# CANYON COUNTY DEVELOPMENT SERVICES DEPARTMENT

111 N. 11th Avenue #310 • Caldwell, Idaho • 83605 • Phone (208) 454-7458

# DEVELOPMENT AGREEMENT BETWEEN CANYON COUNTY AND APPLICANT

Agreement number: 25.05

THIS AGREEMENT, is made and entered into this day of day o

# **RECITALS**

WHEREAS, the Applicant has applied to the County for a conditional rezone from an "A" (Agricultural) Zone to "CR-R-R" (Conditional Rezone – Rural Residential) Zone, which is legally described in the attached EXHIBIT "A", incorporated by reference herein, hereinafter referred to as "Subject Property"; and

**WHEREAS**, the Subject Property includes Canyon County Parcel Nos. R37511 and R37510112, which are approximately 164 acres, and are owned by the Applicant; and

WHEREAS, on the Mayolo, 2025, the Canyon County Board of Commissioners approved a conditional rezone with conditions of the Subject Property to a "CR-R-R" Zone, which was done with Applicant's approval. The conditions of the approval for the conditional rezone are attached hereto as EXHIBIT "B"; and

WHEREAS, the parties desire to enter into an agreement to comply with Canyon County Code §07-06-07(2) & 07-06-07(7), or as amended, and to ensure the Applicants will implement and be bound by the conditions of the rezone order issued by the Canyon County Board of Commissioners; and

**NOW THEREFORE,** the parties do hereby agree to the following terms:

2025-019955 RECORDED 06/10/2025 09:53 AM

00871398202500199550140147

RICK HOGABOAM

CANYON COUNTY RECORDER

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Development Agreement # 25 05 : MDC LLC/Carter – CR2022-0016

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# SECTION 1. AUTHORIZATION.

This Agreement is authorized by Idaho Code §67-6511A and Canyon County Code § 07-06-07 (Conditional Rezone).

# SECTION 2. PROPERTY OWNER.

Applicant is the owner(s) of Subject Property which is located in unincorporated Canyon County, Idaho, which real property is the subject matter of this Agreement. Applicant represents that they currently hold complete legal or equitable interest in the Subject Property and that all persons holding legal or equitable interests in the Subject Property or the operation of the business are to be bound by this Agreement.

# SECTION 3. RECORDATION.

Pursuant to Idaho Code §67-6511A and Canyon County Code, this Agreement shall be recorded by the Clerk in the Canyon County Recorder's Office and will take effect upon the adoption by the Board of County Commissioners of the amendment to the zoning ordinance as set forth herein.

### SECTION 4. TERM.

The parties agree that this Agreement shall run with the land and bind the Subject Property in perpetuity and shall inure to the benefit of and be enforceable by the parties and any of their respective legal representatives, heirs, successors, and assignees. Provided, however, this Agreement shall terminate if the Board of County Commissioners subsequently rezones the property to allow for a higher density use or if annexation of the Subject Property by a city occurs. In this event, however, the Agreement shall only terminate in regards to the portion of the Property that is actually rezoned or annexed, while the remainder of the Property shall remain subject to the Agreement.

If any of the privileges or rights created by this Agreement would otherwise be unlawful or void for violation of (1) the rule against perpetuities or some analogous statutory provision, (2) the rule restricting restraints on alienation, or (3) any other statutory or common law rules imposing time limits, then such provision shall continue until twenty-one (21) years after the death of the last survivor of the now living lawful descendants of George Herbert Walker Bush, former President of the United States, or for such shorter period as may be required to sustain the validity of such provision.

# SECTION 5. MODIFICATION.

This Agreement may be modified only in writing signed by the parties, or their successors in interest, after complying with the notice and hearing procedures of Idaho Code §67-6509 and the requirements of Canyon County Code. The modification proposal must be in the form of a revised Development Agreement and must be accompanied by a statement demonstrating the necessity for the requested modification.

# SECTION 6. APPLICATION OF OTHER LAWS TO THE SUBJECT PROPERTIES.

This Agreement shall not prevent the County in subsequent actions applicable to the Subject Property from applying new rules, regulations, or policies that do not conflict with this Agreement.

# SECTION 7. COMMITMENTS.

Applicant will fully and completely comply with the conditions of the approved conditional rezone of the Subject Properties from "A" (Agricultural) Zone to "CR-R-R" (Conditional Rezone – Rural Residential) Zone, which conditions are attached hereto as EXHIBIT "B".

