WORKSHOP – 5:00 pm Basement Conference Room
Topic: Workforce Planning: Police Department & Park and Recreation Department

REGULAR MEETING – 6:00 pm City Council Chambers

CALL TO ORDER BY MAYOR JACOBSON

PLEDGE OF ALLEGIANCE

ROLL CALL OF CITY COUNCIL MEMBERS
Kerri Thoreson, Josh Walker, Joe Malloy, Nathan Ziegler, Lynn Borders, Kenny Shove

CEREMONIES, ANNOUNCEMENTS, APPOINTMENTS, PRESENTATION:

AMENDMENTS TO THE AGENDA
Final action cannot be taken on an item added to the agenda after the start of the meeting unless an emergency is declared that requires action at the meeting. The declaration and justification must be approved by motion of the Council.

DECLARATION OF CONFLICT, EX-PARTE CONTACTS AND SITE VISITS
The Mayor and members of the City Council have a duty to serve honestly and in the public interest. Where the Mayor or a member of the City Council have a conflict of interest, they may need to disclose the conflict and in certain circumstances, including land use decisions, they cannot participate in the decision-making process. Similarly, ex-parter contacts and site visits in most land use decisions must also be disclosed.

1. CONSENT CALENDAR
The consent calendar includes items which require formal Council action, but which are typically routine or not of great controversy. Individual Council members may ask that any specific item be removed from the consent calendar in order that it be discussed in greater detail. Explanatory information is included in the Council agenda packet regarding these items and any contingencies are part of the approval.

ACTION ITEMS:
   a. Minutes – June 21, 2022, City Council Meeting
   b. Minutes – June 22, 2022, City Council & Planning and Zoning Commission Workshop
   d. Stockwell Annexation Agreement and Right-of-Way/Easement Dedications
   e. Stockwell Court Subdivision Master Development Agreement
   f. Avista License to Use Real Property
   g. Frontage Improvement Waiver Request – 319 W. 20th Ave
   h. Stone’s Throw Subdivision Master Development Agreement
i. Representation Letter with Beveridge and Diamond  
j. Pointe at Post Falls 4th Addition Subdivision Plat Application  
k. Britton Place Subdivision Plat Application  

2. PUBLIC HEARINGS  
There are generally two types of public hearings. In a legislative hearing, such as adopting an ordinance amending the zoning code or Comprehensive Plan amendments, the Mayor and City Council may consider any input provided by the public. In quasi-judicial hearings, such as subdivisions, special use permits and zone change requests, the Mayor and City Council must follow procedures similar to those used in court to ensure the fairness of the hearing. Additionally, the Mayor and City Council can only consider testimony that relates to the adopted approval criteria for each matter. Residents or visitors wishing to testify upon an item before the Council must sign up in advance and provide enough information to allow the Clerk to properly record their testimony in the official record of the City Council. Hearing procedures call for submission of information from City staff, then presentation by the applicant (15 min.), followed by public testimony (4 min. each) and finally the applicant’s rebuttal testimony (8 min.). Testimony should be addressed to the City Council, only address the relevant approval criteria (in quasi-judicial matters) and not be unduly repetitious.

ACTION ITEMS:  
a. Jacklin-Prairie Annexation  
b. The Pointe Zone Change  

3. UNFINISHED BUSINESS/RETURNING ORDINANCES AND RESOLUTIONS  
This section of the agenda is to continue consideration of items that have been previously discussed by the City Council and to formally adopt ordinances and resolutions that were previously approved by the Council. Ordinances and resolutions are formal measures considered by the City Council to implement policy which the Council has considered. Resolutions govern internal matters to establish fees and charges pursuant to existing ordinances. Ordinances are laws which govern general public conduct. Certain procedures must be followed in the adoption of both ordinances and resolutions; state law often establishes those requirements.

ACTION ITEMS:  
a. Ordinance – Stockwell Annexation File No. ANNX-0011-2021  
b. Resolution – Preliminary Budget for Fiscal Year 2023  

4. CITIZEN ISSUES  
This section of the agenda is reserved for citizens wishing to address the Council regarding City-related issues that are not on the agenda. Persons wishing to speak will have 5 minutes. Comments related to pending public hearings, including decisions that may be appealed to the City Council, are out of order and should be held for the public hearing. Repeated comments regarding the same or similar topics previously addressed are out of order and will not be allowed. Comments regarding performance by city employees are inappropriate at this time and should be directed to the Mayor, either by subsequent appointment or after tonight’s meeting, if time permits. In order to ensure adequate public notice, Idaho Law provides that any item, other than emergencies, requiring Council action must be placed on the agenda of an upcoming Council meeting. As such, the City Council can’t take action on items raised during citizens issues at the same meeting but may request additional information or that the item be placed on a future agenda.

5. ADMINISTRATIVE / STAFF REPORTS  
This portion of the agenda is for City staff members to provide reports and updates to the Mayor and City Council regarding City business as well as responses to public comments. These items are for information only and no final action will be taken.

a. A Snapshot Look at Residential and Commercial Development from 2020-2022, Bob Seale, Community Development Director presenting.
6. MAYOR AND COUNCIL COMMENTS
This section of the agenda is provided to allow the Mayor and City Councilors to make announcements and general comments relevant to City business and to request that items be added to future agendas for discussion. No final action or in-depth discussion of issues will occur.

7. EXECUTIVE SESSION
Certain City-related matters may need to be discussed confidentially subject to applicable legal requirements; the Council may enter executive session to discuss such matters. The motion to enter into executive session must reference the specific statutory section that authorizes the executive session. No final decision or action may be taken in executive session.

ACTION ITEM (To enter into executive session only):
   a. Idaho Code 74-206(1)(f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated, but imminently likely to be litigated.
   b. Idaho Code 74-206(1)(c) To acquire an interest in real property which is not owned by a public agency.

RETURN TO REGULAR SESSION

8. NEW BUSINESS
This portion of the agenda is for City Council consideration of items that have not been previously discussed by the Council. Ordinances and Resolutions are generally added to a subsequent agenda for adoption under Unfinished Business, however, the Council may consider adoption of an ordinance or resolution under New Business if timely approval is necessary.

ACTION ITEMS:
   a. Waiver of Claims

ADJOURNMENT

Questions concerning items appearing on this Agenda or requests for accommodation of special needs to participate in the meeting should be addressed to the Office of the City Clerk, 408 Spokane Street or call 208-773-3511. City Council and City commission meetings are broadcast live on Post Falls City Cable on cable channel 1300 (formerly 97.103) as well as the City’s YouTube Channel (https://www.youtube.com/c/CityofPostFallsIdaho).

Mayor Ronald G. Jacobson
Councilors: Kerri Thoreson, Josh Walker, Joe Malloy, Nathan Ziegler, Lynn Borders, Kenny Shove

Mission
The City of Post Falls mission is to provide leadership, support common community values, promote citizen involvement and provide services which ensure a superior quality of life.

Vision
Post Falls, Idaho is a vibrant city with a balance of community and economic vitality that is distinguished by its engaged citizens, diverse businesses, progressive leaders, responsible management of fiscal and environmental resources, superior service, and a full range of opportunities for education and healthy lifestyles.

“Where opportunities flow and community is a way of life”
Calendar of Meetings & Events

July 4  
4th of July – City Business Offices Will Be Closed

July 5  5:00 pm  
City Council Workshop - Workforce Planning – Police and Parks and Recreation

July 5  6:00 pm  
City Council

July 8  10:00 am  
Post Falls Festival Parade

July 8  
Post Falls Festival

July 8  Sunset  
Movie in the Park at Q’emiln Park – American Underdog

July 9  
Post Falls Festival

July 10  
Post Falls Festival

July 12  5:30 pm  
Planning & Zoning Commission

July 13  5:00 pm  
River City Market & Music – Landings Park, Music by The Rhythm Dogs

July 19  5:00 pm  
City Council Workshop – Workforce Planning – Public Works & Community Development

July 19  6:00 pm  
City Council

July 20  5:00 pm  
River City Market & Music – Landings Park, Music by Current Flow

July 21  9:00 am  
Urban Renewal Agency

July 26  6:00 pm  
Parks and Recreation Commission

July 27  5:00 pm  
River City Market & Music – Landings Park, Music by Chris Moyer & the Downtown Dixies

Aug 2  5:00 pm  
City Council Workshop – Workforce Planning – Administration and Finance

Aug 2  6:00 pm  
City Council

Aug 3  5:00 pm  
River City Market & Music - Landings Park, Music by The Ryan Larson Band

Aug 9  5:30 pm  
Planning & Zoning Commission

Aug 10  5:00 pm  
River City Market & Music – Landings Park, Music by Justyn Priest Band

Aug 12  Sunset  
Movie in the Park at Syringa Park Sing 2

Aug 17  5:00 pm  
River City Market & Music – Landings Park, Music by Nu Jack City
Post Falls City Council Meeting
July 5th, 2022

Council Agenda Memorandum

TO: Mayor Ron Jacobson
Council President Kerri Thoreson
Councilors Josh Walker, Joe Malloy,
Nathan Ziegler, Lynn Borders, Kenny Shove
Legal Counsel Warren Wilson

FROM: Shelly Enderud, City Administrator

CC: Department Heads

Workshop 5:00pm – Workforce Planning: Police Department & Parks and Recreation Department

1. **Consent Calendar**

   d. Stockwell Annexation Agreement and Right-of-Way/Easement Dedications – The Planning Division requests approval of the Annexation Agreement and the Dedication of ROW and Easement for the Stockwell Annexation. The annexation of approximately five acres into the City with a zoning designation of Single-Family Residential (R-1) was approved at the Council public hearing on March 15, 2022. If approved, the Mayor will sign the provided documents.

   e. Stockwell Court Subdivision Master Development Agreement – The Planning Division requests approval of the MDA for the abovementioned subdivision. The applicant has requested to subdivide 5 acres into 18 Single-Family Residential (R-1) lots. The request was approved at the March 23, 2022, Planning and Zoning Commission public hearing. If approved, the Mayor will sign the agreement.

   f. Avista License to Use Real Property – The Parks Division requests approval of the License to Use Real Property to Avista. They will be installing an access gate to the Post Falls Hydroelectric Development. The gate is located within the 4th Avenue right of way immediately west of the Falls Park parking lot. Avista will maintain the gate and provide first responder agencies and the City with the ability to open the gate when needed. If approved, the Mayor shall sign the provided documents.

   g. Frontage Improvement Waiver Request: 319 West 20th Avenue – The Engineering Division recommends approval of the frontage improvement waiver at the abovementioned address. There are no existing improvements in the vicinity. Upon approval of the consent agenda, the waiver will be approved.
h. Stone’s Throw Subdivision Master Development Agreement – The Planning Division requests approval of the MDA for the abovementioned subdivision. The applicant has requested to subdivide 5.8 acres into 17 Single-Family Residential (R-1) lots. The request was approved at the April 12, 2022, Planning and Zoning Commission public hearing. If approved, the Mayor shall sign the agreement.

i. Representation Letter with Beveridge and Diamond – Public Works Director John Beacham requests approval of the Representation Letter as specialized legal counsel is needed for the City’s IPDES Permit (wastewater discharge permit), and other issues related to water quality regulations. If approved, the Mayor will sign the letter.

j. Pointe at Post Falls 4th Addition Subdivision Plat Application – The Engineering Division requests approval of the final plat for the development. The developer has provided surety for the remaining improvements. If approved, the Mayor will sign the documents.

k. Britton Place Subdivision Plat Application - The Engineering Division requests approval of the final plat for the development. The developer has provided surety for the remaining improvements. If approved, the Mayor will sign the documents.

2. Public Hearings

a. Jacklin-Prairie Annexation – Opportunity for public comment is given on the request of Jacklin Land Company LLLP to annex 89 acres into the City of Post Falls with a zoning designation of Community Commercial Mixed (CCM). The property is generally located on the northeast corner of the future intersection of North Zorros Road and West Prairie Avenue. The surrounding land to the west and in the City is a planned commercial development site and the other surrounding lands are mostly undeveloped land in the County or in the City. At their May 10, 2022, public hearing, the Planning and Zoning Commission recommended approval of the zoning as requested. At the meeting, seventeen people commented in favor of the annexation and one was opposed. After comment and discussion, Council should either approve or deny the annexation as presented.

b. The Pointe Zone Change - Opportunity for public comment is given on the request of Nate Ballard of Wadsworth Development Group to rezone 56.1 acres in the City from Industrial (I) and Community Commercial Services (CCS) to the Community Commercial Mixed (CCM) zoning district. The property is located west of Baugh Way, north of I-90, and south of Seltice Way. The surrounding land is within the planned Pointe Commercial Development Area with Walmart, Cabela’s, Panda Express, and a developing RV park. At their May 25, 2022, public hearing, the Planning and Zoning Commission recommended approval of the zoning as requested. At the meeting three people wrote in as in favor of the proposed zone change, no additional comments were received. After comment and discussion, Council should either approve or deny the zone change as presented.

3. Unfinished Business

a. Ordinance: Stockwell Annexation File No. ANNX-0011-2021 – This ordinance formalizes the annexation approved at the March 15, 2022, Council public hearing. Council may adopt the ordinance or take no action.
b. Resolution: Preliminary Budget for Fiscal Year 2023 – This resolution is required to begin the advertising regarding the Budget Public Hearing on August 16th, 2022. Council may adopt the resolution or take no action.

5. Administrative / Staff Reports

a. A Snapshot Look at Residential and Commercial Development from 2020-2022 – Community Development Director Bob Seale will present this report.

7. Executive Session

a. Idaho Code 74-206(1)(f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated, but imminently likely to be litigated.

b. Idaho Code 74-206(1)(c) To acquire an interest in real property which is not owned by a public agency.

8. New Business

a. Waiver of Claims – Public Works Director John Beacham recommends approval of this waiver of claims document which has been negotiated to resolve a matter which arose during construction of the Water Reclamation Facility’s Outfall Replacement Project. If approved, the Mayor will sign the document.
WORKSHOP – 5:00 pm Basement Conference Room

ROLL CALL OF CITY COUNCIL MEMBERS
Kerri Thoreson, Josh Walker, Joe Malloy, Nathan Ziegler, Lynn Borders – Present
Kenny Shove - Excused

Topic: FY 2022 Budget Workshop
Jason Faulkner, Finance Director and Teresa Benner, Human Resources Director presenting:
Benner: In 2022 we did a compensation survey that was delayed from 2020 due to COVID. Forty-nine positions were looked at with at least one from each section of the kinds and level chart. Overall, it showed that we were lagging other like sized agencies on our pay. This year we are proposing a 3.5% COLA and a 4.5% Merit. We also want to change it so that at 12 years with the city you would be at the top of your pay range.
Faulkner: at the July 5th City Council meeting there will be the tentative budget resolution. This is just to set the highest the budget could go. At the August 16th City Council meeting we will have the Fee Public Hearing and the Budget Public Hearing

REGULAR MEETING – 6:00 pm City Council Chambers

CALL TO ORDER BY MAYOR JACOBSON

PLEDGE OF ALLEGIANCE

ROLL CALL OF CITY COUNCIL MEMBERS
Kerri Thoreson, Josh Walker, Joe Malloy, Nathan Ziegler, Lynn Borders – Present
Kenny Shove - Excused

CEREMONIES, ANNOUNCEMENTS, APPOINTMENTS, PRESENTATION:
 a. Movie in the Park will be this Friday June 24th at Tullamore Park.
 b. City business offices will be closed on Monday, July 4th.
 c. Introduction of Jaxon Fleshman as the New Project Manager to the Public Works, Project Division

AMENDMENTS TO THE AGENDA
Final action cannot be taken on an item added to the agenda after the start of the meeting unless an emergency is declared that requires action at the meeting. The declaration and justification must be approved by motion of the Council.
None
DECLARATION OF CONFLICT, EX-PARTE CONTACTS AND SITE VISITS

The Mayor and members of the City Council have a duty to serve honestly and in the public interest. Where the Mayor or a member of the City Council have a conflict of interest, they may need to disclose the conflict and in certain circumstances, including land use decisions, they cannot participate in the decision-making process. Similarly, ex-parte contacts and site visits in most land use decisions must also be disclosed.

None

1. CONSENT CALENDAR

The consent calendar includes items which require formal Council action, but which are typically routine or not of great controversy. Individual Council members may ask that any specific item be removed from the consent calendar in order that it be discussed in greater detail. Explanatory information is included in the Council agenda packet regarding these items and any contingencies are part of the approval.

ACTION ITEMS:

a. Minutes – June 7, 2022, City Council Meeting
c. Whiskey Flats 2nd Addition Subdivision Plat Application
d. The Pointe 4th Addition Subdivision Master Development Agreement File No. SUBD-0018-2021
e. Pointe at Post Falls 4th Addition Development Phase 1 Construction Improvement Agreement
f. North Place East 1st Addition Subdivision Construction Improvement Agreement
g. Montrose 16th Addition Subdivision Construction Improvement Agreement
h. Kootenai County Fire and Rescue Intergovernmental Agreement for the Collection and Expenditure of Impact Fees
i. Kootenai County Emergency Medical Services System Intergovernmental Agreement for the Collection and Expenditure of Impact Fees
j. Cash and Investment Report for April 2022

Motion by Malloy to approve the Consent Calendar as presented.
Second by Borders.
Motion Carried

2. PUBLIC HEARINGS

There are generally two types of public hearings. In a legislative hearing, such as adopting an ordinance amending the zoning code or Comprehensive Plan amendments, the Mayor and City Council may consider any input provided by the public. In quasi-judicial hearings, such as subdivisions, special use permits and zone change requests, the Mayor and City Council must follow procedures similar to those used in court to ensure the fairness of the hearing. Additionally, the Mayor and City Council can only consider testimony that relates to the adopted approval criteria for each matter. Residents or visitors wishing to testify upon an item before the Council must sign up in advance and provide enough information to allow the Clerk to properly record their testimony in the official record of the City Council. Hearing procedures call for submission of information from City staff, then presentation by the applicant (15 min.), followed by public testimony (4 min. each) and finally the applicant’s rebuttal testimony (8 min.). Testimony should be addressed to the City Council, only address the relevant approval criteria (in quasi-judicial matters) and not be unduly repetitious.

ACTION ITEMS:

a. Mongeau Meadows Annexation

Public Hearing opened at 6:04 pm.

Staff Report
Ethan Porter, Associate Planner presenting: The owner is Wildhorse Investments, LLC and the Applicant is Whipple Consulting Engineers. The requested action is for the City Council to approve the annexation of approximately 3.91 acres with the zoning designation of Single-Family Residential (R-1). The project location is just south of 16th Ave. to the east of N. Quail Run Blvd. and to the west of N. Syringa St. it is currently a large lot residential within Kootenai County and is over the Rathdrum Prairie Aquifer. The water and sewer will be provided by the City of Post Falls. To the north is single-family residential zoning, to the west, east, and south is all residential lots within the county.

Zone Change Review Criteria:

- The Future Land Use Map designates this site as low-density residential with the R-1 zoning called out in the implementing zoning districts. Central island focus area promotes infill development in this context area and prioritize annexation opportunities.
- It is consistent with the Goals and Policies found in the Comprehensive Plan, they are identified within the staff report a couple of the main goals are 5,7, and 12 and some of the main policies are 1, 2, 8, and 15.
- 16th Ave. is a major collector and can accommodate 4k-12k vehicles per day, which projected volumes for 2035 along this roadway would accommodate. Over the Rathdrum Prairie Aquifer and the proposed zoning is compatible with the land uses anticipated within the City’s Master Plans.
- Not Applicable as they are not requesting commercial or high-density.
- Annexation proposed is not near higher intensity urban activities, which would primarily be along Highway 41, Mullan Ave., Seltice Way, and some along Spokane St.
- Industrial is not being requested so this criterion is not applicable.

All agencies have been notified with Kootenai County Fire and Rescue reserves comments for the permitting process with the Post Falls Police Department remaining neutral. Post Falls Highway District requests the City to annex all right-of-way on 16th Ave. from Syringa St. to the west property line of parcel 0-6360-35-039-AC and the Department of Environmental Quality had general comments pertaining to the time of construction.

Applicant
Ray Kimball, Whipple Consulting Engineers: This is the Central Island within the City of Post Falls and is a focus area to encourage annexation and development. This area is hard to bring new development because there are already so many smaller parcels. Across 16th is a phase of Singing Hills, or Windsong which is a single-family subdivision much like the one being presented tonight. This is compatible with the street classification. This proposal is about ½ mile away from commercial zoning. It is consistent with the Future Land Use Map as low density residential and meets many of the goals and policies found within the Comprehensive Plan. The city has the ability and capacity to serve water and sewer to the property. The right-of-way will be dedicated for 16th Ave. to City standards and provisions have been made to adequately provide connectivity to adjacent properties. There are no know hazards or topographical conditions that are incompatible and meets all the requirements of the R-1 zoning.

Testimony
In Favor – AJ Bennet not wishing to speak and Wade Jacklin not wishing to speak.
Neutral – None
In Opposition – None

Public Hearing Closed at 6:16 pm.
Deliberation
Warren Wilson, City Attorney: Does it make sense to annex this into the city? Council all agreed yeas as it is a county island and infill.

Zoning Criteria:
1. Amendments to the zoning map should be in accordance with the Future Land Use Map.
   Malloy: The Land Use Map shows low density, and this is low density.
2. Amendments to the zoning map should be consistent with the goals and policies found in the Comprehensive Plan.
   Malloy: It is infill and will help connect pedestrian pathways, and it provides a variety of housing.
3. Zoning is assigned following consideration of such items as street classifications, traffic patterns, existing development, future uses, community plans, and geographic or natural features.
   Mayor: Ethan showed this in his report.
   Malloy: There is already a bunch of R-1 around it.
4. Commercial and high-density residential zoning is typically assigned along streets with a higher road classification.
   Not Applicable
5. Limited or neighborhood commercial and lower density residential zoning is typically assigned for properties as they proceed farther away from the higher intensity urban activity.
   Mayor: As we move further north the density gets lower.
6. Industrial zoning is typically assigned for properties with sufficient access to major transportation routes and may be situated away from residential zoning.
   Not Applicable

Motion by Malloy to approve the Mongeau Meadows Annexation and that the parcel be assigned the zoning of R-1 and to direct staff to bring back an Ordinance and Reasoned Decision at a future Council meeting.
Second by Thoreson.
Motion Carried

b. School District Zone Change from Single-Family Residential (R-1) to Public Reserve (PR)
Public Hearing opened at 6:21 pm.

Staff Report/Applicant
Jon Manley, Planning Manager presenting: The City of Post Falls Planning Division is seeking to rezone approximately 3 school sites from Single-Family Residential (R-1) zoning to the Public Reserve (PR) zoning district. Why the Planning Department is the applicant on this is it might have been 10 years ago that we got rid of the Public Reserve zone because it was mismatched. There were private developments that were Public Reserve and there was no consistency so we did away with it with the idea that someday we would bring it back. The other caveat on that is for the school sites with the current R-1 zone, that it was designated and required them to apply for a Special Use Permit for any type of changes. We already know their use, it’s a school and this zone, Public Reserve will allow them to function as a school for any future developments. Many of the Zone Change Criteria are not applicable however, we do need to see if it matches up with the Future
Land Use Map, the traffic patterns goals and policies and existing developments, land uses and community plan. These are already developed sites, so we are doing a cleanup.

**Testimony**
In Favor – None
Neutral – None
In Opposition – None

Public Hearing Closed at 6:28 pm.

**Deliberation**

Zoning Criteria:

1. Consistent with Future Land Use Map.
   Malloy: Yes.
2. Consistent with goals and policies found in the Comprehensive Plan.
   Malloy: I struggled with this because the schools are already there, but it supports the community’s needs.
3. Zoning is assigned following consideration of such items as street classification, traffic patterns, existing development, future land uses, community plans, and geographic or natural features.
   Not Applicable
4. Commercial and high-density residential zoning is typically assigned along streets with a higher road classification.
   Not Applicable
5. Limited or neighborhood commercial and lower density residential zoning is typically assigned for properties as they proceed farther away from the higher intensity urban activity.
   Not Applicable
6. Industrial zoning is typically assigned for properties with sufficient access to major transportation routes and may be situated away from residential zoning.
   Not Applicable

Motion by Malloy to approve the school district zone change from single-family residential (R-1) to public reserve (PR) and to direct staff to bring back an Ordinance and Reasoned Decision at a future Council meeting.

Second by Borders.
Motion Carried

### 3. UNFINISHED BUSINESS/RETURNING ORDINANCES AND RESOLUTIONS

This section of the agenda is to continue consideration of items that have been previously discussed by the City Council and to formally adopt ordinances and resolutions that were previously approved by the Council. Ordinances and resolutions are formal measures considered by the City Council to implement policy which the Council has considered. Resolutions govern internal matters to establish fees and charges pursuant to existing ordinances. Ordinances are laws which govern general public conduct. Certain procedures must be followed in the adoption of both ordinances and resolutions; state law often establishes those requirements.

**ACTION ITEMS:**

a. Resolution – Council and Commission Meeting Recess Procedures
Warren Wilson, City Attorney presenting: The proposed resolution is in response to recent case law changes in public meetings law requiring the need for changes to our section on Audience Behavior. The furtherance of the government’s purpose of conducting orderly, efficient, and productive meetings has been deemed a satisfactory governmental interest to justify curtailing certain free speech. The First Amendment does not forbid a viewpoint-neutral exclusion of speakers who would disrupt a nonpublic forum and hinder its effectiveness for its intended purpose. When the restrictions become viewpoint-based and/or are applied in a heavy handed or ham-fisted manner, courts tend to look unfavorably on the policy itself. Must apply the term “disruptive” to conduct rather than ideas, if applied to ideas then viewpoint discrimination will be found to have occurred. As such, the policy has been updated to cover Disruptive Audience behavior to address profane, disrespectful, or threatening language and address when disruptive conduct raises to a level that hinders the effectiveness of the sitting body’s purpose of conducting an orderly, efficient, and productive meeting.

WHEREAS, during a public meeting situation may arise requiring a call to recess; and WHEREAS the City Council find it beneficial to provide procedures to better facilitate and guide what actions give rise to the need for calling a recess.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Post Falls that Exhibit A entitled “City of Post Falls Council and Commission Meeting Recess Procedures”, attached hereto is hereby incorporated into this Resolution, as if set forth fully, and made a part hereof, is hereby adopted to be applied in matters necessitating the recess of public meetings. This Resolution passed by a majority of the Post Falls City Council, shall be in full force and effect from and after its passage and approval according to law until superseded by a resolution addressing the same matter.

Motion by Thoreson to approve the Resolution – Council and Commission Meeting Recess Procedures and to direct the Clerk to assign the appropriate number.
Second by Ziegler.
Vote: Ziegler-Aye, Borders-Aye, Walker-aye, Malloy-Aye, Thoreson-Aye
Motion Carried

b. Resolution – Land Use Hearing Procedures
Warren Wilson, City Attorney presenting: The Land Use Hearing Procedures contains the process for conducting public hearing for land use matters. It governs notice, conduct, and rules for different types of public hearings. Recent changes in case law have necessitated an update to our hearing procedures. The most substantial change is to Content of Testimony and Conduct of the Witness. The changes are to ensure that our policy furthers the purpose of conducting orderly, efficient, and productive meetings by limiting viewpoint-neutral exclusion of speakers who disrupt the nonpublic forum and hinder its effectiveness for its intended purpose.

WHEREAS Idaho Code §67-6534 requires that cities maintain a regular set of procedures for conduct of public hearings held by the City of Post Falls Planning and Zoning Commission and City Council in matters governed by the Local Land Use Planning Act; and WHEREAS, from time to time it is beneficial to review and revise those hearing procedures to better facilitate input from the public and to promote a thorough and expeditious hearing; and WHEREAS the City Council adopts the foregoing as its findings of fact justifying its adoption of this Resolution.
NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Post Falls that all prior land use public hearing procedures are hereby repealed.

BE IT FURTHER RESOLVED that Exhibit A entitled “City of Post Falls Public Hearing Procedures”, attached hereto is hereby incorporated into this Resolution, as if set forth fully, and made a part hereof, is hereby adopted to be applied in matters concerning land use related public hearings.

This Resolution, passed by a majority of the Post Falls City Council, shall be in full force and effect from and after its passage and approval according to law until superseded by a resolution addressing the same subject matter.

Motion by Thoreson to approve the Resolution – Land Use Hearing Procedures and to direct the Clerk to assign the appropriate number.

Second by Malloy.


Motion Carried

c. Resolution – Kootenai County Fire & Rescue (KCFR) and Kootenai County Emergency Medical Services (KCEMSS) Comprehensive Plan Amendment

WHEREAS, Idaho’s Local Planning Act, Idaho Code Title 67, Chapter 65, requires Idaho cities to carry out planning duties necessary for the adoption and amendment of a Comprehensive Plan from time to time; and

WHEREAS, Kootenai County Fire & Rescue (KCFR) and Kootenai County Emergency Medical Services System (KCEMSS), cannot collect impact fees without an intergovernmental agreement with a municipality or county and in order for the city to collect development related impact fees to turn over to KCFR and KCEMSS the City must have the Capital Improvement Plans (CIP) adopted in the Comprehensive Plan; and

WHEREAS, On January 11, 2022, the Post Falls Planning and Zoning Commission held a public hearing, in compliance with provisions of the Local Planning Act, concerning the adoption of the Post Falls Comprehensive Plan Amendment and recommended that the Amendment be adopted by the City Council; and

WHEREAS, On February 15, 2022, the Post Falls City Council also held a public hearing to consider the Amendment and after consideration directed that city staff prepare a resolution to adopt the Plan.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Post Falls, Idaho, as follows:

That the adopted 2020 Post Falls Comprehensive Plan be amended with the attached Exhibit S-1 which adds the following language to the Fire Protection/Emergency Services section in Chapter 5 – Public Services, Facilities & Utilities:

The City Council has adopted Development Impact Fees for KCFR and KCEMMS and entered into Intergovernmental Agreement and Joint Powers Agreements for the Collection and Expenditure of Development Impact Fees for Fire District and EMS Systems Improvements by and between the City and the Kootenai County Fire and Rescue District and Kootenai County Emergency Medical Services System pursuant to Idaho Code 67-8204A and 67-2328 for the Collection and expenditure of Fire District and EMS System Impact Fees for both Residential and non-residential development.

The following Capital Improvement Plans are Incorporated by Reference to this Comprehensive Plan:

- Kootenai County Fire & Rescue Impact Fee Study and Capital Improvements Plan
• Kootenai County Emergency Medical Services System (KCEMSS) Impact Fee Study and Capital Improvement Plans

Motion by Thoreson to approve the Resolution – Kootenai County Fire & Rescue (KCFR) and Kootenai County Emergency Medical Services (KCEMSS) Comprehensive Plan Amendment and to direct the clerk to assign the appropriate number.
Second by Malloy.
Motion Carried

d. Ordinance – Kootenai County Fire & Rescue (KCFR) and Kootenai County Emergency Medical Services System (KCEMSS) Impact Fees

Motion by Thoreson to place the Ordinance – Kootenai County Fire & Rescue (KCFR) and Kootenai County Emergency Medical Services System (KCEMSS) Impact Fees on its first and only reading by title only while under suspension of the rules.
Second by Borders.
Motion Carried

AN ORDINANCE OF THE CITY OF POST FALLS, KOOTENAI COUNTY, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, PROVIDING FOR A NEW CHAPTER TO THE POST FALLS MUNICIPAL CODE TO PROVIDE DEVELOPMENT IMPACT FEES FOR FIRE AND EMERGENCY SERVICES; PROVIDING AUTHORITY AND PURPOSE, PROVIDING FOR IMPOSITION OF SUCH FEES; PROVIDING FOR EXEMPTIONS; PROVIDING FOR INDIVIDUAL ASSESSMENTS AND EXTRAORDINARY IMPACTS; PROVIDING FOR CREDITS AND REIMBURSEMENTS; PROVIDING FOR PAYMENTS; PROVIDING METHODOLOGY FOR CALCULATING IMPACT FEES; PROVIDING FOR REFUNDS AND ACCOUNTING; PROVIDING FOR APPEALS, PROTESTS, AND MEDIATION; PROVIDING THAT REMAINING SECTIONS OF POST FALLS CITY CODE SHALL REMAIN IN EFFECT; PROVIDING FOR SEVERABILITY; PROVIDING FOR THIS ORDINANCE TO BE IN FULL FORCE AND EFFECT FROM AND AFTER ITS PASSAGE, APPROVAL, AND PUBLICATION ACCORDING TO LAW.

Motion by Thoreson to approve the Ordinance Kootenai County Fire & Rescue (KCFR) and Kootenai County Emergency Medical Services System (KCEMSS) Impact Fees and to direct the Clerk to assign the appropriate number and that it be published by summary only.
Second by Borders.
Motion Carried

e. Ordinance – Smock Vacation

Motion by Thoreson to place the Ordinance Smock Vacation on its first and only reading by title only while under suspension of the rules.
Second by Ziegler.
Motion Carried

AN ORDINANCE OF THE CITY OF POST FALLS, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, PROVIDING FOR THE VACATION OF RIGHTS OF WAY SITUATED IN THE NORTH-
Motion By Thoreson to approve Ordinance Smock Vacation and to direct the Clerk to assign the appropriate number and that it be published by summary only.
Second by Borders.
Motion Carried

f. Live After 5 Contract Addendum

Bryan Myers, Parks Manager presenting: This is an addendum to the agreement with the Davis Enterprises, Inc. for a weekly concert series called “Live After Five”. The amendment to the contract reflects the terms requester by Live After Five to relocate from the Amphitheater to the South Lawn at Tullamore Parks for the remainder of the Contract term. This move is aimed to improve visibility and improve the setting for the performers. The west facing stage is exposed to the late afternoon sun making it difficult to secure acts willing to play for 2-hour sets. In consideration the city would be compensated $1,380 for one year to offset the lost revenue potential from the Department’s outdoor Volleyball program.

Motion by Thoreson to approve the Liver After Five Contract Addendum.
Second by Malloy.
Motion Carried

g. Crown Pointe Park Regrading

Bryan Myers, Parks Manager presenting: The City of Post Falls accepted dedication of Crown Pointe Park from MCD Properties LLLP in October of 2018. The park was dedicated to the City as outlined in the Master Development Agreement for the Smart Code Development Project. The City accepted the ownership of the property in its existing condition with the assumption of all responsibility for the maintenance and preservation of the property as a public park. The City has modified the facility from the condition it was received by adding flush restroom facilities, installing playground fixtures, and coating the sports courts with colored epoxy surfacing. These improvements were done to meet the development standards of public neighborhood parks. The current project is the next step in the transformation of this park to meet the development standards of public parks. The existing site grading contains large variations that result in seasonal puddling, trip issues and large stones. The irrigation mainline configuration and irrigation head spacing results in irrigation system inefficiencies. The parks division is seeking a contractor to furnish material and labor to complete the necessary work to provide excavation services to regrade the landscape interior of the loop walk and modify the existing irrigation system to improve performance. These changes will allow for the open play field to be utilized by both active and passive recreation users.
A future construction contract will be brought back to the Council for approval and funded through dedicated funds within the City’s General Fund Budget.

**Motion by Malloy to approve advertising for bids for the Crown Pointe Park Regrading Project.**  
**Second by Borders.**  
**Vote:** Borders-Aye, Walker-Aye, Malloy-Aye, Thoreson-Aye, Ziegler-Aye  
**Motion Carried**

### 4. NEW BUSINESS

This portion of the agenda is for City Council consideration of items that have not been previously discussed by the Council. Ordinances and Resolutions are generally added to a subsequent agenda for adoption under Unfinished Business, however, the Council may consider adoption of an ordinance or resolution under New Business if timely approval is necessary.

a. Proposed Update to Post Falls Code Chapter 13.20 Wastewater Discharge Restrictions  
Craig Borrenpohl, Utility Manager presenting: The Idaho Department of Environmental Quality (IDEQ) recently reviewed the City of Post Falls Industrial Pretreatment Program for compliance with State and Federal requirements. IDEQ made several recommendations to ensure municipal code accurately reflects program administrative procedures. In summary, the Code has been modified to allow for monitoring waivers and reduced compliance reporting. A required modification to the Code has also been made to ensure industrial dischargers are immediately reporting slug or accidental discharges to the City. Monitoring waivers are a useful tool a control authority may use to ensure sampling and reporting are no more burdensome to a business than necessary to protect the publicly owned treatment works. The modified code would allow industrial users to request a waiver for certain pollutants and show through an industrial process review or sampling data the pollutant would not reasonably be found in process water from the facility. City staff would review any request and, if granted, monitoring may be reduced for the specified pollutants. This often results in lower sampling costs and fewer sampling errors. Reduced compliance reporting also allows for flexibility in administering the pretreatment program by allowing staff to reduce the compliance reporting frequency to once per year where appropriate for lower volume and low risk users. Existing code requires reporting at a frequency not less than semi-annually. Protecting the Water Reclamation Facility from discharges which may harm the treatment process or cause a violation of discharge limits will remain the primary focus of administering the industrial pretreatment program. Monitoring waivers and reduced compliance reporting are allowed for an efficient treatment works. Finally, a specific prohibited discharge for Hazardous Waste was added to 13.20.050 to account for recent requirements from EPA to prevent health care industries from discharging hazardous pharmaceuticals into the wastewater collection system. Public comment on these changes will be taken at the Water Reclamation Department.

### 5. CITIZEN ISSUES

This section of the agenda is reserved for citizens wishing to address the Council regarding City-related issues that are not on the agenda. Persons wishing to speak will have 5 minutes. Comments related to pending public hearings, including decisions that may be appealed to the City Council, are out of order and should be held for the public hearing. Repeated comments regarding the same or similar topics previously addressed are out of order and will not be allowed. Comments regarding performance by city employees are inappropriate at this time and should be directed to the Mayor, either by subsequent appointment or after tonight’s meeting, if time permits. In order to ensure adequate public notice, Idaho Law provides that any item, other than emergencies, requiring Council action must be placed on the agenda of an upcoming Council meeting. As such, the City Council can’t take action on items raised during citizens issues at the same meeting but may request additional information or that the item be placed on a future agenda.
Nancy White (Blanchard) spoke about the Senior Center now being run by the Post Falls Food Bank and how the seniors were told that the lunches would be replaced by a continental breakfast instead. The senior enjoy the lunches and she asked if the city could to anything to keep them.

6. ADMINISTRATIVE / STAFF REPORTS
This portion of the agenda is for City staff members to provide reports and updates to the Mayor and City Council regarding City business as well as responses to public comments. These items are for information only and no final action will be taken.

a. Concept and Calculation of Capacity Fees
John Beacham, Public Works Director presenting: Idaho Code 50-1030 (f) authorizes municipalities to collect fees. Capacity Fees are calculated by dividing the net system replacement value by the number of users the system can support. Further court cases have limited them to the cost of replacing existing infrastructure. Net replacement value is defined as the gross system replacement value less unfunded depreciation and outstanding bond principal. Capacity Fees are not calculated on future needs, and it is not a connection fee or meter fee.

b. A Snapshot Look at Residential and Commercial Development from 2020-2022, Bob Seale, Community Development Director presenting.
This is moved to the next City Council meeting.

7. MAYOR AND COUNCIL COMMENTS
This section of the agenda is provided to allow the Mayor and City Councilors to make announcements and general comments relevant to City business and to request that items be added to future agendas for discussion. No final action or in-depth discussion of issues will occur.
None

8. EXECUTIVE SESSION
Certain City-related matters may need to be discussed confidentially subject to applicable legal requirements; the Council may enter executive session to discuss such matters. The motion to enter into executive session must reference the specific statutory section that authorizes the executive session. No final decision or action may be taken in executive session.

ACTION ITEM (To enter into executive session only):

a. Idaho Code 74-206(1)(f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated, but imminently likely to be litigated.

b. Idaho Code 74-206(1)(c) To acquire an interest in real property which is not owned by a public agency.

Motion by Thoreson to enter into Executive Session pursuant to Idaho Code 74-206(1)(f) to communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated, but imminently likely to be litigated and Idaho Code 74-206(1)(c) to acquire an interest in real property which is not owned by a public agency, further that no action will be taken during the session and that the session will last approximately 30 minutes.
Second by Borders.
Motion Carried

RETURN TO REGULAR SESSION 7:37 PM
ADJOURNMENT 7:37 PM

______________________________
Ronald G. Jacobson, Mayor

______________________________
Shannon Howard, City Clerk

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Mayor Ronald G. Jacobson
Councilors: Kerri Thoreson, Josh Walker, Joe Malloy, Nathan Ziegler, Lynn Borders, Kenny Shove

Mission
The City of Post Falls mission is to provide leadership, support common community values, promote citizen involvement and provide services which ensure a superior quality of life.

Vision
Post Falls, Idaho is a vibrant city with a balance of community and economic vitality that is distinguished by its engaged citizens, diverse businesses, progressive leaders, responsible management of fiscal and environmental resources, superior service, and a full range of opportunities for education and healthy lifestyles.

“Where opportunities flow and community is a way of life”
CALL TO ORDER BY MAYOR JACOBSON

ROLL CALL OF CITY COUNCIL MEMBERS
Kerri Thoreson, Joe Malloy, Nathan Ziegler, Lynn Borders - Present
Kenny Shove, Josh Walker – Excused

ROLL CALL OF PLANNING AND ZONING COMMISSION MEMBERS
Ryan Davis, James Steffensen, Vicky Jo Carey, Ross Schlotthauer, Ray Kimball, Nancy Hampe - Present
Kevin Ward - Excused

WORKSHOP – 5:00 pm Community Room
Topic: Multi-Family and Special Use Permits in Post Falls
Bob Seale, Community Development Director presenting: Renters are paying 51% of their income on rent. In a survey of 1,495 renters and 18 property managers, 94% of the renters reported an increase in their rent last year. Average rent of the respondents was $1,648/month (2 bed MF or 3 bed independent unit). In Kootenai County average rent increased from $989 to $1,695 per month and increase of more than 71%. One-bedroom units increased from $688 to $1,221, a 77% increase. Two-bedroom units increased 77% from $847 per month to $,502. The 18 property managers surveyed by CDA2030 have a combined 5,536 rental units and report a vacancy rate of less than 1%. Typically, vacancy rates between 4-6% are healthy.

Mixed Use Zone or Blended Developments presser undeveloped or environmentally sensitive land elsewhere in the community. There are opportunities for more or different housing, bicycle and pedestrian-friendly destinations, and an enhanced sense of place or sense of community. There is a reduction in traffic on a city scale. Customer base is near to commercial businesses. Elimination of Special Use Permits (SUP) would result in many non-conforming uses. The Planning and Zoning Commission may attach appropriate conditions to mitigate impacts, and to ensure conformance with the intent of the Comprehensive Plan and applicable provisions of this title. The Community Commercial Mixed (CCM) zone is intended to accommodate both commercial and high-density residential development at densities permitted by the high-density multi-family residential (R3) zone in a mixed-use development pattern. This zone should be applied in areas primarily located near arterials and collector streets to support commercial, residential, professional office, and civic uses that support and accessible work, live, and shop environment.
Attendees broke into groups. On their tables were zoning maps, future land use maps, road classification maps, and Comprehensive Plan goals and policies. They were asked to discuss, draw, and mark up the maps and where these zones should go. Staff would review their incite.

ADJOURNMENT 7:05 PM

__________________________________
Ronald G. Jacobson, Mayor

__________________________________
Shannon Howard, City Clerk

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## Post Falls Check Approval

**City of Post Falls**

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**Vendor Set:** 01 - Vendor Set 01  
**Check Date:** 6/30/2022

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| VEN14426 | Crow Canyon Systems, Inc. | APMWB     | 2022-336  | Annual Nitro Studio renewal                                 | 001-412.0000.66014 | 3,599.00            |
|               |                               |           |           |                                                              |                    | 3,599.00            |
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| Dept: 414 Finance  
| C291 | Coeur d' Alene Press | APMWB     | 100535650-05242022 | Fire and EMS Impact Fee Hearing Notice                      | 001-414.0000.62000 | 63.29               |
| V040 | ODP Business Solutions | APMWB     | 246629113001 | Office Supplies- Recreation                                 | 001-414.0000.63060 | 147.42              |
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| R04500 | 1-800-Radiator | APMWB     | 17083094  | Compressor - PFPD120                                         | 001-421.0000.67100 | 344.00              |
| VEN14567      | Alien Gear Holsters, Big     | APMWB     | 4490518   | Holsters                                                     | 001-421.0000.67020 | 227.50              |
| A254          | Allegra Print & Imaging      | APMWB     | 198344    | Letterhead envelopes                                         | 001-421.0000.63210 | 359.27              |
| A0001         | Alsco                        |           | 198627    | Inmate property notices                                      | 001-421.0000.63210 | 163.80              |

**Balance Sheet Accounts Total:** 750.00

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**Dept 481 Total:** 3,898.06

### Fund: 007 - DRUG SEIZURE PROGRAM

**Balance Sheet Accounts**

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**Balance Sheet Accounts Total:** 202.15

### Fund: 650 - RECLAIMED WATER OPERATING

**Dept: 463 Wastewater Operating**

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**Dept 463 Total:** 80,936.72

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| VEN05261 | APMWB | CDA PAVING | Check | Paving for Outfall Replacement Project | 651-463.6505.95520 | 21,780.50 |
| VEN14503 | APMWB | David Meyer | Check | Per waiver of claims agreement going to Coun | 651-463.6505.95520 | 20,000.00 |
| VEN14291 | APMWB | Sletten Construction Company | Check | Tertiaary Treatment Pay App 19 | 651-463.3213.90015 | 1,319,878.78 |
| Dept 463 Total: | | | | | 1,361,659.28 |

| Dept 463 Total: | | | | | 1,361,659.28 |

| Dept 462 Water Operating |
| Fund: | 750 - WATER OPERATING |
| A090 | APMWB | Accurate Testing Labs LLC | Check | Coliform Presence/Absence - Water | 750-462.0000.68360 | 125.00 |
| A133 | APMWB | Adams Tractor Company, Inc. | Check | Blades, Spindle, Deck Pulley and parts for D40750-462.0000.67170 | 750-462.0000.63280 | 313.68 |
| C1170 | APMWB | CDA Metals | Check | Metal for Hydrant Filling Stations | 750-462.0000.63280 | 729.52 |
| H215 | APMWB | Core & Main LP | Check | 10" ADAPTER TAPPING MACHINE | 750-462.0000.67020 | 3,720.16 |
| VEN14305 | APMWB | General Pacific, Inc | Check | 1" METERS | 750-462.0000.63280 | 2,799.00 |
| VEN13987 | APMWB | Western Peterbilt, LLC | Check | Office Supplies-Water/WW | 750-462.0000.63060 | 18.27 |
| S140 | APMWB | Sherwin Williams | Check | Correction for Tax Ref: 84478 - FY21 | 750-462.0000.63280 | -14.70 |
| VEN01248 | APMWB | United Crown Pump & Drilling | Check | WELL 9 ANTI RATCHET | 750-462.0000.68025 | 2,805.00 |
| VEN13987 | APMWB | Western Peterbilt, LLC | Check | Red and White Caution tape for W201 | 750-462.0000.67170 | 90.44 |
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| Dept 462 Total: | | | | | 10,586.37 |

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DATE: 6/29/2022 9:08 AM
TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: Amber Blanchette
SUBJECT: Stockwell Annexation Agreement and ROW-Easement Dedications File No. ANNX-0011-2022

ITEM AND RECOMMENDED ACTION:
With approval of the Consent Agenda, City Council authorizes the Mayor’s signature of the Annexation Agreement and the Dedication of Rights-of-Way and Easement for the Stockwell Annexation.

DISCUSSION:
The applicant(s) (David and Debbie Stockwell) have requested to annex approximately 5 acres into the City of Post Falls, with a zoning designation of Single-Family Residential (R-1). The property is generally located south of W. Prairie Ave; between N. Howell Rd. and N. Cecil Rd. On October 12, 2021 a public hearing was held before the Planning & Zoning Commission. After receiving testimony and hearing the staff report, the Commission moved to recommend approval of the requested annexation with the Single-Family Residential (R-1) zoning designation. The City Council held a public hearing and approved the requested annexation with the Single-Family Residential (R-1) zone on March 15, 2022.

ITEM / PROJECT PREVIOUSLY REVIEWED BY COUNCIL ON:
Yes

APPROVED OR DIRECTION GIVEN:
Approved

FISCAL IMPACT OR OTHER SOURCE OF FUNDING:
N/A

BUDGET CODE:
N/A
DEVELOPMENT AND ANNEXATION AGREEMENT
Stockwell Annexation
(File No. ANNX-0011-2021)

THIS AGREEMENT is made this Day of ___, 20__, by and between the City of Post Falls, a municipal corporation organized and existing pursuant to the laws of the State of Idaho, with its principal place of business at 408 N. Spokane Street, Post Falls, ID, and Stockwell Partners 2022 LLC, and Idaho Limited Liability Company, with their principal place of business at 227 E Locust Ave, Coeur d’Alene, Idaho 83814.

WHEREAS, Stockwell Partners 2022 LLC (hereinafter collectively the “Owner”) own a tract of land (hereinafter the “Property”) adjacent to the city limits of the City of Post Falls (hereinafter the “City”), which the Owner wishes to annex and develop within the City; and

WHEREAS, the legal description and a depiction of the Property is attached hereto as Exhibit “A”; and

WHEREAS, the Mayor and City Council of the City have determined it to be in the best interests of the City to annex the Property subject to the Owner performing the covenants and conditions in this Agreement.

NOW THEREFORE, IN CONSIDERATION of the covenants and conditions set forth herein, the parties agree as follows:

ARTICLE I: PURPOSE AND DESCRIPTION OF PROPERTY

1.1. **Purpose:** Owner enters into this Agreement in order to obtain annexation of the Property while the City seeks to obtain partial mitigation of the impacts of annexation of the Property on the City. Owner acknowledges that City has no duty to annex the Property and that the promises of Owner contained in this Agreement are an inducement for City to do so. The term “Owner” includes any successor in interest in the Property.

1.2. **Description of the Property:** The Property is generally located south of Prairie Avenue between Howell Road and Chase Road (13392 W. Prairie Ave.) and is more particularly described in Exhibit “A”.

ARTICLE II: STANDARDS

2.1. **Construct to City Standards:** Owner agrees that all improvements required by this Agreement or by City codes will be built to City standards or to the standards of any public agency providing service to the Property. Owner agrees to adhere to all City policies and procedures; including, but not limited to sanitary sewer improvements, water lines, fire hydrants, parks, flood works, storm water management, curbs, sidewalks, street trees, streetlights, pedestrian/bicycle facilities and roads. Such policies include extending
utility lines in a manner acceptable to the City to make service available to adjoining lands and limitations on gaining site access from arterial and collector roadways (including the KMPO Critical Access Corridor Policy).

2.2. **Applicable Standards:** Owner agrees that all laws, standards, policies and procedures regarding public improvement construction that the Owner is required to comply with or otherwise meet pursuant to this Agreement or City codes are those in effect when construction is commenced. If Owner fails to comply with applicable laws in the course of constructing improvements, public or otherwise, on the Property, the Owner consents to the City withholding further development approvals for the Property including, but not limited to, building permits, certificates of occupancy, site plan approval, and subdivision approval until such compliance is attained. Owner waives, on behalf of itself and its successors in interest, any and all claims against the City relating to the City withholding development approval as authorized by this Section.

2.3. **Inspection and Testing:** Owner agrees that it will retain the services of a civil engineer, licensed by the State of Idaho, to perform construction inspection and testing during the construction of all public improvements on the Property. Owner agrees to provide copies of all field inspection reports and test results to the City Engineer accompanied by a certification that the improvements have been installed in compliance with applicable City requirements prior to requesting that the City accept the public improvements for ownership and maintenance. The inspection, testing and certification reports must be provided at no cost to the City. Owner agrees that a representative of the City must be present at the pressure testing of water mains and sanitary sewer mains. Owner agrees to provide the City with at least twenty-four (24) hours-notice before such testing.

2.4. **As-Built Drawings:** Owner agrees to provide accurate "as-built" drawings of public improvements to the City within thirty (30) days of the date of substantial completion of construction of any public improvement on the Property. If as-buils are not provided as required by this Agreement, the Owner agrees that the City may withhold further development approvals for the Property as provided in Section 2.2 and waives, on behalf of itself and its successors in interest, any and all claims against the City relating to the City withholding development approvals. The Owner understands and agrees that the City will not accept public improvements for maintenance or allow occupancy of constructed improvements on the Property until accurate "as-buils" are provided and until planned improvements have complied with the inspection requirements contained in Section 2.3 and have been accepted for public maintenance or approved for private use.

**ARTICLE III. UTILITIES AND PUBLIC SERVICES**

3.1. **Water:** Owner agrees to use a public water supply system for any development of the Property and to pay all required fees and charges including all connection and/or capitalization charges generally applicable at the time service is requested. If water service cannot be obtained from a public water supply system that has the legal authority to provide service to the Property, the Owner may seek to obtain temporary water service from any lawful source whether public or private beginning 90 days after the date that the Owner requested water service from each public water supply system that has legal authority to serve the Property. Upon public water service becoming available to the
Property, Owner will disconnect from the temporary service and connect to the public water service.

3.1.1. Water Rights: Prior to commencement of development of the Property, Owner agrees to grant, in a form acceptable to the grantee, to the public water supply system agreeing to provide water service to the Property all water rights associated with the Property in order to assure that the public water supply system has adequate water rights to supply domestic water to the Property.

3.2. Wastewater Reclamation: The Owner agrees to use the Post Falls Sanitary Sewer system for all development of the Property and to be responsible for all required fees and charges including all connection and/or capitalization charges generally applicable at the time service is requested. Sanitary sewer service will be provided in accordance with rules and regulations of the City. The City does not warrant that sanitary sewer capacity will be available at the time Owner requests connection to the sanitary sewer system. If sanitary sewer capacity cannot be assured within 90 days of the date that service is requested by the Owner, the Owner is authorized to provide service by resorting to any lawful public or private alternative so long as legal requirements can be met. Upon the availability of treatment capacity, the owner shall disconnect from the temporary service and connect to and divert flows to the public system. Any proposed alternative must not frustrate the progression and continuity of the City's wastewater collection system.

3.2.1. Connection of Existing Structure to Sanitary Sewer Infrastructure: Any existing structures located on the Property at the time of this Agreement that are serviced by a septic system must be connected to the Post Falls Sanitary Sewer system or removed from the Property at the time of any development on the Property and the existing septic system abandoned in compliance will all legal requirements. Owner is solely responsible for the costs of connecting to the sanitary sewer and abandoning the septic system.

3.2.2 Fischer Lift Station Capacity: Owner agrees that the capacity in the Fischer Lift Station that will provide service to the Property is nearing capacity. The City will be adding additional capacity to the lift station in 2022. The City’s work will be completed, or other modifications will be made to the City’s operations to accommodate the development of the property with the approved zoning, by December 2022. Owner agrees to pay its proportionate share of the cost to add capacity to the lift station in order to serve the intended development of the Property. The parties agree that $5,000.00 is the Owner’s proportionate share of the cost to increase capacity. Owner agrees to pay this amount prior to final platting or any other development approvals for the Property.

3.3. Maintenance of Private Sanitary Sewer and Water Lines: The Owner acknowledges that the City is not responsible for maintenance of any private sanitary sewer lines or water lines, including appurtenances, within the Property.

3.4. Size of Water and Sewer Mains: The Owner agrees to provide on-site sewer lines sized to accommodate the projected flows from the Property and from any upstream property, with no reimbursement for oversizing.
3.5. **Garbage Collection**: The Owner agrees that upon the expiration of the term of any contract to provide garbage collection services to the Property, that the Owner will begin using the garbage collection service in effect with the City of Post Falls.

**ARTICLE IV. PUBLIC PROPERTY DEDICATIONS**

4.1. **Rights of Way and Easements**: As partial consideration for this Agreement, Owner agrees to dedicate the following grants of rights of way and easements to the City at the time of execution of this Agreement:

4.1.1. By grant of easement in a form acceptable to the City, Owner will grant a 15-foot wide easement along Prairie Avenue for utilities, sidewalks, and storm drainage.

4.1.2. By grant of right-of-way in a form acceptable to the City, Owner will dedicate additional rights-of-way along Prairie Avenue for a half width right of way width of 55 feet measured from the Section Line. The new Prairie Avenue right-of-way line will be in alignment with the two (2) existing subdivisions located to the east and west of the subject property.

**ARTICLE V. CONSIDERATION/FEES**

5.1. **Owner’s Consideration**: In addition to other consideration contained in this Agreement, Owner agrees to provide specific consideration to the City in the amounts and at the times specified in this Article. The sums specified are deemed by the parties to be reasonable in exchange for benefits provided by the City to the Owners’ use and development of the Property, including, but not limited to; public safety, street services, police equipment, community and traffic planning. The following consideration may be used in any manner that the City, in its sole discretion decides.

5.2. **Annexation Fee**: Prior to issuance of a permit for any development on the Property, the Owner, or their successors in interest, must pay the appropriate annexation fee in effect at the time of the issuance of the permit as adopted by the City Council by resolution.

5.3. **No Extension of Credit**: The parties, after careful consideration of the actual burdens on the City, have agreed to a specific timeline in which those burdens will occur. This Article anticipates specific payment at a specific date and is in no manner a loan of services or an extension of credit by the City.

5.4. **Other Fees**: Additionally, the Owner agrees to pay all required fees and charges including but not necessarily limited to water hook-up fee(s), water connection (capitalization) fee(s), sanitary sewer connection (capitalization) fee(s) and building permit fees and any applicable impact fees that may be imposed. Fees referred to in this Section are established by City ordinance and/or resolution and arise independent of this Agreement.

5.4.1 **Fisher Lift Station Fee**: Owner agrees to pay the fee listed in Section 3.2.2 prior to final plat, or any other development approval, for the Property.
5.5. **City’s Consideration:** Upon the proper execution and recordation of this Agreement, the City will prepare for passage an annexation ordinance annexing the Property. The parties agree that until the date of publication of the annexation ordinance, no final annexation of Owners’ property will occur.

**ARTICLE VI. MISCELLANEOUS**

6.1. **Subdivision:** The parties acknowledge that in the event the Owner desires to sell a portion of the Property rather than the Property as a whole, that a plat may be necessary. Owner agrees that in the event a plat is necessary, Owner will submit a proper subdivision plat and comply with the subdivision ordinance in effect at the time of the desired division.

6.2. **De-annexation:** Owner agrees that in the event the Owner fails to comply with the terms of this Agreement, defaults, or is otherwise in breach of this Agreement, the City may de-annex the Property and terminate utility services without objection from owners, assigns or successors in interest of such portions of the Property as the City in its sole discretion decides. Owner waives, on behalf of itself and any successors in interest, any claims it may have against the City for de-annexing the Property as allowed by this Section.

6.3. **Owner to Hold City Harmless:** The Owner further agrees it will indemnify, defend (in the City’s sole option, and hold the City harmless from any and all causes of action, claims and damages that arise, may arise, or are alleged, as a result of the Owner’s development, operation, maintenance, and use of the Property. Owner further agrees to pay City’s legal costs, including reasonable attorney fees in the event this annexation is challenged in a court of law. Payment for City’s legal costs will be remitted within thirty (30) days after receipt of invoice from the City for legal expenses.

6.4. **Time is of the Essence:** Time is of the essence in this Agreement.

6.5. **Merger and Amendment:** All promises and prior negotiations of the parties’ merge into this Agreement and the representations, warranties, covenants, conditions and agreements of the parties contained in the Agreement shall survive acceptance of any deeds and/or easements. The parties agree that this Agreement may only be amended by a written instrument that is signed by both parties. The parties agree that this Agreement will not be amended by a change in law.

6.6. **Effect on City Code:** The parties agree that Agreement is not intended to replace any other requirement of City Code and that its execution does not constitute a waiver of requirements established by City ordinance or other applicable provisions of law.

6.7. **Recordation:** The Owner agrees this Agreement will be recorded by the City at the Owner’s expense.

6.8. **Section Headings:** The section headings of this Agreement are for clarity in reading and not intended to limit or expand the contents of the sections to which they apply.
6.9. **Incorporation of Recitals and Exhibits:** The recitals to this Agreement and all exhibits referred to in this Agreement are incorporated herein by this reference and made a part of this Agreement.

6.10. **Compliance with Applicable Laws:** Owner agrees to comply with all applicable laws.

6.11. **Covenants Run with the Land:** The covenants contained herein to be performed by the Owner are binding upon the Owner and Owner’s heirs, assigns and successors in interest, and shall be deemed to be covenants running with the land.

6.12. **Promise of Cooperation:** Should circumstances change, operational difficulties arise or misunderstandings develop, the parties agree to meet and confer at the request of either party to discuss the issue and proposed solutions. Further, each party agrees not to bring a claim, initiate other legal action or suspend performance without meeting directly with the other party regarding the subject matter of the disagreement and if the parties cannot amicably resolve the disagreement, retain a mediator, acceptable to both parties, to mediate a solution to the disagreement.

6.13. **Severability:** Should any provision of this Agreement be declared invalid by a court of competent jurisdiction the remaining provisions continue in full force and effect and must be interpreted to effectuate the purposes of the entire Agreement to the greatest extent possible.

6.14. **Enforcement - Attorney’s Fees:** Should either party require the services of legal counsel to enforce compliance with the terms of this Agreement, the prevailing party will be entitled to its reasonable attorney’s fees and related costs of enforcement.

IN WITNESS WHEREOF, the City of Post Falls has caused this Agreement to be executed by its Mayor and City Clerk, and the Owner has executed this Agreement to be effective the day and year first above written.

**CITY OF POST FALLS**

By: ____________

*Ronald G. Jacobson, Mayor*

**Stockwell Partners 2022 LLC**

By: ____________

*Scott Broder, Managing Member*

Attest:

*Shannon Howard, City Clerk*
ACKNOWLEDGEMENTS

STATE OF IDAHO )
County of Kootenai )

On this ___ day of ____, 20__, before me, a Notary for the State of Idaho, personally appeared Ronald G. Jacobson and Shannon Howard known, or identified to me to be the Mayor and City Clerk, respectively of the City of Post Falls, Kootenai County, Idaho, executing the herein instrument, and acknowledged to me that such City of Post Falls executed the same.

IN WITNESS WHEREOF, I have hereto set my hand and affixed my official seal the date and year in this certificate first above written.

Notary Public for the State of Idaho
Residing at: ________________
Commission Expires: ______

STATE OF IDAHO )
County of Kootenai )

On this 21 day of June, 2022, before me, a Notary for the State of IDAHO, personally appeared Scott Border, Managing Member, Stockwell Partners 2022 LLC, known, or identified to me to be the company whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereto set my hand and affixed my official seal the date and year in this certificate first above written.

Notary Public for the State of Idaho
Residing at: Hayden ID
Commission Expires: 2-22-28
Legal Description
Exhibit “A”

A parcel of land located in the Northeast Quarter of Section 28, Township 51 North, Range 5 West, Boise Meridian, Kootenai County, Idaho, more particularly described as follows:

Commencing at the northwest corner of the Northeast Quarter of Section 28, Township 51 North, Range 5 West, Boise Meridian, from which the northeast corner of said Northeast Quarter of Section 28 bears North 90°00'00" East, a distance of 2646.46 feet;

Thence North 90°00'00" East along the north line of said Northeast Quarter of Section 28, a distance of 661.67 feet;

Thence South 00°37'52" East leaving said north line of the Northeast Quarter of Section 28, a distance of 30.00 feet to the Point of Beginning;

Thence North 90°00'00" East, a distance of 330.90 feet;

Thence South 00°40'06" East, a distance of 636.00 feet;

Thence North 89°58'47" West, a distance of 331.31 feet;

Thence North 00°37'52" West, a distance of 636.11 feet to the Point of Beginning;

Containing 210,586 square feet, or 4.834 acres more or less.

SUBJECT TO:
Existing rights-of-way and easements of record and or appearing on said above described parcels.

END OF DESCRIPTION
Prepared by this office:
h2 Surveying, LLC
GRANT OF RIGHT-OF-WAY
Stockwell Annexation
Prairie Ave.
File No. ANNX-0011-2021

KNOWN ALL MEN BY THESE PRESENTS, that Stockwell Partners 2022 LLC; the Grantor, for and in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration, in hand paid by the City of Post Falls, Kootenai County, State of Idaho, the receipt of which is hereby acknowledged, does hereby grant, quitclaim and convey unto the said City of Post Falls, 408 N. Spokane St., Post Falls, ID 83854, a municipal corporation, Kootenai County, State of Idaho, the Grantee, a right-of-way for the construction, improvement, operation and maintenance of public roadway, allowing also placement and maintenance of pipelines for water and sewer, and such other surface and underground utility lines as may be necessary, upon and across the following described property:

A portion of Lot 1, Block 1, EAKIN ADDITION, as recorded in Book "F" of Plats, at Page 367, Instrument #1255521, Records of Kootenai County, Idaho, located in the Northeast Quarter of Section 28, Township 51 North, Range 5 West, Boise Meridian, Kootenai County, Idaho, more particularly described as follows:

Commencing at the northwest corner of the Northeast Quarter of Section 28, Township 51 North, Range 5 West, Boise Meridian, from which the northeast corner of said Northeast Quarter of Section 28 bears North 90" 00'00" East, a distance of 2646.46 feet;

Thence North 90° 00'00" East along the north line of said Northeast Quarter of Section 28, a distance of 661.49 feet;

Thence South 00° 37'53" East leaving said north line of the Northeast Quarter of Section 28, a distance of 30.00 feet to the northwest corner of said Lot 1, and the Point of Beginning;

Thence North 90° 00'00" East along the north line of said Lot 1, a distance of 330.89 feet to the northeast corner of said Lot 1;

Thence South 00" 40'06" East along the east line of said Lot 1, a distance of 25.00 feet;

Thence North 90" 00'00" East leaving said east line of Lot 1, a distance of 330.90 feet to the west line of said Lot 1;

Thence North 00° 37'53" West along the west line of said Lot 1, a distance of 25.00 feet to the northwest corner of said Lot 1 and the Point of Beginning;
Containing 8,272 square feet or 0.190 acres, more or less.

SUBJECT TO:
Existing rights-of-way and easements of record and or appearing on said above described parcels.

As depicted in the attached Exhibit A.

TO HAVE AND TO HOLD SUCH RIGHT-OF-WAY FOR PUBLIC PURPOSES, THE Grantor does hereby dedicate all interest in said strip of land to public use for such purposes.

In witness whereof, the Grantor has caused this instrument to be executed this 21 day of June, 2022.

CITY OF POST FALLS

By ____________________________

Ronald G. Jacobson, Mayor

Attest:
______________________________

Shannon Howard, City Clerk

GRANTOR(S):

Stockwell Partners 2022 LLC

By ____________________________

Scott Broder, Managing Member

Scott Broder
SB 4/21/22
ACKNOWLEDGEMENTS

STATE OF IDAHO )
: ss
County of Kootenai )

On this ___ day of ____, 20__, before me, a Notary for the State of Idaho, personally appeared Ronald G. Jacobson and Shannon Howard known, or identified to me to be the Mayor and City Clerk, respectively of the City of Post Falls, Kootenai County, Idaho, executing the herein instrument, and acknowledged to me that such City of Post Falls executed the same.

IN WITNESS WHEREOF, I have hereto set my hand and affixed my official seal the date and year in this certificate first above written.

Notary Public for the State of Idaho
Residing at: ________________
Commission Expires: _______

STATE OF IDAHO )
: ss
County of Kootenai )

On this 24 day of June, 2022, before me, a Notary for the State of IDAHO, personally appeared Scott Border, Managing Member, Stockwell Partners 2022 LLC, known, or identified to me to be the company whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereto set my hand and affixed my official seal the date and year in this certificate first above written.

[Signature]
Notary Public for the State of IDAHO
Residing at: Hayden ID
Commission Expires: 2-22-28
Right-of-Way Dedication
Legal Description
Exhibit “A”

A portion of Lot 1, Block 1, EAKIN ADDITION, as recorded in Book “F” of Plats, at Page 367, Instrument #1255521, Records of Kootenai County, Idaho, located in the Northeast Quarter of Section 28, Township 51 North, Range 5 West, Boise Meridian, Kootenai County, Idaho, more particularly described as follows:

Commencing at the northwest corner of the Northeast Quarter of Section 28, Township 51 North, Range 5 West, Boise Meridian, from which the northeast corner of said Northeast Quarter of Section 28 bears North 90°00'00" East, a distance of 2646.46 feet;

Thence North 90°00'00" East along the north line of said Northeast Quarter of Section 28, a distance of 661.49 feet;

Thence South 00°37'53" East leaving said north line of the Northeast Quarter of Section 28, a distance of 30.00 feet to the northwest corner of said Lot 1, and the Point of Beginning;

Thence North 90°00'00" East along the north line of said Lot 1, a distance of 330.89 feet to the northeast corner of said Lot 1;

Thence South 00°40'06" East along the east line of said Lot 1, a distance of 25.00 feet;

Thence North 90°00'00" East leaving said east line of Lot 1, a distance of 330.90 feet to the west line of said Lot 1;

Thence North 00°37'53" West along the west line of said Lot 1, a distance of 25.00 feet to the northwest corner of said Lot 1 and the Point of Beginning;

Containing 8,272 square feet or 0.190 acres, more or less.

