



Cynda Herrick, AICP, CFM
VALLEY COUNTY
IDAHO

Planning & Zoning Administrator
Floodplain Coordinator

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STAFF REPORT
Vacation Application 20-01
Vacation of Portion of Cheyenne Road

MEETING DATE: January 11, 2021
TO: Board of County Commissioners
STAFF: Cynda Herrick, AICP, CFM
APPLICANT: Ron and Judy Boyd
12475 Landou Way
Nampa, ID 83686
LOCATION: Within Smiling Julie Subdivision, located between Julie Lane and Lots 37B and 47 in the SENE Section 19, T.16N, R.3E, Boise Meridian, Valley County, Idaho.
REQUEST: Vacate Platted Road Right-of-Way
EXISTING LAND USE: Bare Land

BACKGROUND:

Ron and Julie Boyd are requesting a vacation of a public road right-of-way that was platted as part of Smiling Julie Subdivision, which was recorded on September 14, 1959, at Book 2, Page 26. The road has not been constructed.

The requested vacation is for the portion of Cheyenne Road between Julie Lane and Lots 37B and 47 (see attached plat). All nine (9) adjoining lots have access from roads that have been constructed.

If the road right-of-way is vacated, the land would become the property of the adjoining owners. The application includes signatures from the property owners of the nine adjoining lots stating they are in favor of the road vacation and are willing to accept the adjacent property.

The road right-of-way is on a timbered hillside. Approximately 300-ft of the northern portion of the road has a driveway constructed within the right-of-way in order to access Lot 37B.

FINDINGS:

1. At a properly noticed public hearing on November 12, 2020, the Valley County Planning and Zoning Commission unanimously recommended approval of the proposed vacation. (Facts and Conclusions attached.)
2. Legal notice was posted in the *Star News* on December 17, and December 24, 2020. Potentially affected agencies were notified on December 11, 2020. Neighbors within 300 feet of the property line were notified by fact sheet sent December 11, 2020 via certified mail. The site was posted on December 29, 2020. The notice and application were posted online at www.co.valley.id.us/public-hearing-information on December 14, 2020.
3. Agency comment received:

(from P&Z Meeting)

Donnelly Rural Fire Protection District has no comments or concerns. (Aug. 26, 2020 and Oct. 19, 2020)

Central District Health has no objection provided access is still afforded to all lots. (Oct. 13, 2020)

4. Neighbor comment received:

(from P&Z Meeting)

(Telephonic testimony on November 12, 2020) Joy Hart, Smiling Julie Subdivision, Lot 24, said that access from Julie Lane is steep. She would prefer to access her property from Cheyenne RD once it has been built.

C. Joy, Libery Joy, Jonathan Long, and Carla Long recently purchased Smiling Julie Lot 40. They are in favor of the vacation of the unbuilt portion of the road and are willing to accept the property addition when the right-of-way is vacated. (Oct. 24, 2020)

5. Valley County Code:

10-6-2: VACATIONS OF PLATS, PUBLIC RIGHTS OF WAY OR EASEMENTS:

- A. Filing Of Application Required: An applicant wishing to vacate an existing subdivision, portion thereof, public right of way, or easement shall complete and file with the administrator an "application for total or partial vacation of an existing subdivision or other public right of way". This action shall be supplemental to, and in no way in conflict with, the applicant's obligation to comply with the provisions contained in Idaho Code sections 50-1317 through 50-1325.

- B. Placement On Commission Agenda: Upon receipt of the completed application, the administrator shall place said application on the agenda of the commission to be considered at its next regular meeting, subject to the same time limits prescribed for preliminary plat applications.
- C. Commission Review: The commission shall review the proposed vacation with regard to future development of the neighborhood. The commission shall also take into consideration the interests of adjacent property owners, of utilities, and of various public agencies where pertinent to the application.
- D. Commission Recommendation: Within ten (10) days, the commission shall make its recommendation concerning the application to the board who shall hold a public hearing and give such public notice as required by law.
- E. Board Action: The board may approve, deny or modify the application and shall record its action in the official minute book of the meetings of the board. Whenever public rights of way or lands are vacated, the board shall provide adjacent property owners with a quitclaim deed, as prepared by the applicant, for said vacated rights of way in such proportions as are prescribed by law. (Ord. 10-07, 8-26-2010)

SUMMARY:

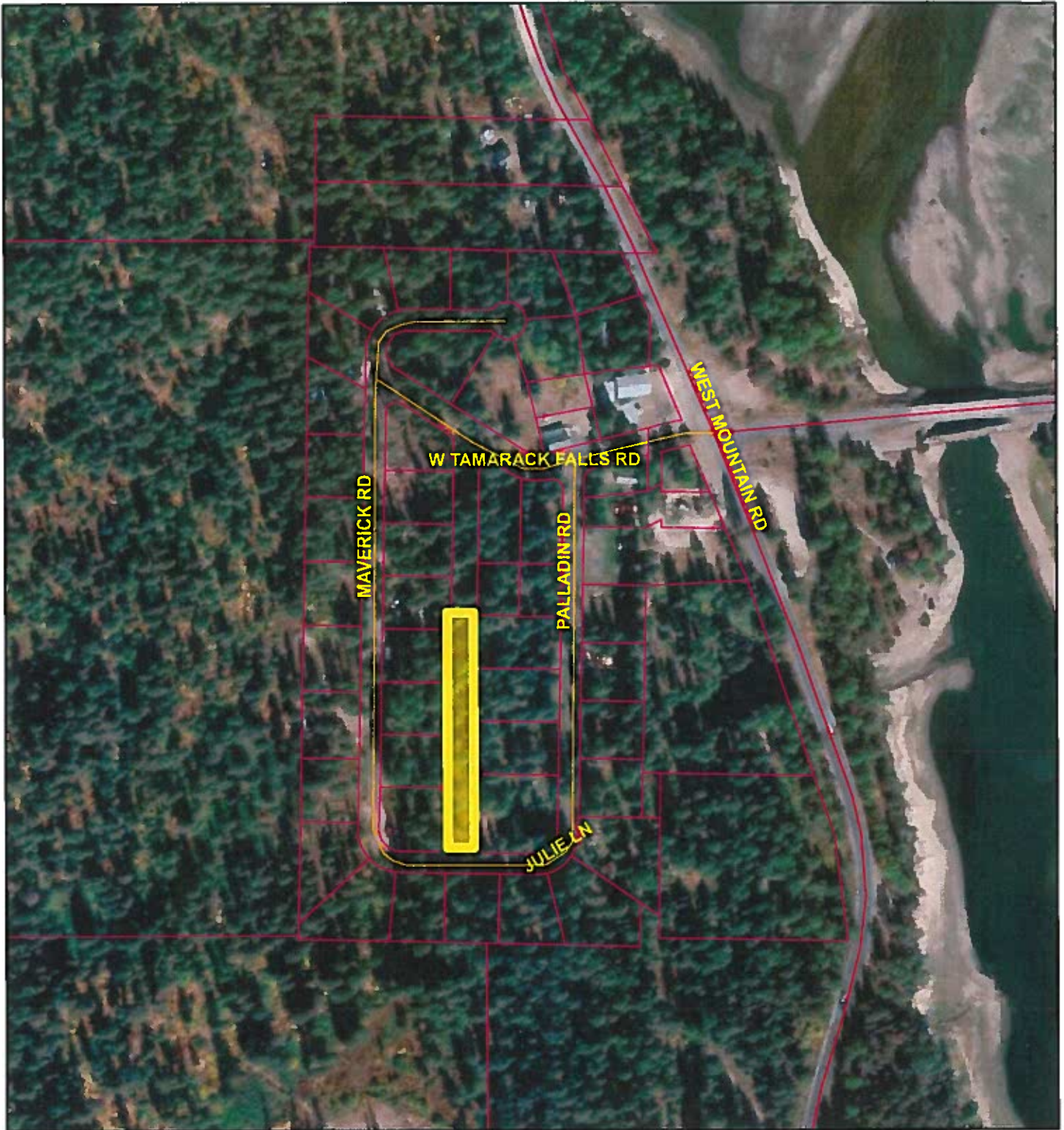
- Recommended Motion: I move to approve Vacation 20-01 Vacation of Portion of Cheyenne Road in the manner as recommended by the Planning and Zoning Commission, accept their Facts & Conclusions as our own, approve Resolution No. 21-04, and authorize the Chairman to sign the deeds when prepared.
- Deeds will need to be prepared by the applicant in order to convey the property along this portion of Cheyenne Road to the nine adjacent property owners.

ATTACHMENTS:

- Vicinity Map
- Assessor's Plat T.16N R.3E Section 16
- Portion of Accessor's Plat with requested vacation highlighted
- Pictures
- Facts and Conclusions
- Meeting Minutes of Nov. 12, 2020
- Responses

