

# Valley County Planning and Zoning

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

---

**STAFF REPORT:** Appeal of Planning and Zoning Commission Decision  
Requiring a Conditional Use Permit for  
Solar Panels at 505 Collier View Road

**HEARING DATE:** February 27, 2023

**TO:** Board of County Commissioners

**STAFF:** Cynda Herrick, AICP, CFM  
Planning and Zoning Director

**PROPERTY OWNER:** Michael Falconer  
10192 W Purple Ash DR, Star, ID 83669

**LOCATION:** 505 Collier View RD  
Parcel RP002150000290  
Ponderosa Shores Subdivision No. 2 Lot 29,  
in Section 12, T.13N, R.3E, Boise Meridian, Valley County, Idaho.

**SIZE:** 0.7 acres

**REQUEST:** Appeal of P&Z Commission Decision – Conditional Use Permit is  
Required for Detached Solar Panels

**EXISTING LAND USE:** Home, Shed, and Detached Solar Panels

---

## BACKGROUND:

Valley County Code 9-5G-1 states that conditional use permits are required for solar panels greater than eight (8) square-feet that are detached from the primary structure. This requirement was adopted in Ordinance 10-06 on August 23, 2010.

Building Permit 2014-42 was obtained for a new single-family residence. Approval included special conditions stating, "Solar panels must be on structure or have P&Z approval". The solar panels at this location are on a post, not the primary residence as required by the ordinance.

According to the State of Idaho Division of Building Safety – Permit Information website, an electrical permit for solar install was applied for on September 21, 2015, and finalized on October 21, 2016.

Staff determined that detached solar panel had been erected at 505 Collier View Road without approval of a conditional use permit. The solar panel is visible from the public road and from the Valley County GIS imagery map.

On January 12, 2023, the Valley County Planning and Zoning Commission determined that a conditional use permit is required for existing solar panels at 505 Collier View Road.

## **FINDINGS:**

1. Jody Green, Valley County Code Compliance, sent letters to Mr. Falconer stating that a conditional use permit is required for the existing solar panel. (Sept. 26, 2022, and Oct. 20, 2022).
2. Mr. Falconer replied that the building was in compliance with the building ordinances, uses, and standards in effect at that time as certified by the Certificate of Occupancy dated. Oct. 30, 2015. (Oct. 31, 2022)
3. Jody Green replied with a copy of the building permit noting that approval would be needed from Planning and Zoning for detached solar panels. (Nov. 3, 2022)
4. Mr. Falconer replied with questions and concerns. He states that the panels are on a structure that was inspected and approved by Valley County and the State of Idaho. He believes he is being targeted and harassed. (Nov. 17, 2022)
5. Jody Green replied to the questions and included information on appeals of administrative decisions. (Nov. 28, 2022)
6. Mr. Falconer replied with an appeal of the administrative decision. (Dec. 12, 2022)
7. Director Cynda Herrick accepted the appeal and sent Mr. Falconer a draft agenda. (Dec. 13, 2022)
8. On January 12, 2023, the Valley County Planning and Zoning Commission determined that a conditional use permit is required for existing solar panels at 505 Collier View Road. Meeting minutes are attached.
9. **APPEAL:** The applicant has appealed the decision. The appeal was received in a timely manner on January 23, 2023, with the appropriate \$500 fee. The appeal is attached. Summarized reasons for appeal are listed below:
  - He was targeted to submit a conditional use permit eight years after receiving a Certificate of Occupancy which certifies that he was in compliance with the 2012 International codes and various ordinance of Valley County regulating building construction or use.
  - The panels were installed on a structure. Primary structure is not defined.
  - None of the applications, instruction, residential construction requirements, checklists, building permits, or local building codes from that time made any reference to conditional use permits.

## **10. STAFF RESPONSE TO APPEAL**

Mr. Falconer is not being targeted in a manner different from other property owners being asking to follow adopted Valley County Codes. Other property owners have applied for the conditional use permits as required. We send letters concerning violations as we become aware of the violation. Applications for solar panels and similar letters have been sent to property owners at various locations, as follows:

- CUP 15-07 13957 Country Way – Approved after Construction
- CUP 15-13 234 Alta Vista – Approved prior to Construction
- CUP 22-02 64 Circle View LN – Denied after Construction, subsequently removed
- CUP 22-03 730 Warm Lake RD – Withdrawn...need a CUP
- CUP 22-15 13643 Farm to Market RD – Approved prior to Construction
- CUP 22-54 505 Crown Point Parkway – Approved after Construction

The ordinance requires panels to be installed on the primary structure in order to be exempt from the conditional use permit requirement, not a pole. The building permit required the solar panel on the structured (being approved) or a conditional use permit would be required; it specifically states, “solar panels must be on structure of have P&Z approval”. The Planning and Zoning Commission agreed that a pole did not constitute a structure as required in the ordinance.

(from 1/12/2023 minutes)

“Director Herrick responded to questions and clarified requirements of Valley County Code for Solar Panels and for Building Permits. The Valley County Land Use Ordinance is in addition to requirements of the International Building Code. Valley County Code requires the solar panels to be placed on the primary structure or obtain a conditional use permit. The home is the primary structure. It does not matter if the site is “off-grid”. A Certificate of Occupancy is approved by the Building Department who would have inspected the house to check for compliance with the building permit and Building Code.”

**(Ordinance in Effect at time of Building Permit)**

**Valley County Code 9-5G-1: SITE OR DEVELOPMENT STANDARDS**

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

- A. Solar Panels Greater Than Eight Square Feet In Accumulated Area and Detached From Primary Structure:
1. Must be a minimum of fifteen feet (15') from property lines.
  2. Glare shall not create a hazard to vehicular traffic.
  3. Cannot be over thirty feet (30') in height.
  4. Impact to neighbors will be a determining factor.

**VCC 9-5H-12: APPEALS:**

.... Each appeal must clearly state the name, address and phone number of the person or organization appealing and the specific issues, items or conditions that are being appealed and state the nature of his or their interest and extent of damages.

(Appellants identify themselves as aggrieved individuals.)

Definition of **Aggrieved Person**: a person sufficiently harmed by a legal judgment, decree, or order to have standing to prosecute an appellate remedy. (Merriam-Webster)

(End of Appeal and Staff Comments)

**Planning and Zoning Commission decision in the Minutes from January 12, 2023:**

“The Commissioners agreed there has been a misunderstanding. Valley County Code 9-5G-1

regarding solar panels has been in effect since 2010. The ordinance did exist when this solar panel structure was constructed. Valley County Code states "primary structure" which is the home and/or garage. This solar panel system is on a pole, not on the primary structure. Free-standing panels can impact neighbors.

Commissioner Childs moved to deny the appeal of administrative decision that a Conditional Use Permit is required for solar panels at 505 Collier View Road, thus requiring a conditional use permit. Commissioner Freeman seconded. Motion passed unanimously."

11. Legal notice for the Appeal was posted in the *Star News* on February 2, 2023, and February 9, 2023. Potentially affected agencies were notified on January 26, 2023. Property owners within 300 feet of the property line were notified by fact sheet sent January 26, 2023. The fact sheet and appeal letter were posted online at [www.co.valley.id.us](http://www.co.valley.id.us) on January 26, 2023. The site was posted on February 16, 2023.

