



MAY 13 2022

BY: SC

**MASTER PUBLIC HEARING APPLICATION**

GEM COUNTY DEVELOPMENT SERVICES

109 SOUTH MCKINLEY, EMMETT, IDAHO 83617 WWW.GEMCOUNTY.ORG PHONE: (208) 365-5144

**TYPE OF APPLICATION: (PLEASE CHECK ALL THAT APPLY.)**

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> APPEAL                            | <input type="checkbox"/> PLANNED COMMUNITY                       | <input type="checkbox"/> SUPPLEMENTAL AMENDMENT |
| <input type="checkbox"/> COMPREHENSIVE PLAN TEXT AMENDMENT | <input checked="" type="checkbox"/> REZONE                       | <input type="checkbox"/> VACATION               |
| <input type="checkbox"/> COMPREHENSIVE PLAN MAP AMENDMENT  | <input type="checkbox"/> SPECIAL USE PERMIT                      | <input type="checkbox"/> VARIANCE               |
| <input type="checkbox"/> DESIGN REVIEW                     | <input type="checkbox"/> SPECIAL USE PERMIT (MINERAL EXTRACTION) | <input type="checkbox"/> ZONING TEXT AMENDMENT  |
| <input type="checkbox"/> DEVELOPMENT AGREEMENT             | <input type="checkbox"/> SUBDIVISION, PRELIMINARY                |   |
| <input type="checkbox"/> PLANNED UNIT DEVELOPMENT          | <input type="checkbox"/> SUBDIVISION, MODIFICATION               |   |

PROJECT NAME: Heath Place Zoning Correction**SITE INFORMATION:**

(This information can be found on the Assessor's property information assessment sheet.)

Quarter: SW Section: 31 Township: 12N Range: 02E Total Acres: 90.151Subdivision Name (if applicable): 0Site Address: 2ND Fork Rd Ola ID. Lot: \_\_\_\_\_ Block: \_\_\_\_\_  
City: \_\_\_\_\_Tax Parcel Number(s): RP 12N02E315100 Current Zoning: Prime Ag Current Land Use: Dry grazing  
RP 12N02E315138**PROPERTY OWNER:**Name: Carlock Living TrustAddress: 7807 S. Fox Tail WayCity: Boise State: ID Zip: 83617  
83709**APPLICANT:**Name: Debbie Carlock-NewtonAddress: 2254 Plum StCity: Emmett State: ID Zip: 83617Telephone: 208-859-6331Email: debbie.carlock@hotmail.comTelephone: 208-859-6331Email: debbie.carlock@hotmail.com

I consent to this application and allow Development Services staff to enter the property for site inspections related to this application.

I certify this information is correct to the best of my knowledge.

Debbie Carlock-Newton

Signature: (Owner)

Date

Debbie Carlock-Newton

Signature: (Applicant)

Date

**OFFICE USE ONLY**

File No.:

Received By: SCDate: 5-13-22Fee: 710.00Receipt No: 20220248

5/12/2022

Debbie Carlock-Newton  
2254 Plum Street  
Emmett, ID 83617

Gem County Commissioners  
415 E. Main Street  
Emmett, ID 83617

Dear Commissioners,

I am writing in regard to the zoning of a portion of rural ag land in 12N Gem County. It appears when the Comprehensive Plan was updated an error was made. When you look at the map for the zoning in Gem County the plan map doesn't cover all of the land in the most northern portion of the county. Our land is in Ola(Gross), ID and borders the National Forest. The Comprehensive Plan map ends at 11N. The National Forest is colored white on the map. Prime Ag is also white. It appears to me that since it was the same color as Prime Ag it was assessed as prime ag instead of the rural ag that it clearly is. Our ranch is in 11N and 12N. The ranch land in 11N is zoned correctly as A-3 Rural Ag, but the 90.15 acres situated in 12N is zoned as A-1 Prime Ag. It is the same type of dryland hillside that the larger portion of our ranch is, and is zoned A-3 Rural Ag. This also effects three other people in 12N. Nancy Kahler, Maryann Kirkpatrick, and Lazy JR Ranch LLC. Most of the Canaday/Kirkpatrick ranch is in 11 N and is classified as A-3 Rural Ag. The 80 acres of the dryland hillside portion in 12N is classified as A-1 Prime Ag instead of A-3 Rural Ag. The 22.3360 acres of Nancy Kahler is steep hillside in 12N and is classified as A-1 Prime Ag. The 40 acres of Lazy JR Ranch LLC is in the middle of the National Forest bordering Kimball Creek and is also classified as A-1 Prime Ag. I haven't researched Nesbitt's land but they also own land above 11N so they could be affected.

I believe this is in error and it only recently came to my attention when I was researching assessments on our ranch. I was told by the P & Z that I could represent the landowners adjacent to me but since Lazy JR Ranch was surrounded by the National Forest I wouldn't be able to request a change in their status. I sincerely believe this was an error and when you review the Comprehensive Plan maps I believe you will also see that an error was made. Everyone is human.

We have paid the \$710.00 fee for a rezone which I feel should not be charged as the land really wasn't addressed in the original Comprehensive Plan as the map shows private lands ended in 11N. I'm also enclosing the assessments and maps for the other above mentioned landowners for your review. I feel the other affected landowner's shouldn't have to request and/or pay for



a request to change the zoning that is clearly an error and should just be corrected on the plan map and assessments.

