



CITY OF BLACKFOOT
 PLANNING & ZONING DEPARTMENT
 157 North Broadway
 Blackfoot, ID 83221
 PH: 208-785-8600 FAX: 208-785-8602

CONDITIONAL USE PERMIT APPLICATION

A pre-application meeting with staff must occur prior to acceptance of any applications.

Pre-application Meeting Date: See enclosed correspondence for history.

Date of the Application: September 6, 2019

Application No.: _____

Fee: **\$325.00**

A. APPLICANT INFORMATION:

1. Name of applicant: Bingham Academy
 Mailing Address: 1350 Parkway Drive, Suite #18
 City: Blackfoot State: Idaho Zip: 83221
 Phone: (208) 557-4003 Cell Phone: _____
 E-mail: hlilya@binghamacademy
 Applicant Signature: _____

2. Name of Applicant's Representative **(if other than above)**: Nathan M. Olsen, Esq.
 Mailing Address: 485 "E" Street
 City: Idaho Falls State: ID Zip: 83402
 Phone: (208) 523-4650 Cell Phone: _____
 E-mail: no1sen@pmholaw.com

B. REQUEST INFORMATION:

- The following is a request that a Condition Use Permit be granted for the Real Property Located at (street address):
1350 Parkway Drive, Suite #18 & #15, Blackfoot, Idaho 83221
 and LEGALLY DESCRIBED as: See attached
 for the proposed use of: Educational
- Present use of property: Educational
- Existing Zoning District: Light Commercial
- Project Land Area Size: See enclosed site plan, lease, and schematic diagrams, and legal description.
- Project Building Size: See enclosed site plan, lease, and schematic diagrams, and legal description.

C. PRIOR TO ACCEPTANCE/SCHEDULING OF THE APPLICATION, THE APPLICANT MUST PROVIDE THE FOLLOWING:

1. The applicant must prove control of the property for which the request is being made by providing ONE of the following:
Please see enclosed correspondence and attachments
 - a. Copy of Warranty Deed, or in response to Section C.
 - b. Copy of Earnest Money Agreement or Contract of Sale, duly acknowledged by BOTH Buyer and Seller, or
 - c. Copy of Lease Agreement AND Owner's Written Consent. In lieu of a Lease Agreement, Applicant encloses the letter of the land owner, Woodbury Corporation, confirming a Lease and approval of Applicant's continued occupancy.

2. Property Owner Notification

The applicant must provide a CONSOLIDATED LIST of names and addresses of all LEGAL property owners within a specified perimeter of the subject property and any additional area that may be impacted by the proposed change as determined by the Zoning Administrator. A list of these parcels will be made available to you by staff once your permit application has been reviewed and the perimeter has been determined. Once the list of parcels has been generated by staff, the list will be provided to you so that you may obtain the property owner and mailing addresses from either of the following:

- a. from the County Assessor's Office, or
- b. from a title company

The completed list of names addresses and parcel numbers must be submitted back to the Zoning & Development Department for your request to be scheduled for a public hearing.

3. A site plan, drawn to SCALE on an 8 1/2" x 11" paper, which shall meet or exceed the required information as shown on the attached site drawing(s). **NOTE:** If new buildings are proposed, color elevations are required.
4. Provide a Detailed Written Statement on A Separate Sheet of Paper Containing:
 - a. The reason for the request;
 - b. An explanation of the project, including:
 - i. Hours of operation;
 - ii. Traffic anticipated;
 - iii. Number of employees, etc.
 - c. An evaluation of the effects on adjoining property, including the effect of such elements as:
 - i. Noise;
 - ii. Glare;
 - iii. Odor;
 - iv. Fumes and vibration on adjoining property; with
 - v. A discussion of the general compatibility with adjacent and other properties in the district.

OFFICIAL USE ONLY:

COMMISSION HEARING:

