

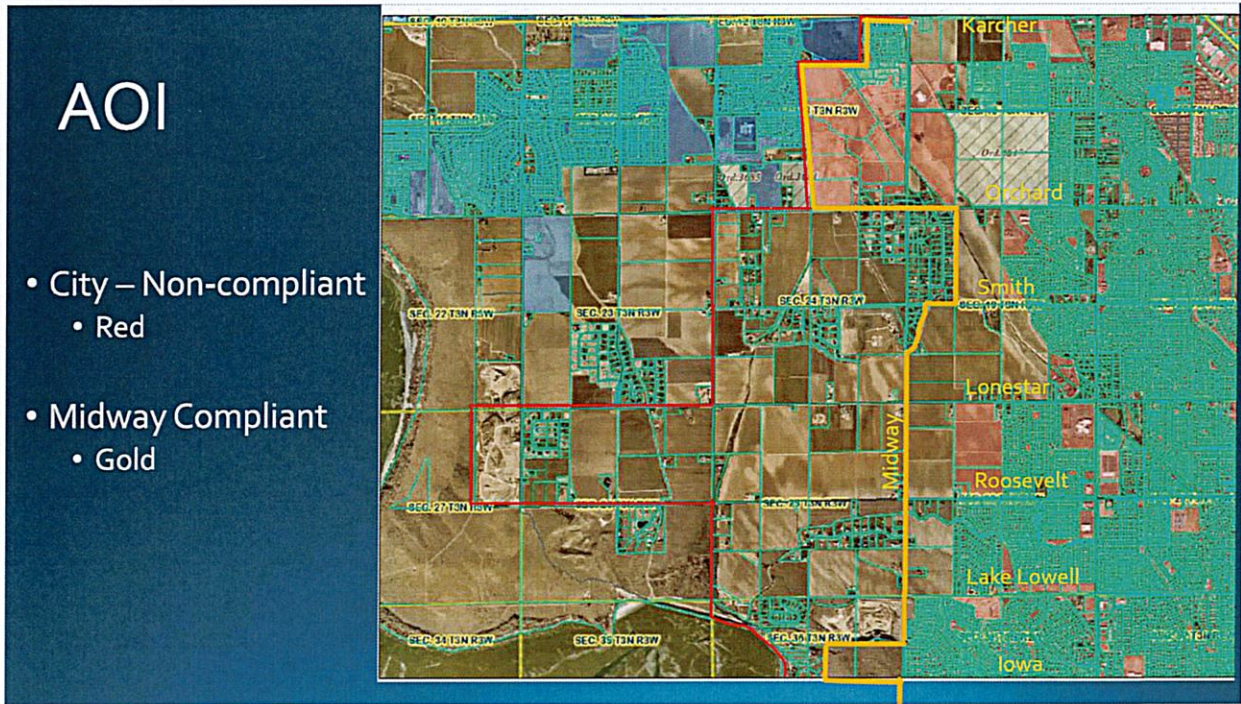
LAKEY - VILLEGAS

LAW AND POLICY

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September 26, 2025

Response to City of Nampa’s Proposed Non-Compliant Area of Impact Boundary for the West Section of their Proposed Area of Impact



Submitted To:
Canyon County Commissioners

Submitted By:
Todd M. Lakey

EXECUTIVE SUMMARY

The application by the City for the West Section of its proposed Area of Impact does not meet the new requirements to establish an area of impact (“AOI”) under Idaho Code Section 67-6526(4). Most of the area proposed by the City of Nampa is “not very likely” to be annexed into the city within the next five years and thus contrary to code. This is based on current conditions of the area, lack of development momentum and activities moving forward and in this area in recent years, and the intent of significant land owners within the proposed AOI not to be annexed into the City of Nampa within the next five years. The appropriate AOI boundary generally follows Midway Road as noted in the map contained in this response. We ask that the County Commissioners utilize our proposed area of impact boundary for the West Section in this area. The area of impact is reviewed every five years. If there is further development justifying an expansion of the AOI to the West it can be addressed in five years in the next review.

ANALYSIS AND RESPONSE CITY’S PROPOSED AOI WEST SECTION

I represent property owners in the proposed area of impact submitted by the City of Nampa – specifically the area described as the “West Section” in the City’s application. I also live in the proposed West Section. The City’s proposed area of impact (“AOI”) in this location does not meet the new current criteria in Idaho Code Section 67-6526(4). As you know the state code was recently changed and requires that areas of impact established under the previous code must be re-evaluated and established under the new criteria. The City has failed to meet its burden under the current code to establish that the AOI boundary should be in their proposed location reflecting the previously established AOI. Under the new criteria an area of impact boundary that largely follows Midway Road is appropriate and complies under the current circumstances and criteria for this area – especially the focused five year window to be considered in evaluating the establishment of an AOI.

The legislative intent regarding areas of impact as stated in Idaho Code 67-6526 makes it clear that this area outside city limits is county jurisdiction. The code states “The legislature finds that areas of impact are properly under the jurisdiction of the county because the elected representatives of the citizens in areas of impact are county officials, not city officials.” The areas of impact are where growth is to occur in the very near future – specifically five years. An AOI should not be about the expansion of control by the city or a race to block out another city to establish control of an area. The focus is on growth in the very near future. The intent of the legislation was to locate areas of impact much closer to the city where growth was very likely to occur in the next five years. The City seeks to re-establish its existing AOI that was analyzed and approved under the old approach and old criteria. The City’s proposal is not supported under the new current criteria. The AOI is supposed to be reviewed every five years. If there is more or new

evidence of imminent growth in this area meeting the criteria then the City can present that to the County in support of their proposed AOI at the five year review.

As noted in this rebuttal there are other Sections of Nampa's proposed AOI that are a much higher priority for growth and these areas have a much higher likelihood of being provided sewer and water and being annexed within the next five years.

Based on the County's applicable comprehensive plan and zoning ordinance the more rural residential and agricultural character of the area should be maintained as long as it can be under the five year planning horizon. This area is a unique somewhat isolated pocket bordered by Lake Lowell. It is not an area of high growth and because of the Lake it does not provide major transportation corridors connecting other areas in the county. Higher density and commercial uses exist and belong further north along Karcher/Hwy 55. The City by its nature pursues higher density development and such density should not be pushed in a premature manner by the City in this area.

IDAHO CODE REQUIREMENTS FOR THE AREA OF CITY IMPACT

Idaho Code Section 67-6526(4)(a) provides the criteria to be used when modifying or confirming an AOI. The county must now consider and evaluate the following:

- 1) **Anticipated commercial and residential growth**
- 2) **Geographic factors**
- 3) **Transportation infrastructure and systems, including connectivity**
- 4) **Areas where municipal or public sewer and water are expected to be provided within the next five years.**

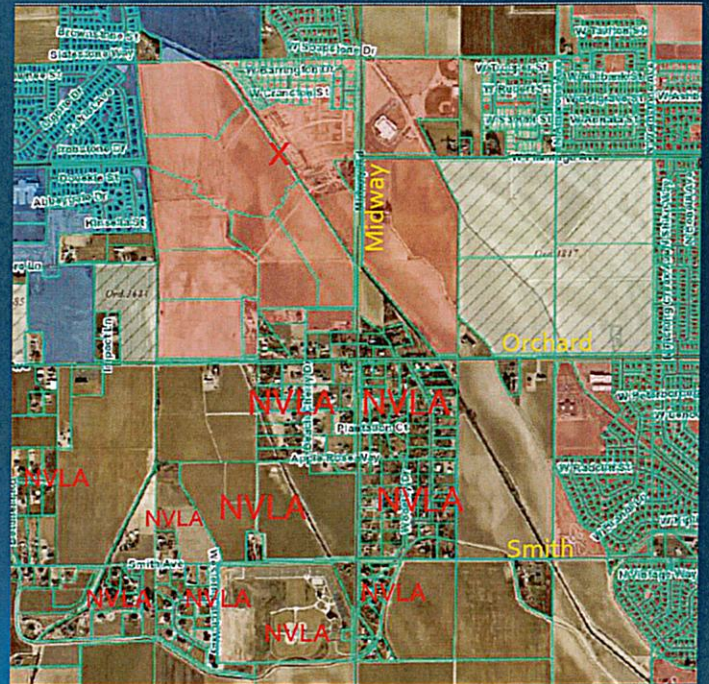
Idaho Code 67-6526(4) goes on to emphasize the five year time frame in subsection (b) which states **"In addition to the criteria set forth in paragraph (a) of this subsection, an area of impact shall not exceed areas that are very likely to be annexed to the city within the next five years."** So the five year timeframe applies to the decision overall. Subsection (b) also provides for a maximum distance for the AOI of two miles. The two mile distance is a maximum and not a default. The maximum distance is still subject to the required five year annexation horizon.

