CITY OF KIMBERLY

PLANNING & ZONING COMMISSION
MEETING AGENDA

NOVEMBER 4, 2014
6:00PM

Location: 242 Highway 30, Kimberly, Idaho 83341

Planning & Zoning Commission meetings are televised, videotaped and/or recorded

CALL TO ORDER

WELCOME – PLEASE TURN OFF CELL PHONES – THANK YOU.

ROLL CALL OF COMMISSION MEMBERS

1. CONSIDER APPROVAL OF:

a. Minutes from September 2, 2014 Meeting

2. PUBLIC HEARINGS

a. Public Hearing and consideration of an ordinance amending Ordinance No. 137 to clarify that the vacated real property reverted to adjoining property owners according to the applicable statutory provisions in effect on the effective date of said vacation.

b. Public Hearing and consideration of an ordinance amending Kimberly City Code Title 17 by adding Section 17.14.035. The proposed Section would layout processes for development agreement creation and form, execution, recording, and other specifications.

c. Public Hearing and consideration of a City initiated resolution for a text amendment to the City of Kimberly Comprehensive Plan ("Plan"). The proposed amendment would add language to the Commercial Gateway (CG) land use description in the plan stating a broad brush approach may be utilized in allowing for the Commercial – Gateway (CG) to extend up to 1000 feet beyond Commercial Gateway designated areas (on the Comprehensive Plan map) for rezones without Comprehensive Plan amendment.

3. OLD BUSINESS

a. None

4. NEW BUSINESS

a. None

5. STAFF REPORT

6. ADJOURNMENT

Questions concerning items appearing on this Agenda or requests for accommodation of special needs to participate in the meeting should be addressed to the Office of the City Clerk, 242 Highway 30, Kimberly, Idaho 83341 or call 208-423-4151.

Ted Wasko	Leland Belin	Perry Dangerfield	Candy Weth	VACANT	Cindy Schmidt	Dan Shewmaker
		Co-Chair	*Chairperson*		*Area of Impact*	*Area of Impact*

Posted October 31

KIMBERLY PLANNING AND ZONING
September 2, 2014

Call to Order:
The meeting was called to order at 6:09pm.

Roll Call of Commission Members:
Members present were Candy Weth, Leland Belin, Ted Wasko and Perry Dangerfield. Impact Area representative Cindy Schmidt was also present.

1. Approve:
Cindy Schmidt moved that the Commission approve the minutes of the August 2014 regular meeting as presented. Ted Wasko seconded the motion and it was carried unanimously.

2. Public Hearing:
None

3. Old Business:
A motion was presented by Leland Belin to approve the Finding of Fact for the Rezone of 2.63 acres (+ or -) owned by Lucas and Jade Christensen from Agriculture (AG) to Commercial Gateway (CG) at approximately 27 Highway 50. The motion was seconded by Cindy Schimdt. It was carried unanimously.

4. New Business:
a. Staff would like the Commission to consider an ordinance to the Kimberly City Code for withholding, red-tagging or revocation of building permits where there are violations of Title 17. At this time there is no ordinance or procedure for these instances.

b. Staff would like the Commission to review the wording of Development Agreements and include required wording so that the Agreements would be more uniform and easier to enforce. Staff comments and recommendations should be included in the Agreements which are recorded at the County. At this time Twin Falls City is using PUD's instead of having Development Agreements. The Commission agreed that staff should draw up an Ordinance pertaining to Development Agreements so that there can be public comment and the Commission can vote on it.

c. Staff commented that the City is still working on the Bike path.

5. Adjournment:
With no further business before the Commission the meeting was adjourned at 6:36pm.

Respectfully submitted,

Perry C. Dangerfield

STAFF REPORT

TO: Kimberly P&Z Commission

FROM: Planning and Zoning Department

RE: Public Hearing and consideration of Ordinance No. 618 amending Ordinance No. 137 to clarify that the vacated real property reverted to adjoining property owners according to the applicable statutory provisions in effect on the effective date of said vacation.

HEARING: November 4, 2014

Applicant: Archer-Daniels-Midland (ADM) Company

Location: Corner of Ash St. & Hwy 30 where a shed presently exists

Zoning: Applicable property is not presently zoned but does show as vacated property on The City of Kimberly February 10, 2009 Zoning Map, and is surrounded by Light Industrial (LI)zoned properties.

Note: Staff analysis is in lighter type.

Notice

Notice for the public hearing was published in the Times News on October 20, 2014; the notice was mailed to property owners within 300 feet and public agencies on October 20, 2014

Application

The applicant has requested consideration of an ordinance clarifying that the vacated real property reverted to adjoining property owners according to applicable statutory provisions in effect on the effective date as noted above.

Procedural History

Ordinance 137 and Ordinance 618 clarifying Ordinance 137 are attached.

Department Comments:

Archer-Daniels-Midland (ADM) has utilized the property shown as vacated property on the zoning map for many years. Title, however, shows the property as listed to the City of Kimberly. The City Attorney drafted Ordinance 618 to clarify the intent of Ordinance 137.

Standards of Evaluation
Standards are in bold text, staff evaluation is in regular text.

17.14.010: AUTHORITY TO AMEND:

Whenever the public necessity, convenience, general welfare or good zoning practices require, the council may, by ordinance, after receipt of recommendation thereon from the commission and subject to procedures provided by law, amend, supplement, change or repeal the regulations, restrictions and boundaries or classification of property.

As the zoning map shows the property is already vacated, Ordinance 618 is to clarify the intent of Ordinance 137.

Summary
The commission prior to recommending an amendment shall conduct at least one public hearing in which interested persons shall have an opportunity to be heard.

Motion Language:

Approval:
Motion to recommend approval of Ordinance No. 618 amending Ordinance No. 137, to clarify that the vacated real property reverted to adjoining property owners according to the applicable statutory provisions in effect on the effective date of said vacation.

Denial:
Motion to deny recommendation of Ordinance No. 618 amending Ordinance No. 137, clarifying that the vacated real property reverted to adjoining property owners according to the applicable statutory provisions in effect on the effective date of said vacation, finding that _____[the Commission should cite which standards are not met and provided the reason why each identified standard is not met].

Continuation:
Motion to continue the public hearing upon Ordinance No. 618 the_____to _____[The Commission should specify a date].

