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SunCor Idaho, Inc.
485 E. Riverside Drive, Suite 300
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COMMUNITY CHARTER

FOR

THE RESIDENTIAL COMMUNITY

AT

AVIMOR



AVIMOR™

HYATT & STUBBLEFIELD, P.C.
Attorneys and Counselors
Peachtree Center South Tower
225 Peachtree Street, N.E., Suite 1200
Atlanta, Georgia 30303

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**COMMUNITY CHARTER
FOR
THE RESIDENTIAL COMMUNITY
AT
AVIMOR**

PREAMBLE

This Community Charter ("**Charter**") establishes a governance structure and a flexible system of standards and procedures for the overall development, expansion, administration, maintenance, and preservation of residential properties within "**Avimor**," a mixed-use, master planned community. An integral part of the development plan is the formation of Avimor Residential Community Association, Inc., a non-profit corporation, to own, operate, and/or maintain various common areas and community improvements and to administer and enforce this Charter and the other Governing Documents referenced in this Charter.

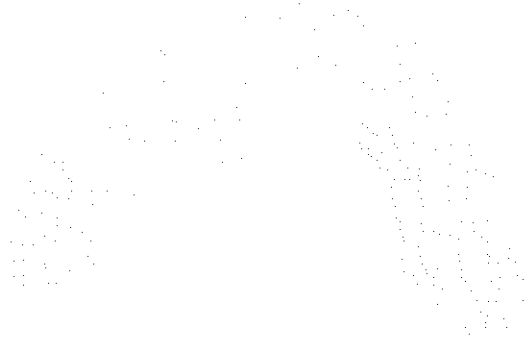
DECLARATION OF COVENANT

SunCor Idaho, Inc., an Idaho corporation (including its successors and assigns, the "**Founder**"), by executing and recording this Charter, declares that the property described in Exhibit "A" and any additional property made subject to this Charter in the future, shall constitute the "**Residential Community**" referred to in this Charter. This Charter shall run with the title to the Residential Community, shall govern the development and use of such property, and shall be binding upon the Founder and the future owners of any portion of the Residential Community, their respective heirs, successors, successors-in-title, and assigns, and any other Person or entity that now or hereafter has any legal, equitable, or beneficial interest in any portion of such property. This Charter shall also be binding upon Avimor Residential Community Association, Inc., its successors and assigns (the "**Association**").

PART ONE: INTRODUCTION TO THE COMMUNITY

*To accomplish great things, we must not only act, but also dream;
not only plan, but also believe.*

Anatole France



Chapter 1

Governing Documents

A community is guided and governed by certain principles that each owner and resident, by choosing to own property or reside in the community, agree to uphold. Those principles are set forth in the community's governing documents, which serve as a tie that binds the community together, give it structure, and provide guidance to all who participate in its growth and evolution.

1.1. Scope and Applicability

The Residential Community has been established and is administered pursuant to various

documents that have a legal and binding effect on all owners and occupants of property in the Residential Community, as well as on anyone else that may now or in the future have an interest in any portion of the property comprising the Residential Community. Such documents, referred to in this Charter as the "**Governing Documents**," include this Charter and the other documents described in Table 1.1, as they may be amended. All owners and occupants, as well as their tenants, guests, and invitees, are required to comply with the Governing Documents.

GOVERNING DOCUMENTS	
Community Charter: (recorded)	this Community Charter for the Residential Community at Avimor, which creates obligations that are binding upon the Association and all present and future owners of residential property in Avimor
Supplement: (recorded)	a recorded Supplement to this Charter, which may submit additional property to this Charter, create easements over the property described in the Supplement, impose additional obligations or restrictions on such property, designate Neighborhoods, Service Areas, or Limited Common Areas, or any of the foregoing
Articles of Incorporation: (filed with the Secretary of State)	the Articles of Incorporation of Avimor Residential Community Association, Inc., as they may be amended (" Articles "), which establish the Association as a nonprofit corporation under Idaho law
By-Laws: (attached as Exhibit "F")	the By-Laws of Avimor Residential Community Association, Inc. adopted by its Board of Directors, as they may be amended (" By-Laws "), which govern the Association's internal affairs, such as voting, elections, meetings, etc.
Design Guidelines: (Founder adopts)	the design standards and architectural and aesthetics guidelines adopted pursuant to Chapter 5, as they may be amended, which govern new construction and modifications to Units, including structures, landscaping, and other items on Units
Rules: (initial set attached as Exhibit "C")	the rules of the Association adopted pursuant to Chapter 7, which regulate use of property, activities, and conduct within the Residential Community
Water Use Restrictions: (initial set attached as Exhibit "D")	the water conservation measures adopted pursuant to Chapter 7, which regulate use of water and require certain water conservation measures within the Residential Community
Board Resolutions: (Board adopts)	the resolutions which the Board adopts to establish rules, policies and procedures for internal governance and Association activities and to regulate the operation and use of the property which the Association owns or controls

Table 1.1 - Governing Documents

Governing Documents

1.2. Community Covenant

The Residential Community also is subject or shall be subject to the Community Covenant for Avimor recorded or to be recorded by the Founder (the "**Community Covenant**") and running with the title to all of the Residential Community. The Community Covenant, among other things, provides a mechanism for monitoring and enforcing compliance with Wildlife Mitigation Plan described in Section 7.6 and the Wetlands Mitigation Plan described in Section 6.6.

1.3. Additional Covenants

The owner of any property within the Residential Community may impose additional covenants on such property, with such approval as may be required pursuant to this Charter. If the provisions of any such additional covenants are more restrictive than the provisions of this Charter, the more restrictive provisions control. The Association shall have standing and the power, but not the obligation, to enforce any such additional covenants.

1.4. Conflicts

If there are conflicts between any of the Governing Documents and Idaho law, Idaho law shall control. If there are conflicts between or among any of the Governing Documents, then the Charter, the Articles, and the By-Laws (in that order) shall control. If there is a conflict between the Governing Documents and any additional covenants recorded on any property within the Residential Community (or the rules or policies adopted pursuant to any such additional covenants), the Governing Documents shall control.

The Governing Documents use diagrams, tables, and explanatory text (text set apart in boxes with "key" icons) to illustrate concepts and assist the reader. If there is a conflict between any diagram, table, or explanatory text and the text

of the Governing Documents, the text shall control.

Space has been set aside throughout this Charter to allow the reader to make notes. Any such notes are not a part of this Charter and have no legal or binding effect.

If any court determines that any provision of this Charter is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications of such provision in other instances.

1.5. Definitions

Capitalized terms used in the Governing Documents have the meaning described in the paragraph where they first appear in bold print. An index to defined terms may be found at the end of the table of exhibits at the beginning of this Charter. All other terms used in the Governing Documents have their natural, commonly accepted definitions.

1.6. Interpretation of Certain References

City. All references in the Governing Documents to "**City**" shall refer to the cities of Boise, Eagle, Horseshoe Bend, Emmett, and/or Star, as applicable in the context of the provision (e.g., typically, a reference to the City will be a reference to the City within which the property being discussed is located).

Community-Wide Standard. Where the Governing Documents require compliance with the "**Community-Wide Standard**," the standard to be applied is the highest of: (a) the standard of use, conduct, architecture, landscaping, or aesthetic matters generally prevailing in Avimor, or (b) the minimum standards described in this Charter, the Design Guidelines, the Rules, and Board resolutions. The Community-Wide Standard may contain objective elements, such as specific maintenance requirements, and subject-

Governing Documents

tive elements, such as matters subject to the Board's or the Design Review Committee's (as defined in Section 5.2(b)) discretion. The Community-Wide Standard may or may not be set out in writing. The Founder initially shall establish such standard; however, the Community-Wide Standard may evolve as development progresses and as Avimor and the Residential Community mature.

Consent or Approval. All references in the Governing Documents to "**consent**" or "**approval**" shall refer to permission or approval, which unless otherwise expressly qualified in the specific provision, may be granted or withheld in the discretion of the Person whose consent or approval is required.

County. All references in the Governing Documents to "**County**" shall refer to Ada County, Boise County, and/or Gem County, as applicable in the context of the provision (*e.g.*, typically, a reference to the County will be a reference to the County within which the property being discussed is located).

Discretion and Determination. All references in the Governing Documents to "**discretion**" or to the right to "**determine**" any matter shall refer to the sole and absolute power or right to decide or act. Unless otherwise expressly limited in the Governing Documents or by law, anyone authorized in the Governing Documents to exercise its discretion or make a determination may do so without regard to the reasonableness of, and without the necessity of justifying, the decision, determination, action, or inaction.

Maintenance. All references in this Charter to "**maintenance**" shall refer to maintenance, repair, rehabilitation, and renewal.

Person. References in the Governing Documents to a "**Person**" or "**Persons**" shall refer to an individual, a corporation, a partnership, a limited liability company, or any other legal entity.

Recording. All references in the Governing Documents to a "**recorded**" legal instrument, or to "**recordation**" or the "**recording**" of a legal instrument, shall refer to an instrument filed or the filing of a legal instrument in the official records of the County, or such other place designated as the official location for filing documents affecting title to real estate in the County in order to make them a matter of public record.

Nothing will ever be attempted if all possible objections must first be overcome.
Samuel Johnson

NOTES AND THOUGHTS

Chapter 2

Residential Community Administration

Vibrant communities depend upon all of their stakeholders working together to uphold community standards and achieve the vision and goals for the community. The Founder, the Association, the owners, the builders, and others have a role in the functioning of the community and in helping to fulfill that vision. This chapter identifies these stakeholders and describes their roles in administering the Residential Community.

2.1. The Founder

The Founder has established the vision for Avimor and, through the Governing Documents, has set forth the founding principles that will guide the Residential Community during the initial period of development and sale and thereafter. The Founder's proposed plans for development of the Residential Community are or shall be described in land use plan(s) for Avimor approved by the City of Eagle, Ada County, Boise County, and/or Gem County, depending upon the location of the property being considered, as such plans may be supplemented from time to time, and which shall encompass all of the property described in Exhibit "A" and all or a portion of the property described in Exhibit "B" (the "**Development Plans**"). However, the Founder is not obligated to submit property shown on the Development Plans to this Charter. In addition, the Founder may submit property to this Charter that is not shown on the Development Plans.

The Founder has reserved various rights in the Governing Documents with respect to development and administration of the Residential Community. The Founder may exercise certain of these rights throughout the "**Development and Sale Period**," which is the period of time during which the Founder or any "Founder Affiliate" owns real property in the Residential Community or has an unexpired option to ex-

pand the Residential Community pursuant to Chapter 17. A "**Founder Affiliate**" is any Person that controls, is controlled by, or is under common control with the Founder, and any Person that is an owner, a member, a partner, or a shareholder of the Founder.

The Founder has reserved other rights that may be exercised only during the "**Founder Control Period**," which is the period of time during which the Founder is entitled to appoint a majority of the members of the Association's board of directors ("**Board**"). The Founder Control Period begins on the date of the Association's incorporation and terminates upon the first of the following to occur:

(a) when 75% of the total number of Units anticipated by the Development Plans have certificates of occupancy issued thereon and have been conveyed to Persons other than builders holding title for purposes of construction and resale;

(b) December 31, 2045; or

(c) when, in its discretion, the Founder so determines and declares in a recorded instrument.

The Founder has certain approval rights for a limited period after the termination of the Founder Control Period, as provided in the By-Laws.

The Founder may assign its status and rights as the Founder under the Governing Documents to any Person who takes title to any portion of the property described in Exhibit "A" or "B" of this Charter for the purpose of development and/or sale. Such assignment shall be made only in a recorded instrument signed by both parties.

Residential Community Administration

2.2. The Association

The Founder has established the Association as the primary entity responsible for administering the Residential Community in accordance with the Governing Documents. On most matters, the Association acts through the Board. However, in some instances the Governing Documents or applicable law limit the Board's ability to act without the approval of the Association's members. Unless the Governing Documents or Idaho law specifically provide otherwise, the Board may exercise the Association's rights and powers without a vote of the membership.

2.3. The Board

The Association may exercise all rights and powers which the Governing Documents and Idaho law expressly grant to it, as well as any rights and powers that may reasonably be implied under the Governing Documents. It may also take any action reasonably necessary to effectuate any such right or privilege.

The Board may institute, defend, settle, or intervene on behalf of the Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Area of Common Responsibility (as defined in Section 3.1), enforcement of the Governing Documents, or any other civil claim or action. However, the Board has no legal duty to institute litigation or any other proceeding on behalf of or in the name of the Association or its members.

In exercising the Association's rights and powers, making decisions on the Association's behalf (including, without limitation, deciding whether to file a lawsuit or take other legal action under any circumstances) and conducting the Association's affairs, Board members and the Association's officers are required to comply with, and shall be judged by, the standards set forth in the By-Laws.

2.4. The Owners

Each Person that holds record title to a Unit, as defined in Section 3.1, is referred to in the Governing Documents as an "**Owner**." However, a Person who holds title merely as security for the performance of an obligation (such as a lender holding a mortgage or similar security instrument) is not considered an "Owner." If a Unit is sold under a recorded contract of sale, and the contract specifically so states, the purchaser (rather than the holder of fee simple title) will be considered the Owner. If a Unit has more than one Owner, all co-Owners are jointly and severally obligated to perform the responsibilities of the Owner under the Governing Documents.

Every Owner has a responsibility to comply with the Governing Documents and uphold the community standards described in Part Two of this Charter. Each Owner also has an opportunity to participate in the administration of the Residential Community through membership in the Association and through service to the Residential Community in various committee and leadership roles, as described in Chapters 3 and 4 and in the By-Laws.

2.5. Builders

A portion of the responsibility and credit for helping to create Avimor rests with the "**Builders**" — those Persons who purchase one or more unimproved lots or parcels of land within the Residential Community for further subdivision or development and resale in the ordinary course of their business. The Builders have the same privileges and responsibilities as Owners during the time that they own Units for construction and resale, including the privilege of membership in the Association. In addition, the Founder may extend to Builders it designates some of the rights it has reserved under the Governing Documents with respect to development, marketing, and sale of property in Avimor.

Residential Community Administration

2.6. Mortgagees

If a Unit is made subject to a mortgage, deed of trust, deed to secure debt, or other form of security instrument affecting title to a Unit ("**Mortgage**"), then the holder or beneficiary of that Mortgage ("**Mortgagee**") also has an interest in the administration of the Residential Community. The Governing Documents contain various provisions for the protection of Mortgagees, including those set forth in Chapter 16.

2.7. Neighborhood Associations

Portions of the Residential Community may be developed under a condominium form of ownership or under other circumstances that require a separate owners association to administer additional covenants applicable to that particular area. Any such association is referred to as a "**Neighborhood Association**." Nothing in this Charter requires the creation of a Neighborhood Association, and the jurisdiction of any Neighborhood Association shall be subordinate to that of the Association.

A Neighborhood Association, if any, is responsible for administering the additional covenants applicable to the property within its jurisdiction and for maintaining, in accordance with the Community-Wide Standard, any property it owns or for which it has maintenance responsibility under such additional covenants.

2.8. Avimor Stewardship Organization, Inc.

The Founder has created the Avimor Stewardship Organization, Inc. (the "**ASO**") as a vehicle for generating, enhancing, and preserving a genuine sense of community within Avimor and for monitoring and enforcing compliance with Wildlife Mitigation Plan described in Section 7.6 and the Wetlands Mitigation Plan described in Section 6.6.

The ASO also exists to empower, encourage, and provide a means for Owners and residents in the Residential Community to participate in and benefit from community-oriented affairs, services, programs, and activities. It is the Founder's intent that the Association, any Neighborhood Associations, and the ASO work together and cooperate in performing their respective responsibilities in Avimor. The Association may, but shall not be obligated to, provide financial support to the ASO over and above such amounts as the ASO may be entitled to collect directly from Owners pursuant to the Community Covenant.

The ASO's affairs are administered by a board of directors selected as provided in its by-laws. The ASO has the rights and responsibilities described in its by-laws and articles of incorporation and in the Community Covenant. The Association and all Owners are subject to the Community Covenant and the ASO's jurisdiction.

In the event of a conflict between the Governing Documents and ASO's governing documents with respect to the ASO's rights and responsibilities, the ASO's governing documents shall control.

A community is like a ship; everyone ought to be prepared to take the helm.
Henrik Ibsen

NOTES AND THOUGHTS

Chapter 3

Residential Community Structure and Organization

The Residential Community consists of parcels of property, referred to as Units, which are intended for the exclusive use of the Owner and other occupants of such parcel, as well as property that is intended for common use. Units are grouped into Neighborhoods and Election Districts to facilitate voting on Association matters. Units are assigned to Service Areas to permit the Association to provide special services and benefits to, and at the expense of, particular areas of the Residential Community.

3.1. Designations of Properties Comprising the Residential Community

Units. The Governing Documents refer to the homes and home sites in the Residential Community as "**Units**." A Unit is a portion of the Residential Community, depicted in a recorded subdivision plat, survey, or condominium instrument, which may be independently owned and conveyed and is zoned or otherwise intended for development, use, and occupancy as a residence for a single family.

The term "Unit" refers to the land, if any, which is part of the Unit, as well as to any structures or other improvements on the Unit. In the case of a structure containing multiple dwellings that may be independently owned and conveyed, each such dwelling shall be deemed to be a separate Unit. A parcel of land is considered a single Unit until such time as a subdivision plat, survey, or condominium instrument is recorded subdividing it into more than one Unit. The term does not include Common Area, as defined below, common property of any Neighborhood Association, property dedicated to the public, or property owned by a Highway District or Public Improvement District (as such terms are defined in Chapter 6).

Common Area. Any property and facilities that the Association owns or otherwise holds possessory or use rights in for the common use or benefit of more than one Unit is referred to as "**Common Area**." The Common Area also includes any property that the Association holds under a lease and any easements in favor of the Association.

Limited Common Area. Certain portions of the Common Area may be designated as "**Limited Common Area**" and assigned for the exclusive use or primary benefit of Units in specified portions of the Residential Community. Limited Common Areas might include such things as entry features, recreational facilities, lakes, and landscaped medians and cul-de-sacs, among other things.

The Founder may designate property as Limited Common Area and assign it to particular Units on the recorded plat depicting such property, in the deed conveying such property to the Association, or in the Supplement by which the property is submitted to the terms of this Charter. At any time during the Development and Sale Period, the Founder may assign use of the same Limited Common Area to additional Units.

Area of Common Responsibility. All of the properties and facilities for which the Association has responsibility under the Governing Documents, or for which the Association otherwise agrees to assume responsibility, are collectively referred to in the Governing Documents as the "**Area of Common Responsibility**," regardless of who owns them. The Area of Common Responsibility includes all of the Common Area and may also include Units or portions of Units and property dedicated to the public, such as public rights-of-way and access

Residential Community Structure and Organization

ements. The initial Area of Common Responsibility is described in Chapter 9.

3.2. Neighborhoods

Units are grouped into "**Neighborhoods**" to facilitate a system of representative voting on matters as to which the Governing Documents require approval of the Association's membership. A Neighborhood may be comprised of any number of Units and may include Units of more than one housing type, as well as Units that are not contiguous to one another.

The Founder will initially assign Units to a specific Neighborhood (by name or other identifying designation) either in Exhibit "A" or in a Supplement. During the Development and Sale Period, the Founder may unilaterally record a Supplement, or an amendment to this Charter or any previously recorded Supplement, to designate or change Neighborhood boundaries. Thereafter, the Board may amend this Charter or any Supplement to re-designate Neighborhood boundaries; however, the Board may not combine two or more existing Neighborhoods without the consent of Owners of a majority of the Units in the affected Neighborhoods.

3.3. Election Districts

The Founder or the Board may designate "**Election Districts**," consisting of the Units within one or more Neighborhoods, for the purpose of electing directors to the Board. The By-

Laws set forth the method of establishing Election Districts. The number of Election Districts shall not exceed the total number of directors on the Board. The purpose of Election Districts is to provide for representation on the Board by groups with potentially dissimilar interests and to avoid a situation in which particular groups are able to elect the entire Board due to the number of votes they represent.

Diagram 3.1 illustrates the Association's organizational structure and the manner in which Election Districts will elect representatives to the Board after the Founder Control Period. While the diagram assumes three Election Districts and five Neighborhoods, the actual numbers of each may be different.

3.4. Service Areas

Units may also be part of one or more "**Service Areas**" in which the Units share Limited Common Areas or receive special benefits or services from the Association that it does not provide to all Units within the Residential Community. A Unit may be assigned to more than one Service Area, depending on the number and types of special benefits or services it receives. A Service Area may be comprised of Units of more than one housing type and may include Units that are not contiguous.

The Founder may initially designate Service Areas (by name or other identifying designation) and assign Units to a particular Service Area ei-

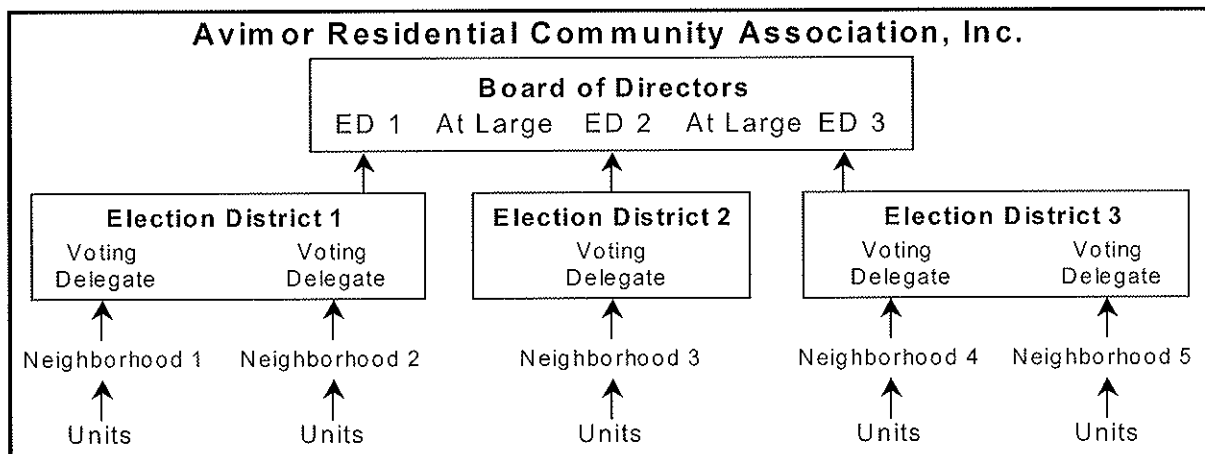


Diagram 3.1

Residential Community Structure and Organization

ther in Exhibit "A" to this Charter or in the Supplement by which the Founder submits the Units to this Charter. During the Development and Sale Period, the Founder may unilaterally amend this Charter or any Supplement to change Service Area boundaries.

In addition, the Board may, by resolution, designate Service Areas and assign Units to them upon petition of Owners of at least 67% of the Units affected by the proposed designation pursuant to Section 10.2(b).

The Owners of Units within each Service Area may elect a "**Service Area Committee**" in accordance with the By-Laws to represent and act on behalf of the Owners with respect to the services and benefits that the Association provides to the Service Area. References to Service Areas in the Governing Documents shall also refer to such Service Area Committees, if appropriate from the context.

I am always drawn back to places where I have lived, the houses and their neighborhoods.

Truman Capote

NOTES AND THOUGHTS

Chapter 4

Association Membership and Voting Rights

The Association is a mechanism by which each Owner can participate in the governance and administration of the Residential Community. While many powers and responsibilities are vested in the Board in order to facilitate day-to-day management and operation, the membership and voting rights vested in each Owner allow the Owners to participate in administration of the Residential Community and influence the outcome of major decisions.

4.1. Membership

The Association initially has two classes of membership: the Owner membership, which is comprised of all Owners, including Builders, and the Founder membership, which consists solely of the Founder.

(a) Owner Membership. Every Owner is automatically a member of the Association. However, there shall be only one membership per Unit. Thus, if a Unit has more than one Owner, all co-Owners of the Unit shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth below and in the By-Laws. If an Owner is a corporation, a partnership, or other legal entity, its membership rights may be exercised by any officer, director, partner, or trustee, or by an individual the Owner designates from time to time in a writing to the Association's Secretary, except that only the individuals residing in the Unit shall be entitled to use any recreational facilities available for use by members.

(b) Founder Membership. The Founder holds the sole Founder membership. The Founder membership shall terminate upon the expiration of two years following the termination of the Founder Control Period, or on such earlier date as the Founder determines and declares in a recorded instrument.

The Founder may, by Supplement, create additional classes of membership comprised of the owners of Units within any portion of the additional property submitted to this Charter. The Founder shall specify in any such Supplement the rights, privileges, and obligations of the members of any class of membership created by that Supplement.

4.2. Voting

Each Unit is assigned one equal vote, except that no vote shall be exercised for any property exempt from assessment under Section 12.8. Further, during such time as there is a Founder membership, no vote shall be exercised for Units that the Founder owns; rather, the Founder's consent shall be required for various actions of the Board, the membership, and committees, as specifically provided elsewhere in the Governing Documents.

Due to the number of Units that may be developed in the Residential Community, the Governing Documents provide for a representative system of voting. The Owners of Units in each Neighborhood elect a "**Voting Delegate**" and an alternate Voting Delegate, in the manner provided in the By-Laws, to cast the votes of all Units in the Neighborhood on matters requiring a vote of the membership, except where the Governing Documents specifically require a vote of the Owners. However, until such time as the Board first calls for election of a Voting Delegate for a particular Neighborhood, each Owner of a Unit in such Neighborhood or the Owners may personally cast the vote attributable to such Owner's Unit on any issue requiring a vote of the Voting Delegates under the Governing Documents.

Association Membership and Voting Rights

The Voting Delegate or, in his or her absence, the alternate Voting Delegate, attends Association meetings and casts all votes assigned to Units in that Neighborhood on any matters requiring a vote of the Association membership. A Voting Delegate may vote all votes it is entitled to cast in its discretion and shall make reasonable efforts to poll the Owners of Units in the Neighborhood which he or she represents prior to voting. On any matter, other than election of directors, for which a Voting Delegate is entitled to cast more than one vote, the Voting Delegate may cast all such votes as a block or split them, but shall not be entitled to fractionalize any single vote.

Voting Delegates are subordinate to the Board, and their responsibility and authority does not extend to policymaking, supervising, or otherwise being involved in Association governance beyond voting on matters put to a vote of the membership.

In any situation in which an Owner is entitled personally to exercise the vote for his or her Unit, if there is more than one Owner of such Unit, the vote shall be exercised as the co-Owners determine among themselves and advise the Association's Secretary in writing prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise it.

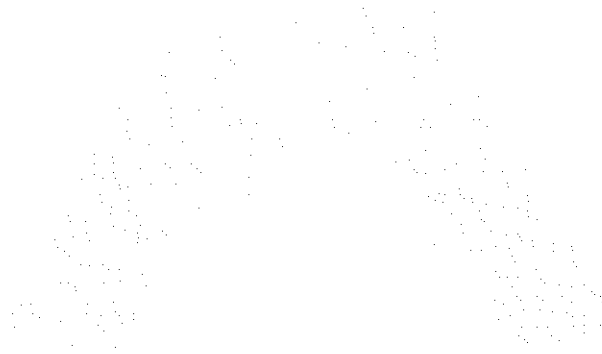
*If you don't like something, change it. If you
can't change it, change your attitude. Don't
complain. Maya Angelou*

NOTES AND THOUGHTS

PART TWO: COMMUNITY STANDARDS

A people that values its privileges above its principles soon loses both.

Dwight D. Eisenhower



Chapter 5

Architecture, Landscaping, and Aesthetic Standards

The Residential Community derives its unique character from a mix of compatible architectural styles and from the cooperation of all Builders and Owners in upholding minimum design, landscaping, and aesthetic standards. This chapter explains how those standards are established and how they are applied and maintained through a process requiring prior approval for construction on and exterior modifications to improvements on Units.

5.1. General

All site work, landscaping, structures, improvements, and other items placed on a Unit in a manner or location visible from outside of any existing structures on the Unit ("**Improvements**") are subject to standards for design, landscaping, and aesthetics adopted pursuant to this chapter ("**Design Guidelines**"), the Water Use Restrictions adopted pursuant to Section 7.4, and the approval procedures set forth in this chapter, except as this chapter, the Design Guidelines, or the Water Use Restrictions may otherwise specify.

No prior approval is necessary to repaint the exterior of existing structures on any Unit using the most recently approved color scheme or to rebuild or restore any damaged structures on a Unit in a manner consistent with the plans and specifications most recently approved for such structures. Generally, no approval is required for work done to the interior of a structure; however, modifications to the interior of screened porches, patios, and any other portions of a structure visible from outside of the structure do require prior approval.

Any dwelling constructed on a Unit shall be designed by and built in accordance with the plans and specifications the Founder or its designee approves in its sole discretion.

Approval under this chapter is not a substitute for any approvals or reviews required by the County, or any municipality or governmental agency or entity having jurisdiction over architectural or construction matters.

This chapter shall not apply to the Founder's design and construction activities or to the Association's activities during the Founder Control Period.



The Design Guidelines apply to all Units in the Residential Community.

5.2. Design Review Authority

(a) Founder. The Founder shall have exclusive authority to review and act upon all applications for review of proposed Improvements until the later of: (i) the expiration of the Development and Sale Period; or (ii) such time as all Units planned for the property described in Exhibits "A" and "B" have been improved with dwellings for which a certificate of occupancy has been issued. The Founder may designate one or more Persons to act on its behalf in reviewing any application. In reviewing and acting upon any request for approval, the Founder and its designee act solely in the Founder's interest and owe no duty to any other Person.

From time to time, the Founder may delegate any or all of its rights under this chapter to other Persons or committee, including the committee appointed pursuant to Section 5.2(b). Any such delegation shall be in writing, shall specify the scope of responsibilities delegated, and shall be subject to: (i) the Founder's right to revoke such delegation at any time and reassume its prior control; and (ii) the Founder's right to veto any decision which it determines, in its discretion, to be inappropriate or inadvisable. So long as the

Architecture, Landscaping, and Aesthetic Standards

Founder has any rights under this chapter, the jurisdiction of others shall be limited to such matters as the Founder specifically delegates.

(b) Design Review Committee. Upon the Founder's delegation of authority pursuant to Section 5.2(a), or upon expiration or termination of the Founder's rights under this chapter, the Board shall appoint a Design Review Committee ("**Design Review Committee**" or "**DRC**") to assume jurisdiction over matters within the scope of the delegated authority or this chapter, respectively. The DRC shall consist of at least three, but not more than seven, persons, who shall serve and may be removed and replaced in the Board's discretion. DRC members need not be Owners or representatives of Owners. The DRC may, but need not, include architects, engineers, or similar professionals. The Association may compensate DRC members in such manner and amount, if any, as the Board may determine appropriate.

Until expiration of the Founder's rights under this chapter, the DRC shall notify the Founder in writing within three business days of any action (*i.e.*, approval, partial approval, or disapproval) it takes under this chapter. A copy of the application and any additional information the Founder may require shall accompany the notice. The Founder shall have 10 business days after receipt of such notice to veto any such action, in its sole discretion, by written notice to the DRC.

Unless and until such time as the Founder delegates all or a portion of its reserved rights to the DRC or the Founder's rights under this chapter terminate, the Association shall have no jurisdiction over architectural matters.

(c) Reviewer. For purposes of this chapter, the entity having jurisdiction in a particular case shall be referred to as the "**Reviewer**."

(d) Fees; Assistance. The Reviewer may establish and charge reasonable fees for its review of applications and may require that such fees be

paid in advance. Such fees may also include reasonable costs incurred in having professionals review any application. The Board may include the compensation of such Persons in the Association's annual operating budget.



Initially, the Founder reviews applications for proposed Improvements and determines whether they should be approved. Thereafter, the Board will appoint a Design Review Committee to review applications for proposed improvements. The Founder or the Design Review Committee is referred to as the "Reviewer." The Reviewer sets fees for reviewing applications.

5.3. Guidelines and Procedures

(a) Design Guidelines. The Founder shall prepare the initial Design Guidelines, which may contain general provisions applicable to all of the Residential Community as well as specific provisions that vary among housing types, uses, or locations within the Residential Community. The Design Guidelines are intended to provide guidance to Owners and contractors regarding matters of particular concern to the Reviewer. The Design Guidelines are not the exclusive basis for the Reviewer's decisions, and compliance with the Design Guidelines does not guarantee approval.

The Founder shall have sole and full authority to amend the Design Guidelines for so long as it has review authority under Section 5.2(a). The Founder's right to amend the Design Guidelines shall continue even if it delegates reviewing authority to the DRC, unless the Founder also delegates the power to amend to the DRC. Upon termination or delegation of the Founder's right to amend, the DRC may amend the Design Guidelines with the Board's consent.

Amendments to the Design Guidelines shall apply prospectively only. They shall not require modifications to or removal of any struc-

Architecture, Landscaping, and Aesthetic Standards

tures previously approved once the approved construction or modification has begun. However, any new work on such structures must comply with the Design Guidelines as amended. There shall be no limitation on the scope of amendments to the Design Guidelines, and such amendments may eliminate requirements previously imposed or otherwise make the Design Guidelines less restrictive.

The Reviewer shall make the Design Guidelines available to Owners and their contractors upon request. In the Founder's discretion, such Design Guidelines may be recorded, in which event the recorded version, as it may be amended from time to time, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.



The purpose of the Design Guidelines is to maintain a consistent character and quality of appearance for the Improvements within the community and to ensure that Improvements are constructed in an orderly manner. The Design Guidelines may describe what types of building materials and design elements are preferred and others that are discouraged. The Design Guidelines also provide a specific procedure for submitting applications for proposed Improvements and describe how to carry out the construction of the Improvements once approval has been received.

(b) Procedures. Unless the Design Guidelines provide otherwise, no activities within the scope of this chapter may begin on any portion of the Residential Community until a written application is submitted to and approved by the Reviewer. The application must be accompanied by plans and specifications and such other information as the Reviewer or the Design Guidelines require.

In reviewing each application, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of the pro-

posed external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that such determinations are purely subjective and that opinions may vary as to the desirability and/or attractiveness of particular improvements.

The Reviewer shall have the discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment, and such determinations shall not be subject to the procedures in Chapter 19 or judicial review so long as they are made in good faith and in accordance with required procedures.

The Reviewer shall make a determination on each application after receipt of a completed application with all required information. The Reviewer may permit or require that an application be submitted or considered in stages, in which case, a final decision shall not be required until after the final, required submission. The Reviewer may: (i) approve the application with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application.

The Reviewer shall notify the applicant in writing of the final determination on any application no later than 30 business days after its receipt of a completed application and all required submissions; provided, with respect to any DRC determination subject to the Founder's veto right under Section 5.2(b), the Reviewer shall notify the applicant of the final determination within 40 business days after its receipt of the final determination and all required submissions. Notice shall be deemed given at the time the envelope containing the response is deposited in the U.S. mail. Hand delivery, facsimile, electronic mail, or similar delivery of such written notice also shall be sufficient and shall be deemed given at the time of confirmed delivery to the applicant.

If the Reviewer fails to respond in a timely manner, approval shall be deemed given. How-

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ever, no approval, whether expressly granted or deemed granted, shall be inconsistent with the Design Guidelines unless a written variance has been granted pursuant to Section 5.5.

As part of any approval, the Reviewer may require that construction commence within a specified time period. If construction does not commence within the required period, the approval shall expire, and the Owner must reapply for approval before commencing any activities. Once construction is commenced, it shall be diligently pursued to completion. All work shall be completed within one year of commencement unless otherwise specified in the notice of approval or unless the Reviewer, in its discretion, grants an extension in writing. If approved work is not completed within the required time, it shall be considered nonconforming and shall be subject to enforcement action by the Association, the Founder, or any aggrieved Owner.

The Reviewer may exempt certain activities from the application and approval requirements of this chapter, if such activities are undertaken in compliance with the Design Guidelines and the Community-Wide Standard.

(c) Appeals Process. After the Board's appointment of the DRC, an applicant may appeal disapproval of an application to the Board. To request an appeal, the applicant must submit to the Association's Secretary, no later than 15 days after the delivery of the notification of disapproval, a copy of the original application, the notification of the disapproval of the application, and a letter requesting review of the decision. The appeal request shall also contain a response to any specific concerns or reasons for disapproval, if any, listed in the notification of disapproval.

The Board may: (i) affirm the DRC's decision; (ii) affirm a portion and overturn a portion of the DRC's decision; or (iii) overturn the DRC's decision. The Board shall notify the applicant and the DRC in writing of its decision no later than

30 days after its receipt of the request for appeal with all required information. The Board's decision shall include a description of its reasons for overturning the DRC's decision. During the appeal process, the Owner shall not commence any work requiring approval hereunder.

5.4. No Waiver of Future Approvals

The people reviewing applications under this chapter will change from time to time, and opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines, may vary accordingly. It may not always be possible to identify objectionable features until work is completed. In such cases, the Reviewer may require that objectionable features be corrected or it may elect not to require changes to objectionable features; provided, the Reviewer may not require the removal of features or improvements constructed in conformance with plans it previously has approved. However, the Reviewer may refuse to approve similar proposals in the future. Approval of applications or plans shall not constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

5.5. Variances

The Reviewer may authorize variances from compliance with any of the Design Guidelines and any procedures when it determines that circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations justify such a variance, or if the Reviewer otherwise reasonably deems a variance to be appropriate under the particular circumstances; however, the Reviewer shall under no circumstance be obligated to grant variances. No variance shall: (a) be effective unless in writing; (b) be contrary to this Charter; or (c) prevent the Reviewer from denying a variance in other circumstances. A variance requires the Founder's written consent during the

Architecture, Landscaping, and Aesthetic Standards

Development and Sale Period and, thereafter, requires the Board's written consent.



In some circumstances, an Owner may find it difficult or impossible to comply with the requirements of the Design Guidelines. In that case, the Owner can file a request with the Reviewer to be excused from complying with the Design Guidelines. The Reviewer has the discretion to grant or deny the request.

5.6. Limitation of Liability

This chapter establishes standards and procedures as a mechanism for maintaining and enhancing the overall aesthetics of the Residential Community; they do not create any duty to any Person. Review and approval of any application pursuant to this chapter may be based purely on aesthetic considerations. The Reviewer is not responsible for the structural integrity or soundness of approved construction or modifications, for compliance with building codes and other governmental requirements, or for ensuring that all dwellings are of comparable quality, value, size, or design, or are aesthetically pleasing or otherwise acceptable to other Owners.

The Founder, the Association, its officers, the Board, any committee, and any member of any of the foregoing shall not be liable for: (a) soil conditions, drainage, or other general site work; (b) any defects in plans revised or approved hereunder; (c) any loss or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any contractor or its subcontractors, employees, or agents, regardless of whether the Founder has approved or featured such contractor as a Builder in the Residential Community; or (d) any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to any Unit. In all matters, the Association shall defend and indemnify the Board, the DRC, and the members of each as provided in the By-Laws.

5.7. Certificate of Compliance

Any Owner may request in writing that the Reviewer issue a certificate of compliance certifying that there are no known violations of this chapter or the Design Guidelines. The Association shall either grant or deny such written request within 30 days after receipt and may charge a reasonable administrative fee. Issuance of such a certificate shall prevent the Association from taking enforcement action against an Owner for any condition known to the Association on the date of such certificate.

*We shape our buildings and our
buildings shape us. Winston Churchill*

NOTES AND THOUGHTS

Chapter 6

Maintenance, Repair, and Replacement

One of the benefits of owning property in a planned community is the commitment among neighbors to maintain their property in a neat, attractive, and well-landscaped condition to enhance the overall beauty and aesthetic appeal of the community. This chapter describes the Owners' responsibilities for maintenance and repair of their Units and for insuring their Units against property damage so that funds will be available for repair and restoration if needed.

6.1. Maintenance of Units

Each Owner shall maintain his or her Unit, including all structures, landscaping, and other improvements comprising the Unit, in a manner consistent with the Governing Documents and the Community-Wide Standard, unless such maintenance responsibility is otherwise assumed by or assigned to (and accepted by, if necessary) the Association, a Neighborhood Association, or a Highway District (as defined in Section 6.3) under this Charter, any Supplement, or by law.

Each Owner shall maintain yard drainage swales on his or her Unit in such a manner as to insure proper drainage on the Unit.

Sidewalks that generally serve the Residential Community (as opposed to serving a particular Unit) may be wholly or partially located within the boundaries of Units, as shown on recorded plats and plans. The Association shall be responsible for maintaining all such community sidewalks in a manner consistent with the Governing Documents and the Community-Wide Standard.

6.2. Maintenance of Neighborhood Association Property

A Neighborhood Association shall maintain its common property and any other property for which it has maintenance responsibility in a man-

ner consistent with the Governing Documents, the Community-Wide Standard, and all applicable covenants.

Sidewalks that generally serve the Residential Community (as opposed to serving a particular Unit or particular Units within a Neighborhood) may be wholly or partially located within a Neighborhood Association's common property, as shown on recorded plats and plans. The Association shall be responsible for maintaining all such community sidewalks in a manner consistent with the Governing Documents and the Community-Wide Standard.

The Association may assume maintenance responsibility for property in any Neighborhood Association, either upon designation of the Neighborhood Association as a Service Area pursuant to Section 3.4 or upon the Board's determination, pursuant to Chapter 8, that the level and quality of maintenance then being provided is not consistent with the Community-Wide Standard. The Association need not treat all similarly situated Neighborhood Associations the same.

6.3. Maintenance by Highway District; Stormwater Drainage Facilities

A County highway district ("Highway District") may own, operate, and maintain roads within the Residential Community and any curbs and gutters within public rights-of-way adjacent to such roads. Sidewalks may be contained within a right-of-way and, if so, a Highway District shall own the sidewalk; provided, notwithstanding such ownership, the Association shall be responsible for maintaining community sidewalks, as set forth in Chapter 9.

Maintenance, Repair, and Replacement

Storm drain facilities within the portion of the subdivision located in Ada County shall be located within the Ada County Highway District ("ACHD") rights-of-way and/or within Common Area lots owned by the Association within the subdivision, as depicted on a recorded plat. Maintenance of all storm drain facilities within such public rights-of-way shall be the responsibility of the ACHD. Surface maintenance (grass, trees, shrubs, etc.) of the storm water management facilities outside the public rights-of-way (i.e., Association Common Area, swales, seepage trenches, storm ponds, park/detention areas, etc., hereinafter, the "**Storm Water Park Areas**") is the responsibility of the Association; provided, no trees shall be planted within the ACHD storm water drainage easements depicted on a recorded plat.

All Storm Water Park Areas are subject to ACHD easements, if any, shown on a recorded plat for the subdivision. The primary purpose of the Storm Water Park Areas is for the management of storm water. All recreational, aesthetic, and other uses of these areas are secondary. The ACHD has the right to inspect such facilities, and, if necessary, perform any required maintenance or repairs. The ACHD has the right to assess the Association for the costs of any required maintenance or repairs where the Association has failed to adequately maintain the surface areas that are part of the storm water treatment/detention area(s) within the subdivision, including the use of liens and/or assessments of maintenance costs against the Units within the subdivision.

The Association shall maintain a "**Maintenance and Operation Manual**." Any changes or modifications to the Storm Water Park Areas above and beyond the improvements shown on the ACHD approved storm drain plans for the subdivision, as set forth in the Maintenance and Operation Manual, shall require the prior approval of the ACHD and any other governmental entity having jurisdiction over such facilities.

In the event the ACHD shall file a lien against any Units due to the failure of the Association to perform required maintenance or failure to pay the ACHD any amounts that may be due to the ACHD, the Association shall post a bond as security for payment of the lien amount.

For purposes of this Section 6.3, the term "subdivision" shall mean the Residential Community.

6.4. Responsibility for Repair and Replacement

Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement necessary to maintain the property to a level consistent with the Community-Wide Standard.

Each Owner shall carry property insurance for the full replacement cost of all insurable improvements on his or her Unit, less a reasonable deductible, unless either a Neighborhood Association (if any) or the Association carries such insurance (which they may but are not obligated to do). If the Association assumes responsibility for insuring a Unit, the premiums for such insurance shall be levied as a Specific Assessment against the benefited Unit and the Owner.

Within three months of any damage to or destruction of a structure on a Unit, the Unit's Owner shall promptly repair or reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved pursuant to Chapter 5 unless the Board, in its discretion, agrees to extend such period. Alternatively, the Owner shall clear the Unit of debris and maintain it in a neat and attractive landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs that insurance proceeds do not cover.

Maintenance, Repair, and Replacement

Additional recorded covenants applicable to any Neighborhood Association or Service Area may establish additional insurance requirements and more stringent standards for rebuilding or reconstructing structures on Units and for clearing and maintaining the Units in the event the structures are not rebuilt or reconstructed.

This section shall apply to a Neighborhood Association with respect to common elements or common property within the Neighborhood in the same manner as if the Neighborhood Association was an Owner and the common elements or common property was a Unit.

6.5. Maintenance and Repair of Party Walls and Similar Structures

Each wall, fence, driveway, or similar structure built as a part of the original construction on the Units that serves and/or separates any two adjoining Units shall be considered a party structure. Unless a party structure is part of the Area of Common Responsibility, the cost of reasonable repair and maintenance of a party structure shall be shared equally by the Owners whose Units are served by the party structure.

If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner whose Unit is served by the structure may restore it and other Owners whose Units also are served by the structure shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

The right to and the obligation of contribution for party walls and similar structures between Owners, as provided in this section, shall be appurtenant to the land and shall pass to such Owner's successor-in-title.

To the extent not inconsistent with the provisions of this section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to any party structure. Any dispute arising concerning a party structure shall be handled in accordance with the provisions of Chapter 19.

6.6. Maintenance of Wetlands

The Residential Community contains wetlands and wetland mitigation areas (collectively, "**Wetlands**"), which are more particularly described in that Final Avimor Compensatory Wetland Mitigation Plan dated June 27, 2006, approved by the United States Army Corps of Engineers ("**USACOE**"), and attached as part of Exhibit "E" to this Charter (as such plan may be amended from time to time, the "**Wetlands Mitigation Plan**"). The Association, Owners and occupants of Units and their guests and invitees shall comply with the requirements set forth in the Wetlands Mitigation Plan.

The Association is responsible for monitoring and maintaining vegetation densities in the Wetlands at the percentage specified in the Wetlands Mitigation Plan. Monitoring of such vegetation shall be conducted by the Association according to the Wetlands Mitigation Plan.

The Association shall keep undesirable species at less than 10% of the total vegetation basal cover within the Wetlands. Undesirable species include purple loosestrife, reed canarygrass, and any other plants considered noxious weeds or included in a list of undesirable species for the Boise, Idaho area published by the USACOE. The Wetlands shall be visually surveyed on a regular basis as specified in the Wetlands Mitigation Plan to determine outbreaks of purple loosestrife which may trigger emergency contingency measures.

The Association shall send a letter to the USACOE by December 31st of each year summa-

Maintenance, Repair, and Replacement

rizing the monitoring and maintenance activities conducted within the Wetlands. This letter shall be accompanied by selected photographs used in monitoring.

6.7. Maintenance of Private Utilities

The privately owned and operated utilities within the Residential Community located in Ada County that are not regulated by the Public Utilities Commission or owned and operated by a municipality or water, sewer, or irrigation district (such as the water and sewer systems serving the Residential Community) are subject to that certain Development Agreement: Private Non-Regulated Utilities in ACHD Right-of-Way, a copy of which is attached hereto as Exhibit "H." Notice is hereby given that any future relocation of such private, non-regulated utilities that lie within the public right-of-way (whether or not deemed necessary by ACHD) shall be moved at the sole expense of the Founder or its successors or assigns. Please refer to the development agreement for additional requirements concerning such utilities.

6.8. Trail Maintenance

The Residential Community contains a number of trails and paths. Some of the trails and paths are located within the Common Area and are intended for the private use of residents of the Residential Community. Other trails and paths are part of a public trail system and located within public easement area, as more particularly described in that certain Declaration of Easement for Public Trail System recorded December 18, 2007 in the Official Records of Boise County, Idaho as Document No. 107166666 (the "**Public Trail Declaration**").

Regardless of the ownership of such trails or paths, unless maintenance responsibility is accepted by a City, a County, a regional trail authority or district, or similar entity: (i) the Association shall be responsible for maintaining all trails and paths located within the Residential

Community that are improved with concrete, asphalt, road base, or similar material or that are improved with landscaping that requires maintenance and/or irrigation; and (ii) the ASO shall be responsible for maintaining all unimproved or natural trails located within the Residential Community that are maintained in a natural or primitive state. For purposes of this Section 6.8, the planting or relocation by the ASO of native plants that do not require continual maintenance or irrigation along a primitive or natural trail shall not constitute "landscaping" and shall not require that the Association assume maintenance responsibility for such trail.

6.9. Public Improvement District

A special taxing district may be created with statutory authority to assess, levy, and collect real property taxes on property within the Residential Community, including some Units, which taxes shall be in addition to other statutorily imposed real property taxes, and shall be in addition to assessments imposed by the Association. The special taxing district is referred to as a "**Public Improvement District**" in this Charter, but may be given a different name by the enacting statute creating it.

The Public Improvement District, if created, shall be created in accordance with Idaho law, as currently existing or as may be enacted in the future. The purposes of the Public Improvement District shall be to provide a mechanism for the acquisition, ownership, transfer, construction, operation, maintenance, and/or repair of certain public infrastructure improvements directly or indirectly benefiting the Residential Community and to provide for financing related thereto. Such public infrastructure improvements may already be constructed or may be constructed in the future. Such public infrastructure improvements may include those constructed or temporarily owned by the Founder, a Founder Affiliate, or the Association, and the ownership and operation thereof may be trans-

Maintenance, Repair, and Replacement

ferred, from time to time, by the owner to the Public Improvement District.

Upon creation of the Public Improvement District, all or portions of the Residential Community shall be subject to the jurisdiction and taxing authority of such Public Improvement District. Tax proceeds of the Public Improvement District may be used for any statutorily authorized purpose, including, without limitation, to fund bond obligations and pay debt service related thereto.

By accepting a deed or entering into a recorded contract to purchase a Unit, each Owner irrevocably consents to the creation of a Public Improvement District and covenants and agrees to pay all taxes and/or assessments authorized by statute as may be imposed by the Public Improvement District, including, without limitation, such taxes or assessments as may relate to public infrastructure improvements constructed prior to the time the Public Improvement District is created and/or prior to the time the Owner accepts a deed or enters into a recorded contract to purchase a Unit.

As may be and when required under a statute creating any Public Improvement District, a reasonable disclosure of the potential economic and legal impact of the Public Improvement District will be provided to each Owner prior to the time the Owner accepts a deed or enters into a recorded contract to purchase a Unit.

*Obstacles are those frightful things you see
when you take your eyes off your goal.*

Henry Ford

NOTES AND THOUGHTS

Chapter 7

Use and Conduct

In order to maintain a residential environment that encourages respect for and courtesy among neighbors and minimizes the potential for disputes, this chapter sets forth basic standards regarding use, occupancy, and transfer of interests in Units. In addition, it provides a procedure by which the Board and the membership can adopt and change rules regulating use, conduct, and activities within the Residential Community to address particular needs and desires of the Residential Community over time.

7.1. Use, Occupancy, and Transfer of Interests in Units

(a) Residential and Related Uses. Units may be used only for residential and related purposes, except as the Founder may otherwise authorize with respect to construction, marketing, and sale activities of the Founder and Builders it designates. A business activity shall be considered "related" to a residential use and thus permitted under this section only if the business activity:

(i) is not apparent or detectable by sight, sound, or smell from outside of a permitted structure;

(ii) complies with applicable zoning requirements;

(iii) does not involve frequent visitation of the Unit by clients, customers, suppliers, or other business invitees, or door-to-door solicitation within the Residential Community (the Association may permit a reasonable number of employees who do not reside in the Unit to be present in the Unit during reasonable times for purposes relating to a permitted business activity (the Board may exercise its discretion in determining what is reasonable under any particular circumstance); and

(iv) is consistent with the residential character of the Residential Community and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of others, as the Board determines in its discretion.

Examples of "related" business activities include, but are not limited to, computer-based telecommunications, home offices, and literary, artistic, or craft activities which comply with the above requirements.

"Business" shall have its ordinary, generally accepted meaning and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves providing goods or services to Persons other than the family of the producer and for which the producer receives a fee, compensation, or other form of consideration, regardless of whether (i) such activity is engaged in full or part time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required.

Leasing of a Unit for residential purposes shall not be considered a "business" within the meaning of this subsection and, subject to other restrictions or limitations in the Governing Documents, is permissible. For purposes of this Charter, the terms "**Lease**" and "**Leasing**" shall refer to the regular, exclusive occupancy of a Unit by any Person other than the Owner, for which the Owner receives any consideration or benefit, including a fee, service, or gratuity.

(b) Leasing. Any dwelling that is leased shall be leased only in its entirety; separate rooms, floors, or other areas within a dwelling may not be separately leased; however, any detached "in-law suite" or "guest house" approved pursuant to Chapter 5 or a garage apartment may be leased separate from the main dwelling.

Use and Conduct

No sign advertising a Unit for lease may be posted on a Unit, elsewhere within the Residential Community, or on any public right-of-way adjacent to a Unit or any other portion of the Residential Community, except as the Board may specifically permit.

All leases shall be in writing, shall have a minimum term of at least six months, and shall disclose that the tenants and all occupants of the leased Unit are bound by and obligated to comply with the Governing Documents; however, the Governing Documents shall apply regardless of whether such a provision is specifically set forth in the lease.

Within 10 days of a lease being signed, the Owner of the leased Unit shall notify the Board or the Association's managing agent of the lease and provide any additional information the Board may reasonably require. The Owner must give the tenant copies of the Governing Documents. In addition to, but consistent with this subsection, the Association or the Board may adopt Rules governing leasing and subleasing.

(c) Transfer of Title. Any Owner desiring to sell or otherwise transfer title to his or her Unit shall give the Board at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The Person transferring title shall continue to be jointly and severally responsible with the Person accepting title for all obligations of the Owner, including assessment obligations, until the date upon which the Board receives such notice, notwithstanding the transfer of title.

(d) Subdivision and Combination of Units. No Person other than the Founder and Builders whom the Founder may authorize shall subdivide or change the boundary lines of any Unit or combine Units without the Board's prior written approval. Any such action that the

Board approves shall be effective only upon recording of a plat or other legal instrument reflecting the subdivision or new boundaries of the affected Unit(s). In the absence of such recorded instrument, adjacent Units owned by the same Owner shall continue to be treated as separate Units for purposes of voting and assessment, even though such Units may be improved with a single dwelling; therefore, the Owner of such Units shall be responsible for the separate assessments for each of such Units.

(e) Timesharing. No Unit shall be used for operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years, unless such program is established by the Founder or with the Founder's prior written approval.

(f) Wildlife Protections. Capturing, trapping, or killing wildlife, except in circumstances amounting to an imminent threat to a Person's safety, and the harassment or disturbance of wildlife and normal wildlife activity within the Residential Community is prohibited. The Association or the Board may adopt Rules designed to protect wildlife from domestic pets and from humans within the Residential Community, including within Unit boundaries.

(g) Water Wells. No domestic or other water wells may be drilled or constructed in Avimor except that the Founder and/or its designees (including the Association if so designated) may drill, equip, and use water wells in Avimor.

7.2. Rulemaking Authority and Procedures

The Governing Documents establish a framework of covenants and conditions that govern the Residential Community. The initial Rules attached as Exhibit "C" and the initial Water Use Restrictions attached as Exhibit "D" are a part of that framework. However, within that frame-

Use and Conduct

work, the Association must be able to respond to unforeseen issues and changes affecting the Residential Community. Therefore, the Board and the Voting Delegates are authorized to change the Rules and the Water Use Restrictions in accordance with the following procedures, subject to the limitations set forth in Sections 7.3 and 7.4.

(a) Board Authority. Subject to the notice requirements in Section 7.2(c) and the Board's duty to exercise judgment and reasonableness on behalf of the Association and its members, the Board may adopt new Rules or Water Use Restrictions and modify or rescind existing Rules or Water Use Restrictions by majority vote of the directors at any Board meeting.

(b) Membership Authority. Subject to the notice requirements in Section 7.2(c), the Voting Delegates representing a majority of the votes in the Association may also adopt new Rules or Water Use Restrictions and modify or rescind existing Rules or Water Use Restrictions at any meeting of the Association duly called for such purpose, regardless of the manner in which the original Rule or Water Use Restriction was adopted. However, as long as the Founder membership exists, any such action shall also be subject to the Founder's approval.

(c) Notice. The Board shall send notice to all Owners concerning any proposed Rule or Water Use Restriction change at least 10 business days prior to the meeting of the Board or the Voting Delegates at which such action is to be considered. At any such meeting, Voting Delegates shall have a reasonable opportunity to be heard at before the proposed action is put to a vote.

This notice requirement shall not apply to administrative and operating policies that the Board may adopt relating to the Common Area, such as hours of operation of a recreational facility, speed limits on private roads, and the method of allocating or reserving use of a facility

(if permitted) by particular individuals at particular times, notwithstanding that such policies may be published as part of the Rules.

(d) Effective Date. A Rules or Water Use Restriction change adopted under this section shall take effect 30 days after the date on which written notice of the Rules or Water Use Restriction change is given to the Owners.

(e) Conflicts. No action taken under this section shall have the effect of modifying or repealing the Design Guidelines or any provision of this Charter other than the Rules or Water Use Restrictions. In the event of a conflict between or among the Design Guidelines, the Rules and the Water Use Restrictions, then the Water Use Restrictions, the Design Guidelines, and the Rules (in that order) shall control. In the event of a conflict between the Rules or Water Use Restrictions and any provision of this Charter (exclusive of the Rules or Water Use Restrictions), the Charter shall control.



Since it is impossible to foresee all potential situations and problems that may arise within the Residential Community, the Board has the authority to adopt and modify rules as needed to address these changing circumstances.

7.3. Protection of Owners and Others

Except as may be set forth in this Charter (either initially or by amendment) or in the initial Rules set forth in Exhibit "C," all Rules shall comply with the following provisions:

(a) Similar Treatment. Similarly situated Units shall be treated similarly; however, the Rules may vary by Neighborhood, Service Area, housing type, or physical location, if appropriate.

(b) Displays. No Rule shall prohibit an Owner or occupant from displaying political, religious, or holiday symbols and decorations on his or her Unit of the kinds normally displayed in single-family residential neighborhoods, nor shall

Use and Conduct

any Rule regulate the content of political signs. However, the Association may adopt time, place, and manner restrictions with respect to signs, symbols, and displays visible from outside of structures on the Unit, including reasonable limitations on size and number.

(c) Household Composition. No Rule shall interfere with an Owner's freedom to determine household composition, except that the Association may impose and enforce reasonable occupancy limitations and conditions based on Unit size and facilities and its fair share use of the Common Area.

(d) Activities Within Dwellings. No Rule shall interfere with the activities carried on within a dwelling, except that the Association may prohibit activities not normally associated with residential property. It may also restrict or prohibit activities that create monetary costs for the Association or other Owners, that create a danger to anyone's health or safety, that generate excessive noise or traffic, that create unsightly conditions visible from outside the dwelling, or that are an unreasonable source of annoyance.

(e) Allocation of Burdens and Benefits. No Rule shall alter the allocation of financial burdens among the various Units or rights to use the Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Area available, from adopting generally applicable rules for use of Common Area, or from denying use privileges to those who are delinquent in paying assessments, abuse the Common Area, or violate the Governing Documents. This provision does not affect the right to increase the amount of assessments as provided in Chapter 12.

(f) Leasing and Transfer of Units. No Rule shall prohibit leasing or transfer of any Unit, or require approval prior to leasing or transferring a Unit; however, Section 7.2(b) requires a

minimum lease term of six months. The Rules may also require that Owners use Board-approved lease forms (or include specific lease terms), and may impose a reasonable review or administrative fee in connection with the Board's review of a lease.

(g) Abridging Existing Rights. No Rule shall require that an Owner dispose of personal property kept in or on a Unit in compliance with the Rules in effect at the time such personal property was brought onto the Unit. This exemption shall apply only during the period of such Owner's ownership of the Unit, and shall not apply to subsequent Owners who take title to the Unit after adoption of the Rule.



This provision protects the existing personal property of Owners by preventing a situation in which an Owner is forced to get rid of a possession that was previously allowed. For example, if basketball hoops are allowed in driveways and then a Rule is passed prohibiting basketball hoops, the Board cannot force the Owners who have basketball hoops at that time to remove them. However, they can enforce this Rule against any other Owner desiring to install one. In addition, if an Owner sells his or her Unit, the new Owner may be required to remove the basketball hoop.

(h) Reasonable Rights to Develop. No Rule may unreasonably interfere with the Founder's ability to develop, market, and sell property in Avimor.

(i) Interference with Private Amenities. No Rule may unreasonably interfere with the use, ownership, appearance, or operation of any Private Amenity (as defined in Chapter 14).

(j) Interference with Easements. No Rule may unreasonably interfere with the exercise of any easement.

Use and Conduct

7.4. Water Use Restrictions and Conservation Measures

(a) *Restrictions.* Each Unit is subject to restrictions on water use, which may require conservation measures and contain design requirements ("**Water Use Restrictions**"). The initial Water Use Restrictions are attached as Exhibit "D."

The Founder shall have the sole and full authority to amend the Water Use Restrictions for so long as it has design review authority under Section 5.2(a). The Founder's right to amend the Water Use Restrictions shall continue even if it delegates design reviewing authority to the DRC, unless the Founder also delegates the power to amend to the Board. Upon termination or delegation of the Founder's right to amend, the Board may adopt new Water Use Restrictions and modify or rescind existing Water Use Restrictions pursuant to Section 7.2(a).

(b) *Protection of Owners and Others.* Except as may be set forth in this Charter (either initially or by amendment) or in the initial Water Use Restrictions set forth in Exhibit "D," all Water Use Restrictions shall comply with the following provisions:

(i) *Prospective Application.* Amendments to the Water Use Restrictions shall apply prospectively only. They shall not require modifications to or removal of any structures previously approved pursuant to Chapter 5 once the approved construction or modification has begun. However, any new work on such structures must comply with the Water Use Restrictions, as amended, and the Design Guidelines.

(ii) *Similar Treatment.* Similarly situated Units shall be treated similarly; however, the Water Use Restrictions may vary by topography or physical location, if appropriate.

(iii) *Activities Within Dwellings.* No Water Use Restriction shall interfere with the activities carried on within a dwelling, except that the Association may prohibit or regulate activities that consume excessive amounts of water.

(iv) *Reasonable Rights to Develop.* No Water Use Restriction may unreasonably interfere with the Founder's ability to develop, market, and sell property in Avimor.

(v) *Interference with Private Amenities.* No Water Use Restriction may unreasonably interfere with the use, ownership, appearance, or operation of any Private Amenity.

(vi) *Interference with Easements.* No Water Use Restriction may unreasonably interfere with the exercise of any easement.

7.5. Owners' Acknowledgment and Notice to Purchasers

By accepting title to a Unit, each Owner acknowledges and agrees that the use, enjoyment, and marketability of his or her Unit is limited and affected by the Rules and Water Use Restrictions, which may change from time to time. All Unit purchasers are hereby notified that the Association may have adopted changes to the Rules and/or Water Use Restrictions and that such changes may not be set forth in a recorded document. A copy of the current Rules, Water Use Restrictions, and all administrative policies are available from the Association upon request. The Association may charge a reasonable fee to cover its reproduction cost.

7.6. Wildlife Mitigation Plan

The Residential Community is subject to that Wildlife Mitigation Plan dated December 14, 2006 approved by the Idaho Department of Fish and Game, which is attached as Exhibit "E" (as such plan may be amended from time to time,

Use and Conduct

the "Wildlife Mitigation Plan") for the purpose of mitigating the negative effects of the Residential Community on the natural wildlife habitat. **The Association, Owners and occupants of Units, and their respective guests and invitees shall comply with the requirements set forth in the Wildlife Mitigation Plan.**

No Owner or occupant of a Unit has any wildlife depredation rights or privileges from the County, the Idaho Department of Fish and Game, or any other governmental, public, or private entity.

7.7. Restrictions on Use of Wetlands

Except as may be permitted by the Wetlands Mitigation Plan, the following activities shall not be conducted within the Wetlands without the authorization of the USACOE:

- (a) clearing of vegetation;
- (b) filling or dumping;
- (c) placing, installing, or maintaining structures; or
- (d) cutting, placing, or installing additional paths other than the original paths cut or installed by the Founder.

7.8. Fire Management Plan

The Residential Community is subject to the Fire Management Plan attached hereto as Exhibit "G," as such plan may be amended from time to time. The Association, Owners, and occupants of Units shall comply with the requirements set forth in the Fire Management Plan.

It is a bad plan that admits of no modification.
Publilius Syrus

NOTES AND THOUGHTS

Chapter 8

Compliance and Enforcement

The covenants, standards, and rules set forth in the Governing Documents are for the benefit of all Owners and occupants of the Residential Community. However, if they are to have any real meaning, there must be a commitment by the stakeholders in the Residential Community to comply with them and there must be a mechanism in place to enforce that compliance in the event that someone fails or refuses to do so. This chapter sets forth the obligation to comply and the remedies available to the Association for noncompliance.

8.1. Compliance

Every Owner, occupant, and visitor to a Unit must comply with the Governing Documents and shall be subject to sanctions for violations as described in this chapter. In addition, each Owner shall be responsible for, and may be sanctioned for, all violations of the Governing Documents by the occupants of or visitors to their Units, and for any damage to the Area of Common Responsibility that such occupants or visitors cause.

8.2. Remedies for Non-Compliance

The Association, the Founder, and every affected Owner shall have the right to file suit at law or in equity to enforce the Governing Documents. In addition, the Board may impose sanctions for violation of the Governing Documents, including those listed below and any others described elsewhere in the Governing Documents.



All Owners are required to abide by the Governing Documents. If an Owner fails or refuses to obey the Governing Documents, the Owner may be subject to various penalties including fines and the loss of the right to use the Common Areas.

(a) Sanctions Requiring Prior Notice and Hearing. After written notice and an opportunity for a hearing in accordance with the By-Laws, the Board may:

(i) impose reasonable monetary fines, which shall constitute a lien upon the violator's Unit. In the event that any occupant, guest, or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine may, but need not, first be assessed against the violator; provided, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board;

(ii) suspend an Owner's right to vote (except that no notice or hearing is required if the Owner is more than 90 days delinquent in paying any Base or Extraordinary Assessment);

(iii) suspend any Person's right to use any Common Area facilities (A) for any period during which any charge against such Owner's Unit remains delinquent, and (B) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation (except that no notice or hearing is required if the Owner is more than 60 days delinquent in paying any assessment or other charge owed the Association); provided, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;

(iv) suspend services the Association provides (except that no notice or hearing is required if the Owner is more than 90 days delinquent in paying any assessment or other charge owed to the Association);

(v) exercise self-help or take action to abate any violation of the Governing Documents

Compliance and Enforcement

in a non-emergency situation (including removing personal property that violates the Governing Documents);

(vi) without liability to any Person, preclude any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of Chapter 5 and the Design Guidelines from continuing or performing any further activities in the Residential Community;

(vii) levy Specific Assessments to cover costs the Association incurs in bringing a Unit into compliance with the Community-Wide Standard or other requirements under the Governing Documents; and

(viii) record a notice of violation with respect to any Unit on which a violation exists.

(b) Other Sanctions. The Board may take the following actions to obtain compliance with the Governing Documents without prior notice or a hearing:

(i) exercise self-help or take action to abate a violation on a Unit in any situation which requires prompt action to avoid potential injury or damage or unreasonable inconvenience to other Persons or their property (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations);

(ii) exercise self-help or take action to abate a violation on the Common Area under any circumstances;

(iii) require an Owner or Neighborhood Association, at its own expense, to perform maintenance or to remove any structure or improvement on such Owner's Unit or on the Neighborhood Association's common elements or common property, respectively, that is in violation of the Community-Wide Standard or other requirements under the Governing Documents

and to restore the property to its previous condition;

(iv) enter the property and exercise self-help to remove or cure a violating condition if an Owner or Neighborhood Association fails to take action as required pursuant to Section 8.2(b)(iii) above within 10 days after receipt of written notice to do so, and any such entry shall not be deemed a trespass; or

(v) bringing suit at law for monetary damages or in equity to stop or prevent any violation, or both.

(c) Additional Powers Relating to Neighborhood Associations. In addition to the foregoing sanctions, the Association shall have the power to veto any action that a Neighborhood Association proposes to take if the Board reasonably determines the proposed action to be adverse to the interests of the Association or its members or inconsistent with the Community-Wide Standard. The Association also shall have the power to require specific action to be taken by any Neighborhood Association in connection with its obligations and responsibilities, such as requiring specific maintenance or repairs or aesthetic changes to be effectuated and requiring that a proposed budget include certain items and that expenditures be made therefor.

A Neighborhood Association shall take appropriate action required by the Association in a written notice within the reasonable time frame set by the Association in the notice. If the Neighborhood Association fails to comply, the Association shall have the right to effect such action on behalf of the Neighborhood Association and to levy Specific Assessments to cover the costs, as well as an administrative charge and sanctions.

Compliance and Enforcement

8.3. Board Decision to Pursue Enforcement Action

The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. For example, the Board may determine that, in a particular case:

(a) the Association's position is not strong enough to justify taking any or further action;

(b) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;

(c) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable Person or to justify expending the Association's resources; or

(d) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

A decision not to enforce a particular provision shall not prevent the Association from enforcing the same provision at a later time or prevent the enforcement of any other covenant, restriction, or rule.

8.4. Attorneys Fees and Costs

In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

8.5. Enforcement of Ordinances

The Association, by contract or other agreement, may enforce applicable county and municipal ordinances. In addition, a County or municipality may enforce its ordinances within

those portions of the Residential Community which lie within its borders.

*The game of life is a game of boomerangs.
Our thoughts, deeds, and words return to us
sooner or later with astounding accuracy.*

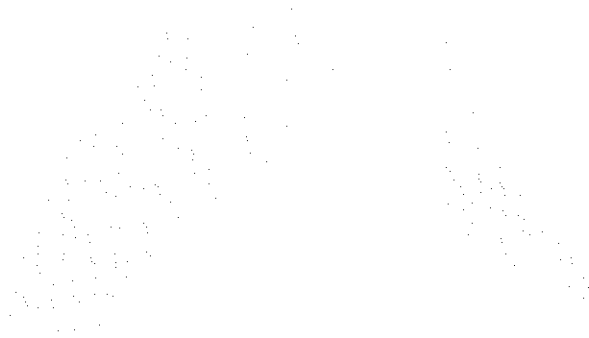
Florence Shinn

NOTES AND THOUGHTS

PART THREE: ASSOCIATION OPERATIONS

Do not go where the path may lead, go instead where there is no path and leave a trail.

Ralph Waldo Emerson



Chapter 9

Property Management

One of the Association's primary functions is maintaining and operating property and facilities for the common benefit of the Owners and residents of the Residential Community. This chapter establishes the Association's obligation to accept property that the Founder designates as Common Area or Limited Common Area and to maintain, operate and insure it, along with certain other properties, for the benefit of the Residential Community.

9.1. Acceptance and Control of Association Property

(a) Transfers and Conveyances by Founder. The Founder and its designees may transfer or convey to the Association interests in real or personal property within or for the benefit of the Residential Community, and the Association shall accept such transfers and conveyances. Such property may be improved or unimproved and may consist of fee simple title, easements, leases, or other real or personal property interests.

Upon the Founder's written request, the Association shall reconvey to the Founder any real property originally conveyed to the Association for no payment, to the extent conveyed by the Founder in error or needed by the Founder to make minor adjustments in property lines or accommodate changes in the development plan.

(b) Management and Control. The Association is responsible for management, operation, and control of the Common Area, subject to any covenants set forth in the deed or other instrument transferring the property to the Association. The Association may enter into leases, licenses, or operating agreements with respect to portions of the Common Area, for payment or no payment, as the Board deems appropriate, subject to the requirements of Idaho law. The

Association may permit use of Common Area facilities by Persons other than Owners and occupants of Units and may charge use fees, in such amount as the Board may establish, for such use.

9.2. Maintenance of Area of Common Responsibility

The Association shall maintain the Area of Common Responsibility in accordance with the Community-Wide Standard and the Maintenance and Operation Manual, if applicable. The Area of Common Responsibility includes, but is not limited to:

(a) the Common Area, including all improvements thereon;

(b) except to the extent such areas or improvements are maintained by a Highway District, a County, or a City, landscaping and other community improvements (*e.g.*, common use sidewalks, streetlights, drainage facilities, trash receptacles, planters, bike racks, etc.) within public rights-of-way, public access easements, and street median areas within or abutting the Residential Community and within the boundaries of a Unit (to the extent provided in Section 6.1) or a Neighborhood Association's common property (to the extent provided in Section 6.2);

(c) community entry monumentation and landscaping and the "bridge" feature serving the main entrance into the Residential Community;

(d) such portions of any additional property as may be dictated by the Founder, this Charter, any Supplement, or any covenant or agreement for maintenance entered into by, or otherwise binding on the Association;

(e) any property and facilities that the Founder owns and makes available, on a temporary or

Property Management

permanent basis, for the primary use and enjoyment of the Association and its members. The Founder shall identify any such property and facilities by written notice to the Association and they shall remain part of the Area of Common Responsibility until the Founder revokes such privilege of use and enjoyment by written notice to the Association;

(f) any Wetlands; and

(g) any garden wall abutting any golf course within or adjacent to the Residential Community.

Except to the extent maintained by a County, a City, or a Highway District, the Association shall also be responsible for proper functioning of the stormwater drainage facilities serving the Residential Community, including maintenance, repair and replacement, as needed, in accordance with the Maintenance and Operation Manual of pipes, culverts, and other structures and equipment comprising the system; provided, the Association shall have no responsibility for landscaping or other maintenance of Units burdened by stormwater drainage easements unless otherwise specifically set forth in a Supplement or in a recorded agreement or plat.

The Association may maintain other property it does not own, including, without limitation, Units or property dedicated to the public (*e.g.*, greenspace median areas within public streets, sidewalks within public rights-of-way, etc.), or property owned or maintained by a Neighborhood Association, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard. The Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property it does not own except to the extent that it has been negligent in performing its maintenance responsibilities.

9.3. Discontinuation of Operation

After termination of the Founder Control Period, the Association shall maintain the Common Area facilities in continuous operation, unless, with respect to Common Areas other than Limited Common Areas, Voting Delegates representing 75% of the total votes in the Association consent in writing to discontinue such operation. If the property is Limited Common Area, any discontinuation shall also require the approval in writing of at least 75% (or such higher percentage as a Supplement may require) of the Owners to whom such Limited Common Area is assigned. In addition, the Founder's consent is required to discontinue operation of any Common Area facilities during the Development and Sale Period.

This section shall not apply during the Founder Control Period and shall not apply to restrict the Board's ability to establish reasonable operating hours, which may vary by season, or to preclude temporary closures or interruptions in operation, as the Board may determine appropriate to perform maintenance or repairs.

9.4. Restoring Damaged Improvements

In the event of damage to or destruction of portions of the Area of Common Responsibility for which the Association has insurance responsibility, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially its condition prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

The Association shall repair or reconstruct damaged Common Area improvements unless with respect to Common Areas other than Limited Common Areas, Voting Delegates representing at least 75% of the total votes in the Association decide within 60 days after the loss not to repair or reconstruct. If the damage is to

Property Management

Limited Common Area or Units within a Service Area, any decision not to restore the damaged improvements shall also require the approval of at least 75% of the Owners of Units to whom such Limited Common Area is assigned or the affected Service Area, respectively. In addition, the Founder's approval is required for the decision not to repair or reconstruct portions of the Common Area prior to the termination of the Development and Sale Period.

If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.



This provision ensures that desirable Common Area improvements will be replaced if destroyed, but it also makes it possible *not* to repair or rebuild if the Owners who benefit from the Common Area do not want it anymore.

If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive condition consistent with the Community-Wide Standard.

The Association shall retain and place in a capital improvements account for the benefit of all Owners, or the Owners of Units within the affected Service Area, as appropriate, any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board

may, without a vote of the Voting Delegates, levy Extraordinary Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Chapter 11.

9.5. Relationships with Other Properties

During the Development and Sale Period, the Founder may subject the Association and the Residential Community to covenants (including necessary easements) under which the Association is obligated to, among other things, share costs with neighboring or adjacent properties for: (a) maintenance and operation of mutually beneficial properties or facilities; or (b) provision of mutually beneficial services (which maintenance, operation, and services the Association may be obligated to provide). In addition, the Association may contract with third parties, including but not limited to the owner of any Private Amenity (as defined in Chapter 14), for such purposes.

A house is no home unless it contains food and fire for the mind as well as the body.

Margaret Fuller

NOTES AND THOUGHTS

Chapter 10

Provision of Services

In addition to its property management role, the Association is a vehicle for providing a variety of services for the benefit of the community at large and individual Units.

10.1. Provision of Services to Units

The Association may arrange for or provide services or utilities to Owners and their Units, directly or through contracts with the Founder or other third parties. The Association may also install, operate, and maintain the infrastructure, facilities, and equipment necessary to provide such services. The Association may enter into bulk service agreements by which a particular service is provided to all Units, or it may offer various services at the option of each Owner, or both. By way of example and not limitation, such services might include such things as cable television, utilities, fire protection, emergency medical services, library services, security, trash collection, wastewater treatment, landscape maintenance, pest control, caretaker services, and technology services.

Any such services provided to all of the Residential Community may be provided as a Common Expense. Any Association contract for services may require individual Owners or occupants to execute separate agreements directly with the Persons providing components or services in order to gain access to or obtain specified services. Such contracts and agreements may contain terms and conditions that, if violated by the Owner or occupant of a Unit, may result in termination of services provided to such Unit. Any such termination shall not relieve the Owner of the continuing obligation to pay assessments for any portion of the charges for such service that are assessed against the Unit as a Common Expense or Service Area Expense pursuant to Chapter 12.

The Board may discontinue offering particular services, and may modify or cancel existing contracts for services, in its discretion, subject to the contract terms and any provision that may exist elsewhere in the Governing Documents requiring the Association to provide such services.

10.2. Provision of Services to Service Areas

(a) *Service Areas Designated by Founder.*

The Association shall provide services to Units within any Service Area designated by the Founder pursuant to Section 3.4 as required by the terms of any Supplement applicable to the Service Area.

(b) *Service Areas Designated by Board.*

In addition to Service Areas that the Founder may designate pursuant to Section 3.4, any group of Owners may petition the Board to designate their Units as a Service Area for the purpose of receiving from the Association: (i) special benefits or services which are not provided to all Units; or (ii) a higher level of service than the Association otherwise provides. Upon receipt of such petition signed by Owners of a majority of the Units within the proposed Service Area, the Board shall investigate the terms upon which the requested benefits or services might be provided and notify the Owners in the proposed Service Area of such terms and the initial fees for providing the requested service, which may include a reasonable administrative charge. Upon written approval of the proposal by Owners of at least 67% of the Units within the proposed Service Area, the Board shall designate the Units as a Service Area and include the fees for such service as a line item in the Service Area budget pursuant to Section 12.2.

Chapter 11

Association Insurance

The Association is responsible for insuring against various types of risks, including property damage, personal injury, and liability. This chapter describes the minimum types and amounts of coverage that the Association must obtain, the specific requirements for such policies, and the handling of deductibles and premiums for such insurance.

11.1. Required Coverages

The Association shall obtain and maintain in effect the following insurance coverage, if reasonably available, or if not reasonably available, the most nearly equivalent coverage as is reasonably available:

(a) Blanket property insurance covering "risks of direct physical loss" for all insurable improvements on

(i) the Common Area;

(ii) other portions of the Area of Common Responsibility, to the extent that the Association has responsibility for repair or replacement in the event of a casualty; and

(iii) any Service Area, to the extent specified or authorized by any applicable Supplement.

The limits of Association property insurance policies shall be sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes.

In addition, if specified in a Supplement, the Association shall obtain and maintain property insurance on the insurable improvements within a Service Area, which insurance shall comply with the above requirements.

(b) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its members for damage or injury caused by the negligence of the Association or any of its members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage shall have a limit of at least \$3,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage. Such coverage may be provided through a combination of primary and umbrella policies. However, if additional coverage and higher limits are available at reasonable cost that a reasonably prudent Person would obtain, the Association shall obtain such additional coverages or limits;

(c) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(d) Directors and officers liability coverage;

(e) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's business judgment but not less than an amount equal to one-sixth of the annual Base Assessments on all Units plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

(f) Automobile (hired and non-owned) liability and physical damage insurance.

Unless otherwise specifically provided in a Supplement, Association property and liability insurance covers only the Area of Common Responsibility and improvements within the Area of Common

Association Insurance

Responsibility and does not cover Units; it is the responsibility of each Owner to insure its Unit and the contents of its Unit.

The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the Boise metropolitan area. In the exercise of its business judgment, the Board may obtain additional insurance coverage and higher limits than required in this section.

11.2. Deductibles



The Board may hold any Persons who cause damage to insured improvements responsible for the insurance deductible payable on any insurance claim related to such damage. This ensures that the Association need not pay for such damages.

The Association's policies may contain a reasonable deductible, which shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 11.1. In the event of an insured loss, the deductible shall be treated as a Common Expense or a Service Area Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment.

11.3. Policy Requirements

All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Owner.

To the extent available at reasonable cost and terms, all Association insurance shall:

(a) be written with a company authorized to do business in Idaho which satisfies the requirements of any secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(b) be written in the name of the Association as trustee for the benefited parties. All policies shall be for the benefit of the Association and its members, except that policies on Limited Common Area shall be for the benefit of the Owners of Units within the Service Area to which the Limited Common Area is assigned and their Mortgagees, as their interests may appear;

(c) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;

(d) contain an inflation guard endorsement;

(e) include an agreed amount endorsement, if the policy contains a co-insurance clause;

(f) provide that each Owner is an insured Person with respect to liability arising out of such Owner's status as a member of the Association;

(g) provide a waiver of subrogation against any Owner or household member of an Owner; and

(h) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any act or omission of one or more Owners, unless acting on the Association's behalf within the scope of their authority, or on account of any curable defect or violation, without prior written demand to the Association and allowance of a reasonable time to cure the defect or violation.

