

**NOTICE OF PUBLIC HEARING
BEFORE THE BOARD OF LATAH COUNTY COMMISSIONERS**

**Wednesday, October 7, 2009
3:00 p.m.**

The Board of Latah County Commissioners will hold a public hearing on Wednesday, October 7, 2009, in Room 2-B of the Latah County Courthouse, Moscow, Idaho, to receive comments on:

3:00 p.m. – **ADA #794** – A request by El Elsie LLC. to amend the Development Agreement for RZ 727 to remove the limitation of five lots on the number of residential lots. The property is located approximately ¼ mile south of the Joel Townsite, on Genesee-Troy Road, in Section 20, Township 39 North, Range 4 West, B.N., in Latah County and is referenced as Assessor's Parcel Number RP39N04W206243A.

All interested parties are encouraged to attend the hearing. Accommodations for individuals who qualify under the Americans with Disabilities Act are available upon request. Notice is required in the Planning Office three working days prior to the hearing in order to acquire accommodations.

The hearing will be held pursuant to the Latah County Hearing Procedures Ordinance and under authority of the Idaho Local Planning Act, Latah County Comprehensive Plan, and the Latah County Land Use Ordinance. The Board of County Commissioners reserves the right to limit the length of testimony.

Additional information on this request, including full copies of the proposal, is available from the Planning and Building Department at the Latah County Courthouse, Moscow, Idaho. Phone (208) 883-7220. Written comments will be accepted at the above office prior to the public hearing.

Drew Blankenbaker
Associate Planner

(This is a public service announcement)

LATAH BOARD OF COUNTY COMMISSIONERS EXHIBIT LIST

Public Hearing: Amended Development Agreement #794 **Date:** October 7, 2009 **Time:** 3:00 PM

Applicant: El Elsie, LLC **File #:** ADA 794

- Exhibit #1.** Staff Report
- Exhibit #1A.** Criteria Worksheet
- Exhibit #1B.** Vicinity Map and Comprehensive Plan Land Use Map
- Exhibit #1C.** Zoning Map
- Exhibit #1D.** Aerial Photo with Adjacent Property Owners Map
- Exhibit #1E.** Photos of Subject Property
- Exhibit #1F.** Development Agreement (#510573) for RZ #727 by El Elsie, LLC and Latah County
- Exhibit #1G.** Latah County Zoning Commission Findings of Fact & Conclusions of Law for RZ 727
- Exhibit #1H.** Letter to Planning and Building Dept. regarding second access submitted by James L. Westberg dated September 21, 2007
- Exhibit #1I.** Latah County Board of Commissioners Motion and Order approving Short Plat #748 dated January 14, 2008.
- Exhibit #1J.** Acknowledgment forms for approved Short Plat #748
- Exhibit #2.** Application Form (submitted by applicant)
- Exhibit #2A.** Applicant's Narrative (submitted by applicant)
- Exhibit #2B.** Vicinity Map (submitted by applicant)
- Exhibit #2C.** Assessor's Plat Map (submitted by applicant)
- Exhibit #2D.** Site Plan (submitted by applicant)
- Exhibit #3.** Staff Introduction for Latah County Zoning Commission Hearing on July 1, 2009
- Exhibit #4.** Latah County Zoning Commission Findings of Fact and Conclusions of Law for ADA #794, signed July 15th, 2009
- Exhibit #5.** Staff Introduction for Board of Latah County Commissioners Public Hearing on October 7, 2009

EL ELSIE, LLC
AMENDED DEVELOPMENT AGREEMENT APPLICATION #794
STAFF REPORT

Summary of Application:

A request by El Elsie LLC to amend the Development Agreement for RZ 727 to remove the limitation of five lots on the number of residential lots. The property is located approximately ¼ mile south of the Joel Townsite, on Genesee-Troy Road, in Section 20, Township 39 North, Range 4 West, B.N., in Latah County and is referenced as Assessor's Parcel Number RP39N04W206243A.

Site Characteristics:

Size of Parcel: 37.35-acres
Soils: Taney Silt Loam, 7-35 % Slopes;
(Latah County Soil Survey Sheet #37)
Floodplain: Zone "C" (FIRM Panel # 160086 0335B)

Land Use and Regulations:

Comprehensive Plan Designation: Industrial/Commercial/Residential
Existing Zoning: Rural Residential
Existing Uses: Residential & Agriculture (Conservation Reserve Program)
Neighboring Zoning: Agriculture/Forestry & Rural Residential
Neighboring Uses: Agriculture, CRP, Residential, & Rock Quarry

Infrastructure/Services:

Water: Private Wells
Sewer: Private Septic
Access: Genesee-Troy Road, North Latah County Highway District
Schools: Moscow School District
Fire Protection: Moscow Rural Fire District
Law Enforcement: Latah County Sheriff

EXHIBITS:

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Exhibit #2D. Site Plan (submitted by applicant)
Exhibit #3. Staff Introduction for Latah County Zoning Commission Hearing on July 1, 2009

NOTE: Exhibits not included in the staff packet are available for review in the Planning Office, and will be entered into the record during the public hearing.

APPLICABLE STATUTE, ORDINANCE, AND COMPREHENSIVE PLAN SECTIONS:

Local Planning Act: Idaho Code 67-6511, Zoning Ordinance

Latah County Land Use Ordinance:

Section 6.01.1 Zoning Map Amendments

Section 6.01.03.4 (E) Public Hearings and Procedures

Latah County Comprehensive Plan

CRITERIA WORKSHEET

NOTE: This criteria worksheet does not represent staff analysis of information provided by the applicant, supporters, or opponents; however, policies which may be applicable to this particular request have been identified by staff. Information submitted to the Planning Department prior to the mailing of the staff packet has been organized herein in relation to the applicable criteria for approval or denial. The worksheet is intended only to help identify if all relevant criteria have been addressed with supporting factual information, and to provide a juxtaposition of any conflicting testimony that has been presented.

Type of request:

Amended Development Agreement

Description of application:

A request by El Elsie LLC. to amend the Development Agreement for RZ 727 to remove the limitation of five lots on the number of residential lots. The property is located approximately ¼ mile south of the Joel Townsite, on Genesee-Troy Road, in Section 20, Township 39 North, Range 4 West, B.N., in Latah County and is referenced as Assessor's Parcel Number RP39N04W206243A.

Facts of application and the information submitted:

Application Requirements

1) Section 6.01.03.4 (E) of the Latah County Land Use Ordinance states that a development agreement may be terminated or modified by the Board of Latah County Commissioners with the written permission of the current property owner and that prior to termination or modification at least one public hearing shall be conducted in accordance with the notice and procedural provisions for a rezone application.

2) Section 6.01.01 requires that an application for a rezone be made by the owner of the affected property or the owner's authorized agent.

The application was signed and submitted by James L. Westberg, representative for El Elsie, LLC to the Planning and Building Department on May 27, 2009.

Additional Information:

In December of 2006, the Applicant, El Elsie, LLC, received approval for their request to rezone 37.35 acres from Agriculture/Forest to Rural Residential which is the subject property of this request. As part of this approval, the Applicant entered into a Development Agreement (#510573) with the County. Subsequently, the Applicant gained approval for a Short Plat (SP# 748) which provided for four (4) new lots.

This request is to amend the Development Agreement condition which limits the Applicant to five (5) residential lots. The Applicant has proposed that the Latah County Land Use Ordinance should be the governing vehicle for the property.

ADA # 794 Vicinity and Comprehensive Plan Land Use Map

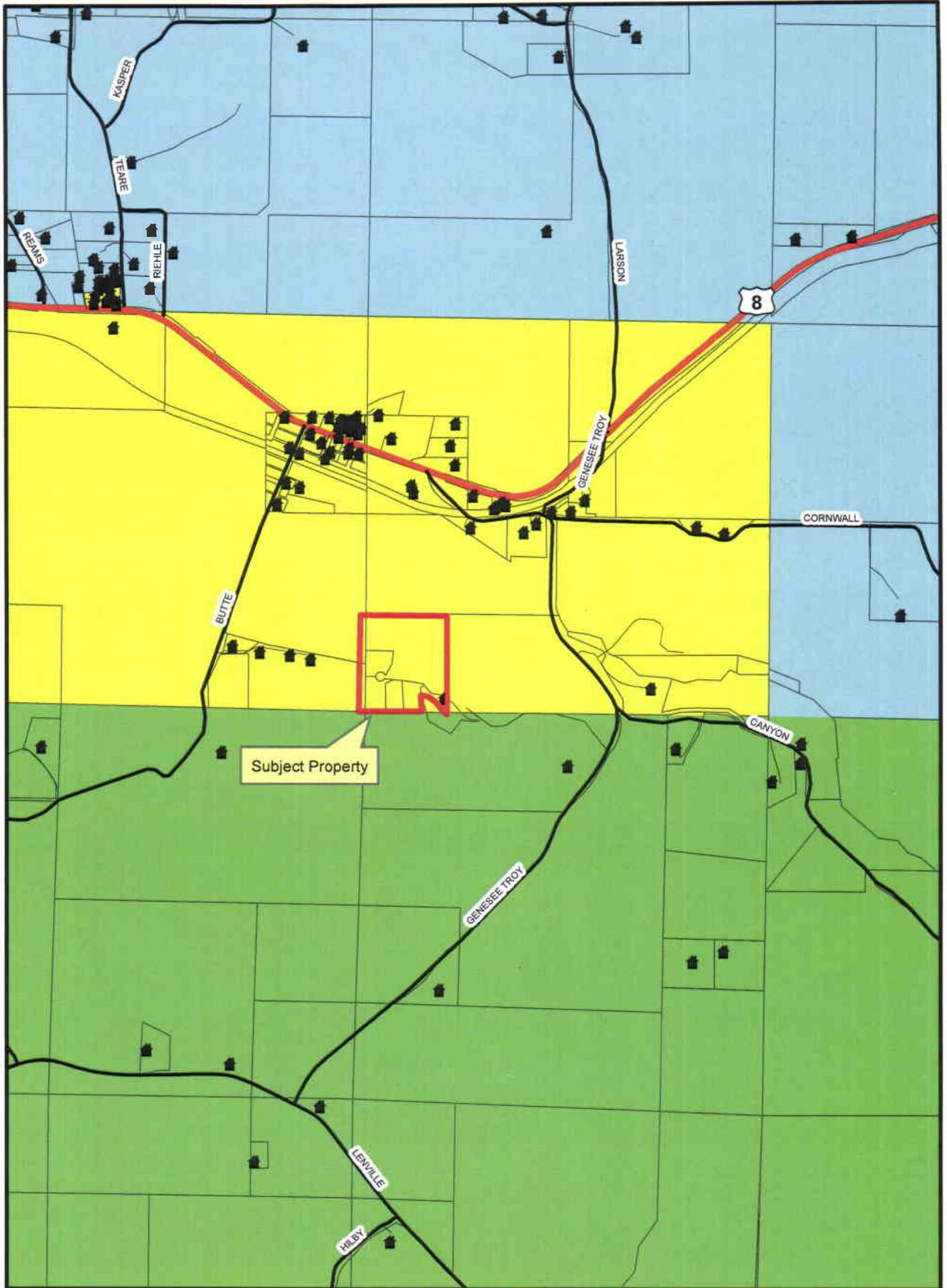


Legend

-  Rural Addresses
-  Parcel
-  Subject Property

Comprehensive Plan

-  Rural
-  ICR
-  Productive
-  AOI



NOTE: This Document is a representation only.
Latah County bears no responsibility for errors or omissions.

