

Valley County Planning and Zoning Department

219 N. Main
PO Box 1350
Cascade, ID 83611
www.co.valley.id.us
cherrick@co.valley.id.us
208-382-7115



Variance Application

See Section 9-5H-10 Valley County Code

TO BE COMPLETED BY THE PLANNING AND ZONING DEPARTMENT	
FILE # <u>V-1-23</u>	<input checked="" type="checkbox"/> Check # <u>104635</u> or <input type="checkbox"/> Cash
ACCEPTED BY _____	FEE \$ <u>250.00</u>
CROSS REFERENCE FILE(S): _____	DATE <u>1-25-2023</u>
PROPOSED USE: _____	
<input type="checkbox"/> Shared Driveway	<input checked="" type="checkbox"/> Setback Variance
<input type="checkbox"/> Other	

Applicant Name Franklin Building Supply Co

Applicant Signature [Signature] Date 1/24/23

Mailing Address 9222 W Barnes Dr
Boise, ID 83709

Phone [Redacted] Email _____

Property Parcel Number RP18N03E330606, RP18N03E330621, RP18N03E330641

Subdivision (if applicable) _____

Parcel Physical Address 14047 State Highway 55

23 Johnson Lane

Required Attachments

1. Proposed Site Plan
2. Narrative statement demonstrating:
 - That special conditions and circumstances exist which are not a result from any action of the Applicant, which are peculiar to the land use or structure involved, and which are not applicable to other similar or adjacent lands, uses, or structures.
 - That granting the variance requested will not result in any special privilege otherwise denied to other similar or adjacent lands, uses, and structures.
3. Shared Driveway Variances require a shared driveway maintenance agreement. The shared driveway must be built to the satisfaction of the relevant fire department.

Pursuant to "Idaho Code", Section 67-6516 and Section 9-5H-10 of the Valley County Code, the Planning and Zoning Commission shall be empowered to grant variances relaxing or modifying the requirements of the Valley County Land Use and Development Ordinance with respect to lot size, setbacks, parking space, height of buildings, or other provisions of this Ordinance affecting the size or shape of a structure or the placement of the structure upon lots, and other land use requirements of this ordinance.

A variance may be granted if:

- the applicant can prove undue hardship is a result of characteristics of the site,
- that special conditions and circumstances exist which are not a result from any action of the applicant, which are peculiar to the land use or structure involved, and which are not applicable to other similar or adjacent lands, uses, or structures, and
- that granting the variance requested will not result in any special privilege otherwise denied to other similar or adjacent lands, uses, and structures.

In the case of the Planned Unit Development (PUD) involving variations from the requirements of this Ordinance, it shall not be necessary for the applicant to file a separate application for such variances.

Procedure:

- When an application has been submitted, it will be reviewed in order to determine compliance with application requirements. A hearing date will be scheduled only after an application has been accepted as complete or if applicant requests the hearing in writing.
- The fee set by resolution of the Board of County Commissioners shall accompany the variance application. The fee is \$250.00. An administrative shared driveway variance fee is \$50.00
- An application for a variance shall be reviewed by the Administrator and the Planning & Zoning Commission in accordance with Valley County Code Section 9-5H-11. The Administrator shall post notice of the public hearing to the applicant, adjoining property owners, and the public in accordance with Section 9-5H-6B.
- A variance may be granted if the Planning & Zoning Commission makes specific findings of fact based directly on the particular evidence in the application which support conclusions that the above conditions have been met by the applicant.
- Within ten (10) days after a decision has been rendered, the Administrator or staff shall provide the applicant with written notice of the action by regular mail if so requested by the applicant.
- The Planning & Zoning Commission's decision shall be a recommendation to the Board of County Commissioners.
- The County Clerk, upon receipt of a recommendation from the Commission, shall set the item on the agenda of the Board at the earliest possible regular Board meeting.
- The Board shall consider and act upon the Commission's recommendations by following the procedures outlined in Valley County Code Section 9-5H-11.
- A permit for the variance may be issued by the Administrator or staff after approval of the Board of County Commissioners.
- Subject to Idaho Statute 55:22 Underground Facilities Damage Prevention.