ORDINANCE NO. 618

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KIMBERLY, IDAHO, AMENDING ORDINANCE NO. 137 ENTITLED "AN ORDINANCE OF THE VILLAGE OF KIMBERLY, IDAHO, CLOSING AND VACATING ALL OF JACKSON STREET LYING SOUTH AND WEST OF U.S. HIGHWAY 30, AND EXTENDING BETWEEN SAID U.S. HIGHWAY 30 ON THE EAST AND ASH STREET AND TYLER STREET (PREVIOUSLY VACATED) ON THE WEST"; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, pursuant to Ordinance No. 137 all of Jackson Street lying South and West of U.S. Highway 30, and extending between said U.S. Highway 30 on the East and Ash Street and Tyler Street (previously vacated) on the West, and lying between Blocks one (1) and Sixteen (16) of the Townsite of Kimberly was vacated; however, Section 1 of Ordinance No. 137 did not expressly grant the vacated property to the adjoining property owners; and

WHEREAS, the Mayor and City Council desire to amend Section 1 of Ordinance No. 137 to clarify that the vacated real property reverted to the adjoining property owners according to the applicable statutory provisions in effect on the effect date of the vacation; and

WHEREAS, said amendment serves the public interest.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF KIMBERLY, IDAHO, AS FOLLOWS:

SECTION 1. That Section 1 of Ordinance No. 137 is hereby amended by the addition of the following underlined language and the deletion of the following stricken language:

> Section 1. That all of Jackson Street lying South and West of U.S. Highway 30, and extending between said U.S. Highway 30 on the East and Ash Street and Tyler Street (previously vacated) on the West, and lying between Blocks One (1) and Sixteen (16) of the Townsite of Kimberly, be and the same hereby is, vacated~~.~~ <u>and the vacated real property shall revert to the owners of the adjacent real property according to applicable statutory provisions in effect on the effective date of said vacation.</u>

SECTION 2. All portions of Ordinance 137 not specifically addressed and amended as set forth above are to remain in full force and effect.

SECTION 3. If any section, paragraph, sentence or provision hereof or the application thereof to any particular circumstances shall ever be held invalid or unenforceable, such holding shall not affect the remainder hereof, which shall continue in full force and effect and applicable to all circumstances to which it may validly apply.

SECTION 4. This Ordinance shall be in full force and effect after its passage, approval and publication according to law.

PASSED AND ADOPTED BY THE KIMBERLY CITY COUNCIL and approved by the Mayor this_____day of_____, 2014.

_____
TRACY ARMSTRONG, Mayor

Attest:

_____
SHOSHONIE HEITMANN, City Clerk

ORDINANCE NO. 137

AN ORDINANCE OF THE VILLAGE OF KIMBERLY, IDAHO, CLOSING AND VACATING ALL OF JACKSON STREET LYING SOUTH AND WEST OF U.S. HIGHWAY 30, AND EXTENDING BETWEEN SAID U.S. HIGHWAY 30 ON THE EAST AND ASH STREET AND TYLER STREET (PREVIOUSLY VACATED) ON THE WEST.

BE IT ORDAINED BY THE CHAIRMAN AND BOARD OF TRUSTEES OF THE VILLAGE OF KIMBERLY, IDAHO:

Section 1. That all of Jackson Street lying South and West of U.S. Highway 30, and extending between said U.S. Highway 30 on the East and Ash Street and Tyler Street (previously vacated) on the West, and lying between Blocks One (1) and Sixteen (16) of the Townsite of Kimberly, be and the same hereby is, vacated.

Section 2. That this Ordinance shall not be construed as constituting in any way or manner authority for vacation of any portion of Ash Street, or of the intersection of said Ash and Jackson Streets.

Section 3. That this Ordinance shall constitute authorization for appropriate entry of such vacation upon the Revised Plat of the Supplemental Plat of the Townsite of Kimberly, Idaho, on file and of record in Book 1 of Plats, page 102, in the Office of the Recorder of Twin Falls County, State of Idaho.

PASSED BY THE BOARD OF TRUSTEES, This 13th day of May, 1952.

SIGNED BY THE CHAIRMAN, This 13th day of May, 1952.

Frank H. Marsh.
Chairman.

Attest:

Land Title and Escrow, Inc.

Focused on Service, *Positioned* for the Future

ORDER NO.	4497 - ADM Edible Bean Specialties Inc.
DATE:	August 16, 2013
PREPARED FOR:	Archer-Daniels-Midland Company
REQUEST BY:	Mary Cunningham
COPIES TO:	Gem State Realty/NAI Commerce One - Walt Hess/Steve Keim
TITLE OFFICER:	Diana Rodriguez drodriguez@landtitleandescrow.com

A Full Service Title Company
Title Insurance
Escrow Closing Services
Long Term Escrow Services

Box 177 • Burley, Idaho • 83318
Ph: 208.878.3524
Fx: 208.878.4435
lteb@pmt.org

Box 473 • Gooding, Idaho • 83330
Ph: 208.934.8477
Fx: 208.934.5890
lteg@pmt.org

Box 349 • Jerome, Idaho • 83338
Ph: 208.324.3357
Fx: 208.324.8961
ltej@pmt.org

Box 5375 • Twin Falls, Idaho • 83303-5375
Ph: 208.933.2650
Fx: 208.933.2655
ltetf@pmt.org

Box 111 • Rupert, Idaho • 83350
Ph: 208.436.0606
Fx: 208.436.1199
lter@pmt.org

Archer-Daniels-Midland Company
4666 Faries Parkway
Decatur, IL 62526
Attn: Mary Cunningham

WESTCOR LAND TITLE INSURANCE COMPANY

COMMITMENT FOR TITLE INSURANCE

SCHEDULE A

ORDER NUMBER: 4497

1. Effective Date: July 19, 2013 at 7:30 A. M.

2. Policy or Policies to be issued:

   A. ALTA Owners Policy - Standard Coverage (06/17/06) — Amount of purchase Premium to be determined

   Proposed Insured:

   NAME OF PURCHASER

3. The Estate or Interest in the land described or referred to in this Commitment and covered herein is **FEE SIMPLE** and is at the effective date vested in:

   ADM EDIBLE BEAN SPECIALTIES INC.,
   by reason of name change from
   AGRI SALES, INC., a Delaware corporation