# SECTION 8. USES, DENSITY, AND HEIGHT AND SIZE OF BUILDINGS

The density or intensity of use of the Subject Property is specified in the commitments of Section 7 unless conditioned otherwise (see Exhibit "B"). The uses and maximum height and size of the buildings on the Subject Property shall be those set pursuant to law, including those contained in Canyon County Code that are applicable to a "CR-R-R" (Conditional Rezone – Rural Residential) Zone and those provisions of law that are otherwise applicable to the Subject Property.

# SECTION 9. LIABILITY AND INDEMNITY OF COUNTY.

# A. COUNTY REVIEW.

Applicant acknowledges and agrees that the County is not and shall not be, in any way, liable for any damages or injuries that may be sustained as a result of the County's review and approval of any plans or improvements, or the issuance of any approvals, permits, certificates or acceptances, relating to the use and development of the property described in EXHIBIT "A" and that the County's review and approval of any such plans and the improvements or the issuance of any such approvals, permits, certificates, or acceptances do not, and shall not, in any way, be deemed to insure or ensure Applicant or any of Applicant's heirs, successors, assigns, tenants, and licensees, against damage or injury of any kind and/or at any time.

# B. COUNTY PROCEDURES.

Applicant acknowledges that notices, meetings, and hearings have been lawfully and properly given and held by the County with respect to Applicant's conditional rezone application in Development Services Department Case Number CR2022-0016 and any related or resulting development agreements, ordinances, rules and regulations, resolutions, or orders of the Board of County Commissioners. Applicants agree not to challenge the lawfulness, procedures, proceedings, correctness, or validity of any such notices, meetings, hearings, development agreements, ordinances, rules, regulations, resolutions, or orders.

# C. INDEMNITY.

Applicant agrees to, and does hereby, defend, hold harmless, and indemnify the County, the Board of County Commissioners, all County elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any such parties in connection with (i) any actions taken by the County pursuant to Subsection 9(B) of this Agreement; and (ii) the performance by County of its obligations under this Agreement and all related ordinances, resolutions, or other agreements.

# D. DEFENSE EXPENSES.

Applicant shall and does hereby agree to pay, without protest, all expenses incurred by the County in defending itself with regard to any and all of the claims identified in Subsection 9 of this

Agreement. These expenses shall include all out-of-pocket expenses, including, but not limited to, attorneys' and experts' fees, and shall also include the reasonable value of any services rendered by any employees of the County.

# SECTION 10. PERIODIC REVIEW.

The County's Development Services Department will administer the Agreement after it becomes effective and will conduct a review of compliance with the terms of this Agreement on a periodic basis, including, but not limited to, each time a development of the Property is platted. Applicant shall have the duty to demonstrate compliance with the terms of this Agreement during such review.

# SECTION 11. REQUIRED PERFORMANCE.

Applicant shall timely carry out all steps required to be performed and maintain all commitments set forth in this Agreement and as set forth in County laws, ordinances, rules, and regulations as they pertain to the Subject Property including, but not limited to, those concerning the commencement of development, completion of development, preliminary platting and final platting.

# SECTION 12. DEFAULT AND REMEDIES.

In the event of a default or breach of this Agreement or of any of its terms or conditions, the party alleging default shall give the breaching party not less than thirty (30) days, Notice of Default, in writing, unless an emergency exists threatening the health and safety of the public. If such an emergency exists, written notice shall be given in a reasonable time and manner in light of the circumstances of the breach. The time of the giving of the notice shall be measured from the date of the written Notice of Default. The Notice of Default shall specify the nature of the alleged default and, where appropriate, the manner and period of time during which said default may be satisfactorily cured. During any period of curing, the party charged shall not be considered in default for the purposes of termination or zoning reversion or the institution of legal proceedings. If the default is cured, then no default shall exist, and the charging party shall take no further action.

#### SECTION 13. ZONING REVERSION CONSENT.

The execution of this Agreement shall be deemed written consent by the Applicant to change the zoning of the Subject Properties to its prior designation upon failure to comply with the terms and conditions imposed by the approved conditional rezone and this Agreement. No reversion shall take place until after a hearing on this matter pursuant to Idaho Code §67-6511A. Upon notice and hearing, as provided in this Agreement and Idaho Code §67-6509, if the properties described in attached EXHIBIT "A" are not used as approved, or if the approved use ends or is abandoned, the Board of County Commissioners may order that the property will revert to the zoning designation (and land uses allowed by that zoning designation) existing immediately prior to the rezone action, i.e., the Subject Properties conditionally rezoned from "A" (Agricultural) Zone designation to "CR-R-R" (Conditional Rezone – Rural Residential) Zone designation shall revert to the "A" (Agricultural) Zone designation.

