

LATAH COUNTY ZONING COMMISSION EXHIBIT LIST
Public Hearing for Conditional Use Permit #864B

Date: November 4th, 2015 **Time:** 5:30 pm **Applicant:** Ernest Brannon **File #:** CUP 864B

EXHIBITS:

- Exhibit #1.** Criteria Worksheet and Application Summary
- Exhibit #1A.** Latah County Comprehensive Plan and Vicinity Map
- Exhibit #1B.** Zoning Map
- Exhibit #1C.** Adjoining Property Owners and Aerial Photograph Map
- Exhibit #1D.** Findings of Fact and Conclusions of Law for CUP #864A
- Exhibit #1E.** Findings of Fact and Conclusions of Law for AP #935
- Exhibit #1F.** Findings of Fact and Conclusions of Law for AP #936
- Exhibit #2.** Application Form (Submitted by Applicant)
- Exhibit #2A.** Applicant's Narrative (Submitted by Applicant)
- Exhibit #2B.** Property Site Plan (Submitted by Applicant)
- Exhibit #3.** Staff Introduction for Latah County Zoning Commission public hearing for CUP 864B on November 4th, 2015

CRITERIA WORKSHEET & APPLICATION SUMMARY

Note: This exhibit does not represent staff analysis of information provided by the applicant supporters, or opponents; however, staff has identified policies which may be applicable to this particular request. 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. This 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:

Conditional Use Permit to operate a concert and event venue outside on a 12-acre parcel in the Agriculture/Forest zone.

Description of application:

A request by Ernest Brannon for a conditional use permit to operate a concert and event venue on a 12-acre parcel in the Agriculture/Forest zone. The property is located at 2493 Blaine Road, Moscow, in Section 27, Township 39 North, Range 05 West, B.M. in Latah County and is referenced as Latah County Assessor's parcel number RP39N05W278563A. The completed application was received by the Latah County Planning and Building Department on September 22nd, 2015.

Applicable Code:

Section 7.01.02 (see exhibit #3) and *Sections 3.01.03.03*

Section 3.01.03.03 The Latah County Land Use Ordinance, under section 3.01.02(10), lists "Concert and Event Venues" as a conditionally permitted use in the Agriculture/Forest Zone.

Facts of application and the information submitted

Site Characteristics:

Size of Parcel: 12 acres
Floodplain: Zone "C"

Land Use and Regulations:

Comprehensive Plan Designation: Productive
Existing Zoning: Agriculture/Forest
Existing Uses: Residential, Forestry, Bed and Breakfast located in home
Neighboring Zoning: Agriculture/Forest
Neighboring Uses: Agriculture, Residential, Forestry

Infrastructure/Services:

Water: Private Well
Sewer: Private Septic
Access: Blaine Road (permitted)
Fire Protection: Moscow Fire District

Applicable Statute, Ordinance, and Comprehensive Plan Sections:

Local Planning Act: Idaho Code 67-6512

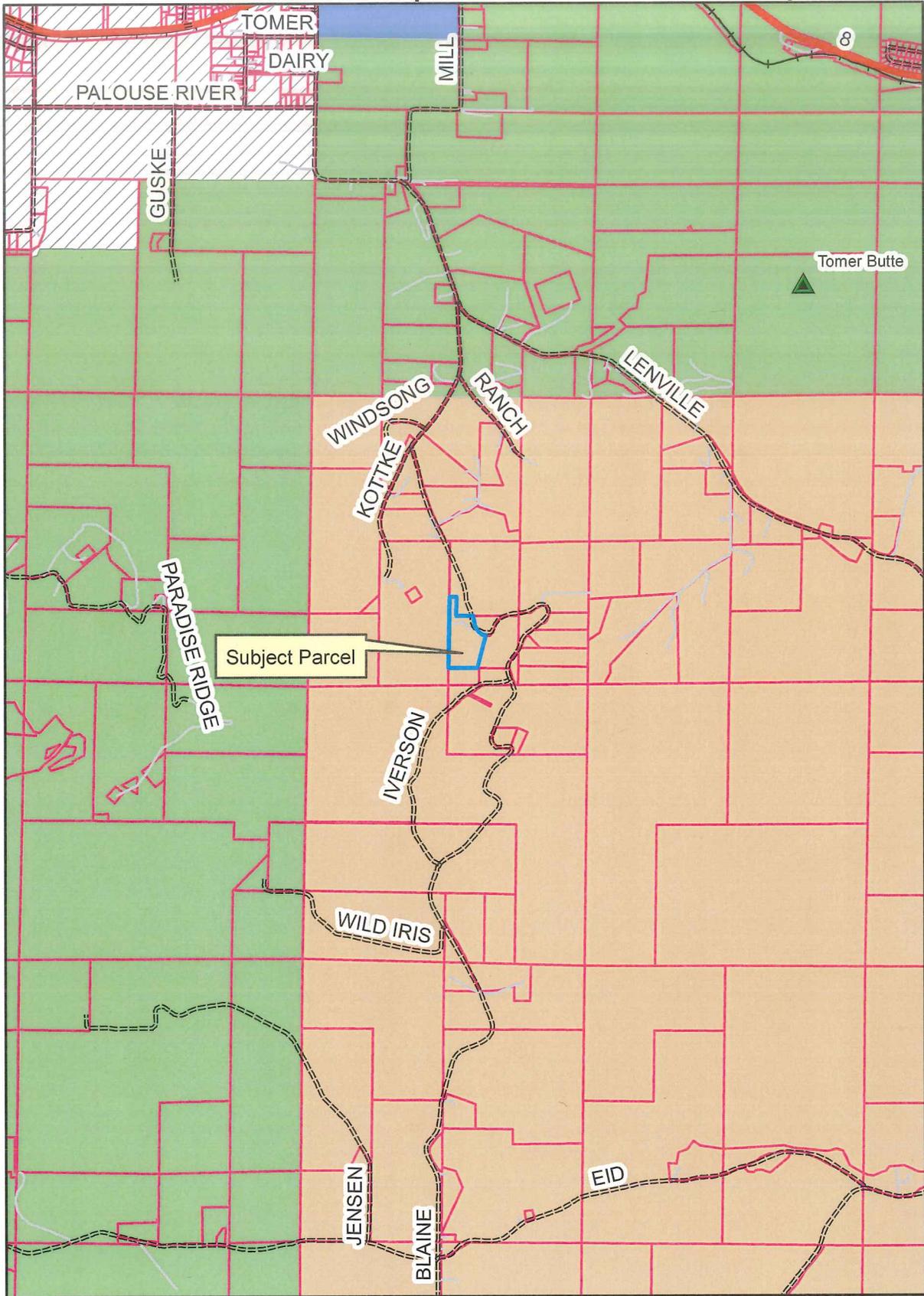
Latah County Land Use Ordinance # 269, as amended:

