



**MEETING OF THE BOARD OF ADJUSTMENT
BOULDER COUNTY, COLORADO
AGENDA**

Wednesday, June 7, 2023, 4:00 p.m.

Third Floor Hearing Room

County Court House

1325 Pearl Street, Boulder

Boulder County Board of Adjustment meetings are convened in a hybrid format where attendees can join through Zoom or participate in-person at the Downtown Boulder County Courthouse, 3rd Floor, 1325 Pearl St., Boulder. To sign up in advance for either in-person or virtual public comment, please visit www.boco.org/BOA to register for the hearing. There is also a kiosk in the 3rd floor lobby to sign up for in-person public comment. To join the meeting by phone, dial 1-833-568-8864 (toll free) and enter the Webinar ID: 160 321 9735.

This agenda is subject to change. Please call the Community Planning & Permitting Department (303-441-3930) or check the Board of Adjustment webpage to confirm any items of interest. For special assistance, contact our ADA Coordinator (303-441-3525) at least 72 hours in advance.

There will be opportunity to provide public comment on the subject items during the respective virtual Public Hearing portion for each item. If you have comments regarding any of these items, you may mail written comments to the Community Planning & Permitting Department (PO Box 471, Boulder, CO 80306) or email planner@bouldercounty.org. Please reference the docket number of the subject item.

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- 1. CALL TO ORDER**
 - 2. ROLL CALL**
 - 3. NOMINATION OF OFFICERS**
 - 4. ITEMS**

4.1 Docket VAR-21-0003: Ells Residence in Setback – Clarification of Condition of Approval

Public testimony will be taken

Request: Request for clarification of Condition 4 of VAR-21-0003 as approved on March 1, 2023.

Location: 6301 Sunshine Canyon Dr, approximately .6 miles west of the intersection of Sunshine Canyon Drive and County Road 83 in Section 8, Township 1N, Range 71W.

Zoning: Forestry (F) Zoning District

Applicant/Property Owner: Fred Ells

Agent: Jason Ruby Architecture, LLC

Website: www.boco.org/VAR-21-0003

Staff Planner: Sam Walker

4.2 Docket VAR-23-0001: Sombrero Ranch HOA

Public testimony will be taken.

Proposal: Variance request to reduce the side setback along the western property line from 7' to approximately

1' 6" for the location of a fence line associated with the redevelopment of a community pool area.

Location: 6298 Reserve Drive, Parcel no. 146334108022, approximately 0.40 miles east of the intersection of Cherryvale Road and Reserve Drive, in Section 34, Township 1N, Range 70W.

Zoning: Rural Residential (RR)

Applicant: Charles Roberts

Property Owner: Sombrero Ranch Homeowners & Recreational Association

Website: www.boco.org/VAR-23-0001

Staff Planner: Jonathan Tardif

4.3 Docket VAR-23-0003: Danaher Setback Reductions

Public testimony will be taken.

Proposal: Variance request to reduce the required supplemental setback from 110 feet (required) to 86 feet (proposed) for construction of a new front porch, and reduce the rear-yard setback from 15 feet (required) to 9' 6" (proposed) for a windmill.

Location: 5745 Jay Road, approximately 300 feet east of the intersection of Jay Road and N. 57th Street, in Section 15, Township 1N, Range 70W.

Zoning: Rural Residential

Owner: Danaher & Valentine Living Trust

Applicants: Charlie Danaher and Rose Valentine

Website: www.boco.org/VAR-23-0003

Staff Planner: Sam Walker

5. ADJOURNMENT



Community Planning & Permitting

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Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.gov

BOULDER COUNTY BOARD OF ADJUSTMENT PUBLIC HEARING

June 7, 2023 at 4:00 p.m.

All Board of Adjustment public hearings will be offered in a hybrid format where attendees can join **through Zoom** or **in-person** at the Boulder County Courthouse, 3rd Floor, 1325 Pearl Street, Boulder.

STAFF MEMORANDUM

STAFF PLANNER: Sam Walker

Docket VAR-21-0003: Ells Residence in Setback

Proposal: Request to adjust the side yard setback from 25 feet (required) to 2 feet (proposed) in order to construct a new residence.
Location: 6301 Sunshine Canyon Dr, approximately .6 miles west of the intersection of Sunshine Canyon Drive and County Road 83 in Section 8, Township 1N, Range 71W.
Zoning: Forestry (F) Zoning District
Applicant: Jason Ruby
Owner: Fred Ells

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SUMMARY

On March 1, 2023, the Board of Adjustment (BOA) granted the applicant's variance proposal in VAR-21-0003 to reduce the required side-yard setback on a forestry-zoned property from 25 feet to two feet to allow the construction of a new residence at 6301 Sunshine Canyon Drive. As part of the approval, the BOA added a condition of approval requiring remediation efforts for the mine waste and contaminants on the subject parcel to be completed prior to the issuance of a Certificate of Occupancy for the new residence. Staff request clarification of this condition.

Claire Levy County Commissioner **Marta Loachamin** County Commissioner **Ashley Stolzmann** County Commissioner

DISCUSSION

Docket VAR-21-0003 was included on the agenda of the June 2, 2021 BOA hearing, but was tabled at the applicants' request following the issuance of the staff recommendation that the application be denied.

In December of 2022, the applicants provided new information to staff, including an EPA contaminant sampling report for the parcel, a revised project narrative, and evidence of an access easement across BLM land internal to the parcel. The application was re-referred with both original and new documents on January 31, 2022.

At the March 1, 2023 BOA hearing, the BOA voted unanimously to approve VAR-21-0003 subject to the following conditions:

1. All relevant building code requirements must be incorporated into the building permit plans (BP-21-1044), including verification from a structural engineer that the existing foundation is structurally sound for reuse.
2. Site Plan Review will be required for the new residence with attention to wildfire mitigation requirements.
3. Any future development is subject to applicable planning review, permitting, and setback requirements.
4. Remediation efforts must be complete prior to issuance of a Certificate of Occupancy.

Following the hearing, the applicants and Maya McHamer of the Boulder Watershed Collective contacted staff to discuss concerns related to Condition 4. Based on these discussions, staff are requesting a clarification of the intent and language of Condition 4.

Article 4-1203 of the Boulder County Land Use Code requires that "Unless otherwise stated in the motion made by the Board of Adjustment, all rights to permits authorized by the granting of any variance shall expire one year from the time approval for the variance is final." For the applicants, this means they have until March 1, 2024 (one year from the approval date of March 1, 2023) to apply for a building permit to begin construction of the new residence in the location approved by the variance proposal. Prior to issuance of a building permit, the property owner will have to apply for Site Plan Review, which will take a minimum of 6 weeks to complete.

Condition 4, however, requires that remediation efforts for the mine waste and contaminants on the subject parcel be completed prior to the issuance of a Certificate of Occupancy for the new residence. Discussions with the applicants and Mrs. McHamer indicate that the timeline for site remediation is currently unclear. The EPA has indicated that cleanup of the subject parcel is a low priority project, and neither the Boulder Watershed Collective or Mr. Ells, the property owner, can currently fund site cleanup on their own. Remediation funding may take years to establish, or may not be obtained at all. Further, the actual site cleanup itself may take several months once it has actually begun.

Pursuant to Article 4-1203 of the Land Use Code, "[u]nless otherwise stated in the motion made by the Board of Adjustment, all rights to permits authorized by the granting of any variance shall expire one year from the time approval for a variance is final." Condition 4 creates a conflict between this timeline and the required Site Plan Review approval, and the uncertain and potentially lengthy timeline for site remediation. If the applicant were to submit an application for Site Plan Review, and then submit a building permit request within one year of approval, he could be in a position where he is allowed to construct an entire residence, but is then prevented from actually living in it until site

remediation is completed. This could extend for a timeframe of several years while the applicant attempts to find funding and clean up his property.

Further complicating the matter is the lack of specificity for what “remediation efforts” are expected to be complete before a Certificate of Occupancy can be issued for the hypothetical new residence. Staff are unaware of any specific standard by which a residential property may be declared remediated from mine waste contamination. Mrs. McHamer indicated that typical remediation is fairly basic on similar properties; contaminants are buried within the parcel and then uncontaminated soil is vegetated over the top to prevent sedimentation and runoff. However, the contaminants could also hypothetically be removed from the property entirely, which would not be a typical site remediation, but would address the concerns of the BOA (staff note that removal of all mine contaminants would likely trigger a Limited Impact Special Use Review, which is currently a ~4 month planning process, prior to issuance of any grading permits to remove fill from the site).

Due to the issues described above, Staff request that the Board of Adjustment provide guidance on the intent or language of Condition 4 as adopted in the approval of ***VAR-21-0003 Ells Residence in Setback***.



Community Planning & Permitting

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March 3, 2023

Fred John Ells
 6116 Misty Way
 Longmont, CO 80503

Jason Ruby Architecture, LLC
 5 Blue Spruce Rd S
 Nederland, CO 80466

Dear Applicants:

This letter certifies that a hearing of the Board of Adjustment, County of Boulder, State of Colorado, was duly called and held on **Wednesday, March 1, 2023**, in consideration of the following request:

Docket VAR-21-0003: Ells Residence in Setback

Request: Request to adjust the side yard setback from 25 feet (required) to 2 feet (proposed) in order to construct a new residence.
 Location: 6301 Sunshine Canyon Dr, approximately .6 miles west of the intersection of Sunshine Canyon Drive and County Road 83 in Section 8, Township 1N, Range 71W.
 Zoning: Forestry (F) Zoning District
 Applicant/Property Owner: Fred Ells
 Agent: Jason Ruby Architecture, LLC

The Board of Adjustment **CONDITIONALLY APPROVED** the request for a variance. The variance was approved subject to the 3 conditions in the staff report and an additional 4th condition:

1. All relevant building code requirements must be incorporated into the building permit plans (BP-21-1044), including verification from a structural engineer that the existing foundation is structurally sound for reuse.
2. Site Plan Review will be required for the new residence with attention to wildfire mitigation requirements.
3. Any future development is subject to applicable planning review, permitting, and setback requirements.
4. Remediation efforts must be complete prior to issuance of a Certificate of Occupancy.

If you have any questions, please feel free to contact me at 720-564-2738 or via email at swalker@bouldercounty.org.

Sincerely,

Sam Walker, Planner II
 Planning Division
 Community Planning & Permitting Department



Community Planning & Permitting

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BOULDER COUNTY BOARD OF ADJUSTMENT PUBLIC HEARING

March 1, 2023 at 4:00 p.m.

All Board of Adjustment public hearings will be offered in a hybrid format where attendees can join **through Zoom** or **in-person** at the Boulder County Courthouse, 3rd Floor, 1325 Pearl Street, Boulder.

STAFF RECOMMENDATION

STAFF PLANNER: Sam Walker

Docket VAR-21-0003: Ells Residence in Setback

Proposal: Request to adjust the side yard setback from 25 feet (required) to 2 feet (proposed) in order to construct a new residence.

Location: 6301 Sunshine Canyon Dr, approximately .6 miles west of the intersection of Sunshine Canyon Drive and County Road 83 in Section 8, Township 1N, Range 71W.

Zoning: Forestry (F) Zoning District

Applicant: Jason Ruby

Owner: Fred Ells

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Claire Levy County Commissioner **Marta Loachamin** County Commissioner **Ashley Stolzmann** County Commissioner

SUMMARY

This Variance application proposes to reduce the required side-yard setback on a Forestry-zoned property from 25-feet to two-feet to allow for the construction of a new residence.

Docket VAR-21-0003 was scheduled to be heard at the June 2, 2021 Board of Adjustment meeting and a complete staff recommendation packet was issued. However, after reading staff's analysis and recommendation for denial, the applicants chose to table the Variance application.

In December of 2022, the applicants provided new information to staff, including an EPA contaminant sampling report for the parcel, a revised project narrative, and evidence of an access easement from the Bureau of Land Management (BLM) across a parcel that is internal to the subject parcel. The application was re-referred with both original and new application materials on January 31, 2022.

After reviewing the original and new application materials, staff finds that the analysis provided in the original staff recommendation (Attachment ORG) and did not change and continues to recommend denial of docket VAR-21-0003: Ells Residence in Setback.

DISCUSSION

In December of 2022, the applicants provided the results of an EPA pre-CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act, commonly known as the Superfund remediation program) screening and sampling study which identifies the types and levels of contaminants within mine waste located on the subject parcel and an illustration of a new access easement across the BLM parcel internal to the subject property. Staff's review of these application materials is discussed below. Because the newly provided information did not change the analysis and recommendation found in the originally issued staff recommendation packet, that document has been provided as Attachment ORG to this memo.

The EPA pre-CERCLA study found arsenic concentrations on the property that exceed EPA Regional Screening Levels (RSL's) for contaminants at Superfund sites. A map of sample locations taken from the EPA study can be seen in Figure 1, below, and in detail on page EPA21 of Attachment EPA. Figure 2, immediately following, shows the subject parcel's buildable area as identified by staff.

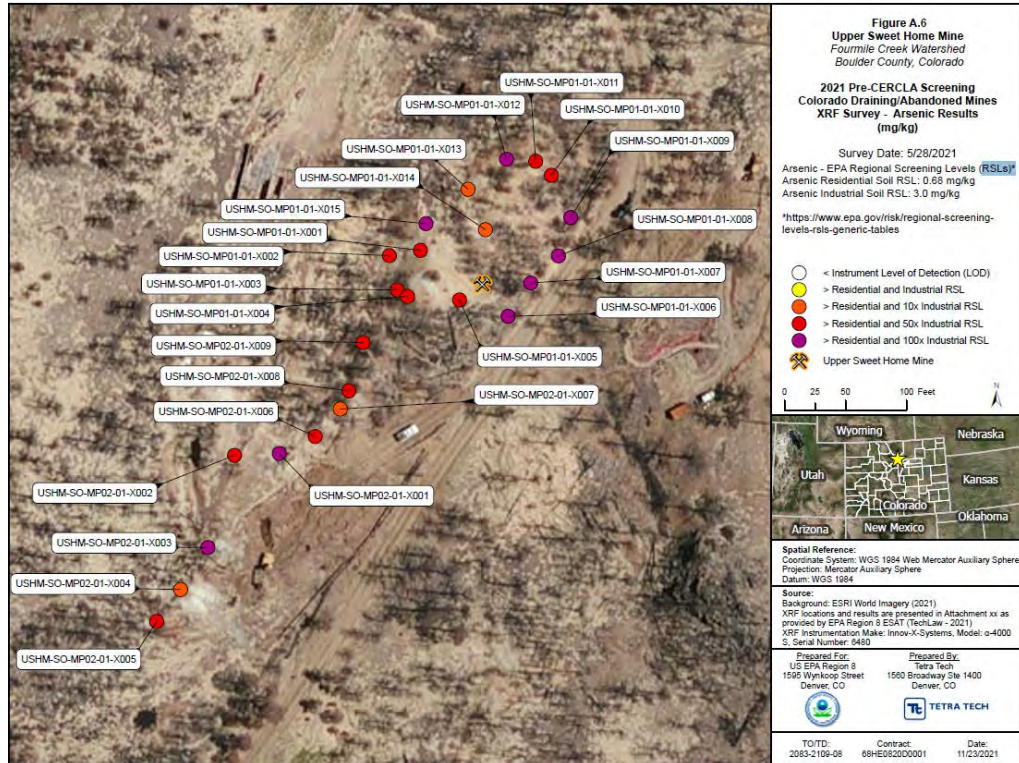


Figure 1: EPA pre-CERCLA screening and sampling study sample-taking locations

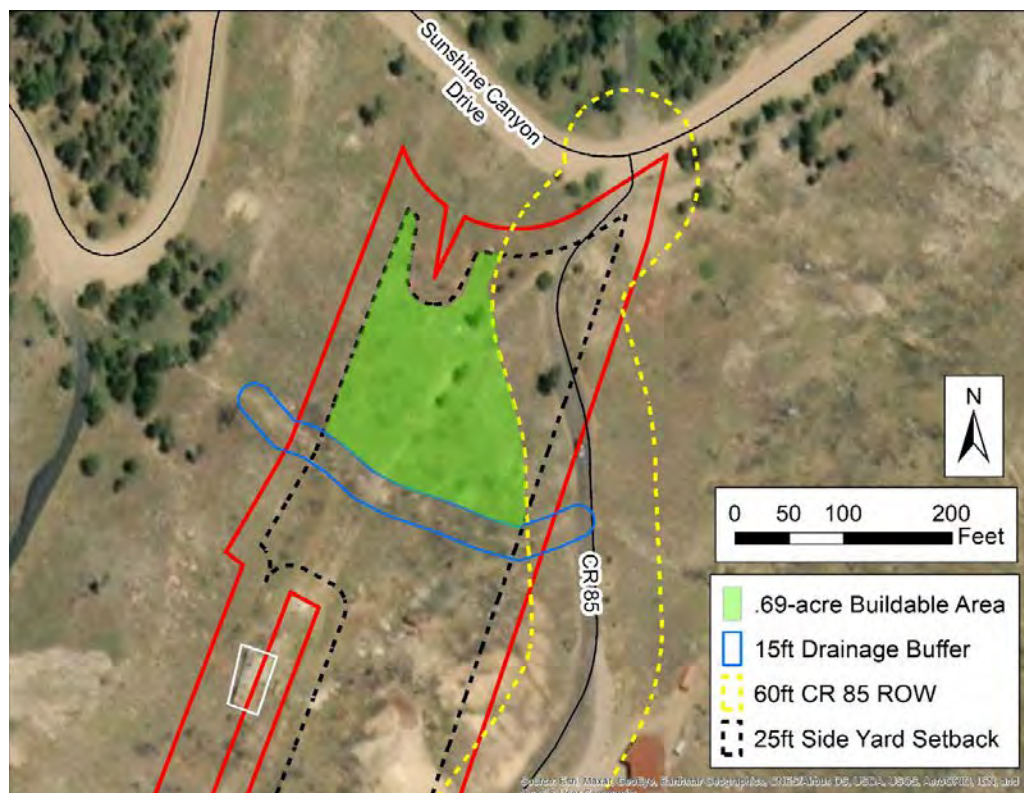


Figure 2: Staff identified buildable portion of subject property

Because the area available for construction of a residence as identified by staff is outside of the area where contaminants were identified (and is in fact further away from those contaminants than the applicants' proposed residence location), staff does not find that the presence of arsenic on the parcel constitutes an exceptional or extraordinary physical circumstance that would limit development.

As can be seen in the Public Lands map in Figure 3, there is a small parcel owned by the BLM that is internal to the subject parcel.

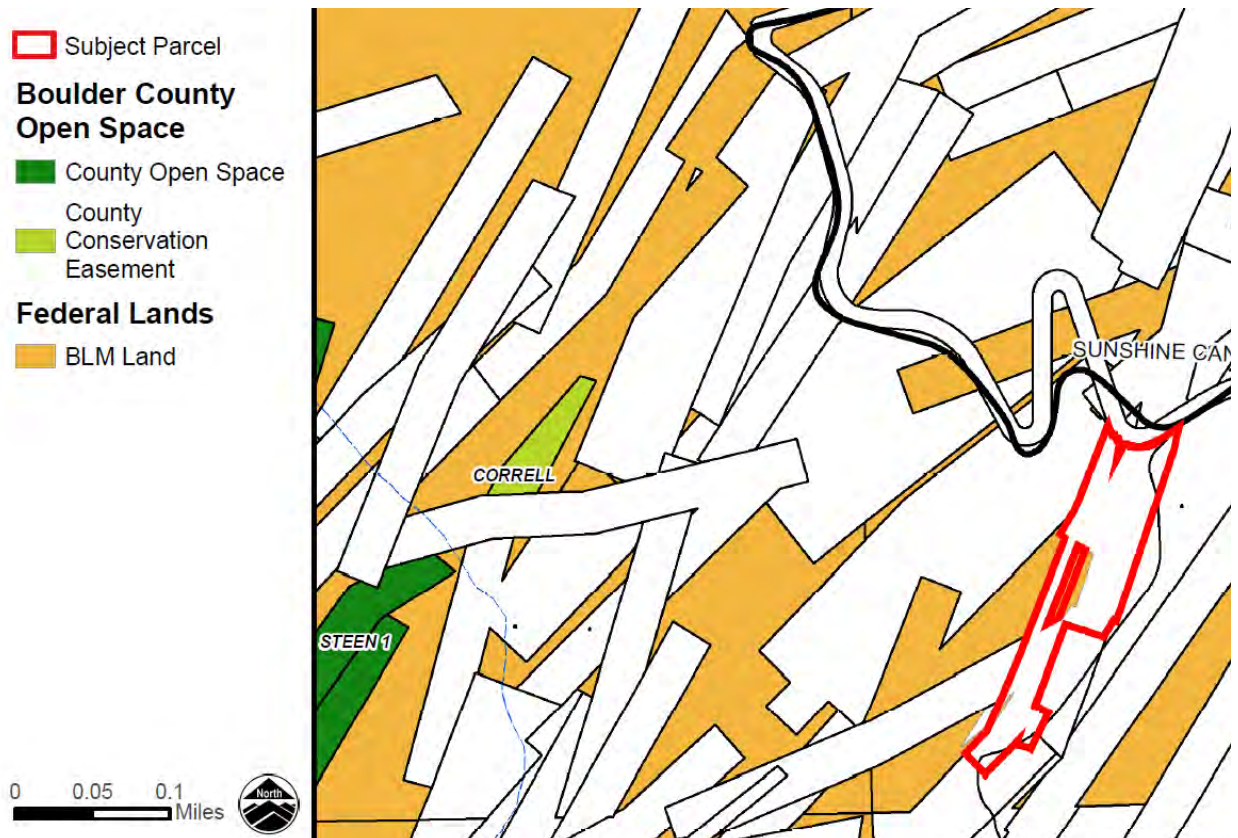


Figure 3: Map of the subject parcel (outlined in red) showing publicly owned lands.

Figure 4, below, was submitted by the applicants as evidence of a new access easement across the internal BLM land although the actual easement document was not provided. Staff understand that the easement allows vehicular access across the BLM land, but the parcel boundaries remain in place.



Figure 4: Illustration of applicants' access easement across BLM land internal to the subject parcel.

Because the Land Use Code defines a Setback as “The required minimum distance between the Building or Structure and the related front, side, or rear Lot Line,” the presence of an access easement on an adjacent parcel does not change the required distance that a structure must be from the relevant lot line. Therefore, staff do not find that the easement provides any justification for a reduction in the required side-yard setback on the parcel.

After reviewing the additional documentation provided by the applicants, Staff still do not find that the proposal can meet the criteria for a zoning variance, and therefore recommends that the Board of Adjustment **DENY** docket ***VAR-21-0003 Ells Residence in Setback.***



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BOULDER COUNTY BOARD OF ADJUSTMENT AGENDA ITEM

Wednesday June 2, 2021 4:00 P.M.

Due to COVID-19 Public Hearing to be Held Virtually

STAFF PLANNER: Ryan Kacirek, AICP, Planner I

STAFF RECOMMENDATION

Docket VAR-21-0003: Ells Residence in Setback

Request: Request to adjust the side yard setbacks from 25 feet to a 0 feet in order to construct a new residence on a 5.35-acre parcel.

Location: 6301 Sunshine Canyon Dr., approximately .6 miles west of the intersection of Sunshine Canyon Drive and County Road 83 in Section 8, Township 1N, Range 71W.

Zoning: Forestry (F) Zoning District

Applicant/Property Owner: Jason Ruby Architecture, LLC (agent), Fred Ells (property owner)

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SUMMARY

The applicant requests a variance to allow for 0-foot side yard setbacks in the area of the existing foundation where the zoning district setback is 25 feet, in order to allow for the construction of a new residence on a foundation that was previously used for a residence destroyed in the 2010 Fourmile fire. While staff understands the proposal to reuse the existing foundation, staff finds that the criteria set forth in Article 4-1202 of the Boulder County Land Use Code cannot be met.

DISCUSSION

The applicant requests a variance from the required setbacks to construct a new residence in the location where there is a foundation remaining from a residence that was destroyed in the 2010 Fourmile fire. The foundation location is shown in Figure 1. It should be noted that the parcel lines shown in Figure 1 are not accurate and are slightly shifted westward making it appear that the foundation is located on the small parcel in the middle of the subject parcel. The applicant provided a survey that is included in the application materials showing the existing foundation located within the subject parcels property boundaries.

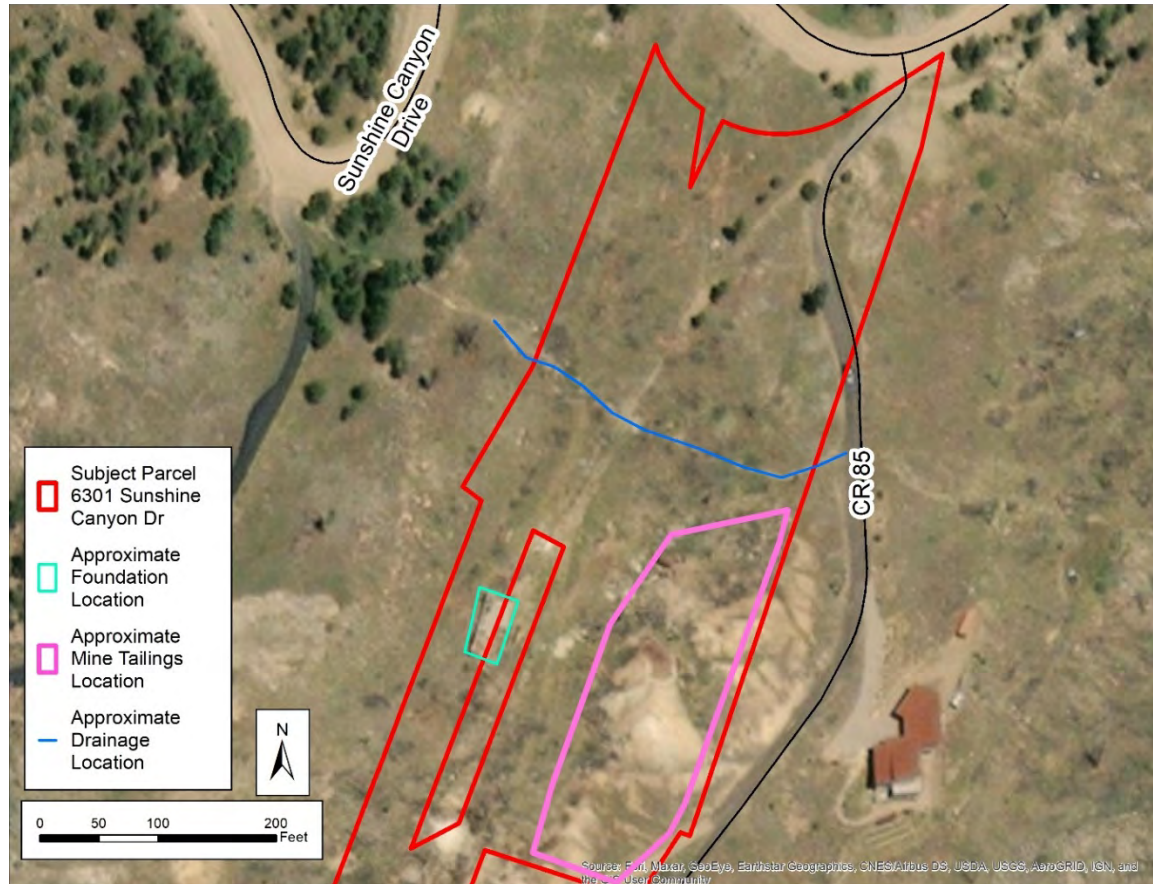


Figure 1. Subject parcel in red with the existing foundation location shown approximately in turquoise.

The subject parcel is 5.35 acres and slopes downward from the west to the east. Mine tailings are located in the southeast portion of the parcel, which is an area that should be avoided for construction. Included in the application materials is a letter from the Fourmile Watershed Coalition detailing proposed assessments of the mine tailings in conjunction with the EPA and Colorado Department of Reclamation, Mining, and Safety (DRMS) and a study from the Colorado School of the Mines focused on the mine tailings on the property. A small parcel owned by the Bureau of Land Management (BLM) is located interior to the subject parcel (outlined in red in Figure 1); this parcel is .18-acres. Setbacks for the subject parcel, including the setbacks from the BLM parcel, are 25 feet from each lot line. An existing driveway cut provides access onto the parcel from County Road 85. To the north of the existing foundation and small BLM parcel is a drainage way that bisects the parcel. Figure 1 illustrates each of these features.

Pursuant to docket VAR-86-0617, which was a previous variance application in 1986, the location of the former residence was approved with side yard setbacks of 8 feet from the westernmost property boundary of the subject parcel and the western most property boundary of the small BLM parcel. The

former residence was 3,105 square feet (1,809-square-foot first floor and 1,296-square-foot second floor) and was approved through Building Permit BP-86-0467 in the location approved by VAR-86-0617. The staff memo for docket VAR-86-0617 included analysis that the subject property at the time was only 50 feet wide on the north end (the portion closest to Sunshine Canyon Drive) and the rest of the parcel to the south has steep slopes and mine tailings, making only the narrow northern portion feasible for development.

Following the construction of the former residence, the Board of County Commissioners (BOCC) approved docket SE-91-040 for a Boundary Line Adjustment to transfer acreage from the parcel (in its configuration in 1986) to two adjacent parcels to the south. This adjustment did not impact the lot lines near the former residence. The BOCC later approved docket SE-02-0104 for another Boundary Line Adjustment involving the subject parcel, which allowed for land on the north side of Sunshine Canyon Drive that was part of the subject property to be transferred to a different property to the north of Sunshine Canyon Drive to provide that property with legal access. Following that boundary line adjustment, in 2002, the applicant applied for docket VAR-02-0015, which consisted of three separate Variance requests, all of which were denied by the Board of Adjustment (BOA). The variance application included a variance request for a pump house structure near the mine tailings on the property, a variance request for a detached garage near the residence, and a variance request for a bay window addition to the residence.

In 2018, the BOCC approved another Boundary Line Adjustment, docket SE-18-0010, involving the subject parcel. The result was that the subject parcel was combined with two adjacent parcels and became the 5.35-acre parcel that it is today. Due to the Boundary Line Adjustment, the subject parcel obtained legal access to Sunshine Canyon Drive. In docket SE-18-0010, staff noted that the Boundary Line Adjustment created a configuration of the subject parcel that allowed for redevelopment of the fire impacted property without the need for setback variances.

The applicant now proposes to build a new 3,578-square-foot residence on the existing foundation. The applicant also is proposing a ground mounted solar array to be located on a different portion of the parcel not within the setback. The applicant provided to staff prior to the posting of this staff recommendation a stamped letter from a Professional Engineering stating that *“that the existing foundation structure is structurally adequate to support the construction of a new home of similar scope to the original”*. The applicant requests a variance reducing the side yard setback from 25 feet to 0 feet in the area of the existing foundation in order to accommodate the construction of the new residence on the existing foundation. To support of the variance request, the applicant has provided information on the mine tailings located on the subject parcel and why the area of the mine tailings is not feasible for construction of a new residence.

There is land north of the existing foundation, directly north of the small BLM parcel, that is outside of the side yard setbacks, is outside of the County Road 85 Right of Way, and avoids the mine tailings. This area is approximately .69-acres in size. The applicant indicated that this area is unable to be developed due to 25-foot setbacks from the side yard setbacks and 60-foot from County Road 85. Staff disagree with this assessment and as shown in the subsequent analysis below finds this area to be suitable for development. Furthermore the applicant stated that this area is not desirable for development because it is closer to Sunshine Canyon Drive and would be subject to headlights from cars and prone to pollution related to dust on the road that could contain heavy metals and other containments from mining in the area. This area is shown in Figure 2.

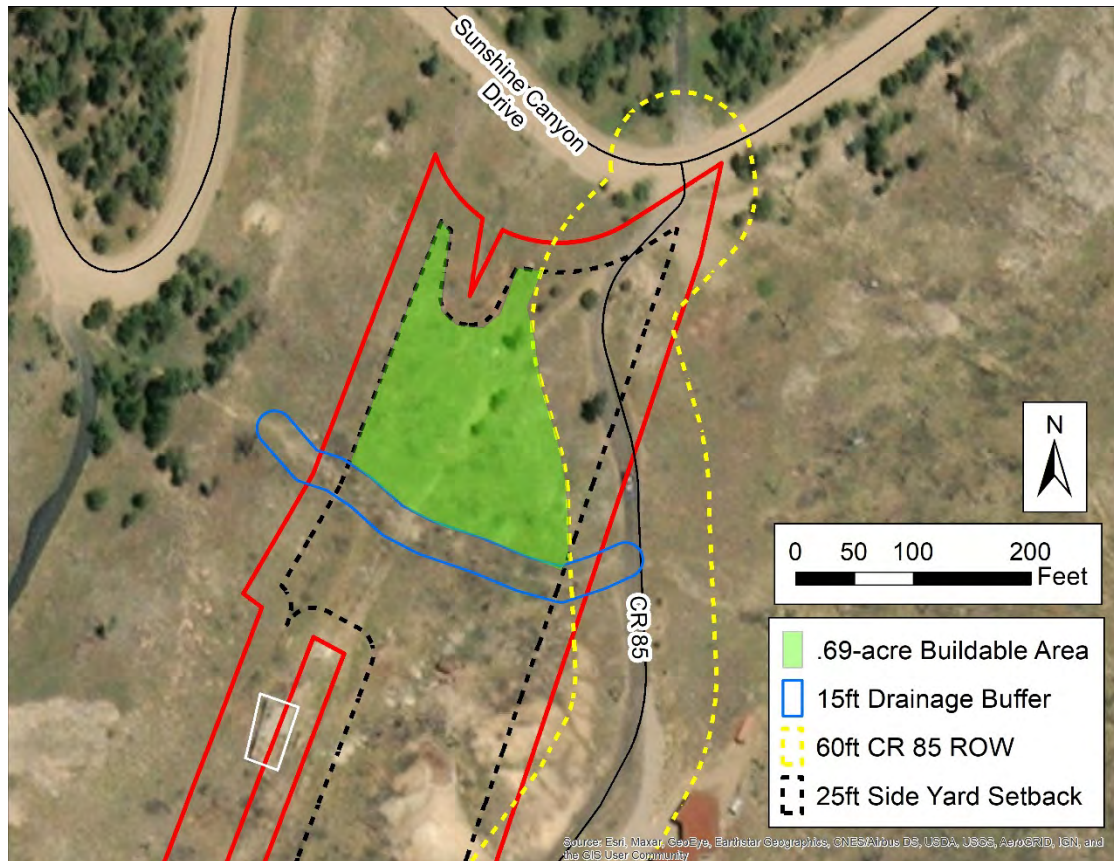


Figure 2. The area not in setbacks, not impacted by mine tailings, and not in the drainage area is shown in green.

The applicant requests a variance to allow for the new residence to be built on the existing foundation in the side yard setback. Staff does not find that the request is able to meet the criteria in Art. 4-1202.B.2 of the Land Use Code.

REFERRALS

The variance request was sent to property owners within 1,500 feet of the subject property, as well as all applicable referral agencies. Responses received by staff are attached to this staff recommendation and summarized below.

Boulder County Building Safety & Inspection Services Team – This team stated that there are several Building Code requirements that present challenges for the request including restrictions on openings, projections, and requirements for fire ratings within five feet to the lot line.

Boulder County Development Review Team Access & Engineering – This team stated no conflict with the proposed Variance but did note that the new residence is the 8th development to utilize County Road 85 which is a publicly owned Right of Way that is privately maintained. The Multimodal Transportation Standards (the Standards) specify that for accesses serving between 6 and 15 development units, the access must be designed as a 2-lane access (minimum 18 feet width). Future development on the subject parcel will require that County Road 85 between Sunshine Canyon Drive and the private point of access to the subject parcel be improved to meet the Standards.

Boulder County Wildfire Mitigation – This team does not support the application due to the inability of the proposed residence to establish five feet of noncombustible perimeter around the structure on the subject parcel.

Xcel Energy – This group noted there are existing overhead and underground electric facilities on and/or crossing the subject parcel. The proposed solar array must have a ten-foot radial clearance from the overhead electric facilities.

Parties providing no response, or responding that they had no conflict:

Boulder County Natural Resources Planner, Sunshine Canyon Fire Protection District, Fourmile Canyon Fire Protection District, Boulder County Long Range Planning, Boulder County Historic Review, Boulder County Environmental Health / Water Quality.

Adjacent Property Owners – Of 132 referrals, three public comments were received. Two of the comments expressed no objection to the proposal. One comment expressed opposition to the proposal. The opposing commenter stated opposition to reducing the front yard setback from 25 feet to 0 feet. The application materials provided to staff referenced changing the front yard setback from 25 feet to 0 feet. This was done incorrectly. In actuality, the applicant is asking to reduce the side yard setbacks in the area of the existing foundation. It is likely that some of the opposition comment was due to this inaccuracy, as the comment referenced the front yard setback as the setback proposed to be adjusted, referenced that building with a 0-foot setback from Sunshine Canyon is not in character with the neighborhood. The comment in opposition also noted that the applicant received SE-18-0010 in order to not need to go through a Variance, and that the building codes do not create not a hardship.

CRITERIA ANALYSIS

To grant a variance, the BOA must find that all of the following criteria from **Article 4-1202(B)(2)** of the Boulder County Land Use Code have been satisfied:

- (a) *There exist exceptional or extraordinary physical circumstances of the subject property such as irregularity, narrowness, shallowness, or slope;*

The subject property is 5.35-acres and slopes downward from west to east. Figure 3 shows the contours of the subject parcel.

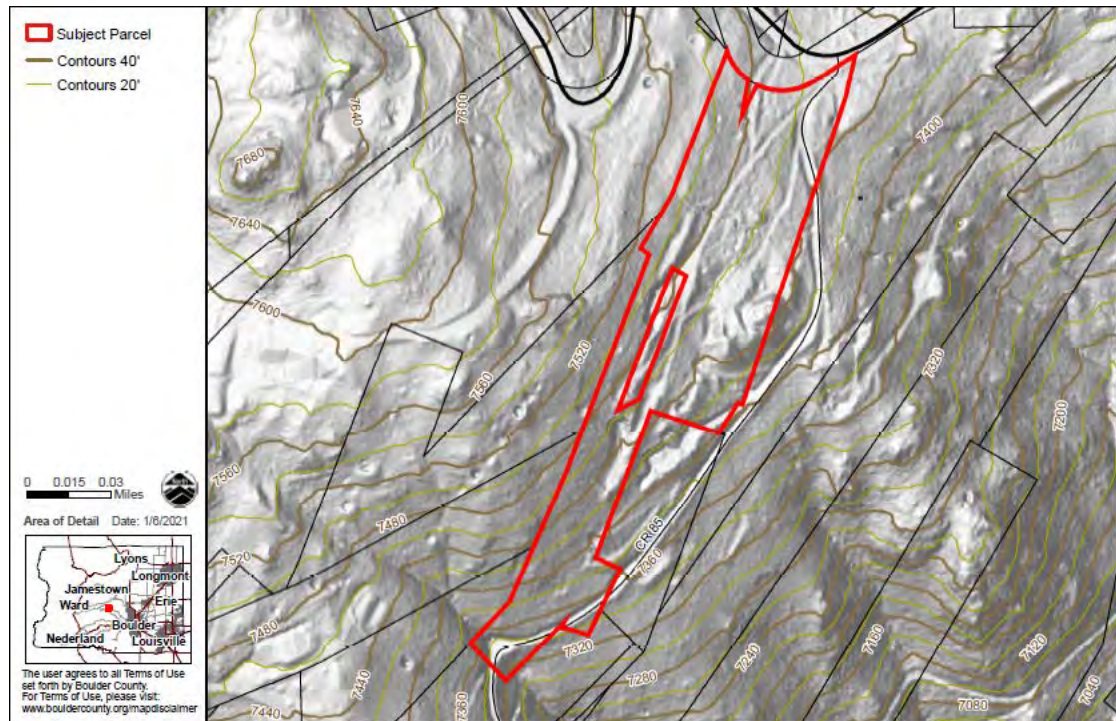


Figure 3. Contours of the subject parcel.

Staff finds that while exceptional or extraordinary physical circumstances exist in some areas of the subject parcel where development should be avoided (in particular the southern portion), there remains a developable area on the subject property including the area shown in Figure 5 below.

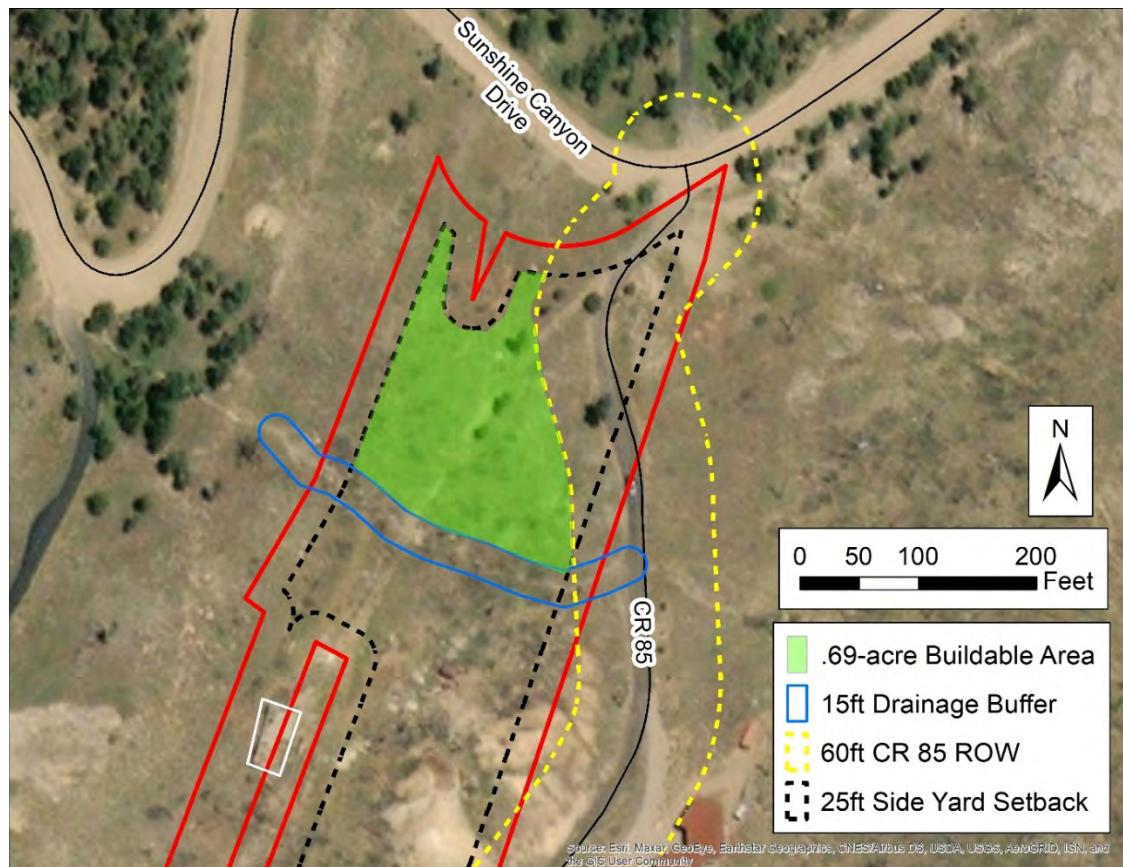


Figure 5. The area not in setbacks, not impacted by mine tailings, and not in the drainage area is shown in green.

Docket SE-18-0010, which was approved by the BOCC in 2018, allowed for a boundary line adjustment to create the current configuration of the subject parcel. This docket noted that the adjustment allowed for redevelopment of the fire impacted property without the need for setback variances.

Because there are development constraints on the parcel, staff finds that some exceptional or extraordinary circumstances do exist on the property; however, these circumstances do not encompass or impact the entire property.

(b) *Because of these physical circumstances, the strict application of the Code creates an exceptional or undue hardship upon the property owner;*

Despite the constraints noted under criteria a (above), a .69-acre developable area exists on the northern section of the subject parcel that is void of the constraints mentioned and can meet the required 25-foot setback from all lot lines. This area is large enough to accommodate the proposed residence and the slopes in this area are not steep enough to be a deterrent to construction. The buildable area is shown in Figure 5.

This area allows for construction of a structure that would meet the 25-foot side yard setbacks required in the Forestry zoning district. There is sufficient room in this .69-acre area of the property to reasonably accommodate the residence.

The applicant's proposal is intended to utilize the existing foundation to reduce construction cost, waste, and unwarranted complexity to the project. A new residence (i.e., it's size, height, and

location) will require a Site Plan Review (SPR) for construction which requires compliance with the SPR standards in Art. 4-806 of the Land Use Code. The subject variance is required since the desired house location is proposed within the required setbacks and is not compliant with the zoning district requirements, as ultimately needed to approve a location in a SPR application. Docket VAR-86-00617 was approved by the BOA for the location of the former residence because the property at the time (in 1986) was significantly narrower than its current configuration. However, docket SE-18-0010 enlarged the subject parcel and created room for access to be provided to the parcel. It also created space for a new residence to be built without the need for a Variance.

Staff finds that the physical circumstances and development constraints discussed under criterion (a) do not create a hardship on the property owner since there is section of the property that would allow for construction of a new residence in compliance with setbacks.

Therefore, staff finds this criterion is not met.

(c) The hardship is not self-imposed;

Since staff has not found an exceptional or undue hardship as explained above, there is no hardship to be analyzed under this criterion. Therefore, staff finds this criterion is not met.

While the existing foundation was approved in its location by the BOA in 1986, the parcel has since been reconfigured and enlarged with a specific note about how these changes would eliminate the need for a future variance.

(d) The variance, if granted, will not adversely affect the uses of adjacent property as permitted under this code;

County Wildfire Mitigation Coordinators have noted concerns for a house in this location being able to meet wildfire mitigation requirements, namely the non-combustible space that is necessary around the residence. An inability to satisfy the requirements of wildfire mitigation may cause adverse effect on adjacent properties. If this variance is granted, the applicant will be required to submit a new site plan and elevations at the time of Site Plan Review showing the new residence can satisfy the wildfire mitigation requirements. If wildfire mitigation concerns can be addressed, staff does not anticipate that the request will adversely affect the uses of adjacent properties.

Staff finds this criterion can be met, given that wildfire concerns would be addressed in the Site Plan Review process; however, a location where wildfire mitigation requirements can be met is preferable.

(e) The variance, if granted, will not change the character of the zoning district in which the property is located, and is in keeping with the intent of the Code and the Boulder County Comprehensive Plan;

The proposal will not change the character of the Forestry zoning district. The subject property is located in an area featuring a mixture of residence sizes and ages. Given that many of the parcels along Sunshine Canyon Drive are former mining claims and are often irregularly shaped lots, a distinct pattern of development (i.e, a neighborhood featuring exclusively long driveways or a neighborhood featuring development close to the public road) is difficult to define. That said it is common to find development along Sunshine Canyon Drive that requires a driveway of varying and often substantial length to access a developable area of the lot. The development on the

subject property proposes an approximately 430 linear foot long driveway to access the proposed development site. The proposed location with the requested setbacks would not change the character of the area. Given that the property lines on either side of the foundation proposed to be reused are properties owned by the Bureau of Land Management, and not slated for development, impact to surrounding parcels would be minimal. Review of the new residence (size, height, and ultimate location) will occur through a subsequent Site Plan Review.

Staff finds that this criterion can be met.

- (f) *The variance, if granted, does not adversely affect the health, safety, and welfare of the citizens of Boulder County and is in accordance with the Comprehensive Plan and any applicable intergovernmental agreement affecting land use or development.*

So long as the applicant provides meets the wildfire mitigation requirements as part of a subsequent Site Plan Review, staff does not anticipate any negative impacts to the health, safety, or welfare of the broader population of Boulder County.

Therefore, staff finds this criterion is met.

RECOMMENDATION

For the reasons described above, the Community Planning & Permitting Department finds that the requested variance does not meet all of the required criteria for a Variance, and therefore staff recommends that the Board of Adjustment **DENY Docket VAR-21-0003 Ells Residence in Setback.**

If the Board of Adjustment approves the request for variance, staff recommends the following conditions:

- 1) All relevant building code requirements must be incorporated into the building permit plans (BP-21-1044), including verification from a structural engineer that the existing foundation is structurally sound for reuse.
- 2) Site Plan Review will be required for the new residence with attention to wildfire mitigation requirements.
- 3) Any future development is subject to applicable planning review, permitting, and setback requirements.



Boulder County Land Use Department

Courthouse Annex Building
2045 13th Street • PO Box 471 • Boulder, Colorado 80302
Phone: 303-441-3930 • Fax: 303-441-4856
Email: planner@bouldercounty.org
Web: www.bouldercounty.org/lu
Office Hours: Mon., Wed., Thurs., Fri. 8 a.m. to 4:30 p.m.
Tuesday 10 a.m. to 4:30 p.m.

Shaded Areas for Staff Only

Intake Stamp

Application Form

| | | | |
|---|--|---|---|
| Project Number | | Project Name | |
| <input type="checkbox"/> Limited Impact Special Use <input type="checkbox"/> Limited Impact Special Use Waiver <input type="checkbox"/> Modification of Special Use <input type="checkbox"/> Site Plan Review <input type="checkbox"/> Site Plan Review Waiver <input type="checkbox"/> Subdivision Exemption <input type="checkbox"/> Exemption Plat <input type="checkbox"/> 1041 State Interest Review <input type="checkbox"/> Other: | Application Deadline: First Wednesday of the Month <input checked="" type="checkbox"/> Variance <input type="checkbox"/> Appeal | Application Deadline: Second Wednesday of the Month <input type="checkbox"/> Sketch Plan <input checked="" type="checkbox"/> Preliminary Plan <input type="checkbox"/> Final Plat <input type="checkbox"/> Resubdivision (Replat) <input type="checkbox"/> Special Use/SSDP | <input type="checkbox"/> Rezoning <input type="checkbox"/> Road/Easement Vacation <input type="checkbox"/> Location and Extent <input type="checkbox"/> Road Name Change |
| Location(s)/Street Address(es) 6301 Sunshine Canyon Dr. | | | |
| Boulder, CO, 80302 | | | |
| Subdivision Name n/a | | | |
| Lot(s) n/a | Block(s) n/a | Section(s) 8 | Township(s) 1N Range(s) 71W |
| Area in Acres 4.434 | Existing Zoning F | Existing Use of Property Residential | Number of Proposed Lots 1 |
| Proposed Water Supply Existing Well | | Proposed Sewage Disposal Method Septic System | |

Applicants:


| | | | | |
|---|-----------------|-----------------------|---|-----|
| Applicant/Property Owner Fred Ells | | | Email Address sunshinefred@msn.com | |
| Mailing Address 6116 Misty Way | | | | |
| City Longmont | State CO | Zip Code 80503 | Phone (720) 453-5648 | Fax |
| Applicant/Property Owner/Agent/Consultant Jason Ruby Architecture, LLC | | | Email Address rubyjar@yahoo.com | |
| Mailing Address 5 Blue Spruce Rd S | | | | |
| City Nederland | State CO | Zip Code 80466 | Phone (303) 399-3303 | Fax |
| Agent/Consultant | | | Email Address | |
| Mailing Address | | | | |
| City | State | Zip Code | Phone | Fax |

Certification (Please refer to the Regulations and Application Submittal Package for complete application requirements.)

I certify that I am signing this Application Form as an owner of record of the property included in the Application. I certify that the information and exhibits I have submitted are true and correct to the best of my knowledge. I understand that all materials required by Boulder County must be submitted prior to having this matter processed. I understand that public hearings or meetings may be required. I understand that I must sign an Agreement of Payment for Application processing fees, and that additional fees or materials may be required as a result of considerations which may arise in the processing of this docket. I understand that the road, school, and park dedications may be required as a condition of approval.

I understand that I am consenting to allow the County Staff involved in this application or their designees to enter onto and inspect the subject property at any reasonable time, without obtaining any prior consent.

All landowners are required to sign application. If additional space is needed, attach additional sheet signed and dated.

| | | |
|---|-------------------------------|---------------------|
| Signature of Property Owner  | Printed Name Fred Ells | Date 4/30/21 |
| Signature of Property Owner | Printed Name | Date |

The Land Use Director may waive the landowner signature requirement for good cause, under the applicable provisions of the Land Use Code.



Community Planning & Permitting

2045 13th Street, Boulder, CO 80302 303-441-3930 www.bouldercounty.org

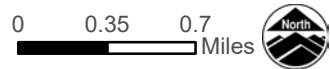
Vicinity

6301 SUNSHINE CANYON DR

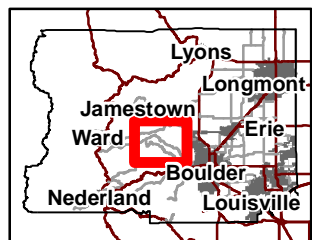
Subject Parcel

Subdivisions

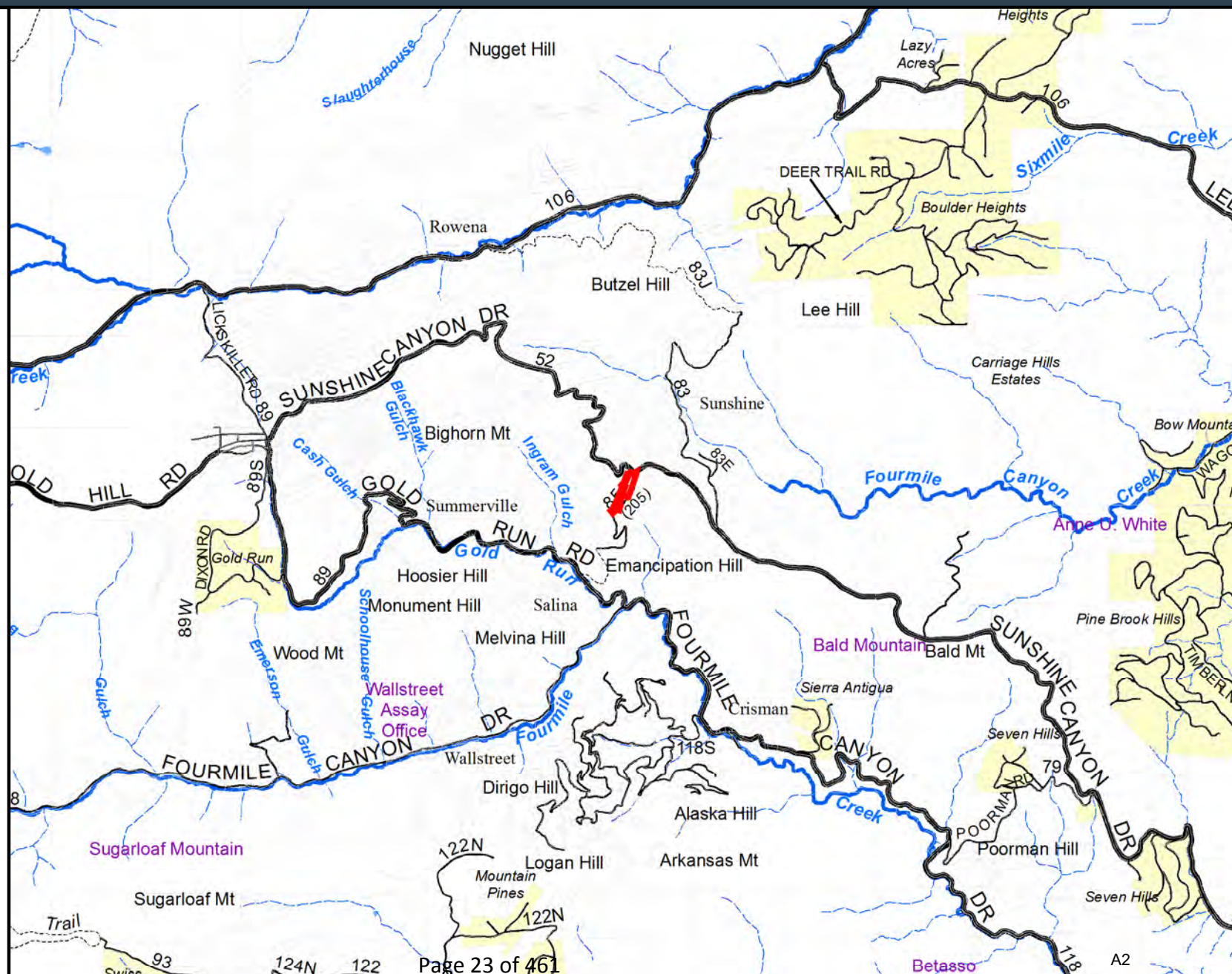
Subdivisions



Area of Detail Date: 1/6/2021



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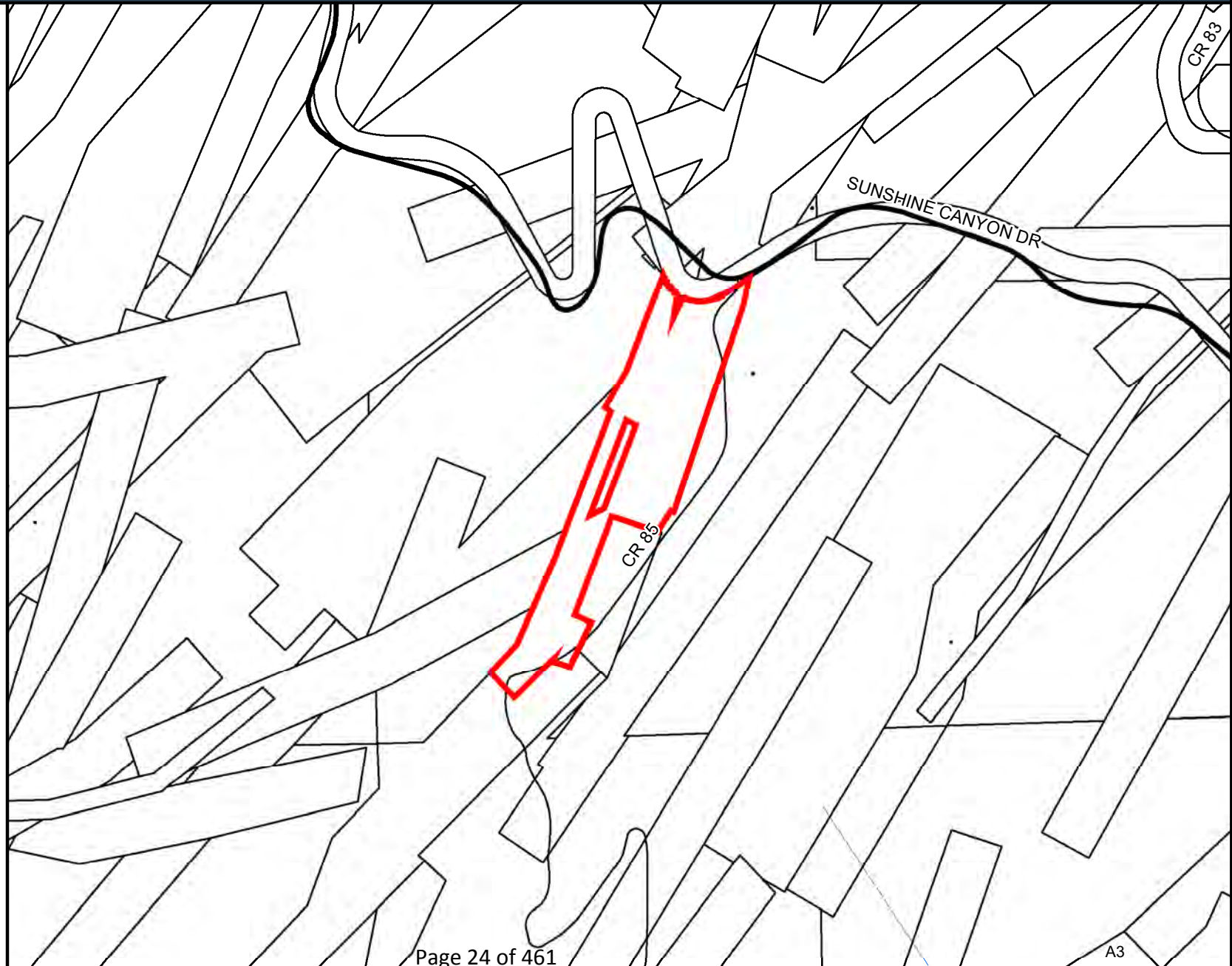
Community Planning & Permitting


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Location

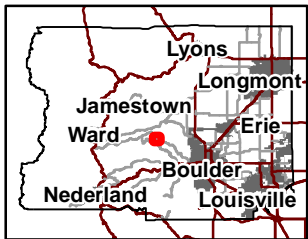
6301 SUNSHINE CANYON DR

 Subject Parcel



0 0.035 0.07 Miles 

Area of Detail Date: 1/6/2021



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Community Planning & Permitting

2045 13th Street, Boulder, CO 80302 303-441-3930 www.bouldercounty.org

Aerial

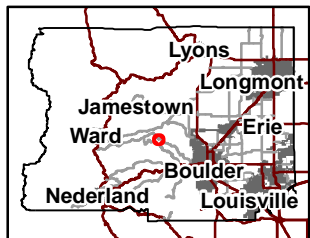
6301 SUNSHINE CANYON DR

 Subject Parcel

0 0.015 0.03
Miles



Area of Detail Date: 1/6/2021



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Community Planning & Permitting

2045 13th Street, Boulder, CO 80302 303-441-3930 www.bouldercounty.org

Aerial

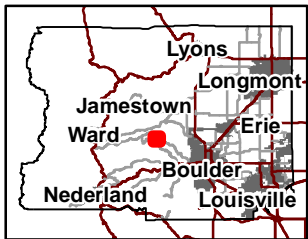
6301 SUNSHINE CANYON DR

 Subject Parcel

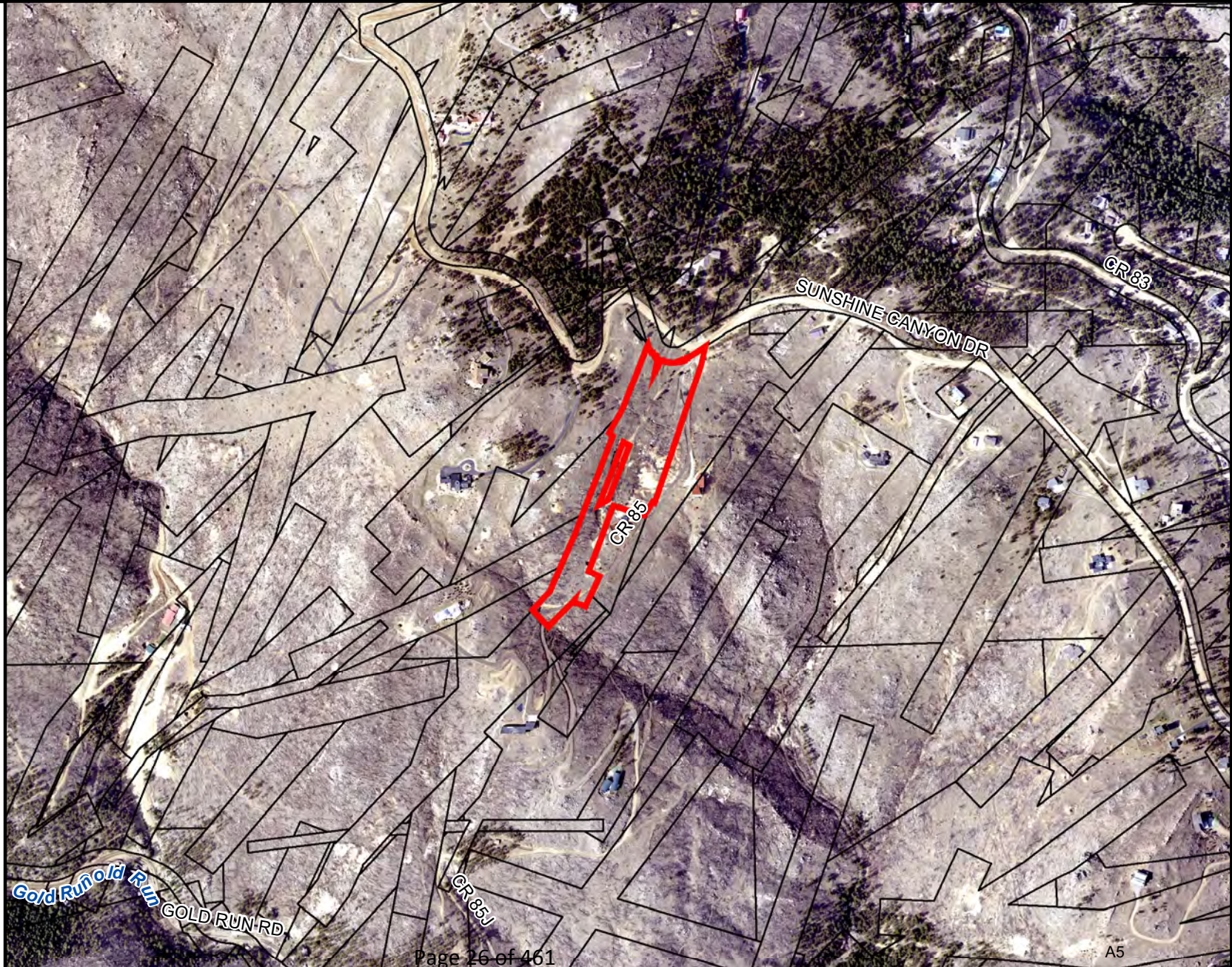
0 0.05 0.1 Miles



Area of Detail Date: 1/6/2021



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Community Planning & Permitting

2045 13th Street, Boulder, CO 80302 303-441-3930 www.bouldercounty.org

Comprehensive Plan

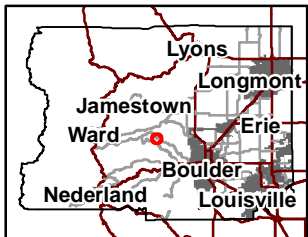
6301 SUNSHINE CANYON DR

 Subject Parcel

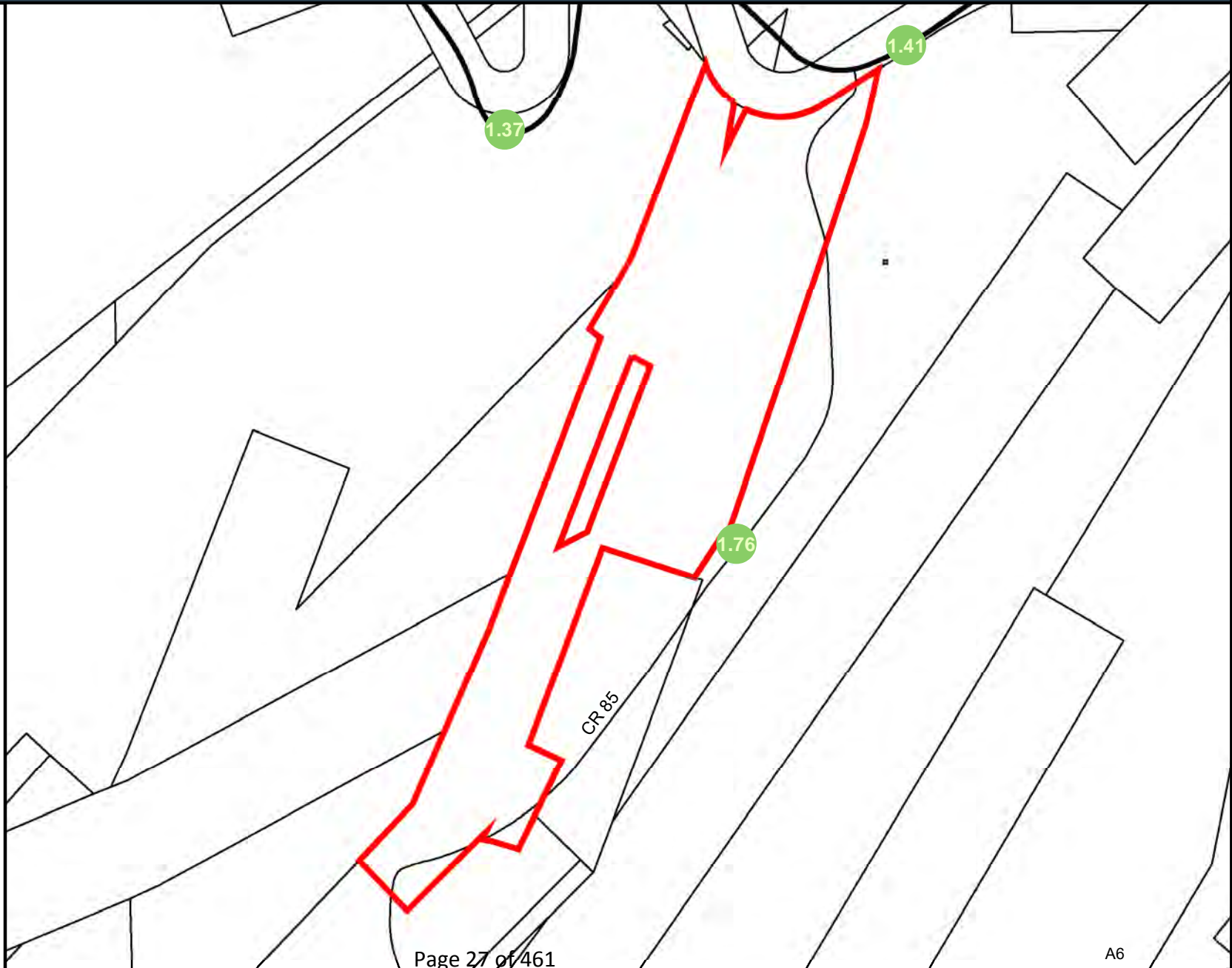
0 0.015 0.03
Miles



Area of Detail Date: 1/6/2021



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Community Planning & Permitting

2045 13th Street, Boulder, CO 80302 303-441-3930 www.bouldercounty.org

Public Lands & CEs

6301 SUNSHINE CANYON DR

Subject Parcel

Boulder County Open Space

County Open Space

County Conservation Easement

Federal Lands

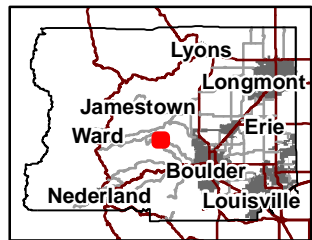
BLM Land



0 0.05 0.1 Miles



Area of Detail Date: 1/6/2021



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Elevation Contours

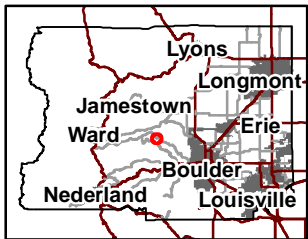
6301 SUNSHINE CANYON DR

- Subject Parcel
- Contours 40'
- Contours 20'

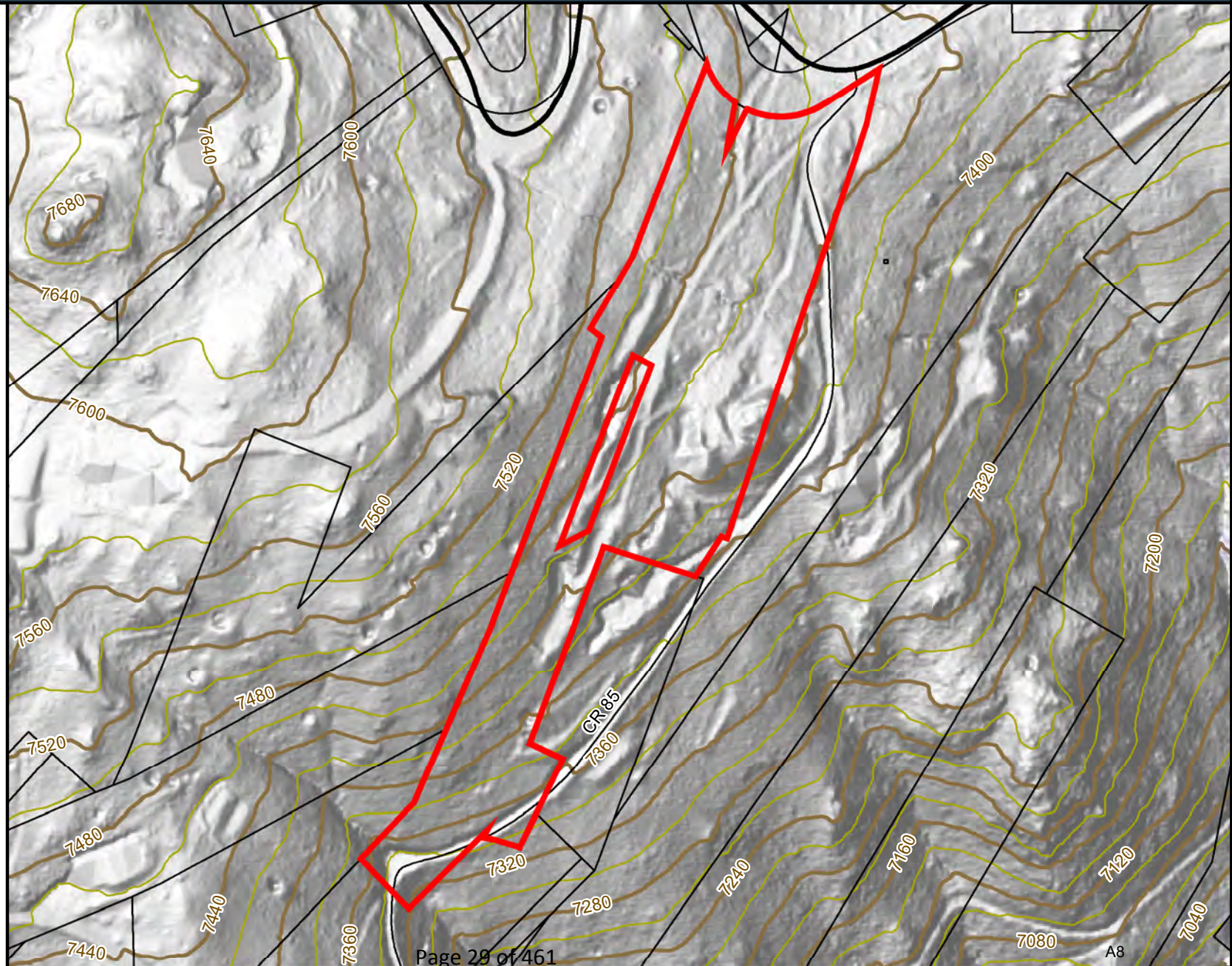
0 0.015 0.03 Miles



Area of Detail Date: 1/6/2021



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Geologic Hazards

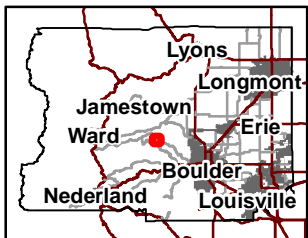
6301 SUNSHINE CANYON DR

- Subject Parcel
- Debris flow susceptibility area
- Rockfall susceptibility area
- Landslide high susceptibility area

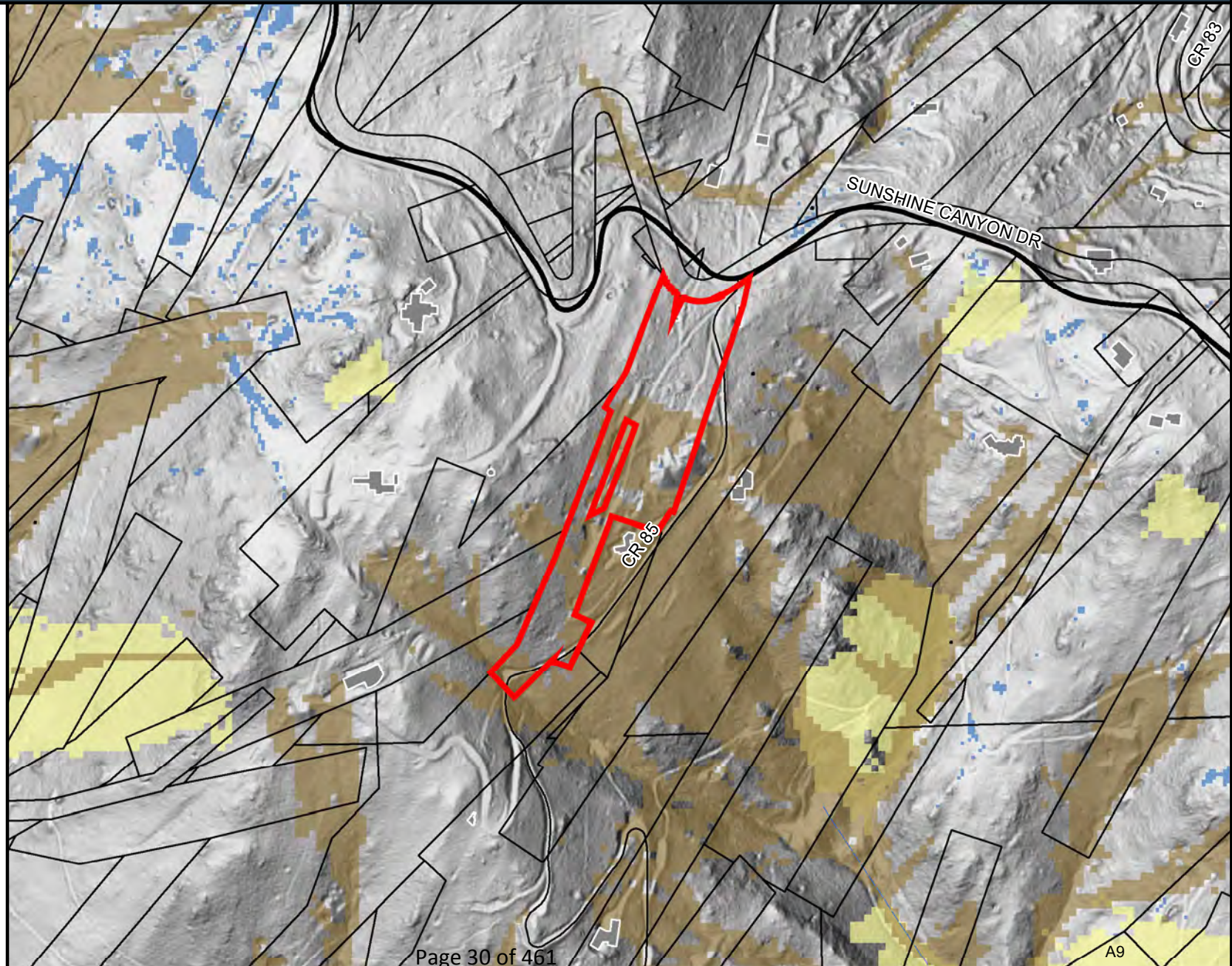
0 0.035 0.07 Miles



Area of Detail Date: 1/6/2021



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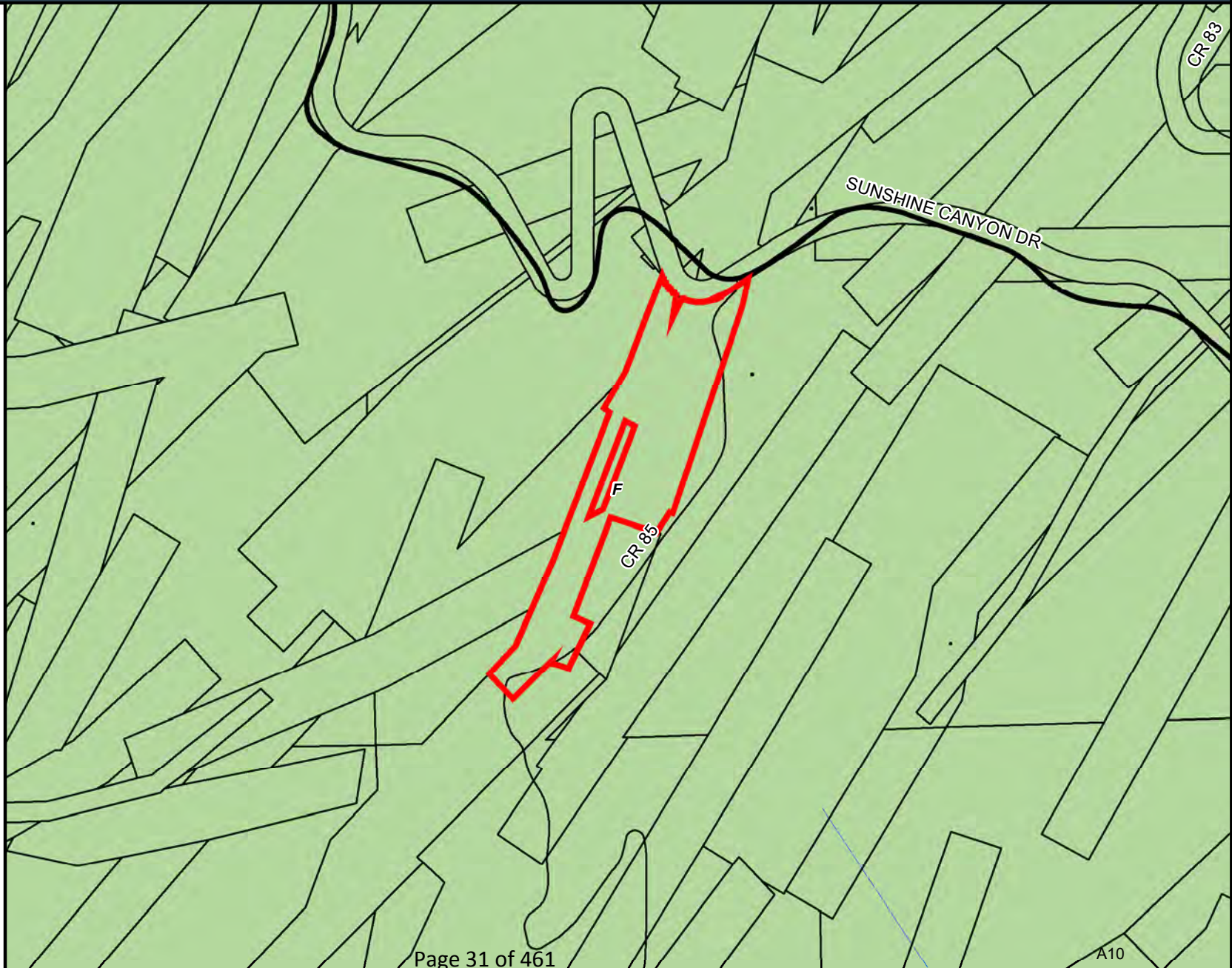
Zoning

6301 SUNSHINE CANYON DR

 Subject Parcel

Zoning Districts

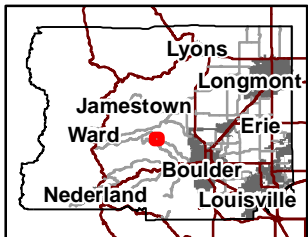
 Forestry



0 0.035 0.07 Miles



Area of Detail Date: 1/6/2021



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Parcel Report

Community Planning & Permitting Department
 Courthouse Annex
 2045 13th St. - 13th & Spruce Streets
 P.O. Box 471 Boulder Colorado 80306-0471
 www.bouldercounty.org
 Planning 303-441-3930 Building 303-441-3925

| | | | |
|--|---------------------|-----------------------|--------------------|
| Parcel Number 146108000158 | Section 8 | Township 1N | Range 71 |
| Subdivision SUNSHINE CANYON AREA | | | |

SITE ADDRESS (1)


R0611901 6301 SUNSHINE CANYON DR UNINCORPORATED, 80302

OWNER INFORMATION (1)

| Account | Name | Mailing Address |
|----------|----------------|------------------------------------|
| R0611901 | ELLS FRED JOHN | 6116 MISTY WAY, LONGMONT, CO 80503 |

LOCATION INFORMATION

Note: The estimate acres will likely not match the recorded acreage of the property, please see the legal description, plat, or deed for the actual acreage.
 Because of small inconsistencies in the locations of lines in the map layers, this location information searches may show information from adjacent parcels even though no overlap is visible on the screen.
 View the map at an appropriate scale to resolve any uncertainty.

| On or Adjacent to Parcel | |  Photo not available |
|--------------------------|---|--|
| Estimated Area | 233,136 (5.35a.) | |
| Zoning | F (5.35 Acres) | |
| Floodplain | Boulder County: NOT PRESENT; FEMA: X (5.35 Acres) | |
| Open Space Ownership | NOT PRESENT | |
| County Plats | NOT PRESENT | |
| Wind and Snow Load | 170 mph. 50 lbs/sqft. | |
| Fire Protection | SUNSHINE FIRE | |

LEGAL DESCRIPTION (1)

ACRES

| | | | |
|----------|--|----------|------|
| R0611901 | PORTIONS DEAD MEDICINE LD 183 & SUNSHINE LD 244 & ATCHISON LD 247 & GRANDVIEW LD 269 & SHADOW LD 279 & YOUNG AMERICAN LD 325 & ELDORADO LD 691 SW 1/4 8-1N-71 PER REC # 3720395 6/25/19 & APPROVED PER SE-18-0010 & RESOLUTION 2018-110 PER REC # 3720040 6/24/19 AKA PARCEL A TOTAL 4.43 ACS PER LS-19-0114 | R0611901 | 5.35 |
|----------|--|----------|------|

PERMIT AND DOCKET HISTORY (17)

Note: Parcel numbers and addresses may change over time. Only permits/dockets with the exact same parcel number or address at the time of application are shown.