# SECTION 14. COMPLIANCE WITH LAWS.

Applicant agrees that they will comply with all federal, state, county, and local laws, rules, and regulations that pertain to the Subject Property.

# SECTION 15. RELATIONSHIP OF PARTIES.

It is understood that this Agreement between Applicant and the County is such that Applicant is an independent party and is not an agent of the County.

# **SECTION 16. CHANGES IN LAW.**

Any reference to laws, ordinances, rules, regulations, or resolutions shall include such laws, ordinances, rules, regulations, or resolutions as they have been or as they may hereafter be amended.

### SECTION 17. NOTICES.

Except as otherwise provided in this Agreement and/or by law, all notices and other communications in connection with this Agreement shall be in writing and shall be deemed delivered to the addressee thereof, (1) when delivered in person on a business day at the address set forth below, or (2) in the third business day after being deposited in any main or branch United States post office, for delivery by properly addressed, postage paid, certified or registered mail, return receipt requested, at the addresses set forth below.

Notices and communications required to be given to the County shall be addressed to, and delivered at, the following address:

Director
Development Services Department
Canyon County Administration
111 North 11th Avenue, #140
Caldwell, Idaho 83605

Notices and communications required to be given to the Applicant shall be addressed to, and delivered at, the following addresses:

Name: Jason Carnahan - MDC, LLC Street Address: 2033 S. Springbrook Lane

City, State, Zip: Boise, ID 83706

Name: Joseph Carter - Carter Family Living Trust

Street Address: 25455 N. Lansing Ln. City, State, Zip: Middleton, ID 83644

A party may change its address by giving notice, in writing, to the other party in the manner provided for in this section. Thereafter, notices, demands, and other pertinent correspondence shall be addressed and transmitted to the new address.

# **SECTION 18. TERMINATION.**

This Agreement may be terminated in accordance with the notice and hearing procedures of Idaho Code §67-6509, and the zoning designation upon which the use is based reversed, upon failure of Applicant(s), a subsequent owner, or other person acquiring an interest in the property described in attached EXHIBIT "A" to comply with the terms of this Agreement. Applicant shall comply with all commitments in this Agreement prior to establishing the approved land use.

# **SECTION 19. EFFECTIVE DATE.**

The commitments contained in this Agreement shall take effect in the manner described in this Agreement upon the County's adoption of the amendment to the zoning ordinance as set forth herein.

# **SECTION 20. TIME OF ESSENCE.**

Time is of the essence in the performance of all terms and provisions of this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have hereunto set their hands and seals the day and year first above written.

Counterpart signature pages to follow

# BOARD OF COUNTY COMMISSIONERS CANYON COUNTY, IDAHO

Commissioner, Leslie Van Beek

Commissioner, Brad Holton

Commissioner, Zach Brooks

ATTEST: Rick Hogaboam, Clerk

BY: Deputy

DATE: 00.09.25



# **APPLICANT MDC, LLC**

Jason Carnahan, manager of MDC, LLC,

an Idaho limited liability company	
STATE OF IDAHO ) Ada ) ss.	
County of Canyon ) On this 27 th day of May	20_25, before me, a notary public, personally appeared
JASON CARUNHAN	_, known to me to be the person whose name is subscribed to
the within and foregoing instrument and ac	knowledged to me that he/she executed the same on behalf of
the Applicant.	

Notary Public for Idaho Residing at:

My Commission Expires:

6-8-2025

Residing at: \_

# **APPLICANT CARTER FAMILY LIVING TRUST**

Inst Tanto
Joseph Carter, trustee of the Carter Family Living Trust
STATE OF IDAHO ) ) ss.
County of Canyon )
On this 26th day of MAY, 2025, before me, a notary public, personally appeared , known to me to be the person whose name is subscribed to
the within and foregoing instrument and acknowledged to me that he/she executed the same on behalf of
NOTARY  NOTARY  Residing at:   Wy Commission Expires: 6-8-2025
A Committee of the Comm

# **EXHIBIT "A"**

# **LEGAL DESCRIPTION**

#### Parcel R37510112

# Parcel 1 Boundary Description

Project Number 21-377

April 25, 2022

Lot 15, Block 1 of Willowview Subdivision No. 2 (Book 38 of Plats at Page 20, Records of Canyon County, Idaho) situated in the north half of Section 28, Township 5 North, Range 2 West, Boise Meridian, Canyon County, Idaho, and being more particularly described as follows:

Commencing at the east quarter-section corner of Section 28, Township 5 North, Range 2 West, Boise Meridian, which bears \$00°07'31"W, 1323.08 feet from the north sixteenth-section corner;

Thence N89°56'28"W, 25.00 feet to the west right-of-way line of Lansing Lane; Thence N00°07'31"E, 151.74 feet along the west right-of-way line of Lansing Lane; Thence S87°53'12"W, 15.01 feet along the west right-of-way line of Lansing Lane to the southeast corner of Lot 15, the POINT OF BEGINNING:

Traversing the boundary of Lot 15:

Thence S87°34'19"W, 230.29 feet;

Thence N79°12'16"W, 78.90 feet;

Thence N66°04'35"W, 151.66 feet:

Thence N78°38'12"W, 28.97 feet;

Thence S89°42'30"W, 179.22 feet;

Thence \$59°04'36"W, 62.12 feet;

Thence N89°57'26"W, 573.04 feet:

Thence S00°02'05"E, 190.03 feet to the center-east sixteenth-section corner;

Thence N89°57'56"W, 1320.17 feet to the center quarter-section corner;

Thence N89°59'21"W, 1320.05 feet to the center-west sixteenth-section corner;

Thence N00°04'00"W, 204.03 feet:

Thence N66°59'26"E, 2853.34 feet;

Thence N89°55'40"E, 1296.74 feet to the west right-of-way line of Lansing Lane;

Thence S00°07'31"W, 1171.82 feet along the west right-ofway line to the POINT OF BEGINNING.

The above-described parcel contains 79.81 acres, more or less. Prepared from information of record. (ROS 2021-081620)

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### Parcel No. R37511

# Parcel 2 Boundary Description

Project Number 21-377

April 25, 2022

A parcel of land situated in Section 28, Township 5 North, Range 2 West, Boise Meridian, Canyon County, Idaho, and being more particularly described as follows:

Commencing at the east quarter-section corner of Section 28, Township 5 North, Range 2 West, Boise Meridian, which bears S00°07'31"W, 1323.08 feet from the north sixteenth-section corner;

Thence N89°56'28"W, 25.00 feet to the west right-of-way line of Lansing Lane; Thence N00°07'31"E, 127.84 feet along the west right-of-way line of Lansing Lane to the POINT OF BEGINNING:

Thence S89°20'17"W, 248.00 feet;

Thence N81°25'48"W, 42.34 feet;

Thence N66°34'34"W, 44.58 feet;

Thence N69°22'47"W, 114.83 feet;

Thence N49°11'54"W, 36.86 feet;

Thence S89°42'30"W, 152.19 feet;

Thence \$54°58'28"W, 337.60 feet;

Thence \$60°43'56"W, 124.79 feet:

Thence \$64°47'06"W, 104.04 feet:

Thence S64°13'10"W, 140.96 feet;

Thence N89°52'29"W, 77.97 feet;

Thence S00°07'31"W, 259.44 feet;

Thence 93.09 feet on a curve to the right having a radius of 130.00 feet, a central angle of 41°01'41", a chord bearing of S20°38'22"W, and a chord length of 91.11 feet;

Thence \$41°09'12"W, 147.45 feet:

Thence \$57°29'43"W, 59.42 feet;

Thence N35°18'48"W, 74.26 feet to the boundary of Willow Creek Ranch Estates No. 3 (Book 33 of Plats, Page 42, Records of Canyon County);

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Thence S71°04'12"W, 452.60 feet along the boundary of Willow Creek Ranch Estates No. 3;

Thence \$56°58'28"W, 213.90 feet along the boundary of Willow Creek Ranch Estates No. 3 to the boundary of Willow Creek Ranch Estates No. 2 (Book 26 of Plats, Page 22, Records of Canyon County);

Thence S52°21'30"W, 203.19 feet along the boundary of Willow Creek Ranch Estates No. 2;

Thence N84°36'32"W, 29.01 feet along the boundary of Willow Creek Ranch Estates No. 2;

Thence S56°04'05"W, 153.47 feet along the boundary of Willow Creek Ranch Estates No. 2;

Thence S62°07'51"W, 186.15 feet along the boundary of Willow Creek Ranch Estates No. 2;

Thence S89°27'34"W, 265.90 feet along the boundary of Willow Creek Ranch Estates No. 2;

Thence N74°20'12"W, 283.65 feet along the boundary of Willow Creek Ranch Estates No. 2;

