

Valley County Planning and Zoning

PO Box 1350 • 219 North Main Street
Cascade, ID 83611-1350



Phone: 208-382-7115
Fax: 208-382-7119
Email: cherrick@co.valley.id.us

STAFF REPORT: Appeal of Planning and Zoning Commission Decision that a Conditional Use Permit Is Not Required for a Storage Building

HEARING DATE: April 3, 2023

TO: Board of County Commissioners

STAFF: Cynda Herrick, AICP, CFM
Planning and Zoning Director

PROPERTY OWNER: BP Properties LLC
PO Box 4110
McCall, ID 83638

LOCATION: 14014 Highway 55
RP18N03E331807 located in the SENE Section 33, T.18N, R.3E,
Boise Meridian, Valley County, Idaho.

SIZE: 18.44 acres

REQUEST: Appeal of Planning and Zoning Commission Decision

EXISTING LAND USE: Rural Parcel with Storage-Type Buildings, Some in Disrepair

Dusty Bitton has proposed building a 300-ft x 50-ft structure at 14014 Highway 55. He states that the building would be for storage of items used only for personal use. (See attached diagrams.)

On February 9, 2023, the Planning and Zoning Commission determined that a conditional use permit would not be required as long as the building is used only for personal use.

Reason for Appeal:

The Valley County Deputy Prosecuting Attorney, on behalf of Valley County, has appealed the decision. The intent of the appeal is to illicit additional necessary information so that the administrative record will have sufficient details to determine allowed use of the site. The lack of information concerning the business ownership of the property and personal use needs to be examined further.

BP Properties owns the parcel (land and buildings). Dusty Bitton stated that the storage buildings would be used by him, his family, and his business partner's family. Dusty Bitton lives at 7 Boulder View Place. His mailing address is PO Box 4110, McCall, ID 83638. BP Properties LLC has the same mailing address.

FINDINGS:

1. On February 3, 2023, Dusty Bitton requested confirmation that a conditional use permit would not be required to demolish an old shed and build a storage building to be used for personal use. Proposed building plans were included.
2. On February 3, 2023, Director Herrick replied that the building appears to be a storage unit that could be turned into a public rental; thus, a conditional use permit is needed.
3. On February 3, 2023, Dusty Bitton appealed the administrative decision to the Valley County Planning and Zoning Commission.
4. The appeal was scheduled for the next Commission meeting date, February 9, 2023.
5. The P&Z Commissioners discussed the location, building renderings, and proposed use.
6. The Commission determined that a conditional use permit was not required for storage buildings used only for personal use at 14014 Highway 55. If the use changes, a conditional use permit will be required.
7. On February 21, 2023, Deputy Prosecutor Brian Oakey appealed the decision. He recommended that the Board of County Commissioners conduct a public hearing and make a reasoned decision based on a complete administrative record. The intent is not to overturn the Commission's decision but to illicit additional necessary information so that the administrative record will have sufficient information to make a reasoned decision based on evidence in the record. The current record is inadequate.

8. STAFF RESPONSE TO APPEAL

The use of the property must be determined and category in land use classification table should be determined. (See attached table)

The parameters for determining personal use versus commercial uses must be determined. This allows for Staff to be able to determine at what point a conditional use permit would be required, ie:

- If he rents the units
- If he sells the units
- If other people use the units

9. Legal notice for the Appeal was posted in the *Star News* on March 9, 2023, and March 16, 2023. Potentially affected agencies were notified on March 3, 2023. Mr. Bitton and property owners within 300 feet of the property line were notified by fact sheet sent March 3, 2023. The notice fact sheet was posted online at www.co.valley.id.us on March 2, 2023. The site was posted on March 16, 2023.

10. Agency Comment Received:

Idaho Department of Environmental Quality (DEQ) provided general comments on air quality, wastewater, drinking water, surface water, hazardous waste, ground water contamination, and best management practices. (March 24, 2023)

11. Neighbor Comments Received:

April and Cory Whitney, 18 Knob Hill DR, and Richard and Shelley Platt, 24 Knob Hill DR, would like additional information to be provided on the following:

- Question whether the use of the site and whether it is truly “personal” or commercial in nature.
- The proposed 15,000-sqft structure is not sited on the property and would be the length of a football field.
- Believes the owner plans to do a lay down yard for his business and storage condos.
- The property has seen a dramatic increase in activity over the last six months. Mr. Bitton owns another property less than a quarter mile away that is used for commercial properties.
- A conditional use permit should be required so public input can be considered and conditions for approved uses be specified. (March 24, 2023)

ATTACHMENTS:

- Appeal – Email from Deputy Prosecutor Brian Oakey
- PZ Commission Meeting Minutes – March 9, 2023
- PZ Commission Staff Report with Correspondence and Renderings of Proposed Building
- Vicinity Map
- Aerial Map
- Assessor Plat T.18N R.3E Section 33
- Valley County Assessor’s Office Report for Parcel
- Land Use Classification Table
- Responses

END OF STAFF REPORT

CUP for BP Properties LLC

From: Brian Oakey [REDACTED]

Sent: Tuesday, February 21, 2023 2:05 PM

To: Cynda Herrick [REDACTED]

Subject: CUP for BP Properties LLC

Cynda,

Valley County Code requires that any administrative level decision can be appealed in accordance with the procedures established herein. See VCC 9-5H-12. County code goes on to explain that "Decisions of the administrator or staff may be appealed to the planning and zoning commission within ten (10) days from the date of such decision by any person aggrieved by such decision. Upon receipt of the appeal, the administrator or staff shall schedule the appeal before the commission at the next public meeting following the appeal." VCC 9-5H-12(A)(1).

On February 9, Dusty Bitton on behalf of BP Properties appealed the VC P&Z department's decision to require a CUP for a storage structure he is proposing. Mr. Bitton stated that the property where the proposed structure will be located is owned by BP Properties LLC, a legal entity he claims a partial ownership interest in. However, no information was provided about BP Properties LLC to adequately determine the veracity of his claim that a 300' x 50' structure will be used for personal use. I recommend the Board of County Commissioners take this matter up on appeal, conduct a public hearing as required by Valley County Code and make a reasoned decision based on a complete administrative record as to the requirement of a CUP for this proposed project. The "affected party" in this case is Valley County. The intent of this recommendation and the subsequent appeal isn't to overturn the P&Z decision, rather to illicit additional necessary information so that the administrative record will have sufficient information to make a reasoned decision based on evidence in the record. The current record is inadequate.

Valley County Planning and Zoning Commission

PO Box 1350 • 219 North Main Street
Cascade, ID 83611-1350



Phone: 208-382-7115
Email: cherrick@co.valley.id.us

Katlin Caldwell, Chairman
Ken Roberts, Vice-Chairman

Sasha Childs, Commissioner
Scott Freeman, Commissioner
Gary Swain, Commissioner

MINUTES

Valley County Planning and Zoning Commission
February 9, 2023
Valley County Court House - Cascade, Idaho
PUBLIC HEARING - 6:00 p.m.

A. OPEN: Meeting called to order at 6:00 p.m. by Chairman Caldwell. A quorum exists.

PZ Director – Cynda Herrick:	Present
PZ Commissioner – Katlin Caldwell	Present
PZ Commissioner – Sasha Childs:	Present
PZ Commissioner – Scott Freeman:	Present
PZ Commissioner – Ken Roberts:	Present
PZ Commissioner – Gary Swain:	Present
PZ Assistant Planner – Lori Hunter:	Present

B. MINUTES: Commissioner Childs moved to approve the minutes of January 12, 2023. Commissioner Swain seconded the motion. Motion passed unanimously.

C. OLD BUSINESS:

1. C.U.P. 22-09 Tamarack Resort P.U.D. – Phase 3.3 Osprey Meadows Estates – Final Plat: Tamarack Resort Two LLC is requesting final plat approval. The commission will review the final plat to determine conformance with the preliminary plat, approved densities, and conditional use permit. This plat consists of 17 single-family residential lots. Lots would be accessed from West Mountain Road (public), Discovery Drive (private), and new private roads. The approximate 16-acre site is in Section 5, T.15N, R.3E, Boise Meridian, Valley County, Idaho. Action Item. **Not a public hearing.**

Chairman Caldwell introduced the item. Chairman Caldwell recused herself and left the room due to a family member in contract with Tamarack Resort. Acting Chairman Roberts asked if there was any further ex parte contact or conflict of interest. There was none.

Director Herrick presented the staff report and displayed the final plat on the projector screen. The existing Idaho Power easement and changes from the preliminary plat were discussed.

Scott Turlington, Tamarack Resort, concurs with the staff report and recommendations. The road name on the plat should be Osprey Meadows Court, not Osprey Meadow Court. The stub portion of road may be used for access in the future.

term rent the homes. She is concerned about noise of generators as no power lines exist to these home sites. Other concerns include the existing wetlands and effect on the agricultural use in the area. She asked if Valley County has any ordinances regarding for solar farms.

Micheal Powel, Goslin Loop, states the area is very woody. Generators produce noise and heat. Wildfire is a concern. Fire trucks take 20 minutes to reach his home and would take much longer to get to these proposed buildings.

Chairman Caldwell asked for proponents.