On Parcel Number: 146108000158

| Permit/Docket Parcel Number(s) | Type Permit/Docket Address(es) | Application Name Application Date | Application Status | Status Date Permit Value |
|--|-----------------------------------|--------------------------------------|--------------------|-----------------------------|
| PAC-21-0006 | PreApplication Conference | Ruby | | |
| 146108000158 | 6301 SUNSHINE CANYON | 1/5/2021 | PAC Scheduled | 1/5/2021 |
| SE/SPR: SE- Boundary line adjustment for existing foundation located in setbacks & SPR- New residence built on existing foundation from previous residence perishing in fire in 2010. Please double check if Variance not needed per BG./FJD & ACG | | | | |
| MAJP-1900- | OWTS Major Repair | | | |
| 146108000158 | 6301 SUNSHINE CANYON | 1/1/1900 | System Approved | 1/1/2010 |
| MAJP-1900- | OWTS Major Repair | | | |
| 146108000158 | 6301 SUNSHINE CANYON | 1/1/1900 | System Approved | 4/3/1991 |

These Permits/Dockets are on a different parcel number, but have an address that is associated with the parcel

| | | | | |
|---|----------------------|-------------|----------------------|-----------|
| LS-19-0114 | Land Survey Plat | LAND SURVEY | | |
| 146108000153 | 6301 SUNSHINE CANYON | 6/18/2019 | Application Received | 6/18/2019 |
| 146108000157 | | | | |
| LAND SURVEY PLAT FOR BOULDER COUNTY SUBDIVISION EXEMPTION SE-18-0010, #6300 AND #6317 SUNSHINE CANYON DRIVE, LOCATED IN THE SW 1/4 OF SECTION 8-1N-71W, 5 PAGES, 146108000157, 146108000153 | | | | |

| | | | | |
|-------------------|-----------------------|---|---------------------------|-----------|
| SE-18-0010 | Subdivision Exemption | Fischer - Ells Boundary Line Adjustment | | |
| 146108000075 | 6301 SUNSHINE CANYON | 7/9/2018 | Approval Final & Complete | 6/25/2019 |
| 146108000093 | | | | |
| 146108000153 | | | | |
| 146108000157 | | | | |

Subdivision Exemption request for a Boundary Line Adjustment involving a 4.14-acre parcel at 6317/ 6319 Sunshine Canyon Drive, a 2.52-acre parcel at 6301 Sunshine Canyon Drive, a 5.16-acre parcel at 6300 Sunshine Canyon Drive, and a 0.98-acre parcel at 7288 Sunshine Canyon Drive resulting in a 4.63-acre parcel, a 6.23-acre parcel and a 1.30-acre parcel.

| | | | | |
|------------------------|---------------------------|------------|--------------|-----------|
| PAC-10-0097 | PreApplication Conference | Ells, Fred | | |
| 146108000153 | 6301 SUNSHINE CANYON | 9/27/2010 | PAC Not Held | 3/21/2011 |
| SE BLA Pre-application | | | | |

| | | | | |
|--------------------|---------------------------------|----------------------|-------------------|-----------|
| FMF-10-0114 | Four Mile Fire Information Note | 6301 Sunshine Canyon | | |
| 146108000153 | 6301 SUNSHINE CANYON | 9/13/2010 | Extension Granted | 2/22/2013 |

Extension granted until Sept. 30, 2013

Residence destroyed.

Microfiche converted to .pdf see Accela Docs for:

BP-86-0467 [New Res Attached Garage & Greenhouse] Contains site and construction plans. (NOTE: This permit references BOA# 617)

BP-87-0621 [New Storage Shed]. No site or construction plans

EXPIRED Permits due to VAR-02-015 DENIED: BP-02-1510 [Remove Greenhouse & Remodel & Partial Stucco], BP-02-1624 [Garage w/ Attached Greenhouse], BP-02-1885 [Utility Shed] (BP File Found to be scanned into Accela Documents). Contain site and construction plans

BP-04-1981 [Demo Bay Window re: BP-02-1510] permit was issued for the removal of bay window only...no additional construction was allowed. File not scanned

related Planning record:

BCV-02-5037 Addition w/o Permit

VAR-02-015 scanned in Accela Documents. BOA Action Letter Printed - Variance was Denied

| | | | | |
|--------------------|-------------------------|-----------|--------|------------|
| BCV-02-5037 | Building Code Violation | ELLS | | |
| 146108000074 | 6301 Sunshine Canyon | 11/2/2006 | Closed | 10/18/2010 |
| 146108000153 | | | | |

(CLOSED) Addition w/o permit.

| | | | | |
|-------------------|----------------------|------------|------------------|-----------|
| BP-04-1981 | Residential Remodel | | | |
| 146108000074 | 6301 SUNSHINE CANYON | 11/30/2004 | Permit Withdrawn | 2/24/2012 |
| 146108000153 | | | | |

DEMO BAY WINDOW(BP-02-1510) & RESTORE TO ORIGINAL \$1000.00

| | | | | |
|-------------------|---------------------------------|------------|---------|------------|
| BP-02-1885 | Accessory Agricultural Building | | | |
| 146108000074 | 6301 SUNSHINE CANYON | 11/14/2002 | Expired | 12/12/2004 |
| 146108000153 | | | | |

13X15 UTILITY SHED (EXPIRED ON 12-13-04) \$1000.00

| | | | | |
|--------------------|----------------------|---------------|------------|-----------|
| VAR-02-0015 | Variance | ELLS Variance | | |
| 146108000074 | 6301 Sunshine Canyon | 10/2/2002 | BOA Denied | 12/4/2002 |
| 146108000153 | | | | |

A request for three separate variances to setback requirements for a proposed addition, a detached garage, and for use of an existing mine by the fire district for water storage.

| | | | | |
|-------------------|--------------------------------|-----------|---------|------------|
| BP-02-1624 | Residential Accessory Building | | | |
| 146108000074 | 6301 SUNSHINE CANYON | 9/24/2002 | Expired | 12/13/2004 |
| 146108000153 | | | | |

GARAGE W/ ATTACHED GREENHOUSE (EXPIRED ON 12-13-2004) \$15000.00

| | | | | |
|-------------------|----------------------|----------|---------|-----------|
| BP-02-1510 | Residential Addition | | | |
| 146108000074 | 6301 SUNSHINE CANYON | 9/5/2002 | Expired | 1/17/2006 |
| 146108000153 | | | | |

REMOVE GREENHOUSE & REMODEL & PARTIAL STUCCO (EXPIRED)

| | | | | |
|---|---------------------------------|--------------------------|---------------|------------|
| SE-91-0040 | Subdivision Exemption | ELLS/BATTANY/KISSELL BLA | | |
| 146108000011 | 6301 SUNSHINE CANYON | 1/1/1991 | BOCC Approved | 12/12/1991 |
| 146108000153 | | | | |
| 146117000024 | | | | |
| 146117000106 | | | | |
| AN EXEMPTION FROM THE BOULDER COUNTY SUBDIVISION REGULATIONS FOR A BOUNDARY LINE ADJUSTMENT ON PROPERTY LOCATED APPROXIMATELY 4.5 MILES WEST OF BOULDER, BETWEEN SUNSHINE DRIVE AND GOLD RUN ROAD IN SECTION 17, T1N, R71W. | | | | |
| BP-87-0621 | Accessory Agricultural Building | | | |
| 146108000153 | 6301 SUNSHINE CANYON | 6/2/1987 | | |
| NEW STORAGE SHED | | | | |
| VAR-86-0617 | Variance | ELLS Variance | | |
| 146108000153 | 6301 Sunshine Canyon | 6/24/1986 | BOA Approved | 2/1/2012 |
| Request for variance to construct a residence with an 8 foot side yard setback where 25 feet is required. The property is located at 6301 Sunshine Canyon Drive in S8-T1N-R71W | | | | |
| BP-86-0467 | New Residence | | | |
| 146108000074 | 6301 SUNSHINE CANYON | 5/19/1986 | | |
| 146108000153 | | | | |
| NEW RES ATT GAR & GREENHOUSE | | | | \$8061.00 |

RECENT DEEDS (2)

| Date | Type | Reception No | Amount | Grantor | Grantee |
|------------|------|--------------|--------|--|-------------------|
| 6/20/2019 | SW | 3720395 | \$0 | FISHER EUGENE J & CHRISTINE M & FRED JOHN ELLS | ELLS FRED JOHN |
| 11/20/2018 | RS | 3720040 | \$0 | FISHER EUGENE J & CHRISTINE M & FRED JOHN ELLS | COUNTY OF BOULDER |

ASSESSOR'S STRUCTURE INFORMATION

| Account | Class | Design | Year Built | Remodeled |
|----------|-------|--------|------------|-----------|
| R0611901 | | | | |

| Building | Floor Area Description | Size | Structure Information |
|----------|------------------------|------|-----------------------|
|----------|------------------------|------|-----------------------|

ESTIMATED RESIDENTIAL FLOOR AREA

Floor Area Description

ROOMS

| Size | Account | Bld | Rooms | Bed | Bath | Bath 3/4 | Bath 1/2 |
|------|----------|-----|-------|-----|------|----------|----------|
| | R0611901 | | | | | | |

ACCOUNT ASSESSED VALUE

| Account | Land | Structures | Total |
|----------|-----------|------------|-----------|
| R0611901 | \$151,500 | \$0 | \$151,500 |

TAXING DISTRICT**COUNTY**

BOULDER CO TEMP HS SAFETY NET FUND
BOULDER COUNTY CAPITAL EXPEND FUND
BOULDER COUNTY CONTINGENCY FUND
BOULDER COUNTY DEVEL DISABILITY FUND
BOULDER COUNTY GENERAL OPERATING
BOULDER COUNTY HEALTH & HUMAN SERVICES
BOULDER COUNTY JUDGMENT LEVY FUND
BOULDER COUNTY PUBLIC WELFARE FUND
BOULDER COUNTY PUBLIC WORKS
BOULDER COUNTY REFUND ABATEMENT
BOULDER COUNTY RETIREMENT FUND
BOULDER COUNTY ROAD & BRIDGE
BOULDER COUNTY SELF INSURANCE FUND
BOULDER COUNTY SOLID WASTE FUND

FIRE PROTECTION DISTRICT

SUNSHINE FIRE DIST CAPITAL EXPENDITURE
SUNSHINE FIRE DIST GENERAL OPERATING
SUNSHINE FIRE DIST OTHER
SUNSHINE FIRE DIST TAX CREDIT

SCHOOL DISTRICT

BOULDER VALLEY RE-2 INSURANCE
BOULDER VALLEY RE-2 RESERVE
BOULDER VALLEY RE-2 TAX CREDIT
BOULDER VALLEY RE2 ABATEMENT REFUND
BOULDER VALLEY RE2 BOND REDEMPTION
BOULDER VALLEY RE2 CAPITAL CONSTRUCTION
TECHNOLOGY & MAINTENANCE
BOULDER VALLEY RE2 GENERAL OPERATING
BOULDER VALLEY RE2 OVERRIDES

BOULDER VALLEY RE2 TRANSPORTATION
TRANSPORTATION DISTRICT
RTD GENERAL OPERATING
UNINCORP CTY PLACE HOLDER DISTRICT
UNINCORP CTY PLACE HOLDER DISTRICT

Report Date: 1/6/2021 9:48:09 AM

LU_ParcelReport_v3


Boulder County Land Use Department

Courthouse Annex Building • 2045 13th Street • PO Box 471
Boulder, Colorado 80302

Phone: 303-441-3930 • Fax: 303-441-4856

Email: planner@bouldercounty.org

<http://www.bouldercounty.org/lu/>

Office Hours: Monday — Friday 8:00 AM to 4:30 PM

Intake Stamp:

Docket #:

Board of Adjustment (BOA) Hardship Statement

Explain how the following hardship criteria for granting a variance have been satisfied. Please feel free to attach your statements using a separate piece of paper.

- A. There exists exceptional or extraordinary physical circumstances of the subject property such as irregularity, narrowness, shallowness, or slope.

SEE ATTACHED STATEMENT

- B. Because of these physical circumstances, the strict application of this Code would create an exceptional or undue hardship up the property owner.

- C. The hardship is not self-imposed.

- D. The variance, if granted, will not adversely affect the use of adjacent property as permitted under this Code.

- E. That the variance, if granted, will not change the character of the zoning district in which the property is located, and is in keeping with the intent of this Code and the *Boulder County Comprehensive Plan*; and,

- F. That the variance, if granted, does not adversely affect the health, safety, and welfare of the citizens of Boulder County.

Applicant or Agent Signature:

Date:

4/30/21

**6301 SUNSHINE CANYON DR.
BOARD OF ADJUSTMENT (BOA) HARDSHIP STATEMENT**

A. There exists exceptional or extraordinary physical circumstances of the subject property such as irregularity, narrowness, shallowness, or slope.

The existing foundation was built on a 50' wide mining claim, which had a variance for the setbacks from when the house was originally built in 1986. Since the subject property consists of former mining claims it is both irregular and narrow. Also, the property is on a steep slope (typically between 45°-60°), except for where the original house and driveway are located. The only other portion of the site which has a lower slope is within 50' of County Road 52 and is not feasible for building a new residence (see "B" below).

Additionally, the Fourmile Watershed Coalition, EPA, Colorado Department of Reclamation, Mining, and Safety, and other agencies will be taking mine waste soil samples on a portion of the property east of the existing foundation. They will be investigating and evaluating potential hazardous substances, pollutants, or possible contaminants, and will need continued access to the property for the next 3 years (see attached letter). They are also re-contouring the land back to the original contours before the mining occurred. The owner wants to retain this area as open space. This region also contains an 8' diameter former mine shaft which has been plugged with foam- see site plan.

Lastly, there is a 12' high rock cliff which is 2' east of the property line, along the back wall of the proposed storage area addition.

B. Because of these physical circumstances, the strict application of this Code would create an exceptional or undue hardship upon the property owner.

The strict application of the code would not allow the owner to rebuild a smaller version of the original house that burned down in the 2010 Fourmile Fire due to setback encroachments. 25' side setbacks on a lot that is 50' wide leaves no buildable area on the property. This is why a variance was given for 0' setbacks for the construction of the original 47' wide house (destroyed in the fire). This current variance would be aligned with the original variance which allowed 0' setbacks.

Also, there are no other feasible portions of the site to build on due to the physical circumstances mentioned in "A" above. Locating a new residence on the flatter area within 50' of County Road 52 has a number of disadvantages. Most importantly, it is hazardous due to dust from the road potentially containing heavy metals and other contaminants from mining tailings. This area is also less private, and prone to headlights from cars shining into the house at night. Also, County Road 85 runs through this part of the property. The width of the right-of-way is 60 feet, which means any structures would need to be at least 45 feet away from the centerline to meet the 15-foot front setback requirement from the edge of the right-of-way. Thus, the flatter area could still not be built upon without violating setback requirements.

Regarding wildfire mitigation, there are no wildfire fuels on the property, or within 30' of the property line and further out on any neighboring properties due to the Fourmile Fire.

C. The hardship is not self-imposed.

The hardships are completely due to the physical circumstances of the site mentioned above, and the infeasibility of building within 50' of County Road 52.

D. The variance, if granted, will not adversely affect the use of adjacent property as permitted under this Code.

The majority of adjacent property is BLM land, and the owner sent a certified letter to the BLM 4 years ago to inquire about them selling the two lots to the east and west of property. The BLM's response indicated that they do not have the personnel to dispose of the lots, so by default there will not be any future building on these lots. Additionally, the neighbor to west has a ROW for the driveway on their lot (BLM lot #163).

The owner is applying for ROW easements on the lots to the east and west of property. The easement on the east side of the existing foundation is for the existing well and driveway. The easement on the west side is for a 10' wide area where the soil was disturbed when the foundation was backfilled.

A 2018 Boundary Line Adjustment with the neighbor to the north functioned to give the owner legal access to the existing driveway. Boulder County's policy at the time prohibited acquiring property to add to the existing property in order to make a better building site, so this was not a goal of the Boundary Line Adjustment.

The closest neighboring structure, a single family residence, is more than 500 ft away and will not be adversely affected by the rebuilding of the house. All neighboring lots that can be built upon have been, and have ROW's to prevent any further building on the lots.

E. That the variance, if granted, will not change the character of the zoning district in which the property is located, and is in keeping with the intent of this Code and the Boulder County Comprehensive Plan; and,

Rebuilding a small single family dwelling in its original location on the property is consistent with the Forestry zoning designation. The vast majority of the property will remain open space.

It is also consistent with the Boulder County Comprehensive plan's emphasis on environmental preservation. The existing foundation has recently been inspected by a structural engineer who determined it to be sound for reconstruction. Reusing it avoids the need to disturb the existing landscape on other portions of the property, as no new excavation will be necessary. Reuse also conserves resources and eliminates the embodied energy in building materials that creating a new foundation would require.

Additionally, further disturbance of the site will not be necessary for utilities. The existing septic system and well are still functional and connected to the house. Reusing the existing buried electrical, phone, and internet lines which go from the existing foundation to County Road 52 will avoid the need to dig trenches for a new line.

Lastly, rebuilding on the existing foundation is consistent with the Comprehensive Plan's goal of avoiding hazardous areas of the site where the land has been destabilized and contaminated by past mining.

F. That the variance, if granted, does not adversely affect the health, safety, and welfare of the citizens of Boulder County.

There are no potential adverse health safety, and welfare effects in rebuilding the house where it stood from 1986 – 2010. As mentioned, this property had this same variance proposal approved when the original structure was built in 1986. The present hardships are identical to those that existed then.

January 28, 2021

Subject: Sampling Event, Colorado

Dear Property Owner:

The Fourmile Watershed Coalition (FWC), the U.S. Environmental Protection Agency (EPA), Colorado Department of Reclamation, Mining, and Safety (DRMS), and associated agencies are requesting permission to assess properties impacted by the mine sites in your area because of potential elevated levels of heavy metals. The goal of this assessment is to evaluate if potential impacts of any hazardous substances, pollutants, or contaminant releases on human health or the environment have occurred, assess whether any potential threat of release of contaminants of concern are present, and investigate potential sources of contamination to the streams in the area that could be harmful to downstream fisheries. Results of the assessment will help FWC and other agencies determine whether clean-up of specific mining wastes in the watershed could result in significant water quality and environmental improvements that could benefit your property and the surrounding community. This correspondence is a request to allow FWC and associated agencies, and contractors to collect soil, rock and/or water samples from your property located in and around the site. Our hope is that you will allow us access so we can understand current environmental conditions.

Prior to sample collection, the enclosed access agreement must be completed and returned to the EPA in the self-addressed stamped envelope. If you decide not to participate, or if you are not the current property owner, please note this on the attached form. If you are interested in obtaining the results of this sampling specific to your property, please note that as well.

Specific to the surface water quality, the sampling team will collect three to five samples from each property. It is not necessary for you to be present; however, if you ask to be present, we will attempt to schedule sampling when you are available. FWC and associated agencies appreciate your cooperation with this investigation. If you have any questions or concerns, please do not hesitate to call me at 303-817-2261.

Sincerely,



Maya MacHamer
Watershed Coordinator
Fourmile Watershed Coalition
1740 Fourmile Canyon Drive
Boulder, CO 80302
fourmilewatershed@gmail.com



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

CONSENT FOR ACCESS TO PROPERTY FOR SITE ASSESSMENT

NAME OF PROPERTY OWNER: _____

Location of Property: _____

Mineral Survey Number/Mine Name (If applicable): _____

I hereby give my consent to employees, officers, and authorized representatives of the US Environmental Protection Agency (EPA) and Fourmile Watershed Coalition (FWC), and other agency partners including by not limited to the US Forest Service (USFS), Fish and Wildlife Service (FWS), the Colorado Department of Public Health and Environment (CDPHE), and the Colorado Division of Reclamation, Mining, and Safety (DRMS), and associated contractors entering and having continued access to the above referenced property for the following purposes:

1. Conducting field inspections and investigations;
2. Taking small aliquot samples of soil, surface water, ground water, air, or any materials stored on or disposed of on the property as may be determined necessary;
3. Installing monitoring devices; and
4. Other actions related to investigation of surface or subsurface contamination

I recognize that these actions are undertaken by FWC and the EPA pursuant to responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42, USC 9601 seq., as amended.

_____ I **will** allow authorized representatives of the Fourmile Watershed Coalition (FWC), EPA and aforementioned agencies to have access to the above referenced property for the purpose of collecting soil, rock, water, and/or macroinvertebrate samples.

_____ I understand that samples collected from my property are part of an investigation of potential sources of contamination to streams in the area.

_____ I **will not** allow authorized representatives of Fourmile Watershed Coalition (FWC), EPA, and aforementioned agencies to have access to the above referenced property for the purpose of collecting soil, rock, water, and/or macroinvertebrate samples.

Name

Date

Special Requests:

_____ I would like to be present during the sampling.

My daytime telephone number is: _____

_____ I would like to receive a copy of the analytical results. My email and/or mailing address

is:

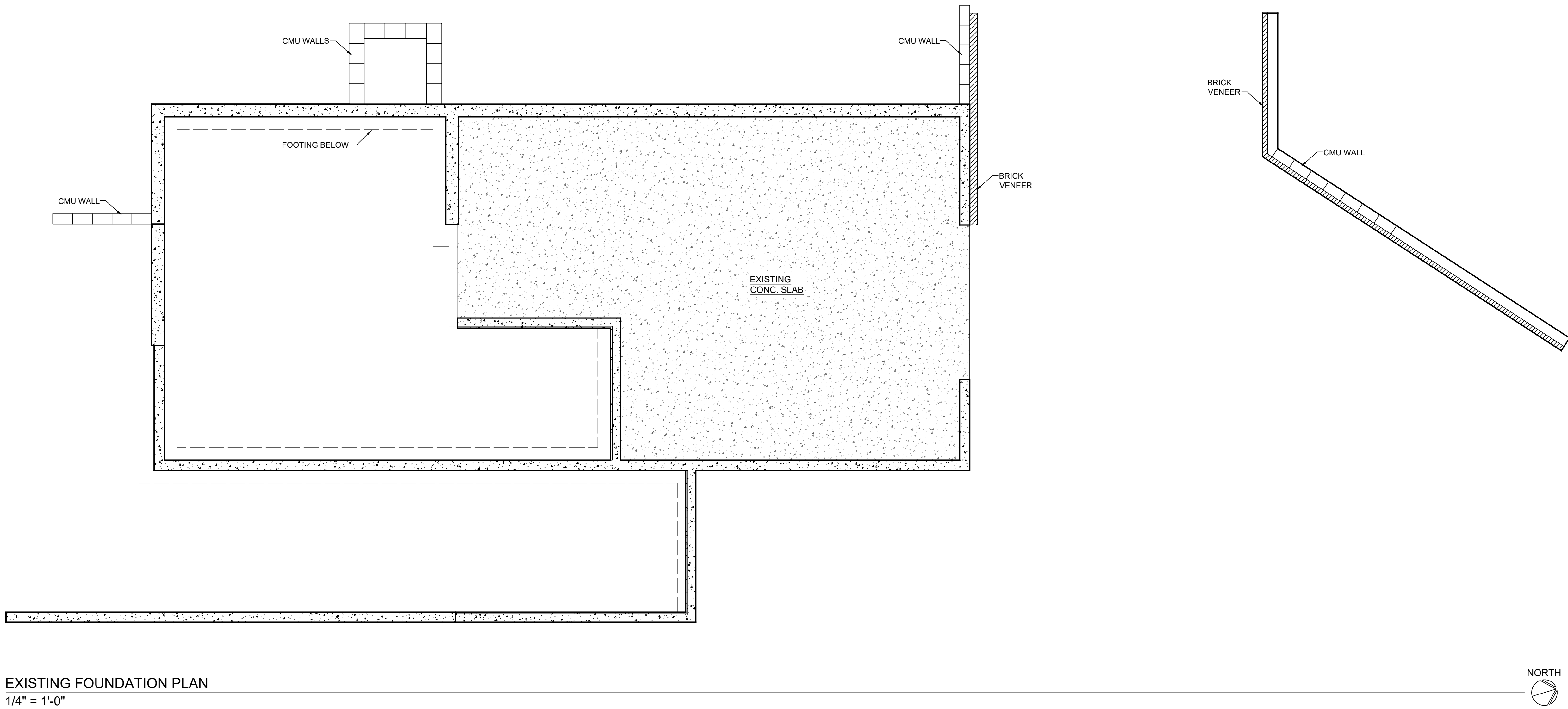
Comments:

Please scan and email form to wyatt.jean@epa.gov, or mail form to: Jean Wyatt, 8SEM-EM/SA, Environmental Protection Agency, 1595 Wynkoop Street, Denver, Colorado 80202



Printed on Recycled Paper

A21



JASON RUBY
ARCHITECTURE, LLC

5 BLUE SPRUCE RD. S.
NEDERLAND, CO 80466
(303)399-3303
rubyjar@yahoo.com

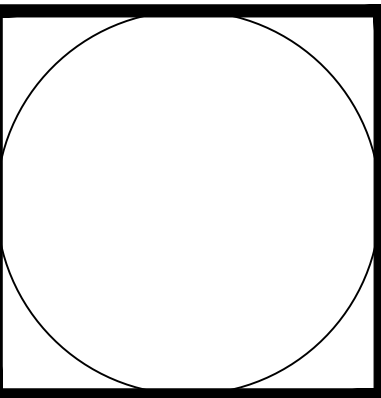
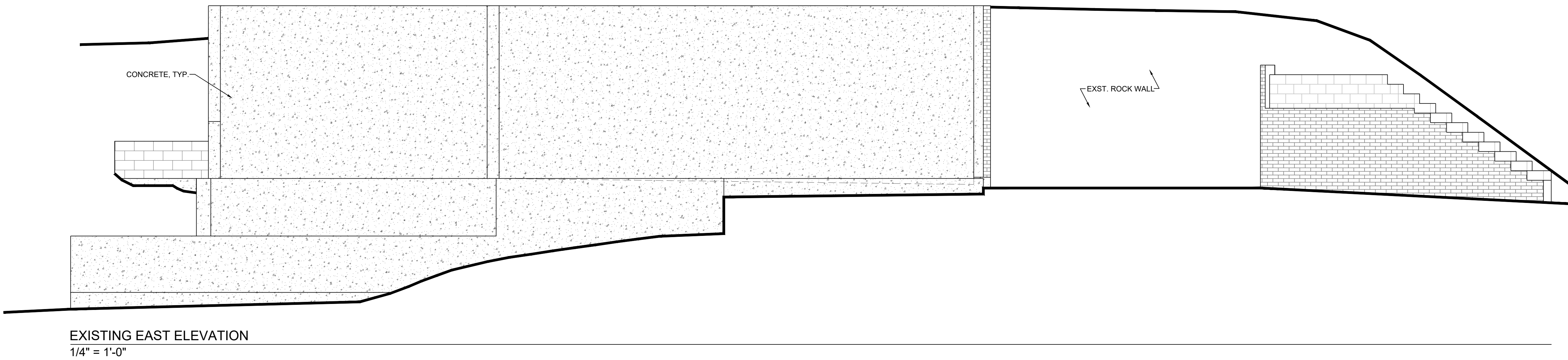
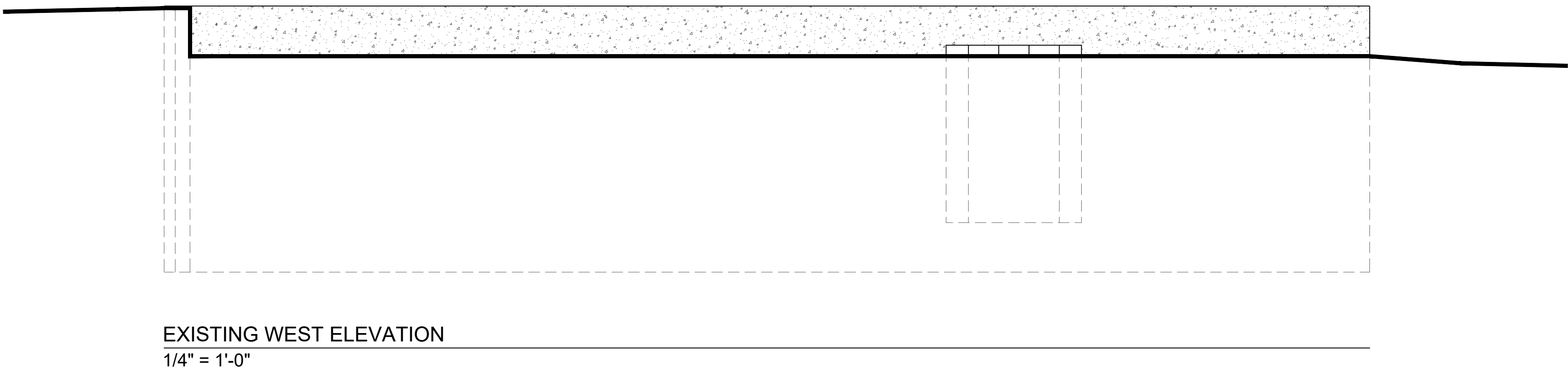
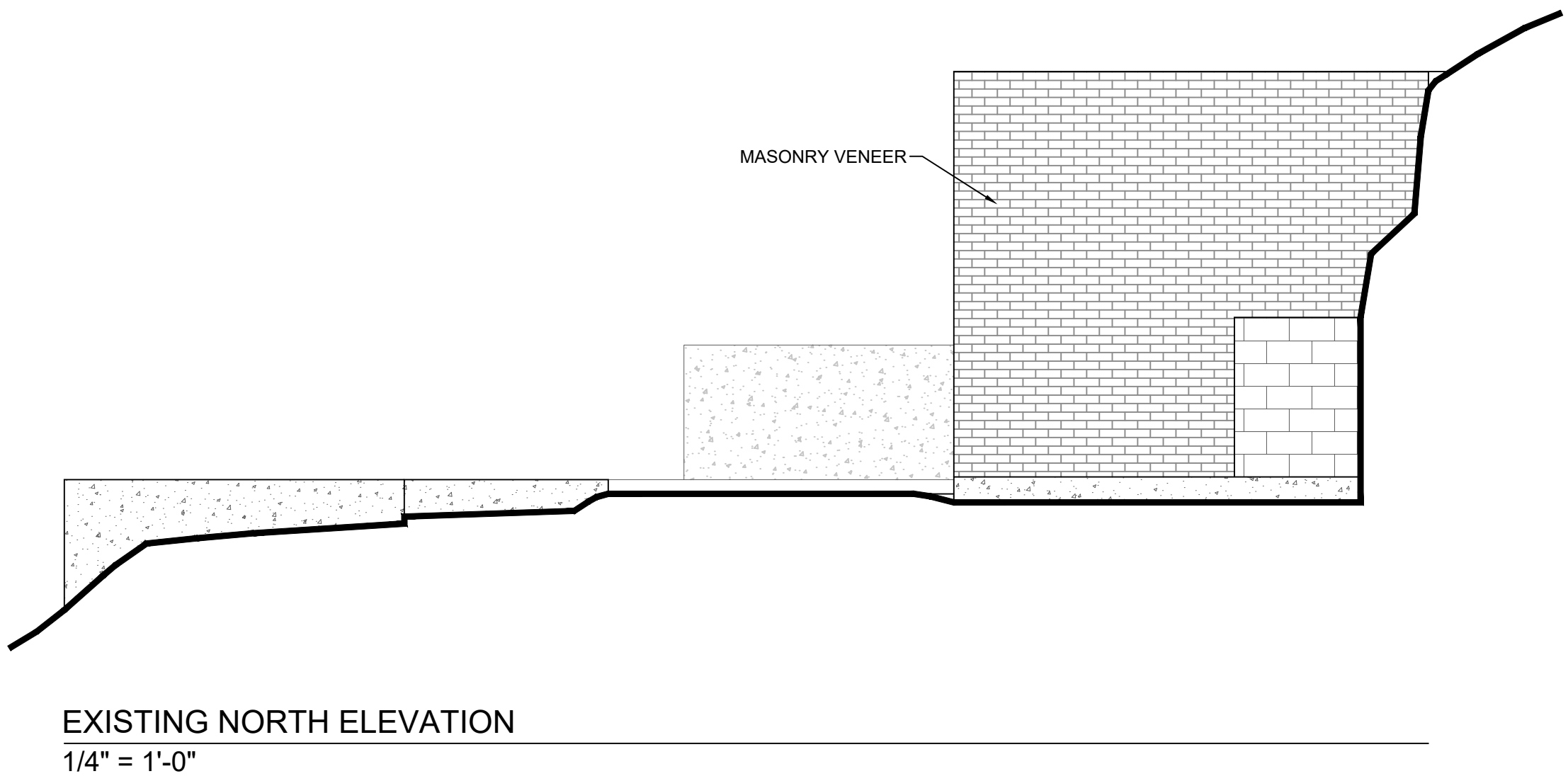
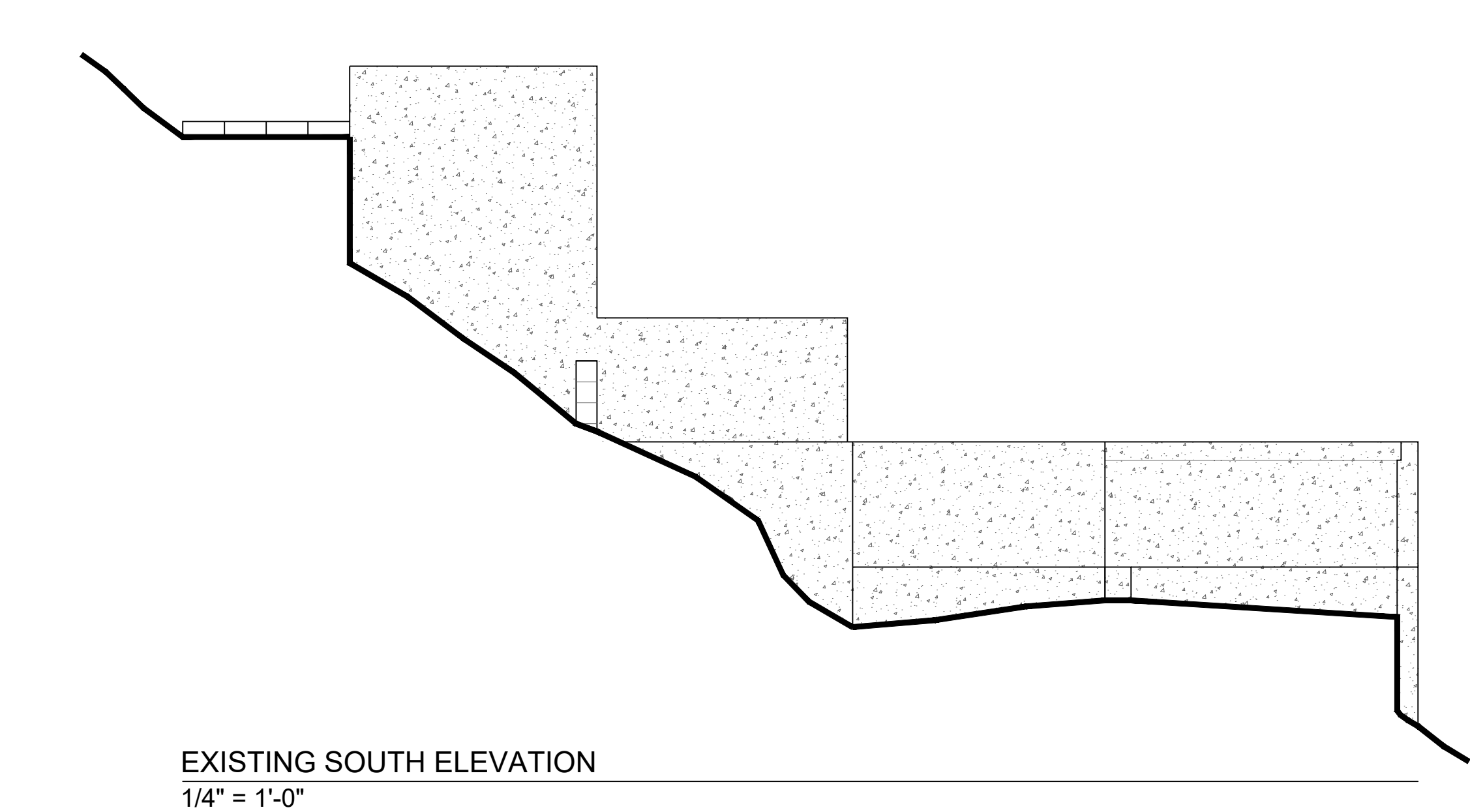
EXISTING CONDITIONS

FRED ELLS RESIDENCE REBUILD
6301 SUNSHINE CANYON DRIVE
BOULDER COUNTY, COLORADO 80302

DATE:
APRIL 30, 2021

DRAWN BY: JAR
EXISTING PLAN

A0

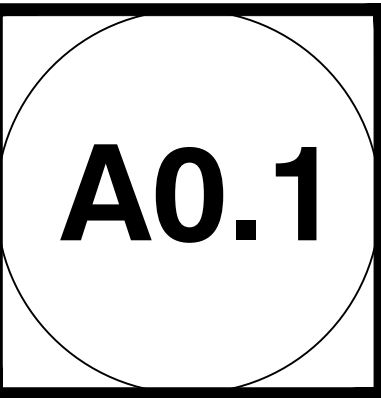


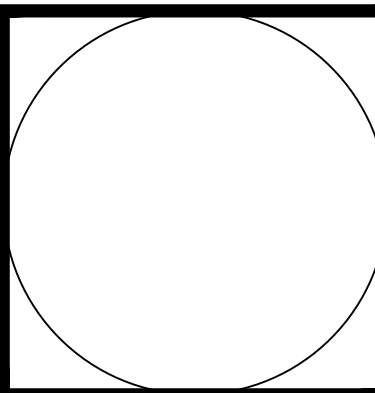
JASON RUBY
ARCHITECTURE, LLC
5 BLUE SPRUCE RD. S.
NEDERLAND, CO 80466
(303)399-3303
rubyjar@yahoo.com

EXISTING CONDITIONS

FRED ELLS RESIDENCE REBUILD
6301 SUNSHINE CANYON DRIVE
BOULDER COUNTY, COLORADO 80302

DATE:
APRIL 30, 2021
DRAWN BY: JAR
EXISTING ELEVATIONS





5 BLUE SPRUCE RD. S.
NEDERLAND, CO 80466
(303)399-3303
rubyjar@yahoo.com

SCHEMATIC DESIGN

**FRED ELLS RESIDENCE REBUILD
6301 SUNSHINE CANYON DRIVE
BOULDER COUNTY, COLORADO 80302**

DRAWN BY: JAR
PROPOSED ELEVATIONS

SP

JASON RUBY
ARCHITECTURE, LLC

5 BLUE SPRUCE RD. S.
NEDERLAND, CO 80466
(303)399-3303
rubyjar@yahoo.com

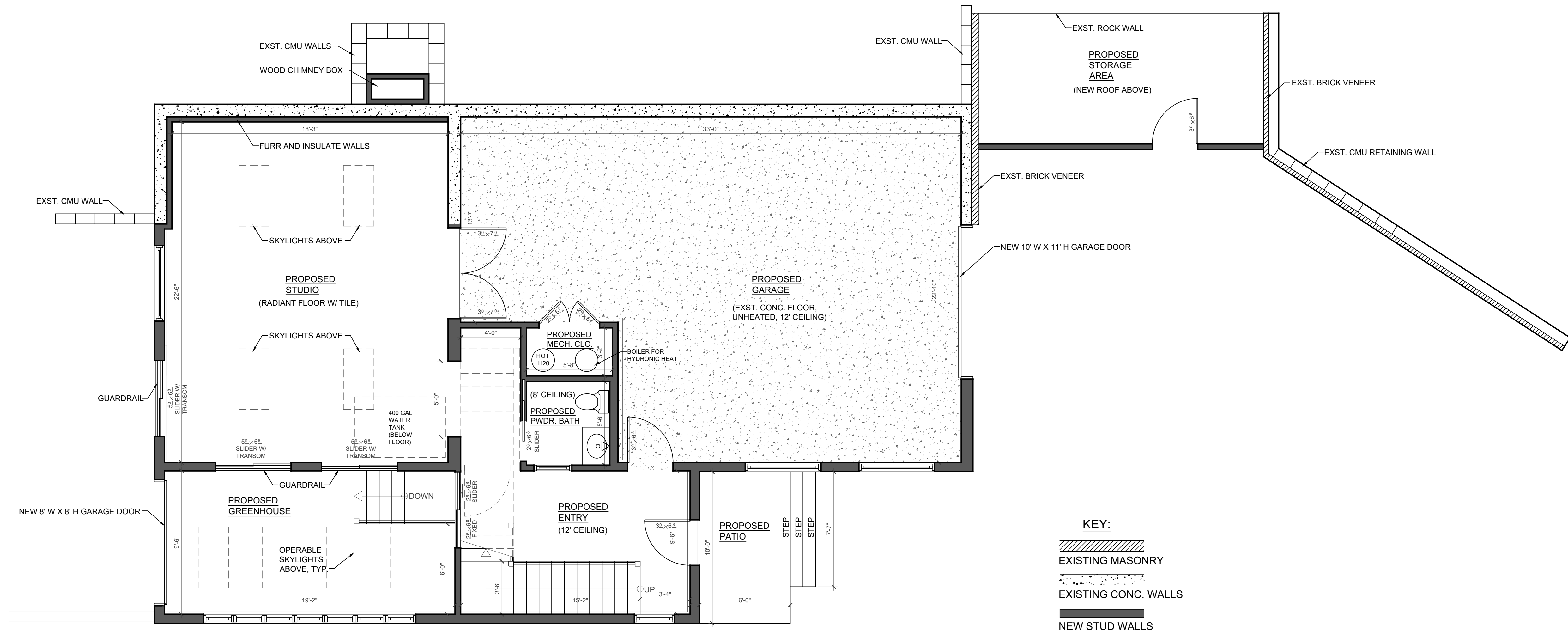
SCHEMATIC DESIGN

FRED ELLS RESIDENCE REBUILD
6301 SUNSHINE CANYON DRIVE
BOULDER COUNTY, COLORADO 80302

DATE:
APRIL 30, 2021

DRAWN BY: JAR
PROPOSED PLANS

A1



PROPOSED MAIN FLOOR PLAN
1/4" = 1'-0"

TOTAL AREA = 1,842 GSF (HOUSE: 937 GSF, GARAGE: 732 GSF, STORAGE ADDITION: 173 GSF)



SCHEMATIC DESIGN

**FRED ELLS RESIDENCE REBUILD
6301 SUNSHINE CANYON DRIVE
BOULDER COUNTY, COLORADO 80302**

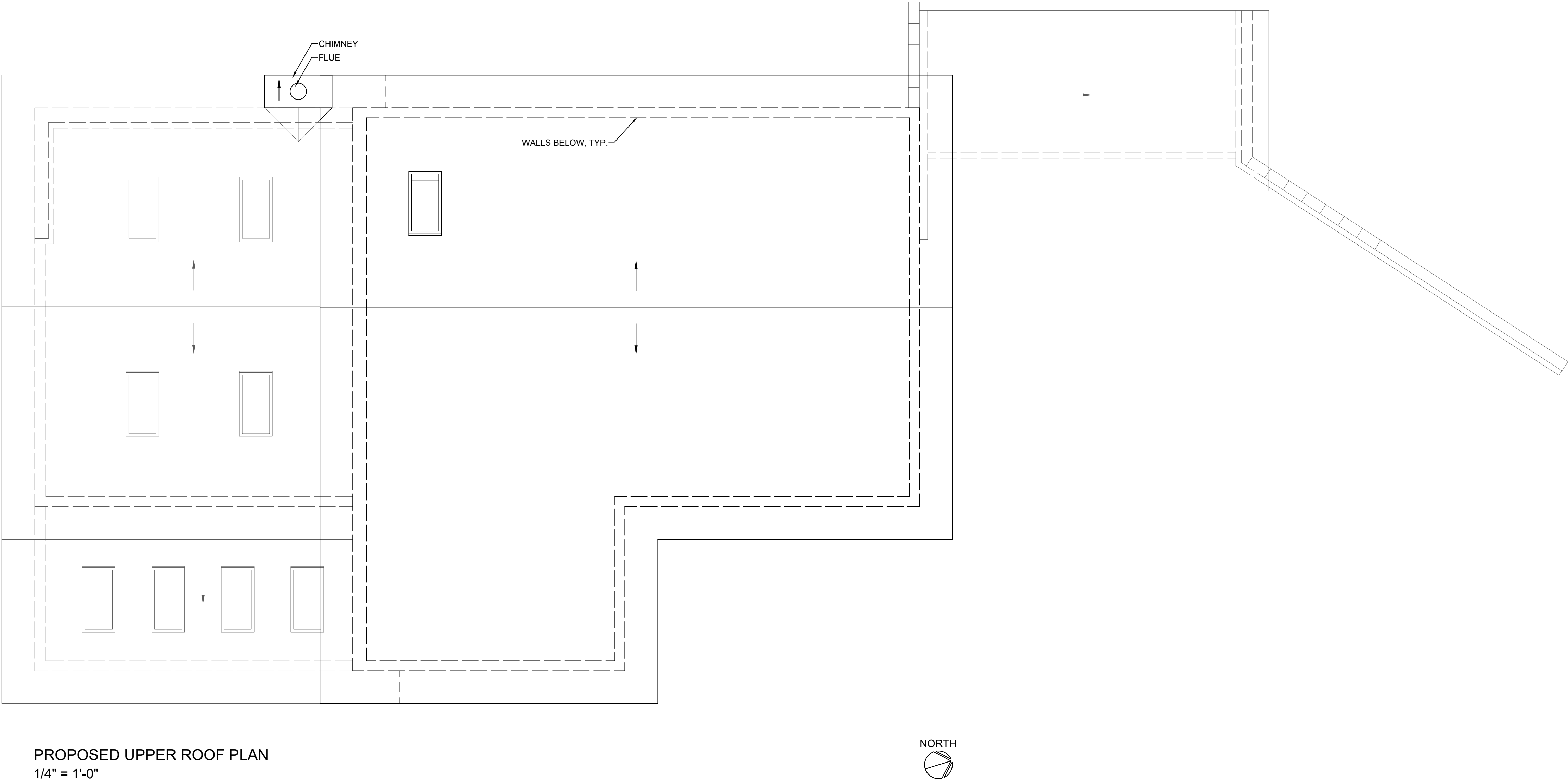
DATE:
APRIL 30, 2021

DRAWN BY: JAR
PROPOSED PLANS

A2



TOTAL AREA = 1,004 GSF



JASON RUBY
ARCHITECTURE, LLC

5 BLUE SPRUCE RD. S.
NEDERLAND, CO 80466
(303)399-3303
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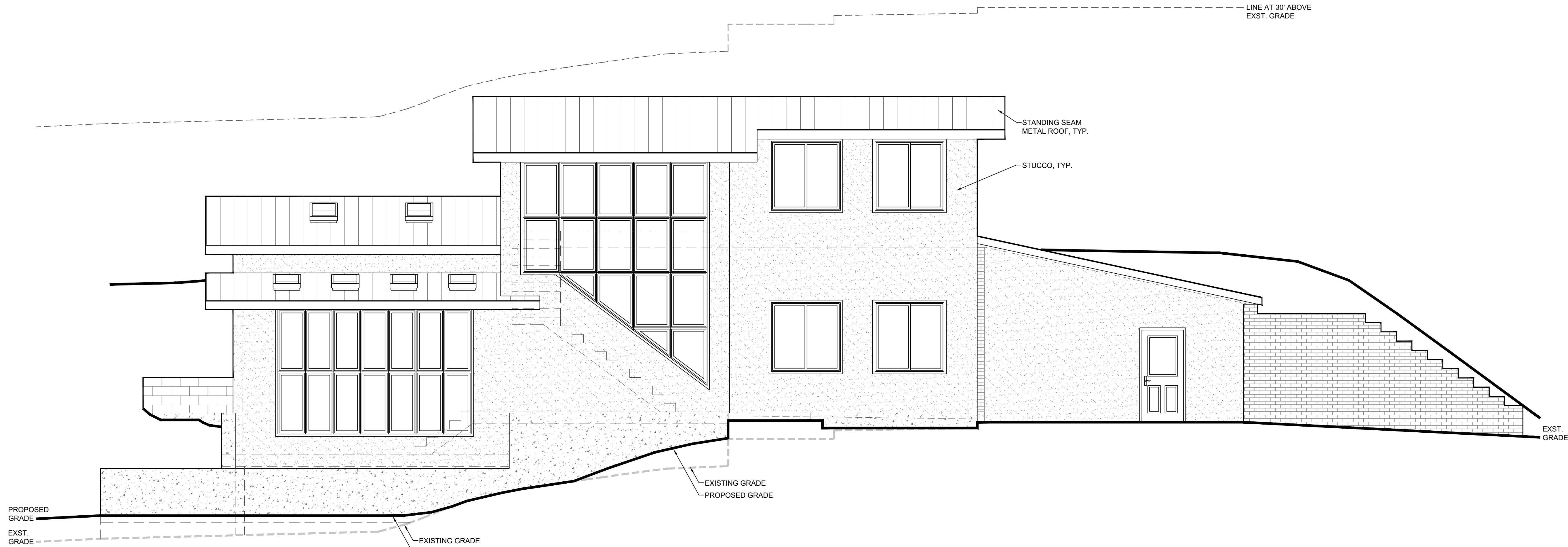
SCHEMATIC DESIGN

FRED ELLS RESIDENCE REBUILD
6301 SUNSHINE CANYON DRIVE
BOULDER COUNTY, COLORADO 80302

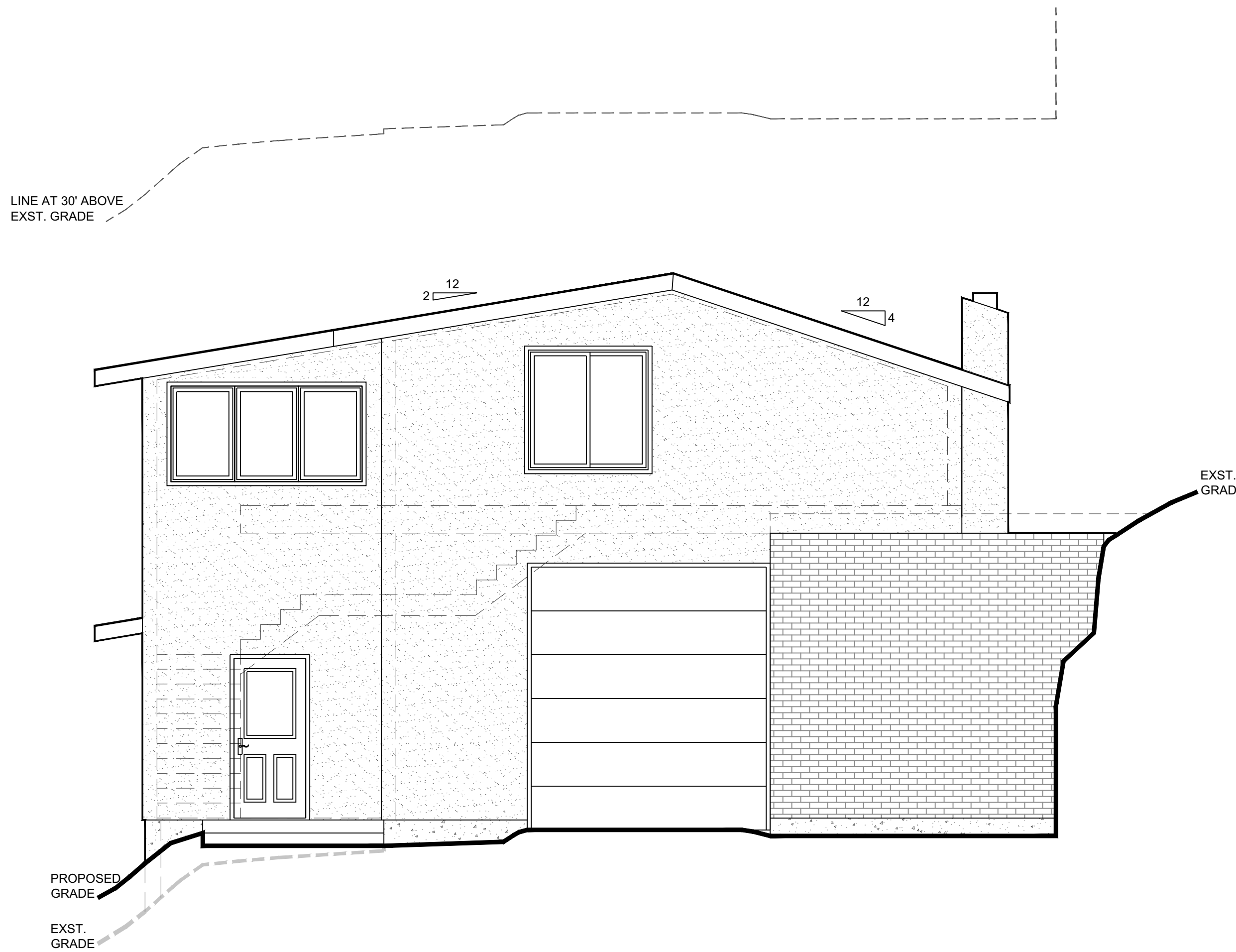
DATE:
APRIL 30, 2021

DRAWN BY: JAR
PROPOSED PLANS

A3



PROPOSED EAST ELEVATION
1/4" = 1'-0"



PROPOSED NORTH ELEVATION
1/4" = 1'-0"

JASON RUBY
ARCHITECTURE, LLC

5 BLUE SPRUCE RD. S.
NEDERLAND, CO 80466
(303)399-3303
rubyjar@yahoo.com

SCHEMATIC DESIGN

FRED ELLS RESIDENCE REBUILD
6301 SUNSHINE CANYON DRIVE
BOULDER COUNTY, COLORADO 80302

DATE:
APRIL 30, 2021

DRAWN BY: JAR
PROPOSED ELEVATIONS

A4

JASON RUBY
ARCHITECTURE, LLC

5 BLUE SPRUCE RD. S.
NEDERLAND, CO 80466
(303)399-3303
rubyjar@yahoo.com

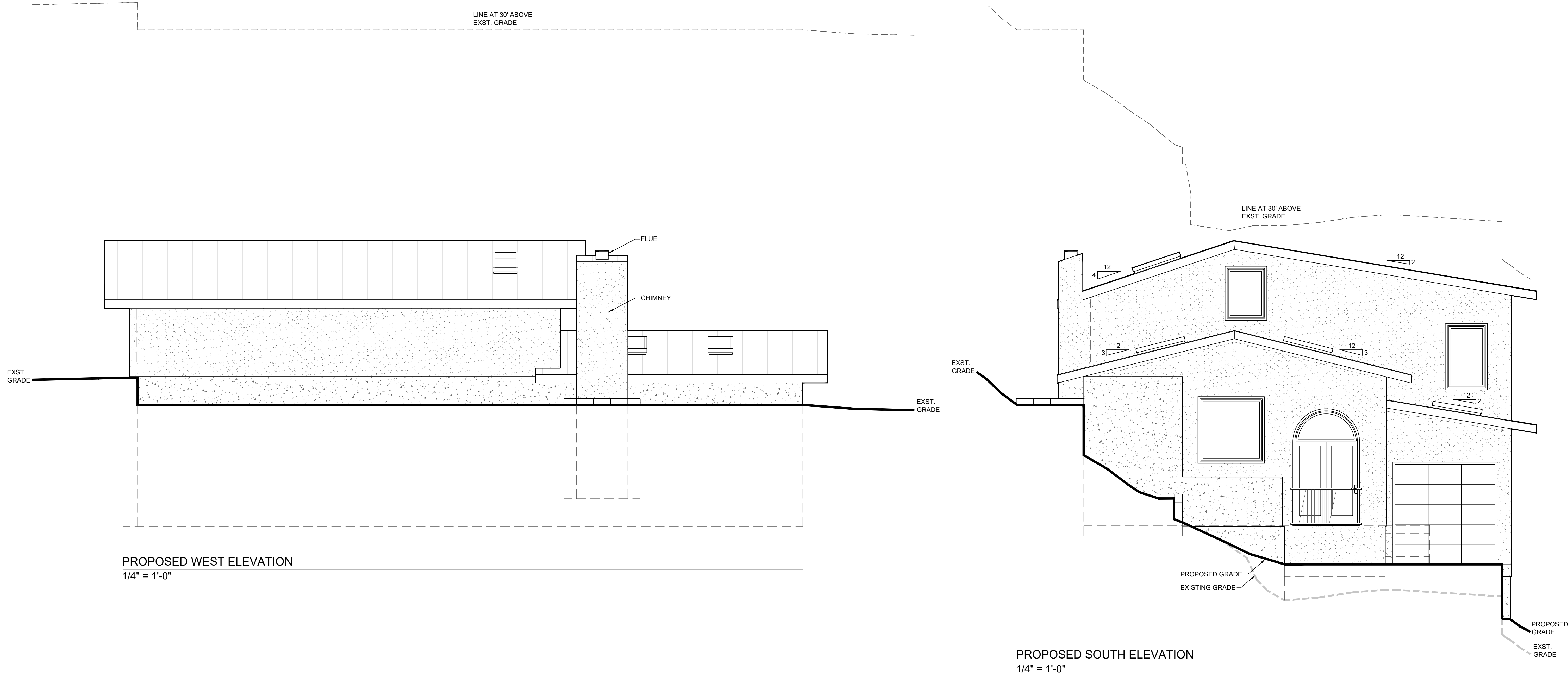
SCHEMATIC DESIGN

FRED ELLS RESIDENCE REBUILD
6301 SUNSHINE CANYON DRIVE
BOULDER COUNTY, COLORADO 80302

DATE:
APRIL 30, 2021

DRAWN BY: JAR
PROPOSED ELEVATIONS

A5





**Community Planning & Permitting
Building Safety & Inspection Services**
2045 13th Street • PO Box 471 • Boulder, Colorado 80302
Phone: 303-441-3926
Web: www.boco.org/_CPP-Building

Intake Stamp (staff use only)

Permit # (staff use only)

Building Permit Application Form

| | | | | |
|--|--------------------|--|--------------------|--|
| Project Street Address 6301 Sunshine Canyon Drive | | City Boulder | State CO | Zip Code 80302 |
| Owner's Name <input checked="" type="checkbox"/> Contact Fred Ells | | Contractor Business Name <input type="checkbox"/> Contact | | Boulder County Contractor License # |
| Address 6116 Misty Way | | Phone Number (720) 453-5648 | | Address |
| City Longmont | State CO | Zip Code 80503 | City | State |
| Email Address sunshinefred@msn.com | | Email Address | | |
| Designer/Architect Name Jason Ruby Architecture, LLC | | Email rubyjar@yahoo.com | | Phone Number (303) 399-3303 |

Certification: I certify that all submitted information is correct, and I agree to construct this building in accordance with the site plan, building plans and specifications submitted herewith, and in strict compliance with all the provisions of the Land Use Code, Building Code, and Health and Plumbing Regulations of Boulder County.

| | | | |
|--|----------------------|--|--|
| Applicant (Please Print) Fred Ells | Signature | <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Contractor <input type="checkbox"/> Agent | Date 4/30/21 |
| Project Includes: <input checked="" type="checkbox"/> Plumbing <input checked="" type="checkbox"/> Mechanical <input checked="" type="checkbox"/> Electrical Project Description: Rebuild 2-story house atop existing foundation that remained after 2010 Fourmile Fire. | | | Project Valuation \$ 280,000 |

| | | |
|---|---|---|
| Type of Project (Check Only One) | Type of Structure (Check Only One) | |
| <input type="checkbox"/> New Structure <input checked="" type="checkbox"/> Addition to: <u>built atop existing foundation</u> <input type="checkbox"/> Remodel <input type="checkbox"/> Electrical <input type="checkbox"/> Deconstruction of Structure <input type="checkbox"/> Change of Use <input type="checkbox"/> Moved-in Structure <input type="checkbox"/> Ground-mounted Solar | <input checked="" type="checkbox"/> One Family Dwelling <input type="checkbox"/> Two Family or Attached Dwelling (including townhouse) <input type="checkbox"/> Three and Four Family Dwelling <input type="checkbox"/> Hotel or Motel <input type="checkbox"/> Amusement and Recreation Building <input type="checkbox"/> Church and Other Religious Building <input type="checkbox"/> Industrial Building, Manufacturing Plant, and Factory <input type="checkbox"/> Service Station and Repair Garage <input type="checkbox"/> Detached Garage | <input type="checkbox"/> Office, Bank, and Professional Building <input type="checkbox"/> School <input type="checkbox"/> Store, Customer Service <input type="checkbox"/> Barn, Storage Shed, Outbuilding <input type="checkbox"/> Mobile/Manufactured Home <input type="checkbox"/> Public Works, Utility Building <input type="checkbox"/> Pool, Hot Tub, Fence, Retaining Wall, Pump (Non-structure) <input type="checkbox"/> Other: _____ |

| | Existing Building | New Construction | Existing & New Total |
|---|-------------------|------------------|----------------------|
| Height of Structure From Existing Grade: | 17 Ft. | 29 Ft. | 29 Ft. |
| Number of Bedrooms: | 0 | 1 | 1 |
| Number of Bathrooms: | 0 | 2 | 2 |
| Property Size: | 1,662 Sq. Ft. | 180 Sq. Ft. | 1,842 Sq. Ft. |

| Setbacks (Distance of Project to Property Lines) | | | |
|---|---------|----------|---------|
| | Front | Side | Rear |
| Existing: | n/a Ft. | 2.25 Ft. | 5.5 Ft. |
| Proposed: | n/a Ft. | 0 Ft. | 0 Ft. |

| Proposed New Building or Addition | | | |
|--|---------------|-----------------|--|
| Structure | Size Finished | Size Unfinished | |
| Basement: | - Sq. Ft. | - Sq. Ft. | |
| First Floor: | 937 Sq. Ft. | 905 Sq. Ft. | |
| Second Floor: | 1,004 Sq. Ft. | - Sq. Ft. | |
| Third Floor: | - Sq. Ft. | - Sq. Ft. | |
| All Other Floors: | - Sq. Ft. | - Sq. Ft. | |
| Garage: | - Sq. Ft. | 732 Sq. Ft. | |
| Deck: | 60 Sq. Ft. | - Sq. Ft. | |
| Covered Porch: | - Sq. Ft. | - Sq. Ft. | |

| | | | | | |
|--|---|--|--|---|---|
| Water Service (Check One) | Sewer Service (Check One) | Electrical Service (Check One) | Gas Service (Check One) | Access (Check One) | Floodplain (Check One) |
| <input checked="" type="checkbox"/> Individual Well <input type="checkbox"/> Community Well <input type="checkbox"/> N/A <input type="checkbox"/> Public: _____ | <input checked="" type="checkbox"/> Septic Tank <input type="checkbox"/> Vault <input type="checkbox"/> N/A <input type="checkbox"/> Public: _____ | <input checked="" type="checkbox"/> Xcel Energy <input type="checkbox"/> United Power <input type="checkbox"/> Estes Park <input type="checkbox"/> Poudre Valley REA <input type="checkbox"/> Longmont <input type="checkbox"/> N/A | <input type="checkbox"/> Xcel Energy <input checked="" type="checkbox"/> Propane <input type="checkbox"/> N/A <input type="checkbox"/> Other: _____ | <input checked="" type="checkbox"/> Existing Driveway <input type="checkbox"/> New Driveway <input type="checkbox"/> N/A <input type="checkbox"/> Other: _____ | <input checked="" type="checkbox"/> No, property is not in Floodplain <input type="checkbox"/> Yes, property is in Floodplain (attach completed Floodplain Development Permit) |

May 24, 2021

Fred Ells
6301 Sunshine Canyon Drive
Boulder, CO 80302

RE: Ells Residence – Rebuilding Project
Existing Foundation Observation Letter
DE Project No. 036-010-20
6301 Sunshine Canyon Drive
Boulder, CO 80302

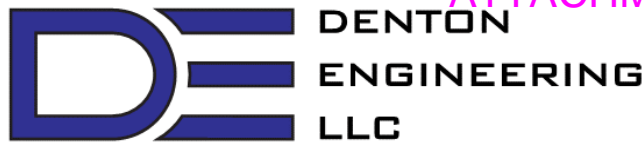
Dear Fred:

As requested, Denton Engineering (DE) was present at the above referenced address on 08/07/2020 to observe the condition of the existing concrete foundation structure. As you reported to DE, many years prior to our observation, all the framing of the home had been destroyed in a fire and removed. The purpose of our observation was to review the readily observable portions of the concrete foundation with respect to its re-use for constructing a new home.

Photographic evidence provided by the homeowner shows that the original home was a one-story structure with a walk-out basement configuration. The original foundation was designed by DSV Homes and sealed by H. Gary Howell (Colorado PE # 4429). It was observed during out time on site that a majority of the foundation bears on bedrock, specifically at the western (up-hill) side. The presence of bedrock at the taller foundation walls mean that it is likely that the foundation will be exposed to little lateral earth pressure after the walls are backfilled.

Based on our observation, it is our professional opinion that the existing foundation structure is structurally adequate to support the construction of a new home of similar scope to the original.

DE observed many minor/shallow cracks in the concrete that do not represent a major structural defect. Prior to building a new home on this foundation, DE suggested sealing all the cracks present with construction grade epoxy concrete crack sealant such as Simpson Crack-Pac to help prevent potential future water intrusion.



The opinions provided above are based on a reasonable degree of engineering probability. We reserve the right to modify our opinions and comments if additional information becomes available and/or observations of the exposed foundation and masonry systems after the demolition, and prior to construction of the remodel, reveal conditions that were previously concealed.

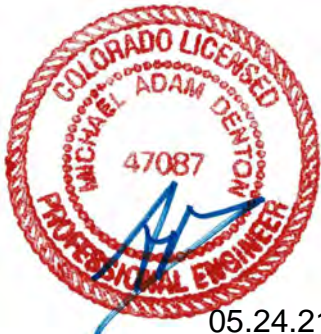
Limitations:

- The recommendations in this report are based on the available data and the limited accessibility of the elements and components of the structure.
- The opinions, conclusions and recommendations submitted in this report are based on accepted general practice and are limited to the data available to our office. We make no warranty, either expressed, implied, written or otherwise, on the continued structural integrity of the property, including the repaired areas.
- The stability of soils, especially in Colorado, are unpredictable and it is unknown what hidden conditions may exist around the foundation.
- This report is based on conditions of the structural elements that were readily observable at the time of the observation. Denton Engineering, LLC does not accept responsibility for hidden structural deficiencies not evident during an visual observation of this type.
- In recognition of the relative risks and benefits of the Project to both the Client and Denton Engineering, LLC (DE), the total aggregate liability of DE, its officers, partners, employees, owners and subconsultants shall not exceed \$2,000. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

If you have any questions, please call us at (303) 619-0325.

Thank you,

DENTON ENGINEERING, LLC



05.24.21

M. Adam Denton, PE
Structural Engineer

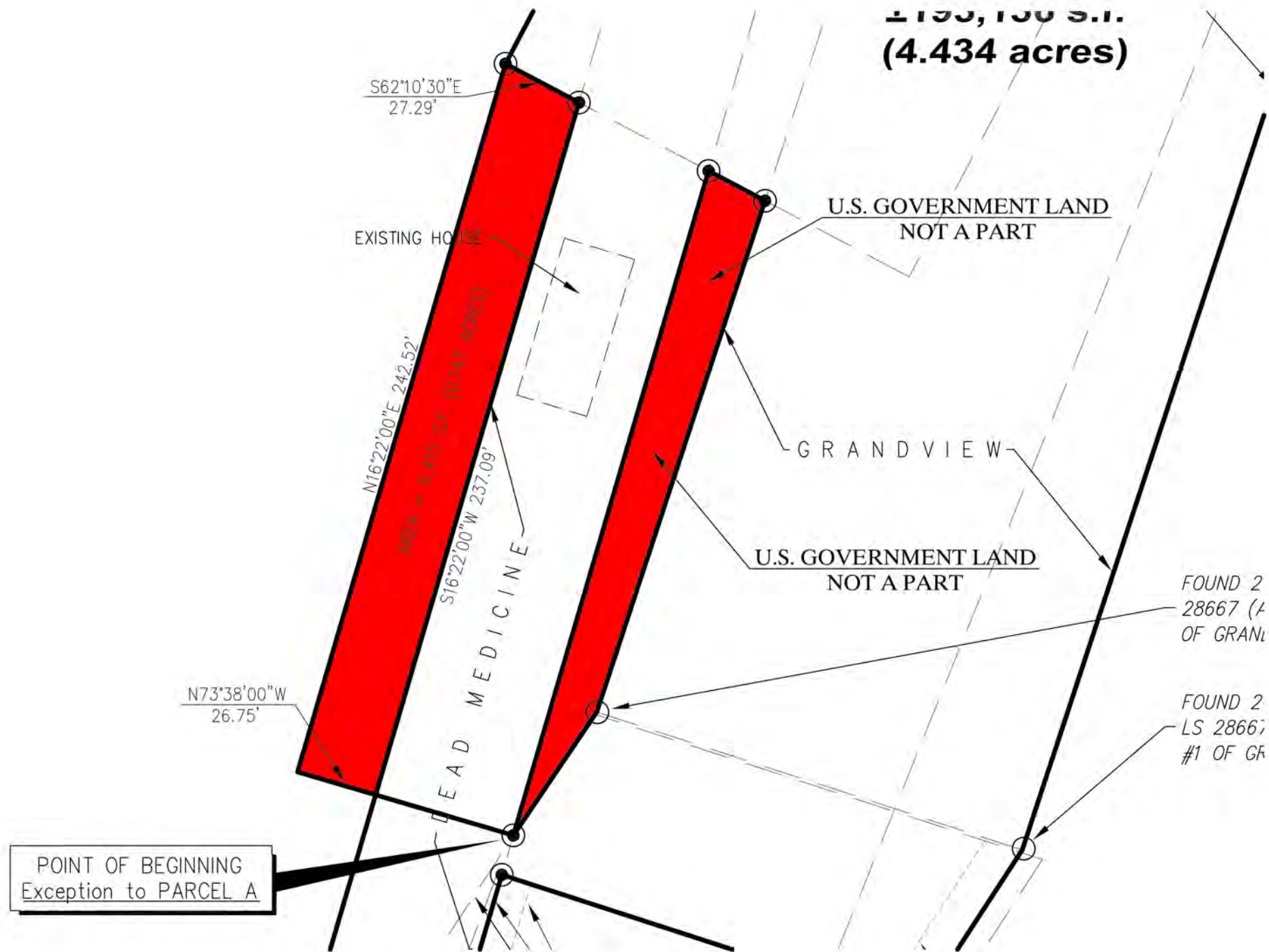


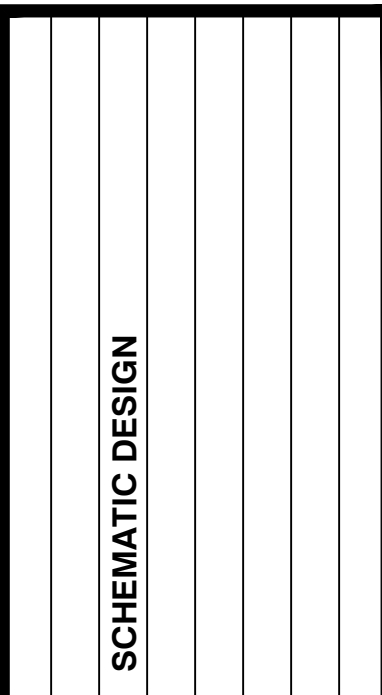
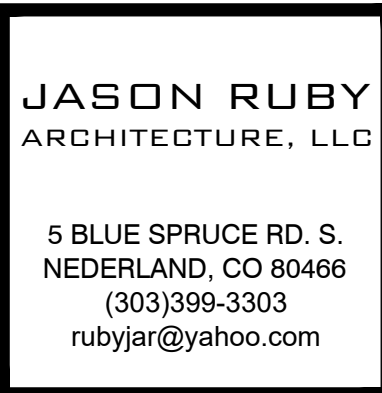


PREVIOUS STAFF PACKET
ATTACHMENT ORG

A35
Page 36 of 461

ORG44
PSP 50

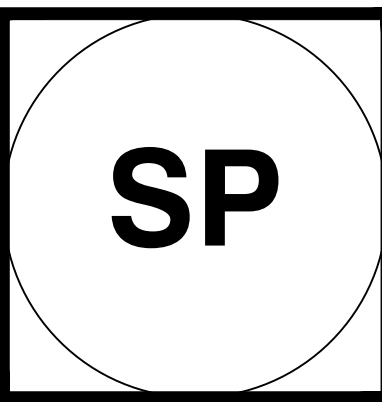




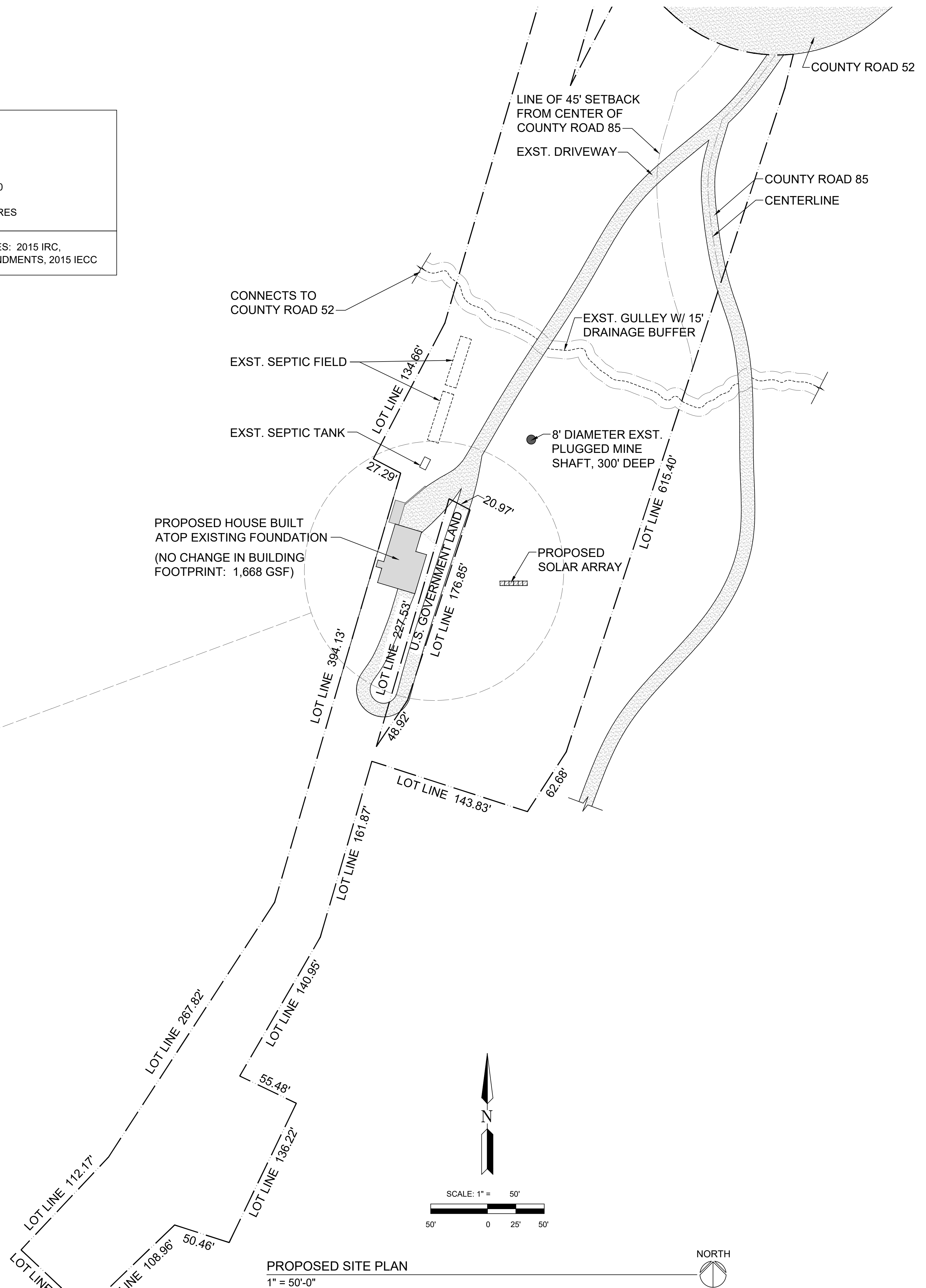
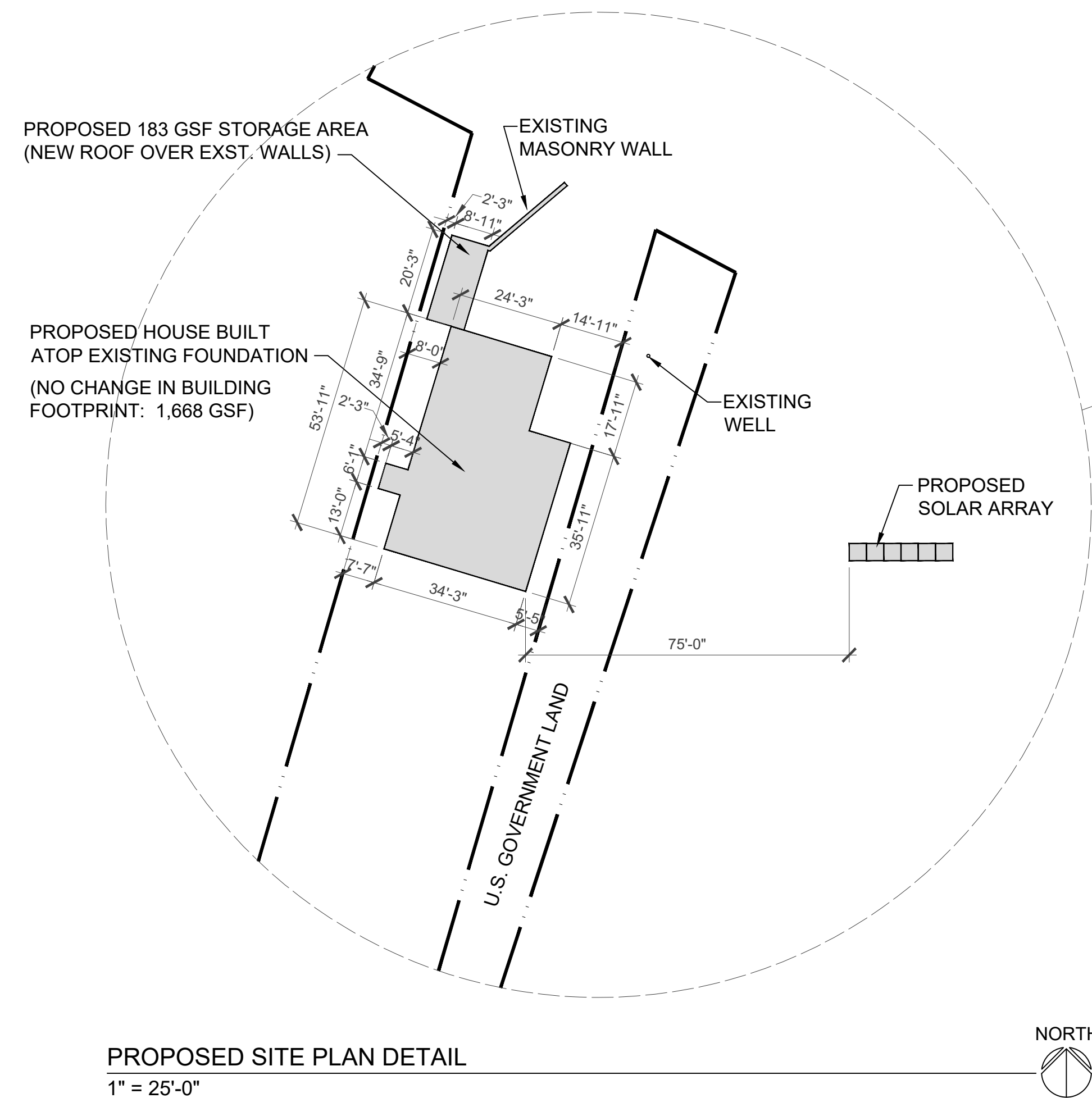
**FRED ELLS RESIDENCE REBUILD
6301 SUNSHINE CANYON DRIVE
BOULDER COUNTY, COLORADO 80302**

DATE:
MAY 25, 2021

DRAWN BY: JAR
PROPOSED SITE PLAN



CURRENT ADOPTED BUILDING CODES: 2015 IRC,
2015 BOULDER COUNTY CODE AMENDMENTS, 2015 IECC





Chemical Hazards: Arsenic, Cadmium

Physical Hazards: Several open mine shafts (hazard to nearby homeowners and firefighters), various charred debris from forest fire

Remediation Approach:

- Grade back piles 1-3 to slopes no steeper than 3:1
- Place all cut volumes from the large piles and small piles into the flat area, located northwest of Pile 1.
- Close the open mine shafts located near the south residence.
- Test a variety of capping techniques on the other small piles to determine best growing conditions. These small piles are good candidates for this type of experimentation because they are small and located away from major drainage channels.

Deliverables (see gallery below): Hazard Assessment, Grading plan, Capping Plan, Revegetation Plan, Cost Estimate



Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303.441.3930 • Fax: 303.441.4856
Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.org

Building Safety & Inspection Services Team

MEMO

TO: Ryan Kacirek, AICP, Planner I
FROM: Michelle Huebner, Plans Examiner Supervisor
DATE: May 10, 2021

RE: Referral Response, Docket VAR-21-0003: Ells Residence in Setback. Request to adjust the front yard setback from 25 feet to a 0-foot side yard setback in order to construct a new residence on a 5.35-acre parcel.