Association Insurance



Subrogation is a legal concept by which one person is substituted in the place of another with respect to a certain lawful claim or right. For example, once they have paid a claim by an insured, insurance companies generally have the right to step into the shoes of the insured party and sue anyone that the insured party could have sued.

Everything should be as simple as it is, but not simpler. Albert Einstein

NOTES AND THOUGHTS

In addition, the Board shall use reasonable efforts to secure insurance policies that list the Owners as additional insureds and provide:

(a) a waiver of subrogation as to any claims against the Association's directors, officers, employees, and manager;

(b) a waiver of the insurer's right to repair and reconstruct instead of paying cash;

(c) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(d) an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(e) a cross liability provision; and

(f) a provision vesting in the Board exclusive authority to adjust losses; provided, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

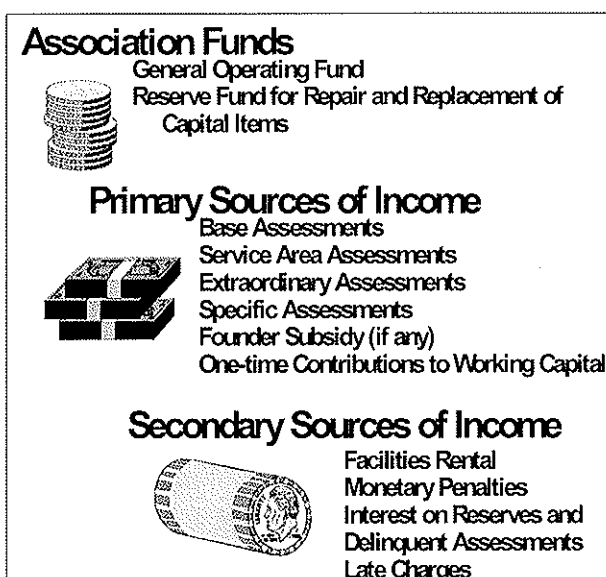
11.4. Insurance Premiums

Premiums for all Association insurance shall be a Common Expense, except that premiums for property insurance on Units within, or Limited Common Areas assigned to, a particular Service Area shall be a Service Area Expense, unless the Board reasonably determines that other treatment of the premiums is more appropriate.

Chapter 12

Association Finances

This chapter provides for various types of funding to cover the expenses that the Association incurs or expects to incur in exercising its authority and performing its responsibilities under the Governing Documents. The primary source of funding is the assessments this chapter authorizes the Association to levy against the Units and collect from the Owner of each Unit. Assessments are secured by a lien on each Unit as described in this chapter.



12.1. Association Expenses

(a) **Common Expenses.** Except as the Governing Documents otherwise specifically provide, all of the expenses that the Association incurs, or expects to incur, in connection with the ownership, maintenance, and operation of the Area of Common Responsibility, and otherwise for the general benefit of the Owners, are considered "**Common Expenses.**" Common Expenses include such operating reserves and reserves for repair and replacement of capital items within the Area of Common Responsibility as the Board finds necessary or appropriate.

Common Expenses shall not include any expenses incurred during the Founder Control Period for initial development or original construction costs unless Voting Delegates (other than Founder appointees) representing a majority of the total vote in the Association approve such expenditure. Payments due under leases of capital improvements such as streetlights shall not be considered an initial development or original construction cost.

The characterization of a particular expense as a "Common Expense" shall not preclude the Association from seeking reimbursement for, or a contribution toward, such expenses from other Persons who may be responsible for the expenses incurred or for sharing such expenses pursuant to this Charter, any Supplement, or any other recorded covenants or agreements.

(b) **Service Area Expenses.** All expenses which the Association incurs or expects to incur in connection with the ownership, maintenance and operation of Limited Common Areas, or in providing other benefits and services to a Service Area, including any operating reserve or reserve for repair and replacement of capital items maintained for the benefit of the Service Area, are considered "**Service Area Expenses.**" Service Area Expenses may include a reasonable administrative charge in such amount as the Board deems appropriate, provided that any such administrative charge is applied at a uniform rate per Unit among all Service Areas receiving the same service.

12.2. Budgeting for and Allocating Association Expenses

(a) **Preparation of Budget.** At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated

Association Finances

Common Expenses for the coming year (including amounts which the Association is required to pay pursuant to any covenant or agreement to share costs). In addition, the Board shall prepare a separate budget for each Service Area reflecting the estimated Service Area Expenses that the Association expects to incur for the benefit of such Service Area in the coming year.

The estimated expenses in each budget shall include, in addition to any operating reserves, a reasonable contribution to a reserve fund for repair and replacement of any capital items to be maintained as a Common Expense or as a Service Area Expense of the Service Area for whom the budget is prepared, as applicable. In determining the amount of such reserve contribution, the Board shall take into account the number and nature of replaceable assets, the expected useful life of each, the expected repair or replacement cost, and the contribution required to fund the projected needs by annual contributions over the useful life of the asset. So long as the Board exercises business judgment, which may include relying in good faith on the advice of its accountants or other professional advisers in determining the amount or necessity of the reserve fund, the amount shall be considered adequate.

Each budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units, and the amount to be generated through the levy of Base Assessments and Service Area Assessments pursuant to Sections 12.2(b) and (c).

(b) Calculation of Base Assessments. The total budgeted Common Expenses, less any surplus in the Common Expense budget from prior years and any income anticipated from sources other than assessments against the Units, shall be allocated among all Units subject to assessment under Section 12.5 and levied as a "Base Assessment."

(c) Calculation of Service Area Assessments. The total Service Area Expenses budgeted for each Service Area, less any surplus in such Service Area budget from prior years, shall be allocated among all Units in the Service Area that are subject to assessment under Section 12.5 and levied as a "Service Area Assessment." Unless otherwise specified in any Supplement applicable to a Service Area, Service Area Assessments shall be set at a uniform rate per Unit in the Service Area, except that any portion of the assessment intended for exterior maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures may be levied on each of the benefited Units in proportion to the benefit received, as the Board may reasonably determine.

All amounts that the Association collects as Service Area Assessments shall be held in trust for and expended solely for the benefit of the Service Area for which they were collected and shall be accounted for separately from the Association's general funds.

(d) Founder's Subsidy Option. The Founder may, but shall not be obligated to, reduce the Base Assessment or any Service Area Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by the Founder under Section 12.6(b)). Any such subsidy may be treated as a contribution, an advance against future assessments due from the Founder, or a loan, in the Founder's discretion. Any such subsidy and the characterization thereof shall be conspicuously disclosed as a line item in the income portion of the budget. Payment of such subsidy in any year shall not obligate the Founder to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and the Founder.

(e) Notice of Budget and Assessment; Right to Disapprove. The Board shall send a copy of each applicable budget, together with notice of the amount of the Base Assessment and

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any Service Area Assessment to be levied pursuant to such budgets, to each Owner at least 30 days prior to the due date of the assessments to be levied pursuant to such budget.

The Common Expense budget shall automatically become effective unless disapproved at a meeting by Voting Delegates representing at least 75% of the total votes in the Association and by the Founder Member, if such exists. Each Service Area budget shall automatically become effective unless disapproved at a meeting by Owners of at least 67% of the Units within the Service Area, except that the right to disapprove a Service Area budget shall apply only to those line items which are attributable to services or benefits requested by the Service Area and shall not apply to any item which the Governing Documents require to be assessed as a Service Area Expense.

There shall be no obligation to call a meeting for the purpose of considering any budget except, in the case of the Common Expense budget, on petition of the Voting Delegates as provided for special meetings in the By-Laws, and in the case of a Service Area budget, on petition of Owners of at least 67% of the Units within the Service Area. Any such petition must be presented to the Board within 10 days after delivery of the budget and notice of any assessment.

If any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect, increased by 10%, shall continue in effect until a new budget is determined.

(f) Budget Revisions. The Board may revise the budget and adjust the Base Assessment or Service Area Assessments from time to time during the year, subject to the same notice requirements and rights to disapprove set forth in Section 12.2(c).

12.3. Extraordinary Assessments

In addition to other authorized assessments, the Association may levy "**Extraordinary Assessments**" to cover unbudgeted expenses or expenses in excess of those budgeted. Extraordinary Assessments may be levied against the entire membership or against the Units within any Service Area to cover unbudgeted expenses or expenses in excess of those budgeted.

Except as otherwise specifically provided in this Charter or any Supplement, any Extraordinary Assessment for Common Expenses shall require the affirmative vote or written consent of Voting Delegates representing more than 50% of the votes attributable to Units subject to assessment under Section 12.5 and shall be allocated equally among all such Units. Any Extraordinary Assessment for Service Area Expenses shall require the affirmative vote or written consent of Owners representing more than 50% of the total votes allocated to Units in the benefited Service Area and shall be allocated in the same manner as Service Area Assessments under Section 12.2(c). In addition, as long as the Founder membership exists, any Extraordinary Assessment shall also require the written consent of the Founder.

Extraordinary Assessments shall be payable in such manner and at such times as the Board determines, and may be payable in installments extending beyond the fiscal year in which the Extraordinary Assessment is approved.

12.4. Specific Assessments

The Association may levy **Specific Assessments** against a particular Unit as follows:

(a) to cover the costs, including overhead and administrative costs, of providing services to the Unit upon request of the Owner pursuant to any menu of special services which the Association may offer (which might include the items identified in Section 10.1). Specific Assess-

Association Finances

ments for special services may be levied in advance of the provision of the requested service;

(b) to cover costs the Association incurs in connection with a Unit being leased, which costs may include, without limitation, overhead and administrative costs; additional maintenance, enforcement, and monitoring costs; and other costs which the Board reasonably determines to be necessary and appropriate with respect to leased Units; and

(c) to cover costs incurred in bringing the Unit into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing in accordance with the By-Laws, before levying any Specific Assessment under this subsection.

The Association may levy Specific Assessments against a Neighborhood Association to cover costs that the Association incurs in bringing the Neighborhood into compliance with the provisions of the Governing Documents; however, the Board must give prior written notice to the Neighborhood Association's board of directors and an opportunity for the Neighborhood Association to be heard before levying any such assessment.

12.5. Authority to Assess Owners; Time of Payment

The Founder hereby establishes and the Association is hereby authorized to levy assessments as provided for in this chapter and elsewhere in the Governing Documents. The obligation to pay assessments shall commence as to each Unit on the first day of the month following: (a) the date on which the Association first adopts a budget and levies assessments; or (b) the date on which the Unit is made subject to this Charter, whichever first occurs. The first annual Base

Assessment and Service Area Assessment, if any, levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

Assessments shall be paid in such manner and on such dates as the Board may establish. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment and any Service Area Assessment shall be due and payable in advance on the first day of each fiscal year. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. If an Owner is delinquent in paying any assessments or other charges levied on his Unit, the Board may require the outstanding balance on all assessments to be paid in full immediately.

12.6. Obligation for Assessments



By buying a Unit in the Residential Community, each Owner agrees to pay all assessments levied against his or her Unit. If the Owner does not pay on time, that Owner will be charged late fees on all past due amounts. Owners may not claim a reduction in their assessments due to action or inaction by the Association.

(a) *Personal Obligation.* By accepting title to a Unit or entering into a recorded contract to purchase any Unit, each Owner covenants and agrees to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of 10% per annum or such higher rate as the Board may establish, subject to the limitations of Idaho law), late charges as determined by Board resolution, costs, and reasonable attorneys fees, shall be the personal obligation of each Owner and a lien upon each Unit until paid in full. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for

Association Finances

any assessments and other charges due at the time of conveyance.

The Board's failure to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments and Service Area Assessments at the rate established for the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfall.

No Owner may exempt himself from liability for assessments by non-use of Common Area, abandonment of his or her Unit, or non-use of services provided to all Units or to all Units within the Service Area to which the Unit is assigned. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

Upon written request, the Association shall furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

(b) Founder's Financial Obligations to Association. The Founder and Founder Affiliates shall be liable for assessments on any Units which they own that are subject to assessment under this section, except that during the Founder Control Period, the Founder and/or any Founder Affiliate may satisfy its obligation to pay

Base Assessments, Service Area Assessments, and Extraordinary Assessments for Common Expenses on Units it owns either by paying such assessments in the same manner as any other Owner, or by paying: (i) any shortfall under the Common Expense or Service Areas Expense budget resulting from events other than failure of other Owners to pay their assessments; and (ii) any budgeted contributions to reserves in accordance with the Common Expense and Service Area expense budgets.

Unless the Founder or Founder Affiliate otherwise notifies the Board in writing at least 60 days before the beginning of each fiscal year, the Founder or Founder Affiliate, as applicable, shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year. After termination of the Founder Control Period, the Founder and Founder Affiliates shall pay assessments on any Units they own that are subject to assessment under Section 12.5 in the same manner as any other Owner liable for such assessments.



During the Founder Control Period, the Founder and Founder Affiliates may choose to pay the difference between the Association's budgeted and actual expenses, rather than paying assessments on the Units they own.

Regardless of the Founder or Founder Affiliate's election under this section, any of the Founder and Founder Affiliate's financial obligations to the Association may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these.

12.7. Lien for Assessments

(a) Existence of Lien. After compliance with Idaho Code Section 45-810, as amended (if applicable), the Association shall have a lien against each Unit to secure payment of assessments, as well as interest, late charges (subject to the limitations of Idaho law), and costs of collec-

Association Finances

tion (including attorneys fees and expenses). Such lien shall be superior to all other liens, except: (i) the liens of all taxes, bonds, assessments, and other levies which by law would be superior; and (ii) the lien or charge of any recorded Mortgage made in good faith and for value having first priority over any other Mortgages on the Unit.

Except as may be required by Idaho Code Section 45-810, as amended, although no further action is required to create or perfect the lien, the Association may, as further evidence and notice of the lien, execute and record a document setting forth as to any Unit the amount of the delinquent sums due the Association at the time such document is executed and the fact that a lien exists to secure the repayment thereof. However, the failure of the Association to execute and record any such document shall not affect the validity, enforceability, or priority of the lien.

(b) Enforcement of Lien. The Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While a Unit is owned by the Association following foreclosure: (i) no right to vote shall be exercised on its behalf; (ii) no assessment shall be levied on it; and (iii) each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same, in addition to pursuing any and all remedies allowed by law to enforce the lien.

(c) Effect of Sale or Transfer. Sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, a first Mortgagee who obtains title to a Unit pursuant to the remedies in the Mortgage or through foreclosure will not be liable for more than six months of the Unit's unpaid assessments or other charges that accrued before the acquisition of title to the

Unit by the first Mortgagee. Any unpaid assessments that accrued prior to foreclosure or acquisition of title by the first Mortgagee for which the first Mortgagee is not responsible under this subsection (c) shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 12.5, including such acquirer, its successors and assigns.



If an Owner does not pay his or her assessments on time, the Association may foreclose its lien on the Owner's Unit, causing it to be sold to pay the past due assessments. The Association also may sue an Owner in court to recover past due assessments.

12.8. Exempt Property

The following property shall be exempt from payment of Base Assessments, Service Area Assessments, and Extraordinary Assessments:

(a) All Common Area and such portions of the property owned by the Founder as are included in the Area of Common Responsibility;

(b) Any property dedicated to and accepted by any governmental authority, public school system, charter school, or public utility; and

(c) Property owned by a Neighborhood Association for the common use and enjoyment of its members, or owned by all members of a Neighborhood Association as tenants-in-common.

In addition, both the Founder and the Association shall have the right, but not the obligation, to grant permanent or temporary exemptions to schools, libraries, houses of worship, hospitals, police or fire stations (or other similar public service uses), or Units owned by and used by Persons qualifying for tax exempt status under Section 501(c) of the Internal Revenue Code. Exemptions granted by the Founder shall be binding on the Association.

Association Finances

12.9. Capitalization of Association

The first Owner of each Unit other than the Founder, a Founder Affiliate, or a Builder designated by the Founder shall make a contribution to the working capital of the Association in an amount equal to one-sixth of the annual Base Assessment per Unit for that year. This amount shall be in addition to, not in lieu of, the annual Base Assessment and any Service Area Assessment levied on the Unit and shall not be considered an advance payment of such assessments. This amount shall be due and payable to the Association immediately upon transfer of title, for its use in covering initial start-up expenses, operating expenses and other expenses which it incurs pursuant to this Charter and the By-Laws.

12.10. Use and Consumption Fees

The Association may offer services or facilities for which it does not recover its costs through assessments under this Charter. The Board may charge use, consumption, and activity fees to any Person who chooses to use such services, equipment, or facilities and may determine the amount and method of determining such fees. Different fees may be charged to different classes of users (*e.g.*, Owners and non-Owners).

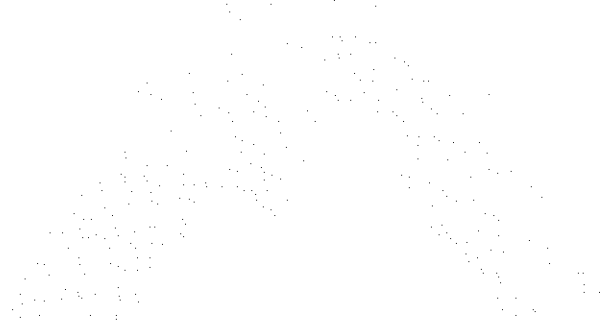
*The time to repair the roof is when
the sun is shining.
John F. Kennedy*

NOTES AND THOUGHTS

**PART FOUR: RELATIONSHIPS WITHIN AND OUTSIDE THE RESIDENTIAL
COMMUNITY**

Integrity is doing the right thing. Even if nobody is watching.

Jim Stovall



Chapter 13

Easements

The easements created in this chapter establish the rights of Owners to use the Common Area and create various rights for the benefit of Owners, the Founder, the Association, and others over property within the Residential Community. Some of these rights are related to development and construction within the Residential Community and on adjacent property while others relate to the rights of Association to come upon property of others to fulfill its responsibilities and the interrelationships between the Residential Community and the owners of adjacent property.

13.1. Easements in Common Area



An easement is one Person's right to go onto the property of another.

The Founder grants to each Owner a nonexclusive right and easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) The Governing Documents and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) Certain Owners' rights to the exclusive use of those portions of the Common Area designated "Limited Common Area";
- (d) The Board's right or obligation to close Common Area trails during particular times or periods during the year for wildlife protection purposes; and
- (e) The Board's right to:
 - (i) adopt rules regulating Common Area use and enjoyment, including rules limiting

the number of guests who may use the Common Area, and to charge use fees for such use;

- (ii) suspend an Owner's right to use Common Area facilities;

- (iii) dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Charter;

- (iv) impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any recreational facility situated upon the Common Area;

- (v) rent any portion of any clubhouse or other Common Area recreational facilities on an exclusive or non-exclusive short-term basis to any Person;

- (vi) permit use of any recreational facilities situated on the Common Area by the owners and occupants of commercial properties within Avimor and other members of the general public, which use may be subject to admission charges, membership fees, or other user fees established in the Board's discretion;

- (vii) mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

- (viii) grant conservation easements over the Common Area as provided in Section 13.8; and

- (ix) use or permit the use of any portion of the Common Area, including facilities, for signage, displays, or events promoting the Payette Scenic Byway.

Any Owner may extend his or her right of use and enjoyment to the members of his or her fam-

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ily, lessees, and social invitees, as applicable, subject to reasonable Board regulation. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit for the period of the lease, except that an Owner who leases a garage apartment or similar accessory dwelling approved pursuant to Chapter 5 may extend such rights of use and enjoyment to the lessee of such accessory dwelling without relinquishing such rights for the benefit of the occupants of the main dwelling on the Unit.

13.2. Easements of Encroachment



An encroachment occurs when a person's home, fence, or other structure extends onto his or her neighbor's property. This section permits minor, inadvertent encroachments to remain.

The Founder grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area and between adjacent Units. A permitted encroachment is a structure or fixture that extends unintentionally from one Person's property onto another's a distance of less than one foot, as measured from any point on the common boundary along a line perpendicular to such boundary. An encroachment easement shall not exist if the encroachment results from willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement, and shall exist only for those portions of the Unit which were a part of the original construction of the Unit, not for any later constructed improvements to a Unit.

13.3. Easements for Utilities and Other Infrastructure

(a) Installation and Maintenance. The Founder reserves for itself and grants to the Association and all utility providers perpetual non-exclusive easements throughout the Residential

Community (but not through a structure) to the extent reasonably necessary to:

(i) install utilities, security and similar systems, drainage systems, and other infrastructure to serve the Residential Community;

(ii) install walkways, pathways and trails, street lights, and signage on property the Founder or the Association owns or within public rights-of-way or easements reserved for such purpose on a recorded plat;

(iii) inspect, maintain, repair, and replace the utilities, infrastructure, and other improvements described above; and

(iv) access and read utility meters.

Notwithstanding the above, the Founder reserves the right to deny access to any utility or service provider, to the extent permitted by law, or to condition such access on negotiated terms.

(b) Easement for Highway District. A perpetual nonexclusive easement is hereby reserved in favor of any Highway District throughout the Residential Community as reasonably necessary to inspect, maintain, and repair storm water drainage facilities regulated by the Maintenance and Operation Manual.

(c) Specific Easements. The Founder also reserves for itself the non-exclusive right and power to grant and record such specific easements consistent with Section 13.3(a) as it deems necessary to develop the property described in Exhibits "A" and "B." The location of the easement shall be subject to the written approval of the burdened property Owner, which approval shall not unreasonably be withheld, delayed, or conditioned.

(d) Minimal Interference. All work associated with the exercise of the easements described in this Section 13.3 shall be performed so as to minimize interference with the use and enjoyment of the property burdened by the ease-

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ment. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to the condition existing prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

13.4. Easements to Serve Additional Property

The Founder hereby reserves for itself and its duly authorized agents, successors, assigns, and Mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B," regardless of whether such property is made subject to this Charter. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property. The Person exercising such easement rights shall be responsible for any damage caused to the Common Area as a result of their actions in connection with development of such property.

If the above easement grants permanent access to any property which is not submitted to this Charter, the Founder or its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of maintenance that the Association provides for the benefit of the easement holder. The shared maintenance costs may include maintenance to or along any roadway providing access to the benefited property.

13.5. Easements for Maintenance, Emergency, and Enforcement



The Association may come onto the exterior portions of your Unit to do maintenance or to address violations of the covenants but will give prior notice unless there is an urgent need to enter the property before notice can be given.

By this Charter, the Founder grants to the Association easements over such portions of the Residential Community as necessary to enable the Association to exercise its authority and fulfill its maintenance responsibilities under this Charter and its enforcement rights under Chapter 8. The Association also shall have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to inspect for compliance with the Governing Documents, and to enforce the Governing Documents. Any member of the Board and its duly authorized agents and assignees and all emergency personnel in the performance of their duties may exercise such right. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner, and no entry into a residence shall be permitted without the Owner's prior consent.

13.6. Easements for Bodies of Water and Wetlands



The Founder and the Association have the right to access property adjacent to bodies of water or other wetlands to perform maintenance and for irrigation purposes.

The Founder reserves for itself, the Association, and their respective successors, assigns, and designees, the nonexclusive right and easement, but not the obligation, to enter upon bodies of water and wetlands located within the Area of Common Responsibility to (a) install, operate, maintain, and replace pumps to supply irrigation water to the Area of Common Responsibility;

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(b) construct, maintain, and repair structures and equipment used for retaining water; and (c) maintain such areas in a manner consistent with the Community-Wide Standard. The Founder, the Association, and their respective successors, assigns, and designees shall have an access easement over and across any portion of the Residential Community that abuts or contains bodies of water or wetlands to the extent reasonably necessary to exercise their rights under this section.

The Founder further reserves for itself, the Association, and their respective successors, assigns, and designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Area and Units (but not the dwellings thereon) adjacent to or within 100 feet of bodies of water and wetlands within the Residential Community, in order to (a) temporarily flood and back water upon and maintain water over such property; (b) alter in any manner and generally maintain the bodies of water and wetlands within the Area of Common Responsibility; and (c) maintain and landscape the slopes and banks pertaining to such areas. All Persons entitled to exercise these easements shall use reasonable care in and repair any damage resulting from the intentional exercise of such easements. Nothing herein shall be construed to make the Founder or any other Person liable for damage resulting from flooding due to weather events or other natural occurrences.

13.7. Easements for Golf Course



If a golf course is close to your Unit, you can expect that golf balls and people will come near your Unit. This section puts Owners on notice that activities relating to a golf course will affect Units next to a golf course.

The Residential Community is burdened with an easement permitting golf balls unintentionally to come upon areas adjacent to or in the vicinity of a golf course, and for golfers at reasonable

times and in a reasonable manner to come upon the Common Area, common property of a Neighborhood Association, or the exterior portions of a Unit to retrieve errant golf balls. However, if any Unit is fenced or walled, the golfer shall seek the Owner's permission before entry. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls.

Under no circumstances shall any of the following Persons be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement: the Founder and any Founder Affiliate; the Association or its members (in their capacities as such); the owner of the golf course and their successors, successors-in-title to the golf course, or assigns; any builder or contractor (in their capacities as such); and any officer, director, or partner of any of the foregoing, or any officer or director of any partner. **Each Owner and occupant of a Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in the Residential Community, and each person assumes the risk of damage or injury resulting from errant golf balls.**

The owner of any golf course within or adjacent to any portion of the Residential Community, its agents, successors and assigns, shall at all times have a right and non-exclusive easement of access and use over those portions of the Common Areas reasonably necessary to the operation, maintenance, repair, and replacement of its golf course.

Any portion of the Residential Community immediately adjacent to any golf course is hereby burdened with a non-exclusive easement in favor of the adjacent golf course for overspray of water from the irrigation system serving such golf course. **Under no circumstances shall the Founder, any Founder Affiliate, the Association, or the owner of such golf course**

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be held liable for any damage or injury resulting from such overspray or the exercise of this easement.

The owner of any golf course within or adjacent to any portion of the Residential Community, its successors and assigns, shall have a perpetual, exclusive easement of access over the Community for the purpose of retrieving golf balls from bodies of water within the Common Areas lying reasonably within range of golf balls hit from its golf course.

13.8. Conservation Easements

The Board shall have the authority to grant to any appropriate charitable organization such conservation easements over the Common Areas as it deems appropriate and to pay to any such charitable organization any one-time endowment that may be required in connection with the conveyance of the conservation easement.

13.9. Rights to Stormwater Runoff and Water Reclamation

The Founder hereby reserves for itself and its designees all rights to ground water (including the Sandy Hill Aquifer), surface water, and storm water runoff within the Residential Community, and each Owner agrees, by acceptance of title to a Unit, that the Founder shall retain all such rights. Such right shall include an easement over the Units and the Common Area for access and for the installation and maintenance of facilities and equipment to capture, store, and transport such water and runoff and to conduct aquifer storage and recovery activities. No Person other than the Founder and its designees shall claim, capture, or collect ground water, rainwater, surface water, or stormwater runoff within the Residential Community without the prior written permission of the Founder or its designee.

The Founder or its designee may establish programs for reclamation of stormwater runoff

and wastewater consistent with applicable environmental regulations for appropriate uses within or outside the Residential Community and may require Owners and occupants of Units to participate in such programs to the extent reasonably practicable. No Owner or occupant of a Unit shall have any right to be compensated for water claimed or reclaimed from his Unit or from the aquifer under the Unit.

Except to the extent otherwise provided in the Water Use Restrictions, the Board shall also have the right to establish restrictions on or prohibit outside use of potable water within the Residential Community. The Founder shall have the right to assign, sell, lease, or otherwise transfer any of its rights reserved in this Section 13.9 to a third-party utility or others. The Founder's rights pursuant to this Section 13.9 shall continue until termination of the Development and Sale Period, after which the rights provided in this section shall be transferred to the Association. The Association shall have the further right to lease, transfer, or encumber with an easement any portion of the Common Area and any right it may have to use the Sandy Hill Aquifer for the purpose of aquifer storage and recovery.

13.10. Side-Yard Easements

(a) **Creation.** A perpetual "**Side-Yard Easement**" shall be reserved in favor of certain Units over a portion of the yard of the adjacent Unit for access, use, enjoyment, and maintenance. The Side-Yard Easement shall be reserved in favor of a specific Unit (the "**Benefited Unit**") and created by the Founder prior to the conveyance of the Unit burdened by the easement (the "**Burdened Unit**") to an Owner other than a Builder by recording a Declaration of Side-Yard Easement referencing this Section 13.10. If the Founder is not the Owner of the Burdened Unit, the written consent of the Owner of the Burdened Unit shall be required.

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No Unit shall contain more than one Side-Yard Easement. If the location of any Side-Yard Easement created pursuant to this Section 13.10 is not shown on a recorded plat, the Side-Yard Easement shall generally lie between the following boundaries:

(i) extending from the common boundary line between the Burdened Unit and the Benefited Unit to: (A) the plane formed by the surface of the exterior wall of the dwelling on the Burdened Unit that faces the common boundary line; or (B) ten feet, whichever is less; and

(ii) extending from the front boundary line to the rear boundary line of the Burdened Unit, as generally illustrated in Diagram 13.1 below (the "**Side-Yard Easement Area**").

(b) Use of Side-Yard Easements. Except as may otherwise be provided in any recorded Declaration of Side-Yard Easement, the use and maintenance of any Side-Yard Easement Area shall be governed by this Section 13.10. The Owner of the Benefited Unit shall have the right to use the Side-Yard Easement Area on an exclusive basis (except as provided below) for any use or purpose for which the Benefited Unit may be used pursuant to this Charter and any applicable ordinances, statutes, or building codes. The

Owner of the Benefited Unit is solely responsible for maintaining the Side-Yard Easement Area in a neat and attractive condition in accordance with the Community-Wide Standard and for repair and restoration of the Side-Yard Easement Area as necessary.

Notwithstanding the easement granted to the Benefited Unit, the Owner of the Burdened Unit and his or her employees, agents, and contractors shall have a right of access over the Side-Yard Easement Area as necessary for the maintenance, repair, or restoration of the improvements on the Burdened Unit. Any such entry by the Owner of the Burdened Unit or his or her employees, agents, or contractors shall be at such times and intervals as shall minimize the inconvenience of the Owner or occupant of the Benefited Unit and, when possible, shall be made after written or oral notice has been given to the Owner of the Benefited Unit. Upon completion of any work in the Side-Yard Easement Area by the Owner of the Burdened Unit, the Owner of the Burdened Unit shall restore the property, to the extent reasonably possible, to the condition existing prior to the commencement of the work.

The DRC and/or the Association are specifically authorized to promulgate rules and guidelines pertaining to any particular construction or repair work in the Side-Yard Easement Area so

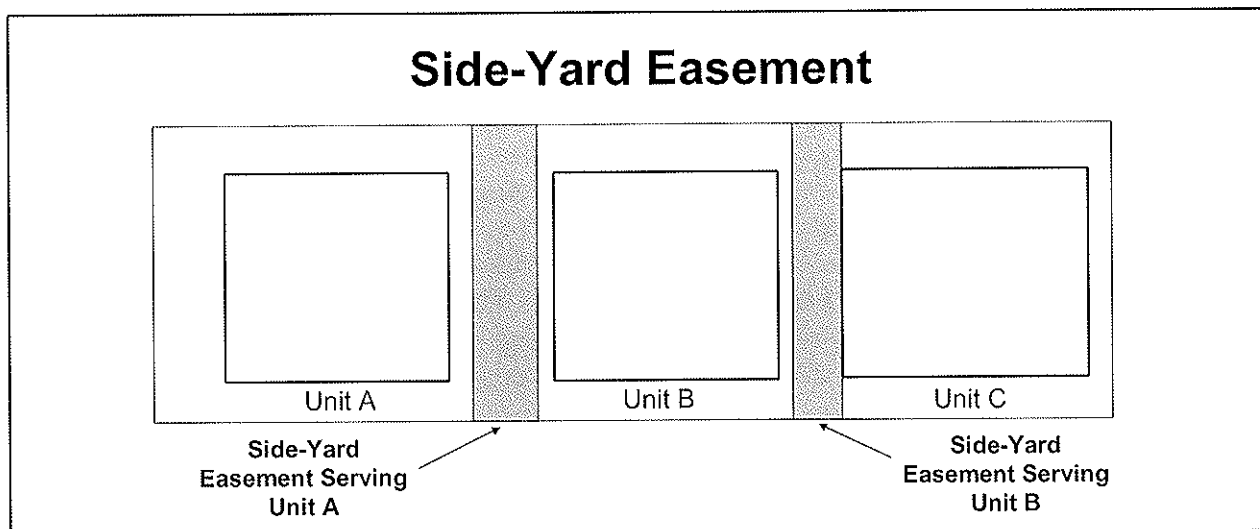


Diagram 13.1

Easements

that the respective interests of the Owners of the adjoining Units are, to the extent reasonably possible, harmonized and preserved.

(c) Landscaping and Improvements. No structure, landscaping, or other improvements shall be placed, erected, or installed upon any portion of any Side-Yard Easement Area, including within any fenced or otherwise enclosed area, except as permitted under this Charter, the Rules, and the Design Guidelines, and as approved in accordance with Chapter 5.

(d) Damage and Insurance. Each Owner of a Benefited Unit shall be obligated to obtain and maintain at all times insurance covered consequential damages to any Burdened Unit or the Side-Yard Easement Area due to occurrences caused by the negligence of the Owner or any casualty occurring within the Benefited Unit or the Side-Yard Easement Area which causes damage to the Burdened Unit or the Side-Yard Easement Area.

Any damage or destruction to a Burdened Unit (including the Side-Yard Easement Area) caused by the Owner or occupants of a Benefited Unit, or the agents of such Persons, in exercising the Side-Yard Easement shall be repaired at the sole cost and expense of the Owner of the Benefited Unit. The Owner and occupants of each Benefited Unit agree to indemnify, release, and hold harmless the Owner and occupants of the Burdened Unit from and against any and all claims, damages, judgments, costs, expenses, and liabilities of any kind or nature whatsoever (including, but not limited to, injury to persons or property and attorneys fees) which may arise as a result of the acts of anyone or anything entering onto the Burdened Unit in exercising the Side-Yard Easement.

(e) Dispute Resolution. In the event of any dispute between the Owner of a Burdened Unit and the Owner of a Benefited Unit concerning any Side-Yard Easement or the interpretation of this Section 13.10, the matter shall be submit-

ted to the Board, which shall act as an arbitration panel and shall proceed in accordance with the rules and procedures of the American Arbitration Association then in effect, and the decision of the majority of the directors on the Board shall be binding on the respective Owners of the Burdened Unit and Benefited Unit.

13.11. Trail Easements

Portions of the Residential Community are subject to an easement for a public trail system, as more particularly described in the Public Trail Declaration.

We are told never to cross a bridge until we come to it, but this world is owned by men who have "crossed bridges" in their imagination far ahead of the crowd. Anonymous

NOTES AND THOUGHTS

Chapter 14

Private Amenities

Various recreational and other facilities may be located within or in the vicinity of the Residential Community that are privately owned and operated by Persons other than the Association. Those facilities are not part of the Common Area of the Residential Community and ownership of property in the Residential Community does not give any person the right to use them. This chapter explains the right of the owners of those facilities to determine if and on what terms they wish to make their facilities available for use by Owners. It also establishes certain rights for the benefit of the owners of such facilities.

14.1. General

Any property and facilities located within, adjacent to, or near Avimor which Persons other than the Association own and operate for recreational and related purposes are referred to as "**Private Amenities**." The Private Amenities include, without limitation, any golf course that may be so located and its related and supporting facilities and improvements.

Neither membership in the Association nor ownership or occupancy of a Unit shall confer any ownership interest in or right to use any Private Amenity. Rights to use the Private Amenities will be granted only to such persons, and on such terms and conditions, as the owners of the Private Amenities may determine. The owners of the Private Amenities shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Private Amenities, including, without limitation, eligibility for and duration of use rights, categories of use and extent of use privileges, and number of users, and also shall have the right to reserve use rights and to terminate use rights altogether, subject to the terms of any written agreements with their respective members.

14.2. Conveyance of Private Amenities

All Persons, including Owners, are hereby advised that neither representations nor warranties have been or are made by the Founder, the Association, any Builder, or by any Person acting on behalf of any of the foregoing have made any with regard to the existence or creation of, or the continuing ownership or operation of, any Private Amenities. No purported representation or warranty in such regard, written or oral, shall be effective unless specifically set forth in a written instrument executed by the record owners of the Private Amenities.

Ownership or operation of the Private Amenities may change at any time and consent of the Association, any Voting Delegate, or any Owner shall not be required to effectuate any change in ownership or operation of any Private Amenity.

14.3. Assumption of Risk and Indemnification – Golf Course

Each Owner acknowledges by acceptance of title to a Unit that he or she has independently inspected the site plan approved by the Founder and has determined the location and configuration of his or her Unit relative to any golf course. In addition, each Owner acknowledges that he or she has considered the risk of intrusion of golf balls, golf clubs, or other parts thereof, golfers, and/or overspray from the golf course and has taken title to the Unit based on his or her independent investigation and analysis.

Each Owner, by its purchase of a Unit in the vicinity of a golf course, hereby expressly assumes the risk of noise, personal injury, or prop-

Private Amenities

erty damage caused by maintenance and operation of the golf course, including, without limitation: (a) noise from maintenance equipment (it being specifically understood that such maintenance typically takes place around sunrise or sunset); (b) noise caused by golfers and other users of the club's facilities; (c) use of pesticides, herbicides, and fertilizers; (d) use of effluent in the irrigation of the golf course; (e) reduction in privacy caused by constant golf traffic on the golf course and to and from the golf course, or the removal or pruning of shrubbery or trees on the golf course property; (f) errant golf balls and golf clubs; and (g) design or redesign of the golf course.

Each Owner agrees that the Founder, Founder Affiliates, the Association, and their respective officers, directors, affiliates, joint venturers, or agents shall not be liable to any Owner or any other Person claiming any loss or damage, including, without limitation, indirect, special, or consequential loss or damage arising from personal injury, destruction of property, trespass, loss of enjoyment, or any other alleged wrong or entitlement to remedy, based upon, due to, arising from, or otherwise related to the proximity of the Owner's Unit to the golf course, including, without limitation, any claim arising in whole or in part from the negligence of any such Persons. The Owner hereby agrees to indemnify and hold harmless the Founder, Founder Affiliates, the Association, and their respective officers, directors, agents against any and all claims by the Owner's visitors, tenants, and others upon such Owner's Unit.

14.4. Changes to a Golf Course

Nothing in this Charter shall prohibit or restrict a golf course owner from adding trees or other landscaping to any portion of its golf course from time to time or from changing the location, configuration, size, and elevation of the tees, bunkers, fairways, and greens from time to time. Any additions or changes to a golf course may diminish or obstruct any view from the Units,

and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

14.5. Design Control

Owners of Units adjacent to a golf course may be permitted to install netting along the rear property line of the Unit to prevent golf balls from coming into the Unit, provided such netting is approved as to appearance in accordance with Chapter 5 and by the owner of the golf course. The owner of the golf course shall have 30 days to respond in writing approving or disapproving the proposal after receiving written notice of the proposal by certified mail, return receipt requested, stating in detail the reasons for any disapproval. The failure of the owner of the golf course to respond to the notice within the 30-day period shall constitute a waiver of such owner's right to object to the matter.

14.6. Limitations on Amendments

In recognition of the fact that the provisions of this chapter are for the benefit of the Private Amenities, no amendment to this chapter, and no amendment in derogation of any other provisions of this Charter benefiting any Private Amenity, may be made without the written approval of the Private Amenity. However, the foregoing shall not apply to the Founder's amendments.

Half our life is spent trying to find something to do with the time we have rushed through life trying to save. Will Rogers

NOTES AND THOUGHTS

Chapter 15

Disclosures and Waivers

This chapter discloses some important information about the Residential Community for the benefit of prospective purchasers of property in the Residential Community. Each Owner, by accepting a deed to property in the Residential Community, also accepts and agrees to the matters set forth in this chapter.

15.1. Facilities and Services Open to the Public

Certain facilities and areas within the Residential Community may be open for use and enjoyment of the public or for other neighboring communities, subject to reasonable rules and regulations promulgated by the Association. Such facilities and areas may include, by way of example: greenbelts, trails and paths, parks, and other neighborhood spots conducive to gathering and interaction, roads, sidewalks, and medians. The Founder or the Board (with the Founder's consent during the Development and Sale Period) may designate the specific areas open for public use from time to time by plat or other instrument recorded in the Official Records of the County, and such reservation for public use shall be enforceable as if incorporated herein. The reservation of such property for public use shall not remove the property from the Common Area or relieve the Association or the ASO, as applicable, of the responsibility for the maintenance of such property unless a dedication to the public is accepted by the County or other appropriate government organization or conservation group.

15.2. Safety and Security

Each Owner and occupant of a Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in Avimor. The Association may,

but shall not be obligated to, maintain or support certain activities within the Residential Community designed to promote or enhance the level of safety or security which each Person provides for himself or herself and his or her property. **However, neither the Association nor the Founder shall in any way be considered insurers or guarantors of safety or security within Avimor, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.**

No representation or warranty is made that any systems or measures, including security monitoring systems or any mechanism or system for limiting access to the Residential Community, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. **Each Owner acknowledges, understands, and shall be responsible for informing its tenants and all occupants of its Unit that the Association, its Board and committees, and the Founder are not insurers or guarantors of security or safety and that each Person within the Residential Community assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.**

15.3. Changes in Development Plans

Each Owner acknowledges that Avimor is a master planned community, the development of which is likely to extend over many years, and agrees that neither the Association nor any Neighborhood Association shall engage in, or use

Disclosures and Waivers

Association funds to support, any protest, challenge, or other form of objection to: (a) changes in uses or density of property within Avimor; or (b) changes in the Development Plans as it relates to property outside the Residential Community, without the Founder's prior written consent, which consent may be granted or withheld in the Founder's discretion.

15.4. View Impairment

Neither the Founder nor the Association guarantee or represent that any view over and across any property will be preserved without impairment. The Founder and Founder Affiliates, and the Association shall have no obligation to relocate, prune, or thin trees or other landscaping except to maintain the Community-Wide Standard or as otherwise required under a separate covenant or agreement. The Association (with respect to the Common Area) and Private Amenity owners (with respect to any Private Amenity) have the right to add trees and other landscaping from time to time subject to applicable law. There shall be no express or implied easements for view purposes or for the passage of light and air.

15.5. Irrigation Using Treated Effluent

Each Owner and occupant of a Unit, and their respective guests and invitees, are hereby advised that the water used to irrigate property within or adjacent to Avimor, including the Area of Common Responsibility, any Private Amenity, and other landscaped areas adjacent or in close proximity to Units, may be treated effluent. In addition, treated effluent may be discharged into small lakes within the Residential Community not designated for swimming. Treated effluent is considered safe for irrigation, but should not be used for drinking, bathing, swimming, or any purpose other than irrigation. Any effluent used within the Residential Community shall be treated to applicable Idaho Department of Environmental Quality ("DEQ") standards and is subject to DEQ's periodic review and testing.

15.6. Wastewater Treatment Plants

Each Owner and occupant of a Unit is hereby advised that one or more treatment plants for the storage, treatment, recycling, and reclamation of wastewater or sewage comprised of commercial buildings and equipment shall be located within the Residential Community and shall provide wastewater treatment service to the Units. Noise and odors from the operation and maintenance of the plants may emanate from the plants from time to time. In addition, large commercial trucks and vehicles may drive through the Residential Community to access the treatment plants.

Treated effluent may be discharged into lakes, streams, creeks, or navigable waters within the Residential Community or recharged into the ground, subject to applicable regulatory approval. Any effluent discharged from the treatment plants shall be treated to applicable DEQ and/or Environmental Protection Agency standards and is subject to periodic review and testing by applicable governmental agencies.

15.7. Noise, Odors, and Appearance of Neighboring Property

The Residential Community is located adjacent to or near rental units, restaurants, retail property, and other commercial property. Restaurant and retail sales activities may include, without limitation, alcoholic and beverage sales and consumption, amplified music, and similar activities. Normal operations of such establishments may require that the businesses be open from early morning to late night every day of the week and may involve a high level of noise and vehicular and pedestrian traffic. Restaurant odor may emanate from nearby properties into the Residential Community. Each Owner and occupant of a Unit acknowledges and agrees that the business-related activities described in this paragraph shall not be deemed nuisances or noxious or offensive activities.

Disclosures and Waivers

In addition, the Residential Community is located adjacent to or near thoroughfares, specifically including Highway 55, which may generate high volumes of traffic and noise from time to time and may be improved and/or widened in the future.

Each Owner and occupant, by acceptance of title to or occupancy of a Unit, waives any and all losses, claims, demands, and expenses related to, arising out of, or resulting from commercial and retail activities and thoroughfares in the surrounding community.

15.8. Schools

No representations are made regarding the public or private schools, daycare centers, or early childhood programs that currently or may in the future serve the Residential Community, and the Founder makes no commitment to construct or organize any such school or program.

15.9. Wildlife and Natural Conditions

Each Owner and occupant of a Unit acknowledges, by acceptance of title to or occupancy of a Unit, that Avimor borders on traditional range for elk and deer and the predators that prey upon them, including wolves, mountain lions, and bears. In addition, damage to personal or real property by wild animals, including landscaping on a Unit, may occur. Avimor also contains a number of manmade, natural, and environmentally sensitive areas that may serve as habitats for a variety of native plants and wildlife, including native predators, insects, venomous and non-venomous snakes and other reptiles, and other animals, some of which may pose hazards to persons or pets coming in contact with them.

Each Owner and occupant of a Unit, and every person entering Avimor (i) acknowledges that such plants and wildlife are indigenous to the area and are not restrained or restricted in their movement within or through the Residential Community; and (ii) assumes all risk of personal

injury arising from the presence of such plants and wildlife within the Residential Community or the surrounding area. Neither the Association, the Founder, any Builder, nor the members, partners, affiliates, officers, directors, agents, or employees of any of them, shall have any duty to take action to control, remove, or eradicate any wildlife or plant in the Residential Community, nor shall they have any liability for any injury or damage resulting from the presence, movement, or propagation of any wildlife or plant within or through the Residential Community.

Success is to be measured not so much by the position that one has reached in life, as by the obstacles one has overcome by trying to succeed.
Booker T. Washington

NOTES AND THOUGHTS

Chapter 16

Rights of Lenders

In order to enhance each Owner's ability to obtain purchase money financing for the purchase of his or her Unit, this chapter sets forth various provisions for the benefit of lenders who make mortgage loans and for the benefit of those agencies which guarantee and insure mortgage loans made by institutional lenders.

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Units in the Residential Community. The provisions of this chapter apply to both this Charter and to the By-Laws, notwithstanding any other provisions contained therein.

16.1. Notices of Action

An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, thereby becoming an "Eligible Holders" will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of any condominium project within the Residential Community or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days;

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; and

(d) Any proposed action which would require the consent of a specified percentage of Mortgagees.

16.2. Other Provisions for First Mortgagees

To the extent not inconsistent with Idaho law, if a condominium has been established in the Residential Community, then so long as required by the Federal Home Loan Mortgage Corporation ("Freddie Mac") or the Federal National Mortgage Association ("Fannie Mae"), any election to terminate the Association or to use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such property shall require the approval of the Eligible Holders of first Mortgages that represent at least 51% of the votes of Units subject to first Mortgages held by such Eligible Holders.

16.3. Amendments to Documents

If a condominium has been established in any part of the Residential Community, then, in addition to such approval as may be required in Section 21.2, the approval of Eligible Holders of Mortgages that represent at least 51% of the votes of Units subject to a Mortgage held by an Eligible Holder, shall be required for any amendment of the Charter, By-Laws, or Articles that would or may have a material adverse effect upon the rights or obligations of first Mortgagees concerning the following:

(a) voting;

(b) assessments, assessment liens, or subordination of such liens;

(c) reserves for maintenance, repair, and replacement of the Common Area;

Rights of Lenders

- (d) insurance or fidelity bonds;
- (e) rights to use the Common Area;
- (f) responsibility for maintenance and repair of property in the Residential Community;
- (g) expansion or contraction of the Residential Community or the addition, annexation, or withdrawal of property to or from the Association's jurisdiction, except by the Founder or as otherwise provided in Chapter 17;
- (h) boundaries of any Unit;
- (i) leasing of Units;
- (j) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey his or her Unit;
- (k) establishment of self-management by the Association where professional management has been required by an Eligible Holder; or
- (l) any provisions included in the Governing Documents which are for the express benefit of holders, guarantors, or insurers of first Mortgages on Units.

16.4. No Priority

No provision of this Charter or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

16.5. Notice to Association

Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

16.6. Failure of Mortgagee to Respond

Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within 60 days after the date the Mortgagee receives the Association's request, delivered by certified or registered mail, return receipt requested.

16.7. Amendment by Board

Should Freddie Mac, Fannie Mae, the Department of Housing and Urban Development, or the Department of Veterans Affairs hereafter eliminate any of their respective requirements which necessitate the provisions of this chapter or change any such requirements, the Board, without the approval of the Owners or any Mortgagee, may cause an amendment to this chapter to be recorded to reflect such changes.

16.8. Construction of Chapter 16

Nothing contained in this chapter shall be construed to reduce the percentage vote that must otherwise be obtained under this Charter, the By-Laws, or Idaho law for any of the acts set out in this chapter.

One of the tests of leadership is the ability to recognize a problem before it becomes an emergency. Arnold Glasgow

NOTES AND THOUGHTS

PART FIVE: RESIDENTIAL COMMUNITY DEVELOPMENT

Problems cannot be solved at the same level of awareness that created them.

Albert Einstein



Chapter 17

Expansion of the Residential Community

Due to the need to pace development to the needs of the Residential Community and the market demand for Units or Common Areas, the Residential Community may be developed in phases. The Founder or the Association may expand the initial property submitted to the Charter as set forth in this chapter.

17.1. Expansion by Founder

From time to time, the Founder may submit to the terms of this Charter all or any portion of the property described in Exhibit "B" by recording a Supplement describing the additional property to be submitted. The Founder may record such a Supplement without the consent of any Person except the owner of such property, if not the Founder.

The Founder's right to expand the Residential Community under this section expires when all property described in Exhibit "B" has been submitted to this Charter or 40 years after this Charter is recorded, whichever is earlier. Until then, the Founder may transfer or assign this right to any Person who is the developer of at least a portion of the real property described in Exhibit "A" or "B." Any such transfer shall be described in a recorded instrument executed by the Founder.

Nothing in this Charter shall require the Founder or any successor to submit additional property to this Charter or to develop any of the property described in Exhibit "B" in any manner whatsoever.

17.2. Expansion by the Association

The Association also may submit additional property to this Charter by recording a Supplement describing the additional property. Any Supplement which the Association records must be approved by Voting Delegates representing

more than 50% of the total votes in the Association at a meeting duly called for such purpose and by the owner of the property to be submitted. In addition, during the Development and Sale Period, the Founder's consent is required. The Association's President and Secretary, the owner of the property, and the Founder, if the Founder's consent is required, shall sign the Supplement.

17.3. Additional Covenants and Easements

Any Supplement which the Founder records may impose additional covenants and easements on the property described in such Supplement, such as covenants obligating the Association to maintain and insure such property and authorizing the Association to recover its costs through Service Area Assessments. Such provisions may be included in a Supplement submitting new property to this Charter, or may be set forth in a separate Supplement applicable to property previously submitted to this Charter. If someone other than the Founder owns the property, then the Supplement must be signed by such owner evidencing such owner's consent. Any Supplement may add to, create exceptions to, or otherwise modify the terms of this Charter as it applies to the property described in the Supplement, in order to reflect the different character and intended use of such property.

17.4. Effect of Filing Supplement

A Supplement shall be effective upon recording unless otherwise specified in the Supplement. On the effective date of the Supplement, any additional property made subject to this Charter shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Charter.

Chapter 18

Additional Rights Reserved to the Founder

This chapter reserves various rights to the Founder, in addition to those specifically reserved elsewhere in the Governing Documents, in order to facilitate the Founder's development and sale of property in the Residential Community, to enable the Founder to respond to Owners' concerns, and to protect various property rights and other interests of the Founder.

18.1. Withdrawal of Property

During the Development and Sale Period, the Founder may amend this Charter to remove any unimproved portion of the Residential Community from the coverage of this Charter, provided such withdrawal does not reduce the total number of Units then subject to the Charter by more than 10%. "Unimproved" means that no permanent structure has yet been completed on the property. In addition, during the Development and Sale Period, the Founder may amend this Charter to remove any park, playground, playfield, trail, path, open space, or greenspace in order to dedicate such property to a governmental or quasi-governmental entity. Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not the Founder. If the property is Common Area, the Association shall consent to such withdrawal.

18.2. Marketing and Sales Activities

Notwithstanding anything in the Governing Documents to the contrary, the Founder and its designees or assigns may construct, use, and maintain upon portions of the Common Area and other property they own, such facilities and activities as, in the Founder's opinion, may reasonably be required, convenient, or incidental to the construction or sale of Units. Such permitted facilities and activities shall include business offices, signs, flags (whether hung from flag poles

or attached to a structure), model homes, sales offices, holding or sponsoring special events, and exterior lighting features or displays. In addition, if reasonably required, convenient, or incidental to construction or sales activities, the Founder and its employees, agents, and designees may park vehicles only in designated areas, including within courtyards enclosed by building frontages or in parking courts. The rights of any Founder designee or assign under this section are subject to the Founder's approval.

18.3. Right to Make Improvements, Replat

During the Development and Sale Period, the Founder and its employees, agents, and designees shall have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing, and installing such improvements to the Common Area and to the Exhibit "B" property as it deems appropriate.

In addition, during the Development and Sale Period, the Founder may replat property that it owns and convert Units it owns into Common Area.

18.4. Right to Approve Changes in Community Standards

During the Development and Sale Period, no amendment to or modification of any Rules, Water Use Restrictions, or Design Guidelines shall be effective without prior notice to and the written approval of the Founder.

18.5. Additional Covenants and Restrictions

During the Development and Sale Period, no Person other than the Founder may record any

Additional Rights Reserved to Founder

additional covenants or restrictions affecting any portion of the Residential Community without the Founder's written consent. Any instrument recorded without the required consent shall be void and of no force and effect.

18.6. Exclusive Rights to Use Name of Development

No Person shall use the name "Avimor" or any derivative of such name or in logo or depiction in any printed or promotional material without the Founder's prior written consent. However, Owners may use the name "Avimor" in printed or promotional matter where such term is used solely to specify that particular property is located within Avimor and the Association shall be entitled to use the words "Avimor" in its name.

18.7. Community Systems

The Founder reserves for itself, Founder Affiliates, and their respective successors and assigns, a perpetual right and easement to install and operate within Avimor such central telecommunication receiving and distribution systems (e.g., cable television, high speed data/Internet/intranet services, and security monitoring) and related components, including associated infrastructure, equipment, hardware, and software as the Founder, in its discretion, deems appropriate. Such right shall include, without limitation, the Founder's right to select and contract with companies licensed to provide telecommunications, cable television, and other similar services in the region. The Founder also has the right to charge individual users a reasonable fee not to exceed the maximum allowable charge for such service, as from time to time is defined by the laws, rules, and regulations of the relevant government authority, if applicable.

Notwithstanding the above, there is no guarantee or representation that any particular telecommunication system or service will be made available.

18.8. Easement to Inspect and Right to Correct



The Founder, or someone it may designate, may enter any Owner's property to inspect and correct improvements on the Unit. The Founder must give the Owner of the Unit prior notice, and if entering an enclosed structure on the Unit, obtain the Owner's prior consent unless it is an emergency.

The Founder reserves for itself and others it may designate the right, but not the obligation, to inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may exist on any portion of the property within the Residential Community, including Units, and a perpetual nonexclusive easement of access throughout the Residential Community to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Unit shall be only after reasonable notice to the Owner, and no entry into a residence shall be permitted without the Owner's consent. The Person exercising this easement shall promptly repair, at such Person's own expense, any damage resulting from such exercise. Nothing in this paragraph shall be deemed to relieve an Owner of the responsibility for the maintenance and repair of his or her Unit.

18.9. Right to Notice of Design or Construction Claims

No Person shall retain an expert for the purpose of inspecting the design or construction of any structures or improvements within the Residential Community in connection with or in anticipation of any potential or pending claim, demand, or litigation involving such design or construction unless the Founder and any builder involved in the design or construction have been first notified in writing and given an opportunity to meet with the owner of the property to discuss the owner's concerns and conduct their own inspection.

Additional Rights Reserved to Founder

18.10. Right to Transfer or Assign the Founder's Rights

Any or all of the Founder's special rights and obligations set forth in this Charter or the By-Laws may be transferred in whole or in part to other Persons. However, such a transfer shall not reduce an obligation or enlarge a right beyond that which Founder has under this Charter or the By-Laws. No such transfer or assignment shall be effective unless it is in a recorded instrument the Founder signs. The foregoing sentence shall not preclude the Founder from permitting other Persons to exercise, on a one-time or limited basis, any right reserved to the Founder in this Charter where the Founder does not intend to transfer such right in its entirety. In such case, it shall not be necessary to record any written assignment unless necessary to evidence the Founder's consent to such exercise.

18.11. Termination of Rights

The rights contained in this chapter shall not terminate until the earlier of (a) the period specified in the particular section; (b) 40 years from the date this Charter is recorded; or (c) the Founder's recording of a written statement that all sales activity has ceased.

*We are what we repeatedly do. Excellence,
therefore, is not an act but a habit.*
Aristotle

NOTES AND THOUGHTS

PART SIX: PROCEDURES FOR AND LIMITATIONS ON CERTAIN ACTIONS

No man ever became great except through many and great mistakes.

William Ewart Gladstone



Chapter 19

Dispute Resolution and Limitation on Litigation

From time to time disputes may arise between Owners or between an Owner and the Association, the Founder, or others involved in the Residential Community. This chapter commits the parties to any such dispute to work together in an attempt to resolve the dispute without litigation in order to facilitate the prompt resolution of such disputes in a manner that respects and builds upon the relationships between the parties. It also requires substantial support of the Association's membership before the Association can engage in certain types of litigation that could result in significant legal and emotional costs to the Residential Community.

19.1. Agreement to Encourage Resolution of Disputes Without Litigation

(a) Bound Parties. The Founder; the Association and its officers, directors, and committee members; all Persons subject to this Charter; and any Person not otherwise subject to this Charter who agrees to submit to this chapter (collectively, "**Bound Parties**"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Residential Community without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in Section 19.1(b), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 19.2 in a good faith effort to resolve such Claim.

(b) Claims. As used in this chapter, the term "**Claim**" shall refer to any claim, grievance, or dispute arising out of or relating to:

(i) the interpretation, application, or enforcement of the Governing Documents;

(ii) the rights, obligations, and duties of any Bound Party under the Governing Documents; or

(iii) the design or construction of Improvements within the Residential Community, other than matters of aesthetic judgment under Chapter 5, which shall not be subject to review and shall not be subject to this chapter.

(c) Exceptions. The following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 19.2:

(i) any suit by the Association to collect assessments or other amounts due from any Owner;

(ii) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Part Two of this Charter (relating to creation and maintenance of community standards);

(iii) any suit that does not include the Founder or the Association as a party, if such suit asserts a Claim that would constitute a cause of action independent of the Governing Documents;

(iv) any dispute that affects the material rights or obligations of a party who is not a Bound Party and has not agreed to submit to the procedures set forth in Section 19.2;

(v) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 19.2(a), unless the party or parties against whom

Dispute Resolution and Limitation on Litigation

the Claim is made agree to toll, or extend, the Claim's statute of limitations to comply with this chapter; and

(vi) any action between the Founder or any Founder Affiliate and any other Bound Party, whether such action is brought individually or as a part of a class or other consolidated action, which action is subject to arbitration requirements or other alternative dispute resolution procedures under a contractual agreement between the Founder or a Founder Affiliate and such other Bound Party; provided, this exemption shall apply only to the specific action between the Founder or Founder Affiliate and the Bound Party who is a party to the contract.

19.2. Dispute Resolution Procedures

(a) Notice. The Bound Party asserting a Claim ("**Claimant**") against another Bound Party ("**Respondent**") shall give written notice ("**Notice**") by mail or personal delivery to each Respondent and to the Board, stating plainly and concisely:

(i) the nature and factual basis of the Claim, including the Persons involved and the Respondent's role in the Claim;

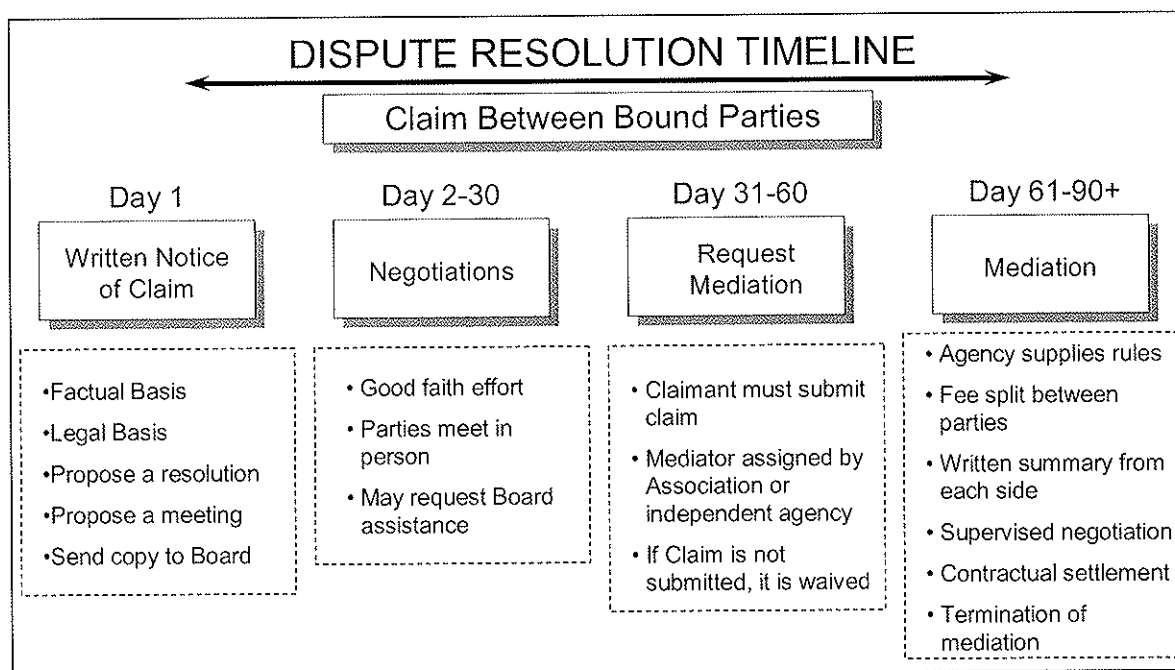
(ii) the legal basis of the Claim (*i.e.*, the specific authority out of which the Claim arises);

(iii) the Claimant's proposed resolution or remedy; and

(iv) the Claimant's desire to meet with the Respondent to discuss, in good faith, ways to resolve the Claim.

(b) Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) Mediation. If the parties have not resolved the Claim through negotiation within 30 days of the date of the Notice (or within such other agreed upon period), the Claimant shall have 30 additional days to submit the Claim to mediation with an entity or person designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in Ada, Boise, or Gem Counties. Each Bound Party shall present the mediator with a written summary of the



Dispute Resolution and Limitation on Litigation

Claim. If the Claimant does not submit the Claim to mediation within such time, or does not appear for and participate in good faith in the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. Subject to Subsection 19.2(e), the Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

Each Bound Party shall bear its own costs of the mediation, including attorneys fees, and each Bound Party shall pay an equal share of the mediator's fees.

(d) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to comply again with the procedures set forth in this section. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys fees and court costs.

(e) Final and Binding Arbitration. Any claim relating to or otherwise alleging a defect in the construction or condition of any portion of a Unit or the Common Area that involves the Founder or any Founder Affiliate as a party to

such claim shall be resolved by final and binding arbitration in accordance with this subsection (e) and shall not be submitted as a lawsuit or other proceeding in any Idaho state court or federal court. **This subsection (e) is an agreement to arbitrate, a waiver of the right to seek remedies in court, and a waiver of a right to a jury trial, and is specifically enforceable under Idaho law.**

Prior to commencing arbitration under this subsection (e), the parties shall engage in the procedures required under subsections (a), (b), and (c) above.

Any party bringing an arbitration action under this subsection shall have until expiration of the applicable statute of limitations under Idaho law (as would apply to the same claim being brought in an Idaho or federal court) to submit the dispute for arbitration.

Arbitration under this subsection shall be conducted before a mutually agreed upon arbitrator in Ada County, Boise County, or Gem County, in accordance with the Uniform Rules of Procedure for arbitration in the State of Idaho (or, if none, such American Arbitration Association rules as shall be most applicable). In the event that the parties are unable to agree on an arbitrator, the parties shall promptly request the American Arbitration Association to appoint an arbitrator from its pool of retired judges.

The arbitrator shall not be required to include factual findings or legal reasoning in his or her ruling. The arbitrator shall, however, be permitted to award the prevailing party attorneys fees pursuant to applicable state law. Arbitration shall be final and binding on the parties and judgment upon an award pursuant to an arbitration required under this subsection may be entered in any court of competent jurisdiction to the fullest extent permitted under Idaho law.

Dispute Resolution and Limitation on Litigation

19.3. Initiation of Litigation by Association

In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, the Association shall not initiate any judicial or administrative proceeding unless first approved by a vote of Voting Delegates representing at least 75% of the total votes in the Association, except that no such approval shall be required for actions or proceedings:

- (a) initiated during the Founder Control Period;
- (b) initiated to enforce the provisions of this Charter, including collection of assessments and foreclosure of liens;
- (c) initiated to challenge *ad valorem* taxation or condemnation proceedings;
- (d) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or
- (e) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

This section shall not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings. In addition, any amendment to this section shall require the Founder's written consent during the Development and Sale Period.

19.4. Use of Proceeds

Any proceeds received by the Association or any Owner from the settlement or other resolution of litigation, arbitration, or other proceedings against the Founder, any Founder Affiliate, or any builder alleging defects in the initial construction of any portion of the Residential Community shall be applied to repair, replace, or otherwise remedy the defects claimed in such action. If the Association has funds remaining after com-

pleting such repair, replacement, or other work required to remedy the defects in question, such proceeds shall be placed in the Association's capital reserve account.

Creativity can solve almost any problem. The creative act, the defeat of habit by originality, overcomes everything. George Lois

NOTES AND THOUGHTS

Chapter 20

Changes in the Common Area

Various influences and circumstances within and outside the Residential Community may from time to time give rise to a need or desire to make some changes in the ownership of or use rights in Common Area. This chapter explains the procedures for dealing with such matters as changing the Persons entitled to use Common Area or Limited Common Area, partition of the Common Area and condemnation.

20.1. Assignment and Reassignment of Limited Common Area

The Board may designate a portion of the Common Area as Limited Common Area, and may reassign Limited Common Area, upon approval of the Board and the vote of Voting Delegates representing a majority of the total votes in the Association, including a majority of the votes attributable to Units to which the Limited Common Area is proposed to be assigned or reassigned. During the Development and Sale Period, any such assignment or reassignment shall also require the Founder's written consent.

Upon approval of a majority of Owners of Units to which any Limited Common Area is assigned, the Association may permit Owners of other Units to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the Service Area Expenses attributable to such Limited Common Area.

20.2. Condemnation



A public entity such as a town, county, or state has the power to condemn property for its own uses and generally has to pay the value of the property to do so.

If any part of the Common Area shall be taken (or conveyed in lieu of and under threat of con-

demnation with such approval as may be required under Section 20.4) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as follows:

(a) If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 days after such taking the Founder, during the Development and Sale Period, and Voting Delegates representing at least 75% of the total votes in the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 9.4 regarding funds for restoring improvements shall apply.

(b) If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be treated in the same manner as proceeds from the sale of Common Area under Section 20.4.

20.3. Partition

Except as permitted in this Charter, the Common Area shall remain undivided, and no Person shall bring any action partition of any portion of the Common Area without the written consent of all Owners and Mortgagees. This section shall not prohibit the Board from acquir-

Changes in the Common Area

ing and disposing of tangible personal property nor from acquiring and disposing of real property that may or may not be subject to this Charter, with such approval as may be required under Section 20.4.



Partition is a legal action in which a party requests to have a portion of one interest in property split off so that the party can possess that portion or interest separately from other parties who have rights in the property.

20.4. Transfer or Dedication of Common Area

(a) The Association may dedicate portions of the Common Area to a County or to any other local, state, or federal governmental or quasi-governmental entity, may subject Common Area to a security interest, or may transfer or convey Common Area as follows:

(i) if Common Area other than Limited Common Area, upon the written direction of Voting Delegates representing at least 75% of the total votes in the Association, and the Founder, during the Development and Sale Period; or

(ii) if Limited Common Area, upon written approval of Owners of at least 75% of the Units to which such Limited Common Area is assigned.

The proceeds from the sale or mortgaging of Common Area other than Limited Common Area shall be an asset of the Association to be used as the Board determines. The proceeds from the sale or mortgaging of Limited Common Area shall be disbursed in the manner approved by the Owners of Units to which the Limited Common Area is assigned at the time such sale or mortgage is authorized.

(b) Notwithstanding the provisions of subsection (a), the Founder or the Board (with the Founder's consent during the Development and Sale Period) may, without the approval of the

Voting Delegates, transfer to the County trails, paths, and/or parks in the Residential Community or dedicate easements for public use over such property, subject to reasonable rules and regulations promulgated by the Association. Any such dedication or reservation for public use shall be made by plat or other instrument recorded in the Official Records of the County. The reservation of authority to transfer or dedicate portions of the Common Area for public use shall not require any such transfer or dedication, except upon terms acceptable to the Founder, during the Development and Sale Period, and thereafter, the Board.

(c) No conveyance or encumbrance of Common Area may deprive any Unit of rights of access or support.

Hard work spotlights the character of people: some turn up their sleeves, some turn up their noses, and some don't turn up at all.

Sam Ewig

NOTES AND THOUGHTS

Chapter 21

Termination and Amendment of Community Charter

As the Residential Community matures and grows, the rules by which it is governed must be flexible enough to adapt to changes in the development plan, as well as changes in the needs and desires of the Residential Community that inevitably will occur. This chapter sets out procedures by which either the Founder or the Owners as a group may amend this Charter to address such changes.

21.1. Term and Termination

This Charter shall be of perpetual duration, unless Owners (voting individually and not through Voting Delegates) representing 80% of the total votes in the Association and the Founder (during the Development and Sale Period) direct the Board to execute and record a document stating that this Charter is terminated. In such case, this Charter shall terminate on the date specified in the termination document.

If Idaho law hereafter limits the period during which covenants may run with the land, then to the extent consistent with such law, this Charter shall be extended automatically at the expiration of such period for successive periods of 20 years each, unless terminated as provided above.

In addition to the above, termination of this Charter also shall require compliance with any applicable termination requirements a County or applicable municipality may impose.

This section shall not permit termination of any easement created in this Charter without the consent of the holder of such easement.

21.2. Amendment

(a) By Founder. In addition to specific amendment rights granted elsewhere in this Charter, until conveyance of the first Unit to a

Person other than a Builder, the Founder may unilaterally amend this Charter for any purpose.

Thereafter, the Founder may unilaterally amend this Charter if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; (iii) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, Fannie Mae or Freddie Mac, to make, purchase, insure, or guarantee mortgage loans on the Units; or (iv) to satisfy the requirements of any local, state, or federal governmental agency. However, any amendment under this paragraph shall not adversely affect the title to any Unit unless the Owner shall consent in writing.

In addition, during the Development and Sale Period, the Founder may unilaterally amend this Charter for any other purpose, provided the amendment has no material adverse effect upon the rights of more than 2% of the Owners.

Notwithstanding the foregoing, in the event the Founder or the Association transfers ownership and/or maintenance responsibility for properties within the Residential Community to a Public Improvement District and, as a result of such transfer, the scope of the Association's maintenance responsibilities under this Charter are reduced, the Founder may unilaterally, at any time, amend this Charter and the other Governing Documents to provide for, and define the scope of responsibility of, the Public Improvement District and its effect upon the role of the Association in the Residential Community.

Termination and Amendment of Community Charter

(b) By Owners. Except as otherwise specifically provided above and elsewhere in this Charter, this Charter may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Delegates representing at least 67% of the total votes in the Association, including 67% of the total votes held by Owners other than the Founder. In addition, during the Development and Sale Period, any such amendment shall also require the Founder's written consent.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) Amendment of Provisions Related to Wetlands. Notwithstanding any other provision of this Section 21.2, in addition to any other consent or approval required above, the amendment of Section 6.6 or Section 7.7 shall also require the written consent of the USACOE.

(d) Validity and Effective Date. No amendment may remove, revoke, or modify any right or privilege of the Founder or the Founder Member without the written consent of the Founder or the Founder Member, respectively (or the assignee of such right or privilege).

In addition, any amendment of this Charter or the Maintenance and Operation Manual having any direct impact or effect on the Storm Water Park Areas serving the Residential Community shall be subject to the prior review and approval of the ACHD. Any amendment of this Charter which would revise any provision prohibiting or regulating harm to wildlife or natural areas in the Residential Community or which would in any way make such provision less restrictive shall require the consent of Ada County.

If an Owner consents to any amendment to this Charter or the By-Laws, it will be conclusively presumed that such Owner has the author-

ity to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Any amendment shall become effective upon recording unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Charter.

(e) Exhibits. Exhibits "A" and "B" attached to this Charter are incorporated by this reference, and amendment of such exhibits shall be governed by this chapter. Exhibits "C" and "D" are incorporated by this reference and may be amended under Chapter 7 or pursuant to Sections 21.1 and 21.2. All other exhibits are attached for informational purposes and may be amended as provided therein or in the provisions of this Charter, which refer to such exhibits.

*Don't ever take a fence down until you know
why it was put up. Robert Frost*

NOTES AND THOUGHTS

THIS COMMUNITY CHARTER is made this 1 day of April, 2008, by SunCor Idaho, Inc., an Idaho corporation. In witness whereof, the undersigned Founder has executed this Charter the date and year first written above.

FOUNDER: SUNCOR IDAHO, INC., an Idaho corporation

By: [Signature]

Name: Dan Richter

Its: President

STATE OF IDAHO

COUNTY OF Ada

I, Robert Mortensen, a notary public, do hereby certify that on this 1st day of April, 2008, personally appeared before me, Dan Richter, known or identified to me to be the President of SunCor Idaho, Inc., the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.



[Signature]
NOTARY PUBLIC

My Commission Expires: 17 Mar 2014

EXHIBIT "A"

Land Initially Submitted

All Lots in Avimor Subdivision No. 1, Book 100 of Plats at Pages 13049 thru 13069, Ada County Records, situate in Sections 17, 18, & 19, Township 5 North, Range 2 East, Boise Meridian, Ada County, Idaho;

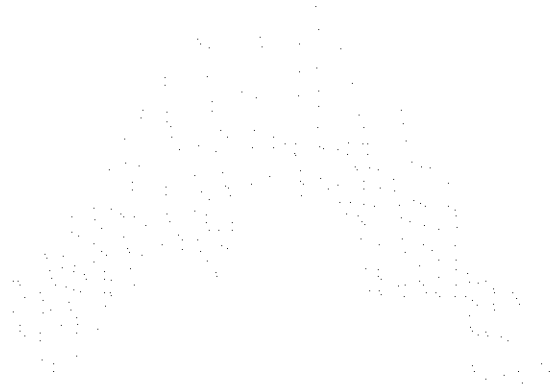
EXCEPT THEREFROM Lots 1, 13, 69, 70, and 72, Block 1, of Avimor Subdivision No. 1;

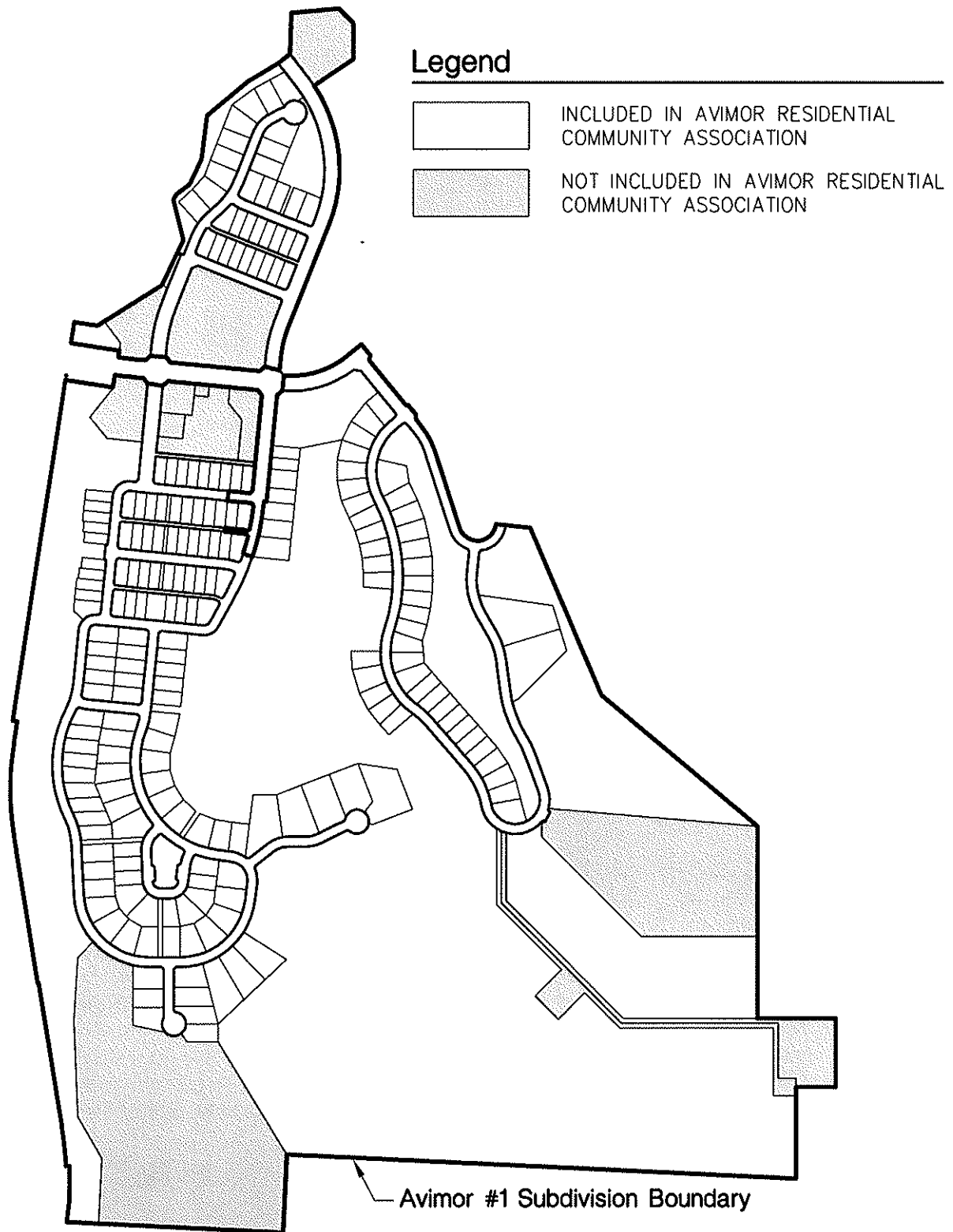
ALSO EXCEPT THEREFROM Lots 1, 2, 3, 4, and 5, Block 11, of Avimor Subdivision No. 1;

ALSO EXCEPT THEREFROM Lot 20, Block 12, of Avimor Subdivision No. 1;

ALSO EXCEPT THEREFROM Lot 1, Block 13, of Avimor Subdivision No. 1;

ALSO EXCEPT THEREFROM Lot 1, Block 16, of Avimor Subdivision No. 1.





1173 E. Winding Creek Drive Eagle, ID 83816
Tel. 208.246.8300 Fax. 208.246.8320

PLANNERS • ENGINEERS • LANDSCAPE ARCHITECTS • SURVEYORS

Exhibit A

PROJECT NO. SCR4782
DATE: 12/4/2007
BY: BLW
SCALE: NTS
SHEET NO. EXHIBIT A

EXHIBIT "B"

Land Subject to Annexation

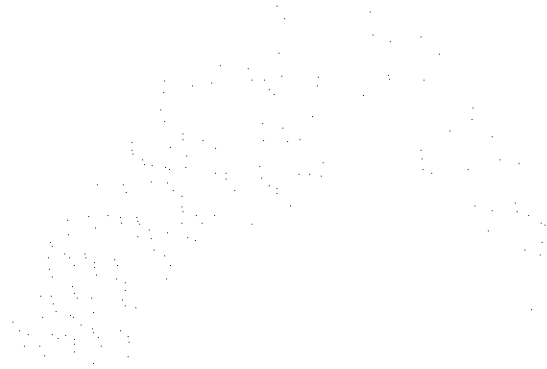
ALL THOSE TRACTS OR PARCELS OF LAND lying and being in Ada County, Gem County, and Boise County, as shown on the map attached hereto.

LESS AND EXCEPT that land initially submitted to this Charter as described on Exhibit "A."

In addition to the above, as the owner or with the written consent of the owner, the Founder may also submit to the terms of the Charter any real property situated within two miles of the perimeter boundaries of the property described on Exhibit "A" or this Exhibit "B."

Note to Clerk and title examiners:

This Charter is not intended to create an encumbrance on title to the property described in this Exhibit "B." Such title may be encumbered only with the consent of the owner by filing a supplement in accordance with Chapter 17.



