

**BINGHAM COUNTY PLANNING AND ZONING COMMISSION**  
**PUBLIC HEARING DATE: March 8, 2023**

**APPLICATION OF:** Conditional Use Permit for a Temporary Second Dwelling for Medical Hardship in an “R/A” Residential/Agriculture Zoning District  
**PROPERTY OWNERS:** Loren & Holli Lund

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**A. REQUESTED ACTION:** Loren and Holli Lund are requesting 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. **(A-1 Application, A-2 Narrative - only in the Commissioners Packets, A-3 Site Plan, A-8 2018 Findings of Fact and Conclusions of Law and A-9 2018 Minutes)**

**B. GENERAL BACKGROUND:**

1. The Applicants own two contiguous parcels, both of which are included in this request, located at approx. 787 E 1500 N, Shelley, Idaho. Parcel No. RP8127300 consisting of approx. 1 acre and Parcel No. RP0455914 consisting of approx. 0.13 acres providing a total acreage of approx. 1.13 acres, located in Township 1N, Range 37E, Section 20. **(A-1 Application, S-6 Aerial Map and S-15 Site Photos)**
2. The parcels are currently zoned “R/A” Residential/Agriculture and the surrounding land uses are “R/A” Residential/Agriculture to the East, South and West as well as “A” Agriculture to the North. **(S-3 Zoning Map)**
3. The Comprehensive Plan, adopted November 20, 2018, has the parcels identified as Residential/Residential Agriculture. **(S-4 Comprehensive Plan Map)**
4. Governing Districts:
  - a. Shelley/Firth Fire District
  - b. Shelley School District
5. The parcels are not within the flood plain, but is within the City of Shelley Area of Impact **(S-5 Flood Plain Map and S-8 Area of Impact Map)**
6. This property is not within the Nitrate Priority Area. **(S-11 Nitrate Priority Map)**



7. The parcels are within Sunset Acres Subdivision (3 lots, each 1 acre). Nearby Subdivisions include: To the East, Holland Subdivision (5 lots, 1 – 1.5 acres), Copper Meadows Subdivision (49 lots, 0.25 – 0.59 acres), River Vista Subdivision (4 lots, 1 – 2.38 acres). To the North, JJ Park Subdivision (8 lots, 0.42 – 1.16 acres). To the West, River Edge Estates (4 lots, 1 – 1.89 acres), River Park Estates (14 lots, 0.52 – 1.37 acres), West Canyon Road Subdivision (4 lots, 0.89 – 1.23 acres), and Woodville Townsite. **(S-7 Subdivision Map)**

**C. MEETING NOTICE AND INFORMATION:**

1. The Planning & Development Department received the Conditional Use Permit Application on January 25, 2023. The Application was deemed to be complete and scheduled for Public Hearing to be held on March 8, 2023.
2. Notice of the Commissions Public Hearing was:
  - a. Sent to Government Agencies on February 8, 2023.  
**(S-17 List of Government Agencies and Notice)**
  - b. Published in the Bingham News Chronicle on February 10, 2023.  
**(S-16 Affidavit of Publ.)**
  - c. Sent to a total of 9 property owners within 300' of the parcel on February 8, 2023. **(S-18 Property Owners Mailing List and Notice)**
  - d. The site was posted and pictures were taken on February 21, 2023.  
**(S-14 Property Posting and S-15 Site Pictures)**
3. Governmental Agencies who returned 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.
4. No public response has been received regarding this Application.

**D. STANDARDS TO BE REVIEWED BY THE PLANNING AND ZONING COMMISSION**

**BINGHAM COUNTY CODE  
TITLE 10 – ZONING REGULATIONS**

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**CHAPTER 2  
DEFINITIONS & INTERPRETATION**

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**10-2-3: DEFINITIONS:**

**Conditional Use:** Use of a structure or use of land permitted within a zone other than a principally permitted use that requires a Conditional Use Permit and approval of the Board and may be subject to limitations and conditions. (Same as a Special Use Permit).

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**CHAPTER 4  
ZONING DISTRICTS**

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**10-4-2: PURPOSE OF ZONES:**

- C. Residential/Agricultural (R/A): The purpose of the R/A Zone is to permit the establishment of low density single-family dwellings with lot sizes sufficient for individual sewer and water facilities that have:
1. Suitability of parcel for agricultural purposes.
  2. Proximity to existing areas of similar population density.
  3. Lot size compatible with existing lot sizes in the immediate area.
  4. Compatible with the existing uses in the immediate area.
  5. Protection from incompatible uses.
  6. Accessibility to adequate utilities.
  7. Adequate service by roadways.

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**CHAPTER 7  
SPECIFIC USE PERFORMANCE STANDARDS**

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**10-7-4: ADDITIONAL DWELLING UNIT, TEMPORARY:**

B. Each lot, tract, or parcel of property, considered a buildable parcel, shall be allowed one additional temporary dwelling for a medical hardship; a conditional use permit shall be required. The conditional use permit shall be based on the following provisions:

1. The owner of the real property shall be the applicant. *Staff Comments: Two Quitclaim Deeds recorded on May 24, 2004 and April 30, 2018, as well as Bingham County's GIS system shows Loren and Holli as the current owners of these parcels. (A-4 Quitclaim Deed)*
2. The proposed location shall consist of a parcel with a minimum of two (2) acres unless otherwise approved by the conditional use permit. *Staff Comments: The combined total acreage is approx. 1.13 acres in size; the parcels previously received a Conditional Use Permit for the same request in 2018.*
3. The temporary residence must meet setback requirements and all other provisions of this title. *Staff Comments: The location of the temporary residence met the setback requirements when placed in 2018. The manufactured home is located South of the existing primary dwelling. (A-3 Site Plan)*

C. Detached temporary dwelling units shall be located to the side or rear of a primary dwelling. No portion of the temporary dwelling unit shall be located in front of the primary dwelling unit. *Staff Comments: The temporary dwelling is located to the South behind the primary dwelling. (A-3 Site Plan)*

D. At least one parking space shall be provided on site for the temporary dwelling unit in addition to the required parking for the existing residential unit. *Staff Comments: The Applicants' Site Plan indicates there is parking space behind the temporary dwelling to the South. (A-3 Site Plan)*

E. The temporary residence must obtain approval for water and sanitary facilities from the health authority. *Staff Comments: In 2018, a Temporary Second Dwelling CUP was approved at this location thus water and sanitary facilities were approved for the placement of the manufactured home. (A-6 Certificate of Occupancy and A-10 Septic Permit)*

F. The application must include a current statement by a licensed physician attesting to the existing medical condition and need for assistance thereof. *Staff Comments: Included in each of the Commissioners packets are two confidential letters. One from Dr. Brad Speakman and one from Dr. Corey Jacob, both of which support this recommendation due to medical conditions for the requested recipients for medical care by the Applicants. (A-7 Doctors Notes – only in Commissioners Packets; not for public distribution)*

G. The applicant must provide a statement that the temporary second dwelling will be removed upon termination of occupancy by either the dependent or care provider or is not in compliance with conditional use permit conditions. *Staff Comments: A Narrative, dated January 25, 2023 was provided by the Applicants stating that they agree to remove the temporary dwelling when/if the conditions of the Conditional Use Permit are not met or are no longer necessary. (A-2 Narrative)*

H. In the event the property is sold or leased, the conditional use permit is not transferable to the new owner(s) of the property.

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**CHAPTER 8**  
**CONDITIONAL USE PERMIT**

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**10-8-1: GENERAL STATEMENT:**

- A. It is recognized that an increasing number of uses are appearing that have characteristics of a unique and special nature such that the specific use must be considered individually. We recognize that these uses are not permitted without adding certain conditions making them compatible with permitted uses in the underlying zone. The commission may require higher standards of site development than those listed specifically in this title in order to assure that the proposed use will be compatible with other conforming property and uses in the vicinity.
- B. The commission shall hold a public hearing on each conditional use permit as listed on the land use chart and new uses brought by the Administrator. The commission may approve, conditionally approve or deny a conditional use permit under the standards listed in this chapter and may require such additional safeguards that will uphold the intent of this title.



**10-8-2: CONTENTS OF APPLICATION FOR PERMIT:**

An application for a conditional use permit shall be filed with the Administrator by the property owner or by the occupant with owner approval. At a minimum, the application shall contain the following information:

A. Name, address and phone number of applicant. *Staff Comments: The name address and phone number of the Applicants were provided on the Application (A-1 Application)*

B. Legal description of the property. *Staff Comments: Two Quitclaim Deeds containing a legal description of the properties were provided by the Applicants. (A-4 Quitclaim Deeds)*

C. Description of existing use. *Staff Comments: The use existing use of the property is residential.*

D. Current zoning designation. *Staff Comments: The property is currently zoned "R/A" Residential/Agriculture. (S-3 Zoning Map)*

E. Description of use being proposed. *Staff Comments: The proposed use of the property will remain residential as the Applicants are requesting a continued use of a previously issued Temporary Secondary Dwelling on the property for medical purposes. (A-2 Narrative and A-6 Permitted Structure Certificate of Occupancy)*

F. A scaled site plan/drawing showing the location of the following: *Staff Comments: The Applicants provided a Site Plan which shows the location of the second dwelling approved in 2018 for the care of their parents (deceased) and a parking area. (A-3 Site Plan)*

1. All buildings, parking and loading area.
2. Traffic access and traffic circulation.
3. Open spaces, landscaping, refuse and service areas.
4. Utilities, signs.
5. Any other information that may be required to determine if the proposed conditional use meets the requirements of this title.
6. A statement evaluating the effects on adjoining property that may include, but is not limited to, such elements as noise, odor, fumes and vibration. An accurate statement of the compatibility with adjacent and other properties in the zone, and the relationship of the proposed use to the plan.
7. More specifically, the following adverse effects shall be mitigated through setbacks, buffers, sound attenuation and/or hours of operation:

a. Noise, odor, or vibrations, or direct or reflected glare detectable by the human senses without the aid of instruments.

b. Radioactivity and electric or electromagnetic disturbances that unduly interfere with the normal operation of equipment, instruments, or appliances on abutting properties.

c. Any other emission or radiation that endangers human health, results in damages to vegetation or property or which exceeds health and safety standards.

G. The appropriate filing fees. *Staff Comments: The Applicants paid the appropriate filing fees on January 25, 2023.*

**10-8-3: REVIEW OF APPLICATION:**

A. The commission shall review the particular facts and circumstances of each proposed conditional use permit in terms of the following standards and shall find adequate evidence showing that such use at the proposed location will:

1. Constitute a conditional use as established on the official schedule of zoning regulations or as determined by the commission to be a conditional use for the zone involved.

2. Be in accordance with the general objectives or with any specific objection of the Comprehensive Plan and/or this title.

3. Be designed, constructed, operated and maintained to be appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the area as far as is possible.

4. Not be unduly hazardous or disturbing to existing or future neighboring uses; nor involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to persons, property or the general welfare of the public by reason of excessive production of traffic, noise, smoke, fumes, odors or other pollutants.

5. Not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the County.

6. Be served adequately by essential public facilities and services or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide such services.

7. Have legal access to the subject property for the development. Have vehicular approaches to the property that are designed to eliminate a traffic hazard on adjacent public thoroughfares.



8. Not result in the destruction, loss or damage to a scenic or historic feature of major importance.

9. If applicable, have adequate water, sewer, irrigation, drainage and stormwater drainage facilities, and have utility systems provided to accommodate said use.

B. If the literal enforcement of the provisions herein contained would result in unnecessary hardship, the commission may consider exceptions to nonconforming uses as permitted in [chapter 9](#) of this title.

**10-8-4: ADDITIONAL STUDIES:**

Prior to making a decision concerning a conditional use permit request, the commission or Board may request additional studies at the applicant's expense, of the social, economic, fiscal, and environmental effects of the proposed conditional use permit.

**10-8-5: LAND USE TIME LIMITATIONS:**

A. When a conditional use permit is granted, the land use or construction of its facility proposed in the application must have commenced within three (3) years of the date of the final decision by the commission, or the Board or a court of appropriate jurisdiction, if appealed, and completed within five (5) years of the same date.

B. Upon expiration of the use or the approval of that use as provided by this section, the applicant may seek approval of the use only by filing a new initial application for review by the commission.

**10-8-6: HEARING AND NOTICE:**

Prior to granting a conditional use permit, the commission shall follow the hearing procedures as identified in [chapter 3](#) of this title.

**10-8-7: ACTION BY COMMISSION:**

A. The commission shall approve, conditionally approve or disapprove the application as presented. If more information is needed for a determination to grant a conditional use permit, the commission may request information from the planning staff or public agencies concerning social, economic, fiscal and environmental effects of the proposed conditional use. If the application is approved or approved with modifications, the commission shall direct the Administrator to issue a conditional use permit listing the conditions specified for approval.

B. The commission may attach conditions that include, but are not limited to, the following:

1. Minimizing adverse impact on other development.
2. Controlling the sequence and timing of development.
3. Controlling the duration of development.
4. Assuring that plans are developed to properly maintain the project.

5. Designating the exact location and nature of development.
6. Requiring more restrictive standards than those generally required in this title
7. Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction.

**10-8-8: SUPPLEMENTARY CONDITIONS AND SAFEGUARDS:**

The commission may prescribe appropriate conditions, bonds and safeguards in conformity with this title over and above those listed in section [10-8-7](#) of this chapter. Violations of any conditions, bonds or safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this title.

A. Upon granting or denying an application, the commission shall specify:

1. The ordinance and standards used in evaluating the application.
2. The reasons for approval or denial.

B. A conditional use permit shall not be considered as establishing a binding precedent to grant other conditional use permits. A conditional use permit is not transferable from one parcel of land to another.

**10-8-9: APPEAL TO BOARD:**

The applicant or any affected person may appeal the decision of the commission to the Board, following the hearing procedures requirements of chapters 3 and 10 of this title.

**10-8-10: REQUEST FOR TIME EXTENSION FOR PERMIT:**

A. An applicant may request extension of the time period provided by this section by filing an application for extension with either the commission or the Board depending on who approved the conditional use permit.

1. Such application must be filed at least sixty (60) calendar days prior to the date of expiration.
2. The matter shall be heard at a public hearing before the commission or the Board, whichever made the final decision, in accordance with the notice and hearing procedures of [chapter 3](#) of this title.
3. A renewal extension, if granted, shall be limited to three hundred sixty five (365) calendar days.

B. The commission or the Board, whoever made the final decision, may extend the commencement period or the completion period as provided in subsection A of this chapter upon proof of good cause by the applicant. Good cause shall be determined at the discretion of the commission or the Board.



**10-8-11: REVOCATION OF PERMIT:**

A conditional use permit may be revoked upon violation of any of the conditions imposed therein. The Administrator or designee shall verify that a violation has occurred. The permit holder shall be notified that a violation has been noted and shall be given a reasonable time to correct said violation. If compliance is not or cannot be reached within an approved time, the Administrator shall notify the commission or Board, whichever approved the original conditional use permit, so that they may review the preponderance of the evidence to determine if after due process the conditional use permit should or should not be revoked.

**10-8-12: MODIFICATION OF APPROVED PERMIT:**

- A. A conditional use permit or previously approved special use permit may be modified upon a request of the Board, commission or the property owner(s). The Board or commission shall follow the same hearing procedures as per [chapter 3](#) of this title for a conditional use permit.
- B. Modification shall only be granted if the Board or commission finds that the modification is consistent with the provisions of the plan and will not be detrimental to the general public health, safety or welfare.

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**2018 BINGHAM COUNTY  
COMPREHENSIVE PLAN**

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**RESIDENTIAL / AGRICULTURAL AREA**

The R/A Area corresponds with the R and R/A Zones in the Zoning Ordinance and is established to direct the orderly and timely conversion of land as the need arises into residential areas that are still rural in character. This will include larger lots and open space to allow for the raising of livestock and agriculture uses to provide for family food and the pleasure of those residing on the premises.

This area allows for the continuation of those agriculture uses already established, but will limit the establishment of new agriculture uses that may significantly impact urbanizing areas with noise, dust, odor, and other nuisances associated with agriculture uses, such as livestock confinement operations or agriculture-related businesses.

**IDAHO STATE CODE §67-6512(b) and  
BINGHAM COUNTY CODE SECTION 10-3-6**

The Planning & Development Department met the requirements of Idaho Code §67-6512(b) 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.

**E. DECISION**

**Commission Decision.** The Commission may approve, deny, or approve with conditions. The decision may be appealed to the Board of County Commissioners in writing within 10 days from the date of the Reasons and Decision.

**Sample Motion for Approval:** Based on the record and the discussion this evening, I move 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.

**Sample Motion for Approval with Conditions:** Based on the record and the discussion this evening, I move 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, WITH THE FOLLOWING CONDITIONS.....

**Sample Motion for Denial:** Based on the record and the discussion this evening, I move to deny 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. The basis for the denial is \_\_\_\_\_.