Joe Kennedy, Cascade, is the current owner of the property. This area is behind a big ridge and would not be visible from the existing subdivisions.

Chairman Caldwell asked for rebuttal from the applicant.

Ms. Golden clarified that Mr. Lamon sold the solar farm company in 2021. He will be conscious of fire concerns. He will want solar panels for the residences and is aware that solar panels would be a separate permit.

Director Herrick clarified If solar panels are on the primary structure, a conditional use permit is not required.

Chairman Caldwell closed the public hearing.

The Commission deliberated. A solar farm would require a conditional use permit and public hearing as would a subdivision application. This conditional use permit approval would allow two homes on a large parcel. Commissioner Freeman said this area is not visible from the existing subdivisions. Commissioner Childs responded to Ms. Mohler's comments and stated that it is the City of McCall that limits building size to 5,000-sqft, not Valley County.

Commissioner Freeman moved to approve C.U.P. 22-57 Lamon Multiple Residences with the stated conditions. Commissioner Roberts seconded the motion. Motion carried unanimously.

There is a 10-day appeal period to the Board of County Commissioners in accordance with Valley County Code 9-5H-12.

7:58 p.m.

E. Appeal of Administrative Decision that a Conditional Use Permit Is Required.

Is a C.U.P. required for a storage building at 14014 Highway 55? Action Item.

The staff report includes maps and renderings of the proposed structure at 14014 Highway 55 [Parcel RP18N03E331807].

Dusty Bitton, 7 Boulder View Place, bought the property about a year ago. There are many dilapidated buildings on the parcel. He wants to replace an existing building with a new storage building. This new building would be used for personal use by his family and his business partner's family. The building would be used to store boats, snowmobile trailers, RVs, and other seasonal equipment. He is aware that a conditional use permit would be required before the building could be used for business use. The site is visible to neighbors who would be aware if a business use was occurring. The subdivision that Mr. Bitton and his business partner lives in does not allow long-term storage of vehicles such as RVs and snowmobiles.

Commissioner Roberts stated that due to the sheer magnitude of proposed building, it appears to be a commercial building. A 300-ft long building can store a lot of stuff. Commissioner Freeman disagrees and believes the building would be used for personal use. Commissioner Swain believes accepting this commercial-looking building as personal use would set a precedent; who would police the use? Commissioner Freeman believes the neighbors would be aware of any business activity at this site due to the location. Commissioner Childs would not require a conditional use permit at this time when the storage building would only be for personal use.

Commissioner Roberts moved to deny the appeal of the administrative decision and determine that the proposed building at 14014 Highway 55 does require a conditional use permit. Commissioner Swain seconded the motion. Commissioners Roberts and Commissioner Swain voted in favor. Commissioners Child, Commission Freeman, and Chairman Caldwell voted in opposition.

Motion did not carry; thus, a conditional use permit is not required for storage building used for personal use only at 14014 Highway 55. If the use changes, a conditional use will be required.

F. FACTS AND CONCLUSIONS - *Action Items:*

- C.U.P. 22-50 Elk Haven Acres Subdivision
- C.U.P. 22-51 Amendment of C.U.P. 16-21 Mountain Meadow Rentals
- C.U.P. 22-52 North Pasture Subdivision
- C.U.P. 22-53 Harlow Subdivision

Commissioner Freeman moved to approve the Facts and Conclusions as presented and authorize the chairman to sign. Commissioner Childs seconded the motion. Motion carried unanimously.

The next meeting is on February 21, 2023. There will be two work sessions. A joint training with the Board of County Commissioners will be held from 5:00 p.m.– 5:30 p.m. Immediately after, the PZ Commissioners will hold a work session.

Commissioner Roberts moved to adjourn the meeting. Commissioner Childs seconded. The motion carried unanimously.

Chairman Caldwell adjourned the meeting at 8:11 p.m.

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Email: cherrick@co.valley.id.us

STAFF REPORT: Is a Conditional Use Permit Required?
HEARING DATE: February 9, 2023
TO: Planning and Zoning Commission
STAFF: Cynda Herrick, AICP, CFM
Planning and Zoning Director

Dusty Bitton has appealed an administrative decision that a conditional use permit is required for a storage building. He states that the building would be for personal use.

The Commission will determine if a conditional use permit will be required for this use at 14014 Highway 55.

ATTACHMENTS:

- Email Chain with Appeal
- Drawings of Proposed Building
- Vicinity Map
- Aerial Map

END OF STAFF REPORT

Appeal of Administrative Decision that a Conditional Use Permit Is Required

From: Dusty Bitton [REDACTED]
Sent: Friday, February 3, 2023 1:51 PM
To: Cynda Herrick [REDACTED]
Cc: Annette Derrick [REDACTED]; Lori Hunter [REDACTED]; Elise Bitton [REDACTED]; Carrie Potter [REDACTED]
Subject: Re:

Cynda

We would like to appeal the administrative decision to have to get a CUP to build this building to use for PERSONAL STORAGE of the Bittons and Potters who own the property under BP Properties.

Please let me know what other info you may need from us.
Thanks!

On Fri, Feb 3, 2023 at 11:44 AM Cynda Herrick [REDACTED] wrote:
Dusty,

That appears to be a storage unit, that will be turned into a public rental at some point. I believe you will need a conditional use permit. You can appeal that decision to the P&Z Commission at no charge by sending an email stating you are appealing the administrative decision. See 9-5H-12 of the Valley County Code. If you send the email today, I can get you on the agenda next Thursday or February 21, 2023.

To tear down the buildings you will need to get a demolition permit from the building department.

Thanks, Cynda

Cynda Herrick, AICP, CFM
Valley County
Planning and Zoning Director
Floodplain Coordinator
PO Box 1350
Cascade, ID 83611
(208)382-7116

"Live simply, love generously, care deeply, speak kindly, and leave the rest...."

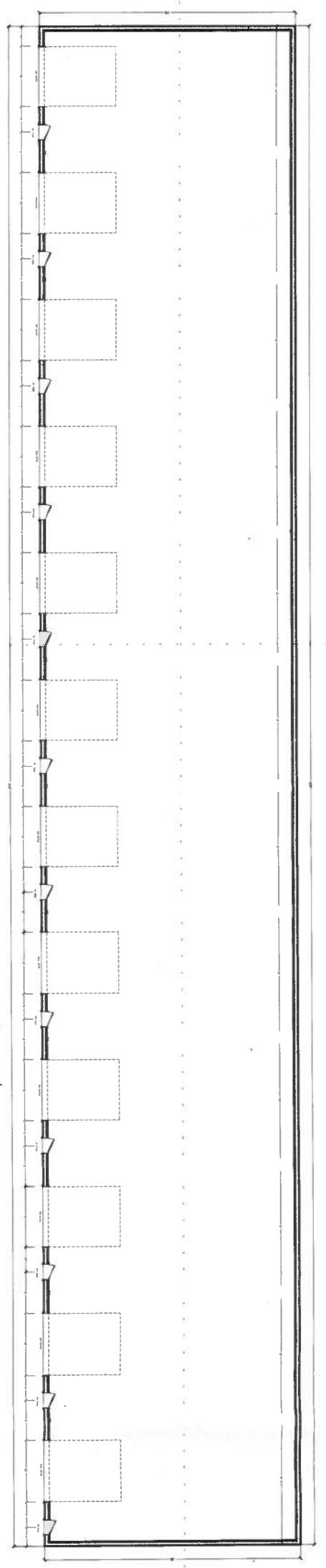
Service Transparent Accountable Responsive

From: Dusty Bitton [REDACTED]
Sent: Friday, February 3, 2023 7:16 AM
To: Cynda Herrick [REDACTED]
Subject:

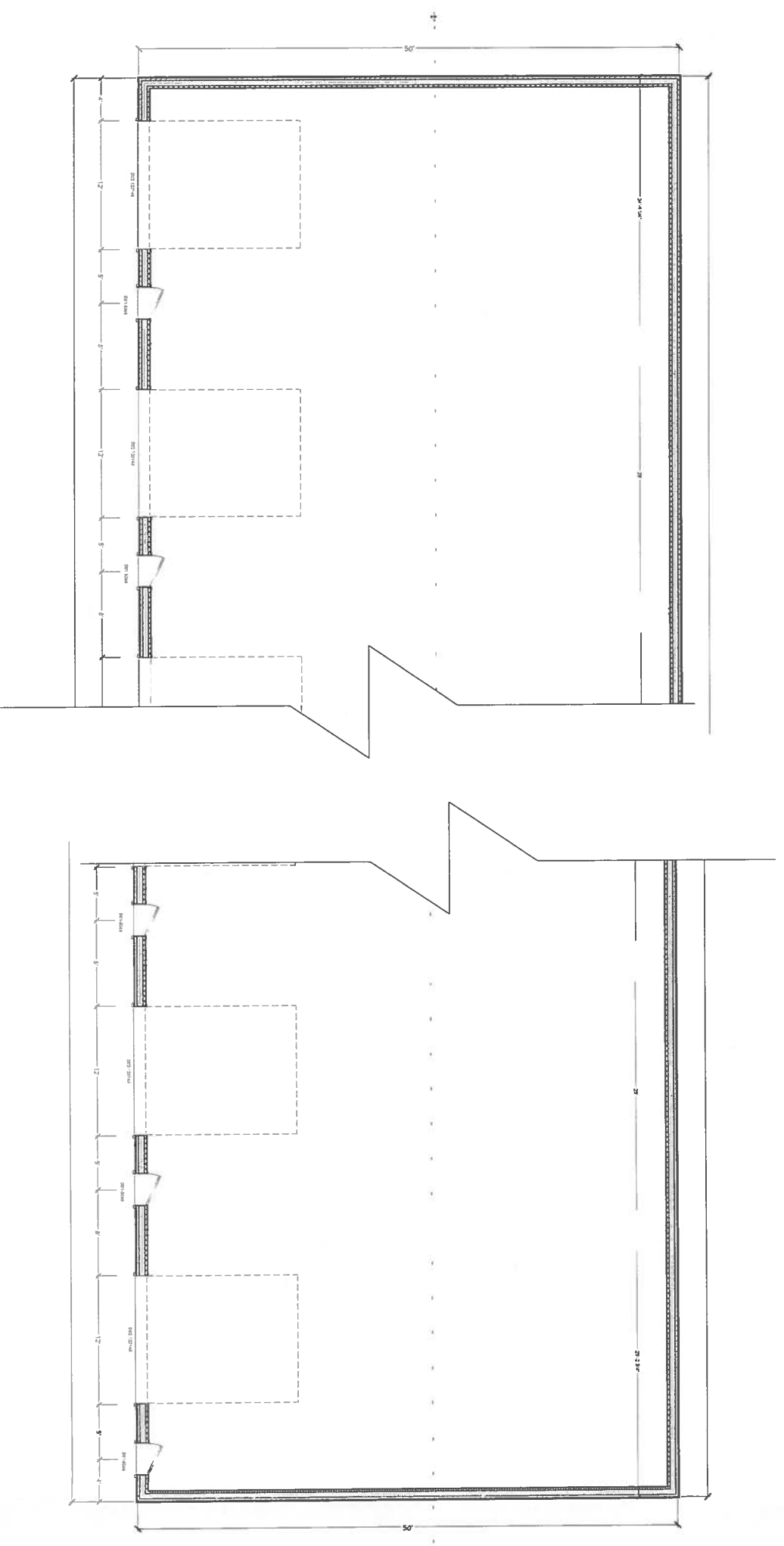
Hello Cynda!

Can you please confirm that we will not have to get a CUP to tear down the old shed and build this in its place as long as it is for our own personal use?

Thanks!



FLOOR PLAN - 1ST LEVEL
1/8" = 1'-0"



NO.	DATE	DESCRIPTION	BY
1	1/11/2022	ISSUED FOR PERMIT	STEVE
2	1/11/2023	REVISED PER COMMENTS	STEVE

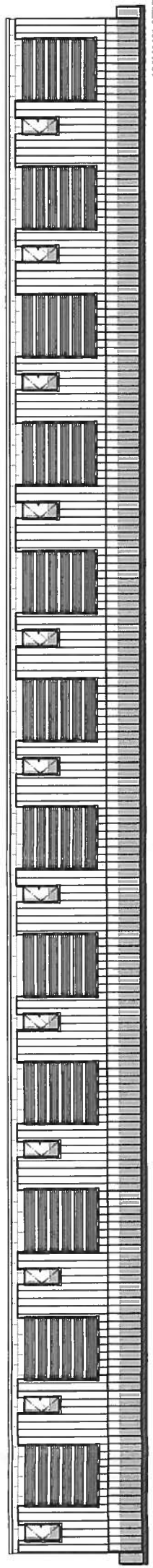
MAIN LEVEL NOTES:
ALL ANGLES 45° UNLESS NOTED
FLOOR FINISH @ PERMITTER WALL
1/4" TYP. PLATE HEIGHT AND
ARE TO FACE OF STUD

NO.	DESCRIPTION
1	FLOOR PLAN

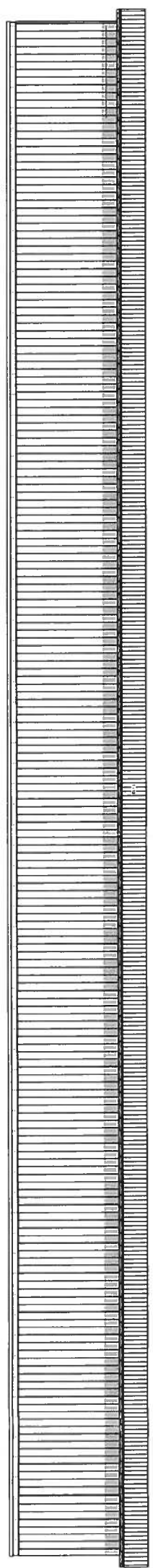
<p>SMC Design 200.249.7266 Nampa, ID</p>	<p>PROJECT NO. 23006</p>
	<p>CONTRACTOR TO VERIFY ALL DETAILS, DIMENSIONS, AND SPECIFICATIONS PRIOR TO CONSTRUCTION. AND REPORT ANY OMISSIONS AND/OR ERRORS TO SMC DESIGN. THE PURCHASER OR BUILDER OF THIS PLAN RELEASES SMC DESIGN FROM ANY CLAIMS, LITIGATIONS OR SUITS THAT MAY ARISE DURING CONSTRUCTION OR ANYTIME THEREAFTER.</p>

<p>DRAWN BY: Steve</p>	<p>INITIAL DATE: 1/11/2022 REVISION DATE: 1/11/2023</p>	<p>SHEET SIZE ARCH E (36" x 48")</p>
<p>FLOOR PLAN</p>		

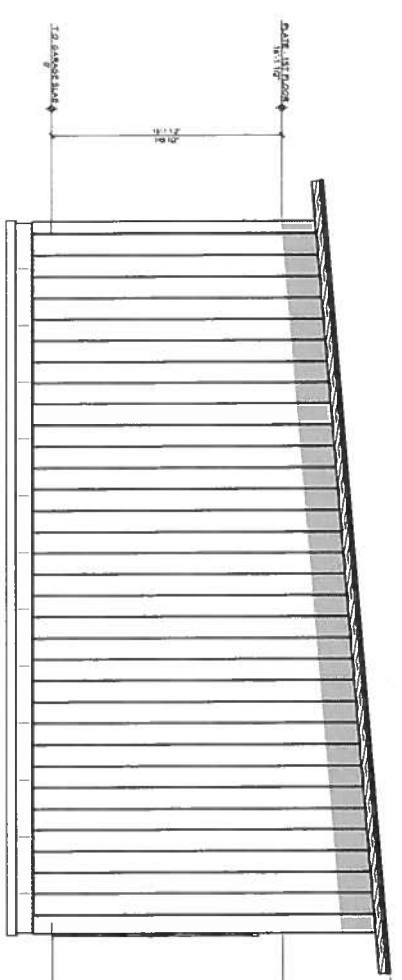
PRELIMINARY
NOT FOR



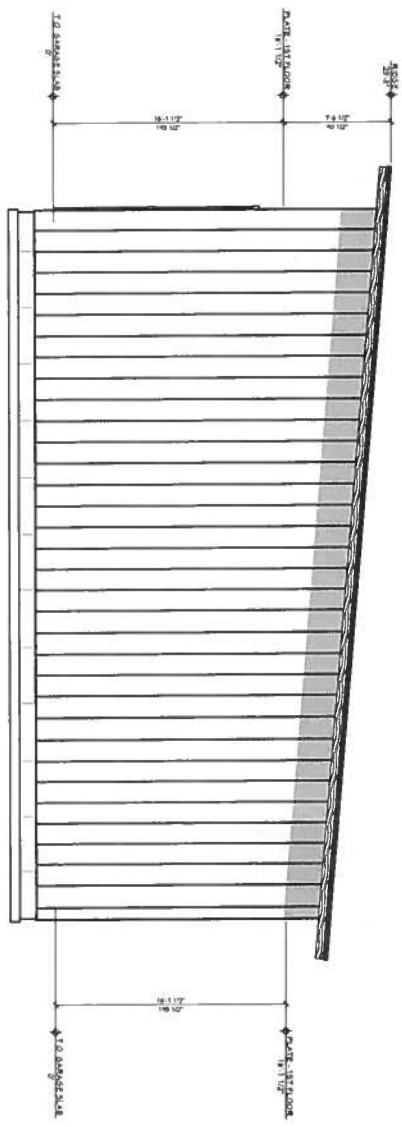
FRONT ELEVATION
1/8" = 1'-0"



