To: ACHD Commission, Director
From: Gary Inselman, Development Services Manager
Subject: Cooperative Development Agreement Third Modification Agreement
Fairview/Steelwood Intersection
Meeting: March 15, 2017

Executive Summary
The ACHD Board of Commissioners approved the preliminary plat for Wild Shamrock Center Subdivision on December 14, 2016 and in so doing, agreed that ACHD would pay for reasonable costs and expenses for the design and construction of 30 feet of pavement on Gabrielle Drive and Steelwood Avenue. This Cooperative Development Agreement Third Modification Agreement Provides for ACHD’s participation in these roadway costs.

Findings
1. ACHD entered into a Cooperative Development Agreement (CDA) with Trimont Investments, LLC, Fair Shamrock, LLC and Fairview 5, LLC September 19, 2006.

2. The Cooperative Development Agreement provided for the design and construction of the Fairview/Steelwood signalized intersection by Trimont Investments, LLC the developer of the Steelwood Station Subdivision. This included the construction of Steelwood Avenue north of Fairview Avenue as well as the future design and construction of Steelwood Avenue and Gabrielle Drive south of Fairview Avenue (See attached vicinity map) by Fair Shamrock, LLC and Fairview 5, LLC.

3. ACHD entered into a Cooperative Development Agreement Modification Agreement (Modification Agreement) with Fair Shamrock, LLC and Fairview 5, LLC (Developer) November 30, 2009.


5. On December 14, 2016, the ACHD Board of Commissioners approved the preliminary plat for Wild Shamrock Center Subdivision on the parcels of land relating to the CDA and in so doing, agreed to modify the CDA to include that ACHD would pay for reasonable costs and expenses for the design and construction of 30 feet of pavement on Gabrielle Drive and Steelwood Avenue and Developer would be required to pay for the remainder of the pavement, curb, gutter and sidewalk on both sides, as well as storm drain costs, utilities, irrigation, and other similar costs.
6. Developer and staff have negotiated a Cooperative Development Agreement Third Modification Agreement (Third Modification Agreement) providing for ACHD’s payment of reasonable costs and expenses for the design and construction of 30 feet of pavement on Gabrielle Drive and Steelwood Avenue.

7. The Cooperative Development Agreement has been executed by the Developer.

8. The Cooperative Development Agreement has been approved for form and content by the District Legal Department.

**Recommendation**
Staff recommends approval of the Cooperative Development Agreement Third Modification Agreement.

**Attachments**
- Wild Shamrock Center Subdivision Staff Report
- Cooperative Development Agreement
- Cooperative Development Agreement Modification Agreement
- Cooperative Development Agreement Second Modification Agreement
- Cooperative Development Agreement Third Modification Agreement
A. Findings of Fact

1. Description of Application: The applicant is requesting preliminary plat approval for an 8-lot residential and commercial subdivision. The lots north of Gabrielle Drive are proposed for commercial use, and the one large lot south of Gabrielle Drive is proposed for residential use.

2. Description of Adjacent Surrounding Area:

<table>
<thead>
<tr>
<th>Direction</th>
<th>Land Use</th>
<th>Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Commercial/Industrial</td>
<td>C-2D</td>
</tr>
<tr>
<td>South</td>
<td>Residential</td>
<td>R-3 &amp; R-1C</td>
</tr>
<tr>
<td>East</td>
<td>Residential &amp; Commercial</td>
<td>R-1C &amp; C-2D</td>
</tr>
<tr>
<td>West</td>
<td>Residential &amp; Commercial</td>
<td>R-1C &amp; C-2D</td>
</tr>
</tbody>
</table>

3. Transit: The nearest transit services are located ½ mile to the east at Five Mile Road.

4. New Center Lane Miles: The proposed development includes 0.20 centerline miles of new public road.
5. Impact Fees: There will be an impact fee that is assessed and due prior to issuance of any building permits. The assessed impact fee will be based on the impact fee ordinance that is in effect at that time.

6. Capital Improvements Plan (CIP)/ Integrated Five Year Work Plan (IFYWP):
   - Fairview Avenue is listed in the CIP to be widened to 7-lanes from Cloverdale Road to Five Mile Road between 2031 and 2035.

B. Traffic Findings for Consideration

1. Trip Generation: Trip generation estimates are listed below for various commercial uses, based on the Institute of Transportation Engineers Trip Generation Manual, 9th edition.

<table>
<thead>
<tr>
<th>Land Use (1,000 sf)</th>
<th>Average Daily Trips</th>
<th>PM Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td>Quality Restaurant</td>
<td>89.95</td>
<td>7.49</td>
</tr>
<tr>
<td>High-Turnover Restaurant (Sit-down)</td>
<td>127.15</td>
<td>9.85</td>
</tr>
<tr>
<td>Fast Food w/o Drive Thru</td>
<td>716.00</td>
<td>26.15</td>
</tr>
<tr>
<td>General Office Building</td>
<td>11.03</td>
<td>1.49</td>
</tr>
<tr>
<td>Specialty Retail</td>
<td>44.32</td>
<td>2.71</td>
</tr>
</tbody>
</table>

2. Condition of Area Roadways
   Traffic Count is based on Vehicles per hour (VPH)

<table>
<thead>
<tr>
<th>Roadway</th>
<th>Frontage</th>
<th>Functional Classification</th>
<th>PM Peak Hour Traffic Count</th>
<th>PM Peak Hour Level of Service</th>
<th>Existing Plus Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fairview Avenue</td>
<td>670-feet</td>
<td>Principal Arterial</td>
<td>1,421</td>
<td>Better than “E”</td>
<td>Better than “E”</td>
</tr>
<tr>
<td>Shamrock Street</td>
<td>620-feet</td>
<td>Collector</td>
<td>80</td>
<td>Better than “D”</td>
<td>Better than “D”</td>
</tr>
<tr>
<td>Gabrielle Drive</td>
<td>54-feet</td>
<td>Local</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

* Acceptable level of service for a five-lane principal arterial is “E” (1,780 VPH).
* Acceptable level of service for a two-lane collector is “D” (425 VPH).

3. Average Daily Traffic Count (VDT)
   Average daily traffic counts are based on ACHD’s most current traffic counts.
   - The average daily traffic count for Fairview Avenue east of Cloverdale Road was 29,858 on 1-22-15.
   - The average daily traffic count for Shamrock Street south of Fairview Avenue was 1,640 on 9-10-14.

C. Findings for Consideration

1. Development Agreement – Active
   On March 11, 2015, the ACHD Commission approved the Cooperative Development Agreement Second Modification Agreement: Fairview/Steelwood Intersection, associated with the developing parcels. This was a time extension request and consideration. The Second Modification Agreement provisions include:
   - 10 year time extension
• In consideration of the time extension, the developer was required to dedicate right-of-way for Gabrielle Street, Shamrock Street and Fairview Avenue. (Steelwood Avenue right-of-way was previously dedicated.)
• Upon development of the parcels, developer shall construct Steelwood Avenue and/or Gabrielle Street at Developer’s sole cost and expense.

2. Development Agreement – Proposed Modification

Prior to the submittal of this development application, ACHD staff had been working with the property owner on a proposal to modify the Cooperative Development Agreement Second Modification Agreement. The proposed modification would include ACHD participating in the cost to construct Gabrielle Drive and Steelwood Avenue, as these public street connections will provide significant connectivity in this area that is needed today. The street connections will allow ACHD to reinstall the full traffic signal at the Fairview/Steelwood intersection which will benefit vehicles, bikes, pedestrians, residents, and business/commercial traffic in this area. Section 2.5 of the Second Modification Agreement states: “If ACHD in its sole discretion determines that the signal at the Fairview Avenue/Steelwood Avenue intersection is required to improve a safety or operational need, ACHD may construct roads within the Steelwood Avenue and Gabrielle Street rights-of-way at ACHD’s sole cost and expense.”

Staff recommends that the Development Agreement be modified to include that ACHD will pay for 30-feet of pavement on Gabrielle Drive and Steelwood Avenue. The applicant would be required to pay for the remainder of the pavement, curb, gutter and sidewalk on both sides, as well as storm drain costs, utilities, irrigation, etc…

3. Fairview Avenue/Steelwood Avenue Intersection

ACHD installed a signal at the Fairview/Steelwood Avenue intersection November 1, 2007 and deactivated the signal on August 2, 2011. ACHD deactivated the signal in 2011 as the traffic volumes on the north leg were low, there was an increase in crashes, and the signal warrant was not met. Additionally, the south leg of the intersection was not constructed and the signal provided no vehicular traffic south of Fairview Avenue. After the roads in the proposed plat are constructed, ACHD will re-activate this signal.

The signal at Fairview/Steelwood will help mitigate safety concerns at Fairview/Wildwood and Fairview/Shamrock intersections, and will provide signalized access to Fairview Avenue from neighborhoods and commercial developments both north and south of the corridor. Fairview Avenue is designated as a mobility corridor. Left-turn movements at the Fairview/Wildwood intersection and Fairview/Shamrock intersection will be evaluated with the installation of the signal at Fairview/Steelwood. It is likely that those intersections may be restricted or modified to ensure safe operations. Staff will also evaluate a u-turn movement for westbound Fairview Avenue at the signal.

North of Fairview Avenue, Wildwood Street is classified as a local street and Shamrock Avenue is classified as a collector. Both roadways have front-on housing. While residents on both streets have requested signals at Fairview Avenue, with the previously approved Development Agreement, ACHD provided a compromise to locate the signal midway between Wildwood Street and Shamrock Avenue at Steelwood. As the area builds out and the roadway network is completed, this is still the appropriate location. As a result of the signal at Steelwood Avenue, traffic will flow better on Fairview Avenue and safety concerns at all three intersections will be mitigated.
4. Shamrock Bikeway
As part of the Shamrock Bikeway project, ACHD installed a temporary signalized pedestrian crossing on Fairview Avenue at Shamrock Street. With this application, ACHD will activate the signal on Fairview Avenue at Steelwood Avenue, and will remove the temporary signalized pedestrian crossing. Bike and pedestrian users can reach the full signal thru the local streets that will be constructed within this subdivision, or from the sidewalk that will be constructed on Fairview Avenue with this application.

5. Fairview Avenue
   a. Existing Conditions: Fairview Avenue is improved with 5-travel lanes, and no curb, gutter or sidewalk abutting the site. There is 48-feet of right-of-way from centerline for Fairview Avenue, plus a 10-foot wide permanent right-of-way easement.
   b. Policy:
      Arterial Roadway Policy: District Policy 7205.2.1 states that the developer is responsible for improving all street frontages adjacent to the site regardless of whether or not access is taken to all of the adjacent streets.
      Master Street Map and Typology Policy: District Policy 7205.5 states that the design of improvements for arterials shall be in accordance with District standards, including the Master Street Map and Livable Streets Design Guide. The developer or engineer should contact the District before starting any design.
      ACHD Master Street Map: ACHD Policy Section 3111.1 requires the Master Street Map (MSM) guide the right-of-way acquisition, arterial street requirements, and specific roadway features required through development. This segment of Fairview Avenue is designated in the MSM as a Mobility Corridor with 7-lanes and on-street bike lanes, a 98-foot street section within 124-feet of right-of-way.
      Street Section and Right-of-Way Width Policy: District Policies 7205.2.1 & 7205.5.2 state that the standard 7-lane street section shall be 96-feet (back-of-curb to back-of-curb) within 120-feet of right-of-way. This width typically accommodates three travel lanes in each direction, a continuous raised or landscaped median with intermittent turn lanes, and safety shoulders.
      Right-of-Way Dedication: District Policy 7205.2 states that The District will provide compensation for additional right-of-way dedicated beyond the existing right-of-way along arterials listed as impact fee eligible in the adopted Capital Improvements Plan using available impact fee revenue in the Impact Fee Service Area.

No compensation will be provided for right-of-way on an arterial that is not listed as impact fee eligible in the Capital Improvements Plan.

The District may acquire additional right-of-way beyond the site-related needs to preserve a corridor for future capacity improvements, as provided in Section 7300.

Sidewalk Policy: District Policy 7205.5.7 requires a concrete sidewalk at least 5-feet wide to be constructed on both sides of all arterial streets. A parkway strip at least 6-feet wide between the back-of-curb and street edge of the sidewalk is required to provide increased safety and protection of pedestrians. Consult the District’s planter width policy if trees are to be placed within the parkway strip. Sidewalks constructed next to the back-of-curb shall be a minimum of 7-feet wide.

Detached sidewalks are encouraged and should be parallel to the adjacent roadway. Meandering sidewalks are discouraged.
A permanent right-of-way easement shall be provided if public sidewalks are placed outside of the dedicated right-of-way. The easement shall encompass the entire area between the right-of-way line and 2-feet behind the back edge of the sidewalk. Sidewalks shall either be located wholly within the public right-of-way or wholly within an easement.

c. **Staff Comments/Recommendations:** The applicant previously dedicated a 10-foot wide permanent right-of-way easement as was required by the Cooperative Development Agreement Second Modification Agreement. The applicant should construct a 5-foot wide detached sidewalk on Fairview Avenue located a minimum of 55-feet from centerline.

Fairview Avenue at this location had an overlay in Summer 2016, and this segment is on the no cut moratorium list until 2021. If the applicant needs to extend utilities in Fairview Avenue or cut into the pavement, the applicant will need approval from the ACHD Pavement Cut Committee.

### 6. Shamrock Street

a. **Existing Conditions:** Shamrock Street is improved with vertical curb, gutter, and sidewalk on the west side, with approximately 21-feet of pavement.

b. **Policy:**

   **Collector Street Policy:** District policy 7206.2.1 states that the developer is responsible for improving all collector frontages adjacent to the site or internal to the development as required below, regardless of whether access is taken to all of the adjacent streets.

   **Master Street Map and Typologies Policy:** District policy 7206.5 states that if the collector street is designated with a typology on the Master Street Map, that typology shall be considered for the required street improvements. If there is no typology listed in the Master Street Map, then standard street sections shall serve as the default.

   **Street Section and Right-of-Way Policy:** District policy 7206.5.2 states that the standard right-of-way width for collector streets shall typically be 50 to 70-feet, depending on the location and width of the sidewalk and the location and use of the roadway. The right-of-way width may be reduced, with District approval, if the sidewalk is located within an easement; in which case the District will require a minimum right-of-way width that extends 2-feet behind the back-of-curb on each side.

   The standard street section shall be 46-feet (back-of-curb to back-of-curb). This width typically accommodates a single travel lane in each direction, a continuous center left-turn lane, and bike lanes.

   **Residential Collector Policy:** District policy 7206.5.2 states that the standard street section for a collector in a residential area shall be 36-feet (back-of-curb to back-of-curb). The District will consider a 33-foot or 29-foot street section with written fire department approval and taking into consideration the needs of the adjacent land use, the projected volumes, the need for bicycle lanes, and on-street parking.

   **Sidewalk Policy:** District policy 7206.5.6 requires a concrete sidewalks at least 5-feet wide to be constructed on both sides of all collector streets. A pathway strip at least 6-feet wide between the back-of-curb and street edge of the sidewalk is required to provide increased safety and protection of pedestrians. Consult the District’s planter width policy if trees are to be placed within the pathway strip. Sidewalks constructed next to the back-of-curb shall be a minimum of 7-feet wide.

   Detached sidewalks are encouraged and should be parallel to the adjacent roadway. Meandering sidewalks are discouraged.

   A permanent right-of-way easement shall be provided if public sidewalks are placed outside of the dedicated right-of-way. The easement shall encompass the entire area between the right-
of-way line and 2-feet behind the back edge of the sidewalk. Sidewalks shall either be located wholly within the public right-of-way or wholly within an easement.

**Existing Collector ACHD Master Street Map:** ACHD Policy Section 3111.1 requires the Master Street Map (MSM) guide the right-of-way acquisition, collector street requirements, and specific roadway features required through development. This segment of Shamrock Street is designated in the MSM as a Residential Collector.

c. **Staff Comments/Recommendations:** The applicant should be required to improve Shamrock Street to complete a 36-foot street section (measured back-of-curb to back-of-curb) with vertical curb, gutter and sidewalk from Fairview Avenue to the proposed Gabrielle Drive. South of Gabrielle Drive, improve Shamrock Street to complete a 29-foot street section with vertical curb, gutter and sidewalk. The sidewalk should be constructed as a 7-foot wide attached concrete sidewalk, or a 5-foot wide detached concrete sidewalk. The applicant previously dedicated a 16-foot wide permanent right-of-way easement as was required by the Cooperative Development Agreement Second Modification Agreement.

7. **New Commercial Roadways – Gabrielle Drive and Steelwood Avenue**

a. **Existing Conditions:** Gabrielle Drive is constructed as a stub street to the east property line of this site. The street was constructed as a 40-foot wide (back-of-curb to back-of-curb) commercial street section east of the site. The applicant previously dedicated the right-of-way for Gabrielle Drive as a permanent right-of-way easement as was required by the Cooperative Development Agreement Second Modification Agreement. Steelwood Avenue is not constructed through the site, but there is 54-feet of right-of-way that was previously dedicated to ACHD in the proposed alignment.

b. **Policy:**

**Commercial Roadway Policy:** District Policy 7208.2.1 states that the developer is responsible for improving all commercial street frontages adjacent to the site regardless of whether or not access is taken to all of the adjacent streets.

**Street Section and Right-of-Way Policy:** District Policy 7208.5 states that right-of-way widths for new commercial streets shall typically be 50 and 70-feet wide and that the standard street section will vary depending on the need for a center turn lane, bike lanes, volumes, percentage of truck traffic, and/or on-street parking.

