

# Valley County Planning and Zoning

PO Box 1350 • 219 North Main Street  
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<b>STAFF REPORT:</b>	C.U.P. 22-47 Cryptocurrency Site
<b>HEARING DATE:</b>	December 8, 2022
<b>TO:</b>	Planning and Zoning Commission
<b>STAFF:</b>	Cynda Herrick, AICP, CFM Planning and Zoning Director
<b>APPLICANT / PROPERTY OWNER:</b>	Aleksandr & Lyubov Galenko PO Box 45153 Boise ID 83711
<b>REPRESENTATIVE:</b>	Ilya Galenko 1893 N Swainson AVE Meridian, ID 83646
<b>LOCATION:</b>	219 Ashton Lane Ashton Estates Lot 1 located in the SENW Section 12 T.17N R.3E, Boise Meridian, Valley County, Idaho.
<b>SIZE:</b>	1.93 acres
<b>REQUEST:</b>	<del>Glamping Site for Short Term Rentals</del> Light Industrial
<b>EXISTING LAND USE:</b>	Single-Family Residential Parcel with C.U.P. 16-11

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Aleksandr and Lyubov Galenko are requesting approval of a conditional use permit for a light industry business.

The proposal includes machines, electrical transformer, and use of the existing garage. Outside noise levels would be mitigated through the use of sound paneling around the room. A 10-ft high, three-walled enclosure on the south side of the existing structure would further reduce noise. The applicant states that noise levels were measured at approximately 70dB right outside the window vent; approximately 50dB at 20-ft away from the window vent; and dropping to background levels near the edges of the property.

No water is used or discharged. CO2 fire extinguishers would be available for property handling of any electrical fires. Total BTU output is expected between roughly 200k BRU/hour to 500k BTU/hr. Approximate monthly power usage is 65kw. Utility costs range around \$4000 per month during peak summer hours.

There would be no regular commercial traffic to the site. The remainder of the property would be for residential use. The property owner obtained a building permit in 2022 for an 800-sqft addition onto the existing garage for a Recreation Vehicle.

The 1.9-acre site is addressed at 219 Ashton Lane. Access would be from a shared driveway with two lots in same subdivision accessing Ashton Lane, a public road. The Declaration of

Protective Restrictions and Covenants (Instrument #305114) for Ashton Estates are attached.

## **FINDINGS:**

1. The application was submitted on October 20, 2022.
2. Legal notice was posted in the *Star News* on November 17, 2022, and November 23, 2022. Potentially affected agencies were notified on November 8, 2022. Property owners within 300 feet of the property line were notified by fact sheet sent November 10, 2022. The site was posted on the property on November 22, 2022. The notice and application were posted online at [www.co.valley.id.us](http://www.co.valley.id.us) on November 8, 2022.

3. Agency comment received:

Central District Health has no objections to this proposal. (Nov. 9, 2022)

Garrett de Jong, McCall Fire and EMS Fire Chief, stated that the fire code does not differentiate between a cryptocurrency business and another business, but it would change the occupancy classification from residential to a business occupancy. Had the residential subdivision been platted for business occupancies, the fire district would have required water infrastructure to be installed to meet International Fire Code Standards. In lieu of meeting these requirements, the building should have an automatic fire sprinkler system installed or an operable 30,000-gallon water storage tank for fire protection on site. (Dec. 1, 2022)

4. Public comment received:

### Reasons for Opposition

- Light industry is an inappropriate use within this residential and ranching area.
- Noise Pollution - Noise of high-velocity industrial fans will disturb residents and wildlife. The owner of the adjacent Ashton Estates Lots 2 and 3 states that noise can be clearly heard from their lots over construction noise.
- Energy Consumption - High power usage could result in power disruption or need for Idaho Power to improve infrastructure which costs would be charged to all power users in the area. The PUD is trying to limit impact on power grid by this type of industry in Idaho. (Case No. IPC-E-21-37, Order No. 35428 - Attached and Idaho Power Tariff Schedule 20-High Density Load)
- If approved the size and number of Graphics Processing Units (GPUs) should be noted and limited, with no opportunity for expansion. The application does not state the number of computers; thus, the amount could easily increase without being reported to Valley County.
- Fire Danger - Increased fire risk at an unmanned site. Hand-held fire extinguishers available on site will not be helpful if no one is at the site.
- Crypto mining is a large user of water. What discharge by-products have been identified and how will they be handled? How will the servers be cooled?
- Extensive use of internet bandwidth which will slow down everyone else's use.
- Future expansion of light industry uses in area could be approved based on the compatibility matrix structure.
- Decrease in area property values.
- The applicant seeks to reap huge financial benefits without long-term concern for Valley County. Would result in limited or no benefits to Valley County.
- Appears the southeast corner of the building does not meet minimum setback

requirement. Building code requirements should be examined for the commercial use.

- Application is incomplete.
- Negative impacts and lawsuits reported in United States and Canada.
- Numerous articles and weblinks were cited and/or attached.
- Concerns were mentioned about the applicant's history.

Responses Received From:

1. Kathy Deinhardt Hill and Bob Hill, 14068 Pioneer RD, Nov. 30, 2022
2. Beverly Hellman, 218 Ferguson Way, Nov. 15, 2022
3. Pamela McChrystal, McCall, Nov. 16, 2022, Nov. 17, 2022, and Nov. 21, 2022
4. Jeffrey and Carolyn Wood, owners of 13792 and 13795 Sweet Iron Court, Nov. 18, 2022
5. Dr. J. Mark Jensen and Llona Ney Jensen, 419 Wilhelm Creek CT, Nov. 18, 2022
6. David and Tina Merry, owners of 13797 Sweet Iron CT, Nov. 21, 2022
7. Adam and Laura Busch, 418 Wilhelm Creek CT, Nov. 22, 2022
8. Chris and Nancy Carmine, Jug Mountain Property Owners, Nov. 23, 2022
9. Mark Morgan, 206 Otter Pond CT, Nov. 23, 2022
10. Christina and David Fleming, 13787 and 13789 Sweet Iron CT, Nov. 26, 2022
11. Shelly Scott, Nov. 26, 2022
12. Theresa Irvine, Jug Mountain Ranch, Nov. 28, 2022
13. Jeff Hulse, 210 Little Pond, Nov. 28, 2022
14. Anne Carr, Nov. 28, 2022; Nov. 29, 2022
15. Don and Candy Clements, 215 and 217 Ashton Lane, Nov. 28, 2022
16. Jeanne Mitchell, Nov. 25, 2022
17. Amy and Paul Pemberton, 254 Cold Creek CT, Nov. 25, 2022
18. Darin Holderness, Jug Mountain Ranch, Nov. 25, 2022
19. Dustin and Danielle Charters, 413 Wilhelm Creek CT, Nov. 24, 2022
20. Joe Weiss, Nov. 26, 2022
21. Greg G. Smith and Leah A. Smith, Jug Mountain Ranch, Nov. 27, 2022
22. Chris and Melissa Price, owners of 55 Vernon CT, Nov. 27, 2022
23. Janet Reis, 11 Flicker RD, Nov. 27, 2022
24. Kathy Poston, Jug Mountain Ranch, Nov. 27, 2022
25. John and Ann Link, Wilhelm Creek CT, Nov. 27, 2022
26. Suzanne Paisley, The Willows Subdivision, Nov. 27, 2022
27. Tyler Harris, Nov. 27, 2022
28. Elisabeth Rumpelsberger, 25 Jughandle DR, Nov. 28, 2022
29. Bill Rice, owner of 217 and 216 Ashton Lane, Nov. 28, 2022
30. Lori MacNichol, Nov. 27, 2022
31. Kathy and Paul Stover, 213 Jussila Bow Place, Nov. 28, 2022
32. Don Lojek, Pioneer RD, Nov. 28, 2022; Nov. 29, 2022
33. Scott and Connie Harris, McCall, Nov. 28, 2022
34. Todd and Bonnie Thompson, 117 Carefree LN, Nov. 28, 2022
35. Kathy Richmond, McCall, Nov. 28, 2022
36. Lloyd Manning, 427 Wilhelm Creek CT, Nov. 28, 2022
37. David Joerger, 224 Little Pond CT, Nov. 28, 2022
38. Geoffrey and Katharina Roth, 14006 Comfort RD, Nov. 28, 2022
39. Charles Jones, 13784 Sweet Iron CT, Nov. 28, 2022
40. Jess and Jennifer Roper, Nov. 28, 2022
41. Stacia Royster, Nov. 29, 2022
42. Walt Gammill, 11 Silver Fox Trail, Nov. 29, 2022
43. Wendy Harris, Nov. 29, 2022
44. Chris and Cliff Mann, 152 Carefree, Nov. 29, 2022

