



May 19 2022

BY: JC

MASTER PUBLIC HEARING APPLICATION

GEM COUNTY DEVELOPMENT SERVICES

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

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

- | | | |
|--|--|--|
| <input type="checkbox"/> APPEAL | <input type="checkbox"/> PLANNED COMMUNITY | <input type="checkbox"/> SUBDIVISION, MODIFICATION |
| <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, FINAL | |

PROJECT NAME: Thornock Variance**SITE INFORMATION:**

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

Quarter: _____ Section: CG Township: 06N Range: 01W Total Acres: 5.0130

Subdivision Name (if applicable): _____

Site Address: 753 e. Idaho blvd.

Lot: _____ Block: _____

City: emmettTax Parcel Number(s): RPO6N01W052590

Current Zoning: _____ Current Land Use: _____

PROPERTY OWNER:Name: Cody ThornockAddress: 753 e Idaho blvdCity: emmett State: ID Zip: 83617Telephone: 951-834-758 Fax: _____**APPLICANT:**Name: Jan KetchamAddress: 753 e Idaho blvdCity: emmett State: ID Zip: 83617Telephone: 208-571-1497 Fax: _____Email: cc.thornock@gmail.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.

Signature: (Owner)

Date

Signature: (Applicant)

Date

NOTE: THIS APPLICATION MUST BE SUBMITTED WITH THE APPLICABLE CHECKLIST (S).**OFFICE USE ONLY**File No.: VAR-22-601Received By: MB

