

**NOTICE OF PUBLIC HEARING**  
**BEFORE THE LATAH COUNTY ZONING COMMISSION**  
**Wednesday, October 7, 2009**  
**5:30 p.m.**

The Latah County Zoning Commission will hold public hearings on Wednesday, October 7, 2009 in Room 2-B of the Latah County Courthouse, Moscow, Idaho, to receive comments on:

**5:35 p.m. – VAR #801** – A request by Robert Hendrix for a variance to allow a forty seven (47) foot setback from the public right of way in lieu of the sixty (60) foot setback required for residential structures in the Suburban Residential zone from the center line of a public road. The property is located approximately in Harvard at 3005 Deary Street, in Section 9, Township 41 North, Range 3 West, B.M., in Latah County and referenced as Assessor's Parcel Number RP01750000018C.

**5:40 p.m. – CUP #799** – A request by Marilyn Shattuck for a conditional use permit for a second dwelling on 80-acres in the Agriculture/Forest Zone. The property is located at 5965 Highway 95 N, approximately 6 miles north of the City of Potlatch, in Sections 1 and 12, Township 42 North, Range 5 West, B.M., in Latah County, and referenced as Assessor's Parcel Number RP42N05W011341A and RP42N05W120612A.

**5:45 p.m. – VAR #802** – A request by Terry Cummings for a variance to allow a six (6) foot setback from the south and east property lines in lieu of the ten (10) foot setback required for structures in the Suburban Residential zone from any adjacent property line. The property is located approximately 4 miles east of the city of Moscow at 1045 Juliene Way, in Section 13, Township 39 North, Range 5 West, B.M., in Latah County and referenced as Assessor's Parcel Number RP01630005014A.

All interested parties are encouraged to attend the hearings. Accommodations for individuals who qualify under the Americans with Disabilities Act are available upon request. Notice is required in the Planning Office three working days prior to the hearings in order to acquire accommodations.

The hearings will be held pursuant to the Latah County Hearing Procedures Ordinance and under authority of the Idaho Local Planning Act, the Latah County Comprehensive Plan and the Latah County Land Use Ordinance. The Latah County Zoning Commission reserves the right to limit the length of testimony.

Additional information on this request, including full copies of the proposals, is available from the Planning and Building Department at the Latah County Courthouse, Moscow, Idaho. Phone (208) 883-7220. Written comments will be accepted at the above office prior to the public hearings.

Aimee Shipman  
Associate Planner

*(This is a public service announcement)*

**TERRY CUMMINGS**  
**VARIANCE PERMIT APPLICATION #802**  
**STAFF REPORT**

**BASIC FACTS:**

A request by Terry Cummings for a variance to allow a six (6) foot setback from the south and east property lines in lieu of the ten (10) foot setback required for structures in the Suburban Residential zone from any adjacent property line. The property is located approximately 4 miles east of the city of Moscow at 1045 Juliene Way, in Section 13, Township 39 North, Range 5 West, B.M., in Latah County and referenced as Assessor's Parcel Number RP01630005014A.

**Site Characteristics:**

**Size of Parcels:** .37-acres (16,101 square feet)  
**Soils:** Latahco-Lovell Silt Loams, 0 - 3 % slopes;  
(Latah County Soil Survey Plate #37)  
**Floodplain:** Zone "C" (FIRM Panel # 160086 335B)

**Land Use and Regulations:**

**Comprehensive Plan Designation:** Rural  
**Existing Zoning:** Suburban Residential (SR)  
**Existing Uses:** Residential  
**Neighboring Zoning:** Suburban Residential; Agriculture/Forest  
**Neighboring Uses:** Residential, Agriculture,

**Infrastructure/Services:**

**Water:** Crow Eastman Water and Sewer District  
**Sewer:** Crow Eastman Water and Sewer District  
**Access:** Juliene Way - North Latah Highway District  
**Schools:** Moscow School District  
**Fire Protection:** Moscow Rural Fire District  
**Law Enforcement:** Latah County Sheriff

**EXHIBITS:**

**Exhibit #1.** Staff Report  
**Exhibit #1A.** Criteria Worksheet  
**Exhibit #1B.** Vicinity and Comprehensive Plan Land Use Map  
**Exhibit #1C.** Zoning Map  
**Exhibit #1D.** Aerial Photograph and Adjacent Property Owners Map  
**Exhibit #2.** Application Form (Submitted by Applicant)  
**Exhibit #2A.** Applicant's Narrative (Submitted by Applicant)  
**Exhibit #2B.** Vicinity Map (Submitted by Applicant)  
**Exhibit #2C.** Site Plan (Submitted by Applicant)  
**Exhibit #2D.** Signed Statement from Neighboring Property Owner  
(Submitted by Applicant)  
**Exhibit #2E.** Signed Statement from Adjoining Property Owner  
(Submitted by Applicant)  
**Exhibit #2F.** Garage Elevations, Cross Section and Floor Plan

**Exhibit #2G.**

(Submitted by Applicant)

Section from Eastman Acres Plat Map (Submitted by Applicant)

**Exhibit #3.**

Staff Introduction for Latah County Zoning Commission  
Public Hearing for VAR 802 on Wednesday, October 7,  
2009

**NOTE: Exhibits not included in the staff packet are available for review in the Planning Office, and will be entered into the record during the public hearing.**

**APPLICABLE STATUTE, ORDINANCE, AND COMPREHENSIVE PLAN SECTIONS:**

**Local Planning Act:**

Idaho Code 67-6516, Variance Ordinance

**Latah County Land Use Ordinance:**

Section 3.03                      Suburban Residential

Article 7                         Conditional Use Permits and Variances

**Latah County Comprehensive Plan**

## CRITERIA WORKSHEET

**Note:** This criteria worksheet does not represent staff analysis of information provided by the applicant supporters, or opponents; however, staff has identified policies which may be applicable to this particular request. Information submitted to the Planning Department prior to the mailing of the staff packet has been organized herein in relation to the applicable criteria for approval or denial. This worksheet is intended only to help identify if all relevant criteria have been addressed with supporting factual information and to provide a juxtaposition of any conflicting testimony that has been presented.

### Type of request:

Variance Application

### Description of application:

A request by Terry Cummings for a variance to allow a six (6) foot setback from the south and east property lines in lieu of the ten (10) foot setback required for structures in the Suburban Residential zone from any adjacent property line. The property is located approximately 4 miles east of the city of Moscow at 1045 Juliene Way, in Section 13, Township 39 North, Range 5 West, B.M., in Latah County and referenced as Assessor's Parcel Number RP01630005014A.