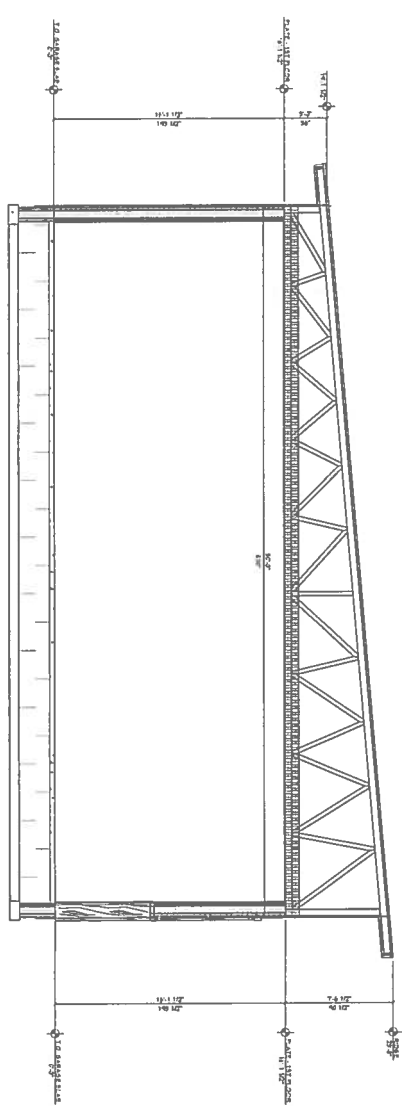
REAR ELEVATION
1/8" = 1'-0"



LEFT ELEVATION
1/4" = 1'-0"



RIGHT ELEVATION
1/4" = 1'-0"



VIEW A-A
1/4" = 1'-0"

NO.	DATE	DESCRIPTION

SHEET INDEX
TITLE PLAN
ELEVATIONS

PROJECT NO.
22-009

SHEET SIZE
ARCH E (36" x 48")

INITIAL DATE: 1/11/2022
PRINT DATE: 1/11/2023

DRAWN BY:
Steve

SMC Design
SMC Design
208.249.7288
Nampa, ID

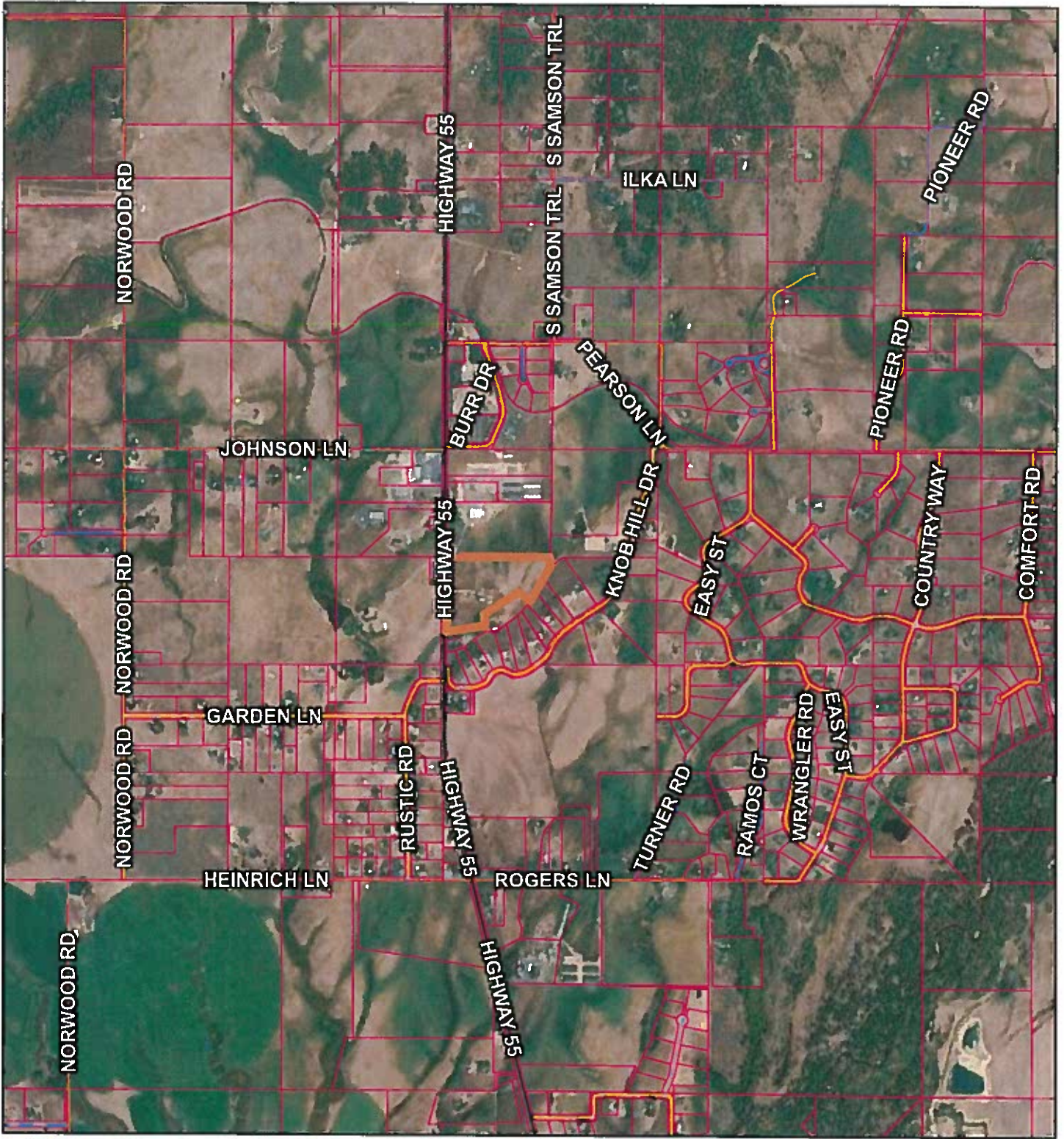
ELEVATIONS

CONTRACTOR TO VERIFY ALL DETAILS, DIMENSIONS, AND SPECIFICATIONS PRIOR TO CONSTRUCTION. AND REPORT ANY OMISSIONS AND/OR ERRORS TO SMC DESIGN. THE PURCHASER OR BUILDER OF THIS PLAN RELEASES SMC DESIGN FROM ANY CLAIMS, LITIGATIONS OR SUITS THAT MAY ARISE DURING CONSTRUCTION OR ANYTIME THEREAFTER.

PRELIMINARY
NOT FOR CONSTRUCTION

SHEET NUMBER
A2
PAGE 2

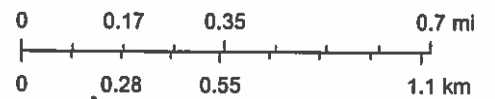
Valley County Planning and Zoning



February 3, 2023

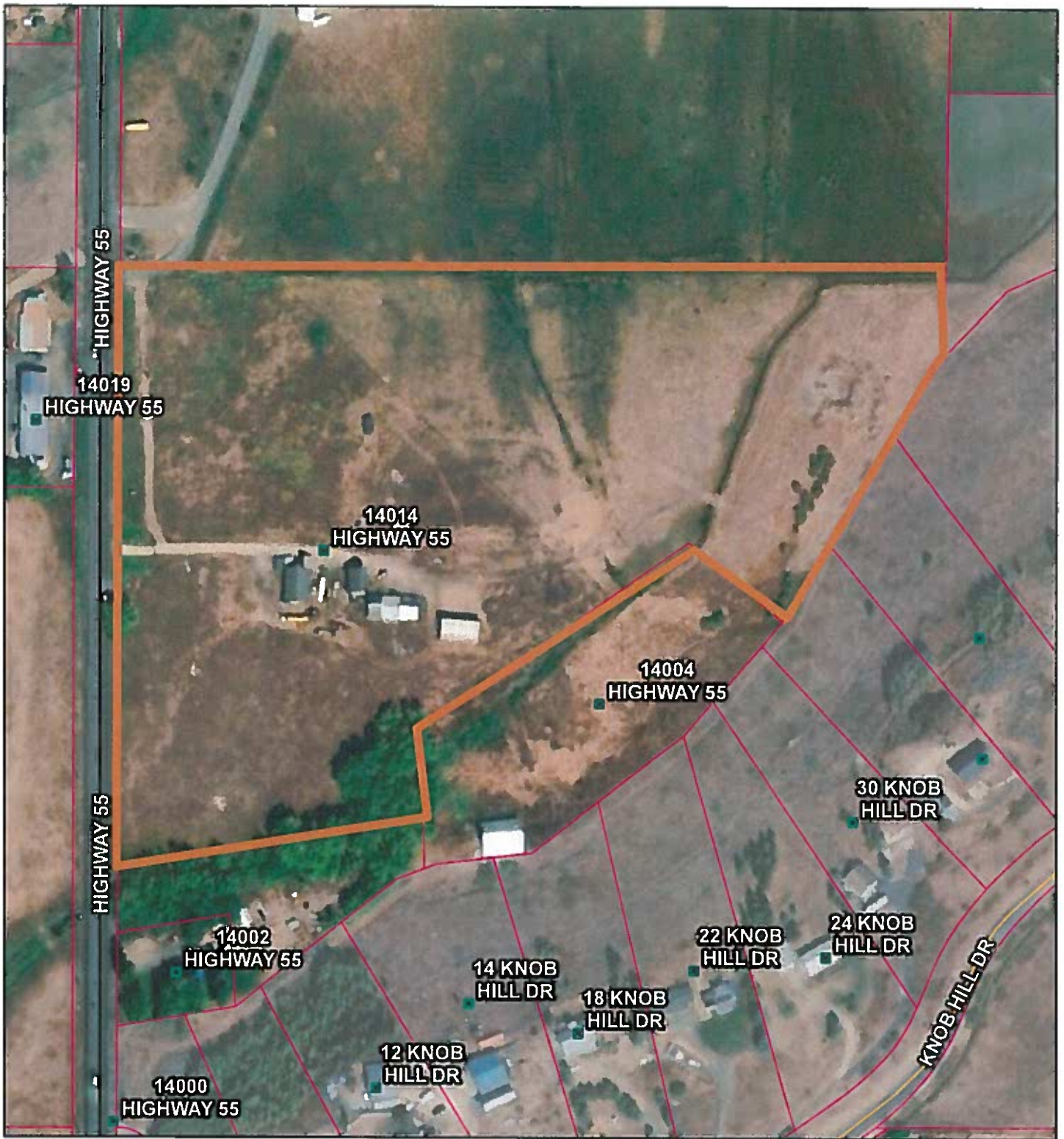
1:29,391

- Override 1
- URBAN/RURAL
- PRIVATE
- Parcel Boundaries
- County Boundaries
- MAJOR
- VALLEY COUNTY
- COLLECTOR