- A 36-foot street section (back-of-curb to back-of-curb) will typically accommodate two travel lanes and on-street parking.
- A 40-foot street section (back-of-curb to back-of-curb) will typically accommodate two travel lanes and a center turn lane.

**Continuation of Streets Policy:** District Policy 7208.2.4 states that an existing street, or a street in an approved preliminary plat, which ends at a boundary of a proposed development shall be extended in that development. The extension shall include provisions for continuation of storm drainage facilities. Benefits of connectivity include but are not limited to the following:

- Reduces vehicle miles traveled.
- Increases access for emergency services.
- Reduces need for additional access points to the arterial street system.
- Promotes the efficient delivery of services including trash, mail and deliveries, water and sewer.
- Promotes orderly development.

**Sidewalk Policy:** District Policy 7208.5.6 requires a concrete sidewalks at least 5-feet wide to be constructed on both sides of all commercial streets. If a separated sidewalk is proposed, a parkway strip at least 6-feet wide between the back-of-curb and street edge of the sidewalk is
required to provide increased safety and protection of pedestrians. Consult the District’s planter width policy if trees are to be placed within the parkway strip.

A permanent right-of-way easement shall be provided if public sidewalks are placed outside of the dedicated right-of-way. The easement shall encompass the entire area between the right-of-way line and 2-feet behind the back edge of the sidewalk. Sidewalks shall either be located wholly within the public right-of-way or wholly within an easement.)

**Landscape Medians Policy:** District policy 7208.5.15 states that landscape medians are permissible where adequate pavement width is provided on each side of the median to accommodate the travel lanes and where the following is provided:

- The median is platted as right-of-way owned by ACHD.
- The width of an island near an intersection is 12-feet maximum for a minimum distance of 150-feet. Beyond the 150-feet, the island may increase to a maximum width of 30-feet.
- At an intersection that is signalized or is to be signalized in the future, the median width shall be reduced to accommodate the necessary turn lane storage and tapers.
- The Developer or Homeowners Association shall apply for a license agreement if landscaping is to be placed within these medians.
- The license agreement shall contain the District’s requirements of the developer including, but not limited to, a “hold harmless” clause; requirements for maintenance by the developer; liability insurance requirements; and restrictions.
- Vertical curbs are required around the perimeter of any raised median. Gutters shall slope away from the curb to prevent ponding.

c. **Applicant’s Proposal:** The applicant is proposing to construct Gabrielle Drive as a 36-foot commercial street section within 50-feet of right-of-way between Shamrock Street and the east property line. The applicant is proposing to construct Steelwood Avenue as a 36 to 40-foot street section within 50 to 54-feet of right-of-way from Fairview Avenue to the proposed Gabrielle Drive.

d. **Staff Comments/Recommendations:** The applicant’s proposal meets District policy and should be approved as proposed. The applicant will need to transition from a 40-foot street section to a 36-foot street section with the extension of Gabrielle Drive at the east property line, and will need to dedicate additional right-of-way beyond 50-feet to accommodate a short segment of roadway width. The applicant should construct Steelwood Avenue as a 40-foot street section from Fairview Avenue to the proposed driveway, approximately 200-feet; transitioning to a 36-foot wide street section. The 40-foot street section with allow for a center turn lane at the Steelwood/Fairview Avenue intersection. Both roadways should be constructed with vertical curb, gutter and 5-foot wide concrete sidewalk. The applicant may apply to vacate the existing right-of-way on Steelwood Avenue from 54-feet to 50-feet, between the driveway and Gabrielle Drive.

8. **Driveways**

   **Fairview Avenue**

   a. **Policy**

      **Access Points Policy:** District Policy 7205.4.1 states that all access points associated with development applications shall be determined in accordance with the policies in this section and Section 7202. Access points shall be reviewed only for a development application that is being considered by the lead land use agency. Approved access points may be relocated and/or restricted in the future if the land use intensifies, changes, or the property redevelops.

      **Access Policy:** District policy 7205.4.7 states that direct access to principal arterials is typically prohibited. If a property has frontage on more than one street, access shall be taken from the
street having the lesser functional classification. If it is necessary to take access to the higher classified street due to a lack of frontage, the minimum allowable spacing shall be based on Table 1b under District policy 7205.4.7, unless a waiver for the access point has been approved by the District Commission. Driveways, when approved on a principal arterial shall operate as a right-in/right-out only, and the District will require the construction of a raised median to restrict the left turning movements.

**Driveway Location Policy:** District policy 7205.4.7 requires driveways located on principal arterial roadways to be located a minimum of 355-feet from the nearest intersection for a right-in/right-out only driveway. Full-access driveways are not allowed on principal arterial roadways.

**Successive Driveways:** District policy 7205.4.7 Table 1b, requires driveways located on principal arterial roadways with a speed limit of 35 MPH to align or offset a minimum of 355-feet from any existing or proposed driveway.

**Driveway Width Policy:** District policy 7205.4.8 restricts high-volume driveways (100 VTD or more) to a maximum width of 36-feet and low-volume driveways (less than 100 VTD) to a maximum width of 30-feet. Curb return type driveways with 30-foot radii will be required for high-volume driveways with 100 VTD or more. Curb return type driveways with 15-foot radii will be required for low-volume driveways with less than 100 VTD.

**Driveway Paving Policy:** Graveled driveways abutting public streets create maintenance problems due to gravel being tracked onto the roadway. In accordance with District policy, 7205.4.8, the applicant should be required to pave the driveway its full width and at least 30-feet into the site beyond the edge of pavement of the roadway and install pavement tapers in accordance with Table 2 under District Policy 7205.4.8.

**Cross Access Easements/Shared Access Policy:** District Policy 7202.4.1 states that cross access utilizes a single vehicular connection that serves two or more adjoining lots or parcels so that the driver does not need to re-enter the public street system.

**b. Staff Comments/Recommendations:** ACHD is not approving or denying any access points on Fairview Avenue with this preliminary plat. Future access to Fairview Avenue, if requested, will be evaluated with a future development application.

**Shamrock Street**

**a. Policy:**

**Access Policy:** District Policy 7205.4.1 states that all access points associated with development applications shall be determined in accordance with the policies in this section and Section 7202. Access points shall be reviewed only for a development application that is being considered by the lead land use agency. Approved access points may be relocated and/or restricted in the future if the land use intensifies, changes, or the property redevelops.

District Policy 7206.1 states that the primary function of a collector is to intercept traffic from the local street system and carry that traffic to the nearest arterial. A secondary function is to service adjacent property. Access will be limited or controlled. Collectors may also be designated at bicycle and bus routes.

**Driveway Location Policy (Stop Controlled Intersection):** District policy 7206.4.4 requires driveways located on collector roadways near a STOP controlled intersection to be located outside of the area of influence; OR a minimum of 150-feet from the intersection, whichever is greater. Dimensions shall be measured from the centerline of the intersection to the centerline of the driveway.

**Successive Driveways:** District policy 7206.4.5 Table 1, requires driveways located on collector roadways with a speed limit of 20 MPH and daily traffic volumes greater than 200 VTD to align or offset a minimum of 245-feet from any existing or proposed driveway.
**Driveway Width Policy:** District policy 7206.4.6 restricts high-volume driveways (100 VTD or more) to a maximum width of 36-feet and low-volume driveways (less than 100 VTD) to a maximum width of 30-feet. Curb return type driveways with 30-foot radii will be required for high-volume driveways with 100 VTD or more. Curb return type driveways with 15-foot radii will be required for low-volume driveways with less than 100 VTD.

**Driveway Paving Policy:** Graveled driveways abutting public streets create maintenance problems due to gravel being tracked onto the roadway. In accordance with District policy, 7206.4.6, the applicant should be required to pave the driveway its full width and at least 30-feet into the site beyond the edge of pavement of the roadway and install pavement tapers in accordance with Table 2 under District Policy 7206.4.6.

b. **Applicant’s Proposal:** The applicant is proposing to construct one driveway on Shamrock Street located 195-feet south of Fairview Avenue and in alignment with an existing commercial driveway on the west side of the road.

c. **Staff Comments/Recommendations:** The applicant’s proposal meets District policy and should be approved as proposed. Construct the driveway as a 24 to 30-foot wide curb return with 30-foot curb radii and pave the driveway its full width and at least 30-feet beyond the edge of pavement of Shamrock Street.

**Steelwood Avenue**

a. **Policy:**

**Driveway Location Policy:** District policy 7207.4.1 requires driveways located near intersections to be located a minimum of 75-feet (measured centerline-to-centerline) from the nearest street intersection.

**Successive Driveways:** District Policy 7207.4.1 states that successive driveways away from an intersection shall have no minimum spacing requirements for access points along a local street, but the District does encourage shared access points where appropriate.

**Driveway Width Policy:** District policy 7207.4.3 states that where vertical curbs are required, residential driveways shall be restricted to a maximum width of 20-feet and may be constructed as curb-cut type driveways.

**Driveway Paving Policy:** Graveled driveways abutting public streets create maintenance problems due to gravel being tracked onto the roadway. In accordance with District policy, 7207.4.3, the applicant should be required to pave the driveway its full width and at least 30-feet into the site beyond the edge of pavement of the roadway.

b. **Applicant’s Proposal:** The applicant is proposing to construct two curb return driveways on Steelwood Avenue (one on the east side and one on the west side) located approximately 200-feet south of Fairview Avenue.

c. **Staff Comments/Recommendations:** The applicant’s proposal meets District Policy and should be approved as proposed.

**Gabrielle Street**

a. **Policy:**

**Driveway Location Policy:** District policy 7207.4.1 requires driveways located near intersections to be located a minimum of 75-feet (measured centerline-to-centerline) from the nearest street intersection.

**Successive Driveways:** District Policy 7207.4.1 states that successive driveways away from an intersection shall have no minimum spacing requirements for access points along a local street, but the District does encourage shared access points where appropriate.
Driveway Width Policy: District policy 7207.4.3 states that where vertical curbs are required, residential driveways shall be restricted to a maximum width of 20-feet and may be constructed as curb-cut type driveways.

Driveway Paving Policy: Graveled driveways abutting public streets create maintenance problems due to gravel being tracked onto the roadway. In accordance with District policy, 7207.4.3, the applicant should be required to pave the driveway its full width and at least 30-feet into the site beyond the edge of pavement of the roadway.

b. Applicant’s Proposal: The applicant is proposing to construct 4 26-foot wide curb return driveways on Gabrielle Drive located:

- Located 150-feet east of Shamrock Street on the north side
- Located 150-feet east of Shamrock Street on the south side
- Located 120-feet west of Steelwood Avenue
- Located in alignment with Steelwood Avenue

c. Staff Comments/Recommendations: The applicant’s proposal meets District policy and should be approved as proposed.

9. Tree Planters

Tree Planter Policy: The District’s Tree Planter Policy prohibits all trees in planters less than 8-feet in width without the installation of root barriers. Class II trees may be allowed in planters with a minimum width of 8-feet, and Class I and Class III trees may be allowed in planters with a minimum width of 10-feet.

10. Landscaping

Landscaping Policy: A license agreement is required for all landscaping proposed within ACHD right-of-way or easement areas. Trees shall be located no closer than 10-feet from all public storm drain facilities. Landscaping should be designed to eliminate site obstructions in the vision triangle at intersections. District Policy 5104.3.1 requires a 40-foot vision triangle and a 3-foot height restriction on all landscaping located at an uncontrolled intersection and a 50-foot offset from stop signs. Landscape plans are required with the submittal of civil plans and must meet all District requirements prior to signature of the final plat and/or approval of the civil plans.

11. Other Access

Other than the access specifically approved with this application, direct lot access is prohibited to these roadways. Any additional access requested in the future will be evaluated with each building application and user, and will require approval by ACHD and the City of Boise.

D. Site Specific Conditions of Approval

1. Enter into a modified Development Agreement with ACHD regarding ACHD’s participation in constructing Gabrielle Drive and Steelwood Avenue.

2. Construct a 5-foot wide detached sidewalk on Fairview Avenue located a minimum of 55-feet from centerline.

3. If the applicant needs to extend utilities in Fairview Avenue or cut into the pavement, the applicant will need approval from the ACHD Pavement Cut Committee.

4. Improve Shamrock Street to complete a 36-foot street section (measured back-of-curb to back-of-curb) with vertical curb, gutter and sidewalk from Fairview Avenue to the proposed Gabrielle Drive. South of Gabrielle Drive improve Shamrock Street to complete a 29-foot street section with
vertical curb, gutter and sidewalk. The sidewalk shall be constructed as a 7-foot wide attached concrete sidewalk, or a 5-foot wide detached concrete sidewalk.

5. Extend Gabrielle Drive into the site as a 40-foot street section to match existing improvements, transitioning to a 36-foot street section, with vertical curb, gutter and 5-foot wide attached concrete sidewalk within 50-feet of right-of-way.

6. Construct Steelwood Avenue as a 40-foot street section from Fairview Avenue to the proposed driveway, approximately 200-feet; transitioning to a 36-foot wide street section, with vertical curb, gutter and 5-foot wide attached concrete sidewalk within 54 to 50-feet of right-of-way. The 40-foot street section with allow for a center turn lane at the Steelwood/Fairview Avenue intersection.

7. The applicant may apply to vacate the existing right-of-way on Steelwood Avenue from 54-feet to 50-feet, between the driveway and Gabrielle Drive.

8. Construct a 24 to 30-foot wide curb return driveway on Shamrock Street located approximately 195-feet south of Fairview Avenue and in alignment with an existing driveway on the west side of the road. Construct with 30-foot curb radii and pave the driveway its full width and at least 30-feet beyond the edge of pavement of Shamrock Street.

9. Construct two 24 to 30-foot wide curb return driveways on Steelwood Avenue located approximately 200-feet south of Fairview Avenue (one on the east and one on the west side). Construct with 30-foot curb radii and pave the driveway its full width and at least 30-feet beyond the edge of pavement of Steelwood Avenue.

10. Construct a 24 to 30-foot wide curb return driveway on Gabrielle Drive located 150-feet east of Shamrock Street on the north side. Construct with 30-foot curb radii and pave the driveway its full width and at least 30-feet beyond the edge of pavement of Steelwood Avenue.

11. Construct a 24 to 30-foot wide curb return driveway on Gabrielle Drive located 150-feet east of Shamrock Street on the south side. Construct with 30-foot curb radii and pave the driveway its full width and at least 30-feet beyond the edge of pavement of Steelwood Avenue.

12. Construct a 24 to 30-foot wide curb return driveway on Gabrielle Drive located 120-feet west of Steelwood Avenue. Construct with 30-foot curb radii and pave the driveway its full width and at least 30-feet beyond the edge of pavement of Steelwood Avenue.

13. Construct a 24 to 30-foot wide curb return driveway on Gabrielle Drive located in alignment with Steelwood Avenue. Construct with 30-foot curb radii and pave the driveway its full width and at least 30-feet beyond the edge of pavement of Steelwood Avenue.

14. Provide cross access amongst all parcels within the subdivision.

15. Tree Planter Policy: The District’s Tree Planter Policy prohibits all trees in planters less than 8-feet in width without the installation of root barriers. Class II trees may be allowed in planters with a minimum width of 8-feet, and Class I and Class III trees may be allowed in planters with a minimum width of 10-feet.

16. A license agreement is required for all landscaping proposed within ACHD right-of-way or easement areas. Trees shall be located no closer than 10-feet from all public storm drain facilities. Landscaping should be designed to eliminate site obstructions in the vision triangle at intersections. District Policy 5104.3.1 requires a 40-foot vision triangle and a 3-foot height restriction on all landscaping located at an uncontrolled intersection and a 50-foot offset from stop signs. Landscape plans are required with the submittal of civil plans and must meet all District requirements prior to signature of the final plat and/or approval of the civil plans.

17. Payment of impacts fees are due prior to issuance of a building permit.

18. Comply with all Standard Conditions of Approval.
E. Standard Conditions of Approval

1. All proposed irrigation facilities shall be located outside of the ACHD right-of-way (including all easements). Any existing irrigation facilities shall be relocated outside of the ACHD right-of-way (including all easements).

2. Private Utilities including sewer or water systems are prohibited from being located within the ACHD right-of-way.

3. In accordance with District policy, 7203.3, the applicant may be required to update any existing non-compliant pedestrian improvements abutting the site to meet current Americans with Disabilities Act (ADA) requirements. The applicant’s engineer should provide documentation of ADA compliance to District Development Review staff for review.

4. Replace any existing damaged curb, gutter and sidewalk and any that may be damaged during the construction of the proposed development. Contact Construction Services at 387-6280 (with file number) for details.

5. A license agreement and compliance with the District’s Tree Planter policy is required for all landscaping proposed within ACHD right-of-way or easement areas.

6. All utility relocation costs associated with improving street frontages abutting the site shall be borne by the developer.

7. It is the responsibility of the applicant to verify all existing utilities within the right-of-way. The applicant at no cost to ACHD shall repair existing utilities damaged by the applicant. The applicant shall be required to call DIGLINE (1-811-342-1585) at least two full business days prior to breaking ground within ACHD right-of-way. The applicant shall contact ACHD Traffic Operations 387-6190 in the event any ACHD conduits (spare or filled) are compromised during any phase of construction.

8. Utility street cuts in pavement less than five years old are not allowed unless approved in writing by the District. Contact the District’s Utility Coordinator at 387-6258 (with file numbers) for details.

