

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 type="checkbox"/> REZONE | <input type="checkbox"/> VACATION |
| <input type="checkbox"/> COMPREHENSIVE PLAN MAP AMENDMENT | <input type="checkbox"/> SPECIAL USE PERMIT | <input checked="" 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: Staples Subdivision Shed Variance
 SITE INFORMATION:

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

NW 1/4 of Quarter: SW 1/4 Section: 1 Township: 6N Range: 2W Total Acres: 9.4
 Subdivision Name (if applicable): Staples Subdivision

Site Address: 1713 Sunset Dr. Lot: _____ Block: _____
 City: Emmett, ID, 83617
 Tax Parcel Number(s): RP06N02W01S400 Current Zoning: R2 Current Land Use: AG

RP00308400 Tax ID

PROPERTY OWNER:

Name: Daniel & Lori Staples

Address: 1713 Sunset Dr

City: Emmett State: ID Zip: 83617

APPLICANT:

Name: Daniel & Lori Staples

Address: 1713 Sunset Dr.

City: Emmett State: ID Zip: 83617

Telephone: 208-484-6444 (Dan)
 Email: dan_staples@msn.com

Telephone: 208-477-4227 (Lori)
 Email: dan-staples@msn.com

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

Daniel Staples 1/15/23

Signature: (Owner)

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

Daniel Staples 1/15/23

Signature: (Applicant)

Date

OFFICE USE ONLY

File No.: VAR 23-001 Received By: SV

Date: 2-17-23

Fee: \$355.00

Receipt No: 2023-00137

Daniel and Lori Staples
1713 Sunset Drive, Emmett, Idaho 83617
208-484-6444
Email: dan_staples@msn.com

FEBRUARY 14, 2023

VARIANCE APPLICATION

LETTER OF INTENT
FOR
STAPLES SUBDIVISION

Gem County Development Services

Please accept this as the letter of intent for a Gem County Variance application process.

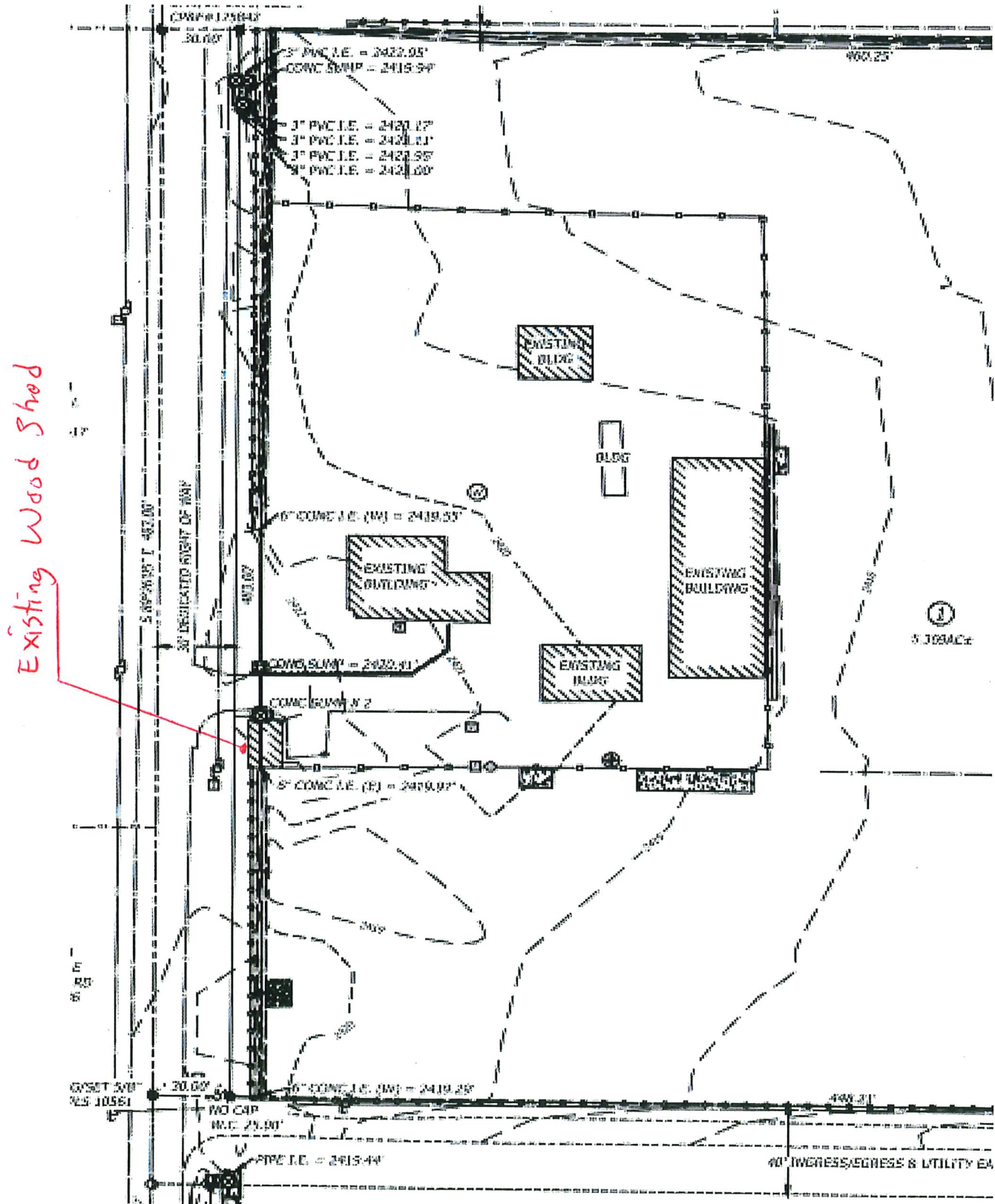
Daniel and Lori Staples are requesting a Variance on their property, for an existing Wood Shed setback. The existing Wood Shed currently has an approximate 33 foot set back from the center line of Sunset Blvd. and is in line with the existing fence line on the front of the property. After the proposed right of way dedication on Sunset Drive for their proposed subdivision process the setback for the new right of way is a few feet short.

