

BLAINE COUNTY PLANNING & ZONING COMMISSION
PUBLIC HEARING on May 13, June 10 and June 17, 2021

<p>REGARDING AN APPLICATION OF: Flying Squirrel Productions LLC for Lateral 75 Ranch Subdivision, re-subdividing Lots 1, 2 and 3, Gregory Ranch Subdivision, into 24 lots, utilizing TDRs.</p>	<p>FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION</p>
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REQUESTED ACTION: The applicant, Flying Squirrel Productions LLC, proposes a preliminary plat of Lateral 75 Ranch Subdivision, which would re-subdivide Lots 1, 2 and 3, Gregory Ranch Subdivision, into 24 lots. The property is located at 30, 40 and 50 East Glendale Road, and is 76.51-acres in size. It is zoned Productive Agriculture (A-20), within the Transfer of Development Rights (TDR) Receiving Area, and with areas of Scenic Highway Overlay District (SHO).

APPLICABLE REGULATIONS:

- Title 10 (Subdivision Regulations): Chapters 1-5
- Title 9 (Zoning Regulations): Chapters 5, and 21A
- Title 8 (Comprehensive Plan)

Background/Summary

The proposed Lateral 75 Ranch subdivision would resubdivide the 3 lots of Gregory Ranch into 24 lots, utilizing transferred development rights through the County's TDR program. The TDR standards are reviewed on pages 20 - 21 of this report. TDR program-related definitions are provided on page 20 for reference.

A summary of the public hearing process and a copy of the ordinance establishing the TDR program are included as Exhibits C-7 and C-8 respectively.

The proposed 24 lots would require 18 transferred development rights. Currently the applicant holds 13 TDRs. A draft phasing agreement has been submitted and the preliminary plat shows Lots 17 through 21 as "future phase" lots. Phased subdivisions are allowed.

The property features an existing water ski lake, developed prior to the platting of Gregory Ranch in 2004. The lake will be a private recreation facility for lot owners.

An irrigation canal runs along the western side of the property. The applicant and the Wood River Irrigation District #45 have been in communication regarding the easement width, landscaping, and the adjacent berm.

(Note: During the pre-application phase, the subdivision had been tentatively named "MGM Subdivision." Some documents may include this name.)



I. GENERAL BACKGROUND

1. Notice of this public hearing was:
 - i. published in the Idaho Mountain Express on April 29, 2021;
 - ii. sent by first class mail on April 26, 2021 to all property owners within 300 feet of the external boundaries of these lots, plus expanded notice as determined by the Commission on March 25, 2021 (shown in Exhibit C-1);
 - iii. sent to all political subdivisions including irrigation district and water districts on April 26, 2021;
 - iv. posted on subject property on/by May 6, 2021 (and on May 26, 2021, for the June 10 hearing) as evidenced by affidavits in file, which is at least seven days prior to the hearing.

► **Finding on notice:** Upon motion by Commissioner Martin, second by Commissioner Eisenbarth, and by a vote of 5 to 0 (Commissioner Pynn absent and one seat vacant), the Commission finds notice to be in compliance with applicable regulations. §10-4-3 of the Subdivision Ordinance.

The hearing was continued on the record to June 10, 2021. Additional notice was provided by posted agenda and posting on the subject property, noted above. The meeting was continued to June 17, 2021, noticed by posted agenda.

2. **Disclosures:** Commissioner Mendelsohn recused herself because she is employed with The Nature Conservancy, which sold five Development Rights through the County's TDR program to the applicant. Commissioner Pynn stated that he had spoken with the County Engineer generally regarding the Highway 75/Glendale Road intersection.
3. Incorporated by reference are the following exhibits:

"A" Exhibits—Application Materials

Application materials were received on February 11, 2021, unless indicated otherwise.

- A-1: Completed application form, revised, received 3-22-21
- A-2: Vicinity map
- A-3: Preliminary plat and civil, revised, received 3-22-21
- A-4: Drone aerial photo & topography
- A-5: Applicant responses to Threshold Standards, revised, received 3-22-21
- A-6: Impact Assessment Form, revised, received 3-22-21*
- A-7: Hales Engineering Traffic Impact Study
- A-8: Preliminary jurisdictional wetland determination - Sawtooth Environmental Consulting
- A-9: Setback waiver request
- A-10: Phasing request memo and draft agreement
- A-11: Landscape plan, received 3-4-21
- A-12: Irrigation schematic plan
- A-13: Road in SHO exhibit
- A-14: Draft Community Rules (available on the website), received 3-22-21
- A-15: Draft CCR's (available on the website), received 4-16-21
- A-16: Copy of applicant presentation on 5-13-21
- A-17: Brockway Engineering Technical Memo, received 5-19-21
- A-18: Compatibility memo, received 6-1-21
- A-19: Lot size compatibility exhibit, received 6-1-21

- A-20: Storage area illustration, received 6-1-21
- A-21: Hales Engineering memo on COVID-19 impact, received 6-1-21
- A-22: Lake water quality protocol memo, received 6-1-21
- A-23: SCPHD correspondence re setbacks, received 6-1-21
- A-24: Magic Valley Labs water quality analysis, received 6-8-21
- A-25: Brockway Engineering Technical Memo, received 6-9-21
- A-26: Applicant proposed draft amended conditions, received 6-16-21
- A-27: Copy of June 10 presentation, received 6-16-21
- A-28: Private open space exhibit, received 6-16-21
- A-29: Revised irrigation plan, received 6-16-21
- A-30: Revised landscape plan, received 6-16-21
- A-31: Intersection improvement easement exhibit, received 6-16-21
- A-32: Gas line easement, Instrument 123437, received 6-16-21
- A-33: Gas line easement, Instrument 123438, received 6-16-21

“B” Exhibits—Agency Comments

Received on February 11, 2021, unless indicated otherwise)

- B-1: South Central Public Health District
- B-2: Wood River Fire Protection District
- B-3: Idaho Department of Fish & Game
- B-4: Idaho Department of Water Resources
- B-5: County Assessor’s Office
- B-6: Wood River Irrigation District #45, received 2-18-21
- B-7: County Engineer, received 3-24-21
- B-8: South Valley Ground Water District, received 4-26-21
- B-9: Wood River Valley Irrigation District #45 and Triangle Irrigation District, received 4-29-21
- B-10: Idaho Transportation Department, received 4-29-21
- B-11: Idaho Transportation Department, received 5-20-21
- B-12: Idaho Department of Fish & Game, received 6-16-21

“B/U” Exhibits—Utilities (Will-Serve Letters)

- B/U-1 Idaho Power
- B/U-2 Intermountain Gas (+ main line exhibit)
- B/U-3 Lumen
- B/U-4 Cox

“C” Exhibits—Additional Information

- C-1: Map showing expanded notice
- C-2: Vicinity map (GIS aerial imagery)
- C-3: “Greater” vicinity map (GIS aerial imagery)
- C-4: Gregory Ranch Subdivision plat
- C-5: Board of Commissioners Findings & Decision, Gregory Ranch Sub
- C-6: Voluntary road mitigation fee calculation
- C-7: TDR Ordinance Public Hearing Summary
- C-8: TDR Program Ordinances 2006-06 (Title 10) and 2006-05 (Title 9)
- C-9: Lateral 75 Ranch TDR map - Blaine County GIS

"D" Exhibits—Public Comments

- D-1: Bette Gower, 2-23-21
- D-2: Bette Gower, 4-8-21
- D-3: John Hocknell, 5-3-21
- D-4: Ben Bainbridge 5-5-21
- D-5: Kathy Noble 5-9-21
- D-6: Jil Schmidt 5-11-21
- D-7: Steve Hansen 5-11-21
- D-8: Derek Wolfley 5-11-21
- D-9: Frank Smith and Shannon Connauton 5-11-21
- D-10: Rebecca Cookston 5-12-21
- D-11: Billy Best and Kory Ward 5-12-21
- D-12: John Hocknell, Bellevue Farms 5-12-21
- D-13: Keri York Wood River Land Trust 5-12-21
- D-14: South Valley Groundwater Dist and Water Futures 5-13-21
- D-15: Brian Yeager 5-13-21
- D-16: Steve Hansen 5-13-21
- D-17: Tatyana Gray 5-13-21
- D-18: Mark Gower 6-3-21
- D-19: Barbara L Boyer 6-7-21
- D-20: Mike Willard 6-7-21
- D-21: Pam Rheinschild 6-9-21
- D-22: Joe Knight 6-16-21
- D-23: Kory Ward, 6-16-21