SUBJECT TO:
Existing rights-of-way and easements of record and or appearing on said above described parcels.

END OF DESCRIPTION
Prepared by this office:
h2 Surveying, LLC

[Signature]
3/1/22
GRANT OF EASEMENT
Stockwell Annexation
Prairie Ave.
File No. ANNX-0011-2021

KNOW ALL MEN BY THESE PRESENTS that, Stockwell Partners 2022 LLC; herein after termed “Grantors”, for and in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration, does hereby give, grant and quitclaim unto the City of Post Falls, Kootenai County, Idaho, the Grantee, whose address is 408 N. Spokane Street, Post Falls, Idaho 83854, an easement for the construction, improvement, operation and maintenance of a public sidewalk, storm water drainage and utilities over, under, upon and across the following described property:

A portion of Lot 1, Block 1, EAKIN ADDITION, as recorded in Book "F" of Plats, at Page 367, Instrument #1255521, Records of Kootenai County, Idaho, located in the Northeast Quarter of Section 28, Township 51 North, Range 5 West, Boise Meridian, Kootenai County, Idaho, more particularly described as follows:

Commencing at the northwest corner of the Northeast Quarter of Section 28, Township 51 North, Range 5 West, Boise Meridian, from which the northeast corner of said Northeast Quarter of Section 28 bears North 90'00'00" East, a distance of 2646.46 feet;

Thence North 90'00'00" East along the north line of said Northeast Quarter of Section 28, a distance of 661.49 feet;

Thence South 00'37'53" East leaving said north line of the Northeast Quarter of Section 28, a distance of 55.00 feet to a point of the west line of said Lot 1, and the Point of Beginning;

Thence North 90'00'00" East leaving the west line of said Lot 1, a distance of 330.90 feet to the east line of said Lot 1;

Thence South 00'40'06" East along the east line of said Lot 1, a distance of 15.00 feet;

Thence South 90'00'00" West leaving said east line of Lot 1, a distance of 330.91 feet to the west line of said Lot 1;

Thence North 00'37'53" West along the west line of said Lot 1, a distance of 15.00 feet to the Point of Beginning;

Containing 4,964 square feet or 0.114 acres, more or less.

SUBJECT TO:
Existing rights-of-way and easements of record and or appearing on said above described
parcels.

As further depicted in the attached Exhibit A

TO HAVE AND TO HOLD said easement for public sidewalk, storm water drainage and utilities purposes so long as the same shall be used, operated and maintained as such. The Grantors herein expressly limits the grant and quitclaim of this easement to its respective interest, and that of its successors, in that parcel of land over, under, upon and across which said easement lies.

In witness whereof, the Grantor has caused this instrument to be executed this __21__ day of __June__, 2022.

CITY OF POST FALLS

By ____________________________________________

_Ronald G. Jacobson, Mayor_

Attest:

______________________________
_Shaunna Howard, City Clerk_

GRANTOR(S):

Stockwell Partners 2022 LLC

By _______________________________________

_Scott Broder, Managing Member_
STATE OF IDAHO

County of Kootenai

On this ____ day of ____ , 20___, before me, a Notary for the State of Idaho, personally appeared Ronald G. Jacobson and Shannon Howard known, or identified to me to be the Mayor and City Clerk, respectively of the City of Post Falls, Kootenai County, Idaho, executing the herein instrument, and acknowledged to me that such City of Post Falls executed the same.

IN WITNESS WHEREOF, I have hereto set my hand and affixed my official seal the date and year in this certificate first above written.

Notary Public for the State of Idaho
Residing at: ____________
Commission Expires: ________

STATE OF IDAHO

County of Kootenai

On this 21 day of June, 2022, before me, a Notary for the State of Idaho, personally appeared Scott Border, Managing Member, Stockwell Partners 2022 LLC, known, or identified to me to be the company whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereto set my hand and affixed my official seal the date and year in this certificate first above written.

Notary Public for the State of Idaho
Residing at: Hayden ID
Commission Expires: 2-23-28
15' Utility Easement
Legal Description
Exhibit “A”

A portion of Lot 1, Block 1, EAKIN ADDITION, as recorded in Book “F” of Plats, at Page 367, Instrument #1255521, Records of Kootenai County, Idaho, located in the Northeast Quarter of section 28, Township 51 North, Range 5 West, Boise Meridian, Kootenai County, Idaho, more particularly described as follows:

Commencing at the northwest corner of the Northeast Quarter of Section 28, Township 51 North, Range 5 West, Boise Meridian, from which the northeast corner of said Northeast Quarter of Section 28 bears North 90°00'00" East, a distance of 2646.46 feet;

Thence North 90°00'00" East along the north line of said Northeast Quarter of Section 28, a distance of 661.49 feet;

Thence South 00°37'53" East leaving said north line of the Northeast Quarter of Section 28, a distance of 55.00 feet to a point of the west line of said Lot 1, and the Point of Beginning;

Thence North 90°00'00" East leaving the west line of said Lot 1, a distance of 330.90 feet to the east line of said Lot 1;

Thence South 00°40'06" East along the east line of said Lot 1, a distance of 15.00 feet;

Thence South 90°00'00" West leaving said east line of Lot 1, a distance of 330.91 feet to the west line of said Lot 1;

Thence North 00°37'53" West along the west line of said Lot 1, a distance of 15.00 feet to the Point of Beginning;

Containing 4,964 square feet or 0.114 acres, more or less.

SUBJECT TO:
Existing rights-of-way and easements of record and or appearing on said above described parcels.

END OF DESCRIPTION
Prepared by this office:
h2 Surveying, LLC

[Stamp: Registered Land Surveyor]
[Signature: 3/4/22]
DATE: 6/29/2022 9:09 AM
TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: Amber Blanchette
SUBJECT: Stockwell Court Subdivision Master Development Agreement File No. SUBD-0013-2021

ITEM AND RECOMMENDED ACTION:
With approval of the Consent Calendar, City Council authorizes the Mayor's signature on the Master Development Agreement for the Stockewell Court Subdivision.

DISCUSSION:
The applicant(s) (David and Debbie Stockwell) have requested to subdivide approximately 5 acres into 18 Single-Family Residential (R-1) lots. The property is generally located south of W. Prairie Ave; between N. Howell Rd. and N. Cecil Rd.
On March 23, 2022 a public hearing was held before the Planning & Zoning Commission. After receiving testimony and hearing the staff report, the Commission moved to approve the requested subdivision with conditions.

ITEM / PROJECT PREVIOUSLY REVIEWED BY COUNCIL ON:
N/A

APPROVED OR DIRECTION GIVEN:
Approve

FISCAL IMPACT OR OTHER SOURCE OF FUNDING:
N/A

BUDGET CODE:
N/A
MASTER DEVELOPMENT AGREEMENT
FOR
STOCKWELL COURT SUBDIVISION
(File No. SUBD-0013-2021)

THE CITY OF POST FALLS, hereinafter the "City", a municipal corporation of the state of Idaho, 408 Spokane Street, Post Falls, Idaho 83854, and Stockwell Partners 2022 LLC; hereinafter the "Developer", enter into this Master Development Agreement, hereinafter the “Agreement”, executed with reference to the following conditions and circumstances. It is agreed among the parties as follows:

The following provisions establish the context of this Agreement and constitute binding provisions hereof:

A. Developer owns approximately 5 acres of real property in fee simple title located within the City of Post Falls. Said acreage is planned for a residential subdivision, which requires major investment in public facilities and front-end on-site and off-site improvements. The proposed development of said acreage has been commonly identified as Stockwell Court Subdivision (hereinafter the “Project”). The Project is more specifically identified and described as the (Subdivision Plan of Record, Exhibit A-3, File # SUBD-0013-2021, Post Falls Community Development Department) which is attached hereto and incorporated, as if fully set forth herein, and identified as Exhibit No.1.

B. In order to strengthen the public planning process and to encourage private planning of substantial tracts of land within the Post Falls community rather than engage in planning of numerous small tracts independent of their surroundings, the City is authorized to enter into agreements by Idaho Code §50-301.

C. Development of the Project in accordance with the terms and conditions of this Agreement and ordinances of the City of Post Falls will assure orderly growth and development of the Project area in accordance with the policies and goals set forth in the City’s Comprehensive Land Use Plan, Post Falls Municipal Code (PFMC) Title 17, Subdivision Ordinance, and PFMC Title 18, Zoning Ordinance. City has determined the Project is appropriate for a development agreement in order to achieve the goals and objectives of the City’s land use planning policies and relevant ordinances and to provide appropriate assurance to Developer regarding development of the Project as it progresses in accordance with this Agreement. This Agreement will eliminate uncertainty in planning during the orderly development of the Project, assure progressive and sequential installation of necessary improvements and provide for public services appropriate for the Project while assuring the maximum effective utilization of the City’s resources with the least economic cost to its residents.
D. The Project’s overall density and general design are conditionally approved for a Three-year period and City and Developer agree to be bound by this Agreement for the duration of the Project subject to the terms and conditions contained herein. Nothing in this Agreement shall be deemed to compromise the governmental authority of the Mayor and City Council of the City of Post Falls, present or future.

E. City acknowledges that the Developer, subject to the review process for each phase of development and maintenance of continuing progress in development of the Project, shall be allowed to develop **Stockwell Court Subdivision** subject to the satisfaction of all terms and conditions contained herein, availability of utility capacity and compliance with legal requirements occasioned hereby.

F. The Planning and Zoning Commission held a public hearing on **March 23, 2022** and approved the subdivision of the property contingent upon compliance with the conditions of approval contained in the Reasoned Decision (Reasoned Decision of Stockwell Court Subdivision), (hereinafter “Reasoned Decision”) and the requirements of City Code. The Reasoned Decision is attached hereto and by this reference incorporated herein as Exhibit No. 2. Said conditions are hereby made an obligation of performance of the terms of this Agreement.

G. During the course of development of the Project, Developer will make application to City for approval of final plat maps for the Project in accordance with Post Falls Municipal Code Section 17.16 Plat Review & Approval. During City’s review process of final plat maps, the approvals memorialized hereby shall control conditions imposed by City for the Project and future final plat maps as noted herein, consistent with the terms and conditions of this Agreement.

H. The Reasoned Decision were prepared as part of the City’s review and approval of the Subdivision. Minor changes in the manner of implementation of the approval memorialized hereby can be made by mutual agreement of the Developer and the City’s administrative staff.

I. For the Project, City, and Developer have agreed to enter into a Construction Improvement Agreement, which more particularly describes the duties and obligations of all parties for the development of the Project pursuant to a submittal by Developer to City for a final plat map. The Construction Improvement Agreement establishes specific construction details and guarantees necessary for the timely construction of public infrastructure improvements and such other essential improvements as may be necessary to complete the project as proposed and approved. Nothing in the Construction Improvement Agreement shall be inconsistent with the approvals accorded hereby unless otherwise required by law.

J. City and Developer have taken all actions mandated by and fulfilled all requirements of the Post Falls Municipal Code and the relevant provisions of Idaho law. The City Council has reviewed and approved the terms of this Agreement. It further finds that this Agreement is consistent with the City’s Comprehensive Plan, and its implementation is in the best interests of the City and the health, safety and welfare of its residents. The
factual and logical basis for the decision to approve the Project is contained within the Reasoned Decision adopted by the Planning and Zoning Commission.

NOW, THEREFORE, It is agreed by the City and the Developer as follows:

1. **Property and Term.**
   1.1 **Property Subject to this Agreement**

   The Land is described as follows:

   Lot 1, Block 1, Eakin Addition, according to the plat recorded in Book “F” of Plats, Page 367, records of Kootenai County, Idaho.

   1.2 **Term**

   The term of this Agreement shall commence upon the execution of this Agreement by all parties to this Agreement and shall continue for three years thereafter or until all lands described in 1.1 are subdivided or otherwise developed in accordance with the terms of this Agreement, unless earlier terminated as provided herein. If construction of the approved development is not commenced with sustained effort within one (1) year after approval, the city may give notice to the developer of the intent to terminate the agreement for non-performance. Upon such notice, the Developer shall be allowed a public hearing concerning the City’s intent to terminate, if requested. After hearing from the Developer, in addition to comments from the public, city’s governing board may finally decide the status of the agreement. Section 9.2 shall continue in effect after the term of this agreement and shall be an ongoing obligation of the property owners.

2. **Project Regulations and Policies**

   2.1. **Project Development**

   Developer shall have the right to develop the Project in accordance with the terms and conditions of this Agreement and City shall have the right to control development of the Project as set forth in this Agreement and consistent with applicable local and state laws. Except as otherwise specified in this Agreement, the approvals memorialized hereby shall control the overall design, development and construction of the Project, and all on-and off-site improvements and appurtenant improvements in connection therewith, in the manner specified in this Agreement. Nothing in this Agreement shall contravene any applicable provision of law, which is not subject to modification by the City.

   2.1.1. **Existing Approvals**

   Development of the Property shall be subject to all of the conditions and standards as set forth in the Reasoned Decision. The development of the Property shall be consistent with adopted rules, regulations and ordinances of the City except where such rules, regulations and ordinances are expressly modified by the approvals accorded the project.

   2.1.2. **Future Application**
Sections 2.1 and 2.1.1 herein shall not preclude changes in City laws, regulations, plans or policies, the terms of which are specifically mandated and required by changes in State or Federal laws or regulations which may be otherwise applicable to the Project. In the event State or Federal laws or regulations enacted after the effective date of this Agreement or action by any governmental jurisdiction other than the City prevent or preclude compliance with one or more provisions of this Agreement or require changes in plans, maps or permits approved by the City, this Agreement shall be modified, extended or suspended as may be necessary to comply with such State or Federal laws or regulations or the regulations of such other governmental jurisdictions. Any such future changes shall be applied in a manner, which most closely approximates the approach, envisioned by this Agreement and the terms of the approvals memorialized hereby.

2.1.3 Fees
All applications for City approvals, permits and entitlements shall be subject to City's development and processing fees and charges at the time of consideration of the final plat map, development approval request, or building permit except as expressly superseded by Section 2.1.1 herein.

2.2 Project is a Private Undertaking
It is specifically understood and agreed by the parties that the Project contemplated by this Agreement is a private development; that the City has no interest in or responsibility for or duty to third persons concerning any of said improvements; that Developer shall have full power over and exclusive control of the Project herein described subject only to the limitations and obligations of the Developer under this Agreement and applicable provisions of law. The only relationship between City and Developer is that of a governmental entity regulating the development of private property pursuant to the laws of the City and the State of Idaho.

2.3 Hold Harmless
Developer hereby agrees to and shall hold City harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage which may arise from the Developer's development of the Project, excepting claims and causes of actions brought by the Developer for default of this Agreement or those arising from the negligence or willful misconduct of the City.

3. City's Good Faith in Processing

3.1 Processing
City agrees that it will accept, process and review, in good faith, in accordance with the terms of this Agreement all applications for final plat map processing and approval, building permits or other authorizations needed for development of the Project.

3.2 Permits
City agrees that this Agreement shall permit Developer to develop the Project according to the terms and conditions agreed to herein and the official actions approving the Project, and that City agrees to issue such permits and approvals in a reasonable and timely manner.
to allow the Developer to develop the Project, subject to compliance with all provisions of applicable law.

4. Notices, Demands and Communications Among the Parties
4.1 Notice
Formal written notices, demands, correspondence and communications between the City and Developer shall be sufficiently given if dispatched by certified mail, postage prepaid, return receipt requested, to the offices of the City and the Developer indicated below. Such written notices, demands, correspondence and communications may be sent in the same manner to such other persons and addresses as either party may from time-to-time designate by mail as provided in this section. Notices may also be delivered by personal delivery to an officer of the Developer or the Planning and Building Director of the City.

DEVELOPER
Stockwell Properties 2022 LLC
227 E Locust Ave.
Coeur d’ Alene, ID 83814

CITY
Mayor
408 Spokane Street
Post Falls, Idaho 83854

5. Default, Remedies, Termination, and Review
5.1 General Provisions
Subject to extensions of time by mutual consent in writing, or as otherwise provided herein, failure by either party to perform any term or provision of this Agreement constitutes a default under this Agreement. In the event of default under this Agreement or any of its terms or conditions, the party alleging such default or breach shall give the alleged breaching party not less than thirty (30) days’ notice in writing, measured from the date of certified mailing, specifying the nature of the alleged default and, when appropriate, the manner by which said default may be satisfactorily cured. During any such thirty-day period of curing, the party charged shall not be considered in default for purposes of termination or institution of legal proceeding. The parties agree to meet face-to-face in the event of any such notice of default. After proper notice, meeting and expiration of said thirty (30) day cure period without cure, or if such cure cannot be accomplished within such thirty (30) day period, or without commencement of cure within such period and diligent effort to effect cure thereafter, the other party to this Agreement, at its option, may institute legal proceedings to enforce this Agreement by specific performance or give notice of termination of this Agreement. Failure or delay in giving notice of default pursuant to this Section 5.1 shall not constitute a waiver of any default, nor shall it change the time of default. Except as otherwise expressly provided in this Agreement, any failure or delay by either party in asserting any of its rights or remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies. City is allowed to
withhold approval of issuance of building or construction permits when a material condition of default exists.

5.2 Applicable Law/Attorneys' Fees.
This Agreement shall be construed and enforced in accordance with the laws of the State of Idaho. Should any legal action be brought by either party because of breach of this Agreement or to enforce any provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees; court costs and such other costs as may be found by the Court.

5.3 Termination for Unforeseen Circumstances
These provisions provide a mechanism for the identification of those circumstances, which justify the modification, termination, or suspension of this Agreement. If, as a result of facts, events or circumstances presently unknown, unforeseeable and which could not have been known to the parties to this Agreement, City determines that the health, safety and general welfare of the City or its residents requires the modification, suspension or termination of this Agreement, the City shall (1) notify Developer in writing of the City's determination that such circumstances exist, the reasons for the City's determination and all facts upon which such reasons are based, and forward to Developer (a minimum of ten (10) days prior to the hearing) all documents relating to such determination and reasons therefore; (2) notify Developer, in writing, at least fourteen (14) days prior to the date, the time and place of the hearing; and (3) hold a hearing on the determination at which hearing Developer shall have the right to offer evidence to the contrary. City shall have the obligation, based upon clear and convincing evidence, of establishing that (1) the circumstances were unknown, unforeseeable and could not have been known; (2) the health, safety and general welfare of the community require the suspension, modification or termination of the Agreement as opposed to any other alternative; and (3) the City, to the extent feasible, has provided Developer with an equitable program to reimburse to Developer unused fees, and provided equitable reimbursement for dedications or improvements not required by the extent of development as of the date of such suspension, modification or termination. In the event the City Council should fail to make such findings, then this Agreement shall not be so terminated, modified or suspended. The unforeseen circumstances, which shall cause the operation of this provision, shall not be the result of changes in state or federal law. The procedures described herein shall apply to circumstances, which threaten the health, safety and welfare of the public. If such threat is immediate and substantial, the City may suspend project development immediately in order to protect the public interest.

6. Subsequent Laws as Superseding Terms
6.1 Supersede by Subsequent Laws
If any agency other than City imposes any law or regulation ('Law') after the date of this Agreement, which prevents or precludes compliance with one or more provisions of this Agreement, then the provisions of this Agreement shall, to the extent feasible, be modified or suspended as may be necessary to comply with such new Law. Immediately after enactment of any such new Law, the parties shall meet and confer in good faith to determine the feasibility of any such modification or suspension based on the effect such
modification or suspension would have on the purposes and intent of this Agreement. In
addition, Developer shall have the right to challenge the new Law preventing compliance
with the terms of this Agreement, and, in the event such challenge is successful, this
Agreement shall remain unmodified and in full force and effect.

7. Mortgagee Protection; Certain Rights of Cure

7.1 Mortgagee Protection
This Agreement shall be superior and senior to any lien placed upon the Property or any
portion thereof after the date of recording this Agreement, including the lien of any deed
of trust or mortgage ("Mortgage"). Notwithstanding the foregoing, no breach hereof shall
defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and
for value, but all of the terms and conditions contained in this Agreement shall be binding
upon and effective against any person or entity including any deed of trust beneficiary or
mortgagee ("Mortgagee") who acquires title to the Property, or any portion thereof, by
foreclosure, trustee’s sale, deed in lieu of foreclosure, or otherwise.

7.2 Mortgagee Not Obligated
Notwithstanding the provisions of Section 7.1 above, no Mortgagee shall have any
obligation or duty under this Agreement to construct or complete the construction of
improvements, or to guarantee such construction or completion; provided, however, that a
Mortgagee shall not be entitled to devote the Property to any uses or to construct any
improvements thereon other than those uses or improvements provided for or authorized
by this Agreement.

7.3 Notice of Default to Mortgagee
If City receives notice from a Mortgagee requesting a copy of any notice of default given
Developer hereunder and specifying the address for service thereof, then City shall deliver
to such Mortgagee, concurrently with service thereon to Developer, any notice given to
Developer with respect to any claim by City that Developer has committed an event of
default, and if City makes a determination of noncompliance hereunder, City shall likewise
serve notice of such noncompliance on such Mortgagee concurrently with service thereof
on Developer. Each Mortgagee shall have the right during the same period available to
Developer to cure or remedy, or to commence to cure or remedy, the event of default
claimed or the areas of noncompliance set forth in the City’s notice. Developer is obliged
hereby to notify the City of any Mortgagee with an interest in the Project.

8. Transfers and Assignments

8.1 Right to Assign
Developer shall have the right to sell, assign or transfer this Agreement, and all of its rights,
duties and obligations hereunder, to any entity during the Term of this Agreement;
provided, however, in no event shall the rights, duties and obligations conferred upon
Developer pursuant to this Agreement be at any time so transferred or assigned except
through a transfer of Developer’s interest in the Property, or portion thereof transferred.
This right to assign or transfer shall not compromise the rights of the City to require surety
to assure completion of Developer’s obligations established hereby or by law.
8.2 Release Upon Transfer
Upon the sale, transfer or assignment of Developer's rights and interests under this Agreement under Section 8.1 above, Developer shall be released from its obligations under this Agreement with respect to the Property, or portion thereof, so transferred arising subsequent to the effective date of such transfer (1) if Developer is not then in default under this Agreement; (2) Developer has provided to City notice of such transfer, and (3) the transferee executes and delivers to City a written agreement in which (a) the name and address of the transferee is set forth; and (b) the transferee expressly and unconditionally, upon provision of sufficient surety or other assurance of performance, assumes all of the obligations of Developer under this Agreement with respect to the Property, or portion thereof, transferred, and if City approves the transferee, which approval City will not unreasonably withhold if such transferee is financially capable of performing the obligations of Developer pursuant to Section 5 or if surety is provided to guarantee performance. Failure to deliver a written assumption agreement hereunder shall not affect the running of any covenants herein with the land, as provided in Section 9 below, nor shall such failure negate, modify or otherwise affect the liability of any transferee pursuant to the provisions of this Agreement.

9. Covenants Run with The Land
9.1 All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon the parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees and all other persons or entity acquiring the Project real property, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever, and shall inure to the benefit of the parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns. All of the provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable laws.

9.2 Maintenance of Common Area Landscaping
The Developer shall establish a Homeowner's Association to provide for the maintenance of the common area landscaping, including any common areas fronting the roads (as identified within the Findings of Fact and Conclusions and or upon the face of the recorded plat). The Homeowner's Association shall be solely responsible for all landscaping maintenance including routine weeding, mowing, watering, trimming, planting and all normal activities required to sustain attractive healthy plants and plantings in a landscaped environment. This responsibility includes the costs for snow removal along sidewalks and asphalt trails; along with maintenance of the irrigation system, providing water, replacing shrubs, sod, trees and other plants as required to keep the landscaped areas attractive and healthy. Developer agrees that in the event that the Homeowner's Association fails to meet its obligation under this provision that the City is authorized to contract to provide the maintenance services and to assess the cost of such maintenance and water fees to the property owners within the subdivision. This obligation shall be ongoing and constitute a consensual perpetual lien upon the property within the subdivision.

10.1 No Joint Venture or Partnership
City and Developer agree that nothing contained in this Agreement or in any document executed in connection with this Agreement shall be construed as making City and Developer a joint venture or partners.

10.2 Severability
City and Developer agree that if any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected and shall remain in full force and effect unless amended or modified by mutual consent of the parties.

10.3 Entire Agreement
This Agreement is executed in one original and consists of thirty-three (33) pages, including the Recitals and 2 Exhibits, which constitute the entire understanding and agreement of the parties. A list of exhibits to this Agreement, all of which are found in the Reference Document are as follows:

Exhibit 1:  General Site Plan of Record (Exhibit A-3, File No. SUBD-0013-2021, Post Falls Community Development Department records)
Exhibit 2:  Reasoned Decision, Stockwell Court Subdivision

10.3 Completion of Performance
Upon completion of performance by the parties or revocation of this Agreement, a written statement acknowledging such completion or revocation, signed by the appropriate agents of the City and Developer shall be recorded in the Official Records of Kootenai County, Idaho. Any such release shall not signal completion or release of any provision which confers a public benefit, and which is intended to run with the land unless expressly approved by the governing board of the City.

10.5 Force Majeure
Neither party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond such party's control, government regulations, court actions (such as restraining orders or injunctions) or other causes beyond such party's control. If any such events shall occur, the term of this Agreement and the time for performance by either party of any of its obligations hereunder shall be extended by the period of time that such events prevented such performance, provided that the term of this Agreement shall not be extended under any circumstances for more than three (3) years.

10.6 Estoppel Certificate
Either party may, at any time, and from time to time, deliver written notice to the other party requesting such party to certify in writing that, to the knowledge of the certifying party (1) this Agreement is in full force and effect and a binding obligation of the parties; (2) this Agreement has not been amended or modified either orally or in writing, and if so amended, identifying the amendments; and (3) the requesting party is not in default in the
performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of such defaults. A party receiving a request hereunder shall execute and return such certificate or give a written detailed response explaining why it will not do so within thirty (30) days following the receipt thereof. City's Mayor or City Administrator shall have the right to execute any certificate requested by Developer hereunder. City acknowledges that a certificate hereunder may be relied upon by transferees and Mortgagees.

10.7 Duty to Record
This Agreement or a Memorandum referencing the existence of this Agreement shall be recorded by City.
Executed this ___ day of ______, 20__.

By: CITY OF POST FALLS, a Municipal Corporation

________________________
Ronald G Jacobson, Mayor

________________________
Shannon Howard, City Clerk

By: Owners

________________________
Scott Border; Managing Member, Stockwell Partners 2022 LLC

________________________
Scott Border 6/21/22
ACKNOWLEDGMENT

STATE OF IDAHO  )
   ss
County of Kootenai  )

On this ___ day of ____, 20__, before me, a Notary for the state of Idaho, personally appeared Ronald G. Jacobson and Shannon Howard known, or identified to me to be the Mayor and City Clerk, of the City of Post Falls, Kootenai County, Idaho, executing the herein instrument, and acknowledged to me that such City of Post Falls executed the same.

IN WITNESS WHEREOF, I have hereto set my hand and affixed my official seal the date and year in this certificate first above written.

__________________________________________
Notary Public for the state of Idaho
Residing at: _____________________________
Commission Expires: _________________

ACKNOWLEDGMENT

STATE OF Idaho  )
   ss
County of Kootenai  )

On this ___ day of June, 2022, before me, a Notary for the State of ID, personally appeared Scott Border, Managing Member, Stockwell Partners 2022 LLC, known, or identified to me to be the company whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereto set my hand and affixed my official seal the date and year in this certificate first above written.

__________________________________________
Notary Public for the State of ID
Residing at: Hayden ID
Commission Expires: 3-23-28
CONSTRUCTION NOTES

1. ALL_LAYOUTS SHALL BE REVISED TO THE LEVELS AS DESIGNED WITHOUT ANY APPROVED PLANS.
2. THE CONTRACTOR SHALL MEET THE #1 TEMPORARY HOPS AND ALL APPROPRIATE INSTRUCTIONAL AND #1 MANDATED HOPS AS REQUIRED.
3. DRAWN AS SHOWN ARE THE SPECIFIC CONSTRUCTION NOTES THAT ARE TO BE APPROVED FOR THIS PROJECT.
4. ALL CONSTRUCTION SHALL BE APPROVED AND CERTIFIED BY A LICENSED PROFESSIONAL ENGINEER (GEOLOGICAL ENGINEER).
5. DRAWN TO SCALE FOR THE GEOLOGICAL ENGINEER, THE DESIGN STS. AND CITY ENGINEER'S INSTRUCTORS ARE RECOMMENDED TO ENSURE THE PROPER DESIGN OF CONSTRUCTION.
6. ALL DRAWINGS SHALL BE REVISED AND CERTIFIED BY AN EXPERIENCED TECHNICAL ASSOCIATE UNDER THE SUPERVISION OF A LICENSED PROFESSIONAL ENGINEER.
7. ALL SECTIONS SHALL BE REVISED AND CERTIFIED BY A LICENSED PROFESSIONAL ENGINEER.
8. ALL DRAFTS SHALL BE REVISED AND CERTIFIED BY A LICENSED PROFESSIONAL ENGINEER.
9. ALL DRAWINGS SHALL BE REVISED AND CERTIFIED BY A LICENSED PROFESSIONAL ENGINEER.
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45. ALL SECTIONS SHALL BE REVISED AND CERTIFIED BY A LICENSED PROFESSIONAL ENGINEER.
Stockwell Court Subdivision  
File No. SUBD-0013-2021  
Planning and Zoning Commission  
Reasoned Decision

A. INTRODUCTION:

APPLICANT: Chuck Hughes  
LOCATION: South of Prairie Ave; between Howell Rd and Chase Rd.  
REQUEST: Subdividing approximately 5 acres into 18 commercial lots.

B. RECORD CREATED:

1. A-1 Application  
2. A-2 Narrative  
3. A-3 Preliminary Plan  
4. A-4 Will Serve  
5. A-5 Auth Letter  
6. A-6 Title Report  
7. S-1 Staff Vicinity Map  
8. S-2 Staff Zoning Map  
9. S-3 Staff Future Land Use Map  
10. PA-1 PFHD Comments  
11. PA-2 KCFR Comments  
12. PA-3 DEQ Comments  
13. PC-1 Wenger Comments  
14. PZ Staff Report  
15. Testimony at the March 23, 2022 hearing:

The request was heard before the Planning and Zoning Commission (hereinafter "Commission") at the March 23, 2022 public hearing, the meeting was in-person and live-streamed on the City of Post Falls YouTube Channel. The request was for the Commission to review the request to subdivide approximately 4.87 acres into 18 lots within the Single-Family Residential (R-1) zoning designation (SUBD-0013-2021). The request is evaluated under the standards of Post Falls Municipal Code ("PFMC") § 17.12.060.

John Manley, Planning Manager

Mr. Manley presented the staff report to the Commission. He testified that the owner of the property is Dave and Debbie Stockwell represented by the Applicant Chuck Hughes. He testified that the applicant is seeking to subdivide approximately 4.87 acres into eighteen residential lots within the Single-Family Residential (R-1) zoning designation.

PARCEL INFORMATION:  
Property Size: 4.84 acres  
Current Land Use: Single family residence  
Current Zoning: Undergoing annexation from Kootenai County rural zoning designation to the City of Post Falls Single Family Residential (R-1) zoning.
Proposed Land Use: The proposed subdivision will serve a single-family residential housing development.

Surrounding Land Use: The land uses to the east, south and west include single-family residential subdivisions within the City of Post Falls. To the north is a single-family residential lot within Kootenai County.

Surrounding Zoning Districts: Tranquill Meadows, to the east, is a R-1 subdivision. To the south is the Craftsman at Meadow Ridge subdivision which is zoned R-1-S with a PUD which allows for roughly 1/3-acre lots and R-1 setbacks. To the west is Arrowleaf Estates which also is a R-1-S subdivision with a PUD which allows for modified standards similar to the R-1 bulk and placement standards. The property to the north is zoned Agricultural within an unincorporated portion of Kootenai County.

Water Provider: East Green Acres Irrigation District

Sewer: City of Post Falls

Mr. Manley testified that the site is located south of W. Prairie Ave. about halfway between N. Howell Rd. and N. Chase Rd. He illustrated that the surrounding area includes large lots in Kootenai County to the north, the R-1 zoned Tranquill Meadows to the east, Craftsman and Meadow Ridge an R-1-S zone with a PUD to allow R-1 bulk and placement standards to the south, and Arrowleaf Estates, also an R-1-S with a PUD to allow R-1 bulk and placement standards to the west. He testified that most of the development around this proposal is R-1 in nature. He explained how the built environment would be with the development to the east and west, indicating that right-of-way from Arrowleaf had already been dedicated, providing connectivity as development occurred to the east. He testified that all the lots in the proposal meet the minimum lot size for the R-1 zone of 6,500 sq/ft and all have a greater than the minimum lot width of sixty feet.

Mr. Manley testified regarding the first review criterion, stating again that water will be provided by East Green Acres Irrigation District and a well servicer has been submitted by the applicant. As to the second criteria, he stated that this project did bring some scrutiny as to whether the city could accommodate the sewage flows. He explained that the lift station that would handle the sewage was approaching capacity but that the reconstruction of that lift station is anticipated for 2024. Additionally, he asserted that the city will be adding additional capacity by the fall or early winter of 2022 through temporary improvements to the lift station. He testified that the city does not see any impediment to the ability to provide service to the site. He certified that the developer has agreed to share in the costs of the temporary improvements through a $5000 contribution.

Mr. Manley testified to the third review criteria, stating that the proposed layout is consistent with the transportation element of the comprehensive plan. He explained that the trail or fire access will assist in pedestrian activity and added safety for fire access. He noted that Condition 2, that the proposed common driveways at the end of Stockwell Ct. must be shifted five feet north to allow a 20-foot parking pad to accommodate parking.

Mr. Manley testified regarding the fourth review criteria, stating that at this time there are no known soil or topographical conditions that have been identified as hazards and notes that the site is located over the Rathdrum Prairie Aquifer. As to the fifth review criteria, he attested that the proposed lots comply with the requirements in the R-1 zoning designation. Finally, as to the last review criteria, he testified that impact fees and cap fees will be assessed and collected on individual building permits to assist in mitigating the off-site impacts to parks, public safety, streets, city water and water reclamations facilities.

Mr. Manley, in response to a question from the Commission regarding Green Crest Way, explained that the circulation plan is to connect from Arrowleaf through the very east side of the other development. He went on to state that the planned outlets meet the spacing corridors established by the Transportation Master Plan.

Mr. Manley, in response to a question from the Commission, explained that in the Arrowleaf Subdivision, the open space tract included the right-of-way but was left dirt and open because it was
unknown when the property to the east would be developed. He clarified that the areas to the north and south would be remain green space.

Rob Palus, Assistant City Engineer

Mr. Palus, in response to a question from the Commission, testified that to keep the fire access from being used otherwise, the construction plans call for bollards being placed to prevent vehicle access unless they have a fire key.

Mr. Palus, in response to a question from the Commission regarding whether the $5,000 given for the temporary improvements for sewer was a fair share to help mitigate the cost to the city. Mr. Palus testified that the city did look at what the percentage share of that additional capacity that is being used by them versus two city projects which have been approved for construction. He indicated that $5,000 represented about five percent of what the estimated total cost of doing those temporary upgrades to the lift station would be so we thought it was a fair representation of what the project's impact was. He noted that if you look at the total capacity of the lift station for this number of homes it is a small impact, but we are at the point where if this subdivision did not come in and if the city were not doing its improvements; we would be close to the full capacity of that lift station.

Mr. Palus testified that with this coming in and with the city adding about another fifty gallons per minute to the lift station because two other lift stations would be going offline, it really accentuated the need for putting something temporarily in there until 2024 and this was the least expensive option. He explained that they did talk with the applicant through the process to get to this and they can comment a little bit further as to how they feel on that $5,000, but we felt that that was a fair and equitable share towards the lift station.

Mr. Palus testified that for the temporary improvements, they are putting in a couple of larger pumps and then that will also include some additional electrical work. The electrical work tends to be the more expensive part in this because the city did happen to have a spare pump laying around that was about the right size which helped a little bit on that cost.

Mr. Palus testified that city crews have most of the materials on hand now because they are moving forward with another project that is going to be putting more flow in that area. We see that need for those temporary improvements during the construction year of 2022. Having these online by the end of 2022 will be fine as this subdivision comes in, they are not going to have all the homes built and occupied by the end of this year. Additionally, he stated that there are three other subdivisions out there in the process of development and we do not think that those will be fully built out by the end of the year as well. He asserted that we have the money, we have most of the parts, we can get the rest of it, and our water reclamation department has committed to having those improvements in place by the end of this year when they are truly needed.

Chuck Hughes, Applicant

Mr. Hughes testified that this is a simple subdivision, it is infill with equal size lots around it, some are a little bigger and some are about the same size. He explained that the average lot size is .19 over 8,000 square feet which meets the R1 zoning. He asserted that one of the benefits of annexing this lot and converting into a subdivision, the existing home will be taken off septic and city sewer will be extended, relieving some of the load of the aquifer. He indicated that they will also be paying for part of the expansion on Prairie. He attested that the sewer will be extended from the east portion of the subdivision with the water being stubbed on both ends with two fire hydrants. He testified that there has been a lot of discussion about Green Crest Way however, this proposal will conform with the traffic pattern that has been planned, the traffic will flow west to east and flow up to the north.

Jeremiah Steckman, Axiom Homes, Applicant
Mr. Steckman testified that the temporary sewer improvements that are required are necessary regardless of whether this project goes forward and our participation is really an acknowledgement that we are going to utilize those improvements, and we have worked with staff to come to those numbers, they are fair to all parties. He reiterated, that regardless of whether this goes forward those improvements will need to be done for the sake of other projects coming online.

Public Testimony:

The hearing was opened for public testimony.

Jay Linthicum

Mr. Linthicum testified that he concerned about the proposed density and that the proposed plan shows 18 individual private lots to be established on this small acreage. He explained that the development is adjacent to and east of Arrowleaf Loop with the next main thoroughfare being Chase Ave. to the east. He explained that there are two other nearly identical properties of this size under current developments and nearing completion which have divided their developments, not into 18 private lots, but 12 on the same sized acreage. He interpreted that this is six less private lots per development than the proposal we have before us tonight, with the exception for one development west of Arrowleaf Loop. He attested that all other developments have no more than 12 private lots per comparable acreage and just across Fisher there are no more than 4 to 6 private lots per comparable acreage. He claimed that the nearby neighborhoods would prefer that the density of this proposal align more with the existing and prevailing community design of the surrounding neighborhoods. He stated that just as the other nearby developments underway of similar size can make a handsome profit from twelve lots, it is reasonable that the same handsome profit can be made here in this development, if it were approved with 12 private lots instead of 18.

Mr. Linthicum testified that his second concern was the proposed development plan indicated that half of the proposed lots had back yards that will be facing the front yards and front doors of the new existing neighbors. He opined that if a property owner puts a car on blocks, or parks a boat, travel trailer, or RV which gets mowed around but not under, or a well-intended but now untended garden plot that has gone to seed and weeds, or has well-worn swing set that is now rusty and dilapidated, or choose to leave a table out where they routinely dress the fish from fishing trips, or to dress the deer from a successful hunting trip in preparation for the garage freezer. He deduced that if he puts this in their front yard, the city would take issue to have this situation corrected. He concluded that if these items are in the backyards, it would not be corrected. He theorized that as these new backyards are going to face our front yards, 14-15 existing property owners may face very unsightly front yard views in the future. He argued that having a cluttered and messy back yard across from your backyard is one thing, having it face your front yard is something else.

Rebuttal:

Chuck Hughes, Applicant

Mr. Hughes testified that on the south side of Stockwell the homes backyards will have a privacy fence along on the edge of the proposed subdivision, then open space, then farther to the south is Hydrilla Ave. So, he surmised, the backyards do face the front yards of the owners to the south, however, there is a street, open space, and a privacy fence as a buffer.

Mr. Hughes testified that in terms of density, we are less dense than the subdivision to the west as we average .19, we have 4 lots on the west side that average .24. He asserted that they have met the R-1 zoning standards.
Deliberations: After the public hearing was complete the hearing was closed, and the Commission moved to deliberations to discuss their interpretation of the information presented both orally and in the written record and to apply that information to the approval criteria contained in Post Falls Municipal Code ("PFMC") § 17.12.060.

C. SUBDIVISION REVIEW CRITERIA: (Post Falls Municipal Code Title 17.12.060, Subsection H): No subdivision shall receive approval unless findings and conclusions are made that:

C1. Definite provision has been made for a water supply system that is adequate in terms of quantity, and quality for the type of subdivision proposed.

The finds that East Greenacres Irrigation has provided a sill serve letter, if they say they can serve it and have the ability and capacity we must rely on that, there is no evidence to the contrary.

The Commission determines that water service to the project would be provided East Greenacres Irrigation District and they have adequate capacity to provide service to the project as proposed.

C2. Adequate provisions have been made for a public sewage system and that the existing municipal system can accommodate the proposed sewer flows.

The Commission finds that whether this development goes forward or not temporary improvements and ultimately long-term improvements are going to be done. The city is working with all the different developments to talk and get everything situated on a fair and equitable price so the city does not spend too much more money on things.

The conceptual layout of the sanitary sewer system as proposed shows the ability to be served and shall be designed and constructed to City Standards. Existing homes, if remaining, will be required to connect to city sewer and pay appropriate fees with construction of the Subdivision. Existing septic systems will be required to be abandoned in conformance with Panhandle Health requirements.

The city will be providing additional capacity to the downstream lift station (Fisher Lift Station) during the fall or early winter of 2022, this will be temporary improvements until long term improvements can be constructed (currently scheduled for 2024). The developer has agreed to share in the costs of the temporary improvements by providing a $5,000 contribution prior to final plating.

The city will be doing some electrical upgrades in the panels, they are dropping new pumps in the hole, and it is something they are going to do anyway. This is an opportunity for the city to say to the developer if you have 19 lots coming online then your fair share is $5,000, this came from the city and if they provide this amount then the city will have the capacity to serve the proposed developments. It is a fair share, so the city did an excellent job here.

Therefore, the Commission determines that the City of Post Falls has made adequate provisions to capacity and provide service to the subdivision as proposed. The City of Post Falls has current capacity and is willing to provide service to the subdivision, as proposed.

C3. Proposed streets are consistent with the transportation element of the comprehensive plan.

The Commission determines that the subdivision and proposed layout accommodate connectivity and will not have a negative impact on the local transportation system. The proposed trail/Fire Access lane connecting Stockwell Ct. to the multi-use trail on Prairie Ave will assist pedestrian connectivity through the subdivision and provide acceptable circulation for Fire Access. The roadways shall dedicate rights of way and easements and be constructed to the roadway standards as outlined within the City Transportation Master Plan.
Green Crest Way and Stockwell Ct. shall be designed as 32-foot-wide roadways (33 feet back of curb to back of curb). The proposed 60-foot right-of-way is acceptable as it matches the cross section that was previously approved and utilized in the Tranquil Meadows Subdivision, immediately to the east.

A cross section was not provided for Prairie Ave. A preliminary design layout shall be provided for Prairie Avenue and the frontage improvements. The multi-use trail, street trees and roadway illumination shall be installed as part of the subdivision and remaining improvements (roadway widening, curb & gutter) cashed out as part of the subdivision.

Roadways, storm drainage management, roadway illumination, ADA ramps and roadway markings/ signs shall comply with City Standards with final design and construction.

The city will be responsible for plowing and maintenance of the public roadways. Adjacent property owners will be responsible for maintenance of sidewalks, including snow removal, irrigation and maintenance of roadside swales and street trees. A Homeowners Association shall be responsible for maintenance of the Prairie Avenue frontages (including irrigation of swales, street trees, landscaping, and the multi-use trail – including snow removal) as well as the trail/Fire Access lane connecting Stockwell Ct. to the trail on Prairie Ave.

This development is doing what everyone else is doing along here, the pathway will be built and they will give the city a check for Prairie Ave’s improvements, so the widening gets done at the same time instead of piecemeal. This fills the gap between two developments and connects roads.

Therefore, the Commission finds that the proposed streets are consistent with the transportation element of the Comprehensive Plan.

C4. All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards have been identified and that the proposed uses of these areas are compatible with such conditions.

The Commission determines that: There are no soil or topographical conditions which have been identified as presenting hazards, no evidence was presented to the contrary.

C5. The area proposed for subdivision is zoned for the proposed use and the use conforms to other requirements found in this code.

The Commission determines that: This subdivision request is within the City of Post Falls and is in a R-1 zone. The proposed use conforms to the zoning and other requirements found in PFMC; it is like what is being built around it.

C6. The developer has made adequate plans to ensure that the community will bear no more than its fair share of costs to provide services by paying fees, furnishing land, or providing other mitigation measures for off-site impacts to streets, parks, and other public facilities within the community. It is the expectation that, in most cases, off site mitigation will be dealt with through the obligation to pay development impact fees.

The Commission determines that: Impact fees will be assessed on individual building permits to assist in mitigating the off-site impacts to parks, public safety, and streets.

C7. Additional Recommended Conditions necessary to ensure compliance with the adopted standards:

It is the decision of the Commission that the requested subdivision can meet the City’s standards,
however, to meet the criteria certain conditions will need to be met. Those conditions, 1-14 listed below, when imposed will ensure that the six criteria found in PFMC 17.12.060.H are met. Based upon the representations made to the Commission on March 23, 2022, at a properly noticed public hearing, the record compiled in this matter, and the applicant must meet the following conditions:

1. This subdivision may only be approved subject to annexation approval.
2. The proposed common driveway at the end of Stockwell Ct. shall be shifted 5' to the north to allow for a 20' parking pad to be accommodated for the existing residence to be retained. The front yard setback for garages in PFMC is 20' minimum.
3. Corrections and additions, if any, to the Subdivision requested by staff and/or the Planning & Zoning Commission should be completed by the applicant and reviewed by staff prior to approval by the City Council.
4. A Master Development Agreement shall be prepared by staff, reviewed, and approved by the City Council, and signed by the parties prior to commencement of any construction.
5. The proposed subdivision must be completed in a single phase.
6. A Construction Improvement Agreement shall be prepared and executed prior to commencement of construction for the subdivision.
7. Submitted Preliminary Plans were reviewed from a conceptual basis only and reflect the general ability to provide service. Final construction plans of the streets and utilities shall be reviewed and approved by the Engineering Division prior to any street or utility construction. Such plans shall also include driveway approaches and location of proposed mailboxes. Construction limits shall correspond with the improvements indicated on the Preliminary Plat.
8. Except where an exception is granted, all streetlights, roadways and City owned utilities shall be designed and constructed in accordance with City standards. The application did not request any exceptions from City Code or Design Standards.
9. Direct access from residential lots to Prairie Avenue shall be prohibited on the face of the plat.
10. A fence shall be constructed along the Prairie Avenue frontage with initial subdivision construction.
11. Final landscaping plans for the street trees will be submitted for review and approval as part of the construction plans. Street trees shall be planted by the developer in the spring and fall following construction of homes. The Urban Forester shall be notified prior to planting.
12. The project will be responsible for extending Green Crest Way westerly and tying into Arrowleaf Lane. There is no reimbursement for the 100 feet (more or less) of roadway extension.
13. A Homeowners Association (HOA) shall be formed to maintain the common right-of-way frontage along Prairie Avenue and the trail/Fire Access lane connecting Prairie Avenue to Stockwell Court; including all landscaping, irrigation, and removal of snow from sidewalks and trails.
14. Existing homes identified to remain shall provide, with construction plan approval, for the removal of existing septic systems and connection of structures to the City's Water Reclamation System; including payment of all associated connection fees.

D. STEPS THE APPLICANT CAN TAKE TO OBTAIN APPROVAL:
Not Applicable, approval has been granted, subject to the conditions noted above.

E. CONCLUSIONS AND RECOMMENDATIONS OF THE COMMISSION:
SUBD-0013-2021: Based upon the record placed before the Commission, the testimony received at the properly noticed public hearing, and with the imposition of the above conditions, it is the
conclusion of the Post Falls Planning and Zoning Commission that the request, Stockwell Court Subdivision, SUBD-0013-2021, meets the standards of City Code, and the Idaho Local Land Use Planning Act, and is hereby approved with conditions contained herein.

Approved by the Planning and Zoning Commission on [Signature] April 12, 2022

Date [Signature] Chairman

NOTICE OF RIGHTS:

Any affected person aggrieved by a final decision of the Planning and Zoning Commission may submit a written notice of appeal along with the required fees in accordance with the City's adopted fee schedule, to the City Clerk for appeal to the Post Falls City Council within fourteen (14) days of the date of the written decision, pursuant to Post Falls City Code 18.20.60.E.

The final decision of the Planning and Zoning Commission is not a final decision for purposes of judicial review until the City Council has issued a final decision on appeal and the party seeking judicial review has requested reconsideration of that final decision as provided by Idaho Code 67-6535(2)(b), pursuant to Post Falls City Code 18.20.60.E.

Any applicant or affected person seeking judicial review of compliance with the provisions of Idaho Code Section 67-6535 must first seek reconsideration of the final decision within fourteen (14) days of such decision. Such written request must identify specific deficiencies in the decision for which reconsideration is sought.

The applicant has the right to request a regulatory taking analysis pursuant to Idaho Code Section 67-8003. Any affected person aggrieved by a final decision concerning matters identified in Idaho Code Section 67-6521(1)(a) may, within twenty-eight (28) days after all remedies have been exhausted under local ordinances, seek judicial review under the procedures provided by Chapter 52, Title 67, Idaho Code.
ITEM AND RECOMMENDED ACTION:
With the approval of the consent agenda, City Council authorizes the Mayor to sign the License to Use Real Property with Avista Corporation, for the installation of an access gate to the Post Falls Hydroelectric Development.

DISCUSSION:
Avista Corporation wishes to install an access gate to prevent unauthorized vehicular traffic to the Post Falls Hydroelectric Development (HED). The proposed gate location is depicted on Exhibit A but is generally located within the 4th Ave right of way immediately west of the Falls Park parking lot. With this License, Avista agrees to maintain the gate in good condition and provide the City and other first responder agencies, with the ability to immediately open the gate to respond to emergencies.

ITEM / PROJECT PREVIOUSLY REVIEWED BY COUNCIL ON:
N/A

APPROVED OR DIRECTION GIVEN:
N/A

FISCAL IMPACT OR OTHER SOURCE OF FUNDING:
N/A

BUDGET CODE:
N/A
LICENSE TO USE REAL PROPERTY

This Agreement made this ___ day of June, 2022, between the CITY OF POST FALLS, Idaho, a municipal corporation of the State of Idaho, ("City") and AVISTA CORPORATION, whose address is East 1411 Mission Ave. Spokane, WA 99220 ("Licensee") to use lands owned by City, subject to the terms and conditions below.

WHEREAS, Licensee has requested that the City allow Licensee to use the property ("Property") depicted in the attached Exhibit "A", which by this reference is incorporated herein; and

WHEREAS, Licensee wishes to install a gate to prevent unauthorized vehicular access to the Post Falls Hydroelectric Development ("HED"); and

WHEREAS, the City Council finds that the City has no immediate need for the Property which is the subject of this Agreement.

NOW THEREFORE, in consideration of the mutual promised herein contained, the parties hereby agree as follows:

1. GRANT OF LICENSE AND AREA OF USE

The City of Post Falls, Idaho hereby grants a license to the Licensee to use the Property, which is generally located within the 4th Avenue right of way immediately west of the Falls Park parking lot, in accordance with the terms of this Agreement.

2. IMPROVEMENTS

Licensee is authorized under this Agreement to install a gate, and related components, to prevent unauthorized vehicular to the HED. The gate will be generally located as depicted on Exhibit A. No other use of the Property is authorized by this Agreement.

3. MAINTENANCE

Licensee agrees to maintain the gate in good condition and to provide the City, and other first responder agencies, with the ability to immediately open the gate in order to respond to emergencies. Licensee acknowledges and accepts responsibility for repair of the gate and related components to maintain their serviceability for the purposes intended.

4. LICENSE AND ASSIGNMENT

It is agreed between the City and Licensee that this license is personal to Licensee and may not be granted or assigned to any other parties without the written consent of the City.
5. INDEMNIFICATION OF CITY

Licensee agrees to indemnify, defend (in the City's sole option), and hold harmless the City for all liability and damages for personal injuries, property damage, or for loss of life or property resulting from, or in any way connected with, the use of the Property for the purposes covered by this Agreement, except liability for personal injuries, property damages, or loss of life or property caused solely by the negligence of the City.

6. DURATION

This License will take effect upon signature of the parties below and will remain in full force until terminated and effect, unless terminated prior to such date as provided herein.

7. TERMINATION AND REMOVAL OF IMPROVEMENTS

Either party may terminate this Agreement by providing ninety (90) days written notice to the other party of its intent to terminate this License. Licensee agrees to remove the improvements covered by this Agreement from the Property upon the termination of this Agreement. Licensee agrees that if the improvements covered by this Agreement are not removed as required by this Section, the improvements will be quit-claimed to the City who may remove and dispose of the improvements in their sole discretion. Licensee waives any and all claims it may have or acquire against the City or its officers, employees, or agents, related to the removal and disposal of the improvements as contemplated by this Section.

The parties acknowledge that they have read and understand the terms and conditions of this License in its entirety, and upon execution confirms acceptance.

IN WITNESS WHEREOF, the City by and through its Mayor and the Licensee by and through its appropriate officers have executed this License Agreement to be effective the day and year first set forth above.

[Signature Page Follows]
AVISTA CORPORATION/LICENSEE

By: [Signature]
<Insert Title> ON BEHALF OF JAKE BRYAN

Date: 4/21/22

CITY OF POST FALLS

By: ____________________________

Ronald G. Jacobson, Mayor

Date: ____________________________

Attest:

By: ____________________________

Shannon Howard, City Clerk

STATE OF IDAHO )
) ss.
County of Kootenai )

On this _____ day of June, 2022 before me, the undersigned, a Notary Public in and for said State of Idaho, personally appeared Ronald Jacobson and Shannon Howard, known or identified to me to be an authorized representative of the municipal corporation, CITY OF POST FALLS, that executed the said instrument, and acknowledged to me that such municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public in and for the State of Idaho
Residing at ____________________________
On this 28th day of June, 2022 before me, the undersigned, a Notary Public in and for said State of Idaho, personally appeared David A. Padon who is known or identified to me to be the Real Estate Representative of Avista Corporation, and whose name is subscribed to within instrument, and acknowledged to me that Avista Corporation duly authorized the signor to execute the instrument on behalf of such corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Signature]
Notary Public in and for the State of Idaho
Residing at Kootenai
LEGEND

- Approximate Gate Location
- Parcel Boundary

SCALE 1" = 20'-0"

PARKS AND RECREATION
408 SPOKANE STREET, POST FALLS, IDAHO 83854  |  208.773.0539

EXHIBIT A

AVISTA CORPORATION
305 W 4TH AVE
GATE LICENSE EXHIBIT
DATE: JUNE 28TH, 2022
TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: BILL MELVIN – CITY ENGINEER
SUBJECT: FRONTAGE IMPROVEMENT WAIVER REQUEST – 319 W. 20TH AVE

ITEM AND RECOMMENDED ACTION: With approval of the Consent Agenda, City Council approves the waiver of frontage improvements request for 319 W. 20TH Ave.

DISCUSSION: Vasily Sinchuk has requested a waiver of frontage improvements (sidewalk, curb and gutter, etc.) in front of the property located at 319 W. 20th Ave.

ITEM / PROJECT PREVIOUSLY REVIEWED BY COUNCIL ON: N/A

APPROVED OR DIRECTION GIVEN: Staff has reviewed the site and recommends that the waiver be approved as there are no existing improvements in the vicinity. The owner will be required, however, to install pavement/concrete to all existing and future driveway approaches from this property.

FISCAL IMPACT OR OTHER SOURCE OF FUNDING: N/A

BUDGET CODE: N/A

SUPPORTING DOCUMENTS: Original request for waiver and map of location attached.
ITEM AND RECOMMENDED ACTION:
With approval of the Consent Agenda, City Council authorizes the Mayor’s signature of the Master Development Agreement for the Stone's Throw Subdivision.

DISCUSSION:
The applicant (Northern Lights Development, LLC) has requested to subdivide approximately 5.8-acres into 17 Single-Family Residential (R1) lots. The project is located on the east side of Greensferry Rd. between Black Forest Ave and Woodcrest Dr..

On April 12, 2022 a public hearing was held before the Planning & Zoning Commission. After receiving testimony and hearing the staff report, the Commission moved to approve the requested subdivision with conditions.

ITEM / PROJECT PREVIOUSLY REVIEWED BY COUNCIL ON:
N/A

APPROVED OR DIRECTION GIVEN:
Approved

FISCAL IMPACT OR OTHER SOURCE OF FUNDING:
N/A

BUDGET CODE:
N/A
MASTER DEVELOPMENT AGREEMENT
FOR
STONE’S THROW SUBDIVISION
(File No. SUBD-0006-2022)

THE CITY OF POST FALLS, hereinafter the "City", a municipal corporation of the state of Idaho, 408 Spokane Street, Post Falls, Idaho 83854, and Northern Lights Development LLC, an Idaho Limited Liability Company, 179 E Wilbur Ave. Dalton Gardens, ID 83815; hereinafter the "Developer", enter into this Master Development Agreement, hereinafter the “Agreement”, executed with reference to the following conditions and circumstances. It is agreed among the parties as follows:

The following provisions establish the context of this Agreement and constitute binding provisions hereof:

A. Developer owns approximately 5.08 acres of real property in fee simple title located within the City of Post Falls. Said acreage is planned for a residential subdivision, which requires major investment in public facilities and front-end on-site and off-site improvements. The proposed development of said acreage has been commonly identified as Stone’s Throw Subdivision (hereinafter the “Project”). The Project is more specifically identified and described as the (Subdivision Plan of Record, Exhibit A-3, File # SUBD-0006-2022, Post Falls Community Development Department) which is attached hereto and incorporated, as if fully set forth herein, and identified as Exhibit No.1.

B. In order to strengthen the public planning process and to encourage private planning of substantial tracts of land within the Post Falls community rather than engage in planning of numerous small tracts independent of their surroundings, the City is authorized to enter into agreements by Idaho Code §50-301.

C. Development of the Project in accordance with the terms and conditions of this Agreement and ordinances of the City of Post Falls will assure orderly growth and development of the Project area in accordance with the policies and goals set forth in the City’s Comprehensive Land Use Plan, Post Falls Municipal Code (PFMC) Title 17, Subdivision Ordinance, and PFMC Title 18, Zoning Ordinance. City has determined the Project is appropriate for a development agreement in order to achieve the goals and objectives of the City’s land use planning policies and relevant ordinances and to provide appropriate assurance to Developer regarding development of the Project as it progresses in accordance with this Agreement. This Agreement will eliminate uncertainty in planning during the orderly development of the Project, assure progressive and sequential installation of necessary improvements and provide for public services appropriate for the Project while assuring the maximum effective utilization of the City’s resources with the least economic cost to its residents.
D. The Project’s overall density and general design are conditionally approved for a Three-year period and City and Developer agree to be bound by this Agreement for the duration of the Project subject to the terms and conditions contained herein. Nothing in this Agreement shall be deemed to compromise the governmental authority of the Mayor and City Council of the City of Post Falls, present or future.

E. City acknowledges that the Developer, subject to the review process for each phase of development and maintenance of continuing progress in development of the Project, shall be allowed to develop Stone’s Throw Subdivision subject to the satisfaction of all terms and conditions contained herein, availability of utility capacity and compliance with legal requirements occasioned hereby.

F. The Planning and Zoning Commission held a public hearing on April 12, 2022, and approved the subdivision of the property contingent upon compliance with the conditions of approval contained in the Reasoned Decision (Reasoned Decision of Stone’s Throw Subdivision), (hereinafter “Reasoned Decision”) and the requirements of City Code. The Reasoned Decision is attached hereto and by this reference incorporated herein as Exhibit No. 2. Said conditions are hereby made an obligation of performance of the terms of this Agreement.

G. During the course of development of the Project, Developer will make application to City for approval of final plat maps for the Project in accordance with Post Falls Municipal Code Section 17.16 Plat Review & Approval. During City’s review process of final plat maps, the approvals memorialized hereby shall control conditions imposed by City for the Project and future final plat maps as noted herein, consistent with the terms and conditions of this Agreement.

H. The Reasoned Decision were prepared as part of the City’s review and approval of the Subdivision. Minor changes in the manner of implementation of the approval memorialized hereby can be made by mutual agreement of the Developer and the City’s administrative staff.

I. For the Project, City, and Developer have agreed to enter into a Construction Improvement Agreement, which more particularly describes the duties and obligations of all parties for the development of the Project pursuant to a submittal by Developer to City for a final plat map. The Construction Improvement Agreement establishes specific construction details and guarantees necessary for the timely construction of public infrastructure improvements and such other essential improvements as may be necessary to complete the project as proposed and approved. Nothing in the Construction Improvement Agreement shall be inconsistent with the approvals accorded hereby unless otherwise required by law.

J. City and Developer have taken all actions mandated by and fulfilled all requirements of the Post Falls Municipal Code and the relevant provisions of Idaho law. The City Council has reviewed and approved the terms of this Agreement. It further finds that this Agreement is consistent with the City’s Comprehensive Plan, and its implementation is in the best interests of the City and the health, safety and welfare of its residents. The
factual and logical basis for the decision to approve the Project is contained within the Reasoned Decision adopted by the Planning and Zoning Commission.

NOW, THEREFORE, it is agreed by the City and the Developer as follows:

1. Property and Term.
   1.1 Property Subject to this Agreement

The Land is described as follows:

The South 188.5 feet of the Northwest Quarter of the Southwest Quarter of the Southwest Quarter, and the North 160 feet of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter, all being in Section 1, Township 50 North, Range 5 West, Boise Meridian Kootenai County, Idaho. Excepting therefrom any portion lying within the Greensferry Road right-of-way.

1.2 Term

The term of this Agreement shall commence upon the execution of this Agreement by all parties to this Agreement and shall continue for three years thereafter or until all lands described in 1.1 are subdivided or otherwise developed in accordance with the terms of this Agreement, unless earlier terminated as provided herein. If construction of the approved development is not commenced with sustained effort within one (1) year after approval, the city may give notice to the developer of the intent to terminate the agreement for non-performance. Upon such notice, the Developer shall be allowed a public hearing concerning the City's intent to terminate, if requested. After hearing from the Developer, in addition to comments from the public, city's governing board may finally decide the status of the agreement. Section 9.2 shall continue in effect after the term of this agreement and shall be an ongoing obligation of the property owners.

2. Project Regulations and Policies

2.1. Project Development

Developer shall have the right to develop the Project in accordance with the terms and conditions of this Agreement and City shall have the right to control development of the Project as set forth in this Agreement and consistent with applicable local and state laws. Except as otherwise specified in this Agreement, the approvals memorialized hereby shall control the overall design, development and construction of the Project, and all on-site improvements and appurtenant improvements in connection therewith, in the manner specified in this Agreement. Nothing in this Agreement shall contravene any applicable provision of law, which is not subject to modification by the City.

2.1.1. Existing Approvals

Development of the Property shall be subject to all of the conditions and standards as set forth in the Reasoned Decision and in the Annexation Agreement between the parties. The development of the Property shall be consistent with adopted rules, regulations and
ordinances of the City except where such rules, regulations and ordinances are expressly modified by the approvals accorded the project.

2.1.2. Future Application
Sections 2.1 and 2.1.1 herein shall not preclude changes in City laws, regulations, plans or policies, the terms of which are specifically mandated and required by changes in State or Federal laws or regulations which may be otherwise applicable to the Project. In the event State or Federal laws or regulations enacted after the effective date of this Agreement or action by any governmental jurisdiction other than the City prevent or preclude compliance with one or more provisions of this Agreement or require changes in plans, maps or permits approved by the City, this Agreement shall be modified, extended or suspended as may be necessary to comply with such State or Federal laws or regulations or the regulations of such other governmental jurisdictions. Any such future changes shall be applied in a manner, which most closely approximates the approach, envisioned by this Agreement and the terms of the approvals memorialized hereby.

2.1.3 Fees
All applications for City approvals, permits and entitlements shall be subject to City’s development and processing fees and charges at the time of consideration of the final plat map, development approval request, or building permit except as expressly superseded by Section 2.1.1 herein.

2.2. Project is a Private Undertaking
It is specifically understood and agreed by the parties that the Project contemplated by this Agreement is a private development; that the City has no interest in or responsibility for or duty to third persons concerning any of said improvements; that Developer shall have full power over and exclusive control of the Project herein described subject only to the limitations and obligations of the Developer under this Agreement and applicable provisions of law. The only relationship between City and Developer is that of a governmental entity regulating the development of private property pursuant to the laws of the City and the State of Idaho.

2.3 Hold Harmless
Developer hereby agrees to and shall hold City harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage which may arise from the Developer's development of the Project, excepting claims and causes of actions brought by the Developer for default of this Agreement or those arising from the negligence or willful misconduct of the City.

3. City's Good Faith in Processing

3.1 Processing
City agrees that it will accept, process and review, in good faith, in accordance with the terms of this Agreement all applications for final plat map processing and approval, building permits or other authorizations needed for development of the Project.
3.2 Permits
City agrees that this Agreement shall permit Developer to develop the Project according to the terms and conditions agreed to herein and the official actions approving the Project, and that City agrees to issue such permits and approvals in a reasonable and timely manner to allow the Developer to develop the Project, subject to compliance with all provisions of applicable law.

4. Notices, Demands and Communications Among the Parties
4.1 Notice
Formal written notices, demands, correspondence and communications between the City and Developer shall be sufficiently given if dispatched by certified mail, postage prepaid, return receipt requested, to the offices of the City and the Developer indicated below. Such written notices, demands, correspondence and communications may be sent in the same manner to such other persons and addresses as either party may from time-to-time designate by mail as provided in this section. Notices may also be delivered by personal delivery to an officer of the Developer or the Planning and Building Director of the City.

DEVELOPER
Michael Fitzgerald
Northern Lights Development LLC
179 E Wilbur Ave
Dalton Gardens, ID 83815

CITY
Mayor
408 Spokane Street
Post Falls, Idaho 83854

5. Default, Remedies, Termination, and Review
5.1 General Provisions
Subject to extensions of time by mutual consent in writing, or as otherwise provided herein, failure by either party to perform any term or provision of this Agreement constitutes a default under this Agreement. In the event of default under this Agreement or any of its terms or conditions, the party alleging such default or breach shall give the alleged breaching party not less than thirty (30) days’ notice in writing, measured from the date of certified mailing, specifying the nature of the alleged default and, when appropriate, the manner by which said default may be satisfactorily cured. During any such thirty-day period of curing, the party charged shall not be considered in default for purposes of termination or institution of legal proceeding. The parties agree to meet face-to-face in the event of any such notice of default. After proper notice, meeting and expiration of said thirty (30) day cure period without cure, or if such cure cannot be accomplished within such thirty (30) day period, or without commencement of cure within such period and diligent effort to effect cure thereafter, the other party to this Agreement, at its option, may institute legal proceedings to enforce this Agreement by specific performance or give notice of termination of this Agreement. Failure or delay in giving notice of default pursuant to this Section 5.1 shall not constitute a waiver of any default, nor shall it change the time of default. Except as otherwise expressly provided in this Agreement, any failure or delay by either party in asserting any of it rights or remedies as to any default shall not
operate as a waiver of any default or of any such rights or remedies or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies. City is allowed to withhold approval of issuance of building or construction permits when a material condition of default exists.

5.2 Applicable Law/Attorneys' Fees.
This Agreement shall be construed and enforced in accordance with the laws of the State of Idaho. Should any legal action be brought by either party because of breach of this Agreement or to enforce any provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees; court costs and such other costs as may be found by the Court.

