



Lewiston Planning & Zoning Commission
REGULAR MEETING AGENDA
February 11, 2026 - 5:30 PM
City Hall - East Conference Room - 1134 "F" Street
Lewiston, Idaho 83501

Seating will be available on a first-come, first-served basis.

I. CALL TO ORDER

II. CITIZENS COMMENTS

An opportunity for citizens to address the Commission with comments and/or questions about Planning and Zoning Commission-related matters that are not a public hearing action item on this agenda. Citizens are asked to limit their time to three (3) minutes each.

III. ACTIVE AGENDA

A. APPROVAL OF JANUARY 28, 2026 MEETING MINUTES (ACTION ITEM)

B. APPROVAL OF THE REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS FOR CONDITIONAL USE PERMIT APPLICATION CUP-26-1 BY

LESLIE DOTY(ACTION ITEM): : The applicant requests Conditional Use Permit approval for animal rights in the R2A zone, on a .41 acre parcel located at 727 Burrell Avenue. The applicant is requesting animal rights to place one (1) horse on the property. The applicant is asking for a waiver of standard of 13,911 square feet from the half acre (21,780 square feet) minimum livestock area. The applicant has a livestock area of 7869 square feet. Keeping of livestock, subject to the standards of sections 37-195 through 37-199 of Lewiston City Code is allowed by Conditional Use Permit in the Low Density Residential, R2A, Zone. - Action Item ()

C. PUBLIC HEARING AND SUBSEQUENT RECOMMENDATION TO CITY COUNCIL ON ZONING CODE AMENDMENT ZA-04-25 WIRELESS COMMUNICATION

FACILITIES (ACTION ITEM): : The Commission will consider amendments to Lewiston City Code Chapter 37, Zoning Code, Article XVII, primarily regarding application procedures and review timelines, in accordance with House Bill No. 180 that amended C65, Title 67, of Idaho Code regarding telecommunication facilities and broadband infrastructure. - Action Item ()

D. DISCUSSION AND DIRECTION TO STAFF ON UPZONE ZNC24-5 (ACTION ITEM): :

ZNC24-5 proposes to upzone approximately 850 properties adjacent to the 21st Street/Thain Road corridor from Low Density Residential, R2, Zone and Low Density Residential, R2A, Zone to Medium Density Residential, R3, Zone and Higher Density Residential, R4, Zone to create a buffer zone between the commercial zoning along 21st Street and Thain and the low density residential areas to the east and west. Staff has also identified pockets of C4 and C6 zoning that should be modified in these same areas to conform to the Comprehensive Plan Future Land Use map. - Action Item ()

IV. STAFF-COMMISSION COMMUNICATIONS

A. SOLICITING COMMISSIONER ATTENDANCE FOR THE NEXT REGULARLY SCHEDULED MEETING OF FEBRUARY 25, 2026 (NO APPLICATIONS CURRENTLY).

V. ADJOURNMENT (ACTION ITEM) - Action Item

The City of Lewiston is committed to providing access and reasonable accommodation in its services, programs, and activities and encourages qualified persons with disabilities to participate. If you anticipate needing any type of accommodation or have questions about the physical access provided at this meeting, please contact Nikki Province, ADA Coordinator, at least forty-eight (48) hours in advance of the meeting at 208-746-3671 x 6211.

January 28, 2026

The LEWISTON PLANNING AND ZONING COMMISSION met in the Community Development Department Second Floor Conference Room at 215 "D" Street. Chair Iacoboni called the meeting to order at 5:30 p.m.

I. CALL TO ORDER

COMMISSIONERS PRESENT: Gabriel Iacoboni, Chair; Shaunita Cable; Cynthia Ball; Zach Battles;

COMMISSIONERS EXCUSED: Emily Wolf, Vice Chair; Maureen Anderson;

COMMISSIONERS UN-EXCUSED: Kyle Harris

STAFF MEMBERS PRESENT: Katie Hollingshead, Assistant Planner; Dawn Ortiz, Community Development Office Supervisor; Jennifer Tengono, City Attorney

II. CITIZENS COMMENTS

None

III. ACTIVE AGENDA

A. APPROVAL OF JANUARY 14, 2026 MEETING MINUTES (ACTION ITEM)

Commissioners Battles and Cable moved and seconded, respectively, approval of the January 14, 2026 meeting minutes as written. The motion carried 4-0.

B. REVIEW AND APPROVAL OF THE REASONED STATEMENT FOR CONDITIONAL USE PERMIT APPLICATION CUP-25-6 BY CHARLENE RICARD OF ABILITY INTERVENTIONS LLC (ACTION ITEM):

Commissioner Ball and Chair Iacoboni moved and seconded, respectively, to approve the Reasoned Statement for CUP-25-6. The motion carried 4-0.

C. PUBLIC HEARING AND SUBSEQUENT DELIBERATION AND DIRECTION TO STAFF REGARDING THE REASONED STATEMENT FOR CONDITIONAL USE PERMIT APPLICATION CUP-26-1 BY LESLIE DOTY (ACTION ITEM):

Chair Iacoboni explained the public hearing process, opened the public hearing and asked for a staff presentation.

Staff Hollingshead provided a verbal summary of the staff report with maps and photos so the commission could get geographically familiar with the area.

Chair Iacoboni asked for clarification on if the animal is a 4H animal, would that make the conditional use permit moot.

Staff Hollingshead explained that the applicant still wants to move forward with the conditional use permit even though the animal would be used for 4H.

Staff Tengono stated that it would not be mute, because the exception in Lewiston City Code 37-195 only exempts the provisions related to Article 9. It does not relate to the use of the property, only as far as the allowances, the prohibitions, limitations, and standards, so the number, type of animals, the size of the lot, or the pasture, area, the livestock area, and things that are only covered within that subsection of Chapter 37, not whether or not they can actually keep animals. Because that's going to be based on different articles within Chapter 37, not within the specific article relating to animal rights, livestock, and pasture standards.

Commissioner Battles asked if the horse could reside at the location without the CUP due to 4H.

Staff Tengono stated that proof of 4H membership would be required and no statement has been provided for proof of 4H. And the exemption doesn't necessarily apply to the use of the property for animals, where animals are permitted by right, then that's not usually a concern. But again, it doesn't necessarily affect other standards, so to the extent that the applicant has applied for a conditional use permit, I wouldn't look at the exception to the rule here, because it falls outside of that exception at that point. Under Lewiston City Code 37-199. sets forth the provision, so, and it's specific to the keeping of livestock, not explicitly governed, and conditioning the use of a property. Information related to the use of the property, again, as I mentioned, isn't within the livestock provisions of that specific article, which is Article 15 and not 9. For a correction there, but I would look at these as two separate things, so the mere fact that she has applied for a conditional use permit would put her outside the scope of that exemption at this point.

Commissioner Battle asked if there had been any other approvals for such a reduction in lot size, like this request.

Staff Hollingshead stated there has been one recently approved with a lot smaller than allowed, but not as small as this lot and animals were only approved for a period of time. She did not pull the file for that request.

Staff Tengono stated the conditional use permit mentioned was requested by Anthony and Nicole Havens. In that particular application, the city, or the Planning and Zoning Commission, conditionally approved CUP25-5, including the associated waiver of 7,445 square feet from the required 21,780 square feet livestock area. And in that case, they were going to be keeping several goats.

Commissioner Ball asked clarifying questions on lot use and size.

Chair Iacoboni asked if the goats from CUP25-5 were full-time on the property.

Staff Tengono stated that the goats did not have a seasonal limitation, and no opposition was received.

There being no further questions for the staff, Chair Iacoboni asked for applicant testimony.

Applicant Doty, Lewiston Idaho stated that she never intended to have the horse home so soon, but he needs to be quarantined, he's only 8 months old. Wants to get him used to being in the city, and he wasn't supposed to be delivered for 3 more weeks, but he was delivered early, and she will nail down the fence once she gets the tree removed.

Chair Iacoboni asked how often the horse would be on the property.

Applicant Doty stated a weekend here and there.

Commissioner Cable asked if there was drainage on the property to assist with maintained livestock area.

Applicant Doty stated she doesn't have a drainage problem, and she is not sure what Commissioner Cable is asking for.

Commissioner Battles asked when would the horse would go to Cougar Ridge.

Applicant Doty stated 2 weeks.

Commissioner Battles asked if the horse would be brought back to this property during the week or just when she is there.

Applicant Doty stated that when she is around, but horses are herd animals and want to be around other animals.

Commissioner Ball asked how close he was to other animals in the neighborhood.

Applicant Doty stated there are 3 dogs next to him and 1 behind him, and they do not seem to bother him. She also stated that she has a chain link fence surrounding the property.

Commissioner Battles asked where the nearest horses are to her.

Applicant Doty stated there are some on Cedar, 6th, and Burrell. Close enough that when he whinnies the other horses can hear him and respond.

Commissioner Battles asked if the mentioned livestock area is the most that can be provided.

Applicant Doty stated that it is a large area and the neighbor has offered their pasture to be used as well, but she has declined due to fencing problems.

Commissioner Ball asked if the plan is to always to have a horse on the property, even after this one leaves.

Applicant Doty stated that once this one passes, she doesn't plan to have another because he will live 20 years.

Chair Iacoboni asked how often she hauls off waste.

Applicant Doty stated she has hauled off waste two times now.

There being no further questions for the applicant, Chair Iacoboni asked for public testimony.

Chris Wright, Lewiston, Idaho stated they are 20 feet from the fence line, and the smell is very bad. How long will the horse be there? Code Enforcement has already been called. The smell and flies have been bad, and they do not want the animal there. He has a shop right next to the property line.

Commissioner Battles asked if the smell had gotten better.

Mr. Wright stated no, and he is outside a lot.

Commissioner Battles asked how quickly the smell started once the animal arrived.

Mr. Wright stated one week.

Commissioner Ball asked if they had spoken to the applicant.

Mr. Wright stated no.

Commissioner Ball asked how long they had lived there.

Mr. Wright stated 22 years.

Commissioner Battles asked if they had ever seen large livestock on any of the surrounding parcels.

Mr. Wright stated no.

Commissioner Ball asked if, aside from the smell has there been any additional issues.

Mr. Wright stated that his daughter mentioned being woken up at night due to the horse kicking the fence.

Kyle Fickenworth, Lewiston Idaho, stated he is in opposition to this. The space is not large enough, and he is worried about flies and the smell, especially in the summer. He doesn't think that driving out to Cougar Ridge to visit their animal full-time is an unreasonable request. A deadline of one month before the horse has to leave is reasonable.

Chair Iacoboni asked if Mr. Fickenworth knew about the applicant taking the horse to a different location before this meeting.

Mr. Fickenworth stated no.

Commissioner Ball asked if he had spoken to the applicant about his concerns.

Mr. Fickenworth stated no.

Steve Standers, Lewiston, Idaho, stated he is concerned about the smell when his neighbor is BBQing, and that smell mingles with the manure smell, which is going to be very bad. Horses get spooked, and with dogs running loose, the horse gets out and gets hit. The area is small, and he has been there for 39 years and has never seen large animals there.

Doug Lodge, Lewiston, Idaho stated his property is north west of the applicant's pasture, and he has no problem with what is going on.

Commissioner Ball asked how long Mr. Lodge has been in his home.

Mr. Lodge stated 20 years.

Commissioner Ball asked if he had been in contact with the applicant and trusted that she would do what she says she will.

Mr. Lodge stated yes.

Chair Iacoboni asked if he was aware that the horse was going out to Cougar Ridge before the meeting.

Mr. Lodge stated he understood it would be at Cougar Ridge full time, but has no problem with it coming back for a week or so.

Taylor Lodge, Lewiston, Idaho, stated that the horse being there is amazing, and he has never seen it spook. His kids play on a trampoline next to the property.

Commissioner Ball asked if they had contact with the horse.

Mr. Lodge said no, but they view it from the porch all the time.

Staff Ortiz and Staff Tengono read the public comments received before the meeting.

The Kelly's Lewiston, Idaho sent the below letter.

January 22, 2026

Leslie Doty
727 Burrell Ave
Lewiston Idaho 83501

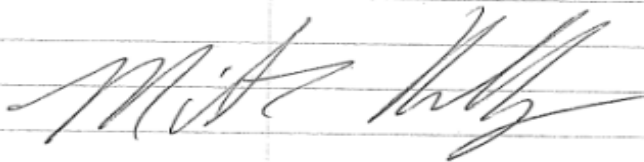
To whom it may concern

I'm reaching out to show our support for
the use of her property to keep her horse.

Mrs. Doty has been, and continues to be
a great neighbor. We have no issues or
concerns about the matter.

We consider her to be a valued homeowner
in our neighborhood.

Sincerely,
The Kelly's
737 Burrell Ave
Lewiston Idaho 83501



Chris G. Wright, Lewiston, Idaho sent below email.

Date: January 23, 20206

To: Lewiston Planning & Zoning Commission

From: Chris G. Wright

Re: Conditional Use Permit Application CUP-26-1 by Leslie Doty

I submit for consideration my Testimony and request a DENIAL of the
Conditional Use Permit for Animal Rights by Ms. Doty (large livestock - a horse).
I am a direct neighbor of Ms. Doty's lot with a shared property line and fence lines.

My Name is Chris Wright and my wife and daughter and I have lived at 3427 7th
St E, Lewiston, Idaho for more than 22 years.

I am requesting the Conditional Use Permit for animal rights and waiver of reduction of required livestock area requested by Leslie Doty of 727 Burrel Avenue be DENIED as failing to meet City Code requirements for minimum livestock area. Additionally, to be DENIED as a Nuisance due to the personal effect on my family and property value as a nuisance of odor and insects (flies). The smell of horse manure and urine was strong and flies started showing up shortly after the horse arrived during the warm December 2025 temperatures.

I have noted the Minimum livestock area is one half acre as defined our City Code:

Section 37-196.- Definitions

Livestock area means pasture, corrals, dry lots, feedlots and other property including buildings and structures, available to and used by the livestock.

Ms. Doty's entire residence lot is listed as .41 acre. Of which, more than half of the .41 acre is the dedicated to her home and car cover/carport structure along with front, side and rear yard areas. None of which is "Livestock area" by City code Definition. Which translates to 7,389 square feet (.18 acre), far less than our City Code requirement of .5 acre (21,780 square feet).

Additionally, our City Code Sec. 37-197 also addresses the required ½ acre livestock area.

As a next door neighbor of Ms. Doty, the accumulation of horse manure, odor and flies are a valid concern. Ms. Doty's lot historically lacks regular cleanup and weed removal. It is doubtful the required cleanup chores as stated in our City Code would also be done regularly. The horse's limited area adds to the adverse effects by the natural body functions causing odor and insects (flies). This could also impact my property values, which our City Code finds concerning and another reason why our City's standards and requirements were put in place.

Ms. Doty of 727 Burrel Avenue is requesting a Conditional Use Permit AFTER violating our City of Lewiston Code and requirements as stated. Waiving the significant difference between our City Code Requirements and the actual livestock area available of someone already violating our City Code standards would set a concerning precedent.

My wife, daughter and I have lived in our home for over 22 years. Choosing city life for raising my family and to not be subjected to large livestock and the odors and flies that accompany manure and urine in a concentrated area. This is occurring less than 50 feet from my BBQ grill and patio.

My grandfather was a dairyman, my mother was a 4H horse leader - both in North Idaho. And while I appreciate both, I do not want them out the back door of my home in the City. The odor of the manure, urine and accompanying insects (flies) should not be happening in a residential neighborhood of small lots.

Being familiar with large livestock, the City requirement of 21,780 square feet (.5 acre) is reasonable. However, 7,869 square feet (.18 acre) is not reasonable. Many would find it animal cruelty for the horse to be confined in such a small area without adequate area of movement and exercise, standing in it's own urine and manure. That is a separate concern.

Thank you for your consideration of my family's concerns and request the Conditional Use Permit be DENIED as a nuisance of Odor, Insects, diminished property value concerns and a clear violation the reasonable standards of our City Codes.

Respectfully Submitted,

Chris G. Wright
3427 7th St E
Lewiston, ID 83501

Camie Huntley, Lewiston, Idaho, sent the email.

----- Forwarded message -----

From: **Camie Huntley** <sandcastlekids1@gmail.com>
Date: Mon, Jan 26, 2026 at 4:55 PM
Subject: Comment for Conditional Use permit 727 Burrell Ave
To: Katie Hollingshead <khollingshead@cityoflewiston.org>

Dear Members of the Conditional Use Permit Committee,
I operate a licensed daycare at 3436 8th Street, and our backyard directly adjoins 731 Burrell Avenue. The neighboring property at 727 Burrell Avenue is where a horse is currently being kept. There is no fencing separating 727 and 731 along the portion that borders my yard, and our daycare play yard runs along this property line.

I wish to state that I am not opposed to my neighbors having a horse. My concern is strictly regarding the safety and stability of the fencing along the property line that borders my daycare yard.

Currently, the horse is contained by linked livestock panels with hot wire. It does not appear that any posts have been installed to properly stabilize the temporary paneling, which means the horse can push and shift the panels. If the panels

were to move or give way, the horse would have direct access to my fence, which was not constructed to withstand such force.

Standard horse fencing typically requires posts set into the ground approximately every 8–10 feet, with panels attached to the posts to ensure the fencing cannot shift when a horse leans or pushes against it.

I respectfully request that, if this Conditional Use Permit is approved, a condition be included requiring permanent, properly anchored horse fencing to be installed along the 731 Burrell Avenue property line. This would prevent the horse from accessing my fence and ensure the continued safety of the children in my care.

Thank you for your time and consideration.

Sincerely,
Camie Huntley

On Mon, Jan 26, 2026, 2:23 PM Katie Hollingshead
<khollingshead@cityoflewiston.org> wrote:

Hi Camie,

Yes, there is a CUP application in process for animal rights at 727 Burrell Ave. I do see your name and address on the notice list that I prepared. I don't know why you wouldn't have received the notice, but one did get mailed to your address.

The public hearing for that application will be this Wednesday, January 28th at 5:30 if you want to attend and provide comment.

Katie Hollingshead

Assistant Planner
City of Lewiston

T 208.746.1318 x 7261

F 208.746.5595

215 D Street

P.O. Box 617

Lewiston, ID 83501-1930

www.cityoflewiston.org

On Mon, Jan 26, 2026 at 1:45 PM Camie Huntley <sandcastlekids1@gmail.com> wrote:

Hi Katie,

I worked with you last year to get my home on 8th street a CUP for childcare. My backyard directly adjoins the rear of the property at either 727 or 731 Burrell Ave. Over the past month and a half, I've noticed new panel fencing installed, and it appears a horse is now being kept in the back portion of that property. I have lived here for 13 years and there has never been a horse or livestock there before.

I recently installed new fencing for my daycare yard, and I am concerned because I do not know if that fencing is adequate to safely contain a horse if it were to push against it.

Because I previously went through the Conditional Use Permit (CUP) process for my daycare, I am familiar with the required neighbor notification and public

hearing process. I did not receive any notice related to livestock or a CUP for this property if they needed it.

Could you please let me know if there is an active Conditional Use Permit or livestock keeping approval on file for this address?

Thank you very much for your time and assistance,
Camie Huntley

There being no further public testimony, Chair Iacoboni asked for the applicant's rebuttal.

Applicant Doty stated that Mr. Wright is not representing how close his house is to the property honestly. She cannot see his patio and BBQ from the pasture.

Chair Iacoboni asked if she had any concerns about the waste and smell, and asked if she had only removed waste from the property 2 times.

Applicant Doty stated she is going to be home more and will be working on the property.

Chair Iacoboni asked if she was willing to clean up the pasture more.

Applicant Doty stated that it is dark when she leaves to work and when she comes home, and she hasn't seen any flies.

Commissioner Ball asked if she had the horse there for 4 weeks, and when is he scheduled to have surgery.

Applicant Doty stated yes, he has been then 4 weeks and just got a horse trailer. She hasn't nailed down the fencing yet, but plans to when she gets the tree removed.

Chair Iacoboni asked if the green fencing in the pictures is just a section of the planned area for the pasture.

Staff Tengono stated that the Lewiston City Code Section 37-198-C-1 says forage shall be continually present on all areas of property considered to be pasture, unless the pasture is in the process of being replanted, the person owning the pasture shall be responsible for eliminating noxious weed growth. And so, I would highlight that the city does prosecute people for failure to maintain their pasture, primarily through fencing. If the animal breaks through fencing, they are required to fix it within a reasonable time.

Applicant Doty stated that she waters the area most of the time, and it will grow back when he goes out to Cougar Ridge.

Commissioner Battles asked if a dry lot requires food, such as hay be brought in.

Staff Hollingshead read code that stated a dry lot means an area of property which no forage is present for feeding. Dry lots shall be at least 900 square feet with a minimum dimension of 10 feet. Dry lots shall not be partitioned into less than 900 square feet areas. Dry lots are a place of temporary containment for convalescent animals, animals being worked and was given regular exercise on a different location of the property.

Commissioner Battles asked if there is long term keeping on a dry lot.

Staff Tengono stated the requirements under 37197 provide that the maximum allowable number of animals is based on the livestock area, and it's not specific to the type of area. So, if it was a dry lot, it would still be required to have a one-half acre, as the minimum area, so you would still be required to have some kind of waiver of that difference between the half acre.

Staff Hollingshead stated different maintenance standards for manure clean up on dry lots.

Commissioner Battles asked if the applicant would be feeding with hay mostly.

Applicant Doty stated that when he comes back to the property, he will eat the grass down quickly, but she will mainly be feeding hay.

Commissioner Battles stated that she has hauled off some waste and has been picking up more.

Applicant Doty stated yes when it is daylight.

Commissioner Ball asked how long she had lived there.

Applicant Doty stated 21 years.

Commissioner Ball asked if the pasture gets saturated in the spring or does it have good drainage.

Applicant Doty stated the pasture would be muddy, but the horse wouldn't be there at that time.

Commissioner Ball asked if she has a timeline of being on site to when he starts the back and forth to Cougar Ridge.

Applicant stated she didn't know, but she doesn't want the horse there when it's wet.

Chair Iacoboni asked how long for the horse to become comfortable, have surgery, and then be ready to leave.

Applicant Doty stated 3 weeks.

There being no further public testimony, Chair Iacoboni closed the public hearing.