Section 3.01 Agriculture/Forest Zone
Article 7 Conditional Use Permits

Latah County Comprehensive Plan

CUP 864B Comprehensive Plan Map

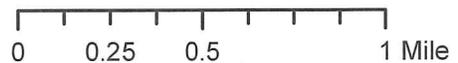
Planning and Building Department



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

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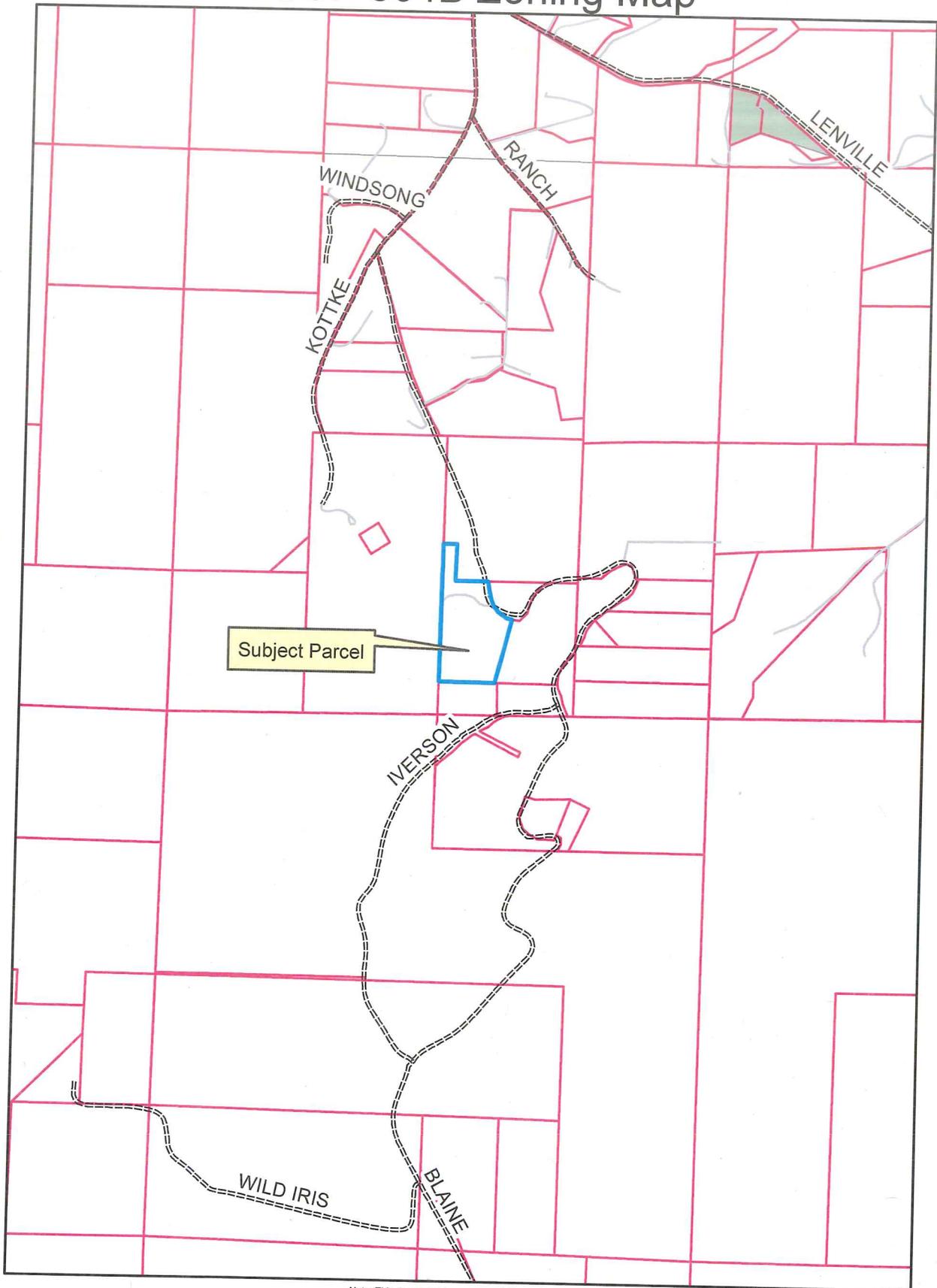
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|---------------------------|--|------------|
| Comprehensive Plan | | ICR |
| | | AFR |
| | | AOI |
| | | PRODUCTIVE |
| | | RURAL |



LCZC Hrg: CUP 864B
 Applicant: Brannon
 Exhibit #: 1A
 Date: 11/4/2015

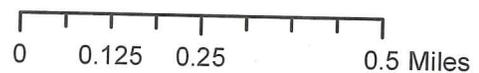
CUP 864B Zoning Map

Planning and Building Department



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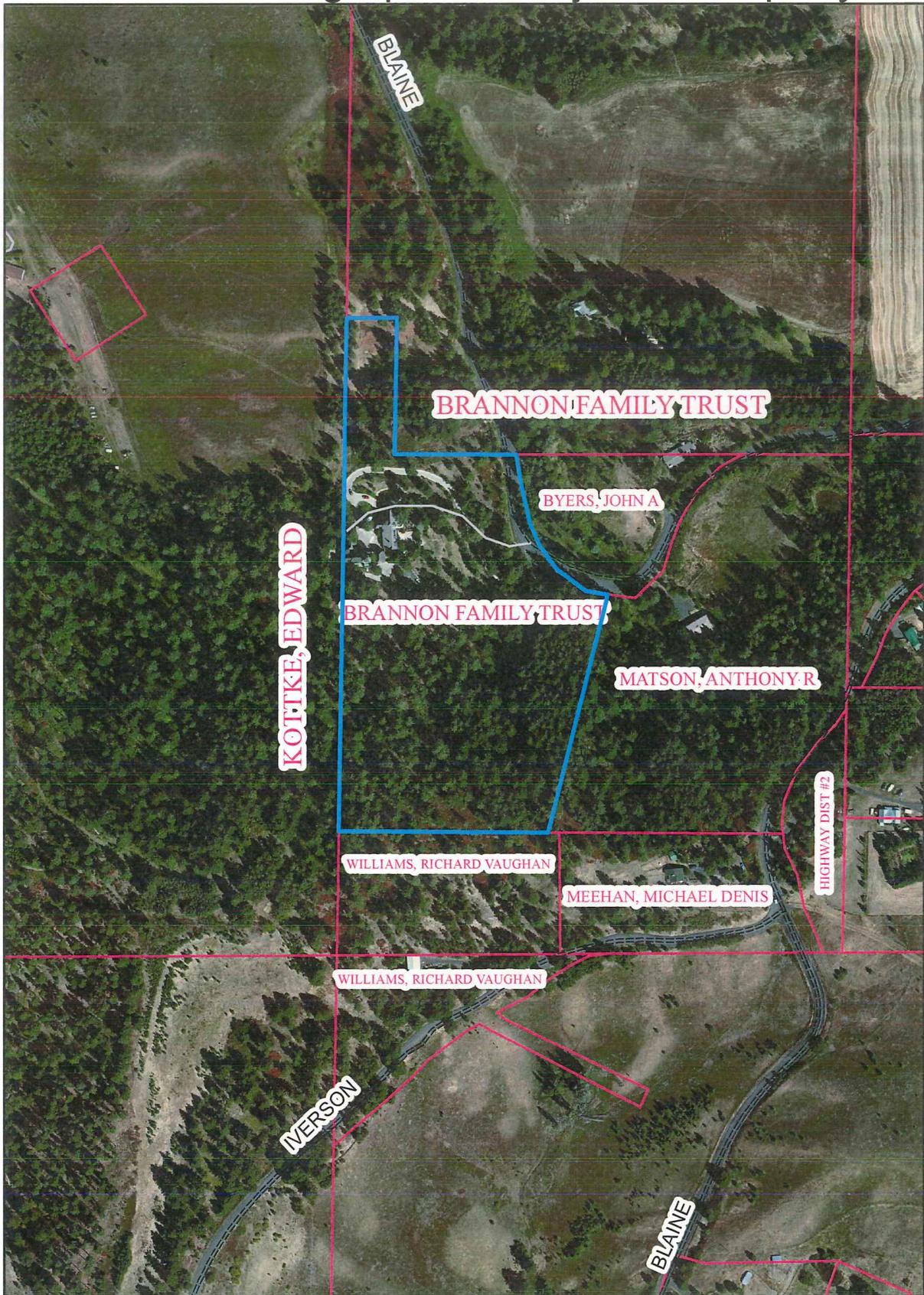


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|----------------------|-----------------------------|---------------------------|
| Agriculture Forestry | Motor Business | Rural Residential |
| Commercial | Multiple Family Residential | Single-Family Residential |
| Industrial | Municipality | Suburban Residential |

LCZC Hrg: CUP 864B
 Applicant: Brannon
 Exhibit #: 1B
 Date: 11/4/2015

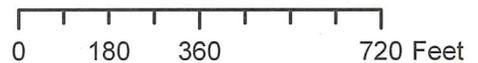
CUP 864B Aerial Photograph and Adjacent Property Owners

Planning and Building Department



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

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LCZC Hrg: CUP 864B
Applicant: Brannon
Exhibit #: 1C
Date: 11/4/2015

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

A REQUEST BY ERNEST BRANNON FOR A CONDITIONAL USE PERMIT FOR A BED AND BREAKFAST AND CHAPEL ON A 12-ACRE PARCEL IN THE AGRICULTURE/FOREST ZONE. THIS PROPERTY IS LOCATED AT 2493 BLAINE ROAD, MOSCOW, IN SECTION 27, TOWNSHIP 39 NORTH, RANGE 05 WEST, B.M. IN LATAH COUNTY AND IS REFERENCED AS LATAH COUNTY ASSESSOR'S PARCEL NUMBER RP39N05W278563A

WHEREAS, Ernest Brannon made application to the Latah County Planning and Building Department on October 23rd, 2014; and

WHEREAS, a duly noticed public hearing was held on Wednesday, December 3rd, 2014, before the Zoning Commission to take testimony and consider this proposed conditional use permit application; and

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

**THE ZONING COMMISSION, AFTER DUE DELIBERATION AND
CONSIDERATION, HEREBY MAKES THE FOLLOWING FINDINGS OF FACT:**

1. The Latah County Land Use Ordinance, under section 3.01.02(12), lists Bed and Breakfast with no more than four single or double guest rooms that will be conducted outside the primary residence and/or that will be beyond the scope of the home occupation provisions as provided under Section 4.02 of this ordinance or the provisions set forth in Section 3.01.01.5 of this ordinance, as a conditionally permitted use in the Agriculture/Forest (A/F) Zone.
2. The Latah County Land Use Ordinance, under section 3.01.02(10), lists "Churches" as a conditionally permitted use in the Agriculture/Forest (A/F) Zone.
3. The subject parcel is zoned Agriculture/Forest (A/F) and the surrounding properties are zoned Agriculture/Forest (A/F).
4. The subject parcel is approximately 12-acres.
5. The subject parcel is designated "Productive" on the Comprehensive Plan map. (Exhibit 1A)
6. The site is accessed from Blaine Road.
7. The property has a single family residence with two bed and breakfast rooms, an accessory building with two bed and breakfast rooms, a chapel, and additional out-buildings.

