

# BOUNDARY COUNTY VARIANCE APPLICATION

P.O. Box 419, Bonners Ferry, Idaho 83805  
Phone: (208) 267-7212

FILE #: 24-0061

### APPLICATION REQUEST:

The applicant is requesting a variance for: **Please reference the narrative and attached letters.**

Front yard setback       Rear yard setback       Side yard setback

Required setback is: \_\_\_\_\_ Requested setback is: \_\_\_\_\_

Other variance type, specify: **Modification of the Bulk (12.2)**

Explain purpose of request: **Please reference the attached narrative and letters.**

### APPLICANT INFORMATION:

Applicant/Landowner: Michael and Bernadette Bonner

Mailing Address: [REDACTED]

City: [REDACTED] State: [REDACTED] Zip: [REDACTED]

Site Address: 1364 Porkchop Rd Subdivision: \_\_\_\_\_

Phone: [REDACTED] Email: [REDACTED]

### REPRESENTATIVE INFORMATION:

Representative's name: Thomas A. Bushnell

Company name: Bushnell Law

Mailing Address: [REDACTED]

City: [REDACTED] State: [REDACTED] Zip: [REDACTED]

Phone: [REDACTED] Email: [REDACTED]

### TO BE COMPLETED BY COUNTY:

Zone District: <b>Ag/Forestry</b>	Overlay Zones: <input type="checkbox"/> Airport <input type="checkbox"/> Flood	<input type="checkbox"/> Wetland <input checked="" type="checkbox"/> None	<input type="checkbox"/> Bonners Ferry ACI <input type="checkbox"/> Moyie Springs ACI	Received:
Floodplain: <b>Zone X</b>	Panel #: <b>1602070425B</b>	Development Permit #: <b>n/a</b>		Receipt #:

**RECEIVED**  
MAR 06 2024  
No. 31999

**PARCEL INFORMATION:**

Parcel #: RP63N02E351216A	Parcel acreage: 10.4 Ac
Current Zoning: AG/FOREST	Current Use: RESIDENTIAL
What zoning districts border the project site?	
North: AG/FOREST	East: AG/FOREST
South: AG/FOREST	West: AG/FOREST
What are the current adjacent land uses?	
North: RESIDENTIAL	South: FOREST
East: RESIDENTIAL	West: RESIDENTIAL
Within Area of City Impact?: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If yes, which city?:
Water service: <input checked="" type="checkbox"/> Well <input type="checkbox"/> Water District: _____ <input type="checkbox"/> Community: _____	
Sewer Service: <input checked="" type="checkbox"/> Septic <input type="checkbox"/> Public Sewer: _____ <input type="checkbox"/> Community: _____	
Road name: <u>Porkchop Rd</u> <input type="checkbox"/> Public <input checked="" type="checkbox"/> Private	

**SITE INFORMATION:**

**Please provide a detailed description of the following land features:**

**Topography (lay of the land), including estimated maximum slope, rock outcroppings, benches, etc.:**  
 The parcel is mostly flat.

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**Land cover (timber, pastures, etc.):**  
 Mostly cleared, with some timber.

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**Water courses (lakes, streams, rivers & other bodies of water):**  
 No bodies of water on the parcel.

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**Existing structures (size & use):**  
 Two single family homes, which were built in 1985, and a shop.

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**Attach a site plan not larger than 11"X17" showing:**

- Property lines and dimensions.
- Location, dimensions and uses of existing structures, showing setbacks.
- Proposed structure, showing proposed setbacks and variance details. Label as to use.
- Name and locations of all streets, alleys and driveway entrances.
- Location of all water courses and floodplain boundaries.
- Parking areas.
- Location of all utility lines, easements and other utility improvements.
- Topographic details such as rock outcroppings or slope.

**NARRATIVE STATEMENT: (Governing body will consider these standards from Section 12.4.4 of land use code when hearing the application)**

1. What are the special circumstances of the property that require this variance? (Topography, lot dimensions, etc.)  
Please reference attached narrative statement.

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2. How would denial of the variance infringe on applicant property rights?  
Please reference attached narrative statement.

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3. Would approval of the variance infringe on neighboring property owners' rights?  
Please reference attached narrative statement.

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4. Is the need for the variance caused by applicant's actions?  
Please reference attached narrative statement.

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5. Is the requested variance the minimum necessary to alleviate a hardship?  
Please reference attached narrative statement.

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6. Would granting the variance confer on the property owner a special privilege?  
Please reference attached narrative statement.

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7. Have other properties similarly situated been granted variances? If so, where?  
Please reference attached narrative statement.

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8. Will the variance alter the character of the zone district?  
Please reference attached narrative statement.

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9. Is the requested variance in harmony with the general purpose and intent of ordinance and comprehensive plan? (See 1.3, Purpose, Comprehensive Plan Vision Statement)  
Please reference attached narrative statement.