After deliberation and discussion, Commissioner Ball and Chair Iacoboni moved and seconded, respectively, to direct staff to draft the Reasoned Statement Approving CUP25-6 with the associated waiver of 13,911 square feet from the required 21,780 square feet livestock area standard in Lewiston City Code 37-197 SUBJECT TO the conditions during the months of March through October the applicant will remove the manure from the subject property four (4) times per month; and during the months of November through February the applicant will remove the manure from the subject property two (2) times per month. The Conditional Use Permit approval is granted exclusively to the applicant, Leslie Doty, and is non-transferable. It will automatically expire when the applicant no longer resides at 727 Burrell Avenue as her principal residence. The Commission discussed in detail whether this conditional use permit should be specific to the horse she currently owns, the subject property, or the property owner/applicant, Ms. Doty. The Commission understands the efforts the applicant in seeking conditional use permit approval, and finds that her intent related to the keeping of the animal is essential to its approval. The applicant is not limited to only the keeping of the horse she currently has, but is limited to keeping one horse at any one time at the subject property so long as she owns the property. It is not the Commission's intent to require the applicant to seek a new conditional use permit should she subsequently own a different horse. The motion carried 4-0.

D. DISCUSSION AND DIRECTION TO STAFF ON UPZONE ZNC24-5 (ACTION ITEM):

Staff Hollingshead provided a verbal summary of the upzone and provided maps for the Commission to become geographically familiar with the area. Staff will continue moving upzone ZNC24-5 forward.

IV. STAFF-COMMISSION COMMUNICATIONS:

A. Query of Commissioners for the February 11, 2026 meeting.

All commissioners in attendance should be in attendance for the February 11, 2026 meeting. Staff Hollingshead stated there will be a public hearing at the next meeting for ZA-04-25 Wireless Communication Facilities.

V. ADJOURN

There being no further business, Chair Iacoboni and Commissioner Ball moved and seconded, respectively, to adjourn. The motion carried 4-0, and the Planning and Zoning Commission adjourned at approximately 8:34 p.m.

RESPECTFULLY SUBMITTED,

Dawn Ortiz,
Recording Secretary

Chairperson or Acting Chairperson
Planning and Zoning Commission

Approved this _____ day of _____, 2026.

**CITY OF LEWISTON PLANNING AND ZONING COMMISSION
REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS
FOR GRANTING OR DENIAL OF CONDITIONAL USE PERMIT**

This document shall serve as memorialization of the rationale for the granting or denial of a Conditional Use Permit, which shall be based upon relevant criteria and standards, including the Lewiston Comprehensive Plan, Lewiston City Code, and Idaho Code. *See* I.C. § 67-6535.

- I. **APPLICATION NUMBER:**
CUP26-1

- II. **APPLICANT’S NAME AND ADDRESS:**
Leslie Doty
727 Burrell Avenue
Lewiston, ID 83501

- III. **IDENTIFICATION AND/OR LOCATION OF SUBJECT PROPERTY:**
727 Burrell Avenue
Lewiston, ID 83501

- IV. **DATE OF PUBLIC HEARING:**
January 28, 2026

- V. **NAME OF HEARING BODY:**
Lewiston Planning and Zoning Commission

- VI. **NATURE OF SUBJECT CONDITIONAL USE PERMIT APPLICATION:**
The applicant requests Conditional Use Permit approval for animal rights in the Low Density Residential, R-2A, Zone, on a .41 acre parcel located at 727 Burrell Avenue. The applicant is requesting to place one (1) horse on a portion of the property, but not full time. The applicant is asking for a waiver of Lewiston City Code § 37-197(1) to reduce the livestock area by 13,911 square feet from the half acre (21,780 square feet) livestock area required. The applicant has a livestock area of 7,869 square feet. Keeping of livestock, subject to the standards of sections 37-195 through 37-199 of Lewiston City Code is allowed by Conditional Use Permit in the Low Density Residential, R-2A, Zone.

- VII. **DECISION:**
The Lewiston Planning and Zoning Commission **conditionally APPROVES CUP26-1 including the associated waiver of 13,911 square feet from the required 21,780 square feet livestock area standard in Lewiston City Code 37-197 SUBJECT TO the conditions in Section VIII of this Conditional Use Permit.**

VIII. CONDITIONS OF APPROVAL:

Pursuant to Lewiston City Code § 37-160, the Planning and Zoning Commission may impose conditions upon approval of a conditional use permit. This conditional use permit is subject to the following conditions:

During the months of March through October the applicant will remove the manure from the subject property four (4) times per month; and during the months of November through February the applicant will remove the manure from the subject property two (2) times per month.

The Conditional Use Permit approval is granted exclusively to the applicant, Leslie Doty, and is non-transferable. It will automatically expire when the applicant no longer resides at 727 Burrell Avenue as her principal residence. The Commission discussed in detail whether this conditional use permit should be specific to the horse she currently owns, the subject property, or the property owner/applicant, Ms. Doty. The Commission understands the efforts the applicant in seeking conditional use permit approval, and finds that her intent related to the keeping of the animal is essential to its approval. **The applicant is not limited to only the keeping of the horse she currently has, but is limited to keeping one horse at any one time at the subject property so long as she owns the property.** It is not the Commission's intent to require the applicant to seek a new conditional use permit should she subsequently own a different horse.

IX. TERMINATION OF CONDITIONAL USE PERMIT:

Pursuant to Lewiston City Code § 37-160, authorization of a conditional use permit shall be void after twelve (12) months unless:

- (1) A building permit pursuant thereto has been applied for;
- (2) Where no building permit is required, the intent of the conditional use has been fulfilled; or
- (3) Substantial progress towards completion of the project has been accomplished, as determined by the community development director.

X. RELEVANT CONTESTED FACTS RELIED UPON:

The relevant contested facts relied upon are:

The Commission received written and oral testimony from neighboring property owners indicating that the applicant has maintained the property in a manner that creates offensive odors and flies since the horse was delivered. The applicant indicated that due to her work schedule, and the limited daylight hours, she has only been able to clean the livestock area on the weekends. The applicant further testified that in the approximately six weeks she has had the horse at the property, she has only removed manure from the subject property twice. The applicant has indicated that her keeping of the subject property and horse have not created any offensive odors, since the weather has been mild and cold. Furthermore, she testified that the horse was never intended to be at the property full time, but that she currently intends to keep the horse at the subject property until it has been gelded, which should occur within a few short weeks. She further testified that after the horse has been gelded, it will be moved to a stable on

Cougar Ridge (in Lewiston) as its permanent residence, but she will have the horse at the subject property on weekends for training purposes.

The Commission weighed the testimony received and ultimately found that all parties were credible and duly considered. The Commission further acknowledged that the applicant's efforts to mitigate nuisance associated with the proposed use, including measures directed at odor and fly control, were reasonable. The Commission noted that Lewiston City Code § 37-199(b) provides that where permitted as a conditional use, the keeping of any/all types of livestock permitted under Article XV of Chapter 37, is presumed to be allowed. The Commission noted that the applicant has also requested a waiver of Lewiston City Code § 37-197(1) to reduce the livestock area by 13,911 square feet from the half acre (21,780 square feet) livestock area required. The applicant has a livestock area of 7,869 square feet. There was substantial discussion by the Commission to address the accumulation of horse manure, and how to mitigate possible nuisances created by the reduced livestock area without also making the manure removal conditions more restrictive/frequent. These conditions are further addressed in Section XI of this Conditional Use Permit.

The Commission also recognizes the State of Idaho's preference for animal rights where practical and consistent with public welfare. The subject property is located in an area where animal rights are permitted with a conditional use permit, and the approved use shall remain subject to all conditions imposed and any additional reasonable conditions the Commission may require to mitigate impacts.

XI. RELEVANT CRITERIA AND STANDARDS:

The following relevant criteria, standards, facts, and considerations are hereby declared as reasons for the decision on this conditional use permit:

1. The proposed use **will** result in conditions that will tend to generate nuisances (such as noise, dust, glare, vibrations, and odors) or, if so, any anticipated nuisances will be appropriately mitigated. Applicable commentary:

The Commission heard concerns from neighboring property owners regarding odors and flies generated by the horse since it has been delivered to the subject property on or about December 12, 2025. The Commission heard testimony from the applicant that she has been regularly cleaning the horse's livestock area, but that due to her work schedule and limited daylight hours, she has only been able to do so on the weekends. The applicant also stated in her application that "[p]oop will be scooped weekly in the winter and more often the rest of the year as day light allows." Three neighbors testified that the odor from the subject property has been really bad because the livestock area is too small for the keeping of a horse. However, two neighbors adjacent to the subject property testified they did not have issues with the horse being kept there, and did not find the odors offensive. The Commission found that animals generally do create nuisances such as noise and odors, but that such nuisances could be mitigated.

The Commission also discussed the livestock area reduction requested by the applicant. Testimony was received from neighbors opposing the conditional use permit application because the proposed

livestock area was too small, which increased the likelihood of nuisances from odor and flies. The applicant testified that the current livestock area was reduced because a tree that was next to the livestock area had fallen and damaged some of the fencing, but the intent was to have a livestock area of approximately 150 feet by 50 feet.

As to the applicant's plan to mitigate the potential manure/odor nuisance, the Commission also relied on testimony from the applicant that the horse would not reside on the subject property full time and would be boarded at another location, once it had been gelded. The applicant stated that she did not intend to receive the horse when she did, and had anticipated having more time to prepare the subject property for the temporary keeping of the horse. Despite the unanticipated delivery of the horse, she believes she has been able to mitigate the odor from the horse manure, and provided her plan for future mitigation. However, she does understand neighbors' concerns about the possible noise and odors, but notes that other animals (such as dogs) are even more noisy than a horse, and are more difficult to abate than what she has proposed to do with her horse.

To address the concern of the reduced livestock area and the potential nuisance caused by the accumulation of manure, the Commission discussed conditional approval subject to the following condition: during the months of March through October the applicant will remove the manure from the subject property four (4) times per month; and during the months of November through February the applicant will remove the manure from the subject property two (2) times per month.

2. The proposed use **is not** a public necessity **and is not** justified by the applicant and deemed to be of benefit to the public. Applicable commentary:

The applicant stated in her application that the proposed use is not a public necessity nor deemed to be of a benefit to the public. The Commission received no testimony disputing this assertion and therefore accepts it as presented.

3. The character of the proposed use, if developed according to the plan as submitted, **will** be in harmony with the area in which it is to be located. Applicable commentary:

The subject property is located in the Low Density Residential, R-2A, Zone, which has a purpose of providing land for lower density residential development with the keeping of livestock as a conditional use. The subject property is a .41 acre lot with a single family dwelling on it. Surrounding properties are mostly single family dwellings, with smaller parcels on the west side of the subject property and larger parcels on the north and east sides. There are two properties adjacent to the subject property that would meet or exceed the one-half (1/2) acre livestock area minimum. Properties immediately adjacent to the subject property do not have animal rights, but a property to the west at 714 Burrell Avenue was granted animal rights in 2015.

The applicant is requesting conditional use permit approval for animal rights so that she may keep a horse on the subject property for her granddaughter to train as part of a 4-H program. Although 4-H animals are exempt from the conditional use permit process per Lewiston City Code § 37-195, the

applicant is requesting approval because the subject property has too small a livestock area to qualify without a waiver, and her granddaughter is too young to participate in 4-H.

Written testimony was also received that indicated one of these neighboring properties would allow the applicant to use a portion of their backyard to keep the horse temporarily, so as to help provide a greater livestock area to the applicant on an occasional basis. The applicant testified that she appreciated the offer, but did not have intentions to use the neighboring property to keep the horse because it did not have sufficient fencing to keep the animal in. In the applicant's application she indicated that she was not aware of other properties that kept livestock in the immediate area, but that she was aware that other horses were kept in the vicinity, as occasionally her horse would whinny and another horse would respond in-kind. The Commission also noted that the City staff report, which is adopted herein by reference, included information regarding a Conditional Use Permit for a horse less than a block away from the subject property.

The Commission also relied on testimony from the applicant that the horse would not reside on the subject property full time and would mostly be on the subject property during the weekends when the applicant would be able to work on training with the horse. The horse would be boarded at another property outside of city limits.

Commissioner Battles stated that he believed the applicant's keeping of a horse would be in conformance with City of Lewiston standards, which favored animals in the Lewiston Orchards area in general, although not currently kept in accordance with City regulations. He also noted that had she owned the neighboring lot (instead of the subject property), her application would likely be approved without waiver or additional conditions. Commissioner Ball also stated that Lewiston City Code generally presumes that the keeping of any and all types of livestock with a conditional use permit is allowed in the R-2A zoning district. While there was testimony that due to the subject property's small lot size, animal rights should not be permitted, the Commission ultimately concluded that Lewiston City Code, and Idaho in general, favors animal rights and that the applicant's keeping of a horse would be harmonious with the area, so long as conditions are placed to protect the animal and neighboring property owners from potential nuisances.

4. The proposed use **will not** endanger the environment or the public health or safety. Applicable commentary:

The subject property is .41 acre parcel located on the 700 block of Burrell Avenue containing a single family dwelling. Surrounding properties are mostly single family dwellings with some duplexes mixed in. Centennial elementary school is approximately one block away to the east. Burrell Avenue is considered a collector street at this location. The neighborhood is a mix of larger, deep lots and some replatted areas (such as 7th Street E) with smaller lots. The subject property is located in the Comprehensive Plan's Future Land Use Designation of Neighborhood Residential, which is a low density residential place type. The subject property does have corral fencing and the applicant is in the process of repairing some existing chain link fencing that was damaged in a recent windstorm. The applicant also has a covered area to provide shelter for the horse and its food.

Written testimony was received from one neighbor that was concerned that the applicant's fencing was not secured in the ground, and that the horse has or could damage her fencing, where she

maintains a daycare area. That neighbor also indicated that there was no fencing separating 727 and 731 Burrell Avenue properties. While that neighbor also noted that the applicant is using livestock panels with a hot wire, she was concerned that the horse could still push and shift the panels. The applicant indicated that while the livestock panels were not secured to the ground, she did intend to do so once a fallen tree had been removed. Additionally, the applicant provided in her application that by keeping the horse in this area of the subject property, it will reduce dust and potential fire hazards, as she intends to keep the area watered and green, instead of letting it dry out and die as she normally would.

In addition to the conditional use permit, the applicant is requesting a waiver of Lewiston City Code § 37-197(1), which requires a livestock area of one-half (1/2) acre, or 21,780 square feet, so she can keep the horse in a livestock area of 7,869 square feet. Additionally, Assistant City Planner Hollingshead provided testimony related to the size and condition of the livestock area. The applicant also indicated that while there was grass for grazing within the livestock area, she intended to primarily use feed to sustain the horse. The Commission and City Attorney solicited testimony from the applicant regarding whether she considered the livestock area to be a “pasture” or “dry lot” in accordance with the definitions provided in Lewiston City Code § 37-3. The applicant indicated that her livestock area was more akin to a “dry lot.” This designation affects the maintenance standards for the livestock area pursuant to Lewiston City Code § 37-198.

The Commission found that the proposed use will not endanger the environment or the public health or safety. The subject property is located in the Neighborhood Residential Comprehensive Plan Future Land Use Designation, which is a low density, primarily residential place type. The Commission also relied on testimony from the applicant that the corral panels would be properly installed and staked to the ground once the applicant removed a tree that had fallen during the December 2025 windstorm.

The Commission also placed conditions regarding the removal of manure as detailed in Section XI.1. Commissioner Ball also noted that per the applicant’s testimony, she did not intend to keep the horse year-around during the “really wet” parts of the year, where water would be retained. Moreover, Commissioner Battles noted that the applicant will be required to remove the manure more frequently with the conditions noted above.

5. The proposed use **will** be in substantial conformance with the Comprehensive Plan. Applicable commentary:

The subject property is located in the Neighborhood Residential Comprehensive Plan Future Land Use Designation, which is a low density, primarily residential place type that includes a variety of housing types, including single-family detached, duplexes, cluster housing, and accessory dwelling units (ADUs). Building in the Neighborhood Residential area should respect the scale and character of the existing built environment regarding size, mass, and design.

The subject property is .41 acre parcel located on the 700 block of Burrell Avenue containing a single family dwelling. Surrounding properties are mostly single family dwellings with some duplexes mixed in. Centennial elementary school is approximately one block away to the east. Burrell Avenue is considered a collector street at this location. The neighborhood is a mix of larger,

deep lots and some replatted areas (such as 7th Street E) with smaller lots. There are two properties adjacent to the subject property that would meet or exceed the one-half (1/2) acre livestock area minimum. Properties immediately adjacent to the subject property do not have animal rights, but a property to the west at 714 Burrell Avenue was granted animal rights in 2015.

Goals and objectives of the Neighborhood Residential area also promotes the protection of ground water quality and improvement of stormwater quality in a manner that encourages the reduction of pollutants and potential contaminates. The applicant testified that to her knowledge, there were no stormwater drainage issues with the subject property, and it does not historically drain on neighboring properties. Additionally, she indicated that she did not intend to keep the horse on the property year around, or during the especially wet months, because the area would become too muddy.

Commissioner Cable noted that Objective LU.1.3 states that the Commission should balance land uses by establishing land use patterns that accommodate various land uses in proportion to the needs of the community.

Ultimately, the Commission determined that the conditional use permit would be in conformance with the Comprehensive Plan for the aforementioned reasons, and also adopted the findings within the City staff report by reference.

6. Pursuant to Idaho Code § 67-6512, the conditional use permit may be granted subject to the ability of political subdivisions, including school districts, to provide services for the proposed use. Applicable commentary:

From the Public Works Department, Engineering Division: No comments on the application.

The Commission received information from the Assistant City Planner that political subdivisions were solicited for comment, and no objections were received regarding the ability to provide services. The Commission noted that had other political subdivisions wanted to object, they would have provided comment to that effect. The Commission relied on the lack of testimony from political subdivisions to determine that the proposed use would not adversely impact the ability to provide services.

7. The proposed application **is** in conformance with Idaho Code § 67-6537, Use of Surface and Ground Water. Applicable commentary:

No testimony was received regarding the use of surface or ground water from political subdivisions that received notice, the public or the applicant. As a result, the Commission determined that there was no credible information to indicate that the proposed conditional use of the subject property would not be in conformance with Idaho Code § 67-6537.

Pursuant to Idaho Code § 67-6519(5)(c), if the decision on this application is to deny it and the applicant **could not** take actions to obtain approval, the explanation is: Not applicable.

Pursuant to Idaho Code § 67-6519(5)(c), if the decision on this application is to deny it and the applicant **could** take actions to obtain approval, such actions might include: Not applicable.

NOTICE TO APPLICANT AND AFFECTED PERSONS: An applicant or affected person may file a written request for reconsideration with the City Clerk to request that the Planning and Zoning Commission reconsider its final decision within fourteen (14) calendar days by 5:00 p.m. on the fourteenth (14th) day after the Planning and Zoning Commission has adopted this Reasoned Statement of Relevant Criteria and Standards. The written request for reconsideration shall include, at a minimum, the following information: (i) the name and address of the applicant or affected person requesting reconsideration, (ii) the specific deficiencies in the decision for which reconsideration is sought, and (iii) a description of any procedural injury or substantial harm to real property interest(s) suffered as a result of the decision, all in accordance with Lewiston City Code § 37-185(b)(1). A form may be obtained from the City Clerk. A request for reconsideration shall be a mandatory exhaustion of an applicant or affected person's administrative remedies prior to the filing of an appeal of the Planning and Zoning Commission's decision to the City Council.

Within fourteen (14) calendar days after the Planning and Zoning Commission has adopted its written decision on reconsideration, an applicant or affected person may file with the City Clerk a written notice of appeal to the City Council, in accordance with Lewiston City Code § 37-185(c). A form may be obtained from the City Clerk. The written notice of appeal shall include, at a minimum, the following information: (1) the name and address of the applicant or affected person, (ii) identification of the section(s) of the Lewiston City Code or applicable state or federal law(s) that has been incorrectly applied or violated and a description of how they have been incorrectly applied or violated, and (iii) a description of the real or potential prejudice to a substantial right of the applicant or affected person. The fee required by Lewiston City Code § 37-188 shall be deposited with the City Clerk within the fourteen (14)-day period. If an appeal is not filed and/or the fee required by Lewiston City Code § 37-188 is not deposited within the fourteen (14)-day period, then the decision of the Planning and Zoning Commission shall be final.

Every final decision rendered shall provide or be accompanied by notice to the applicant regarding the applicant's right to request a regulatory taking analysis pursuant to Idaho Code § 67-8003. The mailing of a signed and dated copy of this Reasoned Statement of Relevant Criteria and Standards by the City to the applicant shall constitute compliance with such notice requirement. An applicant denied an application or an affected person aggrieved by a final decision concerning matters identified in Idaho Code § 67-6521(1)(a) may, within twenty-eight (28) days after all remedies have been exhausted under local ordinance, as described above, seek judicial review under the procedures provided by Title 67, Chapter 52, Idaho Code.

Signatures on next page

By: _____
Signature of Planning and Zoning Commission Chair or Vice Chair or Acting Chair

Printed: _____

Date of Signature: _____

ATTEST: _____
Dawn Ortiz, Community Development Office Supervisor

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Lewiston Planning and Zoning Commission will conduct a public hearing at which you may provide comments/testimony on

Wednesday February 11, 2026 at 5:30 pm.

CITY OF LEWISTON – CITY HALL CONFERENCE ROOM
1134 “F” STREET LEWISTON, ID 83501

Seating will be available on a first-come, first-served basis.

This public hearing will be to consider the following proposal:

ZA-04-25, WIRELESS COMMUNICATION FACILITIES: The Commission will consider amendments to Lewiston City Code Chapter 37, Zoning Code, Article XVII, primarily regarding application procedures and review timelines, in accordance with House Bill No. 180 that amended Chapter 65, Title 67, of Idaho Code regarding telecommunication facilities and broadband infrastructure.

FOR FURTHER INFORMATION ABOUT THIS PROPOSAL contact Katie Hollingshead at the Community Development Department at khollingshead@cityoflewiston.org or (208) 746-1318, ext. 7261.

Submission of Written Comments/Testimony: To ensure that written comments can be forwarded to the Planning and Zoning Commission and relevant city staff prior to the hearing, please submit comments/testimony no later than **5:00 p.m. on Tuesday February 10, 2026** by emailing dortiz@cityoflewiston.org or mailing to Dawn Ortiz, Community Development Department, PO Box 617, Lewiston, ID 83501.

Comments/Testimony for public hearings may also be given in-person at the meeting, during the public hearing.

Public Hearing notice publication date: Sunday January 25, 2026.

The City of Lewiston is committed to providing access and reasonable accommodation in its services, programs, and activities and encourages qualified persons with disabilities to participate. If you anticipate needing any type of accommodation or have questions about the physical access provided at this meeting, please contact the meeting coordinator, Dawn Ortiz, at least forty-eight (48) hours in advance of the meeting at dortiz@cityoflewiston.org or (208) 746-1318, ext. 7265.

ARTICLE XVII. ~~TELE~~WIRELESS COMMUNICATION FACILITIES REGULATIONS

Sec. 37-215. Purpose.

