



FINDINGS OF FACT, CONCLUSIONS OF LAW, & ORDER

Lippert Subdivision - SD2023-0006

Findings

1. Wayne Lippert, represented by Rodney Evans & Associates, requests approval of the preliminary plat for Lippert Subdivision, a two-lot subdivision (Attachment A). The request includes a waiver of subdivision improvements such as sidewalks, gutters, street lighting, and landscaping. The subject property is 9626 Gilbert Road, Middleton (Parcel R37431010), also referenced as a portion of the NE¼ of Section 21, T5N, R2W, BM, Canyon County, Idaho.
 - a. The application was submitted as a short plat per CCZO §07-17-17, but due to improvements required by the development agreement, the request does not qualify for the short plat application process.
2. The 20.06-acre parcel is zoned “CR-R-R” (Conditional Rezone – Rural Residential; two-acre average minimum lot size) subject to conditions of a development agreement (RZ2021-0049, Exhibit C.5 of the staff report). *See Condition No. 7.*
3. The average residential lot size is 10.03 acres (Attachment A).
4. Each lot will be served by individual domestic wells (Attachment A, Plat Note 7).
5. Each lot will be served by individual septic systems (Attachment A, Plat Note 6). *See Condition No. 4.*
6. Middleton Fire District did not comment. Fire district review and approval of the access and turnaround is required per CCZO Section 07-10-03(2). *See Condition No. 6.*
7. The property does not have irrigation water rights or any Black Canyon Irrigation District facilities (Exhibit C.4d of the staff report). Plat Notes 7 through 9 of the preliminary plat, irrigation will be provided to the domestic well per IDWR requirements and standards (Attachment A).
8. Subdivision runoff outside of the public right-of-way is the responsibility of the homeowner’s association, underlying property owner, or adjacent property owner (Plat Note 13, Attachment A).
9. The property contains slopes 15% or greater. The plat shows that slopes over 15% are non-buildable (Attachment A). The applicant states future road and drainage improvements will not impact slopes 15% or greater (Exhibit C.2a of the staff report). *See Condition No. 10.*
10. The east boundary of the property fronts Breezy Lane, an open public right-of-way unmaintained by Highway District #4. Breezy Lane has a recorded road user’s maintenance agreement (Inst. No. 2006-43593, Exhibit C.6 of the staff report). Highway District #4 HD4 requires a 40’ wide public right-of-way dedication along Breezy Lane with a 10’ slope easement. The applicant included a 70’ wide ingress/egress easement for future access to Parcel R37431017A (Codr – RZ2021-0055, Exhibit C.7) as recommended by HD4 (Attachments A and B). *See Condition No. 5.*
11. The 70’ easement (Inst. No 2024-016860) will serve Lot 1 of Lippert Subdivision and the future development of R37431017A (Exhibit C.7). Therefore, the 70’ easement must become a road lot per CCZO Section 07-17-31(1)A. *See Condition No. 11.*
12. Per Condition No. 2aii of the development agreement (Exhibit C.5b of the staff report), Breezy Lane must be constructed to private road standards (CCZO Section 07-10-03(2) and (3)). *See Condition No. 1.a.*
13. The development is not located within a mapped floodplain (Flood Zone X, Exhibit C.1 of the staff report).
14. Notice of the public hearing was provided per CCZO §07-05-01. Agency notice was provided on October 27, 2023, August 30, 2024 (P&Z Commission), and November 1, 2024. The newspaper notice was published on November 1, 2024. A notice was sent to property owners on August 30, 2024 (P&Z Commission) and November 1, 2024. The property was posted on September 4, 2024(P&Z Commission) and November 1, 2024.