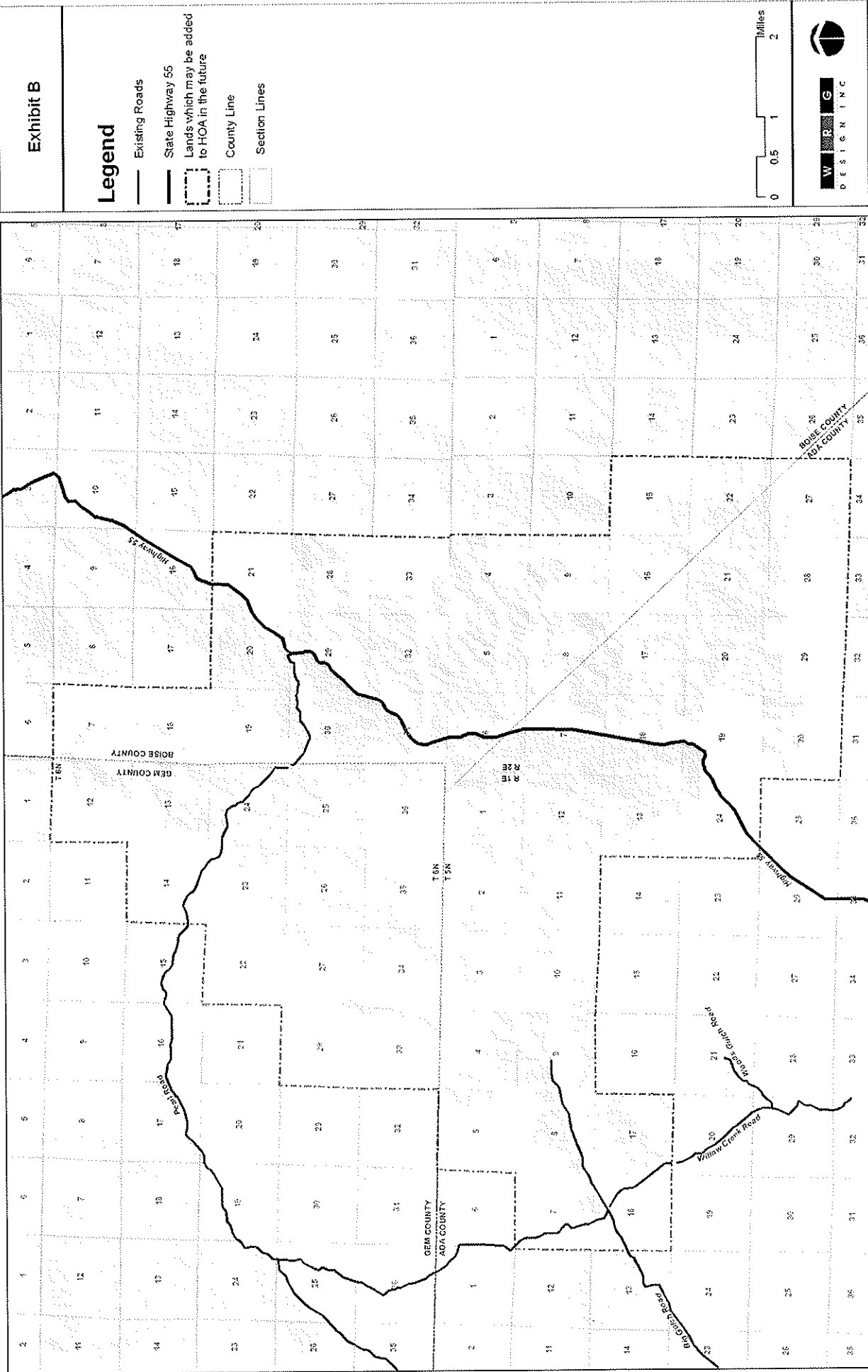


EXHIBIT "C"

Initial Rules for The Residential Community at Avimor



The purpose of Rules is not to anticipate all acceptable or unacceptable behavior in advance and eliminate all improvements or activities that fall outside of "the norm." In fact, it is expressly intended that the Reviewer under Chapter 5, and the Board, as appropriate, have discretion to approve or disapprove items, or to enforce or not to enforce technical violations of the Governing Documents, based upon aesthetic or other considerations consistent with the established guidelines. The exercise of discretion in approving or enforcement shall not be construed as a waiver of approval or enforcement rights, nor shall it preclude the Board from taking enforcement action in any appropriate circumstances.

The following shall apply to all of the Residential Community until such time as they are modified pursuant to the Charter.

1. **General.** The Residential Community shall be used only for residential, recreational, and related purposes (which may include, without limitation, an information center and/or sales office for any real estate broker retained by the Founder to assist in the sale of property described in Exhibit "A" or "B"; offices for any property manager retained by the Association; business offices for the Founder, the Association, the Avimor Stewardship Organization, Inc., or the Community Conservation Director; and offices and facilities for the provision of public services, including emergency medical services, fire protection services, security and sheriff's services, or a library) consistent with this Charter and any Supplement.

2. **Trash Containers and Collection.** No garbage or trash shall be kept on any Unit except in covered containers of a type, size and style that have been approved by the Founder or the Design Review Committee. Except on trash collection days, the containers must be stored inside garages or exterior storage facilities approved by the Founder or the Design Review Committee. The containers may be stored on the exterior portions of the Unit if they are entirely concealed by an approved screen wall.

3. **Pets.** Residents may keep a reasonable number of generally recognized household or yard pets. Residents may not keep or raise animals for commercial purposes, and pets are not permitted to make an unreasonable amount of noise or become a nuisance to neighbors. When outside the Unit, pets must be kept on a leash, and pets that are allowed to roam free may be removed upon the Board's request. Also, no structure for housing pets may be visible from adjacent Units, streets, or Common Areas unless approved by the Founder or the Design Review Committee. Pet owners shall respect the property of other Owners by controlling their pets and by picking up their pet's waste while walking or exercising their pets throughout Avimor.

4. **Machinery and Equipment.** No machinery or equipment of any kind shall be placed, operated or maintained on or about the exterior of any Unit, except machinery or equipment used during the period of construction or equipment used while maintaining the Unit, structure, or landscaping. When not in use, the equipment must be stored inside a structure or behind a screen wall that entirely conceals the equipment.

5. Parking – Vehicles, Campers, Boats and RVs. Unless expressly authorized by the Board, and then subject to any conditions imposed, parking any vehicles on public or private streets, thoroughfares, and/or alleys is prohibited. Exceptions are made for temporary guests and/or visitors for a period of time not to exceed four days. Additional exceptions shall be made for construction, service, and/or delivery vehicles during daylight hours and for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit or the Common Area.

Commercial vehicles, motor vehicles exceeding one ton, mobile homes, recreational vehicles, travel trailers, campers, boats, watercraft, golf carts or other similar vehicles may not be parked, maintained or repaired on any Unit, street, alley, or thoroughfare so as to be visible from adjacent Units, Common Areas or streets, except as otherwise provided in the Charter. An exception to this rule shall exist for the temporary loading and unloading of such vehicles. Temporary parking shall not exceed two days.

Any inoperable vehicle of any kind must be stored in an enclosed garage or facility and cannot be visible from adjacent Units, Common Areas, or streets.

6. Building Repair. No Owner or resident shall allow any building or structure on his or her Unit to fall into such a state of disrepair that it creates an eyesore. In the event any building or structure is damaged or destroyed, the Owner is responsible for immediate repair, reconstruction or removal of the structure.

7. Nuisance. No Owner, resident, guest, or invitee shall engage in any activity that emits foul or obnoxious odors outside the Unit, creates noise or other conditions that tend to disturb the peace or threaten the safety of others, and/or tends to cause embarrassment, discomfort, annoyance, or nuisance to other Persons.

8. Exterior Storage. Exterior storage facilities are not permitted unless plans and specifications for the facility is submitted to the Founder or Design Review Committee, whichever is applicable, pursuant to Chapter 5 of the Charter for review and approval.

9. Gazebos and Trellises. All gazebos and trellises visible from adjacent Units require the prior written approval of the Founder or the Design Review Committee. If a gazebo roof is made of trellis material, it must be painted a color that is complementary to the color of the residence. Any other roof on a gazebo must match the style and color of the roof on the residence or otherwise be of a complementary style and color. Gazebo height shall be restricted to limit its affect on adjacent Units. All permitted trellises shall be painted a color that is complementary to the color of the residence or may be left in their natural wood color, provided they are sealed and maintained to protect them from the natural elements. All wooden elements or structures must comply with the Avimor Fire Management Plan.

10. Signage. No signage will be permitted except temporary construction signs, real estate signs, or other signs approved by the Founder or the Design Review Committee. All signs are subject to review and approval by the Founder or Design Review Committee. Construction signs may not exceed an overall area of 4 square feet. A real estate "for sale" or "for lease" sign may not exceed 4 square feet and the sign must be mounted so that the bottom of the sign is no more than two feet above the ground. Additionally, a Unit may not contain more than one real estate sign. All other signs may not exceed an overall area of 108 square inches. All signs shall be mounted on wood posts. Signs shall be removed from a Unit within 10 days after such sign's intended use is completed.

Any political signs are subject to time, place, and manner restrictions.

Signs for garage sales, estate sales, moving sales, etc., will be allowed only while the sale is taking place. The resident will be permitted the use of three signs no larger than 108 square inches each. Members will be allowed only one annual sale of personal property. The sale will be held only on a Friday and Saturday between the hours of 8:00 a.m. and 4:00 p.m. on a day of the resident's choice. There will be no additional signs placed within the boundaries of the Residential Community. Sign placement must comply with local codes.

EXHIBIT "D"

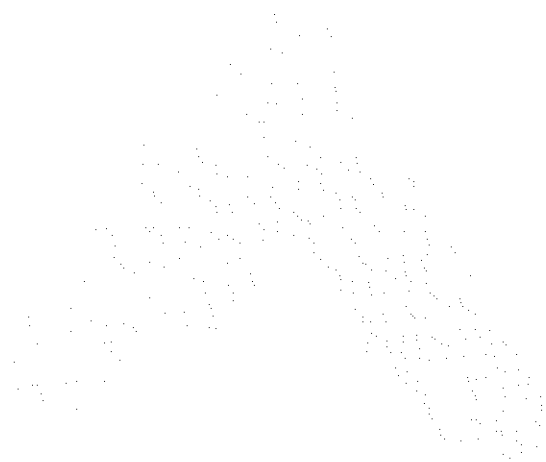
Initial Water Use Restrictions

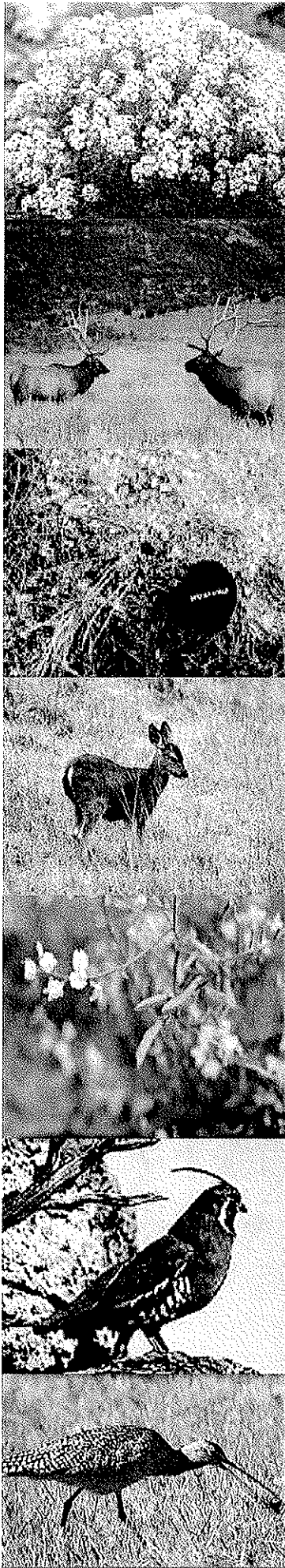
The following water conservation measures shall apply to all of the Residential Community until such time as they are modified pursuant to the Charter.

1. Water saving fixtures shall be installed in all homes. Water saving fixtures include low-flush toilets (not to exceed 1.6 gallons per flush) and low flow fixtures, including faucets and shower heads (not to exceed 2.5 gallons per minute).
2. Dishwashers shall use no more than 9 gallons per cycle and shall have a cycle adjustment which allows reduced water to be used for reduced loads.
3. Washing machines shall use no more than 20 gallons per regular cycle and shall have a cycle adjustment which allows reduced water to be used for reduced loads.
4. Low water landscaping techniques shall be applied, including:
 - (a) The principles of xeriscape;
 - (b) The use of drought tolerant and low water use grasses, shrubs, and trees;
 - (c) Broadcast or spray irrigation is discouraged, and drip irrigation techniques shall be used whenever possible for irrigating shrubs and trees; and
 - (d) Turf shall be of a low water drought resistant variety. Total turf area shall not exceed 30% of the total Unit area or 2,500 square feet, whichever is less.

EXHIBIT "E"

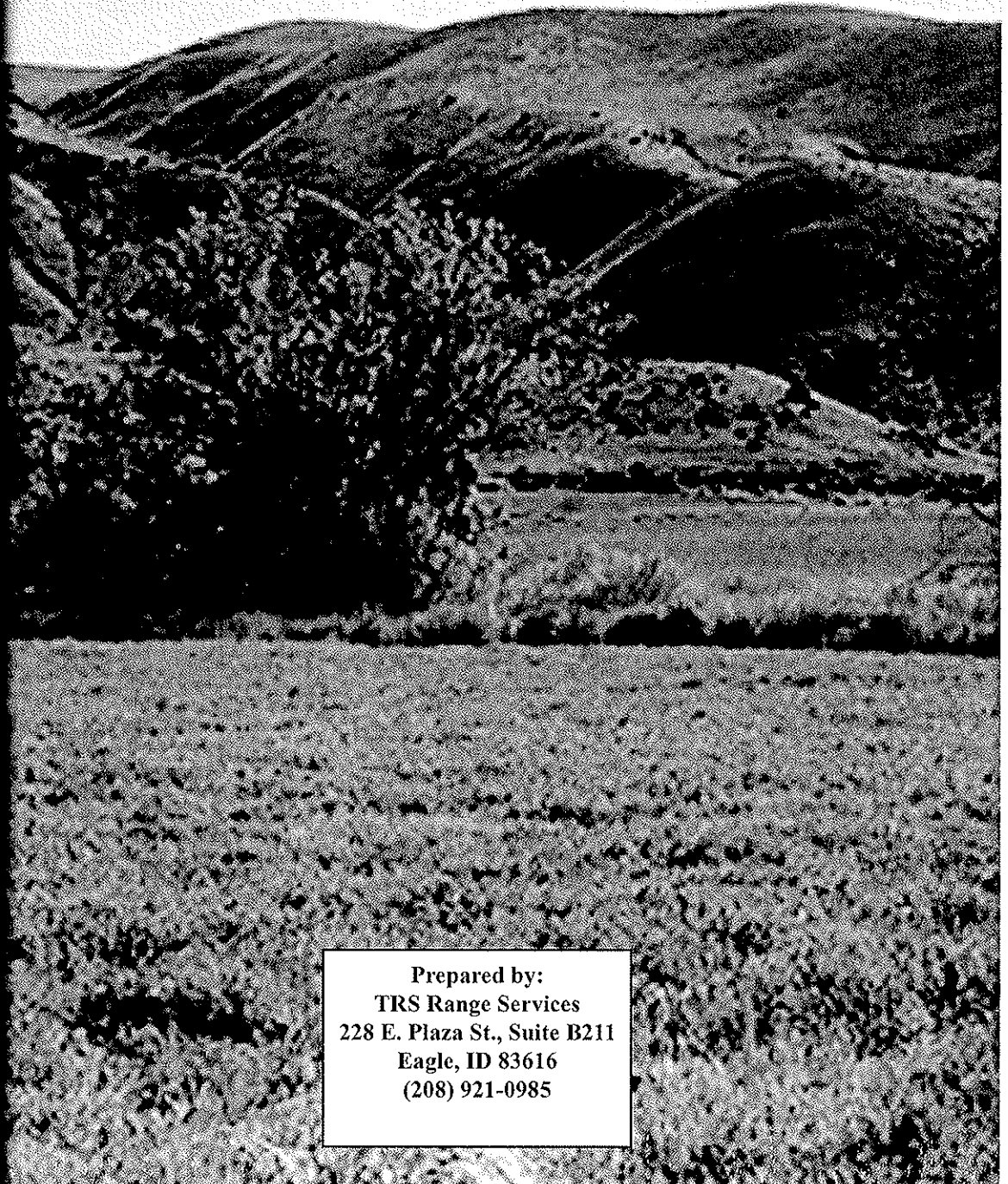
Wildlife Mitigation Plan





Avimor Wildlife Mitigation Plan December 14, 2006

**Prepared for:
SunCor Idaho, Inc.**



Prepared by:
TRS Range Services
228 E. Plaza St., Suite B211
Eagle, ID 83616
(208) 921-0985

December 14, 2006

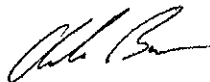
**RE: Letter of Qualifications of Charlie Baun for the Preparation of Wildlife
Mitigation Plans**

I am the environmental program manager and lead ecologist for TRS Range Services (TRS). I have over 12 years of academic and work-related experience with ecosystems of the Great Basin, specifically sagebrush/grass steppe in and around southwestern Idaho. I received a Bachelor of Science degree in biology, with an emphasis in ecology and botany, from Albertson College of Idaho in 1998. I earned my master's degree in Natural Resource Management, with an emphasis in range and disturbance (grazing and fire) ecology, from the University of Idaho in 2001. My work experience has also been associated with the ecology of southwestern Idaho, primarily sagebrush steppe. I worked for the Idaho Army National Guard's Environmental Management Office conducting Land Condition Trend Analysis. I worked for the Bureau of Land Management's Four Rivers Field Office conducting rangeland health assessment and trend analysis for two field seasons. I was an intern at the Idaho Conservation League. My most recent experience has been with private consulting in Boise, Idaho. Over the last four years I have worked for URS Corp. and TRS, where I conducted numerous ecological studies for state and federal agencies, as well as private industry. The most significant portion of my work as a private consultant has been associated with sagebrush steppe ecosystems in Idaho. I am the only non-agency (state or federal) member on the *Lepidium papilliferum* (slickspot peppergrass) scientific panel, and a member of the Ada County Conservation Weed Management Partnership.

During the Wildlife Mitigation Plan (WMP) process I coordinated with representatives from the: Idaho Department of Fish and Game; Ada County Parks and Waterways; Ada County Development Services staff; BLM; Natural Resource Conservation Service, Ada County Soil District, various private interest groups; and the developer. At various stages throughout the process, I participated in meetings with IDFG, and the other state entities, to determine opinions, concerns, suggestions, and recommendations for the proposed WMP. As the TRS staff developed the WMP, periodic checks were done with these groups to gather feedback and provide them an opportunity to help navigate the direction of the plan. The final WMP is a compilation of scientific literature, expert field experience, and cooperative interactions between state, federal, and private interests.

Sincerely,

TRS Range Services, LLC



Charles Baun, Lead Ecologist

www.trsrangeservices.com
TRS RANGE SERVICES, LLC

228 E. Plaza St Ste B211 Eagle, Idaho 83616 • 208-938-2891 • 208-938-2892 fax
1739 Maybank Hwy, Ste B Box 326 Charleston, South Carolina 29412 • 843-795-3860 • 843-795-2144 fax

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1.0 INTRODUCTION

The proposed Avimor Planned Community (APC) Development at Spring Valley Ranch has taken a proactive approach to addressing potential impacts, both direct and indirect, to resident and migrating wildlife species and plant communities within and adjacent to the proposed development site. It has been acknowledged that the APC development will have certain unavoidable impacts to the existing flora and fauna. The goal of this document is to identify the primary impacts and incorporate mitigation measures that if implemented, would compensate for the identified adverse impacts in areas where it is ecologically advantageous, financially possible, and socially responsible.

The most important aspect regarding this planning process is the ongoing coordination with representatives from the Idaho Department of Fish and Game (IDFG), Ada County Parks and Waterways, and other interested agencies, groups, and private entities. At various stages throughout the development of this wildlife mitigation plan (WMP), meetings were conducted with these various entities to determine opinions, concerns, suggestions, and recommendations regarding ecological, economical, and social aspects of the WMP. The direction of the WMP was navigated by this cooperative approach in an effort to identify and create recommendations that could have the highest level of potential benefits for wildlife species and plant communities within and adjacent to the proposed project area.

OVERALL MITIGATION GOALS

- Avoid, Minimize, or adequately mitigate for direct and indirect impacts to plant communities, wildlife, and wildlife habitat associated with the development of the APC;
- Restore native plant communities by reestablishing historically altered structural and functional components, with the intent of enhancing wildlife habitat and reducing the potential for wildfires;
- Create and perpetuate, indefinitely a funded conservation program to maintain or enhance the surrounding wildlife habitat;
- Work collaboratively with local, state and federal agencies in restoring native habitat and managing invasive and noxious weed species;
- Foster community stewardship and increase awareness of the Foothills ecology through residential and public conservation and education activities.

1.1 History of the Spring Valley Ranch

1.1.1 Background

The Spring Valley Ranch dominates the northern horizon of the Boise Valley. Its 38,000 acres spread nearly 20 miles east to west and more than ten miles north to south across three counties (Ada, Boise, and Gem). The ranch's beginning, however, was much more humble. Early land records show multiple ownerships, many as small as 40-acres, across the landscape. Those records identify Eliza R. Howell as the first owner of the "heart" of the ranch, with eighty-acres straddling the Ada-Boise County line.

An 1897 USGS Map identifies the current ranch headquarters as “Howell.” The August 1989 Ada County Historic Resources: A Reconnaissance Survey, conducted by Belinda Davis and Barbara Perry Bauer, states: “The Spring Valley Ranch area located on the northern edge of the county apparently was a thriving community (once known as Howell) boasting a general store, blacksmith shop and post office. Remnants of the old road, the extension of Broken Horn Road from the Dry Creek Valley, which extended to Pearl are still visible to the east of the main house. The ranch currently exists (consists) of a massive gabled barn constructed with hewn joints and wooden pegs and a well preserved folk Victorian house” (Figure 1).

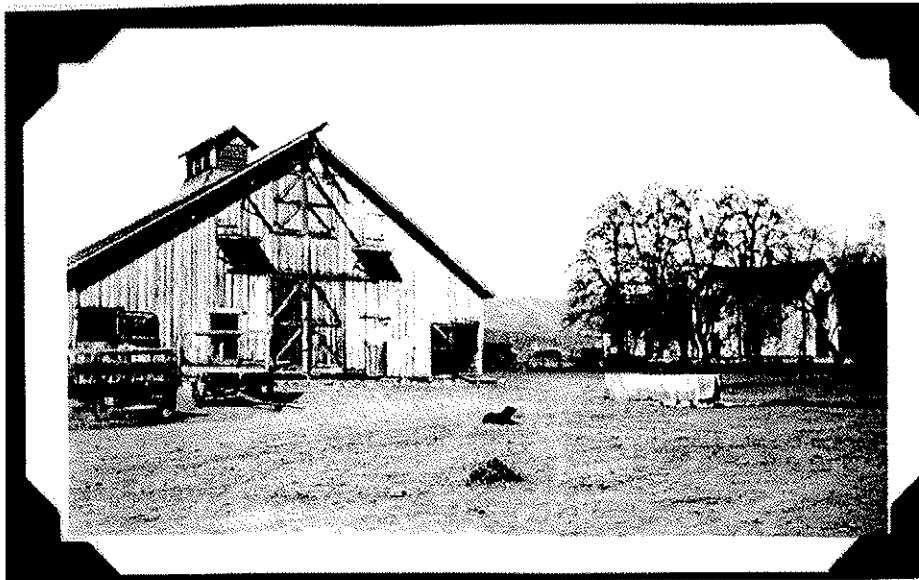


Figure 1. Historic Photo of “Howell” (CA. 1935).

“Howell” changed hands in February of 1910, when Eliza R. and William H. Howell sold the site--at least 80 acres, according to the deed. That transaction provides the first reference to William Howell and corroborates accounts, which refer to an “Uncle Billy” Howell and his extensive sheep operation in Spring Valley.

The purchasers – W.C. Cleveland and John Archabal – apparently added surrounding parcels to the ranch. When they sold Spring Valley Ranch to Colin McLeod I (and W.J. Hodgson) on October 4, 1916, there were 1,400 acres, including the two and one-half mile long Spring Valley itself.

In the absence of historical narratives, mapping was used to piece together the story of Spring Valley Ranch. The 1897 USGS map identifies two over land routes from the Boise Valley to the Payette River and the site of today’s community of Horseshoe Bend. As noted above, the first followed the route of Broken Horn Road from Seaman’s Gulch. The road split at Willow Creek – the west fork going to the mining town of Pearl; the east fork to Horseshoe Bend.

The other roadway, identified as the Healey Toll Road, is today’s Cartwright Road. One may assume that this road was the most direct and better-maintained facility of the two, making the collection of a fee for its use acceptable.

Historic mapping also suggests that other elements of “community” were important to the widely scattered residents of northern Ada County. Three area schools are shown on the pages of the November 1938 edition of Metsker’s Atlas of Ada County. Stack Rock School on Cartwright Road (formerly Healey Toll Road) and Upper Dry Creek School apparently served the residents east and south of Spring Valley Ranch. Residents of Spring Valley, Rocky Canyon and Willow Creek were served by the Spring Hill School located at the Southwest corner of Section 12, a mile west of the ranch headquarters. Orin Givens, son of Guy Givens who operated the ranch during the 1930’s told stories to his family of riding his horse to the school and having to remain there with the teacher and other students during snowstorms.

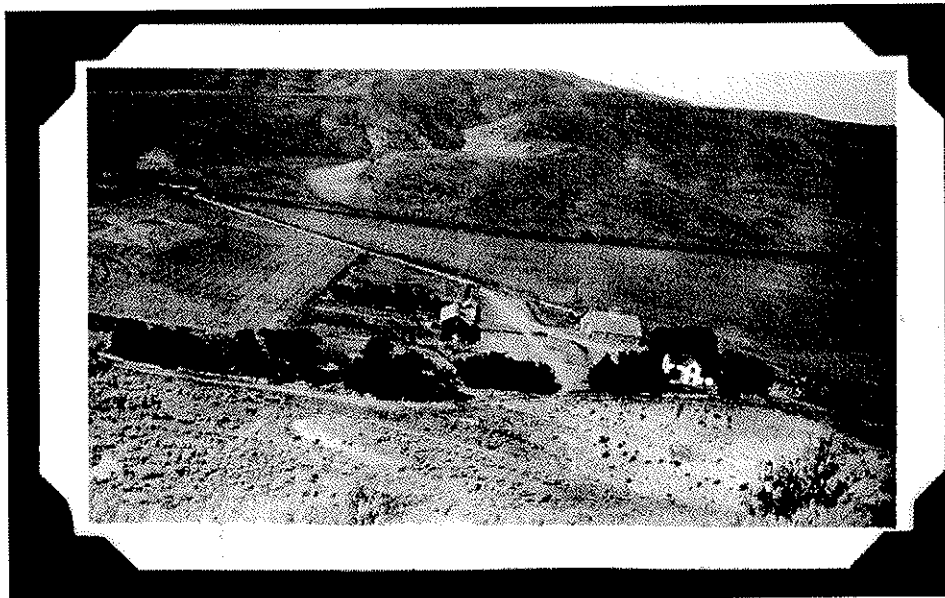


Figure 2. Historic View of Spring Valley Ranch (CA. 1935).

1.1.2 McLeod Family

Colin McLeod was born in Ardgay, Rosshire, Scotland, on February 27, 1880. It was in 1899, when a young man of nineteen years, Colin came to Idaho from Scotland and entered the sheep industry at Rockville with Finley McKenzie, his employer for six years. McLeod began business on his own in partnership with John Bruce, having ten thousand head of sheep at their camp, Jump Creek, eighteen miles south of Caldwell. McLeod disposed of his interest in the business and, in 1916, purchased Spring Valley Ranch.

McLeod was recognized as one of the most progressive and enterprising young sheepmen of Idaho and did much to improve the conditions of the business in the state. After his death, his son Colin “Smokey” McLeod II continued the sheep business until about 1982, when the ranch transitioned to cattle. Smokey’s son, Sandy (Colin III), took over the ranch in 1995 upon his father’s death and continues to operate it today.

For nearly 90 years, the three generations of Colin McLeod have not only operated the ranch, they have “grown” it from the original 1,400 acre purchase (Figure 2) to more than 38,000

acres. They have shared it with other area sheepmen who moved their flocks through the ranch to private and public grazing land. Over time, ranching operations have evolved from sheep, to sheep and horses, then since the early 1980's, cattle.

Even as the McLeod name has become synonymous with Spring Valley, the land has also been home to numerous Basque shepherders who worked at Spring Valley Ranch (Figure 3), caring for both the flocks and for the land. The Basque culture is still prevalent in the area and continues to flourish throughout the state and region. Spring Valley Ranch's history includes strong ties to the Basque people, who enriched the land with their successful sheep operations and created a self-sustaining way of life. It is the heritage of ninety (90) years of McLeod family ownership and concern for the land that form the basis for the future – and for development of a “place” upon that land for succeeding generations. It is the Scottish heritage of the McLeod family that led to the selection of

Avimor, which is named after Scotland's Aviemore (note spelling difference) a thriving, active-lifestyle resort town in the Highlands and the gateway to a major national park.

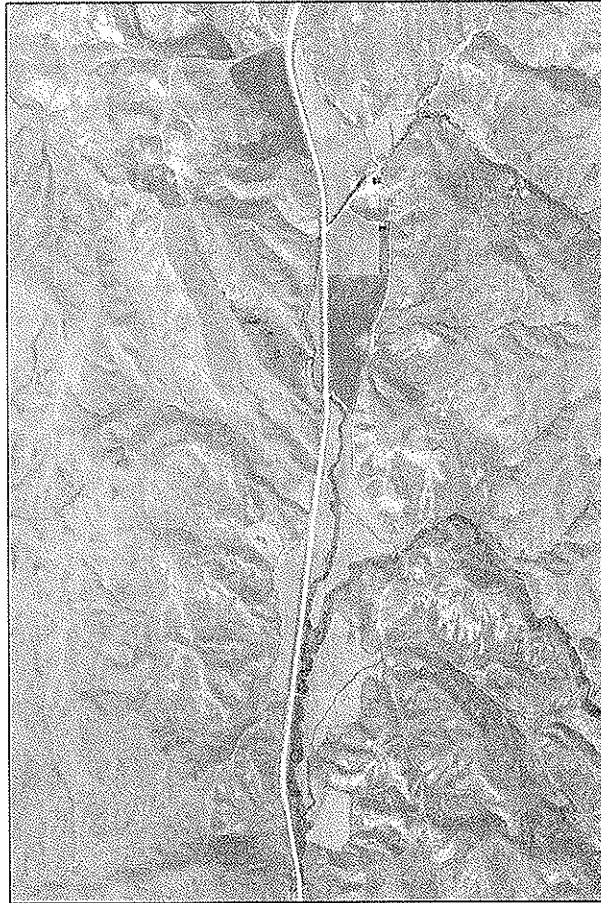


Figure 3. Aerial View of Spring Valley Ranch.

In July 2003, the McLeod family contributed 26,600-acres of their 38,000-acres ranch into a trust in a forward looking development agreement with SunCor Development Company. The “contributed” acreage has since been modified, with trusts lands now reduced to approximately 23,000-acres. The goal shared by the McLeod family and SunCor is to craft a community that holds the McLeod family vision. A clear distinction is drawn between Spring Valley Ranch and the APC. At 830-acres, the proposed APC represents only 2.2 percent of the ranch, which will continue to operate as the community forms. However, it should be noted that the ranching operations would not interfere with the development of the proposed APC and vice versa. The proposed APC falls within the “core area” of the Spring Valley Ranch along the SH-55 corridor.

1.2 Proposed Avimor Planned Community and Development Description

The proposed APC development is sited on a parcel that is approximately 830 acres in size and is located east of State Highway (SH) 55, approximately five miles northeast of Eagle, Idaho. Spring Valley Creek runs from north to south paralleling SH-55 along the western edge of the property. Elevation ranges between 3,150 and 3,520 feet above mean sea level. The site is primarily used for agricultural purposes. The western portion of the property along SH-55 is under cultivation with alfalfa (*Medicago sativa*). The remainder of the property is currently used for livestock grazing.

The proposed development (Figure 4) will incorporate residential housing, commercial space, sporting and recreation facilities, as well as parks and natural open areas. Based on initial conceptual maps:

- Mixed-Use development will occupy approximately 12.5-acres (1.5%) of the project area, and will be found primarily in the western portion of the property;
- Residential development, both village and foothills, will occupy approximately 299.5-acres (36%) of the area, and will be found throughout the project;
- Improved open space (parks, sports fields, and a nursery) will occupy approximately 20-acres (2.4%) of the area, and will be found primarily in the western portion of the property; and
- Natural open space, which will occupy the majority of the property covering approximately 498-acres (60%) of the area. Natural open space areas would be scattered throughout the development from the riparian corridor along SH-55 to the larger blocks of land on the foothills. Any proposed conservation easements would add to the current amount of natural open space.

2.0 LOCAL ECOLOGY

This section describes the general ecology of the Boise Foothills and characteristics of the surrounding area. This will be followed by a more in-depth description of the current conditions of the proposed APC based on historic data and delineation of the vegetation communities and associated habitat. Lastly, will be a detailed description of the primary wildlife and plant species identified in the area, as well as their habitat associations and general use of the area.

2.1 General Overview of the Boise Foothills

For the purposes of this document, reference to the Boise Foothills or Foothills refers to the area identified by the Boise Foothills Open Space Management Plan for Public Lands (BP&R 2000). This area covers approximately 80,500-acres immediately north of Boise, Idaho. The southern boundaries follow Hill Road and Warm Springs Avenue west to SH-55 and the east to SH-21. The northern boundary includes Boise Ridge Road and the Ada County boundary. Since vegetation and wildlife are not constrained by these boundaries, areas outside the identified range will also be referenced.

2.1.1 Current Condition of Foothills

The ecological condition in the Boise Foothills across the entire Boise front ranges from poor to excellent (BP&R 2000). Generally, on the lower elevations of the Foothills, annual exotic grasses and other noxious weed species have replaced much of the native vegetation. The Ada County Weed and Pest Control (ACWPC) reports that infestations of noxious weeds in the Foothills include: rush skeletonweed (*Chondrilla juncea*), whitetop (*Cardaria draba*), Canada thistle (*Cirsium arvense*), Scotch thistle (*Onopordum acanthium*), field bindweed (*Convolvulus arvensis*), punctervine (*Tribulus terrestris*), purple loosestrife (*Lythrum salicaria*) and poison hemlock (*Conium maculatum*). Of these, rush skeletonweed is contributing the most considerable damage to the Foothills ecosystem (BP&R 2000).

Various disturbance factors have likely contributed to the explosion of invasive and noxious species currently dominating the lower elevation portion of the foothills. Increased soil disturbance in the foothills is generally attributed to road construction, farming, domestic livestock grazing, logging, urban development, recreation, and wildfire. These disturbances remove existing native vegetation and provide an opportunity for invasive species to establish and spread (Sheley *et al.* 1999). In addition, exotic grasses, medusahead (*Taeniatherum caput-medusae*) and cheatgrass (*Bromus tectorum*), has had a profound effect on the Foothills ecosystem by augmenting fuel loads. These augmented fuel loads increase the potential for accidental ignition, thereby reducing the amount of time between fires. Increased frequencies of wildfire generally favor annual species that require less time to establish and reproduce in comparison to native perennial bunchgrasses or shrub communities (Anderson and Inouye 2001; Entwistle *et al.* 2001).

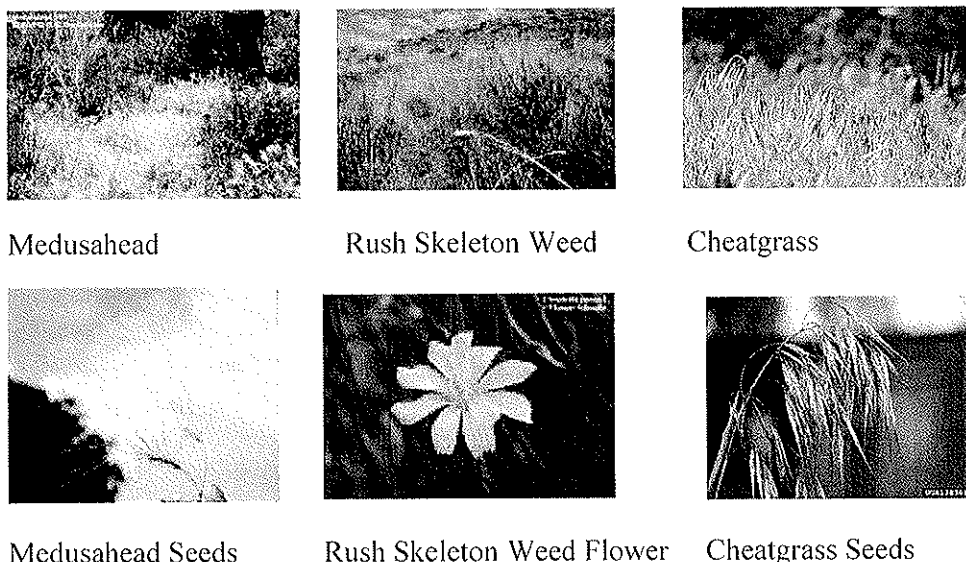


Figure 5. Primary Invasive and Noxious Weed Species in Foothills Communities.

The overall condition of the Foothills improves appreciably at higher elevations. Most communities are still dominated by native species, while the amount of disturbance and associated invasive and noxious weed species decreases. This is due primarily to historically less use by livestock, and limited human activity. However, over time as the population in Boise has increased, so has the use of these higher-elevation sites. The results of this continued expansion are likely to mimic those that have occurred at lower elevations without more intensive management of the resources and their uses.

2.1.2 Foothill Plant Communities

There are six primary vegetation communities identified in the Boise Foothills by the Open Space Plan (2000) including: grasslands, upland shrubs, forested, mountain shrub, riparian, and planted woodland groves. Upland native plant communities in the Foothills are predominantly composed of grassland and upland shrub communities found on the lower and mid-elevation slopes, with forested and mountain shrub communities at the high elevations. Riparian communities are found at all elevations and generally have the greatest biodiversity of any community. The planted woodland groves are generally non-native species restricted to the lower elevations adjacent to the City of Boise. The Public Lands Open Space Management Plan defines these Foothills communities (BP&R 2000) as:

Grasslands

*Grasslands are a dominant plant community on the lower elevation slopes composed of lacustrine, or lakebed, soils. Grazing and fire on the lower slopes has eliminated much of the former native shrub and grass vegetation and left dense stands of annual grasses. These annual grasses include cheatgrass (*Bromus tectorum*) on sandy soils and medusahead (*Taeniatherum caput-medusae*) on soils with higher clay content. Other exotics and state-listed noxious weeds have also impacted the grasslands.*

The most significant noxious forbs are likely rush skeletonweed. Remnants of native vegetation remain in some lower Foothills areas such as Hulls Gulch/Camel's Back Reserve and Military Reserve where upland shrub and grass communities include bitterbrush (*Purshia tridetata*), sagebrush (*Artemisia* spp.), and rabbitbrush (*Chrysothamnus* spp.) as the primary shrub species. Perennial grasses include threeawn (*Aristida longiseta*), Sandberg's bluegrass (*Poa sandbergii*), and bluebunch wheatgrass (*Agropyron spicatum*) (EDAW, CH2M Hill, Jensen-Belts Associates, 1996).

Upland Shrub Communities

The sagebrush and bitterbrush upland shrub communities are prevalent on mid-elevation granitic soils. Historic grazing and fires have altered the native composition of these communities. Thus, the existing shrub communities are represented in a patchwork of remnant native shrub communities. Herb compositions of these shrub communities range from native to exotic species. Upland shrub populations on the northeast aspects appear to be more resilient to burns and weed invasions (Mancuso, 1999). The Interagency Fire Rehabilitation Report (1996) identified shrub communities in good to excellent condition that included big sagebrush/bluebunch wheatgrass–Thurber's needlegrass (*Stipa thurberiana*) on many south aspects and bitterbrush/bluebunch wheatgrass on shallow, rocky areas with south aspects. North aspects supported a big sagebrush/Idaho fescue (*Festuca idahoensis*) community type. Vegetation determined to be in poor to fair condition was characterized by increased coverage of threeawn grass, Sandberg's bluegrass, and rabbitbrush.

Forested

Forested areas are present in the upper elevations of the Foothills on granitic soils. The Interagency Fire Rehabilitation Report (1996) found that plant community compositions in the forested areas included Douglas fir/ninebark communities on the north aspects, while ponderosa pine with understories of bitterbrush, bluebunch wheatgrass, and Idaho fescue were found on dry or rocky sites.

Mountain Shrub

Mountain shrub areas are frequently adjacent to forested areas in the upper elevations of the Foothills. These shrub communities are dominated by chokecherry, bitter cherry, bitterbrush, and bluebunch wheatgrass. Mountain shrub communities also include ceanothus, aspen, serviceberry, mountain maple, ninebark, and snowbrush.

Riparian

Riparian plant communities are associated with perennial and intermittent streams throughout the Foothills. Lower elevation riparian zones generally have tree canopies dominated by black cottonwood with box elder, elm, water birch, and peach leaf willows. The shrub layer is dominated by willows

(coyote and arroyo), golden currant, thin-leaf alder, black hawthorn, red-osier dogwood, poison ivy, honeysuckle and Wood's rose. Riparian zones in the mid- to upper elevations generally do not have a tree canopy, but are dominated by the willows and shrubs listed above. Detailed compositions of several riparian plant communities are documented in Moseley et al., 1992. Emergent wetlands are also found within the riparian zones in the Foothills. Willows, cattails, and sedges generally dominate the vegetation in these areas. Standing water can be found in some areas. Grazing and drought have reduced the extent of the wetlands (EDAW 1996).

Planted Woodland Groves

Planted woodland groves, consisting of exotic tree plantings, are located in the lower Foothills adjacent to the city. Tree species that occur in this mix include black locust, silver maple, tree of heaven, Scotch pine, linden, Norway maple, and oak. One example of this community type is restricted to the flats east of the lower water tank in Hulls Gulch. Introduced trees in the groves show little evidence of regeneration. The understory is primarily a mixture of annual and perennial grasses (EDAW 1996).

2.1.3 Foothills Wildlife

The community dynamics of the Foothills ecosystems supports more than 290 species of wildlife, including wintering populations of mule deer and elk, migrating raptors and Neotropical birds, and several Idaho-listed special status species (BP&R 2000). Based on the variability of habitat requirements for each species, this report will discuss several key groups of species, including: big game species, upland game birds, and non-game species. While this chapter discusses the current conditions of wildlife in the Foothills, the next chapter will identify potential impacts to wildlife and vegetation, followed by general recommendations to avoid, minimize, or mitigate impacts to overall habitat.

Big Game

The lower elevation portion of the foothills north of Boise, east of SH-55, and west of SH-21 are designated as big game winter range (Figure 6) (BP&R 2000). This area also falls within the Boise River Elk Management Zone (EMZ) and game management unit (GMU) 39, with the Wieser River EMZ and GMU-32 on the west side of SH-55. The Boise River EMZ/GMU-39 occupies approximately 2,400 square miles and includes all or portions of the Sawtooth National Recreation Area, Boise National Forest, and the Boise River Wildlife Management Area (Figure 7).

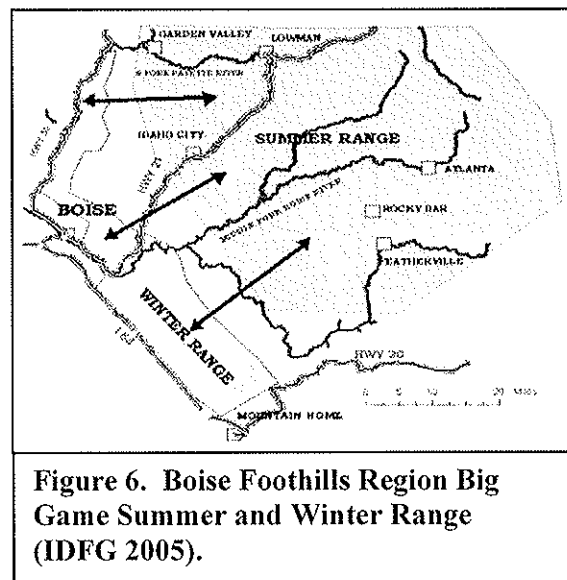


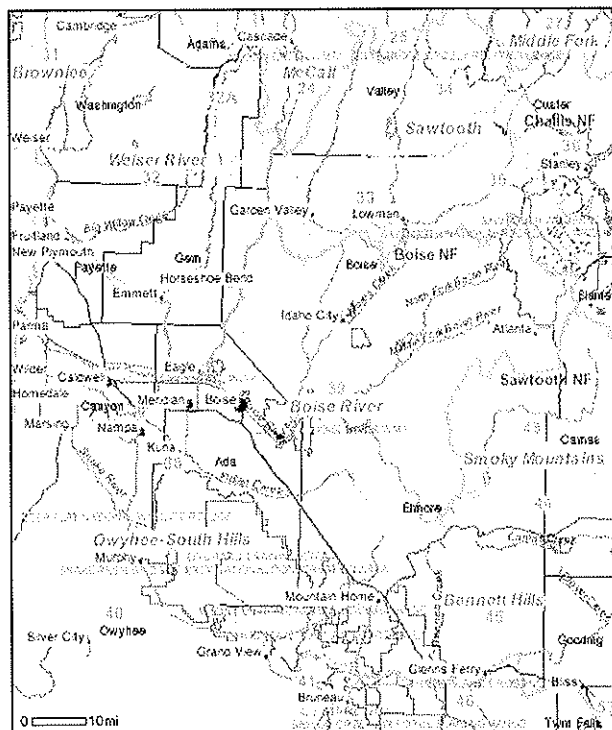
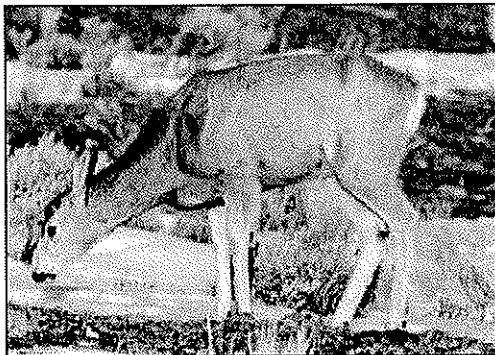
Figure 6. Boise Foothills Region Big Game Summer and Winter Range (IDFG 2005).

Currently, there are three primary big game species identified within the unit: mule deer (*Odocoileus hemionus*), elk (*Cervus elaphus*), and pronghorn antelope (*Antilocapra americana*). Hunting seasons within the unit are restricted to deer and elk, and do not include pronghorn antelope. In addition to these species, white tailed deer, mountain lion, and black bear have been observed in the Boise Foothills.

Small changes to the lower Foothills can have large repercussions for big game winter range across a broad area, especially during hard winters. Big game is pushed down to lower elevation areas, identified by the Idaho Department of Fish and Game as winter range, in order to over-winter. These sites require shallow snow levels, adequate food, sight and thermal cover, and limited disturbances in order to maintain energy balance and minimize over winter weight loss (IDFG 2004; Thomas *et al.* 1988). If these conditions are not present, energy losses could exceed gains over an extended time, potentially resulting in winter mortality or failure to reproduce the following year.

In addition to a final destination for big game during their winter migrations, the Foothills also act as movement corridors that big game utilize to access different aspects of their habitat throughout the season. These areas are identified as big game migration corridors and are crucial for winter survival.

Mule Deer



**Figure 7. Map of Boise River EMZ/
GMU-32.**

Mule deer are one of Idaho's most abundant and widely distributed big game animals and provide more recreational opportunity than any other big game species (IDFG 2005a; IDFG 2004). Based on population trend estimates by the Idaho Fish and Game in 2003, the approximate mule deer population within GMU-39 was 27,800, up from 23,861 in 2001 (IDFG 2004). Specifics about the hunting season are found in Table 1 below.

Mule deer are best adapted to seral transitional habitat types. They generally browse on a wide variety of woody plants, primarily during the winter when snow covers most grasses and forbs. Common browse plants include bitterbrush, sagebrush, aspen, dogwood, juniper and Douglas-fir. They graze on various grasses and forbs heavily during spring, summer and fall. They do occasionally feed on agricultural crops as well.

Streubel (2000) found that deer in Idaho showed a high fidelity to their summer range, but less so to their winter range; deer from one summer range migrated to different winter ranges. Mule deer migrate from high mountainous country to lower valleys and foothills during late fall to avoid heavy snow (Brown 1992). Mule deer winter habitat in western North America is generally defined as S, SW, SE, or W aspects of mild to medium slopes (10-45%) below 4500 feet in elevation, and are generally associated with some type of thermal cover, such as mature trees with a closed canopy or rock overhangs, with shrub species present for forage (Thomas *et al.* 1988, Thomas 1979; and Hoover and Willis 1987).

The mule deer migration from summer range in the Boise Mountains to the historic winter range along the Boise foothills is generally triggered by cold temperatures and snow depth (Figure 6 and 8). Lower elevation habitat in the foothills is very important during hard winters as mule deer groups try to avoid deep snow, which can hamper their abilities to find forage and quickly deplete their necessary fat storage (IDFG 2005b).

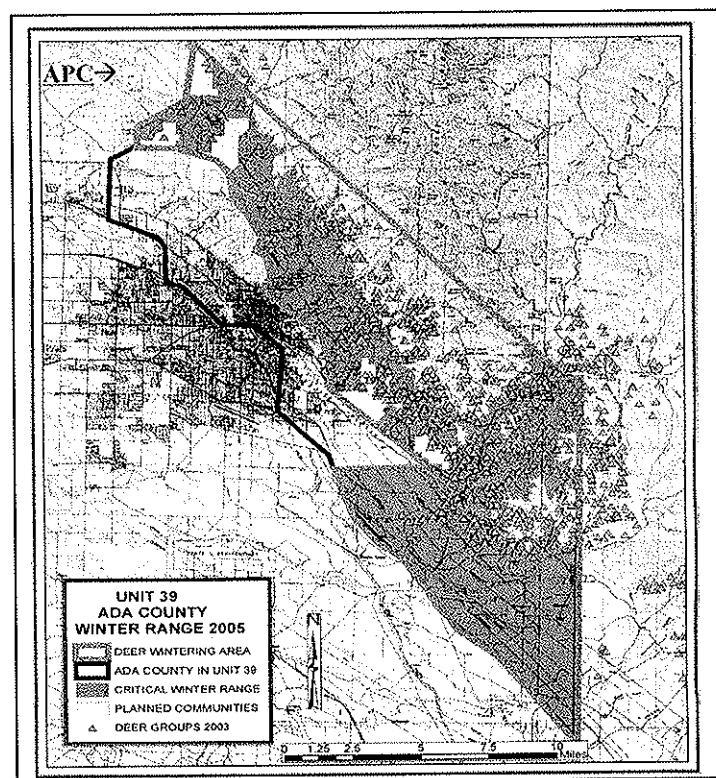
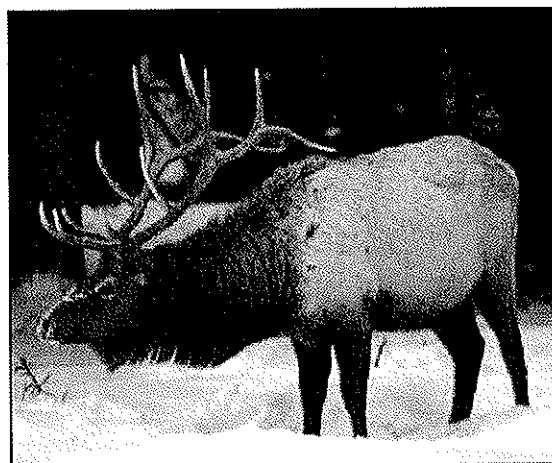


Figure 8. Foothills Winter Range and Deer Groups (IDFG 2005).

Table 1. 2005 Mule Deer Hunting Season and Statistics (IDFG 2004).				
	Weapon Type/Other Info.	Season Dates	No. Permits	Area Description
General/Ant	Any	Oct. 5-31	NA	All of Unit 39
General/Antless	No Hunt			
Youth Hunt/Both	Any	Oct. 5-31	NA	All of Unit 39
General/Ant	Archery	Nov. 10-30	NA	*Portion of Unit 39.
General/Antless	Archery	Nov. 10-30	NA	*Portion of Unit 39.
General/Antless	Muzzle Loader	Sep. 8-30	NA	All of Unit 39; Motorized Vehicle Restriction
Controlled/Ant	Any	Aug. 15-24	199	All of Unit 39
Controlled/Antless	Any	Oct. 10-31	1200	**Portion of Unit 39.
Controlled/ Either Sex	Archery	Nov. 16-Dec. 16	125	***Portion of Unit 39.
Controlled/Ant	Any/Outfitter	Aug. 15- Sep. 24	1	All of Unit 39
Ant: Antlered Antless: Antlerless Both: (Antlered & Antlerless)				
*AREA CLOSURE: That portion of Unit 39 within Ada County AND that portion of Unit 39 within the following boundary: Beginning at the intersection of state highway 21 and the Middle Fork Boise River road (Forest Rd 268), east on Forest Rd 268 to Cottonwood Creek-Thorn Creek Road (Forest Rd 377), north and west on Forest Road 377 to State Highway 21, south and west on Highway 21 to the point of beginning is CLOSED.				
**All of Unit 39 EXCEPT that portion of Unit 39 south and east of the Blacks Creek Road and south of the South Fork of the Boise River.				
***That portion of Unit 39 within the following boundary: Beginning at a point 400 yards north of State Highway 21 at the Ada County Line, south and west on a line 400 yards north of State Highway 21 to Warm Springs Avenue, and west on a line 400 yards north of Warm Springs Avenue to the Highlands-Table Rock powerline, north and west on the Highlands-Table Rock powerline to State Highway 55, north on Highway 55 to the Ada County Line, and southeast on the Ada County Line to the point of beginning.				

Elk

Elk seem to prefer mountainous country with mixed open, grassy meadows, marshy meadows, river flats, and aspen parkland, as well as coniferous forests, brushy clear cuts, forest edges, and shrub steppe. Some populations live year-round in sagebrush desert, using grass-shrub for feeding and tall shrub or pole timber for resting in spring; they feed in clear cuts and shrub fields and rest in pole timber in summer; and stay in mesic (moderate moisture) pole timber in the autumn (Streubel 2000). Elk habitat varies greatly according to location. They are primarily a grazing species, relying on



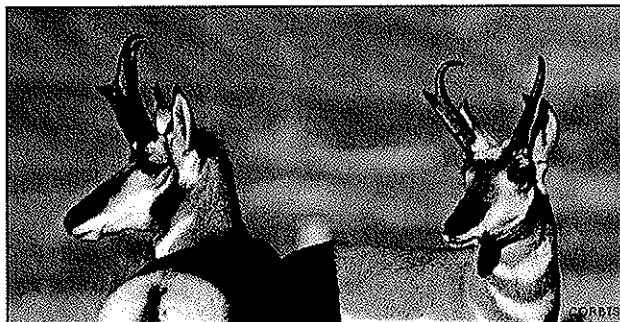
grasses for most of the year, but they also consume forbs in summer, and may browse on willow and aspen where grasses are unavailable, especially during winter months. Based on population trend estimates by the Idaho Fish and Game in 2005, the approximate mule deer population within GMU-39 was 5,385, down from 7,236 in 2002 (IDFG 2005c). The number of elk, including cows, bulls, and adult bulls, in the unit over the 2005 winter was 4554 (IDFG 2005c). Specifics about the hunting season are found in Table 2 below.

Elk migration to winter range is very similar to mule deer from the Boise Mountains. However, there is a resident population that uses the Boise Front all year long. In Idaho, and throughout the northern Rockies, herds move to lower elevations in winter to feed. Individuals exhibit a high fidelity to their home range, but may abandon it if they are excessively disturbed (Streubel 2000).

Table 2. 2005 Elk Hunting Season and Statistics (IDFG 2005c).				
	Weapon Type/ Other Info.	Season Dates	No. Permits	Area Description
General/Ant	Any	Nov. 1-9	NA	All of Unit 39
General/Antless	Archery	Nov. 10-30	NA	*Portion of Unit 39.
General/Antless	Muzzle Loader	Sep. 8-30	NA	All of Unit 39
Controlled/Antless	Any	Oct. 5-31	500	All of Unit 39
Controlled/Antless	Any	Oct. 5-31	500	All of Unit 39
Controlled/Antless	Any	Aug. 1-Nov. 9 Dec.1-Dec. 31	600	**All of Unit 39
Ant: Antlered Antless: Antlerless Both: (Antlered & Antlerless)				
*That portion of Unit 39 within Ada County and that portion within the following boundary: Beginning at the intersection of state highway 21 and the Middle Fork Boise River road (Forest Rd 268), east on Forest Rd 268 to Cottonwood Creek-Thorn Creek Road (Forest Rd 377), north and west on Forest Road 377 to State Highway 21, south and west on Highway 21 to the point of beginning is CLOSED.				
**Landowner Permission Hunts. Written permission from a landowner who owns more than 159 acres in the hunt area is required to apply for this hunt. Landowner Permission Hunt Permits will be sold on a first-come, first-served basis at the Nampa, McCall and headquarters IDFG offices starting Jul 15.				

American Pronghorn

Pronghorn are generally found on grasslands, shrub steppe, and foothills. They seem to prefer rangeland with vegetation less than 2 feet in height and wide-open, expansive range. They are often found in low shrubs such as sagebrush, and grassy vegetation in arid regions with less than 10 to 12 inches of snow on the ground in the winter. This may lead them to upper, wind-swept slopes in the winter, or fairly long migrations between summer and winter range. In the winter, southern Idaho pronghorn depend heavily on browse, especially sagebrush.



Pronghorn home range varies, but an Idaho study (Autenreith *et al.* 1975) found summer home ranges averaged about 8 square miles. Home range of yearlings was 2 to 5 times greater than adults. Large herds form in the winter but disperse in spring and form separate bachelor and female-fawn groups in spring and summer. In Idaho, pronghorns typically migrate to lower elevations in winter and move back to the heads of mountain valleys in the spring.

Pronghorn have some unique adaptations for their existence in open country. These adaptations allow them to be the fastest mammals in North America. They have been clocked at nearly 70 mph and they can obtain and maintain speeds of 30 to 45 mph for fairly long distances. Historically, pronghorns were extremely numerous throughout the west, but agricultural development, cattle grazing and construction of fences has drastically reduced their populations. Many pronghorn populations have not adapted to fences and their movements, and even seasonal migrations, have been blocked by fences. Some pronghorns do crawl under fences.

Upland Game Birds

There are a number of upland game birds found throughout the Foothills including pheasant, quail, chukar, doves, gray partridge, and grouse. Pheasant species are generally found on agricultural lands, but can also be found in some open drainages and valleys. Quail can be found in all most any community in the foothills and are often associated with roadways, agricultural communities and riparian zones. Chukar species generally inhabit rocky outcrops and steep hillsides with grass and shrubs components. There are several grouse species that are observed in forested systems and grass shrub steepe, but are normally found in or near riparian communities.



Non-game Species

Non-game species include many of the raptors, mammals, reptiles, amphibians, nesting and migrating birds species you would expect to find in the lower elevation reaches of the Boise Foothills. Many bird species in particular are likely to nest and forage within grass and upland shrub communities, including individual species that only use the site while migrating. Most bird species within the state of Idaho are covered under the 1918 Migratory Bird Treaty Act, with the exception of several introduced non-game species, such as the English or house sparrow (*Passer domesticus*) and European starling (*Sturnus vulgaris*).

The Migratory Bird Treaty Act (MBTA) (16 U.S.C. §§ 703-712, July 3, 1918, as amended 1936, 1960, 1968, 1969, 1974, 1978, 1986 and 1989) implements various treaties and conventions between the U.S. and Canada, Japan, Mexico and the former Soviet Union for the protection of migratory birds. Under the Act, taking, killing or possessing migratory birds is unlawful. The Act specifically states:

Unless permitted by regulations, the Act provides that it is unlawful to pursue, hunt, take, capture or kill; attempt to take, capture or kill; possess, offer to or sell, barter, purchase, deliver or cause to be shipped, exported, imported, transported, carried or received any migratory bird, part, nest, egg or product, manufactured or not. Subject to limitations in the Act, the Secretary of the Interior (Secretary) may adopt regulations determining the extent to which, if at all, hunting, taking, capturing, killing, possessing, selling, purchasing, shipping, transporting or exporting of any migratory bird, part, nest or egg will be allowed, having regard for temperature zones, distribution, abundance, economic value, breeding habits and migratory flight patterns. Regulations are effective upon Presidential approval. §§ 703 and 704.

The U.S. Fish and Wildlife Service's (USFWS) Law Enforcement division currently enforces the MBTA. According to USFWS law enforcement officers, since there is a possibility that migratory birds, their eggs, or inhabited nests could be inadvertently killed, crushed, or abandoned during construction activities of residential or commercial developments, these activities would be considered under the MBTA, as it pertains to "take" or "kill", and could result in violation of the MBTA. However, while the MBTA protects migratory birds, it is specific to those birds, their eggs, and occupied nests. It does not protect the habitat associated with these birds or unoccupied nest sites. Therefore, potential construction activities done in areas without migratory birds, or during time periods when these birds are not present, would not violate the MBTA. Based on current enforcement by the USFWS, the MBTA cannot be used to restrict development of an area in order to preserve habitat, or maintain the presence of migratory birds.

In addition to bird species, fox, coyote, jackrabbits, and other small mammals are also found throughout the Foothills in all habitat types, as are reptile and amphibian species. The amphibian species most likely will be associated with the riparian areas, while the reptiles will be found in drier sites, such as rock outcrops, or low elevation shrub communities. These species, along with smaller mammals, such as ground squirrels and other rodents are an important food source for the raptors and other predators throughout the Foothills.

Special Status Species

There are a number of special status species found throughout the Foothills. Most of these species have specific habitat types and are limited geographically. Rather than identifying all of those species, we are only going to address those identified in or around the proposed project area. A table of known special status plant and animal species known to inhabit the proposed APC or the area adjacent to it is found below, as is an expanded description of the species and associated habitat (See section 2.2.4).

2.2 General Overview of Proposed APC

As described in Section one, the proposed APC is located approximately 5 miles northeast of Eagle Idaho, on the east side of SH-55. The general climate of the area surrounding the proposed APC is characterized by sharp contrasts between summer and winter seasons. The average annual temperature recorded at the Boise Airport is 51.9 degree Fahrenheit (F), with the yearly average high (90.2 F) in July and the average low (36.4) in January (Western Regional Climate Center 2005). The winters, though cold, are generally not too severe. The

average precipitation recorded at the Boise Airport weather station from 1940 – 2005 is 11.54 inches annually (NOAA 2005).

The area south of the proposed APC is represented by patchwork of open natural areas, agricultural lands, and rural residents that transitions quickly into a dense array of urban neighborhoods. There are still remnant communities of native plants and areas of natural open space for wildlife, however it is quickly being converted to residential communities, including rural and low-density developments. While these types of developments, sometimes referred to as ranchettes, give the perception of open space, the general impact to wildlife are the same as higher density planned communities (See Chapter 3). In addition, these types of developments are not required to mitigate impacts to habitat and can restrict access to public lands. Further south, residential areas transition into commercial and industrial areas toward SH-44 (State Street), Eagle Road, and eventually Interstate-84.

The area to the west of the proposed APC is characterized by higher elevation foothills containing a mixture of shrubs, grasslands, and riparian areas. These areas provide a significant amount of open space for wildlife and accommodate a variety of native plant communities. However, this area is bordered to the west by a significant amount of agricultural use, and a growing number of residential and commercial developments expanding off of SH-16. This area is quickly becoming a human-dominated, highly manipulated landscape. This transition represents reduced values for resident and migrating wildlife species and plant communities.

The area north of the APC falls primarily in Boise and Gem County. From the proposed APC, the foothills increase in elevation to the top of Horseshoe Bend Hill. The Foothills then descend steeply to the town of Horseshoe Bend and the Payette River. As are most towns in SW Idaho, Horseshoe Bend is increasing in population. With this population increase there has been an increase in the number of rural residential home sites. As development continues in these areas it is expected that residual wildlife habitat would continue to be fragment and reduced.

To the east of the proposed APC area, the Boise foothills also gain in elevation into Boise County and eventually to Bogus Basin Ski Resort. This area has historically supported open native plant communities and contiguous wildlife habitat with little or no development. However, wildlife-restrictive fences between various land owners, domestic livestock grazing, recreation, and an unmanaged trail system has had adverse affect on native plant communities and wildlife in the area.

The area associated with the proposed APC (See Section 1.2) is made up primarily of converted (agricultural lands) and non-converted upland grassland/shrubs lands, and riparian communities. There are no forested, mountain shrub, or planted woodland groves within or adjacent to the proposed APC.

Wildlife species associated with low elevation Foothills communities are generally the same through out the Foothills; therefore, only big game, upland game bird, and special status

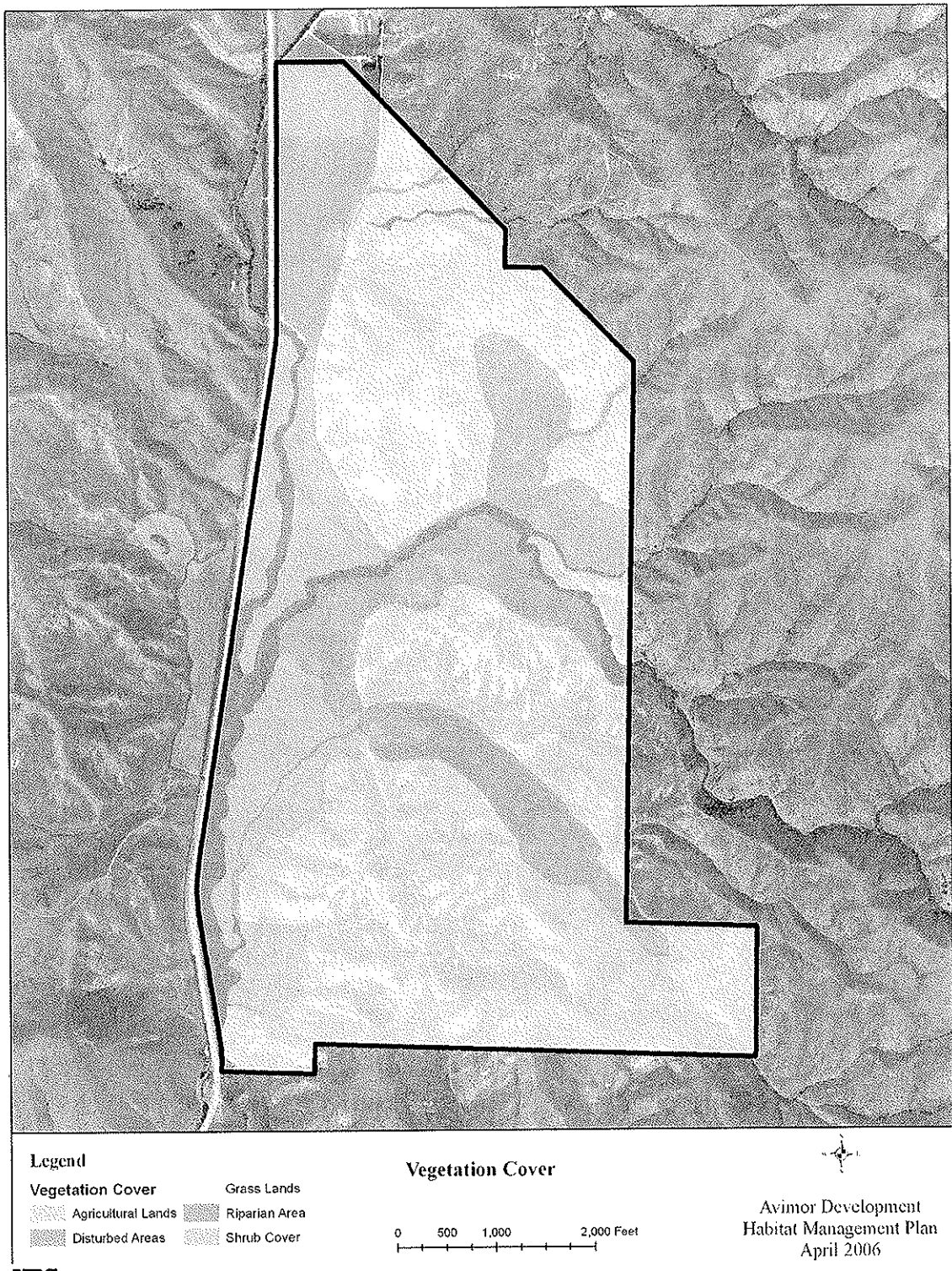
plant and animal species associated with the area, i.e. in or adjacent to the proposed APC will be discussed in this section.

2.2.1 Vegetation

The vegetative communities found in or adjacent to the proposed APC are those generally associated with the Foothills ecosystem. However, based on the dominance of agriculture within the area, and its affect on plant and wildlife species, it has been included as a community type. There are no forested, mountain shrub, or planted woodland groves within or adjacent to the proposed APC; therefore they will not be discussed in this section.

Table 3 below quantifies, based on quality of habitat, the amount and percent of each community type found within the proposed APC boundary. Vegetation boundaries and quality were identified on the ground and digitally mapped using the following classes to identify the condition of each community (Figure 9). Following Figure 9 is an expanded description of the vegetative communities and wildlife found within or adjacent to the proposed APC.

Table 3. Vegetative Communities Within the APC.		
Community Type	No. Acres	% of Total
Agricultural	122.22	14.42%
Grassland	496.11	58.53%
Shrub	119.31	14.08%
Riparian	101.88	12.02%
Disturbed	8.10	0.10%
Total	847.62	100.00%



URS

Figure 9. Vegetative Communities Within APC.

Upland Grassland/Shrubland

Upland grasslands and shrub communities found within and adjacent to the proposed APC, are generally in poor to marginal condition (URS 2003, URS 2004; and URS-2005), with remnant patches of perennial grass, shrub, and forbs species. Residual native communities (Figure 10) are generally limited to isolated patches on steeper north and east facing slopes that have had limited use from historic livestock grazing or recreation; thereby reducing the spread of invasive non-natives and limiting changes to the fire regimes (Young and Evans 1978). These sites are generally to steep (greater than 25°) for development purposes.



Figure 10. View of Native Uplands South of the Proposed Project Area.

Invasive annual grasses and forbs, such as medusahead, cheatgrass, and rush skeletonweed, dominate the foothills around the proposed APC (Figure 11). These species out-compete and replace native perennial plant species, which can impact soil composition, structure, and function, and reduced overall biodiversity of the area (Klemmedson and Smith 1964; Vitousek *et al.* 1996). While these sites can provide forage and habitat for some wildlife species, it has limited value in relationship to native-dominated community (Blaisdell and Pechanec 1949).



Figure 11. View of Disturbed Uplands sites.

Riparian Communities

The narrow riparian zones found within the proposed APC consist of a primary intermittent or seasonal stream (Spring Valley Creek) fed by several unnamed ephemeral streams (Figure 12). The riparian areas associated with the valley bottomland are dominated by large woody species including cottonwoods, birch, and various willows. Chokecherry, hawthorn, and several current species inhabit riparian slopes and adjacent hillsides. Forbs and grasses are found in all three zones while



Figure 12. View of Spring Valley Creek.

sedges and rush species are only found in or near the riparian zones. The dominant species found in the area are those commonly found in the Boise foothills environment. These areas support the greatest diversity of plant and animal species. Many wildlife species rely on the cover of trees and shrubs for nesting, forage, and escape habitat. Riparian and drainage areas are also used as movement and migration corridors for some wildlife species.

Agricultural Lands

The majority of the proposed APC is composed of existing agricultural lands used for the production of alfalfa and hay (Figure 13). Currently, these areas are represented by a monoculture of alfalfa during the growing season, and bare soil after harvest and tilling. Typically, plowed agricultural fields result in the potential establishment and spread of noxious weeds and non-native invasive plant species related to ongoing soil disturbance, transported livestock, and machinery from other locations with weed infestations. There is generally only limited use of this type of habitat by wildlife. Upland game bird species and other avian species may utilize the agricultural land and adjacent waterways for cover and forage. Resident and winter migrant big game species (elk and mule deer) may also seek forage in these fields during harsh winters.

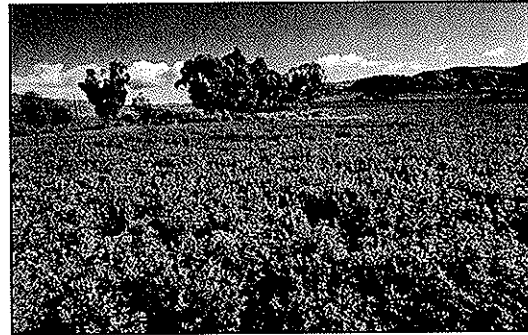


Figure 13. View of Agricultural Field (Alfalfa).

In addition to agricultural use of the area, the foothills surrounding the proposed APC have been historically used to graze domestic livestock, primarily cattle and sheep. Domestic livestock use of this area has had significant impact on native plant communities and wildlife species, including special status plants, ground dwelling and nesting wildlife, and survival rates of wintering big game (LEPA 2003; Hanley and Page 1981; Skovlin *et al.* 1968).

The potential for domestic livestock to adversely affect plant communities and wildlife habitat is normally greatest when consistent heavy spring use occurs during the critical growth period of forage species and when soils are still saturated. Trampling, over utilization, and defoliation of palatable species reduces vigor, abundance, and reproductive ability; thereby, limiting the capacity of residual perennial communities to reestablish (Blaisdell and Pechanec 1949; Jones 2000). Hoof shear and trampling can also negatively affect ground dwelling wildlife and ground nesting birds by destroying burrow systems and crushing nest/eggs (Hanley and Page 1981).

Domestic cattle also directly compete for limited resources with native ungulates, such as mule deer and elk. For the most part, mule deer are less affected by livestock grazing than elk. Mule deer will select habitats grazed previously by domestic livestock, providing there is remaining forage (Yeo 1993). However, elk generally will not use an area grazed by livestock the previous season; therefore, the use of critical winter habitat by domestic livestock can have a negative impact on wintering elk populations by reducing available critical winter habitat (Kratville 1989). The use of these areas by domestic livestock can also

result in increased winter/spring mortality by reducing the amount of available forage during critical periods, such as late winter and early spring when fat reserves are extremely low and need to be replenished.

In addition to direct impacts, livestock can indirectly affect plant communities and wildlife habitat. Cattle, sheep, and other domestic livestock can act as vectors for many invasive and noxious weed species, and create micro habitats for these species through soil disturbance (hoof shear, bedding, etc.), which both benefit exotic species that are better adapted to livestock grazing at the expense of native species (Holecheck *et al.* 2001; Laycock and Conrad 1981). Native species, such as bluebunch wheatgrass and Idaho fescue generally exhibit reduced growth and reproduction when overgrazed, resulting in a transition from native perennial species to exotic annual species (Kimball and Schiffman 2003). The reduction of perennial reproduction and increased competition from invasive species can result in augmented fuel loads that reduce the interval between disturbance events (wildfire) and potentially enhance the size and severity of those events, which can further accelerate the expansion of exotic annual dominated communities, reducing natural habitat for wildlife species (Whisenant 1990).

2.2.2 Habitat Condition

Table 4 below quantifies, based on quality of habitat, the amount and percent of each community type found within the proposed APC. Community boundaries and vegetation condition were identified with aerial photography and an onsite ground survey, and then digitally mapped (Figure 14) using the classifications identified below. Based on general habitat characteristics and overall condition, the vegetation communities were grouped into three categories, agricultural, upland, and riparian communities. Upland communities consist of shrub and grasslands, and agricultural includes disturbed areas.

Poor Condition: Dominated by non-native invasive annual grass and forbs species, little or no remaining natural vegetation. Has extreme or moderate to extreme departure from reference condition, taking into consideration state and transition characteristics.

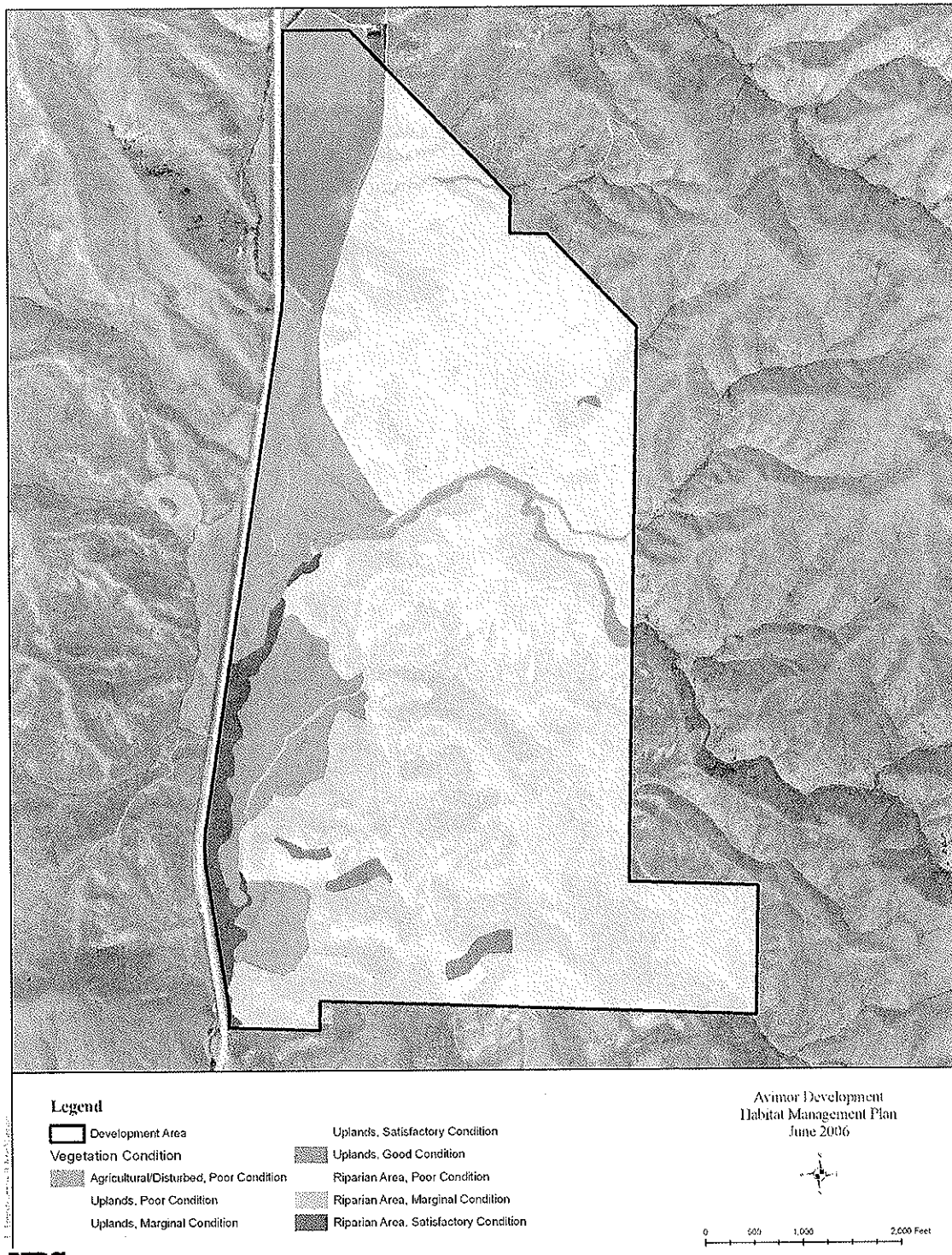
Marginal Condition: Co-dominated by native and non-native species. Has moderate to extreme (on the moderate side), moderate, or slight to moderate (on the moderate side) departure from reference condition, taking into consideration state and transition characteristics.

Satisfactory Condition: Dominated by native species, with sub-dominant population of non-native invasive annual grass and forbs. Has slight to moderate (on the slight side) or slight departure from reference condition, taking into consideration state and transition characteristics.

Good Condition: Dominated by native species, with only limited occurrences of non-native invasive annual grass and forbs. Has slight to none departure from reference condition, taking into consideration state and transition characteristics.

Pristine Condition: No noticeable invasive species present. Site within normal range of variability based on historic conditions, i.e. reference condition.

Table 4. Vegetative Communities and Condition Classes Within the APC.		
Community	No. Acres	% of Total
Agricultural (Poor)	148.90	17.58%
Upland (Poor)	422.00	49.82%
Upland (Marginal)	211.11	24.92%
Upland (Satisfactory)	5.35	0.63%
Upland (Good)	13.05	1.54%
Upland (Pristine)	0.00	0.00%
Riparian (Poor)	1.96	0.23%
Riparian (Marginal)	25.27	2.98%
Riparian (Satisfactory)	19.38	2.29%
Riparian (Good)	0.00	0.00%
Riparian (Pristine)	0.00	0.00%
Total	847.02	100.00%



URS

Figure 14. Habitat Condition Map.

2.2.3 Wildlife

Big Game Species

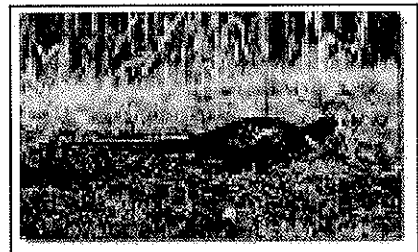
The area associated with the proposed APC is currently identified by the Boise Open Space Plan (2000) as 3rd priority grassland for big game winter range. This area is also identified as a destination point for winter habitat, and is not considered a migration corridor based primarily on the presence of SH-55; however, this observation is generally based on personal experience since there is little data available on big game migration in the area (Pers. Comm. IDFG 2006).

Similarly, there is little information available on big game numbers in the area from IDFG or other federal or state agencies. Therefore, the level of use by big game species in or adjacent to the area was based on historic observations by Colin "Sandy" McLeod III and the Spring Valley Ranch manager Jerry Thompson. According to their comments, the majority of big game species access the area from the northeast and east and winter snow depths and severity appear to govern the number of big game that accesses the lowest elevations of the foothills (pers. Comm. Sandy McLeod and Jerry Thompson 2005). In addition, elk were identified as the primary big game species found in the proximity of the proposed APC during winter months (pers. Comm. Sandy McLeod and Jerry Thompson 2005). However, based on their observations, only a small portion of the elk herds ever made it down to the agricultural fields or surrounding foothills, and these were only during harsh winters, such as 1985 and 1986, which are both record snow years. According to Mr. McLeod and Mr. Thompson, they normally stay at higher elevations sites, such as Dutchman Mountain near the Cartwright Canyon (pers. Comm. Sandy McLeod and Jerry Thompson 2005).

In addition to the presence of elk, mule deer have also been observed in the area, but are generally only seen in any large numbers in April, and only at higher elevations away from the property (pers. Comm. Sandy McLeod and Jerry Thompson 2005). Pronghorn antelope have not been observed, and there are no records of them in or adjacent to the area associated with the proposed APC in recent history. Therefore, it is assumed they do not currently use the area as critical winter habitat.