ABIGAIL R. GERMAINE

251 East Front Street, Suite 300
Post Office Box 1539
Boise, Idaho 83701
Telephone [REDACTED]
Fax [REDACTED]
E-mail [REDACTED]

January 24, 2023

Via Email: cherrick@co.valley.id.us

Hard copy to follow

Valley County, Idaho
Planning and Zoning Commission
Planning and Zoning Department
c/o Cynda Herrick, Director Planning and Zoning
219 North Main Street
PO Box 1350
Cascade, ID 83611

Re: Variance Application
Related to FBS CUP 99-1
Narrative in Support of Variance
E&B File No. 9896-0002

Dear Valley County Planning and Zoning Commission and Director Herrick:

Thank you for your time and consideration of this Variance Application before the Valley County Planning and Zoning Commission ("Commission"). We represent Franklin Building Supply Co. ("FBS"). We are respectfully requesting that this Commission grant FBS's Variance Application ("Variance") related to its property located at 14047 State Highway 55, McCall, Idaho 83638, and its CUP 99-1.

I. Background

As way of background, this Variance request arises from email correspondence from Cynda Herrick, the Director of the Planning and Zoning Department ("Director") to FBS on October 6, 2022, in which the Director describes the email as an "administrative decision" related to the setback area included in FBS's CUP 99-1. The CUP 99-1, the attached and governing Site Plan, historical use, and current statutory provisions illustrate that FBS's historical and current use is allowable within the setback area; however, the Director has informed FBS that due to efforts along the Hwy 55 corridor, the Planning and Zoning Department ("Department") are embarking on efforts to enhance the aesthetics along Hwy 55 and are requesting that all materials be removed from FBS's setback area.

FBS firmly believes that its historic and current use of temporary storage of materials within the setback area adjacent to Hwy 55 and in the southwest area of the site are specifically allowed and permitted under FBS's CUP 99-1. Based on the Director's email from October 6,

2022, FBS appealed this determination under Valley County Code 9-5H-12(A). Following FBS's appeal, on November 9, 2022, FBS and the Department met to try and settle the issue without taking the matter before the Commission for determination. It was discussed in this meeting that a variance may be an amendable option to ensure that FBS has written assurance of its ability to continue using its setback areas in a manner that is consistent with its historically allowable use, the permitted uses of its CUP 99-1, and the required manner as dictated by the site constraints and operational requirements. Granting this Variance also provides the Department administrative clarity as they work through their increased enforcement actions along Hwy 55.

II. Applicable Requirements

Valley County Code 9-5H-10 allows for a variance to be granted modifying the requirements of the land use and development code with respect to certain requirements, including, but not limited to, setbacks. Under Valley County Code 9-5H-10(B), a variance may be granted if the applicant makes a showing of undue hardship as a result of the characteristics of the site. In submitting a request for a variance, the applicant must provide:

1. a description of the nature of the variance requested; and
2. a narrative statement and graphic material demonstrating:
 - a. that special conditions and circumstances exist which are not a result from any action of the applicant, which are peculiar to the land use or structure involved, and which are not applicable to other similar or adjacent lands, uses, or structures; and
 - b. that granting the variance requested will not result in any special privilege otherwise denied to other similar or adjacent lands, uses, and structures.
3. a site plan showing the location of the variance and the special characteristics of the site.

Valley County Code 9-5H-10(B)(2).