NOTE: Any opposing votes shall declare the reasons for the opposition citing Idaho Code or Bingham County Code (specifically)



# Bingham County

Planning & Development Department  
490 N. Maple Suite A, Blackfoot, Idaho 83221  
Phone: (208) 782-3178 | Fax: (208) 782-3868  
Email: buildingpermits@co.bingham.id.us

File No. 3161  
Date: Jan. 25, 2008

## APPLICATION FOR CONDITIONAL USE PERMIT

Applicant: <u>Loren &amp; Holli Lund</u>	Phone: <u>(208) 821-1932</u>
Address: <u>787 E. 1500 N.</u>	City/Zip: <u>Shelley, 83274</u>
Location: <u>Same</u> (project location for application)	Email: <u>loren.lund@jacobs.com</u>
Property Owner(s): <u>Loren &amp; Holli Lund</u>	

### Location & Legal Description

<input type="checkbox"/> 1N Township	<input type="checkbox"/> 37E Range	<input type="checkbox"/> 20 Section	Zoning: <u>RA</u>
			Acreage: <u>1.00 + 0.13</u>
			Parcel No. <u>RP8127300 &amp; RP0455914</u>

### Submit:

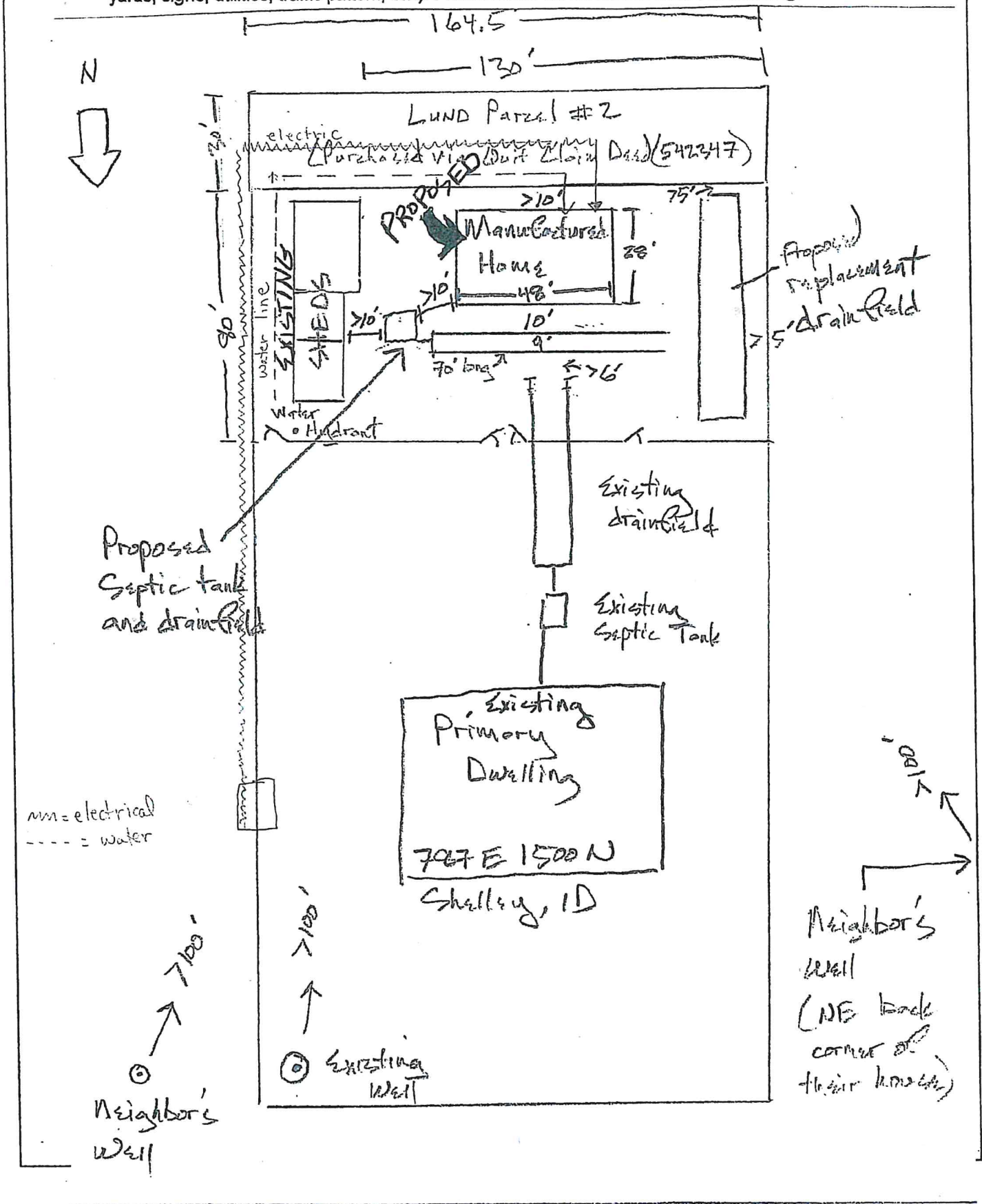
- Completed Application
- Recorded Deed to Property
- Detailed Site Plan
- Narrative - write a detailed narrative addressing the following:
  - Identify the existing use of the property
  - Reason for Conditional Use Permit Request
  - Evaluating effects of proposed Conditional Use on adjoining property that may include, but is not limited to, such elements as noise, odor, fumes and vibration
  - General compatibility with other properties and uses in the area
  - Evaluating effects of proposed Conditional Use on public facilities/utilities
- application fee paid

### Application Fees:

Application Fee	275
Deposit for Mailing & Publication	75
<b>Total=</b>	<b>350</b>

Exhibit  
A-1

**Site Plan** -- Show drawing of location (including roads, all buildings, parking areas, service areas, yards, signs, utilities, traffic pattern, etc.). Please show all distances between buildings &



--- = electrical  
 - - - - = water

← 1500 N →



**Appointment of Designated Agent**

I/We the undersigned owner(s) of the property described throughout this Application, hereby appoint the following person as my/our representative for all transactions regarding this Application between myself/ourselves, as owner(s), and Bingham County.

Property Owner(s): \_\_\_\_\_ Date \_\_\_\_\_

Property Owner(s): \_\_\_\_\_ Date \_\_\_\_\_

Designated Agent: \_\_\_\_\_

In granting a Conditional Use Permit the Planning & Zoning Commission may prescribe appropriate conditions and safeguards in conformity with the current Bingham County Zoning Ordinance. Violation of such conditions and safeguards, when made part of the terms under which the Conditional Use Permit is granted shall be deemed a violation of the Ordinance. The approval of a Conditional Use Permit does not permit the violation of any section of the Building Code, or any other County Ordinance. All Conditional Use Permits, whether approved or denied have a ten(10) day appeal period and must be appealed in writing at the Bingham County Planning & Zoning Office.

**DECLARATION:** By signing this application, it is understood and agreed that permission is hereby given to the duly authorized representative of Bingham County to, place & remove signs on the subject property and verify authenticity of the applicant(s) and property owner(s). It is further understood that the Zoning Administrator and staff may inspect the subject property, take photographs and obtain any verifications and data necessary for preparation of its report to the Planning & Zoning Commission. I hereby acknowledge that I have read this application and understand the contents. I also state that the above information is correct.

Applicant(s):

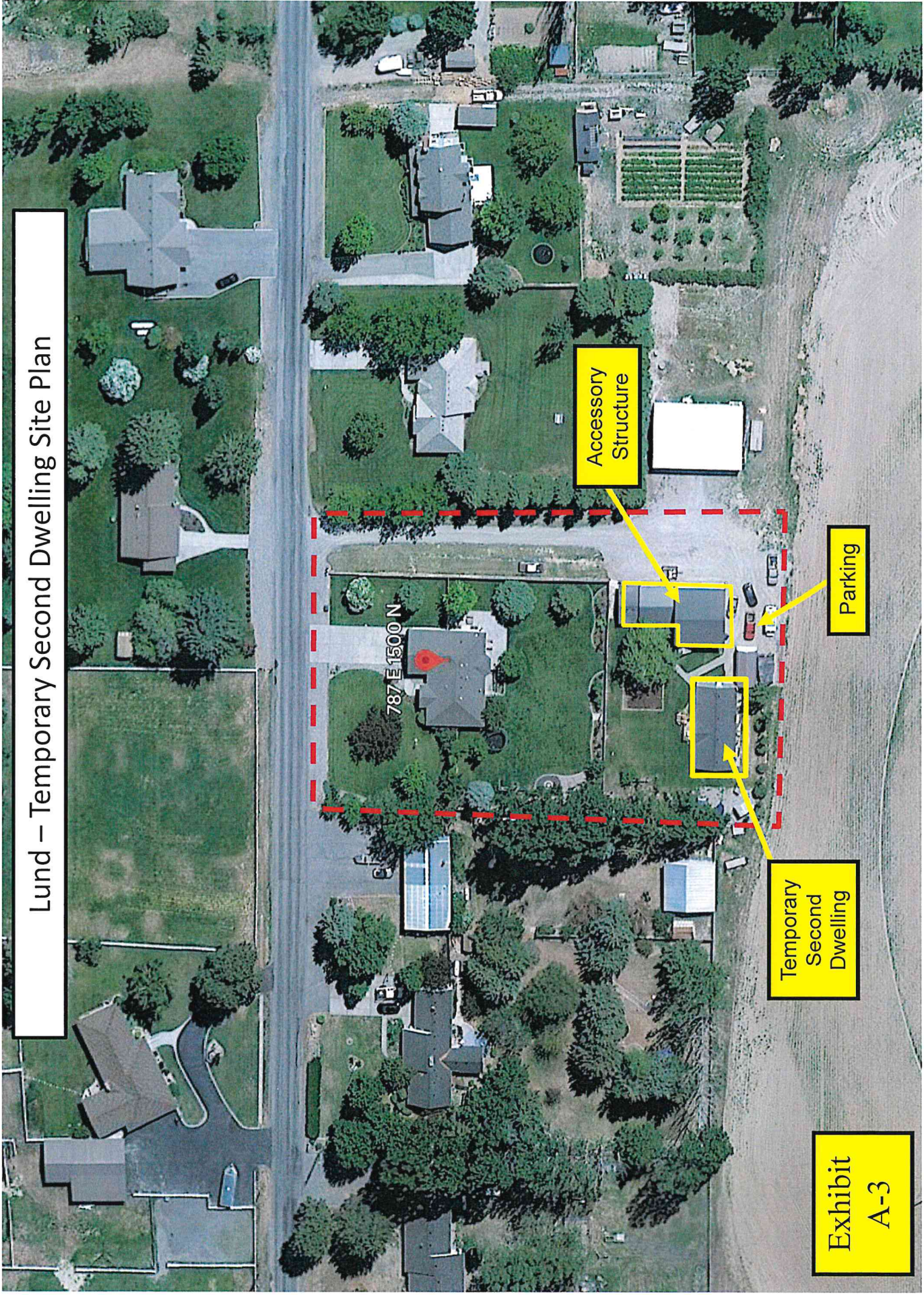
Property Owner(s) Signature: Holly Lynd Date: Jan. 25, 2023

Designated Agent Signature: \_\_\_\_\_ Date: \_\_\_\_\_

A-2 Narrative intentionally not included  
for confidentiality purposes



Lund – Temporary Second Dwelling Site Plan



Accessory Structure

Parking

Temporary Second Dwelling

Exhibit A-3











542347

Re-record to Correct Grantor and notary block with corrected Grantor signature

Instrument # 696344

BINGHAM COUNTY  
4-30-2018 01:18:47 PM No. of Pages: 2  
Recorded for: HOLLI LUND  
PAMELA W. ECKHARDT  
Ex-Officio Recorder Deputy Fee: 16.00

QUITCLAIM DEED

Cannon Shelley Property Lim Ptn, GRANTOR for good and a valuable

consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby REMISE, RELEASE and forever QUITCLAIM, unto Loren G. and Holli Lund, whose mailing address is 787 E. 1500 N. Shelley Idaho, County of Bingham, State of Idaho as GRANTEE, and to grantee's heirs and assigns forever, all of the following described real property situated in Bingham County, State of Idaho:

Beginning at the SE corner of lot 1 in block 2, of Sunset Acres, division No. 1, Bingham County Idaho, as shown on the plat recorded May 18, 1987, as instrument no. 361183 and running S 0° 03' 24" E 35.00 feet thence S 89° 56' 36" W 164.50 feet, thence N 0° 03' 24" W to the SW corner of said lot 1 Bk 2 of said subdivision thence along the South line of said lot N 89° 56' 36" E 164.50 feet to the point of TOGETHER with all improvements, water, water rights, ditches, ditch rights, easements, tenements, beginning credits and appurtenances thereto.

IN WITNESS WHEREOF, Grantor has hereunto subscribed his name to this instrument this 22 day of

June, 2004

Holli Lund

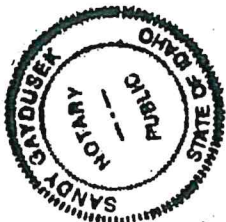
Seth Cannon  
Manager of Cannon Shelley Property Limited Partnership

STATE OF IDAHO

COUNTY OF ~~BONNEVILLE~~ Bingham } ss

On this 23rd day of June 2004, before me, the undersigned, a Notary Public in and for the State, personally appeared Loren Lund & Seth Cannon, 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 he executed the same.

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



Sandy Gaydusek  
Notary Public in and for said County and State

Residing at: Shelley ID  
Commission Exp.: 1/15/11

542347

2008 JUN 23 AM 10:55  
RECORDED IN THE REQUEST OF  
MARRIAGE  
787 E 1500 N  
Shelley  
FEE \$16.00  
032-794  
BLACKFOOT, IDAHO  
JUN

Exhibit A-4

STATE OF IDAHO )  
 ) ss.  
County of Bingham )

On this 23<sup>rd</sup> day of June, before me, Wendi Huffman, the undersigned a Notary Public in and for the State of Idaho, personally appeared Holli Lund, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.



*Wendi Huffman*  
Notary Public for Idaho  
Residing at Blackfoot  
My Commission Expires: 2-3-09

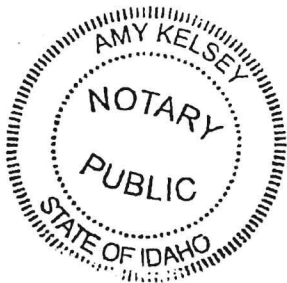
State of Idaho  
County of Bonneville  
Seth Cannon

Seth Cannon  
Manager, Cannon Shelby Property LP

On This 27<sup>th</sup> Day of April, before me, Amy Kelsey  
2018

personally appeared Seth Cannon, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

696344



*Amy Kelsey*  
Notary Public for Idaho  
Residing at Clona  
My Commission Expires: 5/4/19

3020405559-1 **541215**

**QUITCLAIM DEED**

LOREN LUND AND HOLLI LUND, HUSBAND AND WIFE, GRANTOR for good and a valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby REMISE, RELEASE and forever QUITCLAIM, unto LOREN G. LUND and HOLLI LUND, Husband and Wife , whose mailing address is 787 E. 1500 N., , Shelley, ID 83274, County of BINGHAM, State of Idaho as GRANTEE, and to grantee's heirs and assigns forever, all of the following described real property situated in BINGHAM County, State of Idaho:

Lot 1 in Block 2 of Sunset Acres, Division No. 1 Bingham County, Idaho, as shown on the plat recorded May 18, 1987, as Instrument No. 361183.

BINGHAM COUNTY CLERK  
BLONDELL DAVIS  
FEE 2 DEP C  
2004 MAY 24 PM 3:14  
RECORDED AT THE REQUEST OF  
Alliance Title & Escrow Corp.

TOGETHER with all improvements, water, water rights, ditches, ditch rights, easements, tenements, hereditaments and appurtenances thereto.

IN WITNESS WHEREOF, Grantor has hereunto subscribed his name to this instrument this 10TH day of MAY, 2004.

*Loren Lund*  
LOREN LUND  
*Holli Lund*  
HOLLI LUND

STATE OF IDAHO }  
COUNTY OF BONNEVILLE } SS

On this 18<sup>th</sup> day of MAY, 2004, before me, the undersigned, a Notary Public in and for the State, personally appeared LOREN LUND AND HOLLI LUND, 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 he executed the same.

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

*Teresa Vilhauer*  
Notary Public in and for said County and State

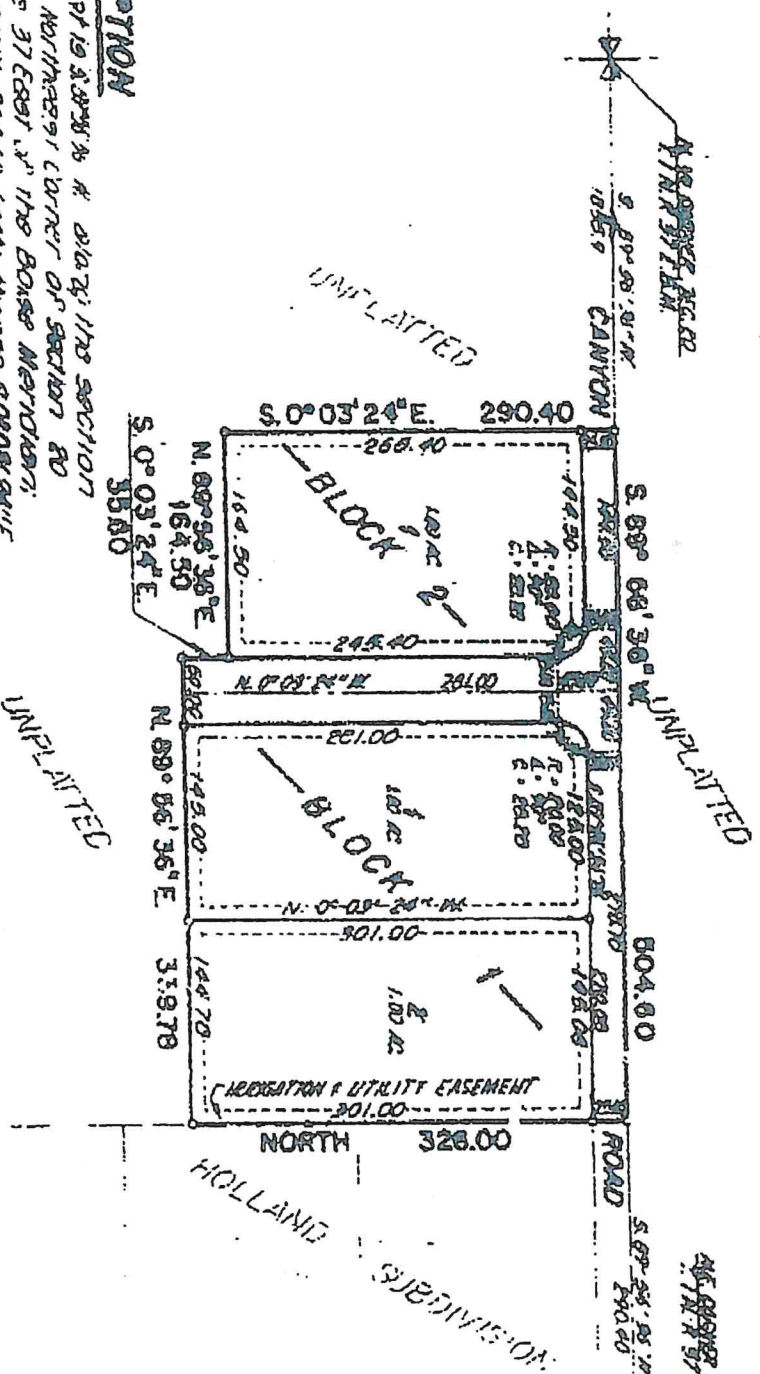
Residing at: RIGBY, ID  
Commission Exp.: 08/19/08



**541215**



A PORTION OF THE R.F. 14 OF SECTION 30 T. 1 N. R. 37 E. B. 5.  
 BLANDFORTH ESTATE, INC.  
 IDAHO FALLS, IDAHO



**DESCRIPTION**  
 OF 1/4 SECTION 30  
 IN THE NORTHWEST CORNER OF SECTION 30  
 T. 1 N. R. 37 E. B. 5. THE BOUNDARY BEING  
 164.50' W. 504.60' E. 164.50' S. 164.50' E.  
 164.50' S. 164.50' E. 164.50' W. 164.50' S.  
 164.50' W. 164.50' E. 164.50' S. 164.50' E.  
 164.50' W. 164.50' E. 164.50' S. 164.50' E.