12. Agency Comment Received: None

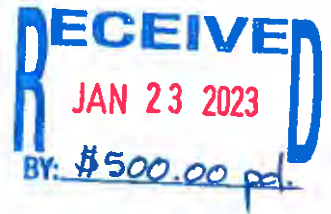
13. Neighbor Comments Received:

Brenda and Ron McLean, 505 Hilltop RD, are close neighbors and do not have any issues or concerns with the solar panel structure. It appears Mr. Falconer is being targeted after a certificate of occupancy was issued eight years ago. An agreeable solution needs to be worked out between the parties involved. (February 7, 2023)

**ATTACHMENTS:**

- Appeal Letter
- PZ Commission Meeting Minutes – January 12, 2023
- Correspondence
- Vicinity Map
- Aerial Map from Google maps
- Pictures Taken Sept. 16, 2022, and Feb. 16, 2023
- Building Permit 2014-42
- Idaho Division of Building Safety – Permit Information
- Valley County Assessor's Office Report for Parcel

**END OF STAFF REPORT**



**505 Collier View Rd Solar Panel Conditional Use Permit Appeal**

**From:** Michael Falconer [REDACTED]

**Sent:** Monday, January 23, 2023 4:14 PM

**To:** Cynda Herrick <cherrick@co.valley.id.us>

**Cc:** Douglas Miller <dmliller@co.valley.id.us>; Valley County Prosecuting Attorney <ValleyPA@co.valley.id.us>; Brian Oakey <boakey@co.valley.id.us>

**Subject:** Re: 505 Collier View Rd Solar Panel Conditional Use Permit Appeal

January 23, 2023

To: Commissioner Roberts, Valley County Planning and Zoning Commission  
ATTN: Cynda Herrick, Planning and Zoning Director  
PO Box 1359 / 219 North Main Street  
Cascade, ID 83611-1350

RE: Appeal of Conditional Use Permit is Required for Solar Panels at 505 Collier View Rd.

To Commissioner Roberts:

I appreciate the commission providing time on January 12, 2023, for me to present facts regarding the placement of solar panels on my property 8 years ago. It is unfortunate that one member stated their opposition before hearing my side of the story and subsequently making a motion to deny my request not to submit a conditional use permit.

The commissioners voted, based on the information presented, to require me to submit a conditional use permit. I want to appeal that decision in accordance with Valley County Code 9-5h-12 B.

I was informed this morning that a \$500 nonrefundable appeal fee must accompany this appeal letter. Since I've received no information or minutes from the P&Z Administrator following the commission hearing on January 12th, according to VC Code 9-5H-8 -A , I trust you will accept this letter as I need to leave and either drive to Cascade or make arrangements to pay this appeal fee in cash or check by close of business today.

I'm appealing the need of a conditional use permit (CUP) primarily because:

- a. no one answered the question why I was targeted to submit a CUP 8 years after receiving a Certificate of Occupancy (dated 10-30-15), which included the electrical permit approved on 09-21-2015. This certifies that at the time of issuance this structure was in compliance with the 2012 International codes and various ordinances of Valley County regulating building construction or use. I also have an email from the Building Official (dated 07-23-16) reaffirming completion.
- b. the staff states the panels must be installed on a "primary structure" and offered several opinions what that is but did not furnish any reference or document that includes a definition of a primary structure. The panels were installed on a structure as specified in the building application and defined in several county ordinances as well as applicable International residential and building codes definitions.

c. none of the applications, application instructions, residential construction requirements, checklists, building permits, or local building codes from that time made any reference to CUP's.

Other topics that need to be reviewed include:

1. who has precedence as the Building Official for Valley County?
2. Why did no one answer the question asking how long P&Z held a violation notice before code compliance notified me in September 2022 ?
3. Why did code compliance not review the building application until October 31, 2022?
4. Why and when was the term "off grid" blacked out on the original permit application?
5. When the code compliance employee states the "purpose of the application is not to say anyone was wrong, just that this process was missed, and we are trying to correct it." then why not correct the process administratively? (11-28-2022 VC PZ Ltr)
6. When the code compliance employee states in the November 28, 2022 letter to me that "A Conditional Use Permit is not something you will have to repeat yearly. Once this is approved it is approved for the property." How does this guidance from the county hold up to VC Code 9-5H-8B that says CUPs are valid for a period of one year from the date of the hearing, after which time, the approval will expire and be null and void unless the applicant has substantially complied with the provisions thereof or has applied for an extension of time, or the commission has approved a phasing plan for a longer period.
7. We need to carefully examine the building permit application as I was not given an opportunity to comment at the hearing.

If you have any questions, please contact me.

Mike Falconer  
10192 W Purple Ash Dr  
Star, ID 83669



# Valley County Planning and Zoning Commission

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



Phone: 208-382-7115  
Email: [cherrick@co.valley.id.us](mailto:cherrick@co.valley.id.us)

, Chairman  
Ken Roberts, Vice-Chair

Katlin Caldwell, Commissioner  
Sasha Childs, Commissioner  
Scott Freeman, Commissioner

## MINUTES

Valley County Planning and Zoning Commission  
January 12, 2023  
Valley County Court House - Cascade, Idaho  
PUBLIC HEARING - 6:00 p.m.

- A. OPEN:** Meeting called to order at 6:00 p.m. by Acting Chairman Roberts. A quorum exists.
- |                                     |         |
|-------------------------------------|---------|
| PZ Director – Cynda Herrick:        | Present |
| PZ Commissioner – Katlin Caldwell   | Present |
| PZ Commissioner – Sasha Childs:     | Present |
| PZ Commissioner – Scott Freeman:    | Present |
| PZ Commissioner – Ken Roberts:      | Present |
| PZ Commissioner – Gary Swain:       | Present |
| PZ Assistant Planner – Lori Hunter: | Present |

Acting Chairman Roberts welcomed Gary Swain, the newest member of the Commission.

- B. MINUTES:** Commissioner Freeman moved to approve the minutes of December 8, 2022, with corrections: replace Chairman Thompson with Vice Chairman Roberts on page 4 and change the meeting adjourned time to 10:25 p.m. Commissioner Childs seconded the motion. Motion passed unanimously. [The video of the meeting was reviewed, and Staff determined that the meeting ended at 9:25 p.m.]

### C. OLD BUSINESS:

- 1. C.U.P. 21-20 Gold Fork River Estates – Final Plat:** Gold Fork LLC is requesting final plat approval. The commission will review the final plat to determine conformance with the preliminary plat, approved densities, and conditional use permit. This plat is a six-lot single-family subdivision plus an open space lot along the Gold Fork River. Lots would be accessed from a new private road onto Davis Creek Lane (public) and from Gold Fork Road (public). The 46-acre site is parcels RP16N04E295625, RP16N04E296770, and part of RP16N04E296006 in the SW ¼ Section 29, T.16N, R.4E, Boise Meridian, Valley County, Idaho. **Not a public hearing.** Action Item

Acting Chairman Roberts introduced the item and asked if there was any exparte contact or conflict of interest. Acting Chairman Roberts submitted a comment letter as the President of the Gold Fork Irrigation Company. He does not see this as a conflict of interest, and he has zero financial interest in this application. Acting Chairman Roberts will pass the gavel to Commissioner Caldwell to run the public hearing; Commissioner Roberts will still vote as a commission member.