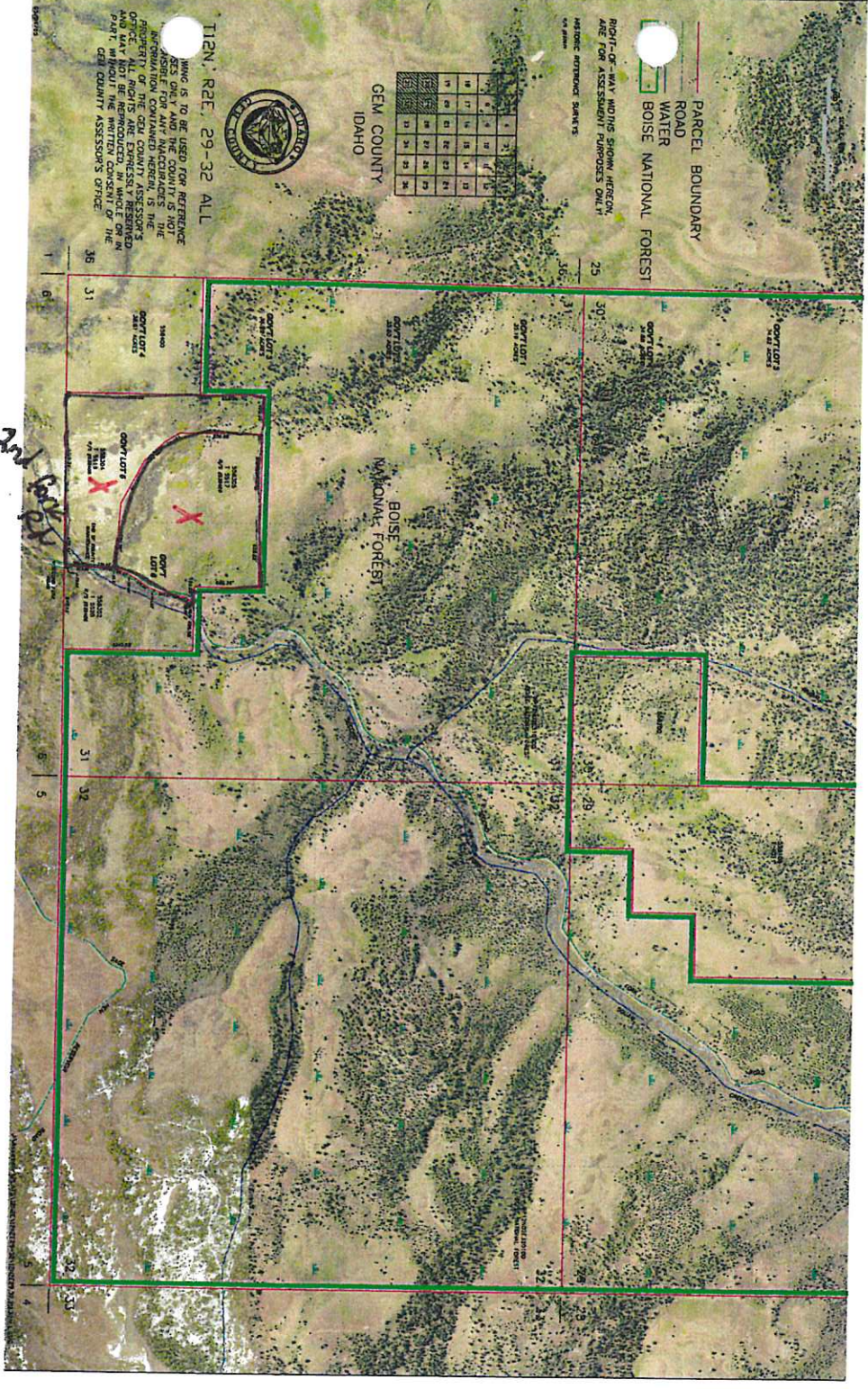
I feel this rezone request complies with the Comprehensive Plan that addressed the other rural ag land in Gem County but was inadvertently missed in error. This request is not materially detrimental to the public health, safety, or welfare and the property meets the minimum dimensional standards of the proposed zoning district. The land use under the proposed zoning district would be harmonious with and appropriate for the existing or intended character of the general vicinity and that such uses would not change the essential character of the same area. Also the effects of the proposed zone change upon the delivery of services by any political subdivision providing public services including school districts within Gem County's planning jurisdiction have been considered and no unmitigated adverse impacts upon those services will impose additional costs upon current residents of Gem County's planning jurisdiction.

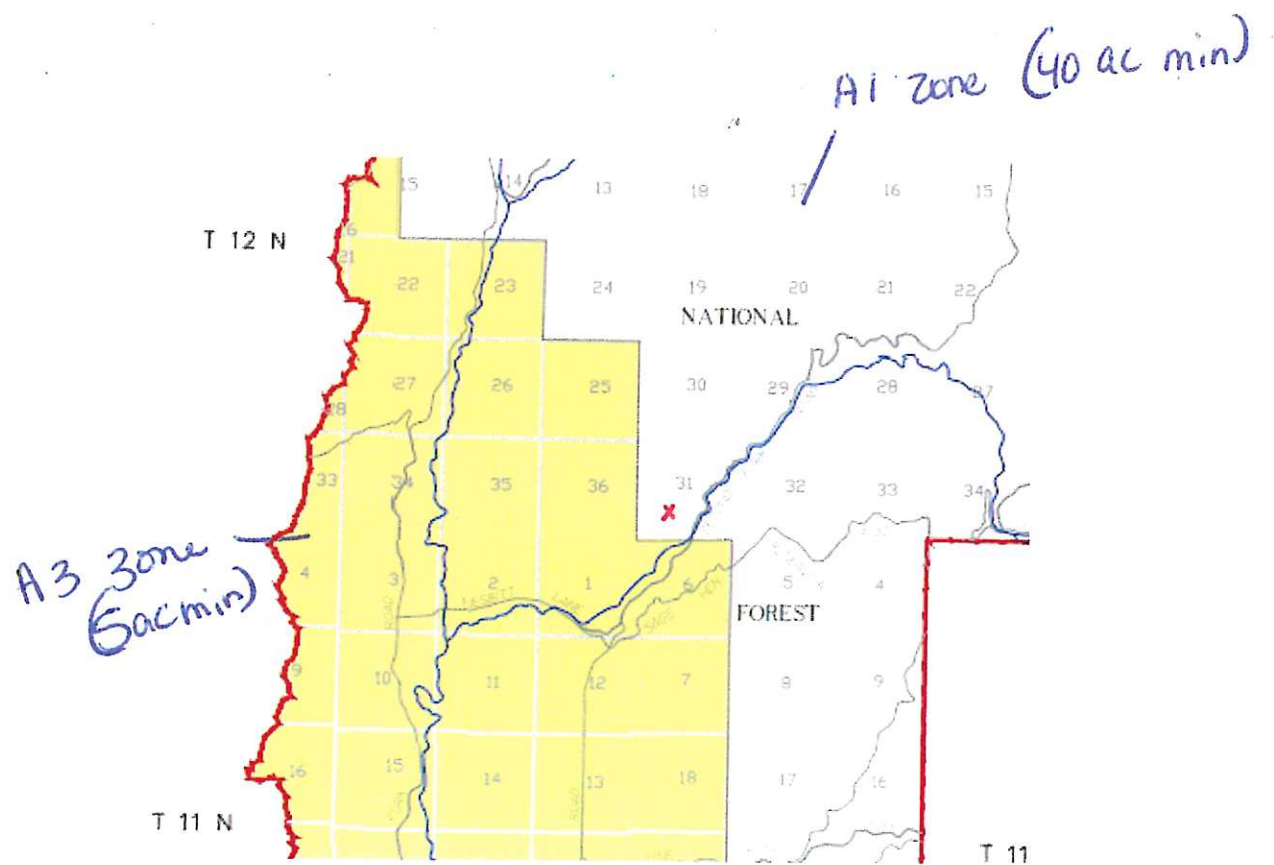
Thank you for your consideration in this matter.