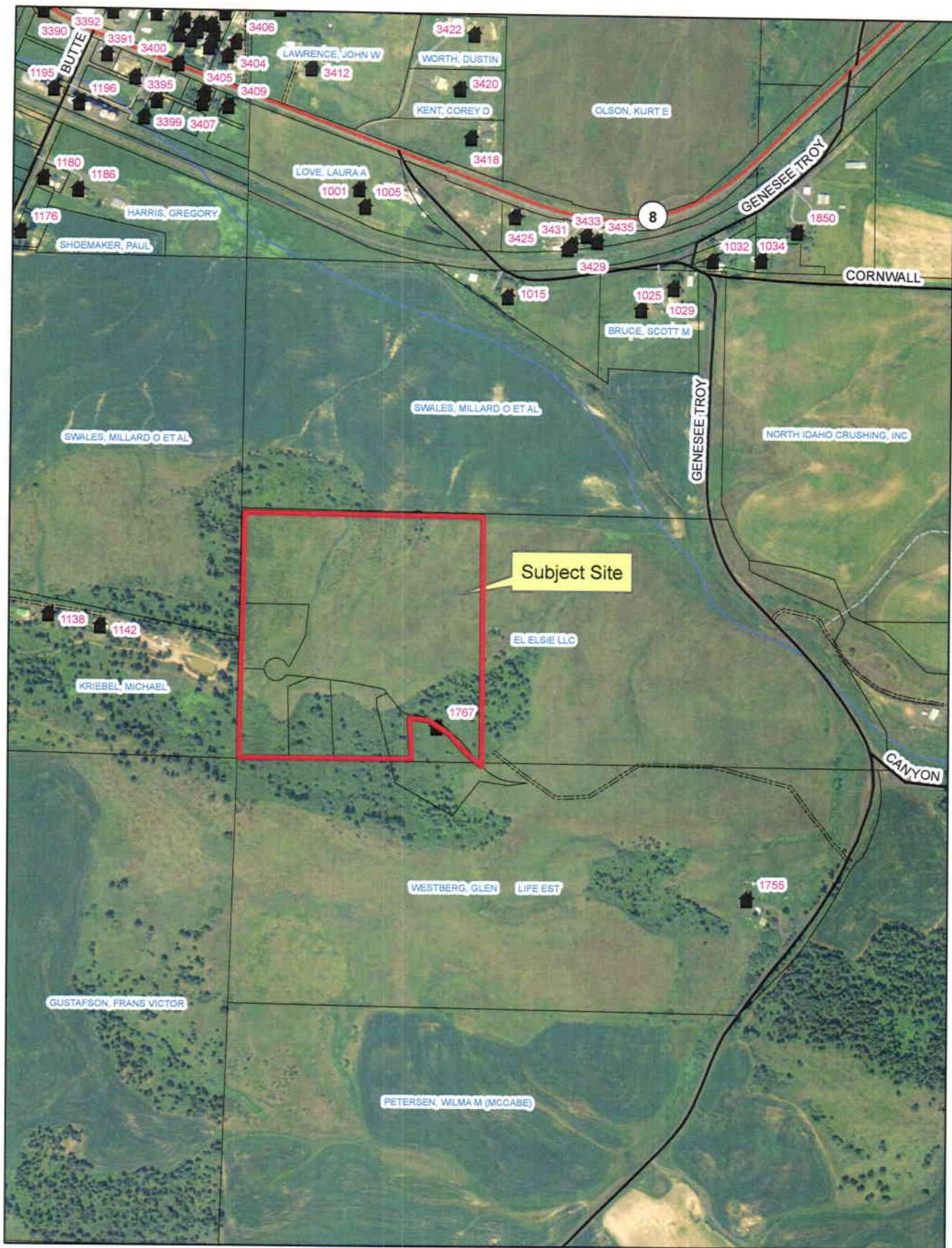
*Created on 6/25/09 by DB



BOCC HRG: ADA 794
Applicant: El Elsie LLC
Exhibit No. 1B
Date: Oct 7, 2009

LCZC Hrg: ADA 794
Applicant: El Elsie LLC
Exhibit #: 1B
Date: 7/1/2009

ADA # 794 Aerial Photo and Adjacent Property Owners Map



1,500 750 0 1,500 Feet

Legend

-  Rural Addresses
-  Parcel
-  Subject Property

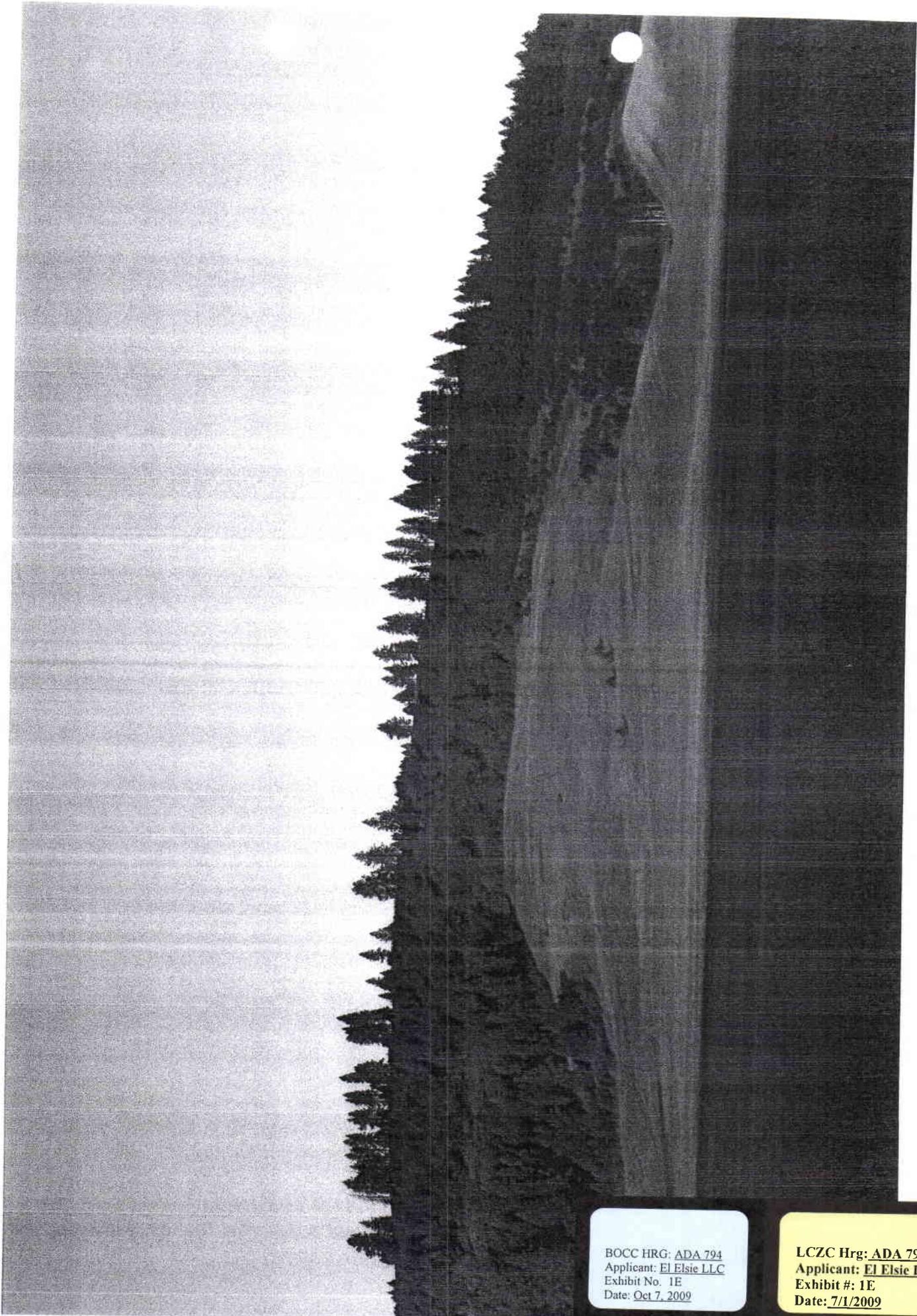
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*Created on 6/25/09 by DB



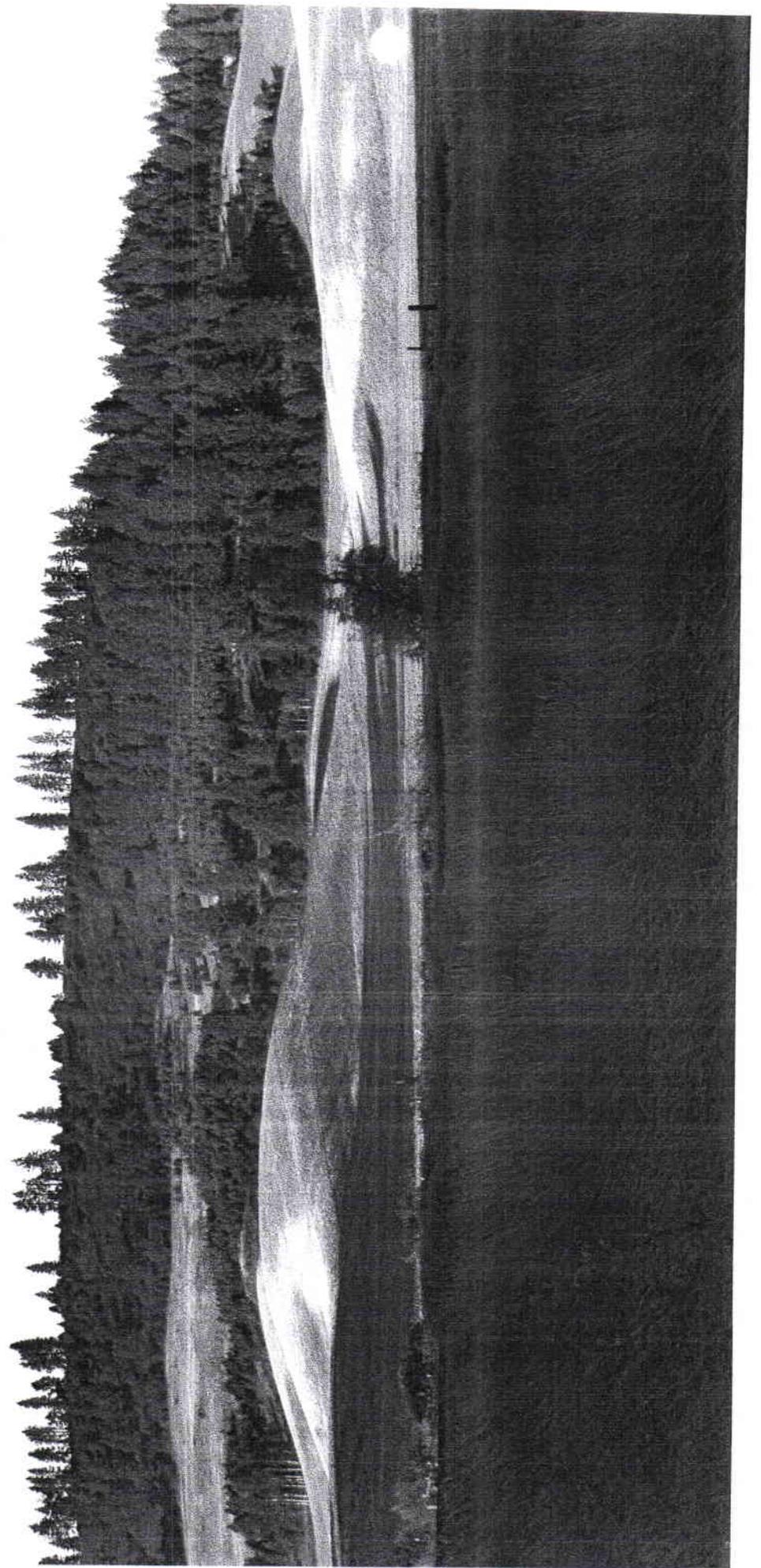
BOCC HRG: ADA 794
Applicant: El Elsie LLC
Exhibit No. 1D
Date: Oct 7, 2009