15. The record includes all testimony, the staff report, exhibits, and documents in Case File No. SD2023-0006

Conclusions of Law

Section 07-17-09(5) Board Action:

- A. *The board shall consider the commission's recommendation at a noticed public hearing.*
- B. *The board shall base its findings upon the evidence presented at the board's public hearing, and within thirty (30) calendar days declare its findings. It may sustain, modify, or reject the recommendations of the commission and make such findings as are consistent with the provisions of this chapter and the Idaho Code. The findings shall specify:*
 - 1. *The ordinance and standards used in evaluating the application;*
 - 2. *The reasons for approval or denial; and*
 - 3. *If denied, the actions, if any, that the applicant could take to gain approval of the proposed subdivision.*

The Planning & Zoning Commission heard the case at a public hearing held on October 3, 2024. After deliberation, the Planning & Zoning Commission recommended approval subject to conditions (Exhibit A & B of the staff report).

The plat was reviewed per the following code:

- A. Idaho Code Section 67-6513 (Subdivisions);
- B. Idaho Code Sections 50-1301 through 50-1329 (Platting);
- C. Idaho Code Section 22-4503 (Right-to-Farm Act; Plat Note #5, Attachment A);
- D. Idaho Code, Sections 31-3805 & 42-111 (Irrigation); and
- E. Canyon County Zoning Ordinance, Chapter 7, Article 17 (subdivision Regulations)

The preliminary plat is consistent with the standards of review subject to conditions (Exhibit C.4a of the staff report).

Conditions of Approval

- 1. All subdivision improvements (public or private roads, irrigation, and drainage swales/basins) and amenities shall be bonded or completed prior to the Board of County Commissioner's signature on the final plat.
 - a. Per Condition No. 2aii of the development agreement (Exhibit 5b of the staff report), Breezy lane shall be constructed per CCZO Section 07-10-03(2) and (3) unless superseded by Canyon Highway District #4's public road construction standards. Prior to the Board's signing of the final plat, certification from a licensed engineer shall be submitted demonstrating that the road has been constructed per CCZO §07-10-03(2) and (3).
- 2. Historic irrigation lateral, drain, and ditch flow patterns shall be maintained and protected (Exhibit C.4a of the staff report).
- 3. Finish grades at subdivision boundaries shall match existing finish grades. Stormwater runoff shall be maintained on the subject property (Exhibit C.4a of the staff report).
- 4. The development shall comply with Southwest District Health (SWHD) requirements. Evidence shall be SWDH's signature on the final plat (Exhibit C.4a of the staff report).
- 5. The development shall comply with the requirements of Highway District #4 (Attachment B and Exhibit C.4a of the staff report). Evidence shall be the Highway District's signature on the final plat.
- 6. Compliance with the international fire code and access and turnaround approval is required per CCZO Section 07-10-03(2). Evidence of compliance shall be submitted to DSD prior to the Board's signature on the final plat.
- 7. The recorded development agreement shall be referenced as a plat note on the final plat.
- 8. Before the Board signs the final plat, an easement or common lot shall be added to provide a United States Postal Service community mailbox unless waived by the United States Postal Service.

- 9. All development on slopes 15% or greater is prohibited. Any changes requiring hillside development will be reviewed per CCZO Section 07-17-33(1) through the preliminary and final plat application process.
- 10. The 70' wide access easement (Inst. #2024-016860) shall become a road lot per CCZO Section 07-17-31(1)A. The amendment shall be shown on the final plat.


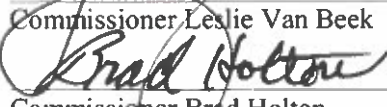
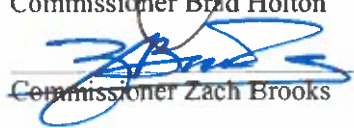
Order

Based upon the Findings of Fact, Conclusions of Law contained herein for Case No. SD2023-0006, the Board of County Commissioners **approve** the Preliminary Plat for Lippert Subdivision to the Board of County Commissioners subject to the Conditions of Approval as enumerated herein.