The most important and overarching criteria in this process is the five year requirement. I address the issue further in this response but I would to start with some visuals. Most of this proposed AOI consists of land that is not likely to be provided services in the near future and is not "very likely" be annexed in the next five years. Those properties that are not very likely to be annexed in the next five years are marked as "NVLA" – Not Very Likely to be Annexed. Full page copies of these Map are provided in Attachment 1.

This First Map shows the more northern portion of the section of the proposed AOI.

Not Very Likely to Annex in 5 Years “NVLA”

- Hubble – a lot of land to get through. Current phase under construction 1-2 years.
- Stephens Orchard Sub NVLA
- Plantation Sub – NVLA
- Hess – NVLA
- Parkcrest Acres Sub – NVLA
- Hunter’s Acres Sub – NVLA
- Arbor Landing Sub – NVLA
- Stites Farm Sub – NVLA
- Bella Vista Sub – NVLA
- Park - NVLA



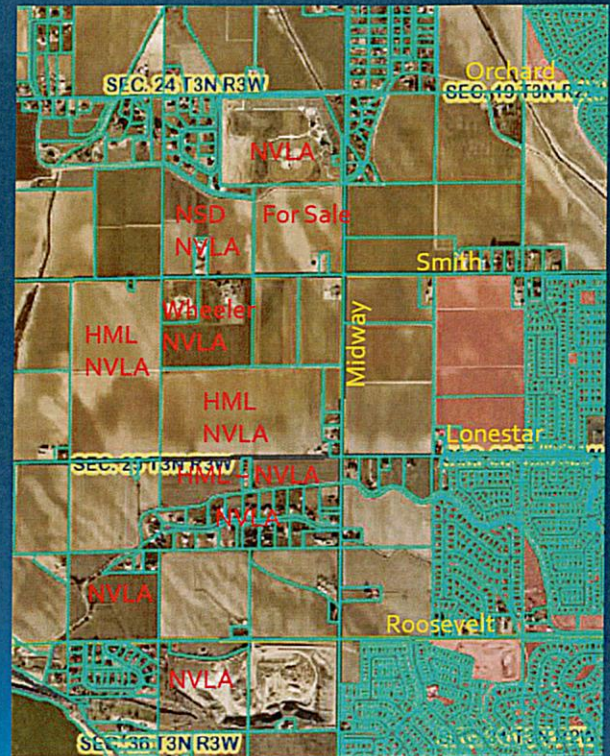
This map recognizes that Hubble Homes has been the active developer in the very northern portion of this section of the proposed AOI. That project is at the northern end of the AOI off Midway Road and near Karcher Road. Hubble has been working on the plats and current phase for the northern end of the property in recent years. They have been working on construction of the current phase for I believe almost two years. I drive by this almost daily. It likely will Hubble take more than five years to plat and build out the remainder of that large property.

Landowners do not want to pay city takes any sooner than they have to. The noted county subs in the area are NVLA because for practical purposes the residents of the county that live there will not want to annex within the next five years. My client spoke with Mr. Hess who owns larger parcels in the area and he does not intend to annex within the next five years. The park is not likely to be annexed in the next five years because there is no path for annexation and the City is not planning on extending sewer on its own.

The Second Map shows the area south of the first map along Midway Road.

Not Very Likely to Annex in 5 Years “NVLA”

- Nampa Park – City not extending services – NVLA
- NSD – NVLA
- For Sale – Non-viable price
- Wheeler - NVLA
- HML – NVLA
- Two Towers Sub – NVLA
- Babcock - NVLA

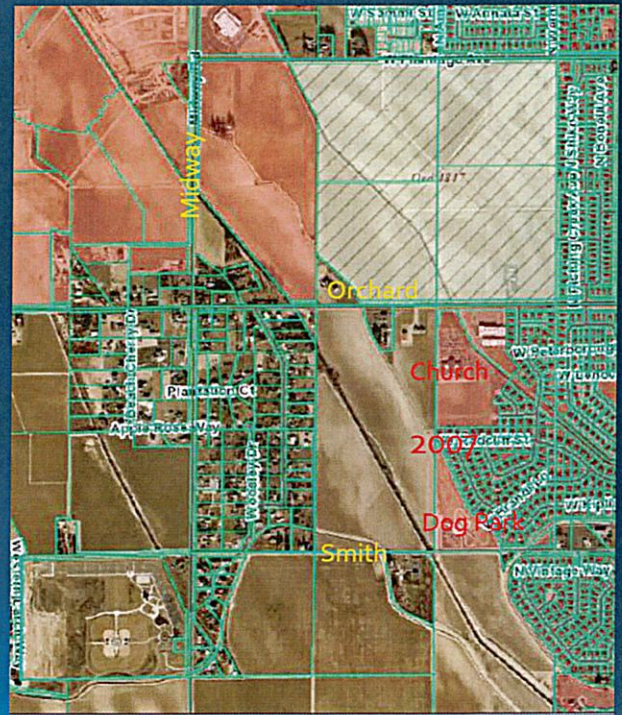


The city park will be annexed at some point in the future but is not very likely within the next five years. This is a first look and the areas of city impact are to be reviewed every five years. If there is growth closer to the park at that time it can be addressed. The school district parcel is NVLA because Nampa School District student population is declining and the district is closing schools not building new ones. The voters overwhelmingly rejected the recent bond to build and replace Nampa High School. Again the county subdivisions are NVLA because it is a safe bet that those county residents do not want to be annexed in the next five years. Mr. Wheeler does not want to annex and he spoke with the owner of the HML properties containing several hundred acres, and he does not plan to annex in the next five years. Mr. Babcock is very opposed to the AOI expansion and will not be annexing his property at anytime.

There has not been a significant recent effort to develop much of the property East of Midway Road. Again Hubble Has been active on the north end of this area near Karcher Rd. but will take some time to build out what they own. The following maps show the low level of activity in recent years in this area. I looked at when lots were created and the nature and history of some of these parcels.

Lack of Activity

- Westminster No. 3 2010/2019
 - 2009 lost to Bank – CBH
 - Stubs into Church – nothing
 - Church – developer lost to Bank 2009 – later sold to Church
- Westminster No. 2 – 2007
 - Partial Stub to West – nothing
 - Stubs into Dog Park - nothing

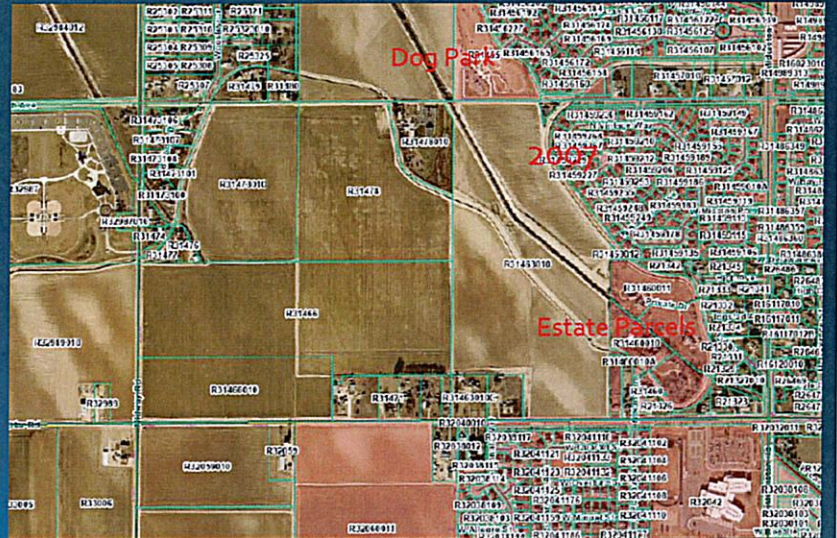


Other than Hubble to the north which I described previously, the West end of the Westminster Subdivision is the primary city development that has occurred in the area. Phase 3 on the north was lost to the bank in 2009 and then purchased and developed by CBH. The project now stubs into the church lot with nothing new since 2009. Phase 2 to the South was built in 2007. The dog park blocks a portion from expanding to the West and between the dog park and the church there appears to be a partial stub street to the adjacent property with nothing occurring since 2007.

Map 3 below shows a portion of the area south of Map 2 above.

