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STAFF REPORT

Vacation Application 21-02
Vacation of Drainage Easement
In The Westwoods Subdivision No. 2

HEARING DATE: June 21, 2021

TO: Board of County Commissioners

STAFF: Cynda Herrick, AICP, CFM

APPLICANT/OWNER: Gail Starkey, Cody Lindley, & Lisa Lindley
5650 Tignes AVE
Meridian ID 83646

LOCATION: 2509 Westwood Drive
The Westwoods Subdivision No. 2, Lots 2 and 6, Blk 4
West ½ Sec. 18, T.16N R.3E, Boise Meridian,
Valley County, Idaho.

REQUEST: Vacate Platted Drainage Easements

EXISTING LAND USE: Home on Lot 2, utility shed on Lot 6

BACKGROUND:

Gail Starkey, Cody Lindley, and Lisa Lindley are requesting a vacation of a 12-foot-wide drainage easement that is centered on the lot line between Lot 2 and 6, Block 4, of The Westwoods Subdivision No. 2.

The applicants own both lots. Removal of the easement would allow them to build over the lot line and setback area and give them more flexibility in the location of their future garage. Removal of the easement will also allow them to retain more existing trees on the property along West Mountain RD.

Lot 2, Block 4 contains 0.49 acres and Lot 6, Block 4 contains 0.47 acres. Access would be from a driveway off Westwood Drive.

The Westwoods Subdivision No. 2 was recorded at Book 12, Page 53, on November 14, 2011. Note #6 on the plat states: "All Lots shall have a (6) foot wide easement adjacent to each side

and rear lot lines for the purpose of transporting property drainage.”

FINDINGS:

1. At a properly noticed public hearing on May 13, 2021, the Valley County Planning and Zoning Commission unanimously recommended approval of the proposed vacation. (Facts and Conclusions attached.)
2. Legal notice was posted in the Star News on May 27, 2021 and June 3, 2021. Potentially affected agencies were notified on May 17, 2021. Neighbors within 300 feet of the property line were notified by fact sheet sent May 17, 2021. The site was posted on May 27, 2021. The notice and application were posted online at www.co.valley.id.us/public-hearing-information on May 17, 2021.

3. Agency comment received:

Central District Health has no objections to this proposal. (April 19, 2021)

Donnelly Rural Fire Protection District has no comments or concerns. (April 29, 2021)

4. Neighbor/Public comment received: None

5. Valley County Code:

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

- A. Filing Of Application Required: An applicant wishing to vacate an existing subdivision, portion thereof, public right of way, or easement shall complete and file with the administrator an "application for total or partial vacation of an existing subdivision or other public right of way". This action shall be supplemental to, and in no way in conflict with, the applicant's obligation to comply with the provisions contained in Idaho Code sections 50-1317 through 50-1325.
- B. Placement On Commission Agenda: Upon receipt of the completed application, the administrator shall place said application on the agenda of the commission to be considered at its next regular meeting, subject to the same time limits prescribed for preliminary plat applications.
- C. Commission Review: The commission shall review the proposed vacation with regard to future development of the neighborhood. The commission shall also take into consideration the interests of adjacent property owners, of utilities, and of various public agencies where pertinent to the application.
- D. Commission Recommendation: Within ten (10) days, the commission shall make its recommendation concerning the application to the board who shall hold a public hearing and give such public notice as required by law.
- E. Board Action: The board may approve, deny or modify the application and shall record its action in the official minute book of the meetings of the board. Whenever public rights of way or lands are

vacated, the board shall provide adjacent property owners with a quitclaim deed, as prepared by the applicant, for said vacated rights of way in such proportions as are prescribed by law. (Ord. 10-07, 8-26-2010)

SUMMARY:

- The Planning and Zoning Commission recommended approval.
- The Board needs to determine if the future development of the neighborhood would be inhibited by the vacation.

Staff's Recommended Motion:

I move to approve Vacation Application No. 21-02 Vacation of Drainage Easements; accept the Planning and Zoning Commission Facts and Conclusions; and authorize the chairman to sign Resolution No. 21-15 Declaration of Vacation.