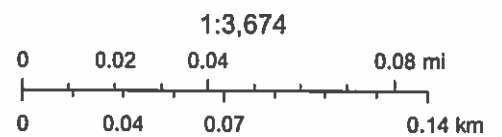
Maxar

Valley County Planning and Zoning



February 3, 2023

- | | |
|------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|
|  Override 1 |  Roads |
|  Address Points |  MAJOR |
|  Parcel Boundaries |  URBAN/RURAL |
|  Subdivisions |  County Boundaries |
|  Other |  VALLEY COUNTY |



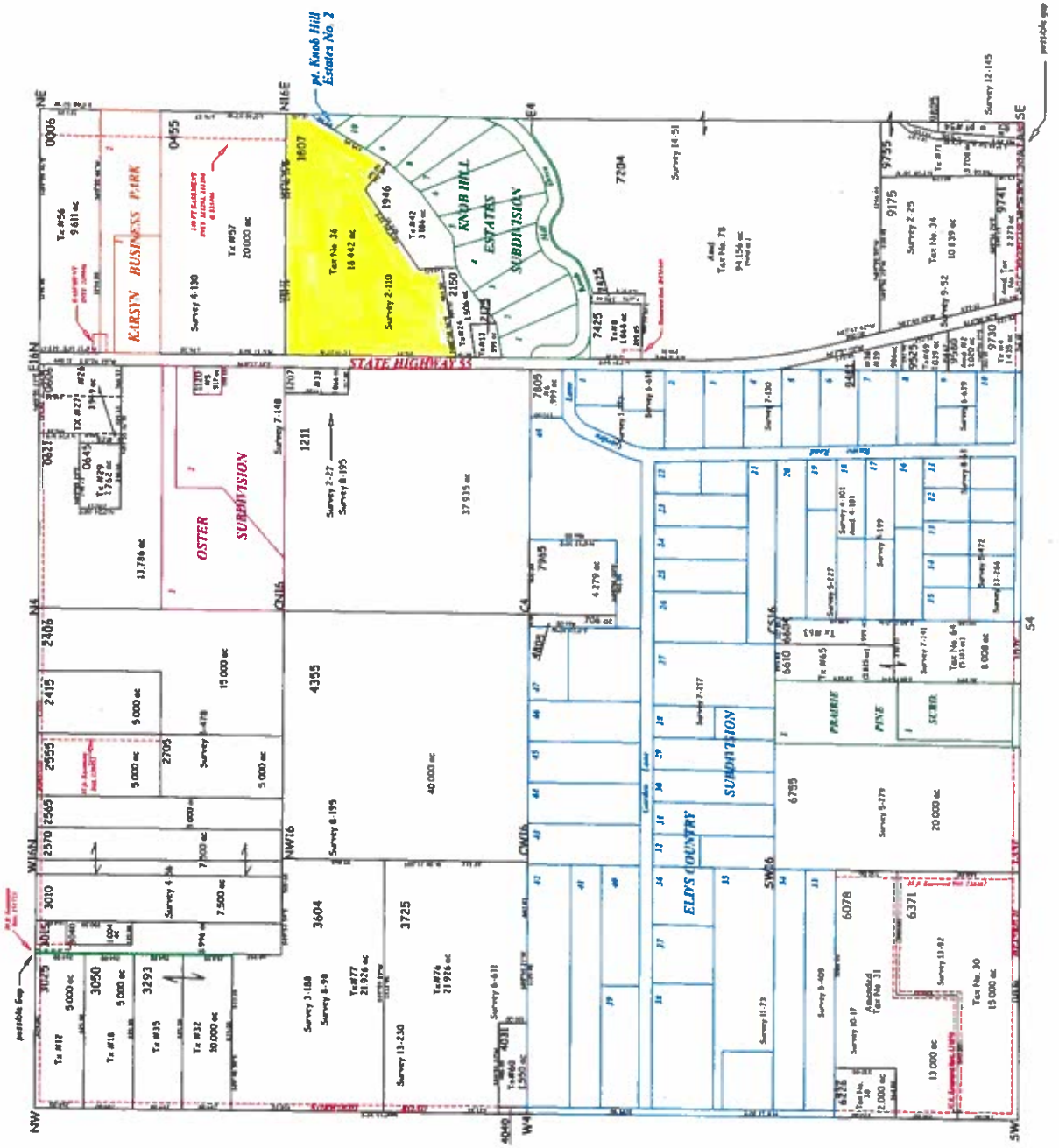
Maxar

PLAT TITLE

TWP. 18N ROSE SEC. 33

VALLEY COUNTY
Cartography Dept.
Assessor's Office
Cascade, ID 83611

Filename:
Valley County Base Map
Scale: 1" = 400 ft.
Date: 3/23/2021
Drawn by: L.Frederick



This Drawing is to be Used for Reference Purposes ONLY. The Owner is NOT Responsible for Any Inaccuracies Contained Herein.

VALLEY COUNTY ASSESSOR'S OFFICE

Parcel Summary and Improvement Report

PO Box 1350 - 219 N Main St, Cascade, ID 83611



Phone (208) 382 - 7126 | assessor@co.valley.id.us

GENERAL PROPERTY SUMMARY

PARCEL ID	RP18N03E331807
OWNER(S)	BP PROPERTIES LLC
SITUS ADDRESS	14014 HIGHWAY 55
SITUS CITY, STATE, ZIP	MCCALL, ID 83638
MAILING ATTENTION	
MAILING ADDRESS	PO BOX 4110
MAILING CITY, STATE, ZIP	MCCALL ID 83638
MAILING COUNTRY	



PROPERTY DESCRIPTION & LAND DATA

ACREAGE - SQ FT - FRONTAGE	ACRES: 18.442	SQUARE FEET: 803333	FRONTAGE: 0
LAND DESCRIPTION	Average Average (Buffer)		
LEGAL DESCRIPTIONS	TAX NO. 36 IN SE4 NE4 S33 T18N R3E		
NEIGHBORHOOD	108300 Lakefork Area Subdivisions		
PLAT LINKS	18N 3E S33.pdf		
CURRENT LAND USES	USE: Average (Buffer)	ACRES: 17.442	
	Average	1	