5.3 Termination for Unforeseen Circumstances
These provisions provide a mechanism for the identification of those circumstances, which justify the modification, termination, or suspension of this Agreement. If, as a result of facts, events or circumstances presently unknown, unforeseeable and which could not have been known to the parties to this Agreement, City determines that the health, safety and general welfare of the City or its residents requires the modification, suspension or termination of this Agreement, the City shall (1) notify Developer in writing of the City's determination that such circumstances exist, the reasons for the City's determination and all facts upon which such reasons are based, and forward to Developer (a minimum of ten (10) days prior to the hearing) all documents relating to such determination and reasons therefore; (2) notify Developer, in writing, at least fourteen (14) days prior to the date, the time and place of the hearing; and (3) hold a hearing on the determination at which hearing Developer shall have the right to offer evidence to the contrary. City shall have the obligation, based upon clear and convincing evidence, of establishing that (1) the circumstances were unknown, unforeseeable and could not have been known: (2) the health, safety and general welfare of the community require the suspension, modification or termination of the Agreement as opposed to any other alternative; and (3) the City, to the extent feasible, has provided Developer with an equitable program to reimburse to Developer unused fees, and provided equitable reimbursement for dedications or improvements not required by the extent of development as of the date of such suspension, modification or termination. In the event the City Council should fail to make such findings, then this Agreement shall not be so terminated, modified or suspended. The unforeseen circumstances, which shall cause the operation of this provision, shall not be the result of changes in state or federal law. The procedures described herein shall apply to circumstances, which threaten the health, safety and welfare of the public. If such threat is immediate and substantial, the City may suspend project development immediately in order to protect the public interest.

6. Subsequent Laws as Superseding Terms
6.1 Supersedure by Subsequent Laws
If any agency other than City imposes any law or regulation ("Law") after the date of this Agreement, which prevents or precludes compliance with one or more provisions of this Agreement, then the provisions of this Agreement shall, to the extent feasible, be modified
or suspended as may be necessary to comply with such new Law. Immediately after enactment of any such new Law, the parties shall meet and confer in good faith to determine the feasibility of any such modification or suspension based on the effect such modification or suspension would have on the purposes and intent of this Agreement. In addition, Developer shall have the right to challenge the new Law preventing compliance with the terms of this Agreement, and, in the event such challenge is successful, this Agreement shall remain unmodified and in full force and effect.

7. Mortgagee Protection; Certain Rights of Cure

7.1 Mortgagee Protection
This Agreement shall be superior and senior to any lien placed upon the Property or any portion thereof after the date of recording this Agreement, including the lien of any deed of trust or mortgage ("Mortgage"). Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all of the terms and conditions contained in this Agreement shall be binding upon and effective against any person or entity including any deed of trust beneficiary or mortgagee ("Mortgagee") who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

7.2 Mortgagee Not Obligated
Notwithstanding the provisions of Section 7.1 above, no Mortgagee shall have any obligation or duty under this Agreement to construct or complete the construction of improvements, or to guarantee such construction or completion; provided, however, that a Mortgagee shall not be entitled to devote the Property to any uses or to construct any improvements thereon other than those uses or improvements provided for or authorized by this Agreement.

7.3 Notice of Default to Mortgagee
If City receives notice from a Mortgagee requesting a copy of any notice of default given Developer hereunder and specifying the address for service thereof, then City shall deliver to such Mortgagee, concurrently with service thereon to Developer, any notice given to Developer with respect to any claim by City that Developer has committed an event of default, and if City makes a determination of noncompliance hereunder, City shall likewise serve notice of such noncompliance on such Mortgagee concurrently with service thereof on Developer. Each Mortgagee shall have the right during the same period available to Developer to cure or remedy, or to commence to cure or remedy, the event of default claimed or the areas of noncompliance set forth in the City's notice. Developer is obliged hereby to notify the City of any Mortgagee with an interest in the Project.

8. Transfers and Assignments

8.1 Right to Assign
Developer shall have the right to sell, assign or transfer this Agreement, and all of its rights, duties and obligations hereunder, to any entity during the Term of this Agreement; provided, however, in no event shall the rights, duties and obligations conferred upon Developer pursuant to this Agreement be at any time so transferred or assigned except through a transfer of Developer's interest in the Property, or portion thereof transferred.
This right to assign or transfer shall not compromise the rights of the City to require surety to assure completion of Developer’s obligations established hereby or by law.

8.2 Release Upon Transfer
Upon the sale, transfer or assignment of Developer’s rights and interests under this Agreement under Section 8.1 above, Developer shall be released from its obligations under this Agreement with respect to the Property, or portion thereof, so transferred arising subsequent to the effective date of such transfer (1) if Developer is not then in default under this Agreement; (2) Developer has provided to City notice of such transfer, and (3) the transferee executes and delivers to City a written agreement in which (a) the name and address of the transferee is set forth; and (b) the transferee expressly and unconditionally, upon provision of sufficient surety or other assurance of performance, assumes all of the obligations of Developer under this Agreement with respect to the Property, or portion thereof, transferred, and if City approves the transferee, which approval City will not unreasonably withhold if such transferee is financially capable of performing the obligations of Developer pursuant to Section 5 or if surety is provided to guarantee performance. Failure to deliver a written assumption agreement hereunder shall not affect the running of any covenants herein with the land, as provided in Section 9 below, nor shall such failure negate, modify or otherwise affect the liability of any transferee pursuant to the provisions of this Agreement.

9. Covenants Run with The Land
9.1 All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon the parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees and all other persons or entity acquiring the Project real property, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever, and shall inure to the benefit of the parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns. All of the provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable laws.

9.2 Maintenance of Common Area Landscaping
The Developer shall establish a Homeowner’s Association to provide for the maintenance of the common area landscaping, including any common areas fronting the roads (as identified within the Findings of Fact and Conclusions and or upon the face of the recorded plat). The Homeowner’s Association shall be solely responsible for all landscaping maintenance including routine weeding, mowing, watering, trimming, planting and all normal activities required to sustain attractive healthy plants and plantings in a landscaped environment. This responsibility includes the costs for snow removal along sidewalks and asphalt trails; along with maintenance of the irrigation system, providing water, replacing shrubs, sod, trees and other plants as required to keep the landscaped areas attractive and healthy. Developer agrees that in the event that the Homeowner’s Association fails to meet its obligation under this provision that the City is authorized to contract to provide the maintenance services and to assess the cost of such maintenance and water fees to the
property owners within the subdivision. This obligation shall be ongoing and constitute a consensual perpetual lien upon the property within the subdivision.

10.1 No Joint Venture or Partnership
City and Developer agree that nothing contained in this Agreement or in any document executed in connection with this Agreement shall be construed as making City and Developer a joint venture or partners.

10.2 Severability
City and Developer agree that if any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected and shall remain in full force and effect unless amended or modified by mutual consent of the parties.

10.3 Entire Agreement
This Agreement is executed in one original and consists of twenty-one (21) pages, including the Recitals and 2 Exhibits, which constitute the entire understanding and agreement of the parties. A list of exhibits to this Agreement, all of which are found in the Reference Document are as follows:

Exhibit 1: General Site Plan of Record (Exhibit A-3, File No. SUBD-0006-2022, Post Falls Community Development Department records)
Exhibit 2: Reasoned Decision, Stone’s Throw Subdivision

10.3 Completion of Performance
Upon completion of performance by the parties or revocation of this Agreement, a written statement acknowledging such completion or revocation, signed by the appropriate agents of the City and Developer shall be recorded in the Official Records of Kootenai County, Idaho. Any such release shall not signal completion or release of any provision which confers a public benefit, and which is intended to run with the land unless expressly approved by the governing board of the City.

10.5 Force Majeure
Neither party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond such party's control, government regulations, court actions (such as restraining orders or injunctions) or other causes beyond such party's control. If any such events shall occur, the term of this Agreement and the time for performance by either party of any of its obligations hereunder shall be extended by the period of time that such events prevented such performance, provided that the term of this Agreement shall not be extended under any circumstances for more than three (3) years.

10.6 Estoppel Certificate
Either party may, at any time, and from time to time, deliver written notice to the other party requesting such party to certify in writing that, to the knowledge of the certifying
party (1) this Agreement is in full force and effect and a binding obligation of the parties; (2) this Agreement has not been amended or modified either orally or in writing, and if so amended, identifying the amendments; and (3) the requesting party is not in default in the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of such defaults. A party receiving a request hereunder shall execute and return such certificate or give a written detailed response explaining why it will not do so within thirty (30) days following the receipt thereof. City’s Mayor or City Administrator shall have the right to execute any certificate requested by Developer hereunder. City acknowledges that a certificate hereunder may be relied upon by transferees and Mortgagees.

10.7 Duty to Record

This Agreement or a Memorandum referencing the existence of this Agreement shall be recorded by City.

Executed this _____ day of ______, 20__.

By: CITY OF POST FALLS, a Municipal Corporation

________________________________________

Ronald G Jacobson, Mayor

________________________________________

Shannon Howard, City Clerk

By: Owner

[Signature]

Michael Fitzgerald, Northern Lights Development LLC
ACKNOWLEDGMENT

STATE OF IDAHO )

:sss

County of Kootenai )

On this ___ day of ____, 20___, before me, a Notary for the state of Idaho, personally appeared Ronald G. Jacobson and Shannon Howard known, or identified to me to be the Mayor and City Clerk, of the City of Post Falls, Kootenai County, Idaho, executing the herein instrument, and acknowledged to me that such City of Post Falls executed the same.

IN WITNESS WHEREOF, I have hereto set my hand and affixed my official seal the date and year in this certificate first above written.

__________________________________________
Notary Public for the state of Idaho
Residing at: _____________________________
Commission Expires: ________________

ACKNOWLEDGMENT

STATE OF Idaho )

:sss

County of Kootenai )

On this 14 day of June, 2022, before me, a Notary for the State of Idaho, personally appeared Michael Fitzgerald, Northern Lights Development LLC, known, or identified to me to be the company whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereto set my hand and affixed my official seal the date and year in this certificate first above written.

[Signature]
Notary Public for the State of Idaho
Residing at: Kootenai County
Commission Expires: 7/19/24
Stone’s Throw Subdivision
File No. SUBD-0006-2022
Planning and Zoning Commission
Reasoned Decision

A. INTRODUCTION:

APPLICANT: Lake City Engineering
LOCATION: Generally located on the east side of Greensferry Rd. between Black Forest Ave. and Woodcrest Dr.
REQUEST: Subdividing approximately 5.08 acres into 17 single-family lots.

B. RECORD CREATED:

1. A-1 Application
2. A-2 Narrative
3. A-3 Preliminary Plat
4. A-4 Auth Letter
5. A-5 Title Report
6. S-1 Vicinity Map
7. S-2 Zoning Map
8. S-3 Future Land Use Map
9. PA-1 KCFR Comments
10. PA-2 PFDP Comments
11. PA-3 PFHD Comments
12. PZ Staff Report
13. Testimony at the April 12, 2022, Planning and Zoning Commission hearing:

The request was heard before the Planning and Zoning Commission (hereinafter “Commission”) at the April 12, 2022 public hearing, the meeting was in-person and live-streamed on the City of Post Falls YouTube Channel. The request was for the Commission to review the request to subdivide approximately 5.08 acres into 17 lots within the Single-Family Residential (R-1) zoning designation (SUBD-0006-2022). The request is evaluated under the standards of Post Falls Municipal Code (“PFMC”) § 17.12.060.

Ethan Porter, Associate Planner

Mr. Porter presented the staff report to the Commission. He testified that the owner of the property is Northern Lights Development, LLC represented by the Applicant Lake City Engineering, Inc. He testified that the applicant is seeking to subdivide approximately 5.08 acres into 17 lots within the Single-Family Residential (R-1) zoning designation.

PARCEL INFORMATION:
Property Size: 5.08 acres
Current Land Use: Single family residence
Current Zoning: Single Family Residential (R-1) zoning.
Proposed Land Use: The proposed subdivision will serve a single-family residential housing development
Surrounding Land Use: The land uses surrounding the subject site include single-family residential subdivisions within the City of Post Falls.

Surrounding Zoning Districts: Primarily R-1 zoning surrounds the subject site. To the east there is Residential Mobile Home Park (RMHP) zoning.

Water Provider: City of Post Falls

Sewer: City of Post Falls

Mr. Porter testified that the site is located on the east side of S. Greensferry Rd between E. Black Forest St. and W. Woodcrest Dr. and south of Plummer Forest. He explained that the current land use is a single-family home. He asserted that the city of Post Falls will provide water services and sanitary sewer. He illustrated that the existing zoning for the site is R-1 and is surrounded by R-1 zoning except to the west there is a mobile home park which is a subdivision plotted on their own lots. He noted that to the north is Plummer Forest Products. He stated that most of the surroundings are single-family homes. He testified that the proposed subdivision plan for 17 lots, the larger one is the existing home what will be retained, all lots do meet the R-1 standards in the official bulk and placement table for lot sizes and widths.

Mr. Porter testified regarding the review criteria, stating again that water will be provided by the city of Post Falls. As to the second criteria, he stated that the city has sufficient capacity for the proposed subdivision. As to the third review criteria, he explained that due to the existing developments surrounding the site, additional connectivity is not practical, therefore a cul-de-sac as proposed is acceptable and will not have negative impact on the local transportation system and the proposed streets are consistent with the transportation element of the comprehensive plan. Further, he stated that the proposed layout is consistent with the City’s Transportation Master Plan.

Mr. Porter testified regarding the fourth review criteria, stating that the site is heavily vegetated with trees and above the Rathdrum Prairie Aquifer. As to the fifth review criteria, he attested that the proposed lots comply with the bulk and placement standards for the R-1 zoning designation. Finally, as to the last review criteria, he testified that impact fees and cap fees will be assessed and collected on individual building permits to assist in mitigating the off-site impacts to parks, public safety, streets, city water and water reclamations facilities.

Gordon Dobler, on behalf of Lake City Engineering, Applicant

Mr. Dobler testified that Lake City Engineering was double booked so he was standing in for them tonight. He explained that this was a straightforward five-acre subdivision and the Commission has gone through the evaluation criteria. He touched on the provisions, they have a standard city street being built, standard cul-de-sac, the lots are big for an R1 zone. He thought that the average lot size is 10,000 square feet which is a little bit bigger than the surrounding lots. He noted that there is an existing house they are going to maintain, it is on that one larger lot and it will be hooked up to sewer.

Mr. Dobler explained that when sewer is extended with the subdivision and the access will be changed to come off the new street. Greensferry will be widened, and improved sewer will be extended onto the project. He stated that there is an existing six-inch water main in Greensferry that will be extended as there is not an opportunity to loop it so the water will be a dead end into the cul-de-sac. He explained that staff evaluated that and it is not a problem. He noted that it will be an eight inch which is the minimum required. He asserted that the development pays for improvements along Greensferry and infrastructure.

Public Testimony:

The hearing was opened for public testimony.
Howard Burns

Mr. Burns testified that he lives in the neighborhood and he thought it is a great plan for it, if you cannot keep the trees forever. He wanted to point out to the folks here that this does match the houses in the neighborhood this is what one would expect to see on five acres in an R1 zone as opposed to some plans that were approved down the road on Ponderosa where they had 2,900 square foot lots and 4,200 square foot lots, those don't belong in this neighborhood. He stated that if the Plumber Forest Products ever comes to the market this is what should be built there because it matches what is in the neighborhood, not apartments, it is a single-family home neighborhood. He requested that the developer do give some thought on the back two lots. He explained that if he lived in the houses that back up to if they could move the houses as close to the lot line as allowed to give more of a buffer to that house that would be nice to do. He just wanted to thank the applicant and wanted to say that he was on the impression looking at this that it cannot become a PUD that this is what we're going to get, and he just wanted to reassure himself that what he is looking at what he is going to see when he drives by see the houses is going up.

Stephen Godfrey

Mr. Godfrey testified that he lives in that neighborhood and walks with his dogs past that lot weekly, if not couple times a week. He did not agree that it is in the same size lots proposed that are in his neighborhood. He stated that his lot currently is a third of an acre those are right at a quarter of an acre. He stated it is better than high density. He wanted to point out that he has heard throughout every presentation about everything you are doing is two words, standard and adequate. He had 30 years in the United States Army and knows what a standard is, and he knows what adequate is and those are not positive words. He stated those are just words that equate to acceptable or something that we can sustain or manage. He inquired about assurances, and why they cannot get assurances from developers of from planning committee or planning division or anything like that. He stated that the people that are on the planning committee, you folks up here, you are the one that provides the city with the assurances. He explained that is because we expect you to go ahead and protect and not allow things that should not necessarily be or fit in.

Mr. Godfrey stated that the widening of Greensferry is a negative impact, the comment was there is going to be no negative impact of the of the traffic. He explained that he must pull out onto Greensferry from Black Forest, which is the next street above, so if these people want to go anywhere, they will pull out from that street and turn right on Greensferry. So, he theorized, if he was there at Black Forest wanting to turn on Greensferry he is not going to be able to necessarily get out and that will negatively impact me. He explained that if he is having to wait on that traffic to go past that is coming out of there.

Mr. Godfrey explained that it is a five-acre lot and they want to divide that basically into 17. So, he explained, the average is not truly two cars per family, you can go down almost every street in that neighborhood there is more than two cars at each house my house has three cars and a motorcycle. He calculated that it is 17 times 2, equaling 34 or more cars that are going to be coming out of there daily, every day, more than twice a day if they work, if they are retired, maybe not. He did not think that adequate or acceptable anymore, noting we got to look at long-term. He questioned widening Greensferry, as he did not know where they are going to widen, they are going to widen it two feet they are going to get the dirt that is right there because there is no curb no sidewalk right there in that lot. He questioned how they are going to widen it, there's properties on the one side and there's properties on the other side, they are going to put a middle lane they got enough property put a middle lane plus centennial trail is along Greensferry. He explained that there is a bike lane there comes off Ponderosa which is south and turns right onto Greensferry. He questioned whether they would eliminate the bike lane, so we need to keep the bike lane in there as well as we are going to widen the road, we are going to add a turn lane because now we are going to have cars that must stop on Greensferry to turn into that cul-de-sac.
Mr. Godfrey testified that there is a lot more consideration, he understands that the Commission does not get to do site surveys, City Council does not do site surveys either, he understands that the Commission are volunteers, but you are appointed, so you are volunteering, maybe not getting paid to do the job, but you’re appointed by the mayor. He stated that he would love to know what each one of you do for a living and he thought the citizens should know what you do because, he also knows the mayor works with Coeur d'Alene Bank. He queried, who has a job up here that is a realtor, that's in construction, that is anything to do with making money off of what happens here at any of these places? He testified that there are two people that have stood out here that seemed to really get it and understand what progress should be, so he hoped they consider everything before the Commission to make decisions just to move forward and site surveys need to be a part of what the Commission does.

Rebuttal

Gordon Dobler, on behalf of Lake City Engineering, Applicant

Mr. Dobler testified that he certainly understands the concerns. He explained how Greensferry will get widened, as this project dedicates additional land so that Greensferry can be widened and install curb and sidewalk that would facilitate future pedestrian connectivity. He explained that is how it gets widened, that is development paying their fair share as they move forward. He thought the standard section for Greensferry might have more lanes but right now it is only two lanes. He guessed that as it is widened it would be wide enough to incorporate a left turn as the road continues to get widened. He reiterated that the only way most of the streets get improved is through development. He stated that nobody wants to see one more car on their street but the project proposed fits well within the zoning parameters of the R-1. He testified that the lots are substantially larger than the minimum provided for the R-1.

Deliberations: After the public hearing was complete the hearing was closed, and the Commission moved to deliberations to discuss their interpretation of the information presented both orally and in the written record and to apply that information to the approval criteria contained in Post Falls Municipal Code (“PFMC”) § 17.12.060.

C. SUBDIVISION REVIEW CRITERIA: (Post Falls Municipal Code Title 17.12.060, Subsection H): No subdivision shall receive approval unless findings and conclusions are made that:

C1. Definitive provision has been made for a water supply system that is adequate in terms of quantity, and quality for the type of subdivision proposed.

The Commission determines that water service to the project would be provided the city of Post Falls and they have adequate capacity to provide service to the project as proposed.

C2. Adequate provisions have been made for a public sewage system and that the existing municipal system can accommodate the proposed sewer flows.

The Commission determines that the City of Post Falls has adequate capacity to provide service to the subdivision as proposed. The conceptual layout of the sanitary sewer system as proposed shows the ability to be served and shall be designed and constructed to City Standards. Existing homes, if remaining, will be required to connect to City Sewer and pay appropriate fees with construction of the Subdivision. Existing septic systems will be required to be abandoned in conformance with Panhandle Health requirements.

C3. Proposed streets are consistent with the transportation element of the comprehensive plan.

The Commission determines that the subdivision and proposed layout are consistent with the transportation element of the comprehensive plan, the city’s Transportation Master Plan, and
Design

Due to the existing developments surrounding the site, additional connectivity is not practical; as such, a cul-de-sac (as proposed) is acceptable and will not have a negative impact on the local transportation system. The internal roadway shall dedicate rights of way and easements and be constructed to the roadway standards as outlined within the City Transportation Master Plan. Greensferry Road is classified as a Minor Arterial Roadway. The 10-foot dedication of rights-of-way, as proposed, is acceptable due to the constructed environment and rights-of-way location to the north and south of the site.

Roadways, storm drainage management, roadway illumination, ADA ramps and roadway markings / signs shall comply with City Standards with final design and construction.

The city will be responsible for plowing and maintenance of the public roadways. Adjacent property owners will be responsible for maintenance of sidewalks, including snow removal, irrigation and maintenance of roadside swales and street trees. A Homeowners Association shall be responsible for maintenance of the Greensferry Road frontage (including irrigation of swales, street trees, landscaping, and the sidewalks (including snow removal).

C4. All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards have been identified and that the proposed uses of these areas are compatible with such conditions.

The Commission determines that there are no soil or topographical conditions which have been identified as presenting hazards, no evidence was presented to the contrary.

C5. The area proposed for subdivision is zoned for the proposed use and the use conforms to other requirements found in this code.

The Commission determines that this subdivision request is within the city of Post Falls and is in a R-1 zone. The proposed use conforms to the zoning and other requirements found in PFMC. The Commission notes that the proposal exceeds the requirements found in the zoning code.

C6. The developer has made adequate plans to ensure that the community will bear no more than its fair share of costs to provide services by paying fees, furnishing land, or providing other mitigation measures for off-site impacts to streets, parks, and other public facilities within the community. It is the expectation that, in most cases, off site mitigation will be dealt with through the obligation to pay development impact fees.

The Commission determines that impact fees will be assessed on individual building permits to assist in mitigating the off-site impacts to parks, public safety, and streets. There did not appear to be anything extraordinary about the plans which would not be covered by impact fees.

C7. Additional Recommended Conditions necessary to ensure compliance with the adopted standards:

It is the decision of the Commission that the requested subdivision can meet the City's standards, however, to meet the criteria certain conditions will need to be met. Those conditions, 1-10 listed below, when imposed will ensure that the six criteria found in PFMC 17.12.060.H are met. Based upon the representations made to the Commission on April 12, 2022, at a properly noticed public hearing, the record compiled in this matter, and the applicant must meet the following conditions:

1. Corrections and additions, if any, to the Subdivision requested by staff and/or the Planning & Zoning Commission should be completed by the applicant and reviewed by staff prior to approval by the City Council.
2. A Master Development Agreement shall be prepared by staff, reviewed, and approved by the City Council, and signed by the parties prior to commencement of any construction.

3. The proposed subdivision must be completed in a single phase.

4. A Construction Improvement Agreement shall be prepared and executed prior to commencement of construction for the subdivision.

5. Submitted Preliminary Plans were reviewed from a conceptual basis only and reflect the general ability to provide service. Final construction plans of the streets and utilities shall be reviewed and approved by the Engineering Division prior to any street or utility construction. Such plans shall also include driveway approaches and location of proposed mailboxes. Construction limits shall correspond with the improvements indicated on the Preliminary Plat.

6. Except where an exception is granted, all streetlights, roadways and City owned utilities shall be designed and constructed in accordance with City standards. The application did not request any exceptions from City Code or Design Standards.
   - A 10-foot rights-of-way dedication shall be provided along Greensferry Road

7. Direct access from residential lots to Greensferry Road shall be prohibited on the face of the plat.

8. Final landscaping plans for the street trees will be submitted for review and approval as part of the construction plans. Street trees shall be planted by the developer in the spring and fall following construction of homes. The Urban Forester shall be notified prior to planting.

9. A Homeowners Association (HOA) shall be formed to maintain the common right-of-way frontage along Greensferry Road; including all landscaping, irrigation, and removal of snow from sidewalks and trails.

10. Existing homes identified to remain shall provide, with construction plan approval, for the removal of existing septic systems and connection of structures to the City’s Water Reclamation System; including payment of all associated connection fees.

D. STEPS THE APPLICANT CAN TAKE TO OBTAIN APPROVAL:
Not Applicable, approval has been granted, subject to the conditions noted above.

E. CONCLUSIONS AND RECOMMENDATIONS OF THE COMMISSION:
SUBD-0006-2022: Based upon the record placed before the Commission, the testimony received at the properly noticed public hearing, and with the imposition of the above conditions, it is the conclusion of the Post Falls Planning and Zoning Commission that the request, Stone’s Throw Subdivision, SUBD-0006-2022, meets the standards of City Code, and the Idaho Local Land Use Planning Act, and is hereby approved with conditions contained herein.

Approved by the Planning and Zoning Commission on May 10, 2022

Chairman

Date

Attest
NOTICE OF RIGHTS:

Any affected person aggrieved by a final decision of the Planning and Zoning Commission may submit a written notice of appeal along with the required fees in accordance with the City’s adopted fee schedule, to the City Clerk for appeal to the Post Falls City Council within fourteen (14) days of the date of the written decision, pursuant to Post Falls City Code 18.20.60.E.

The final decision of the Planning and Zoning Commission is not a final decision for purposes of judicial review until the City Council has issued a final decision on appeal and the party seeking judicial review has requested reconsideration of that final decision as provided by Idaho Code 67-6535(2)(b), pursuant to Post Falls City Code 18.20.60.E.

Any applicant or affected person seeking judicial review of compliance with the provisions of Idaho Code Section 67-6535 must first seek reconsideration of the final decision within fourteen (14) days of such decision. Such written request must identify specific deficiencies in the decision for which reconsideration is sought.

The applicant has the right to request a regulatory taking analysis pursuant to Idaho Code Section 67-9003. Any affected person aggrieved by a final decision concerning matters identified in Idaho Code Section 67-6521(1)(a) may, within twenty-eight (28) days after all remedies have been exhausted under local ordinances, seek judicial review under the procedures provided by Chapter 52, Title 67, Idaho Code.
ITEM AND RECOMMENDED ACTION:
City Council approves and authorizes the Mayor to sign the letter of representation.

DISCUSSION:
The City’s Water Reclamation Division has need of specialized legal counsel on matters related to the City’s IPDES Permit (wastewater discharge permit) and other issues related to water quality regulations. After obtaining proposals and conducting interviews, Beveridge and Diamond is the recommended firm for this work.

ITEM / PROJECT PREVIOUSLY REVIEWED BY COUNCIL ON:
N/A

APPROVED OR DIRECTION GIVEN:
N/A

FISCAL IMPACT OR OTHER SOURCE OF FUNDING:
Funding for the payments related to this agreement will come from the water reclamation operations budget. The exact impact depends upon the degree to which issues arise and require legal advice.

BUDGET CODE:
650-463.0000.62010
Dear Mr. Beacham:

We are pleased that you have asked Beveridge & Diamond, P.C. (B&D or the Firm) to provide legal services to the City of Post Falls, Idaho (the City) on Clean Water Act (CWA) matters consistent with the City’s Request for Proposal (RFP) for such services dated March 22, 2022 and the Firm’s response to the RFP dated April 7, 2022. Our scope of services includes work on the following matters: EPA’s plans to modify Washington state’s Water Quality Standards (WQSs) for polychlorinated biphenyls (PCBs); the PCB Total Maximum Daily Load (TMDL) EPA is required to prepare by September 30, 2024; the City’s IPDES permit renewal; and the compliance schedule in the current and renewed IPDES permits. B&D also will provide legal assistance with respect to any other matters for which the City requests our assistance, consistent with any necessary conflict of interest waivers in the event additional adverse parties are identified.

We are required to set forth in writing the basis of our fee arrangement and other aspects of the engagement at the beginning of a representation. This letter explains the terms and conditions under which B&D will undertake to represent you on this matter and any future work that you may ask us to do.

The enclosed General Provisions explain the Firm’s standard retention arrangements and billing practices. We hereby confirm the billing rates set forth on our RFP response, including application of a blended hourly attorney rate of $565 and a discounted hourly rate of $240 for paralegal support, held through the end of 2023.

As discussed, I will plan to lead our work for the City, with support from Allyn Stern and Jonas Reagan. We may also provide additional associate support, as needed, from Erika Spanton and Sarah Munger. We can involve more junior attorneys or a paralegal as needed to assist with
legal research, analysis and drafting tasks, review of drafts from team members, factual research, and the like. If there is future litigation, we will involve Eric Christensen and Tim Sullivan as warranted. We are careful to assign work at the most appropriate level for the tasks needed.

Time will be billed in tenth-of-an-hour increments. In addition to agreeing to pay the legal fees of B&D, you agree to pay all costs incurred by B&D on your behalf as set forth in the General Provisions. B&D will send invoices via email to you at the email address listed above. If you would like our invoicing to be handled in another manner, please let us know.

So that the Firm can ensure that it complies with any applicable requirements of the Sarbanes-Oxley Act, you agree to notify us promptly if any information or advice provided to the City by B&D will be submitted to the Securities and Exchange Commission ("SEC") or will be described, referenced, or incorporated in a document submitted to the SEC.

In addition to the legal representation described in this letter, we provide a number of other value-add services to our clients, at the Firm’s discretion and sole judgment, including updates on legal developments of interest and invitations to seminars and briefings conducted by the Firm. Many of these services are offered at no charge. You agree that the Firm may contact the City (whether by mail, fax, e-mail, or telephone) to provide such information or notice of its availability.

If this letter and the enclosure correctly reflect your understanding of the terms and conditions of our retention, please indicate your acceptance by executing the enclosed copy of this letter in the space provided and return it to my office. The original of this letter should be retained for your records.

Again, we are pleased and honored that the City has selected B&D for this matter, and look forward to the development of our working relationship. Please feel free to call me at any time if you have any questions or concerns about our legal services, about our retention or billing policies in general, or about a particular bill.

Best regards,

Karen M. Hansen

* * * * * * * * * * * *
I have read this entire agreement and have had the opportunity to discuss its contents with Beveridge & Diamond, P.C. and others before signing it and I understand and agree to all of its terms. I acknowledge receipt of a copy of this agreement.

__________________________________________
John Beacham

[Date]

Copies to:

Enclosure
EXCEPT AS MODIFIED BY THE ACCOMPANYING ENGAGEMENT LETTER, THE FOLLOWING APPLY TO THE RELATIONSHIP BETWEEN BEVERIDGE & DIAMOND, P.C. (“B&D”) AND OUR CLIENTS:

1. **Legal Fees and Expenses**

Fees for services rendered will be based on the reasonable value of those services as determined in accordance with the American Bar Association and the applicable legal ethics rules. Such fees will be based primarily on our established hourly rates subject to adjustment from time to time by B&D. The billing rate for each attorney depends generally on that attorney’s expertise and experience, and these rates are adjusted from time to time by B&D. The time for which a client will be charged will include, but will not be limited to, legal research; factual investigation; drafting of letters, pleadings, briefs and other documents; telephone and office conferences with a client and counsel, witnesses, consultants, court and other governmental personnel and others; conferences among our lawyers and staff on the client’s case; responding to clients’ requests for us to provide information; waiting time in court; and time in depositions and other discovery proceedings.

Where appropriate, we may utilize paralegal personnel. Time devoted by paralegals to client matters is charged at established hourly billing rates which also are subject to adjustment from time to time by B&D.

In addition to our fees, B&D will be entitled to payment or reimbursement for costs and expenses including, but not limited to, international and conference telephone calls, postage, delivery charges, photocopying, web hosting of electronic discovery resources, and travel and transportation costs. B&D will do its best to keep the charges for disbursements as low as possible. A chart setting forth our current disbursement rates is set forth on the last page of these General Provisions. These rates are subject to change periodically.

Unless special arrangements are made at the outset, fees and expenses of experts, investigators, accountants, consultants, court reporters, and other outside providers of services will not be paid by us and will be the responsibility of, and billed directly to, the client.

Although we may from time to time, at a client’s request and for the client’s convenience, furnish estimates of fees or costs that we anticipate will be incurred, these estimates may change as the matter develops. B&D will make every effort to inform the client in the event it appears that the fees for a matter will exceed the estimate by a material amount.

2. **Billing Practices**

Clients will be billed monthly, approximately two to three weeks after the end of each billing period. Fees and expenses are due and payable within 30 days upon receipt of the
monthly statements. We reserve the right to defer providing additional services or to discontinue our representation if monthly statements are not paid when due.

3. **Termination of Relationship**

A client has the right at any time to terminate our services and representation by notifying B&D in writing. B&D may terminate this agreement at any time so long as the timing does not injure the client and is consistent with the applicable ethical rules. Such termination does not, however, relieve the client of the obligation to pay for all services rendered and expenses paid or incurred on behalf of the client prior to the date of such termination, or in connection with it.

We reserve the right to withdraw from our representation if, among other things, the client fails to honor the terms of the engagement letter, the client fails to cooperate or to follow our advice on a material matter, or any fact or circumstance exists or occurs that would or could, in our view, render our continuing representation unlawful or unethical. If we elect to withdraw, the client will take all steps necessary to free us of any obligation to perform further services, including the execution of any documents necessary to complete our withdrawal, and we will be entitled to be paid for all services rendered and costs and expenses paid or incurred on behalf of the client to the date of withdrawal.

4. **Conflicts of Interest**

Unless otherwise noted, our client for purposes of this representation is the entity or person to whom the accompanying engagement letter is addressed, and not any affiliates of such entity or person (i.e., if the client is a corporation or partnership, we represent the corporation or partnership and not any parents, subsidiaries, employees, officers, directors, shareholders, or partners of such corporation or partnership or commonly owned partnerships or corporations; if the client is an association with members, we represent the association and not its members; if the client is an individual, we represent only that individual and not his or her spouse, relatives, or others whose interests may be affected by the representation). For conflict of interest purposes, we may represent another client with interests adverse to any such affiliate.

We are a national law firm representing many other companies and individuals in a variety of specific, project based matters, and not usually as outside general counsel. It is possible that during the course of the representation, other present or future clients will have disputes with you. As a condition to our undertaking the current representation, it is agreed that we may continue to represent or in the future undertake to represent existing or new clients in matters not substantially related to the current representation, even if the interests of such other clients are directly adverse to your interests. This consent shall not apply in the event that during the course of our representation we have obtained sensitive, proprietary, or other confidential information, of a non-public nature, that could be used to the advantage of such other client or to your disadvantage in any matter for which we are approached for representation by that client.

5. **Limits on Representation**

Any advice provided by B&D is for the benefit of the client (the entity or person to whom the accompanying engagement letter is addressed) and is not intended to be used or relied upon by third parties. Our duty of care is to our client and not to third parties.
We expect our clients to provide, and to instruct their employees, agents, and other consultants and advisers to provide, all information in their possession material to our performance of our services for the client. Unless directed to the contrary, we will be entitled to rely on such information, whether or not we have independently confirmed it.

Unless it is obvious from the nature of the representation or the client advises us to the contrary, we assume that no information, documents, or advice that we provide will be provided to the U.S. Securities and Exchange Commission (“SEC”) or described, referenced, or incorporated in submissions to the SEC.

If requested, we will be pleased to recommend or help locate third parties, such as consultants, experts, or local counsel, to assist in the representation as necessary and appropriate. We will not engage any such third parties without the client’s approval. B&D is not responsible or liable for the acts or omissions of any third parties engaged to assist in the representation.

6. **Electronic Communications**

   We may communicate with the client by means of electronic mail. Client acknowledges and accepts the risks associated with the use of electronic mail.

7. **Conclusion of Representation**

   It is our policy that the attorney-client relationship is terminated upon completion of any services that we have been retained to perform. If you later retain us to perform further or additional services, our attorney-client relationship will be revived subject to these terms of engagement, as they may be supplemented or changed at that time. With respect to document retention, when our engagement on any matter is completed, we close our active files and store copies of documents not returned to the client for ten years, after which, unless different arrangements are made, we may destroy our closed files.
# Summary of Billing Practices For Disbursements

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DATE: JUNE 29TH, 2022

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: BILL MELVIN – CITY ENGINEER

SUBJECT: POINTE AT POST FALLS 4TH ADDITION SUBDIVISION PLAT APPLICATION

ITEM AND RECOMMENDED ACTION: With approval of the Consent Agenda, City Council authorizes the Mayor’s signature of the final plat for the Pointe At Post Falls 4th Addition Subdivision.

DISCUSSION: The Developer has provided surety for the remaining improvements.

ITEM / PROJECT PREVIOUSLY REVIEWED BY COUNCIL ON: N/A

APPROVED OR DIRECTION GIVEN: Under the Subdivision Ordinance the plat application is returned to Council, for authorization of the Mayor’s signature. Certification is required from the Engineering Division that infrastructure improvements have been completed, or that surety has been provided to guarantee the completion of the improvements.

FISCAL IMPACT OR OTHER SOURCE OF FUNDING: N/A

BUDGET CODE: N/A

SUPPORTING DOCUMENTS: A copy of the plat application, surety, and engineer’s estimate are available in the Community Development Department for review.
DATE: JUNE 29TH, 2022

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: BILL MELVIN – CITY ENGINEER

SUBJECT: BRITTON PLACE SUBDIVISION PLAT APPLICATION

ITEM AND RECOMMENDED ACTION: With approval of the Consent Agenda, City Council authorizes the Mayor’s signature of the final plat for the Britton Place Subdivision.

DISCUSSION: The Developer has provided surety for the remaining improvements.

ITEM / PROJECT PREVIOUSLY REVIEWED BY COUNCIL ON: N/A

APPROVED OR DIRECTION GIVEN: Under the Subdivision Ordinance the plat application is returned to Council, for authorization of the Mayor’s signature. Certification is required from the Engineering Division that infrastructure improvements have been completed, or that surety has been provided to guarantee the completion of the improvements.

FISCAL IMPACT OR OTHER SOURCE OF FUNDING: N/A

BUDGET CODE: N/A

SUPPORTING DOCUMENTS: A copy of the plat application, surety, and engineer’s estimate are available in the Community Development Department for review.
ITEM AND RECOMMENDED ACTION:

Jacklin Land Company LLLP has requested approval to annex approximately 89 acres into the City of Post Falls with a zoning designation Community Commercial Mixed (CCM). The Community Commercial Mixed (CCM) zoning district requires a Development Agreement (DA) be approved by City Council to guide development to be generally consistent with the Conceptual Plan (Exhibit A-8).

DISCUSSION:

The City Council must conduct a public hearing and review the annexation proposal based on the recommendation for the Commercial Mixed (CCM) zoning district by the Planning and Zoning Commission at their May 10, 2022, meeting. Their recommendation of zoning was determined to meet the following zone change criteria contained in Post Falls Municipal Code Section 18.16.010 and 18.20.100. The approval criteria for establishing zoning are:

A. Amendments to the zoning map should be in accordance with the zoning map.
B. Amendments to the zoning map should be in accordance with the goals and policies found in the Post Falls Comprehensive Plan.
C. Zoning is assigned following consideration of such items as street classification, traffic patterns, existing development, future land uses, community plans, and geographic or natural features.
D. Commercial and high-density residential zoning is typically assigned along streets with a higher road classification.
E. Limited or neighborhood commercial and lower density residential zoning is typically assigned for properties as they proceed farther away from the higher intensity urban activity.
F. Industrial zoning is typically assigned for properties with sufficient access to major transportation routes and may be situated away from residential zoning.

In review for establishing zoning, a Comprehensive Plan analysis was completed within the P&Z Staff Report (Exhibit S-5) and may be utilized in determining whether the property should be annexed. Generally, the City Council can determine whether an annexation request is appropriate based on their best judgement. Ideally, the Council would base that decision on planning principles such as whether
the annexation is a logical extension of the city, whether it reduces a county pocket, whether extension of public infrastructure is feasible etc.

ITEM / PROJECT PREVIOUSLY REVIEWED BY COUNCIL ON: N/A

APPROVED OR DIRECTION GIVEN: The Planning and Zoning Commission made a recommendation for the Commercial Mixed (CCM) zoning district at their May 10, 2022, meeting as part of the annexation request.

MOTION OPTIONS FOR ESTABLISHING ZONING: City Council may approve the proposed annexation and items for inclusion in an annexation agreement, may approve with modifications, or deny the annexation request. Should the City Council need additional information or wish to hear additional testimony, it may wish to move to continue the public hearing to a date certain. If the City Council has heard sufficient testimony but need additional time to deliberate and make a recommendation, it may close the public hearing and move the deliberations to a date certain.

FISCAL IMPACT OR OTHER SOURCE OF FUNDING: N/A

BUDGET CODE: N/A

SUPPORTING DOCUMENTS:

STAFF EXHIBITS:

<table>
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<tr>
<th>Exhibit</th>
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<tr>
<td>S-5</td>
<td>Planning and Zoning Commission Staff Report</td>
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<td>Annexation Application</td>
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<td>A-2</td>
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<td>A-3</td>
<td>Exhibit Map</td>
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<td>Annexation Development Agreement</td>
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<td>S-6</td>
<td>Signed Meeting Minutes 5-10-2022</td>
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<td>Signed Zoning Recommendation</td>
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<td>Peterson Comments</td>
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<td>PC-7</td>
<td>Kilmer Comments</td>
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INTRODUCTION:

The Planning and Zoning Commission reviews the zoning requested at the time an annexation is sought to determine if it is consistent with the adopted review criteria. The Commission provides a recommendation on zoning for the City Council’s consideration if the Council determines that the property should be annexed. The Planning and Zoning Commission does not make a decision or a recommendation on annexation.

Jacklin Land Company LLLP has requested approval to annex approximately 89 acres into the City of Post Falls with a zoning designation Community Commercial Mixed (CCM). The Community Commercial Mixed (CCM) zoning district requires a development agreement be approved by City Council to guide development to be generally consistent with the Conceptual Plan (Exhibit A-8). The Planning & Zoning Commission must conduct a public hearing and determine if the requested zone change meets the approval criteria contained in Municipal Code Section 18.16.010 and 18.20.100. Following the public hearing, the Planning Commission will direct staff to prepare a Reasoned Decision, along with any appropriate conditions, that explains how the approval criteria are/are not met. The Planning Commission will review and approve the final Reasoned Decision at a subsequent meeting and will forward its recommendation to the City Council. The approval criteria are:

A. Amendments to the zoning map should be in accordance with the Future Land Use Map.

B. Amendments to the zoning map should be consistent with the goals and policies found in the Comprehensive Plan.

C. Zoning is assigned following consideration of such items as street classification, traffic patterns, existing development, future land uses, community plans, and geographic or natural features.

D. Commercial and high-density residential zoning is typically assigned along streets with a higher road classification.

E. Limited or neighborhood commercial and lower density residential zoning is typically assigned for properties as they proceed farther away from the higher intensity urban activity.

F. Industrial zoning is typically assigned for properties with sufficient access to major transportation routes and may be situated away from residential zoning.
PROJECT INFORMATION:

Project Name / File Number: JACKLIN-PRAIRIE ANNEXATION / File No. ANNX-0012-2021

Owner(s): Jacklin Land Company LLLP, 4752 W. Riverbend Ave., Post Falls, ID 83854

Applicant: Rand Wichman, 2992 E. Gotham Bay Rd., Harrison, ID 83833

Project Description: The owner plans for a large commercial use on a portion of the site (approximately 30 acres of 78 acres), as well as a K-12 charter school (on approximately 11 acres). No residential uses are proposed for the site/annexation area.

Project Location: NE Corner of the future intersection of N. Zorros Rd. and W. Prairie Ave. and to the NW corner of the future intersection of N. Fennecus Rd. and W. Prairie Ave., north of the planned Foxtail Community.

AREA CONTEXT (proposed site hatched red below):

Surrounding Land Uses: Surrounding this property are mostly undeveloped lands either in Kootenai County or in the City of Post Falls. To west and in the city is a planned commercial development site with an approved commercial subdivision.
EVALUATION OF ZONING APPROVAL CRITERIA:

The following section provides the staff analysis pertaining to the Annexation Application and the establishment of zoning. The zone change review criteria set forth within the Post Falls Municipal Code sections 18.16.010 and 18.20.100 are cited within the following staff analysis in **BOLD**. This review criteria provides the framework for decision making for the Planning Commission and City Council.

ZONE CHANGE REVIEW CRITERIA

A. Amendments to the zoning map should be in accordance with the Future Land Use Map.

The Future Land Use Map designated this property with the land use designation of **Transitional**, this designation is assigned to lands suitable for growth. The timing for growth is undetermined, but guidance can be located within the associated Focused Area. Assigned zones should be compatible with adjacent zones/uses within the City and consistent with the guiding principles within the associated HWY 41 focus area.

The HWY41 Focus Area states the following:

Residential development has been predominant in recent years, and with some forecasts estimating as many as 30,000 new residents in this area by 2040, it's a trend that's likely to continue. Such growth is expected to spur commercial uses adjacent to the highway, especially at stop-controlled intersections. As with North Prairie, land values will pressure development to attract a range of residents, offering shared amenities, housing variety and neighborhood-scale services. To help enrich the future identity of 41 North, growth should include strategically located, carefully designated land uses incorporating trails and an interconnected, walkable street network.

Post Falls recently annexed additional lands for a planned technology park to be located near the northwest corner of Highway 41 and Prairie Avenue. This feature is expected to help diversify land uses and boost demand for commercial services. The following items affirm or guide development of key policies for this area, or suggest future action items for the 41 North focus area:

- Focus provisions for multi-family, commercial, and tech uses near higher classified roadways;
- Development should provide pedestrian connectivity to all multi-use paths and trails, including the Prairie Trail;
- Manage development patterns in the airport fly zone east of 41 and north of Prairie Avenue, coordinating with the 2018 Coeur d'Alene Airport Master Plan;
- Facilitate the creation of the "backage roads" system envisioned in the Highway 41 Corridor Master Plan, supporting appropriately scaled commercial and mixed-use development along 41 and improving access for nearby residential uses;
- Focus provisions for commercial uses along arterial/collector streets where traffic volume exceeds 4,000 vehicles per day.

B. Amendments to the zoning map should be in accordance with the goals and policies found in the Post Falls Comprehensive Plan. Goals and Policies (listed by policy number) that are relevant to this annexation request are shown below, followed by staff comments.

**Goal 1:** Grow and sustain a balanced, resilient economy for Post Falls, providing community prosperity and fiscal health.
Staff Comment: Creating additional commercial opportunities may assist in creating a balanced, resilient economy for Post Falls, providing community prosperity and fiscal health.

The Community Commercial Mixed (CCM) zone is intended to accommodate both commercial and high-density residential development at densities permitted by the high-density multi-family residential (R3) zone in a mixed-use development pattern. This zone should be applied in areas primarily located near arterials and collector streets to support commercial, residential, professional office, and civic uses that support an accessible work, live, and shop environment. Approval of the Community Commercial Mixed (CCM) zone requires a development agreement regulating the development site as provided in section 18.20.190 of this title.

a. The CCM zone is appropriate for:
   i. Areas designated Commercial, Commercial Mixed, Business Industrial, or Transitional in the Comprehensive Plan.
   ii. Areas readily serviced by collector and arterial streets suitable for higher levels of traffic.
   iii. Areas where other public services are sufficiently available for the intensity of use
   iv. Areas where the configuration of municipal infrastructure and neighboring land uses are compatible with the uses allowed in the CCM zone.

b. Permitted Uses: Permitted and specially permitted uses in the CCM zone are listed in the land use table in Section 18.20.030 of this title. Multi-family residential uses may not exceed fifty percent (50%) of the total development site. Multi-family uses that are incorporated into vertical mixed-use buildings are excluded from this calculation.

   ➔ Note: The Development Agreement proposed by applicant is for no residential uses to be allowed within the proposed Annexation Area.

Goal 3: Maintain and improve Post Falls’ small-town scale, charm, and aesthetic beauty.

Whether newly arrived or long-term, residents of Post Falls often cite the community’s “small-town charm,” its modest size, and its valley setting with open space prairie and the Spokane River as attractive features. Due to this, many of the goals, policies, and programs contained in the Comprehensive Plan help retain the City’s lower-scale, walkable, small-lot development patterns common in early Post Falls, while at the same time, providing for urban growth in other, appropriate areas; support the development of cultural features and activities; and direct land use decisions encouraging infill and thoughtful expansion.

Staff Comment:

Placing Commercial Services along Prairie Ave may be an appropriate area for more intense urban growth supporting an accessible work, live, and shop environment in this area serviced by a street suitable for higher levels of traffic.

Placing Commercial Services at this location may not be appropriate as it may be contrary to retaining the City’s lower-scale, walkable, small-lot development patterns in the area.
If relevant, the Commission and Council must determine if the proposal maintains and improves the City's small-town scale, charm, and aesthetic beauty.

**Goal 5: Keep Post Falls’ neighborhoods safe, vital, and attractive.**

Residents prize the character and unhurried pace of Post Falls neighborhoods, and wish to ensure their neighborhoods are kept safe, active, and aesthetically pleasing. Supporting this goal, a diverse set of policies have been provided, including encouraging attractive, pedestrian-friendly development, provision of diverse housing types, parks facilities, and neighborhood-scale commercial services.

**Goal 7: Plan for and establish types and quantities of land uses in Post Falls supporting community needs and the City’s long-term sustainability.**

Cities exercise considerable influence over land use, in turn influencing the type and character of development, patterns of growth, and the short and long-term financial impact of growth on the local economy. Consequently, the Comprehensive Plan supports the allocation of land use types, parks features and other areas sufficient to achieve overall plan objectives.

**Goal 8: Protect and maintain Post Falls’ natural resources including clean air, soils, river, and aquifer, and minimizing light and noise pollution citywide.**

City livability, health and value are fully dependent on clean, safe, and sustainable natural resources. This goal underscores Post Falls' commitment to maintaining its natural resources as a top priority, recognizing them as essential to the community’s survival.

**Goal 12: Maintain the City of Post Falls’ long-term fiscal health.**

Services that cities provide cannot be sustained without fiscal balance and accountability. This goal serves to anchor the City of Post Falls’ obligation to sustain its fiscal health – achieved through the gathering of income in responsible, equitable ways, and through decisions, investments and actions that provide ratepayers with efficient, effective services now and in the future.

**Goal 14: Involve the community of Post Falls in all local government planning and decision-making.**

The development of the Comprehensive Plan is community-driven, involving numerous residents including some representing large groups of residents. For plans to succeed, community buy-in and support is critical. Future conditions will certainly require the creation of new objectives and strategies, and this goal supports keeping residents highly involved in such work.

The following policies may or may not assist the review of this Zone Change request.

**Policy 1: Support land use patterns that:**

- Maintain or enhance community levels of service;
  
  **Staff Comment:** Impact Fees are paid at the time of permit issuance to assist maintaining the community levels of service.

- Foster the long-term fiscal health of the community;
  
  **Staff Comment:** Creating addition commercial opportunities may assist creating a balanced, resilient economy for Post Falls, providing community prosperity and fiscal health and in return may increase their value and assist in contributing to the long-term fiscal health of
the community.

- Maintain and enhance resident quality of life;

Staff Comment: The proposed location for additional Commercial Development upon development of the area may provide the necessary amenities to enhance resident quality of life by providing additional opportunities of commerce and education.

- Promote compatible, well-designed development;

Staff Comment: Creating addition commercial opportunities may assist facilitating this endeavor.

- Implement goals and policies of the comprehensive plan, related master plan and/or facility plans.

Staff Comment: HWY 41 Focus area states that growth is expected to spur commercial uses adjacent to the highway, especially at stop-controlled intersections. As with North Prairie, land values will pressure development to attract a range of residents, offering shared amenities, housing variety and neighborhood-scale services. To help enrich the future identity of 41 North, growth should include strategically located, carefully designated land uses incorporating trails and an interconnected, walkable street network.

The following items may be supported by the proposal:

- Focus provisions for multi-family (Not allowed in DA-Exhibit S-4), commercial, and tech uses near higher classified roadways;
- Development should provide pedestrian connectivity to all multi-use paths and trails, including the Prairie Trail;
- Manage development patterns in the airport fly zone east of 41 and north of Prairie Avenue, coordinating with the 2018 Coeur d'Alene Airport Master Plan;
- Facilitate the creation of the "backage roads" system envisioned in the Highway 41 Corridor Master Plan, supporting appropriately scaled commercial and mixed-use development along 41 and improving access for nearby residential uses;
- Focus provisions for commercial uses along arterial/collector streets where traffic volume exceeds 4,000 vehicles per day.

Policy 2: Apply or revise zoning designations with careful consideration of factors including:

- Future land use mapping;

Staff Comment: This is addressed by the first review criteria in Section A of this report.

- Compatibility with the surrounding land uses;

Staff Comment: Surrounding this property are mostly undeveloped lands either in Kootenai County or in the City of Post Falls. To west and in the city is a planned commercial development site with an approved commercial subdivision.

- Infrastructure and service plans;

Staff Comment: Generally, the planned street infrastructure and service plans for the area would support the proposed zone change as it is consistent with the anticipated land uses and trip generations within the City’s Transportation Master Plan.

Road System Details:
Fennecus Road is classified as Major Collector Roadway and the ½ Mile Backage Roadway to State Highway 41. Zorros Road and Harvest Avenue are classified as a Minor Collector Roadways. Zorros Road serves as a ¼ Backage Road to SH41. Harvest Avenue will provide connection, per the City’s Transportation Master Plan, from the north/south roadways to SH41 with a future signalized intersection. The intersections of Zorros Road and Fennecus Road are planned to intersect Prairie Avenue with multi-lane roundabouts. Driveway access would be required to conform with City Standards that prohibit single family and duplex developments from having approaches that access onto roadways classified as collector or higher. Prairie Ave. would require more stringent access control, conforming with the KMPO Critical Arterial Corridor Policy.

The intersection of Prairie Avenue / Zorros Road is in preliminary development for the construction of a roundabout, associated with the Prairie Crossing Shopping Center (in development, immediately to the west). The City’s master plan also identifies a future roundabout at the intersection of Prairie Avenue / Fennecus Road. The timing for construction of this future roundabout would be based upon traffic volumes.

Development would be required to be consistent with the Annexation and Development Agreement (Exhibit S-4).

**Water and Sanitary Sewer:**

**Water:** Water service is provided by Ross Point Water District. Development would be required to be consistent with the Annexation and Development Agreement (Exhibit S-4).

**Sanitary Sewer:** The Owner will be required to use the Post Falls Sanitary Sewer system for all development of the Property and to be responsible for all required fees and charges including all connection and/or capitalization charges generally applicable at the time service is requested. Sanitary sewer service will be provided in accordance with rules and regulations of the City. The City does not warrant that sanitary sewer capacity will be available at the time Owner requests connection to the sanitary sewer system. The property is within the 12th Avenue Force Main and Meyer Alternative Line Surcharge Basins. The applicant has had a sewer study conducted that shows the flows can be rerouted to a different sewer service basin without negative impacts to the City’s collection system. The rerouted sewer will not have any surcharges associated with the Meyer Alternative Basin. The property will be subject to the Surcharges for the 12th Avenue Force Main. Established surcharges fund the downstream collection system infrastructure needed to provide permanent sewer service to the Property.

Development would be required to be consistent with the Annexation and Development Agreement (Exhibit S-4).

- Existing and future traffic patterns;

Staff Comment: The requested zoning is consistent with the anticipated land uses and trip generations within the City’s Transportation Master Plan. Development would include the construction of identified roadway infrastructure within the City’s Transportation Master Plan and the SH41 Corridor Master Plan (KMPO). Per the findings of local and regional
planning documents, provisions of these improvements will facilitate the efficient movement of commerce and vehicles.

- Goals and policies of the comprehensive plan, related master plan and/or facility plans.

Staff Comment: The response to this is embedded within the analysis within this section.

**Policy 3:** Encourage development patterns that provide suitably scaled, daily needs services within walking distance of residential areas, allowing a measure of independence for those who cannot or choose not to drive.

Staff Comment: The proposed location for additional Commercial Development upon development of the area may provide the necessary amenities to enhance resident quality of life by providing additional opportunities of commerce and education as the planned future Prairie trial runs through this site.

**Policy 7:** Encourage the development of off-corridor access and circulation for commercial and mixed-use areas abutting limited-access arterials.

Staff Comment: The CCM zone in this area may provide this opportunity. The SH41 backage road system encourages internal and local circulation parallel to SH41, preserving capacity for longer “regional” trips.

**Policy 8:** Encourage compatible infill development and redevelopment of vacant and under-utilized properties within City limits.

Staff Comment: Redevelopment of this area is not considered infill and is within the City of Post Falls Exclusive Tier of the Area of City Impact. If relevant, the Commission and Council must determine whether the development is compatible and under-utilized.

C. Zoning is assigned following consideration of such items as street classification, traffic patterns, existing development, future land uses, community plans, and geographic or natural features.

**Streets/Traffic:** The proposed Zone Change area is adjacent to Prairie Avenue (Principal Arterial), Fennecus Rd. (Major Collector), Zorros Rd. (Minor Collector) and Harvest Avenue (Minor Collector). The requested zoning is in conformance with the anticipated land uses and trip generations within the City’s Transportation Master Plan. The Zone change is not anticipated to have any negative impacts to the City’s transportation network that are not previously identified as being mitigated thru collection of Transportation Impact Fees. Development would be required to be consistent with the Annexation and Development Agreement (Exhibit S-4)

**Compatibility with Existing Development and Future Uses:**

Surrounding this property are mostly undeveloped lands either in Kootenai County or in the City of Post Falls. To west and in the city is a planned commercial development site with an approved commercial subdivision. It is unknown of any other future uses surrounding this request other than that are not currently existing.

**Future Land Use Designation:**
Exhibit S-3: Future Land Use Map, depicts the land use designation for this area as Transition. The proposed CCM Zone may be allowable per the direction of the HWY 41 Focus Area and the nearby road classifications. Prairie Avenue is a Principal Arterial and Fennecus Rd. is a Major Collector. Zorros Rd. and Harvest Ave. are classified as Minor Collectors.

Community Plans: As previously stated this is within the Hwy 41 Focus Area within the Post Falls Comprehensive Plan.

Geographic/Natural Features:
The site contains no geographic or other natural features that would affect development of the site. It is to be noted that this site is over the Rathdrum Aquifer.

D. Commercial and high-density residential zoning is typically assigned along streets with a higher road classification.

Staff Comment: The proposed CCM zone is located along higher classified roadways. Prairie Avenue is a Principal Arterial and Fennecus Rd. is a Major Collector. Zorros Rd. and Harvest Ave. are classified as Minor Collectors.

E. Limited or neighborhood commercial and lower density residential zoning is typically assigned for properties as they proceed farther away from the higher intensity urban activity.
Staff Comment: This location is near the higher intensity urban activity are of HWY 41/Prairie Ave but is transitioning away towards the larger county lots to the northwest, and northeast.

F. Industrial zoning is typically assigned for properties with sufficient access to major transportation routes and may be situated away from residential zoning.

Staff Comment: Not Applicable as Industrial zoning isn’t being requested as part of this consideration nor is Industrial zoning situated near the requested area.

OTHER AGENCY RESPONSE & RECEIVED WRITTEN COMMENTS:

Agencies Notified:

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<td>Kootenai County Fire</td>
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<td>Utilities (W/WW)</td>
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<td>Idaho Department of Lands</td>
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<td>Department of Environmental Quality</td>
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<td>Kootenai County Planning</td>
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<td>Conoco, Inc. (Pipeline Co.)</td>
<td>NW Pipeline Corp.</td>
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<td>Yellowstone Pipeline Co.</td>
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- Kootenai County Fire and Rescue (Exhibit PA-1) – Comments on projects through the project review process.
- Post Falls Police Department (Exhibit PA-2) – Remains neutral
- Post Falls Highway District (Exhibit PA-3) – Requests the city to acquire 60’ right-of-way dedication along Prairie Ave.
- Idaho Department of Environmental Quality (Exhibit PA-4) – Has no comments for this stage of the project.

MOTION OPTIONS: The Planning and Zoning Commission must provide a recommendation of zoning to City Council along with an evaluation of how the proposed development does/does not meet the required evaluation criteria for the requested annexation. Should the Commission need additional information or wish to hear additional testimony, it may wish to move to continue the public hearing to a certain date. If the Commission has heard sufficient testimony but needs additional time to deliberate and make a recommendation, it may close the public hearing and move the deliberations to a date certain.
ATTACHMENTS:

Applicant Exhibits:
Exhibit A-1 Application
Exhibit A-2 Narrative
Exhibit A-3 Exhibit Map
Exhibit A-4 Auth Letter
Exhibit A-5 Title Report
Exhibit A-7 Will Serve
Exhibit A-8 Concept

Staff Exhibits:
Exhibit S-1 Vicinity Map
Exhibit S-2 Zoning Map
Exhibit S-3 Future Land Use Map
Exhibit S-4 Annexation Development Agreement

Testimony:
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Exhibit PA-2 PFPD Comments
Exhibit PA-3 PFHD Comments
Exhibit PA-4 DEQ Comments
Exhibit PC-1 Beesley Comments
Exhibit PC-2 Burns Comments
Exhibit PC-3 Stucki Comments
Exhibit PC-4 Moore Comments
Exhibit PC-5 Sgantas Comments
PART 1 – Process of Completion and Public Hearing Schedule

1. Applications will need to be deemed complete by the Planning Department prior to being scheduled for a public hearing. Once the applicant has been issued a completeness letter from the Planning Department verifying the application is complete, the application will be eligible to be scheduled at the next available Public Hearing.

2. Each Completeness Review Period, will be reviewed within a 2-week period

3. There is a 45-day cut-off windows for a fully completed application (deemed complete) required, prior to being scheduled for the next available Public Hearing (See Note Below).

***NOTE: Once we have 4 Public Hearings the following applicants will be moved to the next month’s Hearing Date. ***

PART 1/A – REQUIRED MATERIAL

**THE APPLICATION WILL NOT BE ACCEPTED IF THE REQUIRED MATERIALS ARE NOT PROVIDED**

Annexing land and expanding public services is based on careful planning, adopted regulations and Comprehensive Plan policies. Annexation should provide a means for orderly, logical expansion of the city and increased efficiency, and economic provisions of public services. The City of Post Falls considers approval of annexing lands when such will lead to orderly future development that would result in benefit to the community. See the Comprehensive Plan 4.0 Future Land Use; Annexation Goals and Policies.

☑ Completed Annexation Pre-application
☑ Completed application form
☑ Application fee
☐ Will Serve Letter: (water service)
☐ A written narrative: Including zoning, how proposal relates to Annexation Goals and Policies, and the impact on City services.
☐ A legal description: in MS Word compatible format, together with a meets and bounds map.
☐ A report(s) by an Idaho licensed Title Company: showing ownership of record, any interest of record, and a list of property owners of record within 300 feet of external boundaries of the subject property and mailing labels, provided by the Title Company.
☐ A vicinity map: To scale, showing property lines, thoroughfares, existing and proposed zoning, etc.
PART 2 – APPLICATION INFORMATION

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<tr>
<th>PROPERTY OWNER:</th>
<th>Jacklin Land Company LLP</th>
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<tbody>
<tr>
<td>MAILING ADDRESS:</td>
<td>4752 W Riverbend Ave.</td>
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<td>Post Falls</td>
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<tr>
<td>APPLICANT OR CONSULTANT:</td>
<td>Rand Wichman</td>
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<tr>
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<td>ENGINEER OTHER</td>
</tr>
<tr>
<td>MAILING ADDRESS:</td>
<td>2992 E Gotham Bay Rd</td>
</tr>
<tr>
<td>CITY:</td>
<td>Harrison</td>
</tr>
<tr>
<td>STATE:</td>
<td>ID</td>
</tr>
<tr>
<td>ZIP:</td>
<td>83833</td>
</tr>
<tr>
<td>PHONE:</td>
<td>208 689 6066</td>
</tr>
<tr>
<td>FAX:</td>
<td></td>
</tr>
<tr>
<td>EMAIL:</td>
<td><a href="mailto:randwplan@gmail.com">randwplan@gmail.com</a></td>
</tr>
</tbody>
</table>

SITE INFORMATION:

| PROPERTY GENERAL LOCATION OR ADDRESS: | north of Prairie Ave, east of 41, west of Meyer |
| PROPERTY LEGAL DESCRIPTION (ATTACH OR DESCRIBE): | attached |
| TAX PARCEL #: | see narrative |
| EXISTING ZONING: | County Agriculture |
| ADJACENT ZONING: | CCS, BI, Agriculture |
| CURRENT LAND USE: | vacant |
| ADJACENT LAND USE: | vacant |

DESCRIPTION OF PROJECT/REASON FOR REQUEST:

Zoning to CCM and annexation to facilitate construction of large commercial use and charter school

PART 3 – CERTIFICATION

The applicant (or representative) must be present at the public hearing to represent this proposal or the application will not be heard. The applicant will be responsible for costs to re-notice the public hearing.

Petitioner's name(s), address, and phone number:

Name
Address
Phone
I (We) the undersigned do hereby make petition for annexation and zone classification of the property described in this petition and do certify that we have provided accurate information as required by this petition form, to the best of my (our) ability.

Be advised that all exhibits presented will need to be identified at the meeting, entered into the record, and retained in the file.

DATED THIS 17th DAY OF November 2021

Rand Wichman, Planning Consultant

PART 4 - COMPLETED BY CITY STAFF

<table>
<thead>
<tr>
<th>Completed Pre-App:</th>
<th>YES:</th>
<th>NO:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

PRE-APP NAME:  
PRE-APP FILE#:

IF NO PRE-APPLICATION, REASON?

<table>
<thead>
<tr>
<th>Reason</th>
<th>Reason</th>
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</thead>
<tbody>
<tr>
<td></td>
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</table>
Overview
Jacklin Land Company LLLP (Jacklin) is requesting annexation of approximately 86 acres of property that it owns northeast of the City of Post Falls, together with one City-owned parcel. The property lies north of Prairie Avenue, west of Meyer Road, and south of the westward extension of W. Harvest Avenue. See the attached maps and descriptions for a more complete depiction of the proposed boundaries.

The property is composed of 6 parcels owned by Jacklin, two of which are only partially included in this request, and one City-owned parcel. The parcel numbers are as follows:

<table>
<thead>
<tr>
<th>Parcel No.</th>
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<th>Acreage</th>
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<td>341883</td>
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<td>341884</td>
<td>10.6</td>
</tr>
<tr>
<td>51N04W-19-9500 (part)</td>
<td>341889</td>
<td>0.4</td>
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<tr>
<td>51N04W-19-5250 (City)</td>
<td>344635</td>
<td>3.1</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td><strong>89.0</strong></td>
<td></td>
</tr>
</tbody>
</table>

The property is vacant and currently used for agriculture. The abandoned railroad right of way crosses diagonally through this property. It was recently acquired by the City of Post Falls and is planned to be developed into a recreational trail.

Proposed zoning
The principal reason for the annexation is to facilitate construction of a large commercial use on a portion of the site (approximately 30 acres), as well as a K-12 charter school (on approximately 11 acres). No residential uses are proposed for the site and the owner will agree to a provision in the development agreement that prohibits residential development on the subject property.

Community Commercial Mixed (CCM) is proposed for the zoning on the property. As stated in the Post Falls Municipal Code, "(t)he Community Commercial Mixed (CCM) zone is intended to accommodate both commercial and high-density residential development at densities permitted by the high-density multi-family residential (R3) zone in a mixed-use development pattern. This zone should be applied in areas..."
primarily located near arterials and collector streets to support commercial, residential, professional office, and civic uses that support an accessible work, live, and shop environment. Approval of the Community Commercial Mixed (CCM) zone requires a development agreement regulating the development site as provided in section 18.20.190 of this title.” The CCM zone allows for the specific uses that have been proposed for the property, while imposing greater restrictions on manufacturing / industrial uses than the CCS zone. With the restriction on residential development that will be included in the development agreement, CCM is the best fit for the property.

The code also states:

"The CCM zone is appropriate for:

i. Areas designated Commercial, Commercial Mixed, Business Industrial, or Transitional in the Comprehensive Plan.

ii. Areas readily serviced by collector and arterial streets suitable for higher levels of traffic.

iii. Areas where other public services are sufficiently available for the intensity of use.

iv. Areas where the configuration of municipal infrastructure and neighboring land uses are compatible with the uses allowed in the CCM zone.”
Wastewater services will be provided by the City of Post Falls. The subject property has been included in City's sewer master plan and portions of the site fall into 3 separate sewer basins, as identified in the plan. The City's consultant has been engaged to evaluate whether adjustments can be made to the plan to serve the entire subject property with gravity sewer in a single basin.

Sewer basin map

Potable and fire flow water will be provided to the site by the Ross Point Water District. Annexation of the property into the District is in process and a will serve letter is forthcoming.

Comprehensive Plan
As mentioned above, the property is in the Transitional designation on the future land use map, and in the "41 North" focus area.

