



TO: BOARD OF ADA COUNTY COMMISSIONERS

HEARING DATE: June 3, 2015
STAFF MEMBERS: Megan Basham, AICP, Associate Planner
PROJECT NO.: 201500097 A, Dave Spencer
APPELLANT: Dave Spencer
AGENT: Dave Spencer

INTRODUCTION

An appeal of the Director's approval of the Sandy Point Lane private road. The road is located in Section 11, T2N, 3D, Boise, ID.

EXECUTIVE SUMMARY

The appellant is requesting that the Board overturn the Director's approval of a private road application to formally recognize a portion of Sandy Point Lane as a County-approved private road. The appellant cites the following reasons to overturn the Director's decision and deny the private road:

- The Ada County Highway District (ACHD) has not provided an accurate legal description of the public road termination point;
- Based on the termination point, southeast of Stagecoach Lane/Sandy Point Lane intersection, determined by ACHD during the comment period for File 201500097 PR, property owners along Stagecoach Lane would need to obtain approval of a variance for a private road off of a private road;
- The ownership of the property underlying the existing road is unclear; and
- Complex history of the area and the section of private road under scrutiny only benefits one or two property owners. Solutions should address the complex issues of the entire neighborhood.

The pavement for Sandy Point Lane ends approximately 215 – 270 feet southeast of its intersection with Stagecoach Lane. The paved portion has always been known to be ACHD right-of-way. What was unknown, is whether or not that right-of-way extended beyond the pavement, and if so, how far. On April 14, 2015, ACHD sent a letter to clarify what is and what is not public right-of-way based on information provided by Ada County Development Services. Included in that information was Instrument #7532588 which is warranty deed from 1972 to Ada County Highway Commission for what is now known as Sandy Point Lane. There is an error in the legal description so that the legal description does not align with the road as it exists today which caused most of the confusion. In light of the 1972 warranty deed, ACHD has made the following determination:

“There was also an error in the deed regarding the last 400-feet of Sandy Point Lane that is shown in pink on the map, which is part of the reason this segment has been in question. This segment extends to Stagecoach Lane. ACHD has not maintained, and

does not intend to maintain this segment of Sandy Point Lane, and as such it is classified as ‘unopened right-of-way.’”

Travel through unopened right-of-way requires a license agreement from ACHD. Based on this information, Ada County Development Services considers the end of the unopened right-of-way as the intersection point for the Sandy Point Lane private road. Additionally, based the ACHD letter, the unopened right-of-way extends to Stagecoach Lane; thereby, removing any requirement of the existing homeowners on Stagecoach Lane to obtain approval of a variance for a private road off of a private road, if they so choose to submit a private road application in the future. Through the private road application process which requires legal descriptions written by a licensed surveyor, the terminus of the public road will be established.

The overlap issue was documented on ROS 9359, which was recorded on January 16, 2013, by Greg Carter of the Idaho Survey Group. As a result of the original private road application, Development Services Survey staff conducted extensive research of the property deeds in the area to determine the extent of the ownership issues. Additionally, as a result of this application, the applicant is required to address and fix the overlap issues prior to receiving final approval of the private road.

The area does have a complex history of the splitting and selling of property without going through the subdivision process, a rezone to R1 from the 1970s and subsequent approved preliminary plats that never came to fruition, and the confusion surrounding the termination of the public right-of-way as described below. Development Services staff has worked with the property owners in the area for two (2) years to ensure that the existing homes could obtain building permits. The solution was two-fold. First, staff wrote a text amendment, which the Board approved in October 2013, to clear up the non-conforming parcel section of the Ada County Code and the eligibility for building permits. The second step required the property owners to submit applications for a private road.

Staff met with applicant and the potential buyer on October 16, 2014 to discuss the property and any potential applications. Staff then set up a meeting with the existing homeowners, IDFG, the applicant and the potential buyers on November 12, 2014 to discuss the proposed single-family dwelling and private road application. Staff encouraged that the property owners work together on the private road application.

Since the initial approval of the private road on March 19, 2015, staff has met with the applicant, potential buyers, and existing property owners on several separate occasions. On May 15, 2015, staff facilitated a meeting with all parties in attendance, including the IDFG to discuss a solution. While, the current application cannot be changed to include approval of Stagecoach Lane or the extension of Sandy Point Lane to include the appellant’s property, it was discussed that the required easement could include all existing homeowners in the area, as well as the IDFG for administrative purposes. Joint maintenance was also discussed, as well as the desire to keep it unpaved at this point in time. The terminus point was also discussed and preliminary consensus was to end the private road in an approved turnaround, at the Section line between Sections 2 and 11. This would guarantee IDFG access to their properties within Section 2, as their existing easement includes Section 2, but not Section 11. It would also reduce the complexity in the future extension of the Sandy Point Lane to the appellant’s property to the west.

Area and Application History

The road is existing and is part of an informal road system constructed in the 1970s and 1980s as part of what was known as the Lucky Peak Subdivision. The Lucky Peak development was never approved by or recognized by the County as an approved subdivision but throughout the 1970s and 1980s the developer/owner sold off parcels that roughly matched the sketch drawing of the proposed subdivision.

The Idaho Department of Fish and Game purchased the majority of this area to protect the wintering elk habitat. There are still some privately owned parcels but the majority of these parcels are considered to be unbuildable because:

- They were not created in conformance with Ada County Code,
- This area is largely zoned Rural Preservation (RP) which has a minimum lot size of 40 acres and the properties are far below the minimum lot size, and
- None of the properties have access and frontage on a public road or a County approved private road as required.

However, there are some exceptions. There are currently five (5) homes in this area that were built prior to 1985. Ada County Code does allow for these parcels to be considered Non-Conforming parcels under Section 8-1B-2b and eligible for building permits if frontage and access is also provided. The second exception in this area is that there is a small portion (approximately 23.5 acres) of Estate Residential (R1) zoning which has a minimum lot size of 1 acre. The R1 zoning occurred in 1973, prior to the requirement of a development agreement that allows the County to revert the zoning if the associated development request never materializes; therefore, the R1 zoning remains today. The parcels in the R1 zoning are eligible for building permits because they were created prior to January 1, 1985 and they meet the one (1) acre requirement if there is access and frontage on a public or County-approved private road.

The applicant for the original private road application approached the County about how to obtain access and frontage for parcel S1611212275, which is 3.3 acres, for the purposes of selling the property and making it eligible for a building permit. County staff directed the applicant to submit a private road application because the property is zoned R1 and meets the minimum lot size requirement but lacks approved access and frontage.

The buying and selling of parcels in the Lucky Peak development that occurred in the 1970s and 1980s has created confusion surrounding ownership of some parcels, not only for the private property owners but for public agencies as well. The submittal of this application, allowed Ada County Development Services staff to conduct research regarding the development and ownership of some of these parcels. Below are the results of the County's research which included reviewing past development applications and deed research:

- ROS 9359 was recorded on January 16, 2013. It was completed by Greg Carter of Idaho Survey Group on behalf of the Idaho Department of Fish and Game (IDFG). It identified the area of the proposed private road as an area of overlap between Krueger owned parcels 2275 and 0900 and parcel 4925 owned by Isaac and Pollock. While the Assessor's map show a parcel to be owned by IDFG in the general location of the proposed private road, County staff could not find any recorded deeds for this strip. Staff did, however, find deeds with overlapping legal descriptions. It is therefore, the County's view that the proposed road location is located on property with overlapping ownership between Krueger and Isaac/Pollock. As such, staff has placed a condition on this application that the overlap between properties is addressed prior to final approval of the private road. While staff can offer potential avenues, it is ultimately up to the private property owners as to how to address the boundary overlap. Once the overlap issue is resolved, the appropriate perpetual access easements will need to be recorded.
- The parcel in question was created on March 4, 1983 via a Quitclaim deed recorded as Instrument #8317769 from Developer's International to Philip and Allyn Krueger. It changed ownership several times in the following years but the legal description has remained the same. Philip and Allyn Krueger regained ownership on June 14, 1999 via a Special Warranty Deed recorded as Instrument #99059265 and have remained the owners since that date. County Survey staff

plotted out the legal description attached to these deeds and the description encompasses all of the contiguous Krueger parcels (2275, 0900, and 1150), which results in one parcel measuring approximately 20 acres. Therefore, Ada County Development Services considers the three parcels to be one, 20-acre parcel for development purposes. The three different parcel numbers were created by the Ada County Assessor's Office and do not necessarily reflect development parcels. Rather, Ada County Development Services considers the legal description attached to the recorded deeds as the parcel eligible for development.

- As stated earlier, the property owner is seeking to create a buildable parcel on what is shown in Ada County Assessor records as the 3.3-acre parcel ending in 2275. Because the deed for the entire 20-acre parcel was recorded prior to January 1, 1985 and the zoning of the parcel is R1, the property is eligible for a one-time division. Staff is not including the one-time division as a condition of approval for the private road application because the private road is not contingent upon the 20-acre parcel being divided, but rather, staff included this information to inform both the property owner and the potential buyer that the 3.3-acre parcel is actually not a stand-alone parcel for development purposes without an approved one-time division. If the property owner chooses to go through the one-time division process, the resulting parcels would need to meet the dimensional standards of the R1 District—1 acre and 100 feet of frontage along a public or County-approved private road.
- Initially, the applicant proposed a cul-de-sac as a terminus but then submitted revised drawings showing a hammerhead at what is considered to be the intersection of Sandy Point Lane and Lucky Peak Lane. Again, ROS 9359 shows that there is conflicting ownership information in this area, which was confirmed by Ada County Survey staff. If the applicant intends to keep the turnaround in this area, the ownership issue will need to be resolved and the appropriate easements from the identified property owners will need to be obtained. It is not clear that this parcel is actually owned by the IDFG, as shown on the Ada County Assessor's map.

The existing homeowners have voiced several concerns regarding the proposed private road including the lack of owner signatures, the impression that the applicant will be responsible for granting easements to all other homeowners in that area, the lack of a defined maintenance agreement, the proposed turnaround on the Isaac/Pollock property without their consent, the lack of a collaborative effort between property owners and public agencies including Ada County, IDFG and ACHD, and the point at which ACHD public right-of-way ends and the private road would begin. Staff will address each item below:

- Typically, development applications submitted to this office do require the signatures of all property owners on which the development occurs—although this is not actually written in Ada County Code. Private roads are also unique in that the applicant is required to produce recorded easements from all affected property owners prior to the final approval of the private road. For this reason, Ada County accepted the private road application. Additionally, it was only through the submittal of this application that staff discovered the overlap issue and can now direct the applicant to address the issue and obtain easements from the appropriate property owner(s). It should also be noted that while there are other property owners in the area that use Sandy Point Lane, the actual road only provides direct access to two properties—the Krueger parcel and the Isaac/Pollock parcel.
- While the applicant does state in the detailed letter that they will be the owners of the private road and will grant easements to other property owners that would only be the case if the applicant ends up being the owner of the property underneath the proposed road. As discussed above, the land on which the proposed private road sits has an overlap in legal descriptions that must be

addressed before the road can be finalized. Private property owners do have the discretion to grant easements and the County cannot force a private property owner to do so. The County has encouraged all of the property owners to work together on getting the existing roads approved as private roads since 2013 and this is the only application the County has received.

- The application requires a draft maintenance agreement. This is usually a negotiation between private property owners. This is a unique situation in which the applicant believed the road to be owned by the IDFG and was pursuing an easement through them in which the terms of the maintenance agreement would be determined. Staff directed the applicant to submit something that acknowledged a maintenance agreement would be provided but didn't necessarily require all the details up front. A final maintenance agreement with details provided is included as a condition of approval.
- The applicant first intended to have a cul-de-sac on the Krueger and Isaac/Pollock parcel but then amended the request to move it to a hammerhead at the intersection of Sandy Point Land and Lucky Peak Lane because it was believed to be all owned by the IDFG. Through the research, it was discovered that there are also ownership issues regarding the hammerhead location. The applicant will be conditioned to address the terminus of the private road. If the applicant wishes to keep the hammerhead, the applicant will be required to address the ownership and obtain the appropriate easements. If the applicant wishes bring the terminus south into a cul-de-sac, if any portion of that extends onto the Isaac/Pollock parcel, the applicant will be required to obtain an easement from those property owners.
- As discussed earlier, the history of this area is convoluted and confusing to all parties, even the public agencies. In the spring of 2013, staff met with the existing homeowners to discuss a process in which the homeowners would be eligible for building permits in the event that the home was damaged and needed to rebuild. While the code at that time granted non-conforming status to parcels that had a home built prior to January 1, 1985, it wasn't clear whether or not the property owner could pull subsequent building permits for the property. Staff discussed a two-fold solution. The first step was to clarify the language in 8-1B-2b, which was completed by Ada County staff and approved by the Board on October 2, 2013. The second step was for the property owners to submit a private road application (and a potential variance application) in order to meet the County requirement for access and frontage. On August 2, 2013, staff, including the County Engineer, conducted a site visit and met with the homeowners and IDFG to discuss the steps and requirements for the private road application. Pre-application notes along with the application forms were sent to the existing homeowners the following week.
- Staff met with applicant and the potential buyer on October 16, 2014 to discuss the property and any potential applications. Staff then set up a meeting with the existing homeowners, IDFG, the applicant and the potential buyers on November 12, 2014 to discuss the proposed single-family dwelling and private road application. It was encouraged that the property owners work together on the private road application. On January 20, 2015, the applicant submitted the private road application. Often times, it is only through a formal application process that many of these issues can be addressed and worked through. Staff cannot prevent anyone from submitting an application.
- The location of the public right-of-way terminus has always been an area of confusion. The neighbors are correct in that there has been conflicting information over the years. Ada County staff has requested right-of-way information from ACHD in the past which differs from where it is shown in this private road application. However, many times, it is not until a formal

application is sitting in front of staff that an agency will issue a formal response. The formal response from ACHD with this private road application is that the end of the public right-of-way is shown correctly on the application materials submitted, which is the end of the pavement. A condition of approval will be to install a private road sign at the start of the private road. This will help to reduce any confusion in the future.

All written comments received to date are included as exhibits. The comments received have been from the affected agencies. No written comments from the surrounding neighbors have been received, thus far.

RECOMMENDATION

Based upon Staff's review of the application, staff concludes that this application complies with the Ada County Code and recommends approval to the Board as set out in the proposed Findings of Fact and Conclusions of Law attached hereto.

The Board should consider the evidence and testimony presented during the public hearing prior to rendering its decision concerning this application.

EXHIBIT LIST – PROJECT NO.: 201500097 A

1. Appeal Master Application and Checklist submitted April 3, 2015 – 3 pages
2. Appeal Detailed Letter dated April 3, 2015 – 3 pages
3. Site Plan submitted by Appellant submitted April 3, 2015 – 1 page
4. Tentatively approved private road drawing and legal description submitted by original applicant stamped January 23, 2015 – 2 pages
5. Vicinity Map – 1 page
6. Appeal Submission and Hearing Date letter dated April 8, 2015 – 1 page
7. Appeal Ada County P&Z Transmittal dated April 13, 2015 – 2 page
8. Letter from ACHD dated April 14, 2015 – 2 pages
9. Instrument #7515233 deeding Sandy Point Lane to ACHD – 2 pages
10. Memo from Ada County Building Official dated April 14, 2015 – 1 page
11. Letter from Idaho Fish and Game dated April 28, 2015 – 2 pages
12. Appeal Radius Notice mailed on May 1, 2015 – 3 pages
13. Original Application Staff Report dated March 19, 2015 – 5 pages
14. Original Application Findings of Fact and Conclusions of Law and Conditions of Approval – 8 pages
15. Original Application Master Application and Checklist submitted January 20, 2015 – 4 pages
16. Original Application Detailed Letter submitted January 20, 2015 – 1 page
17. Pre-Application Notes from August 2, 2013 – 3 pages
18. Right-of-Way Exhibit submitted with original application January 20, 2015 – 1 page
19. Original Application Draft Maintenance Agreement submitted January 20, 2015 – 1 page
20. Original Application Submittal Letter dated January 22, 2015 – 1 page
21. Original Application Transmittal dated January 23, 2015 – 2 pages
22. Original Application Radius Notice dated January 23, 2015 – 3 pages
23. Original Application Memo from Ada County Building Official dated January 27, 2015 – 1 page
24. Original Application Letter in Opposition from Neighbors dated February 6, 2015 – 11 pages
25. Original Application Email from ACHD dated February 11, 2015 regarding original ROW termination point – 2 pages
26. Original Application Memo from the Ada County Engineer dated March 17, 2015 – 2 pages
27. Original Application proposed building site submitted January 20, 2015 – 1 page
28. Appeal Legal Notice published in The Idaho Statesman on May 19, 2015 – 1 page
29. Meeting Notes from May 15, 2015 – 1 page



MASTER APPLICATION/PETITION REQUEST

ADA COUNTY DEVELOPMENT SERVICES

200 W. Front Street, Boise, Idaho 83702. www.adaweb.net phone: (208) 287-7900 fax: (208) 287-7900

TYPE OF ADMINISTRATIVE APPLICATION:

- ACCESSORY USE*
- FARM DEVELOPMENT RIGHT
- FLOODPLAIN PERMIT
- HILLSIDE DEVELOPMENT*
- HIDDEN SPRINGS ADMINISTRATIVE
- HIDDEN SPRINGS SPECIAL EVENT
- MASTER SITE PLAN*
- NONCONFORMING USE EXPANSION
- ONE TIME DIVISION
- PRIVATE ROAD
- PROPERTY BOUNDARY ADJUSTMENT
- SIGN PLAN
- TEMPORARY USE*

TYPE OF HEARING LEVEL APPLICATION:

- CONDITIONAL USE
- DEVELOPMENT AGREEMENT
- SUBDIVISION, PRELIMINARY*
- PLANNED COMMUNITIES*
- SUBDIVISION, SKETCH PLAT*
- VACATION
- VARIANCE
- ZONING MAP AMENDMENT
- ZONING TEXT AMENDMENT