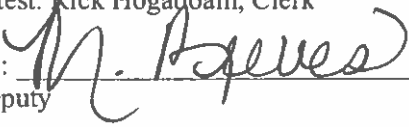
DATED this 3rd day of December, 2024.

CANYON COUNTY BOARD OF COMMISSIONERS

- Motion Carried Unanimously
- Motion Carried/Split Vote Below
- Motion Defeated/Split Vote Below

	Yes	No	Did Not Vote
 _____ Commissioner Leslie Van Beek	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 _____ Commissioner Brad Holton	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 _____ Commissioner Zach Brooks	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

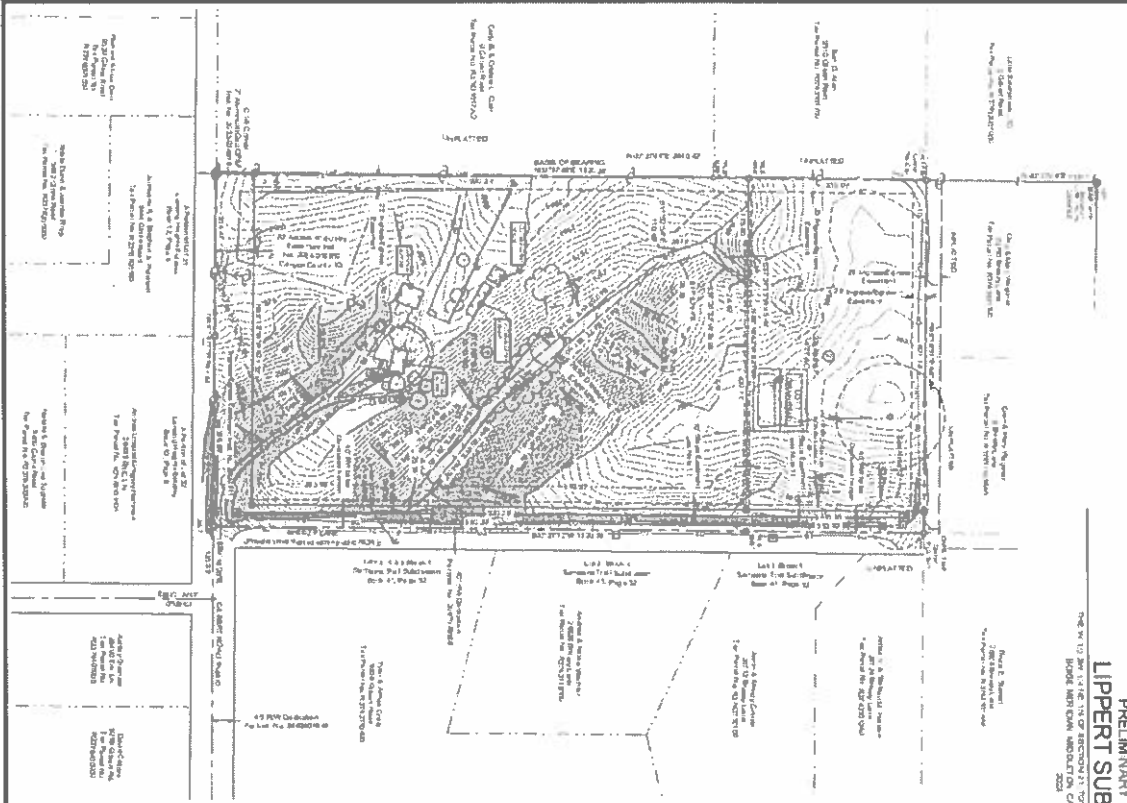
Attest: Rick Hogaboam, Clerk

By: 