Date: _____

Fee: 355⁰⁰Receipt No: CC

Letter of Intent
Thornock Variance Application
753 E Idaho Blvd

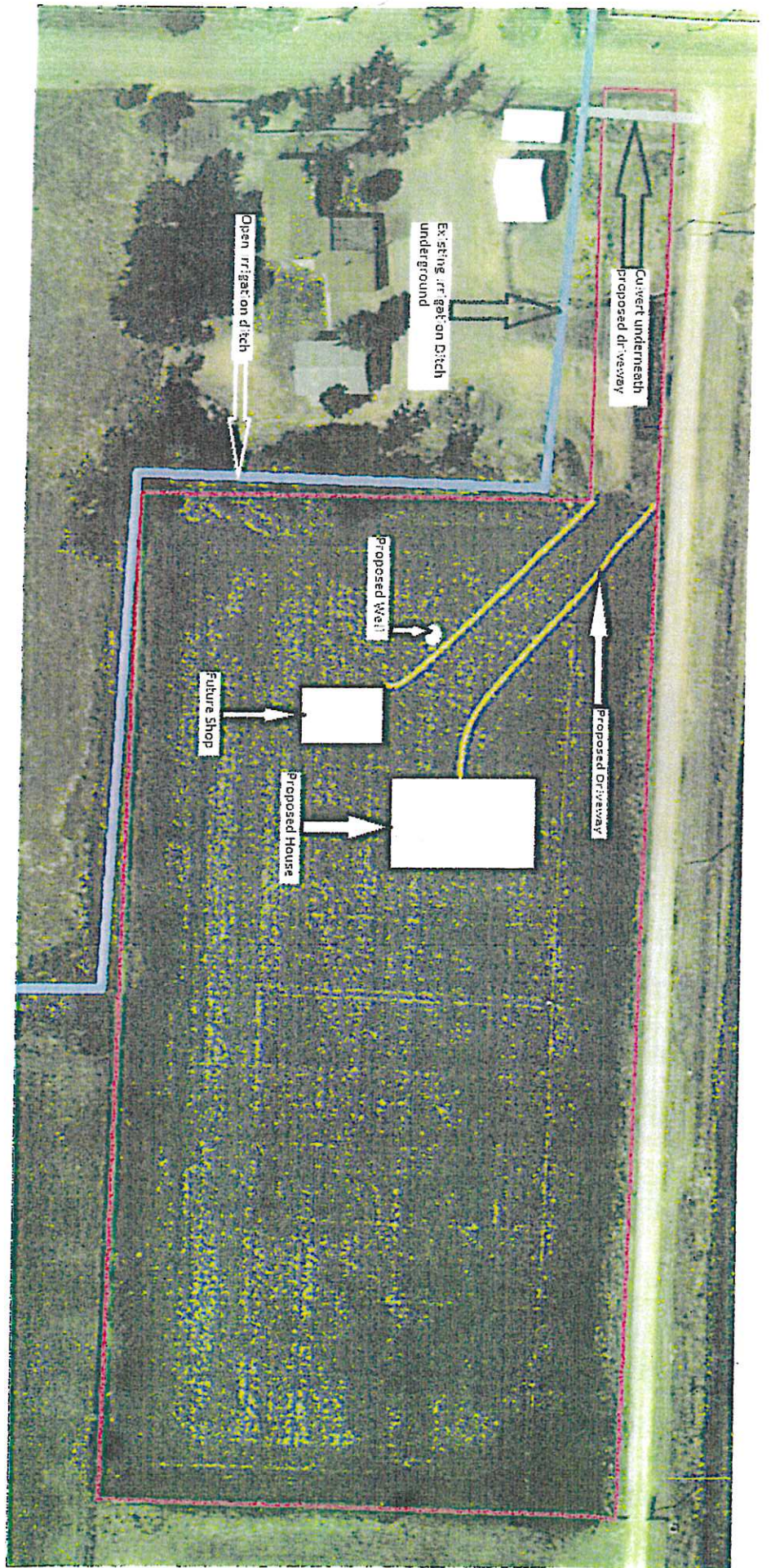
To Whom it May Concern,

We are requesting a variance on our property for an existing house and outbuilding setback after the dedication of Right of Way to the County during the subdivision process. We had purchased the property in May of 2019 and the existing house was built in 1911 the other structures were added in the 1920's and the 1970's. No structures have been added since our purchase of the property and the existing structures were in place prior to the subdivision process.

1. The special circumstance that exist is peculiar to the existing house. The house was built in 1911, has been occupied and has met the setback requirements until this time. One of the barns would not currently meet the county setback requirements, but was built prior to the Zoning Ordinance.
2. We as land owners would be deprived of rights of developing this property when other land owners would not be deprived of that right.
3. The special conditions and circumstances do not result from the actions of the applicant due to the structures being in place prior to purchase.
4. Granting the variance would not confer any special privilege that is denied in the ordinance to other structures in the same district. The Right of Way dedication will be required with a subdivision application and it will make the structures not meet the setback in the Zoning Ordinance.



40' ROW dedication + 30' front set back



CERTIFICATE OF MAILING

I hereby certify that on the 24 day of May 2022, I served a true and correct copy of the foregoing upon:

PROPERTY OWNER LIST WITHIN 300 FEET

Thornock
T06N, R01W, Section 5

Gary Mackey
375 E Edgerton Lane
Wolf Creek, OR 97497

Christine Thompson
2112 Hollywood Blvd
Emmett, ID 83617

Larry Sawyer
PO Box 159
Emmett, ID 83617

Mark Hovley
2124 Hollywood Blvd
Emmett, ID 83617

Daniel Grant
755 E. Idaho Blvd
Emmett, ID 83617

Gary Houtz
950 S Prospect Peak Way
Emmett, ID 83617

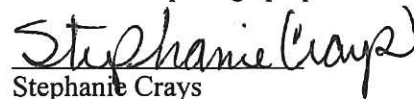
Ohana Hale Investments LLC
330 W Main Street
Emmett, ID 83617