45. Russell J Babka, Finn Church area, Nov. 29, 2022
46. Dan Ward, Carefree Subdivision, Nov. 29, 2022
47. Sandy Christensen, 13768 Clear View RD, Nov. 29, 2022
48. Alan and Lan Lundgren, McCall, Nov. 29, 2022
49. Kristin Gnojewski, 56 Silver Fox Trail, Nov. 29, 2022
50. Warren Drake, Jughandle Estates HOA President, Nov. 29, 2022
51. Patsy Kelley, 13629 Farm to Market RD, Nov. 29, 2022
52. Syndey Carnes, 6 Cottontail CT, Nov. 30, 2022
53. Heidi Schneider, Nov. 30, 2022
54. Stephanie Sheppard and Glenda Viste, Sweet Iron CT, Nov. 30, 2022
55. Gary and Lori Scott, Jughandle Estates, Nov. 30, 2022
56. John Glick, Nov. 30, 2022
57. Todd and Carol Berry, 226 W Jug RD, Nov. 30, 2022
58. Lee Wolf, 25 Jughandle DR, Nov. 30, 2022
59. Christi Millett and Kevin Capps, 13761 Grouse Knoll PL, Nov. 30, 2022
60. Lynn Lewinski, McCall, Nov. 30, 2022
61. Wayne Solomon, 11 Flicker RD, Nov. 30, 2022
62. Julie McFarlane-Platt, 53 Silver Fox Trail, Nov. 30, 2022
63. Sandy Sheehy, 145 Jughandle DR, Nov. 29, 2022
64. Kristi and Eric Pedersen, 16 Flicker Road, Nov. 30, 2022
65. Trevor Brown, 434 Wilhelm Creek CT, Nov. 30, 2022
66. Ted and Stephanie Corporandy, 101 Jughandle DR, Nov. 30, 2022
67. Heather Hering-Brown, 434 Wilhelm Creek Ct, Nov. 30, 2022
68. Richard McChrystal, Nov. 30, 2022
69. Marlund (Rook) Simchuk and Cynthia Simchuk, 433 Wilhelm Creek CT, Nov. 30, 2022
70. Donald Gulliksen and Sue Erickson, Nov. 30, 2022
71. Geoff and Kimberly Crane, 13759 Grouse Knoll, Nov. 30, 2022
72. Peggy Wiley and Wilson C. Quarré, 140 Pearson LN, Nov. 30, 2022
73. Natalie Davie, owner of 230 Little Pond CT, Nov. 30, 2022
74. Katie Oliver and Carolyn Filbin, Nov. 30, 2022
75. Kathy Grabiell, Nov. 30, 2022
76. Clay Wright, 260 Finn Church LN, Dec. 1, 2022

5. Physical characteristics of the site: Flat with tree fringe on east.

6. The surrounding land use and zoning includes:

North: Jug Mountain Ranch PUD – Open Space and Golf Course

South: Jug Mountain Ranch PUD – Golf Course

East: Single-Family Residential Lots and CUP 08-16 Jughandle Well Facility

West: Single-Family Residential Lots and Jug Mountain Ranch PUD – Golf Course

7. Valley County Code (Title 9): In Table 9-3-1, this proposal is categorized under:

- 6. Industrial Uses (a) Light Industry (3) Any enclosed manufacturing, packing, or warehousing facility, except meatpacking plants

Review of Title 9 - Chapter 5 Conditional Uses should be done.

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**9-5B-1: NOISE:**

- A. Commercial Or Industrial Activity: The noise emanating from any commercial or industrial activity shall be muffled so as not to become objectionable due to intermittent beat, frequency or shrillness, and shall not exceed forty (40) decibels between the hours of seven o'clock (7:00) P.M. and seven

o'clock (7:00) A.M., and sixty (60) decibels at other hours at the property line if adjacent uses are not the same.

#### **9-5B-3: ELECTRICAL INTERFERENCE:**

Provisions must be made for necessary shielding or other preventive measures against interferences occasioned by mechanical, electrical, electronic, and nuclear equipment, uses or processes with electrical apparatus in nearby buildings or land uses. (Ord. 10-06, 8-23-2010)

#### **9-5B-7: FIRE PROTECTION:**

Provisions must be made to implement prefire activities that may help improve the survivability of people and homes in areas prone to wildfire. Activities may include vegetation management around the home, use of fire resistant building materials, appropriate subdivision design, removal of fuel, providing a water source, and other measures. Recommendations of the applicable fire district will be considered.

#### **9-5F-2: INDUSTRIAL USES; SITE OR DEVELOPMENT STANDARDS:**

Industrial uses requiring a conditional use permit shall meet the following site or development standards:

##### **A. Minimum Lot Area:**

1. The minimum lot area shall be adequate to accommodate the use, associated activities or use, and to adequately contain adverse impacts.
2. The minimum frontage along a public or private road shall not be less than seventy five feet (75').

##### **B. Minimum Setbacks:**

1. Light Industrial Uses: The minimum building setbacks for light industrial uses shall be fifty feet (50') from front, rear, and side street property lines and thirty feet (30') from side property lines.

##### **C. Maximum Building Height And Floor Area:**

1. Building heights shall not exceed forty five feet (45') for light industrial uses, and shall be unlimited herein for extractive industrial uses. Building heights for heavy industrial uses shall not exceed forty five feet (45').
2. The building size or floor area shall not exceed the limitations of subsections 9-5-3A and C of this chapter.
3. No building or combination of buildings may cover more than forty percent (40%) of a lot for light industrial uses and thirty percent (30%) of a lot for heavy industrial uses.

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## **8. Valley County Comprehensive Plan Analysis**

### **Chapter 1 Introduction**

**III. PURPOSE OF THE VALLEY COUNTY COMPREHENSIVE PLAN 1** The purpose of the Comprehensive Plan is not to control land, but to prevent uses of land harmful to the community in general.

**PURPOSE --** The purpose of this act shall be to promote the health, safety, and general welfare of the people of the State of Idaho, as follows:

- (a) To protect property rights, while making accommodations for other necessary types of development such as low-cost housing and mobile home parks.
- (b) To ensure that adequate public facilities and services are provided to the people at reasonable cost.
- (c) To ensure that the economy of the state and localities is protected.
- (d) To ensure that the important environmental features of the state and localities are protected.
- (e) To encourage the protection of prime agricultural, forestry and mining lands for the production of food, fiber and minerals.
- (f) To encourage urban and urban-type development within incorporated cities.
- (g) To avoid undue concentration of population and overcrowding of land.
- (h) To ensure that the development on land is commensurate with the physical characteristics of the land.
- (i) To protect life and property in areas subject to natural hazards and disasters.
- (j) To protect fish, wildlife, and recreation resources.
- (k) To avoid undue water and air pollution.
- (l) To allow local school districts to participate in the community planning and development process so as to address public school needs and impacts on an ongoing basis.

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### Chapter 3 Private Property Rights

Goal I: Protect individual private property rights while considering community rights.

Objectives:

1. Design all provisions of the Comprehensive Plan in order to protect both private property rights and the community's rights to have a safe and healthy community.
3. Protect each citizen in the community from unsafe and unhealthy conditions caused or worsened by activities, uses, structures, buildings or other factors located on someone else's privately owned property.
4. Implement the Plan, in order: "...to ensure that land use policies, restrictions, conditions and fees do not violate private property rights, adversely impact property values or create unnecessary technical limitations on the use of property..."(Idaho Code section 67-6508(a)).
5. Design land use regulations to protect the health, safety, and welfare of the community, avoiding any unnecessary conditions, delays, and costs.
6. Protect all persons from being deprived of private property without due process of law.
7. Use the following generalization of the Idaho Attorney General's checklist as an implementation tool.

### Chapter 17 Public Facilities, Utilities and Services

Goal II: To assure that new development pays for its own impacts on facilities, utilities, and services.

Objectives:

1. Ensure that necessary infrastructure improvements for new development shall be provided for prior to need. Coordination of utilities and services with land use plans will maximize efficiency and minimize costs.
2. New development shall not be allowed to overload existing services.

### Chapter 13 Land Use

Goal I: Retain the rural atmosphere of Valley County by protecting its natural beauty and open characteristics and preserving its historical and scenic beauty.

Objectives:

1. Encourage those land use practices that protect and reserve the best agricultural land for agricultural use.
2. Promote the control of despoilers of natural beauty by:
  - a) Promoting rural fire protection.
  - d) Control particulate, noise, light, and air pollution.

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### SUMMARY:

Compatibility Rating: Staff's compatibility rating is a -3. The compatibility rating is a tool to help determine whether or not a use can become compatible through mitigation of impacts. Some impacts can be mitigated, others cannot be mitigated.

**The Planning and Zoning Commission should do their own compatibility rating prior to the meeting (form with directions attached).**

### STAFF COMMENTS / QUESTIONS:

1. This site is within the McCall Fire District and within a herd district. It is in the Boulder Irrigation Company and Boulder Meadows Irrigation District boundaries.
2. I believe the use has been established without a permit. I became aware of the use in August after being informed that 3-phase power had been installed.
3. Is the property for sale? The site visit pictures showed realtor signs.