Deputy

Date: 12-3-24

ATTACHMENT A



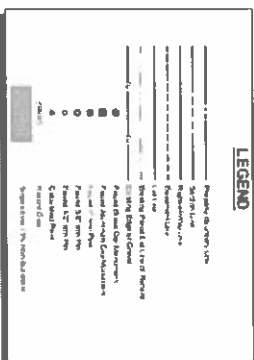
PRELIMINARY PLAT OF
LIPPERT SUBDIVISION

DATE: 10/13/2023 BY: [Name] FOR: [Name] COUNTY: [Name] TOWNSHIP: [Name] RANGE: [Name] SECTION: [Name]

NOTES:

1. All lots shall conform to the zoning ordinance...
2. All lots shall conform to the subdivision ordinance...
3. All lots shall conform to the building code...
4. All lots shall conform to the fire code...
5. All lots shall conform to the health code...
6. All lots shall conform to the environmental code...
7. All lots shall conform to the utility code...
8. All lots shall conform to the transportation code...
9. All lots shall conform to the public works code...
10. All lots shall conform to the general ordinance...
11. The subdivision shall be subject to the approval of the Board of Commissioners...
12. The subdivision shall be subject to the approval of the Planning Commission...
13. The subdivision shall be subject to the approval of the Mayor and City Council...

LEGEND



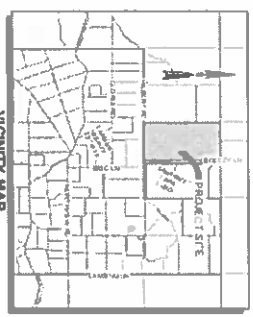
UTILITY REPRESENTATIVES

UTILITY	NAME	ADDRESS	PHONE	EMAIL
Electric
Water
Sewer
Gas

DESIGNER
[Name]
[Address]
[Phone]
[Email]

ENGINEER
[Name]
[Address]
[Phone]
[Email]

PLANNER
[Name]
[Address]
[Phone]
[Email]



DEVELOPMENT FEATURES:

- 1. [Feature]
- 2. [Feature]
- 3. [Feature]
- 4. [Feature]
- 5. [Feature]
- 6. [Feature]
- 7. [Feature]
- 8. [Feature]
- 9. [Feature]
- 10. [Feature]

PROPOSED EASEMENTS:

- 1. [Easement]
- 2. [Easement]
- 3. [Easement]
- 4. [Easement]
- 5. [Easement]
- 6. [Easement]
- 7. [Easement]
- 8. [Easement]
- 9. [Easement]
- 10. [Easement]

BUILDING SETBACKS:

- 1. [Setback]
- 2. [Setback]
- 3. [Setback]
- 4. [Setback]
- 5. [Setback]
- 6. [Setback]
- 7. [Setback]
- 8. [Setback]
- 9. [Setback]
- 10. [Setback]

CIVIL ENGINEER
[Name]
[Address]
[Phone]
[Email]

PLANNER
[Name]
[Address]
[Phone]
[Email]

DESIGNER
[Name]
[Address]
[Phone]
[Email]

PRELIMINARY PLAT

LIPPERT SUBDIVISION
9626 E GILBERT ROAD
MIDDLETON, ID 83844



PROJECT NO: [Number]
DATE: [Date]
SCALE: [Scale]

ATTACHMENT B



HIGHWAY DISTRICT No.4
15435 HIGHWAY 44
CALDWELL, IDAHO 83607

TELEPHONE 208.454.8135
FAX 208.454.2008

August 28, 2024

RE: HD4 Board of Commissioners
Gilbert Road and Breezy Lane--Lippert Subdivision
Preliminary Plat

Attachments:

- Vicinity Map
- Preliminary Plat
- Inst No. 2024-016860 (70' Easement)—separate document

Staff is recommending Board review of preliminary plats for several reasons:

- Provide opportunity for the Board to review and comment on proposed developments prior to final plat approval. Current HD4 policy requires that any public road improvements be designed, constructed, and approved prior to final plat approval. This preliminary plat review allows the Board opportunity to review compliance with adopted transportation plans and provide input on required public improvements and other public interests before final design.
- Provide the applicant assurance that the preliminary layout and proposed transportation improvements meet the District's standards and requirements prior to funding design and construction.
- Provides staff the opportunity to seek Board approval for certain portions of current policy that use language such a "may require..." or "unless otherwise determined by the District..." related to the adoption of adjacent city standards, or requirements for arterial or collector roadway improvements.