Location: 6301 Sunshine Canyon Dr

Thank you for the referral. We have the following comments for the applicants:

1. There are several important Building Code requirements that present a potential challenge with this variance request.
2. The International Residential Code (IRC) Section R302.1 restricts openings such as openings in walls, projections (prohibits overhangs), and requires fire rated assemblies for structures that are closer than five feet (5') to the lot line.

TABLE R302.1(2)
EXTERIOR WALLS—DWELLINGS WITH FIRE SPRINKLERS

| EXTERIOR WALL ELEMENT | | MINIMUM FIRE-RESISTANCE RATING | MINIMUM FIRE SEPARATION DISTANCE |
|-----------------------|---------------------------|--|----------------------------------|
| Walls | Fire-resistance rated | 1 hour—tested in accordance with ASTM E 119 or UL 263 with exposure from the outside | 0 feet |
| | Not fire-resistance rated | 0 hours | 3 feet ^a |
| Projections | Not allowed | N/A | < 2 feet |
| | Fire-resistance rated | 1 hour on the underside ^{b, c} | 2 feet ^a |
| Openings in walls | Not fire-resistance rated | 0 hours | 3 feet |
| | Not allowed | N/A | < 3 feet |
| Penetrations | Unlimited | 0 hours | 3 feet ^a |
| | All | Comply with Section R302.4 | < 3 feet |
| | | None required | 3 feet ^a |

For SI: 1 foot = 304.8 mm.

N/A = Not Applicable

- a. For residential subdivisions where all *dwelling*s are equipped throughout with an automatic sprinkler system installed in accordance with Section P2904, the *fire separation distance* for nonrated exterior walls and rated projections shall be permitted to be reduced to 0 feet, and unlimited unprotected openings and penetrations shall be permitted, where the adjoining *lot* provides an open setback *yard* that is 6 feet or more in width on the opposite side of the property line.
- b. The roof eave fire-resistance rating shall be permitted to be reduced to 0 hours on the underside of the eave if fireblocking is provided from the wall top plate to the underside of the roof sheathing.
- c. The roof eave fire-resistance rating shall be permitted to be reduced to 0 hours on the underside of the eave provided that gable vent openings are not installed.

3. **Plan Review.** The items listed above are a general summary of some of the county's building code requirements. A much more detailed plan review will be performed at

the time of building permit application, when full details are available for review, to assure that all applicable minimum building codes requirements are to be met. Our Residential Plan Check List and other Building Safety publications can be found at: <https://assets.bouldercounty.org/wp-content/uploads/2017/03/b24-residential-plan-check-list.pdf>

If the applicants should have questions or need additional information, we'd be happy to work with them toward solutions that meet minimum building code requirements. Please call (720) 564-2640 or contact us via e-mail at building@bouldercounty.org



Community Planning & Permitting

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Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.BoulderCounty.org

May 25, 2021

TO: Ryan Kacirek, Staff Planner; Community Planning & Permitting, Development Review Team - Zoning

FROM: Jennifer Severson, Principal Planner; Community Planning & Permitting, Development Review Team – Access & Engineering

SUBJECT: Docket # VAR-21-0003: Ells Residence in Setback
6301 Sunshine Canyon Drive

The Development Review Team - Access & Engineering staff has reviewed the application materials for the above referenced docket and has the following comments:

1. The subject property is accessed from Sunshine Canyon Drive, a Boulder County owned and maintained right-of-way (ROW), via County Road 85 (CR 85), a gravel-surfaced Boulder County owned but privately maintained ROW at this location with a Functional Classification of Local Secondary. Legal access to the subject parcel is demonstrated via adjacency to this public ROW.
2. Staff has no conflicts with the setback variance, as proposed.
3. Although the proposed residence will be on a previously developed parcel, the parcel is currently vacant. The new residence will be the 8th development to utilize CR 85 for access (including the development currently undergoing Site Plan Review at 390 Gold Run). Per the [Boulder County Multimodal Transportation Standards \(“the Standards”\)](#) Table 5.5.1, accesses that serve between 6 and 15 development units must be designed as a 2-lane access (minimum width = 18 feet). Future development on the subject parcel will require CR 85, between Sunshine Canyon Drive and the private point of access to the subject parcel, to be improved to comply with the Standards (See [Table 5.5.1](#) and [Standard Drawings 11, 14 and 15](#)).
4. The private driveway between CR 85 and the new residence must also be improved to comply with the Standards for residential development in the mountains as listed above, and including [Standard Drawings 16, 17, 18 and 19](#).
5. There is no evidence of an existing Access Permit. An Access Permit will be issued for the point of access to CR 85 at the time of building permit review. No special application procedure is necessary, the Access Permit will be issued concurrently with the Building Permit.
6. An Access Improvement and Maintenance Agreement (AIMA), which is an agreement for future maintenance responsibility, will be issued for the CR 85 during Building Permit review. The AIMA will be completed by the Development Review Team – Access & Engineering staff and approved as part of the Building Permit process.

This concludes our comments at this time.

Matt Jones County Commissioner **Claire Levy** County Commissioner **Marta Loachamin** County Commissioner

Boulder County Multimodal Transportation Standards

Table 5.5.1 Parcel Access Design Standards

| | One-Lane Access | | Two-Lane Access | |
|---|--|--|--|---------------------------------|
| | Plains | Mountains | Plains | Mountains |
| # of units | 1 - 5 | | 6 - 15 | |
| Travelway Width (8' turnouts 8'x 55' incl. tapers - required every 400') | 10' | 12' | 18' | 18' |
| Surface Course | Per geotechnical report ¹ | | Per geotechnical report | |
| ROW/Easement Width (min.) | 20' 28' w/turnouts | | 30' | |
| Centerline Radius (min.) | 40' | | 40' | |
| Max. Grade (%) | 12 | 12 or up to 14 for 200' max. ² | 12 | 12 or up to 14 for 200' max. |
| Max. Grade through curve | 6% ³ | | 6% | |
| Clearance Vertical/ Horizontal | 13'-6" / 14' | 13'-6" / 16' | 13'-6" / 22' | |
| Roadside Ditches | Designed and constructed to Standard Drawings. See BCSDCM and USDCM for permanent erosion control practices. | | Designed and constructed to Standard Drawings. See BCSDCM and USDCM for permanent erosion control practices. | |
| Slope Stability | Per geotechnical recommendations to design stability and facilitate revegetation ⁴ | | Per geotechnical recommendations to design stability and facilitate revegetation ⁴ | |
| Signs and Traffic Control Devices | Required signs and traffic control devices must conform with the MUTCD, latest edition | | Required signs and traffic control devices must conform with the MUTCD, latest edition | |
| Culverts | Min. 18" or equiv. capacity RCP or CMP in public ROW per Standard Drawing Cross-culverts outside of ROW sized to maintain historic flow | | Min. 18" or equiv. capacity RCP or CMP in public ROW per Standard Drawing Cross-culverts outside of ROW sized to maintain historic flow | |
| Sight Distances | per AASHTO recommendations | | per AASHTO recommendations | |
| Approach to Highway | 90° to centerline of highway with max. 30° variation | | 90° to centerline of highway with max. 30° variation | |
| Standard Drawings | 11, 12, 13, 14, 15, 16, 17, 18, 19 | | 11, 12, 13, 14, 15, 16, 17, 18, 19 | |
| Overall Design Principles | See Section 5.1 | | See Section 5.1 | |

¹ Accesses serving one dwelling unit shall use 4" ABC (Class 6) or other suitable material as approved by the Transportation Department.

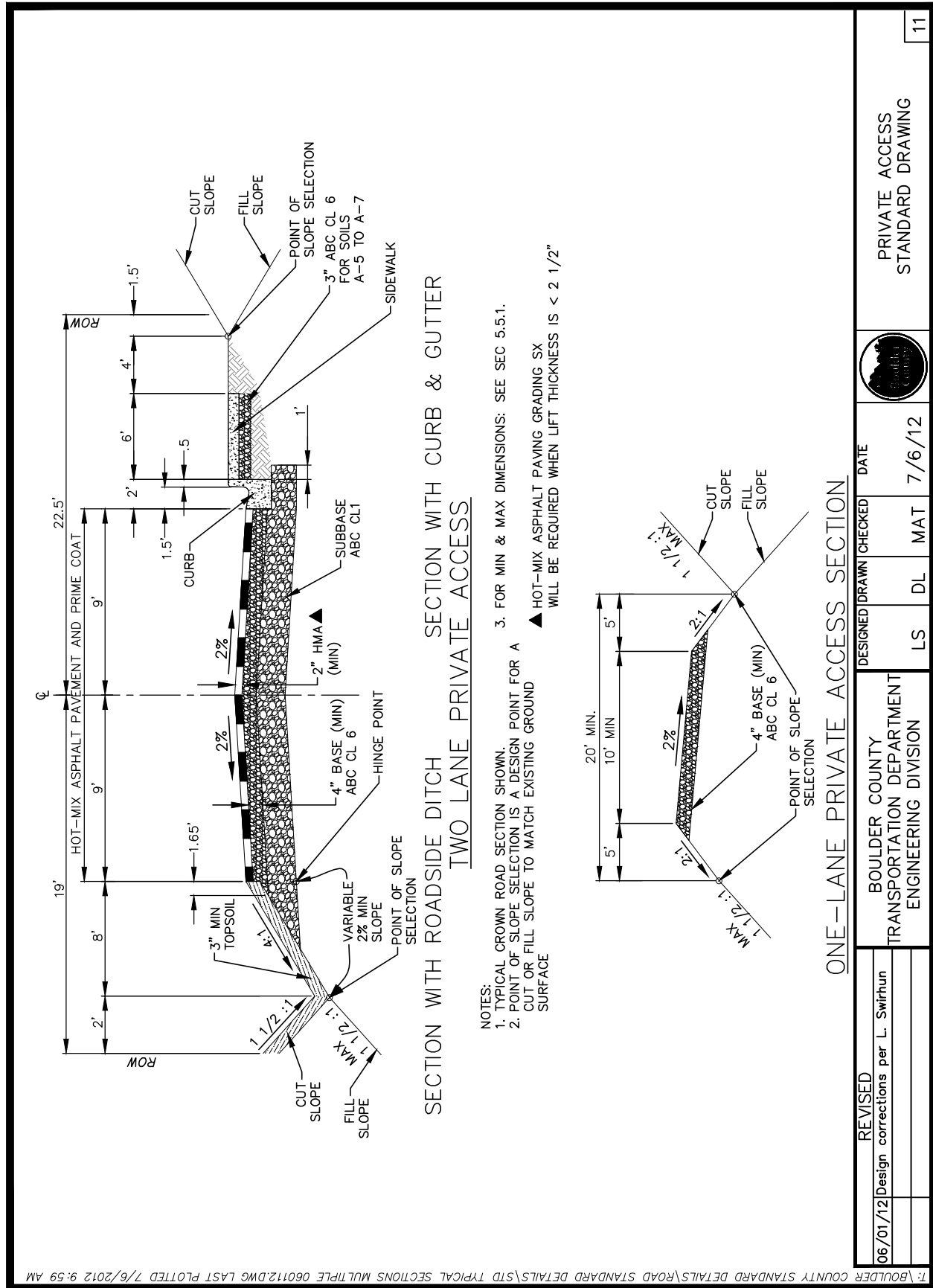
² Accesses serving one dwelling unit may use 16% for 200' max.

³ Accesses serving one dwelling unit may use up to 8% w/ 2' additional width.

⁴ Accesses serving one dwelling unit may use 1 ½ : 1 max. cut and fill slopes or per geotechnical recommendations to design stability and facilitate revegetation.

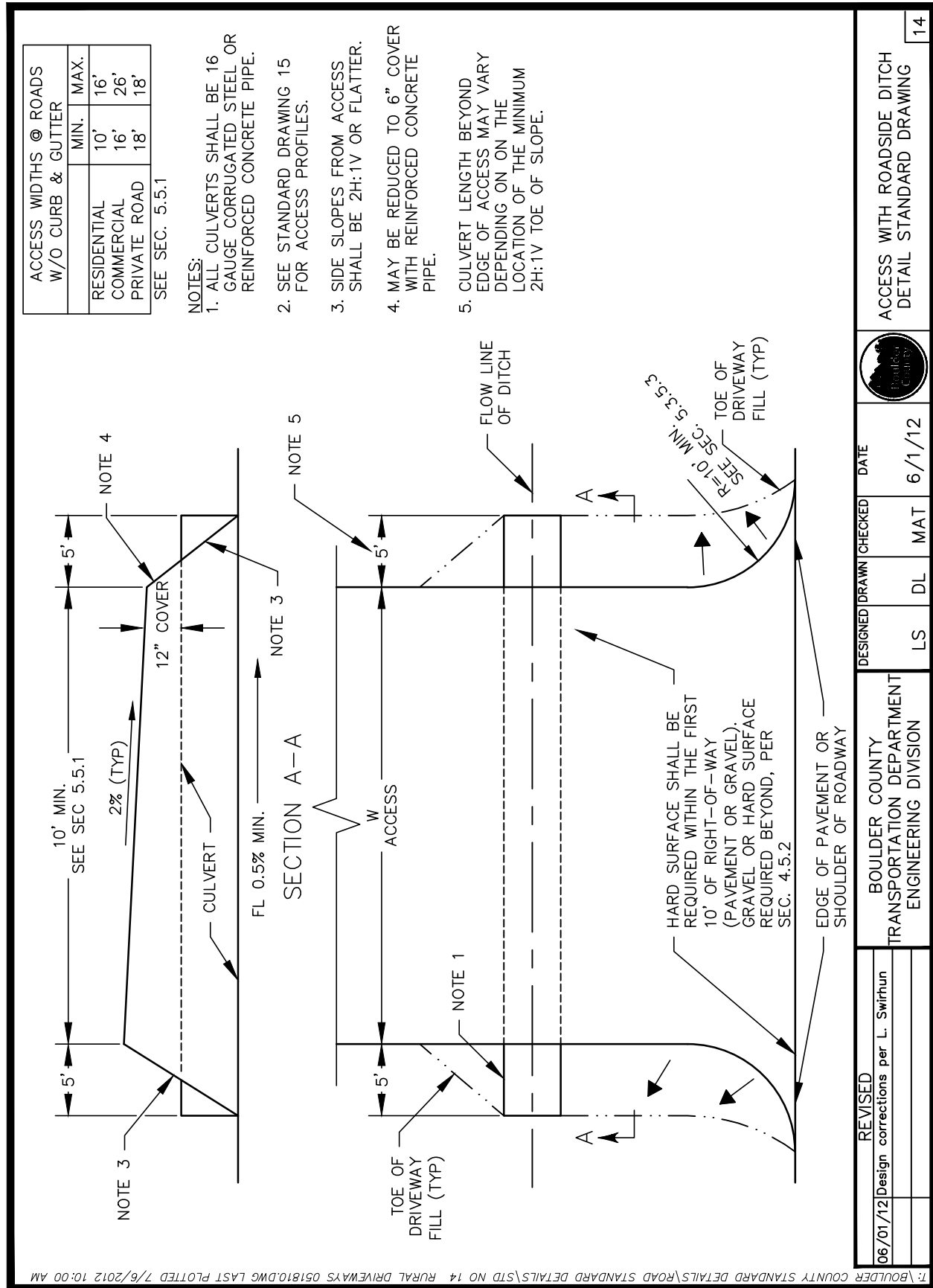
Boulder County Multimodal Transportation Standards

Standard Drawing 11



Boulder County Multimodal Transportation Standards

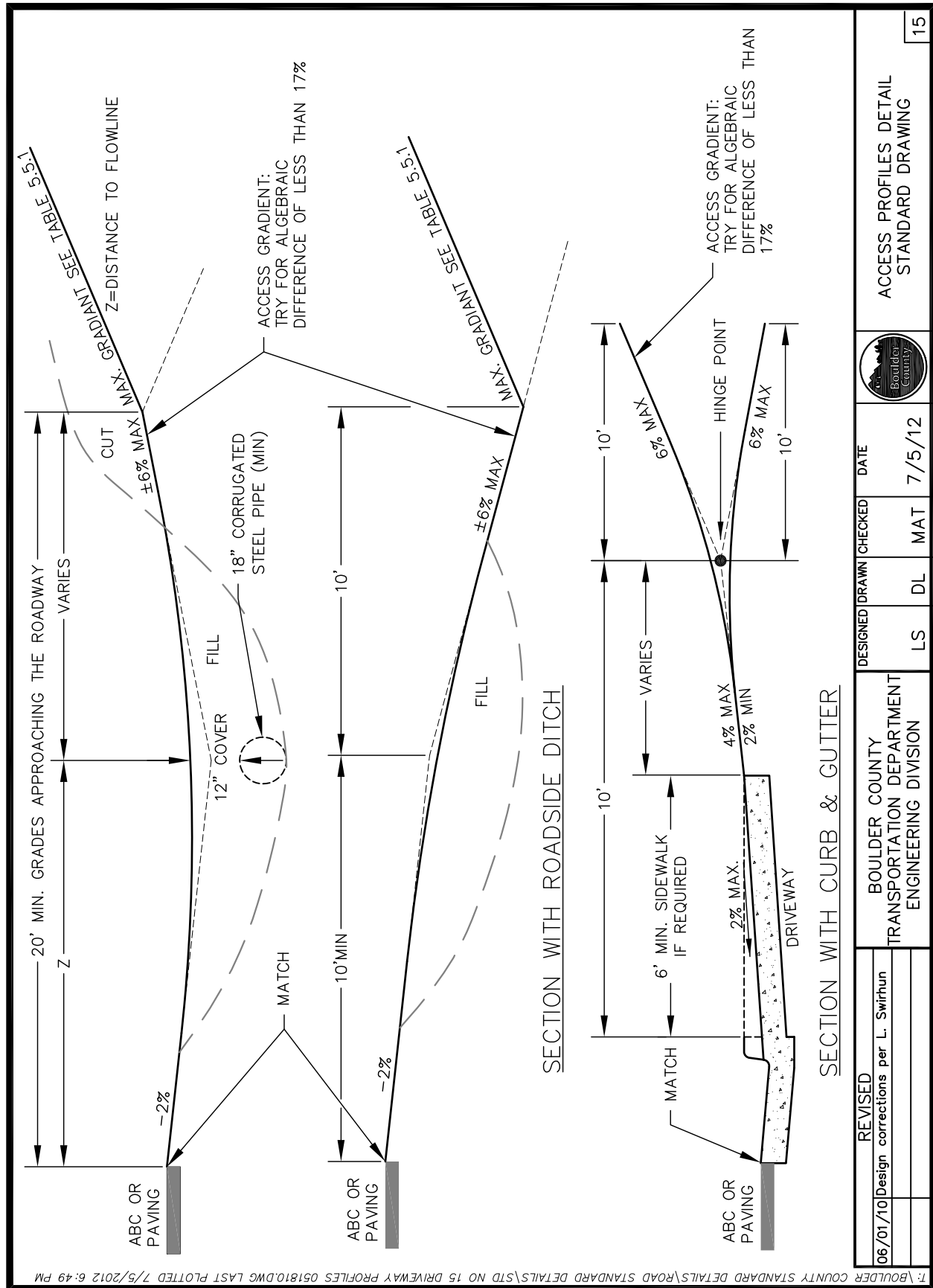
Standard Drawing 14



July 1, 2012

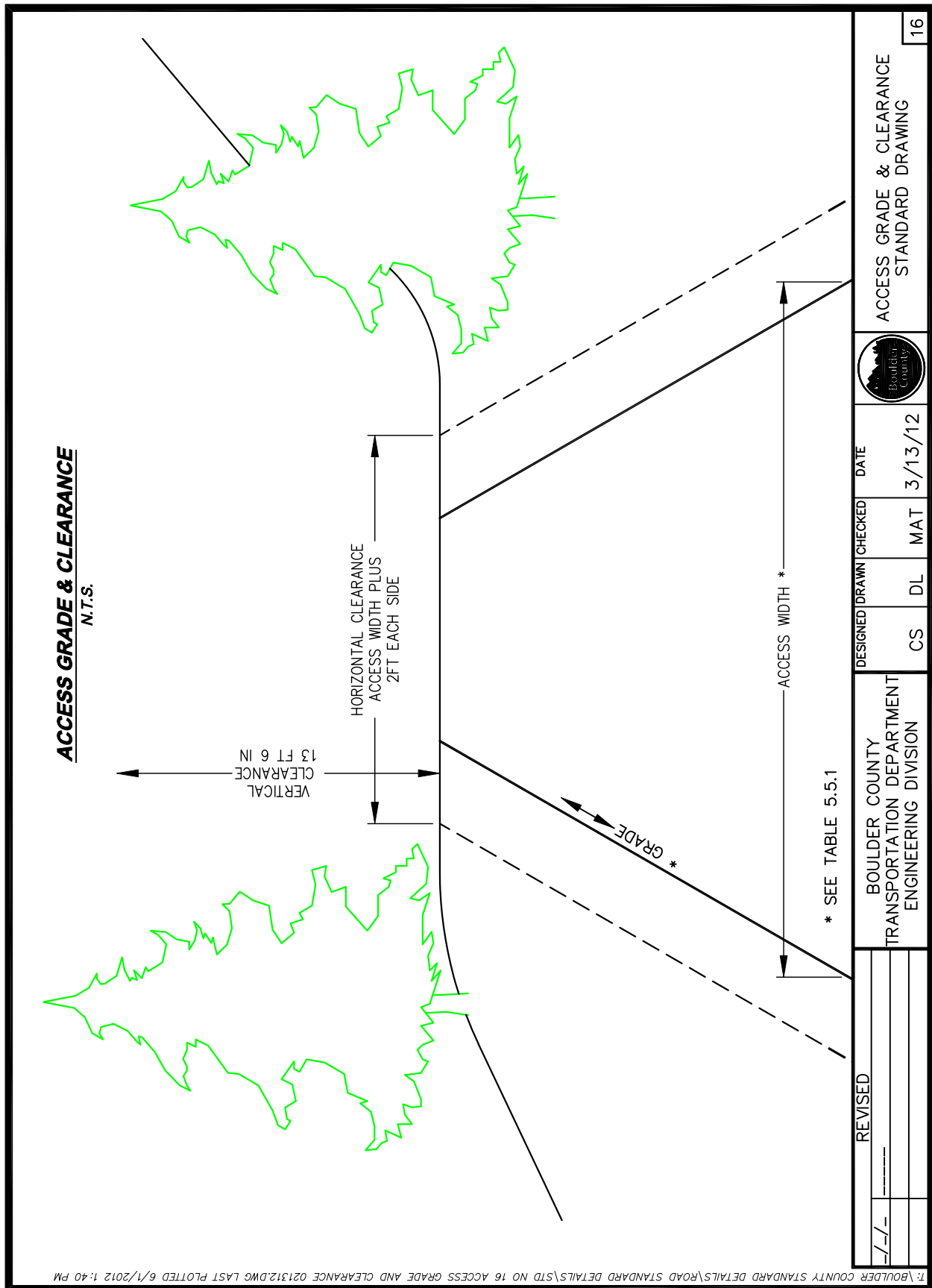
Boulder County Multimodal Transportation Standards

Standard Drawing 15



Boulder County Multimodal Transportation Standards

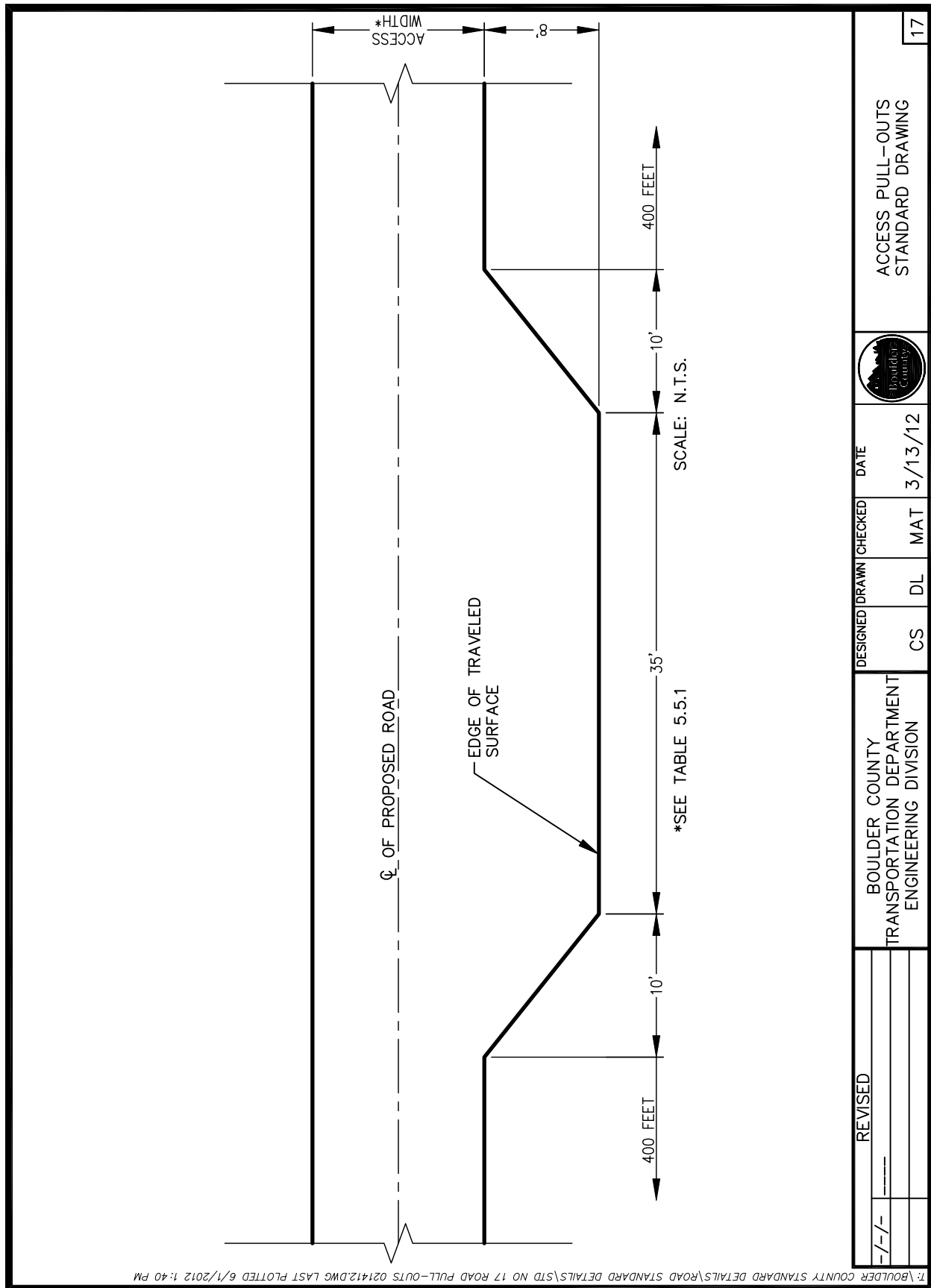
Standard Drawing 16



July 1, 2012

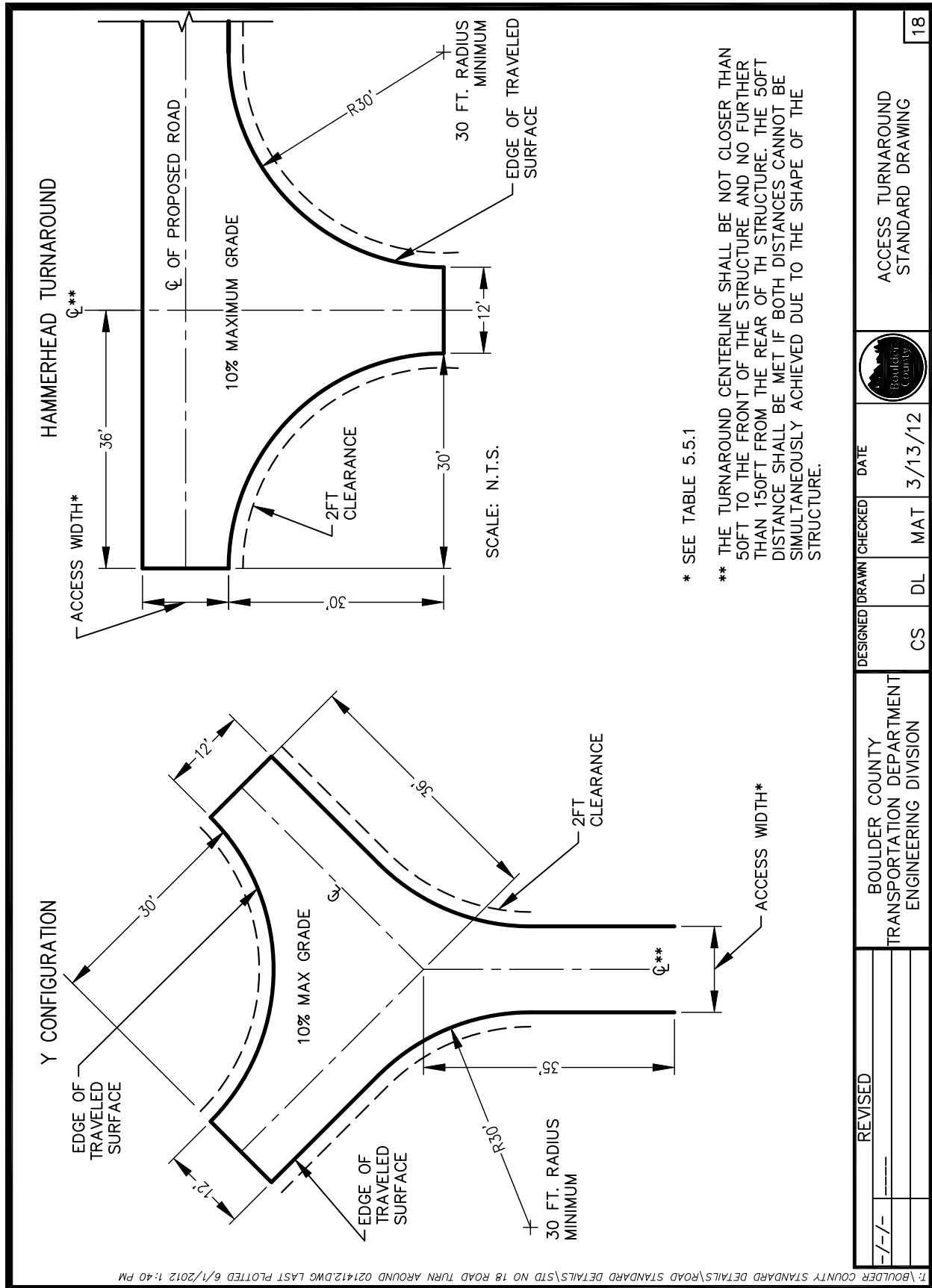
Boulder County Multimodal Transportation Standards

Standard Drawing 17



Boulder County Multimodal Transportation Standards

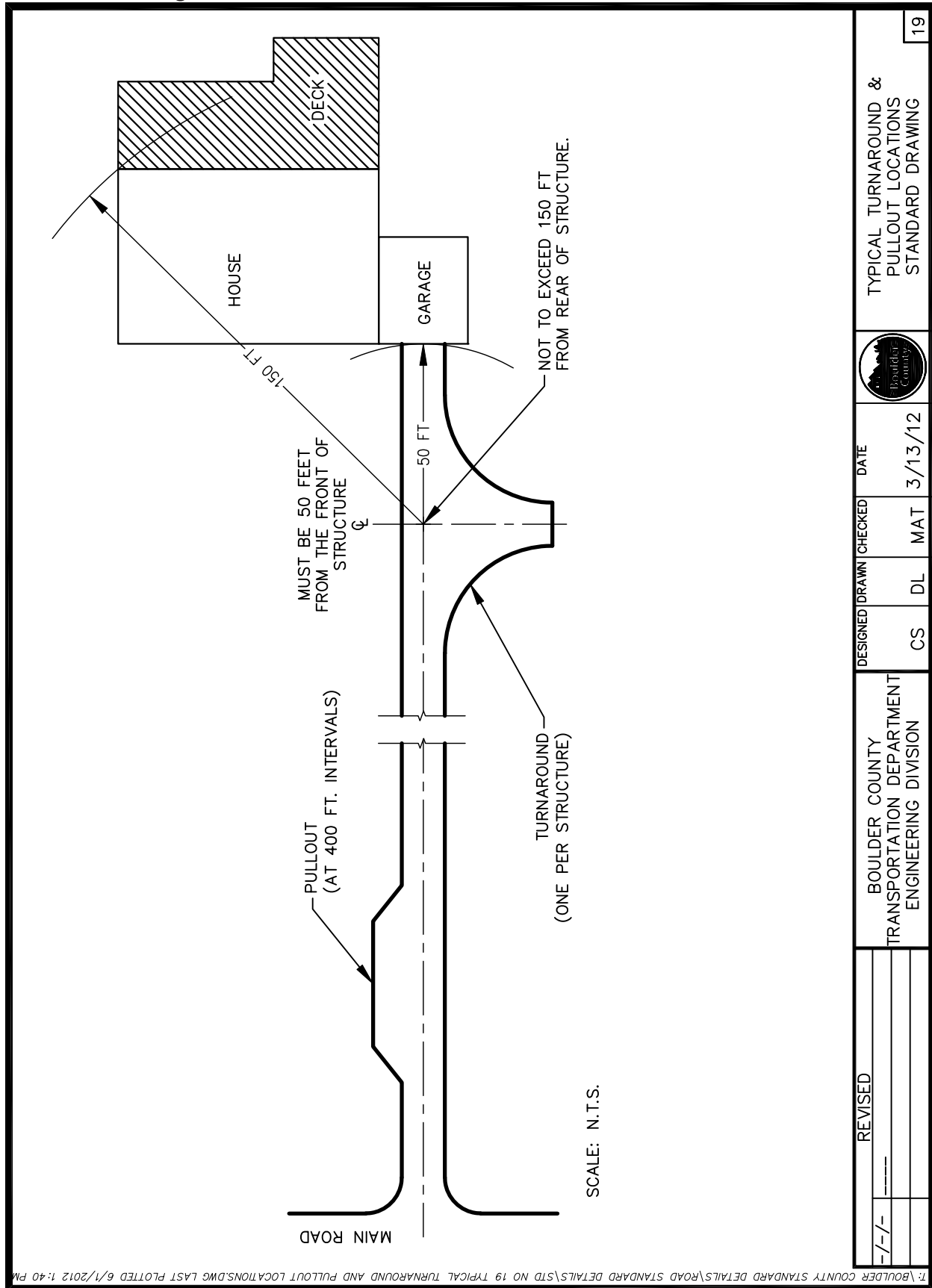
Standard Drawing 18



July 1, 2012

Boulder County Multimodal Transportation Standards

Standard Drawing 19





Parks & Open Space

5201 St. Vrain Road • Longmont, CO 80503
303-678-6200 • POSinfo@bouldercounty.org
www.BoulderCountyOpenSpace.org

TO: Ryan Kacirek, Community Planning & Permitting Department
FROM: Ron West, Natural Resource Planner
DATE: May 25, 2021
SUBJECT: Docket VAR-21-0003, Ells, 6301 Sunshine Canyon Drive

Staff has reviewed the submitted materials, and has no particular natural resource concerns with this variance.

**Right of Way & Permits**

1123 West 3rd Avenue
Denver, Colorado 80223
Telephone: **303.571.3306**
Facsimile: 303. 571. 3284
donna.l.george@xcelenergy.com

May 24, 2021

Boulder County Community Planning and Permitting
PO Box 471
Boulder, CO 80306

Attn: Ryan Kacirek

Re: Ells Residence in Setback, Case # VAR-21-0003

Public Service Company of Colorado's (PSCo) Right of Way & Permits Referral Desk has reviewed the documentation for **Ells Residence in Setback** and has no apparent issues with the variance request, provided it does not affect any existing electric utilities.

Please be aware PSCo owns and operates existing overhead and underground electric facilities on and/or crossing the subject property and must be shown on the plans.

In relation to the proposed solar array and the overhead electric facilities, note that per the National Electric Safety Code, a minimum 10-foot radial clearance must be maintained at all times from all overhead electric facilities including, but not limited to, construction activities and permanent structures.

Should the project require any new natural gas or electric service or modification to existing facilities, the property owner/developer/contractor must complete the application process via [xcelenergy.com/InstallAndConnect](https://www.xcelenergy.com/InstallAndConnect).

As a safety precaution, PSCo would like to remind the developer to call the Utility Notification Center by dialing 811 for utility locates prior to construction.

Donna George
Right of Way and Permits
Public Service Company of Colorado dba Xcel Energy
Office: 303-571-3306 – Email: donna.l.george@xcelenergy.com



Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303-441-3930
Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.BoulderCounty.org

Wildfire Mitigation Team

MEMO

TO: Ryan Kacirek, AICP, Planner I
FROM: Abby Silver, Wildfire Mitigation Specialist
DATE: May 24, 2021
RE: Referral Packet for VAR-21-0003: Ells Residence in Setback project at 6301 Sunshine Canyon Drive

Thank you for the referral. We have the following comments for the applicants:

Decades of catastrophic wildfires, research, and case studies have shown that extreme wildfires are inevitable in the forests of Boulder County and across the Western US, but loss of life and homes do not have to be inevitable. The conditions that principally determine if a house ignites occur within 100 feet of the house, including the house itself. That is why Boulder County has such strong wildfire mitigation requirements in our Land Use and Building Code, and why Boulder County encourages all homeowners to voluntarily take responsibility to mitigate their own home's risk of igniting in a wildfire through Wildfire Partners.

The proposed project is in [Wildfire Zone 1](#) (the foothills or mountains—approximately west of highways 7, 36, or 93) of unincorporated portion of Boulder County and wildfire mitigation is required to reduce the risk of loss of life and property.

The Wildfire Mitigation Team cannot support this variance because of the risk of loss of life and property the variance would create. Effective defensible space generally encompasses at least 100 feet on every side of all buildings (however, 30 feet is minimally effective defensible space if more ignition resistant materials are used) and an installed approximately five-foot noncombustible perimeter around existing and new structures. The proposed setbacks do not allow for even a full non-combustible border around the house that would extend two feet beyond the eaves in all locations. This is limited by BLM land to the west and east of the proposed house location.

We highly recommend either altering the building footprint to allow installing a 5 foot wide non-combustible perimeter within the property boundaries; or relocating the home to allow for improved wildfire mitigation; or obtaining legal access to adjacent BLM lands to enable installation of the noncombustible perimeter and ideally to allow for maintenance of defensible space within 100 feet of the new home.

Other wildfire mitigation risks will be addressed during the Planning process and through the building code.

Matt Jones County Commissioner **Claire Levy** County Commissioner **Marta Loachamin** County Commissioner

If the applicant should have questions or need additional information, we'd be happy to work with them toward solutions that meet minimum land use and building code requirements. I can be reached at 720.564.2641 or asilver@bouldercounty.org.

From: [LU Land Use Planner](#)
To: [Kacirek, Ryan](#)
Subject: FW: Ask a Planner - Richard & Barbara Slarks - VAR-21-0003 - 6299n Sunshine Canyon Drive
Date: Monday, May 24, 2021 1:38:26 PM

Hey Ryan,

This one is for you too.

Chad Endicott | Long Range Planner I
Pronouns: he/him/his
Boulder County Community Planning & Permitting
Service hours are 7:30 a.m.-5 p.m. Monday, Wednesday, Thursday, and 10 a.m.-5 p.m. Tuesday
Mailing Address: P.O. Box 471, Boulder, CO 80306
Direct: 720-798-3560 | Main: 303-441-3930
cendicott@bouldercounty.org

-----Original Message-----

From: Ask A Planner <no-reply@wufoo.com>
Sent: Monday, May 24, 2021 12:51 PM
To: LU Land Use Planner <planner@bouldercounty.org>
Subject: Ask a Planner - Richard & Barbara Slarks - VAR-21-0003 - 6299n Sunshine Canyon Drive

Boulder County Property Address : 6299n Sunshine Canyon Drive If your comments are regarding a specific Docket, please enter the Docket number: VAR-21-0003
Name: Richard & Barbara Slarks
Email Address: barb@slarks.com
Phone Number: (303) 449-0818

Please enter your question or comment: We are one of Fred Ells' closest neighbors. As such, we have known him for over 25 years.

We understand that Fred would like to re-build his house, which burned down in the Fourmile Fire, on his old foundation. Fred has represented to us that his existing foundation has been inspected and approved by a structural engineer. We also understand from what Fred has mentioned to us, that he needs to rebuild on his old foundation since a different location would not be financially viable for him

We have no problems with Mr. Ells building on his old foundation and would welcome having him as our neighbor again.

Public record acknowledgement:

I acknowledge that this submission is considered a public record and will be made available by request under the Colorado Open Records Act.

From: [LU Land Use Planner](#)
To: [Kacirek, Ryan](#)
Subject: FYI : response Docket #VAR-21-0003
Date: Monday, May 24, 2021 12:07:37 PM

[@Kacirek, Ryan](#)

From: Brooke Weathers <brooke@mwluxuryhomes.com>
Sent: Monday, May 24, 2021 12:05 PM
To: LU Land Use Planner <planner@bouldercounty.org>
Subject: response Docket #VAR-21-0003

To the county Planners,

This is in response to the above notification I received about docket #VAR-21-0003, Ells Residence in Setback. I live at 6310 Sunshine Canyon, my driveway is immediately across from the proposed request of Mr. Ells to adjust the front yard setback to 0 fee from 25 feet.

I am very opposed to this as a neighbor and as a realtor, for the following reasons:

#1: Mr. Ells received a boundary adjustment at a previous county hearing, which I attended, specifically in order to NOT have to apply for a variance. See the 5th page of the application SE-18-0010.

#2. Building codes are in place for a reason, and one must show a “hardship” in order to receive a variance, and there is no hardship here-there is plenty of room to build on the property with the appropriate setbacks. Perhaps he is trying to reduce his driveway costs by placing a home right next to the road, but that’s no reason for a variance to be given,

#3. Placing a home there with no setback is particularly startling for drivers coming downhill from the west, as cars are coming off a hairpin turn immediately at that location, and a safety hazard, as we have no streetlights, the dirt road there is quite slippery in winter snow, and we have a substantial increase in traffic. A reminder that during the 2013 flood, Sunshine Canyon Drive was the only canyon road open; all traffic was diverted from Boulder Canyon, Pine Brook and Lee Hill to SCD.

#4. Finally, to allow a home to be placed on Sunshine Canyon with no setback is not in keeping with the character of the mountain “rural” neighborhood that has been so carefully maintained in Sunshine Canyon, which was the main reason the county commissioners gave for ruling against paving Sunshine Canyon, when their own transportation director, George Gerstle, was in favor of it at the time it was proposed years back.

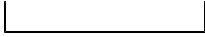
Thank you for your time,

Brooke Weathers
Compass
Office

1470 Walnut Boulder, CO 80302

m: 303.898.6564

Personal address 6310 Sunshine Canyon Drive, Boulder, 80302



From: [LU Land Use Planner](#)
To: [Kacirek, Ryan](#)
Subject: FW: Ask a Planner - Eugene Fischer - VAR-21-0003 - 6300 Sunshine Canyon Drive
Date: Monday, May 24, 2021 2:04:32 PM

Here's another public comment for you, Ryan.

Thanks,

Chad Endicott | Long Range Planner I
Pronouns: he/him/his
Boulder County Community Planning & Permitting
Service hours are 7:30 a.m.-5 p.m. Monday, Wednesday, Thursday, and 10 a.m.-5 p.m. Tuesday
Mailing Address: P.O. Box 471, Boulder, CO 80306
Direct: 720-798-3560 | Main: 303-441-3930
cendicott@bouldercounty.org

-----Original Message-----

From: Ask A Planner <no-reply@wufoo.com>
Sent: Monday, May 24, 2021 1:59 PM
To: LU Land Use Planner <planner@bouldercounty.org>
Subject: Ask a Planner - Eugene Fischer - VAR-21-0003 - 6300 Sunshine Canyon Drive

Boulder County Property Address : 6300 Sunshine Canyon Drive If your comments are regarding a specific Docket, please enter the Docket number: VAR-21-0003

Name: Eugene Fischer

Email Address: genefischer@yahoo.com

Phone Number: (303) 444-2134

Please enter your question or comment: My property is directly north of subject property, separated only by Sunshine Canyon Drive. I am not opposed to the variance request.

Public record acknowledgement:

I acknowledge that this submission is considered a public record and will be made available by request under the Colorado Open Records Act.



Land Use Department

2040 14th Street • 14th & Spruce Streets • Administrative Services Building, 2nd Floor • Boulder, Colorado 80302 • (303) 441-3930

To: Board of Adjustment
From: Zoning Division
Date: June 13, 1986

Subject: Staff Recommendation for Docket #617

BACKGROUND:

A building permit application, #86-467, was made by Fred Ells on May 19, 1986 for the construction of a single family residence which is a permitted use in the Forestry zoning district. The application for the premises designated as 6301 Sunshine Canyon Drive was denied on 5-21-86 under Article 3, page 7, of the Boulder County Zoning Resolution because the proposed side yard setbacks would be 8 feet where 25 feet is required.

DISCUSSION:

A. Evidence related to proper reasons for a variance:

1. Exceptional narrowness, shallowness, or slope of the specific piece of property.

Property is only 50 feet wide for the first 500 feet on the north. Where the Dead Medicine overlaps the El Dorado and the Atchison, creating a wider parcel, there are mine tailings and a steep slope with questionable access.

- #### B. Evidence related to whether the strict application of the Boulder County Zoning Resolution would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of such property.

Without a variance this lot is unbuildable and the applicant's investment will be lost.

- #### C. Evidence related to whether the requested variance can be granted without:

1. Substantial detriment to the public.

At the present time there are no buildings on the adjacent properties. The zoning resolution requires a minimum of 50 feet between buildings on adjacent properties in the Forestry zoning district. There is adequate room on all the properties surrounding the Dead Medicine to place a building 50 feet or more from the applicant's proposed residence, although adjacent property owners would not have to build that far away.

Josephine W. Heath
County Commissioner

Ronald K. Stewart
County Commissioner

Herbert E. "Buz" Smith, Jr.
County Commissioner

BOA Docket #617
Staff Recommendation

2.

6-13-86

The owners of the Grand View have expressed concern about access. The applicant has asked the Grand View owners for an easement but that easement has not been granted at this time.

2. Substantial impairment of the intent and purpose of the Boulder County Zoning Resolution.

The zoning resolution requires a 50 foot setback between buildings in the Forestry zoning district and that requirement can be met if the adjacent property owners wish to build 20 feet further back on their property. The requirement that the Board of Adjustment only grant variances based on a hardship with the land is fulfilled by the fact that the subject property is only 50 feet wide. Therefore, the staff feels the intent of the zoning resolution is not substantially impaired.

RECOMMENDATION:

Due to the extreme narrowness of the property; due to the fact that if the applicant is denied the variance he will be denied reasonable use of his property; due to the fact that dwellings on adjacent properties will be able to be built 50' or more from the subject property; then, the staff recommends APPROVAL of the variance provided the access problem can be worked out and there are no further objections from adjacent property owners.



Post Office Box 471 • Boulder, Colorado 80306

Land Use Department

Courthouse Annex
2045 13th Street • 13th & Spruce Streets • Boulder, Colorado 80302 • (303) 441-3930

December 9, 2002

Fred Ells
6301 Sunshine Canyon Drive
Boulder CO 80302

Dear Mr. Ells:

This letter certifies that a hearing of the Board of Adjustment, County of Boulder, State of Colorado, was duly called and held on Wednesday, December 4, 2002, in consideration of the following request:

Docket VAR-02-15: ELLS Variance

Request: A request for three separate variances to setback requirements for a proposed addition, a detached garage, and for use of an existing mine by the fire district for water storage including a pump house structure.

Location: At 6301 Sunshine Canyon Drive, east of Gold Hill, in Section 8, T1N, R71W

Zoning: Forestry (F)

In three separate motions, the Board of Adjustment of the County of Boulder, State of Colorado, voted as follows:

- 1) Proposed pump house structure (BP-02-1885) on a 3-2 vote to approve (however, a 4-1 super-majority vote necessary for approval of a variance), therefore the request is denied.
- 2) Proposed detached garage (BP-02-1624) on a 5-0 vote to deny, therefore the request is denied.
- 3) Proposed bay window addition (BP-02-1510) on a 5-0 vote to deny, therefore the request is denied.

If you have any questions regarding this matter, please feel free to contact me at (303) 441-3930.

Sincerely,

Greg Oxenfeld, Planner II
Current Planning Division

G:\LUD\LUSHARED\DOCKETS\VAR0215\15BOAACT.DOC

ELLS VARIANCEBOA - 12/4/02

Ben Harding - notes a concern with the language in the letter from the surveyor, which does not appear to be an actual survey

Ben Thompson, attorney

- notes the surveyor has provided a stamp that states the structure is within the property boundary
- notes the purpose of the garage is to allow the fire trucks to get in and out of the garage to have access to the water
- water is pumped up to the garage where storage tanks are located to provide quicker access to the water

Fred Ellis - note Bruce Correll built a house on a part of his property (White Crow lake)

- 1/4 section of Section 8 *Exhibit* noted the surveys that have occurred in the area
- needs a 24-foot wide garage, because in a emergency there could be safety issues - the fire truck is 8 feet wide

Susan Goldstein Grad View mining claim

- would like to see the fire district have access to the pump house
- still does not believe Mr. Ellis has legal access, and is negotiating the issue with the removal of trees

Henry Ballard, Sunshine F.P.D.

- would like to have access to the water and want to figure out how to get it (water) down to the road
- have no plans to store equipment on the Ellis property
- need to establish the level for the water in order to determine how deep the pump needs to be placed (typically about 14 \pm feet above the water level)

Hal Osteen - can support the pump house as long as it for use by the Fire District

Graham Billingsley, Pat Mayne - discussed process

* Pump House

Fred Ellis - the proposed water ^{supply} is 6.3 and 6.5 (a little acidic) 15 hp. pump in a shed 4'x8' could be proposed

James Ortega, Approved as recommended by staff
Michael Poe - 2nd

Hal Osteen - believe there is a public benefit

No - Ben Harding - note the fire district does not
know or have final plans for access to the water
and Mr. Ellis notes that the location for the
pump house may have to move.

No - John Dickinson

→ Denied on a 3-2 vote

* Garage

John Dickinson feels that the 19 foot wide garage
suggested by staff is acceptable and is opposed
to the 24-foot wide garage.

James Ortega - deny the variance for the garage
John Dickinson - 2nd

Ben Harding / Hal Osteen feels a 19' wide garage
could be adequate for the fire truck.

→ Denied 5-0

* Bay Window

Graham Billingsley - note the the location certificate is a survey of the structure and is not a boundary survey

- note the County requires an improvement location certificate

Fred Ellis - commented on the surveys in the area

(Glen True of Drexel Barrel) - re survey from Drexel Barrel may certify what is to be true

Hal Osteen - notes comfort level with survey, but question if the bay window meets the criteria

James Ortega - uncomfortable with the bandary of the property

John Dickinson - requested at the last hearing to have a boundary survey and is not comfortable with the structure being so close to the property line

Ben Thompson - suggest a condition that would confirm the boundary line (survey)

Hal Osteen - suggest the application be tabled
to allow for more information

James Ortega - deny bay window

John Dickinson - 2nd

Ben Harding - note the bay window built without a
building permit is a self-imposed hardship

Hal Osteen - does not support the variance

→ denied 5-0



Post Office Box 471 • Boulder, Colorado 80306

Land Use Department

Courthouse Annex

2045 13th Street • 13th & Spruce Streets • Boulder, Colorado 80302 • (303) 441-3930

**BOULDER COUNTY BOARD OF ADJUSTMENT
AGENDA ITEM****December 4, 2002 – 4:00 PM
Hearing Room, Third Floor
Boulder County Courthouse****PUBLIC HEARING****STAFF PLANNER:** Greg Oxenfeld**STAFF MEMORANDUM RE:****Docket VAR-02-15: ELLS Variance**

Request: A request for three separate variances to setback requirements for a proposed addition, a detached garage, and for use of an existing mine by the fire district for water storage including a pump house structure.

Location: At 6301 Sunshine Canyon Drive, east of Gold Hill, in Section 8, T1N, R71W.

Zoning: Forestry (F)

Applicant: Fred Ells

DISCUSSION:

The applicant submitted a letter from David Waldner of RMCS Surveying & Engineering, dated November 26, 2002, that confirms that the house and addition along with the overhang on the addition are within the property boundary of the Dead Medicine Lode. Copies of the survey information that was used to conclude the results were also submitted with the letter. A copy of the letter and reduced copy of the survey information are attached. Additionally, staff received another e-mail from an adjacent property owner (Slarks) noting their support for the applicant's requested variances, which is also attached.

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**Board of Adjustment
Transcript for Public Hearing
Regarding Docket VAR-02-15: Ells Variance
December 4, 2002
{DAT Tape 1}**

On Wednesday, December 4, 2002, the Boulder County Board of Adjustment held a regular meeting, convening at 4:00 p.m. and adjourning at 5:30 p.m., in the Hearing Room, Third Floor, County Courthouse, Boulder.

Members Present: Hal Osteen (Presiding Chair), John Dickinson, Ben Harding, James Ortega, and Michael Poe.

Staff Present: Graham Billingsley, David Callahan, Greg Oxenfeld, and Pat Mayne (Assistant County Attorney).

Interested Others: 3-5

Legal Interpreter: Mindi Thomas (Professional Sign Language Interpreting, Inc.) provided interpreting services for John Dickinson (BOA Member).

HAL OSTEEN (BOA Chair): Next item, we will now open the public hearing for Docket VAR-02-15: Ells Variance. We'll follow the same format that we did last month. We hear from staff first, and then, from you, and then we'll have the public section of the hearing, and then we'll close that and we'll come back and then the Board will talk about things. So we would like to start with staff, please.

GREG OXENFELD (Staff Planner): Thank you. Greg Oxenfeld with the Land Use Department. I did pass out some new information to you today this is with regards to a survey that was prepared for the applicant. And I don't know if you want to have enough time to read through that before I get started, or if you all had a chance to look at it at this point.

HAL: What's—any the input from Board members? Do we want to take time to look at it? Do you want to go ahead and hear it? So are we going to take some time to look at it?

BEN HARDING (BOA Member): Yeah, maybe a minute. I've started to get through it.

HAL: Okay.

{At this time the Board of Adjustment members reviewed the new information.}

JAMES ORTEGA (BOA Member): I have a question for staff. Essentially since you handed out this new information, Greg, has your recommendation changed at all?

GREG: As I've noted in the recommendation that was presented for the hearing today, it indicated that staff basically continues to maintain its recommendation for denial of the request for the addition, and the detached garage for the reasons as previously stated in staff memorandum, dated November 6th. And staff would continue to maintain that position today.

JAMES: Okay. Thank you.

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JOHN DICKINSON (BOA Member): But because of the new information and extra details, why are you still offering a denial?

GREG: This would be for the same reasons that were discussed in the staff memorandum, dated November 6th, and the review of the criteria. In summary, we just felt that the County doesn't have the same opinion as it did in 1986 with the variance that this lot is unbuildable and the applicant's investment would be lost because there is no guarantee in the Land Use Code that the proposed garage would be approved.

HAL: Shall we go ahead and um---everybody ready?

BOA MEMBERS: Yes.

HAL: Okay, Greg, go ahead give your staff presentation, please.

GREG: Okay. The other new information that was previously provided to you was with regards to a building permit for pump house structure. And this is a variance request for a 10-foot side yard setback for both sides, where 25-feet is required. A new referral was sent out to the usual referral agencies and adjacent property owners with this new information. We did receive one response as of the date of writing of the recommendation on the 22nd of November noting their support for the proposal, and we also received another email from adjacent property that also notes support for the applicant's requested variances.

With regards to the criteria review for the pump house structure, based on the fact that the parcel is exceptionally narrow and with the 25-foot side yard setback requirement staff finds that a variance is necessary and this is due to the location of where the water is. Where the mineshaft is located. Staff finds that the proposed structure will only be approximately 195 sq. ft. and will not change the character of the Zoning District. And will allow for improved fire protection for property owners within the Sunshine Fire Protection District, which will provide the protection and promote the health, safety, and general welfare of the present and future inhabitants of Boulder County. So based on staff's review we can find that structure can meet the criteria for a variance and recommends that the Board of Adjustment approve the variance the 10-foot side yard setback where 25-feet is required for that structure, subject to the three conditions as noted in the December 4, 2002 staff recommendation.

With regards to the new information that was provided to you today, the applicant did provide a letter from the surveyor that did confirm that the house, the addition along with the overhang on the addition are within the property boundary of the Dead Medicine Lode. And I think that was one of the key questions that staff and the Board had at the last hearing.

BEN: I just want to comment on that. Because the wording—I read this and that wording of that really bothered me because the letter says, "This letter is to confirm that the Improvement Location Certificate (ILC) that prepared for the house located on the Dead Medicine Lode is based upon the Glen True survey of said property. And the survey of the adjoining White Crow Lode that I prepared." So he's apparently based this on the old survey and the testimony that we had last time was that there was a lot of discrepancies between the old Glen True surveys and the new surveys. And this was the reason that I wanted to have the surveyor come. Was because the last thing we want to do is grant a variance for somebody to build something that's on somebody else's property. So I'm still puzzled by this, and the wording of that letter is sufficiently obtuse to

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2 make me concern that maybe this guy is just trying to—I mean he really didn't go out to do any surveying on
4 that line. He just took the True survey and—you know, he's just saying "Yeah, if you look at the Trues survey
6 it shows that the house is on the property." So I'm still concerned, and the applicant will have a chance to talk
about this, but that's one of the reasons why I just wanted the surveyor to come, you know, because this is a
confused situation.

8 **HAL:** Tell me about an Improvement Location Certificate in view of Ben's concerns about that. Does an
Improvement Location Certificate that is stamped and given to the County is that a final establishment of lines,
10 or are we still flying free?

12 **GREG:** Well, staff feels that with a surveyor's stamp stating that all of the improvements are within the
property boundary that would be a level of comfort. In order to issue the building permit we would require that
14 they provide confirmation of that once everything is completed before we do issue the final Certificate of
Occupancy. We can certainly request additional information based on the Board of Adjustment's concern, but,
16 um, I did also try to contact the surveyor that prepared this letter prior to the hearing, and had not received a
return call. So I'll have to allow the applicant to go ahead and address your concerns.

18 **BEN:** Okay.

20 **HAL:** Okay, but under normal everyday just circumstances, the Improvement Location Certificate is all they
22 need to start the permitting process and that's acceptable.

24 **GREG:** Correct.

26 **BEN:** I will say, you know, in the past when we've had close calls like we've required them to go out and do a
survey. Actually, go do a new survey and make sure.

28 **GREG:** Right.

30 **BEN:** Because when you're talking about what it looks like now, three-tenths of a foot, you know, it's easy to
32 get on the wrong side of that.

34 **GREG:** Correct.

36 **BEN:** So.

38 **HAL:** Okay, anything else from staff at this point?

40 **GREG:** Not at this time, thank you.

42 **HAL:** Okay, Mr. Ells, or your representative? Please state your name and address for the record.

44 **BEN THOMPSON (Attorney for Mr. Ells):** Thank you Mr. Chairman. Ben Thompson. I'm an attorney,
and my address 1629 Canyon Blvd., in Boulder. And Mr. Ells is also present here. So let me first address
46 what I think, and probably your counsel will advise you, that a certificate with a stamp on it, we have two here

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2 that both show, and I thought those were surveys and maybe I just look at them wrong that basically say that
4 the entire structure is located on Mr. Ells property. From a legal liability standpoint clearly I think that you can
6 rely on a survey and the certificate stamped by the surveyor. I just wanted to point out too that from this bay
8 window outward there is a 25-foot BLM piece of land over which the right-of-way exists, and so the driveway
10 is there in addition to the fact that it is located on the property. So if we divide this into three sections, this
12 time, this is request number one, to allow the bay window. And we thought we had addressed your concern
14 with even more than one map there, the surveyor says that it's pretty clear. That it's located on his property.
16 And that includes the eaves. I didn't get the impression that he worded it—I mean, I didn't help him word it.
18 That's the same legal description that's on my client's property. I mean on the deed. We thought we had
20 cleared that issue up.

12 **JOHN:** What size is the bay window?

14 **THOMPSON:** I think--.

16 **JOHN:** Because there's no size on here.

18 **THOMPSON:** On the original plans we put there—I believe it's about two and a half feet, isn't it?

20 **FRED ELLS (Applicant) {speaking away from microphone}:** No, it's 4-feet wide.

22 **THOMPSON:** It's 4-feet wide--.

24 **ELLS {speaking away from microphone}:** 8-feet long.

26 **THOMPSON:** And 8-feet long.

28 **ELLS {speaking away from microphone—inaudible}**

30 **JOHN:** Thank you.

32 **THOMPSON:** From the backside, to make sure it's clear, it's 8-feet long but it comes out at a 45° angle--.

34 **JOHN:** I got it.

36 **THOMPSON:** --and then 4-feet thick. Going to point two. Point two and point three are kind of combined.
38 The pump, the water, the line, and the garage, are all combined in that the garage—the purpose of the garage is
40 for the fire truck. And what we're talking here is a difference between what we're requesting of 25-feet and
42 what staff's recommending of 19-feet. And that's 6-feet total, three-feet on each side. And I think if he
44 doesn't get the three-feet on each side that he will not be able to get the fire truck in there, and do the things
46 that he needs to do with the fire truck. So if he can't do that then I don't think he can do any of that. So we do
need the 25-feet and that does seem to me to be a very small distinction with what we're requesting and what
staff is recommending. And apparently number three the staff's requesting anyway, but it is tied—it's tied to
the garage. If we can't get the fire truck in there and do the things with the fire truck that we need to do, then
we don't need number three.

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2 **BEN:** I'm sorry. Is that number three--.

4 **THOMPSON:** Number three is the pump house itself.

6 **BEN:** --the pump house. So without the fire truck, you don't need the pump house?

8 **THOMPSON:** That's correct.

10 **BEN:** I thought the pump house was for the fire department.

12 **THOMPSON:** Well, here's what happens. The water is being pumped up to the garage, and there is a storage
14 tanks at the garage that would be used to fill the fire truck up. And any other fire truck that was also there.

16 **BEN:** Why do you need the storage tanks? You got this well, this mine full of water. You just pump it
18 directly into the--.

20 **THOMPSON:** I think it's mostly for speed. When you have a fire, you don't want to just sit there and wait
22 while water is being pumped into a fire truck. You want to fill that fire truck up as fast as you can. Because
24 probably what has happen is that the truck was already filled up once. It's gone to the fire site. It's emptied
its water, and now it's coming back. And that's the purpose for having all these big tanks. It takes a while to
fill them up.

26 **BEN:** But it's Mr. Ells fire truck that is going to do this, not the fire department's fire truck?

28 **THOMPSON:** The fire department trucks will also use this?

30 **BEN:** Okay—okay.

32 **THOMPSON:** What happens is that they're all filled up once, and they're all sitting there. And then when a
fire occurs they all go to the site, and—you think that's a lot of water, but it gets out pretty quickly. And so
the—you can't the fire trucks down to the mine, and so—that's in bad weather, like say this kind of weather.
34 So the idea would be that even while the trucks are filling up, the tanks are filling up too at the same time. I do
have representative here from the fire department. The staff is not opposing the pump house or that situation.
36 They're just—the only thing they're opposing there is the width of the garage.

38 **BEN:** Yeah. But you're telling us that it's all one big package, and if any one these—the horseshoe nail
comes us, we're going to lose the shoe.

40 **THOMPSON:** Well, it certainly loses the incentive for building the garage at all. If you can't put the fire in
42 the garage, I mean, there's not much sense in building the garage.

44 **BEN:** Okay. I want to ask—I mean, never mind. Are we into questions, or you still making your
46 presentation?

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2 **HAL:** Well, we haven't opened the public part of the hearing, or heard from the fire department yet, but Ben,
I think he's—are you quite willing to hear some of our questions?

4 **THOMPSON:** I certainly am. I'm willing.

6 **HAL:** Okay.

8 **BEN:** Here's what I remember hearing last time. Mr. Ells gave us quite a long discourse about how confused
10 and uncertain the surveys were up there.

12 **THOMPSON:** Yes.

14 **BEN:** Including the old—the old survey, which I understood to be the Glen True survey. And this was my
concern, you know, I've been involved in a few cases where we've had to deal with the aftermath of somebody
16 building something on somebody else's property. It doesn't matter whether it's the Federal Government
property, or somebody else's property. It's a bad thing. Now I—

18 **MALE SPEAKER** *{speaking away from microphone.}*: Can I--.

20 **BEN:** --hang on a sec. I'll just say what I'm going to say, and then you'll have a chance—or your lawyer. I
22 read this thing, and the letter says, "I've prepared this Improvement Location Certificate as based on the Glen
True survey of the said and the survey of the adjoining White Crow Lode that I prepared." And the White—
24 the critical line here is the line between bay window, and what I guess is Federal land there—public land. And
doesn't look to me, like the White Crow Lode, has anything to do with that line. So it looks like we are still
26 relying on this Glen True survey, which the testimony was last month, was pretty unreliable, or at least there
was a lot of differences in opinion, you know, in matters of feet back and forth about, which line was right.

28 **THOMPSON:** Right. If I remember correctly what happen was the surveyor that we used last time to do the
30 Location Certificate did not—the deed says the property's 50-feet wide, when he finished with the survey, his
survey showed the property was smaller than that. And if you take the survey, I mean, if you take the deed
32 description it's 50-feet wide. If take the survey, it was not 50-feet wide. And so, we felt that survey was an
error. So what we now have, I think is three or four surveyors each one saying a little bit different, but the one
34 that we have here today—and that survey did not address the eave situation. He didn't whether the eaves, in
his survey, went beyond the property line or not. But if you go out and survey the line 50-feet wide, which is
36 what this surveyor has done, and then you draw the line, then the eaves are clearly on the property. And Mr.
Ells wants to say something about it too. I mean we have a certificate for you, which says, "That the eaves are
38 on his property." There's no other survey that says anything different.

40 **BEN:** Yeah. But it qualified a little bit, and that's what's the problem.

42 **THOMPSON:** I think all surveyors are qualified. They have lawyers just like the rest of us. And they always
try to qualify them. Mr. Ells wants to say something at this time.

44 **HAL:** State your name and address, please.

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2 **FRED ELLS (Applicant):** Fred Ells, 6301 Sunshine Canyon, and um, I really apology for this, but I've been
4 advised not to talk to you but I have to talk to you. The whole reason this came up is the White Crow. Bruce
6 Correll built one of his mansions out those ten that he put down when there was a mountain merger. He built it
8 on my property. And didn't when Greg came up that I complained to County three times back in '92-'93
10 about that house being built on my property, and the County didn't do anything about it. And didn't know
12 when I started mouthing off to Greg, and I apologize about it, but it was I think his job to stop that house and
14 move that foundation. Subsequently, I had to negotiate with Bruce Correll and sell him my end of my mining
16 claim because I just couldn't fight with Bruce. And it was the Johnson's whose tied to this that's why I had to
18 come in here and get this variance, because in the middle of the process I'd taken the greenhouse off, and Greg
had came up and caught me rebuilding the house without a permit. And he was upset because I was critical of
what was going on with Correll and I Correll kind of took advantage of the County when he built all those
mansions before the mountain merger because he was going to lose five building permits. So that's how all
this started. RMCS is the survey company that did the surveying for White Crow, and right now, the County
Commission has ok'd them to have their house that was partially on my property and change the setbacks and
stuff on that, so that they wouldn't have to tear the front of their house off that was built partially on my
property. The whole problem started, and there's another map that I sent in with this stuff. Do you have that
other map? It's right there--this variance map here. Where's the *{inaudible speaking away from microphone}*. No, there's a big County map. This one. Can I show them this one?

20 **GRAHAM BILLINGSLEY (Land Use Director):** You need to talk into the microphone.

22 **ELLS:** Okay.

24 **PAT MAYNE (Assistant County Attorney):** Yes. You need to turn one of the microphones around, so that
26 you can be heard Mr. Ells, and recorded.

28 **ELLS:** Okay.

30 **PAT:** And could you--.

32 **ELLS:** Okay, um.

34 **PAT:** Could you say what you've got?

36 **ELLS:** Right here you can see the corner section.

38 **HAL:** Could you say--.

40 **PAT:** Mr. Ells, identify the document please.

42 **ELLS:** This document is the corner section of Section 8, and it's in Land Use. And what had happened is
44 back when BLM said this corner section they were off 80-feet. So moved all these mining claims. Last time I
came in here, Drexel Barrell came in and did an initial survey of mine quickly because I needed a survey to
show where my setbacks where. Okay, so last November 6th when I came in here, Drexel gave you that survey
46 and it was tied from mining claim to this corner section. But the corner section's off 80-feet so it routes all

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2 these claims, so I spent a whole bunch of money and I got two more survey companies, Drexel came back up
they resurveyed all these mining claims and most importantly the Grandview, which is right next to me, which
4 is downhill and in front of my bay window. And Glen True surveyed the Grandview and mine, the White
Crow, he surveyed the Dead Medicine, he surveyed all of these mining claims. Now when you take and you
6 attach all those point together Glen's survey is correct. But when Drexel came up and went to the corner
section last month, because I had them do a hurried up survey, that's when they said the Glen True survey was
8 off by a few feet. And so then they came back up and resurveyed, and RMS—um, RCMS came up and he
surveyed, and he's already familiar with this area cause he's doing the legal work, where I have to sell off this
10 north portion of my mining claim to the Johnson's who had a boundary line adjustment two months ago.
Because their house—see the survey was off and so maybe when Correll built that house his survey was off
12 and that's why he built on my property. But it all ties to the section corner being off. And so—I built this
whole house myself, no subcontractors, me! Completely. And I can't risk having that bay window torn off of
14 there, because I worked too damn hard!

16 **BEN:** Mr. Ells before you go. What did Waldner from RCMS survey? Did he survey the White Crow Lode
or did he survey the Dead Medicine? You say he came up and surveyed. It looks here like--.

18 **ELLS:** There's a Mark Heath and Kellogg who are doing all those improvements down County Road 85.
20 He's been up there for the last three years and he surveyed in the Aragain. He's surveyed in probably 15 or 20
of those. There are six more new building houses that are going to go in on 85, and Waldner has surveyed all
22 of those. And then he surveyed in the White Crow. But he came up whenever two weeks ago and surveyed in
the house. Set up with a transit, and surveyed in the house, and did right there, you know, exactly. And then
24 he found the pins that were from Glen True survey, and that's Alpine Surveying. And then with his
information I went back to Drexel, and Drexel brought in his boys back up and they surveyed it again, and
26 there's second map in there from Drexel that shows I have six-tenths of a foot in front of my house. And so
between Drexel and RCMS they're off like three-tenths of a foot, but they show that I'm completely on my
28 property. So that three surveying companies that said, you know, I built on my property. But I didn't
understand when I built that bay window that it was setback problem. I just, you know, I just—I've been
30 working on that house continuously for like 15 years. I mean I built everything there the plumbing, the
electrical. I didn't sub it out, except the roof was the only thing that I subbed out to anybody else. And so you
32 know, I need a variance because I'm a unique person in this County. Nobody else builds their whole house by
themselves, but anyway.

34 **BEN:** Okay.

36 **ELLS:** And then let's go to the fire issue. I need a 24-foot wide fire—24-foot wide garage so that I can put my
38 old '47 fire truck in it, and have other equipment on the site. If it's a 19-foot wide garage, it's not wide enough
to get the vehicles in and out, and especially if there's a fire.

40 **JOHN:** How wide is the truck?

42 **ELLS:** 8-feet.

44 **JOHN:** So why do you need 25 feet then?

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2 **ELLS:** 24. Because the garage door is 14-feet wide, and if it's an emergency situation, you want to be able to
4 get it in and out quick. And if you're going to build, I mean the standard components are built either 20 or 24
feet, and just trusses and everything else layout that way.

6 **JOHN:** But the staff will approve 19 feet wide. Why can't you accept that?

8 **ELLS:** In emergency it wouldn't work. And somebody's going to get hurt. And I don't want to do that. One,
if it's 19-foot or 20-foot wide, I mean that's only six more feet wide, and the property owner.

10 **JOHN:** But you have an 8-foot wide truck.

12 **ELLS:** Right.

14 **JOHN:** So what is the other space for?

16 **ELLS:** For another vehicle to be on the other side, so that you can get two vehicles in and out of the truck.

18 **JOHN:** Another fire truck?

20 **ELLS:** No, it will probably be my personal pickup. See the confusing—the confusion here is--.

22 **JOHN:** Okay, but the staff is offering a 19-feet wide garage.

24 **ELLS:** Right.

26 **JOHN:** The County will approve it. And I think that's a wonderful idea to accept what they're offering,
instead of having to go through the whole process.

28 **ELLS:** I'm here at the variance, and I'm requesting—asking you architecturally, if can have a 24-foot wide
30 garage. And all giving me is 6 feet on one side, and the Chris Shields that live down below has no objection.
Susan here's tonight who has some objections with the fire department going in and out of the properties, and
32 you know, ruining her peace and quiet. But we've talked with the fire department, and we've made an
agreement with them that they won't come in there and do trainings more than three or four, maybe five times
34 a year. But as far as the pump house—the pump house doesn't it pumps water out to the County Roads, and it
is separate from the garage. So the pump house is okay, and can put the pump in and have that winterize so
36 that there is fire protection from the 100,000 gallons that's in that mineshaft. And then the garage, I would just
appreciate an extra 6-feet, so that if we have an emergency and we're in there hustling and running around then
38 nobody gets hurt. So if we have a wide garage that I can get my old truck in and out of without tearing stuff
up.

40 **BEN:** Okay last time my recollection was—you said that you wanted that space to be able to turn that truck
42 around.

44 **ELLS:** Yeah, that too! There's going to be a thirty foot apron in front of it, so if the fire department—well,
what you need to do is you need to listen to the fire department. Because the fire department still has a
46 problem they're not sure if they want to take a truck down into that area if we have a forest fire. Because then

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2 we can lose one of our apparatus, one of our pieces of equipment, because it's a real steep slope there and
chimney the fire will just race right up and down that. What they would like to see is a line to a fire hydrant
4 that's on 85 that we've been talking about the last four or five years in it never gets done, just because of all the
County issues. And I'm sorry—if I keep talking I just confused you more, I really apologize. But it's—you
6 need to—I was on the fire department, I'm not on there now for the last five years. But I fought on four or five
of the last forest fires around here, and it's just—unless you fought on a forest fire, you don't know, it's just
8 scary as hell. And I mean when you house is on the line, yeah, right, enough of that. Okay.

10 **HAL:** Any further questions at this time? Should we go onto the fire department from here to get that done?
At this time we will open the public portion of the hearing. Are there members of the public here who wish to
12 speak to this matter? I think we have two. Does it matter who goes first? Come on up. And please state your
name and address when you reach the microphone.

14 **PUBLIC HEARING OPENED.**

16 **SPEAKERS:**

18 **SUSAN GOLDSTEIN (Adjacent Property Owner - 6319 Sunshine Canyon Drive):** I'm Susan Goldstein
20 and I live at 844 Humble, Denver, Colorado 80218, and I'm the owner of the Grandview mining claim which
is the land that's in front of the land Fred's house is on. And I just wanted to state today that I would like to
22 see us be able to facilitate some kind of solution so that the fire department can have the pump house. And
don't know exactly—I've spoken to someone who used to be with fire department. Who's no longer the head
24 of the fire department, so I don't really know the details about what they do or do not need. I still don't believe
that Mr. Ells has legal access to cross my claim to get to his driveway to get to his house. But at this point he
26 does have permission to cross it. And he has made a proposal to me to compensate me for the trees that he cut
down without my permission on my property. But it is not something that is adequate, and we have not been
28 able to agree on it. So I just want to make it clear that I want the fire department to be able to get to the water
if you all have authority to help have that happen. If the garage is going to impact my building site then I do
30 have problem with it. If it isn't whatever you do—do. Do I need to stay for questions?

32 **HAL:** Does anybody have any questions?

34 **BEN:** Just a comment. The issue of the trees, I don't think it's anything that's relevant to what we're going to
decide here in just a moment.

36 **GOLDSTEIN:** It's only relevant to the fact that it's precipitated a lot of the problems that are going on
38 between the two of us.

40 **BEN:** Yeah, that may be. But in terms of the substance of the variance it's not.

42 **GOLDSTEIN:** I understand that.

44 **BEN:** Okay.

46 **HAL:** Okay. Thank you. Please state your name and address.

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2 **HENRY BALLARD:** I'm Henry Ballard. I live at 170 Misty Vale. The fire department is very anxious to get
4 access to this water. It fits well with our plan of having water available every have mile or so along the road.
6 And it looks great! We think there's a lot of water down there. And want to work figuring out how much
8 there is, and figuring on how to get it to the road. Those are both significant projects we haven't had time to
get very far on either one. So a pump house may be part of the solution, and if we—if the pump house is part
of the solution then it will be great to have a variance to be allowed to build it. That's pretty much where we
stand, and we've loved to get the water.

10 **HAL:** Okay. I have a question about people owning their own fire equipment. Is that a usual thing that
12 happens very often?

14 **BALLARD:** No.

16 **HAL:** Would other fire volunteers member use it, or is it, just because of insurance and that sort of thing, that
18 the owner would have use it? How does the fire, I mean I maybe be putting you in a position where you don't
have the answer for it, but how the fire department feel about other peoples fire equipment showing up?
Where does that fit in the bigger picture?

20 **BALLARD:** I don't think we know where it fits.

22 **HAL:** Okay.

24 **BALLARD:** It hasn't been an issue. I would think that anyone that is going to bring fire trucks would feel the
26 same we do, as the people who use it should know how it works. And if he wants to train us on his fire truck
then we could use his fire truck as well as ours.

28 **HAL:** Okay. Questions?

30 **MICHAEL POE (BOA Member):** You would not store any equipment in this garage?

32 **BALLARD:** We have no plans to store any equipment on Mr. Ells property.

34 **BEN:** How wide are your bays? And where's your station?

36 **BALLARD:** Our station is at 311 County Road 83. That would be about three-tenths of a mile down the
38 road, and about half a mile up before you get to Mr. Ells property. You know, the inadequacies of our station
are interesting thing. We have a 25-foot door and three trucks behind it. And we can't get all three trucks out
40 at the same time. You have take one truck and then you have to steer the others to get out. And we're working
on solving that problem. It's—you should have a nice wide door, you know, the station we're thinking about
42 building would have 8-feet for every truck. And like 6-feet between trucks so there's plenty of room to
maneuver it. Right now we're walking sideways between our trucks. So we can appreciate his need for area—
space in the garage.

44 **BEN:** The water supply is going to be pumped out to the--.

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2 **JOHN:** So 19-feet wide would be enough for one truck?

4 **BALLARD:** I don't know everything he needs to put in his garage. I don't think I can address that issue.

6 **BEN:** The water supply is going to be piped out to the road to the main—the County Road, which is 85, right?

8 **BALLARD:** 83.

10 **BEN:** 83. Okay.

12 **BALLARD:** The County Road is 52, and 83 is another County Road and it's down the way.

14 **BEN:** Okay. Well, it sounds like—first of all it sounds like the plans are not finalized to this yet.

16 **BALLARD:** That's right. There are lots of issues having to do how far down in the mine the water is, and how far—how close to the water you can get the pump. And you can only pump up so far so you have to get the pump down close to the water. We'd like to be able to get as much water out there in an emergency as possible, and they proposal to put a siphon is great because doesn't depend on pumping water up. But it has other complications of trying to bury a line down to County Road 85. So we're not sure—and there are questions of money that would be involved. May be this possibility of a pump house and line underneath the driveway, if that works, and it could work, might be a good solution especially it means that Mr. Ells spends all the money and the fire department doesn't have to get involved, so there's interesting possibilities.

24 **BEN:** You actually said something that puzzles me now. But it makes sense so I hadn't thought about it too much. And that is you're going to put a pump down in the well, down in the mine.

28 **BALLARD:** Well, you have to put the pump lower. You may dig a hole in the ground so it's closer to the water level.

30 **BEN:** Yeah, it can't be—I mean you can't be pulling suction more than, I don't know what, about 15 or so feet—20 feet?

32 **BALLARD:** Right.

34 **BEN:** At this elevation?

36 **BALLARD:** Right.

38 **BEN:** On a hot day?

40 **BALLARD:** Maybe 14-feet, whatever the number.

42 **BEN:** Right, it's not too much. Okay. So if the mineshaft is 30-feet to the water surface, you're going to have to put the pump down there, right?

46 **BALLARD:** It's not that far down to the water, but the question is when you start to suck down--.

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2 **BEN:** When you draw it down, when do you start sucking air?

4 **BALLARD:** When do you starting sucking air? And have you gotten 10,000 gallons or 30,000 gallons.

6 **BEN:** Yeah, okay.

8 **BALLARD:** And if there's more water down then we might push for getting the pump, if we're going to use
10 the pump further down in the water.

12 **BEN:** Yeah.

14 **BALLARD:** To get more water available.

16 **BEN:** Have you guys done any assessment of the water quality? Are there issues related to water quality with
18 all the mine—acid mine?

20 **BALLARD:** I'm not sure where that stands. There are always issues.

22 **BEN:** I mean, it sounds I guess the point is there's a lot of planning and analysis that has to be done before
you actually build this thing.

24 **BALLARD:** Right. And you know water quality, you know, we have to think about if we put it in a tank
26 where it's going to sit for a while, do we need to throw some chemicals in there to get it up to a reasonable pH.

28 **BEN:** Okay.

30 **JOHN:** One thing I'm a little bit concerned about is when you dig in the mine to put piping in, you know, it
32 can hit another person's, Susan's property, next to another person's property. So all of that would need to be
approved before you can even think about digging on the property.

34 **BALLARD:** I agree. That's another issue, making sure it--.

36 **JOHN:** Okay.

38 **HAL:** So basically, the fire department's position is if all of this stuff can be worked out, it might be a very
40 valuable addition to your water supply sometime in the future. If the details could be worked out, and that sort
of thing, and that's basically why the fire department supports this variance?

42 **BALLARD:** Yes.

44 **HAL:** Okay.

46 **BEN:** I have one more question. How do the tanks fit in—the water tanks?

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2 **BALLARD:** I don't know. It could that having tanks could stage more water, but that's part of the plan that
hasn't been--.

4 **BEN:** And you don't know what would go in the pump house, I mean physically, the pumps and shaft?

6 **BALLARD:** Physically, I don't know what the plans are. The pump house still might cover the pump. It's
8 just it might have to be sunk down into ground far so that it gets a significant amount of water.

10 **BEN:** Okay. That's all I got.

12 **BALLARD:** Thank you.

14 **HAL:** Okay, thank you. Are there any other people here from the public who wish to have input at this
hearing at this time. If not, the public section the hearing is closed.

16 **PUBLIC HEARING CLOSED.**

18 **ELLS:** Can I--.

20 **HAL:** Well, just a second. Now we're back to us. Questions? Ideas? One of my opinions about the pump
22 house is that I'm going to support the variance for the pump house with attachment to it that the pump house
could exist if it is done in conjunction with the fire department. And it becomes a thing that the fire
24 department deems necessary to use. How does everybody else—what do you think about that?

26 **BEN:** Well, I think that's consistent with the--.