- **Appeal of Administrative Decision that a Conditional Use Permit Is Required for Solar Panels at 505 Collier View Road.** Action Item. Not a public hearing.

Valley County Code 9-5G-1 states requirements for solar panels.

Mr. Falconer, Star, Idaho, property owner of 505 Collier View Road, was present. He is a past employee of U.S. Corps of Engineers, the Federal Emergency Management Agency (FEMA), and State of Idaho, and understands engineering and regulations. He purchased the property about 12 years ago and designed a septic system to fit the property. Electrical power was not available to the site at that time. The building official at the time was helpful in making it possible for him to build an "off-grid" home. Mr. Falconer did obtain a Certificate of Occupancy from the Valley County Building Department; the power from the solar panels was essential. The cost of the solar system was almost equal to the cost of the home. The term "off-grid" was essential to this site; he is not sure when that term was redacted from the building permit. The solar panels were placed on an engineered "structure". They were not placed on a building, but a "structure", per the International Building Code. At that time, the International Building Code did not reference PV panels [solar photovoltaic panels]. One panel is approximately 15-sqft. The structure is 13-ft high and 10-ft x 16-ft wide. The base is 4-ft x 6-ft with reinforced concrete. It is an 8-inch galvanized post. There is single-axel tracking system which moves the solar panel with the sun. It produces about 25 watts of power.

For eight years he thought he was good as he received a Certificate of Occupancy in 2015; now he is told another permit is required. He did not try to circumvent requirements and met all the International Building Code standards. The building official told him he "was good to go." The State of Idaho electrical permit was to hook up the solar panel. He specified this was an off-grid system. He was not aware of a violation until contacted by Staff. The septic system location is not impacted. He has read the Valley County Code for solar panels [VCC 9-5G-1]. He believes he complies with all the requirements. The neighbors have not complained. The solar panels do not reflect onto neighbors due to the angle. The building standards that apply are those that were in place at the time the application was accepted. The building permit application was discussed. Mr. Falconer stated he does have a copy of the building permit application. The notation on the permit states the panels must be installed on a structure. Mr. Falconer interprets this to mean he is in compliance as the solar panel is on a stand-alone structure. The pole meets the definition of a structure in the International Building Code.

Director Herrick responded to questions and clarified requirements of Valley County Code for Solar Panels and for Building Permits. The Valley County Land Use Ordinance is in addition to requirements of the International Building Code. Valley County Code requires the solar panels to be placed on the primary structure or obtain a conditional use permit. The home is the primary structure. It does not matter if the site is "off-grid". A Certificate of Occupancy is approved by the Building Department who would have inspected the house to check for compliance with the building permit and Building Code.

The Commissioners agreed there has been a misunderstanding. Valley County Code 9-5G-1 regarding solar panels has been in effect since 2010. The ordinance did exist when this solar panel structure was constructed. Valley County Code states "primary structure" which is the home and/or garage. This solar panel system is on a pole, not on the primary structure. Free-standing panels can impact neighbors.

Commissioner Childs moved to deny the appeal of administrative decision that a Conditional Use Permit Is required for solar panels at 505 Collier View Road, thus requiring a conditional use permit. Commissioner Freeman seconded. Motion passed unanimously.

There is a 10-day appeal period to the Board of County Commissioners in accordance with Valley Code 9-5H-12.



# Valley County Planning and Zoning

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



Phone: 208-382-7115  
Email: [jgreen@co.valley.id.us](mailto:jgreen@co.valley.id.us)

September 26, 2022

Michael Falconer  
10192 W Purple Ash DR  
STAR ID 83669

RE: 505 Collier View RD – RP002150000290

To Michael Falconer:

It has come to my attention that you have a solar panel on your property at 505 Collier View RD. Valley County has an ordinance (VC 9-5G-1) that requires a Conditional Use Permit for placement of solar panels.

I have included a copy of the ordinance and a Conditional Use Permit application. The application fee is \$300.

If you have questions about the Conditional Use Permit process, you can contact Cynda Herrick at 208-382-7116 or email at [cherrick@co.valley.id.us](mailto:cherrick@co.valley.id.us). If you have any questions, please call our office at 208-382-7115.

Sincerely,

A handwritten signature in black ink, appearing to read "Jody Green".

Jody Green  
Code Compliance

# Valley County Planning and Zoning

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



Phone: 208-382-7115  
Email: [jgreen@co.valley.id.us](mailto:jgreen@co.valley.id.us)

October 20, 2022

Michael Falconer  
10192 W Purple Ash DR  
STAR ID 83669

RE: 505 Collier View RD – RP002150000290

To Michael Falconer:

It has come to my attention that you have a solar panel on your property at 505 Collier View RD. Valley County has an ordinance: Alternative Energy Uses (VC 9-5G-1) that requires a Conditional Use Permit for placement of solar panels.

I have included a copy of the ordinance and a Conditional Use Permit application. The application fee is \$300.

If you have questions about the Conditional Use Permit process, you can contact Cynda Herrick at 208-382-7116 or email at [cherrick@co.valley.id.us](mailto:cherrick@co.valley.id.us). Please turn in application or contact our office before November 1<sup>st</sup>. If you have any questions, please call our office at 208-382-7115.

Sincerely,

A handwritten signature in black ink, appearing to read "Jody Green".

Jody Green  
Code Compliance

October 31, 2022

Valley County Planning and Zoning  
ATTN: Jody Green, Code Compliance  
PO Box 1359 / 219 North Main Street  
Cascade, ID 83611-1350

RE: 505 Collier View Rd. - RP002150000290

Ms Green:

Going through my vacation mail recently, I found a September 26, 2020, letter from you about Valley County's new alternative energy ordinance and conditional use permit for placement of solar panels. A few days ago, I received a copy of the same letter dated October 20, 2022.

I am interested in the use of solar energy, especially in off-grid applications like mine. My building project was completed in compliance with the various building ordinances, uses, and standards in effect at that time as certified by my Certificate of Occupancy, dated October 30, 2015.

Sincerely,



Mike Falconer  
10192 W Purple Ash Dr  
Star, ID 83669

**505 Collier View RD - RP002150000290**

**From:** Jody Green <jgreen@co.valley.id.us>

**Sent:** Thursday, November 3, 2022 4:27 PM

**To:** Michael Falconer [REDACTED]

**Subject:** Re: 505 Collier View RD - RP002150000290

Mr. Falconer:

Thank you for your response. I am attaching a copy of the building permit. The Planning and Zoning department noted that if the solar panel was detached from any structure, you would need approval from the department. The Building department would still allow occupancy as that is not their departments responsibility. You will still need to obtain a conditional use permit for the solar panel.

You can appeal this administrative decision in accordance with Valley County Code 9-5h-12.

