5. Must have a storm water management plan approved by the Valley County Engineer prior to any excavation work being done.
6. Must have approval from the Valley County Road Department prior to any work being done in the Valley County 50' prescriptive easement (roadway).
7. A letter of approval is required from Donnelly Rural Fire District.
8. CCR's should address lighting, wildfire prevention, and limit each lot to one wood burning device.
9. All lighting must comply with the Valley County Lighting Ordinance.
10. Shall place addressing numbers at each driveway and each building.
11. Must meet density requirements.
12. Shall place floodplain note on the final plat.
13. Shall place fiber optic conduit in road with utility lines if new utility lines are placed.
14. The final plat should be submitted 45 days before the Planning and Zoning Commission meeting.
15. Shall place a note on the face of the plat that states there shall be no disturbance of land within the 7 ½' setback to the BOR property, including hardened surfaces, decks, etc. Landscaping will be allowed, but there cannot be vegetation removal except for landscaping.

## **END OF STAFF REPORT**

## 9-11-1: APPENDIX A, COMPATIBILITY EVALUATION:

A. General: One of the primary functions of traditional zoning is to classify land uses so that those which are not fully compatible or congruous can be geographically separated from each other. The county has opted to substitute traditional zoning with a multiple use concept in which there is no separation of land uses. Proposed incompatible uses may adversely affect existing uses, people, or lands in numerous ways: noise, odors, creation of hazards, view, water contamination, loss of needed or desired resources, property values, or infringe on a desired lifestyle. To ensure that the county can continue to grow and develop without causing such land use problems and conflicts, a mechanism designed to identify and discourage land use proposals which will be incompatible at particular locations has been devised. The compatibility evaluation of all conditional uses also provides for evaluations in a manner which is both systematic and consistent.

### B. Purpose, Use:

1. The compatibility rating is to be used as a tool to assist in the determination of compatibility. The compatibility rating is not the sole deciding factor in the approval or denial of any application.
2. Staff prepares a preliminary compatibility rating for conditional use permits, except for conditional use permits for PUDs. The commission reviews the compatibility rating and may change any value.

### C. General Evaluation: Completing the compatibility questions and evaluation (form):

1. All evaluations shall be made as objectively as possible by assignment of points for each of a series of questions. Points shall be assigned as follows:

Plus 2 - assigned for full compatibility (adjacency encouraged).

Plus 1 - assigned for partial compatibility (adjacency not necessarily encouraged).

0 - assigned if not applicable or neutral.

Minus 1 - assigned for minimal compatibility (adjacency not discouraged).

Minus 2 - assigned for no compatibility (adjacency not acceptable).

2. Each response value shall be multiplied by some number, which indicates how important that particular response is relative to all the others. Multipliers shall be any of the following:

x4 - indicates major relative importance.

x3 - indicates above average relative importance.

x2 - indicates below average relative importance.

x1 - indicates minor relative importance.

D. Matrix - Questions 1 Through 3: The following matrix shall be utilized, wherever practical, to determine response values for questions one through three (3). Uses classified and listed in the left hand column and across the top of the matrix represent possible proposed, adjacent, or vicinity land uses. Each box indicates the extent of compatibility between any two (2) intersecting uses. These numbers should not be changed from proposal to proposal, except where distinctive uses arise which may present unique compatibility considerations. The commission shall determine whether or not there is a unique consideration.

### E. Terms:

**DOMINANT ADJACENT LAND USE:** Any use which is within three hundred feet (300') of the use boundary being proposed; and

1. Comprises at least one-half ( $\frac{1}{2}$ ) of the adjacent uses and one-fourth ( $\frac{1}{4}$ ) of the total adjacent area; or
2. Where two (2) or more uses compete equally in number and are more frequent than all the other uses, the one with the greatest amount of acreage is the dominant land use; or
3. In all other situations, no dominant land use exists. When this occurs, the response value shall be zero.

**LOCAL VICINITY:** Land uses within a one to three (3) mile radius. The various uses therein should be identified and averaged to determine the overall use of the land.

### F. Questions 4 Through 9:

1. In determining the response values for questions 4 through 9, the evaluators shall consider the information contained in the application, the goals and objectives of the comprehensive plan, the provisions of this title and related ordinances, information gained from an actual inspection of the site, and information gathered by the staff.
2. The evaluator or commission shall also consider proposed mitigation of the determined impacts. Adequacy of the mitigation will be a factor.