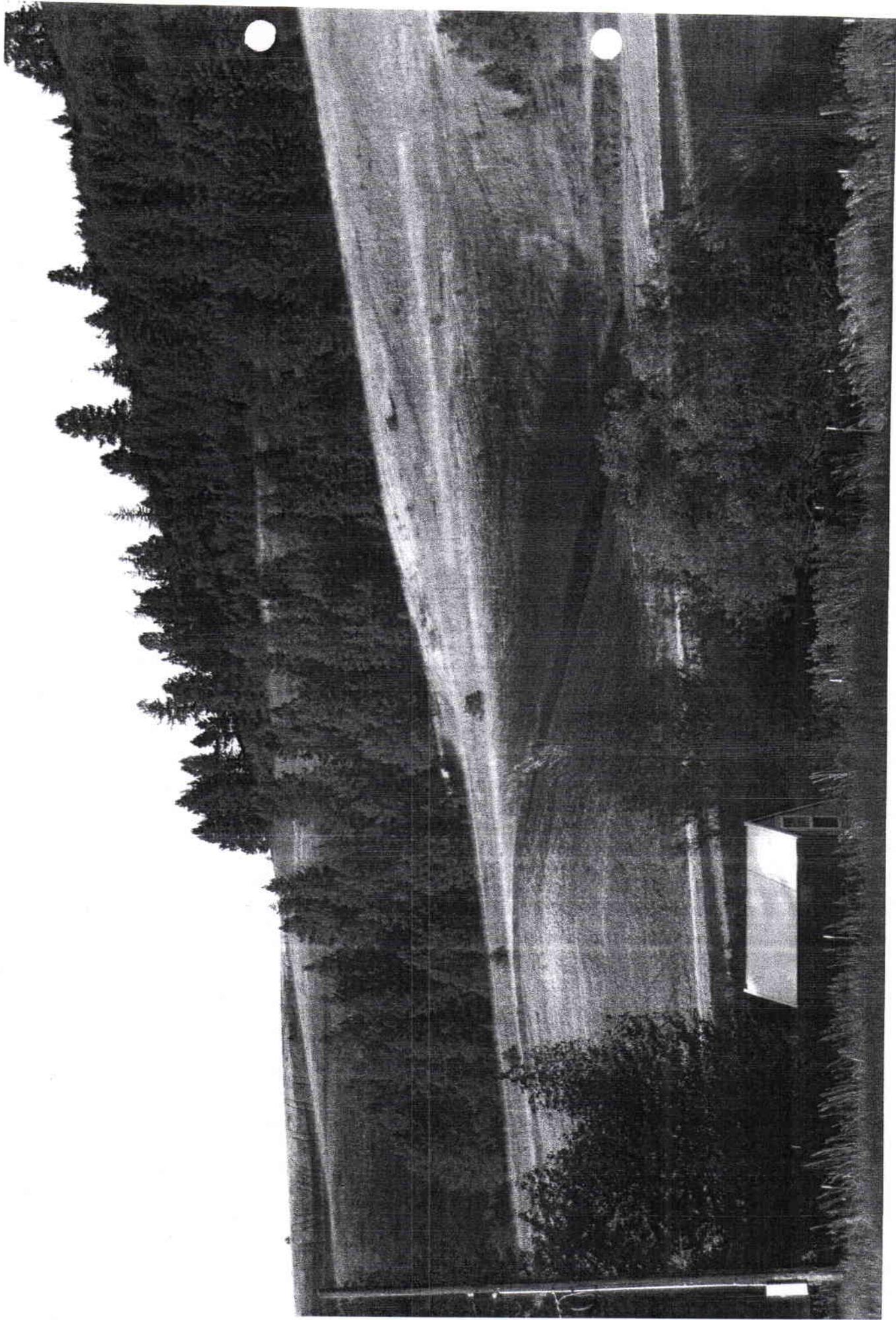
LCZC Hrg: ADA 794
Applicant: El Elsie LLC
Exhibit #: 1D
Date: 7/1/2009