Upland Game Birds

Based on the presence of riparian zones and irrigated agricultural lands it is expected that various pheasants, quail, and partridge species could be found in and around the proposed development area. Agricultural lands generally support pheasant populations, while upland shrub, grassland, and riparian communities support quail, chuckar, and partridge. Water and riparian communities play a critical role in supporting upland game and other wildlife species at the proposed APC. Historically, sage grouse occurred through out the Foothills, including the area associated with the proposed APC. However, the overall alteration and reduction of big sagebrush communities in foothills, has eliminated sage grouse from the area.



2.2.4 Special Status Species

The following section addresses plant and wildlife species that have been identified by the Idaho Department of Fish and Game Conservation Data Center (CDC) as species of particular concern in the area associated with the proposed APC. A short description of the species habitat, as well as its state and national ranking are included in the description.

Idaho Listed Special Status Species Ranking (S Rank)

Ranks represent a prioritization scheme used by the CDC to determine the conservation status of a species (Table 5). The rank is primarily based upon the number of known occurrences but other factors such as habitat quality, estimated population size and trend, range of distribution, and threats to species or habitat are also considered. See the IDFG website (<http://fishandgame.idaho.gov/cms/tech/CDC/>) for a detailed review and evaluation of this ranking system. The state rank refers to the species status within the borders of Idaho. State ranks are subject to periodic revision as new information is obtained on a species either in Idaho or elsewhere in its range.

Three consecutive years, 2003, 2004, and 2005, of ground surveys were done in and around the proposed APC area in order to identify the presence of any of these species. The surveys reported no observations of any of these species within the area associated with the proposed APC (URS 2003; URS 2004; and URS 2005).

Table 5. Idaho Special Status Species Ranking System.	
Rank	Description
S1	Critically imperiled because of extreme rarity or because of some factor of its biology making it especially vulnerable to extinction (typically 5 or fewer occurrences).
S2	Imperiled because of rarity or because of other factors demonstrably making it vulnerable to extinction (typically 6 - 20 occurrences).
S3	Vulnerable (typically 21 - 100 occurrences).
S4	Not rare, and apparently secure, but with cause for long- term concern.
S5	Demonstrably widespread, abundant, and secure.
E	Exotic or introduced species.
NTMB	Neotropical Migratory Landbird. As defined by Saab and Groves (1992), these are bird species that breed in Idaho and winter in tropical America between the tropics of Cancer and Capricorn.

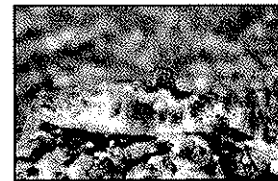
The proposed APC contains habitat that potentially supports eight Idaho-listed special status species. They include two species of fish, two species of amphibians, two species of birds, and two species of plant (Table 6). The majority of the special status species potentially occurring in the proposed APC are associated with riparian and wetland habitat. The other species are associated with dry upland areas. No special status species habitat is found within the agricultural field portion of the proposed APC.

Table 6. Special Status Species Potentially Occurring Within or Near the Proposed APC.			
Common Name	Scientific Name	Status	Plant/Animal
Trout, Inland Columbia Basin Redband	<i>Oncorhynchus mykiss gairdneri</i>	S2/S3	Vertebrate Animal
Trout, Bull	<i>Salvelinus confluentus</i>	S3-Also Federally Listed as Threatened	Vertebrate Animal
Woodhouse's Toad	<i>Bufo woodhousii</i>	S3	Vertebrate Animal
Northern Leopard Frog	<i>Rana pipiens</i>	S3	Vertebrate Animal
Long-billed Curlew	<i>Numenius americanus</i>	S3NTMB	Vertebrate Animal
Mountain Quail	<i>Oreortyx pictus</i>	S2	Vertebrate Animal
Aase's Onion	<i>Allium aaseae</i>	S3	Vascular Plant
Slick Spot Peppergrass	<i>Lepidium papilliferum</i>	S2	Vascular Plant

Inland Columbia Basin Redband Trout (*Oncorhynchus mykiss gairdneri*) and Bull Trout (*Salvelinus confluentus*)

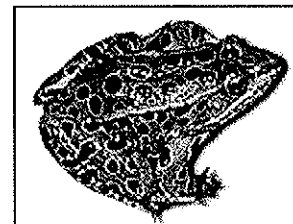
The CDC mapped these species as potentially occurring in Willow Creek located approximately 1.5 miles to the northwest of the Avimor PCD project area. On the APC project area there are approximately 1.5 miles of intermittent stream where bull and inland Columbia Basin redband trout could potentially exist.

However, habitat for trout is generally of poor quality for several reasons. The diversion of water from Spring Valley Creek for irrigation purposes has negatively altered the stream's hydrology. Observations made during a biological survey of the area indicate increased incision of the stream, decreasing stream bank stability, and increased sediment loads (URS 2005). Agricultural runoff from adjacent fields has likely contributed sediment and nutrient loads to Spring Valley Creek resulting in decreased water quality and negative impacts to overall trout and aquatic habitat in general. In addition, Spring Valley Creek goes dry during the late summer further reducing the potential for the presence of bull trout. No trout were observed during the surveys.



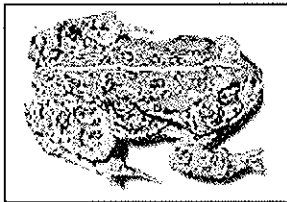
Northern Leopard Frog (*Rana pipiens*)

Northern Leopard Frogs in Idaho are generally associated with heavily vegetated marshes, ponds, streams, and wet areas. Otherwise, they seem to breed in areas that are also heavily vegetated. In Idaho, Northern Leopard Frogs are found throughout much of the southern part of the state, following the Snake River Plain. Populations also exist in the northern portion of the panhandle. These frogs hibernate in streams, ponds or other



aquatic locations during the winter. They disperse to moist uplands or permanent water during dry-up in summer and require moderately high ground cover for concealment. They are generally preyed upon by garter snakes. When disturbed, these frogs leap rapidly and erratically. Very little information exists to explain their decline in Idaho. However, based on the habitat types that occur on the APC proposed project area along the valley bottom adjacent to Spring Valley Creek, this species could be present. According to the CDC (2004), there has never been a recorded observation of this species within Spring Valley Creek.

Woodhouse's Toad (*Bufo woodhousii*)



Woodhouse's Toads are typically found in habitats such as prairies, agricultural areas and brushy flats often associated with a water source. The water source may vary from irrigation ditches, ponds, and small lakes to backwaters of the Snake River. Even though there is generally water in the area, they may forage quite a distance from the water source that they mate and lay eggs in. These toads are active in wet or dry weather. They are inactive during the cold months of fall, winter, and early spring. When inactive, they burrow underground, or hide under rocks, plants, or other cover.

Potential habitat for woodhouse toads on the APC proposed project area occurs along Spring Valley Creek. Woodhouse toads prefer lowland sandy areas, such as river bottoms, mountain canyons, desert streams, and are even known to use suburban backyards. These habitat types occur on the Avimor APC proposed project area along the valley bottom adjacent to Spring Valley Creek. Because of the diversity of habitat types used by the woodhouse toad, this species could be present on the Avimor PCD project area. According to the CDC (2004), there has never been a recorded observation of this species within Spring Valley Creek.

Long-billed Curlew (*Numenius americanus*)

In Idaho, curlews prefer open shrub steppe and grasslands containing short vegetation for nesting, and often feed in agricultural areas (Karl 2000). Long-billed curlews nest on both wet and dry uplands of Great Plains grasslands, preferring gravelly soil. In winter, the species is found in estuaries, mudflats, salt marshes, sandbars, coastal shorelines, sandy beaches, lake edges, and grain fields. Curlews migrate into southwestern Idaho during late March. While in Idaho, curlews lay eggs, and then tend to their nestlings and fledglings. Most curlews typically depart Idaho by mid-August.



Long-billed curlew habitat is present within the project area (Bicak, Redmond, and Jenni 1982). These birds could potentially utilize the cultivated fields, grassy floodplains, grazed mixed-grass communities, and annual grass communities within the Avimor PCD property for nesting habitat. Use of the area by long-billed curlew would likely occur during the spring only. Long-billed curlews generally exhibit low nest fidelity (nesting in different sites each year) and individuals would not be expected at the same nesting location each year (Audubon

Society 2005). During a biological survey of the area no individuals were observed (URS 2003-2005). There is ample habitat for long-billed curlews in close proximity to the Avimor PCD project area and throughout the Boise foothills.

Mountain Quail (*Oreortyx pictus*)



This bird species builds concealed nest in depression on ground, frequently near shrubs, bases of trees, or fallen logs. It forages on the ground, usually in early morning and late afternoon, and rests at mid-day. The species normally forms coveys (small groups) of 3- 20 birds in late summer and early fall, which disperses in late winter. Daily range varies by season (less than 920 m in winter, and less than 800 m in summer). Populations in Idaho have been declining for last 30 years, due primarily to riparian habitat degradation. Recent Idaho study points to predation by feral cats as a problem as well (Heekin *et al.* 1994).

Potential mountain quail habitat is present within the project area (Heekin *et al.* 1994). Habitat associated with this species in the project area would be restricted to the riparian zone of Spring Valley Creek. Overall, this habitat type represents a small percentage of the area. During a recent biological survey, no individuals were observed (URS 2003-2005). It is unlikely that this species is present within the Avimor PCD project area.

Aase's Onion (*Allium aaseae*)

Aase's onion is endemic to Idaho in the lower foothills from the Boise to Wieser areas. It typically grows in coarse sandy soil on steep southerly exposures on or near ridge tops in sagebrush-grass communities, often with three-awn grass and bitter brush, from 800-1500 m elevation. Because Aase's onion typically grows on steep slopes near ridge tops its habitat has experienced less soil surface disturbance from livestock or agriculture. As a result, there is a higher potential for Aase's onion on the APC proposed project area than for slickspot peppergrass. During a recent biological survey of the area, there were no observations of Aase's onion, including a site-specific search of the last observed location (CDC 2004).



Slick Spot Peppergrass (*Lepidium papilliferum*)



Slickspot peppergrass is restricted to microhabitats known as slickspots and also referred to as mini-playas, or nitric sites. Slickspots appear sporadically in low spots of the landscape, collecting water as shallow basins throughout the wet season. These sites are physically and biologically distinct from the surrounding sagebrush-steppe community. Ranging in size from about 1 to 12 square meters, slickspots display soils that are high in both clay and salts (Fisher *et al.* 1996), with properties more hydric than the surrounding arid soils. In terms of biologic production, these sites have low output compared to the surrounding habitats. Due to their low productivity, slickspot soils accumulate relatively little organic matter and nutrients.

The populations of slickspot peppergrass identified by the CDC near the APC proposed project area represent outlier populations, on the northern fringe of its known habitat. The upland zone has traditionally been used for livestock grazing. In addition parts of the upland zone also exhibit signs of disturbance from fire. This combination of disturbances may have caused site-specific mechanical damage to the limited number of slickspots, an overall reduction in sagebrush cover, and ushered in a host of invasive plant species. As a result, the slickspots and surrounding plant community that may have once supported slickspot peppergrass has been degraded to such an extent that it is unlikely any individuals or dormant seeds will remain viable for future populations (Mosley 1994).

2.3 Large-Scale Vegetation Mapping and Habitat Modeling

In addition to on-site surveys of the project area, a rough scale delineation and categorization of vegetation types and conditions was done on 216 square miles (138,240-acres) around the proposed APC. Aerial photography completed by the U.S Department of Agriculture in 2004 was used to identify and digitize, based on visual characteristics, vegetation communities including: Riparian, Forest, Shrubs (Sagebrush, Bitter brush, etc.), Grasslands, Rock Outcrops, Agriculture, and non-agricultural disturbances/developments i.e. home sites, roads, quarries, dumps, and others. Once the initial polygons and communities had been identified, ground-truthing was conducted to verify the accuracy of the delineate communities.

The final information was used to create an area-wide vegetation map (Figure 15). Using the vegetation map in conjunction with: slope; aspect; distance to cover (thermal and sight); road type and density; soils; and other variables, a quantifiable habitat index was created based on the general habitat needs of various plant and animal species. These habitat indexes enable the user to identify the general amount and location of habitat at a very large-scale.

By looking at the big picture, rather than the project area alone, the observer can better understand the overall potential impact of the APC in relationship to the amount and location of habitat for various species. For example, Figures 16 and 17 show the habitat index for elk winter range at a large scale and that of the proposed APC. This index is based on: the distance from cover; the road density; the quality of forage; the predominant slope and aspect; and incorporates the geometric mean, or compensatory function, to partially compensate for interactive variables in multiplicative models. Based on the conditions of the area, the habitat for elk winter range varied from poor to satisfactory.

This type of modeling was also done for mule deer, mountain quail, Aase's onion, slick spot peppergrass, and other species to get an overall description of where the general habitat was. Based on the interpretation of the data, most big game winter habitat was found to the north on both the east and west side of SH-55. However, winter elk habitat was primarily found to the east. In contrast, special status plant species were mostly identified in greater abundance to the west. The one community type that was consistently associated with wildlife habitat was the riparian community.

This type of modeling is an excellent tool for predicting key habitat area and prioritizing sites for development or protection. It is recommended as a proactive approach to development of the foothills and other sites associated with remnant plant and wildlife habitat.

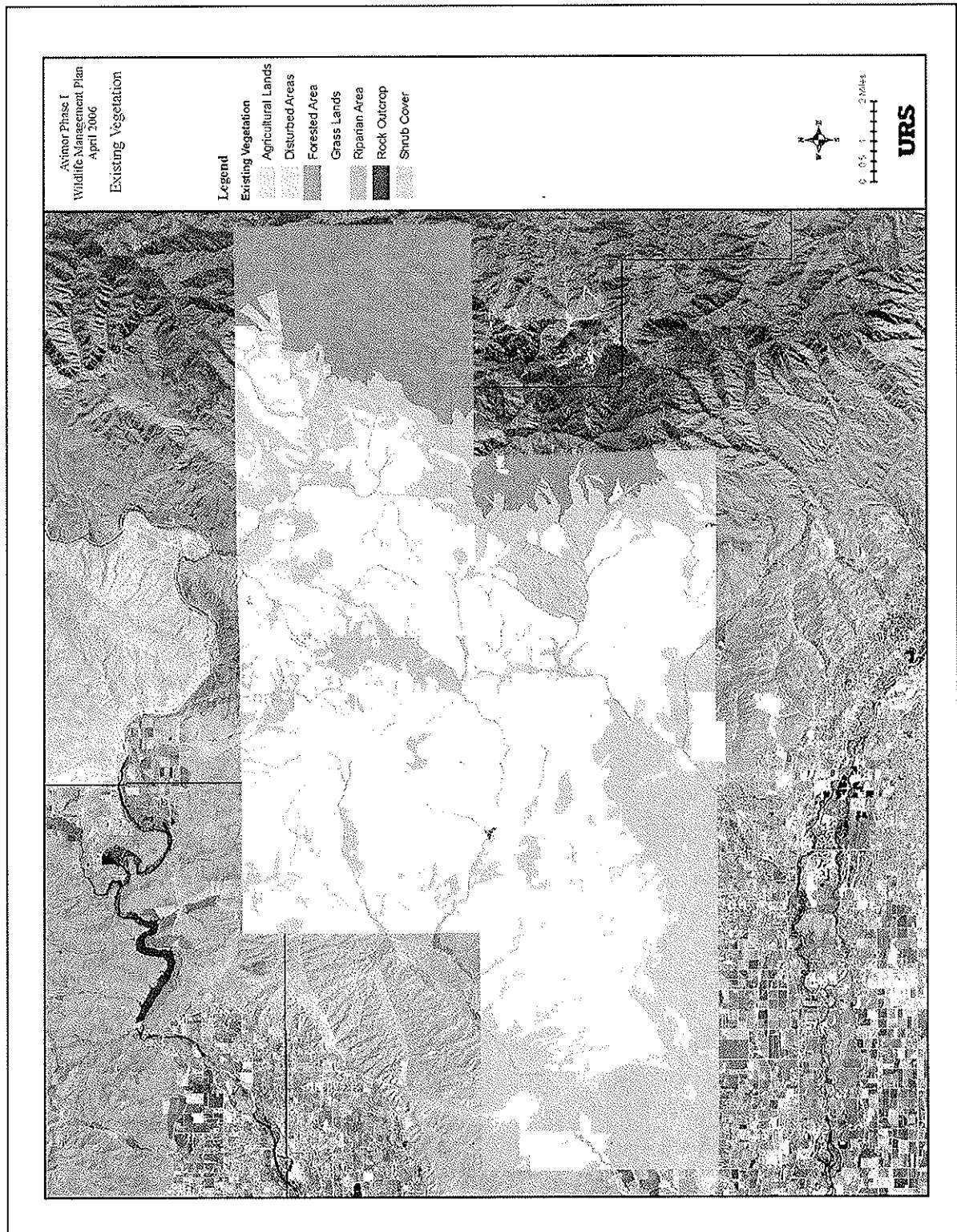


Figure 15. Large-Scale Vegetation Map.

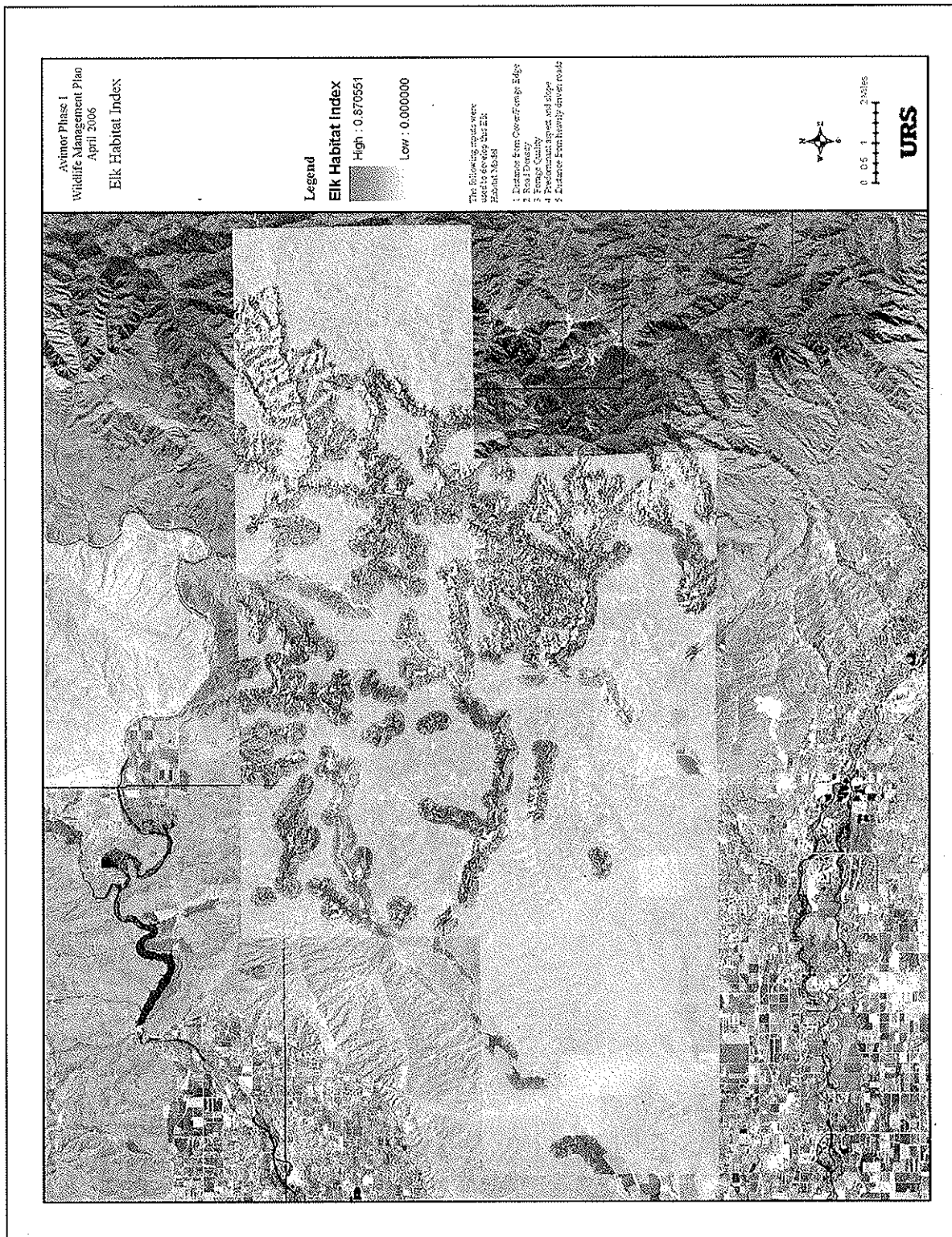


Figure 16. Large Scale Modeling for Elk Winter Habitat.

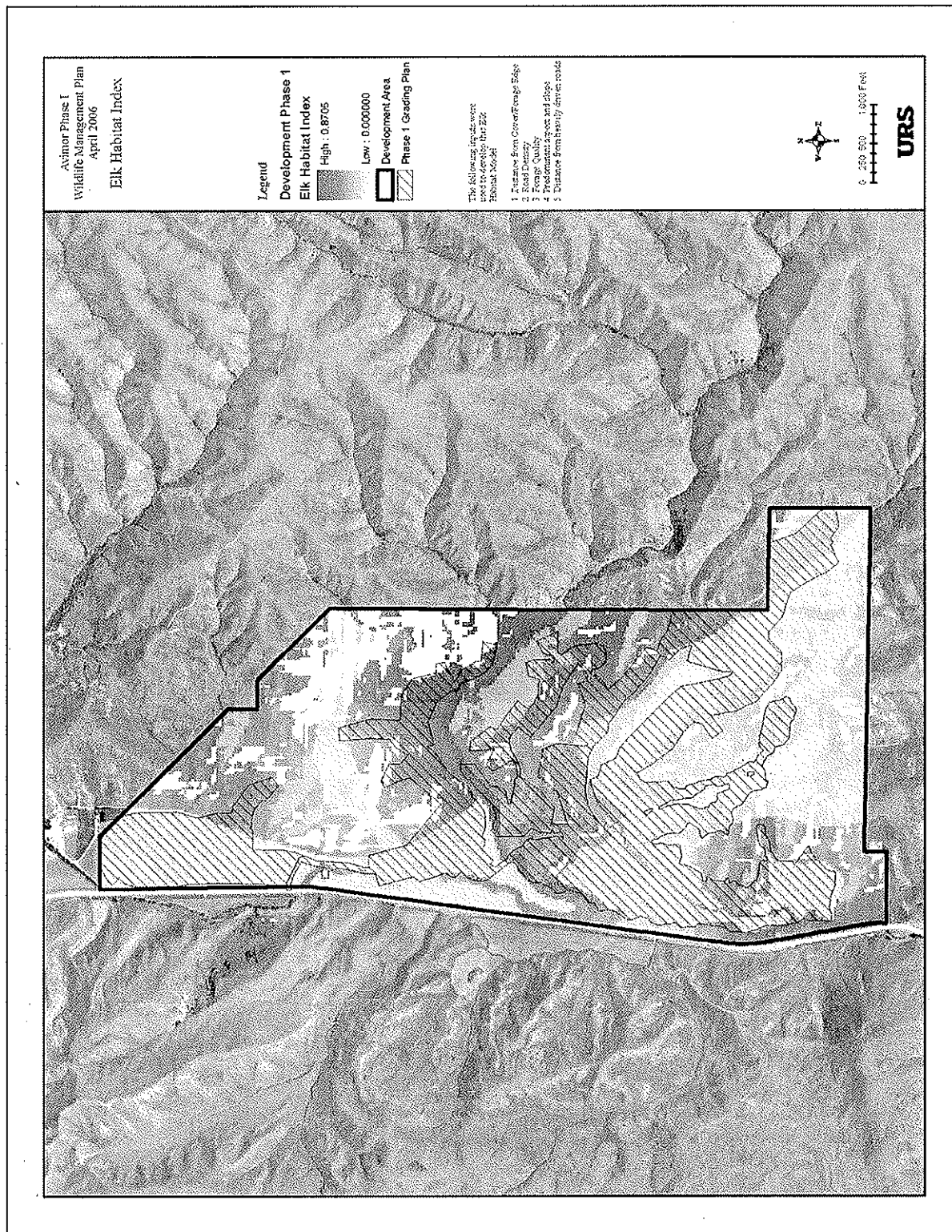


Figure 17. Site Level Modeling for Elk Winter Habitat with Development Overlay.

3.0 ASSESSMENT OF IMPACTS/DISCUSSION OF HABITAT ISSUES

This section describes the potential impacts to wildlife habitat and its associated species from construction of the proposed APC and its long-term presences on the landscape. The topics discussed are by type of impact or action that is proposed. For each topic, the impact analysis follows the same general approach. Indicators for intensity of impacts were developed based on individual actions or impact types. An area of impact analysis was also specified for each topic and impact duration definitions (short-term or long-term) were assessed where applicable. Impacts were then identified and assessed based on these definitions and indicators. Additional information used to identify and assess impacts includes: a review of relevant scientific literature, previously prepared environmental documents, interviews with IDFG personnel and others with local, long-term knowledge of the area and best professional judgment.

Knowledge is, and always will be, incomplete regarding many aspects of the terrestrial species and vegetative communities and their interrelationships. The ecology, inventory, and management of ecosystems are a complex and evolving discipline. However, basic ecological relationships are well established, and a substantial amount of credible information about ecosystems in the area of the proposed project is known. The proposed impacts or actions were evaluated using the best available information about these ecosystems. While additional information may add precision to estimates or better specify relationships, new information would be unlikely to appreciably change the understanding of the relationships that form the basis for the evaluation of effects. A summary of the potential impacts to habitat and wildlife from the proposed APC is provided in Table 7.

Impact/ Action	Source	Potential Impact	Species Affected	Duration
Conversion of Open Space	Construction; Planned Community	Permanent Habitat Loss or Alteration	All	Long-term
Disturbance to Riparian Areas	Construction; Planned Community; Recreation	Reduced Riparian and Water Quality	Riparian and Aquatic Species	Short & Long-Term
Noise	Construction; Recreation; Planned Community	Area Avoidance; Disturbance and Potential Increased Winter Mortality of Big Game Species	Wildlife (Primarily Bird and Big Game species)	Short-term
Increased Traffic	Construction Activity; Planned Community; Commuter Traffic; Increased Public Access and Use for Recreation	Elevated Potential for Road Kill; Increased Noise	Wildlife (Primarily Deer)	Long-term

Table 7. Summary of Impacts to Habitat and Wildlife.				
Impact/ Action	Source	Potential Impact	Species Affected	Duration
Increased Recreation	Residents of Community; Increased Public Access	Increased Use and Disturbance to soils; Increased Noise; Habitat Fragmentation; Area Avoidance; Disturbance and Potential Increased Winter Mortality of Big Game Species	All	Long-term
Pets	Residence of Community; Public Access	Area Avoidance; Disturbance and Potential Increased Winter Mortality of Big Game Species	Wildlife (Primarily Bird and Big Game species)	Short and Long-term
Introduction of Invasive and Noxious Species	Construction; Planned Community; Recreation	Habitat Loss and Degradation; Increased Fuels for Wildfire	All	Long-term
Wildland Fire Risks	Construction; Recreation; Planned Community	Habitat/Forage Loss and Degradation; Increased Winter Mortality	All	Long-term
Nuisance Wildlife	Wildlife entering the community	Mortality; Relocation	Wildlife (Primarily Big Game Species)	Short Term
Big Game Disease	Less available open space resulting in higher densities of big game.	Elevated potential of disease spread	Wildlife (Primarily Big Game Species)	Long-term
All: Includes Plant and Wildlife Populations				

3.1 Conversion of Open Space and Habitat Loss

For the purposes of this section, it is assumed that all proposed areas for development in the concept master plan represent areas of permanent habitat loss or alteration for various plant and wildlife species. It is also assumed that permanent habitat loss will only occur in areas within the building/development envelope identified in that plan.

The majority of planning area is currently proposed as natural open space, with residential and commercial development generally restricted to the flat agricultural areas, with some development of the surrounding hills (Figure 4). Removing existing ground vegetation (Alfalfa) in the flat valley bottom would not likely have a significant impact on native or special status plants or wildlife. Vegetation in this area is disturbed (plowed) on an annual basis and is in poor condition relative to the natural community (Figure 9; Table 3). In addition, the area receives limited use, if any, by big game species during the winter. Similarly, the loss of surrounding upland sites in poor and marginal condition would also have only a limited adverse impact on wildlife due to the current degraded state of the existing habitat (Figure 14; Table 4). However, development of the surrounding hills would have a more substantial effect in areas that are in satisfactory or good condition (Figure 14;

Table 4). These areas support functioning native grass, forbs, shrub, and tree communities, which are used for escape and thermal cover, forage, or resting by numerous wildlife species.

Permanent conversion of the proposed APC property associated with the agricultural lands and low elevation foothills within the proposed project area would likely have only a marginal direct effect on wintering big game in the region. Big game species generally don't use these areas in large numbers during winter months. However, south facing slopes with shrubs in the higher elevation foothills and protected canyon bottoms are likely to be used during winter months, especially during deep snow years. The loss or conversion of these areas would reduce available cover and forage, potentially resulting in significant impacts on big game species.

Converting portions of existing open space to residential and commercial developments could potentially act as a barrier keeping big game away from SH-55. It is likely that most big game species will find a way around or through the property eventually; however, this barrier could reduce road mortality in the short and potentially long-term.

A loss of existing habitat is anticipated in most construction areas, which would also likely result in some level of mortality for ground dwelling wildlife and displacement of other forms of wildlife. Existing trees, shrubs, and native grasses within the proposed project area that are incorporated into the landscape design of the development, or occur in designated open areas, will continue to provide ongoing habitat for various ground-dwelling and avian species that adapt well to manipulated environments and high activity areas. Avian species benefit the most in residential areas due to the abundant perch, roost, and nest trees associated with neighborhood development. Riparian areas also provide areas of refuge for species that reside or migrate through them.

Impacts anticipated for long-billed curlews or mountain quail as a result of development of the area are likely to be minimal, based on the plant communities affected. However, any development, disturbance, or loss of riparian communities could have a negative impact on mountain quail by converting potential nesting, wintering, and escape habitat.

Amphibians and fish species would also be affected by the disturbance or conversion of riparian habitat into a manipulated environment. While some amphibians can exist in a manipulated environment, it is assumed that if wetland and riparian areas are not preserved or buffered, impacts to amphibian and fish species would be adverse.

Heavily manipulated or disturbed areas are subsequently prone to invasive plant and animal species that compete or replace native species. Although some native species thrive in these habitat types, most are eliminated. The permanent replacement of existing habitat with non-native species, and the associated reduction in biodiversity, is a primary concern (IDFG 2005a).

3.2 Noise

Current noise levels in the area are generally associated with activities such as recreation, hunting, and limited ranch operation noises. The primary noise contributor is traffic from

SH-55. Large machinery, equipment, construction crews, and building processes will increase noise levels during the construction phases of the proposed development. Noise associated with construction may have an effect on many wildlife species that exist within or adjacent to the proposed APC property, but the magnitude is unknown and likely species specific. Big game species would likely avoid the area during construction. Impacts resulting from construction noise would be very local in scope and short-term in timeframe.

3.3 Traffic

Traffic levels along SH-55 between Horseshoe Bend and SH-44 (State Street) are anticipated to increase only marginally during the construction phase of the project. However, as the number of residential and commercial developments throughout the corridor expands, including the growing population of Horseshoe Bend, Avimor, and other planned communities, the overall amount of commuter traffic is also likely to increase. In addition, public access to managed trail systems in the area is also likely to augment the amount of traffic in the area. Based on the overall increase in traffic, road kill rates for all species are likely to increase to some degree as a result of elevated traffic levels (Case 1978; Oxley *et al.* 1974).

Reed and Woodward (1975) identified two primary factors, which help to determine the level of impact to wildlife resulting from increased traffic, the number of vehicles, and the speed of travel. It is reasonable to assume that the number of animals killed as a result of vehicle collisions will increase as the number of vehicles increase. Further, SH-55 is a high-speed highway, having an additive effect on road kill rates. Big game will be increasingly affected from elevated traffic levels on SH-55 during the early spring months when big game has been identified in the area. However, construction, traffic noise, human presence, and inevitably residential and commercial properties, could act as a barrier between SH-55 and the foothills habitat, which could lead to a potential reduction in the number road kills directly adjacent to the proposed APC property (Forman and Alexander 1998). Preventing access along the proposed APC property would likely redirect and concentrate big game crossings and subsequent road kills to other locations along SH-55.

3.4 Recreation

The Boise foothills currently provide a wide range of recreational opportunities that include, but are not limited to: walking, hiking, jogging, mountain biking, ATVs, Dirt Biking, snowmobiling, equestrian, hunting, shooting, sightseeing, wildlife watching, hang and paragliders, antler hunting, dog training, photography, llama training, and fire school training. All forms of recreation are not the same and have different potential wildlife and vegetation impacts. In the recent past, the Boise foothills have become extremely popular and utilized by local citizens of Boise and surrounding communities. They are a common topic in the local newspapers and on TV news, receiving abundant publicity and subsequently more interest and use.

As public use of the foothills expands, negative impacts to soils, vegetation and wildlife are likely to increase. Recreational activities in the foothills, especially unmanaged and off-trail use, pose a significant threat to plant and wildlife populations. Historic public use of the

foothills adjacent to the proposed APC was limited and generally associated with hunting, ATVs, other motorized vehicles, and some mountain bike trails; however, this use was unmanaged. The proposed APC would provide increased public access to the area, but within a managed recreation system.

One of the primary forms of recreational user impact on the foothills ecosystem is that of wildlife harassment. Wildlife harassment can affect the survival of certain wildlife species; it can also influence growth rates, behavior, and reproduction (IDFG 2003a). A broad definition of harassment is any activity by humans or their domestic animals, which increases the physiological cost of survival or decreases the probability of successful reproduction of wildlife. Based on the location and probability of increased public access and recreational activities in the area, the potential negative impacts to wildlife are substantial without a managed trail system.

For big game species, a primary concern is recreation during late winter months and deep snow years. When big game winter on the Boise foothills they are in a weakened state and sometimes in poor condition. The presence of humans or their pets can have a significant adverse impact on these species by disturbing them when they need to limit movement and conserve body fat. These critical times are very cold periods in late winter, during late pregnancy, and birthing. Harassment is particularly damaging when the animals are in poor condition. Exertion during cold weather, particularly of weakened animals, is likely to precipitate emphysema, likely resulting in the animal's death (IDFG 2003a, Geist 1971). Recreational-related disturbances can also cause avian species to abandon active nest sites. This can result in unhatched eggs, abandonment of young and loss of reproduction potential for that year.

3.5 Pets

Free roaming domestic pets can also result in significant wildlife harassment. Wildlife harassment resulting from free roaming pets is an ongoing problem throughout the Boise Foothills. The location of the proposed APC development along the open space areas of the Boise foothills create a higher potential for adverse wildlife impacts resulting from domestic pets.

3.5.1 Dogs

Dogs harass and kill many wildlife species. Dogs can be especially destructive when wildlife species are most vulnerable during winter. People love the open space surrounding Boise, especially for the opportunity to exercise with their dogs off-leash. Harassment issues that were discussed in the above recreation section are extremely exacerbated when combined with free roaming dogs. The area of wildlife impact is enlarged substantially to include the range covered by a dog. Harassed and flushed wildlife species usually provoke dogs to chase and sometimes kill them. This scenario is especially dangerous for big game during wintering periods and in the late spring when green up is occurring. Big game energy reserves are depleted from the stressors of winter during these times and the animals are at their physiological edge; adding harassment only exacerbates the situation (IDFG 2003b).

As the population of Boise and the surround area increases, the need for open spaces to take dogs and let them run off-leash will increase as well. The likely result will be an increased use of the foothills and greater overall impacts to wildlife from free roaming dogs.

3.5.2 Cats

Domestic and feral free roaming cats have been shown to become major predators on game bird and songbird populations. Feral cats eat predominantly birds, rodents, and small mammals. Domesticated cats, even when fed regularly by their owners, retain their motivation to hunt. These cats also prey on the same animals that feral cats do. Feral and free-ranging cats kill millions of native birds and other small animals annually; birds constitute approximately 20%-30% of the prey of feral and free-ranging domestic cats (Drennan 2005).

3.6 Invasive Plant and Noxious Weed Species

Invasive weed species are exotic plant species that invade and displace more desirable native vegetation. In general, the invasive and noxious species found in the Foothills thrive on disturbed soil, and are typically spread by various avenues, including: wind, water, animals, machinery, livestock, pets and people.

Invasive and noxious species are currently present on the proposed APC property, as well as in the surrounding foothills. Ground disturbance gives invasive species an opportunity to establish and spread because the native plant competition has been removed or disrupted. Once these species have gained a foothold, they can spread into adjacent native stands of vegetation and out-compete them. The establishment and spread of invasive species can directly affect vegetation by increasing the overall competition with native species for limited resources (water, nutrients, space, etc.). Over time, invasive species can also alter the structural and functional components of a system (i.e., soil structure/function, hydrologic function, fire return intervals, energy flow, etc.) severely enough that reestablishment of native or desirable species is extremely difficult (Barbour *et al.* 1999; West 1993). Compared to perennial species, the small amount of root structure associated with annual grasses provides very little soil stability and contributes little organic matter to the soil structure, increasing the likelihood of erosion and soil loss during times of heavy precipitation and runoff.

Construction activities at the proposed APC will create a large amount of ground disturbance, consequently creating ideal conditions for weedy species. The ongoing presence of large amounts of residents and recreational users will further facilitate the spread of invasive and noxious species and introduction to other sites.

3.7 Wildland Fire

Wildland fire is an important ecological function in western shrub and grasslands. However, habitats that have become dominated by introduced annual grass species (cheatgrass and medusa head) have resulted in increased fire frequency and intensity, which can: destroy native vegetation over very large areas, resulting in reduced populations and habitat for special status species and reduced forage potential and habitat for wildlife; reduce soil

structure and function, resulting in increased erosion; and increased risk to human structures and life.

During the summer and early fall seasons (June-September), most vegetation on the Boise foothills becomes dry and combustible. Annual invasive grasses have augmented natural fuel loads and create a widespread, interconnected ignition source. Construction activities and the presence of homes, businesses, residents, and recreational activities in the area surrounding the proposed APC will likely increase the potential for wildland fire ignition. Potential ignition sources may include, but are not limited to cigarettes, automobiles, ATVs, motorcycles, and fireworks.

3.8 Nuisance Wildlife in the Community

When open space is converted to residential development, wildlife will not recognize boundaries and will encroach into the neighborhood, creating interaction problems with residents. Several wildlife species will continue to access the proposed residential areas, attempting to make a home, forage, or utilize it in other ways. These issues could involve a wide spectrum of wildlife species, ranging from Mormon crickets to snakes, skunks, raccoons, burrowing mammals, rodents, deer, elk, even mountain lions and wolves. During winter months, big game seeking out forage will likely enter the neighborhoods and feed on ornamental plants. Most people enjoy viewing big game, and seldom do communities want to eliminate access to a local herd. Tolerances for deer, however, are quite variable depending on personal preferences, past experiences, and ones' ecological perspective (DeNicola *et al.* 1997). Nuisance wildlife interactions typically result in a phone call to the local IDFG office, complaining and demanding that someone diffuse the situation. This can result in a waste of valuable state resources and time.

This interaction, while a potential nuisance to residents, could also have an adverse impact on the encroaching wildlife species. Smaller species will likely be removed or dispatched, while larger species will likely be trapped, chased, or relocated off the property. Some species will be left alone for viewing pleasure. These interactions can be managed and directed by neighborhood Covenants Conditions and Restrictions (CCRs) regulations, fencing restrictions, landscaping design and vegetative species choices.

3.9 Big Game Disease

There is a risk of mule deer becoming more susceptible to disease transmission as a result of having less space to utilize. This threat could likely occur from more of a cumulative impact of multiple developments occurring over many years across the entire western Boise front foothills. An increased susceptibility to disease could result from concentrating deer on lesser amounts of, and often lesser quality, winter range (Vayhinger 2005).

4.0 OVERALL PROJECT MITIGATION PLAN

This section outlines the general mitigation actions identified by the APC development in an effort to minimize negative impacts on plant communities and wildlife species associated with the project area and adjacent lands. The overall WMP for the APC development identifies 14 primary components:

- The Avimor Conservation Director and Advisory Committee;
- A Wetland Mitigation Plan;
- Compliance with the Federal Migratory Bird Treaty Act of 1972
- The No Net Loss Model;
- Enhancement and Restoration Plan (Includes Invasive and Noxious Weed Abatement Plan);
- A Secondary Impacts Conservation Easement;
- Monitoring Plan;
- Construction Precautions;
- General Neighborhood Design Features;
- Recreation Guidelines;
- Nuisance Wildlife Guidelines;
- Livestock Grazing Guidelines;
- Long-Term Estimated Mitigation Costs and Funding; and
- A Construction Phase Mitigation Template and Summary.

The identified mitigation measures are a compilation of local and regional professional suggestion and judgment, state and federal technical references, and general research. Incorporating these mitigation measures into the development plan and enforcing the WMP should mitigate negative impacts to native plant communities and wildlife species, as well as facilitate an ongoing legacy of public education, understanding, and respect for the natural environment of the APC and the Foothills ecosystem. The following mitigation actions are based on the initial concept plan and may require refinement throughout the construction and post-construction phases of the development (See Advisory Committee).

4.1 Avimor Conservation Director and Advisory Committee

4.1.1 Conservation Director

Some of the impacts to plant communities and wildlife species associated with the APC development are single-event occurrences, although the effect and resolution may be long-term. Loss of open space and habitat is one example. Other issues related to the development will be persistent through out the life of the project. Examples include, but are not limited to: dogs belonging to construction workers and homeowners harassing wildlife; well meaning,

but misguided, residents feeding deer in the winter; habitat enhancement projects; and weeds management. While single-event issues (e.g. open space and habitat loss) can be predicted and either avoided, minimized, or mitigated, persistent issues (e.g. pets, weeds, etc.) will require constant monitoring and quick response. Consequently, it is both desirable and appropriate to have a Conservation Director as part of the APC management structure. This position would be responsible for community education, habitat development and monitoring, recreation issues, interactions with county, state, and federal agencies, as well as other issues related to the ecology of the area. The duties associated with this position would include, but are not limited to:

- Implement, manage, and monitors conservation and enhancement programs identified in the WMP to meet or exceed no net loss requirements;
- Monitor and maintain effective fuel breaks, and inventory, monitor, and manage weed abatement program;
- Monitor the restoration and enhancement efforts for all construction phases. Reports enhancement progress to Advisory Committee twice a year, and develop an annual progress report for Ada County Development Services;
- Establish and implement a wildlife conservation and education program for residents of the APC (newsletter, website, interpretive signage-See Appendix A);
- Serve as a representative of the APC on local conservation boards, such as the Ada County Cooperative Weeds Management Area committee ;
- Seek additional funding through grants, cooperative agreements, etc. for conservation and education programs; and
- Work with residents to address problems related to wildlife in the neighborhood, and work with IDFG to obtain certification or authorization to manage nuisance wildlife issues.

The APC Conservation Director would be responsible for the implementation, management, and monitoring of WMP for the community. The person or firm responsible for the Conservation Director duties must have an in-depth knowledge of the ecology and land uses of the area, and maintain communication with county, state, and federal agencies, as well as private foundations and groups. In addition to these aspects, this person should play a key role in helping create a site-specific managed recreation plan to limit impacts from recreation and educate users on the issues and impacts associated with the foothills.

The position will be hired from the private sector, or any source independent of the Homeowners Association. The benefit of hiring an independent third party is the fact that the APC Conservation Director will not be directly responsible for providing overhead costs (office space, vehicle, benefits, health plan, safety plan, etc.) for the position. Further it is important that the Conservation Director be independent of the Homeowners Association so

the position remains based in wildlife and conservation issues without being steered, influenced, or financially governed by other interests. This position will be hired by the third-quarter 2007. During the initial construction of Phase one of the project, this function is being managed by a firm with a qualified ecologist. This enables the Avimor Conservation Director to be involved with planning and wildlife issues that take place from phase one through phase eight. Appendix A details potential conservation and education activities.

Current and future developments in the surrounding Boise Foothills have similar wildlife and recreation-related issues. The Avimor Conservation Director may coordinate a shared Conservation Director position that has responsibilities with other developments occurring across the Boise Front or in the vicinity. A landscape level approach to wildlife mitigation and conservation of the foothills and rural areas surrounding Boise is more efficient and beneficial for residual native habitat and the wildlife it supports than scattered individual plans. In addition, a cooperative program benefits each individual development by alleviating long-term funding pressures.

4.1.2 Conservation Advisory Committee

The Conservation Director will be the primary mechanism for conservation efforts, environmental and recreational management, and education for the community. However, an advisory committee, made up of seven (7) representatives from the IDFG, BLM, Ada County Development Services, The President of the Avimor Homeowners Association, SunCor, Conservation Easement Manager, and other organizations or agencies, as well as the Conservation Director, will be created. This committee will meet every six months to review the monitoring data and overall progress of the mitigation, and make recommendations to the Conservation Director for changes in management direction or alteration of the WMP. Specific bylaws and a strategic plan will be developed and ratified by the committee.

4.2 Wetland Mitigation Plan

The US Army Corps of Engineers approved the Final Avimor Compensatory Wetland Mitigation Plan on June 27, 2006. A copy of that plan is enclosed as Appendix B, along with a copy of the Corps' approval of the Mitigation Plan that was delivered to the Ada County Development Services on July 3, 2006. Implementation of the Wetland Mitigation Plan will begin in July of 2006 with Phase 1 grading. Completion will also coincide with Phase I site improvements and revegetation in late 2006 and early 2007. A detailed monitoring plan is found on page 27 of the Wetland Mitigation Plan found in Appendix B.

4.3 Federal Migratory Bird Treaty Act (FMBTA) of 1972

To comply with provisions identified by the FMBTA, see Section 2.1.3, pre-construction surveys will be completed by the Conservation Director prior to construction activities to identify potential nesting locations. In the event that an occupied nest with eggs or juveniles present is identified, the nest and surrounding area will be marked and construction activity will be diverted around the site until the nest is vacated or relocated, or moved in coordination with state or federal wildlife agencies. In the event a tree is occupied, that tree will not be felled until juveniles have vacated the nest. A report of the species, site location, and actions taken to protect the nest will be given to IDFG.

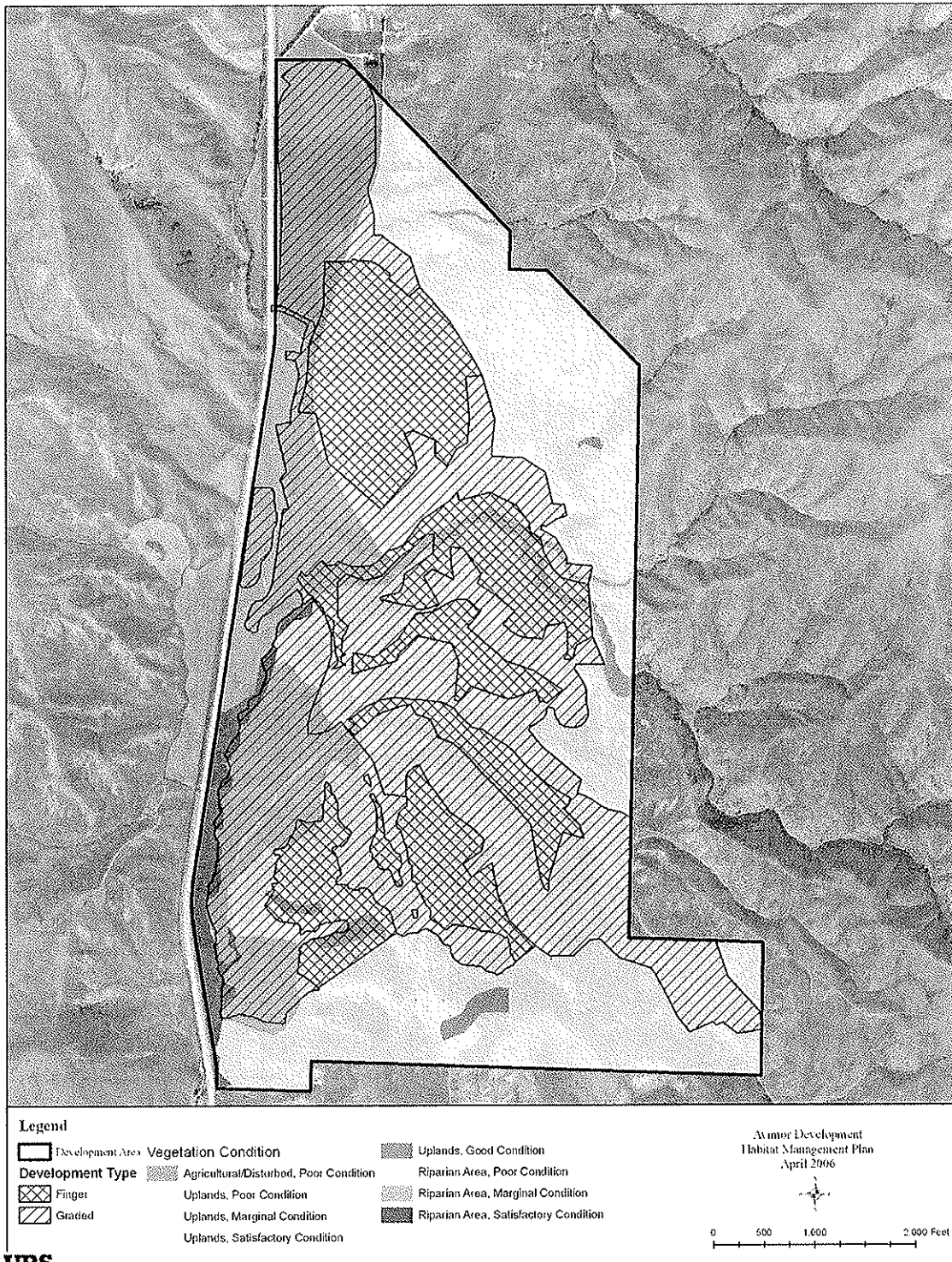
4.4 No Net Loss Process

One of the primary goals of the WMP is to meet or exceed a “no net loss of habitat”. The mitigation measures associated with this goal primarily address the management, enhancement, and restoration of natural open spaces. The net affect of these mitigation actions in relationship to the direct and indirect impacts associated with short-term construction activities and long-term residential occupancy (See section 3.0), is calculated based on the total area affected and the current condition of the habitat (See below).

The Avimor concept plan was overlaid on the habitat condition map (Figure 18) to identify and delineate the amount and distribution of impacts to each community type in order to assess the total loss of habitat (Table 8). Total loss of habitat takes into consideration the amount and condition of the habitat affected. Table 8 quantifies the amount and condition of each community type by construction activities. Construction activities include graded (impacted), left as natural open space (non-impacted), and left as natural open space, but impacted by surrounding development (fingers). Areas identified as “fingers” are those areas that will remain as natural open space, therefore, they will not be identified as permanent loss. However, based on the proximity of the development, the habitat associated with these areas is of less value to many wildlife species. To compensate for reduced value to wildlife, the current condition of the area is reduced by two classes. For example an area identified as a “finger” in satisfactory condition would be reduced to poor condition for mitigation purposes.

Table 8. Delineated Impacts Based on Avimor Concept Plan.

Community Type/ Condition	Acres Impacted (Graded)	Acres Non-Impacted (Not Finger)	Acres Non-Impacted (Finger)
Riparian			
Good	0.00	0.00	0.00
Satisfactory	6.02	13.36	0.00
Marginal	5.16	13.64	6.47
Poor	0.63	1.29	0.04
Total	11.81	28.29	6.51
Uplands			
Good	1.58	7.09	4.02
Satisfactory	1.63	3.75	0.00
Marginal	42.84	117.29	50.98
Poor (Ag. included)	281.62	225.08	64.2
Total	327.67	353.21	119.20



URS

Figure 18. Habitat Conditions Affected by Development.

The number of acres of each community type/condition class is converted into a habitat score by multiplying the number of acres by a conversion factor associated with each community type (Table 9). By doing this we can calculate a total habitat score for the area and the net loss of habitat, taking into consideration both the amount and quality of habitat. Similarly, to identify the amount of area, based also on the amount and condition of habitat, required to mitigate those impacts, the same conversion factors are used. Following Table 9 is the process for the no-net-loss formula, as well as the recommendations to mitigate overall impacts to habitat associated with the APC.

Table 9. Conversion Factors for Condition Classes.

Riparian Habitat Condition Classes:	Conversion Score	Upland Habitat Condition Classes:	Conversion Score
Poor Condition (P):	0.5	Poor Condition:	0.25
Marginal Condition (M):	1.0	Marginal Condition:	0.50
Satisfactory Condition (S):	2.0	Satisfactory Condition:	1.0
Good Condition (G):	4.0	Good Condition:	2.0
Pristine Condition (PR):	8.0	Pristine Condition:	4.0
Agricultural Lands are always considered as Uplands Poor (P)=.25			

No Net Loss Formula for the APC:

Condition Classes – This is the number of acres found within that condition class.

Conversion Score – This is a conversion factor, not the number of acres.

Habitat Score (HS) – This is relative score, not number of acres, used to identify the overall amount of habitat loss and mitigation necessary to zero out impacts, based on the condition of the communities.

Step 1: Total Habitat Score – Multiply the conversion factor by the number of acres in each habitat type/condition class, based on impact type (graded, non-impact, fingers). You should have a Riparian HS, Upland HS, and Fingers HS by condition class. These added together equal the Total Habitat Score (THS). Conversions for Fingers are not separated out yet.

Total Uplands Habitat Score (HSU)= P(.25)+M(.50)+S(1.0)+G(2.0)+PR(4.0)+CK(10.0)

Total Fingers Habitat Score (HSF)= P(.25)+M(.50)+S(1.0)+G(2.0)+PR(4.0)+CK(10.0)

+Total Riparian Habitat Score (HSR)= P(.50)+M(1.0)+S(2.0)+G(4.0)+PR(8.0)

Total Habitat Score (THS)

Step 2: Convert Fingers Score (FHS/4) and subtract both the converted fingers HS and the non-impacted HS from THS. This will give you the mitigation score, i.e. the number of acres multiplied by the condition factor that will be permanently lost and the reduced value of the fingered areas. In order to have no net loss of habitat, you must offset this number through mitigation measures.

THS – (UHS+(FHS/4))=Mitigation Score (MS)

Step 3: Identify the total number of acres available for enhancement, both non-impacted and fingers. The reduced value has already been incorporated into the Mitigation Score, so the entire “finger” is available for enhancement. Enhancement of non-impacted areas to an improved condition class is converted similar to the loss of habitat. When the condition of an area is improved through mitigation measures (see below), the number of acres enhanced is multiplied by the conversion factor to get an enhanced HS. Subtract the original HS from the enhanced HS to get the net gain. The sum of the net gains plus the MS must equal zero or have a positive score to have a no net loss of habitat.

4.4.1 Adaptive Nature of the No Net Loss Model

This is an adaptive model that enables the developer to reach the no net loss goal through variable mitigations actions based on the availability of different resources. The identified mitigation actions are found below, with itemized spreadsheets found in Appendix C. Variations on these recommendations can be made by the developer in order to conform to their needs and resources as site-specific determinations are made for each construction phase.

Variations in the model can also be made if identified enhancement measures are unsuccessful within the project boundary. The no net loss model allows for changes to the mitigation plan so that alternative measures can be implemented in order to reach or exceed the required no net loss of habitat. For example, if on-site enhancement is unsuccessful, off-site conservation easements could be created to compensate for the unsuccessful enhancement. However, any alteration of the WMP can only be authorized by the Avimor Conservation Director with Advisory Committee input (See Section 4.1).

It is essential that the reader understands that the process is not a fixed plan that identifies a set number of acres; rather it is an adaptive process that changes based on the conditions of the site over time, success or failure of previous actions, and resources available. The overall concept of the no net loss model is to replace habitat lost through development of the APC, with the overall goal of the plan to meet or exceed the no net loss requirement.

Based on the impacts associated with the APC development, the following overall site enhancements are the primary mitigation measures identified to reach or exceed the no net loss of habitat. While the acreage identified below is for the entire APC, each construction phase will identify individual plans to meet or exceed the no net loss requirement for that phase. As additional phases are constructed, enhancements of individual phases will result in a greater cumulative affect on the overall APC project area. The overall goal of the WMP is to eventually enhance all natural open space within the project boundary.

- Poor Uplands/Agricultural Enhanced to Satisfactory Condition: 116-acres
- Marginal Uplands Enhanced to Satisfactory Condition: 138-acres
- Poor Riparian Enhanced to Good Condition: 0.5-acre
- Marginal Riparian Enhanced to Good Condition: 3-acres
- Satisfactory Riparian Enhanced to Good Condition: 13-acres

A phase map and summary list of minimal mitigation acreage required to meet the no net loss model for each construction phase is found at the end of this section. Again, these are initial estimates and could change dependent on overall enhancement success on-site or additional conservation easements identified off-site.

4.5 Secondary Impacts Conservation Easement

Based on the location of the APC development, individual wildlife species have been identified by the IDFG that require a greater emphasis; specifically, big game species (migratory elk, mule deer, and antelope populations). To compensate for the increased emphasis associated with these species, a secondary impacts component is incorporated into the WMP in order to mitigate the impacts to these big game species. The concept behind this secondary impacts component is based on the general premise that habitat for elk and mule deer is reduced significantly directly adjacent to human development or roads. Based on historic use patterns identified by the IDFG, the area is considered to have moderate use by elk and mule deer; therefore, an 800ft-buffer around the project footprint was identified. The area associated with the buffer would theoretically be permanently impacted; therefore, mitigations would also have to be permanent, i.e. an offsite conservation easement. Based on the total area of the buffer, regardless of condition, and other identified factors, an additional 400-acres will be set aside as conservation easement outside the project area. The area will be identified through a collaborative process with the IDFG, but unlike the internal conservation easements or deed restricted areas, the area will not be required to be enhanced, only maintained at the current condition.

4.6 Enhancement and Restoration Plan

To comply with the requirements of the No Net Loss model, and to increase the overall health and functionality of the lands within and adjacent to the APC development, an enhancement and restoration plan has been developed. The overall plan has two primary components. The first is management and control of invasive and noxious weeds species. The second is the reestablishment and restoration of natural structural and functional components of the system that have been historically degraded or altered.

4.6.1 Invasive and Noxious Weed Abatement Plan

Noxious weeds are currently, and will continue to be an ongoing issue for the Avimor Planned Community due to current established infestations, initial construction ground disturbance, as well as increased population and recreation levels. Invasive and noxious weed management goals for the development include, but are not limited to:

- Control the current spread of noxious and undesirable weeds at Avimor, map existing locations, and keep record of species present;
- Prevent new infestations, monitor the effectiveness of control measures, and adapt new management strategies and control measures as necessary;

- Meet state and federal safety guidelines for the use of prescribed burning and chemical application; and
- Work and coordinate with Ada County, state, and federal weed supervisors on weed control and mapping.

The control and management of invasive and noxious weed species is an essential component in both the wetland and general habitat mitigation plans. Therefore, the initial mitigation measures should primarily be associated with reduction and control of these species on all non-developed areas within the APC project area.

A combination of mowing, prescribed burns, biological treatments, or herbicide applications in areas dominated by medusa head rye, cheatgrass, or rush skeleton weed are planned. In areas with dense mats of medusa head wild rye, herbicide contact with the soil can be limited; therefore, it is recommended that these dense mats be reduced through prescribed burns or some type of mechanical thinning. These types of treatments should significantly reduce mature populations and the amount and viability of seed for future generations. In areas with only limited components of invasives present, spot-applications of herbicides, bio-control agents, or mechanical thinning should be used, while restricting prescribed burns. The initial and continued use of herbicides, as well as the type of herbicide, will be determined based on a site-by-site basis. In addition, it is recommended that prescribed burns and herbicide application projects will be done in collaboration with BLM, Ada County, and other resource specialists.

A weeds program must be implemented and carried out throughout the year. This program will utilize various treatments including mechanical, chemical, and biological. For example, spot spraying of invasive grass species in areas with established native species would likely reduce competition for limited resource and increase the ability of young natives to establish and reproduce. However, the use of herbicides can have adverse affects on native species as well. Therefore, mechanical and biological controls should be used as much as possible.

It is recommended to use biological control agents to the extent possible in order to manage and control invasive and noxious weed species. While invasive and noxious weed species can be reduced with chemical and mechanical treatments, these require significant amounts of time and resources, and can result in adverse impacts to remnant native population. Bio-control agents are generally species-specific and have limited affects on other species. In addition, these treatments are less time and resource consumptive, and can affect a very large area with a minimal application.

A specific recommendation for the area is the use of a root-burrowing moth (*Bradyrrhoa gilveolella*) to control and reduce rush skeleton weed populations. Rush skeleton weed is a dominant noxious weed species in the area. The release of this burrowing weevil in the area could have a significant affect by reducing large populations of an extremely aggressive weed species, while having little or no affect on any other species. This is only one example of a successful biological control that could be used in the area.

Initial and continuous treatments (mechanical, chemical, and biological) of the area will be required to control and manage these invasive communities. However, the primary factor in managing the establishment and spread of new populations will be education and support of the residents of the community and the public. An aggressive education program will be emphasized so that residents and the general public are aware of the impacts from these species on native communities and wildlife. In addition to on-site programs, the community shall have continued communication with, and enter into cooperative programs for weeds management and education with county, state, and federal agencies. Specifically, the APC will be an active member of the Ada County Cooperative Weed Management Area committee.

4.6.2 Restoration Plan

After initial reduction and control measures have been done or started for invasive and noxious weed species, restoration of the site will enhance general habitat and reduce or limit re-establishment of invasive and noxious weed species in uplands and wetlands. Treated (prescribed burns, mechanical, chemical, and biological) areas will be reseeded or hydro-seeded, where necessary, with a mix of grasses, forbs, and some shrub species. While native species are emphasized, the use of some desirable non-native species are also be included for structural and functional components. It is recommended that these species either be sterile or non-aggressive, i.e. they will not out-compete or displace more desirable native species. The shrub component will come primarily from rooted material, plugs, or transplanted individuals rather than seeds.

Areas with hydro-seedings should be allowed to germinate and set for approximately one year based on seasonality and time constraints. The following year (early spring), plugs, super-cells, potted plants and transplants of a variety of grass, forbs, and shrubs will be added to the site in order to reestablish a diverse stand, both species diversity and age class diversity, of native or desired species. The use of live mature plants in addition to seedings and irrigation will likely increase the potential success rate of the project significantly in relationship to seeded only. In addition, live mature plants will be available for aesthetics and landscaping features, as well as functional and structural components of the system, i.e. soil stability, hydrologic function, and nutrient processing.

As the structural and functional components are re-established, the site will be more resistant to invasive and noxious weed species, and more resilient to disturbances such as recreation, wildfire, and others. In addition, restored areas will have improved habitat for plant and wildlife species.

Short-term Goals (5-10 years)

Initial habitat enhancement goals focus on identifying the highest priority enhancement areas. These areas will likely include drainages and adjacent slopes that retain the highest wildlife use, such as Spring Valley Creek and Burnt Gar Draw, east of the agricultural fields. The largest initial challenge will be controlling invasive species and establishing natives. Prescribed burning, as well as mechanical, biological, or chemical treatments would be used to hold invasives at bay, and if possible reduce populations. Ongoing invasive and noxious weeds treatments and monitoring will be required throughout all phases of construction and

residential development, and will continue indefinitely to reduce future reestablishment and spread.

In addition to treating invasive and noxious weeds species, native species from local stock (whenever possible) should be established. Seedlings and bare root plants be used rather than seeds, and that as much material be transplanted as possible to retain the genetic characteristics of the site. While this is generally more expensive, the overall success rate is greater and results would be visually apparent to the residents sooner. However, it is unrealistic not to use seed in larger areas of disturbance. An appropriate seed mix should be identified by the restoration team and include a mixture of native grass, forbs, and shrubs appropriate to the area of restoration.

Long-term Goals (10-20 years)

A future vision of open spaces within the proposed APC exceeding ten years from the completion of construction should include mature stands of shrubs with a good percentage of forbs in the understory. The dominant features of these sites should be large perennial bunch grasses that dominate shrub interspaces (between the shrubs) and the overall cover. A diversity of age classes (old and young plants) should be present on site. Older mature grasses and shrubs should be present with younger grasses and shrubs establishing and expanding throughout the area as well. Exposed bare soil should be a very minor component of these sites; ideally shrub interspaces will be covered by a combination of perennial grasses, forbs, mosses, and lichens. This solid ground cover with few exposed bare soil areas will help to keep invasive annual and noxious species from establishing and increasing erosion potential in the enhanced or restored communities. Keeping invasive and noxious species out will be extremely difficult, if not impossible; therefore, continued invasive and noxious species treatments will be necessary at all times.

4.7 Monitoring Plan

The APC total project area is approximately 848-acres within the Spring Valley Ranch Resource Area. There are five general communities within the APC including: agricultural, grasslands, shrubs, riparian, and disturbed (See Section 2.0). The APC boundary was overlaid on the aerial photography produced by the U.S. Department of Agriculture (USDA 2004). The aerial photos were used to digitize the communities based on visual characteristics that could be identified with visual observations or stereoscopes.

Once the initial communities were identified and delineated with GIS, fine-scale ground-truthing was done to check the accuracy of the map and to identify the overall condition of the community (See Section 2.2.2). Ground-truthing identified a good correlation between the map and the actual vegetation on the ground (Figure 9). After the vegetation map was created, the APC project area was further broken down by the condition of each vegetation community (Figure 14). The sites identified for construction were overlaid on the vegetation/condition map to identify the number of acres within each category, and to identify the areas that would be graded in the future (Table 10; Figure 19). Because these areas will no longer be considered usable habitat, they will not be monitored.

Based on the various vegetation types and condition categories (units), the area will be monitored using stratified random samples (plots). Plot locations are based on the total number of acres associated with each unit. Each plot represents 20-acres, with a minimum of two plots per unit. The primary objective of the monitoring program will be to quantitatively and qualitatively identify the baseline vegetative conditions (1st year only), the current years vegetative conditions (all subsequent years), and overall trend over time. The sampling methods used at each plot will include a 100-foot line transects (basal and aerial cover, composition), a belt transect (composition), Daubenmire frames (density and composition), and photo points. Individual sampling locations will be identified randomly within each vegetation type and category. The initial points identified in Figure 19 are permanent sites, to be monitored annually between April 15 and June 15 depending on weather and general conditions of the site.

A GIS randomizer was used to identify the sampling locations and azimuths within each unit. This software randomly identifies a pre-identified number of points within a polygon and randomly identifies an azimuth for each point. The azimuth may change based on topographic limitations. For example, a line can not go over a cliff. In the case an azimuth is altered, a new random azimuth will be identified. All Daubenmire frames will be placed on the transect line at the 0, 50, and 100-foot markers, and read with the plot pin in the NE corner for reproducibility. All plot photos will have single aerial shots of the Daubenmire frames at the 0, 50, and 100-foot markers, with a single landscape shot from the 0 marker along the transect line. Photo cards will identify Date, Plot #, and position.

Data from each plot will be recorded on a data sheet and PDA on site, and entered into an electronic database. The database will be maintained by the Avimor Conservation director, and used in the annual report to the Advisory Committee.

In addition to vegetation surveys, the Avimor Conservation Director will work with the IDFG to create a wildlife monitoring program that will do year-long monitoring of identified species of concern. This would include but would not be limited to mule deer and elk counts with GPS points taken and mapped. Identified wildlife monitoring results will also be included in the information delivered during the biannual Advisory Committee meeting and the annual report delivered to Ada County Development Services.

Table 10. Habitat Condition Summary for Avimor Monitoring Plan.			
Community/Condition	Acres Graded	Acres Not Graded	Total
Riparian			
Good	0	0	0
Satisfactory	6.02	13.36	19.38
Marginal	5.16	20.11	25.27
Poor	0.63	1.33	1.96
Grasslands			
Good	1.5	11.4	12.9
Satisfactory	0	3.72	3.72
Marginal	26.35	149.34	175.69
Poor	119.91	199.77	319.68
Shrubs			
Good	0	0.15	0.15
Satisfactory	1.63	0	1.63
Marginal	16.49	18.93	35.42
Poor	46.75	55.58	102.33
Disturbed/Agricultural			
Good	0	0	0
Satisfactory	0	0	0
Marginal	0	0	0
Poor	114.96	33.94	148.9
Total	339.4 (40%)	507.63 (60%)	847.03
<i>Note: No pristine condition found.</i>			
<i>Note: Total number of acres assessed have a +/- deviation of 2%.</i>			

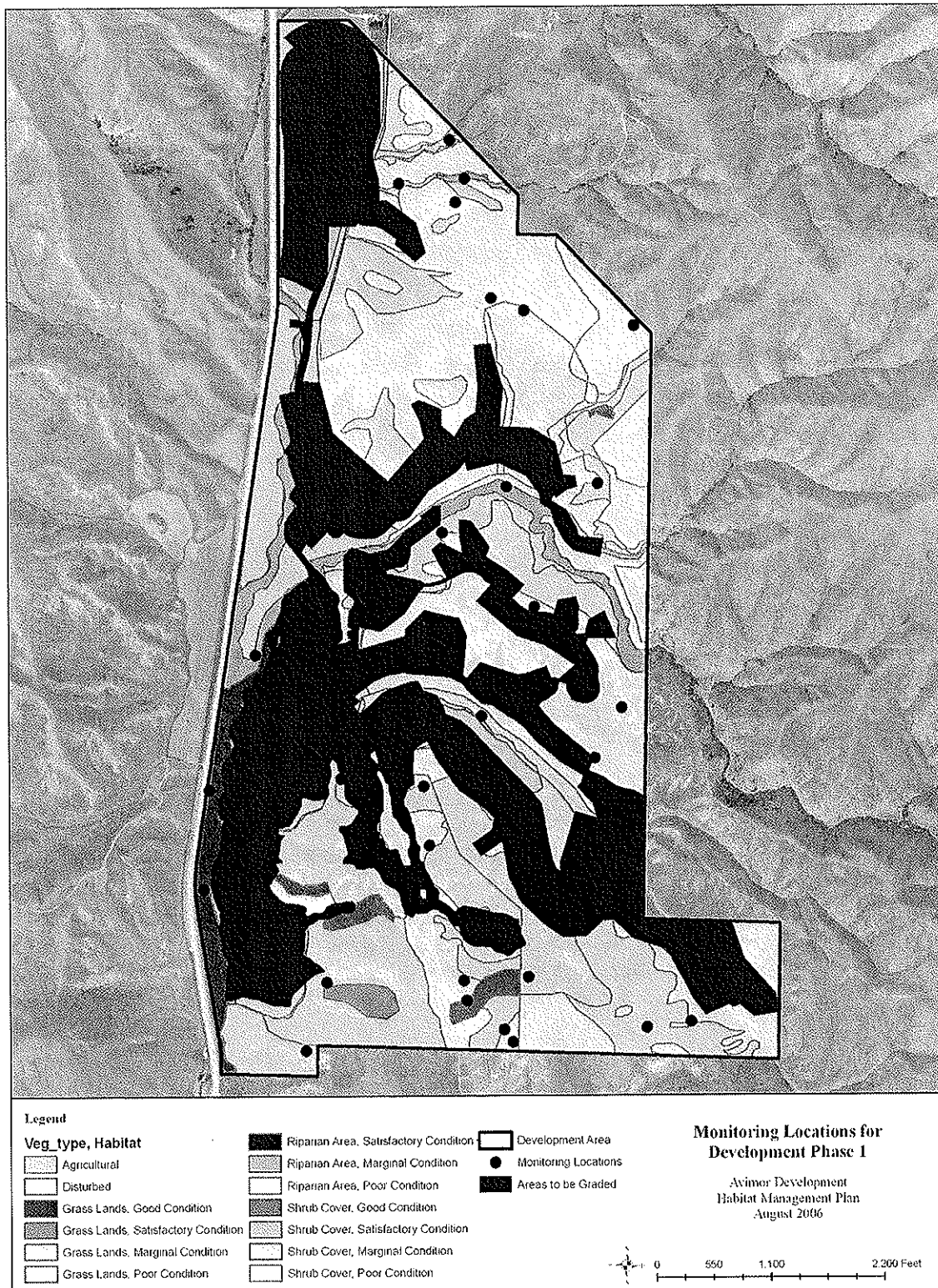


Figure 19. Monitoring Plot Locations for the APC Project Area.

4.8 Construction Precautions

While some impacts associated with construction activity can be avoided, such as unmanaged recreation or unleashed pets, many can't be; therefore it is required that Best Management Practices (BMP) be incorporated into the construction plan. Included in these BMPs will be measures that:

- Restrict ground-disturbing activities and debris piles to a preselected construction envelope. These areas should be buffered sufficiently from riparian communities to limit potential impacts;
- Identify and reduce fuel loads and ignition sources to create a buffer around the construction area. This can be done with small prescribed burns or mechanical, biological, or chemical treatment. In addition, restrict machinery, vehicles, and smoking from areas with dry grasses. It would also be advantageous to create parking areas within the construction envelope and have an onsite water source for accidental ignitions;
- Restrict the use of burn piles during summer and early fall;
- Limit construction activity associated with large machinery when the soils in the area are saturated;
- Other BMPs identified in the Avimor Development Plan, and those identified by the Avimor Conservation Director and developer during the construction process to reduce or mitigate impacts.

4.9 General Neighborhood Design Guidelines

This section outlines identified requirements associated with the APC that pertain to the neighborhood layout, design, or Covenants, Conditions, and Restrictions (CC&Rs).

4.9.1 Riparian Communities

Existing riparian communities will largely be left intact, or enhanced, and be incorporated into the landscape design of the community. They should be located in common areas, parks, or other open space features of the neighborhood design. Habitat enhancement efforts will emphasize these areas as a target for improvement with appropriate species, including rushes, sedges, grasses, and riparian associated forbs, shrubs and trees. Consultation with local, state, or federal agency riparian specialists will continue to be conducted throughout the construction phase of the project to ensure that appropriate vegetation is used during riparian enhancement projects.

Riparian areas incorporated into the neighborhood design will be appropriately buffered from construction and long-term residential impacts. The purpose of buffers is to protect wetland functions and riparian characteristics from detrimental impacts created by adjoining land use, either existing or expected. In general, the scientific literature on wetland buffers is clear and

consistent in that there are three primary factors that are critical in determining adequate buffer widths: (1) type of wetland and functions it provides; (2) type of adjacent land use; and (3) characteristics of the buffer (McMillan 2000). For the purpose of this document we will use these factors for buffering non-delineated riparian communities as well. Riparian and wetland specialists shall be consulted to determine appropriate buffer distances as well as appropriate vegetation species to be planted for riparian enhancement projects (See Appendix B, Wetland Mitigation Plan). Herbicide and chemical spraying shall be limited within the designated buffers to protect associated riparian species, primarily amphibians such as the Northern leopard frog and Woodhouse toad.

4.9.2 State Highway-55 and Residential Roads

Wildlife-vehicle collisions along SH-55 are the primary cause of big game mortality (primarily mule deer) in the vicinity of the proposed APC. In an effort to reduce big game mortality and risks to motorists associated with wildlife and road crossings, improvements to SH-55 could include increased warning signals or signs, or other mitigation measures that meet the requirements of the Idaho Department of Transportation. Other, non-invasive measures not currently identified by the Idaho Department of Transportation could also be used if authorized. These include, but are not limited to super-high frequency noise emitters (humans can't hear these), or the use of scent, to reduce use of the area adjacent to the SH-55 by big game. The Avimor Conservation Director will work cooperatively with a partner agency (IDFG, ITD, etc.) to apply and receive money in an effort to make SH-55 more wildlife-sensitive.

To reduce the potential for big game collisions within the proposed APC, several measures will be incorporated into the design, including but not limited to: a series of signals, signs, and other traffic-calming measures; engineering of roadways with increased line of sight; and roadside barriers. These measures will be incorporated into the design of the APC based on Ada County Highway District standards in order to control or reduce excessive speeding and subsequent collisions, with both wildlife and people.

While these actions can reduce the occurrence of wildlife-vehicle collisions, it will not eliminate road kill altogether. In the event of road kill along SH-55, the Avimor Conservation Director will work with the Idaho Department of Transportation regarding clean up and transport procedures.

4.9.3 Fuel Breaks (Greenstrip)

The APC is located in an area that is dominated by annual grasses and forbs. When these annual species (primarily medusa head and cheatgrass) are a dominant presence in a vegetative community, they can form a virtual carpet choking out preferred native species. In the summer and fall months of the year this carpet becomes an ignition and fuel source, which can ignite and spread wildfire at alarming speeds. Fire is a potential threat at any time in the foothills; however, the threat is especially high from July to September when the moisture levels are low, vegetation is fully grown and dried out, and recreational use is greatest. As discussed earlier, increases in local houses, residents, and recreation will substantially increase the wildfire ignition probability near the APC. Therefore, it is required

that residents adjacent to open areas create defensible space around their residents, or that fuel breaks (or greenstrip) will be constructed to buffer the APC from adjacent open space.

Greenstrips are generally long, narrow bands of fire-resistant vegetation used to reduce the amount and connectivity of fuels, buffer developments from wildfire, and limit ignition potential in high-use areas (Gebhardt 1987; Davison and Smith). Plants growing on these sites should be widely spaced, have high moisture content, and “green-up” longer or later than other species. Greenstrips can also include gravel, decorative rock, or developed walking paths, which are easily incorporated into the landscaping plan for the community.

Greenstrips will have a required width of 8-30 feet in areas of the APC adjacent to the foothills. The variation in width is due to the fact that different land uses will occur along the foothills boundary of the development. Along the residential areas where backyards and irrigated vegetation exists, a narrower greenstrip would apply. In other non-irrigated open space areas a broader fuel break will be needed to protect against wildfire. Practical planning will be used when determining fuel break widths. In areas where a connected green strip would detract from the natural aesthetics of the area, firescaping will be incorporated around individual residents to create defensible space and reduce risk. The riparian area between the property and SH-55 functions as a natural barrier; therefore, greenstrips and other protective measures are not necessary on the west side of the project.

4.9.4 Perimeter Fire Hydrants and Access Roads

A series of fire hydrants will be strategically located along roadways, near the perimeter of the proposed APC to provide fire hose access to neighborhood water in the event of a wildfire. Hydrant hose attachment threading will be compatible with local city, state, and federal hose attachments to facilitate quickness and efficiency in the event of a fire in the foothills. In addition to hydrants, access points will be designed into the proposed APC to allow fire crews to access the foothills beyond the boundaries of the development, while limiting access to residents and recreationists. Exact locations cannot be determined at this time due to the conceptual nature of the proposed APC. The Avimor Conservation Director, IDFG, Eagle Fire District, and BLM will coordinate to identify locations for perimeter hydrants and access points.

4.9.5 Wildlife Fencing

Residential/Higher Density Areas

CC&Rs and design guidelines will restrict residential fencing from having protruding objects, spikes, or rails that could impale crossing wildlife. Deer have been impaled on wrought-iron fences in other foothills developments in the area. Fencing height restrictions will also be taken into consideration due to deer jumping into yards, then not having enough space to jump out. In addition to residential fencing guidelines, large open areas such as parks and playgrounds will either not be fenced or have large openings or escape points to reduce the likelihood of trapping or injuring large wildlife that may wander in.

Open Spaces/Common Areas/Perimeter Development

Open space areas of the development that are connected to or adjacent to the foothills will likely be places that big game species enter the development. Development in the foothills, or other perimeter areas that are lower density and adjacent to open space will be regulated by CC&Rs and design guidelines to provide for wildlife friendly fencing. With regular big game movement to and from these areas, wildlife friendly fencing is important.

The priority for wildlife-suitable fencing in open areas is easy passage and low risk of injury or death. Fences constructed for livestock grazing control will comply with wildlife friendly fencing standards. Specifically, the bottom wire or barrier on these fences will not be barbed, and be at least 16 inches off the ground to facilitate the safe passage of young big game species. The top level of fences would ideally be constructed of wood to increase visibility and safety for deer and elk. The top level should not have any protruding objects or rails that could potentially impale crossing wildlife. The top of all fences should be no higher than 42 inches, with at least 12 inches between the top two levels. Deer and elk jump with their hind legs forward, so if the top two strands are too close together or are loose, they'll often get caught, resulting in injury or death.

Residential fences in areas directly adjacent to natural open areas should be restricted or fully closed. By fully closing these fences, line of site is diminished; therefore, big game species are less likely to enter the yards where they could be injured.

4.10 Recreation Guidelines

Recreation poses one of the largest potential negative impacts to local wildlife in the vicinity of the APC, and has significant implications associated with public access and use of the area. The IDFG and BLM have an obligation to provide public access and use on public and state lands compatible with the protection and enhancement of wildlife and wildlife habitat. This does not include all forms of recreational use during all times of the year. Wildlife is a high priority of the area, and both Avimor residents and the public need to be educated to understand this fact.

Open space areas do not necessarily imply that it is open for all types of recreation. The developer in coordination with the Avimor Conservation Director, Ada County, BLM, and representatives from various private recreation groups will assess new and existing recreation uses to analyze and ensure compatibility with wildlife and public access. Recreation types that are not compatible with wildlife objectives of the area will be restricted. Currently, all motorized recreation will be restricted within the project area except for maintenance, emergency, or fire vehicles. A recreation plan will be developed prior to full build out. In addition, the developer will construct and maintain trailheads and trail systems within the private lands and conservation easements, and coordinate with the county and BLM on programs for accessing and maintaining adjacent trails on public lands. The developer/Avimor Conservation Director will be required to maintain an ongoing relationship with the Foothills Learning Center, IDFG, BLM, and other pertinent agencies and groups in an effort to manage and monitor long-term recreational uses in the foothills as well.

In addition to a recreation plan for the community, a construction precaution plan will be identified and implemented by the developer. This plan will educate construction crews on the potential impacts related to off-road recreation, including wildfire, impact to soils and vegetation, and harassment of wildlife. In addition, the foothills adjacent to the project area will be restricted as much as possible from recreational use (off-road, mountain biking, hiking, etc.) until the managed trail system can be put in place. The use of firearms for recreation or hunting within the project area is strictly off limits during the construction phase of the development, especially during critical winter periods.