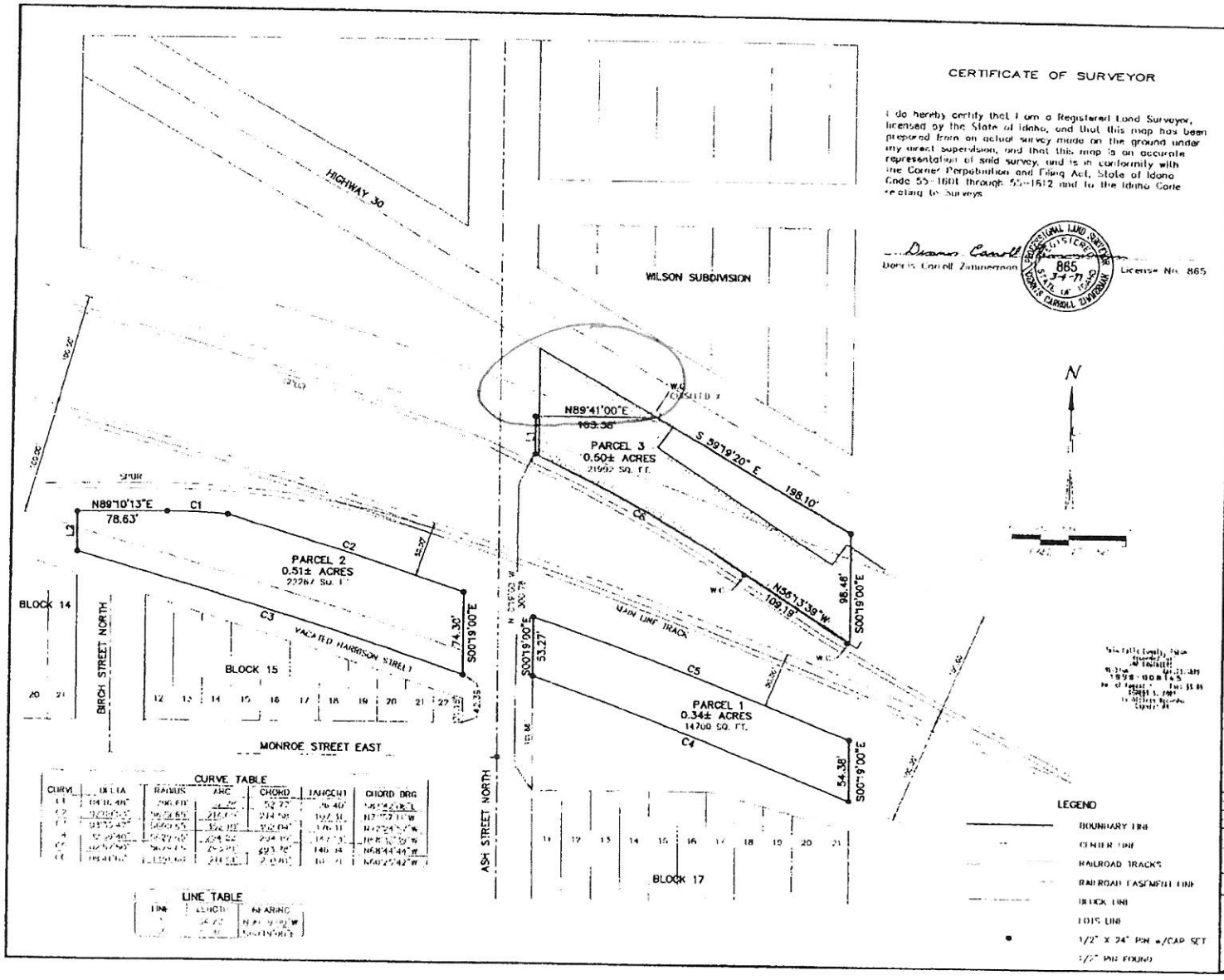
4. The land referred to in this Commitment is situated in the County of **TWIN FALLS,** State of Idaho, and described as follows:

SEE SCHEDULE A, PAGE 2

Countersigned: Mary Witrow
Authorized Officer or Agent

Issued By:
Land Title and Escrow, Inc.
P.O. Box 177
Burley, ID 83318
Phone: (208)-878-3524
Fax: (208)-878-4435

Valid only if Schedule B and Cover are attached



CURVE TABLE

CURVE	DELTA	RADIUS	ARC	CHORD	TANGENT	CHORD DRG
C1	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
C2	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
C3	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
C4	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
C5	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
C6	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

LINE TABLE

LINE	LENGTH	BEARING
[illegible]	[illegible]	[illegible]

CERTIFICATE OF SURVEYOR

I do hereby certify that I am a Registered Land Surveyor, licensed by the State of Idaho, and that this map has been prepared from an actual survey made on the ground under my direct supervision, and that this map is an accurate representation of said survey, and is in conformity with the Corner Perpetuation and Filing Act, State of Idaho Code 55-1601 through 55-1612 and to the Idaho Code relating to Surveys.

Dennis Carroll Zimmerman — License No. 865

PROFESSIONAL LAND SURVEYOR REGISTERED 865 STATE OF IDAHO DENNIS CARROLL ZIMMERMAN

J-U-B Engineers • Surveyors • Planners

J-U-B ENGINEERS, Inc.
800 FALLS AVENUE
SUITE 1
TWIN FALLS, IDAHO 83301
PHONE: 208-733-2414
FAX: 208-733-8435

RECORD OF SURVEY FOR

A.S.I. IDAHO

U.P. RAILROAD PARCELS IN KIMBERLY TOWNSITE,
A PORTION OF THE SW1/4 SW1/4, SEC. 21, T.10S., R.18E., B.M.,
TWIN FALLS COUNTY, IDAHO

DRAWN BY: LJ
DESIGN BY:
CHECKED BY: DCZ
DATE: JAN. 13, 1998
PROJECT NO. 81498
ACAD PLOT SCALE: 1" = 50'
UNIT: ENGL
AT PLAT SIZE, IF NOT ONE INCH, SCALE ACCORDINGLY
PLANE OF SHEET
HOR SCALE: 1" = 50'
VER SCALE: NONE

SHEET 1 OF 1

CONTINUATION

SCHEDULE A

Order Number: 4497

PARCEL NO. 1:
All of Block 2 of WILSON SUBDIVISION, Twin Falls County, Idaho, according to the plat thereof recorded in Book 5 of Plats, Page 74, records of said County, and the West 15 feet of Picabo Lane as vacated by Ordinance No. 369 passed by the City Council on October 9, 1979 and signed by the Mayor on October 10, 1979, recorded March 2, 1981 as Instrument No. 798324.

PARCEL NO. 2:
TOWNSHIP 10 SOUTH, RANGE 18 EAST OF THE BOISE MERIDIAN, TWIN FALLS COUNTY, IDAHO

Section 21: A parcel of land situated in the SW¼SW¼, more particularly described as follows:

Commencing at the Northwest corner of Lot 11, Block 17 of the Kimberly Townsite; thence North 00°19'00" West along the projected westerly line of said Lot 11 and the easterly line of Ash Street, a distance of 101.86 feet to the southerly right of way line of the Union Pacific Railroad Company and the True Point of Beginning;

Thence North 00°19'00" West along the easterly line of said Ash Street for a distance of 53.27 feet to the beginning of a curve to the right, concave southwesterly, with a radius of 5,679.65 feet and a chord bearing South 68°44'44" East, a chord distance of 293.78 feet;

Thence southeasterly along said curve through a central angle of 2°57'50", an arc distance of 293.81 feet to a point on the projected easterly line of Lot 21 of said Block 17;

Thence South 00°19'00" East along the projected easterly line of said Lot 21 for a distance of 54.38 feet to the southerly right of way line of the Union Pacific Railroad Company and the beginning of a curve to the left, concave southwesterly with a radius of 5,629.65 feet and a chord bearing North 68°32'39" West, a chord distance of 294.19 feet;

Thence northwesterly along the southerly right of way line of said Railroad Company and along said curve, an arc distance of 294.22 feet to the True Point of Beginning.

PARCEL NO. 3:
TOWNSHIP 10 SOUTH, RANGE 18 EAST OF THE BOISE MERIDIAN, TWIN FALLS COUNTY, IDAHO

Section 21: A parcel of land situated in the SW¼SW¼, more particularly described as follows:

Commencing at the Northwest corner of Lot 11, Block 17 of the Kimberly Townsite; thence North 00°19'00" West along the projected westerly line of said Lot 11 and the easterly line of Ash Street for a distance of 300.78 feet to a point 9.5 feet distant northerly, measured at right angles from the centerline of an existing spur track, said point being the True Point of Beginning;

Thence continuing North 00°19'00" West along the easterly line of said Ash Street for a distance of 34.22 feet to the northerly line of vacated Block 16 of the City of Kimberly;

Thence North 89°41'00" East along the northerly line of said vacated Block 16 for a distance of 103.38 feet to the southerly line of Highway 30;

Thence South 59°19'20" East along the southerly line of said Highway 30 for a distance of 198.10 feet to the southerly line of Highway 30;

Thence South 00°19'00" East along the projected easterly line of said vacated Block 16 for a distance of 98.46 feet to a point 9.5 feet distance northerly, measured at right angles, from the centerline of said existing spur track;

Thence North 56°13'39" West along a line parallel with and 9.5 feet distant northeasterly, measured at right angles, from the centerline of said existing spur track for a distance of 109.19 feet to the beginning of a curve to the left, concave southwesterly, with a radius of 1,391.60 feet and a chord bearing North 60°25'42" West, a chord distance of 210.81 feet;

Thence Northwesterly along said curve through a central angle of 8°41'16", an arc distance of 211.01 feet to the True Point of Beginning.