Sincerely,

  
Debbie Carlock-Newton









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Sheet 4

Y

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I HEREBY CERTIFY THAT THIS IS THE  
OFFICIAL ZONEING MAP OF GEM COUNTY  
WHICH WAS ADOPTED BY THE BOARD OF  
COUNTY COMMISSIONERS ON THIS  
10th DAY OF OCT. 1978

*Don Jones*  
CHAIRMAN OF THE BOARD OF GEM CO.  
COMMISSIONERS

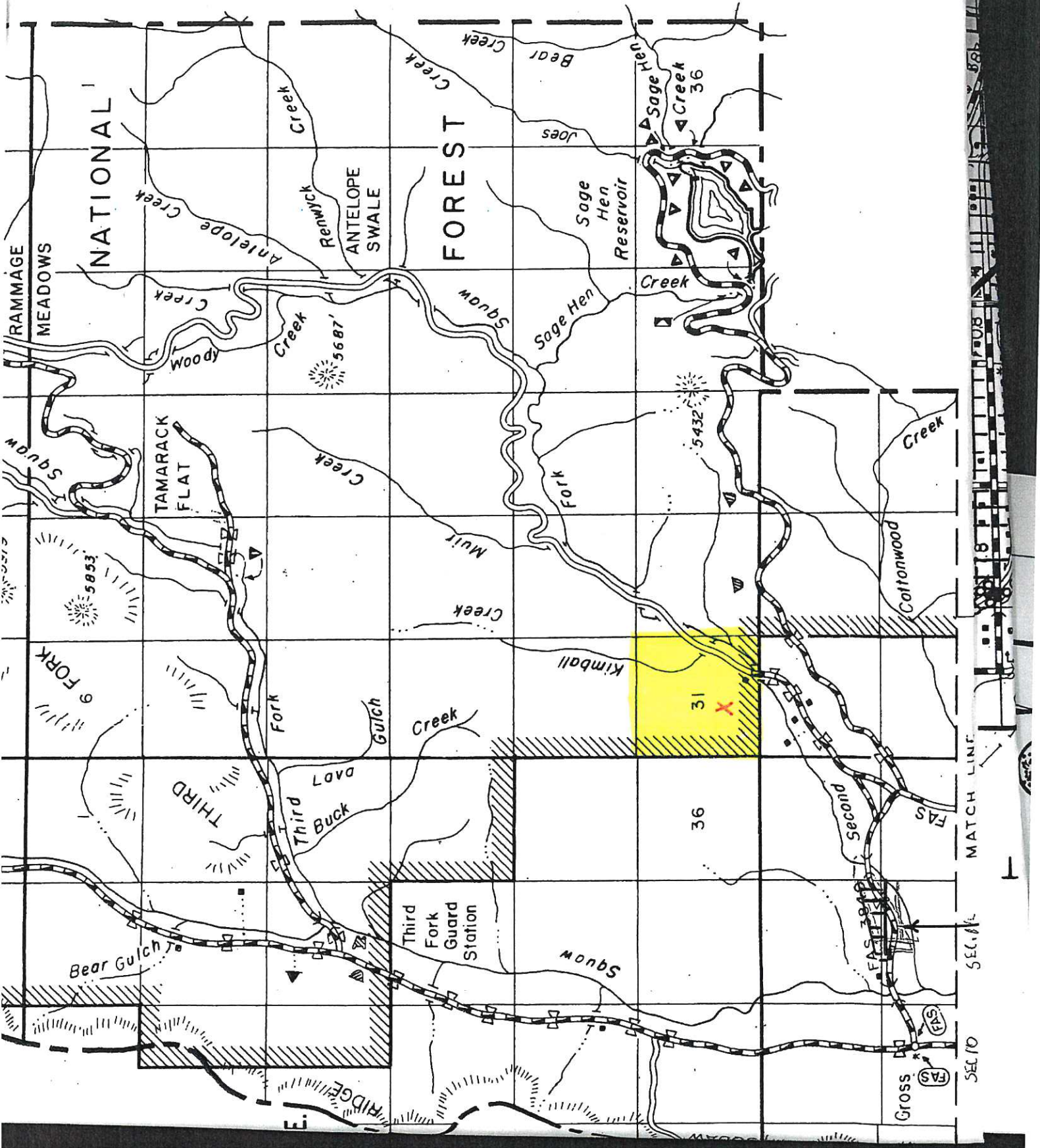
ATTEST

*Thelma R. Kolodziej*  
CLERK

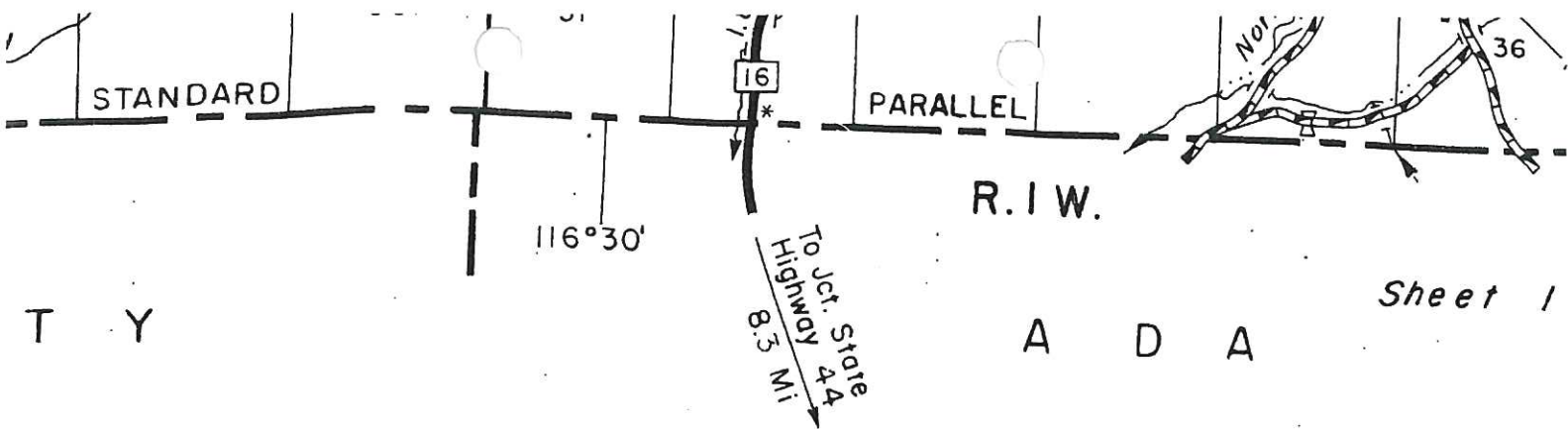
R. I. W.

A :