The Plan states that the Transitional designation is assigned to lands suitable for growth. Regarding the zoning which is appropriate for this designation, the plan directs that zoning should be compatible with adjacent zones/uses within the City and
consistent with the guiding principles within the associated focus area.

Turning to the "41 North" focus area, it is described as follows:

"The 2016 Highway 41 Corridor Master Plan calls for the creation of "collector" and "backage roads" parallel to 41 to aid the corridor's suitability for mixed-use development. These, the plan envisions, will allow regional retail, residential and service uses to coexist, reducing reliance on large parking lots with direct access to highway lanes and easing the transition between the highway and lower-intensity residential development expected to occur to the east and west."

The annexation and development of this property will help implement this plan by constructing the collector and backage roads through the project.

The Plan also includes "key policies" for the focus area, which are listed as:
- Focus provisions for multi-family, commercial, and tech uses near higher classified roadways;
- Development should provide pedestrian connectivity to all multi-use paths and trails, including the Prairie Trail;
- Manage development patterns in the airport fly zone east of 41 and north of Prairie Avenue, coordinating with the 2018 Coeur d'Alene Airport Master Plan;
- Facilitate the creation of "backage roads" system envisioned in the Highway 41 Corridor Master Plan, supporting appropriately-scaled commercial and mixed-use development along 41 and improving access for nearby residential uses;
- Focus provisions for commercial uses along arterial/collector streets where traffic volume exceeds 4,000 vehicles per day.

The proposed annexation and zoning also serve to implement these policies. The commercial uses within this development will be near the arterial roadways of Prairie Avenue and Highway 41. The Prairie Trail runs through the subject property and connectivity to the trail will be an important part of future development of the site.

With regard to the Coeur d'Alene Airport Master Plan, this particular property is partially within the "Airport Influence Area" as described in the Airport Master Plan. It is not within any of the safety zones, protection zones, or critical zones described in the plan. The Airport Master Plan does not prescribe any special restrictions for this property.

The proposal will create the "backage road" system within the boundaries of the property. Commercial uses will be within close proximity to the arterial roadways and collector streets.

In summary, the proposal is well-supported by the "Transitional" Comprehensive Plan designation and the key policies of the "41 North" focus area.

**Conclusion**
The proposal is consistent with the numerous master plans that address land use and
infrastructure development within the City and implements the vision of those plans. The annexation will allow for the creation of a high-quality development containing uses that will be of great benefit to the City and its residents.
PRAIRIE CROSSING

PROPOSED AREA FOR ANNEXATION

EXISTING CITY LIMITS

SOUTH 1/2 19-51N-04W

EXHIBIT OF AREA TO BE ANNEXED INTO THE CITY OF POST FALLS

JACKLIN LAND COMPANY LLP
November 9, 2021

City of Post Falls, Planning Division
408 N. Spokane Street
Post Falls, ID 83854

RE: AUTHORIZATION FOR LAND USE APPLICATIONS

To Whom It May Concern:

Jacklin Land Company, LLLP is the owner of numerous parcels identified as Assessor’s Parcel Nos. 51N04W-19-4800, -5200, -6900, -7100, -7300, -7500, -7800, -8100, -8900, -9300, and -9500.

As a Manager of this LLLP, I hereby authorize Rand Wichman and Rand Wichman Planning, LLC to act as the authorized agent for the purpose of representing the owner on land use issues related to the property.

Sincerely,

[Signature]

Tag Jacklin, Manager
OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

Commitment No.: 416616

SCHEDULE A

Escrow Officer: -
Title Officer: Sam Johnson - sam@kootenaititle.com

1. Commitment Date: November 9, 2021 at 12:00 AM

2. Policy to be issued:
   a. (Minimum/informational report only, no insurance given or implied)  
      Amount: $0.00
      Premium: $215.00
      Total: $215.00

3. The estate or interest in the Land described or referred to in this Commitment is Fee Simple.

4. Title to the Fee Simple estate or interest in the Land is at the Commitment Date vested in:
   Jacklin Land Company, LLLP, an Idaho Limited Liability Limited Partnership

5. The Land is described as follows:
   SEE SCHEDULE C ATTACHED HERETO

Old Republic National Title Insurance Company

By: [Signature]
Kootenai County Title Company, Inc.

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
A Stock Company
400 Second Avenue South, Minneapolis, Minnesota 55401
(612) 371-1111

By: [Signature]
President

Attest: [Signature]
Secretary
OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

SCHEDULE B, PART I

Requirements

All of the following Requirements must be met:

1. This report is based on a search of our tract indices of the county records. This is not a title or ownership report, and no examination of the title to the property described herein has been made. For this reason, no liability beyond the amount paid for this report is assumed hereunder and the company is not responsible beyond the amount paid for any errors and omissions contained herein.

2. We find the following address to be associated with the Land described herein:

   NNA
   Post Falls, ID 83854
OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

SCHEDULE B, PART II

Exceptions

THIS COMMITMENT DOES NOT REPUBLISH ANY COVENANT, CONDITION, RESTRICTION, OR LIMITATION CONTAINED IN ANY DOCUMENT REFERRED TO IN THIS COMMITMENT TO THE EXTENT THAT THE SPECIFIC COVENANT, CONDITION, RESTRICTION, OR LIMITATION VIOLATES STATE OR FEDERAL LAW BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN.

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

A. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the Effective Date but prior to the date the proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.

B. General Exceptions:

1. Rights or claims of parties in possession not shown by the Public Records.

2. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land.

3. Easements, or claims of easements, not shown by the Public Records.

4. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.

5. (a) Unpatented mining claims; (b) reservations in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) of (c) are shown by Public Records.

6. Taxes or special assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments of real property or by the Public Records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.

C. Special Exceptions:

7. General taxes and assessments for the year 2021, which are a lien, of which the 1st installment is due December 20, 2021 and the 2nd installment is due June 20, 2022 (amounts do not include penalty and interest if delinquent):

1st Installment: $93.18, due and payable
2nd Installment: $93.18, payable but not yet due
Parcel No.: 51N04W194800
AIN No.: 341883
Parcel 1

1st Installment: $110.49, due and payable
2nd Installment: $110.49, payable but not yet due
OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

Parcel No.: 51N04W195200
AIN No.: 124502
Parcel 2

1st Installment: $120.85, due and payable
2nd Installment: $120.85, payable but not yet due
Parcel No.: 51N04W196900
AIN No.: 324740
Parcel 3

1st Installment: $33.26, due and payable
2nd Installment: $33.26, payable but not yet due
Parcel No.: 51N04W197100
AIN No.: 341891
Parcel 4

1st Installment: $182.07, due and payable
2nd Installment: $182.07, payable but not yet due
Parcel No.: 51N04W199300
AIN No.: 341884
Parcel 5

1st Installment: $100.21, due and payable
2nd Installment: $100.20, payable but not yet due
Parcel No.: 51N04W199500
AIN No.: 341889
Parcel 6

8. The lien for any taxes deferred by virtue of the designation of the insured land or any portion thereof as forest lands as provided by Section 63-1701 et. seq., of the Idaho Code

9. Assessments of Ross Point Water District.

10. An easement for the purpose shown below and rights incidental thereto as set forth in a document
    Granted to: Washington Water Power Company
    Purpose: Electric transmission line and telephone system
    Recorded: July 5, 1978

11. An easement for the purpose shown below and rights incidental thereto as reserved in a document
    Purpose: Ditches and canals
    Recorded: April 20, 1993
    Instrument No.: 1301168, records of Kootenai County, Idaho.

12. Any rights, interests, claims or other adverse matters which may exist or arise by reason of facts
OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

shown on Record of Survey recorded October 9, 2007 in Book 25 of Surveys at Page 210, records of Kootenai County, Idaho, including without limitation those described as follows:

A. Discrepancies between the bearings, measurements and locations of record and those shown on said survey.

B. Prairie Ave and 100’ Railroad rights of way and the location(s) thereof

13. Quitclaim Deed conveying the water rights associated with the Land
Grantee: Ross Point Water District
Recorded: January 7, 2010
Instrument No.: 2248381000, records of Kootenai County, Idaho.

14. Order annexing property into Ross Point Water District and Agreement(s) to Conditions for Annexation attached thereto, including the terms, conditions, covenants, provisions set forth therein
Recorded: May 5, 2010
Instrument No.: 2264132000, records of Kootenai County, Idaho.

15. Any rights, interests, claims or other adverse matters which may exist or arise by reason of facts shown on Record of Survey recorded May 31, 2013 in Book 27 of Surveys at Page 407, records of Kootenai County, Idaho, including without limitation those described as follows:
A. Discrepancies between the bearings, measurements and locations of record and those shown on said survey.
B. Prairie Ave and Spokane International RR rights of way and the location(s) thereof

16. Any rights, interests, claims or other adverse matters which may exist or arise by reason of facts shown on Record of Survey recorded May 22, 2014, in Book 28 of Surveys at Page 130, records of Kootenai County, Idaho, including without limitation those described as follows:
A. Prairie Avenue and Meyer Road rights of way and the location(s) thereof

17. Easements for and right, title and interest of the public in and to the public road right of way commonly known as Prairie Avenue, including utilities lying therein or adjacent thereto, over the southern portion of the Land.

18. Easements for and right, title and interest of the public in and to the public road right of way commonly known as Meyer Road, including utilities lying therein or adjacent thereto, over the eastern portion of the Land.

19. Right, title and interest of Jacklin Land Company, an Idaho Partnership, as to Parcels 5 and 6
OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

END OF SCHEDULE B
OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

SCHEDULE C

The Land is described as follows:

Parcel 1:

The North Half of the Northeast Quarter of the Southwest Quarter of Section 19, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, State of Idaho.

Excepting any portion that lies within that portion of the Southwest Quarter of Section 19, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, Idaho described as follows:

Beginning at the West quarter corner of said Section 19, from which the Southwest corner of said section bears South 01°01'59'' West, a distance of 2,640.05 feet; thence

South 88°55'52'' East along the north line of said Southwest Quarter, a distance of 1,356.21 feet; thence

South 00°59'01'' West, a distance of 1,189.76 feet, more or less, to the centerline of the Spokane International Railroad; thence

North 63°38'33'' West along said centerline, a distance of 1,501.52 feet, more or less, to a point on the west line of said Southwest Quarter; thence

North 01°01'59'' East along said west line, a distance of 548.34 feet, more or less, to the Point of Beginning.

Parcel 2:

That portion of the South Half of the Northeast Quarter of the Southwest Quarter and that portion of the Southeast Quarter of the Southwest Quarter in Section 19, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, State of Idaho, located North of that certain 100 foot strip conveyed to the Cœur d'Alene and Pend d'Oreille Railway Company by Deed recorded August 11, 1910, in Book 40 of Deeds, Page 262, records of Kootenai County, Idaho.

Excepting any portion that lies within that portion of the Southwest Quarter of Section 19, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, Idaho described as follows:

Beginning at the West quarter corner of said Section 19, from which the Southwest corner of said section bears South 01°01'59'' West, a distance of 2,640.05 feet; thence

South 88°55'52'' East along the north line of said Southwest Quarter, a distance of 1,356.21 feet; thence

South 00°59'01'' West, a distance of 1,189.76 feet, more or less, to the centerline of the Spokane International Railroad; thence

North 63°38'33'' West along said centerline, a distance of 1,501.52 feet, more or less, to a point on the west line of said Southwest Quarter; thence

North 01°01'59'' East along said west line, a distance of 548.34 feet, more or less, to the Point of Beginning.

Parcel 3:
OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

The West Half of the East Half of the Southeast Quarter of the Southwest Quarter of Section 19, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, Idaho, lying South of the Spokane International Railroad right of way.

Together with the West Half of the Northeast Quarter of the Southwest Quarter lying South of the Spokane International Railroad right of way and the West Half of the Southeast Quarter of the Southwest Quarter also lying South of the Spokane International Railroad right of way, all in Section 19, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, Idaho.

Excepting therefrom any portion that lies within the following:

A parcel of land being a portion of the East half of the Southwest Quarter and a portion of Government Lot 3 and 4, lying in Section 19, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, Idaho and more particularly described as follows:

Commencing at the Southwest corner of said Section 19, marked by a rail road spike in monument case, from which the South Quarter corner of said Section 19, bears South 88°29'45" East a distance of 2633.37 feet;

Thence North 60°04'25" East a distance of 57.53 feet to the intersection of the existing North right-of-way line of Prairie Avenue and the existing East right-of-way line of State Highway 41, said point being the True Point of Beginning for this description;

Thence, along said existing east right-of-way line of State Highway 41, North 01°01'17" East a distance of 1983.37 feet to the intersection of the south railroad right-of-way line;

Thence, along said South right-of-way line, South 63°38'33" East a distance of 1447.31 feet to a point;

Thence, leaving said right-of-way line, South 00°59'01" West a distance of 1375.06 feet to a point on the existing North right-of-way line of Prairie Avenue;

Thence, along said North right-of-way line, North 88°29'45" West a distance of 1309.35 feet to the True Point of Beginning.

Parcel 4:

The East Half of the East Half of the Southeast Quarter of the Southwest Quarter of Section 19, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, Idaho, lying South of the Spokane International Railroad right of way.

Parcel 5:

That portion of the North Half of the South Half of the Southeast Quarter of Section 19, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, State of Idaho, located North of that certain 100 foot strip conveyed to the Coeur d'Alene and Pend d'Oreille Railway Company by Deed recorded May 24, 1910, in Book 37 of Deeds, Page 411, records of Kootenai County, Idaho.

Parcel 6:

That portion of the South Half of the South Half of the Southeast Quarter of Section 19, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, State of Idaho, located North of that certain 100 foot strip conveyed to
OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

the Coeur d'Alene and Pend d'Oreille Railway Company by Deed recorded May 24, 1910, in Book 37 of Deeds, Page 411, records of Kootenai County, Idaho.

Except that portion conveyed to Post Falls Highway District by Right of Way Deed recorded November 26, 2012 as Instrument No. 2385292000, records of Kootenai County, Idaho.
TO: Bill Melvin, P.E.
City Engineer, City of Post Falls
408 Spokane Street
Post Falls ID 83854

RE: APPROX 227.7253 ACRES – SEE ATTACHED LEGAL DESCRIPTION

Dear Mr. Melvin:

Ross Point Water District has reviewed the preliminary plans for on-site improvements for the above referenced project and found them to be acceptable. We will need to review the completed construction plans before we can give final approval of the water system.

Ross Point Water District’s Consulting Engineer, Whipple Consulting Engineers, Inc., have completed a study, which analyses the impact the proposed subdivision will have on our water supply and distribution system. The study identifies improvements that if made by the Developer, will allow the District to provide service to the subject project and maintain the existing level of service in the Ross Point Water District.

Ross Point Water District will provide water service to the Jacklin Land Company LLLP acres, conditioned upon the developer completing off-site improvements, if any.

Additional requirements include:

1. Annexation of the subdivision into the Ross Point Water District service area, if applicable.
2. Satisfactory completion and dedication of approved on-site and off-site water system improvements.
3. Payment of all applicable fees and charges.
4. Compliance with all Ross Point Water District policies, rules and regulations.
5. Transfer of all water rights associated with project property, if applicable.

If work on the project is not begun within one year this “Will Serve” letter becomes void.

If you have any questions regarding this matter please call.

Sincerely,

Christine Waller
Ross Point Water District

Cc: Ray Kimball, Whipple Consulting Engineers, Inc.
Idaho Department of Quality
Panhandle Health District
Gordon Dobler, Frame & Smetana
JACKLIN LAND COMPANY, L.L.P.
ROSS POINT WATER DISTRICT ANNEXATION REQUEST
LEGAL DESCRIPTION

THE SOUTH HALF OF SECTION 19, TOWNSHIP 51 NORTH, RANGE 4 WEST, BOISE
MERIDIAN, KOOTENAI COUNTY, STATE OF IDAHO.

EXCEPTING THEREFROM ANY PORTION PREVIOUSLY ANNEXED INTO THE ROSS
POINT WATER DISTRICT.

EXCEPTING THEREFROM PORTIONS OF THE VACATED RAILROAD RIGHT OF WAY
April 18, 2022

Amber Blanchette
Planning Administrative Specialist
amberb@postfallsidaho.org

RE: Notice to Jurisdiction Response

Amber,

Please use the following as a standard response for Kootenai County Fire & Rescue on all applicable Notice to Jurisdiction notifications.

“Kootenai County Fire & Rescue (KCFR) participates in partnership with the City of Post Falls throughout the review and permitting process to include but not limited to the following: City annexations, zoning issues, comprehensive plan development, subdivision development, site plan approval and building construction code compliance. KCFR reserves all fire code related comments for that process.”

Respectfully,

Jeryl Archer II
Kootenai County Fire & Rescue
Division Chief of Prevention
Fire Marshal
April 18th, 2022

Amber Blanchette
Planning Administrative Specialist
amberb@postfallsidaho.org

Re: Jacklin-Prairie Annexation File No. ANNX-0012-2021

The Police Department has reviewed the above listed annexation/subdivision request and will remain Neutral on this project. Please accept this letter as the Police Department’s response to this request for both Planning and Zoning as well as City Council.

Respectfully submitted,

[Signature]

Mark J. Brantl
Captain
Post Falls Police Department
April 19, 2022

City of Post Falls
Planning and Building Division
408 Spokane St.
Post Falls ID 83854

Sent by email to amberb@postfallsidaho.org

RE: ANNX-0012-2021, Jacklin-Prairie Annexation
    North Prairie Ave. Between Highway 41 and Meyer Ave.

Greetings:

Post Falls Highway District has received annexation request for the above referenced proposal. The District respectfully asks the City of Post Falls to acquire a right-of-way dedication of 60' minimum from centerline on Prairie Avenue to accommodate the future needs for a five lane project expansion.

Please contact me if you have any questions at mlenz@postfalls1.com. Thank you for including us in your planning efforts.

Respectfully,

Michael C. Lenz
Director of Highways
Post Falls Highway District
Good Morning,

Thank you for providing the opportunity to comment. DEQ has no environmental impact comments for the project listed above at this stage of development.

Thank you,
Kristie

Kristie May | Admin Assistant II
Idaho Department of Environmental Quality
2110 Ironwood Parkway, Coeur d’Alene, Idaho 83814
Direct: 208.666.4608
Office Line: 208.769.1422
www.deq.idaho.gov

Our mission: To protect human health and the quality of Idaho’s air, land, and water.
PUBLIC COMMENT

Jacklin-Prairie Annexation
File No. ANNX-0012-2021
Exhibit: 4C

Applicant: Rand Wichman
Location: North of Prairie Ave. Between Highway 41 and Meyer Ave.
Request: To annex approximately 12 acres with Community Commercial Mixed (CCM) zoning designation.
Hearing Date: May 10, 2022

Questions list:

Name: Nina Beesley
Address: 6107 W Majestic Ave
Email: ninabeesley@protonmail.com

Zoning Upon Annexation

Please Provide Your Position on the Proposed Zone Change: In Favor

1. Is the requested zoning district compatible with the street classification, traffic patterns, existing development, future land uses, community plans and geographic or natural features of the area?: Yes

Comments:

2. Commercial and high-density residential zoning is typically assigned along streets with a higher road classification.: Yes
3. Limited or neighborhood commercial and lower density residential zoning is typically assigned for properties as they proceed farther away from the higher intensity urban activity.: Yes

4. Industrial zoning is typically assigned for properties with sufficient access to major transportation routes and may be situated away from residential zoning.: Yes

5. Is the requested zoning district in accordance with the Future Land Use Map in the Comprehensive Plan?: Yes

6. Is the requested zoning district consistent with the goals and policies in the Comprehensive Plan?: Yes

Subdivision

Please Provide Your Position on the Proposed Subdivision:

1. Has the subdivision made definite provisions for a water supply system that is adequate in terms of quantity, and quality for the type of subdivision proposed?:

2. Have adequate provisions been made for a public sewage system and can the existing municipal system accommodate the proposed sewer flows?:

3. Are the proposed streets consistent with the transportation element of the comprehensive plan?:

Comments:
4. Have all areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards been identified and are the proposed uses of these areas compatible with such conditions?:

Comments:

5. Is the area proposed for subdivision zoned for the proposed use and do the proposed uses conform to other requirements found in the City Code?:

Comments:

6. Has the developer made adequate plans to ensure that the community will bear no more than its fair share of costs to provide services by paying fees, furnishing land, or providing other mitigation measures for off-site impacts to streets, parks, and other public facilities within the community? It is the expectation that, in most cases, off site mitigation will be dealt with through the obligation to pay development impact fees.:  

Comments:
First: As noted in a previous correspondence on another nearby piece of property, why isn't the pending shopping center site plan (NEC HWY 41 at Prairie) shown/discussed as it abuts this property all along its western property line? Is there nothing submitted to the Planning Staff yet on the shopping center?

Secondly, How sure can we be that there is no residential EVER on this property within the development agreement....or....as I suspect, the applicant/owner, or future owner, can file a request for a rezone and go through the hearing process to nullify the development agreement. Yes, a hearing would be required but it would be, by the very basic 'staff finding' reasons, be recommended for approval as it would be: on a major arterial, have water, etc....

Third. Just because the applicant has 'agreed' that no residential will be constructed, a 105 foot high HOTEL or MOTEL or ? which are not considered "residential" could go in. CCM zone allows 105 foot high buildings. Is a large assisted living facility considered residential? It is not the place for 105 foot high structures

I believe that if the applicant would agree to CCS with NO RESIDENTIAL it might be able to be absorbed by the City without disruption but not CCM.

Howard Burns, Post Falls Resident
Good Afternoon,

I, Shannon Stucki, living at 2102 W Malad Avenue, Post Falls, ID 83854, SUPPORT the request for a recommendation to the City Council for the annexation of Jacklin Prairie ANNX-0012-2021. It is consistent with the goals and policies found in the Comprehensive Plan of Post Falls I have listed below:

Goals 01, 03, 05, 07, 11  
Policies 02, 03, 04, 10, 25, 87, 102

If you'd care for my reasoning behind each of these, please read on.

**Goal 01** - Grow and sustain a balanced, resilient economy for Post Falls, providing community prosperity and fiscal health. This plan associated with Kootenai Classical Academy (KCA) will attract families to the area as it did mine. The possibility of this school is one of the most important factors we considered when choosing to relocate to Post Falls as opposed to any other city. This school will also provide jobs which is crucial to the fiscal health of an area.

The next few work in tandem, so I've included them together:

**Goal 03** - Maintain and improve Post Falls small - town scale, charm and aesthetic beauty.

**Goal 05** - Keep Post Falls neighborhoods safe, vital, and attractive

**Policy 102** - Nurture the sense of community pride Post Falls residents feel for their city.

A few small-town benefits of this school being built will be: it will be pedestrian friendly and there will be a bustling athletics program the community can bond over, smaller class sizes which translates to more attention dedicated to each student which means safer kids in the school.

The next several policies all have to do with infrastructure, so I've included them together:

**Policy 02** - Apply or revise zoning designations with careful consideration of factors including: future land use mapping, compatibility with surrounding land uses, infrastructure and service plans, existing and future traffic patterns, goals and policies of the comprehensive plan, related master plan and/or facility plans.

**Policy 03** - Encourage development patterns that provide suitably-scaled, daily needs services within walking distance of residential areas, allowing a measure of independence for those who cannot or choose not to drive.

**Policy 04** - Encourage compact, pedestrian-oriented, mixed-use development patterns along the ID-41 corridor and in neighborhood and regional centers.

**Policy 10** - Prioritize location of schools in areas with: access to arterial and collector streets, ample sidewalks and pedestrian access, proximity to residential areas being served, cost-effective access to necessary utilities and services.

**Policy 25** - Improve year-round access, safety, utility, convenience and service levels for alternative modes of transportation, including walking, bicycling.

KCA will be accessible via the bike path which addresses Policies 02, 03, 04, and 25. Congestion will be a concern at the half mile long two lane area of Prairie Avenue for a few years, but I am willing to endure that for a while, rather than lose this school. The proposed location of KCA is in compliance with Policies 04 and 10.

The following are complimentary, thus they are together:

**Goal 7** - Plan for and establish types and quantities of land uses in Post Falls supporting community needs and the City's long-term sustainability.

**Policy 87** - Work with Post Falls School District and other educational service providers, coordinating the development of educational facilities and master plan development.
Post Falls schools are overcrowded, thus, we need more schools as soon as possible which will benefit the children of the community. This plan is proposing exactly that.

**Goal 11 - Sustain and expand Post Falls arts, cultural and civic environment.**

The people of Post Falls value and support the arts, cultural, and social organizations, events and facilities. KCA will directly contribute to this in many ways thus benefitting the civic health, quality of life, and economic vitality of Post Falls.

Thank you very much for your time,
Shannon Stucki
(775) 691-1988
2102 W Malad Ave. Post Falls, ID 83854
I write to express my support for the annexation of Jacklin-Prairie ANNX-0012-2021 so that the Kootenai Classical Academy Charter School (“the KCA”) can be built there. Indulge me to use two true football stories to illustrate the positive impact the KCA can have on the Post Falls community we love and want to protect, as defined in the Comprehensive Plan’s Goals and Policies Criteria.

- In the 2019 NFL season, the Cincinnati Bengals won 2 games and lost 14. Amongst the 32 NFL teams, the Bengals finished in last place. They had not been in a play-off game in 31 years. In 2020, they hired Heisman trophy winner Joe Burrow as their new quarterback. In 2022, the Bengals went to the Super Bowl.

- In the 2019 season, the Tampa Bay Buccaneers won 7 games, lost 9, and finished in 22nd place in the NFL. The last time they were in a play-off game was 2002. In 2020, they hired Tom Brady as their new quarterback. The Tampa Bay Buccaneers finished the 2020 season as Super Bowl champions.

I call this The Brady/Burrow Effect.

Neither of these two teams was a winner. The Buccaneers were playing mediocre ball. The Bengals were probably surprised anyone was showing up even at their season opener. All it took to change both stories was for one new player to be brought into their ranks: a natural born leader, a quarterback who knew how to win and how to lead and would accept nothing less of himself. The introduction of a player of excellence into the mix changed the dynamics of the entire team, including the coaching staff. One entity playing at a higher level caused everyone around him to play at that higher level. They had no choice. Mediocrity could no longer hide. People started to pay attention to what was working and what wasn’t. Burrow and Brady’s visions of winning were infectious. Community pride went through the roof. City revenue went up. People were smiling and speaking to one another and gathering to share and believe in goals that, only a year earlier, were unimaginable.

These are attractive qualities in a community. That’s the kind of place people want to live, put down long-term roots, and raise families.

Now let me tell you about a third team: the Post Falls school district. In 2022, the Post Falls school district’s graduation rate was 88%. Its overall district rank in the state was in the top 50%. Student test scores show an average math proficiency of 49% (the Idaho state average is 45%) and a reading proficiency of 56% (compared to the statewide average: 55%). Those are failing scores.

Imagine that a visionary City Council wants to change that record. They see a day in the not too distant future when the Post Falls school system as a whole (public, private, and home schools) is the underdog team that has made it to Super Bowl status. The Council says, let’s dream big. We’re going to stop playing without a vision and turn ourselves into champions. Our school district used to be in the top 50% in Idaho. We’re going to be in the top 5%.
What can the Council do to turn the entire Post Falls school “team” around with the least effort and expense?

**Answer: Trigger The Brady/Burrow Effect.**

Introduce *a player of excellence*, a proven winner-leader, who can show the rest of the team (all the educational entities in Post Falls) what is possible and what it takes to achieve it. Also this player must believe that Post Falls children have what it takes to play at a Super Bowl level.

The *player of excellence* I’m referring to is the Hillsdale/BSCI (Barney Charter School Initiative) curriculum and method which will be taught at the Kootenai Classical Academy Charter School— if Jacklin-Prairie ANNX-0012-2021 passes.

The average graduation rate of a Hillsdale-affiliated school is 98%. In order to submit this letter by the deadline, I only had time to look up one Hillsdale-affiliated academy’s performance record: the first one that came up in my online search, Hillsdale Academy in Hillsdale, Michigan. For the past 20 years, this school has consistently placed in the 97th-99th percentile in national school norms. Since the first graduating class in 2001, 1 in 6 Academy seniors has been recognized as National Merit Scholars. 9% have been recognized as National Merit Finalists—an honor that nationwide less than 1% of high school seniors receive. In 2019, Hillsdale Academy was ranked the #3 school *in the nation* on the Classical Learning Test.

I believe the Kootenai Charter Academy will be the “introduction of *a player of excellence*” into the whole of the Post Falls “education team,” causing everyone in the system to improve their game, just as Brady and Burrow’s arrival changed the performance dynamics for the Buccaneers and the Bengals. Mediocrity will stand out like a sore thumb. Raising the test scores across the school district while at the same time nurturing children who are excited about going to school because they feel successful there— these are great goals for a community!

For these reasons, I urge you to approve of the [Jacklin-Prairie ANNX-0012-2021](#):

**G-07:** It is land use that supports community needs.

Area schools are currently over capacity and under-performing.

**P-102:** It is beneficial growth; it will make Post Falls proud and desirable. (See my next points.)

**G-01, G-05, and G-ll:** It helps keep Post Falls prosperous, will benefit the civic health of the community, and will keep its neighborhoods safe, vital, and attractive.

One of the biggest factors in the real estate adage Location-Location-Location is “high-ranking school district.” As the school district goes, so goes the health of the home-buyers market. A school district can make or break a home sale. Owning a house in a desirable community is a huge investment that causes families to want to stay and put down roots, certainly for as long as the children are in the highly-sought-after school. A feeling of long-term
commitment takes hold. Homeowners want their families and their largest investment to be safe always. They want their environment to be thriving, attractive, and desirable. Homeowners will invest time, money, and energy into lawns, curb appeal, wise maintenance, cultural opportunities, and law enforcement because this is where they plan to be in ten years.

High home-ownership equates to lower crime. Low crime and great schools equate to low housing turn-over. People are not always moving in and out, with their eyes on the horizon for where they’ll live next. They’re home. Home is Post Falls, and they love it. They love the character and unhurried pace; the safe, active, and aesthetically pleasing neighborhoods; the prairie, the valley, the mountains, the river, the Great Outdoors; the nearness of camping, skiing, kayaking, hiking, fishing; the importance of being in a community that supports and values families. These are the type of people who will fight to protect the Post Falls we love from turning into something we fear.

Even for buyers who do not have school-age children or never plan to, investing in a home in a sought-after school district protects your property value.

P-02: It is compatible with surrounding land uses.

G-03: It provides for urban growth in an appropriate area.

I am advocating for a school to be built, a school that will draw its students from children who either already live in Post Falls or whose families purchase existing homes in Post Falls, a school that will raise the community’s prosperity and fiscal health but not its population number. Ideally, I want to see Idaho population growth stopped and education scores going through the roof. I believe a City Council with the same goals can find ways to make both a reality.

Wouldn’t it be great if 10 years from now, the story being told is how the introduction of the Kootenai Charter Academy changed the entire school district, including the private schools and home schools, into the highest ranked school system in north Idaho— no, in the state of Idaho— no, in the whole Pacific Northwest?!

Dream with me. Please vote to annex the Jacklin-Prairie parcel of land into Post Falls so the Kootenai Charter Academy can be built.

Thank you for your time and your service.

Respectfully,

M.M. Shelly Moore

601 E. Front Ave. #1402
Coeur d’Alene, ID 83814
I, ROSALENE SGANTAS, SUPPORT THE REQUEST FOR A RECOMMENDATION TO CITY COUNCIL FOR THE ANNEXATION OF JACKLIN PRAIRE ANNX-0012-2021. IT WILL BE CONSISTENT WITH POLICY 10 AND MAKE POST FALLS PROUD (P102). PLEASE SEE ATTACHMENT BELOW.

“HILLSDALE COLLEGE WAS FOUNDED IN 1844 TO PROVIDE THE KIND OF EDUCATION NECESSARY TO PERPETUATE THE BLESSINGS OF CIVIL & RELIGIOUS LIBERTY & INTELLIGENT PIETY.” (Hillsdale Publication, Dec. 2021)

OUR CHILDREN TODAY ARE AT A GREAT DISADVANTAGE COMPARED TO MY UPBRINGING. THEY HAVE NO IDEA AS TO THE STUDY OF THE RIGHTS & DUTIES OF CITIZENS AND OF HOW GOVERNMENT WORKS (CIVICS). IN MY TIME, AS A CHILD, WE LEARNED CIVICS (WE EVEN HAD DEBATES IN ELEMENTARY MID SCHOOL, HIGH SCHOOL & COLLEGE). ALONG WITH THIS SUBJECT, WE STUDIED HISTORY, ARTS, CIVICS, LATIN, CULTURES & LANGUAGES OF OTHER COUNTRIES ACROSS THE WORLD, MUSIC, ETC. WE HAD JUST ENOUGH HOMEWORK TO CHALLENGE US. AS A CHILD, I WAS MOTIVATED TO WANT MORE BECAUSE OF THIS. I LEARNED THE MEANING OF DISCIPLINE & RESPONSIBILITY AT A VERY EARLY AGE AT HOME & IN SCHOOL. IT IS ANOTHER QUALITY MISSING IN CHILDREN TODAY. I WANTED TO BE EDUCATED IN MY MIND. I WANTED TO BE A VESSEL OF HONOR TO PROMOTE GOOD & THE BEST FOR MY GOD, MY FAMILY & MY COMMUNITY, THEREBY REACHING OUT TO OTHER LANDS FOR THE BETTERMENT OF ALL.

I WANT MY GRANDCHILDREN & OTHER CHILDREN IN AMERICA TODAY TO UNDERSTAND AMERICAN HISTORY & WHAT BROUGHT ABOUT THIS GREAT COUNTRY, AS I DID. THEY NEED TO APPRECIATE OUR GREAT PAST, THE TRIALS & TRIBULATIONS OF MEN & WOMEN WHO SUFFERED & ACCOMPLISHED MUCH (THRU DISCIPLINE & BEING RESPONSIBLE CITIZENS) TO BRING ABOUT THE GREAT UNITED STATES OF AMERICA. TODAY, THERE IS SO MUCH CONFUSION & CHAOS, FABRICATED LIES ABOUT OUR HISTORY IN ORDER TO PROMOTE A HATRED FOR AMERICA’S HISTORY. THIS POISON OF CURRENT EVENTS ON SOCIAL MEDIA, NEWS, ETC, THE APATHY IN OUR HOMES & SOCIETY BECAUSE OF THE POLITICAL WARS ACROSS AMERICA & OTHER NATIONS HV ENCOURAGED A HOPELESSNESS IN OUR SOCIETY & YOUNG PEOPLE. THE NAÏVE IN OUR SOCIETY BELIEVE EVERYTHING THEY HEAR INSTEAD OF RESEARCHING FOR THE TRUTH. BECAUSE OF THIS OUR AMERICAN HERITAGE IS SLOWLY SLIPPING AWAY (INCLUDING SHRINES, BUILDINGS, MONUMENTS, THE FLAG, EAGLE, PATRIOTIC SONGS). THIS POISON & DRAMA HAS PLAYED A MAJOR PART IN DESTROYING MY COUNTRY & CONFUSING MANY YOUNG PEOPLE.
I believe that Hillsdale Charter School would be a great asset in perpetuating truth, facts & a desire to want to get educated. It would be a challenge for public schools to bring back necessary teachings, civics, & history… to influence our children to be patriotic, to be appreciative of the past, to accomplish, maybe more than those of the past, to be open to good change, the rule of law, the virtues of our forefathers, & the great importance of education rather than ignorance. It is a known fact in the Bible, by great scholars, philosophers that a lack of knowledge promotes ignorance, wars, defeat, etc. Aristotle said that a community without the rule of law promotes confusion, chaos, & sometimes unnecessary wars & much conflict come forth out of this. Aristotle was a great philosopher, a thinker of ethics, politics, phycology (study of algae, life science). I said all that to say, our children need to be better educated & prepared to go to college. Charter schools like Hillsdale, & Couer D’Alene Charter Academy, I believe, are the key to do this.

I support putting a Hillsdale Charter School in Post Falls to help all of us, to bring back more hope in our communities, to the children, who are the next generation, and to spread all around America. I believe this Hillsdale Charter School might inspire a deep frustration to our current public schools. But… I feel it would be a challenging antedote for the public school system in Kootenai Cty & other counties across the nation to do something about the apathetic education & poison that some of our children are being forced to learn. I say yes to Hillsdale Charter School in Post Falls for Jacklin Prairie Annx-0012-2021.

Thank you for listening,

Rosalene Sgantas
760-415-9796
Post Falls, ID 83854
DEVELOPMENT AND ANNEXATION AGREEMENT
JACKLIN PRAIRIE
(File No. ANNX-0012-2021)

THIS AGREEMENT is made this ___ day of May, 20___ by and between the City of Post Falls, a municipal corporation organized and existing pursuant to the laws of the State of Idaho, with its principal place of business at 408 N. Spokane Street, Post Falls, ID, and Jacklin Land Company LLLP, an Idaho Limited Liability Limited Partnership, with its principal place of business at 4752 W. Riverbend Ave. Post Falls, ID 83854.

WHEREAS, Jacklin Land Company LLLP (hereinafter the “Owner”) owns a tract of land (hereinafter the “Property”) adjacent to the city limits of the City of Post Falls (hereinafter the “City”), which the Owner wishes to annex and develop within the City; and

WHEREAS, the legal description and depiction of the Property is attached hereto as Exhibit “A”; and

WHEREAS, the Mayor and City Council of the City have determined it to be in the best interests of the City to annex the Property subject to the Owner performing the covenants and conditions in this Agreement.

NOW THEREFORE, IN CONSIDERATION of the covenants and conditions set forth herein, the parties agree as follows:

ARTICLE I: PURPOSE AND DESCRIPTION OF PROPERTY

1.1. Purpose: Owner enters into this Agreement in order to obtain annexation of the Property with Community Commercial Mixed (CCM) zoning while the City seeks to obtain partial mitigation of the impacts of annexation of the Property on the City and certainty over the nature of the development as contemplated by Idaho Code 67-6511a. Owner acknowledges that City has no duty to annex the Property and that the promises of Owner contained in this Agreement are an inducement for City to do so. The term “Owner” includes any successor in interest in the Property.

1.2. Description of the Property: The Property is generally located north of Prairie Avenue, between Highway 41 and Meyer Ave; and is more particularly described in Exhibit “A”.

ARTICLE II: STANDARDS

2.1. Construct to City Standards: Owner agrees that all improvements required by this Agreement or by City codes will be built to City standards or to the standards of any public agency providing service to the Property. Owner agrees to adhere to all City policies and procedures; including, but not limited to sanitary sewer improvements, water lines, fire hydrants, parks, flood works, storm water management, curbs, sidewalks, street trees, streetlights, pedestrian/bicycle facilities and roads. Such policies include extending utility lines in a manner acceptable to the City to make service available to adjoining
lands and limitations on gaining site access from arterial and collector roadways (including the KMPO Critical Access Corridor Policy).

2.2. **Applicable Standards:** Owner agrees that all laws, standards, policies, and procedures regarding public improvement construction that the Owner is required to comply with or otherwise meet pursuant to this Agreement or City codes are those in effect when construction is commenced. If Owner fails to comply with applicable laws in the course of constructing improvements, public or otherwise, on the Property, the Owner consents to the City withholding further development approvals for the Property including, but not limited to, building permits, certificates of occupancy, site plan approval, and subdivision approval until such compliance is attained. Owner waives, on behalf of itself and its successors in interest, any and all claims against the City relating to the City withholding development approval as authorized by this Section.

2.3. **Inspection and Testing:** Owner agrees that it will retain the services of a civil engineer, licensed by the State of Idaho, to perform construction inspection and testing during the construction of all public improvements on the Property. Owner agrees to provide copies of all field inspection reports and test results to the City Engineer accompanied by a certification that the improvements have been installed in compliance with applicable City requirements prior to requesting that the City accept the public improvements for ownership and maintenance. The inspection, testing and certification reports must be provided at no cost to the City and comply with City submittal standards. Owner agrees that a representative of the City must be present at the pressure testing of water mains and sanitary sewer mains. Owner agrees to provide the City with at least twenty-four (24) hours-notice before such testing.

2.4. **As-Built Drawings:** Owner agrees to provide accurate “as-built” drawings, conforming with City submittal standards, of public improvements to the City within thirty (30) days of the date of substantial completion of construction of any public improvement on the Property. If as-buils are not provided as required by this Agreement, the Owner agrees that the City may withhold further development approvals for the Property as provided in Section 2.2 and waives, on behalf of itself and its successors in interest, any and all claims against the City relating to the City withholding development approvals. The Owner understands and agrees that the City will not accept public improvements for maintenance or allow occupancy of constructed improvements on the Property until accurate “as-buils” are provided and until planned improvements have complied with the inspection requirements contained in Section 2.3 and have been accepted for public maintenance or approved for private use.

**ARTICLE III. UTILITIES AND PUBLIC SERVICES**

3.1. **Water:** Owner agrees to use a public water supply system for any development of the Property and to pay all required fees and charges including all connection and/or capitalization charges generally applicable at the time service is requested. If water service cannot be obtained from a public water supply system that has the legal authority to provide service to the Property, the Owner may seek to obtain temporary water service from any lawful source whether public or private beginning 90 days after the date that the Owner requested water service from each public water supply system that has legal
authority to serve the Property. Upon public water service becoming available to the Property, Owner will disconnect from the temporary service and connect to the public water service.

3.1.1. **Water Rights:** Prior to commencement of development of the Property, Owner agrees to grant, in a form acceptable to the grantee, to the public water supply system agreeing to provide water service to the Property all water rights associated with the Property in order to assure that the public water supply system has adequate water rights to supply domestic water to the Property.

3.2. **Wastewater Reclamation:** The Owner agrees to use the Post Falls Sanitary Sewer system for all development of the Property and to be responsible for all required fees and charges including all connection and/or capitalization charges generally applicable at the time service is requested. Sanitary sewer service will be provided in accordance with rules and regulations of the City. The City does not warrant that sanitary sewer capacity will be available at the time Owner requests connection to the sanitary sewer system. If sanitary sewer capacity cannot be assured within 180 days of the date that service is requested by the Owner, the Owner is temporarily authorized to provide service by resorting to any lawful public or private alternative so long as legal requirements can be met. Upon the availability of treatment capacity, the owner shall disconnect from the temporary service and connect to and divert flows to the public system. Any proposed alternative must not frustrate the progression and continuity of the City's wastewater collection system.

3.2.1 **Sanitary Sewer Surcharges:** Owner acknowledges that the Property is within the 12th Avenue Force Main and Meyer Alternative Line Surcharge Basins. The owner has requested and conducted a sewer analysis, in conjunction with the City, to evaluate the ability of the property to be removed from the Meyer Alternative Line Surcharge Basin. Changing of the subject property from the Meyer Alternative Line Surcharge Basin to the SH41 Corridor is an acceptable solution. The owner acknowledges and agrees to pay the sewer surcharges established for the 12th Avenue Force Main that has been established to fund the downstream collection system infrastructure needed to provide permanent sewer service to the Property. The surcharge is based on supplementing the City's existing sewer infrastructure to meet anticipated buildout conditions, as identified within the Cities Wastewater Collection System Master Plan (May 2019 – Keller Associates) and the NE Quadrant Sewer Study (July 2018 – JUB Engineers). The surcharge is currently established at $2,918.73 per service unit for the 12th Avenue Force Main. Owner agrees to pay the surcharge at the time of building permit issuance for any structures that will be connected to the City's wastewater collection system. Owner further agrees that the amount of the surcharge will be adjusted annually to account for inflation based on the ENR-CCI Index.

3.2.2. **Limitation on Development Based on Sewer Flows:**

The parties agree that the surcharge for the 12th Avenue Force Main Surcharge is based on the need to provide a force main from the 12th Avenue Lift Station to the Water Reclamation Facility. Original facilities within the State Highway 41 Corridor were constructed in 2005 to temporarily utilize excess capacity that existed within the City's sewer infrastructure south of Interstate 90. Development along the State Highway 41
Corridor and within the City south of the Interstate have consumed a significant amount of the previous excess capacity. In 2020 the City upgraded the 12th Avenue Lift Station to handle regional flows from the State Highway 41 Corridor and to act as a "flow equalization station" to preserve capacity south of the Interstate until sufficient funding is acquired to install the force main to the Water Reclamation Facility. The 12th Avenue Force Main must be constructed prior to flows in the Caton Line reaching 2.1 cubic feet per second. Owner agrees that if the 12th Avenue Force main has not been constructed by the time that the capacity trigger is reached, the City may withhold approval of further subdivision, building permit, or other development permits for the Property until such time as the 12th Avenue Force Main has been constructed and accepted by the City.

3.2.2. **Connection of Existing Structure to Sanitary Sewer Infrastructure:** Any existing structures located on the Property at the time of this Agreement that are serviced by a septic system must be connected to the Post Falls Sanitary Sewer system or removed from the Property at the time of any development on the Property and the existing septic system abandoned in compliance will all legal requirements. Owner is solely responsible for the costs of connecting to the sanitary sewer and abandoning the septic system.

3.3. **Maintenance of Private Sanitary Sewer and Water Lines:** The Owner acknowledges that the City is not responsible for maintenance of any private sanitary sewer lines or water lines, including appurtenances, within the Property.

3.4. **Size of Water and Sewer Mains:** The Owner agrees on-site water and sewer mains will be adequately sized to provide service to the Property as determined by the entity providing water or sewer service to the Property. For water and sewer lines to be dedicated to the City, the City will determine the appropriate main size based on adopted City master plans and may require the Owner to oversize the mains or to construct the mains with increased depth beyond the size/depth needed to serve the Property. If required to oversize water or sewer mains (including additional depth), the Owner may request reimbursement for oversizing costs during the subdivision or other development approval process.

3.5. **Garbage Collection:** The Owner agrees that upon the expiration of the term of any contract to provide garbage collection services to the Property, that the Owner will begin using the garbage collection service in effect with the City of Post Falls.

**ARTICLE IV. PUBLIC PROPERTY DEDICATIONS**

4.1. **Rights of Way and Easements:** As partial consideration for this Agreement, Owner agrees to dedicate the following grants of rights of way and easements to the City at the time of execution of this Agreement unless otherwise stated below:

4.1.1. By grant of easement in a form acceptable to the City, Owner will grant a 15-foot wide easement along Prairie Avenue for utilities, sidewalks, and stormwater drainage.

4.1.2. By grant of right-of-way in a form acceptable to the City, Owner will dedicate additional rights-of-way along Prairie Avenue for a total half-width right of way of 55 feet measured from the Section Line.
4.1.3. By grant of easement in a form acceptable to the City, Owner will grant a 15-foot wide easement along Zorros Road for utilities, sidewalks, and stormwater drainage. Easement dedication will occur concurrently with the Zorros Road rights-of-way dedication.

4.1.4. By grant of right-of-way in a form acceptable to the City, Owner will dedicate rights-of-way for Zorros Road based on an 80-foot width right of way generally centered on the quarter-quarter section line along the property's western boundary. The Owner may adjust the alignment, in a manner acceptable to the City, to allow meandering for aesthetic reasons. Right of way will be dedicated at the time of application for building permit or land development.

4.1.5. By grant of easement in a form acceptable to the City, Owner will grant a 15-foot wide easement along Fennecus Road for utilities, sidewalks, and stormwater drainage. Easement dedication will occur concurrently with the Fennecus Road rights-of-way dedication.

4.1.6. By grant of right-of-way in a form acceptable to the City, Owner will dedicate rights-of-way for Fennecus Road based on an 85-foot width right of way generally centered on the center of section line along the property's eastern boundary. The Owner may adjust the alignment, in a manner acceptable to the City, to allow meandering for aesthetic reasons. Right of way will be dedicated at the time of application for building permit or land development.

4.1.8. By grant of easement in a form acceptable to the City, Owner will grant a 10-foot wide easement along the south side of Harvest Avenue Street for utilities, sidewalks, and stormwater drainage. Easement dedication will occur concurrently with the Harvest Avenue rights-of-way dedication.

4.1.9. By grant of right-of-way in a form acceptable to the City, Owner will dedicate rights-of-way for the future Harvest Avenue, being a half road right-of-way width of 40 feet, measured from the north line of the Southwest quarter of the underlying Section. The Owner may adjust the alignment, in a manner acceptable to the City, to allow meandering for aesthetic reasons. Right of way will be dedicated at the time of application for building permit or land development.

4.1.10. By grant of right-of-way in a form acceptable to the City, Owner will dedicate additional rights-of-way at the intersection of Prairie Avenue / Fennecus Road for the accommodation of a multi-lane roundabout. Right-of-way dedication will be based on preliminary layout of the Prairie Avenue / Zorros Road Roundabout being developed for the property immediately to the west.

4.1.11. By grant of right-of-way in a form acceptable to the City, Owner will dedicate additional rights-of-way at the intersection of Prairie Avenue / Zorros Road for the accommodation of a multi-lane roundabout. Right-of-way dedication will be based on the preliminary layout of the Prairie Avenue / Zorros Road Roundabout being developed for the property immediately to the west.
4.2. **No Impact Fee Credit for Dedication:** Owner agrees that it is not entitled to any credit towards the payment of the City's then currently adopted Impact Fees as a result of its dedication of street right way and easements. As such, Owner waives, on behalf of itself and its successors in interest, any and all claims it may have against the City for not granting an Impact Fee credit relating to the dedication of rights of way and easements as provided in this article. The parties agree that this agreement is entered into in good faith by both parties and is intended to comply with Idaho Code 67-8209(4).

**ARTICLE V. DEVELOPMENT OF THE PROPERTY**

5.1. **Other Limitations on Development:** In addition to the requirements contained in policies and ordinances adopted by the City to regulate development, Owner agrees to develop the Property in compliance with the terms of this Agreement to help ensure that the development of the Property results in an attractive, safe, and healthy environment for future residents.

5.2. **Residential Development Restriction Standards:** Owner agrees not to construct any residential land uses on the Property.

5.3. **Construction of the Prairie Trail:** The City has acquired the former rail corridor that bisects the Property for use as an extension of the Prairie Trail. Owner has expressed an interest in developing this property as a paved pedestrian and bicycle trail according to the specifications attached as Exhibit B. Owner, at Owner’s cost, will salvage the rail, ties, and surface ballast within this property in exchange for Owner’s use of subsurface structural soil in the corridor for road base. The Parties agree to work together in good faith to negotiate an agreement for the construction of the Prairie Trail.

**ARTICLE VI. CONSIDERATION/FEES**

6.1. **Owner’s Consideration:** In addition to other consideration contained in this Agreement, Owner agrees to provide specific consideration to the City in the amounts and at the times specified in this Article. The sums specified are deemed by the parties to be reasonable in exchange for benefits provided by the City to the Owners’ use and development of the Property, including, but not limited to, public safety, street services, police equipment, community, and traffic planning. The following consideration may be used in any manner that the City, in its sole discretion decides.

6.2. **Annexation Fee:** Prior to issuance of a permit for any development on the Property, the Owner, or their successors in interest, must pay the appropriate annexation fee in effect at the time of the issuance of the permit as adopted by the City Council by resolution.

6.3. **No Extension of Credit:** The parties, after careful consideration of the actual burdens on the City, have agreed to a specific timeline in which those burdens will occur. This Article anticipates specific payment at a specific date and is in no manner a loan of services or an extension of credit by the City.
6.4. **Other Fees**: Additionally, the Owner agrees to pay all required fees and charges including but not necessarily limited to water hook-up fee(s), water connection (capitalization) fee(s), sanitary sewer connection (capitalization) fee(s) and building permit fees and any applicable impact fees that may be imposed. Fees referred to in this Section are established by City ordinance and/or resolution and arise independent of this Agreement.

6.5. **City's Consideration**: Upon the proper execution and recordation of this Agreement, the City will prepare for passage an annexation ordinance annexing the Property. The parties agree that until the date of publication of the annexation ordinance, no final annexation of Owners' property will occur.

**ARTICLE VII. MISCELLANEOUS**

7.1. **Subdivision**: The parties acknowledge that in the event the Owner desires to sell a portion of the Property rather than the Property as a whole, that a plat may be necessary. Owner agrees that in the event a plat is necessary, Owner will submit a proper subdivision plat and comply with the subdivision ordinance in effect at the time of the desired division.

7.2. **De-annexation**: Owner agrees that in the event the Owner fails to comply with the terms of this Agreement, defaults, or is otherwise in breach of this Agreement, the City may de-annex the Property and terminate utility services without objection from owners, assigns or successors in interest of such portions of the Property as the City in its sole discretion decides. Owner waives, on behalf of itself and any successors in interest, any claims it may have against the City for de-annexing the Property as allowed by this Section.

7.3. **Owner to Hold City Harmless**: The Owner further agrees it will indemnify, defend (in the City's sole option, and hold the City harmless from any and all causes of action, claims and damages that arise, may arise, or are alleged, as a result of the Owner's development, operation, maintenance, and use of the Property. Owner further agrees to pay City's legal costs, including reasonable attorney fees in the event this annexation is challenged in a court of law. Payment for City's legal costs will be remitted within thirty (30) days after receipt of invoice from the City for legal expenses.

7.4. **Time is of the Essence**: Time is of the essence in this Agreement.

7.5. **Merger and Amendment**: All promises and prior negotiations of the parties' merge into this Agreement and the representations, warranties, covenants, conditions, and agreements of the parties contained in the Agreement shall survive the acceptance of any deeds and/or easements. The parties agree that this Agreement may only be amended by a written instrument that is signed by both parties. The parties agree that this Agreement will not be amended by a change in law.

7.6. **Effect on City Code**: The parties agree that Agreement is not intended to replace any other requirement of City Code and that its execution does not constitute a waiver of requirements established by City ordinance or other applicable provisions of law.
7.7. **Recordation:** The Owner agrees this Agreement will be recorded by the City at the Owner's expense.

7.8. **Section Headings:** The section headings of this Agreement are for clarity in reading and not intended to limit or expand the contents of the sections to which they apply.

7.9. **Incorporation of Recitals and Exhibits:** The recitals to this Agreement and all exhibits referred to in this Agreement are incorporated herein by this reference and made a part of this Agreement.

7.10. **Compliance with Applicable Laws:** Owner agrees to comply with all applicable laws.

7.11. **Withholding of Development Approvals for Violation of Agreement:** Owner agrees, on behalf of itself and its successors in interest, that the City may withhold approval of subdivision, building permit, or any other development permit applications for any portion of the Property that does not comply with the requirements of this Agreement until such time as the development permit is amended to fully comply with the terms of this Agreement. Owner waives, on behalf of itself and its successors in interest, any and all claims Owner may have against the City relating to the City withholding development approvals and agrees to indemnify, defend at the City's sole option, and hold the City harmless from any and all claims from third parties relating to the City withholding development approvals as contemplated by this Section 7.11.

7.12. **Covenants Run with the Land:** The covenants contained herein to be performed by the Owner are binding upon the Owner and Owner's heirs, assigns and successors in interest, and shall be deemed to be covenants running with the land.

7.13. **Promise of Cooperation:** Should circumstances change, operational difficulties arise or misunderstandings develop, the parties agree to meet and confer at the request of either party to discuss the issue and proposed solutions. Further, each party agrees not to bring a claim, initiate other legal action or suspend performance without meeting directly with the other party regarding the subject matter of the disagreement and if the parties cannot amicably resolve the disagreement, retain a mediator, acceptable to both parties, to mediate a solution to the disagreement.

7.14. **Severability:** Should any provision of this Agreement be declared invalid by a court of competent jurisdiction the remaining provisions continue in full force and effect and must be interpreted to effectuate the purposes of the entire Agreement to the greatest extent possible.

7.15. **Enforcement - Attorney’s Fees:** Should either party require the services of legal counsel to enforce compliance with the terms of this Agreement, the prevailing party will be entitled to its reasonable attorney’s fees and related costs of enforcement.

IN WITNESS WHEREOF, the City of Post Falls has caused this Agreement to be executed by its Mayor and City Clerk, and the Owner has executed this Agreement to be effective the day and year first above written.
CITY OF POST FALLS

By: ____________________________
    Ronald G. Jacobson, Mayor

Jacklin Land Company L.L.P.

By: ____________________________
    Thomas P. Stoeser, Manager

Attest:

______________________________
Shannon Howard, City Clerk

ACKNOWLEDGEMENTS

STATE OF IDAHO

County of Kootenai

On this _____ day of ____, 20___, before me, a Notary for the State of Idaho, personally appeared Ronald G. Jacobson and Shannon Howard known, or identified to me to be the Mayor and City Clerk, respectively of the City of Post Falls, Kootenai County, Idaho, executing the herein instrument, and acknowledged to me that such City of Post Falls executed the same.

IN WITNESS WHEREOF, I have hereto set my hand and affixed my official seal the date and year in this certificate first above written.

______________________________
Notary Public for the State of Idaho
Residing at: ______________________
Commission Expires: _______

STATE OF IDAHO

County of Kootenai

On this 12th day of May, 2022, before me, a Notary for the State of Idaho, personally appeared Thomas P. Stoeser, or identified to me to be the person(s) whose names are
subscribed to within the above instrument, and acknowledged to me that they executed the same on behalf of the Jacklin Land Company LLLP.

IN WITNESS WHEREOF, I have hereto set my hand and affixed my official seal the date and year in this certificate first above written.

TAMMY L. WOLFGANG
NOTARY PUBLIC - STATE OF IDAHO
COMMISSION NUMBER 65520
MY COMMISSION EXPIRES 5-4-2027

(Handwritten Signature)

Notary Public for the State of Idaho
Residing at: Athol, Idaho
Commission Expires: 5/4/2027
THAT PART OF THE SOUTH HALF OF SECTION 19 AND OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 30, ALL IN TOWNSHIP 51 NORTH, RANGE 4 WEST, BOISE MERIDIAN, KOOTENAI COUNTY, IDAHO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH QUARTER CORNER OF SAID SECTION 19, FROM WHICH THE SOUTHWEST CORNER OF SAID SECTION BEARS NORTH 88°29’54” WEST 2633.37 FEET;

THENCE SOUTH 01°00’53” WEST, ALONG THE EAST LINE OF SAID NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 30, 55.00 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF PRAIRIE AVENUE, SAID RIGHT OF WAY LINE ALSO BEING THE CURRENT CITY LIMITS LINE; THENCE FOLLOWING THE CURRENT CITY LIMITS LINE THE FOLLOWING FOUR (4) COURSES AND DISTANCES:

1. THENCE NORTH 88°29’54” WEST, ALONG LAST SAID SOUTHERLY RIGHT OF WAY LINE, 1324.94 FEET, TO THE SOUTHERLY EXTENDED WEST LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 19;
2. THENCE NORTH 00°58’53” EAST, ALONG LAST SAID SOUTHERLY EXTENDED WEST LINE 25.00 FEET;
3. THENCE SOUTH 88°29’54” EAST, PARALLEL WITH THE SOUTHERLY RIGHT OF WAY LINE OF PRAIRIE AVENUE 50.00 FEET TO THE EAST LINE OF THE WEST 50 FEET OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 19;
4. THENCE NORTH 00°58’53” EAST, ALONG LAST SAID EAST LINE OF THE WEST 50 FEET, A DISTANCE OF 2680.39 FEET, TO A POINT ON THE NORTH LINE OF THE SOUTH HALF OF SAID SECTION 19;

THENCE DEPARTING SAID CURRENT CITY LIMITS LINE, SOUTH 88°56’06” EAST, ALONG THE NORTH LINE OF THE SOUTH HALF OF SAID SECTION 19, A DISTANCE OF 1274.01 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 19;

THENCE SOUTH 88°55’18” EAST, ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 19, A DISTANCE OF 57.50 FEET TO THE NORTHEAST CORNER OF THE WEST 57.50 FEET OF THE SOUTHEAST QUARTER OF SAID SECTION 19;

THENCE SOUTH 00°57’42” WEST, ALONG THE EAST LINE OF THE WEST 57.50 FEET OF THE SOUTHEAST QUARTER OF SAID SECTION 19, A DISTANCE OF 1274.86 FEET, TO A POINT ON THE NORTH LINE OF THE SOUTH 50 FEET OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 19;
THENCE SOUTH 89°06'51" EAST, ALONG THE NORTH LINE OF THE SOUTH 50 FEET OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 19, A DISTANCE OF 735.00 FEET TO A POINT;  
THENCE SOUTH 00°57'42" WEST, PARALLEL TO THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 19, A DISTANCE OF 839.49 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF THE SPOKANE INTERNATIONAL RAILROAD RIGHT OF WAY;  
THENCE NORTH 63°38'42" WEST, ALONG LAST SAID NORTHERLY RIGHT OF WAY LINE, 813.61 FEET TO A POINT ON THE WEST 57.50 FEET OF THE SOUTHEAST QUARTER OF SAID SECTION 19;  
THENCE SOUTH 00°57'42" WEST, ALONG THE EAST LINE OF THE WEST 57.50 FEET OF THE SOUTHEAST QUARTER OF SAID SECTION 19, A DISTANCE OF 895.25 FEET, TO A POINT ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 19;  
THENCE NORTH 89°18'25" WEST 57.50 FEET TO THE POINT OF BEGINNING.  
CONTAINING 94.049 ACRES, MORE OR LESS.
DEVELOPED LANDSCAPE

8'-0" MIN CLEARANCE

12'

2'-0" MIN.

6" TYPE 1 CRUSHED AGG. (3/4" MINUS)

2" ASPHALT SURFACE

4" THICK GRAVEL SHOULDER

COMPACTED SUBGRADE

REGULATORY SIGNAGE

TRAIL MARKING BOLLARD, SEE DETAIL SD 3310

APPROVED BY: 

01/04/21

PARKS DIRECTOR

DATE:

POST FALLS STANDARDS FOR PARKS CONSTRUCTION

ASPHALT PATH

STANDARD DRAWING NO. SD 3205

EXHIBIT B
Revised comments regarding the same or similar topics previously addressed are out of order and will not be allowed. Comments regarding performance by city employees are inappropriate at this time and should be directed to the Mayor, by subsequent appointment. In order to ensure adequate public notice, Idaho Law provides that any item, other than emergencies requiring action must be placed on the agenda of an upcoming meeting. As such, the Commission cannot take action on items raised during citizens issues at the same meeting but may request additional information or that the item be placed on a future agenda.

None

3. UNFINISHED / OLD BUSINESS

This section of the agenda is to continue consideration of items that have been previously discussed by the Planning and Zoning Commission.

None

4. PUBLIC HEARINGS

There are generally two types of public hearings. In a legislative hearing, such as adopting an ordinance amending the zoning code or Comprehensive Plan amendments, the Mayor and City Council may consider any input provided by the public. In quasi-judicial hearings, such as subdivisions, special use permits and zone change requests, the Mayor and City Council must follow procedures similar to those used in court to ensure the fairness of the hearing. Additionally, the Mayor and City Council can only consider testimony that relates to the adopted approval criteria for each matter. Residents or visitors wishing to testify upon an item before the Council must sign up in advance and provide enough information to allow the Clerk to properly record their testimony in the official record of the City Council. Hearing procedures call for submission of information from City staff, then presentation by the applicant (15 min.), followed by public testimony (4 min. each) and finally the applicant’s rebuttal testimony (8 min.). Testimony should be addressed to the City Council, only address the relevant approval criteria (in quasi-judicial matters) and not be unduly repetitious.

ACTION ITEMS:

A. Zoning Recommendation for Jacklin-Prairie Annexation File No. ANNX-0012-2021 – Jon Manley, Planning Manager, to present a request for a recommendation to City Council for a zoning designation of Community Commercial Mixed (CCM) upon annexation of approximately 89 acres. – The requested action is to recommend CCM zoning in support of an approximate 89 acres annexation request into the City of Post Falls. With a CCM zone a Development Agreement is required, they are proposing no residential within the DA and there will be approximately an 11-acre K-12 School Site. Permitted and specially permitted uses in the CCM zone are listed in the land use table in Section 18.20.030 of this title. Multi-family residential uses may not exceed fifty percent (50%) of the total development site. Multi-Family uses that are incorporated into vertical mixed-use buildings are excluded from this calculation. There is a height restriction of 105 feet; the height limit may be exceeded by a special use permit for medical, hospitality, and vertical mixed-use buildings. The project is located to the north of Prairie and between the future N. Zorros and N. Fennecus roads to the east of Highway 41 across from the Foxtail development and just adjacent to the future Prairie Crossing commercial development. Current land use is agricultural land in the county and there are no significant topology or vegetation matters, and it is over the Rathdrum Aquifer. Ross Point Water District provided a will serve letter for water services and the City of Post Falls would provide sewer services.

Zone Change Criteria:
- The Future Land Use designation is the transitional zone; the timing for growth is undetermined, but guidance can be located within the associated Focused Area.
Implementing zoning districts should be compatible with adjacent zones/uses and consistent with the principles within the focus area. The focus area is 41 North, focus provisions for multi-family, commercial, and tech uses near higher classified roadways; development should provide pedestrian connectivity to all multi-use paths and trails, including the Prairie Trail.

- Goal 1 – Grow and sustain a balanced, resilient economy for Post Falls, providing community prosperity and fiscal health. Goal 3 – Maintain and improve Post Falls’ small-town scale, charm, and aesthetic beauty. Goal 5 – Keep Post Falls’ neighborhoods safe, vital, and attractive. Goal 7 – Plan for and establish types and quantities of land uses in Post Falls supporting community needs and the City’s long-term sustainability. Goal 8 – Protect and maintain Post Falls’ natural resources including clean air, soils, river, and aquifer, and minimizing light and noise pollution citywide. Goal 12 – Maintain the City of Post Falls’ long-term fiscal health. Policy 1 – supporting land use patterns that maintain residents’ quality of life, promote well designed development, discussed the future land us mapping and compatible uses which we know to the west we have a planned commercial corner with a grocer and fitness center with more commercial pads. More to the west side of 41 it is also designated as Business/Commercial and to the east is transitional county land.

- Infrastructure and service plans and traffic patterns was outlined in detail within the staff report and Mr. Palus is here if anyone should have any questions.

- Encourage development patterns that provide suitably scaled, daily needs services within walking distance of residential areas, allowing a measure of independence for those who cannot or choose not to drive. The future Prairie Trail will run through the project and but up against the future school site. With development there will be pedestrian and street connections. Encourage the development of off-corridor access and circulation for commercial and mixed-use areas abutting limited-access arterials. This maybe address with the extension of Zorros and Fennecus Rd.

- Prairie Ave is a higher road classification.

- Earlier 2000’s this would appear to be out in the middle of no-where, however, today with the applications and new construction in this area I would say this criteria isn’t applicable.

- Industrial isn’t being asked therefore it isn’t applicable.

All agencies have been notified and Kootenai Fire continues to say they are in partnership with the city and will provide comments through the permitting and subdivision process. Post Falls Police Department remains neutral, Post Falls Highway District requests the rights of way dedication be 60' minimum from centerline on Prairie Ave. and the Department of Environmental Quality has no impact comments currently.

Hampe – The agreement to not build any residential is not in the Development Agreement, or did I miss it?

Manley – Ultimately that is what will be delivered to Council, and they will make the decision for the Annexation based on that.

Hampe – So if it isn’t in there now it will be.

Manley – You can condition a motion forward to include it.

Hampe – I could have missed it however, I just wanted to be clear.

Manley – You can always add conditions to the Development Agreement that will be added prior to Council.
Steffensen – 105 feet, by comparison how tall are we looking at?
Manley – On a multi-story each one is probably about 10 feet.
Steffensen – So, it could be a 10-story building.
Manley – I would guess more around 8 because of the pitched roof etc.
Herrington – Article 5.2 in the Development Agreement, Owner agrees not to construct any residential land uses on the property.
Hampe – The city does not warrant the sanitary sewer capacity will be available at time the owner requests connection to the sanitary sewer system. What exactly does that mean?
Palus – That is somewhat of a boiler plate statement and applies to any project that comes before us in an annexation. If it was built today, we would have capacity to handle what they are proposing to do however if they don’t develop for a few years, we do not have control over everything else going on in the city. We do know there are some limitations at the 12th Ave lift station. The city is scheduled to build those necessary improvements in 2025. We have capacity to support the developments along Highway 41 and what is being proposed tonight however, there is never a guarantee.