Lack of Activity

- Mission Point No. 3 - 2007
 - No connectivity to West
 - Nothing since
- Estate Parcels
 - 3.5 -5.01 acres
 - Access via Ditch Road
 - No development connectivity

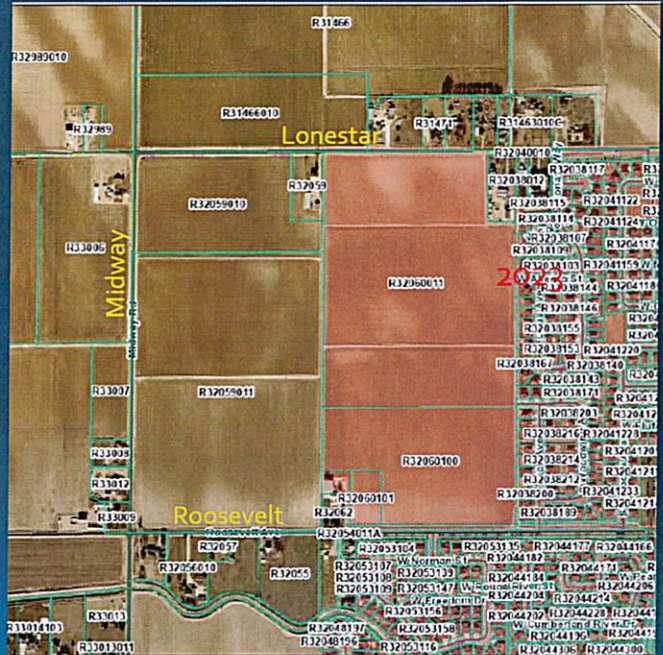


This maps shows Phase 3 of the Mission Point Subdivision built in 2007. That portion has no stub connectivity to the West and nothing has occurred on the adjacent parcel since then. There are four large estate parcels with nice homes that are annexed but look very unlikely to develop otherwise.

Map 4 below shows the area further south of Map 3.

Lack of Activity

- Sonata Point Sub 2023
 - Connectivity to West
 - Annexation to West – no further development or platting



This Map shows Sonata Point Subdivision. It was built out in 2023. It has connectivity to the West on parcels that have been annexed but nothing has occurred since then.

Map 5 below shows the area further south from Map 4. This area is at the southern end of the West Section of the proposed AOI.

Lack of Activity

- Stella's Point – 2021/24
 - Connectivity to West
 - Nothing since – no annexation/platting

- Carriage Hill West – 2022
 - Gravel Pit to West



This Map shows Stella's Point Subdivision. It was constructed in 2021 and 2022. It has connectivity to the West. Nothing has happened since to the West including annexation or other development activities. The challenge with this area is that going south on Midway Road after Lake Lowell Ave. the developed property abuts a gravel pit which is not likely to be annexed in the next five years. Mr. Babcock owns property adjacent to West of the gravel pit and will not annex his property into the city at any time. The Anderson property is adjacent to the south of the gravel pit and has proposed to be annexed. However, if they did annex and develop that parcel there is a county subdivision adjacent to the West of Anderson's property. From there Mr. Babcock owns the remaining property south along the West side of Midway Road until it runs into the Refuge and he will never annex. So the development potential is extremely limited in this south area and most west of Midway Road is very unlikely to annex in the next five years.

The maps below are portions of the growth reports prepared by the City of Nampa for 2022, 2023, 2024 and most recent report prepared for 2025. The full maps in the reports are contained in Attachment 2. The maps show preliminary and final plats approved in this area. These maps show that there has not been significant development activity in this area in recent years. Without platting head starts it is very unlikely that property will be developed outside the area of impact boundary that we are proposing which is mostly along Midway Road.

2025

Only one final plat (purple) near the edge of the city limits in this area – the Anderson property – at the south end of Midway Road below Lake Lowell Ave. and adjacent to Iowa Ave. Only two preliminary plats (green with blue notes) in the Hubble Development near Karcher Road.

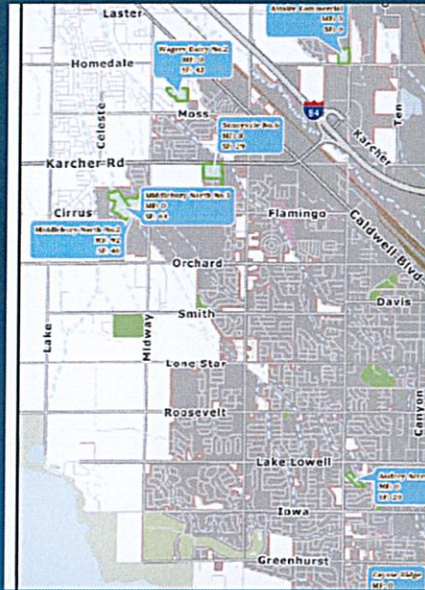


2024

Only two final plats in the Hubble Development to the North (green with blue notes).
No preliminary plats (purple) near the edge of the city limits.

PrePlats/Final Plats – Minimal Happening Outward

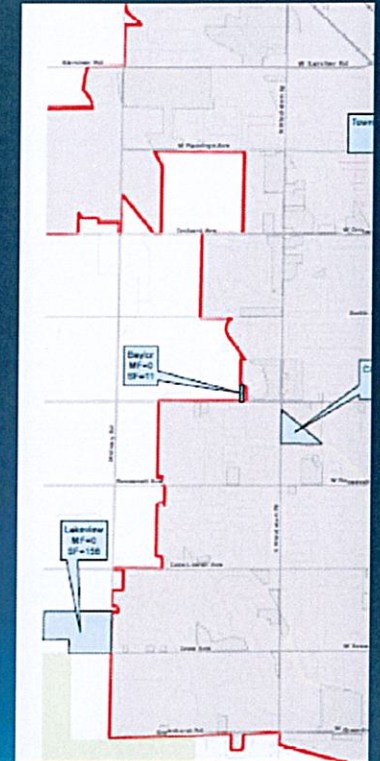
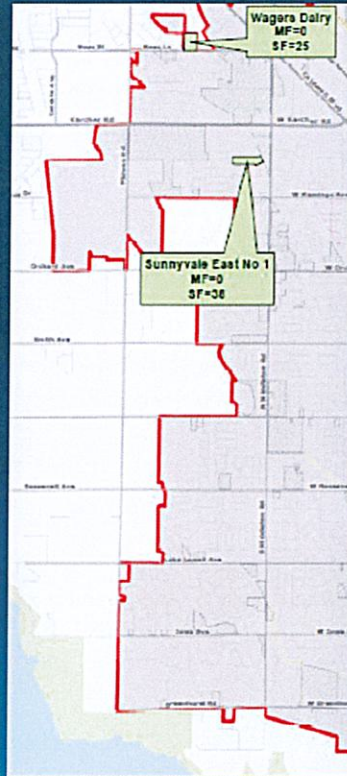
- 2024 – Final/PP



No final plats (green notes) near the western edge of the city limits in this area. One preliminary plat (blue notes) applied for – again the Andersons – at the southern end of this area and one very small preliminary plat along Lonestar that did not seek to significantly move the western edge of city limits.

PrePlats/Final Plats – Minimal Happening Outward

- 2023 – Final/PP

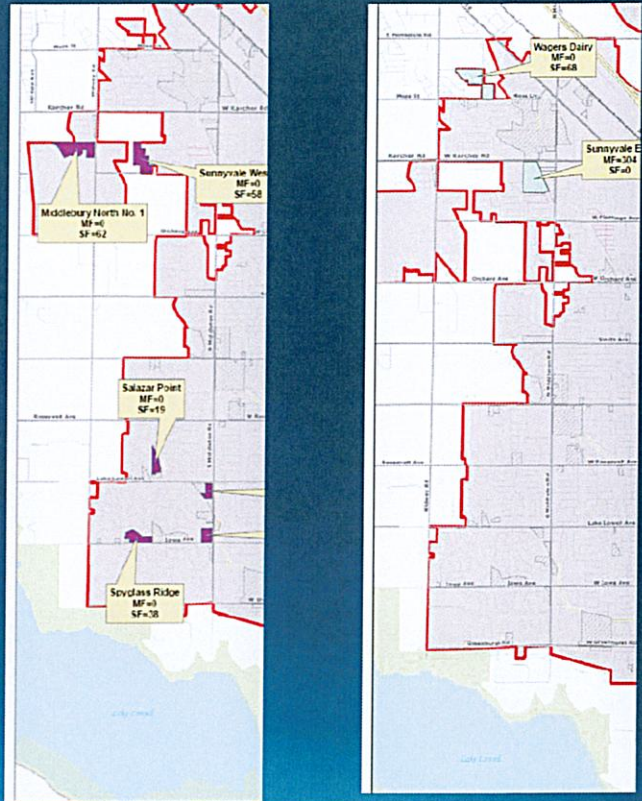


2022

Two final plats (purple) in the Hubble project up north. No final plats near the western boundary of the existing city limits. No preliminary plats in this area.