9. All design and construction shall be in accordance with the ACHD Policy Manual, ISPWC Standards and approved supplements, Construction Services procedures and all applicable ACHD Standards unless specifically waived herein. An engineer registered in the State of Idaho shall prepare and certify all improvement plans.

10. Construction, use and property development shall be in conformance with all applicable requirements of ACHD prior to District approval for occupancy.

11. No change in the terms and conditions of this approval shall be valid unless they are in writing and signed by the applicant or the applicant’s authorized representative and an authorized representative of ACHD. The burden shall be upon the applicant to obtain written confirmation of any change from ACHD.

12. If the site plan or use should change in the future, ACHD Planning Review will review the site plan and may require additional improvements to the transportation system at that time. Any change in the planned use of the property which is the subject of this application, shall require the applicant to comply with ACHD Policy and Standard Conditions of Approval in place at that time unless a waiver/variance of the requirements or other legal relief is granted by the ACHD Commission.

F. Conclusions of Law

1. The proposed site plan is approved, if all of the Site Specific and Standard Conditions of Approval are satisfied.
2. ACHD requirements are intended to assure that the proposed use/development will not place an undue burden on the existing vehicular transportation system within the vicinity impacted by the proposed development.

G. **Attachments**

1. Vicinity Map
2. Site Plan
3. Utility Coordinating Council
4. Development Process Checklist
5. Request for Reconsideration Guidelines
SITE PLAN
Ada County Utility Coordinating Council

Developer/Local Improvement District
Right of Way Improvements Guideline Request

Purpose: To develop the necessary avenue for proper notification to utilities of local highway and road improvements, to help the utilities in budgeting and to clarify the already existing process.

1) **Notification:** Within five (5) working days upon notification of required right of way improvements by Highway entities, developers shall provide written notification to the affected utility owners and the Ada County Utility Coordinating Council (UCC). Notification shall include but not be limited to, project limits, scope of roadway improvements/project, anticipated construction dates, and any portions critical to the right of way improvements and coordination of utilities.

2) **Plan Review:** The developer shall provide the highway entities and all utility owners with preliminary project plans and schedule a plan review conference. Depending on the scale of utility improvements, a plan review conference may not be necessary, as determined by the utility owners. Conference notification shall also be sent to the UCC. During the review meeting the developer shall notify utilities of the status of right of way/easement acquisition necessary for their project. At the plan review conference each company shall have the right to appeal, adjust and/or negotiate with the developer on its own behalf. Each utility shall provide the developer with a letter of review indicating the costs and time required for relocation of its facilities. Said letter of review is to be provided within thirty calendar days after the date of the plan review conference.

3) **Revisions:** The developer is responsible to provide utilities with any revisions to preliminary plans. Utilities may request an updated plan review meeting if revisions are made in the preliminary plans which affect the utility relocation requirements. Utilities shall have thirty days after receiving the revisions to review and comment thereon.

4) **Final Notification:** The developer will provide highway entities, utility owners and the UCC with final notification of its intent to proceed with right of way improvements and include the anticipated date work will commence. This notification shall indicate that the work to be performed shall be pursuant to final approved plans by the highway entity. The developer shall schedule a preconstruction meeting prior to right of way improvements. Utility relocation activity shall be completed within the times established during the preconstruction meeting, unless otherwise agreed upon.

*Notification to the Ada County UCC can be sent to:* 50 S. Cole Rd. Boise 83707, or Visit iducc.com for e-mail notification information.
Development Process Checklist

Items Completed to Date:

☑ Submit a development application to a City or to Ada County
☑ The City or the County will transmit the development application to ACHD
☑ The ACHD Planning Review Section will receive the development application to review
☑ The Planning Review Section will do one of the following:
  ☐ Send a “No Review” letter to the applicant stating that there are no site specific conditions of approval at this time.
  ☐ Write a Staff Level report analyzing the impacts of the development on the transportation system and evaluating the proposal for its conformance to District Policy.
  ☑ Write a Commission Level report analyzing the impacts of the development on the transportation system and evaluating the proposal for its conformance to District Policy.

Items to be completed by Applicant:

☐ For ALL development applications, including those receiving a “No Review” letter:
  ☐ The applicant should submit one set of engineered plans directly to ACHD for review by the Development Review Section for plan review and assessment of impact fees. (Note: if there are no site improvements required by ACHD, then architectural plans may be submitted for purposes of impact fee assessment.)
  ☐ The applicant is required to get a permit from Construction Services (ACHD) for ANY work in the right-of-way, including, but not limited to, driveway approaches, street improvements and utility cuts.

☐ Pay Impact Fees prior to issuance of building permit. Impact fees cannot be paid prior to plan review approval.

DID YOU REMEMBER:

Construction (Non-Subdivisions)
☐ Driveway or Property Approach(s)
  ☐ Submit a “Driveway Approach Request” form to ACHD Construction (for approval by Development Services & Traffic Services). There is a one week turnaround for this approval.

☐ Working in the ACHD Right-of-Way
  ☐ Four business days prior to starting work have a bonded contractor submit a “Temporary Highway Use Permit Application” to ACHD Construction – Permits along with:
    a) Traffic Control Plan
    b) An Erosion & Sediment Control Narrative & Plat, done by a Certified Plan Designer, if trench is >50’ or you are placing >600 sf of concrete or asphalt.

Construction (Subdivisions)
☐ Sediment & Erosion Submittal
  ☐ At least one week prior to setting up a Pre-Construction Meeting an Erosion & Sediment Control Narrative & Plan, done by a Certified Plan Designer, must be turned into ACHD Construction to be reviewed and approved by the ACHD Stormwater Section.

☐ Idaho Power Company
  ☐ Vic Steelman at Idaho Power must have his IPCO approved set of subdivision utility plans prior to Pre-Con being scheduled.

☐ Final Approval from Development Services is required prior to scheduling a Pre-Con.
Request for Reconsideration of Commission Action

1. **Request for Reconsideration of Commission Action:** A Commissioner, a member of ACHD staff or any other person objecting to any final action taken by the Commission may request reconsideration of that action, provided the request is not for a reconsideration of an action previously requested to be reconsidered, an action whose provisions have been partly and materially carried out, or an action that has created a contractual relationship with third parties.

   a. Only a Commission member who voted with the prevailing side can move for reconsideration, but the motion may be seconded by any Commissioner and is voted on by all Commissioners present.

      If a motion to reconsider is made and seconded it is subject to a motion to postpone to a certain time.

   b. The request must be in writing and delivered to the Secretary of the Highway District no later than 3:00 p.m. on the day prior to the Commission’s next scheduled regular meeting following the meeting at which the action to be reconsidered was taken. Upon receipt of the request, the Secretary shall cause the same to be placed on the agenda for that next scheduled regular Commission meeting.

   c. The request for reconsideration must be supported by written documentation setting forth new facts and information not presented at the earlier meeting, or a changed situation that has developed since the taking of the earlier vote, or information establishing an error of fact or law in the earlier action. The request may also be supported by oral testimony at the meeting.

   d. If a motion to reconsider passes, the effect is the original matter is in the exact position it occupied the moment before it was voted on originally. It will normally be returned to ACHD staff for further review. The Commission may set the date of the meeting at which the matter is to be returned. The Commission shall only take action on the original matter at a meeting where the agenda notice so provides.

   e. At the meeting where the original matter is again on the agenda for Commission action, interested persons and ACHD staff may present such written and oral testimony as the President of the Commission determines to be appropriate, and the Commission may take any action the majority of the Commission deems advisable.

   f. If a motion to reconsider passes, the applicant may be charged a reasonable fee, to cover administrative costs, as established by the Commission.
COOPERATIVE DEVELOPMENT AGREEMENT

This COOPERATIVE DEVELOPMENT AGREEMENT (the “Agreement”) is made and entered into this 17th day of July, 2006, by and between TRIMONT INVESTMENTS, LLC, an Idaho limited liability company, or its assigns (“Trimont”), FAIR SHAMROCK, LLC, an Idaho limited liability company (“Fair Shamrock”), and FAIRVIEW 5, LLC, an Idaho limited liability company (“Fairview 5”) and the ADA COUNTY HIGHWAY DISTRICT, a body politic and corporate of the state of Idaho (“ACHD”). Trimont, Fair Shamrock, Fairview 5 and ACHD are sometimes collectively referred to herein as “the parties.”

RECITALS

A. Trimont is the owner of that certain real property located in Ada County, Idaho, more particularly described on Exhibit A attached hereto (the “Trimont Property”), which property Trimont desires to develop for commercial uses.

B. Fair Shamrock is the owner of that certain real property located in Ada County, Idaho, more particularly described on Exhibit B attached hereto (the “Fair Shamrock Property”), which property is located south of and across Fairview Avenue from the Trimont Property and directly to the west of the Fairview 5 Property; and which Property will have a road connecting the Fairview 5 Property to Shamrock Road.

C. Fairview 5 is the owner of certain real property located in Ada County, Idaho, more particularly described in Exhibit C attached hereto (the “Fairview 5 Property”), which property is also located south of and across Fairview Avenue from the Trimont Property and directly east of the Fair Shamrock Property.

D. The Fairview 5 Property is subject to a life estate (the “Life Estate”) in favor of third persons, namely Howard K. Wilson and Florence I. Wilson, husband and wife.

E. Fairview 5, Fair Shamrock and Trimont desire to have a traffic control signal installed on Fairview Avenue adjacent to the Trimont Property and the Fairview 5 Property in the location depicted on Exhibit D attached hereto (the “Traffic Signal”).

F. ACHD’s execution of this Agreement shall constitute ACHD’s acceptance and approval of the installation of the Traffic Signal, subject to certain conditions as more fully set forth in Exhibit E attached hereto, among which is the requirement that Fair Shamrock and Fairview 5 dedicate, construct and open a public road on their properties (“Steelwood Avenue”) in the location more particularly depicted on Exhibit F attached hereto.

G. Trimont, Fair Shamrock and Fairview 5 desire to cooperate, to their mutual benefit, for the construction and installation of the said Traffic Signal.
H. ACHD is a single county-wide highway district organized and existing under the laws of the State of Idaho, with the responsibility, jurisdiction, and authority to improve public roads.

I. The parties desire to provide for the construction and installation of a traffic signal.

J. The parties desire to provide for the allocation for payment and allocation of project costs between the parties.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. OBLIGATIONS AMONG TRIMONT, FAIR SHAMROCK AND FAIRVIEW 5

1.1 Approvals. Trimont shall be responsible, at its sole cost and expense (but subject to Fair Shamrock’s and Fairview 5’s obligation to cooperate as set forth below), to obtain all necessary governmental approvals for the construction and installation of the Traffic Signal, which said Traffic Signal shall be constructed and installed in accordance with such plans, specifications and setback requirements as approved by the ACHD and any other governmental agencies, if any, having jurisdiction thereof.

1.2 Location. Trimont shall construct and install the Traffic Signal in the location depicted on Exhibit D attached hereto, which location is approximately 440 feet from the east edge of the pavement in the Shamrock Street right-of-way at its intersection with Fairview Avenue to the west edge of the pavement in the Steelwood Avenue right-of-way.

1.3 Costs. Trimont shall be solely responsible for any and all costs associated with the installation and construction of the Traffic Signal, including but not limited to engineering, design, labor and materials (subject only to any agreement Trimont shall make with ACHD to supply materials), without any right to contribution or reimbursement from ACHD, Fair Shamrock or Fairview 5.

1.4 Grant of Easements. Trimont shall be entitled to commence construction and installation of the Traffic Signal at any time after the effective date of this Agreement and upon receipt of all necessary governmental approvals, including but not limited to, ACHD temporary highway use permits. In order to accommodate the installation and construction of the Traffic Signal, Fair Shamrock and Fairview 5 shall grant to Trimont and/or ACHD, as appropriate, any easements, both permanent and temporary, over the Fair Shamrock Property and the Fairview 5 Property, as may be necessary for the construction and installation of the Traffic Signal as contemplated herein, including but not limited to permanent easements for the Traffic Signal’s structures and any
required utilities and temporary construction easements as may be necessitated in view of the purposes of this Agreement. In furtherance thereof, Fair Shamrock and Fairview 5 shall execute and deliver to Trimont and/or ACHD as appropriate, in recordable form, such instruments as are required in order to grant such easements to ACHD for such purposes.

1.5 Dedication of Right-of-Way. As a material condition of this Agreement, and in order to induce ACHD to approve the installation of the Traffic Signal as contemplated herein, Fairview 5 and Fair Shamrock agree that (i) within six months of the termination of the Life Estate, Fairview 5 and Fair Shamrock shall each dedicate to ACHD, without cost, such right-of-way as may be required for the construction of Steelwood Avenue, a public commercial roadway, as generally depicted on Exhibit F attached hereto and to be more particularly described in detailed road construction designs, plans and specifications, which shall be reviewed and approved in writing by ACHD, prior to the construction of any improvements on, or any development of, the Fair Shamrock Property or Fairview 5 Property; and (ii) within one year of the termination of the Life Estate, Fairview 5 and Fair Shamrock shall commence construction of such public roadway and diligently prosecute such construction to completion, all at their sole cost and expense and consistent with the road design, and construction plans and specifications as approved by ACHD pursuant to (i) of this paragraph 1.5. This dedicated roadway shall be designed and constructed to ACHD's standards and specifications. In constructing the said roadway, Fairview 5 and Fair Shamrock shall comply, in all respects, with any and all applicable ACHD standards, policies and requirements for such construction, including without limitation, causing such tests and inspections to be made thereof as are required by ACHD.

1.6 Development Approval. ACHD may at its sole discretion withhold any approval for development of the Fairview 5 Property and Fair Shamrock Property until such time that Fairview 5 and Fair Shamrock are in full compliance with paragraphs 1.4 and 1.5.

1.7 Security. Notwithstanding the obligations of Fairview 5 and Fair Shamrock as set forth in paragraph 1.5, ACHD may, in its sole discretion, require that security be posted for the construction of the said public roadway. In such case, such security shall be posted by, in the name of and at the sole expense of Trimont. It is understood and agreed, however, that by posting such security, Fair Shamrock and Fairview 5 shall not be relieved of the obligation to fully and faithfully perform their obligations as set forth herein, said obligations being in full force and effect and enforceable by Trimont notwithstanding that ACHD may seek to enforce its rights under any such security obligation, and in such event, Trimont shall be entitled to pursue any and all remedies available to it, legal and equitable, including specific performance and/or the recovery of damages from Fairview 5 and Fair Shamrock. Trimont shall have the option of providing security in the form of cash bonding, certificate of deposit, and/or an irrevocable standby letter of credit. Such security must be issued by a financial institution that has a local branch in Ada County, and ACHD must be able to draw at that branch. ACHD shall be the sole
beneficiary of the security. The security shall insure that Trimont, or its assigns, will properly install the road improvements.

1.8 Cooperation. Fairview 5 and Fair Shamrock each agree to cooperate with Trimont in making such applications as may be required in order to obtain approvals for the installation and construction of the Traffic Signal from such governmental entities as may have jurisdiction thereof, which said cooperation shall include but not be limited to the timely execution and delivery of any applications, permits, authorizations, agreements, easements and other instruments as may be necessary to effect the provisions of this Agreement.

SECTION 2.
CONSTRUCTION AND COMPLETION OF THE TRAFFIC SIGNAL

2.1 Permits and Fees. Prior to the commencement of construction, Trimont shall require that its contractor (i) has obtained all applicable permits to work in the right-of-way, and (ii) has paid all applicable fees for such permits. Trimont acknowledges that this Agreement will not function as an ACHO permit to work in the public right-of-way.

2.2 Manner of Construction. Upon ACHD’s written approval of Trimont’s construction contract, Trimont shall provide for construction of the Traffic Signal in compliance with the construction contract and with the customary requirements of ACHD.

2.3 Inspections. Inspecting and testing shall be accomplished as required by and in accordance with the ITQ Quality Assurance Manual. Minimum quality control testing frequencies for inspection and testing shall conform to the ITQ Field Test Manual.

2.4 Issuance of Certificate of Completion.

a. Upon completion of the construction of the Traffic Signal, Trimont shall furnish to ACHD Trimont’s written certification that the Traffic Signal is complete in accordance with the approved plans.

b. Within fifteen (15) days after delivery of Trimont’s written certificate, ACHD shall either (i) accept the same or (ii) provide a written itemization of those matters it reasonably finds to be non-conforming, in which case Trimont shall promptly cause the remediation of all non-conforming matters.

c. ACHD shall acknowledge its acceptance of the Traffic Signal in writing as complete and issue a certificate stating that the project is complete (a “Certificate of Completion”) within fifteen (15) days after the later of (i) delivery of Trimont’s certification to ACHD, or (ii) remediation of any non-conforming matters.
d. Upon issuance of the Certificate of Completion, Trimont shall deliver to ACHD drawings for the Traffic Signal, as-built, in both a reproducible printed format on mylar and in electronic files in AutoCAD R2000 format.

2.5 Warranty. Upon issuance of the Certificate of Completion, Trimont shall complete all paperwork necessary to assign to ACHD the contractor’s (1) one year warranty of the work and materials on the Traffic Signal.

2.6 Representations and Warranties. Trimont represents and warrants that upon completion of the Traffic Signal, the Traffic Signal shall be free and clear of all liens and encumbrances that were not created by or with the written consent of ACHD.

SECTION 3. REMEDIES

3.1 Default. In the event any party fails or neglects to perform its obligations under the terms and provisions of this Agreement in the time and manner required herein, the aggrieved party or parties shall be entitled to all remedies available at law or in equity.