4.10.1 Trails Winter Closures

All designated trails and recreation areas surrounding the proposed APC will be closed in accordance with IDFG guidelines from December 31st to April 1st. This time of year represents the highest potential for negative impacts on wildlife, especially big game species, and subsequently should be completely off-limits to recreational use. This could be a flexible timeframe that is adjusted in conjunction with IDFG recommendations and annual winter severity fluctuations. The Avimor Conservation Director will be responsible for working with the IDFG on time frames and educating and informing residents and the public about of the timeframes and reasoning behind trail closures.

It is anticipated that the residents within the community would have a vested interest in the natural conditions of the area, including the continued presence wildlife. It is believed that they would act to self-police the community and report public use of closed trails. To further reduce use during critical winter periods, a yearlong open trail system has been designed within the APC. This will allow residents and the public to have access to portions of the foothills for recreation during winter closure of other trails and limiting impacts to wildlife during critical winter periods.

In addition, a strict policy will be enforced regarding recreational trail use in the open spaces of the foothills surrounding the APC. All residential and public recreational users will be required to stay on managed trails. This would reduce impacts to the vegetation adjacent to the trails, limit impacts to wildlife, and prevent the creation of alternate and new trails.

4.10.2 Pets

Pets will be restricted from the proposed APC during the construction phase of the development, especially during critical winter periods. After the construction phase, the Avimor Conservation Director will maintain involvement with local agencies and groups that host workshops on the potential conflicts and issues resulting from the presence of dogs and other pets in the foothills. For the safety of wildlife and pets alike, dogs will be required by the CC&R's to be leashed, kenneled, or kept inside at all times.

Cats can decimate populations of birds and small mammals. They can also become prey to some wildlife species. Therefore, it is required that residents be educated on wildlife issues and that cats be kept indoors at all times.

To reduce wildlife use of residential properties, pet food will be required through CC&R's to be stored indoors or in a sealed container. Pet food should not be left outside, because this can entice various wildlife species and result in nuisance animals that will have to be removed or terminated.

4.11 Nuisance Wildlife

Based on the potential for wildlife interactions in the area, it will be required that the developer and Avimor Conservation Director create and distribute educational materials for construction contractors and residents concerning wildlife in the area. This can be in the form of wildlife manuals, informational videos, trail signage, nature walks, etc. Construction crews and contractors, as well as residents of the APC will also be required to attend informational meetings put on by the Avimor Conservation Director concerning wildlife interactions and appropriate responses.

The Avimor Conservation Director will develop protocols to address resident/wildlife interactions cooperatively with state and federal wildlife agencies. For example, the Avimor Conservation Director should be the initial contact person for construction crews and residents concerning wildlife interactions or questions. This would limit the overall number of calls to state and federal agencies. However, the Conservation Director will also work with the IDFG to obtain the appropriate certifications and authorizations to deal with nuisance wildlife. Other aspects concerning wildlife interactions and protocols will be identified and addressed by the Avimor Conservation Director and representatives from state and federal agencies.

Based on the location of the APC and likelihood of nuisance wildlife issues, it will be required that the following non-depredation language be incorporated into a homebuyers disclosure statement and signed by all residents of the APC.

“This area has been identified as wildlife habitat. Damage to landscaping from wild game animals shall be the responsibility of each individual lot owner and shall not be the responsibility of the State of Idaho or Ada County. Neither Ada County nor the State of Idaho will be liable for wildlife depredation.”

4.12 Domestic Livestock Grazing

The area surrounding the proposed project area has historically been used for domestic livestock use, primarily sheep and cattle. Based on overall conflicts between livestock and elk populations, especially associated with critical winter habitat and spring forage, it will be required that general livestock grazing be restricted from all open space associated with the proposed APC and any conservation easements. However, the use of managed livestock grazing, for short periods of time could be used as a tool to control some invasive or noxious weed species. In addition all livestock fencing within the proposed APC, and any associated conservation easements associated with the property, will be dismantled. This will reduce obstructions and potential hazards while creating more contiguous open space for wildlife.

4.13 Long-Term Estimated Costs and Funding

The following table estimates the potential available funding for conservation and education programs (CEP). The estimated funds table (Table 11) is based on a .25% home sale transfer fee, and up to a \$75 per year residential unit fee assessment that may change base on periodic fluctuations associated with inflation. The estimated figures are based on an average home cost of \$300,000.00, with a full build-out in approximately six-years (subject to market conditions). In addition, the resale of residential units would also be assessed a .25% transfer fee. The average resale rate, based on national averages, is estimated to be 8.5% after three years which would further fund the CEP. Table 11 is only an estimate, based on the current dollar, average number of initial houses sold per year, and an 8.5% resale rate after three years. The estimate does not take into consideration inflation. However, since a fixed percentage of the home price is used as the transfer fee, fluctuations in home prices will compensate for these changes over time.

Table 11. Estimated Long-Term CEP Funding.

Year	No. of Units	Residential Fee Assessment (\$75/Year)	Transfer Fee (.25%) (Initial Sale Only)	Transfer Fee (.25%) (Resale)	Total Estimated Conservation Funds
1	255	\$0.00	\$191,250.00	\$0.00	\$191,250.00
2	77	\$19,125.00	\$57,750.00	\$0.00	\$76,875.00
3	155	\$24,900.00	\$116,250.00	\$0.00	\$141,150.00
4	90	\$36,525.00	\$67,500.00	\$31,125.00	\$135,150.00
5	64	\$35,775.00	\$48,000.00	\$36,750.00	\$120,525.00
6	43	\$48,075.00	\$32,250.00	\$40,875.00	\$121,200.00
Total	684	\$164,400.00	\$513,000.00	\$108,750.00	\$786,150.00
<i>Note A: These estimates assume a \$300,000.00 average home value and 8.5% resale after 3 years.</i>					
<i>Note B: Residential Fee Assessment based on collection beginning the year after occupancy.</i>					

Restoration costs identified for the initial restoration program for each phase will be covered by the developer (SunCor) and included as construction costs (See Section 6.0). See Table 16 in Section 5.0 for estimated costs associated with construction Phase 1 of the APC. Only post-restoration costs, such as continued restoration activities and maintenance, trend monitoring, invasive and noxious weed control, educational materials and classes, and other activities associated with the Avimor CEP will be funded by the assessment and transfer fees.

To assure that these funds are used for CEP, an appointed Board of Directors (BOD), or oversight committee will manage the funds. This BOD will be established as a 501 (c) (3) not-for-profit organization and will be responsible for administering funds and contracts on behalf of both the home-owners association (HOA) and the CEP. While this BOD acts as an administrative body for both the HOA and CEP, there are no direct ties to either group, or the developer (SunCor). While members from each of these entities may be on the BOD, all administration of funding or contracting associated with the BOD will be separate. Specific language will be included in the bylaws of the BOD to insure that annual conservation funding is earmarked for projects specifically related to the CEP.

As a specific recommendation for the conservation funds, it would be advantageous to utilize the resources of the Southwest Idaho Resource Conservation and Development council (RC&D). This is a private 501 (c) (3) program created by the National Resource Conservation Service. Because of its directives and ties with the federal government, the RC&D has a number of grant and administrative capabilities that could significantly increase the long-term funds associated with the CEP, and further separate funding from the HOA and developer (SunCor).

4.14 Construction Phase Mitigation Plan Template

A construction phase mitigation template will be used to assess, identify, and mitigate the conditions and impacts associated with the development of the proposed APC on a construction phase-by-phase basis, in order to reach or exceed the no-net-loss requirement. Each development phase plan will consist of four elements: 1) A site-specific analysis and delineation of vegetation type and condition within each phase; 2) the identification of direct and indirect impacts to habitat for both plant and animal species; 3) general recommendations to off-set direct and indirect impacts; and 4) a general plan and time line that identifies the type and amount of area required for mitigation, as well as the extent of enhancement in the form of restoration of more natural vegetative communities.

These elements are all currently covered under the Avimor WMP in a general context, i.e., at the landscape level. More specifically, the same overall direct and indirect impacts from development (Section 3), as well as the same general actions to offset these impacts, will be consistent for all construction phase-specific plans. Therefore, these elements will not be identified in the site-specific plan; rather the individual plans will refer the reader to these sections. This means that the construction phase-specific plans will primarily address element 1 and 4 above.

Table 12 identifies and outlines the general order and associated actions to be taken by the developer to meet or exceed the no-net-loss requirements on a construction phase-by-phase basis, beginning with Phase 1. Following the table is a phase map (Figure 20) of the entire APC project area, with a summary table of minimal enhancements identified to meet the No Net Loss Model (Table 13). While these estimates are the minimal number of acres required, it is very likely the overall number of acres enhanced will far exceed these estimates.

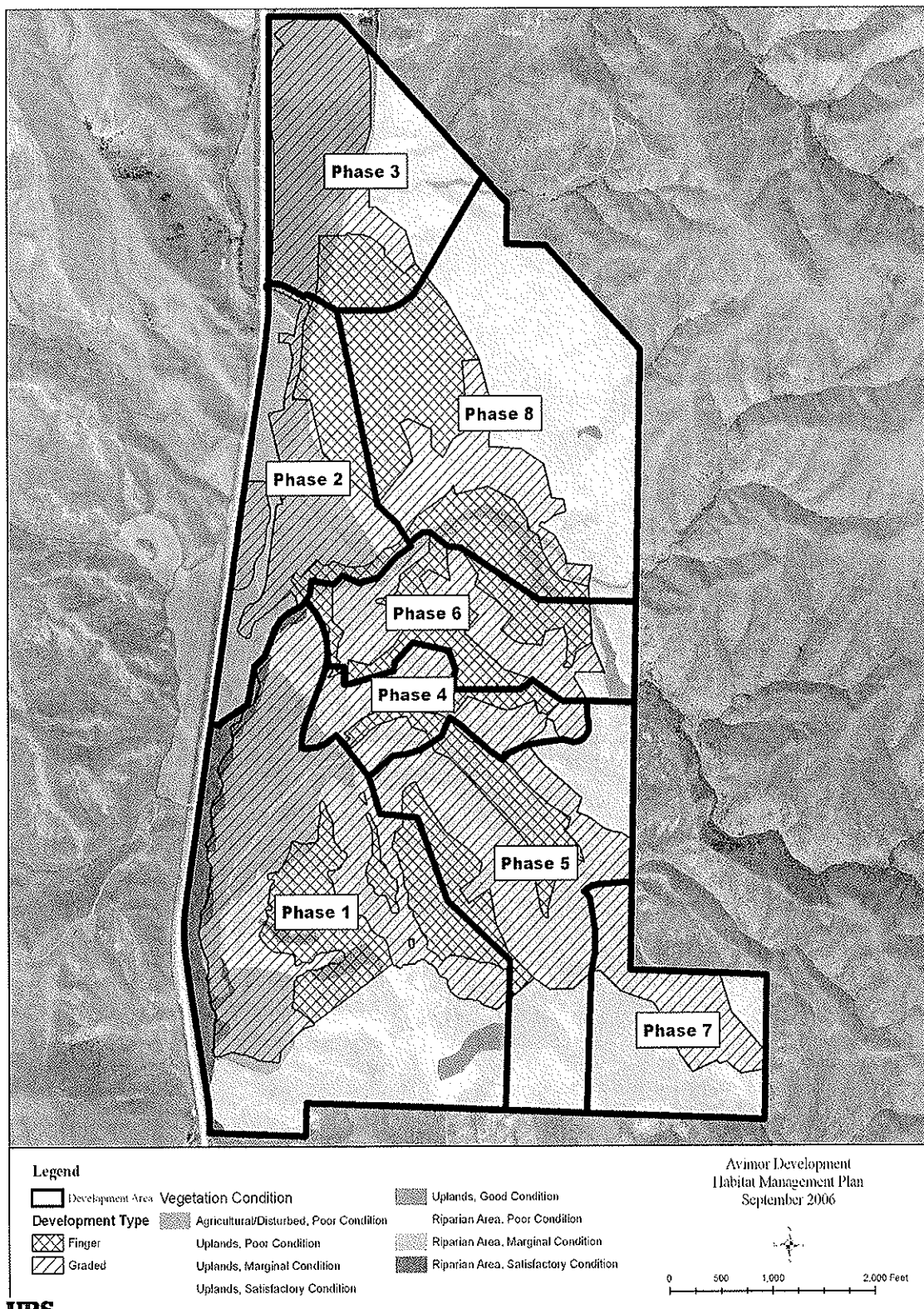
Table 12. Construction Phase-Specific Mitigation Plan Outline.

Order	Action
Step 1	Delineate and map vegetation types and condition classes for entire development plan. (Already completed for all Phases)
Step 2	Overlay condition map with identified development phase impacts. (Already completed for All Phases)
Step 3	Use results from step 2 to run the no-net-loss model and identify total habitat score and cumulative mitigation score for the entire development and each construction phase. (Already completed for all Phases)
Order	Action
Step 4	Identify areas within each phase to enhance, and to what extent. All areas identified as natural open-space within the development must be set-aside as conservation easements or dedicated (deed restricted) association-owned common areas to prevent future development. (In Progress)
Step 5	A monitoring program will be defined, with a statistically valid sample size within each condition class. The initial monitoring program will be development-wide (Already completed); with additional monitoring sites within each phase as mitigation measures are taken.
Step 6	A species list for planting and seeding will be identified for upland, riparian, and transition zones, with an emphasis on native species. (Already completed)
Step 7	As areas are identified for enhancement, a priority list and a general time-line (See table 15) will be completed. This step will be adaptive based on the conditions of the site and emphasis, i.e. invasive and weeds reduction vs. native restoration.
Step 8	Outline a minimum of a three-year restoration plan that identifies specific areas for restoration, type of restoration within each area, and potential cost. The format of this plan should be general in nature and adaptive based on the variable climatic conditions and the inconsistent results of restoration activates. (Already completed for Phase 1)
Step 9	The developer submits a bond, amount to be determined, that will be held by the county. In the event that the developer is not making notable progress (determined by the annual monitoring report) toward the no-net-loss mitigation plan identified in the site-specific plan, the following actions could be taken: 1st year, a written warning from the county; 2 consecutive years, the bond or a portion of the bond is forfeited; 3 consecutive years, the project is suspended until progress in made and a new bond is submitted.

The following, Section 5.0, is the construction phase-specific mitigation plan. The section outlines the specifics of the planning process using the construction Phase 1 of the APC development. The general format, narrative, and tables identified in this plan will be the same for all future phases (Figure 20), with only the site data and timeframe differing. Table 13 below summarizes the estimated enhancements required to meet the No Net Loss Model on a phase-by-phase basis.

Table 13. Construction Phase-Specific Minimum Enhancements Required to Meet the No Net Loss Model.

Phase 1 (235-Acres)	<ul style="list-style-type: none"> - Poor Uplands/Agriculture enhanced to Satisfactory: 20-Acres - Marginal Uplands enhanced to Satisfactory: 60-Acres - Satisfactory Riparian enhanced to Good: 13.00-Acres
Phase 2 (60-Acres)	<ul style="list-style-type: none"> - Poor Uplands/Agriculture enhanced to Satisfactory: 15-Acres - Marginal Uplands enhanced to Satisfactory: 5-Acres
Phase 3 (140-Acres)	<ul style="list-style-type: none"> - Poor Uplands/Agriculture enhanced to Satisfactory: 28-Acres - Marginal Uplands enhanced to Satisfactory: 14-Acres - Poor Riparian enhanced to Good: 0.50-Acres
Phase 4* (39-Acres)	<ul style="list-style-type: none"> - Poor Uplands/Agriculture enhanced to Satisfactory: 8-Acres
Phase 5** (114-Acres)	<ul style="list-style-type: none"> - Poor Uplands/Agriculture enhanced to Satisfactory: 20-Acres - Marginal Uplands enhanced to Satisfactory: 25-Acres
Phase 6 (67-Acres)	<ul style="list-style-type: none"> - Poor Uplands/Agriculture enhanced to Satisfactory: 10-Acres - Marginal Uplands enhanced to Satisfactory: 4-Acres - Marginal Riparian enhanced to Good: 3-Acres
Phase 7 (58-Acres)	<ul style="list-style-type: none"> - Poor Uplands/Agriculture enhanced to Satisfactory: 5-Acres - Marginal Uplands enhanced to Satisfactory: 10-Acres
Phase 8 (171-Acres)	<ul style="list-style-type: none"> - Poor Uplands/Agriculture enhanced to Satisfactory: 20-Acres - Marginal Uplands enhanced to Satisfactory: 20-Acres
<p><i>* The number of acres within this phase available for enhancement is insufficient to meet the no net loss; therefore, additional acres in adjacent phases will be enhanced to compensate.</i></p> <p><i>** Additional acres were identified to compensate for Phase 4.</i></p>	



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Figure 20. APC Phase Summary Map.

5.0 CONSTRUCTION PHASE-SPECIFIC MITIGATION PLAN

Previous sections detail the current condition of the entire proposed APC project area (Section 2); identified the direct and indirect impacts associated with the development (Section 3); and identified a general mitigation to mitigate impacts to wildlife and associated habitat affected by the development (Section 4). This section will only identify required mitigation measures for construction Phase 1 of the APC project, based on the no net loss alternative identified in Section 4.0.

Based on the location and overall condition of the site, an aggressive, proactive mitigation plan for wildlife habitat, wetlands, and invasive and noxious weeds must be established and maintained. This requires a long-term commitment of time, resources, and funding from both the developer and residents of the community. The following construction phase-specific mitigation plan describes the current conditions and identifies recommendations and requirements to mitigate impacts to wildlife, mitigate impacts to wetlands, and propose tools for controlling and managing invasive and noxious weed species.

5.1 Current Condition

Currently, an agricultural community, surrounded by portions of riparian and upland communities, dominates the area identified in the first construction phase. Vegetation community types found in the project area can be classified into the following three general zones:

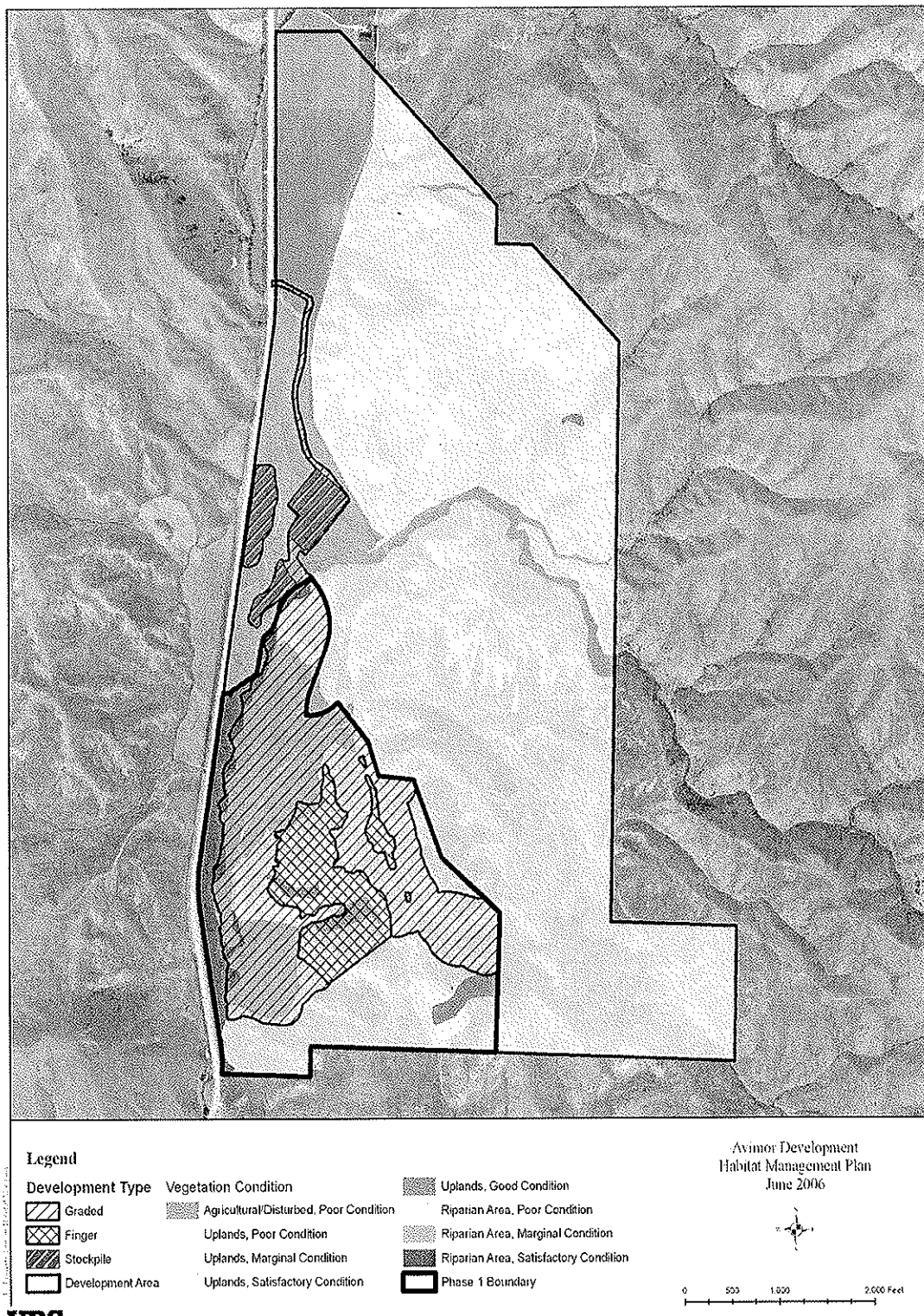
- Agricultural Zone — The valley bottomland, which has been converted primarily to agricultural (alfalfa) use.
- Riparian Zone — The narrow riparian zones along Spring Valley Creek are dominated by large woody species including cottonwoods (*Populus sp.*), birch (*Betula sp.*), hawthorn (*Crataegus sp.*), and various willows (*Salix sp.*). A number of forbs and grass species are found in all three zones while sedges and rush species are also only found in or near the riparian zones. There are also a number of noxious weed species found in this community type including: whitetop (*Cardaria draba*), Canada thistle (*Cirsium arvense*), Scotch thistle (*Onopordum acanthium*), field bindweed (*Convolvulus arvensis*), puncturevine (*Tribulus terrestris*), and poison hemlock (*Conium maculatum*)
- Upland Zone — The moderate to steep slopes, ridges, and gulches are dominated by various species of grass, forbs and shrubs. However, the uplands found within the project area boundary are primarily dominated by invasive and noxious weed species including cheatgrass (*Bromus tectorum*), medusahead wildrye (*Taeniatherum caput-medusea*), bulbous bluegrass (*Poa bulbosa*), and rush skeletonweed (*Chondrilla juncea*). Patches of north and east facing slopes have remnant native grass and shrub communities with native species including: Idaho Fescue (*Festuca idahoensis*), bluebunch wheatgrass (*Agropyron spicatum*), needle and thread grass (*Stipa thurberiana*), bitter brush (*Pursia tridentata*), and sagebrush (*Artemisia tridentata*).

However, these areas are generally small and fragmented, and only found on very steep slopes where domestic livestock use has been limited.

Table 14 below quantifies, based on quality of habitat, the amount and percent of each community type found within the proposed first construction phase. Community boundaries and quality were identified during an onsite ground survey, and digitally mapped using the condition classes identified in Section 2.2.2 (Figure 21 and 22):

**Table 14. Vegetative Communities and Condition Classifications
Within Construction Phase 1 of the Proposed APC.**

Community/Classification	No. Acres	% of Total
Riparian		
Riparian (Poor)	0.20	0.08%
Riparian (Marginal)	0.02	0.01%
Riparian (Satisfactory)	19.83	8.42%
Riparian (Good)	0.00	
Total	20.05	8.51%
Uplands		
Upland (Poor) Ag. included	111.28	47.25%
Upland (Marginal)	89.31	37.92%
Upland (Satisfactory)	5.29	2.25%
Upland (Good)	9.61	4.08%
Total	215.49	91.49%
Overall Total	235.54	100.00%



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Figure 21. Community Type and Condition Classification Map for Entire Project Area with Phase 1 Impacted Area Identified.



Figure 22. Community Type and Condition Classification Map with Phase 1 Plat Area Identified.

5.2 Mitigation Plan for General Habitat (Plants and Wildlife)

The grading plan for the proposed first construction phase was overlaid on the vegetation condition map to identify and delineate the amount and distribution of impacts to each community type in order to assess the total loss of habitat (Figure 22 and Table 15). Total loss of habitat takes into consideration the amount and condition of the habitat affected. Table 15 quantifies the amount and condition of each community type directly and indirectly affected by construction activities. The amount and condition of the areas graded (impacted), left as natural open space (non-impacted), and left as natural open space, but impacted by surrounding development (fingers), are identified. Areas identified as “fingers” are those areas that will remain as natural open space, therefore, they will not be identified as permanent loss. However, based on the proximity of the development, the habitat associated with these areas is of less value to many wildlife species. To compensate for reduced value to wildlife the current condition of the area is reduced by one class. For example an area identified as a “finger” in satisfactory condition would be reduced to marginal condition for mitigation purposes.

Table 15. Delineated Impacts Based on Phase 1 Grading Plan.			
Community Type/Condition	Areas Graded (Impacted)	Acres Non-Impacted Not Finger	Acres Non-Impacted “Finger”
Riparian			
Good	0.00	0.00	0.00
Satisfactory	6.00	13.83	0.00
Marginal	0.01	0.01	0.00
Poor	0.20	0.00	0.00
Total	6.21	13.83	0.00
Uplands			
Good	1.58	4.00	4.03
Satisfactory	1.63	3.66	0.00
Marginal	19.60	40.54	29.17
Poor/Agricultural	90.59	12.12	8.57
Total	113.40	60.32	41.77

The number of acres of each community type/condition class was converted into a habitat score by multiplying the number of acres by a conversion factor associated with each community type. By doing this we can calculate a total habitat score for the area and a mitigation score that needs to be met or exceeded, taking into consideration both the amount and quality of habitat. Similarly, to identify the amount of area, based also on amount and condition, required to mitigate those impacts, the same conversion factors are used. The process and formula used to identify the number of acres necessary to meet the no net loss required for Phase 1 of the APC project (see Section 4.4), as well as the requirements and recommendations (see Section 4) identified to mitigate overall direct and indirect impacts (see Section 3) to the first construction phase are described earlier.

The following is the results from the no net loss model for construction Phase 1 of the APC and two tables identifying the specific mitigation actions, timeline, and a seeding/planting schedule for the first three years of Phase 1.

Based on the impacts associated with the first phase of the APC, the following mitigations are the minimum enhancements needed to meet the no net loss of habitat. Other alternatives may be necessary if enhancement activities are unsuccessful:

- Poor Uplands/Agricultural enhanced to Satisfactory: 20.00-Acres
- Marginal Uplands enhanced to Satisfactory: 60-Acres
- Satisfactory Riparian enhanced to Good: 13.00-Acres

The no-net-loss concept and formula is an adaptive process that enables the developer to reach the no net loss goal through variable mitigations actions based on the availability of different resources. As additional sites are developed within the APC, additional lands will be available for enhancement. All areas identified as natural open space will be set aside as conservation easements or dedicated association-owned common areas (deed-restricted) to prevent future development. The identified number of acres in each category above is the minimum required for mitigation. However, based on the size of the area and aggressive nature of the restoration plan, additional acres will be treated and restored as well, with the goal of enhancing all natural open space within the project boundary. The net increase in habitat associated with these areas will be used for the existing phase, as well as future phases.

5.3 General Mitigation Plan

Overall project recommendations and requirements are described in Sections 4.0 of this report. These are general descriptions of the primary issues and tools available to mitigate impacts, and reach the no net loss requirement and mitigate overall direct and indirect impacts to wildlife associated with the construction of the APC development. Included with these recommendations and requirements is a description of the monitoring plan that will be implemented previous to any restoration activity. These general recommendations/requirements and monitoring plans implemented in each phase will depend on site-specific conditions and other variables. The following is the site-specific plan based on the Phase 1 plat.

5.4 Phase One Mitigation Actions, Timeline, and Seeding/Planting Schedule

Based on the overall requirements, recommendations, and plans identified in Sections 4.0, Table 16 outlines the specific mitigation actions and timeline for construction Phase 1 of the APC project. The associated costs will be covered by the developer as the initial mitigation measures. This will serve as the template and process for succeeding development phases of the APC. Specific acreages were identified based on the initial Phase 1 grading plan and plat design. A site-specific three-year seeding, planting, and weed treatment plan is identified in Table 17. The costs associated with items identified in Table 17 are included in Table 1. The areas affected by these treatments are delineated and mapped in Figure 22, with the total number of acres in each category identified in Table 15. These delineated areas and

associated acreage would be the maximum number of acres affected by mitigation actions (long-term goal), while the no net loss results would be the minimum. The results from the site-specific plan will likely fall somewhere between depending on the overall success rate of the restoration activities and weed treatments. A species list and application rate is also identified for the riparian, temporary, and uplands (transition and plateau) sites following Table 17.

Table 16. Management Actions, Timeline, and Estimated Costs for Construction Phase 1.					
Item #	Start Date	Management Action	Estimated Completion Date	Estimated Quantity	Estimated Cost
1	June 1, 2006	Procurement of seed species for revegetation and hydro seeding, with an emphasis on native species and local stock.	Prior to late late-spring 2006, seeding and hydro seeding efforts.	N/A	\$8,325.00
2	June 1, 2006	Procurement and cultivation of live plants (grasses, forbs, shrubs, and trees) for revegetation. Native species and local stock emphasized.	Prior to live plant revegetation efforts in early spring of 2006.	N/A	\$5,440.00
3	June 1, 2006	Procurement of hydro seeding materials other than seed mixture.	Prior to late late-spring hydro seeding efforts in 2006.	N/A	See 11
4	Late-Spring to Early-Summer 2006	A monitoring program will be implemented to quantitatively and qualitatively monitor the restoration program and results (See Below).	Annual monitoring and reports will be done indefinitely. Monitoring should be done from mid-April to early-June.	N/A	\$8,000.00
5	Late-Spring to Mid-Summer 2006	Spot spraying to test the affect of Amazapic (Plateau) on various vegetation types within the project area. Sites will be monitored and recorded.	Prior to large-scale application of herbicides in early fall.	Approx. 5 Different Test Sites	\$600.00
6	Mid to Late-Summer 2006	Structural restoration of sites identified in the Wetland Mitigation Plan, which was approved by the Army Corps of Engineers on June 27, 2006.	Mechanical impacts to wetlands will be done during lowest water levels to reduce overall impact to bank stability and structure.	Grading N/A	Grading N/A

Table 16. Management Actions, Timeline, and Estimated Costs for Construction Phase 1.					
Item #	Start Date	Management Action	Estimated Completion Date	Estimated Quantity	Estimated Cost
7	Post Ground Disturbance 2006	Impacted areas and stockpiled soils will be treated with a glyphosate to control the establishment or spread of invasive species.	Up to one week prior to seeding, including hydro seeding, or other revegetation efforts.	1L.S.	\$1,000.00
8	Post Ground Disturbance 2006	Raking and burning medusa-head rye mats in non-impacted areas, including fingers. Sites are generally small and will be done on an as needed basis.	Prior to large-scale herbicide application in early spring.	15-Acres	\$4,850.00
9	Early Fall 2006 (Based on Seasonal Conditions)	Based on the results from the spot tests, a large-scale application of Plateau herbicide would be applied on non-impacted areas within Phase 1.	Six weeks prior to seeding or hydro seeding efforts.	60-Acres	\$1,500.00
10	Late Fall 2006 (Based on Seasonal Conditions)	Native grass, forbs (if available), and shrub species would be salvaged from other sites within the project area for early spring transplants and propagation in nurseries for future use.	Prior to winter frost.	N/A All vegetation will be purchased	N/A All vegetation will be purchased
11	Late Fall 2006 (Based on Seasonal Conditions)	Seeding and hydro seeding of riparian and upland sites, with site-specific plant mixes emphasizing structural components and native species.	One week after glyphosate treatment.	26.5-Acres	\$69,260.00
12	Late Fall 2006 (Based on Seasonal Conditions)	Aerial seeding of base uplands mix emphasizing structural components and native species.	Previous to Plateau application, and one week after glyphosate treatment.	60-Acres	\$6,000.00

Table 16. Management Actions, Timeline, and Estimated Costs for Construction Phase 1.					
Item #	Start Date	Management Action	Estimated Completion Date	Estimated Quantity	Estimated Cost
13	Early Spring 2007 (Based on Seasonal Conditions)	Transplanted species, plugs, super cells, and potted plants would be planted within riparian and upland sites identified for restoration. Areas identified for future disturbance will only be seeded.	Spring of 2007	29.7- Acres	\$4,000.00
14	Late Spring 2007	Spot application of herbicides will be used to control noxious and invasive species. Recommended application time is when species are approximately six inches in height.	Long-term stewardship program. Dependent on long-term results.	10 Trips ea.	\$5,000.00
15	Late Spring 2007	Monitor results from first season and make adjustment to protocol if needed.	These reports will be used to gauge the progress toward the identified mitigation measures outlined in the HMP.	20 hours	\$1,000.00
16	Third Quarter of 2007	Conservation Director position will be filled.	Life of the project.	1-Firm	Contracted
17	To Be Determined	Advisory Committee Formed	Life of the project.	NA	NA
Total Estimated Developer Cost for Construction Phase 1 Initial Restoration:					\$114,975.00

Table 17. Avimor 3-Year Planting and Reseeding Schedule Based on Plat Design.				
Area	Wetland/Riparian	Transition	Upland	Upland Plateau
Qty(Approx):	3.2 acres	5.5 acres	21 acres	60 acres
Year 1	Coir Mat used to stabilize bank.	Bonded Fiber Matrix (BFM) – Hydroseed	BFM – All 2/1 slopes	Spot weed spray test (Plateau)
	1 gal. Plants – 1.5 plants/100SF	1 gal. Plants @ 3' O.C. staggered at top of slope	Hydrostraw - All 3/1 slopes (cheaper product useable?)	Large scale weed spray (Plateau)
	Light Seeding		Roundup weed spray prior to hydroseed	Broadcast Seeding Only
	Super Cells @ 1' O.C. up to 3 Ft	No further actions taken the first year so as to not disturb the hydro-seeding sites.		
	BFM Hydroseed where no Coir Mat			
Year 2	1 gal. Plants - Replace all lost Plants	Super Cells – 2.5 cells/100SF	Super Cells - 2/1 Slope – 5ea/100SF	Spot weed spray as needed (Roundup and Plateau depending on site characteristics).
	Add 50% of Year One 1 gal. Plant Qty.	1 gal. Plants – .5 Plants/100SF	Super Cells – 3/1 Slope – 2.5ea/100SF	Broadcast Reseed
			1 gal. Plants – .25 Plants/100SF	
			Broadcast Reseeding	
Year 3	1 gal. Plants – Replace all lost Plants	1 gal. Plants – Replace all lost Plants	Super Cells – 2/1 Slope – 2.5ea/100SF	As additional funding through the Avimor Conservation Fund is made available, live plants will be planted.
	Add 50% of Year Two 1 gal. Plant Qty.	Add 50% of Year Two 1 gal. Plant Qty.	Super Cells – 3/1 Slope – 1.25ea/100SF	

Wetland & Riparian Species list

<u>Common Name</u>	<u>Botanical Name</u>	<u>Quantity</u>
Sterile Wheatgrass		20 lb/acre
Tufted Hairgrass	Dechampsia cespitosa	3 lb/acre
Bluebunch Wheatgrass	Pseudoroegneria spicata	2 lb/acre
Great Basin Wildrye	Leymus cinereus	2 lb/acre
Solidago	Solidago Canadensis	1 lb/acre
Annual Sunflower	Helianthus annuus	1 lb/acre
Sticky Geranium	Geranium viscosissimum	1 oz/acre
Rocky Mountain Iris	Iris missouriensis	.25 lb/acre
Large Leaf Lupine	Lupinus polyphyllus	.25 lb/acre
Camas	Camassia quamish	.5 lb/acre

Upland (Temporary)

<u>Common Name</u>	<u>Botanical Name</u>	<u>Quantity</u>
Sterile Wheatgrass		40 lb/acre
Annual Sunflower	Helianthus annuus	.5 lb/acre
Lewis's Flax	Linum lewisii	.5 lb/acre

Upland Species List

<u>Common Name</u>	<u>Botanical Name</u>	<u>Quantity</u>
Sterile Wheatgrass		30 lb/acre
Great Basin Wildrye	Leymus cinereus	2 lb/acre
Bluebunch Wheatgrass	Pseudoroegneria spicata	2 lb/acre
Idaho Fescue	Festuca idahoensis	1 lb/acre
*Sandberg Bluegrass	Poa secunda	2 lb/acre
Big Squirrel Tail	Elymus multisetus	.5 lb/acre
Indian Ricegrass	Oryzopsis hymenoides	1 lb/acre
Sand Dropseed	Sporobolus cryptandrus	1 lb/acre
*Thurber's Needlegrass	Stipa thurberiana	.5 lb/acre
Lewis's Flax	Linum lewisii	.5 lb/acre
Small Burnet	Sanguisorba minor	2 lb/acre
Western Yarrow	Achillea millefolium	.5 lb/acre
**Munro's Globemallow	Sphaeralcea munroana	.5 lb/acre
**Palmer Penstemon	Penstemon palmeri	.5 lb/acre
Silky Lupine	Lupinus sericeus	.5 lb/acre
Annual Sunflower	Helianthus annuus	.5 lb/acre
**Gray Rabbitbrush	Chrysothamnus nauseosus	.5 lb/acre

* Not certain we can acquire the full quantity we have ordered

** These species are wildland collected and have not been collected yet. Palmer Penstemon may change to Dark Blue Penstemon based on availability.

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6.0 Avimor Planned Community Mitigation Monitoring Program Table

1.0 Avimor Conservation Director (ACD)	Mitigation Action	Initial Cost	On-going Cost	Funding Source(s)	Implementation Phasing/Timing	Mitigation Action Status	Party Responsible for Implementation	Party Responsible for Monitoring	Monitoring Activity	Monitoring Frequency	Outside Agency Coordination	Party Responsible for Enforcement	Enforcement Mechanism(s)
1.1	The ACD will manage the conservation and education programs for the Avimor Planned Community as detailed in the WMP Section 4.1 and Appendix A.	\$85,000	\$65,000 per year	Developer/Owner, 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year.	Phase 1/Before Spring of 2007	Complete/ Summer 2007	Owner/ Developer	Owner/ Developer and Ada County	NA	Annual Review	IDFG, BLM, Ada County, NRCS, and others	Owner/ Developer and Ada County Development Services	Development Agreement, Restricted Permit Authorization, Bonding/ Surety Agreement
1.2	Implements, manages, and monitors conservation and enhancement programs identified in the WMP to meet or exceed no net loss requirements.	Included in 11 estimated costs	Included in 11 estimated costs	Developer/Owner, 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year.	Continuous	In Progress/ Fall 2006	ACD	NA	NA	NA	NA	ACD	Development Agreement, Restricted Permit Authorization
1.3	Monitors and maintains effective fuel breaks, and inventory, monitor, and manage weed abatement program.	Included in 11 estimated costs	Included in 11 estimated costs	Developer/Owner, 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year.	Continuous	In Progress/ Fall 2006	ACD	NA	NA	NA	Local, State, and Federal, as well as Private Organizations	ACD	Development Agreement, Restricted Permit Authorization
1.4	Monitors the restoration and enhancement efforts for all construction phases. Reports enhancement progress to Advisory Committee twice a year, and develops an annual progress report for Ada County Development Services.	Included in 11 estimated costs	Included in 11 estimated costs	Developer/Owner, 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year.	Continuous	In Progress/ Fall 2006	ACD	NA	NA	NA	Local, State, and Federal, as well as Private Organizations	ACD	Development Agreement, Restricted Permit Authorization
1.5	Serves as a representative of the APC on local conservation boards, such as the Ada County Cooperative Weeds Management Area committee.	Included in 11 estimated costs	Included in 11 estimated costs	Developer/Owner, 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year.	Continuous	Complete/ Continuous	ACD	NA	NA	NA	Local, State, and Federal, as well as Private Organizations	ACD	NA
1.6	Seeks additional funding through grants, cooperative agreements, etc for conservation and education programs.	Included in 11 estimated costs	Included in 11 estimated costs	Developer/Owner, 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year.	Continuous	In Progress/ Fall 2006	ACD	NA	NA	NA	Local, State, and Federal, as well as Private Organizations	ACD	NA

6.0 Avimor Planned Community Mitigation Monitoring Program Table

1.0 Avimor Conservation Director (ACD)	Mitigation Action	Initial Cost	On-going Cost	Funding Source(s)	Implementation Phasing/Timing	Mitigation Action Status	Party Responsible for Implementation	Party Responsible for Monitoring	Monitoring Activity	Monitoring Frequency	Outside Agency Coordination	Party Responsible for Enforcement	Enforcement Mechanism(s)
1.7	Works with residents to address problems related to wildlife in the neighborhood, and work with IDEG to obtain certification or authorization to manage nuisance wildlife issues	Included in 1.1 estimated costs	Included in 1.1 estimated costs	Developer/Owner, 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Continuous	No Yet Started	ACD	NA	NA	NA	Local, State, and Federal, as well as Private Organizations	ACD	Development, Agreement, Restricted Permit Authorization
1.8	Homeowners Flora/Fauna Manual	\$6,500.00	\$150.00/year for additional copies	Developer/Owner	Phase 1/Prior to 1 st occupancy	No Yet Started	ACD	NA	NA	NA	Local, State, and Federal, as well as Private Organizations	ACD and Ada County Development Services	Development, Agreement, Restricted Permit Authorization
1.9	Neighborhood Ed Program	Included in 1.1 estimated costs	\$200.00/year	Developer/Owner, 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 1/After first occupancy (Continuous)	No Yet Started	ACD	NA	NA	NA	Local, State, and Federal, as well as Private Organizations	ACD	NA
1.10	Local Schools Ed Program	Included in 1.1 estimated costs	Included in 1.1 estimated costs	Developer/Owner, 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Continuous	No Yet Started	ACD	NA	NA	NA	Local, State, and Federal, as well as Private Organizations	ACD	NA
1.11	Newsletter	Included in 1.1 estimated costs	\$100.00/year	Developer/Owner, 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 1/After first occupancy (Continuous)	No Yet Started	ACD	NA	NA	NA	NA	ACD	NA
1.12	Website	\$3,500.00	Included in 1.1 estimated costs	Developer/Owner, 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 1/After first occupancy (Continuous)	No Yet Started	ACD	NA	NA	NA	NA	ACD	NA
1.13	Interpretive sign information	Included in 1.1 estimated costs	Included in 1.1 estimated costs	Developer/Owner, 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 1/After trail construction (Continuous)	No Yet Started	ACD	NA	NA	NA	Local, State, and Federal, as well as Private Organizations	ACD	NA
1.14	Additional miscellaneous Tasks associated with the education program that are recommended but not required by the ACD are discussed in Appendix A	Included in 1.1 estimated costs	Included in 1.1 estimated costs	Developer/Owner, 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Continuous	Continuous	ACD	ACD	Dependent on Tasks	Dependent on Tasks	Local, State, and Federal, as well as Private Organizations	ACD	NA

6.0 Avimor Planned Community Mitigation Monitoring Program Table

2.0 Conservation Advisory Committee (CAC)	Mitigation Action	Initial Cost	On-going Cost	Funding Source(s)	Implementation Phasing/Timing	Mitigation Action Status	Party Responsible for Implementation	Party Responsible for Monitoring	Monitoring Activity	Monitoring Frequency	Outside Agency Coordination	Party Responsible for Enforcement	Enforcement Mechanism(s)
2.1	CAC will meet twice a year to review monitoring data and make recommendations on adjustments to mitigation measures based on progress. Recommendations shall be submitted to Ada County for any adjustments to the WMP, as detailed in the WMP Section 4.1	\$5,000.00	\$0.00	Developer/Owner	Phase 1/ Prior to end of Spring 2007	In Progress (Fall 2007)	Owner/ Developer, ACD	NA	NA	NA	Ada County Development Services, IDFG, Additional Agencies could be included as needed	Ada County Development Services	Development Agreement, Restricted Permit Authorization
3.0 Construction Precautions													
3.1 Best Management Practices (BMPs)	Best management practices will be implemented during the construction phases of the project to limit impacts to wildlife and reduce probability of wildfire. General recommendations are detailed in the WMP Section 4.8 and the Project Development Plan.	\$0.00	\$0.00	NA	Implemented Prior to any construction activity	Continuous	Owner/ Developer and ACD	Owner/ Developer and ACD	Monitors contractor compliance with BMPs	Daily	QSHA, Ada County, IDFG, BLM	Owner/ Developer and ACD	Fines, Work Restriction, Termination of Contract
4.0 General Neighborhood Design Guidelines													
4.1 Automobile-related Big Game Mortality	Signage, signals and other non-invasive deterrents on SH-55 per ITD Standards. Signals, signs, and traffic-calming measures within the project area per ACHD Standards, and as detailed in the WMP Section 4.9.2	NA- Associated Construction Costs	Normal	Developer/Owner, 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year, ITD	SH-55 Schedule dependent on ITD APC, Phase 1/ Prior to 1 st occupancy.	No Yet Started	ITD, Owner/ Developer and ACD	NA	NA	NA	ITD, IDFG	ACD, ITD, IDFG	Development Agreement, Restricted Permit Authorization

6.0 Avimor Planned Community Mitigation Monitoring Program Table

4.0 General Neighborhood Design Guidelines (Continued)	Mitigation Action	Initial Cost	On-going Cost	Funding Source(s)	Implementation Phasing/Timing	Mitigation Action Status	Party Responsible for Implementation	Party Responsible for Monitoring	Monitoring Activity	Monitoring Frequency	Outside Agency Coordination	Party Responsible for Enforcement	Enforcement Mechanism(s)
4.2 Fuel Breaks (Greenslips) and other Wildfire Precautions	Required defensible space on outlying residents, fire-scaped trails integrated into the landscaping design, reduced fuel loads, and other mechanisms detailed in the WMP Section 4.9.3 and 4.9.4.	Residential defensible space funded by individual residents. All other costs included in upland enhancement and construction costs.	See Initial Costs	Private residence, Developer/Owner, 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Residents Construction phase through residential landscaping in all phases Undeveloped Uplands: Phase 1/Fall 2006	Continuous	Owner/ Developer and ACD	ACD	Identification of potential wildfire hazards, and residential compliance with defensible space standards	As Needed	Eagle Fire District, BLM	Owner/ Developer, ACD, and Ada County Development Services	HOA Fines, Development Agreement, Restricted Permit Authorization
4.3 Wildlife Fencing	Restrictions and guidelines on type, size, and spacing of fences to prioritize wildlife protection and easy passage as detailed in the WMP Section 4.9.5, and Avimor Design Guidelines	Residential fences funded by individual residents, but will conform to community standards BLM/ Private boundary fence (approx. 0.5 miles) \$10,500.00 All non-residential areas in outlying areas will not have fences	BLM/ Private maintenance costs \$300.00	Residential Fences: Residence BLM/Private Developer/Owner and BLM cost share	Residential Fences: NA BLM/Private Phase 1/Prior to Winter 2006.	In Progress (Fall 2006)	Owner/ Developer and ACD	ACD	Residential compliance with fencing standards	As Needed	IDFG, BLM	Owner/ Developer, ACD, and Ada County Development Services	HOA Fines, Development Agreement, Restricted Permit Authorization

6.0 Avimor Planned Community Mitigation Monitoring Program Table

5.0 Recreation Management	Mitigation Action	Initial Cost	On-going Cost	Funding Source(s)	Implementation Phasing/Timing	Mitigation Action Status	Party Responsible for Implementation	Party Responsible for Monitoring	Monitoring Activity	Monitoring Frequency	Outside Agency Coordination	Party Responsible for Enforcement	Enforcement Mechanism(s)
5.1	Recreation Plan (See Section 4.10)	\$2,000.00	\$0.00	Developer/Owner, 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 1/ Summer 2006	No Yet Started	ACD	NA	NA	NA	IDFG, BLM, Ada County Parks and Recreation, and others	NA	NA
5.2	Winter Trail Closures (See Section 4.10.1)	\$0.00	\$0.00	NA	Phase 1/ Winter 2007	No Yet Started	Owner/ Developer ACD	Owner/ Developer ACD	Monitoring Recreational Trail Use During Winter Closures	As Needed	IDFG, BLM	Owner/ Developer, ACD, IDFG, and Ada County Development Services	Fines, Penalties, Permit Restriction
5.3	Pets (See Section 4.10.2)	\$0.00	\$0.00	NA	Phase 1/ Summer 2006	Continuous	Owner/ Developer ACD	ACD	Adherence to community and trail rules	As Needed	NA	Owner/ Developer, ACD, HOA	Fines, Penalties.
5.4	Nuisance Wildlife (See Section 4.11)	\$0.00	\$0.00	NA	Phase 1/Prior to first occupancy	No Yet Started	ACD	ACD	Presence or residential complaint	As Needed	IDFG, BLM	ACD	Fines, Penalties.
6.0 Wetlands Mitigation Plan													
6.1	Mitigate impacts to delineated wetlands as detailed in the WMP Section 4.2 and Appendix B	See #6	See #6	Developer/Owner, 25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 1/Prior to end of Fall 2006	In Progress (Fall 2006)	Owner/ Developer and Army Corp of Engineers (ACO)	ACO	Status of mitigation and enhancement measures identified in submitted Wetlands Plan	Identified in Wetlands Plan	ACO	ACO	Fines, Penalties, Permit Restriction
7.0 Monitoring Plan													
7.1	Project-Wide baseline and annual vegetation monitoring detailed in Section 4.7	\$10,000.00	\$8,000.00	Developer/Owner, 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 1/ Fall 2006	In Progress (Fall 2006)	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
7.2	Phase-Specific Restoration Monitoring for six-month Advisory Committee Report	\$1,200.00	\$1,200.00	Developer/Owner, 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 1/ Fall 2006	In Progress (Fall 2006)	ACD	ACD	Photo Plots, Transects, and Debenmire Frames	Bi-Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization

6.0 Avimor Planned Community Mitigation Monitoring Program Table

8.0 Riparian and Upland Mitigation and Enhancement Actions (Construction Phase One)	Mitigation Action	Initial Cost	On-going Cost	Funding Source(s)	Implementation Timing	Mitigation Action Status	Party Responsible for Implementation	Party Responsible for Monitoring	Monitoring Activity	Monitoring Frequency	Outside Agency Coordination	Party Responsible for Enforcement	Enforcement Mechanism(s)
8.1	Procurement of seed species for revegetation and hydro seeding, with an emphasis on native species and local stock.	\$11,325.00	\$0.00	Initial Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 1/ Prior to Fall 2006 Seeding	Complete (September 2006)	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
8.2	Procurement and cultivation of live plants (grasses, forbs, shrubs, and trees) for revegetation. Native species and local stock emphasized.	\$5,440.00	\$1,600.00 year two, \$485 year three.	Initial Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 1/ Prior to Spring 2007 Planting	In Progress (Summer 2006)	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
8.3	Invasive and Noxious Weed Treatments Herbicide Application, Mowing, Prescribed Burns, Bio-Controls, and other treatments identified in Sections 4.6.1.	\$8,830.00 assuming Herbicide Treatments	\$100/acre dependent on site condition, assume 35 acres/year total build out= \$3,500.00	Initial Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 1/ Spring, Summer, and Fall depending on treatment	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	CWMA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
8.4	Seeding and hydro seeding of riparian and upland sites, with site-specific plant mixes emphasizing structural components and native species.	\$69,260.00	\$0.00	Initial Developer/Owner	Phase 1/ Early Fall 2006, two weeks after glyphosate treatment	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
8.5	Actual seeding of base uplands mix emphasizing structural components and native species.	\$6,000.00	\$0.00	Initial Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 1/ Late Fall 2006	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization

6.0 Avimor Planned Community Mitigation Monitoring Program Table

(Construction Phase One)	Mitigation Action	Initial Cost	On-going Cost	Funding Source(s)	Implementation Phasing/Timing	Mitigation Action Status	Party Responsible for Implementation	Party Responsible for Monitoring	Monitoring Activity	Monitoring Frequency	Outside Agency Coordination	Party Responsible for Enforcement	Enforcement Mechanism(s)
8.6 (continued)	Plugs, super cells, and ported plants would be planted within riparian and upland sites identified for restoration. Areas identified for future disturbance will only be seeded	\$16,000.00	\$4,800.00 year two, \$1,450 year three	Initial Developer/Owner Ongoing: 5% Transfer fees (ongoing), and monthly HOA fees up to \$75/year.	Phase 1/ Fall 2007	No Yet Started	ACD	ACD	See Specific Activity Described in Section 6.5.	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
9.0 Riparian and Upland Mitigation and Enhancement Actions (Construction Phase Two)													
9.1	Procurement of seed species for revegetation and hydro seeding, with an emphasis on native species and local stock	\$2,435.00	\$0.00	Initial Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year.	Phase 2/ Prior to Fall 2007 Seeding	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
9.2	Procurement and cultivation of live plants (grasses, forbs, shrubs, and trees) for revegetation. Native species and local stock emphasized	\$1,170.00	\$350.00 year two, \$110 year three	Initial Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year.	Phase 2/ Prior to Spring 2008 Planting	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
9.3	Invasive and Noxious Weed Treatments Herbicide Application, Mowing, Prescribed Burns, Bio-Controls, and other treatments identified in Sections 4.6.1	\$1,905.00 Assuming Herbicide Treatments	\$100/acre dependent on site condition, assume 35 acres/year total build out= \$3,500.00	Initial Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year.	Phase 2/ Spring, Summer, and Fall of 2008 depending on treatment	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5.	Annually	CWMA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
9.4	Seeding and hydro seeding of riparian and upland sites, with site-specific plant mixes emphasizing structural components and native species	\$11,290.00	\$0.00	Initial Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year.	Phase 2/ Early Fall 2008, two weeks after glyphosate treatment.	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5.	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization

6.0 Avimor Planned Community Mitigation Monitoring Program Table

(Construction Phase Two) (Continued)	Mitigation Action	Initial Cost	On-going Cost	Funding Source(s)	Implementation Phasing/Timing	Mitigation Action Status	Party Responsible for Implementation	Party Responsible for Monitoring	Monitoring Activity	Monitoring Frequency	Outside Agency Coordination	Party Responsible for Enforcement	Enforcement Mechanism(s)
9.5	Aerial seeding of base upland mix emphasizing structural components and native species	\$1,290.00	\$0.00	Initial Developer/Owner Ongoing 5% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 2/ Late Fall 2008	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
9.6	Plugs, super cells, and potted plants would be planted within riparian and upland sites identified for restoration. Areas identified for future disturbance will only be seeded.	\$3,440.00	\$1,050.00 year two, \$310 year three	Initial Developer/Owner Ongoing 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 2/ Spring 2008	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
10.0 Riparian and Upland Mitigation and Enhancement Actions (Construction Phase Three)													
10.1	Procurement of seed species for revegetation and hydro seeding, with an emphasis on native species and local stock	\$5,175.00	\$0.00	Initial Developer/Owner Ongoing 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 3/ Prior to Fall 2008 Seeding	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
10.2	Procurement and cultivation of live plants (grasses, forbs, shrubs, and trees) for revegetation. Native species and local stock emphasized	\$2,490.00	\$750.00 year two, \$225 year three	Initial Developer/Owner Ongoing 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 3/ Prior to Spring 2009 Planting	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
10.3	Invasive and Noxious Weed Treatments: Herbicide Application, Mowing, Prescribed Burns, Bio-Controls, and other treatments identified in Sections 4.6.1.	\$4,050.00 Assuming Herbicide Treatments	\$100/acre dependent on site condition, assume 35 acres/year total build out	Initial Developer/Owner Ongoing 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 3/ Spring, Summer, and Fall or 2009 depending on treatment	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	CWMA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization

6.0 Avimor Planned Community Mitigation Monitoring Program Table

(Construction Phase Three) (Continued)	Mitigation Action	Initial Cost	On-going Cost	Funding Source(s)	Implementation Phasing/Timing	Mitigation Action Status	Party Responsible for Implementation	Party Responsible for Monitoring	Monitoring Activity	Monitoring Frequency	Outside Agency Coordination	Party Responsible for Enforcement	Enforcement Mechanism(s)
10.4	Seeding of riparian and upland sites, with site-specific plant mixes emphasizing structural components and native species	\$12,745.00	\$0.00	Initial: Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 3/ Early Fall 2009, two weeks after glyphosate treatment	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
10.5	Aerial seeding of base upland mix emphasizing structural components and native species	\$2,745.00	\$0.00	Initial: Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 3/ Late Fall 2009	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
10.6	Plugs, super cells, and potted plants would be planted within riparian and upland sites identified for restoration. Areas identified for future disturbance will only be seeded	\$7,315.00	\$2,195.00 year two, \$650 year three	Initial: Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 3/ Spring 2009	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
11.0 Riparian and Upland Mitigation and Enhancement Actions (Construction Phase Four)													
11.1	Procurement of seed species for revegetation and hydro seeding, with an emphasis on native species and local stock	\$975.00	\$0.00	Initial: Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 4/ Prior to Fall 2009 Seeding	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
11.2	Procurement and cultivation of live plants (grasses, forbs, shrubs, and trees) for revegetation. Native species and local stock emphasized	\$470.00	\$140.00 year two, \$50 year three	Initial: Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 4/ Prior to Spring 2010 Planting	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization

6.0 Avimor Planned Community Mitigation Monitoring Program Table

(Construction Phase Four) (Continued)	Mitigation Action	Initial Cost	On-going Cost	Funding Source(s)	Implementation Phasing/Timing	Mitigation Action Status	Party Responsible for Implementation	Party Responsible for Monitoring	Monitoring Activity	Monitoring Frequency	Outside Agency Coordination	Party Responsible for Enforcement	Enforcement Mechanism(s)
11.3	Invasive and Noxious Weed Treatments Herbicide Application; Mowing, Prescribed Burns, Bio-Controls, and other treatments identified in Sections 4 & 6.1.	\$760.00 Assuming Herbicide Treatments	\$100/acre dependent on site condition, assume 35 acres/year total build out= \$3,500.00	Initial: Developer/Owner Ongoing: 0.25% (ongoing), and monthly HOA fees up to \$75/year.	Phase 4/ Spring, Summer, and Fall or 2010 depending on treatment	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	CWMA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
11.4	Seeding and hydro seeding of riparian and upland sites, with site-specific plant mixes emphasizing structural components and native species.	\$8,625.00	\$0.00	Initial: Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year.	Phase 4/ Early Fall 2010, two weeks after glyphosate treatment	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
11.5	Aerial seeding of base uplands mix emphasizing structural components and native species	\$520.00	\$0.00	Initial: Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year.	Phase 4/ Late Fall 2010	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
11.6	Plugs, super cells, and ported plants would be planted within riparian and upland sites identified for restoration. Areas identified for future disturbance will only be seeded.	\$1,375.00	\$415.00 Year two, \$125.00 year three	Initial: Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year.	Phase 4/ Spring 2010	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
12.0 Riparian and Upland Mitigation and Enhancement Actions (Construction Phase Five)													
12.1	Procurement of seed species for revegetation and hydro seeding, with an emphasis on native species and local stock	\$5,480.00	\$0.00	Initial: Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year.	Phase 5/ Prior to Fall 2010 Seeding	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization

6.0 Avimor Planned Community Mitigation Monitoring Program Table

(Construction Phase Five) (Continued)	Mitigation Action	Initial Cost	On-going Cost	Funding Source(s)	Implementation Phasing/Timing	Mitigation Action Status	Party Responsible for Implementation	Party Responsible for Monitoring	Monitoring Activity	Monitoring Frequency	Outside Agency Coordination	Party Responsible for Enforcement	Enforcement Mechanism(s)
12.2	Procurement and cultivation of live plants (grasses, forbs, shrubs, and trees) for revegetation. Native species and local stock emphasized.	\$2,635.00	\$800.00 year two, \$240.00 year three	Initial: Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year.	Phase 5/ Prior to Spring 2011 Planting	No Yet Started	ACD	ACD	See Specific Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
12.3	Invasive and Noxious Weed Treatments: Herbicide Application, Mowing, Prescribed Burns, Bio-Controls, and other treatments identified in Sections 4.6.1.	\$4,285.00 Assuming Herbicide Treatments	\$100/acre dependent on site condition, assume 35 acres/year total build out= \$3,500.00	Initial: Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year.	Phase 5/ Spring, Summer, and Fall or 2011 depending on treatment	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	CWMA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
12.4	Seeding and hydro seeding of riparian and upland sites, with site-specific plant mixes emphasizing structural components and native species	\$13,200.00	\$0.00	Initial: Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year.	Phase 5/ Early Fall 2011, two weeks after glyphosate treatment	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
12.5	Aerial seeding of base uplands mix emphasizing structural components and native species	\$2,900.00	\$0.00	Initial: Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year.	Phase 5/ Late Fall 2011	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
12.6	Plugs, super cells, and ported plants would be planted within riparian and upland sites identified for restoration. Areas identified for future disturbance will only be seeded.	\$7,745.00	\$2,325.00 year two, \$700.00 year three	Initial: Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year.	Phase 5/ Spring 2011	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization

6.0 Avimor Planned Community Mitigation Monitoring Program Table

13.0 Riparian and Upland Mitigation and Enhancement Actions (Construction Phase Six)	Mitigation Action	Initial Cost	Ongoing Cost	Funding Source(s)	Implementation Phasing/Timing	Mitigation Action Status	Party Responsible for Implementation	Party Responsible for Monitoring	Monitoring Activity	Monitoring Frequency	Outside Agency Coordination	Party Responsible for Enforcement	Enforcement Mechanism(s)
13.1	Procurement of seed species for revegetation and hydro seeding, with an emphasis on native species and local stock.	\$2,070.00	\$0.00	Initial Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year.	Phase 6/ Prior to Fall 2011 Seeding	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
13.2	Procurement and cultivation of live plants (grasses, forbs, shrubs, and trees) for revegetation. Native species and local stock emphasized.	\$995.00	\$300.00 year two, \$90.00 year three	Initial Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year.	Phase 6/ Prior to Spring 2012 Planting	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
13.3	Invasive and Noxious Weed Treatments Herbicide Application; Mowing; Prescribed Burns, Bio-Controls, and other treatments identified in Sections 4.6.1.	\$1,615.00; Assuming Herbicide Treatments	\$100/acre dependent on site condition, assume 35 acres/year total build out= \$3,500.00	Initial Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year.	Phase 6/ Spring, Summer, and Fall of 2012 depending on treatment	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	CWMA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
13.4	Seeding and hydro seeding of riparian and upland sites, with site-specific plant mixes emphasizing structural components and native species.	\$12,100.00	\$0.00	Initial Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year.	Phase 6/ Early Fall 2012, two weeks after glyphosate treatment	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
13.5	Aerial seeding of base uplands mix emphasizing structural components and native species.	\$1,100.00	\$0.00	Initial Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year.	Phase 6/ Late Fall 2012	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization

6.0 Avimor Planned Community Mitigation Monitoring Program Table

(Construction Phase Six) (Continued)	Mitigation Action	Initial Cost	Ongoing Cost	Funding Source(s)	Implementation Phasing/Timing	Mitigation Action Status	Party Responsible for Implementation	Party Responsible for Monitoring	Monitoring Activity	Monitoring Frequency	Outside Agency Coordination	Party Responsible for Enforcement	Enforcement Mechanism(s)
13.6	Plugs, super cells, and ported plants would be planted within riparian and upland sites identified for restoration. Areas identified for future disturbance will only be seeded.	\$2,925.00	\$875.00 year two, \$265.00 year three	Initial Developer/Owner Ongoing: 0.25% (ongoing), and monthly HOA fees up to \$75/year	Phase 6/ Spring 2012	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
14.0 Riparian and Upland Mitigation and Enhancement Actions (Construction Phase Seven)													
14.1	Procurement of seed species for revegetation and hydro seeding, with an emphasis on native species and local stock	\$1,830.00	\$0.00	Initial Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 7/ Prior to Fall 2012 Seeding	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
14.2	Procurement and cultivation of live plants (grasses, forbs, shrubs, and trees) for revegetation. Native species and local stock emphasized	\$875.00	\$265.00 year two, \$80.00 year three	Initial Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 7/ Prior to Spring 2013 Planting	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
14.3	Invasive and Noxious Weed Treatments: Herbicide Application, Mowing, Prescribed Burns, Bio-Controls, and other treatments identified in Sections 4.6.1.	\$1,430.00 Assuming Herbicide Treatments	\$100/acre dependent on site condition, assume .35 acres/year total build out= \$3,500.00	Initial Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 7/ Spring, Summer, and Fall or 2013 depending on treatment	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	CWMA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
14.4	Seeding and hydro seeding of riparian and upland sites, with site-specific plant mixes emphasizing structural components and native species.	\$9275.00	\$0.00	Initial Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 7/ Early Fall 2013, two weeks after glyphosate treatment.	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization

6.0 Avimor Planned Community Mitigation Monitoring Program Table

(Construction Phase Seven) (Continued)	Mitigation Action	Initial Cost	On-going Cost	Funding Source(s)	Implementation Phasing/Timing	Mitigation Action Status	Party Responsible for Implementation	Party Responsible for Monitoring	Monitoring Activity	Monitoring Frequency	Outside Agency Coordination	Party Responsible for Enforcement	Enforcement Mechanism(s)
14.5	Aerial seeding of base uplands mix emphasizing structural components and native species.	\$970.00	\$0.00	Initial: Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 7/ Late Fall 2013	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
14.6	Plugs, super cells, and potted plants would be planted within riparian and upland sites identified for restoration. Areas identified for future disturbance will only be seeded.	\$2,580.00	\$775.00 Year two, \$255.00 year three	Initial: Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 7/ Spring 2013	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
15.0 Riparian and Upland Mitigation and Enhancement Actions (Construction Phase Eight)													
15.1	Procurement of seed species for revegetation and hydro seeding, with an emphasis on native species and local stock	\$4,575.00	\$0.00	Initial: Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 8/ Prior to Fall 2013 Seeding	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
15.2	Procurement and cultivation of live plants (grasses, forbs, shrubs, and trees) for revegetation. Native species and local stock emphasized.	\$2,340.00	\$700.00 Year two, \$210.00 year three	Initial: Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 8/ Prior to Spring 2014 Planting	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
15.3	Invasive and Noxious Weed Treatments: Herbicide Application, Mowing, Prescribed Burns, Bio-Controls, and other treatments identified in Sections 4.6.1.	\$3,305.00 Assuming Herbicide Treatments.	\$100/acre dependent on site condition, assume 35 acres/year total build out= \$3,500.00	Initial: Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 8/ Spring, Summer, and Fall or 2014 depending on treatment	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	CWMA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization

6.0 Avimor Planned Community Mitigation Monitoring Program Table

(Construction Phase Eight) (Continued)	Mitigation Action	Initial Cost	Ongoing Cost	Funding Source(s)	Implementation Phasing/Timing	Mitigation Action Status	Party Responsible for Implementation	Party Responsible for Monitoring	Monitoring Activity	Monitoring Frequency	Outside Agency Coordination	Party Responsible for Enforcement	Enforcement Mechanism(s)
15.4	Seeding and hydro seeding of riparian and upland sites, with site-specific plant mixes emphasizing structural components and native species	\$13,250.00	\$0.00	Initial: Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 8/ Early Fall 2014, two weeks after glyphosate treatment	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
15.5	Aerial seeding of base uplands mix emphasizing structural components and native species	\$2,585.00	\$0.00	Initial: Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 8/ Late Fall 2014	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
15.6	Plugs, super cells, and potted plants would be planted within riparian and upland sites identified for restoration. Areas identified for future disturbance will only be seeded	\$6,885.00	\$2,065.00 year two, \$620.00 year three	Initial: Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 8/ Spring 2014	No Yet Started	ACD	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization
16.0 Secondary Impacts Easement													
16.1	400-acres (regardless of condition) will be set aside in an off-site conservation easement (See Section 4.5)	\$5,000.00	\$2,500.00 annually	Initial: Developer/Owner Ongoing: 0.25% Transfer fees (ongoing), and monthly HOA fees up to \$75/year	Phase 1/ Prior to Phase 1 Build out	No Yet Started	Owner/Developer	ACD	See Specific Monitoring Activity Described in Section 6.5	Annually	NA	Owner/ Developer, ACD, and Ada County Development Services	Development Agreement, Restricted Permit Authorization

6.0 Avimor Planned Community Mitigation Monitoring Program Table

1. ACD is the Avimor Conservation Director for the Planned Community
2. CAC is the Conservation Advisory Committee for the Planned Community
3. WMP is the Wildlife Management Plan
4. APC is the Avimor Planned Community
5. IDFG is the Idaho Department of Fish and Game
6. BLM is the Bureau of Land Management
7. NRCS is the National Resource Conservation Service
8. ITD is the Idaho Department of Transportation

Note A: The options for "Mitigation Action Status" are: (1) Not yet started, (2) In Progress (start date), (3) Complete (completed date), or (4) Continuous.

Note B: The Avimor Planned Community Mitigation Monitoring Table may be updated by: (1) recommendations by the Conservation Advisory Committee (CAC) as reviewed and approved by the Ada County Development Services Director, and/or (2) the Ada County Board of Commissioners pursuant to the biennial planned community review. All modifications made shall be addressed in the Wildlife Mitigation Plan and reflected in this table, including an updated revision number and date in the footer of the table.

Note C: All costing figures identified in the table above are estimates only and subject to change based on revisions to the WMP. The estimates for Construction Phase 1 through 8 are using 2006 dollars and do not consider inflation or cost of materials increases.

Note D: For this table, seasonality is defined as such: (Fall: Late September-Early December), (Winter: Mid December-Early March), (Spring: Mid March-Early June), and (Summer: Mid June-Mid September).

Note E: Each Construction Phase has identified a site specific plan (See Below) to meet or exceed the no net loss of habitat objective identified by the Idaho Department of Fish and Game. To meet or exceed this objective a No Net Loss Model was developed, see Section 4.4. All eight construction phases are identified with the minimum number of acres and associated enhancements recommended to meet or exceed the No Net Loss objective. While these estimates are the minimum to meet the no net loss requirements, the actual number of acres enhanced would likely be greater in each phase. In addition to those management actions identified below, additional tools and recommendations are found in Sections 4.0 and 5.0 of the WMP. Implementation timing for phases 2 through 8 are estimates based on the current identified schedule for construction, which may change based on market conditions, scheduling, or other variables.

Phase One Based on the No Net Loss Model -Poor Uplands/Agriculture enhanced to Satisfactory 20-Acres -Marginal Uplands enhanced to Satisfactory 60-Acres -Satisfactory Riparian enhanced to Good 13 00-Acres	Phase Two Based on the No Net Loss Model -Poor Uplands/Agriculture enhanced to Satisfactory 15-Acres -Marginal Uplands enhanced to Satisfactory 5-Acres	Phase Three Based on the No Net Loss Model -Poor Uplands/Agriculture enhanced to Satisfactory 28-Acres -Marginal Uplands enhanced to Satisfactory 14-Acres -Poor Riparian enhanced to Good 0 50-Acres -Marginal Riparian enhanced to Good 0 50-Acres	Phase Four Based on the No Net Loss Model -Poor Uplands/Agriculture enhanced to Satisfactory 8-Acres *The number of acres within this phase available for enhancement are insufficient to meet the no net loss, therefore additional acres in adjacent phases will be enhanced to compensate
Phase Five Based on the No Net Loss Model -Poor Uplands/Agriculture enhanced to Satisfactory 20-Acres -Marginal Uplands enhanced to Satisfactory 25-Acres Additional acres were identified to compensate for Phase 4	Phase Six Based on the No Net Loss Model -Poor Uplands/Agriculture enhanced to Satisfactory 10-Acres -Marginal Uplands enhanced to Satisfactory 4-Acres -Marginal Riparian enhanced to Good 3-Acres	Phase Seven Based on the No Net Loss Model -Poor Uplands/Agriculture enhanced to Satisfactory 5-Acres -Marginal Uplands enhanced to Satisfactory 10-Acres	Phase Eight Based on the No Net Loss Model -Poor Uplands/Agriculture enhanced to Satisfactory 20-Acres -Marginal Uplands enhanced to Satisfactory 20-Acres

APPENDIX A

AVIMOR CONSERVATION DIRECTOR: POTENTIAL CONSERVATION AND EDUCATION ACTIVITIES

APPENDIX A

Avimor Conservation Director (ACD) Potential Conservation and Education Activities

This appendix identifies miscellaneous conservation and education activities that the Avimor Conservation Director could undertake. It is used only as an example, with the primary emphasis of the position being associated with the implementation and management of the WMP.

Tasks	Description of Task
Conservation Education	Coordinate and facilitate: <ul style="list-style-type: none">• Neighborhood Ed. Program• Local Schools Ed. Program• Educational Videos and Manuals• Newsletter• Website• Interpretive sign information• And others

Conservation Education

Conservation education activities would be a supplementary priority for the Avimor Conservation Director. The highest level of beneficial impacts regarding wildlife may result from an increased public understanding and knowledge of wildlife in the area, and how human presence and disturbance can impact them. Public education can occur through several mechanisms that range from direct interaction in classrooms to informative websites. This educational effort is designed to improve local awareness of their natural surroundings and to create new patterns of behavior towards the open areas in the community and surrounding foothills. This education could include information about the environment and practices that will benefit it; with some integration of education that takes place outdoors in the environment surrounding the proposed APC. If these approaches are successful, learning individuals could gain some knowledge, understanding, and on the ground experience regarding the foothills and associated plant and wildlife communities. The ultimate end goal would be an enhanced value system or concern that residents and local children would have for these natural places and the wildlife that inhabit them. Potential conservation education responsibilities for the Avimor Conservation Director are outlined below.

Neighborhood Conservation Education

Public education sessions could be made available to all residents living at the proposed APC. Several avenues of information would be the most effective way of ensuring an understanding and respect of the conservation objectives and management regarding the open spaces surrounding Avimor. Upon purchase of a home at Avimor, buyers should be informed about seminar/workshop classes, instructed by the Avimor Conservation Director (and

possibly IDFG), which could cover the gambit of conservation issues surrounding the proposed APC. This would be an effective tool illustrating the potential impacts residents have on local wildlife, the reasoning behind the conservation objectives and restrictions, and each resident's individual responsibility while living at the proposed APC.

Other alternative educational possibilities could include an informative homeowner's wildlife video or manual that could be included in a 'welcome package' associated with the initial purchase of a home at Avimor. This could be a collaborative effort with the IDFG or other interested agencies or groups. See Appendix B for an example of a local Homeowners Wildlife Manual.

Fireworks

Fireworks pose a significant threat and have historically been a cause of Wildland fires in Idaho. The location of the proposed APC in relation to the foothills represents a very dangerous situation with regard to fire, as discussed previously in the document. For these reasons, aerial fireworks should be completely off limits within the property. Education should be the main vector from which the Avimor Conservation Director communicates the risks of fireworks to the community. A 'community watch' team that involves residential volunteers at the proposed APC could be established to keep an eye out for violations near the 4th of July and report them to the Homeowners Association or the County Sheriff.

Local Schools Conservation Education

The Avimor Conservation Director could develop a school level environmental education program. This program could be incorporated into local school learning through assemblies, field trips, or other mechanisms. The Avimor Conservation Director could visit each local school once annually (minimum) and provide information and resources pertaining to the educational topics covered in Table 3. This effort could be achieved cooperatively with local agencies and resources (Idaho Fish and Game, Birds of Prey, Boise State University, Bird Observatory, Park Service, etc.). An alternative may be to present local teachers with information and literature/pamphlets to relay information to their students about conservation issues in the Boise Foothills. A video could also be created and distributed to local schools, which could outline Foothills conservation issues. Volunteering programs could be established through local schools to build up the needed habitat enhancement workforce.

Potential Conservation Education Topics

Topic	Description
Raptor Education Program	An overview of raptors of the area and how they use the habitats near the proposed APC.
Foothill Trails Rules and Regulations	Proper Trail Use and Etiquette
Seasonal Trail Closures	Explanation
Wildfire Risks	Discussion of the Fire Risks; -Fire-wise landscaping techniques -Firework Regulations -Outdoor Fire Safety -Off-Road Driving consequences -Motorized Recreation Risks
Habitat Enhancement Projects	Description and Volunteering
Pets	Regulations, Rules, and Risks to Wildlife
Wildlife and Neighborhood Interaction	Info about skunks, deer, ground squirrels, etc.
Homeowners Wildlife Manual	<ul style="list-style-type: none"> • Definition of Habitat.
	<ul style="list-style-type: none"> • Description of the habitat types and wildlife surrounding the proposed APC.
	<ul style="list-style-type: none"> • Encouragement to use native vegetation for landscaping and decoration.
	<ul style="list-style-type: none"> • Encouragement to provide alternative nest sites for wildlife.
	<ul style="list-style-type: none"> • Ways to provide alternative water sources for wildlife
	<ul style="list-style-type: none"> • Discussion about feeding wildlife (good and bad/ CCRs)
	<ul style="list-style-type: none"> • Suggestions for feeding songbirds properly and information about attracting other species inadvertently.
	<ul style="list-style-type: none"> • Advise about dealing with different species of wildlife that will enter the neighborhood.
	<ul style="list-style-type: none"> • Advise about wildlife viewing
	<ul style="list-style-type: none"> • A list of suggested reading material and field guides relating to the above topics
	<ul style="list-style-type: none"> • List of local native plant and seed sources
	<ul style="list-style-type: none"> • A copy of "Landscaping with Native Plants," a BLM publication.

Avimor Conservation Website

The Avimor Conservation Director could design and organize a comprehensive website for the APC dedicated to informing residents and the general public about conservation issues relating to the Boise Foothills adjacent to the proposed APC. The actual creation of the website could likely be contracted to a webpage professional. This information could also be provided through a 'link' to the main Avimor webpage.

Conservation/Wildlife Newsletter and Email List

A newsletter could be developed by the ACD that will inform the residents of the proposed APC about seasonal wildlife and conservation issues in the foothills and other pertinent subjects. It could be released four times per year (four seasons), or more or less as appropriate. The Avimor Conservation Director could maintain a residential email list to provide the conservation newsletter digitally. The email list can be used to send out seasonal notifications about wildlife and recreation issues. Email can also be used as a communication mechanism between residents and the Avimor Conservation Director to resolve and address any issues, concerns, or questions that residents may have regarding wildlife and conservation.

Interpretive Signs

Informational signage could be strategically placed at various locations throughout the APC. These signs could outline wildlife conservation issues, as well as regulations that pertain to recreation and neighborhood wildlife CCRs. Access areas for recreational trails should be a place to utilize interpretive signage regarding wildlife concerns and regulation in the foothills. The Avimor Conservation Director could develop the signs, with feedback from IDFG, Ada County, and other interested parties, then install them at appropriate locations.

Annual Avimor Festival

Each fall the Avimor Conservation Director will be coordinating and implementing habitat restoration and enhancement programs in the foothills and riparian areas. Community residents could be strongly encouraged to participate in restoration, enhancement, and other conservation related activities. Incentives could be a main focus of promoting public participation in these efforts. For legacy purposes, an annual festival in the McLeod's honor could be conducted each year. This festival would celebrate the conservation efforts of the proposed APC, give the community residents a chance to intermingle and meet one another, and provide a setting to communicate conservation issues and goals, while celebrating the ranching history of the McLeod Family and the Boise Valley. A primary focus of the festival would be a display or speaker that highlights the history and legacy of the McLeod Family. Children's activities could be centered on learning what the historic rural way of life entailed. This could be illustrated with interactive activities that would give children a sense of the valley's past. This festival could be coordinated with historical societies, the Foothills Learning center, and various other interested parties.

APPENDIX B

PRELIMINARY COMPENSATORY WETLAND MITIGATION PLAN



May 31, 2006

Gregory Martinez
U.S. Army Corps of Engineers
Walla Walla District
304 N. 8th Street
Boise, Idaho 83702

*Re: Avimor Planned Community
404 Permit Application -- NWW No. 052100162
Compensatory Wetland Mitigation Plan*

Dear Mr. Martinez:

This submittal responds to your April 26, 2006, e-mail message and provides the information necessary to complete your review of the Avimor 404 Permit Application. Included are:

The final Compensatory Wetland Mitigation Plan for the Avimor Planned Community (dated May 30, 2006).

- **Long term protection** will be the responsibility of the Avimor Residential Community Association, Inc., as detailed in Section 6 on page 26 of the Plan (see *Community Charter* document, below).
- Performance standards are outlined in Section 5 on page 25 of the Plan.
- The **mitigation schedule**, noted in the *Responsible Parties* statement in Section 4, page 25 of the Plan, will be concurrent with site grading during the summer and fall of 2006.
- The **Monitoring Plan** is outlined in Section 7, page 27 of the Plan.
- **Other Topics** cited: Site selection is addressed in Section 3, page 24; financial assurance is addressed in Section 9, page 28; work plan is addressed in Section 4, page 24.

A draft copy of the Community Charter for the Residential Community at Avimor (hand dated April 12, 2006).

- This draft document will become the CC&R's of the Avimor Planned Community.
- The *long term protection* responsibilities outlined in Section 6, page 26, of the Mitigation Plan, above, have been provided to SunCor's attorneys for incorporation

**Avimor Planned Community
(aka Spring Valley Ranch)**

Compensatory Wetland Mitigation Plan

NWW No. 052100162

Applicant:

SunCor Idaho LLC
485 E. Riverside Dr., Suite 300
Eagle, Idaho 83616
(208) 939-0343

May 30, 2006

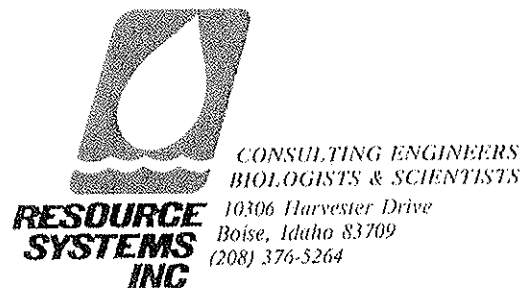


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Avimor Planned Community Compensatory Wetland Mitigation Plan

Introduction

The purpose of this document is to present a wetland compensatory mitigation plan following the guidelines of the U.S. Army Corps of Engineers Regulatory Guidance Letter (RGL) 02-02 dated December 24, 2002 and Monitoring and Mitigation Guidance of the Walla Walla District Corps of Engineers dated December 15, 2003. The amount of wetland area proposed to be filled permanently is 0.947 acres. A separate document, "Justification for Wetland Impacts", has been prepared that describes the alternatives considered and why the proposed project layout was determined to be the most practicable alternative. The latest mitigation regulations and guidance placed an increased emphasis on replacing functionality and uses acreage as a surrogate to functionality; therefore this plan considers functions their associated values for each proposed impact as well as the overall functionality of the proposed mitigation. The RGL also places an increased emphasis on looking at the whole system, particularly in the context of watershed. The overall goal of the mitigation is "no overall net loss". Specific objectives are provided below.