4. What are the setbacks of the structure from property lines? Do they meet the requirements of light industry?
  5. Who will operate fire extinguishers? Are employees on-site, 24/7?
  6. How many computers are on-site? We will need an inventory so as to assure there is no expansion.
  7. Will a house be constructed on this property?
  8. Planning and Zoning Commission will need to follow Idaho State Statute 67-6519 (5)...attached.
- I.C. (5) Whenever a governing board or zoning or planning and zoning commission grants or denies an application, it shall specify:
- (a) The ordinance and standards used in evaluating the application;
  - (b) The reasons for approval or denial; and
  - (c) The actions, if any, that the applicant could take to obtain approval.

#### **ATTACHMENTS:**

- Conditions of Approval
- Blank Compatibility Evaluation and Instructions
- Compatibility Evaluation by Staff
- Idaho State Statute: 67-6519 Application Granting Process
- Vicinity Map
- Aerial Map
- Wetland Map
- Assessor Plat – T.17N R.3E Section 12
- Assessor Plat – Ashton Estates
- Site Plan
- Building Permit 22-46 Information
- Pictures Taken November 22, 2022
- Ashton Estates CCRs – Instrument 305114 Recorded Jan. 1, 2006
- Responses
- *Bitcoin Industry Leaders, Finance Executive Talk Cryptocurrency in Idaho at Boise Environmental Summit. BoiseDev.com. Nov. 7, 2022*
- *Climate and Energy Implications of Crypto-Assets in the United States, September 2022, The White House, Washington*

#### **Conditions of Approval**

1. The application, the staff report, and the provisions of the Land Use and Development Ordinance are all made a part of this permit as if written in full herein. Any violation of any portion of the permit will be subject to enforcement and penalties in accordance with Title 9-2-5; and, may include revocation or suspension of the conditional use permit.

2. Any change in the nature or scope of land use activities shall require an additional Conditional Use Permit.
3. The use shall be established within one year of the date of approval, or a permit extension will be required.
4. The issuance of this permit and these conditions will not relieve the applicant from complying with applicable County, State, or Federal laws or regulations or be construed as permission to operate in violation of any statute or regulations. Violation of these laws, regulations or rules may be grounds for revocation of the Conditional Use Permit or grounds for suspension of the Conditional Use Permit.
5. All lights shall be fully shielded so that there is not upward or horizontal projection of lights.
6. All noxious weeds on the property must be controlled.
7. The site must be kept in a neat and orderly manner.
8. Shall clearly post the physical address at the driveway entrance and on the building.
9. The noise emanating from the industrial activity shall be muffled so as not to become objectionable due to intermittent beat, frequency or shrillness, and shall not exceed forty (40) decibels between the hours of 7:00 p.m. and 7:00 a.m., and sixty (60) decibels at other hours.
10. Shall submit an approval letter from McCall fire after placement of a sprinkler system or a 30,000-gallon buried tank.
11. Prior to construction of any on-site improvements, the applicant shall meet with the Valley County Road Director and/or Board of County Commissioners to discuss off-site road improvements. If an agreement cannot be reached the application shall be set for another public hearing with the Valley County Planning and Zoning Commission to determine if the application can be approved without improvements and still meet their mandates concerning public health, safety, and welfare matters. The discussion will be concerning current road conditions and potential mitigation for impacts caused by the development.

#### **END OF STAFF REPORT**



Matrix Line # / Use: \_\_\_\_\_

Prepared by: \_\_\_\_\_

YES/NO      X      Response  
Value

Use Matrix Values:

(+2/-2)      X      4      \_\_\_\_\_

1. Is the proposed use compatible with the dominant adjacent land use?

(+2/-2)      X      2      \_\_\_\_\_

2. Is the proposed use compatible with the other adjacent land uses (total and average)?

(+2/-2)      X      1      \_\_\_\_\_

3. Is the proposed use generally compatible with the overall land use in the local vicinity?

Site Specific Evaluation (Impacts and Proposed Mitigation)

(+2/-2)      X      3      \_\_\_\_\_

4. Is the property large enough, does the existence of wooded area, or does the lay of the land help to minimize any potential impacts the proposed use may have on adjacent uses?

(+2/-2)      X      1      \_\_\_\_\_

5. Is the size or scale of proposed lots and/or structures similar to adjacent ones?

(+2/-2)      X      2      \_\_\_\_\_

6. Is the traffic volume and character to be generated by the proposed use similar to the uses on properties that will be affected by proximity to parking lots, on-site roads, or access roads?

(+2/-2)      X      2      \_\_\_\_\_

7. Is the potential impact on adjacent properties due to the consuming or emission of any resource or substance compatible with that of existing uses?

(+2/-2)      X      2      \_\_\_\_\_

8. Is the proposed use compatible with the abilities of public agencies to provide service or of public facilities to accommodate the proposed use demands on utilities, fire and police protection, schools, roads, traffic control, parks, and open areas?

(+2/-2)      X      2      \_\_\_\_\_

9. Is the proposed use cost effective when comparing the cost for providing public services and improving public facilities to the increases in public revenue from the improved property?

Sub-Total      (+)      \_\_\_\_\_

Sub-Total      (--)      \_\_\_\_\_

Total Score      \_\_\_\_\_

The resulting values for each questions shall be totaled so that each land use and development proposal receives a single final score.

## 9-11-1: APPENDIX A, COMPATIBILITY EVALUATION:

A. General: One of the primary functions of traditional zoning is to classify land uses so that those which are not fully compatible or congruous can be geographically separated from each other. The county has opted to substitute traditional zoning with a multiple use concept in which there is no separation of land uses. Proposed incompatible uses may adversely affect existing uses, people, or lands in numerous ways: noise, odors, creation of hazards, view, water contamination, loss of needed or desired resources, property values, or infringe on a desired lifestyle. To ensure that the county can continue to grow and develop without causing such land use problems and conflicts, a mechanism designed to identify and discourage land use proposals which will be incompatible at particular locations has been devised. The compatibility evaluation of all conditional uses also provides for evaluations in a manner which is both systematic and consistent.

### B. Purpose; Use:

1. The compatibility rating is to be used as a tool to assist in the determination of compatibility. The compatibility rating is not the sole deciding factor in the approval or denial of any application.
2. Staff prepares a preliminary compatibility rating for conditional use permits, except for conditional use permits for PUDs. The commission reviews the compatibility rating and may change any value.

### C. General Evaluation: Completing the compatibility questions and evaluation (form):

1. All evaluations shall be made as objectively as possible by assignment of points for each of a series of questions. Points shall be assigned as follows:

Plus 2 - assigned for full compatibility (adjacency encouraged).

Plus 1 - assigned for partial compatibility (adjacency not necessarily encouraged).

0 - assigned if not applicable or neutral.

Minus 1 - assigned for minimal compatibility (adjacency not discouraged).

Minus 2 - assigned for no compatibility (adjacency not acceptable).

2. Each response value shall be multiplied by some number, which indicates how important that particular response is relative to all the others. Multipliers shall be any of the following:

x4 - indicates major relative importance.

x3 - indicates above average relative importance.

x2 - indicates below average relative importance.

x1 - indicates minor relative importance.

D. Matrix - Questions 1 Through 3: The following matrix shall be utilized, wherever practical, to determine response values for questions one through three (3). Uses classified and listed in the left hand column and across the top of the matrix represent possible proposed, adjacent, or vicinity land uses. Each box indicates the extent of compatibility between any two (2) intersecting uses. These numbers should not be changed from proposal to proposal, except where distinctive uses arise which may present unique compatibility considerations. The commission shall determine whether or not there is a unique consideration.

### E. Terms:

**DOMINANT ADJACENT LAND USE:** Any use which is within three hundred feet (300') of the use boundary being proposed; and

1. Comprises at least one-half ( $1/2$ ) of the adjacent uses and one-fourth ( $1/4$ ) of the total adjacent area; or
2. Where two (2) or more uses compete equally in number and are more frequent than all the other uses, the one with the greatest amount of acreage is the dominant land use; or
3. In all other situations, no dominant land use exists. When this occurs, the response value shall be zero.

**LOCAL VICINITY:** Land uses within a one to three (3) mile radius. The various uses therein should be identified and averaged to determine the overall use of the land.

### F. Questions 4 Through 9:

1. In determining the response values for questions 4 through 9, the evaluators shall consider the information contained in the application, the goals and objectives of the comprehensive plan, the provisions of this title and related ordinances, information gained from an actual inspection of the site, and information gathered by the staff.
2. The evaluator or commission shall also consider proposed mitigation of the determined impacts. Adequacy of the mitigation will be a factor.

## APPENDIX A

## MATRIX FOR RATING

### QUESTIONS 1, 2, and 3.

[illegible]

INTERCOMPTON A.S. +2

Matrix Line # / Use:

21 Light Industrial

Prepared by:

CH

YES/NO X Response Value

Use Matrix Values:(+2/-2) +1 X 4 +4

1. Is the proposed use compatible with the dominant adjacent land use?

S.F. Residential(+2/-2) +1 X 2 +2

2. Is the proposed use compatible with the other adjacent land uses (total and average)?

Agricultural(+2/-2) +1 X 1 +1

3. Is the proposed use generally compatible with the overall land use in the local vicinity?

See 1 + 2 plus PUD ResidentialSite Specific Evaluation (Impacts and Proposed Mitigation)(+2/-2) -2 X 3 -64. Is the property large enough, does the existence of wooded area, or does the lay of the land help to minimize any potential impacts the proposed use may have on adjacent uses?The site is not large or secluded.(+2/-2) +2 X 1 +2

5.