In this specific case, staff is requesting review and consideration of a preliminary plat for Lippert Subdivision.

Project Background

The subject parcel, R37431010, is located approximately 150' west of Eric Lane on the west side of open public right-of-way Breezy Lane. More specifically located in Section 21 of T5N R2W and consists of about 20.04 acres. Parcel was rezoned to conditional rural residential. Current request is for a preliminary plat and is seeking a 2 lot subdivision within Canyon County.

Proposal

- Preliminary plat request
 - 2 lots on 20.04 acres, gross density 0.10 DU/Acre
- Dedicate 40' ROW for Breezy Lane measured from 1/64th line. Provide 10' slope easement on west side of 40' ROW to allow HD4 maintenance of slopes.
 - This width plus existing 40' wide ROW that extends the length of the Lippert Parcel on east side should allow future public road construction by others

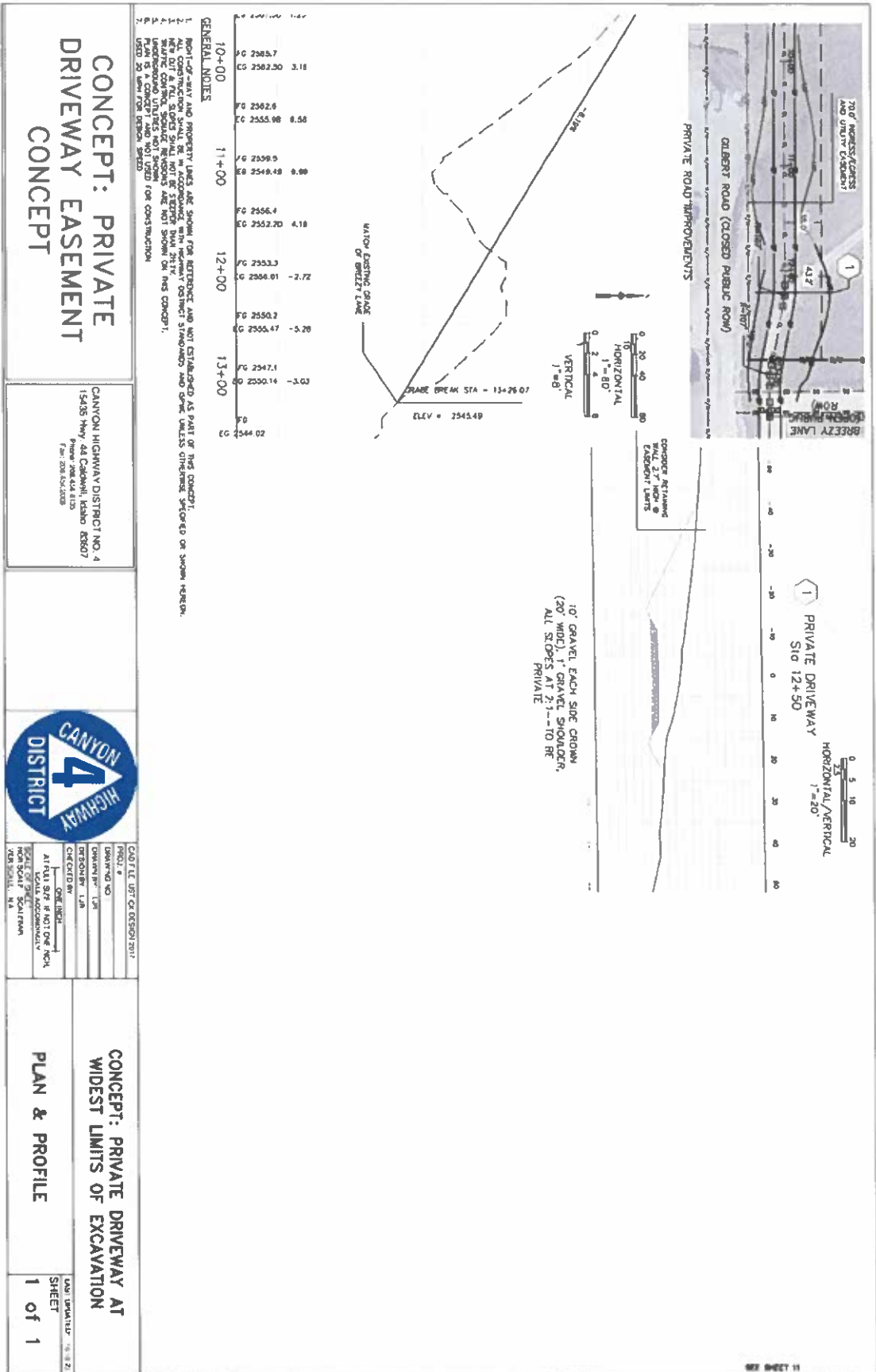
- Provides 70' ingress/egress and utility easement along south property line. This easement will benefit the Codr property R37431017A
- Provide cul-de-sac turnaround easement at north limits of Breezy Lane public
 - Turnaround was constructed by others and exists today