The provisions of this article shall be known as the ~~telecommunications facilities and broadband infrastructure~~ ~~wireless communication facilities~~ regulations. It is the purpose of these provisions to delineate restrictions, development standards and siting criteria, and establish removal procedures in order to protect the city from the uncontrolled siting of ~~telecommunications facilities~~ ~~wireless communication facilities~~ in locations that have significant adverse effects and cause irreparable harm. It is further the purpose of these provisions:

- (1) To protect the community's visual quality and safety while facilitating the reasonable and balanced provision of wireless communication services. More specifically, it is the city's goal to minimize the visual impact of ~~telecommunication facilities~~ ~~wireless communication facilities~~ on the community, particularly in and near residential zones, the central business district, the Normal Hill heritage overlay zone, and historic districts;
- (2) To promote and protect the public health, safety and welfare, preserve the aesthetic character of the Lewiston community, and to reasonably regulate the development and operation of ~~telecommunications facilities~~ ~~wireless communication facilities~~ within the city to the extent permitted under state and federal law;
- (3) To minimize the impact of ~~telecommunication facilities~~ ~~wireless communication facilities~~ by establishing standards for siting design and screening;
- (4) To preserve the opportunity for continued and growing service from the wireless industry;
- (5) To accommodate the growing need and demand for wireless communication services;
- (6) To establish clear guidelines and standards and an orderly process for review intended to facilitate the deployment of ~~broadband infrastructure~~ ~~wireless transmission equipment~~, to provide advanced communication services to the city, its residents, businesses and community at large;
- (7) To minimize the number of new towers and encourage the collocation of antennas of more than one (1) wireless communication service provider on a single tower or ~~telecommunications WCF~~ support structure;
- (8) To ensure city zoning regulations are applied consistently with federal and state telecommunications laws, rules, regulations and controlling court decisions; and
- (9) To provide regulations that are specifically not intended to, and shall not be interpreted or applied to: (a) prohibit or effectively prohibit the provision of wireless services, (b) unreasonably discriminate among functionally equivalent service providers, or (c) regulate ~~telecommunications facilities~~ ~~wireless communication facilities~~ and ~~broadband infrastructure~~ ~~wireless transmission equipment~~ on the basis of the environmental effects of radio frequency emissions to the extent that such emissions comply with the standards established by the Federal Communications Commission.

(Ord. No. 4742, § 1, 8-19-19; Ord. No. 4790, § 1, 11-23-20)

Sec. 37-216. Definitions.

As used in this article, the following terms shall have the meanings set forth below:

Antenna is a telecommunications facilityWCF and means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that sends or receives digital signals, analog signals, radio frequencies or wireless communication signals.

Antenna array is a telecommunications facilityWCF and means a group of antenna elements, not including small cells, and associated mounting hardware, transmission lines, or other appurtenances that share a common attachment device for the sole purpose of transmitting or receiving wireless communication signals.

Applicant means any person engaged in the business of providing wireless communication services or the broadband wireless communication infrastructure required for wireless communication services and who submits an application.

Application means the process by which an applicant submits a written request on a form provided by the city and indicates a desire to be granted a permit pursuant to this article. A complete application means all written documentation, in whatever form or forum, made by an applicant to the city concerning the construction of telecommunication wireless communication facilities; the wireless services proposed to be provided; and any other matter pertaining to a proposed system or service, including, if applicable and without limitation, information related to a request for a conditional use permit or an exception to a standard.

Base station is a telecommunications facilityWCF and means a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this article or any equipment associated with a tower.

- (1) The term includes, but is not limited to, equipment associated with wireless communication services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul.
- (2) The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small cell networks).
- (3) The term includes any structure other than a tower that, at the time the relevant application is filed with the city under this article, supports or houses equipment described in this section that has been reviewed and approved under the applicable zoning or siting process, or under state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
- (4) The term does not include any structure that, at the time the relevant application is filed with the state or the city under this article, does not support or house equipment described in this section.

Breakpoint design technology means the ability of a tower to break at a specified point so that the entire tower does not collapse.

Broadband means wide bandwidth communication transmissions allowing high speed internet access with an ability to simultaneously transport multiple signals and traffic types at a minimum transmission speed of one hundred (100) megabits per second for downloads and twenty (20) megabits per second for uploads, or as may otherwise be defined in Idaho Code Section 40-517, as may be amended from time to time.

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Broadband Infrastructure means networks of deployed telecommunications equipment, conduit, and technologies necessary to provide broadband and other advanced telecommunications services to wholesalers or end users, including but not limited to private homes, businesses, commercial establishments, schools or public institutions, or as may otherwise be defined in Idaho Code Section 40-517, as may be amended from time to time.

Broadband Provider means any entity that:

(1) Provides broadband services, including but not limited to a telecommunications provider, cable service provider, broadband provider, cellular provider, political subdivision that provides broadband services, electric cooperative that provides broadband services, electric utility that provides broadband services, state government entity that provides broadband services, tribal government that provides broadband services, or internet service provider; or

(2) Builds broadband infrastructure, including but not limited to a port, nonprofit organization, or private-public partnership established for the purpose of expanding broadband in the state;

(3) or as may otherwise be defined in Idaho Code Section 40-517, as may be amended from time to time.

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Central business district means that area described as the central business district in section 37-145 of this Code.

City means City of Lewiston, Idaho.

Collocation means mounting or installing an antenna facility on a preexisting structure and/or modifying a structure for the purpose of mounting or installing an antenna facility on that structure. For purposes of an eligible facilities request, "collocation" means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

Commercial zone means the following zoning districts within the City of Lewiston: the local commercial (C-1) zone; the tourist commercial (C-2) zone; the community commercial (C-3) zone; the general commercial (C-4) zone; the central commercial (C-5) zone, except that portion of the C-5 zone located in the central business district; the regional commercial (C-6) zone; the light industrial (M-1) zone; the heavy industrial (M-2) zone; the planned unit development (PD) zone, where commercial uses are allowed; the port (P) zone; and the airport (A) zone.

Community development director means the director of the community development department of the City of Lewiston and his/her designee(s).

Distributed antenna system or *DAS* is a telecommunications facilityWCF and means a central network consisting of equipment that can both transmit and receive to support multiple antenna locations throughout the desired coverage area.

Eligible facilities request means any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:

- (1) Collocation of new transmission equipment;
- (2) Removal of transmission equipment; or
- (3) Replacement of transmission equipment.

Eligible support structure is a telecommunications facilityWCF and means any tower or base station as defined in this section; provided, that it is existing at the time the relevant application is filed with the city under this article.

Existing means a tower or base station that has been reviewed and approved under an applicable zoning or siting process, or under another state or local regulatory review process; provided, that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Historic district(s) means that historic district(s) described in chapter 19.5 of this Code.

Macro cell means a ~~telecommunications facility~~WCF and means a high-powered ~~telecommunications~~wireless ~~communication~~ facility that provides broad network coverage (typically one (1) mile or greater). Generally, macro cell antennas are mounted on ground-based towers, rooftops and other existing structures, at a height that provides a clear view over the surrounding buildings and terrain. Macro cells are typically capable of hosting multiple wireless service providers and accompanied by base stations.

Mixed use zone means the following zoning districts within the City of Lewiston: The Bryden Avenue special planning area A (BASPAA) zone; the North Lewiston mixed use development (MXD-NL) zone; the Normal Hill special planning area mixed use (NHMU) zone; and the planned unit development (PD) zone, where commercial and residential uses are allowed.

Normal Hill heritage overlay zone or NHHO means the NHHO zone described in chapter 37, article III of this Code.

~~*Operator* means any person who provides service over a wireless communication system and directly or through one (1) or more persons owns a controlling interest in such system, or who otherwise controls or is responsible for the operation of such a system.~~

Person means and includes any individual, corporation, limited liability company, partnership, association, joint stock company, trust, or any other legal entity, but not the city.

Protected areas means all real property located in residential zones, within two hundred (200) feet of a residential zone, the central business district, the Normal Hill heritage overlay zone, and all historic districts.

~~*Provider* means an operator, wireless infrastructure provider, or wireless services provider.~~

Residential zone means the following zoning districts within the City of Lewiston: The agricultural transitional (F-2) zone; the suburban residential (R-1) zone; the low density residential (R-2) zone; the low density residential (R-2A) zone; the medium density residential (R-3) zone; the higher density residential (R-4) zone; the Bryden Avenue special planning area B (BASPAB) zone; the Normal Hill north (NHN) zone; the Normal Hill south (NHS) zone; and the planned unit development (PUD) zone, where residential uses are allowed.

RF means radio frequency emissions at such levels as are determined by the FCC.

Rights-of-way means the same as defined or referenced in chapter 31 of this Code.

Site means, in relation to a tower that is not in the public right-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site. In relation to a support structure that is not in the public right-of-way other than a tower, site means an area in proximity to the structure and to other transmission equipment already deployed on the ground.

Small cells and small wireless facilities mean facilities that meet the following conditions:

- (1) The facilities:
 - a. Are mounted on structures fifty (50) feet or less in height, including their antennas;
 - b. Are mounted on structures no more than ten (10) percent taller than other adjacent structures; or
 - c. Do not extend existing structures on which they are located to a height of more than fifty (50) feet or by more than ten (10) percent, whichever is greater;
- (2) Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three (3) cubic feet in volume;
- (3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any preexisting associated equipment on the structure, is no more than twenty-eight (28) cubic feet in volume;

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- (4) The facilities do not require antenna structure registration under federal law;
 - (5) The facilities are not located on tribal land as defined under federal law; and
 - (6) The facilities do not result in human exposure to radio frequency radiation in excess of the applicable safety standards specified under federal law.

Stealth design means a design that minimizes the visual impact of ~~telecommunication~~~~wireless communication~~ facilities by camouflaging, disguising, screening or blending into the surrounding environment. Examples of stealth design include, but are not limited to, WCFs disguised as trees (monopines), flagpoles, utility and light poles, bell towers, clock towers, ball field lights, and architecturally screened roof-mounted antennas.

Substantial change means a modification that substantially changes the physical dimensions of a tower or base station, as provided in 47 CFR § 1.6100(b)(7), as amended from time to time.

Tower is a ~~telecommunications facility~~~~WCF~~ and means any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and associated facilities, including structures that are constructed for wireless communication services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and the associated site.

Tower height means the vertical distance measured from the base of the tower structure at grade to the highest point of the structure, including the antenna; or, where the tower is mounted on a rooftop, the vertical distance at grade from the base of the building to the highest point of the tower structure, including the antenna. A lightning rod, not to exceed ten (10) feet in height, shall not be included within tower height.

Telecommunications~~WCF~~ *support structure* means any tower, building, pole, water tank, water tower, or other structure to which an antenna is or antennas are attached.

Tele~~Wireless~~ *communication facilities*~~or WCF~~ means equipment for the transmission or reception of:

- (1) Radio frequency signals or other wireless communications; or
- (2) Other signals for communications purposes. Such equipment may consist of, for example, antennas, antenna arrays, base stations, distributed antenna systems, macro cells, small cells, towers, and transmission equipment; or
- (3) Broadband infrastructure.

~~Wireless infrastructure provider means a person, other than a wireless services provider, that builds or installs wireless communication transmission equipment, wireless facilities' utility poles, or wireless support structures.~~

~~Wireless services provider means a person that provides wireless services.~~

(Ord. No. 4742, § 1, 8-19-19; Ord. No. 4790, § 2, 11-23-20)

Sec. 37-217. Applicability.

- (a) The regulations set forth in this article shall apply to all ~~telecommunications facilities~~~~WCFs~~ located or proposed to be located within the city, except in public rights-of-way. ~~Tele~~~~Wireless~~ communication facilities regulations that apply to public rights-of-way within the City of Lewiston are addressed in chapter 31, article VI, of this Code.
- (b) Exempt facilities. The following are exempt from this article:
 - (1) FCC-licensed amateur (ham) radio facilities;

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- (2) Satellite earth stations, dishes and/or antennas used for private television reception not exceeding one (1) meter in diameter;
 - (3) A government-owned **telecommunications facility**WCF installed upon the declaration of a state of emergency by the federal, state, or local government, or a written determination of public necessity by the city; except that such facility must comply with all federal and state requirements. The **telecommunications facility**WCF shall be exempt from the provisions of this article for up to one (1) month after the duration of the state of emergency;
 - (4) A temporary **telecommunications facility**WCF installed for providing coverage of a special event, such as news coverage or a sporting event. At least five (5) business days' written notice shall be given to the community development department prior to installation of such temporary **telecommunications facility**WCF. Such temporary **telecommunication facilities**WCFs shall only be allowed two (2) weeks before and one (1) week after the special event; and
 - (5) Other temporary **telecommunications facility**WCFs installed for a period of up to ninety (90) days. At least five (5) business days' written notice shall be given to the community development department prior to the installation of such temporary **telecommunication facility**WCF. Additionally, such temporary **telecommunications facility**WCF shall comply with applicable setbacks and height requirements in residential zones, historic district(s), and the Normal Hill heritage overlay zone.

(Ord. No. 4742, § 1, 8-19-19)

Sec. 37-218. General requirements.

- (a) All **telecommunication facilities**WCFs shall comply with the following regulations:
 - (1) *Color.* All **telecommunication facilities**WCFs shall be placed and colored to blend into their surroundings. The use of grays, blues, greens, dark bronze, browns or other site specific colors may be appropriate; however, each case should be evaluated individually.
 - (2) *Lighting.* Security lighting for the equipment shelters or cabinets and other on the ground ancillary equipment is permitted, as long as it is appropriately down shielded to keep light within the boundaries of the site.
 - (3) *State or federal requirements.* Towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas.
 - (4) *Permits.* All **telecommunication facilities**WCFs shall be required to obtain permits in accordance with chapter 10 of this Code.
 - (5) *Certificate of appropriateness.* All **telecommunication facilities**WCFs located in historic district(s) or the Normal Hill heritage overlay zone shall be required to obtain a certificate of appropriateness from the historic preservation commission so that the **telecommunication facilities**WCF's stealth design blends into the historic district(s) or into the Normal Hill heritage overlay zone in accordance with code requirements for new construction. All **telecommunication facilities**WCFs that are proposed to be located in a historic district(s) or the Normal Hill heritage overlay zone shall be subject to the additional regulations governing those areas, including, but not limited to, securing a certificate of appropriateness when required. The processes for obtaining a certificate of appropriateness and conditional use permit shall proceed simultaneously.
 - (6) *Airport notice.* When seeking an administrative permit or approval pursuant to this article, except when making an eligible facilities request, the applicant shall notify the Lewiston-Nez Perce County Regional Airport. A copy of such notice shall be submitted with the filing of an application to the city

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and shall include a site plan and either an elevation drawing or a photo simulation of the proposed telecommunication facilityWCF indicating the proposed height of the telecommunication facilityWCF.

- (7) *Signs.* A telecommunication facilityWCF shall not bear any signage or advertisement other than signage required by law or expressly required by the city.
- (8) *Visual impact.* All telecommunication facilitiesWCFs, except for those located in the commercial and mixed use zones, shall be sited and designed to minimize adverse visual impacts on surrounding properties and the traveling public to the greatest extent reasonably possible, but without adverse impact to the proper functioning of the telecommunication facilityWCF. Such telecommunication facilityWCFs and equipment enclosures shall be integrated through location, design, and/or screening to blend in with or be hidden within the existing characteristics of the site.
- (9) *Use of stealth design.* Stealth design is required as provided in table 1 of section 37-222 of this Code, and concealment techniques must be appropriate given the proposed location, design, visual environment, and nearby uses, structures, and natural features. Stealth design shall be designed and constructed to substantially conform to surrounding building designs or natural settings, so as to be visually unobtrusive.
- (10) *Installation on city property.* Installation of any telecommunication facilityWCF on city-owned property requires a duly executed written agreement with the city prior to installation.
- (11) *Equipment mounting.* All equipment shall be mounted as close as possible to the structure, pole, or building so as to reduce the overall visual profile to the maximum extent feasible.
- (12) *Setbacks and fencing.*
 - a. If any setback prescribed within this chapter requires a greater distance than required in this article, the greater distance shall apply.
 - b. A sight-obscuring fence no less than six (6) feet in height from the finished grade shall be constructed around any macro cell tower, including around related support or guy anchors, and around its base station. Access shall only be through a locked gate.
- (13) *Collocation encouraged.* A written statement shall be provided demonstrating the applicant's willingness to allow transmission equipment owned by others to collocate with the proposed wireless communication facility whenever technically and economically feasible.
- (14) *Accessory uses.*
 - a. Accessory uses shall be limited to such structures and equipment that are necessary for transmission or reception functions, and shall not include broadcast studios, offices, vehicles or equipment storage, or other uses not essential to the transmission or reception functions.
 - b. All accessory buildings shall be constructed of building materials equal to or better than those of the primary building on the site, built to blend into the surrounding architectural style, and subject to applicable permits.
 - c. No equipment shall be stored or vehicle parked on the site of the tower, unless used in direct support of the antennas or the tower that is being repaired.
 - d. In protected areas, all accessory equipment located at the base of a WCF shall be located or placed (at the applicant's choice) in an existing building, underground, or in an equipment shelter or cabinet that is:
 1. Designed to blend in with existing surroundings, using architecturally compatible construction and colors; and

2. Located so as to be as unobtrusive as possible consistent with the proper functioning of the telecommunication facilityWCF.

(15) *Compliance report.* A written report shall be prepared by a licensed professional engineer or another person with demonstrated expertise in the field of RF engineering. Such report shall attest that the proposed telecommunication facilityWCF (whether it be new or replacement equipment) complies with the RF emissions limits established by the FCC. Such report shall be submitted with every permit application.

(b) Site design flexibility. Individual telecommunication facilityWCF sites vary in the location of adjacent buildings, existing trees, topography, and other local variables. By mandating certain design standards, there may result a project that could have been less intrusive if the location of the various elements of the project could have been placed in more appropriate locations within a given site. Therefore, the telecommunications facilityWCF and supporting equipment may be installed so as to best camouflage, disguise or conceal them, to make the telecommunication facilityWCF more closely compatible with and blend into the setting or host structure, upon approval from the community development director or the planning and zoning commission, as applicable.

(Ord. No. 4742, § 1, 8-19-19; Ord. No. 4790, § 3, 11-23-20)

Sec. 37-219. Building-mounted telecommunication facilitiesWCFs.

With the exception of commercial and mixed use zones:

- (1) All transmission equipment shall be concealed within existing architectural features to the maximum extent feasible. Any new architectural features proposed to conceal the transmission equipment shall be designed to mimic the existing underlying structure, shall be proportional to the existing underlying structure or conform to the underlying use, and shall use materials in similar quality, finish, color, and texture as the existing underlying structure.
- (2) All roof-mounted transmission equipment shall be set back from all roof edges to the maximum extent feasible consistent with the need for "line-of-sight" transmission and reception of signals.
- (3) Antenna arrays and supporting transmission equipment shall be installed so as to camouflage, disguise, or conceal them to make them closely compatible with and blend into the setting or host structure.

Towers located on roofs shall be subject to the provisions of section 37-222 of this Code rather than this section.

(Ord. No. 4742, § 1, 8-19-19)

Sec. 37-220. Antenna arrays.

(a) Unless a conditional use permit is obtained, antenna arrays shall not be permitted:

- (1) In residential zones;
- (2) On single-family houses and duplexes;
- (3) On signs;
- (4) In historic districts; or
- (5) In the Normal Hill heritage overlay zone.

The notice and procedural provisions of article IX of this chapter ("conditional uses") and the factors set forth in section 37-222(h) of this Code (substituting "antenna array" for "tower") shall apply to conditional use permits sought for the purpose of locating antenna arrays in one (1) of the preceding zones.

- (b) Subject to subsection (a) of this section, antenna arrays are permitted if located on an existing structure such that they do not extend more than fifteen (15) feet above said structure.

(Ord. No. 4742, § 1, 8-19-19)

Sec. 37-221. Small cells and distributed antenna systems.

- (a) Small cells are allowed in all zones, provided the applicant complies with all federal laws and state laws and requirements and structural industry standards.
- (b) Small cells are subject to approval via permits and administrative review unless their installation requires the construction of a pole that exceeds the maximum height limitation of the affected zoning district or building. If the height limitation is exceeded, an exception pursuant to section 37-223 of this article is required. An exception shall not be required for replacement utility support structures, so long as the height of a replacement structure, including antennas, is no greater than ten (10) feet taller than the existing utility support structure.
- (c) Distributed antenna systems are allowed in all zones, provided the applicant complies with all federal laws and state laws and requirements and structural industry standards.
- (d) Distributed antenna systems are subject to approval via permits and administrative review.

(Ord. No. 4742, § 1, 8-19-19; Ord. No. 4790, § 4, 11-23-20)

Sec. 37-222. Towers.

- (a) *Preferred macro cell tower locations.* The following siting priorities, for wireless infrastructure providers, ordered from most-preferred (1) to least-preferred (7), are as follows and require an alternative sites analysis, as set forth in subsection (e) of this section:
 - (1) City-owned property and facilities, except those in protected areas, and not including rights-of-way;
 - (2) Commercial zones, except the central business district;
 - (3) Mixed-use zones;
 - (4) Rights-of-way in nonresidential zones;
 - (5) City-owned property and facilities in protected areas, but not including rights-of-way;
 - (6) Other parcels of land in protected areas, but not including rights-of-way;
 - (7) Rights-of-way in protected areas.
- (b) *Towers in protected areas.* Towers in protected areas are permitted only upon the issuance of a conditional use permit, pursuant to the requirements set forth in subsection (h) of this section.
- (c) *Height restrictions and stealth design for towers.* Towers shall be subject to the height restrictions and stealth design requirements set forth below in Table 1:

Zone	Maximum Tower Height	Stealth Design ⁽¹⁾
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Residential Zones	35 feet	Required
Central Business District	45 feet	Required
Normal Hill Heritage Overlay	35 feet	Required
Historic District(s)	45 feet	Required
Commercial Zones	120 feet ^[2]	Optional
Mixed Use Zones	90 feet ^[2]	Optional
[1] Stealth design is subject to approval by the community development director, the planning and zoning commission, or historic preservation commission, as appropriate, based upon the general requirements in section 37-218 of this Code.		
[2] An additional thirty (30) feet in height is allowed if applicant uses stealth design.		

(d) *Setback requirements.*

- (1) A tower shall be set back from property lines as required by the zone in which the tower is located or a minimum of one (1) foot for every foot of tower height, whichever produces the greater setback, unless the tower is constructed with breakpoint design technology. If the tower has been constructed using breakpoint design technology, the minimum setback distance shall be equal to one hundred ten (110) percent of the distance from the top of the tower to the breakpoint level of the tower, or the applicable zone's minimum side setback requirements, whichever is greater. For example, on a one hundred-foot tall tower with a breakpoint design at eighty (80) feet, the minimum setback requirement would either be:
 - a. Twenty-two (22) feet (one hundred ten (110) percent of twenty (20) feet, the distance from the top of the tower to the breakpoint); or
 - b. The minimum side setback requirements for that zone, whichever is greater.