28 **PAT:** Could you speak to the mic, please Ben?

30 **BEN:** Oh, I'm sorry. Well, I think that's consistent with what Mr. Ells has asked for, but I have a further
concern, and I don't know quite how to handle this. But it sounds like this whole pumping scheme is sort of
32 not yet done, and so we don't know what he's going to build. I'm inclined to support a variance that would get
the fire department water supply, but I'm not sure that's in front of us, because nobody knows what it's going
34 to take to do that.

36 **HAL:** Right. We're just talking about the potential pump house that's it.

38 **BEN:** Yeah, but I don't know what else--.

40 **HAL:** It's very small structure.

42 **GRAHAM:** I have a point of order I would like you to consider. Graham Billingsley.

44 **HAL:** Gladly.

46 **GRAHAM:** Traditionally after the public speaks you give the applicant an opportunity to respond to what

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2 may have been said, and the staff as well.

4 **HAL:** Okay.

6 **GRAHAM:** So I hope that you're still intending to do that.

8 **HAL:** Okay, thank you.

10 **PAT:** And just another point of order, one of the things that you had done in your hearing last month, which
lends a great deal of order to your deliberations was to sort of say "There's these three different issues, and
12 we'll deal with them one at a time and thoroughly." And I'm a little concern that this deliberation is very much
all over the map. And if there ever were an appeal of this hearing it would be very hard for outsiders to decide
14 for what your deliberations consist of.

16 **HAL:** Okay that was one of the reasons I thought perhaps we could deal with the pump house issue first.
Because it seems to be, to me, it seems to be least complicated.

18 **PAT:** Well, maybe you could define for the record what order you're going to deal with all of the issues. And
20 then hit them all.

22 **HAL:** How about doing the pump house as number one? *{Paused}* Okay, we'll do the pump house as
number one. Any preferences on number two and three from anybody? Okay, then why don't we do number--

24 .

26 **JOHN:** The garage—the garage size.

28 **HAL:** Okay do that as number two. And then number three the setback variance for the house and the bay
window. Okay.

30

PAT: Thank you.

32

HAL: Okay back to the pump house. And certainly the reason I brought this up was so that we could sort of
34 get this set down. Are there any questions for Mr. Ells? And is there something else you want to say about the
pump house?

36

ELLS: Well, you've asked a couple of question already. The pH in the water in the mine itself is between 6.3
38 and 6.5, so it's a little bit acidic. Sodium bicarbonate—sodium, no, well, there's a neutralizing limestone that
will neutralize that. But anyway, from the pictures and I worked—well, I'm a mechanical engineer, and I
40 worked extensively up in Wyoming on reclaiming mines. I've got an award from the Federal Government on
site where we closed 52 mining holes down. It was the Sunrise project. It won the Western Regional award for
42 the best mining reclamation. But what I'm trying to do is that we got an existing mining shaft. And what it is
there's a shaft that comes down like this that the State, that Julie Menard, I worked with her on putting a
44 culvert down the middle, that's an air shaft that comes down. And then there's a tunnel that runs about 150
feet long and it is 20 feet wide, and about 30 feet deep—30—40 feet. When the mine is full the water comes
46 over this geological dike and it will actually run over the top. And about 10 years ago—12 years ago we

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2 pumped the whole thing down and it delivered 5-gallons a minute for two weeks, which calculated to about
3 85,000 gallons. So when the mineshaft that's leveled all the way across is full of water it's equivalent to—
4 what 20 swimming pools? And so there's an incredible amount of water that just drains into there. And
5 there're two or three different opinions on the Fire Board.

6 Eric Bader wants to just have a siphon hose that goes over my property. Goes to chucks, I forgot their names,
7 I'm sorry. The next doors neighbors it goes across theirs and they're willing to give an easement. And so that
8 siphon line which is just a 4-inch line would go over the geological dike and go down the hill to a fire hydrant
9 that's by the new County Road, well, the old County Road 205 that goes from Sunshine down to Salina. And
10 that's three-quarters of the way being developed right now by Mark Heath to put three or four big, huge houses
11 down there. The probably is you can't fire in and out of there. There's no way to get clearly to Fourmile.
12 Within the next five years, and this is just my opinion, that will be opened so that you can get to Fourmile and
13 we can have tankers come up an down that road, in case that steep slope, in case there's a fire. And it'd be
14 really important to have a fire hose—hydrant right on that road so that we can fill tankers in 3 or 4 minutes, 5
15 minutes at the max, and then pull them down into Fourmile. But then there's all these other issues that they
16 don't want that road blown open because the residences in Fourmile don't want all that extra traffic coming
17 down from Sunshine. Right, stop on that.

18
19
20 Okay. So anyway the pump house is just a 15 horse power Honda three-gallon a minute pump. And I can
21 make the pump house down to 4 x 8, but I thought County Code was that you could have a storage shed that's
22 10 x 12 or smaller and you don't really need a building permit on that. But the variance issues come in. So the
23 placement would be so that pump house is 10 feet from the property line, and we're going to need to move it
24 back and forth depending on where the piping goes over the hill to the fire hydrant. And that's why I don't
25 know where the pump house is exactly going to go until we do more work on putting in the pipeline, and then
26 the pump house.

27
28 The problem with the easement that Susan has, that she doesn't believe that I have legal right. There's
29 problem with the easement where we can't put piping down that road until that's all taken care of. And so the
30 fire department, I've offered to pay for all the expenses as far as building the pump house. It's my pump. Put
31 in the pipe, and everything! And if there's a fire, there's already a code or a law that says, "You cannot stop
32 the fire department from using water in the case of an emergency." So what I'm offering is to pay for the
33 expense of putting in the pump house, the piping, and everything. If I can't get legal easement or an easement
34 for pipe so the fire department isn't out that money, but it's wearing on a zone over there, where there is no
35 cisterns. I mean there were supposed to be cisterns put in that area and they haven't done them. And so this, I
36 mean would add up most of the cisterns that Sunshine puts in are 10—15 thousand. This would be like putting
37 in 10 cisterns.

38
39 **HAL:** Okay, I don't mean to interrupt you, but I would like to if I can.

40
41 **ELLS:** That's all right. That's fine.

42
43
44 **HAL:** So you said you don't really know exactly where the pump house will go. A question for Greg, if the
45 Board granted the variance for this, the exact location of the pump house wouldn't matter a great deal as long
46 as it followed the setback variance that this Board granted. Is that—am I understanding that correctly?

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2 **GREG:** Well, the applicant did provide a location map as part of the packet, which is basically opposite of
4 where the garage would be located on the property, and he's showing the 10-foot side yard setbacks at that
6 location right where drive goes into. So that's where we would want to be assured that's where the pump
 house is going.

8 **HAL:** Okay. Thank you.

10 **ELLS:** Can I ask a question?

12 **HAL:** Sure.

14 **ELLS:** Well can I move the pump house north and south if it's parallel on that mining claim, I can move it
 north and south as long I follow the 10-foot setbacks. Is that correct?

16 **GREG:** That's not correct. This is more of a site specific plan, as I've mentioned to you a couple of time. So
18 if you think you need more of a blanket area for the 10-foot setback that's something you have to specifically
 have to propose.

20 **ELLS:** Well, the front and back setbacks are 25-feet. And I've got 1500 ft. there, so it would seem to me, and
22 I don't know this law at all, but it would seem to me that I could move the pump house north and south, as long
 as east and west it keeps the 10-foot setback.

24 **GREG:** Part of the issue is that with adjacent property owners this is what they are seeing. And if you move a
26 pump house closer to their property where they weren't expecting it then that's--.

28 **PAT:** Mr. Ells, there's a notice requirement that went with this variance, and the notice was given to your
 neighbors that said this was your plan. So if you vary that plan your neighbors are not on notice, and this
30 hearing wouldn't have been held with that notice either. If you intend to have an adjustable plan that's not
 what's been proposed.

32 **ELLS:** Hmm, okay, then I was—I mean, it's just a small—it's like 10 x 12. It's a small pump house, and it
34 depends where you put the pipe in along. See once you dig the trench for the piping, we don't know what kind
 of rock we're going to hit once we dig through there. And so depending on what the rock is depends on where
36 the pipeline goes. And then the pump house has to be parallel—in line to the piping to pump down the hill for
 getting the water down the mine.

38 **PAT:** If it was a request depending on those variables it needs to have been made that way.

40 **ELLS:** Well, my understanding was the 10-foot setback on the side yards.

42 **PAT:** That may be your understanding, but there's a notice problem with this.

44 **ELLS:** Okay. Okay.
46

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2 **HAL:** Okay, we're still on the pump house.

4 **BEN:** We need to let staff respond.

6 **HAL:** So in other words because of notice and because of those other things where the pump house is shown, well, has already been shown to the neighbors, and that's where it needs to be.

8
10 **GREG:** Right. When the building permit was submitted by Mr. Ells I did meet him at the counter and explained to him this is the proposal that is being sent out and this is specifically what we're reviewing. And I've attempted to explain the position a couple times to Mr. Ells that these are site specific type variance and that's really no—very little leeway that we can look at.

14 **JAMES:** Mr. Chair.

16 **HAL:** Yes.

18 **MOTION FOR THE PUMPHOUSE STRUCTURE:**

20 **JAMES ORTEGA:** In the matter of Docket Variance 02-15 the Ells Variance specifically the pump house, I move that the Board approve the variance as documented in the staff recommendation, dated December 4, 2002, conditionally approved, with the conditions—three conditions noted in the recommendation.

24 **HAL:** Is there a second?

26 **MICHAEL POE:** Second.

28 **HAL:** All those in favor "aye."

30 **BOA MEMBERS (James Ortega, Hal Osteen, and Michael Poe):** Aye.

32 **HAL:** All those opposed?

34 **BOA MEMBERS (John Dickinson and Ben Harding):** Opposed. No.

36 **MALE SPEAKER {speaking away from microphone}:** You're supposed to have a discussion.

38 **HAL:** More discussion? Oh, as to why we voted the way we voted?

40 **PAT:** I think that would be helpful, yes.

42 **HAL:** That would helpful. Okay.

44 **BEN:** What was the vote?

46 **HAL:** Okay. The vote was 4 to 1.

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2 **GRAHAM:** 3 to 2.

4 **JAMES:** 3 to 2.

6 **HAL:** Oh, 3 to 2.

8 **BEN:** Who voted "no"?

10 **HAL:** I voted in favor.

12 **JAMES:** I voted--.

14 **PAT:** Maybe you can poll the Board.

16 **HAL:** I would like to poll the Board as to their vote, and some little comment as to why they voted the way
18 they voted. Let's start on your end.

20 **MICHAEL:** I voted just to follow staff's recommendation on it. It's site specific that's why I voted.

22 **JAMES:** James Ortega. I too am in agreement with the staff's analysis and recommendation. And why I
voted "yes."

24 **HAL:** I voted to approve because it seems to be—to meet some community needs and following the staff's
26 recommendation I think it's a good idea.

28 **BEN:** I voted "no" because the evidence and testimony presented today indicates that there is no plan for this.
And we can't grant a variance without a plan. The fire department doesn't have any current plan to use the
30 water. They don't even know if it's feasible. And it just became apparent that Mr. Ells doesn't even know
where he's going to put the building. Now we have a little drawing here that's microscopic that's got a square
32 drawing on it, which would be the basis for siting this thing whenever he decided to build it. And that would
be it. And it might not even serve the public needs. We have no way of knowing, I mean, this could be 25-foot
34 away from that mineshaft for all we know. It's just a sketch. It's just drawn here. So, and had we had a
chance, I agree with Graham, we should've have had some discussion because I would have said that, as well
36 as, I would have added a limitation on the variance that this be done in conjunction with the fire department,
and be planned and developed with the fire department. So that's why I voted "no."

38 **JOHN:** I voted "no" because of what Ben said. Everything needs to be registered, documented. Everything
40 the property line is very small. There is no side--size for building the pump house. Fred Ells doesn't even
know really what size what the pipe will be there's so many discrepancies.

42 **BEN:** Let me just say this is not a matter of why I voted the way I did. But just—I would support a variance
44 that functionally did what Mr. Ells is trying to accomplish. I have no problem with granting a variance to put a
pump facility for the fire department to use. The problem is that the variance application is flawed because it
46 turns out they don't even know where they're going to put it. He wants a board based variance to put it

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2 anywhere. If comes back with a firm plan, and it sounds like that's ways off. It's not like we're not going—
they're going to have this thing in place by next summer because we don't grant them a variance. They're not
4 going to have it place next summer because they don't have the slightest clue what they're going to do. Come
back with a plan. I know, I've granted—done—I've been involved in a lot of variances and I can't recall when
6 we didn't have a plan. I know we've turned some down before because they didn't have a plan. And the same
sort of thing became apparent at the hearing that, you know, they didn't even really know what they were going
8 to do.

10 **JOHN:** Right.

12 **HAL:** It was my understanding that if we voted to approve a variance then the fire department could be
involved in the planning of the thing. And he would not be able to get a building permit unless it was
14 appropriately sited within the limitations of the variance that the staff suggested.

16 **BEN:** It has to—here's the problem. What page are we on here, and maybe there's a bigger version of this.
Oh, wait, it's earlier. Oh no, you guys didn't give us page number this time. It's in the diagram that said, right
18 behind the recommendation, I'm sorry it looks like it's right after the notice. Because I think this was attached
to the notice this is what Pat was talking about. So we got the notice and on backside of it is the building
20 permit application, and then we got this drawing. There's a little square here, and that is all we can grant a
variance for. And let's just imagine, it's got some wording there, I think it says "utility shed" but it sort of a
22 smudge next to a smear. But I think it says, "utility shed" because it's been copied a lot of times. Let's just
say the actual location of the mineshaft is between liberty and shed there, or utility and shed. You know, we've
24 granted a variance that's not over the mine. How have we met public needs by doing that? We haven't. What
he wants be able to do is to put this thing anywhere along the 1,500 feet, that's what he said, you know, within
26 the 10-foot variance in mind. You know, we just can't do that. We can't—that would be changing a setback.

28 **PAT:** I think there's one more member that you need to hear from. And I would also put out that you have a
procedural error here, because you had a motion, a second, and an immediate vote, no discussion, and now
30 you're having the discussion after the vote. You have a 3 to 2 vote on your hands. Which means the 3 to 2
vote means at this point because your rules under Roman numeral—your supplemental rules of III (F)(6)
32 requires the super-majority at least four members of the Board approve that you have effectively at this
juncture you defeated the variance for the pump house, unless another motion that would acceptable to the full
34 Board would be made, or some amendment to the motion that has been defeated is made. So I think you have
to hear from one of your other members that hasn't spoken yet. And then maybe you can discuss how you
36 wish to proceed on the pump house, if you want to do anything but what you have done.

38 **BEN:** Just for the record. John did speak, but briefly.

40 **PAT:** Okay. Are you finished John?

42 **JOHN:** Okay, so everyone's spoken. So the Board right now has defeated the motion that was on the table, I
think you can entertain any other motions that might be acceptable to Board now that you've heard the
44 discussion.

46 **HAL:** Ben? Would you--?

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2 **BEN:** No. I'm not going to offer a motion. I'm going to tell that unless there's more information out there
4 than what we've got, I can't support a variance. It's a pretty fundamental problem that I have with it. It turns
6 out after listening to testimony tonight that there isn't a concrete plan for this, and we don't even know if this is
8 the right spot. Without a plan we can't grant a variance. So I'm not going to support one. I mean unless
somebody comes up with some more information that says, "Yeah, this is the spot. This is where the building
is going to go." Because this was what was noticed, this is what the neighbors saw. This is the legal basis for
it. If he comes in and builds it somewhere else then he and County are going to be opened to a challenge.

10 **JAMES:** I would suggest that we move on to the next item on the Board.

12 **HAL:** Okay. The next item is the garage. Comments? John.

14 **JOHN:** Okay. This is discussion, correct?

16 **HAL:** Yeah.

18 **JOHN:** Okay. Just making sure. Being architect myself I have never heard of building more than 19-feet for
20 one fire truck. But I feel strongly that the staff offering 19-feet wide, I think that's pretty comfortable. And for
22 safety, for welfare of the neighbors, etc., and the truck being 8-feet wide, I know he wants to use his personal
vehicle as well in the garage for whatever purpose, but the purpose of the variance was for the fire truck. And
24 you know, he's saying he's using his—he never said that he was using his personal vehicle until today, and that
isn't in any of the documentation. So opposed to 24 or 25 feet, but I do support the staff's recommendation for
19-feet wide the garage. And that is it!

26 **HAL:** Okay. Ben?

28 **BEN:** I'm going—I agree with John.

30 **HAL:** I agreed with John.

32 **JAMES:** I agreed with the staff recommendation.

34 **HAL:** Okay. Let's hear a motion. And let's make sure we get the garage. And is there a specific number
36 attached to the garage.

38 **BEN:** Answer this for me. Where does the 19-feet show up? The 19-feet, I think that just without a variance
40 isn't it?

42 **GREG:** That's correct, if I may. Greg Oxenfeld with the Land Use staff. The basis for the comments is that
staff had noted that the reason the why we couldn't support, or one of the reasons why we couldn't support the
garage, is we felt that a 19-foot wide garage could be constructed on the property and meet setbacks. So
44 effectively what you would be doing is denying the applicant's request for a variance to the 25-foot side yard
setback.
46

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2 **HAL:** Greg, am I correct in that the number for the variance for the garage would be 02-6, no what it? No,
that's the number of the building permit application. Okay I see.

4
6 **BEN:** These are all the same variance number.

8 **GREG:** Yes, they are. So as part of the motion you're identifying each one of the requests as part variance
Docket #VAR-02-15. And so our action letter will have to call out each one of the building permits on how
you have acted.

10 **HAL:** Okay. Do I hear a motion for this?

12 **VARIANCE FOR THE DETACHED GARAGE:**

14 **JAMES ORTEGA:** Mr. Chairman. In the matter of 02-15 the Ells Variance specifically the unattached
garage, I move that the Board uphold the recommendations of staff based on staff analysis and
16 recommendation.

18 **HAL:** And deny the variance?

20 **JAMES:** And deny the variance.

22 **HAL:** Is there a second for the motion?

24 **JOHN DICKINSON:** I second.

26 **HAL:** All those in favor of the variance—I mean the motion.

28 **JAMES:** I move for discussion at this time.

30 **HAL:** As soon as discussion is finished.

32 **BEN:** I'll just add that the testimony here tonight indicated that the garage that could be built without a
variance was entirely adequate for fire fighting equipment.

34
36 **HAL:** My feeling is the same that it seems to be of a more two-car garage than necessary for a fire truck. And
I think he can could ways to accommodate a 19-foot garage.

38 **MICHAEL:** I would agree.

40 **HAL:** Any more discussion? Are we ready for a vote? All those in favor "aye."

42 **BOA MEMBERS (John Dickinson, Ben Harding, Hal Osteen, James Ortega and Michael Poe):** Aye.

44 **HAL:** Those opposed. *{Paused - Silence}* The motion carries. All right part—section Number 3 is back to
the setbacks and the bay window, is that correct?

Transcript for Docket VAR-02-15: ELLS Variance
November 6, 2002
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2 **BEN:** And I have a question about this for staff. My recollection from last time was that there were sort of
4 two different issues here. One had something to do with recognizing the earlier—recognizing the building that
was done under the earlier variance. Right? Can you remind me? There were two parts one was the bay
window--.

6 **GREG:** That's correct.

8 **BEN:** And the other was recognizing the part that had been built under the earlier variance that may have not
10 been in somehow compliant with that variance or something.

12 **GREG:** Correct. The Board did official take action on the existing structure minus the addition, the 4-foot
14 addition, to recognize basically what's on the ground.

16 **BEN:** So we did that last time?

18 **PAT:** Gentlemen, if can refer to your Minutes from the last hearing you will find on the 4th page at the bottom
a motion for the 1986 footprint which was approved by the Board 5 to 0. And then you will go on to page 5
the motion for a variance of a bay window, which was then withdrawn by the applicant pending this hearing.

20 **BEN:** Okay. I haven't found it yet. *{Paused}* Oh, I was on the wrong page.

22 **PAT:** And then if you turn it over you see the rest.

24 **BEN:** Yeah. Okay. That's all. I understand. Okay, we did that.

26 **HAL:** Do have anything from staff about the bay window, other than--.

28 **GREG:** Staff has no other additional information, or further analysis. We feel that the previous analysis
30 addressed that particular issue.

32 **GRAHAM:** Graham Billingsley, Land Use Director. I thought it might worthwhile where the Improvement
Location Survey is a bit ambiguous as to location where it is as opposed to a survey. And the language that is
34 on that is exactly what's on all them. Because what you do is you take a survey, and then using that survey you
locate the improvements on the property. That's what an Improvement Location Certificate or Survey is, it's
36 not a survey of the property. It's a survey of the improvements on that property. It uses as a base the last
known survey. And if what you had wanted was a new survey of the property that's not an Improvement
38 Location Survey is. It's an everyday issue in our office because people are always bringing in their
improvement location surveys in, which is not a boundary survey.

40 **BEN:** Okay. Don't go away.

42 **GRAHAM:** Well, I can't go too far into this technical field, as I'm not a surveyor.

44 **BEN:** No, it's not a technical question.

Transcript for Docket VAR-02-15: ELLS Variance
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Page 24

2 **GRAHAM:** Okay.

4 **HAL:** You have a question, John?

6 **BEN:** There is a policy on the part of the Land Use about when you require a survey--.

8 **GRAHAM:** Yes.

10 **BEN:** On a setback variance, what is that policy? I can't remember it.

12 **GRAHAM:** Well, whenever it is within 10% of the setback. And we only require an improvement survey, not a new survey of the property. The assumption is that the original survey that we get is correct. It's stamped by an engineer, and we're not in a position to dispute that, so that's taken as correct and then from that survey the improvements are surveyed. If there's an issue with the adjacent property owners that's not a County issue, that's between the property owners.

18 **BEN:** So what've required in the past, and these are the cases I recall. Is that for them to go out and survey where they are going to put their footings.

20 **GRAHAM:** Right.

22 **BEN:** And make sure--.

24 **GRAHAM:** Right. Based from the property line of the survey—the most recent survey of that property.

26 **BEN:** Okay. So now then you said, "The County's covered if we do that," but "if there's a problem with the survey that's the landowners problem to deal with." Is that what you said just then?

30 **GRAHAM:** That's right. I don't know if "the County's covered" is correct, because I don't know that we have any liability to start with. Our only issue—our regulations being met, and you know we assume that a survey done by a licensed surveyor is correct. We can't make any other assumptions. The County Surveyor could call it in and questioned if he has some information that surveyor didn't know. And from time to time he does that. And he's in our office everyday and he looks at surveys that are submitted. So you know that's a different issue, but once that survey is stamped and submitted, and properly filed, then that's it. If there's a dispute with a neighbor then it usually a neighbor whose used a different surveyor and those two surveyors have to work that out, and then often goes to court and ends up in a quit claim of some sort to get a boundary line established. But that's outside of our process and requirements. So what we would typically do in a situation like this is ask for exactly the survey that Mr. Ells submitted to you, not for a survey of the property, but a survey of the improvements on that property based on last survey of the property.

42 **BEN:** Okay, and in the normal cases that we deal with where people here first before they started their footings, we'd say that you have to actually go out there—a surveyor has to place the stakes for footings that's the purpose.

46 **GRAHAM:** Yeah. Actually, we don't care about the footings we care about the foundation wall.

Transcript for Docket VAR-02-15: ELLS Variance
November 6, 2002
Page 25

2 **BEN:** Yeah. Right. The foundation. Okay.

4 **GRAHAM:** Some places do care about the footings, as the guy that sits down next to Greg today, but it's the
6 foundation wall that we require to be surveyed.

8 **JOHN:** Okay. Graham. Let me remind you at the last meeting James and I withdrew our proposal because of
10 the property surveyor prior to this December 4th meeting. The reason we asked for the property surveyor is
12 because the bay window was so close the adjacent property line. So the Improvement Location Certificate was
14 .3-inches from the property line. I would not have approved a variance for the location for improvements. If
you don't exact property line I wouldn't be approving a variance because of the last meeting we had a problem
with where the property line where. So that's why withdrew our proposal.

16 **GRAHAM:** Yeah. I understand. And I wasn't other than commenting on that as far as the Land Use
Department's concerned we accept that survey. If it's wrong that's a property issue between them and the
18 Federal Government, I guess is the adjacent property owner. We are not in the business—we don't have the
expertise and we don't—we couldn't possibly take on the responsibility of disputing surveys. So it may put
you in a position, which you're uncomfortable, and you should vote based on your level of comfort.

20 **BEN:** Well, that--.

22 **GRAHAM:** And if you feel that the surveyor do a new survey of property, you know that's something that
24 you all may have asked.

26 **JOHN:** A property survey that's what you're saying that's different.

28 **GRAHAM:** I understand. All I was doing was explaining what an improvement survey was.

30 **BEN:** Well, I think those comments are helpful. I think mostly about the policies of the County. Mr. Ells I
32 think he's recognized that he has introduced a fair amount of confusion about some of this stuff. And you
know we have sort of vague notions that a section corners off by what was it 80-feet or 8-feet, I can't recall, I
mean this is a big bust.

34 **GRAHAM:** We've had some or discovered that are 200 or 300 feet off from where they originally sat:

36 **BEN:** And has that precipitated a lot of boundary line adjustments?

38 **GRAHAM:** Absolutely. Constant. It's most of Greg's work—boundary line adjustments.

40 **BEN:** Well, it's good job security. {Laughter}

42 **GRAHAM:** The surveying capabilities of those people who are paid by the hour by Federal Government
44 some hundred years ago, probably aren't up to the standard we use today, but that's the bases.

46 **BEN:** Okay.

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2 **JAMES:** Do we want to allow the applicant to have any rebuttal so we can move on?

4 **HAL:** Absolutely. Mr. Ells.

6 **ELLS:** As you stated, and as I've stated, there's a whole lot of confusion here. That's why I hired two more
8 survey companies and they came up and they surveyed what Glen True of Alpine Surveying originally
10 surveyed. When Drexel came up last month they didn't find the corner markers, the rebar with the caps on it
12 that Drexel—which Glen True had put in. Drexel didn't find those. Drexel just took 5,422 feet or something
14 and went to the section corner and that's how they came up with last month's improvement location. They
16 didn't come up. Last month's when I brought you the last one that was wrong because they didn't find the
18 corner markers that Glen True put in. The rebar are there! RCMS found them, and then he pointed out to me
20 where they were. And I called Drexel back up and they went out resurveyed it again. And that's why this map
is different from last month's, and this is what they certified to be true. But if you look really closely Drexel is
a couple of tenths more than RMCS as far as in front of my house. But I'm convinced that it's a survey. I
mean three of those—I mean three different companies are agreeing within a couple of tenths of a foot. And
that's why I spent the money because I know this was a critical issue and I had to prove to you folks that my
bay and the overhang was on my property because I can't be building on somebody else's property. And I
thought I was following the County guidelines and the rules already established as far as what I was supposed
to do. And I did it the best I could!

22 **HAL:** Okay. Thank you. I feel pretty comfortable with the surveys that show that his building is on his
24 property. For me the question comes down to whether or not I want to approve putting a bay window that
close to property line, and changing what was granted in 1986.

26 **JAMES:** We've already dealt with the 1986 issue.

28 **HAL:** Right, but what I mean is the 1986 issue that we agreed upon says that the house has a right to be where
it is. That was that. Now for me the question is the bay window—the new bay window whether or not we give
30 a variance for that bay window to stick out. Greg? Am I understanding that correctly that's what's going on
now? Is it this question about the bay window because all agreed that house sits where it sits and that's, okay.

32 **GREG:** Right. That's been approved by the Board, so basically you're looking at that 4-foot bay window
34 whether or not you find that it meets the criteria for a variance.

36 **HAL:** Right.

38 **PAT:** And that would not alter the footprint so it would not alter your previous vote on the 1986 approval.

40 **HAL:** Right, because it is a bay window.

42 **PAT:** Correct.

44 **HAL:** Comments?

46 **JAMES:** Well, discussion, I guess I sit where I sit with the same—not enough information is present to show

Transcript for Docket VAR-02-15: ELLS Variance
November 6, 2002
Page 27

2 whether it encroaches on somebody else's property or not. And so I would be inclined to deny the variance.

4 **HAL:** Okay.

6 **JOHN:** Again I'm going back to the Minutes of last month I required a property survey that shows sealed
8 certificate and a legal description of where his actual property is. Because the bay window is so close to the
10 property line! You know could be off by any amount. So I wanted the right amount of the property line
because you don't want the property owner to be in more trouble! So I would tend to deny the variance until
you get a proper certificate stamped and sealed of the property boundary.

12 **BEN:** *{inaudible – speaking away from microphone}* Good enough—that seems amazing.

14 **PAT:** Ben you need to speak into the microphone.

16 **BEN:** Oh, I see, I've got nothing to add at this point.

18 **MICHAEL:** I don't know yet.

20 **HAL:** Okay.

22 **THOMPSON:** May I?

24 **HAL:** Of course.

26 **THOMPSON:** At this point just like the three conditions that staff has made you could make that another
28 condition—a fourth condition of granting the variance. The concern I have is I'm not sure I understand what
more you would have with a survey, than you have with a Location Certificate. But if that's what you want I
assume that we can get that. But the proper way I would think would be to make that a fourth condition. Just
30 like the survey—I mean just like the right-of-way. Just make it a fourth condition of granting a variance.

32 **HAL:** Okay. Thank you.

34 **JOHN:** But that's what we proposed at the last meeting, so clearly it's in the Minutes!

36 **HAL:** I think I have a problem with giving a variance to the bay window simply because it comes so close to
38 the property line. I think if the bay window did not exist and someone came in and wanted to put one there, I
would have a difficult time supporting a variance to put a bay window in there. I have a question, if Mr. Ells
were to request that this particular part of this variance be tabled until the next meeting, can we do that again to
40 give him time to decide if he wants do a survey?

42 **PAT:** You certainly could accept that proposal by Mr. Ells, but I would—you could do that upon his request
but you would probably need everyone to agree on that.

44 **HAL:** Right.

46

Transcript for Docket VAR-02-15: ELLS Variance
November 6, 2002
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2 **PAT:** And you had the proposal out last month and people may not be all in agreement with that. And I
4 would also note so far you're dealing with something you need to be looking hardship criteria also, which
6 would be very important to the record on this particular portion of the docket. And if you're going to go ahead
8 and consider that this evening I would request that you look at those.

HAL: Okay.

BAY WINDOW ADDITION:

10 **JAMES ORTEGA (BOA Member):** Well, Mr. Chair, in order to move this thing forward, in the matter of
12 Docket Variance 02-15 Ells Variance specifically the bay window addition I move that the Board deny the
14 request based on, again, based on staff's analysis and recommendation.

JOHN DICKINSON (BOA Member): I second it.

16 **HAL:** It has been moved and seconded to deny the variance. Is there any more discussion before the vote is
18 taken?

20 **BEN:** I want to address the issue of hardship for Pat's sake.

22 **PAT:** Thank you.

24 **BEN:** And this is the way that the Board has dealt with this in the past at least in my experience when
26 somebody has already built something. One can make the argument that taking down this bay window is
28 hardship, and it's going to be difficult for Mr. Ells, but that hardship is a self-imposed hardship. The trade-off
30 that we've always adopted, or at least in my experience since what I've done is personally try to forget that the
32 applicant has already built something without a building permit. But at the same time forget that it's going to
34 be a hardship for that thing to be taken down. It's hard to try to keep forgetting those things, but that's what
I've tried to do. But in terms of the hardship, it's an affirmative showing of hardship for not having a bay
window that has to be done here. Not any hardship related taking out. And I don't know that there was ever
any evidence presented as to that, or any significant evidence. Nothing that really was compelling. Let me say
compelling evidence about that particular kind of hardship. I hope that addresses what Pat was interested in for
the record.

36 **HAL:** As I said my point-of-view was that if we had this come in and the bay window not existed, I could not
38 have support a variance for the setback requirement for that. That's how I look at it.

JAMES: No comments.

40 **HAL:** Any more discussion? Okay we're ready for a vote.

42 **ELLS:** *{speaking away from microphone}* Can I have a couple--.

44 **HAL:** I'm sorry?
46

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November 6, 2002
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2 **ELLS:** Can I still have one comment left, or that's it?

4 **HAL:** I think in fairness to you, if it's agreeable to everyone here, we're still in the discussion section.

6 **PAT:** I think procedurally—I think you closed--.

8 **HAL:** We have to reopen the public hearing.

10 **GRAHAM:** *{speaking away from microphone}* Unless you're asking the question.

12 **HAL:** Unless we're asking the question.

14 **GRAHAM:** You have to reopen the public hearing.

16 **JAMES:** I call the question to go ahead and vote.

18 **HAL:** Okay, he's calling the question for the vote.

20 **BEN:** Oh, are we voting on the question?

22 **HAL:** No that means that he's calling the question that we have to vote now, right?

24 **PAT:** He's requesting a vote.

26 **HAL:** He's requesting a vote, okay. All those in favor--.

28 **BEN:** Now the motion is to deny?

30 **HAL:** The motion is to deny. All those in favor of the motion "aye."

32 **BOA MEMBERS (Ben Harding, John Dickinson, Hal Osteen, James Ortega and Michael Poe):** Aye.

34 **HAL:** All those opposed? *{Paused - Silence}* The motion carries the variance is not granted.

| |
|------------------|
| ADJOURNED |
|------------------|

36

*The official record of this meeting is on tapes, available for public use
at the Land Use Dept., 13th and Spruce, Boulder, CO
(303) 441-3930.*

3



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Land Use Department

Courthouse Annex

2045 13th Street • 13th & Spruce Streets • Boulder, Colorado 80302 • (303) 441-3930

PUBLIC HEARING BOULDER COUNTY, COLORADO BOARD OF ADJUSTMENT

DATE: December 4, 2002
TIME: 4:00 P.M. (Afternoon Session)
PLACE: Hearing Room, Third Floor, County Courthouse, Boulder

Notice is hereby given that a public hearing will be held by the Board of Adjustment at the time and place specified above. All persons interested in the following item(s) are requested to attend such hearing and aid the Commission members in their consideration.

AFTERNOON SESSION – 4:00 P.M.

Docket VAR-02-15: ELLS Variance

Request for Approval of a Variance request for three separate variances to setback requirements for a proposed addition, a detached garage, and for use of an existing mine by the fire district for water storage, including a pump house structure; by Fred Ells; in accordance with the Boulder County Land Use Code. The proposed project would be located in the area zoned Forestry (F), at 6301 Sunshine Canyon Drive, east of Gold Hill, in Section 8, T1N, R71W.

Detailed information regarding this item, including maps and legal descriptions, is available for public examination at the Boulder County Land Use Department, 13th and Spruce, Boulder, Colorado (303-441-3930).

Free Parking in the City of Boulder CAGID lots is available for Board of Adjustment hearing participants. See the staff at the hearing for city parking vouchers.

Persons needing special services provided under the Americans with Disabilities Act, please contact Peggy Jackson, ADA Coordinator, or the Boulder County Human Resources Office at (303-441-3508) at least 48 hours before the scheduled hearing.

Published: November 21, 2002 – Times-Call

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BOULDER COUNTY BOARD OF ADJUSTMENT AGENDA

December 4, 2002

4:00 P.M. (Afternoon Session)

Hearing Room, Third Floor,
Boulder County Courthouse

AFTERNOON SESSION - 4:00 PM

I. CALL TO ORDER

II. APPROVAL OF MEETING SUMMARY

Meeting Summary for November 6, 2002.

III. PUBLIC HEARING

Docket VAR-02-15: ELLS Variance

Request: A request for three separate variances to setback requirements for a proposed addition, a detached garage, and for use of an existing mine by the fire district for water storage, including a pump house structure.

Location: At 6301 Sunshine Canyon Drive, east of Gold Hill, in Section 8, T1N, R71W

Zoning: Forestry (F)

Applicant: Fred Ells

(Staff Planner: Greg Oxenfeld)

IV. OTHER BUSINESS/ADJOURNMENT

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Jana L. Mendez
County Commissioner

Ronald K. Stewart
County Commissioner

Paul Danish
County Commissioner



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BOULDER COUNTY BOARD OF ADJUSTMENT AGENDA ITEM

December 4, 2002 – 4:00 PM
Hearing Room, Third Floor
Boulder County Courthouse

PUBLIC HEARING

STAFF PLANNER: Greg Oxenfeld

STAFF RECOMMENDATION RE:

Docket VAR-02-15: ELLS Variance

Request: A request for three separate variances to setback requirements for a proposed addition, a detached garage, and for use of an existing mine by the fire district for water storage including a pump house structure.

Location: At 6301 Sunshine Canyon Drive, east of Gold Hill, in Section 8, T1N, R71W.

Zoning: Forestry (F)

Applicant: Fred Ells

BACKGROUND:

The Board of Adjustment held a public hearing regarding this request on November 6, 2002. The Board did approve the footprint of the existing structure (except for the addition constructed without an approved building permit) as approved in the 1986 building permit. The applicant requested and the Board agreed to table the other variance requests for the proposed addition, a detached garage, and for use of an existing mine by the fire district for water storage. The Board agreed to table the application to allow the applicant to provide additional information.

Subsequent to the hearing on November 6, 2002, the applicant submitted a building permit for a pump house structure (BP-02-1885) at the existing mine for use by the Sunshine Fire Protection District for access to the water in the mine. The variance requested is to approve 10-foot side yard setbacks (on both sides) where 25 feet is required. The pump house structure is proposed at the location of the mine shaft and will be approximately 195 square feet. The applicant also committed to provide additional information concerning the actual property line and exact location of the addition to the existing structure and proposed detached garage. The Board requested that the applicant submit a letter with survey confirming the actual boundary of the property. This new information will be provided at the December 4, 2002 hearing for the purposes of allowing the Board to make a final decision.

Jana L. Mendez
County Commissioner

Ronald K. Stewart
County Commissioner

Paul Danish
County Commissioner

VAR-02-15: Ells
BOA – December 4, 2002
Page 2 of 3

REFERRALS:

A new referral was sent to adjacent property owners within 1,500 feet of the subject property, as well as to the County Transportation Department, Parks & Open Space Department, and Health Department for the pump house structure. One response (Kellogg e-mail) has been received as of the date of the writing of this recommendation (11/22/02), and he notes his support for the proposals. *Any other responses that are received after the writing of this report will be provided to the Board during the public hearing.*

CRITERIA ANALYSIS:

The Land Use Department staff has reviewed the proposal for the new pump house structure. To grant a variance for the pump house structure, the Board must find that the following criteria have been satisfied:

(a) There exist exceptional or extraordinary physical circumstances of the subject property such as irregularity, narrowness, shallowness, or slope:

The subject property is approximately 50 feet wide at the location of the mine shaft. Based on the fact that the parcel is exceptionally narrow and with the 25-foot side yard setback requirement, staff finds that a variance is necessary. The location of the pump house structure has been selected to allow the fire district access to the water.

(b) Because of these physical circumstances, the strict application of the Code creates an exceptional or undue hardship upon the property owner;

There is no guarantee in the Land Use Code that the proposed pump house structure would be approved. However, location for a pump house structure is limited due to the location of the mine shaft.

(c) The hardship is not self-imposed;

The applicant is aware of the setback requirements, but has done nothing to self-impose the existing physical conditions of the property.

(d) The variance, if granted, will not adversely affect the uses of adjacent property as permitted under this code;

A response from Steven Harris (Osgood & Harris) on behalf of Susan Goldstein previously responded with a primary concern that Mr. Ells has been accessing his real property over the Grand View Lode without any permanent legal right to use the road. The variance, if granted, would not directly affect this issue, but since legal access is required before the issuance of any building permit, this matter should be resolved before the County issues another building permit.

(e) The variance, if granted, will not change the character of the zoning district in which the property is located, and is in keeping with the intent of the Code and the Boulder County Comprehensive Plan;

VAR-02-15: Ells
BOA – December 4, 2002
Page 3 of 3

This lot is within the Forestry Zoning District, and staff finds the proposed structure will only be approximately 195 square feet and will not change the character of the zoning district. The Land Use Code does provide for pump house structures, subject to review and approval in accordance with the provisions of the Land Use Code. Staff does not find that the proposed pump house structure could be altered in a manner that is in keeping with the provisions of the Land Use Code, Comprehensive Plan, and the character of the zoning district. However, staff notes that there is no guarantee in the Land Use Code that the proposed pump house structure would be otherwise approved.

(f) The variance, if granted, does not adversely affect the health, safety, and welfare of the citizens of Boulder County.

The proposed pump house structure will allow for access to water in an existing mine and will allow for improved fire protection for property owners within the Sunshine Fire Protection District which will provide for the protection and promote the health, safety, and general welfare of the present and future inhabitants of Boulder County.

RECOMMENDATION:

Staff finds that the criteria can be met to grant the variance request for a pump house structure, as noted above. Therefore, the Land Use Department staff recommends that the Board of Adjustment **APPROVE** Docket VAR-02-15: Ells Variance, a Variance for a pump house structure for 10 feet from both side yards where 25 feet is required. Staff continues to maintain its original recommendation for denial of the other requests (addition and detached garage) for the reasons as previously stated in the staff recommendation dated November 6, 2002. Staff recommends that the application be subject to the following conditions:

- 1) The applicant shall provide evidence of legal access prior to the issuance of any building permits.
- 2) A setback survey will be required to verify that the location of the structure is as approved by the Board of Adjustment on November 6, 2002 in Docket VAR-02-15. The setback survey verification form must be completed by a Colorado licensed Surveyor and provided to the Building Division prior to the request for foundation inspection with the County Building Division.
- 3) The proposed structures are subject to the provisions of the Land Use Code, which may include a Limited Impact Special Use (grading in excess of 500 cubic yards) or other process as required by the Land Use Code (as amended).

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MEMO TO: Whom it may concern
FROM: Greg Oxenfeld, Staff Planner
DATE: November 14, 2002
RE: Docket VAR-02-15

The applicant has submitted additional information regarding a utility shed (10-foot side yard setback where 25 feet is required) for use at an existing mine by the fire district for water storage with regards to the following zoning variance request that has been submitted to the office of the Secretary to the Board of Adjustment for consideration at the next regular meeting:

Docket VAR-02-15: ELLS Variance

Request: A request for three separate variances to setback requirements for a proposed addition, a detached garage, and for use of an existing mine by the fire district for water storage.

Location: At 6301 Sunshine Canyon Drive, east of Gold Hill, in Section 8, T1N, R71W

Zoning: Forestry (F)

Applicant: Fred Ells

We would appreciate any comments you may have concerning this request for a variance from the Boulder County Land Use Code. Please respond to this request via either a letter (mail to the Zoning Division in care of the above address), fax (303-441-4856), telephone (303-441-3930), or E-mail (gnolu@co.boulder.co.us) by **November 26, 2002** so that the Board of Adjustment may give full consideration to your recommendation. *A lack of response will be assumed to indicate that you have "NO CONFLICT" with the request.* If you have questions concerning this referral, please contact our office.

Should you wish to attend the public hearing to voice your comments or present additional information on the proposed variance, the hearing is tentatively scheduled for:

Wednesday, December 4, 2002 at 4:00 PM
in the County Commissioners Hearing Room,
Third Floor, County Courthouse, Boulder

If you plan to attend the hearing, please confirm the date and time by calling 303-441-3930 a few days before the scheduled hearing.

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RECEIVED
NOV 26 2002

4535 North Broadway, #101, Boulder, CO 80304

FAX # 720-565-1488

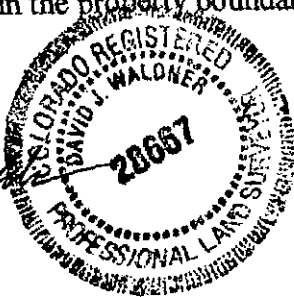
November 26, 2002

Mr. Fred Ells,

This letter is to confirm that the Improvement Location Certificate that I have prepared for the house located on the Dead Medicine Lode is based upon the Glenn True survey of said property and the survey of the adjoining White Crow Lode that I prepared. The results of my work confirm that your house and addition along with the overhang on the addition are within the property boundary of the Dead Medicine Lode.



David Waldner

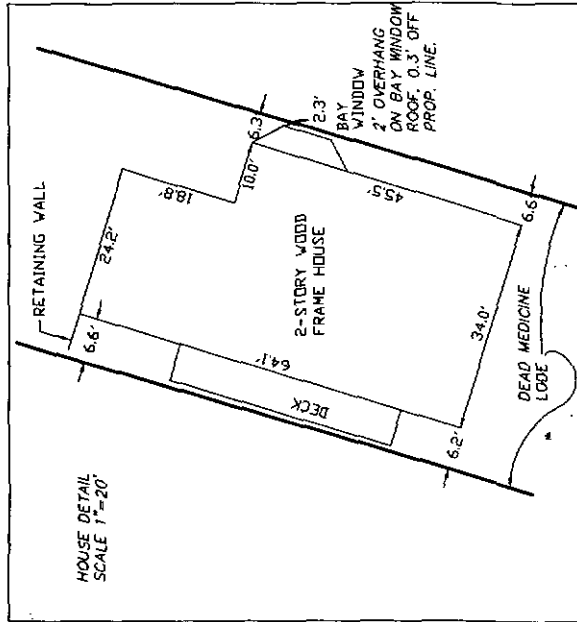
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Ells Vars 02-15

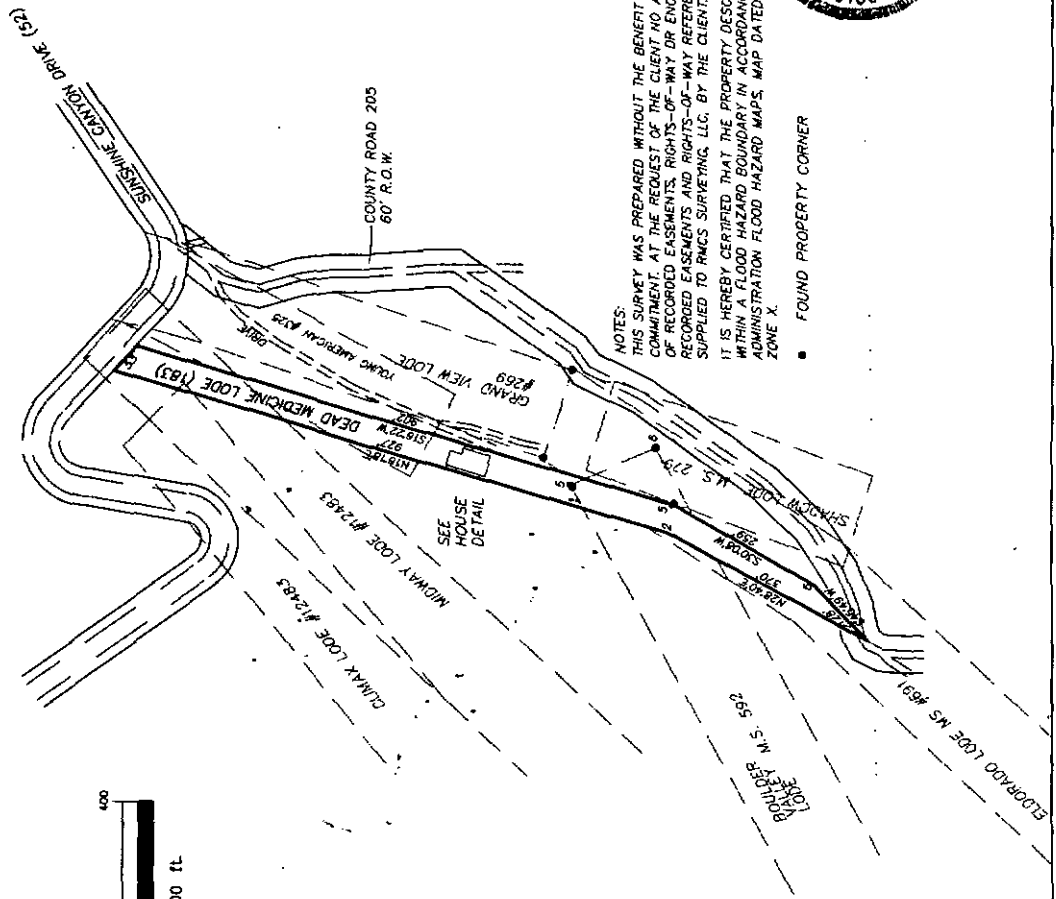
IMPROVEMENT LOCATION CERTIFICATE

LEGAL DESCRIPTION:

THE DEAD MEDICINE LODGE, MINERAL SURVEY #183, LOCATED IN SECTION 8, TOWNSHIP 1 NORTH, RANGE 71 WEST, OF THE 6TH P.M., GOLD HILL MINING DISTRICT, COUNTY OF BOULDER, STATE OF COLORADO. EXCEPTING AND EXCLUDING THOSE PORTIONS NORTH OF THE S. ROW OF SUNSHINE CANYON DRIVE (COUNTY RD NO. 52), 1.26 ACRES



HOUSE DETAIL
SCALE 1"=20'



NOTES:
THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE COMMITMENT. AT THE REQUEST OF THE CLIENT NO ADDITIONAL RESEARCH OF RECORDED EASEMENTS, RIGHTS-OF-WAY OR ENCUMBRANCES WAS PERFORMED. RECORDED EASEMENTS AND RIGHTS-OF-WAY REFERENCED HEREIN WERE SUPPLIED TO RMCS SURVEYING, LLC, BY THE CLIENT.

IT IS HEREBY CERTIFIED THAT THE PROPERTY DESCRIBED HEREON IS NOT LOCATED WITHIN A FLOOD HAZARD BOUNDARY IN ACCORDANCE WITH THE CURRENT FEDERAL ADMINISTRATION FLOOD HAZARD MAPS, MAP DATED 6/2/95, PANEL NO. 08013CD484 F, ZONE X.

• FOUND PROPERTY CORNER

PROPERTY OWNER: FRED ELLS

PROPERTY ADDRESS: SUNSHINE CANYON DRIVE, BOULDER, CO. 80302

IMPROVEMENT LOCATION CERTIFICATE
I hereby certify that the improvement location certificate was prepared for FRED ELLS, THAT IT IS NOT A SURVEY PLAT OR AN IMPROVEMENT SURVEY PLAT and that it is not to be relied upon for the establishment of fence, building, or other future improvements. I further certify that the improvements on the above described parcel on this date, NOVEMBER 21, 2002, except utility connections, are entirely within the boundaries of the parcel, except as shown, that there are no encroachments upon the described premises by improvements on any adjoining premises, except as indicated, and that there is no APPARENT evidence or sign of any easement crossing or burdening any part of said parcel, except as noted. Information concerning Easements and Deeds obtained from the Title commitment.

RMCS SURVEYING & ENGINEERING, LLC

4535 NORTH BROADWAY, SUITE 101
BOULDER, COLORADO 80304

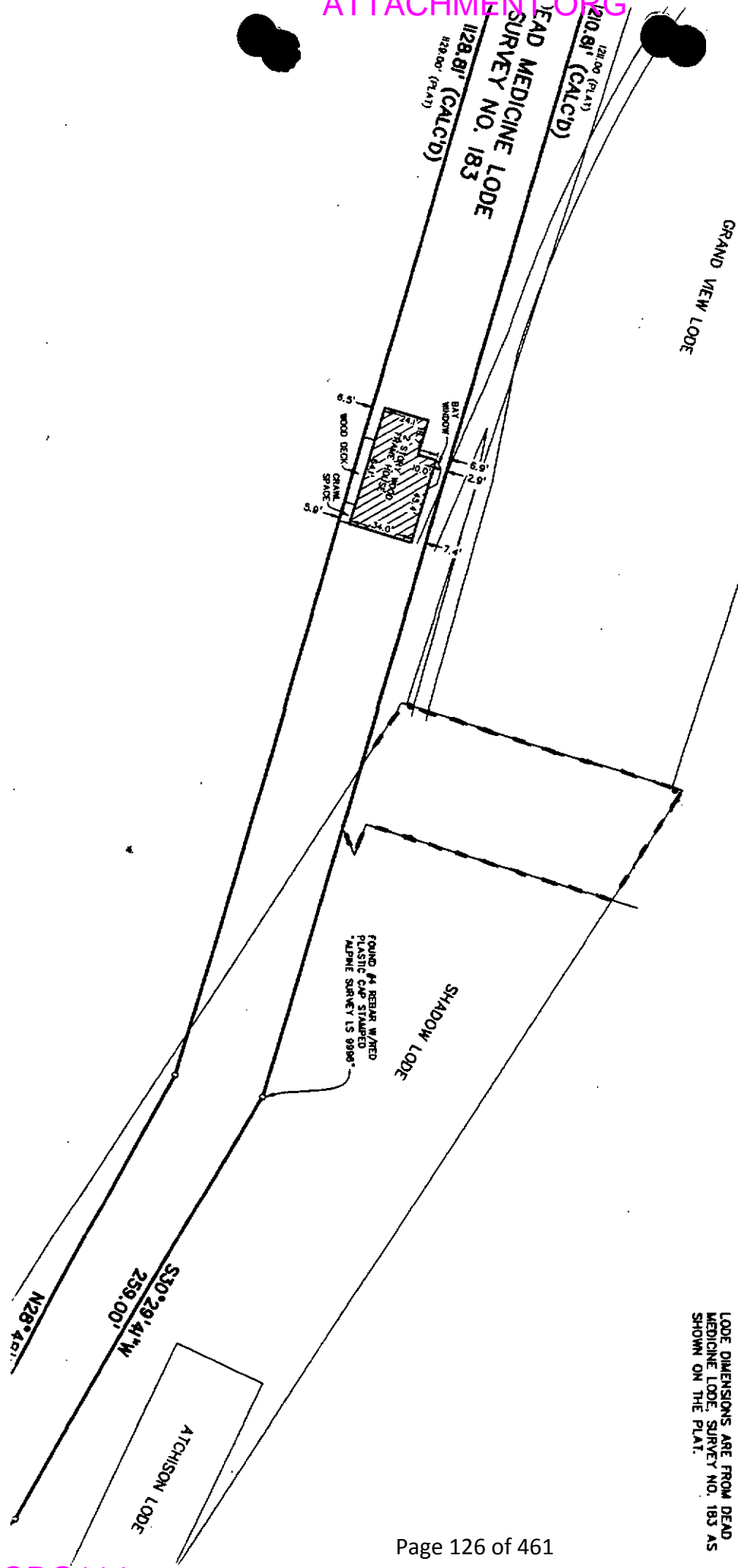
(303) 448-1870
(303) 499-6755
720-565-1488 FAX

11/21/02

19311

DAVID WALDNER
COLORADO REGISTERED
LAND SURVEYOR #28667





NOTE

LODE DIMENSIONS ARE FROM DEAD MEDICINE LODE, SURVEY NO. 183 AS SHOWN ON THE PLAT.



E46



From: Slarks & Associates <slarks@boulder.net>
To: <gnolu@co.boulder.co.us>
Date: 11/25/02 5:51PM
Subject: Fred Ells Variance

Re: Fred Ells Variance

To Whom it may concern,

We would like to express our concern for fire safety in the Sunshine Canyon area, and encourage the variance board to grant Mr. Ells any variance which would result in the addition of fire fighting conveniences, including access to Mr. Ells water supply and storage of fire fighting equipment.

We have contributed nearly \$7,000 to the local cistern fund, but the placement of cisterns has not been advantageous to us. The use of the exiting water supply located on Mr. Ells' property directly above us, would benefit us and our neighbors, as well as the entire surrounding Sunshine Canyon area.

We also feel that the modifications Mr. Ells has made to his home and property are a great improvement, and would also encourage the board to approve any variance which would allow Mr. Ells to complete his renovation work.

Barb & Al Slarks
6299 Sunshine Canyon Drive

CC: <sunrise@boulder.net>

**Board of Adjustment
Transcript for Public Hearing
Regarding Docket VAR-02-15: Ells Variance
November 6, 2002
{DAT Tape 1}**

On Wednesday, November 6, 2002, the Boulder County Board of Adjustment held a regular meeting, convening at 4:00 p.m. and adjourning at 7:02 p.m., in the Hearing Room, Third Floor, County Courthouse, Boulder.

Members Present: Hal Osteen (Presiding Chair), John Dickinson, Ben Harding, James Ortega, and Michael Poe.

Staff Present: Graham Billingsley, David Callahan, Greg Oxenfeld, Todd Tucker, Pat Mayne (Assistant County Attorney), Claire Levy (Attorney), Barbara Andrews (Assistant County Attorney), and Martha Perez.

Interested Others: 10 - 15

Legal Interpreters: Terry and Darlene (Professional Sign Language, Inc.) provided interpreting services for John Dickinson (BOA Member)

HAL OSTEEN (CHAIR - BOARD OF ADJUSTMENT): Okay, now we are on to the Ells, right? Next item on the agenda is Docket VAR-02-15: ELLS Variance. And again we would like to hear from staff first.

GREG OXENFELD, Staff Planner: Thank you. Greg Oxenfeld with the Land Use staff recommendation for Docket VAR-02-15. This is a request for three separate variances to setback requirements for a proposed addition, a detached garage, and for use of an existing mine by the fire district for water storage. This property is located at 6301 Sunshine Canyon Drive, just east of Gold Hill. The zoning is Forestry (F). And the applicant is Fred Ells.

The applicant has submitted two building permits including a permit for an addition to the existing residence and a detached garage. Staff would note that the existing dwelling was constructed in 1986, basically been ongoing. A variance for an 8-foot side yard setback, where 25 feet is required was approved by the Board of Adjustment in June of 1986 prior to the issuance of that building permit. A recent Improvement Location Certificate shows that the house was actually constructed just over 4 feet from the east property line at the northern end of the house. And the applicant has indicated that he desires to reconstruct a portion of the east side of the house, but did begin the project without a building permit. As part of the reconstruction project the applicant decided to include a bay window that encroaches further into the setback and the application is basically requesting a zero-foot setback along the east side of the house. The Location Certificate also shows the existing dwelling is about eight feet from the west property line, however, the applicant constructed a deck which is shown on the 1986 building permit on the west side of the house that is 6-foot wide and 5-feet high, therefore, the deck is in violation of approved 8-foot side yard setback approved by the Board of Adjustment in 1986. And the applicant is requesting that the Board recognize and approve a side-yard setback from the west boundary of 2.3-feet.

The applicant is also requesting to construct a detached garage that is part of the subject property, and this area of the property is approximately 69-feet wide. The garage is proposed be 24 feet X 30 feet, and so therefore, the applicant is requesting 15-foot side yard setback from the both sides, where 25 feet is required. Staff would

Transcript for Docket VAR-02-15: ELLS Variance
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2 note that the location for the garage does have some topographic issues, and the applicant will need to provide
4 some fairly amount—substantial amount of fill material in order to have this as a leveled site. The application
6 materials for the variance includes a request for a zero-foot setback, and another variance necessary for the use
of the existing mine on the property that holds up to 1,000 gallons of water for use by the local fire district. The
applicant, however, has not provided any specific plans for staff or the Board of Adjustment to review as part
of that request.

8 With regards to the referrals the County Health Department notes that they have issued a septic permit for the
10 property in 1994. We did receive a response from Steven Harrison on behalf of an adjoining landowner Susan
Goldstein noting primary concern that Mr. Ells has been accessing his property over the Grandview Lode
12 without any permanent legal right to use the road. The letter also notes that Mr. Ells, or his agents, cut a
significant number of trees on the Grandview Lode without her permission and has caused her to reconsider the
14 potential location of a residence to a location which will end up terminating the permission for Mr. Ells to cross
the Grandview Lode because the new location will be on or near the existing road. Also noting the relaxation
16 of setbacks for the garage will affect her use of the property and possible new structures in the future. The
letter does note that she has no problem with the addition to the main house however. Another neighbor, Joe
18 Schumacher, and a member of the fire protection district noted, that the addition looks nice, and that water
supply at that mining claim with a turnaround would be desirable. The applicant also provided two other letters
20 from adjacent property owners noting support for the proposal.

22 With regards to criteria staff finds that with addition the applicant notes that there's a mineshaft and tailings
pile in front of the house that is unsuitable for building. With regards to the garage structure, they note that the
24 claim is only 69-feet wide, and that area has been selected so that the existing driveway can serve as an
emergency turnaround area for the fire district. The applicant notes that the 1986 variance that was approved
26 the criteria had stated that without the variance the lot would be unbuildable and that the applicant's
investment would be lost. Currently, staff does not have this same opinion as there is no guarantee in the Land
28 Use Code that the proposed addition or garage would be approved.

30 Staff finds that the proposed addition and detached garage could be altered in a manner that is in keeping with
the provisions of the previous variance approval, Land Use Code, and Comprehensive Plan while maintaining
32 the minimum established requirements for the protection of public health, safety, and general welfare for the
citizens of the County.

34 The staff finds that all of the criteria cannot be met to grant the variance request as noted in the Staff
36 Memorandum, and therefore, recommends that the Board of Adjustment DENY the application. However,
staff would note that the existing structure (except for the addition constructed without an approved building
38 permit) did receive a building permit in 1986, and was constructed with a 4.2-foot setback from the east side
and an 8.3-foot setback from the west side, additionally, the 1986 permit does show the deck on the west side.
40 And staff is noting that we can recommend that the Board of Adjustment recognize and approve these setback
variances for the structure constructed in accordance with the 1986 building permit. Staff has also suggested
42 other conditions, should the Board of Adjustment be inclined to approve other portions of the applicant's
request.

44 **Start of Slideshow:**

46 This is a topographic map showing mining claims of the area. This is the site plan that was supplied by the

Transcript for Docket VAR-02-15: ELLS Variance
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2 applicant showing the proposed garage and the existing dwelling with the bay window, and showing the
approximate location of the mineshaft. This is the Improvement Location Certificate, which does show the
4 house with a 4.2-foot side yard setback. This is the entrance road for drive to the subject property off Sunshine
Canyon. This looking south at the existing house, and this is looking southwest where you can see the
6 proposed addition under construction. This is looking back then northerly where you can see bay window how
that does encroached further into the setback area. This is looking south then at the existing drive back toward
8 the garage site and mining shaft. This looking--.

10 **JOHN DICKINSON (Board of Adjustment Member):** If you can go back a little bit. Is that the access
road?

12 **GREG:** This is the drive that proceeds further down passed the house to the south.

14 **JOHN:** Going to where?

16 **GREG:** Down towards where the mineshaft is, and where the garage would be located.

18 **JOHN:** Okay.

20 **GREG:** And this would be site where the proposed garage would be, just off of that drive that you where
22 looking at. This is looking then, more northeast near the garage site. This is a photo of the mineshaft, you see
that it's been closed off. I believe the applicant indicated that the State actually did that for health, safety
24 reasons, but it does contain a substantial amount of water. So that concludes the staff recommendation. I
would glad to answer any questions.

26 **BEN HARDING (BOARD OF ADJUSTMENT MEMBER):** Whew! I have some questions.

28 **HAL:** Go for it!

30 **BEN:** I'm trying to make heads or tails out of what's going on here. So there's a picture in here, which says,
32 and let me find the page for you, but you may know exactly where it is. It says—it shows it per the 19—okay
here we go, page 13, per 1986 building permit. You got it on page 13?

34 **GREG:** Yes.

36 **BEN:** Okay. So that structure that we see there, that room that sticks out with the greenhouse on top that was
38 built based on the plans that were submitted in 1986?

40 **GREG:** Correct.

42 **BEN:** But it was built in the wrong place?

44 **GREG:** No. That was built where the applicant had thought meeting the 8-foot side yard setback. But the
Improvement Location Certificate shows that it is actually closer.

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2 **BEN:** So why did that happen? Was there a poor survey that was offered in the variance request?

4 **MALE SPEAKER {speaking away from microphone}:** I think I can--.

6 **GREG:** In the '86 permit. And the County at that time did not require actual survey, like we do today, to confirm that the structures meet the setbacks that were proposed and approved.

8 **BEN:** You know if we can, let me deal with staff. And then you guys will have your chance.

10 **HAL:** Okay, we'll be there in a minute.

12 **BEN:** So the bottom line is that this part that sticks out here is, what did we say is 4.2-feet, from side yard, it was supposed to be 8.3?

16 **GREG:** 8-feet.

18 **BEN:** 8-feet, okay. And then the addition that you are talking about is to make that into a bay window?

20 **GREG:** Well, they've reconstructed that eastern portion.

22 **BEN:** The second floor part of it? When you say "reconstruct," you mean the whole thing was torn down and rebuilt?

24 **GREG:** That eastern portion basically was.

26 **BEN:** Okay. And in doing that, though, it went further out.

28 **GREG:** The applicant decided to add a bay window, which then encroached further out, the 4-feet further, so that's why they're requesting the zero-foot.

32 **BEN:** Okay.

34 **GREG:** It's actually two-tenths, according to what they believe, and in accordance with the Improvement Location Certificate, but to be safe they're requesting the zero-foot.

36 **BEN:** Okay. And on the other side the issue with the deck is that was shown in the variance request. It was part of the variance request in 1986.

40 **GREG:** It was not made clear in the variance request, however, it was in the building permit that was approved by the County.

42 **BEN:** Okay, I think I've got it.

44 **HAL:** Okay. Just so that I make sure what the County is saying, so in 1986, they did have a building permit to build this addition on the side, and to put the deck on the other side of the house.

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2 **GREG:** It was for the dwelling unit.

4 **BEN:** It was for the whole house.

6 **HAL:** It was for the whole house, okay. So that did show on the permit, and consequently it was legal for them to build that at that time. Is that true, in terms of the building permit?

8 **GREG:** Yes. They built the structure in accordance with building permit issued by the County.

10 **HAL:** Okay.

12 **BEN:** I'm ready.

14 **HAL:** Any more questions? Okay, we're ready to hear from the applicant. Please state your name and address please.

18 **PUBLIC HEARING OPENED.**

20 **BEN THOMPSON (Attorney for Mr. Ells):** My name is Ben Thompson. I'm an attorney in Boulder. My address is 1629 Canyon Blvd. And Mr. Ells is present here too, today, and he has asked me to make short presentation to you. As a former city council member, mayor, and a member of a planning board like yours, I can understand the complexity here. So I think it probably would help if I deal with three separate issues. And deal with each of them kind of separately.

26 The first issue, Mr. Harding, asked about, "What happen here?" Well, let me explain what happen here. In 1986, the survey said there was 50-feet, and in 2002 the survey said there was 47.2-feet. If you'll notice from it, the back end of this property, the opposite end of this bay window is 8-feet, except for the deck. And in the front, what happen is that the new survey showed loss of two and a half feet, a little more than two and a half feet. And that's, I think, our explanation as to why the house is too far on one side. Part of what we're asking here for, in the first issue, is approval of the footprint of the house and the deck as was established by the building permit because of that surveying error, that clearly is a hardship. We clearly had nothing to do with that, and so the house was constructed, was built, and it's in the wrong place. What we're asking here for today in that issue is an extension for the bay window. You may recall in the pictures, this house was basically a box. Sitting on the box and down hill is a 25-foot BLM piece of parcel, and also the driveway access. And I'll talk about the driveway access in just a second. If four and a half feet for the bay window extension is granted, there still is the 25-foot BLM land in front us. There is a steep drop off here, mine tailings, and I think the next property downhill is about 400 feet away. The house on that property cannot be seen from this house, and that house can't see this house. This house can't be seen from the road, Sunshine Drive, and so all we're really asking in the first part of it is that extension for the bay window. And when you see, we're talking about a lot, first, that is forty-seven and a half feet wide. In 1986, the Planning Board found that it met all of the criteria, and allowed a variance for the setback rule. And that's basically what we're here for, is a variance here. And let me explain why.

44 Remember the picture of a greenhouse up on top. What happened is that the greenhouse caused some condensation problems that weren't planned on. It was part of the original process. It caused mold, and it

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- 2 caused carpenter ants, and the drywall, and if I may I have a picture of what happened is that the drywall fell.
- 4 **HAL:** Put it on that end please.
- 6 **THOMPSON:** The drywall fell and discovered the carpenter ants.
- 8 **HAL:** At this point let's stop and make sure that everyone on the Board, and on staff, is okay with this picture being introduced as an exhibit.
- 10 **PAT MAYNE (Assistant County Attorney):** Right. Could you show it to the staff first, and then--.
- 12 **HAL:** Okay and let the record show that it was shown to the staff first, and then the Board it for review now.
- 14 Go ahead.
- 16 **THOMPSON:** And what happened is that when the drywall fell that's when Mr. Ells discovered a large number of carpenter ants, a large amount of mold, and so he decided to repair this. The bay window part, if
- 18 you noticed in the picture where the stairway is, there's a great view here by the way. The view route that is covered there, and you can't see, what he decided to do was simply to built a bay window there. It didn't make
- 20 the room that much bigger, but it did make the access from the stairway much better. Instead of one person having to go up to the top of the stairs and stop, and turn at a 90° angle to go in, he planned to move the
- 22 stairway so that he would have better access and a better view.
- 24 **PAT:** Mr. Thompson, with your permission, may I mark this as Exhibit #1 for the Board.
- 26 **THOMPSON:** Certainly. Thank you. Now the second picture, and you mark it in the front or the back?
- 28 **PAT:** I mark it on the front.
- 30 **THOMPSON:** Okay. With your permission this is the construction that was in process when Greg came out. And by the way he was invited in and asked to look at it on another issue. But what this shows is the walls
- 32 have been removed and you can clearly see that the bay window sticks out, there is no increase in foundation. There's no—and you can clearly also see the stairway that he proposed moving over to the side.
- 34 **PAT:** So then we're going to be marking this picture, Exhibit #2?
- 36 **THOMPSON:** Yes, please. Now looking at Exhibit #2, that is the outer extreme, that is all he's asking for, is the outer extreme of the bay window. And what that would do is that it would put it close to the lot line, but
- 38 remember there is a BLM 25-feet there, there's the driveway, and again this is not visible to any other neighbor in any other direction. Now let me handle some objections. I think as far as I know there's only one objection
- 40 for one neighbor, and she is here present here today, and I guess she can address it. Apparently, her objection, she's not objecting to this bay window. She's saying there's a right-of-way problem. Let me discuss for a
- 42 second the right-of-way problem. We don't have any problem with making proof of the right-of-way a condition of anything we're asking here for because this right-of-way has existed since the 1870s. There are
- 44 reports from the Colorado Mining, an inspection that dates back to the 1870s. I have one here from 1938 that describes the road. The road is in good condition. In 1986 when he built this property there was no issue
- 46

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2 about right-of-way. When the complaining person bought their property, the right-of-way was there. The road
was being used. It hasn't been widened. It hasn't been changed. It's still there. When he financed the
4 property, the bank didn't have any problems with the right-of-way. The Title Company didn't have any
problems with the right-of-way. There are aerial photographs by the County showing this road in use, well,
6 over 100 years. So we're not worried about the right-of-way issue.

8 He did cut some trees, and he has received a National Award from the Department of Interior for his mining
reclamation and for his fire department actions. And he did remove some trees, and he'll have to deal with his
10 neighbor on those trees. They are not an issue here. The neighbor will not be able to build a house on this
road, and deny access. It is the only access to this property. And I don't know that she's been advised that she
12 can build the road, or stop the use of it, but clearly she cannot. So the first issue, dealing with the first series,
is, Number One, approval of the foot plan that now exists. This is what's being handed to you now is the
14 official records from the State of Colorado Mining Inspection, which shows the road in question in 1938 was in
good condition, and was being used.

16 **HAL:** Excuse me. Did staff see this?

18 **THOMPSON:** Yes.

20 **HAL:** Okay.

22 **THOMPSON:** And I guess we're going to mark this as a certified copy of it. I think there are two there.
24 They're the same thing—there's another one. And we understand these records go back to the 1870s, we just
don't have all of them yet. Now so, the right-of-way is not an issue. The trees are not an issue. And the
26 neighbor has indicated that if we paid her \$10,000 for her trees, she would withdraw her objection. So that's
not an issue. So the two parts, Number One is we're asking you to approve the foot plan as staff has
28 recommended for what is there, the footprint, the foundation, the decks, all of that we need your approval.

30 Second part is we need a variance for the bay window, as you see there, that's all we're asking for. It really
does not increase the square feet of this house very much. It makes it much more attractive. And we think it
32 meets all the criteria. The second part of what we're talking about here is an area where the property is wider.
Mr. Ells wants to build a garage for the fire department. They have an old fire truck that they want to park up
34 there. And then, there's space for a turnaround, and the fire department has used this road, and these roads for
right-of-way as well. But what's happen is staff has said, "You could do a 19-foot garage and they wouldn't
36 have any objection to that." But if you did a 19-foot wide garage you can't get the big fire truck in there. We
need 24-foot wide garage. And that's what we've asked for. It would—the setbacks would be similar to
38 setbacks that have been approved previously, but we need that. Now, I know that the objecting person who's
several hundred feet away has indicated that the garage is a concern to her. We aren't asking for the setback on
40 her side. We're asking for the setback on the other side. And remember again, she can't see this garage. She
won't be able to see this garage. It's one-story. I do have fire department representatives who are here. They
42 would to say to you, and I can just tell you that Hank Ballard is here. He's an officer in the Sugarloaf Fire
District, would say to that they want this garage so that they can park this truck there, and then in an event of a
44 wildfire it's there, and can be access to a wildfire much faster. So our only disagreement with staff here, I
think on this issue is whether the garage should be 19-feet, or 24-feet. And we're requesting 24-feet. If you
46 don't give us the 24-feet, then we're sure that the garage is—that we can even do this. Again, as I understand

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2 it, this is solely for the use of the fire department.

4 The third issue a little bit further on the property there is a mine and it's—if you saw the close door, if you
6 open that close door you can see hundred thousand gallons of water just sitting there. It's not drinking water. It
8 wouldn't be good for irrigation purposes, but for wildfires it would be essential. And so, again, the fire
10 department representatives are here, and what we have requested is basically the right to use 4-inch line
12 wherever they want it, and a 10 x 15 pump shed. Now Greg has recommended to us that we don't have
enough specifics here tonight, and he's recommended until we have those specifics we're probably not—
probably shouldn't be asking you to do anything because it's too open-ended. So all we would like you to do
on that part is to just continue it. We will present plans for the 10 x 15 one-story pump shed, and the 4-inch
line so that you'll be able to tell just exactly what we're asking for.

14 **PAT:** Mr. Thompson. I think that you know that this is a Board of limited jurisdiction.

16 **THOMPSON:** I know.

18 **PAT:** And they cannot grant variances for uses. They can only grant variances on setback distances, and
anything else provided under Article 4.

20 **THOMPSON:** Well, and so, my request is that we just not act on that tonight. That we will present more
22 plans for specific things. We're not asking for use. We just want to put a pipe there, and we want to put a 10 x
15 shed there—pump shed, and a couple of 500 gallon tanks. So that it a variance because the setback, the
24 way it's set, all we can do with this piece of property is run a fence line just down the middle.

26 **PAT:** So you're withdrawing your third variance request this evening? Or I mean, just tabling it?

28 **THOMPSON:** I'm not sure procedurally the best way to do this. Let me explain why. They need this as
quick as they can for next spring. If we withdraw it I'm afraid the timeframe would be difficult to get this
30 thing in operation.

32 **PAT:** We could—you see it all part in parceled of the current application pending.

34 **THOMPSON:** Can we table a part of it?

36 **PAT:** I think on your applicant's request we could?

38 **THOMPSON:** That is our request that we table that part of it. And we will prepare plans and present that
part of it, and we don't want it to hold up the other two.

40 **PAT:** Then that won't be addressed this evening by the Board.

42 **THOMPSON:** And so that question I have, if you'd like to have the fire department's representative talk
44 about the need for this garage, and I'll be happy to present them. But I can tell you that just basically what they
would say, and they're here.

46

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2 **HAL:** Jim has suggested that we hear fire department at the same time that we hear third item on the agenda
that's be put off, or do we do it all at once?

4 **BEN:** Do the garage and the pump station separately.

6 **HAL:** I think we should make sure we understand what you are saying. You want the pump shed and the
8 line—let's make it clear here what three things looking at so that we really understand. The first one is the
approval of the footprint and the bay window and that sort of thing. For the number two would the setbacks
10 for the garage. The garage is inextricably connected to #3 the pump shed and the line.

12 **THOMPSON:** Actually, no it's not.

14 **HAL:** Oh, it's not.

16 **FRED ELLS (Applicant):** May I speak. Yes, it is.

18 **HAL:** Would you state your name and address, please?

20 **ELLS:** Fred Ells. 6301 Sunshine Canyon. Yes, you're right. The fire truck is mine, and then I have several
pumps. And I've already pumped out of that mine, and have it set up for me and neighbors a couple close ones,
22 so that we can get water quickly. I mean there is 50 to 70 tanker loads in that mine. And next Spring I don't
want to go, whew—just a moment.

24 **HAL:** Sure.

26 **ELLS:** Through the whole scary situation of being threatened by a forest fire again. So—gosh, I can't help it,
28 I'm sorry.

30 **HAL:** That's okay. I mean we're here to—you're here because you want to do something, and we're here to
listen to that, and see if we can be of assistance.

32 **ELLS:** Instead of tabling it, is there a way where you can put some specifics? And I don't know how this is
34 supposed to work out. But the mining claim is only 47.2-foot wide and if you take 25-foot setbacks and put
those on there, you can't build anything. It's just a fence line. I mean—you can't put anything down in the
36 middle. You can't even have a 10 x 12 storage shed that you could use for a pump house to put a 300-gallon
pump—300-gallon a minute pump that I've got from McGuckin's in the pump house so that I can pump on the
38 4-inch line down to County Road 205 and County Road 52. And so that we can run hose lines from the mine,
and pump to tankers in case we have to. And I think the fire danger is just going to get worse and worse. And
40 this is an important aspect. So what I'm kind of asking for is just let me put a pump house, a 10 x 12, or
smaller, pump house, single-story just for the pump, and then there's two 500-gallon tanks there that need to be
42 put in that boundary some place so that you can fill the tanks so those will prime the fire line so that you can
gravity feed down to the lower fire hydrant that the fire department wants to put in. And then the reason for
44 the 24-foot garage is that I can't turn the fire truck around in a 19-foot garage. There's no possibility. And
then the setbacks I requested on there you'll see is the mining claim is 69-foot wide, but from Location
46 Certificate, Drexel's says that there's a 4-foot variance. And so I don't want to go through a whole procedure

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2 of building another garage, and then come back here and say "We screwed up on the setbacks, and on the
Location Certificate because didn't ask for the right setbacks." So what I suggested on there, is if you build a
4 24-foot garage you still have 20-foot on both sides. 20 and 20 is 40, and another 24 is 64. And that makes it
like 5-feet short so in case the survey is wrong. But if you reduce the setbacks, and leave them 25-feet on the
6 side that Ms. Goldstein has her mine, on the north side of the garage, you leave those alone. And you change
the setbacks on the south side, so those are 5 or 10 feet, and move the garage to the south, it doesn't affect Ms.
8 Goldstein property. The neighbor to the south wants it there for fire protection, and then we can build a 24-
foot wide garage. And have all the fire equipment right there by the mine so that it's hooked up and ready to
10 go, and it's winterized so that if we need in the winter we can get at it too. And it's going to cost me a lot of
money, but I need fire protection. And so I don't know the proper procedure to go about, you know, if we're
12 going to put a pipeline in, and we're going to have a couple tanks there and a little storage shed, how do you do
that on this mining claim when you've got 25-foot setbacks? And can you reduce those to 10 or 5 feet, or zero
14 feet, so that wherever the fire department says to put them, we can put stuff in there and we don't cause a
problem.

16 **PAT:** If I may interject here.

18 **HAL:** Please do. That was my next question.

20 **PAT:** I'm a little concerned that we're into also a variance for a use. That particular use hasn't been really
22 defined at this point, but it's not a regular residential use. And so all of the testimony that you may present as
to the need for the fire district to use this garage is something that may not go to the absolute jurisdiction that is
24 to this Board. They could grant you setback variances for the size of the garage, but they can't in of
themselves permit this use. It's not a regular residential use in Forestry. It looks to me, like it might be
26 something like an institutional more a use of community significance, which would require Special Review
under the Land Use Code. So just permission to build this garage as a variance from this Board may not be
28 sufficient for you to do that use.

30 **THOMPSON:** I understand. And we have to take it step by step, and this is the first step.

32 **PAT:** And I'm just clarifying for Board, that any testimony that they hear as to the use itself needs to really go
to the size of what being proposed by you, rather than taking as any sanction for the use.

34 **THOMPSON:** Right.

36 **PAT:** Which is a separate process.

38 **THOMPSON:** And my purpose of doing this is that when you look at the criteria that you have to look at
40 community impact is certainly something that should be considered. And whether or not the fire truck can be
used until we have permission to build a garage that's mute, because if we can't build a garage then we can't
42 use the fire truck. And if we can't build a pump shed for the water, then we can't—I mean, it's not any good
for us. So this is the first step. We know there's more to that.

44 **PAT:** So Mr. Thompson, isn't this second variance request also inextricably tied to the third one?
46

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2 **THOMPSON:** Well, my client thinks so, but I don't.

4 **PAT:** And which of you is speaking?

6 {Laughter}

8 **THOMPSON:** He's in charge. So if he thinks they're tied together then--.

10 **PAT:** Because we can table all those things together until next month.

12 **THOMPSON:** I understand.

14 **ELLS:** Okay, and I can accept that. But we need to get this up and going before the spring. The reason that
16 I'm doing this is that it's my fire truck, my fire equipment, and it has nothing to do with the ownership of the
18 firehouse. So it doesn't go to the next level. So if I have a garage that houses all my equipment, and I've talked
20 to the fire department about this extensively, if houses my equipment, and they don't put any of their money
into it, and it's all my money, then it is a residential use. That it is just a garage with a fire truck with fire
equipment.

22 **PAT:** Okay.

24 **THOMPSON:** I think you can see why he wins National awards. He figures out how to do something, and
he's here tonight asking you to help him do that. That's where we are. Based on what he said, why don't we
just table the second part and the third part for next month's meeting, and by that time we'll be to have some
specific plans for you.

28 **HAL:** Okay, Mr. Ells, it that all right with you to table the garage, and what might happen after that until next
month so that you can provide more information? Okay.

30 **THOMPSON:** Is there a good chance that we can get this done by the spring then?

32 **HAL:** One of the problems here is that we are only responsible for a very, very small section of this. So I
34 don't know. I would assume that you might have some luck in getting that done, but don't count on it from us.
Because the only thing that we will deal with, if you decide to put off the second and third portions, we will
36 deal with the footprints, the bay window, and those kinds of things at this meeting. And then we would deal
with setbacks for the garage and that sort thing at the next meeting when you have more information about
38 what you want to do.

40 **ELLS:** Can I say just one more thing?

42 **HAL:** Sure.

44 **ELLS:** If I build a garage with setbacks and it 24 x 30 long, and it has just my equipment, but then I'm telling
you about its use for the water, so you have to do that, don't you?

46

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2 **HAL:** Well, see, we don't—the water doesn't affect what we decide at all. We decide whether or not to give a
4 variance for the setbacks that you're requesting to build a structure. And the way you've designed the structure
6 it violates the setback regulations. And you want us to give you a variance so that you can move that around
and change that a bit. That's all we can deal with, just the setbacks.

8 **ELLS:** Can you just do that on the garage, just change the setback, so that's there a possibility of a 24 x 30,
and then let the building department and the other departments do the other stuff. And then table the third part
to next month?

10 **HAL:** Ben has a comment here.