1. This special condition and circumstance that exists is peculiar to this existing house. The existing house and property is one of the oldest properties on Sunset Drive and was built in 1948-1949. The house is currently occupied and has met setback requirements until this point in time.
2. The literal interpretation would deprive the applicant of rights enjoyed by others. The land owner would be deprived in developing this parcel, when other land owners would not be deprived.
3. The special conditions and circumstances do not result from the actions of the applicant due to the fact that this house and garage was built in or around 1949-1948 and the Wood Shed has existed for approximately 30 years and has always met setback requirements until this new proposal. The existing house is an older home with wood as the primary source of heat. Removing the Wood Shed would cause an undue burden on the homeowner when other land owners would not be deprived.
4. Granting this variance will not confer on the applicant any special privilege that is denied in the Ordinance to other structures. Due to the fact that the right of way is being required with this subdivision application, the existing Wood Shed does not meet setbacks.

5



Ref: Wood Shed Variance for P&Z (Overhead View of House and Shed)



CERTIFICATE OF MAILING

I hereby certify that on the 17 day of August 2023, I served a true and correct copy of the foregoing upon:

PROPERTY OWNER LIST WITHIN 300 FEET

Staples

T06N, R02W, Section 01

C

George Bryce
1075 Greenfields Ln
Emmett, ID 83617

John Boldon
1801 Sunset Dr
Emmett, ID 83617

Cindy Chavatipon
1805 Sunset Dr
Emmett, ID 83617

Debra Shelton
1672 Sunset Dr
Emmett, ID 83617

Robert Dunbar
1519 Greenfields Loop
Horseshoe Bend, ID

Alan Caraway
1700 Sunset Dr
Emmett, ID 83617

Ronald Summers
1840 Sunset Dr
Emmett, ID 83617

Gaylord Dubie
~~1015 Greenfields Ln~~ 999 Hermosa Ln
Emmett, ID 83617

Michael Blain
1035 Greenfields Ln
Emmett, ID 83617

Cynthia Isaak
~~1055 Greenfields Ln~~ 10114 S. Fisher Ave
~~Emmett, ID 83617~~ Reedley, CA 93654