SCHEDULE B - SECTION 1

Order Number: 4497

The following are the requirements to be complied with:

1. Instrument creating the estate or interest to be insured must be executed and filed for record, to-wit:

   a. **Deed from ADM Edible Bean Specialties Inc., by reason of name change from Agri Sales, Inc., a Delaware corporation, to Purchaser.**

2. Pay the full consideration to, or for the account of, the grantors or mortgagors.

3. Pay all taxes, charges, assessments, levied and assessed against subject premises, which are due and payable.

4. Satisfactory evidence should be had that improvements and/or repairs or alterations thereto are completed; that contractor, sub-contractors, labor and materialmen are all paid; and have released of record all liens or notice of intent to perfect a lien for labor or material. (Applicable to Extended Coverage only)

5. **A completed acceptable AFFIDAVIT OF TITLE AND INDEMNITY, executed by the authorized signer for ADM Edible Bean Specialties Inc., by reason of name change from Agri Sales, Inc., a Delaware corporation, must be furnished to Land Title and Escrow, Inc. prior to recording the above required documents. (Attached is an AFFIDAVIT OF TITLE AND INDEMNITY that should be used)**

6. **With respect to ADM Edible Bean Specialties Inc., by reason of name change from Agri Sales, Inc., a Delaware corporation, we require:**

   a. **A certified copy of a resolution of the board of directors authorizing the contemplated transaction and designating which corporate officers shall have the power to execute on behalf of the corporation.**
   b. **Other requirements which the Company may impose following its review of the material required herein and other information which the Company may require.**

NOTE #1:

The County Treasurer advises us that taxes for 2012 are assessed in the total sum of:
$3,457.38 - TR. #RPK92210020000A (Parcel No. 1)
which are paid in full, without homeowners exemption

$556.10 - TR. #RPK86710216020A (Parcel No. 2)
which are paid in full, without homeowners exemption

$1,193.96 - TR. #RPK86710216000A (Parcel No. 3)
which are paid in full, without homeowners exemption

NOTE #2: In the event this commitment is cancelled prior to the issuance of the policy committed for herein, a fee will be charged in compliance with the State of Idaho Department of Insurance Regulations.

NOTE #3: PROPERTY ADDRESS: 435 Highway 30 - Kimberly, Idaho 83341

SCHEDULE B - SECTION 2

Order Number: 4497

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company, (or unless the policy to be issued is an ALTA Homeowner's Policy (10/22/03) in which case only item 7 is relevant and items 1-6 and 9 are expressly deemed inapplicable to the covered risks of said ALTA Homeowner's policy).

1. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession, or claiming to be in possession, thereof.

2. Easements, liens, encumbrances, or claims thereof, which are not shown by the public records.

3. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land, and that is not shown by the Public Records.

4. Any lien, or right to a lien, imposed by law for services, labor, or material heretofore or hereafter furnished, which lien, or right to a lien, is not shown by the public records.

5. Taxes or assessments which are not now payable or which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.

6. Any service, installation, connection, maintenance or construction charges for sewer, water, electricity, or garbage collection or disposal or other utilities unless shown as an existing lien by the public records.

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

8. Liens in favor of the State of Idaho that might be disclosed by any Notice of Lien filed in the Office of the Secretary of State of Idaho against the vested owner or prior owner or against the purchaser of the land described herein.

9. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) Indian treaty or aboriginal rights, including, but not limited to, easements or equitable servitudes; or, (d) water rights, claims or title to water, whether or not the matters excepted under (a), (b), (c) or (d) are shown by the public records.

10. Taxes for 2013 and subsequent years, a lien, but not yet due or payable.

11. Any assessments levied, or to be levied, by the City of Kimberly.

12. Assessments of the American Falls Reservoir District and the rights and powers of said District as by law provided.

13. Rights-of-way for ditches, tunnels and telephone and transmission lines constructed by authority of the United States, as granted to the United States under provisions of Section 58-604, Idaho Code.

14. Reservation in Quitclaim Deed executed by Union Pacific Railroad Company, a Delaware corporation, successor in interest by merger to Union Pacific Railroad Company, a Utah corporation and Oregon Short Line Railroad Company, Grantor, to Agri Sales, Inc., a Michigan corporation, Grantee, dated March 11, 1999 and recorded August 9, 1999 as Instrument No. 1999-014814, records of Twin Falls County, Idaho.

08/16/13
dr/hm

NOTE: **The Policy(s) of insurance may contain a clause permitting arbitration of claims at the request of either the Insured or the Company. Upon request, the Company will provide a copy of this clause and the accompanying arbitration rules prior to the closing of the transaction.**

AFFIDAVIT OF TITLE AND INDEMNITY

State of Idaho)
):ss.
County of)

The undersigned does (do) hereby declare under penalty of perjury that with respect to the title to the property described in Westcor Land Title Insurance Company's commitment for title insurance order no. **4497** that:

(1) There has been no labor or materials furnished upon said land within 90 days prior to this affidavit except:

(2) Subsequent to the effective date of the above referenced commitment for title insurance there have been no judgments or state or federal tax liens recorded in **Twin Falls** County, Idaho against the undersigned and no petition in bankruptcy has been filed except:

(3) There are no leases, agreements of sale or rights of first refusal binding the property except:

(4) The undersigned has (have) no knowledge of any lien, defect, encumbrance, encroachment, boundary dispute or adverse claim to title other than as set forth in the above referenced commitment for title insurance except:

The undersigned does (do) hereby agree to indemnify and save harmless Land Title and Escrow, Inc. and Westcor Land Title Insurance Company from any loss or damage under a policy of title insurance which loss or damage has occurred from the issuance of title insurance in reliance upon the accuracy of the foregoing statements.