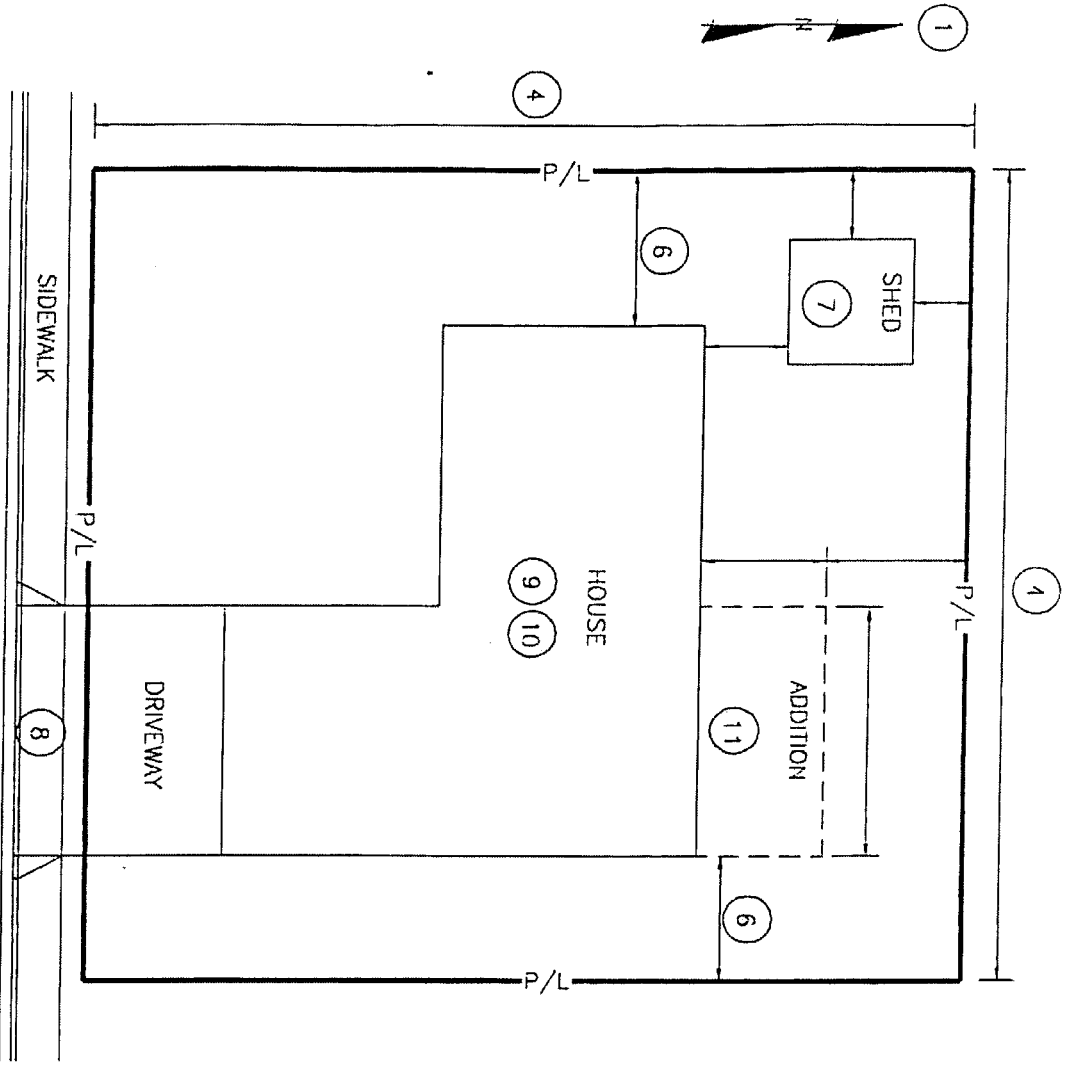
PUBLISH DATE: _____

HEARING DATE: _____

COUNCIL HEARING (upon appeal):

PUBLISH DATE: _____

HEARING DATE: _____



RESIDENTIAL SITE PLAN

STREET NAME 5

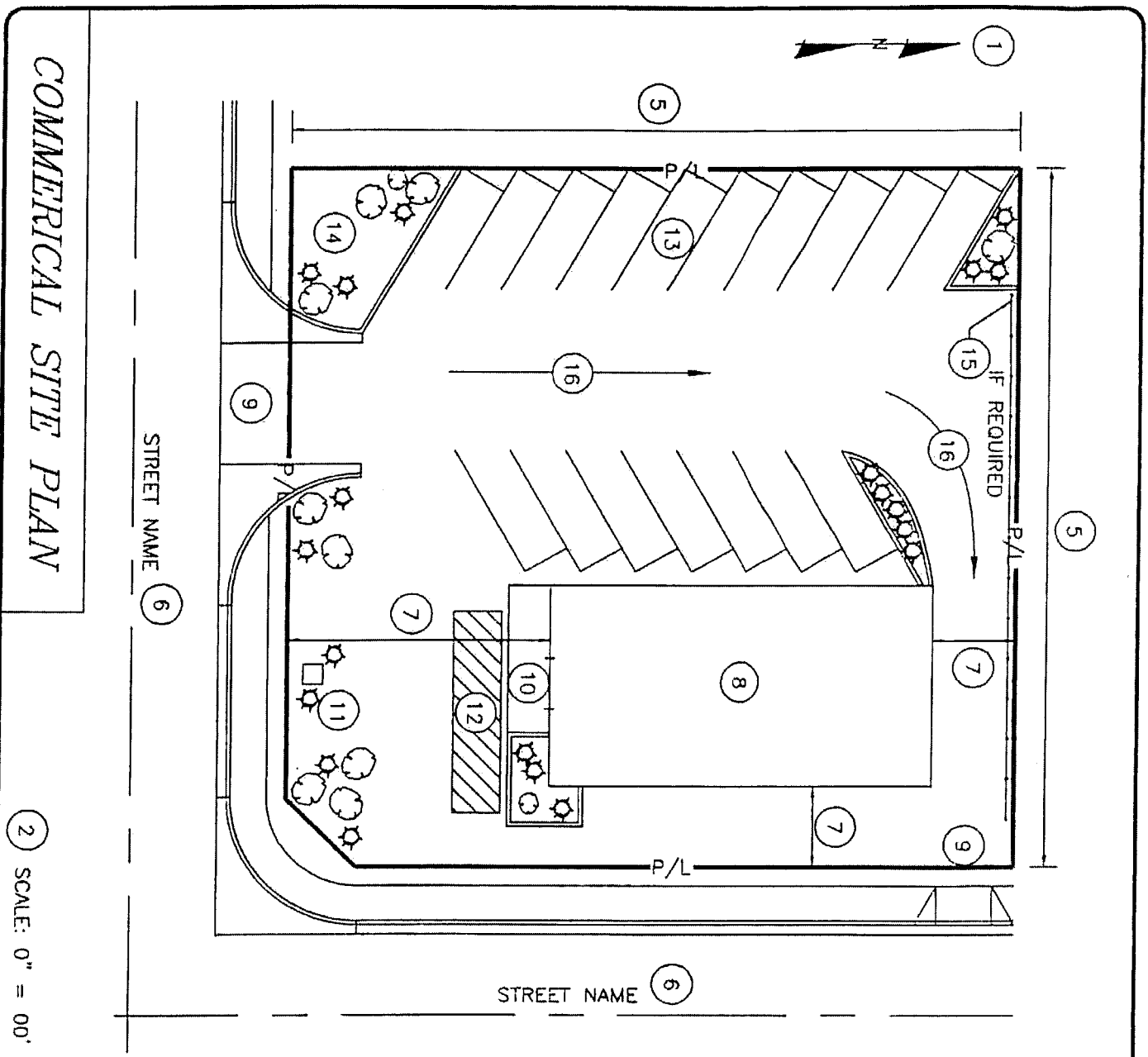
2 SCALE: 0" = 00'

3 JOHN DOE
ANY STREET
TWIN FALLS, ID

NOTE: DRAWING SIZE
8 1/2" X 11"

REQUIRED INFORMATION

- 1 NORTH ARROW
- 2 SCALE OF DRAWING
- 3 OWNERS NAME, ADDRESS & PHONE NUMBER
- 4 PROPERTY LINE & LOT DIMENSION
- 5 STREET NAME
- 6 SET BACKS-FROM PROPERTY LINES-FRONT, BACK, SIDE
- 7 LOCATION OF BUILDINGS ON PROPERTY
- 8 CURB-CUT & DRIVEWAY WIDTH
- 9 FRONT ENTRANCE
- 10 SQUARE FOOTAGE OF BUILDING
- 11 PROPOSED ADDITION & DIMENSIONS (IF APPLICABLE)