Spencer Thompson
~~1663 Sunset Dr~~ 1435 Shady Ln
Emmett, ID 83617

Trevor Gough
1677 Sunset Dr
Emmett, ID 83617

Sunset Farms
1420 Jackson Ave
Emmett, ID 83617

Jeremy Myers
1418 Greenfields Loop
Emmett, ID 83617

Saracco Family Trust
1820 Sunset Dr
Emmett, ID 83617

Keith Kearcher
1830 Sunset Dr
Emmett, ID 83617

Dennis Lapham
1825 Sunset Dr
Emmett, ID 83617



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

STAFF REPORT

DESCRIPTION: VARIANCE FOR REDUCED FRONT SETBACK

FILE NUMBER: VAR-23-001

PLANNING AND ZONING COMMISSION HEARING DATE: SEPTEMBER 11, 2023

**PROPERTY OWNER: DANIEL L AND LORI L STAPLES
1713 SUNSET DRIVE
EMMETT, ID 83617**

SITE LOCATION: 1713 SUNSET DRIVE

STAFF PLANNER: JENNIFER KHARRL

1. APPLICATION SUMMARY & OVERVIEW

The property owner, Daniel and Lori Staples, has applied for a Variance (VAR) to the minimum front building setback in the R-2 zone for an existing wood shed. While the existing wood shed is grandfathered in with the setback today, the same applicant has a proposed application for a Standard Subdivision on this property. A condition of approval for the Standard Subdivision will be to dedicate land as public right-of-way on the south side of Sunset Drive. Once the 30 feet (from centerline) is dedicated on Sunset Drive, it will create a new front property line which will leave a setback of approximately 3 feet. Before the Standard Subdivision application can be approved by the Board of County Commissioners, the applicant must receive a variance (to Gem County Code 11-5-7) so the subdivision does not create a non-conforming structure.

Effects of Approval or Denial of the Application

If approved, the applicant would be allowed to proceed with the Subdivision application and retain the shed at its current location. If the Commission decides to deny the application, the applicant wouldn't be able to move forward with the Subdivision unless shed is removed. The Commission can approve, approve with conditions, or deny this application. The Commission is the final decision-making body on Variance applications. The applicant also has the option to file an Appeal of the Commission's decision to the Board of County Commissioners.

According to the Gem County Code 11-13-2, the Commission may authorize a variance from the terms of the Zoning Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. Variances shall not be granted on the grounds of convenience or profit.

2. APPLICATION & PROPERTY FACTS

A. Site Address/Location:

The property is located at 1713 Sunset Drive and is within Township 6N, Range 2W, Section 1 (Tax Parcel #RP06N02W015400).

B. Current Owner(s): Daniel L and Lori L Staples
1713 Sunset Drive
Emmett, ID 83617

C. Applicant(s): Same

D. Present Zoning: R-2, Residential Transitional

E. Present Comprehensive Plan Designation: County Residential Area, Priority Growth Area #1

F. Property Size: Approx. 9.4+/- acres

3. APPLICATION PROCESS FACTS

A. Application Submittal:

The complete application for this item was received and deemed complete on February 17, 2023.

B. Notice of Public Hearing:

Notice of Public Hearing on the application for the Gem County Planning and Zoning Commission was published in accordance with requirements of Title 67, Chapter 65, Idaho Code and Gem County Code 11-7-6 on August 23, 2023. 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 August 17, 2023. The physical property was posted for the public hearing on August 22, 2023. Requests for all impact agencies' reviews were mailed on August 17, 2023.

C. Relevant Ordinances and Required Actions:

The Variance application review process is outlined in Gem County Code 11-13-2. Variance applications require a public hearing before the Commission (in the same manner as Special Use Permits). Within 30 days, the Commission shall either approve, conditionally approve or disapprove the application.

D. History of Previous Actions on Property: The Board of County Commissioners approved a rezone from A-2 to R-2 in 2019.

E. Companion Applications: There are no companion applications to the Variance. If the Variance is approved, a Subdivision application is anticipated but it would be a separate public hearing

process.

4. LAND USE

- A. Existing Land Use(s): Irrigated pasture land with a single-family dwelling and outbuildings.
- B. Description of Character of Surrounding Area: The immediate vicinity includes a combination of active and inactive agricultural lands and single-family residential properties. The entire vicinity contains irrigated and/or irrigatable lands (Emmett Irrigation District).
- C. Adjacent Comprehensive Plan, Zoning and Land Use:

	COMP PLAN DESIGNATION	ZONING DESIGNATION	LAND USE
North of site	County Residential Area, Priority Growth Area #1	A-2, Rural Transitional Agriculture and R-2, Residential Transitional	Irrigated agricultural land; rural residential; Sunset Subdivision with and Valley View Subdivision
South of site	County Residential Area, Priority Growth Area #1	A-2, Rural Transitional Agriculture	Irrigated agricultural land; rural residential
East of site	County Residential Area, Priority Growth Area #1	A-2, Rural Transitional Agriculture and R-3, Rural Residential	Irrigated agricultural land; rural residential; Vista View Estates
West of site	County Residential Area, Priority Growth Area #1	A-2, Rural Transitional Agriculture	Irrigated agricultural land; rural residential; Sunset Farms Minor Subdivision

5. RELEVANT ORDINANCES & STAFF COMMENTS (Staff comments shown in *italics*)

Below is the specific ordinance section from Title 11 (Zoning Ordinance), Chapter 5, Section 7, that is the subject of this Variance application:

- A. Setback Regulation: **GCC 11-5-7: Official Height and Area Regulations**, lists the front and street-side setback requirement for the R-2 zone as 30 feet.

This ordinance is applied to every new building permit on parcels within the R-2 zone.

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

In addition to the analysis provided below, the Commission should reference the applicant's letter of intent. The Commission should also consider all written and oral testimony offered into the public record before making any final motion.

GCC 11-13-2. A states the Commission shall not grant a Variance until the following standards are

met:

- A. Special conditions and circumstances exist which are not applicable to other lands, structures or buildings in the same district;

All new structures within the R-2 zone must follow the same 30-foot front setback standard. The special conditions that pertains to this property are, 1) a pending subdivision application which, according to County codes, requires the dedication of new public right-of-way and, 2) an existing wood shed that won't meet the required front setback after the dedication of new public right-of-way. The Commission may need more information as to when the wood shed was built. It appears that the wood shed doesn't meet the required setback today even before the proposed right-of-way dedication.

- B. A literal interpretation of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this title;

A literal interpretation of the front building setback could potentially deprive the applicant of the opportunity to subdivide his property. While not necessarily a "right," the property can otherwise meet the standards for a subdivision – were it not for the proximity of the existing shed. Other properties in the R-2 zone with a similar setting as the subject parcel that do not have an existing structure would likely have no problem subdividing their property.

- C. Special conditions and circumstances do not result from the actions of the applicant;

Gem County Assessor records doesn't show when the wood shed was built and staff can't find a building permit that was issued for it to know when it was built. The applicant states in the letter of intent that the wood shed has been on the property for approximately 30 years. The Commission may need more information as to when the wood shed was built. It appears that the wood shed doesn't meet the required setback today even before the proposed right-of-way dedication. The Standard Subdivision application (which triggered the requirement to dedicate right-of-way) was filed by the same applicant.

- D. That granting the variance requested will not confer on the applicant any special privilege that is denied by this title to other lands, structures or buildings in the same district.

Granting the requested variance would allow the applicant to proceed with the Standard Subdivision application and retain the wood shed in its current location. Other structures or buildings in the R-2 zone that wouldn't meet the required setback after right-of-way dedication and planned to subdivide or develop may also qualify for a variance (case-by-case basis). In that regard, this variance would not confer any special privileges denied to other properties. If this were bare ground, all new buildings would be constructed to meet the minimum setback distance. The Commission must determine if this is a "special privilege" or not. In addition, the Commission does have the authority to place conditions on a Variance application to help ensure no special privileges are given. As such, staff has proposed two (2) conditions of approval on this variance, if approved (Exhibit A).

7. STAFF RECOMMENDATION

As noted in Section 6, the Commission's decision must be made entirely upon the required findings. Staff's analysis is provided above for the Commission's consideration. Staff has raised questions concerning findings "A" and "C" that the Commission should address at the public hearing. Should the Commission make positive findings of fact and vote to approve this application, staff recommends that the approval, at a minimum, be subject to the Site-Specific Conditions of Approval attached in Exhibit A.

Exhibit A
Conditions of Approval

- 1) This Variance shall only apply to the existing wood shed located at 1713 Sunset Drive. If the wood shed is replaced at any time in the future, the new structure(s) shall comply with the setback standards in effect at that time.
- 2) The applicant shall ensure the proposed subdivision plat includes a note that references the building setback variance to the existing wood shed.
- 3) The applicant shall work with Emmett Irrigation District regarding moving the irrigation facilities out of the right-of-way at the time of subdivision and determine if the facilities will need to be moved to where the shed is located.