*Have a great day!*

**Jody Green**  
Planning and Zoning  
Code Compliance

Phone 208-382-7145 Ext 1390  
219 N Main St | PO Box 1350  
Cascade, ID 83611

November 17, 2022

Valley County Planning and Zoning  
Attn: Jody Green, Code Compliance  
PO Box 1359 / 219 North Main Street  
Cascade, ID 83611-1350



RE: Solar Panels at 505 Collier View Rd.

To Ms Green:

I acknowledge receipt of your November 3, 2022 email stating:

"Thank you for your response. I am attaching a copy of the building permit. The Planning and Zoning department noted that if the solar panel was detached from any structure, you would need approval from the department. The Building department would still allow occupancy as that is not their departments responsibility. You will still need to obtain a conditional use permit for the solar panel.

You can appeal this administrative decision in accordance with Valley County Code 9-5h-12."

Your email is misleading about panel placement and confusing about who is responsible for building code standards, including occupancy. Is it now the P&Z Department or the Building Official for Valley County, or does it depend on the applicant? My Building Permit Application, 2014-42, Special conditions states "panels must be on structure or have P&Z approval". This didn't say detached or dwelling or building. The panels were correctly installed on a structure, inspected and approved by the Valley County and the State of Idaho. Because definitions are important, please refer to 2009 and 2012 IRC and IBC definitions.

So, 6 years after the completion date and issuance of a certificate of occupancy by Valley County that this seasonal off-grid building complies "with the various ordinances regulating building construction or use", you now tell me to submit a conditional use permit that is used for land use development and planning. Why? It seems the purpose of this retroactive application is for me to admit that the original process was flawed and we, myself and the Building Official, did something wrong. I reject that implication. I think your request is excessive in scope, it requires me to repeat this process annually, and there is no protection that Valley County won't change the rules again. But this isn't just about my solar panels. I believe that I'm being targeted and harassed because of other requests to the Board of Commissioners to resolve situations and conditions since 1979 as specified in previous letters and testimony, as well as objections to uncontrolled increases in property values.

Based on my previous experience with P&Z, I have no confidence that I would receive a fair administrative review or decision on this matter and request to make my appeal to the P&Z Commission in accordance with Valley County Code 9-5-12. I request you pro-

vide me with the following information at your earliest opportunity as I prepare my appeal:

1. The circumstances that my solar panel came to your attention as stated in your first two letters, including the name of the individual(s) reporting this to you, the date, and summary of that communication including instructions to you.
2. The date you conducted an on-site inspection and did this include measurements and dated photographs?
3. The date you reviewed the applicable building records, applicable building standards, and definitions of 2009 and 2012 IBC/IRC for this building permit?
4. Are you responsible for ensuring compliance of County ordinances and codes for all agencies? If not, list those not under your supervision and the individual who is responsible.
5. Did you conduct a code inspection of all properties in Ponderosa Shores #2 subdivision and, if so, on what date and list the code violations you discovered?
6. Define the term "accumulated area" used in Section 9-5 G-1 A. Please include a reference or link to a Valley County map showing these areas, the date the area was first established, the most recent update, and the process used to review and approve these areas.
7. In the Building Code Application 2014-42, what was redacted in the special conditions block?

I request reasonable time to gather information and prepare my presentation to the P&Z Commission on a mutually agreeable date, preferably after the installation of new County elected and appointed officials.

I look forward to hearing from you.



Mike Falconer  
10192 W Purple Ash Dr  
Star, ID 83669  
208-272-0685



# Valley County Planning and Zoning

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



Phone: 208-382-7115  
Email: [jgreen@co.valley.id.us](mailto:jgreen@co.valley.id.us)

November 28, 2022

Michael Falconer  
10192 W Purple Ash DR  
Star ID 83669

RE: Conditional Use Permit required for Solar Panel  
505 Collier View RD

Dear Mr. Falconer:

In response to your letter received November 23, 2022. I would like to address a few statements from your letter. The statement "It seems the purpose of this retroactive application is for me to admit that the original process was flawed and we, myself and the Building Official, did something wrong". The purpose of the application is not to say anyone was wrong, just that this process was missed, and we are trying to correct it. A Conditional Use Permit is not something you will have to repeat yearly. Once this is approved it is approved for the property.

As for your questions:

1. The circumstances that my solar panel came to your attention as stated in your first two letters, including the name of the individual(s) reporting this to you, the date, and summary of that communication including instructions to you.

The solar panel is visible on our GIS map on the Valley County website (picture enclosed). When I started in this position, I had this in the violation folder, so I made a site visit to verify the violation and /or compliance.

2. The date you conducted an on-site inspection and did this include measurements and dated photographs?

Site visit was made on September 16, 2022. I did not go on-site and take measurements. Pictures were taken and are included.

3. The date you reviewed the applicable building records, applicable building standards, and definitions of 2009 and 2012 IBC/IRC for this building permit?

The building permit was pulled when we received your email on October 31, 2022. We reviewed the permit which was conditioned on the solar panels being located on a structure.

4. Are you responsible for ensuring compliance of County ordinances and codes for all agencies? If not, list those not under your supervision and the individual who is responsible.

I am responsible only for Planning and Zoning. I have no one under my supervision.

5. Did you conduct a code inspection of all properties in Ponderosa Shores #2 subdivision and, if so, on what date and list the code violations you discovered?

While driving on Collier View RD to verify your solar panel I observed properties that will need RVC permits for next year. Notice will be sent to affected parties during compliance process.

6. Define the term "accumulated area" used in Section 9-5 G-1 A. Please include a reference or link to a Valley County map showing these areas, the date the area was first established, the most recent update, and the process used to review and approve these areas.

**9-5G-1: SITE OR DEVELOPMENT STANDARDS:**

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

A. Solar Panels Greater Than Eight Square Feet In Accumulated Area And Detached From Primary Structure:

1. Must be a minimum of fifteen feet (15') from property lines.
2. Glare shall not create a hazard to vehicular traffic.
3. Cannot be over thirty feet (30') in height.
4. Impact to neighbors will be a determining factor.

Accumulated Area would be the (surface, face, panels...ie the panel is 3'x5' so it has an accumulated area of 15').

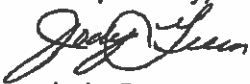
7. In the Building Code Application 2014-42, what was redacted in the special conditions block?

The words "off grid" were blacked out on the original permit.

You are not the only property in the area with solar panels. There is another solar panel north of you at 328 Westview Rd; they obtained a conditional use permit.

This decision can be appealed to the Valley County Planning and Zoning Commission in accordance with Valley County Code 9-5H-12 (enclosed). Please submit application or contact our office by 5 p.m. December 12, 2022. If you have any questions about the conditional use permit application, please contact Cynda Herrick, Planning and Zoning Director, at (208) 382-7115.

Respectfully,



Jody Green  
Code Compliance

Enclosure(s)



**Conditional Use Permit Application for Solar Panels at 505 Collier View RD**

Cynda Herrick <cherrick@co.valley.id.us>

Tue 12/13/2022 9:01 AM

To: Michael Falconer [REDACTED]; Jody Green <jgreen@co.valley.id.us>

Cc: Carl Withroe [REDACTED]; Lori Hunter <lhunter@co.valley.id.us>

1 attachments (370 KB)

PZ\_A\_1-12-2023.pdf;

Oops....Change 2022 to 2023

Meeting is January 12, 2023 not 2022

Attached is the agenda.