Thence S84°25'58"W, 57.68 feet along the boundary of Willow Creek Ranch Estates No. 2;

Thence S67°34'54"W, 328.10 feet along the boundary of Willow Creek Ranch Estates No. 2;

Thence S45°44'03"W, 187.33 feet along the boundary of Willow Creek Ranch Estates No. 2 to the south line of the northeast quarter of the southwest quarter;

Thence N89°53'59"W, 286.80 feet along the south line of the northeast quarter of the southwest guarter to the southwest sixteenth-section corner;

Thence N00°00'03"E, 1320.92 feet along the west line of the northeast quarter of the southwest quarter to the center-west sixteenth-section corner on the boundary of Lot 15, Block 1 of Willowview Subdivision No. 2 (Book 38 of Plats at page 20, Records of Canyon County);

Thence \$89°59'21"E, 1320.05 feet along the boundary of Lot 15 to the center quarter-section corner;

Thence S89°57'56"E, 1320.17 feet along the boundary of Lot 15 to the center-east sixteenth-section corner;

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Thence N00°02'05"W, 190.03 feet along the boundary of Lot 15;

Thence S89°57'26"E, 573.04 feet along the boundary of Lot 15;

Thence N59°04'36"E, 62.12 feet along the boundary of Lot 15;

Thence N89°42'30"E, 179.22 feet along the boundary of Lot 15;

Thence \$78°38'12"E, 28.97 feet along the boundary of Lot 15;

Thence S66°04'35"E, 151.66 feet along the boundary of Lot 15;

Thence S79°12'16"E, 78.90 feet along the boundary of Lot 15;

Thence N87°34'19"E, 230.29 feet along the boundary of Lot 15 to the west right-of-way line of Lansing Lane;

Thence N87°53'07"E, 15.01 feet along the west right-of-way line of Lansing Lane;

Thence 500°07'31"W, 23.90 feet along the west right-of-way line of Lansing Lane to the POINT OF BEGINNING.

The above-described parcel contains 62.41 acres, more or less. Prepared from information of record. (ROS 2021-081620)



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# **EXHIBIT "B"**

# **CONDITIONS OF APPROVAL**

- 1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to the property.
- 2. The subject parcels, R37511 & R3750112, shall be divided in compliance with Chapter 7, Article 17 of the Canyon County Zoning Ordinances (CCZO) subject to the following conditions/restrictions:
  - a. The development shall be limited to 54 residential lots not including the tree farm nursery lot and will consist of a 2.5-acre average lot size with a minimum lot size of two acres. The average lot size calculation shall not include the tree farm nursery (approximately 18 acres) and road improvements.
  - b. The development shall provide a 10-foot no-rise pathway and 20-foot easement along the southern edge of Willow Creek, extending from the west boundary to the eastern boundary, dedicated for use by pedestrians, non-motorized vehicles, and equestrian traffic. A 10' pathway with a 20' easement shall connect the pathway to a public road within the development.
  - c. A 20' wide utility corridor easement shall be dedicated to the City of Middleton on the eastern edge of the development along Lancing Lane (Exhibit 3.D.6 of the staff report).
  - d. A no-build easement shall be placed over the Willow Creek floodway and depicted on the plat to notify owners and limit improvements and structures from obstructing the floodway (Exhibits 3.A.2 & 3.A.4 of the staff report). Any development in the floodway or floodplain shall comply with Chapter 7, Article 10A of the Canyon County Zoning Ordinances.
  - e. Development shall provide a central pressurized irrigation system to service all residential lots (Exhibit A.2 of the staff report).
  - f. Prior to preliminary plat approval, a traffic impact study shall be submitted to Highway District #4 (HD4) per Exhibit 3.D.5 of the staff report. Any mitigation measures/improvements stated in the study and required by HD4 shall be complete prior to final plat approval.
  - g. At the time of the preliminary plat, the referenced signed agreement between Middleton School District and the developer (Exhibit 3.6.A of the staff report) shall be submitted.
  - h. The subdivision shall provide an area within a common lot or easement for a school bus stop (Exhibit 3.D.7 of the staff report).
  - i. Subdivision development shall comply with air quality and stormwater pollution protection requirements of the Idaho Dept. of Environmental Quality (DEQ, Exhibit 3.D.1 of the staff report).
  - j. Domestic water shall be provided via a community water system.
- 3. The developer shall comply with CCZO §07-06-07(4) Time Requirements: "All conditional rezones for a land use shall commence within two (2) years of the approval of the board."