Kevin Egizi
810 E Idaho Blvd
Emmett, ID 83617

Brennan Granden
756 E Idaho Blvd
Emmett, ID 83617

Richard Linville
1000 Lower Bluff Road
Emmett, ID 83617

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


Stephanie Crays
Associate Planner



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-22-001

ZONING COMMISSION HEARING DATE: JUNE 13, 2022 6:00PM

PROPERTY OWNER: CODY THORNOCK
753 E. IDAHO BOULEVARD
EMMETT, ID 83617

SITE LOCATION: 753 E. IDAHO BOULEVARD

STAFF PLANNER: JENNIFER KHARRL

1. APPLICATION SUMMARY & OVERVIEW

The property owner, Cody Thornock, has applied for a Variance (VAR) to the minimum front building setback in the R-2 zone for an existing single-family dwelling and two outbuildings. While the existing house, shop and barn are grandfathered in with the setback today, the same applicant has a pending application for a Minor Subdivision on this property to divide the 5.00-acre parcel into two (2) building lots per a recently approved Rezone with Development Agreement. A condition of approval for the Minor Subdivision is to dedicate land as public right-of-way on the south side of Idaho Boulevard. Once the 30 feet (from centerline) is dedicated on Idaho Boulevard, it will create a new front property line which will completely remove the setback area and all buildings will be within the new right-of-way. Before the minor 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 Minor Subdivision application and retain the house and barn at their current location. If the Commission decides to deny the application, the applicant wouldn't be able to move forward with the Minor Subdivision unless the house and barn are 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 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 753 E. Idaho Boulevard and is within Township 6N, Range 1W, Section 5 (Tax Parcel #RP06N01W052590).

B. Current Owner(s): Cody Thornock
753 E. Idaho Boulevard
Emmett, ID 83617

C. Applicant(s): Same

D. Representative: Same

E. Present Zoning: R-2, Residential Transitional

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

G. Property Size: Approx. 5.00+/- acres

3. APPLICATION PROCESS FACTS

A. Application Submittal:

The complete application for this item was received and deemed complete on May 19, 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 11-7-6 on May 25, 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 May 20, 2022. The physical property was posted for the public hearing on May 17, 2022. Requests for all impact agencies' reviews were mailed on May 20, 2022.

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 with a DA to limit the number of parcels to 2 in 2022. Staff held a pre-application conference for a minor subdivision with the property owners on May 18, 2022 and issued a Notice to Proceed on May 19, 2022.
- E. Companion Applications: There are no companion applications to the Variance. If the Variance is approved, a Minor Subdivision application is anticipated but it would be a separate administrative process.

4. LAND USE

- A. Existing Land Use(s): Irrigated agricultural 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 and R-3, Rural Residential | Irrigated agricultural land; rural residential |
| 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 | Irrigated agricultural land; rural residential |
| West of site | County Residential Area, Priority Growth Area #1 | A-2, Rural Transitional Agriculture and R-3, Rural Residential | Irrigated agricultural land; rural residential; Sunrise Estates 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 County codes, requires the dedication of new public right-of-way and, 2) an existing dwelling (constructed around 1911) and two outbuildings (constructed around 1920) that pre-dates the adoption of Gem County's Zoning Ordinance which set the minimum building setback distance.

- 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 minor subdivision – were it not for the proximity of the existing house. 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 show that the existing dwelling was likely built around 1911 and the two outbuildings were likely built around 1920. The applicant acquired the property well after the structures were built. The Minor Subdivision application (which triggered the requirement to dedicate right-of-way) was filed by the same applicant. However, they did not construct the buildings and did not set the right-of-way width that is forcing this variance.

- 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 Minor Subdivision application and retain the house and outbuildings at their current location. Other structures or buildings in the R-2 zone that pre-date the Zoning Ordinance and want 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. Based upon the application, staff recommends that the Commission consider granting approval of the variance with the attached conditions in **Exhibit A**. The Commission will need to review and consider all the findings after taking testimony at the public hearing.

Exhibit A
Conditions of Approval

- 1) This Variance shall only apply to the existing dwelling and two outbuildings located at 753 E. Idaho Boulevard. If the dwelling and two outbuildings are 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 minor subdivision plat includes a note that references the building setback variance to the existing house, shop and barn.

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

May 25, 2022

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

RE: Cody Thornock (Variance)

Dear Jennifer,

Gem County Road & Bridge (GCRB) has reviewed the Variance Application for Cody Thornock, located at 753 E. Idaho Boulevard. GCRB has no concerns and supports the proposed variance.

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

Thank you,

A handwritten signature in blue ink, appearing to be "N. Capps", is written over the "Thank you," text.

Neal Capps, Director
Gem County Road & Bridge



GEM COUNTY DEVELOPMENT SERVICES DEPARTMENT

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Exhibit A
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Neal Capps, Director
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May 25, 2022

Jennifer Kharri, Administrator
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Thank you,

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Neal Capps, Director
Gem County Road & Bridge