III. Nature of Variance Requested

FBS is requesting the ability to continue storing materials within the setback areas and allowing ingress and egress of vehicles within this same setback area both adjacent to Hwy 55 and within the southwest corner of the property. The Hwy 55 setback area is depicted on the Site Plan attached hereto as Exhibit A. The Hwy 55 setback is shown as a hundred-foot (100') setback adjacent to Hwy 55. As shown in the Site Plan, this area was indicated as an existing storage yard and included the entire setback area. The narrative on the Site Plan states, "existing storage yard – black top surface extends east and west from rail fence to irrigation culvert and north to south from cyclone fence to storage building. Please see Exhibit B and the yellow highlighted language. The rail fence runs directly adjacent to State Highway 55 and is depicted on the Site Plan (highlighted in green). This is now no longer a rail fence, but is a wood fence as requested by the Department, but the location has not changed. The irrigation culvert is to the west and shown by the double dashed line (highlighted in blue). The cyclone fence is to the north and is labeled cyclone fence (highlighted in orange). And the storage building is to the south and is labeled as such (highlighted in pink). What this narrative describes is a rectangular area,

encompassing the 100' setback, which is plainly designated as the storage yard. FBS requests that this Variance be granted illustrating FBS's ability to continue to store materials and operate vehicles within this setback area and the area within the southwest corner of the site.

IV. Special Conditions and Circumstances

FBS has operated its facility, a lumber yard, in its current location since 1984. FBS has faithfully complied with all permitting requirements and has obtained several CUPs throughout the years, beginning with CUP 84-2, and amended CUP 93-30, always obtaining an amended or new CUP, when necessary, based on new or changing operations. The use approved for the site predominantly involves storage of building materials on the site. This is the very purpose and use permitted for the site. The current permit and all prior permits provide and allow this use and parking and provide no restriction prohibiting that use within the setback.

FBS has established its operations which include material storage and vehicle ingress and egress within the setback areas over several decades. As discussed above, the site plan itself shows material storage within the Hwy 55 setback area. FBS uses this setback area for two essential activities that cannot be relocated to another area of the site. First, the area is used to pull and temporarily store materials that have been ordered and are being prepared to be loaded and shipped. Both stock items and special-order items that are waiting to be loaded on trucks are staged in this setback area. The setback area is needed to stage large special orders such as engineered wood products, including large beams and roof trusses, that have numerous units and are extremely large and bulky. It would not be safe to unload or load these items in any other location on the site. At first glance, it may appear that this area is used like a normal stock material area, but that is not the case; this area is for material that has been pulled and identified for delivery, waiting to be loaded on a truck. It is important that delivery vehicles are able to park and be loaded and unloaded, or staged for loading and unloading, in this area. Sometimes such loading and unloading is an overnight activity, requiring the delivery vehicles be staged in the setback overnight.

Second, this area is needed to operate forklifts and other heavy equipment necessary to move the material to and from the pulled order staging area to the delivery trucks. There is an open aisle by the order staging area that is used by forklifts to be able to access both sides of the delivery trucks. During the nights and weekends, the trucks are parked in an orderly, organized row. These trucks either have pulled orders on them for the next day's deliveries or some will be empty waiting to be loaded the next morning. The area is necessary for this staging and storage activity because the forklifts need a wide enough turning radius to accomplishing moving very lengthy materials. The open space in the setback is necessary for safe and efficient handling of building materials.

Lastly, in the winter months, snow is stored in this area temporarily until it can be moved to the southwest area outside of the paved fence area. The setback area is necessary to store the snow temporarily until it can be moved to the southwest section. This allows the snow to be moved most efficiently. In the winter months, the need to stage large loads within the setback area drastically declines as home building and construction slows when temperatures drop and

snow begins to accumulate. During the busy construction months, this setback area is vital to staging and loading and unloading.

In addition to these main uses, the area within the setback is also sometimes used by customers pulling a trailer that need the trailer to be loaded with a forklift. This is the only area this activity can really been done safely and efficiently. This activity is always very temporary and only takes a couple hours. This setback area has also been used on occasion for special events lasting only a couple hours in duration. Such events include vendor displays where customers can view the products, etc. The setback area is also sometimes used for returned material which is being staged until it can be counted and put back into stock. When a truck returns with material that is returned from a jobsite, the material is staged in the area until it can be counted and put back into the appropriate area in the yard. This is always a very temporary activity. FBS is willing to restrict all passenger and employee vehicle use of this setback area in an effort to help accommodate the Departments issues with parking within this setback area.