II. DESIGN AND IMPROVEMENT STANDARDS §10-5-1, 10-5-2, AND 10-5-3

10-5-1: ADMINISTRATIVE STANDARDS: No preliminary plat application shall be considered by the board or commission until the administrator makes a positive finding with regard to each of the following standards:

A. *Other regulations: To the extent applicable, subdivision proposals shall comply with:*

1. *The following sections of this code:*

a. *Any chapter of [title 3](#) with the recommendation or approval of the health district; SCPHD approval is required. The agency's comments are found in Exhibit B-1, and additional correspondence in Exhibit A-23.*

b. *Any chapter of [title 6](#) with the recommendation or approval of the county engineer and recreation district if appropriate; County Engineer comments are found in Exhibit B-7.*

c. *Any chapter of [title 7](#) with the recommendation or approval of the building official and fire official in an established district; Wood River Fire Protection District approval is required for the roadway and for future building permits. The District's comments are found in Exhibit B-2.*

d. *[Chapter 2 of title 8](#); and N/A - not within an Area of City Impact.*

e. *Any chapter of [title 9](#). Title 9 chapter provisions are reviewed below. Title 9, Chapter 5: Productive Agriculture (A-20), Section 9 covers the receiving area standards within A-20. These standards are reviewed directly below:*

9-5-9: TRANSFERABLE DEVELOPMENT RIGHT (TDR) RECEIVING AREA:

A. *Minimum Lot Area:* The minimum lot area within a designated TDR receiving area to be considered eligible for the purposes of this section shall be ten (10) acres. The subject property is 76.51 acres in total. All three of the lots in Gregory Ranch are over 20 acres.

B. *Maximum Density:* If a parcel is located within a designated A-20 TDR receiving area, the maximum base density may be increased from one dwelling unit per twenty (20) acres to one dwelling unit per two and one-half (2.5) acres as set forth below through the voluntary purchase or transfer of development rights from a parcel in a designated TDR sending area. The proposed preliminary plat yields a density of one unit per 3.2 acres.

C. *Base Density Increase Calculation:* For each development right purchased or transferred, the density in an A-20 receiving area may be increased according to the following schedule:

Number Of Development Rights	Maximum Density On 20 Acre Parcel
1	2 units on 20 acres
2	3 units on 20 acres
3	4 units on 20 acres
6	8 units on 20 acres
Every development right thereafter	An additional unit for each additional 2.5 acres

The applicant has provided this breakdown of the 3 existing lots within Gregory Subdivision, for the total of 24 units (lots) in the proposed Lateral 75 Subdivision:

- Lot 1: 22.14 acres / 6 dev rights / 8 units
- Lot 2: 26.72 acres / 6 dev rights / 8 units
- Lot 3: 27.65 acres / 6 dev rights / 8 units

(The proposed 24 lot density is less than the maximum permissible for the property consistent with the table in 9-5-9.C. and the allowance for an additional unit for each additional 2.5 acres.)

A total of 18 development rights are needed for the proposed 24 lots. To date, 13 have been obtained. See note 35 on sheet C0.5 of the preliminary plat (Exhibit A-3). A draft phasing agreement has been presented, which would allow for the final 5 lots to be platted in a second phase. See Exhibit A-10. Condition #9 addresses this.

An inquiry was made regarding TDR's purchased from the Molyneux family, and how those related to the conservation easements paid for by the County's Land Water & Wildlife Program (LWWP). Director Bergin has verified that the TDRs certified and sold to the applicant by the Molyneux's were separate and distinct from the land under conservation easement through the LWWP. Exhibit C-9 shows all of Lateral 75 Ranch's TDR sending parcels in light green, and identifies the location of the Molyneux LWWP conservation easements with purple circles.

D. *Minimum Lot Area:* One acre. All lots are at least 1 acre in size.

E. Minimum Open Space Within A TDR Receiving Area Cluster: At least fifty percent (50%) of the receiving parcel shall be set aside as public or private open space. See notes 11 and 12 on sheet C0.5 of the preliminary plat (Exhibit A-3). Private open space is proposed, which is defined in Title 10 as follows:

OPEN SPACE, PRIVATE: A land or water area devoid of buildings, streets, parking or other physical structures, except fences and irrigation structures.

Open space is proposed to be provided as follows within the identified Parcels and Lots:

<u>Parcel/Lot</u>	<u>Acres</u>		
R-1	18.42	D-1	0.17
R-2	1.46	D-2	0.21
R-3	0.27	D-3	0.27
R-4	1.28	D-4	0.07
R-5	1.17	Lots 6-18	6.50
R-6	2.62	Lots 19-24	6.00
			<u>38.44</u>

See Exhibit A-28, private open space exhibit.

The subject property is 76.51 acres. The required 50% open space is 38.25 acres. The proposed open space slightly exceeds the requirement.

Condition #21 addresses this.

(- - End of 9-5-9 TDR Standards - -)

2. Adopted Idaho transportation department standards, if the applicant seeks a new or expanded access onto a state highway. No new or expanded access to Hwy 75 is proposed. Traffic will access the highway via East Glendale Road. ITD comments are in Exhibit B-10. District Engineer Jesse Barrus notes that the grade of the existing approach of East Glendale Rd onto the highway does not meet ITD standards. County Engineer Jeff Loomis also notes this existing approach's non-conformance, due to the crossing over the irrigation canal.

Condition #s 17 and 26 address this.

B. Resource Protection Requirements:

- 1. Floodway Areas: Floodways, N/A - No mapped floodway on the site.**
- 2. Avalanche Areas: N/A - No identified avalanche hazard on the site.**
- 3. Riparian Areas: N/A - No streams on the site. The lake is man-made. Neither the lake nor the canal have riparian setbacks associated with them.**
- 4. Wetlands Areas: N/A - the lake is lined /sealed with bentonite and is not a jurisdictional wetland. See Exhibit A-8, Preliminary Jurisdictional Determination by Sawtooth Environmental Consulting, Trent Stumph.**

C. Drainage: Drainage systems shall not discharge into any sanitary sewer facility. No drainage systems are shown that would discharge to sanitary sewer facilities. SCPHD approval is needed for all septic and drain field locations.

D. Lot requirements:

1. Lot sizes, uses and the location of uses shall satisfy any zoning regulations and other applicable sections of this code.

Proposed uses on the lots are primarily residential. All uses on individual lots must comply with the A-20 Zoning district. Proposed lot sizes range from 1.0 to 4.12 acres, which are allowed in the Receiving Area in a TDR development. The Title 9 TDR standards related to lot sizes, etc. are reviewed on pages 4 - 5. (Title 10 standards are reviewed beginning on page 20 of this report.)

2. No single lot shall be divided by a street, existing right of way or other lot. No lot is so divided.

3. No single lot shall be divided by a municipal or county boundary line. No lot is so divided.

4. Lots shall have a minimum mean width of seventy five feet (75'). All lots exceed 75' in width. The narrowest lot is Lot 8, which is 109.52' wide.

5. No residential building or structure for human habitation shall be located within one hundred fifty feet (150') of the centerline of a power transmission line. N/A - The power lines in the vicinity are distribution lines, not transmission lines.

6. All buildings on lots located adjacent to public lands shall have a minimum thirty foot (30') setback from public lands. N/A - not adjacent to public land.

E. Utilities: Any proposed subdivision in a residential zoning district shall install all new utilities, including, but not limited to, gas, electric power, telephone and CATV cables, underground. Underground service connections to the street property line of each platted lot shall be installed at the applicant's expense. Utilities anticipated to be provided are as follows --

electric: Idaho Power; gas: Intermountain Gas; and telephone/internet: Lumen (formerly Century Link). See will serve letters, Exhibit B/U-1 through B/U-4. These utilities are available along East Glendale Road. Utility easements are provided. All utilities provided must be installed underground to each lot. This is noted on the plat and is a condition of approval.

Condition #8 addresses this.