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**REQUIRED:**

<b>APPLICATION CHECKLIST:</b>			
<b>COPY OF DEED:</b>	<input checked="" type="checkbox"/> Attached	<b>ACCESS &amp; EASEMENT INFO:</b>	<input checked="" type="checkbox"/> Attached
<b>SITE SKETCH</b>	<input checked="" type="checkbox"/> Attached	<b>APPLICATION FEE:</b>	<input checked="" type="checkbox"/> Included

Submit with application fee to:  
Boundary County Planning & Zoning  
P.O. Box 419  
Bonners Ferry, ID 83805

I hereby certify that all the information, statements, attachments, and exhibits submitted herewith are true to the best of my knowledge. I further grant permission to Boundary County employees and representatives, elected or appointed officials to enter upon the subject land to make examinations, post the property or review the premises relative to the processing of this application.

Landowner's signature:  Date: 3-6-2024

Landowner's signature:  Date: 2-6-2024

*Thomas A. Bushnell*

ATTORNEY AT LAW, P.A.

**Bushnell Law**

6430 Kootenai Street  
PO Box 1833 (mailing address)  
Bonners Ferry, ID 83805  
Phone: (208) 267-9321  
Fax: (208) 946-5714  
BoundaryCountyLaw@gmail.com

To: The Boundary County Planning & Zoning Commission

The variance requested is to split parcel RP63N02E351216A which contains two homes. The Bonner's residence (1364 Porkchop Road) was built 1984. The secondary home (1357 Porkchop Road) was built in 1985 by Bernedette's brother. Both homes have addresses and were built with the approval of Boundary County before the changes in Boundary County developed standards were made.

The proposed dimensions are outlined in the sketch (Exhibit 1A and 1B) attached to the application.

Michael and Bernedette Bonner are petitioning this for this variance to help with relief for outstanding medical debt. The Bonner family intends to utilize funds from the proposed property sale to their children, Liz and Robbie, to resolve the outstanding medical debt. This resolution is paramount for the Bonners' financial stability. Without this proposed resolution, they may face difficulties supporting themselves in their advancing age, compounded by ongoing medical hardships.

Mike and Bernedette Bonner's children Liz and Robbie have been residents of the log home (1357 Porkchop Road) for the past decade. Upon moving in Liz and Robbie invested \$30,000.00 in essential repairs, and in 2023, they made a substantial investment of \$80,000.00 to further enhance the home.

The goal of this variance is so that Liz and Robbie can obtain financing for the home they have been living in for the past decade and purchase the land surrounding the home. The monies from the financing will be paid to their parents Mike and Bernedette Bonner to resolve their outstanding medical debt.

**APPLICABILITY:**

This variance application is based on planning & zoning land use ordinance section 12 variances. Specifically referencing the modification of bulk and placement of structure on lots or parcels.

**12.2. Applicability:** A variance is a modification of the bulk and placement requirements of this ordinance as to:

The word Bulk is not defined in the definitions section of the Boundary County Planning and Zoning ordinance. Since its inception in 2005, Boundary County Planning and Zoning has held Bulk to refer to both the size of lots in addition to the height, and setback requirements for buildings and structures within a specific area.

**1. Setbacks related to front yard, side yard, and/or rear yard:**

The current buildings meet all the setback requirements contained in the Boundary County Planning and Zoning Ordinance (See Exhibit 1B). Additionally, the proposed parcel would also meet all the setback requirements.

**2. Parking space(s).**

This is a private Single-Family Residence and is therefore not applicable.

**3. Structure height.**

This is a private Single-Family Residence and is not applicable.

**4. Other provisions herein affecting the size of a structure or the placement of the structure on lots or parcels.**

The variance being requested is to allow for the modification of the bulk of a new parcel. Said proposed parcel is for the sole purpose of placing the additional residence built in 1985 on a its own parcel.

**NARRATIVE STATEMENT:****1. What are the special circumstances of the property that require this variance?  
(Topography, lot dimensions, etc.)**

Two single-family homes were built on the property from 1984-1985. This was before the changes in Boundary County Development standards, which occurred on October 2nd, 2005, were put in place.

The Bonners' daughter, Liz, has lived in the home on the west side of the property. Due to debt from medical bills, the Bonners would like to put the home to the west, in which their daughter lives, on its own parcel. In doing this, their daughter will be able to finance buying the home, thereby allowing the Bonners to pay medical bills.

**2. How would denial of the variance infringe on applicant property rights?**

Denial of the variance would be an infringement of the Bonners' property rights. The first section of the Boundary County comprehensive plan directly addresses property rights.

In **Section 1.6** of Boundary County comprehensive plan "Government actions which violate Article 1, Section 14, are classed as regulatory takings, to include local land use ordinances or decisions which unjustly deprive a property owner the use of property."

In **Section 10.1** the "Idaho Regulatory Acts Guidelines," define property rights and establish an administrative procedure for review. Those guidelines also establish a checklist to analyze whether a governmental land use action constitutes a regulatory taking.