If an applicant proposes to use breakpoint design technology to reduce the required setback, the issuance of the building permit for the tower shall be conditioned, in part, upon approval of the tower design, including the breakpoint design, by a structural engineer licensed in Idaho.

- (2) All equipment shelters, cabinets, or other on the ground ancillary equipment shall meet the setback requirement of the zone in which it is located.

(e) *Alternative sites.*

- (1) *Analysis.*
 - a. For proposed towers, the applicant must address the city's preferred tower locations with a detailed explanation justifying why a site of higher priority was not selected. The city's tower location preferences must be addressed in a clear and complete written alternative sites analysis that shows at least three (3) higher ranked, alternative sites considered that are in the geographic range of the service coverage objectives of the applicant, together with a factually

detailed and meaningful comparative analysis between each alternative site and the proposed site that explains the substantive reasons why the applicant rejected each alternative site.

- b. A complete alternative sites analysis provided under this subsection may include less than three (3) alternative sites so long as the applicant provides a factually detailed written rationale for why it could not identify at least three (3) potentially available, higher ranked, alternative sites.
- c. For purposes of disqualifying potential collocations or alternative sites for the failure to meet the applicant's service coverage or capacity objectives, the applicant shall provide:
 - 1. A description of its objective, whether it be to address a deficiency in coverage, capacity, or frequency;
 - 2. Detailed maps or other exhibits with clear and concise RF data to illustrate that the objective is not met using the alternative (whether it be collocation or a more preferred location); and
 - 3. A description of why the alternative (collocation or a more preferred location) does not meet the objective.
- d. An applicant must apply for and be granted a conditional use permit in order to locate a tower at an alternative site. The notice and procedural provisions of article IX of this chapter ("Conditional Uses") and the factors set forth in subsection (h) of this section shall apply to conditional use permits sought for the purpose of locating a tower at an alternative site. For a sitting application that requires a conditional use permit, the governing board shall, within thirty (30) days, hold a public hearing to approve, approve with modification, or deny the application.

Commented [KH1]: Do I need to reference the Idaho Code that states this?

- (2) *Documentation.* The following materials shall be submitted with an alternative sites analysis:
 - a. A copy of the applicant's FCC license or registration.
 - b. A color visual analysis that includes to-scale visual simulations that show unobstructed before-and-after construction daytime and clear-weather views from at least four (4) angles, together with a map that shows the location of each view, including all equipment and ground wires.
 - c. A written analysis that explains how the proposed design complies with the applicable design standards under this article to the maximum extent feasible. A complete design justification must identify all applicable design standards under this article and provide a factually detailed reason why the proposed design either complies or cannot feasibly comply.
 - d. A noise study for the proposed tower and all associated equipment.
 - e. A scaled site plan clearly indicating the location, type, height, and width of the proposed tower; on-site improvements; land uses and zoning; adjacent land uses and zoning (including when adjacent to the county); separation distances from a tower to property lines; adjacent roadways; buildings on adjoining properties; photo simulations; a depiction of all proposed transmission equipment; proposed means of access; setbacks from property lines; elevation drawings or renderings of the proposed tower; identification and dimensions of property lines and lease lines; and any other structures, topography, parking, utility runs, or other information deemed by the community development department to be necessary to assess compliance with this article.
 - f. Legal description of the entire lot and/or leased site (if applicable) on which the tower is proposed to be located.
 - g. The setback distance between the proposed tower and the nearest residential unit and the nearest residentially zoned property.

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- h. The separation distance from other towers described in the inventory of existing sites submitted pursuant to this article shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
 - i. A landscape plan showing locations and types of trees and shrubs.
 - j. Location, type, height, and color of fencing and, if applicable, the method of camouflage and illumination.
 - k. A description of compliance with all applicable federal, state, and local laws.
 - l. Identification of cellular sites owned or operated by the applicant in the municipality.
 - m. A written statement of purpose, which shall minimally include:
 - 1. A description of the objective to be achieved;
 - 2. A to-scale map that identifies the proposed site location and the targeted service area to be benefited by the proposed project; and
 - 3. Full-color signal propagation maps with objective units of signal strength measurement that show the applicant's current service coverage levels from all adjacent sites without the proposed site, predicted service coverage levels from all adjacent sites with the proposed site, and predicted service coverage levels from the proposed site without all adjacent sites.

These materials shall be reviewed, signed, and sealed by an Idaho-licensed professional engineer.

- (f) *Separation requirements.* No macro cell tower may be constructed within one-half (½) mile of an existing macro cell tower unless an exception is obtained pursuant to section 37-223 of this Code or through a conditional use permit waiving or modifying this separation standard pursuant to article IX of this chapter ("conditional uses") and the applicant can demonstrate that:
 - (1) The existing macro cell tower is not available or feasible for collocation of an additional wireless communication facility;
 - (2) The location of the existing macro cell tower does not satisfy the operational requirements of the applicant; or
 - (3) Another departure from this standard is needed.

Factors to be considered in determining whether an applicant has made this demonstration include those listed in subsection (h) of this section.

- (g) *Inventory of existing sites.* Each applicant, at the time of its application for a macro cell, shall provide to the community development department an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the city or within one (1) mile of the border thereof, including specific information about the location, height, and design of each tower or antenna. The community development department may share such information with other applicants applying for administrative approvals or conditional use permits under this article or other organizations seeking to locate macro cells within the jurisdiction of the city; provided, however, that the community development department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- (h) *Conditional use permit for towers.* In applying for a conditional use permit for a tower, the notice and procedural provisions of article IX of this chapter ("conditional uses") shall apply, except that for a siting application that requires a conditional use permit, the governing board shall, within thirty (30) days, hold a public hearing to approve, approve with modification, or deny the application, pursuant to Idaho Code

[Section 67-6540\(a\)](#). Additionally, an applicant shall notify the Lewiston-Nez Perce County Regional Airport if a tower is proposed to be located within a three-mile radius of the center of the Lewiston-Nez Perce County Regional Airport. Further, the applicant shall address and the planning and zoning commission shall consider the following factors in determining whether to issue a conditional use permit for a tower, in lieu of the factors set forth in article IX of this chapter. The planning and zoning commission may waive or reduce the burden on the applicant of one (1) or more of these factors if the commission concludes that the purposes of this article are, nevertheless, served thereby.

- (1) Whether the proposed tower meets the other applicable provisions of this article.
- (2) Surrounding topography, trees, buildings and antennas that would impair RF signals.
- (3) Proximity of the tower to residential structures and residential zone boundaries and whether the tower impairs the view shed.
- (4) Proximity of the tower to structures in historic district(s) or in the Normal Hill heritage overlay zone so as to impair visual aesthetics.
- (5) Nature of uses on adjacent and nearby properties and compatibility with those uses.
- (6) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
- (7) Whether existing structures or towers are available in accordance with this section and located within the geographic area that meets the applicant's service coverage and structural requirements.
- (8) Whether existing towers or structures have sufficient structural strength to support applicant's proposed antenna and related equipment.
- (9) Whether the applicant demonstrates that there are other limiting factors not enumerated herein that render existing towers and structures unsuitable.
- (10) Whether the [telecommunication facility](#)WCF will be within the RF emission limits allowed by the FCC. The applicant shall provide documentation from an expert regarding this requirement. The FCC shall determine whether the applicant's proposed antenna would cause electromagnetic interference with antennas on existing towers or structures, or whether antennas on existing towers or structures would cause interference with the applicant's proposed antenna.
- (11) Whether the tower will comply with FAA requirements, rules, regulations, and orders.

(Ord. No. 4742, § 1, 8-19-19; Ord. No. 4790, § 5, 11-23-20)

Sec. 37-223. Exceptions to standards.

- (a) *Applicability.* No [telecommunication facility](#)WCF shall be developed or modified contrary to any applicable development standard set forth in this article unless an exception has been granted pursuant to this section or through a conditional use permit waiving or modifying a development standard pursuant to article IX of this chapter ("conditional uses").
- (b) *Procedure type.* An exception to an applicable [telecommunication facility](#)WCF development standard shall require approval by the planning and zoning commission in lieu of article XI of this chapter ("variances"); provided, however, the notice and procedural requirements in article XI of this chapter ("variances") shall apply to exceptions sought pursuant to this section.
- (c) *Submittal requirements.* An application for an exception to an applicable [telecommunication facility](#)WCF development standard shall include the following:
 - (1) Payment of the required fee, as adopted by resolution of the city council.

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- (2) A description of the requested exception.
 - (3) A written statement demonstrating how the exception would not contradict or conflict with the purposes of this article.
 - (4) A site plan that includes:
 - a. Description of the proposed **telecommunication facility's** design and dimensions, as it would appear with and without the exception.
 - b. Elevations showing all components of the **telecommunication facility**, as it would appear with and without the exception.
 - c. Color simulations of the **telecommunication facility** after construction demonstrating compatibility with the vicinity, as it would appear with and without the exception.
 - (5) An explanation that demonstrates the following:
 - a. The **telecommunication facility** development standard materially limits or inhibits the ability of the provider to compete in a fair and balanced legal and regulatory environment;
 - b. The problem can only be resolved by an exception to one (1) or more of the standards in this article;
 - c. The exception is narrowly tailored such that the **telecommunication facility** conforms to this article's standards to the greatest extent possible; and
 - d. The impact on development standards such as height, setbacks and landscape requirements.

(Ord. No. 4742, § 1, 8-19-19)

Sec. 37-224. Independent RF technical and other review.

- (a) Although the city intends for city staff to review applications to the extent feasible, the city may retain the services of an independent RF expert and other consultants of its choice to provide technical and other evaluations of permit applications for **telecommunication facilities**. The third party expert shall have recognized training or qualifications in their fields of radio frequency engineering or wireless communication facilities regulations.
- (b) The expert's review may include, but is not limited to:
 - (1) The accuracy and completeness of the items submitted with the application;
 - (2) The applicability of analysis and techniques and methodologies proposed by the applicant;
 - (3) The validity of conclusions reached by the applicant;
 - (4) Whether the proposed **telecommunication facility** complies with the applicable approval criteria set forth in this article; and
 - (5) An evaluation of the functionality of the equipment after addition or replacement.
- (c) The applicant shall pay the cost for any independent consultant fees through a deposit, estimated by the city, within ten (10) days of the city's request. When the city requests such payment, the application shall be deemed incomplete for purposes of application processing timelines until the deposit is received. In the event that such costs and fees do not exceed the deposit amount, the city shall refund any unused portion within thirty (30) days after the final permit is released or, if no final permit is released, within thirty (30) days after the city receives a written request from the applicant. If the costs and fees exceed the deposit amount, then the applicant shall pay the difference to the city before the permit is issued.

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(Ord. No. 4742, § 1, 8-19-19)

Sec. 37-225. Final inspection.

A certificate of completion shall only be granted upon satisfactory evidence that the [telecommunication facility](#)WCF was installed in substantial compliance with the approved plans and photo simulations. If it is found that the WCF installation does not substantially comply with the approved plans and photo simulations, the applicant shall make any and all such changes required to bring the WCF installation into compliance promptly and in any event prior to putting the [telecommunication facility](#)WCF in operation. If the [telecommunication facility](#)WCF is not brought into substantial compliance within thirty (30) days of notice of noncompliance by the city, the applicant shall remove the noncompliant components.

(Ord. No. 4742, § 1, 8-19-19)

Sec. 37-226. Compliance.

- (a) All [telecommunication facilities](#)WCFs shall comply with all standards and regulations of the FCC and FAA and any state or other federal government agency with the authority to regulate wireless communication facilities.
- (b) The site and [telecommunication facilities](#)WCFs, including all landscaping, fencing and related transmission equipment, shall be maintained at all times in a neat and clean manner and in accordance with all approved plans.
- (c) All graffiti on [telecommunication facilities](#)WCFs shall be removed at the sole expense of the permittee after notification by the city to the owner/operator of the [telecommunication facilities](#)WCF.
- (d) If any FCC or FAA, state, or other governmental license or any other governmental approval to provide communication services is revoked as to any site permitted or authorized by the city, the permittee shall inform the city of the revocation within thirty (30) days of receiving notice of such revocation and cease using the site. The owner of the [telecommunication facility](#)WCF shall also be subject to the removal provisions of section 37-227 of this Code.

(Ord. No. 4742, § 1, 8-19-19)

Sec. 37-227. Removal of abandoned towers and antennas.

- (a) Any [telecommunication facility](#)WCF that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such [telecommunication facility](#)WCF shall so notify the city in writing and remove the same within ninety (90) days of giving notice to the city of such abandonment. Failure to remove an abandoned [telecommunication facility](#)WCF within said ninety (90) days shall be grounds to remove the [telecommunication facility](#)WCF at the owner's expense, including all costs and attorneys' fees.
- (b) Additionally, the city may contact the owner of the [telecommunication facility](#)WCF to make a determination as to whether such [telecommunication facility](#)WCF is abandoned. If the owner of such [telecommunication facility](#)WCF does not respond within ninety (90) days, the city may remove the [telecommunication facility](#)WCF (including its foundation) at the owner's expense, including all costs and attorneys' fees associated with such removal. Such notice by the city shall be by certified mail, return receipt requested; or posted on or near the [telecommunication facility](#)WCF for fifteen (15) days; or both. Irrespective of any agreement between them to the contrary, the owner of such abandoned WCF and the owner of a building or land upon which the [telecommunication facility](#)WCF is located shall be jointly and severally responsible for the removal of abandoned [telecommunication facility](#)WCF.

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- (c) If there are two (2) or more users of a telecommunication facilityWCF, then this section shall not become effective until all users cease using the telecommunication facilityWCF.

(Ord. No. 4742, § 1, 8-19-19)

Sec. 37-228. Indemnification.

Each permit issued for a telecommunication facilityWCF located on city property shall be deemed to have as a condition of the permit a requirement that the applicant defend, indemnify, and hold harmless the city and its officers, agents, employees, volunteers, and contractors from any and all liability, damages, or charges (including attorneys' fees and expenses) arising out of claims, suits, demands, or causes of action as a result of the permit process, a granted permit, construction, location, performance, operation, maintenance, repair, installation, replacement, removal, or restoration of the telecommunication facilityWCF.

(Ord. No. 4742, § 1, 8-19-19)

Sec. 37-229. Eligible facilities modification request.

- (a) *Purpose.* This section implements Section 6409(a) of the Spectrum Act (47 U.S.C. Section 1455(a)), as it may be amended from time to time and as interpreted by the FCC in its Report and Order No. 14-153 and Declaratory Ruling and Third Report and Order released September 27, 2018 (FCC 18-133), and the Declaratory Ruling and Notice of Proposed Rulemaking released June 10, 2020 (FCC 20-75), which requires a state or local government to approve any eligible facilities request for a modification of an existing tower or base station that does not result in a substantial change to the physical dimensions of such tower or base station. Eligible facilities requests shall be governed solely by the provisions in this section and federal law.

- (b) *Application review.*

- (1) *Application.* The community development department shall prepare and make publicly available an application form, which form shall be used by the applicant. No information may be required from an applicant for any documentation intended to illustrate the need for any such wireless facilities or to justify the business decision to modify such wireless facilities.
- (2) *Review.* The community development department shall, within sixty (60) days of the date on which an applicant satisfies both of the following criteria, review and act upon the application, subject to the tolling provisions set forth below:
 - a. The applicant takes the first procedural step that the city requires as part of its Section 6409(a) regulatory review process, and, to the extent that the applicant has not done so as part of the first required procedural step;
 - b. The applicant submits written documentation that addresses the eligible facilities request criteria and indicates that the proposed modification will not cause a substantial change to an existing structure.

The community development department shall make its final decision to approve or deny the application, and advise the applicant in writing of its final decision.

- (3) *Tolling of the time frame for review.* The sixty-day review period may be tolled only by mutual agreement between the community development department and the applicant, or in cases where the community development department determines that the application is incomplete.
 - a. To toll the time frame for incompleteness, the community development department must provide written notice to the applicant within ~~twenty-one~~thirty (2130) business days of

Commented [JP2]: We need add preceding the following application type processing sections a section addressing the new I.C Secs. 67-6540(2-8). That's the part that really got my head spinning.

Commented [KH3R2]: I think we just add that section at the end. It applies if we did not make a decision in a timely manner, then it either goes for public hearing or is automatically approved.

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application submission, specifically delineating all missing documents or information required in the application.

- b. The time frame for review begins running again when the applicant makes a supplemental submission in response to the community development department's notice of incompleteness.
 - c. Following a supplemental submission, the community development department shall have ten (10) days to notify the applicant if the supplemental submission did not provide the information identified in the original notice delineating missing information. The time frame is tolled in the case of second or subsequent notices pursuant to the procedures identified in this section. Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.
- (4) *Failure to act.* In the event the community development department fails to approve or deny a complete application under this section within the time frame for review (accounting for any tolling), the request shall be deemed granted provided the applicant notifies the community development department in writing after the review period has expired.
- (c) *Change in federal law.* If federal law changes regarding an eligible facilities request, then this section shall be deemed amended to comply with federal law without further action by the city.

(Ord. No. 4742, § 1, 8-19-19; Ord. No. 4790, § 6, 11-23-20)

Sec. 37-230. Small wireless facilities—Collocation on existing structures.

- (a) *Purpose.* This section implements a shot clock that is contained in the FCC's Declaratory Ruling and Third Report and Order released September 27, 2018, regarding the collocation of small wireless facilities on existing structures.
- (b) *Application review.*
- (1) *Application.* The community development department shall prepare and make publicly available an application form, which form shall be used by the applicant.
 - (2) *Review.* Upon submission of an application for collocation of small wireless facilities on an existing structure pursuant to this section, the community development department shall, within sixty (60) days (subject to resetting of the shot clock and the tolling provisions set forth below), review such application, make its final decision to approve or deny the application, and advise the applicant in writing of its final decision.
 - (3) *Tolling of the time frame for review.* The sixty-day review period begins to run when the application is submitted. The community development department shall notify the applicant in writing within ten (10) days as to whether the application is incomplete. Upon resubmission by the applicant, a new sixty-day shot clock shall commence, and the community development department shall have ten (10) days to notify the applicant again of an incomplete application. The shot clock may be tolled only by mutual agreement between the community development department and the applicant, or in cases where the community development department determines upon a resubmission that the application is incomplete.
- a. The time frame is tolled in the case of subsequent notices pursuant to the procedures identified in this section. Subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.

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(Supp. No. 9)

(4) *Failure to act.* In the event the community development department fails to approve or deny a complete application under this section within the time frame for review (accounting for resetting the shot clock once or any tolling), the applicant may pursue judicial relief.

(c) *Change in federal law.* If federal law changes regarding the collocation of small wireless facilities on an existing structure, then this section shall be deemed amended to comply with federal law without further action by the city.

(Ord. No. 4742, § 1, 8-19-19; Ord. No. 4790, § 7, 11-23-20)

Sec. 37-231. Small wireless facilities—Deployment on a new structure.

(a) *Purpose.* This section implements a shot clock that is contained in the FCC's Declaratory Ruling and Third Report and Order released September 27, 2018, regarding the deployment of small wireless facilities on a new structure.

(b) *Application review.*

(1) *Application.* The community development department shall prepare and make publicly available an application form, which form shall be used by the applicant.

(2) *Review.* Upon submission of an application for the deployment of small wireless facilities on a new structure pursuant to this section, the community development department shall, within ninety (90) days (subject to resetting of the shot clock and the tolling provisions set forth below), review such application, make its final decision to approve or deny the application, and advise the applicant in writing of its final decision.

(3) *Tolling of the time frame for review.* The ninety-day review period begins to run when the application is submitted. The community development department shall notify the applicant in writing within ten (10) days as to whether the application is incomplete. Upon resubmission by the applicant, a new ninety-day shot clock shall commence, and the community development department shall have ten (10) days to notify the applicant again of an incomplete application. The shot clock may be tolled only by mutual agreement between the community development department and the applicant, or in cases where the community development department determines upon a resubmission that the application is incomplete.

a. The time frame is tolled in the case of subsequent notices pursuant to the procedures identified in this section. Subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.

(4) *Failure to act.* In the event the community development department fails to approve or deny a complete application under this section within the time frame for review (accounting for resetting the shot clock once or any tolling), the applicant may pursue judicial relief.

(c) *Change in federal law.* If federal law changes regarding the deployment of small wireless facilities on a new structure, then this section shall be deemed amended to comply with federal law without further action by the city.

(Ord. No. 4742, § 1, 8-19-19; Ord. No. 4790, § 8, 11-23-20)

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(Supp. No. 9)

Sec. 37-232. Collocation applications for other than small wireless facilities using an existing structure.

- (a) *Purpose.* This section implements, in part, 47 U.S.C. Section 332(c)(7) of the Federal Communications Act of 1934, as it may be amended from time to time and as interpreted by the FCC in its Report and Order No. 14-153 and Declaratory Ruling and Third Report and Order released September 27, 2018. The following time frames apply to applications for collocation for other than small wireless facilities using an existing structure.
- (b) *Application review.*
- (1) *Application.* The community development department shall prepare and make publicly available an application form, which shall be used by the applicant.
 - (2) *Review.* Upon submission of an application for a collocation for other than small wireless facilities using an existing structure pursuant to this section, the community development department shall, within ~~sixty-ninety~~ (6090) days (subject to the tolling provisions set forth below), review such application, make its final decision to approve or deny the application, and advise the applicant in writing of its final decision.
 - (3) *Tolling of the time frame for review.* The ~~sixty-ninety~~-day review period begins to run when the application is submitted, and may be tolled only by mutual agreement between the community development department and the applicant, or in cases where the community development department determines that the application is incomplete.
 - a. To toll the time frame for incompleteness, the community development department must provide written notice to the applicant within ~~twenty-one~~ (2130) ~~business~~ days of application submission, specifically delineating all missing documents or information required in the application.
 - b. The time frame for review begins running again when the applicant makes a supplemental submission in response to the community development department's notice of incompleteness.
 - c. Following a supplemental submission, the community development department shall notify the applicant within ten (10) days if the supplemental submission did not provide the information identified in the original notice delineating missing information. The time frame is tolled in the case of second or subsequent notices pursuant to the procedures identified in this section. Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.
 - (4) *Failure to act.* In the event the community development department fails to approve or deny a complete application under this section within the time frame for review (accounting for any tolling), the applicant may pursue judicial relief.
- (c) *Change in federal law.* If federal law changes regarding collocations for other than small wireless facilities using an existing structure, this section shall be deemed amended to comply with federal law without further action by the city.

(Ord. No. 4742, § 1, 8-19-19; Ord. No. 4790, § 9, 11-23-20)

Sec. 37-233. Application to deploy a facility other than a small wireless facility using a new structure (new macro cell tower applications).

- (a) *Purpose.* This section also implements, in part, 47 U.S.C. Section 332(c)(7) of the Federal Communications Act of 1934, as it may be amended from time to time and as interpreted by the FCC in its Report and Order No.

