



Cynda Herrick, AICP, CFM  
VALLEY COUNTY  
IDAHO

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Cascade, Idaho 83611

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Floodplain Coordinator

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### STAFF REPORT

Conditional Use Permit Application No. 09-01  
Blackhawk Lake No. III & IV  
Extension Request for C.U.P. & Preliminary Plat

**HEARING DATE:** April 8, 2021

**TO:** Planning and Zoning Commission

**STAFF:** Cynda Herrick, AICP

**APPLICANT:** L.B. Industries, Inc.  
Jon Barnes  
9839 W Cable Car STE 121  
Boise, ID 83709

**OWNER:** Blackhawk Development LLC  
c/o David Allen  
9839 W Cable Car STE 121  
Boise, ID 83709

**ENGINEER/SURVEYOR:** Joe Pachner, P.E.  
KM Engineering, LLP  
9233 West State Street  
Boise, ID 83714

**LOCATION/SIZE:** Parcel RP17N02E022485 plus common area within  
Blackhawk Lake Phase 2, located in N ½ Section 2 T.17N  
R.2E, Boise Meridian, Valley County, Idaho. The property  
is approximately 25.87 acres.

**REQUEST:** Single-family Subdivision.

**EXISTING LAND USE:** Timber

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### BACKGROUND:

LB Industries is requesting a two-year extension of the conditional use permit and preliminary plat that expire on April 22, 2021. The 25.87-acre site is located on the west side of Blackhawk Lake between Blackhawk Lake Estates 5 and Blackhawk Lake Estates Phase II.

The original approval was to establish a single-family subdivision that will contain 9 residential lots, 1 common lot, and 3 open space parcels. Individual wells and septic systems are proposed; there will be a common drainfield. It will contain an internal private road (Blackhawk Lake Drive), which is a continuation of the existing road.

**2021 Extension request:**

- Since the 2019 extension, they have evaluated alternative on-site sanitary sewer options.
- They are currently finalizing the site layout to meet on-site sewer constraints.
- The Wildfire Mitigation Plan is in compliance and current.
- They will continue to work with the homeowner association.
- They anticipate completing the platting process by the fall of 2021 and completing the site improvements by the summer of 2022

**2019 Extension request:**

- Have evaluated alternative on-site sanitary sewer options that have been acceptable to Central District Health Department
- Continuing to finalize the site layout to meet the on-site sewer constraints
- Continue to work with the Blackhawk Homeowners Association
- \Wildfire Mitigation Plan is still in compliance and current
- Anticipate completing the platting process by fall of 2020 and completing the site improvements by summer of 2021

**2017 Extension request:**

- 2-year extension request approved
- Mention was made that Central District Health accepted their sanitary sewer options.
- The Wildfire Mitigation Plan was still in compliance and current.

**2015 Extension Request**

- 2-year extension request approved to complete the following
  - Finalize site layout of on-site sewer constraints
  - Continue to work with Blackhawk Homeowners Association in regards to the Wildfire Mitigation Plan

**2013 & 2011 Extension Requests**

- 2-year extension requests approved
- Time needed for DEQ to review the revised nutrient pathogen study.

**FINDINGS:**

1. Application for the extension was received by the Planning and Zoning on Feb. 16, 2021.
2. Legal notice was posted in the Star News on March 18 and 25, 2021. Potentially affected agencies were notified on March 9, 2021. Neighbors within 300 feet of the property lines

were notified by fact sheet sent March 12, 2021. The site was posted on March 30, 2021. The application and notice were posted on the Valley County website “Public Hearing Information” on March 9, 2021.