In the checklist mentioned in **Section 10.1** in item **1.10.4** "Does the regulation have a significant impact on the landowner's economic interest?"

The Bonner's economic interest will have a significant impact depending on the approval of the variance for the following reasons.

- i. The Bonners need to sell the additional residence to pay off their outstanding medical debt.

**3. Would approval of the variance infringe on neighboring property owners' rights?**

No, the neighboring property owners are in favor of approval of the variance, please reference letters from the Bonner's neighbors (Exhibit 2). The road used by the neighboring properties would not see any additional use due to the outcome of the variance not leading to any change in density.

**4. Is the need for the variance caused by applicant's actions? 12.4.4.4.**

No, the need for this variance was caused by the change in Boundary County Development standards which occurred on October 2<sup>nd</sup>, 2005 (10.1 of the Comp Plan). The two residences were built on the Bonner's parcel 39 years ago which was before Boundary County's standards were changed in 2005.

**5. Is the requested variance the minimum necessary to alleviate a hardship? 12.4.4.5.**

**Whether the variance is the minimum accommodation needed to provide the requested use.**

An option available to ensure the minimum necessary accommodation is the implementation of a deed restriction to prevent any change to density. The deed creating the future new parcel shall have a restriction that runs with the land limiting the parcel to one single family residence with no additional dwelling units.

**6. Would granting the variance confer on the property owner a special privilege?**

**12.4.4.6. Whether granting the variance could confer special privilege to the property owner.**

No, the need for this variance is caused by the change in Boundary County development standards which changed after the two houses were built.



**7. Have other properties similarly situated been granted variances? If so, where?**

**12.4.4.7. Whether the variance confers on the property conditions that have been granted to other properties similarly situated.**

Yes, see the attached map of similar parcels and the record of parcel divisions in the surrounding area (Exhibit 3).

**8. Will the variance alter the character of the zone district? 12.4.4.8. Whether the variance will alter the character of the zone district. (Refer to Comprehensive Plan, 1.9.)**

The variance will not alter the character of the zone district because no changes will be made in the current number of homes. Additionally, the portion of land proposed in this variance is adjacent to parcels of similar size thereby not altering the character of the area.

**9. Is the requested variance in harmony with the general purpose and intent of ordinance and comprehensive plan? (See 1.3, Purpose, Comprehensive Plan Vision Statement)**

The Boundary County Comprehensive Plan Introduction clearly states that it puts the rights and independence of its residents first. The Plan goes on to state that *“It is also clear that those who have long been residents of Boundary County value their independence and wish to retain their ability to use their land as befits they and their neighbors, with minimal or no governmental interference”*

According to the 10.1 COMMUNITY DESIGN ASSESSMENT portion of the comprehensive plan, the development standards were created in 2005 to preserve the current standard of living. Going on to say that *“Rather than imposing community design standards, county policy has been geared to the furtherance* of free enterprise and economic development, particularly as regards harvest or extraction and utilization of

Boundary County's natural resources, *and to encourage the initiative of property owners to use their land in furtherance of their own best interest, both economic and social.*

When the Bonners and their brother built the homes in 1984-1985, Boundary County did not impose parcel size restrictions, and there was no expectation that they would in the future. Boundary County gave both homes their own addresses. Liz and Robbie live in the in the secondary home, 1357 Porkchop Road, for which this variance is being requested. The proximity allows Liz and Robbie to provide care for their elderly parents.

The reason for placing the home on a separate parcel is to finance the sale of said home so that Michael & Bernadette can pay their medical debt, and so that Liz can remain close to her parents to continue taking care of them.

The granting of this variance is in line with the comprehensive plan's community design, which is to preserve and further the economic and social best interests of property owners in Boundary County. The granting of this variance would not violate the character of the community, as it would not change the housing density, and the neighboring parcel owners are in favor of this application. It is in the best interest of our community to alleviate the hardships of our neighbors when we can. If their medical debt cannot be resolved, Michael & Bernadette will have to seek other, less desirable resolutions and ultimately undertake additional hardship on top of their current situation.

**Exhibit 1A**

The new parcel with the Log Home would be situated to the East of the current parcel with its West parcel line being the centerline of Porkchop Road.