3.2 Mediation and Arbitration. As between Trimont, Fair Shamrock and Fairview 5, these named parties shall attempt in good faith to settle by negotiation any controversy or claim arising out of or relating to this Agreement, or the breach thereof (the “Dispute”). If no settlement can be reached, the Dispute shall upon the request of either party be submitted for mediation administered by the American Arbitration Association (“AAA”) under its Commercial Mediation Rules. If mediation is not requested or is terminated, such Dispute shall upon the request of either party be settled by arbitration administered by the AAA under its arbitration rules most relevant to the nature of the Dispute, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

a. Any mediation and arbitration shall be administered in Boise, Idaho, or at the place of the AAA regional office nearest thereto. All costs of mediation and arbitration shall be allocated among the parties in a manner consistent with the provisions of Section 3.3 below. The arbitrator shall issue an opinion in support of the award if requested by either party.

b. The provisions hereof shall be governed by the Federal Arbitration Act and, where applicable, the Idaho Uniform Arbitration Act. Either party may seek judicial relief if arbitration is not requested, or otherwise in a manner compatible with such arbitration.

The provisions of this paragraph 3.2 shall not apply in the event any of Trimont, Fair Shamrock or Fairview 5 are required to initiate or defend litigation against a third party (including but not limited to ACHD) in which claims against any other of them arising out of this agreement may or must be joined, the intent
being that all claims arising out of this agreement, to the extent possible, be adjudicated in a single action.

3.3 **Attorney Fees.** As between any party, should a party find it necessary to employ an attorney for representation in any action seeking enforcement of any of the provisions of this Agreement, or to recover damages for the breach of this Agreement, or to resolve any disagreement in interpretation of this Agreement, or to obtain assistance in any arbitration, the unsuccessful party in any final judgment or award entered therein shall reimburse the prevailing party for all reasonable costs, charges and expenses, including attorneys' fees expended or incurred by the prevailing party in connection therewith and in connection with any appeal, and the same may be included in such judgment or award.

**SECTION 4. OTHER PROVISIONS**

4.1 **Notices.** Any notice required to be given hereunder shall be in writing and shall be deemed effectively given: (a) upon personal delivery to the party to be notified, (b) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient; if not, then on the next business day, (c) four (4) days after having been sent by prepaid registered or certified mail, or (d) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be to the respective parties to this Agreement at the following addresses:

- **Trimont Investments, LLC**
  1883 N. Wildwood Ave.
  Boise, Idaho 83713

- **Fair Shamrock, LLC**
  6874 Fairview Avenue
  Boise, Idaho 83704

- **Fairview 5, LLC**
  6874 Fairview Avenue
  Boise, Idaho 83704

- **Ada County Highway District**
  Attn: Gary Inselman
  3775 Adams St.
  Garden City, Idaho 83714

4.2 **Choice of Law.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Idaho.

4.3 **Exhibits.** All exhibits to this Agreement are incorporated by reference and made a part of this Agreement as if the exhibits were set forth in their entirety in this Agreement.
4.4 **Entire Agreement.** This Agreement and the exhibits hereto constitute the full and entire understanding and agreement between the parties with regard to the transaction contemplated herein, and no party shall be liable or bound to any other in any manner by any representations, warranties, covenants and agreements except as specifically set forth herein.

4.5 **Acknowledgments and Modifications.** No acknowledgments required hereunder, and no modification or waiver of any provision of this Agreement or consent to departure therefrom, shall be effective unless in writing and signed by ACHD and each of the other parties hereto.

4.6 **Headings.** The headings used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

4.7 **Successors and Assigns.** All provisions of this Agreement, including the benefits and burdens hereof, shall be deemed covenants running with the real property described herein and are binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement shall be recorded in the official records of Ada County, Idaho.

4.8 **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Signature Page Follows
IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

TRIMONT:
TRIMONT INVESTMENTS, LLC

By
Ronald D. Sargent, Manager

FAIRVIEW 5:
FAIRVIEW 5, LLC
By its Manager, Royal Fork Restaurant Corporation

By
Merlyn K. Knight, President

FAIR SHAMROCK:
FAIR SHAMROCK, LLC
By its Manager, Royal Fork Restaurant Corporation

By
Merlyn K. Knight, President

ACHD:
ADA COUNTY HIGHWAY DISTRICT

By
Manager, Right of Way and Development Services
STATE OF IDAHO
County of Ada

On this 25th day of July, 2006, before me, the undersigned, a Notary Public in and for said state, personally appeared Ronald D. Sargent, known or identified to me to be the Manager of Trimont Investments, LLC, the person who executed the foregoing instrument on behalf of said limited liability company, and acknowledged to me that Trimont Investments, LLC executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

[Signature]
Notary Public for Idaho
Residing at Boise, Idaho
My Commission Expires: July 11, 2008

STATE OF IDAHO
County of Ada

On this 24th day of July, 2006, before me, the undersigned, a Notary Public in and for said state, personally appeared Merlyn K. Knight, known or identified to me to be the President of Royal Fork Restaurant Corporation, the manager of Fairview 5, LLC, the person who executed the foregoing instrument on behalf of said limited liability company, and acknowledged to me that Fairview 5, LLC executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

[Signature]
Notary Public for Idaho
Residing at Boise, Idaho
My Commission Expires: 11/20/2012
Cooperative Development Agreement - 10
Exhibit A
Trimont Property
Legal Description for Trimont Investments, LLC – Parcel C
Revised Adding Property from ACHD
Job No. 04021 4/8/2005

Land in the SE1/4 of Section 3, T3N, R1E, B.M., City of Boise, Ada County, Idaho, described as follows:

COMMENCING at the Southwest Corner of said SE1/4 (South 1/4 corner of Section 3), marked by a 5/8 inch rebar with a plastic survey cap marked "PLS 4998";

thence, along the South Line of said Section 3, South 89°41'17" East, 30.00 feet, to a point on the easterly right-of-way of N. Shamrock Ave., extended to said South Section Line;

thence along said extended right-of-way, North 00°20'07" East, 61.80 feet, to a found 5/8 inch rebar with a plastic survey cap marked "PLS 4116;

thence continuing along said right-of-way, North 00°20'07" East, 498.39 feet, to a set 5/8 inch rebar with a plastic survey cap marked "PLS 10782", and the POINT OF BEGINNING;

thence continuing, North 00°20'07" East, 168.60 feet, to a set 5/8 inch rebar with a plastic survey cap marked "PLS 10782";

thence South 89°39'53" East, 822.96 feet, to a set 5/8 inch rebar with a plastic survey cap marked "PLS 10782";

thence South 00°26'41" West, 76.92 feet, to a set 5/8 inch rebar with a plastic survey cap marked "PLS 10782";

thence South 89°42'16" East, 356.44 feet, to a set 5/8 inch rebar with a plastic survey cap marked "PLS 10782", and a point on the westerly right-of-way of N. Wildwood Street;

thence along said right-of-way, South 02°36'41" West, 94.94 feet, to a set 5/8 inch rebar with a plastic survey cap marked "PLS 10782";

thence South 70°35'03" West, 475.32 feet, to a set 5/8 inch rebar with a plastic survey cap marked "PLS 10782";

thence North 89°40'52" West, 67.74 feet, to a set 5/8 inch rebar with a plastic survey cap marked "PLS 10782";

thence North 70°05'59" West, 488.60 feet, to the POINT OF BEGINNING.

Containing 5.13 Acres or 223,521 square feet, more or less, and subject to any easements or rights-of-way of record or otherwise existing.
Legal Description for Wildwood, LLC – Parcel D
Revised Adding Property from ACHD
Job No. 04021 4/8/2005

Land in the SE 1/4 of Section 3, T3N, R1E, B.M., City of Boise, Ada County, Idaho, described as follows:

COMMENCING at the Southwest Corner of said SE 1/4 (South 1/4 corner of Section 3), marked by a 5/8 inch rebar with a plastic survey cap marked "PLS 4998";

hence, along the South Line of said Section 3, South 89°41'17" East, 30.00 feet, to a point on the easterly right-of-way of N. Shamrock Ave., extended to said South Section Line;

hence along said extended right-of-way, North 00°20'07" East, 61.80 feet, to a found 5/8 inch rebar with a plastic survey cap marked "PLS 4116", and the POINT OF BEGINNING;

hence continuing along said right-of-way, North 00°20'07" East, 496.39 feet, to a set 5/8 inch rebar with a plastic survey cap marked "PLS 10782";

hence South 70°05'59" East, 488.50 feet, to a set 5/8 inch rebar with a plastic survey cap marked "PLS 10782";

hence South 89°40'52" East, 67.74 feet, to a set 5/8 inch rebar with a plastic survey cap marked "PLS 10782";

hence North 70°35'03" East, 475.32 feet, to a set 5/8 inch rebar with a plastic survey cap marked "PLS 10782", being a point on the westerly right-of-way of N. Wildwood Street;

hence along said right-of-way, South 02°38'41" West, 484.03 feet, to a set 5/8 inch rebar with a plastic survey cap marked "PLS 10782";

hence South 45°28'44" West, 43.80 feet, to a point on the northerly right-of-way of W. Fairview Ave., and a set 5/8 inch rebar with a plastic survey cap marked "PLS 10782";

hence along said right-of-way, North 89°33'16" West, 926.03 feet, to the POINT OF BEGINNING.

Containing 9.04 Acres or 393,785 square feet, more or less, and subject to any easements or rights-of-way of record or otherwise existing.
Exhibit B
Fair Shamrock Property
DEED OF DISTRIBUTION BY PERSONAL REPRESENTATIVE

This Deed is made and entered into by Howard K. Wilson, as Personal Representative of the Estate of Florence I. Wilson, deceased, (the "Grantor").

WHEREAS, Grantor is the qualified Personal Representative of the Estate of Florence I. Wilson, a/k/a Florence I. Crooks, filed as Case No. SP IE 9700026M, in Ada County, State of Idaho;

WHEREAS, the Florence Wilson Testamentary Trust (the "Grantee"), whose current address is 11233 Fairview, Boise, Idaho, 83713, is entitled to distribution of the hereinafter described real property;

THEREFORE, FOR FAIR CONSIDERATION RECEIVED, Grantor hereby quitclaims, transfers, and conveys unto the Grantee, the following described real property located in Ada County, State of Idaho:

The Northwest Quarter of the West Half of the Northwest Quarter of the Northeast Quarter of Section Ten in Township Three North, Range One East of the Boise Meridian, containing five acres, more or less.

More particularly described as:

Beginning at the intersection of the south right-of-way line of U.S. Highway 30 and the North South center line of Section 10, Township 3 North, Range 1 East, Boise Meridian, thence North 89°40' east along the south right of way line of Highway 30 a distance of 330 feet, thence South a distance of 631 feet, thence South 89°40' West a distance of 330 feet to the North South center line of Section Ten, Township Three North, Range One East, Boise Meridian, thence North along said center line a distance of 631 feet to the point of beginning.

Together with all and singular the appurtenances and hereditaments thereunto belonging or in any wise appertaining, and all water and water rights, ditches and ditch rights, lateral and lateral rights, appurtenant thereto or used in connection therewith.

EXECUTED this 15 day of JAnu, 1998.

Howard K. Wilson, Personal Representative of the Estate of Florence I. Wilson

[Signature]
STATE OF IDAHO

County of Ada.

On this 15th day of June, 1998, before me, a notary public, personally appeared HOWARD K. WILSON, as Personal Representative of the Estate of Florence I. Wilson, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Signature]
Notary Public for Idaho
Residing at Boise
Commission Expires: 2.28.2000
WARRANTY DEED

FOR VALUE RECEIVED

The Florence Wilson Testamentary Trust

GRANTOR(s), does(do) hereby GRANT, BARGAIN, SELL AND CONVEY unto: Fair Shamrock, LLC

GRANTEES(s), whose current address is: 6874 Fairview Avenue, Boise ID 83704, Ada County, State of Idaho,

the following described real property in Ada more particularly described as follows, to wit:
See Exhibit "A" attached hereto

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said heirs and assigns forever. And the said Grantor(s) does(do) hereby covenant to and with the said Grantee(s), that Grantor(s) is/are the owner(s) in fee simple of said premises; that said premises are free from all encumbrances EXCEPT those to which this conveyance is expressly made subject and those made, suffered or done by the Grantee(s); and subject to reservations, restrictions, dedications, easements, rights of way and agreements, (if any) of record, and general taxes and assessments, (including irrigation and utility assessments, if any) for the current year, which are not yet due and payable, and that Grantor(s) will warrant and defend the same from all lawful claims whatsoever.

Date: August 22, 2003

The Florence Wilson Testamentary Trust

BY: Howard K. Wilson
Howard K. Wilson, Co-Trustee

BY: Colleen Courtney
Colleen Courtney, Co-Trustee

Notary Acknowledgment – see page 2
State of Idaho, County of Ada, ss.

On this 22nd day of August in the year of 2003, before me, the undersigned, a Notary Public in and for said State, personally appeared HOWARD K. WILSON AND COLLEEN R. COURTNEY known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument, as Trustee of THE FLORENCE WILSON TESTAMENTARY TRUST, and acknowledged to me that he/she/they executed the same as Trustee.

Pamela J. Bigelow
Residing at: Boise, ID
My commission expires: 1-12-06
EXHIBIT "A"

The Northwest quarter of the West half of the Northwest quarter of the Northeast quarter of Section 10, Township 3 North, Range 1 East, Boise Meridian, Ada County, Idaho, more particularly described as:

Beginning at the intersection of the South right-of-way line of U.S. Highway 30 and the North South center line of Section 10, Township 3 North, Range 1 East, Boise Meridian; thence North 89°40' East along the South right-of-way line of Highway 30 a distance of 330 feet; thence South a distance of 631 feet; thence South 89°40' West a distance of 330 feet to the North South center line of Section 10, Township 3 North, Range 1 East, Boise Meridian; thence North along said center line a distance of 631 feet to the POINT OF BEGINNING.

EXCEPT THEREFROM:

That portion conveyed to the State of Idaho by Deed recorded May 31, 1956 as Instrument No. 395346, of Official Records, described as follows:

A strip of land lying situate between the North line of Section 10, Township 3 North, Range 1 East, Boise Meridian, and a line parallel to and 50.0 feet distant Southerly from the following described center line of highway as surveyed and shown on the official plat of U.S. 30 - Project No. F-3281(5) Highway Survey on file in the office of the Department of Highways of the State of Idaho and lying over and across the Northwest quarter of the West half of the Northeast quarter of Section 10, Township 3 North, Range 1 East, Boise Meridian.

Beginning at Station 204+51.9 of that said Highway Survey, which station is a point on tangent approximately 6.0 feet North from the North quarter corner of Section 10, Township 3 North, Range 1 East, Boise Meridian; thence running North 89°59' East, 330.1 feet to Station 207+82.0 of said survey, which station is a point on tangent approximately 6.0 feet North and 330.1 feet East from the North quarter corner of Section 10, Township 3 North, Range 1 East, Boise Meridian.

EXCEPTING that portion already dedicated by public use or otherwise as a public road.
Exhibit C
Fairview 5 Property
WARRANTY DEED

FOR VALUE RECEIVED, HOWARD K. WILSON AND FLORENCE I. WILSON, HUSBAND AND WIFE,

GRANTOR(S), do(es) hereby GRANT, BARGAIN, SELL and CONVEY unto

ROYAL PORK RESTAURANT CORPORATION, AN IDAHO CORPORATION

GRANTEE(S), whose current address is: 6874 FAIRVIEW AVE., BOISE, ID. 83704

the following described real property in ADA County, State of Idaho, more particularly described as follows, to wit:

As set forth on the attached EXHIBIT "A", which by this reference becomes a part hereof.

THIS CONVEYANCE IS SUBJECT TO and GRANTORS RESERVE unto THEMSELVES A LIFE ESTATE FOR SO LONG AS EITHER OF THE GRANTORS RESIDE ON THE PREMISES. FOR THE PURPOSE OF THIS LIFE ESTATE THE PHRASE "RESIDE ON THE PREMISES" SHALL MEAN THAT THE PREMISES ARE USED AS A PRINCIPAL RESIDENCE OF THE GRANTORS. AN ABSENCE BY THE GRANTORS FOR A PERIOD OF 2 YEARS SHALL BE EXCLUSIVE EVIDENCE OF ABANDONMENT OF THE LIFE ESTATE AND THE PREMISES. UPON THE HAPPENING OF THAT EVENT THE LIFE ESTATE SHALL TERMINATE.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s), and Grantee(s) heirs and assigns forever. And the said Grantor(s) do(es) hereby covenant to and with the said Grantee(s), that Grantor(s) is/are the owner(s) in fee simple of said premises; that said premises are free from all encumbrances, EXCEPT those to which this conveyance is expressly made subject and those made, suffered or done by the Grantee(s), and subject to reservations, restrictions, dedications, easements, rights of way and agreements, (if any) of record, and general taxes and assessments, (including irrigation and utility assessments, if any) for the current year, which are not yet due and payable, and that Grantor(s) will warrant and defend the same from all lawful claims whatsoever.

Dated: July 27, 1995

[Signatures]

HOWARD K. WILSON
FLORENCE I. WILSON

STATE OF IDAHO
COUNTY OF ADA

On this 31st day of July, in the year of 1995, before me, the undersigned, a Notary Public in and for said State, personally appeared HOWARD K. WILSON AND FLORENCE I. WILSON, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that they executed the same.