PrePlats/Final Plats – Minimal Happening Outward

- 2022 – Final/PP

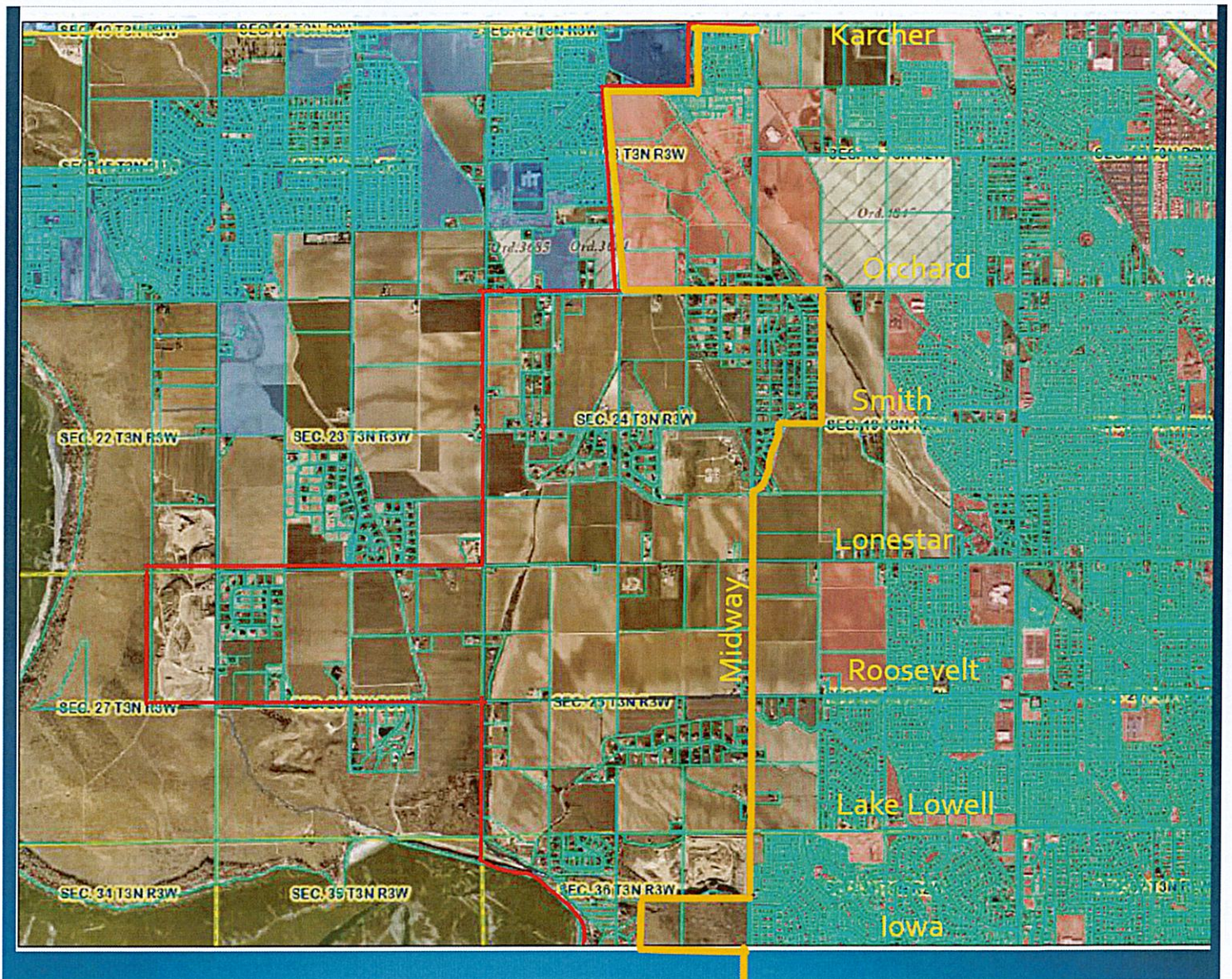


These growth maps show the lack of recent development activity indicating no significant movement for development in the area. This lack of significant activity, extension of services and annexation West of the existing city limits supports our position that properties outside our proposed AOI are not very likely to be annexed within the next five years.

All of the above maps show that this is not a priority area for growth in the next five years.

Proposed Area Of Impact for the West Section

Our proposed area of impact is depicted below. A larger copy of this map is included in Attachment 3. This area of impact boundary is much more reasonable and complies with the current requirements in Idaho Code - specifically the requirement that the boundary not exceed lands that are very likely to be annexed in the next five years. The redline is the non-compliant boundary currently proposed by the City of Nampa for this West Section. The gold line is our proposed compliant boundary for this area that is supported by Idaho Code.



Review of AOI Criteria in Idaho Code Section 67-6526(4)

- 1) Anticipated commercial and residential growth
- 2) Geographic factors
- 3) Transportation infrastructure and systems, including connectivity
- 4) Areas where municipal or public sewer and water are expected to be provided within the next five years.

All of these are subject to the overarching five year requirement for annexation.

The process and criteria to establish the impact area is very different and much more defined and specific than it used to be. The City has not established that the entire West Area noted in their request will be very likely to be provided services and annexed within the next five years.

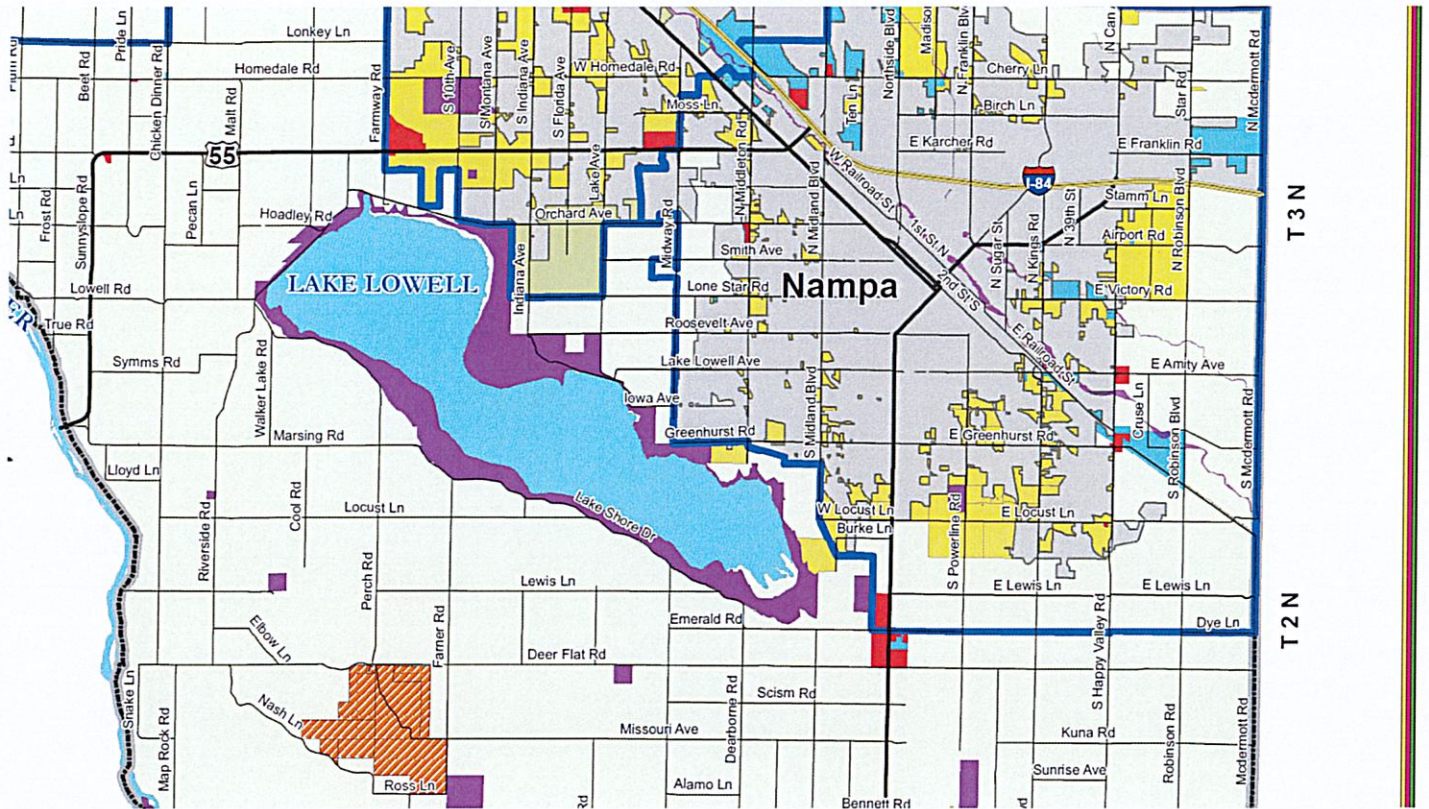
The City essentially asked to keep the existing boundaries that were established under the previous approach. The previous approach did not require the same specificity and definitive time frame for annexation. In making the request the City relies on the fact that the proposed boundary was previously approved, the proposed AOI is within the two miles of the city limits and the City of Caldwell is ok with that boundary. The City seeks to use the same approach as it did under the previous code pertaining to AOI's and its application does not meet the newer code with the very likely to be annexed in five years requirement.