### Facts of application and the information submitted:

**1. Section 7.02.01 requires that an application for a variance shall be made by the owner of the affected property**

The application was signed and submitted by the property owner, Terry Cummings, to the Planning and Building Department on September 9, 2009.

**2. Section 3.03.03 of the Latah County Land Use Ordinance requires that all residential structures in the Suburban Residential (S/R) shall be a minimum of sixty (60) feet from the center line of a public road.**

**3. Section 7.02.02 states that the Zoning Commission may grant a variance if the Commission finds that the proposed variance meets each of the following criteria:**

1. The variance will not be detrimental to the public interest or other property in the vicinity of the proposed variance.
2. Compliance with setbacks, building height, yard or frontage requirements, and parking requirements prescribed would deny the property owner an otherwise permitted use on the property due to the parcel's peculiar physical characteristics.

The Zoning Commission may also approve applications not meeting the criteria listed above, if the Commission finds that the variance is essential to the public health, safety, or welfare.

# VAR#802 Vicinity and Comprehensive Plan Land Use Map



### Legend

- |   |                           |   |                                    |
|---|---------------------------|---|------------------------------------|
|  | Subject Variance Property |  | Productive                         |
|  | Parcels                   |  | Rural                              |
|   |                           |  | Residential, Commercial Industrial |
|   |                           |  | Incorporated Places                |

Latah County Comprehensive Plan



LCZC Hrg: VAR802  
 Applicant: Cummings  
 Exhibit #: 1B  
 Date: 10/7/2009

# VAR # 802 Zoning Map



## Legend

- |   |                           |   |                   |
|---|---------------------------|---|-------------------|
|  | Subject Variance Property |  | Parcels           |
|   |                           | <b>Zoning Districts</b>   |                   |
|  | Agriculture / Forest      |  | Commercial        |
|  | Industrial                |  | Rural Residential |
|  | Suburban Residential      |   |                   |



LCZC Hrg: VAR802  
 Applicant: Cummings  
 Exhibit #: IC  
 Date: 10/7/2009



# VAR #802 Adjacent Property Owners



### Legend

-  Subject Variance Property
-  Location of Structures
-  Parcels



LCZC Hrg: VAR802  
 Applicant: Cummings  
 Exhibit #: 1D  
 Date: 10/7/2009





# Application for Variance

## Instructions

Please complete the application and required attachments. Incomplete applications or applications without all required attachments will not be accepted. A public hearing will be scheduled only after Staff has determined the application is technically complete. Please type or print plainly with dark ink.

Please submit to: **Latah County Department of Planning & Building**  
**Latah County Courthouse 522 S Adams, Room 205, P.O. Box 8068, Moscow, ID, 83843 (208) 883-7220**

### 1. Applicant Information

a. Applicant Name <b>Terry + Helene Cummings</b>	b. Home Phone <b>208-596-9731</b>	c. Work Phone <b>208-596-6261</b>	
d. Mailing Address <b>1045 JULIENE WAY</b>	e. City <b>Moscow</b>	f. State <b>ID</b>	g. Zip code <b>83843</b>
h. Property Owner (if different than applicant) <b>N/A</b>	i. Home Phone		j. Work Phone
k. Mailing Address <b>N/A</b>	l. City	m. State	n. Zip code

### 2. General Site Information

a. Assessor's Parcel Number(s) <b>RD 0163 0005014A</b>	b. Site Address (if applicable)		
c. Road Used to Access Site <b>Julienne Way</b>	d. Floodplain designation(s) <b>Zone C</b>	e. FEMA Panel # <b>160086 0335B</b>	
f. Existing Uses <b>residential</b>			

Note: Sites within an Area of City Impact may require additional notification time prior to public hearings or a hearing before the other jurisdiction.

### 3. Service Provider Information (please attach additional information if requested)

a. Source of Potable Water (i.e. city, private well, water district) <b>Water &amp; sewer District</b>	b. Sewage Disposal (i.e. city, sewer district or private septic system) <b>Water &amp; sewer District</b>
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### 4. Adjacent Properties Information

a. Zoning of Adjacent Properties <b>Suburban RESIDENTIAL / Ag forest</b>	b. Existing Uses of Adjacent Properties <b>Agriculture, residential</b>
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### 5. Variance Information

Please indicate the section(s) of the Zoning Code for which the variance is sought and explain the circumstances that require the variance. Section 7.02 of the Latah County Land Use Ordinance states a variance shall only be used to modify setbacks, building height, yard or frontage requirements, and parking requirements on a lot or parcel of land prescribed by this ordinance.

**Section 3.03.03 setback requirements from adjacent property lines**

### 6. Authorization

The applicant does hereby certify that all of the above statements and information in any attachments transmitted herewith are true, and further acknowledges that approval of this application may be revoked if it is found that any such statements are false.

a. Signature of Applicant <b>Terry Cummings</b>	b. Date <b>9-9-09</b>
c. Signature of Property Owner (if different than applicant)	d. Date

### Office Use Only

Date Received by County <b>9-9-09</b>	Fee Amount <b>150-</b>	Receipt No. <b>279830</b>	By <b>AS</b>
VAR # <b>VAR 802</b>	Date Determined Technically Complete <b>9-9-09</b>	By <b>AS</b>	
Hearing Date <b>October 9, 2009</b>			

### 7. Attachments

All attachments should be reproducible in black and white at 8 1/2" x 11"

- Fee:** (\$150.00) Make checks payable to Latah County.
- Completed Narrative Worksheet:** See instructions on the Rezone Narrative Worksheet.
- Site Plan:** The site plan should include a north arrow, location of roads and rights-of-way, and existing buildings; the location and dimensions of proposed facilities, improvements and operations; as well as any other details necessary for the Planning and Zoning Commission or Board of Adjustment to make a decision.
- Vicinity Map:** The map should show the site location in relation to the City of Moscow, outlying neighborhoods, highways and roads, and natural features.
- Other Attachments:** The Zoning Commission shall have the authority to require any other attachments if it feels it is necessary to make a fair and equitable rezoning request.

**LCZC Hrg: VAR802**  
**Applicant: Cummings**  
**Exhibit #: 2**  
**Date: 10/7/2009**



## Variance Narrative Worksheet

### Application Information

Applicant's Name

Phone Number

**Purpose:** To assist the Zoning Commission in making an informed decision regarding the applicant pursuant to the requirements of the Latah County Land Use Ordinance

**Instructions:** Please respond to each section of this form. If you need more space, you may attach additional sheets to the worksheet.