Boise River Watershed 17050114 1

1. Mitigation Goals and Objectives

Watershed Description

The project area involves Spring Valley Creek, a tributary to Dry Creek, which is a tributary to the Boise River and is located in the Lower Boise USGS Cataloging Unit, 17050114 HUC (Hydrologic Unit Code). "The lower Boise River is the 64 mile stretch that flows from Lucky Peak Dam above Boise, Idaho to the Snake River below Parma, Idaho. The river flows primarily through Ada and Canyon Counties, but also drains portions of Elmore, Gem, Payette, and Boise counties. The watershed encompasses 1290 square miles of rangeland, forests, agricultural lands, and urban areas." (DEQ, 2001). About 1.5 percent of the watershed is considered riparian and wetland habitat. "The river flows in a northwesterly direction from its origin at Lucky Peak Dam to its confluence with the Snake River. Major tributaries include (but are not limited to) Fifteen Mile Creek, Indian Creek, Mason Creek, Conway Gulch, and Dixie Drain. The 1998 303(d) listed tributaries include Blacks Creek, Fivemile Creek, Tenmile Creek, Mason Creek, Indian Creek and Sand Hollow Creek." (DEQ, 2001)

Goal

The goal for the mitigation plan is to fully compensate the function and amount of 0.947 acres of permanently filled wetland by restoring, creating, and protecting wetland within the boundary of the project.

Objectives

The mitigation objectives include:

- Provide in-kind and on-site mitigation: The mitigation sites will be located on the project property and will utilize the same vegetation and soil (transplanted) wherever possible and will duplicate or improve on the hydrology.
- Maintain or increase floodplain connectivity: Mitigation areas will be connected, where possible, to allow a continuity and connectivity of the near bankfull events.
- Increase areas that are frequently flooded: Many wetland areas of the project were removed through channel incisement. These areas are now significantly higher in elevation than the current wetland. These areas will be restored or created wetland by lowering their position, making them more susceptible to frequent saturation and/or flooding.
- Provide continuity to wetland communities: Maintain or increase continuity of wetland by placing created and restored wetland in close proximity, creating higher mass, interspersed, edge and building on existing areas. Provide for 24 acres of habitat (20 acres of wetland) having these features. Provide forested wetland with a density of at least 15 mature cottonwood trees per acre.
- Provide a means for long-term protection of the wetland areas: Create a commonly owned protected area that includes approximately 20 acres or more wetland.
- Wherever possible choose restoration over creation: On this site, most mitigation areas were probably active wetland prior to the headcutting and resulting incisement of Spring Valley Creek. Though technically considered restoration areas, these sites require a significant amount of reconstruction to become hydrologically active.
- No structures are planned in the mitigation: Reliance on structural measures increases the chance for failure. There are a number of flood control structures in the project area that will be maintained through agreement with the NRCS.
- Restore or develop naturally variable hydrology: Nearly all of the mitigation proposed utilizes change in elevation (position) to improve hydrology. Some created wetland areas will rely on runoff from the project area in addition to supplemental water from ground water and treated effluent.
- Provide a mitigation ratio of at least 1:1 for emergent wetland,
- Provide a mitigation ratio of 2:1 for scrub-shrub wetland,
- Provide a mitigation ratio of 5:1 for cottonwood forested wetland,

Table 1. Mitigation targets. (Includes Restoration, Creation and Enhancement).

Wetland Type	Acres Impacted	Mitigation Ratio	Mitigation Acres
Palustrine Emergent/Scrub Shrub	0.095	1	0.095
Palustrine Scrub/Shrub	0.85	2	1.700
Palustrine Forested	0.439	5	2.195
Total	1.384		3.990
Total Mitigation Proposed			4.018
Additional Creation, beyond target*			0.028
Additional Enhancement			1.500
Total Mitigation Proposed		4.0	5.518
Wetland and associated upland buffer to be protected**			25.00+

* Proposed for banking

**Includes only the area contiguous to Spring Valley Creek

Wetland Type	Impacted (Acres)	Mitigation Ratio	Goal (Acres)	Proposed (Acres)
Palustrine Emergent/Scrub Shrub	0.036	1	0.036	0.036
Palustrine Scrub/Shrub	0.481	2	0.962	0.963
Palustrine Forested	0.43	5	2.150	2.202
Total	0.947		3.148	3.201
Total Mitigation Proposed			3.201	
Additional Creation, beyond target*			0.053	
Additional Enhancement			1.500	
Total Mitigation Proposed		5.0	4.701	
Wetland and associated upland buffer to be protected**			25.00+	

The mitigation plan will provide 3.201 acres of new wetland and leave 18.786 acres (of the 19.733 acres of existing wetland, or 93 %) of existing wetland. The proposed mitigation increases the weighted HGM functional value by more than 218 percent. A total of 24.434 acres of wetland will be created, protected or enhanced which would exceed the goal of 20 acres. An additional amount of fringe area around the wetland will be included for long-term protection making the total amount of protected area greater than 25 acres.

Impact Site

The Avimor Planned Community development will permanently eliminate approximately 0.947 acres of wetland from the 19.733 acres of existing wetland on the project area (See Figure 4). The project area is a historically grazed area (Spring Valley Ranch) consisting of about 830 acres. Within the 830 acres there are some palustrine emergent but mostly scrub-shrub, and forested wetlands. These wetlands have been described using the USFWS system developed by Cowardin et al. (1979). The project area has been extensively grazed for many years. Evidence in the form of incised channels and poor riparian diversity is probably a result of historic overgrazing combined with erosive flood events.

Currently, the project area is grazed, but the evidence of over-grazing is not apparent. The impact sites are generally restricted to the wetland fringes of the highly incised Spring Valley Creek and tributaries.

The wetland vegetation was classified into three major groups: emergent/scrub-shrub, scrub-shrub, and forested, and mapped as described below.

PSS1A/PEM1C - Palustrine Scrub Shrub (temporarily flooded)/Palustrine Emergent (seasonally flooded) complex. These areas are in a low to middle position and have lots of indicators of inundation. They usually have blocks of cattail and tule amongst a thicket of willow. These sites are very densely vegetated and contain an occasional tall tree. The amount of this type of impacted wetland is 0.036 and is shown as fill areas D and E. A total of 0.050 acres of temporary impact are proposed at site CC.

PFO1J - Palustrine Forested Broad-leaved deciduous, intermittently flooded, with good understory. These areas are dominated by large trees over 15 feet tall. These areas are mapped as one large block of forested wetland with inclusions of emergent, scrub-shrub and open water (channel). The area is considered intermittently flooded since it is in the tributary channel and does not receive the same volume and magnitude of water as the main Spring Valley Creek channel. These areas include medium positions and lower positions. The medium position areas could be non-wetland, but this possibility would have to be determined with hydrology indicators and a sufficient period of record does not exist to make this determination. No impacts are proposed for this wetland unit.

PSS1J - Palustrine Scrub Shrub intermittently flooded. These sites are associated with the tributary channel. They are dominated by willow with an occasional tall tree. These areas are in a medium position but include those areas in lower positions. These areas have a high potential for not being jurisdictional wetland, but as with the PFO1J areas, insufficient data exists to make this determination. Therefore, these areas are assumed to have wetland hydrology until proven otherwise. A total of 0.133 acres of this type of wetland are proposed for permanent impact at sites P, Q, R and S. A total of 0.025 acres of temporary impact are proposed at site GG.

PSS1A - Palustrine Scrub Shrub temporarily flooded. These areas are dominated by willow. They include the channel but do not have significant amount of cattail which would indicate that there is not significant inundation and standing water. Substrate in these areas are generally coarse. Most of these sites are in the middle to low position and fairly well vegetated. Some sites are more decadent than others and no attempt was made to further classify by age. Therefore, some areas will have significant areas of young willow adjacent areas of older growth. A total of 0.348 acres of permanent impact is proposed for sites A, B, J, L, M, N, O. A total of 0.142 acres of temporary impact are proposed at site AA, BB, FF, and HH.

PFO1A - Palustrine Forested (temporarily flooded). These areas are a complex of dominant mature cottonwood and willow. Some of these areas are in high position but the complex usually has more than one channel which makes separation of position impractical. For example, a higher position area will be flanked by low or middle position areas like an island. These areas seem to be associated upstream of channel constrictions (structures) which serve to create backwater on the main Spring Valley Creek. A total of 0.430 acres of permanent impact is proposed for sites C, F, G, H, I, K. A total of 0.144 acres of temporary impact are proposed at site DD and EE.

This Compensatory Mitigation Plan is designed to meet or exceed the mitigation acres proposed in

Table 1. Table 2 provides a detailed list of the wetland areas impacted that are referenced to the wetland delineation. Table 3 provides a summary of wetland functions and associated values for the impacted sites. Details of the wetland functional approach known as Hydrogeomorphic Method (HGM) is given in the Baseline Information section.

Impact Site Functions Lost

Most of the Spring Valley Creek wetlands are at the upper end of functionality with the exception of some of the movement of biomass functions because of the high amount of flood control on the creek via designed flood control structures and road culverts. The proposal would fill the fringe of a number of channel zones where the creek has migrated back and forth. None of the fill areas are expected to significantly alter the function of the creek or wetlands in these locations. Two main permanent stream crossings are proposed and their design would incorporate the ability to pass floods without significant obstruction. Several temporary crossings are proposed for the construction of mitigation. These crossings would be carefully located to not remove mature trees and full recovery is expected within two growing seasons.

Table 3 provides a summary of the impacted wetland functions and Functional Capability Index (FCI) Rating based on a comparison to a domain reference site in Montana. While the reference site does not accurately represent Spring Valley Creek's potential hydrogeomorphology, it does provide a reasonable comparison. The reference values and FCI formulas are found in Hauer et al. (2002) and were used to help estimate the functions found in Table 3 and in Table 4. The functional ratings are repetitive for most wetland sites because there is little functional difference within the system largely because of the high degree of hydraulic control. Much of the vegetative diversity is a result of hydraulic controls. Unfortunately, these controls are rigid and do not allow for spatial variation of the communities over time which would have occurred through erosional events at higher flow.

Table 3. Impacted Wetland Functional Analysis

Table 3. Impacted Wetland Functional Analysis						
Wetland Functions Analysis		Wetland Impacted				
Functional Variables	Reference	PSS1A-2	PSS1A-3	PSS1A-4	PSS1A-5	PSS1A/PEM1C-2
Surface Flooding Frequency	1	1.00	1.00	1.00	1.00	1.00
Subsurface Flooding Frequency	1	1.00	1.00	1.00	1.00	1.00
Macrotopographic Complexity	1	0.80	0.80	0.80	0.80	0.80
Geomorphic Modification	1	0.25	0.25	0.25	0.25	0.25
Herbaceous Plant Cover	1	1.00	1.00	1.00	1.00	1.00
Pole Cottonwood, Willow, Shrub, and Sapling	1	0.80	0.80	0.80	0.80	0.80
Tree Density	1	0.30	0.30	0.30	0.30	0.20
Proportionality of Landscape Features	1	0.80	0.80	0.80	0.80	0.80
Large Woody Debris	1	0.20	0.20	0.20	0.20	0.20
Decomposition of Organic Matter	1	0.80	0.80	0.80	0.80	1.00
Percent Cover by Native Plants	1	0.70	0.70	0.70	0.70	0.70
Floodplain Habitat Connectivity	1	1.00	1.00	1.00	1.00	1.00
Proportional Land Use	1	0.60	0.60	0.60	0.60	0.60
Functions/Functional Capability Index	Reference	PSS1A-2	PSS1A-3	PSS1A-4	PSS1A-5	PSS1A/PEM1C-2
Surface-Ground Water Storage and Flow	1	0.48	0.48	0.48	0.48	0.48
Nutrient Cycling	1	0.77	0.77	0.77	0.77	0.81
Retention of Organic and Inorganic Particles	1	0.42	0.42	0.42	0.42	0.42
Generation and Export of Organic Carbon	1	0.79	0.79	0.79	0.79	0.77
Characteristic Plant Community	1	0.71	0.71	0.71	0.71	0.70
Characteristic Aquatic Invertebrate Food Webs	1	0.90	0.90	0.90	0.90	0.90
Characteristic Vertebrate Habitats	1	0.79	0.79	0.79	0.79	0.78
Floodplain Interspersion and Connectivity	1	0.57	0.57	0.57	0.57	0.57
Combined Functional Capability Score	1	0.68	0.68	0.68	0.68	0.68
Acres Impacted		0.020	0.000	0.130	0.198	0.036
Weighted Functional Capability Lost		0.01	0.00	0.09	0.13	0.02
Weighted Functional Capability Lost (Total)		0.26				

Table 3. Impacted Wetland Functional Analysis						
Wetland Functions Analysis			Wetland Impacted			
Functional Variables	PSS1J-3	PSS1J-4	PFO1A-1	PFO1A-2	PFO1A-3	
Surface Flooding Frequency	1.00	0.80	1.00	1.00	1.00	
Subsurface Flooding Frequency	1.00	0.80	0.90	0.90	0.90	
Macrotopographic Complexity	0.80	0.80	0.80	0.80	0.80	
Geomorphic Modification	0.25	0.25	0.25	0.25	0.25	
Herbaceous Plant Cover	1.00	1.00	0.80	0.80	0.80	
Pole Cottonwood, Willow, Shrub, and Sapling	0.80	0.80	0.80	0.80	0.80	
Tree Density	0.20	0.30	0.70	0.70	0.70	
Proportionality of Landscape Features	0.80	0.80	0.90	0.90	0.90	
Large Woody Debris	0.20	0.10	0.50	0.50	0.50	
Decomposition of Organic Matter	1.00	0.60	0.80	0.80	0.80	
Percent Cover by Native Plants	0.70	0.60	0.70	0.70	0.70	
Floodplain Habitat Connectivity	1.00	1.00	1.00	1.00	1.00	
Proportional Land Use	0.60	0.60	0.60	0.60	0.60	
Functions/Functional Capability Index	PSS1J-3	PSS1J-4	PFO1A-1	PFO1A-2	PFO1A-3	
Surface-Ground Water Storage and Flow	0.48	0.45	0.47	0.47	0.47	
Nutrient Cycling	0.81	0.70	0.82	0.82	0.82	
Retention of Organic and Inorganic Particles	0.42	0.40	0.45	0.45	0.45	
Generation and Export of Organic Carbon	0.77	0.75	0.83	0.83	0.83	
Characteristic Plant Community	0.70	0.66	0.75	0.75	0.75	
Characteristic Aquatic Invertebrate Food Webs	0.90	0.80	0.90	0.90	0.90	
Characteristic Vertebrate Habitats	0.78	0.76	0.83	0.83	0.83	
Floodplain Interspersion and Connectivity	0.57	0.54	0.57	0.57	0.57	
Combined Functional Capability Score	0.68	0.63	0.70	0.70	0.70	
Acres Impacted	0.02	0.110	0.000	0.131	0.299	
Weighted Functional Capability Lost	0.02	0.07	0.00	0.09	0.21	
Weighted Functional Capability Lost (Total)	0.39					

Mitigation Functions Gained

Total Weighted Functional Capacity Created = 2.07
Summary

Net Change of Weighted Functional Capacity = 2.07 – 0.65 = 1.42

(includes proposed banked wetland)

The majority of the mitigation sites will be located near or adjacent to the wetland communities being impacted. A major benefit to all the wetlands, particularly those being created or enhanced is the removal of livestock grazing. The removal of grazing pressure will increase the potential for forested wetland creation. While some of the mitigation sites are being design to replace forested wetland and large caliper trees would be placed as part of the mitigation, many other areas are expected to develop into forested wetland because of the reduction in livestock grazing pressure. The areas identified for forested wetland mitigation will be planted with tree stock. However, all of the PSS sites have a good chance of becoming forested wetland.

Site 2. (0.243 acres), Site 2 will function as a stormwater detention structure. It is located alongside Spring Valley Creek, and while not influenced by Spring Valley Creek hydrology, it will provide detention, filtering, and recharge functions. The structure is planned to be irrigated to simulate moderate position wetland habitat and should effectively support a scrub-shrub, forested wetland complex similar to those found along Spring Valley Creek. The understory vegetation will be more persistent than that of Spring Valley Creek since the water source will be more stable. HGM values are shown in Table 4. Surface flooding frequency is expected to be lower than reference but similar to the PFOIA sites. Subsurface flooding frequency is expected to be higher because of the more stable water supply. The site's vegetation can be effectively managed and should provide high diversity and quality of native herbaceous, scrub-shrub, and forested components. Although floodplain habitat connectivity has to be rated low, as well as geomorphic modification and macrotopographic complexity, the site will serve to provide some topographic diversity because of the structures banks, as well as effective habitat for terrestrial species because of its proximity to Spring Valley Creek. The site's combined Functional Capability Score is 0.54 which is commensurate with those of PSS1J Spring Valley Creek wetland.

Sites 1, 3- 6. These sites total 1.52 acres and will be constructed adjacent to PSS1A and PSS1A/PEM wetland areas. These sites are currently upland and will be excavated to a depth similar to the medium to low positions of PSS1A2 sites. The sites hydrology would be the same as site PSS1A2. The sites hydrology will consist of flooding resulting from the detention provided by the downstream culvert in Highway 55 and intersection of the ground-water system. Vegetation is expected to take on a similar density and quality as Spring Valley Creek. Sites 3 and 4 will be planted with larger trees to provide a final mature tree target density of 15 to 20 trees per acre. Sites 3 and 4 are in locations that will prevent moderate flooding from removing large trees through entrainment processes. HGM functions will be nearly identical to the existing types adjacent to the creation areas. No impact on the highway is anticipated since the larger floodplain would help to spread flood water. The toe of the slopes, however, will be armored beneath the surface to prevent any progressive encroachment of the valley wall along the road.

Sites 7 – 9. These sites are not included in the mitigation at this time.

Site 10. This site is 0.854 acres and is currently upland between the confluence of Spring Valley Creek and its tributary. Erosion on the upland is evident and, over time, is expected to result in the creation of an island. The mitigation proposes to remove the entire area, excavate to near the ground water table, and create a complex of shrub, forested and possibly emergent wetland with the target of forested wetland. This mitigation area will result in the largest single complex of wetland in the project area and will improve floodplain habitat connectivity as well as overall habitat mass. HGM functions will be similar to the PFO/PSS wetland areas.

Site 11 - 13. Sites 11 – 13 (0.584 acres) will be constructed similarly to sites 1, 3 – 6 to expand the functional floodplain and increase wetland habitat. Sites 11 and 13 are targeted to be forested wetland although Site 12 is particularly to conducive maintaining a mature forest since it is directly protected by a flood control structure. HGM functions should be similar to the adjacent wetland areas PSS1A4 and PSS1A5. All of these sites are capable of becoming a forested wetland.

Table 4. Mitigation Functional Analysis.

Table 4. Mitigation Functional Analysis						
Wetland Functions Analysis						
Wetland Created						
	1	1	2	2	3	3
Functional Variables	PSS/PFO	PFO	PSS/PFO	PEM	PSS/PFO	PFO
Surface Flooding Frequency	1.00	1.00	0.5	0.5	1.00	1.00
Subsurface Flooding Frequency	1.00	1.00	0.7	0.7	0.90	0.90
Macrotopographic Complexity	0.80	0.80	0.3	0.3	0.80	0.80
Geomorphic Modification	0.25	0.25	0.25	0.25	0.25	0.25
Herbaceous Plant Cover	1.00	1.00	1.00	1.00	0.80	0.80
Pole Cottonwood, Willow, Shrub, and Sapling	0.80	0.80	0.80	0.80	0.80	0.80
Tree Density	0.50	0.50	0.50	0.50	0.70	0.70
Proportionality of Landscape Features	0.80	0.80	0.80	0.80	0.90	0.90
Large Woody Debris	0.20	0.20	0.20	0.20	0.50	0.50
Decomposition of Organic Matter	0.80	0.80	0.80	0.80	0.80	0.80
Percent Cover by Native Plants	0.70	0.70	0.70	0.70	0.70	0.70
Floodplain Habitat Connectivity	1.00	1.00	0.3	0.3	1.00	1.00
Proportional Land Use	0.70	0.70	0.5	0.5	0.70	0.70
Functions/Functional Capability Index						
Surface-Ground Water Storage and Flow	0.48	0.48	0.35	0.35	0.47	0.47
Nutrient Cycling	0.79	0.79	0.79	0.79	0.82	0.82
Retention of Organic and Inorganic Particles	0.42	0.42	0.34	0.34	0.45	0.45
Generation and Export of Organic Carbon	0.83	0.83	0.55	0.55	0.83	0.83
Characteristic Plant Community	0.74	0.74	0.74	0.74	0.75	0.75
Characteristic Aquatic Invertebrate Food Webs	0.90	0.90	0.58	0.58	0.90	0.90
Characteristic Vertebrate Habitats	0.82	0.82	0.60	0.60	0.83	0.83
Floodplain Interspersion and Connectivity	0.58	0.58	0.41	0.41	0.58	0.58
Combined Functional Capability Score	0.69	0.69	0.54	0.54	0.70	0.70
Acres	0.130	0.311	0.207	0.036	0.080	0.407
Weighted Functional Capability Gain	0.09	0.22	0.11	0.02	0.06	0.29
Weighted Functional Capability Gain (Total)	0.78					

Table 4. Mitigation Functional Analysis						
Wetland Functions Analysis						
Functional Variables	Wetland Created					
	4	5	6	7	8	9
	PFO	PSS/PFO	PSS/PFO	PEM	PEM/SS/FO	PFO
Surface Flooding Frequency	1.00	1.00	1.00	1.00	1.00	1.00
Subsurface Flooding Frequency	1.00	1.00	1.00	1.00	0.90	1.00
Macrotopographic Complexity	0.80	0.80	0.80	0.80	0.80	0.80
Geomorphic Modification	0.25	0.25	0.25	0.25	0.25	0.25
Herbaceous Plant Cover	1.00	1.00	1.00	1.00	0.80	1.00
Pole Cottonwood, Willow, Shrub, and Sapling	0.80	0.80	0.80	0.80	0.80	0.80
Tree Density	0.50	0.50	0.50	0.50	0.70	0.50
Proportionality of Landscape Features	0.80	0.80	0.80	0.80	0.90	0.80
Large Woody Debris	0.20	0.20	0.20	0.20	0.50	0.20
Decomposition of Organic Matter	0.80	0.80	0.80	0.80	0.80	0.80
Percent Cover by Native Plants	0.70	0.70	0.70	0.70	0.70	0.70
Floodplain Habitat Connectivity	1.00	1.00	1.00	1.00	1.00	1.00
Proportional Land Use	0.70	0.70	0.70	0.70	0.70	0.70
Functions/Functional Capability Index						
Surface-Ground Water Storage and Flow	0.48	0.48	0.48	0.48	0.47	0.48
Nutrient Cycling	0.79	0.79	0.79	0.79	0.82	0.79
Retention of Organic and Inorganic Particles	0.42	0.42	0.42	0.42	0.45	0.42
Generation and Export of Organic Carbon	0.83	0.83	0.83	0.83	0.83	0.83
Characteristic Plant Community	0.74	0.74	0.74	0.74	0.75	0.74
Characteristic Aquatic Invertebrate Food Webs	0.90	0.90	0.90	0.90	0.90	0.90
Characteristic Vertebrate Habitats	0.82	0.82	0.82	0.82	0.83	0.82
Floodplain Interspersion and Connectivity	0.58	0.58	0.58	0.58	0.58	0.58
Combined Functional Capability Score	0.69	0.69	0.69	0.69	0.70	0.69
Acres	0.160	0.314	0.118	0.000	0.000	0.000
Weighted Functional Capability Gain	0.11	0.22	0.08	0.00	0.00	0.00
Weighted Functional Capability Gain (Total)	0.41					

Table 4. Mitigation Functional Analysis		Wetland Created			
Wetland Functions Analysis		10	11	12	13
Functional Variables	PFO	PFO	PSS/PFO	PFO	
Surface Flooding Frequency	1.00	0.80	1.00	1.00	
Subsurface Flooding Frequency	1.00	0.40	1.00	1.00	
Macrotopographic Complexity	0.80	0.00	0.80	0.80	
Geomorphic Modification	0.25	0.50	0.25	0.25	
Herbaceous Plant Cover	1.00	1.00	1.00	1.00	
Pole Cottonwood, Willow, Shrub, and Sapling	0.80	0.00	0.80	0.80	
Tree Density	0.50	0.00	0.50	0.50	
Proportionality of Landscape Features	0.80	0.10	0.80	0.80	
Large Woody Debris	0.20	0.10	0.20	0.20	
Decomposition of Organic Matter	0.80	0.20	0.80	0.80	
Percent Cover by Native Plants	0.70	0.50	0.70	0.70	
Floodplain Habitat Connectivity	1.00	0.20	1.00	1.00	
Proportional Land Use	0.70	0.20	0.70	0.70	
Functions/Functional Capability Index					
Surface-Ground Water Storage and Flow	0.48	0.45	0.48	0.48	
Nutrient Cycling	0.79	0.19	0.79	0.79	
Retention of Organic and Inorganic Particles	0.42	0.35	0.42	0.42	
Generation and Export of Organic Carbon	0.83	0.37	0.83	0.83	
Characteristic Plant Community	0.74	0.37	0.74	0.74	
Characteristic Aquatic Invertebrate Food Webs	0.90	0.33	0.90	0.90	
Characteristic Vertebrate Habitats	0.82	0.32	0.82	0.82	
Floodplain Interspersion and Connectivity	0.58	0.32	0.58	0.58	
Combined Functional Capability Score	0.69	0.34	0.69	0.69	
Acres	0.854	0.350	0.11	0.12	
Weighted Functional Capability Gain	0.59	0.12	0.08	0.08	
Weighted Functional Capability Gained (Total)	0.87				

2. Baseline Information

Applicant, Party Having Financial Responsibility, Present Owner of Mitigation Sites:

SunCor Idaho LLC
485 E. Riverside Dr., Suite 300
Eagle, Idaho 83616
(208) 939-0343

Expected Long-term Owner of and Maintenance Responsibility for Mitigation Sites:

Avimor Residential Community Association, Inc.
(Entity to be created with final development approval.)

Preparer:

Karl Gebhardt, P.E., P.H.
Hydrologist/Professional Engineer
Resource Systems, Inc.
10306 Harvester Dr.
Boise, Idaho 83709
(208) 376-5264

Engineering and planning provided by:

WRG Design, Inc.
453 S. Fitness Place
Eagle, Idaho 83616
(208) 246-8300

Parties Expected to Have Long-Term Oversight Responsibility of Mitigation Sites and/or Conservation Easements:

Avimor Residential Community Association, Inc.
485 E. Riverside Dr., Suite 300
Eagle, Idaho 83616
(208) 939-0343

Location - The Avimor (Spring Valley Ranch) area (Figure 1) is located in Ada County, Idaho about 7 miles northeast of Eagle, Idaho in section 18 and surrounding sections of Township 5 North, Range 2 East.

Location, Road map, USGS map - See Figure 1.

NRCS soil map and mitigation sites -- See Figure 2.

Mitigation Sites and Project Layout -- Figures 3A-II

Wetland Delineation. Figure 4

Typical Mitigation Cross Sections-- Figure 5

Project Description

Jurisdictional Determination with USFWS (Cowardin et al., 1979) Vegetation Classification - See Figure 4.

Types, Functions and Values

This section presents a description of wetland types and functionality used in preparing the functional analysis presented in Tables 3 and 4. Later in the section the impacted wetland will be compared to the proposed wetland mitigation sites along with a presentation of function and associated value. No endangered species are associated with this project area and are not discussed, although the bald eagle does frequent the Boise River system in years when conditions are favorable.

The U.S. Corps of Engineers Regulatory Guidance Letter RGL 02-02 recommends the use of the Hydrogeomorphic Method (HGM), Wetland Rapid Assessment Procedure, or best professional judgment. The Hydrogeomorphic Method (HGM) (Brinson 1993, Brinson et al. 1995) for wetland description and classification is generally used a guide for wetland managers to assess functionality at a regional level.

“The guidebook is not for direct application by environmental consultants, agency personnel, and others who assess wetland functions. For the guidebook to be useful, it must first be modified, calibrated, and tested to determine its effectiveness under local and regional conditions. Reference wetlands serve as the foundation for identifying functions, and for determining which variables and indicators are appropriate for a particular region.” (Brinson et al. 1995)

Certainly, it is most appropriate to apply the methodology to an entire system and HGM is meant to look at reference conditions to provide evaluators resulting in a type of yardstick for comparing functionality from one site to another. The HGM method, however, does provide an immediate degree of usefulness in this mitigation plan by providing a number of types of wetland functionality that can be applied to the area. The HGM classification method is also useful because it considers the channel and floodplain as a system, unlike the US Fish and Wildlife Service Classification (USFWS) system (Cowardin et al., 1979). The USFWS system is used in describing the type of vegetation and not necessarily functionality. The wetland types for the project area are in the Palustrine system.

RGL 02-02 does specifically allow best professional judgment (BPJ). However, in practice, BPJ requires a good deal of documentation/description to be useful or at least credible. The analysis presented in this plan will utilize a list of functions provided in the riverine HGM (Brinson et al. 1995) as modified by the regional model for Rocky Mountain riverine systems (Hauer et al. 2002) with a description of the functionality provided and an estimated qualitative value. Best professional judgment will be applied to support the qualitative estimate of functionality. The compensatory mitigation areas will be required to have an equal or improved qualitative functionality value (given in Table 3) at the mitigation ratios provided in Table 1. Higher mitigation ratios are used where functionality may be difficult to establish, as with growing mature forested areas.

A brief description of the types of wetlands impacted is provided here as a precursor to the functionality determination. The USFWS system will be used to describe the types. PEM refers to Palustrine Emergent and is associated with wetland located in the lowest position and includes most of the project wetlands. (Position refers to elevation relative to surface and/or ground water. Generally, the lowest elevation sites receive the most abundant supply of water. Higher position sites are further from the ground water and are normally further away from the channel.)

PFO refers to Palustrine Forested and are sites supporting deciduous cottonwood trees. These sites are normally in the medium and highest wetland positions and can often be upland at the highest position because of a lack of saturation/inundation at frequent intervals and long duration and/or because substrate is very coarse (sand, gravel).

PSS refers to Palustrine Scrub Shrub and are typically willow sites and are often at a position between the low and high positions on morphologically active surfaces such as streambanks. Open water (OW) is another designation of the USFWS system and implies either flowing or standing water that is reasonably permanent. The substrate beneath the open water is obviously the lowest position, but is not described in terms of jurisdictional wetland.

Elements of Hydrogeomorphic Assessment on the Project Area - The project area is considered "riverine" and the wetlands are mostly within an incised channel, and therefore the site will be evaluated using the functional components identified in Brinson et al. 1995, which deals with riverine HGM types.

The riverine wetland classes contain the four major categories with 15 major functions from Brinson et al. (1995), as listed below:

Hydrologic

- Dynamic Surface Water Storage
- Long-Term Surface Water Storage
- Energy Dissipation
- Subsurface Storage of Water
- Moderation of Groundwater Flow or Discharge

Biogeochemical

- Nutrient Cycling
- Removal of Imported Elements and Compounds
- Retention of Particulates
- Organic Carbon Export

Plant Habitat

- Maintain Characteristic Plant Communities
- Maintain Characteristic Detrital Biomass

Animal Habitat

- Maintain Spatial Structure of Habitat
- Maintain Interspersion and Connectivity
- Maintain Distribution and Abundance of Invertebrates
- Maintain Distribution and Abundance of Vertebrates

Each of the fifteen functions will be described by definition, by the function provided by current condition of the wetlands to be eliminated, and by the proposed function to be provided by the mitigation wetlands. The HGM normally is applied to some standard reference.

Table 3 provides a qualitative summary of the existing wetland functions, Table 4 a summary of mitigation sites, Table 5 provides a qualitative summary of functions for the proposed mitigation sites,

and Table 6 provides a comparison of the impacted sites to the proposed mitigation sites.

Dynamic Surface Water Storage – “is the capacity of a wetland to detain moving water from overbank flow for a short duration when flow is out of the channel. This function is associated with moving water from overbank flow and/or upland surface water inputs by overland flow or tributaries. Detention of floodwaters is an important riverine wetland function. As overbank flow or upslope surface inputs are detained in the wetland, the timing of passage of the flood wave (wave celerity) is reduced. Alteration of the flood wave and detention of water may result in reduced downstream peak flows and delayed timing of the peak flows.” Spring Valley Creek is an incised channel that has been controlled using instream structures that provide artificial detention of high flow. This detention increases storage but also effects movement of water through the system. A major change on Spring Valley Creek has been the loss of significant transport connectivity, since large floods tend to fill detention zones, woody debris plug structures providing even higher detention, and, as seen in failed structures, provide unnatural flooding depths for this particular type of stream geomorphology.

Long-Term Surface Water Storage- This is the “Capacity of a wetland to temporarily store (detain) surface water for long durations; associated with standing water not moving over the surface. Sources of water may be overbank flow, direct precipitation, or upland sources such as overland flow, channel flow, and subsurface flow.” The variables include water supply and microtopographic relief. This particular function becomes very similar to the *Subsurface Storage of Water* function when including subsurface flow. Nevertheless, subsurface flow is included and becomes duplicative with the *Subsurface Storage of Water*. Spring Valley Creek appears to be devoid of beaver activity although beaver activity is thought to be key in maintaining long-term storage and perennial stream flow.

Energy Dissipation- “Allocation of the energy of water to other forms as it moves through, into, or out of the wetland as a result of roughness associated with large woody debris, vegetation structure, micro- and macrotopography, and other obstructions.” Variables for energy dissipation include reduction in velocity, frequency of overbank flooding, and surface roughness (microtopographical features and vegetation). Spring Valley Creek contains ample woody and herbaceous vegetation to affect energy dissipation.

Subsurface Storage of Water – “Availability of storage for water beneath the wetland surface. Storage capacity becomes available as periodic drawdown of the water table or reduction in soil saturation occurs, making drained pores available for storage of water. Drawdown may be the result of vertical and lateral drainage and/or evapotranspiration.” This HGM function has to do with the process of ground water recharge and discharge and is discussed at length in Gebhardt et al. (1989). The major process at work here is the wetland systems providing control (perpendicular, e.g. large wood debris, and longitudinal, e.g. bank and floodplain roughness) resulting in higher surface water elevation increasing the rate of surface water movement into ground-water systems. This increased elevation also results in increased amounts of water in the ground water system. Water moves slower in the subsurface than the surface; therefore the more water that can remain in the subsurface system results in an increased amount of water moving more slowly in the entire system. This can be important in systems having need of extended water supply in the summer months. The two variables used in the HGM are available pore space and water table fluctuation.

Moderation of Groundwater Flow or Discharge – “Capacity of a wetland to moderate the rate of groundwater flow or discharge from upgradient sources.” This can best be explained by looking at the process of how ground water flows. Generally, ground water moves through shallow aquifers at rates commensurate with the hydraulic gradient and hydraulic conductivity of the substrate. Movement of

water into the ground water system can increase ground water flow by providing additional water and by increasing hydraulic gradient. Movement of water out of the system is expressed in terms of seeps, springs, and the presence of wetland vegetation. The variables used in the HGM are subsurface flow into the wetland and subsurface flow out of a wetland. For this function to be considered, a wetland needs to influence the duration, rate, or magnitude of ground-water storage, baseflow, seasonal flow, or surface-water temperature.

Nutrient Cycling - “Abiotic and biotic processes that convert nutrients and other elements from one form to another; primarily recycling processes.” HGM utilizes both an onsite and offsite effect evaluation. Main variables include aerial net primary productivity evaluated in terms of annual litterfall or biomass accumulation, annual turnover of detritus evaluated in the amount of detrital and soil organic matter. If production exceeds turnover, then turnover is used as the evaluating factor. This is a difficult function to evaluate quantitatively, but qualitatively can be looked at in terms of biomass that is produced or captured on site and then processed on site rather than being transported downstream to impact offsite water quality problems. For this project area, if wetland vegetation is persistent and produces annual detritus and is not connected to a frequently flooded area, the value for this function is considered high. PEM communities not connected to a frequently flooded surface connection with persistent vegetation are considered a high value. Those PEM communities connected to the frequently flooded system are considered moderate value unless they are associated with a PFO/PSS community. PFO communities in a low position are considered high value, medium position a moderate value, and high position, a low value. The high position communities do not offer reasonable nutrient processing capabilities.

Removal of Imported Elements and Compounds – “The removal of imported nutrients, contaminants, and other elements and compounds.” This function describes the ability of the site to receive transport of nutrients, contaminants, and other elements and compounds and to have the ability to capture and process the material on site. Important variables are: surface flooding, surface water inflow (tributary, precipitation), subsurface flow into wetland, microtopography to allow holding areas, available surfaces for microbial activity, soils with adsorptive properties, and woody root masses capable of detaining material.

Retention of Particulates – “Deposition and retention of inorganic and organic particulates ($>0.45\text{ m}$) from the water column, primarily through physical processes.” The important variable in this function is frequency of overbank flow and roughness factors provided by vegetation and topography.

Organic Carbon Export – “Export of dissolved and particulate organic carbon from a wetland. Mechanisms include leaching, flushing, displacement, and erosion.” This function again requires frequent overbank flooding to be effective. Other important variables include hydraulic connection with the channel and organic material available in the channel. Direct precipitation is important in areas having significant rainfall, but is not considered an important factor in this watershed. Those PFO/PSS areas that are frequently flooded are considered high value, PFO/PSS areas that are flooded less frequently are considered moderate value.

Maintain Characteristic Plant Communities – “Species composition and physical characteristics of living plant biomass. The emphasis is on the dynamics and structure of the plant community as revealed by the dominant species of trees, shrubs, seedlings, saplings, and ground cover, and by the physical characteristics of vegetation.” Important variables are species composition, seedling/sapling ratio (indicative of propagation potential), canopy cover, tree density, and tree basal area. Those areas having a high diversity with good potential to maintain the diversity are valued as high. Spring Valley Creek may be over-controlled which may explain some of the decadence of certain shrub-shrub zones.

Maintain Characteristic Detrital Biomass -- "The production, accumulation, and dispersal of dead plant biomass of all sizes. Sources may be onsite or upslope and upgradient. Emphasis is on the amount and distribution of standing and fallen woody debris." Important variables are: density of standing dead trees (snags), coarse wood debris, logs in several stages of decomposition, and fine woody debris. If the site is expected to have a high amount of detrital biomass, then the value is high. Those areas that have no flooding cannot disperse their detrital biomass and therefore are valued as low.

Maintain Spatial Structure of Habitat -- "The capacity of a wetland to support animal populations and guilds by providing heterogeneous habitats." Important variables include: density of snags, abundance of very mature trees, number and attributes of vertical strata of vegetation, vegetation patchiness, and canopy gaps.

Maintain Interspersion and Connectivity -- "The capacity of a wetland to permit aquatic organisms to enter and leave the wetland via permanent or ephemeral surface channels, overbank flow, or unconfined hyporheic gravel aquifers. The capacity of wetland to permit access of terrestrial or aerial organisms to contiguous areas of food and cover." Important variables include: frequency of overbank flow, duration of overbank flow, microtopographic complexity, surface hydraulic connections, subsurface hydraulic connection, contiguous vegetation cover and/or corridors between wetland and upland. These variables are treated equally in the IIGM.

Maintain Distribution and Abundance of Invertebrates -- "The capacity of a wetland to maintain characteristic density and spatial distribution of invertebrates (aquatic, semi-aquatic, and terrestrial)." Important variables include: distribution and abundance of invertebrates in soil, distribution and abundance of invertebrates in leaf litter and coarse woody debris, distribution and abundance of invertebrates in aquatic habitats.

Maintain Distribution and Abundance of Vertebrates -- "The capacity of a wetland to maintain characteristic density and spatial distribution of vertebrates (aquatic, semi-aquatic, and terrestrial) that use wetlands for food, cover, rest, and reproduction." Important variables include: the distribution and abundance of resident and migratory fish, distribution and abundance of herptiles, distribution and abundance of resident and migratory birds, distribution and abundance of mammals.

Hauer et al. (2002) provides the following functions for the reference riverine system (alluvial gravel-bed rivers) in the Northern Rocky Mountains. While Spring Valley Creek is not considered a gravel-bed river with the same geomorphology, hydrology, and ecological classification as the reference system, the reference system can provide a means to describe wetland function in a meaningful manner.

Surface-Ground Water Storage and Flow
Nutrient Cycling
Retention of Organic and Inorganic Particles
Generation and Export of Organic Carbon
Characteristic Plant Community
Characteristic Aquatic Invertebrate Food Webs
Characteristic Vertebrate Habitats
Floodplain Interspersion and Connectivity

Hauer et al. provides functional variables for each of the above functions.
Surface-Ground Water Storage and Flow

Surface Flooding Frequency – Recurrence of 1.3 years or less and 10 years rates a 1 and 0.1 respectively.

Subsurface Flooding Frequency – Recurrence annually and at 5 years rates a 1 and 0.1, respectively.

Macrotopographic Complexity – Multiple side, backwater channels with active springbrooks rate a 1. Few side and backwater channels with infrequent flooding, no springbrooks, rates a 0.2.

Geomorphic Modification – No modifications rate a 1. Modifications result in significant reduction in cut and fill alleviation rates a 0.25.

Nutrient Cycling

Herbaceous Plant Cover – Herbaceous cover within the 6 cover types scores a 1 for percent cover generally greater than 50 – 70 percent.

Pole Cottonwood, Willow, Shrub, and Sapling – Based on reasonable dense (50 – 70% projected cover) of woody species.

Tree Density – Based on stem frequency of mature trees.

Proportionality of Landscape Features – Very complex rating of diversity based on 6 cover types.

Decomposition of Organic Matter – This function is based on the depth of organic matter.

Retention of Organic and Inorganic Particles

Frequency of flooding – same as above.

Proportionality of Landscape Features – Very complex rating of diversity based on 6 cover types.

Macrotopographic Complexity – Multiple side, backwater channels with active springbrooks rate a 1. Few side and backwater channels with infrequent flooding, no springbrooks, rates a 0.2.

Large Woody Debris – 12 counts per 50 meter transect scores a 1, linear to 0.

Geomorphic Modification – No modifications rate a 1. Modifications result in significant reduction in cut and fill alleviation rates a 0.25.

Generation and Export of Organic Carbon

Frequency of flooding – same as above.

Macrotopographic Complexity – Multiple side, backwater channels with active springbrooks rate a 1. Few side and backwater channels with infrequent flooding, no springbrooks, rates a 0.2.

Herbaceous Plant Cover – Herbaceous cover within the 6 cover types scores a 1 for percent cover generally greater than 50 – 70 percent.

Pole Cottonwood, Willow, Shrub, and Sapling – Based on reasonable dense (50 – 70% projected cover) of woody species.

Tree Density – Based on stem frequency of mature trees.

Characteristic Plant Community

Herbaceous Plant Cover – Herbaceous cover within the 6 cover types scores a 1 for percent cover generally greater than 50 – 70 percent.

Pole Cottonwood, Willow, Shrub, and Sapling – Based on reasonable dense (50 – 70% projected cover) of woody species.

Tree Density – Based on stem frequency of mature trees.

Proportionality of Landscape Features – Very complex rating of diversity based on 6 cover types.

Percent Cover by Native Plants – 75% herbaceous natives, 100 % shrub/tree natives scores a 1. Less than 15 %, native herbaceous, less than 40 % native shrub, less than 60 % native tree,

scores a 0.

Characteristic Aquatic Invertebrate Food Webs

Surface Flooding Frequency – Recurrence of 1.3 years or less and 10 years rates a 1 and 0.1 respectively.

Subsurface Flooding Frequency – Recurrence annually and at 5 years rates a 1 and 0.1, respectively.

Macrotopographic Complexity – Multiple side, backwater channels with active springbrooks rate a 1. Few side and backwater channels with infrequent flooding, no springbrooks, rates a 0.2.

Proportionality of Landscape Features – Very complex rating of diversity based on 6 cover types.

Characteristic Vertebrate Habitats

Herbaceous Plant Cover – Herbaceous cover within the 6 cover types scores a 1 for percent cover generally greater than 50 – 70 percent.

Pole Cottonwood, Willow, Shrub, and Sapling – Based on reasonable dense (50 – 70% projected cover) of woody species.

Tree Density – Based on stem frequency of mature trees.

Surface Flooding Frequency – Recurrence of 1.3 years or less and 10 years rates a 1 and 0.1 respectively.

Macrotopographic Complexity – Multiple side, backwater channels with active springbrooks rate a 1. Few side and backwater channels with infrequent flooding, no springbrooks, rates a 0.2.

Proportionality of Landscape Features – Very complex rating of diversity based on 6 cover types.

Floodplain Habitat Connectivity – Tree, shrub occupies 50 to 80 percent with well developed connections scores a 1. Tree, shrub occupies less than 10 percent with poorly developed connections, most are in small patches, and poorly connected, scores a 0.4.

Floodplain Interspersion and Connectivity

Proportional Land Use - Area managed for native vegetation scores a 1. Heavy grazing scores a 0.3, gravel pit operation, structures, scores a 0.

Floodplain Habitat Connectivity – Tree, shrub occupies 50 to 80 percent with well developed connections scores a 1. Tree, shrub occupies less than 10 percent with poorly developed connections, most are in small patches, and poorly connected, scores a 0.4.

Proportionality of Landscape Features – Very complex rating of diversity based on 6 cover types.

Surface Flooding Frequency – Recurrence of 1.3 years or less and 10 years rates a 1 and 0.1 respectively.

Subsurface Flooding Frequency – Recurrence annually and at 5 years rates a 1 and 0.1, respectively.

Macrotopographic Complexity – Multiple side, backwater channels with active springbrooks rate a 1. Few side and backwater channels with infrequent flooding, no springbrooks, rates a 0.2.

Geomorphic Modification – No modifications rate a 1. Modifications result in significant reduction in cut and fill alleviation rates a 0.25.

Cover Types - 1 = mature conifer, 2 = mature cottonwood, 3 = immature pole cottonwood/willow, 4 = cottonwood/willow seedlings < 2 meters, 5 = filled or partially filled channels

dominated by mix of woody species, 6 = herbaceous vegetation, 7 = exposed cobble riverbed, 8 = main channel, 9 = off main channel, 10 = agricultural fields, 11 = domestic or commercially developed land.

3. Mitigation Site Selection & Justification

Location. The location of the mitigation sites are shown on Figure 2. The mitigation sites are located on the project area. The mitigation sites were selected because they provide the best potential for success, they build upon already available functionality, they increase or create new functionality, and they add to characteristics that are or were important to Spring Valley Creek. The mitigation areas provide in-kind and on-site replacement of all impacted functions with the exception of the detention facility that does not have flood or nutrient transport. The mitigation sites have high practicability in that it would be reasonably easy to construct without adverse impacts and would expand the changes Spring Valley Creek is doing naturally.

Ownership. (1) The existing site ownership is provided in section 2 and is the same as the permit applicants. The property carries no encumbrances. (2) The ownership of mitigation sites located on private lots will be transferred to the future lot owners upon sale of lot with reservation of any conservation easements thereon. Ownership of mitigation sites on common lots will be transferred to the Avimor Residential Community Association, Inc. All mitigation sites are expected to be managed by the land owner or the Avimor Residential Community Association, Inc through conservation easements or other agreements. Long-term maintenance of the mitigation sites is expected to be minimal and will be funded and executed by the Avimor Residential Community Association, Inc. (3) The Idaho Department of Water Resources has ultimate control of river diversions and would require sufficient water to meet downstream water rights. On-site irrigation would be controlled by the applicant through pressurized irrigation. (4) The Corps of Engineers has permission to enter the site at any time.

Present and Proposed Use of Mitigation Area. The mitigation areas have been used in the past for grazing. The proposed use of the mitigation areas are for wildlife, aesthetics, and passive recreation. Some of the mitigation areas will contain pressurized irrigation to help establish and maintain them. Non-native species are not planned for use in the mitigation areas

Zoning. There are no constraints to the mitigation at this time.

Out-of Kind Mitigation. No out-of-kind mitigation is proposed.

4. Mitigation Work Plan

This detailed mitigation work plan has been prepared based upon April 26, 2006, "acceptance" of the conceptual plan. The plan includes an engineered grading plan (provided by separate cover) showing quantities of material to be removed, provides detailed planting instructions and design of divergence area. The plan provides the location, approximate mitigation acreage, mitigation type, wetland type, and a description of each mitigation area proposed to receive work.

Rationale for Success. All of the proposed mitigation techniques are relatively simple to construct, as they only require excavation to an appropriate elevation that will provide a stable water supply which

is assumed to be at or below the position of the current active floodplain.

Responsible Parties. SunCor LLC will be responsible for constructing the mitigation. Although the contractor has not yet been selected, mitigation construction will occur concurrently with site grading during the summer/fall of 2006.

Site Preparation. Restoration and creation areas will be excavated to a level approximately 0.5 feet below final grade. The soil would be stockpiled on an upland site. Grading will be done to the finished elevation using fine-grained soil removed from the site which should be similar to the deposition in the floodplain.

Construction Methods. Hydraulic excavators and dump trucks will be most likely used for construction. Hydraulic excavators will be able to remove material and carefully respect the boundary of the existing wetland. All machinery operating in water will be routinely inspected to minimize the amount of exposed oil and grease. Construction is expected to be done when the ground water is low and contamination potential is at a minimum. Topsoil and wetland soil will be distributed with dump trucks and spread to proper elevation using small excavating equipment (bobcat) and hydraulic excavators.

Planting Plan. Planting methods in forested and scrub-shrub wetland areas will rely on tree transplanters. The success of tree transplantation, particularly riparian woody species, increases if the soil and root mass can be maximized. A cottonwood density of at least 15 trees per acre is expected. Willow species will be planted/transplanted at 10 times that value. Linear planting of willows is planned on 5-foot intervals with the expectation that natural regeneration will increase this density. Emergent wetland plants are expected to appear because of the use of wetland soil. A wetland seeding mix will also be applied.

Soils. Wetland soils removed from the impacted sites will be used to fill the restoration sites.

Buffers. The conservation easements will provide for the buffer along with the vegetated fill slopes adjacent to the mitigation sites and protection areas.

5. Performance Standards

Success criteria in the short term:

Emergent areas will be vegetated to at least 50 percent as compared to counter-parts reference area M and L.

Willows will be planted at a density of 5 to 6 per 100 square feet. Assuming a 50 percent survival these scrub-shrub areas are expected to have 20 to 30 percent aerial cover (projected canopy) of woody species such as willow and young cottonwood within 3 growing seasons.

Forested areas will have healthy immature cottonwood trees amounting to 35 per acre at the end of 3 growing season.

Noxious weeds will remain under 10 percent cover.

Success criteria in the long term:

Scrub-shrub areas will begin to develop into a mature cottonwood forest with scrub-shrub understory. Aerial cover (projected) should reach 70 to 80 percent.

SunCor Idaho - Will provide for the construction and revegetation of the mitigation areas.

Department of Water Resources – Will provide necessary permits for the alteration of stream channels and requirements regarding floodplain safety and conveyance.

6. Site Protection and Maintenance

The Avimor Residential Community Association, Inc will be responsible for long-term site protection and maintenance. Until the Avimor Residential Community Association, Inc. has the funding ability, SunCor Idaho will provide the resources to conduct monitoring, maintenance, and protection.

The Avimor Residential Community Association, Inc., will be responsible for:

- Monitoring and maintaining vegetation densities within the mitigation areas at the percent cover specified in the mitigation plan. Monitoring will be conducted according to the mitigation plan.
- Keeping undesirable species at less than 10 percent of the total vegetation basal cover within the mitigation areas. The entire mitigation area will be visually surveyed to determine outbreaks of purple loosestrife which would trigger contingency measures. Undesirable species include: purple loosestrife, reed canarygrass, and any plants considered noxious weeds.
- Preparing a letter to be sent to the Corps of Engineers by December 31 of each year summarizing monitoring and maintenance activities. The letter will be accompanied by selected photos used in monitoring.
- General CC&R's in wetlands and mitigation areas.
- No additional clearing of vegetation will be permitted without authorization from the COE.
- No filling or dumping will occur.
- No placement of structures will occur.
- No placement of additional paths will occur.
- The wetland and mitigation areas shall be protected in perpetuity.

7. Monitoring Plan

Monitoring will be conducted in the spring and late summer during the first three growing seasons after completion of the mitigation and during early summer each year thereafter.

Years 1 - 3 - All mitigation areas will be monitored.

Years thereafter: All mitigation sites will be placed in three-year rotational program using the following randomly selected sites and distribution.

Year 4 - Sites 2, 5, 7, 11, 12

Year 5 - Sites 1, 6, 9, 10

Year 6 - Sites 3, 4, 8, 13

These sequences will repeat every three years unless contingencies are applied, whereby some sites may receive more frequent monitoring.

A written report will be submitted to the COE by December 31 of each year containing the findings of the monitoring and identifying special contingencies that need to be taken.

The monitoring will be conducted by:

Karl Gebhardt, Hydrologist
Joyce Gebhardt, Wildlife Biologist
Resource Systems, Inc.
10306 Harvester Dr.
Boise, Idaho 83709

A detailed monitoring plan will be developed utilizing photos and selective transects. The mitigation areas would be walked at least once a year and at least once immediately after flooding events to observe potential problems, excessive erosion and identify any other concerns.

8. Adaptive Management Plan

Non-compliance Contingency Plan. When monitoring objectives are not met, the Corps of Engineers will receive a letter from the entity performing the monitoring containing the nature of the monitoring findings and a detailed contingency plan addressing corrective actions and a schedule. Likely causes of problems limiting success include: poor water conditions, insect, fire, herbicides, and severe flood events. Measures to address these problems include: irrigation, pesticide management, and reconstruction.

9. Financial Assurances

Financial assurances will be provided by SunCor Idaho until such a time the Avimor Residential Community Association, Inc., can take on the responsibilities.

10. References

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Brinson, M. M., Hauer, F. R., Lee, L. C., Nutter, W. L., Rheinhardt, R. D., Smith, R. D., and Whigham, D. (1995). "A guidebook for application of hydrogeomorphic assessments to riverine wetlands," Technical Report WRP-DE-11, U.S. Army Engineer Waterways Experiment Station, Vicksburg, MS, NTIS No. AD A308 365.

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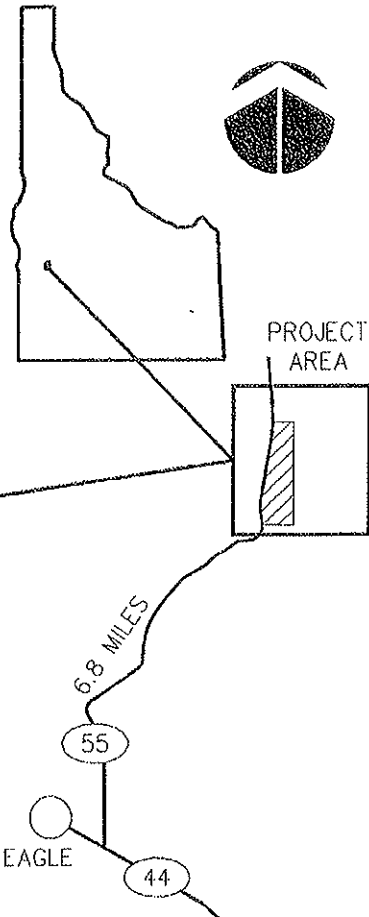
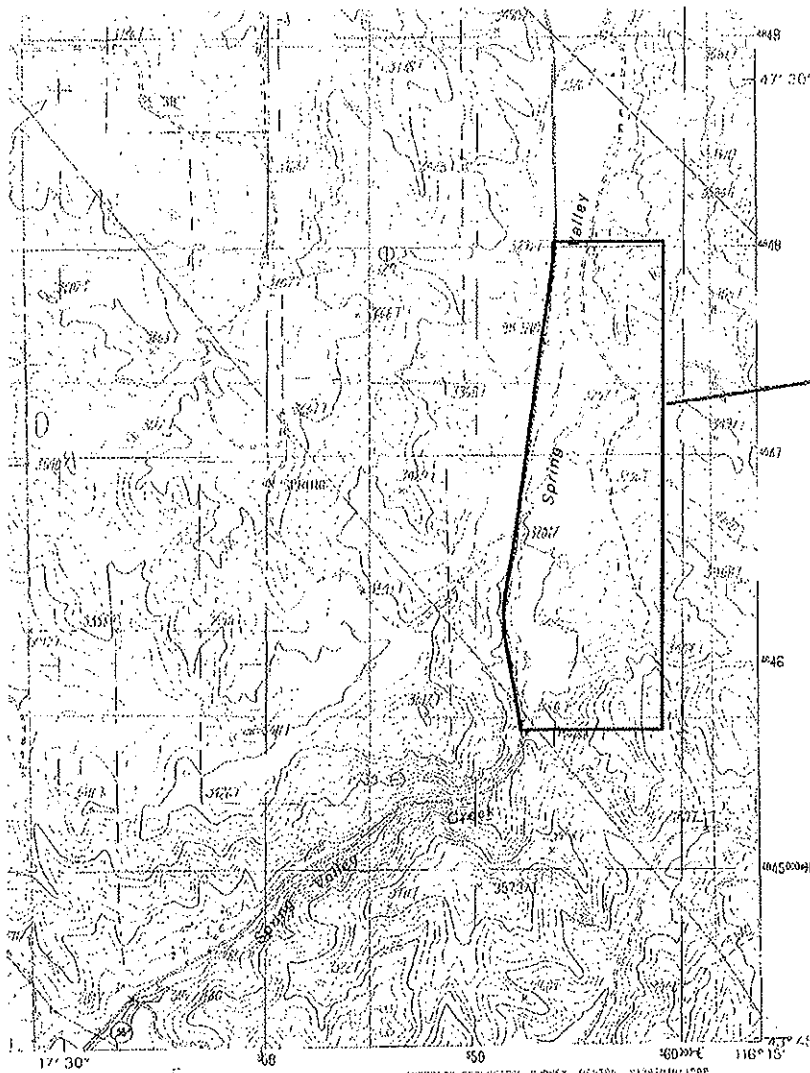
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U.S. Army Corps of Engineers, Regulatory Guidance Letter RGL 02-02, 12/26/2002.

AVIMOR PLANNED COMMUNITY, ADA COUNTY, IDAHO
 APPROXIMATELY 6.8 MILES NORTHEAST OF EAGLE, IDAHO
 T.5 N., R. 2 E., SECTION 18 (CENTROID)
 UTM 4,847,000mN., 559,500mE



APPLICANT/OWNER

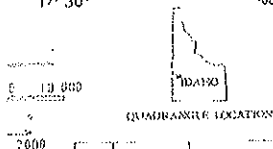
SunCor Idaho, LLC.
 485 East Riverside Drive #300
 Eagle, Idaho 83616
 208-939-0343
 Contact: Mike Wardle

WETLAND CONSULTANT

Resource Systems Inc.
 10306 Harvest Drive
 Boise, Idaho 83709
 208-383-5264
 Contact: Karl Gebhardt, P.E.

CIVIL ENGINEER/SURVEYOR

WRG Design, Inc.
 453 S. Fitness Place
 Eagle, Idaho 83616
 208-246-8300
 Contact: Brian Wilkinson, P.E.



QUADRANGLE LOCATION

1	2	3
4	5	6
7	8	9

ADJOINING 7.5' QUADRANGLE NAMES

ROAD LEGEND
 Improved Road
 Unimproved Road
 Trail
 Interstate Route (I) U.S. Route (U) State Route (S)

PEARL, IDAHO
 PROVISIONAL EDITION 1985
 3306-G3-TR-024

WETLAND MITIGATION PLAN BY RESOURCE SYSTEMS INC, BOISE, IDAHO.

W R G
DESIGN INC.

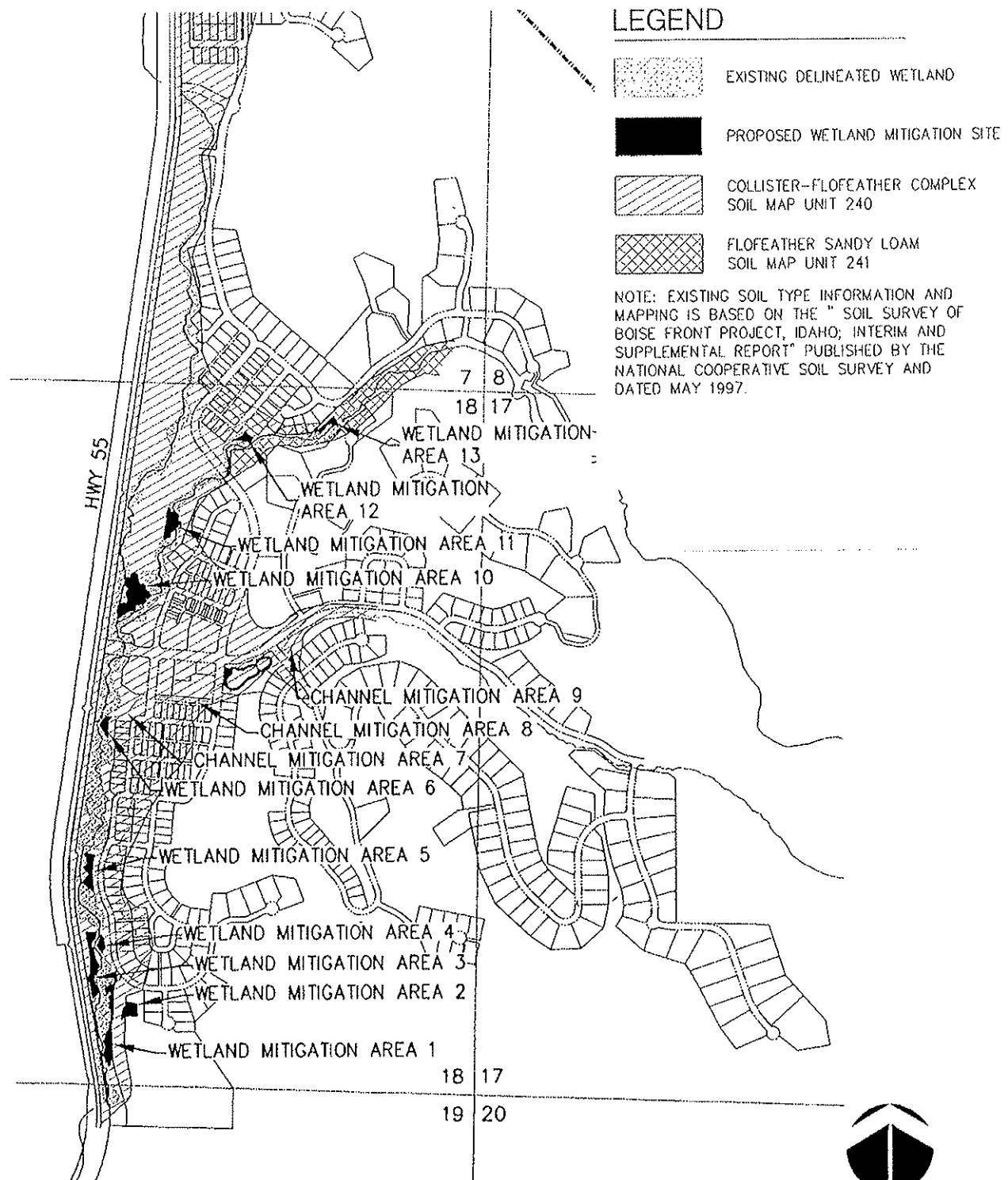
463 S. Fitness Place Eagle, Idaho 83616
 Tel 208.246.8300 Fax 208.246.8320

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LOCATION AND USGS MAP AVIMOR PLANNED COMMUNITY

Applicant: SunCor Idaho, LLC
 Ada County, Idaho

FILE NO. 052100162
 AVIMOR PLANNED COMMUNITY
 SPRING VALLEY CREEK
 N. FK. SPRING VALLEY CREEK
 ADA COUNTY, IDAHO
 DATE: 2/17/2006
 SCALE: N.T.S.
 FIGURE 1 (SHEET 1 OF 12)



WETLAND MITIGATION PLAN BY RESOURCE SYSTEMS INC, BOISE, IDAHO.



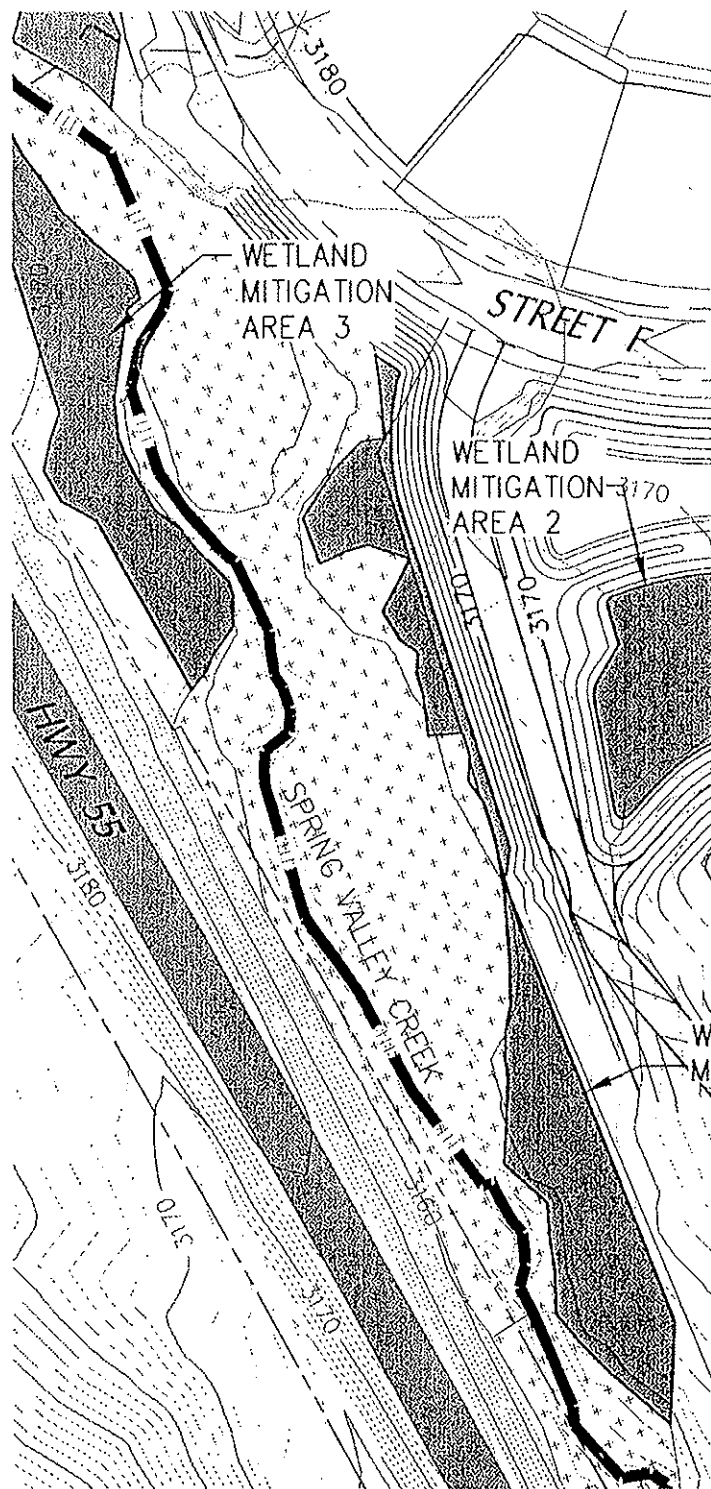
453 S. Flower Place Eagle, Idaho 83616
Tel 2082468300 Fax 2082468320

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SOILS AND MITIGATION SITES AVIMOR PLANNED COMMUNITY

Applicant: SunCor Idaho, LLC
Ada County, Idaho

FILE NO. 052100162
AVIMOR PLANNED COMMUNITY
SPRING VALLEY CREEK
N. FK SPRING VALLEY CREEK
ADA COUNTY, IDAHO
DATE: 2/17/2006
SCALE: 1"= 1000'
FIGURE 2 (SHEET 2 OF 13)



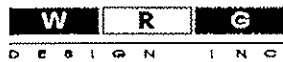
LEGEND

	EXISTING 2' CONTOUR
	EXISTING 10' CONTOUR
	PROPOSED 2' CONTOUR
	PROPOSED 10' CONTOUR
	STREAM FLOW LINE
	DELINEATED WETLANDS
	WETLAND MITIGATION/ CREATION

WETLAND MITIGATION TABLE

MITIGATION AREA	MITIGATION SIZE (AC)	WETLAND MITIGATION TYPE/TREATMENT
AREA 1	0.441 AC	FW/ CREATION

WETLAND MITIGATION PLAN BY RESOURCE SYSTEMS INC., BOISE, IDAHO.



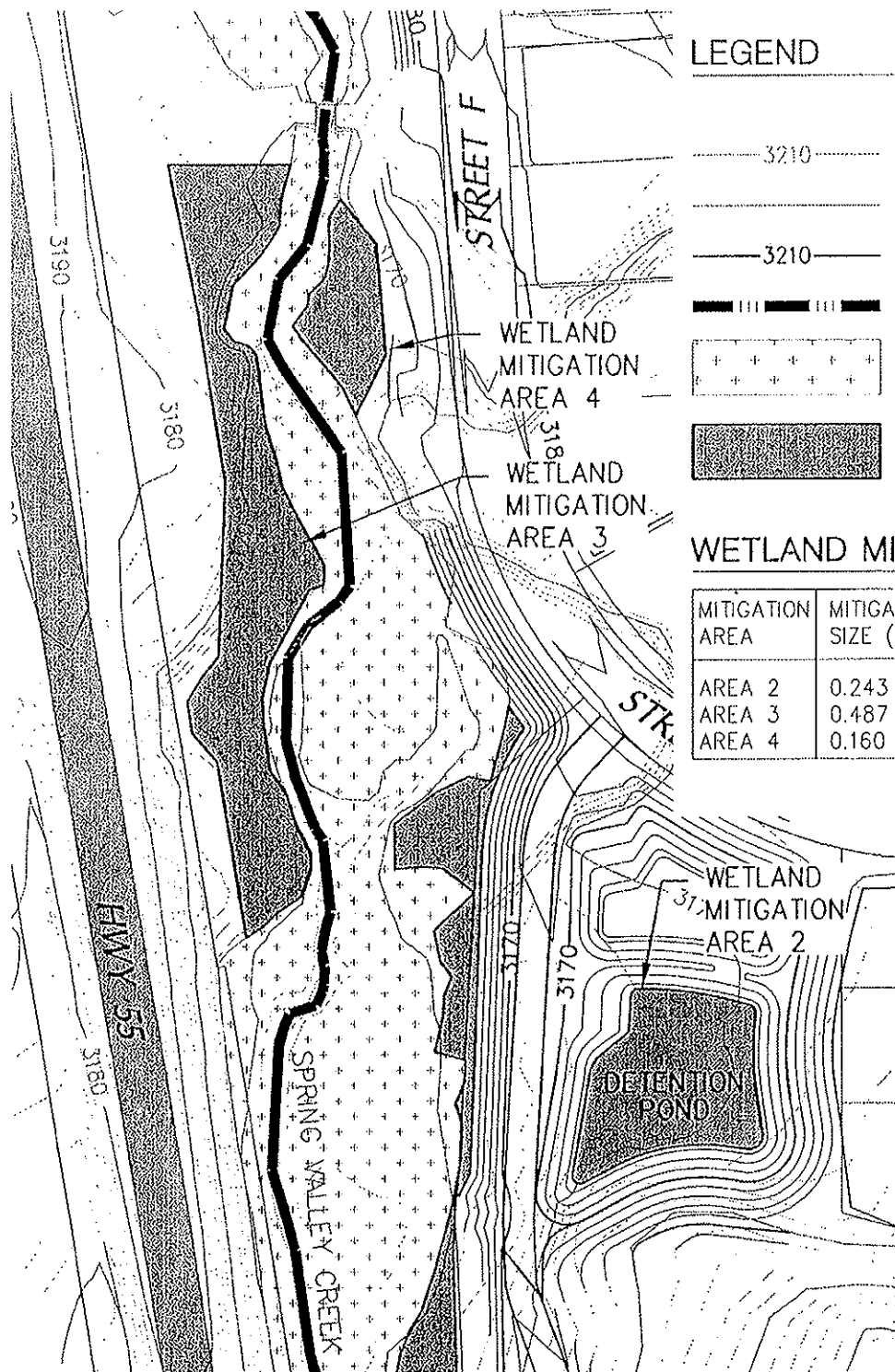
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WETLAND MITIGATION PLAN AVIMOR PLANNED COMMUNITY

Applicant: SunCor Idaho, LLC
Ada County, Idaho

FILE NO. 052100162
AVIMOR PLANNED COMMUNITY
SPRING VALLEY CREEK
N. FK. SPRING VALLEY CREEK
ADA COUNTY, IDAHO
DATE: 2/17/2006
SCALE: 1"= 100'
FIGURE 3A (SHEET 3 OF 13)





LEGEND

	EXISTING 2' CONTOUR
	EXISTING 10' CONTOUR
	PROPOSED 2' CONTOUR
	PROPOSED 10' CONTOUR
	STREAM FLOW LINE
	DELINEATED WETLANDS
	WETLAND MITIGATION/ CREATION

WETLAND MITIGATION TABLE

MITIGATION AREA	MITIGATION SIZE (AC)	WETLAND MITIGATION TYPE/TREATMENT
AREA 2	0.243 AC	POND/ CREATION
AREA 3	0.487 AC	FW/ CREATION
AREA 4	0.160 AC	FW/ CREATOIN

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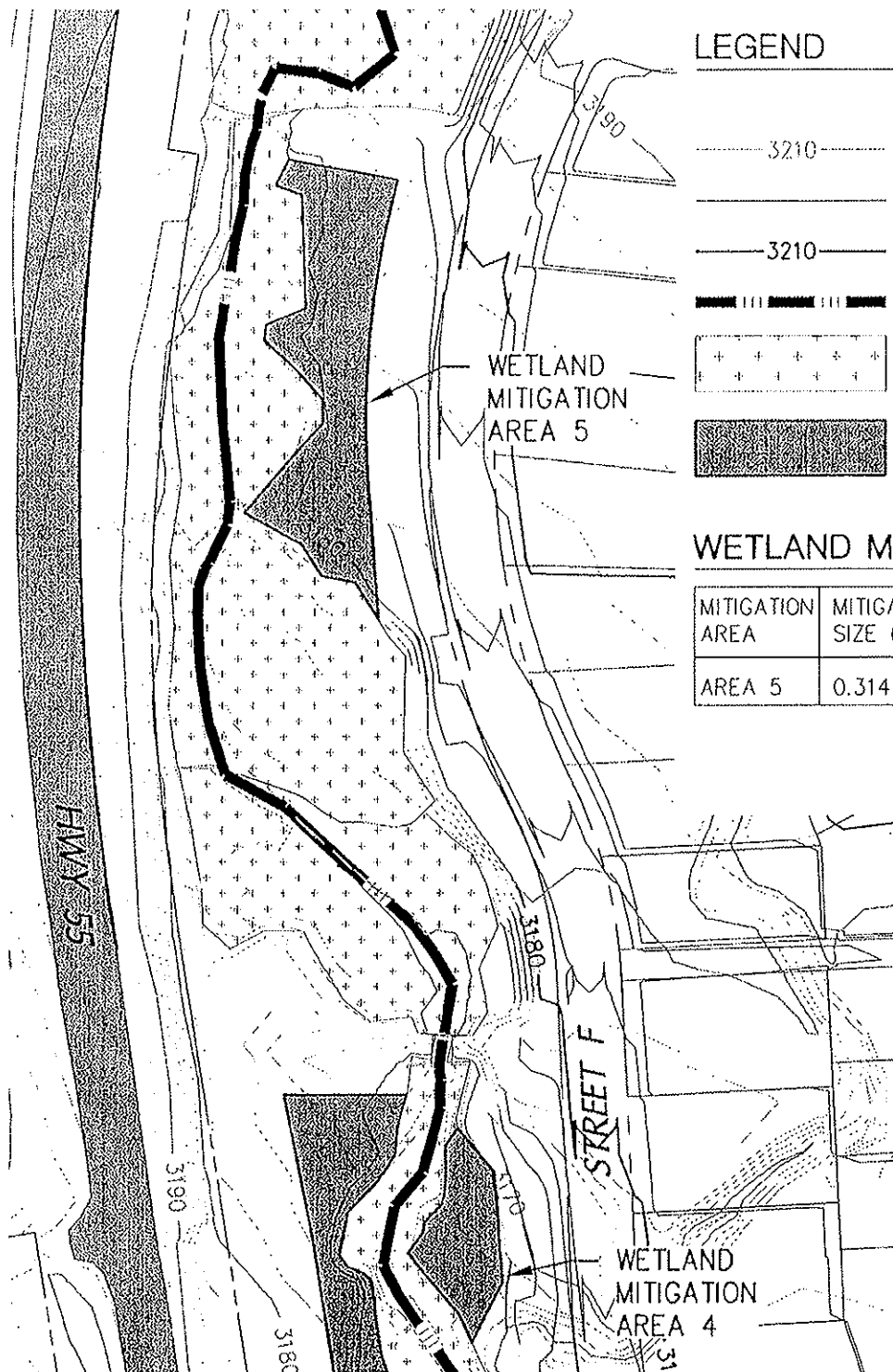
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WETLAND MITIGATION PLAN AVIMOR PLANNED COMMUNITY

Applicant: SunCor Idaho, LLC
Ada County, Idaho

FILE NO. 052100162
AVIMOR PLANNED COMMUNITY
SPRING VALLEY CREEK
N. FK. SPRING VALLEY CREEK
ADA COUNTY, IDAHO
DATE: 2/17/2006
SCALE: 1"= 100'
FIGURE 3B (SHEET 4 OF 13)





LEGEND

---	EXISTING 2' CONTOUR
---	EXISTING 10' CONTOUR
---	PROPOSED 2' CONTOUR
---	PROPOSED 10' CONTOUR
---	STREAM FLOW LINE
+	DELINEATED WETLANDS
■	WETLAND MITIGATION/ CREATION

WETLAND MITIGATION TABLE

MITIGATION AREA	MITIGATION SIZE (AC)	WETLAND MITIGATION TYPE/TREATMENT
AREA 5	0.314 AC	FW/ CREATION

WETLAND MITIGATION PLAN BY RESOURCE SYSTEMS INC., BOISE, IDAHO.



453 S. Fitness Place Eagle, Idaho 83616
Tel. 208.246.6300 Fax. 208.246.6320

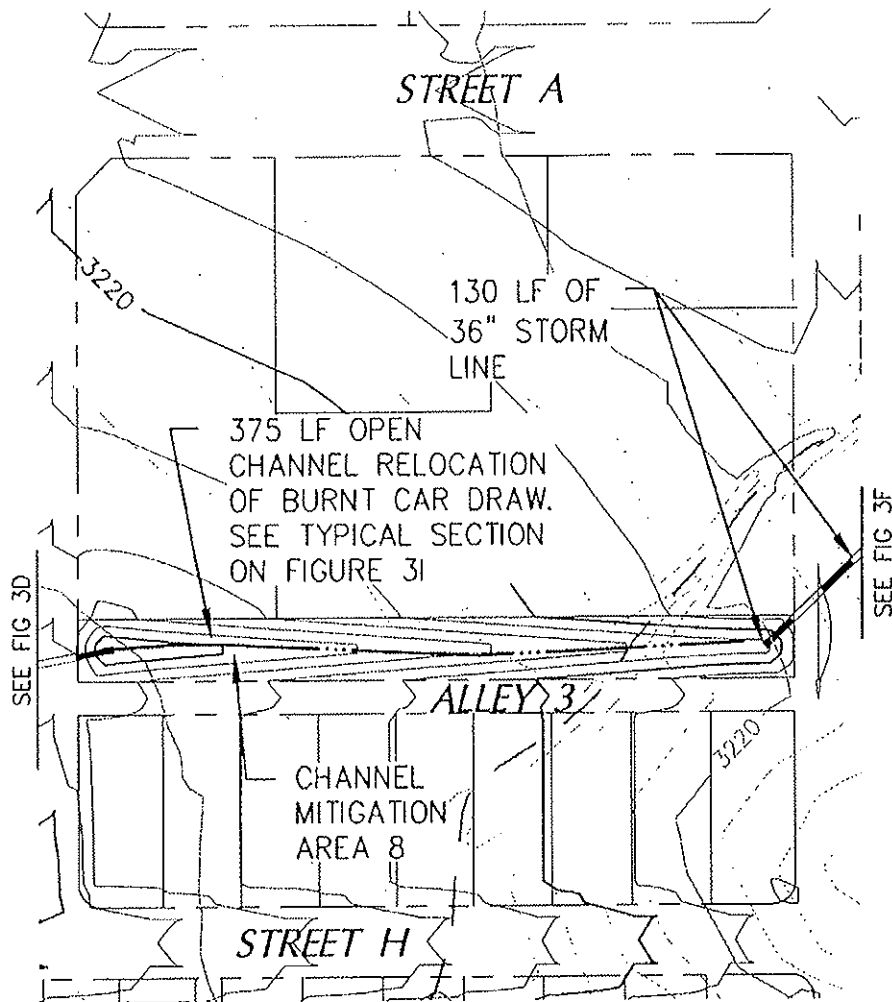
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WETLAND MITIGATION PLAN AVIMOR PLANNED COMMUNITY

Applicant: SunCor Idaho, LLC
Ada County, Idaho

FILE NO. 052100162
AVIMOR PLANNED COMMUNITY
SPRING VALLEY CREEK
N. FK. SPRING VALLEY CREEK
ADA COUNTY, IDAHO
DATE: 2/17/2006
SCALE: 1"= 100'
FIGURE 3C (SHEET 5 OF 13)





LEGEND

---	EXISTING 2' CONTOUR
-----3210-----	EXISTING 10' CONTOUR
---	PROPOSED 2' CONTOUR
-----3210-----	PROPOSED 10' CONTOUR
— III — III —	STREAM FLOW LINE
	DELINEATED WETLANDS
	WETLAND MITIGATION/ CREATION

WETLAND MITIGATION TABLE

MITIGATION AREA	MITIGATION SIZE (AC)	WETLAND MITIGATION TYPE/TREATMENT
AREA 8	N. A.	CHANNEL/ CREATION

WETLAND MITIGATION PLAN BY RESOURCE SYSTEMS INC, BOISE, IDAHO.