8. In 2012 the applicant applied for and was granted, a conditional use permit (CUP #864 Exhibit # 1E) to operate a bed and breakfast and chapel.
9. CUP #864 was subject to the following conditions:
 - 1) *Compliance with all federal, state, and local regulations.*
 - 2) *Compliance with the application materials as submitted and presented.*
 - 3) *No parking associated with the conditional use permit shall occur on the county road. All attendees shall be transported via a shuttle. A sign must be placed at the off-street parking instructing patrons to use the shuttle.*
 - 4) *No amplified outdoor music or microphones are allowed.*
 - 5) *Outdoor events are restricted to the hours of operation from 9:00 am to 10:00 pm.*
 - 6) *Outdoor events are restricted to one day per week and shall only occur Friday through Sunday.*
 - 7) *Outdoor events may only occur on non-consecutive weekends, in case of cancellations an event may occur on consecutive weekends. A quarterly calendar of events scheduled must be submitted to the Planning and Building department prior to the events. Quarterly calendar of scheduled events should be received prior to January 1, April 1, July 1, and October 1.*
 - 8) *This application shall expire two years from issuance.*
10. The applicant was not satisfied with the conditions as set by the Zoning Commission and appealed the decision to the Board of County Commissioners. (AP #870 Exhibit #1D) The Board of County Commissioners changed Decision #4 and struck Decision #7 of the CUP #864.
11. Per AP#870 Decision #4 was modified to read:
Amplified microphones and speakers may be used but are restricted to 70 decibels within 8 feet of the output, to be measured by the applicant utilizing equipment that the applicant will purchase and maintain.
12. As per CUP #864, Decision #8, specified that the CUP would have a two year expiration, therefore it expired on November 26, 2014.
13. The applicant provided written and oral testimony that in 2013 the bed and breakfast was used 23 times and in 2014 it was used 27 times.
14. There was no oral or written testimony that showed any issues with the bed and breakfast.

15. It is estimated that over 3000 people attended weddings or events at the facilities during 2013 and 2014. The applicant testified that these 3000 guests and hosts contributed over \$200,000 to the local economy as many of their wedding parties were from out of town or out of state.
16. The applicant provided written and oral testimony that in 2013 the facilities hosted eleven weddings and three other events and that in 2014 the facilities hosted 18 weddings and two other events.
17. The applicant and the adjacent property owner testified that two of these weddings occurred on a week day. Per CUP #864 the applicant was limited to weekend only use of the facilities because they requested this in their written and oral testimony in the previous hearing. CUP #864 condition #2 specifies "Compliance with the application materials as submitted and presented". Therefore by allowing mid-week use the Brannon's violated the conditions of CUP #864.
18. The applicant testified that there is a need for a venue that provides that provides a beautiful tranquil setting for events in Latah County.
19. The applicant testified that between 2013 and 2014 they acquired a decibel meter and required parties to keep amplified volumes below 70 decibels at 10 feet from speakers. The applicant also installed sound curtains/panels on the east side outdoor venue site and in the fall of 2014 upon still receiving noise complaints from the neighbors, they re-located outdoor parties to the courtyard area.
20. The applicant and adjacent property owners testified that the outdoor events occur on a hill above the adjacent properties and it is their belief that sound carries due to the topography.
21. The applicant testified that following one of the noise complaints he measured the decibels at the neighbor's driveway and he received a measurement of 50 decibels.
22. The adjacent property owners testified that they appreciate the steps the Brannon's have taken for noise mitigation however, even with the reduced decibel levels, sound panels, and moving the events to the courtyard, the noise is still disruptive. They testified the nuisance has not been reduced and therefore, they believe the use is not in compliance with the goals and policies of the Comprehensive Plan.
23. Adjacent property owners testified that even with the sound restricting measures implemented by the Brannon's and/or conditioned by the Board of County Commissioners, excessive noise could still be heard at their residences and it is affecting the rural nature and character of the Agriculture/Forest Zone and their enjoyment of their residential properties.
24. The neighbors stated that their quality of life and the preservation of the County's natural amenities were affected by the use.

25. The applicant testified that there are ample parking spaces on site and on the adjacent property owned by the applicant and no parking occurs on Blaine Road. Mr. Brannon has mitigated the previous parking issues by paving, allotting more parking spaces, and placing signage at the appropriate locations.
26. An adjacent property owner testified in support of the application that it helps the economy of Latah County.
27. The Zoning Commission had staff read into the record the allowed uses and permitted uses in the Agriculture/Forest Zone. They also had staff read the objectives of the Comprehensive Plan.
28. The Zoning Commission considered the bed and breakfast as a separate use from the chapel, wedding, and event uses.
29. After full review of the Comprehensive Plan the Zoning Commission mainly discussed Objective #1 and #3 in relation to this application. Additionally, most of the testimony received was in relation to Objectives #1 and #3.
30. Objective #1 of the Comprehensive Plan states "Preservation of the rural character of Latah County to ensure the protection of the cultural, scenic and natural amenities presently found in the County." Objective #3 states "Fostering of other land uses which will help achieve a solid broad based and sustainable economic foundation."

**BASED UPON THE FOREGOING FINDINGS, THE ZONING COMMISSION OF
LATAH COUNTY HEREBY MAKES THE FOLLOWING CONCLUSIONS:**

1. The Zoning Commission considered the application and testimony finding that there were not issues with the bed and breakfast.
2. The Zoning Commission considered the existing sound mitigation practices and determined that they are not working to mitigate noise. They believe that there are still significant issues especially at all outdoor events.
3. The Zoning Commission believes that the previous conditions, as modified by the Board of County Commissioners via AP #870, especially the modification of condition #4 and removal of condition #7, do not adequately address the noise issues to ensure that the enjoyment of the use of the adjacent property owners is not affected by this use.
4. The Zoning Commission believes that although the location of the venue is problematic with neighbor nuisance concerns, the location is also what provides for the unique and picturesque location for the proposed use. Therefore for the use to be viable and compatible with the rural character and in order to meet the criteria as set forth in §7.01.02 of the Latah County Land Use Ordinance, #269, it must be conditioned.
5. The Zoning Commission finds that its paradoxical that the tranquility and beauty of the rural character that attracts patrons and guests to these facilities is also the same

tranquility and beauty of rural character that needs to be preserved for others in the surrounding area.

6. The Zoning Commission has reviewed the application and testimony and concludes that, as conditioned, the use is not in conflict with the goals and policies of the Latah County Comprehensive Plan.
7. The Zoning Commission has reviewed the application and concludes that the use will not require facilities or services with excessive costs to the public.
8. The Zoning Commission has reviewed the application and concludes that as conditioned, the use is not detrimental to the health and safety of those in the surrounding area and will not otherwise adversely affect permitted uses or the enjoyment of such uses in that zone to any greater extent than a permitted use in that zone.
9. Due to the ongoing issues with compliance by the Brannons and because the Zoning Commission wants to ensure that the uses stay in compliance with the criteria set forth in §7.01.02 of the Latah County Land Use Ordinance #269, the chapel and outdoor events shall have a one year expiration.

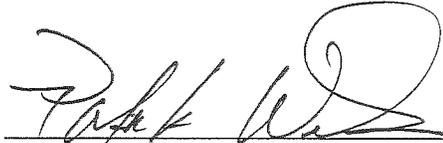
DECISION

THEREFORE, the Latah County Zoning Commission approves the request by Ernest Brannon for a Conditional Use Permit for a Bed and Breakfast and Chapel subject to compliance with the plans and specifications presented to the Latah County Zoning Commission and to the following conditions:

1. Compliance with all federal, state, and local regulations.
2. Compliance with the application materials as submitted and presented.
3. No parking associated with the conditional use permit shall occur on the county road. All attendees shall be transported via a shuttle. A sign must be placed at the off-street parking instructing patrons to use the shuttle.
4. No amplified outdoor music or microphones are allowed.
5. Outdoor events are restricted to the hours of operation from 9:00 am to 10:00 pm.
6. Outdoor events may only occur on non-consecutive weekends; in case of cancellations an event may occur on consecutive weekends. A quarterly calendar of events scheduled must be submitted to the Planning and Building Department prior to the events. Quarterly calendar of scheduled events should be received prior to January 1, April 1, July 1, and October 1.
7. Outdoor events are restricted to one day per scheduled weekend, as set in condition #6. No outdoor events shall occur on Monday, Tuesday, Wednesday or Thursday.