# APPENDIX A

## MATRIX FOR RATING QUESTIONS 1, 2, and 3

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23
1. AGRICULTURAL		+2	-1	-2	-2	-2	-2		+1	+1	+1	+2	+1		+1	-1	-1	+2	-1	-2	+1	+2	+2
2. RESIDENCE, S.F.	+2		+2	+1	+1	+1	+1	+1	+1	-1	+2	+1	-2		+1	-1	+1	+1	+1	+1	+1	-2	-2
3. SUBDIVISION, S.F.	-1	+2		+1	+1	+1	+1	+1	+1	-1	+2	+1	-2		+1	-1	+1	+1	+1	+2	+1	-2	-2
4. M.H. or R.V. PARK	-2	+1	+1		+1	+1	+1	+1	+1	-1	+2	+1	-2		+1	-1	+1	+1	+1	+1	+1	-2	-2
5. RESIDENCE, M.F.	-2	+1	+1	+1		+2	+2	+1	+1	-1	+2	+1	-2		+1	-1	+1	+1	+1	+1	+1	-2	-2
6. SUBDIVISION, M.F.	-2	+1	+1	+1	+2		+2	+1	+1	-1	+2	+1	-2		+1	-1	+1	+1	+1	+1	+1	-2	-2
7. P.U.D., RES.	-2	+1	+1	+1	+2	+2		+1	+1	-1	+2	+1	-2		+1	-1	+1	+1	+1	+1	+1	-2	-2
8. REL, EDUC & REHAB	+1	+2	+1	+1	+1	+1	+1		+1	+1	-1	+2	-2		-1	-1	+2	+1	+1	-1	+1	-2	-1
9. FRAT or GOV'T	+1	+1	+1	+1	+1	+1	+1	+1		+1	-1	+2	-2		-1	-1	+1	+1	+1	-1	+1	-2	-2
10. PUBLIC UTIL. (1A-3.1)	+1	-1	-1	-1	-1	-1	-1	+1	+1		+1	+	-1		+1	+1	+1	-1	+1	+1	+1	+2	+2
11. PUBLIC REC	+1	+2	+2	+2	+2	+2	+2	-1	-1	+1		+2	-1		+1	+1	+1	+1	+1	+1	+1	-1	+1
12. CEMETERY	+2	+1	+1	+1	+1	+1	+1	+2	+2	+2	+2		+1		+1	+1	+1	+1	+1	+1	+2	+1	+1
13. LANDFILL or SWR. PLANT	+1	-2	-2	-2	-2	-2	-2	-2	-2	-1	-1	+1			-1	-1	-2	-2	-2	-1	+2	+2	+2
14. PRIV. REC. (PER)	+1	+1	+1	+1	+1	+1	+1	-1	-1	+1	+1	+1	-1		+1	+1	+1	+2	+1	+2	+2	-1	+1
15. PRIV. REC. (CON)	-1	-1	-1	-1	-1	-1	-1	-1	-1	+1	+1	+1	-1	+1		-2	-2	-1	-2	-2	+2	-1	+1
16. NEIGHBORHOOD BUS.	-1	+1	+1	+1	+1	+1	+1	+2	+1	+1	+1	+1	-2		+1	-2	+1	+2	+2	+1	+2	-1	-1
17. RESIDENCE BUS.	+2	+2	+2	+1	+1	+1	+1	+2	+1	-1	+2	+1	-2	+1	+1	-2	+1	+1	-1	+1	+1	-2	-2
18. SERV. BUS.	-1	+1	+1	+1	+1	+1	+1	+1	+1	+1	+1	+2	+2	+2	+2	+2	+2		+2	+2		+1	+1
19. AREA BUS.	-2	-1	-1	-1	-1	-1	-1	+1	+1	+1	+1	+1	-2		+1	-2	+2	-1	+2	+1	+2	-2	-2
20. REC BUS.	-2	+2	+2	+1	+1	+1	+1	-1	-1	+1	+1	+1	-1	+2	+2	+1	+1	+2	+2	+1	+2	-2	+1
21. LIGHT IND.	+1	+1	+1	+1	+1	+1	+1	+1	+1	+1	+1	+2	+2		+2	+2	+2	+2	+2	+2		+1	+1
22. HEAVY IND.	+2	-2	-2	-2	-2	-2	-2	-2	-2	+2	-1	+1	+2	-1	-1	-1	-1	-2	-1	-2	+1		+2
23. EXTR. IND.	+2	-2	-2	-2	-2	-2	-2	-1	-2	+2	+1	+1	+2	+1	+1	-1	-1	-2	-1	-2	+1	+1	+2

THE SOLID SQUARES AS +2



Matrix Line # / Use: \_\_\_\_\_

Prepared by: \_\_\_\_\_

YES/NO	X	Response Value
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Use Matrix Values:

(+2/-2)	_____	X	4	_____
---------	-------	---	---	-------

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

(+2/-2)	_____	X	2	_____
---------	-------	---	---	-------

2. Is the proposed use compatible with the other adjacent land uses (total and average)?

(+2/-2)	_____	X	1	_____
---------	-------	---	---	-------

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

Site Specific Evaluation (Impacts and Proposed Mitigation)

(+2/-2)	_____	X	3	_____
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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?

(+2/-2)	_____	X	1	_____
---------	-------	---	---	-------

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

(+2/-2)	_____	X	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?

(+2/-2)	_____	X	2	_____
---------	-------	---	---	-------

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?

(+2/-2)	_____	X	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?

(+2/-2)	_____	X	2	_____
---------	-------	---	---	-------

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?

Sub-Total	(+)	_____
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Sub-Total	(-)	_____
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Total Score	_____
-------------	-------

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

# Compatibility Questions and Evaluation

Matrix Line # / Use: #3

Prepared by: \_\_\_\_\_

YES/NO X Response Value

Use Matrix Values:

(+2/-2) -1 X 4 -4

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

*Barre - Rural*

(+2/-2) +2 X 2 +4

2. Is the proposed use compatible with the other adjacent land uses (total and average)?

*S. F. Subdivisions*

(+2/-2) +1 X 1 +1

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

*Mostly S. F. Subdivisions and RV Parks*

Site Specific Evaluation (Impacts and Proposed Mitigation)

(+2/-2) +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?

*It meets minimum lot size, & trees, will have little impact.*

(+2/-2) +2 X 1 +2

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

*Yes - with lots to south*

(+2/-2) +2 X 2 +4

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?

*Yes - same type*

(+2/-2) +2 X 2 +4

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?

*Yes - same type*

(+2/-2) +2 X 2 +4

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?

*Yes - small # of lots in existing residential area*

(+2/-2) +2 X 2 +4

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?