Signature: PAMELA J. BIGLOW

Name: PAMELA J. BIGLOW

Residing at: BOISE, ID.

My Commission Expires: 01/12/00
The East half of the Northwest Quarter Northwest Quarter
Northeast Quarter of Section 10, Township 3 North, Range 1
East, Boise Meridian, in Ada County, Idaho.
QUITCLAIM DEED

FOR VALUE RECEIVED
Royal Fork Restaurant Corporation, an Idaho corporation

do(s) hereby convey, release and forever quitclaim unto:
Fairview 5 LLC

whose current address is: 6874 Fairview Avenue, Boise, ID 83704

the following described premises, to-wit:
The East half of the Northwest Quarter Northwest Quarter Northeast Quarter of
Section 10, Township 3 North, Range 1 East, Boise Meridian, Ada county, Idaho.

This deed is being recorded to correct the legal description in the deed
recorded as instrument No. 105036044.

Date: July 12, 2006

ROYAL FORK RESTAURANT CORPORATION

By: James D. Chambers, Vice President

Notary Acknowledgment — see page 2
State of Idaho, County of Ada, ss.

On this 12th day of July in the year of 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared James D. Chambers known or identified to me to be the Vice President of the corporation that executed the instrument or the person(s) who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

Residing at: Boise, ID
My commission expires: 7-30-2012
FOR VALUE RECEIVED

ROYAL FORK RESTAURANT CORPORATION
do(es) hereby convey, release and forever quitclaim unto:

FAIRVIEW 5 LLC
6874 FAIRVIEW AVENUE BOISE, IDAHO 83704 whose current address is:
the following described premises, to-wit:

The Northwest Quarter of the West Half of the Northwest Quarter of the
of Section Ten in Township Three North, Range One East of the Boise Meridian,
containing five acres, more or less.

More particularly described as:

Beginning at the intersection of the South right-of-way line of
Highway 30 and the North South center line of Section 10, ownership 3 North,
Range 1 ast, Boise Meridian, thence North 89 degrees 40 minutes East along
the south right of way line of Highway 30 a distance of 330 feet, thence
South a distance of 631 feet, thence South 89 degrees 40 minutes West a
distance of 330 feet to the North South center line of Section Ten, Township
Three North, Range One East, Boise Meridian, thence North along said center
line a distance of 631 feet to the point of beginning.

Together with all and singular the appurtenances, and all water and
water rights, ditches and ditch rights, lateral and lateral rights, appurtenant
thereto or used in connection therewith.

DATE March 10, 2005

Notary Acknowledgment – see page 2
On this 10th day of March, 2005, before me the undersigned, a Notary Public in and for said State, personally appeared James D. Chambers, known to me to be the Vice President of the corporation which executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereto set my hand and affixed my official seal, the day and year in this certificate first above written.

Sharon Diane Fett
Notary Public for Idaho
Residing at Boise, Idaho
Exhibit D
Drawing of Traffic Signal Location
PROPOSED STREET LOCATION EXHIBIT

SITUATED IN THE SE 1/4 OF SECTION 3
AND THE NE1/4 OF SECTION 10,
TOWNSHIP 3 NORTH, RANGE 1 EAST, BOISE MERIDIAN
CITY OF BOISE, ADA COUNTY, IDAHO

10-11-05

SURVEY No. 6258

W. FAIRVIEW AVENUE

440.00' FROM EDGE OF ASPHALT ON SHAMROCK TO WEST EDGE OF ASPHALT

SURVEY No. 2454

164.08' FROM EAST LINE PROPOSED R/W ON STEELWOOD TO EAST PL

N.T.S.

PROPOSED STREET EXHIBIT
FOR STEELWOOD ENTERPRISES, LLC

DATE: 10-11-05

TREASURE VALLEY ENGINEERS, INC.
WWW.TREASUREVALE.COM 208.363.5200 800.363.5200 10770 W. PARKWAY BOISE, IDAHO 83709

PROFESSIONAL LAND SURVEYORS
REGISTERED IN IDAHO

SIGNED:
G. HINNICK
10-11-05
Exhibit E
ACHD Conditions of Approval
This application requires Commission action due to the size of the development and the allocation of materials for the construction of a signal. This item is scheduled to be on the consent agenda on November 30, 2005 at 6:30 pm. Tech Review for this item was held with the applicant on Thursday November 10, 2005. Please refer to the attachment for request for reconsideration guidelines. Staff contact: Andrea N. Tuning, 208-387-6177-phone, 208-387-6393-fax, atuning@achd.ada.id.us

File Numbers:
Steelwood Station Subdivision / SUB05-00056

Site address: 11250 West Fairview Avenue

Owner / Applicant: Trimont Investments
4915 West Camas Street
Boise, Idaho 83705

Representative: Treasure Valley Engineers (Lance Warnick)
5680 East Franklin Road, Suite 200
Nampa, Idaho 83687

Application Information:
The applicant has submitted an application to the City of Boise requesting preliminary plat approval to construct a 20-lot commercial subdivision on 19.24-acres. The site is located on the north side of Fairview Avenue between Wildwood Street and Shamrock Avenue.

Acreage: 23.99-acres
Current Zoning: C-2D
Proposed Zoning: C-2D
Buildable Lots: 60-lots
Common Lots: 4-lots

Vicinity Map
A. Findings of Fact

1. Trip Generation: This development is estimated to generate 6,554 vehicle trips per day based on the Institute of Transportation Engineers Trip Generation Manual.

2. Impact Fees: There will be an impact fee that is assessed and due prior to issuance of a building permit. The assessed impact fee will be based on the impact fee ordinance that is in effect at that time.

3. Traffic Impact Study: A traffic impact study was compiled with the previous application that was submitted in July 2004. The previous application was anticipated to generate approximately 5,100 vehicle trips per day. The traffic study was compiled by Dobie Engineering. The key ideas of the previous traffic study included:

   - By the year 2010 baseline traffic growth will impact the capacity of the system. The Fairview Avenue intersections with Wildwood and Shamrock will experience a service level condition of "C" for inbound traffic and "F" for exiting traffic.

   - Originally, the study recommended that the Express Drive and Fairview Avenue intersection be signalized in the future. Staff had some concerns with this recommendation due to the fact that signals on principal arterials should not be located to provide circulation advantages for an adjacent property; rather, they should provide safe access to the area with minimal delay to through traffic. For every 100 feet of offset from the ½ mile, one percent of efficiency is lost in the coordination of the mainline signal system. In addition to the issues surrounding safety and efficiency, Shamrock Avenue is closest to the ½ mile and would serve properties on both the north and south side of Fairview Avenue. Based on these concerns, a traffic signal was not approved in this location.

   - The Shamrock Avenue and Fairview Avenue intersection is currently ranked 21st on ACHD's signal priority listing. It presently meets one of the District's many warrants (signal system progression). With the addition of this development, the intersection will generate enough traffic to meet additional warrants (volume) and its priority ranking is anticipated to increase.

   - The submitted Traffic Impact Study states that the Wildwood Street and Shamrock Avenue will function at a level of service F and “have an average queue of 4 to 6 vehicles for the existing geometry at the intersections of Fairview Avenue.” The traffic engineer should provide the District with a proposed traffic mitigation plan that will improve the level of service on Wildwood Street and Shamrock Avenue at the intersections of Fairview Avenue.

4. Impacted Roadways

   **Wildwood Street:**
   - Frontage: 580-feet
   - Functional Street Classification: Local
   - Traffic count: North of Fairview Avenue was 2,617 on 9-20-01
   - Speed limit: 20 MPH

   **Shamrock Avenue:**
   - Frontage: 970-feet
   - Functional Street Classification: Collector
   - Traffic count: North of Fairview Avenue was 1,373 on 10-29-02
   - Level of Service: Better than C
   - Speed limit: 25 MPH

   *An acceptable Level of Service for this segment of roadway is a Level of Service D based on COMPASS Planning Thresholds.*
Fairview Avenue:
Frontage: 950-feet
Functional Street Classification: Principal Arterial
Traffic count: West of Five Mile Road 30,684 on 2-27-02
Level of Service: D
Speed limit: 35 MPH
An acceptable Level of Service for this segment of roadway is a Level of Service E based on COMPASS Planning Thresholds.

5. Roadway Improvements Adjacent To and Near the Site
Wildwood Street is currently improved with 25 to 32-feet of pavement, with no curb, gutter or sidewalk abutting the site. The pavement width of Wildwood Street ranges from 18 to 32 feet of pavement depending upon the specific location between Fairview Avenue and Ustick Avenue. Wildwood Street is classified as a commercial street abutting the site and carries approximately 2,617 vehicle trips per day abutting the site. Wildwood Street is a street that is fairly straight in nature and connects Fairview Avenue and Ustick Road. There are currently 35 houses that directly front on Wildwood Street. To minimize speed and mitigate some of the neighborhoods traffic concerns, Traffic Services has previously installed four (4) speed humps on Wildwood Street.

Shamrock Avenue is currently improved with vertical curb, gutter and 5-foot attached concrete sidewalks abutting the southern portion of the site and a 40-foot street section with vertical curb gutter and sidewalk abutting the northern portion of the site. Shamrock Avenue is a classified as a collector roadway. Shamrock Avenue intersects Fairview Avenue at the half-mile. It is believed that the Shamrock Avenue and Fairview Avenue intersection has the potential of future signalization based on its location on the half mile.

Fairview Avenue is currently improved with 5-traffic lanes with no curb, gutter or sidewalk abutting the site.

6. Existing Right-of-Way
Wildwood Street currently has a total of 52-feet of right-of-way (27-feet from centerline). Shamrock Avenue currently has a total of 50 to 63-feet of right-of-way (25 to 30-feet from centerline). Fairview Avenue currently has a total of 108-feet of right-of-way.

7. Site Information: The site is currently vacant.

8. Description of Adjacent Surrounding Area:
a. North: Shamrock West Subdivision and Steelwood Condos.
b. South: Fairview Avenue, a 4.23-acres site, a 4.63-acre site and a 19.612-acre RV Park
c. East: Drive-thru restaurant, 1.99-acre office site, 2.359-proposed storage facility and a 0.33-acre single-family dwelling
d. West: Annelise Subdivision, 3.0-acre nursery, 0.99-acre single-family dwelling and 0.60-acre single-family dwelling

9. Site History
The District previously reviewed a development application in July of 2004. Before this item was approved, the applicant withdrew the application.

10. Capital Improvements Plan/Five Year Work Program
This segment of Fairview Avenue is programmed in the District’s Capital Improvements Plan to be improved to 7-lanes with curb, gutter and sidewalk. This segment is identified as item # 126 and is anticipated to be constructed in 2009-2010.
• The applicant is proposing to construct a 30-foot wide curb return type driveway on Fairview Avenue approximately 195-feet east of Shamrock Avenue. District policy requires driveways on arterial roadways near a signalized intersection to be a minimum of 220-feet (measured near edge to near edge) from any other access point (driveway or street). This driveway does not meet District policy for a right-in/right-out driveway in its proposed location. The applicant may construct a 30-foot wide curb return type driveway on Fairview Avenue approximately 170-feet east of Shamrock Avenue and 220-feet west of Steelwood Avenue.

Driveways on Shamrock Avenue

• The applicant is proposing to construct a 30-foot wide curb return type driveway that intersects Shamrock Avenue approximately 255-feet north of Fairview Avenue. This driveway meets District policy in regard to width and location and is approved with this application.

6. Proposed Signal – Steelwood Drive and Fairview Avenue
The original traffic impact study recommended that the Steelwood Drive and Fairview Avenue intersection be signalized in the future. Staff had some concerns with this recommendation due to the fact that signals on principal arterials should not be located to provide circulation advantages for an adjacent property; rather, they should provide safe access to the area with minimal delay to through traffic. For every 100 feet of offset from the ½ mile, one percent of efficiency is lost in the coordination of the mainline signal system. In addition to the issues surrounding safety and efficiency, Shamrock Avenue is closest to the ½ mile and would serve properties on both the north and south side of Fairview Avenue. Based on these concerns, a traffic signal was not approved in this location with the original development application (Kempton Subdivision).

With the new application, the applicant is proposing to install a traffic signal at the intersection of Express Drive and Fairview Avenue. Staff continued to have the same concerns as before but would support a signal in this location IF:

• The signal is located at the midpoint between Wildwood and Shamrock.
• A public street is constructed on the south side as well as the north side of Fairview Avenue at the time that the signal is installed. (The roadways would intersect Fairview Avenue and “T”. This “T” would connect to Shamrock Avenue and the Fiesta RV Park (aka Keeneland Subdivision) on the south side of Fairview Avenue and would connect Wildwood Street and Shamrock Avenue on the north side of the roadway).
• The design and installation costs would be at the developer’s expense
  o Staff recommends ACHD provide the hardware for the signal because the signal will serve other residents and motorists in the area north and south of Fairview in addition to this development.

Based on that information, that applicant began negotiations with the property owner to the south. Although the applicant was unable to attain the requirements recommended by staff due to a property that was constrained by a life estate, the applicant was able to present a proposal that could meet the intent of staff’s recommendations in the future. The applicant proposes to:

• Locate the signal at the midpoint between Wildwood and Shamrock.
• Construct a public roadway on the north side of Fairview Avenue that intersects Fairview Avenue and creates a “T” roadway that connects to Wildwood Street and Shamrock Avenue.
• Install the signal poles on the south side of the roadway in the ultimate location and guarantee that a “T” type public roadway would be constructed in the future to connect Fairview Avenue, Shamrock Avenue and the Fiesta RV Park (aka Keeneland Subdivision).
• Design and install the traffic signal on Fairview Avenue at the midpoint between Wildwood and Shamrock at the developer’s expense (ACHD will provide the hardware for the signal).

Staff is supportive of the applicant’s proposal. In order to accomplish these goals, the District will require the applicant to:
• Obtain an easement for the signal poles to be located in the ultimate location on the 4.63-acre parcel that is currently owned by the Wilson's and subject to the Life Estate.
• Obtain and dedicate the right-of-way for a public roadway from the Wilson parcel. Alternatively, the applicant may obtain a development agreement with the Wilson's and the District that guarantees that the right-of-way will be dedicated to ACHD by the owners of the Life Estate in the future. To guarantee this requirement, the development agreement will be recorded and run with the land and be binding to any future owners and/or assigns.
• Obtain and dedicate the right-of-way for a public roadway from the 4.23-acre site that is currently owned by Fair Shamrock LLC. Alternatively, Fair Shamrock LLC may enter into a development agreement with the District that guarantees the right-of-way will be dedicated to ACHD within 6-months of the termination of the Life Estate on the Wilson parcel. To guarantee this requirement, the development agreement will be recorded and run with the land and be binding to any future owners and/or assigns.
• Enter into a development agreement between Fair Shamrock LLC, the Wilson's, Trimont Investments LLC and the District that guarantees that the right-of-way to be dedicated from the Wilson Parcel and the Fair Shamrock LLC parcel will be improved within one year of the termination of the Life Estate. The development agreement shall provide for the design and construction of the public commercial streets from Shamrock to the Keeneland Subdivision to the east and north to Fairview Avenue. The developers should provide a financial surety in an amount and form acceptable to the District for the total future design and construction costs of the public roadways. Said development agreement and financial surety shall be in place prior to the District scheduling the final plat of Steelwood Station Subdivision or Steelwood Station Condo's Subdivision.
• Enter into a signal development agreement with the District prior to the installation of the signal that will require the applicant to design and construct the signal and providing that the District will provide the materials for the signal. The easements and development agreements described above must be completed and recorded prior to the District entering into the signal development agreement and allowing design and construction of the signal to proceed.
• Install a 6-inch raised median on Fairview Avenue with the installation of the signal. This 6-inch raised median will restrict access to right-in/right-out only near the signal. The applicant should notify the property's to the south (the Wilson parcel and the Fair Shamrock LLC parcel) that the driveway that aligns with the signal will be the only access that will provide all turning movements, the remainder of the driveways will be restricted to right-in/right-out driveways ONLY.

7. Other Access
Shamrock Avenue is classified as a collector roadway and Fairview Avenue is classified as a principal arterial roadway. The District restricts access to collector and arterial roadways. Other than the access points that have specifically been approved with this application, direct lot access to Shamrock Avenue and Fairview Avenue is prohibited. A note stating the access restriction will be required on the final plat.

C. Site Specific Conditions of Approval

1. Dedicate 60-feet of right-of-way from the centerline of Fairview Avenue abutting the parcel by means of a warranty deed. The right-of-way purchase and sale agreement and deed must be completed and signed by the applicant prior to scheduling the final plat for signature by the ACHD Commission or prior to issuance of a building permit (or other required permits), whichever occurs first. Allow up to 30 business days to process the right-of-way dedication after receipt of all requested material. The owner will be paid the fair market value of the right-of-way dedicated which is an addition to existing ACHD right-of-way if the owner submits a letter of application to the impact fee administrator prior to breaking ground, in accordance with the ACHD Ordinance in effect at that time (currently Ordinance #200), if funds are available.
B. Findings for Consideration

1. Fairview Avenue

*Right-of-way*

District policy requires 120-feet of right-of-way on arterial roadways (Figure 72-F1B). This right-of-way allows for the construction of a 7-lane roadway with curb, gutter, 5-foot concrete detached sidewalks and bike lanes.

- The applicant should dedicate 60-feet of right-of-way from the centerline of Fairview Avenue.

*Sidewalk*

District policy requires 5-foot wide (minimum) concrete sidewalk on all collector and arterial roadways.