T. 12 N.












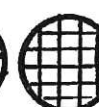

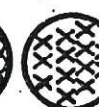



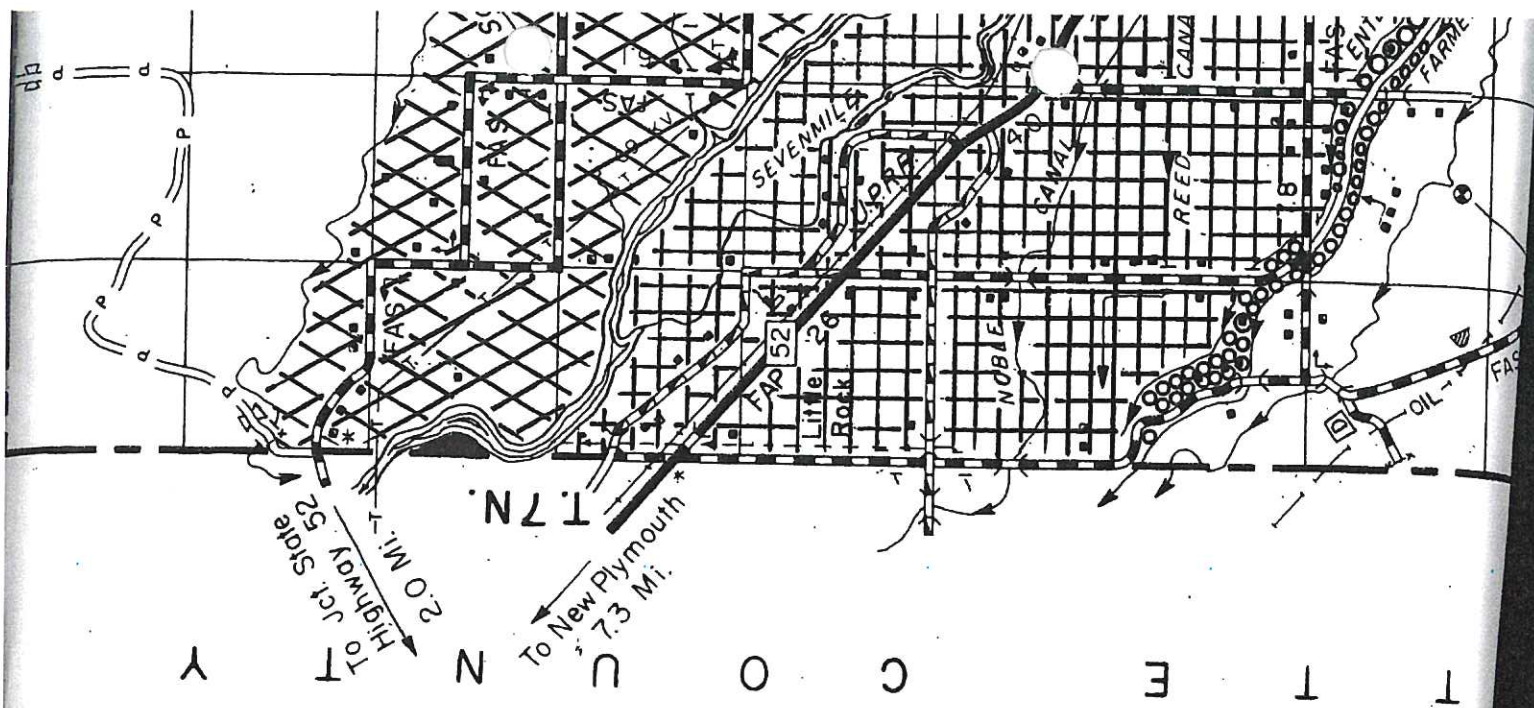
# LEGEND

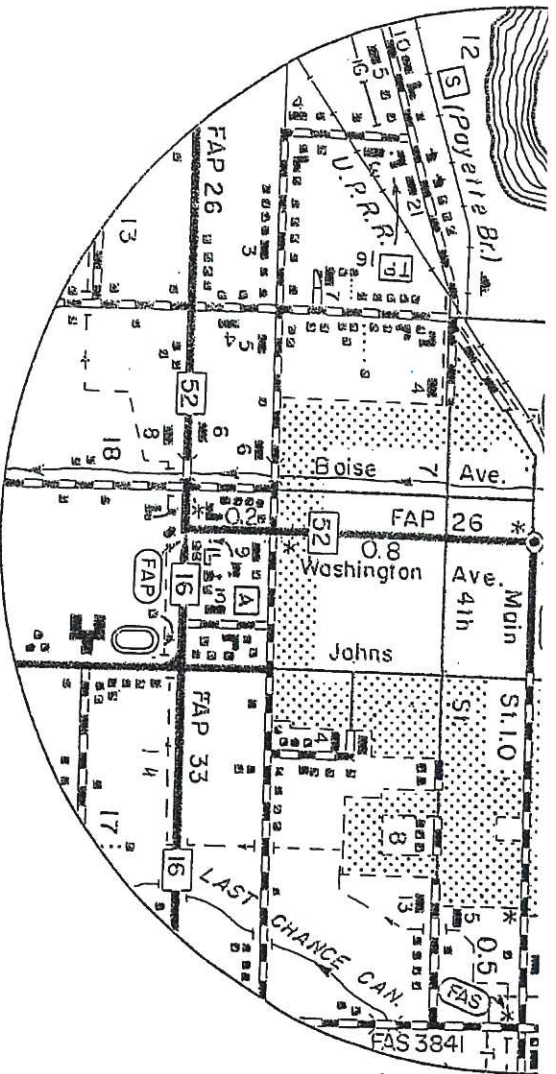
	Intermittent stream		County Seat
	Narrow stream		Other cities and villages
	Wide stream		Incorporated city
	Wide stream with dam		Picnic ground
	Lake, reservoir or pond		Recreation area
	Lake, reservoir or pond with dam		Bathing beach or swimming
	Dock pier or landing		Camp site
	Springs		Scenic site
	Drainage ditch		Camp or lodge
	Irrigation canal		Small park (SP-State Park)
	Aqueduct tunnel or syphon		Motel (number of units)
	Flume		Trailer park (number of spaces)
	Minor structure (20 ft. or less)		Gov't. office (F-Federal)
	General bridge (over 20 ft.)		Guard station
	General bridge (over 200 ft. Xc-conc.)		Prominent peak and lookout to
	Truss bridge (s-steel)		Archery club
	Prominent elevation, butte		Fair grounds or race track
	Mountains or ridges		Drive-in theater