*Will be much larger taxes.*

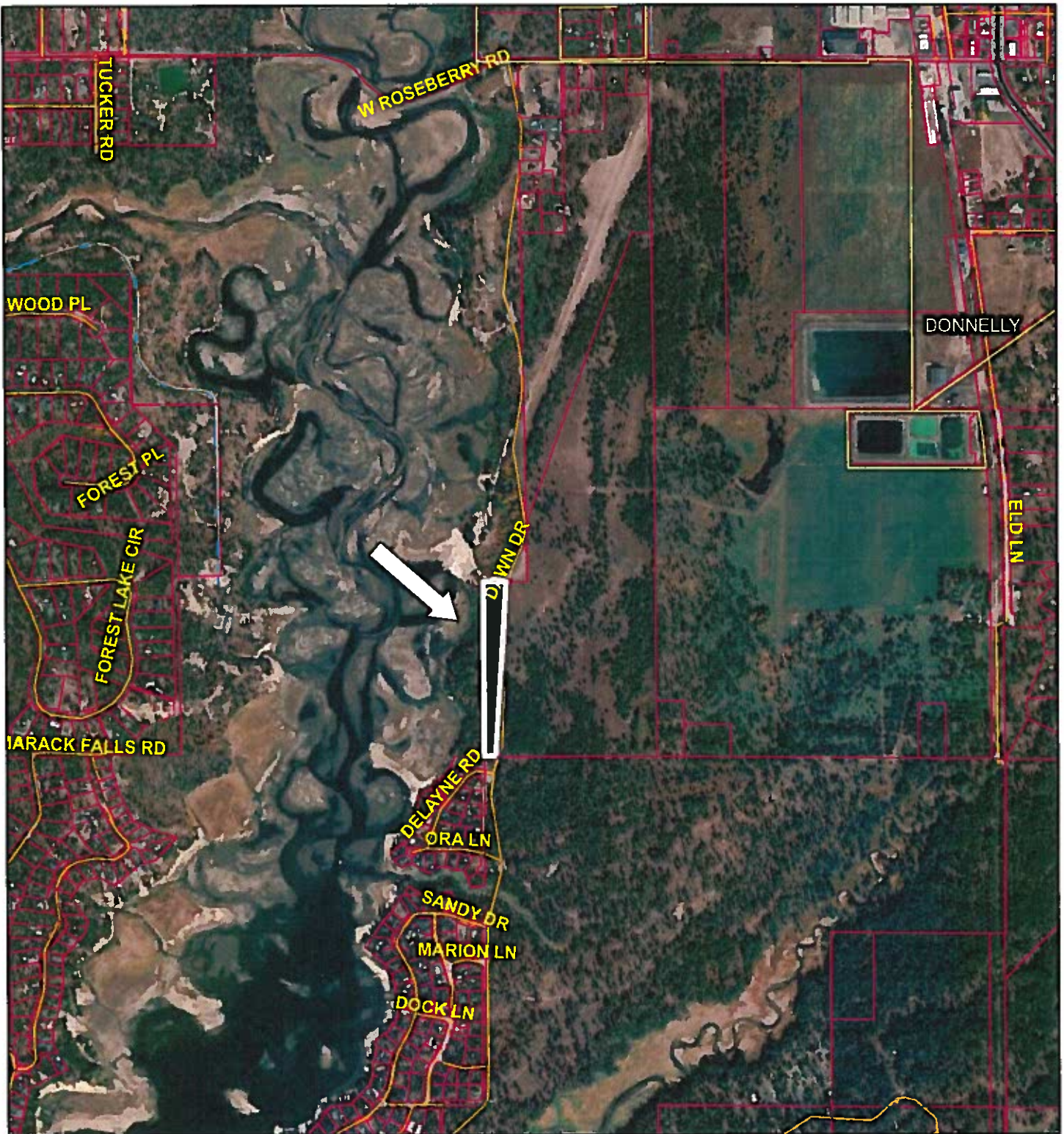
Sub-Total (+) 29

Sub-Total (--) 4

Total Score +25

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

# C.U.P. 21-09 Vicinity Map



3/2/2021, 2:55:48 PM

Municipalities

Parcel Boundaries

Other Parcels

All Road Labels

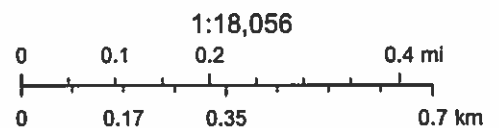
Roads

MAJOR

COLLECTOR

URBAN/RURAL

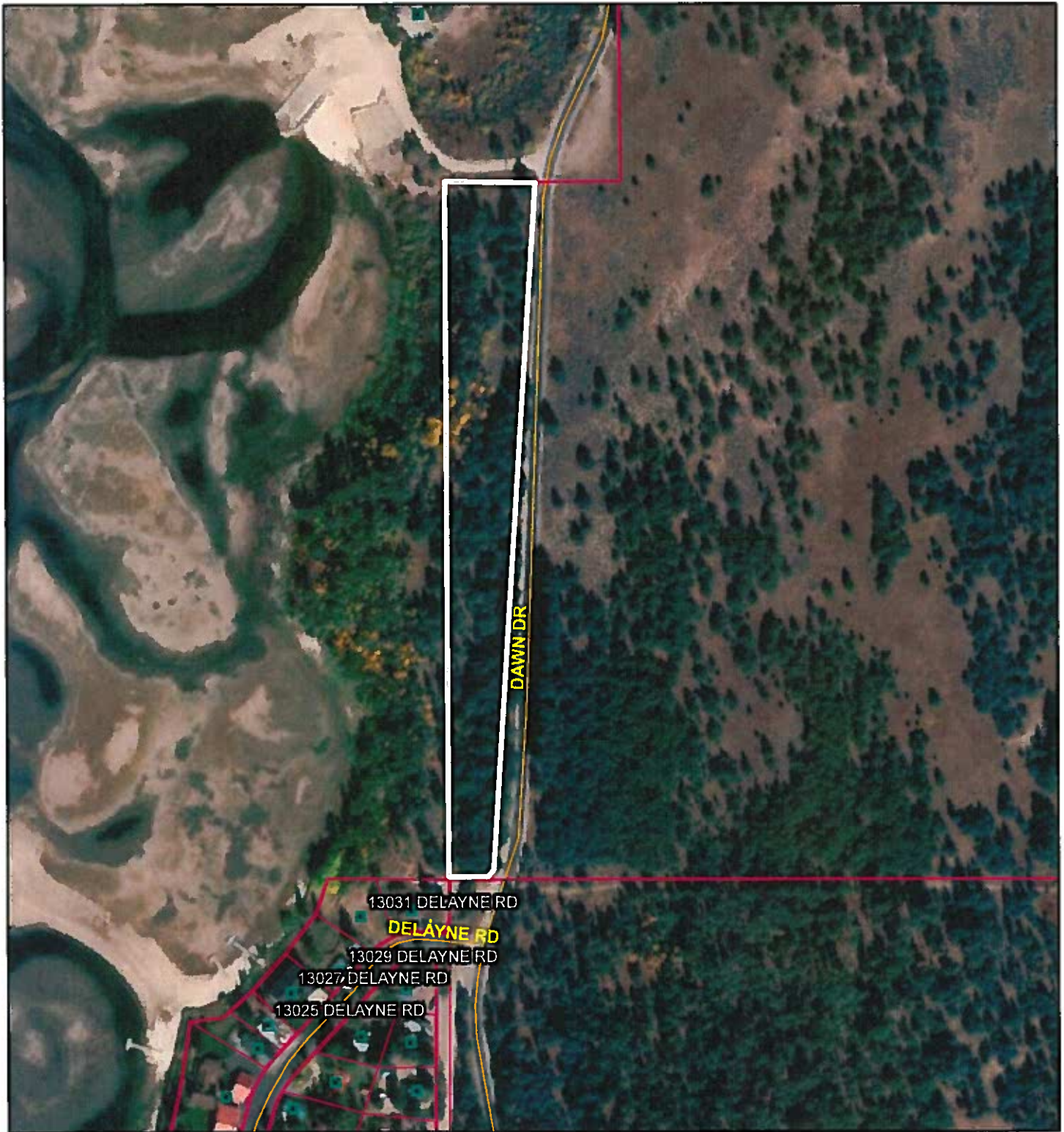
PRIVATE



USDA FSA, GeoEye, Maxar

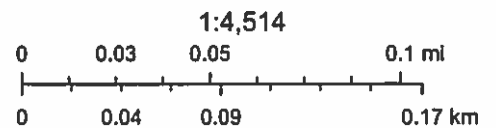


# C.U.P. 21-09 Approximate Location



3/2/2021, 2:48:18 PM

- |   |   |
|---|---|
|  Parcel Boundaries | All Road Labels   |
|  Other Parcels     | Roads   |
|  Addresses         |  URBAN/RURAL |