TYPE OF HEARING LEVEL PETITION:

- COMPREHENSIVE PLAN MAP OR TEXT AMENDMENT PETITION CHECKLIST

TYPE OF ADDENDA:

- APPEAL
- ADMINISTRATIVE MODIFICATION
- DEVELOPMENT AGREEMENT MODIFICATION
- FINAL PLAT
- TIME EXTENSION

REQUIRED SUBMITTALS:

- CHECKLIST for applicable application(s). If multiple applications, do not duplicate submittals.
- *SUPPLEMENTAL WORKSHEET REQUIRED

SITE INFORMATION:

Section: _____ Township: _____ Range: _____ Total Acres: _____
 Subdivision Name: _____ Lot: _____ Block: _____
 Site Address: _____ City: _____
 Tax Parcel Number(s): ROAD APPROVAL FILE # 201500097
 Existing Zoning: _____ Proposed Zoning: _____ Area of City Impact: _____ Overlay
 District(s): _____

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ADA COUNTY DEVELOPMENT SERVICES

OFFICE USE ONLY

Project #: <u>201500097-A</u>	Planning Fees/GIS:	Engineering Fees:
Received By: <u>BSF</u> Date: <u>4-3-15</u> Stamped <input checked="" type="checkbox"/>	<u>\$350⁰⁰</u>	

APPLICANT/AGENT: (Please print)		ADDITIONAL CONTACT if applicable: (Please Print)	
Name: <u>David H. Spencer</u>		Name: <u>ANDREW L. ISAAC</u>	
Address: <u>9800 E. Hwy 21</u>		Address: <u>9900 E HWY 21</u>	
City: <u>Besse</u> State: <u>ID</u> Zip: <u>83716</u>		City: <u>BOISE</u> State: <u>Id</u> Zip: <u>83716</u>	
Telephone: <u>841 4403</u> Fax: _____		Telephone: <u>571-0687</u> Fax: _____	
Email: <u>dspencer@noanet.net</u>		Email: <u>alisaac22@hotmail.com</u>	
I certify this information is correct to the best of my knowledge.		ENGINEER/SURVEYOR if applicable: (Please Print)	
 <u>4/3/15</u>		Name: _____	
		Address: _____	
		City: _____ State: _____ Zip: _____	
		Telephone: _____ Fax: _____	
		Email: _____	
Signature: (Applicant) _____		Date _____	

OWNER (S) OF RECORD: (Please Print)		OWNER (S) OF RECORD: (Please Print)	
Name: _____		Name: _____	
Address: _____		Address: _____	
City: _____ State: _____ Zip: _____		City: _____ State: _____ Zip: _____	
Telephone: _____		Telephone: _____	
Fax: _____		Fax: _____	
Email: _____		Email: _____	
I consent to this application, I certify this information is correct, and allow Development Services staff to enter the property for related site inspections. I agree to indemnify, defend and hold Ada County and its employees harmless from any claim or liability resulting from any dispute as to the statements contained in this application or as to the ownership of the property, which is the subject of the application.		I consent to this application, I certify this information is correct, and allow Development Services staff to enter the property for related site inspections. I agree to indemnify, defend and hold Ada County and its employees harmless from any claim or liability resulting from any dispute as to the statements contained in this application or as to the ownership of the property, which is the subject of the application.	
Signature: All Owner (s) of Record _____		Signature: All Owner (s) of Record _____	
Date _____		Date _____	

ALL OWNER(S) OF RECORD (ON THE CURRENT DEED) MUST SIGN (Additional Sheets are Available Online)

If the property owner(s) are a business entity, please include business entity documents, including those that indicate the person(s) who are eligible to sign documents.

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200 W. Front Street, Boise, ID 83702. www.adaweb.net phone: (208)287-7900 fax: (208)287-7909



APPEAL CHECKLIST (ACC 8-7-7)

An Appeal request requires a public hearing.

GENERAL INFORMATION:

Applicant	DESCRIPTION	Staff
✓	Completed and signed Master Application	
✓	DETAILED LETTER by the applicant fully describing the request or project and addressing the following:	✓
✓	Reason for the Appeal. Be specific.	
✓	File number of the original application.	
✓	Date of the written decision that is being appealed.	
	Who's decision is the appeal of? Director (✓) Commission ()	
✓	SUPPORTING MATERIALS. Literatures, studies, maps, display graphics, etc. in support of the appeal.	
✓	DEMONSTRATE that the applicant is an affected person Idaho Code 67-6521 (1)(a)	
N/A	MUST COMPLY WITH SIGN POSTING REGULATIONS (ACC 8-7A-5)	
✓	APPLICATION FEE: Call County for Current Planning Fee or go to www.adaweb.net	

APPLICATION WILL NOT BE ACCEPTED UNLESS ALL APPLICABLE ITEMS ON THE FORMS ARE SUBMITTED.

Adjacent homeowner to parcel under development. Parcel # 51611212300.

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April 3, 2015

Subject: Appeal to Conditional Private Road Approval File #201500097 PR, Philip and Allyn Krueger

Dear Ada County Commissioners:

On March 19, 2015 Ada County Development Services (ACDS) conditionally approved a private road application for a proposed home on Hammer Flat, a neighborhood with five existing homes on acreage near Lucky Peak dam. The neighborhood unanimously supports this appeal to overturn the decision by Ada County Development Services on private road application File #201500097 PR, Philip and Allyn Krueger.

The reasons for the appeal are many:

- According to the Ada County Surveyor the public road accessing the private road in question (Sandy Point Lane) does not have an accurate legal description. This is critical to the application status since before the private road application was submitted, Ada County Highway District (ACHD) performed road maintenance and provided maps and letters documenting one of the homeowners' (Isaac/Pollock) access to the public road (see attached map and letters from 1986, 1990, and 2013). In response to this private road application, ACHD moved the termination point of the public road so that Isaac/Pollock no longer have public access. However, ACHD did not provide supporting legal documentation for this change. Until Ada County Highway District provides an accurate legal description of the public road termination, the private road application should be tabled.
- If Ada County approves this short segment of private road then other homeowners applying for private roads in the area will require the Ada County Commission to grant a variance to code regarding private roads or risk losing the value of their homes. Ada County code for private roads (8-4D-4 A.4.b) says "a private road shall not intersect another private road." The private road conditionally approved by ACDS runs from a public road at its origin to the driveway of the proposed home, effectively blocking access to four other homes. The four existing homes would need new private roads to access them from the approved private road. According to code this is not possible. By conditionally approving this private road application the Commission is faced with either granting a variance to code in the future, or risk taking the value of the existing homes, which are being taxed by Ada County, in order to allow the possible building of one new home.
- Approval of the private road application should never have been allowed because the ownership of the private road is not clear. According the Ada County staff report, there is overlapping ownership of the road with no clear path to resolution, inviting the potential for lawsuits and other mischief. In addition, Idaho Fish and Game used federal funds to purchase access easements to the wildlife preserve in the area. Before ACDS conditionally approved the private road application, it was understood that Idaho Fish and Game owned the road. With private, state and federal money at risk the private road application should be tabled until the underlying ownership is understood and agreed upon by all the affected parties.

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EXHIBIT # 2
STAFF REPORT
201500097 A, Dave Spencer

1 OF 3

- Prior to this private road application, the neighborhood had been working with ACDS to understand and resolve over 40 years of issues with private roads and easements in this area. It is only within the last two years that homeowners in the area were aware that acquiring building permits could be denied in the case of fire or other catastrophes requiring reconstruction. Resolving the private road and easement issues to the satisfaction of Ada County is a time consuming, complex and expensive undertaking for the five taxpaying home owners living on Hammer Flat. The private road application approval under appeal is a short section from the public road access to the driveway of the potential new home, effectively undermining the existing process. The neighborhood would like to see the entire subdivision private road and easement situation resolved, not just a small section that creates more problems than it solves. If work would be allowed to continue to resolve the complex issues of the entire area then the solution not only helps the Kruegers but the rest of the neighborhood as well.

For these reasons we appeal to the Ada County Commissioners to overturn or at least table the conditional approval of private road application File #201500097 PR, Philip and Allyn Krueger. We hope that the Commission will direct Ada County Development Services to work proactively and collectively with the neighborhood and the Kruegers to resolve private road and easement issues in the Hammer Flat area so that both development and access to existing homes can occur.

Sincerely,

Lucky Peak Neighborhood Association



Signature Page

April 3, 2015

Barbara Eno

Barbara Eno

Doug Eno

Doug Eno

Janet L. Kelly

Janet Kelly

David H. Spencer

David Spencer

Angie McGlathery

Angie McGlathery

Angela

Michael McGlathery

Michael McGlathery

Susan Clark

Susan Clark

Anthony Jones

Anthony Jones

Andy Isaac

Andy Isaac

Keela Pollock

Keela Pollock

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EXHIBIT # 2
STAFF REPORT
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3 OF 3

WIDE OF AFFECTED AREA



Highway 24

Sandy Point Rd

Isaacs

property over private road

original determination by ACTA

Krueger

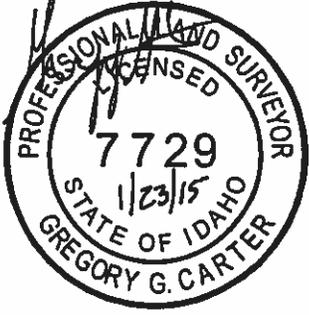
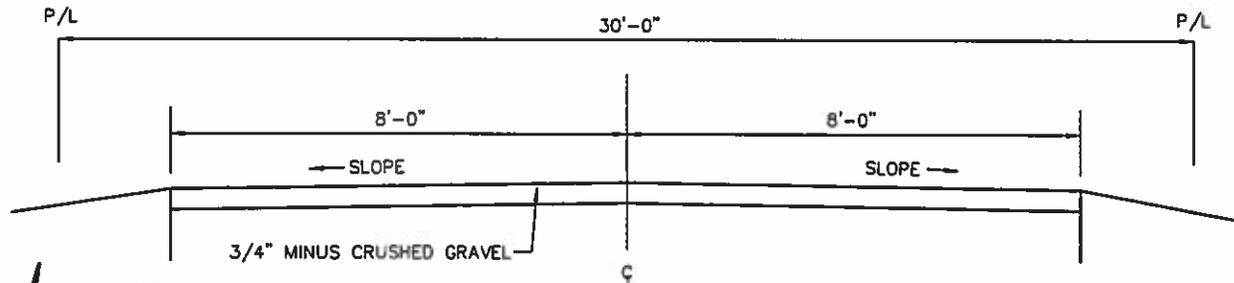
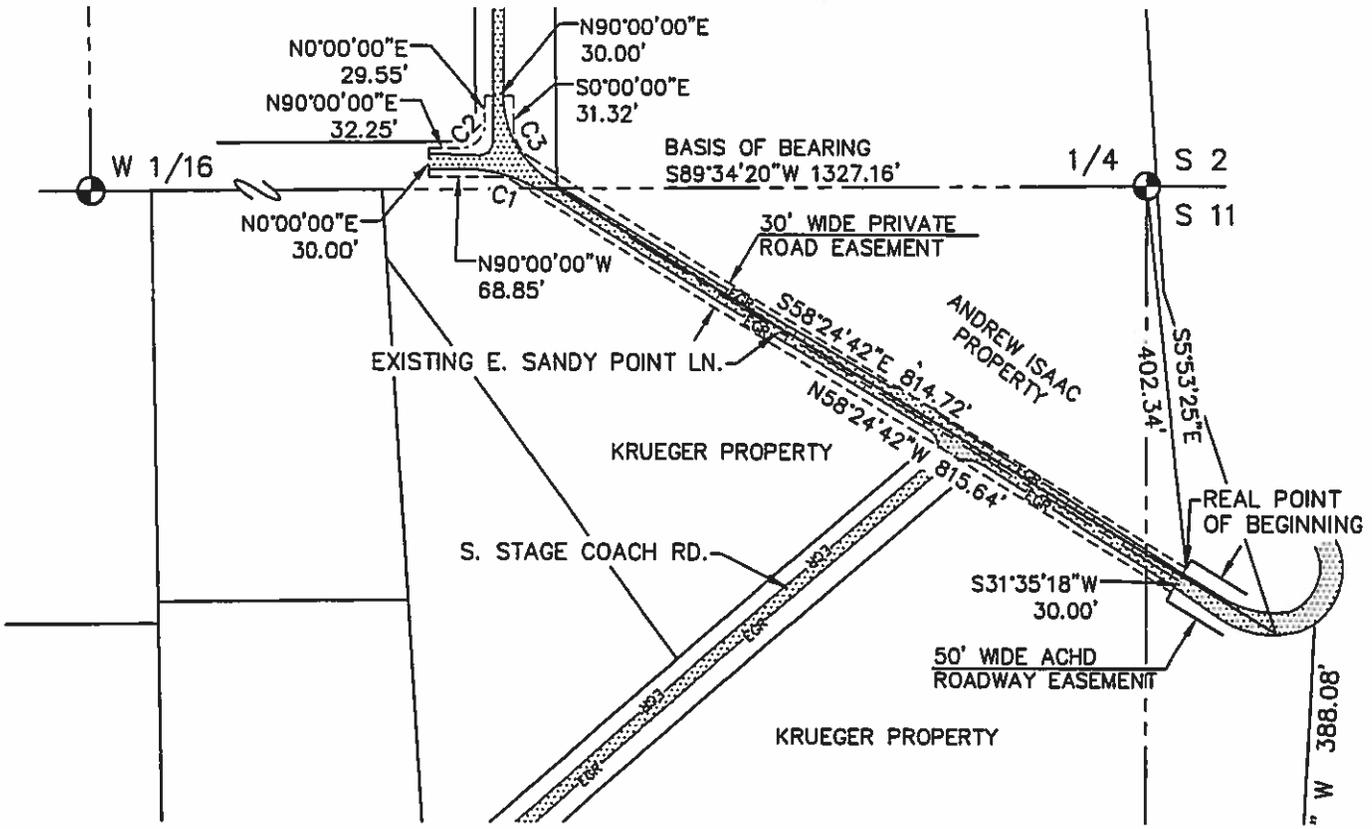
Spencer
516121
2300

new determination by ACTA

Sandy Point Ln

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Sandy Point Rd



**30' EASEMENT
TYPICAL SECTION
NOT TO SCALE**



SCALE: 1" = 200'

CURVE TABLE					
CURVE	RADIUS	LENGTH	CHORD DIST.	CHORD BRG.	DELTA
C1	40.00	22.05	21.77	N74°12'21"W	31°35'18"
C2	25.00	39.27	35.36	N45°00'00"E	90°00'00"
C3	40.00	40.78	39.04	S29°12'21"E	58°24'42"

\\VSC Projects\Sandy Point IDFG 12-091\dwg\lax\lax 2 access easement.dwg 1/23/2015 1:18:14 PM

IDAHO SURVEY GROUP, P.C.
 1450 E. WATERTOWER ST.
 SUITE 130
 MERIDIAN, IDAHO 83842
 (208) 848-8570

**EXHIBIT DRAWING FOR
E. SANDY POINT LANE
PRIVATE ROAD**
 LOCATED IN THE N 1/2 OF SECTION 11, T.2N.,
 ADA COUNTY, IDAHO

**EXHIBIT # 4
STAFF REPORT**
 201500097 A. Dave Spencer

JOB NO. 14-211
 SHEET NO. 1 OF 2

RECEIVED

By Ada County Development Services at 8:10 am, Jan 26, 2015

January 23, 2015

**DESCRIPTION FOR
PRIVATE ROAD EASEMENT**

A private road access easement located in the S 1/2 of Section 2 and the N 1/2 of Section 11, T.2N., R.3.E., B.M., Ada County, Idaho being more particularly described as follows:

Commencing at the N1/4 corner of said Section 11 from which the W1/16 corner of said Section 11 bears South 89°34'20" West, 1327.16 feet;

Thence South 05°53'25" East, 402.34 feet to the **REAL POINT OF BEGINNING;**

Thence South 31°35'18" West, 30.00 feet;

Thence North 58°24'42" West, 815.64 feet;

Thence 22.05 feet along a curve to the left, said curve having a radius of 40.00 feet, a central angle of 31°35'18" and a long chord of 21.77 feet which bears North 74°12'21" West;

Thence North 90°00'00" West, 68.85 feet;

Thence North 00°00'00" East, 30.00 feet;

Thence South 90°00'00" East, 32.25 feet;

Thence 39.27 feet along a curve to the left, said curve having a radius of 25.00 feet, a central angle of 90°00'00" and a long chord of 35.36 feet which bears North 45°00'00" East;

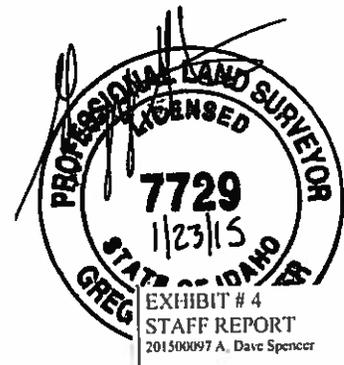
Thence North 00°00'00" East, 29.55 feet;

Thence North 90°00'00" East, 30.00 feet;