I will address the arguments presented by the City in support of its application as it seeks to justify the overly broad AOI in this location.

1. Anticipated Commercial and Residential Growth.

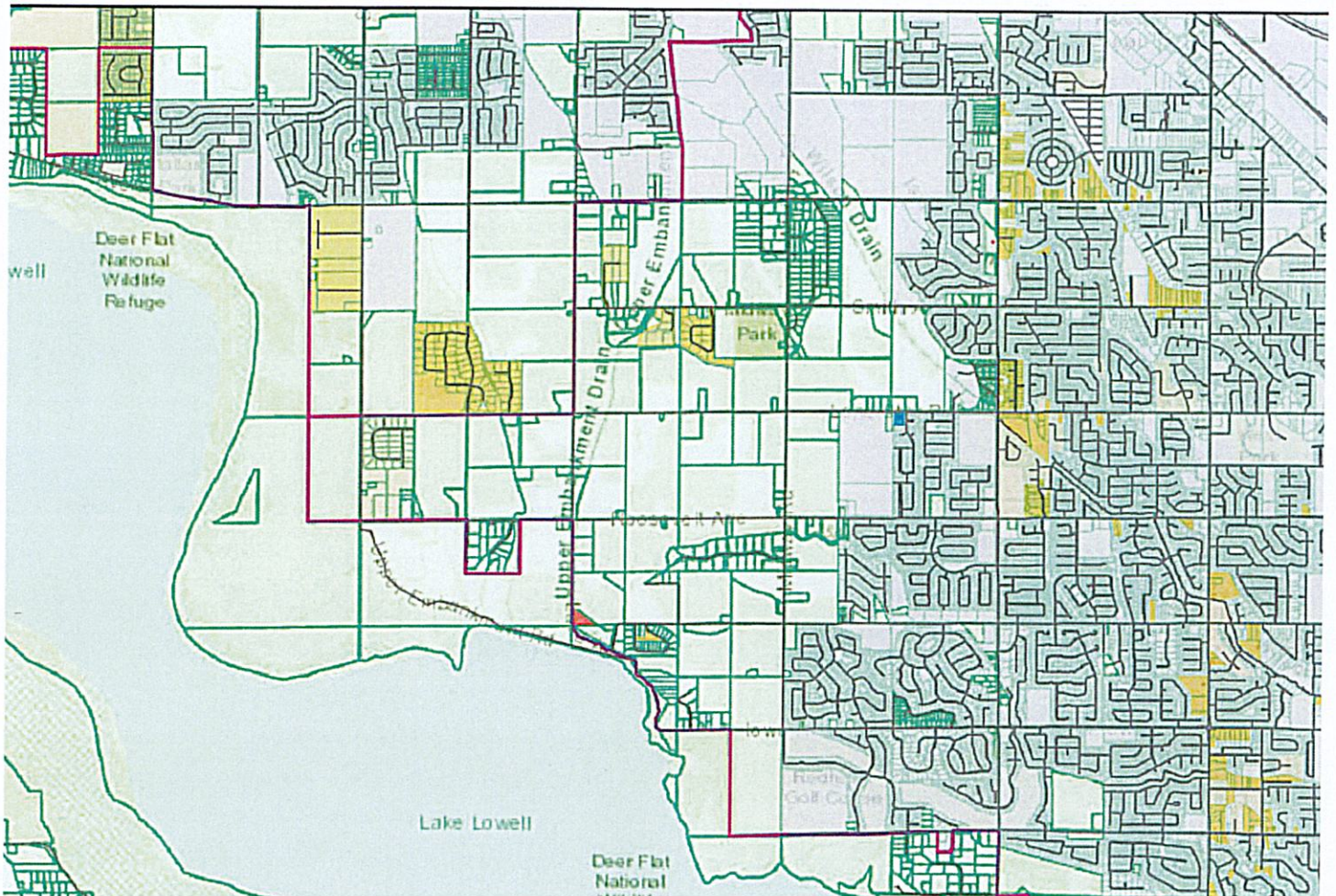
The City did not include any specific comments for this category and the West Section. I will still address this criteria.

The AOI is county jurisdiction. The County's comprehensive plan applies as noted in IC Section 67-6526(4)(e). The county's future land use map is provided below.



As noted above, the County Comprehensive Plan designates this area as Agriculture.

Idaho code Section 67-6526(4)(e) states that the County’s zoning and subdivision ordinance apply in the AOI. The county zoning for this proposed West Section area is very largely Agriculture. There are three smaller rural residentially zoned projects – two zoned RR and one zoned R-1. There are several other county acreage subdivisions mostly along Midway Road that were approved under the old CUP process. The county zoning map for this area is provided below.



Based on the applicable comprehensive plan and zoning ordinance this area is to be more rural and maintain the prime farm ground as long as it can be under the five year Aoi requirement. The default is that the land in this area remains county and outside an AOI. The City has the burden to establish that it meets the criteria for the county to designate an AOI and that AOI must be an area that is very likely to be annexed in the next five years. The City has not established that for this West Section of the proposed AOI.

The City can approve voluntarily annexations to whatever extent it deems appropriate regardless of the AOI. In a sense the city and urban development is the largest consumer of prime productive farm ground by annexation in this area.

Idaho Code Section 67-6526(1)(b) states "A city may adopt a comprehensive plan and conduct infrastructure, capital improvement and other planning activities that extend beyond its current area of impact." This helps the city and landowners that want to annex as decision are made by the city in its annexation and zoning process. In March of this year the City Council adopted its Southwest Nampa Specific Area Plan dated September

2024. At the City Council meeting that decision faced a lot of opposition from county residents that lived in the AOI and was a split vote of approval by the city council. That plan calls mostly for higher urban densities that are inconsistent with this unique area. This much higher urban density is what primarily generated the level of opposition.

The applicable county zoning and comprehensive plan call for this area to be maintained in a more rural and agricultural character. The city's AOI goes much further than the five year time frame supports and the City seeks to drive higher urban densities prematurely in this area. The AOI is to be reviewed every five years and if circumstances change from the mostly minimal expansion of city limits in this area in the past decade then the City can seek further expansion of its AOI as part of that five year review.

2. Geographic Factors

I will be addressing and rebutting the primary statements made by the City in regard to this criteria. The City's statements and our responses are provided below.

City: The Southwest Nampa area was recently added to the Impact Area which fills the gap between Nampa and Caldwell's Impact areas.

Response: The AOI was last expanded and analyzed under the old criteria. The new code requirements were not addressed especially the requirement that all of the land in the proposed AOI must be very likely to be provided services and annexed in the next five years.

There is nothing in the code that says gaps between areas of impact are a void that must be filled. Under the current code generally AOI's will be pulled back and gaps are more likely to exist. The default status is that the land should be county and only be in an AOI if the City can show their request meets the criteria. Filling gaps between AOIs is not one of those criteria.

City: Development in both communities is approaching the Deer Flat Refuge.

Rebuttal. This is a very general statement without the specificity required in code. There is no distance referenced and no specific development projects on certain lands or in certain locations. More importantly there is no time frame on this general reference to development approaching the refuge. The City of Caldwell is also further ahead of Nampa in terms of very likely annexation in this overall area. Caldwell provides city water outside current city limits to the Lonestar Ranch Project to the West of this area with an agreement to for the property to be annexed when contiguous. Nampa does not have services extended or any such agreements in this portion of their proposed AOI while they do in other areas.

City: The Specific Area Plan for the Southwest Nampa addresses this by indicating Very Low Density residential for areas around the refuge with a gradual increase of density away from the refuge.

Response: Although the City can adopt any plans they would like outside their city limits and the AOI under IC Section 67-6524(1)(b), the County Comprehensive Plan applies in the AOI as established in IC Section 67-6526(4)(e). The City's plan seeks to largely push urban densities to this area prematurely. The City can adopt whatever plan they choose but the City's plan is not required to follow the requirement that any lands in the AOI must be very likely to be annexed in the next five years. Since it does not follow the AOI requirements in code the City's plan should not be considered to support such a large AOI which seeks to prematurely drive higher density to this area.

City density is more impactful and less compatible with Lake Lowell and the Refuge than the existing agricultural parcels and larger county rural residential parcels. I live on 1.8 acres and have inhabitants of the Refuge like coyotes, quail, doves, hawks and owls on my property regularly. The county's more rural approach to land use is better longer than the City urban density driven approach to growth in the area and the county's approach should be maintained as long as the five year AOI requirements allow.

City: Several County subdivisions have developed in the area. These subdivisions are spread throughout the area and are adjacent to Agricultural fields.