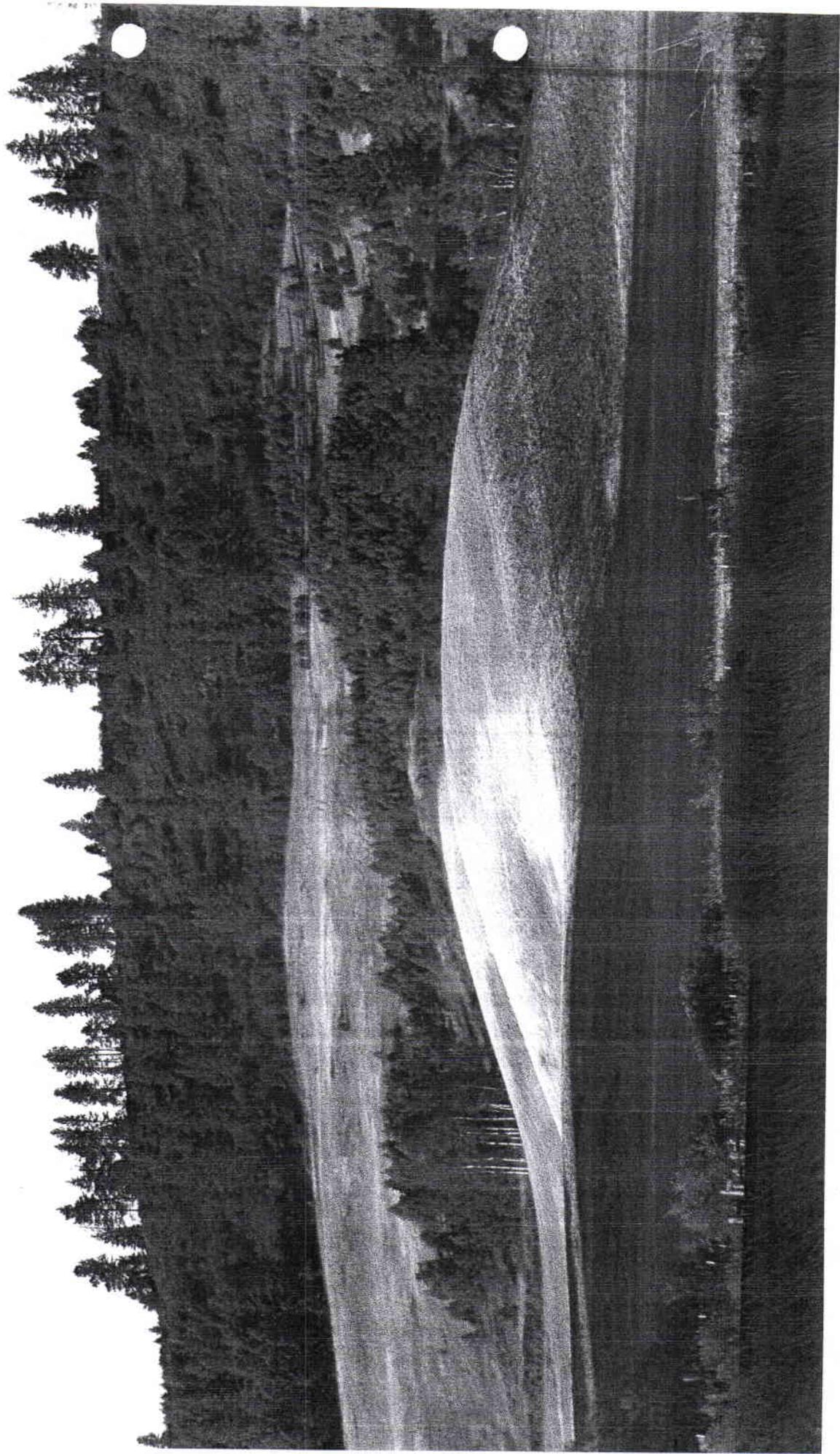


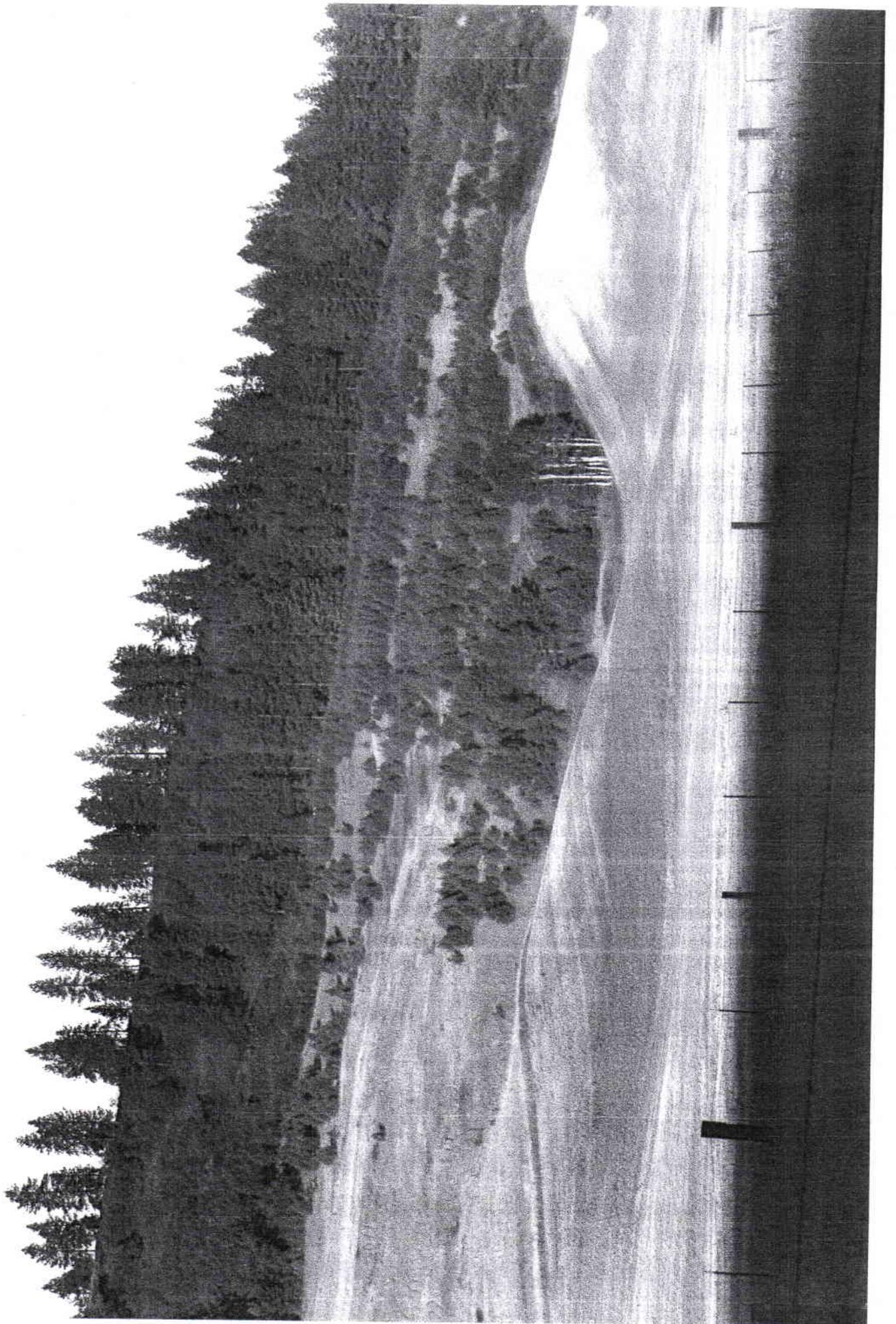
BOCC HRG: ADA 794
Applicant: El Elsie LLC
Exhibit No. 1E
Date: Oct 7, 2009

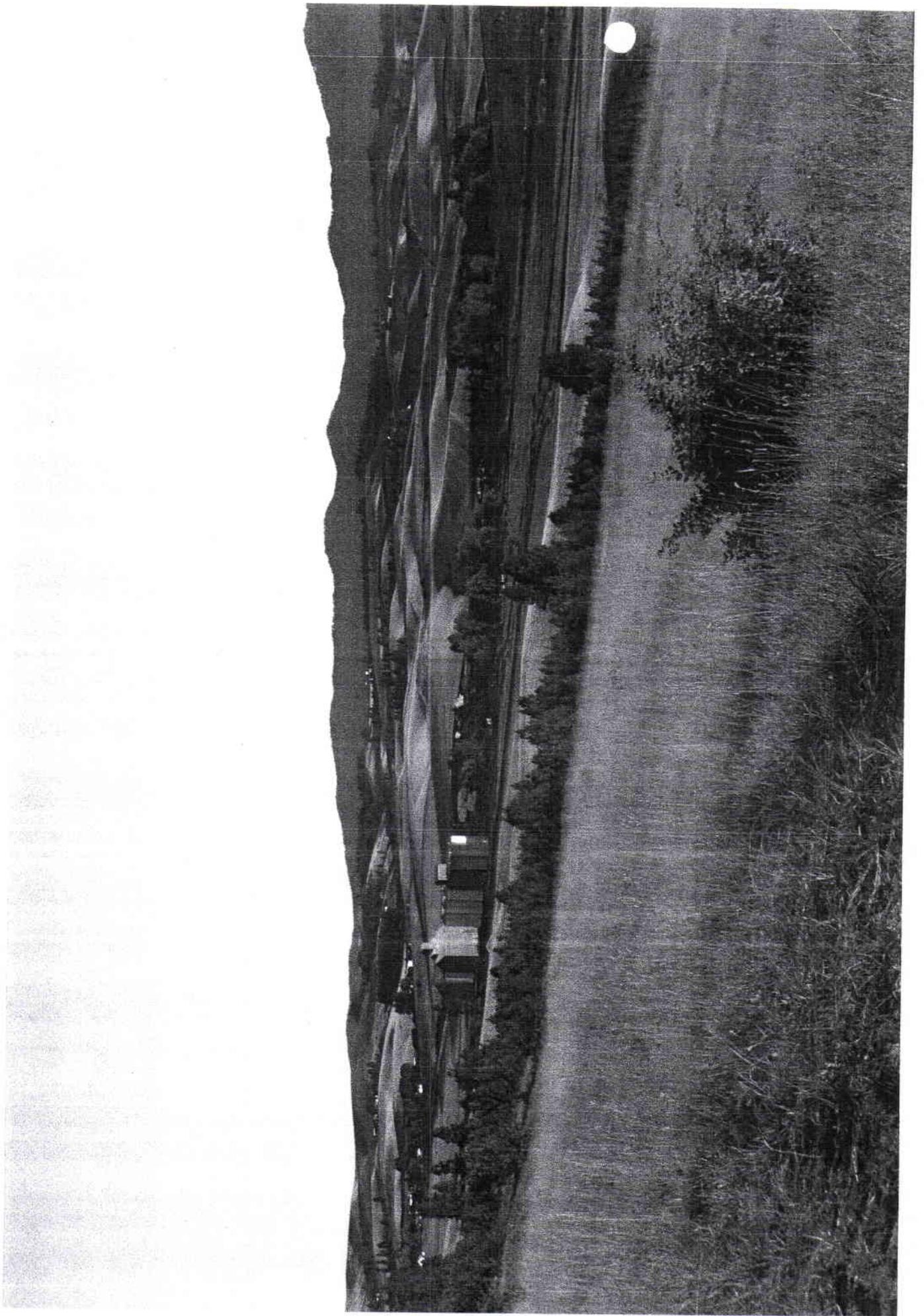
LCZC Hrg: ADA 794
Applicant: El Elsie LLC
Exhibit #: 1E
Date: 7/1/2009

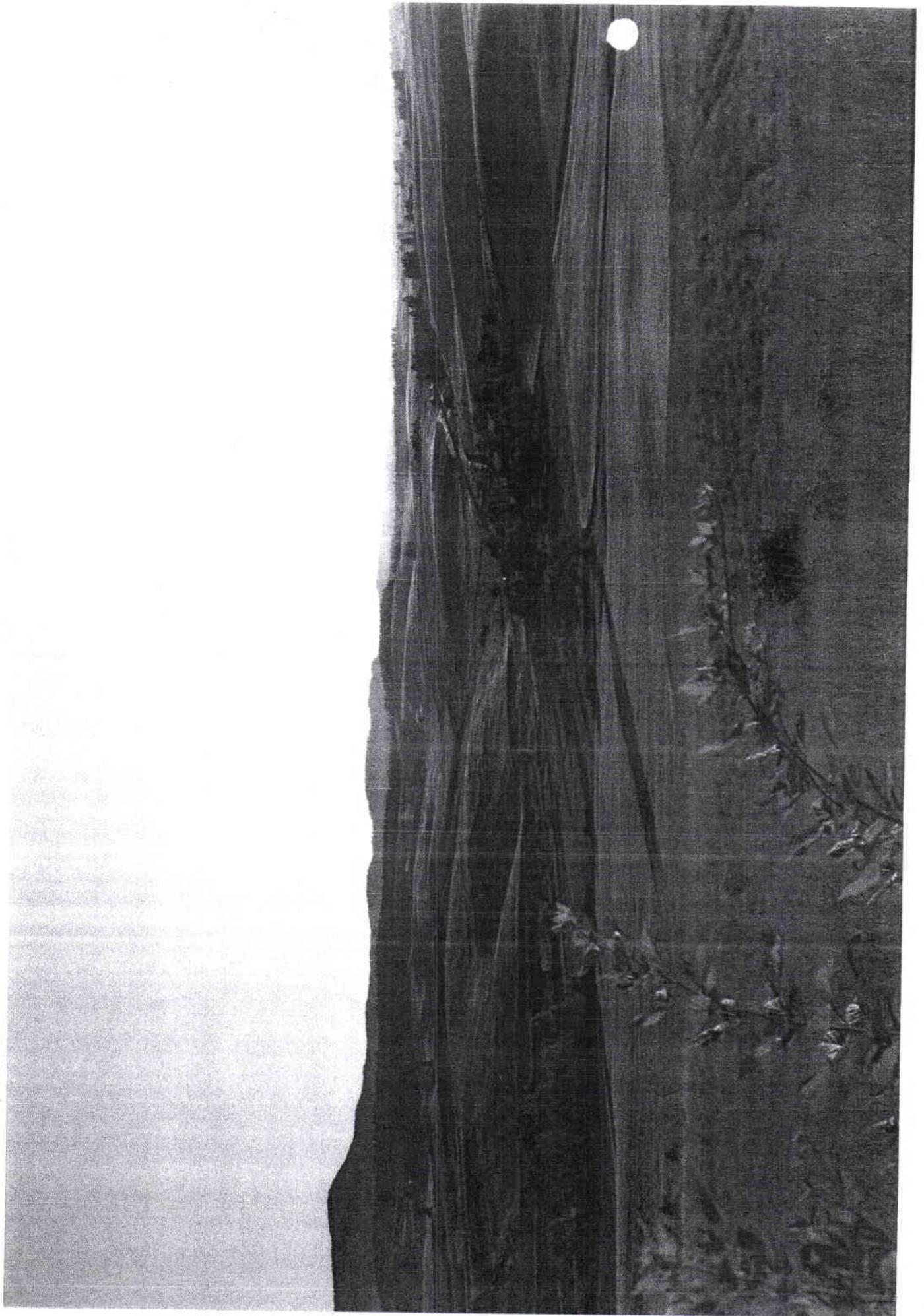














DEVELOPMENT AGREEMENT

This Development Agreement is being entered into this 15th day of December 2006, by El Elsie LLC and Latah County, Idaho, for the rezoning (RZ#727) of a 37.35-acre parcel from Agriculture/Forestry (A/F) to Rural Residential (RR) located in Section 20, Township 39 North, Range 4 West, B.M., in Latah County, and is currently referenced as Assessor's Parcel Number RP39N04W206253A.

El Elsie LLC, that in consideration of approval of the rezone and subsequent short plat, hereby agrees to the following conditions, and these conditions shall also be the responsibility of any subsequent property owner. Failure to meet these conditions will result in reversion of the property to its former zoning designation:

1. The rezone is limited to five (5) residential lots.
2. The rezone and subsequent development will be in substantial compliance with the application and testimony as submitted.
3. If possible, the applicant shall attempt to acquire a second access for emergency use across adjacent property.
4. The development will comply with all state, local and federal laws and regulations.

The preceding conditions were set forth by the Board of Latah County Commissioners as a condition of approval of this rezone. Determination by the Planning Department that any conditions are not being met shall make the Board's approval invalid, and the property shall revert to its former zoning designation and all uses not consistent with that designation shall be considered a violation of the Latah County Land Use Ordinance.