3. Agency and Neighbor comments received:

Central District Health has no objection. (March 9, 2021)

Idaho Department of Environmental Quality (DEQ) provided general comments on air quality, wastewater, drinking water, surface water, hazardous waste, and ground water contamination. (March 19, 2021)

4. Previously Approved Conditions of Approval (#359960, Apr. 27, 2011) with approved changes from the 2019 extension:

1. The application, the staff report, and the provisions of the Land Use and Development Ordinance and Subdivision Regulations are all made a part of this permit as if written in full herein.
2. Any change in the nature or scope of land use activities shall require an additional Conditional Use Permit.
3. The use must be established according to the phasing plan or the conditional use permit will be null and void.
4. The issuance of this permit and these conditions will not relieve the applicant from complying with applicable County, State, or Federal laws or regulations or be construed as permission to operate in violation of any statute or regulations. Violation of these laws, regulations or rules may be grounds for revocation of the Conditional Use Permit or grounds for suspension of the Conditional Use Permit.
- ~~5. Must enter into a Road Development Agreement with the Board of County Commissioners.~~
6. Must comply with the requirements of the McCall Rural Fire District. A letter of approval is required.
7. The CCRs shall address wood burning devices by limiting to one per site and incorporating firewise wildland urban interface landscaping requirements.
8. The Valley County Engineer shall approve the final site grading/storm water management plan prior to construction or excavation.
9. Must submit a letter from Southern Idaho Timber Protective Association or the Home Owner’s Association stating that they are working with them on the Fire Mitigation Plan.

10. Must submit a more specific timeline after DEQ approval is received.

**STAFF COMMENTS:**

Below are from 2017 extension request staff report:

1. Have all improvements been made, such as construction of the road? If not, when will it be constructed?
2. Do you have any documentation from DEQ concerning the Nutrient Pathogen study and where they are in the process of review?
3. Was the common drainfield system approved by DEQ and CDHD?
4. **The Fire Mitigation Plan should be submitted – I have not seen it.**
5. There are some changes that need to be done when the final plat is submitted:
  - change note from public road to private road,
  - make the road a platted right-of-way rather than a lot,
  - submit letter of approval to use the existing Blackhawk Drive and describe how it is a continuation from Phase II to Phase 5,
  - show common drainfields,
  - remove all unnecessary information from the plat, and place floodplain note.

**ATTACHMENTS:**

- Extension Request
- Vicinity Map
- Aerial Map
- Assessor's Plat
- Preliminary Plat
- Enlarged Portion of Plat
- Photos taken March 30, 2021
- Responses

**END OF STAFF REPORT**



February 10, 2021  
Project No.: 11-022



Valley County Planning & Zoning Commission  
PO Box 1350  
219 North Main Street  
Cascade, ID 83611-1350

**RE: Extension Request for Conditional Use Permit No. 09-01  
Blackhawk Lakes Subdivision Phases III & IV**

Dear Commissioners:

On behalf of LB Industries, we are pleased to present the enclosed extension request for Conditional Use Permit No. 09-01 for Blackhawk Lakes Subdivision Phases III and IV. We are requesting a two-year extension to the CUP, which will provide us the necessary time to complete the project. Since our last extension we have evaluated alternative on-site sanitary sewer options that have been acceptable to Central District Health Department. We are currently continuing to finalize the site layout to meet the on-site sewer constraints. We have continued our work with the Blackhawk Homeowners Association and will continue to work with the homeowners association throughout the development stage of this project. Lastly, the Wildfire Mitigation Plan is still in compliance and current.

We anticipate completing the platting process by the fall of 2021, and completing the site improvements by the summer of 2022.

I have attached a check in the amount of \$300.00, as requested.