Applicant – Rand Wichman Planning – The proposal is next to the old Jacklin Farm, majority of the land to the east, west, and northwest of the proposal is owned by Jacklin. This is within the transitional area We view this area the transition between the heavier commercial uses and lighter residential uses which is why the CCM zoning is being requested. It allows for the uses we envision at this site, prohibits the most intensive commercial uses allowed by CCS and proposed prohibition on residential uses in the Development Agreement due to community concerns. Because how long it took us to get into the process of this annexation we lost an interested user, we are hopeful to gain interest from a similar user again once we are done with the processes. Therefore, we proposed no residential uses, and we feel this development can be successful without residential uses. The comparison between the CCM and CCS are extensive and go beyond what I have. The uses allowed in CCS but not in CCM are Hotels/Motels, destination shopping centers, auto/RV/manufactured home/boat dealerships, big box commercial, lumber yard/building materials, many auto related services, and industrial and manufacturing uses. There is a school site on 11-acres which is another reason why we are interested in moving forward with this annexation. There are well along with their site-plan it will be a public charter school. There will be great access off Fennecus, north and south and the Prairie Trail, east to west. The Development Agreement has mostly standard requirements there are specific provisions related to wastewater and numerous easement and right-of-way dedications. We do have the restriction on residential development and the construction of the Prairie Trail from Prairie Ave. to Highway 41 will be developed, approximately .9 miles. The road network might be laid out differently than what is shown, for example, from Prairie to the school site Fennecus may curve to preserve the existing trees in that area. There will also be internal connections that are not designed yet, Fennecus and Zorros will connect north and south. We believe this request meets the approval criteria and the “Transitional” use within the Future Land Use Map. Implements the plans that have been created for this area by the city and the requested zoning has significant benefit to the city with the least amount of impact on the infrastructure and services.
Steffensen – If this is approved, what is your timing for buildout?
**Wichman** – I am unsure of the entire buildout schedule how ever we will commence on the construction improvements and subdividing as soon as possible. The school is red hot to get going and we need to support them. We will work towards getting the first phase done as quickly as possible. The school wanted to build last fall so we will work diligently to support their efforts.

**Steffensen** – In a CCM zone you can build up to 105 feet which is a big building out on the Prairie. Are you planning on something that big?

**Wichman** – No, longer answer with the proposal of no residential, I don’t think it makes sense to build up that high. If it is a concern, we will not object to a height restriction to something you would find in a CCS zone being added to the Development Agreement.

**Manley** – Quick correction on the allowed/not allowed uses, there is an issue with the land use table as it has many columns, we think there is a miss read between the Residential Mixed and the Community Commercial Mixed zones. Some uses allowed in CCS and not CCM would be a racetrack, slaughterhouse, glass manufacturing, etc. generally most uses within the CCS can be within the CCM as well either by printed outright or by a Special Use Permit.

**Testimony:**

**In Favor - “read by Davis” - Wade Jacklin** – Great use of land to provide commercial and retail services for folks living in Rathdrum and Post Falls. Helps eliminate traffic with services that are closer and more accessible to many area residents. More job opportunities for locals. **Shawn Howell** – In favor of this annexation and the school that is involved. Policy 10. **Nancy Spencer** – I want this annexation to go forward. **Shannon Stucki** – Jacklin Prairie Annex is consistent with goals 1, 3, 5, 7, and 11 and policies 2, 3, 4, 10, 25, 87, and 102 found in the Comprehensive Plan of Post Falls. This school will bring prosperity while improving the small town feel and promoting pride in this city. Pedestrian friendly zones will be added to this area because of this school. The location will be accessible via the bike path which contributes to several policies and goals of this city. **Heather Clute** – We need a school for parents who value classical education. Our kids currently homeschool, and this school would help our family immensely. The location is ideal and beautifully designed. It is very centrally located for many people around Kootenai County. Please allow the annexation. **Damon Clute** - We need other options than traditional public schools. This public school teaches values that more align with mine.

**In Favor wishing to speak**

**Ed Kaitz** – I am the board chair for the proposed Kootenai Classical Academy. We started in 2018 to get the school chartered through the state and were approved in December. The Hillsdale College in Michigan started these schools in 2012 to bring back classical education to kids. To help the students develop their minds as well as their moral virtues. I believe there are 26 schools across the country. We have 1200 kids on our interest list already this is a great opportunity for Post Falls. Coeur d’Alene and Rathdrum both have Public Charter Schools which are free education, it is the same education one would get at Gonzaga Prep for free. The testing level is at a college level however, we don’t teach towards the test we teach the value and love of education. It has been difficult to find property here and we have a red-hot timeline. We need a year to develop the school and we plan to open in the fall of 2023 as a K-8 to start. We do feel it supports the goals and policies as well especially 11 with the civic and arts as we have a wonderful community outreach. The Prairie Trail will be a wonderful opportunity for kids to
be able to ride their bikes to school. We need more schools in this area majority of them are at or exceeding capacity.

**Michael Burgess** – I speak on behalf of Kootenai Classical Academy Founders Board, of which I am a director. We are in favor of this plan going forward. The zoning of the Jacklin Commercial acreage is compatible with the school. The feeling of community will be grown and preserved. The growth is beneficial if it adds an ideal education opportunity, and this testimony particularly speaks to goal 11, policy 102 and policy 10.

**Gary Retter** – I am the owner/operator of the Peak Health and Wellness centers. They are full-service clubs and our current location in Post Falls is by Super One. Our new location will be in the Prairie shopping center adjacent to the proposal tonight. I am in favor of this proposal as it will compliment the Prairie shopping center site, we selected this site because of Highway 41 and Prairie as it will become a regional hub. This development will alleviate allot of the traffic issues our area currently has.

**Roalene Sgantas** – I own a small tax service here and I am in favor because I love Hillsdale, the curriculum is fantastic. My 11-year-old adopted son is currently enrolled in Treaty Rock and I am excited he was accepted into the Charter CDA Academy as he isn’t being challenged in the public schools. I feel we need to be patient with the things that are worth while like this school.

**Samantha Steigleder** – I am in favor of this request, Mr. Marley informed me of the differences between CCS and CCM and I was very appreciative of that. I am in favor of the Development Agreement that has no residential in it as I am usually up here in opposition to more high-density residential in Post Falls. Classical Education is a wonderful thing and my 8-year-old got excited to learn that is what this new school what because even he knows it is amazing. Whether a child is advanced or not this school is the right fit for all of them. I just don’t know if we can say no to that, I hope you do not say no to it.

**Michael Schelstrate** – This annexation on a great location whether you support private or public education will be a tremendous asset. Particularly on the Prairie arterials, bike path extension and the expansion of Highway 41.

**Nina Beesley** – I am on the Rathdrum Planning and Zoning Commission, so these types of things are familiar to me. As far as I could see it is consistent with the goals and policies of the comprehensive plan. This land supports community needs, Goal-7, area schools are over capacity. We get letters from the Lakeland Joint School District expressing their concerns that the impact has on their schools. 2 years ago, there was an article in the CDA Press about the school’s hitting capacity, a committee developed the CDASD 2020-2030 Long Range Facilities Plan. The report found that 10 of the districts 18 schools were at or over 100% capacity. Half of the elementary schools ranged from 100%-129% capacity in 2019 and the committee predicted one facility would hit 192.7% capacity by 2030. These concerns are also affecting the high schools they are currently at 103% capacity. The proposal will provide a needed service to the community and our students.

**Michael More** – Wholeheartedly support the proposed annexation of the Jacklin-Prairie 89 acres for the sake of diversity within the Post Falls community. I taught at a Montana Classical school, and it was a wonderful experience.

**Sarah Fisher** – Our community needs a school that emphasizes well-rounded education and character and virtue development of the next generation, who will directly impact the standard of living here in North Idaho. Preserving the character and work ethic of the next generation is preserving North Idaho.
Victoria O'Sullivan – My husband’s family has been in the area for 30 years and he was part of the first graduating class for the CDA Charter School. Most Charter schools focus on academics however Kootenai Classical focus on the student, arts, sports, music, and special needs they work towards a well-rounded educational experience. I am a musician, and my son is special needs and there isn’t a school that fits for our whole family. I think it is incredible that they are trying to do it all, it is ambitious. I have been against 90% of the development because they fail to invest in the future and the community just seems like they just cram everything in.

Also, in Favor and doesn’t wish to speak is Duane Oliver – Post Falls needs a school badly as well as local business uses.

Neutral – None

In Opposition- Read into the record by Davis – This correspondence is in response to the Notice of Public Hearing for the Jacklin Prairie Annexation. GVD Partners, LP, as an adjacent landowner objects to the Application for the following reasons: GVD believes the Jacklin site should contain a residential component and that it is procedurally improper to apply for a zoning classification while simultaneously rejecting an intrinsic portion of the requested zoning classification. Furthermore, restricting against a residential component is wrong and goes against proper planning, as adjacent residential would help curtail overall driving miles and therefore demands on public infrastructure. In addition, it would also help provide housing for young people and other housing seekers. In summary, GVD remains steadfast in its belief that the City of Post Falls should suspend any further CCM/CCS zoning applications and/or annexations for such purposes until such time as the currently zoned CCM/CCS developments are built out and the city is able to approve zoning requests without inappropriate modifications to the zoning classification. As such, GVD is respectfully objecting to the application.

Rebuttal – Wichman – They are certainly intitled to their opinion, more importantly I want to apologize to the Commission for my error in the presentation with the differences of the CCS and CCM zones. I did misread the table. Please disregard that section of my presentation.

Steffensen – Is anyone opposed to stating no more than 45 feet for any structure? We can add a condition to the development agreement.

Davis – Obviously, the applicant is comfortable with it. Manley, it was limited to certain uses.

Manley – There was some exceptions for medical, hospitality and vertical mixed use. 45 feet for hospitality is a little limiting we found out recently with the hotel that wanted to go in down the street and a medical facility would sometimes need a higher height.

Field – The foot note does require a Special Use Permit to exceed that height.

Carey – To exceed which height?

Field – The 45'; sorry to exceed 105' it would require a Special Use Permit.

Ward – CCS is currently 45?

Manley – Yes

Comments:

1. Amendments to the zoning map should be in accordance with the Future Land Use Map.

Ward – Falls under the transitional.
City of Post Falls
Planning and Zoning Commission Agenda
May 10, 2022

Steffensen – 41 is being built and we are starting to see the commercial along 41 with the transition into residential for some time if the future.

2. Amendments to the zoning map should be consistent with the goals and policies found in the Comprehensive Plan.
   Steffensen – This was addressed numerous times in testimony for the school.

3. Zoning is assigned following consideration of such items as street classifications, traffic patterns, existing development, future land uses, community plans, and geographic or natural features.
   *Nothing to add*

4. Commercial and high-density residential zoning is typically assigned along streets with a higher road classification.
   Commission – it is right on 41 and Prairie

5. Limited or neighborhood commercial and lower density residential zoning is typically assigned for properties as they proceed farther away from the higher intensity urban activity.
   Steffensen – The agreement states there will not be residential.

6. Industrial zoning is typically assigned for properties with sufficient access to major transportation routes and may be situated away from residential zoning.
   Not applicable

Carey – If we leave as is they can build up to 105’.
Manley – The 105’ would be the cap unless they came back before you with a Special Use Permit for the medical, hospitality or vertical use buildings. Unless you add a condition for the 45’ cap.

Motion to recommend approval to City Council finding meets approval criteria in the PFMC as outlined in our deliberations and to amend the Development Agreement to include the 45’ height restriction instead of the 105’ height restriction and direct staff to prepare a Zoning Recommendation with a CCM zone -
Steffensen
2nd by Ward
Vote Hampe – Yes; Ward – Yes; Davis – Yes; Carey – Yes; Steffensen - Yes
Moved

B. Zoning Recommendation for Douglass Annexation File No. ANNX-0002-2022 – Ethan Porter, Associate Planner, to present a request for a recommendation to City Council for a zoning designation of Community Commercial Services (CCS) upon annexation of approximately 9.63 acres. The requested action is to recommend Community Commercial Services (CCS) zoning to City Council on 9.63 acres as part of this annexation request. The project location is on the northwest corner of N. Zorros Rd and E. Early Dawn Ave on the east side of Highway 41 to the west of Foxtail. It is currently a large lot residential within Kootenai County and sits above the Rathdrum Prairie Aquifer. The water provider is Ross Point Water District, and the sewer is provided by the City of Post Falls. To the north, west, and south is the Community Commercial Services (CCS) zoning with the R-1 Foxtail development to the east.
Zone Change Review Criteria:
- Future Land Use Map designates this site as Business/Commercial – the implementing zoning districts include the CCS zone. The purpose of the
Jacklin Prairie Annexation
File No. ANNX-0012-2021
Planning and Zoning Commission
Zoning Recommendation

A. INTRODUCTION:

APPLICANT: Rand Wichman

LOCATION: Generally located on the northeast corner of the future intersection of N. Zorros Rd. and W. Prairie Ave. and to the northwest corner of the future intersection of N. Fennecus Rd. and W. Prairie Ave., north of the planned Foxtail Community.

REQUEST: Zoning recommendation of Community Commercial Mixed (CCM) of approximately 94.049 acres as depicted in Exhibit S-4.

B. RECORD CREATED:

1. A-1 Application
2. A-2 Narrative
3. A-3 Exhibit Map
4. A-4 Auth Letter
5. A-5 Title Report
6. A-7 Will Serve
7. A-8 Concept
8. S-1 Vicinity Map
9. S-2 Zoning Map
10. S-3 Future Land Use Map
11. S-4 Annexation Development Agreement
12. PA-1 KCFR Comments
13. PA-2 PFPD Comments
14. PA-3 PFHD Comments
15. PA-4 DEQ Comments
16. PG-1 Beesley Comments
17. PC-2 Burns Comments
18. PC-3 Sticki Comments
19. PC-4 Moore Comments
20. PC-5 Sgantas Comments
21. PZ Staff Report
22. Testimony at the May 10, 2022 Planning and Zoning Commission hearing including:

The request was heard before the Planning and Zoning Commission (hereinafter "Commission") at the May 10, 2022 public hearing, the meeting was in-person and live-streamed on the City of Post Falls YouTube Channel. The public hearing was properly noticed and conducted in accordance with the requirements of Idaho Code Sections 67-6511 and 67-6509, and City Code section 18.20.060. The purpose of the hearing was to afford the applicant and the public the opportunity to provide testimony and documentation to be taken by the Commission in their application of City Code section 18.16.010 and 18.20.100 when making the Commission's recommendation on zoning to the City Council.

Jon Manley, Planning Manager.
Mr. Manley presented the staff report. He testified that the applicant was seeking a recommendation for an initial zoning of Community Commercial Mixed (CCM) on approximately 94.049 acres upon the annexation into the City of Post Falls. He explained that the CCM zone requires a development agreement that creates a container for conditions that otherwise would not be allowed through other types of zoning. He stated that within this development agreement is the condition that no residential will be allowed within the 94.049 acres. Unlike a CCS zone where an applicant could present a Special Use Permit for residential, the development agreement provides this condition that you could not get through typical Euclidean zoning. He indicated that they are also proposing an 11 acre K-12 school site as part of this 94.049 acres.

Mr. Manley explained that typically CCM Zone allows permitted and special uses that are allowed in the CCS zone. He indicated that Multi-family residential uses may not exceed fifty percent of the total development site, noting that this is not by right, this is the point of the development agreement is that the applicant can propose anything between zero and fifty percent. He noted the CCM is a little different from the CCS in that there is a give and take, with the development agreement you get more conditions of control and you give up some leeway as to things like height. He explained that in the CCM you can have structures up to 105 feet in which you cannot do in the CCS and you may exceed that 105 feet, by special use permit, for medical, hospitality, and vertical mixed use buildings. He noted that because there is no residential the uses available to exceed that height limitation by special use permit under this proposal would be medical and hospitality.

He explained that the general location is northwest corner of Prairie and the future extension of Fennecus Rd. and Prairie would be the southern boundary. The western boundary would be the future extension of Zorros. He noted the location of the future school side and that the property is bisected by the Prairie trail system.

Mr. Manley testified that the site is currently is Agriculture land in the county with no significant topology or vegetation over the Rathdrum Aquifer. He stated that water will be provided by Ross Point Water District, as per the Will Serve Letter, and by the City of Post Falls will provide sewer service.

Mr. Manley testified that the Future Land Use Map designated the area as Transitional and therefore we look to the associated focus area and compatibility with adjacent zones. He explained that that this area is within the 41 North focus area, which provides for multi-family, commercial, and tech uses near higher classified roadways. He explained that Prairie Ave, is an arterial and Zorros and Fennecus would support the commercial uses in the CCM zone. He described that development would provide connectivity to multi-use paths and trails, including the Prairie Trail, which crosses the property and would aid in providing that connectivity.

Mr. Manley testified as to whether the proposal is in accordance with the goals and policies of the comprehensive plan, illustrating goal one, three, five, seven, eight, and twelve are possibly relevant and applicable goals. He testified that policies one, two, three, and seven, as well as those in the staff report may be appropriate for consideration by the Commission.

Mr. Manley testified that to the west we have proposed commercial uses, there will be grocer and a fitness center as well as other commercial pads, to the west along 41 is designated business commercial where we will likely see a proposed mix of commercial and mix of housing product on the backside of that. He explained that typical planning methods would project that we will get higher uses along major corridors because traffic counts warrant those higher uses, be it commercial or multi-family then transitioning to single-family development to support that mix of commercial and housing.

Mr. Manley testified that the future Prairie Trail will run through the project and abut up against the future school site and with development there will be pedestrian and street connections. Corridor access and circulation for commercial and mixed-use areas abutting limited-access arterials may be addressed with the extension of Zorros and Fennecus Rd.
Mr. Manley testified that commercial and high-density residential zoning is typically assigned along streets with a higher road classification. He explained that the site is located along higher classified roadways of Prairie Ave.

Mr. Manley testified that limited or neighborhood commercial and lower density residential zoning is typically assigned for properties as they proceed farther away from the higher intensity urban activity. He explained that circa year 2000 this would have been out in the middle of nowhere and now in 2020, this corner of Highway 41 and Prairie is probably going to evolve here in the short term, this criteria is applicable at this time.

Mr. Manley testified that the last criteria is inapplicable as there is not a request for industrial zoning.

Mr. Manley testified that all agencies have been notified and Kootenai Fire continues to say they are in partnership with the city and will provide comments through the permitting and subdivision process. He noted that Post Falls Police Department remains neutral, Post Falls Highway District requests the rights of way dedication be 60’ minimum from centerline on Prairie Ave., and the Department of Environmental Quality has no impact comments currently.

Mr. Manley responding to a question from the Commission noted that the intent of the development agreement was to prohibit residential however the Commission can recommend changes for consideration by council.

Mr. Manley responding to a question from the Commission indicated that multi-story buildings are about 10 feet per story so 105 feet limitation would likely be an 8 story building when accounting for the pitched roof.

Field Herrington, Deputy City Attorney

Mr. Herrington clarified that Article 5.2 of the development agreement states that owner agrees not to construct any residential land uses on the property.

Robert Palus, Assistant City Engineer

Mr. Palus responding to a question from the Commission regarding the statement that the city does not warrant the sanitary sewer capacity will be available at time the owner requests connection to the sanitary sewer system. Mr. Palus explained that the statement is somewhat of a boilerplate statement and applies to any project that comes before us. He noted that if it were built today, we would have capacity to handle what they are proposing to do however, if they don’t develop for a few years, we do not have control over everything else going on in the city. He noted that there are some limitations at the 12th Ave lift station and the city is scheduled to build those necessary improvements in 2025. He reaffirmed that the city has the capacity to support the developments along Highway 41 and what is being proposed tonight however, there is never a guarantee.

Rand Wichman, Applicant

Mr. Wichman testified that the proposal is next to the old Jacklin Farm, majority of the land to the east, west, and northwest of the proposal is owned by Jacklin. He explained that this proposal is within the transitional area and they view this area the transition between the heavier commercial uses and lighter residential uses which is why the CCM zoning is being requested. He noted that it allows for the uses we envision at this site, prohibits the most intensive commercial uses allowed by CCS, and proposed prohibition on residential uses in the Development Agreement due to community concerns.

Mr. Wichman testified that because of how long it took us to get into the process of this annexation we lost an interested user, we are hopeful to gain interest from a similar user again once we are done with the processess. Therefore, he explained that we proposed no residential uses, and we feel this
development can be successful without residential uses. He stated that the comparison between the CCM and CCS are extensive and go beyond what I have. He explained that the uses allowed in CCS but not in CCM are Hotels/Motels, destination shopping centers, auto/RV/manufactured home/boat dealerships, big box commercial, lumber yard/building materials, many auto related services, and industrial and manufacturing uses.

Mr. Wichman testified that there is a school site on 11 acres which is another reason why we are interested in moving forward with this annexation. He claimed that they are well along with their site plan and it will be a public charter school. He indicated that there will be great access off Fennecus, north and south and the Prairie Trail, east to west. He illustrated that the Development Agreement has mostly standard requirements there are specific provisions related to wastewater and numerous easement and right-of-way dedications. He attested that they do have the restriction on residential development and the construction of the Prairie Trail from Prairie Ave. to Highway 41 will be developed, approximately .9 miles.

Mr. Wichman testified that the road network might be laid out differently than what is shown, for example, from Prairie to the school site Fennecus may curve to preserve the existing trees in that area. He noted that there will also be internal connections that are not designed yet, Fennecus and Zorros will connect north and south.

Mr. Wichman testified that they believe this request meets the approval criteria and the "Transitional" use within the Future Land Use Map, implements the plans that have been created for this area by the city and the requested zoning has significant benefit to the city with the least amount of impact on the infrastructure and services.

Mr. Wichman in response to a question from the Commission regarding timing of buildout stated, he was unsure of the entire buildout schedule however they will commence on the construction improvements and subdividing as soon as possible. He professed that the school is red hot to get going and we need to support them and we will work towards getting the first phase done as quickly as possible. He explained that the school wanted to build last fall so we will work diligently to support their efforts.

Mr. Wichman in response to a question from the Commission regarding the maximum 105 foot height of buildings stated that because the proposal has no residential, he did not think it made sense to build up that high. He indicated that if it is a concern, they will not object to a height restriction being added to the Development Agreement.

Jon Manley, Planning Manager

Mr. Manley testified to make a quick correction on the allowed/not allowed uses, there is an issue with the land use table as it has many columns and thought there was a misread between the Residential Mixed and the Community Commercial Mixed zones. He clarified that some uses allowed in CCS and not CCM would be a racetrack, slaughterhouse, glass manufacturing, etc. and generally most uses within the CCS can be within the CCM as well either permitted outright or by a Special Use Permit.

Public Testimony:

The hearing was opened for public testimony.

Wade Jacklin (Brief Written Comment Read into Record)

Mr. Jacklin testified that this is a great use of land to provide commercial and retail services for folks living in Rathdrum and Post Falls. Helps eliminate traffic with services that are closer and more accessible to many area residents. More job opportunities for locals.
Shawn Howell (Brief Written Comment Read into Record)

Mr. Howell testified in favor of this annexation and school that is involved and it meets Policy 10.

Nancy Spencer (Brief Written Comment Read into Record)

Ms. Spencer testified that she wants this annexation to go forward.

Shannon Stucki (Brief Written Comment Read into Record)

Ms. Stucki testified that the Jacklin Prairie Annex is consistent with goals 1, 3, 5, 7, and 11 and policies 2, 3, 4, 10, 25, 87, and 102 found in the Comprehensive Plan of Post Falls. This school will bring prosperity while improving the small town feel and promoting pride in this city. Pedestrian friendly zones will be added to this area because of this school. The location will be accessible via the bike path which contributes to several policies and goals of this city.

Heather Clute (Brief Written Comment Read into Record)

Ms. Clute testified that we need a school for parents who value classical education. Our kids currently homeschool, and this school would help our family immensely. The location is ideal and beautifully designed. It is very centrally located for many people around Kootenai County. Please allow the annexation.

Damon Clute (Brief Written Comment Read into Record)

Mr. Clute testified that we need other options than traditional public schools. This public school teaches values that more align with mine.

Ed Kaitz

Mr. Kaitz testified that he is the board chair for the proposed Kootenai Classical Academy. He explained they started in 2018 to get the school chartered through the state and were approved in December. He advocated that the Hillsdale College in Michigan started those schools in 2012 to bring back classical education to kids and to help the students develop their minds as well as their moral virtues. He believes there are 26 schools across the country and they have 1200 kids on our interest list already this is a great opportunity for Post Falls. He noted that Coeur d'Alene and Rathdrum both have Public Charter Schools which are free education, it is the same education one would get at Gonzaga Prep for free. He stated that the testing level is at a college level however, we don’t teach towards the test we teach the value and love of education. He explained that it has been difficult to find property here and we have a red-hot timeline as they need a year to develop the school and we plan to open in the fall of 2023 as a K-8 to start. He testified that it supports the goals and policies as well, especially 11, with the civic and arts as we have a wonderful community outreach. He noted that the Prairie Trail will be a wonderful opportunity for kids to be able to ride their bikes to school and we need more schools in this area majority of them are at or exceeding capacity.

Michael Burgess

Mr. Burgess spoke on behalf of Kootenai Classical Academy Founders Board, of which he is a director. He testified that they are in favor of this plan going forward and that the zoning of the Jacklin Commercial acreage is compatible with the school. He explained that the feeling of community will be grown and preserved, the growth is beneficial it adds an ideal education opportunity, and this proposal particularly speaks to goal 11, policy 102 and policy 10.

Gary Retter

Mr. Retter testified that he is the owner/operator of the Peak Health and Wellness centers. They are
full-service clubs and our current location in Post Falls is by Super One. He explained that their new location will be in the Prairie shopping center adjacent to the proposal tonight. He testified that he is in favor of this proposal as it will complement the Prairie shopping center site, we selected this site because of Highway 41 and Prairie as it will become a regional hub. He explained that this development will alleviate a lot of the traffic issues our area currently has.

Roalene Sgantas

Ms. Sgantas testified that she owns a small tax service here and is in favor because I love Hillsdale, the curriculum is fantastic. She explained that her 11-year-old adopted son is currently enrolled in Treaty Rock and she is excited he was accepted into the Charter CDA Academy as he isn’t being challenged in the public schools. She felt that we need to be patient with the things that are worthwhile like this school.

Samantha Steigleder

Ms. Steigleder testified in favor of this request as she is in favor of the Development Agreement that has no residential in it as I am usually up here in opposition to more high-density residential in Post Falls. She stated that classical education is a wonderful thing and my 8-year-old got excited to learn that is what this new school what because even he knows it is amazing. She stated that whether a child is advanced or not this school is the right fit for all of them, she didn’t know if we can say no to that, I hope you do not say no to it.

Michael Schelstrate

Mr. Schelstrate testified that this annexation on a great location whether you support private or public education will be a tremendous asset. Particularly on the Prairie arterials, bike path extension and the expansion of Highway 41.

Nina Beesley

Ms. Beesley testified that she is on the Rathdrum Planning and Zoning Commission, so these types of things are familiar to me. She explained that it is consistent with the goals and policies of the comprehensive plan. This land supports community needs, Goal-7 area schools are over capacity. She explained that they get letters from the Lakeland Joint School District expressing their concerns that the impact has on their schools and 2 years ago, there was an article in the CDA Press about the school’s hitting capacity, a committee developed the CDASD 2020-2030 Long Range Facilities Plan. The report found that 10 of the districts 18 schools were at or over 100% capacity. Half of the elementary schools ranged from 100%-129% capacity in 2019 and the committee predicted one facility would hit 192.7% capacity by 2030. These concerns are also affecting the high schools they are currently at 103% capacity. The proposal will provide a needed service to the community and our students.

Michael More

Mr. More testified that he wholeheartedly supports the proposed annexation of the Jacklin-Prairie 94.049 acres for the sake of diversity within the Post Falls community. He explained that he taught at a Montana Classical school and it was a wonderful experience.

Sarah Fisher

Ms. Fisher testified that our community needs a school that emphasizes well-rounded education and character and virtue development of the next generation, who will directly impact the standard of living here in North Idaho. Preserving the character and work ethic of the next generation is preserving North Idaho.
Victoria O’Sullivan

Ms. O’Sullivan testified that her husband’s family has been in the area for 30 years and he was part of the first graduating class for the CDA Charter School. Most Charter schools focus on academics however Kootenai Classical focus on the student, arts, sports, music, and special needs they work towards a well-rounded educational experience. She explained her is a musician, and my son is special needs and there isn’t a school that fits for our whole family. She thought that it is incredible that they are trying to do it all, it is ambitious. She stated that she has been against 90% of the development because they fail to invest in the future and the community just seems like they just cram everything in.

Duane Oliver (Brief Written Comment Read into Record)

Mr. Oliver testified that Post Falls needs a school badly as well as local business uses.

GVD Partners, LP (Brief Written Comment Read into Record)

This correspondence is in response to the Notice of Public Hearing for the Jacklin Prairie Annexation. GVD Partners, LP, as an adjacent landowner objects to the Application for the following reasons: GVD believes the Jacklin site should contain a residential component and that it is procedurally improper to apply for a zoning classification while simultaneously rejecting an intrinsic portion of the requested zoning classification. Furthermore, restricting against a residential component is wrong and goes against proper planning, as adjacent residential would help curtail overall driving miles and therefore demands on public infrastructure. In addition, it would also help provide housing for young people and other housing seekers. In summary, GVD remains steadfast in its belief that the City of Post Falls should suspend any further CCM/CCS zoning applications and/or annexations for such purposes until such time as the currently zoned CCM/CCS developments are built out and the city is able to approve zoning requests without inappropriate modifications to the zoning classification. As such, GVD is respectfully objecting to the application.

Rebuttal

Rand Wichman, Applicant

Mr. Wichman testified he wanted to apologize to the Commission for my error in the presentation with the differences of the CCS and CCM zones, he did misread the table. Please disregard that section of my presentation.

Questions for Staff:

Jon Manley, Planning Manager.

Mr. Manley, in response to a question from the Commission, stated that the height exceptions for medical, hospitality and vertical mixed use, the 45 feet for hospitality is a little limiting with the hotel that wanted to go in down the street and a medical facility would sometimes need a higher height.

Field Herrington, Deputy City Attorney.

Mr. Herrington clarified that to exceed the 105 feet would require a Special Use Permit.

Deliberations: After the public hearing was complete the hearing was closed, and the Commission moved to deliberations to discuss their interpretation of the information presented both orally and in the written record and to apply that information to the criteria in City Code sections 18.16.010 and 18.20.100.

C. EVALUATION OF APPROVAL CRITERIA FOR INITIAL ZONING:
C1. Amendments to the zoning map should be in accordance with the Future Land Use Map.

The applicant has requested initial zoning of Community Commercial Mixed (CCM) on 94.049 acres as part of the annexation into the City of Post Falls. The Future Land Use Map designates this area as Transitional within the 41 North focus area.

The proposed zone is in the 41 North Focus Area which states development trends along and adjacent to the HWY 41 corridor have been commercial in nature. With the improvement along HWY 41, future growth should continue this development pattern. HWY 41's role as a major north/south corridor may spur continued interest in commercial use development.

The following items affirm or guide development of key policies for this area, or suggest future action items for the 41 North focus area:

- Focus provisions for multi-family, commercial, and tech uses near higher-classified roadways;
- Development should provide pedestrian connectivity to all multi-use paths and trails, including the Prairie Trail;
- Manage development patterns in the airport fly zone east of 41 and north of Prairie Avenue, coordinating with the 2018 Coeur d'Alene Airport Master Plan;
- Facilitate the creation of the "backage roads" system envisioned in the Highway 41 Corridor Master Plan, supporting appropriately-scaled commercial and mixed-use development along 41 and improving access for nearby residential uses;
- Focus provisions for commercial uses along arterial/collector streets where traffic volume exceeds 4,000 vehicles per day.

The Commission finds that evidence and testimony demonstrate that the requested zoning designation is supported by guidance found in the 41 North Focus Area, it is along an existing commercial corridor and fits in with the surrounding area. Therefore, the Commission finds the request would be consistent with the Future Land Use Map.

C2. Amendments to the zoning map should be in accordance with the goals and policies found in the Post Falls Comprehensive Plan.

Based on the testimony provided and the staff report, the Commission finds the requested zoning is consistent with the following goals and policies contained in the comprehensive plan:

Goals:

Goal 1: Grow and sustain a balanced, resilient economy for Post Falls, providing community prosperity and fiscal health.

Creating a diverse community with a variety of different types of commercial activities assists creating live, work, play neighborhoods. The CCM zoning classification states the following:

The Community Commercial Mixed (CCM) zone is intended to accommodate both commercial and high-density residential development at densities permitted by the high-density multi-family residential (R3) zone in a mixed-use development pattern. This zone should be applied in areas primarily located near arterials and collector streets to support commercial, residential, professional office, and civic uses that support an accessible work, live, and shop environment. Approval of the Community Commercial Mixed (CCM) zone requires a development agreement regulating the development site as provided in section 18.20.190 of this title.

a. The CCM zone is appropriate for:
   i. Areas designated Commercial, Commercial Mixed, Business Industrial, or Transitional in the Comprehensive Plan.
   ii. Areas readily serviced by collector and arterial streets suitable for higher levels of traffic.
iii. Areas where other public services are sufficiently available for the intensity of use
iv. Areas where the configuration of municipal infrastructure and neighboring land uses
are compatible with the uses allowed in the CCM zone.

b. Permitted Uses: Permitted and specially permitted uses in the CCM zone are listed in the
land use table in Section 18.20.030 of this title. Multi-family residential uses may not
exceed fifty percent (50%) of the total development site. Multi-family uses that are
incorporated into vertical mixed-use buildings are excluded from this calculation.

The Commission Notes that the Development Agreement proposed by applicant is for no residential
uses to be allowed within the proposed Annexation Area.

Goal 3: Maintain and improve Post Falls' small-town scale, charm and aesthetic beauty.

Whether newly-arrived or long-term, residents of Post Falls often cite the community’s "small-town
charm," its modest size, and its valley setting with open space prairie and the Spokane River as
attractive features. Due to this, many of the goals, policies and programs contained in the
Comprehensive Plan help retain the City’s lower-scale, walkable, small-lot development patterns
common in early Post Falls, while at the same time, providing for urban growth in other, appropriate
areas; support the development of cultural features and activities; and direct land use decisions
encouraging infill and thoughtful expansion.

Placing Commercial Services along Prairie Ave is an appropriate area for more intense urban
growth supporting an accessible work, live, and shop environment in this area serviced by a street
suitable for higher levels of traffic.

The Commission finds that the proposal maintains and improves the City’s small-town scale,
charm, and aesthetic beauty.

Goal 5: Keep Post Falls' neighborhoods safe, vital, and attractive.

Residents prize the character and unhurried pace of Post Falls neighborhoods, and wish to ensure
their neighborhoods are kept safe, active and aesthetically pleasing. Supporting this goal, a diverse
set of policies have been provided, including encouraging attractive, pedestrian-friendly
development, provision of diverse housing types, parks facilities, and neighborhood-scale
commercial services.

Goal 7: Plan for and establish types and quantities of land uses in Post Falls supporting community
needs and the City’s long-term sustainability.

Cities exercise considerable influence over land use, in turn influencing the type and character of
development, patterns of growth, and the short and long-term financial impact of growth on the
local economy. Consequently, the Comprehensive Plan supports the allocation of land use types,
parks features and other areas sufficient to achieve overall plan objectives.

Goal 8: Protect and maintain Post Falls' natural resources including clean air, soils, river and
aquifer, and minimizing light and noise pollution citywide.

City livability, health and value are fully dependent on clean, safe, and sustainable natural
resources. This goal underscores Post Falls’ commitment to maintaining its natural resources as a
top priority, recognizing them as essential to the community’s survival.

Goal 11: Sustain and expand Post Falls' arts, cultural and civic environment.

Testimony was provided that the school providing classical education will be an opportunity to
encourage and expand community arts programming, historic and cultural resources which will
benefit the civic health, quality of life, and economic vitality of Post Falls.
Goal 12: Maintain the City of Post Falls' long-term fiscal health.

Services that cities provide cannot be sustained without fiscal balance and accountability. This goal serves to anchor the City of Post Falls' obligation to sustain its fiscal health – achieved through the gathering of income in responsible, equitable ways, and through decisions, investments and actions that provide rate-payers with efficient, effective services now and in the future.

Goal 14: Involve the community of Post Falls in all local government planning and decision-making.

The development of the Comprehensive Plan is community-driven, involving numerous residents including some representing large groups of residents. For plans to succeed, community buy-in and support is critical. Future conditions will certainly require the creation of new objectives and strategies, and this goal supports keeping residents highly involved in such work.

Policies:

Policy 1: Support land use patterns that:

- Maintain or enhance community levels of service;
  Impact Fees are paid at the time of permit issuance to assist maintaining the community levels of service.

- Foster the long-term fiscal health of the community;
  Creating addition commercial opportunities assists in creating a balanced, resilient economy for Post Falls, providing community prosperity and fiscal health and in return increases their value and assist in contributing to the long-term fiscal health of the community.

- Maintain and enhance resident quality of life;
  The proposed annexation is in the area that may provide commercial amenities currently unavailable to existing and future residents in the vicinity.

- Promote compatible, well-designed development;
  Providing the opportunities for creating the variety of service, retail, and office in the Community Commercial Mixed (CCM) such as this proposal promotes compatible, well-designed development.

- Implement goals and policies of the comprehensive plan, related master plan and/or facility plans.
  The proposed Zoning request is in the 41 North Focus Area. The development trends along and adjacent to the HWY 41 Corridor have been commercial in nature. With the improvement along HWY 41, future growth should continue this development pattern. HWY 41's role as a major north/south corridor may spur continued interest in commercial use development.

Policy 2: Apply or revise zoning designations with careful consideration of factors including:

- Future land use mapping;
  This is addressed by the first review criterion of this recommendation.

- Compatibility with the surrounding land uses;
  Surrounding this property are mostly undeveloped lands either in Kootenai County or in the City of Post Falls. To west and in the city is a planned commercial development site with an approved commercial subdivision. The Commission finds this proposal compatible with the surrounding land uses.
• Infrastructure and service plans;
  Ross Point Water District would provide water and the city of Post Falls would provide Sanitary Sewer. The planned street infrastructure and service plans for the area would support the proposed zone as it is consistent with the anticipated land uses and trip generations within the City's Transportation Master Plan.

Road System Details:
Fennecus Road is classified as Major Collector Roadway and the ½ Mile Backage Roadway to State Highway 41. Zorros Road and Harvest Avenue are classified as a Minor Collector Roadways. Zorros Road serves as a ½ Backage Road to SH41. Harvest Avenue will provide connection, per the City's Transportation Master Plan, from the north/south roadways to SH41 with a future signalized intersection. The intersections of Zorros Road and Fennecus Road are planned to intersect Prairie Avenue with multi-lane roundabouts. Driveway access would be required to conform with City Standards that prohibit single family and duplex developments from having approaches that access onto roadways classified as collector or higher. Prairie Ave. would require more stringent access control, conforming with the KMPO Critical Arterial Corridor Policy.

The intersection of Prairie Avenue / Zorros Road is in preliminary development for the construction of a roundabout, associated with the Prairie Crossing Shopping Center (in development, immediately to the west). The City's master plan also identifies a future roundabout at the intersection of Prairie Avenue / Fennecus Road. The timing for construction of this future roundabout would be based upon traffic volumes.

Development would be required to be consistent with the Annexation and Development Agreement.

Water and Sanitary Sewer:

Water: Water service is provided by Ross Point Water District. Development would be required to be consistent with the Annexation and Development Agreement (Exhibit S-4).

Sanitary Sewer: The Owner will be required to use the Post Falls Sanitary Sewer system for all development of the Property and to be responsible for all required fees and charges including all connection and/or capitalization charges generally applicable at the time service is requested. Sanitary sewer service will be provided in accordance with rules and regulations of the City. The City does not warrant that sanitary sewer capacity will be available at the time Owner requests connection to the sanitary sewer system. The property is within the 12th Avenue Force Main and Meyer Alternative Line Surcharge Basins. The applicant has had a sewer study conducted that shows the flows can be rerouted to a different sewer service basin without negative impacts to the City's collection system. The rerouted sewer will not have any surcharges associated with the Meyer Alternative Basin. The property will be subject to the Surcharge for the 12th Avenue Force Main. Established surcharges fund the downstream collection system infrastructure needed to provide permanent sewer service to the Property.

Development would be required to be consistent with the Annexation and Development Agreement.

• Existing and future traffic patterns;
  The requested zoning is consistent with the anticipated land uses and trip generations within the City's Transportation Master Plan. Development would include the construction of identified roadway infrastructure within the City's Transportation Master Plan and the SH41 Corridor Master Plan (KMPO). Per the findings of local and regional planning documents, provisions of these improvements will facilitate the efficient movement of commerce and vehicles.
• Goals and policies of the comprehensive plan, related master plan and/or facility plans.
The response to this is embedded within the analysis within this section.

Policy 3: Encourage development patterns that provide suitably scaled, daily needs services
within walking distance of residential areas, allowing a measure of independence for those who
cannot or choose not to drive.
The proposed location for additional Commercial Development upon development of the area
provides the necessary amenities to enhance resident quality of life by providing additional
opportunities of commerce and education as the planned future Prairie trail runs through this site.

Policy 7: Encourage the development of off-corridor access and circulation for commercial and
mixed-use areas abutting limited-access arterials.
The CCM zone in this area provides this opportunity. The SH41 backage road system encourages
internal and local circulation parallel to SH41, preserving capacity for longer “regional” trips.

Policy 8: Encourage compatible infill development and redevelopment of vacant and under-utilized
properties within City limits.
Redevelopment of this area would be considered compatible and is currently under-utilized.

Policy 10: Prioritize location of schools in areas with:
• Access to arterial and collector streets;
  Prairie Ave. is a principal arterial, Fennecus will be a Major Collector, and Zorros will be a minor
  collector to provide access.
• Ample sidewalks and pedestrian access;
  The School site will be situated near the Prairie trail system.
• Proximity to residential areas being served;
• Cost-effective access to necessary utilities and services.

C3. Zoning is assigned following consideration of such items as street classification, traffic
patterns, existing development, future land uses, community plans, and geographic or
natural features.

Streets/Traffic:
The Commission finds that the proposed area is adjacent to Prairie Avenue (Principal Arterial),
Fennecus Rd. (Major Collector), Zorros Rd. (Minor Collector) and Harvest Avenue (Minor
Collector). The requested zoning is in conformance with the anticipated land uses and trip
generations within the City’s Transportation Master Plan. The Zone is not anticipated to have any
negative impacts to the City’s transportation network that are not previously identified as being
mitigated thru collection of Transportation Impact Fees. Development would be required to be
consistent with the Annexation and Development Agreement.

Compatibility with Existing Development and Future Uses:

Surrounding this property are mostly undeveloped lands either in Kootenai County or in the City of
Post Falls. To west and in the city is a planned commercial development site with an approved
commercial subdivision. It is unknown of any other future uses surrounding this request other than
that are not currently existing.

As such, the Commission finds the proposal compatible with existing development and future uses.
Future Land Use Designation:

The Commission finds that the Future Land Use Map, depicts the land use designation for this area as Transitional. The proposed CCM Zone is compatible per the direction of the HWY 41 Focus Area and the road classification of Prairie Avenue (Principal Arterial).

Community Plans: This proposal is within the Hwy 41 Focus Area within the Post Falls Comprehensive Plan.

Geographic/Natural Features:
The site contains no geographic or other natural features that would affect development of the site.

The Commission finds that the proposed zoning agrees with base assumptions made in Master Planning as well as other considerations already addressed above, satisfies these criteria.

C4. Commercial and high-density residential zoning is typically assigned along streets with a higher road classification.

The proposed zone is located along higher classified roadways. Prairie Avenue is a Principal Arterial and Fennecus Rd. is a Major Collector. Zorros Rd. and Harvest Ave. are classified as Minor Collectors.

C5. Limited or neighborhood commercial and lower density residential zoning is typically assigned for properties as they proceed farther away from the higher intensity urban activity.

The Commission finds that this location is near the higher intensity urban activity area of HWY 41/Prairie Ave but is transitioning away towards the larger county lots to the northwest, and northeast.

C6. Industrial zoning is typically assigned for properties with sufficient access to major transportation routes and may be situated away from residential zoning.

The Commission finds this criterion inapplicable as there are no industrial uses or industrial zoned properties within the area.

D. CONCLUSIONS AND RECOMMENDATIONS OF THE COMMISSION:

ANNX-0012-2021, INITIAL ZONING: Following the public hearing, the Planning and Zoning Commission considered all relevant evidence and comments and a motion to recommend approval of the recommended zoning upon annexation was made, the motion carried a majority of the Commission. The Planning and Zoning Commission hereby recommends that City Council approve the proposal finding that it conforms to the general purpose of the comprehensive plan and meets the applicable approval criteria for applicant's request for 94.049 acres of Community Commercial Mixed (CCM) upon successful annexation of the property.

Further, the Commission recommends the inclusion of a forty-five foot ('45') height restriction be included in the proposed development agreement.
NOTICE OF RIGHTS:

Any affected person aggrieved by a final decision of the Planning and Zoning Commission may submit a written notice of appeal along with the required fees in accordance with the City’s adopted fee schedule, to the City Clerk for appeal to the Post Falls City Council within fourteen (14) days of the date of the written decision, pursuant to Post Falls City Code 18.20.60.E.

The final decision of the Planning and Zoning Commission is not a final decision for purposes of judicial review until the City Council has issued a final decision on appeal and the party seeking judicial review has requested reconsideration of that final decision as provided by Idaho Code 67-6535(2)(b), pursuant to Post Falls City Code 18.20.60.E.

Any applicant or affected person seeking judicial review of compliance with the provisions of Idaho Code Section 67-6535 must first seek reconsideration of the final decision within fourteen (14) days of such decision. Such written request must identify specific deficiencies in the decision for which reconsideration is sought.

The applicant has the right to request a regulatory taking analysis pursuant to Idaho Code Section 67-8003. Any affected person aggrieved by a final decision concerning matters identified in Idaho Code Section 67-6521(1)(a) may, within twenty-eight (28) days after all remedies have been exhausted under local ordinances, seek judicial review under the procedures provided by Chapter 52, Title 67, Idaho Code.
Dear Post Falls City Council,

Thank you for accepting written feedback about issues coming before the Council. We are writing to give Testimony for Jacklin Prairie Annx-002-2021.

We were very pleased and excited to hear that Hillsdale College has plans to build Kootenai Classical Academy in Post Falls. What a feather in "our" cap that will be. We are excited to think of the phenomenal education our grandson and the many children in Kootenai County can receive.

KCA fits nicely into [P. 10] of the City's Comprehensive plan. Their location on Prairie Avenue is in the midst of many of the new housing developments and apartment complexes that have been built this past year and a half in Post Falls, and is convenient to those in Rathdrum, Hayden and Coeur d'Alene.

There certainly will be traffic congestion along Prairie Ave. in the approach to the school. Patience, timing our trips into town and creative sight-seeing detours are always in play. But we are more than willing to put up with the inconvenience rather than lose the school.

Again, we are thrilled that Hillsdale College has chosen Post Falls as the prime location for Kootenai Classical Academy. What a coup for Post Falls!

Dan and Karen Petersen
17775 W Sheltered Court
Hauser
Applicant: Rand Wichman
Location: North of Prairie Ave. between Highway 41 and Meyer Ave.
Request: To annex approx. 94.049 acres with Community Commercial Mixed (CCM) zoning designation.
Hearing Date: July 5, 2022

Questions list:

Name: Marc Kilmer
Address: 4536 E Mossberg Circle, Post Falls, ID 83854
Email: marckilmer@hotmail.com

Zoning Upon Annexation

Please Provide Your Position on the Proposed Zone Change: In Favor

1. Is the requested zoning district compatible with the street classification, traffic patterns, existing development, future land uses, community plans and geographic or natural features of the area?:

Comments:

2. Commercial and high-density residential zoning is typically assigned along streets with a higher road classification.
3. Limited or neighborhood commercial and lower density residential zoning is typically assigned for properties as they proceed farther away from the higher intensity urban activity.

Comments:

4. Industrial zoning is typically assigned for properties with sufficient access to major transportation routes and may be situated away from residential zoning.

Comments:

5. Is the requested zoning district in accordance with the Future Land Use Map in the Comprehensive Plan?: Yes

Comments:

6. Is the requested zoning district consistent with the goals and policies in the Comprehensive Plan?: Yes

Comments: The Comprehensive Plan states "The City supports continuing to provide educational opportunities from elementary through post-secondary education, as a measure to meet the demands of the evolving economic demands of the region." Currently, there are no charter schools within Post Falls. As a parent who sends my children to a charter school in Spokane, I know there is a demand for charter schools by parents in this area. The proposed annexation will help meet this demand. As Post Falls continues to grow, there will be more demand to expand current school facilities. New charter schools in the city will help meet this demand, reducing the need for the school district to build new schools or expand current schools.

Subdivision

Please Provide Your Position on the Proposed Subdivision: In Favor

1. Has the subdivision made definite provisions for a water supply system that is adequate in terms of quantity, and quality for the type of subdivision proposed?:

Comments:

2. Have adequate provisions been made for a public sewage system and can the existing municipal system accommodate the proposed sewer flows?:

Comments:
Comments:

3. Are the proposed streets consistent with the transportation element of the comprehensive plan?:

Comments:

4. Have all areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards been identified and are the proposed uses of these areas compatible with such conditions?:

Comments:

5. Is the area proposed for subdivision zoned for the proposed use and do the proposed uses conform to other requirements found in the City Code?:

Comments:

6. Has the developer made adequate plans to ensure that the community will bear no more than its fair share of costs to provide services by paying fees, furnishing land, or providing other mitigation measures for off-site impacts to streets, parks, and other public facilities within the community? It is the expectation that, in most cases, off site mitigation will be dealt with through the obligation to pay development impact fees.:
DATE:       June 30, 2022
TO:         HONORABLE MAYOR AND CITY COUNCIL
FROM:       JON MANLEY, PLANNING MANAGER
            jmanley@postfallsidaho.org / 208-457-3344
SUBJECT:   THE POINTE ZONE CHANGE FILE NO. RZNE-0001-2022

ITEM AND RECOMMENDED ACTION:

Nate Ballard of Wadsworth Development Group has requested approval to rezone approximately 56.1 acres in the City of Post Falls from Industrial (I) and Community Commercial Service (CCS) zoning to the Community Commercial Mixed (CCM) zoning district.

The Community Commercial Mixed (CCM) zone is intended to accommodate both commercial and high-density residential development at densities permitted by the high-density multi-family residential (R3) zone in a mixed-use development pattern. This zone should be applied in areas primarily located near arterials and collector streets to support commercial, residential, professional office, and civic uses that support an accessible work, live, and shop environment. Approval of the Community Commercial Mixed (CCM) zone requires a development agreement regulating the development site as provided in section 18.20.190 of this title.

a.  The CCM zone is appropriate for:
   i.  Areas designated Commercial, Commercial Mixed, Business Industrial, or Transitional in the Comprehensive Plan.
   ii. Areas readily serviced by collector and arterial streets suitable for higher levels of traffic.
   iii. Areas where other public services are sufficiently available for the intensity of use
   iv.  Areas where the configuration of municipal infrastructure and neighboring land uses are compatible with the uses allowed in the CCM zone.

The Development Agreement attached per Exhibit S-4 provides the following multi-family apartment limitation:

The current language in the Development Agreement that is amenable with the applicant regulating multi-family states the following:

**Multi-Family Apartment Limitation:** Owner agrees that no more than 19.66 acres of the Property (35% of the Property) may be used for multi-family development. Multi-family south of West Pointe Parkway shall be limited to those parcels that are not adjacent to West Pointe Parkway. Additionally, Owner agrees that multi-family development located north of West Pointe Parkway may not exceed 380 feet of frontage on that street. Other allowed uses of the Property will be determined by the zoning in place on the Property at the time development applications are filed with the City.
**Planning and Zoning Commission:** forwarded a recommendation for CCM with restricting the multifamily component to be 28.5% and limited to the north side of West Pointe Parkway and may not exceed 380’ of the frontage along West Pointe Parkway.

**DISCUSSION:**

The City Council will determine if the property should be rezoned and, if so, make a final determination on the appropriate zoning. The approval criteria are:

A. Amendments to the zoning map should be in accordance with the zoning map.

B. Amendments to the zoning map should be in accordance with the goals and policies found in the Post Falls Comprehensive Plan.

C. Zoning is assigned following consideration of such items as street classification, traffic patterns, existing development, future land uses, community plans, and geographic or natural features.

D. Commercial and high-density residential zoning is typically assigned along streets with a higher road classification.

E. Limited or neighborhood commercial and lower density residential zoning is typically assigned for properties as they proceed farther away from the higher intensity urban activity.

F. Industrial zoning is typically assigned for properties with sufficient access to major transportation routes and may be situated away from residential zoning.

**ITEM / PROJECT PREVIOUSLY REVIEWED BY COUNCIL ON:** N/A

**APPROVED OR DIRECTION GIVEN:** Following the May 25, 2022, public hearing, the Planning and Zoning Commission considered all relevant evidence, testimony, and comments. A motion to recommend approval of the recommended zoning was made, the motion carried a majority of the Commission. The Planning and Zoning Commission hereby recommends that City Council approve the proposal, finding that it conforms to the general purpose of the comprehensive plan and meets all the applicable approval criteria for applicant’s request for Community Commercial Mixed (CCM) zoning. Further, the Commission recommends restricting the multifamily component to be 28.5% and limited to the north side of West Pointe Parkway and may not exceed 380’ of the frontage along West Pointe Parkway.

**FISCAL IMPACT OR OTHER SOURCE OF FUNDING:** N/A

**BUDGET CODE:** N/A
SUPPORTING DOCUMENTS:

STAFF EXHIBITS:

Exhibit S-5 Planning and Zoning Commission Staff Report
Exhibit A-1 Application
Exhibit A-2 Narrative
Exhibit A-3 Title Report
Exhibit S-1 Vicinity Map
Exhibit S-2 Zoning Map
Exhibit S-3 Future Land Use Map
Exhibit S-4 Proposed Draft Development Agreement
Exhibit PA-1 PFPD Comments
Exhibit PA-2 KCFR Comments
Exhibit PA-3 DEQ Comments
Exhibit PC-1 Burd Comments
Exhibit PC-2 Schreiber Comments
Exhibit PC-3 Flippen Comments
Exhibit PC-4 Kienbaum Comments
Exhibit S-4 Signed Zoning Development Agreement
Exhibit S-6 Signed Minutes 5-25-2022
Exhibit S-7 Signed Zoning Recommendation
Exhibit PC-5 Jacklin Comments
Exhibit PC-6 McCone Comments
INTRODUCTION:

Nate Ballard of Wadsworth Development Group has requested approval to rezone approximately 54.1 acres in the City of Post Falls from Industrial (I) and Community Commercial Service (CCS) zoning to the Community Commercial Mixed (CCM) zoning district. The Planning & Zoning Commission must conduct a public hearing and determine if the requested zone change meets the approval criteria contained in Municipal Code Section 18.16.010 and 18.20.100. Following the public hearing, the Planning Commission will direct staff to prepare a Reasoned Decision, along with any appropriate conditions, that explains how the approval criteria are/are not met. The Planning Commission will review and approve the final Reasoned Decision at a subsequent meeting and will forward its recommendation to the City Council who will determine if the property should be rezoned and, if so, make a final determination on the appropriate zoning. The approval criteria are:

A. Amendments to the zoning map should be in accordance with the Future Land Use Map.
B. Amendments to the zoning map should be in accordance with the goals and policies found in the Post Falls Comprehensive Plan.
C. Zoning is assigned following consideration of such items as street classification, traffic patterns, existing development, future land uses, community plans, and geographic or natural features.
D. Commercial and high-density residential zoning is typically assigned along streets with a higher road classification.
E. Limited or neighborhood commercial and lower density residential zoning is typically assigned for properties as they proceed farther away from the higher intensity urban activity.
F. Industrial zoning is typically assigned for properties with sufficient access to major transportation routes and may be situated away from residential zoning.

PROJECT INFORMATION:

Project Name / File Number: The Pointe Zone Change, File No. RNZE-0001-2022
Owner: The Pointe Partners, LLC, 166 E 14000 S, Suite 210, Draper, Utah 84020
Applicant: Nate Ballard, Wadsworth Group, 166 E 14000 S, Suite 210, Draper, Utah 84020
Project Description: Rezone approximately 54.1 acres in the City of Post Falls from Industrial (I) and Community Commercial Service (CCS) zoning to the Community Commercial Mixed (CCM) zoning district.

AREA CONTEXT:

Project Location: In general, the site is located, west of Baugh Way, north of I-90, and south of Seltice Way, See Exhibit A-4.

Water Provider: The City of Post Falls

Sewer Provider: The City of Post Falls

Surrounding Land Uses: This site is within the planned Pointe Commercial Development Area with Walmart, Cabela’s, Panda Express, and a developing RV park near the requested Zone Change.

Area Context Map:

EVALUATION OF ZONE CHANGE APPROVAL/REVIEW CRITERIA:

A. Amendments to the zoning map should be in accordance with the Future Land Use Map. The Future Land Use Map designated this property with the land use designation of Business/Commercial, the following are the implementing zoning districts of this land use designation.
Implementing Zoning Districts: LC, CCS, CCM, TM, R-2, R-3, SC4, SC5, Per Focus Area

The Community Commercial Mixed (CCM) zoning district is an implementing zoning district outright. The existing Industrial (I) zone is not an implementing zoning district. The applicable Focus Area for this project is the Riverbend Focus Area, which provides the following:

This is a developing mixed-use center, taking advantage of proximity to the state line attracting business and customers from the Spokane metro area. The second largest industrial park in the region, "Riverbend Commerce Park" is within this planning area. This area has become home to not only residences that desire to be perfectly situated between Coeur d'Alene and Spokane, but to some nationally renowned businesses such as WalMart, Cabela's, Sysco, ALKAiboa, Buck Knives, and Tedder Industries. There is also a Workforce Training Center and a University of Idaho Research Park to compliment the Riverbend developments. This area should continue to evolve, attracting commercial businesses, high tech companies, hotels, entertainment establishments, and potentially additional residential.

The following items affirm or guide development of key policies for this area, or suggest future action items for the Riverbend focus area:

- Buffering between high and low-intensity development patterns should be maintained, employing use buffering and physical distance between said patterns;
- Maximize opportunities to improve river access.

B. Amendments to the zoning map should be in accordance with the goals and policies found in the Post Falls Comprehensive Plan. The following Goals and Policies that may be relevant to this request are provided below, followed by staff comments.

Goal 1: Grow and sustain a balanced, resilient economy for Post Falls, providing community prosperity and fiscal health.

Staff Comment: Creating a diverse community with housing near neighborhood commercial activities assists creating live, work, play neighborhoods. Additionally, it may reduce the reliance of services being rendered on more highly trafficked corridors. The CCM zoning district states the following:

The Community Commercial Mixed (CCM) zone is intended to accommodate both commercial and high-density residential development at densities permitted by the high-density multi-family residential (R3) zone in a mixed-use development pattern. This zone should be applied in areas primarily located near arterials and collector streets to support commercial, residential, professional office, and civic uses that support an accessible work, live, and shop environment. Approval of the Community Commercial Mixed (CCM) zone requires a development agreement regulating the development site as provided in section 18.20.190 of this title.

a. The CCM zone is appropriate for:

i. Areas designated Commercial, Commercial Mixed, Business Industrial, or Transitional in the Comprehensive Plan.

ii. Areas readily serviced by collector and arterial streets suitable for higher levels of traffic.

iii. Areas where other public services are sufficiently available for the intensity of use
iv. Areas where the configuration of municipal infrastructure and neighboring land uses are compatible with the uses allowed in the CCM zone.

The Development Agreement attached per Exhibit S-4 provides the following multi-family apartment limitation:

**Multi-Family Apartment Limitation:** Owner agrees that no more than 15.4 acres of the Property (28.5% of the Property) may be used for multi-family development. Additionally, Owner agrees that all multi-family development must be located north of West Pointe Parkway and the multi-family development may not exceed 380 feet of frontage on that street and be consistent with the associated development.

**Goal 3:** Maintain and improve Post Falls’ small-town scale, charm, and aesthetic beauty.

Whether newly arrived or long-term, residents of Post Falls often cite the community’s “small-town charm,” its modest size, and its valley setting with open space prairie and the Spokane River as attractive features. Due to this, many of the goals, policies and programs contained in the Comprehensive Plan help retain the City’s lower-scale, walkable, small-lot development patterns common in early Post Falls, while at the same time, providing for urban growth in other, appropriate areas; support the development of cultural features and activities; and direct land use decisions encouraging infill and thoughtful expansion.

**Staff Comment:**

Placing community commercial services and some additional attainable housing (multi-family) at this location may be an appropriate area for more intense urban growth supporting an accessible work, live, and shop environment in an area serviced by a street suitable for higher levels of traffic.

Placing community commercial services and some additional attainable housing (multi-family) at this location may not be appropriate as it may be contrary to retaining the City’s lower-scale, walkable, small-lot development patterns in the area.

If relevant, the Commission and Council must determine if the proposal maintains and improves the Cities small-town scale, charm, and aesthetic beauty.

**Goal 5:** Keep Post Falls’ neighborhoods safe, vital, and attractive.

Residents prize the character and unhurried pace of Post Falls neighborhoods, and wish to ensure their neighborhoods are kept safe, active, and aesthetically pleasing. Supporting this goal, a diverse set of policies have been provided, including encouraging attractive, pedestrian-friendly development, provision of diverse housing types, parks facilities, and neighborhood-scale commercial services.

**Goal 7:** Plan for and establish types and quantities of land uses in Post Falls supporting community needs and the City’s long-term sustainability.

Cities exercise considerable influence over land use, in turn influencing the type and character of development, patterns of growth, and the short and long-term financial impact of growth on the local economy. Consequently, the Comprehensive Plan supports the allocation of land use types, parks features and other areas sufficient to achieve overall plan objectives.

**Goal 8:** Protect and maintain Post Falls’ natural resources including clean air, soils, river, and aquifer, and minimizing light and noise pollution citywide.
City livability, health and value are fully dependent on clean, safe, and sustainable natural resources. This goal underscores Post Falls’ commitment to maintaining its natural resources as a top priority, recognizing them as essential to the community’s survival.

**Goal 12: Maintain the City of Post Falls’ long-term fiscal health.**

Services that cities provide cannot be sustained without fiscal balance and accountability. This goal serves to anchor the City of Post Falls’ obligation to sustain its fiscal health – achieved through the gathering of income in responsible, equitable ways, and through decisions, investments and actions that provide ratepayers with efficient, effective services now and in the future.

**Goal 14: Involve the community of Post Falls in all local government planning and decision-making.**

The development of the Comprehensive Plan is community-driven, involving numerous residents including some representing large groups of residents. For plans to succeed, community buy-in and support is critical. Future conditions will certainly require the creation of new objectives and strategies, and this goal supports keeping residents highly involved in such work.

The following policies may or may not assist the review of this Zone Change request.

**Policy 1:** Support land use patterns that:

- Maintain or enhance community levels of service;

  Staff Comment: Impact Fees are paid at the time of permit issuance to assist maintaining the community levels of service. Residential uses contribute to park impact fees where commercial uses do not. Both contribute to Public Safety and Streets. The associated development agreement require the developer to perform sewer and transportation studies prior to the issuance of any multi-family building permits and to provide any identified mitigations from the studies prior to certificates of occupancy.

- Foster the long-term fiscal health of the community;

  Staff Comment: Providing the opportunities for creating the variety of service, retail, office, and mixed housing such as this proposal may further the establishment of having residential housing within walking distance of commercial uses to create sustainable and independent living communities. The interaction between these uses may increase their value and assist in contributing to the long-term fiscal health of the community.

- Maintain and enhance resident quality of life;

  Staff Comment: Providing the opportunities for creating the variety of service, retail, office, and mixed housing such as this proposal may further the establishment of having residential housing within walking distance of commercial uses to create sustainable and independent living communities, which may assist maintaining and enhancing the residential quality of life.

- Promote compatible, well-designed development;

  Staff Comment: As stated previously, providing the opportunity for creating a variety of service, retail, office, and mixed housing as this proposal may offer and could further the formation of residential housing within walking distance of commercial uses to create sustainable and independent living communities.
• Implement goals and policies of the comprehensive plan, related master plan and/or facility plans.

Staff Comment: To be garnered from the collective analysis in this report.

Policy 2: Apply or revise zoning designations with careful consideration of factors including:

- Future land use mapping;

Staff Comment: This is addressed by the first review criteria in Section A of this report.

- Compatibility with the surrounding land uses;

Staff Comment: This site is within the planned Pointe Commercial Development Area with Walmart, Cabela’s, Panda Express, and a developing RV park near the requested Zone Change.

- Infrastructure and service plans;

Staff Comment: Water and sanitary sewer are available to the site and would be provided by the City of Post Falls. The Owner has agreed to perform a sewer study prior to the issuance of any building permits on multi-family development and that any identified mitigation will be in place prior to the issuance of any certificates of occupancy. The City of Post Falls has the capacity and is willing to serve the property at the requested zoning, subject to any modifications identified in required studies.

- Existing and future traffic patterns;

Staff Comment: The requested zoning is consistent with the anticipated land uses and trip generations within the City’s Transportation Master Plan. The Owner has agreed to perform a traffic study prior to the issuance of any building permits on multi-family development and that any identified mitigation will be in place prior to the issuance of any certificates of occupancy. Further analysis can be found in the third review criteria in Section C of this report.

- Goals and policies of the comprehensive plan, related master plan and/or facility plans.

Staff Comment: The response to this is embedded within the analysis within this section.

Policy 3: Encourage development patterns that provide suitably scaled, daily needs services within walking distance of residential areas, allowing a measure of independence for those who cannot or choose not to drive.

Staff Comment: The Community Commercial Mixed (CCM) zone is intended to accommodate both commercial and high-density residential development. This site is within the planned Pointe Commercial Development Area with Walmart, Cabela’s, Panda Express, and a developing RV park near the requested Zone Change.

Policy 7: Encourage the development of off-corridor access and circulation for commercial and mixed-use areas abutting limited-access arterials.

Staff Comment: The CCM zone in this area may provide this opportunity.

Policy 8: Encourage compatible infill development and redevelopment of vacant and under-utilized properties within City limits.

Staff Comment: Redevelopment of this area may be considered infill and may be under-
utilized. If relevant, the Commission and Council must determine whether the development is compatible and under-utilized.

C. Zoning is assigned following consideration of such items as street classification, traffic patterns, existing development, future land uses, community plans, and geographic or natural features.

**Streets/Traffic:** The proposed Zone Change area is adjacent to Interstate 90 and bisected by Pointe Parkway which provides access to I90. There is additional access from the site to Seltice Way, a Principle Arterial roadway, via Beck Road (Minor Arterial) and Baugh Way (Local Commercial). The requested zoning is in general conformance with the anticipated land uses and trip generations within the City’s Transportation Master Plan. The Owner has agreed to perform a traffic study prior to the issuance of any building permits on multi-family development and that any identified mitigation will be in place prior to the issuance of any certificates of occupancy. A traffic study will verify potential impacts from multi-family development and allow for adjustment of signal timing to maintain system efficiency from any revisions to the zoning. Based on current zoning and projected growth; Pointe Parkway is currently estimated to be utilizing 13% of the roadway capacity (west of Beck Road) and 40% (east of Beck Road) in 2035.

**Water and Sanitary Sewer:** Water and sanitary sewer are available to the site. Sanitary Sewer would be provided by the City of Post Falls. The requested zoning is in general conformance with the land use assumptions in the City’s Sanitary Sewer Master Plan. The Owner has agreed to perform a sewer study prior to the issuance of any building permits on multi-family development and that any identified mitigation will be in place prior to the issuance of any certificates of occupancy. The City of Post Falls has the capacity and is willing to provide sanitary sewer service the property at the requested zoning based on any identified modifications to the system are made prior to issuance of certificates of occupancy.

Water Service is provided by The City of Post Falls and there are no capacity or service concerns.

**Compatibility with Existing Development and Future Uses:**

This site is within the planned Pointe Commercial Development Area with Walmart, Cabela’s, Panda Express, and a developing RV park near the requested Zone Change.

**Future Land Use Designation:**

Exhibit S-3: Future Land Use Map, depicts the land use designation for this area as Business/Commercial. The proposed CCM Zone may be allowable per the direction of the Riverbend Focus Area and the road classification of Pointe Parkway.
Community Plans: As previously stated this is within the Riverbend Focus Area within the Post Falls Comprehensive Plan.

Geographic/Natural Features:
The site contains no geographic or other natural features that would affect development of the site. This site is over the Rathdrum Prairie Aquifer.

D. Commercial and high-density residential zoning is typically assigned along streets with a higher road classification.
   Staff Comment: The proposed zone is located along higher classified roadways. Seltice Way is classified as a Principal Arterial. Beck Road is a Minor Arterial and Pointe Parkway provides access to Interstate 90.

E. Limited or neighborhood commercial and lower density residential zoning is typically assigned for properties as they proceed farther away from the higher intensity urban activity.
   Staff Comment: This location is within a planned higher intensity urban activity area.
F. Industrial zoning is typically assigned for properties with sufficient access to major transportation routes and may be situated away from residential zoning.

Staff Comment: The existing zoning is Industrial (I) and could be considered inconsistent with the approved Site Plan and is not an implementing zoning district in the Business commercial Land Use designation.