**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**

August 30, 2023

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

RE: Dan Staples (Variance)

Dear Jennifer,

Gem County Road & Bridge Department (GCRB) has reviewed the Variance Application for Dan Staples, property located at 1713 Sunset Drive. GCRB support the approval of this variance.

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

Thank you,

A handwritten signature in blue ink, appearing to be "Neal Capps".

Neal Capps, Director
Gem County Road & Bridge

222 E. Park St.
Emmett, Idaho 83617



208-365-4582
Fax 208-365-1324

Serving the Valley Since 1910

emmettirrigationshop@gmail.com

08/31/2023

To Gem County Planning And Zoning Commission

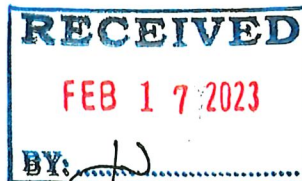
RE: 1713 Sunset Drive Emmett, Id 83617

RP #06N02W015400

Application for Variance of Wood Shed Setback

Emmett Irrigation District has Irrigation facilities that would be affected by the new right of way if Mr. Staples subdivides his parcel. These Irrigation facilities are located between the current wood shed and existing right of way. Per Emmett Irrigation District Standards and Specs and Gem County Road and Bridge requirements these facilities would need to be moved out of the new right of way. This could potentially create an issue with the current location of the wood shed as well as the trees that would be encroaching the new easement for Emmett Irrigation District facilities.

Thank You
Andrew Griggs
Emmett Irrigation District
emmettirrigationshop@gmail.com
Cell: 208-365-8983



MASTER PUBLIC HEARING APPLICATION

GEM COUNTY DEVELOPMENT SERVICES

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

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| <input type="checkbox"/> PLANNED UNIT DEVELOPMENT | <input type="checkbox"/> SUBDIVISION, MODIFICATION | |

PROJECT NAME:

Staples Subdivision Shed Variance

SITE INFORMATION:

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

NW 1/4 of Quarter: SW 1/4 Section: 1 Township: 6N Range: 2W Total Acres: 9.4
Subdivision Name (if applicable): Staples Subdivision

Site Address: 1713 Sunset Dr. Lot: _____ Block: _____
City: Emmett, ID, 83617
Tax Parcel Number(s): RPO6N02W01S400 Current Zoning: R2 Current Land Use: AG

RP00308400 Tax ID

PROPERTY OWNER:

Name: Daniel & Lori Staples

Address: 1713 Sunset Dr

City: Emmett State: ID Zip: 83617

APPLICANT:

Name: Daniel & Lori Staples

Address: 1713 Sunset Dr.

City: Emmett State: ID Zip: 83617

Telephone: 208-484-6444 (Dan)
Email: dan_staples@msn.com

Telephone: 208-477-4227 (Lori)
Email: dan-staples@msn.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.

Daniel Staples 1/15/23
Signature: (Owner) Date

Daniel Staples 1/15/23
Signature: (Applicant) Date

OFFICE USE ONLY

File No.: VAR 23-001 Received By: SV

Date: 2-17-23

Fee: \$355.00

Receipt No: 2023-00137

Daniel and Lori Staples
1713 Sunset Drive, Emmett, Idaho 83617
208-484-6444
Email: dan_staples@msn.com

FEBRUARY 14, 2023

VARIANCE APPLICATION

LETTER OF INTENT
FOR
STAPLES SUBDIVISION

Gem County Development Services

Please accept this as the letter of intent for a Gem County Variance application process.

