



Phone (541) 575-0028  
Fax (541) 575-3668

450 East Main Street  
John Day, Oregon 97845

May 23, 2018

**STAFF REPORT – LAND USE REVIEW (TYPE II) – LUR-18-02**

**Application Number:** LUR-18-02  
**Applicant:** Leaun Fuchs  
**Property Owner:** Leaun Fuchs  
**Subject Property:** 108 NE 7th Street, John Day, OR 97845  
Map 13S-31E-23CA Tax Lot 2203  
**Requested Action:** Land Use Review with Class B Variance  
**Zoning:** Residential General

**REQUEST**

Mr. Leaun Fuchs is the owner of the property located at 13S31E26CA Tax Lot 2203 in John Day, OR (108 NE 7<sup>th</sup> Street). The owner wishes to place a detached garage and carport on the back of the property. This property is zoned Residential General (RG) and is located within the 100-year floodplain.

Mr. Fuchs requesting a Class B Variance for the rear setback to build the structure five feet from the back property line, closer than the standard rear setback of 10 feet. Subject application attached (Exhibit A).

**APPLICABLE CRITERIA**

This Land Use Review and Variance Request is for an accessory structure (detached garage and carport facility).

Accessory structures are allowed in the RG zone subject to the standards in Section 5-2 of the City of John Day Development Code (the Code), specifically sections 5-2.2.030 (Development Standards for Residential Districts).

All land use and development permit applications and approvals, except building permits, shall be decided by using the procedures contained in Chapter 5-4 of the Code. The procedure “type” assigned to each application governs the decision-making process for that permit or approval.

Class B variances are allowed for requests that do not otherwise meet the criteria under subsection 5-5.1.030 (Class A Variance), pursuant to the limitations under subsections 1-3, below, and the approval criteria in Sections 5-5.1.040C through 5-5.1.040G. Class B variances shall be reviewed using a Type III procedure under Chapter 5-4.1.040.

## **REVIEW PROCESS**

The Planning Official referred the request to the Planning Commission pursuant to Section 5-4.1.040. The Planning Commission's review must focus on the relevant code criteria and follow the public hearing procedures for a Type III procedure (Class B variance) under Section 5-5.1.

### **Public Notification**

The City of John Day published notice of the hearing in The Blue Mountain Eagle. Certification of Notice attached (Exhibit B). No public comments were received with regard to the application.

### **Burden of Proof**

The applicant has the burden of demonstrating that the proposal meets all applicable Code requirements. The applicant is also responsible for complying with building code requirements and applicable state or federal requirements. It is the Planning Commission's responsibility to interpret the Code based on findings of fact.

## **FINDINGS**

The applicable code criteria are provided below in italics typeface; staff's findings follow each code provision in regular typeface. The findings, which are based on information submitted by the applicant, are preliminary. The final decision notice will contain findings addressing the Planning Commission's deliberation, and any public testimony, including any additional agency comments received by the close of the hearing.

The application and staff report findings may be modified based on factual information entered into the public hearing record. Members of the public who have questions about the proposal or who would like to submit oral or written testimony testify in person at the public hearing or submit written testimony to the City of John Day before the close of the hearing. Testimony should respond directly to the applicable criteria.

### ***5-5.1.040 Class B Variances***

*A Class B Variance may be approved only upon finding it meets all of the following criteria:*

- 1. The variance is necessary because the subject Code provision does not account for special or unique physical circumstances of the subject site, existing development patterns, or adjacent land use.*

**Findings:** The home is located north of a low-lying area within the 100-year floodplain (see Site Map, Exhibit C). The area behind the property is currently used for agriculture and is not accessible from city streets. It is unlikely residential development will occur behind the proposed site for those reasons.

- 2. The variance is the minimum necessary to address the special or unique physical circumstances referenced in subsection 5-4.1.040B(1).*

**Findings:** The applicant's request to build up to five (5) feet from the rear property line is not likely to impact future use of the adjacent property to the south. Side setbacks are well within the minimum requirement for accessory structures in the RG district.

- 3. The variance conforms to the provisions of subsections 5-4.1.040C through 5-4.1.040G, as applicable.*

**Findings:** Section C refers to vehicular access and circulation; Section D refers to street tree requirements; Section E refers to parking and loading standards; Section F refers to natural features; and Section G refers to transportation improvement requirements. These criteria are not applicable to the subject application.