- The applicant should construct a 5-foot concrete sidewalk located a minimum of 53-feet from the centerline of Fairview Avenue abutting the parcel. If the sidewalk meanders outside of the right-of-way, the applicant should provide the District with an easement for the sidewalk.

2. Shamrock Avenue

*Right-of-Way*

District policy requires 70-feet of right-of-way on collector roadways (Figure 72-F1B). This right-of-way width allows for the construction of a 3-lane roadway with curb, gutter, 5-foot wide detached sidewalks and bike lanes.

*Improvements*

District policy 72-F1B requires collector roadways to be constructed as a 46-foot street section with vertical curb, gutter and 5-foot detached (or 7-foot attached) concrete sidewalk within 70-feet of right-of-way with parking prohibited on both sides.

- Shamrock Avenue is currently improved with vertical curb, gutter and sidewalk abutting the parcel. Due to the fact that Shamrock Avenue is currently improved, the District will not require additional right-of-way or improvements on Shamrock Avenue.

3. Roadway Offsets

*Roadways Intersecting Wildwood Street*

District policy 7204.11.6, requires local roadways to align or offset a minimum of 125-feet from another local roadway (measured centerline to centerline).

- The applicant is proposing to construct West King Street to intersect Wildwood Street approximately 530-feet north of Fairview Avenue. This roadway location meets District policy and should be approved with this application.

*Roadways Intersecting Shamrock Avenue*

District policy 7204.11.6, requires local roadways to align or offset a minimum of 150-feet from a collector roadway (measured centerline to centerline).

- The applicant is proposing to construct West King Street to intersect Shamrock Avenue approximately 530-feet north of Fairview Avenue. This roadway location meets District policy and should be approved with this application.

*Roadways Intersecting Fairview Avenue*

The applicant is proposing to construct North Steelwood Avenue to intersect Fairview Avenue approximately 475-feet (measured near edge to near edge) east of Shamrock Avenue. This roadway location meets District policy and should be approved with this application.
4. **Street Sections**  
**Commercial Streets**  
District policy 7202.8 and 72-F1B, requires roadways abutting commercial developments to be constructed as a 40-foot street section with curb, gutter and 5-foot concrete sidewalk within 54-feet of right-of-way.

- The applicant is proposing to construct West King Street and North Steelwood Avenue as 40-foot street sections with vertical curb, gutter and 5-foot attached concrete sidewalk within 54-feet of right-of-way. This street section meets District policy and should be approved with this application.

**Wildwood Street**  
District policy 7202.8 and 72-F1B, requires roadways abutting commercial developments to be constructed as a 40-foot street section with curb, gutter and 5-foot concrete sidewalk within 54-feet of right-of-way.

- The applicant is proposing to construct Wildwood Street as one-half of a 40-foot street section with vertical curb, gutter and 5-foot attached concrete sidewalk within the existing right-of-way. This street section meets District policy and should be approved with this application.

5. **Driveways**  
District policy F2-F4 (1) and 72-F4 (2), requires driveways located on local residential roadways to offset a controlled and/or uncontrolled intersection a minimum of 50-feet (measured near edge to near edge).

District policy 72-F5, requires driveways located on collector or arterial roadways with a speed limit of 30 to align or offset a minimum of 125-feet from any existing or proposed driveway.

District policy 72-F4 (1) requires driveways located on arterial roadways near a signalized intersection to be located a minimum of 440-feet from the signalized intersection for a full-access driveway and a minimum of 220-feet from the signalized intersection for a right-in/right-out only driveway.

District policy 7207.9.3 restricts commercial driveways to a maximum width of 36-feet. Most commercial driveways will be constructed as curb-cut type facilities if located on local streets. Curb return type driveways with 15-foot radii will be required for driveways accessing collector and arterial roadways.

Graveled driveways abutting public streets create maintenance problems due to gravel being tracked onto the roadway. In accordance with District policy, 7207.9.1, the applicant should be required to pave the driveway its full width and at least 30-feet into the site beyond the edge of pavement of the roadway and install pavement tapers with 15-foot radii abutting the existing roadway edge.

**Driveways on King Street, Steelwood Avenue and Wildwood Avenue**  
- The applicant should construct all driveways on West King Street, Steelwood Avenue and Wildwood Avenue a minimum of 50-feet from any public roadway intersection.

**Driveways Fairview Avenue**  
- The applicant is proposing to construct a 30-foot wide curb return type driveway that intersects Fairview Avenue approximately 235-feet east of North Steelwood Avenue. This driveway is proposed to be a right-in/right-out driveway only and is proposed to be shared by Lots 6 and 7 of Block 3. This driveway location and design meets District policy for a right-in/right out driveway only and should be approved with this application. The applicant should install a 6-inch raised median on Fairview Avenue that will restrict this driveway to a right-in/right-out driveway only.
2. Construct a 5-foot concrete sidewalk located a minimum of 53-feet from the centerline of Fairview Avenue abutting the parcel. If the sidewalk meanders outside of the right-of-way, provide the District with an easement for the sidewalk.

3. Construct West King Street to intersect Wildwood Street approximately 530-feet north of Fairview Avenue, as proposed.

4. Construct West King Street to intersect Shamrock Avenue approximately 530-feet north of Fairview Avenue, as proposed.

5. Construct North Steelwood Avenue to intersect Fairview Avenue approximately 475-feet (measured near edge to near edge) east of Shamrock Avenue, as proposed.

6. Construct West King Street and North Steelwood Avenue as 40-foot street sections with vertical curb, gutter and 5-foot attached concrete sidewalk within 54-feet of right-of-way, as proposed.

7. Construct Wildwood Street as one-half of a 40-foot street section with vertical curb, gutter and 5-foot attached concrete sidewalk within the existing right-of-way.

8. Construct all driveways on West King Street, Steelwood Avenue and Wildwood Avenue a minimum of 50-feet from any public roadway intersection. Pave the driveways their full width and at least 30-feet into the site beyond the edge of pavement of the roadway with 15-foot radii abutting the existing roadway edge.

9. Construct a 30-foot wide curb return type driveway on Fairview Avenue approximately 170-feet east of Shamrock Avenue and 220-feet west of Steelwood Avenue. Install a 6-inch raised median on Fairview Avenue that will restrict this driveway to a right-in/right-out driveway only.

10. Construct a 30-foot wide curb return type driveway (right-in/right-out) that intersects Fairview Avenue approximately 235-feet east of North Steelwood Avenue to be shared by Lots 6 and 7 of Block 3, as proposed. Install a 6-inch raised median on Fairview Avenue that will restrict this driveway to a right-in/right-out driveway only.

11. The applicant may construct a signal that intersects Fairview Avenue, IF the applicant:
   - Locates the signal at the midpoint between Wildwood Street and Shamrock Avenue.
   - Obtains an easement for the signal poles to be located in the ultimate location on the 4.63-acre parcel that is currently owned by the Wilson’s (parcel # S1110120800) and subject to the Life Estate.
   - Obtains and dedicates the right-of-way for a public roadway from the Wilson parcel. Alternatively, the applicant may obtain a development agreement with the Wilson’s (parcel # S1110120800) and the District that guarantees that the right-of-way will be dedicated to ACHD by the owners of the Life Estate in the future. To guarantee this requirement, the development agreement will be recorded and run with the land and be binding to any future owners and/or assigns.
   - Obtains and dedicates the right-of-way for a public roadway from the 4.23-acre site that is currently owned by Fair Shamrock LLC (parcel # S1110120900). Alternatively, Fair Shamrock LLC may enter into a development agreement with the District that guarantees the right-of-way will be dedicated to ACHD within 6-months of the termination of the Life Estate on the Wilson parcel. To guarantee this requirement, the development agreement will be recorded and run with the land and be binding to any future owners and/or assigns.
   - Enters into a development agreement between Fair Shamrock LLC (parcel # S1110120900), the Wilson’s (parcel # S1110120800), Trimont Investments LLC and the District that guarantees that the right-of-way to be dedicated from the Wilson Parcel and the Fair Shamrock LLC parcel will be improved within one year of the termination of the Life Estate. The development agreement shall provide for the design and construction of the public commercial streets from Shamrock to the
Keeneland Subdivision to the east and north to Fairview Avenue. The developers shall provide a financial surety in an amount and form acceptable to the District for the total future design and construction costs of the public roadways. Said development agreement and financial surety shall be in place prior to the District scheduling the final plat of Steelwood Station Subdivision or Steelwood Station Condo's Subdivision.

- Enters into a signal development agreement with the District prior to the installation of the signal that will require the applicant to design and construct the signal and providing that the District will provide the materials for the signal. The easements and development agreements described above must be completed and recorded prior to the District entering into the signal development agreement and allowing design and construction of the signal to proceed.

- Install a 6-inch raised median on Fairview Avenue with the installation of the signal to restrict access to right-in/right-out only near the signal. Notify the property's to the south (the Wilson parcel and the Fair Shamrock LLC parcel) that the driveway that aligns with the signal will be the only access that will provide all turning movements, the remainder of the driveways will be restricted to right-in/right-out driveways ONLY.

12. Other than the access points that have specifically been approved with this application, direct lot access to Shamrock Avenue and Fairview Avenue is prohibited. A note stating the access restriction will be required on the final plat.


D. Standard Conditions of Approval

1. Any existing irrigation facilities shall be relocated outside of the right-of-way.

2. All utility relocation costs associated with improving street frontages abutting the site shall be borne by the developer.

3. Replace any existing damaged curb, gutter and sidewalk and any that may be damaged during the construction of the proposed development. Contact Construction Services at 387-6280 (with file number) for details.

4. Utility street cuts in pavement less than five years old are not allowed unless approved in writing by the District. Contact the District's Utility Coordinator at 387-6258 (with file numbers) for details.

5. All design and construction shall be in accordance with the Ada County Highway District Policy Manual, ISPWC Standards and approved supplements, Construction Services procedures and all applicable ACHD Ordinances unless specifically waived herein. An engineer registered in the State of Idaho shall prepare and certify all improvement plans.

6. The applicant shall submit revised plans for staff approval, prior to issuance of building permit (or other required permits), which incorporates any required design changes.

7. Construction, use and property development shall be in conformance with all applicable requirements of the Ada County Highway District prior to District approval for occupancy.

8. Payment of applicable road impact fees are required prior to building construction in accordance with Ordinance #198, also known as Ada County Highway District Road Impact Fee Ordinance.

9. It is the responsibility of the applicant to verify all existing utilities within the right-of-way. The applicant at no cost to ACHD shall repair existing utilities damaged by the applicant. The applicant shall be required to call DIGLINE (1-800-342-1585) at least two full business days prior to breaking
ground within ACHD right-of-way. The applicant shall contact ACHD Traffic Operations 387-6190 in the event any ACHD conduits (spare or filled) are compromised during any phase of construction.

10. No change in the terms and conditions of this approval shall be valid unless they are in writing and signed by the applicant or the applicant’s authorized representative and an authorized representative of the Ada County Highway District. The burden shall be upon the applicant to obtain written confirmation of any change from the Ada County Highway District.

11. Any change by the applicant in the planned use of the property which is the subject of this application, shall require the applicant to comply with all rules, regulations, ordinances, plans, or other regulatory and legal restrictions in force at the time the applicant or its successors in interest advises the Highway District of its intent to change the planned use of the subject property unless a waiver/variance of said requirements or other legal relief is granted pursuant to the law in effect at the time the change in use is sought.

**E. Conclusions of Law**

1. The proposed site plan is approved, if all of the Site Specific and Standard Conditions of Approval are satisfied.

2. ACHD requirements are intended to assure that the proposed use/development will not place an undue burden on the existing vehicular and pedestrian transportation system within the vicinity impacted by the proposed development.

**Attachments**

1. Vicinity Map
2. Site Plan
3. Request for Reconsideration Guidelines
Request for Reconsideration of Commission Action

1. **Request for Reconsideration of Commission Action:** A Commissioner, a member of ACHD staff or any other person objecting to any final action taken by the Commission may request reconsideration of that action, provided the request is not for a reconsideration of an action previously requested to be reconsidered, an action whose provisions have been partly and materially carried out, or an action that has created a contractual relationship with third parties.

   a. Only a Commission member who voted with the prevailing side can move for reconsideration, but the motion may be seconded by any Commissioner and is voted on by all Commissioners present.

   If a motion to reconsider is made and seconded it is subject to a motion to postpone to a certain time.

   b. The request must be in writing and delivered to the Secretary of the Highway District no later than 3:00 p.m. on the day prior to the Commission's next scheduled regular meeting following the meeting at which the action to be reconsidered was taken. Upon receipt of the request, the Secretary shall cause the same to be placed on the agenda for that next scheduled regular Commission meeting.

   c. The request for reconsideration must be supported by written documentation setting forth new facts and information not presented at the earlier meeting, or a changed situation that has developed since the taking of the earlier vote, or information establishing an error of fact or law in the earlier action. The request may also be supported by oral testimony at the meeting.

   d. If a motion to reconsider passes, the effect is the original matter is in the exact position it occupied the moment before it was voted on originally. It will normally be returned to ACHD staff for further review. The Commission may set the date of the meeting at which the matter is to be returned. The Commission shall only take action on the original matter at a meeting where the agenda notice so provides.

   e. At the meeting where the original matter is again on the agenda for Commission action, interested persons and ACHD staff may present such written and oral testimony as the President of the Commission determines to be appropriate, and the Commission may take any action the majority of the Commission deems advisable.

   f. If a motion to reconsider passes, the applicant may be charged a reasonable fee, to cover administrative costs, as established by the Commission.
Development Process Checklist

- Submit a development application to a City or to the County
- The City or the County will transmit the development application to ACHD
- The ACHD Planning Review Division will receive the development application to review
- The Planning Review Division will do one of the following:
  - Send a "No Review" letter to the applicant stating that there are no site specific requirements at this time.
  - Send a "Comply With" letter to the applicant stating that if the development is within a platted subdivision or part of a previous development application and that the site specific requirements from the previous development also apply to this development application.
  - Write a Staff Level report analyzing the impacts of the development on the transportation system and evaluating the proposal for its conformance to District Policy.
  - Write a Commission Level report analyzing the impacts of the development on the transportation system and evaluating the proposal for its conformance to District Policy.
- The Planning Review Division will hold a Technical Review meeting for all Staff and Commission Level reports.
- For ALL development applications, including those receiving a "No Review" or "Comply With" letter:
  - The applicant should submit two (2) sets of engineered plans directly to ACHD for review by the Development Review Division for plan review and assessment of impact fees. (Note: if there are no site improvements required by ACHD, then architectural plans may be submitted for purposes of impact fee calculation.)
  - The applicant is required to get a permit from Construction Services (ACHD) for ANY work in the right-of-way, including, but not limited to, driveway approaches, street improvements and utility cuts.
- Pay Impact Fees prior to issuance of building permit. Impact fees cannot be paid prior to plan review approval.

DID YOU REMEMBER:
- Driveway or Property Approach(s)
  - Submit a "Driveway Approach Request" form to Ada County Highway District (ACHD) Construction (for approval by Development Services & Traffic Services). There is a one week turnaround for this approval.
- Working in the ACHD Right-of-Way
  - Four business days prior to starting work have a bonded contractor submit a "Temporary Highway Use Permit Application" to ACHD Construction – Permit along with:
    a) Traffic Control Plan
    b) An Erosion & Sediment Control Narrative & Plat, done by a Certified Plan Designer, if trench is >50' or you are placing >800 sf of concrete or asphalt.
- Sediment & Erosion Submittal
  - At least one week prior to setting up a Pre-Con an Erosion & Sediment Control Narrative & Plat, done by a Certified Plan Designer, must be turned into ACHD Construction – Subdivision to be reviewed and approved by the ACHD Drainage Division.
- Idaho Power Company
  - Vic Steelman at Idaho Power must have his IPCO approved set of subdivision utility plans prior to Pre-Con being scheduled.
- Final Approval from Development Services
  - ACHD Construction – Subdivision must have received approval from Development Services prior to scheduling a Pre-Con.
Exhibit F
Drawing of Fairview 5/Fair Shamrock New Public Roadway
EXHIBIT
STEELWOOD STATION SUBDIVISION

SHAMROCK AVE

STEELWOOD AVE

W. FAIRVIEW AVE

Fair
Shamrock

Fairview
MEMORANDUM

TO: ROB PEREZ
FROM: MERLYN KNIGHT
RE: COOPERATIVE DEVELOPMENT AGREEMENT
DATE: JULY 24, 2006

I AM SIGNING THIS SUBJECT TO FINAL APPROVAL OF EXHIBITS A THROUGH F.

MANAGING PARTNER
FAIRVIEW 5 LLC
FAIR SHAMROCK LLC
Exhibit A

Exhibit A-1

EXCLUSIVE SALES LISTING AGREEMENT

4
DATE: July 14
TIME: 10:40 AM

TO: Rob Perez

FIRM: MEALY KNIGHT
FAX #: ( ) 383-7645

FROM: MEALY KNIGHT
FIRM:

NO. OF PAGES INCLUDING COVER LETTER: 3

OUR FAX NO. IS: (208) 322-0149 OUR PHONE NO. IS: (208) 322-5600

MESSAGE: Rob, This is the closed you need for Formas 5 WE

THANK-YOU
COOPERATIVE DEVELOPMENT AGREEMENT MODIFICATION AGREEMENT

THIS COOPERATIVE DEVELOPMENT AGREEMENT MODIFICATION AGREEMENT (hereinafter "Modification Agreement") is made and entered on this 20th day of November, 2009, by and between FAIR SHAMROCK, LLC, an Idaho limited liability company ("Fair Shamrock"), and FAIRVIEW 5, LLC, an Idaho limited liability company ("Fairview 5") and the ADA COUNTY HIGHWAY DISTRICT, a body politic and corporate of the state of Idaho ("ACHD"). Fair Shamrock, Fairview 5 and ACHD are sometimes collectively referred to herein as "the parties."