	County line		Farm unit (in use) (not in use)
	Township line		Dwelling (in use) (not in use)
	Section line		Group of dwellings
	Match line		Dwelling and store
	Inset boundary line		Post Office
	Forest or reservation boundary line		Filling station



# LAND USE MAP - GEM COUNTY LEGEND

-  Heavy Industry
-  Light Industry
-  Commercial
-  Residential
-  City of EMMETT and RURAL CENTERS
-  General Agriculture - 40acre parcels
-  Prime Agrcuture - 40acre parcels
-  Suburban Agriculture - 5 acre parcels
-  Orchard Agriculture - 10 acre parcels
-  AGRICULTURAL TRANSITIONAL TO RESIDENTIAL - 5acre parcels
-  PUBLIC





## EMMETT VICINITY

T.6N. & T.7N., R.1W. & R.2W.

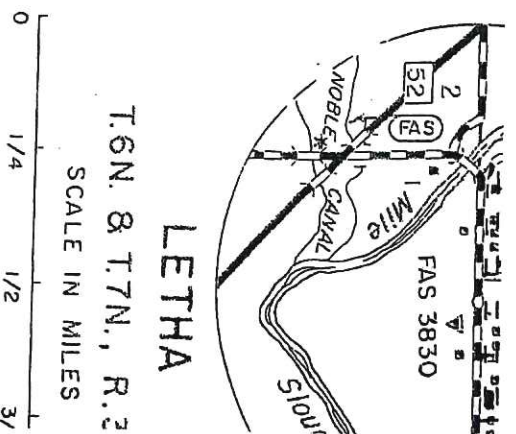
SCALE IN MILES



APPROVED BY THE BOARD OF COUNTY  
COMMISSIONERS

ADOPTED 10-10-78

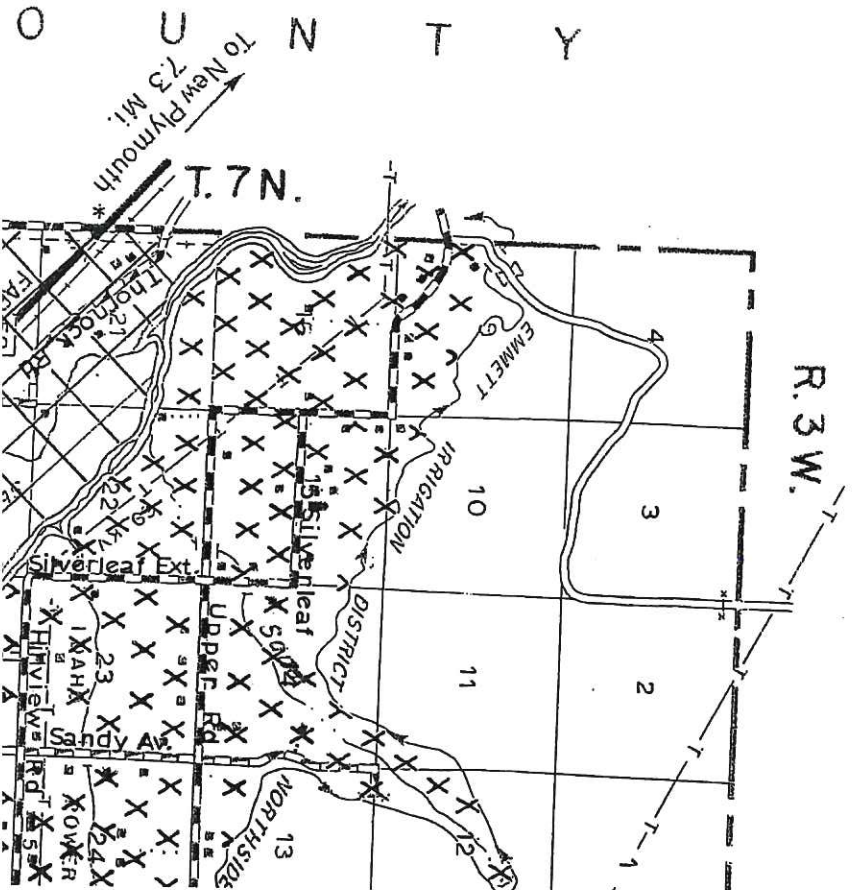
AMENDED 7-14-80



## LETHA

T.6N. & T.7N., R.2

SCALE IN MILES



R.3W.
















T.7N.

To New Plymouth \*  
7.3 Mi.