8. The chapel and outdoor event activities shall expire one year from date of issuance.
9. The bed and breakfast shall not have expiration.

PASSED BY THE ZONING COMMISSION OF LATAH COUNTY THIS
10 DAY OF DEC, 2014.


Patrick Wilson, Vice-Chairman
Zoning Commission

NOTICE OF EFFECTIVE DATE AND NOTICE OF RIGHT TO APPEAL

All final decisions of the Latah County Zoning Commission may be appealed, as set forth in Section 1.02.18 of the Latah County Land Use Ordinance #269, as amended.

An appeal period of fifteen (15) days shall begin upon the day of the mailing, or if hand delivery the day of delivery, of the Zoning Commission's or Land Use Board of Appeals' signed findings of fact and conclusions of law. The applicant or other affected person must specify the issues on appeal and shall submit the written appeal to the Planning Department within the time period described above. The written appeal must specify which findings or conclusions the appellant finds to be in error and explain the appellant's reasons for determining that the findings and conclusions are in error. Any affected person may submit a written response to the appeal within 15 days of the filing of a conforming written notice of appeal. If approved, no conditional use permit shall become effective nor shall any buildings or installation permit be issued until the fifteen (15) day appeal period has elapsed or until the Board has made a decision upon appeal.

NOTICE OF RECONSIDERATION

As per Idaho Code §67-6535, no appeal shall be made to district court unless reconsideration has been completed. Any appeal filed will automatically be considered a reconsideration if submitted within the 14 day timeline set by I.C. §67-6535. Any appeal filed on the 15th day of the Latah County appeal period will not meet the timeline for reconsideration and may not be appealed to district court.

NOTICE OF RIGHT TO REQUEST REGULATORY TAKINGS ANALYSIS

The owner of the property that is the subject of this decision may make a written request to the Latah County Planning and Building Department for a Regulatory Takings Analysis within twenty-eight (28) days from the date of this decision as provided by Chapter 80, Title 67, Idaho Code.

**BEFORE THE BOARD OF LATAH COUNTY
COMMISSIONERS
COUNTY OF LATAH, STATE OF IDAHO**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

AP #935: THE APPEAL BY ERNEST AND CHARLENE BRANNON REGARDING THE ZONING COMMISSION'S APPROVAL OF CONDITIONAL USE PERMIT (CUP #864A) TO OPERATE A BED AND BREAKFAST AND CHAPEL ON A 12-ACRE PARCEL IN THE AGRICULTURE/FOREST ZONE. THE PROPERTY IS LOCATED AT 2493 BLAINE ROAD, MOSCOW, IN SECTION 27, TOWNSHIP 39 NORTH, RANGE 05 WEST, B.M. IN LATAH COUNTY AND IS REFERENCED AS LATAH COUNTY ASSESSOR'S PARCEL NUMBER RP39N05W278563A.

WHEREAS, Ernest Brannon made application for a conditional use permit to the Latah County Planning and Building Department on October 23rd, 2014; and

WHEREAS, a duly noticed public hearing was held on Wednesday, December 3rd, 2014; before the Zoning Commission to take testimony and consider this proposed conditional use permit application; and

WHEREAS, having reviewed the application, including all exhibits entered, and having considered the issues presented by the applicant and the opponents, the Zoning Commission approved the request for a Conditional Use Permit (CUP #864A) as conditioned; and

WHEREAS, Ernest and Charlene Brannon filed an Appeal (AP #935) on CUP #864A on December 16th, 2014; and

WHEREAS, a hearing was held on January 14th, 2015 before the Latah County Board of Commissioners to consider the appeal; and

WHEREAS, the Latah County Board of Commissioners closed the hearing on January 14th, 2015; and after hearing the appeal, reviewing the full record of the December 3rd, 2014 public hearing, and considering the issues presented by the appellant:

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

I. FINDINGS OF FACT

1. The appellants are Ernest and Charlene Brannon, 2493 Blaine Road, Moscow, Idaho.

2. The appellants claim that their substantial rights have been prejudiced and that Findings of Fact Decision #4 #6, and #7, are arbitrary, capricious, or an abuse of discretion and that Decision #8 is not supported by substantial evidence on the record as a whole.
3. The appellant claimed that without amplification and by limiting outdoor use of their venue to every other weekend that their business is negatively affected and that the conditions were made without cause because the sound has been successfully mitigated.
4. The appellant contends that the noise controls that he had put into place voluntarily and testified to at the Zoning Commission's hearing were not considered by the Zoning Commission and provide sufficient noise mitigation. The noise mitigation includes sound curtains, courtyard location and quantifiable decibel readings from a decibel reader at the edge of the property and at the adjacent property owner's driveway.
5. The appellants claimed that the decisions made by the Zoning Commission were unclear in regards to what is considered an event and whether all conditions were applicable to events that occur indoors.
6. The Board of Latah County Commissioners (Board) discussed that the issue at hand was noise and that it is not reasonable to expect no noise to occur. The Latah County Land Use Ordinance, #269, as amended, states that a conditional use permit may be approved if "the use is not detrimental to the health and safety of those in the surrounding area and will not otherwise adversely affect permitted uses or the enjoyment of such uses in that zone to any greater extent than a permitted use in that zone." Furthermore, the Board discussed that noise from allowed uses, such as a sawmill, could be perceived as excessive by neighbors.
7. The Board found that the issues on appeal and those heard at the Zoning Commission's public hearing were in regards to outdoor events and the noise created by those events, and did not pertain to the events held inside the chapel or the bed and breakfast.
8. The Board pointed out that different religious events often occur on different days of the week based on religious beliefs therefore, the permit should not be restricted to specific days of the week.
9. The Board discussed that events occur on a single day but have preparation, set-up, and clean up that often must occur in conjunction with the event and often occur on a day prior to and/or after the date of the actual event.
10. The Board finds that amplification is not the cause of the noise problem, because many non-amplified sounds are louder than amplified sounds. Therefore, the Board decided that noise issues shall be addressed based on decibel level readings.
11. The Board discussed that the Zoning Commission did not fairly consider the noise mitigation measures implemented by the applicant. The Zoning Commission claimed that because the noise mitigation measures were not implemented until fall of 2014 they were not provided enough time to assess their effectiveness.

12. The Board discussed the Zoning Commission's condition of the permit having a one (1) year expiration and found that the only way to readdress sound, if it is still a problem, is to require an expiration date of one (1) year. If noise is still an issue, mitigation practices may be modified at that time of a new application.
13. The Board found that the Zoning Commission's limitations on the number of outdoor events were excessive if the noise was successfully mitigated and maintained at a lower decibel level.

BASED UPON THE FOREGOING FINDINGS, THE LATAH COUNTY BOARD OF COMMISSIONERS HEREBY MAKES THE FOLLOWING CONCLUSIONS:

II. CONCLUSIONS OF LAW

1. The Board concludes that the Zoning Commission did not consider all relevant evidence in making its decision.
2. The Board concludes that Decision #4 (*no amplified outdoor music or microphones are allowed*) made by the Latah County Zoning Commission was not supported by substantial evidence on the record. The Board finds that the Zoning Commission failed to consider the sound mitigation practices the applicant had already put in place and their decibel level readings and failed to condition the permit accordingly.
3. The Board concludes that Decision #6 (*outdoor events may only occur on non-consecutive weekends; in case of cancellations an event may occur on consecutive weekends. A quarterly calendar of events scheduled must be submitted to the Planning and Building Department prior to the events. Quarterly calendar of scheduled events should be received prior to January 1, April 1, July 1, and October 1*) is arbitrary and did not take into account the noise mitigation practices the applicant had already put in place.
4. The Board concludes that Decision #7 (*outdoor events are restricted to one day per scheduled weekend, as set in condition #6. No outdoor events shall occur on Monday, Tuesday, Wednesday or Thursday*) is arbitrary and did not take into consideration all religions as well as preparation, set-up and clean-up of events occurring at the facility.
5. The Board concludes that Decision #8 (*the chapel and outdoor event activities shall expire one year from date of issuance*) and Decision #9 (*the bed and breakfast shall not have expiration*) were not supported by substantial evidence on the record because indoor events were not deemed problematic. There is no need to condition or limit the indoor use of the chapel. The Board concludes that indoor events should not have an expiration or have the number of days of use be limited because there was no evidence in the record indicating that indoor activities had any negative effects on the adjacent properties.
6. The Board concludes that a one year expiration date for outdoor activities is necessary to ensure that the sound mitigation methods implemented actually mitigate the noise in order to ensure that the events do not have a greater effect on adjacent properties than noise generated by an allowed use in the Agriculture Forest Zone.