### Description of Proposal

Describe your proposal in detail. Include all aspects of your proposal.

*See attached.*

### Existing Uses of Property

Please describe what uses, structures and features currently occupy the property.

*14'x70' House trailer - use as primary resident of Terry & Helene Cummings  
36'x35' - garage / work shop - use for storage, working out of.*

### Relevant Criteria and Standards

Please respond to each of the criteria listed in Section 7.02.02 of the Latah County Land Use Ordinance by explaining how your proposal meets each criteria. If the provided space is insufficient, please attach your responses to this packet.

The variance will not be detrimental to the public interest or other property in the vicinity of the proposed variance.

Compliance with setbacks, building height, yard or frontage requirements, and parking requirements prescribed would deny the property owner an otherwise permitted use on the property due to the parcel's peculiar physical characteristics.

LCZC Hrg: VAR802  
Applicant: Cummings  
Exhibit #: 2A  
Date: 10/7/2009

## DESCRIPTION OF PROPOSAL

I propose to build a four bay parking garage to get my trailers under cover from the weather. The first bay would be a 10' x 12' area, the second bay would be a 10' x 14' area, the third bay would be a 10' x 16' area, and the last bay would be a 10' x 18' area. The reason for the varying size bays is to utilize the existing curvature of the paved asphalt driveway. And make the most efficient use of the space available.

I have put the cart in front of the horse here, and I apologize for that. I started the building before getting a building permit. I started thinking about getting my cement in before winter. The next thing I knew I was out there digging holes. Then I've got a friend up by Clark Fork, Idaho who has a dirt business and a portable sawmill. He got some logs from clearing a house pad and offered to cut me some lumber. Next thing you know I've got a frame up.

I knew I'd have to get a building permit eventually. And I didn't think there'd be any problems. I've build stuff most of my life and I know how to build. I know how deep cement has to be below frost line, etc.. I built a tree house in Salmon when I was 10 years old. That tree house is still there today, 40 years later.

And I knew about setback rules, but the most set back I've ever heard about is 5 feet. I just did a garage for Roy Krause this spring and he had to go thru the 5 ft setback thing. He had a cement pad already poured on his property, but the pad was poured right on his property line. His neighbor sold him 5 ft of her property for \$500.00.

Anyway when I laid out this building I went 6 ft from the east fence and what I figured to be about 6 feet from the south side property line. So I figured I was plenty far from my property line and everything would be fine.

But when I went in to get the building permit I find out the county has a 10 foot setback rule. That was the first I had ever heard about 10 ft setbacks. And it seems like too much to me. Especially when people already have right of way easements, drainage ditches thru their property, gas and water line easements thru their property, then 10 foot setbacks, do we really own anything? Shouldn't there be a landowner easement somewhere? Well I'm starting to get off track a little bit here, sorry.

But the point I was trying to make here is that if I'd have bought a bare piece of land it would have been easy to lay out where things went to meet the requirements. I could have said I'll put the trailer here, the garage here, the parking area here and the asphalt circle driveway here. But when someone else already has stuff built it isn't as easy to move things in real life as it is on paper. For example the 30' x 125' front yard I have is useless to me. I don't use it at all. But I can't scoot the trailer forward without tons of sweat and expense. The area behind the trailer, an area about 45' x 60' is where we live, work and play. It's where we barbeque, it's where we work on cars, it's where we build things. It's everything, it's where we live. That's why this variance is so important to us

Anyway when the building inspectors came out to help me figure out just where the property lines were. They figured the east side of my building was about 6 ft away from my property line, meaning I would

need about a 4' variance in that direction. That property belongs to the housing district where I live. That property is used for a well and drainage to the subdivision, and I have a letter stating that they have no problem with the 4 ft variance on their property.

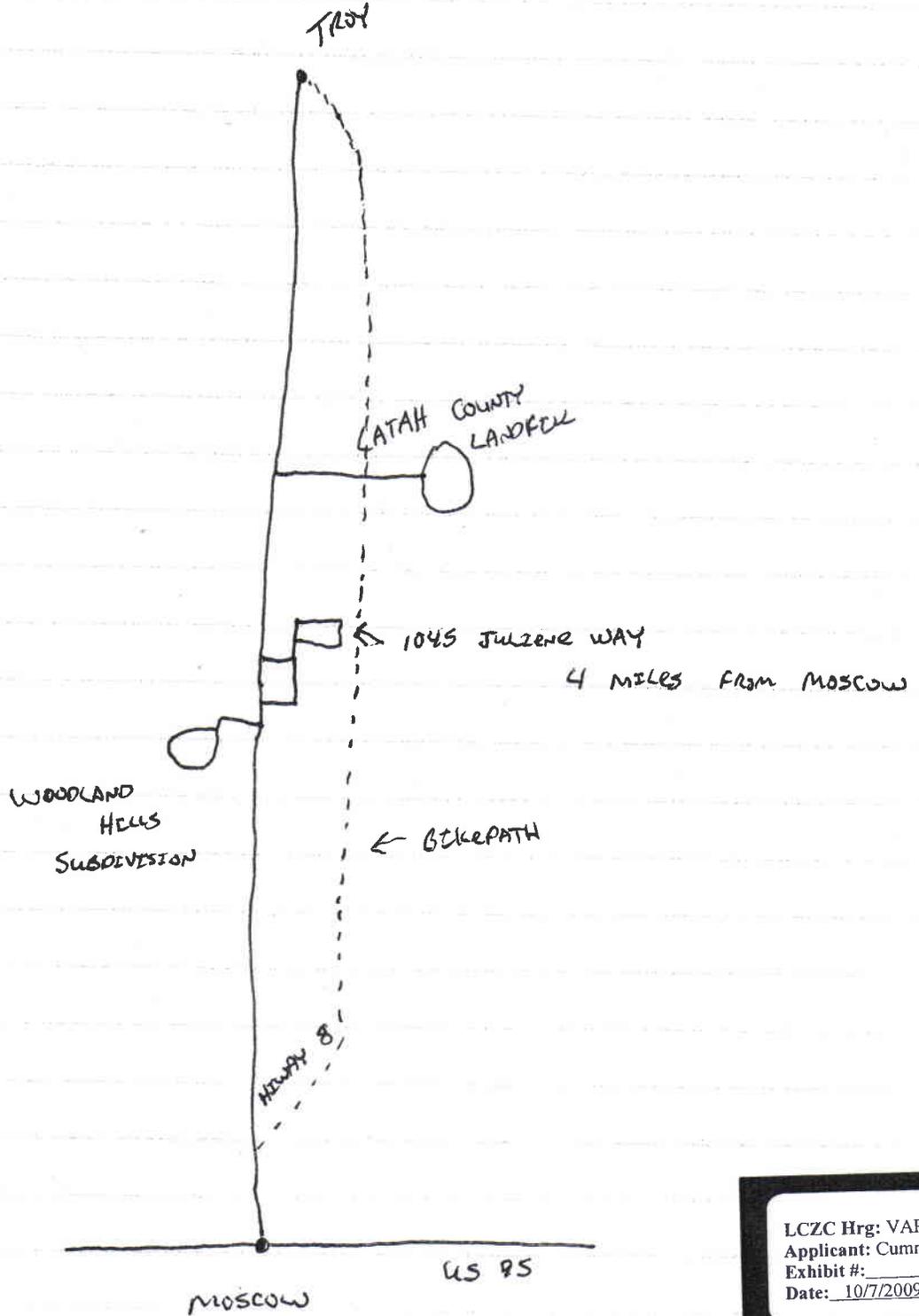
On the south side, the building inspector figured I was only about 4 ft from my property line. So I would need a 6' variance on that side. That property belongs to the county. It was the old railroad that got turned into the bike path. The bike path is about 50 feet from my property line, it is a steep bank. Then there's a drainage ditch about 6 feet wide on the back of my property, between the bike path and my property. That is the area in question for the variance. That area would never be used for anything except for the drainage ditch, there's too much water there. It's almost a swamp.