V. Undue Hardship and Fair Treatment.

The activities that are being conducted in the setback areas, as described above, cannot be relocated to a different area on the FBS site. These activities are essential to the operation of the business. There are aspects of the site that severely limit the ability for these operations to occur other places. One such limitation is a berm on the western side of the graveled area that was required by the Department many years ago. This was a requirement imposed by the Department to buffer the residential homes to the west. FBS willingly complied with this request, but the berm dramatically limits the mobility of the site and the ability to stage and load materials in this area.

In addition, there is a drainage ditch and wetland area to the west which limits the ability to load and unload material onto delivery trucks in that area. It would be impossible to navigate the drainage ditch and wetland in order to stage and pull materials and load them onto delivery trucks. FBS must have firm, stable ground to move these delivery trucks and load and unload materials using the necessary forklift equipment. Similarly, FBS's store's septic system is to the southwest and limits the ability to conduct any of the pulling and staging of materials, and loading and unloading of delivery trucks, in the southwest area of the site. This area is considerably lower in grade and drainage and would not be acceptable or safe for purposes of operating these activities in this area.

Without the ability to stage and store materials in both setback areas, the 100 foot setback adjacent to Hyw 55 and the alleged new 100' setback adjacent to the recently added driveway in the southwest section, FBS would not be able to function or operate the lumber yard in its current capacity, and the facility would become substantially diminished, if not functionally obsolete and nonoperational. This would result in the loss of millions of dollars in investment, business revenue, and client damages. In addition, practically, this could mean a loss in jobs for the Valley County community. FBS takes pride in employing members of the community and being a foundational business in the area. FBS's operations also provide significant property tax revenue, sales tax revenue and other economic investments in Valley County. It is vital that FBS be permitted to continue its approved and historical use of the setback area for staging and

storage in order to ensure Valley County does not feel the economic impact of a loss of FBS operations.

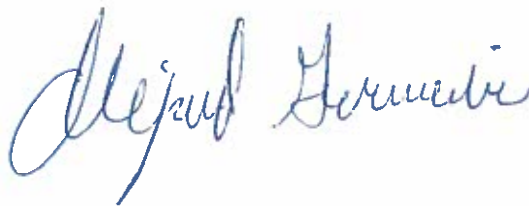
FBS has a long history of cooperation with Valley County and the Department. FBS has received numerous compliments regarding its efforts to implement the dark skies initiatives and litter enforcement and clean up. FBS has also made extensive efforts to seek input from the Department on matters of fencing and roofing when necessary repairs are needed to FBS facility. FBS always seeks to accommodate the desires of the Department as best it can, even when not directly required to. In addition, if the variance is granted, FBS will limit all material height within the setback area to no greater than fifteen feet (15').

VI. Conclusion

FBS respectfully requests this Commission affirm FBS's current and historical approved use of its facility by granting this Variance and associated uses. The Variance requested herein allows FBS to continue its current operations and the operation of the facility as it has been used for the last several decades. Because of the unique nature of the site, FBS is unable to relocate the activities currently conducted in the setback areas to another location on the site. Nothing about the use requested in this Variance would result in unfair treatment to FBS as it relates to other land users or property owners. Refusing to grant this Variance would result in an undue hardship that would completely result in the site being substantially diminished or nonoperational. Based on the foregoing, the Commission should grant FBS's request for a variance as specified in the application.