Cynda Herrick, AICP, CFM  
Valley County  
Planning and Zoning Director  
Floodplain Coordinator  
PO Box 1350  
Cascade, ID 83611  
(208)382-7116

“Live simply, love generously, care deeply, speak kindly, and leave the rest....”

**S**ervice **T**ransparent **A**ccountable **R**esponsive

---

**From:** Cynda Herrick <cherrick@co.valley.id.us>

**Sent:** Tuesday, December 13, 2022 8:47 AM

**To:** Michael Falconer [REDACTED]; Jody Green <jgreen@co.valley.id.us>

**Cc:** Carl Withroe [REDACTED]; Lori Hunter <lhunter@co.valley.id.us>

**Subject:** Re: Conditional Use Permit Application for Solar Panels at 505 Collier View RD

Hello,

Sorry to hear about the death in your family.

I will consider this your appeal of an administrative decision in accordance with Valley County Code 9-5H-12 and will set this matter for an appeal hearing with the Planning and Zoning Commission on January 12, 2022, at 6:00 p.m. The hearing will not be a public hearing. An agenda will be sent to you once it is posted.

You or your legal counsel can supplement the letter with additional information by 5:00 p.m. on January 5, 2022; the packets are delivered to the P&Z Commission on January 6, 2022.

If you have any questions, please let me know.

Thanks, Cynda

Cynda Herrick, AICP, CFM  
Valley County  
Planning and Zoning Director  
Floodplain Coordinator  
PO Box 1350  
Cascade, ID 83611  
(208)382-7116

"Live simply, love generously, care deeply, speak kindly, and leave the rest..."

**S**ervice **T**ransparent **A**ccountable **R**esponsive

---

**From:** Michael Falconer [REDACTED]  
**Sent:** Monday, December 12, 2022 4:21 PM  
**To:** Jody Green <jgreen@co.valley.id.us>  
**Cc:** Cynda Herrick <cherrick@co.valley.id.us>; Carl Withroe [REDACTED]  
**Subject:** Conditional Use Permit Application for Solar Panels at 505 Collier View RD

December 12, 2022

Valley County Planning and Zoning  
PO Box 1350  
Casacade, ID 82611

Attn: Jody Green , Code Compliance

RE: Conditional Use Permit required for Solar Panels 505 Collier View RD

Dear Ms Green:

I am running a bit late in responding to your November 28, 2022 letter due to a family death so will email this response in lieu of a hardcopy.

Again, I request a meeting with the P&Z Commission to discuss a retroactive conditional use permit, using the land use and planning application, for residential solar panels permitted, installed, and inspected in 2015.

Without going into much detail here, you said this process was initiated because of a note in a violation folder you inherited. You identified my solar panel using GIS maps, then conducted a site visit on Sep 16, 2022, but did not confirm setback or height standards in the current code 9-5G-1A. This review resulted in your letters to me beginning Sep 20, 2022.

The first time you looked at the May 1, 2014. building permit was after receiving my Oct 31, 2022 email, but you had already determined a violation existed. Redacting the "off-grid" special conditions in the building permit application was critical to the building process and conversations between me and the Building Official. As power was not readily available at that time and place, off-grid PV panels were the only reasonable option. This was still an expensive decision and any idea that I would risk this project at this time by trying to by-pass the permit process would be unreasonable. Panels were installed in accordance with the code requirements and definitions of that time. Both IRC, IBC and current VC definition (9-1-10) define structures that panels were installed on. There is much more importance in definitions,

especially at that time, because the only solar code references pertained to water heating. Based on the building application, instructions, VC building code, and a host of other checklists and references, these panels were properly permitted, installed and approved. Even today, you require all electrical work to be permitted and inspected through the State of Idaho.

In the opening paragraph of your last letter you said no one was wrong and you are just trying to correct a process that was missed. I was there and tell you nothing was missed, it was just different than your current process. There is no doubt that Valley County has changed processes and standards in the last 8 years, but that doesn't change Idaho Building Code Act 39-4116 (6) stating that "permits shall be governed by the laws in effect at the time the permit application is received." Thankfully, the Building Official at the time was knowledgeable, professional, and focused on problem solving the challenges on this project, but in the end issued a Certificate of Occupancy.

Again, I look forward to talking with the P&Z Commission to explain why I believe the submission of a retroactive conditional use permit is not necessary, especially considering you already have all of the property information requested on the application form.

I look forward to hearing from you about a date when I can meet with the Commission. I will be out of state until until the end of December 2022.

Respectfully,

Mike Falconer  
10192 W Purple Ash Dr  
Star, ID 83669



Re: 505 Collier View Rd Solar Panel Conditional Use Permit Appeal

Cynda Herrick <cherrick@co.valley.id.us>

Monday, 1/23/2023 10:47 AM

To: Michael Falconer [REDACTED]

Cc: Douglas Miller <dmliller@co.valley.id.us>; Valley County Prosecuting Attorney <ValleyPA@co.valley.id.us>; Brian Oakey <boakey@co.valley.id.us>

Hello,

The appeal fee covers time of processing an appeal and noticing of the hearing. The fee is not refundable.

You can submit cash or a check made out to Valley County Planning and Zoning.

The following is the Valley County Code 9-5H-12:

**9-5H-12: APPEALS:**

Any administrative level or commission level decision may be appealed in accordance with the procedures established herein. All such appeals must be written, accompanied by the fee as set by resolution of the board of commissioners and submitted to the administrator prior to the deadlines set forth herein. If the appeal deadline falls on a weekend or holiday, the appeal period is automatically extended to the next workday. Each appeal must clearly state the name, address and phone number of the person or organization appealing and the specific issues, items or conditions that are being appealed and state the nature of his or their interest and extent of damages.

**B. Appeals Of Commission Decisions:**

1. Any decision of the commission may be appealed to the board by the applicant, any aggrieved person or the administrator. The appeal shall be filed with the administrator before five o'clock (5:00) P.M. of the tenth calendar day after the determination of the commission has been made.
2. The administrator shall ascertain that the procedural requirements have been met and notify the board of the appeal.
3. The clerk, upon notice of an appeal of a decision by the commission, shall set the item on the agenda of the board at the earliest possible regular meeting of the board.
4. Notice of the public hearing shall be posted in accordance with subsection A3 of this section.
5. An appeal may not be withdrawn without the approval of the board.
6. All pertinent information in the planning and zoning file shall be forwarded to the board for review.
7. The board shall hold a public hearing to review the commission's proceedings and decisions and may obtain additional information from the administrator or staff, the applicant, the appellant, or the public.
8. The board may sustain, deny, amend or modify the decision of the commission. The decision of the board is final and need not be referred back to the commission; except, the board may elect to refer the matter to the commission with specific instructions. (Ord. 10-06, 8-23-2010)