And as for the people who ride on the bike path, I would think it would be much nicer for them if my building were there. Now when they ride the bike path, it is almost like they are riding thru my backyard, and they're looking down at all the stuff parked in my driveway. We wave at them all the time as they go by. But if my building was there, it would give a little more division to my property and the bike path, which would add to the seclusion of the bike path, which would make for a nicer experience for the biker. Making it more the type of atmosphere and experience that I think most of the bikers are looking for.

Thank you for your time in considering my proposal.

Terry and Helene Cummings

# VICINITY MAP

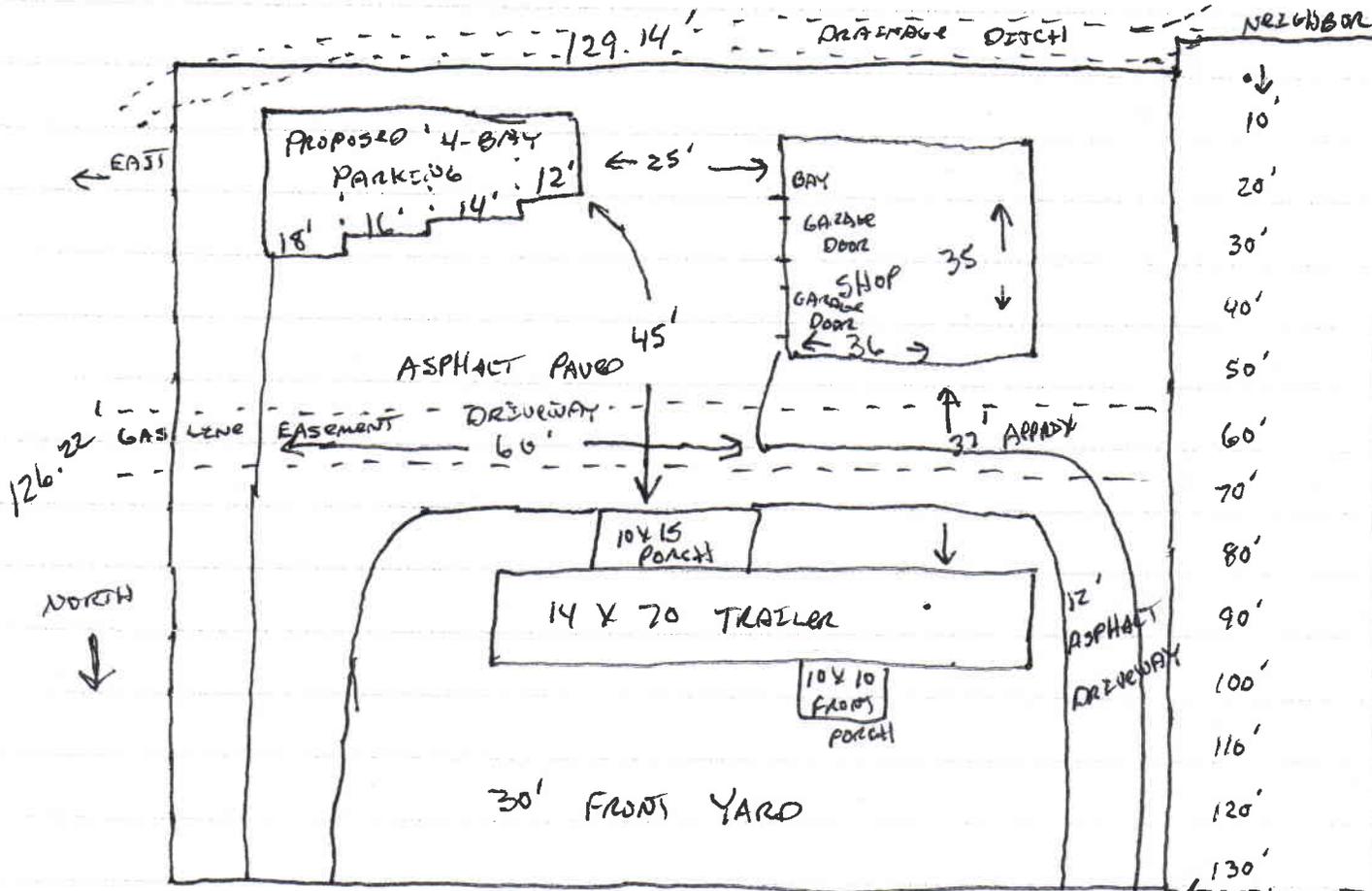


LCZC Hrg: VAR802  
Applicant: Cummings  
Exhibit #: 2B  
Date: 10/7/2009

# Site Plan

BIKE PATH APPROX 10' WIDE

HILL SLOPE AND DITCH UP TO BIKE PATH  
APPROXIMATELY 50'



LCZC Hrg: VAR802  
 Applicant: Cummings  
 Exhibit #: 2C  
 Date: 10/7/2009

MY NAME IS  
ADDRESS  
PHONE #

John Paulson

I AM A NEIGHBOR OF Terry AND Helene Cummings  
WHO LIVE AT 1045 JULIENE WAY MOSCOW ID 83843.