Sincerely,

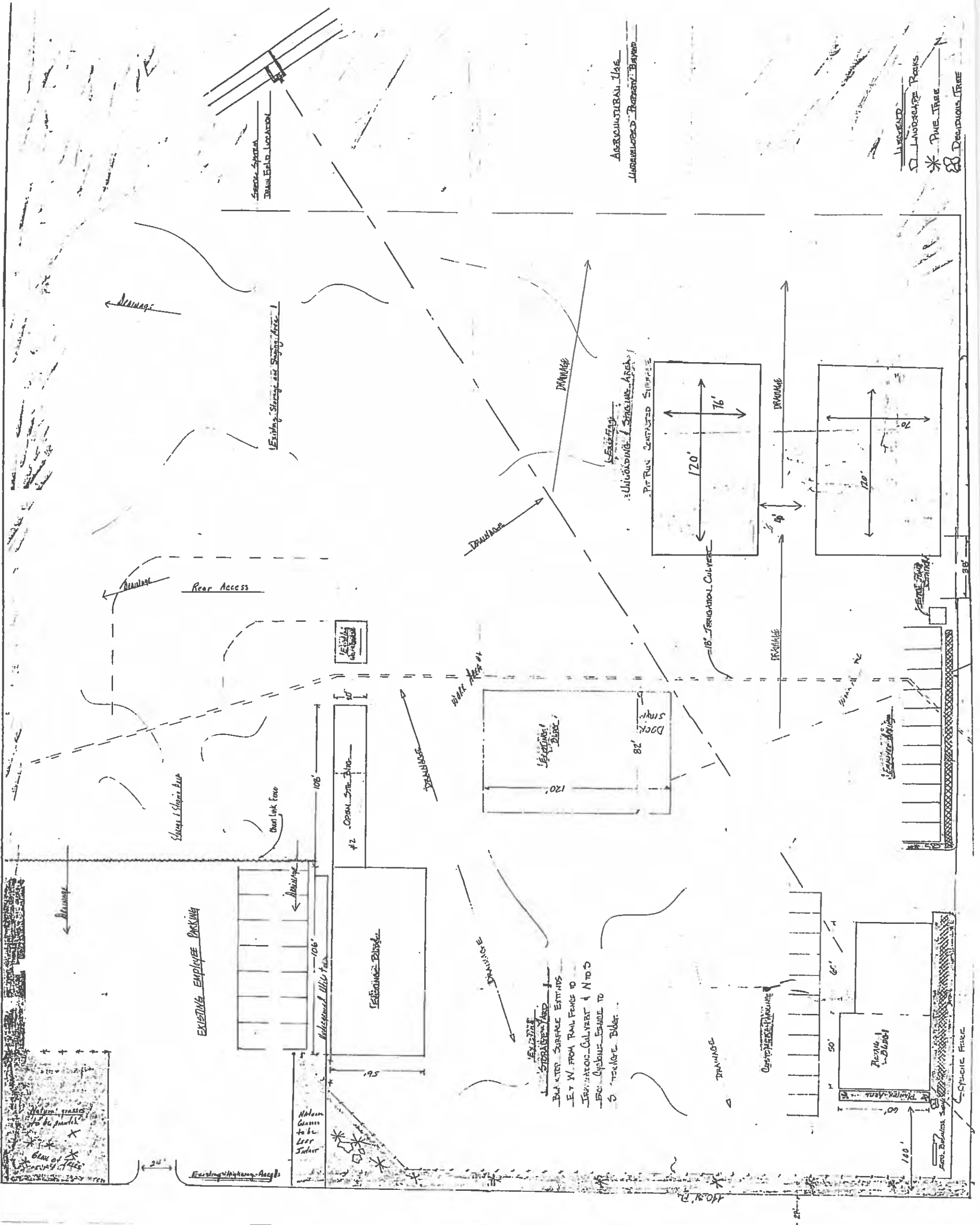
ELAM & BURKE
A Professional Association



Abigail R. Germaine

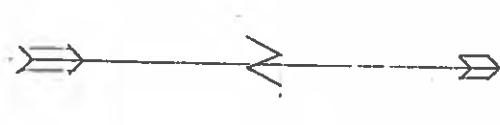
cc: Brian Oakey, Valley County Attorney

EXHIBIT A



LOCAL DESCRIPTION
Parcels 12, 15
Parcel of land situated in
the NW 1/4 of the NW 1/4 of the

Highway 55
N 0° 22' 19" E



AGRICULTURAL USE
UNDEVELOPED PROPERTY BOUNDARY

LEGEND
LANDSCAPE TREES
PINE TREE
DECIDUOUS TREE

EXHIBIT B