12 **BEN:** I'm not going to vote to approve a setback for the garage until I can understand how it fits into the
14 whole picture, okay. So that means we're either going to do—for me, and I don't know how the other people
feel here, we're either going to do the whole water system together, or I'm going to vote against the garage.

16 **ELLS:** Okay.

18 **BEN:** Okay. So that's one vote, you can still get a variance with four. I'm trying to save you and us some
20 time, because if you're not going to get your variance tonight you might as well come back in a month.

22 **ELLS:** Right, okay.

24 **HAL:** John?

26 **JOHN:** I'm pretty knowledgeable about the use—the property use for different purposes. My advice to you,
Mr. Ells, would be to check be sure that the fire truck is even allowed on the property and this particular type
28 of use. I don't want to see you wasting your time, because maybe it won't allowed—the truck on the property
anyway so I'm just giving you something to check up on. And then Pat, I think you had something to say?

30 **PAT:** No.

32 **JOHN:** No. Okay.

34 **HAL:** Any other comments?

36 **BEN:** I have one more comment. I'd like to hear, when we do get back together, assuming we table this, or
38 whenever we hear this, I would like hear the comments of the fire department, or association people, because I
have some questions. So when—if we table it, I'd like to have, if want to make that argument and make
40 information available, I'd like to have somebody come and talk to the fire prevention aspect of it.

42 **ELLS:** He's here now do you want to take five minutes?

44 **BEN:** No. I would rather do it when we—because I have quite a few questions. I'm not sure I understand the
whole thing.

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2 **HAL:** Okay.

4 **THOMPSON:** The next meeting is in December?

6 **PAT:** It's the first Wednesday in December.

8 **HAL:** First Wednesday.

10 **THOMPSON:** When is it?

12 **PAT:** First Wednesday in December.

14 **THOMPSON:** So if I understand what my client is saying, is he's asking to continue the second and third option.

16 **HAL:** Is that the consensus of the Board understands this?

18 **BEN:** The second and third requests.

20 **THOMPSON:** Right.

22 **HAL:** So basically what you want to deal at this meeting today is the approval of the 86-foot fence and what goes on with the bay window and that sort of thing.

24 **THOMPSON:** Right. And also the deck is part of that footprint, I know you understand that.

26 **HAL:** Yes.

28 **ELLs:** Can I make just one quick statement? The reason the deck is a problem is that it was existing from '86, but I put a hot tub in it, you know, four or five years ago, and I enclosed the structure. And so it has a crawl space underneath, you know, to keep the hot tub warm. And I guess, that's a Code violation. And I didn't know that. And so that was part of the original house, but the deck was out there and it sets into the setback—the 8-foot setback on the backside of the house. And then the survey is really what Glen True from Alpine Surveying, when he surveyed it, one of the BLM the corner section corner marker was off by 50 feet, and so that jockeyed the mining claim and so Drexel Barrell just corrected that. And so what I want to get the house is up to compliance with all the Codes and everything so that it is clear to everybody exactly what is there, and that's what the ILC gives you.

30 **PAT:** Mr. Ells? Uh, this is Pat Mayne. Just to clarify I thought that what your counsel was asking for on your behalf was approval of the footprint, which of course doesn't include the height of the deck. If that's still a building code violation, then that wouldn't be sanctioned by this variance.

32 **THOMPSON:** The deck, sometimes you wish you could ask your client not to say something, and I wish he hadn't said that because he's confusing us a little bit. The deck itself was in the building permit that was applied for in 1986, the deck, and the footprint of the house. And staff has recommended that you now

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2 approve that.

4 **PAT:** Right.

6 **THOMPSON:** And so that's Part A of our request. And it includes the deck and the hot tub is not an issue,
and whether the hot tub violates any Codes is not an issue. The question is the footprint and the deck—
8 actually that's what we're asking for your approval is Part A. I'm going to quit using numbers. Part B is the
bay window and the extension out beyond the footprint. Did I mess it up, or did I clarify it?

10
12 **PAT:** Thank you.

14 **BEN:** Now you've broken it down into four separate items.

16 **THOMPSON:** Two parts A and B.

18 **BEN:** Well, now we've got the garage and the pump house that we're trying to separate off of this thing.

20 **HAL:** No, those are already gone.

22 **PAT:** Already gone.

24 **THOMPSON:** We've tabled those.

26 **BEN:** We never voted.

28 **HAL:** Well, that's the thing. We do have to vote for this.

30 **THOMPSON:** We're asking to table this.

32 **BEN:** Yeah, I want to make sure when we do it, it's clear.

34 **HAL:** Well, that was one of the reasons that we want to get this all clear. This and Part A & B of you're
number one on the agenda, you want to continue tonight.

36 **THOMPSON:** Right.

38 **HAL:** Number 2 and number three, which would be the setbacks for the garage and whatever else would
happen with the pump house you want to continue that to next month.

40 **THOMPSON:** Right.

42 **HAL:** Pat. Is it appropriate to take a vote of the Board to do that now—to table Parts 2 and 3?

44 **PAT:** I think you could do it just in the final vote. You could do it either now, or you could do it at the final
46 vote.

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2 **HAL:** Let's do it now, and get it out of the way. I'd like to make a motion that the Board for Parts 2 and 3
4 CONTINUE those until the next meeting, and separate them from Part 1, which is the approval of the footprint
from 1986. Those in favor—oh, question?

6 **JOHN:** Yes. Greg has something.

8 **GREG:** Yes. Mister Chair, staff would request that we do get some specific plans as early as the beginning of
10 next week so that we can send those out to the adjacent property owners for comment and consideration so that
they can be prepared at the next Board of Adjustment hearing as well.

12 **HAL:** Okay.

14 **GREG:** So the request would be whether or not the can get those plans in time for us to have adequate review
by staff, and for referrals, and adjacent property owners.

16 **THOMPSON:** We will do our best to get to him by the middle of the week.

18 **HAL:** Is that agreeable to Mr. Ells?

20 **THOMPSON:** I mean the garage plans are already there.

22 **BEN:** Yeah. I don't think that we can grant a variance without specific plans.

24 **THOMPSON:** Correct.

26 **BEN:** And we've got to notice the public.

28 **HAL:** Yeah.

30 **BEN:** So there's a certain set of requirements that have to be met.

32 **THOMPSON:** Right, I agree.

34 **BEN:** So, yeah, you've got to do your best, but if it doesn't happen it may slide a month because of the notice
36 requirement.

38 **THOMPSON:** All we're talking about is a 4-inch pipeline and 15--*{inaudible two people speaking at once}*
40 pump shed.

42 **HAL:** But see that's all between you.

44 **BEN:** Yeah, you guys work that out.

46 **HAL:** Are we in the boundaries here? Okay, those in favor?

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2 **BEN:** We need a second? Did you get a second?

4 **HAL:** Oh.

6 **JOHN:** Second.

8 **HAL:** Okay, we've got a second. Those in favor "aye".

10 **ALL FIVE BOA MEMBERS {Hal Osteen, John Dickinson, Ben Harding, Michael Poe and James**
12 **Ortega}:** "Aye."

14 **HAL:** Those opposed. {Pause} The "ayes" have it, and that part of the variance request is continued. Now
back to Part A and Part B.

16 **THOMPSON:** Parts A and B work better, than 1 and 2. So that's where we are. First, let's talk about "A" as
18 what staff has recommended, and we're asking you to go along with what staff's recommended, e.g., footprint,
deck and existing structure. And then "B" is the bay window.

20 **HAL:** Okay.

22 **THOMPSON:** And I did want to mention one more thing. In the final pictures that you saw there was more
24 construction than was here. He did ask for permission, and he did get permission to cover it over for weather
reasons. So he hasn't been building without permission after that point. And he's tried his best to follow every
rule and every regulation. I just wanted to explain the difference in the pictures.

26 **HAL:** Okay. I have a question for staff. Don't go away—you can sit down if you want. I want to make sure
28 that I understand what we're recommending—what the staff recommends that the Board approve in terms of
the setback variance for the structure constructed in 1986. Could you do a quick little run through of that for
30 us so that we can get real clear about that?

32 **GREG:** Ok. And this is based on the 1986 building permit, and with the actual structure and in accordance
now with the Improvement Location Certificate. We're suggesting that the Board of Adjustment approve
34 basically what's there, which is a 4.2-foot setback on the east side, and a 8.3-foot setback on the west side.
And in addition to that the applicant is requesting the 4-foot extension for the bay window on the east side,
36 actually a 4.2-foot—an additional 4.2-foot so that it would be a zero-foot setback on east property line.

38 **HAL:** Okay. So from my point-of-view what we consider now is—what I would consider is whether or not
we grant zero lot line variance for the bay window. Is that—okay.

40 **BEN:** Well, we have to decide both of those things.

42 **HAL:** Yeah. We have to decide if we want to follow staff's recommendation about the other part. From the
44 pictures and what I've have been able to see there's a road and a very steep hillside in the front of the house. Is
that correct?

46

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2 THOMPSON: That's correct.

4 HAL: That's right.

6 THOMPSON: That is the mine tailings right in front of that.

8 HAL: Okay. So if we were to support giving you a zero clearance on that side of the house that wouldn't—
10 would that, the question is would that have any affect on any neighbors, or any traffic on that road, or anything
that would ever happen.

12 ELLS: That's my private road. And it goes—it comes into my house as he showed in the picture. Do you
have a copy of the—*{inaudible – spoke away from microphone.}*

14 GREG: Could you use the microphone, please?

16 THOMPSON: The answer is, it won't affect traffic coming or going it's his road. And the bay window won't
18 affect the road at all.

20 JOHN: It's a driveway basically then?

22 THOMPSON: It's a driveway. It was originally the mining road that accessed the mine, where all the water
was. So a lot of what you saw was passed his house.

24 ELLS: *{Showing an exhibit to Board}* This will help.

26 HAL: Did you see this? If we want to introduce something here, we need to make sure staff sees it.

28 PAT: What are these?

30 ELLS: This he saw when I submitted the plans. It's the Location Certificate map.

32 PAT: So this is part of the packet already?

34 ELLS: Yeah. I'm just making sure that it is easier to see there. But it shows the road in front of the house.
36 And then also I've talked to BLM, and between my mining claim, where you saying the "zero-foot" setback,
there's a 25-foot BLM lot right between me and the next mining claim, which is the Grandview. And Greg
38 received an email from Jane this morning that explains further on the BLM position where they don't have any
problem with that. And if he would present that, that would clear that all up for you.

40 PAT: Could you reference where in the packet the Improvement Location Certificate is, as I don't see it.

42 HAL: Page 7.

44 PAT: Okay.

46

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2 **ELLS:** Well, no, that isn't the Location Certificate. Those were the original maps on the 1986 permit. And I
4 didn't see the Location Certificate in the packet, but I submitted to the packet. But it wasn't sent out with the
rest of it.

6 **PAT:** Okay.

8 **ELLS:** And that corrects the survey. And that's the most conservative. That Drexel Barrell says that the can
guarantee that.

10 **PAT:** Greg, do you feel comfortable that you understand what's on this? This is also part of your
12 recommendation based on this?

14 **GREG:** Yes, I do.

16 **PAT:** Okay.

18 **HAL:** Okay.

20 **BEN:** I've got a question. This improvement location doesn't seem to encompass the same property that is
outlined in dark marker on Page 4—and Page 4, 5 and 6. Am I missing something here?

22 **GREG:** You're correct that that Certificate does not show the entire property. And I'm not sure why. But the
24 property that is in for the building permit is the property that was approved through the Subdivision Exemption
that approved by the County back in 1991.

26 **ELLS:** May I address that? There are three mining claims. There's the Dead Medicine, the Eldorado and the
28 Atchison. And Drexel Barrell—I was under the gun to get this in before this hearing, so that we had an actual
Location Certificate. So I knew absolutely what I was talking about. So they came out—I mean, a week ahead
30 of time, I'm amazed they came out. And they did a Location Certificate, and it shows exactly where the house
is on the Dead Medicine mining claim. And then it shows how it relates to the Grandview in front of it, which
32 is the next adjacent property owner. And it shows the BLM lot, 165, in between the two. And so that's what
they put on the Location Certificate.

34 **PAT:** So is this of the Dead Medicine lode, Mr. Ells?

36 **ELLS:** Yes it is.

38 **PAT:** Okay.

40 **BEN:** So are we dealing with three lots here? I'm asking staff. Three parcels?

42 **GREG:** No, it is one legal parcel altogether.

44 **BEN:** Okay.

46

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2 **GREG:** That survey that you have does not show the entire property.

4 **BEN:** Okay. That's what I thought. I just wanted to make sure. Okay.

6 **JOHN:** I have a question. So the driveway is not on your property line?

8 **ELLS:** Half of the driveway is on my property, and the other half is on BLM, and then when you go 200-feet to the north it goes across the Grandview.

10

JOHN: Could you show me where BLM is on this document?

12

{Inaudible Conversation – Speaking Away from Microphone}

14

ELLS: --and then it goes this way right to here to the garage and the fire department would be over here on the south. So there's like two roads that come together and a big turnaround spot here and stuff above that.

16

18 **JOHN:** Thank you.

20 **HAL:** Are there more questions here, before we go to the public for their comment?

22 **MICHAEL POE {Board of Adjustment Member}:** I have a question for staff, I guess. In your analysis, in Section F, it says, "Staff finds that the proposed addition could be altered in a manner that is in keeping with the provisions of the previous variance approval." Could you elaborate on that a little bit?

24

26 **GREG:** That essentially means taking the bay window out so that it would be a flat wall.

28 **MICHAEL:** Okay.

30 **JOHN:** Boy! I have question for Mr. Ells. I'm an architect myself for 15 years, but on page, what was it, the criteria analysis by the staff talks about (C) "The hardship is not self-imposed." The staff says that, "The applicant was aware of the setback requirements at the time he began construction—reconstruction, on the east part of the house and began the project without a building permit." Why did you do that?

32

34 **ELLS:** Because in that picture when you saw, I had leakage and the rainwater ran in, and it ran the drywall and I had to pull the drywall off. And when I pulled the drywall off it was infested with those black carpenter ants, and I had to take the vacuum cleaner--.

36

38 **JOHN:** But the question is, "Why did you built it without a building permit?"

40

ELLS: I was stupid. I made a mistake. It was just the ants--.

42

JOHN: But that's caused a lot of problems.

44

ELLS: Right. The ants were so bad that they were coming into the rest of my house. And I sucked them up with a vacuum. And I sucked up two gallons of ants. And then, I have pets, so I didn't want infest—you

46

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2 know, poisoned the whole area. So it was just easier to lift the greenhouse off, and then the whole structure
4 under the greenhouse was structurally deteriorated. I mean there was no structure holding up the greenhouse.
6 So when I pulled it off, I was just going to rebuild the walls and put a shed roof. And then, it looked like a big
8 square box, architecturally it looked terrible. And so I just cannily built a bay window out four feet because I
10 didn't think that was a problem because I was on the original foundation. I didn't build any new foundations,
or anything. I just cannily inverted and made it a little bigger so that I would have a bigger area to walk around
the stairs to get upstairs. Instead of like a three-foot hallway, I'd have a bigger hallway to get upstairs. And I'd
have more room, and the front of the house would look like the rest of the houses in the area architecturally, so
that it doesn't just look like a big square industrial box.

12 **THOMPSON:** Mr. Dickinson, I'll tell you what he said to me the first time that he came to me. He said that
14 he did not realize that a bay window would be such a problem. And Greg was invited to his house. He
16 showed him what he was doing, and the first time he realized that it was problem was when Greg told him.
We would like you treat this as if the bay window was not there, and if it is your decision to tear it out, we'll
tear it out. We're asking for permission to do the bay window now, because he did not realize at the time that
he needed permission to do the bay window. But he now realizes he does, and he's willing to pursue it.

18 **JOHN:** Okay.

20 **HAL:** If there are no more immediate questions, I'd like to open the public section of the hearing. Is everyone
22 ready to go on with that on the Board? Okay at this time we'd like to open the public section of this hearing.
24 Are there any people from public who wish to speak to the matter before the Board? Please come up to the
microphone. And please state your name and address.

26 **PUBLIC HEARING OPENED.**

28 **SPEAKERS:**

30 **SUSAN GOLDSTEIN:** (Adjacent Property Owner - 6319 Sunshine Canyon Drive) I'm Susan Goldstein.
32 And I live in Denver. My mailing address or my home address?

34 **HAL:** Your home address.

36 **GOLDSTEIN:** 844 Humble. I'm not good in front of a lot of people so I'll do my best.

38 **MEMBERS OF THE BOARD:** Neither are we. And we're just a few people.

40 **GOLDSTEIN:** I'll give you a brief history because this is extremely complex mess that has been going off
42 and on for a number a years. When I was young, I moved into a cabin up on Sunshine Canyon, which sat on
the Grandview mining claim, and it was an improvement only on a mining claim. And over a period of—in the
'70s I ended up acquiring two little cabins that sat on the Grandview mining claim. The mining claim was
owned in part by a family on the East coast, and in part by an organization in Denver that was an old folks
home. At some point in the '80s the people on the East coast tried to consolidate their ownership of their
mining claim, which they found very difficult to do. And in the process tried to take my cabins away from me.
46 I was in an unusual situation because it was an improvement only on a mining claim. So when Fred began his

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2 process of building, I owned the cabins, but other entities owned the land. I eventually—in the beginning of
the process when the people in the East coast, whose name was Clymer, sued me to try to get me out of the
4 cabins. I offered to buy their land from them, or whatever interest they had in it. Eventually they sold
whatever interest they had, and I went through a quiet title action.

6 So in 1986 when Fred began building, I had no authority whatsoever to deal with the issue of access over the
Grandview mine. But he did ask the owners of the mining claim for an easement at that point, and they didn't
8 give him an easement. I finally got clear title in the early '90s and at that point I approached Fred and talked
about "let's resolve the easement issue," because he was crossing the Grandview to get to his mining claim.
10 Which as I understand it, is long and skinny, and he could have built his own road to access his home, but he
went over a grown over area of land that had been a road to the mine. In the following years, Fred and I had
12 conversations about issues that came up on numerous occasions. And I tried to be a cooperative neighbor in as
many ways as I could. He had stored maybe the fire truck that he is talking about on my property, and I had to
14 ask him to remove it. There may have been a second truck. He used a plow of some sort to actually cut the
road that crosses the Grandview; made it wider and caused some erosion problems for me, without permission.
16 And had stored a lot of building material on the driveway in front of his house, which I thought was probably
may land, but it turns out it may have been BLM.

20 The final straw happened this summer, apparently, during the fire season. Fred found himself very much afraid
that his house was going to burn down and rather than call me and ask me for permission to thin, or remove
22 some trees on my property, he just clear cut, what appears to be the BLM land and some of my land. And I
had been up Sunshine Canyon, I live in Denver, and I have a tenant in one of the cabins. And I'd been up
24 earlier in the summer, but hadn't walked the property. And went up Labor Day weekend with a friend and we
decide to walk the property and there were giant piles of no longer standing trees that he had cut down, and at
26 that point I had had it. And told him that I wanted compensation for the trees, and that I wanted to deal with
the easement issues, and we tried to work this out over the period of time between then and now, and
28 somewhere before—in early October he informed me that he had applied for some variances for his property
and for a garage. And I again brought up the easement issue, and brought up the issue of being compensated
30 for the trees. So at this point, I think there is an access, a legal access issue, and where he cut the trees there
was a legitimate reason to do that to protect his house from the fire, and I don't take an issue with that. But
32 doing it without my permission, and clear cutting is something that I think was absolutely wrong. And his
response on "Why did you do it?" was the same as "Why did you build without the building permit?" "I was
34 stupid." I have tried to get this resolved, and I want to go on record that I am not against having that water be
used by the fire department. As a result from where the trees were cut, I may or may not build on that property
36 myself, but I have a legal building site, and I have valuable piece of property that has been devalued because of
the trees that have been removed. Because of the location, of where the trees were removed, which is below
38 Fred's house, what would have been a natural barrier for the location of potential home on my property is no
longer there. So there's now a clear, visual point from his house into my mining claim that really shouldn't be
40 there. Which would lead me to think, if I decide to build the best building site is going to be very close to the
area where the access that he's been using crosses the Grandview. Coming off of County Road 52—I think, do
42 you know? The main road that goes up to Gold Hill, there is a road that goes down to Four Mile Canyon,
which is Road 205, I believe. And there was a straight shot back to the Grandview, which had been a road
44 years ago, and then a curved up section that goes up, which the road that you see that goes up in front of his
house. Because the trees were cut in front of house, and to the, I believe, west, my potential building site has
46 now, in theory at least, been shifted to the west, which is closer to the County Road that goes up to Gold Hill.

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2 Which force me to put a house in the area where the road that he cut, which goes across the Grandview, is then
connecting to the Dead Medicine. I'm amenable to try to make something work with Fred, but off and on over
4 the years, I have had numerous problems. I went on a wild goose chase talking to the State Forest Service
because he told me that he was involved in a plan to be reimbursed by them for the fire mitigation. Well, he
6 wasn't dealing with them. A few weeks later he informed me that he didn't want me to call the Sunshine Fire
Department, or fire district, because he wanted to get reimbursed the money that he had spent for cutting the
8 trees on my property. And I wanted to get all the cut down trees removed, rather than having to deal with it
myself. So it turns out that he was dealing with Fire Mitigation District, not the Forest Service. So I'd like to
10 think that the two of us could work out something where he doesn't make an issue of crossing the Grandview
to get to his land, so that I would have a better potential building site, which I am now forced to use instead of
12 where I would have been. But this is such a complicated mess that I'm not quite sure where this will go. I
didn't think I needed to bring an attorney today, so I didn't. But I want to be on record that I am not opposed
14 to having the water be used by the fire department. I think that the easement issue has be to dealt with because
Fred has said on his own that he does not want to have a lot of exercises going practice runs going back and
16 forth in front of his house to go to the fire department. Today's the first I've heard that he owned a fire truck,
and that he was going to be storing that in the garage. What I had been told is that if he had to make the garage
18 small—smaller that he could get two cars in it. He didn't say anything about storing the fire truck. It's
problematic. I want to see him be able to close the front of his house back up because it's winter and the
20 *decent weather for building is slipping by. I'm not a vengeful person, but I do like to see things made right*
before he has permission to go ahead and continue to—I would say, violate the rules that have been setup to
22 make things work well between people. If I could take just a minute to look down my list to see if I have left
anything out.

24 **HAL:** I have a quick question.

26 **GOLDSTEIN:** Uh-huh.

28 **HAL:** One of the—I think you were here, what he's decided to do is put off the issue of the garage and the
30 fire stuff for the next meeting. What we're dealing with here now, in this particular section, in this particular
variance is it basically comes down, for me, it comes down to the bay window.

32 **GOLDSTEIN:** Um-hum.

34 **HAL:** Staff has recommended because of a surveying error, which was not his fault that there are some
36 setback problems with his house, and the staff has suggested that we approve that. Do you have any feeling
about the bay window?

38 **GOLDSTEIN:** I don't having feelings about the bay window. It's not—I don't think that the setback there is
40 going to impact my setback, as the garage setback might, because of the proximity, because of the strip of
BLM land. And so—"No." But as I understand the response of the staff that the applicant needs to provide
42 evidence of legal access prior to the issuance of any building permit. So I think that is something that we really
do need to work out. And I don't know that the document that he introduced that says that there's a good road
44 to the mine from the Bureau of Mines is enough to establish that he had legal access to go over the Grandview.

46 **HAL:** Okay, that would all be involved in the next hearing for the variance about the garage.

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2 **GOLDSTEIN:** Okay.

4 **JOHN:** Question for you. Are saying that—I think I heard you earlier, that the BLM is probably yours?

6 **GOLDSTEIN:** No. The BLM is between the Dead Medicine, which belongs to Fred, and the Grandview, which belongs to me. So it's a 25-foot, as I understand it, it's a 25-foot wide parcel that is between the two
8 properties. And the trees that were cut were cut both on it and on my land.

10 **JOHN:** So the setback that Fred wants to build doesn't cross over to your property? It's not even close.

12 **GOLDSTEIN:** The setback for the bay window as I understand it—and I'm not good at reading those plans, I believe that setback, first is from his own property line, and then, I believe, there's a 25-foot wide section of
14 BLM land, and then there is the Grandview. And we could probably look at one of the maps he gave and he could locate his house and show me, and show you at the same time.

16 **JOHN:** But there were several survey errors. You know, I want to make sure that you understand that clearly
18 that the survey—I mean, we needed to make sure that survey was done right, you know, that it was not 50 feet off like he just recently said had happened. So I want to make sure that you understand about the boundaries.

20 **GOLDSTEIN:** I think I understand. What I don't know—I don't know the County whatever you used that
22 would then have an affect on my land. If there's a 25-foot section of BLM land and his bay window is going to come closer to that, would that eventually impact my setbacks, if he's given a variance. And I didn't think it
24 would. But I don't know how these things work as well as you do.

26 **JOHN:** That's all.

28 **HAL:** Anything else?

30 **GOLDSTEIN:** I don't think so. I was going to take quick look, if I may, just to see if I--.

32 **HAL:** Sure.

34 **GOLDSTEIN:** Okay. There was one thing that I did to address, which was that either Fred, or his attorney, said that the road he uses hasn't been widened and when the equipment was brought in, I don't know if he
36 drove it or somebody else drove. It did widen the area going over the Grandview. I live there in the early '70s and it was not used as a road from the '70s until the time Fred built his house. And I think that's all I need to
38 tell you.

40 **HAL:** Okay. Thank you very much. Is there anyone else from the public who would like to address this matter this evening? Please come forward. And could you state your name and address, please?

42 **RICHARD STARKS:** (Adjacent Property Owner) Yes. My name is Al Starks. And my wife and I live at
44 6299 Sunshine Canyon Drive. We are neighbors of Mr. Ells, on the adjacent property. We have a home there. And we're familiar with what he's doing there, and have no objection to it. And feel that because there is
46 BLM land front of and behind him, he's surrounded by BLM land, and we can't even actually see his house,

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2 and we're one of the closest neighbors, and we have no objection to what's he is doing. And are pleased with
esthetically with what's going on there.

4
6 **HAL:** Okay. Thank you. Is there anyone else here that would like to speak to this matter?

8 **MARK HEATH:** (Adjacent Property Owner) Good afternoon. My name is Mark Heath. I'm an adjacent
property owner to Fred Ells. I'll keep it quick. In terms of the bay window and the footprint, this isn't a
subdivision on the plains where the homes are only six feet apart. Mr. Ells nearest neighbor is 400-feet distant
10 with BLM holdings in between, and I'm a better part of a half mile away. We all see these a definite
improvements to Mr. Ells, except that we can't see them. On the other point of the trees, I realize that's
12 probably not a matter before you to consider, but nobody's more concerned about wildfire mitigation up there
than myself, except perhaps Mr. Ells. And the day, that I saw him up there, thinning and pruning, and taking
14 out the dead trees, I was very happy. I did not see any clear cutting, I saw a very judicious pruning and
thinning. In fact, as one of his neighbors, I'm a little bit concern about the number of pine beetle infestations
16 on Ms. Goldstein's property, as well as mistletoe infestations. I don't know if you want introduce these as
exhibits, but here are pine beetle kills with are plainly visible on her property, which we get to see every time,
18 which could spread onto our property. When I found out that Fred was cutting these down, I was pretty happy.

20 **HAL:** Okay, at this time, I don't think we need to introduce those because it not something that we can
consider basically.

22
24 **HEATH:** Okay. Thank you.

26 **HAL:** Thank you. Is there anyone else? Seeing no one else, we hereby close the public part of the hearing,
and back to Part A and Part B.

28 **PUBLIC HEARING CLOSED.**

30 **JAMES:** I have a quick question for staff. Back to you Greg, and it goes back to your recommendation. And
as I understand it you're recommendation is that the Board approve the existing footprint of the house only. Is
32 that correct?

34 **GREG:** Prior to the construction of the bay window.

36 **JAMES:** That's correct. Okay.

38 **GREG:** Also, I wanted to clarify based on the photos, and it's difficult to tell on the site plan submitted by the
applicant, there's a slight overhang over the bay window. And I'm not real clear on whether or not that is the
40 actual structure that's being considered as far as the side yard setback, but we'd have to be clear in that with
Condition #2 that we do have the survey to verify the location of the structure as approved by the Board of
42 Adjustment. Meaning that it is all within the boundary of the applicant's property.

44 **HAL:** Were you looking at the picture on Page 15, perhaps? Is that the one where the roof comes out down o
over the second story.

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2 GREG: Yes, that's it.

4 HAL: So you want to make sure—if we were to grant a variance for the bay window, the roof could not extend into the BLM property.

6 GREG: That's correct. That is considered as part of the zero-foot setback.

8 HAL: Okay.

10 ELLS: May I address that, Sir? Just one quick moment.

12 HAL: Sure.

14 ELLS: On the Location Certificate, you will see the bay window, and it's two-tenths of foot, which is three or
16 four inches from the property line. So everything on the Location Certificate is on my property, including the bay window.

18 HAL: The question that I had from the picture on Page 15. If the front flat side of the bay window is that
20 close to the edge of the property, and you have a roof extension that comes out passed that there could be—and there would be a problem of that roof extension going into the BLM—passed the property line.

22 ELLS: Well, I talked with Greg about this earlier, and on the original '86 my eaves stuck over into the 8-foot
24 setback. Oh, but I see what you're saying, there is a question as far as--.

26 HAL: Yes. Because if the front side, for example, the front wall of the bay window, is within two inches of
28 the property line and the eave on the roof extends passed that, then you end up with a situation where that could protruded into the BLM property.

30 ELLS: Okay. Well, okay. In talking with other staff, they said they don't consider the eaves. But I have
32 asked that question because I thought the same thing. And is that true?

34 GREG: No. Well, for setbacks we can exclude sections of eaves, but we cannot approve any structure that would encroached onto another property.

36 ELLS: So even if it is just an eave.

38 GREG: We cannot.

40 ELLS: Okay. So then I would need to take the eave off.

42 GREG: If the Board of Adjustment approves the zero-foot setback you have to meet, or *{inaudible – Two people speaking a once – overlapped conversation}* the entire structure.

44 ELLS: Right. Or get something from BLM that says that's okay.

46 GREG: You would be required to go through what's called a subdivision exemption process in order to add

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2 property to your property. And typically, the Board of Adjustment—or the Board of County Commissioners
4 includes a condition that the area of land that is added cannot be used for building or setback purposes. So
based on that precedent the likelihood of getting that approved--.

6 **ELLS:** Is slim. I agree. Okay.

8 **HAL:** Okay. So if the Board decided to grant a variance for the bay window, would it be your advice to
include language in there, or do we even have to include anything if that is already part of the--.

10 **GREG:** I've suggested it as a Condition #2, but I wanted to make sure that the applicant was aware of that
12 what that means.

14 **HAL:** Okay.

16 **BEN:** Well, I think that the typically we either refer to a setback or we refer to the plans as drawn. You know
to say that this is what we're approving, and we have to be clear that we're not approving any extension
18 beyond this window. And I don't think that #2 just says, "Verify as approved by the Board of Adjustment." I
think it is up to us to approve it, if we do, the way we think it's right.

20 **HAL:** Well, it says, "The setback survey verification must be completed by..." and so the surveyor, Greg, is
22 it true that if a surveyor looks at that he—the surveyor would make sure that none of the building protruded?
How does that work?

24 **GREG:** We would get an actual certification from surveyor stating what that structure setback is from the
26 property line.

28 **HAL:** Okay, alright. So we wouldn't—would it be necessary for the Board to include anything in a variance
if we were to grant one?

30 **GREG:** I don't think it hurts to clarify as part of the condition the intent.
32

34 **BEN:** The question I have is that the way I understand, the best information that we've got now is that the face
of the bay window, the flat face of the bay window, is two-tenths of a foot from the boundary line. Is that the
staff's understanding?

36 **GREG:** Well, it's hard to say for sure based on the site plan submitted by the applicant. So I believe he's
38 prepared to answer that question.

40 **ELLS:** When Drexel Barrell surveyed this, there's a problem that was corrected on the corner section being
50 feet off.

42 **BEN:** Yeah, I understand all that. What I'm asking is what's the bottom line?
44

46 **ELLS:** Well, the bottom line is that for him to give me a Location Certificate and certified that everything was
on the property he said right now it's 47.2 feet wide. There's another 2.8 feet that is my property that's in

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2 front, but they can't find the surveying error. And so, I'm entitled to a 50-foot wide mining claim. And that's
4 what—I mean if you go back into the Codes and everything all the way back when these mining claims were
6 made they were made 50-foot wide. So when I talked to Drexel, and this was a hurry up procedure because we
8 needed this Location Certificate for this hearing, he said, "I will certified that you have 47.2-feet. But until I
10 can find the other 2.8-feet, that's all I'm going to do for you. But you property should be 50-foot wide." But
12 those dang mining claims are all screwed up, up there. I mean, and they were done in 1875 and those guys
14 didn't have GPS and everything else they needed to do the things. And so, I've talked with Greg about this
and my original survey shows that the mining claim that Glen True did, when he did the survey when I built it
shows that the mining claim was 52 to 54-foot wide. And so, there's—it is a big mess, but I want compliant
with all the Codes and regulations, and conservative as far as with the ILC so that Drexel can certify that it's
two-tenths of a foot from the property line, what they can find right now. If they can find the other 2.8 feet
then mining claim will be back at 50-foot which it is supposed to be. But it's a mess. And it's a very bad
situation.

16 **BEN:** Okay.

18 **JOHN:** I'm a little confused. But as an architect looking at the plan, you have a survey that's been stamped.
20 It's already been licensed here, no you don't—it's okay, it has a legal description, and shows the building line
and property line between 4.2 feet, on Page 19 of the packet. The Trues layout.

22 **PAT:** Trust.

24 **JOHN:** It shows that building to the deck as 8 feet plus 5 feet 11 inches and that is the building itself, that
26 didn't include the roof. If you include the roof that's probably another 18 inches. It seems to me that until we
28 have clear plan, and how the bay window is built, and how much of the setback is included in there right now,
when I look at this you're already at—it looks two or three over—two or three feet over your property line. The
license is not clear.

30 **HAL:** A question for staff. If the Board were to grant a variance for a bay window and did not in any way—if
32 we granted a zero setback, would that require a new survey, or is this one the one that's here sufficient?

34 **GREG:** We would need a surveyor to actually sign a statement that they find that the structure fall within his
property.

36 **HAL:** Okay. And what would be the procedure if it was found that the present structure did not, I assume he
38 would have to move it back and have to put inside his property line.

40 **GREG:** That's correct.

42 **HAL:** Okay.

44 **THOMPSON:** I agree.

46 **BEN:** I think John's right. And I don't think that the--.

JOHN: To me the measurements are all off. We need more clear, legal descriptions of what this all is—these

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2 descriptions that need to be laid out.

4 **PAT:** I would remind everyone the public.

6 **HAL:** Please identify yourself.

8 **PAT:** Yeah. You also need to reopen the hearing—you're allowing people to keep talking and the public
10 portion of the hearing was closed. So if you want to ask specific questions, you should do that.

12 **HAL:** Oh, I'm sorry. I thought I did that—the public part of the hearing is closed and the rehearing is open.
Thought I did that.

14 **THOMPSON:** If I might, all we're asking for is not approval of the bay window that sits there. We're asking
for the zero line variance that means he will have to prove to Greg that it is within that limitation.

16 **HAL:** That's what I'm trying--.

18 **THOMPSON:** So if it is wrong he will have to remove it.

20 **HAL:** That's my understanding of the procedure. Is that accurate? Okay. So in one sense whether it extends
22 six miles into the BLM property or not at all would have to be settled by a surveyor's statement about what is
really going on. So we don't have to know what is there—what exactly is there now. Is that right?

24 **GREG:** Well, the applicant has represented it the best that he can base on the Location Improvement
26 Certificate.

28 **HAL:** Okay. Alright, so in that sense we don't have know the exact measurement right now because a
licensed surveyor would have to prove it for him to get a building permit. Is that right?

30 **GREG:** Yes. Staff is suggesting that in Condition #2.

32 **HAL:** Okay, from my point of view that takes care of any problems that might arise from where the
34 mining claim line is, or isn't, if it was a certified survey. Does it for you?

36 **PAT:** I would ask that if the Board does vote on a variance for the zero setback that you qualify that so
that you don't become part of any boundary line dispute that may exist.

38 **HAL:** Okay.

40 **BEN:** Here's the concern I have. I mean after what John said and looking at this drawing, looking at the
42 two drawings, I think there's a good chance that part of this thing is already built on the BLM property.
And then, Mr. Ells has testified to the fact that this is a mess. I'm really hesitant to grant any variance
44 where we don't really have—particularly a zero lot line variance, where we don't have good information
about what's going on. I mean this is a mess. We could be—I mean, we could just contribute to making a
46 bigger mess.

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2 **HAL:** How so?

4 **BEN:** Well, how would somebody read it if we said it's a zero line variance, and he's actually built his
6 property—his property is over the line, I mean, what are his rights then. Can he bring the whole house
8 back to the line? I mean, I don't--.

10 **HAL:** If we approve the 1980—if we follow staff's recommendation and improve—I mean, approve the
12 setbacks for the structure constructed in 1986 that's accepting to the fact that there was a surveying error,
14 and yeah, it's a mess. But the house is there, and so if we approve the setback variance for the house as it
was, that's one thing. The second part of it is he wants a variance to put the bay window in. But he has to
prove that the bay window won't go on to anybody else's property before he'll be issued a building permit
to keep it there.

16 **JOHN:** Hal, if you look at the plans the survey itself is certified stamped and it shows clearly that the
18 existing building is 4 feet—4.2 feet, which doesn't include the bay window over the line already.

20 **HAL:** So you think it's over the line already?

22 **BEN:** Well, it might be. And it's—now we have testimony that there's still uncertainties in the survey. I
24 mean what happens, let me just ask this question. What happens if it turns out that the boundary is off, and
26 we grant him a zero lot line variance, and it turns out that the boundary really is 5 feet further out? I mean
he could build out to that line. I mean if we don't know where the line is, we don't know what we're
doing. Right?

28 **HAL:** There is that side of it, yeah. *{Laughter among the Board}* Let's make it a little more complicated.
{Laughter among the Board}

30 **BEN:** I mean, it sounds like there's a property line dispute here. It sounds like they haven't figured out, I
32 mean, one surveyor says it 54 feet wide, and one surveyor says it 47 feet 4 inches or whatever it is. Why
are we going to jump into the middle of this?

34 **HAL:** Well, from my point of view I'm not sure we do because the house exists.

36 **BEN:** Yeah, but if we grant him a zero line variance, or setback variance, against a line that's not precise,
38 we don't really know what the result is going to be.

40 **JAMES:** Well, Ben, I think it goes back to the—what the applicant, or the applicant's representative, has
42 asked. That you actually separate it into two separate issues, point "A"—the existing footprint of the
44 existing house, and then the zero lot line of the bay window. Frankly, I'm on a different position on both
of those. I can understand the need for the existing footprint, but the zero lot line, I don't think there's
enough facts here to make a clear decision on it. So I guess it's back to the applicant, whether they want to
separate those two, or put them together.

46 **BEN:** Well, I don't know.

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2 **ELLS:** Can I make one statement?

4 **HAL:** Sure.

6 **ELLS:** And hope I can clarify. I'll get this clarified and hopefully we'll get this straighten out. Right
8 now Drexel Barrell will survey that—they have certified that the mining claim is 57.2 feet wide. I mean,
47, I'm sorry, 47.2 feet wide. To the face of the bay window I have two-tenths of inch—two-tenths of a
10 foot. So I have three or four inches to the conservative survey line, which is 47.2. The actual survey line
according to BLM and mining, and everybody else, is it's a 50-foot wide mining claim. There's 2.8 feet
12 more that I'm entitled to that's on my deed that's part of property to make it a 50-foot wide mining claim.
That's what was in '86, that's everything. And so the overhang that John sees in the architectural plan 2
14 feet. We're missing 2.8 feet so I could—you could rule on an eight-tenths of foot setback and should still
be on my property.

16 **HAL:** Well, I'm going to make it more complicated. Which side of the property might that extra footage
18 be?

20 **ELLS:** It's on the front side. Because the--.

22 **HAL:** You're absolutely sure of that?

24 **ELLS:** Yeah. And Drexel will certify that because the back line I had that certified in by Glen True and
Alpine Surveying in '86, and we staked that all. So we had a meticulous stake, right. And then I built an
26 8-foot setback to foundation, and I built the whole house, I mean, foundation, everything. And I had, as
you will see on the Location Certificate, on one end it's 8½ feet, and then it's 9.3, so it's a little jockey, so
28 the original line was just off that much. But the front, the most conservative estimate, according to Drexel
Barrell, is 47.2 feet, so that left me two-tenths of a foot of having the bay window, except for the eaves,
30 and I was unaware of the eaves. And the eaves could be cut off, or I can get another survey, another—you
know, LIC, that certifies that it's 50-foot wide. And if it's 50-foot wide, then you can give me eight-tenths
32 of a foot setback.

34 **THOMPSON:** I think to make it easier, you could make a condition, understanding that if you approve it
first, you got to go to Greg and he's got to prove to Greg that every bit of it is on his side. If can't prove
36 that, then he's got to cut it off. So the worse that could happen here is he'd have to cut the eaves off.
That's the worse. The second condition you could make is that "not to exceed the existing structure." So
38 I'd think of this as if it wasn't even there. He's asking you for permission to put a bay window to a zero lot
line. He then got to go to Greg, and he's got to show Greg where it's going to be, and go through the
40 permit process,--.

42 **HAL:** And prove it, yeah.

44 **THOMPSON:** --and if they say the bay window now as it exist is in the wrong place, he's got to take it
off. That's as simple as it can be.

46 **HAL:** That is true. That is correct. If it is—if it violates his property line, he's got to take it off, right?

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2 **GREG:** That would be correct.

4 **HAL:** Okay. *{Laughter and long pause}* I'm inclined to follow the staff recommendation and approve the
6 setback variance for the structure constructed in 1986. I think that—I'm fine with that. I don't even have
8 any problem with putting the bay window on as long as it doesn't violate any property line. How about
somebody else?

10 **JAMES:** I would be in support of the staff recommendation, but not to exceed the existing footprint of the
building.

12 **BEN:** You mean, existing footprint as it's--.

14 **JAMES:** As it was approved.

16 **BEN:** As it was approved in the 1986 footprint?

18 **JAMES:** '86 footprint, that's correct.

20 **BEN:** Okay. I think what would be good would be to separate this if we're going to offer motions. I'm
22 going to suggest that we separate it into two motions, one, to deal with the existing footprint of the
building, and a second to deal with the zero lot line variance.

24 **HAL:** Can we do that?

26 **PAT:** Yes.

28 **HAL:** Okay.

30 **MOTION FOR THE 1986 FOOTPRINT OF THE RESIDENCE:**

32 **JAMES:** Okay, Mr. Chairman, in the—I move that in the matter of Docket VAR-02-15 the Ells Variance
34 based on staff analysis and the particular recommendation on the approval of a variance for the 1986 building
permit location be approved as identified in the staff's document.

36 **HAL:** I second that. All those in favor "aye."

38 **BEN:** Wait. Wait. Wait.

40 **HAL:** I'm sorry.

42 **BEN:** I just want to make it clear that if there's a subsequent we're not—he's going to have to take whatever
44 action is necessary to make sure even that footprint is on his property. If there's any doubt about that. Okay?

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2 HAL: Okay. All those in favor "aye."

4 BOARD OF ADJUSTMENT MEMBERS {John Dickinson, Ben Harding, Hal Osteen, James Ortega,
and Michael Poe}: Aye.

6 HAL: All those opposed. {Pause – no one responded.} The "ayes" have it. That variance is granted. Now
8 we're onto the bay window. {Inaudible discussion} Any more discussion, or ideas, about the variance for the
bay window?

10 BEN: I'm not going to support it.

12 HAL: Okay. We have two not supporting it.

14 JOHN: Neither will I.

16 HAL: Well then, let's hear a motion to that.

18 MOTION FOR THE VARIANCE OF A BAY WINDOW LOCATION:

20 JAMES: Mr. Chairman, in the matter of Docket VAR-02-15 the Ells Variance in the request of a zero
22 variance for a side lot line, I move that the Board deny the request.

24 HAL: Is there input, comments?

26 JOHN: Second.

28 HAL: And we have a second. Before we vote--.

30 DISCUSSION:

32 BEN: And I just want to say the reason I'm going to oppose this is because the evidence before the Board
34 indicates that there's a tremendous amount of uncertainty about where this thing is placed, and where the lot
line are. There's some uncertainty about surveys. And I can't—we can't grant a variance with that kind of
uncertain information.

36 THOMPSON: So Mr. Chairman, what I'd like to ask is to table it since we're already going to do the other
38 one, and I can get a surveyor to do just exactly what he asked.

40 HAL: Ah yeah, we're stuck now because he have motion made and seconded it. Can we--.

42 JAMES: Well, if the two parties want to withdraw it, we can. I believe, right?

44 PAT: I think he could withdraw the present application, and resubmit prior to the next Board of Adjustment
46 hearing.

Transcript for Docket VAR-02-15: ELLS Variance
November 6, 2002
Page 33

2 **THOMPSON:** Or a motion to table it takes precedent.

4 **PAT:** No, I don't believe so, now that it's gone forward. I believe that procedurally the Board—there's
already a motion before the Board. Excuse me, Graham?

6 **BEN:** We've already dealt with part of it.

8 **PAT:** Graham?

10 **GRAHAM BILLINGSLEY:** Graham Billingsley, Land Use Director. He missed the submittal date for the
12 next--.

14 **PAT:** Oh, for next month.

16 **GRAHAM:** Unless the Board waived that tomorrow.

18 **PAT:** Oh, so it would be for January. Sorry.

20 **GRAHAM:** That was at 4:30 today.

22 **PAT:** I see.

24 **BEN:** We've already dealt with one. We already just passed one.

26 **THOMPSON:** I'm not asking for that one to be tabled.

28 **BEN:** Well, we separated them.

30 **PAT:** Well, procedurally you all have a motion before you. The question is first do you want to entertain the
applicant's request to withdraw. That's something you have to discuss because it's within your purview to or
32 not to.

34 **HAL:** Okay.

36 **PAT:** You could deny this today and he could still resubmit for another date with more information. You
could also table it and let him go forward for next month.

38 **HAL:** Oh, so we do have the option of tabling?

40 **PAT:** He's requested two things. One is to withdraw. And one is table. And I would assume that his first
42 request is to table and the second is to withdraw.

44 **THOMPSON:** Yes.

46 **HAL:** Well, I'd like to poll the Board about how people feel about doing more this with this.

Transcript for Docket VAR-02-15: ELLS Variance
November 6, 2002
Page 34

2 **JAMES:** Well, I agree with Ben that there are not enough facts for the zero clearance, and if that can be
provided later then I'm okay with that.

4 **HAL:** Ben how about you?

6 **BEN:** Well, I just—it's a procedural issue for me. If he wants to—if we want to table it in the middle of a
8 motion.

10 **HAL:** And wait for more information. A question about that. Do we--.

12 **PAT:** I believe that under Robert's Rules the person who proposed their motion would have to withdraw, and
the second would also have to withdraw. And then you could consider the request to table by the applicant.

14 **HAL:** Okay.

16 **JAMES:** Mr. Chair, I would entertain withdrawing the motion.

18 **PAT:** And then the second would have to be withdrawn.

20 **JOHN:** I would withdraw the second.

22 **HAL:** Okay, so the Board can now entertain the idea of continuing this to next month to try to get more
24 information. I want to make sure that everybody feels comfortable with this.

26 **BEN:** I want to have a report from the surveyor. I really would like to have some explanation of what's going
on here because it's really—you know, it's just a lot of arm waving as far as I'm concern.

28 **THOMPSON:** I will get that for you.

30 **BEN:** And it isn't clear which way the arms are waving. Whether they're going on the front face, or the back
32 face, or who surveyed what and when. So you know you're at risk—I'm not going to vote for it if there's not a
good survey.

34 **THOMPSON:** I understand.

36 **BEN:** So bring good survey. Bring a report. Bring the surveyor. No more arm waving.

38 **HAL:** Okay, do we now make a motion?

40 **PAT:** To table the Section 1B of this docket.

42 **HAL:** Okay, I would like to make a motion to table Section 1B of this docket.

44 **PAT:** Is there a second?

*Transcript for Docket VAR-02-15: ELLS Variance
November 6, 2002
Page 35*

2 **JOHN:** Second.

4 **HAL:** We have a second. All those in favor "aye."

6 **BOARD OF ADJUSTMENT MEMBERS {John Dickinson, Ben Harding, Hal Osteen, James Ortega,
and Michael Poe}:** Aye.

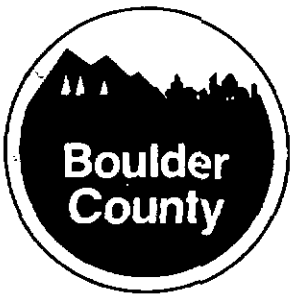
8 **HAL:** Motion carries. We'll see you next month.

10

12 **ADJOURNED**

*The official record of this meeting is on tapes, available for public use
at the Land Use Dept., 13th and Spruce, Boulder, CO
(303) 441-3930.*

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Post Office Box 471 • Boulder, Colorado 80306

Land Use Department

Courthouse Annex

2045 13th Street • 13th & Spruce Streets • Boulder, Colorado 80302 • (303) 441-3930

November 18, 2002

Fred Ells
6301 Sunshine Canyon Drive
Boulder CO 80302

Dear Mr. Pomerantz:

This letter certifies that a hearing of the Board of Adjustment, County of Boulder, State of Colorado, was duly called and held on Wednesday, November 6, 2002, in consideration of the following request:

Docket VAR-02-15: ELLS Variance

Request: A request for three separate variances to setback requirements for a proposed addition, a detached garage, and for use of an existing mine by the fire district for water storage.

Location: At 6301 Sunshine Canyon Drive, east of Gold Hill, in Section 8, T1N, R71W

Zoning: Forestry (F)

The Board of Adjustment of the County of Boulder, State of Colorado, APPROVED the request for a variance to recognize and approve the setback variance for the structure constructed in 1986. The Board TABLED the request for the proposed addition, a detached garage, and for use of an existing mine by the fire district for water storage to Wednesday, December 4, 2002.

If you have any questions regarding this matter, please feel free to contact me at (303) 441-3930.

Sincerely,

Greg Oxenfeld, Planner II
Current Planning Division

cc: All Adjacent Property Owners

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Jana L. Mendez
County Commissioner

Ronald K. Stewart
County Commissioner

Paul Danish
County Commissioner

VAR-02-15: ELLSBOA11/6/02

Ben Thompson, attorney

- noted the survey shows 50 feet and the new survey shows a loss of about 2 1/2 feet - and is requesting approval for the existing structure and with the bay window extending further into the setback - noting there is a 25-foot wide BLM property adjacent to the east side of the house
- the greenhouse caused condensation problems that resulted in carpenter ants, mold causing the dry wall to fall
- notes the bay window makes the stairway have better access

* provided photos - labeled Exhibits 1 2 3

- have no problem with providing evidence that the drive does provide legal access
 - does admit with cutting neighbor's trees; neighbor has asked for \$10,000 for the tree removal to delete the objection of the variance
 - want to use the garage for storage of a fire truck and need the space (24' wide) to accommodate the fire truck; and use a 10'x15' ^{pump} shed at the site → not requesting this be approved at this time for 2-500 gallon tanks
- Fred Ells - note he owns the fire truck and want to use 4" lines and pump house to get the water; the proposal should not affect the Goldstein property

Applicants would be agreeable to table the application for the 2nd & 3rd request, but that the BOA act on the addition

Fred Ellis notes that a hot tub was added about 4 years ago and he enclosed the area underneath the hot tub and is attempting to meet all building codes

* BOA approved the request to "table" the garage and pump shed → 5-0

→ staff notes and applicant confirms that info will be submitted by the middle of next week
Hal Osteen - questioned use of the driveway

Ben Thompson: Fred Ellis - noted the use of the driveway
- notes the driveway is on both BLM property and the Ellis property

Susan Goldstein, adjacent property owner

- notes there are two old cabins on the Grand View road that she owns, but did not own the land - got clear title in the early 1990's and suggested adequate easements be provided/acquired for the existing access; noted Fred Ellis cut trees on BLM land and her property; notes she has a legal building lot and the removal of trees caused an impact to her building site; does ~~not~~ support the use of water from the mine for the Fire District

Susan Goldstein - does not have a problem with the bay window addition portion of the application due to the BLM land between her property and the Ells property; notes the drive that crosses over the Grand View

Sunshine F.P.D.

- noted Fred Ells has done an appropriate tree clearing of the property and supports the variance

Fred Ells - notes the survey shows only a 47[±]-foot setback and it should be 50 feet wide

Ben Harding and John Dickinson

feel that part of the structure is on BLM land

Fred Ells - states that Drexel Barrell will certify that the structure (bay window) is within the 47[±]-foot wide property

James Ortega - approve footprint of structure as approved in the 1986 building permit

Hal Osteen - 2nd

Approved 5-0

* making sure the existing structure is within the subject property

James Ortega - denial of the bay window portion

John Dickinson - 2nd

Ben Thompson - request the BOA "table" to allow ^{additional} ~~the~~ information
be provided

Ben Harding - request a letter confirming an adequate
survey and boundary

Table to ^{the} Approve 5-0



Post Office Box 471 • Boulder, Colorado 80306

Land Use Department

Courthouse Annex
2045 13th Street • 13th & Spruce Streets • Boulder, Colorado 80302 • (303) 441-3930

BOULDER COUNTY BOARD OF ADJUSTMENT AGENDA

NOVEMBER 6, 2002
4:00 P.M. (Afternoon Session)
7:00 P.M. (Evening Session)

Hearing Room, Third Floor,
Boulder County Courthouse

AFTERNOON SESSION 4:00 PM

- I. CALL TO ORDER
- II. APPROVAL OF MEETING SUMMARY
Meeting Summary for October 2, 2002.
- III. PUBLIC HEARING

Docket VAR-02-13: POMERANTZ Variance

Request: A Variance to the front yard setback, where 110 ft. is required from the centerline of South Boulder Road (arterial) and the side yard setback where 10 ft. is required.

Location: At 6812 South Boulder Road, between Boulder and Louisville, in Section 11, T1S, R70W.

Zoning: Estate Residential (ER)

Applicant: Anthony R. Pomerantz
(Staff Planner: Greg Oxenfeld)

Docket VAR-02-14: LYNCH Variance

Request: Approval of a Variance of 8+/- feet to the minimum required side yard setback of 25 ft. in the Forestry (F) zone.

Location: At 205 Hummer Drive, in Section 5, T1S, R72W

Zoning: Forestry (F)

Applicants: Joshua & Mary Beth Lynch
(Staff Planner: Todd Tucker)

Jana L. Mendez
County Commissioner

Ronald K. Stewart
County Commissioner

Paul Danish
County Commissioner

BOA Agenda
November 6, 2002
Page 2

Docket VAR-02-15: ELLS Variance

Request: A request for three separate variances to setback requirements for a proposed addition, a detached garage, and for use of an existing mine by the fire district for water storage.

Location: At 6301 Sunshine Canyon Drive, east of Gold Hill, in Section 8, T1N, R71W

Zoning: Forestry (F)

Applicant: Fred Ells
(Staff Planner: Greg Oxenfeld)

Docket AP-02-04: POLLARD Appeal

Appeal of the Land Use Director's determination that fee simple ownership of the Boulder Creek Supply Canal does not interrupt contiguity of a land parcel; by Jennifer A. Pollard.
(Land Use Director: Graham Billingsley)

Board of Adjustment Dinner

The Board of Adjustment dinner will be in the 3rd Floor Conference Room of the County Courthouse.



Docket AP-02-03: SIERRA CLUB Appeal

Appeal of the Land Use Director's determination of September 5, 2002, that special use permit/certificate of designation Docket SU-88-21 is still in effect; by John Barth / Sierra Club.
(Land Use Director: Graham Billingsley)

IV. OTHER BUSINESS/ADJOURNMENT

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Post Office Box 471 • Boulder, Colorado 80306

Land Use Department

Courthouse Annex
2045 13th Street • 13th & Spruce Streets • Boulder, Colorado 80302 • (303) 441-3930**BOULDER COUNTY BOARD OF ADJUSTMENT
AGENDA ITEM****November 6, 2002 – 4:00 PM
Hearing Room, Third Floor
Boulder County Courthouse****PUBLIC HEARING****STAFF PLANNER:** Greg Oxenfeld**STAFF RECOMMENDATION RE:****Docket VAR-02-15: ELLS Variance**

Request: A request for three separate variances to setback requirements for a proposed addition, a detached garage, and for use of an existing mine by the fire district for water storage.

Location: At 6301 Sunshine Canyon Drive, east of Gold Hill, in Section 8, T1N, R71W.

Zoning: Forestry (F)

Applicant: Fred Ells

BACKGROUND:

The applicant is requesting three separate variances to setback requirements for a proposed addition, a detached garage, and for use of an existing mine by the fire district for water storage. The subject property is located at 6301 Sunshine Canyon Drive and was created in 1991 through a boundary line adjustment (SE-91-40). The applicant has submitted two building permits, including Building Permit Applications #02-1510 (addition) and #02-1624 (garage). The existing dwelling was originally constructed in 1986 (BP-86-467) and is 2,592 square feet (including garage). A variance for an eight-foot side yard setback (where 25 feet is required) was approved by the Board of Adjustment in June 1986 prior to the issuance of the building permit. The subject property is 50 feet wide and the chose the building site on the Dead Medicine mining claim between two BLM properties.

A recent Improvement Location Certificate (ILC) dated 09/20/02 shows the house was actually constructed 4.2 feet from the east property line at the northern end of the house. The applicant has indicated that he desired to reconstruct the east portion of the house and began the project without a building permit. As part of the reconstruction project, the applicant decided to include a bay window that encroaches further into the setback and this application is requesting approval for a 0-foot setback along the east side of the house. The bay window portion of the house is actually 0.2 feet from the property line.

VAR-02-15: Ells
BOA – November 6, 2002
Page 2 of 5

The ILC also shows the existing dwelling is 8.3 feet from the west property line. However, the applicant constructed a deck (shown on the 1986 building permit) on the west side of the house that is six foot wide and five feet high. Therefore, the deck is in violation of the approved 8-foot side yard setback approved by the Board of Adjustment in 1986, and the applicant is requesting that the Board recognize and approve a side yard setback along the west boundary of 2.3 feet where 25 feet is required.

The applicant is also requesting to construct a detached garage on the El Dorado mining claim that is approximately 69 feet wide and is part of the subject property. The garage is proposed to be 24 feet by 30 feet (720 square feet) and is requesting a 15-foot side yard setback on both sides where 25 feet is required. The garage would be located approximately 100 feet to the southeast of the existing house. The location for the garage does have some topographic issues and the applicant will need to provide substantial fill material in order to have a level site.

The application materials also include a request for a 0-foot setback and any other variance necessary for the use of the existing mine on the property that holds approximately 80,000 to 100,000 gallons of water, for use by the local fire district. The applicant notes that over the last several years there have been discussions with the district about installing a four-inch line from the water reservoir to a fire hydrant that will be located down the hill on County Road 205. The applicant has indicated that they may need a structure at the mine for a pump station. However, no plans have been provided to date.

REFERRALS:

Referrals were sent to adjacent property owners within 1,500 feet of the subject property, as well as to the Transportation Department, Parks & Open Space Department, and Health Department. The County Health Department has noted that they issued a permit for a raised ripped base system in 1994 for an individual sewage disposal system (ISDS). They note if the total number of bedrooms exceeds three, an addition to the system will be required. They also noted required setbacks from the absorption field and that the ISDS must meet current regulations. A response from Steven Harris (Osgood & Harris) on behalf of Susan Goldstein has responded with a primary concern that Mr. Ells has been accessing his real property over the Grand View Lode without any permanent legal right to use the road. The letter also notes that Mr. Ells or his agents cut a significant number of trees on the Grand View Lode without permission, and has caused her to reconsider the potential location of a residence to a location that will end up terminating the permission for Mr. Ells to cross the Grand View Lode because the new location will be on or near the existing road. Ms. Goldstein is also worried that the relaxation of the setbacks for the garage will affect her peaceful use of her property in the future and asks that the variance be denied until her issues with Mr. Ells are resolved. The letter does note that she has no problem with the addition to the main house. Jay Schumacher has responded as a neighbor and member of the Sunshine Fire Protection District noting that the addition looks nice and the water supply at the Dead Medicine mining claim with a turn around would be desirable, and therefore supports the variance. One other referral from an adjacent property owner (Johnson) has been received noting support for the proposal. The applicant also provided letters from two other adjacent property owners (Frey, Slarks) also noting support for the proposal.

Any additional responses that are received after the writing of this report will be provided to the Board during the public hearing.

VAR-02-13: Ells
BOA – November 6, 2002
Page 3 of 5

CRITERIA ANALYSIS:

To grant a variance, the Board must find that the following criteria have been satisfied:

(a) There exist exceptional or extraordinary physical circumstances of the subject property such as irregularity, narrowness, shallowness, or slope:

The subject property is only 50 feet wide for the first 500 feet along the north where the Dead Medicine overlaps the El Dorado and the Atchison creating a wider parcel. The location of the house was approved through a previous Board of Adjustment review for a setback variance. With regards to the addition, the applicant notes that there is a mineshaft and tailings pile in front of the house that is unsuitable for building. With regards to the garage structure, the applicant notes the El Dorado mining claim is only 69 feet wide. The location of the garage has been selected so that the existing driveway can serve as an emergency turnaround area for the fire district. Staff notes that a garage of approximately 19 feet wide could be constructed to meet the 25-foot side yard setback requirement.

(b) Because of these physical circumstances, the strict application of the Code creates an exceptional or undue hardship upon the property owner;

The applicant notes that the 1986 Variance stated that without a variance, this lot is unbuildable and the applicant's investment would be lost. Currently, staff does not have this same opinion as there is no guarantee in the Land Use Code that the proposed addition or garage would be approved.

(c) The hardship is not self-imposed;

The applicant was aware of the setback requirements at the time that he began to reconstruct the east portion of the house and began the project without a building permit.

(d) The variance, if granted, will not adversely affect the uses of adjacent property as permitted under this code;

A response from Steven Harris (Osgood & Harris) on behalf of Susan Goldstein has responded with a primary concern that Mr. Ells has been accessing his real property over the Grand View Lode without any permanent legal right to use the road. The letter also notes that Mr. Ells or his agents cut a significant number of trees on the Grand View Lode without permission, and has caused her to reconsider the potential location of a residence to a location that will end up terminating the permission for Mr. Ells to cross the Grand View Lode because the new location will be on or near the existing road. Ms. Goldstein is also worried that the relaxation of the setbacks for the garage will affect her peaceful use of her property in the future and asks that the variance be denied until her issues with Mr. Ells are resolved. There are three letters from adjacent property owners noting support for the application. Staff has not received any other responses with regards to the referral. The rationale behind the 25-foot setback is to improve public safety. The applicant has noted that the nearest neighbor (Slarks) is approximately 300-400 feet down the hill and they have no problems with the proposed building permits. Also of note, the applicant is involved in a boundary line adjustment (SE-02-14) with the property on the north side of Sunshine Canyon Drive and one of the conditions is to resolve the current building permit issues with Ells.

VAR-02-15: Ells
BOA – November 6, 2002
Page 4 of 5

(e) The variance, if granted, will not change the character of the zoning district in which the property is located, and is in keeping with the intent of the Code and the Boulder County Comprehensive Plan;

This lot is within the Forestry Zoning District. Article 4-101 of the Land Use Code establishes the character of this district and states that the purpose of the district is to efficiently use land to conserve forest resources, protect the natural environment, and preserve open areas. An aspect of this character is established through the implementation of specific setback distances. The Land Use Code does provide for additions and detached garages, subject to review and approval in accordance with the provisions of the Land Use Code. However, staff finds that the proposed addition and garage could be altered in a manner that is in keeping with the provisions of the previous variance approval, Land Use Code, Comprehensive Plan, and the character of the zoning district. Staff notes that there is no guarantee in the Land Use Code that the proposed addition or garage would be otherwise approved. According to the Assessor's records, the average square footage of improvements on parcels within 1,500 feet of this site is 2,374 square feet. The applicants are proposing a small addition that will bring the total house up to just over 2,600 square feet. However, the addition will be 0.2 feet from the east property line. The garage will be approximately 720 square feet.

(f) The variance, if granted, does not adversely affect the health, safety, and welfare of the citizens of Boulder County.

The Boulder County Comprehensive Plan provides the basis for the Land Use Code. The Land Use Code is enacted to protect and promote the health, safety, and general welfare of the present and future inhabitants of Boulder County and to guide future growth, development, and distribution of land uses within Boulder County (see Article 1-300 of the Land Use Code). The provisions of this Code shall be regarded as the minimum requirements for the protection of the public health, safety, and general welfare (see Article 1-900 of the Land Use Code). The applicants proposed encroachment into the side yard setbacks is not in keeping with the intent of the Code and the Boulder County Comprehensive Plan. Staff finds that the proposed addition and detached garage could be altered in a manner that is in keeping with the provisions of the previous variance approval, Land Use Code, Comprehensive Plan while maintaining the minimum established requirements for the protection of public health, safety, and general welfare for the citizens of Boulder County. The existing home is setback approximately 4.2 feet from the east property line and the applicant is proposing to encroach four feet further into the setback.

RECOMMENDATION:

Staff finds that all of the criteria cannot be met to grant this variance request, as noted above. Therefore, the Land Use Department staff recommends that the Board of Adjustment **DENY** Docket VAR-02-15: Ells Variance, a Variance for an addition to an existing dwelling of 0.2 feet from the east property line, where 25 feet is required; and a Variance for a garage of 15 feet from both side yards where 25 feet is required. Staff has no information to present for a structure at the existing mine for a water storage facility and therefore cannot recommend a blanket approval without an expiration date as requested by the applicant.

VAR-02-15: Ells
BOA – November 6, 2002
Page 5 of 5

However, staff would note that the existing structure (except for the addition constructed without an approved building permit) did receive a building permit in 1986 and was constructed with a 4.2-foot setback on the east side and an 8.3-foot setback on the west side. Additionally, the 1986 building permit does show the six-foot wide deck on the west side and is only 2.3 feet from the west property line. Therefore, staff can recommend that the Board of Adjustment recognize and approve the setback variance for the structure constructed in 1986. Should the Board be inclined to approve any other portions of the applicant's request, staff recommends that the application be subject to the following conditions:

- 1) The applicant shall provide evidence of legal access prior to the issuance of any building permits.
- 2) A setback survey will be required to verify that the location of the structure is as approved by the Board of Adjustment on November 6, 2002 in Docket VAR-02-15. The setback survey verification form must be completed by a Colorado licensed Surveyor and provided to the Building Division prior to the request for foundation inspection with the County Building Division.
- 3) The proposed structures are subject to the provisions of the Land Use Code, which may include a Limited Impact Special Use (grading in excess of 500 cubic yards) or other process as required by the Land Use Code (as amended).

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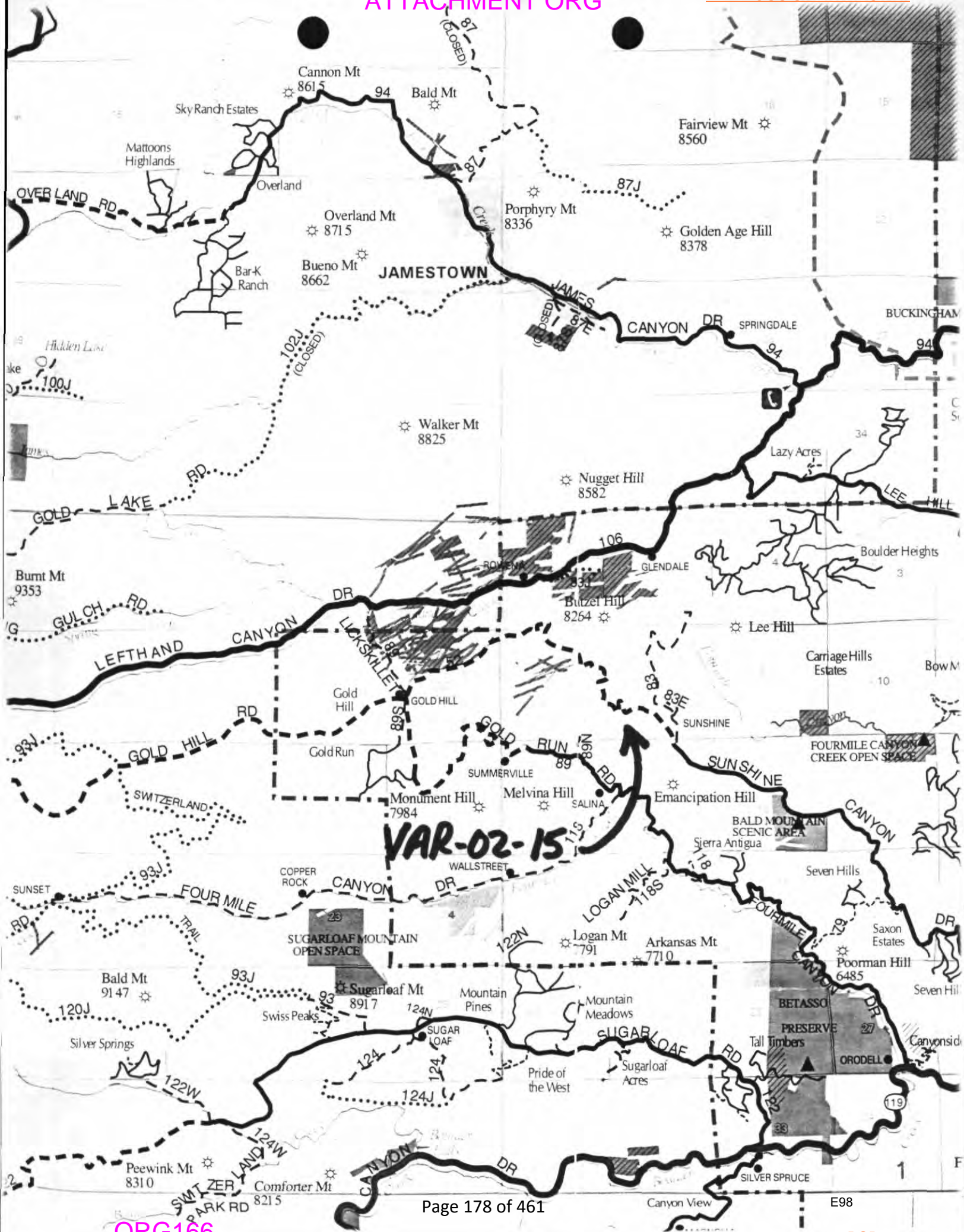


ORG165

EXHIBIT

E97

PSP 171





ELLS FRED JOHN

PID: 146108000074

TAX ID: 58634

SEARCH RADIUS: 1500 FEET

Avg. Struc. SqFt: 2374



Subject Parcel



Zone to Notify

Unidentified
OwnerCopyright 2002 by the
County of Boulder, Colo-
rado. Allrights reserved.

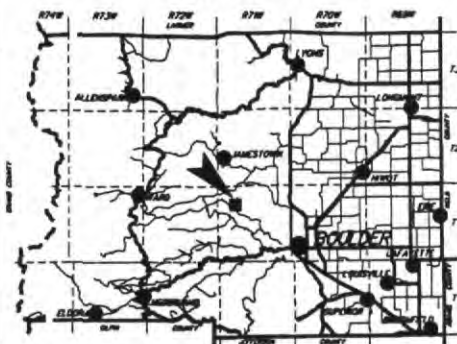
BOULDER COUNTY LAND USE

Data Compiled: 10/08/02



775 feet

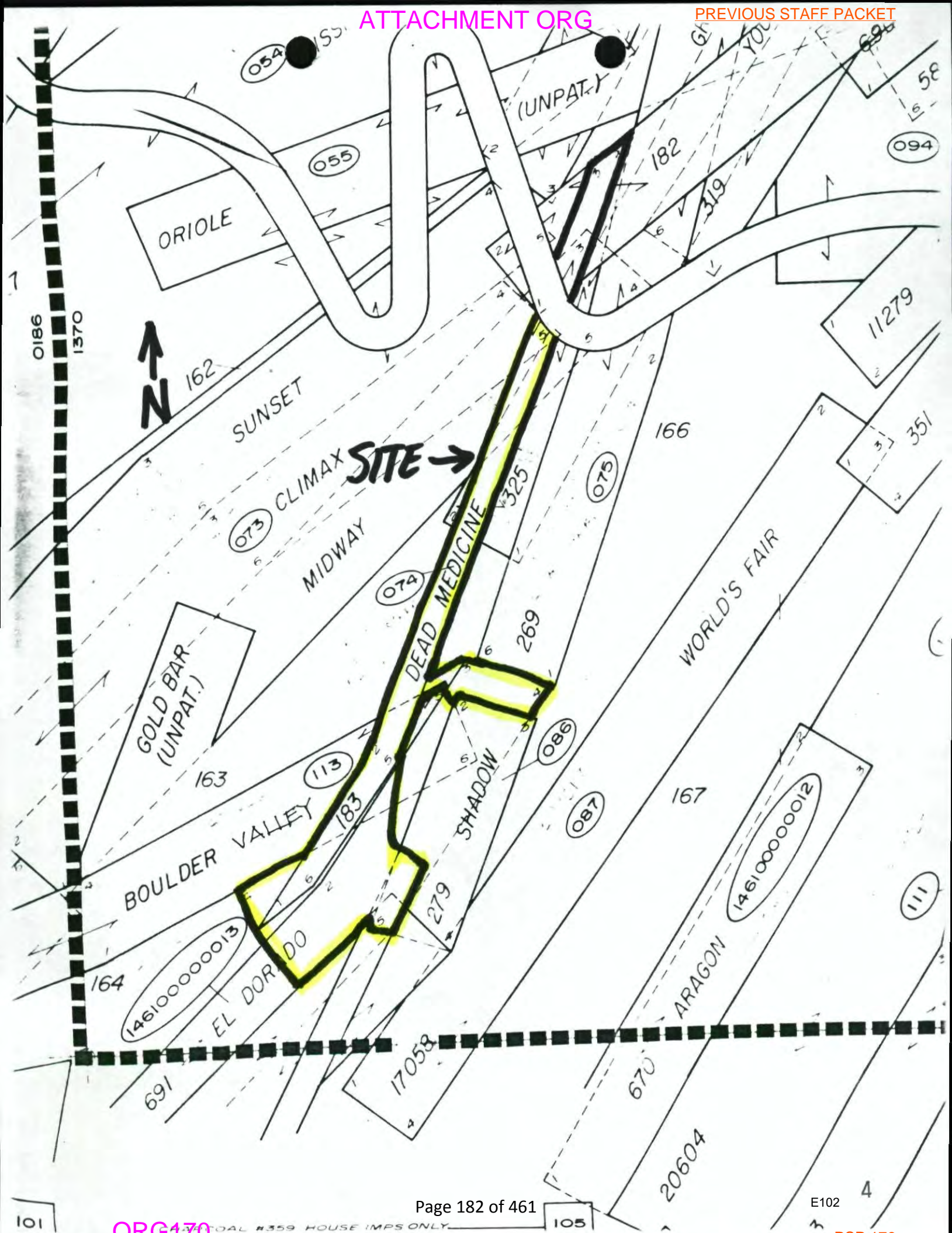
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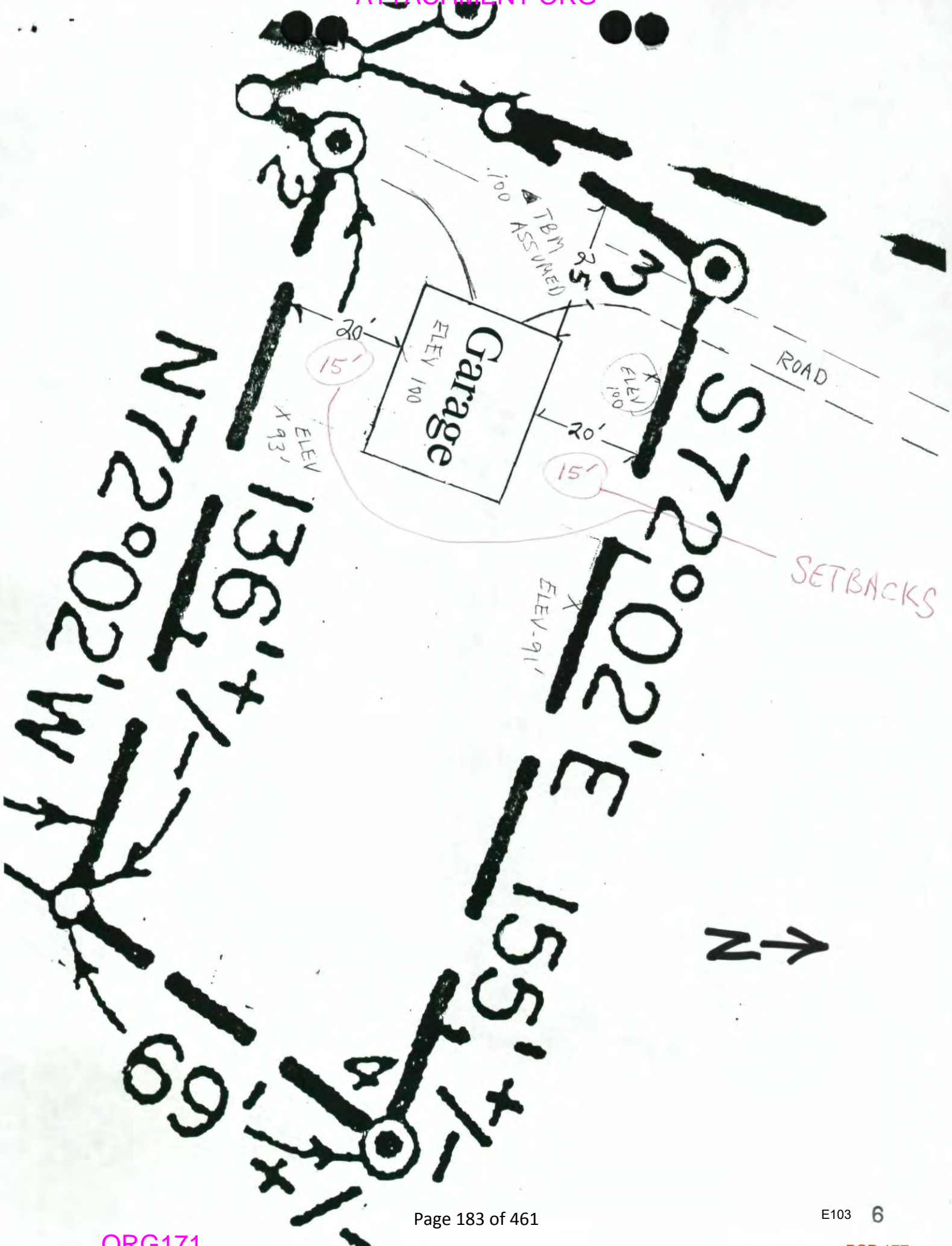


E100

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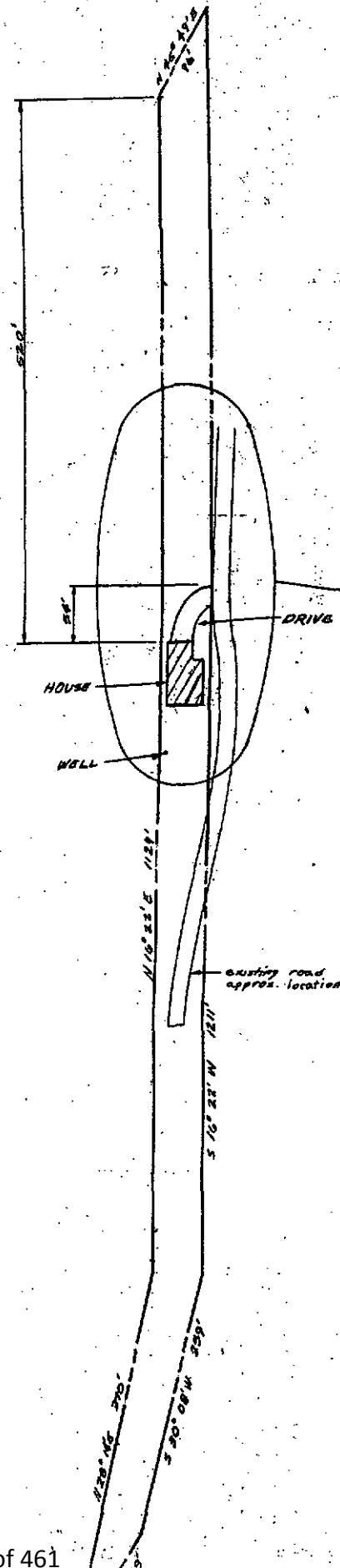




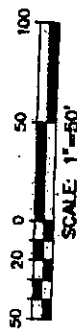
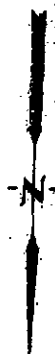




SCALE 1"=100'



SUNSHINE L.



NOTE
LODE DIMENSIONS ARE FROM DEAD
MEDICINE LODGE SURVEY NO. 183 AS
SHOWN ON THE PLAN.