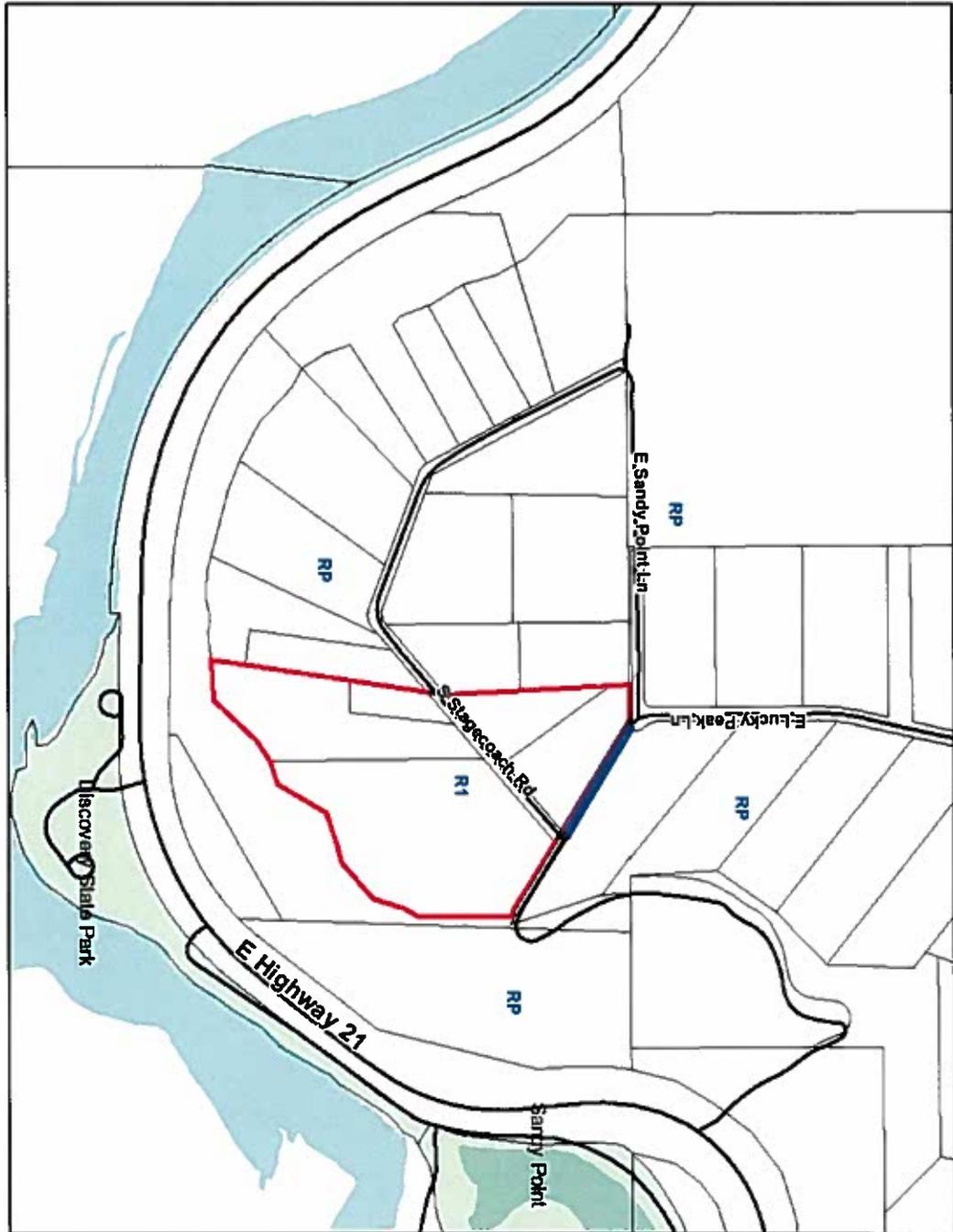
Thence South 00°00'00" East, 31.32 feet;

Thence 40.78 feet along a curve to the left, said curve having a radius of 40.00 feet, a central angle of 58°24'42" and a long chord of 39.04 feet which bears South 29°12'21" East;

Thence South 58°24'42" East, 814.72 feet to the **REAL POINT OF BEGINNING.**

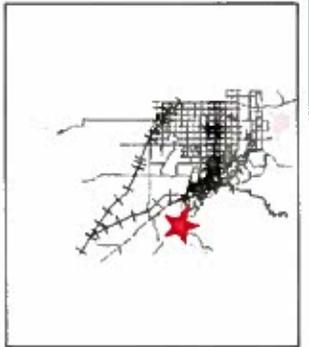


Vicinity Map



This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

Map center: 43° 31' 44.7" N, 116° 4' 5.3" W



Legend

- Railroads
- == Major Streets
- == Minor Arterial
- == Collector
- == SECTION
- == PRINCIPAL Arterial
- == INTERSTATE
- == Other
- Minor Streets
- LOCAL
- PARKS
- PRIVATE
- RESIDENTIAL
- Other
- Street Names (minor)
- Zoning
- Parcels
- Water
- Parks
- City Limits
- Kuna
- Bole
- Garden City
- Eagle
- Star
- Meridian



Scale: 1:7,935



ADA COUNTY
Development Services Department

April 8, 2015

David H. Spencer
9800 East Highway 21
Boise, ID 83716

RE: File #201500097 A, David Spencer

Dear Mr. Spencer;

This is to notify you that your application has been scheduled to be heard by the Board of Ada County Commissioners on **June 3, 2015**. This hearing will begin at 6:00 p.m. and will be held in the Commissioners Main Hearing Room #1235, on the first floor, 200 W. Front Street, Boise, ID. You or your representative must be present.

A copy of the staff report will be sent to you (and available online) prior to the meeting. Please contact me if you have any questions or comments regarding this application, the staff report, or any conditions, which may be attached to the staff report. I can be reached at 287-7944 or at mbasham@adaweb.net

In accordance with State law, "Notice of Public Hearing" must be posted on the site. Ada County recently amended the code to require the applicant to post the sign.

The sign is required to be posted ten (10) days in advance of the hearing. If the property is not posted correctly or the certification form is not submitted to Development Services at least seven (7) days prior to the public hearing, the application will be tabled until the next available hearing date. The certification form is available to download on our website at www.adaweb.net/DevelopmentServices. The sign is required to be taken down no later than three (3) days after the final decision. If there are multiple hearings on the application, the sign does not need to be taken down between hearings. However, the sign will need to be updated with the new hearing dates as the application goes through the hearing process.

Sincerely,

A handwritten signature in black ink that reads "Megan Basham".

Megan Basham, AICP
Associate Planner
Ada County Development Services, Planning & Zoning Division

cc: Andrew L Isaac, 9900 East Highway 21, Boise, ID 83716

Megan M. Leatherman, MCRP
Director

Ada County Courthouse
200 West Front Street
Boise ID 83702
208.287.7900
Fax 208.287.7909
www.adacounty.id.gov

Department Divisions
Building
Engineering & Surveying
Permitting
Planning & Zoning

Ada County Commissioners
Jim Tibbs, First District
Rick Yzaguirre, Second District
David L. Case, Third District

Megan Basham

From: Megan Basham
Sent: Monday, April 13, 2015 10:53 AM
To: Amy Aaron; rward@idfg.idaho.gov; Darby Weston; Darby Weston; clittle@achdidaho.org; syarrington@achdidaho.org; Mark Ferm; Angela Gilman; Jean Schaffer; Dale Ann Barton; Jerry Servatius; rkinney@republicservices.com; michaelmcglathery@gmail.com; Megan Basham; jerry.deal@idfg.idaho.gov
Cc: Megan Basham
Subject: Ada County Application Transmittal Notice.

	Ada County Development Services Planning & Zoning Division Transmittal
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File Number: 201500097-A / PR	X-Reference: NONE
Description: An appeal of the Director's approval of the Sandy Point Lane private road.	
Reviewing Body: BOCC	Hearing Date: 6/3/2015
Applicant: SPENCER DAVID H	P&Z Recommendation:
Property: The property contains 3.300 acres and is located at SANDY POINT DR BOISE 83716, Section 11 2N 3E.	

Ada County Development Services is requesting comments and recommendations on the application referenced above. To review detailed information about the request please either click on the file number identified above, or visit the Ada County Development Service's Application Tracking System (ATS) web site at gisx.adaweb.net/acdsv2/ and search by file number. Hover over the pushpin that appears on the map with your mouse and select "Additional Info" from the pop-up box. You will then be able to review individual documents, drawings and other information detailing the request.

We request that you submit your comments or recommendations by 4/28/2015. When responding, please reference the file number identified above. If responding by email, please send comments to mbasham@adaweb.net.

To request a hard copy of materials associated with this application, for additional information, or to provide comment on Ada County's Development Services ATS, please call me at the number listed below.

Sincerely yours,
MEGAN BASHAM, ASSOCIATE PLANNER
200 W Front Street
Boise ID 83702
mbasham@adaweb.net
(208) 287-7944



ADA COUNTY DEVELOPMENT SERVICES
Planning & Zoning Division Transmittal

To: IDAHO STATE FIRE MARSHALL	Date: 4/13/2015
File Number: 201500097-A / PR	X-Reference: NONE
Description: An appeal of the Director's approval of the Sandy Point Lane private road.	
Reviewing Body: BOCC	Hearing Date: 6/3/2015
Applicant: SPENCER DAVID H	P & Z Recommendation:
Property: The property contains 3.300 acres and is located at SANDY POINT DR BOISE 83716, Section 11 2N 3E.	

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To request a hard copy of materials associated with this application, for additional information, or to provide comment on Ada County's Development Services ATS, please call me at the number listed below.

Sincerely yours,

MEGAN BASHAM, ASSOCIATE PLANNER (208) 287-7944 mbasham@adaweb.net
 200 W Front Street, Boise ID 83702

14 ADA COUNTY DEVELOPMENT SERVICES
 200 W FRONT ST RM 2125
 BOISE, ID 83702

IDAHO STATE FIRE MARSHALL
 ATT: NESHA PABST
 700 W STATE ST FL 3RD
 BOISE ID 83702



Jim D. Hansen, President
Sara M. Baker, Vice President
Rebecca W. Arnold, Commissioner
Kent Goldthorpe, Commissioner
Paul Woods, Commissioner

Date: April 14, 2015

To: Megan Basham, Planner
Ada County Development Services
200 W. Front Street
Boise, ID 83702

Subject: ADA15-0004/201500097 PR
Private Road/Sandy Point Lane

This letter is to clarify previous communications regarding Sandy Point Lane. I have discussed this information with our Legal staff who requested I send this letter to you with the information contained herein. Please refer to the attached map for the color references.

Sandy Point Lane, as shown in yellow is the segment of road that ACHD has maintained for many years, as confirmed by our Maintenance & Operations staff. Our mapping system has shown this segment as "prescriptive right-of-way", although Sandy Point Lane was actually deeded to ACHD in the 1970s. Last week your office provided ACHD with a copy of that deed. Our staff spent a lot of time researching the history and mapping the deeds. The deed from Ada County to ACHD was accepted by ACHD and recorded; however, the legal description does not align with Sandy Point Lane as it exists today, which is why the ACHD maps have always shown this right-of-way as prescriptive.

There was also an error in the deed regarding the last 400-feet of Sandy Point Lane that is shown in pink on the map, which is part of the reason this segment has been in question. This segment extends to Stagecoach Lane. ACHD has not maintained, and does not intend to maintain this segment of Sandy Point Lane, and as such it is classified as "unopened right-of-way". The ACHD maps have been updated to reflect this information, and also reflect the instrument number (deed) of 7532588. This does not change the existing access in place for the property owners that access beyond the maintained right-of-way. However, if a property owner/applicant chooses to formalize a private road through the County, ACHD does allow private roads in opened right-of-way through a License Agreement process. In such cases the road continues to be classified as "unopened right-of-way", and ACHD will continue to maintain to the end of the yellow segment as depicted on the map.

If you have any questions, please feel free to contact me at (208) 387-6144.

Sincerely,

Christy Little

Christy Little
Development Services



240 418
- Old Stray Point dr. 7515233 Re Recording 7532588
Lucky Rock Data

B.M.
50
100
150

WARRANTY DEED

For value received, DEVELOPERS INTERNATIONAL, INC.,
an Idaho corporation, the grantor does hereby grant, bargain,
sell and convey unto ADA COUNTY HIGHWAY COMMISSION, the grantees,
its successors and assigns forever, in fee simple, the follow-
ing described premises in Ada County, State of Idaho, to-wit:

Beginning at the Southeast corner of Section Two
(2), Township Two (2) North, Range Three (3) East,
 Boise Meridian; thence S. 89°47'25" (E), 1618 feet
 to a point; thence N. 0°26' W. 222.0 feet to a
 point; thence N. 74°41' W. 125.0 feet to the real
 point of beginning;

thence continuing N. 74°41' W. 11.6 feet to a point
 of curve; thence along a curve to the right, said
 curve having a radius of 573.0 feet along an arc
 having a length of 174.8 feet and a central angle
 of 17°48'; thence N. 56°53' W. 24.9 feet to a point
 to a point of curve; thence along a curve to the
 left, said curve having a radius of 573.0 feet
 along an arc having a length of 87.0 feet and a
 central angle of 8°42'; thence N. 65°35' W. 73.3
 feet to a point of curve; thence along a curve to
 the right, said curve having a radius of 204.6 feet
 along an arc having a length of 49.2 feet and a
 central angle of 13°47'; thence N. 51°48' W. 100
 feet to a point of curve; thence along a curve to
 the left, said curve having a radius of 33.8 feet
 along an arc having a length of 88.2 feet and a
 central angle of 149°35'; thence S. 21°23' E.
 159.4 feet to a point of curve; thence along a curve
 to the right, said curve having a radius of 71.6
 feet along an arc having a length of 85.8 feet and
 a central angle of 63°41'; thence S. 47°18' W. 56.9
 feet to a point of curve; thence along a curve to
 the left, said curve having a radius of 995.0 feet
 along an arc having a length of 135.5 feet and a
 central angle of 11°08'; thence S. 36°10' W. 0.8
 feet to a point of curve; thence along a curve to
 the right, said curve having a radius of 84.3 feet
 along an arc of 68.6 feet and a central angle of
 46°41'; thence S 32°51' W. 3.5 feet to a point of
 curve; thence along a curve to the left, said curve
 having a radius of 220.3 feet along an arc having
 a length of 119.0 feet and a central angle of 30°56';
 thence S. 51°55' W., 0.6 feet to a point of curve,
 thence along a curve to the left, said curve having
 a radius of 90.8 feet along an arc having a length
 of 69.2 feet and a central angle of 40°07'; thence
 S. 11°48' W. 19.6 feet to a point of curve; thence
 along a curve to the left, said curve having a radius
 of 1432.5 feet, along an arc having a length of
 132.5 feet and a central angle of 5°18'; thence
 S. 6°30' W., 144.4 feet to a point of curve; thence
 along a curve to the left, said curve having a radius

of 260.5 feet, along an arc having a length of 174.0 feet and a central angle of 39°17'; thence S. 31°47' E., 277.3 feet to a point of curve; thence along a curve to the right, said curve having a radius of 63.2 feet along an arc having a length of 168.7 feet and a central angle of 152°57'; the above described center line has a right-of-way of 60 feet, that being 30 feet on each side of center-line; thence N. 50°50' W. 430.00 feet to Sta. 22+09.0, end of project. ~~thence along a curve to the right, said curve having a radius of 125.3 feet along a chord having a length of 123.5 feet and a central angle of 58°46'; thence N. 0°04' W. 652.6 feet to a point of curve; thence along a curve to the right, said curve having a radius of 760.6 feet along a chord having a length of 165.4 feet and a central angle of 12°28'; thence N. 77°21' E. 308.2 feet to the point of termination.~~ From Sta 24+09.0 to Sta 23+09.0 the right-of-way is 55 feet, that being 30 feet on the north and east and 25 feet on the south and west.

The right-of-way hereby granted comprises 3.66 acres, more or less.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said grantee and its successors and assigns forever. And the grantor does hereby covenant to and with the said grantee that it is the owner in fee simple of said; and that they are free and clear of all incumbrances and that it will warrant and defend the same from all lawful claims whatsoever.

IN WITNESS WHEREOF, the grantor has caused its corporate name to be hereunto subscribed by its president, duly authorized, and its duly attested corporate seal to be hereunto affixed by its secretary, this 9th day of November, 1972.

Attent:

[Signature]
 Its Secretary

DEVELOPERS INTERNATIONAL, INC.

By *[Signature]*
 Its President



MEMORANDUM



DATE: 4/14/2015

RE: 201500097-A/PR Sandy Point

TO: MEGAN BASHAM, Associate Planner

FROM: Mark Ferm, Ada County Building Official

RECEIVED

By Ada County Development Services at 12:06 pm, Apr 14, 2015

Summary of Project:

A request for a private road application from Sandy Point Lane.

Findings and Conditions:

The building division has no objection the proposed private road however the applicant should be aware of road design requirements of the International Fire Code.

Conclusion:

Approved as submitted

Mark Ferm
Ada County Building Official
200 W Front Suite 2125
Boise Idaho 83702
Phone 287-7910

markf@adaweb.net



IDAHO DEPARTMENT OF FISH AND GAME
SOUTHWEST REGION
3101 South Powerline Road
Nampa, Idaho 83686

C.L. "Butch" Otter / Governor
Virgil Moore / Director

April 28, 2015

Megan Basham
Ada County Development Services
200 W Front Street
Boise, ID 83702

RECEIVED

By Ada County Development Services at 11:26 am, Apr 29, 2015

RE: File Number 201500097-A/PR, Sandy Point Private Road

Dear Megan:

Thank you for the opportunity to comment on the subject private road application and subsequent appeal. The Idaho Department of Fish and Game (IDFG) submits the following comments and recommendations for your consideration.

At the time of the initial application, both the applicant and IDFG believed the road to be a part of a parcel owned by IDFG, and the applicant to be a possible grantee of an easement. Using information provided by the survey contracted by IDFG and existing title documents, Ada County has determined that the road in question is not owned by IDFG, but in part by the applicant. This results in two issues of concern.

First, IDFG is apparently in the position of now needing an easement across the applicant's parcel for access to lands owned by IDFG, which are a majority of all of the lands that could be and have traditionally been accessed from the existing road. It is unclear if a public agency may be eligible for a private road permit at all, or if its use could be limited to administrative purposes if it was approved.

Second, is the road right-of-way and road addressed in Instrument No. 1931520, which grants road access to lots in the former Developers International unrecorded plat in Section 2. This implies access from Highway 21 through the location of the private road application. While this is not an exclusive easement, it was the basis for the recorded Roadway Right-of-Way Agreement in Instrument No. 104015348, which in Exhibit A of that document states that the easement is across the roadway formerly known as Lot R-1 of the unrecorded plat of Lucky Peak Subdivision No. 1. This is the same lot number that IDFG was assumed to own as the roadway.