THEY ARE WANTING TO BUILD A 4 BAY PARKING GARAGE.  
AND I UNDERSTAND THEY ARE SEEKING A VARIANCE OF SEVERAL  
FEET TO BUILD THE BUILDING.

I HAVE NO PROBLEM WITH THEM BUILDING THE BUILDING.  
IT DOES NOT OBSTRUCT MY VIEW OR HINDER ME IN  
ANY WAY

PRINT \_\_\_\_\_

SIGNATURE \_\_\_\_\_

SPOUSE PRINT \_\_\_\_\_

SIGNATURE \_\_\_\_\_

LCZC Hrg: VAR802  
Applicant: Cummings  
Exhibit #: 2D  
Date: 10/7/2009

To whom it may concern:

We understand that Mr. & Mrs. Cummings are trying to build a parking garage on their property. They are about 6 feet from their property line. We understand that the County Code calls for 10 foot setback, and we understand Mr. & Mrs. Cummings are asking for a variance from the County Zoning Commission.

We hereby agree to allow the 5foot variance on the housing property. We have no problem with the variance being approved.

We do not think Mr. & Mrs. Cummings building will be detrimental to the public or the housing area in anyway.

Name: Jeanette Lites Chapman date 9/8/09  
*Approved by the North Jones Butte board of directors.*

Name: \_\_\_\_\_ date \_\_\_\_\_

Name: \_\_\_\_\_ date \_\_\_\_\_

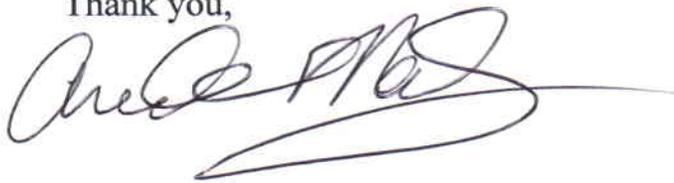
LCZC Hrg: VAR802  
Applicant: Cummings  
Exhibit #: 2E  
Date: 10/7/2009

August 25, 2009

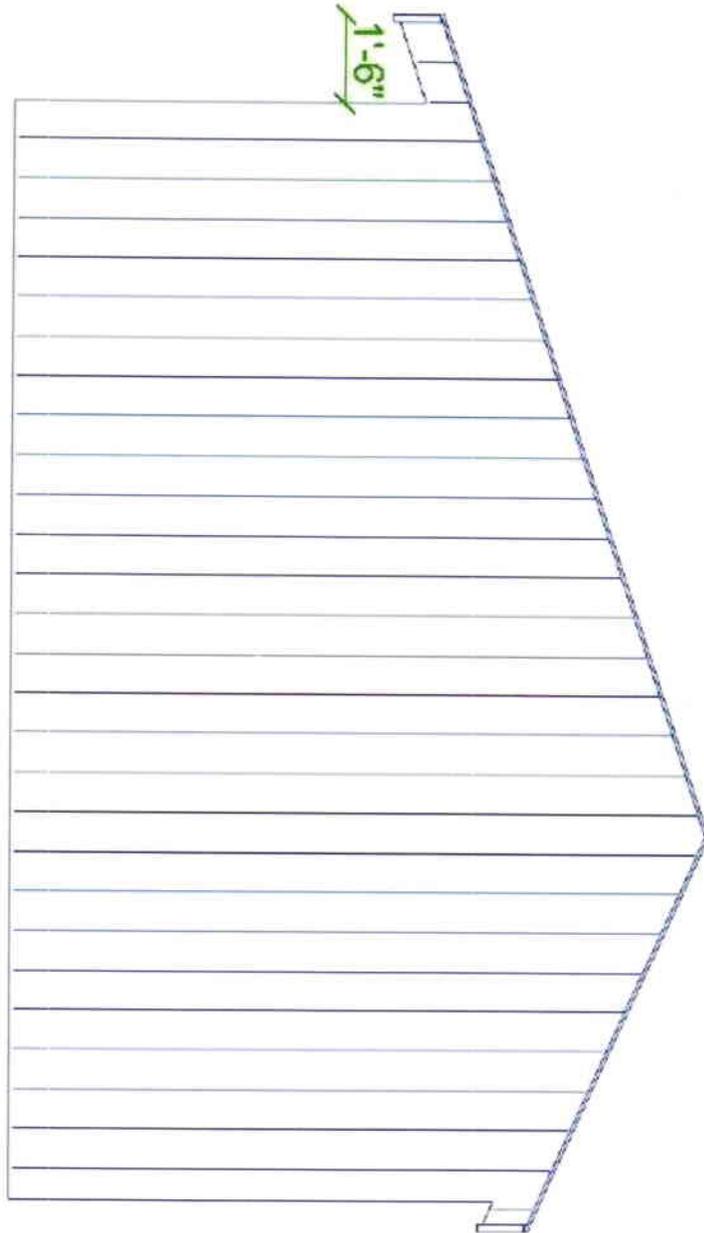
To Whom It May Concern,

We, as the tenants of the property at 1043 Juliene Way, are fine with, and do not mind the placement of our neighbors new garage.

Thank you,

A handwritten signature in dark ink, appearing to be "Chris P. [unclear]", with a long horizontal flourish extending to the right.