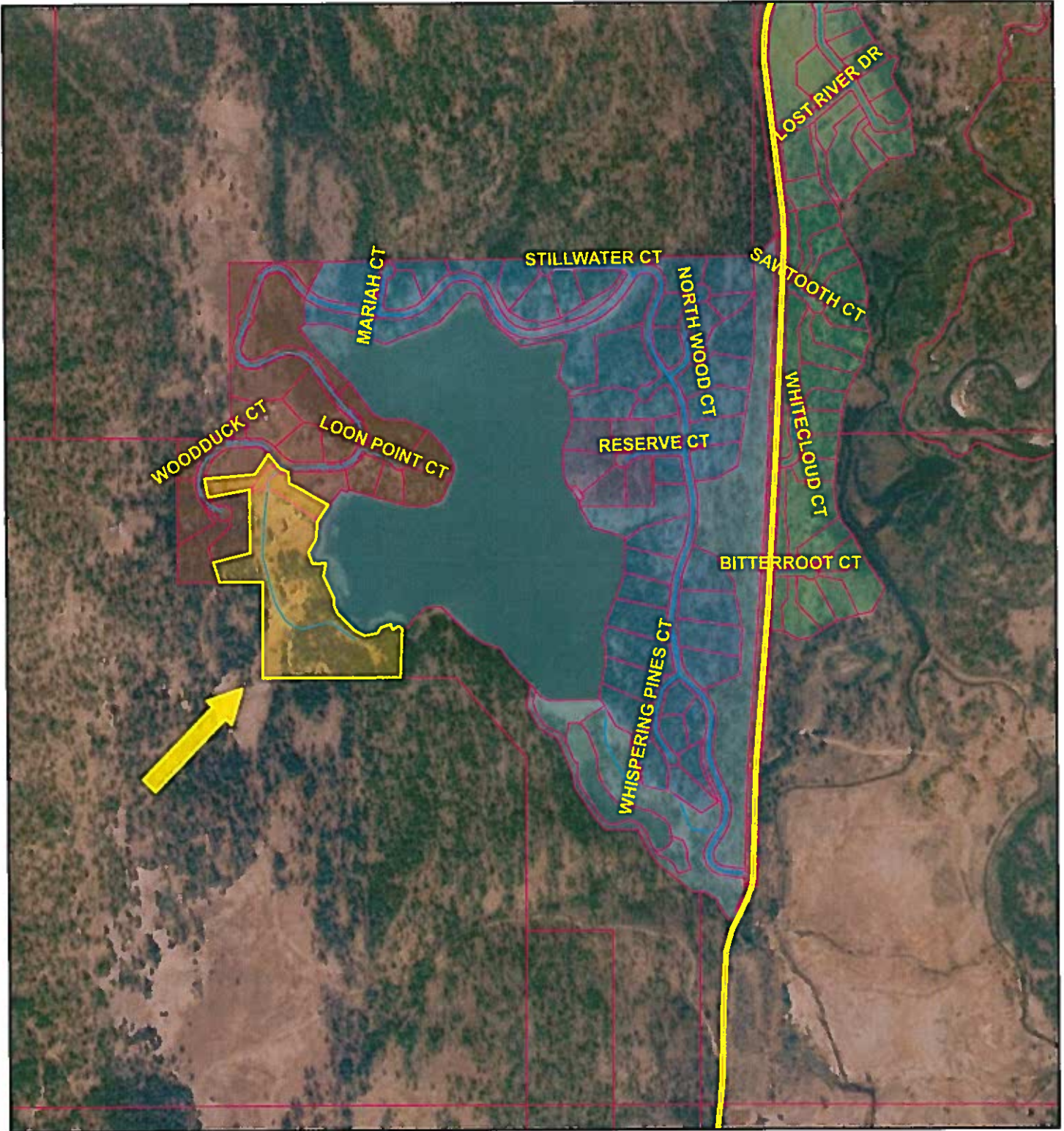
We look forward to providing a highly desirable project in the near future. We are again requesting an opportunity to discuss the above-mentioned details regarding the need to extend the CUP approval with the Commission.

Please feel free to contact me with additional questions.

Sincerely,  
KM Engineering, LLP

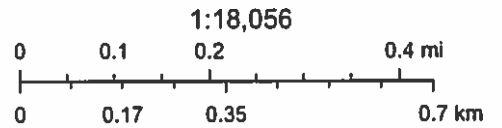
Joe Pachner, P.E.  
Principal Engineer

cc: Jon Barnes, LB Industries



2/26/2021, 3:02:17 PM

- Parcel Boundaries
- Roads
  - COLLECTOR
  - PRIVATE
- All Road Labels



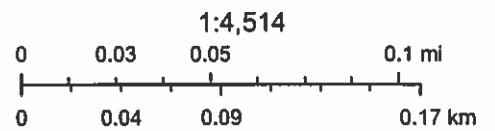
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# C.U.P. 09-01



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- Parcel Boundaries
- Addresses
- All Road Labels
- Roads
- PRIVATE