III. DECISION

THEREFORE, the Board of Latah County Commissioners issues this order to **Modify** the decision of the Latah County Zoning Commission for the request for a Conditional Use Permit (CUP #864A) to operate a bed and breakfast and chapel, with changes made to Conditions #4, #6, #7, #8 and #9 as follows:

- #4. Noise from an activity on the property associated with this permit shall be no more than forty (40) decibels at the applicant's property line. The applicant must make decibel readings from each event readily available for the county to review.
- #6. Outdoor events are limited to one per week, a week being defined as Monday-Sunday. An outdoor event includes weddings, memorials, ceremonies, receptions, and similar events, but does not include set-up, rehearsals, and/or clean-up/teardown.
- #7. This condition is struck.
- #8. The allowance of this permit to conduct outdoor event activities shall expire one (1) year from date of issuance of this appeal.
- #9. The allowance of this permit to operate a bed and breakfast and indoor chapel activities shall not have an expiration date.

REQUIRED LEGAL NOTICES

NOTICE OF EFFECTIVE DATE AND NOTICE OF RIGHT TO APPEAL

This decision is effective on the date passed and signed by the Latah County Board of Commissioners. This is a final action. An affected person aggrieved by this decision may, within twenty-eight (28) days after the effective date, seek judicial review as provided by Chapter 52, Title 67, Idaho Code.

NOTICE OF RIGHT TO REQUEST REGULATORY TAKINGS ANALYSIS

The owner of the property that is the subject of this decision may make a written request to the Latah County Planning and Building Department for a Regulatory Takings Analysis within twenty-eight (28) days from the date of this decision, as provided by Chapter 80, Title 67, Idaho Code.

PASSED BY THE LATAH COUNTY BOARD OF COMMISSIONERS THIS 28th DAY OF JANUARY, 2015.


Richard Walser, Chair
Board of Latah County Commissioners

Attest: *Kegan Deputy* 1-28-15

**BEFORE THE BOARD OF LATAH COUNTY
COMMISSIONERS
COUNTY OF LATAH, STATE OF IDAHO**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

AP #936: THE APPEAL BY JOHN AND KAREN BYERS REGARDING THE ZONING COMMISSION'S APPROVAL OF CONDITIONAL USE PERMIT (CUP #864A) TO OPERATE A BED AND BREAKFAST AND CHAPEL ON A 12-ACRE PARCEL IN THE AGRICULTURE/FOREST ZONE. THE PROPERTY IS LOCATED AT 2493 BLAINE ROAD, MOSCOW, IN SECTION 27, TOWNSHIP 39 NORTH, RANGE 05 WEST, B.M. IN LATAH COUNTY AND IS REFERENCED AS LATAH COUNTY ASSESSOR'S PARCEL NUMBER RP39N05W278563A.

WHEREAS, Ernest Brannon made application for a Conditional Use Permit to the Latah County Planning and Building Department on October 23rd, 2014; and

WHEREAS, a duly noticed public hearing was held on Wednesday, December 3rd, 2014; before the Zoning Commission to take testimony and consider this proposed conditional use permit application; and

WHEREAS, having reviewed the application, including all exhibits entered, and having considered the issues presented by the applicant and the opponents, the Zoning Commission approved the request for a Conditional Use Permit (CUP #864A) as conditioned; and

WHEREAS, John and Karen Byers filed an Appeal (AP #936) on CUP #864A on December 17th, 2014; and

WHEREAS, a hearing was held on January 14th, 2015 before the Latah County Board of Commissioners to consider the appeal; and

WHEREAS, the Latah County Board of Commissioners closed the hearing on January 14th, 2015; and after hearing the appeal, reviewing the full record of the December 3rd, 2014 public hearing, and considering the issues presented by the appellant:

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

I. FINDINGS OF FACT

1. The appellants are John and Karen Byers, 2480 Blaine Road, Moscow, Idaho.
2. The appellant claims that the permit should have been denied based on non-compliance by the applicant, the definition of church, and that the Zoning Commission's decision is considered a conflict under Section 1.02.04 of the Land Use Ordinance #269, as amended.

3. The appellants claim that the decisions made by the Zoning Commission were unclear in regards to what is considered an event and indoor use versus outdoor use of the chapel facilities.
4. The Board of Latah County Commissioners (Board) discussed that the issue at hand was noise and that it is not reasonable to expect no noise to occur. The Latah County Land Use Ordinance, #269, as amended, states that a conditional use permit may be approved if "the use is not detrimental to the health and safety of those in the surrounding area and will not otherwise adversely affect permitted uses or the enjoyment of such uses in that zone to any greater extent than a permitted use in that zone." Furthermore, the Board discussed that noise from allowed uses, such as a sawmill, could be perceived as excessive by neighbors.
5. Staff stated for the record that the definition of church had not been part of the testimony at the previous hearing.
6. The Board found that Section 1.02.04 of the Latah County Land Use Ordinance, #269, as amended is not applicable to this conditional use permit.
7. The Board found that the issues on appeal and those heard at the Zoning Commission's public hearing were in regards to outdoor events and the noise created by these events, and did not pertain to events that occur inside the chapel and the bed and breakfast.
8. The Board clarified that different religious events often occur on different days of the week based on religious beliefs; therefore the permit should not be restricted on which days of the week it can occur.
9. The Board discussed that events occur on a single day but have preparation, set-up, and clean up that often must occur in conjunction with the event and often occur on a day prior to and/or after the date of the actual event.
10. The Board finds that amplification is not the cause of the noise problem and that it seems an arbitrary measurement of noise, because many non-amplified sounds are louder than amplified sounds. Therefore, the Board felt that noise shall be addressed based on decibels.
11. The Board discussed that the Zoning Commission did not fairly consider the noise mitigation measures implemented by the applicant. The Zoning Commission claimed that because the noise mitigation measures were not implemented until fall of 2014 they were not provided enough time to assess their effectiveness.
12. The Board discussed the Zoning Commission's condition of the permit having a one year expiration and finds that the only way to readdress sound, if it is still a problem, is to require an expiration date of one (1) year. If noise is still an issue, mitigation practices may be modified at that time of a new application.
13. The Board found that the Zoning Commission's limitations on the number of outdoor events were excessive if the noise was successfully mitigated and maintained at a lower decibel level.

BASED UPON THE FOREGOING FINDINGS, THE LATAH COUNTY BOARD OF COMMISSIONERS HEREBY MAKES THE FOLLOWING CONCLUSIONS:

II. CONCLUSIONS OF LAW

1. The Board concludes that the Zoning Commission did not consider all relevant evidence in making its decision.
2. The Board finds that the Zoning Commission's decision as conditioned and subsequently modified by this Board, is consistent with the goals and policies of the Latah County Comprehensive Plan and "will not otherwise adversely affect permitted uses or the enjoyment of such uses in that zone to any greater extent than a permitted use in that zone".
3. The Board concludes that the appellant's claim that the chapel and associated events are not a church was not a part of the Zoning Commission's record. The Board further concludes that because it was not part of the previous record that the Board could not consider it. The Board did not think that this potential new evidence had any substance; therefore they chose not to remand the potential evidence back to the Zoning Commission.
4. The Board concludes that the appellant's claim under Section 1.02.04 of the Latah County Land Use Ordinance, #269 as amended, is not applicable, because in this specific case there is no other section of that ordinance that it is in conflict with.
5. The Board concludes that Decision #4 (*no amplified outdoor music or microphones are allowed*) made by the Latah County Zoning Commission was not supported by substantial evidence on the record. The Board finds that the Zoning Commission failed to consider the sound mitigation practices the applicant had already put in place and condition the permit accordingly.
6. The Board concludes that Decision #6 (outdoor events may only occur on non-consecutive weekends; in case of cancellations an event may occur on consecutive weekends. A quarterly calendar of events scheduled must be submitted to the Planning and Building Department prior to the events. Quarterly calendar of scheduled events should be received prior to January 1, April 1, July 1, and October 1) is arbitrary and did not take into account the noise mitigation practices the applicant had already put in place.
7. The Board concludes that Decision #7 (outdoor events are restricted to one day per scheduled weekend, as set in condition #6. No outdoor events shall occur on Monday, Tuesday, Wednesday or Thursday) is arbitrary and did not take into consideration all religions as well as preparation, set-up and clean-up of events occurring at the facility.
8. The Board concludes that Decision #8 (*the chapel and outdoor event activities shall expire one year from date of issuance*) and Decision #9 (*the bed and breakfast shall not have expiration*) were not supported by substantial evidence on the record because indoor events were not deemed problematic. There is no need to condition or limit the indoor use of the chapel. The Board concludes that indoor events should not have an expiration or have the number of days of use be limited because there was no evidence in the record indicating that indoor activities had any negative effects on the adjacent properties.