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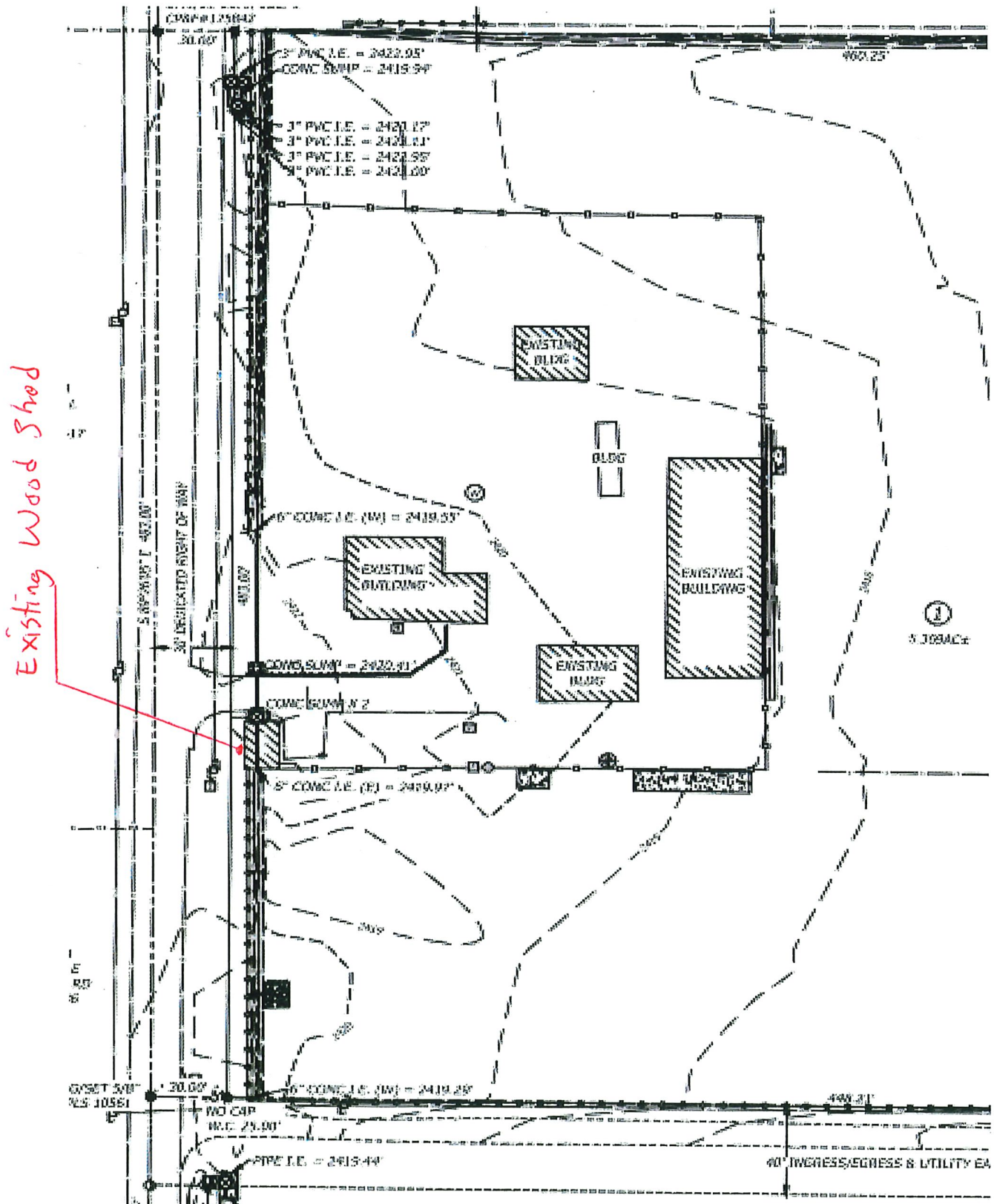
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2. The literal interpretation would deprive the applicant of rights enjoyed by others. The land owner would be deprived in developing this parcel, when other land owners would not be deprived.
3. The special conditions and circumstances do not result from the actions of the applicant due to the fact that this house and garage was built in or around 1949-1948 and the Wood Shed has existed for approximately 30 years and has always met setback requirements until this new proposal. The existing house is an older home with wood as the primary source of heat. Removing the Wood Shed would cause an undue burden on the homeowner when other land owners would not be deprived.
4. Granting this variance will not confer on the applicant any special privilege that is denied in the Ordinance to other structures. Due to the fact that the right of way is being required with this subdivision application, the existing Wood Shed does not meet setbacks.