Is the size or scale of proposed lots and/or structures similar to adjacent ones?Yes(+2/-2) +2 X 2 +4

6. Is the traffic volume and character to be generated by the proposed use similar to the uses on properties that will be affected by proximity to parking lots, on-site roads, or access roads?

Very little to no traffic(+2/-2) -2 X 2 -47. Is the potential impact on adjacent properties due to the consuming or emission of any resource or substance compatible with that of existing uses?Noise - will be impacted with noise that will be continual(+2/-2) -2 X 2 -4

8. Is the proposed use compatible with the abilities of public agencies to provide service or of public facilities to accommodate the proposed use demands on utilities, fire and police protection, schools, roads, traffic control, parks, and open areas?

Public services can be provided  
\* Power Grid(+2/-2) -1 X 2 -2

9. Is the proposed use cost effective when comparing the cost for providing public services and improving public facilities to the increases in public revenue from the improved property?

No Change except maySub-Total (+) +13Sub-Total (-) 16consume lots of power.Total Score -3

The resulting values for each questions shall be totaled so that each land use and development proposal receives a single final score.



# Idaho Statutes

Idaho Statutes are updated to the web July 1 following the legislative session.

## TITLE 67

### STATE GOVERNMENT AND STATE AFFAIRS

#### CHAPTER 65

##### LOCAL LAND USE PLANNING

67-6519. APPLICATION GRANTING PROCESS. (1) As part of ordinances required or authorized under this chapter, a procedure shall be established for processing in a timely manner applications for zoning changes, subdivisions, variances, special use permits and such other applications required or authorized pursuant to this chapter for which a reasonable fee may be charged.

(2) Where the commission hears an application, the commission shall have a reasonable time fixed by the governing board to examine the application before the commission makes its decision on the application or makes its recommendation to the governing board. Each commission or governing board shall establish by rule a time period within which a recommendation or decision must be made. Provided however, any application which relates to a public school facility shall receive priority consideration and shall be reviewed for approval, denial or recommendation by the commission or the governing board at the earliest reasonable time, regardless of the timing of its submission relative to other applications which are not related to public school facilities.

(3) When considering an application which relates to a public school facility, the commission shall specifically review the application for the effect it will have on increased vehicular, bicycle and pedestrian volumes on adjacent roads and highways. To ensure that the state highway system or the local highway system can satisfactorily accommodate the proposed school project, the commission shall request the assistance of the Idaho transportation department if state highways are affected, or the local highway district with jurisdiction if the affected roads are not state highways. The Idaho transportation department, the appropriate local highway jurisdiction, or both as determined by the commission, shall review the application and shall report to the commission on the following issues as appropriate: the land use master plan; school bus plan; access safety; pedestrian plan; crossing guard plan; barriers between highways and school; location of school zone; need for flashing beacon; need for traffic control signal; anticipated future improvements; speed on adjacent highways; traffic volumes on adjacent highways; effect upon the highway's level of service; need for acceleration or deceleration lanes; internal traffic circulation; anticipated development on surrounding undeveloped parcels; zoning in the vicinity; access control on adjacent highways; required striping and signing modifications; funding of highway improvements to accommodate development; proposed highway projects in the vicinity; and any other issues as may be considered appropriate to the particular application.

(4) Whenever a county or city considers a proposed subdivision or any other site-specific land development application authorized by this

chapter, it shall provide written notice concerning the development proposal by mail, or electronically by mutual agreement, to all irrigation districts, ground water districts, Carey act operating companies, nonprofit irrigation entities, lateral ditch associations and drainage districts that have requested, in writing, to receive notice. Any irrigation districts, ground water districts, Carey act operating companies, nonprofit irrigation entities, lateral ditch associations and drainage districts requesting notice shall continue to provide updated and current contact information to the county or city in order to receive notice. Any notice provided under this subsection shall be provided no less than fifteen (15) days prior to the public hearing date concerning the development proposal as required by this chapter or local ordinance. Any notice provided under this subsection shall not affect or eliminate any other statutory requirements concerning delivery of water, including those under sections 31-3805 and 67-6537, Idaho Code.

(5) Whenever a governing board or zoning or planning and zoning commission grants or denies an application, it shall specify:

(a) The ordinance and standards used in evaluating the application;

(b) The reasons for approval or denial; and

(c) The actions, if any, that the applicant could take to obtain approval.

Every final decision rendered shall provide or be accompanied by notice to the applicant regarding the applicant's right to request a regulatory taking analysis pursuant to section 67-8003, Idaho Code. An applicant denied an application or aggrieved by a final decision concerning matters identified in section 67-6521(1)(a), Idaho Code, may within twenty-eight (28) days after all remedies have been exhausted under local ordinance seek judicial review under the procedures provided by chapter 52, title 67, Idaho Code.

History:

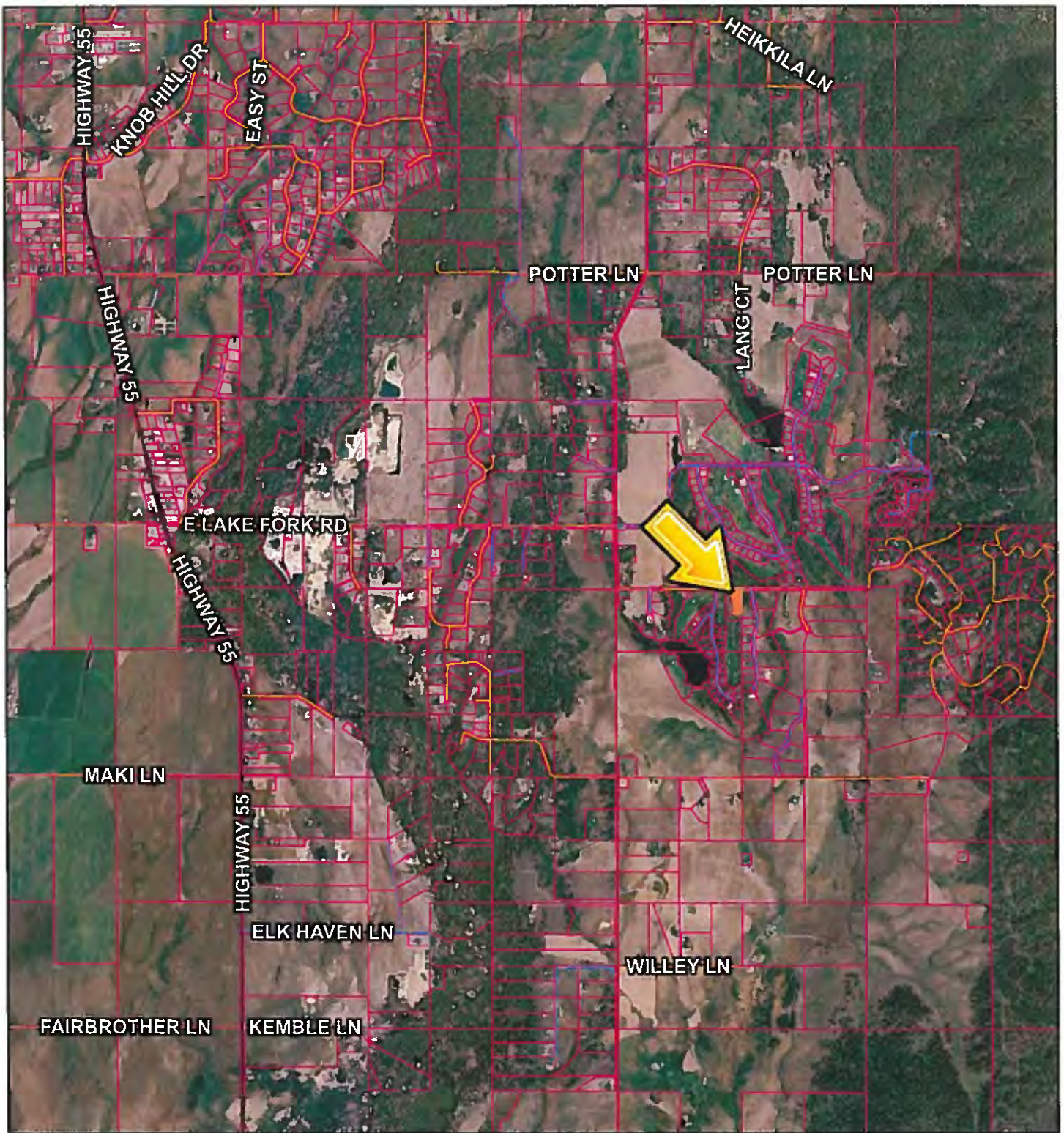
[67-6519, added 1975, ch. 188, sec. 2, p. 515; am. 1993, ch. 216, sec. 111, p. 678; am. 2000, ch. 431, sec. 1, p. 1388; am. 2003, ch. 123, sec. 1, p. 373; am. 2010, ch. 175, sec. 1, p. 359; am. 2011, ch. 279, sec. 1, p. 759; am. 2018, ch. 246, sec. 1, p. 572.]