Rebuttal. I noted the existing uses and zoning above. The area remains largely agricultural with some much less dense rural residential county subdivisions. The City's statement is accurate but is an argument against the extension of the AOI. These county subdivisions are not very likely to be annexed in the next five years because they typically do not want to be annexed. These lower density subdivisions are much more compatible with the existing agriculture in the area, Lake Lowell and the Refuge than the urban development proposed by and coming from the City and consuming the prime farm ground. County subdivisions are often located first on the less viable ground and are less impactful than city urban densities. The residents in these rural residential subdivisions move out in the county because they do not want to live in an urban environment. Approving high city densities does not reduce demand for rural residential acreage lots in the county – they are not the same buyers. County rural residents are generally supportive and appreciate the remaining agricultural uses. Some have small scale agricultural uses and animals on their more rural properties that are not available on urban density parcels. Rural residential living and agriculture cannot survive forever if a city is rapidly growing in that that direction but the county comprehensive plan promotes preservation of the existing ag and rural residential conditions as long as they can be in this location.

City: The terrain flows away from the Deer Flat Refuge and Indiana to Midway Road.

Rebuttal: That is accurate statement of the topography but without connection as to why that would support the city's request. That topography provides a vista and an area that

is better suited for continuing agriculture and lower density county residential parcels when appropriate.

City: Much of the larger parcels are in the possession of owners with development interests.

Rebuttal. This broad statement lacks the necessary five year context and represents the previous outdated approach to the establishment of the AOI. The City's Southwest Area Plan describes generally the potential development interests of some of the landowners in the area. In visiting with my client, he said that he went back and talked to some of the larger land owners in the area and asked them if they planned to develop their property in the near future and they noted that they had no plans to do so in the near future. A communication of potential interest in development at some point in the future does not represent a plan to extend sewer and water and annex in the next five years. Therefore, previous inquiries by the City to land owners as part of the prior Southwest Area Plan regarding someone's undefined potential development interest does not meet the five year requirement and does not support the City's proposed AOI.

There is almost no recent development activity moving from East to West in this area. The primary development activity has occurred to the North of Orchard Ave. off Midway Road by Hubble Homes. Hubble has annexed a good amount of land but are only making their way through platting and development of the various phases. I drive by this almost daily as I travel to and from Karcher Road and the process of construction of the current phase is still going on and is approaching two years in process. Based on my observations it will likely be more than five years before Hubble develops out what they have already annexed north of Orchard Ave.

City: There are few services in the area with travel times to north on arterial corridors to reach services on Karcher Road.

Rebuttal. I live in this area so have personal knowledge and experience. My perspective mirrors my clients and other in the area. There is a neighborhood Walmart and fuel station on Roosevelt and Middleton. There are also other commercial uses in that area along Middleton Road. Those services are a close easy drive for those living in this area. The drive to Karcher Road is an easy travel distance on Midway Rd. and one that I drive almost every day. Middleton Road is further West within the City and provides a North South Corridor but is busier and experiences more delays than Midway Rd. Access to services to those living in the area is very adequate and does not need to be expanded at this time – especially within the five year window. The city references services on Karcher Road. That is where services and commercial development should be located – along that major transportation corridor. The City has provided for too much residential along Karcher Road – there should be more commercial and services along Karcher which helps keep more trips more local. Existing services are readily accessible and very appropriate.

City: Nampa School District owns property on Midway and Roosevelt for a new Nampa High School. They also own property off Lonestar Rd. west of Midway for a new elementary school.

Rebuttal. Again there are no specifics as to timing for these new schools provided in this statement. It is very clear that the Nampa School district is not currently in a growth mode. The likelihood of these properties being annexed and developed into schools in the next five years is slim to none. As noted in the Channel 2 News article dated 12-6-2023 (See Attachment 4):

"The enrollment in Nampa schools has been declining for the last ten years. The population in Nampa has continued to climb over the past decade, but fewer student enrollments. A trend the district knew was coming, says Communications Director Kathleen Tuck. "We had some projections done several years ago. They actually projected this trend and we have seen it year after year, even as we have seen Nampa growing in population."

"Some of the schools are only at 60% capacity, according to Tuck. "We have enough elementary kids for 11 elementary schools and we're running 14..."

As noted in the Idaho Education News Article dated 12/19/2023 (See Attachment 5) the Nampa School Board closed three elementary schools and one middle school. School leaders noted that they expected the student population decreases to continue. Although Nampa's population is growing the student population is declining. The district representatives attributed that to things like the declining birth rate, much of the population growth is by those without school age children and the existence and growth of school choice with charter schools and private schools.

The Nampa School District proposed a bond in 2023 to build a new Nampa High School on the property they own to replace the existing Nampa High School. Passage of a school bond requires a super majority of 66.67%. Sometimes school bond elections can be close. The vote in this case was not close. The final vote was well below even a simple majority – the voters rejected the bond 60% against and 40% in favor. The election results are in Attachment 6.

The City notes that the school district owns properties in the area as being supportive for their requested AOI. However, these properties are very unlikely to be developed in the next five years. Nampa School District is experiencing declining enrollment and is closing schools not building new ones. The voters also do not support a new high school. It is clear under the existing circumstances that the voters would rather make due with what we have. Therefore the statement by the City noting that the school district owns property does not meet the five year criteria and does not support the proposed AOI.

City: The City notes that it owns Midway Park in the area.

Rebuttal: That is true but the city purchased this outside of city limits and well ahead of any nearby annexation. The five year annexation timeframe still applies. The City noted in their application that it is not extending sewer and water infrastructure itself but is leaving that to development if there is demand. Certainly the City would annex the park at some point in the future when annexation is available but they are taking no steps to extend services to support annexation. There is no nearby contiguous annexation path for the City park to be annexed. There has been very little annexation and growth coming from the East. Therefore, for this first five year consideration of the AOI the city park should not be included in the AOI because it does not meet the criteria that the property must be very likely to be annexed within five years.

City: Traffic is currently a concern for city residents who live in city subdivisions to the south of Roosevelt Ave. and Lake Lowell Ave.

Rebuttal: If this is a concern then the additional growth and higher density, especially West of Midway Rd., that is promoted by the City with the proposed AOI is not an answer to that concern and does not support this large expansive AOI in this location. Citizens in those residential developments off Roosevelt and Lake Lowell often oppose additional growth and density in part because of those traffic concerns. The City can plan and is planning for improvements to transportation corridors within the City as noted in the Transportation section of their submittal. In that section the City noted the need to plan for improvements to Middleton Road. Improvements to Middleton Road are very appropriate as needed but do not reflect a need to expand the AOI so far to the West. The AOI boundary should be placed at Midway Road which is the next main north/south corridor west of Middleton Road. That would give the city additional opportunity to comment on and plan for desired improvements to Midway Road as growth moves West. The statement provided by the City pertains to city residents. The solution to traffic concerns of the referenced Nampa citizens is not to promote more growth and much higher traffic volumes with urban densities to the West beyond Midway Road. The concerns of those that live in the county in the proposed AOI regarding traffic should be considered and again further growth and urban densities do not help alleviate those concerns.

Summary

The City's statements in the Geographic Factors do not support the location of their impact area boundary as proposed because they have not met their burden under the current requirements in code. The City's statements do demonstrate that annexation and city services are very likely to be provided to the parcels in the proposed AOI within the next five years. Locating the AOI boundary at Midway Road is a compliant boundary that fits with the criteria in Idaho Code.

3. Transportation Infrastructure Systems (including connectivity).

City: The City notes that Middleton Road has been designated as a priority corridor and they are widening the impact fee eligible corridor between Flamingo and Karcher.

Rebuttal: This effort on Middleton Road seems very appropriate. However, Middleton Road is not in the proposed AOI and is well within the current City limits. Although this is a positive it does not pertain to or support the proposed AOI extending far to the West of Middleton Road. Again, the appropriate AOI boundary in this area is Midway Road which is one mile West of Middleton Road.

Municipal Sewer and Water (within 5 years).

City: The City notes that its master plan identifies improvements needed to serve the AOI. The City then states "Should the demand arise the improvements necessary to serve the Impact Area can be accomplished by the development community within 5 years."

Rebuttal: The City's statements in this section fall far short of the requirements of Idaho Code. The applicable provisions of Idaho Code 67-6526(4) states that the City needs to establish two things in this regard to justify their requested AOI:

- 1) That sewer and water are expected to be provided within five years; and
- 2) The impact area shall not exceed areas that are very likely to be annexed within the next five years.

The City's statement that if the demand is there it can accommodate improvements do not meet the code requirements to justify an AOI. The City's very short statement makes it clear that the City has no intention of extending sewer and water on their own within the next five years. The City is leaving it to the landowners and developers to extend these services. The fact that the City knows where lines will need to go and that they have capacity is good but does not meet the required criteria that need to be addressed to justify the AOI – that being are these services are very likely to be extended with annexation occurring in the next five years. The fact that a developer has the opportunity to extend sewer and water does not establish that a developer of any property within the AOI is very likely to do so and be annexed within the next five years.