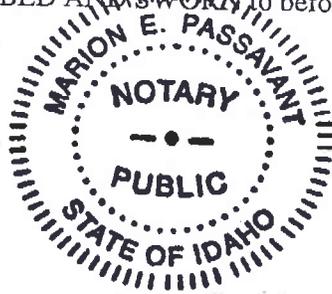
It is further agreed that this Development Agreement will be recorded with the Latah County Auditor's Office, and that reference to the recordation number of the Development Agreement will be placed on the face of the short plat, which shall also state that the approval of the short plat is subject to the terms of the recorded Development Agreement. This Agreement shall remain in effect until formally modified, terminated, or the property is rezoned.

The Agreement may be terminated or modified by the Board with the written permission of the current property owner. Prior to termination or modification, at least one public hearing shall be conducted in accordance with the notice and procedural provisions for a rezone application. Nothing shall prevent the Board from rezoning a property subject to these agreements after four years from the date of approval, or under the restrictions set forth in Title 67, Chapter 65, of the Idaho Code.

This Agreement will be effective upon the adoption of the amendment to the Latah County Land Use Ordinance which accomplishes the requested rezone.

SIGNATURE: James Elsie DATE: 12/15/06
(El Elsie LLC Member)

SUBSCRIBED AND SWORN to before me this 15th day of December, 2006.



Marion E. Passavant
NOTARY PUBLIC in and for the State of Idaho
My Commission Expires 10/28/10

SIGNATURE: John A. Nelson DATE: 12-18-06
(Jack A. Nelson)

SUBSCRIBED AND SWORN to before me this 18th day of December, 2006.



Kara N. Rickett
NOTARY PUBLIC in and for the State of Idaho
My Commission Expires 1-7-11



510573

NO. _____
AT THE REQUEST OF:
L.C. Planning & Bldg
DATE & HOUR:
12-18-06 9:52 AM
SUSAN PETERSEN
LATAH COUNTY RECORDER
FEE \$ 0 BY C. Selms
Picked up Deputy

BEFORE THE ZONING COMMISSION COUNTY OF LATAH, STATE OF IDAHO

FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING THE PETITION BY EL ELSIE, LLC, FOR A REZONE FROM AGRICULTURE/FORESTRY TO RURAL RESIDENTIAL, 1-ACRE MINIMUM (RR) FOR APPROXIMATELY 37.2-ACRES OF AN 89.77-ACRE PARCEL OWNED BY GLEN AND GRACE WESTBERG. THE PROPERTY IS LOCATED APPROXIMATELY ¼ MILE SOUTH OF THE JOEL TOWNSITE, ACCESSED BY GENESEE-TROY ROAD, IN SECTION 20, TOWNSHIP 39 NORTH, RANGE 4 WEST, B.M., IN LATAH COUNTY AND REFERENCED AS A PORTION OF ASSESSOR'S PARCEL NUMBER RP39N04W206253A.

WHEREAS, El Elsie, LLC made application to rezone approximately 37.2-acres owned by Glen and Grace Westberg on July 21, 2006; and

WHEREAS, This matter came before the Latah County Zoning Commission for public hearing on September 6, 2006. The Commission hereby makes the following findings of fact, conclusions of law, and decision:

THE LATAH COUNTY ZONING COMMISSION, STATE OF IDAHO, AFTER DUE DELIBERATION AND CONSIDERATION, HEREBY MAKES THE FOLLOWING FINDINGS OF FACT:

I. FINDINGS OF FACT

1. The subject parcel is 89.77-acres zoned Agriculture/Forestry.
2. The subject application is to rezone approximately 37.2-acres to Rural Residential, 1-acre Minimum (RR).
3. The subject parcel is currently referenced as a portion of Latah County Assessor's Parcel Number RP39N04W206253A.
4. The subject parcel is designated "Residential/Commercial/Industrial" on the Comprehensive Plan Land Use Map. The Comprehensive Plan states, "This area is generally composed of less productive agricultural and forest lands and contains some commercial, industrial and residential development. This area should be considered the most suitable for future commercial, industrial and higher density residential development; however, development requests must be reviewed for specific site considerations prior to any land use change."
5. The subject parcel is located 1/4 mile south of Joel, northwest of the intersection of Genesee Troy Road and Canyon Road.
6. The existing use of the subject parcel is agriculture and residential.

7. Surrounding uses are residential, agriculture and a rock quarry.
8. Adjacent parcels are zoned Agriculture/Forestry (A/F).
9. Zoning designations within ½ mile of the subject parcel include Suburban Residential, Commercial and Agriculture/Forestry.
10. Land Uses with ½ mile of the subject parcel include high density residential, a manufactured home park, grain bins, a church, agriculture, low-density residential, chemical storage and rock quarry.
11. The subject parcel is located in an area designated as Zone “A” and Zone “C” on panel 160086 0335B of the flood insurance rating maps (FIRM) and on the Flood Boundary and Floodway Map panel 160086 007 for Latah County provided by the Federal Emergency Management Agency (FEMA). The proposed rezone area is located within Zone “C”.
12. The Latah County Zoning Commission considered the request pursuant to the Latah County Comprehensive Plan, Latah County Zoning Ordinance, the Local Land Use Planning Act, and other applicable development regulations.
13. The applicant’s representative, James Westberg, testified that the subject parcel was conducive to higher density residential due to the proximity of the subject parcel to a high density residential area, mixed zoning, and the topography of the steep slopes combined with volunteer pine trees had made the land extremely difficult to farm.
14. James Westberg testified that tentative approval from North Latah County Highway District had been issued.
15. James Westberg stated that the existing driveway has access off of Genesee-Troy Road on an adjacent parcel which avoids crossing the floodplain and floodway in the area. The driveway follows the ridge lines in the area and does not contain any switchbacks.
16. Water and sewer utilities would be provided with private wells and septic systems.
17. James Westberg testified that he had spoken with adjacent property owners regarding the proposal and possibly gaining additional access across their properties from Butte Road.
18. James Westberg testified that he would be including covenants on the potential lots that would include the use of fire resistant roofing materials; greater setbacks from agricultural areas than what is currently required for the zoning district; restrictions on lighting to minimize the impact of future development on the surrounding area; and possibly covenants governing muted earth tone colors for residences.
19. The Zoning Commission questioned the applicant on the use of defensible space around each lot to minimize fire danger and the James Westberg responded that he would be

including covenants for open space around potential residences but require enough camouflage with the existing trees on the property to minimize the impact of the residences.

20. The Zoning Commission asked for clarification on the number of lots being sought after the proposed rezone to clarify if a short plat or full plat would be pursued.
21. James Westberg stated that he had not addressed that issue in his application and narrative because he was unsure of how many lots he would like to create. He stated he would like to create up to seven (7) lots on the subject property because there is a demand for 5-7 acre lots and lots over 10-acres.
22. The Zoning Commission noted that a full plat application would require the existing driveway to be adopted by the highway district to become a county road in order for the development the applicant was seeking.
23. James Westberg stated that he would be willing to bring the road up to highway district standards if required and that the road was built with multiple residential use in mind.
24. Sherman Clyde testified in favor of the application.
25. Trapper Stewart, adjacent property owner, stated that he had no opposition to the proposed rezone and that land is desirable in this area.
26. Randy McCall, adjacent property owner, stated that the site was suitable for residential development. He reminded the Zoning Commission that he had a rock crushing operation across the road and that someday it would be moving into view of the subject property. He stated that he has had problems with neighbors living in the area due to the rock crushing operation and didn't want any further problems.
27. Trapper Stewart stated that he can see North Idaho Crushing from his property but due to the wind blowing from the west the noise is not very audible and shouldn't be a problem for future residences.
28. Staff reported that the applicant had applied for a rezone change to Rural Residential 5-acre minimum (R-5). However, a new Zoning Ordinance had been adopted and the zoning designations had been consolidated into Rural Residential, 1-acre minimum (RR).
29. The Zoning Commission discussed changing the zoning designation sought by the applicant to Rural Residential (RR) in order for the proposed rezone to be in compliance with the newly adopted zoning ordinance. Changing the zoning designation from a 5-acre minimum lot would allow for the creation of lots as small as 1-acre and other lots as large as the applicant desired.
30. The Zoning Commission discussed the applicant's desire for up to seven (7) lots but noted that fire danger increased with more residences and there was no other access to the

site for emergency situations. The Zoning Commission discussed limiting the development to five (5) lots.

31. The Zoning Commission discussed the existing access road and the possible need for an emergency route or for use for fire purposes. The Zoning Commission discussed with the applicant about possibly acquiring additional access to the site through adjacent property for emergency use only.
32. There was no opposition testimony or letters submitted against the proposed rezone.
33. No testimony was given during the public hearing that the proposed rezone will interfere with the enjoyment of other land in the vicinity.
34. No testimony was given during the public hearing that the proposed rezone will be detrimental to general community interests.
35. No evidence was presented that the proposed rezone will be incompatible with the existing land uses within the area.
36. No evidence was presented that the proposal will create any excessive burden to fire protection, law enforcement, health, solid waste or any other public services or facilities within the area.
37. No written or oral testimony identified any recreational areas that would be impacted by the proposed rezone.
38. No written or oral testimony identified any cultural or natural areas of significance impacted by this proposal.

BASED ON THE ABOVE FINDINGS OF FACT, THE LATAH COUNTY ZONING COMMISSION ENTERS THE FOLLOWING:

II. CONCLUSIONS OF LAW

1. As required by §13.11.02.1 of the Latah County Zoning Ordinance, the Zoning Commission has reviewed the proposal as it relates to the Latah County Comprehensive Plan. With restrictions on development at this site as stated in a development agreement, the Zoning Commission concludes that this application is consistent with goals and policies of the Comprehensive Plan.
2. As required by §13.11.02.2 of the Latah County Zoning Ordinance, the Zoning Commission has reviewed the proposal and determined that the rezone, with restrictions on development at this site as stated in a development agreement, is compatible with the surrounding area and the uses permitted in that area.

3. As required by §13.11.02.3 of the Latah County Zoning Ordinance, the Zoning Commission has reviewed the proposal and determined that the rezone, with restrictions on development at this site as stated in a development agreement, will not impose costs upon the public that exceed the benefits.
4. As required by §13.11.02.4 of the Latah County Zoning Ordinance, the Zoning Commission has reviewed the proposal and determined that the rezone, with restrictions on development at this site as stated in a development agreement, will not impose a significant burden to any public services.

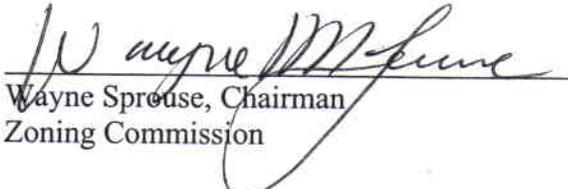
III. DECISION

Based on the above Findings of Fact and Conclusions of Law, the Latah County Zoning Commission recommends approval by the Board of Latah County Commissioners of the request by El Elsie, LLC to rezone approximately 37.2-acres from Agriculture/Forestry to Rural Residential, (RR), with the following conditions to be set forth in a development agreement:

1. The rezone is limited to five (5) residential lots.
2. The rezone and subsequent development will be in substantial compliance with the application and testimony as submitted.
3. If possible, the applicant shall attempt to acquire a second access for emergency use across adjacent property.
4. The development will comply with all state, local and federal laws and regulations.