ATTACHMENTS:

- Proposed Resolution
- Planning and Zoning Facts and Conclusions
- Vicinity Map
- Aerial Map
- Westwood Subdivision No. 2 with Lot Line Highlighted
- Pictures taken May 4, 2021 and May 27, 2021
- Responses

END STAFF REPORT

**RESOLUTION NO. 21-15
DECLARATION OF VACATION
OF A PLATTED DRAINAGE EASEMENT
IN THE WESTWOODS SUBDIVISION NO. 2**

**VAC-21-02 Vacation of a Drainage Easement
Starkey and Lindley**

Location: **The Westwoods Subdivision No. 2, Lots 2 and 6, Blk 4 in the West ½
Sec. 18, T.16N R.3E, Boise Meridian, Valley County, Idaho.**

Whereas, the current action is to vacate the 12' drainage easement centered between Lots 2 and 6, Block 4, as shown on the Westwoods Subdivision No. 2 plat.

Whereas, The Westwoods Subdivision No. 2 was platted at Book 12, Page 53 on November 14, 2011;

Whereas, it has been determined that vacation of the drainage easement shall not inhibit future development of the neighborhood;

Therefore, the Board of County Commissioners hereby vacate the 12' drainage easement centered between Lots 2 and 6, Block 4, as shown on the attached plat; and, authorize the Chairman to sign this resolution.

Approved by the Board of County Commissioners of the County of Valley, State of Idaho, on this 21st day of June, 2021.

Board of Valley County Commissioners

Elting Hasbrouck, Chairman

State of Idaho)
)SS
County of Valley)

On this ____ day of _____, 2021, before me, _____, the undersigned, a Notary Public in and for said State, personally appeared Elting Hasbrouck known to be the person whose name subscribed to the within Instrument, and acknowledged to me that he, she, they executed the same.

Notary Public, Residing at Cascade, Idaho
My Commission Expires: _____

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

SUBJECT: Vacation Application No. VAC 21-02
Drainage Easement
The Westwoods Subdivision No. 2, Block 4, Lots 2 and 6

INTRODUCTION

This matter came before the Valley County Planning and Zoning Commission on May 13, 2021. The Commission reached a quorum. Commission members in attendance were Neal Thompson, Brian Benton, Ray Cooper, and Scott Freeman.

The applicant, Gail Starkey, was present and requested a vacation of the drainage easement centered on the lot line between Lots 2 and 6, Block 4, in The Westwoods Subdivision No. 2, located in the W2 of Sec. 18, T.16N R.3E, Boise Meridian, Valley County, Idaho.

FINDINGS OF FACT

Having given due consideration to the application and evidence presented and marked as exhibits on May 13, 2021, the Valley County Planning and Zoning Commission hereby makes the following findings of fact:

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

Legal notice was posted in the *Star News* on April 22, 2021 and April 29, 2021. Potentially affected agencies were notified on April 13, 2021. Neighbors within 300 feet of the property lines were notified by fact sheet sent April 13, 2021. The site was posted on May 4, 2021. The application and notice were posted on the Valley County website "Public Hearing Information" on April 13, 2021.