How current is this law?

Search the Idaho Statutes and Constitution



# C.U.P. 22-47 Vicinity Map



October 27, 2022



Override 1



Override 1

Parcel Boundaries

Roads

MAJOR

COLLECTOR

URBAN/RURAL

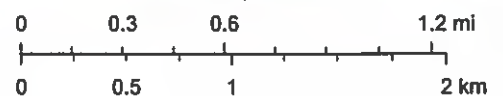
PRIVATE

County Boundaries

VALLEY COUNTY

Earthstar Geographics

1:50,206



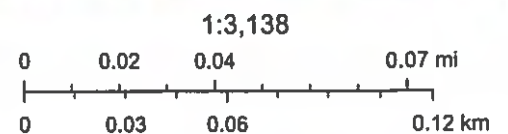


# C.U.P. 22-47 Aerial Map



October 27, 2022

- Override 1
- PRIVATE
- Address Points
- County Boundaries
- Parcel Boundaries
- VALLEY COUNTY
- Roads
- URBAN/RURAL



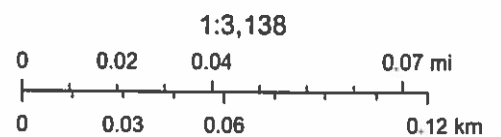
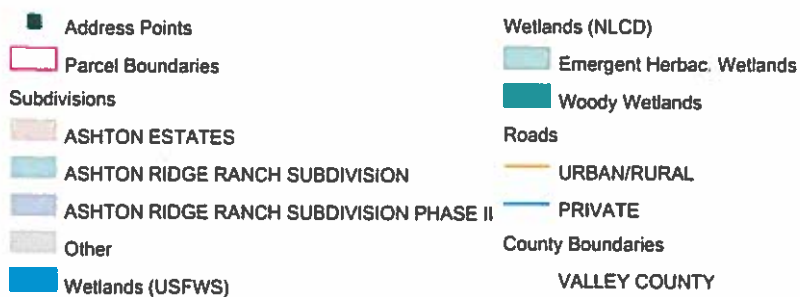
Maxar



# C.U.P. 22-47 Wetland Map



November 22, 2022



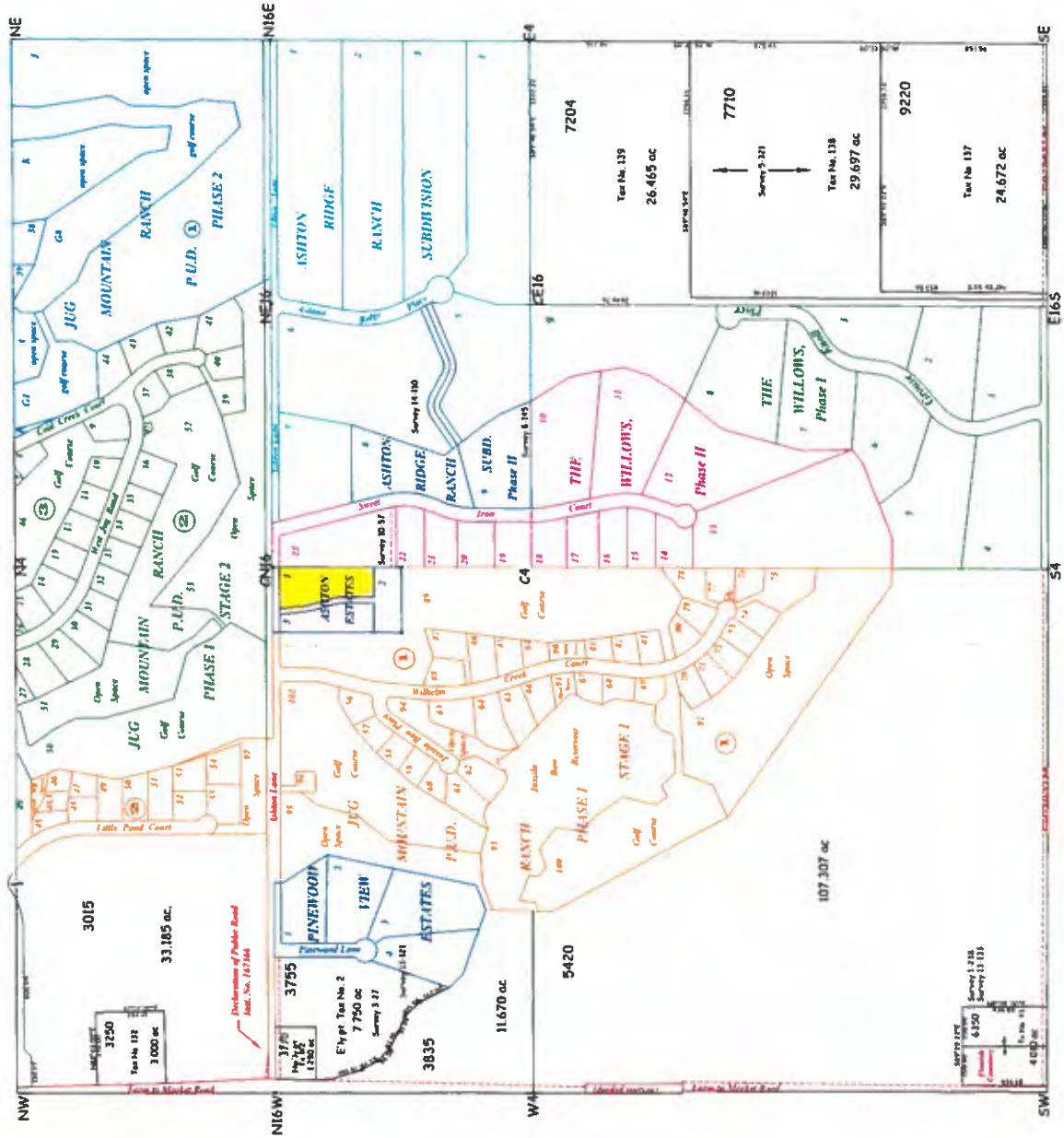
Maxar

PLAT TITLE

TWP. 17N R03E SEC. 12

VALLEY COUNTY  
Cartography Dept.  
Assessor's Office  
Cascade, ID 83611

Filename:  
Valley County Base Map  
Scale: 1" = 400 ft.  
Date: 7/19/2021  
Drawn by: L. Frederick



The Drawings are to be used for Reference Purposes ONLY. The County is NOT Responsible for Any Inaccuracies or Omissions Herein.



Instrument # 30817  
VALLEY COUNTY, CALIFORNIA  
2005-01-21  
21-01-02  
L.S. # 11.00  
L.S. # 11.00  
L.S. # 11.00  
L.S. # 11.00

# ASHTON ESTATES

situate in the  
NE 1/4 SE 1/4 NW 1/4 of Section 12, T. 17 N., R. 3 E., B.M.  
Valley County, Idaho  
DROULARD LAND SURVEYING  
APRIL 2005

CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	46.00'	73.07'	68.84'	S 34°55'12" W	67°48'33"
C2	46.00'	73.07'	68.84'	S 34°55'12" W	67°48'33"
C3	60.00'	85.14'	78.15'	S 64°17'30" W	28°57'18"
C4	505.74'	133.48'	133.14'	N 12°15'38" W	3°45'15"
C5	505.74'	140.63'	140.33'	N 12°15'38" W	3°45'15"
C6	315.00'	107.52'	107.00'	S 02°41'51" E	18°53'28"
C7	285.00'	97.28'	96.81'	S 02°41'51" E	18°53'28"

## SANITARY RESTRICTIONS

SANITARY RESTRICTIONS AS REQUIRED BY SMO CODE, TITLE 50, CHAPTER 13 HAVE BEEN  
APPLIED TO THIS PLAT. ANY BUILDING, INCLUDING BUT NOT LIMITED TO, SEWAGE TREATMENT PLANTS, OR SPACE  
HEATING SYSTEMS, SHALL BE LOCATED WITHIN THE SANITARY RESTRICTION ZONE. THE  
SANITARY RESTRICTION ZONE IS THE AREA WITHIN WHICH THE SANITARY RESTRICTIONS  
SHALL BE APPLIED. THE SANITARY RESTRICTION ZONE IS THE AREA WITHIN WHICH THE  
SANITARY RESTRICTIONS SHALL BE APPLIED. THE SANITARY RESTRICTION ZONE IS THE  
AREA WITHIN WHICH THE SANITARY RESTRICTIONS SHALL BE APPLIED.