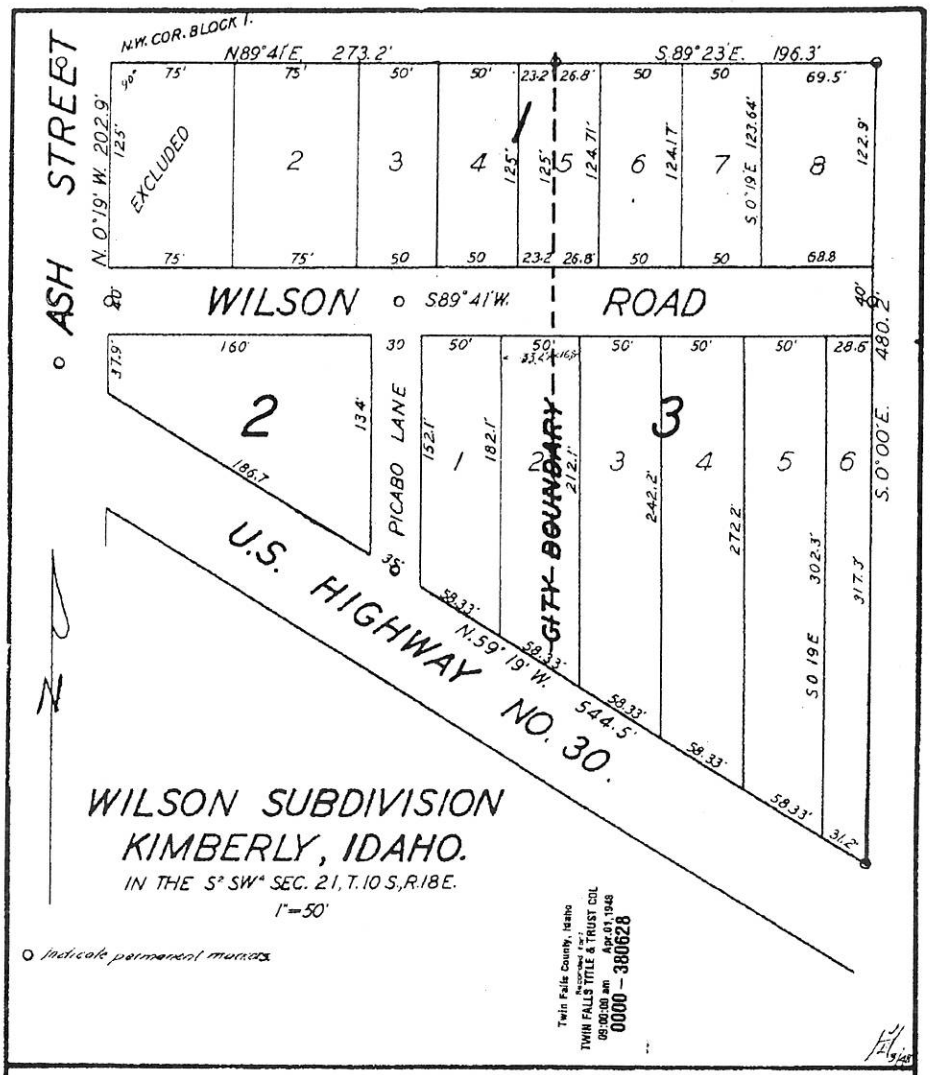
DATED: _____day of _____, _____

ADM Edible Bean Specialties Inc.,
by reason of name change from
Agri Sales, Inc., a Delaware corporation

By: _____ By: _____

Subscribed and sworn to before me this _____ day of _____, _____

_____
Notary Public
Residing at:
My Commission expires:



State of Idaho
County of Twin Falls } ss

Know all Men By These Presents:

This is to certify that the undersigned are owners in fee simple of the property hereinafter described and comprising the Wilson Subdivision located in the S½ SW¼, Section 21, T. 10 S., R. 18 E. B.M. and that the description thereof which is included in this Plat is as follows:—

Beginning at the northwest corner of Block 1, Kimberly Townsite —

Thence N 89° 41 E. 273.2 feet;
Thence S. 89° 23 E. 196.3 "
Thence South 480.2 " To Highway 30 R.O.W.
Thence N. 59° 19' W. 544.5 " Along Highway R.O.W.
Thence N. 0° 19 W. 202.9 " Along West Line Block 1 to the point of beginning.

And we do further certify that it is our intention to include the same in said Plat. And we do further hereby declare that in consideration of the filing of said plat by the Recorder of Twin Falls County, Idaho and the acceptance by the Public of the streets, roads lanes and alleys shown thereupon we do further give and grant to the Public forever in fee simple, such portions of the premises platted as are on said plat set aside for streets, roads lanes and alleys for public use forever.

N E Teater
Arlene Teater

Execution of this above Certificate acknowledged by N E Teater and Arlene Teater and the same was Subscribed and sworn to before me this 13th day of April 1948.
Dennis C. Dennis
Notary Public

State of Idaho
County of Twin Falls } ss

This is to certify that I prepared the map of the Wilson Subdivision which is located in the S½ SW¼, Sec. 21 T 10 S, R 18 E. B.M. and that the several Blocks and Lots are staked to conform therewith.
J. E. Hanger C.E.

Subscribed and sworn to before me this 13th day of April 1948.
Dennis C. Dennis
Notary Public

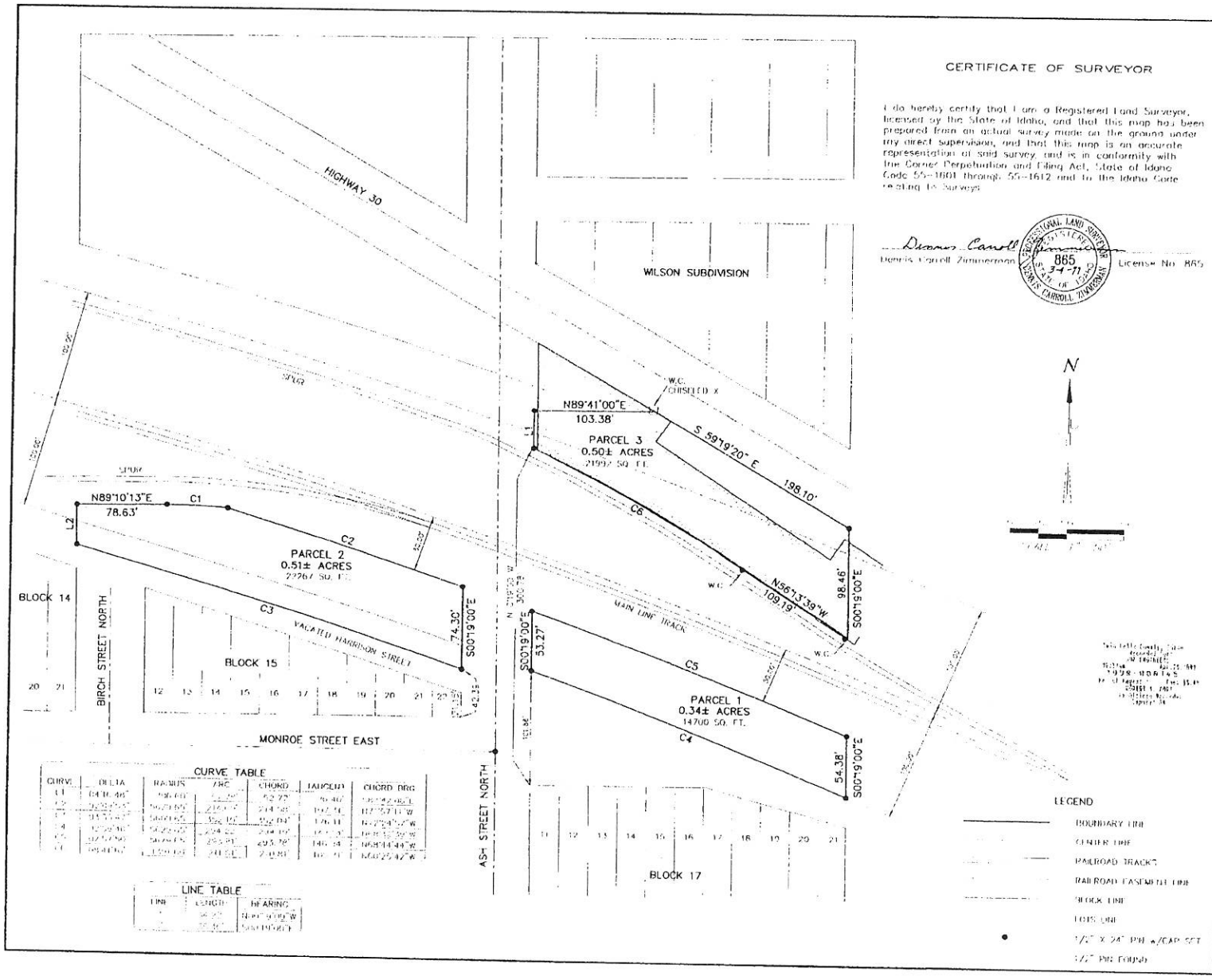
By resolution duly adopted the foregoing plat was duly approved and accepted by the Board of Trustees of the Village of Kimberly, Idaho for that portion of the Wilson Subdivision lying and being within the Village Boundaries.
April 13th 1948.
C. Ray Wright
Chairman of the Board
Frank Jr. Wornell
Clerk