If the private road permit is implemented as approved, all other landowners needing access to property they own in the vicinity would need an easement and private road permit to access their property over the applicant's private road. This seems unnecessarily complex and will inevitably lead to conflict at some future time. IDFG acknowledges the limitations of the county to

Keeping Idaho's Wildlife Heritage

Equal Opportunity Employer • 208-465-8465 • Fax: 208-465-8467 • Idaho Relay (TDD) Service: 1-800-377-3529 •
<http://fishandgame.idaho.gov>

EXHIBIT # 11
STAFF REPORT
201500097 A, Dave Spencer

1 OF 2

approve or disapprove applications, and not to develop alternatives. We recommend postponing approval and allow other landowners in the area to develop a collective alternative, including the current applicant, with a reasonable deadline to present an alternative proposal that satisfies everyone's needs without excessively delaying the applicant's ability to meet the requirements for a building permit.

If you have any questions, please contact Jerry Deal at 475-2760, or jerry.deal@idfg.idaho.gov.

Sincerely,



Scott Reinecker
Southwest Regional Supervisor

Keeping Idaho's Wildlife Heritage

Equal Opportunity Employer • 208-165-8465 • Fax: 208-465-8467 • Idaho Relay (TDD) Service: 1-800-377-3529 •
<http://fishandgame.idaho.gov>

EXHIBIT # 11
STAFF REPORT
201500097 A, Dave Spencer

2 OF 2

ADA COUNTY DEVELOPMENT SERVICES
200 W FRONT ST BOISE ID 83702



May 1, 2015

Dear Property Owner:

LEGAL NOTICE IS HEREBY GIVEN THAT the Board of Ada County Commissioners will hold a public hearing on **June 3, 2015** at 6:00 p.m. in the Commissioners Main Hearing Room #1235, on the first floor, 200 W. Front Street, Boise, ID, to hear the following:

201500097 A, David Spencer: An appeal of the Director's approval of the Sandy Point Lane private road. The road is located in Section 11, T. 2N, R. 3E, Boise, ID.

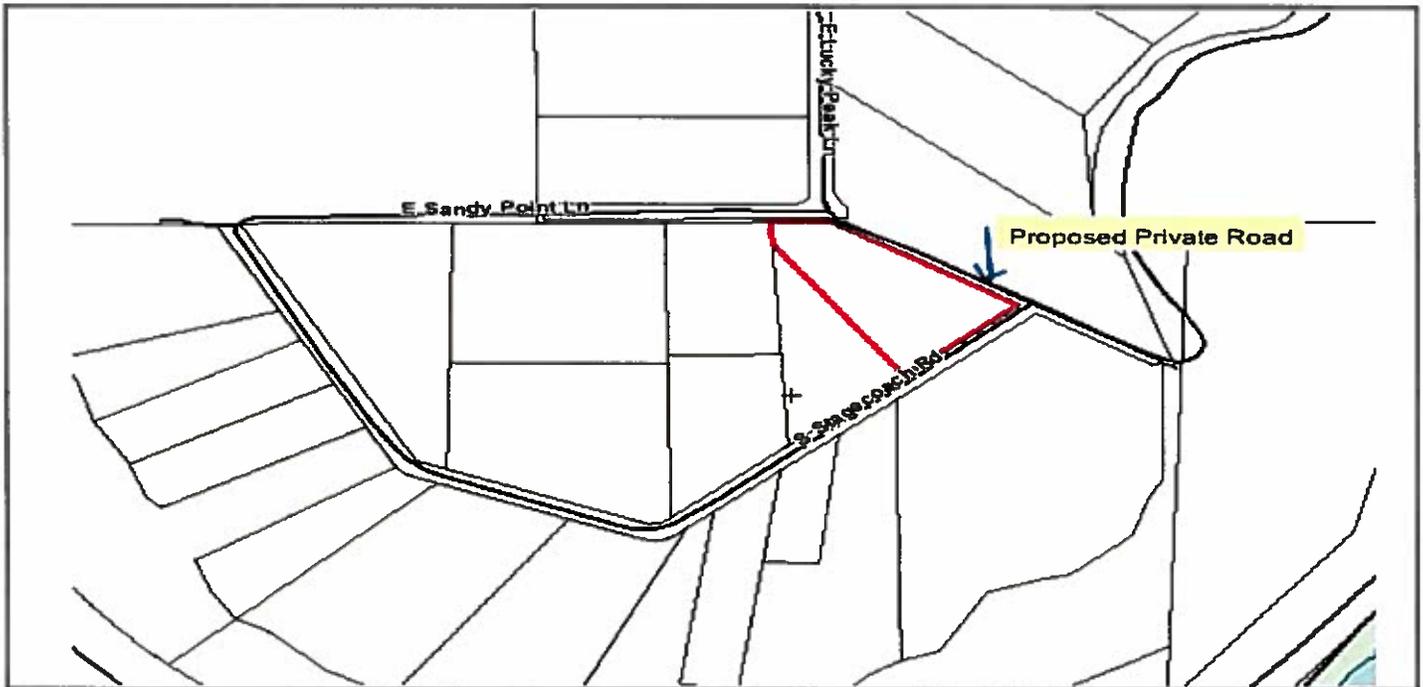
Contact, Megan Basham, AICP, Associate Planner, at 287-7944 or mbasham@adaweb.net for more information.

This is an Official Notice of Public Hearing regarding the use of a property near your own. You have been notified because records indicated that you own property near or within 1000' of the applicant's project boundary. You are invited to attend the public hearing and offer your comments for consideration. If you are unable to attend, you may send comments to our office before the hearing date, and they will be entered in the public hearing record.

This application can be viewed by completing the following:

- 1 Type <http://gisx.adaweb.net/acdsv2/>
- 2 Enter "**201500097-A**" in search application by file number.
- 3 Hover over the pushpin that appears on the map with your mouse.
- 4 Select 'Additional Info' from the pop-up box.
- 5 Review documents by clicking on 'Supporting Documents.'

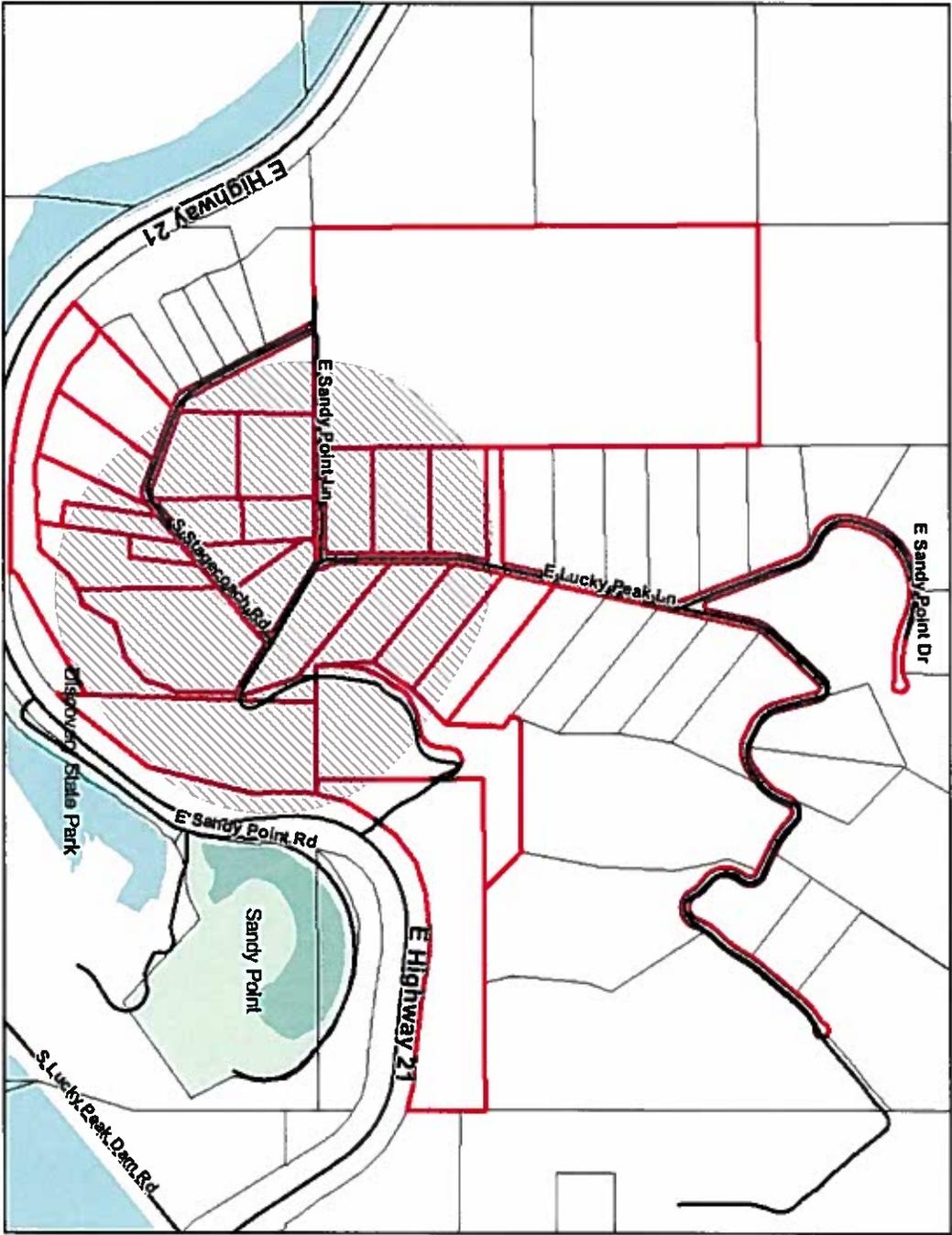
5 days prior to the hearing you can go to www.adaweb.net to view the agenda or staff report.



NOTES:

- This item may not be heard at the scheduled time of 6:00 p.m. , as multiple items may be considered during the hearing.
- Video, audio, PowerPoint, or other computer-generated visuals used to present testimony, must be provided to the Planner ½ hour prior to the start of the hearing: file format compatibility cannot be guaranteed.
- Auxiliary aids or services for persons with disabilities are available upon request. Please call 287-7900 or 287-7979 (TDD) three days prior to this public hearing to make arrangements.

Radius Notice Map



0 1200 2400 3600 ft.

This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

Notes: 201500097 A
1000' Radius
April 29, 2015

Map center: 43° 32' 0" N, 116° 3' 56" W



Legend

- ✦✦ Railroads
- Major Streets
- Minor Arterial
- Collector
- SECTION
- PRINCIPAL Arterial
- INTERSTATE
- Other
- Minor Streets
- LOCAL
- PARKS
- PRIVATE
- RESIDENTIAL
- Other
- Street Names (minor)
- Parcels
- Water
- Parks
- City Limits
- Kuna
- Bole
- Garden City
- Eagle
- Star
- Meridian

Scale: 1:1,982

201500097 A
Mailing List

Primary Owner	Mailing Address	Mailing Address City, State Zip
IDAHO STATE FISH & GAME DEPT	PO BOX 25	BOISE, ID 83707-0025
ISAAC ANDREW L	9900 E HIGHWAY 21	BOISE, ID 83716-0000
JONES ANTHONY M	9884 E HWY 21	BOISE, ID 83716-0000
KAPERINICK ROBERT E	2060 ESTANCIA PL	LAS CRUCES, NM 88005-8239
KRUEGER PHILLIP M &	1311 E WARM SPRINGS AVE	BOISE, ID 83712-8026
MCGLATHERY MICHAEL L	9892 E HWY 21	BOISE, ID 83716-0000
SANDY POINTE LLC	10024 W BELL DR	ATWATER, CA 95301-9740
SIMPLE MAN VENTURES LLC	9700 S BLUE CLOUD LN	BOISE, ID 83716-0000
SPENCER DAVID H	9800 E HWY 21	BOISE, ID 83716-0000
USA (BUREAU OF LAND MANAGEMENT)	1387 S VINNELL WAY	BOISE, ID 83709-0000



ADA COUNTY
Development Services Department

Megan M. Leatherman, MCRP
Director

Ada County Courthouse
200 West Front Street
Boise ID 83702
208.287.7900
Fax 208.287.7909
www.adacounty.id.gov

Department Divisions
Building
Engineering & Surveying
Permitting
Planning & Zoning

Ada County Commissioners
Jim Tibbs, First District
Rick Yzaguirre, Second District
David L. Case, Third District

March 19, 2015

Dr and Mrs. Krueger
1113 East Warm Springs Avenue
Boise, ID 83712

RE: File #201500097 PR, Philip and Allyn Krueger

Dear Dr. Krueger;

Submission of File #201500097 PR for a private road occurred on January 20, 2015.

The applicant is proposing a private road that would formally recognize a portion of Sandy Point Lane as a County-approved private road. The road is existing and is part of an informal road system constructed in the 1970s and 1980s as part of what was known as the Lucky Peak Subdivision. The Lucky Peak development was never approved by or recognized by the County as an approved subdivision but throughout the 1970s and 1980s the developer/owner sold off parcels that roughly matched the sketch drawing of the proposed subdivision. The Idaho Department of Fish and Game purchased the majority of this area to protect the wintering elk habitat. There are still some privately owned parcels but the majority of these parcels are considered to be unbuildable because:

- They were not created in conformance with Ada County Code,
- This area is largely zoned Rural Preservation (RP) which has a minimum lot size of 40 acres and the properties are far below the minimum lot size, and
- None of the properties have access and frontage on a public road or a County approved private road as required.

However, there are some exceptions. There are currently five (5) homes in this area that were built prior to 1985. Ada County Code does allow for these parcels to be considered Non-Conforming parcels under Section 8-1B-2b and eligible for building permits if frontage and access is also provided. The second exception in this area is that there is a small portion (approximately 23.5 acres) of Estate Residential (R1) zoning which has a minimum lot size of 1 acre. The R1 zoning occurred in 1973, prior to the requirement of a development agreement that allows the County to revert the zoning if the associated development request never materializes; therefore, the R1 zoning remains today. The parcels in the R1 zoning are eligible for building permits because they were created prior to January 1,

1985 and they meet the one (1) acre requirement if there is access and frontage on a public or County-approved private road.

The applicant/property owner approached the County about how to obtain access and frontage for parcel S1611212275, which is 3.3 acres for the purposes of selling the property and making it eligible for a building permit. County staff directed the applicant/property owner to submit a private road application because the property is zoned R1 and meets the minimum lot size requirement but lacks approved access and frontage.

The buying and selling of parcels in the Lucky Peak development that occurred in the 1970s and 1980s has created confusion surrounding ownership of some parcels, not only for the private property owners but for public agencies as well. The submittal of this application, allowed Ada County Development Services staff to conduct research regarding the development and ownership of some of these parcels. Below are the results of the County's research which included reviewing past development applications and deed research:

- ROS 9359 was recorded on January 16, 2013. It was completed by Greg Carter of Idaho Survey Group on behalf of the Idaho Department of Fish and Game (IFG). It identified the area of the proposed private road as an area of overlap between Krueger owned parcels 2275 and 0900 and parcel 4925 owned by Isaac and Pollock. While the Assessor's map show a parcel to be owned by IFG in the general location of the proposed private road, County staff could not find any recorded deeds for this strip. Staff did, however, find deeds with overlapping legal descriptions. It is therefore, the County's view that the proposed road location is located on property with overlapping ownership between Krueger and Isaac/Pollock. As such, staff has placed a condition on this application that the overlap between properties is addressed prior to final approval of the private road. While staff can offer potential avenues, it is ultimately up to the private property owners as to how to address the boundary overlap. Once the overlap issue is resolved, the appropriate perpetual access easements will need to be recorded.
- The parcel in question was created on March 4, 1983 via a Quitclaim deed recorded as Instrument #8317769 from Developer's International to Philip and Allyn Krueger. It changed ownership several times in the following years but the legal description has remained the same. Philip and Allyn Krueger regained ownership on June 14, 1999 via a Special Warranty Deed recorded as Instrument #99059265 and have remained the owners since that date. County Survey staff plotted out the legal description attached to these deeds and the description encompasses all of the contiguous Krueger parcels (2275, 0900, and 1150), which results in one parcel measuring approximately 20 acres. Therefore, Ada County Development Services considers the three parcels to be one, 20-acre parcel for development purposes. The three different parcel numbers were created by the Ada County Assessor's Office and do not necessarily reflect development parcels. Rather, Ada County Development Services considers the legal description attached to the recorded deeds as the parcel eligible for development.
- As stated earlier, the property owner is seeking to create a buildable parcel on what is shown in Ada County Assessor records as the 3.3-acre parcel ending in 2275. Because the deed for the entire 20-acre parcel was recorded prior to January 1, 1985 and the zoning of the parcel is R1, the property is eligible for a one-time division. Staff is not

including the one-time division as a condition of approval for the private road application because the private road is not contingent upon the 20-acre parcel being divided, but rather, staff included this information to inform both the property owner and the potential buyer that the 3.3-acre parcel is actually not a stand-alone parcel for development purposes without an approved one-time division. If the property owner chooses to go through the one-time division process, the resulting parcels would need to meet the dimensional standards of the R1 District—1 acre and 100 feet of frontage along a public or County-approved private road.

- Initially, the applicant proposed a cul-de-sac as a terminus but then submitted revised drawings showing a hammerhead at what is considered to be the intersection of Sandy Point Lane and Lucky Peak Lane. Again, ROS 9359 shows that there is conflicting ownership information in this area, which was confirmed by Ada County Survey staff. If the applicant intends to keep the turnaround in this area, the ownership issue will need to be resolved and the appropriate easements from the identified property owners will need to be obtained. It is not clear that this parcel is actually owned by the IFG, as shown on the Ada County Assessor's map.