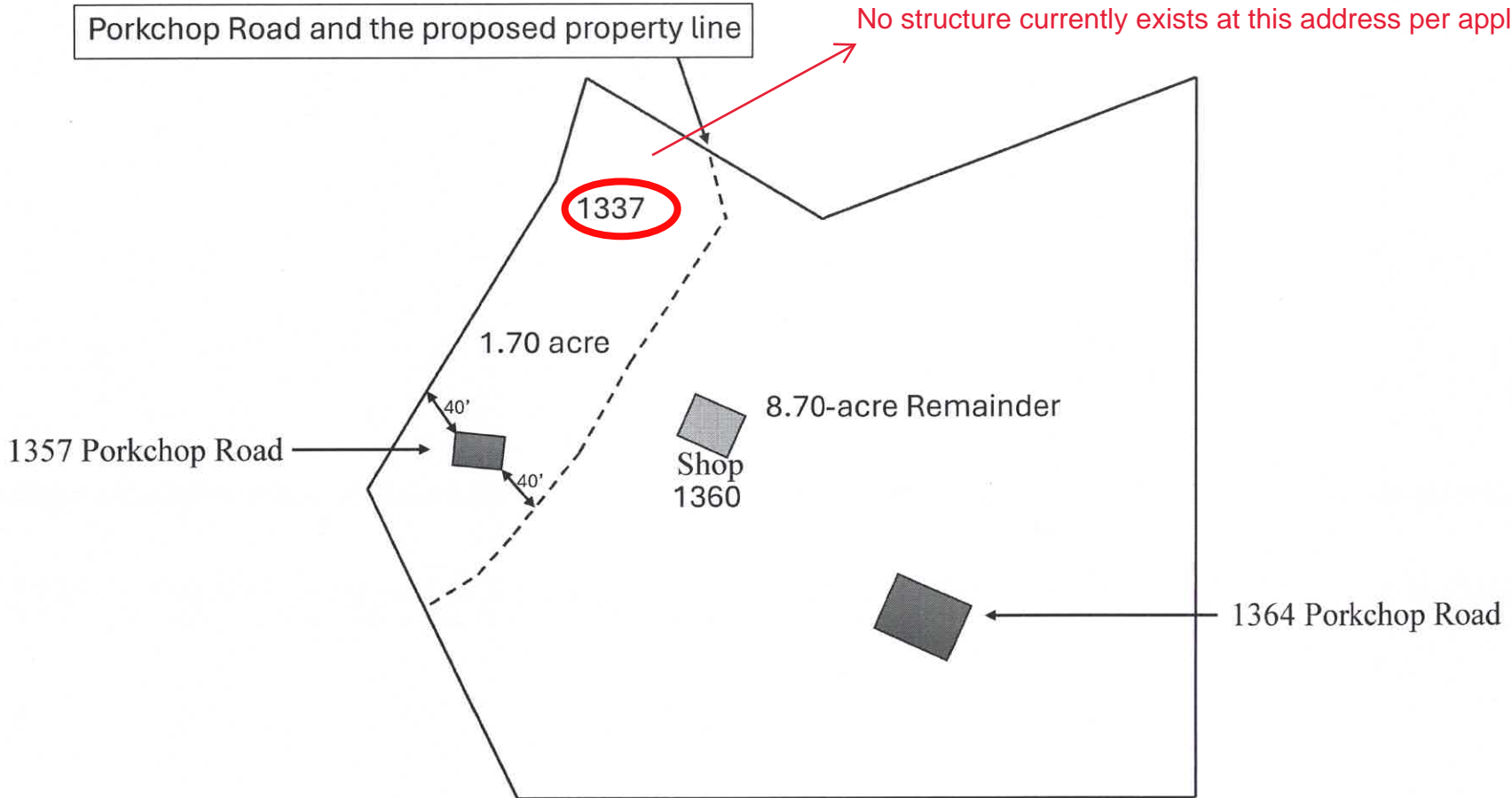


**RECEIVED**

By Tessa Vogel at 1:48 pm, Mar 07, 2024

