

**BINGHAM COUNTY PLANNING & ZONING COMMISSION
REASON AND DECISION**

REGARDING: Conditional Use Permit for a Temporary Second Dwelling for Medical Hardship in an “R/A” Residential/Agriculture Zone

PROPERTY OWNERS AND APPLICANTS: Loren and Holli Lund

Requested Action: Loren and Holli Lund requested a Conditional Use Permit allowing the continued use of a previously approved Temporary Secondary Dwelling to remain on their property located at 787 E 1500 N, Shelley, to allow their families to exchange assistance in the care needs of individuals residing in both the primary dwelling as well as the secondary dwelling, as supported by licensed physicians. A Conditional Use Permit for a Temporary Second Dwelling was approved for the care of the Applicants parents in 2018 who unfortunately passed in January 2021 and September 2022. Pursuant to Bingham County Code Sections 10-7-4(B-H), each lot, tract, or parcel of property, considered a buildable parcel, shall be allowed one additional temporary dwelling for a medical hardship with a statement from a licensed physician attesting to the medical condition and need for assistance, with an approved Conditional Use Permit.

Property Location: 787 E 1500 N, Shelley, Idaho, Parcel Nos. RP8127300 and RP0455914, Township 1N, Range 37E, Section 20, consisting of approx. 1.13 acres

Applicable Regulations: Bingham County Comprehensive Plan, Dated November 20, 2018
Bingham County Zoning Ordinance 2012-08

Public Hearing Date: March 8, 2023

I. MEETING NOTICE AND INFORMATION

1. The following was reviewed by the Planning and Zoning Commission:

- a. Application;
- b. Staff Report;
- c. Governmental Agencies who provided comments were:
 - (T-1) Bingham County Surveyor had no comments or concerns at this time.
 - (T-2) Allan Johnson, Regional Engineering Manager with Idaho Department of Environmental Quality, provided general land development recommendations as shown in his response.
 - (T-3) City of Shelley had no comments or concerns.

(T-4) Bingham County Sheriff's Office had no comments or concerns.

- d. No public response was received on this Application prior to the Public Hearing.
2. Testimony presented at the Public Hearing following Staff's presentation included:
- a. (T-5) Applicant, Loren Lund, 787 E 1500 N, Shelley, provided his appreciation for the approval of his 2018 Application for a Temporary Dwelling for Medical Hardship, which allowed for his parents to reside on his property until their passing. Mr. Lund also expressed his gratitude for a community, which allows us to serve each other as family.

Commission questions included Chairman Leavitt who asked Mr. Lund if he could anticipate the length of time this secondary dwelling will be needed? Mr. Lund stated that given the medical conditions, it is currently unknown but that he had worked with Staff on the previously approved CUP, as Staff has checked in every 2 years to receive updated medical letters.

- b. Testimony in favor, in neutral, nor in opposition was received at the Public Hearing.
- c. After the Applicant's testimony, the Public Hearing for this item was closed. The Commissioners moved to discussion and deliberation.

II. REASON

The Planning and Zoning Commission found:

1. pursuant to Bingham County Code Section 10-7-4(B), each lot, tract, or parcel of property, shall be considered a buildable parcel, and be allowed one additional temporary dwelling for a medical hardship with an approved Conditional Use Permit; and
2. that a Conditional Use Permit is required for a Temporary Secondary Dwelling in a "R/A" Agricultural Zone as per Bingham County Code Section 10-5-3, *Land Use Chart*, and the Application was filed in accordance with the Code. Further, the request herein is for the continued use of an existing and previously approved Temporary Secondary Dwelling (granted in 2018 for Mr. Lund's parents who have since passed); and
3. pertaining to the requirements of Bingham County Code Section 10-7-4 (B) (1-3), the Staff Report included a Warranty Deed which reflected the Applicants ownership of the property; the parcels, together, are less than 2 acres in size, however the parcels were previously granted an exemption from the 2-acre minimum requirement in 2018 with the previously issued Conditional Use Permit. Given that the temporary residence met the setback requirements when originally placed in 2018, and the property has adequate room for parking and existing water

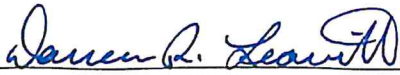
and sewer facilities (per Bingham County Code Section 10-7-4 (C-E)), the Commission agreed the parcels are of adequate size for the necessary and continued use; and

4. the Application met the requirements of Bingham County Code Section 10-7-4(F) as the Applicants provided letters from Drs. Brad Speakman and Corey Jacob regarding the necessity of the requested recipients medical conditions to which the temporary secondary dwelling is sought for; and
5. the Application met the requirements of Bingham County Code Section 10-7-4(G-H) as the Applicant provided a statement acknowledging compliance with the requirement to remove the temporary secondary dwelling from the property in a timely manner, when no longer necessary. Additionally, the Commission discussed having Planning Staff request an updated letter from a licensed physician verifying the necessity of the second temporary dwelling and the need for medical assistance of the recipients; and
6. the Application met the requirements of Bingham County Code Section 10-8-2 as the contents of the Application were complete; and
7. the requirements of Idaho Code and Bingham County Code were met because the public hearing was noticed in the official newspaper, the public hearing notice was posted on the premises, and notice was provided to all property owners within 300 feet of the proposed project prior to the hearing.

III. DECISION

Based on the record and the discussion, Aullman moved to approve the request by Loren & Holli Lund, for a Conditional Use Permit allowing the continued use of a Temporary Secondary Dwelling on their property located at 787 E 1500 N, Shelley, Idaho, to allow their families to exchange assistance with medical needs of individuals residing in both the primary dwelling as well as the secondary dwelling, as described in the Application materials as supplemented with additional information in the Staff Report.

Commissioner Carroll seconded the motion. Commissioners Aullman, Carroll, Cox and Johns voted in favor. The Motion carried.



Darren Leavitt, Chairman
Bingham County Planning and Zoning Commission

3/27/23
Date



Tiffany G. Olsen
Planning & Development Director

3/27/23
Date