Section 1. Recitals.

1.1 On September 19, 2006, the parties executed the Cooperative Development Agreement (hereinafter "Development Agreement") which set forth the terms of the agreement between the parties and the obligations of Fair Shamrock, and Fairview 5 in relation to the development of certain real properties located in Ada County, Idaho, and owned by each.

1.2 In Section 1.5 of the Development Agreement Fairview 5 and Fair Shamrock agreed to dedicate without cost to ACHD, certain right-of-way for the construction of Steelwood Avenue, a public commercial roadway, as generally depicted in Exhibit F to the Development Agreement within six months of the termination of the Life Estate of Howard K. Wilson and Florence I. Wilson, husband and wife ("life estate") which at the time, the Fairview 5 property was subject to.

1.3 In Section 1.5 of the Development Agreement Fairview 5 and Fair Shamrock agreed to commence construction of Steelwood Avenue within one year of the termination of the life estate and to diligently prosecute such construction to completion, all at their sole cost and expense.

1.4 The life estate terminated on November 16, 2006. Fairview 5 and Fair Shamrock have not dedicated certain right-of-way for the construction of Steelwood Avenue as agreed in Section 1.5 of the Development Agreement. Fairview 5 and Fair Shamrock have not commenced construction of Steelwood Avenue as agreed in Section 1.5 of the Development Agreement.

1.5 Fairview 5, Fair Shamrock, and ACHD now seek to modify the Development Agreement.

FOR GOOD AND SUFFICIENT CONSIDERATION WHICH IS HEREBY ACKNOWLEDGED, IT IS AGREED:

Section 2. Terms and Conditions of Modification.
2.1 The Development Agreement is hereby modified as follows by this Modification Agreement, with all other provisions of the Development Agreement not inconsistent with this Modification Agreement, remaining in full force and effect.

2.2 Section 1.5 of the Development Agreement is modified as follows:

2.2.1 Fairview 5 shall dedicate the north-south portion of Steelwood Avenue as generally depicted in Exhibit F to the Development Agreement to ACHD upon execution of this Modification Agreement and as described in Exhibit A to this agreement, attached hereto and incorporated herein by reference.

2.2.2 Fairview 5 and Fair Shamrock shall dedicate the right-of-way for the east-west portion of Steelwood Avenue as generally depicted in Exhibit F to the Development Agreement and construction of the public roadways shall occur contemporaneously with submittal of the first development application for the subject properties or within 5 years of the execution of this Modification Agreement, whichever comes first unless a time extension is requested by Fairview 5 and Fair Shamrock and approved by ACHD in writing, with the precise alignment of the east-west portion of Steelwood Avenue subject to agreement of Fairview 5, Fair Shamrock and ACHD, provided that if the parties are unable to reach an agreement on the precise alignment of the east-west portion of Steelwood Avenue, then the default alignment shall be as depicted in Exhibit F to the Development Agreement, and further provided that whatever the ultimate alignment, the east-west portion of Steelwood Avenue shall connect Gabrielle Street with Shamrock Street.

2.2.3 After dedication of the right-of-way for the north-south portion of Steelwood Avenue, ACHD shall grant a license agreement to Fairview 5 for the residence located within and upon the parcel of real property owned by Fairview 5, which following the dedication, will also be within and upon the public right-of-way, as depicted in the attached Exhibit A. The license agreement shall be allowed to be in effect until the residence is demolished or removed by Fairview 5 and Fair Shamrock for construction of the north-south portion of Steelwood Avenue or no later than 120 days following issuance of a written notice by ACHD requesting such demolition or removal, whichever comes first. Demolition or removal of the residence shall be the responsibility of Fairview 5 and Fair Shamrock. Fairview 5 shall be responsible for any property taxes associated with, or attributable to, the residence as a residential improvement.

2.3 Section 1.6 of the Development Agreement is modified to provide that Fairview 5 and Fair Shamrock shall not develop the Fairview 5 Property and Fair Shamrock Property land until they have met the terms of the Development Agreement as modified by this Modification Agreement and that ACHD can and shall at its sole discretion, deny any future development application of the Fairview 5 Property and Fair Shamrock Property until Fairview 5 and Fair Shamrock have fully complied with the terms of the Development Agreement as modified by this Modification Agreement.
IN WITNESS WHEREOF, the undersigned have caused this Cooperative Development Agreement Modification Agreement to be executed the day, month and year first set forth above.

FAIRVIEW 5

FAIRVIEW 5, LLC  
By its Manager, Royal Fork Restaurant Corporation

By ____________________________  
Merylyn K. Knight, President

FAIR SHAMROCK:

FAIR SHAMROCK, LLC  
By its Manager, Royal Fork Restaurant Corporation

By ____________________________  
Merylyn K. Knight, President

ACHD:

ADA COUNTY HIGHWAY DISTRICT

By ____________________________  
Gary Inselman, Manager  
Right-of-Way & Development Services  
Department
STATE OF IDAHO

County of Ada

On this 14th day of November, 2007, before me, Sharon Diane Tipton, a Notary Public in and for the State of Idaho, personally appeared Merlyn K. Knight, known or identified to me to be the President of Royal Fork Restaurant Corporation, the manager of Fairview 5, LLC, the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that Fairview 5, LLC executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day, month, and year in this certificate first above written.

Notary Public for
Residing at: Boise
My Commission Expires: 1/22/2012

STATE OF IDAHO

County of Ada

On this 14th day of November, 2007, before me, Sharon Diane Tipton, a Notary Public in and for the State of Idaho, personally appeared Merlyn K. Knight, known or identified to me to be the President of Royal Fork Restaurant Corporation, the manager of Fair Shamrock, LLC, the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that Fair Shamrock, LLC executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day, month, and year in this certificate first above written.

Notary Public for
Residing at: Boise
My Commission Expires: 1/22/2012
STATE OF IDAHO )
) ss.
County of Ada )

On this 30th day of November, 2009, before me, Nan E. Niem, a Notary Public in and for the State of Idaho, personally appeared Gary Inselman, known or identified to me to be the Manager of the Right-of-Way & Development Services Department of the Ada County Highway District that executed the said instrument on behalf of said District, and acknowledged to me that such Ada County Highway District executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day, month, and year in this certificate first above written.

Nan E. Niem
Notary Public for Idaho
Residing at: Meridian ID
My Commission Expires: 2/2/113

NAN E. NIEM
NOTARY PUBLIC
STATE OF IDAHO
Exhibit A
Legal Description of N/S Steelwood Right-of-Way Dedication and
Exhibit Showing Structures
Owner: Fairview 5 LLC
Ada Co. Parcel No.: S1110120805
S.10, T.3 N., R.1 E. B.M.

RIGHT-OF-WAY DESCRIPTION
PROPOSED STEELWOOD AVENUE

A 54.00 feet wide strip of land being a portion of that Warranty Deed filed as instrument number 106112060, records of Ada County and said parcel being located in the NW1/4 NW1/4 NE1/4 of Section 10, Township 3 North, Range 1 East, Boise Meridian, Ada County, Idaho, more particularly described as follows:

Commencing at a 5/8” rebar and cap marking the North 1/4 corner of Section 10, Township 3 North, Range 1 East, Boise Meridian, thence S 0°18’02” W, 43.76 feet along the North-South centerline of said Section 10 to a point on the southerly right-of-way of West Fairview Avenue, thence along said southerly right-of-way the following courses:
S 89°36’04” E, 409.43 feet to a point being the northwesterly corner of that Right-of-Way Dedication as described in Warranty Deed, filed as instrument number 107128371 in the records of Ada County,
S 0°23’56” W, 10.58 feet,
S 89°33’16” E, 10.00 feet,
S 44°36’34” E, 31.15 feet to a point,
S 89°35’23” E, 8.01 feet to a point, said point being the REAL POINT OF BEGINNING.

Thence continuing along said southerly right-of-way S 89°35’23” E, 54.00 feet to a point;

Thence leaving said right-of-way S 0°24’32” W, 333.37 feet to a point of intersection on the northerly right-of-way of West Gabrielle Drive as projected to the west from said Keeneland Park Subdivision filed in Book 95 of Plats at Page 11631 in the records of Ada County;
Thence N 89°35’28” W, 54.00 feet along said projected northerly right-of-way of Gabrielle Drive to a point;
Thence leaving said projected northerly right-of-way of Gabrielle Drive N 0°24’32” E, 333.37 feet to the Real Point of Beginning.

Said described parcel contains 18,002 square feet or 0.41 acres.
Exhibit F
Drawing of Fairview 5/Fair Shamrock New Public Roadway
COOPERATIVE DEVELOPMENT AGREEMENT SECOND MODIFICATION AGREEMENT

THIS COOPERATIVE DEVELOPMENT AGREEMENT SECOND MODIFICATION AGREEMENT (hereinafter "Second Modification Agreement") is made and entered on this 11th day of March, 2015, by and between FAIR SHAMROCK, LLC, an Idaho limited liability company ("Fair Shamrock"), and FAIRVIEW 5, LLC, an Idaho limited liability company ("Fairview 5") and the ADA COUNTY HIGHWAY DISTRICT, a body politic and corporate of the state of Idaho ("ACHD"). Fair Shamrock, Fairview 5 and ACHD are sometimes collectively referred to herein as "the parties."

Section 1. Recitals.

1.1 On September 19, 2006, the parties executed the Cooperative Development Agreement (hereinafter "Development Agreement") which set forth the terms of the agreement between the parties and the obligations of Fair Shamrock, and Fairview 5 in relation to the development of certain real properties located in Ada County, Idaho, and owned by each.

1.2 On November 30, 2009, the parties executed the COOPERATIVE DEVELOPMENT AGREEMENT MODIFICATION AGREEMENT (hereinafter "Modification Agreement") which set forth the terms of the modified agreement between the parties and the obligations of Fair Shamrock, and Fairview 5 in relation to the development of certain real properties located in Ada County, Idaho, and owned by each.

1.3 In Section 2.2 of the Modification Agreement Fairview 5 and Fair Shamrock agreed to dedicate without cost to ACHD, certain right-of-way for the construction of Gabrielle Street, a public commercial roadway, as generally depicted in Exhibit F to the Development Agreement contemporaneously with the first development application for the subject properties or within 5 years of the execution of the Modification Agreement, whichever occurred first unless a time extension was requested by Fairview 5 and Fair Shamrock and approved in writing by ACHD.

1.3 In Section 2.2 of the Modification Agreement Fairview 5 and Fair Shamrock agreed to commence construction of Gabrielle Street Avenue contemporaneously with the first development application for the subject properties or within 5 years of the execution of the Modification Agreement, whichever occurred first unless a time extension was requested by Fairview 5 and Fair Shamrock and approved in writing by ACHD, and to diligently prosecute such construction to completion, all at their sole cost and expense.

1.4 The five year period of the Modification Agreement terminated on November 30, 2014. Fairview 5 and Fair Shamrock have not dedicated certain right-of-way for the construction of Gabrielle Street as agreed in Section 2.2 of the Modification Agreement.

COOPERATIVE DEVELOPMENT AGREEMENT SECOND MODIFICATION AGREEMENT - 1
Fairview 5 and Fair Shamrock have not commenced construction of Gabrielle Street as agreed in Section 2.2 of the Modification Agreement.

1.5 Fairview 5, Fair Shamrock, and ACHD now seek to modify the Development Agreement and Modification Agreement.

FOR GOOD AND SUFFICIENT CONSIDERATION WHICH IS HEREBY ACKNOWLEDGED, IT IS AGREED:

Section 2. Terms and Conditions of Modification.
2.1 The Development Agreement and Modification Agreement are hereby modified as follows by this Second Modification Agreement, with all other provisions of the Development Agreement and Modification Agreement not inconsistent with this Second Modification Agreement, remaining in full force and effect.

2.2 Section 1.5 of the Development Agreement is modified as follows:

2.2.1 Fairview 5 and Fair Shamrock shall dedicate a permanent right-of-way easement for the east-west portion of Steelwood Avenue (more commonly known as Gabrielle Street) as generally depicted in Exhibit F to the Development Agreement to ACHD upon execution of this Second Modification Agreement and as described in Exhibit A to this agreement, attached hereto and incorporated herein by reference.

2.2.2 Fairview 5 and Fair Shamrock shall dedicate ten (10) feet of additional right-of-way (by deed or permanent right-of-way easement) for Fairview Avenue upon execution of this Second Modification Agreement and as described in Exhibit A to this agreement, attached hereto and incorporated herein by reference.

2.2.3 Fair Shamrock shall dedicate sixteen (16) feet of additional right-of-way (by deed or permanent right-of-way easement) for Shamrock Street upon execution of this Second Modification Agreement and as described in Exhibit A to this agreement, attached hereto and incorporated herein by reference.

2.2.4 Fairview 5 shall construct it's portion of the public roadways Gabrielle Street and Steelwood Avenue as forty (40) foot commercial streets as measured from back of curb to back of curb with curb, gutter and five (5) foot sidewalks on both sides contemporaneously with submittal of the first development application for the Fairview 5 Property or within ten (10) years of the execution of this Second Modification Agreement, whichever comes first unless a time extension is requested by Fairview 5 and Fair Shamrock and approved by ACHD in writing.

2.2.4.1 Notwithstanding the provisions of 2.2.4, Fairview 5 shall construct at a minimum the segments of the public roadways Gabrielle Street and Steelwood Avenue as one half of forty (40) foot commercial streets as measured from back
of curb to back of curb with curb, gutter and five (5) foot sidewalk on one side plus 12 feet of pavement and 3 foot gravel shoulders on the opposite side abutting that portion of the Fairview 5 Property that is subject to a development application if the development application is not applicable to the entire Fairview 5 Property.

2.2.5 Fair Shamrock shall construct its portion of the public roadway Gabrielle Street as a forty (40) foot commercial street as measured from back of curb to back of curb with curb, gutter and five (5) foot sidewalks on both sides contemporaneously with submittal of the first development application for the Fair Shamrock Property or within ten (10) years of the execution of this Second Modification Agreement, whichever comes first unless a time extension is requested by Fairview 5 and Fair Shamrock and approved by ACHD in writing.

2.2.5.1 Notwithstanding the provisions of 2.2.5, Fair Shamrock shall construct at a minimum the segment of the public roadway Gabrielle Street as one half of a forty (40) foot commercial street as measured from back of curb to back of curb with curb, gutter and five (5) foot sidewalk on one side plus 12 feet of pavement and 3 foot gravel shoulder on the opposite side abutting that portion of the Fair Shamrock Property that is subject to a development application if the development application is not applicable to the entire Fair Shamrock Property.

2.2.6 After dedication of the right-of-way for Gabrielle Street, ACHD shall grant a license agreement to Fairview 5 for the residence located within and upon the parcel of real property owned by Fairview 5, which following the dedication, will also be within and upon the public right-of-way, as depicted in the attached Exhibit D. The license agreement shall be allowed to be in effect until the residence is demolished or removed by Fairview 5 and Fair Shamrock for construction of Gabrielle Street or no later than 120 days following issuance of a written notice by ACHD requesting such demolition or removal, whichever comes first. Demolition or removal of the residence and all associated costs shall be the responsibility of Fairview 5 and Fair Shamrock. Fairview 5 shall be responsible for any property taxes associated with, or attributable to, the residence as a residential improvement.

2.3 Section 1.6 of the Development Agreement is modified to provide that Fairview 5 and Fair Shamrock shall not develop the Fairview 5 Property and the Fair Shamrock Property land until they have met the terms of the Development Agreement as modified by this Modification Agreement and that ACHD can and shall at its sole discretion, deny any future development application for the Fairview 5 Property and Fair Shamrock Property until Fairview 5 and Fair Shamrock have fully complied with the terms of the Development Agreement and Modification Agreement as modified by this Second Modification Agreement.
2.4 Fairview 5 and Fair Shamrock may request a ten (10) year extension to this Second Modification Agreement provided such request is made no later than December 31, 2024 and approved in writing by ACHD.

2.5 If ACHD in its sole discretion determines that the signal at the Fairview Avenue/Steelwood Avenue intersection is required to improve a safety or operational need, ACHD may construct roads within the Steelwood Avenue and Gabrielle Street rights-of-way at ACHD’s sole cost and expense. Fairview 5 and Fair Shamrock shall remove the residences as provided in Section 2.2.6 above and 2.2.3 of the Modification Agreement.

SECTION 3. Acknowledgment.
3.1 Notwithstanding any other provision of this Second Modification Agreement, Fairview 5 and Fair Shamrock acknowledge as follows: (i) Any future development applications or requests to ACHD will be governed by rules and regulations in effect at the time of such application or request; (ii) Nothing herein shall be construed to grant any legal entitlement or vest any development right to Fairview 5 and Fair Shamrock.
IN WITNESS WHEREOF, the undersigned have caused this Cooperative Development Agreement Modification Agreement to be executed the day, month and year first set forth above.