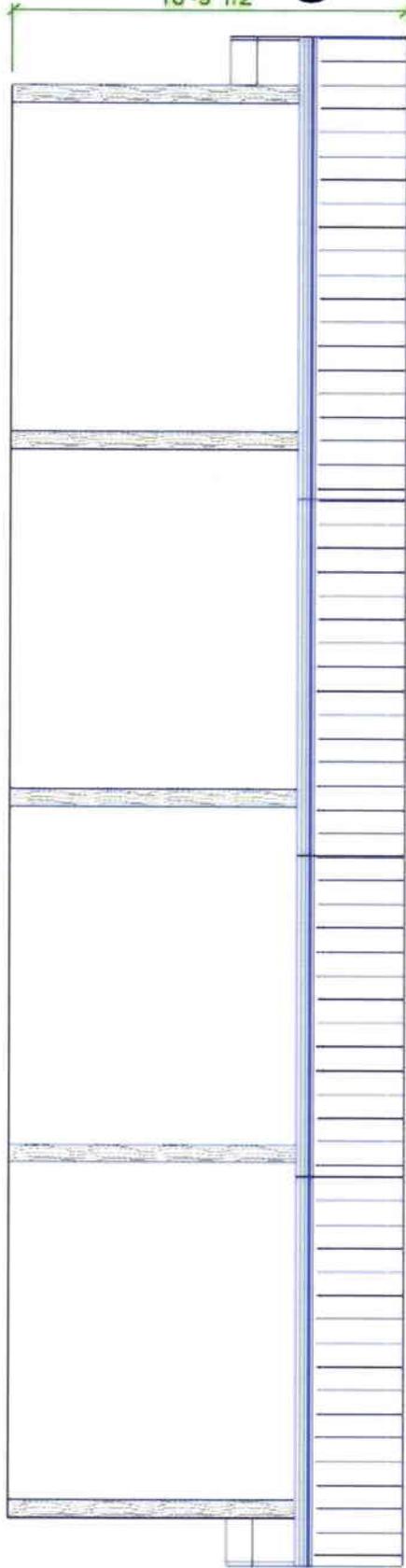
**EAST ELEVATION**



LCZC Hrg: VAR802  
Applicant: Cummings  
Exhibit #: 2F  
Date: 10/7/2009

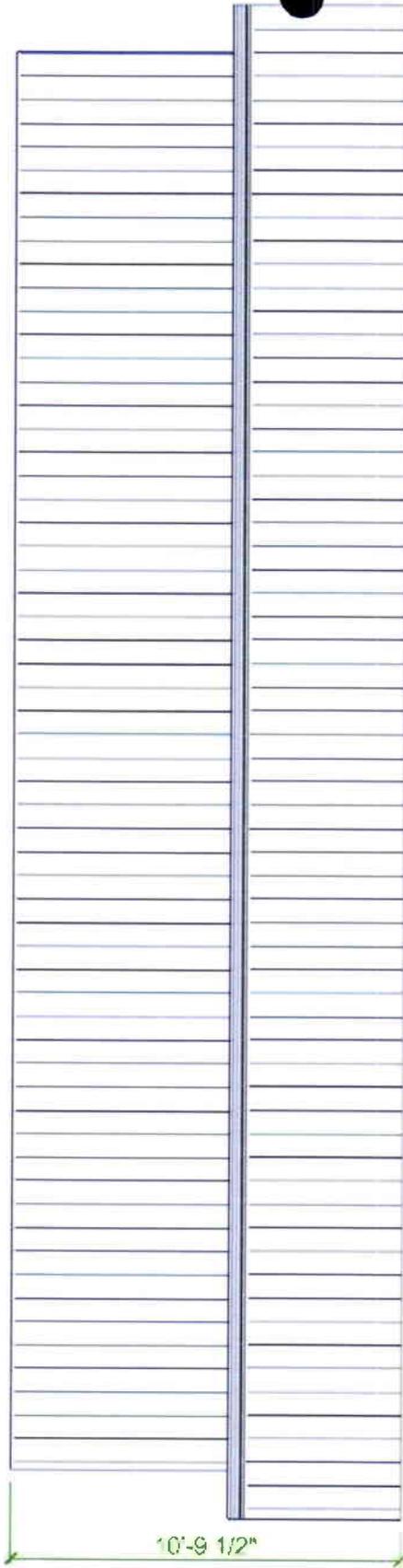


10'-9 1/2"