Intermountain Gas has a high-pressure main line that is located on the east side of East Glendale Rd, from which service lines connect in the vicinity. (Exhibit B/U-2)

F. Water Supply:

1. General Requirements:

a. All domestic water sources shall meet state and federal standards for drinking water, wells, separation from sewage disposal systems and any other related requirements. See comment letter from SCPHD, Exhibit B-1. Individual private wells are proposed on each lot with drain fields located on individual lots or on separate parcels as noted on the plat.

b. Fire protection systems shall meet local fire code requirements. Wood River Fire Protection District has advised that at least two 10,000 gallon cisterns will be required. Exhibit B-2. The preliminary plat shows (3) 10,000 gallon cisterns (Sheets C0.3 and C0.4, Exhibit A-3).

c. All abandoned wells shall be sealed to prevent contamination of ground water. One existing well is on the site, proposed to remain. No abandoned wells are associated with the proposal.

d. The requirements of Idaho Code section 42-111 for domestic water limits and section 50-1334 for subdivision water systems shall be satisfied. Preliminary plat note 26 covers this. The CCR's, section 4.5, also indicate the 1/2-acre limitation on irrigation by domestic wells.

Condition #12 addresses this.

2. Central Water Systems: A central water system is not proposed.

3. Irrigation And Domestic System Requirements:

- a. Existing on site surface and ground water rights shall be used for existing on site agricultural uses and domestic and landscape needs before additional domestic rights are sought. The existing domestic groundwater well right will remain with the existing (currently not habitable) residence located on Lot 5. Two water rights provide for irrigation and pond storage. A wet well adjacent the existing canal will be added to irrigate the common area landscaping on the property, as well as provide a pressurized line to irrigate the larger Lots 18-24 on the property. Irrigation for Lots 1-17 will be by individual private wells. See irrigation plan, updated Exhibit A-29.*
- b. Agricultural and domestic water delivery systems shall not be intermingled. The canal irrigation delivery system for agriculture is separate.*
- c. All new wells shall be metered. Preliminary plat note 26 covers this.*

See also Exhibits A-17, A-25, Brockway Engineering Technical Memo and A-27, copy of applicant presentation.

Condition #12 addresses this.

G. Sewage Disposal:

1. All sewage disposal systems shall meet DEQ standards as administered by the South Central health district ("SCHD") and as set forth in the Idaho Code. The applicant states that the project has been designed in accordance with Idaho Department of Environmental Quality (DEQ) standards. Test pits displayed suitable soil for septic. See SCPHD comments, Exhibit B-1 and additional correspondence in Exhibit A-23. Minimum separation between a drain field and a well is minimum 100', between a drain field and the (lined) lake is also minimum 100', and between a drain field and the canal is 50'.

2. Unless otherwise approved by the SCHD:

a. One acre shall be the minimum size of any lot with a septic tank-drain field sewage disposal system; All proposed lots are at least 1 acre in size.

b. Three hundred feet (300') shall be the minimum separation between any drain field site and a natural stream, spring or lake. The existing lake on site is not a natural water body; the bottom of the lake is lined and sealed with bentonite. SCPHD requires a 100' setback from this manmade lake. Drain field parcels D1, D2 and D3 to the west of Three Bears Way, and D4 near the Three Bears Way/E. Glendale Intersection, are proposed to accommodate the required distance for the drain fields serving Lots 1, 2, 3, and 4. All other lots adjacent to the lake have a designated 100' setback from the edge of the lake, which is shown on the preliminary plat (Exhibit A-3). Preliminary plat note 25 covers septic and drain fields.

3. A sewage district or other party acceptable to DEQ shall be organized for the operation, maintenance and ongoing monitoring of any central sewage system. No central sewage system is proposed.

4. Septic systems shall be built to facilitate periodic inspections and maintenance, including the installation of an access riser with lid to grade over the septic tank manhole, effluent filters with access riser and lid to grade, and drain field inspection ports. A requirement for periodic inspections of the septic shall be noted on the plat. Preliminary plat note 25 (Sheet CO.5, Exhibit A-3) provides for the facilitation of inspection and maintenance. A plat note stating that periodic inspections of the septic systems are required and are the responsibility of the homeowner is a recommended plat note.

Condition: recommended plat note (b) addresses this.

H. Street Improvements:

- 1. Street designations shall be determined by the administrator after receiving recommendations from the county engineer. With input and recommendation from the County Engineer and the Road and Bridge Manager, all three of the internal streets are to be private.**
- 2. Streets shall be located by the following guidelines:**
 - a. When an official street plan has been adopted, subdivision streets shall conform to that plan.**
N/A- No official street plan has been adopted for this property or vicinity.
 - b. Frontage roads, landscaping or other design devices to screen or separate traffic shall be required where a subdivision abuts or contains an arterial or major thoroughfare for adequate protection of residential property and to separate through traffic from local traffic. Three Bears Way is similar to a "frontage road," being an existing roadway in Gregory Subdivision. Part of the road is in the SHO. Portions of the gravel roadway in the SHO are to be converted to landscaping (4300 s.f.) and a smaller portion of landscaping would be graveled to create a 20'-wide gravel surface (1400 s.f.). See Exhibit A-13. As such the roadway in the SHO is not expanding from its existing condition. Landscaping and berming also exist and are proposed to screen from Hwy 75.**
 - c. Streets for industrial and commercial subdivisions ... N/A- Not industrial/commercial.**
 - d. Alleys shall be provided in multiple dwelling, commercial or industrial subdivisions ... N/A- Not multi-family, commercial or industrial.**
 - e. Culverts or bridges shall be provided and installed by the subdivider where drainage channels intersect any street rights of way. Culverts shall, at a minimum, extend across the entire width of the street and shoulder. Drainage is to be provided consistent with county road standards. Internal streets do not cross the canal.**
 - f. Streets shall be complementary to existing road patterns and tie into the existing system where stub streets indicate that intent. Streets which are a continuation of established streets shall be aligned so that the centerlines coincide. Can Can Road intersects with East Glendale Rd opposite Silver Lakes Dr and at the corner of the 90-degree turn in East Glendale Rd.**
 - g. Reserve strips controlling access to public streets shall be permitted provided that the control and disposition of that land is placed within the jurisdiction of the board under conditions specified and shown on the final plat. No reserve strips are proposed.**
 - h. Underground conduit for utilities shall be provided across or under all streets before they are completed to prevent future disruption for installation of underground utilities. This can be accomplished for Can Can Rd and Hour Glass Loop which are new streets.**

I. Intersection Location And Specifications: Intersections shall conform to the following:

- 1. No more than two (2) streets shall intersect at one point. Proposed streets comply.**
- 2. Street centerlines shall be offset by at least one hundred twenty five feet (125'). Three Bears Way and Hwy 75 centerlines are offset by 220'. Three Bears and Can Can Rd/Silver Lakes Dr centerlines are offset by 420'. Internally, the centerlines of Hour Glass Loop's intersections with Can Can are offset by approximately 150'.**

J. Street Specifications: The following street specifications are in effect:

- 1. Street Construction: Street construction shall comply with title 6 of this code. Private streets are to be constructed to features set forth in 4.2.2 of the Roadway Functional Classification, in accordance with the International Fire Code. The project engineer must attest to compliance.**
- 2. Street Names: Street names on new streets aligned with existing streets shall have the same name as the existing streets. Proposed street names shall not duplicate or be sufficiently similar in sound or spelling to cause confusion with existing street names. Street name signs and all other traffic control**

signs or devices as required by the board shall be installed by the subdivider. Cul-de-sacs shall be named circle, court, or place. The County Assessor has approved the proposed street names. (Exhibit B-5).

3. Street And Road Design: All streets and roads shall be designed by a licensed professional engineer. The plans and specifications for such roads and streets shall be approved by the county prior to acceptance of the final plat. The project engineer must attest to compliance with plans and specs for private streets.

K. Lighting Standards: All outdoor lighting in the proposed subdivision shall comply with title 9, chapter 29A of this code. All exterior lighting is reviewed at time of building permit application for compliance with the Outdoor Lighting chapter of the county's Zoning regulations. There is no existing outdoor lighting on the site.

► Finding: The applicable Administrative Standards are met or conditionally met. See conditions noted above.

10-5-2: THRESHOLD STANDARDS: No preliminary plat application shall be approved unless the board determines that the application complies with each of the following standards:

❖ **APPLICANT RESPONSES TO THE THRESHOLD STANDARDS ARE FOUND IN EXHIBIT A-5.**

A. Administrative Standards: The administrator's recommendations on the standards set out in section 10-5-1 of this chapter are acceptable or need modification. The administrator's finding on administrative standards are noted above.

B. Comprehensive Plan: The proposed subdivision of land conforms to and is in accordance with the comprehensive plan text and map. The applicant's responses cover several sections including Transportation, Housing, Recreation, Agriculture, Natural Environment, Public Services, Economic Development, Land Use (Bellevue Triangle & Foothills subarea). Several of these touch on the TDR program.