PASSED BY THE ZONING COMMISSION OF LATAH COUNTY THIS 20 DAY OF

Dee September, 2006.


Wayne Sprouse, Chairman
Zoning Commission

LANDECK, WESTBERG, JUDGE & GRAHAM, P.A.
ATTORNEYS & COUNSELORS AT LAW

Ronald J. Landeck
James L. Westberg*
John C. Judge
Charles L. Graham
Græchen G. Stewart

A Professional Service Corporation
414 S. Jefferson Street
Post Office Box 9344
Moscow, Idaho 83843-0117

Telephone: (208)883-1505
Fax: (208)883-4593
e-mail: attorneys@moscow.com
*Licensed in Idaho and Washington

September 21, 2007

Latah County Planning & Building
ATTN: Aimee Shipman
SENT BY FACSIMILE to 883-7225

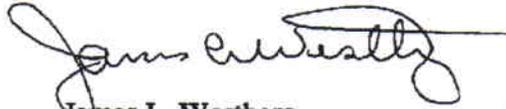
RE: Graceland Short Plat

Dear Aimee,

This letter is to inform you that in speaking with the neighbors to the west, we have been denied a second access to our property for fire purposes. Please let me know if you have any questions.

Sincerely,

LANDECK, WESTBERG, JUDGE & GRAHAM, P.A.


James L. Westberg

JLW/mw

Covenants

518071

BOCC HRG: ADA 794
Applicant: El Elsie LLC
Exhibit No. 1H
Date: Oct 7, 2009

LCZC Hrg: ADA 794
Applicant: El Elsie LLC
Exhibit #: 1H
Date: 7/1/2009

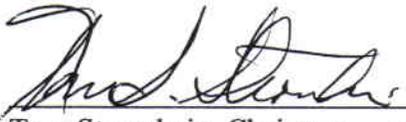
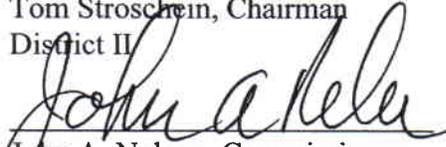
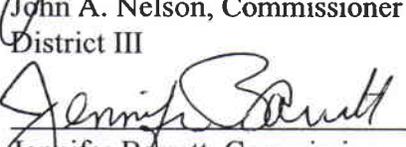


LATAH COUNTY
BOARD OF COMMISSIONERS
MOTION AND ORDER

P.O. Box 8068 ♦ 522 S. Adams ♦ Moscow, ID 83843
(208) 882-8580 ♦ Fax: (208) 883-2280
bocc@latah.id.us

COMMISSIONER Nelson MOVES THAT THE BOARD:

Approve the Chair's signature on the final Graceland Short Plat for El Elsie, LLC SP#748.

	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>
 Tom Stroschein, Chairman District II	<u>X</u>	___	___
 John A. Nelson, Commissioner District III	<u>X</u>	___	___
 Jennifer Barrett, Commissioner District I	<u>X</u>	___	___

ATTEST:


Clerk/Deputy Clerk

DATE:

1-14-08

BOCC HRG: ADA 794
Applicant: El Elsie LLC
Exhibit No. 11
Date: Oct 7, 2009

LCZC Hrg: ADA 794
Applicant: El Elsie LLC
Exhibit #: 12
Date: 7/1/2009

LATAH COUNTY ACKNOWLEDGEMENT FORM FOR SCHOOL DISTRICT

SHORT PLAT - 4 OR FEWER LOTS

THE Moscow SCHOOL DISTRICT ACKNOWLEDGES FOR
Graceland SHORT PLAT CONSISTING OF four LOTS:

- The service requirements for the proposed short plat **will not** have an adverse effect upon existing service capabilities or finances of the jurisdiction.
- The service requirements for the proposed short plat **will** have an adverse effect upon existing service capabilities or finances of the jurisdiction.

SIGNED: Candis R. Donckit

TITLE: Superintendent

DATE: 5/4/07

BOCC HRG: ADA 794
Applicant: El Elsie LLC
Exhibit No. 1J
Date: Oct 7, 2009

LCZC Hrg: ADA 794
Applicant: El Elsie LLC
Exhibit #: 1J
Date: 7/1/2009

LATAH COUNTY ACKNOWLEDGEMENT FORM FOR SHERIFF

SHORT PLAT - 4 OR FEWER LOTS

THE LATAH COUNTY SHERIFF'S DEPARTMENT ACKNOWLEDGES FOR

Graceland SHORT PLAT CONSISTING OF four LOTS:

The service requirements for the proposed short plat **will not** have an adverse effect upon existing service capabilities or finances of the jurisdiction.

The service requirements for the proposed short plat **will** have an adverse effect upon existing service capabilities or finances of the jurisdiction.

SIGNED: _____

TITLE: _____

DATE: _____

Wayne Rausch

LATAH COUNTY SHERIFF

05/01/2007

LATAH COUNTY ACKNOWLEDGEMENT FORM FOR FIRE DISTRICT

SHORT PLAT - 4 OR FEWER LOTS

THE Moscow Rural FIRE DISTRICT ACKNOWLEDGES THE

Graceland SHORT PLAT CONSISTING OF four LOTS

The service requirements for the proposed short plat **will not** have an adverse effect upon existing service capabilities or finances of the jurisdiction.

The service requirements for the proposed short plat **will** have an adverse effect upon existing service capabilities or finances of the jurisdiction.

SIGNED: Edward A. Sutton

TITLE: FIRE CHIEF, Moscow Rural Fire District

DATE: 5-14-07

THE FOLLOWING DRIVEWAY INFORMATION SHALL BE ATTACHED BY THE APPLICANT FOR REVIEW BY THE PLANNING DEPARTMENT AND THE FIRE DISTRICT:

- Access approval for each lot from the appropriate highway district
- A map of location of each driveway on and to each lot, including turn outs, turn arounds, graveled widths, turning radiuses for all curves, site obstructions, cut and fill slopes with grade and heights, locations of stream crossings, locations of waterbars, grades at all points along driveways, and approach for each lot.
- Length of each driveway: _____
- Have a graveled width of at least 10 feet
- Have a graveled width of at least 20 feet

NORTH LATAH COUNTY HIGHWAY DISTRICT

Approach Access Approval Form

Location of Approach: Township: T39N
Range: R4W
Section: 20
Road Name: Genesee - Troy Rd.
Parcel #: Graceland short Plat

Property Description:
Lot 1, Lot 2, Lot 3, Lot 4 all 4 lots have been approved to access the Genesee - Troy Rd at the same location as the adjacent property. The North Latah County Hwy. Dist. would want all 4 lots to access the county rd at the same location to limit access locations for safety.

Map of Property (Please Attach)

Applicant Name: _____
Address: _____

Applicant Signature: _____

NLCHD USE

I acknowledge the approach described above and:

- I have reviewed the application and find there will be no additional problems in providing adequate road maintenance and snow removal services. There will not be significant financial impact or costs to the public for providing the additional service requirements.
- I have reviewed the application and find there will be significantly increased service requirements and financial impact or costs to the public for providing the additional service requirements. I have identified the following problems:

For the North Latah County Highway District

Donald V. Brown (Chairman)
(Signature and title of District Representative)

5-10-07
(Date)



Public Health

North Central District Health Department

May 15, 2007

EL ELSI, LLC
P.O. Box 9003
Moscow, ID 83843

Dear Mr. & Mrs. Westberg,

On May 15, 2007, I conducted a site evaluation of four lots off Genesee-Troy Road east of Moscow, ID, to be known as Graceland. Test holes were dug on each lot to assess the suitability of the soils for on-site sewage disposal systems. The lots were very similar in characteristics. The site evaluation found the soil classification to be clay-loam. See attached Soils Record for Subdivision for details. I have also attached a copy of the land division draft that indicates approximate locations where the test holes on each lot were dug.

The review of the application and completion of the site evaluation has found the proposed lots to be acceptable for on-site subsurface sewage disposal systems. I reserve the right to re-evaluate the parcels after the well locations are determined on each lot to ensure compliance with setback requirements. These lots are not suitable for lagoon type systems because they are too small. If you have any questions, please feel free to contact me at (208)-882-7506.

Sincerely,

A handwritten signature in cursive script that reads "Nancy M. Becker".

Nancy, Becker, REHS

cc: Latah County Planning and Building



APPLICATION TO AMEND DEVELOPMENT AGREEMENT

Instructions

Please complete the application and required attachments. Incomplete applications or applications without all required attachments will not be accepted. A public hearing will be scheduled only after Staff has determined the application is technically complete.

Please submit to: *Latah County Department of Planning & Building*
Latah County Courthouse 522 S Adams, Room 205, P.O. Box 8068, Moscow ID 83843 (208) 883-7220

1. Applicant Information			
A. Applicant Name El Elsie, LLC		B. Home Phone	
D. Mailing Address PO Box 9003		C. Work Phone (208) 883-1520	
H. Property Owner (If Different than Applicant)		E. City MOSCOW	F. State ID
K. Mailing Address		G. Zip Code 83843	
		L. Home Phone	J. Work Phone
		L. City	M. State
		N. Zip Code	
2. Development Agreement Information			
A. This application is to amend Development Agreement # 510573 <i>(attached)</i>			
B. The Development Agreement Requested for Amendment is part of what Rezone (RZ#)? 727			
3. General Site Information			
A. Assessor's Parcel Number(s) RP40N05W RP39N04W206243A		B. Parcel Address (If Applicable)	
C. Acreage of Existing Parcel 37	D. Existing Zoning Rural Residential	E. Comprehensive Plan Designation Res/Com/Ind	F. Floodplain Designation(s) None
G. FEMA Panel #		H. Is the parcel within an Area of City Impact? <input type="checkbox"/> Yes. <input checked="" type="checkbox"/> No.	
I. Impact City		J. Road Used to Access Site Genesee-Troy Rd.	
<i>Note: Sites within an Area of City Impact may require additional notification time prior to public hearings or may require a hearing before the other jurisdiction.</i>			
L. Existing Uses Residential/Conservation Reserve Program open grass fields			
4. Service Provider Information (please attach additional information if requested)			
A. Fire District Moscow Rural		B. Road District North Latah	
D. Source of Potable Water (i.e. Water District or Private Well) private wells		C. School District Moscow	
E. Sewage Disposal (i.e. Sewer District or Septic System) septic			
5. Adjacent Properties Information			
A. Zoning of Adjacent Properties AF & RR		B. Existing Uses of Adjacent Properties Residential, agriculture, Conservation Reserve Program	
6. Amendment Request Information			
A. Development Agreement Condition Requested for Amendment limit of 5 residential lots		B. Explanation for Request The Zoning Commission limited the parcel to 5 residential lots. The Land Use Ordinance should be the governing vehicle for the property. The request is to amend the Development Agreement to not limit the number of lots available.	
7. Authorization		8. Attachments	
The applicant does hereby certify that all of the above statements and information in any attachments transmitted herewith are true, and further acknowledges that approval of this application may be revoked if it is found that any such statements are false.		<i>All attachments should be reproducible in black and white at 8 1/2" x 11"</i>	
a. Signature of Applicant <i>James Caldwell Member</i>		<input checked="" type="checkbox"/> Fee: (\$300.00) Make checks payable to Latah County.	
b. Date 5/27/09		<input checked="" type="checkbox"/> Completed Narrative Worksheet: See instructions on the attached Narrative Worksheet.	
c. Signature of Property Owner (If Different than Applicant)		<input checked="" type="checkbox"/> Site Plan: The site plan should include a north arrow, location of roads and rights-of-way, existing buildings, improvements and features; the location and dimensions of proposed facilities, improvements and operations; as well as any other details necessary for the Zoning Commission to make a decision.	
d. Date		<input checked="" type="checkbox"/> Vicinity Map: The map should show the site location in relation to neighboring communities and natural features.	
		<input checked="" type="checkbox"/> Assessor's Plat shows the subject	
		<input type="checkbox"/> Other Attachments	
Office Use Only			
Date Received 5/27/09	Amount 300-	Receipt No. 466380	By AS
ADA # 794	Date Determined Technically Complete 6/3/09	By DB	
Hearing Date 7/1/09			