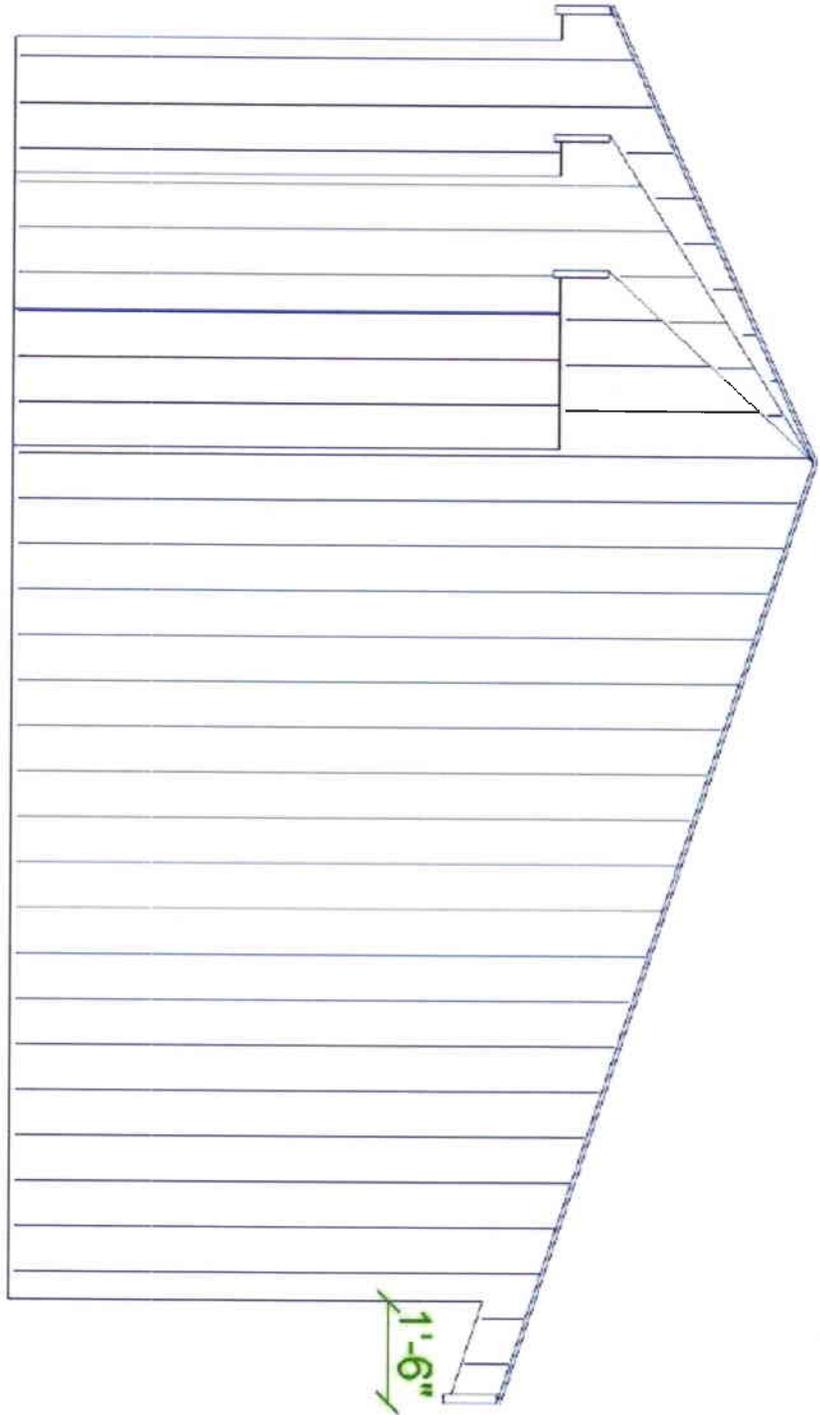
NORTH ELEVATION

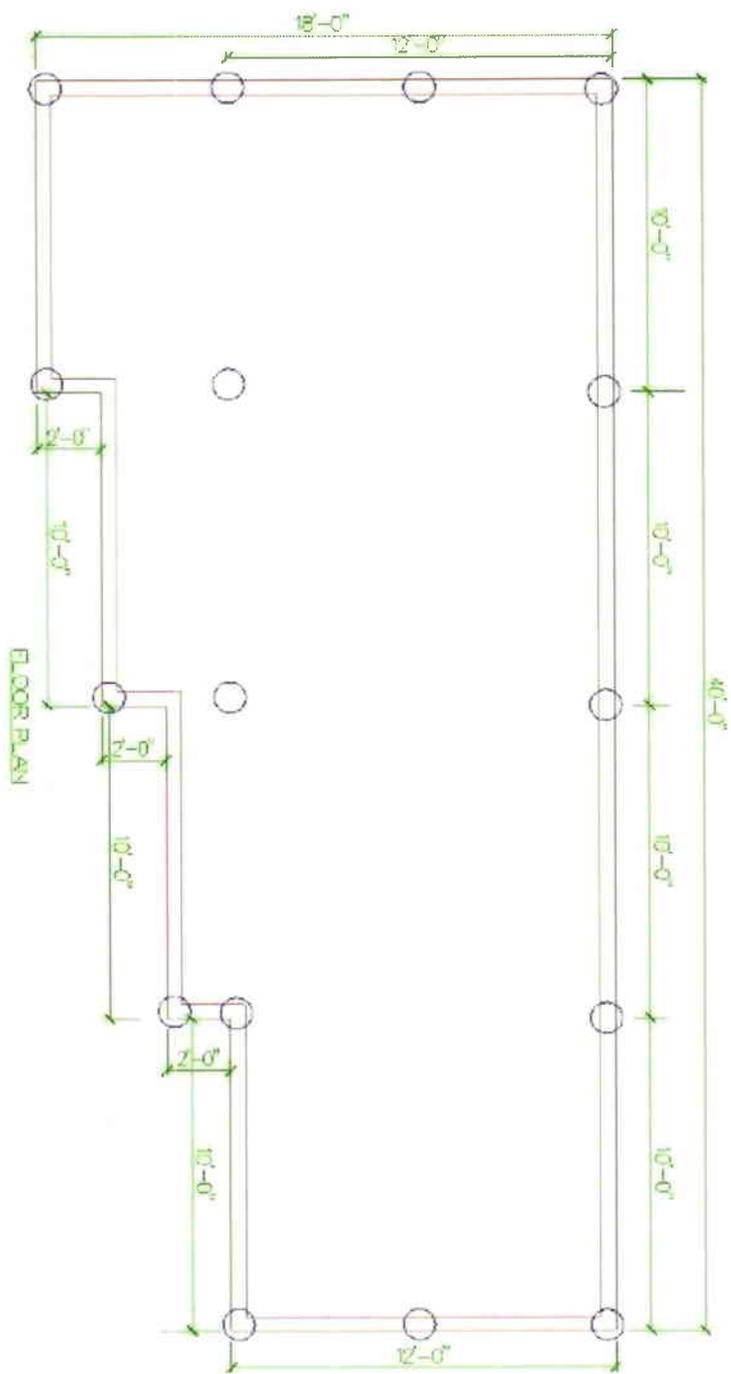
SOUTH ELEVATION

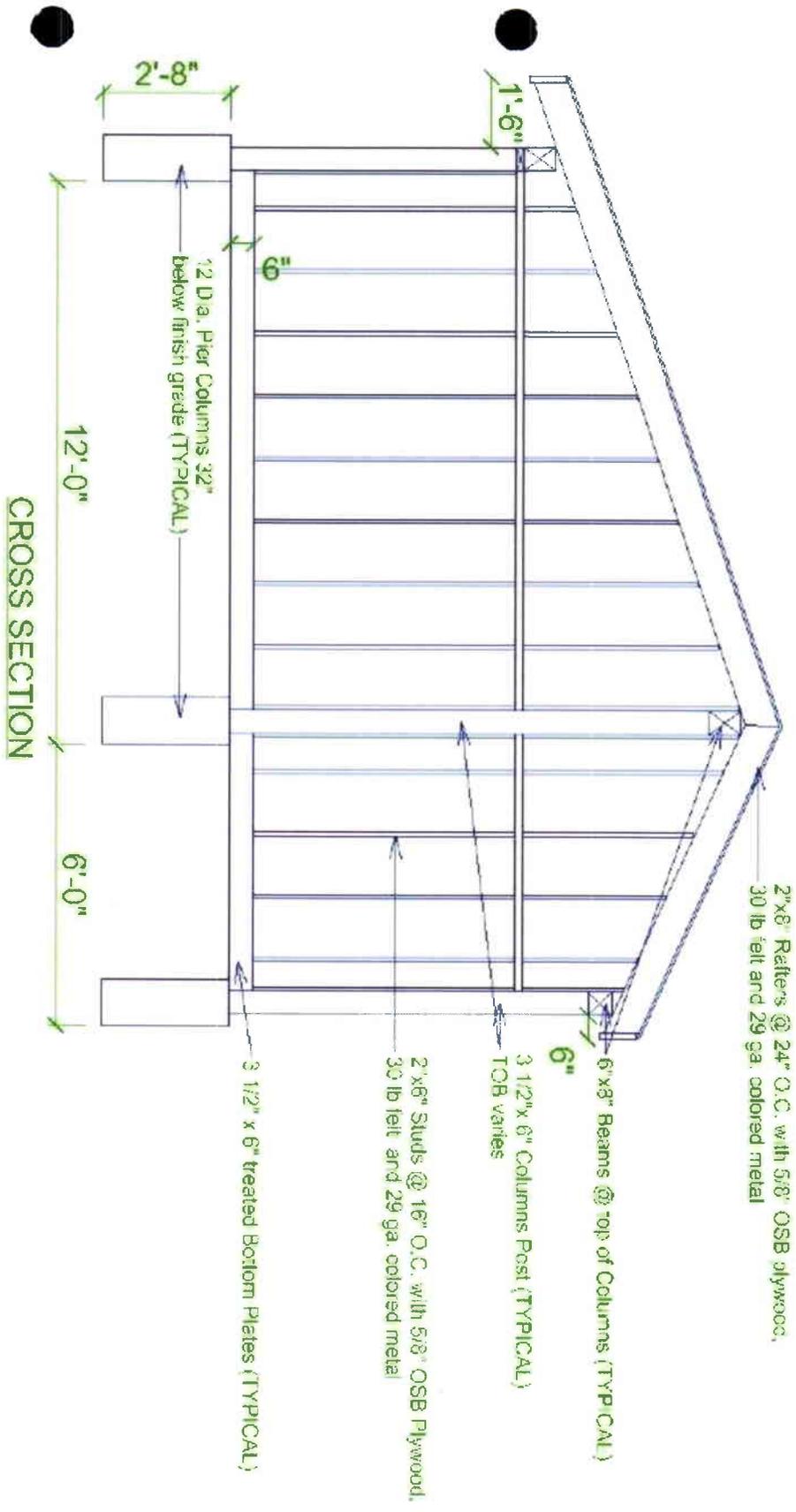


10'-9 1/2"

WEST ELEVATION







M.K. Cline,  
Latah County Recorder  
fee \$5.00 by *J. Hamilton*

1970

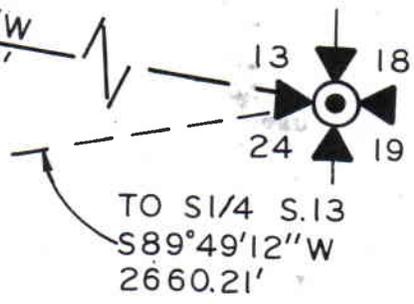
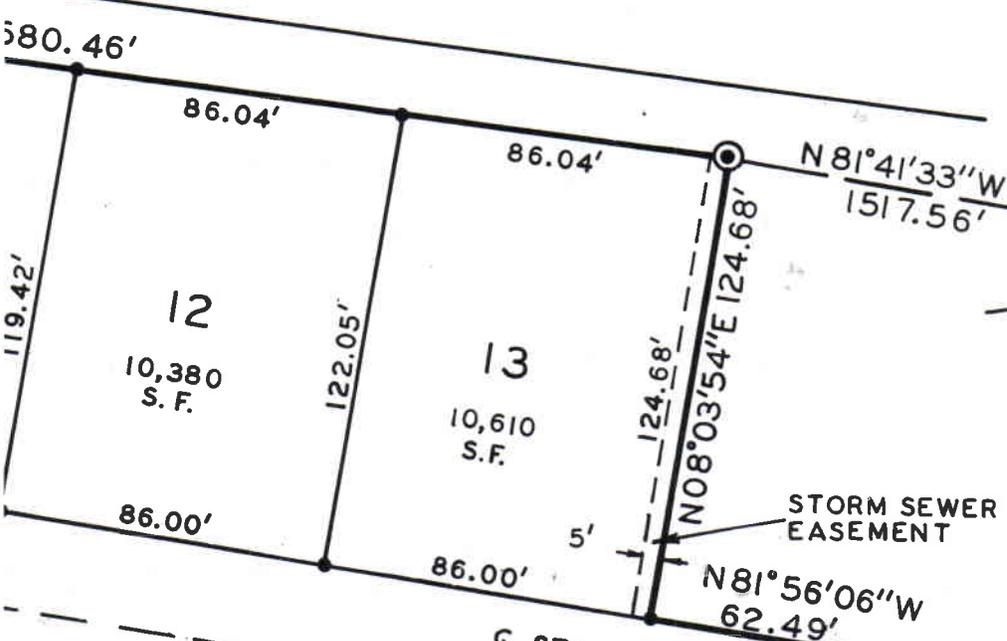
HWAY R.O.W.  
MONUMENT FOUND