3. Other persons in attendance expressed neither approval nor disapproval of the proposed vacation.

CONCLUSIONS

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

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

ORDER

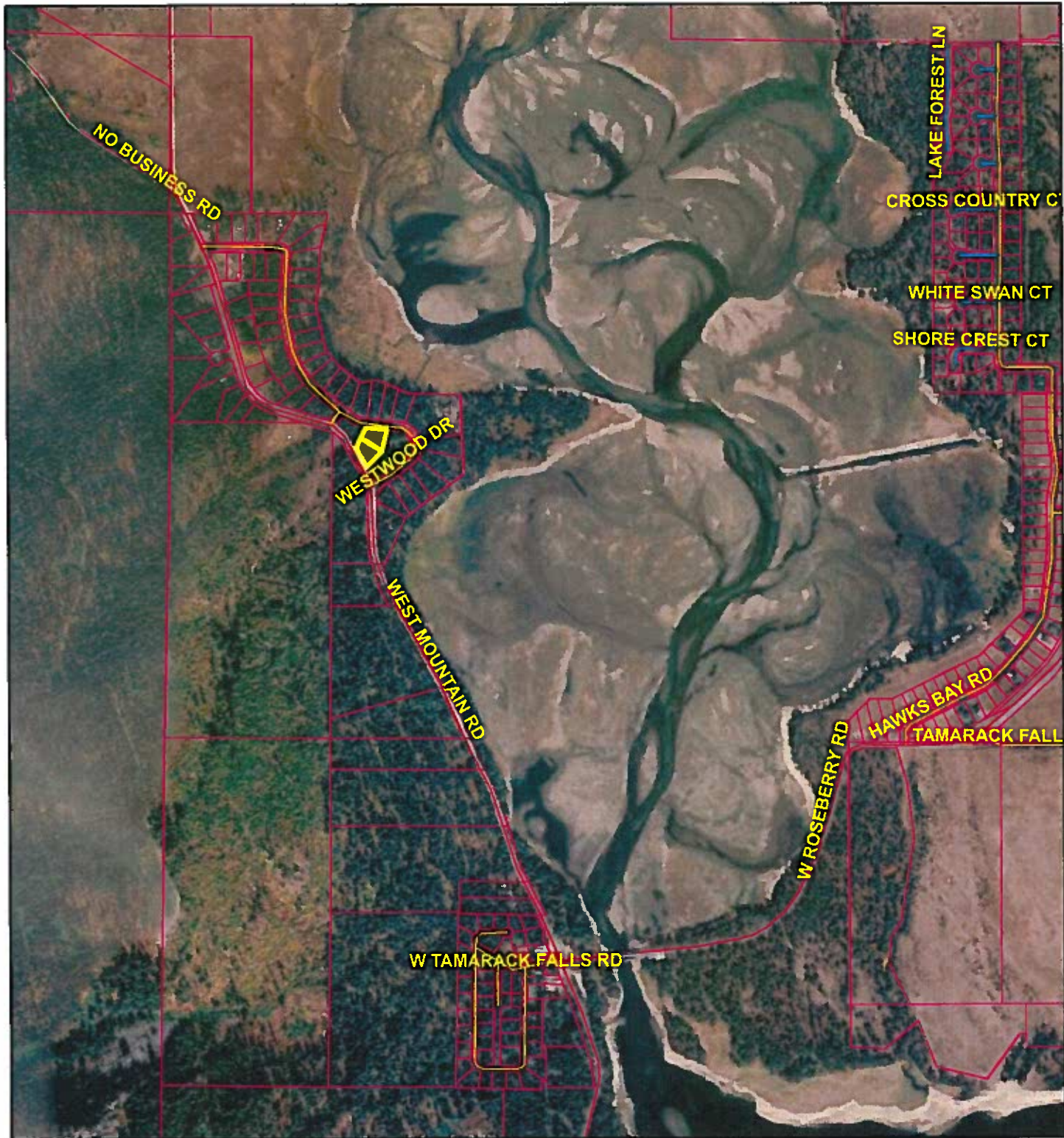
The Valley County Planning and Zoning Commission, pursuant to the aforementioned, recommends to the Board of County Commissioners that the application of Gail Starkey, Cody Lindley, and Lisa Lindley for Vacation No. 21-02 Vacation of a Drainage Easement along the interior lot line between Lots 2 and 6, Block 4, The Westwoods Subdivision No. 2, as described in the application, staff report, and minutes of the meeting be approved.

END FACTS AND CONCLUSIONS

Chairman, Valley County Planning and Zoning

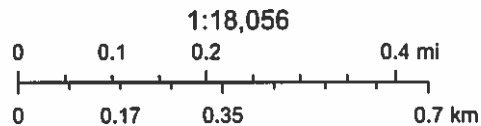
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VAC 21-02 at 2509 Westwood Drive