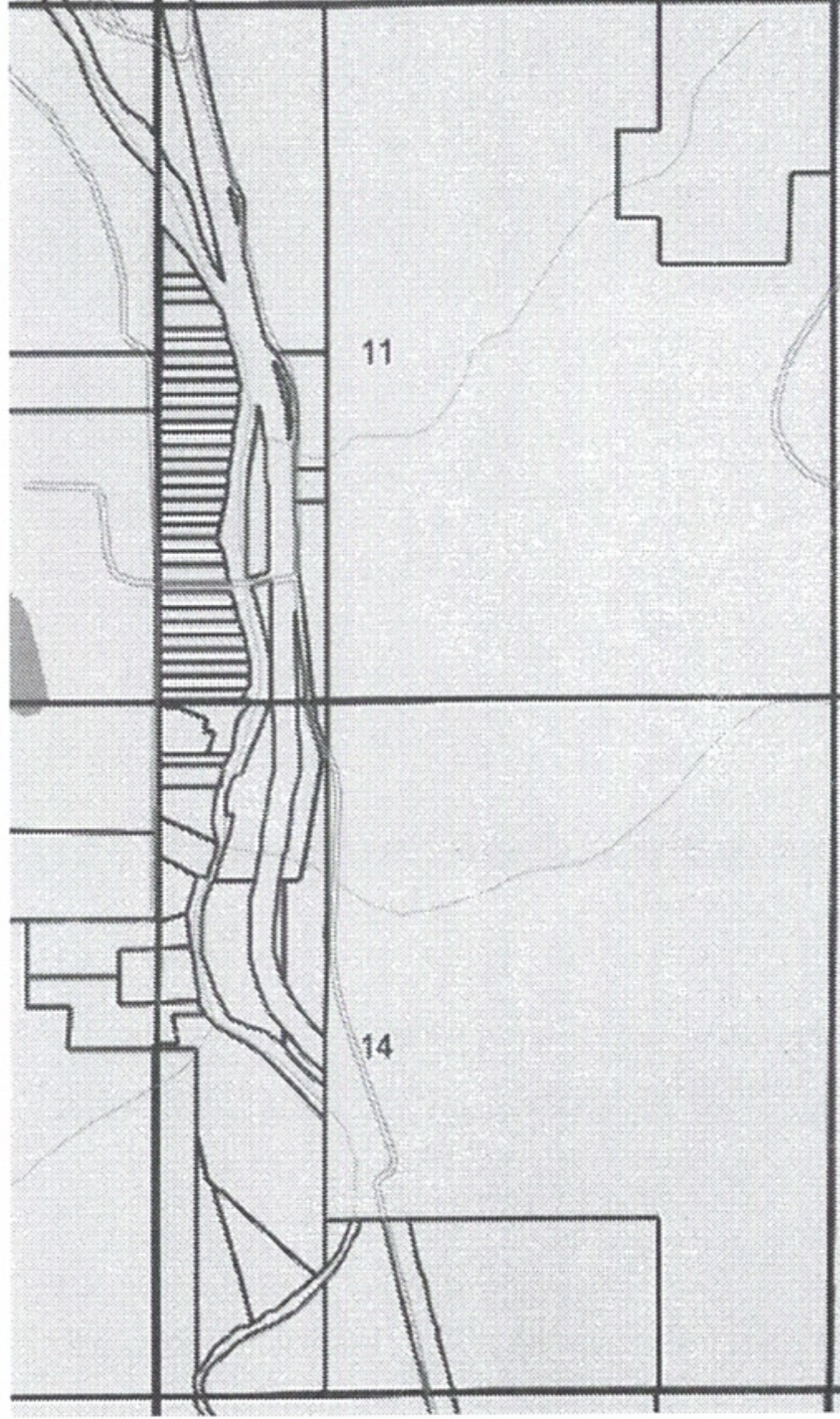
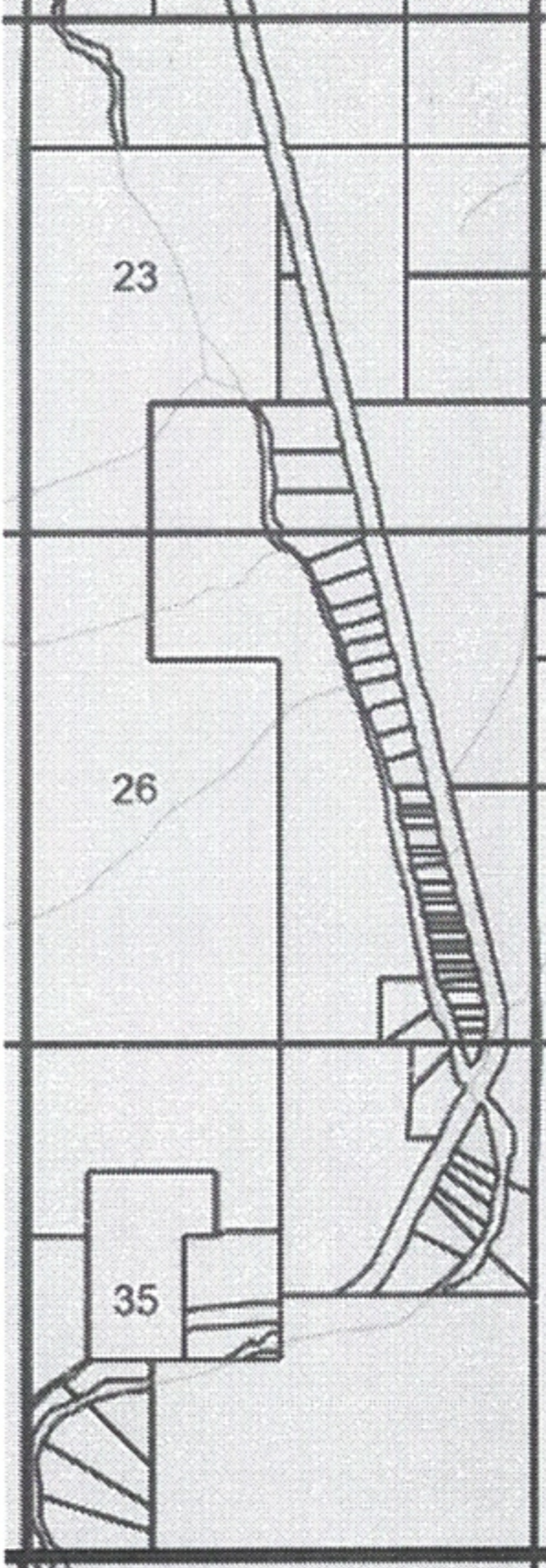