General

- Once Codr constructs a road within the 70' access easement to his parcel, Codr will be required to make improvements to the public ROW Breezy and Gilbert.
 - These improvements may affect Lippert's approach. Codr will be required to continue access to Lippert parcel. This will be reviewed at time of Codr's improvement drawings

IID4 staff has reviewed and commented on one previous revision of the preliminary plat. **HD4 staff recommends the Board approve the preliminary plat dated 8/16/24 with the following conditions:**

1. Correct Note 12 to, "Temporary cul-de-sac easement to vacate when Breezy Lane (public) extends north."



- GENERAL NOTES**
1. RIGHT-OF-WAY AND PROPERTY LINES ARE SHOWN FOR REFERENCE AND NOT ESTABLISHED AS PART OF THIS CONCEPT.
 2. ALL DIMENSIONS ARE IN FEET AND INCHES UNLESS OTHERWISE NOTED.
 3. ALL GRAVEL SHOULD BE 3/4" MAXIMUM SIZE.
 4. ALL EXCAVATION SHOULD BE 18" MINIMUM DEPTH.
 5. PLAN IS A CONCEPT AND NOT USED FOR CONSTRUCTION.
 6. USED 20 MPH FOR DESIGN SPEED.

CONCEPT: PRIVATE DRIVEWAY EASEMENT CONCEPT

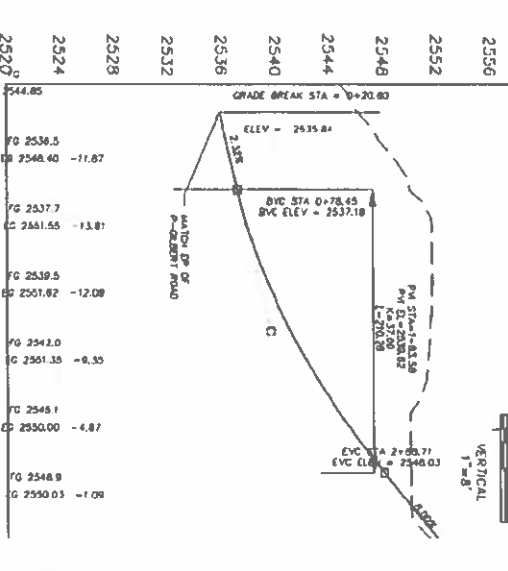
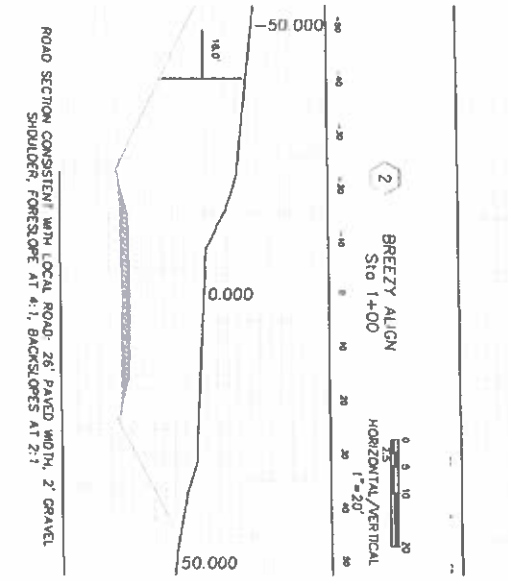
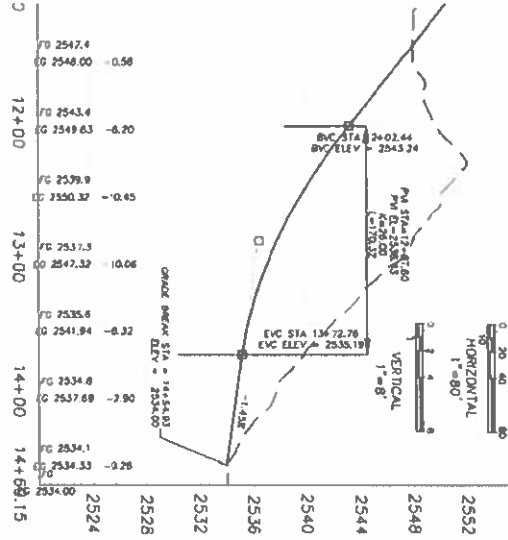
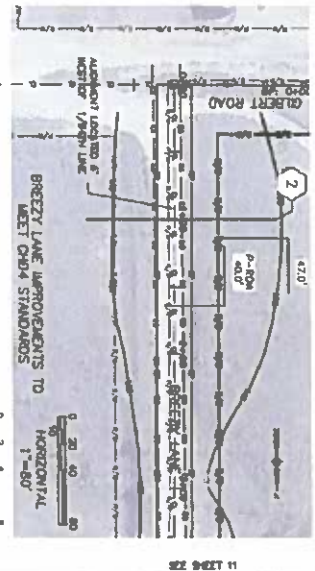
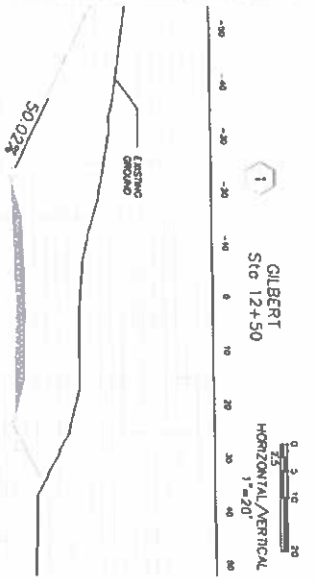
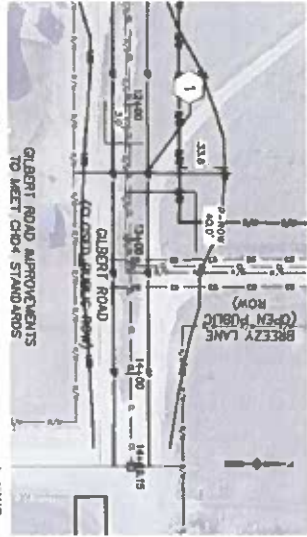
CANYON HIGHWAY DISTRICT NO. 4
 15405 Hwy. 44 Cadillac, Idaho 83407
 Phone: 208.634.4133
 Fax: 208.634.5200