OTHER AGENCY RESPONSE & RECEIVED WRITTEN COMMENTS:

Agencies Notified:

<table>
<thead>
<tr>
<th>Post Falls Post Office</th>
<th>PF Park &amp; Rec</th>
<th>East Greenacres Irr. District</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kootenai County Fire</td>
<td>Kootenai Electric</td>
<td>Time Warner Cable</td>
</tr>
<tr>
<td>PF Highway District</td>
<td>Ross Point Water</td>
<td>PF Police Department</td>
</tr>
<tr>
<td>PF School District</td>
<td>Verizon</td>
<td>Utilities (W/WW)</td>
</tr>
<tr>
<td>Avista Corp. (WWP-3)</td>
<td>Idaho Department of Lands</td>
<td>Urban Renewal Agency</td>
</tr>
<tr>
<td>Department of Environmental Quality</td>
<td>Panhandle Health District</td>
<td>Kootenai County Planning</td>
</tr>
<tr>
<td>Conoco, Inc. (Pipeline Co.)</td>
<td>NW Pipeline Corp.</td>
<td>KMPO</td>
</tr>
<tr>
<td>Yellowstone Pipeline Co.</td>
<td>TransCanada GTN</td>
<td>TDS</td>
</tr>
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</table>

➢ Post Falls Police Department (Exhibit PA-1) – Remain neutral
➢ Kootenai Council Fire & Rescue (Exhibit PA-2) - Comment throughout any future review and permitting processes.
➢ Idaho Department of Environmental Quality (Exhibit PA-3) – Gave general comments for time of construction.

MOTION OPTIONS: The Planning Commission must provide a recommendation of zoning to the City Council along with an evaluation of how the proposed development does/does not meet the required evaluation criteria. Should the Commission need additional information or wish to hear additional testimony, it may wish to move to continue the public hearing to a date certain. If the Commission has heard sufficient testimony but needs additional time to deliberate and make a recommendation, it may close the public hearing and move the deliberations to a date certain.
## ATTACHMENTS:

### Applicant Exhibits:
- Exhibit A-1: Application
- Exhibit A-2: Narrative
- Exhibit A-5: Title Report

### Staff Exhibits:
- Exhibit S-1: Vicinity Map
- Exhibit S-2: Zoning Map
- Exhibit S-3: Future Land Use Map
- Exhibit S-4: Proposed Draft Development Agreement

### Testimony:
- Exhibit PA-1: PFPD Comments
- Exhibit PA-2: KCFR Comments
- Exhibit PA-3: DEQ Comments
- Exhibit PC-1: Burd Comments
- Exhibit PC-2: Schreiber Comments
- Exhibit PC-3: Flippen Comments
- Exhibit PC-4: Kienbaum Comments
PART 1 – Process of Completion and Public Hearing Schedule

1. Applications will need to be deemed complete by the Planning Department prior to being scheduled for a public hearing. Once the applicant has been issued a completeness letter from the Planning Department verifying the application is complete, the application will be eligible to be scheduled at the next available Public Hearing.

2. Each Completeness Review Period, will be reviewed within a 2-week period

3. There is a 45-day cut-off windows for a fully completed application (deemed complete) required, prior to being scheduled for the next available Public Hearing (See Note Below).

***NOTE: Once we have 4 Public Hearings the following applicants will be moved to the next month’s Hearing Date.***

PART 1/A – REQUIRED MATERIAL

**THE APPLICATION WILL NOT BE ACCEPTED IF THE REQUIRED MATERIALS ARE NOT PROVIDED**

An Amendment of the Zoning Ordinance, including the Official Zoning Map, consists of amending, supplementing, changing or repealing of regulations, restrictions and/or boundaries.

☐ Completed application form

☐ Application fee

☐ A written narrative: Including zoning, how proposal relates to Annexation Goals and Policies, and the impact on City services.

☐ A legal description: in MS Word compatible format, together with a meets and bounds map.

☐ A report(s) by an Idaho licensed Title Company: showing ownership of record, any interest of record, and a list of property owners of record within 300 feet of external boundaries of the subject property and mailing labels, provided by the Title Company.

☐ A vicinity map: To scale, showing property lines, thoroughfares, existing and proposed zoning, etc.

☐ Public hearing notification: By a Title Company licensed in the state of Idaho, as to ownership of record and any interest of record in the subject property. Provide a report of property owners within 300 feet of the external boundaries of the proposed development. The applicant will incur a public hearing mailing fee in the amount of $5.00 per hearing notice per property within the 300 feet radius. Applications are required to two (2) publication notices in the local newspaper and $300 per public hearing, of which can be paid at the time of application.  ****NOTE**** if the notices are not
**PART 2 – APPLICATION INFORMATION**

<table>
<thead>
<tr>
<th>PROPERTY OWNER:</th>
<th>The Pointe Partners, LLC</th>
</tr>
</thead>
<tbody>
<tr>
<td>MAILING ADDRESS:</td>
<td>166 E 14000 S, Suite 210</td>
</tr>
<tr>
<td>CITY:</td>
<td>Draper</td>
</tr>
<tr>
<td>STATE:</td>
<td>Utah</td>
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<tr>
<td>ZIP:</td>
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<tr>
<td>PHONE:</td>
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<tr>
<td>FAX:</td>
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<tr>
<td>EMAIL:</td>
<td><a href="mailto:Nate@wadsdev.com">Nate@wadsdev.com</a></td>
</tr>
<tr>
<td>OWNER SIGNATURE:</td>
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<tr>
<td>DATE:</td>
<td>01/27/2022</td>
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<tr>
<td>APPLICANT STATUS:OWNER: YES</td>
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<tr>
<td>AGENT:</td>
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<tr>
<td>CONTRACT BUYER:</td>
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<td>ENGINEER:</td>
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<tr>
<td>PLANNER:</td>
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<tr>
<td>OTHER:</td>
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<tr>
<td>APPLICANT NAME:</td>
<td>Wadsworth Development Group</td>
</tr>
<tr>
<td>MAILING ADDRESS:</td>
<td>166 E 14000 S, Suite 210</td>
</tr>
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<td>Utah</td>
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<td>84020</td>
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<td>APPLICANT PHONE:</td>
<td>801-748-4088</td>
</tr>
<tr>
<td>FAX:</td>
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<tr>
<td>EMAIL:</td>
<td><a href="mailto:Nate@wadsdev.com">Nate@wadsdev.com</a></td>
</tr>
<tr>
<td>APPLICANT SIGNATURE:</td>
<td></td>
</tr>
<tr>
<td>DATE:</td>
<td>01/27/2022</td>
</tr>
</tbody>
</table>

**AMENDMENT INFORMATION:**

**SECTION(S) OF THE ORDINANCE TO BE AMENDED:**

A Zoning Change requested from Industrial to CCM for the parcels described in the attached.

**PROPERTY LEGAL DESCRIPTION (ATTACH OR DESCRIBE):**

Please see the attached parcel numbers and legal descriptions.

**TAX PARCEL #:** Please see attached

<table>
<thead>
<tr>
<th>EXISTING ZONING:</th>
<th>Industrial</th>
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<tbody>
<tr>
<td>ADJACENT ZONING:</td>
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</table>

<table>
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</thead>
<tbody>
<tr>
<td>ADJACENT LAND USE:</td>
<td>Vacant</td>
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</tbody>
</table>

**DESCRIPTION OF PROJECT/REASON FOR REQUEST:**

The owner of the property is requesting a change of zone from Industrial to Community Commercial Mixed (CCM) for a portion of the lots located within The Pointe at Post Falls (The Pointe), a 170-acre mixed-use development in the Riverbend Focus Area of Post Falls. Please see the attached Narrative for a more complete reasoning for this request.
PART 3 – CERTIFICATION

The applicant (or representative) must be present at the public hearing to represent this proposal, or the application will not be heard. The applicant will be responsible for costs to re-notice the public hearing.

Petitioner’s name(s), address, and phone number:

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nate Ballard</td>
<td>166 E 14000 S, Suite 210, Draper, UT 84020</td>
<td>801-748-4088</td>
</tr>
</tbody>
</table>

MAP AMENDMENT ACKNOWLEDGEMENT:

I (We) the undersigned do hereby make petition for a modification of the zoning classification of the property described in this petition, and do certify that we have provided accurate information as required by this petition form, to the best of my (our) ability.

Be advised that all exhibits presented will need to be identified at the meeting, entered into the record, and retained in the file.

DATED THIS 27th DAY OF January 2022
Wadsworth Development Group (WDG), as applicant is requesting a change of zone from Industrial to Community Commercial Mixed (CCM) for a portion of the lots located within The Pointe at Post Falls (The Pointe), a 170-acre mixed-use development in the Riverbend Focus Area of Post Falls.

History
WDG purchased The Pointe property in 2013 from the original developer. The original marketing direction for the center was to attract big-box retailers and create a regional shopping center. In 2013, the development plan stalled with only Cabela’s and Walmart being constructed in the entire project and only West Pointe Parkway and a part of Baugh Way being completed. After taking over the project, WDG has constructed infrastructure including multiple roads and has extended Beck Road from Seltice Way to West Pointe Parkway.

Since 2013, the development and marketing plans have been adapted to meet market demands. The demand for big-box, regional retail centers continue to decrease year over year. New market demands show strong support for a balanced work/life environment that involves less commuting and promotes living in a mixed-use community. Creating a space where residents can work, live, shop, and play is the new direction The Pointe is aiming for. This mix of uses allow for individuals to live, work, shop, and play in close proximity while concurrently saving time and money.

Property Location
The Pointe is located within the City’s Riverbend Focus Area (Riverbend). The City of Post Falls’ Comprehensive Plan adopted in 2020 describes this focus area as a “developing mixed use center, taking advantage of the proximity to the state line attracting business and customers from the Spokane metro area.” Riverbend is the second largest industrial park in the region and is home to residences and nationally renowned businesses such as WalMart, Cabela’s, Sysco, ALK Abello, Buck Knives, and Tedder Industries. The focus area also includes a Workforce Training Center and a University of Idaho Research Park. The Comprehensive Plan goes on to state that the Riverbend focus area “should continue to evolve, attracting commercial businesses, high tech companies, hotels, entertainment establishments, and potentially additional residential.”

Proposed Zoning
WDG respectively requests that the Industrial Zoning for the subject property be changed to Community Commercial Mixed. The subject property is approximately 54.1 acres and includes parcels on both sides of West Pointe Parkway between Cabela’s and Walmart.

The current Industrial Zoning designation has deterred retail and other commercial businesses from locating to the site as evident by the lack of development throughout the park over the years. Should the zoning remain industrial, it is likely that these parcels within The Pointe will remain undeveloped for some time.
Changing the current zone to the Community Commercial Mixed zoning, would bring the zoning in line with the City’s 2020 Comprehensive Plan for the Riverbend focus area by adding commercial and residential use. The national businesses and retail stores that once looked at this area would be enticed to relocate to this area with this change in zoning. The CCM zone would allow for commercial development and for mixed-use buildings. This change will help achieve the City’s goals for this focus area by attract commercial businesses, tech companies, hotels, entertainment and potentially residential options. This change will also bring opportunities for residents to live, work and play in close proximity while concurrently saving time and money by reducing commuting costs. Having the CCM zone at this location, right off a highway exit, will also decrease the traffic impact on the City by allowing regional shoppers to access the site via I-90.

The CCM Zone also restricts the use of residential to be less than 50%. The owner has talked with several national retailers and businesses who have investigated locating to The Pointe, but ultimately decided to go to Spokane and/or other neighboring cities. The key reason was the same. They all sited the lack of close residential units to support their business. There is a balance needed for commercial and retail spaces to support each other. Having a CCM zone for this area would help strike a balance by allowing some residential that will help attract and support businesses and commercial developments that will better serve the City and the local residences. Changing the zoning to CCM for these parcels will not only help provide jobs to our local community but also reach the goals of the City for this focus area and increase the standard of living for our neighbors.

The requested zoning update will create spaces for residents to live, work, shop, and play all within a new, mixed-use development. Updating the zoning of The Pointe to allow for mixed uses of office, retail, hospitality and multifamily will help create a synergy that will meet market demands and make this a vital and thriving part of the Post Falls community for many years to come.

**City’s Goals and Policies**
The City of Post Falls has evaluated and determined the goals and policies that they want to focus on for their City in their Comprehensive Plan. This zoning change request will help reach and achieve those goal and help the community in several ways.

This change will help create a sustainable community by allowing for mixed use development opportunities that are proven to be more resilient during economic downturns. Commercial uses mixed with residential help support each other and tend to do better during hard times. The properties in this request are next to the highway helping to reduce traffic impact on other neighborhoods throughout the City.

Allowing this zoning change will also help to provide high quality and affordable services to all residents by allowing businesses and other commercial companies to provide services and jobs to the community. This mixed-use helps to create a small town feel by allowing residents, employees and patrons the opportunity to get to know each other as they walk through the well maintained and landscaped sidewalks and trails in this area. With the river and parks so close, this zoning change would allow for you to be only a few minutes away from where you live, work, shop, and connect with nature.
GUARANTEE

Issued by

First American Title Company
1866 North Lakewood Drive, Coeur d'Alene, ID 83814
Title Officer:
Phone: (208)667-0567
FAX: (208)765-2050
1. Except to the extent that specific assurances are provided in Schedule A of this Guarantee, the Company assumes no liability for loss or damage by reason of the following:

(a) Defects, liens, encumbrances, adverse claims or other matters against the title, whether or not shown by the public records.

(b) (1) Taxes or assessments of any taxing authority that levies taxes or assessments on real property; or (2) Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not the matters excluded under (1) or (2) are shown by the records of the taxing authority or by the public records.

(c) (1) Unpatented mining claims; (2) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (3) water rights, claims or title to water, whether or not the matters excluded under (1), (2) or (3) are shown by the public records.

2. Notwithstanding any specific assurances which are provided in Schedule A of this Guarantee, the Company assumes no liability for loss or damage by reason of the following:

(a) Defects, liens, encumbrances, adverse claims or other matters affecting the title to any property beyond the lines of the land expressly described in the description set forth in Schedule (A), (C) or in Part 2 of this Guarantee, or title to streets, roads, avenues, lanes, ways or waterways to which such land abuts, or the right to maintain therein vaults, tunnels, ramps or any structure or improvements; or any rights or easements therein, unless such property, rights or easements are expressly and specifically set forth in said description.

(b) Defects, liens, encumbrances, adverse claims or other matters, whether or not shown by the public records; (1) which are created, suffered, assumed or agreed to by one or more of the Assureds; (2) which result in no loss to the Assured; or (3) which do not result in the invalidity or potential invalidity of any judicial or non-judicial proceeding which is within the scope and purpose of the assurances provided.

(c) The identity of any party shown or referred to in Schedule A.

(d) The validity, legal effect or priority of any matter shown or referred to in this Guarantee.

GURANTEE CONDITIONS AND STIPULATIONS

1. DEFINITION OF TERMS.

The following terms when used in the Guarantee mean:

(a) the "Assured": the party or parties named as the Assured in this Guarantee, or on a supplemental writing executed by the Company.

(b) "land": the land described or referred to in Schedule (A)(C) or in Part 2, and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule (A)(C) or in Part 2, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways.

(c) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.

(d) "public records": records established under state statutes at Date of Guarantee for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge.

(e) "date": the effective date.

2. NOTICE OF CLAIM TO BE GIVEN BY ASSURED CLAIMANT.

An Assured shall notify the Company promptly in writing in case knowledge shall come to an Assured hereunder of any claim of title or interest which is adverse to the title to the estate or interest, as stated herein, and which might cause loss or damage for which the Company may be liable by virtue of this Guarantee. If prompt notice shall not be given to the Company, then all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any Assured unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.

3. NO DUTY TO DEFEND OR PROSECUTE.

The Company shall have no duty to defend or prosecute any action or proceeding to which the Assured is a party, notwithstanding the nature of any allegation in such action or proceeding.

4. COMPANY'S OPTION TO DEFEND OR PROSECUTE ACTIONS; DUTY OF ASSURED CLAIMANT TO COOPERATE.

Even though the Company has no duty to defend or prosecute as set forth in Paragraph 3 above:

(a) The Company shall have the right, at its sole option and cost, to institute and prosecute any action or proceeding, interpose a defense, as limited in (b), or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest as stated herein, or to establish the lien rights of the Assured, or to prevent or reduce loss or damage to the Assured. The Company may take any appropriate action under the terms of this Guarantee, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this Guarantee. If the Company shall exercise its rights under this paragraph, it shall do so diligently.

(b) If the Company elects to exercise its options as stated in Paragraph 4(a) the Company shall have the right to select counsel of its choice (subject to the right of such Assured to object for reasonable cause) to represent the Assured and shall not be liable for and will not pay the fees of any other counsel, nor will the Company pay any fees, costs or expenses incurred by an Assured in the defense of those causes of action which allege matters not covered by this Guarantee.

(c) Whenever the Company shall have brought an action or interposed a defense as permitted by the provisions of
GUARANTEE CONDITIONS AND STIPULATIONS (Continued)

this Guarantee, the Company may pursue any litigations to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from an adverse judgment or order.

(d) In all cases where this Guarantee permits the Company to prosecute or provide for the defense of any action or proceeding, an Assured shall secure to the Company the right to so prosecute or provide for the defense of any action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of such Assured for this purpose. Whenever requested by the Company, an Assured, at the Company’s expense, shall give the Company all reasonable aid in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest as stated herein, or to establish the lien rights of the Assured. If the Company is prejudiced by the failure of the Assured to furnish the required cooperation, the Company’s obligations to the Assured under the Guarantee shall terminate.

5. PROOF OF LOSS OR DAMAGE.

In addition to and after the notices required under Section 2 of these Conditions and Stipulations have been provided to the Company, a proof of loss or damage signed and sworn to by the Assured shall be furnished to the Company within ninety (90) days after the Assured shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the matters covered by this Guarantee which constitute the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the Assured to provide the required proof of loss or damage, the Company’s obligation to such Assured under the Guarantee shall terminate. In addition, the Assured may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Guarantee, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Assured shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the Assured provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Assured to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in the above paragraph, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this Guarantee to the Assured for that claim.

6. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS: TERMINATION OF LIABILITY.

In case of a claim under this Guarantee, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Liability or to Purchase the Indebtedness.

The Company shall have the option to pay or settle or compromise for or in the name of the Assured any claim which could result in loss to the Assured within the coverage of this Guarantee, or to pay the full amount of this Guarantee or, if this Guarantee is issued for the benefit of a holder of a mortgage or a lienholder, the Company shall have the option to purchase the indebtedness secured by said mortgage or said lien for the amount owing thereon, together with any costs, reasonable attorneys’ fees and expenses incurred by the Assured claimant which were authorized by the Company up to the time of purchase. Such purchase, payment or tender of payment of the full amount of the Guarantee shall terminate all liability of the Company hereunder. In the event after notice of claim has been given to the Company by the Assured the Company offers to purchase said indebtedness, the owner of such indebtedness shall transfer and assign said indebtedness, together with any collateral security, to the Company upon payment of the purchase price.

Upon the exercise by the Company of the option provided for in Paragraph (a) the Company’s obligation to the Assured under this Guarantee for the claimed loss or damage, other than to make the payment required in that paragraph, shall terminate, including any obligation to continue the defense or prosecution of any litigation for which the Company has exercised its options under Paragraph 4, and the Guarantee shall be surrendered to the Company for cancellation.

(b) To Pay or Otherwise Settle With Parties Other Than the Assured or With the Assured Claimant.

To pay or otherwise settle with other parties for or in the name of an Assured claimant any claim assured against under this Guarantee, together with any costs, attorneys’ fees and expenses incurred by the Assured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of the option provided for in Paragraph (b), the Company’s obligation to the Assured under this Guarantee for the claimed loss or damage, other than to make the payment required in that paragraph, shall terminate, including any obligation to continue the defense or prosecution of any litigation for which the Company has exercised its options under Paragraph 4.

7. DETERMINATION AND EXTENT OF LIABILITY.

This Guarantee is a contract of Indemnity against actual monetary loss or damage sustained or incurred by the Assured claimant who has suffered loss or damage by reason of reliance upon the assurances set forth in this Guarantee and only to the extent herein described, and subject to the
GUARANTEE CONDITIONS AND STIPULATIONS (Continued)

Exclusions From Coverage of This Guarantee.
The liability of the Company under this Guarantee to the Assured shall not exceed the least of:
(a) the amount of liability stated in Schedule A or in Part 2;
(b) the amount of the unpaid principal indebtedness secured by the mortgage of an Assured mortgagee, as limited or provided under Section 6 of these Conditions and Stipulations or as reduced under Section 9 of these Conditions and Stipulations, at the time the loss or damage assured against by this Guarantee occurs, together with interest thereon; or
(c) the difference between the value of the estate or interest covered hereby as stated herein and the value of the estate or interest subject to any defect, lien or encumbrance assured against by this Guarantee.

8. LIMITATION OF LIABILITY.
(a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures any other matter assured against by this Guarantee in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.
(b) In the event of any litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title, as stated herein.
(c) The Company shall not be liable for loss or damage to any Assured for liability voluntarily assumed by the Assured in settling any claim or suit without the prior written consent of the Company.

9. REDUCTION OF LIABILITY OR TERMINATION OF LIABILITY.
All payments under this Guarantee, except payments made for costs, attorneys' fees and expenses pursuant to Paragraph 4 shall reduce the amount of liability pro tanto.

10. PAYMENT OF LOSS.
(a) No payment shall be made without producing this Guarantee for endorsement of the payment unless the Guarantee has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.
(b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within thirty (30) days thereafter.

11. SUBROGATION UPON PAYMENT OR SETTLEMENT.
Whenever the Company shall have settled and paid a claim under this Guarantee, all right of subrogation shall vest in the Company unaffected by any act of the Assured claimant. The Company shall be subrogated to and be entitled to all rights and remedies which the Assured would have had against any person or property in respect to the claim had this Guarantee not been issued. If requested by the Company, the Assured shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The Assured shall permit the Company to sue, compromise or settle in the name of the Assured and to use the name of the Assured in any transaction or litigation involving these rights or remedies. If a payment on account of a claim does not fully cover the loss of the Assured the Company shall be subrogated to all rights and remedies of the Assured after the Assured shall have recovered its principal, interest, and costs of collection.

12. ARBITRATION.
Unless prohibited by applicable law, either the Company or the Assured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Assured arising out of or relating to this Guarantee, any service of the Company in connection with its issuance or the breach of a Guarantee provision or other obligation. All arbitrable matters when the Amount of Liability is $1,000,000 or less shall be arbitrated at the option of either the Company or the Assured. All arbitrable matters when the amount of liability is in excess of $1,000,000 shall be arbitrated only when agreed to by both the Company and the Assured. The Rules in effect at Date of Guarantee shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the land is located permits a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof. The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules. A copy of the Rules may be obtained from the Company upon request.

13. LIABILITY LIMITED TO THIS GUARANTEE; GUARANTEE ENTIRE CONTRACT.
(a) This Guarantee together with all endorsements, if any, attached hereto by the Company is the entire Guarantee and contract between the Assured and the Company. In interpreting any provision of this Guarantee, this Guarantee shall be construed as a whole.
(b) Any claim of loss or damage, whether or not based on negligence, or any action asserting such claim, shall be restricted to this Guarantee.
(c) No amendment of or endorsement to this Guarantee can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

14. NOTICES, WHERE SENT.
All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this Guarantee and shall be addressed to the Company at First American Title Insurance Company, Attn: Claims National Intake Center, 1 First American Way, Santa Ana, California 92707. Phone: 888-632-1642.
Guarantee

Subdivision or Proposed Subdivision:

Order No.: 878266-C

Reference No.: Fee: $200.00

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE LIMITS OF LIABILITY, AND OTHER PROVISIONS OF THE CONDITIONS AND STIPULATIONS HERETO ANNEXED AND MADE A PART OF THIS GUARANTEE, FIRST AMERICAN TITLE INSURANCE COMPANY, A CORPORATION HEREBIN CALLED THE COMPANY GUARANTEES:

Wadsworth Development

FOR THE PURPOSES OF AIDING ITS COMPLIANCE WITH KOOTENAI COUNTY SUBDIVISION REGULATIONS,

in a sum not exceeding $200.00.

THAT according to those public records which, under the recording laws of the State of Idaho, impart constructive notice of matters affecting the title to the lands described on the attached legal description:

Legal Description attached hereto as Exhibit A, and by this referenced incorporated herein.

(A) Parties having record title interest in said lands whose signatures are necessary under the requirements of Kootenai County Subdivision Regulations on the certificates consenting to the recordation of Plats and offering for dedication any streets, roads, avenues, and other easements offered for dedication by said Plat are:

The Pointe Partners, a Utah limited liability company

(B) Parties holding liens or encumbrances on the title to said lands are:
1. 2020 taxes are an accruing lien, not yet due and payable until the fourth Monday in November of the current year. The first one-half is not delinquent until after December 20 of the current year, the second one-half is not delinquent until after June 20 of the following year.

Taxes which may be assessed and entered on the property roll for 2020 with respect to new improvements and first occupancy, which may be included on the regular property, which are an accruing lien, not yet due and payable.

General taxes as set forth below. Any amounts not paid when due will accrue penalties and interest in addition to the amount stated herein:

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Homeowners Exemption is not in effect for 2019.
Circuit breaker is not in effect for 2019.
Agricultural Exemption is not in effect for 2019.
2. Deed of Trust with Assignment of Rents, Security Agreement and Fixture Filing dated December 11, 2015, to secure an original indebtedness of $30,000,000.00, and any other amounts and/or obligations secured thereby
   Recorded: December 16, 2015, as Instrument No. 2526910000
   Grantor: The Pointe Partners, LLC, a Utah limited liability company
   Trustee: First American Title and Escrow Company
   Beneficiary: Zions First National Bank

   Assignment of Rents by instrument recorded December 16, 2015, as Instrument No. 2526911000.

   By instrument recorded July 5, 2016, as Instrument No. 2552235000, the beneficiary of said deed of trust appointed First American Title and Escrow Company as successor trustee.

   Supplemental Trust Deed recorded May 1, 2017 as Instrument No. 2593880000.

   Supplemental Assignment of Leases recorded May 1, 2017 as Instrument No. 2593881000.

   Second Supplemental Trust Deed recorded November 22, 2017 as Instrument No. 2621577000.

   Second Supplemental Assignment of Leases recorded November 22, 2017 as Instrument No. 2621578000.

   Third Supplemental Trust Deed recorded June 21, 2019 as Instrument No. 2598421000.

   Third Supplemental Assignment of Leases recorded June 21, 2019 as Instrument No. 2698422000.

(C) Easements, claims of easements and restriction agreements of record are:

3. Levies and assessments of East Greenacres Irrigation District for which we find no delinquencies of record.


5. Easement for electric transmission and/or distribution line or system granted to Kootenai Electric Cooperative, Inc., recorded April 24, 2002, as Instrument No. 1729758.


7. Easement for right of way granted to City of Post Falls, recorded February 24, 2004, as Instrument No. 1859986.

8. Easement for access and utility granted to City of Post Falls, recorded July 9, 2004, as Instrument No. 1887076.

9. Easement for sewer granted to City of Post Falls, recorded November 22, 2004, as Instrument No. 1914405.

10. Easement for right of way granted to City of Post Falls, recorded November 22, 2004, as Instrument No. 1914410.
11. Easement for sewer, access and utility granted to City of Post Falls, recorded November 22, 2004, as Instrument No. 1914406.

12. Easement for utility, sidewalk and drainage granted to City of Post Falls, recorded November 22, 2004, as Instrument No. 1914411.

13. Easement for utility, sidewalk and drainage granted to City of Post Falls, recorded November 22, 2004, as Instrument No. 1914412.

14. Easement for utility, sidewalk and drainage granted to City of Post Falls, recorded November 22, 2004, as Instrument No. 1914413.

15. Easement for sewer granted to City of Post Falls, recorded November 22, 2004, as Instrument No. 1914407.

16. Easement for right of way granted to City of Post Falls, recorded November 22, 2004, as Instrument No. 1914404.

17. Easements, terms and conditions contained in Ordinance No. 1059, for right of way vacation, recorded March 1, 2005 as Instrument No. 1932489.


19. Operation and Reciprocal Easement Agreement upon the terms, conditions and provisions contained therein:
   Parties: The Pointe, LLC, a Delaware limited liability company and Cabclo's Retail, Inc., a Nebraska corporation
   Recorded: November 15, 2006, Instrument No. 2067237000

   First Amendment to Operation and Reciprocal Easement Agreement, recorded November 7, 2007 as Instrument No. 2130751000.

   Second Amendment to Operation and Reciprocal Easement Agreement, recorded April 22, 2008 as Instrument No. 2155337000.

   Third Amendment to Operation and Reciprocal Easement Agreement, recorded January 9, 2012 as Instrument No. 2341596000.

20. Master Development Agreement upon the terms, conditions and provisions contained therein:
   Parties: City of Post Falls and The Pointe, LLC
   Recorded: February 8, 2008, Instrument No. 2143941000

21. Master Development Agreement upon the terms, conditions and provisions contained therein:
   Parties: City of Post Falls and The Pointe, LLC
   Recorded: April 1, 2008, Instrument No. 2151921000

22. Easements with Covenants, Conditions and Restrictions recorded as Instrument No. 2155339000, 2624904000, but omitting any covenant, condition or restriction based on race, color, religion, sex, handicap, familial status, or national origin to the extent that such covenants, conditions or restrictions violate 42 USC 3604(c).
23. Covenants, conditions, easements and restrictions on the recorded plat of said subdivision but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c).

24. Easement for electric equipment granted to Avista Corporation, recorded December 9, 2009, as Instrument No. 2244409000.

25. Easement for private sewer granted to The Pointe, LLC, a Delaware limited liability company, recorded June 9, 2010, as Instrument No. 2268432000.

26. Easement for private waterline granted to The Pointe, LLC, a Delaware limited liability company, recorded June 9, 2010, as Instrument No. 2268433000.

27. Easement for utilities granted to the public, recorded August 10, 2009, as Instrument No. 2226751000.

28. Utility Easement Agreement upon the terms, conditions and provisions contained therein:
   Parties: The Pointe, LLC, a Delaware limited liability company and City of Post Falls
   Recorded: August 21, 2009, Instrument No. 2228741000

29. Existing rights of way, easements and franchise rights of any lot owner or public utility in place at time of vacation.

30. Easement for electric right of way granted to Avista Corporation, a Washington corporation, recorded April 29, 2011, as Instrument No. 2311623000.

31. Easement for roadway, pipelines for water and sewer and utilities granted to City of Post Falls, recorded October 22, 2012, as Instrument No. 2360497000.

32. Provisions in deed to The State of Idaho, Idaho Transportation Board, by and through the Idaho Transportation Department, recorded May 17, 2013, as Instrument No. 2410850000.

33. Provisions in deed to City of Post Falls, a municipal corporation, recorded May 17, 2013, as Instrument No. 2410851000.

34. The following matters, and any rights, easements, interests or claims which may exist by reason thereof, disclosed by an ALTA/NSPS survey made by CLC Associates on April 30, 2013, designated Job No. 13-0033.
   a. sewer manhole in Parcel 3a
   b. 2 power transformers in Parcel 3a

35. Easement for road right of way granted to Kootenai County, recorded January 6, 2014, as Instrument No. 2442050000.

36. Easement granted to Avista Corporation, recorded February 6, 2014, as Instrument No. 2445559000.

37. Master Development Agreement upon the terms, conditions and provisions contained therein:
   Parties: City of Post Falls and The Pointe, LLC, a Utah limited liability company
   Recorded: February 4, 2015, Instrument No. 2485560000

38. Easement granted to City of Post Falls, recorded June 12, 2015, as Instrument No. 2501925000.
39. All matters, covenants, conditions, restrictions, easements and any rights, interests or claims which may exist by reason thereof, disclosed by Record of Survey recorded September 14, 2015, as Instrument Number 2515033000, Book 28 of Surveys, Page 449, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c).

40. Easement for right of way granted to Kootenai Electric Cooperative, Inc., recorded August 12, 2016, as Instrument No. 255781200.

41. Easement for right of way granted to City of Post Falls, recorded December 16, 2016, as Instrument No. 2575937000.

42. All matters, covenants, conditions, restrictions, easements and any rights, interests or claims which may exist by reason thereof, disclosed by the recorded plat of said subdivision, recorded May 18, 2017, in Book L of Plats, Page 147, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin to the extent such covenants, condition or restriction violate 42 USC 3604(c).

43. Covenants, Conditions and Restrictions recorded as Instrument No. 2596773000, but omitting any covenant, condition or restriction based on race, color, religion, sex, handicap, familial status, or national origin to the extent that such covenants, conditions or restrictions violate 42 USC 3604(c).

44. Levies and assessments of The Pointe at Post Falls Owner's Association for which we find no delinquencies of record.

45. All matters, covenants, conditions, restrictions, easements and any rights, interests or claims which may exist by reason thereof, disclosed by Record of Survey recorded August 21, 2017, in Book 29 of Surveys, Page 486, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c).

46. All matters, covenants, conditions, restrictions, easements and any rights, interests or claims which may exist by reason thereof, disclosed by the recorded plat of said subdivision, recorded June 19, 2018, in Book L of Plats, Page 251, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin to the extent such covenants, condition or restriction violate 42 USC 3604(c).

47. Covenants, Conditions and Restrictions recorded as Instrument No. 2649329000, but omitting any covenant, condition or restriction based on race, color, religion, sex, handicap, familial status, or national origin to the extent that such covenants, conditions or restrictions violate 42 USC 3604(c).

48. Cross-Access and Temporary Construction Easement Agreement upon the terms, conditions and provisions contained therein:
   Parties: Cft NV Developments, LLC, a Nevada limited liability company and The Pointe Partners, LLC, a Utah limited liability company
   Recorded: June 22, 2018, Instrument No. 2649331000

49. Easements, terms and conditions contained in Ordinance No. 1341, for right of way vacation, recorded July 5, 2018 as Instrument No. 2651064000.

50. All matters, covenants, conditions, restrictions, easements and any rights, interests or claims which may exist by reason thereof, disclosed by the recorded plat of said subdivision, recorded December 26, 2018, in Book L of Plats, Page 294, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin to the extent such covenants, condition or restriction violate 42 USC 3604(c).
51. Easement for right of way granted to Kootenai Electric Cooperative, Inc., recorded February 12, 2019, as Instrument No. 2680605000.

Date of Guarantee: January 06, 2020 at 7:30 A.M.

First American Title Company

[Signature]

By:

Authorized Countersignature
EXHIBIT A

PARCEL 2B:

THAT PORTION OF THE BELOW DESCRIBED PARCEL THAT LIES NORTH OF PARCEL DEEDED TO THE CITY OF POST FALLS UNDER DEED RECORDED JANUARY 29, 2004 AS INSTRUMENT NO. 1855749 AND NORTH OF PARCEL DEEDED TO KOOTENAI ELECTRIC COOPERATIVE, INC. UNDER DEED RECORDED DECEMBER 1, 2004 AS INSTRUMENT NO. 1916032:

A PORTION OF THE NORTHEAST QUARTER OF SAID SECTION 1 MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 1;

THENCE N88°48'04"W ALONG THE EAST/WEST CENTER OF SECTION LINE A DISTANCE OF 95.03 FEET TO A POINT OF THE WESTERLY RIGHT OF WAY LINE OF BECK ROAD AND THE POINT OF BEGINNING;

THENCE CONTINUING N88°48'04"W A DISTANCE OF 555.53 FEET TO THE SOUTHEASTERLY RIGHT OF WAY LINE OF SELTICE WAY;

THENCE N61°26'26"E ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 448.81 FEET TO A POINT OF THE WESTERLY RIGHT OF LINE OF BECK ROAD, SAID POINT ALSO BEING THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 45.00 FEET AND A CHORD BEARING AND DISTANCE OF S74°14'59"E A DISTANCE OF 62.87 FEET;

THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 88°37'10" AN ARC DISTANCE OF 69.60 FEET;

THENCE S29°56'24"E A DISTANCE OF 18.25 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE WEST AND HAVING A RADIUS OF 1338.00 FEET AND A CHORD BEARING AND DISTANCE OF S25°21'19"E A DISTANCE OF 213.91 FEET;

THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 9°10'11" AN ARC DISTANCE OF 214.13 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH A PORTION OF THE NORTHEAST QUARTER OF SAID SECTION 1 MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 1;

THENCE N00°51'55"E ALONG THE EAST LINE OF SAID SECTION 1 A DISTANCE OF 58.92 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF BECK ROAD AND THE POINT OF BEGINNING;

THENCE CONTINUING N00°51'55"E ALONG SAID EAST LINE A DISTANCE OF 311.80 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF SELTICE WAY;

THENCE S61°26'26"W ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 98.06 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF BECK ROAD, SAID POINT ALSO BEING THE BEGINNING OF A CURVE CONCAVE TO THE EAST AND HAVING A RADIUS OF 45.00 FEET AND A CHORD BEARING AND DISTANCE OF S15°45'01"W A DISTANCE OF 64.40 FEET;

THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 91°22'50" AN ARC DISTANCE OF 71.77 FEET;

THENCE S29°56'24"E A DISTANCE OF 13.43 FEET TO THE BEGINNING OF A CURVE CONCAVE
TO THE WEST AND HAVING A RADIUS OF 1448.00 FEET AND A CHORD BEARING AND DISTANCE OF S25°44'07"E A DISTANCE OF 212.33 FEET;

THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 8°24'34" AN ARC DISTANCE OF 212.53 FEET TO THE POINT OF BEGINNING,

TOGETHER WITH THAT PORTION OF VACATED BECK ROAD UNDER ORDINANCE NO VAC-15-02, RECORDED JANUARY 21, 2016 AS INSTRUMENT NO. 2530933000 AND CORRECTED BY DOCUMENT RECORDED JUNE 24, 2016 AS INSTRUMENT NO. 2550726000 THAT WOULD ATTACH BY OPERATION OF LAW,

EXCEPT THAT PORTION DEEDED TO THE CITY OF POST FALLS FOR BECK ROAD, BY DOCUMENT RECORDED MAY 17, 2013 AS INSTRUMENT NO. 2410851000 DESCRIBED AS FOLLOWS:

THAT CERTAIN REAL PROPERTY LYING WITHIN THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 1, IN TOWNSHIP 50 NORTH, RANGE 6 WEST, BOISE MERIDIAN, KOOTENAI COUNTY, IDAHO, AND BEING A PORTION OF EXHIBIT C AS DESCRIBED IN THAT CERTAIN BOUNDARY LINE ADJUSTMENT QUITCLAIM DEED RECORDED AS INSTRUMENT NUMBER 2132715000 ON 11/20/2007, AND ALSO BEING A PORTION OF THE EXISTING BECK ROAD PREScriptive RIGHT OF WAY, IN THE RECORDS OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A 2" DIAMETER IRON PIPE WITH A 2-1/2" DIAMETER BRASS CAP MARKED "PLS 818" AT THE WEST 1/4 CORNER OF SECTION 6 IN TOWNSHIP 50 NORTH, RANGE 5 WEST ACCORDING TO THE CP&F RECORDS FILED AS INSTRUMENT NUMBER 2162005000 AND 697402, SAID POINT BEARING NORTH 00°50'25" EAST A DISTANCE OF 2645.59 FEET, FROM A ½" DIAMETER REBAR WITH A 1-1/2" DIAMETER UNREADABLE ALUMINUM CAP MARKING THE SOUTHWEST CORNER OF SAID SECTION 6 ACCORDING TO THE CORNER PERPETUATION & FILING (CP&F) RECORD FILED AS INSTRUMENT NUMBER 1793772, AS SHOWN ON THE RECORD OF SURVEY FILED IN BOOK 27 AT PAGE 199 AS INSTRUMENT NUMBER 2350896000 ON 3/21/2012;

THENCE ALONG THE EAST LINE OF SAID SECTION 1, NORTH 00°52'00" EAST A DISTANCE OF 250.63 FEET, TO THE POINT OF BEGINNING, AT I-90 DESIGN CL STATION 2053+93.33, OFFSET 3103.41 FEET LEFT, AND SAID POINT IS ALSO AT BECK ROAD DESIGN CL STATION 728+90.53, OFFSET 61.00 FEET LEFT;

THENCE LEAVING THE EAST LINE OF SAID SECTION 1, ALONG A PROPOSED RIGHT OF WAY LINE, THE FOLLOWING COURSES:

1. NORTH 10°04'04" WEST A DISTANCE OF 64.53 FEET;

2. THENCE ALONG A TANGENT CURVE TO THE LEFT THROUGH AN ANGLE OF 52°11'18" A LENGTH OF 45.54 FEET, HAVING A RADIUS OF 50.00 FEET, AND A CHORD BEARING NORTH 36°09'43" WEST A DISTANCE OF 43.98 FEET, TO A NON-TANGENT LINE ON THE SOUTH RIGHT OF WAY OF SELTICE WAY AS SHOWN ON THE RECORD OF SURVEY FILED IN BOOK 16 OF SURVEYS AT PAGE 70 AS INSTRUMENT NUMBER 1376805 ON 11/7/1994, AND ALSO ACCORDING TO THE 1938 HIGHWAY 10 RIGHT OF WAY PLANS FOR FAP 53-A(3);

THENCE ALONG SAID SOUTH LINE OF SELTICE WAY, NORTH 61°27'40" EAST A DISTANCE OF 44.46 FEET, TO THE EAST LINE OF SECTION 1, AT BECK ROAD DESIGN CL STATION 730+18.29, OFFSET 32.07 FEET LEFT;

THENCE ALONG THE EAST LINE OF SAID SECTION 1, SOUTH 00°52'00" WEST A DISTANCE OF 120.30 FEET TO THE POINT OF BEGINNING.

AND
A PORTION OF THE VACATED RIGHT OF WAY OF JACKLIN ROAD, RECORDED AS INSTRUMENT NO. 1932489, LOCATED IN SECTION 1, TOWNSHIP 50 NORTH, RANGE 6 WBM, KOOTENAI COUNTY, IDAHO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PORTION OF JACKLIN ROAD LOCATED IN THE EAST HALF OF SECTION 1, TOWNSHIP 50 NORTH, RANGE 6 WBM, LYING EAST OF THE SOUTHEASTERLY MARGIN OF U.S. HIGHWAY NO. 10 (SELTICE WAY) EXCEPT THAT PORTION OF SAID RIGHT OF WAY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EAST-WEST CENTERLINE OF SAID SECTION 1 WITH SAID SOUTHEASTERLY MARGIN;

THENCE S89°01'21"E ALONG SAID EAST-WEST CENTERLINE, A DISTANCE OF 124.47 FEET;

THENCE S40°19'00"W A DISTANCE OF 19.39 FEET TO THE SOUTHERLY MARGIN OF JACKLIN ROAD;

THENCE N89°01'21"W ALONG SAID SOUTHERLY MARGIN, A DISTANCE OF 179.22 FEET TO THE SOUTHEASTERLY MARGIN OF U.S. HIGHWAY NO. 10 (SELTICE WAY); THENCE N61°36'42"E ALONG SAID MARGIN, A DISTANCE OF 30.59 FEET TO ITS INTERSECTION WITH SAID EAST-WEST CENTERLINE OF SECTION 1;

THENCE S89°01'21"E ALONG SAID LINE, A DISTANCE OF 40.38 FEET TO THE POINT OF BEGINNING.

PARCEL 6:

A PORTION OF THE NORTH HALF OF SECTION 12, TOWNSHIP 50 NORTH, RANGE 6 WEST, BOISE MERIDIAN, CITY OF POST FALLS, KOOTENAI COUNTY, IDAHO AND PORTIONS OF LOTS 1, 3, 4, AND 7, BLOCK 2 OF THE POINTE AT POST FALLS, RECORDED IN BOOK "K" OF PLATS, PAGES 117 THRU 117B, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 1;

THENCE ALONG THE WESTERLY LINE OF SAID LOT 1 THE FOLLOWING SIX (6) COURSES;

1. N09°42'08"W A DISTANCE OF 329.20 FEET
2. N16°19'20"W A DISTANCE OF 14.00 FEET
3. N73°40'40"E A DISTANCE OF 73.35 FEET
4. N16°19'20"W A DISTANCE OF 252.00 FEET
5. N73°40'40"E A DISTANCE OF 282.06 FEET
6. N16°19'20"W A DISTANCE OF 179.45 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF POINTE PARKWAY;

THENCE N73°40'40"E ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 244.66 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 2048.50 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 8°03'35" AN ARC DISTANCE OF 288.16 FEET; THENCE N65°37'05"E A DISTANCE OF 48.72 FEET TO THE NORTHWEST CORNER OF SAID LOT 3; THENCE S16°04'28"E ALONG THE WEST LINE OF SAID LOT 3 A DISTANCE OF 162.04 TO THE SOUTHWEST CORNER OF SAID LOT 3; THENCE CONTINUING S16°04'28"E A DISTANCE OF 3.05 FEET; THENCE N65°22'49"E A DISTANCE OF 345.36 FEET; THENCE S24°22'55"E A DISTANCE OF 12.27 FEET; THENCE N65°10'21"E A DISTANCE OF 4.45 FEET TO A POINT ON THE EAST LINE OF SAID LOT 3; THENCE CONTINUING N65°10'21"E A DISTANCE OF 23.64 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 2000.00 FEET AND A CHORD BEARING AND DISTANCE OF S29°34'40"E A DISTANCE OF 288.39 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 8°16'08" AN ARC DISTANCE OF 288.64 FEET; THENCE S19°25'18"W A DISTANCE OF 42.93 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE
NORTHEAST AND HAVING A RADIUS OF 300.00 FEET AND A CHORD BEARING AND
DISTANCE OF S43°57'27"E A DISTANCE OF 67.93 FEET; THENCE SOUTHEASTERLY ALONG
SAID CURVE THROUGH A CENTRAL ANGLE OF 13°00'08" AN ARC DISTANCE OF 68.08 FEET
TO THE BEGINNING OF A REVERSE CURVE CONCAVE TO THE SOUTHWEST AND HAVING A
RADIUS OF 135.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A
CENTRAL ANGLE OF 25°50'27" AN ARC DISTANCE OF 60.89 FEET; THENCE S24°37'04"E A
DISTANCE OF 337.09 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF
INTERSTATE 90; THENCE S72°58'45"W ALONG SAID NORTHERLY RIGHT OF WAY LINE A
DISTANCE OF 605.07 FEET; THENCE S79°56'00"W A DISTANCE OF 887.31 FEET TO THE
POINT OF BEGINNING.

PARCEL 7:

LOT 2, BLOCK 2, THE POINTE AT POST FALLS, ACCORDING TO THE PLAT RECORDED IN
BOOK K OF PLATS, PAGES 117 THRU 117B, RECORDS OF KOOTENAI COUNTY, IDAHO.

PARCEL 8:

A PORTION OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 50 NORTH, RANGE 6
WEST, BOISE MERIDIAN, CITY OF POST FALLS, KOOTENAI COUNTY, IDAHO AND PORTIONS
OF LOTS 1 AND 3, BLOCK 2 OF THE POINTE AT POST FALLS, RECORDED IN BOOK "K" OF
PLATS, PAGES 117 THRU 117B, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 3; THENCE S16°04'28"E A DISTANCE
OF 3.05 FEET; THENCE N65°22'49"E A DISTANCE OF 345.36 FEET; THENCE N24°22'55"W A
DISTANCE OF 161.93 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF POINTE
PARKWAY; THENCE S65°37'05"W ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 321.50
FEET TO THE NORTHWEST CORNER OF SAID LOT 3; THENCE S16°04'28"E ALONG THE WEST
LINE OF SAID LOT 3 A DISTANCE OF 162.04 FEET TO THE POINT OF BEGINNING.

PARCEL 9:

PORTIONS OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 50 NORTH, RANGE 6
WEST, BOISE MERIDIAN, CITY OF POST FALLS, KOOTENAI COUNTY, IDAHO AND PORTIONS
OF LOTS 3 AND 4 BLOCK 2 OF THE POINTE AT POST FALLS, RECORDED IN BOOK "K" OF
PLATS, PAGES 117 THRU 117B, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 4 SAID POINT BEING ON THE
SOUTHERLY RIGHT OF WAY LINE OF POINTE PARKWAY; THENCE N65°37'05"E ALONG SAID
SOUTHERLY RIGHT OF WAY LINE A DISTANCE OF 232.09 FEET; THENCE S24°37'11"E A
DISTANCE OF 172.31 FEET; THENCE S65°10'21"W A DISTANCE OF 238.55 FEET TO THE
WEST LINE OF SAID LOT 4; THENCE CONTINUING S65°10'21"W A DISTANCE OF 4.45 FEET;
THENCE N24°22'55"W A DISTANCE OF 174.20 FEET TO THE SAI0 SOUTHERLY RIGHT OF
WAY LINE; THENCE N65°37'05"E A DISTANCE OF 10.19 FEET TO THE POINT OF BEGINNING.

PARCEL 10:

PORTIONS OF THE NORTHEAST QUARTER OF SECTION 12, AND THE EAST HALF OF SECTION
1, ALL IN TOWNSHIP 50 NORTH, RANGE 6 WEST, BOISE MERIDIAN, CITY OF POST FALLS,
KOOTENAI COUNTY, IDAHO AND PORTIONS OF LOTS 4 AND 5, BLOCK 2 OF THE POINTE AT
POST FALLS, RECORDED IN BOOK "K" OF PLATS, PAGES 117 THRU 117B, MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 5 SAID POINT BEING ON THE
SOUTHERLY RIGHT OF WAY LINE OF POINTE PARKWAY; THENCE N65°37'05"E ALONG SAID
RIGHT OF WAY LINE A DISTANCE OF 144.01 FEET; THENCE S24°19'34"E A DISTANCE OF
171.12 FEET; THENCE S65°10'21"W A DISTANCE OF 143.85 FEET TO A POINT ON THE WEST
LINE OF SAID LOT 5; THENCE CONTINUING S65°10'21"W A
DISTANCE OF 9.81 FEET; THENCE N24°37'11"W A DISTANCE OF 172.31 FEET TO THE SAI0
RIGHT OF WAY LINE; THENCE N65°37'05"E A DISTANCE OF 10.53 FEET TO THE POINT OF BEGINNING.

PARCEL 11:

PORTIONS OF THE NORTHEAST QUARTER OF SECTION 12, AND THE EAST HALF OF SECTION 1, ALL IN TOWNSHIP 50 NORTH, RANGE 6 WEST, BOISE MERIDIAN, CITY OF POST FALLS, KOOTENAI COUNTY, IDAHO AND PORTIONS OF LOTS 5, 6 AND 7, BLOCK 2 OF THE POINTE AT POST FALLS, RECORDED IN BOOK "K" OF PLATS, PAGES 117 THRU 117B, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 6 SAID POINT BEING ON THE SOUTHERLY RIGHT OF WAY LINE OF POINTE PARKWAY AND THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE SOUTH AND HAVING A RADIUS OF 451.50 FEET AND CHORD BEARING AND DISTANCE OF N77°48'33"E A DISTANCE OF 190.69 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 24°22'55" AN ARC DISTANCE OF 192.13 FEET; THENCE N90°00'00"E A DISTANCE OF 49.50 FEET; THENCE S00°07'04"E A DISTANCE OF 36.58 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE EAST AND HAVING A RADIUS OF 171.10 FEET AND A CHORD BEARING AND DISTANCE OF S15°53'28"E A DISTANCE OF 58.24 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 19°35'53" AN ARC DISTANCE OF 58.53 FEET; THENCE S24°22'55"E A DISTANCE OF 58.41 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 30.00 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 119°13'36" AN ARC DISTANCE OF 62.43 FEET; THENCE N85°09'19"W A DISTANCE OF 32.85 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 387.50 FEET; THENCE NORTHWASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 30°11'36" AN ARC DISTANCE OF 204.20 FEET; THENCE S65°10'21"W A DISTANCE OF 23.27 FEET; THENCE N24°19'34"W A DISTANCE OF 171.12 FEET TO A POINT ON SAID SOUTHERLY RIGHT OF WAY LINE; THENCE N65°37'05"E ALONG SAID SOUTHERLY RIGHT OF WAY LINE A DISTANCE OF 84.32 FEET TO THE POINT OF BEGINNING.

PARCEL 15:

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 12, ALL IN TOWNSHIP 50 NORTH, RANGE 6 WEST, BOISE MERIDIAN, CITY OF POST FALLS, KOOTENAI COUNTY, IDAHO BEING A PORTION OF LOT 1, BLOCK 3 OF THE POINTE AT POST FALLS, RECORDED IN BOOK "K" OF PLATS, PAGES 117 THRU 117B, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 4, BLOCK 3 OF SAID THE POINTE AT POST FALLS, SAID POINT ALSO BEING ON THE NORTHERLY RIGHT OF WAY LINE OF POINTE PARKWAY; THENCE N65°37'05"E ALONG THE SAID NORTHERLY RIGHT OF WAY LINE A DISTANCE OF 56.35 FEET TO THE POINT OF BEGINNING; THENCE N24°08'18"W A DISTANCE OF 59.58 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 376.01 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°04'15" AN ARC DISTANCE OF 79.22 FEET; THENCE N36°12'33"W A DISTANCE OF 76.14 FEET; THENCE N29°42'37"W A DISTANCE OF 10.18 FEET; THENCE N53°33'06"E A DISTANCE OF 18.84 FEET; THENCE N53°46'13"E A DISTANCE OF 114.03 FEET; THENCE N54°04'38"E A DISTANCE OF 25.38 FEET; THENCE S36°27'40"E A DISTANCE OF 153.56 FEET; THENCE S30°46'44"E A DISTANCE OF 40.02 FEET; THENCE S36°12'27"E A DISTANCE OF 18.00 FEET; THENCE S53°47'33"W A DISTANCE OF 110.63 FEET; THENCE S36°12'27"E A DISTANCE OF 25.65 FEET TO A POINT ON THE SAID NORTHERLY RIGHT OF WAY LINE; THENCE S65°37'05"W ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 67.87 FEET TO THE POINT OF BEGINNING.

PARCEL 16:
PORTIONS OF THE NORTH HALF OF SECTION 12, AND THE SOUTH HALF OF SECTION 1, ALL IN TOWNSHIP 50 NORTH, RANGE 6 WEST, BOISE MERIDIAN, CITY OF POST FALLS, KOOTENAI COUNTY, IDAHO AND PORTIONS OF LOTS 1, 2, 3, AND 4, BLOCK 3 OF THE POINTE AT POST FALLS, RECORDED IN BOOK "K" OF PLATS, PAGES 117 THRU 117B, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE N53°46'13"E ALONG THE NORTH LINE OF SAID LOT 1 A DISTANCE OF 41.05 FEET; THENCE S37°19'43"E A DISTANCE OF 140.03 FEET; THENCE N53°46'13"E A DISTANCE OF 126.83 FEET; THENCE S36°13'47"E A DISTANCE OF 305.49 FEET; THENCE S53°47'19"A DISTANCE OF 62.93 FEET; THENCE S36°15'00"E A DISTANCE OF 17.59 FEET; THENCE S54°55'44"W A DISTANCE OF 91.38 FEET; THENCE S34°40'53"E A DISTANCE OF 215.39 FEET; THENCE S52°36'43"W A DISTANCE OF 45.47 FEET; THENCE S37°12'36"W A DISTANCE OF 126.83 FEET; THENCE S52°36'43"W A DISTANCE OF 173.56 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 15.00 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°11'52" AN ARC DISTANCE OF 23.61 FEET; THENCE S37°35'08"E A DISTANCE OF 8.50 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 130.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 16°24'11" AN ARC DISTANCE OF 37.22 FEET; THENCE S21°10'57"E A DISTANCE OF 2.75 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 30.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 29°50'49" AN ARC DISTANCE OF 15.63 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF POINTE PARKWAY SAID POINT ALSO BEING ON A NON-TANGENT CURVE CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 1951.50 FEET AND A CHORD BEARING AND DISTANCE OF S70°58'08"W A DISTANCE OF 184.46 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 5°25'04" AN ARC DISTANCE OF 184.53 FEET; THENCE S73°40'40"W A DISTANCE OF 201.00 FEET TO THE SOUTHEAST CORNER OF LOT 10, OF SAID BLOCK 3; THENCE N35°20'31"W ALONG THE EAST LINE OF SAID LOT 10 A DISTANCE OF 175.91 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 15.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 84°29'57" AN ARC DISTANCE OF 22.12 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 520.00 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 4°48'38" AN ARC DISTANCE OF 43.66 FEET THENCE S64°58'10"W A DISTANCE OF 216.96 FEET TO THE NORTHWEST CORNER OF SAID LOT 10, SAID POINT BEING ON THE EASTERLY RIGHT OF WAY LINE OF CABELA WAY, AND A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 540.00 FEET AND A CHORD BEARING AND DISTANCE OF N27°24'05"W A DISTANCE OF 40.03 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 4°14'55" AN ARC DISTANCE OF 40.04 FEET TO THE SOUTHWEST CORNER OF LOT 9 OF SAID BLOCK 3; THENCE N64°58'10"E ALONG THE SOUTH LINE OF SAID LOT 9 A DISTANCE OF 218.61 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 480.00 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 3°32'14" AN ARC DISTANCE OF 29.63 FEET TO THE BEGINNING OF A COMPOUND CURVE CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 15.00 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 100°55'21" AN ARC DISTANCE OF 26.42 FEET; THENCE N39°29'26"W ALONG THE EASTERLY LINE OF LOT 9 AND 8 OF SAID BLOCK 3 A DISTANCE OF 408.93 FEET TO THE NORTHWEST CORNER OF SAID LOT 2; THENCE N51°17'21"E ALONG THE NORTH LINE OF SAID LOT 2 A DISTANCE OF 388.82 FEET; THENCE N53°46'13"E A DISTANCE OF 349.54 FEET TO THE POINT OF BEGINNING.

PARCEL 17:

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 1 AND THE NORTHEAST QUARTER OF SECTION 12, ALL IN TOWNSHIP 50 NORTH, RANGE 6 WEST, BOISE MERIDIAN, CITY OF POST FALLS, KOOTENAI COUNTY, IDAHO BEING A PORTION OF LOT 1, 2, 3 AND 4 BLOCK 3
OF THE POINTE AT POST FALLS, RECORDED IN BOOK "K" OF PLATS, PAGES 117 THRU 117B, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 4 SAID POINT ALSO BEING ON THE NORTHERLY RIGHT OF WAY LINE OF POINTE PARKWAY; THENCE S65°37'05"W ALONG SAID NORTHERLY RIGHT OF WAY LINE A DISTANCE OF 341.04 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 1951.50 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 2°38'31" AN ARC DISTANCE OF 89.99 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 30.00 FEET AND A CHORD BEARING AND DISTANCE OF N36°06'22"W A DISTANCE OF 15.45 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 29°50'49" AN ARC DISTANCE OF 15.63 FEET; THENCE N21°10'57"W A DISTANCE OF 2.75 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 130.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 16°24'11" AN ARC DISTANCE OF 37.22 FEET; THENCE N37°35'08"W A DISTANCE OF 8.50 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 15.00 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°11'52" AN ARC DISTANCE OF 23.61 FEET; THENCE N52°36'43"E A DISTANCE OF 173.56 FEET; THENCE N37°12'36"E A DISTANCE OF 126.83 FEET; THENCE N52°36'43"E A DISTANCE OF 45.47 FEET; THENCE N34°40'53"W A DISTANCE OF 215.39 FEET; THENCE N54°55'44"E A DISTANCE OF 91.38 FEET; THENCE S36°15'00"E A DISTANCE OF 269.08 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO SOUTHWEST AND HAVING A RADIUS OF 330.00 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°06'42" AN ARC DISTANCE OF 69.76 FEET; THENCE S24°08'18"E A DISTANCE OF 89.12 FEET TO THE SAID NORTHERLY RIGHT OF WAY LINE; THENCE S65°37'05"W ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 10.34 FEET TO THE POINT OF BEGINNING.

PARCEL 19:

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 50 NORTH, RANGE 6 WEST, BOISE MERIDIAN, CITY OF POST FALLS, KOOTENAI COUNTY, IDAHO BEING A PORTION OF LOT 1, LOT 6 AND LOT 7, BLOCK 3 OF THE POINTE AT POST FALLS, RECORDED IN BOOK "K" OF PLATS, PAGES 117 THRU 117B, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 6 AND THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 560.00 FEET AND A CHORD BEARING AND DISTANCE OF S10°10'01"E A DISTANCE OF 198.64 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE AND EASTERLY LINE OF SAID LOT 6 THROUGH A CENTRAL ANGLE OF 20°25'55" AN ARC DISTANCE OF 199.70 FEET TO THE BEGINNING OF A COMPOUND CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 640.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 0°30'18" AN ARC DISTANCE OF 5.64 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 30.00 FEET AND A CHORD BEARING AND DISTANCE OF S73°30'17"W A DISTANCE OF 13.75 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 26°29'54" AN ARC DISTANCE OF 13.87 FEET; THENCE S86°45'14"W A DISTANCE OF 39.71 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 150.00 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 29°24'25" AN ARC DISTANCE OF 76.99 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 15.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 97°53'28" AN ARC DISTANCE OF 25.63 FEET; THENCE N24°45'42"W A DISTANCE OF 106.41 FEET; THENCE N69°04'06"W A DISTANCE OF 55.43 FEET; THENCE N20°55'54"E A DISTANCE OF 36.17 FEET; THENCE N65°14'18"E A DISTANCE OF 84.75 FEET; THENCE N57°51'19"E A DISTANCE OF 126.25 FEET TO A POINT ON THE EAST LINE OF SAID LOT 7 AND THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 560.00 FEET...
AND A CHORD BEARING AND DISTANCE OF S21°57'09"E A DISTANCE OF 30.67 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 3°08'20" AN ARC DISTANCE OF 30.68 FEET TO THE POINT OF BEGINNING.

PARCEL 20:

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 50 NORTH, RANGE 6 WEST, BOISE MERIDIAN, CITY OF POST FALLS, KOOTENAI COUNTY, IDAHO BEING A PORTION OF LOTS 1 AND LOT 7, BLOCK 3 OF THE POINTE AT POST FALLS, RECORDED IN BOOK "K" OF PLATS, PAGES 117 THRU 117B, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 7 AND THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 560.00 FEET AND A CHORD BEARING AND DISTANCE OF S32°03'59"E A DISTANCE OF 166.41 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE AND EASTERLY LINE OF SAID LOT 7 THROUGH A CENTRAL ANGLE OF 17°05'20" AN ARC DISTANCE OF 167.03 FEET; THENCE S57°51'19"W A DISTANCE OF 126.25 FEET; THENCE S65°14'18"W A DISTANCE OF 84.75 FEET; THENCE S20°55'54"W A DISTANCE OF 36.17 FEET; THENCE N69°04'06"W A DISTANCE OF 34.26 FEET; THENCE N36°12'41"W A DISTANCE OF 174.59 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO SOUTHEAST AND HAVING A RADIUS OF 17.00 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 86°14'26" AN ARC DISTANCE OF 25.59 FEET; THENCE N50°01'45"E A DISTANCE OF 214.29 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE SOUTH AND HAVING A RADIUS OF 50.00 FEET; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 37°42'17" AN ARC DISTANCE OF 32.90 FEET TO A POINT ON THE EASTERLY LINE OF SAID LOT 1 AND THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 560.00 FEET AND A CHORD BEARING AND DISTANCE OF S44°01'43"E A DISTANCE OF 66.77 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 6°50'07" AN ARC DISTANCE OF 66.81 FEET TO THE POINT OF BEGINNING.

PARCEL 21:

LOT 8, BLOCK 3, THE POINTE AT POST FALLS, ACCORDING TO THE PLAT RECORDED IN BOOK K OF PLATS, PAGES 117 THRU 117B, RECORDS OF KOOTENAI COUNTY, IDAHO.

PARCEL 22:

LOT 9, BLOCK 3, THE POINTE AT POST FALLS, ACCORDING TO THE PLAT RECORDED IN BOOK K OF PLATS, PAGES 117 THRU 117B, RECORDS OF KOOTENAI COUNTY, IDAHO.

PARCEL 23:

LOT 10, BLOCK 3, THE POINTE AT POST FALLS, ACCORDING TO THE PLAT RECORDED IN BOOK K OF PLATS, PAGES 117 THRU 117B, RECORDS OF KOOTENAI COUNTY, IDAHO.

PARCEL 24:

LOTS 1-6, BLOCK 1, THE POINTE AT POST FALLS FIRST ADDITION, ACCORDING TO THE PLAT RECORDED IN BOOK L OF PLATS, PAGE 147, RECORDS OF KOOTENAI COUNTY, IDAHO.

PARCEL 25:

LOT 2, BLOCK 1, THE POINTE AT POST FALLS SECOND ADDITION, ACCORDING TO THE PLAT RECORDED IN BOOK L OF PLATS, PAGE 251, RECORDS OF KOOTENAI COUNTY, IDAHO.

PARCEL 26:
LOTS 2-5, BLOCK 2, THE POINTE AT POST FALLS THIRD ADDITION, ACCORDING TO THE PLAT RECORDED IN BOOK L OF PLATS, PAGE 294, RECORDS OF KOOTENAI COUNTY, IDAHO.

PARCEL 27:

LOTS 1-4, BLOCK 3, THE POINTE AT POST FALLS THIRD ADDITION, ACCORDING TO THE PLAT RECORDED IN BOOK L OF PLATS, PAGE 294, RECORDS OF KOOTENAI COUNTY, IDAHO.
Privacy Notice

Effective: November 1, 2019
Notice Last Updated: November 1, 2019
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How Do We Secure Your Personal Information? The security of your personal information is important to us. That is why we take commercially reasonable steps to make sure your personal information is protected. We use our best efforts to maintain commercially reasonable technical, organizational, and physical safeguards, consistent with applicable law, to protect your personal information.

How Long Do We Keep Your Personal Information? We keep your personal information for as long as necessary in accordance with the purpose for which it was collected, our business needs, and our legal and regulatory obligations.

Your Choices We provide you the ability to exercise certain controls and choices regarding our collection, use, storage, and sharing of your personal information. In accordance with applicable law, your controls and choices. You can learn more about your choices, and exercise these controls and choices, by sending an email to dataprivacy@firstam.com or toll free at 1-866-718-0097.

International Jurisdictions: Our Products are hosted and offered in the United States of America (US), and are subject to US federal, state, and local law. If you are accessing the Products from another country, please be advised that you may be transferring your personal information to us in the US, and you consent to that transfer and use of your personal information in accordance with this Privacy Notice. You also agree to abide by the applicable laws of applicable US federal, state, and local laws concerning your use of the Products, and your agreements with us.

We may change this Privacy Notice from time to time. Any and all changes to this Privacy Notice will be reflected on this page, and where appropriate provided in person or by another electronic method. YOUR CONTINUED USE, ACCESS, OR INTERACTION WITH OUR PRODUCTS OR YOUR CONTINUED COMMUNICATIONS WITH US AFTER THIS NOTICE HAS BEEN PROVIDED TO YOU WILL REPRESENT THAT YOU HAVE READ AND UNDERSTOOD THIS PRIVACY NOTICE.

Contact us dataprivacy@firstam.com or toll free at 1-866-718-0097.

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For California Residents

If you are a California resident, you may have certain rights under California law, including but not limited to the California Consumer Privacy Act of 2018 ("CCPA"). All phrases used in this section shall have the same meaning as those phrases are used under California law, including the CCPA.

Right to Know. You have a right to request that we disclose the following information to you: (1) the categories of personal information we have collected about or from you; (2) the categories of sources from which the personal information was collected; (3) the business or commercial purpose for such collection and/or disclosure of your personal information; (4) the categories of third parties with whom we have shared your personal information; and (5) the specific pieces of your personal information we have collected. To submit a verified request for this information, go to our online privacy policy at [www.firstam.com/privacy-policy](http://www.firstam.com/privacy-policy) to submit your request or call toll-free at 1-866-718-0097. You may also designate an authorized agent to submit a request on your behalf by going to our online policy at [www.firstam.com/privacy-policy](http://www.firstam.com/privacy-policy) to submit your request or by calling toll-free at 1-866-718-0097 and submitting written proof of such authorization to [dataprivacy@firstam.com](mailto:dataprivacy@firstam.com).

Right of Deletion. You also have a right to request that we delete the personal information we have collected from you. This right is subject to certain exceptions available under the CCPA and other applicable law. To submit a verified request for deletion, go to our online privacy policy at [www.firstam.com/privacy-policy](http://www.firstam.com/privacy-policy) to submit your request or call toll-free at 1-866-718-0097. You may also designate an authorized agent to submit a request on your behalf by going to our online privacy policy at [www.firstam.com/privacy-policy](http://www.firstam.com/privacy-policy) to submit your request or by calling toll-free at 1-866-718-0097 and submitting written proof of such authorization to [dataprivacy@firstam.com](mailto:dataprivacy@firstam.com).