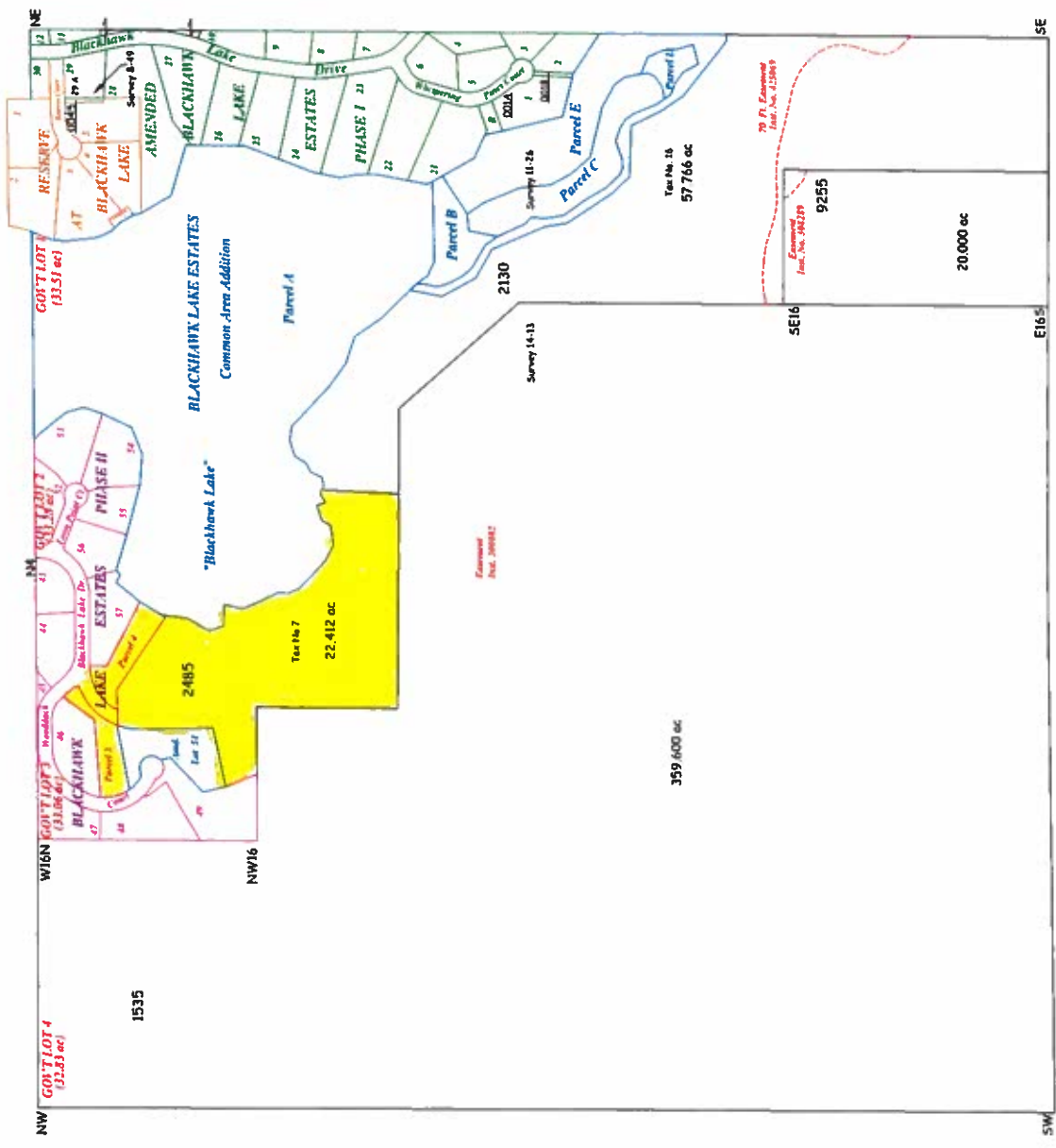
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PLAT TITLE