State of Idaho
County of Twin Falls } ss.

I hereby certify that this instrument was filed for record at the request of TWIN FALLS TITLE & TRUST CO. at 1:10 o'clock P.M. this 14 day of April 1948 in my office and duly recorded in Book of Plats No 5 — 74
C. A. Bullen
Ex officio Recorder.
By Deputy.

380628

$3.50



CURVE TABLE

CURVE	DELTA	RADIUS	ARC	CHORD	TANGENT	CHORD BRG
L1	[illegible]	[illegible]	[illegible]	52.72'	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

LINE TABLE

LINE	LENGTH	BEARING
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]

CERTIFICATE OF SURVEYOR

I do hereby certify that I am a Registered Land Surveyor, licensed by the State of Idaho, and that this map has been prepared from an actual survey made on the ground under my direct supervision, and that this map is an accurate representation of said survey, and is in conformity with the Corner Perpetuation and Filing Act, State of Idaho Code 55-1601 through 55-1612 and to the Idaho Code relating to Surveys.

Dennis Carroll Zimmerman

PROFESSIONAL LAND SURVEYOR REGISTERED 865 3-4-71 STATE OF IDAHO DENNIS CARROLL ZIMMERMAN

License No. 865

J-U-B Engineers • Surveyors • Planners

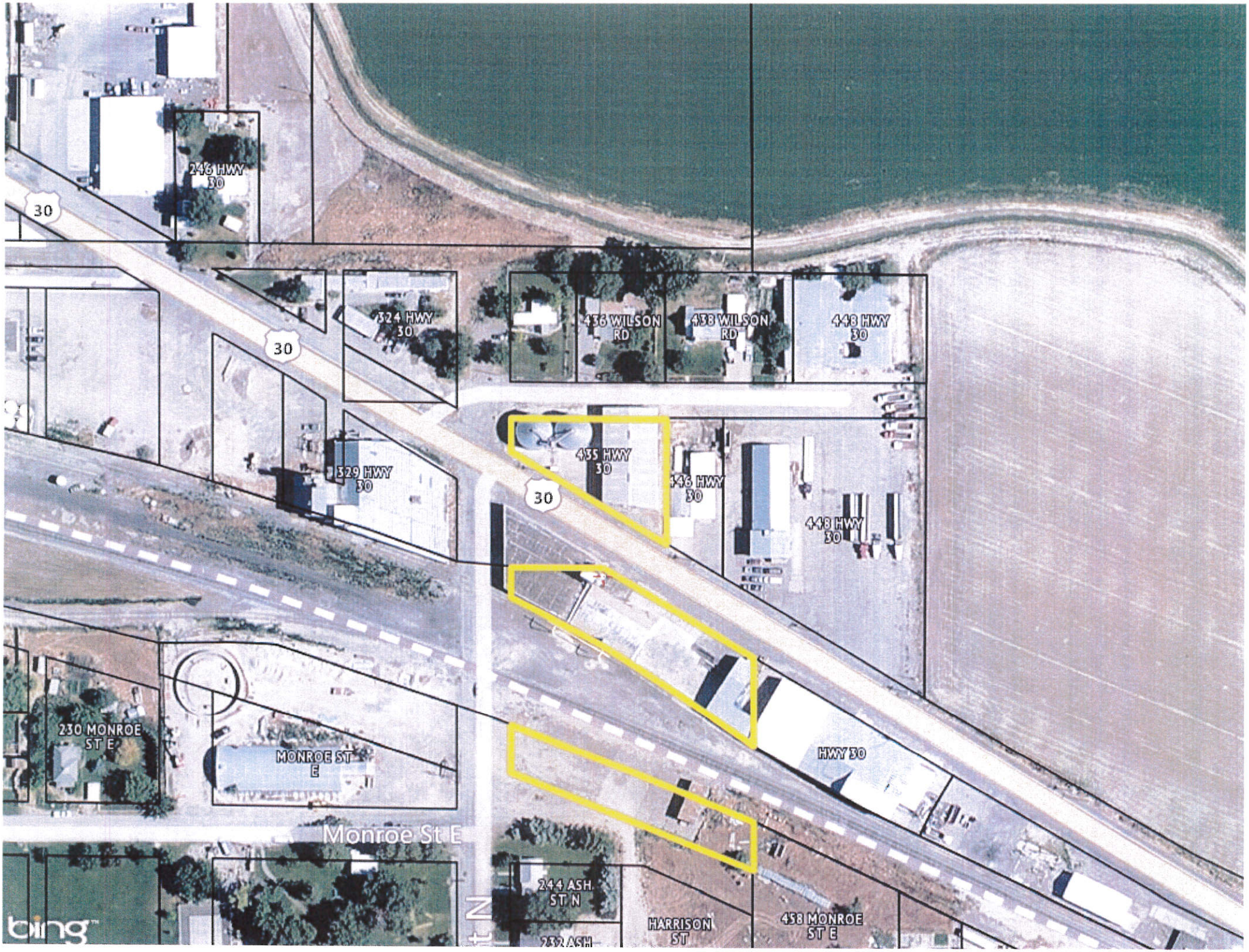
J-U-B ENGINEERS, Inc.
800 FALLS AVENUE
SUITE 1
TWIN FALLS, IDAHO 83301
PHONE: 208-733-2414
FAX: 208-733-9455

RECORD OF SURVEY FOR
A.S.I. IDAHO

U.P. RAILROAD PARCELS IN KIMBERLY TOWNSITE,
A PORTION OF THE SW1/4 SW1/4, SEC. 21, T.10S., R.18E., B.M.,
TWIN FALLS COUNTY, IDAHO

DRAWN BY LJ
DESIGN BY
CHECKED BY DKZ
DATE JAN. 15, 1999
PROJECT NO. 61469
ACAD PLOT SCALE 1" = 50'
ONE INCH
AT FULL SIZE, 1 NOT ONE INCH, SCALE ACCORDINGLY
SCALE OF SHEET
HOR SCALE: 1" = 50'
VER SCALE: NONE

SHEET 1 OF 1


246 HWY 30
30
324 HWY 30
30
436 WILSON RD
438 WILSON RD
448 HWY 30
329 HWY 30
435 HWY 30
446 HWY 30
30
448 HWY 30
230 MONROE ST E
MONROE ST E
HWY 30
Monroe St E
244 ASH ST N
HARRISON ST
458 MONROE ST E
bing

STAFF REPORT

TO: Kimberly P&Z Commission

FROM: Planning and Zoning Department

RE: Kimberly City Code, Development Regulations Text Amendment- A City of Kimberly initiated text amendment to Title 17, adding Section 17.14.035. The proposed Section lays out processes for development agreement creation and form, execution, recording, and other specifications.