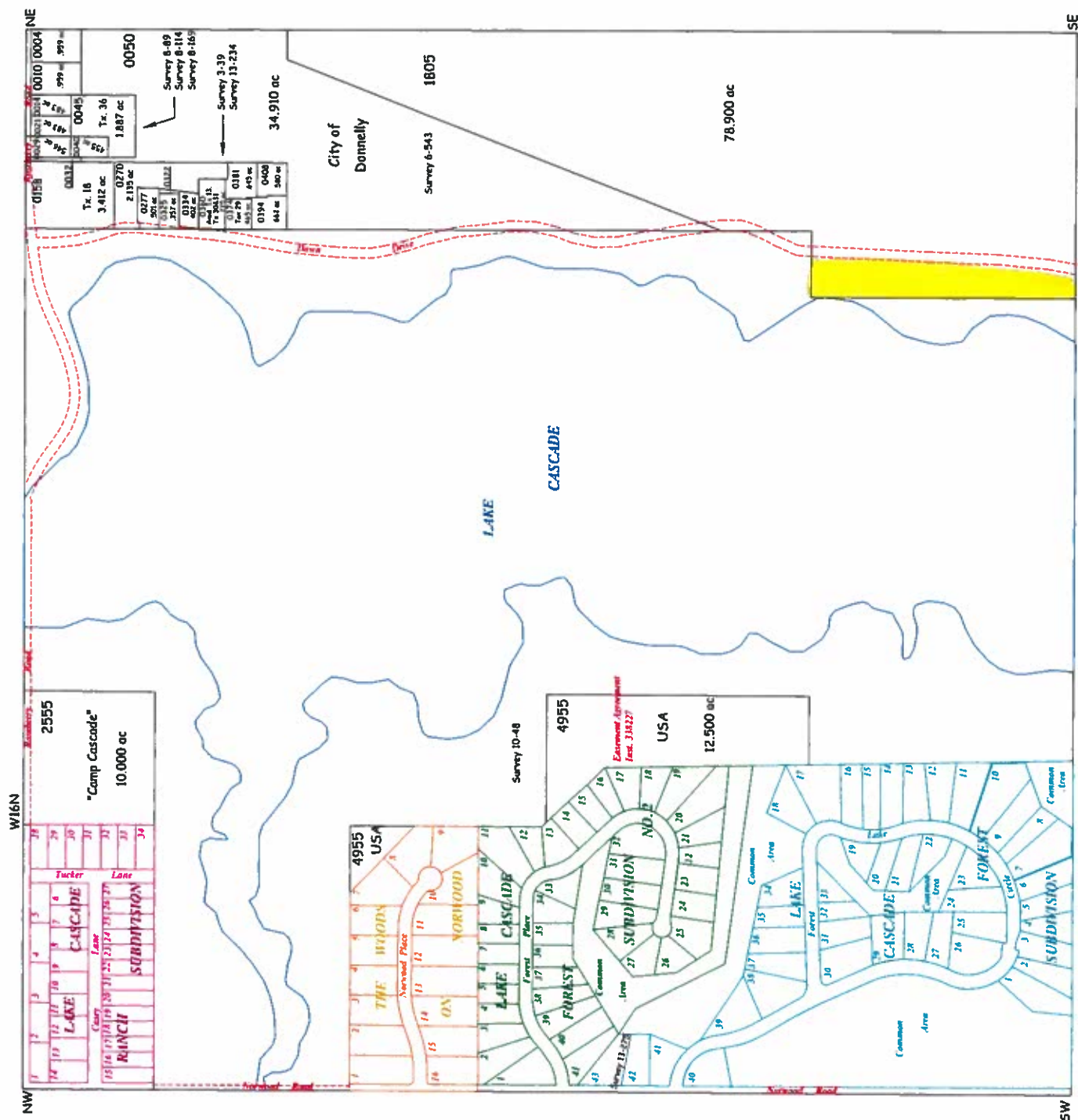


USDA FSA, GeoEye, Maxar

TWP. 16N R03E SEC. 16

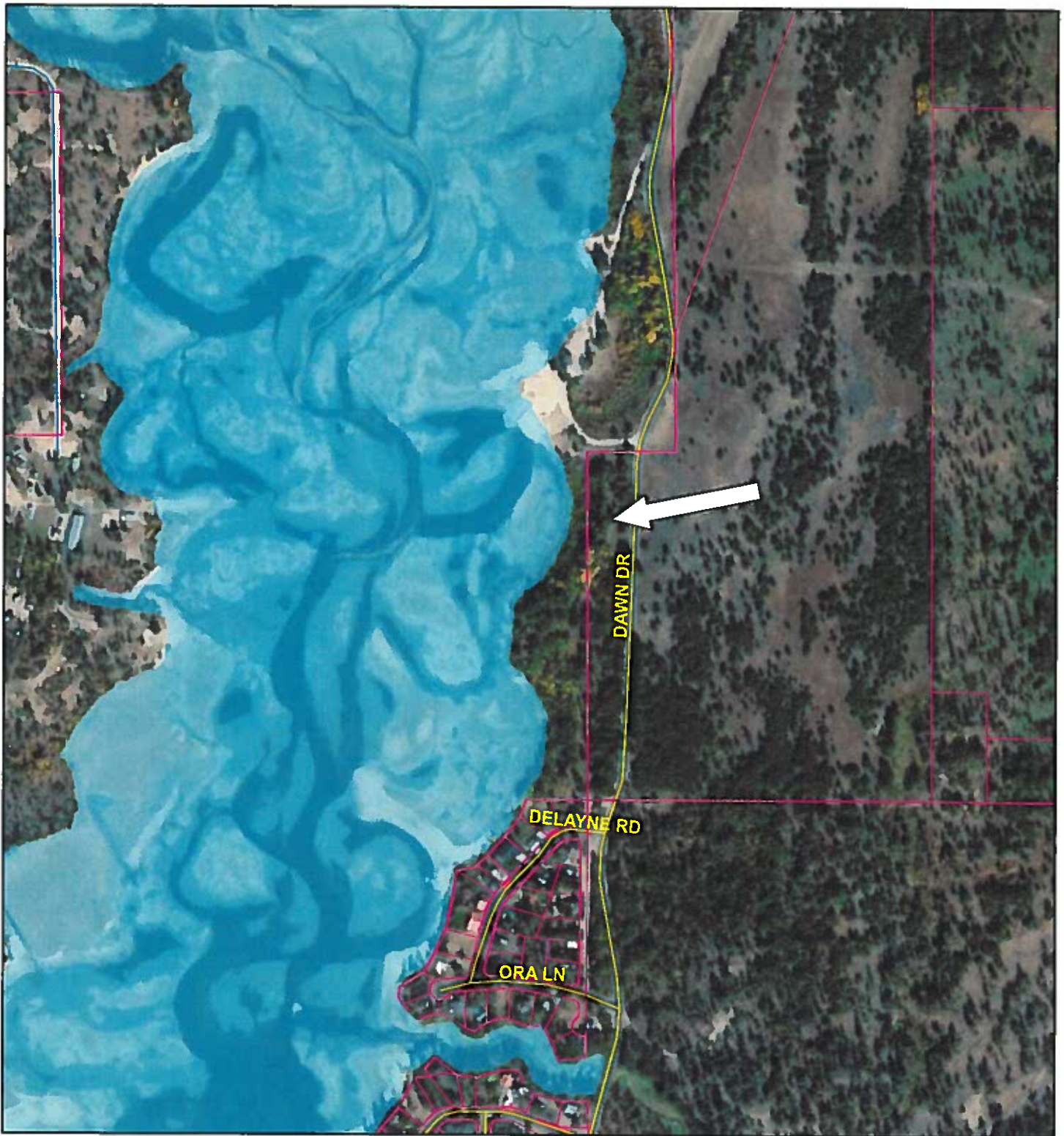
**VALLEY COUNTY**  
Assessor's Office  
Cartography Dept.  
Cascade, ID 83611

**Filename:** H:\spcshd\Valley County Race Map\





# C.U.P. 21-09 Floodplain



3/8/2021, 4:22:03 PM

## Floodplain

- A (1% Annual Chance, 100-Year)
- AE (1% Annual Chance, 100-Year)
- Floodway (1% Annual Chance, 100-Year)
- 500-Year Floodplain (0.2% Annual Chance)