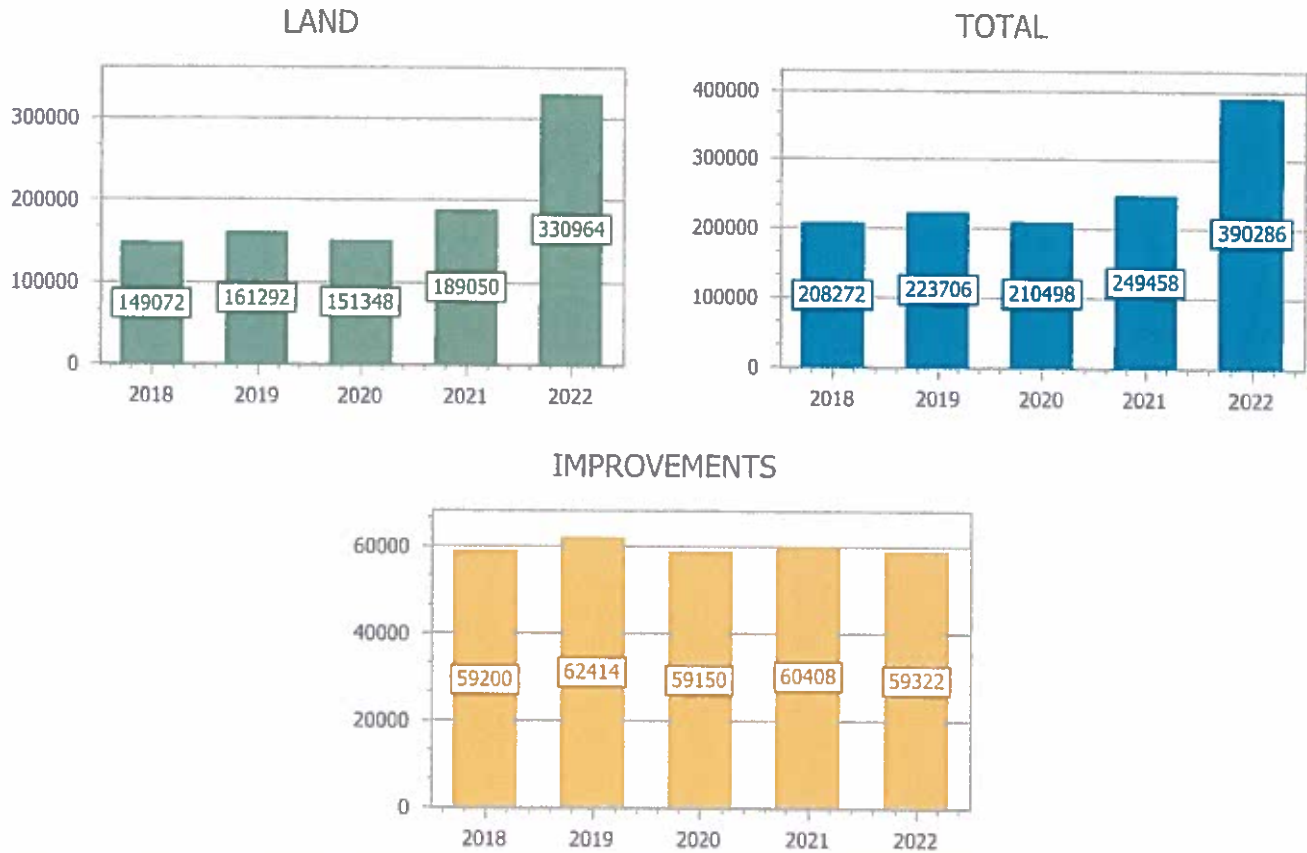
SALES HISTORY

SALE DATE	GRANTOR	DEED REFERENCE
01/31/2022	GOFF ROBERT S	447746
02/24/2015	GOFF FAROLD S	389994
02/24/2015	Multiple Owners	389994

ASSESSMENT HISTORY

ASSESS DATE	1/1/2022	01/01/2021	01/01/2020	01/01/2019	1/1/2018
CHANGE REASON	01- Revaluat	01- Revaluat	01- Revaluat	01- Revaluat	01- Revaluat
LAND	330964	189050	151348	161292	149072
IMPROVEMENTS	59322	60408	59150	62414	59200
TOTAL	390286	249458	210498	223706	208272

ASSESSMENT TRENDS



TAX CODE AREAS & DISTRICTS

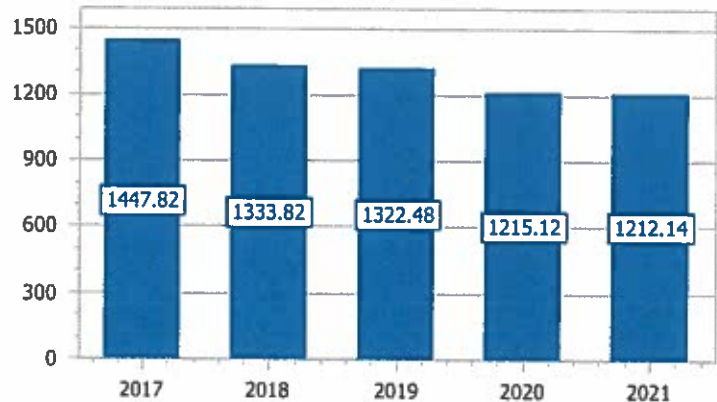
TAX CODE AREA (TAG): 041-0000

CEMETERY	VALLEY CENTER CEMETERY
FIRE	MCCALL FIRE PROTECTION
HOSPITAL	MCCALL MEMORIAL HOSPITAL
SCHOOL	MCCALL-DONNELLY SCH #421

VOTER PRECINCT	006 - ROSEBERRY
COMMISSIONER DISTRICT	DONNELLY

TOTAL TAX CHARGES

YEAR	TOTAL CHARGE
2022	1208.36
2021	1212.14
2020	1215.12
2019	1322.48
2018	1333.82



HOMEOWNER'S EXEMPTION?

YES NO

IMPROVEMENTS

RECORD: R01

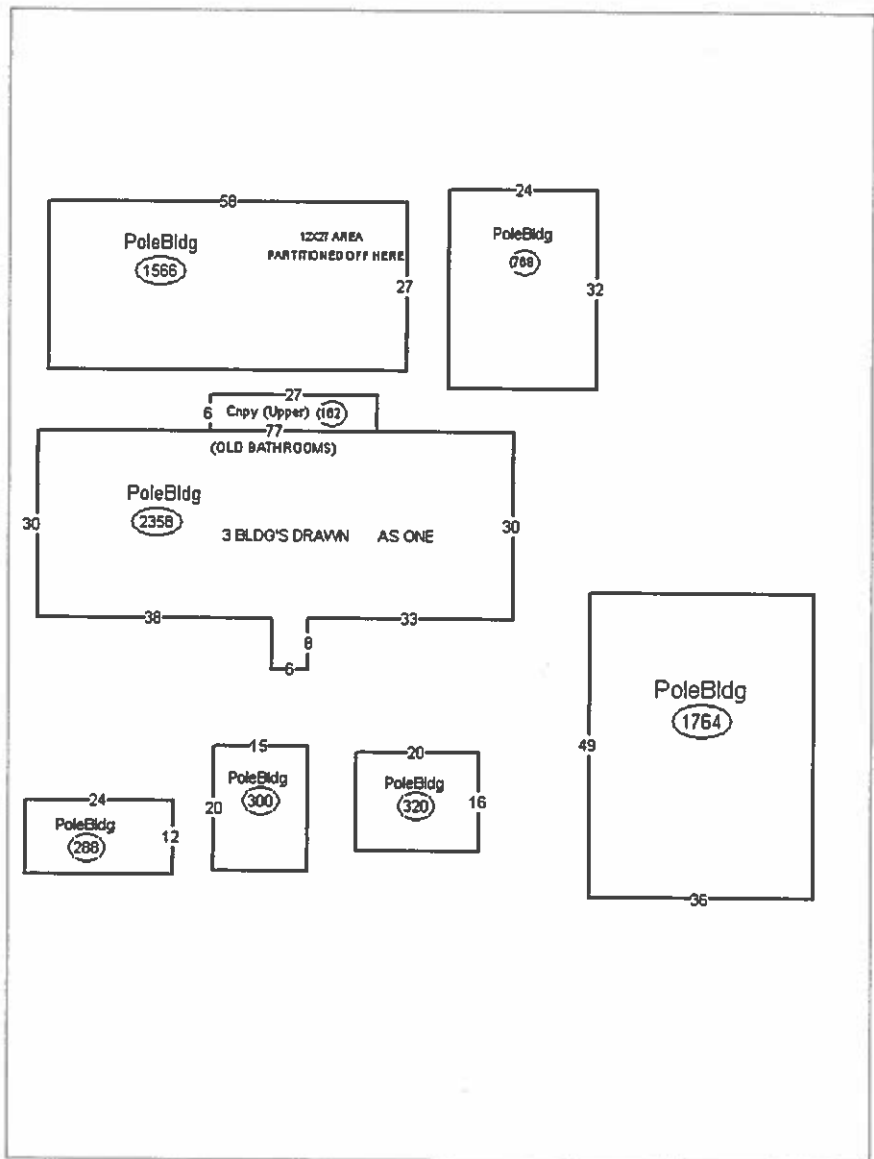
TYPE: OTHER

USE:

BUILDING DESCRIPTION

YEAR BUILT	
STORIES	
FOUNDATION	
STRUCTURE	
EXTERIOR 1	
EXTERIOR 2	
ROOF STYLE	
ROOF COVER	
BEDROOMS	
FULL BATHS	
1/2 BATHS	
HEATING TYPE	
CENTRAL AIR	
ATTIC TYPE	
FIREPLACES	

SKETCH



BUILDING DIMENSIONS (SQ FT)

TOTAL SIZE	
ATTIC FIN	
BASEMENT	
BASEMENT FIN	
LOWER	
LOWER FIN	
ATTACHED GARAGE	
DETACHED GARAGE	
ATTACHED CARPORT	
BSMNT/LL GARAGE	
ENCLOSED PORCH	
OPEN PORCH	
WOOD DECK	

OUT BUILDING & YARD ITEMS

- General Purpose Bldg Wood Pole Frame
- General Purpose Bldg Wood Pole Frame
- General Purpose Bldg Wood Pole Frame
- General Purpose Bldg Wood Pole Frame

IMAGES



CHAPTER 3

LAND USE CLASSIFICATION; PERMITTED AND CONDITIONAL USES

SECTION:

9-3-1: Table 3-A, Land Use Classifications

9-3-1: **TABLE 3-A, LAND USE CLASSIFICATIONS:**

TABLE 3-A
LAND USE CLASSIFICATION
PERMITTED AND CONTROLLED USES

Use Description	Permitted Use	Conditional Use
1. Agricultural Uses: Agricultural uses which protect, retain, or enhance the natural beauty and open space characteristics or which continue in similar practices, character, and level of activity for neighborhood development.		
a. Crop cultivation and harvesting	X	
b. Land conservation or clearing	X	
c. Livestock husbandry except commercial feedlot (CAFO), poultry, or kennels	X	
d. Plant husbandry	X	
e. Storage of equipment and products	X	
f. Warehousing of equipment and products	X	
g. Accessory structures to permitted uses: barn, shed, etc.	X	
h. Irrigation, drainage, and water management or storage facilities	X	