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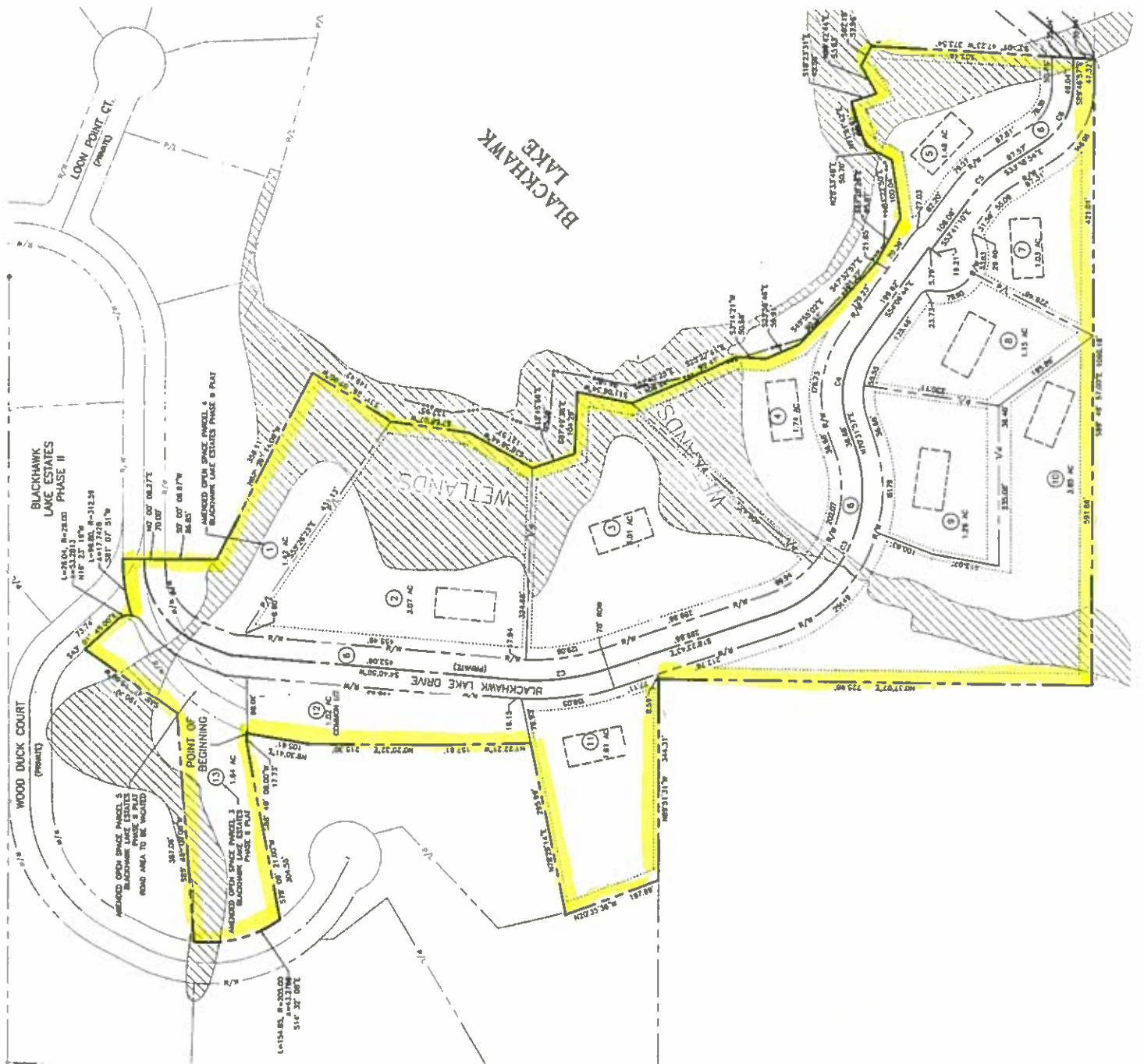
VALLEY COUNTY  
Assessor's Office  
Cartography Dept.  
Cascade, ID 83611

Filename:  
Valley County Base Map  
Scale: 1" = 400 ft.  
Date: 4/28/2020  
Drawn by: L. Frederick









BLACKHAWK  
LAKE ESTATES  
PHASE II

BLACKHAWK  
LAKE

WETLANDS

WETLANDS

WOOD DUCK COURT  
(PERMITS)

LOON POINT CT.  
(PERMIT)