END STAFF REPORT

VAC 20-01 - portion of Cheyenne Road



9/28/2020, 11:18:40 AM

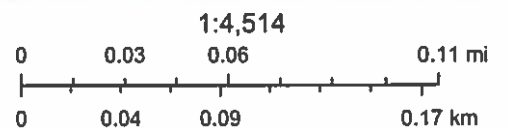


Parcel Boundaries Roads

All Road Labels

COLLECTOR

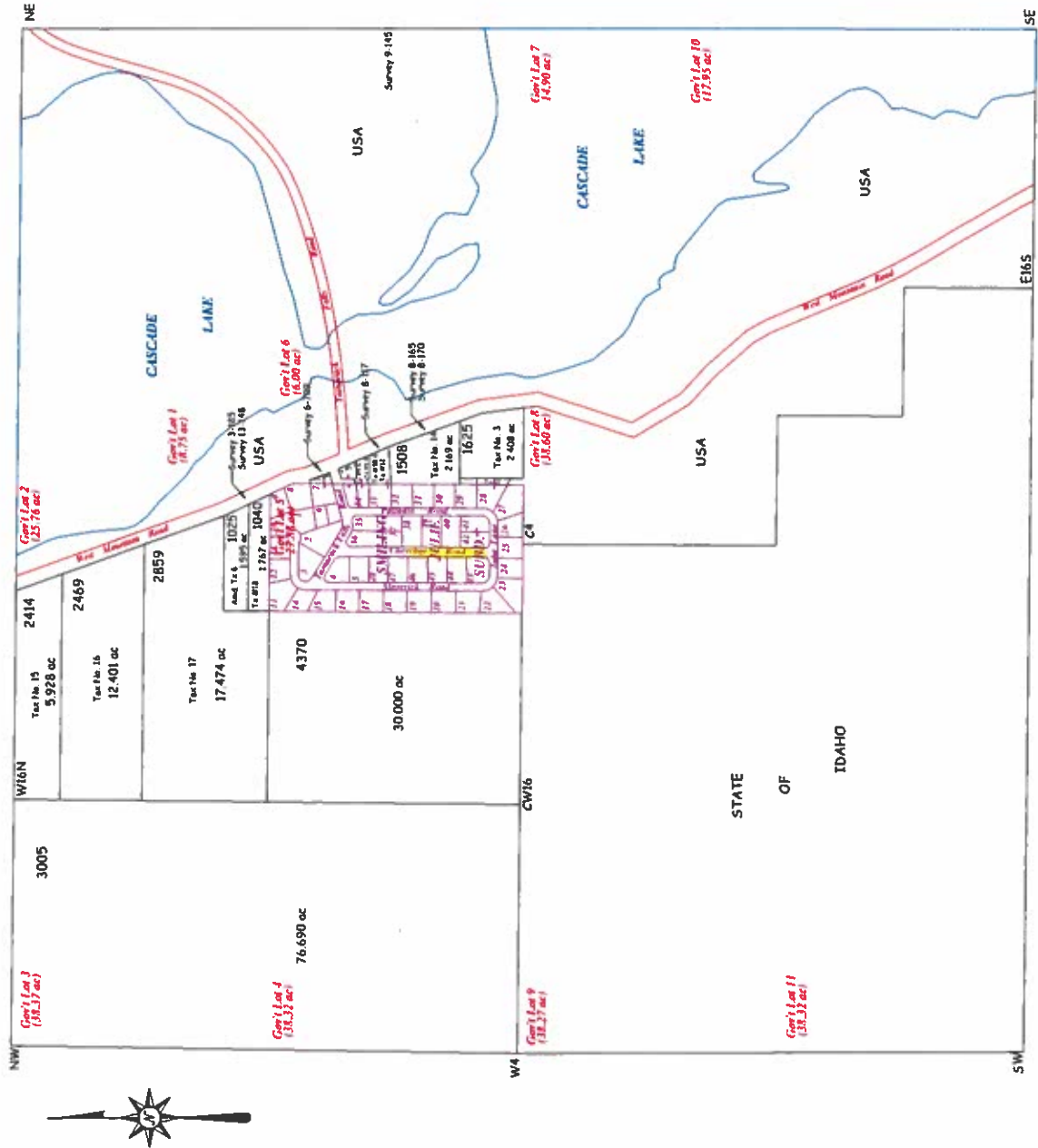
URBAN/RURAL

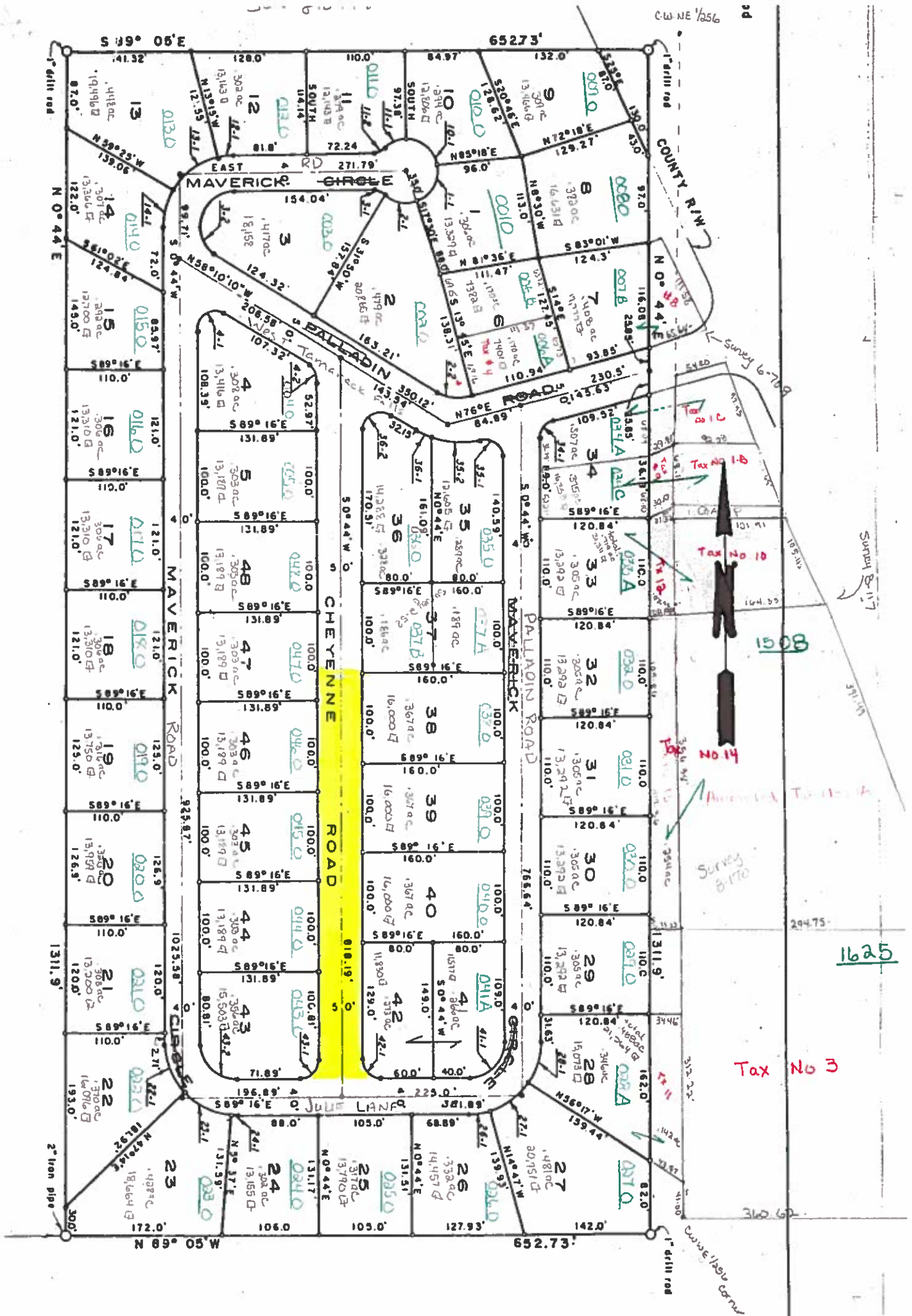


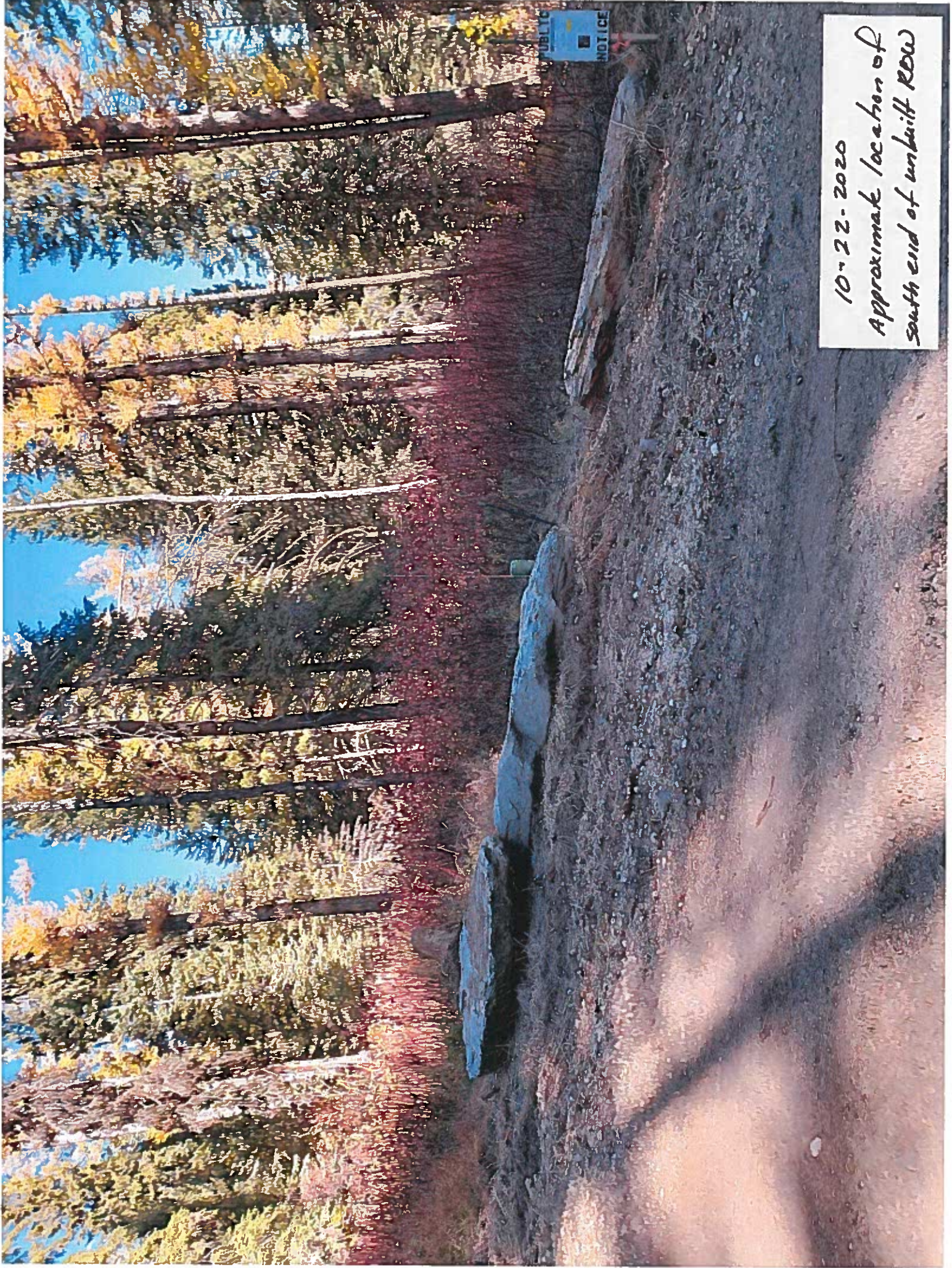
Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