The Land Use Chapter includes several policy statements related to sustainability. The Commission recommended sustainability features in the proposed subdivision including requirements for water conservation and renewable energy (e.g. all homes in the subdivision to be wired or provide conduit for solar energy). The applicant has addressed some sustainability matters in the draft CCRs including 4.2 regarding facilitating solar energy and 4.4 regarding Firewise and drought tolerant landscaping.

Conditions #12, 14, 15 address this.

C. Impact On Public Facilities And Services: The proposed subdivision shall not adversely affect the quality of essential public services and facilities to current residents, including, but not limited to, potable water sources, school facilities, school bus transportation, police and fire protection, emergency services, county administrative services, recreation, public transportation, roads and standard road maintenance costs or shall not require substantial additional public funding in order to meet the needs created by the proposed subdivision. Distance from services, the availability and capacity of paved public roads, the potential for public transportation services, the availability of twenty four (24) hour emergency service personnel and estimated emergency response time to the development,

along with the location of other public services, shall be considered in calculating the potential impact on public facilities and services. The applicant may be required by the board to mitigate the adverse effects of the proposed subdivision, which may include, without limitation, contributions for additional capital improvements, ongoing maintenance, and labor costs. The plan for, timing of, and proposed phasing of the mitigation shall be in a form acceptable to the board.

The location of the proposed subdivision was determined to be appropriate for higher density when it was included within the TDR Receiving Area. Development rights from lands in the TDR Sending Area - which is farther away from the incorporated cities - are transferred away from those lands to land closer to the available services (e.g. schools, emergency and administrative services) in a TDR development such as this.

Many recreational needs can be met on site with the existing lake, the proposed amenities building and the proposed walking/equestrian trails.

The property is directly adjacent to a state highway, though at this time no public transportation is available.

A Traffic Impact Study was conducted by Hales Engineering, see Exhibit A-7. The study indicates the proposed subdivision at full project buildout will add an estimated 298 daily trips to East Glendale Road, including 29 morning peak hour trips and 32 evening peak hour trips (page 8). The study examines traffic at East Glendale Road and Hwy 75. The TIS identifies no mitigation measures recommended for "Future (2025) Plus Project Conditions," finding "No significant queuing is anticipated during the morning peak hour." (page 18) A memorandum from Hales Engineering explaining the traffic impact study relative to COVID-19 has been submitted (Exhibit A-21). It notes that traffic counts on SH 75 "were similar to volumes from a year prior." While traffic along East Glendale Rd was less, adding additional vehicle trips into the model did not change the level of service.

Condition #25 addresses this.

Subdivision traffic on a County road would occur on the ¼ mile of East Glendale Road adjacent to the proposed development. The majority of subdivision traffic is likely to occur within the roughly 700 feet from the northern approach of Can Can Road over to Hwy 75. The P&Z Commission recommended, for the Board to ultimately decide upon, some fee mitigation for future improvement to East Glendale Road. Attached as Exhibit C-6 is the spreadsheet showing a preliminary voluntary road mitigation fee of \$42,263. This fee will be recalculated for the proposal and include a mitigation fee for future approach improvement.

ITD District Engineer Jesse Barrus notes that the existing approach of East Glendale Rd onto the highway does not meet ITD standards. However, in Exhibit B-11, he notes that there is no proposed new approach to the highway, and that ITD does not have the authority to require the approach be improved with the proposed development.

Condition 17 and 26 address this. See also Exhibit A-31, easement exhibit.

All agency/service provider comments are found in the "B" Exhibits.

D. Land Under Floodplain: N/A - the property is Flood Zone X, "Area of Minimal Flood Hazard".

E. Agricultural And Rural Land (A-20, A-40, R-10 And RR-40): In addition to all other applicable criteria in title 9 of this code and this title, proposed subdivisions in lands zoned A-20, A-40, R-10 and RR-40 shall comply with the following criteria: The subject property is zoned Productive Agriculture (A-20) in the TDR Receiving Area.

1. The subdivision and addition of residential uses will be compatible in size, scale, density and other respects with the uses and agricultural operations in the surrounding area;

Compatibility of lot sizes/scale/density: The lots on the eastern and southern sides of the proposed subdivision are the largest, ranging in size from 2.83 to 4.12 acres. The lot lines of proposed Lots 22 thru 24 of Lateral 75 Ranch Subdivision align with Lots 1 thru 3, Block 2, Bellevue Farms Subdivision across East Glendale Road, and Lots 20 and 21 are aligned to match the two unplatted vacant lots to the east. Smaller lots are proposed around the lake. The proposal is denser than surrounding areas, due to the inclusion of the property in the TDR Receiving Area. A density of one unit per 2.5 acres is allowed; a density of one per 3.2 acres is proposed.

Compatibility of uses. The surrounding area is one of transition between large-scale agricultural uses and residential uses. See Exhibit C-2 - an aerial view of the vicinity. Large parcels exist to the west across the highway. Lots to the north, east, and south range from 5 to 20 acres. Some of these lots are vacant, several are in residential use, and some are in smaller scale agricultural uses, e.g. horse properties. The surrounding area is relatively rural in nature with uses limited to residential and agricultural. The proposed uses include residential and possibly some very small scale agriculture, e.g. chickens and riding horses. The water ski lake is existing. The applicant's "Community Rules for Lateral 75 Ranch" (Exhibit A-14) include multiple regulations for use of the lake as well as residential lots. Community Rules for the lake include limitations on the type of motorized boats and a noise level limit -- see paragraph 6.9 in Exhibit A-14 regarding boat noise specifications, and A-27, copy of applicant presentation.

This compatibility standard was reviewed in light of the current zoning regulations, which include the TDR Receiving Area (Zoning code section 9-5-9) in which the subject property is located. In demarcating the Receiving Area in 2006, the P&Z Commission recommended and the Board determined by ordinance that additional density is appropriate in this area. Conditions are recommended to alleviate compatibility concerns with surrounding agricultural operations, e.g.: agricultural disclosure plat notes, and ensuring no disruption of surface water delivery via the canal.

See also the applicant's Compatibility Analysis memo (Exhibit A-18) and Lot Size Compatibility Exhibit (Exhibit A-19).

2. The subdivision, when considered in light of the existing or likely cumulative effect of residential development in the area, will not materially change the character of agricultural land, agricultural uses, or the economic viability of existing agricultural operations in the area; As noted above, the property is within a transitional area between larger scale agricultural lands approximately half a mile to a mile to the east and south, and primarily residential uses in the immediate vicinity and to the north. See Exhibit C-3 - an aerial view of the greater vicinity. It is for this reason that the subject property and properties to the south and east were designated as the TDR receiving area, down to Pero Road. See also response to sub-item 1. above.

3. The subdivision will not result in adverse or negative impacts upon lands in the surrounding area presently in agricultural use. Some of the surrounding lands are in active agriculture, some are

not. Few of the surrounding parcels appear to be irrigated for crops. See Exhibits C-2 and C-3. Impacts to agricultural uses in the vicinity was given consideration when the area was designated as TDR Receiving Area.

Condition 16 and recommended plat notes (d) address this.

F. Avalanche Areas: N/A - no identified avalanche hazard on the site.

G. Unsuitable Land: Land with conditions that may be detrimental to the health, safety or general welfare of existing or future residents because of potential hazards such as landslides, mine tailings, subsidence, high water table, high pressure gas lines, power transmission lines; or other features with severe development limitations shall not be subdivided for building or residential purposes unless the hazards or other features are eliminated by lawful permit or overcome by approved design and construction plans. No such unsuitable land is known to be present on the subject property.

H. Applicant Or Landowner: If the applicant or landowner with respect to an application for a subdivision under this chapter is the state of Idaho, or any agency, ... N/A - the applicant is a private entity.

I. Water Quantity And Quality: Domestic water shall be available in sufficient quantity to meet foreseeable demands. Where insufficient data is available to verify water quantity, an on site test well and a pump test in the area of the proposed use shall be required.

The applicant has demonstrated that there shall be no negative impact on water quality from the proposed subdivision by complying with standards adopted by the Idaho department of environmental quality.

Water quantity: Individual wells are proposed. Well logs from the subject property and nearby properties show that existing wells are of reasonable depth (from 100-160 feet deep) and yield between 50-150 gallons per minute, adequate to serve the domestic needs of the project.

Irrigation water will be in accordance with water rights appurtenant to the property.