N



5

Daniel and Lori Staples
1713 Sunset Drive, Emmett, Idaho 83617
208-484-6444
Email: dan_staples@msn.com
Ref: Wood Shed Variance for P&Z (Overhead View of House and Shed)



CERTIFICATE OF MAILING

I hereby certify that on the 17 day of August 2023, I served a true and correct copy of the foregoing upon:

PROPERTY OWNER LIST WITHIN 300 FEET

Staples

T06N, R02W, Section 01

C

George Bryce
1075 Greenfields Ln
Emmett, ID 83617

John Boldon
1801 Sunset Dr
Emmett, ID 83617

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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

STAFF REPORT

DESCRIPTION: VARIANCE FOR REDUCED FRONT SETBACK

FILE NUMBER: VAR-23-001

PLANNING AND ZONING COMMISSION HEARING DATE: SEPTEMBER 11, 2023

**PROPERTY OWNER: DANIEL L AND LORI L STAPLES
1713 SUNSET DRIVE
EMMETT, ID 83617**

SITE LOCATION: 1713 SUNSET DRIVE

STAFF PLANNER: JENNIFER KHARRL

1. APPLICATION SUMMARY & OVERVIEW

The property owner, Daniel and Lori Staples, has applied for a Variance (VAR) to the minimum front building setback in the R-2 zone for an existing wood shed. While the existing wood shed is grandfathered in with the setback today, the same applicant has a proposed application for a Standard Subdivision on this property. A condition of approval for the Standard Subdivision will be to dedicate land as public right-of-way on the south side of Sunset Drive. Once the 30 feet (from centerline) is dedicated on Sunset Drive, it will create a new front property line which will leave a setback of approximately 3 feet. Before the Standard Subdivision application can be approved by the Board of County Commissioners, the applicant must receive a variance (to Gem County Code 11-5-7) so the subdivision does not create a non-conforming structure.

Effects of Approval or Denial of the Application

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2. APPLICATION & PROPERTY FACTS

A. Site Address/Location:

The property is located at 1713 Sunset Drive and is within Township 6N, Range 2W, Section 1 (Tax Parcel #RP06N02W015400).

B. Current Owner(s): Daniel L and Lori L Staples
1713 Sunset Drive
Emmett, ID 83617

C. Applicant(s): Same

D. Present Zoning: R-2, Residential Transitional

E. Present Comprehensive Plan Designation: County Residential Area, Priority Growth Area #1

F. Property Size: Approx. 9.4+/- acres

3. APPLICATION PROCESS FACTS

A. Application Submittal:

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B. Notice of Public Hearing:

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D. History of Previous Actions on Property: The Board of County Commissioners approved a rezone from A-2 to R-2 in 2019.

E. Companion Applications: There are no companion applications to the Variance. If the Variance is approved, a Subdivision application is anticipated but it would be a separate public hearing

process.

4. LAND USE

- A. Existing Land Use(s): Irrigated pasture land with a single-family dwelling and outbuildings.
- B. Description of Character of Surrounding Area: The immediate vicinity includes a combination of active and inactive agricultural lands and single-family residential properties. The entire vicinity contains irrigated and/or irrigatable lands (Emmett Irrigation District).
- C. Adjacent Comprehensive Plan, Zoning and Land Use:

	COMP PLAN DESIGNATION	ZONING DESIGNATION	LAND USE
North of site	County Residential Area, Priority Growth Area #1	A-2, Rural Transitional Agriculture and R-2, Residential Transitional	Irrigated agricultural land; rural residential; Sunset Subdivision with and Valley View Subdivision
South of site	County Residential Area, Priority Growth Area #1	A-2, Rural Transitional Agriculture	Irrigated agricultural land; rural residential
East of site	County Residential Area, Priority Growth Area #1	A-2, Rural Transitional Agriculture and R-3, Rural Residential	Irrigated agricultural land; rural residential; Vista View Estates
West of site	County Residential Area, Priority Growth Area #1	A-2, Rural Transitional Agriculture	Irrigated agricultural land; rural residential; Sunset Farms Minor Subdivision

5. RELEVANT ORDINANCES & STAFF COMMENTS (Staff comments shown in *italics*)

Below is the specific ordinance section from Title 11 (Zoning Ordinance), Chapter 5, Section 7, that is the subject of this Variance application:

- A. Setback Regulation: **GCC 11-5-7: Official Height and Area Regulations**, lists the front and street-side setback requirement for the R-2 zone as 30 feet.

This ordinance is applied to every new building permit on parcels within the R-2 zone.

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

In addition to the analysis provided below, the Commission should reference the applicant's letter of intent. The Commission should also consider all written and oral testimony offered into the public record before making any final motion.