**NOTES**  
 DESIGNATES NEW ROADS  
 UTILITY BASE, WIDTHS ARE 12 FEET WIDE

WHILE THIS IS A REPRESENTATION  
 OF THE PROPERTY DESCRIBED HEREIN,  
 THIS COMPANY ASSUMES NO LIABILITY  
 FOR VARIATIONS, IF ANY, WITH A SURVEY.

# PERMIT-Subsurface Sewage Disposal



**Public Health**  
Prevent Promote Protect

Southeastern Idaho Public Health  
1901 Alvin Ricken Dr  
Pocatello ID 83201  
(208) 239-5270

Permit #: 38001  
Date: 06/20/2018  
Parcel #: RP8127300  
Doc ID #:

## Idaho Public Health Districts

Applicant's Name: Loren Lund  
Owners Name: Loren and Holli Lund  
Property Address: 787 East 1500 north Shelley ID 83274  
Legal Description: Township 1 North Range 37 East Section 20  
Subdivision: Sunset Acres Division No.1 Lot 1 Block 2 Size(acres): 1.0

Type of Installation	Type of System (check all that apply)			Water Supply
<input checked="" type="checkbox"/> New System <input type="checkbox"/> Expansion <input type="checkbox"/> Repair <input type="checkbox"/> Tank Only	<input type="checkbox"/> Absorption Bed <input type="checkbox"/> Capping Fill <input type="checkbox"/> Central System <input type="checkbox"/> Composting Toilet <input type="checkbox"/> Drip Distribution <input type="checkbox"/> ETPS <input type="checkbox"/> Experimental <input type="checkbox"/> Extra Drainrock <input type="checkbox"/> Evapotranspiration <input checked="" type="checkbox"/> Gravel Drainfield	<input checked="" type="checkbox"/> Gravelless Drainfield <input type="checkbox"/> Gray Water Sump <input type="checkbox"/> Gray Water System <input type="checkbox"/> Holding Tank <input type="checkbox"/> Incinerator Toilet <input type="checkbox"/> Individual Lagoon <input type="checkbox"/> Intermittent SF <input type="checkbox"/> Intrench SF <input type="checkbox"/> LSAS <input type="checkbox"/> Pit Privy	<input type="checkbox"/> Pressurized DF <input type="checkbox"/> Recirculating GF <input type="checkbox"/> RV Dump Station <input type="checkbox"/> Sand Mound <input type="checkbox"/> Seepage Pit <input type="checkbox"/> Steep Slope Drainfield <input type="checkbox"/> Two Cell Lagoon <input type="checkbox"/> Vault Privy <input type="checkbox"/> Other (see below)	<input checked="" type="checkbox"/> Private <input type="checkbox"/> Shared <input type="checkbox"/> Public
<input checked="" type="checkbox"/> Basic System <input type="checkbox"/> Complex System				<b>Water Source</b> <input checked="" type="checkbox"/> Well <input type="checkbox"/> Spring

### Conditions of Approval:

Inspection required before cover. 48 Hours advanced notice required for inspection. Install drainfield between 2 and 4 feet below ground surface. Maximum depth of excavation of drainfield is 4 feet below ground surface. Install septic system according to IDAPA 58.01.03. Septic system sized for 250 gallons of wastewater per day. Drainfield and replacement area must be minimum 100 feet from any well, minimum 50 feet from any canal or ditch, minimum 25 feet from any waterline, minimum 20 feet from basement, minimum 10 feet from crawl space or slab and minimum 5 feet from property line. Septic system must be installed by either the property owner or a septic system installer, licensed in Idaho. Install drainfield along the contour of the slope, keeping the trench bottom level.

Residential permit

Non-residential permit

Soil Type:

The minimum septic tank capacity is:

The minimum effective drainfield absorption area is:

The drainfield can be no closer to permanent/intermittent surface water than:

3	Bedrooms
250.0	Gallons Per Day
	Gallons Per Day
B-2	USDA
1000	Gallons
556	Square Feet
300	Feet

**Note: (Final approval of this permit requires inspection of the uncovered system.)**

All plans, specifications, and conditions contained in the approved permit application are hereby incorporated into, and are enforceable as part of the permit. The permit will expire one (1) year from date of issuance. The permit may be renewed if the renewal is applied for on or before the expiration date.

Ken Keller  
EHS Permit Issued Signature  
58  
EHS Code  
June 20, 2018  
Date

Revision Date: 06/17/2010

**Exhibit  
A-5**



**BINGHAM COUNTY  
BUILDING & SAFETY DEPARTMENT**

501 N. MAPLE #203 -- BLACKFOOT, IDAHO 83221  
PHONE: (208) 782-3177 -- FAX: (208) 782-3868

**CERTIFICATE OF OCCUPANCY**

NO. 2018-58

OWNER: Lund, Loren

*THIS IS TO CERTIFY THAT THE (DESCRIPTION OF BUILDING OR STRUCTURE)*

**2018 28 x 56' Fleetwood MH on blocks**

*ERECTED ON*

Lot No:	<u>T1N R37E Sec 20</u>	Block No:	<u>Lot 1 Block 2</u>	Subdivision:	<u>Sunset Div 1</u>
Legal Descript.					
Street Address:	<u>787 E 1500 N</u>		<u>Shelley, ID</u>		<u>83274</u>
Use Zone:	<u>RA</u>	Building Permit No:	<u>218170</u>	Contractor:	<u>Clayton Homes</u>
Mechanical Permit No:		Zoning Permit No:	<u>6393</u>		

*HAS BEEN INSPECTED FOR COMPLIANCE WITH THE CURRENT ADOPTED CODE  
and the following occupancy thereof is hereby authorized:*

Comments:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Building Official:

Cody Gordon 

Date: 08/10/2018



A-7 Physician Letters intentionally not included for confidentiality purposes

## BINGHAM COUNTY PLANNING & ZONING COMMISSION

Regarding the Application of  
Loren Lund, 2<sup>nd</sup> Dwelling  
For a Conditional Use Permit  
located in an "RA" Residential/Agriculture Zone

### FINDINGS OF FACTS AND CONCLUSIONS OF LAW

---

Requested Action: Loren Lund requested a temporary second dwelling on their property for a medical hardship. The property is located at approx. 787 E 1500 N on approx. 1.13 acres in an "RA" Residential/Agriculture.

Property Owner: Loren Lund

Applicant: Same as above

Representative: Loren Lund

Property Location/  
Legal Description: The property is located at 787 E 1500 N  
Township 1 North, Range 37 East, Section 20, Bingham County, Idaho.

Applicable Regulations: Bingham County Comprehensive Plan, Dated March 14, 2005  
Bingham County Zoning Ordinance 2012-08

Public Hearing Date: June 13, 2018

### I GENERAL FINDINGS

1. Application filed by property owner(s) April 30, 2018
2. Notice of Planning and Zoning Commission hearing of June 13, 2018 was:
  - a. Sent to 28 political subdivisions on May 8, 2018. (S-2 Memo to Public Agencies)
  - b. Published in the Morning News on May 11, 2018. (S-4 Affidavit of Publ.)
  - c. Sent to 11 property owners within 300' of this property on May 18, 2018. (S-2 Property Owners Notice)
  - d. Posted on site and pictures taken May 29, 2018. (S-3 Property Posted)
  - e. The property is currently zoned "RA" Residential/Agricultural (A-7 Zoning Map)
3. Testimony was not given to dispute that this was a legal public hearing.

4. The following was reviewed by the Commission:
  - a. Application was filed.
  - b. Staff Report;
  - c. Testimony by the Applicant;
  - d. Supporting testimony by the Audience was not presented;
  - e. Opposing testimony by the Audience was not presented;
  - f. Rebuttal was not offered by the applicant.

## II FINDINGS

1. The Planning and Zoning Commission finds the application met the requirements of Chapter 4.2.3 of the Bingham County Ordinance because the "RA" Residential/Agriculture Zone is compatible with existing uses in the area, and will have accessibility to utilities.
2. The Planning and Zoning Commission finds the application met the requirements of Chapter 5.2 of the Bingham County Ordinance because a temporary 2<sup>nd</sup> dwelling is allowed under the Land Use Chart in an "RA" Residential/Agricultural Zone with a Conditional Use Permit.
3. The Planning & Zoning Commission finds that the application did not meet the requirements of 7.3.2 B as the parcel is only 1 acre in size, but with supporting testimony from Ken Keller with Southeastern Idaho Public Health, he states there is enough room for the dwelling, drainfield and replacement area. See Exhibit T-1.
4. The Planning & Zoning Commission finds that the application met the requirements of 7.3.6 in the Ordinance as a Doctor's letter was submitted by Jeanette Sherman, APRN with the University of Utah Health. See Exhibit T-2 in file.
5. The Planning & Zoning Commission finds that the application met the requirements of Chapter 7.3.7 as the applicant agreed to remove the temporary structure in a timely manner upon termination of the current need.
6. The Planning and Zoning Commission finds the application met the requirements of Bingham County Ordinance Chapter 8.2 in the ordinance because the application was complete and included all items listed in 8.2.
7. The Planning and Zoning Commission finds the application met the requirements of Bingham County Ordinance Chapter 8.3 especially 8.3.1 through 8.3.4 as the 2<sup>nd</sup> dwelling will not be unduly hazardous or disturbing to existing uses.
8. The Planning and Zoning Commission finds the application met the requirements of Idaho Code §67-6512 because the public hearing was noticed in the official newspaper prior to the hearing, the public hearing notice was posted on the premises and notice was provided to all property owners within 300' the parcel under consideration.



### III DECISIONS AND CONDITIONS

#### DECISION:

Upon a motion by Planning & Zoning Commissioner Quinn Twiggs , a second by Planning & Zoning Commissioner David Tanner Jr. and a unanimous vote to approve the Conditional Use Permit application for a 2<sup>nd</sup> dwelling on the property of Loren Lund.

The Bingham County Planning and Zoning Commissioners hereby, approve the application for Loren Lund.

#### CONDITIONS:

The temporary second dwelling shall be removed upon termination of the current need. In the event the property is sold or leased, the Conditional Use Permit is not transferable to the new owners of the property as per Bingham County Ordinance 2012-08 Chapter 7.3.

### BINGHAM COUNTY ORDINANCES 2012-08:

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#### CHAPTER 4 ZONING DISTRICTS

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#### 4.2 PURPOSE OF ZONES

#### 4.2.3 Residential/Agricultural (R/A)

The purpose of the "R/A" Zone is to permit the establishment of low density single family dwellings with lot sizes sufficient for individual sewer and water facilities that have:

- A. Suitability of parcel for agricultural purposes.
- B. Proximity to existing areas of similar population density.
- C. Lot size compatible with existing lot sizes in the immediate area.
- D. Compatible with the existing uses in the immediate area.
- E. Protection from incompatible uses.
- F. Accessibility to adequate utilities.
- G. Adequate service by roadways.

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**CHAPTER 5**  
**USE ZONE REGULATIONS**

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5.2 Official Schedule of District Regulations Adopted.

LISTED USE	A	A/NR	C-1	C-2	M-1	M-2	R	R/A
Dwelling-2 <sup>nd</sup> Temporary	C	C	N/A	N/A	N/A	N/A	C	C

**7.3 ADDITIONAL DWELLING UNIT – TEMPORARY**

7.3.2. Each lot, tract, or parcel of property, considered a buildable parcel, shall be allowed one additional temporary dwelling for a medical hardship; a Conditional Use Permit shall be required. The Conditional Use Permit shall be based on the following provisions:

- A. The owner of the real property shall be the applicant.
- B. The proposed location shall consist of a parcel with a minimum of two (2) acres unless otherwise approved by the Conditional Use Permit.
- C. The temporary residence must meet setback requirements and all other provisions of this Ordinance.

7.3.3. Detached temporary dwelling units shall be located to the side or rear of a primary dwelling. No portion of the temporary dwelling unit shall be located in front of the primary dwelling unit.

7.3.4 At least one parking space shall be provided on site for the temporary dwelling unit in addition to the required parking for the existing residential unit.

7.3.5 The temporary residence must obtain approval for water and sanitary facilities from the Health Authority.

7.3.6 The application must include a current statement by a licensed physician attesting to the existing medical condition and need for assistance thereof.

7.3.7 The applicant must provide a statement that the temporary second dwelling will be removed upon termination of occupancy by either the dependent or care provider or is not in compliance with Conditional Use Permit conditions.

- 7.3.8 In the event the property is sold or leased, the Conditional Use Permit is not transferable to the new owner(s) of the property.

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**CHAPTER 8**  
**CONDITIONAL USE PERMIT**

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**GENERAL**

- 8.1.1 It is recognized that an increasing number of uses are appearing that have characteristics of a unique and special nature such that the specific use must be considered individually. We recognize that these uses are not permitted without adding certain conditions making them compatible with permitted uses in the underlying zone. The Commission may require higher standards of site development than those listed specifically in this ordinance in order to assure that the proposed use will be compatible with other conforming property and uses in the vicinity.
- 8.1.2 The Commission shall hold a public hearing on each Conditional Use Permit as listed on the Land Use chart and new uses brought by the Administrator. The Commission may approve, conditionally approve or deny a Conditional Use Permit under the standards listed in this chapter and may require such additional safeguards that will uphold the intent of this Ordinance.

**8.2 CONTENTS OF APPLICATION FOR A CONDITIONAL USE PERMIT**

An application for a Conditional Use Permit shall be filed with the Administrator by the property owner or by the occupant with owner approval. At a minimum, the application shall contain the following information:

- 8.2.1 Name, address and phone number of applicant.
- 8.2.2 Legal description of the property.
- 8.2.3 Description of existing use.
- 8.2.4 Current Zoning Designation.
- 8.2.5 Description of use being proposed.
- 8.2.6 A scaled Site Plan/Drawing showing the location of the following:
- A. All buildings, parking and loading area.
  - B. Traffic access and traffic circulation.
  - C. Open spaces, landscaping, refuse and service areas.
  - D. Utilities, signs.
  - E. Any other information that may be required to determine if the proposed Conditional Use meets the requirements of this Ordinance,
  - F. A statement evaluating the effects on adjoining property that may include, but is not limited to such elements as noise, odor, fumes and



vibration. An accurate statement of the compatibility with adjacent and other properties in the zone, and the relationship of the proposed use to the Plan.

- G. More specifically, the following adverse effects shall be mitigated through setbacks, buffers, sound attenuation and/or hours of operation:
1. Noise, odor, or vibrations, or direct or reflected glare detectable by the human senses without the aid of instruments.
  2. Radioactivity and electric or electromagnetic disturbances that unduly interfere with the normal operation of equipment, instruments, or appliances on abutting properties.
  3. Any other emission or radiation that endangers human health, results in damages to vegetation or property or which exceeds health and safety standards.

8.2.7 The appropriate filing fees.

### **8.3 REVIEW OF THE APPLICATION FOR A CONDITIONAL USE PERMIT**

The Commission shall review the particular facts and circumstances of each proposed Conditional Use Permit in terms of the following standards and shall find adequate evidence showing that such use at the proposed location will:


- 8.3.1 Constitute a Conditional Use as established on the Official Schedule of Zoning Regulations or as determined by the Commission to be a Conditional Use for the zone involved.
- 8.3.2 Be in accordance with the general objectives or with any specific objection of the Comprehensive Plan and/or this Ordinance.
- 8.3.3 Be designed, constructed, operated and maintained to be appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the area as far as is possible.
- 8.3.4 Will not be unduly hazardous or disturbing to existing or future neighboring uses; nor involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to persons, property or the general welfare of the public by reason of excessive production of traffic, noise, smoke, fumes, odors or other pollutants.

- 8.3.5 Not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the County.
- 8.3.6 Be served adequately by essential public facilities and services or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide such services.
- 8.3.7 Legal access to the subject property for the development. Have vehicular approaches to the property that are designed to eliminate a traffic hazard on adjacent public thoroughfares.
- 8.3.8 Not result in the destruction, loss or damage to a scenic or historic feature of major importance.
- 8.3.9 If applicable, adequate water, sewer, irrigation, drainage and storm water drainage facilities, and utility systems are to be provided to accommodate said use.
- 8.3.10 If the literal enforcement of the provisions herein contained would result in unnecessary hardship, the Commission may consider exceptions to non-conforming uses as permitted in Section 10.

**IDAHO STATE CODE § 67-6512**

The Planning & Zoning Commission finds the application meets the requirements of Idaho Code §67-6512b because the public hearing was noticed in the official newspaper a minimum of fifteen (15) days prior to the hearing, the public hearing notice was posted on the premises a minimum of one (1) week prior to the hearing, and notice was provided to all property owners within 300 feet of the proposed project prior to the hearing.

The applicant and audience were notified there is a ten-day time period ending on June 25, 2018 in which an appeal could be filed with the Bingham County Board of Commissioners to review the action of the Planning and Zoning Commission.

  
 \_\_\_\_\_  
 Darren Leavitt, Chairman  
 Bingham County Planning and Zoning Commission

6/28/18  
 Date

  
 \_\_\_\_\_  
 Allen Jensen, P&Z Administrator

7/9/18  
 Date



**Bingham County Planning & Zoning  
Commission Meeting  
June 13, 2018**



<b>Board Members Present</b>
Darren Leavitt, Chairman
Chris Pratt, Vice Chairman
David Adams
Glenn Andersen
Lorin Croft
David McKinnon
David Tanner, Jr.
Quinn Twiggs

**Other Attendees**

Alan Jensen, Planning & Zoning Administrator  
 Leigh Ann Davis, Planning & Zoning Assistant Administrator  
 Lisa J Tornabene, Secretary

**A. CALL PUBLIC HEARING TO ORDER**

The subject meeting was held in Courtroom #1 of the Bingham County Courthouse. Chairman, Darren Leavitt, called the meeting to order at 7:00 PM and presented an overview of the standard procedures and protocol. This is a legal public hearing and is recorded.

**B. OLD BUSINESS**

**HOWE, JAKE & CASSIDY – CONDITIONAL USE PERMIT (CUP):** This is a remanded application from the County Commissioners for the purpose of additional fact finding on the specific issues pursuant to granting a CUP to expand their existing Confined Animal Feeding Operation (CAFO) on approximately 160 acres in an Agriculture (A) Zone at 282 South 1500 West

Additional fact-finding will only be allowed regarding those items cited in the appeal; specifically, traffic, insects, odors and a decrease of property value for adjacent properties.