Please let me know if you have additional questions. Thanks, Cynda

Cynda Herrick, AICP, CFM  
Valley County  
Planning and Zoning Director

**Mike Falconer appeal hearing 2-27-23**

**From:** Ron Mclean [REDACTED]

**Sent:** Tuesday, February 7, 2023 9:23 AM

**To:** Cynda Herrick <cherrick@co.valley.id.us>

**Cc:** Michael Falconer [REDACTED]

**Subject:** Mike Falconer appeal hearing 2-27-23

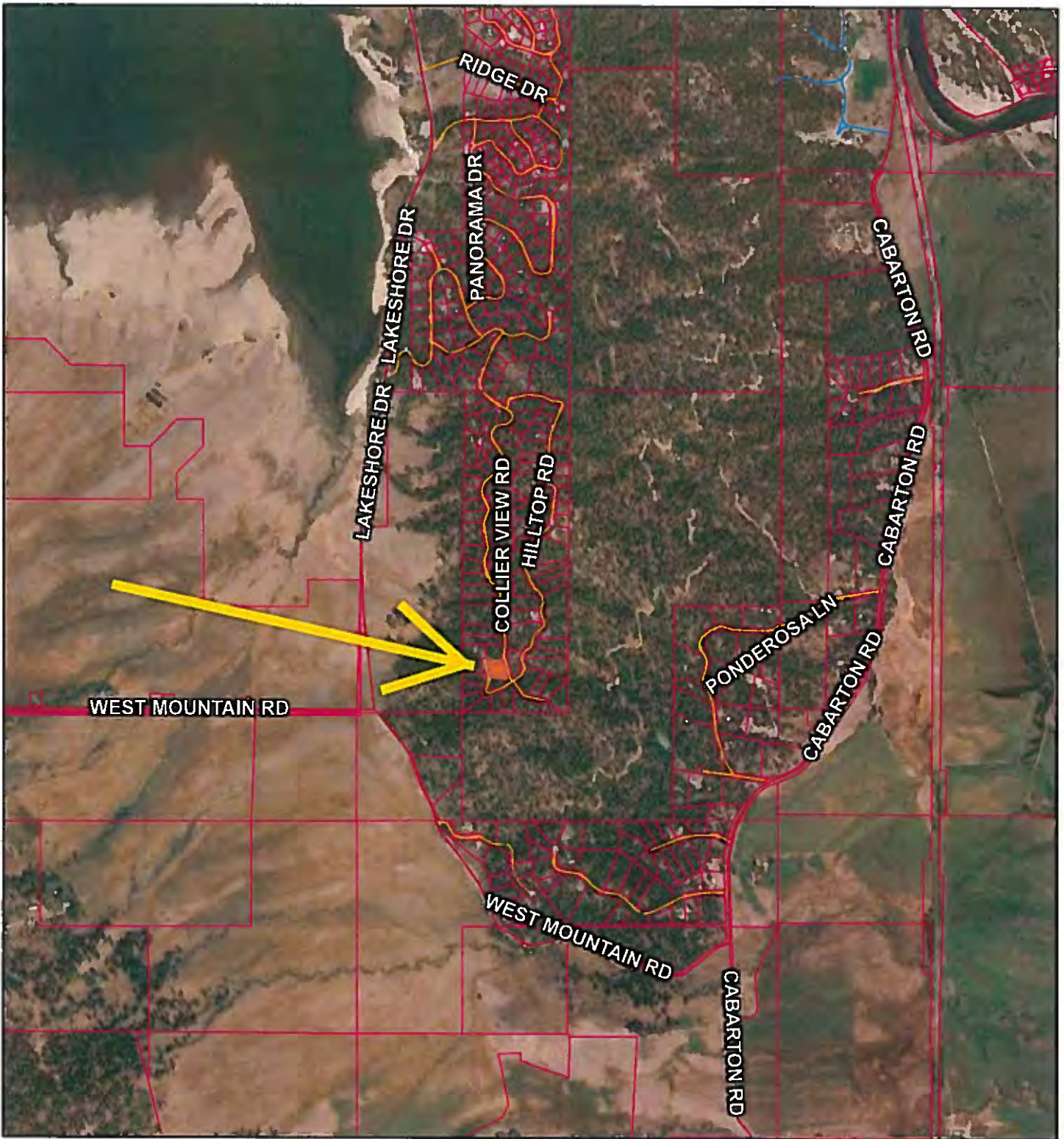
As one of Mr Falconer's closest neighbors, we do not have any issues or concerns involving his solar panel structure. We feel the system as installed professionally & in good taste. If the main concern is our view, any form of permanent structure to support the solar system would have a much greater negative affect then the pedestal foundation.

The real issue appears to be P & Z now requiring Mr Falconer to obtain a conditional use permit. After reading the reasons for appeal, we would have to agree, it appears Mr Falconer is being targeted. The fact that a permit was applied for, inspections performed, permit approved, and a certificate of occupancy issued 8 yrs ago, why would the CUP now become a concern ?

We feel Mr Falconer, his family, and their home are all valuable assets to the Cascade community. An agreeable solution needs to worked out between the parties involved.

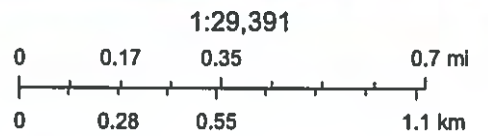
Brenda & Ron McLean  
505 Hilltop Rd  
Cascade, ID 83611

# Vicinity Map - 505 Collier View RD



December 22, 2022

- Override 1
- Parcel Boundaries
- Roads**
- COLLECTOR
- URBAN/RURAL
- PRIVATE
- OTHER
- County Boundaries**
- VALLEY COUNTY



Maxar













P.O. Box 1350  
Cascade, ID 83611

*called owner 5-5-14 - more info needed - Valley County, Idaho*  
**BUILDING PERMIT APPLICATION**

(208) 382-7114  
Fax 382-7110

*talked w/owner 5-12-14  
"architect 5-16-14"*  
Applicant to complete numbered spaces only.

1. PARCEL NUMBER  
RP002150000290  
R. ADDRESS PG.  
3601

2. PHYSICAL JOB ADDRESS  
505 Collier View, *rd.* Cascade, ID 83611

JOB ADDRESS  
OWNER  
BUILDING PERMIT NO.  
2014-42

3. LEGAL DESCR.	LOT NO. 29	BLK	SUBDIVISION OR TOWNSHIP, SECTION AND RANGE Ponderosa Shore Sub No. 2	
4. OWNER Michael L Falconer	MAIL ADDRESS 8660 W Atwater Dr, Garden City, ID		ZIP 83714	PHONE [REDACTED]
6. CONTRACTOR owner	MAIL ADDRESS		ZIP	PHONE [REDACTED]
8. ARCHITECT Ward Schwider <i>Schwider</i>	MAIL ADDRESS 1716 N 32nd, Boise, ID		ZIP 83703	PHONE [REDACTED]
7. DESIGNER Mike Falconer/Mark Cooper				
8. ENGINEER				