See also Exhibit A-17 and A-25, Brockway Engineering Technical Memo and A-27, copy of applicant presentation.

Condition #12 addresses this.

Groundwater quality: No significant adverse impact to groundwater quality is foreseen from domestic uses. The water ski lake is lined.

Condition # 23 addresses this.

Surface water quality: The County Engineer noted that surface water runoff from lots and parcels surrounding the lake should be considered as contaminants that enter the lake and might adversely impact the downstream canal water users (Exhibit B-7, item 1.07). The draft CCR's include paragraph 3.12, Drainage, as follows:

***3.12 Drainage.* No Owner will interfere with the established drainage pattern over any portion of the Community, unless adequate alternative provisions for proper drainage have first been approved by the Committee and properly installed. For the purposes hereof, "established" drainage is defined as the system of drainage, whether natural or otherwise, which exists at the time the overall grading of any portion of the Community is completed by Developer, or that drainage which is shown on any plans approved by the Committee, which may include drainage from Common Area over any Lot in the Community. No Owner may permit the**

drainage of water from the Lot into MGM Lake unless the drainage is specifically approved by the Association.

The applicant submitted a memo regarding water quality protocol measures for the lake. See Exhibit A-22. Results from water sample testing from Magic Valley Labs are Exhibit A-24. Condition #19 addresses this.

► **Finding:** The applicable Threshold Standards are met or conditionally met. Conditions intended to address compatibility with surrounding agriculture have been added: conditions 16 and plat note (d). See additional conditions noted above.

10-5-3 DESIGN STANDARDS: No preliminary plat application shall be approved unless the board makes a positive finding that the application complies with each of the following standards. No waiver of any of these standards may be granted except pursuant to section 10-8-5 of this title.

A. Preservation Of Natural Features: Where found practicable and appropriate, the following specific areas regardless of location shall be left undeveloped and undisturbed:

1. **Unique or fragile areas such as geologic features and natural topography of the land with the goal of preserving the character, natural features and configuration of land terrain; No geological or other such features are on this property.**
2. **Areas of natural vegetation, including unique landscapes, large individual trees, and stands of trees, excluding irrigation rights of way under Idaho Code 42-1101. A plan for landscape protection, tree preservation, and tree introduction shall be evaluated to determine compliance with this standard; There are several existing trees on the site, primarily in the vicinity of the old residence. Several are within the SHO. More trees existed along the canal prior to their removal by the canal company several years ago. A landscaping plan has been submitted - See updated Exhibit A-30. It shows the existing trees would all remain.**
3. **Natural habitat and other areas of significant value to wildlife, including migration corridors as identified by Idaho fish and game; IDFG comments are in Exhibit B-3.**
4. **Historically significant structures or sites; No historical structures/sites on the site.**
5. **Wetlands, natural drainage channels or watercourses. None on the site. See Exhibit A-8, wetland delineation report.**

B. Lot Requirements:

1. **Each lot shall contain a satisfactory building site which is properly related to topography.**

The applicant has submitted a waiver request (Exhibit A-9) to setbacks for lakeside structures (docks, boat lifts, etc.) which would not be able to meet the side/rear setback adjacent to the lake, for practical purposes. Easements into the lake parcel are shown to accommodate these structures which necessarily would encroach into the water. Waivers may be approved by the Board under 10-8-5. The Commission recommends approval of this waiver.

10-8-5: WAIVER:

The board, in a specific situation, may approve a waiver from strict compliance with a design standard in section 10-5-3 of this title if:

- A. ... or
- B. *An applicant can demonstrate that the purposes of these regulations are better served by an alternative proposal.*

2. *Corner lots shall be a sufficient area without obstructive landscaping to provide acceptable visibility for traffic safety. Corner lots and HOA parcels contain sufficient area for safe sight lines onto the roadways at all intersections. Landscaping at corner lots and parcels should take sight lines into account. This is a condition of approval.*

Condition #18 addresses this.

3. *Each lot shall have access to an internal street or drive, where practicable. All proposed lots have access to internal streets. None would access directly from SH75 or East Glendale Road. Parcels R3 and R4 assure that none of the lots bordering East Glendale Road access directly onto this County road. Preliminary plat note 18 also covers access to the internal streets.*
 4. *Calculation of lot area shall not include land which is below the "natural or ordinary high water mark" of navigable streams... N/A - no navigable streams on the site.*
 5. *If lots in a residential land use area are more than double the minimum acreage required for a residential zoning district (R-4 - R-2^{1/2}), equal or exceed the minimum acreage required in the residential/agricultural district (R-5) or are within an area of city impact, applicants may be required to arrange lots in anticipation of future resubdivision and provide for future streets where necessary to serve potential lots. None of these situations is relevant to the subject property.*
 6. *Each lot located adjacent to public lands ... N/A - not adjacent to public land.*
- C. Blocks:** *Blocks shall be designed to assure traffic safety and ease of traffic control and circulation. Blocks shall allow for two (2) tiers of lots unless topography or other factors indicate irregularly shaped blocks indented by cul-de-sacs. The board has the authority to review and modify block sizes. Block 1 includes Lots 1 through 21. Block 2 includes Lots 22-24. All lots access the internal streets for safe traffic circulation.*
- D. Utilities:** *The subdivider shall:*
1. *Grant a public and private utility easement of at least ten feet (10') in width on the edge of the access road right of way and, where topographic or other conditions permit, centered on all side lot lines; Preliminary plat note 27 states that a 10' public utility easement exists along all lot frontages to the internal roads. Because of the layout of the lots and roads, easements along the side lot lines are unnecessary.*
 2. *Install utilities prior to road surfacing; The applicant has noted that this will occur.*
 3. *Where practicable, relocate underground any existing aboveground utilities, excluding power transmission lines. The applicant will underground all utility lines within the subdivision. There are no overhead lines adjacent to the property or along East Glendale Road.*

Condition #8 addresses this.

E. Drainage:

1. *The subdivider shall provide suitable drainage facilities for any surface runoff from within or upstream of the subdivision. Natural drainage channels shall be used whenever possible. To avoid soil erosion and manage nutrients, sediment catchment basins may be required.*
2. *Where a subdivision contains a stream, watercourse, drainageway, channel or ditch, an easement shall be provided adequate to contain that watercourse and any further width necessary for maintenance or reconstruction. A 40' Water District canal easement is shown centered on the existing ditch along the west property line. At the request of the Irrigation District, the applicant has agreed to expand the easement to 50 feet and accept canal maintenance responsibility on the subject property north of the applicant's canal diversion (where the existing berms and trees are fairly close to the canal).*

Condition #16 addresses this.

F. Water Supply:

- 1. Central Water Systems:...** A central water system is not proposed.
- 2. Irrigation System Requirements:** All subdivisions shall satisfy the requirements of Idaho Code section 31-3805 for irrigation water delivery. Consistent with Idaho Code 31-3805, Subsection (i)(b)(iii), the applicant is requesting approval from the County, as recommended by the Water District, that water delivery to land within the subdivision occur as set forth in the proposed irrigation plan. **See updated Exhibit A-29.**

G. Sewage Disposal:

- 1. All sewage disposal systems shall meet any additional requirements that the board deems necessary to protect the public health, safety or general welfare.**
- 2. The board may determine larger minimum lot sizes than one acre upon evaluation of engineering reports. The board may require a second engineer's opinion where necessary.**

SCPHD reviewed the test pit analyses provided by Galena Engineering and found suitable soils for standard private septic systems.

H. Solid Waste Disposal: The subdivider shall present a written plan for:

- 1. The orderly and efficient removal of solid waste from the subdivision to the county landfill or disposal site;**
- 2. The grinding of recyclable yard waste; and**
- 3. The recycling of other types of recyclable waste.**

Curbside disposal is provided by commercial solid waste company. Individual cart service will be provided to each residence. Either cart or dumpster service will be provided at the Parcel R1 dock area. Recycling, including individual yard waste, will be the responsibility of individual owners.

I. Park Or School Site Dedication: Based on a recommendation regarding the suitability of the site from the recreation or school district, an applicant may be required to provide either land or a financial contribution or both for playgrounds, recreation space or a school site based on a rationally related formula determined by a resolution or ordinance of the board. A total of 15 school age children is estimated for the proposed subdivision (Exhibit A-8, #I. B). Park/school site dedication is not warranted by the size of the subdivision.