SCALE: 1" = 20'
 AT FULL SIZE IF NOT ONE INCH
 EQUAL TO SCALE
 NON SCALE SCALING
 VBA SCALE: NA

CONCEPT: PRIVATE DRIVEWAY AT WIDEST LIMITS OF EXCAVATION PLAN & PROFILE

DATE: 11/11/21
 SHEET 1 OF 1



- GENERAL NOTES**
1. RIGHT-OF-WAY AND PROPERTY LINES ARE SHOWN FOR REFERENCE AND NOT ESTABLISHED AS PART OF THIS CONCEPT.
 2. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA STANDARD SPECIFICATIONS FOR HIGHWAY CONSTRUCTION.
 3. TRAFFIC CONTROL, SIGNALS, RETARDERS AND OTHER TRAFFIC CONTROL DEVICES ARE NOT SHOWN ON THIS CONCEPT.
 4. UNDESIGNED UTILITY LOCATIONS ARE NOT SHOWN ON THIS CONCEPT.
 5. UNDESIGNED UTILITY LOCATIONS ARE NOT SHOWN ON THIS CONCEPT.
 6. UNDESIGNED UTILITY LOCATIONS ARE NOT SHOWN ON THIS CONCEPT.
 7. UNDESIGNED UTILITY LOCATIONS ARE NOT SHOWN ON THIS CONCEPT.

CONCEPT: GILBERT & BREZY ROW SCENARIOS PER PUBLIC ROAD STANDARDS

CANYON HIGHWAY DISTRICT NO. 4
15403 HWY 44 CORNER, CORO 93007
P.O. BOX 60424
DENVER, CO 80216



PROJECT NO.	
DATE	
DESIGNER	
CHECKED BY	
SCALE OF SHEET	
NON-SHAPE REQUIREMENTS	

CONCEPT: GILBERT & BREZY AT WIDEST LIMITS OF EXCAVATION PLAN & PROFILE

SHEET 1 of 1

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Arkoosh Law Offices
913 W. River Street, Suite 450
Boise, Idaho 83702

With a copy to:

Wayne Lippert
9626 E. Gilbert Road
Middleton, Idaho 83644

2024-016860

RECORDED

05/31/2024 03:45 PM



00813693202400168600080087

RICK HOGABOAM

CANYON COUNTY RECORDER

Pgs=8 PBRIDGES

\$31.00

EASEMENT

DENNIS CODER

(Space Above For Recorder's Use)

EASEMENT AGREEMENT

This Easement Agreement ("Easement Agreement") is made and entered into this 30 day of May, 2024, by and between WAYNE A. LIPPERT ("Grantor"), whose current address is 9626 E. Gilbert Road, Middleton, Idaho 83644 (Canyon County Parcel Number R3743101000), and CORY B. CODR and CRISTINE L. CODR (collectively "Grantee"), whose current address is 0 Gilbert Road, Middleton, Idaho 83644 (Canyon County Parcel Number R37431017A0).

1. Background.

1.1 Grantor Real Property. Grantor is the owner of the real property described in *Exhibit A*, attached hereto and incorporated herein (the "Grantor Real Property").

1.2 Benefited Real Property. Grantee is the owner of the real property described in *Exhibit B*, attached hereto and incorporated herein (the "Benefited Real Property").

1.3 Request for Easement. Grantee has requested Grantor to convey to Grantee a nonexclusive access easement on a portion of the Grantor Real Property in favor of the Benefited Real Property for the purposes described herein. The portion of the Grantor Real Property requested for the easement is described in *Exhibit C*, attached hereto and incorporated herein (the "Easement Real Property").

1.4 Purpose of Agreement. The purposes of this Easement Agreement are (i), to describe the easement granted, and (ii), to establish the relative rights and obligations of the parties regarding the easement granted under this Easement Agreement.