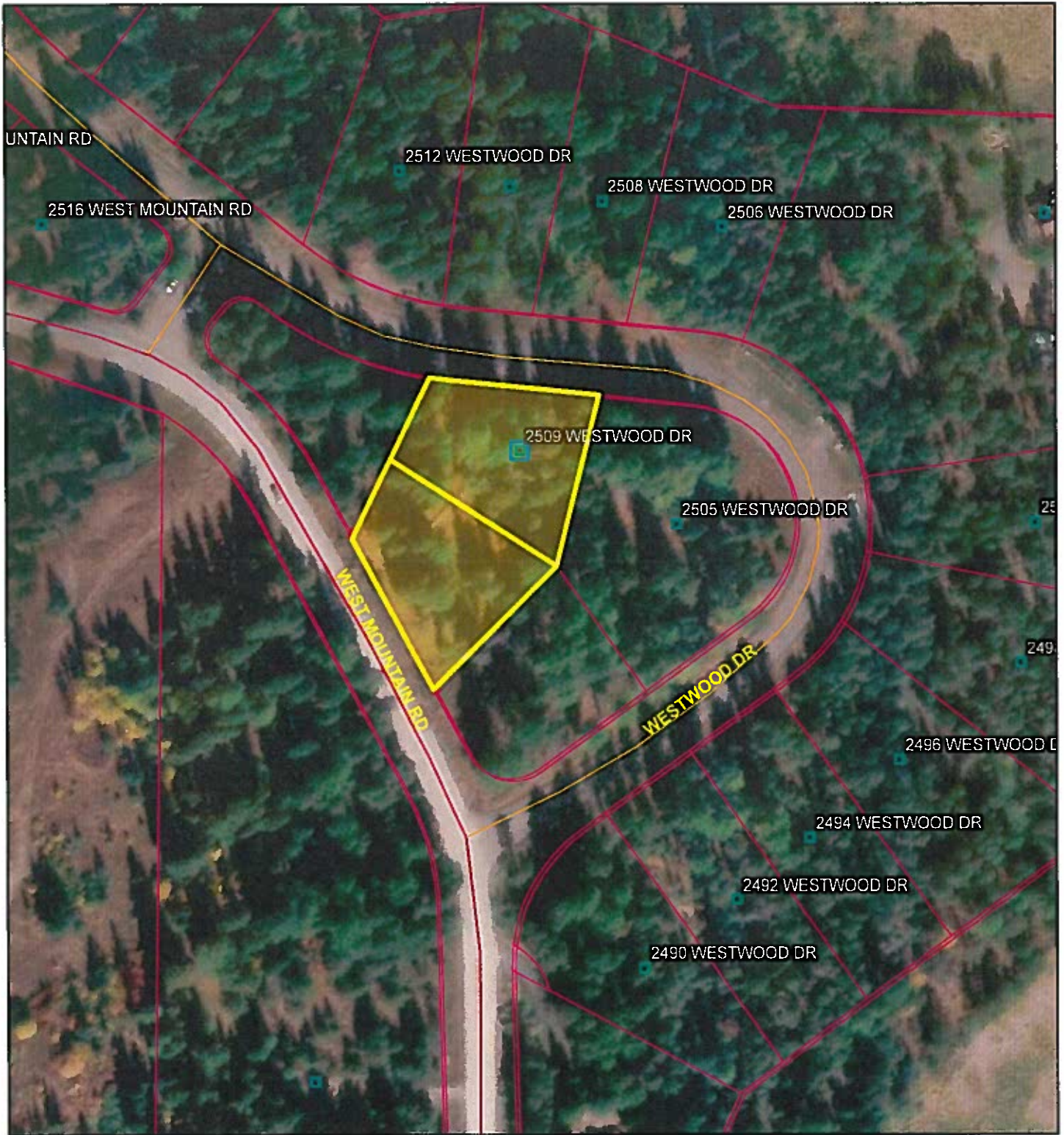
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- Parcel Boundaries
- URBAN/RURAL
- All Road Labels
- USFS
- Roads
- PRIVATE
- COLLECTOR



Maxar

VAC 21-02 at 2509 Westwood Drive



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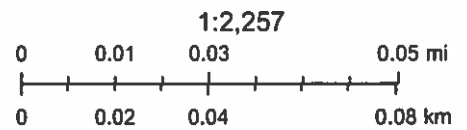
Parcel Boundaries Roads

