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May 30, 2008

RE: AASE'S CANYON POINT DEVELOPMENT, LLC

TO: MEMBERS OF BOISE CITY PLANNING AND ZONING COMMISSION

Dear Members of the Commission:

We respectfully submit this letter regarding the proposed development along Hill Road between Collister Drive and Plano Lane. We are long time residents (one of us is a native Boisean) and although we do acknowledge the rights of the developers to use this land within reason, we plead that the development be limited by the basic premise written into the Foothills Ordinance that 1 house on 40 acres is reasonable use for land of this nature. We vehemently disagree with the developer's contention that this land should qualify as "Priority Open Space" for which a twenty-fold density bonus should be granted, taking the property from an 8 home tract to over 150 homes. We believe that if the Foothills Policy is scrutinized critically for intent, not technicalities, and the developer's claims are given the same review, that the development will be kept to a reasonable level. Otherwise, your legacy as a Commission will surely leave the valley residents with another foothills eyesore, environmental degradation, and a much reduced level of livability for the residents in the Northwest and North Boise neighborhoods.

**PART I: Outline of Concerns Regarding the Proposed
"Plano Road Subdivision"**

1. The proposed development subverts the intentions of the foothills ordinance. As a ridgeline development the project significantly damages the aesthetics and the natural qualities of the area. The use of questionable conservation density bonuses (see PART II) to justify a density twenty times higher than that which would otherwise be permitted, appears to be a cynical and transparent strategy to exploit the land and the law for maximum financial gain.

2. Plano Lane is currently a sleepy tree-lined street, paved for only about 250 yards, home to families with small children, and small pets, no fences and no sidewalks. The proposed development would send an estimated 1000 car trips a day down that road, which would be almost doubled in width, ruining the quality of life and property values of the houses in the neighborhood. North Collister Drive, currently slated as the alternate access to the proposed development, already complains of congestion, lack of parking, problematic and dangerous road design and dangerous slope. The proposed development would

unquestionably degrade safety, quality of life and property values for all households along upper Collister.

The Foothills Ordinance states that development “should be compatible with the design and size of the surrounding neighborhoods.” In contrast to this standard, the proposed development would crush the existing Plano Lane and upper Collister neighborhoods beneath its wheels like a juggernaut, and present substantial incompatibilities to the Hill Road and lower Collister neighborhoods as well.

3. Hill Road is one of the most popular thoroughfares in the city for bicyclists, joggers and pedestrians; it is the site of bicycle races and informal bicycle team training. Children use Hill Road to board and alight from school buses, while other children use sections of Hill Road to walk to Cynthia Mann Elementary School. Many neighbors have chosen their homes in this part of Boise specifically to have access to bicycle lanes and walkable streets. The additional 1500 car trips a day, which will necessarily proceed from Plano Lane and Collister Drive onto Hill Road, will make an already potentially dangerous situation untenable.

The Foothills Ordinance states that “...traffic impacts on existing neighborhoods will be minimized. Special designs to minimize eastbound traffic from areas west of 36th Street may be required.” There is no discernible traffic mitigation in the proposed development’s plans, only the promise of vastly multiplied traffic and related hazards and problems. Not only Pierce Park and Collister but also 36th Street and Harrison Boulevard can anticipate increased congestion from commuters heading South and East into town.

4. The developers propose to control runoff from the development, and the greatly lengthened and widened, newly-paved access roads, by retaining water in ponds at the bottom of the hillsides. Many households on Plano and Hill Road and in the area generally are supplied by wells. The question of whether the water retained in those ponds might reasonably be expected to contaminate ground water in the area has still not been answered in a satisfactory or definitive manner (though the question was asked in a January meeting at City Hall.) Stewart Land Group representative Kerry Winn told a large public meeting at Riverglen Junior High School, earlier this Spring, that his engineers had dismissed the likelihood of any problems resulting from groundwater contamination. Several weeks later, at a meeting of Plano homeowners held in a private home, Mr. Winn averred that SPF Engineering was currently conducting a study on the subject. Mr. Winn’s variable responses to this question do not create the impression that the interests of area residents are being sufficiently protected. It is also unclear how the developer proposes to address drainage and groundwater issues on Collister Drive which may result from the recent ACHD decision to require public access and connectivity from both Plano and Collister at the onset of construction.

5. The land which is proposed for development is year-round home to three dozen deer, badgers, foxes, and coyotes; elk have recently been seen on this land; it is frequented by hawks, peregrine falcons, great horned owls and other birds. The Aase's Onion is only one of many fragile and valuable plant species in the area; the onion is as likely to be found on the ridgelines which the developer proposes to flatten as on the steep slopes they plan to set aside (see Part II.) All of these treasured species are vulnerable to displacement, disruption, increased pollution, and outcompetition by nonnative species if the proposed development is approved. One need not have a very sophisticated grasp of biology to understand that the development will do far more harm than good to the plants and animals currently occupying the land.