REQUIRED INFORMATION

- 1 NORTH ARROW
- 2 SCALE OF DRAWING
- 3 LEGAL DESCRIPTION
- 4 OWNERS NAME, ADDRESS & PHONE NUMBER
- 5 PROPERTY LINE & LOT DIMENSION
- 6 STREET NAME
- 7 SET BACKS--FRON PROPERTY LINES--FRONT, BACK, SIDE
- 8 LOCATION OF ALL BUILDINGS, SQUARE FOOTAGE & DIMENSIONS
- 9 ACCESS -- DRIVEWAY OR ARTERIAL IF REQUIRED
- 10 FRONT ENTRANCE
- 11 SIGN - LOCATION & SIZE
- 12 FIRE LANES
- 13 PARKING PLAN, N SPACES SHOWN & N SPACES REQUIRED
- 14 LANDSCAPING & SQUARE FOOTAGE
- 15 HEIGHT & TYPE OF FENCE
- 16 DIRECTION OF TRAFFIC FLOW

NOTE: DRAWING SIZE
8 1/2" X 11"

3 LOT# BLOCK#
SUBDIVISION NAME

4 JOHN DOE
ANY STREET
TWIN FALLS, ID

COMMERCIAL SITE PLAN

2 SCALE: 0" = 00'

Applying for a Conditional Use Permit

The Blackfoot City Code defines a Conditional Use Permit as a permit granted by the Commission for permanent land use that is otherwise prohibited but may be allowed under specific provisions when not in conflict with a comprehensive plan.

Application Process:

1. Contact the Planning & Zoning Department, 208-785-8600 X 3 or 157 N Broadway, Blackfoot, Idaho to determine basic zoning regulations and application procedures.
2. Submit the application with the required attachments and fees. (see application)
3. Staff reviews the completion of the application and the need for additional information if necessary.
4. Once staff has determined the application is complete and ready, the request is scheduled for a public hearing.
5. Once scheduled staff submits the public hearing information to the Blackfoot Morning News for publication.
6. A letter is sent to the applicant notifying them of the date of the public hearing with instructions for notification to property owners and the posting of public notice sign(s) on the property.
7. A minimum of fifteen (15) days prior to the scheduled hearing date the applicant is required to mail a copy of the public notice letter provided by the City of Blackfoot, Idaho to each property owner within a specified perimeter of the property under review, and any additional area that may be impacted by the proposed change as determined by the Zoning Administrator.
8. A minimum of fifteen(15) days prior to the scheduled hearing date the applicant is required to post a public notice sign, which is in compliance with minimum standards & specifications, in a conspicuous place on the property with extra copies of the public notice letter placed in the box on the front of the sign.
9. A minimum of ten (10) days prior to the scheduled hearing date the applicant is required to submit a signed Affidavit of Mailing and Posting to the Planning & Zoning Department as proof that the letters were mailed and the public notice sign was posted within the specified time (Note: If the mailing and posting requirements have not been met the request will be withdrawn from the agenda.)
10. A staff report regarding the applicant's request, including staff analysis and recommendations, will be mailed to the applicant before the public hearing.
11. The public meeting is held at Blackfoot City Council Chambers, 157 N Broadway, beginning at 6:00 p.m. on the scheduled date.
12. At the public meeting, the applicant, or someone representing the applicant, shall present their request. This person needs to be prepared to answer any questions the Planning & Zoning Commission may have and address any concerns presented by the public at the time of the hearing.
13. The staff will present their analysis of the request and make recommendations as necessary for the Planning & Zoning Commission to consider.
14. The Planning & Zoning Commission will then deliberate and make a decision based on the evidence presented and the recommendations made by the staff regarding the request.
15. If a Conditional Use Permit is granted, a written notice of the action on the request following the public hearing will be mailed to the applicant, once the 15 day appeal period has been met.
16. The applicant or any affected person(s) who appeared in person or in writing before the Commission may appeal the decision of the Commission to the Council, provided a written appeal is submitted to the Council within fifteen (15) days from the Commission's action.
17. Upon receipt of an appeal from the action of the Commission, the Council shall set a public hearing date, under the same provisions as the Commission hearing, to consider all information, testimony and the Commission's minutes of the public hearing to reach a decision to uphold, conditionally uphold or overrule the decision of the Commission.

Special Use Information:

1. A conditional use permit is not transferable from one parcel of land to another, but may be transferable from one owner to another, provided all conditions of the special use permit continue to be met.
2. A conditional use permit issued for in-home daycare services or home occupations are not transferable from one owner to another nor are they transferable from one parcel of land to another.
3. Approved special uses which have not been established within one (1) year of the date of issuance may be reviewed by the Commission to determine if the facts and circumstances have changed. The Commission may call for a new special use permit application or re-activate the Conditional Use Permit.
4. A conditional use which has been discontinued for a period of one year shall not be reestablished without a new Conditional Use Permit.
5. If a Conditional Use Permit is approved on the condition that certain improvements are made to the subject property, the applicant must provide proof that the conditions have been met prior to issuance of a permit. If the applicant fails to provide proof of compliance within six (6) months of approval, the special use permit shall be void.
6. Depending upon the nature of the request the following improvements may include but are not limited to: landscaping, water retention, paving, parking, curb, gutter, sidewalk, and possibly street improvements.

PETERSEN MOSS HALL & OLSEN

Attorneys at Law

485 "E" Street
Idaho Falls, Idaho 83402
(208) 523-4650
Fax: (208) 524-3391

George C. Petersen, Jr.
(1924-2010)

Dennis M. Olsen
(1930-1985)

Reed L. Olsen
(1930-2019)

Stephen D. Hall
Nathan M. Olsen

September 5, 2019

Blackfoot City Planning & Zoning Commission
i/c/o Kurt L. Hibbert, Administrator
City of Blackfoot
State of Idaho
delivered via e-mail: khibbert@cityofblackfoot.org
and certified mail: 157 N. Broadway, Blackfoot, ID 83221

RE: Conditional Use Permit Application Background and Reservation of Rights

Dear Mr. Hibbert,

This correspondence is to be incorporated as part of the Conditional Use Application (CUP) enclosed with regard to property located at 1350 Parkway Drive # 18, in the Riverside Plaza leased by Bingham Academy (BA) for use as a school since 2014. This application is being submitted under protest and with all reservation of rights.