9. The Board concludes that a one year expiration date for outdoor activities is necessary to ensure that the sound mitigation methods implemented mitigate the noise in order to ensure that the noise is not a greater effect on adjacent properties than noise generated by an allowed use.
10. The Board agrees with the Byers that the term "event" needs better defined and that there needs to be clarification on what constitutes an "event" when located outdoors.

III. DECISION

THEREFORE, the Board of Latah County Commissioners issues this order to **Modify** the decision of the Latah County Zoning Commission for the request for a Conditional Use Permit (CUP #864A) to operate a bed and breakfast and chapel, with changes made to Conditions #4, #6, #7, #8 and #9 as follows:

- #4. Noise from an activity on the property associated with this permit shall be no more than forty (40) decibels at the applicant's property line. The applicant must make decibel readings from each event readily available for the county to review.
- #6. Outdoor events are limited to one per week, a week being defined as Monday-Sunday. An outdoor event includes weddings, memorials, ceremonies, receptions, and similar events but does not include set-up, rehearsals, and/or clean-up/teardown.
- #7. This condition is struck.
- #8. The allowance of this permit to conduct outdoor event activities shall expire one (1) year from date of issuance of this appeal.
- #9. The allowance of this permit for a bed and breakfast and indoor chapel activities shall not have an expiration date.

REQUIRED LEGAL NOTICES

NOTICE OF EFFECTIVE DATE AND NOTICE OF RIGHT TO APPEAL

This decision is effective on the date passed and signed by the Latah County Board of Commissioners. This is a final action. An affected person aggrieved by this decision may, within twenty-eight (28) days after the effective date, seek judicial review as provided by Chapter 52, Title 67, Idaho Code.

NOTICE OF RIGHT TO REQUEST REGULATORY TAKINGS ANALYSIS

The owner of the property that is the subject of this decision may make a written request to the Latah County Planning and Building Department for a Regulatory Takings Analysis within twenty-eight (28) days from the date of this decision, as provided by Chapter 80, Title 67, Idaho Code.

PASSED BY THE LATAH COUNTY BOARD OF COMMISSIONERS THIS 28TH DAY OF

JANUARY, 2015.



Richard Walser, Chair
Board of Latah County Commissioners

Attest: Kegan, Deputy 1-28-14



Application for Conditional Use Permit

Instructions

Please complete the application and required attachments. For certain uses, additional information may be necessary. 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 Ernest L. Brannon		b. Home Phone / Work Phone 207-882-7907		c. Email ebrannon@moscow.com	
d. Mailing Address 2493 Blaine Road		e. City Moscow		f. State ID	g. Zip code 83843
h. Property Owner (if different than applicant)		i. Home Phone		j. Work Phone	
k. Mailing Address		l. City		m. State	n. Zip code

2. General Site Information

a. Assessor's Parcel Number(s) rp39n05w278563a			b. Parcel Address (if applicable) 2493 Blaine Road		
c. Acreage of Existing Parcel App 12	d. Zoning AF	e. Comprehensive Plan Designation rural		f. Floodplain designation(s) n/a	g. FEMA Panel # n/a
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 Blaine Road	

Note: Sites within an area of city impact may require additional notification time prior to public hearings or a hearing before the other jurisdiction.

i. Existing Uses **Private residence, Bed and Breakfast**

3. Service Provider Information (please attach additional information if requested)

a. Fire District Moscow Rural	b. Road District North Latah Hwy Dist.	c. School District Moscow
d. Source of Potable Water (i.e. water district or private well) Private well		e. Sewage Disposal (i.e. sewer district or private septic system) Septic system

4. Adjacent Properties Information

a. Zoning of Adjacent Properties **AF** b. Existing Uses of Adjacent Properties **Residence and farming**

5. Permit Information

a. Proposed Use
Wedding and receptions, public lectures, concerts

b. What provision of the Latah County Zoning Ordinance allows the proposed use to be considered for a Conditional Use Permit in the Zoning District in which the property is located? **3.01.02(3)&(12)**

Note: If the proposed use is not specifically listed, please contact the Department prior to submittal to determine if the use is similar to those that are specifically listed as conditionally permitted uses. The Department may require additional information in order to make a determination.

6. Authorization

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.

a. Signature of Applicant 	b. Date Sept 21, 2015
c. Signature of Property Owner (if different than applicant)	d. Date

Office Use Only

Date Received 9/22/2015	Amount 300	Receipt No. 111	By
CUP # 864B	Date Determined Technically Complete		By
Hearing Date Nov 4th 2015			

09/19/2013

7. Attachments

All attachments should be reproducible in black and white at 8½" x 11"

- Fee:** (\$300.00) Make checks payable to Latah County.
- Completed Narrative Worksheet:** See instructions on the Conditional Use Permit Narrative Worksheet.
- 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.
- Vicinity Map:** The map should show the site location in relation to neighboring communities and natural features.
- Assessor's Plat Map:** Include a copy of that portion of the map that shows the subject parcel and adjoining parcels.
- Other Attachments:** Required by staff / Zoning Commission for certain proposed uses.

LCZC Hrg: **CUP 864B**
Applicant: **Brannon**
Exhibit #: **2**
Date: **11/4/2015**



Conditional Use Permit Narrative Worksheet

Application Information

Applicant's Name

Ernest L. Brannon

Phone Number

208-882-7907

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 each section of this form. If you need more space, you may attach additional sheets to the worksheet.

Description of Proposal

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

The proposal is to use our private residence for bed and breakfast, use facilities for weddings and receptions and to use or make available present facilities for church related activities, public lecture, plays and concerts. Our private home site is set back from Blaine Road 300 ft. It is not readily visible from the road. There are five neighbors adjacent to home site ranging from 250 yds to over 1/2 mile from our home.

Our residence is near the center of 12 acres of land, rectangular in shape. We have four bedrooms in the residence, and two unattached rooms for use by guests or family. No cooking facilities exist in these rooms. All bedrooms are provided with private bath. Heating is propane. Two wells supply our water needs. Three septic systems provide for domestic waste treatment.

Access to our residence is on a 250 yd. private driveway surfaced with brick pavers. Parking is sufficient for 40 cars.

Located at our site is a George Roberts memorial metal sculpture garden with 6 pieces of his work displayed for public viewing:

They are: Woman at Rest, Lovers, Bird of Prey, Woman with Umbrella, Wolf Pack and the Head of Christ.

Located at our home across a 4,500 sq. ft courtyard (see attached)

Existing Uses of Property

Please describe what uses, structures and features currently occupy the property.

The property is a private residence with occasional meetings related to university faculty events, non-profit group meetings, concerts, church services and summer weddings. Our home and related facilities occupy a total of about 14,000 sq. ft. All buildings are located around a central 4,500 sq foot courtyard. The metal sculpture garden and patios add 5,000 sq ft of activity space.

Consistency Requirements

Please respond to each of the three criteria listed in Section 7.01.02 of the Latah County Land Use Ordinance by explaining how your proposal meets each criteria. If the provided space is insufficient, please attach your responses to this packet.

A. The use is not detrimental to the health or safety of those in the surrounding area and will not otherwise adversely affect permitted uses or the enjoyment of such uses in that zone to any greater extent than a permitted use in that zone.

Our home is separated from adjacent neighbors, the closest about 100 yards from common property line, but 250 ft. from our house.

In summer, we schedule only one outdoor event per week. Events end at 10:00 pm. In consideration of neighbors, we have obtained acoustic blankets that minimize sound generated at weddings. Because sound does carry even with the forested landscape, we enforce a sound limitation of 70dB, 10 feet from the speakers. These efforts cut down on the transmission of music but voices still carry from the site. All parking of guests is in designated areas on the site. We ask that no guests park on Blaine road.

B. The use will not require facilities or services with excessive costs to the public.

There will be no facilities or services with excessive costs to the public. All revenue generated from use of the facilities goes to the Meadowwinds foundation which sponsors summer science education camps for Native American youth, church sponsored science education camps, and scholarships for university education.

LCZC Hrg: CUP 864B
Applicant: Brannon
Exhibit #: 2A
Date: 11/4/2015

C. The use is not in conflict with the goals and policies of the Comprehensive Plan.

Use is not in conflict with the goals and policies of the Comprehensive Plan for Latah County. The use is consistent with maintaining and enhancing the rural nature of the county.