GRAND VIEW LODGE

 $S18^{\circ}22'00''W$ 1211.00'

 DEAD MEDICINE LODGE
SURVEY NO. 183

 $N18^{\circ}22'00''E$ 1128.00'

SHADOW LODGE

 FOUND #1 BEAR W/OLD
PLASTIC CAP STAMPED
"ALPINE SURVEY LS 998"

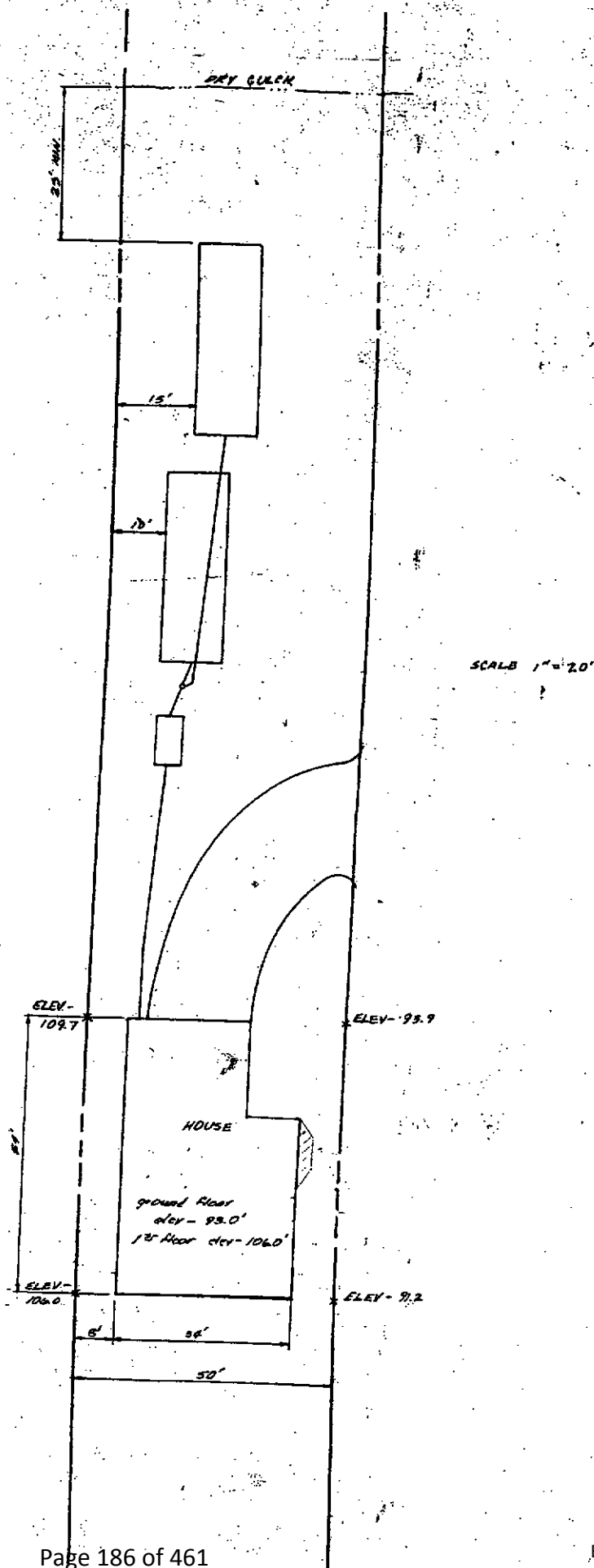
 $S35^{\circ}08'00''W$ 258.00'

 $S28^{\circ}40'00''E$ 370.00'

 $S45^{\circ}49'00''W$ 123.00'

ATONSON LODGE

SIDE SETBACKS 10 FEET





BOULDER COUNTY LAND USE DEPARTMENT
2045 13th Street / 13th & Spruce Streets / Courthouse Annex
P.O. Box 471 / Boulder, Colorado 80306
303.441.3930 / Fax 303.441.4856

APPLICATION FORM

APPLICATION DEADLINE

FIRST WEDNESDAY OF THE MONTH - 4:30
Does not apply to Exemption Plats, Site Plan Reviews,
Limited Impact Special Reviews, or Subdivision Exemptions

SHADED AREAS FOR STAFF ONLY

INTAKE STAMP

P A I D
OCT 02 2002
BOULDER COUNTY
LAND USE

#250 - #5090

| | | | |
|---|----------|---|-------------------|
| PROJECT NUMBER | | PROJECT NAME | |
| <input checked="" type="radio"/> BOA VARIANCE/APPEAL <input type="radio"/> EXEMPTION PLAT <input type="radio"/> LIMITED IMPACT SPECIAL USE <input type="radio"/> LOCATION & EXTENT <input type="radio"/> RESUBDIVISION (REPLAT) | | <input type="radio"/> REZONING <input type="radio"/> ROAD NAME CHANGE <input type="radio"/> SITE PLAN REVIEW <input type="radio"/> SPECIAL USE/SSDP <input type="radio"/> SUBDIVISION EXEMPTION | |
| <input type="radio"/> SKETCH PLAN <input type="radio"/> PRELIMINARY PLAN <input type="radio"/> FINAL PLAT <input type="radio"/> ROAD/EASEMENT VACATION <input type="radio"/> 1041 - STATE INTEREST REVIEW | | <input type="radio"/> EXTENSION OF APPROVAL <input type="radio"/> OTHER: | |
| LOCATION(S) - STREET ADDRESS(ES) 6301 SUNSHINE CYN | | | |
| SUBDIVISION NAME N/A | | | |
| LOT(S) | BLOCK(S) | SECTION(S) 8 | TOWNSHIP(S) 1N |
| AREA IN ACRES 1.52 | | EXISTING ZONING | RANGE(S) 7E |
| EXISTING USE OF PROPERTY FORESTRY | | NUMBER OF PROPOSED LOTS | |
| PROPOSED WATER SUPPLY WELL | | PROPOSED SEWAGE DISPOSAL METHOD SEPTIC | |

APPLICANTS

| | | | |
|--|-------------|-------------------------------------|--------------------------------|
| APPLICANT/PROPERTY OWNER FRED ELLIS | | STREET ADDRESS 6301 Sunshine Cyn | |
| CITY Boulder | STATE CO | ZIP CODE 80302 | PHONE NUMBER (303) 442 5340 |
| FAX NUMBER () | | FAX NUMBER () | |
| APPLICANT/PROPERTY OWNER SAME | | STREET ADDRESS | |
| CITY | STATE | ZIP CODE | PHONE NUMBER () |
| FAX NUMBER () | | FAX NUMBER () | |
| APPLICANT/PROPERTY OWNER | | STREET ADDRESS | |
| CITY | STATE | ZIP CODE | PHONE NUMBER () |
| FAX NUMBER () | | FAX NUMBER () | |
| AGENT/CONSULTANT | | STREET ADDRESS | |
| CITY | STATE | ZIP CODE | PHONE NUMBER () |
| FAX NUMBER () | | FAX NUMBER () | |
| AGENT/CONSULTANT | | STREET ADDRESS | |
| CITY | STATE | ZIP CODE | PHONE NUMBER () |
| FAX NUMBER () | | FAX NUMBER () | |

CERTIFICATION

I certify that the information and exhibits I have submitted are true and correct to the best of my knowledge. In filing the application I am acting with the knowledge and consent of those persons who are owners of the subject property or are parties to this application. I understand that all materials required by Boulder County must be submitted prior to having this matter processed. I understand that public hearings or meetings may be required. I understand that additional fees or materials may be required as a result of considerations which may arise in the processing of this docket. I understand that the road, school and park dedications may be required as a condition of approval.

I understand that I am consenting to allow the County Staff involved in this application or their designees to enter onto and inspect the subject property at any reasonable time, without obtaining any prior consent.

| | |
|----------------|-------------------|
| SIGNATURE X | DATE 9-30-2002 |
| SIGNATURE X | DATE |

PLEASE NOTE

● PLEASE REFER TO THE REGULATIONS AND APPLICATION SUBMITTAL PACKAGE FOR COMPLETE APPLICATION REQUIREMENTS ●

● PLEASE SEE BACK ●

AFPT1/12-3-97/REV. 5-28-98/REV.2-24-00/WC/GS

October 1, 2002

Boulder Land Use Department
Board of Adjustment
2045 Spruce, Boulder, CO 80306

Re: 6301 Sunshine Canyon Drive

Dear Board of Adjustment,

This letter is a request for the approval of three separate variances involving my property, which consists of three mining claims: Dead Medicine, El Dorado and Atchison, located at 6301 Sunshine Canyon Drive.

The first variance request is for 0 feet side setback on a proposed addition of a bay window structure. The original variance of 8 feet setback was approved by the BOA on June 30 of 1986.

As indicated in the original variance, the building site was chosen between two BLM properties, one in front and one in back of the house to remedy set back issues. Attached is an improvement location certificate which indicates that the improvements are located within the boundaries of the Dead Medicine mining claim. It also shows the BLM property to be approximately 25 feet between the Dead Medicine and the Grand View mining claims.

The reason for the 0 feet setback request is for a bay window which is shown to be .2 (two tenths) feet from the property line. Also, there is a six foot wide deck on the back south end of the house that is five feet high, with a crawl space that is within the eight foot setback. This deck was indicated on the original approved building permit in 1986.

If the variance is granted, it will not change the character of the zoning district in which the property is located and will be in keeping with the intent of the Boulder County comprehensive plan. Has a comprehensive plan changed since 1986 and is the following statement still true? The zoning resolution requires a minimum of 50 feet between buildings on adjacent properties in a forest district. If this is the criteria for the setback rules, then I think I demonstrated that the spirit of his rule is being followed.

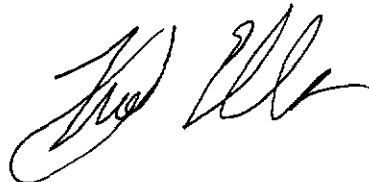
The second variance request is for a 15 foot setback (both sides) for the proposed detached garage located on the El Dorado mining claim.

The third variance request is for 0 feet setback and any other variance necessary for the use of the existing mine, which holds approximately 80,000 to 100,000 gallons of water, for use by the local fire department. I would also like to request that this variance not have an expiration date, as long as the water is in use by the fire department.

Over the last several years there have been discussions with the fire departments on installing a 4 in. line from the water reservoir to a fire hydrants that will be located down the hill on County Road 205. At the present time there are several houses located on a road and there are plans for several more houses. I can't help but remind you how important fire protection is for those who live in the mountains.

If you have any further questions or concerns, please feel free to call me @ 303-442-5340.

Sincerely,



Fred Ells

FRED ELLS

6301 Sunshine Canyon.
Boulder, Co 80302
303 442-5340

Boulder County Board of adjustment hardship statement:

September 30, 2002

1. Explained how the following criteria for granting of varying have been satisfied.
 - a. There exist exceptional or extraordinary physical circumstances of the subject property such as an irregularity, narrowness, shallowness, or slope.

(Quote from 1986 variance) Property is only 50 foot wide for the first 500 feet along the North where the Dead Medicine overlaps the El Dorado and the Atchison creating a wider parcel, but there are mine tailings and a very steep slope with no access.

The location of the house was chosen between two BLM lots, one in front and one in back of the house to help with this setback issue. Also there was an already existing mining road (now my driveway) that went to an exploratory hole that was approximately eight feet deep, which was further excavated and the house was built on this site. In front of the house is the mine shaft and tailings pile of the Grandview mining claim, which is unsuitable for building.

There are two north-south roads that connect right in front of my house (one leading to the south side of my house, and the other to the El Dorado mining claim). The total width is about 20 feet wide. The bay window is a few feet from the closest road (leading to south side of my house) so that fire access around the house is in no way diminished.

The El Dorado mining claim is only 69 feet wide. The location for the garage has been picked so that the driveway can serve as an emergency turnaround spot for the fire department. On the Dead Medicine mining claim there is a tunnel what holds approximately 100,000 gallons of water which is very important water source for the fire district and would be the largest reservoir in Sunshine Canyon.

- b. Because of these physical circumstances, the strict application of this code would create an exceptional or undue hardship upon the property owner

(Quote from 1986 variance) without a variance this lot is unbuildable and the applicants investment would be lost

- c. The hardship is not the self-imposed.

These are mining claims and were created in the 1800s. The initial mining claims were fifty feet wide. Mining claims have caused considerable boundary line problems and are very hard to work with. When I purchased these mining claims in 1986 the County Board of Adjustment was very interested in helping develop residences in the mountains.

- d. The variance, if granted, will not adversely affect the use of adjacent property has permitted under this code.

The nearest neighbor to the east is Richard & Barb Slarks, approximately 300 to 400 feet down the hill. The Slarks have no problem with the proposed building permits as mentioned in their letter.

- e. That the variance, if granted, will not change the character of the zoning district in which the property is located, and is in keeping with the intent of this code and the Boulder County Comprehensive Plan; and

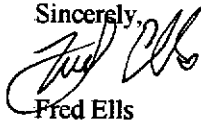
The 4' x 8' bay window in no way will change the house from a single-family two-bedroom home. The garage with attached greenhouse is very typical in a mountain neighborhood.

- f. That the variance, if granted, does not adversely affect that health, safety, and welfare of the citizens of Boulder County.

The bay window is very important to enhance the architectural of the house and is typical of similar houses in the neighborhood. Without this design we have a two-story square box.

The greenhouse was removed from the front of my home due to an infestation of ants and mold. It was very unhealthy and was destroying my house.

Sincerely,



Fred Ellis



EAST SIDE OF DWELLING PER 1986 BLD. PERMIT



EAST SIDE OF DWELLING - CURRENT CONSTRUCTION



EAST SIDE OF DWELLING - CURRENT CONSTRUCTION



LOOKING EAST FROM NEW CONSTRUCTION

DATE RECEIVED • OFFICE USE ONLY



BUILDING PERMIT APPLICATION

LAND USE DEPARTMENT • BUILDING SAFETY & INSPECTION SERVICES DIVISION
2040 14th Street • 14th & Spruce • P.O. Box 471 • Boulder, Colorado 80306

Boulder: 441-3925 • Allenspark: 747-2534, Ext. 3925 • Lyons & Longmont: 678-6060 Ext. 3925
Nederland: 258-3238, Ext. 3925 • Ward: 459-3435, Ext. 3925

FILE NUMBER • OFFICE USE ONLY

PROJECT LOCATION

PROJECT ADDRESS: 6301 Sunshine Cyn APARTMENT # 8 CITY Bldg ZIP CODE 80302

LOT 8 BLOCK IN SUBDIVISION NAME 71

OWNERSHIP

OWNER'S NAME FRED ELLIS DAY PHONE 303 442 5340

ADDRESS 6301 Sunshine Cyn NIGHT PHONE 442 5340

CITY Boulder STATE Co ZIP CODE 80302

CONTRACTOR

CONTRACTOR'S NAME SAME DAY PHONE

ADDRESS

CITY STATE ZIP CODE

DESCRIBE THE PROJECT Buy Window Remodel BP-02-1510 Detached Garage BP-02-1624 ESTIMATED COST \$

TYPE OF PROJECT (Check One)

(01) ☐ NEW STRUCTURE
(02) ☐ ADDITION TO EXISTING STRUCTURE
(03) ☒ REMODEL EXISTING STRUCTURE
(04) ☐ ELECTRICAL ONLY
(05) ☐ MOBILE HOME (in Mobile Home Park Only)
(06) ☐ MOBILE HOME (outside Mobile Home Park Only)
(07) ☐ MODULAR
(08) ☐ GRADING AND EXCAVATION ONLY
(09) ☐ SIGN
(10) ☐ OIL AND GAS EXPLORATION ONLY
(11) ☐ OIL AND GAS PRODUCTION ONLY
(12) ☐ UNDERGROUND MINING
(13) ☐ OTHER:

TYPE OF CONSTRUCTION ☒ FRAME ☐ PRECUT KIT
☐ MASONRY ☐ OTHER EXPLAIN

TYPE OF STRUCTURE (Check One)

(01) ☐ ONE FAMILY DWELLING (Including Modular Homes)
(02) ☐ TWO FAMILY OR ATTACHED DWELLING (Includes Townhouses)
(03) ☐ THREE AND FOUR FAMILY DWELLING
(04) ☐ FIVE OR MORE FAMILY DWELLING
(05) ☐ MOBILE HOME
(06) ☒ DETACHED GARAGE OR CARPORT FOR A DWELLING
(07) ☐ CHURCH OR RELIGIOUS BUILDING
(08) ☐ INDUSTRIAL BUILDING
(09) ☐ SERVICE STATION OR REPAIR GARAGE
(10) ☐ OFFICE BUILDING
(11) ☐ SCHOOL OR EDUCATION BUILDING
(12) ☐ STORE OR MERCANTILE BUILDING
(13) ☐ OTHER BUILDING (Barn, Poultry Building, etc.)
(14) ☐ OTHER STRUCTURES (Pool, Hot Tub, Fence, etc.)
(15) ☐ OTHER:

STRUCTURE DATA

| STRUCTURE DATA | EXISTING | TO BE CONSTRUCTED |
|------------------------|----------|-------------------|
| HEIGHT OF STRUCTURE | FT | FT |
| NUMBER OF STORIES | | |
| NUMBER OF DWELLINGS | | |
| NUMBER OF BEDROOMS | | |
| NUMBER OF BATHROOMS | | |
| PROPERTY SIZE: | ACRE(S) | |
| FRONT SETBACK EXISTING | FT | FT |
| SIDE SETBACK EXISTING | FT | FT |
| REAR SETBACK EXISTING | FT | FT |
| FRONT SETBACK PROPOSED | FT | FT |
| SIDE SETBACK PROPOSED | FT | FT |
| REAR SETBACK PROPOSED | FT | FT |

STRUCTURE SIZE (for New construction & additions Only)

| STRUCTURE SIZE | FINISHED | UNFINISHED |
|------------------|----------|------------|
| BASEMENT | SO FT | SO FT |
| 1ST FLOOR | SO FT | SO FT |
| 2ND FLOOR | SO FT | SO FT |
| ALL OTHER FLOORS | SO FT | SO FT |
| OTHER: | SO FT | SO FT |
| OTHER: | SO FT | SO FT |
| TOTAL(S) | SO FT | SO FT |
| GARAGE | SO FT | SO FT |
| DECK | SO FT | SO FT |
| GREENHOUSE | SO FT | SO FT |

WATER SERVICE (✓ One)

☒ INDIVIDUAL WELL
☐ COMMUNITY WELL
☐ NOT APPLICABLE (None)
☐ PUBLIC (Name)

SEWER SERVICE (✓ One)

☒ SEPTIC TANK
☐ VAULT
☐ NOT APPLICABLE (None)
☐ PUBLIC (Name)

ELECTRICAL SERVICE (✓ One)

☒ PUBLIC SERVICE CO.
☐ UNION REA
☐ ESTES PARK
☐ POUDRE VALLEY REA
☐ LONGMONT
☐ NONE

GAS SERVICE (✓ One)

☒ PUBLIC SERVICE CO.
☐ PROPANE
☐ NONE
☐ OTHER (Name)

ACCESS (✓ One)

☒ EXISTING DRIVEWAY
☐ NEW DRIVEWAY
☐ OTHER (Name)

CERTIFICATION

I hereby certify that the above information is correct and agree to construct this building in accordance with the plot, building plans and specifications submitted herewith, and in strict compliance with all the provisions of the Zoning Ordinance, Building Code, Electrical Code, and Health and Plumbing Regulations of the County of Boulder.

OWNER/AGENT'S SIGNATURE [Signature] DATE 10-1-2002 TITLE owner/builder

DATE RECEIVED - OFFICE USE ONLY
RECEIVED
NOV 13 2032
BOULDER COUNTY
BUILDING DIV



BUILDING PERMIT APPLICATION

LAND USE DEPARTMENT • BUILDING SAFETY & INSPECTION SERVICES DIVISION
2045 13th Street • 13th & Spruce Streets • P.O. Box 471 • Boulder, Colorado 80306
(303) 441-3925

BP-02- 1885

PROJECT LOCATION

| | | | | | | | |
|---|-------------|------------------------------|------------|-------------------|-------|--------------------|------------|
| PROJECT STREET ADDRESS 6301 Sunshine Cyn | | | | LOT | BLOCK | SUBDIVISION | |
| CITY/ZIP CODE | | | | SECTION | | TOWNSHIP | RANGE |
| OWNERSHIP | | | | CONTRACTOR | | | |
| OWNER'S NAME FRED ELLIS 303 | | DAY PHONE NUMBER 442-5340 | | CONTRACTOR'S NAME | | DAY PHONE NUMBER | |
| ADDRESS 6301 Sunshine Cyn | | NIGHT PHONE NUMBER | | ADDRESS | | NIGHT PHONE NUMBER | |
| CITY Blair | STATE CO | ZIP CODE 80302 | FAX NUMBER | CITY | STATE | ZIP CODE | FAX NUMBER |

DESCRIBE THE PROJECT


| | |
|----------------|------------|
| ESTIMATED COST | \$ 1600.00 |
|----------------|------------|

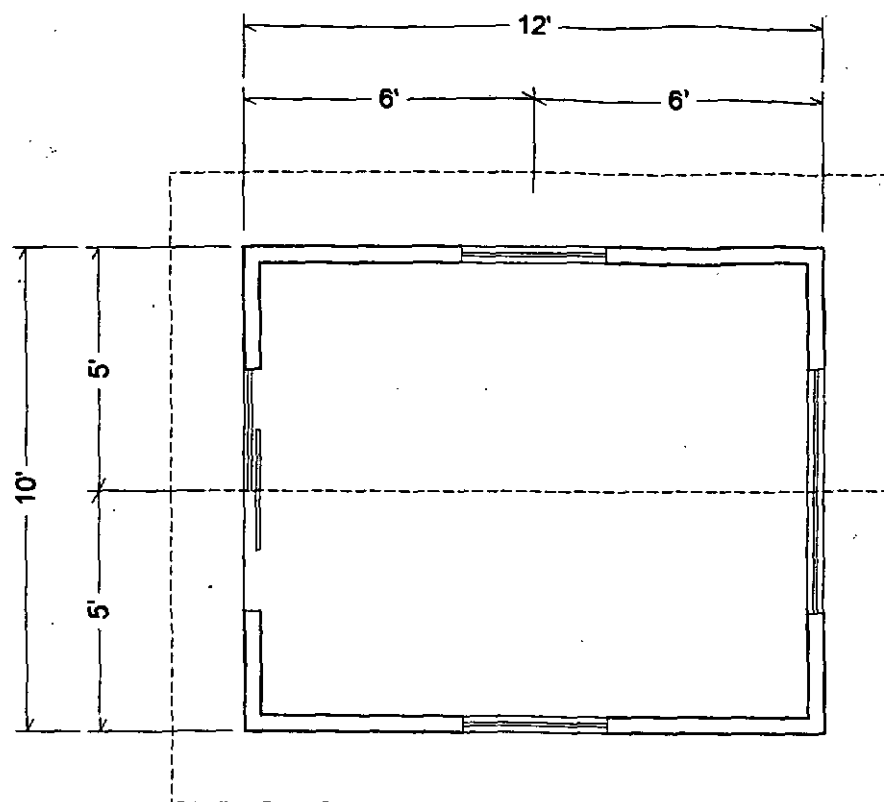
| | | |
|--|---|--|
| <div style="font-size: 2em; font-family: cursive;">Utility Shed</div> | <div style="text-align: center; font-weight: bold;">DESCRIBE THE PROJECT</div> <div style="font-size: 2em; font-family: cursive; text-align: center;">13 X 15</div> | <div style="text-align: right; font-weight: bold;">ESTIMATED COST</div> <div style="font-size: 1.5em; font-family: cursive; text-align: right;">\$ 1600.00</div> |
| <div style="text-align: center; font-weight: bold;">TYPE OF PROJECT (✓ One)</div> | <div style="text-align: center; font-weight: bold;">TYPE OF STRUCTURE (✓ One)</div> | |
| <div>(01) <input checked="" type="checkbox"/> New Structure</div> <div>(02) <input type="checkbox"/> Addition To:</div> <div>(03) <input type="checkbox"/> Remodel</div> <div>(04) <input type="checkbox"/> Electrical</div> <div>(07) <input type="checkbox"/> Demolition of Structure</div> <div>(08) <input type="checkbox"/> Change of Use</div> <div>(09) <input type="checkbox"/> Moved-In Structure</div> | <div>(01) <input type="checkbox"/> One Family Dwelling</div> <div>(02) <input type="checkbox"/> Two Family or Attached Dwelling (Including Townhouse)</div> <div>(03) <input type="checkbox"/> Three & Four Family Dwelling</div> <div>(04) <input type="checkbox"/> Hotel or Motel</div> <div>(05) <input type="checkbox"/> Amusement & Recreation Building</div> <div>(07) <input type="checkbox"/> Church & Other Religious Building</div> <div>(08) <input type="checkbox"/> Industrial Building, Manufacturing Plant, Factory</div> <div>(09) <input type="checkbox"/> Service Station & Repair Garage</div> <div>(10) <input type="checkbox"/> Detached Garage</div> <div>(12) <input type="checkbox"/> Office, Bank, and Professional Building</div> <div>(13) <input type="checkbox"/> School</div> <div>(14) <input type="checkbox"/> Store, Customer Service</div> <div>(15) <input checked="" type="checkbox"/> Barn, Storage Shed, Outbuilding</div> <div>(16) <input type="checkbox"/> Mobile/Manufactured Home</div> <div>(22) <input type="checkbox"/> Public Works, Utility Building</div> <div>(23) <input type="checkbox"/> Pool, Hot Tub, Fence, Retaining Wall, Pump (Non-Structure)</div> <div><input type="checkbox"/> Other: _____</div> | |

| | | | | | | | |
|---|-----|--|--------------------------|--|-----------------|--|--------------|
| | | EXISTING | TO BE CONSTRUCTED | COMPLETE ONLY FOR NEW PROJECT | | | |
| HEIGHT OF STRUCTURE | FT. | 10 | FT. | STRUCTURE SIZE | FINISHED | UNFINISHED | |
| NUMBER OF BEDROOMS | | 2 | | BASEMENT | SQ. FT. | SQ. FT. | |
| NUMBER OF BATHROOMS | | 0 | | 1ST STORY | SQ. FT. | SQ. FT. | |
| PROPERTY SIZE: | | | | 2ND STORY | SQ. FT. | SQ. FT. | |
| | | | | 3RD STORY | SQ. FT. | SQ. FT. | |
| | | | | OTHER STORIES | SQ. FT. | SQ. FT. | |
| | | | | GARAGE | SQ. FT. | SQ. FT. | |
| SETBACKS (Distance of Project to Property Lines) | | | | | | | |
| FRONT SETBACK EXISTING | FT. | SIDE SETBACK EXISTING | FT. | SIDE SETBACK EXISTING | FT. | REAR SETBACK EXISTING | FT. |
| FRONT SETBACK PROPOSED | FT. | SIDE SETBACK PROPOSED | FT. | SIDE SETBACK PROPOSED | FT. | REAR SETBACK PROPOSED | FT. |
| | | | | DECK | | SQ. FT. | COVERED DECK |
| | | | | | | SQ. FT. | SQ. FT. |
| WATER SERVICE (✓ One) | | SEWER SERVICE (✓ One) | | ELECTRICAL SERVICE (✓ One) | | GAS SERVICE (✓ One) | |
| <input type="checkbox"/> INDIVIDUAL WELL <input type="checkbox"/> COMMUNITY WELL <input type="checkbox"/> N/A <input type="checkbox"/> PUBLIC: _____ | | <input type="checkbox"/> SEPTIC TANK <input type="checkbox"/> VAULT <input type="checkbox"/> N/A <input type="checkbox"/> PUBLIC: _____ | | <input type="checkbox"/> PUBLIC SERVICE COMPANY <input type="checkbox"/> UNITED POWER <input type="checkbox"/> ESTES PARK <input type="checkbox"/> Poudre VALLEY REA <input type="checkbox"/> LONGMONT <input type="checkbox"/> N/A | | <input type="checkbox"/> PUBLIC SERVICE COMPANY <input type="checkbox"/> PROPANE <input type="checkbox"/> N/A <input type="checkbox"/> OTHER: _____ | |
| <input type="checkbox"/> EXISTING DRIVEWAY <input type="checkbox"/> NEW DRIVEWAY <input type="checkbox"/> N/A <input type="checkbox"/> OTHER: _____ | | | | | | | |

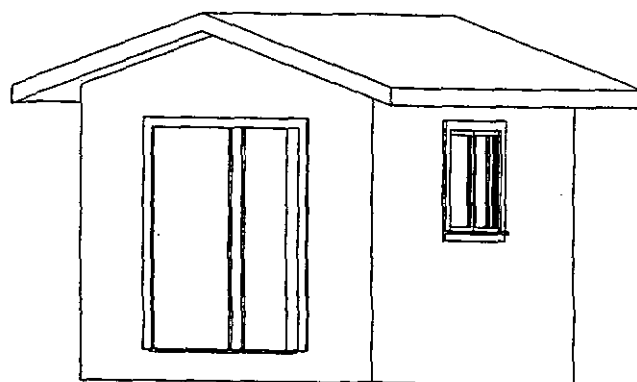
CERTIFICATION

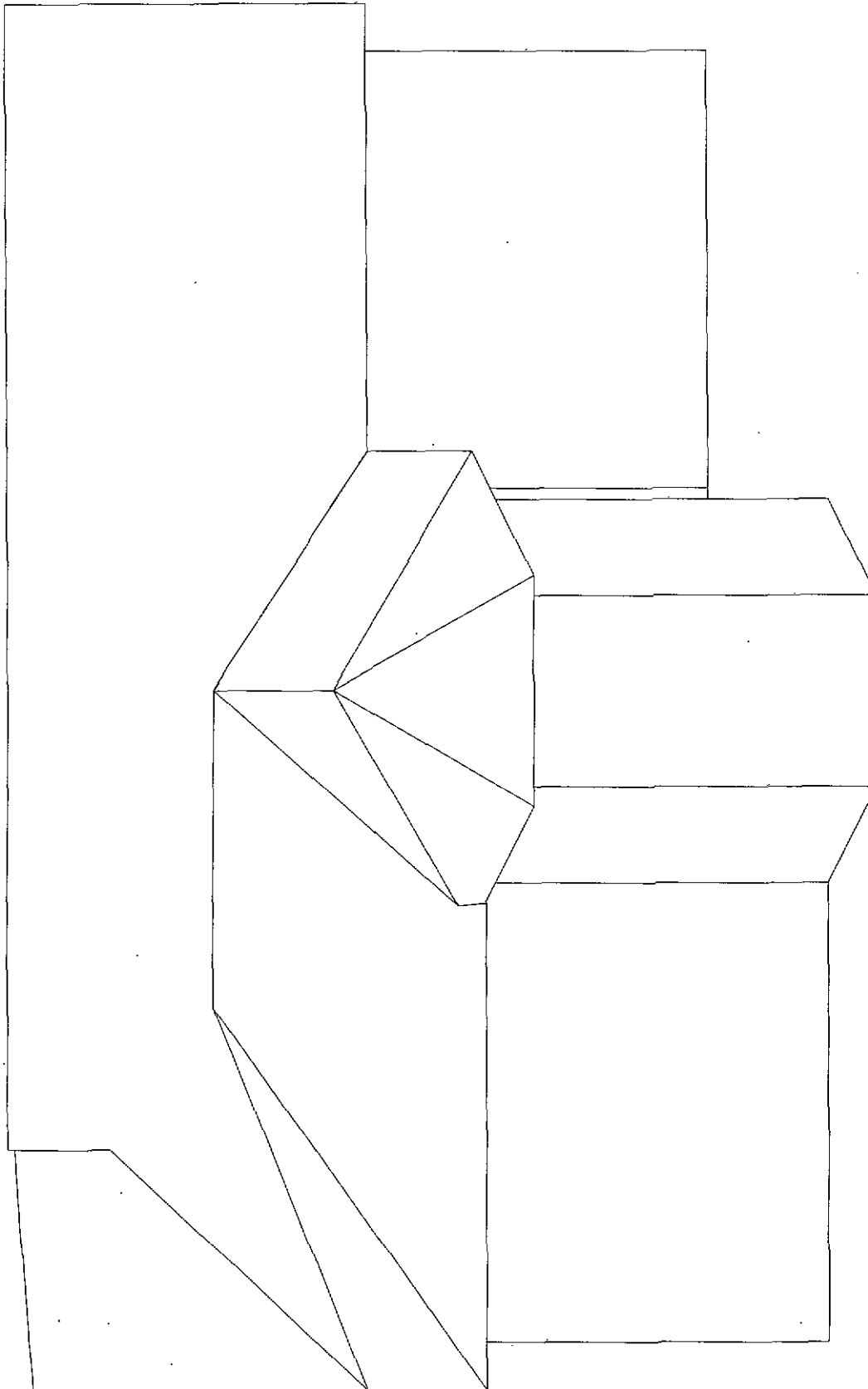
I hereby certify that the above information is correct and agree to construct this building in accordance with the plot, building plans and specifications submitted herewith, and in strict compliance with all the provisions of the Zoning Ordinance, Building Code, Electrical Code, and Health and Plumbing Regulations of the County of Boulder.

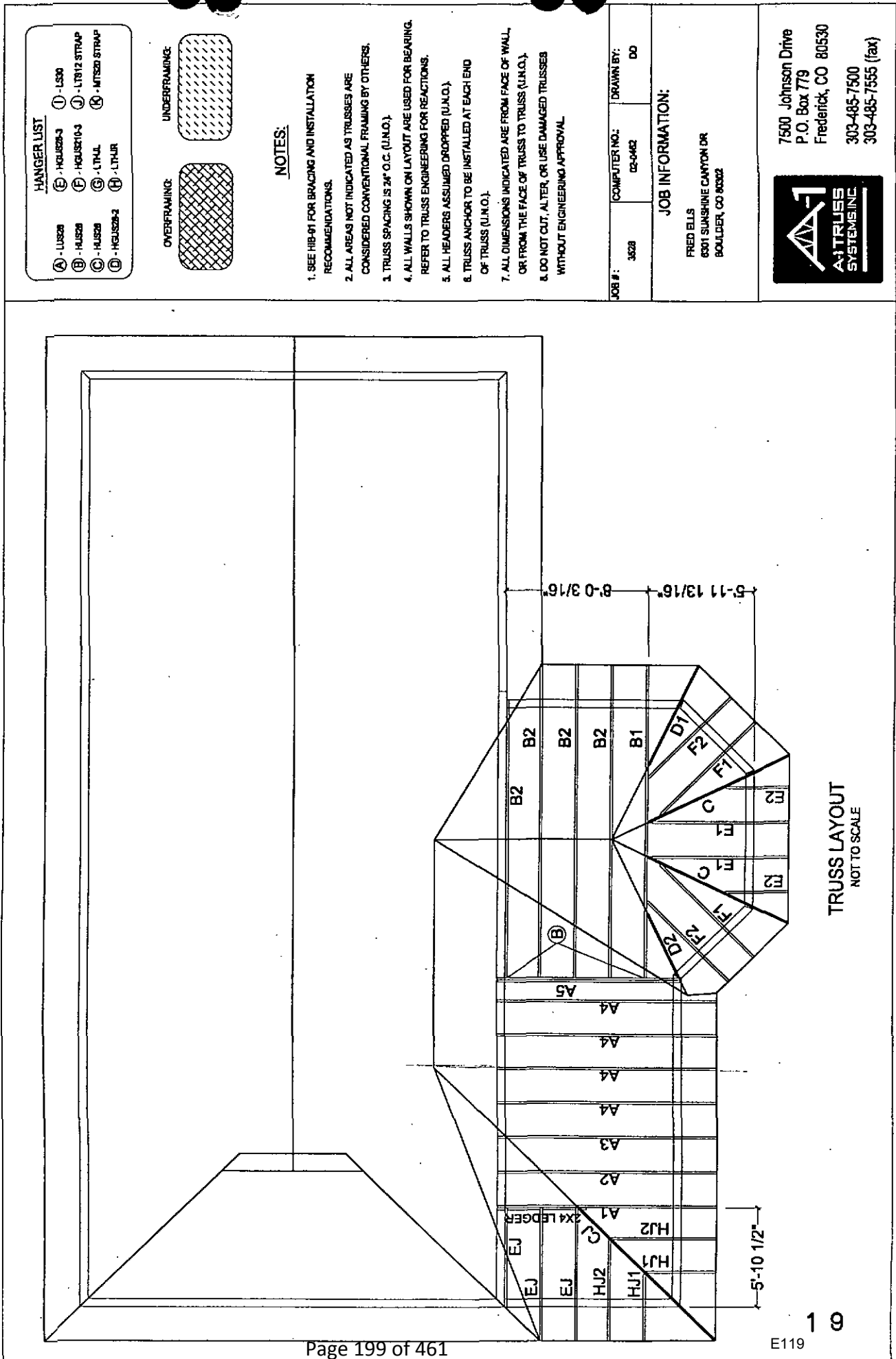
| | | |
|--|--------------------|--------------------------|
| OWNER/AGENTS SIGNATURE X  | DATE 11-13/2002 | TITLE owner / brother |
|--|--------------------|--------------------------|

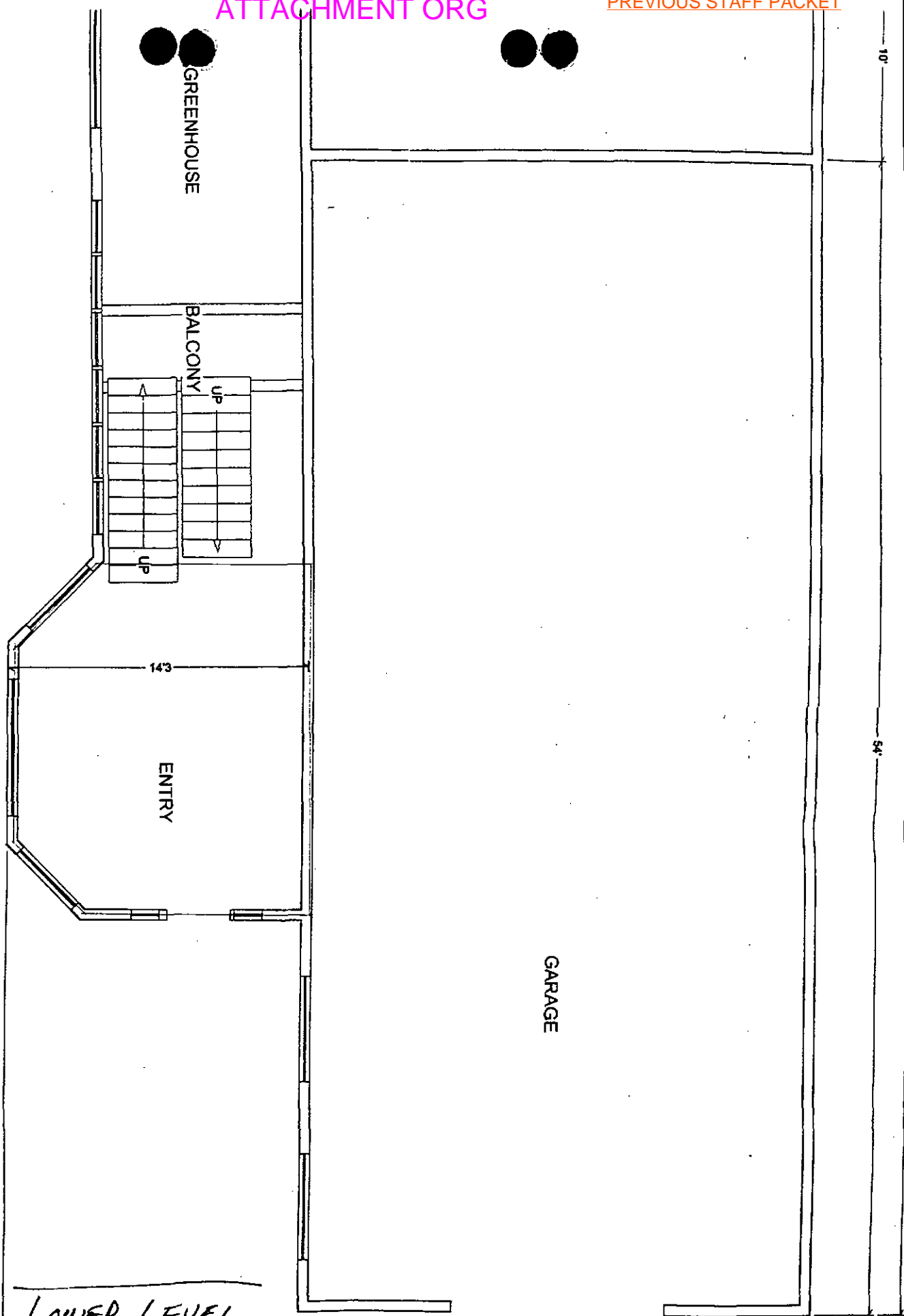
**Utility Shed**

3-tab shingles
3/4 plywood roof sheeting
trusses @ 24 oc
2 x 6 walls @ 16 oc
3/4 tung & grove ply floor
2 x 10 @ 16 oc joists
T-1-11 siding

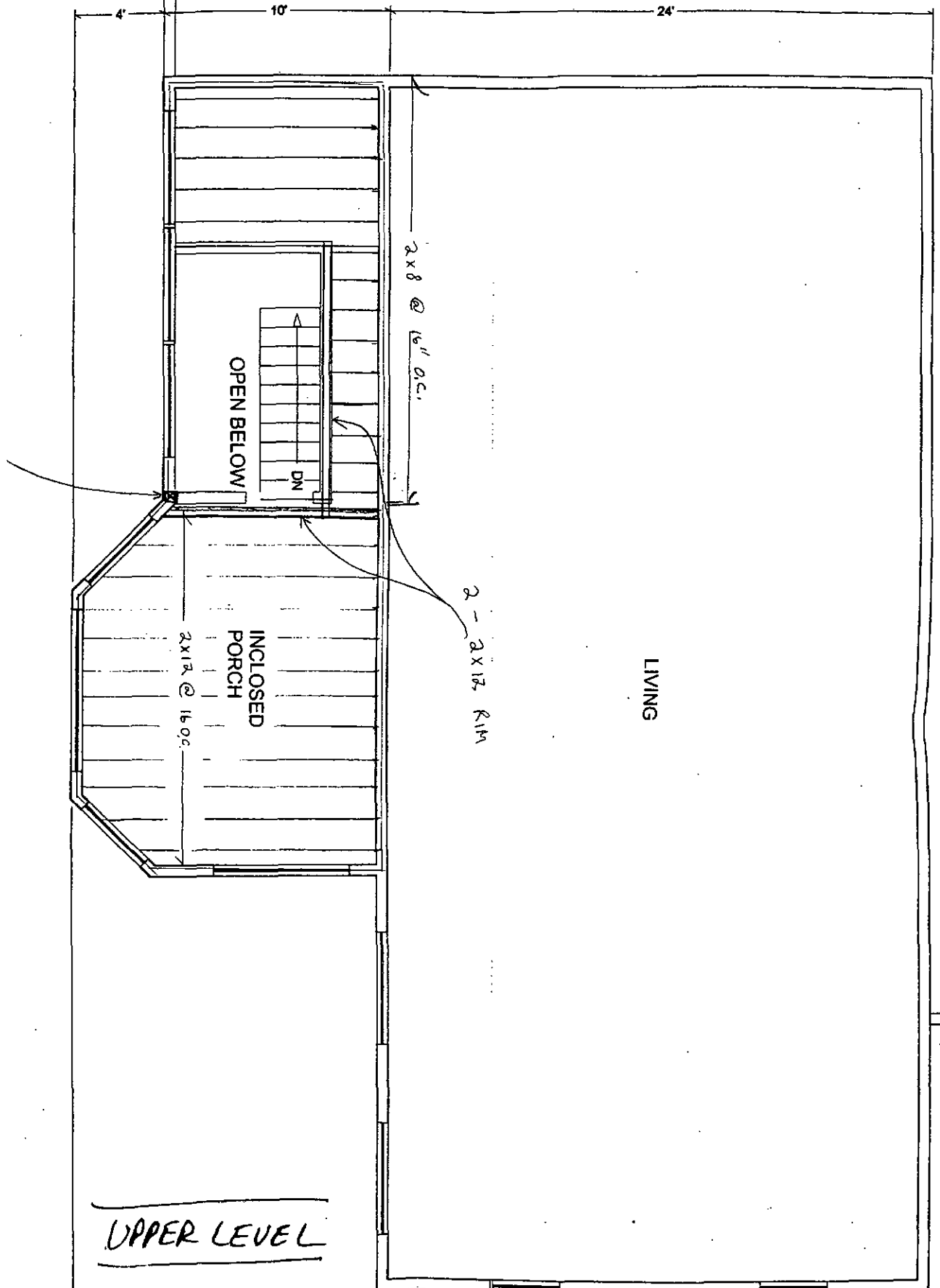




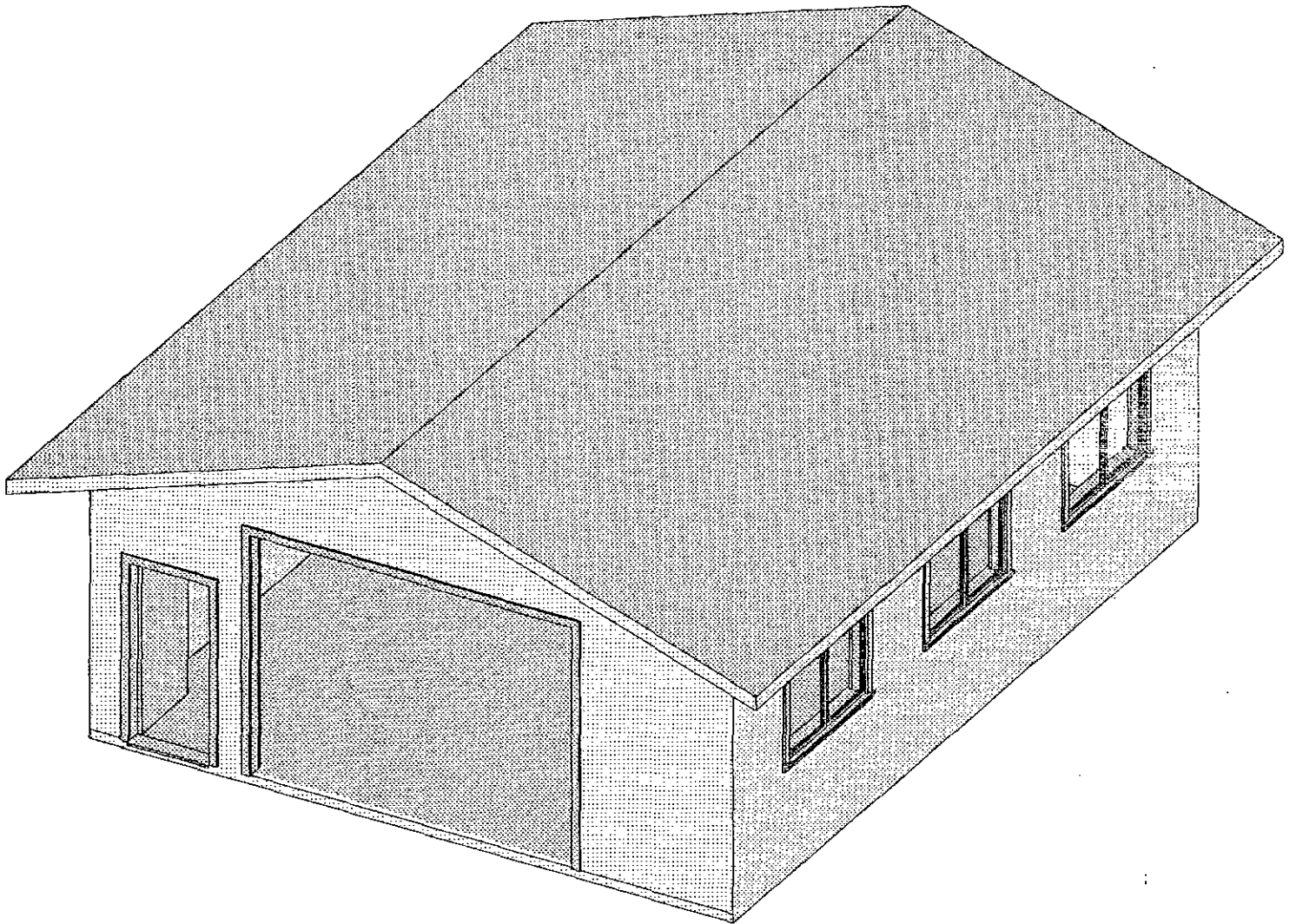




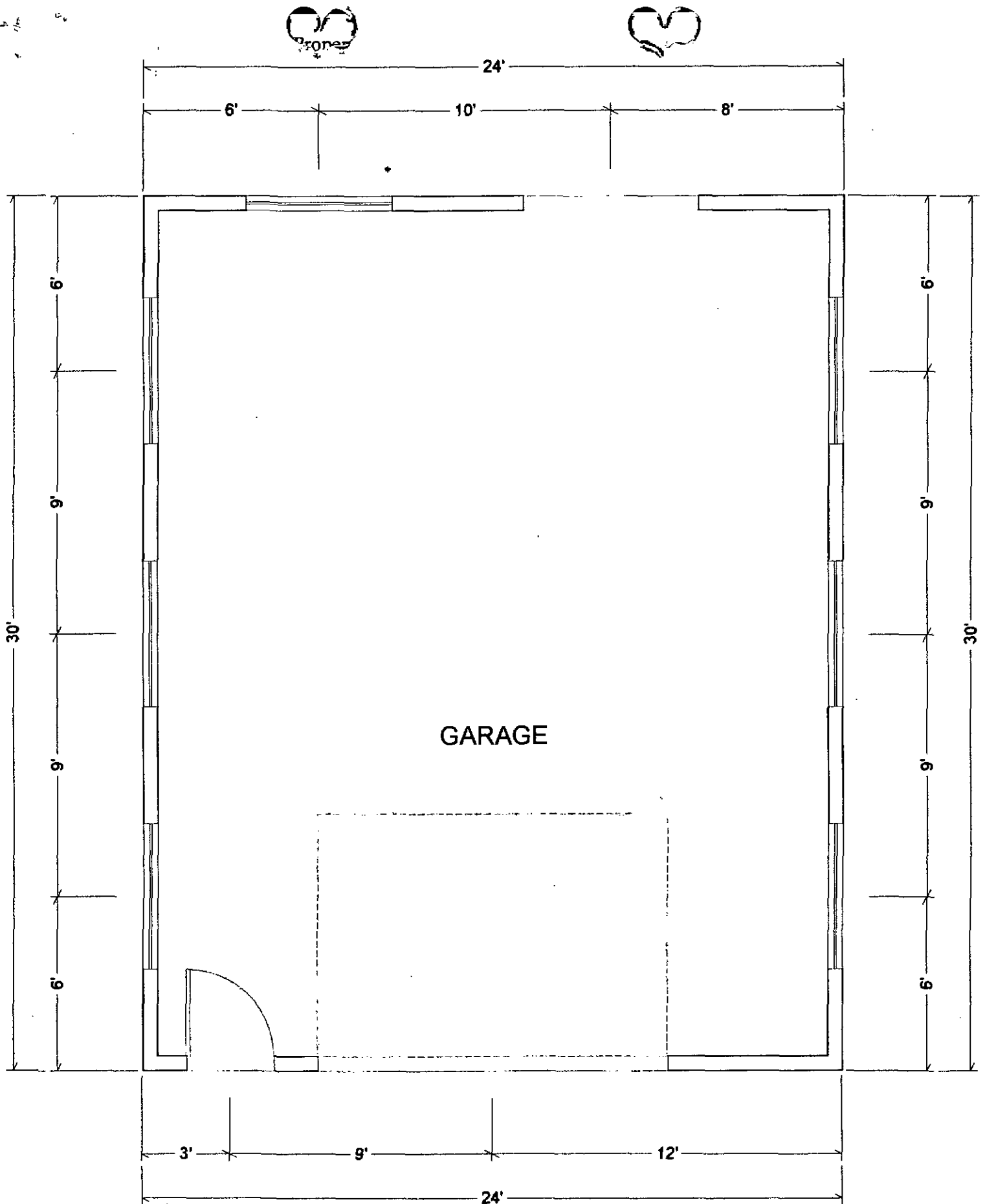
LOWER LEVEL



UPPER LEVEL



PROPOSED GARAGE

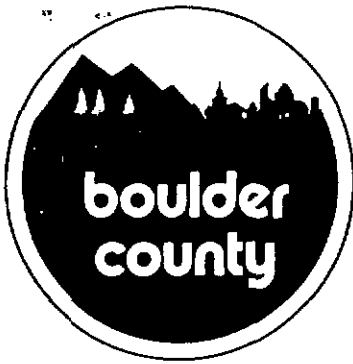


2 3

Property Description

| 6301 Sunshine Canyon | | | | |
|-----------------------|---|------------------|----------------------|---------|
| City: | Mountains | ID: | 0058634-01 | |
| Neighborhood: | Pine Bk Hills | Parcel: | 146108000074 | |
| Subdivision: | Tr, Nbr 940 Gold Hill Area | STR: | 08-1N-71 | |
| Class: | Single Family | Tax Area: | 1370 | |
| Design: | One Story | Built: | 1987 | |
| Legal Dsc: | Dead Medicine Ld 183 1.52 Ac & Nly .17 Acs Atchison Ld 247 & Nely .18 Acs Eldorado Ld 691 gold Hill. Total 1.87 Acs M/Lsplit To ld 32704 12/91 ld 32657 Combined Here Per Owner 1987 Property Address: 006301 Sun | | | |
| Square Footage | | | Rooms | |
| Level | Total | Finished | Total: | 6 |
| Main: | 1296 | 1296 | Bedrooms: | 3 |
| Above: | 0 | 0 | Baths-Full: | 1 |
| Basement: | 694 | 694 | 3/4: | 0 |
| Other: | 0 | 0 | Half: | 0 |
| Garage: | 602 | 602 | | |
| Deeds | | | Current Value | |
| Deed # | Date | Fee | Actual: | 447,600 |
| 1149453-8: | 12/18/91 | 0.80 | Assessed: | 40,960 |
| 742229: | 02/14/86 | 0.73 | Mill Levy: | 60.908 |
| Owner | | | | |
| Name: | Ells Fred John | | | |
| Address: | 6301 Sunshine Canyon Dr | | | |
| City/St/Zip: | Boulder , CO 80302 | | | |

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**board of adjustment**

p.o. box 471, boulder, colorado 80306 · 441-3928

1986 VARIANCE

June 30, 1986

The purpose of this letter is to certify that at a hearing of the Board of Adjustment of the County of Boulder, State of Colorado, duly called and held on Tuesday, June 24, 1986, at 4:00 PM the following action was taken:

The Board of Adjustment of the County of Boulder, State of Colorado, APPROVED the request for a variance described as follows:

Docket Number 617: Fred Ellis

Requests a variance to Article 3, page 7, of the Boulder County Zoning Resolution to construct a single family residence with side yard setbacks of eight feet where 25 feet is required in the Forestry zoning district. The property is the Dead Medicine, Atchison and Eldorado mining claims in Section 8, T1N, R71W at 6301 Sunshine Canyon Drive.

All rights to permits authorized by the granting of any variance shall expire six (6) months from the time such variance is granted.

If you have any questions concerning any of the above, please feel free to contact me at any time at 441-3928.

Sincerely,

Stephen O. Ellis
Secretary to the Board

SOE:rm



land use department

p.o. box 47110th and spauld / aiken / boulder colorado 80306 441-3930

APPLICATION FORM

DEPARTMENT USE ONLY

| | | | |
|---|-------------|-------------------------------------|------------------------------|
| PROJECT NAME Ells's (house) single family dwelling | | DOCKET NUMBER | |
| APPLICANT'S NAME Mr. Fred J. Ells | | DATE SUBMITTED | |
| CITY Boulder | STATE Co | STREET ADDRESS 5000 Butte #101 | PHONE NUMBER () 442-5340 |
| PROPERTY OWNER'S NAME same | | STREET ADDRESS | |
| CITY | STATE | ZIP CODE | PHONE NUMBER |
| PLANNER'S NAME same | | STREET ADDRESS | |
| CITY | STATE | ZIP CODE | PHONE NUMBER |
| ENGINEER'S NAME E. O. Church | | STREET ADDRESS 925 East 17th Ave | |
| CITY Denver | STATE Co | ZIP CODE 80525 | PHONE NUMBER () 832-9692 |

GENERAL LOCATION • LEGAL DESCRIPTION • SITE DATA

| | | | | | |
|---|-------|-------------|---------------------------------|-------------------|----------------|
| GENERAL LOCATION 1/2 mile above Sunshine on Gold hill road | | | ADDRESS 63?? Sunshine canyon | | |
| LOT | BLOCK | SUBDIVISION | SECTION 8 | TOWNSHIP 71 IN | RANGE 1N 71 |

TYPE OF REQUEST

| APPLICATION TYPE | MONTHLY DEADLINE ¹ | SUBMITTAL FEE ² | NUMBERS REFER TO DATA WHICH MUST ACCOMPANY THE APPLICATION (A summary only, intended to aid the applicant in the collection of material and may be expanded or reduced depending on the particular application) |
|--|-------------------------------|---|--|
| <input type="checkbox"/> Road Name Change | 3rd Wed. | \$200.00 | 1,6,8,22 |
| <input type="checkbox"/> Vacation Easement/Road | 3rd Wed. | \$200.00 | 1,6,8,13a,16,21,22 |
| <input checked="" type="checkbox"/> BOA Variance | Last Tues. | \$300.00 | 1,2,3,6,8,13cf,22 |
| <input type="checkbox"/> BOA Appeal of Administrative Decision | Last Tues. | \$300.00 | 1,13d,22 |
| <input type="checkbox"/> Rezoning | 3rd Wed. | \$600.00 ³ | 1,3,6,8,11b,12,13abfg,22 |
| <input type="checkbox"/> Special Use | 3rd Wed. | \$600.00 ⁴ | 1,2,3,6,7,8,9,10,11,12,13aefg,18,22 |
| <input type="checkbox"/> Subdivision Sketch Plan | 3rd Wed. | \$600.00+\$10.00 per unit for residential, \$5.00 per acre for commercial/industrial, maximum fee \$1,200.00 | 1,2,3,6,7,8,9,10,11ac,12,13afg,14,22 |
| <input type="checkbox"/> Subdivision Preliminary Plan | 3rd Wed. | \$600.00+\$25.00 per unit for residential, \$15.00 per acre for commercial/industrial, maximum fee \$1,500.00 | 1,2,4,6,7,8,10,11b,14,22 |
| <input type="checkbox"/> Subdivision Final Plan | 3rd Wed. | \$600.00+\$25.00 per unit for residential, \$15.00 per acre for commercial/industrial, maximum fee \$1,500.00 | 1,2,5,7,8,10,11abd,12,14,15,17,18,19,20,22 |
| <input type="checkbox"/> Resubdivision | 3rd Wed. | \$300.00 | 1,3,4,5,6,7,8,9,10,11,12,13afg,14,15,16,17,18,19,22 |
| <input type="checkbox"/> Subdivision Exemption (Preliminary) | | \$200.00 | 1,3,6,11ab,12,13g,22 |
| <input type="checkbox"/> Subdivision Exemption (Final) | | \$200.00 | 1,3,6,8,11ab,12,13gh,15,16,22 |
| <input type="checkbox"/> Location & Extent | 1st Wed. | Public Notice Costs Only | 1,3,6,7,8,13af,14,22 |
| <input type="checkbox"/> Other: | | | |

¹ Application deadline on noon of the stated day
² Additional consultants fees and fees established by review agencies may be charged to the applicant. On multiple requests, applicant pays highest single fee.
³ MEO Rezoning Application Fee: \$600.00 + \$6.00 per acre, maximum fee \$1,500.00.
⁴ Landfill Application Fee: \$600.00 + \$6.00 per acre, maximum fee \$1,500.00.

CERTIFICATION

I certify that the information and exhibits I have submitted are true and correct to the best of my knowledge. In filing the application I am acting with the knowledge and consent of those persons who are owners of the subject property or are parties to this application. I understand that the proper filing fee, as established by Boulder County must be paid and all materials required by Boulder County must be submitted prior to having this matter processed. I understand that public hearings or meetings may be required. I further state that to the best of my knowledge, this proposal substantially conforms to all standards, regulations and procedures adopted by Boulder County.

| | | |
|---------------|----------------|----------------|
| SIGNATURE | DATE 5-5-86 | TITLE owner |
| SIGNATURE | DATE | TITLE |

I understand that additional fees or materials may be required as a result of considerations which may arise in the processing of this docket. I understand that road, school and park dedications may be required.

| | |
|-----------|-----------|
| SIGNATURE | SIGNATURE |
|-----------|-----------|



land use department

po box 471 13th and spruce streets boulder, colorado 80506-4413030

DEVELOPMENT SUMMARY
FORM

| |
|---------------|
| DOCKET NUMBER |
| SUBJECT |
| EXE. TYPE |
| S.U. TYPE |
| D.U. TYPE |

PROJECT NAME
Ells's (house) single family dwellingAPPLICANT
Mr. Fred J. EllsPROPERTY OWNER
Mr. Fred J. Ells

TYPE OF REQUEST

- | | | |
|---|--|---|
| <input type="checkbox"/> ROAD NAME CHANGE | <input type="checkbox"/> SPECIAL USE | <input type="checkbox"/> SUBDIVISION SKETCH PLAN |
| <input type="checkbox"/> VACATION | <input type="checkbox"/> LOCATION & EXTENT | <input type="checkbox"/> SUBDIVISION PRELIMINARY PLAN |
| <input type="checkbox"/> REZONING | <input type="checkbox"/> SUBDIVISION EXEMPTION | <input type="checkbox"/> SUBDIVISION FINAL PLAT |
| <input checked="" type="checkbox"/> BOA VARIANCE/APPEAL | <input type="checkbox"/> OTHER: _____ | <input type="checkbox"/> RESUBDIVISION (REPLAT) |

NATURE OF REQUEST OR (FOR BOA VARIANCE ONLY) STATEMENT OF HARDSHIP

attach hardship statement

GENERAL LOCATION • LEGAL DESCRIPTION

| | | | | | |
|---|----------------|---|--|--|----------------|
| GENERAL LOCATION $\frac{1}{2}$ mile above Sunshine on Gold hill road | | | ADDRESS 63?? Sunshine canyon | | |
| LGT | BLOCK | SUBDIVISION | SECTION 8 | TOWNSHIP 71 IN | RANGE 1N 71 |
| AREA IN ACRES 1.52 | | EXISTING ZONING Forestry | PROPOSED ZONING Forestry | | |
| PERCENT SINGLE FAMILY 100% | | PERCENT MULTI FAMILY 0% | PERCENT OPEN OR UNDEVELOPED | | |
| EXISTING USE OF PROPERTY mining & forestry | | NUMBER OF EXISTING LOTS one | NUMBER OF PROPOSED LOTS one | | |
| NUMBER OF EXISTING DWELLINGS none | | NUMBER OF PROPOSED DWELLINGS one | PROPOSED SQUARE FEET COMMERCIAL/INDUSTRIAL | | |
| WATER well | | SEWAGE septic | ELECTRIC Public Service | | |
| TELEPHONE | GAS propane | DITCHES | CITY OR TOWN WITHIN 2 MILES Sunshine | | |
| FIRE RESPONSE AREA Sunshine | | SCHOOL DISTRICT Bldr. Valley | PARCEL I.D. NUMBER(S) M.S. 183 | | |
| COMPREHENSIVE PLAN LAND USE DESIGNATION | | BOULDER COUNTY COMPREHENSIVE PLAN ANALYSIS AREA | | ACRES OF AGRICULTURAL LAND REMOVED FROM PRODUCTION | |

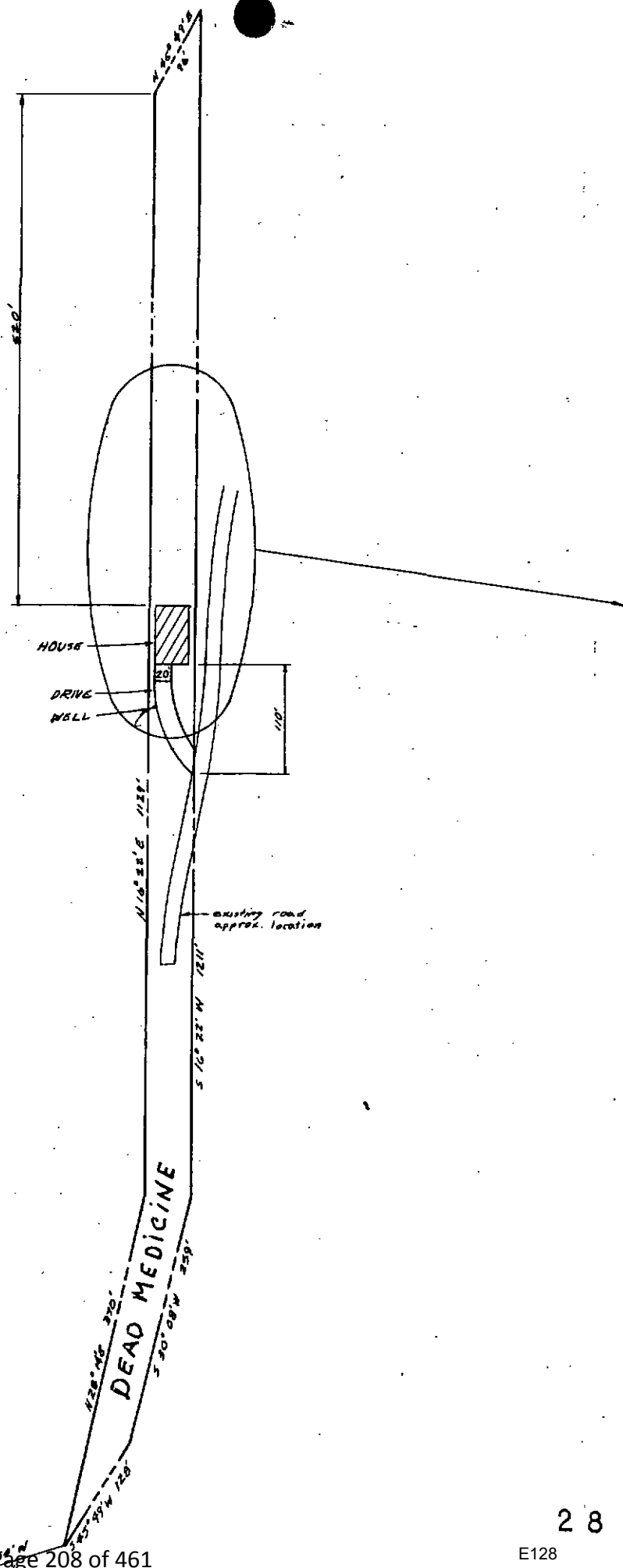
SUBDIVISION INFORMATION

| | | | |
|--|--------------------------|-------------------------------------|----------|
| PROPOSED ACRES IN OPEN SPACE/AGRICULTURAL PRESERVATION | | PRICE RANGE OF LOTS/DWELLINGS \$ | |
| ROADS | MILES OF NEW ROADS | PUBLIC | PRIVATE |
| | ACRES DEDICATED TO ROADS | PUBLIC | PRIVATE |
| ESTIMATED CONSTRUCTION DATES | | BEGIN | COMPLETE |

| |
|-------|
| OTHER |
| |
| |
| |
| |



SCALE 1"=100'





Land Use Department

2040 14th Street • 14th & Spruce Streets • Administrative Services Building, 2nd Floor • Boulder, Colorado 80302 • (303) 441-3930

To: Board of Adjustment
From: Zoning Division
Date: June 13, 1986

Subject: Staff Recommendation for Docket #617

BACKGROUND:

A building permit application, #86-467, was made by Fred Ells on May 19, 1986 for the construction of a single family residence which is a permitted use in the Forestry zoning district. The application for the premises designated as 6301 Sunshine Canyon Drive was denied on 5-21-86 under Article 3, page 7, of the Boulder County Zoning Resolution because the proposed side yard setbacks would be 8 feet where 25 feet is required.

DISCUSSION:

A. Evidence related to proper reasons for a variance:

1. Exceptional narrowness, shallowness, or slope of the specific piece of property.

Property is only 50 feet wide for the first 500 feet on the north. Where the Dead Medicine overlaps the El Dorado and the Atchison, creating a wider parcel, there are mine tailings and a steep slope with questionable access.

- #### B. Evidence related to whether the strict application of the Boulder County Zoning Resolution would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of such property.

Without a variance this lot is unbuildable and the applicant's investment will be lost.

- #### C. Evidence related to whether the requested variance can be granted without:

1. Substantial detriment to the public.

At the present time there are no buildings on the adjacent properties. The zoning resolution requires a minimum of 50 feet between buildings on adjacent properties in the Forestry zoning district. There is adequate room on all the properties surrounding the Dead Medicine to place a building 50 feet or more from the applicant's proposed residence, although adjacent property owners would not have to build that far away.

Josephine W. Heath
County Commissioner

Ronald K. Stewart
County Commissioner

Herbert E. "Buz" Smith, Jr.
County Commissioner

BOA Docket #617
Staff Recommendation

2.

6-13-86

The owners of the Grand View have expressed concern about access. The applicant has asked the Grand View owners for an easement but that easement has not been granted at this time.

2. Substantial impairment of the intent and purpose of the Boulder County Zoning Resolution.

The zoning resolution requires a 50 foot setback between buildings in the Forestry zoning district and that requirement can be met if the adjacent property owners wish to build 20 feet further back on their property. The requirement that the Board of Adjustment only grant variances based on a hardship with the land is fulfilled by the fact that the subject property is only 50 feet wide. Therefore, the staff feels the intent of the zoning resolution is not substantially impaired.

RECOMMENDATION:

Due to the extreme narrowness of the property; due to the fact that if the applicant is denied the variance he will be denied reasonable use of his property; due to the fact that dwellings on adjacent properties will be able to be built 50' or more from the subject property; then, the staff recommends APPROVAL of the variance provided the access problem can be worked out and there are no further objections from adjacent property owners.

DOCKET NUMBER _____

BOULDER COUNTY BOARD OF ADJUSTMENT
HARDSHIP STATEMENT

(Please complete the following: either A.1, B, and C or A.2, B, and C)

A. Evidence related to proper reasons for a variance:

1. Exceptional narrowness, shallowness, or slope of the specific piece of property. The property 's dimensions are 50' x 1500' which
is exceptionally narrow .

2. Exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property. Where there is enough room for set backs
the land is very steep, with no access,
Also would have to cross mine shaft.

- B. Evidence related to whether the strict application of the Boulder County Zoning Resolution would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of such property. If the present setbacks of 25' from the sides of property
are maintained this would be a unbuildable lot . The land would be
unuseable , which I feel is exceptional and undue hardship .

C. Evidence related to whether the requested variance can be granted without:

1. Substantial detriment to the public. A building site has been
selected that would minimize the impact to adjacent property's .

2. Substantial impairment of the intent and purpose of the Boulder County Zoning Resolution. The proposed site is surrounded on two side by
B.L.M. land should maintain the 50' or more setback between dwellings.

1986 BLD. PERMIT

No. 34056

**building division**

p.o. box 471 boulder, colorado 80306

building permit

| | | |
|-------------------------|----------|-------|
| SECTION | TOWNSHIP | RANGE |
| DATE 12-22-86 | | |
| PERMIT NUMBER 86-467 | | |

| | | | | | |
|--|-------------------------|--|-----------------------|-----------------------|---------------|
| OWNER Ells, Fred | | ADDRESS 5000 Butte, #101 Boulder | | PHONE NO. 442-5340 | |
| CONTRACTOR same | | ADDRESS | | PHONE NO. | |
| ADDRESS OF PROPOSED BUILDING 6301 Sunshine Canyon Dr. U.D. 742229 Tax 58634 | | | | | |
| LEGAL DESCRIPTION Sec. 8, T1N, R71W L.D. 1461-04-0-00-074 | | | | | |
| PERMIT IS HEREBY ISSUED FOR | | <input checked="" type="checkbox"/> NEW <input type="checkbox"/> REMODEL <input checked="" type="checkbox"/> RESIDENCE <input checked="" type="checkbox"/> GARAGE att. and greenhouse (200 s/f) <input type="checkbox"/> ADDITION <input type="checkbox"/> ELECTRICAL <input type="checkbox"/> COMMERCIAL <input type="checkbox"/> OTHER (Describe) | | | |
| ZONING DISTRICT F | SETBACKS | FRONT 100+ | SIDE 8' | SIDE 8' | REAR 100+ |
| OCCUPANCY GROUP R3-M1 | AREA OF BUILDING | FINISHED FLOOR 1296 | BASEMENT 610 sq ft | GARAGE 685 | BEDROOMS 2 |
| VALUATION \$ 88,061 | PERMIT FEE \$ 397.00 | TOTAL \$ 496.25 | STORIES 2 | | |

REMARKS: Plan check fee: 99.25

Maintenance Waiver
EOA Docket #617

Gary R. Goodell/hb

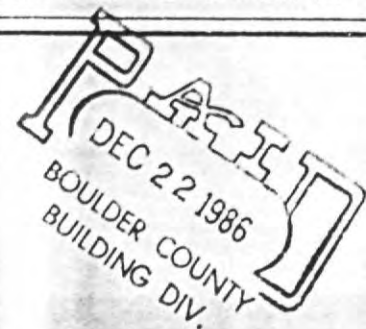
APPROVED BY: Chief Building Inspector

The approval of plans and specifications does not permit the violation of any section of the Boulder County Building Code or other ordinance or state law.

FIELD INSPECT TO CODE

NOTICE

THIS PERMIT NOT VALID WITHOUT OFFICIAL "PAID" STAMP FROM THE BUILDING DIVISION. PERMIT IS VALID FOR EIGHTEEN (18) MONTHS FROM DATE OF STAMP AND SHALL BECOME NULL AND VOID IF CONSTRUCTION IS NOT COMMENCED WITHIN 180 DAYS OR IF WORK IS SUSPENDED OR ABANDONED FOR A PERIOD OF 180 DAYS AT ANY TIME AFTER THE WORK IS COMMENCED.



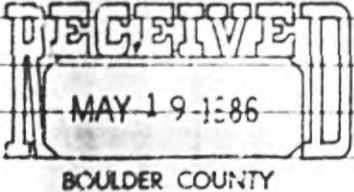
building permit application

| | | | |
|--------------------------------|-----------------------|-------------------------|-------|
| PERMIT NUMBER 86-467 | | DATE 5-19-86 | |
| OWNER ElliS FRED | | CONTRACTOR ElliS | |
| ADDRESS 5000 Butte #101 | | ADDRESS same | |
| CITY BOL | PHONE 442 5340 | CITY | PHONE |

| | | | |
|---|--|--------------------------------|----------------------------|
| TYPE OF STRUCTURE | | STRUCTURE DATA | |
| <input type="checkbox"/> COMMERCIAL | <input checked="" type="checkbox"/> NEW 397 | VALUATION \$ 87,061.00 | AREA (SQ. FT.) 1296 |
| <input checked="" type="checkbox"/> RESIDENCE | <input type="checkbox"/> ADDITION 94.2 | STORIES 2 | OCCUPANCY R-3 |
| <input checked="" type="checkbox"/> GARAGE UNDER GES | <input type="checkbox"/> REMODEL 496.2 | BEDROOMS 2 | TYPE OF CONST. V-N |
| <input checked="" type="checkbox"/> OTHER GREENHOUSE 200 | <input type="checkbox"/> ELECTRICAL | BASEMENT FINISHED (110) | |

| | | | |
|---|---------------------|-----------------|----------------------|
| SITE DATA | | | |
| LOT | BLOCK | SUBDIVISION | |
| SECTION 8 | TOWNSHIP 1 N | RANGE 71 | |
| ADDRESS OF PROPOSED BUILDING (Address will be assigned by county for new sites) 6301 Sunlight Canyon Dr. | | | |
| LOT AREA 5.27 ac. | ZONING F | FRONTAGE | |
| SET BACKS: FRONT 25' 100+ | SIDE 8' | SIDE 8' | REAR 25' 100+ |

| | |
|---|-----------------------------------|
| ACCESS DATA | |
| <input type="checkbox"/> DIRECT FRONTAGE ON PUBLIC ROAD | Read Name or Number |
| <input checked="" type="checkbox"/> VIA PRIVATE EASEMENT TO PUBLIC ROAD (Attach Deed) | |
| <input checked="" type="checkbox"/> USE EXISTING DRIVEWAY | |
| <input type="checkbox"/> CONSTRUCTION OF NEW DRIVEWAY | |
| <input checked="" type="checkbox"/> OTHER | Describe Panel Access #076 |

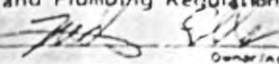


| | |
|--|----------|
| WATER SUPPLY SOURCE | |
| <input type="checkbox"/> MUNICIPALITY, DISTRICT, OR ASSOCIATION (Attach written certification from agency to supply water) | |
| <input checked="" type="checkbox"/> ON SITE WELL (Attach certification from State Engineer) # 143874 | |
| <input type="checkbox"/> OTHER | Describe |
| <input checked="" type="checkbox"/> SANITATION APPROVAL FROM HEALTH DEPARTMENT (Attach copy) septic | |

PLOT PLAN (Attach Copy)

ALL THE FOLLOWING DATA TO BE SHOWN TO SCALE AND PROPERLY DIMENSIONED

1. DEED (COPY) SHOWING OWNERSHIP OF PARCEL AND LEGAL DESCRIPTION, DATE RECORDED AND RECEPTION NO.
2. BUILDING LOCATION & APPURTENANCES (Driveways, retaining walls etc.)
3. LOT GRADING CONTOURS (Lot grading permit will not be required if sufficient detail is shown on plot plan.)
4. SURFACE DRAINAGE PATTERNS AND REQUIRED STRUCTURES.
5. LOCATION OF SEPTIC TANK AND LEACH FIELD.

| | | | |
|--|--|---|--|
| CERTIFICATION | | | |
| Hereby certify that the above information is correct and agree to construct this building in accordance with the plot, building plans and specifications submitted herewith, and in strict compliance with all the provisions of the Zoning Ordinance, Building Code, Electrical Code, and Health and Plumbing Regulations of the County of Boulder. | | | |
| X | |  Owner/Agent | |

| | | | | | | | |
|-------------------------------------|----|----------|-------------|---|-----|----------|-------------|
| RECORD REVIEW | | | | | | | |
| APPROVED | BY | DATE | DEPT. | APPROVED | BY | DATE | DEPT. |
| <input checked="" type="checkbox"/> | Rm | 6-30-86 | ZONING | <input checked="" type="checkbox"/> | Rm | 12-3-86 | PLANS CHECK |
| <input checked="" type="checkbox"/> | JB | 12/10/86 | ENGINEERING | <input checked="" type="checkbox"/> | ERC | 12-18-86 | BUILDING |
| RECEPTION NO. 742229 | | | | PARCEL I.D. NO. 1461-08-0-00-074 | | | |
| 1370 Tay # 58634 | | | | | | | |

APPLICATION AND AGREEMENT FOR TEMPORARY CERTIFICATE OF OCCUPANCY

DATE 1/10/90 PERMIT NO. 95-0467

The undersigned requests and agrees that pursuant to Chapter 3, Section 307(d) of the Uniform Building Code of Boulder County, a Temporary Certificate of Occupancy be issued at this time which is prior to the issuance of a final Certificate of Occupancy and before final inspection approval for the building under construction at the following location:

OWNER Fred Ellis
 ADDRESS 6301 Sunshine Canyon Drive
 LOT --- BLOCK --- SUBDIVISION ---
 SECTION 8 TOWNSHIP 1N RANGE 71W

The undersigned covenant and agree as a condition to the approval of the above request to have the above building complete and in compliance with all building codes, resolutions and regulations and ready for final inspection within 180 days, or an extended time period as may be approved by the Chief Building Official.

In consideration of the granting of the above consent, the undersigned hereby waive any cause of action against either Boulder County or any of its officers and employees because of any defect in the construction or installation of gas or electrical equipment, or for any other defect in construction of the above mentioned building or buildings, or for any connection to any utilities which may cause any damage whatsoever to the premises, any other premises, or any person or persons. Further, the undersigned hereby, for themselves, their heirs, personal representatives, administrators, successors and assigns, agree to save, hold harmless and indemnify Boulder County, its officers, agents, employees and officials, of and from any and all loss, cost, expense, charge or attorney's fees which they, or any of them, might suffer, sustain or incur on account of arising out of or relating to any damage to property or injury or death to person or persons resulting from such temporary occupancy.

Th. owner agrees to pay this day a \$15.00 re-inspection fee as prescribed in Section 305(h) of the Uniform Building Code of Boulder County and recognizes that Boulder County will not reinspect said premises unless accompanied by the owner or his/her agent.

OWNER Fred EllisSTATE OF COLORADO)
COUNTY OF BOULDER)The foregoing instrument was acknowledged before me this 10 day of January, 1990.My Commission Expires: 2/14/93 Fred Ellis
Notary Public
2080 14th Boulder
Address

Approved by (with attached correction)

Chief Building Official

Gary R. Goodell

E134

3 4

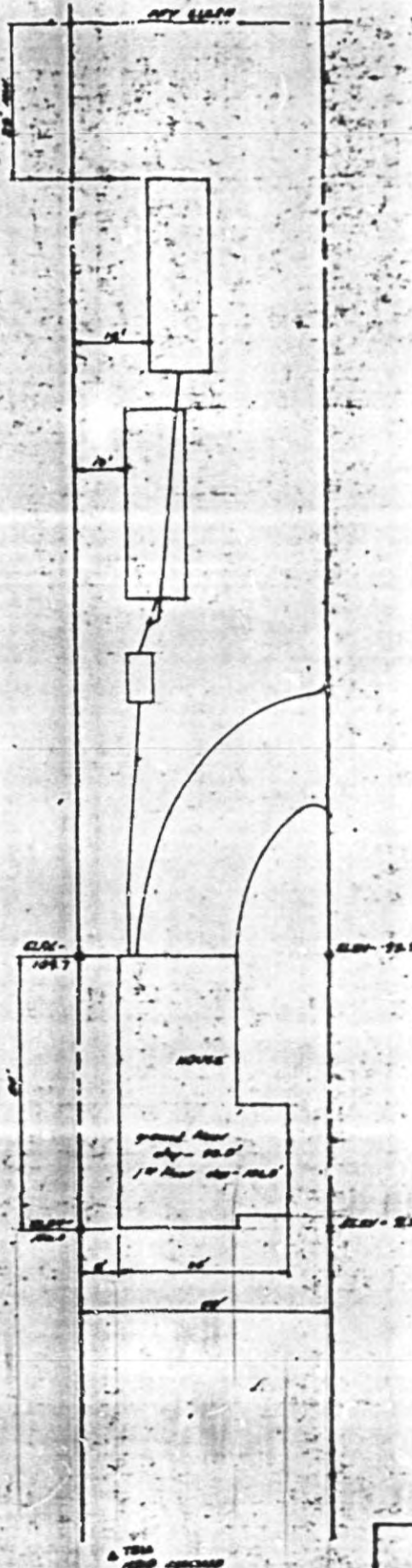
Corrections to be made and items to be completed before final inspection and issuance of final Certificate of Occupancy:

- additions: -complete installation of permanent electrical service line. This must be done as soon as possible, but is currently delayed pending the acquisition of an easement from an adjoining property owner. In any case, permanent installation must be completed within 6 months or no later than June 10, 1990.
- install permanent hearth to replace temporary hearth protection.
- complete remaining exterior and interior trim, kitchen ~~XXXXXX~~ cabinets and finishing of sunroom. Sunroom is not authorized for use until it has been completed, inspected and approved.
- complete final backfill and grading around exterior of structure.
- complete exterior deck from living room and rear door. ~~XXXXXX~~ Access to deck to remain blocked until it has been completed, inspected and approved.
- install permanent handrails and guardrails to replace temporary rails.
- extend all temperature-pressure relief valve lines as required.
- MECHANICAL CODE:
- install remaining light fixtures. Boxes to remain cover-plated or in an otherwise safe condition until fixtures installed.

ZONING AND MISCELLANEOUS:

Waterproofing of foundation wall to be completed.