The existing homeowners have voiced several concerns regarding the proposed private road including the lack of owner signatures, the impression that the applicant will be responsible for granting easements to all other homeowners in that area, the lack of a defined maintenance agreement, the proposed turnaround on the Isaac/Pollock property without their consent, the lack of a collaborative effort between property owners and public agencies including Ada County, IFG and ACHD, and the point at which ACHD public right-of-way ends and the private road would begin. Staff will address each item below:

- Typically, development applications submitted to this office do require the signatures of all property owners on which the development occurs—although this is not actually written in Ada County Code. Private roads are also unique in that the applicant is required to produce recorded easements from all affected property owners prior to the final approval of the private road. For this reason, Ada County accepted the private road application. Additionally, it was only through the submittal of this application that staff discovered the overlap issue and can now direct the applicant to address the issue and obtain easements from the appropriate property owner(s). It should also be noted that while there are other property owners in the area that use Sandy Point Lane, the actual road only provides direct access to two properties—the Krueger parcel and the Isaac/Pollock parcel.
- While the applicant does state in the detailed letter that they will be the owners of the private road and will grant easements to other property owners that would only be the case if the applicant ends up being the owner of the property underneath the proposed road. As discussed above, the land on which the proposed private road sits has an overlap in legal descriptions that must be addressed before the road can be finalized. Private property owners do have the discretion to grant easements and the County cannot force a private property owner to do so. The County has encouraged all of the property owners to work together on getting the existing roads approved as private roads since 2013 and this is the only application the County has received.

- The application requires a draft maintenance agreement. This is usually a negotiation between private property owners. This is a unique situation in which the applicant believed the road to be owned by the IFG and was pursuing an easement through them in which the terms of the maintenance agreement would be determined. Staff directed the applicant to submit something that acknowledged a maintenance agreement would be provided but didn't necessarily require all the details up front. A final maintenance agreement with details provided is included as a condition of approval.
- The applicant first intended to have a cul-de-sac on the Krueger and Isaac/Pollock parcel but then amended the request to move it to a hammerhead at the intersection of Sandy Point Land and Lucky Peak Lane because it was believed to be all owned by the IFG. Through the research, it was discovered that there are also ownership issues regarding the hammerhead location. The applicant will be conditioned to address the terminus of the private road. If the applicant wishes to keep the hammerhead, the applicant will be required to address the ownership and obtain the appropriate easements. If the applicant wishes bring the terminus south into a cul-de-sac, if any portion of that extends onto the Isaac/Pollock parcel, the applicant will be required to obtain an easement from those property owners.
- As discussed earlier, the history of this area is convoluted and confusing to all parties, even the public agencies. In the spring of 2013, staff met with the existing homeowners to discuss a process in which the homeowners would be eligible for building permits in the event that the home was damaged and needed to rebuild. While the code at that time granted non-conforming status to parcels that had a home built prior to January 1, 1985, it wasn't clear whether or not the property owner could pull subsequent building permits for the property. Staff discussed a two-fold solution. The first step was to clarify the language in 8-1B-2b, which was completed by Ada County staff and approved by the Board on October 2, 2013. The second step was for the property owners to submit a private road application (and a potential variance application) in order to meet the County requirement for access and frontage. On August 2, 2013, staff, including the County Engineer, conducted a site visit and met with the homeowners and IFG to discuss the steps and requirements for the private road application. Pre-application notes along with the application forms were sent to the existing homeowners the following week.
- Staff met with applicant and the potential buyer on October 16, 2014 to discuss the property and any potential applications. Staff then set up a meeting with the existing homeowners, IFG, the applicant and the potential buyers on November 12, 2014 to discuss the proposed single-family dwelling and private road application. It was encouraged that the property owners work together on the private road application; however, the County cannot force collaboration and the collaboration between the parties did not occur. On January 20, 2015, the applicant submitted the private road application. Often times, it is only through a formal application process that many of these issues can be addressed and worked through. Staff cannot prevent anyone from submitting an application.
- The location of the public right-of-way terminus has always been an area of confusion. The neighbors are correct in that there has been conflicting information over the years.

Ada County staff has requested right-of-way information from ACHD in the past which differs from where it is shown in this private road application. However, many times, it is not until a formal application is sitting in front of staff that an agency will issue a formal response. The formal response from ACHD with this private road application is that the end of the public right-of-way is shown correctly on the application materials submitted, which is the end of the pavement. A condition of approval will be to install a private road sign at the start of the private road. This will help to reduce any confusion in the future.

Based on staff's review of the Ada County Code, this application has been given tentative approval, subject to the Conditions of Approval attached to the Findings of Fact, Conclusions of Law and Order listed as Exhibit "A". Please note this approval shall become null and void if the Conditions of Approval have not been met, and you have not obtained a letter of final approval from Ada County Development Services within one (1) year from the date of this letter or have received approval of a time extension as allowed in Section 8-7-6.

This determination was based upon current information contained in the public record and interpretation of the Ada County Zoning Ordinance. This decision may be appealed to the Board of Ada County Commissioners. To do so, an appeal application must be filed within fifteen days of the date of this letter. The current fee for filing an appeal is \$350.

This letter is to further inform you that to the extent a final decision has been made on a site-specific land use request, an applicant has the right to request a regulatory taking analysis under Idaho Code. If you have any questions, please call 287-7944 or via mbasham@adaweb.net.

Sincerely,



Megan Basham, AICP
Associate Planner
Ada County Development Services

cc: Louis Keefer, PO Box 2183, Boise, ID 83701
Gregory Carter, Idaho Survey Group, 1450 East Watertower Street, Meridian, ID 83642

Enclosures



BEFORE THE DIRECTOR OF ADA COUNTY DEVELOPMENT SERVICES

In re:

Application of Phillip and Allyn Krueger

File #201500097 PR

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

FINDINGS OF FACT

If any of these Findings of Fact are deemed Conclusions of Law, they are incorporated into the Conclusions of Law section.

A. The Director finds that the record is comprised of:

1. Exhibit A to the Findings of Fact, Conclusions of Law and Order.
2. All other information contained in Ada County Development Services File for File #201500097 PR.

B. As to procedural items, the Director finds the following:

1. On January 20, 2015, submission to Development Services occurred for File #201500097 PR.
2. On January 23, 2015 staff notified other agencies of this application and solicited their comments.
3. On January 23, 2015, property owners within 300 feet of the site were notified of the application by mail.

C. As to the project description, the Director finds based on the application materials found in the file for File #201500097 PR the following:

1. PROPOSED USES: A private road to serve single-family dwelling(s)
2. PROPOSED STRUCTURES: If approved, the private road would make the property buildable and eligible for building permits
3. PROPOSED SITE IMPROVEMENTS: No site improvements are proposed.
4. OTHER: None

D. Based on the materials found in the file for File #201500097 PR, the Director finds the following concerning the project description:

1. PARCEL NUMBER AND LOCATION: S1611212275; Section 11, T2N, R 3E
2. OWNERSHIP: Phillip and Allyn Krueger

3. SITE CHARACTERISTICS

Property size: 3.29 acres

Existing structures: None

Existing vegetation: This is an existing road and there is no vegetation within the proposed roadway. The surrounding area is sagebrush and grasses.

Slope: The site of the proposed private road is relatively flat with no areas exceeding 15% slope.

Irrigation: The property is not within an irrigation district.

Drainage: In general, area drains south

Other Opportunities and/or Constraints: The entire area is within the Wildland Urban Fire Interface Overlay District

E. Based on the officially adopted Ada County land use maps, the Director finds the following concerning the current land use and zoning:

The property is zoned Estate Residential (R1) and the land use is vacant.

F. Based on the officially adopted Ada County land use maps, the Director finds the following concerning the surrounding land use and zoning:

North: The properties to the north are located in the Rural Preservation (RP) District and the use is vacant.

South: The properties to the south are located in the Estate Residential (R1) District and the use is single-family residential and vacant.

East: The properties to the east are located in the RP District and the use is single-family residential.

West: The properties to the west are in the R1 and RP District and the use is single-family residential and vacant.

G. Based on the officially adopted Ada County land use maps and materials found in the file for File #201500097 PR, the Director finds the following concerning services:

Access Street and Designation: The private road would intersect with Sandy Point Lane, a local road

Fire Protection: The property is not within a fire district

Sewage Disposal: Septic

Water Service: Well

Irrigation District: The property is not within an irrigation district

Drainage District: The property is not within an irrigation district

H. As to the applicable law, the Director finds the following:

This section details the comp plan goals, objectives and policies; the zoning ordinance regulations; and other applicable standards regarding development of the subject property.

1. The Director finds **Section 8-4D: Private Roads** is applicable because the applicant is proposing a private road to access an existing parcel. The Director finds the application, as conditioned, complies with **Section 8-4D-5: Required Findings** because:

A. The design of the private road meets the requirements of this article;

The Director finds that the design of the private road, as conditioned, will meet the requirements of this article. This is an existing road that has been used to access five (5) existing homes. The applicant would like to obtain approval of the private road in order to build a single-family dwelling on an additional parcel. The road functions as a private road but has never been formally approved by the County. The section of the existing roadway system under consideration by this application would directly serve two (2) properties. The remaining homes do not have direct access or frontage on this portion; however, two (2) property owners would have to drive over a portion of this private road to access their homes and the other two (2) owners would drive over the entire portion of this private road to access their homes.

The applicant proposed a 30' easement with a 16' travelway, which mirrors the existing conditions of the road. The County Engineer can recommend approval of an alternative design to the private road and based on a site visit, the County Engineer is recommending approval of the design and construction of the private road based on the existing conditions of the road. Additionally, because the private road is within WUFI, pullouts every 700' shall be provided. The turnouts are required to be 8 feet by 30 feet. Driveways that are a minimum of 20 feet by 30 feet can be counted as a turnout. The proposed road is 814 feet long. A revised drawing demonstrating that the private road meets the WUFI standards will be required.

The applicant has begun the process of obtaining a 30' easement from the Idaho Fish and Game (IFG) for access on the private road because the Ada County Assessor shows the IFG as the property owner. However, based on the deed research conducted by the Ada County Development Services Survey staff, there appears to be an issue with overlap between the Krueger parcel and the Isaac parcel. The legal description associated with the property deeds overlap. It does not appear that the IFG owns the property on which the private road is being proposed; rather, the private road is being proposed on the overlap between the two parcels.

Additionally, the applicant has proposed a hammerhead turnaround at the existing intersection of Sandy Point Lane and Lucky Peak Lane. A hammerhead configuration is an alternative design for the terminus of a private road which can be approved by the fire district or the County Engineer; however, the terminus crosses property which may or may not be owned by IFG and at least one additional private property owner.

The Director finds that the applicant will be conditioned to do several things in order to obtain final approval of the private road including:

- *Fix the area of overlapping ownership with the Isaac/Pollock parcel;*

- *Obtain or grant an access easement over the private road based on the resulting ownership;*
 - *Record a maintenance agreement for maintenance of the private road;*
 - *If the hammerhead is to remain, obtaining an easement from IFG and all other applicable private property owners; or*
 - *Submit a revised drawing showing the terminus as a cul-de-sac with the appropriate recorded perpetual access easements.*
- B. Granting approval of the private road would not cause damage, hazard, or nuisance, or other detriment to persons, property or uses in the vicinity, and;

The Director finds that the approval of the private road would not cause damage, hazard or nuisance or other detriment to persons, property or uses in the vicinity because it does not override any existing access easements for the existing homeowners, the other homeowners in the area have the ability to submit similar applications to provide approved access and frontage to their properties, and the submittal of this application helped to answer or provided direction on the next steps to provide access and frontage to the existing homeowners so that their properties would be eligible for building permits.

- C. The use and location of the private road shall not conflict with the applicable comprehensive plan and/or the regional transportation plan;

The Director finds that the use and location of the private road does not conflict with the applicable comprehensive plan because the road this area is designated as rural in the Ada County Comprehensive Plan and the regional transportation plan does not have any proposed collector or arterial road in this location. Additionally, the road has been in existence since the 1980's, although it has never received formal approval from the County, and as such ACHD has no comment on the private road.

CONCLUSIONS OF LAW

If any of these Conclusions of Law are deemed to be Findings of Fact they are incorporated into the Findings of Fact section.

1. The Director concludes that File #201500097 PR complies with Section 8-4D of the Ada County Code.

ORDER

Based upon the Findings of Fact and Conclusions of Law contained herein, the Director approves File #201500097 PR, subject to the Conditions of Approval attached as Exhibit A.

DATED this 19th day of March 2015

By: Megan Basham
Megan Basham, AICP, Associate Planner
Ada County Development Services

EXHIBIT A

CONDITIONS OF APPROVAL FOR PRIVATE ROAD

REQUIRED ACTIONS. THE FOLLOWING LIST DETAILS THE TASKS THAT MUST BE COMPLETED BEFORE THE APPROVAL OF 201500097 PR WILL BE CONSIDERED FINAL. THE APPLICANT AND/OR OWNER HAVE UNTIL MARCH 19, 2016 TO COMPLETE THE REQUIRED ACTIONS AND TO OBTAIN A ZONING CERTIFICATE. THIS TENTATIVE APPROVAL SHALL BECOME VOID IF A VALID ZONING CERTIFICATE HAS NOT BEEN ISSUED BY THAT DATE.

Required Actions

1. The applicant/owner shall fix the overlapping ownership issue with Parcel S1602344925, 9900 East Highway 21 currently owned by Andrew Isaac and Keela Pollock. Submit a revised drawing of the private road identifying all affected property owners and copies of the recorded deeds with the legal descriptions to verify that the ownership issues have been resolved.
2. Obtain a perpetual access easement with a legal description of the private road from the appropriate owner based on the ownership resolution. This easement shall be recorded in the Ada County Recorder's Office.
3. Record a maintenance agreement for the private road that details ongoing maintenance activities, maintenance responsibilities and financial responsibilities. The maintenance agreement shall be recorded in the Ada County Recorder's Office. Maintenance of the road shall include compliance with the vegetation controls required by the WUFI Overlay District.
4. Submit a revised drawing demonstrating turnouts every 700' in accordance with the WUFI Overlay District.
5. Address the terminus of the private road by either:
 - a) Resolving the ownership issues of the proposed hammerhead turnaround. Submit a revised drawing of the private road identifying all affected property owners and copies of the recorded deeds with the legal descriptions to verify that the ownership issues have been resolved.
 - b) If the terminus remains at the hammerhead, obtain a perpetual access easement from the appropriate owner based on the ownership resolution. This easement shall be recorded in the Ada County Recorder's Office.or
 - c) If the terminus is moved, submit a revised drawing of the private road identifying all affected property owners and the appropriate perpetual access easements, if necessary, based on the configuration of the terminus and the ownership resolution.
6. Obtain approval of the private road name from the Ada County Assessor's Office.
7. Install a private road sign with the approved road name at the intersection of the road with the public right-of-way. Work with ACHD on the installation of the sign.
8. Schedule a final inspection with the Ada County Engineer once the sign is installed.
9. Once evidence has been submitted demonstrating all of the items above (1-8) have been satisfied the Director will issue a letter stating that the private road has received final approval.

EXHIBIT A

Terms of Approval

10. A zoning certificate and/or a building permit may not be issued until 15 days after the Director issued the written decision on the proposed development. In the event the decision of the Director is appealed, the building permit may not be issued until the appeal is resolved in favor of the proposed development. See Section 8-7-7 of the Ada County Code for more information on appeals.
11. No gates are approved with this private road application.
12. The travelway plus five feet (5') on each side of the travelway shall be cleared of all flammable vegetation in accordance with the WUFI Overlay District.
13. All drainage shall be retained on site.
14. The private road shall comply with the design and construction standards in Section 8-4D-4 of the Ada County Code or as otherwise approved by the County Engineer.
15. The applicant shall maintain adequate housekeeping and sanitation practices to prevent the creation of a public nuisance and to reduce noise and odor.
16. The property must be managed and maintained consistent with the standard regulations in Title 8, Chapter 4, Article A of the Ada County Code. Please note that this Article contains specific regulations regarding the accumulation of junk, atmospheric emissions, construction sites, hazardous material storage, outdoor public address systems, outdoor storage of chemicals and fertilizers, transmission line corridors, and utilities.