BA still firmly holds the position that a CUP is unnecessary for its current use of the property. Nevertheless, this application is a good faith gesture to resolve this manufactured crisis to avoid additional costs, and more importantly, to remove this distraction so that educators at the school can continue to educate, and students can continue unhindered in obtaining an education at a top rated high school. In short, BA's use of its property as a public school is entirely appropriate and provides a great benefit to the City of Blackfoot and surrounding area that should be lauded, not condemned. Finally, the record and history of both the school, the P&Z's prior and current actions, and policies regarding school zoning in Blackfoot, must be clarified and corrected from the widespread misinformation that has been propagated.

The City of Blackfoot's Prior and Current Policies Regarding the Zoning of Schools

Contrary to what has been widely reported, the City of Blackfoot has for the most part **not** required a CUP for the occupation and operation of schools – even after 1977 when the zoning ordinances were purportedly changed to require all schools to obtain a CUP.¹ A “school” is defined broadly in the code to include: “1) An institution conducting regular academic instruction at elementary, secondary and college levels; 2) a school, regardless whether it is

¹ The legislative history of this particular requirement is not something we have yet independently verified, in that it would require a time consuming search of the City's historical records. The City's current code with the chart showing the allowed uses in the particular zones shows an enactment date of February 5, 2019. Thus it is at least unclear when the CUP requirement for all schools first came into effect. Of further note, it is likely that the current ordinance – which provides for no available zoning for schools – is facially invalid under Article IX § 1 of the Idaho Constitution and the “duty” to “establish and maintain a general, uniform and thorough system of public, free common schools.”

operated for profit, primarily devoted to instruction, in dance, music, drama, art, languages, martial arts training, etc. and 3) an institution or facility conducting instruction in the technical or trade skills, such as business, secretarial training, medical or dental technician training, beauticians, barbers, electronics, automotive technician training, etc.”

A recent public records information request has revealed no less than **ten** schools in the City formed **after** 1977 are occupying property without a CUP, including Bingham Academy. Of note, this list includes “Ridge Crest Elementary” in School District # 55 (1997). This list does not include many other schools that have operated without CUPs, including two that existed in the Riverside Plaza where Bingham Academy now resides. In fact, much of Bingham Academy’s current space consists of classroom space occupied by an extension campus of Idaho State University since the early 1980’s.

The schools which have obtained a CUP were formed in 2016 and thereafter. Ironically, the one exception is Blackfoot Community Charter Learning Center (BCCLC) which applied for a CUP in 2004, and again in 2011 and 2016 for the addition of modular units at its elementary school, and again in 2016 for a day care center.² In 2015 – one year after Bingham Academy opened its doors at Riverside Plaza – BCCLC was able to expand its charter to include grades seven and eight. At that time, the BCCLC opened its middle school (grades five through eight) in its current location at Riverside Plaza which had been a vacant department store area for ten years. Again, the City required no CUP for BCCLC’s occupation and use at its current location at Riverside Plaza for its middle school.

Of particular note, **none** of the CUPs in place for schools require the condition of a “transition plan” showing how long the schools intend to occupy the property and/or their plans for moving to a different property. Additionally, none of the CUPs require an annual or periodic renewal. Again, the one exception is BCCLC which has only recently agreed to a CUP with a “transition plan” under protest and with all reservation of rights.

There is little question that in considering the actual historical and current policies and practices of the City that the demands that have been made to BA constitute discriminatory and exclusionary zoning, which is a violation of the law. This would be particularly true for any requirement of a “transition plan” or any similar requirement.

Bingham Academy’s Prior Approval of Occupancy by the City

Additional misinformation has been spread that BA obtained occupancy without the approval or knowledge of the City, or under the guise that it was part of the BCCLC. This claim is categorically untrue. When BA was granted its charter to open in 2014, prior to signing any

² It must be further noted that Blackfoot High School, Blackfoot Middle School, and several of the School District # 55 elementary schools have added modular units since 1977 without obtaining a CUP.

lease agreement with the existing owner Woodbury Corporation, school officials met with Mr. Rex Orgill, then P&Z Administrator, to ascertain what the City would require from the school in order to operate at that location. Mr. Orgill brought in both the Mayor, Mr. Paul Loomis, and the City Fire Chief, Mr. Ben Hirschi, to ensure all occupancy requirements were met. The school carefully followed all that was required and requested by the City and in August, 2014, BA opened its doors with full approval from the City.

Unfortunately, the City did not adequately document the approval of BA's occupancy of the property. At that time BA administrators trusted the City officials' representations that no such documentation or permit was needed. As indicated, the area occupied by the school largely consisted of classrooms from ISU's prior use, thus not changing the nature of the use of the property. The addition of the adjoining vacated movie theater to the school was made at the suggestion of property owner Randy Woodbury, who indicated to BA and the City that this space would never again be utilized as a movie theater. The conversion of the auditoriums into classrooms and other school utilization was relatively easy and an appropriate adaption of use for the space. In summary, in 2014 nobody, including the City, the school, the property owners, other tenants, nor the public in general believed that a CUP was necessary for the occupancy of BA at its current location.

Additional verification of the approval of BA's occupancy of the property are the strict procedures that it must earn and follow to keep its charter. As pertaining to the occupancy and suitability of the charter school property, the Idaho Administrative Rules indicate the following:

301. COMPLIANCE MONITORING.

The (Charter) Commission shall be responsible for ensuring the public charter school operates in accordance with all of the terms and conditions of the approved charter, including compliance with all applicable federal and state education standards and all applicable state and federal laws, rules and regulations, and policies. See IDAPA 08.02.04, "Rules Governing Public Charter Schools," Subsection 301.01. Commission staff will make a site visit and verify the existence of the following documents after the charter is granted:

01. Certificate of Occupancy. Certificate of Occupancy for the public charter school site no later than thirty (30) days prior to the opening of the school;

02. Building Inspection Reports. A copy of the inspection report from the Idaho Division of Building Safety to be submitted no later than thirty (30) days before the school initially opens and then within seven (7) days of receipt, thereafter;

03. Lease Agreement. If school structures are being leased, a copy of the lease agreement for the building(s) at which students will be taught;

04. Fire Marshal Report. A fire marshal report for the public charter school site.

Thus, before BA would have even been allowed to open and operate, the State Charter Commission would have had to review and confirm that all of the occupancy and safety codes were in place and proper. The fact that the school was approved and has been renewed demonstrates that the occupancy requirements, including the appropriate approvals from the City, were met.