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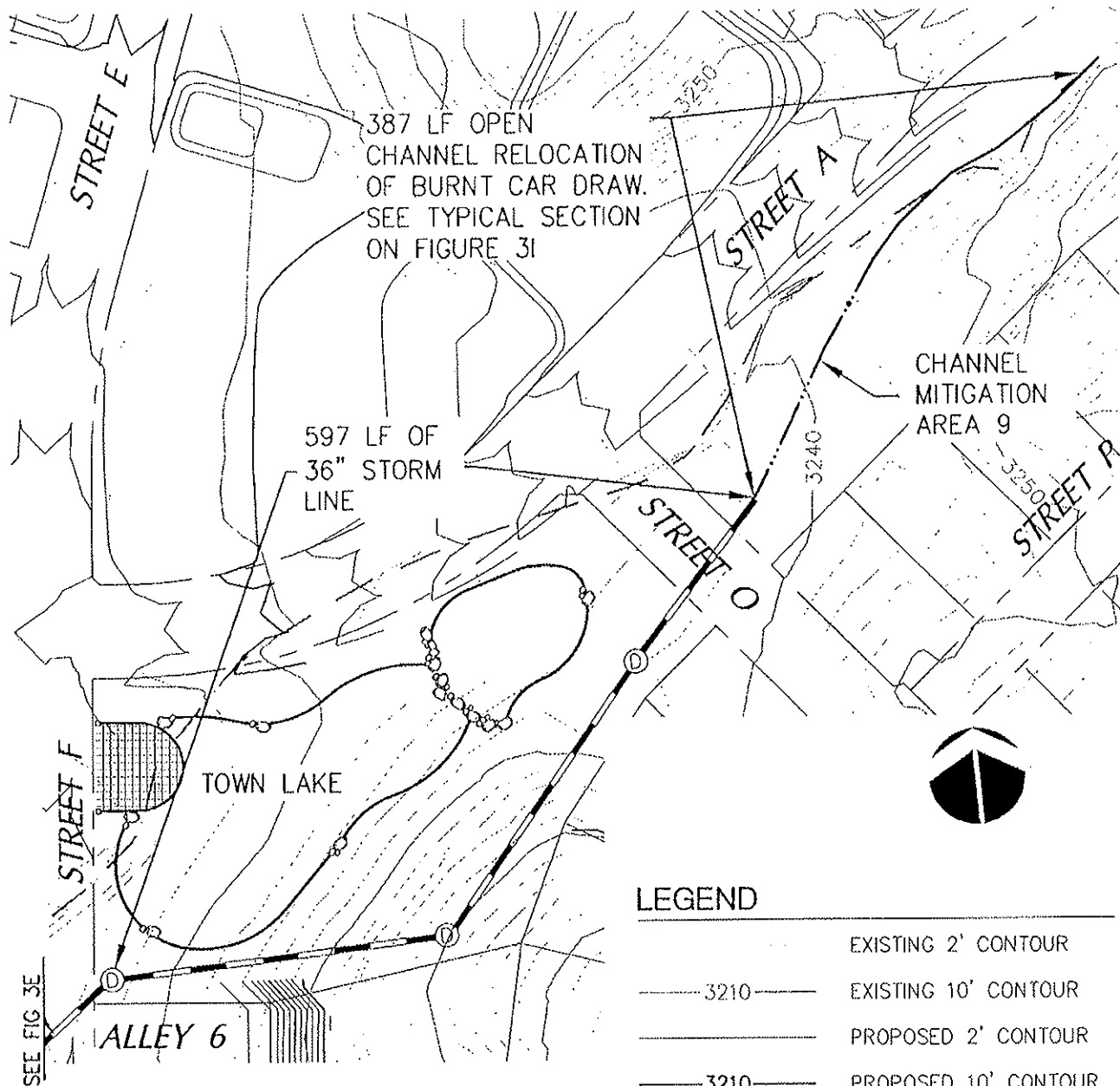
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WETLAND MITIGATION PLAN AVIMOR PLANNED COMMUNITY

Applicant: SunCor Idaho, LLC
Ada County, Idaho

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AVIMOR PLANNED COMMUNITY
SPRING VALLEY CREEK
N. FK. SPRING VALLEY CREEK
ADA COUNTY, IDAHO
DATE: 2/17/2006
SCALE: 1"= 100'
FIGURE 3E (SHEET 7 OF 13)





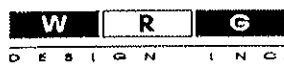
LEGEND

	EXISTING 2' CONTOUR
	EXISTING 10' CONTOUR
	PROPOSED 2' CONTOUR
	PROPOSED 10' CONTOUR
	STREAM FLOW LINE
	DELINEATED WETLANDS
	WETLAND MITIGATION/ CREATION

WETLAND MITIGATION TABLE

MITIGATION AREA	MITIGATION SIZE (AC)	WETLAND MITIGATION TYPE/TREATMENT
AREA 9	N. A.	CHANNEL/ CREATION

WETLAND MITIGATION PLAN BY RESOURCE SYSTEMS INC., BOISE, IDAHO.



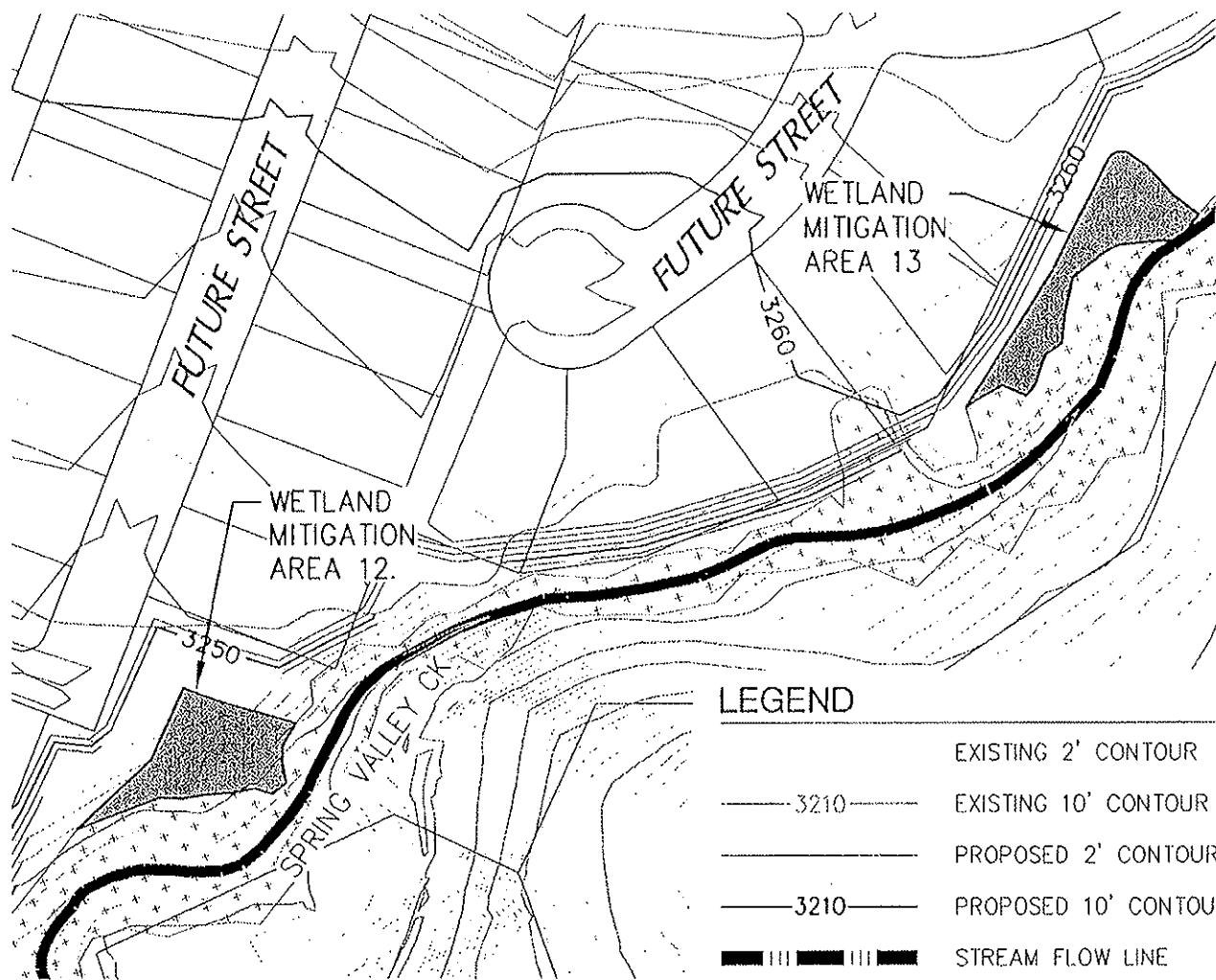
459 S. Fitness Place Eagle, Idaho 83616
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WETLAND MITIGATION PLAN AVIMOR PLANNED COMMUNITY

Applicant: SunCor Idaho, LLC
Ada County, Idaho

FILE NO. 052100162
AVIMOR PLANNED COMMUNITY
SPRING VALLEY CREEK
N. FK. SPRING VALLEY CREEK
ADA COUNTY, IDAHO
DATE: 2/17/2006
SCALE: 1"= 100'
FIGURE 3F (SHEET 8 OF 13)



LEGEND

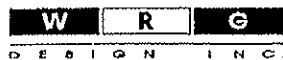
---	EXISTING 2' CONTOUR
---	EXISTING 10' CONTOUR
---	PROPOSED 2' CONTOUR
---	PROPOSED 10' CONTOUR
---	STREAM FLOW LINE
+	DELINEATED WETLANDS
■	WETLAND MITIGATION/ CREATION

WETLAND MITIGATION TABLE

MITIGATION AREA	MITIGATION SIZE (AC)	WETLAND MITIGATION TYPE/TREATMENT
AREA 12	0.114 AC	FW/ CREATION
AREA 13	0.120 AC	FW/ CREATION

ABBREVIATIONS:
FW FORESTED WETLAND

WETLAND MITIGATION PLAN BY RESOURCE SYSTEMS INC., BOISE, IDAHO.



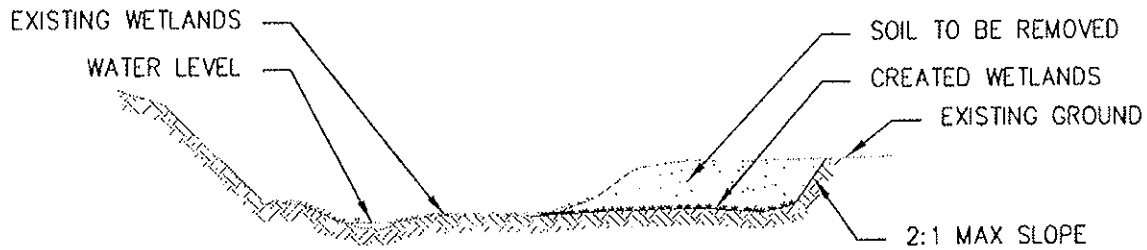
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WETLAND MITIGATION PLAN AVIMOR PLANNED COMMUNITY

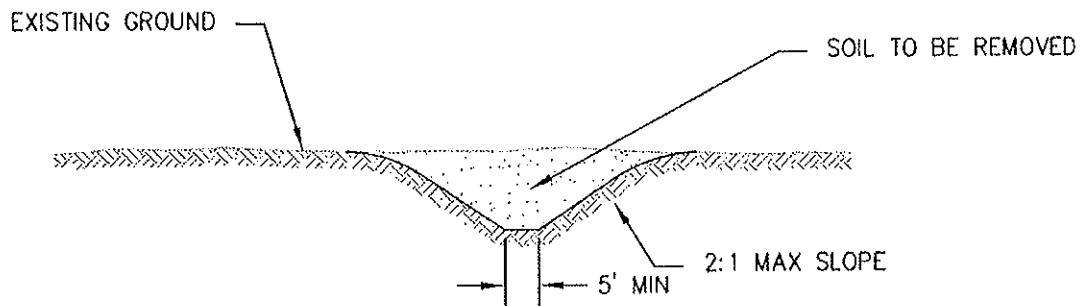
Applicant: SunCor Idaho, LLC
Ada County, Idaho

FILE NO. 052100162
AVIMOR PLANNED COMMUNITY
SPRING VALLEY CREEK
N. FK. SPRING VALLEY CREEK
ADA COUNTY, IDAHO
DATE: 2/17/2006
SCALE: 1"= 100'
FIGURE 3H (SHEET 10 OF 13)



TYPICAL WETLANDS CREATION X-SECTION

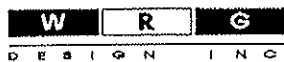
N.T.S.



TYPICAL CHANNEL CREATION X-SECTION (BURNT CAR DRAW)

N.T.S.

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WETLAND MITIGATION PLAN AVIMOR PLANNED COMMUNITY

Applicant: SunCor Idaho, LLC
Ada County, Idaho

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AVIMOR PLANNED COMMUNITY
SPRING VALLEY CREEK
N. FK. SPRING VALLEY CREEK
ADA COUNTY, IDAHO
DATE: 2/17/2006
SCALE: 1" = 100'
FIGURE 3I (SHEET 11 OF 13)

Figure 5. Grading plan. (Will be submitted as separate submittal. See Figure 3I for preliminary cross-sections.)

Appendix 1. Planting List

Wetland Plant Seed Mix

FORBS

Arrowhead	Blue Flag Iris	Blue Vervain	Boneset
Buttonbush	False Aster	Ironweed	Joe Pye Weed
Marsh Blazingstar	Bur Marigold	Rose Mallow	Sawtooth Sunflower
Seedbox	Snееzewood	Swamp Betony	Swamp Milkweed
Sweet Flag	Water Dock	Water Hemlock	Water Plantain

GRASSES, SEDGES & RUSHES

Awl-fruited Sedge	Bottlebrush Sedge	Dark Green Bulrush	Fowl Manna Grass
Fox Sedge	Hardstem Bulrush	Hop Sedge	Lake Sedge
Prairie Cordgrass	Reed Manna Grass	Rice Cut Grass	Solistem Bulrush
Three-square Rush	Tussock Sedge	Wool Grass	

APPENDIX C

NO NET LOSS ITEMIZED SPREADSHEET

APPENDIX C No Net Loss Itemized Spreadsheet

Alternative A (No Net Loss Model)

Community Type/ Condition	Conversion Factor	Acres (Impacted)	Acres (Not Impacted)	Acres (Fingers)	HS (Impacted)	HS (Non- Impacted)	HS (Fingers)	HS (Fingers Converted)	Total HS	Mitigation Score	Non-Impacted and Fingers Available for Enhancement	Number of Acres Identified to be Enhanced 1 Class.	Number of Acres Identified to be Enhanced 2 Classes.	Number of Acres Identified to be Enhanced 3 Classes.	Projected Enhancement Score to Mitigate Loss Within Project	Number of Acres Identified for Conservation Easements	Projected Enhancement Score to Mitigate Loss Outside Project	Net Gain or Loss
Riparian																		
Pristine	8.00	0	0	0	-	-	-	-	-	-	0	0	0	0	-	0	-	
Good	4.00	0	0	0	-	-	-	-	-	-	0	0	0	0	-	0	-	
Satisfactory	2.00	6.02	13.36	0	12.04	26.72	-	-	(38.76)	(12.04)	13.36	13.00	0	0	26.00	0	-	
Marginal	1.00	5.16	13.64	6.47	5.16	13.54	6.47	1.52	(35.27)	(10.81)	20.11	0	3.00	0	9.00	0	-	
Poor	0.50	0.63	1.29	0.04	0.32	0.65	0.02	0.01	(0.98)	(0.33)	1.23	0	1	0	3.50	0	-	
										(22.38)					38.50		-	(16.20)
Upland/Agricultural																		
Recorded Habitat	10.00	0	0	0	-	-	-	-	-	-	0	0	0	0	-	0	-	
Pristine	4.00	0	0	0	-	-	-	-	-	-	0	0	0	0	-	0	-	
Good	2.00	1.58	7.09	4.02	3.16	14.18	8.04	2.01	(25.38)	(9.19)	11.11	0	0	0	-	0	-	
Satisfactory	1.00	1.63	3.75	0	1.63	3.75	-	-	(5.38)	(1.63)	3.75	0	0	0	-	0	-	
Marginal	0.50	42.48	117.29	50.98	21.24	59.65	25.49	6.37	(105.38)	(40.35)	168.27	138	0	0	69.00	0	-	
Poor	0.25	281.62	225.06	64.2	70.41	56.27	16.05	4.01	(142.73)	(62.44)	289.28	0	116	0	87.00	0	-	
										(133.62)					156.00		-	22.38
Total		339.12	381.5	125.71	113.95	173.85	58.07	14.02	(343.87)	(156.00)							-	38.50

EXHIBIT "F"

By-Laws of Avimor Residential Community Association, Inc.

BY-LAWS
OF
AVIMOR RESIDENTIAL COMMUNITY ASSOCIATION, INC.



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BY-LAWS
OF
AVIMOR RESIDENTIAL COMMUNITY ASSOCIATION, INC.

Article 1
Name, Principal Office, and Definitions

1.1. Name.

The name of the corporation is Avimor Residential Community Association, Inc. (the "**Association**").

1.2. Principal Office.

The Association's principal office shall be located in Ada, Boise, or Gem County, Idaho. The Association may have such other offices as the Board may determine or as the Association's affairs require.

1.3. Definitions.

The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the meaning ascribed to them in the Community Charter for the Residential Community at Avimor recorded by SunCor Idaho, Inc., an Idaho corporation, in the public records of Ada County, Idaho, as it may be amended (the "**Charter**"). The term "**majority**," as used in these By-Laws, means those votes, Members, Voting Delegates, or other group, as the context may indicate, totaling more than 50% of the total eligible number.

Article 2
Membership: Meetings, Quorum, Voting, Proxies

2.1. Membership.

The Association shall have two classes of membership, Owner membership and Founder membership (collectively, the "**Members**"), as more fully set forth in the Charter. Provisions of the Charter pertaining to membership are incorporated by this reference.

2.2. Place of Meetings.

The Association shall hold meetings at the Association's principal office or at such other suitable place the Board may designate.

2.3. Association Meetings.

(a) *General.* Association meetings shall be of the Voting Delegates unless the Board otherwise specifies or Idaho law otherwise requires; provided, until Voting Delegates are selected, meetings shall be of the Members and references in these By-Laws to Voting Delegates shall be deemed to be references to the Members. The first Association meeting, whether a regular or special meeting, shall be held within one year after the Association's incorporation.

(b) *Annual Meetings.* The Board shall schedule regular annual meetings to occur within 90 days before or after the close of the Association's fiscal year, on such date and at such time and place as the Board shall determine.

(c) *Special Meetings.* The President may call special meetings. In addition, the President or the Secretary shall call a special meeting if so directed by Board resolution or upon a written petition of Voting Delegates representing at least 10% of the total votes in the Association which describes the purpose or purposes for which the meeting is to be held.

2.4. Notice of Meetings.

The President, the Secretary, or the officers or other persons calling a meeting of the Voting Delegates shall deliver or cause to be delivered to each Voting Delegate entitled to vote at such meeting a written notice stating the place, day, and hour of the meeting. In the case of a special meeting or when otherwise required by statute, the Charter, or these By-Laws, the purpose or purposes for which the meeting is called shall also be stated in the notice. In addition, when giving notice of an Association meeting, the Board shall give notice of a matter a Voting Delegate intends to raise at the meeting if requested to do so by a person entitled to call a special meeting and the request is received by the President or Secretary of the Association at least 10 days prior to the date the Board gives notice of the meeting. No business shall be transacted at a special meeting except as stated in the notice.

Such notice shall be delivered by such means as permitted under Section 9.4, at least 10 but not more than 60 days before the date of such meeting if delivered by first class or registered mail, and if delivered by means other than by first class or registered mail, at least 30 but not more than 60 days before the date of such meeting.

2.5. Waiver of Notice.

Waiver of notice of an Association meeting shall be deemed the equivalent of proper notice. Any Voting Delegate may waive, in writing, notice of any Association meeting, either before or after such meeting. A Voting Delegate's attendance at a meeting shall be deemed a waiver by such Voting Delegate of notice of the time, date, and place thereof, unless the Voting Delegate specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed a waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.6. Adjournment of Meetings.

If any Association meeting cannot be held because a quorum is not present, the Voting Delegates representing a majority of the votes present at such meeting may adjourn the meeting to a time at least five but

not more than 30 days from the scheduled date of the original meeting. At the reconvened meeting, if a quorum is present, any business may be transacted that might have been transacted at the meeting originally called. If those in attendance at the original meeting do not fix a time and place for reconvening the meeting, or if for any reason a new date is fixed for reconvening the meeting after adjournment, the Board shall provide notice to the Voting Delegates of the time and place for reconvening the meeting in the manner prescribed for regular meetings.

Voting Delegates present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the departure of enough Voting Delegates to leave less than a quorum, provided at least a majority of the votes required to constitute a quorum must approve any action taken.

2.7. Voting.

(a) *Voting Rights.* Members shall have such voting rights as are set forth in the Charter, which provisions are specifically incorporated by this reference. Until such time as the Board first calls for election of a Voting Delegate for any Neighborhood, the Owners within such Neighborhood shall be entitled personally to cast the votes attributable to their respective Units on any issue as to which a Voting Delegate representing the Neighborhood would be entitled to vote, and the term "Voting Delegate" shall include all such Owners.

(b) *Election of and Removal of Voting Delegates.* The Owners of Units within each Neighborhood shall elect a Voting Delegate to cast all votes attributable to their Units on all Association matters requiring a membership vote, except as otherwise specified in the Charter or these By-Laws. In addition, each Neighborhood shall elect an alternate Voting Delegate who shall be responsible for casting such votes in the absence of the Voting Delegate.

The first election of a Voting Delegate and alternate Voting Delegate from a Neighborhood shall occur at such time as the Board deems necessary or appropriate. Thereafter, the Board shall call for an election of Voting Delegates and alternates from such Neighborhood on an annual basis.

Voting Delegate elections shall be by ballots cast by mail, computer, or at a meeting of the Owners within such Neighborhood, as the Board determines. Upon written petition signed by Owners holding at least 20% of the votes attributable to Units within any Neighborhood, the election for such Neighborhood shall be held at a meeting. Candidates for election as Voting Delegates may be nominated by the Board, a nominating committee the Board may appoint, or from the floor at any meeting at which such election is to be held. In addition or in the alternative, any Person may submit his or her name for consideration.

The presence, in person or by proxy, or the filing of ballots of Owners representing at least 20% of the total votes attributable to Units in the Neighborhood shall constitute a quorum for any Neighborhood meeting or election. In the event of a failure to obtain a quorum or vacancy in such positions for any Neighborhood, the Board may appoint a Voting Delegate or alternate Voting Delegate to represent such Neighborhood until a successor is elected.

Subject to the above quorum requirement, in any election of Voting Delegates the candidate who receives the greatest number of votes shall be elected as the Voting Delegate and the candidate receiving the next greatest number of votes shall be elected as the alternate Voting Delegate. In the event of a tie vote among the leading candidates, the Voting Delegate shall be determined by drawing names from a hat, with

the first name drawn being the Voting Delegate and the second being the alternate Voting Delegate. The Voting Delegate and the alternate Voting Delegate shall serve a term of one year or until their successors are elected, whichever is longer.

Any Voting Delegate may be removed, with or without cause, upon the vote or written petition of Owners representing a majority of the total votes attributable to Units in the Neighborhood that the Voting Delegate represents.

(c) Establishment of Election Districts. The Founder shall establish Election Districts, if at all, not later than the date of expiration of the Founder Control Period by filing with the Association and recording a Supplement identifying the Units comprising each Election District by Neighborhood designation, legal description, or other means such that the Units within each Election District can easily be determined. The Founder, acting alone, may amend to change such designation at any time prior to the expiration of the Founder Control Period. After the Founder Control Period, the Founder may amend to designate additional Units as part of any Election District.

After termination of the Founder Control Period, the Board shall have the right to record or amend any such Supplement upon the vote of a majority of the total number of directors and approval of Voting Delegates representing a majority of the total number of Neighborhoods and a majority of the total votes in the Association. Neither recordation of nor the Founder's amendment of such Supplement shall constitute an amendment to the Charter. No consent or approval of any Person shall be required except as stated in this subsection. Until such time as Election Districts are established, all of the Residential Community shall constitute a single Election District. After a Supplement establishing Election Districts has been recorded, any and all portions of the Residential Community that are not assigned to a specific Election District shall constitute a single Election District.

2.8. Proxies.

Voting Delegates may not vote by proxy but only in person or through their designated alternates; however, a Voting Delegate who is casting a vote only for his own Unit may cast such vote in person or by proxy. Likewise, if a Member is entitled personally to cast the vote for his Unit on any matter, he or she may vote in person or by proxy, subject to the limitations of Idaho law and subject to any specific provision to the contrary in the Charter or these By-Laws.

Every proxy shall be in writing, shall identify the Unit for which it is given, shall be signed by the Member or the Member's duly authorized attorney-in-fact, and shall be dated and filed with the Association's Secretary prior to the meeting for which it is to be effective. Unless the proxy specifically provided otherwise, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid.

A proxy is effective only for the specific meeting for which it was originally given, as such meeting lawfully may be adjourned and reconvened, and automatically expires 11 months after the date of the meeting for which it was originally given. Every proxy is revocable at any time at the pleasure of the Member who executes the proxy.

2.9. Quorum.

(a) Prior to the election of Voting Delegates, except as these By-Laws or the Charter otherwise provide, the presence of Members or their proxies entitled to cast at least 20% of the total votes in the Association shall constitute a quorum at any membership meeting, and the casting of ballots representing at least 20% of the total votes in the Association shall constitute a quorum for any membership vote conducted by means other than at a meeting; provided, if a quorum is not established at any meeting when initially called or for any membership vote when initially conducted, then the quorum for any subsequent attempt to convene such meeting or conduct such membership vote shall be reduced to 10%.

(b) After the election of Voting Delegates, except as these By-Laws or the Charter otherwise provide, the presence of Voting Delegates or their alternates representing at least a majority of the total number of Voting Delegates and at least a majority of the total votes in the Association shall constitute a quorum at all Association meetings, and the casting of ballots representing at least a majority of the total votes in the Association shall constitute a quorum for any membership vote by Voting Delegates conducted by means other than at a meeting. The vote of Voting Delegates representing a majority of the total eligible votes cast shall constitute the action of the Voting Delegates.

(c) Notwithstanding the quorum requirements set forth above, unless Voting Delegates representing or Members holding, as applicable, one-third or more of the total votes in the Association are present in person or by proxy, or are participating in a vote by ballot in lieu of a meeting, the only matters that may be voted upon at an annual or regular meeting of the Association are those matters that are described in the meeting notice.

2.10. Conduct of Meetings.

The President or a Board-approved designee shall preside over all Association meetings. The Secretary shall ensure that minutes of the meetings are kept and that all resolutions adopted and all other transactions occurring at such meetings are kept with the Association's books.

2.11. Action Without a Meeting.

(a) Any action required by the Charter, the Articles, or Idaho law to be taken at a membership meeting may be taken without a meeting, without prior notice, and without a vote if approved by Voting Delegates representing at least 80% of the total votes in the Association. Such approval shall be evidenced by one or more written consents specifically authorizing the proposed action, dated and signed by Voting Delegates holding the requisite votes. The Association need not give prior notice before soliciting such consent; however, the Association must send written consent forms to all Voting Delegates for action authorized pursuant to this section to be valid. Voting Delegates shall sign, date, and deliver such consents to the Association within 60 days after the Association's receipt of the earliest dated consent. The Association's Secretary shall file (or cause to be filed) such consents with the Association's minutes, and the consents shall have the same force and effect as a vote of the Voting Delegates at a meeting. If there are Voting Delegates who did not sign a written consent to the action, the Association shall give such Voting Delegates written notice of Voting Delegate approval of the action, and Voting Delegate approval pursuant to this subsection (a) shall be effective 10 days after such notice is given.

(b) Alternatively, any action that may be taken at a meeting of the Voting Delegates may be taken without a meeting if: (i) the Association delivers a written ballot to every Person entitled to vote on the

action setting forth the proposed action and providing an opportunity to approve or disapprove the proposed action; (ii) the number of votes cast by ballot equals or exceeds the quorum required for a meeting to consider such action; and (iii) the number of votes cast in favor of the proposed action equals or exceeds the number of votes required to approve such action. Voting instructions or solicitations for any vote conducted in a manner other than at a meeting must indicate the number of responses needed to satisfy the quorum requirement, the percentage of votes necessary to approve any action other than election of directors, and the deadline for casting the ballot in order to be counted. A ballot once cast may not be revoked.

Article 3

Board of Directors: Selection, Meetings, Powers

A. Composition and Selection.

3.1. Governing Body; Qualifications.

The Board shall govern the Association's affairs. Each director shall have one vote. Except with respect to directors appointed by the Founder, directors shall be Owners or residents. However, no Owner and resident representing the same Unit may serve on the Board at the same time. A "resident" shall be any natural person 18 years of age or older whose principal residence is a Unit within the Residential Community.

If an Owner is not an individual, any officer, director, partner, or any trust officer of such Owner shall be eligible to serve as a director unless a written notice to the Association signed by the Owner specifies otherwise. However, no Owner may have more than one such representative on the Board at a time except in the case of directors the Founder appoints.

3.2. Number of Directors.

The Board shall consist of three to seven directors, as provided in Section 3.3.

3.3. Selection of Directors; Term of Office.

(a) *Initial Board.* The initial Board shall consist of the three directors identified in the Articles of Incorporation, who shall serve until their successors are appointed or elected as provided in this section.

(b) *Directors During Founder Control Period.* Except as otherwise provided in this subsection, the Founder Member may appoint, remove, and replace Board members until termination of the Founder Control Period. During such period, the Voting Delegates shall be entitled to elect a minority of the total number of directors according to the following schedule (directors elected by the Voting Delegates are referred to as "**Owner Directors**"):

(i) Within 60 days after the time that Owners other than Builders own 25% of the maximum number of Units permitted by the applicable zoning for the property described in the Development Plans or whenever the Founder earlier determines, the President shall call for an election by which the Voting Delegates, as a group, shall be entitled to elect one of the three directors, who shall be elected at large (*i.e.*, without regard to Election Districts). The remaining directors shall be appointees of the Founder. The

Owner Director shall be elected for a term of two years or until the happening of the event described in Section 3.3(b)(ii), whichever is shorter. If such director's term expires prior to the happening of the event described in Section 3.3(b)(ii), a successor shall be elected for a like term.

(ii) Within 60 days after the time that Owners other than Builders own 50% of the maximum number of Units permitted by the applicable zoning for the property described in the Development Plans or whenever the Founder earlier determines, the Board shall be increased to five directors and the President shall call for an election by which the Voting Delegates, as a group, shall be entitled to elect two of the five directors, who shall be elected at large. The Founder shall appoint the remaining three directors. The Owner Directors shall be elected for a term of two years or until the happening of the event described in Section 3.3(c)(i), whichever is shorter. If such directors' terms expire prior to the happening of the event described in Section 3.3(c)(i), successors shall be elected for a like term.

(c) Directors After the Founder Control Period.

(i) Not later than termination of the Founder Control Period, the Board shall be increased to seven directors. The President shall call for an election by which the Voting Delegates shall be entitled to elect six directors, with an equal number of directors elected by the Voting Delegates representing each Election District and any remaining directorships filled at large by the votes of all Voting Delegates. Three directors shall be elected to serve until the second annual meeting following their election, and three directors shall be elected to serve until the third annual meeting following their election, as such directors determine among themselves.

(ii) The Founder shall be entitled to appoint, remove, and replace the seventh director until termination of the Founder Membership, at which time the director appointed by the Founder shall resign. The remaining directors shall be entitled to appoint a successor to fill the vacancy until the next annual meeting, at which time the Voting Delegates, voting at large, shall be entitled to elect a successor who shall be elected for a term of two years.

(iii) Upon expiration of the term of office of each Owner Director after termination of the Founder Control Period, the Voting Delegates entitled to elect such director shall be entitled to elect a successor to serve a term of two years. Owner Directors shall hold office until their respective successors have been elected. Directors may serve any number of consecutive terms.

The diagram below illustrates the concept of transition of control of the Board during and after the Founder Control Period.

TRANSITION OF CONTROL OF BOARD OF DIRECTORS				
Initial Board	25% of Total Units Conveyed	50% of Total Units Conveyed	Termination of Founder Control Period	Termination of Founder Membership
Founder	Owner	Owner	Owner	Owner
Founder	Founder	Owner	Owner	Owner
Founder	Founder	Founder	Owner	Owner
		Founder	Owner	Owner
		Founder	Owner	Owner
			Owner	Owner
			Founder	Owner

3.4. Nomination and Election Procedures.

(a) *Nomination of Candidates.* At least 30 days prior to any election of directors by the Voting Delegates, the Board shall appoint a "**Nominating Committee**" consisting of a chairperson, who shall be a Board member, and three or more Members or representatives of Members. The Nominating Committee shall serve a term of one year or until its successors are appointed. The names of the Nominating Committee members shall be announced in the notice of each election.

In preparation for each election, the Nominating Committee shall meet and make as many nominations for election to the Board as it shall in its discretion determine, but in no event less than the number of positions to be filled by the Voting Delegates at such election. The Nominating Committee shall nominate separate slates for the directors, if any, to be elected at large by all Voting Delegates and for the director(s) to be elected by the Voting Delegates within each Election District. In making its nominations, the Nominating Committee shall use reasonable efforts to nominate candidates representing the diversity that exists within the pool of potential candidates.

Nominations shall also be permitted from the floor at the meeting at which any election is held. All candidates shall have a reasonable opportunity to communicate their qualifications to the Voting Delegates and to solicit votes.

(b) *Election Procedures.* At each election, voting shall be by written ballot. Each Voting Delegate may cast all votes assigned to the Units it represents for each position to be filled from any slate of candidates on which such Voting Delegate is entitled to vote.

In the event of a tie vote on any slate, the Voting Delegates entitled to vote on such slate shall be informed of the tie vote and given the opportunity to discuss the candidates among themselves in an effort to resolve the tie before another vote is taken. If the second vote again results in a tie, then the Board shall call for election of the director(s) from such slate by the Members represented by such Voting Delegates. Such election shall be held by mail, with ballots to be sent by first class mail to each Member entitled to vote on such slate within 10 days after the meeting at which the original election was held.

3.5. Removal of Directors and Vacancies.

Any Owner Director may be removed, with or without cause, by the vote of Voting Delegates holding a majority of the votes entitled to be cast for the election of such director. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director by the Voting Delegates, the Voting Delegates entitled to elect the removed director shall elect a successor for the remainder of the term of such director.

At any Board meeting at which a quorum is present, two-thirds of the directors then in office may remove any Owner Director who has three consecutive unexcused absences from Board meetings or who is more than 30 days delinquent (or resides in a Unit owned by an Owner who is so delinquent) in the payment of any assessment or other charge due the Association. The Board may appoint a successor to fill the vacancy for the remainder of the term.

In the event of the death, disability, or resignation of an Owner Director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Voting Delegates entitled to fill such directorship shall elect a successor for the remainder of the term. If a resignation is made effective at a later date, the Board may fill the pending vacancy before the effective date if the board provides that the successor does not take office until the effective date.

Any director whom the Board appoints shall be selected from among eligible Members or residents of Units within the Election District represented by the director who vacated the position.

This section shall not apply to directors the Founder appoints. The Founder may appoint a successor to fill any vacancy on the Board resulting from the death, disability, or resignation of a director appointed by the Founder.

B. Meetings.

3.6. Organizational Meetings.

The Board shall hold an organizational meeting within 10 days following each annual Association meeting at such time and place as the Board shall fix.

3.7. Regular Meetings.

The Board shall hold regular meetings at such time and place as a majority of the directors shall determine, but the Board shall meet at least four times during each fiscal year with at least one meeting per quarter.

3.8. Special Meetings.

The President, Vice President, or any two directors may call a special meeting of the Board.

3.9. Notice; Waiver of Notice.

(a) Notices of Board meetings shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. The Board shall notify each director of

meetings by: (i) personal delivery; (ii) first class mail, postage prepaid; (iii) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (iv) facsimile, electronic mail, or other electronic communication device, with confirmation of transmission. All such notices shall be given at or sent to the director's telephone number, fax number, electronic mail address, or sent to the director's address as shown on the Association's records. The Board shall deposit notices sent by first class mail into a United States mailbox at least five business days before the day of the meeting. The Board shall give notices by personal delivery, telephone, or electronic communication at least 72 hours before the time set for the meeting.

(b) The Board shall notify the Members of each Board meeting by either: (i) posting notice of the meeting in a conspicuous place in the Residential Community at least 48 hours in advance of the meeting; (ii) publication of a schedule of the Board meetings in a newspaper, newsletter, on a community intranet or website, or by similar means at least seven days prior to the meeting; or (iii) mailing notice of the meeting to each Member.

(c) Transactions of any Board meeting, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (i) a quorum is present, and (ii) either before or after the meeting each director not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.10. Telephonic Participation in Meetings.

Members of the Board or any committee the Board designates may participate in a Board or committee meeting by conference telephone or similar communications equipment through which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this section shall constitute presence at such meeting.

3.11. Quorum of Board.

At all Board meetings, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the Board's decision, unless Idaho law, these By-Laws, or the Charter specifically provide otherwise. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the departure of directors, if at least a majority of the required quorum for that meeting approves any action taken. If the Board cannot hold a meeting because a quorum is not present, a majority of the directors present may adjourn the meeting to a time not less than five or more than 30 days from the date of the original meeting. At the reconvened meeting, if a quorum is present the Board may transact, without further notice, any business it might have transacted at the original meeting.

3.12. Conduct of Meetings.

The President or any Board-approved designee shall preside over all Board meetings. The Secretary shall ensure that minutes of the meetings are kept and that all resolutions and all transactions occurring at such meetings are included in the Association's records.

3.13. Open Meetings; Executive Session.

(a) Subject to the provisions of Section 3.13(b) and Section 3.14, all Board meetings shall be open to all Members, but only directors may participate in any discussion or deliberation unless a director requests that attendees be granted permission to speak. In such case, the President may limit the time any such individual may speak.

(b) Notwithstanding the above, the President may adjourn any Board meeting and reconvene in executive session, and may exclude persons other than directors, to discuss matters of a sensitive nature, such as proposed, pending, or threatened litigation, or other matters specified by law.

3.14. Action Without a Formal Meeting.

Any Board action may be taken without a meeting if all of the directors sign a written consent, setting forth the action so taken. Such consent shall have the same force and effect as a unanimous vote. The Board shall post a notice of the Board's action in a prominent place within the Residential Community within three business days after obtaining all written consents to an action. Failure to give notice shall not render the action taken invalid.

C. Powers and Duties.

3.15. Powers.

The Board shall have the power to administer the Association's affairs, perform the Association's responsibilities, and exercise the Association's rights as set forth in the Governing Documents and as provided by law. The Board may do or cause to be done on the Association's behalf all acts and things except those that the Governing Documents or Idaho law require to be done and exercised exclusively by the Voting Delegates or the membership generally.

3.16. Duties.

The Board's duties shall include, without limitation:

(a) adopting, in accordance with the Charter, an annual budget establishing each Member's share of the Common Expenses and any Service Area Expenses;

(b) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility consistent with the Community-Wide Standard;

(c) designating, hiring, and dismissing personnel necessary to carry out the Association's rights and responsibilities and where appropriate, providing for compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(d) opening bank accounts on the Association's behalf and designating the signatories required;

(e) depositing all funds received on the Association's behalf in a bank depository which it shall approve and using such funds to operate the Association; however, in the Board's business judgment reserve funds may be deposited in depositories other than banks;

(f) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area consistent with the Community-Wide Standard;

(g) enforcing by legal means the provisions of the Governing Documents and bringing any proceedings which may be instituted on behalf of or against the Members concerning the Association; however, the Association's obligation in this regard shall be conditioned in the manner provided in the Charter;

(h) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Charter, paying the cost thereof, and filing and adjusting claims, as appropriate;

(i) paying the cost of all services rendered to the Association;

(j) keeping a detailed accounting of the Association's receipts and expenditures;

(k) making available to any prospective purchaser of a Unit, any Member, and the holders, insurers, and guarantors of any Mortgage on any Unit, current copies of the Governing Documents and all other books, records, and financial statements of the Association as provided in Article 9; and

(l) indemnifying a director, officer, or committee member or former director, officer or committee member of the Association to the extent such indemnity is required by Idaho law, the Articles, or these By-Laws.

3.17. Conflicts of Interest.

Unless otherwise approved by a majority of the other directors, no Owner Director may transact business with the Association or any Association contractor during his or her term as director or within two years after the term expires. A director shall promptly disclose in writing to the Board any actual or potential conflict of interest affecting the director relative to his or her performance as a director. A director's failure to make such disclosure shall be grounds for removal by a majority vote of the other Board members.

Notwithstanding the above, directors appointed by the Founder may be employed by or otherwise transact business with the Founder or its affiliates, and the Founder may transact business with the Association or its contractors.

Article 4 Officers

4.1. Officers.

The Association's officers shall be a President, Vice President, Secretary, and Treasurer. The President and Secretary shall be elected from among the Board members; other officers may, but need not, be Board members. The Board may appoint such other officers, including one or more Assistant Secretaries and Assistant Treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two or more offices may be held by the same person, except the offices of President and Secretary.

4.2. Election and Term of Office.

The Board shall elect the Association's officers at the first Board meeting following each annual meeting of the Association, to serve until their successors are elected.

4.3. Removal and Vacancies.

The Board may remove any officer whenever in its judgment the Association's best interests will be served, and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise, for the unexpired portion of the term.

4.4. Powers and Duties.

The Association's officers shall have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as the Board may specifically confer or impose. The President shall be the Association's chief executive officer. The Treasurer shall have primary responsibility for preparing the Association's budgets as provided for in the Charter, and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both. The Secretary shall have responsibility for preparing minutes of Board and Association meetings and for authenticating the Association's records.

4.5. Resignation.

Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at a later time specified therein. Unless the resignation specifies, acceptance of such resignation shall not be necessary to make it effective.

Article 5 Committees

5.1. General.

The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall have two or more directors who serve at the pleasure of the board and operate in accordance with the terms of such resolution. In the conduct of its duties and responsibilities, each committee shall abide by the notice and quorum requirements applicable to the Board under Sections 3.9 and 3.11. Except as otherwise provided by Board resolution or the Governing Documents, members of a committee may act by unanimous written consent in lieu of a meeting.

5.2. Covenants Committee.

In addition to any other committees that the Board may establish pursuant to Section 5.1, the Board may appoint a Covenants Committee consisting of at least three and no more than seven Owners who shall not be officers, directors, or employees of the Association. Acting in accordance with the provisions of the Charter, these By-Laws, and resolutions the Board may adopt, the Covenants Committee, if established,

shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Article 8. The Covenants Committee shall have no responsibility for seeking out violations of the Governing Documents.

5.3. Service Area Committees.

The Owners within any Service Area that has no formal organizational structure or association may elect a Service Area Committee to determine the nature and extent of services, if any, that it desires to have the Association provide to the Service Area, over and above those services which the Association provides to all Units in the Residential Community. A Service Area Committee, if elected, shall consist of three Owners of Units in the Service Area; however, if approved by the vote of at least 51% of the Owners of Units within the Service Area, the number may be increased to five.

Elections of Service Area Committees may be held by written ballot sent to all Owners of Units within the Service Area, or at a meeting of the Owners of Units within the Service Area, as the Board determines. The Board or any Owner of a Unit in the Service Area may nominate candidates for election to the Service Area Committee. That number of candidates equal to the number of positions to be filled receiving the most votes shall be elected. Service Area Committee members shall be elected for a term of one year or until their successors are elected. Any director elected to the Board from a Service Area shall be an *ex officio* member of the Service Area Committee. The members of the committee shall elect a chairperson from among themselves, who shall preside at its meetings and shall be responsible for transmitting any and all communications to the Board.

Meetings of a Service Area Committee shall be open to all Owners of Units in the Service Area and their representatives.

Article 6

Standards of Conduct; Liability and Indemnification

6.1. Standards for Directors and Officers.

The Board shall exercise its powers in a reasonable, fair, nondiscriminatory manner and shall adhere to the procedures established in the Governing Documents.

In performing their duties, directors and officers shall act as fiduciaries and shall be insulated from liability as provided for directors of corporations under Idaho law and as otherwise provided by the Governing Documents. Directors and officers shall discharge their duties as directors or officers, and as members of any committee to which they are appointed, in a manner that the director or officer believes in good faith to be in the best interest of the corporation and with the care that an ordinarily prudent person in a like position would exercise under similar circumstances. A director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by others to the extent authorized under Idaho law.

6.2. Liability.

(a) A director or officer shall not be personally liable to the Association, any Member, or any other Person for any action taken or not taken as a director or officer if he or she has acted in accordance with Section 6.1.

(b) To the extent consistent with Idaho law, a director also shall not be personally liable for any action taken or not taken as a director if the director:

(i) acts within the expressed or implied scope of the Governing Documents and his or her actions are not *ultra vires*;

(ii) affirmatively undertakes to make decisions which the director reasonably believes are necessary for the Association's continued and successful operation and, when decisions are made, makes them on an informed basis;

(iii) acts on a disinterested basis, promptly disclosing any real or potential conflict of interests (pecuniary or other), and avoiding participation in decisions and actions on matters as to which he has a conflict of interest (beyond that which all directors have by virtue of their ownership or occupancy of a Unit); and

(iv) acts in a non-fraudulent manner and without reckless indifference to the Association's affairs.

(c) The Association's officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on the Association's behalf (except to the extent that such officers or directors may also be Members).

6.3. Indemnification.

Subject to the limitations of Idaho law, the Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees and expenses, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that the Association shall have no obligation to indemnify any individual against liability or expenses incurred in connection with a proceeding:

(a) brought by or in the right of the Association, although it may reimburse the individual for reasonable expenses incurred in connection with the proceeding if it is determined, by the court or in the manner provided above, that the individual met the relevant standard of conduct under Idaho law; or

(b) to the extent that the individual is adjudged liable for conduct that constitutes:

(i) appropriation, in violation of his or her duties, of any business opportunity of the Association;

- (ii) willful or intentional misconduct or knowing violation of the law;
- (iii) an unlawful distribution to members, directors or officers; or
- (iv) receipt of an improper personal benefit.

This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

6.4. Advancement of Expenses.

In accordance with the procedures and subject to the conditions and limitations set forth in Idaho law, the Board may authorize the Association to advance funds to pay for or reimburse the reasonable expenses incurred by a present or former officer, director, or committee member in any proceeding to which he or she may be a party by reason of being or having been an officer, director, or committee member of the Association. The officer, director, or committee member must furnish the corporation a written affirmation of his good faith belief that he has met the standards of conduct set forth in Section 6.1.

6.5. Board and Officer Training.

The Board may conduct or provide for seminars and continuing educational opportunities designed to educate and inform its officers and directors of their responsibilities as officers and directors. Such programs may include instruction on applicable Idaho corporate and fiduciary law principles, other issues relating to administering community affairs, and upholding and enforcing the Governing Documents. The Board may retain industry professionals, which may include property managers, attorneys, and accountants, as appropriate or necessary for such purpose. Each newly elected officer and director shall be encouraged to complete a training seminar within the first six months of assuming such position. The seminar may be live, video or audiotape, or in other format. The cost of such seminar shall be a Common Expense.

The Board also may provide, or provide for, Owner and resident education designed to foster a better understanding of the Residential Community's governance and operations, and leadership training classes designed to educate Voting Delegates and Owners of the nomination, election, and voting processes and the duties and responsibilities of directors and officers.

Article 7 Management and Accounting

7.1. Compensation of Directors and Officers.

The Association shall not compensate directors and officers for acting as such unless Voting Delegates representing a majority of the total votes in the Association approve such compensation at an Association meeting. The Association may reimburse any director or officer for expenses he or she incurs on the Association's behalf upon approval of a majority of the other directors. Nothing herein shall prohibit the Association from compensating a director or officer, or any entity with which a director or officer is affiliated, for services or supplies he or she furnishes to the Association in a capacity other than as a director or officer.

pursuant to a contract or agreement with the Association. However, such director must make known his or her interest to the Board prior to entering into such contract, and a majority of the Board, excluding any interested director, must approve such contract.

7.2. Right of Founder to Disapprove Actions.

So long as there is a Founder membership, the Founder shall have a right to disapprove any action, policy, or program of the Association, the Board and any committee that, in the Founder's sole judgment, would tend to impair rights of the Founder or Builders under the Charter or these By-Laws, interfere with development or construction of any portion of Avimor, or diminish the level of services the Association provides. The Board shall not implement any action, policy, or program subject to the right of disapproval set forth herein until and unless the requirements of this section have been met.

(a) Notice. The Association shall give the Founder written notice of all meetings of the membership, the Board, and committees and any actions that any of them propose to take by written consent in lieu of a meeting. The Association shall give such notice by certified mail, return receipt requested, or by personal delivery at the address the Founder has registered with the Association. Such notice shall comply as to Board meetings with Section 3.9, and shall, except in the case of regular Board meetings pursuant to these By-Laws, set forth with reasonable particularity the agenda to be followed at such meeting.

(b) Opportunity to be Heard. At any such meeting, the Association shall give the Founder the opportunity to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program that would be subject to the right of disapproval set forth herein.

The Founder, its representatives, or its agents shall make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. The Founder, acting through any officer or director, agent, or authorized representative, may exercise its right to disapprove at any time within 10 days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within 10 days following receipt of written notice of the proposed action.

The Founder may use this right to disapprove to block proposed actions but shall not use it to require any action or counteraction of any committee, the Board, or the Association. The Founder shall not use its right to disapprove to reduce the level of services the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

7.3. Managing Agent.

The Board may employ for the Association professional management agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties but shall not delegate policy-making authority or ultimate responsibility for those duties set forth in Section 3.16. The Board may employ the Founder or its affiliate as managing agent or manager.

The Board may delegate to one of its members the authority to act on its behalf on all matters relating to the duties of the managing agent or manager which might arise between Board meetings.

The Association shall not be bound, either directly or indirectly, by any management contract executed during the Founder Control Period unless such contract contains a right of termination which may be exercised by the Association, with or without cause and without penalty, at any time after termination of the Founder Control Period upon not more than 90 days' written notice.

The managing agent shall not accept remuneration from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any thing of value received shall benefit the Association. The managing agent shall promptly disclose to the Board any financial or other interest that it may have in any firm providing goods or services to the Association.

7.4. Accounts and Reports.

(a) The Board shall follow the following accounting standards unless the Board by resolution specifically determines otherwise:

- (i) accounting and controls should conform to generally accepted accounting principles; and
- (ii) the Association's cash accounts shall not be commingled with any other accounts, and during the Founder Control Period, operating accounts shall not be commingled with reserve accounts;

(b) Commencing at the end of the quarter in which the first Unit is sold and closed, financial reports shall be prepared for the Association within 60 days after the end of each quarter:

- (i) an income statement reflecting all income and expense activity for the preceding period;
- (ii) a statement reflecting all cash receipts and disbursements for the preceding period;
- (iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;
- (iv) a balance sheet as of the last day of the preceding period; and
- (v) a delinquency report listing all Members who are delinquent in paying any assessments at the time of the report (any assessment or installment thereof shall be considered to be delinquent on the 15th day following the due date unless the Board specifies otherwise by resolution). A copy of the quarterly financial report shall be made available at no charge to any Member requesting a copy.

(c) An annual report consisting of at least the following shall be made available for Members' review within 180 days after the close of the fiscal year: (i) a balance sheet; (ii) an operating (income) statement; and (iii) a statement of changes in financial position for the fiscal year. Such annual report shall be prepared on an audited, reviewed, or compiled basis, as the Board determines.

7.5. Borrowing.

The Association shall have the power to borrow money for any legal purpose. However, the Board shall obtain Voting Delegate approval in the same manner provided in the Charter for Special Assessments if the proposed borrowing is for the purpose of making discretionary capital improvements and the total

amount of such borrowing, together with all other debt incurred within the previous 12-month period, exceeds or would exceed 20% of the Association's budgeted gross expenses for that fiscal year.

7.6. Right to Contract.

The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, any Neighborhood Association, and other owners or residents associations within and outside Avimor.

7.7. Agreements, Contracts, Deeds, Leases, Checks, Etc.

All Association agreements, contracts, deeds, leases, checks, and other instruments shall be executed by at least two officers or by such other person or persons as the Board may designate by resolution.

Article 8 Enforcement Procedures

The Association shall have the power, as provided in the Charter, to impose sanctions for any violation of the Governing Documents. To the extent specifically required by the Charter, the Board shall comply with the following procedures prior to imposition of sanctions:

8.1. Notice and Response.

The Board or its delegate shall serve the alleged violator with written notice by first class or certified mail describing (a) the nature of the alleged violation, (b) the proposed sanction to be imposed, (c) that the alleged violator shall have 15 days to present a written request for a hearing; and (d) a statement that the proposed sanction maybe imposed as contained in the notice unless a hearing is requested within 15 days of the notice.

The alleged violator shall respond to the notice of the alleged violation in writing within such 15-day period, regardless of whether the alleged violator is challenging the imposition of the proposed sanction. If the alleged violator cures the alleged violation and notifies the Board in writing within such 15-day period the Board may, but shall not be obligated to, waive the sanction. Such waiver shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person. If a timely request for a hearing is not made, the sanction stated in the notice shall be imposed; provided the Board or Covenants Committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 15-day period.

Prior to the effectiveness of sanctions imposed pursuant to this Article, proof of proper notice shall be placed in the minutes of the Board or Covenants Committee, as applicable. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative requests and appears at the hearing.

8.2. Hearing.

If a hearing is requested within the allotted 15-day period, the hearing shall be held at least five days before the imposition of the sanction before the Covenants Committee, if created, or the Board if a Covenants Committee has not been created. The alleged violator shall be afforded a reasonable opportunity to be heard. The minutes of the meetings of the Covenants Committee or the Board, as applicable, shall contain a written statement of the results of the hearing (*i.e.*, the Board's or Covenants Committee's decision) and the sanction, if any, to be imposed.

8.3. Appeal.

Following a hearing before the Covenants Committee, the violator shall have the right to appeal the decision to the Board. To exercise this right, the violator must deliver a written notice of appeal to the Association's manager, President, or Secretary within 10 days after the hearing date.

Article 9 Miscellaneous

9.1. Fiscal Year.

The Association's fiscal year shall be the calendar year unless the Board establishes a different fiscal year by resolution.

9.2. Parliamentary Rules.

Except as may be modified by Board resolution, *Robert's Rules of Order* (current edition) shall govern the conduct of Association proceedings when not in conflict with Idaho law or the Governing Documents.

9.3. Books and Records.

(a) Maintenance of Books and Records. The Association shall maintain the following books and records, in addition to any additional records required to be maintained by Idaho law, either in written form or in a form capable of conversion into written form within a reasonable time:

(i) the Governing Documents; resolutions adopted by the Board relating to the rights, limitations, and obligations of Members; minutes of all Association meetings and records of all actions approved by the Voting Delegates for the past three years; all written communications to Members or Voting Delegates within the past seven years, including financial statements furnished for the past seven years; a list of the names and business or home addresses of the current directors and officers; and the Association's most recent annual report delivered to the Secretary of State; and

(ii) appropriate accounting records; minutes of all Board meetings; a record of all actions taken by Voting Delegates or the Board without a meeting; a record of all actions taken by a committee appointed by the Board; and a membership roster reflecting the name and mailing address of all Members, in alphabetical order, along with the address of each Unit owned by the Member.

(b) Turnover of Books and Records. Within 90 days after termination of the Founder Control Period, the Founder shall deliver to the Association all property and books and records of the Association.

(c) Inspection by Members and Mortgagees. Within 15 days after receipt of a written request to inspect the Association's books and records, the Board shall make available for inspection and copying by any holder, insurer, or guarantor of a first Mortgage on a Unit, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and location as the Board may specify any of the books and records described in subsection (a) and any other records as required by Idaho law specified in the request; provided, such Persons shall only be entitled to inspect and copy the books and records enumerated in subsection (a)(ii) if the request is made in good faith and for a proper purpose reasonably related to his or her interest in a Unit, the Person describes with reasonable particularity the purpose, and the records the Person desires to inspect are directly connected with this purpose. Notwithstanding the foregoing, the Board may restrict or deny inspection of confidential information in accordance with Idaho law.

(d) Rules for Inspection. The Board may establish rules with respect to:

- (i) the frequency and manner of inspection;
- (ii) hours and days of the week when such an inspection may be made; and
- (iii) payment of the cost of reproducing documents requested.

(e) Limitations on Use of Membership List. Notwithstanding any other provision of this Section 9.3, no membership list or any part thereof, however obtained, may be used by any Person for any purpose unrelated to a Member's or Voting Delegate's interest as a Member or Voting Delegate without the Board's consent. Without limiting the generality of the foregoing, without the consent of the Board, a membership list or any part thereof may not be used to solicit money or property unless such money or property will be used solely to solicit the votes of the Members or Voting Delegates in an election held by the Association, used for any commercial purpose, or sold to or purchased by any Person.

(f) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all Association books, records, and documents and the physical properties owned or controlled by the Association. A director's right of inspection includes the right to make a copy of relevant documents at the Association's expense.

9.4. Notices.

(a) Form of Notice and Method of Delivery. Except as otherwise provided in the Charter or these By-Laws or by Idaho law, all notices, demands, bills, statements, or other communications under the Charter or these By-Laws shall be in writing and may be delivered in person, by United States mail, by private carrier, or if the intended recipient has given its prior written authorization to use such method of delivery, by facsimile or electronic mail with written confirmation of transmission.

(b) Delivery Address. Notices shall be delivered or sent to the intended recipient as follows:

- (i) if to a Member or Voting Delegate, at the address, telephone facsimile number, or e-mail address the Member or Voting Delegate has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Unit of such Member or Voting Delegate;

(ii) if to the Association, the Board, or a committee of either, at the address, facsimile number, or e-mail address of the principal office of the Association or its managing agent or at such other address as the Association shall designate by notice in writing to the Members pursuant to this section; or

(iii) if to the Founder, at the Founder's principal address as it appears on the Secretary of State's records or at such other address as the Founder shall designate by notice in writing to the Association pursuant to this Section.

(c) Effective Date. Notice sent in accordance with Sections 9.4(a) and (b) shall be deemed to have been duly given and effective if:

(i) sent by United States mail, when deposited with the U.S. Postal Service, correctly addressed, with first class or higher priority postage prepaid;

(ii) delivered personally or by private carrier, when actually delivered to the address of the intended recipient, as evidenced by the signature of the person at such address who accepts such delivery; or

(iii) sent by telephone facsimile or electronic mail, upon transmission, as evidenced by a printed confirmation of transmission.

9.5. Amendment.

(a) By Founder. Prior to termination of the Founder Control Period, the Founder may unilaterally amend these By-Laws for any purpose. Thereafter, the Founder or the Board may amend these By-Laws at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; or (iii) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Units.

(b) By Members Generally. Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Delegates representing 67% of the total votes in the Association. In addition, the Founder's consent is required for any amendment for so long as the Founder membership exists. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. If a proposed amendment to these By-Laws is to be considered at an Association meeting, the notice must state that the purpose or one of the purposes of the meeting is to consider the proposed amendment, and the notice must contain or be accompanied by a copy or summary of the proposed amendment. If the Board seeks to have an amendment approved by Voting Delegates by written consent or ballot in lieu of a meeting, the material soliciting the approval shall contain or be accompanied by a copy or summary of the amendment.

(c) Validity and Effective Date of Amendments. Amendments to these By-Laws shall become effective upon recordation unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation, or such amendment shall be presumed to

have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

No amendment may remove, revoke, or modify any right or privilege of the Founder without the Founder's written consent, or the consent of the assignee of such right or privilege.

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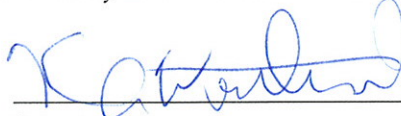
CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of Avimor Residential Community Association, Inc., a Idaho nonprofit corporation;

That the foregoing By-Laws constitute the original By-Laws of the Association, as duly adopted by resolution of the Board of Directors thereof on the 1st day of April, 2008.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 1st day of April, 2008.


_____[SEAL]
Secretary

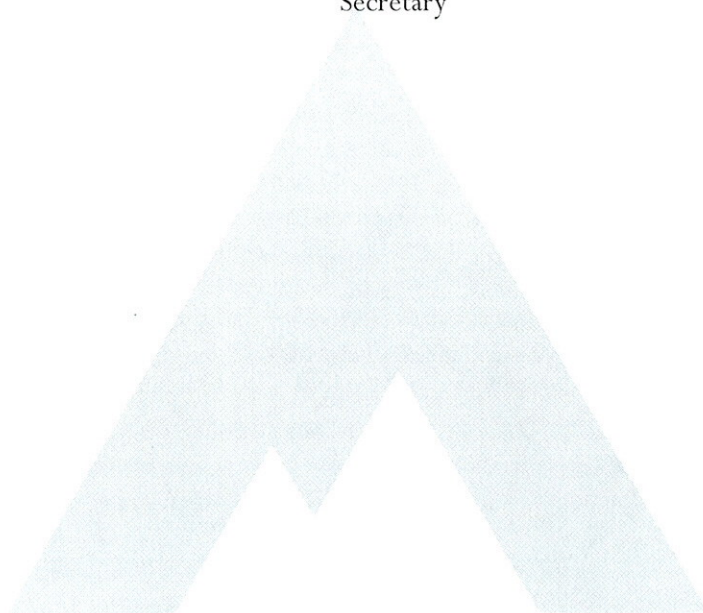
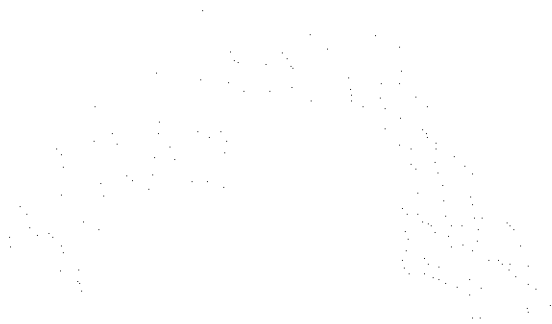


EXHIBIT "G"

Fire Management Plan



Environmental Conservation Services Inc.

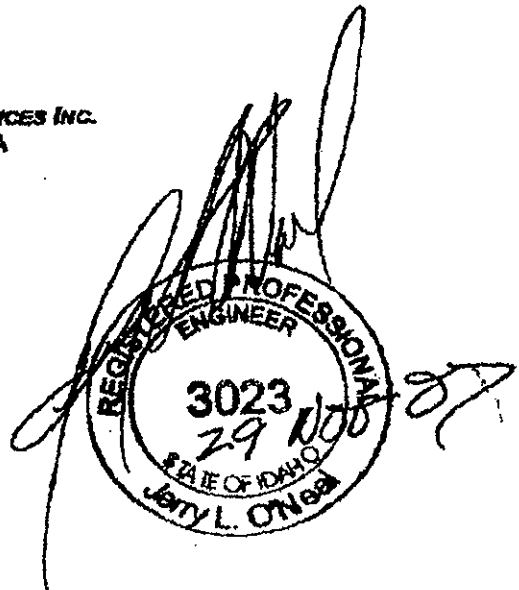
**Fire and Vegetation Management Plan for
the Avimor Planned Community**

Ada County, Idaho

Draft Report: 11-01-07

Prepared by:

**ENVIRONMENTAL CONSERVATION SERVICES INC.
5220 N. Sawyer Court, Suite A
Garden City, Idaho 83714**



Environmental Conservation SERVICES INC.

**Fire and Vegetation Management Plan for
the Avimor Planned Community**

Ada County, Idaho

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Avimor Fire and Vegetation Management Plan –Draft

Introduction

The following Fire and Vegetation Management Plan (FVMP) has been developed as an alternative to the current Ada County building requirements for construction within the Wildland-Urban Fire Interface (WUFI) District. This plan will be submitted for review by the Ada County Code Official, Building Official, and Fire Chief, per the 2006 International Urban-Wildland Interface Code (Iuwic), specifically addressing compliance alternatives (alternative materials or methods). The intent of this Avimor-specific FVMP is to submit an alternative plan that satisfactorily complies with the intent of the code, and is at least equivalent to the level of quality, strength, effectiveness, fire resistance, durability, and safety prescribed by the code.

The proposed Avimor FVMP requirements incorporate components of the existing Ada County requirements, requirements identified in the Avimor Wildlife Mitigation Plan (WMP), and additional management tools identified by the Fire-wise Counties Program. The plan will provide guidelines for Avimor home owners, and steps to be taken by the Home Owners Association (HOA) and Avimor Conservation Director (ACD) to mitigate or reduce the potential risk of wildfire and to improve the health and stability of the surrounding vegetation and wildlife habitat. In addition, the plan will be used in the certification process for Avimor to become a registered Fire-wise Development.

Project Description

The Avimor Planned Community (APC) is sited on a parcel that is approximately 830-acres in size and is located east of State Highway (SH) 55, approximately six miles northeast of Eagle, Idaho. Spring Valley Creek runs from north to south paralleling SH-55 along the western edge of the property. Elevation ranges between 3,150 and 3,520-feet above mean sea level. The proposed development (Figure 1) incorporates residential housing, commercial space, sporting and recreation facilities, as well as parks, natural open areas, trails, and paths. Based on initial conceptual maps:

- Mixed-Use development will occupy approximately 12.5-acres (1.5%) of the project area, and will be found primarily in the western portion of the property;
- Residential development, both village and foothills, will occupy approximately 299.5-acres (36%) of the area, and will be found throughout the project;
- Improved open space (parks, sports fields, and a nursery) will occupy approximately 20-acres (2.4%) of the area, and will be found primarily in the western portion of the property; and
- Natural open space, which will occupy the majority of the property covering approximately 498-acres (60%) of the area. An addition 400-acre conservation easement to the north east will be incorporated into the development plan for a total of 898-acres (73%) of natural open space.

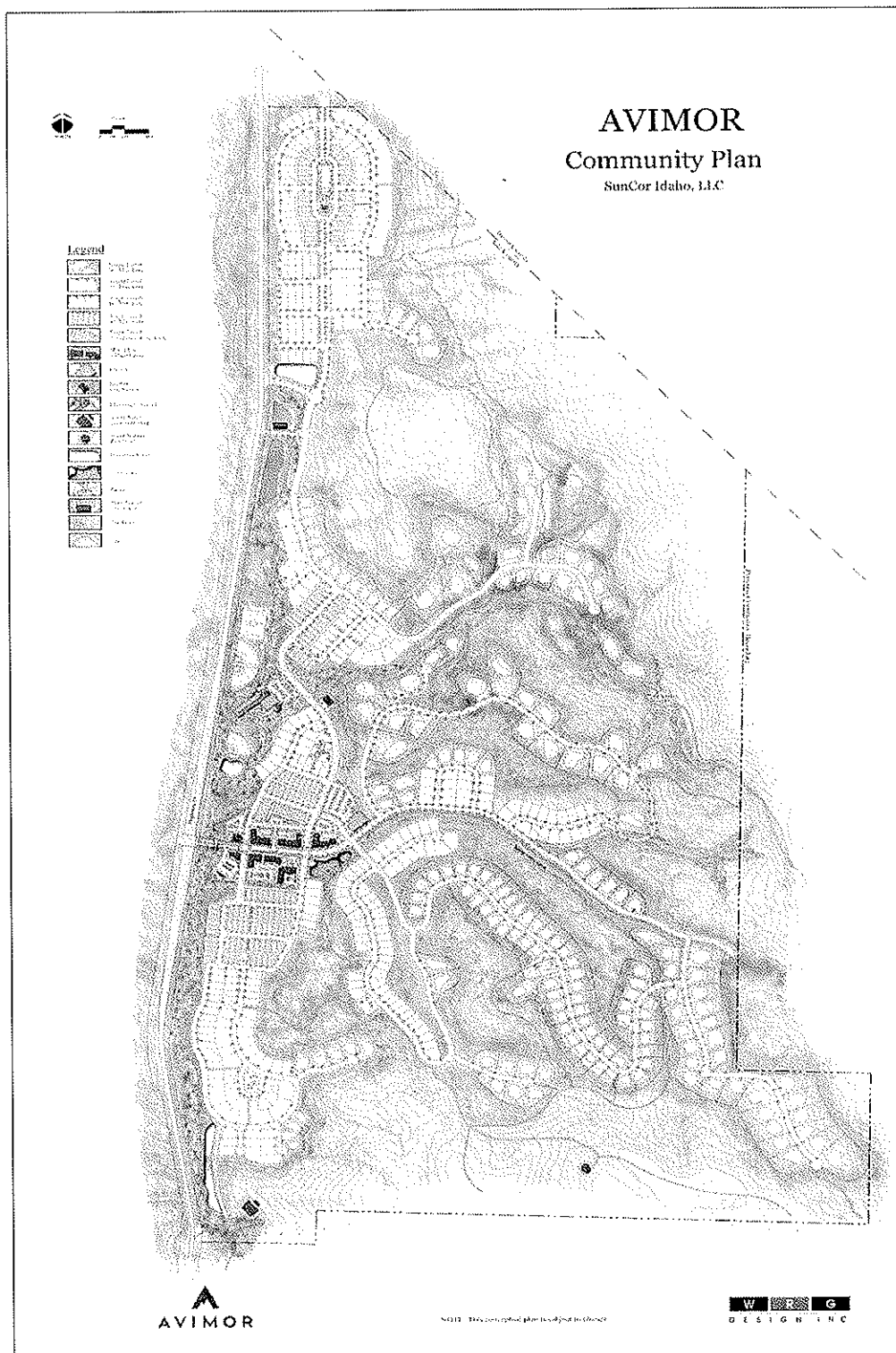


Figure 1. Avimor Concept Master Plan.

The vegetative communities found in and adjacent to the APC are those generally associated with the Boise Foothills ecosystem (BP&R 2000). However, the area associated with the development footprint is composed of four primary vegetative community types, including: agriculture, grasslands, shrub, and riparian. A single non-vegetative community (disturbed) is found as well, but will not be discussed further. There are no forested, mountain shrub, or planted woodland groves within or adjacent to the proposed APC. Table 1 below quantifies, based on community type, the amount and percent found currently within the APC boundary. Vegetation boundaries were identified on the ground and digitally mapped for each community (Figure 2).

Table 1. Vegetative Communities Within the APC.		
Community Type	No. Acres	% of Total
Agricultural	122.22	14.42%
Grassland	496.11	58.53%
Shrub	119.31	14.08%
Riparian	101.88	12.02%
Disturbed	8.10	0.10%
Total	847.62	100.00%

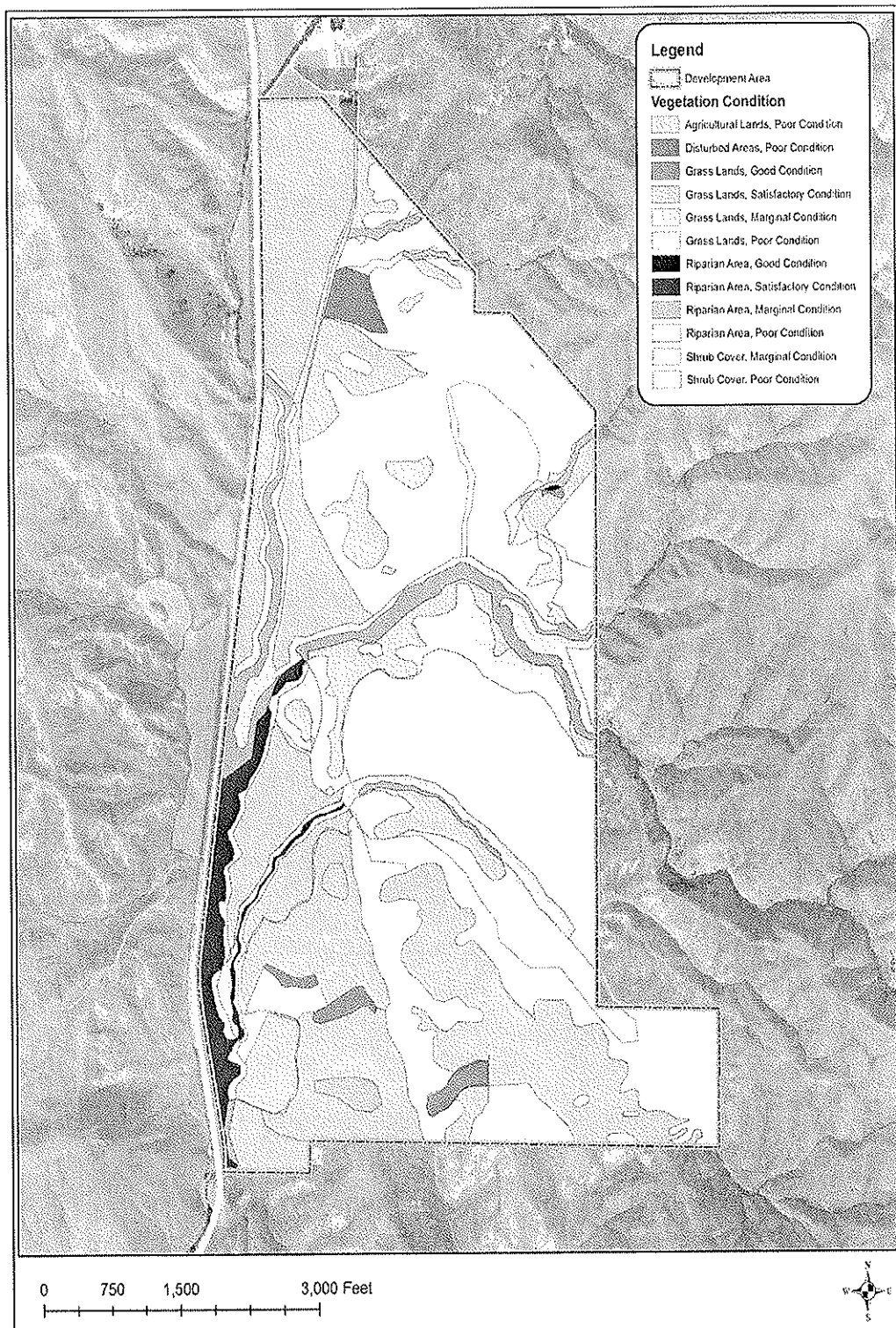


Figure 2. Vegetative Communities within the APC.

Based on the vegetative communities present directly adjacent to the APC, there are only three fuel models identified by the 2006 IUWIC, including models:

A- This fuel model represents western grasslands vegetated by annual grasses and forbs. Brush or trees may be present but are very sparse, occupying less than a third of the area. Examples of types where Fuel Model A should be used are cheatgrass and medusahead. Open pinyon-juniper, sagebrush-grass, and desert shrub associations may appropriately be assigned this fuel model if the woody plants meet the density criteria. The quantity and continuity of the ground fuels vary greatly with rainfall from year to year.

L- This fuel model is meant to represent western grasslands vegetated by perennial grasses. The principal species are coarser and the loadings heavier than those in Model A fuels. Otherwise, the situations are very similar; shrubs and trees occupy less than one-third of the area. The quantity of fuel in these areas is more stable from year to year. In sagebrush areas, Fuel Model T may be more appropriate.

T- The bothersome sagebrush-grass types of the Great Basin and the Intermountain West are characteristic of T fuels. The shrubs burn easily and are not dense enough to shade out grass and other herbaceous plants. The shrubs must occupy at least one-third of the site or the A or L fuel models should be used. Fuel Model T might be used for immature scrub oak and desert shrub associations in the West, and the scrub oak-wire grass type in the Southeast.

Of these models, the predominant fuel type directly adjacent to the development is model A, with scattered patches of T throughout, and only limited patches of model L (Figure 3). Based on the fuel models identified for the site, and compliance with access and water supply requirements identified in the 2006 IUWIC, the fire hazard severity was determined by completing the 2006 IUWIC Fire Hazard Severity Form (Appendix B). Avimor was determined to have a moderate hazard rating.

Under the 2007 WUFI District ordinances, all units within the development must comply with the ignition-resistant construction codes identified in the 2006 IUWIC Special Building Construction Regulations as well as fire protection requirements identified in the Fire Protection Requirements. Based on: the total number of units; the configuration of those units in relationship to adjacent wildland fuel sources; the limited potential to be directly impacted by wildland fires; the presence of a temporary fire facility within the development area, and the use of noncombustible materials for siding and class B or better roofing material on all units; we request that WUFI-required ignition-resistant construction codes and fire protection requirements be restricted to those units directly adjacent to areas of natural open space (Figure 3). Specific units affected in Phase 1 include:

- Block 1 Lots-16, 17, 21-23, 25-50, 55-68; and
- Block 2 Lots-2-25.

As the final plats of the remaining seven phases are completed, the block and lot numbers in each phase will be added. These units will conform to the requirements currently

identified in the Ada County WUFI District Construction Requirements (Appendix A) and IUWIC Codes, with alterations limited to:

- Combustible eaves fascias and soffits shall be enclosed with solid materials with a minimum thickness of 1/4 inch (6 mm) rather than the currently required 3/4 inch (19mm). No exposed rafter tails shall be permitted unless constructed of heavy timber materials will remain.
- Remove the requirement that attic ventilation openings shall not be located in soffits, in eave overhangs, between rafters at eaves, or in other overhang areas. Gable end and dormer vents shall be located at least ten feet (10') (3048 mm) from property lines. Underfloor ventilation openings shall be located as close to grade as practical.

In addition, these units will conform to the Avimor-specific standards identified below. In addition, a home inspection and hazard assessments will be completed on all of these units, with subsequent assessment completed by the ACD at least every five years. These reports will be submitted to Ada County and the Eagle Fire District, or appropriate fire jurisdiction, as part of the annual WMP report.

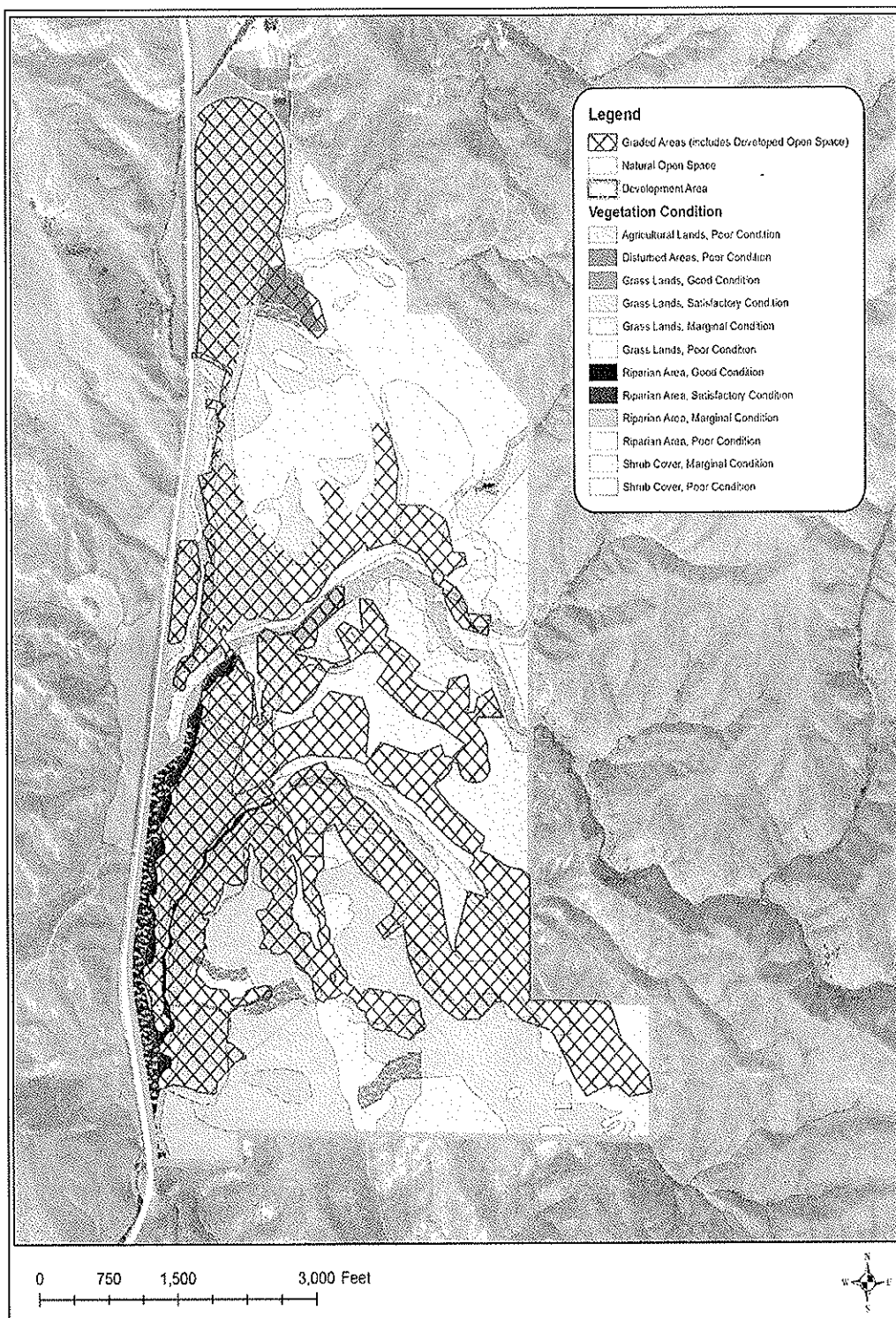


Figure 3. Development Overlay on Vegetative Communities.

Avimor-Specific Fire Management Plan

All units directly adjacent to areas of natural open space will permanently maintain defensible spaces in accordance with the zoning plan identified in figure 4.