TWP. 16N R03E SEC. 19

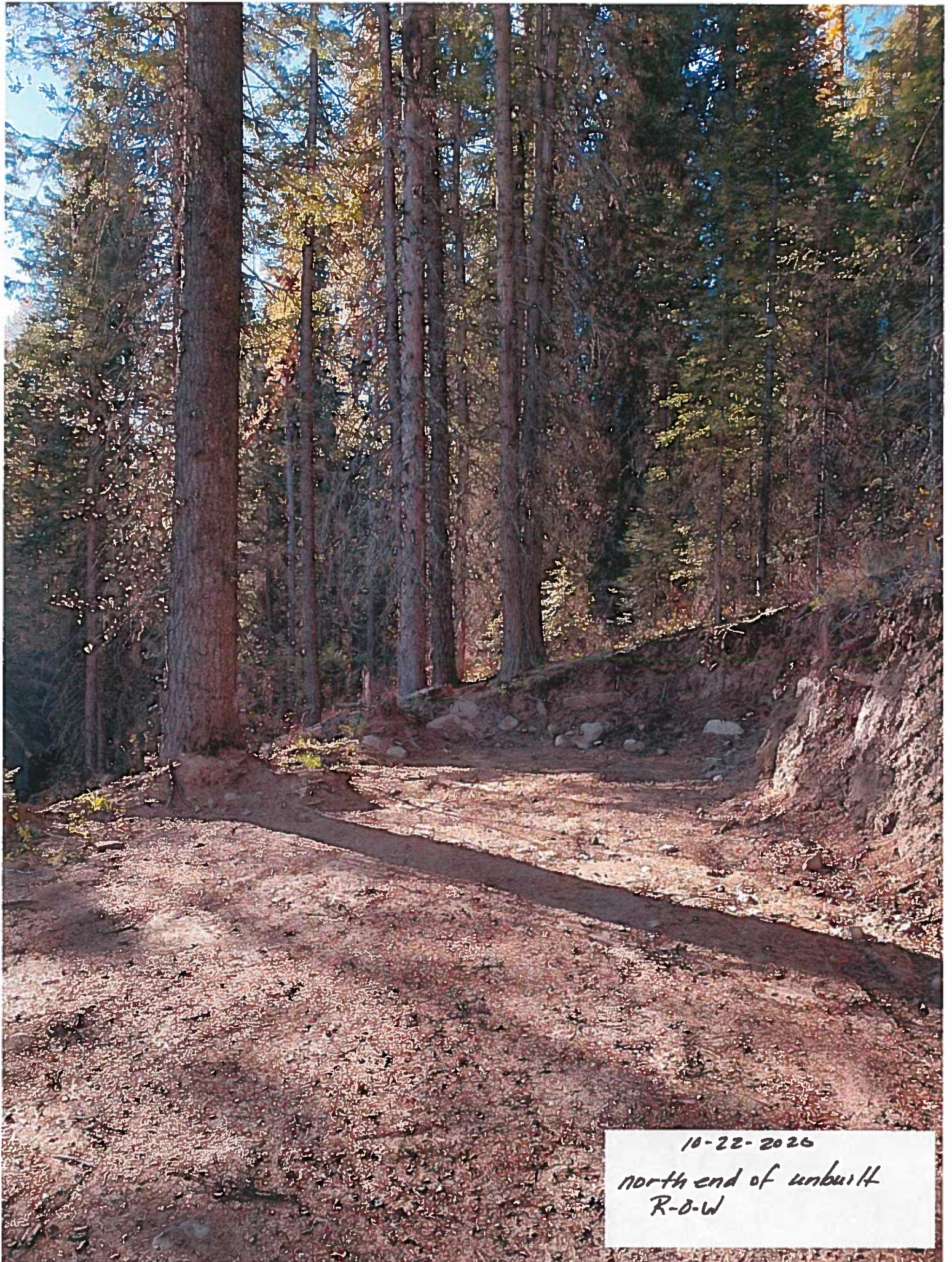
Filename:	H:\pbrnt\Valley County Base Map
Scale:	1" = 400 ft.
Date:	8/8/18
Drawn by:	L. Frederick