- 4. The variance does not conflict with other applicable City policies or other applicable regulations.*

**Findings:** No other city policies or regulations are in conflict with the proposal.

- 5. The variance will result in no foreseeable harm to adjacent property owners or the public.*

**Findings:** No responses were received by the City Planning Official from adjacent property owners or the general public. As the other criteria for a Class B variance have been met, no foreseeable harm will result from the applicant's proposal.

## **CONCLUSION AND STAFF RECOMMENDATION**

Based on the foregoing analysis and findings, staff recommends approval of the Class B Variance as requested. The proposed structure will require a Type I floodplain development permit, which will be issued by the City Planning Official upon approval of the variance request by the Planning Commission.

## **PLANNING COMMISSION DECISION**

After hearing the applicant's presentation and any public testimony, including any rebuttal, the commission will close the hearing and deliberate. The following motion is suggested:

"I move to approve LUR-18-02 based on the findings contained in the staff report."

*The staff report may be amended during the course of the hearing. The commissioner making the motion should list any additional conditions of approval or changes to staff's proposed conditions of approval in his/her motion.*

Respectfully submitted this 23rd day of May, 2018:



Nicholas Green  
City Manager / City Planner  
City of John Day

Attachments:

Application form and narrative (Exhibit A)  
Certification of Notice (Exhibit B)  
Site Map (Exhibit C)

EXHIBIT A

CITY OF JOHN DAY  
450 EAST MAIN STREET  
JOHN DAY, OR 97845

Phone: 541-575-0028  
Fax: 541-575-3668

RECEIVED  
APR 30 2018  
CITY OF JOHN DAY

VARIANCE APPLICATION

I. BACKGROUND INFORMATION

Applicant

Applicant Name: LEANN FUCHS Phone: (541) 377-1723

Address: ~~1280 WYOMING ST.~~ 108 N.E. 7<sup>TH</sup> JOHN DAY 97845

Applicant Standing (Fee Owner, Contract Purchaser, etc.): OWNER

Property Owner (if different)

Name: SAME Phone: (541) 332-0991

Address: 1280 WYOMING ST. PORT ORFORD, OR. 97465

Property Information

Property Address: 108 N.E. 7<sup>TH</sup>

Township; Range; Section; Tax Lot: \_\_\_\_\_

Zone: \_\_\_\_\_ Property Size: 95' x 150'