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FILED IN THIS OFFICE

HIGHWAY R.O.W.  
MONUMENT FOUND  
STA. 286+50

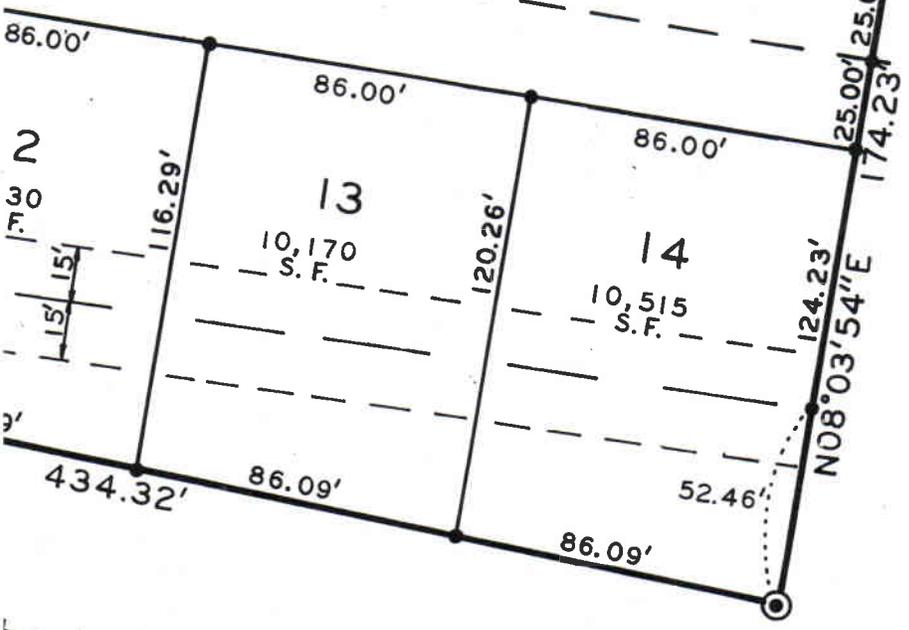
STATE HIGHWAY 8



STA. 14+90.92

R5 W. B.M.  
R4 W. B.M.

T39N.



# 270923 Restricted  
Covenants 7-2-94

# 282188  
Sanitary Restrictions  
Lifted

LCZC Hrg: VAR802  
Applicant: Cummings  
Exhibit #: 2G  
Date: 10/7/2009