J. Access Easements: The board may require an access easement to publicly administered land, streams, rivers, lakes and reservoirs... **N/A - not adjacent to public land.**

K. Development Rights: On a final subdivision or PUD plat, the applicant may be required to relinquish, or transfer to an approved land trust, any residual rights to develop residential, commercial or industrial uses in all common or open space areas, as those are defined in this title. **N/A - no residual development rights exist.**

L. Hillside Standards: **N/A - no MOD or 15% slope lands on the site.**

M. Design Of Subdivisions Within Or Adjacent To Lands Zoned A-20, A-40, R-10 Or RR-40: Subdivisions shall be designed to preserve natural, open space and scenic resources, protect sensitive areas such as riparian areas, wetlands, wildlife habitat and wildlife migration corridors, and watercourses, and reduce impact on neighboring properties.

50% of the property is designated as private common open space consistent with TDR receiving area code regulations. The property does not have any designated wildlife migration corridors or jurisdictional wetlands.

1. In addition to the above, subdivisions within or adjacent to lands zoned A-20, A-40, R-10 and RR-40 shall be designed and residential structures located to minimize the impact on agricultural land, farming operations, and sensitive environmental features. The board should consider, without limitation, the following design criteria:

- a. Locating residential structures as far from neighboring agricultural lands as possible;
- b. Grouping land uses as much as practical, such that agricultural lands abut neighboring agricultural lands and residential structures are located contiguous with other residential uses;
- c. Locating structures on the least productive agricultural land and in such a manner as to have little impact on any environmental, agricultural or open space resources; and
- d. Placing residential structures nearest to utilities and roads to minimize the amount of infrastructure and the loss of agricultural land.
- e. A buffer between different types of uses (i.e., residential and agricultural) may be required.

The lots on the eastern and southern sides of the proposed subdivision are the largest, ranging in size from 2.83 to 4.12 acres. The lot lines of proposed Lots 22 thru 24 of Lateral 75 Ranch Subdivision align with Lots 1 thru 3 of Block 2 of Bellevue Farms Subdivision across East Glendale Road, and Lots 20 and 21 are aligned to match the two unplatted vacant lots to the east. Smaller lots are proposed around the lake. Roads and utilities in the subdivision do not cross or result in the loss of ag land. The location of the lots and the 30'-wide landscaped parcels on the north, east and southern perimeters appear to provide some visual buffering.

The applicant has submitted a "Storage Area Illustration" (Exhibit A-20) that shows the proposed gravel parking storage area and the proposed landscape screening/buffer between that use and the adjacent property to the south. See revised landscape plan, Exhibit A-30, which includes a screening fence, additional landscaping, berm and a minimum 50' setback from the southern property line.

Condition 20 addresses this.

2. For lands located within the R-2, R-2^{1/2}, and R-5 zoning district N/A - zoned A-20.

N. Street Improvements:

1. *Conformance To Plans: Streets shall in general conform with the comprehensive plan, other accepted plans, the provisions of this title and title 6 of this code. All three proposed streets shall be private roads. These roads, as proposed, meet the features for private roads set forth in the County's road functional classification.*
2. *Dedication: Collector and arterial streets within a proposed subdivision shall be offered for dedication to the public. Minor streets may be dedicated or kept private. Private roads will not be allowed where there is a need for public access to adjacent lands. Dedication or other provision for future access to surrounding areas may be required. Because the internal streets are considered minor and do not access adjacent public land, after recommendation by the County Engineer and Road & Bridge Manager, none of the streets will be dedicated to the public. As such no public funds will be required for their maintenance. (All of East Glendale Road adjacent to the property has a dedicated 60' right-of-way.)*
3. *Conditions: The arrangement, type, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety and in their relation to the proposed uses of the land to be served by such streets. The internal streets appear to comply with these standards. The County Engineer*

suggested possible consideration of providing a secondary access to Three Bears Way for, e.g. emergency vehicle access.

4. Location: Streets shall be located by the following guidelines:

- a. Streets shall be arranged in proper relation to topography so as to result in usable lots, safe streets and acceptable gradients.
 - b. Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions may allow streets to extend to the tract boundary to make provisions for the future extension of streets into adjacent areas. A temporary cul-de-sac may be made to serve present traffic.
 - c. Minor streets shall be arranged to discourage through traffic.
 - d. Dead end streets are prohibited. Stub streets with a temporary cul-de-sac may be permitted in anticipation of a future through street.
 - e. Cul-de-sac streets shall be discouraged. However, when topography or planning considerations dictate their use, cul-de-sacs shall:
 - (1) Include a right of way measuring one hundred feet (100') in diameter at the terminus;
 - (2) Include an additional snow storage easement of ten feet (10') around the periphery; and
 - (3) If offered for dedication to the county, meet county road specifications and include an entirely paved terminus measuring ninety feet (90') in diameter.The board shall have the explicit option of accepting or rejecting the road for dedication to the county.
 - f. Half streets shall normally be prohibited except where satisfactory assurance for dedication of the other half is provided.
 - g. Encourage streets to be laid out so that the lot design facilitates the use of solar energy.
- The proposed private streets appear to follow the guidelines stated in a - g above.

O. Intersection Location And Specifications: Intersections shall conform to the following:

1. Intersections of minor streets with major arterials or highways shall be kept to a minimum. N/A - no intersection with an arterial/highway is proposed.
2. Streets shall intersect at right angles or as close thereto as possible. While Road & Bridge commented that a "T" intersection at Can Can Road and East Glendale where it turns to the east would be preferable, they stated that necessary adjustments for snow plowing on East Glendale are possible.
3. Intersection design shall provide acceptable visibility for traffic safety. There is ample sight distance at each of the intersections. Landscaping at corners should take sight lines into account. This is a condition of approval.
4. A nearly flat grade with appropriate drainage slopes is desirable within intersections. This flat section shall be extended a minimum of one hundred feet (100') each way from the intersection. An allowance of two percent (2%) maximum intersection grade in rolling terrain will be permitted. Each of the on-site roads complies with this intersection grade and distance standard.
5. The board may require deceleration and left turn lanes at intersections. N/A - the subdivision streets do not intersect with the highway.

P. Landscaping And Grading: The landscaping and grading plan shall minimize lot disturbance, maintain existing topography to the greatest extent possible, maintain or restore natural landscapes, shall emphasize drought tolerant species, where applicable, and shall include an irrigation plan that shows how disturbed areas will be restored.

Grading: The site is relatively flat and grading for the subdivision will primarily be to create the roadways.

Landscaping: A full landscape plan has been submitted, see updated Exhibit A-30 and the irrigation plan, updated Exhibit A-29. Some areas are shown with drought tolerant species (native shrubs, sagebrush areas, natural grasses). Other areas are shown as "grass areas." Various "orchard" (fruit) trees are proposed in Parcel R2, which may not be drought tolerant. Limited irrigation water rights exist for watering common areas and some of the areas on the larger lots. IDWR comments on the property's water rights are in Exhibit B-4. The CCRs include language regarding water conservation and irrigation limits in private lot landscaping, Section 4.4 and 4.5 (Exhibit A-15).

The applicant has submitted a request for Categorical Exclusion (administrative approval) of proposed new plantings within the SHO. Historical photos indicate that existing deciduous trees within the SHO have been there back to at least the 1940s. There were more deciduous trees than currently existing as many were removed along the canal by the irrigation district (sometime in the 2000's). Commissioner's input regarding this was to recommend limiting the extent of aspen trees to the extent possible within the SHO.