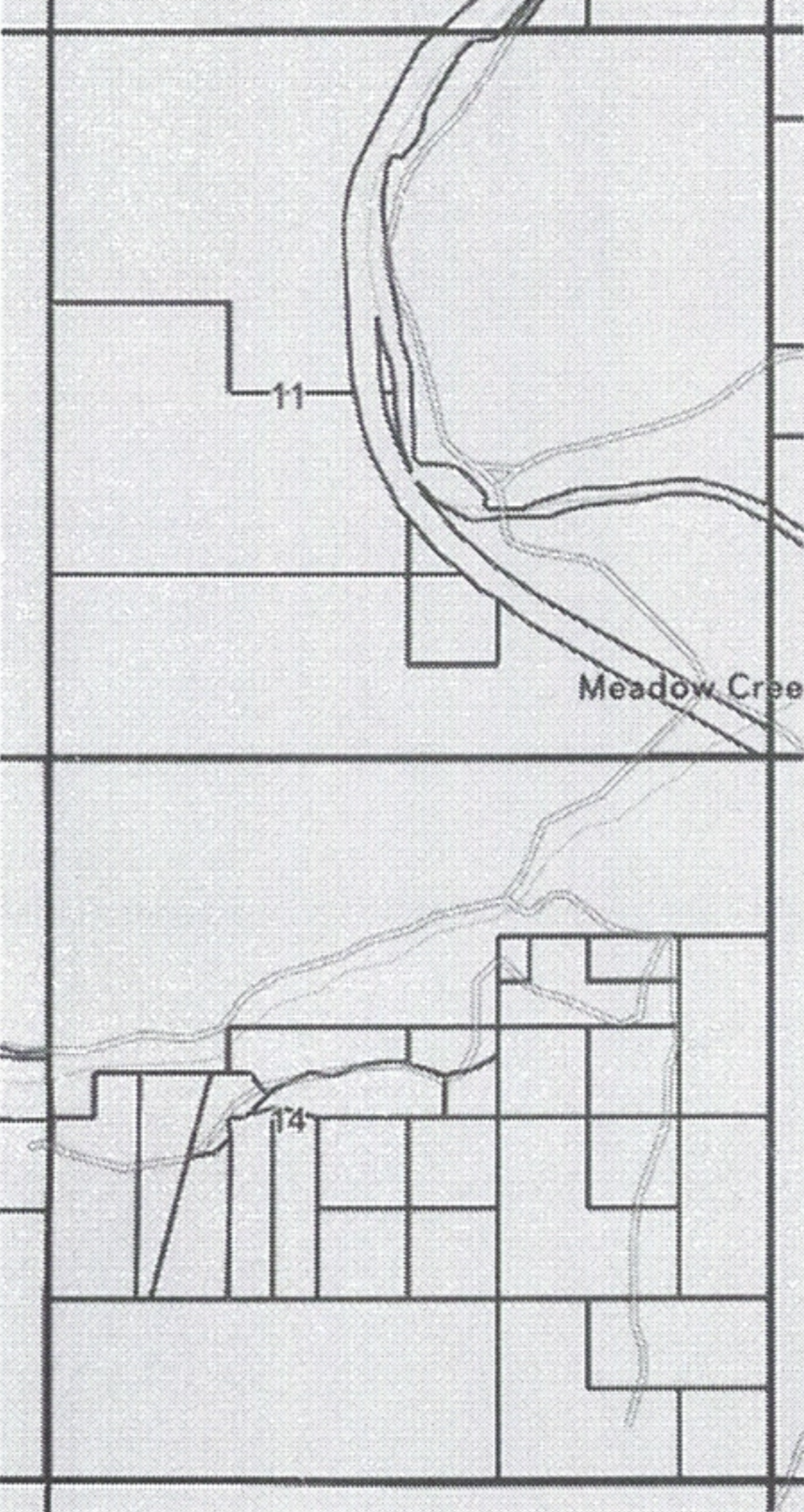
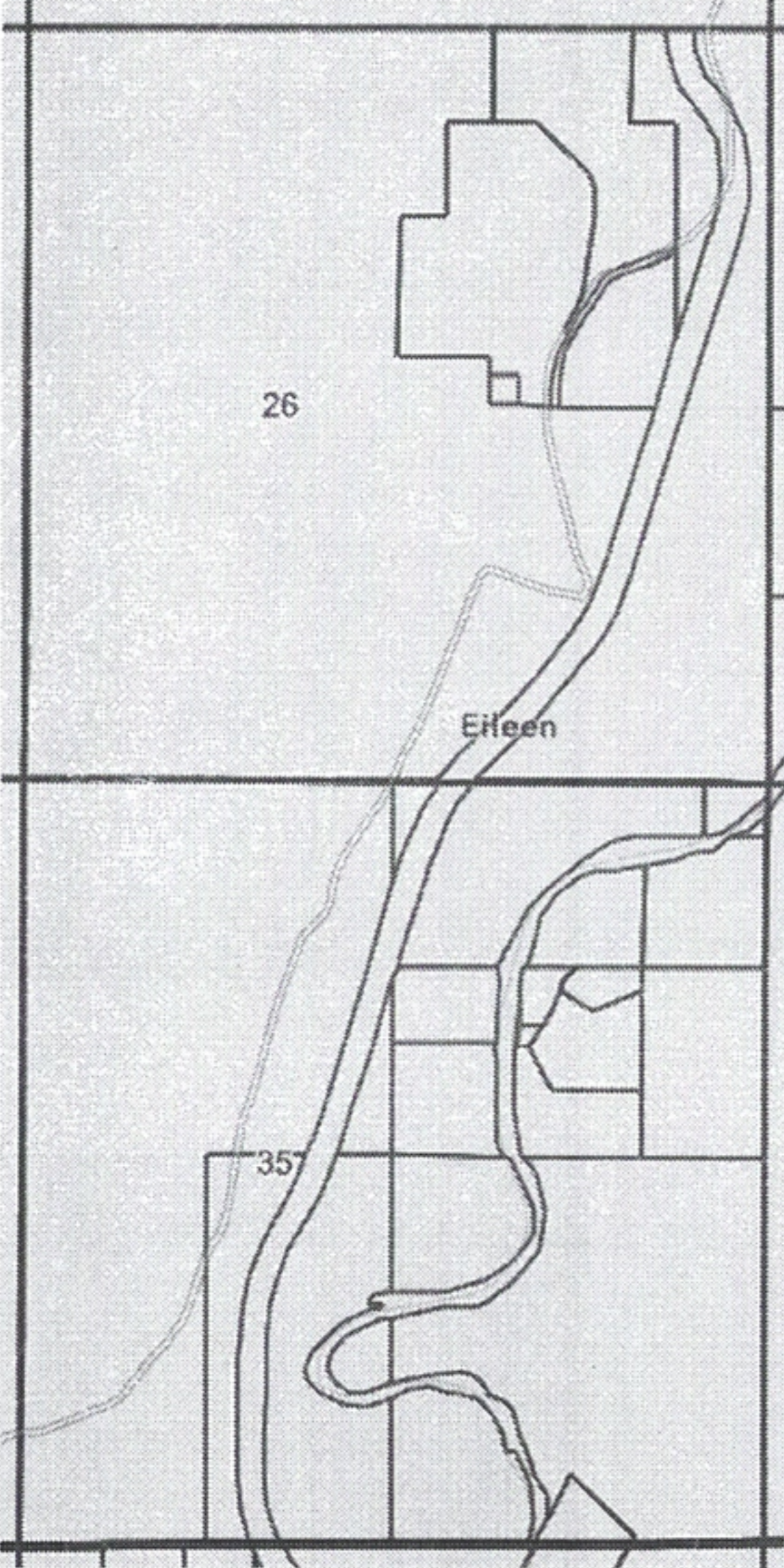
**Exhibit 1B**