HEARING: November 4, 2014

Proposal
The proposed amendment is to amend the Kimberly City Code as noted.

Background
The proposed amendment is an ordinance amending Kimberly City Code Title 17 by adding Section 17.14.035. The proposed Section lays out processes for development agreement creation and form, execution, recording, and other specifications.

Department Comments
The City Attorney's office has reviewed the proposed ordinance. Staff believes the ordinance enables needed processes for development agreement creation and form as noted.

Procedural History
The text amendment will be considered by the Kimberly Planning and Zoning Commission on November 4, 2014. At the previous P&Z Meeting, the Commission recommended the amendment be brought for consideration.

Notice
Notice for the Planning and Zoning public hearing was published in the Times News on October 20, 2014, and was mailed to public agencies and area media on October 21, 2014.

Standards of Evaluation
17.14.010: AUTHORITY TO AMEND: Whenever the public necessity, convenience, general welfare or good zoning practices require, the council may, by ordinance, after receipt of recommendation thereon from the commission and subject to procedures provided by law, amend, supplement, change or repeal the regulations, restrictions and boundaries or classification of property.

Note: Staff analysis is in lighter type,

When evaluating any proposed amendment, the Commission and Council shall make findings of fact on the following criteria:

a. The proposed amendment is in accordance with the Comprehensive Plan;
The Commission should consider how the proposed amendment relates to the various goals

of the Comprehensive Plan.

- **Economic and Community Development Goals**
  - **Promote and develop new and improved employment opportunities**

The proposed amendment would likely make it attractive for proposed developers and others to use development agreement processes to further development objectives. The City could also utilize the processes to further economic development objectives.

  - **Promote economic growth in the City as opportunities arise that are fitting with its goals and objectives**

Allowing the new processes may be a tool to attract new business.

b. Essential public facilities and services are available to support the full range of proposed uses without creating excessive additional requirements at public cost for the public facilities and services;

Not applicable.

d. The proposed amendment will promote the public health, safety and general welfare.

The amendment would likely promote the public health, safety and general welfare by furthering the Comprehensive Plan goals addressed, and by promoting additional private and community opportunities.

Summary

17.14.040: COMMISSION ACTION:

Requests for an amendment to this title shall be submitted to the commission, which shall evaluate the request to determine the extent and nature of the amendment requested; If the request is in accordance with a comprehensive plan, the commission may recommend and the council may adopt or reject the ordinance amendment under the notice and hearing procedures as herein provided; and

Motion Language

Approval:
P&Z

☐ Motion to recommend the City Council approve the amendment to Kimberly City Code Title 17, by adding Section 17.14.035, which lays out processes for development agreement creation and form, execution, recording, and other specifications, finding that the proposed amendment will promote the public health, safety and general welfare.

Denial:
P&Z

☐ Motion to deny recommendation of the proposed the amendments to Kimberly City Code Title 17, adding Section 17.14.035, which lays out processes for development agreement creation and form, execution, recording, and other specifications, finding that _____[the Commission should cite which standards are not met and provide the reason why each identified standard is not met].

Continuation:

☐ Motion to continue the public hearing upon the proposed amendments to Kimberly City Code, to amendment Kimberly City Code Title 17, adding Section 17.14.035, which lays out processes for development agreement creation and form, execution, recording, and other specifications, to_____[the Council should specify a date].

Table:

☐ Motion to table the proposed amendments to Kimberly City Code, Development Regulations, the application with the ordinance to amendment Kimberly City Code Title 17, adding Section 17.14.035, which lays out processes for development agreement creation and form, execution, recording, and other specifications to a later date:_____.

Motion Seconded:_____

KIMBERLY ORDINANCE NO. 619

Development Agreements

AN ORDINANCE OF THE CITY OF KIMBERLY, IDAHO, AMENDING KIMBERLY'S CITY CODE, BY AMENDING TITLE 17: CHAPTER 17.14 AMENDMENTS: ADDING SECTION 17.14.035 DEVELOPMENT AGREEMENTS WHICH LAYOUTS THE PROCESSES FOR DEVELOPMENT AGREEMENT CREATION AND FORM, APPLICATION, SAFEGAURDS, EXECUTION, RECORDING, AND MODIFICATION POSSIBLITIES.

WHEREAS, the proposed amendments are in accordance with the general safety and welfare of the community; and

WHEREAS, the amendments are thought to be mechanisms to assist in the Administration and Enforcement of the Title 17; and

WHEREAS, Idaho Code Section 67-6511A authorizes a city to adopt an implementing ordinance for development agreements, but does not self-execute the authority and such an ordinance is required.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY KIMBERLY, IDAHO, AS FOLLOWS:

Ordinance amendments are shown below in bold text, language deleted is delineated by a single-line strikethrough, and regular text is neither amended nor deleted, but is shown to provide context and placing of the amendments in the ordinance.

Chapter 17.14 AMENDMENTS

SECTION

17.14.030: Amendment Application Contents

17.14.035: Development Agreements

17.14.040 Commission Action

17.14.035: DEVELOPMENT AGREEMENTS:

In accordance with the notice and hearing procedures for Zoning Boundary Changes in Kimberly City Code 17.14.050 – 17.14.090 (including notice that a development agreement is part of the application for zoning map amendment), a property owner or developer may request, or the city may require, that an application for zoning map amendment or rezone be processed in conjunction with the execution of a development agreement. The development agreement will allow a change in the zoning for a specific project, with a specific use, to be developed on property in an area which may not be appropriate for all uses permitted outright or conditionally within the proposed zone. Approval of the development agreement, pursuant to this section, would permit the proposed use, with conditions, within the proposed zone.

Such conditional commitments in development agreements are in addition to the regulations provided for in the zoning district by Title 17, and are established to ensure compatibility of the resulting land use with the surrounding area. The use of a PUD permit process shall be the only means whereby the City of Kimberly will/shall entertain allowing uses in a zone not normally allowed therein; and a development agreement does not provide an exception.