BCCC HRG: ADA 794
 Applicant: El Elsie LLC
 Exhibit No. 2
 Date: Oct 7, 2009

LCZC Hrg: ADA 794
 Applicant: El Elsie LLC
 Exhibit #: 2
 Date: 7/1/2009



Amendment to Development Agreement Narrative Worksheet

Application Information

Applicant's Name

El Elsie, LLC

Phone Number

(208)883-1520

Purpose: To assist the Zoning Commission in making an informed decision regarding the applicant pursuant to the requirements of the Latah County Land Use Ordinance.

Instructions: Please respond to the following section of this form. If you need more space, you may attach additional sheets to the worksheet.

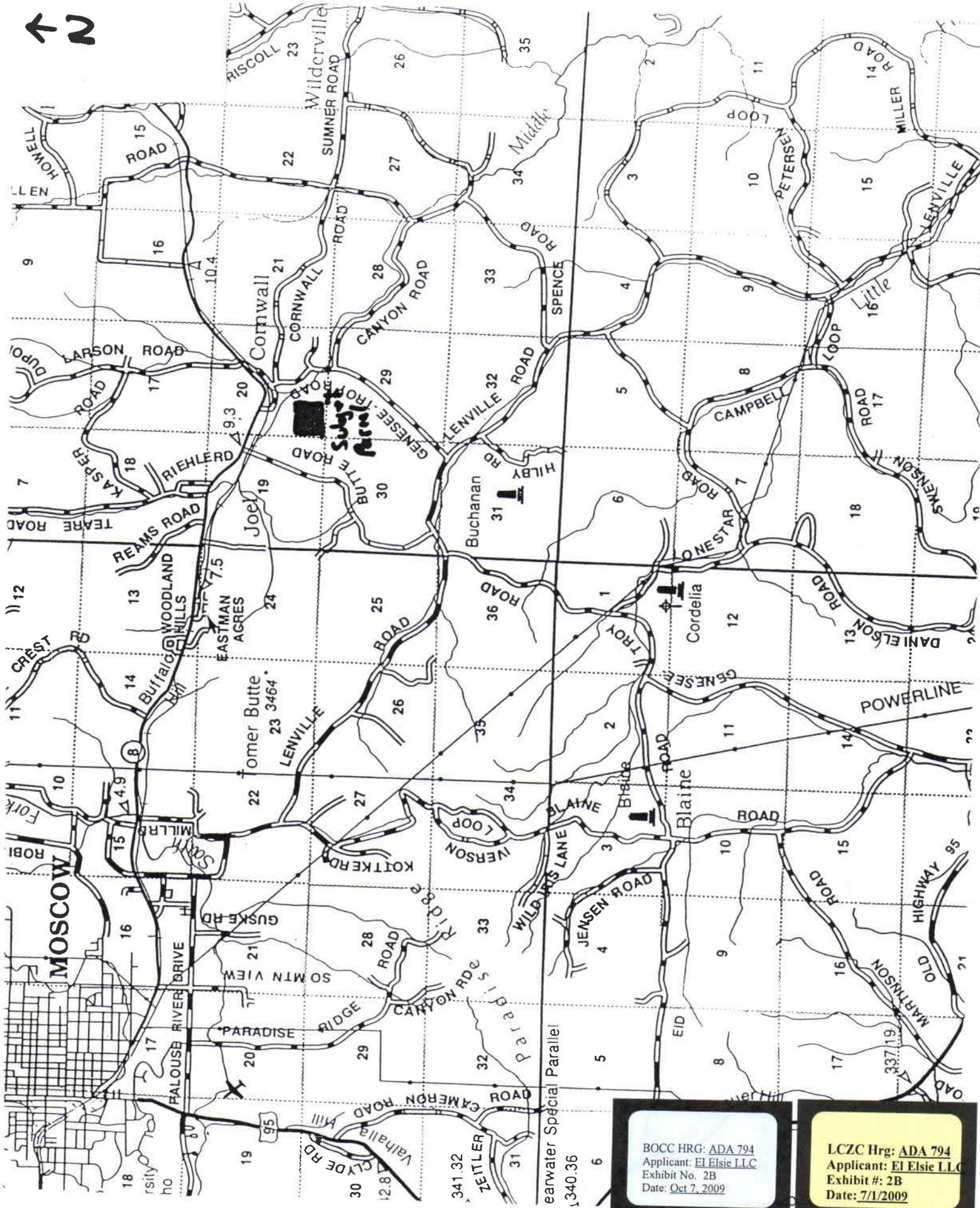
Description of Amendment Proposal

Describe your amendment proposal in detail. Include all aspects of your proposal.

The original rezone approval had the restriction of limiting the 37+ acres to 5 residential parcels. This request is to have the limitation on the number of parcels in the Development Agreement removed. My feeling is that the application of the Land Use Ordinance 269 will effectively control any issues of development beyond the short platted 4 lots that exist at this time. An area within the Residential/Commercial/Industrial designation of the Comprehensive Plan should not have this type of restriction placed upon it.

BOCC HRG: ADA 794
Applicant: El Elsie LLC
Exhibit No. 2A
Date: Oct 7, 2009

LCZC Hrg: ADA 794
Applicant: El Elsie LLC
Exhibit #: 2A
Date: 7/1/2009



BOCC HRG: ADA 794
 Applicant: El Elsie LLC
 Exhibit No. 2B
 Date: Oct 7, 2009

LCZC Hrg: ADA 794
 Applicant: El Elsie LLC
 Exhibit #: 2B
 Date: 7/1/2009

earwater Special Parallel
 1340.36

341.32
 ZEITLER

30
 CLYDE RD
 Valhalla Mill
 CAMERON ROAD

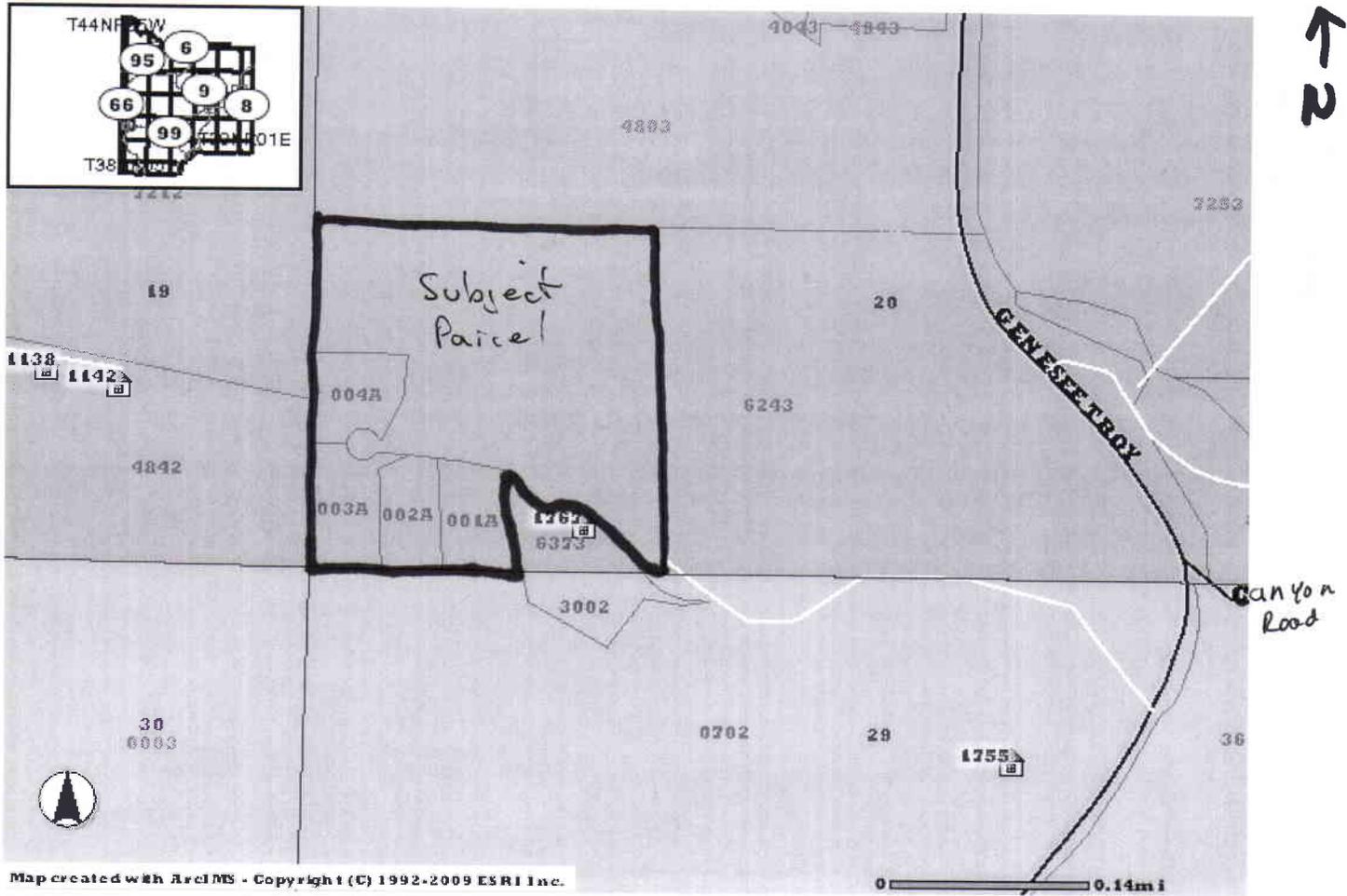
PARADISE

FALOUSE RIVER DRIVE

MOSCOW

Blaine

← 2



BOCC HRG: ADA 794
 Applicant: El Elsie LLC
 Exhibit No. 2D
 Date: Oct 7, 2009

LCZC Hrg: ADA 794
 Applicant: El Elsie LLC
 Exhibit #: 2D
 Date: 7/1/2009

STAFF INTRODUCTION – ADA # 794

A request by El Elsie LLC to amend the Development Agreement for RZ 727 to remove the limitation of five lots on the number of residential lots. The property is located approximately ¼ mile south of the Joel Townsite, on Genesee-Troy Road, in Section 20, Township 39 North, Range 4 West, B.N., in Latah County and is referenced as Assessor's Parcel Number RP39N04W206243A.