# ZONING MAP OF GEM COUNTY, IDAHO

## LEGEND

-  CITY OF EMMETT AND RURAL CENTERS
-  A GENERAL AGRICULTURE
-  A-1 PRIME AGRICULTURE
-  A-2 SUBURBAN AGRICULTURE
-  A-3 RESIDENTIAL AGRICULTURE
-  A-4 ORCHARD AGRICULTURE
-  A-5 NORTHERN AGRICULTURE
-  B-1 RESIDENTIAL
-  B-2 RESIDENTIAL
-  C-1 COMMERCIAL
-  C-2 COMMERCIAL
-  C-3 COMMERCIAL
-  D LIGHT INDUSTRY
-  E HEAVY INDUSTRY
-  F PUBLIC

R. I. W.

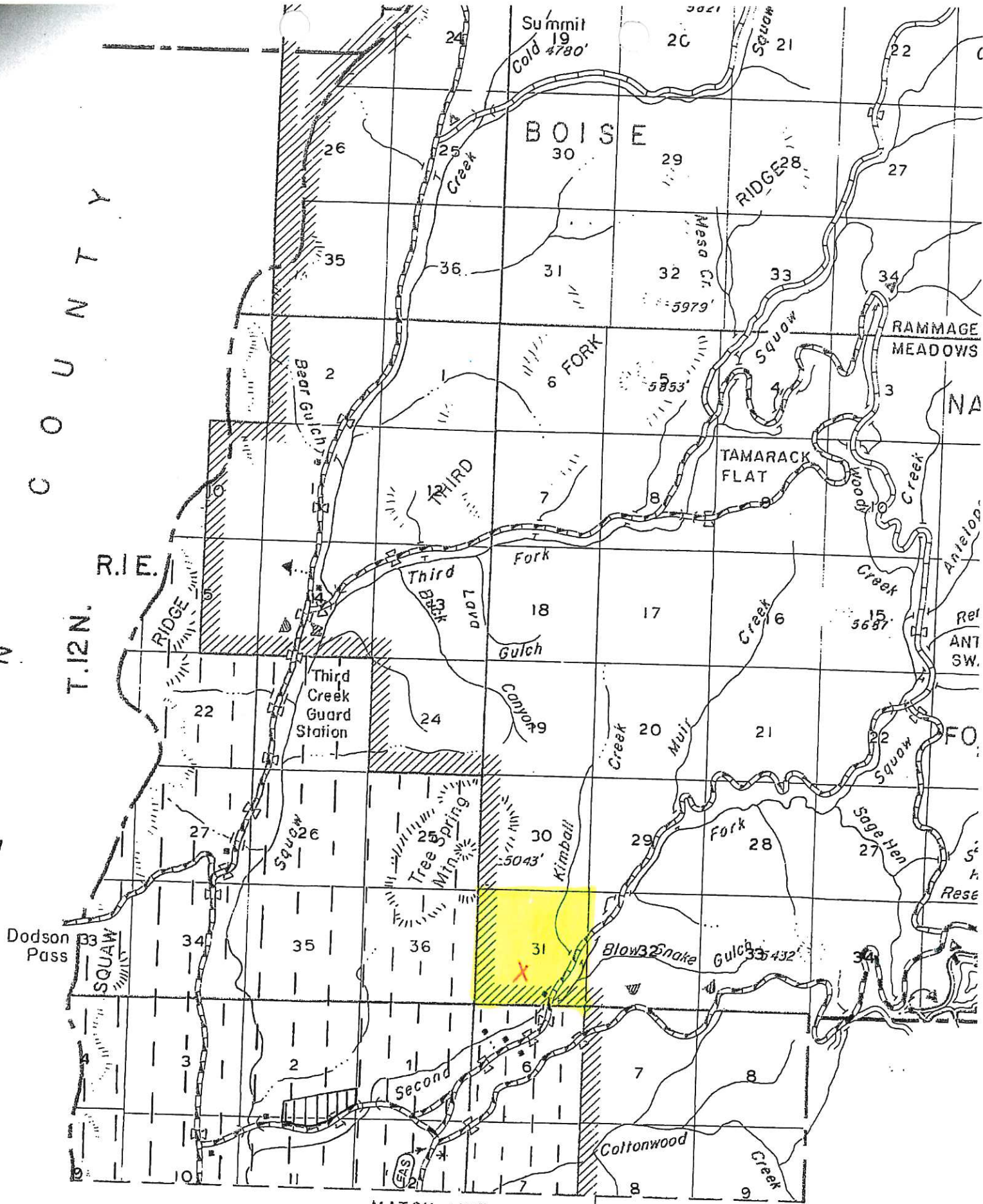
T.13 N.

Sheet 4

T.12 N.

V A L L E Y C O U N T Y

Sheet 2 of 2  
T. 12 N.  
R. 1 E.  
C O U N T Y



116°15'





## GEM COUNTY DEVELOPMENT SERVICES DEPARTMENT

109 S. MCKINLEY AVENUE EMMETT, IDAHO 83617

OFFICE OF THE ADMINISTRATOR  
PLANNING & ZONING

PHONE: (208) 365-5144

WEB PAGE: [gemcounty.org](http://gemcounty.org)

### STAFF REPORT

**APPLICATION DESCRIPTION:** REZONE (A-1 TO A-3)

**FILE NUMBER(s):** RZ-22-008

**ZONING COMMISSION HEARING DATE:** August 8, 2022, 6:00pm

**PROPERTY OWNER:** Carlock Living Trust  
7807 S Foxtail Way  
Boise, ID 83709

**APPLICANT:** Debbie Carlock - Newton

**SITE LOCATION:** 2<sup>ND</sup> FORK ROAD, OLA

**STAFF PLANNER:** Jennifer Kharri

#### 1. APPLICATION SUMMARY:

The applicant, Debbie Carlock-Newton, on property owned by Carlock Living Trust, is requesting a rezone of property located on 2<sup>nd</sup> Fork Road in Ola. The application proposes a change from A-1, Prime Agriculture (40-acre minimum lot size), to A-3, Rural Agriculture (5-acre minimum lot size). The application states the reason for the request is to correct the zoning map in which she believes was zoned incorrectly to A-1. Staff has researched the original Zoning Map from 1978, which is when these properties were classified as the 40-acre zone, including the Sweet and Ola areas. The original Zoning Map shows a boundary for Forest Land separation. What staff is assuming, is that it is possible that the decision could have been made to create the zone boundary lines based on the section lines and not by public vs private owned lands based on the information that was available at that time. The Zoning Map was amended in 1980 to rezone the Sweet and Ola areas to the 5-acre zone and stuck with the same boundary along the section lines for the A-1 to A-3 separation.