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(Supp. No. 9)

14-153 and Declaratory Ruling and Third Report and Order released September 27, 2018. The following time frames apply to applications to deploy a facility other than small wireless facilities using a new structure.

(b) *Application review.*

- (1) *Application.* The community development department shall prepare and make publicly available an application form, which shall be used by the applicant.
- (2) *Review.* The community development department shall approve or deny an application to deploy a facility other than a small wireless facility using a new structure, which does not require a conditional use permit or exception approval by the planning and zoning commission, and notify the applicant of such decision within one hundred fifty (150) days, subject to the tolling provisions set forth below. If an application requires a conditional use permit or exception approval by the planning and zoning commission in addition to the required permit from the community development department, then both the planning and zoning commission and the community development department shall approve or deny their respective applications within one hundred fifty (150) days, subject to the tolling provisions set forth below.
- (3) *Tolling of the time frame for review.* The one hundred fifty-day review period begins to run when the application is submitted, and may be tolled only by mutual agreement between the community development department and the applicant, or in cases where the community development department determines that the application is incomplete.
 - a. To toll the time frame for incompleteness, the community development department must provide written notice to the applicant within ~~twenty-one~~^{thirty} (21~~0~~³⁰) business days of submission of the application, specifically delineating all missing documents or information required in the application.
 - b. The time frame for review begins running again when the applicant makes a supplemental submission in response to the community development department's notice of incompleteness.
 - c. Following a supplemental submission, the community development department shall notify the applicant within ten (10) days if the supplemental submission did not provide the information identified in the original notice delineating missing information. The time frame is tolled in the case of second or subsequent notices pursuant to the procedures identified in this section. Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.
- (4) *Failure to act.* In the event that an application to deploy a facility other than a small wireless facility using a new structure is not approved or denied within the required time frame for review (accounting for any tolling), the applicant may pursue judicial relief.

- (c) *Change in federal law.* If federal law changes regarding the deployment of a facility other than a small wireless facility using a new structure, this section shall be deemed amended to comply with federal law without further action by the city.

(Ord. No. 4742, § 1, 8-19-19; Ord. No. 4790, § 10, 11-23-20)

Sec. 37-234. Application fees.

In connection with the filing of an application, the applicant shall pay all applicable application fees, as set by resolution of the city council.

(Ord. No. 4742, § 1, 8-19-19)

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(Supp. No. 9)

Sec. 37-235. Laws, rules, and regulations.

This article shall be subject to all applicable laws, rules, and regulations.

(Ord. No. 4742, § 1, 8-19-19)

Sec. 37-236. Severability.

The various parts, sentences, paragraphs, sections, and clauses of this article are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this article shall not be affected thereby.

(Ord. No. 4742, § 1, 8-19-19)



Idaho Statutes

Idaho Statutes are updated to the website July 1 following the legislative session.

TITLE 67

STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 65

LOCAL LAND USE PLANNING

67-6540. SITING OF TELECOMMUNICATIONS FACILITIES AND BROADBAND INFRASTRUCTURE. (1) A city, county, or highway district shall approve, approve with modification, or deny a siting application for a telecommunications or cable service facility, for telecommunications or cable equipment, or for broadband infrastructure within a reasonable period of time as defined in subsection (7)(b) of this section.

(2) If the city, county, or highway district fails to approve, approve with modification, or deny the application within a reasonable period of time as defined in subsection (7)(b) of this section:

(a) For a siting application that requires a special use permit as provided for in section 67-6512, Idaho Code, or a variance as provided for in section 67-6516, Idaho Code, the governing board shall, within thirty (30) days, hold a public hearing to approve, approve with modification, or deny the application; and

(b) For a siting application that complies with the jurisdiction's applicable zoning ordinances and does not require a special use permit as provided for in section 67-6512, Idaho Code, or a variance as provided for in section 67-6516, Idaho Code, the application shall be deemed approved.

(3) If an application is incomplete, the city, county, or highway district shall notify the applicant in writing within twenty-one (21) business days of submittal of the application. The notice shall inform the applicant of the specific requirements necessary to complete the application. The provisions under subsection (2) of this section shall apply only if the applicant satisfies the specific requirements of the notice and submits a complete application within five (5) business days of receipt of the notice. The tolling period for an application pursuant to this subsection shall be from the day after the date when the siting authority notifies the applicant the application is incomplete pursuant to this subsection until the date when the applicant submits all the documents and information identified to render the application complete.

(4) The reasonable period of time pursuant to subsection (7)(b) of this section may be extended by mutual agreement between the applicant and the city, county, or highway district.

(5) The automatic approval provisions of subsection (2) of this section shall only apply if:

(a) The applicant provided all public notices required under applicable law; and

(b) The applicant provided notice to the city, county, or highway district that the reasonable period of time expired and that the application is deemed approved pursuant to this section.

(6) Within thirty (30) days of the notice provided pursuant to subsection (5)(b) of this section, the city, county, or highway district may seek judicial review regarding the application pursuant to the provisions of this section.

(7) As used in this section, the following terms have the following meanings:

(a) "Broadband infrastructure" has the same meaning as that term is defined in section 40-517, Idaho Code.

(b) "Reasonable period of time" for an application means:

(i) For broadband infrastructure permits, sixty (60) days;

(ii) To collocate a small wireless facility on existing equipment, sixty (60) days;

(iii) To deploy a small wireless facility on new equipment, ninety (90) days;

(iv) To collocate a facility other than a small wireless facility on existing equipment, ninety (90) days; and

(v) To deploy a facility other than a small wireless facility on new equipment, one hundred fifty (150) days.

(8) This section shall not apply to any request for modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station and that involves:

(a) Collocation of new transmission equipment;

(b) Removal of transmission equipment; or

(c) Replacement of transmission equipment.

(9) Except as provided in subsection (1) of this section, nothing in this section limits or affects the authority of a city, county, or highway district over decisions regarding the placement, construction, and modification of a wireless telecommunications facility.

History:

[67-6540, added 2025, ch. 325, sec. 2, p. 1342.]

How current is this law?



Idaho Statutes

Idaho Statutes are updated to the website July 1 following the legislative session.

TITLE 40
HIGHWAYS AND BRIDGES
CHAPTER 5

IDAHO TRANSPORTATION DEPARTMENT

40-517. DEFINITIONS. As used in sections 40-515 through 40-520, Idaho Code:

(1) "Broadband" means wide bandwidth communication transmissions allowing high speed internet access with an ability to simultaneously transport multiple signals and traffic types at a minimum transmission speed of one hundred (100) megabits per second for downloads and twenty (20) megabits per second for uploads.

(2) "Broadband infrastructure" means networks of deployed telecommunications equipment, conduit, and technologies necessary to provide broadband and other advanced telecommunications services to wholesalers or end users, including but not limited to private homes, businesses, commercial establishments, schools, or public institutions.

(3) "Broadband provider" means any entity that:

(a) Provides broadband services, including but not limited to a telecommunications provider, cable service provider, broadband provider, cellular provider, political subdivision that provides broadband services, electric cooperative that provides broadband services, electric utility that provides broadband services, state government entity that provides broadband services, tribal government that provides broadband services, or internet service provider; or

(b) Builds broadband infrastructure, including but not limited to a port, nonprofit organization, or private-public partnership established for the purpose of expanding broadband in the state.

(4) "Department" means the Idaho transportation department.

(5) "Dig Once Policy" means a policy or practice that minimizes the number and scale of excavations or construction and costs when installing broadband infrastructure in highway rights-of-way.

(6) "Highway" means a road that is part of the state highway system.

(7) "Longitudinal access" means access to or use of any part of a right-of-way of a highway that extends generally parallel to the right-of-way for a total of one hundred (100) or more linear feet.

History:

[40-517, added 2022, ch. 208, sec. 3, p. 671.]

How current is this law?



Memo

To: Planning and Zoning Commission
From: Katie Hollingshead, Assistant Planner
Date: January 21, 2026
Re: ZNC24-5

The Planning and Zoning Commission initiated an upzone action in December of 2024 to upzone low density residential properties (currently R2) to higher density residential, R4, and medium density residential, R3. Staff has been creating maps and collecting legal descriptions for all the properties in these areas. In creating these maps, Staff has also identified several areas of mixed zone parcels or parcels that contain residential uses but that are identified in the Comprehensive Plan Future Land Use Map as having a future land use of commercial. Staff is now ready for the Commission to review these maps and provide input prior to the mailing campaign and public outreach begins.

Staff has broken this project into four areas;

- (1) East side of 21st Street, between East Main and Nez Perce Drive
- (2) West side of 21st Street, between 19th Ave and 11th Ave
- (3) East side of Thain, between Stewart Avenue and Ripon Avenue
- (4) West side of Thain, between Warner Avenue and Ripon Avenue

Staff will be presenting areas 1 and 2 at the January 28 2026 meeting so that the Commission can discuss and provide feedback.



Memo

To: Planning and Zoning Commission
From: Katie Hollingshead, Assistant Planner
Date: December 3, 2024
Re: ZNC24-5

The City Council adopted Envision Lewiston 2044 Comprehensive Plan in July 2024. As part of the plan, an Action Plan was developed. In September 2024, a work plan committee was formed with 2 City Councilors, 3 Planning & Zoning Commissioners and City Staff. Since that time, a third City Council member has joined the committee. The work plan committee has met 5 times as of the writing of this memo and has directed some of its efforts to concentrate on Housing and Land Use. Specifically, the committee is interested in the following goals, objectives and actions from the Action Plan.

LU 1.1 Optimize zoning alignments. Align incompatible zoning and land uses and development regulations with the Future Land Use Map to establish consistent and compatible growth patterns.

LU 1.1.1 Conduct a comprehensive review of the Land Use Code to identify and modify zoning regulations that do not align with the desired development outlined in the future land use map and land use category designations.

LU 2 Provide housing choices throughout Lewiston

H 2.2 Reduce barriers to missing middle housing typologies. Study and reduce barriers to allow for additional housing typologies that are not currently being built.

H 2.1.1 Conduct a review of the Land Use Code and implement modifications to facilitate diverse, scale-appropriate housing options across Lewiston. H 2.2 Reduce barriers to missing middle housing typologies. Study and reduce or eliminate barriers to allow for traditional housing typologies that are not currently being built.

One of the actions the committee has been exploring is the upzone of low density residential properties that are adjacent to the 21st Street and Thain Road commercial corridor from low density residential to medium and high density residential. This change creates a buffer zone from commercial uses to the low density residential uses in order to create a transitional zoning and land use environment, and increases the ability of those properties adjacent to commercial uses to add residential units. This change will also increase the amount of property in the city that is zoned high density or medium density residential, which are zoning types that allow multifamily (more than 3 dwelling units) by right.

Memo



In addition, staff has received several calls regarding properties in the Sunset Park area regarding use of property and has found that a majority of properties in that area do not meet the dimensional or square foot standards of the R2 zone. Staff brought these concerns to the committee and properties in this area are also included in this upzone proposal. The committee agreed that it would be appropriate to be proactive about the matter and to pursue resolution of the matter via upzoning the area from R2 to R3. This effort would be similar to the upzone the city initiated and completed for properties zoned F2 in the East Orchards in 2021, the results of which have been favorable.

Staff has identified approximately 850 properties in the two areas discussed above that would be affected by these upzones. If the Commission chooses to initiate these upzone efforts, a mailing campaign would begin to notify the property owners and allow them time to provide input and opt out of the upzone if they so choose. Following the mailing campaign and related input and opt-out results, a public hearing would be scheduled for the Commission and then the Commission's recommendation would be forwarded to the City Council for their consideration for adoption or approval.

MAP 1 EAST (R2 to R3)

Legals by individual properties or by subdivisions. Generally, centerline of 8th Ave north to C4 Zone along East Main Street.

MAP 2 EAST (R2 TO R3)

Legals by individual properties or subdivisions. Generally, centerline of 8th Ave south to 11th Ave, and 29th Street west to C6 Zone along 21st Street.

MAP 3 EAST (R2 to C6)

11th Avenue south to 16th Avenue and 21st Street east to 23rd Street.

2135 14th Ave – SFD

1414 23rd Street – SFD (rental)

2128 12th Ave – SFD

2127 12th Ave – SFD (rental)

2129 12th Ave – SFD

2206 11th Ave – Emmanuel Baptist Church

2200 11th Ave – Emmanuel Baptist Church

2212 11th Ave – Emmanuel Baptist Church

1120 23rd St – Emmanuel Baptist Church

2211 12th Ave – Emmanuel Baptist Church

Centerline of 23rd Street to the parcel containing 2419 16th Ave

2502 16th Ave – Pentecostal Church of God (and parcel containing associated parking lot)

2502 17th Ave – SFD

MAP 3 EAST (R2 to C4)

Parking lot associated with 2604 16th Ave (State of Idaho building)

MAP 3 EAST (R2 to R4)

Centerline of 11th Ave south to the alley south of 14th Ave and from the centerline of 23rd Street east to the centerline of 24th Street.

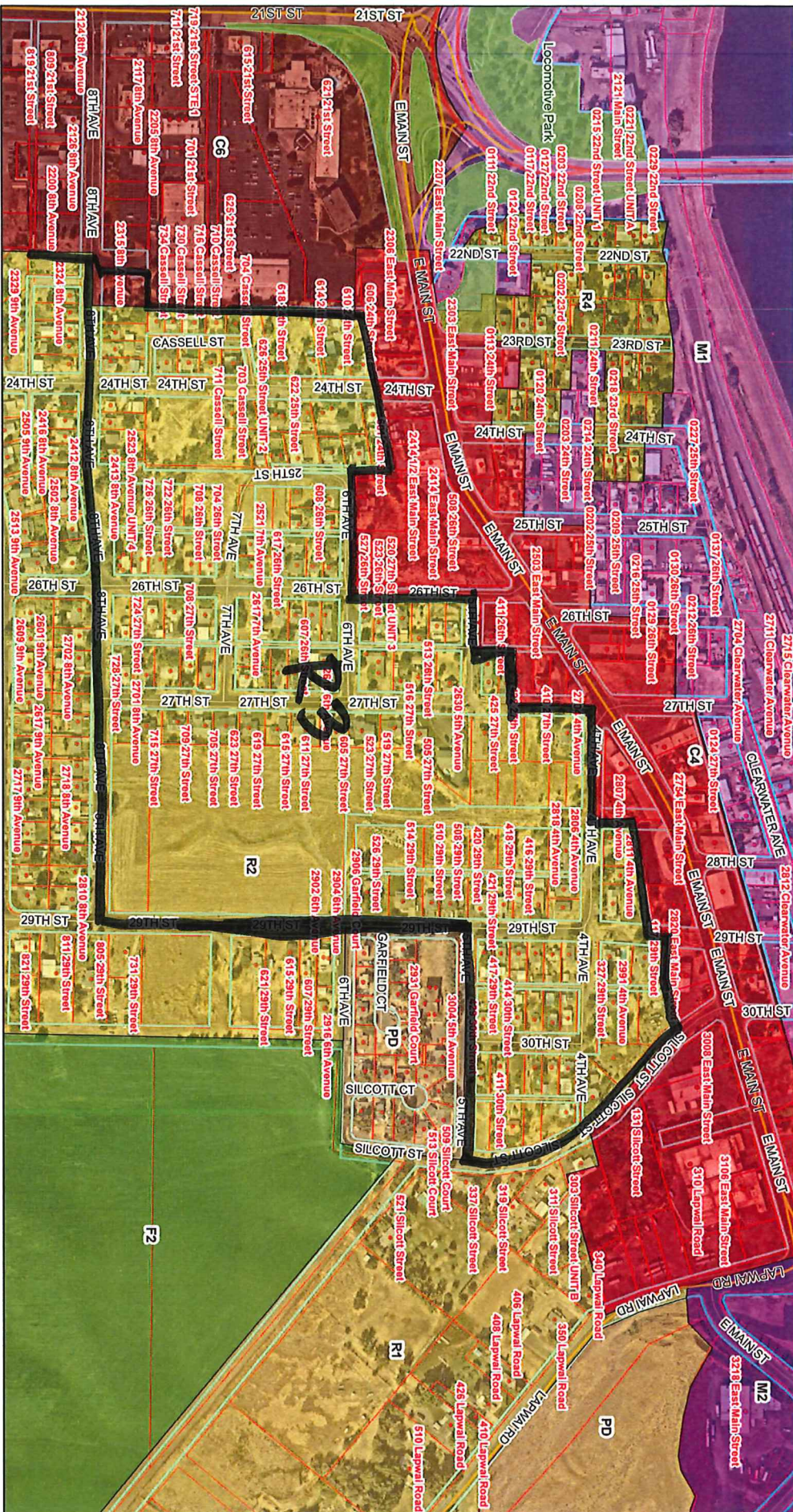
MAP 3 EAST (R2 TO R3)

Centerline of 11th Avenue south to 16th Avenue and 24th Street east to 29th Street, except the C6 zoned area, and including the East Sunset Condo's.

R2 to R3

City of Lewiston

(1) Map 1 East

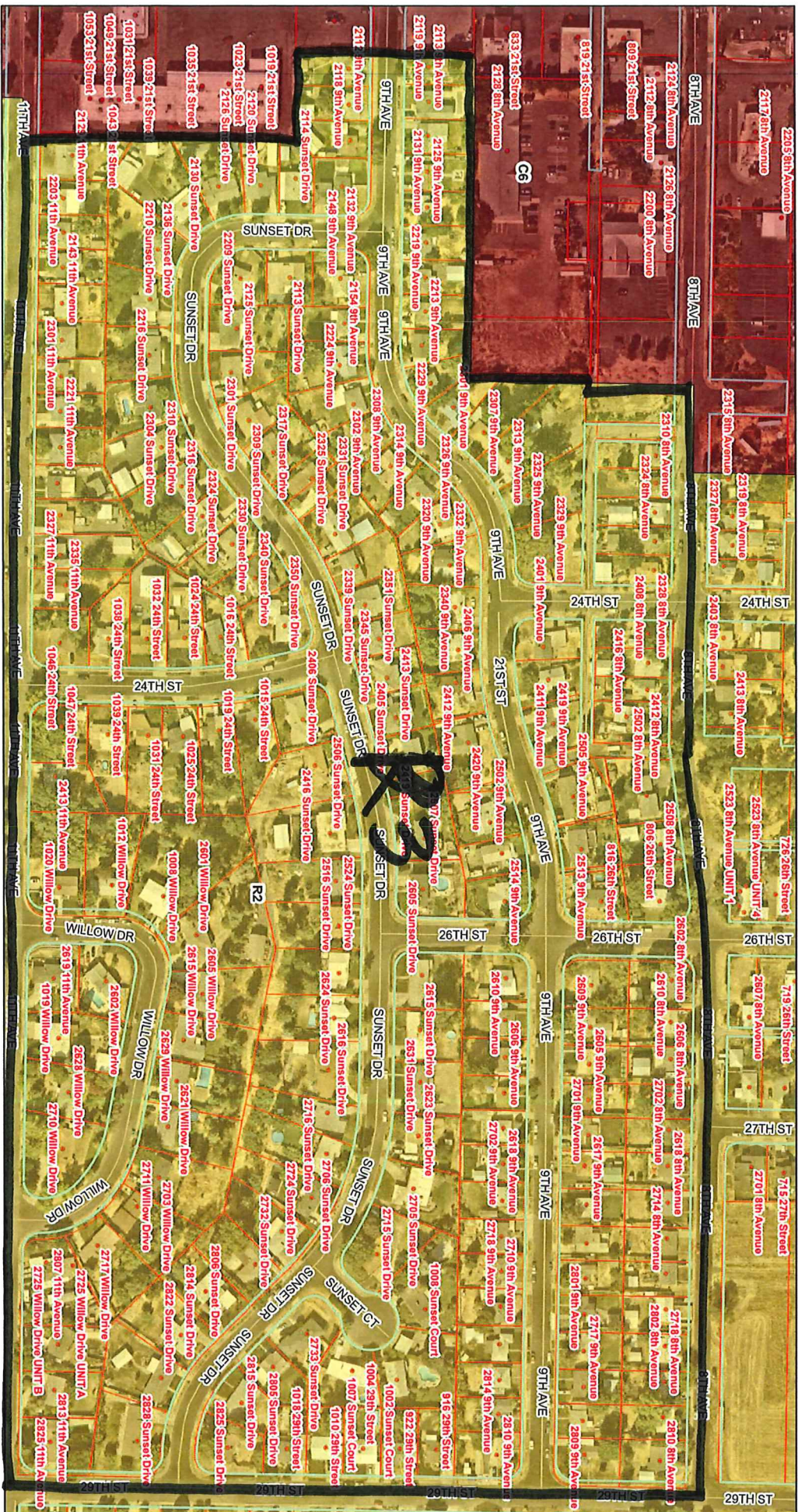


- 1/21/2026, 1:17:46 PM
- Primary Street Reference
- URBAN PRINCIPAL ARTERIAL
 - URBAN MINOR ARTERIAL
 - City Limit
 - City Parks
- cd_Zoning
- PD - PLANNED UNIT DEVELOPMENT
 - F2 - AGRICULTURAL TRANSITION
 - R1 - SUBURBAN RESIDENTIAL
 - R2 - LOW DENSITY RESIDENTIAL
 - R4 - HIGHER DENSITY RESIDENTIAL
 - C4 - GENERAL COMMERCIAL
 - C6 - REGIONAL COMMERCIAL
 - M1 - LIGHT INDUSTRIAL
 - M2 - HEAVY INDUSTRIAL
- ROW
 - Street
 - Address
 - adSites
- 0 230 460 920 ft
- 0 65 130 260 m
- 1:3.334
- Microsoft, Vector