Location of home/trailer that has since been removed.  
No structure currently exists at this address per applicants.



**Exhibit 3**

In Township 62N Range 2 East along the Moyie River, numerous parcels are less than one acre.



## Exhibit 2

March 4, 24

Dear Mr. Bushnell,

Re: Bonner Variance

My husband and I live on the adjoining property to the Bonners, 1202 Pork Chop Road. We have been made aware that the Bonners would like to sell 1.5 acres of their property. We understand that that is a change in the variance, but, we do not have concerns about the change.

If you have any questions please give us a call at, 208-610-9602

Thank you,

  
Margurette McDugle

  
Robert McDugle

Exhibit 2

To Bushnell Law,

3/04/24

Sam Carol Puchy who has  
property at 1544 Park Clod Rd, Moyie Springs,  
Idaho.

Sam aware of Bernis and Mike  
want to sell property to Liz and  
Rob Sultor which I approve of the  
sale.

Sincerely,  
Carol Puchy

After recording return to Grantee

242414

QUITCLAIM DEED

STATE OF IDAHO )  
County of Boundary ) SS.  
Filed by: Bernadette Kirk-Bonner  
on 5-22-09 at 10:25  
Glenda Poston  
County Recorder C Peterson  
By Deputy  
Fee \$ 6.00 Pd  
Mail to P.O. Box 452 BF

FOR VALUE RECEIVED,

**Bernadette Kirk-Bonner**

does hereby convey, release, remise and forever quitclaim unto

**Michael Douglas Bonner and Bernadette Kirk-Bonner, husband and wife, as community property with right of survivorship**

whose mailing address is: **PO Box 452, Bonners Ferry, ID 83805**

the following described premises together with any after acquired title, to wit:

**See attached Exhibit A**

together with their appurtenances.