MASTER APPLICATION/PETITION REQUEST

ADA COUNTY DEVELOPMENT SERVICES

200 W. Front Street, Boise, Idaho 83702 www.adaweb.net phone: (208) 287-7900 fax: (208) 287-7909

TYPE OF ADMINISTRATIVE APPLICATION:

- ACCESSORY USE*
- FARM DEVELOPMENT RIGHT
- FLOODPLAIN PERMIT
- HILLSIDE DEVELOPMENT*
- HIDDEN SPRINGS ADMINISTRATIVE
- HIDDEN SPRINGS SPECIAL EVENT
- LIGHTING PLAN
- LANDSCAPE PLAN
- MASTER SITE PLAN*
- EXPANSION NONCONFORMING USE
- ONE TIME DIVISION
- PRIVATE ROAD
- PROPERTY BOUNDARY ADJUSTMENT
- PLANNED UNIT DEVELOPMENT (PUD)
- SIGN PLAN
- TEMPORARY USE*

TYPE OF HEARING LEVEL APPLICATION:

- CONDITIONAL USE
- DEVELOPMENT AGREEMENT
- SUBDIVISION, PRELIMINARY*
- PLANNED COMMUNITIES*
- SUBDIVISION, SKETCH PLAT*
- VACATION
- VARIANCE
- ZONING MAP AMENDMENT
- ZONING TEXT AMENDMENT

TYPE OF HEARING LEVEL PETITION:

- COMPREHENSIVE PLAN MAP OR TEXT AMENDMENT PETITION CHECKLIST

TYPE OF ADDENDA:

- APPEAL
- ADMINISTRATIVE MODIFICATION
- DEVELOPMENT AGREEMENT MODIFICATION
- FINAL PLAT
- TIME EXTENSION



REQUIRED SUBMITTALS:

- CHECKLIST for applicable application(s). If multiple applications, do not duplicate submittals.
- *SUPPLEMENTAL WORKSHEET REQUIRED

SITE INFORMATION:

Section: 11 Township: 2N Range: 3.E., BM Total Acres: n/a
 Subdivision Name: (See attached Survey) Lot: N/A Block: N/A
 Site Address: Sandy Point Lane City: Boise
 Tax Parcel Number(s): N/A 51611212275
 Existing Zoning: N/A Proposed Zoning: N/A Area of City Impact: N/A Overlay: N/A
 District(s): N/A

OFFICE USE ONLY

Project #: <u>201500097</u>	Planning Fees/GIS: <u>409.00</u>	Engineering Fees: <u>335.00</u>
Received By: <u>BA</u> Date: <u>1/20/15</u> Stamped <input checked="" type="checkbox"/>		

\$ 744.⁰⁰

113

APPLICANT/AGENT: (Please print)	ADDITIONAL CONTACT if applicable: (Please Print)
Name: <u>Philip Krueger & Allyn Krueger</u>	Name: <u>Louis Keefer</u>
Address: <u>1113 E. Warm Springs Ave.</u>	Address: <u>PO Box 2183</u>
City: <u>Boise</u> State: <u>ID</u> Zip: <u>83712</u>	City: <u>Boise</u> State: <u>ID</u> Zip: <u>83701</u>
Telephone: <u>342-1959</u> Fax: _____	Telephone: <u>440-9846</u> Fax: _____
Email: <u>p_mkrueger@msn.com</u>	Email: <u>louiskeefer@aol.com</u>
I certify this information is correct to the best of my knowledge.	ENGINEER/SURVEYOR if applicable: (Please Print)
	Name: <u>Gregory Carter ID Survey Group</u>
	Address: <u>1450 E. Watertower St.</u>
	City: <u>Meridian</u> State: <u>ID</u> Zip: <u>83642</u>
	Telephone: <u>846-8570</u> Fax: <u>884-5399</u>
	Email: <u>gcarter@idahosurveygroup.com</u>
<u>Philip M. Krueger 12/16/14</u> <u>Allyn M. Krueger 12-16-2014</u>	
Signature: (Applicant) _____ Date _____	

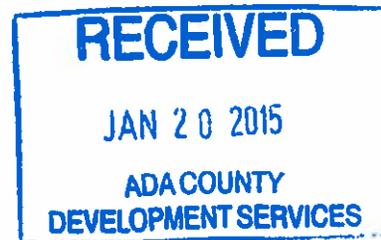
****SEE NOTE BELOW**

OWNER (S) OF RECORD: (Please Print)	OWNER (S) OF RECORD: (Please Print)
Name: <u>Allyn Krueger</u>	Name: <u>Philip Krueger</u>
Address: <u>1113 E. Warm Springs Ave.</u>	Address: <u>1113 E. Warm Springs Ave.</u>
City: <u>Boise</u> State: <u>ID</u> Zip: <u>83712</u>	City: <u>Boise</u> State: <u>ID</u> Zip: <u>83712</u>
Telephone: <u>342-1959</u>	Telephone: <u>342-1959</u>
Fax: _____	Fax: _____
Email: <u>alynkrueger@msn.com</u>	Email: <u>p_mkrueger@msn.com</u>
I consent to this application, I certify this information is correct, and allow Development Services staff to enter the property for related site inspections. I agree to indemnify, defend and hold Ada County and its employees harmless from any claim or liability resulting from any dispute as to the statements contained in this application or as to the ownership of the property, which is the subject of the application.	I consent to this application, I certify this information is correct, and allow Development Services staff to enter the property for related site inspections. I agree to indemnify, defend and hold Ada County and its employees harmless from any claim or liability resulting from any dispute as to the statements contained in this application or as to the ownership of the property, which is the subject of the application.
<u>Allyn M. Krueger 12-16-2014</u>	<u>Philip M. Krueger 12/16/14</u>
Signature: All Owner (s) of Record _____ Date _____	Signature: All Owner (s) of Record _____ Date _____

ALL OWNER(S) OF RECORD (ON THE CURRENT DEED) MUST SIGN (Additional Sheets are Available Online)

If the property owner(s) are a business entity, please include business entity documents, including those that indicate the person(s) who are eligible to sign documents.

****NOTE: THE OWNERS ARE THE "OWNERS" OF AN EASEMENT GRANTED BY THE IDAHO DEPARTMENT OF FISH & GAME.**



ADA COUNTY DEVELOPMENT SERVICES

200 W. Front Street, Boise, ID 83702. www.adaweb.net phone: (208)287-7900 fax: (208)287-7909



PRIVATE ROAD CHECKLIST (ACC 8-4D)

A Private Road request is a staff level application.

GENERAL INFORMATION:

Applicant	DESCRIPTION	Staff
	Three paper copies and one electronic copy of all required submittals.	
	Completed and signed Master Application	
X	DETAILED LETTER by the applicant fully describing the request or project and addressing the following:	✓
X	Ownership of the private road.	
X	The applicant or owner shall state if the private road currently has an easement and the restrictions placed on the easement.	
X	Is it a new private road? YES (X) NO ()	
X	Is it an extension to an existing private road? YES () NO (X)	
X	Is it an existing private road to be widened and paved due to access to more than four properties? YES () NO (X)	
X	Number of existing dwellings that will use the private road: TWO	
X	Number of properties that the private road will provide access or frontage to:	
X	Private road is an easement? YES (X) NO ()	
X	Private road is a separate lot? YES (X) NO ()	
X	Paved? YES () NO (X)	
X	Gravel? YES (X) NO ()	
	DRAFT MAINTENANCE AGREEMENT (Required) Attached	✓
	SITE PLAN showing all existing and proposed easements, property lines, and frontage drawn to scale on 8 1/2" X 11" paper. Attached	✓
X	DEED or evidence of proprietary interest. Idaho Fish Game Easement	
X	STREET CROSS SECTION for the private road, including:	✓
X	Private Road and Public Street intersection. (Private Road cannot intersect a Private Road) Sandy Point Lane	
X	Turnaround configuration. Hamerhead	
X	Grade of the proposed road: Level	
X	Length of the proposed road: (see Survey) 757±feet	
X	Width of the private road: 30 feet	
X	Width of the easement of the private road: (Inside Area of Impact 50', Outside Area of Impact 30' in width) 30 feet	
	n/a Detailed description of paving material.	
N/A	GATE (only for exceptional circumstances) N/A	
	Submit evidence for an exceptional circumstance necessary to improve safety or to halt environmental degradation in the area.	
	Dimensions of Gate:	
	Dimensions of Openings:	
	Direction of Traffic:	
	Locking devices:	

VERSION 2010

- 1 -

RECEIVED

JAN 20 2010

ADA COUNTY
DEVELOPMENT SERVICES

EXHIBIT # 15
STAFF REPORT
201500097 A, Dave Spencer

3 OF 4

N/A	OVERLAY DISTRICT: May require a separate checklist or additional information for the following:		
	HILLSIDE DEVELOPMENT (ACC 8-3H)	YES () NO ()	
	FLOOD HAZARD (ACC 8-3F)	YES () NO ()	
	WILDLAND-URBAN FIRE INTERFACE (ACC 8-3B)		
	SOUTHWEST PLANNING AREA (ACC 8-3C)		
	PLANNED UNIT DEVELOPMENT (ACC 8-3D)		
	BOISE RIVER GREENWAY (ACC 8-3G)		
	BOISE AIR TERMINAL AIRPORT INFLUENCE AREAS (ACC 8-3A)		
X	PROPOSED STREET NAME	Sandy Point Lane	✓
	Must comply with ACC 2-1.		
X	Copy of application for requesting Street Name (Ada County Assessor's office).		✓
	APPLICATION FEE: Call County or go to www.adaweb.net for fees		

APPLICATION WILL NOT BE ACCEPTED UNLESS ALL APPLICABLE ITEMS ON THE FORMS ARE SUBMITTED.

RECEIVED
 JAN 20 2015
 ADACOUNTY
 DEVELOPMENT SERVICES

Ada County Development Services
200 West front Street
Boise, ID 83702

ATTN: Megan Basham, AICP

The following is the Applicants' response to the items required by Ada County for application for Private Road designation for those portions of Sandy Point Lane presently owned by the Idaho Department of Fish and Game. (See attached Survey).

The Applicants have applied to Idaho Fish & Game for an Easement on this road and it is presently under consideration by them. (See Attachment #7)

The purpose of these applications is to enable the Applicant, their heirs and/or assigns and subsequent owners of the property adjacent to the segment of Sandy Point Lane that is owned by Idaho Fish & Game to obtain building permits from Ada County.

The Applicants will be the owners of the Private Road and they will grant Easements to all other owners of property adjacent to or connected to the subject road segment.

This would be a new Private Road Designation of the existing road owned by Idaho Fish & Game and is not an extension of an existing private road and since it serves only two (2) existing dwellings and one (1) proposed dwelling it will not be widened or paved.

This new Private Road will be on an Easement to be granted by Idaho Fish & Game; it is not a separate lot and its' surface will be gravel.

Attached are the following:

- 1- Draft Maintenance Agreement
- 2- Site Plan (Survey)
- 3- Idaho Fish & Game Easement (Application submitted will follow when approved)
- 4- Street Cross Section (Survey)
- 5- Master Application/Petition Request form with attached Survey
- 6- Three paper copies and one electronic copy
- 7- Idaho Department of Fish & Game Easement Request Application

Please let us know if there is need for any additional information.

Thank you.

Sincerely,

Philip M. Krueger
Allyn M. Krueger

Philip M. Krueger and Allyn M. Krueger
Co-Applicants
1113 E. Warm Springs Ave.
Boise, ID 83712
342-1959

DATE: 12-16-2014

CC: Mr. Jerry Deal, Idaho Department of Fish & Game





**ADA COUNTY
DEVELOPMENT SERVICES
PREAPPLICATION CONFERENCE NOTES**

200 W. FRONT STREET
BOISE, IDAHO 83702-7300
PHONE (208) 287-7900

Preapplication Number: 201300077 - PREAP - A

Status: Active

Date Received: 8/6/2013

Date Closed:

Meeting Date: 8/2/2013 **Date Assigned:** 8/6/2013

Project Description:

Applicant's Name:
MCGLATHERY MICHAEL

Discuss the submission of a private road(s) application along with a variance to construction standards and private road off a private road

Development Services Staff Assigned To Meeting:

Staff Name:	Attended Meeting?
ANGIE GILMAN	<input checked="" type="checkbox"/>
MEGAN BASHAM	<input checked="" type="checkbox"/>

No. of Lots/Units: 0 **Total Acres:** 11.650

Unique Features:

Sewer/Septic:

Water/Well:

General Property Location:

Sandy Point Lane - Off of Hwy 21

Parcel Info:

Parcel Num:	Street Address:	City/State/Zip:
S1611212300	9800 E HWY 21	Boise, ID 83716-0000
S1611212350	9892 E HWY 21	Boise, ID 83716-0000
S1611212375	E HWY 21	Boise, ID 83716-0000
S1611212445	9800 E HWY 21	Boise, ID 83716-0000

Zone Info:

Zone Type:	Zone:
Existing Zone	R1
Existing Zone	RP

Twon / Rng / Sec Info:

Twon:	Rng:	Sec:	Qtr:
2N	3E	11	

Overlay Areas Info:

Overlay Area:	Overlay Value:	Code Ref:	Comments:
WUFI	Yes	Article 8-3B	

Comp Plan:

Ada County

Agencies To Contact:

Proposed Allowed Uses:

Dwelling, single-family detached

Required Applications:

App Type:	Descriptive Name:
PR	PRIVATE ROAD



ADA COUNTY DEVELOPMENT SERVICES

200 W. FRONT STREET
BOISE, IDAHO 83702-7300
PHONE (208) 287-7900

PREAPPLICATION CONFERENCE NOTES

V VARIANCE

Notes:

The properties with existing single-family dwellings at Hammer Flats qualify under the amnesty provision in 8-1B-2b-- meaning that the property is deemed non-conforming and eligible for building permits because there was a home placed on a foundation prior to Jan. 1, 1985 and still remains today.

One of the issues with this area is that the road to access these home were never approved as a private road or accepted as a public road. ACHD owns and maintains the right-of-way of Sandy Point Lane from the intersection of Hwy 21 to South Stagecoach Road. The public portion of Sandy Point Lane does not provide frontage for the Jones/Clark, McGlathery, Spencer/Kelly or the Eno properties.

In order to obtain approved frontage, the property owners should apply for a private road. The public portion of Sandy Point Lane is paved. The rest is compacted dirt/gravel road maintained by the property owners. Based on the location of the current houses, there will be at least 2, and maybe 3, private roads.

One private road would be in what is now known as S. Stagecoach Road and would serve the Jones/Clark and the McGlathery properties.

The second private road would be what is now known as East Sandy Point Lane and serves the Spencer/Kelly property.

The third private road would be what is now known as East Lucky Peak Lane and serves the Eno property.

The Idaho Fish and Game owns a majority of the properties in the area, including the portion that is currently used for the roads. The Fish and Game were also present at that meeting and are willing to work with the property owners to grant an easement for the private road.

Ada County Code private road requires the following:

1. A 30' foot easement with a 20' improved travelway.
2. Areas with steeper than 5% grade shall be paved
3. Private roads shall originate from a public road and terminate in a 45 degree radius turnaround or an alternative configuration approved by the fire department and County Engineer.
4. A perpetual access easement and maintenance agreement shall be recorded
5. Gates are allowed but only to improve safety or prevent environmental degradation. Gates shall have a minimum of 20' opening and be located a minimum of 30' from the public right of way. Gates need to be approved by the fire department or the County Engineer, if not in a fire district.
6. Roads shall be constructed to the following standards:
 - a. Travelway shall have a stable, compacted base
 - b. Shall be a crown of 2% to drain water away from the travelway
 - c. Improved surface shall consist of 6" of compacted two inch (2") minus crushed gravel or other materials approved by the County Engineer.

The County Engineer was on-site and walked a portion of the East Sandy Point Lane. The material appeared to be satisfactory. Idaho Fish and Game is willing to work with the property owners on a maintenance agreement and would require a gate to prevent people from entering the Hammer Flats wildlife area.

The County Engineer did not go up East Lucky Peak Lane to inspect the grade or the material of that road. Another site inspection may be required to inspect that portion of the road, if included in the application.



ADA COUNTY DEVELOPMENT SERVICES

200 W. FRONT STREET
BOISE, IDAHO 83702-7300
PHONE (208) 287-7900

PREAPPLICATION CONFERENCE NOTES

A variance is required to request relief from any construction or design standards for the private road that the property may not meet. Currently, only South Stagecoach Road would be the only one that originates from a public road. The other roads would need a variance in order to have a private road off of a private road. This isn't a typical variance request.

The property owners are not within a fire district and are within the Wildland Urban Fire Interface Zone. Additional standards for private roads in the WUFI include keeping 5' on both sides of the travelway clear of vegetation. The County Engineer would consult with the state fire marshal or other fire districts to determine ensure that the road could support fire trucks.

Other concerns:

There is a question of ownership for the area in front of the Spencer/Kelly property. Ada County maps show the Fish and Game own the area known as E. Sandy Point Lane but it is not directly adjacent to the Spencer/Kelly property.

Application process:

A private road with a variance application will be required. Staff will discuss if separate private road applications are required or if it can be processed under one application. Variance requires a public hearing before the Board of Commissioners. Since the applications are submitted together they will be bundled together and the Board will make a decision on both applications.

A neighborhood meeting is required. Neighbors within 1000 feet of the properties are required to be notified. You can obtain a list from the County for a fee of \$26.50.

The property would be required to be posted with the public hearing information. Staff can work with the property owners to determine the number and location of the signs. The signs shall be posted at least 10 days before the public hearing and the sign certification form shall be submitted at least 7 days before the public hearing.

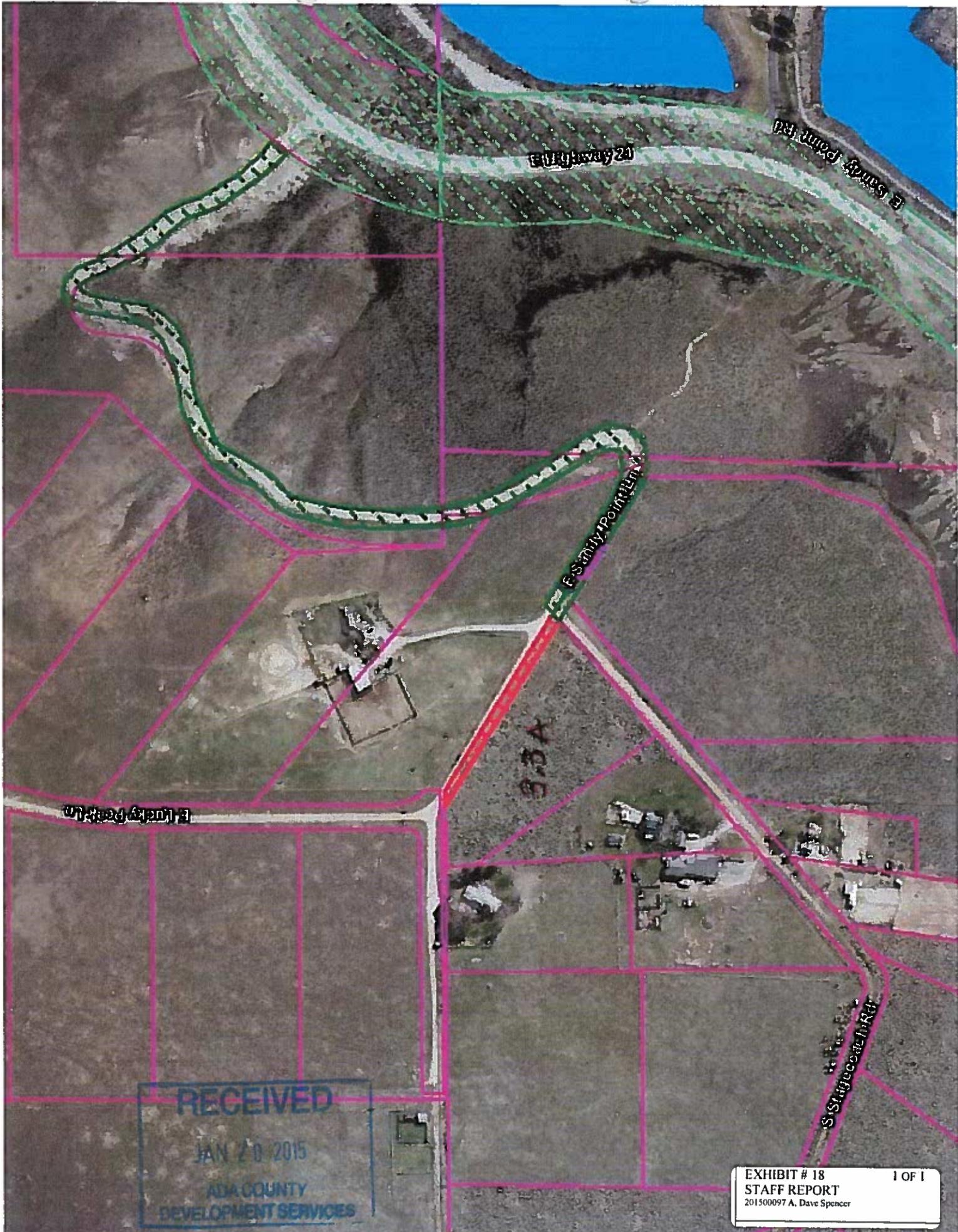
All property owners involved will need to sign the application, including the Fish and Game.