FAIRVIEW 5

FAIRVIEW 5, LLC
By its Manager, Royal Fork Restaurant Corporation

By
James Chambers, Vice-President/CFO

FAIR SHAMROCK:

FAIR SHAMROCK, LLC
By its Manager, Royal Fork Restaurant Corporation

By
James Chambers, Vice-President/CFO

ACHD:

ADA COUNTY HIGHWAY DISTRICT

By
Jim D. Hansen
Commission President
STATE OF IDAHO

) ss.
County of Ada

On this 16th day of March, 2015, before me, Valerie Follett, a Notary Public in and for the State of Idaho, personally appeared James Chambers, known or identified to me to be the Vice-President/CFO of Royal Fork Restaurant Corporation, the manager of Fairview 5, LLC, the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that Fairview 5, LLC executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day, month, and year in this certificate first above written.

VALERIE FOLLETT
NOTARY PUBLIC
STATE OF IDAHO

Notary Public for 2nd County Highway District
Residing at: Boise, Idaho
My Commission Expires: Nov 19, 2018

COOPERATIVE DEVELOPMENT AGREEMENT SECOND MODIFICATION AGREEMENT - 6
STATE OF IDAHO  
) ss.
County of Ada  
)

On this 11th day of March, 2015, before me, Stacey L. Workman, a Notary Public in and for the State of Idaho, personally appeared Jim D. Hansen, known or identified to me to be the President of the Commission of the Ada County Highway District that executed the said instrument on behalf of said District, and acknowledged to me that such Ada County Highway District executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day, month, and year in this certificate first above written.

Stacey L. Workman  
Notary Public for Idaho  
Residing at: Boise, Idaho  
My Commission Expires: August 13, 2019
RIGHT-OF-WAY DEDICATION
OWNERS:
FAIR SHAMROCK, LCC
FAIRVIEW 5, LLC
APN: S1110120900 AND S1110120807

AREA OF DEDICATION - PARCEL 1
AREA OF DEDICATION - PARCELS 2, 3, AND 4

S1110120900
FAIR SHAMROCK, LLC.

S1110120807
FAIRVIEW 5, LLC

ADA COUNTY HIGHWAY DISTRICT
ACHD
SURVEYS SECTION
3775 ADAMS STREET
GARDEN CITY, IDAHO 83714

Exhibit A
Parcel 1
Right-of-Way Dedication

A parcel of land situated in the Northwest Quarter of the Northwest Quarter of the Northeast Quarter of Section 10, Township 3 North, Range 1 East, Boise Meridian, Ada County, Idaho and being a portion of the land described in that Warranty Deed recorded as Instrument Number 103151114, Official Records, Ada County, Idaho, more particularly described as follows:

COMMENCING at a 5/8 inch rebar marking the northwest corner of the Northeast Quarter of said Section 10, from which a brass cap marking the northeast corner of the Northeast Quarter of said Section 10 bears S 89°41'40" E a distance of 2670.02 feet;

Thence along the west line of said Northeast Quarter, S 0°17'52" W a distance of 43.76 feet to a point on the southerly right-of-way of Fairview Avenue and the POINT OF BEGINNING.

Thence leaving said west line, along the southerly right-of-way of Fairview Avenue, S 89°36'32" E a distance of 333.76 feet to a point a point on the east line of the land described in said Warranty Deed;

Thence leaving said southerly right-of-way, along said east line, S 0°21'48" W a distance of 10.00 feet to a point;

Thence leaving said east line, N 89°36'32" W a distance of 277.75 feet to a point;

Thence S 45°20'40" W a distance of 56.52 feet to a point;

Thence along a line parallel with and measuring 16.00 feet east of the west line of the Northeast Quarter of said Section 10, S 0°17'52" W a distance of 295.80 feet to a point;

Thence S 44°38'45" E a distance of 28.31 feet to a point;

Thence S 89°35'21" E a distance of 297.34 feet to a point on the east line of said Warranty Deed;

Thence along said east line, S 0°21'48" W a distance of 54.00 feet to a point;

Thence leaving said east line, N 89°35'21" W a distance of 297.28 feet to a point;

Thence S 45°21'16" W a distance of 28.26 feet;

Thence along a line parallel with and measuring 16.00 feet east of the west line of the Northeast Quarter of said Section 10, S 0°17'52" W a distance of 180.26 feet to the south line of said Warranty Deed;

Thence along said south line, N 89°40'37" W a distance of 16.00 feet to a point on the west line of said Northeast Quarter;
Owner: Fair Shamrock, LLC
APN: S1110120900
NE ¼ Section 10, T3N, R1E, BM
Page 2 of 2

Parcel 1
Right-of-Way Dedication
(continued)

Thence along said west line, N 0°17'52" E a distance of 620.08 feet to the POINT OF BEGINNING.

Said parcel contains 31,435 square feet (0.722 acre) and is subject to any covenants, conditions, restrictions, reservations or easements of record or in use.

Prepared by: Brandon Johnson, PLS
Ada County Highway District
February 11, 2015
Parcel 2  
Right-of-Way Dedication

A parcel of land situated in the Northwest Quarter of the Northwest Quarter of the Northeast Quarter of Section 10, Township 3 North, Range 1 East, Boise Meridian, and being a portion of the land described in that Quitclaim Deed recorded as Instrument Number 10612060, Official Records, Ada County, Idaho, more particularly described as follows:

COMMENCING at a 5/8 inch rebar marking the northwest corner of the Northeast Quarter of said Section 10, from which a brass cap marking the northeast corner of the Northeast Quarter of said Section 10 bears S 89°41'40" E a distance of 2670.02 feet;

Thence along the west line of the Northeast Quarter of said Section 10, S 0°17'52" W a distance of 43.76 feet to a point on the south right-of-way of Fairview Avenue;

Thence along said south right-of-way, S 89°36'32" E a distance of 333.76 feet to the POINT OF BEGINNING.

Thence continuing along said south right-of-way, S 89°36'32" E a distance of 75.65 feet to a point;

Thence S 0°19'16" W a distance of 10.00 feet to a point;

Thence leaving said south right-of-way, N 89°36'32" W a distance of 75.66 feet to a point on the west line of the land described in said Quitclaim Deed;

Thence along last said west line, N 0°21'48" E a distance of 10.00 feet to the POINT OF BEGINNING.

Said parcel contains 757 square feet (0.017 acre) and is subject to any covenants, conditions, restrictions, reservations or easements of record or in use.

Prepared by: Brandon Johnson, PLS
Ada County Highway District
February 11, 2015
Parcel 3
Right-of-Way Dedication

A parcel of land situated in the Northwest Quarter of the Northwest Quarter of the Northeast Quarter of Section 10, Township 3 North, Range 1 East, Boise Meridian, and being a portion of the land described in that Quitclaim Deed recorded as Instrument Number 106112060, Official Records, Ada County, Idaho, more particularly described as follows:

COMMENCING at a 5/8 inch rebar marking the northwest corner of the Northeast Quarter of said Section 10, from which a brass cap marking the northeast corner of the Northeast Quarter of said Section 10 bears S 89°41'40" E a distance of 2670.02 feet;

Thence along the north line of the Northeast Quarter of said Section 10, S 89°41'40" E a distance of 667.65 feet to a point;

Thence leaving said north line, S 0°25'58" W a distance of 44.76 feet to a point on the south right-of-way of Fairview Avenue and the POINT OF BEGINNING.

Thence along said south right-of-way, N 89°36'32" W a distance of 124.11 feet to the northeasterly corner of the land described in that Warranty Deed recorded as Instrument Number 107128371, Official Records, Ada County, Idaho;

Thence along the easterly boundary of said Warranty Deed, S 0°26'33" W a distance of 10.00 feet to a point;

Thence leaving said south right-of-way, S 89°36'32" E a distance of 124.12 feet to the east line of said Quitclaim Deed;

Thence along the east line of said Quitclaim Deed, N 0°25'58" E a distance of 10.00 feet to the POINT OF BEGINNING.

Said parcel contains 1241 square feet (0.028 acre) and is subject to any covenants, conditions, restrictions, reservations or easements of record or in use.

Prepared by: Brandon Johnson, PLS
Ada County Highway District
February 11, 2015
Parcel 4
Right-of-Way Dedication

A parcel of land situated in the Northwest Quarter of the Northwest Quarter of the Northeast Quarter of Section 10, Township 3 North, Range 1 East, Boise Meridian, and being a portion of the land described in that Quitclaim Deed recorded as Instrument Number 106112060, Official Records, Ada County, Idaho, more particularly described as follows:

COMMENCING at a 5/8 inch rebar marking the northwest corner of the Northeast Quarter of said Section 10, from which a brass cap marking the northeast corner of the Northeast Quarter of said Section 10 bears S 89°41'40" E a distance of 2670.02 feet;

Thence along the north line of the Northeast Quarter of said Section 10, S 89°41'40" E a distance of 667.65 feet to the northeast corner of said Quitclaim Deed;

Thence leaving said north line along the east line of said Quitclaim Deed, S 0°25'58" W a distance of 410.78 feet to intersection of the north right-of-way of Gabrielle Drive with the west line of the East half of the Northwest Quarter of the Northeast Quarter of said Section 10 as shown on KEENELAND PARK SUBDIVISION according to the official plat thereof, file in Book 95 at Pages 11631 to 11633, Official Records, Ada County, Idaho, said point being the POINT OF BEGINNING.

Thence leaving said east line, N 89°35'21" W a distance of 144.06 feet to a point;

Thence N 44°34'42" W a distance of 28.28 feet to a point on the easterly boundary of the land described in that Warranty Deed recorded as Instrument Number 109144609, Official Records, Ada County, Idaho;

Thence along last said east line, S 0°25'58" W a distance of 20.00 feet to the southeast corner of land described in last said Warranty Deed;

Thence along the south line of last said Warranty Deed, N 89°35'21" W a distance of 54.00 feet to the southwest corner of the land described in last said Warranty Deed;

Thence along the west line of the land described in last said Warranty Deed, N 0°25'58" E a distance of 20.00 feet to a point;

Thence leaving last said west line, S 45°25'18" W a distance of 28.29 feet to a point;

Thence N 89°35'21" W a distance of 95.28 feet to the west line of the land described in said Quitclaim Deed;

Thence along last said west line, S 0°21'48" W a distance of 54.00 feet to a point;

Thence leaving last said west line, S 89°35'21" E a distance of 333.28 feet to a point on the east line of said Quitclaim Deed;
Parcel 4
Right-of-Way Dedication
(Continued)

Thence along the east line of said Quitclaim Deed, N 0°25’58” E a distance of 54.00 feet to the POINT OF BEGINNING.

Said parcel contains 18,399 square feet (0.422 acre) and is subject to any covenants, conditions, restrictions, reservations or easements of record or in use.

Prepared by: Brandon Johnson, PLS
Ada County Highway District
February 11, 2015
THIS COOPERATIVE DEVELOPMENT AGREEMENT THIRD MODIFICATION AGREEMENT (hereinafter “Third Modification Agreement”) is made and entered on this _____ day of March, 2017, by and between WILD SHAMROCK CENTER, LLC, an Idaho limited liability company (“Shamrock”), and the ADA COUNTY HIGHWAY DISTRICT, a body politic and corporate of the state of Idaho (“ACHD”). Shamrock and ACHD are sometimes collectively referred to herein as “the parties.”

Section 1. Recitals.

1.1 On September 19, 2006, ACHD and Shamrock’s assignors and predecessors in interest executed the Cooperative Development Agreement (hereinafter “Development Agreement”) which set forth the terms of the agreement between the parties and the obligations of Shamrock’s predecessors in relation to the development of certain real properties located in Ada County, Idaho, and owned by each.

1.2 On November 30, 2009, ACHD and Shamrock’s assignors and predecessors in interest executed the Cooperative Development Agreement First Modification Agreement (hereinafter “First Modification Agreement”) which modified certain terms of the Development Agreement.

1.3 On March 11, 2015, ACHD and Shamrock’s assignors and predecessors in interest executed the Cooperative Development Agreement Second Modification Agreement (hereinafter “Second Modification Agreement”) which modified certain terms of the Development Agreement.

1.4 Shamrock’s assignors and predecessors in interest have dedicated certain right-of-way as agreed in Section 1.5 of the Development Agreement as modified by Section 2.2 of the Second Modification Agreement. Shamrock has not commenced construction of the public roadways known and referred to by the Parties as Gabrielle Drive and Steelwood Avenue as agreed in Section 1.5 of the Development Agreement as modified by Section 2.2 of the Second Modification Agreement.

1.5 On December 14, 2016, the ACHD Board of Commissioners approved the preliminary plat for Wild Shamrock Center Subdivision on the parcels of land relating to the Development Agreement and in so doing, agreed to modify the Development Agreement to include that ACHD would pay for reasonable costs and expenses for the design and construction of 30 feet of pavement on Gabrielle Drive and Steelwood Avenue and Shamrock would be required to pay for the remainder of the pavement, curb, gutter and sidewalk on both sides, as well as storm drain costs, utilities, irrigation, and other similar costs.
1.6 Shamrock and ACHD now seek to modify the Development Agreement to include the December 14, 2016 action by the ACHD Board of Commissioners.

FOR GOOD AND SUFFICIENT CONSIDERATION WHICH IS HEREBY ACKNOWLEDGED, IT IS AGREED:

Section 2. Terms and Conditions of Modification.

2.1 The Development Agreement is hereby modified as follows by this Third Modification Agreement, with all other provisions of the Development Agreement not inconsistent with this Third Modification Agreement, remaining in full force and effect.

2.2 Section 1.5 of the Development Agreement is modified as follows:

2.2.1 Shamrock shall improve Shamrock Street from Gabrielle Drive to Fairview Avenue to complete a 36 foot street section as measured from back of curb to back of curb with vertical curb, gutters and concrete sidewalk (7-foot wide attached or 5-foot wide detached). Shamrock shall improve Shamrock Street South of Gabrielle Drive to complete a 29 foot street section.

2.2.2 Shamrock shall design and construct Gabrielle Drive to extend Gabrielle Drive into the site as a 40-foot street section to match existing improvements, transitioning to a 36-foot street section as measured from back of curb to back of curb with vertical curb, gutters and 5 foot attached concrete sidewalk within 50-feet of right-of-way.

2.2.3 Shamrock shall design and construct Steelwood Avenue from Fairview Avenue to the proposed driveway (approximately 200-feet) as a 40-foot street section measured from back of curb to back of curb with vertical curb, gutters and 5 foot attached concrete sidewalk; transitioning to a 36-foot street section measured from back of curb to back of curb with vertical curb, gutters and 5 foot attached concrete sidewalk within 54 to 50-feet of right-of-way. The 40-foot street section will allow for a center turn lane at the Steelwood/Fairview Avenue intersection.

2.2.4 The design and construction of the public street improvements identified in provisions 2.2.1, 2.2.2, and 2.2.3 of this Third Modification Agreement must be approved by ACHD and shall be subject to inspection by ACHD prior to acceptance, with Shamrock responsible for correction of any items noted by ACHD in the inspection.

2.2.5 Upon acceptance of the public street improvements identified in provisions 2.2.2, and 2.2.3 of this Third Modification Agreement by ACHD, and within 30 days of receipt of a statement by Shamrock, ACHD shall reimburse Shamrock its reasonable costs and expenses for the design and construction of 30-feet of pavement of such public street improvements. Shamrock shall be responsible for the remainder of the pavement and all costs of curbs, gutter and sidewalks on
both sides of such public streets as well as storm drain costs, utilities, irrigation, and similar costs.

2.3 Section 1.6 of the Development Agreement is modified to provide that Shamrock shall not develop the parcels of land subject to the Development Agreement until it has met the terms of the Development Agreement as modified by this Third Modification Agreement and that ACHD can and shall at its sole discretion, deny any future development application of the parcels of land until Shamrock has fully complied with the terms of the Development Agreement as modified by this Third Modification Agreement.

SECTION 3. Acknowledgment.
3.1 Notwithstanding any other provision of this Third Modification Agreement, Shamrock acknowledges as follows: (i) Any future development applications or requests to ACHD will be governed by rules and regulations in effect at the time of such application or request; (ii) Nothing herein shall be construed to grant any legal entitlement or vest any development right to Shamrock.

IN WITNESS WHEREOF, the undersigned have caused this Cooperative Development Agreement Third Modification Agreement to be executed the day, month and year first set forth above.

WILD SHAMROCK CENTER, LLC

By its Governor, Royal Fork Restaurant Corporation

By ______________________________

Jerry L. Caven, Director

ACHD:

ADA COUNTY HIGHWAY DISTRICT

By ______________________________

Paul Woods
Commission President
STATE OF IDAHO  
)  
County of Ada  
) ss.

On this ________ day of March, 2017, before me, ____________________________, a Notary Public in and for the State of Idaho, personally appeared Jerry L. Caven, known or identified to me to be the Director of Royal Fork Restaurant Corporation, a governor of Wild Shamrock Center, LLC, the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that Wild Shamrock Center, LLC executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day, month, and year in this certificate first above written.

_____________________________________
Notary Public for _______________________
Residing at: ___________________________
My Commission Expires: _________________

STATE OF IDAHO  
)  
County of Ada  
) ss.

On this ________ day of March, 2017, before me, ____________________________, a Notary Public in and for the State of Idaho, personally appeared Paul Woods, known or identified to me to be the President of the Commission of the Ada County Highway District that executed the said instrument on behalf of said District, and acknowledged to me that such Ada County Highway District executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day, month, and year in this certificate first above written.

_____________________________________
Notary Public for Idaho
Residing at: ___________________________
My Commission Expires: _________________