R2 to R3

City of Lewiston

(1) Map 2 East



1/21/2026, 12:49:33 PM

1:2,000

0 137.5 275 550 ft
0 40 80 160 m

Microsoft, Vantor

cd_Zoning R2 - LOW DENSITY RESIDENTIAL

City Limit

C6 - REGIONAL COMMERCIAL

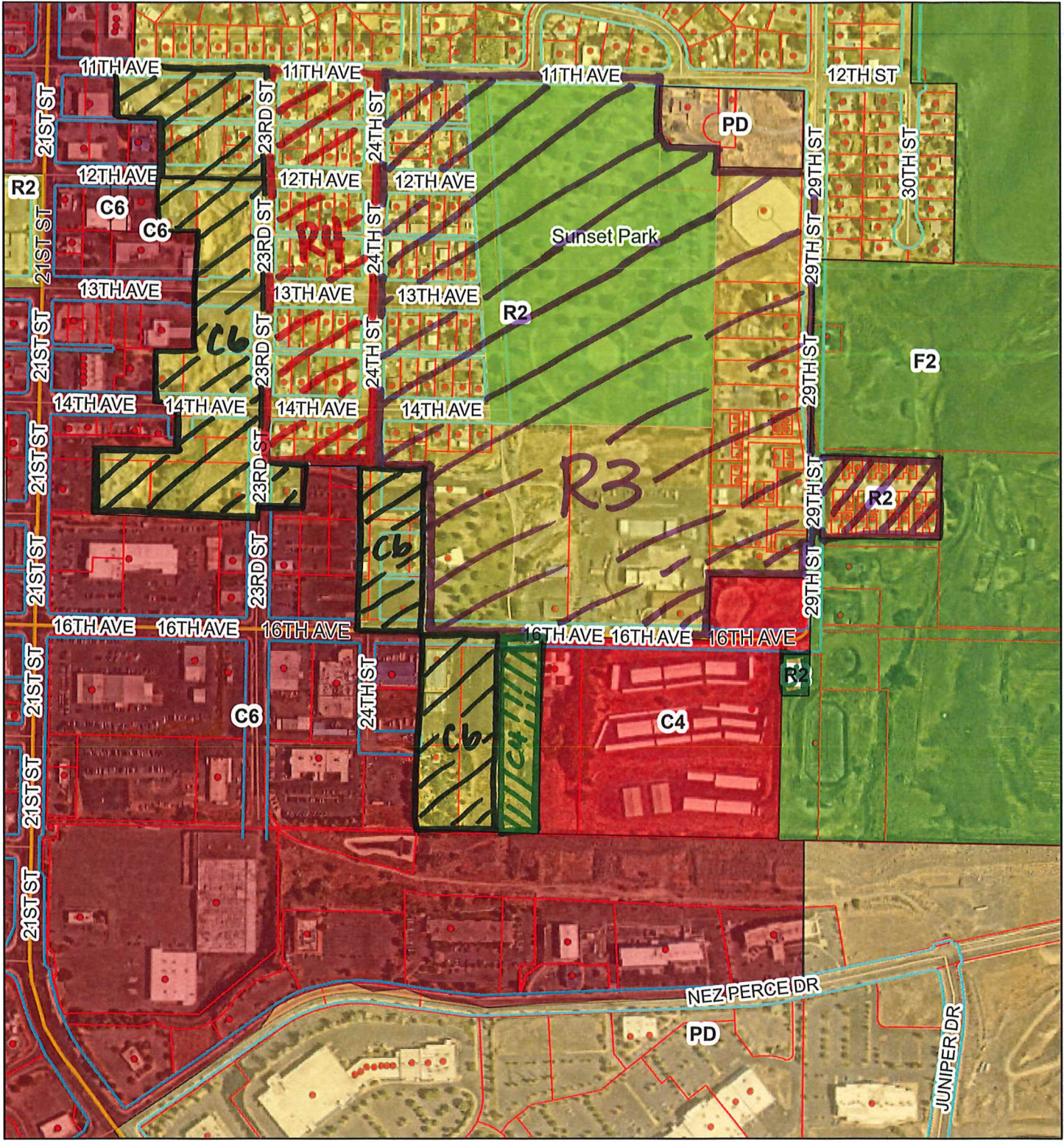
ROW

Address

adSites

Street

City of Lewiston (1) Map 3 East



12/5/2025, 2:27:13 PM

<p>Primary Street Reference</p> <ul style="list-style-type: none"> URBAN MINOR ARTERIAL City Limit City Parks <p>cd_Zoning</p> <ul style="list-style-type: none"> PD - PLANNED UNIT DEVELOPMENT F2 - AGRICULTURAL TRANSITION R2 - LOW DENSITY RESIDENTIAL 	<ul style="list-style-type: none"> C4 - GENERAL COMMERCIAL C6 - REGIONAL COMMERCIAL ROW Street Address adSites Imagery2025 Red: Band_1 	<ul style="list-style-type: none"> Green: Band_2 Blue: Band_3 World Imagery Low Resolution 15m Imagery High Resolution 60cm Imagery High Resolution 30cm Imagery Citations 1.2m Resolution Metadata 	<div style="text-align: center;"> </div> <div style="text-align: center;"> <p>0 265 530 1,060 ft</p> <p>0 80 160 320 m</p> </div> <p style="text-align: right;">1:5,822</p>
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MAP 1 WEST (R2 TO C6)

Centerline of 12th Avenue to Centerline of 16th Avenue, Centerline of 21st Street west to centerline of 20th Street.

2020 12th Ave – Salvation Army

1220 21st Street – Salvation Army

1309 20th Street – Apartments

2001 14th Street – SFD

1405 20th Street -SFD

1417 20th Street – SFD

2007 15th Avenue – SFD

2013 15th Avenue – SFD

2017 15th Avenue – SFD

2004 15th Avenue -SFD

2010 15th Avenue -SFD

2010 16th Avenue -SFD (small separate R2 parcel within C6 existing)

MAP 2 WEST (R2 TO R4)

Centerline of 20th Street west to centerline of 19th Street and Centerline of 11th Avenue south to centerline of 17th Avenue.

MAP 3 WEST (R2 TO R3)

Centerline of 19th Street west to centerline of 17th Street and centerline of 11th Avenue south to centerline of 18th Avenue.

MAP 3 WEST (R3 to C6)

Centerline of 21st Street west to centerline of 17th Street and centerline of 18th Avenue south to centerline of 19th Avenue.

1816 18th Avenue (Buildings A, B, C, D, E and 2 unaddressed parcels) – Lewis Clark Early Childhood Development

1720 18th Avenue – Riverside Recovery (currently operating under CUP)

1708 18th Avenue – Riverside Recovery (currently operating under CUP)

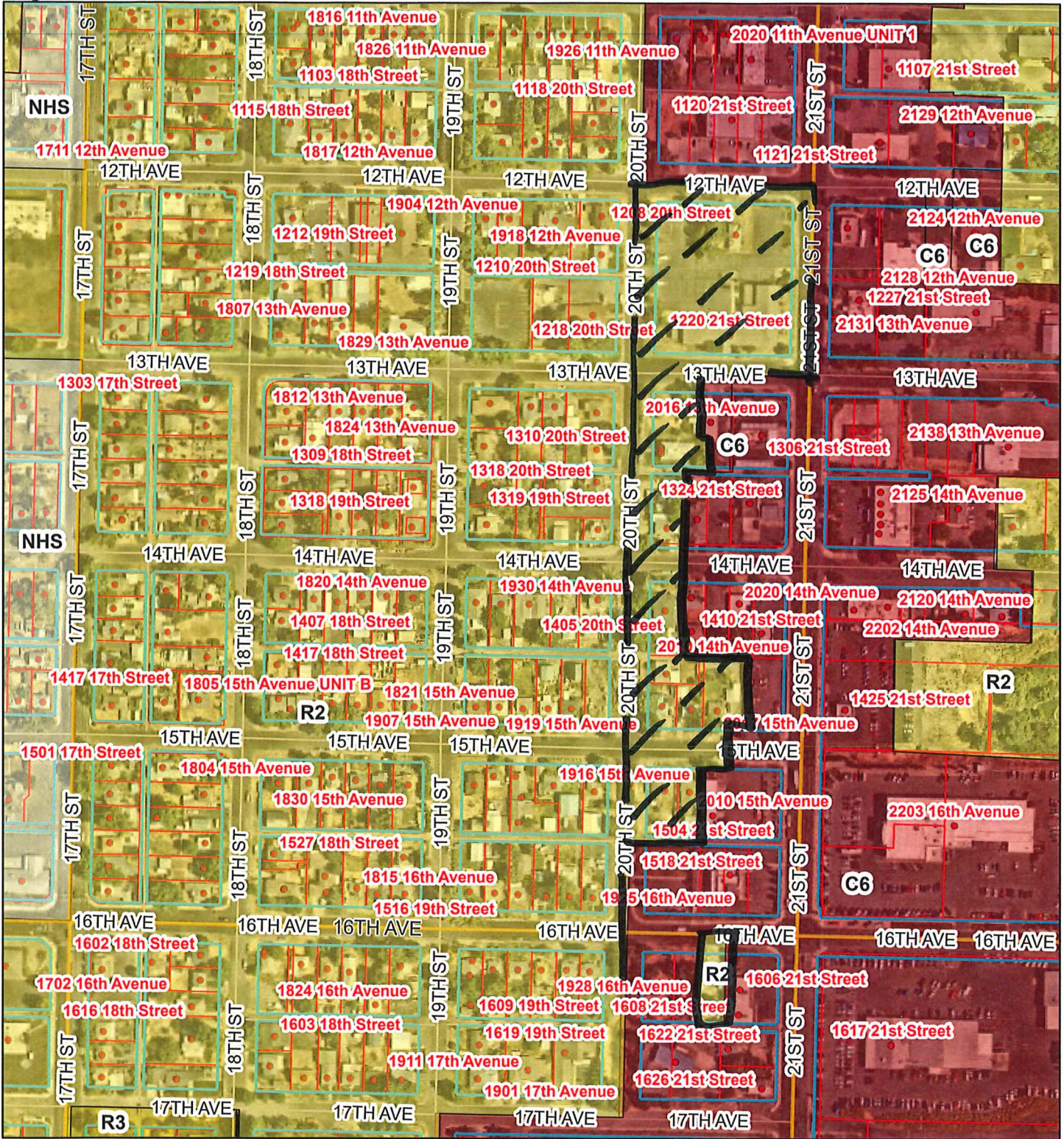
1702 18th Avenue – SFD

1821 17th Street – SFD

1827 17th Street - SFD

R2 to C6

City of Lewiston (2) Map I West

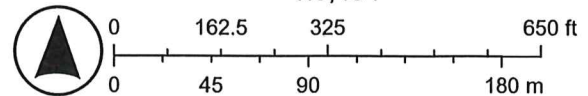


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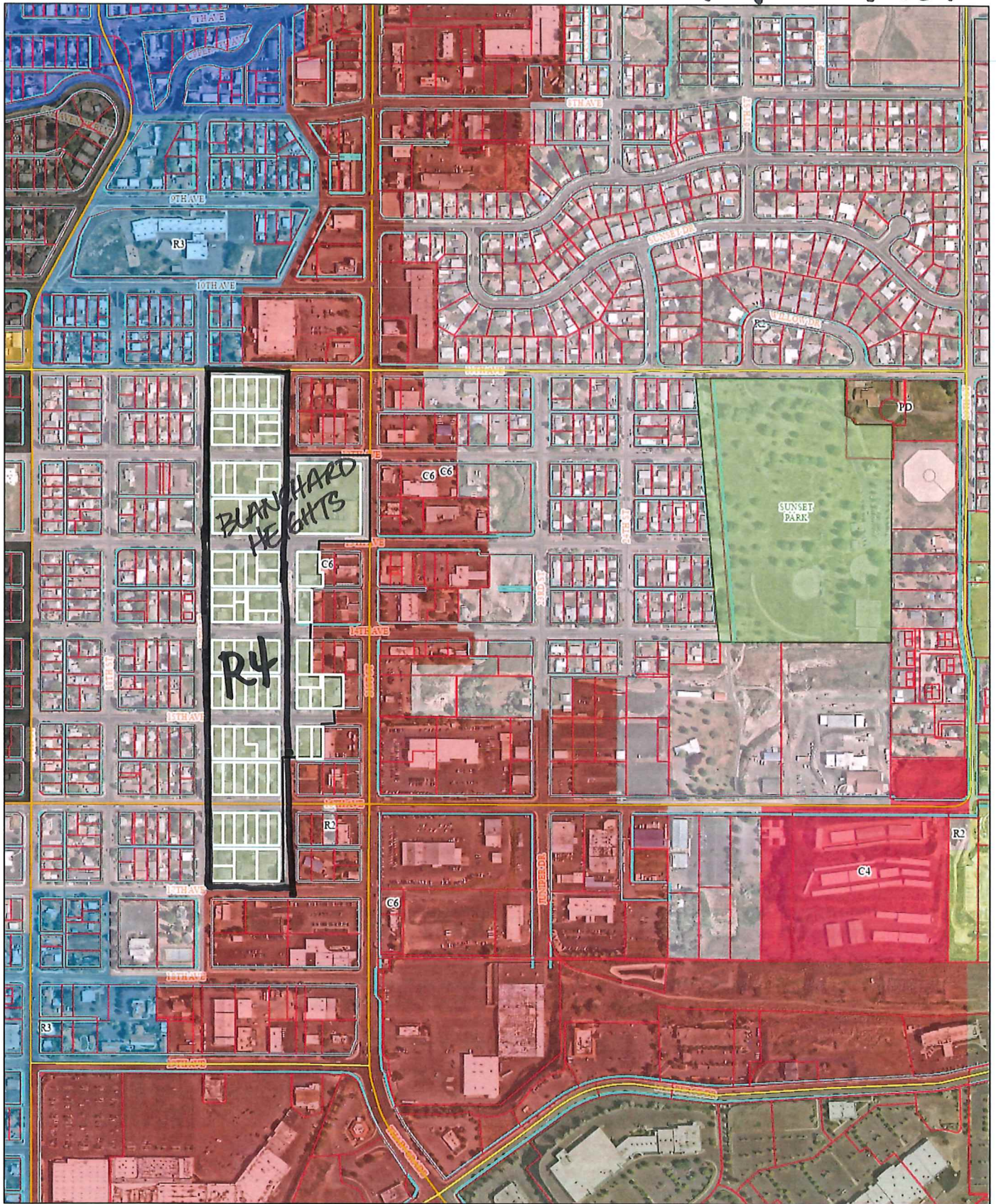
- Primary Street Reference
- URBAN MINOR ARTERIAL
- City Limit
- cd_Zoning
- R2 - LOW DENSITY RESIDENTIAL
- R3 - MEDIUM DENSITY RESIDENTIAL
- C6 - REGIONAL COMMERCIAL
- NHS - ZONE NHSZ = NORMAL HILL SOUTH ZONE
- ROW
- Street
- Address

- adSites
- Imagery2025
- Red: Band_1
- Green: Band_2
- Blue: Band_3
- World Imagery
- Low Resolution 15m Imagery
- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations
- 1.2m Resolution Metadata



Vantor

Legals inf file.



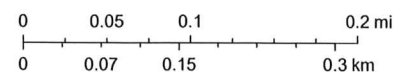
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Zoning

- C1 - LOCAL COMMERCIAL
- C4 - GENERAL COMMERCIAL
- C6 - REGIONAL COMMERCIAL
- F2 - AGRICULTURAL TRANSITION
- NHN - ZONE NHNZB = NORMAL HILL NORTH ZONE B

- NHS - ZONE NHSZ = NORMAL HILL SOUTH ZONE
- PD - PLANNED UNIT DEVELOPMENT
- R2 - LOW DENSITY RESIDENTIAL
- R3 - MEDIUM DENSITY RESIDENTIAL
- R4 - HIGHER DENSITY RESIDENTIAL
- Street

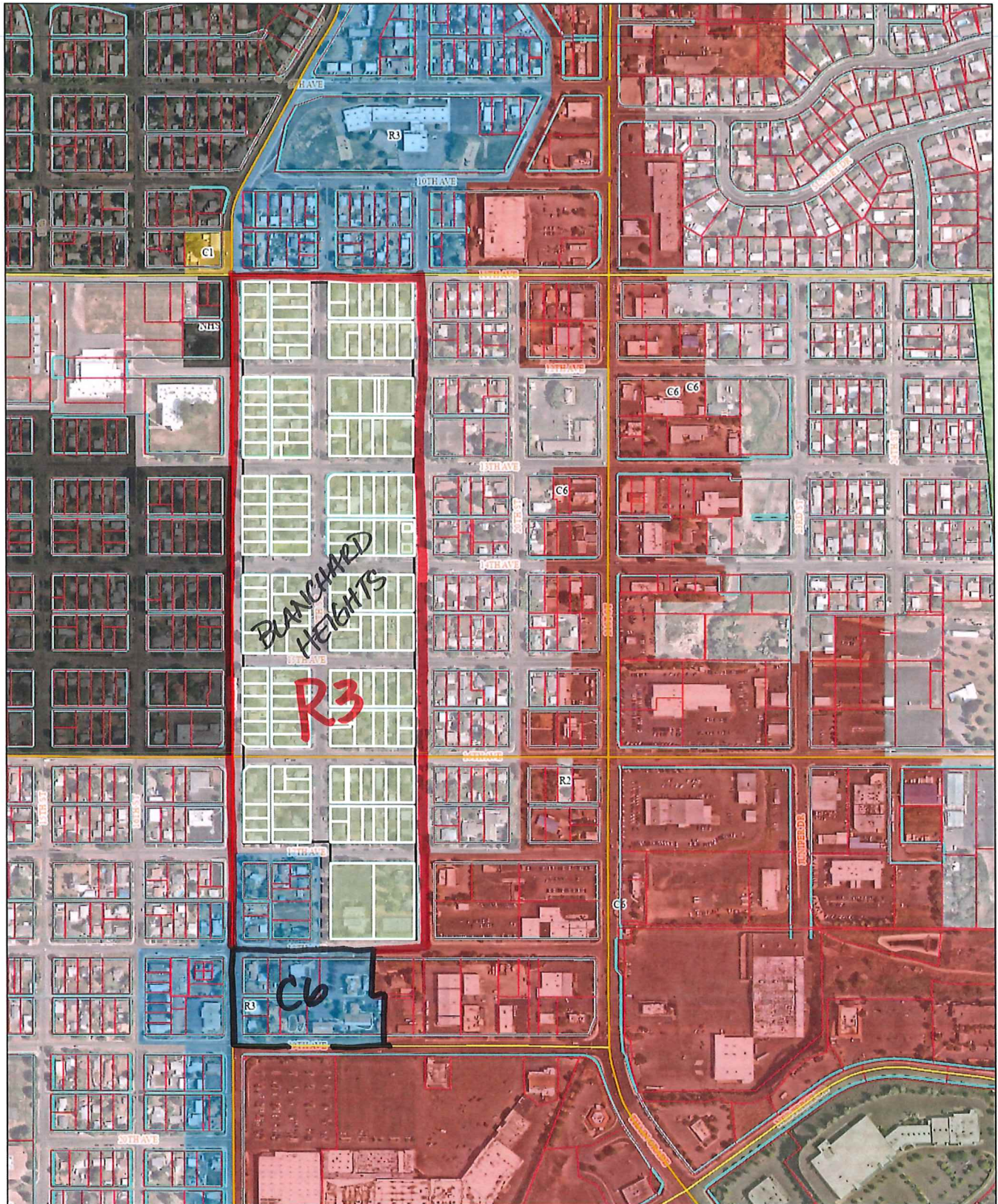
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City of Lewiston Surveying, Nez Perce County GIS, Esri, NASA, NGA, USGS, FEMA, Esri Community Maps Contributors, WA State Parks GIS, © OpenStreetMap, Microsoft, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land

R2 to R3

City of Lewiston (2) Map 3 West



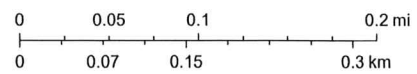
10/24/2024, 2:26:51 PM

Zoning

- C1 - LOCAL COMMERCIAL
- C6 - REGIONAL COMMERCIAL
- NHN - ZONE NHNZB = NORMAL HILL NORTH ZONE B
- NHS - ZONE NHSZ = NORMAL HILL SOUTH ZONE

- PD - PLANNED UNIT DEVELOPMENT
- R2 - LOW DENSITY RESIDENTIAL
- R3 - MEDIUM DENSITY RESIDENTIAL
- R4 - HIGHER DENSITY RESIDENTIAL
- Street

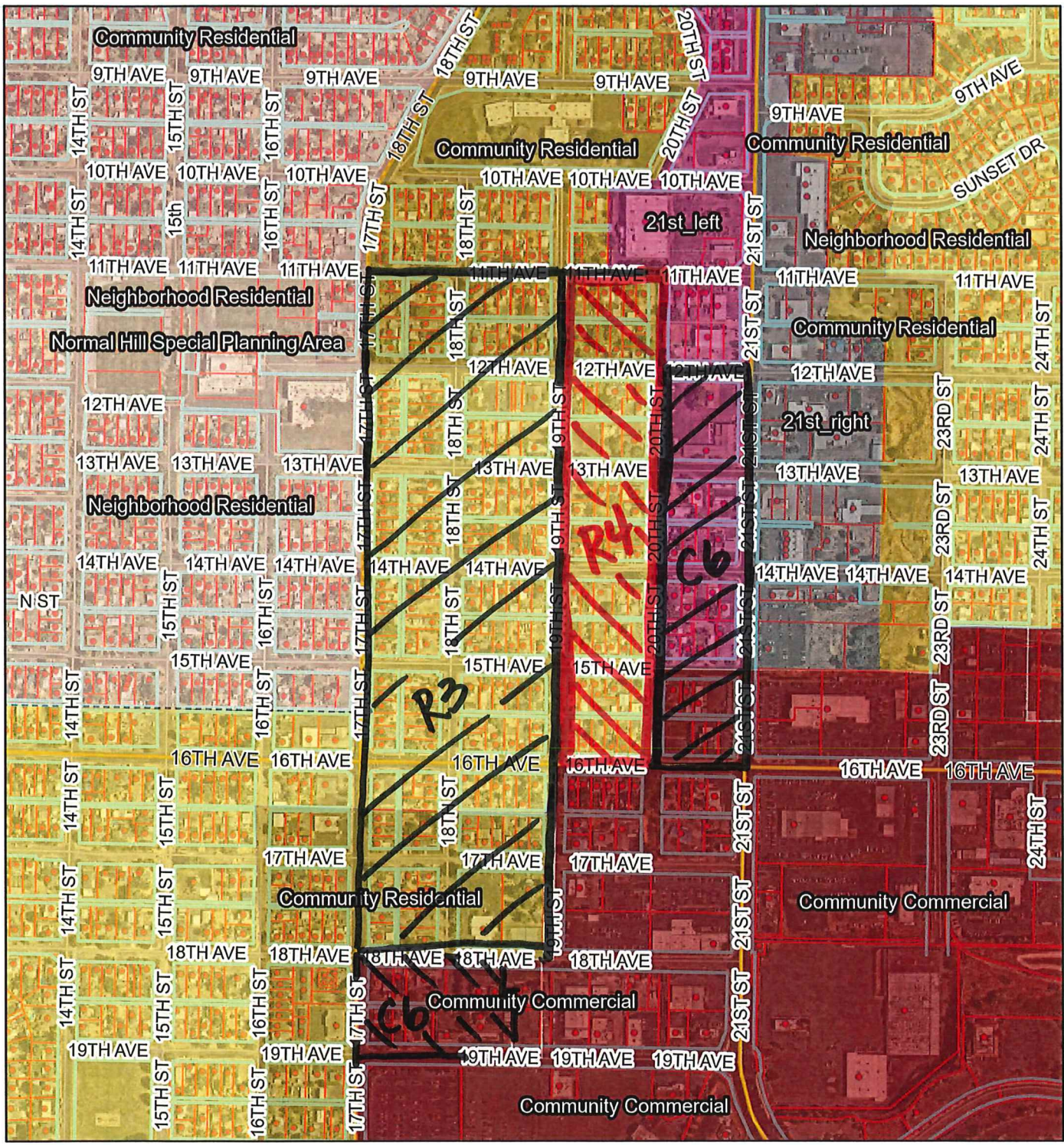
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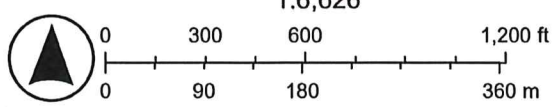
Future Land Use Map designations (2)