GCC 11-13-2. A states the Commission shall not grant a Variance until the following standards are

met:

- A. Special conditions and circumstances exist which are not applicable to other lands, structures or buildings in the same district;

All new structures within the R-2 zone must follow the same 30-foot front setback standard. The special conditions that pertains to this property are, 1) a pending subdivision application which, according to County codes, requires the dedication of new public right-of-way and, 2) an existing wood shed that won't meet the required front setback after the dedication of new public right-of-way. The Commission may need more information as to when the wood shed was built. It appears that the wood shed doesn't meet the required setback today even before the proposed right-of-way dedication.

- B. A literal interpretation of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this title;

A literal interpretation of the front building setback could potentially deprive the applicant of the opportunity to subdivide his property. While not necessarily a "right," the property can otherwise meet the standards for a subdivision – were it not for the proximity of the existing shed. Other properties in the R-2 zone with a similar setting as the subject parcel that do not have an existing structure would likely have no problem subdividing their property.

- C. Special conditions and circumstances do not result from the actions of the applicant;

Gem County Assessor records doesn't show when the wood shed was built and staff can't find a building permit that was issued for it to know when it was built. The applicant states in the letter of intent that the wood shed has been on the property for approximately 30 years. The Commission may need more information as to when the wood shed was built. It appears that the wood shed doesn't meet the required setback today even before the proposed right-of-way dedication. The Standard Subdivision application (which triggered the requirement to dedicate right-of-way) was filed by the same applicant.

- D. That granting the variance requested will not confer on the applicant any special privilege that is denied by this title to other lands, structures or buildings in the same district.

Granting the requested variance would allow the applicant to proceed with the Standard Subdivision application and retain the wood shed in its current location. Other structures or buildings in the R-2 zone that wouldn't meet the required setback after right-of-way dedication and planned to subdivide or develop may also qualify for a variance (case-by-case basis). In that regard, this variance would not confer any special privileges denied to other properties. If this were bare ground, all new buildings would be constructed to meet the minimum setback distance. The Commission must determine if this is a "special privilege" or not. In addition, the Commission does have the authority to place conditions on a Variance application to help ensure no special privileges are given. As such, staff has proposed two (2) conditions of approval on this variance, if approved (Exhibit A).

7. STAFF RECOMMENDATION

As noted in Section 6, the Commission's decision must be made entirely upon the required findings. Staff's analysis is provided above for the Commission's consideration. Staff has raised questions concerning findings "A" and "C" that the Commission should address at the public hearing. Should the Commission make positive findings of fact and vote to approve this application, staff recommends that the approval, at a minimum, be subject to the Site-Specific Conditions of Approval attached in Exhibit A.

Exhibit A
Conditions of Approval

- 1) This Variance shall only apply to the existing wood shed located at 1713 Sunset Drive. If the wood shed is replaced at any time in the future, the new structure(s) shall comply with the setback standards in effect at that time.
- 2) The applicant shall ensure the proposed subdivision plat includes a note that references the building setback variance to the existing wood shed.
- 3) The applicant shall work with Emmett Irrigation District regarding moving the irrigation facilities out of the right-of-way at the time of subdivision and determine if the facilities will need to be moved to where the shed is located.

**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**

August 30, 2023

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

RE: Dan Staples (Variance)

Dear Jennifer,

Gem County Road & Bridge Department (GCRB) has reviewed the Variance Application for Dan Staples, property located at 1713 Sunset Drive. GCRB support the approval of this variance.

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

Thank you,

A handwritten signature in blue ink, appearing to be "Neal Capps", is written over a faint, larger blue ink signature.

Neal Capps, Director
Gem County Road & Bridge

222 E. Park St.
Emmett, Idaho 83617



208-365-4582
Fax 208-365-1324

Serving the Valley Since 1910

emmettirrigationshop@gmail.com

08/31/2023

To Gem County Planning And Zoning Commission

RE: 1713 Sunset Drive Emmett, Id 83617

RP #06N02W015400

Application for Variance of Wood Shed Setback

Emmett Irrigation District has Irrigation facilities that would be affected by the new right of way if Mr. Staples subdivides his parcel. These Irrigation facilities are located between the current wood shed and existing right of way. Per Emmett Irrigation District Standards and Specs and Gem County Road and Bridge requirements these facilities would need to be moved out of the new right of way. This could potentially create an issue with the current location of the wood shed as well as the trees that would be encroaching the new easement for Emmett Irrigation District facilities.

Thank You

Andrew Griggs

Emmett Irrigation District

emmettirrigationshop@gmail.com

Cell: 208-365-8983