Even more alarming, the land proposed for development is sandwiched in-between Quail Ridge (developed by Ramon Jorgason, who is also involved in the current proposed development) to the east, and the Eagle Foothills to the west-- which are currently slated for rampant and massive development. This modest corridor of undeveloped land may represent a last opportunity for Boise to protect relatively undisturbed wildlife close to the city; the conflict over this land presents a crucial test case for the Foothills Ordinance.

PART II: Questions Regarding the Developer's Uses of the Foothills Ordinance and Claims to Density Bonuses

How can the addition of 155 houses and all of the associated negative impacts on the environment add up to an environmental positive? The project's Utah-based developers are asking for density bonuses that seem to far exceed those that are reasonable.

The Foothills Ordinance specifies that one house on 40 acres may be allowable, and that bonus density increases above 1 house per 40 acres may be possible, if the land qualifies under any of three criteria: Generally..... 1) Lands left un-built and having slopes of 25% or less, and with certain dimensions, can qualify for bonus density. 2) Lands that allow public access to open space can qualify. 3) Land that is of environmental importance with substantial significance can be defined as "Priority Open Space" and thereby may qualify for density bonuses.

Since the development land is primarily composed of very steeply sloped hills, there is little land available to request density bonuses under #1. There is a portion of land which appears to have been tacked on to the ridgeline development to allow qualification under #2. Much of the claim for increasing bonus density from 1 house on 40 acres to approximately 20 houses on 40 acres, is based on the contention that much of the land is "Priority Open Space." (However there is some confusion about specifically what case the developer is making, in as far as items relating to points 8 – 11, below, might seem be qualifications for either #2, public access, or #3, Priority Open Space.)

According to the Foothills Ordinance, the land must meet at least four of eleven criteria to be considered and possibly qualify as “Priority Open Space.”

There must be:

- 1 – Wetlands
- 2 – Riparian Areas
- 3 – Rare Plant Communities
- 4 – Critical Deer and Elk winter migration corridors
- 5 – Boise City Historic Preservation Committee: Potential Preservation Sites
- 6 – Unique Geologic or Visual Features
- 7 – Archeological or other Historic Sites
- 8 – Trails and Trail-heads designated in the Ada County Ridge to Rivers Pathway Plan as approved by the Boise City Parks and Recreation Board
- 9 – Other Public Trails and Trail-heads as approved by the Boise City Parks and Recreation Board
- 10 – Lands adjacent to publicly-held open spaces
- 11 – Lands adjacent to areas that are, or have the potential to be, designated and set aside as public open space lands in accordance with the provisions of this ordinance.

The developers are specifically making claim to protecting Wetlands, Riparian Areas, and Rare Plant Communities on their properties, and also claim that they broadly meet #'s 8, 9, 10, 11. In addition, they are going to repair a scar on a relatively remote hillside which is the site of a former sand business.

Although there may appear to be technical compliance with the Foothills Policy, most of these claims seem highly open to question when viewed through a lens other than the developers’.

1– Arguing that they are protecting Aase’s Onion begs the question, how do you protect the onion by placing homes on the steep slopes above and around the “protected” area? Erosion caused by construction and runoff from lawn sprinklers, the introduction of lawn fertilizers, insecticides and pesticides, into the runoff, as well as the introduction of new plant species into the immediate area, all beg the question, wouldn’t the onion be much better off if you didn’t build anywhere near it, period? The vast majority of it is already protected by the terrain it inhabits; there is little, if any, human traffic on those hillsides. (At a recent ACHD hearing, Mr. Jorgason testified that he has been trying for twenty years to get a road designed to access the ridgeline from Collister Drive—up through the onion fields—but that according to his engineers, it was too steep for even a road to be built.) 155 houses, positioned literally on top of the onions’ habitat, will clearly endanger it. Establishing a land trust, as proposed by the developers, seems a transparent means to gain public sympathy and support, not to mention the cover of a respected organization. This begs another question

regarding the onion field—why would the TVLT allow itself to be used towards such a counterproductive end? Have they even agreed to this proposal?

Finally, what sort of logic proposes that establishing a trust for the onion on naturally protected parts of the property should be rewarded with the right to build more lots in some other part of the property? Although this exchange of land may seem reasonable to the developers, once the public realizes that the ridgeline, and other areas they want to build on, are also habitat for the onion plant, the environmental value of the proposal falls into question. More scraping and bulldozing will be necessary to build those lots and roads, and more onion plants will be killed, the higher the number of lots allowed. So, the onion they are claiming is so important to protect in the unbuildable and inaccessible parts of the property becomes expendable in the buildable areas. A truly environmentally conscientious developer would keep the number of lots to a minimum; then the onion would be more likely to survive on the steep slopes, with or without a land trust.