The Suitability of the Property as a School

Statements made by some P&Z commissioners and the current Mayor have suggested that the property occupied by BA is not “suitable” for a school, that there are numerous “safety” issues, that no proper permits were obtained for the remodel and electrical work, and that there are issues with parking and foot traffic. None of these alleged concerns are true.

Enclosed herein are the schematics showing the layout of the school, as well as the occupied units in the Riverside Plaza Map (prepared by Woodbury Corporation). Again, most of the classrooms preexisted the occupation of BA, and the two theater auditoriums were converted for academic use. There is also space for a common area, faculty offices, and restrooms. The halls are wide with plenty of room for students to move. Parking and traffic have never been an issue. The school is routinely inspected for any safety and fire code issues. It was inspected in April this year, and a “surprise” inspection in August. Only minor issues were discovered that were quickly addressed.

Approximately 115 students currently attend Bingham Academy. The school day is usually from about 8:00 AM to 4:00 PM. As is true with public high schools in the state, the total number of hours that students attend school in a calendar year is 990 hours. By comparison, there are 8,760 hours in a calendar year. Bingham Academy is in session only 140 days of the year. When school is not in session, only a few faculty and students who are working on projects or extracurricular activities are present on the property, with very few individuals on the property during the summer months. The facilities can accommodate up to 200 students with the appropriate amount of faculty and staff to serve the students and operate the school. Simply put, BA’s use of the property as a school does not present any public safety hazard or nuisance whatsoever and fits well within both the historic and current use of Riverside Plaza. This non-issue needs to be put to rest.

No Requirement Exists for a Transition Plan

The BA firmly stands by its position that no “transition plan” should be required in order to continue its occupancy of the property. Such a condition imposed upon the school would be discriminatory, a violation of its property rights, due process rights, and an improper intrusion into the school’s affairs. Moreover, it should not be necessary to require an expiration on the CUP. Again, other than the BCCLC, **no other** school formed before or after 1977 has an expiration date on their zoning use. The imposition of such a requirement on BA is discriminatory and poses unnecessary financial burden and stress. Such a condition would also not likely survive a Constitutional challenge. I have not identified any other public school in the State of Idaho (other than the BCCLC) that has its zoning subject to either a “transition plan” or a time limitation.

As is true with all charter schools, the BA charter must be periodically renewed. Part of the renewal process involves a review of the adequacy and safety of the facilities. If at the end of current renewal, BA is in the position, both financially and according to demand, of being able to expand its school to beyond 200 students, then as part of the expansion and approval process the school will consider other locations. It is also possible that the school will remain at its current level of operation and capacity during the next charter renewal period and periods thereafter. The suitability and safety of the property will be reviewed per rule each time.

The future is impossible to accurately predict. But given the un-matched commitment by teachers, parents, administrators, board members and many other volunteers, the future of BA appears to be bright. Among its many successes include:

- Becoming the first and only high school in the state to receive STEM certification
- Being named a “Top Performing School” in 2018 by the State Department of Education
- Building an ever increasing number of community partnerships
- Offering a number of college courses on its campus from post-secondary institutions such as Idaho State University, Northwestern Nazarene University, and the College of Eastern Idaho

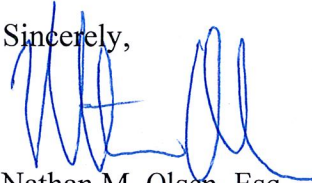
Oddly, its only detractors appear to be certain City officials and a few members of the press.

In conclusion, BA has agreed to move forward with its application for a CUP in a good faith effort to resolve this issue once and for all. At the same time, the record needs to be made clear and complete. Misinformation and inaccuracies need to be corrected so that, in the future, commitments made by the City to the school will not be misconstrued or misstated. Ultimately, BA is taking steps to prevent the grief and costs that the school has had to experience this year from happening again so the school’s focus can be entirely on its excellent programs for student achievement.

Blackfoot City Planning and Zoning Commission
September 5, 2019
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As always, please feel free to contact me with any questions about BA's legal position on this issue and the points raised in this letter.

Sincerely,



Nathan M. Olsen, Esq.

Enclosures as indicated

cc. Blackfoot City Attorney Garrett Sandow gsandowlaw@aol.com

Public Records Request Conditional Use Permit

August 6, 2019

	Item Description	Description	Date	Location
Blackfoot Fiber Optic Utility Building	CUP	Finding of Facts, Conclusions	2016	Maple Street
Wiggles & Waggles Theresa & Steve Ahrendts	CUP	Finding of Facts, Conclusions	September 23, 2016	1311 N. W. Main Blackfoot, Idaho
Hawker Funeral Home				
Schools				
Music for Families				
Hello Dolly				
Diva Dance				
Blackfoot Community Center Pre-school	Certificate of Occupancy	CUP	October 6, 2017, / 2018	1350 Parkway # 31, Blackfoot, Idaho
Head Start Pre-school	CO	Finding of Facts, Conclusions	September 3, 2015	206 N Ash Blackfoot, Idaho
Lit'l Spuds Kampus Pre-school				
Playful Learning Pre-school				
Lucky Duck Pre-school Tina Bangerter	CUP	CUP/Finding of Facts, Conclusions	March 22, 2016, / August, 2018	495 N Shilling / 955 Market St, Blackfoot, Idaho
Sage Tech Trucking Driving School				
Anytime Fitness Training				
Rise Fitness Training Instruction				
Blackfoot Independence High School	CUP	Child Care	10/24/2017	165 E France St., Blackfoot, Idaho

Signature	
Your signature	<i>Donna Parkinson – August 7, 2019</i>

May 24, 2019

Mayor Marc Carroll
City of Blackfoot
Blackfoot, ID

RE: Bingham Academy Conditional Use Comments for P&Z meeting May 28, 2019

Dear Mayor Carroll:

Woodbury Corporation has managed Riverside Plaza for nearly 40 years for its owners who are all Woodbury family members.