- Q. Nonmotorized Facilities: Applicants may be required to accommodate in the subdivision design nonmotorized transportation facilities, such as bike, equestrian and pedestrian paths, and facilities for public transportation services. Homeowner pedestrian and equestrian paths are provided within the subdivision. The Blaine County Community Bicycle and Pedestrian Plan does not call out any proposed improvements in this location.*
- R. Wildlife: Lands in the wildlife overlay district shall be developed as permitted by title 9, chapter 20 of this code. In addition, the following standards shall apply:*
- 1. Fencing:*
 - a. General: Both internal and perimeter fencing on sites containing wildlife habitat shall be kept to a minimum necessary to contain livestock and domestic animals and to provide privacy. No fencing is the strongly preferred option.*
 - b. Perimeter Fences: Perimeter fencing of properties containing classified lands is prohibited except if necessary for containment of livestock as part of a bona fide agricultural operation. Such fencing shall be constructed according to the standards below.*
 - c. Interior Fences: Interior fences may be constructed within each lot to control domestic pets and animals according to the standards below. Interior fencing shall be restricted to the smallest area practicable within the activity envelope.*
 - d. Wire Fencing: Wire fencing for containment of livestock in or adjacent to critical wildlife habitat areas such as migration corridors shall have three (3) strands or less. The top wire should be a 12.5-gauge twisted barbless or similar type at a maximum height of forty two inches (42"). The middle strands, which may be barbed, should be located a minimum of twelve inches (12") from the top wire to prevent entanglement when animals jump over the fence. The bottom strand should be barbless and a minimum of eighteen inches (18") from the ground.*
 - e. Rail Fencing: Rail fencing shall employ three (3) rails or less and shall not exceed forty six inches (46") in height above ground level, twelve inches (12") in width (top view), and the lower rail should be a minimum of eighteen inches (18") from the ground. Solid wood fencing should generally be limited to areas around a primary residence and shall be prohibited on classified lands.*
 - 2. Domestic Animals: Development applications in the wildlife overlay district shall include a plan with specific enforcement measures for the control of domestic animals and pets. Such plan must include*

provisions to prevent the harassment, disturbance, and killing of wildlife and prevent the destruction of critical wildlife habitat.

- 3. Exterior Lighting: Use of exterior lighting shall be minimized near critical wildlife habitat. Lighting shall be designed to prevent spillover into habitat and all exterior lighting must be fully shielded by cutoffs with an angle not exceeding ninety degrees (90°).*
- 4. Construction Timing: The county may regulate the timing of construction or land disturbance on classified lands as recommended by IDF&G, any other applicable agency or review professional who may be engaged by the county.*

IDFG's comment letter is Exhibit B-3. They support the wildlife-related plat notes on the preliminary plat (#29-34) and suggested additional notes regarding enclosures. These are conditions of approval. See also additional comments in Exhibit B-12.

S. Gates: Limited entry or private gates may be prohibited at the entrance to any nonagricultural development approved under this title. The existing entry gate at Three Bears Way is proposed to be upgraded and provisions made for emergency service access. The stated purpose of the gate is to limit the non-authorized use of traffic on Three Bears Way in order to assure the on-going safe and limited operation of uses on the lake parcel. The applicant has also stated that entryway features, including possible gates at Can Can Road at both intersections with East Glendale Road, are proposed. The Commission found the proposed gates are not necessary for those streets that have no access to the lake or its associated amenities. Gated communities generally have not been supported in the County. The Commission recommends that the applicant shift the existing gate at Three Bears Way farther into the interior of the property to alleviate the appearance of a gated community.

Condition 13 addresses this.

T. Riparian And Wetland Areas: N/A- there are no streams or jurisdictional wetlands on the property and, as such, these setback regulations do not apply to either the existing lake or canal.

► Finding: The applicable Design Standards are met or conditionally met. See conditions noted above.

III. DEFINITIONS / PERMANENT TRANSFER OF DEVELOPMENT RIGHTS TO A RECEIVING PARCEL §10-10-2, 10-10-10

10-10-2: DEFINITIONS:

DEVELOPMENT RIGHTS: *Those development rights as calculated herein permitted to a lot, parcel or area of land under a zoning or other ordinance respecting permissible use, area, density, bulk or height of improvements.*

RECEIVING AREA: *One or more areas of land designated by the Blaine County board of county commissioners to which development rights generated from one or more sending areas may be transferred and in which increased development is permitted to occur by reason of such transfer. The receiving areas shall be A-20 zone district subareas established by Blaine County pursuant to the procedures of section 67-6511, Idaho Code, as an area suitable to receive transferred development rights.*

RECEIVING PARCEL(S): *Parcel(s) of land within a receiving area to which one or more development rights may be or are transferred.*

SENDING AREA: One or more designated areas of land in which development rights may be designated for use in one or more receiving areas. The sending areas shall be in A-20 or A-40 zoning districts established by Blaine County pursuant to the procedures of section 67-6511, Idaho Code, as an area in which use or development should be restricted.

SENDING PARCEL(S): A parcel(s) of land within a sending area from which one or more development rights may be or are transferred.

TRANSFER OF DEVELOPMENT RIGHTS: The process by which one or more development rights are severed from a sending parcel by the recording of a deed of transfer and a TDR easement transferring such development rights. Any such severed rights subsequently may become appurtenant to a receiving parcel as provided herein.

10-10-10: PERMANENT TRANSFER OF DEVELOPMENT RIGHTS TO A RECEIVING PARCEL:

A. The transfer of a development right to a receiving area established pursuant to section 10-10-4 of this chapter:

1. Shall become affixed or appurtenant to a specific receiving area parcel upon approval by the county of a plat pursuant to the provisions of chapter 4 of this title; See note 35 on sheet CO.5 the Preliminary Plat (Exhibit A-3) for a listing of TDRs utilized in the first phase.
 2. Shall result in a minimum lot size of no less than one unit per one acre or a maximum density of no more than one unit per two and one-half (2.5) acres; Proposed lot sizes are one acre or more, with an overall density of one unit per 3.2 acres. See also review of TDR-related standard of Title 9, on pages 4 - 6 of this report.
 3. Shall include a note on the plat describing all development rights made appurtenant thereto, including the serial numbers of the individual certificates for each such development right; and "Serial numbers" refers to TDR Number and Instrument numbers. See preliminary plat note 35 (Sheet CO.5, Exhibit A-3) for a table listing the TDRs utilized in the first phase.
 4. Shall, once the plat is recorded, become permanently affixed to the receiving parcel. This is accomplished by item B directly below.
- B. A deed of attachment of development right, in the form prescribed by the board, shall be recorded with the Blaine County recorder indicating the permanent attachment of any development rights to the receiving area plat or lot(s) and shall include the names of the initial grantor of each development right affixed or made appurtenant to the receiving parcel, the instrument number of the original deed of transfer, the name of the last grantee of record of each development right affixed or made appurtenant to the receiving parcel, and the serial numbers of the individual certificates for each such development right. This will be created and recorded after an approval of this application and before or simultaneously with the recording of the final plat. This is a condition of approval.

► **Finding:** The applicable Chapter 10 standards are met or conditionally met. Conditions 9 and 11 address relevant standards.

IV. RECOMMENDATION AND CONDITIONS

► **Recommendation:** Having considered the information presented and the above standards, upon a motion by Commissioner Martin, a second by Commissioner Pynn, and a 4 to 0 vote (Commissioner Eisenbarth absent, Commissioner Mendelsohn recused, and one vacancy), the Commission recommends approval of this subdivision application by Flying Squirrel Productions LLC for Lateral 75 Ranch Subdivision, a 24-lots subdivision utilizing TDRs, finding the application complies with the applicable criteria set forth under Title 10, Subdivision Regulations and applicable criteria of Title 9, Zoning Regulations, subject to the following conditions:

Recommended conditions of approval:

1. Record the final plat within 3 years of final approval or seek and be granted an extension at the Board's discretion within that year.
2. Pay all county engineer fees, if any, prior to obtaining the final county signatures.
3. Place the standard health department signature note on the face of the final plat.
4. Set out the square footage of each lot on the final recorded plat.
5. Satisfy the monumentation requirements of state law and §10-4-5(H).
6. Comply with the survey requirements of Blaine Co. Resolution #2002-54.
7. Add to the plat an I.C. §50-1334 certificate regarding the type of domestic water system.
8. All utilities noted in 10-5-1.E. must be installed underground to each lot.
9. All required development rights shall be obtained through the TDR program prior to recordation of the applicable phase of the plat, as set forth in the phasing agreement. The phasing agreement shall be executed prior to recording the final plat of Phase 1.
10. All internal streets shall be completed (or a security deposit provided) prior to recording the final plat of Phase 1.
11. A deed of attachment of development right shall be recorded with the Blaine County recorder indicating the permanent attachment of any development rights to the receiving area plat or lots and shall include the names of the initial grantor of each development right affixed or made appurtenant to the receiving parcel, the instrument number of the original deed of transfer, the name of the last grantee of record of each development right affixed or made appurtenant to the receiving parcel, and the serial numbers of the individual certificates for each such development right.
12. The CCRs shall be amended to include:
 - a) the 1/2-acre limitation on irrigation by domestic wells;
 - b) a 1/4-acre limitation on irrigation of turf grasses by domestic wells;
 - c) design review requiring:
 - i) the mulching of plant beds,
 - ii) use of native or drought-resistant plants in the landscape,
 - iii) grouping of plants according to water needs,
 - iv) use of drought resistant landscaping, and
 - v) irrigation systems with water-efficient technologies, such as EPA-certified WaterSense labeled controllers, rainfall sensors, and high-efficiency sprinkler nozzles;
 - d) use of the existing surface water rights for the irrigation of pasture areas on Lots 18-24 and homeowner common area Parcels R1-R5; and
 - e) summer month homeowner domestic water meter reporting requirements to the HOA, including availability of records for county to inspect.