2 – To the general public, the term, “wetlands” brings to mind streams, ponds, cat-tails, pollywogs, etc. not a “water seep” as the developer’s wetland scientist calls them in his report. One of these seeps is located in an otherwise dry gully situated on a very steep and inaccessible hillside. It is already “protected” for the public good by the steepness of the surrounding terrain on one side, and by the homes that sit approximately fifty yards below on the other. The second “wetland” described by the developer’s expert is also a “water seep” that exists somewhere alongside and adjacent to the usually dry Pole Cat Gulch. In desert lands any water is valuable, but are two small “water seeps” already protected by hundreds of yards of steep terrain worthy of full “wetlands” consideration and the concurrent density bonuses being tied to that status?

3 – The improvements they are proposing for Pole Cat Gulch include erecting a fence to protect the area, which has been defined by the developer’s expert as “riparian.” This “protection” may or may not be of significance, but is Pole Cat Gulch any more a “riparian” area than water seeps are “wetlands”? Perhaps by some arcane technical definition Pole Cat Gulch qualifies as riparian, but it is as far from the ordinary use of the term for a stream-side environment as “wetland” is a term to describe a small water seep. Pole Cat Gulch has scrubby bushes and a few intermittent, mostly small trees, but it is essentially a dry gulch the vast majority of the year and the “protection” being proposed seems insignificant when compared to the overall impact that the proposed development of 155 houses will have on this landscape and the people that currently live near it.

4 – The access provided, and the potential amenities that may be a part of the city’s requirements at the trail-head to the Pole Cat Gulch recreation area could surely add something to the public good. It appears that the developers have incorporated this piece of property that sits at the bottom of the ravine, into

their proposal for what is essentially a ridgetop development, which is well removed in space as well as character. This seems to be transparent, a gerrymander in effect, in light of the fact that many of their environmental claims are derived from this small and geographically distinct parcel of land providing the riparian area, wetland, and what appears to be a multi-faceted contribution to public land accessibility.

5 – The developer proposes to “repair” an excavated hillside (a sandpit) only to replace the scar with a row of houses along the ridges. This sand pit is currently visible from very few places in the valley and only from points south west of the site at a relatively large distance. The former sandpit is in the least visible portion of the development land. In contrast, many of the houses in the proposed development will be highly visible from just about any place South of Hill Road, much like in its sister development, Quail Ridge. The primary beneficiaries of the sandpit “repair” will be the developers, and of course the residents of the proposed subdivision. Claiming that this is something for the public good and for which they should be granted a density bonus is specious.

A “ridgeline” development is directly in opposition to the Foothills Ordinance that excludes”flat or squared off appearance on ridges.....” and states that “The scenic values of prominent ridges and knolls shall be maintained. Project design shall preserve the natural appearance of prominent ridges and skylines, and concentrate development on more obscured areas of the sites.....”

The section of the Foothills Ordinance that speaks to “Priority Open Space” states: “It is not the intent of this section to broadly allow the designation of highly fragmented or steeply sloped land as open space, to the total exclusion of the normal requirements of clustering and set aside of buildable area open space. **Priority Open Space, when it exists, should be used in balance with other forms of eligible open space to meet the requirements of this code.**” (emphasis added) The developers have no other form of eligible open space with which to provide balance because very little of the land in question is buildable. They are setting aside virtually nothing of value to their bank accounts. They are building on virtually everything that has an acceptable slope, and much of that land appears to be on the ridgelines where the big lot fees and unfortunately, the big eyesore to the rest of the valley can be assessed.

If the bonus density increase requested is allowed, the hopes of the people of the City of Boise who voted in support of the good intentions (not the potential loopholes) enveloped in the Foothills Ordinance will go down the proverbial drain. We urge that you look at the developer’s proposal in the light of the Foothills Ordinance, not just to see that all of the developer’s i’s are dotted and t’s are crossed; but rather, that you look critically at whether or not the proposal has integrity and lives up to the intent of the Ordinance. Are the developers giving up anything that they can build on? Is there a balance of unused buildable open

space, priority open space and used buildable space? Is the project another ridgeline development?

Is what the developers are giving up (marginally classified riparian and wetland areas, unbuildable onion trusts) worth a financial windfall to them and the concurrent eyesore, traffic congestion, increased danger, environmental degradation and generally reduced quality of life to everyone else? We ask that you consider this proposal with great care, and that ultimately your determination be to reduce the proposed density significantly.

Sincerely,

Brent Smith & Stephanie Bacon