Use Description	Permitted Use	Conditional Use
2. Residential Uses:		
a. Single-family residence	X	
b. Mobile home for single-family residence	X	
c. Subdivision for single-family residence		X
d. Subdivision for single-family mobile home residence		X
e. Mobile home or recreational vehicle		X
f. Condominium, townhouse, or other multi-family residence		X
g. Subdivision for multi-family residence		X
h. Planned unit development		X
i. Accessory dwelling units	X	
j. Multiple residence on one parcel		X
k. Fractional ownership/timeshare		X
3. Civic Or Community Service Uses:		
a. Church buildings		X
b. Church campgrounds		X
c. School buildings, public or private		X
d. Hospitals, respite-care centers, healthcare facilities, or inpatient treatment facility		X
e. Shelter care, halfway homes, and other similar rehabilitation facilities		X
f. Fraternal or benevolent society buildings		X
g. Governmental administration buildings		X
h. Equipment or materials storage yards		X
i. Public utility distribution or collection lines	X	
j. Public utility supply, transfer, or relay facilities including administration		X

Use Description	Permitted Use	Conditional Use
k. Fairgrounds, campgrounds, and similar outdoor recreation centers or facilities owned or operated by a public agency		X
l. Retirement homes or centers (rate as residential multi-family)		X
m. Cemeteries, public or private		X
n. Sanitary landfill for solid waste disposal		X
o. Central sewage treatment facilities		X
p. Fire station	X	
q. Jail or penal institution		X
r. Parks	X	
s. Museums		X
t. Wireless telecommunications towers and antennas		X
u. Airport/helipad/aircraft landing area		X
v. Helicopter landing area, emergency only	X	
4. Private Recreation Uses:		
a. Country club		X
b. Riding stable or academy		X
c. Dude-ranch and facilities		X
d. Golf course or driving range and facilities		X
e. Campgrounds and facilities (includes tent camps)		X
f. Racetrack or rodeo arena		X
g. Athletic field		X
h. Wilderness survival or camping training centers and facilities		X
i. Boat docks for single-family residence	X	
j. Boat docks or marina for community use		X
k. Rifle, archer, trap, or skeet range		X
l. Airstrip/helipad/aircraft landing area		X

Use Description	Permitted Use	Conditional Use
5. Commercial Uses:		
a. Neighborhood business:		
(1) Grocery store		X
(2) Department store (single only)		X
(3) Drugstore		X
(4) Restaurant (inside seating only)		X
(5) Laundromat or cleaners		X
(6) Repair business		X
(7) Other convenience type businesses which serve daily needs in a local vicinity (excluding any business which exclusively serves liquor)		X
b. Residential business	X	
c. Service business:		
(1) Gasoline and service station		X
(2) Restaurant (inside and outside seating or service)		X
(3) Motel, hotel, apartments, resort, bed and breakfast, or lodge		X
(4) Other service businesses		X
d. Area business:		
(1) Auto sales, service, storage and rental		X
(2) Bank or financial institution		X
(3) Building materials, retail or wholesale		X
(4) Drive-in restaurant		X
(5) Furniture and/or appliance shop		X
(6) Shopping center (2 or more separate stores)		X
(7) Office building		X
(8) Mini-warehouse storage		X
(9) Veterinary clinic		X

Use Description	Permitted Use	Conditional Use
(10) Auto wrecking yard		X
(11) Salvage yard or storage		X
(12) Commercial agricultural business, i.e., feedlots, CAFOs, kennels, or poultry		X
(13) Any agricultural use which changes the character of existing neighborhood development by practice, intensity or structure		X
(14) Indoor theaters, gymnasiums, recreation centers, swimming pools, bowling alleys, skating rinks, and similar activities housed in one or more buildings		X
e. Recreation business:		
(1) Riding stable or academy		X
(2) Dude ranch and facilities		X
(3) Golf course or driving range and facilities		X
(4) Campgrounds and facilities (includes tent camps)		X
(5) Racetrack or rodeo arena		X
(6) Ski area, lodge and related facilities		X
(7) Wilderness survival or camping training centers and facilities		X
(8) Boat docks or marina		X
(9) Outdoor theater, drive-in		X
(10) Rifle, archery, trap, or skeet range		X
(11) Miniature golf course or amusement park		X
(12) Airstrip/helipad/aircraft landing area		X
6. Industrial Uses:		
a. Light industry:		
(1) Professional, administrative, or general business office		X
(2) Experimental or testing laboratories		X

Use Description	Permitted Use	Conditional Use
(3) Any enclosed manufacturing, packing, or warehousing facility, except meatpacking plants		X
b. Heavy industry:		
(1) Asphalt or concrete batch plant		X
(2) Chemical manufacturing plant		X
(3) Food processing plant		X
(4) Slaughterhouse or meatpacking		X
(5) Lumber mill		X
(6) Wood processing plant		X
(7) Other facilities housing processing and fabrication operations		X
(8) Rock processing plant including screening and crushing		X
c. Extractive industry uses:		
(1) Mineral extraction regulated by state or federal agencies	X	
(2) Gravel and other building or landscape materials		X
(3) Geothermal energy development for public use		X
(4) Mineral extractions not regulated by state or federal agencies		X
(5) Oil and gas operations	X	
7. Alternative Energy Uses:		
a. Solar panels - attached (part of design of structure)	X	
b. Solar panels - detached from primary structure and >8 feet in area		X
c. Geothermal plants		X
d. Geothermal use for individual residential use	X	
e. Wind turbines		X

Use Description	Permitted Use	Conditional Use
f. Nuclear plants		X
g. Hydroelectric plants		X
h. Cloud seeding		X
8. Temporary Uses:		
a. Roadside stand	X	
b. Christmas tree lot for retail sale	X	
c. Construction trailer, field office, and other similar uses for approved uses	X	

Note: The above listing is intended to serve as an aid to identify permitted and conditional uses. More detailed information about a specific use and the standards and procedures related thereto may be found in chapters 4, "Permitted Uses"; 5, "Conditional Uses"; 6, "Special Areas"; 8, "Wireless Telecommunications Towers And Antennas"; 9, "Planned Unit Developments", and 12, "Oil And Gas Operations", of this title.

(Ord. 10-06, 8-23-2010; amd. Ord. 13-5, 9-16-2013)

1445 N. Orchard St.
Boise ID 83706 • (208) 373-0550



Brad Little, Governor
Jess Byrne, Director

March 24, 2023

Cynda Herrick, Planning & Zoning Director
Valley County Planning & Zoning
219 N. Main Street
P.O. Box 1350
Cascade, Idaho 83611
cherrick@co.valley.id.us

Subject: Appeal of PZ Commission Decision - Bitton Storage Building

Dear Cynda Herrick:

Thank you for the opportunity to respond to your request for comment. While DEQ does not review projects on a project-specific basis, we attempt to provide the best review of the information provided. DEQ encourages agencies to review and utilize the Idaho Environmental Guide to assist in addressing project-specific conditions that may apply. This guide can be found at: <https://www.deq.idaho.gov/public-information/assistance-and-resources/outreach-and-education/>.

The following information does not cover every aspect of this project; however, we have the following general comments to use as appropriate:

1. AIR QUALITY

- Please review IDAPA 58.01.01 for all rules on Air Quality, especially those regarding fugitive dust (58.01.01.651), trade waste burning (58.01.01.600-617), and odor control plans (58.01.01.776).

For questions, contact David Luft, Air Quality Manager, at (208) 373-0550.

- IDAPA 58.01.01.201 requires an owner or operator of a facility to obtain an air quality permit to construct prior to the commencement of construction or modification of any facility that will be a source of air pollution in quantities above established levels. DEQ asks that cities and counties require a proposed facility to contact DEQ for an applicability determination on their proposal to ensure they remain in compliance with the rules.

For questions, contact the DEQ Air Quality Permitting Hotline at 1-877-573-7648.

2. WASTEWATER AND RECYCLED WATER

- DEQ recommends verifying that there is adequate sewer to serve this project prior to approval. Please contact the sewer provider for a capacity statement, declining balance report, and willingness to serve this project.

- IDAPA 58.01.16 and IDAPA 58.01.17 are the sections of Idaho rules regarding wastewater and recycled water. Please review these rules to determine whether this or future projects will require DEQ approval. IDAPA 58.01.03 is the section of Idaho rules regarding subsurface disposal of wastewater. Please review this rule to determine whether this or future projects will require permitting by the district health department.
- All projects for construction or modification of wastewater systems require preconstruction approval. Recycled water projects and subsurface disposal projects require separate permits as well.
- DEQ recommends that projects be served by existing approved wastewater collection systems or a centralized community wastewater system whenever possible. Please contact DEQ to discuss potential for development of a community treatment system along with best management practices for communities to protect ground water.
- DEQ recommends that cities and counties develop and use a comprehensive land use management plan, which includes the impacts of present and future wastewater management in this area. Please schedule a meeting with DEQ for further discussion and recommendations for plan development and implementation.