DATE: 30.11.13  
SANITARY RESTRICTION ZONE: 30.11.13

Sanitary Restrictions  
not 30.11.13 9.9.09

## NOTES

Restrictive Covenants Read as Plat No. 305114

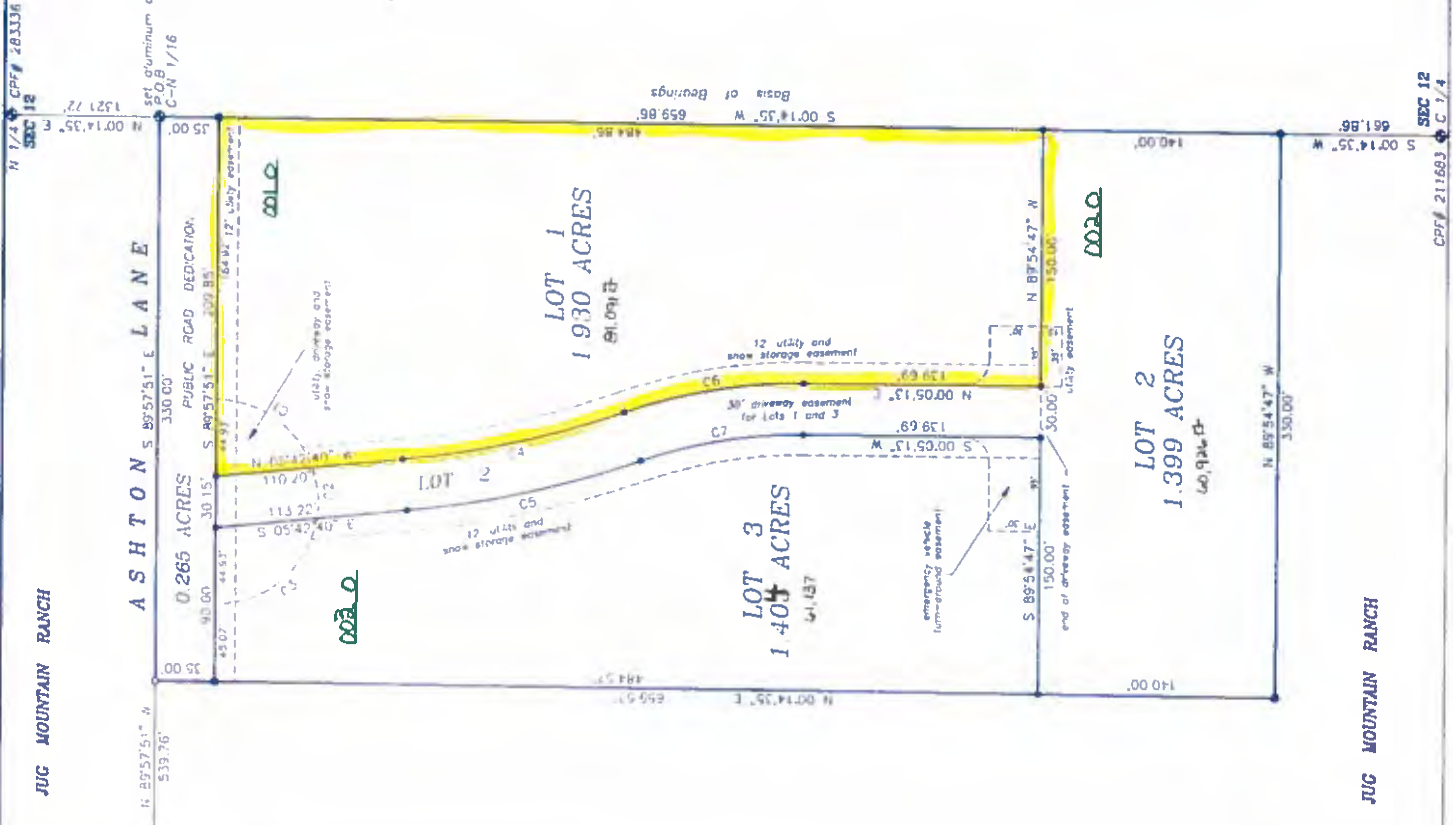
Reference is made to the public health order on file regarding additional  
restrictions.  
No additional domestic water supplies shall be installed beyond the water  
system approved in the sanitary restriction orders.

Lots shall not be reduced in size.

This plat is subject to compliance with I.C. Section 31-1303.

No irrigation water will be supplied to any lot herein.

No building or other structure which will require a water supply or a sewage disposal  
facility for people using the same shall be constructed or installed on any lot  
located within the sanitary restriction zone until written approval is first obtained from the State  
Board of Health, by its administrator or his delegate approving plans and  
specifications either for public water and/or sewage facilities or individual  
water and/or sewage facilities.



## LEGEND

- Found 5/8 inch rebar
- Found aluminum cap
- Set 5/8" x 30" rebar w/plastic cap
- Set 1/2" x 24" rebar w/plastic cap

Bearings based on plat of Jug Mountain Ranch

Ashton Lane

210

Lot Size:  
1.903 acres

Shared Access Driveway

485

Electrical  
Transformer

24

50

219 ASHTON LN

311

Septic

150

Rec'd

P.O. Box 1350  
Cascade, ID 83811

# Valley County, Idaho BUILDING PERMIT APPLICATION

(208) 382-7114  
Fax 382-7119 email:  
building@co.valley.id.us

Applicant to complete numbered spaces only.				1. PARCEL NUMBER RP005530000010		R. ADDRESS PG. 2500, 2507 2537		JOB ADDRESS 219 ASHTON LN  OWNER GALENKO, ALEKSANDR  BUILDING PERMIT NO. 22-46					
2. PHYSICAL JOB ADDRESS 219 Ashton Lane, McCall, ID 83638													
LEGAL DESCR.	3. LOT NO. 2	4. BLK 1	6. SUBDIVISION OR TOWNSHIP, SECTION AND RANGE Ashton Estate										
6. OWNER Aleksandr Galenko		MAIL ADDRESS P.O. Box 45153, Boise, ID 83711-5153		CITY, ZIP 208-866-4401		PHONE, EMAIL aleksof87@gmail.com							
7. CONTRACTOR, REGISTR # Shervik Signature Homes, LLC		MAIL ADDRESS RCE-36586 884 W. Corporate Ln., Suite 201, Nampa, ID 83651		CITY, ZIP 208-468-2500		PHONE, EMAIL jim@sherviksignaturehomes.com							
8. ARCHITECT Lawson Design, Inc.		MAIL ADDRESS 607 Lindenwood Dr., Nampa, ID 83688		CITY, ZIP 208-989-1422		PHONE, EMAIL gary@lawson-design.com							
9. DESIGNER													
10. ENGINEER Snake River Engineering 524 Cleveland Blvd., #230, Caldwell, ID 83605 208-453-6512													
11. FOR MANUFACTURED HOUSING: INSTALLER AND LICENSE NUMBER													
12. CLASS OF WORK: NEW ADDITION ALTERATION REPAIR RELOCATE REMOVE 120 # SNOW X													
13. DESCRIBE WORK AND USE DET GAR - only for application of fees (ad) 800 sq. ft. new RV bay													
14. CHANGE OF USE FROM: Building Permit CHANGE OF USE TO:													
ES 50 PR 46.90													
15. VALUATION OF WORK: \$ \$129,800				\$ 116.55 PLAN CHECK		\$ 333.00 PERMIT FEE		\$ 546.46 TOTAL FEE					
SPECIAL CONDITIONS: Only one RV allowed on-site unless you obtain an RVC permit				Type of Const. VR		Occupancy Group L		Division 3					
				Size of Bldg. (Total) Sq. Ft. 500		No. of Stories 1		Max. Occ. Load 10					
				Fire Zone		Use Zone		Fire Sprinklers Required o Yes o No					
APPLICATION ACCEPTED BY 3/10/22 MM		PLANS CHECKED BY 3/17/22 MM		APPROVED FOR ISSUANCE BY 4-13-22 MM		No. of Dwelling Units							
16. SEPARATE PERMITS ARE REQUIRED FOR ELECTRICAL, HEATING VENTILATION OR AIR CONDITIONING.  THIS PERMIT BECOMES NULL AND VOID IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED WITHIN 180 DAYS, OR IF CONSTRUCTION OR WORK IS SUSPENDED OR ABANDONED FOR A PERIOD OF 365 DAYS AT ANY TIME AFTER WORK IS COMMENCED.  I HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS APPLICATION AND KNOW THE SAME TO BE TRUE AND CORRECT. ALL PROVISIONS OF LAWS AND ORDINANCES GOVERNING THIS TYPE OF WORK WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT. THE GRANTING OF A PERMIT DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISIONS OF ANY OTHER STATE OR LOCAL LAW OR REGULATION OR ADOPTED PERFORMANCE OF CONSTRUCTION				Special Approvals		Required		Received		Not Required			
				ZONING		✓		d		OK 3/16/22		3/14/2022	
				HEALTH DEPT		✓		4-13-22		MM			
				SOIL REPORT									
James D. Shervik, Shervik Signature Homes, LLC				FLOOD ORD		Zon		X					
				KBBBPLGNTS		Rest. Covats		3/16/22		MM			

WHEN PROPERLY VALIDATED (IN THIS SPACE) THIS IS YOUR PERMIT

PERMIT VALIDATION

CK.

C.C.