A. Creation and Form: A request to enter into a development agreement shall be in a form developed by the Community Development Director and approved by the City Council. The development agreement shall, as a condition of consideration by the P&Z Commission or City Council, include at a minimum the following:

1) a legal description of the subject property,

2) a list of the use(s) to be allowed,

3) identification of development standards that shall be required under the development agreement,

4) the planned implementation of improvements with a construction and completion schedule,

4) provisions for any dedication or reservation of all applicable land,

5) a site map showing all boundaries, the locations for permitted use(s), land area in acres, and natural features including water bodies and any other relevant features,

6) a provision that the property owner/developer acknowledges and agrees that failure to comply with the terms of the agreement shall result in a reversion of the zoning of the real property to the zoning existing immediately prior to the agreement, pursuant to the procedure set forth in Idaho Code section 67-6511A and this Section,

7) a provision for the use of a financial guarantee for project completion if the proposal is developed in phases,

8) a provision specifying that unless modified or terminated by the City Council, pursuant to subsection D of this section, the development agreement and all conditions, terms, duties and obligations included in said development agreement are binding on the owner of the property, each subsequent property owner and every person(s) acquiring interest in said property,

9) any other conditions attached to the project through the public hearing process.

B. Safeguards: The following safeguards shall be applied:

1. A development agreement shall not prevent the city in subsequent actions related to the property from applying new rules, regulations or policies that do not conflict with commitments applicable to the property as set forth within any duly executed development agreement.

2. If the owner or developer fails to comply with a conditional commitment in a development agreement after completion of construction, the city may deal with the violation through all penalty provisions allowed under city ordinances and state law.

3. When a commitment is required to be satisfied prior to completion of construction, and it is not so satisfied, construction may be halted until compliance is established.

C. Recording: Agreements shall take effect and shall be recorded in the Twin Falls County recorder's office upon the adoption of the ordinance establishing the zoning map amendment by the City Council or Twin Falls County Board of Commissioners if the property is in the area of impact. Should a development agreement be terminated by the City, and the zoning designation upon which the use is based be reversed, a document recording such termination and zoning reversal shall also be recorded by the City in the Twin Falls County recorder's office. An agreement shall be binding on the owner of the parcel, each subsequent owner, and each other person acquiring an interest in the parcel.

D. Modification, Enforcement, and Termination of Commitments: A development agreement may be modified by request of an applicant or the city only after receiving a recommendation by the P&Z Commission and by an approval vote of the City Council after compliance with the notice and hearing provisions for Zoning Boundary Changes in Kimberly City Code Sections 17.14.050 – 17.14.90. The following are circumstances where a modification may be considered:

1. A change to any of the terms or conditions of the original development agreement is proposed; and/or

2. A substantial change to any established positioning or exterior appearance of any structure over two hundred (200) square feet in area is proposed; and/or

3. A substantial change in infrastructure from what was agreed upon.

A development agreement may be terminated by the city, and the zoning designation granted by the agreement reversed to the zoning that was in effect on the pertinent site before the agreement was executed, upon the failure of the owner, developer, or each subsequent owner or each person acquiring an interest in the subject parcel, to comply with the commitments contained in the development agreement within two (2) years of approval by the City Council or Twin Falls County Board of Commissioners. Exception: The failure to begin or complete site development of all or a portion of a project proposed under a development agreement does not necessarily have to serve as impetus to claim that an owner or developer has failed to comply with their commitments contained in their respective development agreement. Rather, such failure to begin or complete site development of all or a portion of a project proposed under a development agreement, shall serve as

impetus to consider termination of an agreement and reversion of zoning. A hearing for termination may be convened by the City Council after complying with the same notice and hearing provisions required for a Zoning Boundary Change Boundary Change and any relevant termination terms of the pertinent agreement. During the hearing, the council may vote to take no action, cause modification of the agreement if the applicant is willing, or terminate the agreement.

The two (2) year period of time for compliance with the commitments contained in the development agreement may be extended by the city for just cause, and upon application for such by the owner, after complying with the notice and hearing provisions required for a Zoning Boundary Change. Zoning Boundary Change.

In accordance with state law, the establishment of a development agreement and the written commitments contained therein shall provide written consent for the city council to change the zoning of the subject property to its prior designation upon failure of an applicant to comply with the conditions imposed by their agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY KIMBERLY, IDAHO, AS FOLLOWS:

SECTION 1. The above described and shown text amendments are the subject of text amendments to the Kimberly City Code.

SECTION 2. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 3. All City of Kimberly ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 4. This ordinance shall be in full force and effect from and after the approval, and publication according to law.

PASSED AND ADOPTED BY THE KIMBERLY CITY COUNCIL AND APPROVED BY THE MAYOR THIS____ DAY OF_____, 2014.

_____

Tracy Armstrong, Mayor, City of Kimberly

Attest:

_____

Shoshonie Heitmann, City Clerk

Publish: Times News_____, 2014

LAND USE

MOBILE HOME (MH)

The purpose of this district is to promote and preserve residential development and to provide housing alternatives of manufactured mobile homes in a specific tract of land divided into rental spaces under common ownership or management providing a residential environment with a single household dwellings in an area to allow the present and future residents to live and play in an area with space for personal privacy, minimum vehicular traffic and free from encroachment by commercial and industrial activities. Uses that do not interfere unreasonably with the enjoyment of normal residential activities.

COMMERICAL – BUSINESS (CB)

This district is intended to provide for commercial activities of various sizes from large retail stores to small specialty shops.

RESIDENTIAL PROFESSIONAL (RP)

9/30 approved for 2nd review

This district is intended to provide for professional office uses or low traffic related businesses.

COMMERCIAL – GATEWAY (CG)

This district is intended to provide for commercial activities of various sizes from large retail stores to small specialty shops. All uses in this zone must have approved landscaping plans. The landscaping shall be designed to enhance the aesthetic qualities of the Gateway area. **A broad brush approach may be utilized to allow for rezone to Commercial-Gateway (CG) extending up to a 1000 feet beyond designated Commercial – Gateway (CG) areas as shown on the Comprehensive Land Use Map without amending the Comprehensive Plan/Land Use Map.**

This district is intended to provide for commercial activities of various sizes from retail stores to small specialty shops and professional offices. All use in this zone must have approved landscaping plans. The landscaping shall be designed to enhance the aesthetic qualities of the Interior roadways into the city.

LAND USE

The following are the current land uses:

RESIDENTIAL – SUPER LIMITED (R1)

The purpose of this district is to promote and preserve residential development and to provide a low-density residential environment of single household dwellings in an area with ample space for personal privacy, private open space free from encroachment by commercial and industrial activities. Only such uses shall be permitted which do not interfere unreasonably with the enjoyment of normal residential activities.

RESIDENTIAL – LIMITED (R2)

The purpose of this district is to promote and preserve residential development and to provide a limited density residential environment of single household dwellings in an area with ample space for personal privacy, private open space free from encroachment by commercial and industrial activities. Uses shall be permitted which do not interfere unreasonably with the enjoyment of normal residential activities.

RESIDENTIAL – GENERAL (R3)

The purpose of this district is to promote and preserve residential development and to provide a medium density residential environment with a mix of both single and multiple household dwellings in an area to allow the present and future residents to live and play in an area with space for personal privacy, minimum vehicular traffic and free from encroachment by commercial and industrial activities. Uses shall be permitted which do not interfere unreasonably with the enjoyment of normal residential activities.