The easement and maintenance agreement are not required at the time of submittal. The property owners will have one year from the date of the decision to obtain and record the documents.

Additional Preap Conference: Recommended

Neighborhood Meeting Required? Yes

Cross References:



Highway 20

P&H Road Spurs 2

Family Point Rd

Family Point Rd

3.3A

S Stuffed at In Rd

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DEVELOPMENT SERVICES

EXHIBIT # 18
STAFF REPORT
201500097 A, Dave Spencer 1 OF 1

Sandy Point Lane Private Road "Draft" Maintenance Agreement

It is anticipated that the maintenance of the Private Road segment of Sandy Point Lane will be provided by the property owners whose properties are serviced by the road.

Since the road is on an Easement granted by the Idaho Department of Fish and Game on property owned by them the maintenance will be done in keeping with the standards set by the Department.

Since the Ada County Highway District (ACHD) maintains the lower non private portion of Sandy Point Lane and since they have been informally maintaining the entire road for several years, negotiations with ACHD will be initiated for the purpose of possibly entering into a formal maintenance contract.



ADA COUNTY
DEVELOPMENT SERVICES

PHONE (208) 287-7900
FAX (208) 287-7909

200 W. FRONT STREET, BOISE, IDAHO 83702-7300



BUILDING * ENGINEERING * PLANNING * ZONING

January 22, 2015

Dr and Mrs. Krueger
1113 East Warm Springs Avenue
Boise, ID 83712

RE: File #201500097 PR, Philip and Allyn Krueger

Dear Dr. Krueger;

This is to notify you that submission of your application to Ada County Development Services occurred on January 20, 2015. The Director shall act upon the application within 60 days of the date of submission, and may require conditions of approval that are deemed necessary to protect the public health, safety and welfare and prevent undue adverse impacts on surrounding properties. Failure of the Director to act upon an application shall be deemed automatic denial of the application.

If you have any questions, please call 287-7944 or via mbasham@adaweb.net.

Sincerely,

A handwritten signature in cursive script that reads "Megan Basham".

Megan Basham, AICP
Associate Planner
Ada County Development Services

cc: Louis Keefer, PO Box 2183, Boise, ID 83701

Megan Basham

From: Megan Basham
Sent: Friday, January 23, 2015 10:41 AM
To: Amy Aaron; rward@idfg.idaho.gov; Darby Weston; Darby Weston; clittle@achdidaho.org; syarrington@achdidaho.org; Mark Ferm; Angela Gilman; Jean Schaffer; Dale Ann Barton; Jerry Servatius; Megan Basham
Cc: Megan Basham
Subject: Ada County Application Transmittal Notice.



Ada County Development Services Planning & Zoning Division Transmittal

File Number: 201500097-PR	X-Reference: NONE
Description: A request for a private road application from Sandy Point Lane.	
Reviewing Body: DIRECTOR	Hearing Date:
Applicant: KRUEGER PHILIP	P&Z Recommendation:
Property: The property contains 3.300 acres and is located at SANDY POINT DR BOISE 83716, Section 11 2N 3E.	

Ada County Development Services is requesting comments and recommendations on the application referenced above. To review detailed information about the request please either click on the file number identified above, or visit the Ada County Development Service's Application Tracking System (ATS) web site at gisx.adaweb.net/acdsv2/ and search by file number. Hover over the pushpin that appears on the map with your mouse and select "Additional Info" from the pop-up box. You will then be able to review individual documents, drawings and other information detailing the request.

We request that you submit your comments or recommendations by 2/7/2015. When responding, please reference the file number identified above. If responding by email, please send comments to mbasham@adaweb.net.

To request a hard copy of materials associated with this application, for additional information, or to provide comment on Ada County's Development Services ATS, please call me at the number listed below.

Sincerely yours,
MEGAN BASHAM, ASSOCIATE PLANNER
200 W Front Street
Boise ID 83702
mbasham@adaweb.net
(208) 287-7944



ADA COUNTY DEVELOPMENT SERVICES
Planning & Zoning Division Transmittal

To: IDAHO STATE FIRE MARSHALL	Date: 1/26/2015
File Number: 201500097-PR	X-Reference: NONE
Description: A request for a private road application from Sandy Point Lane.	
Reviewing Body: DIRECTOR	Hearing Date:
Applicant: KRUEGER PHILIP	P & Z Recommendation:
Property: The property contains 3.300 acres and is located at SANDY POINT DR BOISE 83716, Section 11 2N 3E.	

Ada County Development Services is requesting comments and recommendations on the application referenced above. To review detailed information about the request please visit the Ada County Development Service's Application Tracking System (ATS) web site at gisx.adaweb.net/acdsv2/ and search for the file number. Hover over the pushpin that appears on the map with your mouse and select 'Additional Info' from the pop-up box. You will then be able to review individual documents, maps and other information detailing the request.

We request that you submit your comments or recommendations by 2/10/2015. When responding, please reference the file number identified above.

To request a hard copy of materials associated with this application, for additional information, or to provide comment on Ada County's Development Services ATS, please call me at the number listed below.

Sincerely yours,
 MEGAN BASHAM, ASSOCIATE PLANNER (208) 287-7944 mbasham@adaweb.net
 200 W Front Street, Boise ID 83702

14 ADA COUNTY DEVELOPMENT SERVICES
 200 W FRONT ST RM 2125
 BOISE, ID 83702

IDAHO STATE FIRE MARSHALL
 ATT: NESHA PABST
 700 W STATE ST FL 3RD
 BOISE ID 83702

ADA COUNTY DEVELOPMENT SERVICES



PHONE (208) 287-7900
FAX (208) 287-7909

200 W. FRONT STREET, BOISE, IDAHO 83702-7300

BUILDING * ENGINEERING * PLANNING * ZONING

January 23, 2015

RE: File #201500097 PR, Philip and Allyn Krueger

Dear Property Owner:

This is to notify you that a Private Road application to request a private road from Sandy Point Lane has been submitted to this office.

The property is located at the northwest corner of Sandy Point Lane and Stagecoach Road and contains 3.3 acres; Section 11, T. 2N., R. 3E.

This application can be viewed by completing the following:

- 1 Type <http://gisx.adaweb.net/acdsv2/>
- 2 Enter "**201500097-PR**" in search application by file number
- 3 Hover over the pushpin that appears on the map with your mouse
- 4 Select 'Additional Info' from the pop-up box
- 5 Review documents by clicking on 'Supporting Documents

Section 8-7A-5C of the Ada County Code requires that you be notified because records indicated that you own property near or within **300'** of the applicant's project boundary. You have 15 days from the date of this letter to respond in writing to provide any comments on the application.

A decision will be made following the 15 day comment period. The Director must find that the proposal complies with ordinance criteria and does not adversely affect surrounding properties. Any decision may then be appealed within 15 days of the final approval date.

If you have questions, please call me at 287-7944 or email mbasham@adaweb.net.

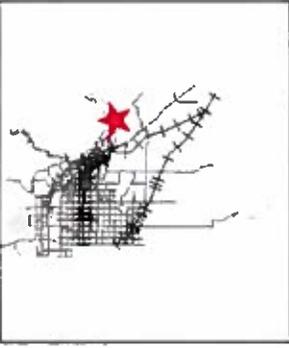
Sincerely yours,

A handwritten signature in cursive script that reads "Megan Basham".

Megan Basham, AICP
Associate Planner



Radius Notice Map



Legend

- Railroads
- Major Streets
- Minor Arterial
- Collector
- SECTION
- PRINCIPAL Arterial
- INTERSTATE
- Other
- Minor Streets
- LOCAL
- PARKS
- PRIVATE
- RESIDENTIAL
- Other
- Parcels
- Sections
- Water
- Parks
- City Limits
- Kuna
- Boise
- Garden City
- Eagle
- Star
- Meridian



Scale: 1:15,790



Map center: 43° 31' 56" N, 116° 3' 52" W

Notes: 300' Radius
January 23, 2014

This map is a user generated static output from an internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

201500097 PR
Mailing List

Primary Owner	Mailing Address	Mailing Address City, State Zip
IDAHO STATE FISH & GAME DEPT	PO BOX 25	BOISE, ID 83707-0025
ISAAC ANDREW L	9900 E HIGHWAY 21	BOISE, ID 83716
JONES ANTHONY M	9884 E HWY 21	BOISE, ID 83716
KAPERNICK ROBERT E	2060 ESTANCIA PL	LAS CRUCES, NM 88005-8239
KRUEGER PHILLIP M &	1311 E WARM SPRINGS AVE	BOISE, ID 83712-8026
MCGLATHERY MICHAEL L	9892 E HWY 21	BOISE, ID 83716
SPENCER DAVID H	9800 E HWY 21	BOISE, ID 83716

MEMORANDUM



DATE: 1/27/2015

RE: 201500097-PR Sandy Point

TO: MEGAN BASHAM, Associate Planner

FROM: Mark Ferm, Ada County Building Official

RECEIVED

By Ada County Development Services at 11:01 am, Jan 27, 2015

Summary of Project:

A request for a private road application from Sandy Point Lane.

Findings and Conditions:

The building division has no objection the proposed private road however the applicant should be aware of road design requirements of the International Fire Code.

Conclusion:

Approved as submitted

Mark Ferm
Ada County Building Official
200 W Front Suite 2125
Boise Idaho 83702
Phone 287-7910

markf@adaweb.net

Ada County Development Services
200 W. Front St.
Boise, ID 83702-7300

February 6, 2015

Subject: Comments on File #201500097 PR Philip and Ally Krueger

To Whom It May Concern:

The following comments are in response to private road application #201500097 PR. Letters dated January 23, 2015 were received by property owners in the vicinity of the applicant's project boundary. The impacted property owners are hereby collectively responding to the application. In short, we feel that this application should be denied.

The subdivision (hereafter named Lucky Peak Subdivision) where the applicant's project boundary is located has been a source of confusion and conflicting claims and decisions, from individual landowners and local governments, for decades. The most recent application to Ada County for a private road does nothing to change the trend. The application, as currently configured, is a hodgepodge of overreach, errors, and omissions and should not be approved.

The purpose of these comments is not to prevent Mr. Krueger from gaining the necessary permissions for a building permit to be granted on his property. Rather, the hope is that these comments point out the need for a solution that simultaneously provides similar benefits to all existing residents of the Lucky Peak Subdivision as well as Mr. Krueger.

It is our belief that a group solution will be simpler and more beneficial for all involved parties, existing residents of Lucky Peak Subdivision, IFG, and Ada County. Further, we believe that such a solution is not only better for the existing residents, but will go far in preventing conflicts and confusion for subsequent land owners and government officials in years to come.

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DOCUMENT #2996446

Page 2 of the document lists applicant, contact, and owner names and contact information. At the bottom of the document there is the following statement: *NOTE: THE OWNERS ARE THE "OWNERS" OF AN EASEMENT GRANTED BY THE IDAHO DEPARTMENT OF FISH AND GAME."**

That statement appears to be false. As of 3:00 PM, January 29, 2015, per telephone conversation with Jerry Deal of the SW Region office of Idaho Department of Fish and Game, no easement had been granted to the applicants or their agents.

**Page 3,
Private Road Checklist (ACC 8-4D)**

"Number of existing dwellings that will use the private road: TWO".

The correct answer is Five: Eno, Spencer, Isaac, McClathery and Jones.

"DRAFT MAINTENANCE AGREEMENT (Required) - Attached"

The correct answer is that no such agreement is attached. The attachment dealing with road maintenance simply "anticipates" that a maintenance agreement will be developed at an unspecified future date.

Further, to the extent that a road maintenance agreement is a requirement for the granting of a private road, it is not enough to simply require one at some future date. This is a requirement that is part and parcel to the requirement for granting the road application. It is also a requirement that requires commitment of time and or money on the part of many parties directly and indirectly associated with this application. No one should pretend this is a minor piece of boilerplate that simply needs stamping to move paper through channels.

This application must be denied until such time as a road maintenance agreement is completed and submitted as part of the application.

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FEB 06 2015

**ADA COUNTY
DEVELOPMENT SERVICES**

EXHIBIT # 24
STAFF REPORT
201500097 A, Dave Spencer

2 OF 11

“Turnaround configuration Hammerhead.”

The turnaround configuration shown on the engineering drawing is not a “Hammerhead.” It is a Cul-de-Sac.

In the absence of accurate engineering drawings the application must be denied.

“Grade of proposed road: Level”

The correct answer is, slightly in excess of 3%.

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EXHIBIT # 24
STAFF REPORT
201500097 A, Dave Spencer

3 OF 11

DOCUMENT #2996451

Statement – “The Applicants will be the owners of the Private Road and they will grant Easements to all other owners of property adjacent to or connected to the subject road segment.”

This result is objectionable in the extreme and cannot stand.

This result, as the private road is presented in the application and on the engineering drawings, puts the applicant in the position of a gatekeeper of every current resident in the subdivision. It has the effect of land-locking the Enos, the Spencer/Kelleys, the Isaacs, the McClatherys and the Clark/Jones.

In the absence of non-arbitrary, non-biased, non-prejudicial, non-senior standing language granting equal right to access and use of this road by all current residents of Lucky Peak Subdivision and their agents, the application must be denied.

This document claims that a “Draft Maintenance Agreement” is attached.

Again, there is no attached Maintenance Agreement. The closest thing to a maintenance agreement is a document stating that the development of a maintenance agreement is “anticipated” at some unspecified future date.

To the extent that a road maintenance agreement is a requirement for the granting of a private road, it is not enough to simply require one at some future date on the premise that such an agreement, an agreement acceptable to all parties, will miraculously appear. This is a requirement that is part and parcel to the requirement for granting the road application. It is also a requirement that requires commitment of time and or money on the part of many parties directly and indirectly associated with this application. No one should pretend this is a minor piece of boilerplate that simply needs stamping to move paper through channels.

This application, and any dependent applications, must be denied until such time as a road maintenance agreement is completed and submitted as part of the application for public review.

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ADA COUNTY
DEVELOPMENT SERVICES

EXHIBIT # 24
STAFF REPORT
201500097 A, Dave Spencer

4 OF 11

DOCUMENT #2996453

Application – Easement Request For Department Ownership

(Note – There is no indication on the document as to what “Department” it is talking about. Is this IFG? Or, Ada County? Or, some other agency?)

On page 2 of the document there is the following statement: “The road will be used to access up to three single family residences.”

It is unclear as to what residences this statement applies. As presented on the engineering drawings the road will impact / need to be used by 5 existing residences and one (perhaps more?) proposed residences.

In its current form this statement is vague to the point of being meaningless. Until such time as this language is put in more precise terms the application must be denied.

Page 3 of the document presents an engineering drawing of the proposed private road. At the terminus of the road it shows a Cul-de-Sac with radii of 45’ and 50’.

The drawing does not show detailed ownership of adjoining properties. However, it seems clear that the Cul-de-Sac, as shown on the drawing, runs about 20’ onto the Isaac’s property on the northeast side of the proposed road.

Is the applicant proposing a takings, on their part, or by the county, to make this happen? Is the applicant, or the county, proposing to compensate the Isaacs for the portion of the land used for the Cul-de-Sac? Is the applicant expecting the Isaacs to come forth with a donation of land for the applicant’s benefit?

In the absence of an agreement between the applicant and the Isaacs for the use of the Isaac’s property for the Cul-de-Sac, the application is moot.

Keep in mind that the property on which the applicant is proposing to place a dwelling has an area of approximately 5 acres. The applicant has more than enough land to easily accommodate the cul-de-sac feature without encroaching on neighboring private properties. Since the purpose of this private road application is solely for the benefit of the applicant, it makes the most sense for the applicant to situate the cul-de-sac on the applicant’s property rather than extending it onto neighboring properties.

The application in its current form must be denied. There is no justification, no acceptable reason, for the applicant proposing to make uncompensated,

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use of neighboring private properties without the consent of the impacted neighbors.

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EXHIBIT # 24
STAFF REPORT
201500097 A, Dave Spencer

OF 11

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“Staff will discuss if separate private road applications are required or if it can be processed under one application.”

As discussed extensively in other parts of this document, there are ample grounds for denying this application. Underlying many of those grounds is the recognition that just about anything that is done to the roads in one part of the subdivision impacts several other residents of the subdivision. This application, as presented, impacts, generally in a negative fashion, all the other residents of the subdivision. And, while it may resolve issues for one landowner, it does nothing beneficial for any of the other landowners.