There are at least 14 privately owned properties that lie on the other side of the zone boundary line (section line) of A-3 and A-1 in which some are classified as forestland and productivity forestland through the Assessor's Office.

Staff is understanding of the applicant's position, however, there isn't a means to correct the zone if it was placed by error in 1978.

The property proposed to be rezoned is 90.15 acres, comprised of two adjacent parcels, in size and lies fully within Agriculture/Natural Resources, as designated on the Future Land Use Map in the Comprehensive Plan.

## **2. APPLICATION & PROPERTY FACTS:**

### **A. Site Address/Location:**

The property is located on 2<sup>nd</sup> Fork Road, and is within Township 12N, Range 2E, Section 31 (Tax Parcel #RP12N02E315100 and #RP12N02E315138).

**B. Current Owner(s):** Carlock Living Trust  
7807 S Foxtail Way  
Boise, ID 83709

**C. Applicant(s):** Debbie Carlock - Newton

**D. Present Zoning:** A-1, Prime Agriculture (40-acre minimum)

**E. Present Comprehensive Plan Designation:** Agriculture/Natural Resources

**F. Property Size:** 90.15 acres (comprised of two adjacent parcels)

## **3. APPLICATION PROCESS FACTS:**

### **A. Application Submittal:**

The application for this item was received and deemed complete by the Development Services Department on May 13, 2022.

### **B. Notice of Public Hearing:**

Notice of Public Hearing on the application for the Gem County Zoning Commission was published in accordance with requirements of Title 67, Chapter 65, Idaho Code and Gem County Code 11-15-5 on July 21, 2022. Notice of this public hearing was mailed to property owners within 300 feet of the subject property in accordance with the requirements of Title 67, Chapter 65, Idaho Code and Gem County Code 11-7-6 on July 14, 2022. The physical property was posted for the public hearing on July 13, 2022. Requests for all impact agencies' reviews were mailed on July 14, 2022.

We received one (1) response letter from impact agencies –Gem County Road and Bridge Department (no concern).

Public hearing notices were mailed to five (5) parcels in the immediate vicinity. No written comments have been received.

### **C. Relevant Ordinances and Required Actions:**

The subject application will in fact constitute a rezone as determined by Gem County Code. By reason of the provisions of the Gem County Code Title 11, Chapter 15, a public hearing is required before the Zoning Commission and the Board of County Commissioners on this matter.

**D. History of Previous County Actions on Property:** None.



E. Companion Applications: There are no companion applications to the Rezone.

#### 4. LAND USE

A. Existing Land Use(s): Dry grazing land.

B. Description of Character of Surrounding Area: The immediate vicinity includes dry grazing land, scattered rural residential and Boise National Forest.

C. Adjacent Comprehensive Plan, Zoning and Land Use:

	COMP PLAN DESIGNATION	ZONING DESIGNATION	LAND USE
North of site	Agriculture/ Natural Resources	A-1, Prime Agriculture	Boise National Forest
South of site	Agriculture/ Natural Resources	A-3, Rural Agriculture	Irrigated agricultural land; scattered rural residential; bare forestland
East of site	Agriculture/ Natural Resources	A-1, Prime Agriculture	Boise National Forest
West of site	Agriculture/ Natural Resources	A-1, Prime Agriculture	Boise National Forest

D. Physical Constraints and Opportunities:

1. Wastewater and Domestic Water:

- Water: The site currently has no domestic well.
- Septic: The site currently doesn't have an individual septic system and drain field. Under today's Zoning Ordinance, future lots in the proposed A-3 zone may apply for individual septic systems, subject to approval by Southwest District Health.

2. Vegetation: Dry grazing land.

3. Floodplain: The parcels fall within an area that is not mapped by FEMA.

4. Canals/Ditches/Irrigation: N/A.

E. Subdivision Plat Information: N/A

F. Streets and/or Access Information:

The site has frontage along 2<sup>nd</sup> Fork Road.

#### 5. COMPREHENSIVE PLAN POLICIES & GOALS [Staff comments and analysis are shown in *italics*.]

Staff finds the following policies in the Joint Comprehensive Plan are applicable to this application:

The Comprehensive Future Land Use Map identifies the subject property as **Agriculture/Natural Resources**. Agriculture/Natural Resources is defined as irrigated and non-irrigated lands located throughout the county that consist of a diversity of natural resource-based land uses, including crops, pastures, grazing, mining, forestry and similar industries that are land-dependent. This is an area where the community recognizes that there will be rural residential in long-range planning, but the purpose of this land use policy is to buffer agricultural pursuits and to provide guidelines for conversion to future rural residential development, 1 unit per 40 acres or more. Rezoning requests are generally not supported as the County is investing its public improvement funding in the County Residential Impact Area. This policy doesn't necessarily apply to the community of Ola, rezoning requests within these established areas will be determined on the required findings in the ordinances.

*The proposed A-3 zone designation would allow a minimum five (5) acre lot size for primarily residential uses which doesn't appear to be supported by the Comprehensive Plan at this time.*

*The following policies have been set forth in the Housing Chapter of the Joint Comprehensive Plan (Chapter 3) and generally support the application:*

3.8 - Rural residential and small ranchette type development shall be encouraged in areas where it is compatible with existing agricultural and ranching development.

*The following policies have been set forth in the Land Use chapter of the Joint Comprehensive Plan (Chapter 12) for future growth and are found to be relevant to this application:*

12.1.1 – Respect the responsibilities and rights of land ownership.

12.1.3 – Ensure due process of land development is clear and concise and avoid unnecessary delays for citizens and businesses.

12.1.11 – Growth should start at the community centers and radiate outwards in a logical, orderly fashion.

## 6. ZONING ORDINANCE

- A. Purpose Statement of Zone: Gem County Code 11-4-3.A lists the purpose of the A-3 zone as follows: "Lands lying within those unincorporated portions of Gem County that are restrained by topography and/or vehicular access and are intended to remain rural in nature without urban development. The regulations governing this zone are designed to protect long-term agricultural pursuits" The A-3 zone has a five (5) acre minimum lot size requirement.