□ Parcel Boundaries

□ Other Parcels

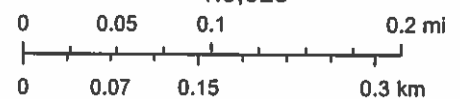
All Road Labels

Roads

— URBAN/RURAL

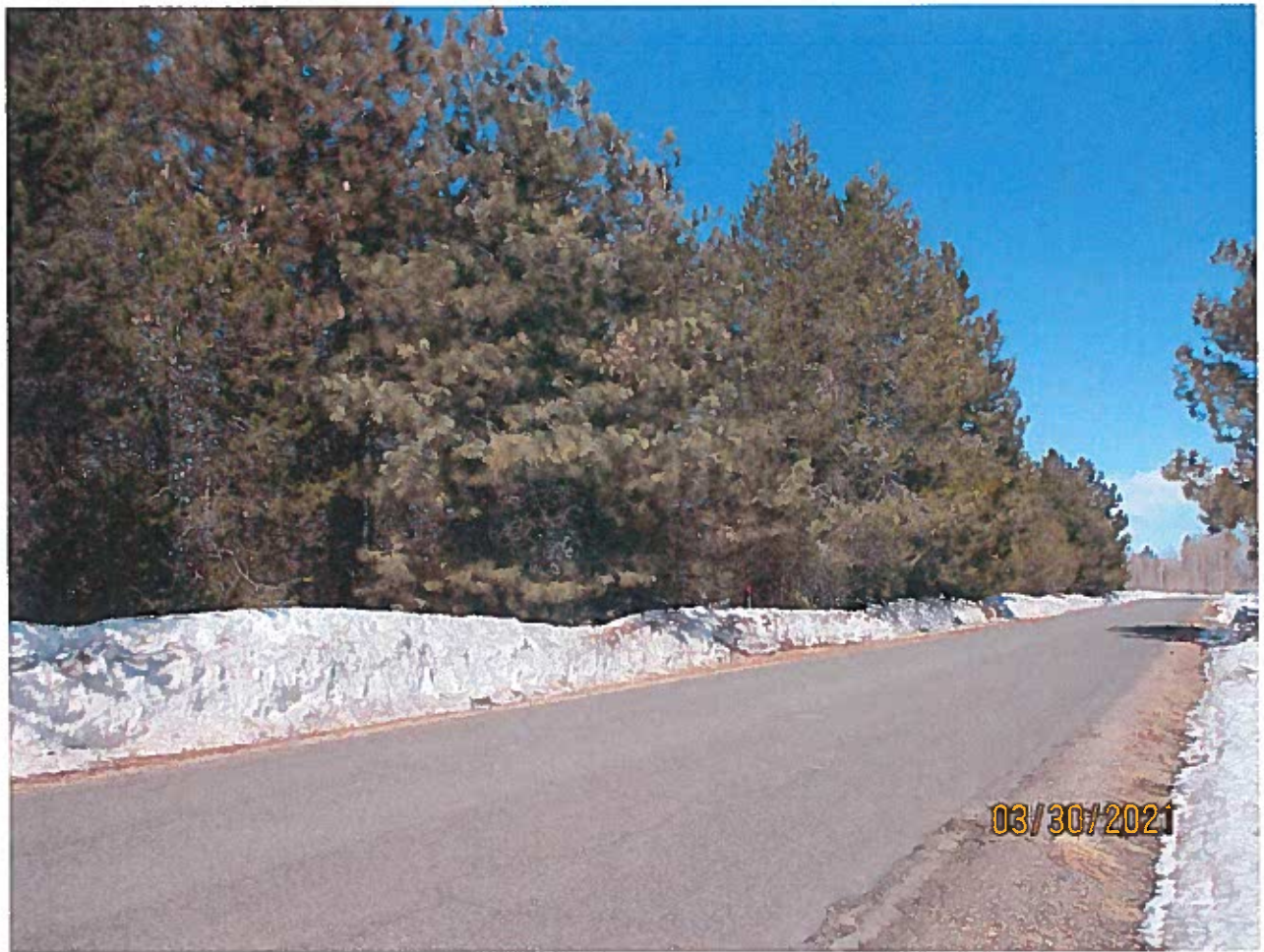
— PRIVATE

1:9,028



Valley County IT, USDA FSA, GeoEye, Maxar









**BILTMORE CO.**

RECEIVED

MAR 12 2021

March 11, 2021

Valley County Planning and Zoning  
ATTN: Cynda Herrick

RE: CUP 21-09 Osprey Pointe Subdivision

Dear Ms. Herrick

I have received the comments dated 3/4/2021 from your department regarding the above referenced conditional use permit. In those comments there are 6 specific questions that you would like addressed. Please find my responses below to each of those items.

1. I have attached to this response the signed Valley County Weed Control Agreement as requested.
2. We will correct the information to accurately reflect that this project is in the Norhtlake Recreational Sewer and Water District.
3. The project will be governed by Covenants, Conditions and Restrictions for the subdivision. Within that document the requirement for individual storm water management for each lot will be addressed. Specifically that all storm water from each lot and the structures on the lot, including hardscape is required to be retained within the confines of the lot lines and not drainage or runoff is allowed to leave the property.
4. We will remove any utility easements that are not specifically needed or required between the lot lines prior to the final plat application.
5. We will correct the information to accurately reflect the property school district as McCall-Donelly.
6. We will correct the legal description on the final plat prior to application.

I appreciate this opportunity to respond to the comments above and I look forward to working with you and addressing any other comments or questions that may come forward in the staff report, agency comments or public hearings. Please feel free to contact me either by e-mail [kevin@biltmoreco.com](mailto:kevin@biltmoreco.com) or by phone at 208.941.3368.

Kevin F. Amar  
Manager, Biltmore Company

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[www.biltmoreco.com](http://www.biltmoreco.com)

O. 208.895.0500 | F. 208.895.0700  
1580 W. Cayuse Creek Dr.  
Meridian, ID 83646



MAR 12 2021



## VALLEY COUNTY

## WEED CONTROL AGREEMENT

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

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

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

## COOPERATOR

BILTMORE COMPANY, LLC AND/OR ASSIGNS1580 W. CAYUSE CREEK DRIVEMERIDIAN, IDAHO 83646By: 

By: \_\_\_\_\_

Valley County Weed Control

Date: 3.11.21

Date: \_\_\_\_\_



Valley County Transmittal  
Division of Community and Environmental Health

Return to:

- ☐ Cascade  
☐ Donnelly  
☐ McCall  
☐ McCall Impact  
☒ Valley County

Rezone # \_\_\_\_\_

Conditional Use # CUP 21-09

Preliminary / Final / Short Plat Osprey Pointe Subdivision

- ☐ 1. We have No Objections to this Proposal.
- ☐ 2. We recommend Denial of this Proposal.
- ☐ 3. Specific knowledge as to the exact type of use must be provided before we can comment on this Proposal.
- ☐ 4. We will require more data concerning soil conditions on this Proposal before we can comment.
- ☐ 5. Before we can comment concerning individual sewage disposal, we will require more data concerning the depth of:  
☐ high seasonal ground water ☐ waste flow characteristics  