**Applicant Testimony**

**Burke Neely**

Mr. Neely cited Idaho Statute 67-6535, Section 3, and doesn't feel that the appeal meets the burden of proof required in Statute. Also, Mr. Neely was unaware of any specific questions from Commissioners that needed to be address. Mr. Neely went on to explain that he feels expanding the existing feedlot is not going to change the nature of the impact of the local area, as this increase in scale won't adversely impact noise, odors, or hazardous conditions of operation. Mr. Neeley acknowledges that there will be an increase in truck traffic to local roads due to movement of livestock and manure. Feed for livestock will be sourced locally, not resulting in an increase in traffic. The nutrient management plan provides information regarding inspection and facility compliance. An integrated pest management plan will be implemented. As the surrounding land is zoned for Agriculture, Mr. Neely doesn't understand how this expansion of an agricultural business will decrease land value.

Based on prevailing winds, Commissioners asked if berms were being proposed along the east roadway; Mr. Neely confirmed that, as well as the fact that there will be an impervious retaining wall on the southeast corner.

**Exhibit  
A-9**



**Support****Lea Findlay**

Chairman Leavitt read into record a letter of support from Lea Findlay.

**Jake Howe**

Mr. Howe feels that there are a lot of small farmers providing for the existing feedlot, and the expansion is good for the surrounding farmers and the community.

**Neutral:** None

**Opposition****Steve Williams**

Mr. Williams owns the property adjacent to the existing feedlot. Mr. Williams does not feel that there is enough acreage present for the number of cattle that are projected. He also feels that there is an existing odor problem, and wastewater from potatoes is currently present in the borrow pit, which provides a breeding area for insects. Mr. Williams isn't really against the feedlot, but feels that the number of cattle should be reduced.

**Cheryl Olsen**

Ms. Olsen resides ½ mile from the feedlot. She informed Council that there are no fences or gates at this time, and that, although no cattle have gotten onto her property from the feedlot, she is concerned about that possibility. She also stated that there is a river of fluid coming from a 'mountain' of potatoes, which she believes is the cause of the odor problem.

**Melanie Ipsen**

Ms. Ipsen Stated that she lives approximately ½ mile from the subject property, and there were cattle on her property from the feedlot. She said that she does smell an odor from the cattle. She is concerned about the sound that the animals make and she is also concerned about the value of her home should she choose to sell her property.

**Stanley Williams**

Mr. Williams owns property that borders the feedlot on the north and the west. He is opposed to the increase in cattle population, as he feels that feedlots never improve the local property. He stated that water is coming out of the large pile of potatoes on the corner of the property, and liquid is not being contained on the property, but flowing down the borrow pit.

**Lisa Hibbert Nelson**

Ms. Hibbert Nelson is part owner of an adjacent 3-acre property that has just been put onto the real estate market. She feels as though the legal requirements for notification distance is inadequate for a large property, as she wasn't aware of the situation. Her concern is that the increase of cattle at the existing feedlot will adversely affect the ability to see her parent's estate.

**Randy Reed**

Mr. Reed stated that the smell from the rotting potatoes is so bad now, that there are times when he is unable to work outside. He also feels that there has already been an increase in flies and fruit flies. This has created a problem for him when he tries to sell his herbs that he cultivates in his greenhouses.

**Karen Reed**

Ms. Reed stated that she and her husband sell culinary herbs to local grocery stores. Some of these herbs absorb odors, and customers have requested refunds of purchased products. They are a certified organic business; therefore, it is difficult for them to control this increase of insects. Ms. Reed stated that they are opening a tourist attraction butterfly house and she has additional concerns that the odor will adversely affect the butterflies as well as their ability to be successful.

### **Stephen J Blaser**

Mr. Blaser feels that prior opposing testimony demonstrates that there is already an issue. He feels that the increase will multiply the existing problems with respect to sound, odor, traffic and insects; however he believes that this is being minimized.

### **Rebuttal**

#### **Burke Neely**

To the best of his knowledge, there have been no complaints about the feedlot, until the application was made for the expansion. Mr. Neely explained that they haven't treated for flies this year, as they will be removing the bulk of the cattle shortly. In addition, they do not have enough cattle to order insect control in a cost-effective manner. Several local farmers provided supportive testimony at the original hearing date. He stated that there has never been a mature cow outside of the feedlot, although there were some calves that got out. There is currently a project to eliminate the gaps in fencing. Potatoes that are on the property are not rotten. They have already used approximately half for haylage and they do not plan on allowing any of the potatoes to spoil. Keeping the corrals dry will complete odor mitigation. Mr. Neely feels that there are a lot of hypothetical situations being discussed, with no real data.

Mr. Neely addressed questions from commissioners, stating that remaining potatoes would be utilized within a week, with no potatoes sitting for an extended time during the summer months; however, potatoes will remain outside in the winter months. He also explained that there currently isn't standing water or liquid in borrow pits.

Commissioners discussed various options for sound mitigation; also realizing that there is not a lot that can be done to address items of speculation. Commissioner Andersen motioned that the CAFO be returned back to the County Commissioners with the understanding that the concerns of the County Commissioners have been addressed within the Environment Nutrient Management Plan. Commissioner Adams seconded; six commissioners were in favor, one in opposition, motion carried.

**Staff Report** – Administrator Jensen provided an overview of the agenda item, **BINGHAM COUNTY – CONDITIONAL USE PERMIT** and summarized the information as found in the Staff Report of the Information Packet. The application was received February 14, 2018 and deemed complete and scheduled for hearing on April 11, 2018, deferred until June 13, 2018.

Bingham County is requesting the transfer of three (3) division rights from property they own on Rawlins Creek, to another property that they own in the McDonaldville area at approximately 466 North 400 West on approximately 27.09 acres an Agriculture (A) Zone. This request is being made in order to protect the historical use of grazing land and trailing of livestock on the Rawlings Creek Property, as well as to restrict the property from future development.

The purpose of this discussion is for the Planning & Zoning Commissioners to review available information and to evaluate if this application meets Code requirements. This is a Commission decision, and the commission may approve or disapprove the transfer of division rights.

### **Applicant Testimony**

#### **Chase Hendricks**

Attorney Hendricks explained that the Rawlings Creek property was lost to the owners due to a tax deed, with the property was returned to the County. At this time, County Commissioners are attempting to retain the essential character of the area and protect the historical use of grazing by transferring the division rights to an area that the County may chose to sell.

Commissioners questioned Attorney Hendricks about moving the division rights to a parcel for potential sale for development that is in Agricultural land and not in the City/County impact area.



**Support:** None  
**Neutral:** None  
**Opposition:** None

Commissioner McKinnon motioned to recommend that the transfer of three (3) division right, as stated in the application, be approved, Commissioner Andersen seconded; seven were in favor, one in opposition, motion carried.

## **CURRENT BUSINESS**

**C: Staff Report** – Administrator Jensen provided an overview of the agenda item, **JADAN ALLRED – ZONE CHANGE** and summarized the information as found in the Staff Report of the Information Packet. The application was received April 20, 2018 and deemed complete and scheduled for hearing on June 13, 2018.

Mr. Allred is requesting a zone change from Residential/Agriculture (R/A) to Heavy Commercial (C2) to allow him to operate a business on the 1.2-acre property located at approximately 796 North Highway 91.

The purpose of this discussion is for the Planning & Zoning Commissioners to review available information and to evaluate if this application meets Code requirements. This is a Commission recommendation made to the Bingham County Board of Commissioners, to approve or disapprove the requested zone change

### **Applicant Testimony** **Jadan Allred**

Mr. Allred is interested in starting his own decorative curbing and fencing business, and feels that having the shop on the highway will enable him to be more successful. There will be no manufacturing completed on the property.

**Support:** None  
**Neutral:** None  
**Opposition:** None

Commissioner Twiggs motioned that the zone change, as stated in the application, be recommended for County Commissioner approval, Commissioner Pratt seconded; all were in favor, motion carried.

**D: Staff Report** – Administrator Jensen provided an overview of the agenda item, **LEE and VIRGINIA BENDIXSEN – CONDITIONAL USE PERMIT (CUP)** and summarized the information as found in the Staff Report of the Information Packet. The application was received April 30, 2018 and deemed complete and scheduled for hearing on June 13, 2018.

Mr. & Mrs. Bendixsen are requesting the transfer of six (6) division rights from two original granting parcels located in T1S R32E Section 11, to the receiving 73.95-acre parcel that they own, located at approximately 294 North 300 West in a Residential/Agriculture (R/A) Zone.

The purpose of this discussion is for the Planning & Zoning Commissioners to review available information and to evaluate if this application meets Code requirements. This is a Commission decision, and the commission may approve or disapprove the transfer of division rights.

### **Applicant Testimony** **C Lee Bendixsen**

Mr. Bendixsen and his wife purchased two, five-acre parcels for the intention of transferring the division rights to their home parcel. They are doing this for purposes of long-term investment.

**Support:** None  
**Neutral:** None  
**Opposition:** None



Commissioner McKinnon motioned to recommend that the transfer of six (6) division rights, as stated in the application, be approved, Commissioner Pratt seconded; all were in favor, motion carried.

**E: Staff Report** – Administrator Jensen provided an overview of the agenda item, **LOREN LUND – CONDITIONAL USE PERMIT (CUP)** and summarized the information as found in the Staff Report of the Information Packet. The application was received April 30, 2018 and deemed complete and scheduled for hearing on June 13, 2018.

Mr. Lund is requesting approval for a temporary second dwelling on his property, in order to accommodate a medical hardship. The property is located on approximately 1-acre in a Residential/Agriculture (R/A) Zone at 787 East 1500 North.

Conditional Use Permit: The purpose of this discussion is for the Planning & Zoning Commissioners to review available information and to evaluate if this application meets Code requirements. This is a Commission decision, and the commission may approve, disapprove or approve with conditions.

#### **Applicant Testimony**

**Loren Lund**

Mr. Lund thanked Commissioners for considering this application and confirmed that they are requesting a temporary second dwelling on their property for his parents. This will allow his parents to maintain their independence but be close by to assist with his mother's care.

Mr. Lund then read into record a letter of support from neighbors, Donald and Deona Kirkham.

**Support:** None

**Neutral:** None

**Opposition:** None

Commissioner Twiggs motioned to recommend the request for a temporary second dwelling, as stated in the application, be approved, Commissioner Tanner seconded; all were in favor, motion carried.

**F: Staff Report** – Administrator Jensen provided an overview of the agenda item, **BLAINE ATKINSON – CONDITIONAL USE PERMIT (CUP)** and summarized the information as found in the Staff Report of the Information Packet. The application was received April 30, 2018 and deemed complete and scheduled for hearing on June 13, 2018.

Mr. Atkinson is requesting the transfer of one (1) division right from a granting parcel located 1488 West 550 South to a receiving 1.54-acre parcel that he owns in Moreland, located at approximately 208 North 750 West in a Residential/Agriculture (R/A) Zone.

The purpose of this discussion is for the Planning & Zoning Commissioners to review available information and to evaluate if this application meets Code requirements. This is a Commission decision, and the commission may approve or disapprove the transfer of division rights.

#### **Applicant Testimony**

**Blaine T Atkinson**

Mr. Atkinson explained that he would like to transfer the division right prior to selling the granting parcel.

**Support:** None

**Neutral:** None

**Opposition:** None

Commissioner Pratt motioned to recommend that the transfer of one (1) division right, as stated in the application, be approved, Commissioner Andersen seconded; all were in favor, motion carried.

**G: Staff Report** – Administrator Jensen provided an overview of the agenda item, **MICHAEL PETERSEN – CONDITIONAL USE PERMIT (CUP)** and summarized the information as found in the Staff Report of the Information Packet. The application was received May 2, 2018 and deemed complete and scheduled for hearing on June 13, 2018.

Mr. Petersen is requesting approval for a temporary second dwelling on his property, in order to accommodate a medical hardship. The property is located on approximately 5.83-acres in an Agriculture (A) Zone at 691 North 700 East.

Conditional Use Permit: The purpose of this discussion is for the Planning & Zoning Commissioners to review available information and to evaluate if this application meets Code requirements. This is a Commission decision, and the commission may approve, disapprove or approve with conditions.

**Applicant Testimony**

**Frau Petersen**

Ms. Petersen is requesting this temporary second dwelling to accommodate her son, who will help she and her husband, given their declining health.

**Support:** None

**Neutral:** None

**Opposition:** None

Commissioner Twiggs motioned to recommend the request for a temporary second dwelling, as stated in the application, be approved, Commissioner Andersen seconded; all were in favor, motion carried.

**H: Staff Report** – Administrator Jensen provided an overview of the agenda item, **AUSTIN SZERSZEN - VARIANCE** and summarized the information as found in the Staff Report of the Information Packet. The application was received May 3, 2018 and deemed complete and scheduled for hearing on June 13, 2018.

Mr. Szerszen is requesting approval for a 20' setback variance from an easement at 913 North 550 East.

The purpose of this discussion is for the Planning & Zoning Commissioners to review available information and to evaluate if this application meets Code requirements. This is a Commission decision, and the commission may approve, disapprove or approve with supplementary conditions or safeguards.

**Applicant Testimony**

**Austin Szerszen**

Mr. Szerszen explained that he is requesting this setback variance to allow additional room to turn farm equipment safely.

**Support:** None

**Neutral**

**Derek Gunter**

Mr. Hunter stated that he is not opposed, as long as Mr. Szerszen isn't infringing on the the private easement.

**Opposition**

**Gary Miller**

Mr. Miller stated that he is opposed to allowing Mr. Szerszen to use his private road for access into the parcel.

**Rebuttal**

**Austin Szerszen**

Mr. Szerszen explained that he does not intend to use the private easement for access, which is why he is requesting the setback variance.

Commissioner Twiggs motioned to recommend the request for a 20' setback variance, as stated in the application, be approved, Commissioner Tanner seconded; all were in favor, motion carried.



**I: Staff Report** – Administrator Jensen provided an overview of the agenda item, **CITY OF BLACKFOOT WASTE WATER TREATMENT PLANT (WWTP) - VARIANCE** and summarized the information as found in the Staff Report of the Information Packet. The application was received May 15, 2018 and deemed complete and scheduled for hearing on June 13, 2018.

The City of Blackfoot WWTP is requesting approval for a high-water mark setback from the Snake River and property boundary variance request to accommodate a new building on approximately 8-acres at 2025 Riverton Road.

The purpose of this discussion is for the Planning & Zoning Commissioners to review available information and to evaluate if this application meets Code requirements. This is a Commission decision, and the commission may approve, disapprove or approve with supplementary conditions or safeguards.

**Applicant Testimony**

**Rex Moffat**

Mr. Moffat discussed that part of the phased construction at the Wastewater Treatment Plant addresses potential expansion of the treatment plant in the future, as well as to address safety improvements.

**Support:** None

**Neutral**

**Lindon Mickelsen**

Mr. Mickelsen explained that he is not in opposition to the expansion but feels that the City may be building on a portion of the property that they purchased from the BLM.

**Opposition:** None

**Rebuttal**

**Rex Moffat**

Mr. Moffat explained that the City utilizes County records and isn't aware of BLM property lines. Administrator Jensen confirmed that the proposed building isn't adjacent to the Mickelsen property line.

Commissioner McKinnon motioned to recommend the request for a high-water mark and property boundary variance, as stated in the application, be approved, Commissioner Adams seconded; all were in favor, motion carried.

**J. REVIEW / APPROVE MEETING MINUTES FROM MAY 9, 2018:** Commissioner Twiggs motioned to accept the minutes from the above referenced meeting, with changes, Commissioner Andersen seconded; all were in favor, motion carried.

**K. ADMINISTORS REPORT:** None

Commissioner Andersen motioned to adjourn the meeting, Commissioner Adams seconded; all were in favor; meeting was adjourned at 10:19 PM.

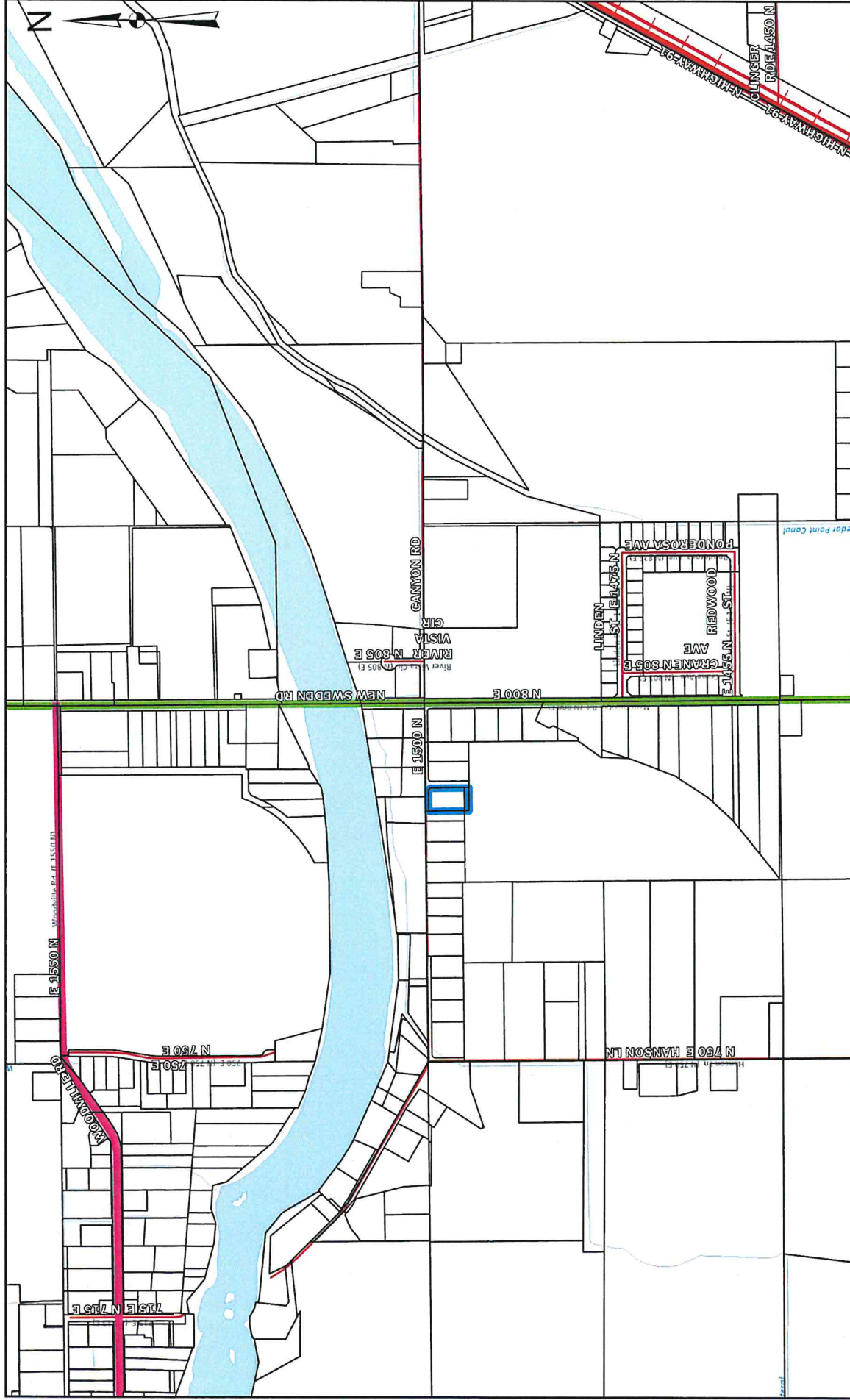
Submitted by:

  
Lisa J. Tornabene, Secretary  
Planning & Zoning Commission





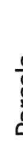

Approved by:

  
Darren Leavitt, Chairman  
Planning & Zoning

# LOREN & HOLLI LUND - 2ND TEMPORARY DWELLING - PARCEL MAP



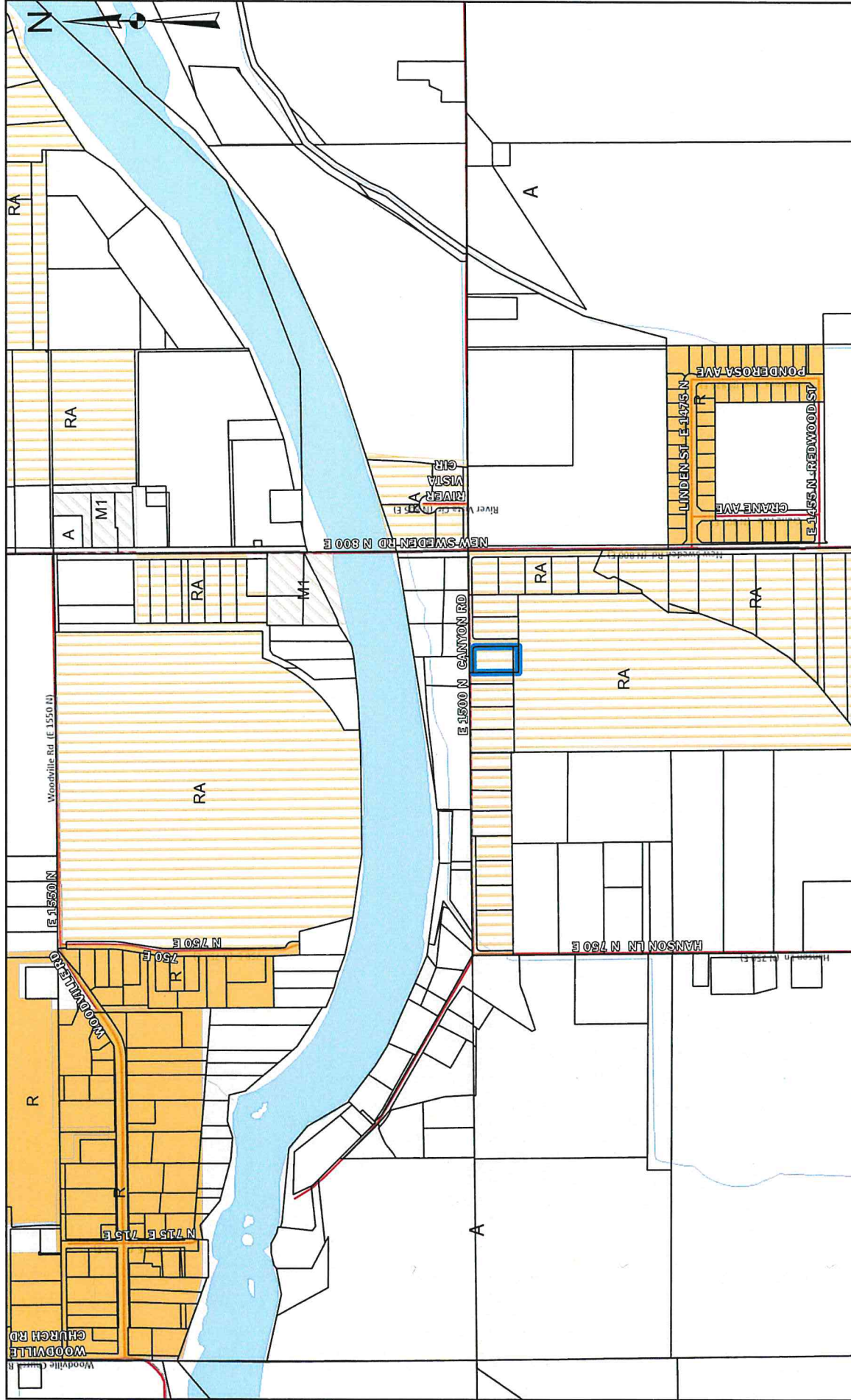
## LEGEND

-  Lund - CUP
-  Parcels
-  Roads
-  Principal Arterial 100' ROW
-  Minor Arterial 80' ROW
-  Major Collector 70' ROW











# LOREN & HOLLI LUND - 2ND TEMPORARY DWELLING - ZONING MAP



## LEGEND

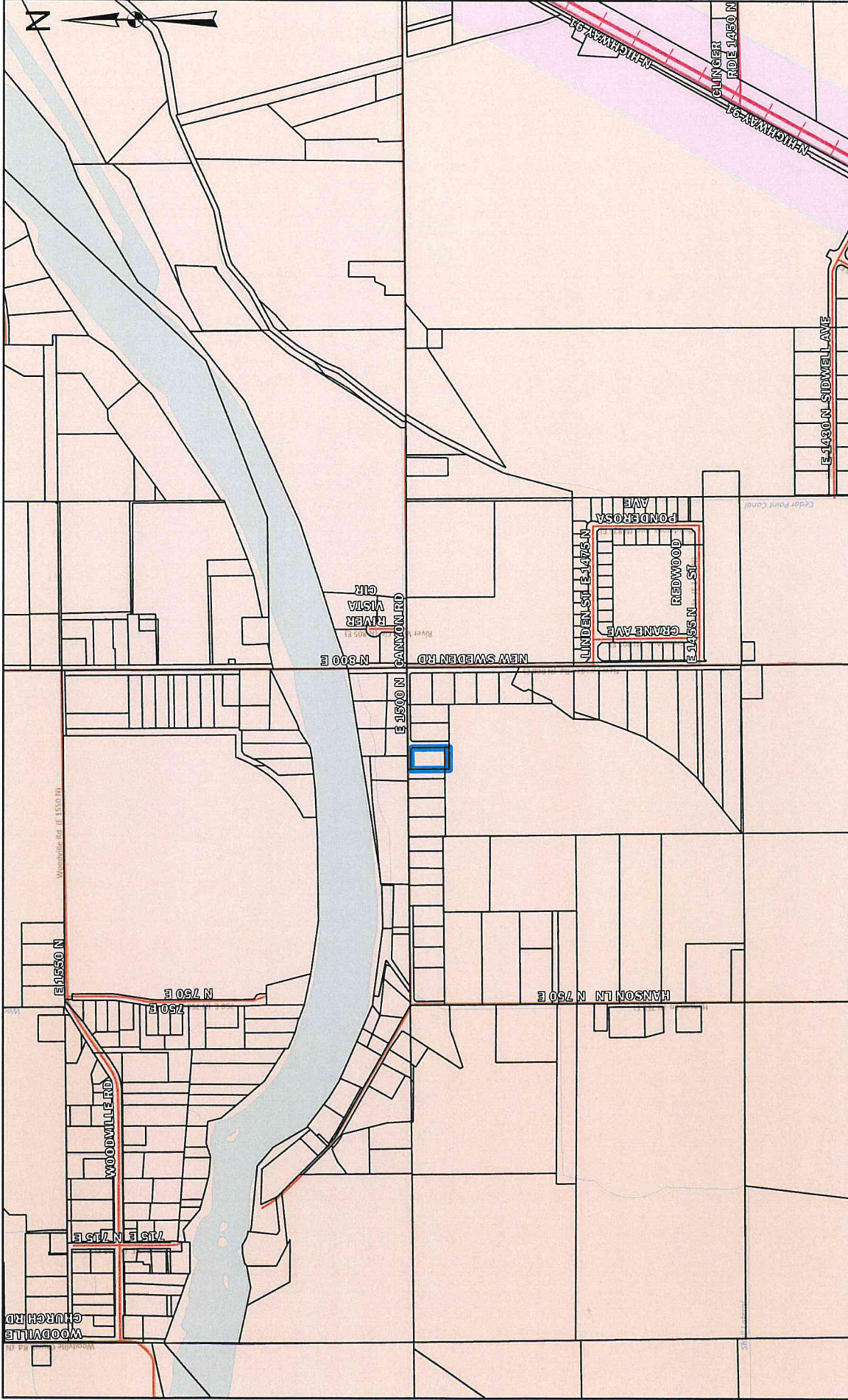
-  Lund - CUP
-  Parcels
-  Roads
-  A - Agriculture
-  RA - Residential/Agriculture
-  R - Residential

**EXHIBIT S-3**












# LOREN & HOLLI LUND - 2ND TEMPORARY DWELLING - COMPREHENSIVE PLAN MAP



## LEGEND

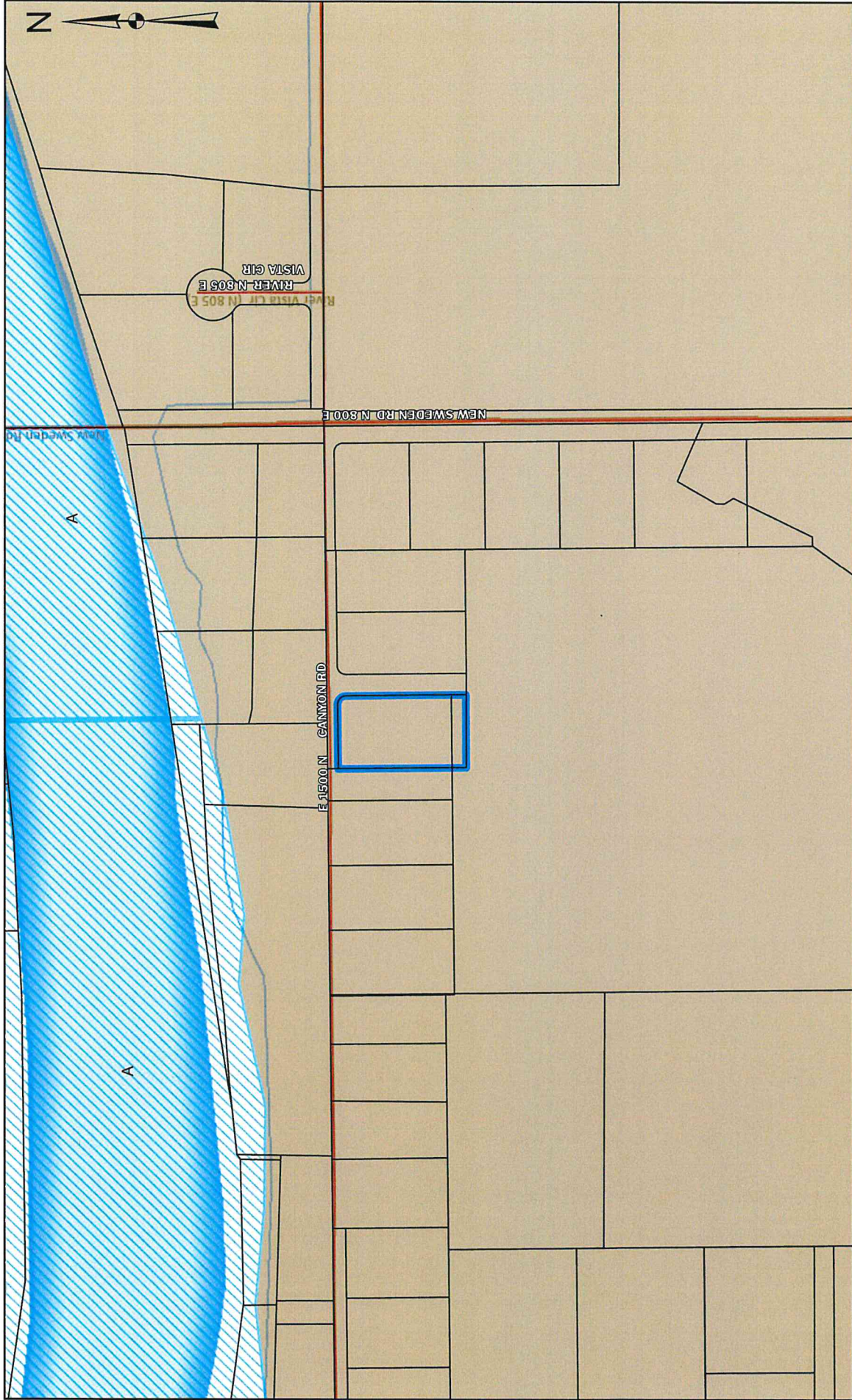
-  Lund - CUP
-  Parcels
-  Roads
-  Industrial/Commercial
-  Multi\_Use
-  Natural Resource Area/Agriculture
-  Residential/Residential Agriculture