Over this 4 decade period, our experience has been that retail activity, absorption and support of local merchants (with the exception of Wal Mart) has steadily declined.

As owners and managers, we certainly prefer traditional retail tenants to alternative uses such as offices or schools, however large amounts of vacant space for extended periods become a blight, not only to the shopping center, but to the city as a whole.

Alternative uses, including charter schools are more and more common as an acceptable means of filling vacant shopping center space. The Shopping Center industry is finding the most common alternate uses are:

- Fitness facilities
- Charter Schools & other education facilities
- Health facilities
- Data Centers
- Churches
- Residential conversions
- Office or co-working conversions
- Non-Profit temporary uses

None of the uses listed above are the first choice of any shopping center owner, but neither is vacancy.

In 2014, about the same time we made our agreement with Bingham Academy, Sage International of Boise opened a charter school in an abandoned Boise mall. The school repurposed 31,000 square feet, including 23 classrooms, that year, and planned to expand into the remaining 54,000 square feet over the next two school years. The campus hosts 1,040 K-12 students. Where a former mall theater and optometrist stood are now classrooms and other school spaces. "Turning this marginal property in Boise's urban core into a thriving space for

public school children, as opposed to building new on the outskirts of town, is something our community takes great pride in," Sage International director Keith Donahue said.

<http://www.sageinternationalschool.org/>

As the school's landlord, we are unclear about why Blackfoot City is trying to run the schools out of the shopping center. We have never received communication about the education use being unacceptable or non-compliant.

If this is a turf war between the city, the school district and the charter school, or something regarding licensing of the school, or things of that nature, then we have no dog in the fight.

If this is over neighboring tenant concerns about parking or kids in the parking lot, we will continue to manage those issues, as we did for decades when the same complaints were lobbed at the Plaza Twin Theatres.

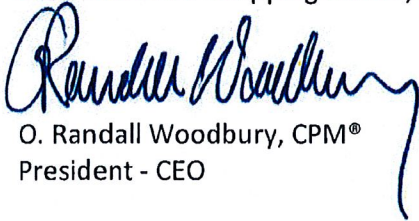
If this is a ploy by the city to evict non sales tax generating tenants from the shopping center, thinking that they will be rapidly replaced by traditional retailers, that is wishful thinking.

If this is a question of whether education facilities are an acceptable use in vacant retail space in weak retail markets, there is plenty of evidence across the nation, and in Idaho that this is a growing trend.

In hindsight, if we could retrieve the millions of dollars we have invested in Blackfoot over the years with little or no return, we would do so in a heartbeat. But reality is that we continue to maintain a quality property, pay more taxes than we feel is warranted, aggressively lease space whenever we can, and support our existing tenants, including Bingham Academy. We strongly prefer that the schools be allowed to extend their leases and continue to operate in Riverside Plaza.

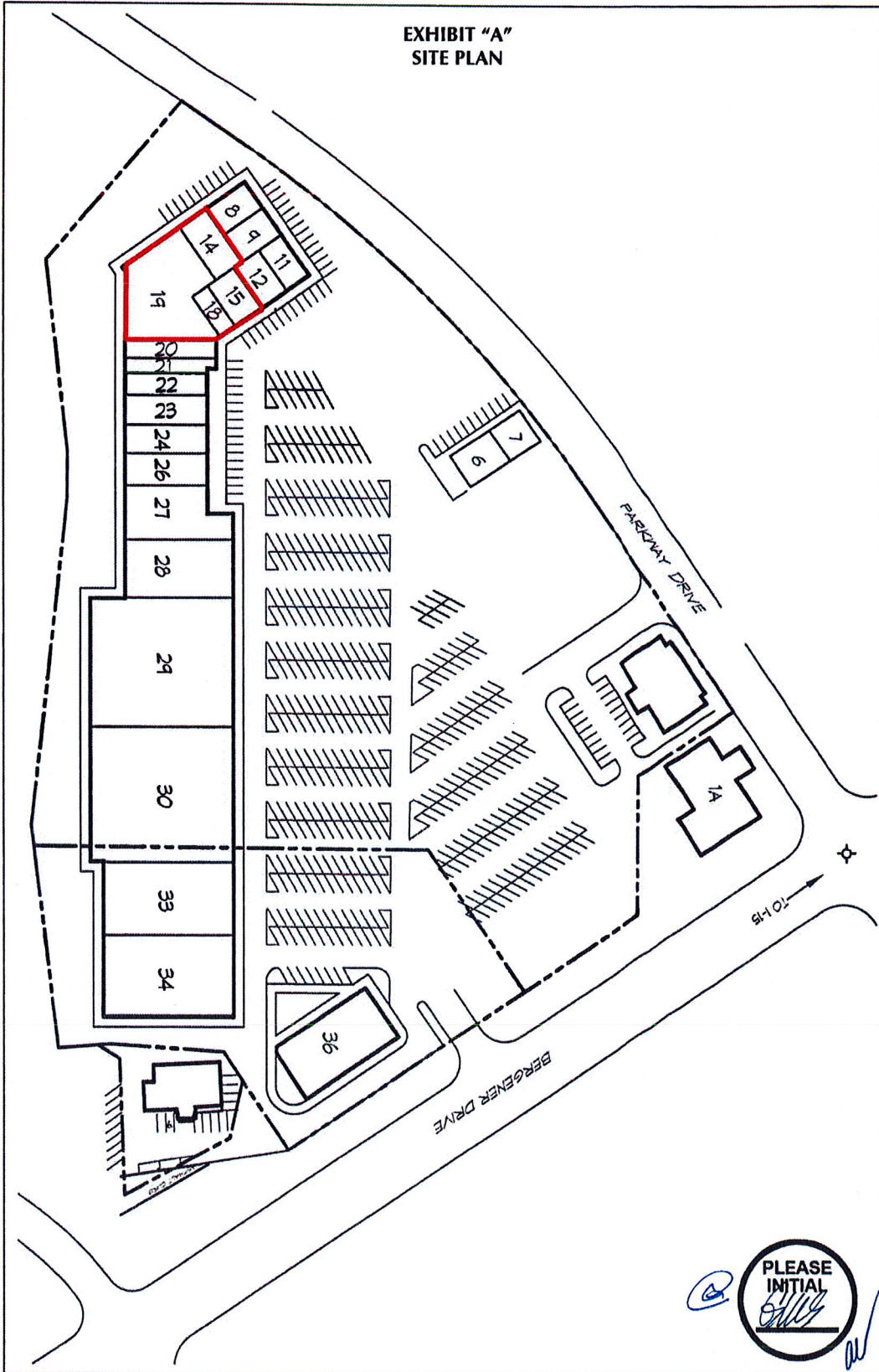
Sincerely,

WOODBURY CORPORATION for
Riverside Plaza Shopping Center, L.C.