10-22-2020
Approximate location of
south end of unbuilt ROW



10-22-2020
north end of unbuilt
R-O-W



South end of ROW-
12-29-2020

**FINDINGS OF FACT AND CONCLUSIONS OF LAW BEFORE
THE VALLEY COUNTY PLANNING AND ZONING COMMISSION**

SUBJECT: Vacation Application No. VAC 20-01
Portion of Cheyenne RD
in Smiling Julie Subdivision

INTRODUCTION

This matter came before the Valley County Planning and Zoning Commission on November 12, 2020. The Commission reached a quorum. Commission members in attendance were Chairman Johanna Defoort, Scott Freeman, Ray Cooper, Brian Benton and Neal Thompson.

The applicants, Ron and Judy Boyd, were present and requesting a vacation of a road right-of-way that was platted as part of Smiling Julie Subdivision, which was recorded on September 14, 1959, at Book 2, Page 26. The portion to be vacated would be between Julie Land, and Lot 37B and Lot 47 (drawing attached).

FINDINGS OF FACT

Having given due consideration to the application and evidence presented on November 12, 2020, the Valley County Planning and Zoning Commission hereby makes the following findings of fact:

1. That the existing use of the property described in the Petition will not affect the future development of the adjacent neighbors or neighborhood.
2. That the proper legal requirements for advertisement of the hearing have been fulfilled as required by the Valley County Land Use and Development Ordinance and by the Laws of the State of Idaho.

Legal notice was posted in the *Star News* on October 22 and October 29, 2020. Potentially affected agencies were notified on October 13, 2020. Neighbors within 300 feet of the property line were notified by fact sheet sent October 14, 2020 via certified mail. The site was posted on October 22, 2020. The notice and application were posted online at www.co.valley.id.us/public-hearing-information on October 13, 2020.

3. Other persons in attendance (telephonically) expressed disapproval of the proposed vacation.

CONCLUSIONS

Based on the foregoing findings, the Valley County Planning and Zoning Commission concludes, as follows:

1. That the proposed use is in harmony with the general purpose of Valley County ordinances and policies and would not be otherwise detrimental to the public health, safety and welfare.
2. Future development of the subdivision will not be inhibited by the vacation.

ORDER

The Valley County Planning and Zoning Commission, pursuant to the aforementioned, recommends to the Board of County Commissioners that the application of Ron and Judy Boyd, for Vacation No. 20-01 Vacation of a Portion of Cheyenne RD, as described in the application, staff report, and minutes of the meeting be approved.

END FACTS AND CONCLUSIONS

Johann Defoort, Chairman

Date

Valley County Planning & Zoning Commission

PO Box 1350
219 North Main Street
Cascade, ID 83611-1350



Phone: 208-382-7115
Fax: 208-382-7119
Email: cherrick@co.valley.id.us
Website: www.co.valley.id.us

Johanna Defoort, Chairman
Scott Freeman, Vice-Chair

Brian Benton, Commissioner
Ray Cooper, Commissioner
Neal Thompson, Commissioner

MINUTES

Valley County Planning and Zoning Commission
November 12, 2020
Valley County Court House - Cascade, Idaho
PUBLIC HEARING - 6:00 p.m.