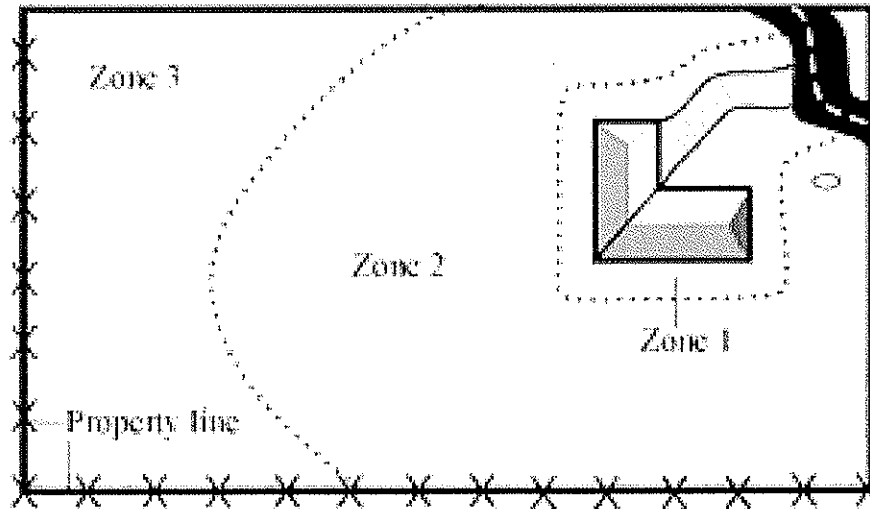


Figure 4. Management Zones

Zone 1 is the area of maximum modification and treatment. It consists of a minimum area of 30-feet on hill tops (Block 1 Lots-55-68 and Block 2 Lots-2-25) and sides, and a minimum of 20-feet on hill bases (Block 1 Lots-16, 17, 21-23, 25-50) around the structure in which all combustible vegetation is significantly reduced or removed. This area will normally consist of irrigated lawns and stone landscaping. The area is measured from the outside edge of the home's eaves or any attached structures, such as decks. This area will be developed and maintained by the homeowner in accordance with the requirements identified below and the Avimor WMP. In the event that the homeowner's property is less than the required zone 1 distance (30-ft), the Avimor HOA or ACD will be responsible for the development and maintenance of the remaining portion of zone 1.

Landscaping within three feet of the structure will be restricted to widely spaced foundation plantings of low growing shrubs or other "fire-wise" plants (see Avimor Wildlife Manual) to be approved by the ACD or Design Committee. These foundation plants will not be planted directly beneath windows or next to foundation vents. These plants will be frequently pruned and maintained by the homeowner. Storage of firewood or other combustible materials will be prohibited in these areas, unless in an enclosed, non-combustible storage structure. This includes storage of materials under attached decks.

Trees and shrubs in Zone 1 shall be limited to no more than one tree per 2,000-sf and one shrub per 250-sf, and they must be incorporated into the landscape design, taking into consideration the slope of the property as well (Table 2). Contiguous fuels and ladder fuels will be restricted. The placement of trees and bushes will not create contiguous fuel connections between Zone 2 and the structure or attached deck (see table 2 for requirements). Trees within Zone 1 will be isolated from each other and pruned to at least 10-feet above ground (or 1/2 the height, whichever is the least). In addition, trees

and shrubs will be restricted from contacting the roof and must be pruned to at least 10-feet from the structure. Trees shall be placed away from the structure at least the distance of the trees full height at maturity, but may be placed closer with the approval from the Ada County Development Services Building Official. The ACD will work with homeowners to identify site-appropriate species and educate residence on wildfire, fire hazards, and fire-wise concepts.

Table 2. Minimum tree crown and shrub clump spacing.

% slope	Tree Crown Spacing	Brush and Shrub Clump Spacing
0 - 10 %	10'	2 1/2 x shrub height
11 - 20%	15'	3 x shrub height
21 - 40%	20'	4 x shrub height
> 40%	30'	6 x shrub height

Zone 2 is an area of fuel reduction designed to reduce the intensity of any fire approaching the structure. Typically, this zone should extend at least 75 to 125 feet from the structure depending on slope. Within this zone, the continuity and arrangement of vegetation will be based on a modified natural community emphasizing native species that have reduced fuels or stay green longer. Diseased, dead, or dying trees and shrubs will be removed to the extent possible. This area forms a buffer and provides a transition between zones 1 and 3. In the event that homeowner property boundary goes beyond zone 1 distance, the homeowner will be responsible for developing and maintaining the area in accordance to zone 2 standards. However, this area can also be managed and maintained by the homeowner in coordination with the Avimor HOA and ACD. Treatment and restoration programs, as well as funding mechanisms and adaptive approaches for fuels and vegetation management are described in detail in the Avimor WMP.

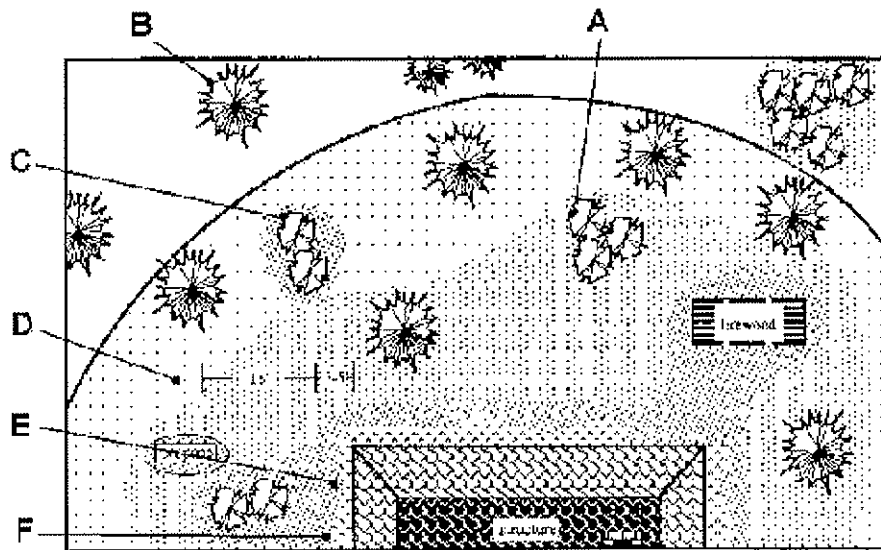
Zone 3 is of no particular size. Fuels and community composition will generally be managed by the ACD or HOA, in accordance with the Avimor WMP, and restored to the extent possible. In the event that the homeowner's property boundary includes zone 3, the homeowner will work collaboratively with the ACD or HOA to develop and maintain the area based on the required standards. Invasive and noxious weed treatments and native community restoration programs are described in detail in the Avimor WMP, as are the associated funding mechanisms and adaptive approaches for fuels and vegetation management.

Requirements for Defensible Space

The following checklist will be used to determine if the home site is meeting requirements identified by this fire plan, or if additional work or maintenance is necessary:

- Requirements identified in the Avimor WMP will be implemented and monitored annually.

- Zone 1 will be maintained by the homeowner at a minimum 20-feet from the base of hill slopes, and 30-feet from the top of hill slopes.
- There are no contiguous fuel sources that connect zone 2 with the structure.
- There are no ladder fuels that connect zone 1 to the structure.
- Trees and shrubs are properly thinned and pruned within the defensible space. Slash from the thinning is disposed of off site, with the exception of limited mulching.
- Roof and gutters are to be clear of debris in the spring and checked regularly throughout the fire season.
- Branches overhanging the roof or chimney will be removed.
- Grasses are mowed to a maximum height of 4 inches, with the exception of ornamental landscaping grasses that are fire-wise recommended or pose little or no threat as a contiguous fuel sources.
- An outdoor water supply is available, complete with a hose and nozzle that can reach all parts of the structure.
- Road signs and access requirements are met, see Avimor design guidelines, and house numbers are posted and easily visible.
- Trash and debris accumulations will be taken off site, and restricted from storage on site, with the exception of limited mulching.
- Non-combustible materials, such as stone or irrigated lawn, shall be used to create a three-foot buffer around the base of the foundation.
- Decks, benches, and outdoor storage units shall be constructed of non-combustible materials, such as fire-rated composite products.
- Non-combustible materials, such as decorative rock, gravel, irrigated lawn, and stepping stone pathways shall be used to break up the continuity of the vegetation and fuels. This can modify fire behavior and slow the spread of fire across property.



- A. Mow grass short around shrubs (4-inches or less).
- B. The best tree species to plant generally are those naturally occurring on or near the site (See WMP, Fire-wise Literature, and Avimor Conservation Director).
- C. Plant low-growing shrubs near structures away from windows and vents, limit connectivity with
- D. Keep grass mown around structure to a maximum of 4 inches, and irrigate regularly, with conservation in mind, based on recommendations from the ACD.
- E. Plant wildflowers near structures only if they are well-irrigated and cut back during the dormant season.
- F. Gravel area or mow grass short next to the structure.

Note: Figure from the Colorado State University Extension Program found at URL: <http://www.ext.colostate.edu/PUBS/NATRES/06304.html>

Figure 5: Example for landscaping and placement of vegetation near the structure.

Requirements for the Homeowners Association and ACD

The HOA, in conjunction with the ACD will be responsible for the control and management of fuels directly adjacent to all walking paths and trails within the boundary of the APC. These areas will be primary dispersal sites for invasive and noxious weed species that could increase the overall amount and connectivity of fuels. These areas will be treated annually to control the establishment and spread on invasive and noxious weeds species, per the WMP, and targeted for restoration and enhancement projects. Minimum widths of the paths/ trails and associated fuels reduction will be 8-feet.

The intent of controlling fuels and reestablishing natural vegetation adjacent to these paths is two fold. First, they will be used as fire breaks in areas of natural open space in order to reduce the overall connectivity of fuels. This can limit the size and spread of wildfires in the area. Second, vegetation associated with these paths are the primary

connection between the natural open where wildfires are more likely to be, with the internal residential and commercial structures that will have fewer fire-associated restrictions. By limiting fuel connectivity with natural open areas, the probability of wildfire affecting structures that are not directly adjacent to natural open space will be significantly reduced.

In addition to treatment activity and restoration programs within the boundary of the APC, the ACD will work in coordination with adjacent private land owners, the Eagle Fire District, BLM, and other agencies to do similar fuels reduction and restoration projects on lands adjacent to the development. The intent of off-site projects will be to reestablish historically altered vegetative communities and associated fire regimes on a larger area to create a buffer, i.e. reduce the overall probability and frequency of wildfires in the area as apposed to just the APC.

In concept, other developments in the area and throughout the Boise Foothills will be doing similar programs that could have the long-term cumulative affect of reducing the establishment and spread of invasive and noxious weeds species, reestablishing native vegetative communities and the associated structural and functional components, and reestablishing more natural fire regimes which would reduce the overall adverse impacts of wildfire in the Boise Foothills. Funding for these types of off-site projects will be associated with the Avimor Conservation and Education program identified in the WMP, as well as potential cooperative grant opportunities.

Registered Fire-Wise Development Program

The APC will initiate the application process to become a nationally recognized Fire-wise Development. The ACD will work in cooperation with local fire agencies and Fire-wise representatives to complete the application process and enforce the requirements set forth by the Fire-wise committee (www.firewise.org). The ACD will also be familiar with the science of wildfire ecology or behavior, and how to conduct home inspections and hazard assessments per Fire-wise guidelines.

As the APC grows and changes, so will the needs and requirements of a FVMP. Therefore, this will be a living document to be altered and updated on an as needed basis. Similar to the Avimor WMP, the Conservation Director and HOA will be able to use all tools identified in the current FVMP and WMP. However, in order to make changes to the FVMP, it will require the approval of the regional planned community advisory committee and Ada County Development Services, with the additional requirement of approval from one of the following: the Ada County Code Official, Building Official, or Fire Chief.

APPENDIX A:

WILDLAND-URBAN FIRE INTERFACE OVERLAY DISTRICT CONSTRUCTION REQUIREMENTS (With Proposed Alterations)

Scope. Buildings that are constructed within the Ada County Wildland-Urban Fire Interface Overlay District shall be constructed in accordance with Section 3110.

Roof Covering. Roofs shall have at least Class B roof covering, Class B roof assembly or an approved noncombustible roof covering. For roof coverings where the profile allows a space between the roof covering and roof decking, the space at the eave ends shall be fire stopped to preclude entry of flames or embers. When more than fifty percent (50%) of an existing roof is replaced the entire roof must meet the requirements of a new roof.

Protection of Eaves. Combustible eaves, fascias and soffits shall be enclosed with solid materials with a minimum thickness of 1/4 inch (6 mm). No exposed rafter tails shall be permitted unless constructed of heavy timber materials.

Gutters and Downspouts. Gutters and downspouts shall be constructed of noncombustible material.

Exterior Walls. Exterior walls of buildings or structures shall be constructed with materials approved for a minimum of one-hour-rated fire-resistive construction on the exterior side or constructed with approved noncombustible materials. Such material shall extend from the top of the foundation to the underside of the roof sheathing or soffit.

Exception: Heavy timber or log wall construction.

Unenclosed Underfloor Protection. Buildings or structures shall have all underfloor areas enclosed to the ground, with exterior walls in accordance with Section 3110.5.

Exception: Complete enclosure may be omitted where the underside of all exposed floors and all exposed structural columns, beams and supporting walls are protected as required for exterior one-hour-rated fire-resistive construction or heavy timber construction.

Appendages and Projections. Unenclosed accessory structures attached to buildings with habitable spaces and projections, such as decks, shall be a minimum of one hour-rated fire-resistive construction, heavy timber construction or constructed with approved noncombustible materials. When the attached structure is located and constructed so that the structure or any portion thereof projects over a descending slope surface greater than ten percent (10%), the area below the structure shall have all underfloor areas enclosed to within six inches (6") (152 mm) of the ground, with exterior wall construction in accordance with Section 3110.5.

Windows. Exterior windows, window walls and skylights shall be tempered glass or multi-layered glazed panels.

Exterior Doors. Exterior doors, other than vehicular access doors to garages, shall be either noncombustible, twenty (20) minute fire rated, or solid core not less than 1 3/8

inches (35 mm) thick. Windows within doors and glazed doors shall be in accordance with Section 3110.8.

Vents. Attic ventilation openings, foundation or underfloor vents or other ventilation openings in vertical exterior walls and vents through roofs shall not exceed 144 square inches (0.0929 m²) each. Such vents shall be covered with non-combustible corrosion-resistant mesh with openings not to exceed 1/4 inch (6.4 mm).

Detached Accessory Structures. Detached accessory structures located less than fifty feet (50') (15,240 mm) from a building containing habitable space shall have exterior walls constructed with materials approved for a minimum of one-hour-rated fire-resistive construction, heavy timber, log wall construction, or constructed with approved noncombustible material on the exterior side. When the detached structure is located and constructed so that the structure or any portion thereof projects over a descending slope surface greater than ten percent (10%), the area below the structure shall have all underfloor areas enclosed to within six inches (6") (152 mm) of the ground, with exterior wall construction in accordance with Section 3110.5 or underfloor protection in accordance with Section 3110.6.

Exception: The enclosure may be omitted where the underside of all exposed floors and all exposed structural columns, beams and supporting walls are protected as required for exterior one-hour-rated fire-resistive construction or heavy-timber construction. See Section 3110.2 for roof requirements.

Compliance Alternatives.

Practical Difficulties. When there are practical difficulties involved in carrying out the provisions of this section, the Building Official is authorized to grant modifications for individual cases on application in writing by the owner or a duly authorized representative. The Building Official shall first find that a special individual reason makes enforcement of the strict letter of this section impractical, the modification is in conformance with the intent and purpose of this section, and the modification does not lessen any fire-protection requirements or any degree of structural integrity. The details of any action granting modifications shall be recorded and entered into the files of the code enforcement agency. If the Building Official determines that difficult terrain, danger of erosion or other unusual circumstances make strict compliance with the vegetation control provisions of this section detrimental to safety or impractical, enforcement thereof may be suspended provided that reasonable alternative measures are taken.

Technical Assistance. To determine the acceptability of technologies, processes, products, facilities, materials and uses attending the design, operation or use of a building or premises subject to the inspection of the Building Official, the Building Official is authorized to require the owner or the person in possession or control of the building or premises to provide, without charge to the jurisdiction, a technical opinion and report. The opinion and report shall be prepared by an approved engineer, specialist, laboratory or fire-safety specialty organization acceptable to both the Building Official and the owner and shall analyze the fire-safety of the design, operation or use of the building or premises, the facilities and appurtenances situated thereon and fuel management for purposes of establishing fire hazard severity to recommend necessary changes.

Alternative Materials or Methods. The Building Official, in concurrence with approval from the appropriate fire district chief, is authorized to approve alternative materials or methods, provided that the Building Official finds that the proposed design, use or operation satisfactorily complies with the intent of this section and that the alternative is, for the purpose intended, at least equivalent to the level of quality, strength, effectiveness, fire resistance, durability and safety prescribed by this section. Approvals under the authority herein contained shall be subject to the approval of the Building Official whenever the alternate material or method involves matters regulated by the Building Code. The Building Official shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding its use. The details of any action granting approval of an alternate shall be recorded and entered in all the files of the code enforcement agency.

APPENDIX B

FIRE HAZARD SEVERITY FORM

The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.

When adopted, this appendix is to be used in place of Table 502.1 to determine the fire hazard severity.

A. Subdivision Design Points

1. Ingress/Egress:

Two or more primary roads 1 X

One road 3 _____

One-way road in, one-way road out 5 _____

2. Width of Primary Road:

20 feet or more 1 X

Less than 20 feet 3 _____

3. Accessibility:

Road grade 5% or less 1 _____

Road grade more than 5% 3 X

4. Secondary Road Terminus:

Loop roads, cul-de-sacs with an outside turning radius of 45 feet or greater 1 X

Cul-de-sac turnaround

Dead-end roads 200 feet or less in length 3 _____

Dead-end roads greater than 200 feet in length 5 _____

5. Street Signs:

Present 1 X

Not present 3 _____

B. Vegetation (IWUIC Definitions)

1. Fuel Types

Light 1 X

Medium 5 _____

Heavy 10 _____

2. Defensible Space

70% or more of site 1 _____

30% or more, but less than 70% of site 10 X

Less than 30% of site 20 _____

C. Topography

8% or less 1____
More than 8%, but less than 20% 4 X
20% or more, but less than 30% 7____
30% or more 10____

D. Roofing Material

Class A Fire Rated 1____
Class B Fire Rated 5 X
Class C Fire Rated 10____
Nonrated 20____

E. Fire Protection—Water Source

500GPMhydrant within 1,000 feet 1____
Hydrant farther than 1,000 feet or draft site 2 X
Water source 20 min. or less, round trip 5____
Water source farther than 20 min., and
45 min. or less, round trip 7____
Water source farther than 45 min., round trip 10____

F. Existing Building Construction Materials

Noncombustible siding/deck 1 X
Noncombustible siding/combustible deck 5____
Combustible siding and deck 10____

G. Utilities (gas and/or electric)

All underground utilities 1 X
One underground, one aboveground 3____
All aboveground 5____

Total for Subdivision 31

Moderate Hazard 40–59
High Hazard 60–74
Extreme Hazard 75+

2006 INTERNATIONAL WILDLAND-URBAN INTERFACE CODE_ 29

EXHIBIT "H"

Development Agreement:
Private Non-Regulated Utilities in ACHD Right-of-Way



DEVELOPMENT AGREEMENT:
PRIVATE NON-REGULATED UTILITIES IN ACHD RIGHT-OF-WAY

This DEVELOPMENT AGREEMENT: PRIVATE NON-REGULATED UTILITIES IN ACHD RIGHT-OF-WAY (hereinafter the "Agreement") is made and entered into this 29th day of ~~January~~ ^{February}, 2008, by and between ADA COUNTY HIGHWAY DISTRICT (hereinafter referred to as "ACHD"), FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation, as Trustee of the DUAL BENEFICIARY TRUST CREATED PURSUANT TO THE SUBDIVISION TRUST AGREEMENT DATED OCTOBER 8, 2003, as amended (hereinafter referred to as "Landowner"), and SUNCOR IDAHO, INC., an Idaho corporation (hereinafter referred to as "Developer");

W I T N E S S E T H :

FOR GOOD AND SUFFICIENT CONSIDERATION, IT IS AGREED:

SECTION 1. Definitions. As used in this Agreement, the following terms shall have the following meanings:

(a) The term "ACHD" refers to Ada County Highway District, a body politic and corporate of the state of Idaho whose address is 3775 Adams Street, Garden City, Idaho 83714; the contact person at ACHD is Gary Inselman, whose telephone number is (208) 387-6170, fax telephone number is (208) 387-6391 and e-mail address is ginselman@achd.ada.id.us.

(b) The term "Agreement" refers to this Development Agreement: Private Non-Regulated Utilities in ACHD Right-of-Way.

(c) The term "Developer" refers to SUNCOR IDAHO, INC., an Idaho corporation, whose address is 485 East Riverside Drive, Suite #300, Eagle, Idaho 83616; the contact person for Developer is Dan Richter, whose telephone number is 208-434-0343, whose fax telephone number is 208-434-9472 and whose e-mail address is dan.richter@suncorID.com

(d) The term "Development" refers to Landowner's and Developer's development of land located in T5N, R2E, Sec.18, Ada County, Idaho, which is known as Avimor No. 1 Subdivision and which is described and depicted in the Final Plat which is attached hereto as Exhibit "A" and incorporated herein by reference.

(e) The term "Landowner" refers to FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation, as Trustee of the DUAL BENEFICIARY TRUST CREATED PURSUANT TO THE SUBDIVISION TRUST AGREEMENT DATED

OCTOBER 8, 2003, as amended, whose address is 4801 E. Washington St., Phoenix, AZ 85034; the contact person for Landowner is May Lin Carlsen, Assistant Secretary, whose telephone number is 208-375-0700, whose fax telephone number is 866-706-9419 and whose e-mail address is mcarlsen@firstam.com

(f) The term "Right-of-Way" means a public right-of-way owned by ACHD in which Private Non-Regulated Utilities are to be located as depicted and described in the attached Exhibit "A".

(g) The term "Private Non-Regulated Utilities" means a privately owned and operated utility that is not regulated by the Public Utilities Commission, nor owned and operated by a municipality, water, sewer, or irrigation district and is installed parallel to and within the public right-of-way. Examples include community water or sanitary sewer systems that serve a single development.

SECTION 2. Recitals.

2.1 With the exception of state and federal highways, ACHD owns and has exclusive jurisdiction over the public rights-of-way, highways, and storm water drainage facilities in Ada County, Idaho.

2.2 Developer is developing, or has developed, upon certain real property in Ada County, Idaho, described and identified on Exhibit "A" hereto, the Development which is described and depicted in the Final Plat which is attached hereto as Exhibit "A" and incorporated herein by reference. The Final Plat of the Development provides for the dedication by Landowner of certain right-of-way and roads to the public as public right-of-way and public roads. As indicated on the Final Plat of the Development, the Developer intends to install, or has installed, parallel to and within the public right-of-way, certain private non-regulated utilities.

2.3 This Agreement is entered into by the parties pursuant to ACHD Interim Policy Section 7107.4 which addresses private non-regulated utilities in the public right-of-way and ACHD Interim Policy Section 7107.4.2 which provides that, "Developments proposing to install private non-regulated utilities, which provide street connectivity [public roads] to adjacent properties, may be accepted as public roads and public right-of-way, if they enter into a Development Agreement with the District."

2.4 Execution of this Agreement by Landowner and Developer is a condition precedent to approval of the Final Plat for the Development by ACHD.

SECTION 3. Developer's Obligations and Agreements.

3.1 Covenants, Codes and Restrictions

a. Developer shall include a reference to this Development Agreement and the requirements listed in this Agreement as part of the Covenants, Codes and Restrictions ("CC&Rs")

b. Developer shall become a member of Digline, and shall be responsible for marking the location of the underground private utilities within the Development.

c. The CC&R's shall contain a provision that any future relocation of the private non-regulated utilities (that lie within public right-of-way) deemed necessary by ACHD shall be moved at the sole expense of the Developer or its successors and assigns) and that any other future relocation of the private utilities (that lie within public right-of-way) shall be at the sole expense of the Developer or its successors and assigns.

3.2 The Developer shall provide a certification by a professional engineer licensed in the state of Idaho that the private non-regulated utilities have been constructed in accordance with ACHD approved construction plans, and shall include record drawings, and copies of test results that verify trench compaction, and pressure tests per accepted industry standards for all water and sanitary sewer lines.

3.3 The Developer or its contractor shall provide a three (3) year warranty to ACHD for the private non-regulated utility construction and associated construction and materials. The Developer or its contractor shall provide a financial surety (defined as a Letter of Credit from a FDIC insured bank with a branch located within Ada County, cash, or Certificate of Deposit approved by the Deputy Director of Operations, or other financial surety acceptable to ACHD) held by and in the name of the Ada County Highway District, in an amount determined by ACHD, for a period of three (3) years following ACHD's acceptance of the right-of-way and roads constructed as part of the Development. This surety is to guarantee the Developer or its successors and assigns, or its contractor, shall perform their obligations under Paragraph 3.7 during the three (3) year warranty period.

3.4 Any future relocation of the private non-regulated utilities that lie within public right-of-way, whether or not deemed necessary by ACHD, shall be moved at the sole expense of the Developer or its successors and assigns. Developer or its successors and assigns shall have access over, across and under the right-of-way for the purposes of accomplishing any such future relocation.

3.5 Any repairs or maintenance, of the private non-regulated utilities shall be accomplished in accordance with designs, plans and specifications approved in advance and in writing by ACHD as required to satisfy applicable laws, its policies and good engineering practices at the sole expense of the Developer or its successors and assigns. In approving such plans and specifications, ACHD assumes no responsibility for any deficiencies or inadequacies in the design or construction of the private non-

regulated utilities, and the responsibility therefore shall be and remain in the Developer or its successors and assigns. Developer or its successors and assigns shall have access over, across and under the right-of-way for the purposes of accomplishing any such repair and maintenance.

3.7 If the public roads on and/or adjacent to public right-of-way are damaged as a result of:

- (i) The performance by Developer or its successors and assigns of the maintenance required by section 3.6, or the failure or neglect to perform such maintenance; and/or
- (ii) Developer or its successors and assigns' design, installation or use of the private non-regulated utilities, regardless of cause; and/or
- (iii) Failure of the private non-regulated utilities and/or trenches relating thereto, regardless of cause.

The Developer or its successors and assigns, at its sole cost and expense shall forthwith correct such deficiency and restore the public roads and/or adjacent public right-of-way to the same condition it was in prior thereto; and if Developer or its successors and assigns shall fail or neglect to commence such correction and restoration within twenty-four (24) hours of notification thereof, ACHD may proceed to do so, in which event Developer, for itself and its successors and assigns, agrees to reimburse ACHD for the costs and expenses thereof, including, without limitation, reasonable compensation for the use of staff and equipment of ACHD.

3.8 Notwithstanding the provisions of section 3.7, should an emergency exist related to the private non-regulated utilities which threatens the stability or function of the public roads and/or adjacent right-of-way or the safety of the public use thereof, ACHD shall have the right to immediately perform, on behalf of, and at the cost of Developer or its successors and assigns, necessary emergency repairs.

3.9 If the proposed or actual construction and installation of the private non-regulated utilities, or any reconstruction, relocation or maintenance thereof requires Developer or its successors and assigns to obtain a permit under ACHD policies, Developer or its successors and assigns shall first obtain such permit from ACHD (Construction Services Division) before commencing such work, and pay the required fees and otherwise comply with the conditions set forth therein.

3.10 Developer or its successors and assigns, at its sole cost and expense shall maintain public liability and property damage insurance with a minimum liability limit of One Million Dollars (\$1,000,000) per occurrence or claim and Two Million Dollars (\$2,000,000) in the aggregate insuring to such limits against all liability of Developer arising out of and in connection with its use or occupancy of the public roads and public right-of-way hereunder. The limits of such insurance coverage shall not limit the

Developer's liability hereunder. On the request of ACHD, Developer will provide ACHD with a certificate of insurance indicating that the required insurance in the required amounts is in full force and effect.

SECTION 4. Non-Exclusive Use of Right-of-Way

This Agreement does not extend to Developer or its successors and assigns the right to use the right-of-way to the exclusion of ACHD for any use within its jurisdiction, authority and discretion or of others to the extent authorized by law to use public right-of-way. If the right-of-way has been opened and accepted as public road, Developer's use is subject to the rights of the public to use the right-of-way for such purposes. Developer's use is also subject to the rights of holders of easements of record or obvious on inspection of the right-of-way and statutory rights of utilities to use the public right-of-way. This Agreement it is not intended to, and shall not, preclude or impede the ability of ACHD to enter into other similar agreements in the future allowing third parties to also use its public rights-of-way, or the ability of ACHD to redesign, reconstruct, relocate, maintain and improve its public rights-of-way and roads as authorized by law and as it determines, in its sole discretion, is appropriate.

SECTION 5. Recordation and Term

This Agreement shall be recorded and shall run with the land in perpetuity, or until the private non-regulated utilities are taken over by a public agency or other regulated entity.

SECTION 6. No Title in Public Right-of-Way

Developer or its successors and assigns shall have no right, title or interest in or to the public roads or public right-of-way other than the right to locate the private non-regulated utilities therein pursuant to this Agreement.

SECTION 7. No Costs to ACHD

Any and all costs and expenses associated with any construction or installation of private non-regulated utilities in the public roads or public right-of-way, or the repair and maintenance thereof, or the relocation of such utilities, shall be at the sole cost and expense of Developer or its successors and assigns.

SECTION 8. Taxes and Assessments

Developer or its successors and assigns agrees to pay all special assessments and personal property taxes that may be levied and assessed on the private non-regulated utilities during the term of this Agreement.

SECTION 9. Indemnification

Landowner and Developer, for itself and its successors and assigns hereby indemnifies and holds ACHD harmless from and against any and all claims or actions for loss, injury, death, damages, mechanics and other liens, arising out of the failure or neglect of Developer, Developer's employees, contractors and agents, and its successors and assigns to properly and reasonably use the public roads and public right-of-way under this Agreement or to properly construct, install, plant, repair or maintain the private non-regulated utilities therein, or that otherwise result from the use and occupation of the public roads or public right-of-way by Developer or its successors and assigns, and including any attorney fees and costs that may be incurred by ACHD in defense of such claims or actions indemnified against by Developer or its successors and assigns. For claims or actions arising out of failures or neglects occurring during the term of this Agreement Developer's obligations pursuant to this section shall survive the termination of this Agreement.

SECTION 10. Compliance with Law; Waste and Nuisances Prohibited

In connection with Developer's use of the public roads and public right-of-way, throughout the term of this Agreement the Developer for itself and its successors and assigns covenants and agrees to: (i) comply and observe in all respects any and all, federal, state and local statutes, ordinances, policies, rules and regulations, including, without limitation, those relating to traffic and pedestrian safety, the Clean Water Act and/or to the presence, use, generation, release, discharge, storage or disposal in, on or under the right-of-way of any Hazardous Materials (defined as any substance or material defined or designated as hazardous or toxic waste, material or substance, or other similar term, by any federal, state or local environmental statute, regulation or occurrence presently in effect or that may be promulgated in the future); (ii) obtain any and all permits and approvals required by ACHD or any other unit of government; and (iii) commit no waste or allow any nuisance on the right-of-way. Developer covenants and agrees to indemnify and hold ACHD harmless from and against any and all claims, demands, damages, liens, liabilities and expenses (including without limitation, reasonable attorneys' fees), arising directly or indirectly from or in any way connected with the breach of the foregoing covenant. These covenants shall survive the termination of this Agreement.

SECTION 11. Assignment

Developer cannot sell, assign or otherwise transfer this Agreement or any of its rights hereunder except with the prior written consent of ACHD, which consent will not be granted unless the assignee assumes all obligations, warranties, covenants and agreements of Developer herein contained.

SECTION 12. Successors and Assigns

This Agreement and the covenants and agreements herein contained shall inure to the benefit of and be binding upon the parties hereto and their successors and, if consented to by ACHD under section 11.

SECTION 13. Attorneys' Fees

In any suit, action or appeal therefrom to enforce or interpret this Agreement, the prevailing party shall be entitled to recover its costs incurred therein, including reasonable attorneys' fees.

SECTION 14. Notices

Any and all notices given by either of the parties hereto shall be in writing and deemed delivered when either: (i) delivered personally, or (ii) sent by fax by a program that will confirm fax delivery and, simultaneously, by the deposit of a copy in the United States Mail, first class postage prepaid, addressed to the other party, or (iii) deposited in the United States Mail, certified, return receipt requested, postage prepaid; and, in any case, addressed to the other party at the address set forth in Section 1 and faxed to the other party at the fax telephone number set forth in Section 1, or at such other mailing address or fax telephone number as may be provided by written notice of such change given to the other in the same manner as above provided.

SECTION 15. Superseding Effect

With respect to all matters covered by this Agreement, this Agreement shall supersede previous proposals by the Developer and previous actions of ACHD staff and the Commission, whether or not formalized into writing.

SECTION 16. Applicable Law

This Agreement shall be governed by, and construed in accordance with, the laws of the State of Idaho.

SECTION 17. Incorporation of Exhibits

It is agreed that all exhibits to this Agreement are incorporated by reference and made a part of the terms, provisions and covenants of this Agreement.

SECTION 18. Amending Effect

This Agreement shall, to the extent of any conflict with any ACHD Conditions of Approval, modify, amend and supplement the same.

SECTION 19. Binding Effect

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

SECTION 20. Counterparts

This Agreement shall be executed in three counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

SECTION 21. Warranty of Authority to Execute

21.1 The person executing this Agreement on behalf of ACHD represents and warrants due authorization to do so on behalf of ACHD, and that upon execution of this Agreement on behalf of ACHD, the same is binding upon, and shall inure to the benefit of, ACHD.

21.2 If Developer is not a natural person, the person executing the Agreement on behalf of Developer represents and warrants due authorization to do so on behalf of Developer, and that upon execution of this Agreement on behalf of Developer, the same is binding upon, and shall inure to the benefit, of Developer.

21.3 If Landowner is not a natural person, the person executing the Agreement on behalf of Landowner represents and warrants due authorization to do so on behalf of Landowner, and that upon execution of this Agreement on behalf of Landowner, the same is binding upon, and shall inure to the benefit, of Landowner.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

LANDOWNER

First American Title Insurance Co, as Trustee

May Lin Carlson
By: May Lin Carlson
Its: Asst. Secretary

DEVELOPER

Dan Richter
By: Dan Richter
Its: Pres.

ADA COUNTY HIGHWAY DISTRICT

Gary Inselman
By: Gary Inselman
Its: ROADS Manager

see attached

~~LANDOWNER~~

~~STATE OF IDAHO)
) ss.
COUNTY OF ADA)~~

~~On this _____ day of January, 2008, before me, _____, a Notary Public in and for said State, personally appeared _____, known or identified to me to be the _____ of _____, the corporation [or Partnership, or Limited Liability Company] that executed the instrument or the person who executed the instrument on behalf of said corporation [or Partnership, or Limited Liability Company], and acknowledged to me that such corporation [or Partnership, or Limited Liability Company] 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.~~

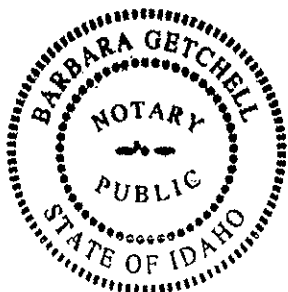
~~_____
Notary Public for the State of Idaho
Residing at _____
My Commission Expires: _____~~

DEVELOPER

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

On this 31 day of January, 2008, before me, BARBARA GETCHELL, a Notary Public in and for said State, personally appeared DAN RICHTER, known or identified to me to be the GENERAL MANAGER of SUN COIL IDAHO, the corporation [or Partnership, or Limited Liability Company] that executed the instrument or the person who executed the instrument on behalf of said corporation [or Partnership, or Limited Liability Company], and acknowledged to me that such corporation [or Partnership, or Limited Liability Company] 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.



[Signature]
Notary Public for the State of Idaho
Residing at ARA COUNTY
My Commission Expires: 11/17/2012

STATE OF IDAHO

)

: ss

COUNTY OF ADA

)

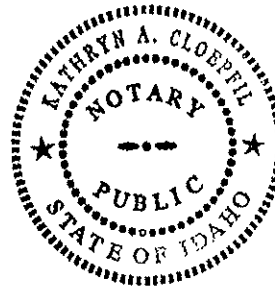
On This 29th day of January, in the year 2008, before me, a Notary Public in and for said State, personally appeared May Lin Carlsen, known or identified to me to be the Asst. Secretary of First American Title Insurance Company, as Trustee of the Dual Beneficiary Trust created pursuant to the Subdivision Trust Agreement dated October 8, 2003, the Trust that executed the within instrument or the person who executed the instrument on behalf of said trust and acknowledged to me that such trust executed the same.

Kathryn A. Cloppell

Notary Public of Idaho

Residing at Boise, Idaho

Commission Expires: 5.27.2010

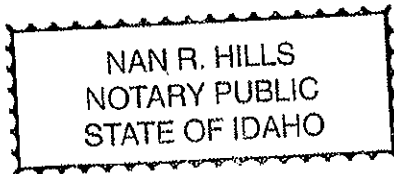


ADA COUNTY HIGHWAY DISTRICT

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

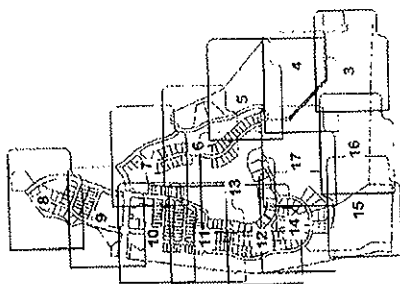
On this 29th day of ~~January~~ ^{February}, 2008, before me, Nan R. Hills, a Notary Public in and for said State, personally appeared Mary Enselman, known or identified to me to be the Manager of ROWS of the Ada County Highway District that executed the said instrument, and acknowledged to me that such Highway District 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.



Nan R. Hills
Notary Public for the State of Idaho
Residing at Meridian ID
My Commission Expires: 2/21/13

2008

[illegible]

Key Map

Health Certificate

Sanitary restrictions are required by Idaho Code, Title 50, Chapter 13

11. Love within this submission.

No owner shall construct any building, dwelling, or shop or other structure without first obtaining a permit from the health officer. The permit shall be conditioned upon the applicant's agreement to provide for the proper disposal of sewage and to provide for the proper disposal of garbage and refuse.



Account	Debit	Credit	Date
Will Wilson	2000		12/10/00



AVIMOR[®]

W R G
D E S G N I Z C
1173 E. Winding Creek Dr Engle, ID 83616
Tel. 208.246.8300 Fax 208.246.8320
PLANNING • ENGINEERING • LANDSCAPE ARCHITECTURE • SURVEYING
KIDDER-LEWIS-283-01 SHEET 1 OF 21

EXHIBIT "A"

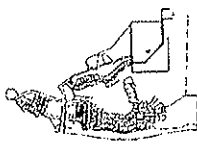
Boundary Detail

Avimor Subdivision No.1

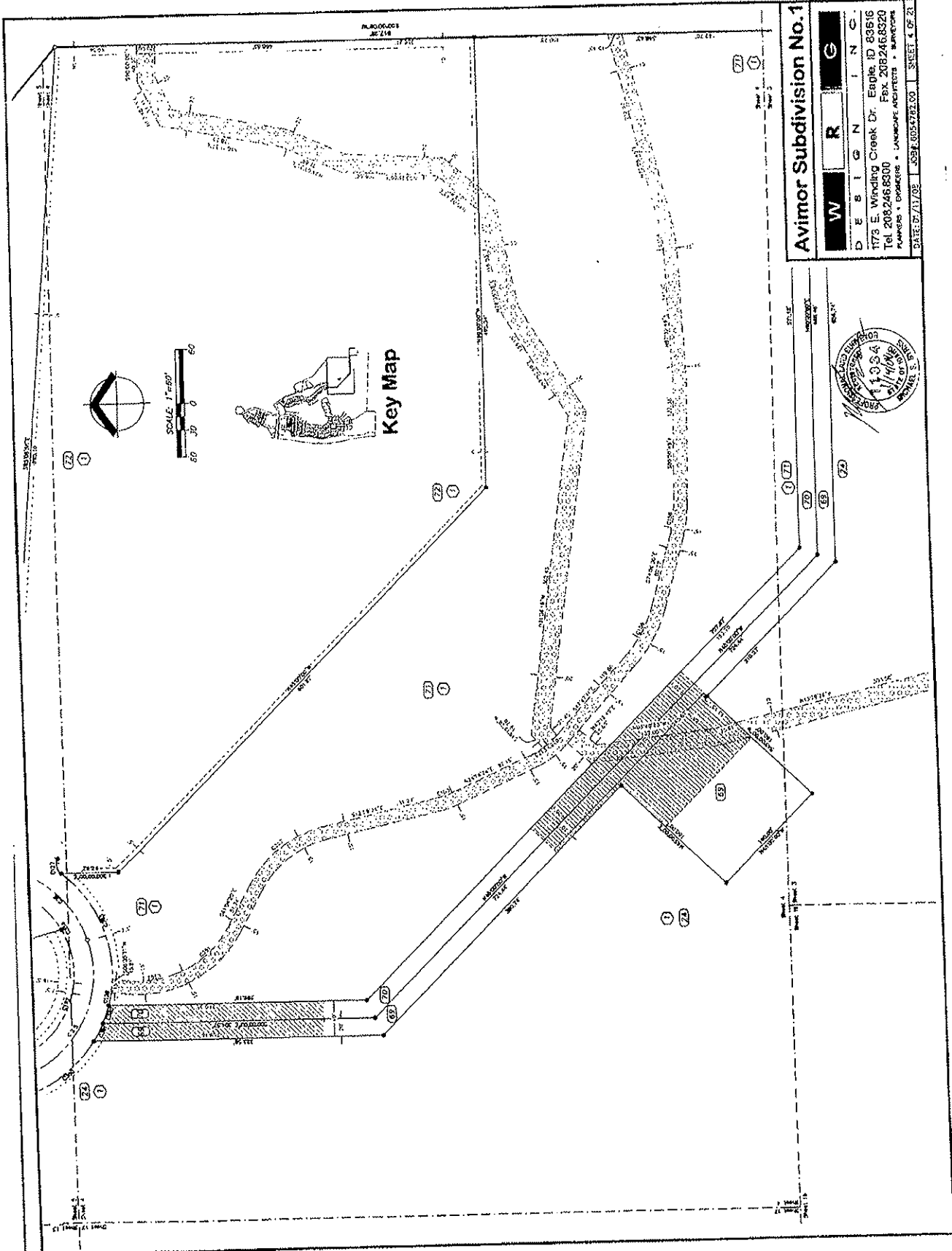
W R C
DESIGN INC.
1773 E. Winding Creek Dr. Eagle, ID 83616
Tel. 208.246.8300 Fax. 208.246.8320
PLANNERS • ENGINEERS • LANDSCAPE ARCHITECTS • SURVEYORS
DATE: 07/11/02 JOB# 0054782.00 SHEET 4 OF 21

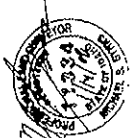


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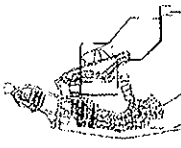
Key Map







SCALE 1"=60'

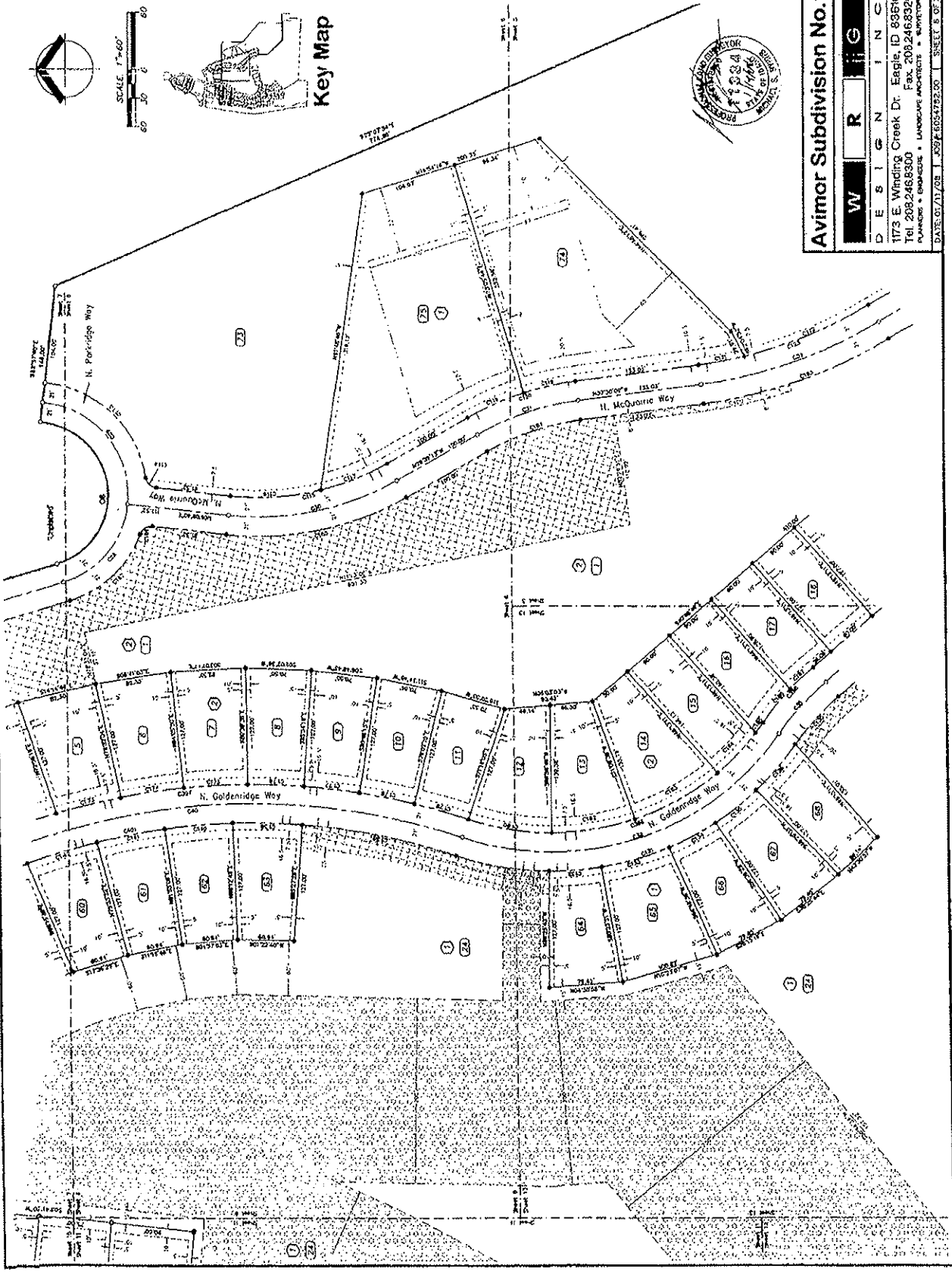


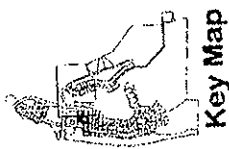
Key Map



Avimer Subdivision No. 1

DESIGN
W R G
1773 E. Winding Creek Dr. Eagle, ID 83616
Tel. 208.248.8300 Fax. 208.248.8320
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DATE: 07/17/05 JOB # 0024792.00 SHEET 8 OF 21



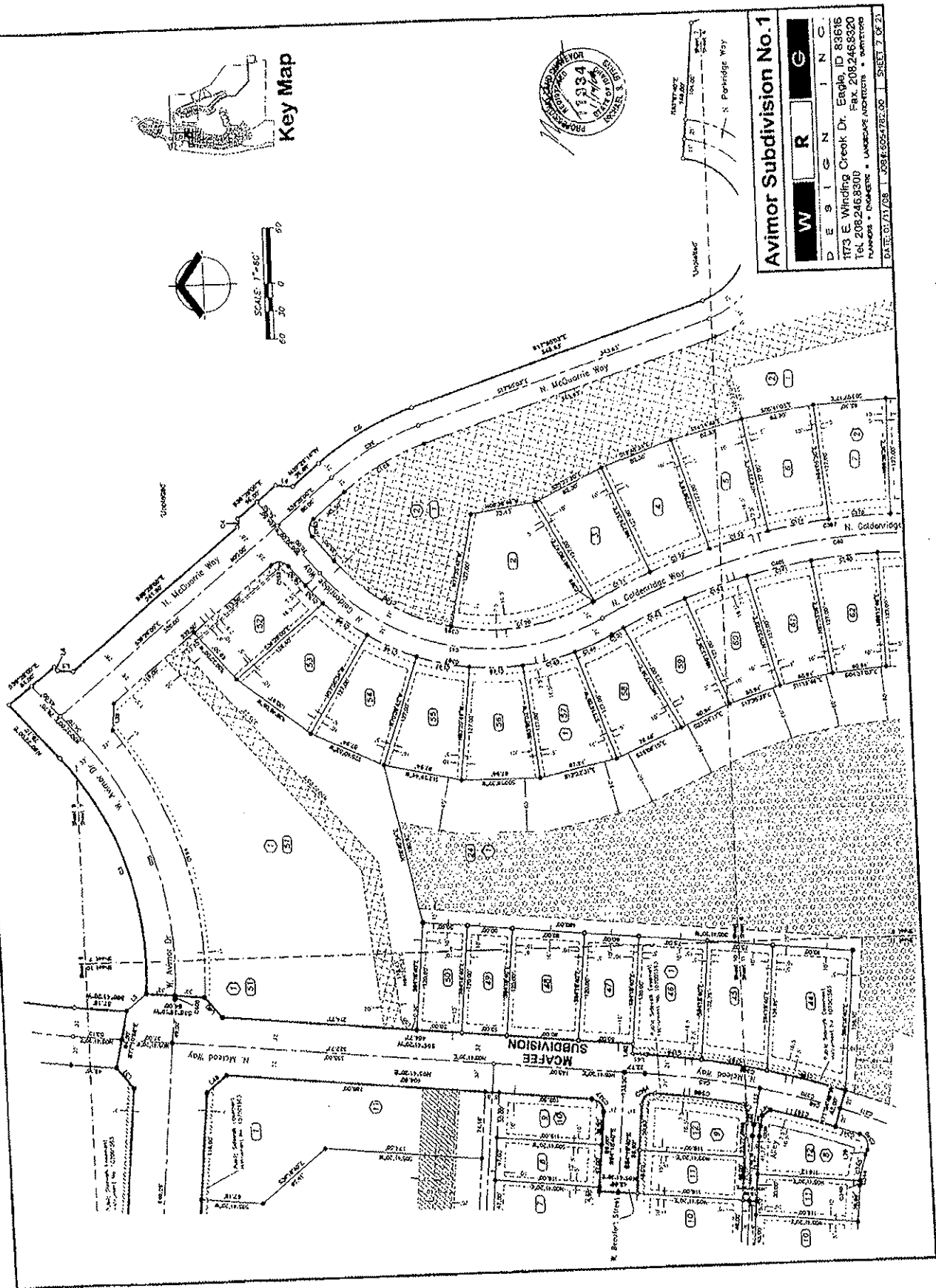


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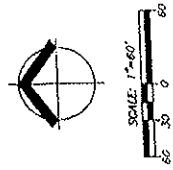
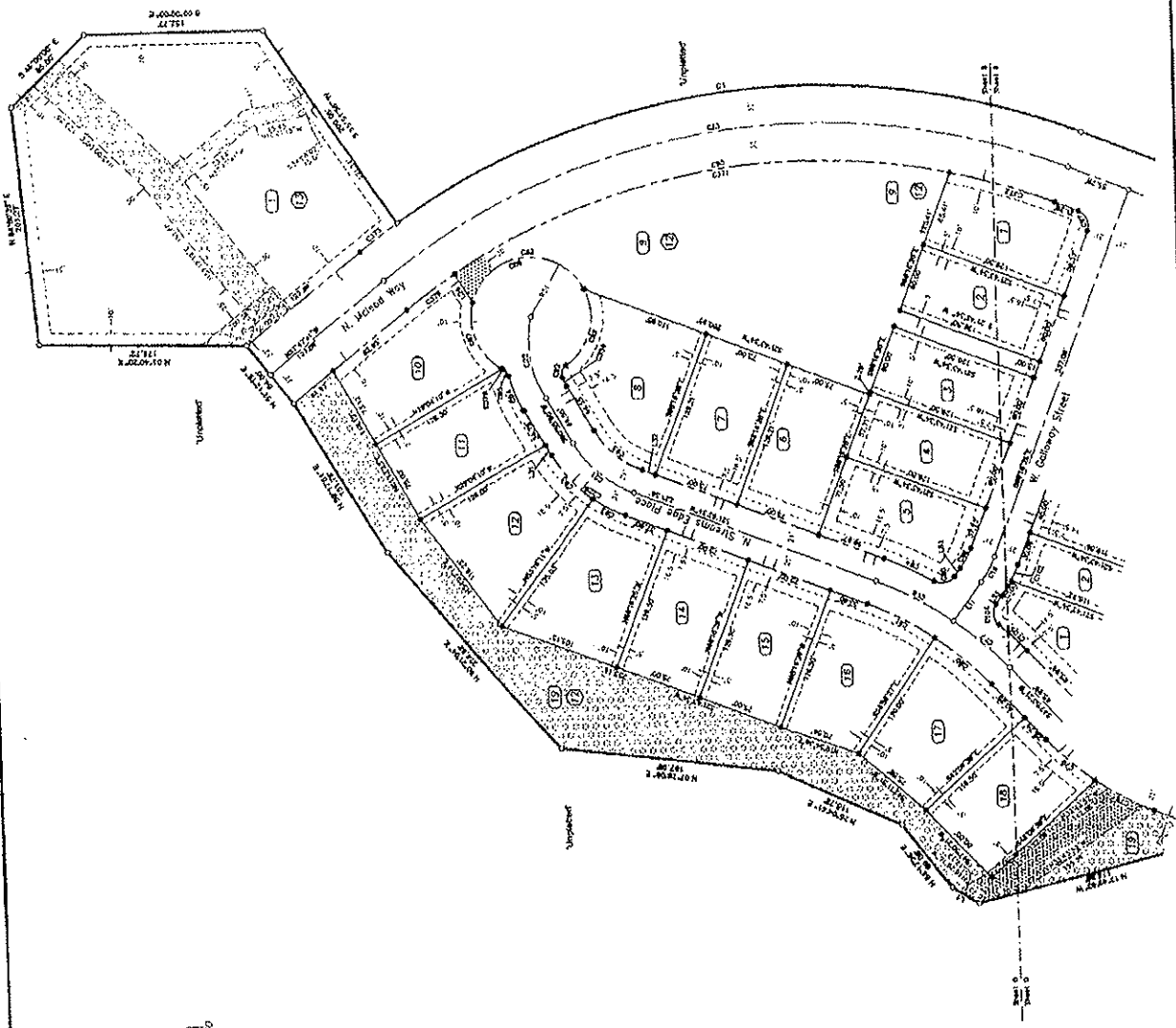
Avimor Subdivision No. 1

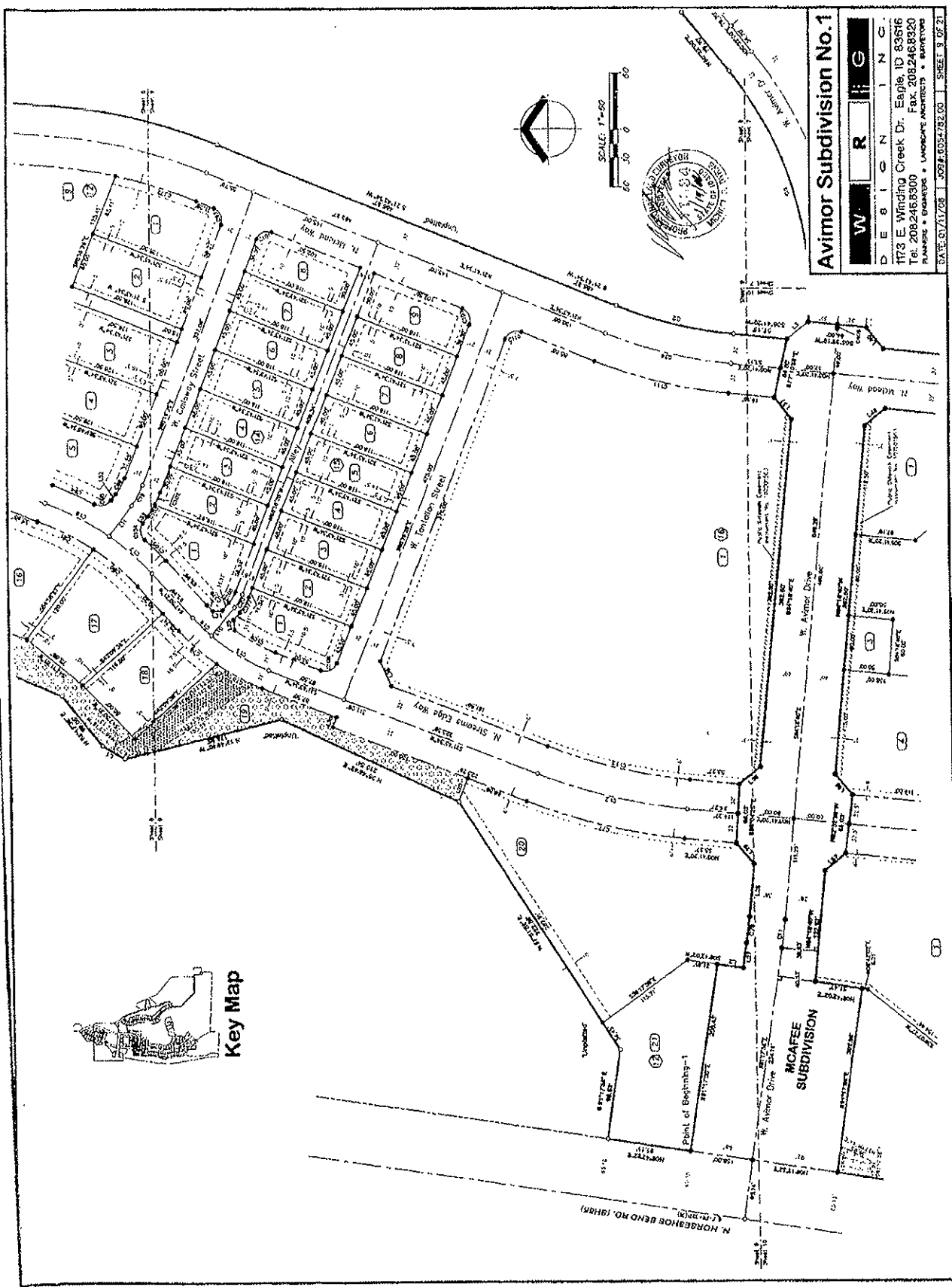
W	R	G
DESIGN INC.		
1773 E. Winding Creek Dr. Eagle, ID 83616		
Tel. 208.246.8300 Fax. 208.246.8320		
PLANNERS • ENGINEERS • LANDSCAPE ARCHITECTS • SURVEYORS		
DATE: 07/11/08	JOINT: 595-762-50	SHEET: 7 OF 21



Avimor Subdivision No. 1

W **R** **G**
 DESIGN
 1173 E. Winding Creek Dr. Engle, ID 83616
 Tel: 208.246.8300 FAX: 208.246.8320
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 DATE: 01/11/05 JOB # 5054782.00 1 SHEET 8 OF 21





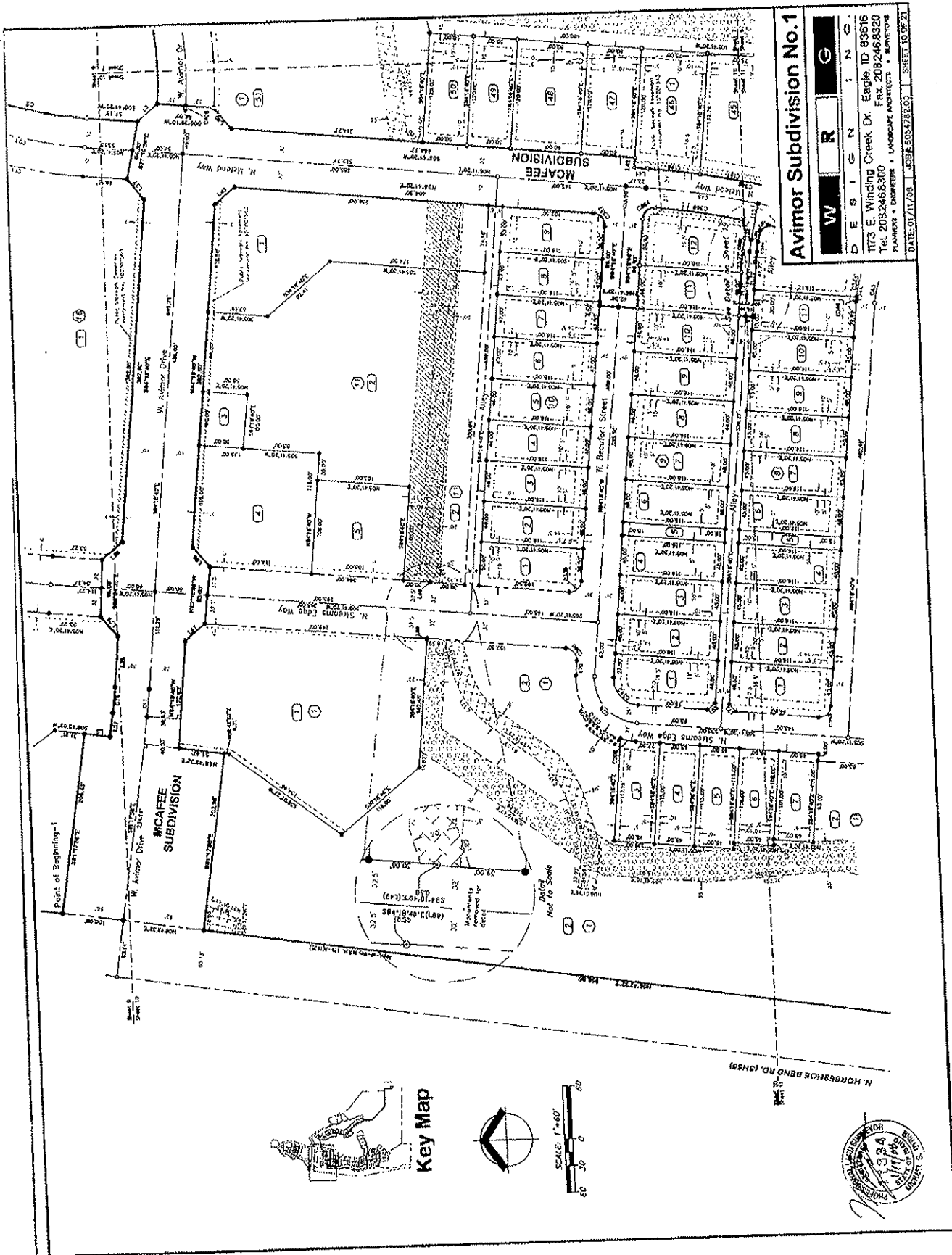
Avimor Subdivision No. 1

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PLANNING & ENGINEERING • LANDSCAPE ARCHITECTS • SURVEYORS
DATE: 07/17/08 JOB#: 0054782.00 SHEET: 9 OF 21



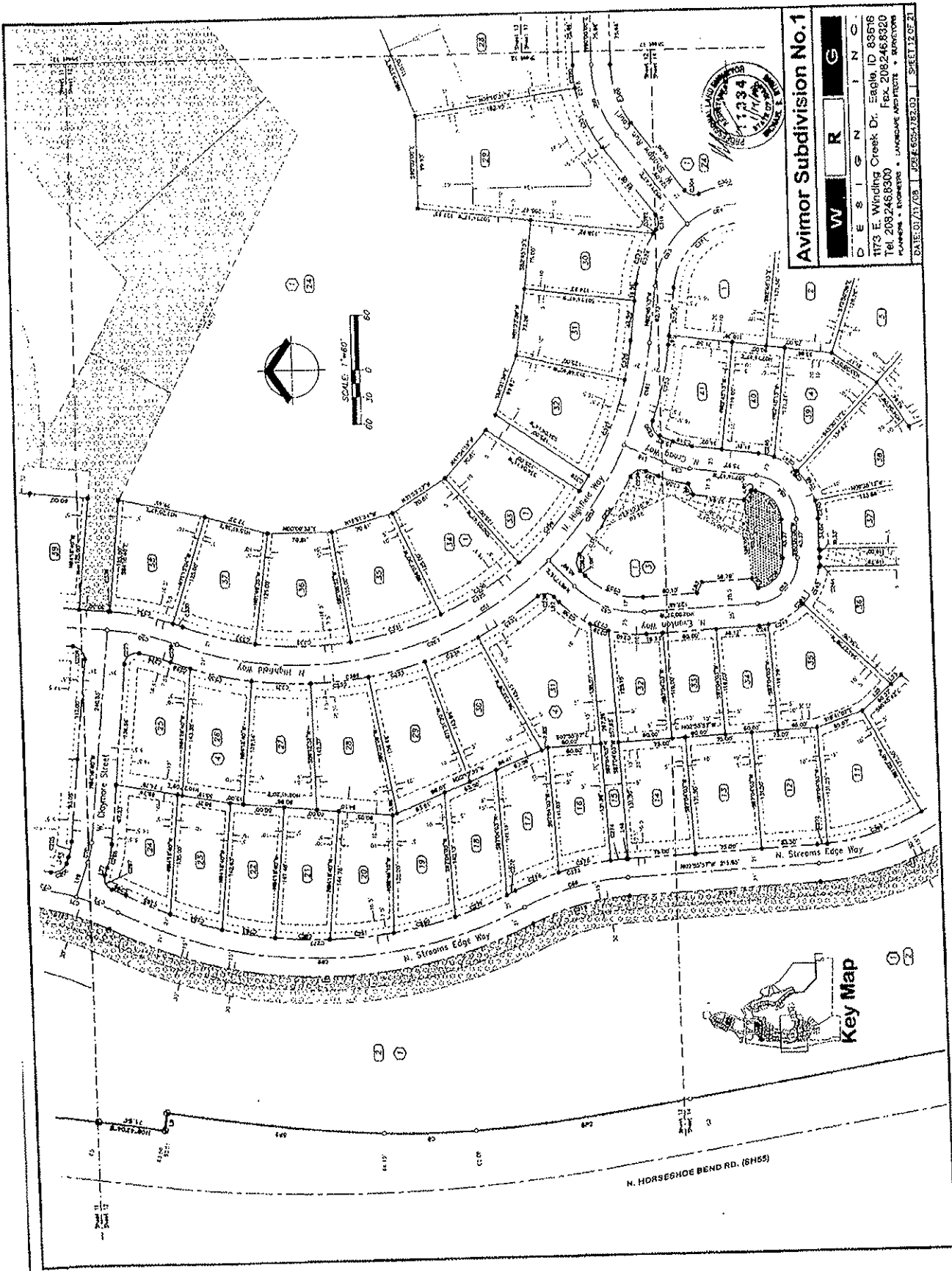
Key Map



Avimor Subdivision No. 1

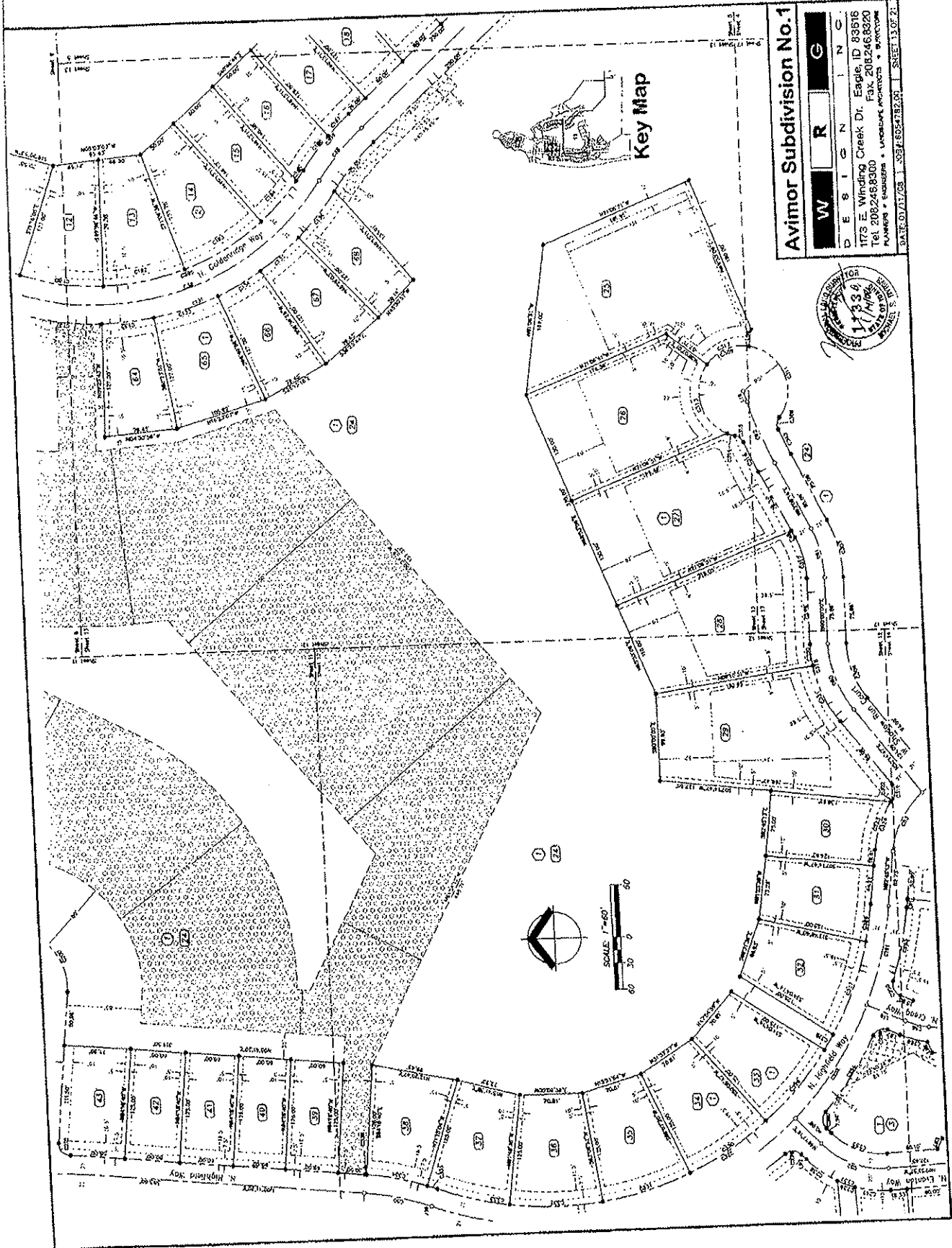
DESIGNING
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 DATE: 07/11/08 CS# 6054281.03 SHEET 10 OF 21





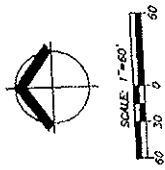
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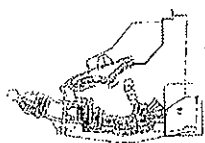
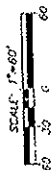
W R G
DESIGN
1173 E. Winding Creek Dr. Eagle, ID 83616
Tel. 208.246.8300 Fax. 208.246.8320
PLANNING • ENGINEERING • LANDSCAPE ARCHITECTURE • SURVEYING
DATE: 07/11/05 JOB: 05054-02.02 SHEET 12 OF 21



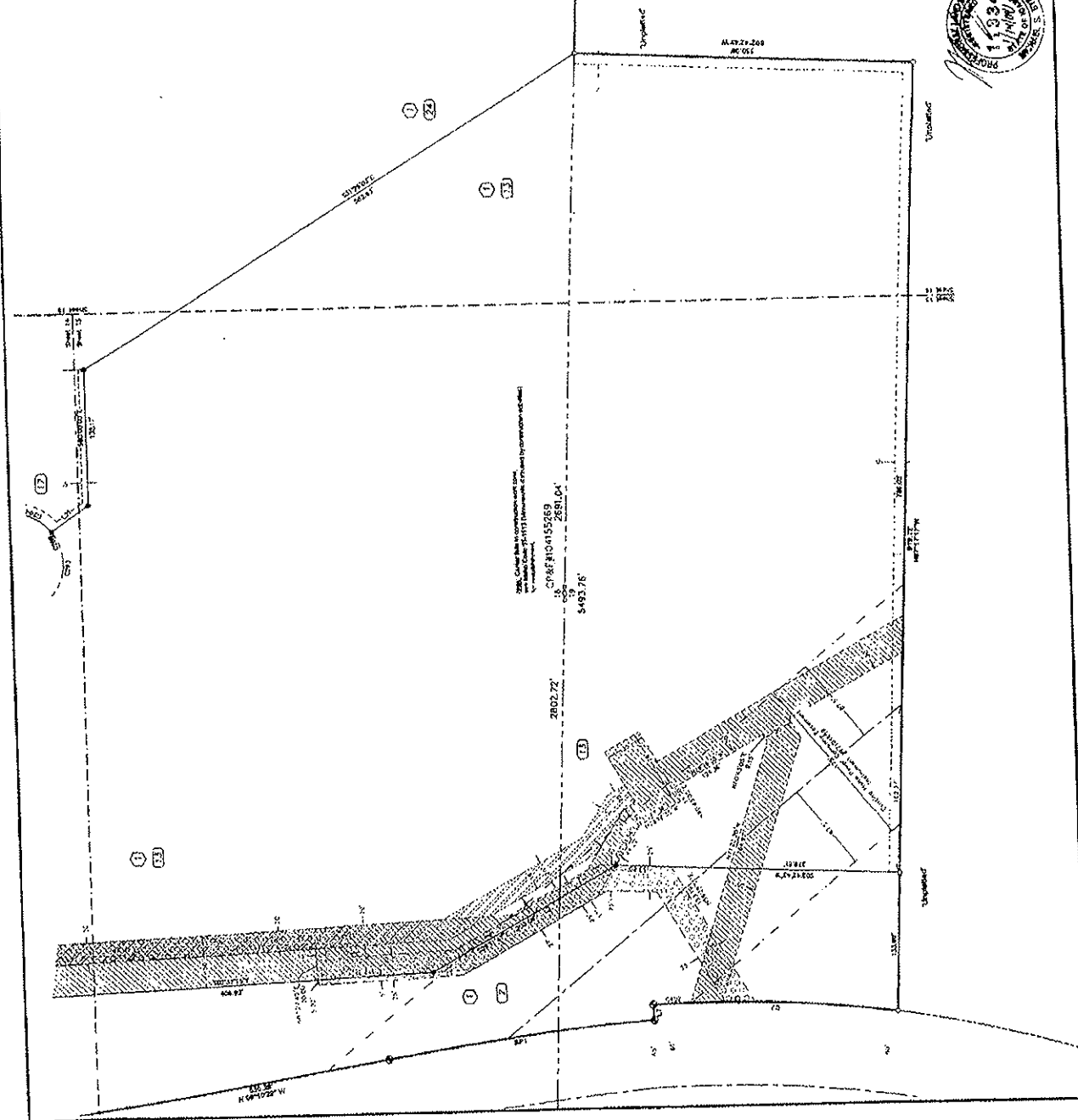
Avimor Subdivision No. 1

W	R	C
D	E	N
S	E	N
E	E	N
1173 E. Winding Creek Dr.	Esplanade ID 83916	
PLAN 2082468300	PLAN 2082468300	
TEL 2082468300	TEL 2082468300	
PLANNING • ENGINEERING • LANDSCAPE ARCHITECTURE • SURVEYING		
DATE 01/17/03	JOB # 6054782.01	SHEET 13 OF 21





Key Map



Avimor Subdivision No.1

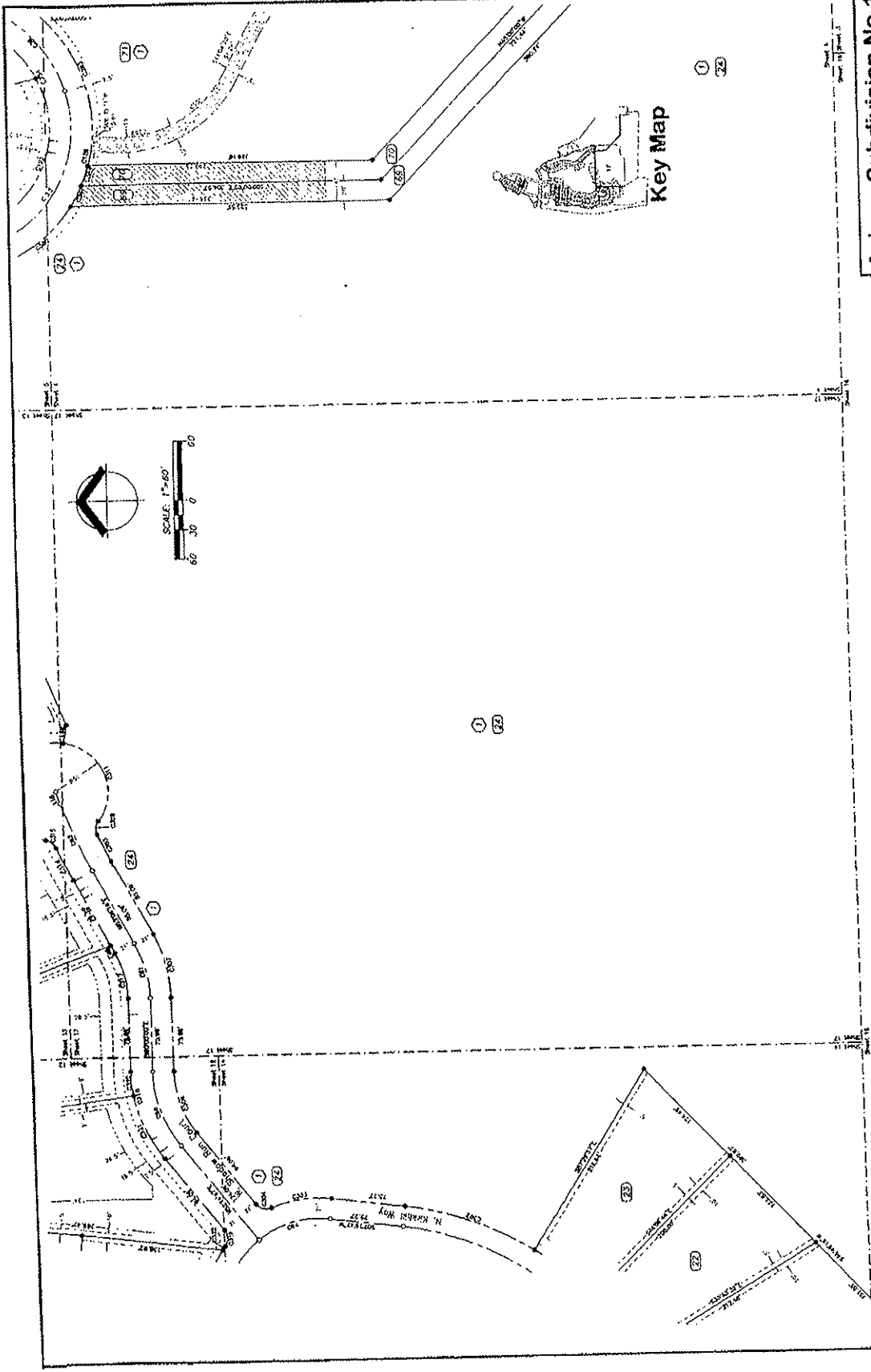
W R G

D E S I G N I Z I N G

Tel 208.246.8300 Fax 208.246.8320

PLANETS & ENGINERS • LOROCAR ALUMINUM • SHEET 15 OF 21

DATE: 01/11/03 | 00:03:04.00



Avmor Subdivision No. 1

DESIGN INC
 173 E. Winding Creek Dr. Eagle, ID 83516
 Tel. 208.246.8300 Fax. 208.246.8320
 PLANNING • SURVEYING • ENGINEERING • ARCHITECTURE



DATE: 01/11/08 JOB: 0054582.00 SHEET 17 OF 21

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and, and replacing *McNae Subchapter S*, 2001-10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 84

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1

Thence S 28°45'00"W, 69.00 feet along the boundary of Maple Subdivision,
Thence N 61°17'00"E, 69.00 feet along the boundary of Maple Subdivision,
Thence S 61°17'00"E, 42.00 feet along the boundary of Maple Subdivision,
Thence S 61°17'00"E, 42.00 feet along the boundary of Maple Subdivision,
95°00'00", a short bearing of S 67°41'20"W, and a closed length of 10.09 feet along the boundary of Maple

[illegible][illegible]

Thence N65°41'27"E, 28.72 feet along the boundary of McInnes Subdivision;
Thence N65°41'27"E, 28.72 feet along the boundary of McInnes Subdivision;
Thence N65°38'10"E, 64.00 feet along the boundary of the lot, between northward, having a radius of 368.70 feet;
Thence N28°06'16"E on a non-curved curve to the lot, between northward, having a radius of 279.83 feet;
Thence N28°06'16"E, a chord bearing of N72°48'05"E, and a chord length of 279.83 feet;
Thence S41°20'17"E, 19.70 feet;
Thence N60°12'00"E, 19.70 feet.

[illegible]

Thence S50°00'00"E, 334.00 feet;
Thence S00°00'00"W, 261.16 feet;
Thence S60°00'00"W, 170.00 feet;
Thence S00°00'00"W, 389.36 feet to the POINT OF BEGINNING.

My witness statement, I have reviewed and my hand put 14 day of January, 20 08

505 } captured to water

+

1. I, Michael S. Flynn, do hereby certify that I am a Professional Land Surveyor, as shown on the Certificate of Qualification issued by the State of Idaho, and that this part of MYNOC PLATINGS is a true and correct copy of the original as shown on the Certificate of Qualification issued by the State of Idaho, and that this part of MYNOC PLATINGS is a true and correct copy of the original as shown on the Certificate of Qualification issued by the State of Idaho.

March 5 1966, PLS 11304



W R G
 D E S I G N I N G
 173 E Whiting Creek Dr. Eagle, ID 83616
 Tel. 208.242.6890 Fax. 208.246.8320
 PLANNING • ENGINEERING • LANDSCAPE ARCHITECTS • SURVEYING
 208.650.5472 FAX 208.650.5472

MARCO ANTONIO