Existing Use/Structures: 1974 TRAILER RESIDENCE

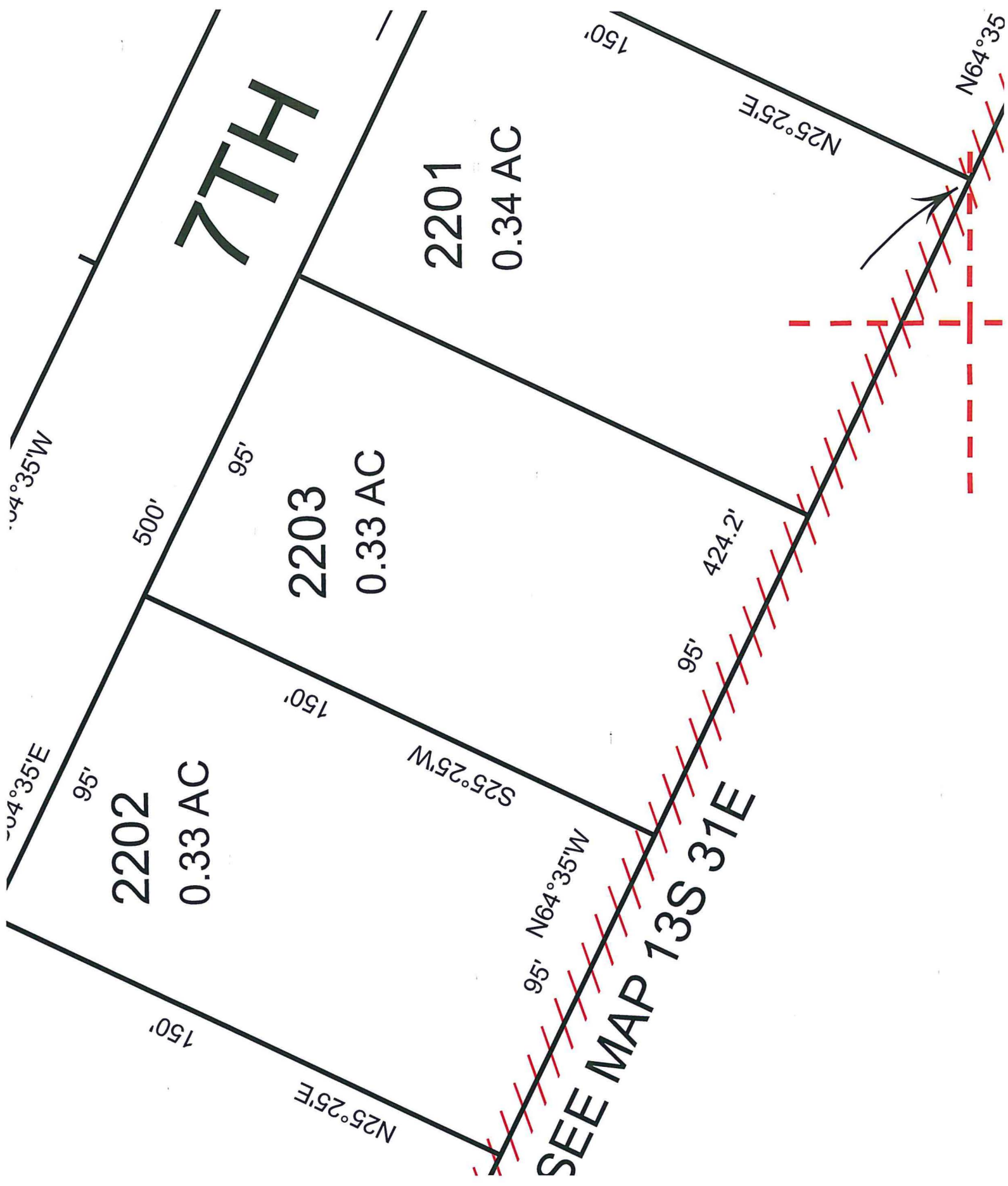
Application Proposal: REQUEST 5' SETBACK ON EAST AND SOUTH CORNER. (EAST SIDE, REAR PROPERTY LINE)