A. OPEN: Meeting called to order at 6:00 p.m. Quorum exists.

P&Z Administrator – Cynda Herrick:	Present
P&Z Commissioner – Brian Benton:	Present
P&Z Commissioner – Ray Cooper:	Present
P&Z Commissioner – Johanna Defoort:	Present
P&Z Commissioner – Scott Freeman:	Present
P&Z Commissioner – Neal Thompson:	Present
P&Z Technician – Lori Hunter:	Present

Chairman Defoort explained tonight's public hearing procedures which are based on the Governor's current requirements for Covid-19. The public can livestream the meeting and may testify either in person or telephonically.

B. MINUTES: Commissioner Freeman moved to approve the minutes of October 8, 2020.
Commissioner Benton seconded the motion. Motion carried unanimously.

C. OLD BUSINESS:

- 1. C.U.P. 05-03 Blackhawk on the River 1, 2, and 3 – Final Plat:** Blackhawk on the River LLC is requesting final plat approval to reestablish portions of Blackhawk PUD Subdivision plat. This would partition the lots into the original platted lots that were recorded in 2006. The commission will review the final plat to determine conformance with the PUD final plat and approved densities. The site is located in Sections 25 and 36, T.18N, R.2E, and Section 30, T.18N, R.3E, Boise Meridian, Valley County, Idaho. [Not a public hearing.] Action Item.

Chairman Defoort introduced the item. Administrator Herrick presented the staff report.

7:00 p.m.

2. **VAC 20-01 Vacation of Portion of Cheyenne Road:** Ron and Julie Boyd are requesting a vacation of a public road right-of-way that was platted but has not been constructed. If vacated the land would become the property of the adjoining owners. The road right-of-way portion is within Smiling Julie Subdivision, located between Julie Lane and Lots 37B and 47 in the SENE Section 19, T.16N, R.3E, Boise Meridian, Valley County, Idaho. Action Item.

Chairman Defoort introduced the item and opened the public hearing. Chairman Defoort asked if there was any *ex parte* contact or conflict of interest. There was none.

Chairman Defoort asked for the Staff Report. Administrator Herrick presented the staff report. The lots cannot be split due to small size.

Chairman Defoort asked for the applicant's presentation.

Judy Boyd, Nampa, is asking to vacate the unbuilt portion of the road. All adjoining property owners have agreed to accept the property if vacated. If the vacation is approved, Joel Droulard of Droulard Land Surveying has agreed to do the required survey and associated deed paperwork to transfer the land from Valley County to the adjoining property owners. The terrain is quite steep.

Chairman Defoort asked for proponents. There were none.

Chairman Defoort asked for undecided. There were none.

Chairman Defoort asked for opponents.

Joy Hart, Smiling Julie Subdivision Lot 24, said access from Julie Lane is steep. She would prefer to access her property from Cheyenne Road once it has been built.

Administrator Herrick confirmed that a property owner would be required to pay for the cost of road construction.

Chairman Defoort asked for rebuttal.

Judy Boyd stated that regardless of how Ms. Hart gets to her property, there will be a steep road to access her property; both Julie Lane and West Tamarack Road are steep. Therefore, there is no advantage of building out Cheyenne Road. The property owners maintain the roads; there is no County winter maintenance. There is not a property owner association. The Boyd's and another lot owner plow Palladin Road at their expense. The portion of Cheyenne Road that is built only accesses Lot 37. Lots in this subdivision include bare lots, cabins, and campers/RVs, the latter which are removed during the winter.

The built portion of the road is used as a driveway; it is not built to County road standards.

Chairman Defoort closed the public hearing.

The Commission deliberated. To finish the remainder of the road to County standards would be costly due to topography, trees, and boulders. Commissioner Benton does not see an

advantage in constructing Cheyenne Road. Commissioner Cooper does not see any adverse impacts to vacating this road right-of-way; everyone will still have access to their lot. The Commissioners agree that the lots are small and this would improve this older subdivision. Regardless of the P&Z recommendation, the Board of County Commission will also hold a public hearing.

Commissioner Benton moved to recommend approval of VAC 20-01 Vacation of Portion of Cheyenne Road to the Board of County Commissioners. Commissioner Cooper seconded the motion. Motion carried unanimously.

Chairman Defoort explained the ten-day appeal period to the Valley County Board of Commissioners.

7:22 p.m.