O. Randall Woodbury, CPM®
President - CEO

**EXHIBIT "A"
SITE PLAN**



DESIGNED BY
 ENGINEERED BY
 ARCHITECTED BY
 1000

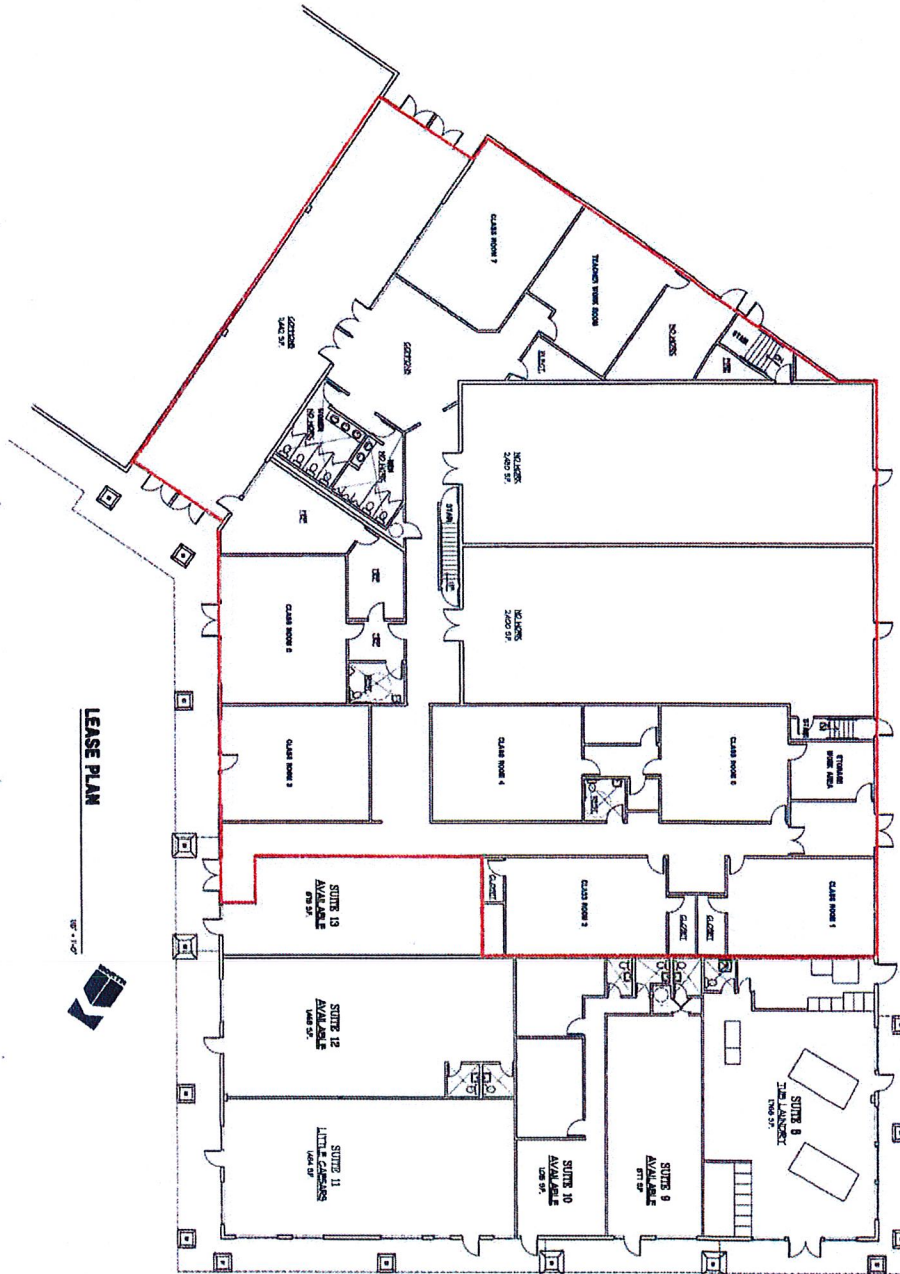
**RIVERSIDE PLAZA
 ALTERNATE SITE PLAN
 PARKWAY DR AND BERGENER BLVD
 BLACKFOOT, ID**



LYNN S. HOOVER AND ASSOCIATES, ARCHITECTS
 2789 EAST PARKWAY PARK, SUITE 300
 SALT LAKE CITY, UTAH 84109
 (801) 485-1110

EXHIBIT "A-1"
LEASE PLAN

P:\Riverside Plaza - 1980\Lease Plans\RIVERSIDE-SQ-FT.dwg, Adobe PDF



LEASE

BINGHAM ACADEMY AREA
RIVERSIDE PLAZA
BLACKFOOT, IDAHO

WOODBURY CORPORATION
LYNN S. WOODBURY AND ASSOCIATES, ARCHITECTS
2733 EAST PARKWAY WY., SUITE 300
SALT LAKE CITY, UTAH 84109
(801) 488-1770



Handwritten signature

EXHIBIT "B"

**RIVERSIDE PLAZA SHOPPING CENTER, BLACKFOOT, IDAHO
LEGAL DESCRIPTION**

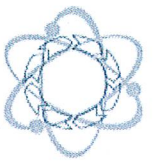
Part of the Northeast quarter of Section 4, T. 3 S., R. 35 E.B.M., Bingham County, Idaho, described as follows:

Beginning at a point that is South 89°55'11" West along the North Section Line 1123.04 feet and South 37°10'17" East 217.06 feet and South 30°56'15" East 78.52 feet from the locally accepted Northeast corner of said Section 4 (said locally accepted corner being 1.4 feet North and 17 feet East of the corner set by the Cadastral Survey in 1957) point of beginning also described as being 70 feet right of Station 150 + 66.00 of State Highway Project F-1381 (10); Thence South 59°03'45" West on tangent being the Southerly R-O-W of Parkway Drive 415.49 feet to the P.C. of a curve to the left (curve data: Delta - 22°28'30", Radius = 1,399 feet, Length = 548.77 feet, Tangent = 277.96 feet, Chord = 545.26 feet); Thence along said curve 548.77 feet to the P.T. of said curve; Thence on tangent South 36°35'15" West 62.80 feet; Thence South 46°22'45" East 226.00 feet; Thence North 86°39'15" East 209.50 feet; Thence South 86°34'45" East 51.60 feet; Thence South 80°51'59" East 356.65 feet; Thence North 86°18'41" East 243.75 feet; Thence North 01°20'04" West 56.72 feet; Thence North 34°21' East 28.64 feet; Thence South 89°00' East 146.34 feet; Thence South 01°20'04" East 65.5 feet; Thence North 45° East 93 feet; Thence North 30°56'15" West 886.81 feet to the point of beginning.

EXCEPTING ALBERTSON'S PARCEL:

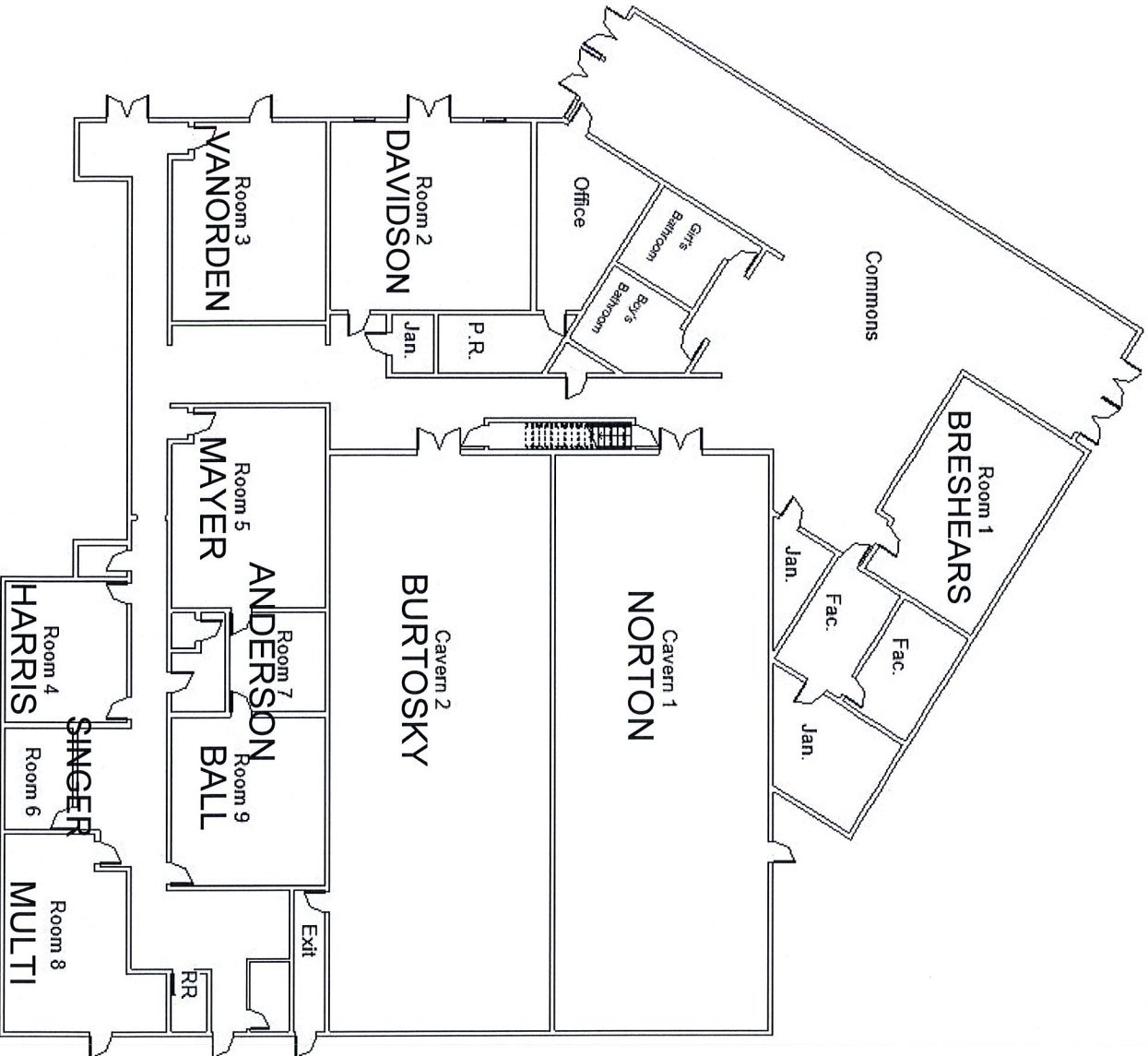
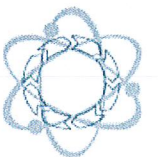
Beginning at the aforementioned point of beginning, Thence South 30°56'15" East 361.81 feet to the point of beginning; Thence South 59°03'00" West 185.73 feet; Thence South 03°27'25" West 427.10 feet; Thence North 86°18'41" East 243.75 feet; Thence North 01°20'04" West 56.72 feet; Thence North 07°00'42" East 123.45 feet; Thence North 59°03'00" East 126.50 feet; Thence North 30°56'15" West 307.00 feet to the point of beginning.





BINGHAM ACADEMY

COLLEGE AND CAREER READINESS



- Room 1: Science
- Cavern 1: Strings
- Cavern 2: Band/Choir
- Room 2: ELA (9, 10, & 12)
- Room 3: Math
- Room 4: Computer Lab
- Room 5: Social Studies
- Room 6: Counseling Office
- Room 7: Resource Room
- Room 8: Empty
- Room 9: Bio-Medical