FOR OFFICE USE ONLY

File Number: LUR-18-01

Submittal Date: 4/30/2018 Fee: \$250 Received by: \_\_\_\_\_

Application Type: II Completeness: \_\_\_\_\_ 120 Day: \_\_\_\_\_



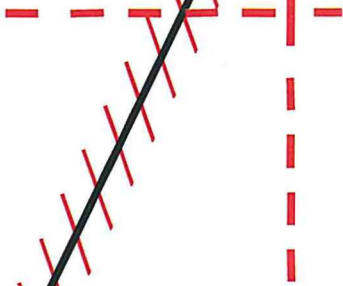
7TH

2201  
0.34 AC

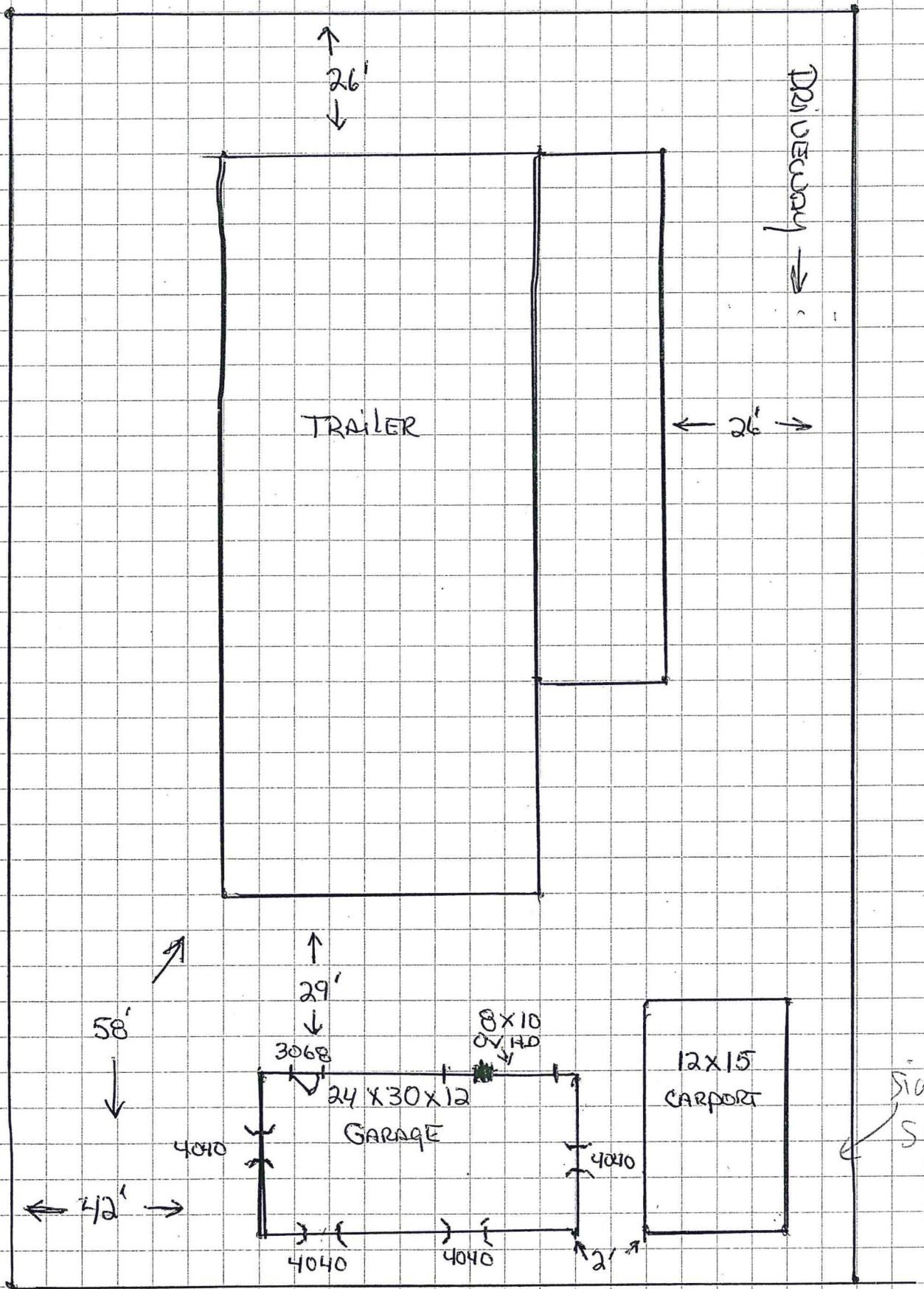
2203  
0.33 AC

2202  
0.33 AC

SEE MAP 13S 31E



108 N.E. 1"



rear 5'?

**EXHIBIT B**

IN THE CIRCUIT COURT OF THE  
STATE OF OREGON FOR GRANT  
COUNTY

} AFFIDAVIT OF PUBLICATION

STATE OF OREGON  
County of Grant } ss

I, Alexandra Perkins being  
duly sworn, depose and say that  
I am the principal clerk of the  
publisher of the Blue Mountain  
Eagle, bluemountaineagle.com, a  
newspaper of general circulation,  
as defined by ORS 193.010 and  
193.020; that the

At 6:00 pm on Thursday, May 24, 2018 at the Fire Station at 316 S Canyon Boulevard, the John Day Planning Commission will review the following requests:

A request from Value A.D.D.E.D. Inc. to modify their conditional use permit to include operation of a business office from a manufactured structure located at 777 E. Main Street.

A Class B variance request from Leun Fuchs to build an open structure carport with a five-foot rear property line setback at 108 NE 7th Street.

A Class B variance request from the John Day Fire Department to place a non-conforming street sign at the John Day Fire Hall located at 316 S. Canyon Boulevard.

A proposed John Day Housing Incentives Plan including its relationship to the John Day Comprehensive Plan, and make a recommendation to the John Day City Council.

Documents may be reviewed by contacting: Nicholas Green, City Manager at 541.575.0028 or greenn@grantcounty-or.gov.