Verification Process. For either a request to know or delete, we will verify your identity before responding to your request. To verify your identity, we will generally match the identifying information provided in your request with the information we have on file about you. Depending on the sensitivity of the personal information requested, we may also utilize more stringent verification methods to verify your identity, including but not limited to requesting additional information from you and/or requiring you to sign a declaration under penalty of perjury.

Right to Opt-Out. We do not sell your personal information to third parties, and do not plan to do so in the future.

Right of Non-Discrimination. You have a right to exercise your rights under California law, including under the CCPA, without suffering discrimination. Accordingly, First American will not discriminate against you in any way if you choose to exercise your rights under the CCPA.

Collection Notice. The following is a list of the categories of personal information we may have collected about California residents in the twelve months preceding the date this Privacy Notice was last updated, including the business or commercial purpose for said collection, the categories of sources from which we may have collected the personal information, and the categories of third parties with whom we may have shared the personal information:

| Categories of Personal Information Collected | The categories of personal information we have collected include, but may not be limited to: real name; signature; alias; SSN; physical characteristics or description, including protected characteristics under federal or state law; address; telephone number; passport number; driver's license number; state identification card number; IP address; policy number; file number; employment history; bank account number; credit card number; debit card number; financial account numbers; commercial information; internet or other electronic network activity; geolocation data; audio and visual information; professional or employment information; and inferences drawn from the above categories to create a profile about a consumer. |
| Categories of Sources | Categories of sources from which we've collected personal information include, but may not be limited to: the consumer directly; public records; governmental entities; non-affiliated third parties; social medial networks; affiliated third parties. |
| Business Purpose for Collection | The business purposes for which we've collected personal information include, but may not be limited to: completing a transaction for our products; verifying eligibility for employment; facilitating employment; performing services on behalf of affiliated and non-affiliated third parties; debugging to identify and repair errors that impair existing intended functionality on our Websites, Applications, or Products; protecting against malicious, deceptive, fraudulent, or illegal activity. |
| Categories of Third Parties Shared | The categories of third parties with whom we've shared personal information include, but may not be limited to: advertising networks; internet service providers; data analytics providers; service providers; government entities; operating systems and platforms; social media networks; non-affiliated third parties; affiliated third parties. |

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Categories of Personal Information we have Sold In the Past Year. We have not sold any personal information of California residents to any third party in the twelve months preceding the date this Privacy Notice was last updated.

Categories of Personal Information Disclosed for A Business Purpose In The Past Year. The following is a list of the categories of personal information of California residents we may have disclosed for a business purpose in the 12 months preceding the date this Privacy Notice was last updated. The categories of personal information we have collected include, but may not be limited to: real name; signature; alias; SSN; physical characteristics or description, including protected characteristics under federal or state law; address; telephone number; passport number; driver's license number; state identification card number; IP address; policy number; file number; employment history; bank account number; credit card number; debit card number; financial account numbers; commercial information; internet or other electronic network activity; geolocation data; audio and visual information; professional or employment information; and inferences drawn from the above categories to create a profile about a consumer.
THIS DOCUMENT IS FURNISHED WITHOUT CHARGE SOLELY FOR INFORMATIONAL PURPOSE AND FIRST AMERICAN TITLE COMPANY ASSUMES NO LIABILITY FOR INACCURACIES THEREIN.
DEVELOPMENT AGREEMENT
Pointe (CCM) Zone Change
(File No. RZNE-0001-2022)

THIS AGREEMENT is made this ___ day of ______, 2021, by and between the City of Post Falls, a municipal corporation organized and existing pursuant to the laws of the State of Idaho, with its principal place of business at 408 N. Spokane Street, Post Falls, ID, and The Pointe Partners, LLC., a Utah Limited Liability Company organized and existing pursuant to the laws of the State of Utah, with its principal place of business at 166 E 14000 S, Suite 210, Draper, UT 84020.

WHEREAS, Pointe Partners, LLC., (hereinafter the “Owner”) owns a tract of land (hereinafter the “Property”) within the city limits of the City of Post Falls (hereinafter the “City”), which the Owner wishes to change the zoning designation from Industrial (I) to Community Commercial Mixed (CCM) and develop consistent with this agreement; and

WHEREAS, the legal description and depiction of the Property is attached hereto as Exhibit “A”; and

WHEREAS, the Mayor and City Council of the City have determined it to be in the best interests of the City to rezone the Property from Industrial (I) and to the Community Commercial Mixed (CCM) zone subject to the Owner performing the covenants and conditions in this Agreement.

NOW THEREFORE, IN CONSIDERATION of the covenants and conditions set forth herein, the parties agree as follows:

ARTICLE I: PURPOSE AND DESCRIPTION OF PROPERTY

1.1. Purpose: Owner enters into this Agreement to obtain rezoning of the Property while the City seeks to obtain surety regarding the manner in which the Property will be developed as contemplated by Idaho Code § 67-6511A. Owner acknowledges that City has no duty to rezone the Property and that the promises of Owner contained in this Agreement are an inducement for City to do so. The term “Owner” includes any successor in interest in the Property.

1.2. Description of the Property: The property is generally located east of N. Cabela Way, west of N. Beck Rd, and north of Interstate 90.; and is more particularly described in Exhibit “A”.
ARTICLE II: STANDARDS

2.1. **Construct to City Standards:** Owner agrees that all improvements required by this Agreement or by City codes will be built to City standards or to the standards of any public agency providing service to the Property. Owner agrees to adhere to all City policies and procedures; including, but not limited to sanitary sewer improvements, water lines, fire hydrants, parks, flood works, storm water management, curbs, sidewalks, street trees, streetlights, pedestrian/bicycle facilities and roads. Such policies include extending utility lines in a manner acceptable to the City to make service available to adjoining lands and limitations on gaining site access from arterial and collector roadways (including the KMPO Critical Access Corridor Policy).

2.2. **Applicable Standards:** Owner agrees that all laws, standards, policies, and procedures regarding public improvement construction that the Owner is required to comply with or otherwise meet pursuant to this Agreement or City codes are those in effect when construction is commenced. If Owner fails to comply with applicable laws while constructing improvements, public or otherwise, on the Property, the Owner consents to the City withholding further development approvals for the Property including, but not limited to, building permits, certificates of occupancy, site plan approval, and subdivision approval until such compliance is attained. Owner waives, on behalf of itself and its successors in interest, all claims against the City relating to the City withholding development approval as authorized by this Section.

2.3. **Inspection and Testing:** Owner agrees that it will retain the services of a civil engineer, licensed by the State of Idaho, to perform construction inspection and testing during the construction of all public improvements on the Property. Owner agrees to provide copies of all field inspection reports and test results to the City Engineer accompanied by a certification that the improvements have been installed in compliance with applicable City requirements prior to requesting that the City accept the public improvements for ownership and maintenance. The inspection, testing and certification reports must be provided at no cost to the City and comply with City submittal standards. Owner agrees that a representative of the City must be present at the pressure testing of water mains and sanitary sewer mains. Owner agrees to provide the City with at least twenty-four (24) hours-notice before such testing.

2.4. **As-Built Drawings:** Owner agrees to provide accurate “as-built” drawings, conforming with City submittal standards, of public improvements to the City within thirty (30) days of the date of substantial completion of construction of any public improvement on the Property. If as-buils are not provided as required by this Agreement, the Owner agrees that the City may withhold further development approvals for the Property as provided in Section 2.2 and waives, on behalf of itself and its successors in interest, all claims against the City relating to the City withholding development approvals. The Owner understands and agrees that the City will not accept public improvements for maintenance or allow occupancy of constructed improvements on the Property until accurate “as-buils” are provided and until planned improvements have complied with the inspection requirements contained in Section 2.3 and have been accepted for public maintenance or approved for private use.
ARTICLE III. DEVELOPMENT OF THE PROPERTY

3.1. **Multi-Family Apartment Limitation:** Owner agrees that no more than 15.4 acres of the Property (28.5% of the Property) may be used for multi-family development. Additionally, Owner agrees that all multi-family development must be located north of West Pointe Parkway and the multi-family development may not exceed 380 feet of frontage on that street.

3.2. **Other Limitations on Development:** Owner agrees that the Property will be developed in compliance with the City’s zoning and subdivision regulations. Additionally, Owner agrees to comply with the additional restrictions contained in this Agreement to help ensure that the development of the Property results in an attractive, safe, and healthy environment for future residents.

3.3. **Potential Water Reclamation Impacts:** The parties agree that developing multi-family residential uses on the Property has the potential to generate more sewer than the previously approved commercial and industrial uses and to negatively impact wastewater collection capacity, especially during peak hours, in sewer mains and lift stations serving the Property and surrounding properties. As such, the parties have agreed upon a consultant and agreed upon a scope of work for a study to evaluate the impacts of the multi-family development on wastewater capacity in the area including comparing anticipated flow rates to existing infrastructure capacity and the availability of emergency storage. Owner agrees to complete the wastewater capacity study, at its sole cost, and agrees not to request building permits for any multi-family development on the Property until the study is completed. Owner further agrees that it will not seek certificates of occupancy for any multi-family residential development on the Property until all of the recommendations contained in the study to ensure adequate wastewater capacity have been constructed by the Owner, at its sole cost, and accepted by the City. Owner agrees that the City may withhold building permits, certificates or occupancy, or other development approvals, for the Property that do not comply with this Section 3.3 and the Owner waives any and all claims against the City resulting from the withholding of development approvals as authorized by this Section.

3.4. **Potential Transportation Impacts:** The parties agree that developing multi-family residential uses on the Property may generate more traffic, or create different traffic impacts, than the previously approved commercial and industrial uses. As such, the parties have agreed upon a consultant and agreed upon a scope of work for a traffic study to evaluate the impacts of the multi-family development on traffic capacity in the area including verifying lane configurations, turn pocket sizing, and signal timing relative to established level of service requirements within the Property and the immediate vicinity. Owner agrees to complete the traffic study, at its sole cost, and agrees not to request building permits for any multi-family development on the Property until the study is completed. Owner further agrees that it will not seek certificates of occupancy for any multi-family residential development on the Property until all of the recommendations contained in the study to ensure adequate traffic capacity have been constructed by the Owner, at its sole cost, and accepted by the City. Owner agrees that the City may withhold...
building permits, certificates or occupancy, or other development approvals, for the Property that do not comply with this Section 3.4 and the Owner waives any and all claims against the City resulting from the withholding of development approvals as authorized by this Section.

3.5. **Owner’s Association:** Prior to selling or otherwise transferring any portions of the Property, Owner agrees to form an owner’s association. At a minimum, the owner’s association must be responsible for maintaining all community common areas and all open space tracts and all improvements within such tracts. This obligation includes clearing snow from sidewalks and trails and irrigating street trees and landscaping areas.

**ARTICLE IV. FEES**

4.1. **Fees:** Additionally, the Owner agrees to pay all required fees and charges including but not necessarily limited to water hook-up fee(s), water connection (capitalization) fee(s), sanitary sewer connection (capitalization) fee(s), annexation fees, building permit fees and any applicable impact fees that may be imposed. Fees referred to in this Section are established by City ordinance and/or resolution and arise independent of this Agreement.

**ARTICLE V. MISCELLANEOUS**

5.1. **Subdivision:** The parties acknowledge that in the event the Owner desires to sell a portion of the Property rather than the Property as a whole, that a plat may be necessary. Owner agrees that in the event a plat is necessary, Owner will submit a proper subdivision plat and comply with the subdivision ordinance in effect at the time of the desired division.

5.2. **Default:** Owner agrees that in the event the Owner fails to comply with the terms of this Agreement, defaults, or is otherwise in breach of this Agreement, the City may terminate this Agreement in its sole judgment and pass an ordinance rezoning the property to the pre-existing zone or otherwise rezone the Property. Execution of this Agreement by the Owner will be deemed to be written consent to rezone the Property should the Owner default on this Agreement. Owner waives, on behalf of itself and any successors in interest, any claims it may have against the City for declaring a default of this Agreement and rezoning the Property as allowed by this Section.

5.3. **Owner to Hold City Harmless:** The Owner further agrees it will indemnify, defend (in the City’s sole option, and hold the City harmless from all causes of action, claims and damages that arise, may arise, or are alleged, because of the Owner's development, operation, maintenance, and use of the Property. Owner further agrees to pay City's legal costs, including reasonable attorney fees in the event this annexation is challenged in a court of law. Payment for City's legal costs will be remitted within thirty (30) days after receipt of invoice from the City for legal expenses.

5.4. **Time is of the Essence:** Time is of the essence in this Agreement.

5.5. **Merger and Amendment:** All promises and prior negotiations of the parties’ related to the approval of the CCM zone merge into this Agreement and the representations, warranties,
covenants, conditions, and agreements of the parties contained in the Agreement shall survive the acceptance of any deeds and/or easements. The parties agree that this Agreement may only be amended by a written instrument that is signed by both parties. The parties agree that this Agreement will not be amended by a change in law.

5.6. **Effect on City Code:** The parties agree that Agreement is not intended to replace any other requirement of City Code and that its execution does not constitute a waiver of requirements established by City ordinance or other applicable provisions of law.

5.7. **Recordation:** The Owner agrees this Agreement will be recorded by the City at the Owner's expense.

5.8. **Section Headings:** The section headings of this Agreement are for clarity in reading and not intended to limit or expand the contents of the sections to which they apply.

5.9. **Incorporation of Recitals and Exhibits:** The recitals to this Agreement and all exhibits referred to in this Agreement are incorporated herein by this reference and made a part of this Agreement.

5.10. **Compliance with Applicable Laws:** Owner agrees to comply with all applicable laws.

5.11. **Covenants Run with the Land:** The covenants contained herein to be performed by the Owner are binding upon the Owner and Owner's heirs, assigns and successors in interest, and shall be deemed to be covenants running with the land.

5.12. **Promise of Cooperation:** Should circumstances change, operational difficulties arise or misunderstandings develop, the parties agree to meet and confer at the request of either party to discuss the issue and proposed solutions. Further, each party agrees not to bring a claim, initiate other legal action, or suspend performance without meeting directly with the other party regarding the subject matter of the disagreement and if the parties cannot amicably resolve the disagreement, retain a mediator, acceptable to both parties, to mediate a solution to the disagreement.

5.13. **Severability:** Should any provision of this Agreement be declared invalid by a court of competent jurisdiction the remaining provisions continue in full force and effect and must be interpreted to effectuate the purposes of the entire Agreement to the greatest extent possible.

5.14. **Enforcement - Attorney’s Fees:** Should either party require the services of legal counsel to enforce compliance with the terms of this Agreement, the prevailing party will be entitled to its reasonable attorney’s fees and related costs of enforcement.

IN WITNESS WHEREOF, the City of Post Falls has caused this Agreement to be executed by its Mayor and City Clerk, and the Owner has executed this Agreement to be effective the day and year first above written.
CITY OF POST FALLS

By: _______________________
    Ronald G. Jacobson, Mayor

Attest:

________________________
    Shannon Howard, City Clerk

THE POINTE PARTNERS, LLC.

By: _______________________
    Kip L. Wadsworth, Manager

ACKNOWLEDGEMENTS

STATE OF IDAHO )
County of Kootenai )

On this ___ day of _____, 20___, before me, a Notary for the State of Idaho, personally appeared Ronald G. Jacobson and Shannon Howard known, or identified to me to be the Mayor and City Clerk, respectively of the City of Post Falls, Kootenai County, Idaho, executing the herein instrument, and acknowledged to me that such City of Post Falls executed the same.

IN WITNESS WHEREOF, I have hereto set my hand and affixed my official seal the date and year in this certificate first above written.

________________________
Notary Public for the State of Idaho
Residing at: ____________
Commission Expires: ________

STATE OF IDAHO )
County of Kootenai )

On this ___ day of ____________, 20___, before me, a Notary for the State of Idaho, personally appeared Kip L. Wadsworth, Manager, The Pointe Partners, LLC., known, or
identified to me to be the person(s) whose name is subscribed to the within instrument, and acknowledged to me that he executed the same on behalf of the corporation.

IN WITNESS WHEREOF, I have hereto set my hand and affixed my official seal the date and year in this certificate first above written.

__________________  __________________
Notary Public for the State of Idaho
Residing at:
Commission Expires:
The Pointe Proposed Rezone Application

The Pointe Rezone Property Parcel numbers & Legal Descriptions

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**Total Acreage: 54.1**
May 6th, 2022

Amber Blanchette
Planning Administrative Specialist
amberb@postfallsidaho.org

Re: Pointe Zone Change File No. RZNE-0001-2022

The Police Department has reviewed the above listed zone change and will remain Neutral on this request. Please accept this letter as the Police Department’s response to this request for both Planning and Zoning as well as City Council.

Respectfully submitted,

Mark J. Brantl
Lieutenant
Post Falls Police Department
May 10, 2022

Amber Blanchette
Planning Administrative Specialist
amberb@postfallsidaho.org

RE: Pointe Zone Change RZNE-0001-2022

Amber,

Regarding the proposed zone change RZNE-0001-2022, Kootenai County Fire & Rescue (KCFR) feels compelled to point out that this development was never designed for the residential components that could happen under the proposed change. If a single-family component exceeding 30 units or a multi-family component exceeding 200 units is brought forward, a secondary egress must be provided for West of the intersection of Pointe PKWY and Baugh way.

KCFR participates in partnership with the City of Post Falls throughout the review and permitting process to include but not limited to the following: City annexations, zoning issues, comprehensive plan development, subdivision development, site plan approval and building construction code compliance. KCFR reserves all fire code related comments for that process. The properties within this proposed Zone change are no exception and development would be reviewed through that process.

Respectfully,

Jeryl Archer II
Kootenai County Fire & Rescue
Division Chief
Fire Marshal
Good Afternoon,

Thank you for providing the opportunity to comment. DEQ has no environmental impact comments for the project listed above at this stage of development.

Thank you,
Kristie

Kristie May | Admin Assistant II
Idaho Department of Environmental Quality
2110 Ironwood Parkway, Coeur d'Alene, Idaho 83814
Direct: 208.666.4608
Office Line: 208.769.1422
www.deq.idaho.gov

Our mission: To protect human health and the quality of Idaho's air, land, and water.
Good afternoon,

Attached is the notice to jurisdiction for the named zone change for Planning and Zoning on May 25th. The draft staff report will be on the city’s website shortly.

Thank you,

Amber Blanchette
Planning Specialist
Phone: 208-457-3338
Email: amberb@postfallsidaho.org

CITY OF POST FALLS

Fear is an illusion, ready to be overcome...
PUBLIC COMMENT

The Pointe Zone Change
File No. RZNE-0001-2022
Exhibit: 4D

Applicant: Wadsworth Development Group
Location: West of Baugh Way, north of I-90 and south of W. Seltice Way
Request: To rezone approximately 54.1 acres from Industrial (I) & Community Commercial Services (CCS) to Community Commercial Mixed (CCM) zoning.
Hearing Date: May 25, 2022

Questions list:

Name: Chad Burd
Address: 3326 E Fernan Terrace Dr. Coeur D'aAlene
Email: burd.chad@gmail.com

Please Provide Your Position on the Proposed Zone Change: In Favor

1.Is the requested zoning district compatible with the street classification, traffic patterns, existing development, future land uses, community plans and geographic or natural features of the area?: Yes

Please explain your answer: Intended use fits within comp plan and buffers higher density multifamily from single Family homes.

Exhibit PC-1
2. Commercial and high-density residential zoning is typically assigned along streets with a higher road classification.

Is the request for commercial or high-density residential?: Yes

If the request for commercial or high-density residential.: Yes

Please explain your answer: Subject site is on 4 lane Pointe Parkway with easy access to I90

3. Limited or neighborhood commercial and lower density residential zoning is typically assigned for properties as they proceed farther away from the higher intensity urban activity.

Is the request for limited or neighborhood commercial or low density residential?: No

If the request for limited or neighborhood commercial or low density residential.

Is the property near higher intensity urban activity?:

Please explain your answer:

4. Industrial zoning is typically assigned for properties with sufficient access to major transportation routes and may be situated away from residential zoning.

Is the request for Industrial?: No’

If the request for Industrial Zoning

Is it situated away from residential zoning?:

Does it have sufficient access to major transportation routes?:

Please explain your answer:

5. Is the requested zoning district in accordance with the Future Land Use Map in the Comprehensive Plan?: Yes

Please explain your answer: Intended use falls within latest PF comp plan

6. Is the requested zoning district consistent with the goals and policies in the Comprehensive Plan?: Yes

Please explain your answer:
Applicant: Wadsworth Development Group
Location: West of Baugh Way, north of I-90 and south of W. Seltice Way
Request: To rezone approximately 54.1 acres from Industrial (I) & Community Commercial Services (CCS) to Community Commercial Mixed (CCM) zoning.
Hearing Date: May 25, 2022

Questions list:

Name: Chris Schreiber
Address: 6571 West Big Sky Drive, Post Falls, Idaho 83854
Email: chris@firestarranch.com

Please Provide Your Position on the Proposed Zone Change: In Favor

1. Is the requested zoning district compatible with the street classification, traffic patterns, existing development, future land uses, community plans and geographic or natural features of the area?: Yes

Please explain your answer: Changing the zoning from INDUSTRIAL to MIXED USE COMMERCIAL is inline with the City’s Comprehensive Plan. Without this zone change, this property is essentially not developable due to conflicts between zoning (industrial), comp plan...
(mixed commercial) and CCRs (which limit retail to only those uses approved by both WalMart and Cabelas).

Further consolidating commercial (i.e., retail, office, medical, etc) and multi-family uses in neighborhoods close to major transportation routes (i.e., I-90, Seltice, etc.) just makes sense, much more sense than dispersing apartment developments throughout the city especially when mixed in with single family developments and accessed via two lane residential streets.

If we want Post Falls to continue to grow, businesses based here to thrive, and our children find jobs to keep them here, then we need more housing options and we need more commercially designated land ready for development.

2. Commercial and high-density residential zoning is typically assigned along streets with a higher road classification.

Is the request for commercial or high-density residential?: Yes

If the request for commercial or high-density residential.: Yes

Please explain your answer: Pointe Parkway, Beck Road (including I-90 interchange), Pleasant Valley and Seltice are all major connectors within Post Falls.

3. Limited or neighborhood commercial and lower density residential zoning is typically assigned for properties as they proceed farther away from the higher intensity urban activity.

Is the request for limited or neighborhood commercial or low density residential?: No

If the request for limited or neighborhood commercial or low density residential.

Is the property near higher intensity urban activity?:

Please explain your answer:

4. Industrial zoning is typically assigned for properties with sufficient access to major transportation routes and may be situated away from residential zoning.

Is the request for Industrial?: No

If the request for Industrial Zoning

Is it situated away from residential zoning?:

Does it have sufficient access to major transportation routes?: 
Please explain your answer:

5. Is the requested zoning district in accordance with the Future Land Use Map in the Comprehensive Plan?: Yes

Please explain your answer: Comp plan designates area for commercial and mixed use. This zone change follows with the Comp Plan.

6. Is the requested zoning district consistent with the goals and policies in the Comprehensive Plan?: Yes

Please explain your answer: Yes, comp plan shows commercial/mixed use.
PUBLIC COMMENT

The Pointe Zone Change
File No. RZNE-0001-2022
Exhibit: 4D

Applicant: Wadsworth Development Group
Location: West of Baugh Way, north of I-90 and south of W. Seltice Way
Request: To rezone approximately 54.1 acres from Industrial (I) & Community Commercial Services (CCS) to Community Commercial Mixed (CCM) zoning.
Hearing Date: May 25, 2022

Questions list:

Name: Adam Flippen
Address: 208 creative way post falls ID 83854
Email: flippenstorage@gmail.com

Please Provide Your Position on the Proposed Zone Change: In Favor

1.Is the requested zoning district compatible with the street classification, traffic patterns, existing development, future land uses, community plans and geographic or natural features of the area?: Yes

Please explain your answer: the requested zoning district is compatible with the street classification, traffic patterns, existing development, future land uses, community plans and geographic or natural features of the area
2. Commercial and high-density residential zoning is typically assigned along streets with a higher road classification.

Is the request for commercial or high-density residential?: Yes

If the request for commercial or high-density residential.: Yes

Please explain your answer:

3. Limited or neighborhood commercial and lower density residential zoning is typically assigned for properties as they proceed farther away from the higher intensity urban activity.

Is the request for limited or neighborhood commercial or low density residential?: Yes

If the request for limited or neighborhood commercial or low density residential.

Is the property near higher intensity urban activity?:

Please explain your answer:

4. Industrial zoning is typically assigned for properties with sufficient access to major transportation routes and may be situated away from residential zoning.

Is the request for Industrial?: ' 

If the request for Industrial Zoning

Is it situated away from residential zoning?:

Does it have sufficient access to major transportation routes?:

Please explain your answer:

5. Is the requested zoning district in accordance with the Future Land Use Map in the Comprehensive Plan?:

Please explain your answer:

6. Is the requested zoning district consistent with the goals and policies in the Comprehensive Plan?:

Please explain your answer:
Applicant: Wadsworth Development Group
Location: West of Baugh Way, north of I-90 and south of W. Seltice Way
Request: To rezone approximately 54.1 acres from Industrial (I) & Community Commercial Services (CCS) to Community Commercial Mixed (CCM) zoning.
Hearing Date: May 25, 2022

Questions list:

Name: Mary Kienbaum

Email: mary.kienbaum@kiemlehagood.com

Please Provide Your Position on the Proposed Zone Change: In Favor

1. Is the requested zoning district compatible with the street classification, traffic patterns, existing development, future land uses, community plans and geographic or natural features of the area?: Yes

Please explain your answer:
2. Commercial and high-density residential zoning is typically assigned along streets with a higher road classification.

Is the request for commercial or high-density residential?: Yes

If the request for commercial or high-density residential.: Yes

Please explain your answer:

3. Limited or neighborhood commercial and lower density residential zoning is typically assigned for properties as they proceed farther away from the higher intensity urban activity.

Is the request for limited or neighborhood commercial or low density residential?:

If the request for limited or neighborhood commercial or low density residential.

Is the property near higher intensity urban activity?:

Please explain your answer:

4. Industrial zoning is typically assigned for properties with sufficient access to major transportation routes and may be situated away from residential zoning.

Is the request for Industrial?:

If the request for Industrial Zoning

Is it situated away from residential zoning?:

Does it have sufficient access to major transportation routes?:

Please explain your answer:

5. Is the requested zoning district in accordance with the Future Land Use Map in the Comprehensive Plan?:

Please explain your answer:

6. Is the requested zoning district consistent with the goals and policies in the Comprehensive Plan?:

Please explain your answer:
DEVELOPMENT AGREEMENT
Pointe (CCM) Zone Change
(File No. RZNE-0001-2022)

THIS DEVELOPMENT AGREEMENT (hereinafter, the “Agreement”) is made this ___ day of _____, 2022, (hereinafter, the “Effective Date”) by and between the City of Post Falls, a municipal corporation organized and existing pursuant to the laws of the State of Idaho, with its principal place of business at 408 N. Spokane Street, Post Falls, ID, and The Pointe Partners, LLC, a Utah Limited Liability Company, organized and existing pursuant to the laws of the State of Utah, with its principal place of business at 166 E 14000 S, Suite 210, Draper, UT 84020.

WHEREAS, The Pointe Partners, LLC, (hereinafter the “Owner”) owns a tract of land (hereinafter the “Property”) within the city limits of the City of Post Falls (hereinafter the “City”), which the Owner wishes to change the zoning designation from Industrial (I) to Community Commercial Mixed (CCM) and to develop the Property consistent with this Agreement, and all applicable City codes and standards (including zoning) and other applicable governmental regulations, laws, standards, policies, and procedures in effect at the time permits for work applicable to or governed by this Agreement are submitted to the City (hereinafter, “Laws”); and

WHEREAS, the legal description and depiction of the Property is attached hereto as Exhibit “A”; and

WHEREAS, the Mayor and City Council of the City have determined it to be in the best interests of the City to rezone the Property from Industrial (I) and to the Community Commercial Mixed (CCM) zone subject to the Owner performing the covenants and conditions in this Agreement.

NOW THEREFORE, IN CONSIDERATION of the covenants and conditions set forth herein, the parties agree as follows:

ARTICLE I: PURPOSE AND DESCRIPTION OF PROPERTY

1.1. **Purpose:** In an effort to stimulate development and growth in the City, Owner enters into this Agreement to obtain rezoning of the Property while the City seeks to obtain surety regarding the manner in which the Property will be developed as contemplated by Idaho Code § 67-6511A. Owner acknowledges that City has no duty to rezone the Property and that the promises of Owner contained in this Agreement are an inducement for City to do so. The term “Owner” includes any successor in interest in the Property.

1.2. **Description of the Property:** The Property is generally located east of N. Cabela Way, west of N. Beck Rd, and north of Interstate 90 and is more particularly described and depicted in Exhibit “A”.

Exhibit S-4
ARTICLE II: STANDARDS

2.1. **Construct to City Standards:** Owner agrees that all improvements required by this Agreement or by City codes will be built in accordance with the Laws. Owner agrees to adhere to all Laws; including, but not limited to sanitary sewer improvements, water lines, fire hydrants, parks, flood works, storm water management, curbs, sidewalks, street trees, streetlights, pedestrian/bicycle facilities and roads. Such policies include extending utility lines to the Owner's Property boundaries, in a manner acceptable to the City to make service available to adjoining lands and limitations on gaining site access from arterial and collector roadways (including the KMPO Critical Access Corridor Policy).

2.2. **Applicable Standards:** Owner agrees that all Laws regarding public improvement construction that the Owner is required to comply with or otherwise meet pursuant to this Agreement or City codes are those in effect when permits are submitted to the City. If Owner fails to comply with applicable Laws while constructing improvements, public or otherwise, on the Property, the Owner consents to the City withholding further development approvals for the Property including, but not limited to, building permits, certificates of occupancy, site plan approval, and subdivision approval until such compliance is attained. Owner waives, on behalf of itself and its successors in interest, all claims against the City relating to the City withholding development approval regarding the items contained in this Section 2.2 and as authorized by this Section 2.2 to the extent such withholding of approval is caused by the Owner's failure to comply with this Section 2.2.

2.3. **Inspection and Testing:** Owner agrees that it will retain the services of a civil engineer, licensed by the State of Idaho, to perform construction inspection and testing during the construction of all public improvements on the Property. Owner agrees to provide copies of all field inspection reports and test results to the City Engineer accompanied by a certification that the improvements have been installed in compliance with applicable City requirements prior to requesting that the City accept the public improvements for ownership and maintenance. The inspection, testing and certification reports must be provided at no cost to the City and comply with City submittal standards. Owner agrees that a representative of the City must be present at the pressure testing of water mains and sanitary sewer mains. Owner agrees to provide the City with at least twenty-four (24) hours-notice before such testing.

2.4. **As-Built Drawings:** Owner agrees to provide accurate “as-built” drawings, conforming with City submittal standards, of public improvements to the City within thirty (30) days of the date of substantial completion of construction of any public improvement on the Property. If as-buils are not provided as required by this Agreement, the Owner agrees that the City may withhold further development approvals for the Property as provided in Section 2.2 and waives, on behalf of itself and its successors in interest, all claims against the City relating to the City withholding development approvals regarding the items contained in this Section 2.4 to the extent such withholding of approvals is caused by the
Owner’s failure to comply with this Section 2.4. The Owner understands and agrees that the City will not accept public improvements for maintenance or allow occupancy of constructed improvements on the Property until accurate “as-builts” are provided and until planned improvements have complied with the inspection requirements contained in Section 2.3 and have been accepted for public maintenance or approved for private use.

ARTICLE III. DEVELOPMENT OF THE PROPERTY

3.1. Multi-Family Apartment Limitation: Owner agrees that no more than 19.66 acres of the Property (35%) of the Property may be used for multi-family development. Multi-family south of West Pointe Parkway shall be limited to those parcels that are not adjacent to West Pointe Parkway. Additionally, Owner agrees that multi-family development located north of West Pointe Parkway may not exceed 380 feet of frontage on that street. Other allowed uses of the Property will be determined by the zoning in place on the Property at the time development applications are filed with the City.

3.2. Other Limitations on Development: Owner agrees that the Property will be developed in compliance with all Laws. Additionally, Owner agrees to comply with the additional restrictions contained in this Agreement to help ensure that the development of the Property results in an attractive, safe, and healthy environment for future residents.

3.3. Potential Water Reclamation Impacts: The parties agree that developing multi-family residential uses on the Property may generate more sewer than the previously approved commercial and industrial uses and may negatively impact wastewater collection capacity, especially during peak hours, in sewer mains and lift stations serving the Property and surrounding properties. As such, the Owner will conduct a wastewater capacity study to evaluate the impacts of the multi-family development on wastewater capacity in the area including comparing anticipated flow rates to existing infrastructure capacity and the availability of emergency storage. Owner agrees to complete the wastewater capacity study, at its sole cost, and agrees not to request building permits for any multi-family development on the Property until the study is completed. Owner further agrees that it will not seek certificates of occupancy for any multi-family residential development on the Property until all of the recommendations contained in the study, if any, to ensure adequate wastewater capacity for the multi-family residential development have been constructed by the Owner, at its sole cost, and accepted by the City. Owner agrees that the City may withhold building permits, certificates of occupancy, or other development approvals, for the Property that do not comply with this Section 3.3 and the Owner waives any and all claims against the City resulting from the withholding of development approvals regarding the items contained in this Section 3.3 and as authorized by this Section 3.3 to the extent such withholding of approval is caused by the Owner’s failure to comply with this Section 3.3.

3.4. Potential Transportation Impacts: The parties agree that developing multi-family residential uses on the Property may generate more traffic, or create different traffic impacts, than the previously approved commercial and industrial uses. As such, the Owner will conduct a traffic study to evaluate the impacts of the multi-family development on traffic capacity in the area including verifying lane configurations, turn pocket sizing, and
signal timing relative to established level of service requirements within the Property and the immediate vicinity. Owner agrees to complete the traffic study, at its sole cost, and agrees not to request building permits for any multi-family development on the Property until the study is completed. Owner further agrees that it will not seek certificates of occupancy for any multi-family residential development on the Property until all of the recommendations contained in the study to ensure adequate traffic capacity for the multi-family residential development have been constructed by the Owner, at its sole cost, and accepted by the City. Owner agrees that the City may withhold building permits, certificates of occupancy, or other development approvals, for the Property that do not comply with this Section 3.4 and the Owner waives any and all claims against the City resulting from the withholding of development approvals regarding the items contained in this Section 3.4 and as authorized by this Section 3.4 to the extent such withholding of approval is caused by the Owner's failure to comply with this Section 3.4.

ARTICLE IV. FEES

4.1. Fees: Additionally, the Owner agrees to pay all required fees and charges including but not necessarily limited to water hook-up fee(s), water connection (capitalization) fee(s), sanitary sewer connection (capitalization) fee(s), annexation fees, building permit fees and any applicable impact fees that may be imposed. Fees referred to in this Section are established by City ordinance and/or resolution and arise independent of this Agreement.

ARTICLE V. MISCELLANEOUS

5.1. Subdivision: The parties acknowledge that in the event the Owner desires to sell a portion of the Property rather than the Property as a whole, that a plat may be necessary. Owner agrees that in the event a plat is necessary, Owner will submit a proper subdivision plat and comply with the subdivision ordinance in effect at the time of the desired division.

5.2. Default: A party shall be deemed to be in default under this Agreement if such party breaches any covenants, agreements or obligations under this Agreement, and thereafter fails to cure such breach within thirty (30) days after such party’s receipt of written notice thereof from the other non-breaching party; provided that if the nature of the breach is such that the same cannot reasonably be cured within the thirty (30) day period, such party shall have such additional time necessary to complete such cure so long as it has diligently commenced such cure within said thirty (30) day period. Owner agrees that in the event the Owner is in default under this Agreement beyond the applicable cure period, the City may terminate this Agreement in its sole judgement and rezone the Property to its prior zone. Owner waives, on behalf of itself and any successors in interest, any claims it may have or acquire for declaring a default of this Agreement and rezoning the Property as allowed by this Section 5.2. City agrees that in the event the City is in default under this Agreement beyond the applicable cure period, the Owner may seek any and all remedies available to it at law or equity. Notwithstanding the foregoing, the parties shall comply with the provisions contained in Section 5.12 before a determination to terminate this Agreement is made.
5.3. **Owner to Hold City Harmless:** The Owner further agrees it will indemnify, defend (in the City’s sole option), and hold the City harmless from all causes of action, claims and damages that arise as a result of the Owner’s development of the Property as contemplated by this Agreement, except to the extent caused solely by the negligent acts or omissions by the City or its agents.

5.4. **Time is of the Essence:** Time is of the essence in this Agreement.

5.5. **Merger and Amendment:** All promises and prior negotiations of the parties’ related to the approval of the CCM zone merge into this Agreement and the representations, warranties, covenants, conditions, and agreements of the parties contained in the Agreement shall survive the acceptance of any deeds and/or easements. The parties agree that this Agreement may only be amended by a written instrument that is signed by both parties. The parties agree that this Agreement will not be amended by a change in law.

5.6. **Effect on City Code:** The parties agree that Agreement is not intended to replace any other requirement of City Code and that its execution does not constitute a waiver of requirements established by City ordinance or other applicable provisions of Law.

5.7. **Recordation:** The Owner agrees this Agreement will be recorded by the City at the Owner’s expense.

5.8. **Section Headings:** The section headings of this Agreement are for clarity in reading and not intended to limit or expand the contents of the sections to which they apply.

5.9. **Incorporation of Recitals and Exhibits:** The recitals to this Agreement and all exhibits referred to in this Agreement are incorporated herein by this reference and made a part of this Agreement.

5.10. **Compliance with Applicable Laws:** Owner agrees to comply with all applicable Laws.

5.11. **Covenants Run with the Land:** The covenants contained herein to be performed by the Owner are binding upon the Owner and Owner’s heirs, assigns and successors in interest, and shall be deemed to be covenants running with the land.

5.12. **Promise of Cooperation:** Should circumstances change, operational difficulties arise or misunderstandings develop, the parties agree to meet and confer at the request of either party to discuss the issue and proposed solutions. Further, each party agrees not to bring a claim, initiate other legal action, or suspend performance without meeting directly with the other party regarding the subject matter of the disagreement and if the parties cannot amicably resolve the disagreement, retain a mediator, acceptable to both parties, to mediate a solution to the disagreement.

5.13. **Severability:** Should any provision of this Agreement be declared invalid by a court of competent jurisdiction the remaining provisions continue in full force and effect and must be interpreted to effectuate the purposes of the entire Agreement: to the greatest extent possible.
5.14. **Enforcement – Attorney’s Fees:** Should either party require the services of legal counsel to enforce compliance with the terms of this Agreement, the prevailing party will be entitled to its reasonable attorney’s fees and related costs of enforcement.

5.15 **Consent:** The parties agree that when a consent or approval is requested from a party, the other party shall not unreasonably withhold, delay, or condition such consent or approval.

IN WITNESS WHEREOF, the City of Post Falls has caused this Agreement to be executed by its Mayor and City Clerk, and the Owner has executed this Agreement to be effective the day and year first above written.

**CITY OF POST FALLS**

By: ________________________________
Ronald G. Jacobson, Mayor

Attest:

______________________________
Shannon Howard, City Clerk

**THE POINTE PARTNERS, LLC**

By: ________________________________
Kip L. Wadsworth, Manager
ACKNOWLEDGEMENTS

STATE OF IDAHO

County of Kootenai

On this ______day of ______, 20____, before me, a Notary for the State of Idaho, personally appeared Ronald G. Jacobson and Shannon Howard known, or identified to me to be the Mayor and City Clerk, respectively of the City of Post Falls, Kootenai County, Idaho, executing the herein instrument, and acknowledged to me that such City of Post Falls executed the same.

IN WITNESS WHEREOF, I have hereto set my hand and affixed my official seal the date and year in this certificate first above written.

Notary Public for the State of Idaho
Residing at: ____________
Commission Expires: ________

STATE OF UTAH

County of Salt Lake

On this ______day of ________, 20____, before me, a Notary for the State of Utah, personally appeared Kip L. Wadsworth, Manager, The Pointe Partners, LLC, known, or identified to me to be the person(s) whose name is subscribed to the within instrument, and acknowledged to me that he executed the same on behalf of the corporation.

IN WITNESS WHEREOF, I have hereto set my hand and affixed my official seal the date and year in this certificate first above written.

Notary Public for the State of Utah
Residing at: Salt Lake County
Commission Expires: 11-05-2025
Zoning Boundary Legal Description – Phase 5

A zoning boundary being a portion of Block 2 of The Pointe at Post Falls, as same is shown on the official plat thereof, recorded in Book K of Plats on Page 117, Kootenai County Records, being situate in Section 1 and Section 12, Township 50 North, Range 6 West, Boise Meridian, City of Post Falls, Kootenai County, Idaho, being more particularly described as follows;

COMMENCING at the quarter corner common to said Section 1 and Section 12 (from which the west section corner common to said Section 1 and Section 12 bears N 89° 13' 30" W, 1920.45 feet in distant); Thence S 38° 23' 02" E, 462.40 feet, said point being common with the southerly right of way of Point Parkway and the northwest corner of Parcel B, as shown on Record of Survey Instrument Number 2846679000, Kootenai County Records, and the POINT OF BEGINNING;

Thence the following 7 courses along said southerly right of way line;

Thence 163.22 feet on the arc of a curve to the left, having a radius of 2048.50 feet, a central angle of 04° 33' 55", and whose long chord bears N 67° 54' 08" E, 163.18 feet;
Thence N 65° 37' 10" E, 851.36 feet to a point of curvature;
Thence 192.14 feet on the arc of a curve to the right, having a radius of 451.50 feet, a central angle of 24° 22' 56", and whose long chord bears N 77° 48' 38" E, 190.69 feet;
Thence N 89° 59' 59" E, 145.05 feet to a point of curvature;
Thence 22.49 feet on the arc of a curve to the left, having a radius of 3040.00 feet, a central angle of 00° 25' 26", and whose long chord bears S 25° 01' 45" E, 22.49 feet;
Thence N 64° 45' 32" E, 47.70 feet;

Thence leaving southerly right of way, S 89° 59' 58" E, 464.94 feet;
Thence S 00° 00' 00" W, 148.33 feet to a point of curvature;
Thence 39.39 feet on the arc of a curve to the left, having a radius of 475.00 feet, a central angle of 04° 45' 06", and whose long chord bears S 02° 22' 33" E, 39.38 feet;
Thence S 04° 45' 06" E, 169.51 feet;
Thence S 36° 51' 40" E, 88.54 feet;
Thence S 11° 13' 31" E, 319.72 feet to a point on the northerly right away of Highway 90;
Thence the following 3 courses on said northerly right of way;
Thence S 70° 29' 27" W, 940.62 feet;
Thence S 72° 58' 50" W, 690.69 feet;
Thence S 79° 56' 05" W, 119.95 feet;
Thence N 16° 18' 50" W, 859.87 feet to the POINT OF BEGINNING

The above described zoning boundary contains 37.259 acres (1,622,992 sq. ft.), more or less.
Zoning Boundary Legal Description – Phase 6

A zoning boundary being a portion of Block 3 of The Pointe at Post Falls, as same is shown on the
official plat thereof, recorded in Book K of Plats on Page 117, Kootenai County records, being situate in
Section 1 and Section 12, Township 50 North, Range 6 West, Boise Meridian, City of Post Falls,
Kootenai County, Idaho, being more particularly described as follows;

COMMENCING at the quarter corner common to said Section 1 and Section 12 (from which the west
section corner common to said Section 1 and Section 12 bears N 89° 13’30” W, 1920.45 feet in distant);
thence N 89° 13’30” W, 636.03 feet on the section line common to Section 1 and Section 12, said point
being common with the northwest boundary of Lot 8 of said Block 3 and being the POINT OF
BEGINNING;

Thence N 51° 17’ 15” E, 227.70 feet; on the west boundary of said Lot 8 to the southwest corner of
Parcel G as shown on Record of Survey Instrument Number 2480307000, recorded in Book 26, Page 33,
Kootenai County Records;

Thence the following six courses on the exterior boundary of said Parcel G:
  Thence N 51° 17’ 15” E, 388.82 feet;
  Thence N 53° 46’ 07” E, 390.59 feet;
  Thence S 37° 19’ 49” E, 140.03 feet;
  Thence N 53° 46’ 07” E, 126.83 feet;
  Thence S 36° 13’ 53” E, 305.49 feet;
  Thence S 53° 47’ 13” W, 62.93 feet;

Thence the following three courses on the exterior boundary of said Parcel G and Parcel F as shown on
said Record of Survey:
  Thence S 36° 15’ 06” E, 286.67 feet to a point of curvature;
  Thence 69.76 feet on the arc of a curve to the right, having a radius of 330.00 feet, a central
  angle of 12° 06’ 43”, and whose long chord bears S 30° 11’ 45” E, 69.63 feet;
  Thence S 24° 08’ 24” E, 89.12 feet to a point on the northerly right of way of Pointe Parkway;

Thence the following three courses on said northerly right of way:
  Thence on said northerly right of way, S 65° 36’ 59” W, 351.38 feet to a point of curvature;
  Thence 274.52 feet on the arc of a curve to the right, having a radius of 1951.56 feet, a central
  angle of 08° 03’ 34”, and whose long chord bears S 69° 38’ 46” W, 274.29 feet;
  Thence S 73° 40’ 34” W, 506.72 feet to a point of curvature;

Thence 31.41 feet on the arc of a curve to the right, having a radius of 20.00 feet, a central angle of 89°
58’ 58”, and whose long chord bears N 61° 19’ 26” W, 28.28 feet to a point common to the easterly
right of way of Cabela Way;

Thence the following three courses on said easterly right of way of Cabela Way:
  Thence N 16° 19’ 26” W, 30.69 feet to a point of curvature;
  Thence 218.36 feet on the arc of a curve to the left, having a radius of 540.00 feet, a central
  angle of 23° 10’ 08”, and whose long chord bears N 27° 54’ 37” W, 215.88 feet;
Thence N 39° 29' 32" W, 291.36 feet to a point on the section line common to said Section 1 and Section 12;
Thence S 89° 13' 42" E, 29.63 feet on said section line to the POINT OF BEGINNING.
The above-described zoning boundary contains 18.915 acres (823,937 sq. ft.), more or less.
Motion to recommend approval to City Council finding it is consistent with the Comprehensive Plan and the Zoning Code with a zoning designation of R2 - Carey 2nd By Steffensen
Vote Hampe -- Yes; Schlotthauer -- Yes; Davis -- Yes; Kimball -- Yes; Carey -- Yes; Steffensen - Yes
Moved

B. **Zoning Recommendation** for The Pointe Zone Change File No. RZNE-0001-2022 — Jon Manley, Planning Manager, to present a request for a recommendation to City Council for a zone change from Industrial (I) to Community Commercial Mixed (CCM) of approximately 54.1 acres. — Requested action is to rezone approximately 54.1 acres in the City of Post Falls from Industrial (I) zoning to the Community Commercial Mixed (CCM) zoning district which requires a Development Agreement. The request is generally located west of Wal-Mart and East of Cabela’s north of I-90 and west of Baugh Way mostly along Pointe Parkway. In 2008 there was an approved commercial site plan, there was large anchor pads of which Wal-Mart took anchor 3 leaving the other 3 vacant. Since 2008 we have recognized that the commercial industry has changed significantly, now many people are doing their shopping online so now the smaller neighborhood commercial sites are more of what people gravitate to. They recently submitted a preliminary subdivision, Pointe at Post Falls 4th Addition, to create smaller pad site commercial development. There will be an internal road system to connect the new smaller pad lots. With Euclidean zoning, CCS Community Commercial Services, there is a list of vested rights and permitted uses where the rules are straightforward versus a mixed zone that requires a Development Agreement. The CCM zone allows up to 50% multi-family outright with a commercial development. The draft agreement has 28.5%, 15.4 acres, for multi-family and the applicant has looked at some different options. Option 1 would be 30.5%, 16.5 acres, that would be located north of Pointe Parkway set back behind commercial pad sites. Option 2 is 36.1%, 19.5 acres, where they would add some of the multi-family on a couple of lots south of Pointe Parkway set behind some commercial pad sites along with the area stated north of Pointe Parkway. For the Commission, you can add recommendations to the Development Agreement to City Council as you see fit, with another option you as the Commission can condition to construct a smaller area for the multi-family.

**Kimball** — Am I to understand that option 2 includes both areas one and two as shown on the map

**Manley** — Option 2 would be the sum of 1 and 2. In their most recent submittal the list of uses leaves out medical and as a Planner, I question why you wouldn’t want some type of medical in this area. So, that is something you could add to the Development Agreement. The current land use is underdeveloped commercial with no significant topology or vegetation matters that are hazardous, and the water and sewer provider is the City of Post Falls.

**Zone Change Criteria**
The future land use map, goals and policies, street classifications, traffic patterns, the staff report contains the analysis of the traffic patterns as well as some conditions that were proposed within the Development Agreement that may trigger some added traffic analysis depending on phasing and staging of this project and any potential multi-family.
The current zoning is Industrial, and the requested zone is CCM, to remind everyone this was an approved commercial site. In today’s market commercial within an industrial zone can make it awkward for the users. Business/Commercial was deemed the most applicable during our workshops for this area. Business/Commercial promotes a mixture of moderate/high-density housing types within walking distance near corridor commercial uses and other amenities within Post Falls. It is aimed to improve pedestrian connections and promote compatibility between permitted uses. The CCM is an implementing zoning district and Industrial is not an implementing zoning district within the Business/Commercial. The proposal would make this be more in conformance with the existing Comp Plan and Future Land Use Map. The second largest Industrial Park in the region is south of this area, Riverbend Commerce Park, so in the workshop, knowing there was an already approved commercial site plan, it seemed more appropriate to have a clear path forward and removing the Industrial zone from Business/Commercial. There are some buffering requirements between high and low-intensity development, however, this isn’t 100% applicable to the request. The Riverbend focus area also states that this area should continue to evolve, attracting commercial businesses, high tech companies, hotels, entertainment establishments, and potentially additional residential. I will not be going over all the goals and policies for this project the applicant will be presenting these. I will point out Goal 7 is to plan for and establish types and quantities of land uses in Post Falls supporting community needs and the City’s long-term sustainability. Policy 1, one of the points is to maintain and enhance resident quality of life; if you lived in Woodbridge, it would be more convenient to come to this area rather than always to the east of Post Falls where the heavy commercial corridors are. These residents are currently limited to Wal-Mart, Panda Express and Cabela’s, so, it would be a benefit to bring more commercial services to this area and improve their quality of life. Policy 2 states to apply or revise zoning designations with careful consideration of factors including infrastructure and service plans, existing and future traffic patterns; again, the staff report states there maybe a trigger to conduct a traffic study with this development. Policy 3 states to encourage development patterns that provide suitability scaled, daily needs services within walking distance of residential areas. So, if there were to be some residential within this development this policy would be consistent with the request plus there is a park and ride to the east of this area on Pleasant View Rd. Commercial and high-density residential zoning is typically assigned along streets with a higher road classification; the staff report talks about access to I-90, Beck Rd. and the interchanges. Limited or neighborhood commercial and lower density residential zoning as well as Industrial uses criteria are not applicable to the requested action. All agencies have been notified, Post Falls Police are neutral, Kootenai County Fire will have comments throughout any future review and permitting processes and DEQ has construction related comments.

**Hampe** – Looking at the areal, what is the big building to the right?

**Manley** – Sysco and Wal-Mart.

**Hampe** – What is to the other side?

**Manley** – There is a big slop from Integrity Way to the north which is all industrial type trucking facilities. To the south is the RV Park that is being constructed.

**Schlotthauer** – Did you say there was an existing subdivision there?

**Manley** – Yes, Pointe at Post Falls 4th Addition.

**Schlotthauer** – So, those lots are already subdivided as we see them now?

**Manley** – Approved, but not platted.

**Schlotthauer** – What uses are approved to be constructed within the current zone?
Manley – Most of the commercial stuff as well as mixed industrial type uses that aren’t necessarily complementary to commercial uses.
Hampe – If it stayed Industrial, they wouldn’t be able to put high-density multi-family.
Manley – In an industrial zone that is not an option.
Hampe – You said there is a max amount they can use for high-density?
Manley – In a CCM the most they can ask for is 50%. It is not an outright permitted use.
Schlothauuer – What is asked for and added to the Development Agreement, they can automatically do that?
Manley – Yes, whatever is embodied in the Development Agreement they can construct. The Agreement will be recorded against the land, so whomever owns this property must abide by the Development Agreement.

Applicant – Joseph Powell, - This area is close to the state line; there is an approved preliminary plat that staff referenced. A little history and status of this area, Wadsworth Development Group purchased the property in 2013 from the original developer. There was only Cabela’s and Wal-Mart out there with the West Pointe Parkway and part of Baugh Way completed. This area has been vacant for several years now, the original plan and vision for this area was a couple of big box commercial development. There isn’t much of a demand for this type of commercial which is why it has sat vacant for so long. Wadsworth has upgraded the roads, utilities, to try and partner with some developers, we have sold some pads and have seen minimal movement. When reaching out to some national retail the hesitance they have is due to lack of residential to support the use that is needed which is why we are bringing this request to you. The proposed change from industrial to community commercial mixed zone will help achieve the City’s goals and create areas for residents to live, work and play. The current zoning has deterred retail and other commercial businesses throughout the years. The Future Land Use Map and Comp Plan shows this area as being Business/Commercial and the CCM request fits in with this criterion. We are requesting to have these types of development options in mind commercial, office, assisted living, town homes, multi-family, light industrial, hospitality, medical in hopes to really develop this area out. The focus area states that it should continue to evolve, attracting commercial businesses, high tech companies, hotels, entertainment establishments, and potentially additional residential. This request will help facilitate the Comp Plans goals and policies and allow for some traction in this area. Looking at the traffic patterns and road classifications, Beck Rd is a Major Arterial, and West Pointe Parkway was intended to be a commercial road to handle the higher traffic counts. We want to develop an area where the residents can walk to the services rather than always commuting to and from establishments. The goals reached by changing this zone; we would have the ability to create a master plan, develop and construct a mixed-use project with the true sense of place. This project would create a sustainable, walkable community where people can live, work, eat, shop and play and in turn reduce traffic impact on other neighborhoods and provide a high quality and affordable services to all residents. This will maintain a small-town feel that will provide access to parks and nature.

Ron, Redtail Multi-Family Development – We have partnered with Wadsworth for the 19-acre multi-family development area. If this is approved, we envision a pedestrian friendly apartment complex that will be set behind 3 acres of commercial. So, along Pointe Parkway would be 3 acres of commercial and set behind that would be 270-unit multi-family development. There would be 260, approximately, 1-3 story apartment buildings with about 6 townhome style units. Our goal is to promote walkability to the
current commercial as well as the future commercial in the area. This will help bring rooftops to the center and allow Wadsworth to build out their vision for this area. The community we are using as an example for this area is down in Boise, Kensington at Northe Pointe. The have retail in the front with multi-family to the back and a Wal-Mart across the main street.

Steffensen – As this develops West Pointe Parkway is the only route to access this area, correct? North Cabela Way won’t be extended?
Powell – Currently that is the main thoroughfare, Beck Rd is the north-south.
Steffensen – Beck and Baugh you can get in there, but West Pointe is the only road to access the apartments, Cabela’s, etc. This is the only way out as N. Cabela Way currently isn’t connected to the north. This road is wide, and I am sure it can handle it just long term.

Powell – The intent is for N. Cabela Way to eventually connect however, there are the other property owners that would need to cooperate. Pointe Parkway does go to Beck and Baugh Way plus the new roadway to the south of Pointe Parkway for the commercial subdivision that was recently approved will be in place to help ease traffic.

Kimball – Are you okay with medical being added?
Powell – Yes, we do want to be open and are okay with medical being an option as well. The intent is to provide as many options as we can to bring in services that are needed in this area.

Kimball – Can you speak to national retailers needing more rooftops?
Powell – We have a few national retailers that we’ve done projects within other states, and they have looked in the area in the past and one of their criteria is to have more rooftops closer by to utilize their services. Their other reason for passing on this site is due to the Industrial zoning.

Kimball – Does the inclusion of multi-family get the rooftops above those thresholds, or would it still be below?

Powell – The multi-family gets it to the thresholds and shows there is movement in the area and have enough residents to support businesses in the area and be the employees.

Manley – Need to clarify the fire comment within the staff report, if there was more than 200 units, they would need to have a secondary egress, Jeryl Archer was shown the proposed plan so, the Development Agreement has been updated to address the fire departments concern.

Kimball – Is that a building permit issue, mostly?

Manley – He would review this as part of either the Site Plan Review or the Building Permit, he wouldn’t approve it. If there are fire access issues, he will not approve it.

Kimball – So, this isn’t necessarily a zoning thing it is a building permit issue.

Manley – Correct.

Testimony:
In Favor – Read into the record by Davis – Chad Burd – I support the application to rezone to CCM.
Neutral - None
In Opposition – None

Comments:
1. Consistent with Future Land Use Map.
Kimball – The Land Use Map has this as Business/Commercial and CCM is an implementing zone, and the focus area talks about it specifically.

**All Commission Agreed**

2. Consistent with the Goals and Policies Found in the Comprehensive Plan.

Schlothauer – Goal 1, grow and sustain a balanced resilient economy for Post Falls. We have limited industrial and commercial space for folks to work and for a balance we need a balance between rooftops and for places people can work, shop, dine, all aspects of a balanced life. This area was specifically intended to be large commercial locations. Personally, I don’t buy we need to have multi-family in this area for more retailers to come in. I don’t think by adding 200 more units it will bring in another large store to come in, this is already broken up based on the preliminary plan for smaller commercial lots, which are in demand and if they are available these retailers/commercial companies will come.

Hampe – I agree.

Kimball – I respect where Schlothauer is coming from, allct of the Comprehensive Plan talks about how we want walkability. We have a dire need for housing, we have commercial services in this area that exist and say we do approve the 280 or so apartment units here, that is 280 units that are not somewhere else. It will be walking distance next to Wal-Mart, walking distance to future commercial which means less traffic. The writing has been on the wall for this property for a long time, Wadsworth has owned for about 9 years and there has been little movement out there. The mall type location is gone, the malls around here are dying. When you integrate the residential component into this, it drives both, it solves a residential problem, a commercial business says they want to relocate to Post Falls however, there is no place for my employees to live. Now, they would be able to live across the street. This all dovetails into the goals and policies of the Comp Plan and I see this as a good fit and is an important component because of it.

Steffensen – I just want to state I can see both sides, I am not a retail person so I don’t know if more rooftops will bring in business. What I see in the area and surrounding areas that there is allot of mixed-use products going in. I have friends that live within these areas, and you can walk to various businesses, I think this is where the trend is going. This land has been vacant for a while, and I feel anything we can do to bring businesses in where people can live and work in Post Falls is a good thing.

Kimball – To dovetail off that, the first real mixed-use that came into the area was Riverstone in Coeur d’Alene. It is important to remember that none of the businesses in this area took off until the apartments started to fill up. There weren’t enough people to really push the retail. Now it is a lot more vibrant than it was 10 years ago because of the residential component being within walking distance. That is what they are shooting for here.

Davis – To Schlothauer and Steffensen’s points do the apartments bring in more of the big commercial here, I agree with you guys, it does not. But will it bring in the smaller businesses I think it absolutely will. To the Riverstone point, in Boise and other areas we have seen this happen. When you go out to this area now Panda Express is all that is out there. There is always a long line and so there are people that live out there that will benefit from this area growing maybe not the apartments but the businesses that will come they will. I agree, bigger businesses will not come however the smaller and mid-size businesses will come.
Hampe – I think comparing it to Riverstone is a real stretch. I don’t see this area ever being a Riverstone, it is apples and oranges. I wouldn’t be opposed to some high-density multi-family; however, I think they are requesting some large complexes. We keep taking the industrial and commercial land and constructing high-density multi-family on it. The history in this area is that we keep approving residential with industrial or commercial across the street and when these businesses try and come in, they get a lot of nay sayers from the residential. I just don’t think they work well together. We just keep pushing out the businesses for apartments or other residential units and I don’t like seeing that. I still go shopping.

Schlotthauer – Just seems like to much for this spot when there is such a finite quantity for this type of large commercial parcels. I’d rather see this become CCS with a Special Use Permit for a finite amount rather than a large pre-approved blocks for high-density multi-family.

Carey – I just must wonder, we will never get another big box of anything come in next to Wal-Mart. Something small would come in however, we won’t see another big box store. I too hate seeing these large complexes come in everywhere however, they seem to be the only answer for these areas where you are trying to get some type of business to come in. I do agree, you need rooftops for it to pencil for the businesses to come.

Davis – I’m not going to speak for everyone, I would say when you look at that large scale of multi-family development compared to a mismatched and maybe misplaced infill small apartment, I would rather see this the larger, walkability, and parks. I think there is good opportunity there where you have a park and ride, restaurants eventually and food grocery access, not that I am a fan of it, but where else are you going to put multi-family.

Steffensen – So, we have option 1 and 2 for the multi-family however, in the draft Development Agreement it says 15.4 acres which would be within option 1 however that option says 16.5 acres. So, the R3 wouldn’t take up the entirety of option 1 if we went with the draft, is that correct?

Schlotthauer – So, they are saying 30% of the entire area would be multi-family immediately. Then maybe some businesses would come if there were that multi-family.

Steffensen – The agreement states 28.5% which is the 15.4 acres what I am trying to understand is if you take both options, it is 19 acres which is more than the 15.

Davis – So, if you take the Draft Development Agreement, which we have looked at, it also states that development may not exceed 300 feet on that street. So, if you take option 1 you are taking it to 30.5 from 28.5%. Option 2 is 1 and 2 combined if I am not mistaken.

Steffensen – They can go up to 50% or we can go option 3.

Hampe – Where it would be something less.

Steffensen – Got it.

Schlotthauer – How much multi-family have we already approved just immediately to the east of this, it’s a lot. There is already allot of rooftops that are coming. All around here we have approved multi-family. We can make it all multi-family and have nothing left very easily is what I believe will happen. It’s just too much.

Davis – So, you are not necessarily opposed to multi-family to some capacity just smaller area.

Schlotthauer – I believe we must have multi-family, we have it going everywhere, once it is all built out where are we going to have industrial and commercial? To employee
these people and provide services, we need to preserve space. The intention for this area was just that and to change the zoning to have more, I just think it’s a lot.

3. Zoning is assigned following consideration of such items as street classification, traffic patterns, existing development, future land uses, community plans, and geographic or natural features.

**Steffensen** – I think the staff report goes into it well with the size of W. Pointe Parkway which is the only entrance as of now. Already some commercial out there, so this fits with the area.

**Kimball** – From a traffic standpoint and street size is either a collector, standard or bigger I don’t believe there are any local streets. I think this is met with the street sizes and land use, etc.

4. Commercial and high-density residential zoning is typically assigned along streets with a higher road classification.

**Davis** – I believe Kimball just covered this – there was no more added

5. Limited or neighborhood commercial and lower density residential zoning is typically assigned for properties as they proceed farther away from the higher intensity urban activity.

**Not Applicable.**

6. Industrial zoning is typically assigned for properties with sufficient access to major transportation routes and may be situated away from residential zoning.

**Kimball** – The vast majority of this is industrial zoning except for Sysco most of the uses are commercial that is out there, however, the zone change is not applicable to this criteria.

**Steffensen** – I have one more question for Manley, how much industrial do we have there and what do you see as a trend within the industrial zone. Do you get requests for industrial or is it all commercial?

**Manley** – We get a lot of demand for research of service ready industrial, a site that already has sewer and water so they can just move in. The difference is in the square footage, 25k – 100k square feet most of the time they are looking for a quick lease. For this area, it has been industrial sense the conception of it and has been sitting vacant. The Riverbend Commerce Park has gained allot of interest to be absorbed quickly. I can say we do have the Technology Mixed Park that was recently annexed northwest corner of Hwy41 and Prairie. We also have a large area of industrial in west Post Falls that we also recently annexed. I don’t have the amount of acreage quantified however, historically the absorption rate of industrial is slow.

**Steffensen** – When you say it has sat vacant as an industrial lot, you mean it has sat vacant as a 54-acre industrial lot. How many parcels is it currently?

**Manley** – There has been 3 large lots with a couple of pad sites of which the landowner could have done a boundary line adjustment to accommodate industrial users during a sale.

**Hampe** – So, it wasn’t ready to go?

**Manley** – No, it was ready they could have connected to sewer and water and could have had a land transaction developed.

**Steffensen** – I think the point we are trying to make is if this were 30 industrial lots the likelihood of sale would have been much different that 1 54-acre lot.

**Manley** – I don’t have the exact number, but I can say there are currently 10-20 platted lots already out there.

**Schlotthauer** – Currently platted?
Manley – Yes, let me pull up the aerial.
Davis – Herrington, with some of the conversation we are going into after the closing of the hearing, there are some new findings that we will be looking at could we re-open the hearing to give opportunity for continued conversation with not only staff but applicant?
Herrington – Yes, you can open the public hearing for new information you will have to give the same opportunity for rebuttal.
Schlothauer – Do we need to reopen to ask staff for clarification?
Herrington – As long as it isn’t new information the maps are in the staff report, this is just clarifying.
Davis – In order to be fair, the applicant seems to have information they would like to cover, correct? So, Manley go through your part.
Manley – So, this is the existing plat of lots that are currently out there. They could easily have been sold, submitted a site plan at that time we would have looked at sewer and water availability and anything that didn’t meet the needs we would have conditioned for site plan approval. These lots could have been reconfigured through a BLA, which we recently adopted a new BLA process. There are currently 15 lots that are platted, like I said they could have moved things around a little for someone to buy and develop as industrial I don’t know the date of recordation for this PLAT, but it has been that way sense my time here (about 13 years).
Hampe – How much of the surrounding property…
Davis - If everyone is fair with everything that we are discovering can we just re-open the hearing. **Hearing was reopened**
Hampe – How much of the area has recently been approved for high-density multi-family?
Manley – Amelia Apartments, Apartment 26 I believe the two sites combined are currently about 470 units between the two.
Hampe – That are completed or?
Manley – No, they are under construction.
Hampe – We can assume that those will be rooftops that can draw in potential commercial businesses, correct?
Schlothauer – To the north of there is more multi-family.
Manley – Yes, I believe those are the Remington Apartments, its full.
Hampe – How many are those?
Manley – I am not sure how many, but you also have Parkwood Apartments.
Davis – When you say its full?
Manley – Built out, its occupied.
Davis – Fully occupied, Herrington?
Herrington – It’s 132 units.
Davis – 132 units that are completely full.
Hampe – So, 400 and something and then 132.
Kimball – Will you zoom out and show us the extent of the industrial corridor?
Manley – Here is all the industrial zoned land in Post Falls. Goes from Seltice up to Prairie along Pleasant View. Which then transitions to mixed zones and again some more industrial.
Schlothauer – When do you think that will come online and industrial uses can move in?
**Manley** - A trucking facility is working on submitting applications and start construction sooner than later on the corner of Pleasant View and Prairie.

**Hampe** – Wasn’t there an issue with getting sewer up there?

**Manley** – Maybe someone from Engineering would want to speak to that. I haven’t been in any of the meetings to coordinate sewer.

**Hampe** – I remember when we brought that on there was some issues.

**Seale** – It is being worked through and in the process for a plan to get a sewer line up there. They intended to start construction on that next year. I believe it is about 2 years out, I believe the trucking company that wants to go in up there wants to be in service by the end of 2024. This will open the corridor and the city will also be doing some construction on the north side for a lift station.

**Schlothauer** – So, in 2-3 years there might be some available parcels there.

**Seale** – Yes, there is allot of industrial land that is ready to roll but this site, Wal-Mart doesn’t want industrial nearby.

**Hampe** – Can we quickly review what is allowed in industrial.

**Manley** – With sales and service you can see a little similarity for permitted uses for commercial.

**Hampe** – Everything with a P is permitted in industrial?

**Manley** – You can’t do a car lot in the CCM, but you could in an industrial. You can’t do a heavy equipment repair site in a CCM, but you can in an industrial. So, a heavy equipment repair center can go in next to Cabela’s as it is currently zoned. In an industrial you can have a tractor heavy equipment dealership but not in CCM.

**Hampe** – You can do allot in an industrial though.

**Manley** – True, but as Mr. Seale stated, if you are Wal-Mart, you may not want a heavy equipment and tractor dealership next to you. It may not be deemed as a complimentary use.

**Schlothauer** – That is a valid point but also, they may not have moved into the end of a residential cul-de-sac and built a Cabela’s either.

**Manley** – I am just pointing out things. There are many items that are permitted in an industrial that are not in a CCM zone. Examples are an asphalt plant and manufacturing facilities the goal behind the Community Commercial Mixed was for community minded type of commercial and not allow allot of the nuisance oriented industrial. A wood products manufacturing is permitted outright in an industrial zone and potential in a CCM with a Special Use Permit so, maybe it would be an artisan woodworking type business that might be approved however if it was a big wood mill type of production you wouldn’t necessarily want that in a CCM zoned area.