### EXHIBIT S-4

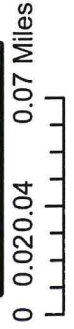
0 0.050.1 0.2 Miles



# LOREN & HOLLI LUND - 2ND TEMPORARY DWELLING - FLOOD PLAIN MAP



**EXHIBIT  
S-5**



## LEGEND

- Lund - CUP
- A; AE; AH; AO - In
- Parcels
- X - Out
- Roads





# LOREN & HOLLI LUND - 2ND TEMPORARY DWELLING - AERIAL MAP



**EXHIBIT S-6**

0 0.050.1 0.2 Miles

- LEGEND**
-  Lund - CUP
  -  Parcels
  -  Roads

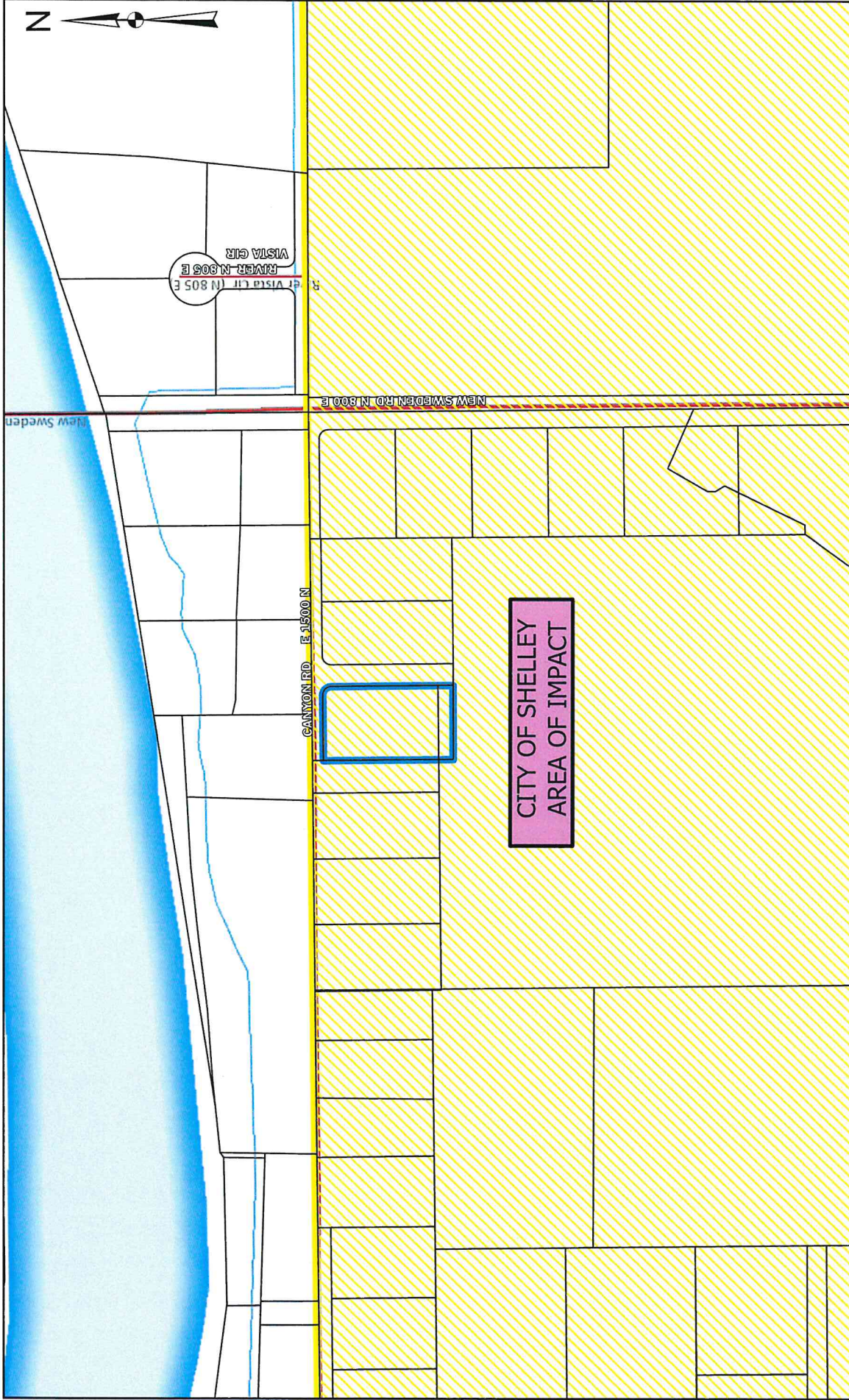








# LOREN & HOLLI LUND - 2ND TEMPORARY DWELLING - AREA OF IMPACT MAP



## LEGEND

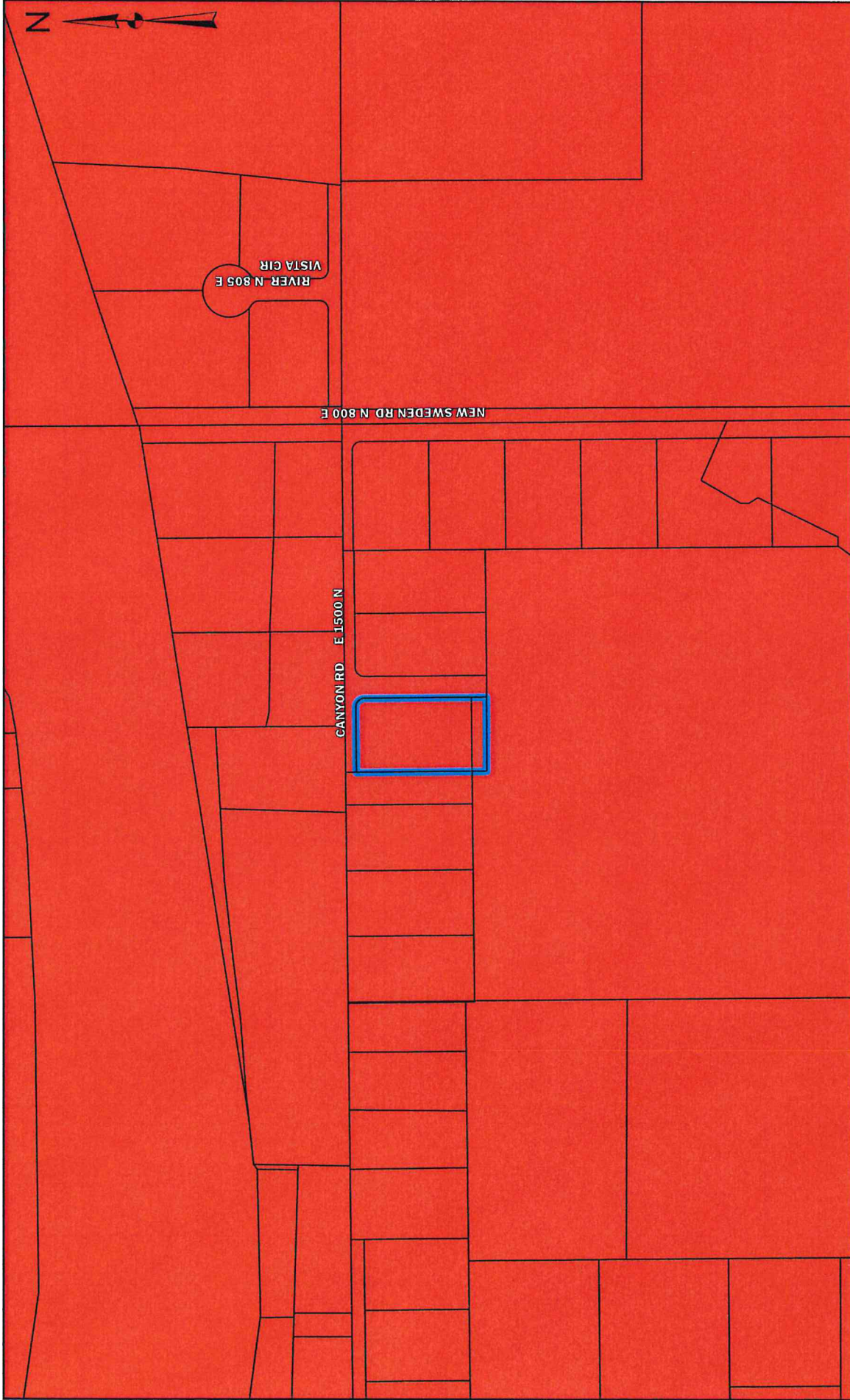
-  Lund - CUP
-  Parcels
-  Roads
-  Impact Area

**EXHIBIT S-8**





LOREN & HOLLI LUND - 2ND TEMPORARY DWELLING - SCHOOL DISTRICT MAP



**EXHIBIT S-9**

0 0.010.03 0.06 Miles

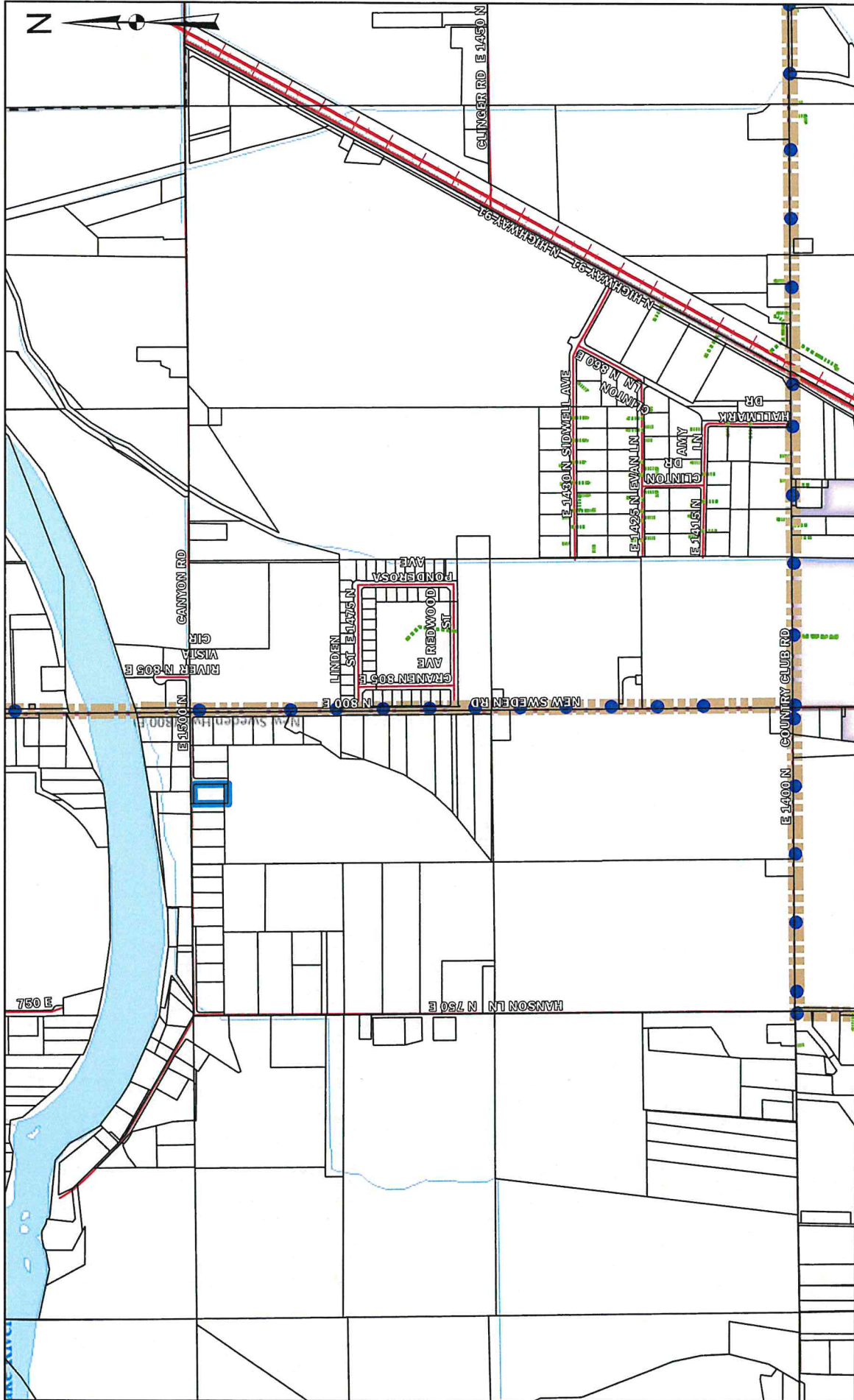
**LEGEND**

- Lund - CUP
- Shelley Joint School District
- Parcels
- Roads











# LOREN & HOLLI LUND - 2ND TEMPORARY DWELLING - UTILITIES MAP



## LEGEND

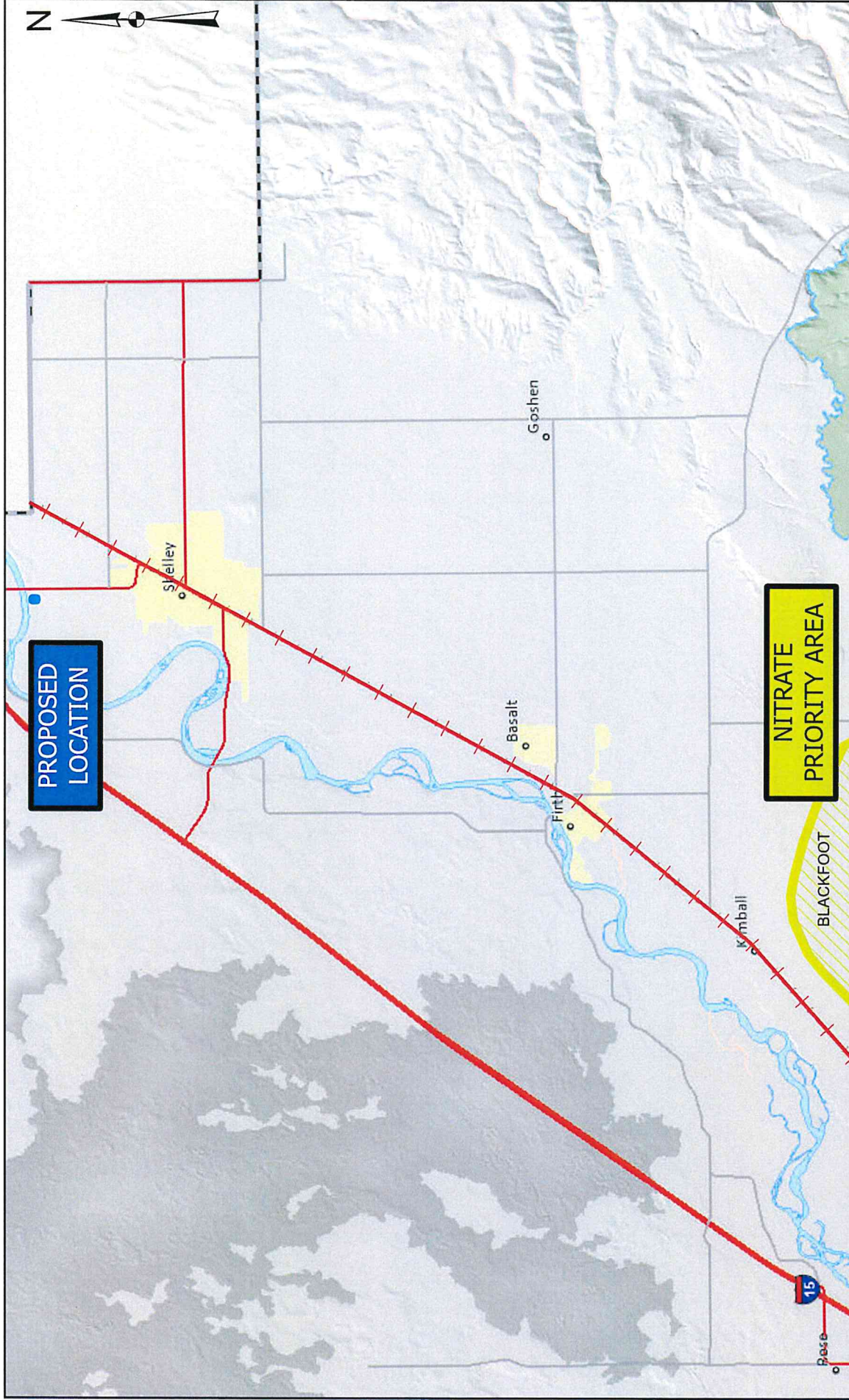
-  Lund - CUP
-  Parcels
-  Roads
-  Sanitary Sewer Manholes
-  Sanitary Sewer Lines
-  Gas Service Line

**EXHIBIT S-10**

0 0.050.1 0.2 Miles



# LOREN & HOLLI LUND - 2ND TEMPORARY DWELLING - NITRATE PRIORITY MAP



**EXHIBIT S-11**

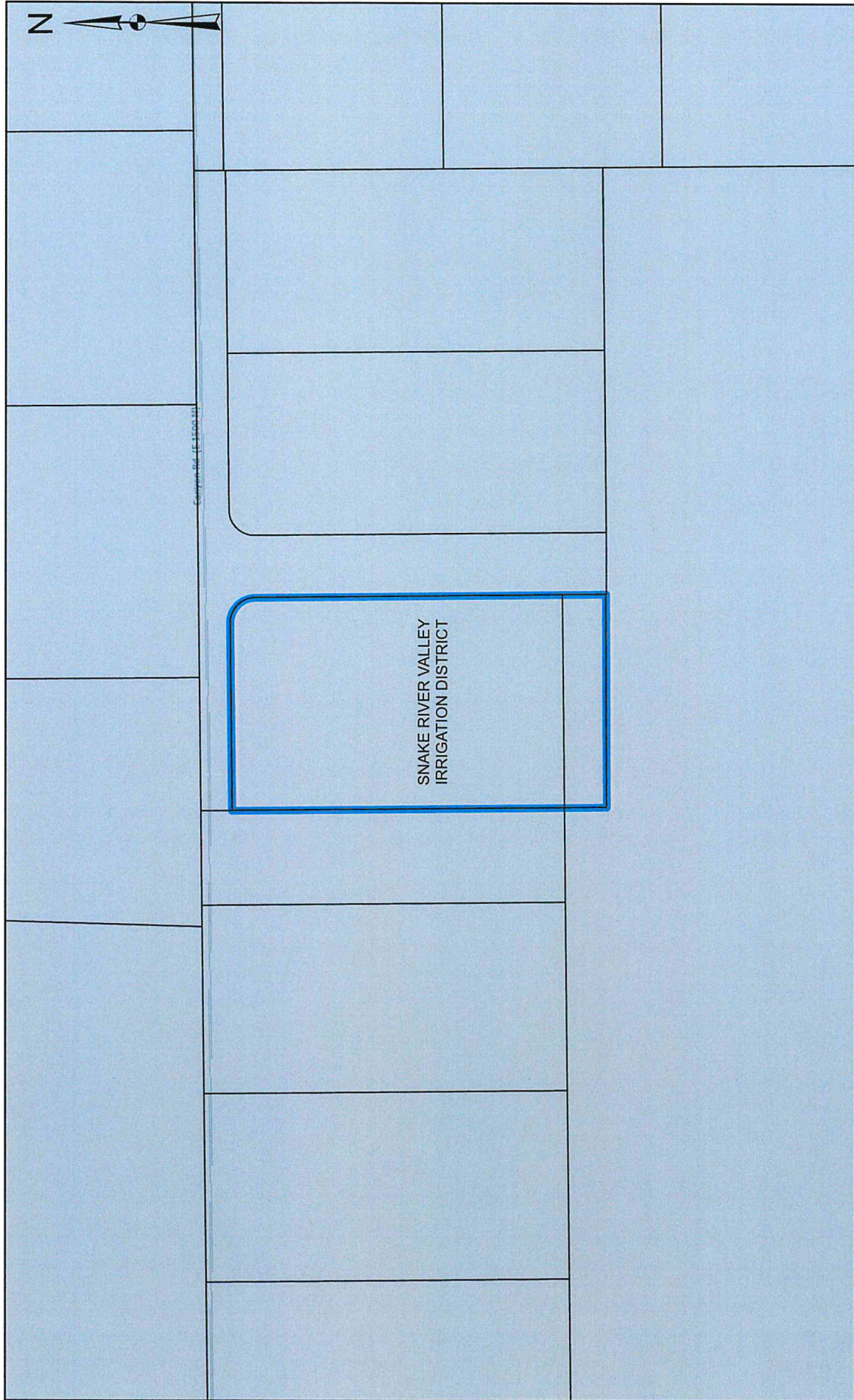
## LEGEND

- Lund - CUP
- Parcels
- Roads
- Nitrate\_Priority\_Areas








# LOREN & HOLLI LUND - 2ND TEMPORARY DWELLING - IRRIGATION DISTRICT MAP

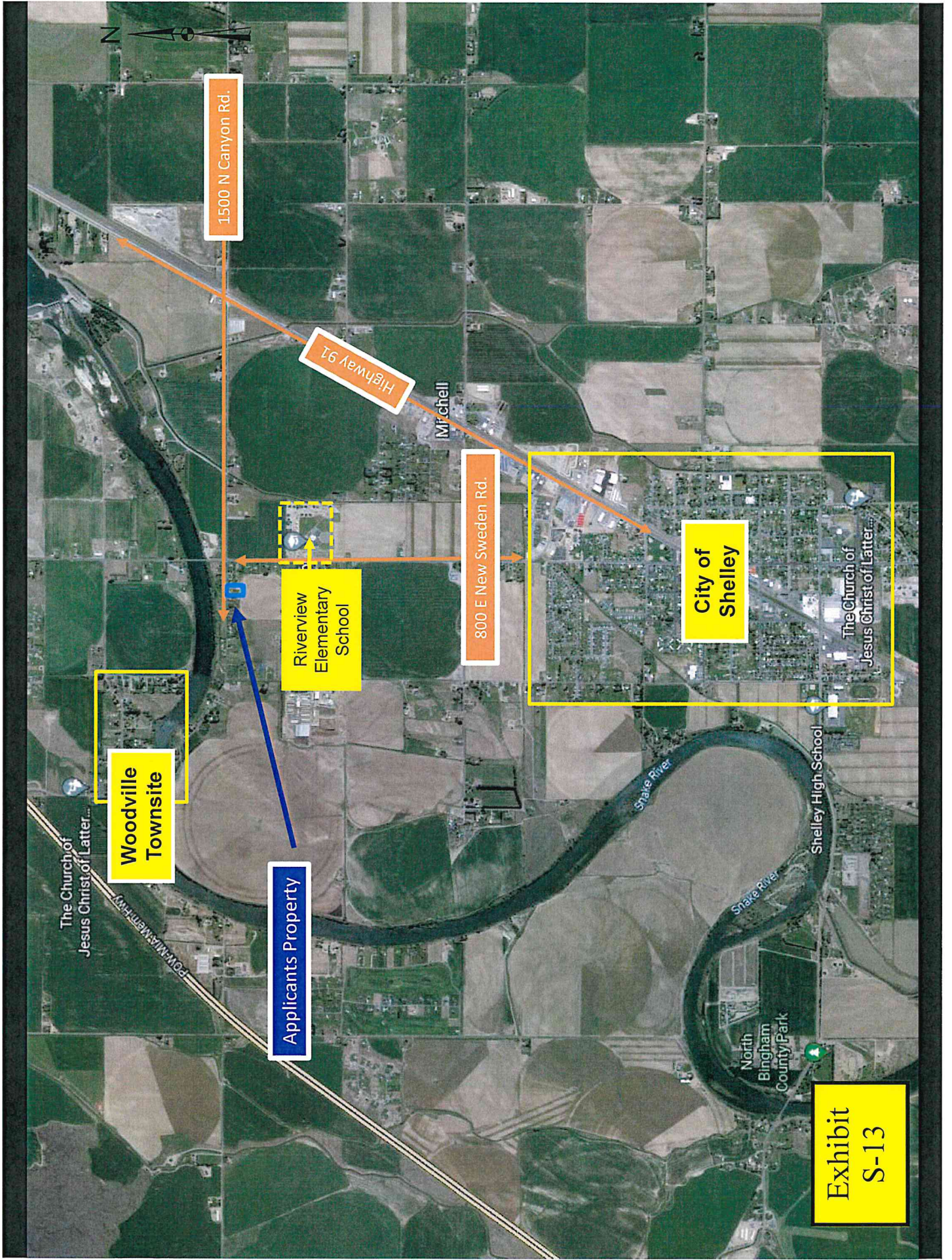


## LEGEND

-  Lund - CUP
-  Parcels
-  Roads







1500 N Canyon Rd.

Highway 91

Mitchell

800 E New Sweden Rd.

Riverview Elementary School

City of Shelley

The Church of Jesus Christ of Latter...