In addition to your response above, please explain your proposal's consistency with the proceeding elements of the Comprehensive Plan. If a certain element is not applicable to your proposal, please explain why. Please refer to the Latah County Comprehensive Plan for specific goals and policies of the particular elements.

a. Community Design Element

Although the conditional use will not increase any growth in the area, the activities at the site will be an orderly and attractive development in Latah County. It will protect the existing character of the surrounding area, protect land uses from conflicting uses, and preserve the rural environment of surrounding areas.

b. Population Element

We judge the conditional use will have no negative effect on the population element since the site will not be developed beyond its present site and has no association with high density residential development. The land is considered unproductive for agriculture, and it preserves forest and wildlife habitat on the property.

c. Housing Element

The present facilities at the home site are more than adequate for the extended family and purposes proposed. The buildings and landscape are attractive and have been constructed under the county building code requirements. The house is framed with 2x8 and 2x10 stud walls, surfaced with 3/4 "plywood and stucco or brick. Roof material is concrete tile. the house is well insulated. Unattached buildings are 8 inch concrete wall construction, 2x4 frame interior and insulated. Roofs are concrete tile or copper shingles.

d. Economic Development Element

Proposed use encourages use of local business including catering services, rental companies, and restaurants during the summer with revenue estimated at well over \$200,000 in during the 2014 wedding season. Motel use of over 200 room nights in Moscow serves families attending the weddings. The use adds diversification in our area and in some cases provides unique opportunities unavailable elsewhere in the county. Eighty percent of weddings are of residents from outside Moscow

e. Public Services, Facilities, and Utilities Element

The site provides adequate public facilities and services at no additional cost associated with the county. The uses have no physical impact on the residential area of Blaine Road. The extent of concrete buildings tends to protect the using public from fire hazards. Water wells and Waste treatment (septic systems) are sufficient. Solid waste generated is removed by users or taken to the County waste transport center.

f. School Facilities and Student Transportation Element

The proposed conditional use does not apply to this element.

g. Transportation Element

The parking facilities at the site are adequate to avoid problems associated with parking along the public road. The present access from the property to the public road is very wide, set back, and will not change.

h. Natural Resource Element

There is a positive effect on natural resources, given that the natural beauty of the site and forest is preserved for public enjoyment with trails and opportunity to observe the scenery surrounding the area. The natural environment and wildlife habitat is a major element at the home site and will be maintained.

i. Special Areas Element

The proposed use has no effect on special areas with exception that the scenic element of the site will be preserved to maximize the appreciation of the meadows and forested areas overlooking the valley.

j. Hazardous Areas Element

The water feature (10,000 gallons) and the well water are available for use to fight fire. A fire pump and hose are maintained for that purpose if fire spreads from the adjacent forest. The concrete buildings and tile roofs help protect property loss from fire.

k. Recreation Element

Viewing areas and hiking trails are available on the 12 acres that lead to Paradise Ridge and to adjacent property, providing recreational opportunity for guests at the homesite.

l. Land Use Element

The property falls under the rural development area on the Comprehensive Plan Land Use Map. It is also directly north of agriculture areas classified as rural and productive.

m. Property Rights Element

We feel that proposed conditional use does not interfere with the County's Comprehensive Plan and thus the proposed use will not result in effects that might deny the ability to provide an economic benefit to the owners from such use.

n. Water Resources Element

The well water at the site is treated by reverse osmosis to provide safe quality drinking water. The by-pass water is stored for irrigation of landscape plants and 700 sq ft of grass. Most of the land is in wild grass that is mowed regularly. Trees are not irrigated once they take root. They depend on rain and soil moisture retention. The wells are adequate for water needs; conservation is a priority.

Description of Proposal, Continued, page 1

is a 1,200 sq ft vaulted chapel, seating 100 persons. The chapel is used for weddings, church related activities, lectures, plays and concerts. Separate toilet facilities, handicap accessible are available for men and women. There is an office and two separate rooms that can be used for separate meeting, one with a toilet. Weddings are limited to weekends mostly during the summer and two outdoor patios of approximately 2,400 sq ft each are available for use by the wedding party. Size of events is limited to 150 persons. Lectures, concerts, plays and church services are limited, with no more than 15 per year total. There is a paved surface parking area next to the chapel that will accommodate 20 cars, 20 additional cars can be parked on paved areas next to the residence and 200 ft. from the chapel 30 cars can be accommodated on a dirt surface. All parking areas are more than 300 ft. from Blaine road.

SEP 29 2015

LATAH COUNTY

Date: September 28, 2015
To: Latah County Authority
From: Ernest Brannon
Subject: Supplemental Information on CUP 864B application

In addition to the applicant's 2015 narrative regarding the CUP 864B application, the following information is presented as the supplement to the application.

In 2012 Ernest and Charlene Brannon applied for a Conditional Use permit to run a Bed & Breakfast facility and to conduct weddings and other community events on their 12-acre parcel located at 2493 Blaine Road in Latah County referred to as Meadowinds. In the public hearing the nearest neighbor objected to noise, and a second, but distant, neighbor complained about parking as a problem. The Commission gave consideration respecting loud noise and parking, and the application was granted with a two-year expiration date subject to the following conditions relating to the neighbors' objections:

1. No parking associated with the CUP will occur on the county road.
2. Outdoor events to be restricted from 9:00 a.m. to 10:00 p.m.
3. Amplified microphones and speakers are restricted in sound not to exceed 70 dB within 8 feet of the output, to be measured by the applicant utilizing equipment purchase and maintained by the applicant.

On October 23, 2014, Ernest and Charlene Brannon reapplied for the Conditional Use Permit to continue with the B&B and weddings on their 12 acre property. To comply with the previous CUP, the amplified sound was not to exceed 70 decibes 8 feet from the output, and sound was monitored at each event and shown to be in compliance. No parking was allowed on the public road as specified. Further, the Brannons had taken mitigation measures to provide more parking on the said property and additional measures taken to reduce sound by the installation of sound attenuating panels and later in the season the wedding celebration events were relocation to reduce music and crowd noise being generated.

There were no complaints about noise made to the Brannons during the wedding events in 2012 and 2013. But in 2014 there was an effort by the nearest neighbor to organize and complain to the Brannons about the noise, even though greater mitigating sound measures had been taken. The nearest neighbor complained to the Brannons four times over the summer of 2014 (June 28th, July 5th, August 9th, and August 16th). A neighbor friend of the first, living a half-mile away, called on August 9th and was concerned about what the nearest neighbor was experiencing. Sound attenuating panels ordered early in the season arrived and were installed on August 16th. The panels and the limit of dB levels provided noise reduction such that music sound was not detectable at the nearest neighbor's driveway, based on neighbor's comments at that time, but crowd noise became the issue, although it amounted to only 38 to 45 dB when measured at the neighbor's house. However, in response to their problem celebration events were moved to the other side of the Brannon residence to what is called the courtyard. No complaints were made about noise from the six

outdoor wedding events that occurred thereafter. The noise level at the nearest neighbor's house ranged from 29 to 32 dB, and was < 42 dB at the property line separating the neighbor from the Brannons.

At the public hearing the nearest neighbor complained about noise, another was neutral, and one was in favor of the events. Also a letter of complaint from the more distant neighbor was recognized. The Commission considered the evidence and approved the application subject to the following conditions:

1. Noise from an activity on the property associated with this permit shall be no more than 40 dB measured at the applicant's property line.
2. Outdoor events to include weddings, memorials, ceremonies, receptions and similar events are limited to one per week, a week being defined as Monday – Sunday, and such events do not include rehearsals, and/or clean up/teardown.
3. The allowance of the permit to conduct outdoor event activities shall expire one year from the date of issuance.
4. The allowance of the permit to operate a B&B and indoor chapel events shall not have an expiration date.

On September 21, 2015, Ernest and Charlene Brannon reapplied for the Conditional Use Permit to continue with outdoor events that include weddings on their 12-acre property. The Brannons have entertained 15 outdoor events at Meadowinds under the stipulations set by the Commissioners in 2014, complying with those stipulations. There were 15 outdoor weddings in 2015. All other events were indoors. In 2015 over 1500 people were involved in events at the Meadowinds, and a large proportion of those were from out of the area and contributed to the business economy of Moscow over their stay.

Noise has been monitored during all previous reception events during 2015 with the conclusion that the conditions set by the Commissioners and the extra mitigation measures taken by the Brannons to address the noise issue have had good success at meeting the objectives of those conditions and measures. Receptions involving music and evening dancing occur in what is referred to as the courtyard, surrounded by building walls that buffer noise levels. Music noise threshold has been set not to exceed 65 dB ten feet from the speakers, which is 5 dB lower than the previous threshold. Noise at the property line adjacent to the closest neighbor has ranged between 28 and 36 dB, with the variability caused primarily by environmental noise (birds, crickets, and wind).