This area is not as high a priority as other areas and the proposed AOI is not as supported in code as other proposed areas. It is worthwhile to look at the differences between this proposed West Section of the AOI compared to other proposed sections being requested by the City. There is no intention for the City to extend services themselves in this area and the city lists no properties where the City of Nampa has already extended services outside its city limits with an agreement to annex. It is apparent that other portions of the AOI are the higher priority for the City of Nampa. Those areas should be a higher priority based on the fact that the City and developers are actively pursuing the extension of sewer and water in other areas. It is normal to have that certain areas that experience more imminent growth than others which should be reflected in the

AOI boundaries. The AOI should not include those areas where the extension of services is not being imminently pursued.

Here is a comparison of the differences between the statements and facts in the City's Application pertaining to the other Sections of the AOI being proposed by the City as compared to this West Section.

WEST SECTION

- The city has no intention of extending services on its own.
- Services have not been extended to this area already with pre-annexation agreements.
- No actions underway to extend services and annex.

NORTH SECTION

- Nampa is in the process of working with landowners and developers to bring utilities to the Highway 20/26 and Highway 16 areas with significant financial investments and agreements. (Initial Item10).
- Currently municipal water is planned for extension on Franklin to Joplin Road.
- Sewer is currently located on Linden Road west of Madison and is in the process of being extended north on Franklin Road and East on Ustick

NORTHEAST SECTION

- Much of the area is serviced by City utilities.
- Utilities are being extended down Ustick Road.

EAST SECTION

- City water and sewer serve a portion of the area already specifically county developments, specifically county development West of McDermott Road and north and south of Victory Road.
- These developments have agreements to annex into city limits once they become contiguous.

SOUTH SECTION

- City water and sewer serve a portion of this area already specifically county development, specifically the developments shown on the map to be service[d] by City utilities.
- These developments have agreements to annex into the city limits once they become contiguous.

The statements provided by the City for the North, Northeast, East and South AOI sections provide information that sewer and water extensions already exist and more are underway. Those other Sections may be justified in being included in the AOI because the City has shown that services will be extended within five years or are already there ready for such annexation. Under the facts and circumstances in these other Sections of the AOI proposed by the City it is much more likely that the City can show that annexation is very likely to occur within five years. However, this West Section, which we are primarily focusing on here, is very different. This West Section has no existing sewer and water extensions with agreements to annex and no extensions of water and sewer are significantly underway to help justify the proposed West Section of the AOI.

4. **Other Public Service District Boundaries.**

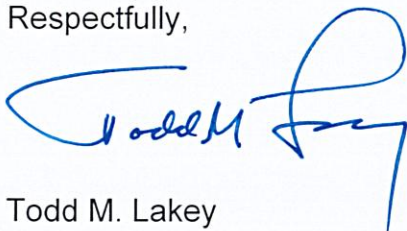
The city simply recites those districts that provide services to the area. There is no statement that these districts and their boundaries provide any justification for the AOI as proposed by the City.

It is worth mentioning that Orchard Rd. is the boundary between the Nampa and Vallivue School District. That supports Orchard Rd. being a portion of a boundary because Vallivue School District is experiencing growth while Nampa School District is experiencing a decline in student population.

CONCLUSION

The City's proposed West Section of its AOI does not meet the new requirements to establish an area of impact under Idaho Code Section 67-6526(4). The area proposed by the City of Nampa is not "very likely" to be annexed into the city within the next five years. The current conditions of the area and lack of development momentum and activities moving toward this area in recent years. Significant landowners in the proposed AOI do not intend to be annexed into the City of Nampa within the next five years. The appropriate AOI boundary generally follows Midway Road as noted above. We ask that the County Commissioners utilize and approve our proposed AOI for this area as described in Attachment 3. If there is further development justifying an expansion of the AOI in this area it can be addressed in the upcoming required five year review.

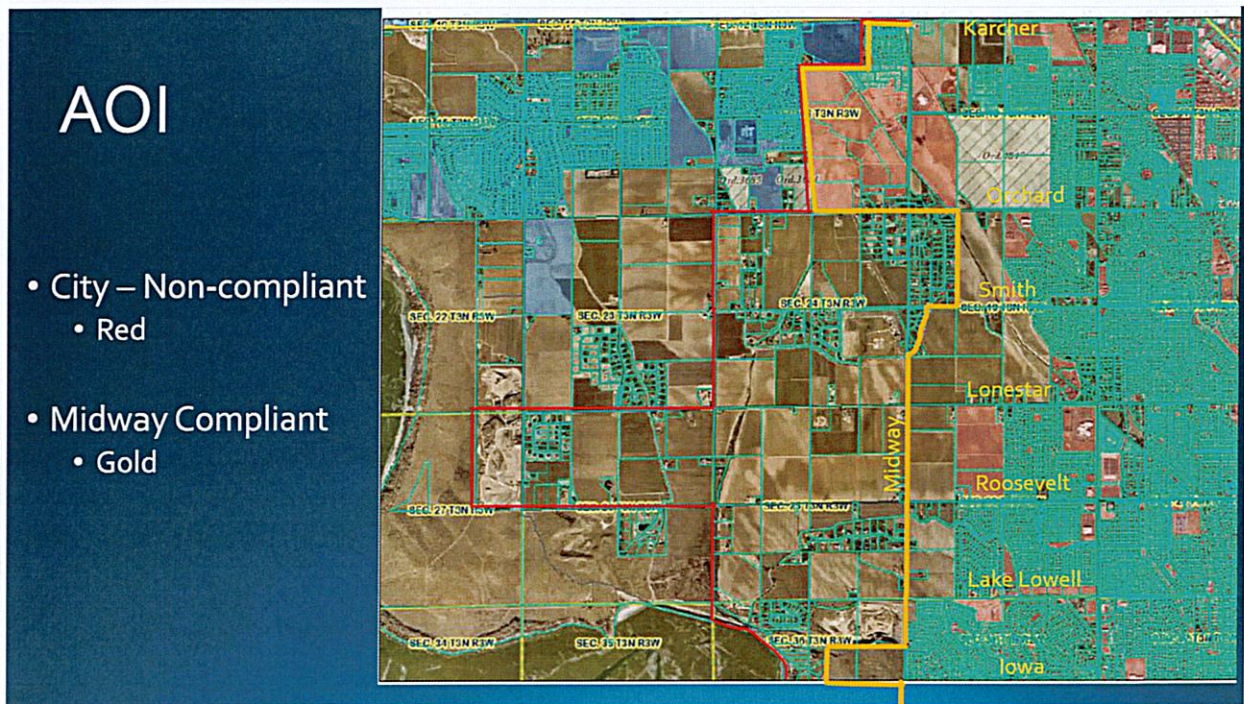
Respectfully,



Todd M. Lakey

ATTACHMENTS FOR

Response to City of Nampa's Proposed Non-Compliant Area of Impact Boundary for the West Section of their Proposed Area of Impact