Section 6.01.03.4 (E) of the Latah County Land Use Ordinance states that a development agreement may be terminated or modified by the Board of Latah County Commissioners with the written permission of the current property owner and that prior to termination or modification at least one public hearing shall be conducted in accordance with the notice and procedural provisions for a rezone application.

In December of 2006, the Applicant, El Elsie, LLC, received approval for their request to rezone 37.35 acres from Agriculture/Forest to Rural Residential which is the subject property of this request. As part of this approval, the Applicant entered into a Development Agreement (#510573) with the County. Subsequently, the Applicant gained approval for a Short Plat (SP# 748) which provided for four (4) new lots.

This request is to amend the Development Agreement condition which limits the Applicant to five (5) residential lots. The Applicant has proposed that the Latah County Land Use Ordinance should be the governing vehicle for the property and that the Ordinance will effectively control any issues of development.

The following exhibits will now be entered into the record:

EXHIBITS:

- Exhibit #1.** Staff Report
- Exhibit #1A.** Criteria Worksheet
- Exhibit #1B.** Vicinity Map and Comprehensive Plan Land Use Map
- Exhibit #1C.** Zoning Map
- Exhibit #1D.** Aerial Photo with Adjacent Property Owners Map
- Exhibit #1E.** Photos of Subject Property
- Exhibit #1F.** Development Agreement (#510573) for RZ #727 by El Elsie, LLC and Latah County
- Exhibit #1G.** Latah County Zoning Commission Findings of Fact & Conclusions of Law for RZ 727
- Exhibit #1H.** Letter to Planning and Building Dept. regarding second access submitted by James L. Westberg dated September 21, 2007
- Exhibit #1I.** Latah County Board of Commissioners Motion and Order approving Short Plat #748 dated January 14, 2008.
- Exhibit #1J.** Acknowledgment forms for approved Short Plat #748
- Exhibit #2.** Application Form (submitted by applicant)
- Exhibit #2A.** Applicant's Narrative (submitted by applicant)
- Exhibit #2B.** Vicinity Map (submitted by applicant)
- Exhibit #2C.** Assessor's Plat Map (submitted by applicant)
- Exhibit #2D.** Site Plan (submitted by applicant)
- Exhibit #3.** Staff Introduction for Latah County Zoning Commission Hearing on July 1, 2009

**BEFORE THE ZONING COMMISSION
COUNTY OF LATAH, STATE OF IDAHO**

FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING THE PETITION BY EL ELSIE, LLC TO AMEND THE DEVELOPMENT AGREEMENT FOR RZ #727 TO REMOVE THE LIMITATION OF FIVE LOTS ON THE NUMBER OF RESIDENTIAL LOTS. THE PROPERTY IS LOCATED APPROXIMATELY ¼ MILE SOUTH OF THE JOEL TOWNSITE ON GENESEE-TROY ROAD IN SECTION 20, TOWNSHIP 39 NORTH, RANGE 04 WEST, B.M., IN LATAH COUNTY, AND REFERENCED AS ASSESSOR'S PARCEL NUMBER RP39N04W206243A.

WHEREAS, El Elsie, LLC made application to amend the development agreement for RZ #727 on May 27, 2009; and

WHEREAS, a duly noticed public hearing was held on Wednesday, July 1, 2009 before the Zoning Commission to take testimony and consider the amended development agreement application; and

WHEREAS, having reviewed the application, including all exhibits entered, and having considered the issues presented by the applicant and the opponents,

THE LATAH COUNTY ZONING COMMISSION, STATE OF IDAHO, AFTER DUE DELIBERATION AND CONSIDERATION, HEREBY MAKES THE FOLLOWING:

I. FINDINGS OF FACT

1. The applicant and property owner is El Elsie, LLC, represented by James Westberg, PO Box 9003, Moscow, ID 83843.
2. The Latah County Zoning Commission considered this request pursuant to the Latah County Comprehensive Plan, Latah County Land Use Ordinance, the Local Land Use Planning Act, and other applicable development regulations. As required by Section 6.01.03.4.E of the Latah County Land Use Ordinance #269, as amended, the hearing was conducted "in accordance with the notice and procedural provisions for a rezone application."
3. The subject parcel is located approximately ¼ mile south of the Joel Townsite off of Genesee-Troy Road and is referenced as Assessor's Parcel number RP39N04W206243. The parcel is 37.35 acres and is zoned Rural Residential. The 37.35 acres was approved for a rezone in December of 2006 with an accompanying development agreement referenced as Recorder's Instrument # 510573.
4. The Development Agreement for RZ #727 stipulated the following conditions:
 - 1) The rezone is limited to five (5) residential lots.
 - 2) The rezone and subsequent development will be in substantial compliance with

the application and testimony as submitted.

- 3) If possible, the applicant shall attempt to acquire a second access for emergency use across adjacent property.
- 4) The development will comply with all state, local and federal laws and regulations.

The subject of this proposal, as submitted in the applicant's narrative, requests to remove Condition #1 of the development agreement that limits the rezone to five (5) residential lots.

5. In January of 2008, the applicant received approval for a Short Plat (SP #748) which created four (4) new lots. The applicant submitted testimony that none of the new lots have sold or transferred ownership.
6. The existing uses of the subject parcel are residential and open grass fields under the Conservation Reserve Program (CRP). Under the current zoning designation of Rural Residential, agriculture is not a permitted use. Consequently, farming is prohibited on the subject property.
7. Neighboring uses include rural residences, large acreage agriculture, property under CRP, and a rock quarry. Adjacent parcels are zoned Rural Residential and Agriculture/Forest.
8. The subject parcel is designated "Industrial/Commercial/Residential" on the Comprehensive Plan Land Use Map. The Comprehensive Plan states, "This area is generally composed of less productive agricultural and forest lands and contains some commercial, industrial and residential development. This area should be considered the most suitable for future commercial, industrial and higher density residential development; however, development requests must be reviewed for specific site considerations prior to any land use change."
9. The subject parcel is located in an area designated as Zone "C" on panel #160086 0335B of the Flood Insurance Rating Map (FIRM) for Latah County provided by the Federal Emergency Management Agency (FEMA). This designation is not considered to be an area of special flood hazard.
10. Condition #3 of the Development Agreement states that the applicant shall attempt to acquire a second access for emergency use across adjacent property. The applicant submitted to the Planning and Building Department a letter dated September 21, 2007 which states that the applicant has been denied a second access to the subject property for fire purposes.
11. Neighboring property owner, Trapper Stewart, testified in support of the request stating that he thought the property is suitable for additional residences.
12. Neighboring property owner, Jeanette Hites, testified as neutral to the request stating she had concerns about individual wells and septic systems on small acreage lots in this area and that increasing the number and density of lots may detract from the rural character of

the area.

13. Marilyn Beckett testified in opposition to the request citing her concerns about the density and incompatibility of the existing lots and any additional lots with the surrounding rural area.
14. The applicant submitted testimony that the subject site's topography creates a limitation on the number of lots and that he would be agreeable to a 10-lot limitation. In addition, the applicant testified that at the time of the original rezone (RZ #727) and accompanying development agreement (#510573) five (5) residential lots was sufficient.
15. The applicant submitted testimony that the economics of completing a full plat for one additional lot would impose a significant cost to the applicant for bringing the existing shared driveway up to highway district construction standards. No other written or oral testimony was given during the public hearing that the proposal would impose costs upon the public that exceed the benefits.
16. No written or oral testimony was given during the public hearing that the proposal would impose a significant burden to any public services.

BASED ON THE FOREGOING FINDINGS, THE ZONING COMMISSION OF LATAH COUNTY HERBY MAKES THE FOLLOWING:

II. CONCLUSIONS OF LAW

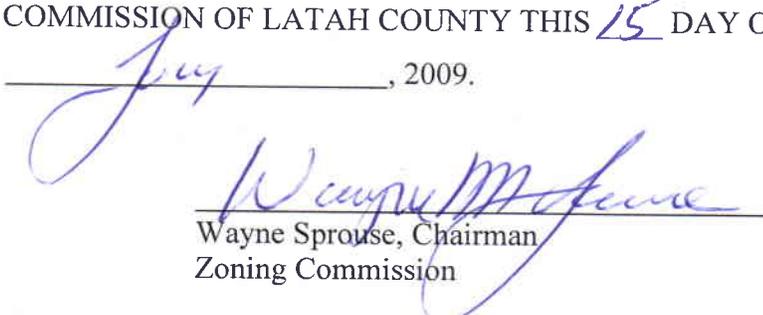
1. As required by §6.01.02.1 of the Latah County Land Use Ordinance, the Zoning Commission has reviewed the proposal as it relates to the Latah County Comprehensive Plan. The Zoning Commission concludes that this application is not consistent, as a whole, with the goals and policies of the Comprehensive Plan.
2. As required by §6.01.02.2 of the Latah County Land Use Ordinance, the Zoning Commission has reviewed the proposal and determined that the amendment to the development agreement for RZ #727 is not compatible with the surrounding area and the uses permitted in that area.
3. As required by §6.01.02.3 of the Latah County Land Use Ordinance, the Zoning Commission has reviewed the proposal and determined that the amendment to the development agreement for RZ #727 would not impose costs upon the public that exceed the public benefits.
4. As required by §6.01.02.4 of the Latah County Land Use Ordinance, the Zoning Commission has reviewed the proposal and determined that the amendment to the development agreement for RZ #727 would not impose a significant burden to any public services.

5. As required by §6.01.02.5 of the Latah County Land Use Ordinance, the Zoning Commission has reviewed the proposal and determined that the amendment to the development agreement for RZ #727 is not a spot zone.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, the Latah County Zoning Commission unanimously recommends to the Board of Latah County Commissioners **denial** of the request (ADA #794) by El Elsie, LLC to amend the Development Agreement for RZ #727 to remove the limitation of five lots on the number of residential lots:

PASSED BY THE ZONING COMMISSION OF LATAH COUNTY THIS 15 DAY OF July, 2009.


Wayne Sprouse, Chairman
Zoning Commission

STAFF INTRODUCTION – ADA # 794

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- Exhibit #2D.** Site Plan (submitted by applicant)
- Exhibit #3.** Staff Introduction for Latah County Zoning Commission Hearing on July 1, 2009
- Exhibit #4.** Latah County Zoning Commission Findings of Fact and Conclusions of Law for ADA #794, signed July 15th, 2009
- Exhibit #5.** Staff Introduction for Board of Latah County Commissioners Public Hearing on October 7, 2009

That is all staff has unless the Board has questions.