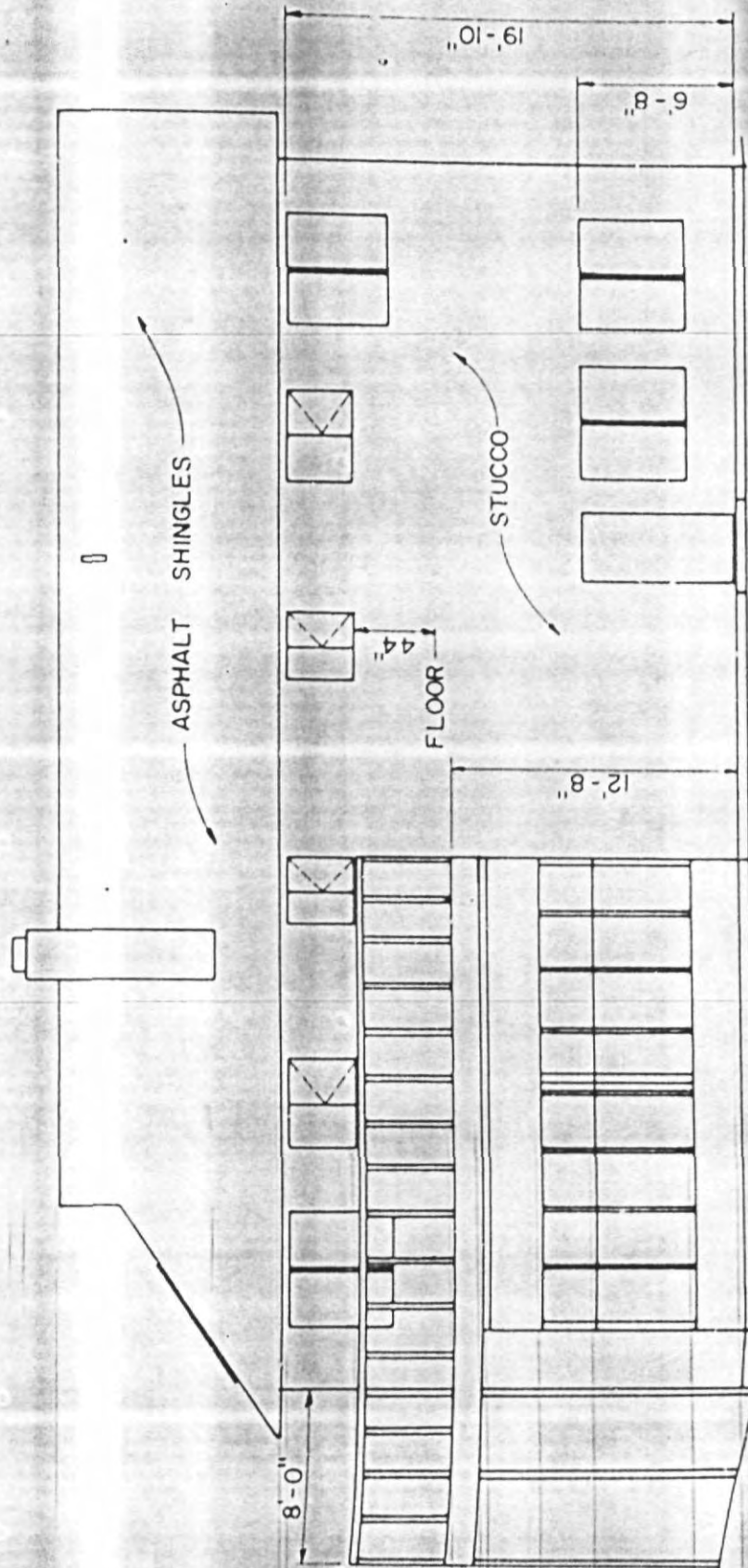


SCALE 1" = 20'

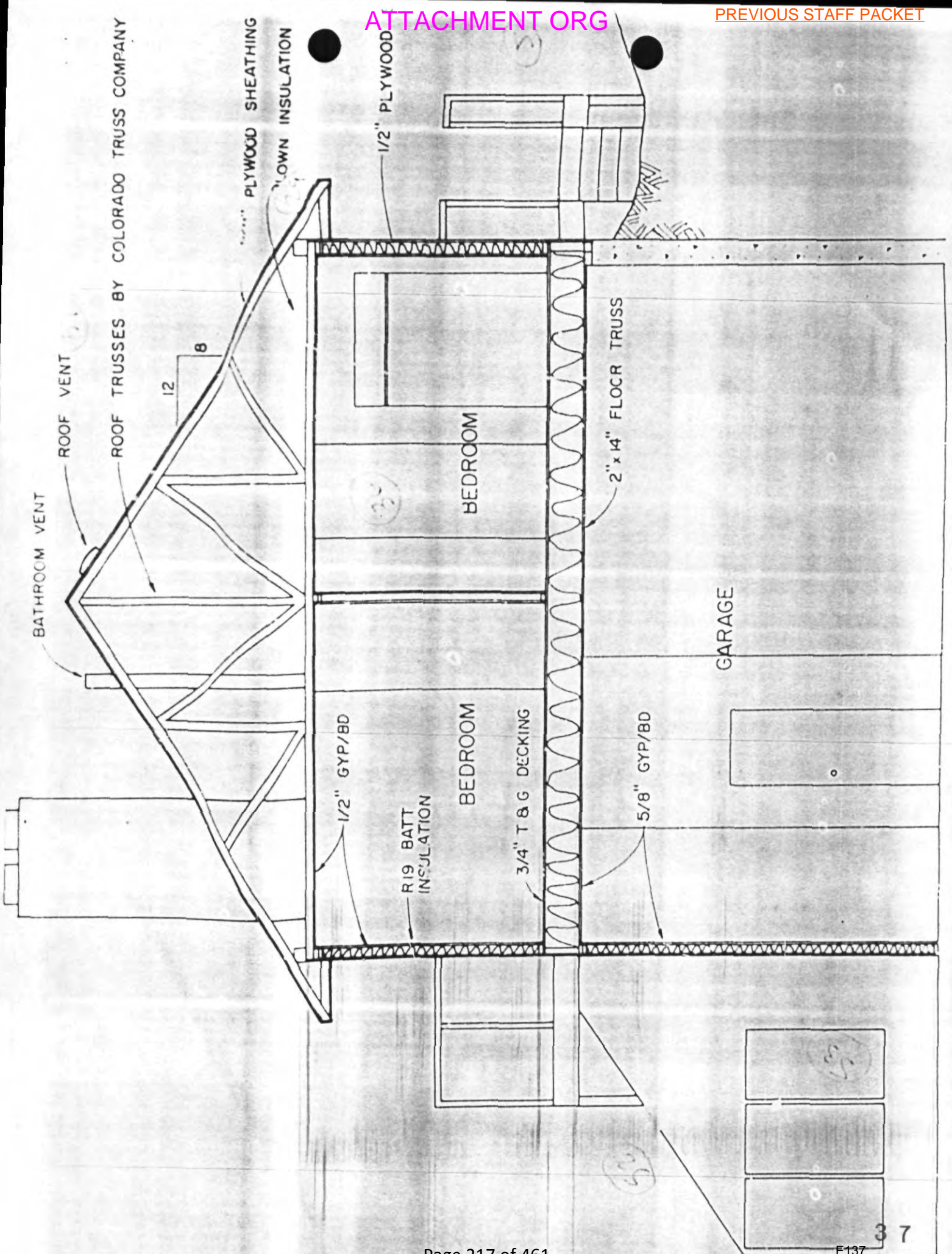
GSV HOMES

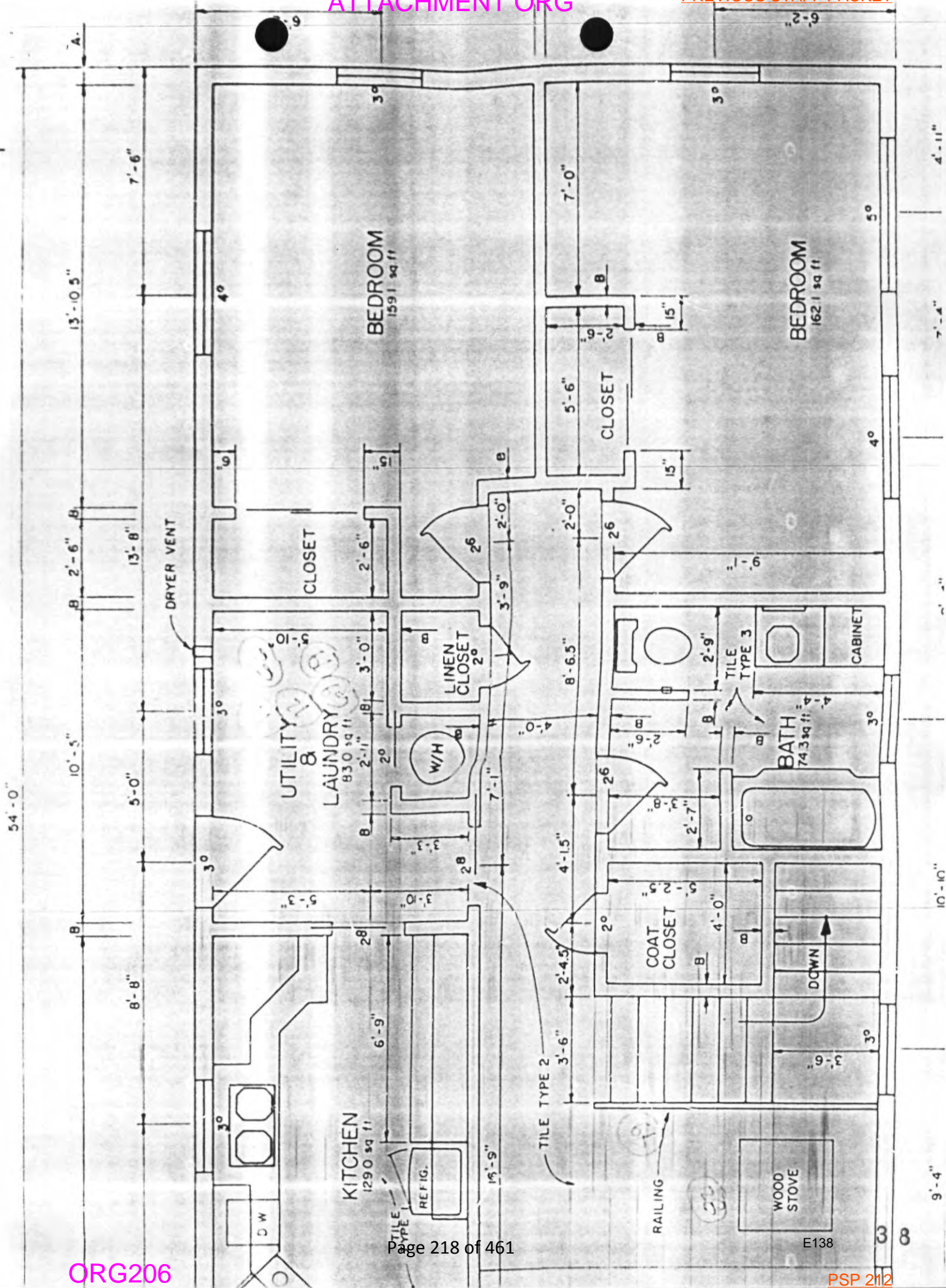
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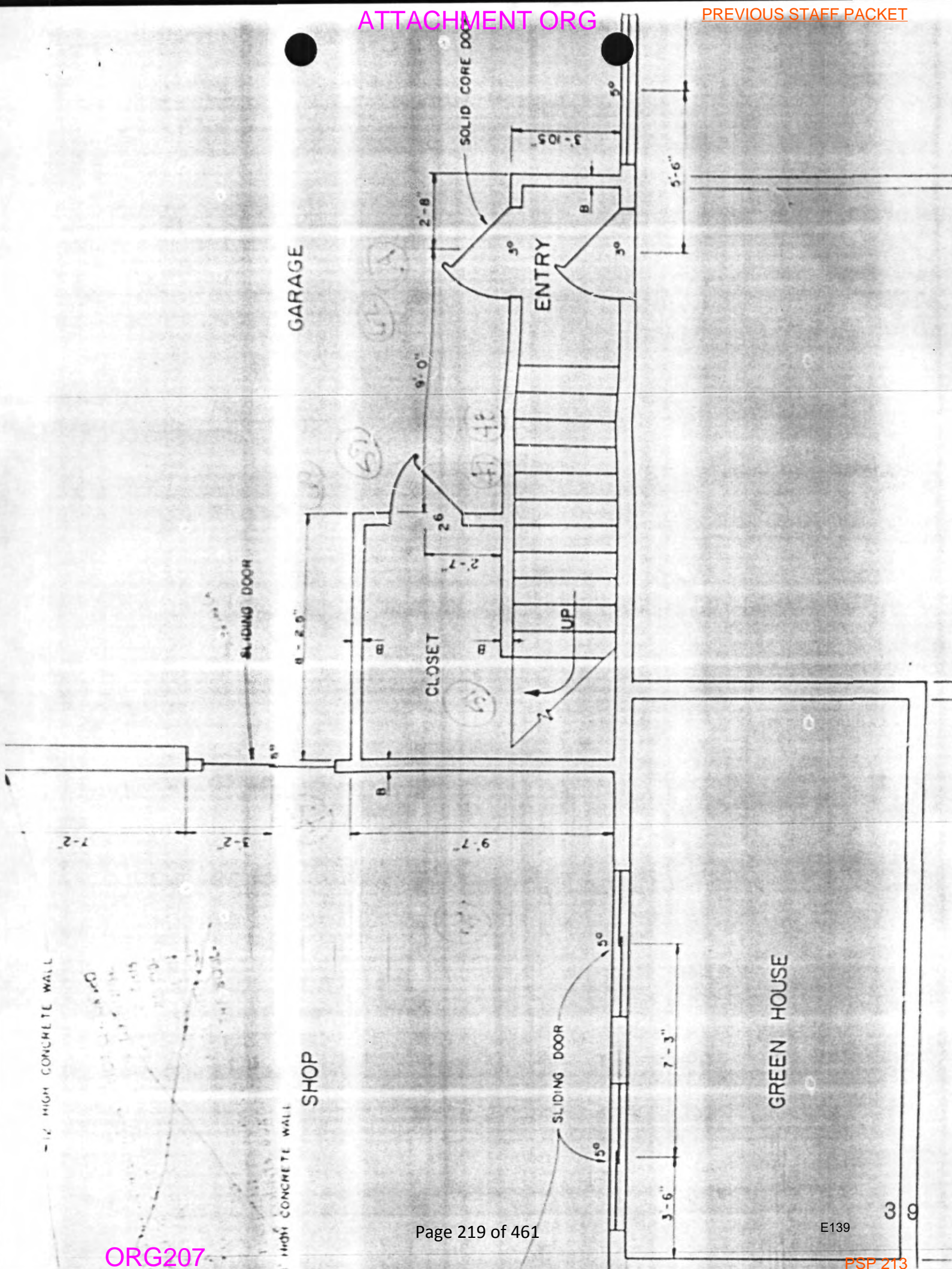
86-4



EAST ELEVATION







VAR-02-15
REFERRALS

October 25, 2002

Ref: LU-02-065

Greg Oxenfeld, Staff Planner
Boulder County Land Use

RE: Docket VAR-02-15: Review for Ells Variance

Dear Greg:

The materials for the above referenced proposal have been reviewed. It is understood the proposal is for a variance for a setback for an addition, a garage and for use of a mine for water storage by the fire department. The property is located at 6301 Sunshine Canyon Drive in S8 T1N R71W. Based on our file review we have the following comments to offer:

Drinking Water

Drinking water is supplied by a private well.

Wastewater Disposal

This Department issued a permit for the installation of a raised ripped base bed system on 8/19/87 for an individual sewage disposal system (ISDS) adequate for a 3-bedroom house, which was approved on 6/29/88, for 6301 Sunshine Canyon Drive.

This Department issued a permit for the installation of a raised ripped base bed system on 9/27/94 for an individual sewage disposal system (ISDS) adequate for a 3-bedroom house, which was approved on 11/8/95, for 6300 Sunshine Canyon Drive. If the total number of bedrooms in the house exceeds 3, an addition to the ISDS will be necessary and a permit from this Department will be required. The building addition must be no closer than twenty (20) feet from the absorption field and five (5) feet from the septic tank.

The garage must be located a minimum of 20 feet from the absorption field. If sinks or toilets are installed in the garage, wastewater must be disposed of in an approved individual sewage disposal system (ISDS) and an addition permit from this Department will be required. The ISDS must meet current regulations. Heavy equipment should be restricted from the surface of the absorption field during construction of the barn to avoid soil compaction which could cause premature absorption field malfunction.

If you have any questions, please feel free to contact me at (303) 441-1157.

Sincerely,

Iris Sherman-Boemker
Environmental Health Specialist

Cc: Fred Ells, owners

OSGOOD & HARRISLIMITED LIABILITY COMPANY
ATTORNEYS AT LAW2336 CANYON BOULEVARD, SUITE 200
BOULDER, CO 80302

VOICE 303-442-0165

WEB SITE www.oshlaw.com

FAX 303-442-6115

FAX TRANSMISSIONRUSSELL K. OSGOOD
STEVEN E. HARRIS
SCOTT R. OSGOODruss@oshlaw.com
steve@oshlaw.com
scott@oshlaw.com

October 25, 2002

Boulder County Land Use Department
Greg Oxenfeld
2045 13th Spruce St.
Boulder, CO 80302

Re: Docket VAR-02-15: Ells Variance

Dear Mr. Oxenfeld:

On behalf of Susan Goldstein, owner of the Grand View Lode and who is a neighbor of Fred Ells, Ms. Goldstein objects to the requested variance. Her primary concern is that Mr. Ells has been accessing his real property over the Grandview Lode without any permanent legal right to use the road. Mr. Ells' right to cross the Grand View Lode has only been through the permission of Ms. Goldstein.

This past summer, Mr. Ells or his agents are believed to have entered the Grand View Lode and cut a significant number of trees without Ms. Goldstein's permission. This unauthorized cutting removed the natural barrier and buffers between Mr. Ells' house the location where Ms. Goldstein considered to be an ideal building site. This has caused her to reconsider the potential location of a residence to a location which will end up terminating the permission for Mr. Ells to cross the Grand View Lode because the new location will be on or near the existing road. This blocking of the road will have a significant impact on Mr. Ells' ability to access his property to continue construction or to provide any access to the proposed water retention area. Additionally, Ms. Goldstein is worried that the relaxation of the setbacks for the garage will affect her peaceful use of her property in the future. She therefore asks that you deny the variance as requested until the above issues are resolved. She has no problem with the addition to the main house and does not wish to impede the speedy completion of that portion of the application for variance.

If you have any questions, please feel free to call.

FAX to Boulder County Land Use Department
Greg Oxenfeld
October 25, 2002
Page: 2

Very truly yours,



Steven E. Harris, for
OSGOOD & HARRIS, LLC

cc: Client
Fred Ellis

From: "Kellogg, Joe" <Joe.Kellogg@lc.frcc.cccoes.edu>
To: "gnolu@co.boulder.co.us" <gnolu@co.boulder.co.us>
Date: 11/21/02 9:35AM
Subject: Fred Ells variance petition Docket # var-02-15

Dear Mr. Oxenfeld,

I again wish to register my support to Fred Ells and all of his variance requests. I think his proposed improvements will not only enhance his property, thereby helping the overall look of the neighborhood, but the proposed cistern will be a great resource to the local fire department.

I don't pretend to understand the history of the dispute between Fred Ells and his immediate neighbor, Susan Goldstein, but I don't understand her argument that his activities will negatively impact her property. If anything, the proposed improvements should actually help her property values in the event that she either sells or develops her property.

Philosophically, I also feel that the stringent setback requirements are an unfair burden on those mountain property owners with 50 foot wide lots. I have a 50 foot wide lot in Louisville, which admittedly, is in a city where more density is expected. However, unlike my house in Louisville, where there are houses on the other side of a fence, there is far greater distance between Fred Ells' house and any potential house that could be built next to him. It seems to me that enforcing strict setback requirements on 50 foot wide lots in the mountains is somewhat arbitrary.

Anyway, I hope you will be merciful with Fred.

Joe Kellogg
Nearby Property Owner on County Road 85.

From: "sunrise" <sunrise@boulder.net>
To: "Greg Oxenfeld" <gnolu@co.boulder.co.us>
Date: 11/8/02 8:43AM
Subject: Var 02-15 3rd var fire truck

Hello Greg,

I once again would like to thank you. you have a tough job and I'm not particularly happy to go through the process but this is what makes Bolder one of the best places in the country to live.

as far as the variance that we are working on I have a few questions on the third part which was to use the mine for fire protection.

to put in pipelines do I need a variance?

to construct a pumphouse 4 feet by 8 feet or smaller, do I need a variance?

and for place those tanks at or near the mine does that need a variance?

after talking with the fire department board, I am very much considering withdrawing the third variance and letting the fire departments get all the necessary permits and variances and special use permits!

also I thought I e-mail you a picture of my firetruck which has a hot tub in it. I used to rent it out for parties and parades. this picture is from the St. Patrick's Day parade back in 1980 in front of potters.

thanks again Craig, hope have a good weekend and I will give you a decision before Wednesday

high most likely will withdrawal the third variance

I am quite aware that if I do decide to continue on the third variants that I will have plans into you buy then.

thanks

CC: "fred ells" <ironman@boulder.net>

From: Greg Oxenfeld
To: sunrise
Date: 11/8/02 3:58PM
Subject: Re: Var 02-15 3rd var fire truck

Fred,

Even though the structure is less than 120 square feet, it will still need to meet setbacks. We can accept a building permit for the structure even though it is less than 120 square feet. Only the Board of Adjustment (BOA) can approve the variance, and you must submit a building permit in order to get the request before the BOA. So, if you want this part of your request heard before the BOA on December 4th, you will need to submit the building permit no later than Wednesday (11/13) of next week. The Land Use Code states that an underground water storage container with a capacity of over 5,000 gallons, operated by a Fire District for fire protection is allowed by Limited Impact Special Review, unless waived by the Land Use Director.

-Greg

>>> "sunrise" <sunrise@boulder.net> 02/21/98 10:29PM >>>
 Hello Greg,

I once again would like to thank you. you have a tough job and I'm not particularly happy to go through the process but this is what makes Bolder one of the best places in the country to the too live.

as far as the variance that we are working on I have a few questions on the third part which was to use the mine for fire protection.

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thanks

CC: fred ells

From: <jan_fackrell@co.blm.gov>
To: <GNOLU@co.boulder.co.us>
Date: 11/6/02 11:41AM
Subject: Docket Variance 02-115, Ells Variance

Mr. Oxenfeld,

I received a call from Fred Ells this morning regarding a parcel of land managed by the Bureau of Land Management (BLM) in section 8, T. 1 N., R. 71 W. The parcel, lot 165, lies between the Dead Medicine and Grandview lodes and is approximately 0.12 acres in size. The parcel is a strip of land about 25 feet wide running between the two claims.

Mr. Ells and I discussed several issues regarding this BLM parcel:

1. Could Mr. Ells purchase the parcel from BLM? I let him know that this is not an action we would consider at this time. These lands are scheduled to be included in a land exchange with Boulder County at some time in the future. Absent that, we couldn't pursue a sale for several years. I let him know that if the parcel is acquired by Boulder County, that it may consider subsequent sale to an adjacent landowner, as the parcel is exceedingly small. Sale to Mr. Ells would provide a buffer to his private parcel, the Dead Medicine lode, and assist Mr. Ells with his setback concerns.

2. Does BLM require any type of setback from it's property line? The answer is no. We require that the BLM land not be utilized for private uses without authorization. This would include auxiliary features to a residence, such as sidewalks, flowerbeds, sheds, swingsets, etc. It is highly unlikely that BLM would consider authorizing any of these auxiliary uses.

3. Would the BLM consider authorizing access across lot 165 on an existing road for the purpose of allowing the Sunshine Fire Protection District to utilize water for fire suppression? This water is in a mining tunnel on the Dead Medicine lode. Mr. Ells stated that the road is existing, 12-feet wide, has a slope of approximately 2%, and is in good repair. Based on this information, and providing that we don't find anything irregular during a site exam, it is safe to say that we would authorize access across the BLM parcel to the SFPD for this use.

Please feel free to call if you have any questions.

Jan Fackrell, Realty Specialist
Royal Gorge Field Office
3170 E. Main St.
Canon City, CO 81212
719-269-8525
Fax: 719-269-8599

CC: <Sunrise@boulder.net>

From: <JESchulll@aol.com>
To: <gnolu@co.boulder.co.us>
Date: 10/28/02 6:14AM
Subject: Fred Ells home, docket VAR-02-15:ELLS variance

As a member of the board of the Sunshine Fire Protection District, I want to thank you for your long years of service to the district. My best memory was what you did for us on the Olde Stage road fire. You were out there 48 hours straight and we were all facing shifting winds during two dark nights. As the final hours of the effort approached, you were still running back and forth from Left Hand Creek and keeping our portaponds full. I was about three hundred feet up the hill, totally dependent on the water you were hauling to save not only the structures, but also the people fighting the fire. I could tell it was you in the dark because the sound from your tanker told me we had at least one expert driver up there. I guess those years of your being the mountain school bus driver paid off.

Now to the matter at hand. Your mining claim, the Dead Medicine is the largest water source in our fire district. At present we cannot safely access it because our trucks can't turn around anywhere near it. If you are allowed to implement the grading and driveway plans which you showed to me, we have an entirely different situation. We can run a truck in and turn around close enough to the water source to make the 30,000 to 100,000 gallons of water available to fight fires. Since we recently spent \$45,00 overall to put in two 15,000 gallon tanks a mile further up the hill, you can imagine how pleased I would be to have another equivalent or larger water source at your location. It will benefit the entire fire district immensely at very low cost for the plumbing. I will formally present this matter at the next board meeting (the second Tuesday of November). I will put forth a motion that this project be allowed to proceed as quickly as possible. If you need to have this motion passed sooner, I can present it to the board by e-mail. I can tell you right now that the board has previously approved working with you to develop this incredibly valuable water source, but was stymied by the issue of safe (escape route) access. If the county allows you to proceed with your plans, we are ready to go. Best Regards, Jay Schumacher, board member, SFPD.

Other board members to be polled are:

Pavel Bouska, Chairman

Bill Bender, Treasurer

Dave Wheeler, board member

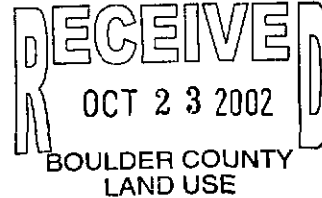
Mary Mesch, Board member

From: <JESchulll@aol.com>
To: <gnolu@co.boulder.co.us>
Date: 10/28/02 6:12AM
Subject: Fred Ells home,docket VAR-02015:ELLS variance

As a long time resident (1974) of the neighborhood I remember meeting Fred in about 1986 when he was building his house. It was very innovative and he showed fine craftsmanship in its construction. Apparently, problems developed with the greenhouse on the south side of the house and Fred repaired the problem by removing the greenhouse and replacing it with a robust structure more suitable to the high winds and snowloads of the neighborhood. It looks nice and is very well constructed. His house is one of the few that isn't visible from CR52 or anywhere else for that matter, unlike the newer huge trophy homes which portude everywhere around here now. Fred is an excellent truck driver, heavy equipment operator, and carpenter. He is also a machinist and has a college engineering background. Our neighborhood is now overrun with people who are completely helpless under adverse conditions and it is neighbors like Fred who keep the college professors, computer geeks, and lawyers out of trouble when they call on him for help. Best Regards, Jay Schumacher.

October 19, 2002

Zoning Division - Land Use Department
Boulder County
P. O. Box 471
Boulder, CO 80306



RE: Docket VAR-02-15: ELLS Variance

To Whom It May Concern:

I am one of Mr. Ells closest neighbors. Fred is doing a great job of remodeling the front of his house and improving his property. This change will add a lot to the neighborhood.

In addition, it is very important to continue to allow the Sunshine Fire Department access to the water stored in one of Fred's mine shafts. Without this water, it is doubtful that any of the houses in the neighborhood could survive any serious fire threat. Fred's creation of a fire department turnaround in his driveway adds to the likelihood of a positive outcome if the department tanker would need to be refilled several times in short order.

All of us in the neighborhood are very thankful that Fred has been kind and made his water available.

Because of these positive changes, it is important that Fred be allowed to complete his projects.

Therefore, I respectfully request that you grant Fred the requested variances.

I can be reached at (918) 519-5133 during the day or evenings at (303) 413-9171 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "BD Johnson".

Billy D. Johnson

B. D. (Bill) Johnson
6300 Sunshine Canyon Drive, Boulder, Colorado 80302
Telephone: (303) 413-9171 Email: bill@groveok.com

Judith Frey
6191 Sunshine Canyon Dr.
Boulder, CO 80302

Boulder County Land Use Dept.
Building Division
2045 13th Street
Boulder, CO 80302

September 25, 2002

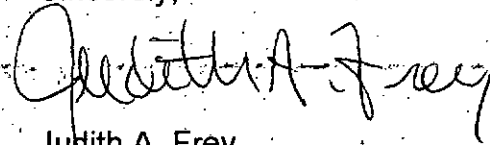
To Whom It May Concern:

I would like to express my support of my neighbor Fred Ells being allowed to complete his house as the project is currently underway. The new addition on the front represents a considerable improvement, in my opinion, over the flimsy-looking greenhouse structure which was there, and strikes me as being a necessary part of completing his house in finished form. In addition, the new bay window is quite visually appealing, and removing any part of it would, in effect, ruin the bay window design.

Fred is also cleaning up his yard, which needed to be done. Incidentally, the house is not visible from Sunshine Canyon Road as one drives by.

Thank you for considering Fred's request to complete this much-needed improvement.

Sincerely,



Judith A. Frey

September 25, 2002

Boulder County Land Use Department
Boulder, CO

Re: Fred Ells variance request
6301 Sunshine Canyon Drive
Boulder, CO 80302

To Whom it may concern,

We have reviewed plans submitted by Mr. Ells' for construction improvements on his home at 6301 Sunshine Canyon Drive. We are Mr. Ell's nearest neighbor and it is our understanding that Mr. Ells requires a variance for a 4 ft. set-back encroachment on a bay window structure, and a 15 ft. setback in lieu of a 25 ft. set-back for a garage structure.

This letter is to inform you that we do not have any problem or conflict with Mr. Ells' request. We feel that this variance would in no way be a detriment to surrounding properties, including ours.

If you have any questions or concerns, please feel free to call us @ 303-449-0818.

Sincerely,



Richard & Barbara Slarks
6299 Sunshine Canyon Drive
Boulder, CO 80302

Greg Oxenfeld - Fred Ells and docket var-02-15

Page 1

From: "Kellogg, Joe" <Joe.Kellogg@lc.frcc.cccoes.edu>
To: "gnolu@co.boulder.co.us" <gnolu@co.boulder.co.us>
Date: 11/4/02 2:40PM
Subject: Fred Ells and docket var-02-15

Dear Mr. Oxenfeld,

I am writing in support of Fred Ells and his application for variances on his land on Sunshine Canyon Drive. I own property down county Road 85, which is common access for Fred Ells, and several other homeowners. I would like to respectfully disagree with the recommendations you and/or your staff made in regards to his petition. I personally think the addition and the garage would not adversely affect anyone, but would, in fact, enhance the neighborhood. I especially support his proposal to provide a cistern to the Sunshine fire department. Considering the fire danger in the mountains, I feel quite strongly that anything we can do to prepare for fire is something that should take highest priority.

Sincerely,

Joe Kellogg

OSGOOD & HARRISLIMITED LIABILITY COMPANY
ATTORNEYS AT LAW2336 CANYON BOULEVARD, SUITE 200
BOULDER, CO 80302

VOICE 303-442-0165

WEB SITE www.oshlaw.com

FAX 303-442-6115

RUSSELL K. OSGOOD
STEVEN E. HARRIS
SCOTT R. OSGOODruss@oshlaw.com
steve@oshlaw.com
scott@oshlaw.com

October 25, 2002

CONFIDENTIAL TRANSMISSION

The information contained in this facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service.

Please deliver the following pages to:

Name: Boulder County Land Use Department
Greg Oxenfeld
2045 13th Spruce St.
Boulder, CO 80302

FAX#: 303-441-4856

FROM: Steven E. Harris

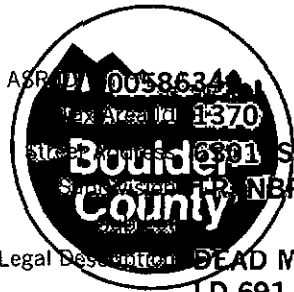
Number of pages including cover:

TIME: 4:38pm Mountain time zone Mountain Time Zone**3**

PLEASE CALL 442-0165

IF THE FAX TRANSMISSION IS INCOMPLETE OR ILLEGIBLE.

Notes:



Suffix 01

Parcel No 146108000074

Post Office Box 471 • Boulder, Colorado 80306 172

Land Use Department

Legal Description: DEAD MEDICINE LD 183 1.52 AC & NLY .17 ACS ATCHISON LD 247 & NELY .18 ACS ELDORADO LD 691 GOLD HILL. TOTAL 1.87 ACS M/L SPLIT TO ID 32704 12/91 ID 326 57 COMBINED HERE PER OWNER 198 7 PROPERTY ADDRESS: 006301 SUN

Owner Name ELLS FRED JOHN

In Care Of

Owner Address 6301 SUNSHINE CANYON DR

City, State Zip BOULDER, CO 80302-9774

Land Class Code 1112 Bldg Class Code 1212

Rooms 6

Design Cod 1

Year Built 1987

Bedrooms 3

Half Baths 0

3/4 Baths 0

Full Baths 1

First Fl Fin Sqft 1296

First Fl Tot Sqft 1296

Above Fin Sqft 0

Above Tot Sqft 0

Bsmnt Fin Sqft 694

Bsmnt Tot Sqft 694

Garage Fin Sqft 602

Garage Tot Sqft 602

Other Fin Sqft 0

Other Tot Sqft 0

Land Act Val \$ 338,800

Bldg Act Val \$ 108,800

Land Asd Val \$ 31,000

Bldg Asd Val \$ 9,960

Deed1 No 1149453-8

Deed1 Dt 18-DEC-91

Deed1 Fee \$.80

Deed2 No 742229

Deed2 Dt 14-FEB-86

Deed2 Fee \$.73

Deed3 No

Deed3 Dt

Deed3 Fee \$.00

Deed4 No

Deed4 Dt

Deed4 Fee \$.00

BP-02-5037 addition

02-1510 remodel

02-1624 garage

Reel 001149453 12/18/91 02:52 PM REAL ESTATE RECORDS
Reel F1707 CHARLOTTE HOUSTON BOULDER CNTY CO RECORDER -

WARRANTY DEED

THIS DEED, Made this 16th day of December . 1991 .
between

FRED JOHN ELLS

County of Boulder State of Colorado, grantor(s) and

HUGH M. KISSELL

whose legal address is 1296 Vista Del Cielo, Camarillo, CA

RECEIVED FOR
DEC 18 1991
50

of the County of State of Colorado, grantor(s)
WITNESSETH, That the grantor(s), for and in consideration of the sum of (\$5,000.00)
FIVE THOUSAND AND NO/100THS DOLLARS,

the receipt and sufficiency of which is hereby acknowledged, to grant, bargain, sell and convey, and by these presents do grant, bargain, sell, convey, and confirm, unto the grantor(s) his heirs and assigns forever, all the real property, together with improvements, if any, situate, lying and being in the County of Boulder State of Colorado, described as follows:

All of the portion of the Eldorado Lode, U.S. Mineral Survey No. 691 lying Southwesterly of a line extending Northwesterly and Southeasterly from Corner No. 1 of the Dead Medicine Lode, U.S. Mineral Survey No. 183 as measured at right angles from Line 1-2 of said Eldorado Lode, EXCEPT all of those portions of said portion of the Eldorado Lode lying within the Sunshine Lode, U.S. Mineral Survey No. 244, the More Punch Lode, U.S. Mineral Survey No. 393 and the Gold Bar Lode, U.S. Mineral Survey No. 611, all in the Gold Hill Mining District and located in the SW 1/4 of the SW 1/4 of Section 8, in the SW 1/4 of the SW 1/4 of Section 17, and in the NE 1/4 of the SE 1/4 of Section 18, all in Township 1 North, Range 71 West of the 6th P.M., County of Boulder, State of Colorado.

THIS DEED IS GIVEN TO IMPLEMENT BOARD OF COUNTY COMMISSIONERS APPROVAL OF DOCKET NO. SE-91-40 ON DECEMBER 12, 1991
also known by street and corner as:

TOGETHER with all and singular the tenements and appurtenances thereto belonging, or in anywise appertaining, and the covenants and conditions, promises and warranties, covenants, cures and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the grantor(s), either in law or equity, of, in and to the above bargained premises, with the tenements and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described with the appurtenances, unto the grantor(s) his heirs and assigns forever. And the grantor(s) for him as for his heirs and personal representatives, do as covenant, grant, bargain, and agree to and with the grantor(s) his heirs and assigns, that as the time of the conveying and delivery of these presents, the is well seized of the premises above conveyed, by a good, true, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and by a good right, full power and authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, leases, tenures, mortgages, equities, and restrictions of whatever kind or nature except for 1991 taxes and subsequent years and except for all mineral rights

The grantor(s) shall and will WARRANT AND FOREVER DEFEND to, above-bargained premises in the quiet and peaceable possession of the grantor(s) FIVE heirs and assigns, against all and every person or persons lawfully claiming the whole or any part thereof.
IN WITNESS WHEREOF, the grantor(s) by S executed this deed on the day set forth above.

Fred John Ellis
FRED JOHN ELLS

STATE OF COLORADO
County of Boulder
The foregoing instrument was acknowledged before me on the 16th day of December . 1991
by FRED JOHN ELLS
My commission expires 1/13/92
Notary Public
STATE OF COLORADO
Notary Public
"If no District, insert "City and".

Recorded 001149454 12/10/91 02:52 PM REAL ESTATE RECORDS
 Receipts F1707 CHARLOTTE HOUSTON BOULDER CNTY CO RECORDER

WARRANTY DEED

THIS DEED, made this 16th day of December, 1991,
 between:

FRED ELLS also known as FRED JOHN ELLS

of the

County of Boulder

State of Colorado, grantor(s) and

HUGH M. KYSELL

whose legal address is 1296 Vista Del Cima, Camarillo, CA

STATE OF COLORADO REC

DEC 18 1991

30

of the County of State of Colorado, grantor(s):
 WITNESSETH, That the grantor(s), for and in consideration of the sum of (\$3,000.00) DOLLARS,
 THREE THOUSAND AND NO/100THS

the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents do es grant, bargain, sell, convey, and confirm, unto the grantee(s), his heirs and assigns forever, all the real property, together with improvements, if any, situate, lying and being in the County of Boulder, State of Colorado, described as follows:

All of that portion of the Archison Lode, U.S. Mineral Survey No. 247 lying Southwesterly of Line 4-1 and Line 4-1 extended Northwesterly of the Shadow Lode, U.S. Mineral Survey No. 279, all in the Gold Hill Mining District and located in the SW 1/4 of the SW 1/4 of Section 8, in the NW 1/4 of the NW 1/4 of Section 17 and in the NE 1/4 of the NE 1/4 of Section 18, all in Township 1 North, Range 71 West of the 6th P.M., County of Boulder, State of Colorado, EXCEPT for an exclusive surface easement including but not limited to the ability to contour the property, store equipment and conduct mining operations to FRED ELLS also known as FRED JOHN ELLS on all of the surface of that portion of the Archison Lode, U.S. Mineral Survey No. 247 lying Southwesterly of Line 1-2 of the Fortune Lode, U.S. Mineral Survey No. 619, all in the Gold Hill Mining District and located in the NW 1/4 of the NW 1/4 of Section 17 and in the NE 1/4 of the NE 1/4 of Section 18, all in Township 1 North, Range 71 West of the 6th P.M., County of Boulder, State of Colorado.

also known by street and number as:

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the other, right, title, interest, claim and demand whatsoever of the grantor(s), either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described with the appurtenances, unto the grantee(s), his heirs and assigns forever. And the grantor(s), for him self his heirs and personal representatives, do es covenant, grant, bargain, and agree to and with the grantee(s), his heirs and assigns, that as the time of the enrolling and delivery of these presents,

he is well seized of the premises above conveyed, he is good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and he is good right, full power and authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances, and restrictions of whatever kind or nature soever, except for 1991 taxes and subsequent years and except for all mineral rights.

THIS DEED IS GIVEN TO IMPLEMENT BOARD OF COUNTY COMMISSIONERS APPROVAL OF DOCKET NO. SE-91-40 ON DECEMBER 12, 1991.

The grantor(s) shall and will WARRANT AND FOREVER DEFEND the above-bargained premises in the quiet and peaceable possession of the grantee(s), his heirs and assigns, against all and every person or persons lawfully claiming the whole or any part thereof.

IN WITNESS WHEREOF, the grantor(s) has executed this deed on the date set forth above.

Fred Ellis also known as

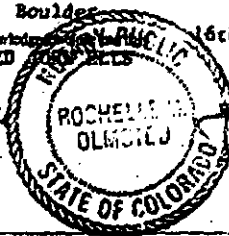
Fred John Ellis

STATE OF COLORADO

County of Boulder

The foregoing instrument was acknowledged before me and me by FRED ELLS aka FRED JOHN ELLS

My commission expires 1/1/92



Witness my hand and official seal

Rochelle M. O'Meara

Notary Public

"If in Denver, insert 'City and'"

Records 001149455 12/18/91 02:52 PM REAL ESTATE RECORDS
Receipts F1707 CHARLOTTE HOUTEN BOULDER CNTY CO RECORDER

WARRANTY DEED

THIS DEED, Made this 16th day of December, 19 91,
between

FRED JOHN ELLS

County of Boulder, State of Colorado, grantor(s) and

FRED JOHN ELLS

whose legal address is 6301 Sunshine Canyon Drive, Boulder, CO 80302

DATE RECORDED IN

DEC 18 1991

Exempt

of the County of Boulder, State of Colorado, grantee(s):

WITNESSETH, That the grantor(s), for and in consideration of the sum of
NO CONSIDERATION - LOT LINE ADJUSTMENT ONLY DOLLARS
the receipt and sufficiency of which is hereby acknowledged, he is granted, bargained, sold and conveyed, and by these presents do as
grant, bargain, sell, convey, and confirm, unto the grantee(s), his heirs and assigns forever, all the real property, together with
improvements, if any, situate, lying and being in the County of Boulder, State of Colorado,
described as follows:

All of that portion of the Atchison Lode, U.S. Mineral Survey No. 247 lying
Northeasterly of Line 4-1 and Line 4-1 extended Northwesterly of the Shadow
Lode, U.S. Mineral Survey No. 279; and all of that portion of the Eldorado Lode,
U.S. Mineral Survey No. 691 lying Northeasterly of a line extending Northwesterly
and Southeasterly from Corner No. 1 of said Dead Medicine Lode, U.S. Mineral
Survey No. 183, as measured at right angles from Line 1-2 of said Eldorado Lode,
EXCEPT those portions of said portion of the Eldorado Lode lying within said
Dead Medicine Lode, said Atchison Lode, the Sunshine Lode, U.S. Mineral Survey
No. 244, said Shadow Lode and the Boulder Valley Lode, U.S. Mineral Survey No.
592, all in the Gold Hill Mining District and located in the SW 1/4 of Section
8, Township 1 North, Range 71 West of the 6th P.M., County of Boulder, State of
Colorado.

THIS DEED IS GIVEN TO IMPLEMENT BOARD OF COUNTY COMMISSIONERS APPROVAL OF DOCKET
NO. SE-91-40 on December 12, 1991
also known by street and number as:

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and
reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of
the grantor(s), either in law or equity, of, in and to the above bargained premises, with the hereinafterments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described with the appurtenances, unto the grantee(s), his heirs
and assigns forever. And the grantor(s), for him self his heirs and personal representatives, do as covenant, grant,
bargain, and agree to and with the grantee(s), his heirs and assigns, that at the time of the executing and delivery of these presents,
he is well seized of the premises above conveyed, he is good, sure, perfect, absolute and indefeasible estate of inheritance,
in law, in fee simple, and he is good right, full power and authority to grant, bargain, sell and convey the same in manner and form as
aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances, and
restrictions of whatever kind or nature soever, except

The grantor(s) shall and will WARRANT AND FOREVER DEFEND the above-bargained premises in the quiet and peaceable possession
of the grantee(s), his heirs and assigns, against all and every person or persons lawfully claiming the whole or any part thereof.
(IN WITNESS WHEREOF, the grantor(s) has executed this deed on the date set forth above.)

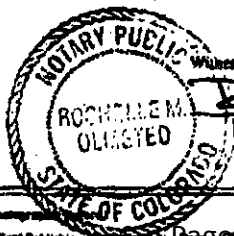
FRED JOHN ELLS

STATE OF COLORADO

County of Boulder

The foregoing instrument was acknowledged before me this 16th day of December, 19 91
by FRED JOHN ELLS

My commission expires 1/3/94



Witness my hand and official seal.

Rochelle M. Ollsted

Notary Public

"If to Dever, insert 'City and'."

Recorded at 901149456 12/18/91 02:52 PM REAL ESTATE RECORDS
Reception No. F1707 CHARLOTTE HOUSTON BOULDER CNTY CO RECORDER

21

WARRANTY DEED

THIS DEED, Made this 16th day of December, 1991,
between

FRED JOHN ELLS

County of Boulder, State of Colorado, grantor(s) and

FRED JOHN ELLS

whose legal address is 6301 Sunshine Canyon Drive, Boulder, CO 80302

STATE DOCUMENTARY FEE

DEC 18 1991

Exempt

of the County of Boulder, State of Colorado, grantor(s):

WITNESSETH, That the grantor(s), for and in consideration of the sum of
NO CONSIDERATION - LOT LINE ADJUSTMENT ONLY - DOLLARS.

the receipt and sufficiency of which is hereby acknowledged, he is granted, bargained, sold and conveyed, and by these presents does
grant, bargain, sell, convey, and confirm, unto the grantee(s), his heirs and assigns forever, all the real property, together with
improvements, if any, situate, lying and being in the County of Boulder, State of Colorado,
described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE.

THIS DEED IS GIVEN TO IMPLEMENT BOARD OF COUNTY COMMISSIONERS APPROVAL OF
DOCKET NO. SE-91-40 ON DECEMBER 12, 1991

also known by street and number as:

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and
reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of
the grantor(s), either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described with the appurtenances, unto the grantee(s), his heirs
and assigns forever. And the grantor(s), for him self his heirs and personal representatives, do covenent, grant,
bargain, and agree to and with the grantee(s), his heirs and assigns, that at the time of the executing and delivery of these presents,
he is well seized of the premises above conveyed, he is sole, pure, perfect, absolute and indefeasible estate of inheritance,
in law, in fee simple, and he is good right, full power and authority to grant, bargain, sell and convey the same in manner and form as
aforesaid, and that the same are free and clear from all former and other taxes, liens, mortgages, sales, liens, taxes, uses, claims, encumbrances, and
restrictions of whatever kind or nature soever, except

The grantor(s) shall and with WARRANTY AND FOREVER DEFEND the above-bargained premises in the quiet and peaceable possession
of the grantee(s), his heirs and assigns, against all and every person or persons lawfully claiming the whole or any part thereof.
IN WITNESS WHEREOF, the grantor(s) he executed this deed on the date set forth above.

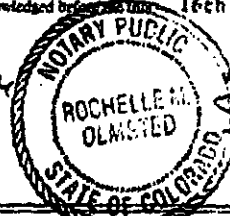
Fred John Ells
FRED JOHN ELLS

STATE OF COLORADO

County of Boulder

The foregoing instrument was acknowledged before me this 16th day of December, 1991,
by FRED JOHN ELLS

My commission expires 1/13/94



Witness my hand and official seal.

Rochelle M. Olmsted
Notary Public

"If in Denver, insert 'City and'."

2-2

EXHIBIT "A"

All of the Dead Medicine Lode, U.S. Mineral Survey No. 183; all of that portion of the Atchison Lode, U.S. Mineral Survey No. 247 lying Northeastly of Line 4-1 and Line 4-1 extended Northwestly of the Shadow Lode, U.S. Mineral Survey No. 279; and all of that portion of the Eldorado Lode, U.S. Mineral Survey No. 691 lying Northeastly of a line extending Northwestly and Southeastly from Corner No. 1 of said Dead Medicine Lode as measured at right angles from line 1-2 of said Eldorado Lode, EXCEPT those portions of said portion of the Eldorado Lode lying within said Dead Medicine Lode, said Atchison Lode, the Sunshine Lode, U.S. Mineral Survey No. 244, said Shadow Lode and the Boulder Valley Lode, U.S. Mineral Survey No. 592, all in the Cold Hill Mining District and Located in the SW 1/4 of Section 8, Township 1 North, Range 71 West of the 6th P.M., County of Boulder, State of Colorado.

401149457 12/18/91 02:53 PM REAL ESTATE RECORDS
F1707 CHARLOTTE HOUSTON BOULDER CNTY CO RECORDER

Recorder

WARRANTY DEED

THIS DEED, Made this 16th day of December, 19 91,
between

HUGH M. KISSELL

County of _____ of the _____
State of Colorado, grantor(s) and

HUGH M. KISSELL

whose legal address is 1296 Vista Del Cima, Camarillo, CA

THIS INSTRUMENT FOR

DEC 18 1991

Example

of the _____ County of _____, State of Colorado, grantee(s).

WITNESSETH, That the grantor(s), for and in consideration of the sum of

NO CONSIDERATION - LOT LINE ADJUSTMENT ONLY ----- DOLLARS,

the receipt and sufficiency of which is hereby acknowledged, he is granted, bargained, sold and conveyed, and by these presents do he
grant, bargain, sell, convey, and confirm, unto the grantee(s), his heirs and assigns forever, all the real property, together with
improvements, if any, situate, lying and being in the County of Boulder, State of Colorado,
described as follows:

All of U.S. Government Lots 129, 130 and 132 located in the NW 1/4 of the NW 1/4 of Section 17, Township 1 North, Range 71 West of the 6th P.M.; all of that portion of the Atchison Lode, U.S. Mineral Survey No. 247 lying Southwesterly of the Northwesterly line of the Southeasterly 25.00 feet of the Sunshine Lode, U.S. Mineral Survey No. 244; and all of that portion of the Southeasterly 25.00 feet of said Sunshine Lode lying Northeasterly of Line 4-1 of the Sailor Lode, U.S. Mineral Survey No. 15051, all in the Gold Hill Mining District and located in the SW 1/4 of the SW 1/4 of Section 8 and in the NW 1/4 of the NW 1/4 of said Section 17, and in the NE 1/4 of the NE 1/4 of Section 18, all in Township 1 North, Range 71 West of the 6th P.M., County of Boulder, State of Colorado.

THIS DEED IS GIVEN TO IMPLEMENT BOARD OF COUNTY COMMISSIONERS APPROVAL OF DOCKET NO. SE-91-40 OF DECEMBER 12, 1991
also known by street and number as

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the grantor(s), either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described with the appurtenances, unto the grantee(s), his heirs and assigns forever. And the grantor(s), for him self his heirs and personal representatives, do hereby covenant, grant, bargain, and agree to and with the grantee(s), his heirs and assigns, that at the time of the sealing and delivery of these presents,

he is well seized of the premises above conveyed, he is good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has good right, full power and authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances, and restrictions of whatever kind or naturesoever, except

The grantor(s) shall and will WARRANT AND FOREVER DEFEND the above-bargained premises in the quiet and peaceable possession of the grantee(s), his heirs and assigns, against all and every person or persons lawfully claiming the whole or any part thereof.
IN WITNESS WHEREOF, the grantor(s) has executed this deed on the date set forth above.

HUGH M. KISSSELL by Rodney Felzien as attorney in fact
HUGH M. KISSELL by RODNEY FELZIEN as
attorney in fact

STATE OF COLORADO

County of Boulder

The foregoing instrument was acknowledged before me this 16th day of December, 19 91
by RODNEY FELZIEN as attorney in fact for HUGH M. KISSELL

My commission expires 4/26/92

Witness my hand and official seal.



Rochelle M. Olmsted
Notary Public

*If in Denver, insert "City and".

Recorded at 401149458 12/18/91 02:53 PM REAL ESTATE RECORDS
 Reception No. F1707 CHARLOTTE HOUSTON BOULDER CNTY CO RECORDER

2-1

WARRANTY DEED

THIS DEED, Made this 16th day of December, 19 91
 between

HUGH M. RISSELL

County of _____ of the State of Colorado, grantor(s) and

HUGH M. RISSELL

whose legal address is 1296 Vista Del Cima, Camarillo, CA

STATE REGISTRATION FE

DEC 18 1991

[Signature]

10

of the County of _____ State of Colorado, grantee(s)

WITNESSETH, That the grantor(s), for and in consideration of the sum of
NO CONSIDERATION - LOT LINE ADJUSTMENT ONLY
 the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell, convey, and confirm, unto the grantee(s), his heirs and assigns forever, all the real property, together with improvements, if any, situate, lying and being in the County of Boulder, State of Colorado, described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE.

THIS DEED IS GIVEN TO IMPLEMENT BOARD OF COUNTY COMMISSIONERS APPROVAL OF
 DOCKET NO. SE-91-40 ON DECEMBER 12, 1991

also known by street and number as:

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the grantor(s), either in law or equity, of, in and to the above bargained premises, with the covenants and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described with the covenants, unto the grantee(s), his heirs and assigns forever. And the grantor(s), for him self his heirs and personal representatives, do covenant, grant, bargain, and agree to and with the grantee(s), his heirs and assigns, that at the time of the executing and delivery of these presents, he is well seized of the premises above conveyed, he is good, sole, pure, absolute and indefeasible estate of inheritance, in law, in fee simple, and he is good right, full power and authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances, and restrictions of whatever kind or nature soever, except:

The grantor(s) shall and will WARRANT AND FOREVER DEFEND the above-bargained premises in the quiet and peaceable possession of the grantee(s), his heirs and assigns, against all and every person or persons lawfully claiming the whole or any part thereof.
 IN WITNESS WHEREOF, the grantor(s) has executed this deed on the date set forth above.

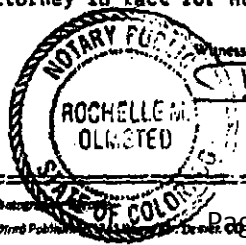
HUGH M. RISSELL by Rodney Felzien as attorney in fact
HUGH M. RISSELL BY RODNEY FELZIEN
as attorney in fact

STATE OF COLORADO

County of Boulder

The foregoing instrument was acknowledged before me this 16th day of December, 19 91
 by RODNEY FELZIEN as attorney in fact for HUGH M. RISSELL

My commission expires 4/3/96



[Signature]
 Notary Public

"If in Denver, insert 'City and'."

2-2

EXHIBIT "A"
LEGAL DESCRIPTION

All of U.S. Government Lot 131 located in the NW 1/4 of the NW 1/4 of Section 17, Township 1 North, Range 71 West of the 6th P.M.; all of the Black Swan Lode, U.S. Mineral Survey No. 245; all of the Sunshine Lode, U.S. Mineral Survey No. 244, EXCEPT all of that portion of the Southeasterly 25.00 feet of said Sunshine Lode lying Northeasterly of line 4-1 of the Sailor Lode, U.S. Mineral Survey No. 15051; and EXCEPT all of that portion of said Sunshine Lode lying within all of that portion of the Atchison Lode, U.S. Mineral Survey No. 247 lying Northeasterly of Line 4-1 and Line 4-1 extended Northwesterly of the Shadow Lode, U.S. Mineral Survey No. 279; all of that portion of the Atchison Lode, U.S. Mineral Survey No. 247 lying Northeasterly of the Northwesterly line of the Southeasterly 25.00 feet of said Sunshine Lode and lying Southwesterly of Line 4-1 and line 4-1 extended Northwesterly of said Shadow Lode; and all of that portion of the Eldorado Lode, U.S. Mineral Survey No. 691 lying Southwesterly of a line extending Northwesterly and Southeasterly from Corner No. 1 of the Dead Medicine Lode, U.S. Mineral Survey No. 183 as measured at right angles from Line 1-2 of said Eldorado Lode, EXCEPT all of those portions of said portion of the Eldorado Lode lying within said Sunshine Lode, the Mora Punch Lode, U.S. Mineral Survey No. 393 and the Gold Bar Lode, U.S. Mineral Survey No. 611, all in the Gold Mill Mining District and located in the SW 1/4 of the SW 1/4 of Section 8, in the NW 1/4 of the NW 1/4 of said Section 17 and in the NE 1/4 of the NE 1/4 of Section 18, all in Township 1 North, Range 71 West of the 6th P.M., County of Boulder, State of Colorado.

000742229 02/14/86 04:08 PM REAL ESTATE RECORDS
F1395 CHARLOTTE HOUSTON BOULDER CNTY CO RECORDER

FILING STAMP

STATE OF COLORADO
FEB 14 1986
13

THIS DEED, Made this 14th day of February
1986, between VIRGINIA K. CAULWELL and
NINA KUHN
of the County of _____ and State of _____
Colorado, of the first part, and
FRED J. ELLS

whose legal address is 5000 Butte, #101,
Boulder, Colorado 80301
of the County of Boulder and State of Colorado, of the second part:
WITNESSETH, That the said party of the first part, for and in consideration of the sum of Seven Thousand
Two Hundred Fifty and no/100--(\$7,250.00)-----DOLLARS,
to the said party of the first part in hand paid by the said party of the second part, the receipt whereof is hereby
confessed and acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain,
sell, convey and confirm, unto the said party of the second part, his heirs and assigns forever, all the following
described lot or parcel of land, situate, lying and being in the
County of Boulder and State of Colorado, to-wit:

See legal description attached hereto and
incorporated herein by this reference.

also known as street and number N.A.

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in any-wise apper-
taining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the
estate, right, title, interest, claim and demand whatsoever of the said party of the first part, either in law or equity, of,
in and to the above bargained premises, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the said
party of the second part, his heirs and assigns forever. And the said party of the first part, for himself, his heirs,
executors, and administrators, does covenant, grant, bargain, and agree to and with the said party of the second part,
his heirs and assigns, that at the time of the conveying and delivery of these presents, he is well seized of the premises
above conveyed, as of good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has
good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form as
aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes,
assessments and encumbrances of whatever kind or nature soever. current real property taxes
which, by reason of adjustment, Grantee assumes and agrees to pay
and except easements, restrictions, reservations, covenants, and
rights-of-way of record or as may be apparent on the ground,

and the above bargained premises in the quiet and peaceable possession of the said party of the second part, his
heirs and assigns against all and every person or persons lawfully claiming or to claim the whole or any part thereof,
the said party of the first part shall and will WARRANT AND FOREVER DEFEND. The singular number shall
include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

IN WITNESS WHEREOF, the said party of the first part has hereunto set his hand and seal the day and year first
above written.

NINA KUHN and (SEAL)

VIRGINIA K. CAULWELL, (SEAL)

both by: *John M. Banman* (SEAL)
John M. Banman, their agent and
attorney-in-fact.

FILED F. STATE OF COLORADO
County of Boulder

NOTARY
The foregoing instrument was acknowledged before me this 14th day of February
1986, by John M. Banman, as agent and attorney-in-fact for Nina Kuhn
and Virginia K. Caulwell.
My commission expires 7-19-87

Witness my hand and official seal.
Charles E. McNeil
Notary Public

2-2

EXHIBIT A

LEGAL DESCRIPTION

FOR DEED BETWEEN NINA KUHN and VIRGINIA K. CAULWELL,
and FRED J. ELLS

THE DEAD MEDICINE LODGE Mining Claim, Mineral Survey No. 183, THE
ATCHISON LODGE Mining Claim, Mineral Survey No. 247, and THE ELDORADO
LODGE Mining Claim, Mineral Survey No. 691, all located in the Gold Hill
Mining District, and embracing portions of Section 8, 17 and 18,
Township 1 North, Range 71 West of the 6th P.M., EXCEPT those portions
of the Eldorado Lodge Mining Claim lying within the Dead Medicine
(Mineral Survey No. 183), the Sunshine (Mineral Survey No. 244), the
Atchison (Mineral Survey No. 247), the Shadow (Mineral Survey No. 279),
the More Punch (Mineral Survey No. 393), the Boulder Valley (Mineral
Survey No. 592) and the Gold Bar (Mineral Survey No. 611) Lodge Mining
Claims, as excepted and excluded by United States Patent recorded August
7, 1985 on Film 1366 as Reception No. 704851, all in the County of
Boulder, State of Colorado.

NKJ/KC
by JDS.

RESOLUTION 2002-118

A RESOLUTION CONDITIONALLY APPROVING BOULDER COUNTY LAND USE DOCKET #SE-02-14 ("JOHNSON/ELLS BOUNDARY LINE ADJUSTMENT"): A REQUEST FOR A SUBDIVISION EXEMPTION FOR A BOUNDARY LINE ADJUSTMENT BETWEEN TWO PARCELS OF PROPERTY LOCATED AT 6300 AND 6301 SUNSHINE CANYON DRIVE, EAST OF GOLD HILL, IN SECTION 8, T1N, R71W

WHEREAS, Billy Don and Pamela B. Johnson, and Fred J. Ells ("Applicants"), have requested an exemption from the Boulder County Subdivision Regulations, pursuant to Article 9 of the Boulder County Land Use Code ("the Land Use Code"), to adjust the boundaries between their two parcels of property which are located as generally described in the caption to this Resolution, above, in the Forestry Zoning District in unincorporated Boulder County; and

WHEREAS, the request would eliminate the boundaries of the Dead Medicine lode (Ells parcel) as it crosses the White Crow lode (Johnson parcel), by adding 0.2 acre of the intersecting portion of the Dead Medicine lode to the White Crow lode, and merging that 0.2-acre portion into the White Crow lode (a 4.83-acre parcel); and

WHEREAS, the Applicants' request is to recognize the 4.83-acre White Crow lode, which contains an existing, 4,902 square-foot residence for which the County issued a building permit in 1993, as a separate legal building lot, with boundaries adjusted to eliminate the overlapping area of the Dead Medicine lode; and

WHEREAS, the Applicants recognize that the White Crow lode was combined with the vacant, substandard Young American lode and Little Giant #2 lode, by regulation under the Land Use Code in 1998, after construction of the residence on the White Crow lode; and

WHEREAS, the Applicants expressly recognize and understand that if the White Crow lode with its existing residence is recognized as a separate legal building lot, on its own, pursuant to this request, then it is necessary to make clear in any approval herein granted that the Young American lode and the Little Giant #2 lode are not legal building lots; and

WHEREAS, the Dead Medicine lode contains a 2,592 square-foot residence constructed in 1987; and

WHEREAS, no new legal building lots will be created by the Applicants' request; and

WHEREAS, the above-described request was processed and reviewed as Boulder County Land Use Docket #SE-02-14 ("the Docket"), all as further described in the Boulder County Land Use Department Planning Staff's Memorandum and written recommendation to the Board dated September 3, 2002, with its attachments ("the Staff Recommendation"); and

WHEREAS, on September 3, 2002, the Board held a duly-noticed public hearing on the Docket ("the Public Hearing"), at which time the Board considered the Staff Recommendation, and the documents and testimony presented by the Boulder County Land Use Department Planning Staff, the County Attorney's Office, representatives of the Applicants, and a member of the public; and

WHEREAS, based on the Public Hearing, the Board finds that the Docket meets the criteria for a boundary line adjustment under Article 9 of the Land Use Code, subject to the conditions stated below, and, therefore, finds that the Docket does not fall within the purposes of the Boulder County Subdivision Regulations, and can be approved pursuant to Article 9 of the Land Use Code, subject to the conditions stated below.

NOW, THEREFORE, BE IT RESOLVED that the Docket is hereby approved, on the basis and terms set forth in this Resolution, above, and subject to the following conditions:

1. The approval of this Docket does not have the legal effect of a building lot determination/approval as to the Young American lode and Little Giant #2 lode, which are considered not to be legal building lots, and which shall not have their building lot status changed in any way as a result of this approval. A deed restriction shall be placed on these two parcels as part of the post-approval recordation requirements for the Docket, making clear that the parcels are not legal building lots and have not been converted into legal building lots by virtue of this approval.

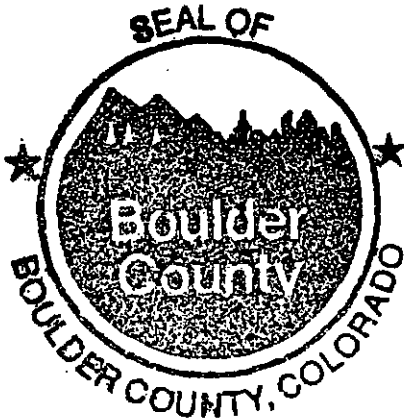
2. With the exception of the construction currently existing on the White Crow lode, the adjusted area of land may not be used for building or setback purposes.

3. The adjusted parcels shall continue to be governed by all applicable provisions of the Land Use Code, County Building Code, and County Health Department (such as individual sewage disposal (ISDS)) regulations. In addition, the owner of the Dead Medicine lode shall apply for and receive all necessary permits and approvals for the addition to the existing dwelling, prior to recordation of the subdivision exemption documents for the Docket.

4. Prior to recordation, the Applicants shall comply with all applicable post-approval requirements as stated in this approval, above, and in Article 3-206 of the Land Use Code, which requirements shall be completed within one year after the date of adoption of this Resolution (see Article 9-300 of the Code), unless an extension of time is granted as allowed under Article 9-300(B) of the Land Use Code.

A motion to approve the Docket, as stated above, was made by Commissioner Stewart, seconded by Commissioner Danish, and passed by a 3-0 vote.

ADOPTED this 10th day of September, 2002, nunc pro tunc the 3rd day of September, 2002.



BOARD OF COUNTY COMMISSIONERS
OF BOULDER COUNTY:

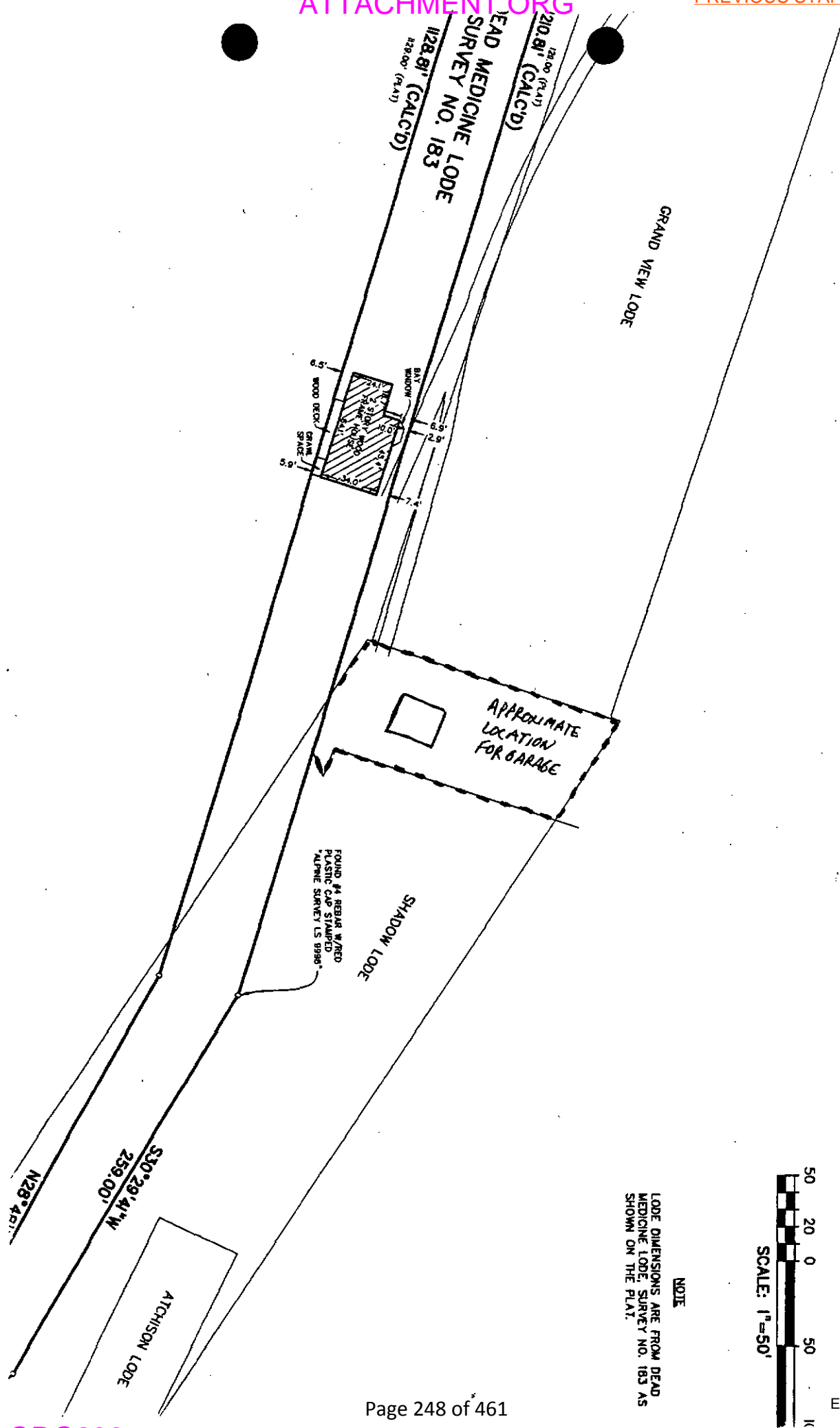
Jana L. Mendez
Jana L. Mendez, Chair

Paul D. Danish
Paul D. Danish, Vice Chair

Ronald K. Stewart
Ronald K. Stewart, Commissioner

ATTEST:

Mike Lyda
Deputy Clerk to the Board



RESOLUTION 92-104

A RESOLUTION APPROVING BOULDER COUNTY LAND USE DOCKET #SE-91-40 ("ELLS/BATTANY/KISSELL BOUNDARY LINE ADJUSTMENT"): AN EXEMPTION FROM THE BOULDER COUNTY SUBDIVISION REGULATIONS FOR A BOUNDARY LINE ADJUSTMENT ON PROPERTY LOCATED APPROXIMATELY 4.5 MILES WEST OF BOULDER, BETWEEN SUNSHINE DRIVE AND GOLD RUN ROAD IN SECTION 17, T1N, R71W.

WHEREAS, Patrick Hammerle ("Applicant") has requested an exemption from the Boulder County Subdivision Regulations for certain boundary line adjustments on the property described in the caption to this Resolution, above ("the Subject Property"), which is located in the Forestry Zoning District in unincorporated Boulder County, the purpose of which request is to move the boundaries creating three parcels of approximately 8.25, 1.52, and 8.47 acres from three existing parcels of 6.47, 5.27, and 6.5 acres; and

WHEREAS, all three existing parcels are eligible for building lot designation, with an existing dwelling on one parcel (the 1.52-acre parcel), and the other two parcels being physically buildable, although this boundary line adjustment request would allow the other two dwellings to be constructed with the least amount of disruption to the sites; and

WHEREAS, the above-described request was processed and reviewed as Boulder County Land Use Docket #SE-91-40 ("the Docket"), all as further described in the Boulder County Land Use Department Planning Staff's Memorandum and written recommendation to the Boulder County Board of County Commissioners ("the Board") dated December 12, 1991, with its attachments ("the Staff Recommendation"); and

WHEREAS, on December 12, 1991, the Board held a duly-noticed public meeting on the Docket ("the Public Meeting"), at which time the Board considered the Staff Recommendation, and the documents and testimony presented by the Boulder County Land Use Department Planning Staff, with an attorney for the Applicant being present but choosing not to speak; and

WHEREAS, based on the Public Meeting, the Board finds that the Docket meets the applicable criteria of § 8-1001 of the Boulder County Subdivision Regulations (Subsections (1) and (2)), and, therefore, does not fall within the purposes of the Subdivision Regulations, and can be approved, subject to the usual post-approval requirements of § 8-901 of the Subdivision Regulations.

NOW, THEREFORE, BE IT RESOLVED that the Docket is hereby approved, on the basis and terms set forth in this Resolution, above.

A motion to approve the Docket, as stated above, was made by Commissioner Hume, seconded by Commissioner Page, and passed by a 2-0 vote, with Commissioner Stewart being excused.

ADOPTED this 14th day of May, 1992, nunc pro tunc the 12th day of December, 1991.

BOARD OF COUNTY COMMISSIONERS
OF BOULDER COUNTY:

Ronald K. Stewart, Chair
(EXCUSED)

Homer Page
Homer Page, Vice Chair

Sandy Hume
Sandy Hume

ATTEST:

Ann Messerschmidt
Clerk to the Board

#01-19 12 12/18/91 02:52 PM RE ESTATE RECORDS
F1707 CARLOTTE HOUSTON BOULDER CO CO RECORDER

EXEMPTION FROM BOULDER COUNTY SUBDIVISION REGULATIONS

DOCKET # SE-91-40 EUS BLA DATE 12/12/91

APPLICANT PATRICK HAMMERLE

REQUEST TO CREATE 3 PARCELS OF 8.25,
1.52, AND 8.42 ACRES, OUT OF
3 PARCEL(S), TOTALING _____ ACRES,

LOCATED IN THE 1/4 S 17, T 1N, R 7E

- ☒ BOUNDARY LINE ADJUSTMENT
☐ PARCEL DIVISION (COMMUNITY FACILITY) (OTHER)
☐ LEASE RECOGNITION (COMMUNITY FACILITY) (OTHER)

LEGAL DESCRIPTION OF PROPERTY (SEE ATTACHED DEEDS)

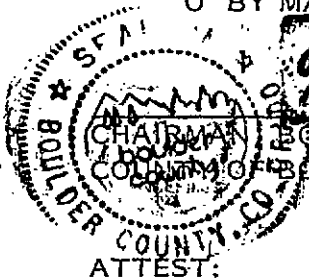
COMMISSIONER HUME MOVED,

COMMISSIONER PAGE SECONDED TO:

- ☒ APPROVE
☐ CONDITIONAL APPROVE (CONDITION: _____.)
☐ DISAPPROVE

THE ABOVE REQUEST. THE MOTION WAS PASSED:

- ☒ UNANIMOUSLY (STEWART ABSENT)
☐ BY MAJORITY



CHAIRMAN BOARD OF COUNTY COMMISSIONERS
 COUNTY OF BOULDER, STATE OF COLORADO

ATTEST:

Kathleen M. Cook
 DEPUTY COUNTY CLERK

DEC. 12, 1991
 DATE

Record #01149455 12/18/91 2:52 PM REAL ESTATE RECORDS
 Receipt F1707 CHARLOTTE BOSTON BOULDER CNTY CLERK REC'D

WARRANTY DEED

THIS DEED, Made this 16th day of December, 19 91,
 between

FRED JOHN ELLS

County of Boulder

of the

State of Colorado, grantor(s) and

FRED JOHN ELLS

whose legal address is 6301 Sunshine Canyon Drive, Boulder, CO 80302

STATE DOCUMENTARY FEE

DEC 18 1991

Exempt

of the County of Boulder

State of Colorado, grantee(s):

WITNESSETH, That the grantor(s), for and in consideration of the sum of
 NO CONSIDERATION - LOT LINE ADJUSTMENT ONLY

DOLLARS

the receipt and sufficiency of which is hereby acknowledged, ha s granted, bargained, sold and conveyed, and by these presents do es
 grant, bargain, sell, convey, and confirm, unto the grantee(s), his heirs and assigns forever, all the real property, together with
 improvements, if any, situate, lying and being in the County of Boulder, State of Colorado,
 described as follows:

All of that portion of the Atchison Lode, U.S. Mineral Survey No. 247 lying
 Northeasterly of Line 4-1 and Line 4-1 extended Northwesterly of the Shadow
 Lode, U.S. Mineral Survey No. 279; and all of that portion of the Eldorado Lode,
 U.S. Mineral Survey No. 691 lying Northeasterly of a line extending Northwesterly
 and Southeasterly from Corner No. 1 of said Dead Medicine Lode, U.S. Mineral
 Survey No. 183, as measured at right angles from Line 1-2 of said Eldorado Lode,
 EXCEPT those portions of said portion of the Eldorado Lode lying within said
 Dead Medicine Lode, said Atchison Lode, the Sunshine Lode, U.S. Mineral Survey
 No. 244, said Shadow Lode and the Boulder Valley Lode, U.S. Mineral Survey No.
 592, all in the Gold Hill Mining District and located in the SW 1/4 of Section
 8, Township 1 North, Range 71 West of the 6th P.M., County of Boulder, State of
 Colorado.

THIS DEED IS GIVEN TO IMPLEMENT BOARD OF COUNTY COMMISSIONERS APPROVAL OF DOCKET
 NO. SE-91-40 on December 12, 1991
 also known by street and number as:

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and
 reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of
 the grantor(s), either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described with the appurtenances, unto the grantee(s), his heirs
 and assigns forever. And the grantor(s), for him self his heirs and personal representatives, do es covenant, grant,
 bargain, and agree to and with the grantee(s), his heirs and assigns, that at the time of the enrolling and delivery of these presents,
 he is well seized of the premises above conveyed, ha s good, sure, perfect, absolute and indefeasible estate of inheritance,
 in law, in fee simple, and ha s good right, full power and authority to grant, bargain, sell and convey the same in manner and form as
 aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances, and
 restrictions of whatever kind or nature soever, except

The grantor(s) shall and will WARRANT AND FOREVER DEFEND the above-bargained premises in the quiet and peaceable possession
 of the grantee(s), his heirs and assigns, against all and every person or persons lawfully claiming the whole or any part thereof.

IN WITNESS WHEREOF the grantor(s) ha s executed this deed on the date set forth above.

FRED JOHN ELLS

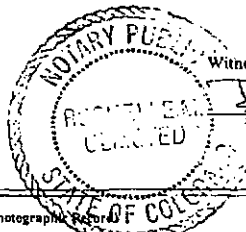
STATE OF COLORADO

County of Boulder

The foregoing instrument was acknowledged before me this 16th day of December, 19 91
 by FRED JOHN ELLS

My commission expires 1/3/94

Witness my hand and official seal.



Deborah M. O'Connell

Notary Public

*If in Denver, insert "City and".



Post Office Box 471 • Boulder, Colorado 80306

Land Use Department

2040 14th Street • 14th & Spruce Streets • Administrative Services Building, 2nd Floor • Boulder, Colorado 80302 • (303) 441-3930

BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM

December 12, 1991 -- 2:00 PM
Hearing Room, Third Floor
Boulder County Courthouse

FROM: Rosi Koopmann, Staff Planner *RK*

PUBLIC MEETING

RE: Docket SE-91-40 ELLS/BATTANY/KISSELL Boundary Line Adjustment

Request: Final Subdivision Exemption to move boundary lines among three parcels.

Location: Approximately 4.5 miles west of Boulder, between Sunshine Dr. and Gold Run Rd. in Section 17, T1N, R71W.

Zoning: Forestry

Applicant(s): Patrick Hammerle

DISCUSSION

The applicant is proposing to move the boundaries creating three parcels of approximately 8.25, 1.52, and 8.47 acres from three parcels of 6.47, 5.27, and 6.5 acres. All three existing parcels are eligible for building lot designation having been created prior to 1978 when the minimum lot area requirement was 5 acres.

One parcel has an existing dwelling constructed in 1987 with a building permit. The other two parcels are physically buildable, but this boundary line adjustment would allow the two dwellings to be constructed with the least amount of disruption to the sites. All three parcels access off either Gold Run Rd. or Sunshine Dr. with access permits from County Public Works.

Staff finds that this request meets the exemption criteria as specified in Section 8-1001 of the Boulder County Subdivision Regulations.

RECOMMENDATION

Therefore, the Land Use staff recommends that the Board of County Commissioners APPROVE Docket SE-91-40 Ells/Battany/Kissell BLA subject to the usual post-approval requirements of Section 8-901 of the Boulder County Subdivision Regulations.

Sandy Hume
County Commissioner

Ronald K. Stewart
County Commissioner

Homer Page
County Commissioner



DEVELOPMENT APPLICATION FORM

Land Use Department

P.O. BOX 471 • 14TH & SPRUCE STREETS • BOULDER, COLORADO 80302 • (303) 441-3930

DEPARTMENT USE ONLY

DOCKET NUMBER

SE-91-40

DATE SUBMITTED

11-20-91

HEALTH DEPARTMENT INITIAL

PROJECT NAME

Ells/Battany - Kissell Consolidation

BLA

APPLICANT'S NAME

Patrick J. Hammerle, Agent

STREET ADDRESS

1911 11th St. Ste. 107

CITY
BoulderSTATE
COZIP CODE
80302

PHONE NUMBER

(303) 442-3180

PROPERTY OWNER'S NAME

Fred Ells and Haydee Battany

STREET ADDRESS

Fred: 6301 Sunshine Canyon
Haydee: 209 W. Simpson, Lafayette, COCITY
BoulderSTATE
COZIP CODE
80302

PHONE NUMBER

(303) 442-5340

PLANNING CONSULTANT

Rodney Felzien, Attorney

STREET ADDRESS

595 Canyon Blvd.

CITY
BoulderSTATE
COZIP CODE
80302

PHONE NUMBER

(303) 449-6649

ENGINEERING CONSULTANT

James L. Pusch P.E.

STREET ADDRESS

345 Evergreen Ave.

CITY
BoulderSTATE
COZIP CODE
80304

PHONE NUMBER

(303) 447-0410

GENERAL LOCATION • LEGAL DESCRIPTION • SITE DATA

GENERAL LOCATION

6301 Sunshine Canyon, Boulder

ADDRESS

554 Gold Run

LOT BLOCK SUBDIVISION

SECTION

TOWNSHIP

RANGE

17

1N

71W

TYPE OF REQUEST

APPLICATION TYPE

MONTHLY
DEADLINESUBMITTAL
FEE²NUMBERS REFER TO DATA WHICH MUST ACCOMPANY THE APPLICATION
(SEE REVERSE SIDE)
(A summary only, intended to aid the applicant in the collection of material
and may be expanded or reduced depending on the particular application)

- ☐ Subdivision Sketch Plan - Simple (7 Lots or Less) — 3rd Wed. — \$1,300.00 — 1,2,3,6,7,8,9,10,11ac,12,13afg,14,22
- ☐ Subdivision Sketch Plan - Complex (More than 7 Lots) — 3rd Wed. — 1,800.00 — 1,2,3,6,7,8,9,10,11ac,12,13afg,14,22
- ☐ Subdivision Plan - Preliminary — 3rd Wed. — 1,000.00 — 1,2,4,6,7,8,10,11b,14,22
- ☐ Subdivision Plan - Final — 3rd Wed. — 1,500.00 — 1,2,5,7,8,10,11abd,12,14,15,17,18,19,20,22
- ☐ Resubdivision/Replat — 3rd Wed. — 650.00 — 1,3,4,5,6,7,8,9,10,11,12,13afg,14,15,16,17,18,19,22
- ☐ Subdivision Exemption - Preliminary — 350.00 — 1,3,6,11ab,12,13g,22
- ☒ Subdivision Exemption - Final — 350.00 — 1,3,6,8,11ab,12,13gh,15,16,22
- ☐ Rezoning — 3rd Wed. — 1,000.00 — 1,3,6,8,11b,12,13abfg,22
- ☐ Special Use — 3rd Wed. — 1,700.00 — 1,2,3,6,7,8,9,10,11,12,13aefg,18,22
- ☐ Special Use - Open Subsurface Mining or Landfill — 3rd Wed. — 2,700.00 — 1,2,3,6,7,8,9,10,11,12,13aefg,18,22
- ☐ Special Use - Group Care Facility — 3rd Wed. — 600.00 — 1,6,8,13a,16,21,22
- ☐ Vacation Easement/Road — 3rd Wed. — 400.00 — 1,6,8,22
- ☐ Road Name Change — 3rd Wed. — 300.00 — 1,2,3,6,8,13cf,22
- ☐ Board of Adjustment Variance — 3rd Wed. — 600.00 — 1,13d,22
- ☐ Board of Adjustment Appeal of Administrative Decision — 3rd Wed. — 600.00 — 1,13d,22
- ☐ Board of Review — 400.00 — 1,3,6,7,8,13af,14,22
- ☐ Location and Extent Review — 3rd Wed. — 750.00 — 1,8,22
- ☐ Request for Extension of Approval — 3rd Wed. — 200.00 — 1,10,14,17,18,22
- ☐ Flood Plain Development Permit — 50.00 — See Regulations - Article 17 B.C.Z.R.
- ☐ Special Use Monitoring — 150.00 — 1,8,22 (Per Review)
- ☐ Expired Plan Review — 350.00 — 1,7,22
- ☐ Historic Zone Permit Review — 150.00 — See Regulations - Article 10 B.C.Z.R.
- ☐ Clerical Assistance — 17.00³/Hr. Plus Copying & Material Costs
- ☐ Other

Application deadline on noon of the stated day

Additional consultants' fees and fees established by review agencies may be charged to the applicant. On multiple requests, applicant pays highest single fee

Fees are based on an average. If the application exceeds the average, additional charges may be required by the B.O.C.C.