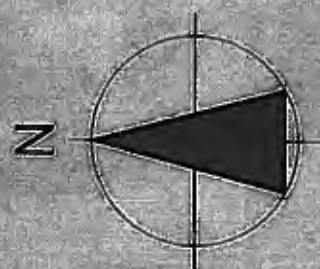
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4/13/22 MM

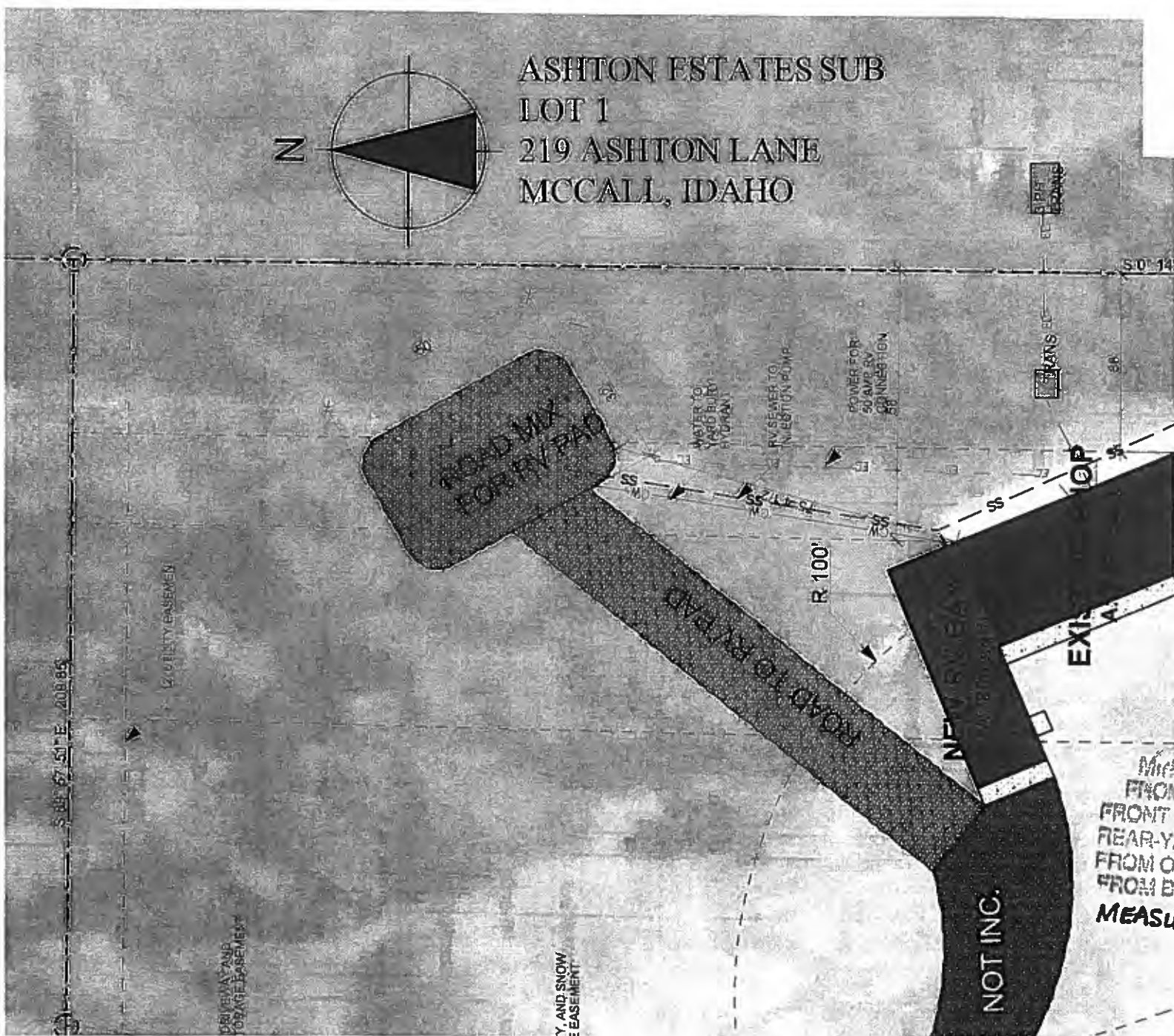




Parcel



ASHTON ESTATES SUB  
LOT 1  
219 ASHTON LANE  
MCCALL, IDAHO







Parcel Summary

PARCEL NO  
RP005530000010

OWNER(S)  
GALENKO ALEKSANDR  
GALENKO LYUBOV

SITUS  
219 ASHTON LN  
MCCALL, ID 83638

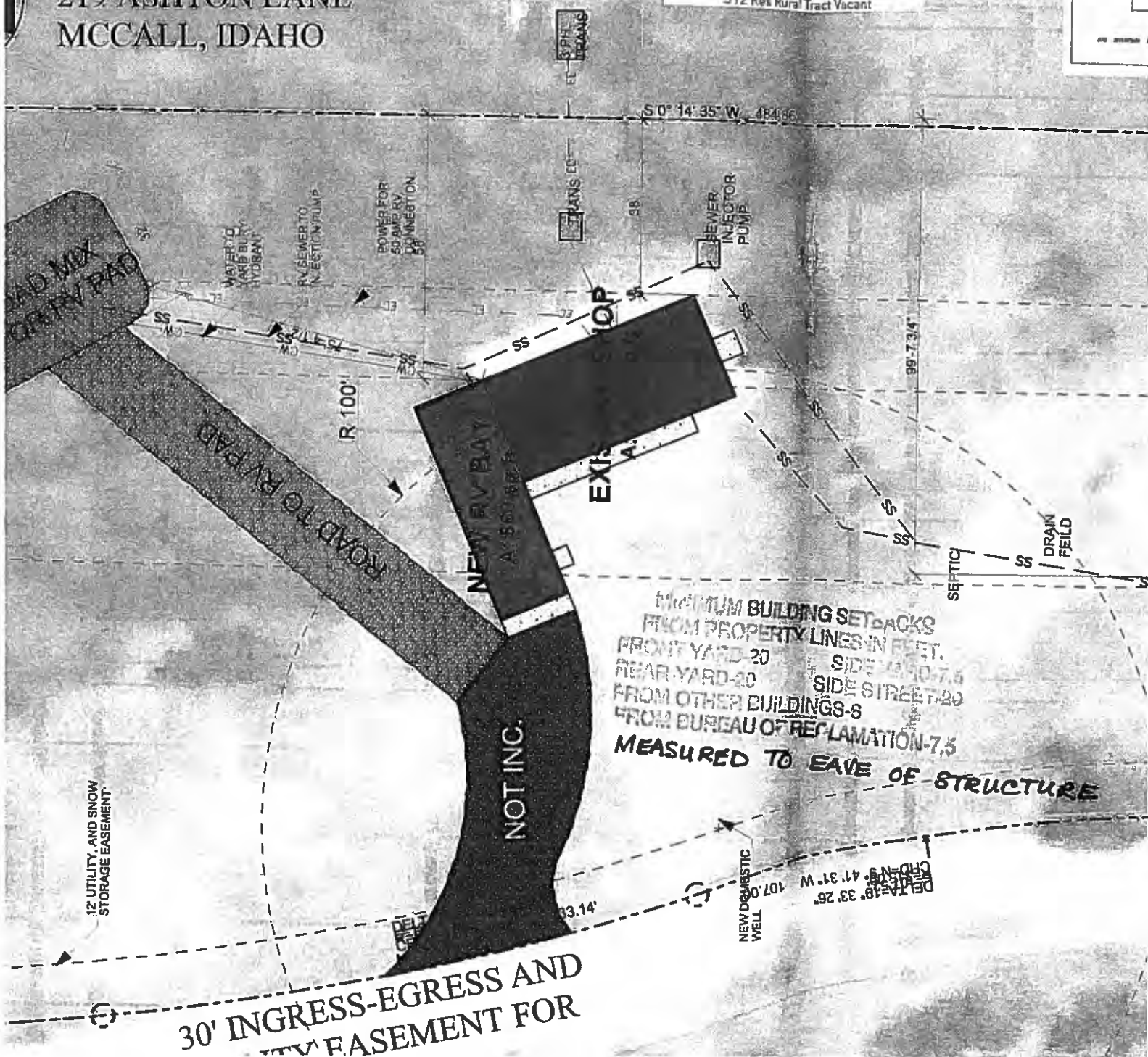
LEGAL DESCRIPTIONS  
ASHTON ESTATES LOT 1

1.931 Acres

LAND USE/CLASS DESCRIPTION  
512 Res Rural Tract Vacant

SITE L

ASHTON ESTATES SUB  
LOT 1  
219 ASHTON LANE  
MCCALL, IDAHO



MINIMUM BUILDING SETBACKS  
FROM PROPERTY LINES IN FEET.  
FRONT YARD-20 SIDE 10-7.5  
REAR YARD-20 SIDE STREET-20  
FROM OTHER BUILDINGS-8  
FROM BUREAU OF RECLAMATION-7.5  
MEASURED TO EAVE OF STRUCTURE