Addresses

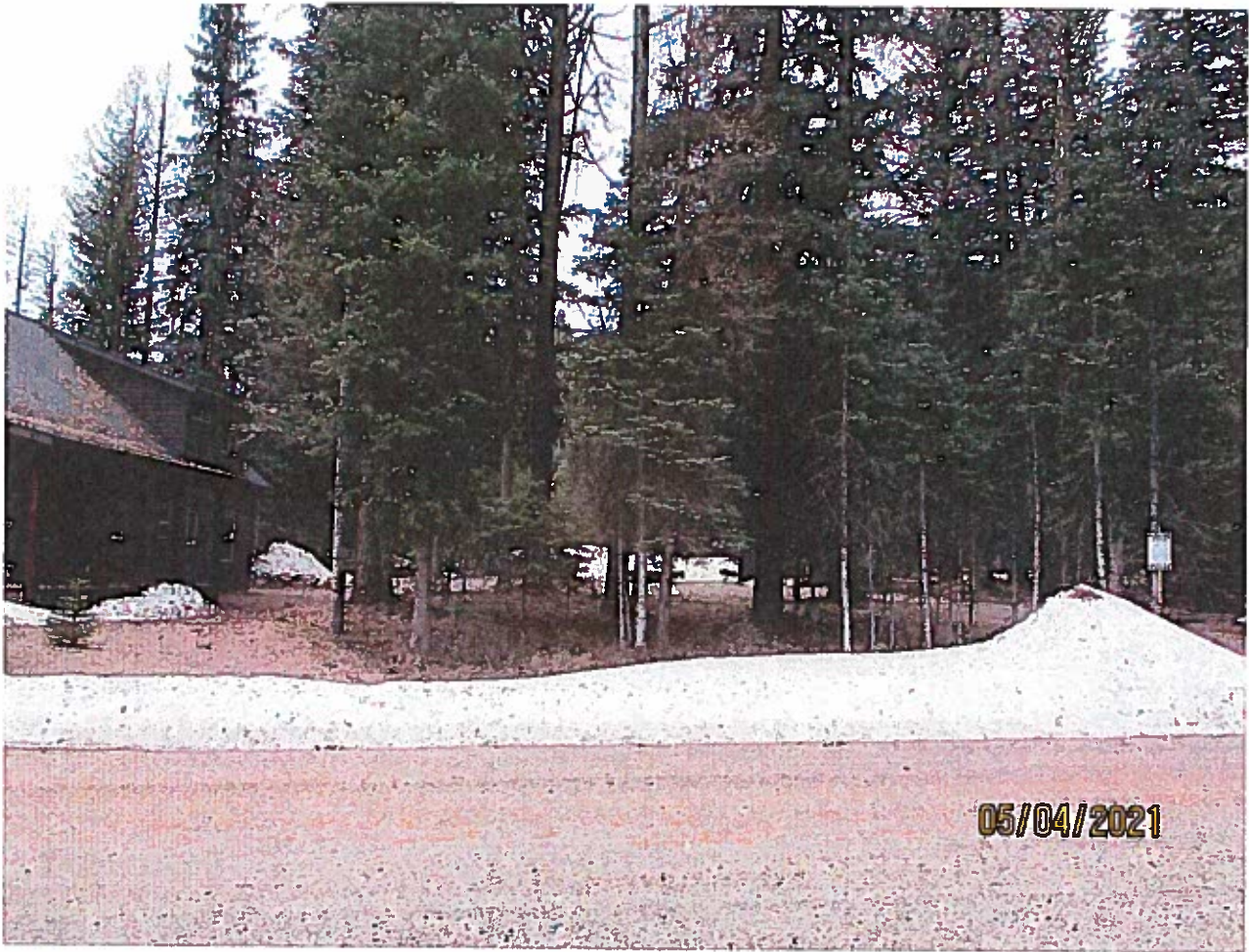
All Road Labels

COLLECTOR

URBAN/RURAL



Maxar, Microsoft







Valley County Transmittal
Division of Community and Environmental Health

Return to:

- Cascade
- Donnelly
- McCall
- McCall Impact
- Valley County

Rezone # _____

Conditional Use # VAC 21-02

Preliminary / Final / Short Plat _____

Lot 246 Blk 4 Westwood Sub #2
2509 Westwood Drive

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

Reviewed By: [Signature]

Date: 4/19/21



Donnelly Rural Fire Protection District
P.O. Box 1178 Donnelly, Idaho 83615
208-325-8619 Fax 208-325-5081

April 29, 2021

Valley County Planning & Zoning Commission
P.O. Box 1350
Cascade, Idaho 83611

RE: Vac 21-02

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

Please call 208-325-8619 with any questions.

Amy Newcomb

A handwritten signature in blue ink that reads "Amy Newcomb".

Deputy Fire Marshal
Donnelly Fire Department