☐ bedrock from original grade ☐ other \_\_\_\_\_
- ☐ 6. This office may require a study to assess the impact of nutrients and pathogens to receiving ground waters and surface waters.
- ☐ 7. This project shall be reviewed by the Idaho Department of Water Resources concerning well construction and water availability.
- ☒ 8. After written approvals from appropriate entities are submitted, we can approve this proposal for:  
☒ central sewage ☐ community sewage system ☐ community water well  
☐ interim sewage ☐ central water  
☐ individual sewage ☐ individual water
- ☒ 9. The following plan(s) must be submitted to and approved by the Idaho Department of Environmental Quality:  
☒ central sewage ☐ community sewage system ☐ community water  
☐ sewage dry lines ☐ central water
- ☐ 10. Run-off is not to create a mosquito breeding problem
- ☐ 11. This Department would recommend deferral until high seasonal ground water can be determined if other considerations indicate approval.
- ☐ 12. If restroom facilities are to be installed, then a sewage system MUST be installed to meet Idaho State Sewage Regulations.
- ☐ 13. We will require plans be submitted for a plan review for any:  
☐ food establishment ☐ swimming pools or spas ☐ child care center  
☐ beverage establishment ☐ grocery store

Reviewed By: [Signature]

Date: 3/9/21



**STATE OF IDAHO**  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

1445 N Orchard Street, Boise, ID 83706  
(208) 373-0550

Brad Little, Governor  
Jess Byrne, Director

March 19, 2021

By e-mail: [cherrick@co.valley.id.us](mailto:cherrick@co.valley.id.us)

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

Subject: Osprey Pointe Subdivision Preliminary Plat, CUP 21-09

Dear Ms. Herrick :

Thank you for the opportunity to respond to your request for comment. While DEQ does not review projects on a project-specific basis, we attempt to provide the best review of the information provided. DEQ encourages agencies to review and utilize the Idaho Environmental Guide to assist in addressing project-specific conditions that may apply. This guide can be found at: [deq.idaho.gov/assistance-resources/environmental-guide-for-local-govts](http://deq.idaho.gov/assistance-resources/environmental-guide-for-local-govts).

The following information does not cover every aspect of this project; however, we have the following general comments to use as appropriate:

**1. AIR QUALITY**

- Please review IDAPA 58.01.01 for all rules on Air Quality, especially those regarding fugitive dust (58.01.01.651), trade waste burning (58.01.01.600-617), and odor control plans (58.01.01.776).
- All property owners, developers, and their contractor(s) must ensure that reasonable controls to prevent fugitive dust from becoming airborne are utilized during all phases of construction activities per IDAPA 58.01.01.651.
- DEQ recommends the city/county require the development and submittal of a dust prevention and control plan for all construction projects prior to final plat approval. Dust prevention and control plans incorporate appropriate best management practices to control fugitive dust that may be generated at sites.
- Citizen complaints received by DEQ regarding fugitive dust from development and construction activities approved by cities or counties will be referred to the city/county to address under their ordinances.