Dated: May 21, 2009

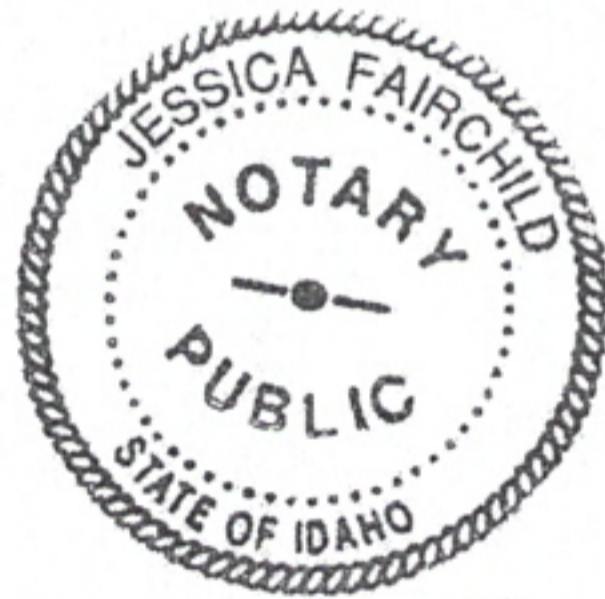
Bernadette Kirk-Bonner  
Bernadette Kirk-Bonner

State of Idaho )

SS

County of Boundary )

On this 22 day of May, 2009, before me, a Notary Public in and for said county and state, personally appeared Bernadette Kirk-Bonner, known or identified to me to be the person ~~(s)~~ whose name ~~(s)~~ is/are subscribed to the within instrument, and acknowledged to me that he ~~/she/they~~ executed the same.



Jessica Fairchild  
Notary Public for the State of Idaho  
Residing at: Bonners Ferry  
Comm. Exp: 2/2/2011



## 242414

A tract of land located in the Northeast Quarter of Section 35, Township 63 North, Range 2 East, Boise Meridian, Boundary County, Idaho (said tract is shown on Record of Survey, Book 4 of Surveys, page 256, Instrument no. 203931) more particularly described as follows:

Commencing at the southeast corner of the north half of said Northeast Quarter; Thence N89°56'47"W, along the south line of said north half, a distance of 858.00 feet to the Point of Beginning;  
Thence S00°03'14"W a distance of 858.00 feet;  
Thence N89°56'46"W a distance of 660.00 feet;  
Thence N26°36'09"W a distance of 333.26 feet;  
Thence N34°08'49"E a distance of 66.45 feet;  
Thence N31°37'45"E a distance of 210.38 feet;  
Thence S58°53'16"E a distance of 240.42 feet;  
Thence N31°06'44"E a distance of 174.94 feet;  
Thence N58°53'16"W a distance of 268.89 feet;  
Thence N16°11'02"E a distance of 79.81 feet;  
Thence N49°44'37"E a distance of 130.90 feet to the south line of said north half;  
Thence S89°56'47"E, along said south line, a distance of 474.25 feet to the Point of Beginning.

LESS

A parcel of land located in the south half of the northeast quarter of Section 35, Township 63 North, Range 2 East, Boise Meridian, Boundary County, Idaho. This parcel description is based on a Record of Survey by PE 1947, recorded in Book 4 of Surveys, page 256, as Instrument No. 203931, records of Boundary County, Idaho. Said parcel is more particularly described as follows:

Commencing at the northeast corner of said south half of the northeast quarter of said Section 35, a 2 inch aluminum cap by PE 1947, as shown on said Record of Survey; Thence N89°56'47"W, along the north line of said south half, a distance of 858.00 feet to a 5/8 inch rebar by PE 1947 and the True Point of Beginning;

Thence N89°56'47"W, along the north line of said south half, a distance of 364.50 feet to a 5/8 inch rebar by PE 1947;  
Thence N89°56'47"W, along the north line of said south half, a distance of 109.75 feet to a 5/8 inch rebar by PE 1947;  
Thence S49°44'37"W a distance of 130.90 feet to a 5/8 inch rebar by PE 1947;  
Thence S16°11'02"W a distance of 79.81 feet to a 5/8 inch rebar by PE 1947;  
Thence S58°53'16"E a distance of 268.89 feet to a 5/8 inch rebar by PE 1947;  
Thence N69°20'52"E a distance of 391.16 feet to a point on the east line of the tract labeled "KIRK A" on said Record of Survey;  
Thence N00°03'14"E, along said east line, a distance of 161.77 feet to the Point of Beginning.

Containing 3.0 acres, more or less.