City of Lewiston



1/21/2026, 12:19:48 PM

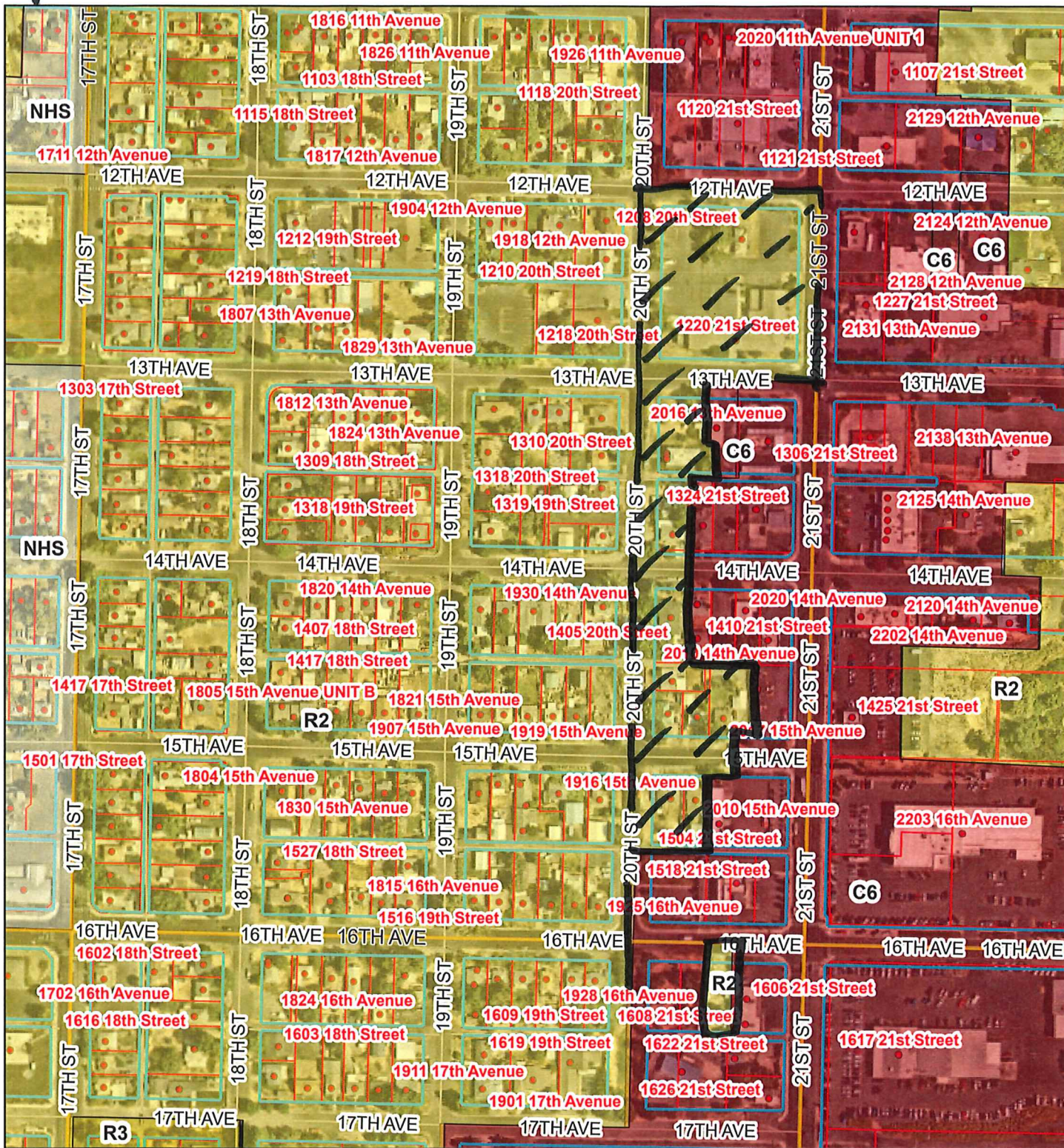
- | | |
|-----------------------------------|--------------------------|
| Primary Street Reference | Neighborhood Residential |
| URBAN MINOR ARTERIAL | 21st_right |
| City Limit | 21st_left |
| Future Land Use Designation | ROW |
| Normal Hill Special Planning Area | Street |
| Community Commercial | Address |
| Community Residential | adSites |



Vantor

R2 to C6

City of Lewiston (2) Map I West

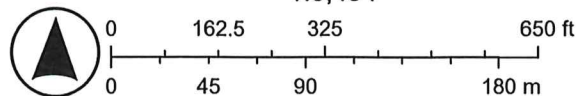


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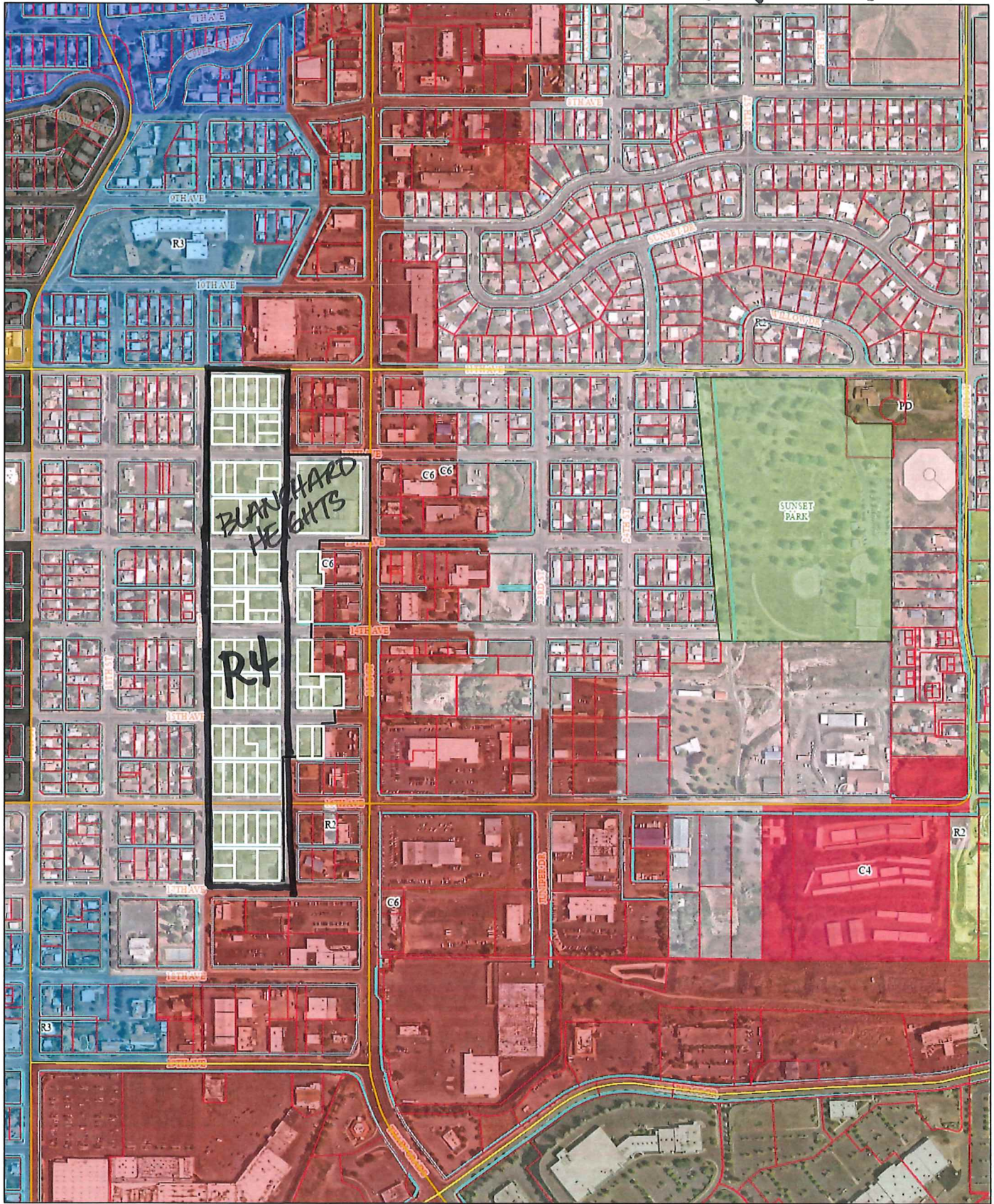
- Primary Street Reference
 URBAN MINOR ARTERIAL
 City Limit
 cd_Zoning
 R2 - LOW DENSITY RESIDENTIAL
 R3 - MEDIUM DENSITY RESIDENTIAL
 C6 - REGIONAL COMMERCIAL
 NHS - ZONE NHSZ = NORMAL HILL SOUTH ZONE
 ROW
 Street
 Address

- adSites
 Imagery2025
 Red: Band_1
 Green: Band_2
 Blue: Band_3
 World Imagery
 Low Resolution 15m Imagery
 High Resolution 60cm Imagery
 High Resolution 30cm Imagery
 Citations
 1.2m Resolution Metadata



Vantor

Legals in file.



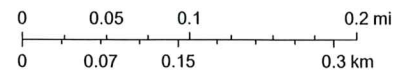
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Zoning

- C1 - LOCAL COMMERCIAL
- C4 - GENERAL COMMERCIAL
- C6 - REGIONAL COMMERCIAL
- F2 - AGRICULTURAL TRANSITION
- R2 - LOW DENSITY RESIDENTIAL
- R3 - MEDIUM DENSITY RESIDENTIAL
- R4 - HIGHER DENSITY RESIDENTIAL
- NHN - ZONE NHNZB = NORMAL HILL NORTH ZONE B

- NHS - ZONE NHSZ = NORMAL HILL SOUTH ZONE
- PD - PLANNED UNIT DEVELOPMENT
- R2 - LOW DENSITY RESIDENTIAL
- R3 - MEDIUM DENSITY RESIDENTIAL
- R4 - HIGHER DENSITY RESIDENTIAL
- Street

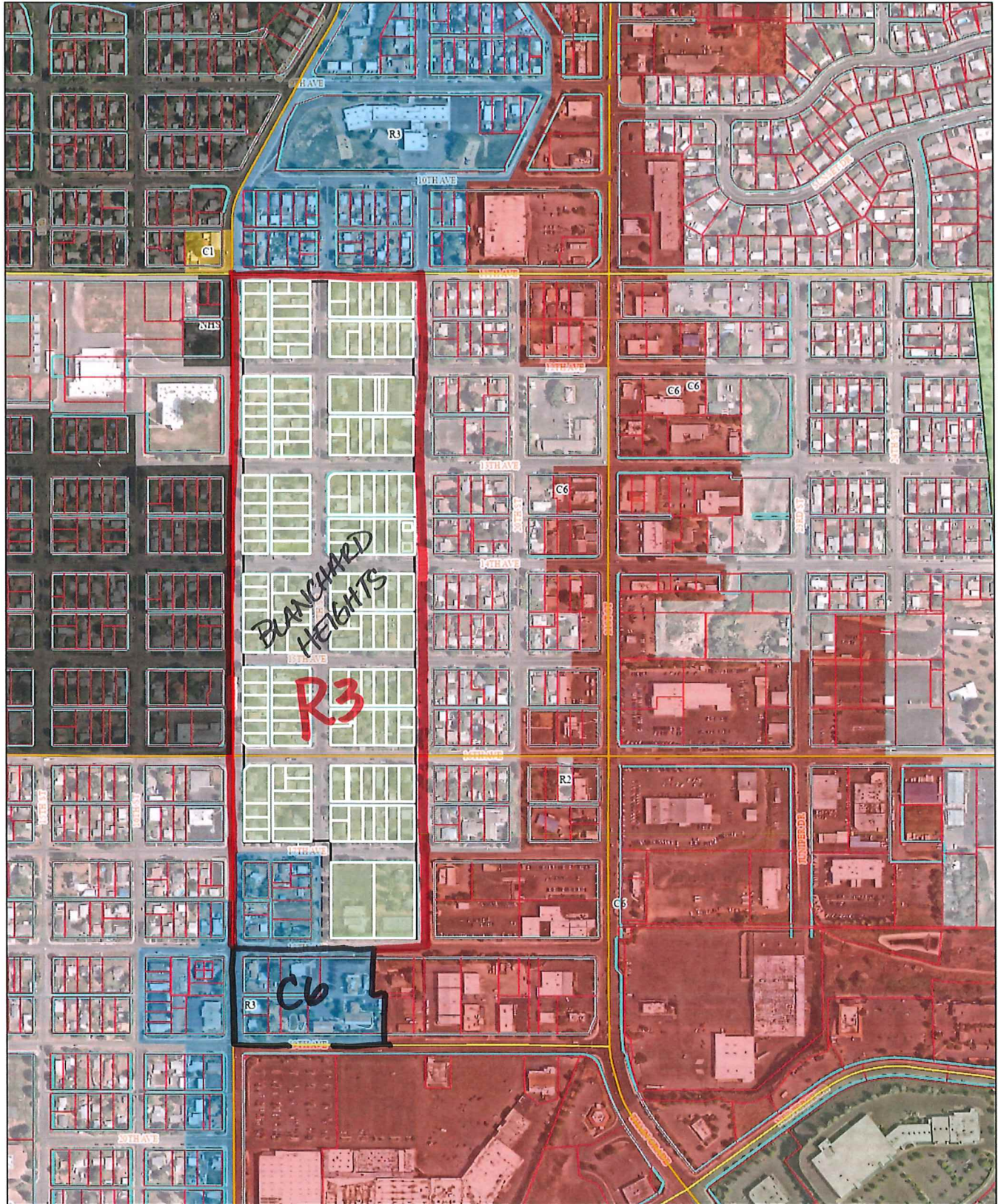
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City of Lewiston Surveying, Nez Perce County GIS, Esri, NASA, NGA, USGS, FEMA, Esri Community Maps Contributors, WA State Parks GIS, © OpenStreetMap, Microsoft, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land

R2 to R3

City of Lewiston (2) Map 3 West

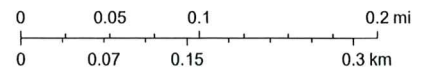


10/24/2024, 2:26:51 PM

Zoning

- C1 - LOCAL COMMERCIAL
- C6 - REGIONAL COMMERCIAL
- NHN - ZONE NHNZB = NORMAL HILL NORTH ZONE B
- NHS - ZONE NHSZ = NORMAL HILL SOUTH ZONE
- PD - PLANNED UNIT DEVELOPMENT
- R2 - LOW DENSITY RESIDENTIAL
- R3 - MEDIUM DENSITY RESIDENTIAL
- R4 - HIGHER DENSITY RESIDENTIAL
- Street

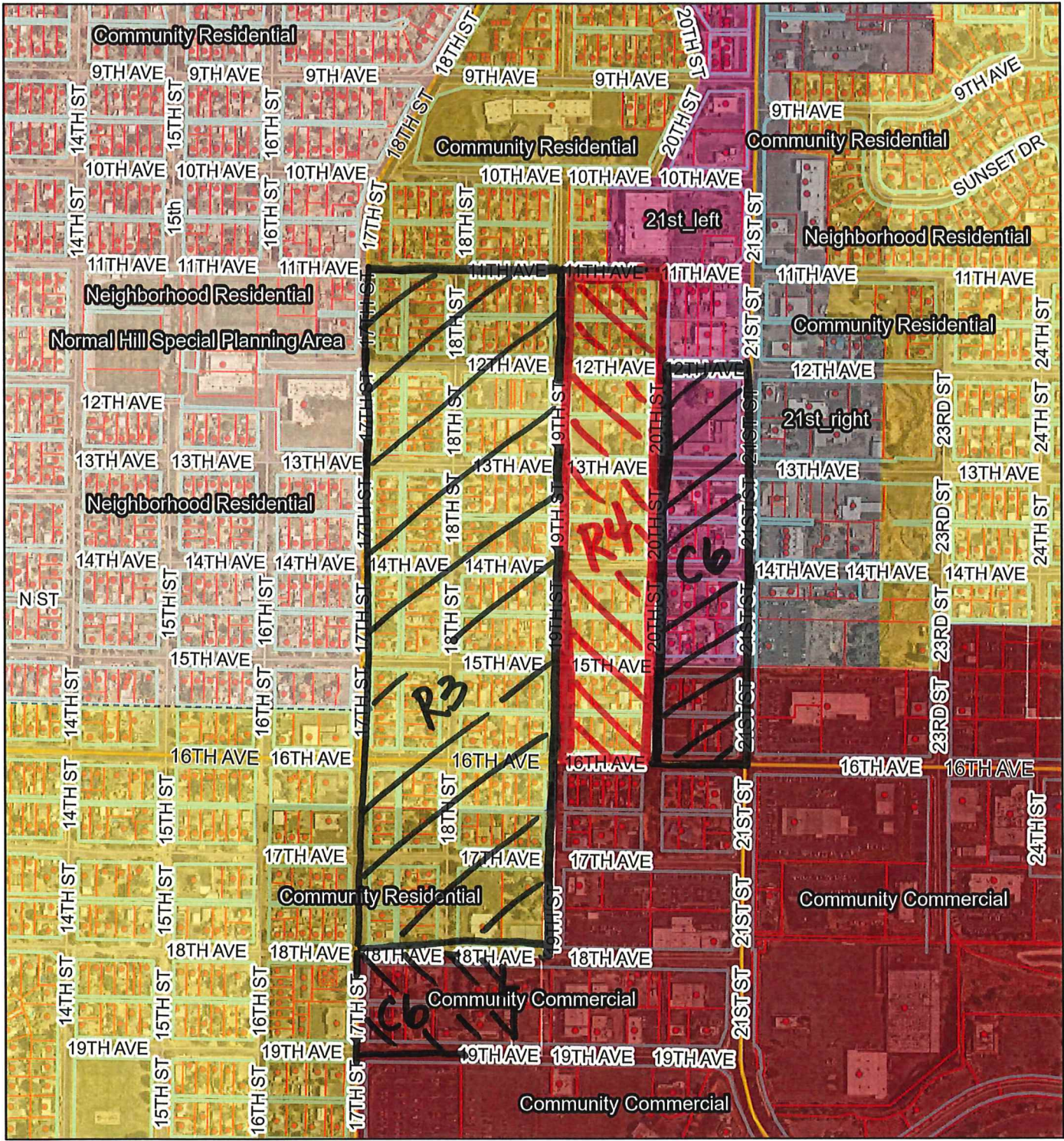
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City of Lewiston Surveying, Nez Perce County GIS, Esri Community Maps Contributors, WA State Parks GIS, © OpenStreetMap, Microsoft, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, US Census

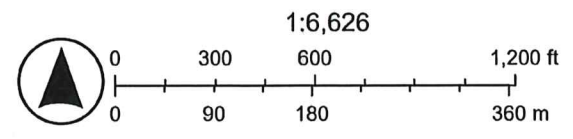
Future Land Use Map designations (2)

City of Lewiston



1/21/2026, 12:19:48 PM

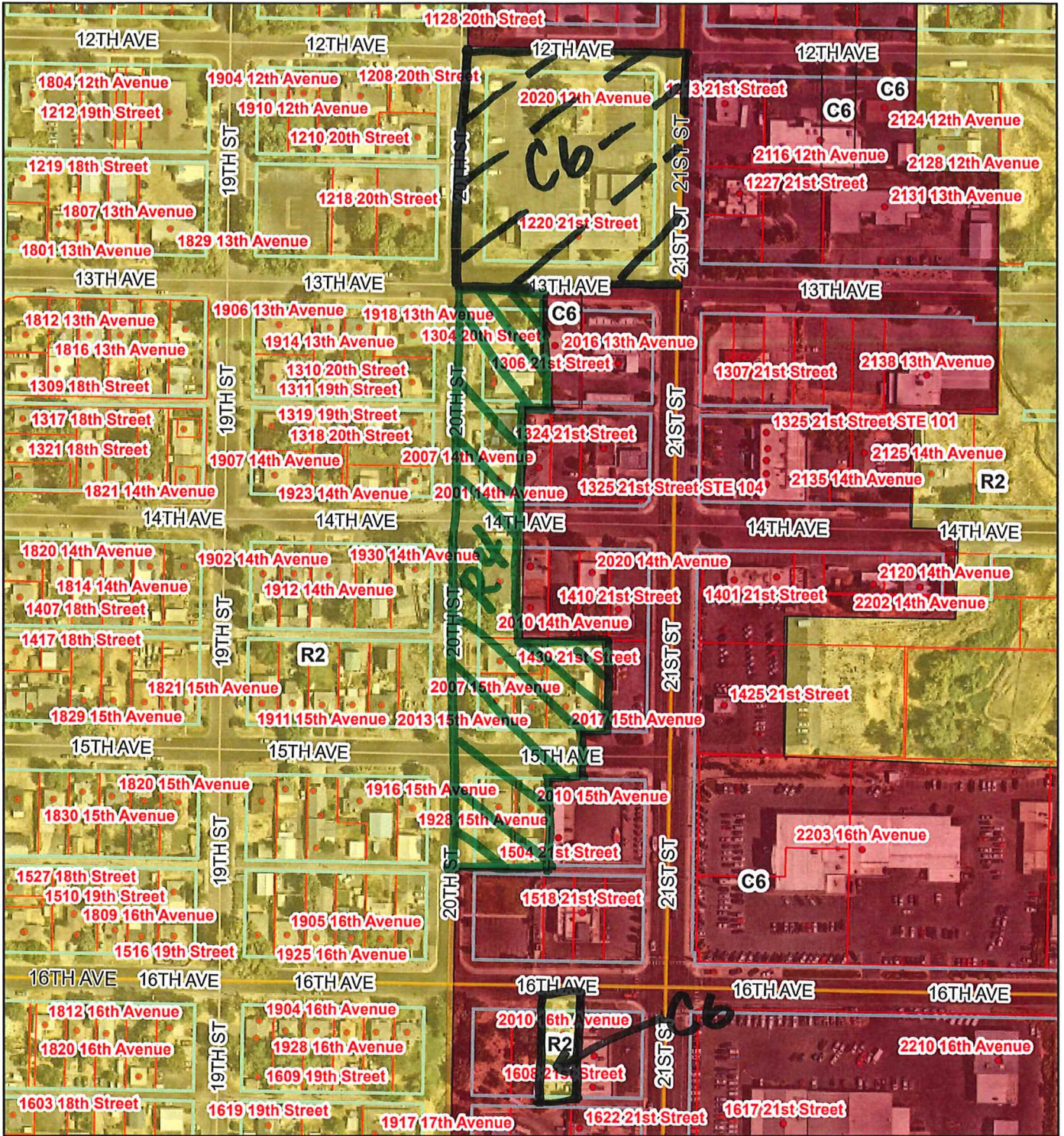
- | | |
|-----------------------------------|--------------------------|
| Primary Street Reference | Neighborhood Residential |
| URBAN MINOR ARTERIAL | 21st_right |
| City Limit | 21st_left |
| Future Land Use Designation | ROW |
| Normal Hill Special Planning Area | Street |
| Community Commercial | Address |
| Community Residential | ad Sites |