13. No gates at the entrances of Can Can Road are allowed. The gate at the entrance to Three Bears Way shall be shifted not less than sixty feet (60') from the edge of asphalt on East Glendale Road to discourage an appearance of a gated community from a public thoroughfare. County emergency personnel shall be provided an electronic bypass for the gate to assure access.
14. All new dwellings are required to provide conduit for solar power as an energy conservation measure.
15. Delivery of surface irrigation water to agricultural users via the canal shall not be impeded.
16. To help address existing intersection concerns at State Highway 75 and East Glendale Road, the applicant shall:
 - a) Pay a voluntary mitigation fee for East Glendale Road and for future improvements to the East Glendale approach onto Highway 75; and
 - b) Show on the plat an easement at the northwest portion of the property, which shall benefit Blaine County for future improvements to the East Glendale approach onto Highway 75.
17. Landscaping at corner lots and parcels shall take sight lines for traffic into account.
18. The Community Rules or CCR's for Lateral 75 Ranch shall remain consistent with the following provisions, currently included in Article 6 of the (private) Community Rules:
 - Jet skis and similar water craft are prohibited.
 - All boats must be equipped to produce a decibel level of 69 dB or less at a distance of 100 feet as measured perpendicular to the craft operating at a speed of 36 miles per hour.
 - Each watercraft must be carefully inspected for foreign or invasive species of plants or animals, including mussels, prior to placing the watercraft in the lake. Private entities are responsible for all costs and activities to eliminate or mitigate the species.
 - If a boat leaks fuel in the lake, the leak will immediately be reported to the HOA Board. The boat or lot owner will be solely responsible for all cleanup, remediation or other action necessary to fully clean up and remove the effects of the spill.
19. Consistent with the 6/15/21 revised storage area site plan (with the exception of relocation of some of the trees on the berm if necessary), the storage area on Parcel R1 shall include:
 - a) a six foot (6') tall screening fence and associated fifty foot (50') wide landscape buffer for a distance of approximately one hundred feet (100') to screen the neighbor's house and increase privacy,
 - b) a berm height between the property of approximately five to six feet (5-6'), and
 - c) a setback of the gravel area for the storage portion of Parcel R1 of at least fifty feet (50') from the project's southern property line.Storage on the parcel shall be limited to mechanically sound vehicles and trailers unless enclosed in a building.
20. Building envelopes shall be shown on the plat consistent with the revised private open space exhibit, dated 6/14/21. Note: subject BEs will need to be reflected on the engineered preliminary plat drawings prior to public hearing with the Board of County Commissioners.
21. All recorded easements, consistent with Idaho Code and Blaine County requirements, shall be shown on the final plat.
22. In order to avoid penetrating the bentonite (ESS13) seal of the lake, the applicant shall install the liners for the individual lot boat docks up front. Any disturbance to the existing seal of the lake shall be the responsibility of the homeowner causing the disturbance.
23. Prior to commencement of on-site infrastructure construction (roads, utilities, landscaping, etc), the applicant shall prepare a construction management plan for review and approval by the county. Subject plan shall comply with SWPP requirements, as administered by DEQ, and

address, among other matters, material delivery routes, construction parking areas, lay down yard locations, dust abatement, areas of proposed disturbance, and post-construction weed control plans with due consideration to impacts to neighbors.

24. The Commission recommends that the County Engineer advise staff and the Board as to whether the traffic counts for the Highway 75/Glendale Road intersection be re-conducted.
25. The Commission recommends that the County initiate and prioritize improvements to the East Glendale approach to Highway 75, and that the applicant pay a proportionate share of those improvement costs.

Approved preliminary plat notes are indicated on the plat dated March 2021. Recommended additional plat notes and note changes are:

- a) Building permit applications for new primary residences shall provide evidence that a water meter has been installed on the lot's domestic well, prior to issuance of certificate of occupancy.
- b) Periodic inspections of individual septic systems, as recommended by the system manufacturer, are required and are the responsibility of the homeowner.
- c) Additional wildlife notes as recommended by IDFG:
 - (Revise/add to note 32:) All domestic pets, including cats, should be controlled, i.e. kept indoors, kenneled, functionally fenced or leashed at all time to prevent wildlife disturbances or mountain lion depredation. Pets at large increase negative effects on wildlife. All pet food shall be stored... Do not put garbage out until the morning of pick-up.
 - (Revise note 34:) All hay and other livestock feed shall be stored...
 - When possible, keep livestock in sheds or barns at night to prevent mountain lion depredation.
 - To prevent depredation or use by mountain lions as day beds, completely enclose any outdoor pet kennels (including a roof), outbuildings, window wells, and space underneath decks.
- d) Add standard agricultural disclosure plat notes, which may include the following:
 - 1- **MARKETING DISCLOSURE:** this property includes and is adjacent to active agricultural uses, which may involve activities occurring during the day or night. These activities may result in the production of noise, odors, and dust and may involve lights, aerial spraying, machinery and other inconveniences. All deeds conveying title to this property will contain a restriction prohibiting property owners from challenging lawfully conducted agricultural operations occurring within the County.
 - 2- **DEED RESTRICTION:** All deeds conveying title to real property within this subdivision shall include the following deed restriction: "Each Grantee taking this property, or any portion thereof, covenant and agree for the Grantee and Grantee's heirs, executors and assigns, to not challenge any existing or new agricultural uses or operations that are authorized by the Blaine County Zoning Ordinance and conducted within the County and that are or maybe lawfully occurring, or authorized by any government agency, as of the date of each deed conveying any right, title or interest in this property or any portion thereof.

3 GRANTEE'S ACKNOWLEDGMENT AND WAIVER: Each Grantee shall, contemporaneously with the execution of any deed conveying title to real property within this subdivision, sign and record with the Blaine County Recorder the following acknowledgment and waiver, which signing shall be duly acknowledged by a notary public:

"The undersigned acknowledge and agree that the property described in Exhibit A (legal description of property being conveyed) is either located in, or near, an agricultural zone, and that lawful activities within an agricultural zone may occur during the day or night, and may result in the production of noise, odors and dust, and may involve lights, aerial spraying, machinery and other inconveniences. Each of the undersigned acknowledges that the conveying title will contain a restriction that will prohibit challenging all agricultural uses or operations authorized by the Blaine County Zoning Ordinance and conducted within the County and that are or maybe lawfully occurring, or authorized by any governmental agency, as of the date of each deed conveying any right, title or interest in the property described in Exhibit A. Each of the undersigned, for the benefit of any owner of real property within the County, hereby waives any right or cause of action the undersigned may have under law to challenge any such lawfully occurring or authorized agricultural uses or operations.

- e) Plat note # 12 shall be amended to read as follows: "Portions of lots 6-24 are dedicated as private open space in accordance with the TDR regulations of Blaine County. With the exception of driveways to individual homes, fences, and irrigation structures, as well as lakeside improvements as set forth in plat note 13, structures are not allowed outside of platted building envelopes."
- f) Pursuant to State regulations, maintenance and weed control for all lots are the responsibility of the developer until the lot is sold and thereafter the responsibility of the owners of the individual lots. The control program to be implemented by the responsible party will target those species designated on the Idaho Noxious Weed List. Mowing and manual removal are recommended, although biological control has been shown to be effective in eradicating knapweed.

Idaho Code §67-6535(c) Notice: The owner of the property subject to this application and decision may request a regulatory taking analysis pursuant to I.C. 67-8003.

IT IS SO ORDERED.

DATED this 22 day of July, 2021

BLAINE COUNTY PLANNING AND ZONING COMMISSION

By: 
Susan Giannettino, Chair


CERTIFICATE OF MAILING

The undersigned person hereby certifies that on the 27th day of July, 2021, she served a true and correct copy of the foregoing document by depositing the same in the U.S. Mail addressed as follows or by service otherwise as noted:

Samantha Stahlnecker
Galena Engineering
sam@galena-engineering.com

John Gaeddert
johngaeddert@icloud.com

Jonathan Neeley
jneeley@briodest.com



Land Use Services Staff