30' INGRESS-EGRESS AND  
EASEMENT FOR













Instrument # 305114

VALLEY COUNTY, CASCADE, IDAHO

2006-01-23 01:16:42 No. of Pages: 5

Recorded for : WES RHOADES

LELAND G. HEINRICH

Ex-Officio Recorder Deputy

Index to: RESTRICTIVE COVENANT

Fee: 15.00

ASHTON ESTATES

DECLARATION OF  
PROTECTIVE RESTRICTIONS AND COVENANTS  
VALLEY COUNTY, IDAHO

THIS DECLARATION, Made as of the 23 day of January, 2006 by  
Wesley L. and Barbara M. Rhoades, hereafter referred to as "Grantor"

WITNESSETH:

WHEREAS, Grantor are the owners of all that certain real estate situated in Valley  
County, Idaho more particularly described in the plat Ashton Estates (hereafter referred  
to as the "subdivision"), recorded on the 23 day of January, 2006, as instrument No.  
305112, in book 10 of plats at page 37 records of Valley County, Idaho; and

WHEREAS, it is the desire and intent of the Grantor to create a residential community  
in which certain standards shall be established for the mutual protection of all residents,  
with due regards for the protection and preservation of the environment, and the  
restrictions and covenants established in this Declaration are intended to serve such  
objectives;

NOW, THEREFORE, Grantor hereby declares that all property in the Subdivision (as  
herein defined) is and shall be held conveyed, encumbered, leased, and used subject to  
the following uniform covenants, restrictions, and equitable servitude's in furtherance of  
a plan for the subdivision, improvement and sale of said property, and to enhance the  
value, desirability, and attractiveness of such property. The restrictions set forth herein  
shall run with the real property included within the Subdivision and shall be binding upon  
all persons having or acquiring any interest in such real property or any part thereof; shall  
inure to the benefit of every portion of such real property and any interest therein; and  
shall inure to the benefit of and shall be binding upon Grantor, its successors in interest,  
and may be enforced by Grantor, by any Owner or such Owner's successor in interest.  
Changes and modifications of this Declaration can be made by the unanimous agreement  
of all Owner's of interest at the time of the change or modification.



**DEFINITIONS:** 1. In construing this instrument, the following definitions shall be applied: "Subdivision" means SUBDIVISION, according to the official plat thereof on file in the office of the County Recorder of Valley County, Idaho.

"Lot" means an officially designated and numbered lot on the official plat of the Subdivision.

**GENERAL PROVISIONS:** 2. By acceptance of any conveyance of any property in the Subdivision the Grantee and Grantee's heirs, personal representatives, successors, and assigns, covenant with the Grantor, and its successor's and assigns, and with all other Grantees or subsequent owners of property in said subdivision, that those covenants shall inure to the benefit of and be binding upon all such parties.

**USE OF LAND:** 3. The Grantee herein, his heirs, successors and assigns, shall use the above described real property and estate for agricultural and residential property exclusively. That No building shall be erected or altered or placed or permitted to remain on any acreage other than residential structures and garage buildings and outbuildings used in connection with said residence. The design, exterior color schemes, and exterior building materials shall blend with the natural surroundings. This covenant does not, however, restrict the rental of the premises or improvements upon the premises for residential purposes.

**HOMEOWNERS COMMITTEE:** 4. A committee of three people, one representing each lot, shall review all building plans, projects and other subdivision needs that may arise from time to time and approve same by 2/3 majority vote.

**BUILDING MATERIALS:** 5. All buildings (including outbuildings) erected upon any building site in this subdivision shall be finished, painted, and maintained in good repair so as to be inoffensive to any other property owner in the Subdivision. All buildings shall have roofs of any material so long as it blends with the natural surroundings. Galvanized metal roofs shall not be allowed nor shall high glare metal roofs be allowed. All structures over 400 square feet of floor plan shall have a permanent concrete foundation.

**LOCATION:** 6. No building shall be located on any property nearer than seven and one half (7 1/2) feet to any property line with a twenty (20) foot minimum setback from the common driveway easement.

**SIZE:** 7. The minimum size of a primary residential structure shall be 2400 square feet, exclusive of any attached garage.

**TEMPORARY STRUCTURES:** 8. No pick-up campers, motor homes, trailer homes nor mobile homes of any kind shall be placed permanently on any lot of said land. Temporary use of campers, trailers, and motor homes shall not exceed two weeks during any one month period. Mobile homes will not be permitted to be parked on the property during construction or for any other purpose thereof.

**NUISANCES:** 9. No nuisances, offensive or illegal activities shall be carried on upon any property nor shall anything be done thereon which may be or may become an annoyance or nuisance to the subdivision. All owners shall conform to the County ordinances and State laws relating to ownership of said property.

**ANIMALS:** 10. Household pets (dogs, cats, etc.) may be kept as long as they are not raised for commercial purposes. No livestock shall be kept in the subdivision.

**WATER:** 11. No irrigation water (water rights) are connected with, assumed to possess or implied to be given with any of these lots. Wells shall be drilled for potable water source according to County specifications.

**SEWER DISPOSAL:** 12. All buildings with the use of water for domestic purposes shall be connected to an individual septic system located and constructed in accordance with the requirements, standards, and recommendations of the Central District Department of Health. Approval of such system, as installed, shall be obtained from such authority.

**REFUSE AND DUMPING:** 13. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, abandoned vehicles, or other waste material. All such material shall be kept in sanitary containers. All incinerators (if permitted by law) and other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. No junk machinery, trailers, trucks, appliances or unsightly material of any sort or nature, or junk automobiles shall be kept on any said premises. Machinery, construction equipment, building material, and recreational vehicles shall be stored so that they are not a visual nuisance to the other lot owners within the subdivision, except during the time of actual construction of buildings and improvements wherein the same are used.

**WOOD BURNING DEVICES:** 14. Wood burning devices should conform to County, State and Federal codes. No more than one such device is allowed per lot.

**FENCES:** 15. No fence, wall or hedge shall be erected upon the boundary of any lot greater than five (5) feet above the ground. All fences built within the subdivision shall be kept in good repair and appearance so as to be inoffensive to other property owners.

**SIGNS:** 16. No signs or billboards of any kind shall be erected, posted or displayed upon any building site, Residents name, property address, and real estate signs for the sale of that particular piece of property are excluded in this restriction and allowed to be displayed.

**DRIVEWAY:** 17. Road access to the lots shall consist of a common driveway easement over a portion of Lot 2, together with a "Hammerhead" turnaround per the subdivision plat. This driveway easement shall be a private road with all maintenance and repairs being shared equally by the lot owners within the Ashton Estates development. All lots shall access their properties by the use of this driveway easement. No direct access from Lot #1 or Lot #3 to Ashton Lane is allowed.



**LANDSCAPING:** 18. Each lot owner shall landscape his/her lot by either doing improved landscaping using trees, shrubs and lawns or leaving it in its natural state, or a combination thereof. It is the intent of this provision to insure that each lot owner does maintain a vegetation cover on the land to prevent dust, erosion and noxious weeds. There shall be no excavation of stone, dirt, gravel, and minerals for export from any lot for commercial sale.

**LIGHTING:** 19. Residential lighting shall comply with Section 3.03.06 item (a) of the Valley County Land Use and Development Ordinance with the following modified standards. No exterior light shall be constantly left on after dark except when lighting a flagpole or approved by the Homeowners' Committee.

**INVALIDATION:** 20. Invalidation of any one of these covenants by judgment or court order shall not affect any of the other covenants or provisions hereof, all of which shall remain in full force and effect.

**TERMS:** 21. These restrictions shall run with the land described herein and shall be binding upon the parties hereto and all successors in title or interest to said real property or any part thereof, until October 1, 2015, at which time said restrictions shall be automatically extended for successive periods of ten (10) years unless the owner(s) of legal title to a majority of owners of the property within the Ashton Estates subdivision shall terminate said restrictions upon filing of such instrument for record in the office of the Recorder of Valley County, Idaho. Amendments to these restrictions can be made at any time by the unanimous approval of all owners of the property within the Ashton Estates subdivision.

Where any restriction, consent or dedication herein varies from the requirements of the subdivision or other ordinances of Valley County having jurisdiction and the requirements of the county ordinances relating to the subdivision are more restrictive, said more restrictive requirement shall be deemed to be a part thereof as if set forth herein as part of these restrictive covenants. This limitation shall apply in particular to locations, public easements and ways where the same are particularly required by such ordinances but not set forth herein.

**ENFORCEMENT:** 22. If any party shall violate or attempt to violate any of the covenants herein contained, and shall persist in such violation or attempt after the "ten day notice" in writing was served or delivered upon such party, then any other person(s) owning real property in said subdivision may prosecute any proceeding at law or in equity against such party either to prevent such violation or to recover damages therefore, and in any such proceedings the prevailing party or parties shall be entitled to recover reasonable attorney fees and court costs from the other party or parties.

IN WITNESS WHEREOF, The Grantors have caused their hands to be subscribed hereto  
this 9<sup>th</sup> day of September, 2005

Diane Weigand  
Notary Public  
Residing at: McCall  
Commission Expires: 11/6/08



Wesley L. Rhoades  
Wesley L. Rhoades

Barbara M. Rhoades  
Barbara M. Rhoades