BLACKHAWK LAKE DRIVE  
(PERMITS)

POINT OF  
BEGINNING

REMOVED ROAD PHASE I &  
PHASE II PLAY  
BLACKHAWK LAKE ESTATES  
ROAD AREA TO BE MOVED

REMOVED OPEN SPACE PARCEL A  
BLACKHAWK LAKE ESTATES PHASE I PLAY

REMOVED OPEN SPACE PARCEL B  
BLACKHAWK LAKE ESTATES  
PHASE I PLAY

REMOVED OPEN SPACE PARCEL C  
BLACKHAWK LAKE ESTATES  
PHASE I PLAY

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Valley County Transmittal  
Division of Community and Environmental Health

Return to:

- Cascade
- Donnelly
- McCall
- McCall Impact
- Valley County

Rezone # \_\_\_\_\_

Conditional Use # CUP 09-01

Preliminary / Final / Short Plat EXTENSION Request

Blackhawk LAKE ESTATES Phase III & IV

- 1. We have No Objections to this Proposal.
- 2. We recommend Denial of this Proposal.
- 3. Specific knowledge as to the exact type of use must be provided before we can comment on this Proposal.
- 4. We will require more data concerning soil conditions on this Proposal before we can comment.
- 5. Before we can comment concerning individual sewage disposal, we will require more data concerning the depth of:
  - high seasonal ground water
  - bedrock from original grade
  - waste flow characteristics
  - other \_\_\_\_\_
- 6. This office may require a study to assess the impact of nutrients and pathogens to receiving ground waters and surface waters.
- 7. This project shall be reviewed by the Idaho Department of Water Resources concerning well construction and water availability.
- 8. After written approvals from appropriate entities are submitted, we can approve this proposal for:
  - central sewage
  - interim sewage
  - individual sewage
  - community sewage system
  - central water
  - individual water
  - community water well
- 9. The following plan(s) must be submitted to and approved by the Idaho Department of Environmental Quality:
  - central sewage
  - sewage dry lines
  - community sewage system
  - central water
  - community water
- 10. Run-off is not to create a mosquito breeding problem
- 11. This Department would recommend deferral until high seasonal ground water can be determined if other considerations indicate approval.
- 12. If restroom facilities are to be installed, then a sewage system MUST be installed to meet Idaho State Sewage Regulations
- 13. We will require plans be submitted for a plan review for any:
  - food establishment
  - beverage establishment
  - swimming pools or spas
  - grocery store
  - child care center

14. CDA has No OBJECTION TO A TIME EXTENSION:

Reviewed By: [Signature]  
Date: 3.9.21



**STATE OF IDAHO**  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

1445 N Orchard Street, Boise, ID 83706  
(208) 373-0550

Brad Little, Governor  
Jess Byrne, Director

March 19, 2021

By e-mail: [cherrick@co.valley.id.us](mailto:cherrick@co.valley.id.us)

Valley County Planning & Zoning Commission  
P.O. Box 1350  
Cascade, Idaho 83611-1350

Subject: Blackhawk Estates Phases III & IV Extension Request, CUP 09-01

Dear Ms. Herrick :

Thank you for the opportunity to respond to your request for comment. While DEQ does not review projects on a project-specific basis, we attempt to provide the best review of the information provided. DEQ encourages agencies to review and utilize the Idaho Environmental Guide to assist in addressing project-specific conditions that may apply. This guide can be found at: [deq.idaho.gov/assistance-resources/environmental-guide-for-local-govts](http://deq.idaho.gov/assistance-resources/environmental-guide-for-local-govts).

The following information does not cover every aspect of this project; however, we have the following general comments to use as appropriate:

**1. AIR QUALITY**

- Please review IDAPA 58.01.01 for all rules on Air Quality, especially those regarding fugitive dust (58.01.01.651), trade waste burning (58.01.01.600-617), and odor control plans (58.01.01.776).
- All property owners, developers, and their contractor(s) must ensure that reasonable controls to prevent fugitive dust from becoming airborne are utilized during all phases of construction activities per IDAPA 58.01.01.651.
- DEQ recommends the city/county require the development and submittal of a dust prevention and control plan for all construction projects prior to final plat approval. Dust prevention and control plans incorporate appropriate best management practices to control fugitive dust that may be generated at sites.
- Citizen complaints received by DEQ regarding fugitive dust from development and construction activities approved by cities or counties will be referred to the city/county to address under their ordinances.