Woodville Townsite

The Church of Jesus Christ of Latter...

Applicants Property

Snake River

Snake River

Shelley High School

North Bingham County Park

Exhibit S-13



# BINGHAM COUNTY PLANNING & DEVELOPMENT SERVICES



## NOTICE OF POSTING

I hereby certify that on February 21, 2023, I personally posted the Bingham County, Planning & Development Department Notice for File No. 3161 at the following location(s):

**Approx. Location: 787 E 1500 N, Shelley, Idaho 83274, Parcel Nos. RP8127300 & RP0455914, Township 1N, Range 37E, Section 20, consisting of approx. 1.13 acres**



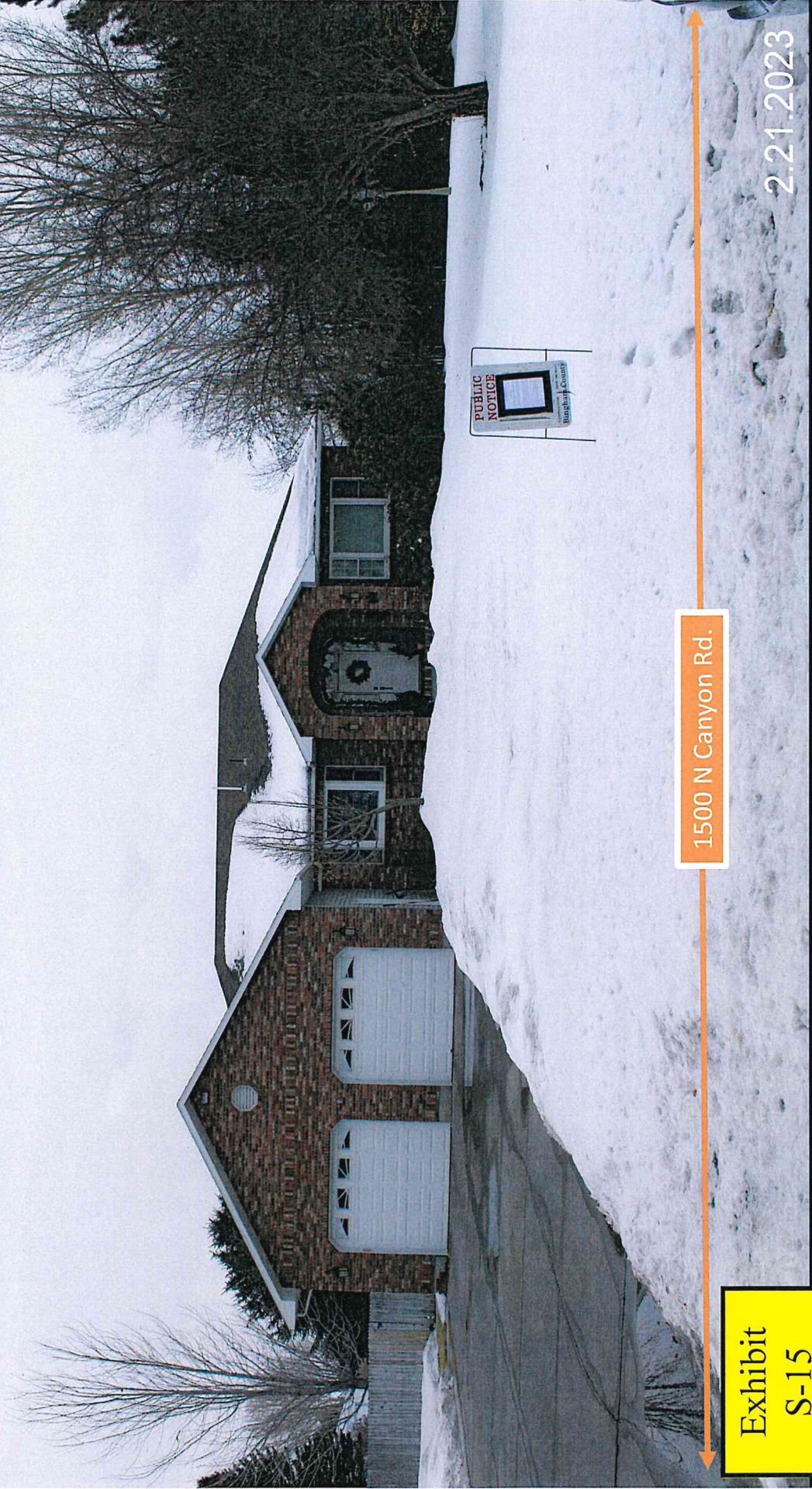
*Tiffany G. Olsen*

Tiffany G. Olsen  
Planning & Development Director

Exhibit  
S-14



# Facing South on 1500 N. Canyon Road Towards Existing Home and 2<sup>nd</sup> Temporary Dwelling



1500 N Canyon Rd.

Exhibit  
S-15

2.21.2023



# Facing South on 1500 N. Canyon Road Towards 2<sup>nd</sup> Temporary Dwelling Location

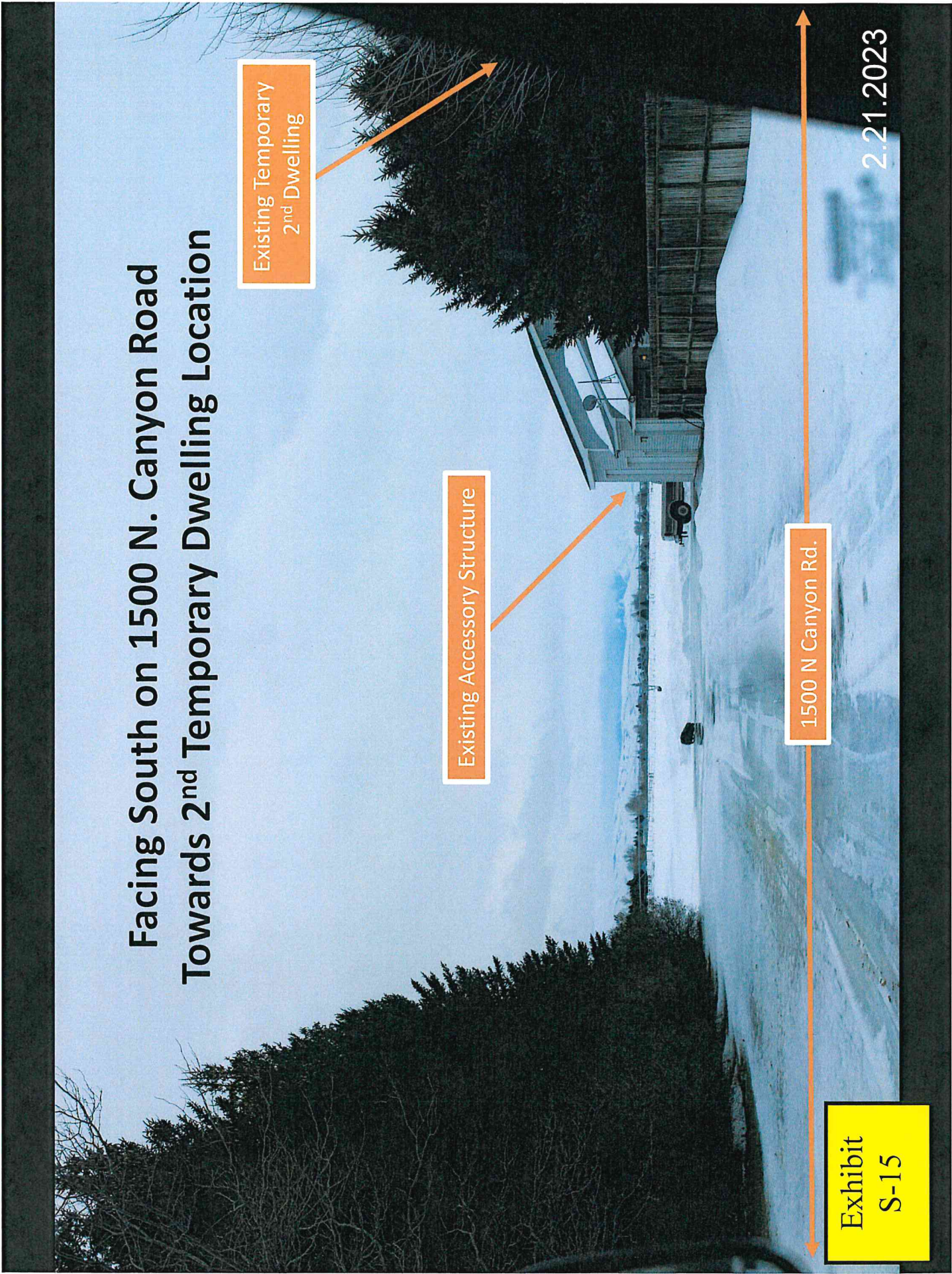
Existing Temporary  
2<sup>nd</sup> Dwelling

Existing Accessory Structure

1500 N Canyon Rd.

Exhibit  
S-15

2.21.2023





# Facing East on 1500 N Canyon Rd.



1500 N Canyon Rd.

Exhibit  
S-15

2.21.2023



# Facing North on 1500 N Canyon Rd.

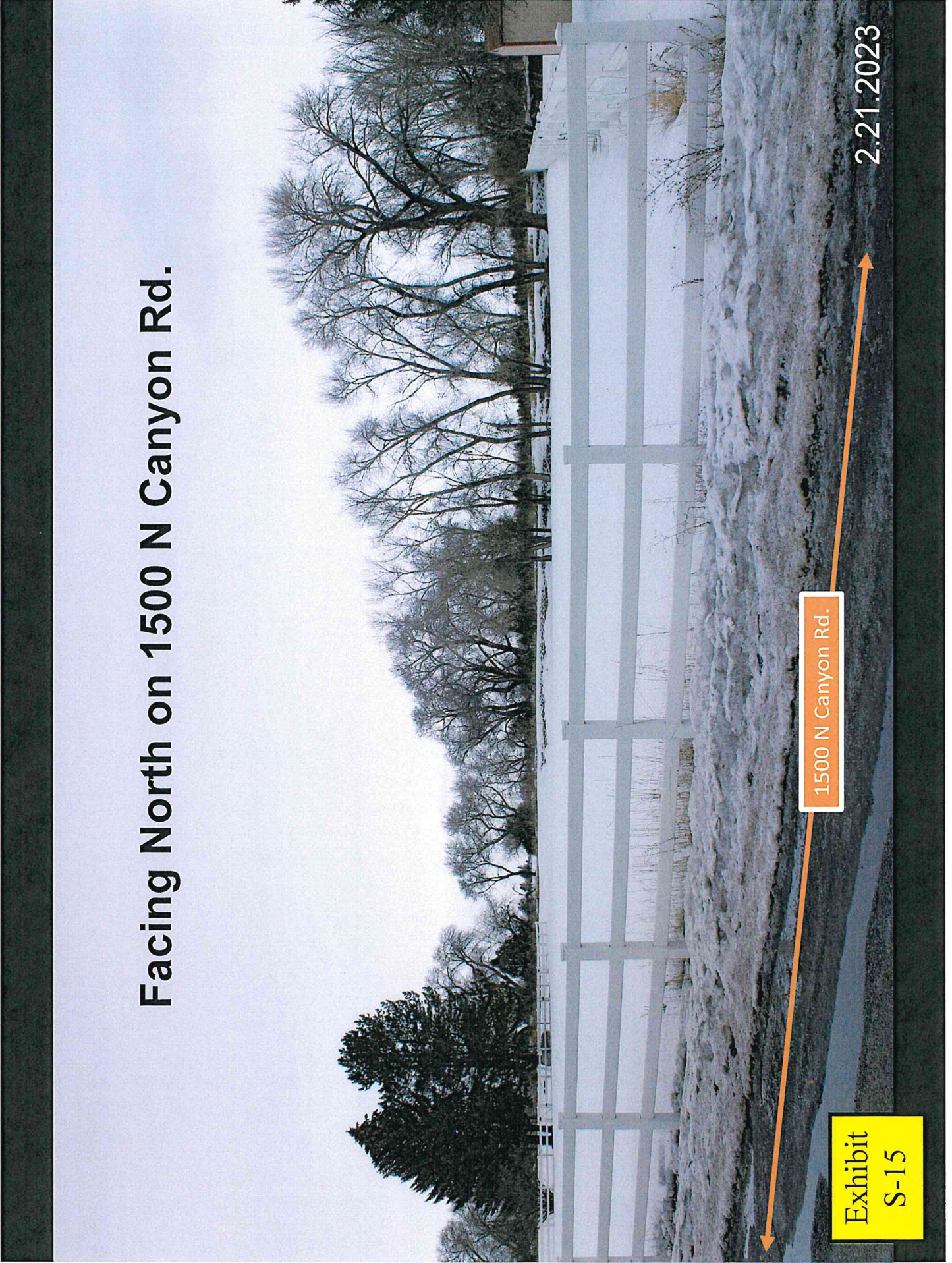


Exhibit  
S-15

1500 N Canyon Rd.

2.21.2023



# Facing West on 1500 N Canyon Rd.

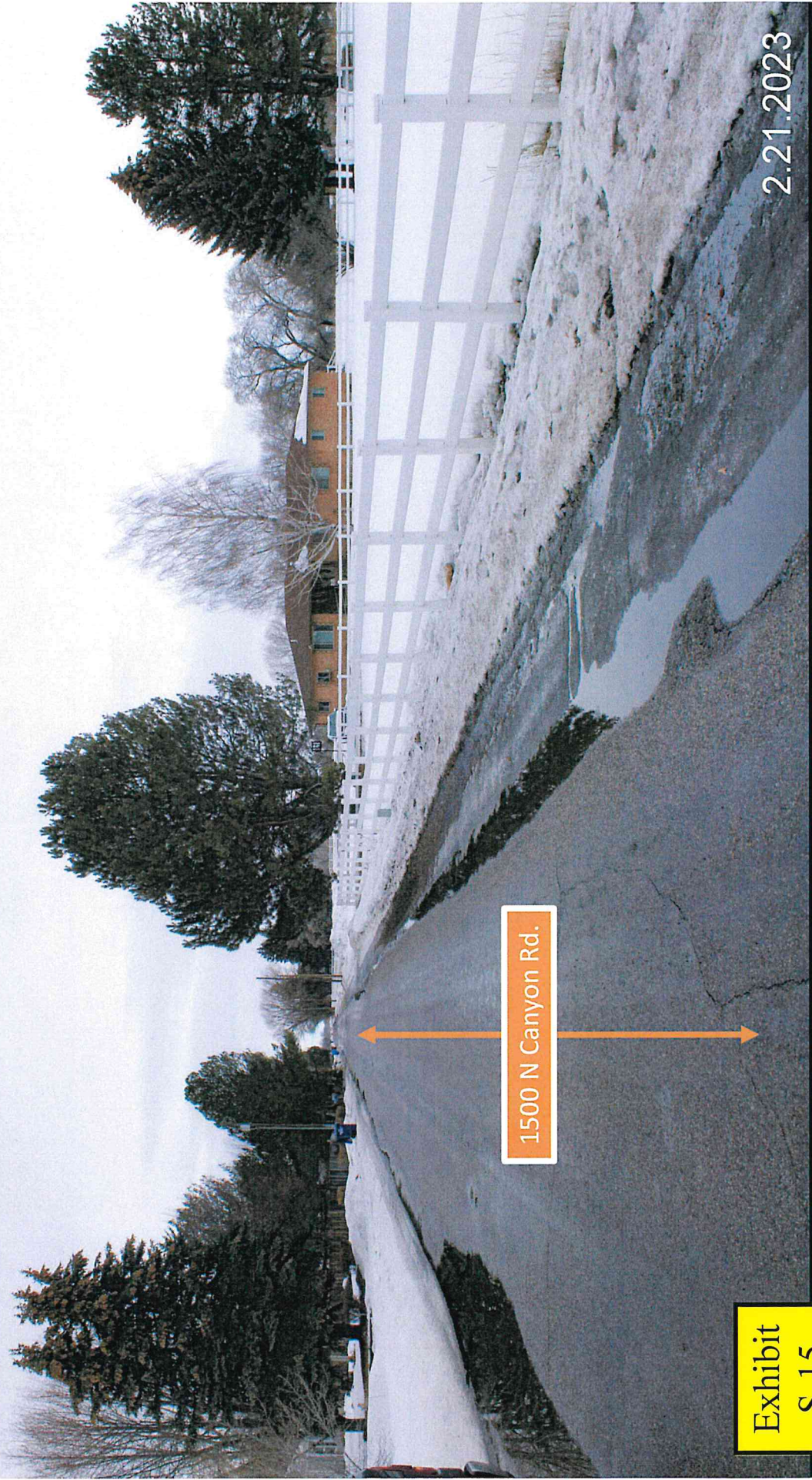


Exhibit  
S-15

2.21.2023







**BINGHAM COUNTY  
NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that the Bingham County Planning & Zoning Commission will hold a Public Hearing on **March 8, 2023** in Courtroom #1, Bingham County Courthouse, 501 N. Maple, Blackfoot, Idaho. The meeting will start at 7:00 pm or as soon as it may be heard. For more information on the Applications please refer to [www.co.bingham.id.us/planning\\_zoning/planning\\_zoning.html](http://www.co.bingham.id.us/planning_zoning/planning_zoning.html)

The following Public Hearing Applications will be heard:

1. PARRIS SUBDIVISION, 1-LOT SUBDIVISION & AMENDMENT TO THE COMPREHNSIVE PLAN MAP FROM AGRICULTURE TO RESIDENTIAL/ RESIDENTIAL AGRICULTURE, (ACTION ITEM: RECOMMENDATION) Property Owner: Alejandra Margarita, approx. location: 772 W 250 N, Blackfoot, Parcel No. RP0185906 T2S, R34 E, Sec 23, approx. 1.19 acres

2. LOREN & HOLLI LUND, CONDITIONAL USE PERMIT: TEMPORARY SECOND DWELLING FOR MEDICAL HARDSHIP (ACTION ITEM: DECISION) Property Owners: Loren & Holli Lund, approx. Location: 787 E 1500 N, Shelley, Parcel No. RP8127300, T1N, R37E, Sec 20, approx. 1 acre

3. 1st AMENDED REPLAT OF TEEPLES-BERGESON RIVERVIEW ACRES TO BE KNOWN AS BRENT DEW SUBDIVISION, 2-LOT SUBDIVISION (ACTION ITEM: RECOMMENDATION) Property Owner: Fredrick Beasley, approx. location: 619 W Hwy 39, Blackfoot, Parcel No. RP8039600, T3S, R34E, Sec 1, approx. 1.50 acres

All persons interested or persons who are affected are invited to attend said Public Hearings to show cause, if any, if the requested Applications meet Bingham County Code and may give testimony in favor, neutral, or in opposition of said requests. According to Bingham County Code Section 10-3-6(7) no more than two pages of written testimony will be accepted less than eight calendar days before a hearing. Written testimony can be provided via mail at 490 N. Maple, Suite A, Blackfoot, ID 83221 or by email at [planningtestimony@binghamid.gov](mailto:planningtestimony@binghamid.gov) Individuals who need accessible communications or other accommodations in order to participate are invited to make their needs known to the Bingham County Clerk, 3 to 5 days in advance. ADA/504 Compliance.