Vantor

R2 to C6
R2 to R4

(2) Map I West AH.
City of Lewiston



2/3/2026, 2:57:58 PM

1:2,789

Primary Street Reference

URBAN MINOR ARTERIAL

City Limit

cd_Zoning

R2 - LOW DENSITY RESIDENTIAL

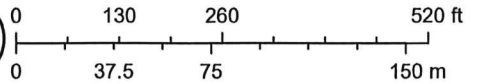
C6 - REGIONAL COMMERCIAL

ROW

Street

Address

adSites



Microsoft, Vantor

(2) Map 4 West (all)

City of Lewiston



2/3/2026, 3:21:20 PM

1:4,649

Primary Street Reference

URBAN MINOR ARTERIAL

City Limit

cd_Zoning

R2 - LOW DENSITY RESIDENTIAL

R3 - MEDIUM DENSITY RESIDENTIAL

C1 - LOCAL COMMERCIAL

C6 - REGIONAL COMMERCIAL

NHN - ZONE NHNZB = NORMAL HILL NORTH ZONE B

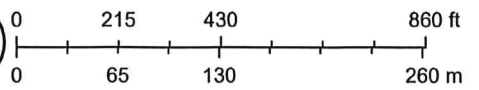
NHS - ZONE NHSZ = NORMAL HILL SOUTH ZONE

ROW

Street

Address

adSites



Vantor

Future Land Use map West

City of Lewiston



2/3/2026, 3:37:36 PM

1:4,649

Primary Street Reference

URBAN MINOR ARTERIAL

City Limit

Future Land Use Designation

Normal Hill Special Planning Area

Community Commercial

Community Residential

Neighborhood Residential

21st_right

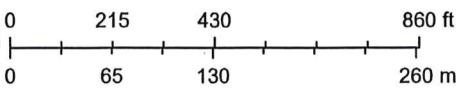
21st_left

ROW

Street

Address

adSites

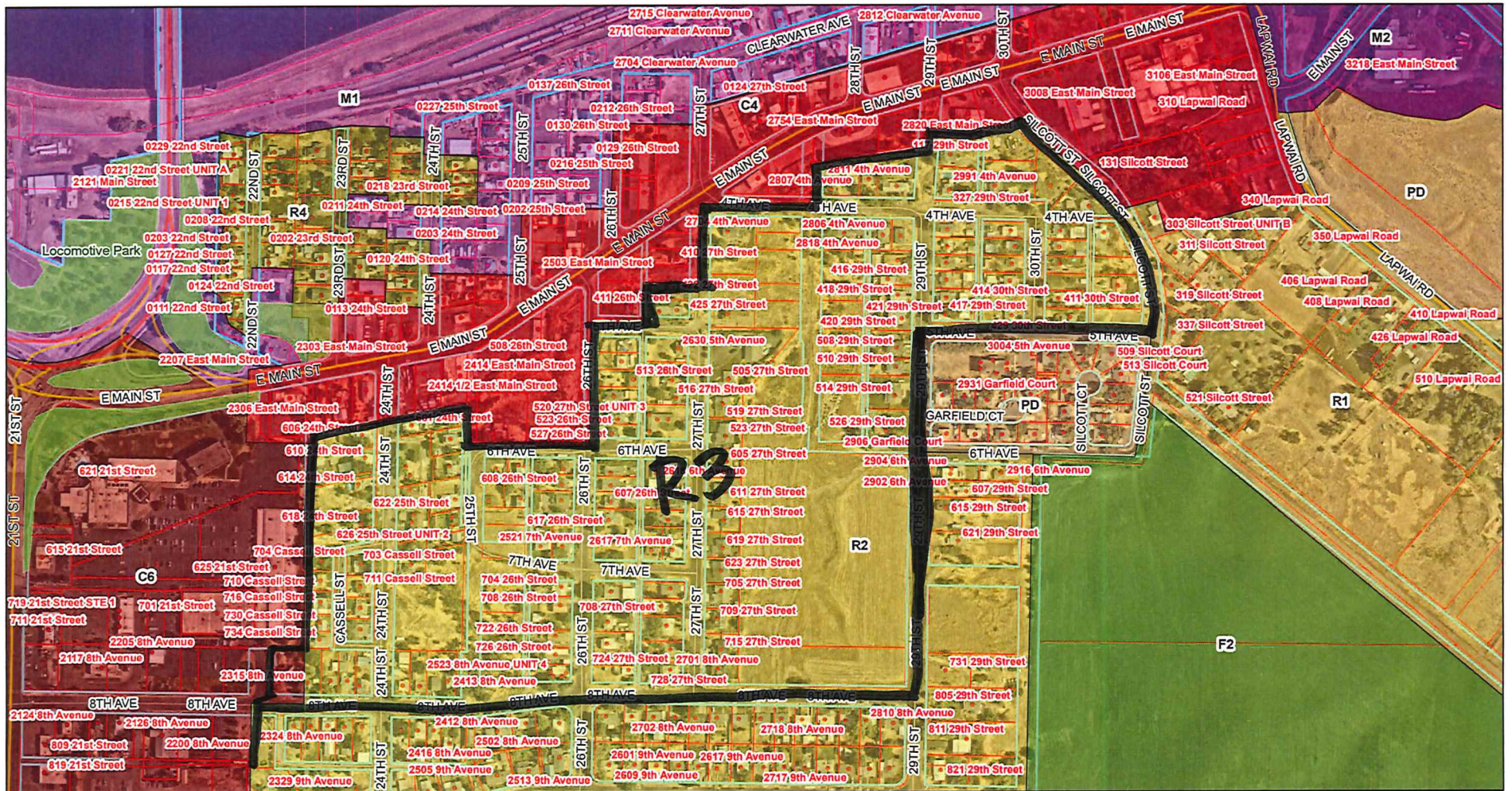


Vantor

R2 to R3

(1) Map 1 East

City of Lewiston



1/21/2026, 1:17:46 PM

Primary Street Reference

- URBAN PRINCIPAL ARTERIAL
- URBAN MINOR ARTERIAL
- City Limit
- City Parks

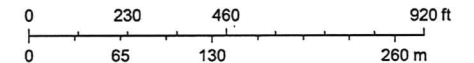
cd_Zoning

- PD - PLANNED UNIT DEVELOPMENT
- F2 - AGRICULTURAL TRANSITION
- R1 - SUBURBAN RESIDENTIAL
- R2 - LOW DENSITY RESIDENTIAL

- R4 - HIGHER DENSITY RESIDENTIAL
- C4 - GENERAL COMMERCIAL
- C6 - REGIONAL COMMERCIAL
- M1 - LIGHT INDUSTRIAL
- M2 - HEAVY INDUSTRIAL

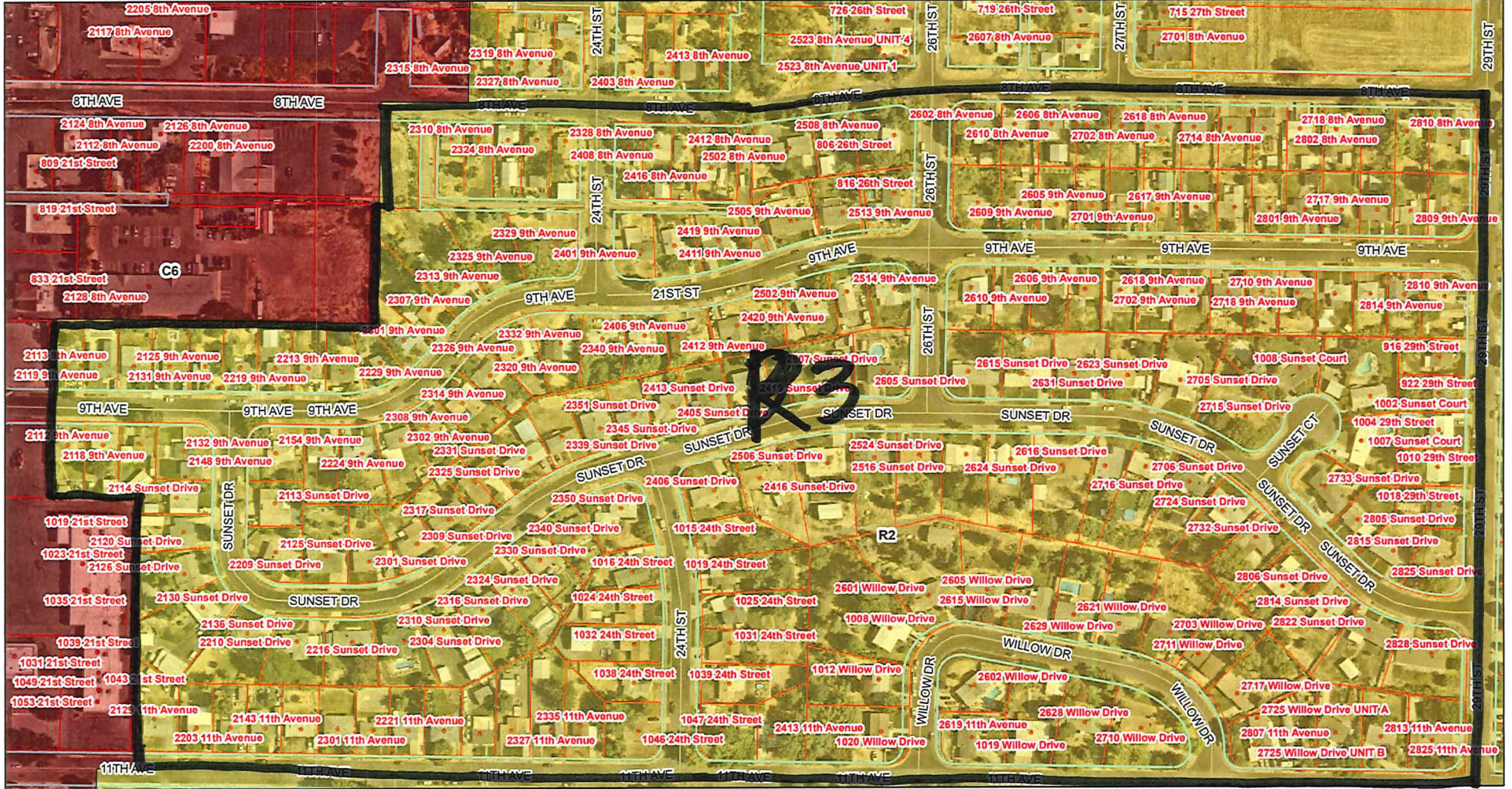
- ROW
- Street
- Address
- adSites

1:3,334



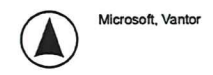
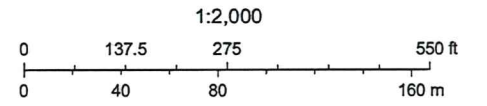
R2 to R3

City of Lewiston (1) Map 2 East

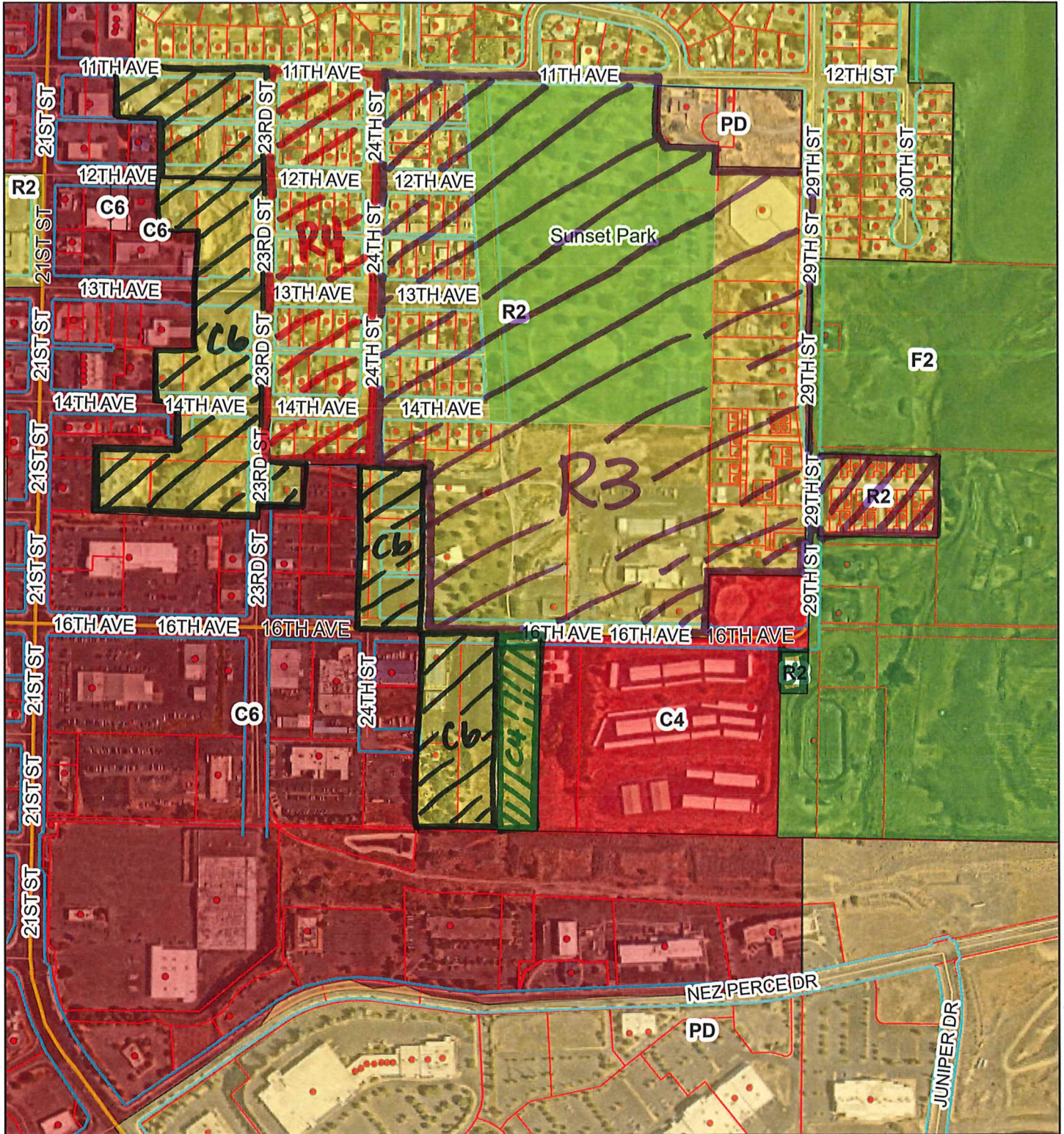


1/21/2026, 12:49:33 PM

City Limit	C6 - REGIONAL COMMERCIAL	Address
R2 - LOW DENSITY RESIDENTIAL	ROW	adSites
Street		



City of Lewiston (1) Map 3 East



12/5/2025, 2:27:13 PM

1:5,822

Primary Street Reference

URBAN MINOR ARTERIAL

City Limit

City Parks

cd_Zoning

PD - PLANNED UNIT DEVELOPMENT

F2 - AGRICULTURAL TRANSITION

R2 - LOW DENSITY RESIDENTIAL

C4 - GENERAL COMMERCIAL

C6 - REGIONAL COMMERCIAL

ROW

Street

Address

adSites

Imagery2025

Red: Band_1

Green: Band_2

Blue: Band_3

World Imagery

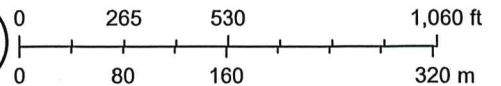
Low Resolution 15m Imagery

High Resolution 60cm Imagery

High Resolution 30cm Imagery

Citations

1.2m Resolution Metadata



Vantor

City of Lewiston Map 3 East A11



2/3/2026, 3:41:20 PM

Primary Street Reference
 URBAN MINOR ARTERIAL

City Limit
 City Parks

cd_Zoning

PD - PLANNED UNIT DEVELOPMENT
 F2 - AGRICULTURAL TRANSITION

R2 - LOW DENSITY RESIDENTIAL
 C4 - GENERAL COMMERCIAL
 C6 - REGIONAL COMMERCIAL

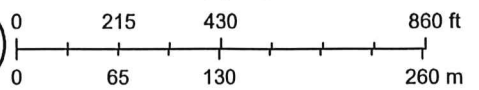
ROW
 Street

Address
 adSites



Vantor

1:4,648



City of Lewiston Map 3 East AH 2



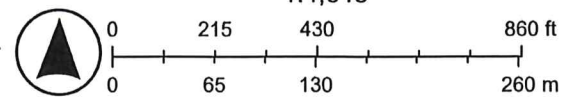
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Primary Street Reference
 URBAN MINOR ARTERIAL

City Limit
 City Parks

cd_Zoning
 PD - PLANNED UNIT DEVELOPMENT
 F2 - AGRICULTURAL TRANSITION

R2 - LOW DENSITY RESIDENTIAL
 C4 - GENERAL COMMERCIAL
 C6 - REGIONAL COMMERCIAL
 ROW
 Street
 Address
 adSites



Vantor

Future landuse map

City of Lewiston

(i) Map 1 East



1/28/2026, 3:16:26 PM

1:3,326

Primary Street Reference

FutureLandUseDesignation

Open Space

ROW

URBAN PRINCIPAL ARTERIAL

Community Commercial

21st_right

Street

URBAN MINOR ARTERIAL

Industrial

21st_left

Address

City Limit

Community Residential

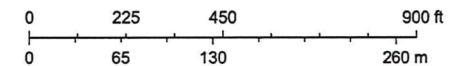
South of Main Transition

adSites

City Parks

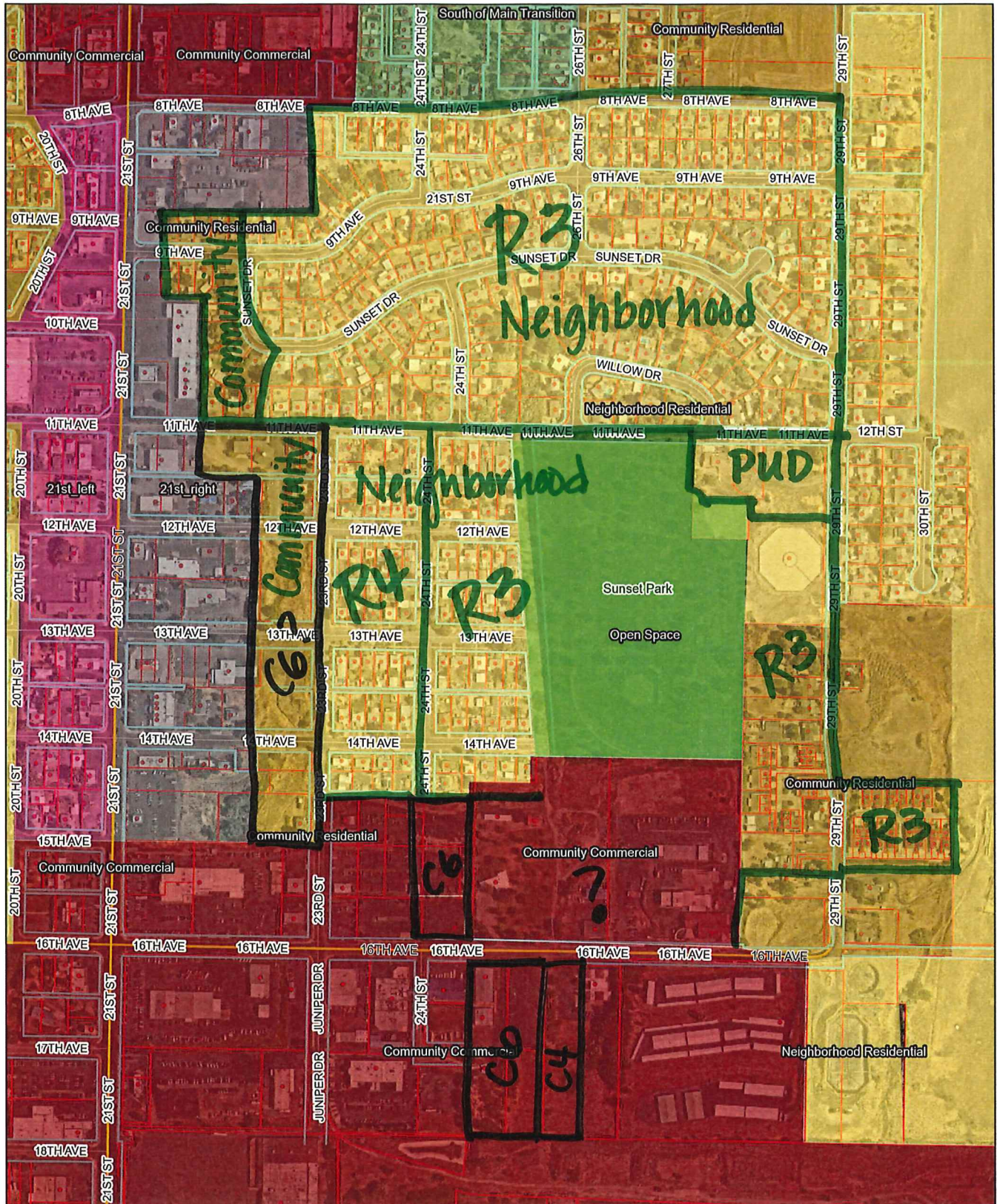
Neighborhood Residential

Special_Commercial



Future land use map (2) MAP 2 & 3 EAST

City of Lewiston



1/28/2026, 3:34:33 PM

Primary Street Reference

URBAN MINOR ARTERIAL

City Limit

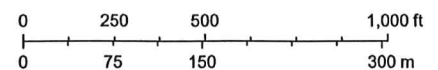
City Parks

FutureLandUseDesignation

Community Commercial

- Community Residential
- Neighborhood Residential
- Open Space
- 21st_right
- 21st_left
- South of Main Transition
- ROW
- Street
- Address
- adSites

1:4,025



Vantor