- Per IDAPA 58.01.01.600-617, the open burning of any construction waste is prohibited. The property owner, developer, and their contractor(s) are responsible for ensuring no prohibited open burning occurs during construction.

For questions, contact David Luft, Air Quality Manager, at (208) 373-0550.

## **2. WASTEWATER AND RECYCLED WATER**

- DEQ recommends verifying that there is adequate sewer to serve this project prior to approval. Please contact the sewer provider for a capacity statement, declining balance report, and willingness to serve this project.
- IDAPA 58.01.16 and IDAPA 58.01.17 are the sections of Idaho rules regarding wastewater and recycled water. Please review these rules to determine whether this or future projects will require DEQ approval. IDAPA 58.01.03 is the section of Idaho rules regarding subsurface disposal of wastewater. Please review this rule to determine whether this or future projects will require permitting by the district health department.
- All projects for construction or modification of wastewater systems require preconstruction approval. Recycled water projects and subsurface disposal projects require separate permits as well.
- DEQ recommends that projects be served by existing approved wastewater collection systems or a centralized community wastewater system whenever possible. Please contact DEQ to discuss potential for development of a community treatment system along with best management practices for communities to protect ground water.
- DEQ recommends that cities and counties develop and use a comprehensive land use management plan, which includes the impacts of present and future wastewater management in this area. Please schedule a meeting with DEQ for further discussion and recommendations for plan development and implementation.

For questions, contact Valerie Greear, Water Quality Engineering Manager at (208) 373-0550.

## **3. DRINKING WATER**

- DEQ recommends verifying that there is adequate water to serve this project prior to approval. Please contact the water provider for a capacity statement, declining balance report, and willingness to serve this project.
- IDAPA 58.01.08 is the section of Idaho rules regarding public drinking water systems. Please review these rules to determine whether this or future projects will require DEQ approval.
- All projects for construction or modification of public drinking water systems require preconstruction approval.
- DEQ recommends verifying if the current and/or proposed drinking water system is a regulated public drinking water system (refer to the DEQ website at: [deq.idaho.gov/water-quality/drinking-water.aspx](http://deq.idaho.gov/water-quality/drinking-water.aspx)). For non-regulated systems, DEQ recommends annual testing for total coliform bacteria, nitrate, and nitrite.

- If any private wells will be included in this project, we recommend that they be tested for total coliform bacteria, nitrate, and nitrite prior to use and retested annually thereafter.
- DEQ recommends using an existing drinking water system whenever possible or construction of a new community drinking water system. Please contact DEQ to discuss this project and to explore options to both best serve the future residents of this development and provide for protection of ground water resources.
- DEQ recommends cities and counties develop and use a comprehensive land use management plan which addresses the present and future needs of this area for adequate, safe, and sustainable drinking water. Please schedule a meeting with DEQ for further discussion and recommendations for plan development and implementation.

For questions, contact Valerie Greear, Water Quality Engineering Manager at (208) 373-0550.

#### **4. SURFACE WATER**

- A DEQ short-term activity exemption (STAE) from this office is required if the project will involve de-watering of ground water during excavation and discharge back into surface water, including a description of the water treatment from this process to prevent excessive sediment and turbidity from entering surface water.
- Please contact DEQ to determine whether this project will require a National Pollution Discharge Elimination System (NPDES) Permit. A Construction General Permit from EPA may be required if this project will disturb one or more acres of land, or will disturb less than one acre of land but are part of a common plan of development or sale that will ultimately disturb one or more acres of land.
- If this project is near a source of surface water, DEQ requests that projects incorporate construction best management practices (BMPs) to assist in the protection of Idaho's water resources. Additionally, please contact DEQ to identify BMP alternatives and to determine whether this project is in an area with Total Maximum Daily Load stormwater permit conditions.
- The Idaho Stream Channel Protection Act requires a permit for most stream channel alterations. Please contact the Idaho Department of Water Resources (IDWR), Western Regional Office, at 2735 Airport Way, Boise, or call (208) 334-2190 for more information. Information is also available on the IDWR website at: <https://idwr.idaho.gov/streams/stream-channel-alteration-permits.html>
- The Federal Clean Water Act requires a permit for filling or dredging in waters of the United States. Please contact the US Army Corps of Engineers, Boise Field Office, at 10095 Emerald Street, Boise, or call 208-345-2155 for more information regarding permits.

For questions, contact Lance Holloway, Surface Water Manager, at (208) 373-0550.

#### **5. SOLID WASTE, HAZARDOUS WASTE AND GROUND WATER CONTAMINATION**

- **Solid Waste.** No trash or other solid waste shall be buried, burned, or otherwise disposed of at the project site. These disposal methods are regulated by various state regulations including

Idaho's Solid Waste Management Regulations and Standards (IDAPA 58.01.06), Rules and Regulations for Hazardous Waste (IDAPA 58.01.05), and Rules and Regulations for the Prevention of Air Pollution (IDAPA 58.01.01). Inert and other approved materials are also defined in the Solid Waste Management Regulations and Standards

- **Hazardous Waste.** The types and number of requirements that must be complied with under the federal Resource Conservation and Recovery Act (RCRA) and the Idaho Rules and Standards for Hazardous Waste (IDAPA 58.01.05) are based on the quantity and type of waste generated. Every business in Idaho is required to track the volume of waste generated, determine whether each type of waste is hazardous, and ensure that all wastes are properly disposed of according to federal, state, and local requirements.
- **Water Quality Standards.** Site activities must comply with the Idaho Water Quality Standards (IDAPA 58.01.02) regarding hazardous and deleterious-materials storage, disposal, or accumulation adjacent to or in the immediate vicinity of state waters (IDAPA 58.01.02.800); and the cleanup and reporting of oil-filled electrical equipment (IDAPA 58.01.02.849); hazardous materials (IDAPA 58.01.02.850); and used-oil and petroleum releases (IDAPA 58.01.02.851 and 852). Petroleum releases must be reported to DEQ in accordance with IDAPA 58.01.02.851.01 and 04. Hazardous material releases to state waters, or to land such that there is likelihood that it will enter state waters, must be reported to DEQ in accordance with IDAPA 58.01.02.850.
- **Ground Water Contamination.** DEQ requests that this project comply with Idaho's Ground Water Quality Rules (IDAPA 58.01.11), which states that "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 causes a ground water quality standard to be exceeded, injures a beneficial use of ground water, or is not in accordance with a permit, consent order or applicable best management practice, best available method or best practical method."