Dated 6th day of February, 2023.

**Tiffany G. Olsen**  
Tiffany G. Olsen

Planning & Development Director  
Bingham County, Idaho

Published: February 10th, 2023 (BNC26092-332074)

## Shelley Government Agency Notice

Company Name	Attention	Address	City	St	Zip
Bingham County Appraisal					
Bingham County Assessor					
Bingham County Public Works		245 N 690 W	Blackfoot	ID	83221
Bingham County Sheriff					
Bingham County Surveyor					
Bingham County Treasurer					
Bureau of Land Management	Land & Realty	4350 S. Cliffs Dr.	Pocatello	ID	83204
Bureau of Land Management	Land & Realty	1405 Hollipark Dr.	Idaho Falls	ID	83401
Bureau of Reclamation	Laura Crandall	470 22nd Street	Heyburn	ID	83336
City of Shelley	Mayor/City Council	101 E. Emerson	Shelley	ID	83274
Department of Environmental Quality	Allan Johnson	444 Hospital Way #300	Pocatello	ID	83201
Department of Water Resources	Jared Adamson	900 N. Skyline Dr. #A	Idaho Falls	ID	83401
Eastern Idaho Regional Waste Water Authority	Scott Barry	618 E 1250 N	Shelley	ID	83274
Firth School District	Superintendent	319 Lincoln	Firth	ID	83236
Firth/Shelley Fire District	Randy Adams	924 E 1400 N	Shelley	ID	83274
Idaho Department of Lands	Pat Brown	3563 Ririe Highway	Idaho Falls	ID	83401
Idaho Department of Transportation	Eric Staats	5151 S. 5th Ave	Pocatello	ID	83204
Idaho Fish & Game	Becky Johnson	1345 Barton Rd	Pocatello	ID	83201
Idaho Irrigation District		496 E. 14th Street	Idaho Falls	ID	83404
Intermountain Gas Co	Pocatello Marketing	12584 N Tyhee Rd.	Pocatello	ID	83202
New Lavaside Canal	Von Cornelison	66 E. River Rd.	Blackfoot	ID	83221
New Sweden Irrigation		2350 W 17th S	Idaho Falls	ID	83402
People's Canal		1050 W. Hwy 39	Blackfoot	ID	83221
Qwest Engineering	Jon Davidson	930 W. Cedar St	Pocatello	ID	83201
Rocky Mountain Power	Bill Brabec	852 E. 1400 N.	Shelley	ID	83274
Shelley Post Office	Postmaster	244 W Pine	Shelley	ID	83274
Shelley School District	Superintendent	545 Seminary Ave	Shelley	ID	83274
Snake River Valley Irrigation		P.O. Box 70	Basalt	ID	83218
Southeastern Idaho Public Health	Ken Keller	145 W. Idaho Street	Blackfoot	ID	83221
United Canal Co.		762 W Hwy 39	Blackfoot	ID	83221
United Canal Company	Spencer Larsen	864 W 650 N	Blackfoot	ID	83221
Woodville Canal Co		7475 S 35 W	Idaho Falls	ID	83402
Woodville Water & Sewer District	Maureen Anderson	704 E 1550 N	Shelley	ID	83274

**33 Government Agencies**

**Exhibit  
S-17**



## Shelley Government Agency Notice

### NOTICE OF MAILING

I hereby certify on February 8, 2023 I, Addie Jo Harris, personally mailed notice of the proposed request to the above named Government Agencies

*Addie Jo Harris*

\_\_\_\_\_  
Addie Jo Harris,  
Assistant Director/Lead Planner

Exhibit  
S-17








**LOREN & HOLLI LUND - 2ND TEMPORARY DWELLING - AERIAL MAP**



**LEGEND**

-  Lund - CUP
-  Parcels
-  Roads

**EXHIBIT S-6**





**PROPERTY OWNERS LIST  
LOREN LUND CUP**

OWNER	ADDRESS	CITY   STATE   ZIP
BRIGHAM & CORISSA BURNETT	779 E 1500 N	SHELLEY ID 83274-0000
CANNON SHELLEY PROP LTM PTN	1470 N 750 E	SHELLEY ID 83274-0000
DONALD KIRKHAM & KIRKHAM FAMILY TRUST	788 E 1500 N	SHELLEY ID 83274-1755
DUSTY & KELSEY DANSIE	793 E 1500 N	SHELLEY ID 83274-0000
HARRY & RHONDA TAYLOR	783 E 1500 N	SHELLEY ID 83274-0000
IVAN & LORI JOLLEY	791 E 1500 N	SHELLEY ID 83274-0000
LOREN & HOLLI LUND	787 E 1500 N	SHELLEY ID 83274-0000
MCKAY & MADELINE CANNON	780 E 1500 N	SHELLEY ID 83274-0000
STEVEN KIRKHAM & KIRKHAM REVOCABLE TRUST	792 E 1500 N	SHELLEY ID 83274-0000

**9 PROPERTY OWNERS**

**NOTICE OF MAILING**

I hereby certify on February 8, 2023 I, Addie Jo Harris, personally mailed notice of the proposed request to the above named property owners who are within 300 feet of the property in question.

*Addie Jo Harris*

Addie Jo Harris  
Assistant Director/Lead Planner

**Exhibit  
S-18**



  
**BINGHAM COUNTY**  
**PLANNING & DEVELOPMENT SERVICES**

**NOTICE TO PROPERTY OWNERS WITHIN 300 FEET  
PER BINGHAM COUNTY CODE 10-3-6**

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**BINGHAM COUNTY  
NOTICE OF PUBLIC HEARING**

**NOTICE IS HEREBY GIVEN** that the Bingham County Planning & Zoning Commission will hold a Public Hearing **MARCH 8, 2023** in Courtroom #1, Bingham County Courthouse, 501 N. Maple, Blackfoot, Idaho. The meeting will start at 7:00 pm or as soon as it may be heard. Please refer to our website to see the order of the meeting and for more information on the Application.

THE PLANNING & ZONING COMMISSION MEETING WILL BE LIVE STREAMED VIA ZOOM FOR AUDIO PURPOSES ONLY, UNLESS OTHERWISE PRE-APPROVED BY THE PLANNING & DEVELOPMENT DIRECTOR. ALL INDIVIDUALS WISHING TO PROVIDE PUBLIC TESTIMONY MUST BE PRESENT AT THE PUBLIC HEARING TO DO SO – TESTIMONY VIA ZOOM WILL NOT BE RECEIVED.

The following Application will be heard:

**LOREN AND HOLLI LUND, CONDITIONAL USE PERMIT: TEMPORARY SECOND DWELLING FOR MEDICAL HARDSHIP (ACTION ITEM: DECISION)** Loren and Holli Lund are requesting a Conditional Use Permit allowing the continued use of a previously approved Temporary Secondary Dwelling (granted for their parents Daines and Joyce Lund in 2018), 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. 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.

**Approx. Location: 787 E 1500 N, Shelley, Idaho 83274, Parcel Nos. RP8127300 & RP0455914, Township 1N, Range 37E, Section 20, consisting of approx. 1.13 acres**

All persons interested or persons who are affected are invited to attend said Public Hearing to show cause, if any, if the requested Application meets Bingham County Code and may give testimony in favor, neutral or in opposition of said request. According to Bingham County Code Section 10-3-6(7), no more than two pages of written testimony will be accepted less than eight calendar days before a hearing. You may mail at 501 N. Maple (Box 203), Blackfoot, ID 83221 or by email at [planningtestimony@binghamid.gov](mailto:planningtestimony@binghamid.gov) Individuals who need accessible communications or other accommodations in order to participate are invited to make their needs known to the Bingham County Clerk, 3 to 5 days in advance. ADA/504 Compliance.

Dated this 7<sup>th</sup> day of February, 2023.



Addie Jo Harris  
Assistant Director/Lead Planner

**Exhibit  
S-18**



**LOREN & HOLLI LUND - 2ND TEMPORARY DWELLING - AERIAL MAP**



**EXHIBIT S-6**

0 0.050.1 0.2 Miles

**LEGEND**

-  Lund - CUP
-  Parcels
-  Roads







444 Hospital Way #300  
Pocatello, ID 83201 • (208) 236-6160



Brad Little, Governor  
Jess Byrne, Director

February 13, 2023

Ms. Addie Jo Harris, Planner  
*planningtestimony@co.bingham.id.us*  
Bingham County Planning & Zoning  
501 N. Maple #203  
Blackfoot, ID 83221

Subject: Conditional Use Permit – Temporary Second Dwelling for Medical Hardship – Lund

Dear Ms. Harris:

The Idaho Department of Environmental Quality (DEQ) has reviewed the subject document and would like to offer our general recommendations for land development projects (attached).

If you have questions or comments, please contact me at (208) 236-6160 or via email at *Allan.Johnson@deq.idaho.gov*.

Sincerely,

A handwritten signature in blue ink, appearing to read "Allan Johnson".

Allan Johnson, P.E.  
Regional Engineering Manager  
DEQ Pocatello Regional Office

EDMS# 2023AGD989

Attachments: DEQ General Recommendations for Land Development Projects.

c: Katy Bergholm, Regional Administrator, DEQ Pocatello Regional Office  
Tiffany Olsen, Bingham County Planning & Development Director

Exhibit  
T-2



## **General Recommendations**

The following comments are generally applicable to land development projects or other land use activities with the potential to cause impacts to ground water, air quality or surface water. DEQ provides this guidance in lieu of more site-specific comments when information regarding the land use proposal is limited.

### **Engineering**

DEQ recommends consolidation of drinking water and/or wastewater services wherever feasible especially in areas where ground water used for public drinking water supplies is potentially impacted. DEQ considers the following alternatives generally more protective of ground water resources than using individual well and septic systems for each lot, and we recommend that the county require the developer to investigate the following options:

- Provide either a centralized, community drinking water or centralized community wastewater system or both, or
- Connect each lot to an existing community drinking water system or to an existing community wastewater system or both.

In accordance with Idaho Code 39-118, construction plans & specifications prepared by a professional engineer are required for DEQ review and approval prior to construction if the proposed development is to be served by either a community drinking water or sewer system. DEQ requires that a water system serving 10 or more connections is constructed and operated in compliance with IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems."

### **Air Quality**

New emission sources are generally required to follow applicable regulations for permitting or exempting new sources. These are outlined in the Rules for the control of Air Pollution in Idaho.

Of particular concern is IDAPA 58.01.01.200-228 which establishes uniform procedures and requirements for the issuance of "Permits to Construct".

Sections 58.01.01.220-223 specifically may be used by owners or operators to exempt certain sources from the requirements to obtain a permit to construct.

Land development projects are generally required to follow applicable regulations outlined in the Rules for the control of Air Pollution in Idaho. Of particular concern is IDAPA 58.01.01.650 and 651 Rules for Control of Fugitive Dust.

Section 650 states, "The purpose of sections 650 through 651 is to require that all reasonable precautions be taken to prevent the generation of fugitive dust."

Section 651 states "All reasonable precautions shall be taken to prevent particulate matter from becoming airborne. In determining what is reasonable, consideration will be given to factors such as the proximity of dust emitting operations to human habitations and/or activities and atmospheric conditions which might affect the movement of particulate matter. Some of the reasonable precautions may include, but are not limited to, the following:

01. Use of Water or Chemicals. Use, where practical, of water or chemicals for control of dust in the demolition of existing building or structures, construction operations, the grading of roads, or the clearing of land.

02. Application of Dust Suppressants. Application, where practical of asphalt, oil, water, or suitable chemicals to, or covering of dirt roads, materials stockpiles, and other surfaces which can create dust.

03. Use of Control Equipment. Installation and use, where practical, of hoods, fans and fabric filters or equivalent systems to enclose and vent the handling of dusty materials. Adequate containment methods should be employed during sandblasting or other operations.
04. Covering of Trucks. Covering, when practical, open bodied trucks transporting materials likely to give rise to airborne dusts.
05. Paving. Paving of roadways and their maintenance in a clean condition, where practical.
06. Removal of Materials. Prompt removal of earth or other stored materials from streets, where practical.”

### **Surface Water Quality**

Land disturbance activities associated with development (i.e. - road building, stream crossings, land clearing) have the potential to impact water quality and riparian habitat.

If this project will ultimately disturb one or more acres and there is a possibility of discharging stormwater or site dewatering water to Surface Waters of the United States, the operator may need to submit a Notice of Intent (NOI) for coverage under the Idaho Pollutant Discharge Elimination System (IPDES) 2022 Construction General Permit (CGP). NOIs can be submitted via the IPDES E-Permitting System (<https://www2.deq.idaho.gov/water/IPDES/>). The 2022 IPDES CGP requires a Storm Water Pollution Prevention Plan (SWPPP), implementation of Best Management Practices (BMPs) to reduce the sediment and other pollutants discharged and requires regular site inspections by persons trained and knowledgeable about erosion, sediment control, and pollution prevention.

Site contractors should remove equipment and machinery from the vicinity of the waterway to an upland location prior to any refueling, repair, or maintenance. After construction is completed, disturbed riparian areas should be re-vegetated.

### **Waste Management - Hazardous Material - Petroleum Storage**

With the increasing population in southeast Idaho, to ensure sufficient solid waste capacity and service availability. It is recommended that subdivision developers be instructed to contact the appropriate solid waste collection provider and landfill for solid waste disposal coordination.

Accidental surface spills of hazardous material products and petroleum hydrocarbon products (i.e., fuel, oil, and other chemicals) are most associated with the transportation and delivery to work sites or facilities. The following Idaho, storage, release, reporting and corrective action regulations may be applicable:

- Hazardous and Deleterious Material Storage IDAPA 58.01.02.800
- Hazardous Material Spills, IDAPA 58.01.02.850
- Rules and Standards for Hazardous Waste IDAPA 58.01.05
- Petroleum Release Reporting, Investigation and Confirmation IDAPA 58.01.02 .851
- Petroleum Release Response and Corrective Action IDAPA 58.01.02.852

Please note, The Idaho Release, Reporting and Corrective Action Regulations, IDAPA 58.01.02.851; require notification within 24 hours of any spill of petroleum product greater than 25 gallons and notification for the release of lesser amounts if they cannot be cleaned up within twenty-four (24) hours. The cleanup requirements for petroleum are also contained in these regulations.

For reporting requirements of hazardous substances please see Idaho Statute Title 39 Chapter 7, Hazardous Substance Emergency Response Act including section 39-7108 Notification of Release is Required.



# BINGHAM COUNTY PLANNING & DEVELOPMENT SERVICES

To: City of Shelley  
Mayor/City Council

February 7, 2023

**NOTICE IS HEREBY GIVEN** that the Bingham County Planning & Zoning Commission will hold a Public Hearing on **March 8, 2023** in Courtroom #1, Bingham County Courthouse, 501 N. Maple, Blackfoot, Idaho. The meeting will start at 7:00 pm or as soon as it may be heard.

**LOREN AND HOLLI LUND, CONDITIONAL USE PERMIT: TEMPORARY SECOND DWELLING FOR MEDICAL HARDSHIP (ACTION ITEM: DECISION)** Loren and Holli Lund are requesting a Conditional Use Permit allowing the continued use of a previously approved Temporary Secondary Dwelling (granted for their parents Daines and Joyce Lund in 2018), 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. 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.

**Approx. Location: 787 E 1500 N, Shelley, Idaho 83274, Parcel Nos. RP8127300 & RP0455914, Township 1N, Range 37E, Section 20, consisting of approx. 1.13 acres**

PLEASE EMAIL COMMENTS AND/OR QUESTIONS TO THE BINGHAM COUNTY PLANNING & DEVELOPMENT DEPARTMENT AT [planningtestimony@binghamid.gov](mailto:planningtestimony@binghamid.gov) AS SOON AS POSSIBLE AND NO LATER THAN **FEBRUARY 20, 2023**. THANK YOU.

*No concerns or comments.*

Exhibit  
T-3

## Mariela Mejia

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**To:** Addie Jo Jackman  
**Subject:** RE: March Hearing Items

**From:** Jordyn Nebeker <[JNebeker@binghamid.gov](mailto:JNebeker@binghamid.gov)>  
**Sent:** Monday, February 27, 2023 10:42 AM  
**To:** Addie Jo Jackman <[AJackman@binghamid.gov](mailto:AJackman@binghamid.gov)>  
**Subject:** RE: March Hearing Items

Nothing of concern on this end. Thanks for reaching out!

**From:** Addie Jo Jackman <[AJackman@binghamid.gov](mailto:AJackman@binghamid.gov)>  
**Sent:** Monday, February 27, 2023 10:26 AM  
**To:** Jeff Gardner <[JGardner@binghamid.gov](mailto:JGardner@binghamid.gov)>; Jordyn Nebeker <[JNebeker@binghamid.gov](mailto:JNebeker@binghamid.gov)>  
**Cc:** Tiffany Olsen <[TOLsen@binghamid.gov](mailto:TOLsen@binghamid.gov)>; Mariela Mejia <[MMejia@binghamid.gov](mailto:MMejia@binghamid.gov)>  
**Subject:** March Hearing Items

Happy Monday Sherriff Gardner & Chief Deputy Nebeker,

Does the Sheriff's Office have any concerns or response regarding the 3 hearing items for March? I have attached the Agenda for a quick and simple review if needed.

Thank you,



**Addie Jo Harris**  
Assistant Director & Lead Planner

Bingham County Planning & Development  
490 North Maple Street, Suite A  
Blackfoot, ID 83221  
Direct: 208-782-3182

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