*The applicant's intent is to correct the Zoning Map that she believes is in error.*

### B. Permitted Uses:

The subject site is currently zoned A-1 (40-acre minimum) and allows the following types of uses, either outright or as a Special Use Permit:

Agriculture, kennel, mining, utilities, some manufacturing, limited trade, entertainment and recreation, limited services, various housing/residential uses, including halfway houses and single-family residential.



The proposed A-3 zone allows the following uses, either outright or as a Special Use Permit:

Agriculture, kennel, mining, utilities, limited manufacturing, limited trade, entertainment and recreation, commercial school, limited services, various housing/residential uses, including halfway houses and single-family residential.

*Staff finds the SUP uses noted above are mostly the same for either the A-1 or A-3 zones. The biggest difference is the A-3 zone would allow for a Commercial School with a SUP, whereas it would not be allowed in the A-1 zone.*

**7. REVISED REQUIRED FINDINGS & STAFF ANALYSIS** [Staff comments and analysis are shown in *italics*.]

According to Title 11, Chapter 15, Section 4., "No map amendments (rezones) shall be recommended for approval by the Commission or granted by the Board of Commissioners unless the following findings are made by the Commission or Board":

1. The requested amendment complies with the Comprehensive Plan text and Future Land Use Map;

*Based on the Comprehensive Plan analysis provided in Section 5 above, staff finds the Comprehensive Plan Future Land Use Map relevant policies does not support the rezone application to A-3 since the parcel falls within the Agriculture/Natural Resources Designation. The description for this area defaults to the findings found in the Zoning Ordinance.*

2. The requested amendment is not materially detrimental to the public health, safety, or welfare;

*Although the applicant doesn't state that she has any immediate plans to develop the property, if rezoned, staff finds an A-3 zone could potentially allow sixteen (16) additional dwellings on the subject parcels beyond what is permitted today (as it sits today, the parcels both are eligible for building permits for a single-family dwelling). The potential increased septic use could be viewed as detrimental to the health, safety, or welfare when located on five (5) acre minimum lot sizes, but has not yet been verified by SWDH. SWDH will require a Subdivision Engineering Report with any subdivision greater than four (4) Lots to verify that the property can withstand that many septic systems.*

3. The subject property meets the minimum dimensional standards of the proposed zoning district;

*The minimum lot size in the proposed A-3 zone is five-acres. The subject area to be rezoned is currently 90.15 acres in size. The subject site could be developed to comply with the minimum dimensions for an A-3 zone.*

4. The uses allowed under the proposed zoning district would be harmonious with and appropriate for the existing or intended character of the general vicinity and that such uses would not change the essential character of the same area;

*A list comparing allowed uses, as listed in the GCC 1705 Matrix Chart, in the proposed A-3 zone with the existing A-1 zone is shown in Section 6 of this report. None of the uses permitted in the A-3 zone are different than the A-1 zone except for a Commercial School. As such, staff finds the uses allowed in an A-3 zone, as listed in Gem County Code today, are compatible with the intended character of the area. The specific uses are listed according to each zone as allowed outright, prohibited or allowed with a Special Use Permit.*

5. The effects of the proposed zone change upon the delivery of services by any political subdivision providing public services, including school districts, within Gem County's planning jurisdiction have been considered and no unmitigated adverse impacts upon those services will impose additional costs upon current residents of Gem County's planning jurisdiction.

*The public service agencies/providers that responded to this rezone application were the Gem County Road and Bridge Department (no concerns).*

*If the applicant submits a subdivision request, all agencies/providers will review for compliance with their regulations at that time.*

*The applicant hasn't stated any immediate development plans, however, the impacts of development of 90.15 acres of A-3-zoned land into five-acre parcels **is expected** to generate demands on public services beyond the current service demands with the potential addition of 18 more parcels especially on a substandard County Road. **The Commission and Board must also review the impacts of the proposed rezone upon the emergency response services, transportation, the school system and other public entities.***

*The Board adopted an Impact Fee Ordinance which is used to off-set costs, to the public road system and other public services that are provided, caused by new homes and their traffic generation.*

## **8. STAFF RECOMMENDATION**

The A-3 zone designation may seem appropriate for this location due to the adjacent lands that are zoned A-3 and the fact that the original Zoning Map labeled the land as Forest, however, there are some special considerations that the Commission, Board and applicant should discuss during the public hearings for this application including the Comprehensive Plan designation to determine if Finding #1 can be met. In addition, if the Commission or Board find that the delivery of public services to this property would be hindered if rezoned to A-3 at this time, then Finding #5 may not be met and further discussion would be required. The Commission must rely upon any additional testimony provided during the public hearing when making its recommendation to the Board of County Commissioners.



**Gem County**  
**Road & Bridge Dept.**  
**402 N. Hayes Ave.**  
**Emmett, ID 83617**



**Neal Capps, Director**  
**Phone: 208-365-3305**  
**Fax: 208-365-2530**  
**Email: gcrb@co.gem.id.us**

July 20, 2022

Jennifer Kharrl  
Development Services  
109 S. McKinley Ave.  
Emmett, ID 83617

RE: Carlock Living Trust (Rezone)

Dear Jennifer,

Gem County Road & Bridge Department (GCRB) has reviewed the rezone application of Debbie Carlock-Newton, property located on 2nd Fork Road. GCRB has no comments in regards to this application for rezone.

If you have any questions please contact our office at 208-365-3305.

Thank you,

A handwritten signature in blue ink, appearing to read "Neal Capps", is written over a horizontal line.

Neal Capps, Director  
Gem County Road & Bridge

CERTIFICATE OF MAILING

I hereby certify that on the 14th day of July, 2022, I served a true and correct copy of the foregoing upon:

**PROPERTY OWNER LIST WITHIN 300 FEET**

Carlock Living Trust  
T12N, R02E, Section 31

Nancy Kahler  
12398 W. Lewis & Clark Dr  
Boise, ID 83713

Boise National Forest  
1249 S. Vinnell Wy St 200  
Boise, ID 83709

Maryann Kirkpatrick  
395 E. Idaho Blvd  
Emmett, Id 83617

Allen Howard Cole  
31997 Second Fork Rd  
Ola, Id 83657

Robert Cole  
31990 Second Fork Rd  
Ola, Id 83657

By depositing a copy thereof in the United States mail, with first class postage prepaid.

  
Stephanie Crays, Development Services Coordinator