**Schlothauer** – Heavy Industrial isn’t a good fit there,

**Manley** – Heavy Industrial isn’t even in the table.

**Schlothauer** – CCS is more of the intent for this area and classically what it has been. So, the two reasonable options would be either CCS or CCM whether you want it to be more Commercial or more Residential is the bottom line.

**Manley** – A little history on that, they did request a CCS I believe was in 2017 or 2018 and was denied at Council. So, there original intent was for Commercial to get the zoning more inline with the Commercial Site Plan to get those pads developed.

**Kimball** – I have a quick question for the applicant, in the Title Report I see lots of things however, are there CC&R’s that are restrictive regarding industrial?

**Powell** – The current CC&R’s are there to help maintain the common areas of the property to help maintain the beauty out there.
Chad Good – I oversee the land sales from Cabela’s to Expo Parkway, I have represented Watson on the Expo projects and have over seen the recent transaction that have recently taken place within the Riverbend Park. The reason you cannot get an industrial user in this area is because Cabela’s and Wal-Mart have exclusions as to who they will allow as users within a certain radius around their facilities.

Schlotthauer – By what mechanism?

Hampe – How can they tell people what can go there?

Good – It is in the deed.

Powell – They have exclusive rights when the property was sold to them.

Hampe – It’s their property?

Good – No, it’s a typical development exclusion if Target went in there, they wouldn’t let Wal-Mart go in next door.

Schlotthauer – So, they made an agreement with the developer when they purchased the agreement?

Good – Cabela’s isn’t going to allow a North40 or a Dick’s go in next to them. Which is why you have these types of developments so the big developers can have their exclusions, so you don’t have Wal-Mart, Target, and everyone else on top of each other. With those exclusions, there are also industrial exclusions Wal-Mart wouldn’t want an Amazon going in across the way, they will exclude that all day. Same with any type of manufacturer they want rooftops not a warehouse with 5 employees and trucks coming in and out.

Hampe – So, they get to choose what comes up, so it gets presented to them that a certain user wants to build here in this location will “you” approve it? Is that how it works.

Schlotthauer – I have one question of those 20 parcels or so, what is the listing history?

Good – Those lots have been on the market 7-8 years.

Schlotthauer – All of them?

Good – All of them.

Schlotthauer – As one sale or individual sales?

Good – it was a hodge podge of different plats I worked with Amazon on a few different sites before they went in and this was one of them however, they were excluded immediately. The marketing for users can be done in different ways and the plat lines can always be adjusted to fit the needs.

Powell – When Wadsworth development came on those agreements were already in place. This property has been zoned industrial from at least 2006 and those parcels have been available to be sold. From 2013 when we took over, they have been marketed and ready to sell and be developed right away. Due to restrictions and other reasons industrial hasn’t happened, from 2006 to now industrial has been tried however, it isn’t going to happen. We feel at this point a move towards the CCM allows us to work with City Council and Planning and Zoning Commission as well. From my understanding when the request for CCS in 2017 was denied the reason was due to Council not wanting individual property owners to keep coming back with Special Use Permits and ending up with allot more residential than what we are proposing. So, our request is so we can work together and come to an agreement that is palatable for you and what will work for this region. You had mentioned Cabela’s doesn’t want to be at the end of a residential zone however, they do want to see more residential there. If you look at the Wal-Mart at the other end of town there is a large, assisted living and apartment complex next to it. So, it makes sense that retail wants mixed-use and multi-family nearby it gives them daily customers.
**Good** – It isn’t going to be industrial and never will be as long as Wal-Mart and Cabela’s are there. I am an industrial guy; this case makes more sense to be a higher density.

**Kimball** – So, am I understanding this correctly that there is an agreement in a deed for this property that vetoes any sort of use that isn’t compatible, is that a fair way of saying it?

**Powell** – It isn’t as blanket as that, that can also restrict similar products or businesses like a Dick’s Sporting Goods.

**Kimball** – Okay.

**Seale** – When we were in the process of creating the Community Commercial Mixed zone this was one of the specific areas in town that was specifically used to envision how that regulation and zone was being created and compiled. If you remember when we did the Comp Plan the map was adjusted to allow for CCM to fit in certain areas which was also grabbed into this area for the Business/Commercial Mixed on the Future Land Use Map. We went over allot of iterations of the Future Land Use Map that ultimately changed it within this specific area because of the anticipation of this area moving away from the industrial type of use to a more Community Commercial type of mix.

**Davis** – Anyone have any other questions?

**Hampe** – I got mine answered.

**Herrington** – I would open it up for public comment.

**Testimony:**

*In Favor – None*

*Neutral – None*

*In Opposition – None*

**Davis** – Any other clarification, do we have to go through the criteria again?

**Herrington** – Yes – just kidding. Close the public hearing and just continue your deliberations.

**Public Hearing Closed**

**Comments**

**Kimball** – The applicant shed some light on why it hasn’t developed as industrial due to the big box stores and their restrictions. If this stays industrial, it will make it difficult to develop in the future. There has been allot of industrial that has recently been annex that could and should take place of this.

**Schlotthauer** – I still don’t buy that the developer completely tied their hands when they sold those two parcels so there’s nothing left that they can possibly do, I don’t buy that.

**Hampe** – But beside apartments.

**Schlotthauer** – I do like the mix I like the live/work I just think it is more than what the area was intended for. I think it is better that we bring pockets of commercial into our residential areas rather than bringing pockets of residential into our industrial and commercial areas. We can put a restriction in for our proposal.

**Davis** – If we went with option 3 something less than what was proposed.

**Herrington** – You can include it in as a recommendation for inclusion of the Development Agreement.

**Hampe** – How big is option 1 then? Is it just the 30.5?

**Davis** – Yes, the Development Agreement initially calls for 28.5.
Hampe – Yeah, okay.
Davis – The other two options would be 30.5 or 36% or if we don't like either one, we can propose something different.
Manley – To Clarify, we have a Draft Development Agreement has 28.5.
Schloothauer – Is that depicted on your graphic?
Manley – Option 1 as it is graphically depicted is either the Draft DA or Option 1. The applicant responded with how they would prefer 30.5 rather than the 28.5 increasing the area marginally from 15.4 to 16.5; so, I through that this graphic as option 1. I also knew the applicant wanted option 2 with an additional 3 acres but that increased it to 36.1%. This was my way of letting you know there was different items being discussed and to give you different options. Additionally, if you wanted something less, you also have that right because it is a Development Agreement.
Davis – The sticking point is if the Option 1 is what is in the Draft or the 30.5, I think it is one in the same.
Schloothauer – I also think Option 2 is a lot less desirable for the property and the future commercial than option 1 as it is off in the corner so if it is in the area of 25% and within the location of area 1, I would be okay with it.
Davis – Your option would be #3 with approximately 25%.
Schloothauer – Yes, in that area.
Steffensen – I would say let's go for what is in the draft within area 1 and like Schloothauer stated, option 2 is not desirable so it would need to stay north of Pointe Parkway.
Kimball – I think the multi-family component is important even though I gravitate to a little more I would be okay with what is in the Draft Development Agreement.
Davis – 28.5
Kimball – Yeah, I gravitate in all honesty to the 30.5 because its only a 2% jump but that is more of a Council decision, I guess. My point being is that it is a really important component to it if we are talking about having a live, work, shop development. It’s chicken and egg right, do you have the commercial first or the residential, which works best, I don’t know.
Schloothauer – Say we add only 25% up in that corner is there anything to prevent them from asking for a rezone next week?
Manley – That would be a major amendment to the Development Agreement and if it gets approved by City Council, that would be a long haul to ask for additional density.
Davis – Once we add this to the Development Agreement, it is a difficult process to change it.
Manley – This is the difference between a CCS and a CCM typically.
Kimball – This puts on limitations on where you can put it as well, so they can't just put it wherever they want. I would also agree the area south of Pointe Parkway is awkward. For the multi-family component and including the medical would be appropriate.
Schloothauer – To preserve the area south of Pointe Parkway for commercial is a great idea.
Davis – Additionally, the owners must agree that multi-family must be located north of Pointe Parkway and may not exceed 380 feet of frontage on the street.
Schloothauer – I say let's go with the draft to make it easy.
Carey – What would 25% be in acreage?
Steffensen – 13.53, not that I did the math or anything.
Motion to recommend approval to City Council finding the requested zoning meets the approval criteria found in the PFMC 18.16.010 and 18.20.100 as outlined in our deliberations and direct staff to prepare a Zoning Recommendation to include the Multi-Family component to be a 28.5% and limited to the 380 feet on Pointe Parkway as described in the Development Agreement with in the staff report as well as allowing medical uses in areas 1 and 2 as depicted in the map and with the CCM zoning designation. - Kimball
2nd By Schlotthauer
Vote Steffensen – Yes; Carey – Yes; Kimball – Yes; Davis – Yes; Schlotthauer – Yes; Hampe - No
Moved

C. Zoning Recommendation for Ashford Place Annexation and Review Requested for Ashford Place Subdivision File No(s). ANNX-22-5/SUBD-22-7 – Ethan Porter, Associate Planner, to present a request for a recommendation to City Council for a zoning designation of Single-Family Residential (R1) upon annexation of approximately 12.34 acres, with a density cap of 2.70 units per acre. Additionally, a subdivision review request of 33 lots. – The requested actions are to provide a recommendation to City Council for the zoning designations of Single-Family Residential (R1) on approximately 12.26 acres. Additionally, to approve to subdivide approximately 12.26 acres into 33 lots, contingent on Planning and Zoning recommendation of the zoning and annexation approval from City Council. The project is located on the southwest corner of W. Grange Ave and N. McGuire Rd, north of W. Hargrave Ave. It is currently large lot residential within the county and there are no physical characteristics or natural features that would present a hazard and it site above the Rathdrum Prairie Aquifer. The water would be provided by East Greenacres Irrigation District and the sewer would be provided by the City of Post Falls. To the west is, north and south of this request is all county and to the east is single-family residential.

Zone Change Criteria

- Future Land Use Map designates this site as Transitional, and the implementing zoning district should be compatible with adjacent zones/uses within the City and consistent with the guiding principles within the associated focus area. The focus area is West Prairie, mixed residential is envisioned between McGuire Rd and Corbin Rd with higher densities near commercial corridors and arterials. This area may benefit from a subarea plan that examines lot and block development patterns to aid transition of five-acre lots.

- Amendments to the zoning map should be in accordance with the goals and policies found in the Post Falls Comprehensive Plan. Keep Post Falls' neighborhoods safe, vital, and attractive. Plan for and establish types and quantities of land uses in Post Falls supporting community needs and the City's long-term sustainability. Maintain the City of Post Falls' long-term fiscal health. Support land use patterns that: maintain or enhance community levels of service; foster the long-term fiscal health to the community; maintain and enhance resident quality of life; promote compatible, well-designed developments; implement goals and policies of the comprehensive plan, related master plan and/or facility plans through impact fee. Apply or revise zoning designations with careful consideration of factors including future land use mapping; compatibility with surrounding land uses; infrastructure and service plans; goals and policies of the comprehensive
The Pointe Zone Change
File No. RZNE-0001-2022
Planning and Zoning Commission
Zoning Recommendation

A. INTRODUCTION:

APPLICANT: Wadsworth Development Group

LOCATION: General location is west of Baugh Way, north of I-50, and south of Seltice Way.

REQUEST: Rezone approximately 54.1 acres from Industrial (I) to Community Commercial Mixed (CCM).

B. RECORD CREATED:

1. A-1 Application
2. A-2 Narrative
3. A-5 Title Report
4. S-1 Vicinity Map
5. S-2 Zoning Map
6. S-3 Future Land Use Map
7. S-4 Proposed Draft Development Agreement
8. PA-1 PFPD Comments
9. PA-2 KC CFR Comments
10. PA-3 DEQ Comments
11. PC-1 Burd Comments
12. PC-2 Schreiber Comments
13. PC-3 Flippen Comments
14. PC-4 Kienbaum Comments
15. P&Z Staff Report
16. Testimony at the public hearing on May 25, 2022 including:

The public hearing was properly noticed and conducted in accordance with the requirements of Idaho Code §§ 67-6511 and 67-6509, and Post Falls Municipal Code (PFMC) § 18.20.060. The purpose of the hearing was to afford the applicant and the public the opportunity to provide testimony and documentation to be taken by the Planning and Zoning Commission (“Commission”) in their application of PFMC §§ 18.16.010 and 18.20.100 when making the Commission’s recommendation to the City Council.
Jon Manley, Planning Manager

Mr. Manley presented the staff report and testified that the requested action is for the Commission to review the request to rezone approximately 54.1 acres in the City of Post Falls from Industrial (I) zoning to the Community Commercial Mixed (CCM) zoning district. He noted that the zone will require a Development Agreement for the Property that will add additional control measures. He explained that the location is southwest of the Walmart and east of the Cabela's, north of I-90 and west of Baugh Way and mostly along Pointe Parkway.

Mr. Manley explained the history of the property, testifying that the property had a site plan that consumed most of the area as commercial sites in 2008. He illustrated that there were large lifestyle anchor pads were proposed, Walmart took one of those pads. He stoted that between the plan in 2008 and this proposed plan in 2022, the commercial industry has changed significantly from more of a destination strip mall for commerce and shopping to more people doing that online. He professed that the commercial sector itself has been looking for ways to stimulate more neighborhood commercial or more pad site commercial development. He indicated that there has been an approved subdivision on this site which will create a road system connecting this site and establishing some pads for pad development.

Mr. Manley testified that this request has a few caveats to it, he noted that this zone requires a development agreement. He explained that typical Euclidean zoning where you get community commercial services and generally do not have a development agreement, gets owners a list of vested rights and permitted uses, the rules are more straightforward versus what you get in a mixed zone. He expounded that in a mixed zone you are allowed to entertain different uses via the development agreement. He asserted that the CCM zone allows a potential for up to fifty percent of the site to be multi-family outright, the applicant is proposing a tweak to entertain some level of multi-family.

Mr. Manley testified that the draft development agreement was based off some initial conversations with the applicant that generated a percentage of twenty-eight-point five percent and about 15.4 acres. He explained that as the applicant has looked at different options, they are now proposing a modification to the draft development agreement. He explained that the first proposed option would be to allow thirty-five percent or 16.5 acres that would be at one location or a second option that would be about thirty-six-point one percent or a total of 19.5 acres for the site. He explained that when it comes to the development agreement, the Commission may make recommendations to City Council on changes to the agreement. He noted that the applicant may request anything up to fifty percent and that the recommendation can be anywhere in that range.

Mr. Manley had a question for the applicant as medical uses were not included and it may have been an oversight as it may be an appropriate use if other areas in the vicinity have medical uses, as allowed by the zone.

Mr. Manley testified that currently the location is an underdeveloped commercial site, a couple sites have been developed, but the majority is undeveloped. He noted that there is no
significant topology or vegetation that would affect development. He stated that water and sewer are provided by the City of Post Falls.

Mr. Manley testified that in reviewing zone changes, staff looks at relevant review criteria. He stated that staff report reviewed the the goals and policies of the comprehensive plan. He illustrated that the area is currently zoned Industrial. He reminded and affirmed that this was approved as a commercial site and commercial development in the zone. He argued that the industrial and commercialism together in this area is awkward now and with that understanding, the future land use map changed this area to business commercial as that use was deemed most applicable in this area. He testified that the Business/Commercial designation promotes a mixture of moderate/high-density housing types within walking distance near corridor commercial uses and other amenities within Post Falls. He expounded that it is aimed to improve pedestrian connections and promote compatibility between permitted uses. He noted that CCM is an implementing zoning district within the Business/Commercial and Industrial is not. He deduced that the proposal makes the area more conforming to the existing comprehensive plan.

Mr. Manley highlighted that in revisiting the comprehensive plan and looking at why industrial was not included in the business/commercial designation. He illustrated that the second largest industrial park in the region is just across the street at the riverbend commerce park and knowing that this site already had a commercial site plan approved, it was going to be business and commercial so going business/commercial gave a clear path for developers and development that the community deemed more appropriate through that workshop process.

Mr. Manley testified that the applicable focus area is the Riverbend focus area. He expounded that there are provisions for buffering between high and low intensity commercial development, which is not necessarily applicable. He explained that the focus area does provide that the area should continue to evolve, attracting commercial businesses, high tech companies, hotels, entertainment establishments, and potentially additional residential, which may be applicable.

Mr. Manley testified that the applicant would address the goals and policies of the Comprehensive Plan, noting goal seven may be applicable. He also noted policy one, looking at this site, residents of Woodbridge may need to go over to Spokane Street or Highway 41 for some commercial services right now. He noted that at this time they are limited to a Panda Express, and if there were other commercial services established in the area that would be a benefit to the quality of life for residents nearby as they will not have to travel as far for their daily service needs outside of Panda, Walmart, and Cabela’s.

Mr. Manley testified regarding policy two, noting that there was infrastructure, service plans, and future traffic patterns that may have some triggers, where they may have to do a traffic analysis and potentially sewer upgrades, which were stated fully in the staff report. He testified regarding policy three, noting that if there were some residences in the areas proposed, they would potentially have access to the nearby commercial as well as a park and ride out on Pleasant View.
Mr. Manley testified that Commercial and high-density residential zoning is typically assigned along streets with a higher road classification; the staff report talks about access to I-90, Beeck Rd. and the interchanges. He explained that the requested zoning is in general conformance with the anticipated land uses and trip generations within the city’s transportation master plan and owner has agreed to perform a traffic study prior to issuance of any building permits on multi-family development and that any identified mitigation would be in place prior to issuance of any certificates of occupancy.

Mr. Manley testified that the criteria relating to limited or neighborhood commercial and lower density residential zoning as well as Industrial uses criteria are not applicable to the requested action.

Mr. Manley clarified that Sysco is to the east, then Walmart is closer to the proposal, and to the north across Integrity, he noted that there is a significant slope and topographical change. He explained that it is all industrial trucking type businesses in that northern area. He testified that to the southwest of the proposal is an RV park that is currently under development that was allowed outright in the industrial zone.

Mr. Manley indicated that there is an approved subdivision that has gone through preliminary plat approval, noting that they do not have their final plat. He expounded that it is a two-phase subdivision, the first will be the extension of Baugh Way.

Mr. Manley in response to a question about approved uses, explained that most commercial uses but when mixed with industrial there are uses that are not necessarily complementary to commercial so we end up with a situation where someone may want to pay the price per square foot for commercial but do not, because they do not want someone coming in next to them doing a more noxious industrial use that would be detrimental to their investment in the commercial. He explained that by zoning to a commercial designation it would protect a commercial investor in that they will get complimentary commercial development next to them.

Mr. Manley in response to a question from the Commission, explained that multi-family would not be allowed currently due to the Industrial zone. Further, he explained that in the CCM the most they can ask for is 50% of the area for multi-family, it is not permitted outright and governed by the development agreement. He delineated that once it is approved in the development agreement, they can do whatever is embodied in that agreement, if they have changes that are above and beyond that agreement, the amendment would have to go back to the process for council approval.

Mr. Manley clarified the fire comment in the staff report, indicating that if there is more than 200 units, they would need a secondary egress, and noted that the development agreement has been updated to address the fire department’s concern. He noted that it would be part of site plan review or building permit review, so it is not necessarily a zoning issue, more of a permitting issue.
Mr. Manley in response to a question from the Commission, testified that there are approximately 470 other high-density apartment units in the surrounding area that have been approved and are under construction. There are some other apartments in the area that are built out and full.

Mr. Manley indicated that with the recent annexation of the Pleasant View Corridor there is a significant increase in industrial zoned land up that corridor. He noted that while industrial provides for many uses, many of those uses would not be complimentary to commercial. He explained that there are many items that are permitted in an industrial that are not in a CCM zone. Examples are an asphalt plant and manufacturing facilities the goal behind the Community Commercial Mixed was for community minded type of commercial and not allow allot of the nuisance oriented industrial. A wood products manufacturing is permitted outright in an industrial zone and potential in a CCM with a Special Use Permit so, an artisan woodworking type business might be approved however a big wood mill type of production you would not want in a CCM zoned area.

Mr. Manley testified that the applicant did request a zone change in the past to CCS which was denied by the City Council.

**Joseph Powell, Wadsworth Group, Applicant**

Mr. Powell testified that this request is for their project at the Pointe at Post Falls, he illustrated that the location of the project is close to the state line. He showed the preliminary plat that has been approved and indicated they are requesting the area be zoned CCM.

Mr. Powell testified about the history and status of the area, he explained that Wadsworth Development Group purchased the property in 2013 from the original developer. He maintained that at that time where was only Cabela’s and Walmart located within the project area and the West Pointe Parkway and a portion of Baugh Way were complete. He professed that the area has sat vacant for number of years as the initial developer was anticipating large, big box commercial development for the region. He affirmed that different downturns and real estate cycles, and the market indicate that is probably no longer the best uses for this land and is why it has been vacant for so long.

Mr. Powell testified that the Wadsworth Group has constructed several public roads and upgraded utilities in this area and have tried to partner with developers, they have sold some pads and gotten some movement. However, he added, there has been hesitance for them to come because there has not been enough residential development in the area to support that type of retail or commercial. He testified that this is precisely the reason they are bringing this request at this time.

Mr. Powell testified that they are requesting the proposed change to Commercial Mixed as this would help them bring some residential while maintaining more flexibility to be able to get some retail, commercial, and office uses in the areas to really make the area thrive and bring a lot of development at once.
Mr. Powell testified that the current industrial designation is another reason that users or national retail brands have stayed away, noting that the proposal is more in line with the city’s goals and comprehensive plan. He stated that this request meets the needs. He testified that the future land use map designates this area as Business/Commercial, not industrial, and that the CCM zone fits within that land use designation.

Mr. Powell testified that their request is really looking for some flexibility to be able to work with partners and the city to actually get this area built out so it becomes a vibrant community and neighborhood for the city. He noted that the focus area speaks to how this region souls evolve to provide many different uses like high-tech office space, hospitality, entertainment, and additional residential, adding that the request fits in line with the Comprehensive Plan.

Mr. Powell testified that traffic patterns in the area support the request, Beck Road is nearby and is a minor arterial West Pointe Parkway is a commercial road with the capacity to move people in and out of the area and is very close proximity to the Highway. He noted that they have attempted to beautify West Pointe Parkway and add nice vegetation.

Mr. Powell testified that they are attempting to create commercial uses but also the ability for residents to reside in the area so they can interact with the commercial uses and not have to use a car but will have options to walk to get groceries, go to the dentist, or have dinner out. Mr. Powell reiterated that the focus area intends the area to be a higher intensity urban area which the mixed-use zone will provide to create a sustainable, walkable community, giving people a wonderful experience and better bond with the area and interact with the region.

Mr. Powell responding to a question from the Commission, explained that West Pointe Parkway is the main throughfare, Beck Road is north and south, the intent is for N. Cabela Way to eventually connection however other property owners would need to cooperate. He stated that Pointe Parkway does go to Beck and Baugh Way and with the addition of the new road to the south of Pointe Parkway for the commercial subdivision, will help ease traffic.

Mr. Powell in response to a question from the Commission, indicated that they would be open to and are okay with medical uses being an option as well, stating that the intent is to be able to offer as many options to bring in services that are needed in the area.

Mr. Powell in response to a question from the Commission, stated that they have worked with national retailers and done other projects in other states and this area needs more rooftops in the immediate area to utilize those commercial services, noting that the other reason for passing on the site was the industrial zoning. He testified that the proposed multi-family would get them to the threshold and shows movement in the area to have enough residents to support the businesses or be employees.

**Ron Wu, Redtail Multi-family Land Development**

Mr. Wu testified that they are a developer out of southern California who has partnered with Wadsworth for the 19 acres here north of Pointe Parkway. He indicated that the envision a
pedestrian friendly apartment complex that would be set back behind three acres of commercial along Pointe Parkway to keep the spirit and intent of the retail and commercial corridor. He asserted that they would propose three acres of commercial along Pointe Parkway and set back behind that would be 270 apartments units. He illustrated that 264 three-story apartment units and 6 for rent townhomes along the central promenade to promote walkability to Walmart, retailers, and future tenants along the commercial center.

Mr. Wu indicated that this is a terrific opportunity to provide walkability to the pharmacy at Walmart, eateries, other day-to-day services, and possibly medical services like a dentist or optometrist, by bringing those rooftops into the center. He indicated that this will help build out the vision and attract other retailers to build out the center. He illustrated that one of the projects that they have visually toured and like the feel of is Kensington at north point in Boise. He showed how they have a main throughfare with retail abutting then multi-family in the back. He argued that it creates an easily walkable area for residents to get daily services, grab a sandwich or groceries.

Mr. Wu provided several visualizations of projects and indicated that they really focus on the three-story garden style product which has attractive architecture and would be what they would propose for this area as well.

Public Testimony:

The Commission opened the hearing for public testimony.

Chad Burd (Written Comment Read into Record)

Mr. Burd testified in support of the application to rezone to area to CCM.

Deliberations: After the public hearing was complete the hearing was closed, and the Commission moved to deliberations to discuss their interpretation of the information presented both orally and in the written record and to apply that information to the approval criteria in City Code sections 18.16.010 and 18.20.100.

C. EVALUATION OF ZONE CHANGE APPROVAL/REVIEW CRITERIA:

C1. Amendments to the zoning map should be in accordance with the Future Land Use Map.

Based on the testimony provided and the staff report, the Future Land Use Map in the Comprehensive Plan designates this area as Business/Commercial. The Commission finds that CCM is called out as an implementing zone. The Commission finds that the proposal fits within the applicable focus area and the CCM zone is in accordance with the Future Land Use Map.

C2. Amendments to the zoning map should be in accordance with the goals and policies found in the Post Falls Comprehensive Plan.
Based on the testimony provided and the staff report, the Commission finds the requested zone change being consistent with the goals and policies contained in the comprehensive plan and that the proposal is consistent with the following relevant goals and policies:

**Goal:**
Grow and sustain a balanced, resilient economy for Post Falls, providing community prosperity and fiscal health (G.1).

The Commission finds that the city has limited industrial and commercial space for folks to work and the city needs a balance between rooftops and for places people can work, shop, dine, all aspects of a balanced life. This area was specifically intended to be large commercial locations and this area is already broken up for smaller commercial lots, which are in demand and if they are available these retailers/commercial companies will come.

Maintain and improve Post Falls’ small-town scale, charm and aesthetic beauty. (G.3).

The Commission finds that the city has a dire need for housing, we have commercial services in this area that exist and the approval apartment units here, means units that are not somewhere else. It will be walking distance next to Wal-Mart, walking distance to future commercial which means less traffic. The writing has been on the wall for this property for a long time, Wadsworth has owned for about 9 years and there has been little movement out there.

The Commission finds that the mall type location is gone, the malls around here are dying. When you integrate the residential component into this, it drives both, it solves a residential problem, a commercial business says they want to relocate to Post Falls however, there is no place for my employees to live. Now, they would be able to live across the street. This all dovetails into the goals and policies of the Comp. Plan and the Commission sees this as a good fit.

The Commission finds that in this area and surrounding areas that there is a lot of mixed-use products going in. People can live within these areas, and you can walk to various businesses, this is where the trend is going. This land has been vacant for a while, and anything the city can do to bring business in so people can live and work in Post Falls is a good thing.

Keep Post Falls’ neighborhoods safe, vital, and attractive. (G.5)

The city will likely not get another big box of anything come in next to Wal-Mart. Something small may come in. These large complexes come in and seem to be the only answer for these areas where you are trying to get some type of business to come in. You need rooftops for it to pencil for the businesses to come.

Looking at that large scale of multi-family development compared to a mismatched and maybe misplaced infill small apartment, we would rather see the larger,
walkability, and parks. There is good opportunity there where you have a park and ride, restaurants eventually and food grocery access.

The proposal is an attractive, pedestrian-friendly development, with commercial services.

Policy:

[P.01] Support land use patterns that:

- Maintain or enhance community levels of service;
  Impact Fees are paid at the time of permit issuance to assist maintaining the community levels of service. Residential uses contribute to park impact fees where commercial uses do not. Both contribute to Public Safety and Streets. The associated development agreement require the developer to perform sewer and transportation studies prior to the issuance of any multi-family building permits and to provide any identified mitigations from the studies prior to certificates of occupancy.

- Foster the long-term fiscal health of the community;
  Providing the opportunities for creating the variety of service, retail, office, and mixed housing such as this proposal furthers the establishment of having residential housing within walking distance of commercial uses to create sustainable and independent living communities. The interaction between these uses increases their value and assist in contributing to the long-term fiscal health of the community.

- Maintain and enhance resident quality of life;
  Providing the opportunities for creating the variety of service, retail, office, and mixed housing such as this proposal furthers the establishment of having residential housing within walking distance of commercial uses to create sustainable and independent living communities, which assists in maintaining and enhancing the residential quality of life.

- Promote compatible, well-designed development;
  As stated previously, providing the opportunity for creating a variety of service, retail, office, and mixed housing as this proposal offers and furthers the formation of residential housing within walking distance of commercial uses to create sustainable and independent living communities.

[P.02] Apply or revise zoning designations with careful consideration of factors including:

- Future land use mapping;
  The Future Land Use Map designated this property with the land use designation of Business/Commercial, the Community Commercial Mixed (CCM) zoning district is an implementing zoning district outright. The existing Industrial (I) zone is not an implementing zoning district.

The applicable Focus Area for this project is the Riverbend Focus Area, which provides the following:
This is a developing mixed-use center, taking advantage of proximity to the state line attracting business and customers from the Spokane metro area. The second largest industrial park in the region, "Riverbend Commerce Park" is within this planning area. This area has become home to not only residences that desire to be perfectly situated between Coeur d'Alene and Spokane, but to some nationally renowned businesses such as Wal-Mart, Cabela's, Sysco, ALKAiboa, Buck Knives, and Tedder Industries. There is also a Workforce Training Center and a University of Idaho Research Park to compliment the Riverbend developments. This area should continue to evolve, attracting commercial businesses, high tech companies, hotels, entertainment establishments, and potentially additional residential.

The following items affirm or guide development of key policies for this area, or suggest future action items for the Riverbend focus area:

- Buffering between high and low-intensity development patterns should be maintained, employing use buffering and physical distance between said patterns;
- Maximize opportunities to improve river access.

The Commission finds that the proposal fits within the applicable focus area and the CCM zone is an implementing zoning under the land use designation.

- Compatibility with the surrounding land uses;
  This site is within the planned Pointe Commercial Development Area with Walmart, Cabela's, Panda Express, and a developing RV park near the requested Zone Change.

- Infrastructure and service plans;
  Water and sanitary sewer are available to the site and would be provided by the City of Post Falls. The Owner has agreed to perform a sewer study prior to the issuance of any building permits on multi-family development and that any identified mitigation will be in place prior to the issuance of any certificates of occupancy. The City of Post Falls has the capacity and is willing to serve the property at the requested zoning, subject to any modifications identified in required studies.

- Existing and future traffic patterns;
  The requested zoning is consistent with the anticipated land uses and trip generations within the City’s Transportation Master Plan. The Owner has agreed to perform a traffic study prior to the issuance of any building permits on multi-family development and that any identified mitigation will be in place prior to the issuance of any certificates of occupancy. Further analysis can be found in the third review criteria in Section C of this report.

- Goals and policies of the comprehensive plan, related master plan and/or facility plans.
  The response to this is embedded within the analysis within this recommendation.
[P.3] Encourage development patterns that provide suitably scaled, daily needs services within walking distance of residential areas, allowing a measure of independence for those who cannot or choose not to drive.

The Community Commercial Mixed (CCM) zone is intended to accommodate both commercial and high-density residential development. This site is within the planned Pointe Commercial Development Area with Walmart, Cabela’s, Panda Express, and a developing RV park near the requested Zone Change.

[P.7] Encourage the development of off-corridor access and circulation for commercial and mixed-use areas abutting limited-access arterials.

The CCM zone in this area will provide this opportunity.

[P.08] Encourage compatible infill development and redevelopment of vacant and under-utilized properties within City Limits.

Redevelopment of this area would be considered compatible infill of under-utilized property within the city limits.

C3. Zoning is assigned following consideration of such items as street classification, traffic patterns, existing development, future land uses, community plans, and geographic or natural features.

Streets/Traffic:
The proposed Zone Change area is adjacent to Interstate 90 and bisected by Pointe Parkway which provides access to I90. There is additional access from the site to Seltice Way, a Principle Arterial roadway, via Beck Road (Minor Arterial) and Baugh Way (Local Commercial). The requested zoning is in general conformance with the anticipated land uses and trip generations within the City’s Transportation Master Plan. The Owner has agreed to perform a traffic study prior to the issuance of any building permits on multi-family development and that any identified mitigation will be in place prior to the issuance of any certificates of occupancy. A traffic study will verify potential impacts from multi-family development and allow for adjustment of signal timing to maintain system efficiency from any revisions to the zoning. Based on current zoning and projected growth; Pointe Parkway is currently estimated to be utilizing 13% of the roadway capacity (west of Beck Road) and 40% (east of Beck Road) in 2035.

Water and Sanitary Sewer:
Water and sanitary sewer are available to the site. The City of Post Falls would provide Sanitary Sewer. The requested zoning is in general conformance with the land use assumptions in the City’s Sanitary Sewer Master Plan. The Owner has agreed to perform a sewer study prior to the issuance of any building permits on multi-family development and that any identified mitigation will be in place prior to the issuance of any certificates of occupancy. The City of Post Falls has the capacity and is willing to provide sanitary sewer service the property at the requested zoning based on any identified modifications to the system are made prior to issuance of certificates of occupancy.
Water Service is provided by The City of Post Falls and there are no capacity or service concerns.

**Compatibility with Existing Development and Future Uses:**

This site is within the planned Pointe Commercial Development Area with Walmart, Cabela’s, Panda Express, and a developing RV park near the requested Zone Change.

**Future Land Use Designation:**

Exhibit S-3: Future Land Use Map, depicts the land use designation for this area as Business/Commercial. The proposed CCM Zone is allowable per the direction of the Riverbend Focus Area and the road classification of Pointe Parkway.

**Community Plans:**
The area is within the Riverbend Focus Area in the Post Falls Comprehensive Plan.

**Geographic/Natural Features:**
The Commission finds the site contains no geographic or other natural features that would affect development of the site.

C4. **Commercial and high-density residential zoning is typically assigned along streets with a higher road classification.**

The proposed zone is located along higher classified roadways. Seltece Way is classified as a Principal Arterial. Beck Road is a Minor Arterial and Pointe Parkway provides access to Interstate 90. The Commission finds that Commercial would be assigned along a streets with higher road classifications.

C5. **Limited or neighborhood commercial and lower density residential zoning is typically assigned for properties as they proceed farther away from the higher intensity urban activity.**

The Commission finds that this location is within a higher intensity urban activity area and is not seeking limited or neighborhood commercial or lower density residential zoning and therefore is inapplicable to this request.

C6. **Industrial zoning is typically assigned for properties with sufficient access to major transportation routes and may be situated away from residential zoning.**

The Commission finds this criterion inapplicable to the request, the existing zoning is Industrial (I) and is not an implementing zoning district in the Business commercial Land Use designation.
D. RECOMMENDATION OF THE COMMISSION:

Pointe Zone Change, File No. RZNE-0001-2022: Following the public hearing, the Planning and Zoning Commission considered all relevant evidence, testimony, and comments. A motion to recommend approval of the recommended zoning was made, the motion carried a majority of the Commission. The Planning and Zoning Commission hereby recommends that City Council approve the proposal, finding that it conforms to the general purpose of the comprehensive plan and meets all the applicable approval criteria for applicant’s request for Community Commercial Mixed (CCM) zoning. Further, the Commission recommends that the Development Agreement include the Multi-Family component to be limited to 28.5% and limited to 380 feet of frontage on Pointe Parkway as well as allowing medical uses in areas 1 and 2 as depicted in the map and with the CCM zoning designation.

Date

Attest

Chairman
NOTICE OF RIGHTS:

Any affected person aggrieved by a final decision of the Planning and Zoning Commission may submit a written notice of appeal along with the required fees in accordance with the City’s adopted fee schedule, to the City Clerk for appeal to the Post Falls City Council within fourteen (14) days of the date of the written decision, pursuant to Post Falls City Code 18.20.60.E.

The final decision of the Planning and Zoning Commission is not a final decision for purposes of judicial review until the City Council has issued a final decision on appeal and the party seeking judicial review has requested reconsideration of that final decision as provided by Idaho Code 67-6535(2)(b), pursuant to Post Falls City Code 18.20.60.E.

Any applicant or affected person seeking judicial review of compliance with the provisions of Idaho Code Section 67-6535 must first seek reconsideration of the final decision within fourteen (14) days of such decision. Such written request must identify specific deficiencies in the decision for which reconsideration is sought.

The applicant has the right to request a regulatory taking analysis pursuant to Idaho Code Section 67-8003. Any affected person aggrieved by a final decision concerning matters identified in Idaho Code Section 67-6521(1)(a) may, within twenty-eight (28) days after all remedies have been exhausted under local ordinances, seek judicial review under the procedures provided by Chapter 52, Title 67, Idaho Code.
PUBLIC COMMENT

The Pointe Zone Change
File No. RZNE-0001-2022
Exhibit: 2B

Applicant: Wadsworth Development Group
Location: West of Baugh Way, north of I-90 and south of W. Seltice Way
Request: To rezone approximately 54.1 acres from Industrial (I) & Community Commercial Services (CCS) to Community Commercial Mixed (CCM) zoning.
Hearing Date: July 5, 2022

Questions list:

Name: Tag Jacklin
Address: 5077 W Foothill Dr, Coeur d'Alene
Email: tagj@riverbendcp.com

Please Provide Your Position on the Proposed Zone Change: In Favor

1. Is the requested zoning district compatible with the street classification, traffic patterns, existing development, future land uses, community plans and geographic or natural features of the area?: Yes

Please explain your answer: Mayor Jacobson and Councilmembers, Riverbend Commerce Park and Jacklin Land Company support Wadsworth Development Group’s proposed rezone application to CCM. The proposed zoning is compatible with the street classifications in the area.
which were built to accommodate industrial uses. The proposed zoning is also compatible with
the existing developments in the direct vicinity, namely, this zone change will help further
diversify the land uses near the Pointe Parkway interchange and create additional workforce
housing options needed for many of the existing and future employers located in both Riverbend
and The Pointe.

2. Commercial and high-density residential zoning is typically assigned along streets with a
higher road classification.

Is the request for commercial or high-density residential?: Yes

If the request for commercial or high-density residential.: Yes

Please explain your answer: This site is in close proximity to I-90 and my understanding is that
the Wadsworth has also agreed to complete a traffic study to mitigate any traffic concerns.

3. Limited or neighborhood commercial and lower density residential zoning is typically assigned
for properties as they proceed farther away from the higher intensity urban activity.

Is the request for limited or neighborhood commercial or low density residential?: No

If the request for limited or neighborhood commercial or low density residential.

Is the property near higher intensity urban activity?:

Please explain your answer:

4. Industrial zoning is typically assigned for properties with sufficient access to major
transportation routes and may be situated away from residential zoning.

Is the request for Industrial?: No'

If the request for Industrial Zoning

Is it situated away from residential zoning?:

Does it have sufficient access to major transportation routes?:

Please explain your answer:

5. Is the requested zoning district in accordance with the Future Land Use Map in the
Comprehensive Plan?: Yes
Please explain your answer: Per City Code, CCM is appropriate for areas designated Commercial, Commercial Mixed, Business Industrial. This area meets that criteria.

6. Is the requested zoning district consistent with the goals and policies in the Comprehensive Plan?: Yes

Please explain your answer: Yes, the staff report did a great job detailing how this request meets this requirement.
June 29, 2022

Mr. Bob Seale  
Community Development Director  
City of Post Falls  
408 N. Spokane Street  
Post Falls, ID 83854

RE: Letter of Support – The Pointe at Post Falls Proposed Zone Change

Dear Mr. Seale and Council Members,

As the developer for Expo at Post Falls, I wanted to send a letter in support of the proposed zone change from the Industrial zoning designation to the Community Commercial Mixed (CCM) zoning designation at the Pointe at Post Falls. We believe that the Pointe is well laid out and suited to accommodate a mix of uses, such as multifamily residential and commercial businesses. This zone change would help create an opportunity to live close to existing and proposed shopping with easy access to the I-90 Freeway. This location could prevent future traffic issues if the multifamily uses were developed in other areas of town.

In order to attract new retail and commercial businesses, additional housing is needed and could be accommodated at the Pointe. Post Falls has plenty of industrial zoned areas to accommodate the businesses that are also needed to support job growth, thus creating a balance of commercial and residential uses that have equally good access and can support economic development.

Thank you for your consideration to approve the requested zone change.

Sincerely,

James R. Watson  
Chairman and Chief Executive Officer

101 Main Street, Suite A, Seal Beach, CA 90740  
(562) 430-0503 FAX (562) 493-5860  
www.jrwatson.com
DATE: 6/29/2022 9:09 AM

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Amber Blanchette

SUBJECT: Stockwell Annexation Ordinance File No. ANNX-0011-2021

ITEM AND RECOMMENDED ACTION:
With approval of the Ordinance Agenda, City Council authorizes the Mayor's signature on the Ordinance for the Stockwell Annexation.

DISCUSSION:
The applicant(s) (David and Debbie Stockwell) have requested to annex approximately 5 acres into the City of Post Falls, with a zoning designation of Single-Family Residential (R-1). The property is generally located south of W. Prairie Ave; between N. Howell Rd. and N. Cecil Rd.
On October 12, 2021 a public hearing was held before the Planning & Zoning Commission. After receiving testimony and hearing the staff report, the Commission moved to recommend approval of the requested annexation with the Single-Family Residential (R-1) zoning designation. The City Council held a public hearing and approved the requested annexation with the Single-Family Residential (R-1) zone on March 15, 2022.

ITEM / PROJECT PREVIOUSLY REVIEWED BY COUNCIL ON:
Yes

APPROVED OR DIRECTION GIVEN:
Approve

FISCAL IMPACT OR OTHER SOURCE OF FUNDING:
N/A

BUDGET CODE:
N/A
ORDINANCE NO.____

ANNEXATION & ZONE CLASSIFICATION OF PROPERTY

A Parcel of land located in the Northeast Quarter of Section 28, Township 51 North, Range 5 West, Boise Meridian, Kootenai County, Idaho.
4.834 acres generally located along the south side of Prairie Ave. between Howell and Chase Rd. (File No. ANNX-0011-2021)

AN ORDINANCE OF THE CITY OF POST FALLS, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO ANNEXING PROPERTY CONSISTING OF APPROXIMATELY 4.834 ACRES, WITHIN A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 51 NORTH, RANGE 5 WEST, BOISE MERIDIAN, KOOTENAI COUNTY, IDAHO; PROVIDING FOR AMENDMENT OF THE OFFICIAL ZONING MAP; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF:

WHEREAS, the owners of the real property described in Section 1 of this ordinance requested that the City Council of the City of Post Falls annex the property.

WHEREAS, public hearings were held before both the Planning and Zoning Commission on October 12, 2021, and the City Council March 15, 2022, in accordance with law and a Reasoned Decision was reached; and

WHEREAS, the City Council has determined that the land in question adjoins the city limits, and that Single-Family Residential (R-1) zoning is suitable and compatible with surrounding land uses and provisions of the Post Falls Comprehensive Plan and that said land uses would fit in with the general development of the City and would be in the best interest of the City of Post Falls.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF POST FALLS, IDAHO, AS FOLLOWS:

SECTION 1: That the property legally described in Exhibit A, which is adjacent and contiguous to the City of Post Falls, is hereby annexed into the City of Post Falls.

SECTION 2: That the lands described in Exhibit A to this Ordinance are hereby zoned Single-Family Residential (R-1) as depicted in the attached Exhibit A. Further, the Official Zoning Map of the City of Post Falls will be modified to include the annexed property within the City and to reflect the assigned zoning district.

SECTION 3: That this Ordinance takes effect upon its passage and publication according to law.

Enacted as an ordinance of the City of Post Falls, Idaho, at a meeting of the City Council held on the ______ day of ______________________, 2022.
CITY OF POST FALLS

BY: ___________________________
    Ronald G. Jacobson, MAYOR

ATTEST

BY: ___________________________
    Shannon Howard, CITY CLERK
The City of Post Falls, Kootenai County, Idaho hereby gives notice of the adoption of Post Falls Ordinance No. _______, annexing approximately 4.834 acres and zoning the property Single-Family Residential (R-1). The property is generally located along the south side of Prairie Ave.; between Howell Rd and Chase Rd., and is legally described as:

A parcel of land located in the Northeast Quarter of Section 28, Township 51 North, Range 5 West, Boise Meridian, Kootenai County, Idaho, more particularly described as follows:

Commencing at the northwest corner of the Northeast Quarter of Section 28, Township 51 North, Range 5 West, Boise Meridian, from which the northeast corner of said Northeast Quarter of Section 28 bears North 90°00'00" East, a distance of 2646.46 feet;

Thence North 90° 00'00" East along the north line of said Northeast Quarter of Section 28, a distance of 661.49 feet to the Point of Beginning;

Thence North 90° 00'00" East continuing along said north line of the Northeast Quarter of Section 28, a distance of 330.87 feet;

Thence South 00° 40'06" East leaving said north line of the Northeast Quarter of Section 28, a distance of 30.00 feet to the northeast corner of Lot 1, Block 1, EAKIN ADDITION, as recorded in Book "F" of Plats, at Page 367, Instrument #1255521, Records of Kootenai County, Idaho;

Thence South 00°40'06" East along the east line of said Lot 1, a distance of 635.99 feet to the southeast corner of said Lot 1;

Thence South 89° 57'50" West along the south line of said Lot 1, a distance of 331.30 feet to the southwest corner of said Lot 1;

Thence North 00°37'53" West along the west line of said Lot 1, a distance of 636.20 feet to the northwest corner of said Lot 1;

Thence North 00°37'53" West leaving said west line of Lot 1, a distance of 30.00 feet to the north line of said Northeast Quarter of Section 28, and the Point of Beginning;

Containing 220,520 square feet or 5.062 acres, more or less.

SUBJECT TO:
Existing rights-of-way and easements of record and or appearing on said above-described parcels.

providing repeal of conflicting ordinances and providing severability. The ordinance is effective upon publication of this summary. The full text of Ordinance No. _______ is available at Post Falls City Hall, 408 Spokane Street, Post Falls, ID 83854 in the office of the city clerk.
Shannon Howard, City Clerk

Publish once in the City’s official newspaper.

STATEMENT OF LEGAL ADVISOR

I, Warren J. Wilson, am legal advisor for the City of Post Falls, Idaho. I have examined the attached summary of Post Falls Ordinance No. ______, annexing real property and find it to be a true and complete summary of said ordinance which provides adequate notice to the public of the contents thereof.

DATED this day of , 2022.

Warren J. Wilson, City Attorney
Annexation Area
Legal Description
Exhibit "A"

A parcel of land located in the Northeast Quarter of Section 28, Township 51 North, Range 5 West, Boise Meridian, Kootenai County, Idaho, more particularly described as follows:

Commencing at the northwest corner of the Northeast Quarter of Section 28, Township 51 North, Range 5 West, Boise Meridian, from which the northeast corner of said Northeast Quarter of Section 28 bears North 90°00'00" East, a distance of 2646.46 feet;

Thence North 90°00'00" East along the north line of said Northeast Quarter of Section 28, a distance of 661.49 feet to the Point of Beginning;

Thence North 90°00'00" East continuing along said north line of the Northeast Quarter of Section 28, a distance of 330.87 feet;

Thence South 00°40'06" East leaving said north line of the Northeast Quarter of Section 28, a distance of 30.00 feet to the northeast corner of Lot 1, Block 1, EAKIN ADDITION, as recorded in Book "F" of Plats, at Page 367, Instrument #1255521, Records of Kootenai County, Idaho;

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Thence South 89°57'50" West along the south line of said Lot 1, a distance of 331.30 feet to the southwest corner of said Lot 1;

Thence North 00°37'53" West along the west line of said Lot 1, a distance of 636.20 feet to the northwest corner of said Lot 1;

Thence North 00°37'53" West leaving said west line of Lot 1, a distance of 30.00 feet to the north line of said Northeast Quarter of Section 28, and the Point of Beginning;

Containing 220,520 square feet or 5.062 acres, more or less.

SUBJECT TO:
Existing rights-of-way and easements of record and or appearing on said above described parcels.

END OF DESCRIPTION
Prepared by this office:
H2 Surveying, LLC
DATE: 6/30/2022 11:21 AM

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Jason Faulkner

SUBJECT: Preliminary Budget Resolution for Fiscal Year 2023

ITEM AND RECOMMENDED ACTION:
As discussed at budget workshops, the Resolution that is presented is the worst case scenario budget for fiscal year 2023. This budget includes the 3% property tax increase allowed by Idaho Code along with an estimation of annexation and new construction.

The Resolution is required to begin the advertising regarding the Budget Public Hearing on August 16th, 2022.

DISCUSSION:

ITEM / PROJECT PREVIOUSLY REVIEWED BY COUNCIL ON:
May 17th, 2022 & June 21st, 2022

APPROVED OR DIRECTION GIVEN:
Approve, as presented.

FISCAL IMPACT OR OTHER SOURCE OF FUNDING:
$130,682,716.00

BUDGET CODE:
Various
Notice is hereby given that the City Council of Post Falls will hold a public hearing for consideration of the proposed budget for the fiscal period October 1, 2022 to September 30, 2023 pursuant to the provisions of Section 50-1002, Idaho Code, said hearing to be held at Post Falls City Hall, 408 North Spokane St, Post Falls, Idaho, at 6 p.m. on August 16th, 2022. At said hearing interested persons may appear and show cause, if any they have, why said proposed budget should or should not be adopted. A copy of the proposed budget is available for inspection at City Hall weekdays between the hours of 8 a.m. and 5 p.m. on regular business days.

### PROPOSED EXPENDITURES

<table>
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<tr>
<th>Department</th>
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<th>Budgeted FY 21-22</th>
<th>Proposed FY 22-23</th>
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<td>LID 99-1 DEBT SERVICE</td>
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<td>LID 91-1 DEBT SERVICE</td>
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### ENTERPRISE FUNDS:

| Sewer (Operating) | $ 5,604,192 | $ 38,753,693 | $ 25,651,734 |
| Sewer (Collections) | $ 525,436 | $ 1,300,872 | $ 1,201,041 |
| Sewer (Recycled Water) | $ 6,198 | $ 7,202 | $ 7,201 |
| Sewer (Surface Water) | $ 276,492 | $ 312,332 | $ 312,223 |
| Sewer Const - WWTP | $ 212,691 | $ 48,543,389 | $ 17,426,274 |
| Sewer Const - Collectors | $ - | $ 5,301,000 | $ 14,540,000 |
| Storm Water | $ - | $ - | $ - |
| Sanitation | $ 3,599,165 | $ 3,533,481 | $ 3,534,606 |
| Water (Operating) | $ 2,645,328 | $ 3,087,686 | $ 3,610,492 |
| Water Construction | $ - | $ 1,100,000 | $ 1,805,000 |
| **TOTAL ENTERPRISE FUND EXP.** | $ 12,869,501 | $ 101,959,656 | $ 68,088,573 |

### TOTAL ALL FUND EXPENDITURES

| **$ 43,636,197** | **$ 173,452,546** | **$ 130,682,716** |

### PROPOSED REVENUES/FUNDING RESOURCES

#### GENERAL FUND:

| Property Tax Revenue | $ 12,567,727 | $ 12,871,953 | $ 14,581,793 |
| Other Revenue | $ 18,142,602 | $ 11,107,669 | $ 16,643,541 |
| Other Financing Sources | $ 1,881,699 | $ 2,017,993 | $ 2,271,836 |
| Fund Balance Rebudgeted | $ - | $ 3,530,786 | $ 5,398,617 |
| **TOTAL GENERAL FUND RESOURCES** | **$ 36,691,632** | **$ 36,989,253** | **$ 46,876,787** |

#### SPECIAL REVENUE FUNDS:

| Property Tax Revenue | $ 255,950 | $ 170,000 | $ 170,000 |
| Other Revenue | $ 719,172 | $ 626,794 | $ 627,139 |
| Other Financing Sources | $ 183,008 | $ 202,710 | $ 174,927 |
| Fund Balance Rebudgeted | $ - | $ 250,000 | $ 675,000 |
| **TOTAL SPEC. REV. FUND RESOURCES** | **$ 1,158,130** | **$ 1,249,504** | **$ 1,647,066** |

#### CAPITAL PROJECTS FUNDS:

| Other Revenue | $ 4,014,200 | $ 25,719,512 | $ 4,315,000 |
| Other Financing Sources | $ 430,558 | $ 350,000 | $ 500,000 |
| Fund Balance Rebudgeted | $ - | $ 6,656,472 | $ 8,727,140 |
| **TOTAL CAPITAL PROJECTS RESOURCES** | **$ 4,444,758** | **$ 32,725,984** | **$ 13,542,140** |

#### DEBT SERVICE FUNDS:

| Other Revenue | $ 37,040 | $ 128,000 | $ 128,000 |
| Other Financing Sources | $ 150 | $ 150 | $ 150 |
| Fund Balance Rebudgeted | $ - | $ 400,000 | $ 400,000 |
| **TOTAL DEBT SERVICE RESOURCES** | **$ 37,190** | **$ 528,150** | **$ 528,150** |

#### ENTERPRISE FUNDS:

| Operating Revenues | $ 22,415,503 | $ 20,038,300 | $ 20,924,190 |
| Contributed Capital/Cap Fees | $ 13,102,950 | $ 6,854,000 | $ 6,550,000 |
| Other Financing Sources | $ 79,920 | $ 27,079,920 | $ 13,079,920 |
| Fund Equity Rebudgeted | $ 47,987,435 | $ 500,000 | $ 27,534,463 |
| **TOTAL ENTERPRISE FUND RESOURCES** | **$ 35,598,373** | **$ 101,959,656** | **$ 68,088,573** |

### TOTAL ALL ESTIMATED RESOURCES

| **$ 77,930,083** | **$ 173,452,546** | **$ 130,682,716** |

I, Jason Faulkner, City Treasurer for the City of Post Falls, Idaho, do hereby certify that the above is a true and correct statement of the proposed expenditures and revenues for the fiscal year 2022-2023, all of which have been tentatively approved by the City Council and entered at length in the Journal of Proceedings. Publication dates for the notice of public hearing are August 16th, 2022 in the "CDA Press."

Dated June 30th, 2022

City Treasurer
RESOLUTION NO.

A RESOLUTION OF THE CITY OF POST FALLS, KOOTENAI COUNTY, IDAHO
ESTABLISHING A NOTICE OF TIME AND PLACE OF PUBLIC HEARING OF THE
PROPOSED BUDGET FOR FISCAL YEAR 2022-2023, AND INCLUDING PROPOSED
EXPENDITURES BY FUND, AND PROVIDING FOR PUBLICATION OF PUBLIC
HEARING REGARDING THE PROPOSED BUDGET.

WHEREAS, it is necessary, pursuant to Idaho Code 50-1002, for the City Council of the
City of Post Falls, prior to passing the Annual Appropriation Ordinance, to tentatively approve
the proposed budget, and enter such Budget at length in the journal of the proceedings and hold a
public hearing; NOW, THEREFORE,

BE IT RESOLVED, by the Mayor and City Council of the City of Post Falls, that the
following be and the same is hereby adopted as an Estimate of Revenues and Expenditures of the
City of Post Falls for the fiscal year beginning October 1, 2022:

PROPOSED EXPENDITURES/EXPENSES
WITH PROPOSED REVENUE COMPARISONS

GENERAL FUND:

Expenditures: (Including ADMINISTRATION, FINANCE
CITY CLERK, LEGAL SERVICES, COMMUNITY DEVELOPMENT,
SAFETY, PUBLIC WORKS, PARKS & RECREATION, CAPITAL
IMPROVEMENTS/CONTRACTS
PERSONNEL, PERSONNEL POOL, ANNEXATION FEE ACCOUNT)
TOTAL GENERAL FUND ............................................................................................ $46,876,787

Revenues: (Including PROPERTY TAX, OTHER REVENUE, OTHER
FINANCING SOURCES, FUND BALANCE REBUDGETED)
TOTAL GENERAL FUND ............................................................................................ 46,876,787

SPECIAL REVENUE FUNDS:

Expenditures: (Including COMPREHENSIVE
LIABILITY INSURANCE, STREET LIGHTS
911 SUPPORT, DRUG SEIZURE, SPECIAL EVENTS
CEMETERY CAPITAL IMPROVEMENT)
TOTAL SPECIAL REVENUE FUND ........................................................................... 1,647,066

Revenues: (Including PROPERTY TAX, OTHER REVENUE,
OTHER FINANCING SOURCES)
TOTAL SPECIAL REVENUE FUND ........................................................................... 1,647,066
CAPITAL PROJECTS FUNDS:

Expenditures: (Including FACILITY RESERVE ACCOUNT, CAPITAL IMPROVEMENTS)
TOTAL CAPITAL PROJECTS FUND ................................................................. 13,542,140

Revenues: (Including OTHER REVENUE, OTHER FINANCING SOURCES, FUND BALANCE REBUDGETED)
TOTAL CAPITAL PROJECTS FUND ................................................................. 13,542,140

DEBT SERVICE FUNDS:

Expenditures: (Including LID DEBT SERVICE)
TOTAL DEBT SERVICE FUND ................................................................. 528,150

Revenues: (Including OTHER REVENUE, FUND BALANCE REBUDGETED)
TOTAL DEBT SERVICE FUND ................................................................. 528,150

ENTERPRISE FUNDS:

Expenditures: (Including SEWER, SANITATION, WATER)
TOTAL ENTERPRISE FUND ................................................................. 68,088,573

Revenues: (Including OTHER REVENUE, OTHER FINANCING SOURCES, CONTRIBUTED CAPITAL/CAP FEES, FUND BALANCE REBUDGETED)
TOTAL ENTERPRISE FUND ................................................................. 68,088,573

TOTAL ALL FUND EXPENDITURES/EXPENSES .................. $130,682,716
TOTAL ALL FUND REVENUES ......................................................... $130,682,716

BE IT FURTHER RESOLVED, that a general tax levy to yield $14,751,793 on all taxable property within the City of Post Falls be levied in an amount allowed by law for the general purposes for said City, for the fiscal year beginning October 1, 2022 with $14,581,793 budgeted in the General Fund and $170,000 budgeted in the Special Revenue Funds.

BE IT FURTHER RESOLVED, that a Notice of Public Hearing for the Fiscal Year 2022-2023 budget be published in two (2) issues of the Coeur d’Alene Press on July 29th 2022 and August 5th, 2022, or upon such other dates that comply with the legally required dates of publication for a public hearing to receive comments on a proposed city budget.

BE IT FURTHER RESOLVED, that a Public Hearing on the Budget be held on the 16th day of August, 2022 at the hour of 6:00 o’clock p.m., at Post Falls City Hall, 408 N. Spokane St., at which time any interested person may appear and show cause, if any he has, why the proposed Budget should or should not be adopted.
DATED this 5th day of July, 2022.

________________________________
Ronald G. Jacobson, Mayor

ATTEST:

_______________________________
Shannon Howard, City Clerk
DATE: 6/29/2022 9:11 AM
TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: John Beacham
SUBJECT: Waiver of Claims

ITEM AND RECOMMENDED ACTION:
City Council approves and authorizes the Mayor to sign the waiver of claims document.

DISCUSSION:
This waiver has been negotiated to resolve a matter which arose during construction of the Water Reclamation Facility’s Outfall Replacement Project.

ITEM / PROJECT PREVIOUSLY REVIEWED BY COUNCIL ON:
N/A

APPROVED OR DIRECTION GIVEN:
N/A

FISCAL IMPACT OR OTHER SOURCE OF FUNDING:
Funding for the payments included in this agreement will come from the WRF Outfall Project budget.

BUDGET CODE:
651-463.6505.95520
Assumption of Risk; Waiver of Claims; Release of Liability; Indemnification; Covenant Not to Sue

THIS IS A LEGALLY BINDING AGREEMENT, BY SIGNING THIS AGREEMENT, YOU GIVE UP THE RIGHT TO BRING A COURT ACTION TO RECOVER COMPENSATION OR ANY OTHER REMEDY FOR INJURIES OR DEATH TO YOURSELF OR TO YOUR PROPERTY, ARISING OUT OF THIS MATTER, NOW OR AT ANYTIME IN THE FUTURE.

This Agreement is made this ___ day of ______ 2022, between the City of Post Falls (“CITY”), 408 N. Spokane Street, Post Falls, ID 83854, and David and Andrea Meyer (“OWNER”), 1622 W. Lundy Blvd, Post Falls, ID 83854. Now, therefore, for good and valuable consideration in the amount of $20,000.00 and the mutual warranties, representations, covenants, and agreements herein contained, the Parties hereby agree as follows:

I. **Background.** The PARTIES agree that the CITY has hired a contractor to replace its treated wastewater effluent outfall into the Spokane River that is in proximity to OWNER’s home. Additionally, the PARTIES agree that, during the course of the CITY’s outfall replacement work, OWNER’s well, located on Owner’s property tested positive for E-Coli and coliform bacteria. OWNER believes that the well contamination may have been caused by the CITY’s outfall replacement project. Additional testing up-stream from OWNER’s property, and the CITY’s outfall, has also found E-Coli and coliform in the river water. The PARTIES have agreed to execute this Agreement to finally resolve any and all claims between the PARTIES relating in any way to the CITY’s outfall replacement project and/or the quality of water in OWNER’s well.

II. **Assumption of Risk.** OWNER, understands and acknowledges that OWNER’s well has tested positive for E-Coli and coliform bacteria. OWNER understands and acknowledges that, left untreated, consuming water from the well may entail both known and unknown risks. OWNER certifies that he has knowledge of these risks, is of legal age and is otherwise competent to sign this agreement and voluntary assume these risks. OWNER also certifies that he has read and understands all the terms of this Agreement. OWNER FULLY ACCEPTS AND ASSUMES ALL SUCH RISKS AND ALL RESPONSIBILITY FOR LOSSES, COSTS, AND DAMAGES.

III. **Waiver of Claims & Release of Liability.** OWNER hereby irrevocably waives and releases, on behalf of himself and for his or her heirs, assigns and legal representatives, any and all past, present or future claims, demands, and causes of action which the OWNER now has or may in the future have against CITY, its members, directors, administrators, representatives, officers, agents, employees, and assigns, and each of them, for any and all past, present or future loss of or damage to property, and/or bodily injury, including death, however caused, resulting from, arising out of or in any way connected with the water quality in the water well located on the OWNER’s property at 1620 & 1622 W. Lundy Blvd, Post Falls, Idaho 83854 or the CITY’s work to replace its treated wastewater effluent outfall into the Spokane River.

IV. **Indemnification & Covenant Not to Sue.** OWNER agrees to defend, indemnify, and hold harmless the CITY, its elected officials, administrators, directors, agents, officers, members, volunteers, and employees from any loss, liability, damage, or cost which any or all of them might incur as the result of such claim, whether caused by the negligence of the CITY or
otherwise. OWNER further covenants not to cause any action at law or in equity to be brought or permit such to be brought in his or her behalf, either directly or indirectly, on account of loss or damage to property and/or bodily injury, including death, against the CITY and its affiliates, elected officials, their respective administrators, directors, agents, officers, members, volunteers, and employees, resulting from, or arising out of, or in any way connected with any claims, demands, and causes of action which now or in the future may be asserted against the CITY arising out of or by reason of the water quality in the water well located on the OWNER’s property at 1620 & 1622 W. Lundy Blvd, Post Falls, Idaho 83854 or the CITY’s work to replace its treated wastewater effluent outfall into the Spokane River.

V. Agreement to Connect to Water System. The CITY hereby agrees to make available municipal water service to OWNER’s real property located at 1620 & 1622 W. Lundy Blvd, Post Falls, Idaho 83854. OWNER hereby consents and agrees to connect to said municipal water service.

1. **Construction.** It is contemplated that water service will be provided through a lateral service line extension, which will connect to the CITY water system. The City will extend and construct, at its own cost, water facilities to service the property. The CITY hereby agrees to pay the costs of right-of-way acquisition, engineering, construction, and any other building costs for the service line extension to OWNER’s property.

2. **Easements.** OWNER agrees to facilitate the procurement of any necessary easements which must be granted to the CITY to connect from a water main in Lundy Blvd. to the property. This facilitation is limited to non-financial assistance.

3. **Consideration.** Consideration in the amount of $20,000, paid by CITY to OWNER, is paid for OWNER to install ultraviolet, reverse osmosis, or other water filtration systems on the property, to troubleshoot any current issues with the well on the property, and to purchase filters and conduct maintenance on any new or existing filtration systems in the interim until the CITY extends water service to the property.

4. **Reimbursement.** The CITY agrees to reimburse the OWNER up to $30,000 for costs to repair or replace with like kind components of the OWNERS water system which fail after the effective date of this agreement when such failure is due to sediment within the well-water. Components of the water system include the well, piping, water treatment and conditioning systems, directly connected appliances, and plumbing fixtures. The payments under this Agreement shall not to exceed a total of $50,000 including the initial payment of $20,000.

5. **Construction Timeframe and Extension.** The CITY shall endeavor to permanently connect both residential structures on the property to the water service system by August 31, 2023. If water service is not extended to the property by August 31, 2023, commencing on September 1, 2023, the CITY agrees to reimburse OWNER, up to a maximum of $1000.00 per year, for reasonable and necessary maintenance costs of any water filtration systems on the property upon OWNER’s submission of valid documentation.
6. **Maintenance.** OWNER agrees to operate and maintain installed filtration systems to protect downstream water system components until the connection to water service is made. Upon completion of the service line, maintenance and repair of the mains servicing OWNER’s property shall remain the responsibility of the CITY. Upon completion of the service line, OWNER shall be responsible for maintenance and repair of the water service line and its appurtenances as outlined in section 13.12.110 of the Post Falls municipal code, subject to future amendments. Currently the point of connection begins at the water meter box and continues to the point of use, including but not limited to, house shut off valves and service lines.

7. **Rates.** Upon connection of a residential or commercial building, or any other structure to the CITY’s service stub on the real property as described above that feeds from the municipal water system. OWNER agrees to pay the CITY such water charges, rates, and fees as are established by the CITY according to Idaho State law.

VI. **Term.** This Agreement shall be in effect from and including the date of execution by both parties and shall run in perpetuity unless the CITY fails to make available water service to the properties as contemplated in Section V. of this Agreement by January 1, 2026. If CITY fails to make water service available by January 1, 2026, this Agreement may expire subject to the terms of this Agreement below.

VII. **Expiration of Agreement.** If the CITY fails to make water service available by January 1, 2026, this agreement shall continue in effect from year to year thereafter, subject to the right of either party to this Agreement before June 30, 2026, or June 30 in any year thereafter, by written notice to the other party, require the other party to commence mediation in good faith toward either a renewal of the agreement, or a new agreement. If such resolution cannot be reached, this Agreement shall expire on December 31 of that given year.

VIII. **Termination Upon Expiration of the Agreement.** In the event that this Agreement expires on or after December 21, 2026, OWNER’s Assumption of Risk, Waiver of Claims, Release of Liability; Indemnification; Covenant Not to Sue, shall be deemed null and void, and OWNER shall have any rights or legal remedies available as though this Agreement had not been executed. CITY’s Agreement to Connect to Water System, shall be deemed null and void and CITY shall be released from said obligation.

IX. **No Admission of Liability.** The PARTIES understand and agree that neither the payment of any sum of money nor the execution if this agreement by the parties will constitute or be construed as an admission of any improper actions, fault, or liability whatsoever regarding any claim or potential issues which may arise.

X. **Covenants Run with the Land.** The covenants herein contained shall be binding upon the OWNER’s heirs, assigns, and successors in interest and shall be deemed to be covenants running with the land.

XI. **Severability and Survivability.** Should any portion of this agreement be declared invalid by a court of competent jurisdiction; the remaining provisions shall continue in full force and effect and shall be read to carry out the purpose(s) of the agreement before the declaration of partial invalidity. Paragraph VII shall survive the expiration or termination of this Agreement.
I HAVE READ THIS AGREEMENT, FULLY UNDERSTAND ITS TERMS, UNDERSTAND THAT I HAVE GIVEN UP SUBSTANTIAL RIGHTS BY SIGNING IT AND HAVE SIGNED IT FREELY AND WITHOUT INDUCEMENT OR ASSURANCE OF ANY NATURE AND INTEND IT TO BE A COMPLETE AND UNCONDITIONAL RELEASE OF ALL LIABILITY TO THE GREATEST EXTENT PERMITTED BY LAW.

OWNER:  

David Meyer  Andrea Meyer  Jun 21 2022  

(Date)

CITY:  

Ron Jacobson  Shannon Howard  

(Date)