It is the belief of the existing residents of Lucky Peak Subdivision that a single, unified, solution to the road issue is superior to a hodgepodge of individual applications for overlapping private roads in the subdivision. It is the understanding of the existing residents of Lucky Peak Subdivision that IFG is of a similar opinion.

IFG representative Jerry Deal has agreed to work with existing residents of Lucky Peak Subdivision to achieve a single, common solution to the roads. Current discussions have gone as far as discussing the sharing of survey data, selecting representatives, scheduling preliminary meetings and establishing time frames for negotiations and project completion.

It is the position of the existing residents of Lucky Peak Subdivision that this latter process is the best process for all concerned. Further, it is our belief that rather than cater to the desires of a single land owner, Ada County should help steer everyone involved towards the collaborative process already in progress.

The current application should be either denied, or temporarily suspended, in lieu of directing efforts to the collaborative process.

“Since the applications are submitted together they will be bundled together and the Board will make a decision on both applications.”

The statement clearly refers to multiple applications. It is unclear what if any “other” application is in play at this time.



“All property owners involved will need to sign the application, including the Fish and Game.”

Who or whom is meant by “All”? Does this mean both of the Kruegers? Or, does it mean every property owner that is impacted in some degree by this application?

Note, to the extent that this application in its current form will impact every current resident of the Sandy Point Subdivision, and as such every member of the subdivision will seemingly have to be party to a maintenance agreement, and since said maintenance agreement is a requirement for the achievement of private road status, it appears to the author that “all” means all of the existing residents of the subdivision.



DOCUMENT #3006756

Discussion

What is the extent of ACHD's ownership? I.e., how far does the current "public road" extend?

- 1. Does the public road end at the end of the pavement?**
- 2. Or, does the public road extend to and a bit north of the Isaacs' driveway?**

The evidence seems to support option #2. See Doc #2996454, pp. 4, paragraph #2, sentence #2.

"ACHD owns and maintains the right-of-way of Sandy Point Lane from the intersection of Hwy 21 to South Stagecoach Road."

This statement seems to be corroborated by ACHD's ongoing investment in time, materials, and maintenance of the gravel portion of the road from the end of the pavement to a bit north of the Isaac's driveway.

There is evidence that ACHD's ownership and right of way extends approximately 365 feet past the end of the pavement to a point slightly north of the Isaac's driveway.

The point here is that the applicant appears to be asking for the county to grant them a private road on a portion of land that is currently a public road. This would be a step backward for ACHD and some if not all of the residents of the subdivision.

For that reason the application should be remanded to the applicant to be resubmitted in a more accurate form.

Pursuing this issue a bit further, it seems like it would be incumbent upon Ada County, ACHD, IFG, and the applicant to determine conclusively where ACHD's ownership / right of way ends. Until that is resolved no grant of private road status can be granted. There already is too much in the way of overlapping and or poorly defined ownerships and rights of way issues in this subdivision. It is in no one's interest to further compound these problems. For this reason too, the application must be denied.



February 6, 2015

Signature Page

Barbara Eno
Barbara Eno

Doug Eno
Doug Eno

Janet Kelly
Janet Kelly

David Spencer
David Spencer

see attached
Angie McGlathery

see attached
Michael McGlathery

Susan Clark
Susan Clark

Anthony Jones
Anthony Jones

Andy Isaac
Andy Isaac

Keela Pollock
Keela Pollock

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FEB 06 2015

ADA COUNTY
DEVELOPMENT
EXHIBIT # 24
STAFF REPORT
201500097 A, Dave Spencer

From: michaelmcglathery <michaelmcglathery@gmail.com>
Sent: Wednesday, February 4, 2015 11:02 PM
To: Dave Spencer
Subject: Re: Private Road application for Krueger's property

Hi Dave, the content of the document is acceptable to Angie and me.

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DEVEL

ADA COUNTY

EXHIBIT # 24

STAFF REPORT

201500097 A, Dave Spencer

4 OF 11

Megan Basham

From: Christy Little <Clittle@achdidaho.org>
Sent: Wednesday, February 11, 2015 10:35 AM
To: Megan Basham
Cc: Austin Miller
Subject: RE: Ada County application 201500097 PR

Okay, I had our maintenance staff take a look. What shows on the map is accurate for the end of our maintained ROW. Last year, for reason unknown, we did some work further north of that terminus, but we'll not do that in the future. They'll need to install private road signs to clearly mark where the private road begins...if the County could require that.

Christy

From: Megan Basham [<mailto:mbasham@adaweb.net>]
Sent: Friday, February 06, 2015 1:16 PM
To: Christy Little
Subject: RE: Ada County application 201500097 PR

That would be great, thank you!

I have attached the legal description and graphic for the proposed private road which calls out the ACHD ROW. The second attachment came from your staff in January of 2014.

Also, I'm happy to meet if we need to.

Thanks again,

Megan



Megan Basham, AICP
Associate Planner
Ada County Development Services
200 W. Front St., Boise, ID 83702
(208) 287-7944 *office*
(208) 287-7909 *fax*

From: Christy Little [<mailto:Clittle@achdidaho.org>]
Sent: Friday, February 06, 2015 1:11 PM
To: Megan Basham
Subject: RE: Ada County application 201500097 PR

Do you want to send me all of that? And I'll follow up with ROW staff.
Christy

From: Megan Basham [<mailto:mbasham@adaweb.net>]
Sent: Friday, February 06, 2015 1:10 PM

To: Christy Little
Subject: RE: Ada County application 201500097 PR

Thanks Christy, but I do have some questions for ACHD regarding the point of intersection. We have a graphic supplied by ACHD planning staff that shows the right-of-way extends to Stagecoach Lane. The surveyor shows the intersection point south of that where the actual pavement ends. I did give them the contact person for the right-of-way staff but don't know how much the coordinated. How can I get a definitive answer as to where the actual intersection point would be?

Thanks,

Megan



Megan Basham, AICP
Associate Planner
Ada County Development Services
200 W. Front St., Boise, ID 83702
(208) 287-7944 office
(208) 287-7909 fax

From: Christy Little [<mailto:Clittle@achdidaho.org>]
Sent: Friday, February 06, 2015 1:01 PM
To: Megan Basham
Subject: RE: Ada County application 201500097 PR

Megan – Since this is an existing private road, and this is merely administrative, ACHD will not have any comments.
Christy

Christy Little
Program Administrator
Development Services
(208)387-6144

From: Megan Basham [<mailto:mbasham@adaweb.net>]
Sent: Friday, February 06, 2015 11:54 AM
To: Christy Little
Subject: Ada County application 201500097 PR

Hi Christy-

Can you tell me who has been assigned the private road application referenced above. It is a private road off of Sandy Point Lane up on Hammer Flats. Thanks,

Megan

MEMORANDUM



DATE: March 17, 2015

RE: Recommendation Regarding File 201500097 PR, Sandy Point Lane

TO: Megan Basham, Associate Planner

FROM: Dale P Meyers, Associate County Surveyor

CC: Angela Gilman, Ada County Engineer

Megan,

Per your request I have reviewed the project referenced above. The documents reviewed include:

- Detailed Letter
- Draft Maintenance Agreement
- Site Plan
- New Site Plan and Legal

My comments are as follows:

- 1) There is an apparent overlap between the deed descriptions for Parcels S1611212275 & S1611120900 and Parcel S10602344925, as identified on ROS #9359, which may affect the proposed private road easement. This issue needs to be resolved in order to ensure that the correct party is granting the easement.
- 2) There is an apparent overlap between deed descriptions for Parcel S1602343740 and Parcel S1602315399, as identified on ROS #9359, which may affect the hammerhead portion of the proposed private road easement. This issue needs to be resolved in order to ensure that the correct party is granting the easement.
- 3) The current deed description for the Idaho Fish and Game properties does not match the Parcel S1611244200 layout as represented in the Assessors GIS map. It does not appear that Idaho Fish and Game has any interest in the proposed private road easement, other than a small portion at the hammerhead.

- 4) The Perpetual Access Easement needs to clearly define all parties who are granting the easement and all parties who will benefit from said easement, along with any rights, restrictions and responsibilities of all parties involved. Once approved by this office, said Easement shall be executed by all applicable parties and filed for record with the Ada County Recorder. (ref. Ada County Code 8-4D-3B-3)
- 5) The Maintenance Agreement needs to be a "...binding contract that establishes the party or parties responsible for the repair and maintenance of the private road including regulations for the funding thereof." Once approved by this office, said Agreement shall be executed by all applicable parties and filed for record with the Ada County Recorder. (ref. Ada County Code 8-4D-3B5)
- 6) The Private Road typical section as shown on the plan submitted and stamped January 14, 2015 is acceptable.

Please let me know if you need anything else from me.

Regards,

Dale



HAMMER FLATS
PARCEL #S1611212275
ADA COUNTY
BOISE, IDAHO

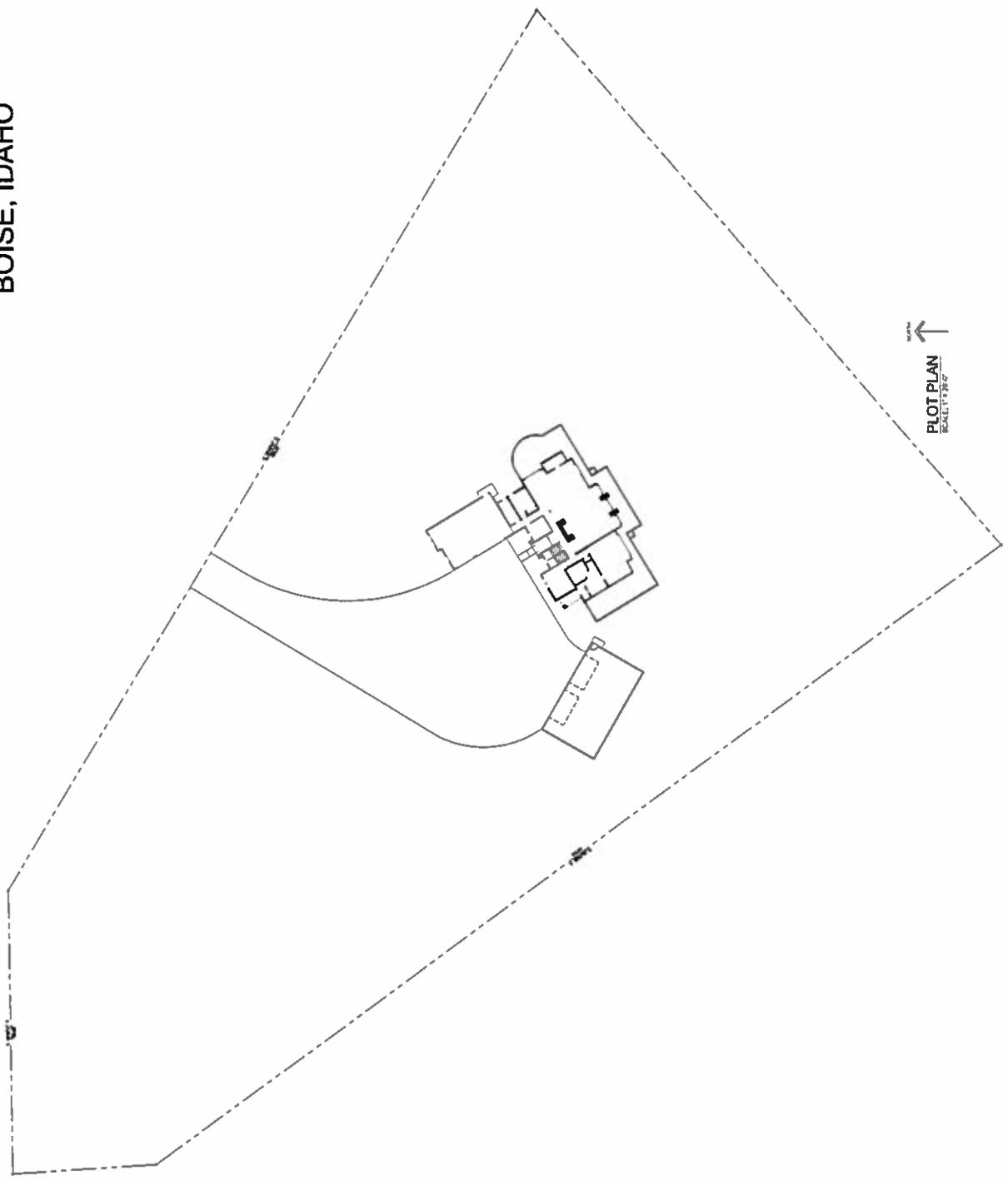
CODE DATA

BUILDING CODE: INTERNATIONAL RESIDENTIAL CODE, 2012 EDITION
 ENERGY CODE: INTERNATIONAL ENERGY CONSERVATION CODE, 2009 EDITION
 OTHER SUBMITTALS: PRE-DETERMINED WOOD PLISS (BY OTHERS)

- GENERAL NOTES**
1. CONTRACTOR SHALL VERIFY EXISTING CONDITIONS AND EXISTING UTILITY LOCATIONS PRIOR TO EXCAVATION.
 2. CONTRACTOR TO PROTECT ALL EXISTING UTILITIES, PUBLIC ROADS AND STREETS - WORKED OR UNWORKED, SEWER AND EXISTING STRUCTURES - EXISTING OR TO BE CONSTRUCTED, EXISTING OR TO BE CONSTRUCTED.
 3. CONTRACTOR SHALL PROVIDE ALL DETAIL WORK NECESSARY TO OR REQUIRED FOR NEW CONSTRUCTION METHOD OR NOT IT IS SPECIFICALLY NOTED.
 4. DURING CONSTRUCTION CONTRACTOR SHALL MAINTAIN SAFE AND CLEARLY MARKED TRAFFIC CONTROL MEASURES AS REQUIRED.

RECEIVED
 JAN 23 2015
 ADA COUNTY
 DEVELOPMENT SERVICES

EXHIBIT # 27
 STAFF REPORT
 201500097 A, Dave Spencer



SPACE	803 FT.
AREA	2722
UPPER R.	1369
LOWER R.	619
TOTAL	644
DAMAGE	844
DETACHED GARAGE	1,880

CONTRACTOR

PILOT PLAN
 ADA COUNTY BOISE
 HAMMER FLATS
 PARCEL #S1611212275
 POLETASO RESIDENCE

Project	Date
1-1-15	01-16-2015

Sheet **A1**

LEGAL NOTICE OF PUBLIC HEARING Legal notice is hereby given that the Board of Ada County Commissioners will hold a public hearing on June 3, 2015 at 6:00 p.m. in the Commissioners Main Hearing Room #1235, on the first floor, 200 W. Front Street, Boise, ID, to hear a request for: 201500097 A, David Spencer: An appeal of the Director's approval of the Sandy Point Lane private road. The property is located at the northwest corner of Sandy Point Lane and Stagecoach Road and contains 3.3 acres; Section 11, T. 2N., R. 3E. Megan Basham 287-7944 201500265 -ZOA, Ada County; An application for a Zoning Ordinance Text Amendment in order to amend Sections 8-7-7A(2) and 8-7E-5 of the Ada County Code pertaining to judicial review and reconsiderations. It is proposed that Section 8-7-7A(2) of the Ada County Code be amended to include reference to Idaho State Code 67-6535 in order to comply with State Law regarding the judicial review process. It is also proposed that Section 8-7E-5 of the Ada County Code be repealed and replaced with new language regarding reconsiderations required as a precursor to a petition for judicial review. The new language will bring the Ada County Code into conformance with Idaho State Code 67-6535. Diana Sanders 287-7905 201500326 S-FP-PR, Roy Johnson: A preliminary plat application for a three (3) lot residential subdivision with a floodplain application and private road application. The property contains 17.56 acres and is located at 5410 S. McDermott Road in Section 33, T. 3N, R. 1W, Nampa, ID. Brent Danielson 287-7913 Staff Reports Available On-Line 5 Days before Hearing Date - adaweb.net Auxiliary aids or services for persons with disabilities are available upon request. Please call 287-7900 or 287-7979 (TDD) by 5:00 p.m. three days prior to this public hearing so that arrangements can be made. **BOARD OF ADA COUNTY COMMISSIONERS** Mark Perfect Planning & Zoning Administrator Pub. May 19, 2015 **Publish Dates:** 5/19/2015 -6/2/2015 1

RECEIVED

By Ada County Development Services at 9:24 am, May 19, 2015

**ADA COUNTY DEVELOPMENT SERVICES
HAMMER FLATS PROPERTY OWNER/POTENTIAL BUYER MEETING
DATE: 05/15/2015
11:30 A.M. – 12:30 P.M.**

- I. Discuss ACHD Letter
- II. IDFG Access
- III. Potential Overlap Resolutions and Process
- IV. Private Road Requirements
 - A. Recorded Easements
 - B. Recorded Maintenance Agreements
- V. Zoning History

NOTES FOR THE ABOVE MEETING THAT DID TAKE PLACE ON 05/15/2015

- I. Survey details that will need to be included in final survey
 - A. Potential ACHD license agreement and/ or private road easement description that includes the verbiage “to and including” Stagecoach Rd. from Sandy Pt. Lane
 - B. 1 time lot split details for the Krueger’s lot sale.
 - C. Private road easement extending to the section line. This will enable the secondary private road easement for the Spencer’s, Kapernick’s, and potentially the Eno’s.
 - D. Resolution to the Isaac’s & Krueger’s lot line overlap. Potential solution is for Krueger’s to quit claim overlap portion to Isaac’s
 - E. Isaac & Krueger will then give the private road easement.
- II. Who and what the private road application might include.
 - A. Is it easier to describe all of the parcels and property owners that are affected/ benefitted by the private Rd + F & G as equal members in the private road/maintenance agreement? Or describe the newly formed HOA/ members + F & G..?
 - B. F & G access will be for “administrative” use only. This will eliminate potential “public” access..?
 - C. If an ACHD “license agreement” is obtained, will the public have access rights..?
 - D. The group discussed a secondary private road easement on Stagecoach extending from the Stagecoach/ Sandy Point intersection to approximately the McGlathery property.