- Per IDAPA 58.01.01.600-617, the open burning of any construction waste is prohibited. The property owner, developer, and their contractor(s) are responsible for ensuring no prohibited open burning occurs during construction.

For questions, contact David Luft, Air Quality Manager, at (208) 373-0550.

## **2. WASTEWATER AND RECYCLED WATER**

- DEQ recommends verifying that there is adequate sewer to serve this project prior to approval. Please contact the sewer provider for a capacity statement, declining balance report, and willingness to serve this project.
- IDAPA 58.01.16 and IDAPA 58.01.17 are the sections of Idaho rules regarding wastewater and recycled water. Please review these rules to determine whether this or future projects will require DEQ approval. IDAPA 58.01.03 is the section of Idaho rules regarding subsurface disposal of wastewater. Please review this rule to determine whether this or future projects will require permitting by the district health department.
- All projects for construction or modification of wastewater systems require preconstruction approval. Recycled water projects and subsurface disposal projects require separate permits as well.
- DEQ recommends that projects be served by existing approved wastewater collection systems or a centralized community wastewater system whenever possible. Please contact DEQ to discuss potential for development of a community treatment system along with best management practices for communities to protect ground water.
- DEQ recommends that cities and counties develop and use a comprehensive land use management plan, which includes the impacts of present and future wastewater management in this area. Please schedule a meeting with DEQ for further discussion and recommendations for plan development and implementation.

For questions, contact Valerie Greear, Water Quality Engineering Manager at (208) 373-0550.

## **3. DRINKING WATER**

- DEQ recommends verifying that there is adequate water to serve this project prior to approval. Please contact the water provider for a capacity statement, declining balance report, and willingness to serve this project.
- IDAPA 58.01.08 is the section of Idaho rules regarding public drinking water systems. Please review these rules to determine whether this or future projects will require DEQ approval.
- All projects for construction or modification of public drinking water systems require preconstruction approval.
- DEQ recommends verifying if the current and/or proposed drinking water system is a regulated public drinking water system (refer to the DEQ website at: [deq.idaho.gov/water-quality/drinking-water.aspx](http://deq.idaho.gov/water-quality/drinking-water.aspx)). For non-regulated systems, DEQ recommends annual testing for total coliform bacteria, nitrate, and nitrite.

- If any private wells will be included in this project, we recommend that they be tested for total coliform bacteria, nitrate, and nitrite prior to use and retested annually thereafter.
- DEQ recommends using an existing drinking water system whenever possible or construction of a new community drinking water system. Please contact DEQ to discuss this project and to explore options to both best serve the future residents of this development and provide for protection of ground water resources.
- DEQ recommends cities and counties develop and use a comprehensive land use management plan which addresses the present and future needs of this area for adequate, safe, and sustainable drinking water. Please schedule a meeting with DEQ for further discussion and recommendations for plan development and implementation.

For questions, contact Valerie Greear, Water Quality Engineering Manager at (208) 373-0550.

#### 4. SURFACE WATER

- A DEQ short-term activity exemption (STAE) from this office is required if the project will involve de-watering of ground water during excavation and discharge back into surface water, including a description of the water treatment from this process to prevent excessive sediment and turbidity from entering surface water.
- Please contact DEQ to determine whether this project will require a National Pollution Discharge Elimination System (NPDES) Permit. A Construction General Permit from EPA may be required if this project will disturb one or more acres of land, or will disturb less than one acre of land but are part of a common plan of development or sale that will ultimately disturb one or more acres of land.
- If this project is near a source of surface water, DEQ requests that projects incorporate construction best management practices (BMPs) to assist in the protection of Idaho's water resources. Additionally, please contact DEQ to identify BMP alternatives and to determine whether this project is in an area with Total Maximum Daily Load stormwater permit conditions.
- The Idaho Stream Channel Protection Act requires a permit for most stream channel alterations. Please contact the Idaho Department of Water Resources (IDWR), Western Regional Office, at 2735 Airport Way, Boise, or call (208) 334-2190 for more information. Information is also available on the IDWR website at: <https://idwr.idaho.gov/streams/stream-channel-alteration-permits.html>
- The Federal Clean Water Act requires a permit for filling or dredging in waters of the United States. Please contact the US Army Corps of Engineers, Boise Field Office, at 10095 Emerald Street, Boise, or call 208-345-2155 for more information regarding permits.