3. C.U.P. 20-27 Ed Staub Drivers' Office – Amendment to C.U.P. 19-28: Ed Staub and Sons are requesting approval to amend a conditional use permit which allowed a pole building for storage and repair of service and delivery vehicles. The request is to use a portion of the building as an office, bathroom, and kitchenette. Customers do not use this site. The 2.79-acre site is addressed at 13451 Highway 55, located in Big Valley Estates Lot 4, in the SE ¼ Sec. 27, T.17N R.3E, Boise Meridian, Valley County, Idaho. Action Item.

Chairman Defoort introduced the item and opened the public hearing. Chairman Defoort asked if there was any *ex parte* contact or conflict of interest. There was none.

Chairman Defoort asked for the Staff Report. Administrator Herrick presented the staff report. A building permit is required to modify the existing building. Septic approved will be required for the building permit approval.

Chairman Defoort asked for the applicant's presentation.

Dan Dewit , Klamath Falls, Oregon, represented Ed Staub and Sons. They would like to add office space, bathroom, and an employee breakroom to the existing building. There are eight employees, three delivery trucks, and three using the site. Outdoor lighting will be installed; there will be motion lights that meet the light ordinance.

Chairman Defoort asked for proponents. There were none.

Chairman Defoort asked for undecided. There were none.

Chairman Defoort asked for opponents. There were none.

There was no one who wished to testify telephonically.

Chairman Defoort closed the public hearing.

The Commission deliberated. The building is screened from the highway. The employees do need amenities available.



Donnelly Rural Fire Protection District

P.O. Box 1178 Donnelly, Idaho 83615

208-325-8619 Fax 208-325-5081

October 19, 2020

Valley County Planning & Zoning Commission

P.O. Box 1350

Cascade, Idaho 83611

RE: VAC 20-01 Vacation of Portion of Cheyenne Road

After review, the Donnelly Rural Fire Protection District has no comments or concerns on this matter at this time.

Please call 208-325-8619 with any questions.

Jess Ellis

Fire Marshal

Donnelly Fire Department



Donnelly Rural Fire Protection District

P.O. Box 1178 Donnelly, Idaho 83615

208-325-8619 Fax 208-325-5081

August 26, 2020

Valley County Planning & Zoning Commission

P.O. Box 1350

Cascade, Idaho 83611

RE: Cheyenne Road Vacation

After review, the Donnelly Rural Fire Protection District has no comments or concerns on this matter.

Please call 208-325-8619 with any questions.

Jess Ellis

A handwritten signature in blue ink, appearing to read "Jess Ellis".

Fire Marshal
Donnelly Fire Department



Valley County Transmittal
Division of Community and Environmental Health

Return to:

- ☐ Cascade
☐ Donnelly
☐ McCall
☐ McCall Impact
☒ Valley County

Rezone # VAC 20-01 Vacation apartment
Conditional Use # of Cheyenne Road
Preliminary / Final / Short Plat _____
Smoking Judy Sub

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

☒ 14. CDH has no objection to this proposal provided
access is still afforded to all lots.

Reviewed By: [Signature]

Date: 10/13/20

C. Joy, Liberty Joy, Jonathan Long, and Carla Long
6504 E Driver Court
Nampa, ID 83687
208-697-7170 (Jonathan Long)
Idaho4you@gmail.com (Jonathan Long)

October 24, 2020

Cynda Herrick
Planning & Zoning Administrator
PO Box 1350
Cascade, ID 83611
208-382-7115
cherrick@co.valley.id.us (sent via email)

RE: Lot 40 of Smiling Julie Subdivision & Vacation of Cheyenne Road

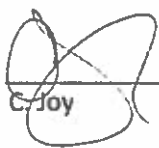
Dear Mrs. Herrick,

Our two families recently purchased lot 40 in the Smiling Julie subdivision with the intent of building a family vacation home. Please accept this letter as our confirmation of the previous owners' (Janice, Linda, and Lynda Kinney) September 28, 2020 letter advising your office that the owners are willing to accept the property addition when the right of way is vacated.

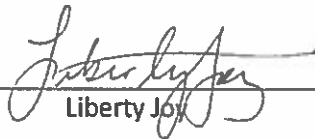
We recognize there is a public hearing on November 12, 2020 at 6:00 p.m. and plan to attend virtually. Please accept this letter as a public comment/recommendation to accept Ron and Julie Boyd's request to vacate the public road right-of-way that was platted, but not constructed.

If you have any questions, please feel free to contact us. Thank you and we appreciate your hard work.


Respectfully,



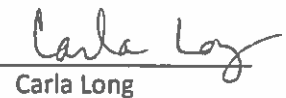
C. Joy



Liberty Joy



Jonathan Long
Genesis Real Estate
Licensed REALTOR®



Carla Long