9. FOR MANUFACTURED HOUSING:  
INSTALLER AND LICENSE NUMBER

10. CLASS OF WORK:  NEW  ADDITION  ALTERATION  REPAIR  MOVE  REMOVE

11. Describe work and use  
New single family seasonal cabin (24'x32') with 1 bedroom and 1 bath.

12. Change of use from  
Change of use to

13. Valuation of work: \$ *46,080*

SPECIAL CONDITIONS:  
*must be on structure or have 1-2 appraisals*

\$ <i>214.70</i>	\$ <i>613.45</i>	\$ <i>828.15</i>
PLAN CHECK	PERMIT FEE	TOTAL FEE
Type of Const. <i>VB</i>	Occupancy Group <i>R-4</i>	Division <i>R3</i>
Size of Bldg. (Total) Sq. Ft. <i>768</i>	No. of Stories	Max. Occ. Load
Fire Zone	Use Zone	Fire Sprinklers Required <input type="checkbox"/> Yes <input type="checkbox"/> No
No. of Dwelling Units		

APPLICATION ACCEPTED BY <i>d 5/2/14</i>	PLANS CHECKED BY <i>5-21-14</i>	APPROVED FOR ISSUANCE BY <i>5-21-14</i>
--	------------------------------------	--

14. 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 60 DAYS, OR IF CONSTRUCTION OR WORK IS SUSPENDED OR ABANDONED FOR A PERIOD OF 180 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 REGULATING CONSTRUCTION OR THE PERFORMANCE OF CONSTRUCTION.

SIGNATURE OF CONTRACTOR OR AUTHORIZED AGENT  
*Michael L Falconer* (DATE) *11/14/2014*

SIGNATURE OF OWNER OR OWNER BUILDER  
*[Signature]* (DATE)

Department	Required	Received	By
ZONING			
HEALTH DEPT.		<i>d 5/2/14</i>	
SOIL REPORT		<i>see att.</i>	<i>1 BDAM</i>
FLOOD ORD.		<i>see att.</i>	
APPROACH		<i>Existing</i>	
RESTR. COVNTS.		<i>N/A</i>	

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

PLAN CHECK VALIDATION  
White - Inspector    Pink - Applicant    Yellow - Assessor

PERMIT VALIDATION  
CK    M.O.    CASH

*5-23-14 ag # 1044*

[Home](#) | [Setup an Account](#) | [Log In](#)

REMEMBER ME
 [Forgot Password](#)

**PERMIT Search** [Search Again](#) [Download Results](#) [Printable View](#)

Permit Number	Permit Type	Site Address	Site City	Site Zip Code	Site Parcel Number	Applicant Name
PLB1409-00277	PLUMBING	505 COLLIER VIEW RD	CASCADE	83611	TMP3576	RUSHBY PLUMBING
WEB1409-01886	ELECTRICAL	505 COLLIER VIEW RD	CASCADE	83611	TMP3576	ALL AMERICAN ELECTRIC CASCADE
WEB1409-02499	HVAC	505 COLLIER VIEW RD	CASCADE	83611	TMP3576	LEISURE TIME
WEB1509-01699	ELECTRICAL	505 COLLIER VIEW RD	CASCADE	83611	TMP3576	RENEWABLE RESOURCES OF IDAHO I
WEB1509-02551	PLUMBING	505 COLLIER VIEW RD	CASCADE	83611	TMP3576	Michael Falconer

**Details - Permit# WEB1509-01699**

**Permit**

[Permit Info](#) | [Site Info](#) | [Fees \\$65.00](#) | [Inspections \(1\)](#) | [Reviews](#)

**Type:** ELECTRICAL  
**Subtype:** CONTRACTOR  
**Description of Work:**  
**Status:** EXPIRED  
**Applied Date:** 9/21/2015  
**Approved Date:** 9/21/2015  
**Issued Date:** 9/21/2015  
**Final Date:**  
**Expiration Date:** 10/21/2016  
**Description of Work:** off grid solar PV with battery storage

## VALLEY COUNTY ASSESSOR'S OFFICE

### Parcel Summary and Improvement Report

PO Box 1350 - 219 N Main St, Cascade, ID 83611



Phone (208) 382 - 7126 | [assessor@co.valley.id.us](mailto:assessor@co.valley.id.us)

#### GENERAL PROPERTY SUMMARY

PARCEL ID	RP002150000290
OWNER(S)	FALCONER MICHAEL L
SITUS ADDRESS	505 COLLIER VIEW RD
SITUS CITY, STATE, ZIP	CASCADE, ID 83611
MAILING ATTENTION	
MAILING ADDRESS	10192 W PURPLE ASH DR
MAILING CITY, STATE, ZIP	STAR ID 83669
MAILING COUNTRY	



#### PROPERTY DESCRIPTION & LAND DATA

ACREAGE - SQ FT - FRONTAGE	ACRES: 0.7059	SQUARE FEET: 30749	FRONTAGE: 0
LAND DESCRIPTION	Average/Good		
LEGAL DESCRIPTIONS	PONDEROSA SHORES SUB NO. 2 LOT 29		
NEIGHBORHOOD	428203 West Mtn East Access		
PLAT LINKS	<a href="#">13N 3E S12.pdf</a> <a href="#">PONDEROSA SHORES SUBDIVISION NO 2</a>		
CURRENT LAND USES	USE: Average/Good	ACRES: 0.7059	

#### SALES HISTORY

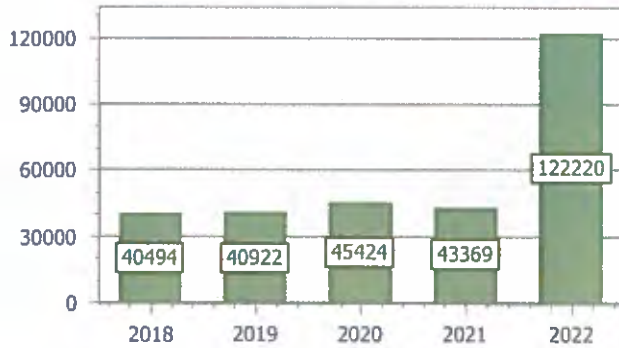
SALE DATE	GRANTOR	DEED REFERENCE
12/14/2011	BURK PHILLIP N	365670
06/24/2003	MC DONOUGH & BLISS	273067
06/24/2003	WEBB, KIM P & JOANN	273069

## ASSESSMENT HISTORY

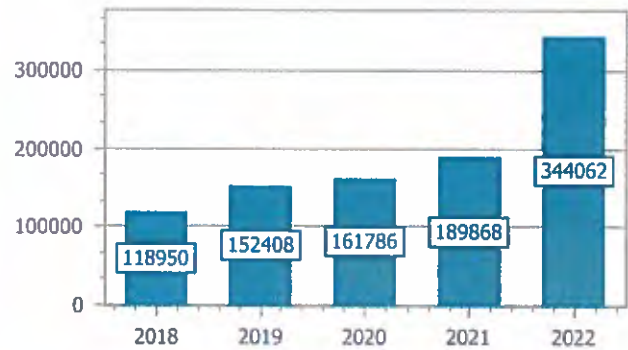
ASSESS DATE	1/1/2022	01/01/2021	01/01/2020	01/01/2019	1/1/2018
CHANGE REASON	01- Revaluat	01- Revaluat	01- Revaluat	01- Revaluat	01- Revaluat
LAND	122220	43369	45424	40922	40494
IMPROVEMENTS	221842	146499	116362	111486	78456
TOTAL	344062	189868	161786	152408	118950