For questions, contact Lance Holloway, Surface Water Manager, at (208) 373-0550.

#### 5. SOLID WASTE, HAZARDOUS WASTE AND GROUND WATER CONTAMINATION

- **Solid Waste.** No trash or other solid waste shall be buried, burned, or otherwise disposed of at the project site. These disposal methods are regulated by various state regulations including

Idaho's Solid Waste Management Regulations and Standards (IDAPA 58.01.06), Rules and Regulations for Hazardous Waste (IDAPA 58.01.05), and Rules and Regulations for the Prevention of Air Pollution (IDAPA 58.01.01). Inert and other approved materials are also defined in the Solid Waste Management Regulations and Standards

- **Hazardous Waste.** The types and number of requirements that must be complied with under the federal Resource Conservations and Recovery Act (RCRA) and the Idaho Rules and Standards for Hazardous Waste (IDAPA 58.01.05) are based on the quantity and type of waste generated. Every business in Idaho is required to track the volume of waste generated, determine whether each type of waste is hazardous, and ensure that all wastes are properly disposed of according to federal, state, and local requirements.
- **Water Quality Standards.** Site activities must comply with the Idaho Water Quality Standards (IDAPA 58.01.02) regarding hazardous and deleterious-materials storage, disposal, or accumulation adjacent to or in the immediate vicinity of state waters (IDAPA 58.01.02.800); and the cleanup and reporting of oil-filled electrical equipment (IDAPA 58.01.02.849); hazardous materials (IDAPA 58.01.02.850); and used-oil and petroleum releases (IDAPA 58.01.02.851 and 852). Petroleum releases must be reported to DEQ in accordance with IDAPA 58.01.02.851.01 and 04. Hazardous material releases to state waters, or to land such that there is likelihood that it will enter state waters, must be reported to DEQ in accordance with IDAPA 58.01.02.850.
- **Ground Water Contamination.** DEQ requests that this project comply with Idaho's Ground Water Quality Rules (IDAPA 58.01.11), which states that "No person shall cause or allow the release, spilling, leaking, emission, discharge, escape, leaching, or disposal of a contaminant into the environment in a manner that causes a ground water quality standard to be exceeded, injures a beneficial use of ground water, or is not in accordance with a permit, consent order or applicable best management practice, best available method or best practical method."

For questions, contact Albert Crawshaw, Waste & Remediation Manager, at (208) 373-0550.

## 6. ADDITIONAL NOTES

- If an underground storage tank (UST) or an aboveground storage tank (AST) is identified at the site, the site should be evaluated to determine whether the UST is regulated by DEQ. EPA regulates ASTs. UST and AST sites should be assessed to determine whether there is potential soil and ground water contamination. Please call DEQ at (208) 373-0550, or visit the DEQ website [deq.idaho.gov/waste-mgmt-remediation/storage-tanks.aspx](http://deq.idaho.gov/waste-mgmt-remediation/storage-tanks.aspx) for assistance.
- If applicable to this project, DEQ recommends that BMPs be implemented for any of the following conditions: wash water from cleaning vehicles, fertilizers and pesticides, animal facilities, composted waste, and ponds. Please contact DEQ for more information on any of these conditions.



Response to Request for Comment

March 19, 2021

Page 5

We look forward to working with you in a proactive manner to address potential environmental impacts that may be within our regulatory authority. If you have any questions, please contact me, or any of our technical staff at (208) 373-0550.

Sincerely,

A handwritten signature in black ink that reads "Aaron Scheff". The signature is written in a cursive, flowing style.

Aaron Scheff  
Regional Administrator  
DEQ-Boise Regional Office

EDMS#: 2021AEK39