For questions, contact Albert Crawshaw, Waste & Remediation Manager, at (208) 373-0550.

## 6. ADDITIONAL NOTES

- If an underground storage tank (UST) or an aboveground storage tank (AST) is identified at the site, the site should be evaluated to determine whether the UST is regulated by DEQ. EPA regulates ASTs. UST and AST sites should be assessed to determine whether there is potential soil and ground water contamination. Please call DEQ at (208) 373-0550, or visit the DEQ website [deq.idaho.gov/waste-mgmt-remediation/storage-tanks.aspx](http://deq.idaho.gov/waste-mgmt-remediation/storage-tanks.aspx) for assistance.
- If applicable to this project, DEQ recommends that BMPs be implemented for any of the following conditions: wash water from cleaning vehicles, fertilizers and pesticides, animal facilities, composted waste, and ponds. Please contact DEQ for more information on any of these conditions.

Response to Request for Comment  
March 19, 2021  
Page 5

We look forward to working with you in a proactive manner to address potential environmental impacts that may be within our regulatory authority. If you have any questions, please contact me, or any of our technical staff at (208) 373-0550.

Sincerely,

A handwritten signature in black ink that reads "Aaron Scheff". The signature is written in a cursive, flowing style.

Aaron Scheff  
Regional Administrator  
DEQ-Boise Regional Office

EDMS#: 2021AEK43



## Donnelly Rural Fire Protection District

P.O. Box 1178 Donnelly, Idaho 83615

208-325-8619 Fax 208-325-5081

March 30, 2021

Valley County Planning & Zoning Commission

P.O. Box 1350

Cascade, Idaho 83611

RE: 21-09 Osprey Point Subdivision – Preliminary Plat

After review, the Donnelly Rural Fire District Approves C.U.P. 21-09 Osprey Point Subdivision - Preliminary Plat with the following requirements.

- In accordance with **Section 507.1 IFC 2018** an approved water supply capable of supplying the required fire flow for fire protection shall be provided to the premises upon which facilities, buildings or portions of buildings are hereafter constructed or moved into or within the jurisdiction
- The approved fire protection water supply will be one 10,000 gallon water storage tank, storage tank shall be connected to a well and have automatic fill capability.
- Tank specifications shall be submitted to DRFPD for review prior to installation. Tank shall be installed in an approved location, tank shall be inspected and approved by Donnelly Fire Department personnel prior to building permits being issued

Please call 208-325-8619 with any questions.

Jess Ellis

A handwritten signature in black ink, appearing to read "Jess Ellis".

Fire Marshal  
Donnelly Fire Department



Donnelly, Idaho

March 30, 2021

Valley County Planning and Zoning

219 North Main Street

Cascade, Idaho 83611

Subject: Comments on C.U.P. 21-09 Osprey Pointe Subdivision Preliminary Plat

#### Storm Water Containment.

We are concerned that storm water runoff may not be able to be maintained on site, particularly on the south end along the road. Urban development may significantly reduce the soil area available for absorption. Absorption south of the site is not good due to old road bed. If there is storm water runoff onto our property from the site, we would want it to be corrected.

#### CC&R's

The stringent CC&R's are appreciated and should help make good neighbors. Home Occupations are addressed in detail, but there appears to be no mention about how renters will be controlled. In particular, will short term rentals be allowed or controlled? Or, are rentals considered a Home Occupation? How will renters be managed? Now is the time to deal with that, since it will be difficult to get unanimous approval to change CC&R's.

#### Impact of Many New Wells in the Area

In the Preliminary Sewer & Water Report the statement is made that the water flow requirements should be assumed to have the same flow rate demand as developed by the sewer flow calculations. This does not consider the demand for summer irrigation which is likely to be much greater. This brings up the point that there appears to be no hydrologic analysis to determine if the new project well withdrawals will impact the existing wells in the area. This will be even more concern with further development in the area.

#### Inaccurate Description

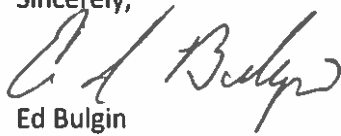
In both the Preliminary Irrigation Report and Section 4.0 of the Site Conditions, there is the statement that backyards are against the Lake or bordered by Cascade Lake to the West. We don't understand why that statement is even needed for the Irrigation report but in both cases it is inaccurate. In fact there are several acres of forested Bureau of Reclamation property, between most of the lots and the Lake, which are open to public access.

### Overall Comments

The development of this property is not unexpected and we recognize that there will be changes in the area. The developer seems to be working toward a quality development, and we hope that our comments will be helpful toward avoiding problems for current and future neighbors.

It is overwhelming to think that if the developer's current 79 acres is developed at the current density that it would double the number of homes off of Dawn Drive. This could obviously require much more consideration to deal with traffic and congestion. We hope the County and Developer will go further with planning to include such improvements as wider pavement, bike lanes, walking and skiing paths, traffic control, and whatever else is needed.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ed Bulgin", written over the printed name.

Ed Bulgin

13033 Delayne Rd.

Donnelly, Idaho

## Comment on CUP 21-090 Osprey Ponte

Donnelly Pathways <donnellypathways@gmail.com>

Thu 4/1/2021 6:41 AM

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

Cc: Steve Stuebner <sstuebner@cableone.net>

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.

In coordination with the adopted Valley County Pathways Master Plan, and the proposed pathway to connect the City of Donnelly to the City Park/Beach/Boat Docks, I would recommend that this development include a pathway to the City Park. This would act as a feeder path to an amenity that will no doubt be popular to the residence of the development. Pathways are needed on Dawn Drive to move pedestrians and bicyclists recreating in the area off the roadway and provide a safer space for this transportation near the busy park.

Sincerely,

Brett Shepherd  
Boardmember, Valley County Pathways

---

Donnelly Community Pathways Group  
-a volunteer community organization  
[www.valleycountypathways.org](http://www.valleycountypathways.org)  
[DonnellyPathways@gmail.com](mailto:DonnellyPathways@gmail.com)

\*Join us! Just email telling us your interest and you'll be added to our group emails and efforts!\*