With the relocation of the noisy celebration events to the courtyard, the 28 to 36 dB noise level generated by the events is hardly detectable at the property line adjacent to the closest neighbor. For comparative reference, when no events are underway background noise on a quiet day is as low as 28 dB, but can vary as high as 42 dB. Environmental noise at the property line can reach 65 dB with a passing car, >56 dB from the neighbor's barking dog, and high wind in the trees can reach a noise level of 60 dB. Crickets are the greatest cause of high variability and on occasion they do not allow sound to be lower than 42 dB at the property line.

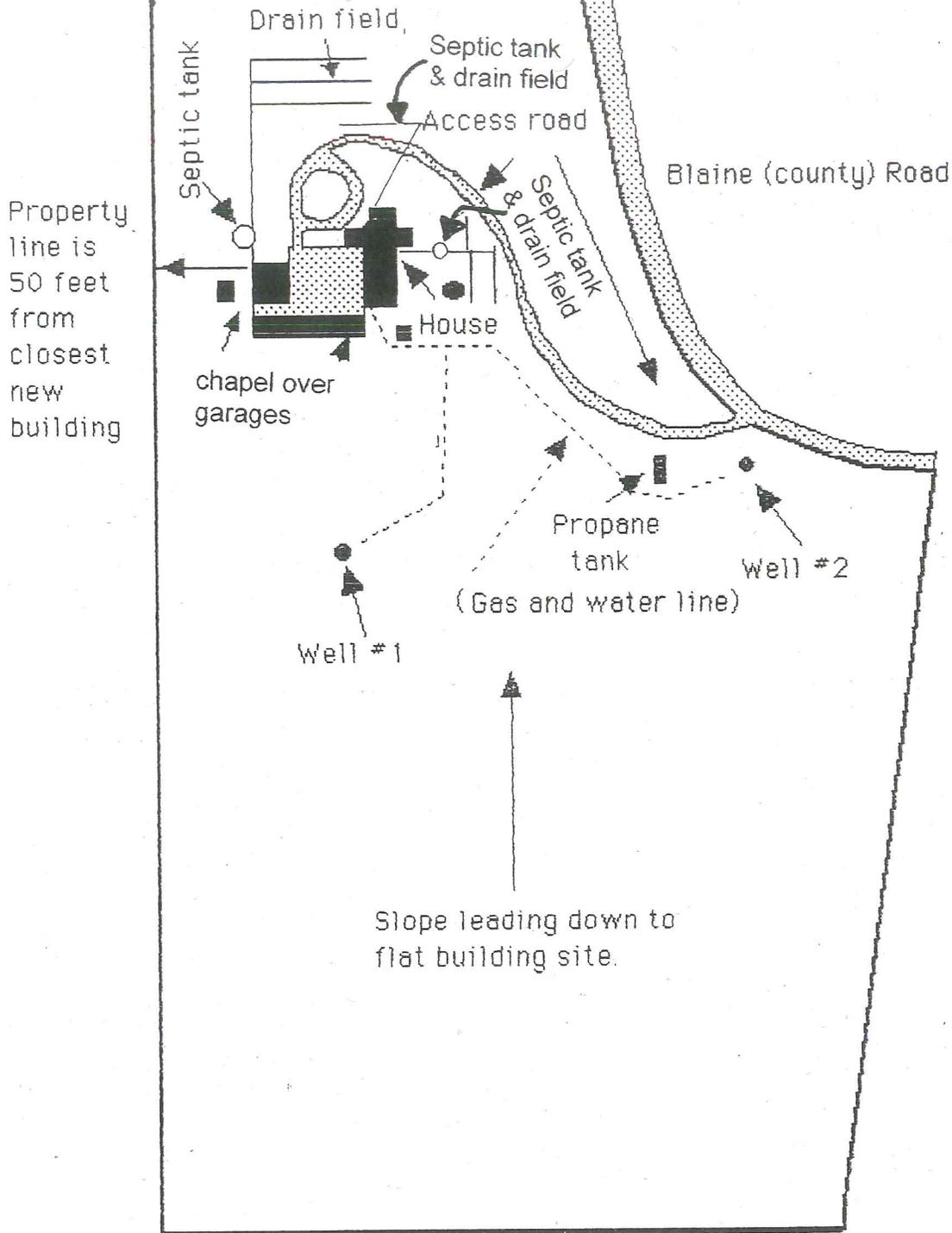
Only one noise complaint was received from a neighbor in 2015. That was related to microphone voice amplification that exceeded the set threshold of 70 dB at the site at certain times, but very limited in duration. That situation was corrected. At that time the neighbor stated that the noise issue was much improved in 2015 over the previous year, which provides confirmation that the measures taken to address the neighbors concerns have been effective.

It is also recognized that all noise cannot be eliminated. At certain times in the celebration a loud voice, laughter, and applause will occur and be heard by the neighbor. Those short duration sounds cannot be anticipated or controlled, and in those situations such noise must be forgiven. The main issue is continuous disruption from loud noise, and especially in the evening. The Brannons believe that issue has been satisfactorily addressed and it will continue to be a priority in the future. To comply with the previous CUP conditions the following limitations will continue for 2016:

1. Noise at the applicant's property line generated from the outdoor permitted events shall not exceed 40 dB.
2. Permitted outdoor events conducted at the Brannon's home facilities will occur at no greater frequency than one wedding (rehearsal, event, and reception) or other community event, per week.
3. Reception and celebration activities will terminate at 10:00 p.m.
4. Parking will be accommodated on the Brannon's property.

This is the third year that the Brannons have applied for the Conditional Use Permit to hold outdoor events at Meadowinds. In each instance the Brannons have been in compliance with the conditions that the Commissioners set down to minimize impacts on neighbors. The last was only a one year expiration, as a necessary provision to assure that sound mitigation was effective to assure that noise generated did not have a greater effect on adjacent properties than noise generated by an allowed use in the Agriculture Forest Zone. Such noise, of course, includes heavy harvest equipment, airplane spraying, and sawmills. We submit that CUP 864B limitation provisions regarding the outdoor events have been met in good faith, and that an ongoing endeavor to make such events comply with the County's conditions will continue, and that any additional justifiable concerns voiced by the neighbors will be addressed. Therefore the Brannons would appreciate if the CUP 864B be allowed to continue under the given provisions set by the County with no expiration date.

**Brannon 12.6 acres
property and site plan**



LCZC Hrg: CUP 864B
Applicant: Brannon
Exhibit #: 2B
Date: 11/4/2015

CUP #864B – Staff Introduction

A request by Ernest Brannon for a conditional use permit to operate a concert and event venue on a 12-acre parcel in the Agriculture/Forest zone. The property is located at 2493 Blaine Road, Moscow, in Section 27, Township 39 North, Range 05 West, B.M. in Latah County and is referenced as Latah County Assessor's parcel number RP39N05W278563A.

Section 7.01.02 requires:

1. A conditional use permit may be granted if the Zoning Commission finds that the proposed use conforms to each of the following criteria:
 - A. The use is not detrimental to the health and safety of those in the surrounding area and will not otherwise adversely affect permitted uses or the enjoyment of such uses in that zone to any greater extent than a permitted use in that zone;
 - B. The use will not require facilities or services with excessive costs to the public;
 - C. The use is not in conflict with the goals and policies of the Latah County Comprehensive Plan.
2. If the Zoning Commission finds that a proposed use is essential to the public health, safety, or welfare, such use may be permitted even if the use is not found to meet the criteria listed above.
3. The Zoning Commission shall have the authority to set an expiration date for any conditional use permit so long as the reasons for such are included in their findings of fact and conclusions of law.

Exhibits will now be entered into the record.

The following exhibits were submitted with the staff packet:

EXHIBITS:

Exhibit #1.	Criteria Worksheet and Application Summary
Exhibit #1A.	Latah County Comprehensive Plan and Vicinity Map
Exhibit #1B.	Zoning Map
Exhibit #1C.	Adjoining Property Owners and Aerial Photograph Map
Exhibit #1D.	Findings of Fact and Conclusions of Law for CUP #864A
Exhibit #1E.	Findings of Fact and Conclusions of Law for AP #935
Exhibit #1F.	Findings of Fact and Conclusions of Law for AP #936
Exhibit #2.	Application Form (Submitted by Applicant)
Exhibit #2A.	Applicant's Narrative (Submitted by Applicant)
Exhibit #2B.	Property Site Plan (Submitted by Applicant)
Exhibit #3.	Staff Introduction for Latah County Zoning Commission public hearing for CUP 864B on November 4 th , 2015