Submitted To:
Canyon County Commissioners

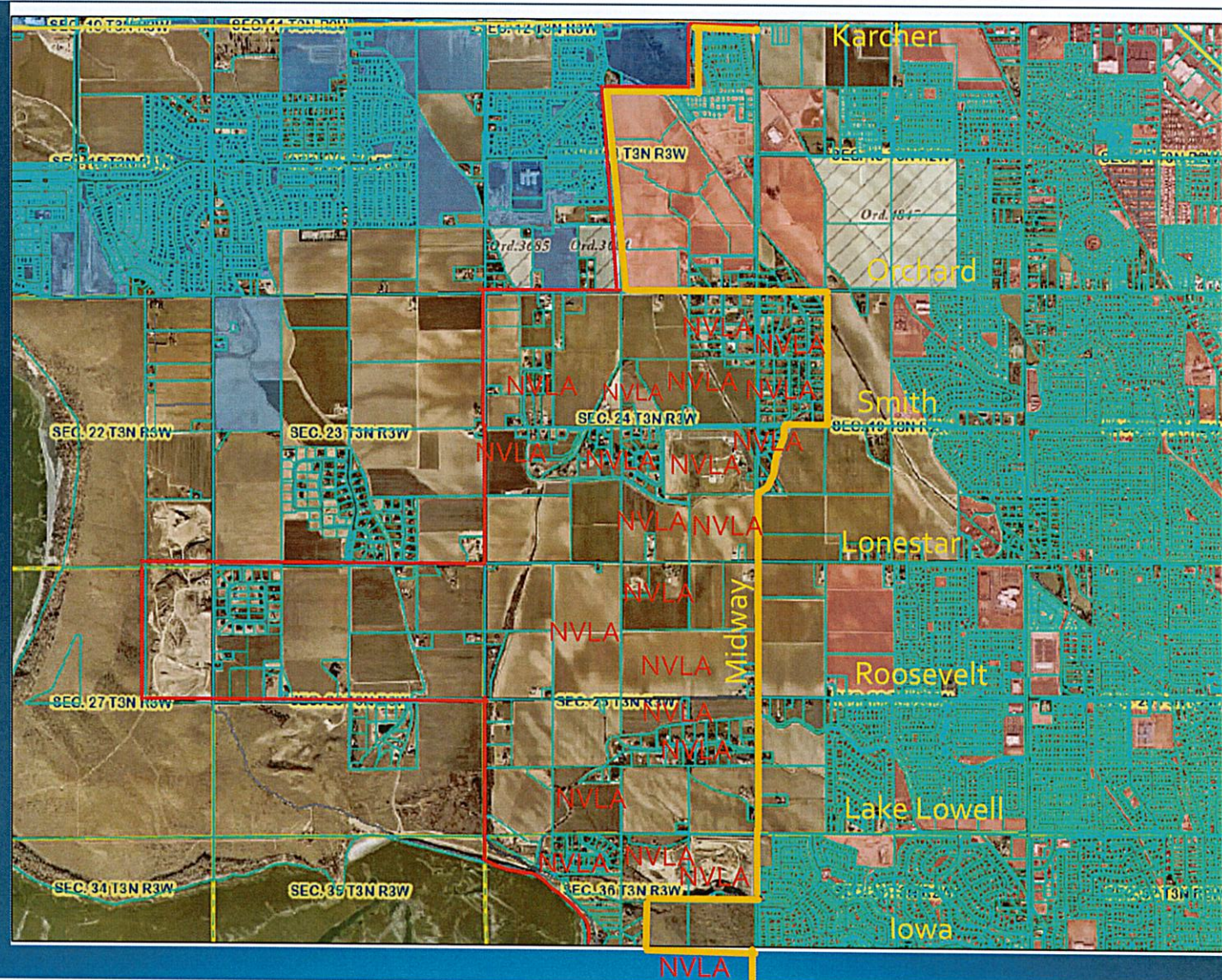
Submitted By:
Todd M. Lakey

ATTACHMENT 1

Maps Noting Properties Not Very Likely to Be Annexed in Five Years

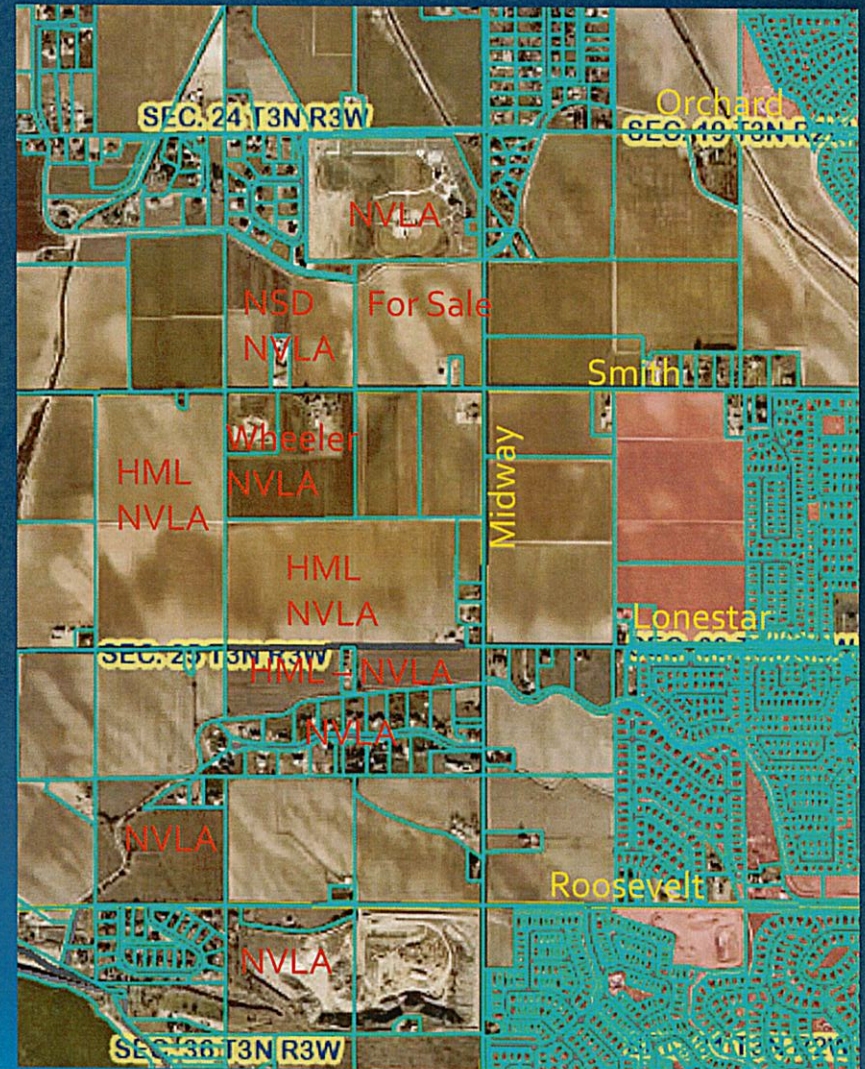
AOI

- NVLA – Not Very Likely to Annex in Five Years
- City – Non-compliant
 - Red
- Viable/Compliant
 - Gold



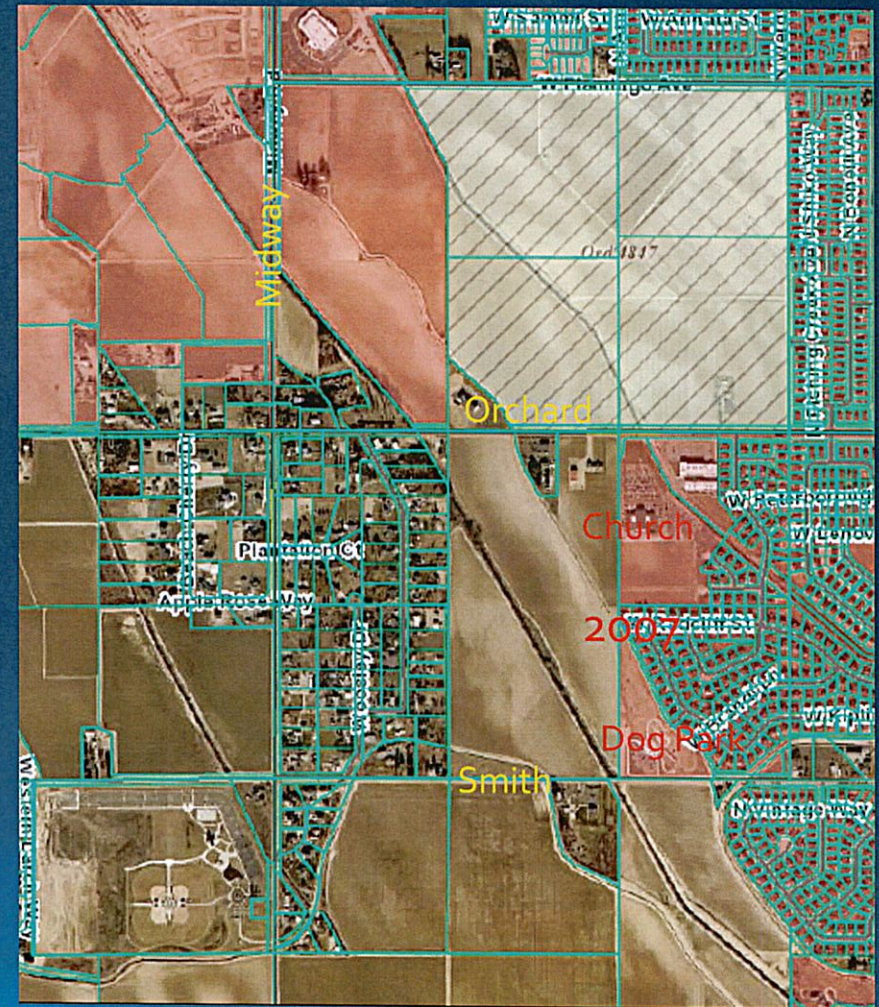
Not Very Likely to Annex in 5 Years “NVLA”

- Nampa Park – City not extending services – NVLA
- NSD – NVLA
- For Sale – Non-viable price
- Wheeler - NVLA
- HML – NVLA
- Two Towers Sub – NVLA
- Babcock - NVLA



Lack of Activity

- Westminster No. 3 2010/2019
 - 2009 lost to Bank – CBH
 - Stubs into Church – nothing
 - Church – developer lost to Bank 2009 – later sold to Church
- Westminster No. 2 – 2007
 - Partial Stub to West – nothing
 - Stubs into Dog Park - nothing



Lack of Activity

- Sonata Point Sub 2023
 - Connectivity to West
 - Annexation to West – no further development or platting