**RECEIVED**  
**MAY 14 2018**  
**CITY OF JOHN DAY**

**Planning Commission Hearing**

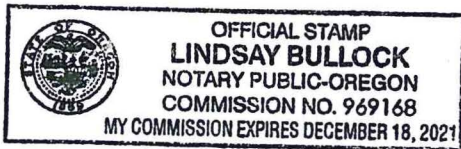
a printed copy of which is hereto  
annexed; was published in the  
entire issue of said newspaper for **1**  
successive and consecutive issues in  
the following issues:

**05/09/2018**

Subscribed and sworn to before me  
on this **9th day of May, A.D. 2018**

Alexandra Perkins

Lindsay Bullock  
Notary Public of Oregon





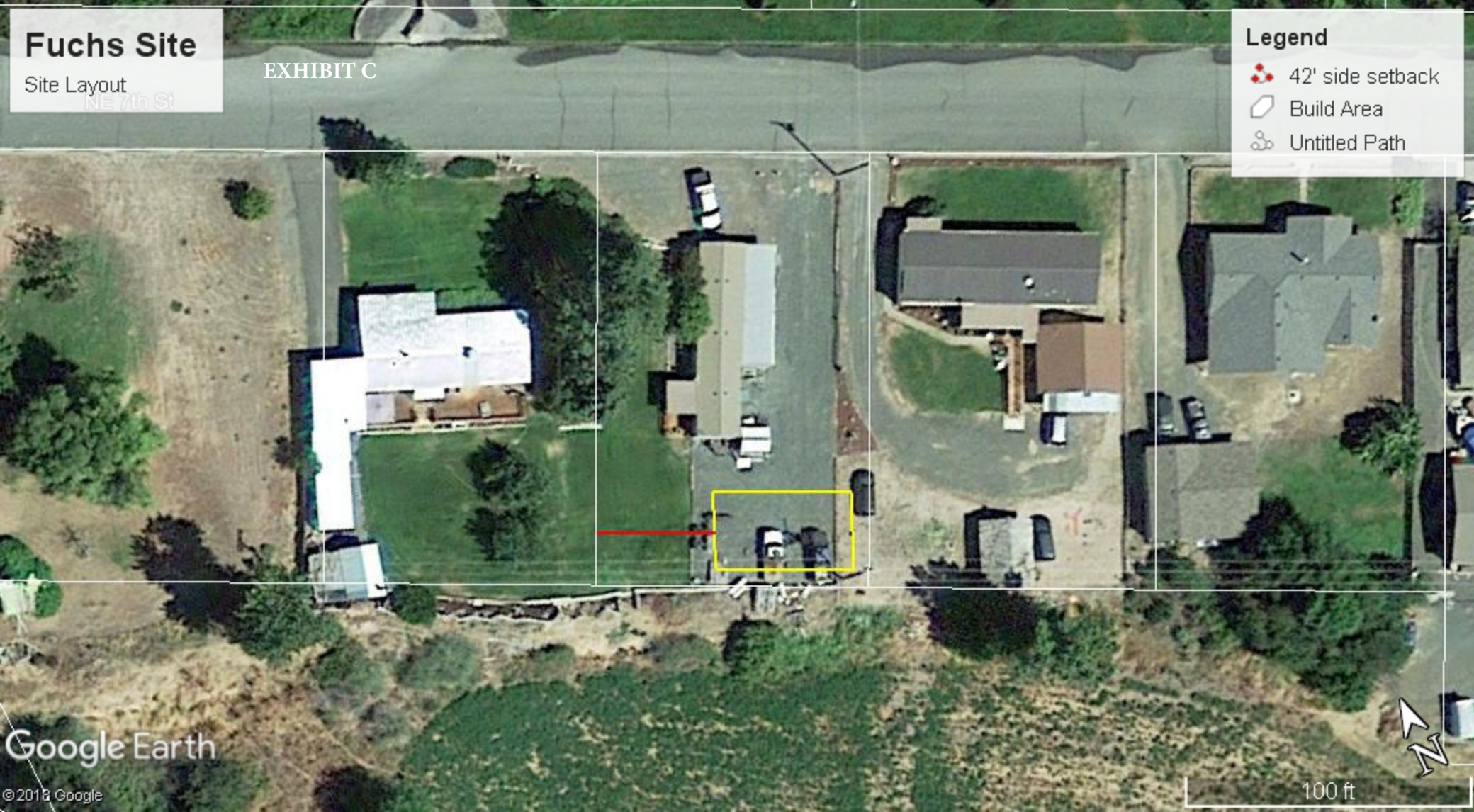
# Fuchs Site

Site Layout

EXHIBIT C

**Legend**

-  42' side setback
-  Build Area
-  Untitled Path



Google Earth

© 2018 Google

100 ft