## ASSESSMENT TRENDS

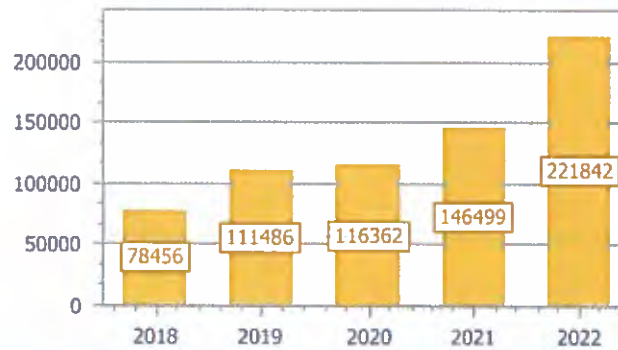
### LAND



### TOTAL



### IMPROVEMENTS



## TAX CODE AREAS & DISTRICTS

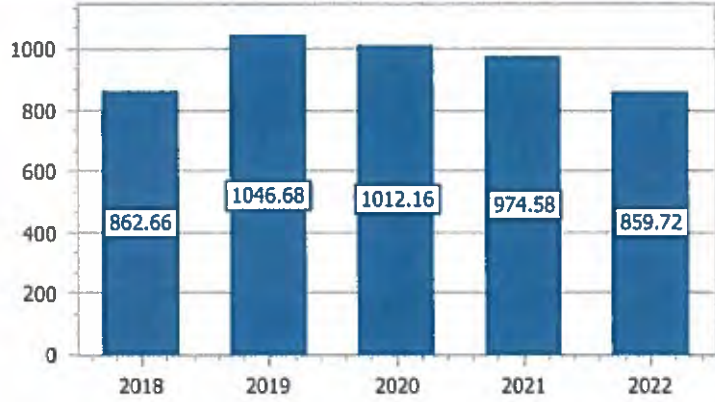
**TAX CODE AREA (TAG):** 020-0000

CEMETERY	
FIRE	CASCADE RURAL FIRE
HOSPITAL	CASCADE MEDICAL CENTER
SCHOOL	CASCADE SCHOOL #422

VOTER PRECINCT	007 - WEST MOUNTAIN
COMMISSIONER DISTRICT	CASCADE

**TOTAL TAX CHARGES**

YEAR	TOTAL CHARGE
2022	859.72
2021	974.58
2020	1012.16
2019	1046.68
2018	862.66



**HOMEOWNER'S EXEMPTION?**

YES     NO



**IMPROVEMENTS**

RECORD: R01

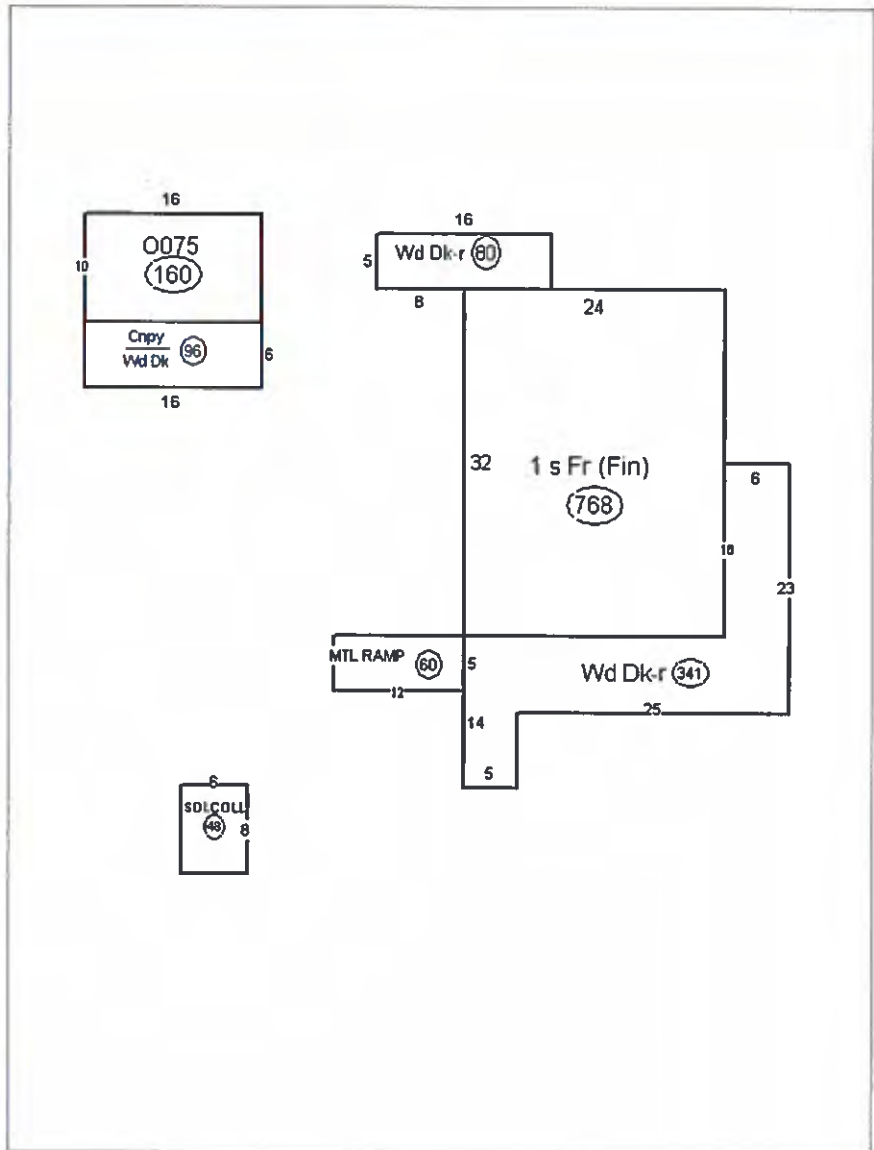
TYPE: DWELLING

USE: Single family - Owner

**BUILDING DESCRIPTION**

YEAR BUILT	2015
STORIES	1
FOUNDATION	None
STRUCTURE	Wood frame w/sheathing
EXTERIOR 1	Hardboard
EXTERIOR 2	Steel siding better
ROOF STYLE	Gable
ROOF COVER	Enamel steel
BEDROOMS	1
FULL BATHS	1
1/2 BATHS	0
HEATING TYPE	Wall units-elec
CENTRAL AIR	N
ATTIC TYPE	None
FIREPLACES	Y

**SKETCH**



**BUILDING DIMENSIONS (SQ FT)**

TOTAL SIZE	768
ATTIC FIN	0
BASEMENT	0
BASEMENT FIN	0
LOWER	0
LOWER FIN	0
ATTACHED GARAGE	
DETACHED GARAGE	
ATTACHED CARPORT	
BSMNT/LL GARAGE	
ENCLOSED PORCH	0
OPEN PORCH	0
WOOD DECK	481

**OUT BUILDING & YARD ITEMS**

SHEDGP  
Solar (RES) Collection Units

IMAGES