For questions, contact Valerie Greear, Water Quality Engineering Manager at (208) 373-0550.

3. DRINKING WATER

- DEQ recommends verifying that there is adequate water to serve this project prior to approval. Please contact the water provider for a capacity statement, declining balance report, and willingness to serve this project.
- IDAPA 58.01.08 is the section of Idaho rules regarding public drinking water systems. Please review these rules to determine whether this or future projects will require DEQ approval.
- All projects for construction or modification of public drinking water systems require preconstruction approval.
- DEQ recommends verifying if the current and/or proposed drinking water system is a regulated public drinking water system (refer to the DEQ website at: <https://www.deq.idaho.gov/water-quality/drinking-water/>). For non-regulated systems, DEQ recommends annual testing for total coliform bacteria, nitrate, and nitrite.
- If any private wells will be included in this project, we recommend that they be tested for total coliform bacteria, nitrate, and nitrite prior to use and retested annually thereafter.
- DEQ recommends using an existing drinking water system whenever possible or construction of a new community drinking water system. Please contact DEQ to discuss this project and to explore options to both best serve the future residents of this development and provide for protection of ground water resources.
- DEQ recommends cities and counties develop and use a comprehensive land use management plan which addresses the present and future needs of this area for adequate, safe, and sustainable drinking water. Please schedule a meeting with DEQ for further discussion and recommendations for plan development and implementation.

For questions, contact Valerie Greear, Water Quality Engineering Manager at (208) 373-0550.

4. SURFACE WATER

- Please contact DEQ to determine whether this project will require an Idaho Pollutant Discharge Elimination System (IPDES) Permit. A Construction General Permit from DEQ may be required if this project will disturb one or more acres of land, or will disturb less than one acre of land but are part of a common plan of development or sale that will ultimately disturb one or more acres of land.
- For questions, contact James Craft, IPDES Compliance Supervisor, at (208) 373-0144.
- If this project is near a source of surface water, DEQ requests that projects incorporate construction best management practices (BMPs) to assist in the protection of Idaho's water resources. Additionally, please contact DEQ to identify BMP alternatives and to determine whether this project is in an area with Total Maximum Daily Load stormwater permit conditions.
- The Idaho Stream Channel Protection Act requires a permit for most stream channel alterations. Please contact the Idaho Department of Water Resources (IDWR), Western Regional Office, at 2735 Airport Way, Boise, or call (208) 334-2190 for more information. Information is also available on the IDWR website at:
<https://idwr.idaho.gov/streams/stream-channel-alteration-permits.html>
- The Federal Clean Water Act requires a permit for filling or dredging in waters of the United States. Please contact the US Army Corps of Engineers, Boise Field Office, at 10095 Emerald Street, Boise, or call 208-345-2155 for more information regarding permits.

For questions, contact Lance Holloway, Surface Water Manager, at (208) 373-0550.

5. SOLID WASTE, HAZARDOUS WASTE AND GROUND WATER CONTAMINATION

- **Solid Waste.** No trash or other solid waste shall be buried, burned, or otherwise disposed of at the project site. These disposal methods are regulated by various state regulations including Idaho's Solid Waste Management Regulations and Standards (IDAPA 58.01.06), Rules and Regulations for Hazardous Waste (IDAPA 58.01.05), and Rules and Regulations for the Prevention of Air Pollution (IDAPA 58.01.01). Inert and other approved materials are also defined in the Solid Waste Management Regulations and Standards
- **Hazardous Waste.** The types and number of requirements that must be complied with under the federal Resource Conservation and Recovery Act (RCRA) and the Idaho Rules and Standards for Hazardous Waste (IDAPA 58.01.05) are based on the quantity and type of waste generated. Every business in Idaho is required to track the volume of waste generated, determine whether each type of waste is hazardous, and ensure that all wastes are properly disposed of according to federal, state, and local requirements.

- **Water Quality Standards.** Site activities must comply with the Idaho Water Quality Standards (IDAPA 58.01.02) regarding hazardous and deleterious-materials storage, disposal, or accumulation adjacent to or in the immediate vicinity of state waters (IDAPA 58.01.02.800); and the cleanup and reporting of oil-filled electrical equipment (IDAPA 58.01.02.849); hazardous materials (IDAPA 58.01.02.850); and used-oil and petroleum releases (IDAPA 58.01.02.851 and 852). Petroleum releases must be reported to DEQ in accordance with IDAPA 58.01.02.851.01 and 04. Hazardous material releases to state waters, or to land such that there is likelihood that it will enter state waters, must be reported to DEQ in accordance with IDAPA 58.01.02.850.
- **Ground Water Contamination.** DEQ requests that this project comply with Idaho's Ground Water Quality Rules (IDAPA 58.01.11), which states that "No person shall cause or allow the release, spilling, leaking, emission, discharge, escape, leaching, or disposal of a contaminant into the environment in a manner that causes a ground water quality standard to be exceeded, injures a beneficial use of ground water, or is not in accordance with a permit, consent order or applicable best management practice, best available method or best practical method."

For questions, contact Rebecca Blankenau, Waste & Remediation Manager, at (208) 373-0550.

6. ADDITIONAL NOTES

- If an underground storage tank (UST) or an aboveground storage tank (AST) is identified at the site, the site should be evaluated to determine whether the UST is regulated by DEQ. EPA regulates ASTs. UST and AST sites should be assessed to determine whether there is potential soil and ground water contamination. Please call DEQ at (208) 373-0550, or visit the DEQ website <https://www.deq.idaho.gov/waste-management-and-remediation/storage-tanks/leaking-underground-storage-tanks-in-idaho/> for assistance.
- If applicable to this project, DEQ recommends that BMPs be implemented for any of the following conditions: wash water from cleaning vehicles, fertilizers and pesticides, animal facilities, composted waste, and ponds. Please contact DEQ for more information on any of these conditions.

We look forward to working with you in a proactive manner to address potential environmental impacts that may be within our regulatory authority. If you have any questions, please contact me, or any of our technical staff at (208) 373-0550.

Sincerely,



Aaron Scheff
Regional Administrator

c:

2021AEK

3/24/2023

To: Valley County Commissioners

Re: April 3 Public Hearing on Appeal of PZ Commission Decision regarding 14014 Highway 55

To Whom it May Concern:

We would like to thank the Valley County Deputy Prosecuting Attorney, on behalf of Valley County, for appealing the February 9 decision of the PZ Commission that no CUP be required for a large structure to be built on the property at 14014 Highway 55. As neighbors, we share the desire to see additional necessary information provided on the use of this site and whether it is truly "personal" or commercial in nature, and whether a new CUP should be considered for the site.

The landowner is proposing the construction of a massive, 15,000 square foot structure that will purportedly be used for personal use. This storage structure would be the length of a football field and is the same size as structures advertised for use as manufacturing facilities, storage warehouses, aircraft hangars and even big box retailers.¹

It's located on a property that has seen a dramatic increase in activity over the last six months. The owner has big enough plans for this site that he applied for and received a permit from the US Army Corps of Engineers last fall (Permit # NWW-2022-00385). A large amount of dirt work has been performed on the site already and the nature of that work appears to be to create drainage courses.² My understanding is that this sort of USACE permit is issued for "development in wetlands". We were happy to learn the work was permitted, but curious as to why we hadn't seen a CUP application since this "development" is a much larger undertaking than the former use on the property.



We've lived nearby with a direct view of this property for nearly 10 years. It has consistently failed perc tests in the past and has some lightly used storage structures. Furthermore, this not a residential property as one would expect for 'personal use'.

Mr. Bitten owns another property less than a quarter mile up the highway that is permitted for and clearly used for commercial purposes. In his application for CUP 20-14, Mr. Bitten indicated that "Rocky Mountain Crane is a growing company and needs additional space. The purpose of this CUP is to construct a new office space, shop, and covered parking structure to accommodate those needs. The office will serve as the world headquarters of Rocky Mountain Crane and Pinetop Custom Homes." The Project Description goes on to explain how the shop will house their "ever-growing crew" and that they need more space for their "growing fleet of cranes and trucks".

A request to extend the approval for this CUP was approved on October 14, 2021. It stands to reason that this newer property, less than a quarter mile away from his "World Headquarters", which has been significantly altered already, will eventually be used for commercial purposes. For that reason, we would like to express our strong support for a requirement that Mr. Bitten apply for a CUP for this property (and its new 15,000 square foot megastructure) so that it's clear to all parties what the approved uses for the site are and so that the P&Z can consider reasonable conditions for the property's future use.

We are not necessarily objecting to the structure itself, as that seems to us like a compatible use for this area. We do want to see a formal process followed and public input be considered as would be the case in a standard CUP application.

Thank you for your time and thoughtful consideration of this matter.

Sincerely,

April and Cory Whitney
18 Knob Hill Dr

Richard and Shelley Platt
24 Knob Hill Dr

Citations:

1. Typical uses of a 15,000 square foot building. <https://metalbuildingpriceguide.com/15000sqft-metal-building-cost/>
2. Photos taken by April Whitney Nov 17-18, 2022: <https://www.dropbox.com/scl/fo/z20p0ekh380d4w0rgwzal/h?dl=0&rkey=qdo7c67itaqokqsifm9r9chfk>