Application is incomplete without full fee. If waiver or rebate is requested the B.O.C.C. will consider a request after final action

CERTIFICATION

I certify that the information and exhibits I have submitted are true and correct to the best of my knowledge. In filing the application I am acting with the knowledge and consent of those persons who are owners of the subject property or are parties to this application. I understand that the proper filing fee, as established by Boulder County must be paid and all materials required by Boulder County must be submitted prior to having this matter processed. I understand that public hearings or meetings may be required. I understand that additional fees or materials may be required as a result of considerations which may arise in the processing of this docket. I understand that road, school and park dedications may be required as a condition of approval.

TITLE

DATE

TITLE

SIGNATURE

DATE

TITLE

Real Estate Agent

Real Estate Agent

REF B.O.C.C. RESOLUTION 97-54 APPROVED 2-24-87

* If agent for owner attach permission or other documents that certify agent's right to submit and process application

• OVER •

EXISTING PARCEL(S)

| PROPOSED PARCEL(S) | | | | | |
|---------------------|-----------------|-----------------------|---------|--|--|
| ACREAGE | a. → 8.25 acres | b. → 8.47 | 8.47 | | |
| FRONTAGE | - - | | | | |
| SETBACKS FRONT/REAR | - - | | | | |
| SETBACKS SIDE/SIDE | - - | | | | |
| OWNER | Hugh Kissell | ELLIS Hugh Kissell | KISSELL | | |

| PARCEL | NAME | STREET ADDRESS |
|--------|--|----------------------|
| 1 | Fred Ells | 6301 Sunshine Canyon |
| | CITY | STATE |
| | Boulder | CO |
| | ZIP CODE | PHONE NUMBER |
| | 80302 | 303 442-5340 |
| 2 | NAME | STREET ADDRESS |
| | Same as #1 above | |
| | CITY | STATE |
| | | |
| | ZIP CODE | PHONE NUMBER |
| | | |
| 3 | NAME | STREET ADDRESS |
| | Haydee Battany HUGH KISSELL | 209 W. Simpson |
| | CITY | STATE |
| | Lafayette | CO |
| | ZIP CODE | PHONE NUMBER |
| | 80026 | 303 665-7760 |
| 4 | NAME | STREET ADDRESS |
| | | |
| | CITY | STATE |
| | | |
| | ZIP CODE | PHONE NUMBER |
| | | |
| 5 | NAME | STREET ADDRESS |
| | | |
| | CITY | STATE |
| | | |
| | ZIP CODE | PHONE NUMBER |
| | | |

REMARKS



land use department

DEVELOPMENT SUMMARY
FORM

Boulder County

DEPARTMENT USE ONLY

DOCKET NUMBER

SE 91-40

SUB. TYPE

PROJECT NAME

Is/Battany - Kissell Consolidation

BLA

EXE. TYPE

AGENT

Patrick J. Hammerle, Licensed Real Estate Agent

S.U. TYPE

PROPERTY OWNER

Representing Fred Ells and Haydee Battany

D.U. TYPE

TYPE OF REQUEST

- ☐ ROAD NAME CHANGE
☐ VACATION
☐ REZONING
☐ BOA VARIANCE/APPEAL

- ☐ SPECIAL USE
☐ LOCATION & EXTENT
☒ SUBDIVISION EXEMPTION
☐ OTHER: _____

- ☐ SUBDIVISION SKETCH PLAN
☐ SUBDIVISION PRELIMINARY PLAN
☐ SUBDIVISION FINAL PLAT
☐ RESUBDIVISION (REPLAT)

NATURE OF REQUEST OR (FOR BOA VARIANCE ONLY) STATEMENT OF HARSHIP

Boundary line adjustment to consolidate several smaller parcels down to 2 building parcels.

Note: the 2 buildable lots have already had parcel access review. See attached Development Application Form.

GENERAL LOCATION • LEGAL DESCRIPTION

GENERAL LOCATION

1.) 6301 Sunshine Canyon, Boulder and 2.) 554 Gold Run

ADDRESS

LOT BLOCK SUBDIVISION

-- -- --

SECTION

TOWNSHIP

RANGE

17

1N

71W

AREA IN ACRES

47 acres

EXISTING ZONING

forestry

PROPOSED ZONING

no change

PERCENT SINGLE FAMILY

n/a

PERCENT MULTIFAMILY

none

PERCENT OPEN OR UNDEVELOPED

100%

EXISTING USE OF PROPERTY

vacant land

NUMBER OF EXISTING LOTS

8

NUMBER OF PROPOSED LOTS

2

NUMBER OF EXISTING DWELLINGS

none

NUMBER OF PROPOSED DWELLINGS

2

PROPOSED SQUARE FEET COMMERCIAL INDUSTRIAL

--

WATER

well drilled on 554 Gold Run

SEWAGE

engineered septic for 554 Gold Run PSC estimated

ELECTRIC

TELEPHONE

on site

GAS

--

DITCHES

--

CITY OR TOWN WITHIN 2 MILES

--

FIRE RESPONSE AREA

Sunshine Canyon

SCHOOL DISTRICT

Boulder

PARCEL I.D. NUMBER(S)

Tax ID #0032378

P# 080-9900-1461-17-0-00-024

COMPREHENSIVE PLAN LAND USE DESIGNATION

forestry

BOULDER COUNTY COMPREHENSIVE PLAN ANALYSIS AREA

forestry

ACRES OF AGRICULTURAL LAND REMOVED FROM

PRODUCTION

none

SUBDIVISION INFORMATION

PROPOSED ACRES IN OPEN SPACE AGRICULTURAL PRESERVATION

PRICE RANGE OF LOTS DWELLINGS

\$

\$

ROADS

MILES OF NEW ROADS

PUBLIC

PRIVATE

ACRES DEDICATED TO ROADS

PUBLIC

PRIVATE

ESTIMATED CONSTRUCTION DATES

BEGIN

COMPLETE

OTHER

PROJECT NAME

DOCKET NUMBER

OVER

AMENDED WRITTEN DESCRIPTION OF PROPOSAL

(December 3, 1991)

Owners Fred Ells and Haydee Battany propose to reduce the Sunshine, Black Swan, El Dorado and Atchison Lodes, and Government Lots 129-132, into two lots for two separate residences to be built by purchaser Hugh Kissell. Parcel access reviews have been performed on the separate properties, which are 522 and 554 Gold Run, and are attached. The properties have been determined to have met legal requirements for issuance of two separate building permits by the Boulder County Public Works Department. The purpose of the boundary line adjustment is to consolidate the eight parcels and to provide two lots which contain an area in which the residences can be built with the least amount of environmental impact and with maximum geothermal and solar gains.

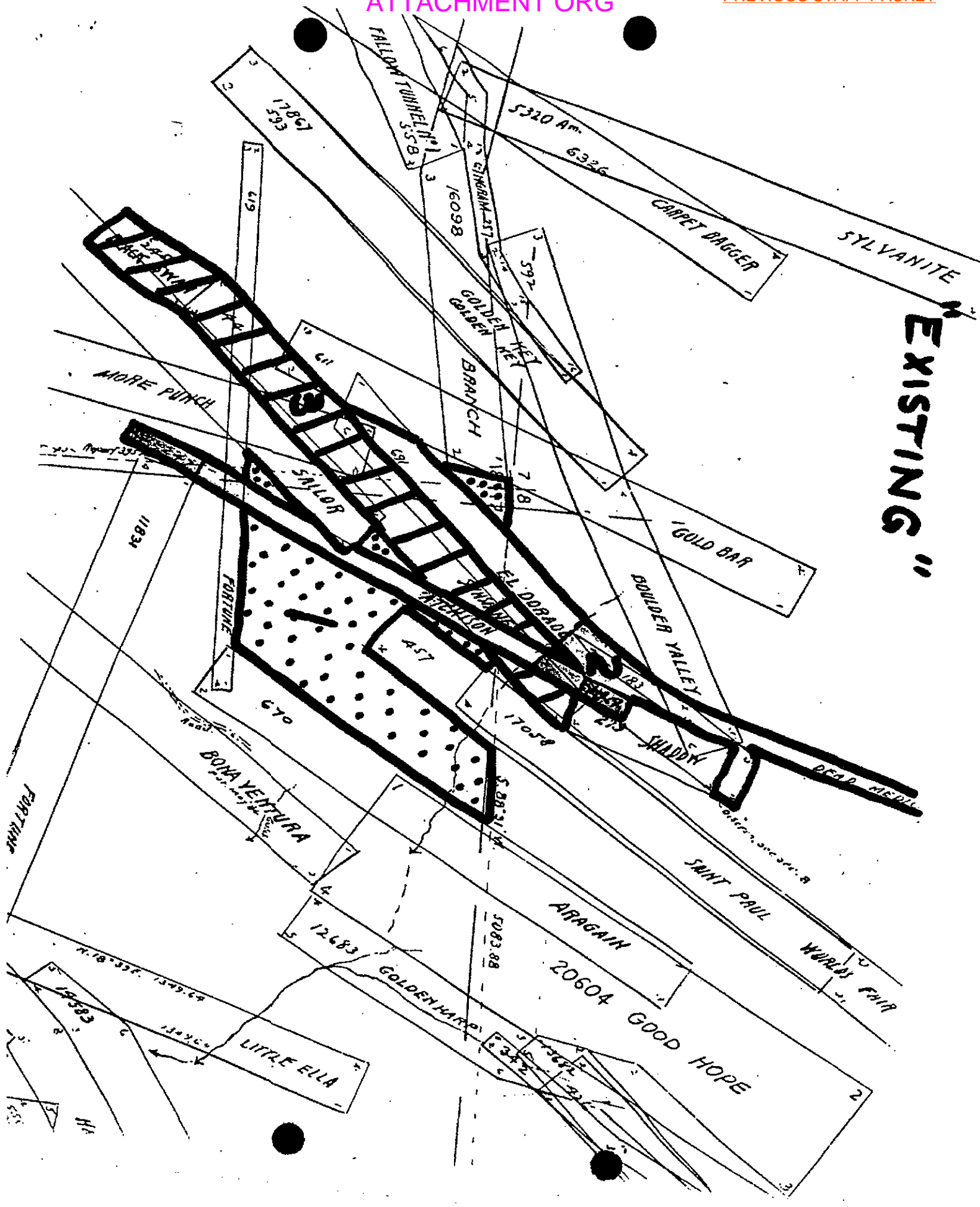
The area which is buildable with the least environmental impact and with the maximum solar and geothermal gains on Building Site A is the part of Lots 129 and 130 and the Atchison Lode which abuts the Sunshine Lode. In fact, to adequately minimize the environmental impact and maximize solar and geothermal gains, it is necessary to extend these parcels into the Sunshine Lode a distance of 25 feet along the common property line, as shown by the attached map. Drexel Barrell is in the process of completing a survey which will delineate the boundary lines and also fully describe the two restructured parcels. The area which is buildable with the least environmental impact and with the maximum solar and geothermal gains on Building Site B is on Lot 131 and on the El Dorado Lode within the parcel. This will also maximize the distance between the two residences.

Purchaser Hugh Kissell has completed parcel access reviews on the properties, has had Norris and Sons drill a producing water well on Building Site A and has had James L. Pusch, P.E., perform percolation tests and design a sewage disposal system on Building Site A. Access to the properties is by Old Road 205. The properties have acceptable grade for access driveways and have level spaces for building as described above.

The site plan (page 4) is taken from the Bureau of Land Management's Master Patent Map. Recent site surveying by Drexel Barrell in the area shows the map to be more accurate than the corresponding County Assessor's maps. Depicted, by blue highlighting, are the areas of the Atchison and El Dorado Lodes that will be retained in fee simple by Fred Ells, owner of the adjacent Dead Medicine Lode. The Drexel Barrell map shows these parcels are contiguous. The green highlighted portion of the Atchison Lode will be held in fee simple by Mr. Kissell, with an easement granted to Mr. Ells. Mr. Ells retains the mineral rights to the Atchison and the El Dorado Lodes.

Final legal descriptions will be submitted as a condition of the County's post approval requirements.

EXISTING





Access Review Form

Issuance No.

91-20

Information To Be Supplied By Applicant

Parcel Location

Section(s): 17

Township: 1N

Range: 71W

Lot: 129-130-131-132

Block: 32378

Parcel Sub: 14617000024

Fred Ellis

OWNER

5000 Butte St

ADDRESS

Boulder CO 80301

CITY, STATE, ZIP

TELEPHONE

Mark M. Kissell

AGENT

2525 RADIAN DR Ste. B4-127

ADDRESS

Boulder CO 80302

CITY, STATE, ZIP

449-9922 Ste. 316

TELEPHONE

1. A copy of the most recent recorded warranty deed for the property.
2. A copy of recorded instrument (if not described warranty deed) containing the legal description of the easement or road from the publicly maintained road to the described subject property.
3. A sketch with detailed directions to the property with north clearly indicated.
4. Copy of survey map, if available, of the easement and subject property.

I acknowledge that information given is correct, true and accurate.

Boulder County will not check the accuracy of the material submitted. In event incorrect material is submitted the results of this review shall be null and void.

This review by the Public Works Department has been made to determine if the access to property described herein meets current Boulder County access requirements, for building permit eligibility. This review concerns access requirements only and does not address any other building permit requirement such as zoning, water, sanitation, floodplain, etc.

This review shall be in effect for (1) one year from date of issuance.

If desired, a presubmittal conference can be scheduled by calling 441-3900 (Public Works Department).

Information by Public Works

- ☒ Does meet legal requirements for issuance of building permit. This approval does not insure access; nor does Boulder County assume any liability for failure of title.
- ☐ Does not meet legal requirements for issuance of building permit.

REASONS:

Access off of old Road 205, book C - page 5 or through private easement with direct frontage on old road

Signed

LAND OFFICER

DATE

- ☐ Does meet physical requirements for issuance of building permit.

- ☒ Does not meet physical requirements for issuance of building permits.

REASONS:

THAT PORTION OF THE ROAD THAT SERVES 2 HOMES SHALL BE GRADED TO A 12 FT TRAVELLED WAY, BANK DRIVE INTO HILLSIDE DITCH, CONSTRUCT TURNOUTS (8'X60') WHERE VISIBILITY IS LESS THAN 400 FT. INSTALL CULVERT AT LOW POINT.

RD MAINTENANCE WAIVER WILL BE REQUIRED PRIOR TO ISSUANCE OF BUILDING PERMIT.

MUST BE INSPECTED PRIOR TO C/O.

Signed

Inspector

Date

III

Signed

Applicant

Date

\$50.00

Fee Paid

Date

Expiration

Date

200816730 01/05/07 11 43 AM REAL ESTATE RECORDS
F1450 CHARLOTTE HOUSTON BOULDER CNTY CO RECORDER

(non-subdivision)

ROAD MAINTENANCE WAIVER

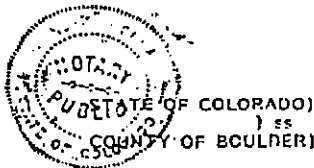
I, the undersigned as owner of the parcel of land located in Section 8, Township 1N, Range 71W, described on deed, Film No# 1395, Reception # 742229 Boulder County on behalf of myself, my successors, heirs and assigns hereby acknowledge and agree that the lot for which I have applied for a building permit does not front on a County maintained road, and that the road fronting said lot has been platted and approved as (a public road on a public dedicated right-of-way)(an approved private road) and as such must be constructed and maintained by the lot owner, homeowner's association, or the developer, until said road is formally accepted for maintenance by Boulder County.

In obtaining a building permit for the above-referenced Lot, I hereby agree to the following conditions:

1. I agree to construct and maintain the road providing access to my lot in accordance with those standards established by the Boulder County Zoning Resolution and the Boulder County Road Standards and Specifications.
2. I agree to indemnify and hold harmless the County, its elected and appointed officials, employees, agents and representatives from any and all liability which the County, its elected or appointed officials, employees, agents or representatives may suffer as a result of any and all claims made or brought the County, its elected or appointed officials, employees agents or representatives by any person or entity arising out of lack of maintenance of the road providing access to my lot.
3. I understand that, by resolution of the Board of County Commissioners, a local improvement district may be formed to construct the road providing access to my lot in accordance with those standards established by the County for acceptance of the road for County maintenance. I understand that, if such a local improvement district is formed, I will be required to pay a proportionate share of the costs incurred in bringing the road to County maintenance standards.

Signed: Fred Ellis

Fred Ellis



The foregoing instrument was acknowledged before me this 22nd day of December, 1984, by Fred Ellis

Witness my hand and seal:

My Commission expires on: 3-23-88

Joyce Bealman
Notary Public

2040 14th St
Address

86-167

The
Title Group, Inc.
4770 Baseline, Suite 310
Boulder, CO 80303
Telephone (303) 499-5300
FAX (303) 499-5659

000878398 09/22/87 12:44 PM REAL ESTATE RECORDS
F1496 CHARLOTTE HOUSTON BOULDER CNTY CO RECORDER

THIS DEED, Made this 16th day of July
19 87, between Fred John Ella

Recorder's Stamp

STATE DOCUMENTARY FEE

SEP 22 1987

\$ Exempt

of the County of Boulder, State of
Colorado, of the first part, and
Fred John Ella, a single man and Kathleen Marie Coyle
a single woman, as joint tenants
whose legal address is 5000 Butte Street, #101
Boulder, Colorado 80301
of the County of Boulder and State of
Colorado, of the second part:

WITNESSETH, That the said part of the first part, for and in consideration of the sum of

Ten and no/100— (10.00) DOLLARS
to the said part of the first part in hand paid by the said parties of the second part, the receipt
whereof is hereby confessed and acknowledged, ha remised, released, sold, conveyed and quit
claimed, and by these presents do remise, release, sell, convey and quit claim unto the said
parties of the second part, their heirs and assigns forever, not in tenancy in common but in joint
tenancy, all the right, title, interest and demand which the said part of the first part
ha in and to the following described lot or parcel of land situate, lying and
being in the County of and State of Colorado, to wit:

The DEAD MEDICINE LOPE mining claim, Mineral Survey No. 183, THE ATCHISON
LOPE Mining Claim, Mineral Survey No. 247, and THE ELDORADO LOPE Mining Claim,
Mineral Survey No. 691, all located in the Gold Hill Mining District, and
embracing portions of Section 8, 17, and 18, Township 1 North, Range 71 West
of the 6th P.M., EXCEPT those portions of the Eldorado Lode Mining Claim lying
within the Dead Medicine (Mineral Survey No. 183), the Sunshine (Mineral survey
No. 244), the Atchison (Mineral Survey No. 247), the Shadow (Mineral Survey No.
279), the More Punch (Mineral Survey No. 393), the Boulder Valley (Mineral
Survey No. 592) and the Gold Bar (Mineral Survey No. 611) Lode Mining Claims,
as excepted and excluded by United States Patent recorded August 7, 1985 on
Film 1366 as Reception No. 704851, all in the County of Boulder, State of
Colorado.

also known as street and number 6301 Sunshine Canyon Boulder, Colorado

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and
privileges thereunto belonging or in anywise thereunto appertaining, and all the estate, right,
title, interest, and claim whatsoever of the said part of the first part, either in law or equity,
unto the said parties of the second part, their heirs and assigns forever, not in tenancy in
common but in joint tenancy.

IN WITNESS WHEREOF, The said part of the first part ha hereunto set
hand and seal the day and year first above written.

Signed, Sealed and Delivered in the presence of

Fred John Ella

[SEAL]

[SEAL]

[SEAL]

STATE OF COLORADO,

County of BOULDER ss.

The foregoing instrument was acknowledged before me this 16 day of JULY
1987, by Fred John Ella

My commission expires August 24, 1988

WITNESS my hand and official seal.



John Wolny
JOHN WOLNY
ASSISTANT CASHIER

JUL 16 1987

Notary Public

No. 962. QUIT CLAIM DEED.—To John T. ...

The
Title Group, Inc.
4770 Baseline, Suite 310
Boulder, CO 80303
Telephone (303) 499-5300
FAX (303) 499-5659

ELLISTON G W & GENEVA

| BAS1 | | BOULDER ASSESSOR OWNER LIST | | | | 10/10/91 | | PAGE 3,276 | |
|--|---|-----------------------------|---|--|---|----------------------|--|--|--|
| SEC-TW-RG PROPERTY NO AREA | NBR SUBD ADDRESS LEGAL | PARCEL NUMBER | OWNER NAME OWNER ADDRESS OWNER ADDRESS OWNER ADDRESS | RCPT NO DATE DOC SDCCBBLPPP | LAND IMP TOTAL** | CLASS NCWA | LAND UNIT UNITS | TY, CN, YEAR, ADJ, YR DN, RMS, BED, BATH BASEMENT, GARAGE 1 SQ. FT, FIN, SQ. FT | |
| 24-1N-71 527 000245 0010 01 | 170 9900 1461-24-4-00-073 HAWTHORN AV BO TRACT 402-D-3 BO 24-1N-71 BOOK 988 PAGE 404 BCR | | ELLISTON G W & GENEVA 527 HAWTHORN AVE BOULDER CO 80304 2135 | 561419 00/00/00 .00 | 67,400-L 44,200-I 111,600** | 1112 1212 | SOFT 11,238.00 | A, F 1952 01, 6, 3, 100 N- 242 1- 1134, F- 1134 | |
| 03-1S-69 1125 0076015 0110 01 | 450 1317 1575-03-3-13-006 SPARTA DR LA LOT 150 CENTAUR VILLAGE NORTH | | ELLISTON KEITH F 1125 SPARTA DR LAFAYETTE CO 80026 1128 | 1001167 09/01/89 .00 | 13,100-L 72,900-I 86,000** | 1112 1212 | LOTS 1.00 | A, F 1978 04, 5, 100 1- 878, F- 440 1- 956, F- 956 | |
| 05-1S-70 3340 0010783 0010 01 | 198 2353 1577-05-3-36-002 DARTMOUTH AV BO LOT 2 ERNEST MT VIEW | | ELLMAN DEBRA KING 3340 DARTMOUTH BOULDER CO 80303 | 1077907 12/10/90 1.50 MCLR N9 | 50,200-L 46,600-I 96,800** | 2130 2230 | SOFT 11,025.00 | A, B 1955, 1965 C, 1, 000 1- 1326, F- 1326 | |
| 05-1S-70 755 0010819 0010 01 | 150 5009 1577-08-1-02-021 S 46TH ST BO LOT 21 LESS N 1.20 FT BLK 2 MARTIN ACRES 3 | | ELLMAN JAMES DAVID & DEBRA KIN G 755 S 46TH ST BOULDER CO 80303 6041 | 529059 01/18/83 7.80 EWJ 8 | 33,900-L 44,400-I 78,300** | 1112 1212 | LOTS 1.00 | A, M 1958 04, 5, 3, 110 1- 520, F- 1426 1- 1150, F- 1426 | |
| 30-1N-70 1330 0000542 0010 01 | 115 7981 1463-30-2-25-004 ALPINE AV BO LOT 4 BLK 5 SUNSET HILL | | ELLMERS LAURENE 1330 ALPINE AVE BOULDER CO 80304 3504 | 684287 04/23/85 10.00 SWB | 42,700-L 54,600-I 97,300** | 1112 1212 | SOFT 10,156.00 | A, M 1954 01, 6, 3, 101 N- 280 1- 1284, F- 1284 | |
| 33-1N-70 811 0037742 0010 01 | 146 1801 1463-33-4-20-006 CRESCENT DR BO LOT 6 BLK 1 COUNTRY CLUB PARK | | ELLMERS LAURENE & ELAINE 811 CRESCENT DR BOULDER CO 80303 2714 | 643618 08/31/84 12.50 BRD MORE MORE | 45,000-L 31,800-I 136,800** MORE MORE | 1112 1212 0000 | LOTS 1.00 | G, M 1957 01, 6, 3, 110 N- 520 1- 2002, F- 2002 MORE | |
| 33-1N-70 811 0037742 0010 02 | 146 1801 1463-33-4-20-006 CRESCENT DR BO LOT 6 BLK 1 COUNTRY CLUB PARK | | ELLMERS LAURENE & ELAINE 811 CRESCENT DR BOULDER CO 80303 2714 | 643618 08/31/84 12.50 BRD MORE MORE | 26,700-L 26,700-I 26,700** | 1212 0000 | A, M 1962 01, 4, 2, 100 N- 280 1- 786, F- 786 | | |
| ID TOTAL | | 45,000 = LAND | 118,500 = IMP | | | | 163,500 = TOTAL | | |
| 17-1N-71 554 0032378 0350 01 | 940 9900 1461-17-0-00-024 GOLD RIN ** MT LOTS 12-130-131-132 NW 1/4 NW 1/4 6.47 ACS M/L PATENT 7482 17-1N-71 PER REC 707335 08/20/85 BCR | | ELLS FRED 3000 BUTTE ST LOT 101 BOULDER CO 80301 2238 | 707335 08/20/85 1.10 LWD | 10,900-L 10,900** | 1111 0000 | ACRES 6.47 | : : 1000 1- : f- | |

D 14

ELLS FRED JOHN

| BASIS | | BOULDER ASSESSOR OWNER LIST | | | 10/10/91 | | PAGE 3,277 | |
|--|--|-----------------------------|--|--------------------------------------|-----------------------------------|---------------|---|--|
| SEC-TW-RG PROPERTY ID NO TAX AREA | NBR SUBD ADDRESS LEGAL LEGAL | PARCEL NUMBER | OWNER NAME OWNER ADDRESS OWNER ADDRESS OWNER ADDRESS | RCPT NO DATE DOC SDCCBLLPPP | LAND IMP TOTAL** | CLASS NCWA | LAND UNIT UNITS | TY, CN, YEAR, ADJ. YR DN, RMS, BED, BATH BASEMENT, GARAGE 1 SQ. FT, FIN, SQ. FT |
| 08-1N-71 6301 0038634 1375 01 | 940 9950 SUNSHINE CANYON MT DEAD MEDICINE 10 183 GOLD HILL 1.52 AND ATCHISON LD 247 1.73 ACS M/L & ELDORADO LD 691 2.03 ACS M/L GOLD HILL TOTAL 5.27 ACS M/L DEED 1026150 2/1/90 ID 32657 COMBINED HERE PER OWNER 1987 | 1461-08-0-00-074 | ELLS FRED JOHN 6301 SUNSHINE CANYON DR BOULDER CO 80302 9774 | 1026150 02/01/90 FQD .00 | 39,000-L 80,200-1 119,200** | 1112 1212 | ACRES 5.27 | A, F 1987 01, 6, 5, 10C F- B- 602 1- 1296, F- 1990 |
| 08-1S-69 50C 0019195 0700 01 | 401 0013 LINCOLN AV LO LOTS 18-19 BLK 4 ACME PLACE | 1575-08-4-45-015 | ELLS JANIS BROWN 500 LINCOLN AVE LOUISVILLE CO 80027 1920 | 296582 08/30/78 4.20 RWO | 17,600-L 29,400-1 47,000** | 1112 1212 | SOFT F, F 1900 6,000.00 01, 3, 2, 100 N- D- 252 1- 702, F- 702 | |
| 12-3N-73 659 0058107 1365 01 | 960 9900 COYOTE HILL ** MT TR 1468 12-3N-73 6.50 AC M/L | 1197-12-0-00-001 | ELLSWORTH JOHN D FOX CREEK -1378 QUAKERTOWN PA 18951 | 567666 08/10/83 .00 EQD | 25,900-L 25,900** | 1111 0000 | ACRES 6.50 | . . .000 1- F- |
| 31-1N-70 850 03349 01 | 102 7071 20TH ST 302 BO UNIT 302 SAN MARCO NORTH CONDOS & 2.98X UNIV INT IN COMMONS ELEMENTS | 1463-31-4-13-013 | ELLSWORTH OLIVER B 850 20TH ST APT 302 BOULDER CO 80302 7741 | 531190 02/01/83 7.10 SWD R | 26,900-L 41,000-1 67,900** | 1130 1230 | UNITS 1.00 | A, M 1967 12, 4, 2, 101 N- 1- 930, F- 930 |
| 12-3N-73 512 0058107 | 960 9900 COYOTE HILL ** MT TR 1463 12-3N-73 1.28 AC M/L PER DEED 1041042 5/7/90 BCR | 1197-12-0-00-021 | ELLSWORTH PETER C PO BOX 42 JELM WY 82063 0042 | 1041042 05/07/90 .00 FWD | 4,100-L 4,100** | 1111 0000 | ACRES 1.28 | . . .000 1- F- |
| | 960 9900 COYOTE HILL RD MT TRACT 1268-A .38 AC & TRACT 1380 LESS A .62 AC 12-3N-73 1.0 AC M/L PER DEED 951547 11/04/88 BCR | 1197-12-0-00-020 | ELLSWORTH PETER CHAPMAN PO BOX 42 JELM WY 82063 0042 | 951547 11/04/88 .00 FRD | 10,200-L 17,500-1 27,700** | 1112 1212 | ACRES 1.00 | L, F 1937 01, 2, 1, 000 N- 1- 512, F- 512 |

SH DEVELOPMENT LLC
PO BOX 3154
NEDERLAND CO 80466

SCHROEDER JOYCE DENISE & BRUCE
6101 SUNSHINE CANYON DR
BOULDER CO 80302

SCHUMACHER KAREN
6186 SUNSHINE CANYON DR
BOULDER CO 80302

SLARKS BARBARA SUE
& RICHARD A
6299 SUNSHINE CANYON DR
BOULDER CO 80302

STEVENS ERIC B & MICHELLE M WI
219 GOLD RUN RD
BOULDER CO 80302

SHIELDS CHRISTOPHER J & KATHLE
6305 SUNSHINE CANYON DR
BOULDER CO 80302

SPANO KATHLEEN E
6601 SUNSHINE CANYON DR
BOULDER CO 80302

TAKAHASHI EMILY JO & DAVID G
300 GOLD RUN RD
BOULDER CO 80302

SLOAN BURTON D & MELISSA A TOB
637 GOLD RUN RD
BOULDER CO 80302

SWORTS NED & DALE
8975 W 78TH AVE
ARVADA CO 80005

Clark Misner
County Transportation Dept

SUNSHINE FPD
311 COUNTY RD 83
BOULDER CO 80302

Inter County Mail

Jeff Moline
County POS Dept

TALLMAN GLENN B & CLEO V TRUST
855 RIVERSIDE DR
LYONS CO 80540

Inter County Mail

KASIK RICHARD E TRUSTEE OF KAS
PO BOX 28
IGNACIO CO 81137

KELLOG JOE
1300 LAMBERT CR
LAFYETTE CO 80026

LITTLE CHURCH IN THE PINES
SALINA STAR RT
BOULDER CO 80302

LAWRENCE VERNON R
SALINA STAR RT
BOULDER CO 80302

LAWRENCE ROBERT S
204 GOLD RUN RD
BOULDER CO 80302

KELLOGG JOSEPH W
1300 LAMBERT CIR
LAFAYETTE CO 80026

KLEE & COMPANY LLC
2340 PERIWINKLE UNIT M1
SANIBEL FL 33957

LANNING ROGER B
PO BOX 402
WALDENCH CO 80480

MALCOLM SKYE M
3274 KIRKHAM ROAD
UPPER ARLINGTON OH 43221

LEWIS DEXTER RICHARD & DENISE
365 GOLD RUN RD
BOULDER CO 80302

LE GOFF STEPHEN J & MICHELLE A
217 GOLD RUN RD
BOULDER CO 80302

MORAN JENNIFER AUSTIN &
LAWREN
717 COUNTY RD 83
BOULDER CO 80302

LUCKEY JULIA K
270 GOLD RUN RD
BOULDER CO 80302

MALCOLM SKYE M
3274 KIRKHAM ROAD
UPPER ARLINGTON OH 43221

NUZZI RICHARD M
5695 SUNSHINE CANYON DR
BOULDER CO 80302

MORAN JENNIFER AUSTIN &
LAWREN
717 COUNTY RD 83
BOULDER CO 80302

MARTIN C DENICE & DOUGLAS H
6401 SUNSHINE CANYON DR
BOULDER CO 80302

REED ROGER D FAMILY TRUST
7838 NEWMAN ST
ARVADA CO 80005

PARKER EMILY A & CLINTON S FEL
35930 SOLON RD
BENTLEYVILLE OH 44022

RASMUSSEN LAWRENCE E &
DOROTHY
SALINA STAR RT
BOULDER CO 80302

ROBERT JAMISON FARMS INC
300 W MAIN
GREENVILL OK 45331

SALINA COMMUNITY ASSOCIATION I
173 GOLD RUN RD
BOULDER CO 80302

GILLATT TERRI H
PO BOX 7246
BOULDER CO 80306

GUNN JOHN M
PO BOX 761
MOUNTAIN VIEW WY 82939

HEATH MARK P
1401 LYDIA DR
LAFAYETTE CO 80026

GOLDSTEIN SUSAN R
PO BOX 8525
DENVER CO 80201

HUBBARD LLOYD S & JUNE D
12611 HWY 151
IGNACIO CO 81137

JENSEN JOHN P & PAMELA C
PO BOX 2064
PARK CITY UT 84060

HOLIEN JANE
1300 LAMBERT CIR
LAFAYETTE CO 80026

KABACOFF PRES
210 BARONNE ST 1717
NEW ORLEANS LA 70112

JOHNSON BILLY DON & PAMELA B
6300 SUNSHINE CANYON DR
BOULDER CO 80302

JOHNSON BILLY DON
6300 SUNSHINE CANYON DR
BOULDER CO 80302

KEIM G RICHARD G & CYNTHIA B
6138 SUNSHINE CANYON DR
BOULDER CO 80302

JOHNSON PAMELA B
6300 SUNSHINE CANYON DR
BOULDER CO 80302

JOHNSON BILLY DON & PAMELA B
6300 SUNSHINE CANYON DR
BOULDER CO 80302

KELLOG JOE
1300 LAMBERT CR
LAFAYETTE CO 80026

KABACOFF PRES
210 BARONNE ST 1717
NEW ORLEANS LA 70112

AKMK INC
4982 WEST SODA ROCK LANE
HEALDSBURG CO 95448

ANDERSON MARTI
175 GOLD RUN RD
BOULDER CO 80302

ARONSON GERTRUDE TRUST
715 COUNTY RD 83
BOULDER CO 80302

BLACK SUSAN MARY
#2 GREGLAND AVE
NANTUCKET MA 2554

BRADY PETER P
173 GOLD RUN RD
BOULDER CO 80302

BIRMINGHAM JOHN
PO BOX 548
MEAD CO 80542

CORRELL BRUCE N
6700 SUNSHINE CANYON DR
BOULDER CO 80302

BREED DANIEL W & DIANA L
6095 SUNSHINE CANYON DR
BOULDER CO 80302

BRADY PETER P
173 GOLD RUN RD
BOULDER CO 80302

BRINKER WILLIAM S JR & ABBY SI
3230 FOLSOM ST
BOULDER CO 80304

BREED DANIEL W & DIANA L
6095 SUNSHINE CANYON DR
BOULDER CO 80302

VICK MARC H
6093 SUNSHINE CANYON DR
BOULDER CO 80302

WALKER DEWARD E
PO BOX 4147
BOULDER CO 80306

CAHN JACK
3942 PROMONTORY CT
BOULDER CO 80304

DAVIS MEREDITH DAVIS TRUST
2361 N IRIS LN
ESCONDIDO CA 92026

DEROOS OLAF & ANTOINETTE
VASTE
470 GOLD RUN RD
BOULDER CO 80302

COVEY HARRY D & ASTRID L
479 COUNTY RD 83
BOULDER CO 80302

FOLSOM ROGER M & REBECCA L C F
577 COUNTY ROAD 83
BOULDER CO 80302

ELLS FRED JOHN
6301 SUNSHINE CANYON DR
BOULDER CO 80302

DABOUB BERNSTEIN NORMA
7000 SUNSHINE CANYON DR
BOULDER CO 80302

FREY JUDITH A
P. O. BOX 102
BOULDER CO 80306

FREEMAN RICHARD E & MARY F TAY
3020 JEFFERSON ST
BOULDER CO 80304

DELGADO 70% INT & JEAN ANN STE
% U OF C LAW SCHOOL CB 401
BOULDER CO 80309

GATES LAWRENCE A & ELODEE J
SALINA STAR RT
BOULDER CO 80302

GALL JOHN F
128 FAIRVIEW RD
NARBERTH PA 19072

FOLSOM ROGER M & REBECCA L C F
577 COUNTY ROAD 83
BOULDER CO 80302

GEDDES TERRIE L & BRADLEY C
6334 SUNSHINE CANYON DR
BOULDER CO 80302

ZIMMERMAN LAWRENCE A &
6320 SUNSHINE CANYON DR
BOULDER CO 80302

Linda Flowers
County Health Dept

Inter County Mail

TYRER GEORGE G & DAVID J
PO BOX 15396
FRITZ CREEK AK 99603

TYRER MRS MARIE
PO BOX 15396
FRITZ CREEK AK 99603

TYRER GEORGE G & DAVID J
PO BOX 15396
FRITZ CREEK AK 99603

US Forest Service
Attn Land Staff
2140 Yarmouth
Boulder CO 80301

VERMILLION ROBERT J & DONNA
632 GOLD RUN RD
BOULDER CO 80302

VAN ETEN JEANINE H
5881 SUNSHINE CANYON DR
BOULDER CO 80302



Post Office Box 471 • Boulder, Colorado 80306

Land Use Department

Courthouse Annex

2045 13th Street • 13th & Spruce Streets • Boulder, Colorado 80302 • (303) 441-3930

MEMO TO: Whom it may concern
FROM: Greg Oxenfeld, Staff Planner
DATE: October 8, 2002
RE: Docket VAR-02-15

The following zoning variance request has been submitted to the office of the Secretary to the Board of Adjustment for consideration at the next regular meeting:

Docket VAR-02-15: ELLS Variance

Request: A request for three separate variances to setback requirements for a proposed addition, a detached garage, and for use of an existing mine by the fire district for water storage.

Location: At 6301 Sunshine Canyon Drive, east of Gold Hill, in Section 8, T1N, R71W

Zoning: Forestry (F)

Applicant: Fred Ells

We would appreciate any comments you may have concerning this request for a variance from the Boulder County Land Use Code. Please respond to this request via either a letter (mail to the Zoning Division in care of the above address), fax (303-441-4856), telephone (303-441-3930), or E-mail (gnolu@co.boulder.co.us) by **October 28, 2002** so that the Board of Adjustment may give full consideration to your recommendation. *A lack of response will be assumed to indicate that you have "NO CONFLICT" with the request.* If you have questions concerning this referral, please contact our office.

Should you wish to attend the public hearing to voice your comments or present additional information on the proposed variance, the hearing is tentatively scheduled for:

Wednesday, November 6, 2002 at 4:00 PM
in the County Commissioners Hearing Room,
Third Floor, County Courthouse, Boulder

If you plan to attend the hearing, please confirm the date and time by calling 303-441-3930 a few days before the scheduled hearing.

G:\LUD\LUSHARED\DOCKETS\VAR0215\15REF.DOC

Jana L. Mendez
County Commissioner

Ronald K. Stewart
County Commissioner

Paul Danish
County Commissioner



Post Office Box 471 • Boulder, Colorado 80306

Land Use Department

Courthouse Annex

2045 13th Street • 13th & Spruce Streets • Boulder, Colorado 80302 • (303) 441-3930

October 8, 2002

Fred Ells
6301 Sunshine Canyon Drive
Boulder CO 80302

Re: **Docket VAR-02-15: ELLS Variance**

Dear Applicant(s):

This letter confirms that your application for a Variance has been accepted as complete, and referred to the required agencies and adjacent property owners. From this point, the process proceeds as follows:

- Referral response deadline is **October 28, 2002.**
- A County Board of Adjustment's public hearing has been tentatively scheduled, in accordance with regulations and public notice requirements, for **Wednesday, November 6, 2002 at 4:00 p.m.**, in the Hearing Room, Third Floor, County Courthouse, Boulder.

A copy of the staff recommendation to the Board of Adjustment will be sent to you before this hearing. Please plan to attend to present your application, if necessary, and to answer any questions which might arise. If you have any questions, please feel free to contact me at (303) 441-3930.

Sincerely,

Greg Oxenfeld, Planner II
Current Planning Division
Land Use Department

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Please complete the following. Feel free to use a separate piece of paper.

1. Explain how the following criteria for granting a variance have been satisfied.

- a. There exists exceptional or extraordinary physical circumstances of the subject property such as irregularity, narrowness, shallowness, or slope.

See Attached

- b. Because of these physical circumstances, the strict application of this Code would create an exceptional or undue hardship upon the property owner.

- c. The hardship is not self-imposed.

- d. The variance, if granted, will not adversely affect the use of adjacent property as permitted under this code.

- e. That the variance, if granted, will not change the character of the zoning district in which the property is located, and is in keeping with the intent of this Code and the *Boulder County Comprehensive Plan*; and

- f. That the variance, if granted, does not adversely affect the health, safety, and welfare of the citizens of Boulder County.

Signature: Owner or Agent

Revised: June 14, 2000

g:\lud\lshared\mas-ref\hrdshp.for



Land Use Department

Courthouse Annex

2045 13th Street • 13th & Spruce Streets • Boulder, Colorado 80302 • (303) 441-3930

**AGREEMENT FOR PAYMENT OF LAND USE DEPARTMENT APPLICATION FEES
AND FOR PROCESSING OF APPLICATION IN ACCORDANCE
WITH THE BOULDER COUNTY LAND USE CODE**

FRED ELLS

_____ as Property Owner/Applicant, and
_____ as Owner's Agent on
Application, if different from Owner (collectively "APPLICANT"), AGREE AS FOLLOWS with the
County of Boulder and its Land Use Department (collectively "COUNTY"), in consideration of the County's
acceptance of Applicant's application for the land use approval as further described below:

1. Applicant has submitted to County an application for approval of: FRED ELLS ("Application").

2. Applicant acknowledges and understands that Board of County Commissioners Resolution No. 92-155 establishes a fee structure for County Land Use Department applications. This includes a non-refundable deposit which must be paid prior to the Department's acceptance of any application for processing, and provision for billing the Applicant for any costs of processing applications which may accrue above the non-refundable deposit amount. Resolution No. 92-155 and its respective billing rates as they may be duly amended from time to time by the County, and this Agreement, shall govern the payment of fees for the processing of the Application.

3. The Application shall not be accepted for processing unless the property owner of record of the property included in the Application signs this Agreement. In the case of multiple property owners, the Director of the County Land Use Department ("Director") shall have the discretion to determine which owner(s) shall sign.

4. The Applicant shall be billed by the County Land Use Department ("the Department") for all direct and indirect costs (including but not limited to staff time of the Department, the County Attorney's Office, and the County Transportation, Health, and Parks Departments); mailing, copying, recording, and publication fees and costs; and authorized consultants' fees incurred by the County), which the Department has accrued to date in processing the Application. The Department will continue to bill the Applicant until all costs have accrued and are paid.

5. The Applicant agrees to pay all such bills in full, and by whatever manner of payment is specified as acceptable by the Director, by delivery made to the Department no later than one month after the billing date. The Director shall have the discretion to suspend processing of the Application if any payments under this Agreement are not made on time. This suspension may involve the postponement of scheduled Planning Commission or Board of County Commissioner hearings or meetings, and the incurrence of additional costs such as for renotification or republication. Similarly, the Director shall have the discretion to terminate the processing of any Application for which any billed payment is more than three months overdue.

Jana L. Mendez
County Commissioner

Ronald K. Stewart
County Commissioner

Paul Danish
County Commissioner

6. The person/address whom the Applicant designates to receive all billings for fees under this Agreement are as follows:

FRED ELLS
 6301 Sunshine Cyn
 Boulder Co 80302

Any billing mailed to this person/address and not returned to the Department shall be deemed received. The Applicant may change the billing address under this Paragraph by providing written notification of such change to the Department.

7. In the event of nonpayment of fees, the County shall have the right to file a fee collection action against any or all of the persons signing this Agreement or the Application as Applicant. Any resulting judgment for fees may be enforced in any legal manner whatsoever and may be filed as a judgment lien against the real property which is the subject of the Application, as well as against any real property owned in whole or in part by any judgement debtor hereunder.

8. Any agreement by the Director or County to forego any of the judicial or administrative remedies available to them under this Agreement in response to the late payment or nonpayment of fees, shall not in any way constitute a waiver of the Director's or County's rights to collect fees or appropriately process the Application as provided herein.

9. In submitting the Application and signing this Agreement, the Applicant acknowledges and agrees that the Application is subject to the applicable processing and public hearing requirements set forth in the Boulder County Land Use Code. The Applicant acknowledges that the Applicant has obtained or has access to the Boulder County Land Use Code, and that, prior to filing the Application, the Applicant has had the opportunity to consult the relevant provisions governing the processing of and decision on the Application.

10. In submitting the Application and signing this Agreement, the Applicant acknowledges and agrees that the Applicant is authorized to make available to the County, for purposes of copying and distributing for public review, all of the documents and information which the applicant submits with or in support of the Application. Upon demand from the County, the Applicant agrees to indemnify and defend the County and its officials, agents and employees, and to hold them harmless from, any action, claim, suit, loss, cost, damage, or expense which may be brought or assessed against the County or any of its officials, agents or employees on account of any allegation by the Applicant or any person that the County may have violated federal copyright law, or violated any law, agreement, or provision allegedly protecting the confidentiality of or restricting public review of the Application materials which the applicant submits to the County for review as part of the Application.

11. In submitting the Application and signing this Agreement, the Applicant acknowledges and agrees that the County Land Use Department and any other County staff involved in processing the Application or their duly authorized representatives will need to enter upon the property which is the subject of the Application and conduct inspections thereof to evaluate the Application pursuant to the applicable criteria of the Land Use Code, and perform related tasks. The Applicant hereby consents to allow the County staff or their designees to enter upon and inspect the subject property at any time for this purpose without obtaining the Applicant's consent. This consent extends to inspections while the Application is in process, and after it has been approved to assure that any imposed conditions of approval are met.

12. The Applicant agrees to waive any requirements for the Applicant's written consent to extend voluntarily any public hearing or other deadline associated with processing the Application, if the Applicant or its representative agrees orally to any such extension.

13. The Applicant acknowledges that the Applicant executes this Agreement freely, voluntarily, and without threat of compulsion. The Applicant understands that the Applicant may consult an attorney or any other person concerning the Application or this Agreement prior to executing this Agreement, if the Applicant so chooses.

14. Acceptance of the Application for filing and receipt of the Application fee deposit do not necessarily mean that the Application is complete under the applicable requirements of the Land Use Code.

15. This Agreement shall be construed and enforced in accordance with the law of the State of Colorado.

APPLICANT:

(Note: Property owner must sign per Paragraph 3, above)

By: [Signature]
Date: 10-1-2002

By: _____
Date: _____

By: _____
Date: _____

By: _____
Date: _____

BOULDER COUNTY

By: _____
Land Use Director or Designee

Date: _____

For Land Use Department Use

Docket Number: VAR-02-15

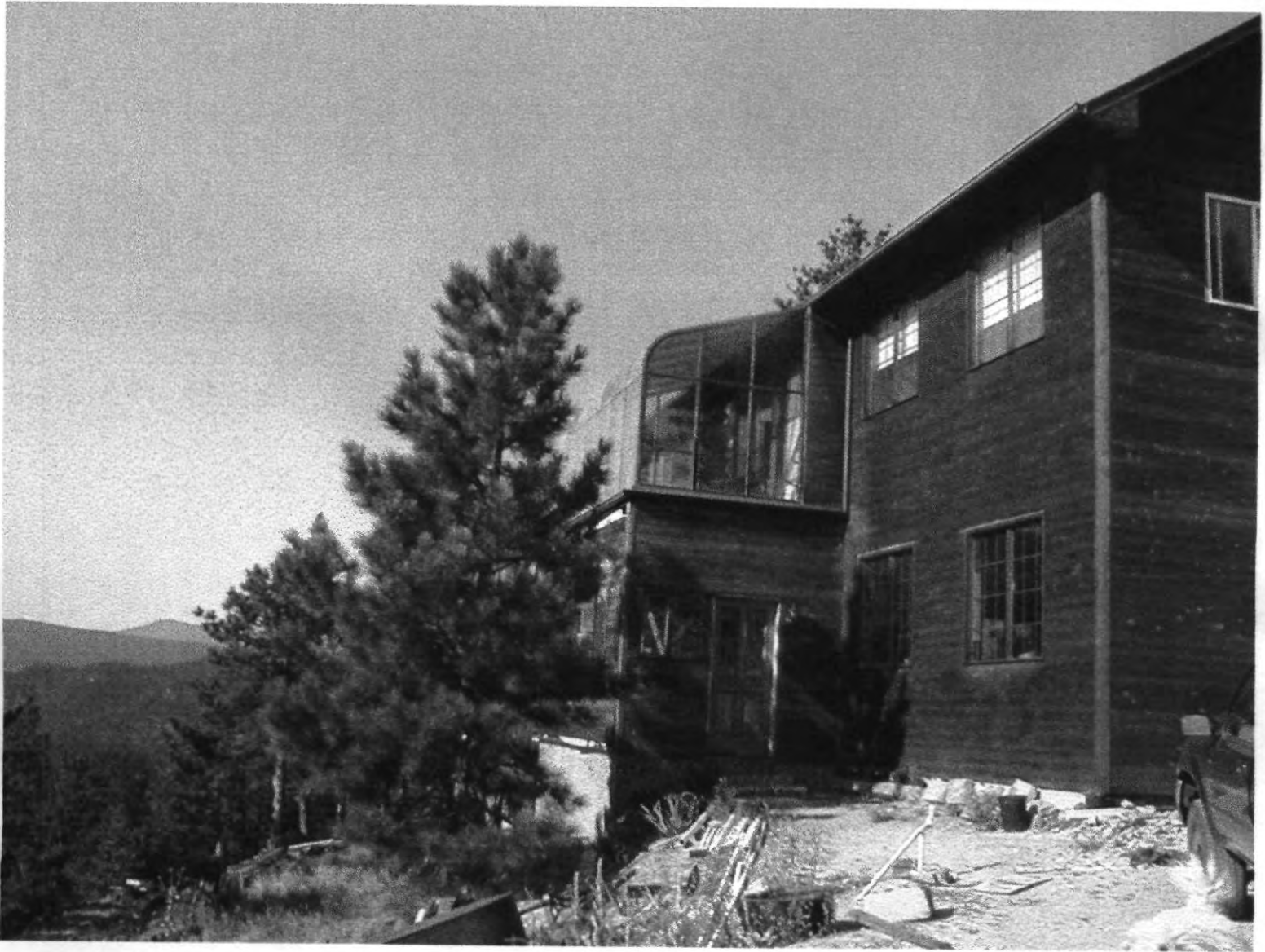
Docket Name: _____

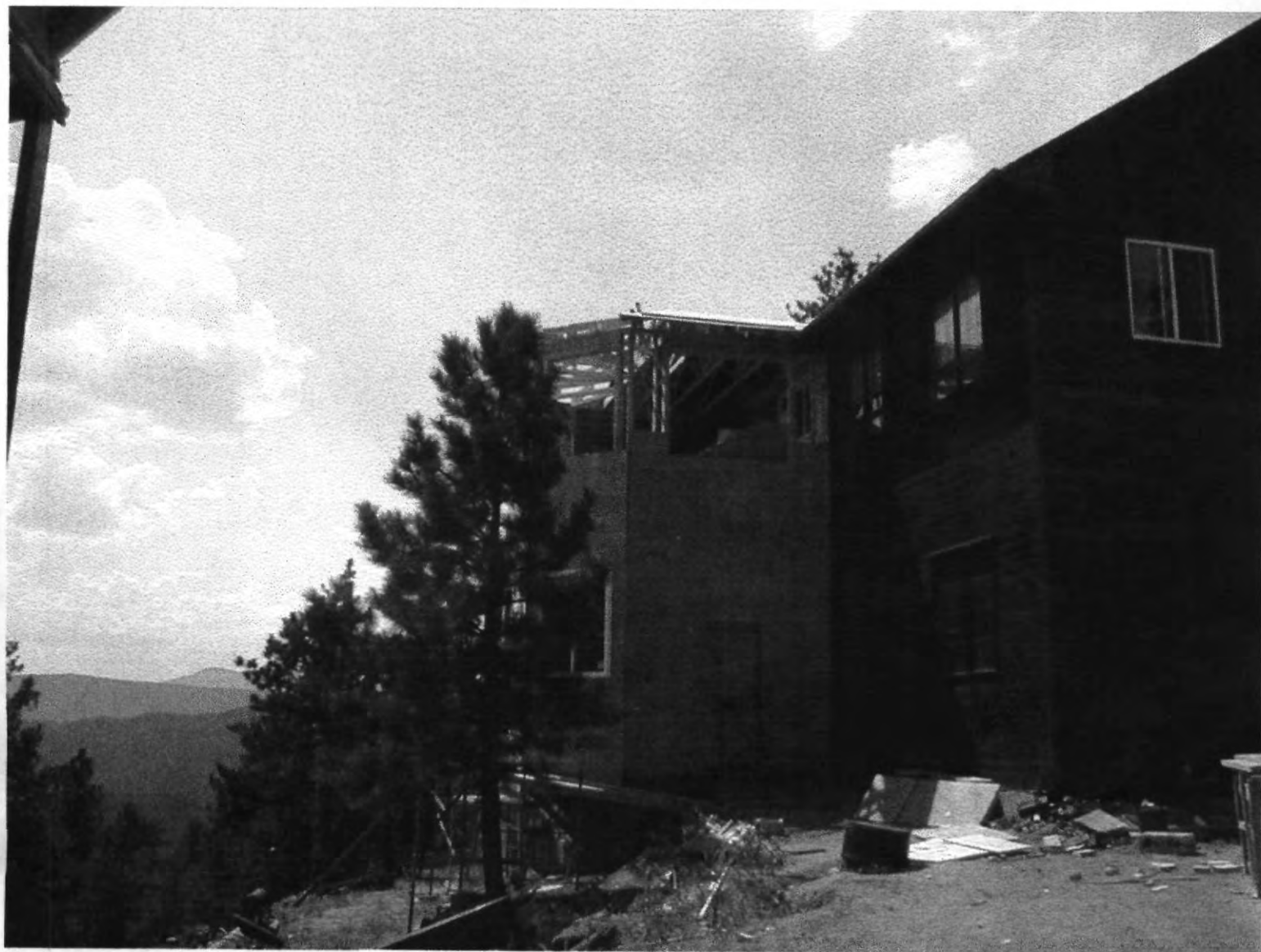
Deposit Amount and Date Received: \$250 (10/2/02)

Revised: January 19, 2000

G:\LUD\LUSHARED\MAS-APS\FEE.AGR

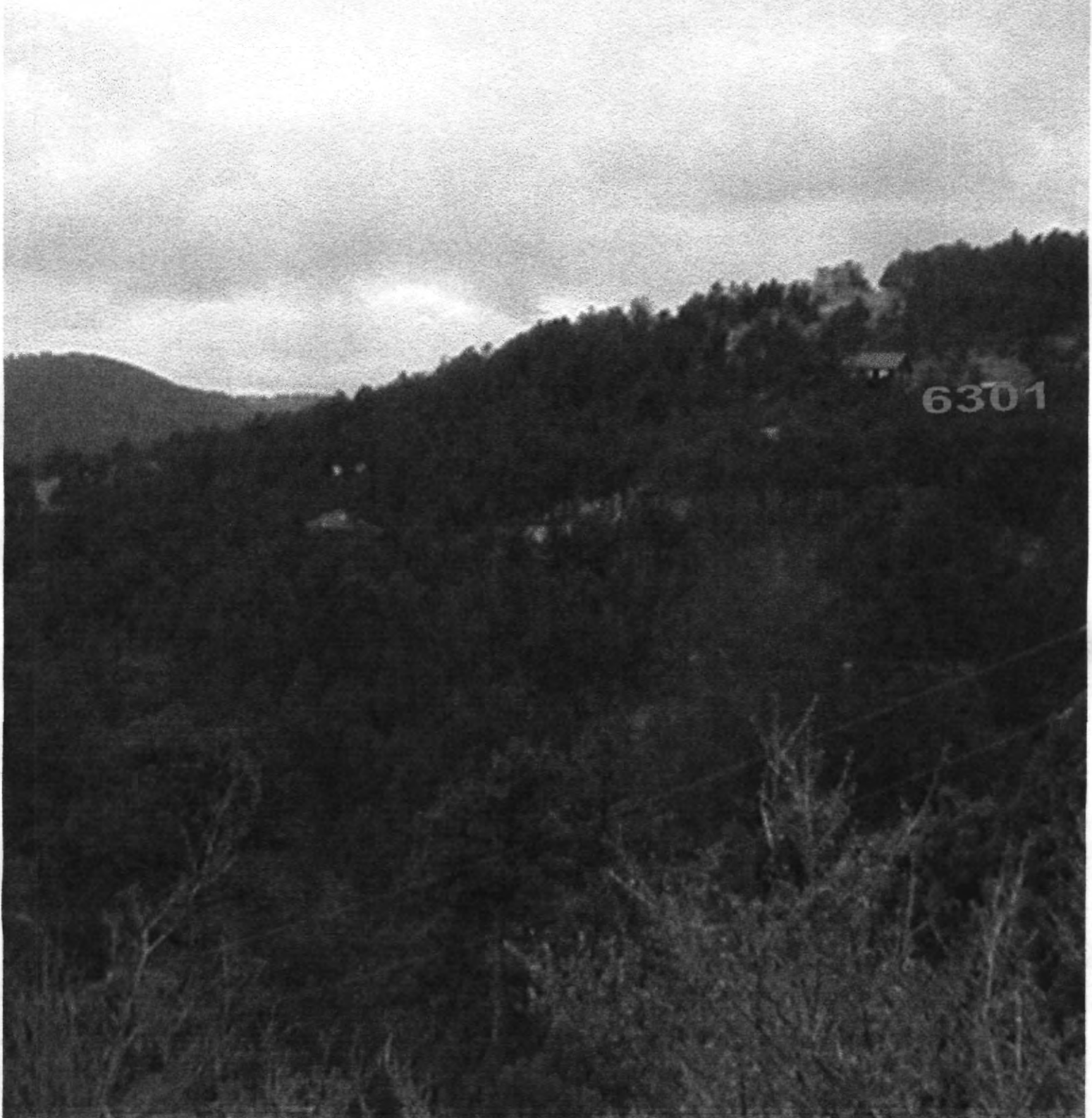






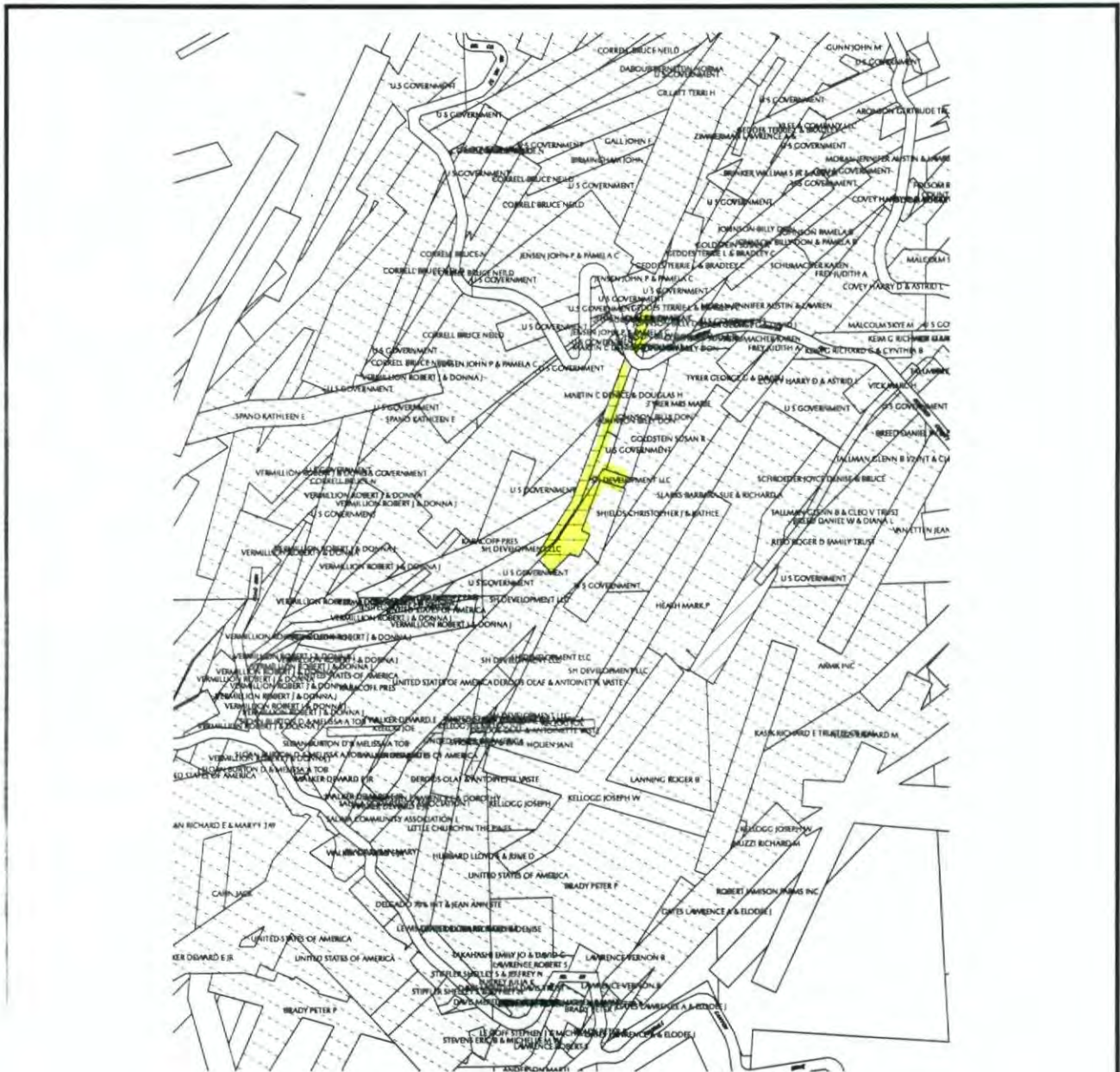






You have new mail.

8-IN-71W



ELLS FRED JOHN

PID: 146108000074

TAX ID: 058634

SEARCH RADIUS: 1500 FEET

Avg. Struc. SqFt: 2374



Subject Parcel



Zone to Notify



Unidentified Owner

Copyright 2002 by the
County of Boulder, Colo-
rado

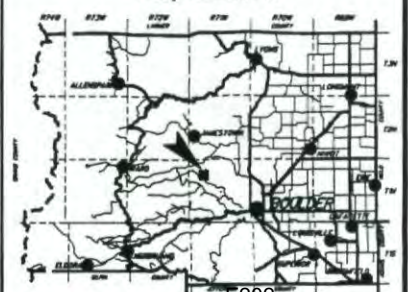
BOULDER COUNTY LAND USE

Data Compiled: 10/10/02



770 feet

Map Location

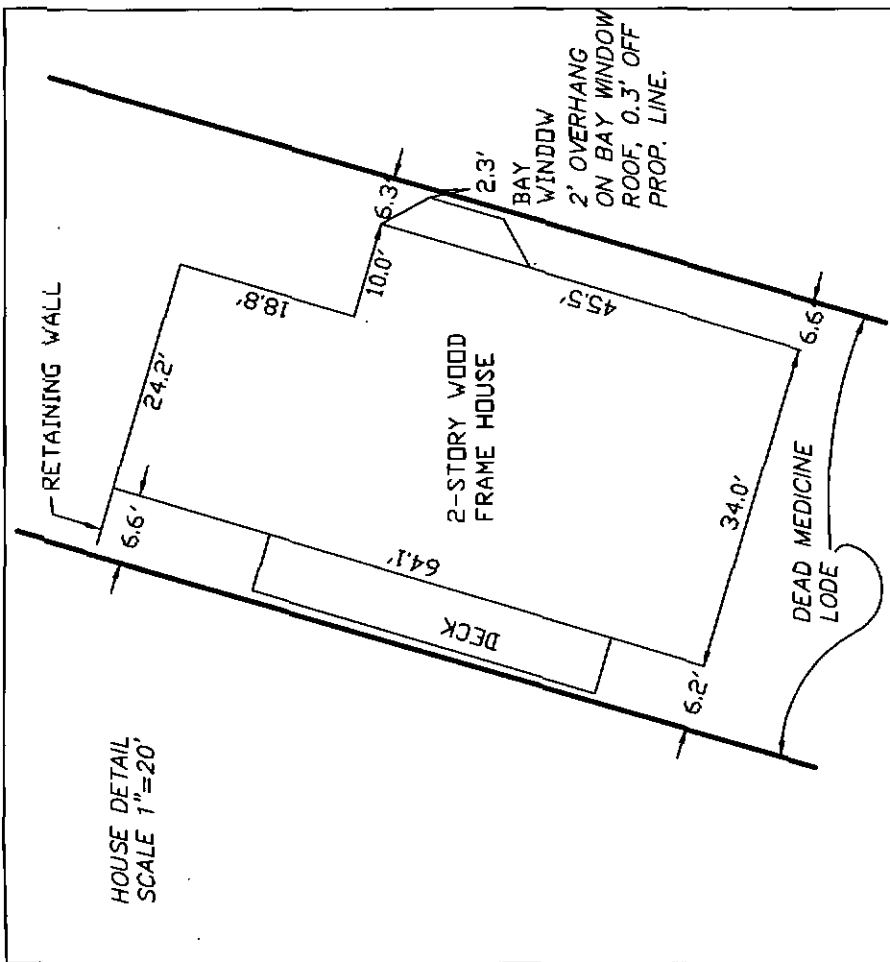
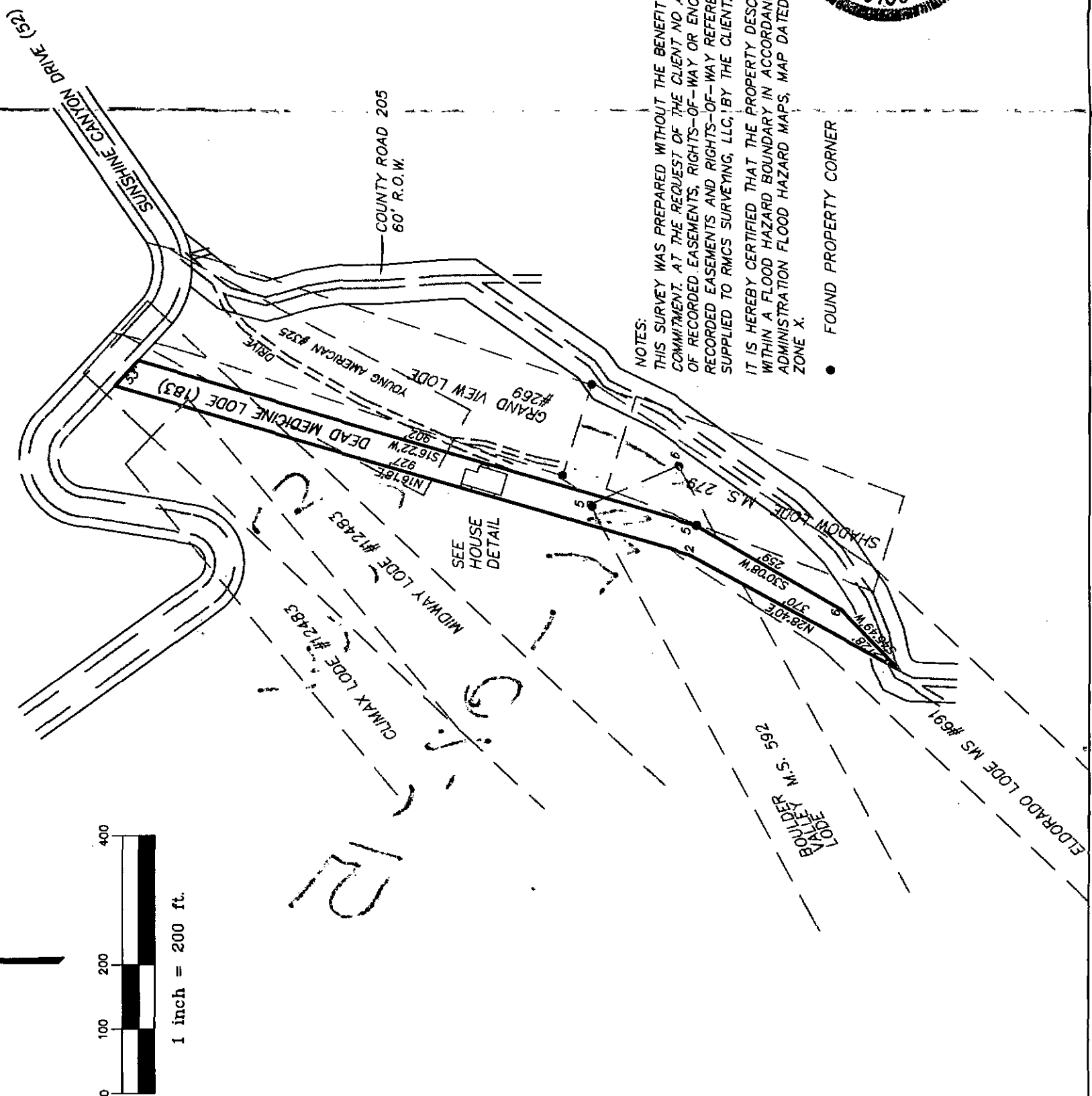


E202

IMPROVEMENT LOCATION CERTIFICATE

LEGAL DESCRIPTION:

THE DEAD MEDICINE LODGE, MINERAL SURVEY #183, LOCATED IN SECTION 8, TOWNSHIP 1 NORTH, RANGE 71 WEST, OF THE 6TH P.M., GOLD HILL MINING DISTRICT, COUNTY OF BOULDER, STATE OF COLORADO. EXCEPTING AND EXCLUDING THOSE PORTIONS NORTH OF THE S. ROW OF SUNSHINE CANYON DRIVE (COUNTY RD. NO. 52). 1.26 ACRES



PROPERTY OWNER: FRED ELLS
PROPERTY ADDRESS: SUNSHINE CANYON DRIVE, BOULDER, CO. 80302

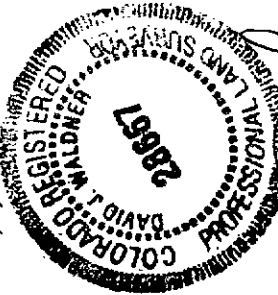
IMPROVEMENT LOCATION CERTIFICATE

I, hereby certify that this improvement location certificate was prepared for FRED ELLS, THAT IT IS NOT A LAND SURVEY PLAT OR AN IMPROVEMENT SURVEY PLAT and that it is not to be relied upon for the establishment of fence, building, or other future improvements. I, further certify that the improvements on the above described parcel on this date, NOVEMBER 21, 2002, except utility connections, are entirely within the boundaries of the parcel, except as shown, that there are no encroachments upon the described premises by improvements on any adjoining premises, except as indicated, and that there is no APPARENT evidence or sign of any easement crossing or burdening any part of said parcel, except as noted. Information concerning Easements and Deeds obtained from the Title commitment.

NOTES:
THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE COMMITMENT. AT THE REQUEST OF THE CLIENT NO ADDITIONAL RESEARCH OF RECORDED EASEMENTS, RIGHTS-OF-WAY OR ENCUMBRANCES WAS PERFORMED. RECORDED EASEMENTS AND RIGHTS-OF-WAY REFERENCED HEREON WERE SUPPLIED TO RMCS SURVEYING, LLC, BY THE CLIENT.

IT IS HEREBY CERTIFIED THAT THE PROPERTY DESCRIBED HEREON IS NOT LOCATED WITHIN A FLOOD HAZARD BOUNDARY IN ACCORDANCE WITH THE CURRENT FEDERAL ADMINISTRATION FLOOD HAZARD MAPS, MAP DATED 6/2/95, PANEL NO. 08013C0484 F, ZONE X.

• FOUND PROPERTY CORNER



DAVID WALDNER
COLORADO REGISTERED
LAND SURVEYOR #28667

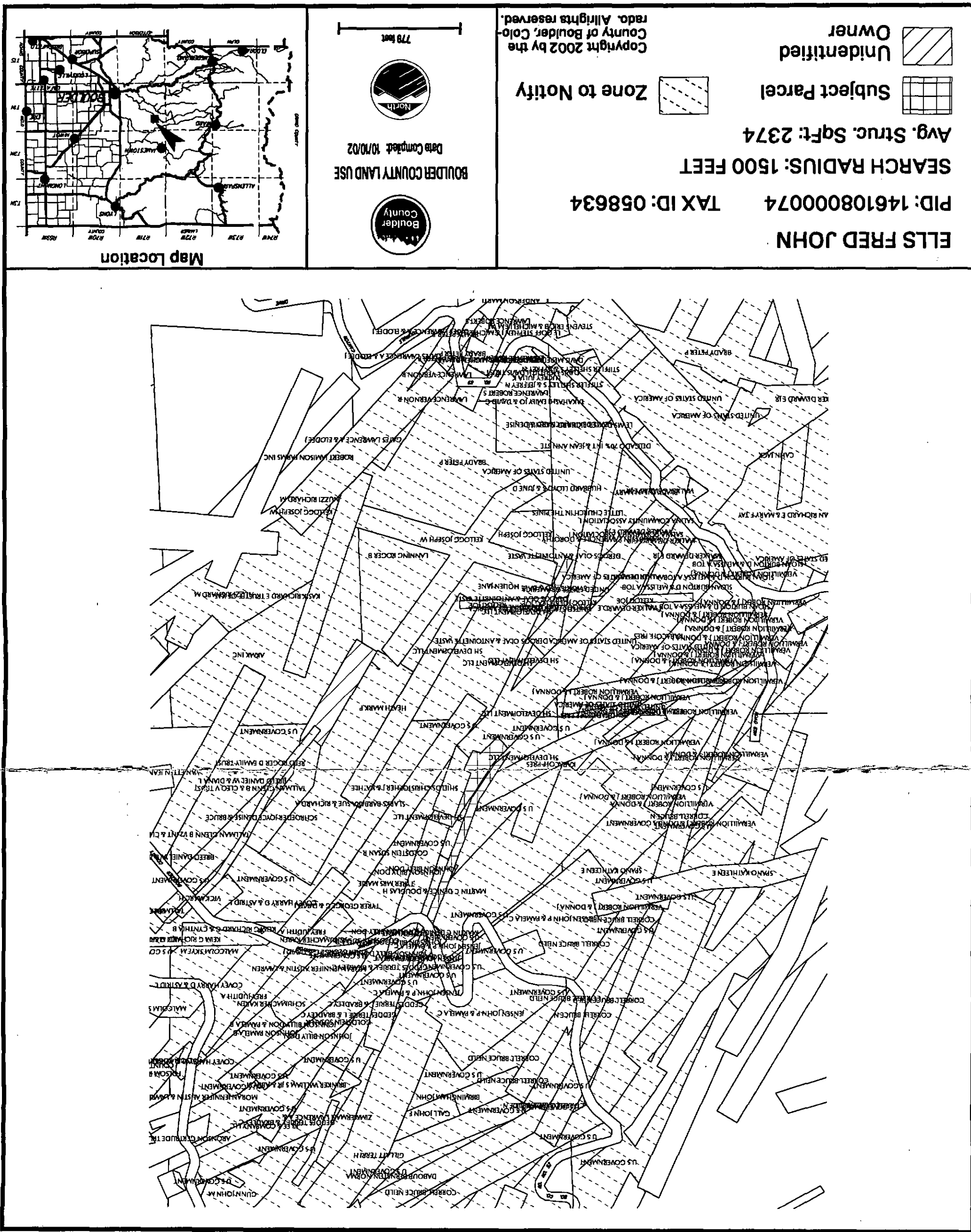
RMCS SURVEYING & ENGINEERING, LLC

4535 NORTH BROADWAY, SUITE 101
BOULDER, COLORADO 80304

(303) 448-1870
(303) 499-6755
720-565-1488 FAX

11/21/02

19311





Land Use

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303.441.3930 • Fax: 303.441.4856
Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.org

BOARD OF COUNTY COMMISSIONERS

**August 30, 2018 at 11:00 AM
Hearing Room, Third Floor
Boulder County Courthouse**

PUBLIC HEARING

STAFF PLANNER: Jennifer Severson, Senior Planner

STAFF RECOMMENDATION REGARDING:

Docket SE-18-0010: Fischer - Ells Boundary Line Adjustment

Request: Subdivision Exemption request for a Boundary Line Adjustment involving a 4.14-acre parcel at 6317/ 6319 Sunshine Canyon Drive, a 2.52-acre parcel at 6301 Sunshine Canyon Drive, a 5.16-acre parcel at 6300 Sunshine Canyon Drive, and a 0.98-acre parcel at 7288 Sunshine Canyon Drive resulting in a 4.63-acre parcel, a 6.23-acre parcel and a 1.30-acre parcel.

Location: On Sunshine Canyon Drive roughly 0.6 miles northwest of its intersection with County Road 83, in Section 8, Township 1N, Range 71W.

Zoning: Forestry (F)

Applicants/Property Owners: Eugene & Christine Fischer and Fred Ells

RECOMMENDATION: Staff recommends approval with conditions.

PACKET CONTENTS:

| Item | Pages |
|--|----------|
| ○ Staff Recommendation | 1 – 6 |
| ○ Application Materials (Attachment A) | A1 – A14 |
| ○ Referral Responses (Attachment B) | B1 – B9 |

PROPOSAL:

The applicants are requesting a boundary line adjustment that would transform four parcels into three parcels as shown below and in Figures 1 and 2:

| | <u>Existing</u> | <u>Proposed</u> |
|---|-----------------|-----------------|
| 1. 6317/ 6319 Sunshine Canyon Dr. (includes Grandview Lode) | 4.14 acres | 4.63 acres |
| 2. 6301 Sunshine Canyon Dr. (includes Dead Medicine Lode) | 2.52 acres | 6.23 acres |
| 3. 6300 Sunshine Canyon Dr. (includes White Crow Lode) | 5.16 acres | 1.30 acres |
| 4. 7288 Sunshine Canyon Dr. (includes Young American Lode) | 0.98 acres | 0.0 acres |



Figure 1: Current parcel configuration

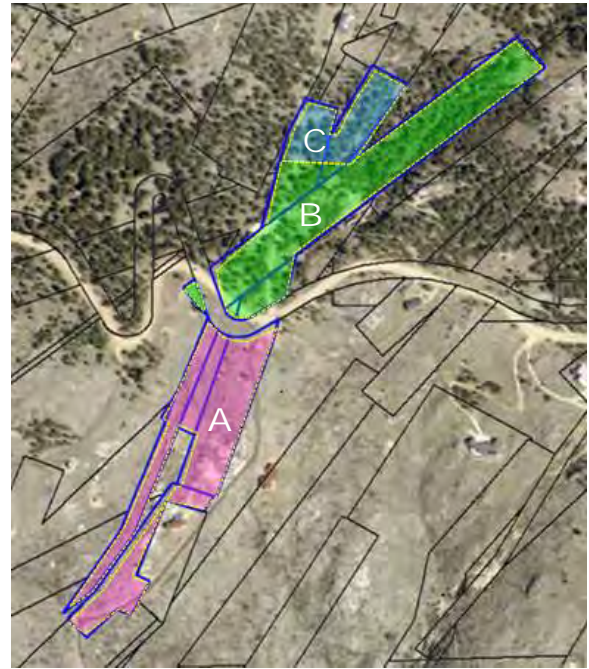


Figure 2: Proposed parcel configuration

DISCUSSION:

The parcel at 6301 Sunshine Canyon Dr. (Parcel 2) was included in a previously approved Subdivision Exemption (SE-91-040) for a Boundary Line Adjustment that transferred acreage to two adjacent parcels to the south and resulted in parcel configurations that could better meet county development regulations.

The parcels at 6301 and 6300 Sunshine Canyon Dr. (Parcels 2 & 3) were also included in a previously approved Subdivision Exemption (SE-02-014) which resulted a portion of 6301 Sunshine Canyon Dr. that transected 6300 Sunshine Canyon Dr. to be incorporated into the parcel at 6300 Sunshine Canyon Dr. (A related docket, SE-04-020, was approved to amend a condition of the 2002 SE to allow the post-approval requirements to be met by the owners of 6300 Sunshine while a Setback Variance Request was under consideration for 6301 Sunshine.)

Of the four subject parcels, 6300, 6301 and 6317/19 Sunshine Canyon Dr. (Parcels 3, 2 and 1) are legal building lots; the parcel at 7288 Sunshine Canyon Dr. (Parcel 4) is not a legal building lot. Only 6300 Sunshine Canyon Dr. is currently developed; previous development that existed at 6301 Sunshine Canyon Dr. and 6317/19 Sunshine Canyon Dr. was destroyed in the 2010 Fourmile Fire. The parcel at 7288 Sunshine Canyon Dr. is not a legal building lot.

The applicants are proposing to reconfigure the subject parcels into three legal building lots as shown in Figure 2 above and described as follows:

- Parcel A will include combining those portions of Parcels 1, 2 and 4 south of Sunshine Canyon Dr. The new Parcel A configuration will allow for redevelopment of the fire-impacted property without the need for setback variances.
- Parcel B will include Parcel 3 (6300 Sunshine Canyon Dr.) and a portion of Parcel 1 north of the road. The new Parcel B configuration will allow for a new well to be built in a location that is a safe distance away from the existing well that was recently abandoned due to the existence of mine-related hazardous materials in the water.

- Parcel C will include the remaining portions of Parcels 1 and 4 and will be accessed from an existing driveway serving homes on adjacent properties.

REFERRALS:

This application was referred to the usual agencies, departments, and adjacent property owners. All responses received by County staff are attached and summarized below:

BoCo Transportation Department, Development Review – This agency reviewed the proposal and noted requirements for an access easement for Parcel C and stated that existing accesses must be upgraded to meet the Boulder County Multimodal Transportation Standards (MMTS) if future development proposed is proposed on Parcel A, B or C.

BoCo Wildfire Review - This agency reviewed the proposal and had no conflicts but noted the the visibility of future development on Parcel C to nearby neighbors may be increased as a result of Defensible Space requirements for tree removal.

Colorado Division of Water Resources - This agency reviewed the proposal and stated requirements for new domestic wells on all three parcels, and for plugging and abandonment of previously existing wells on Parcels A and B.

Xcel Energy – This agency reviewed the proposal and had no conflict provided existing electric facilities and associated land rights remain in place.

No Conflict/ No Comment - BoCo Chief Building Official, Parks and Open Space Natural Resource Planner, Public Health and Surveyor

APO Comments – 89 referrals sent, 0 comments received.

ANALYSIS:

Section 9-102 (A) of the Boulder County Land Use Code sets general criteria for Subdivision Exemptions. Staff has reviewed these criteria and finds the following:

9-102(A) Criteria for all Exemptions

- (1) Any new parcel created shall not increase the degree of nonconformity of an existing structure.**

None of the existing structures on the subject properties are nonconforming. Of the four subject parcels, the parcel at 6300 Sunshine Canyon Drive is the only developed property. The proposed boundary line adjustment will not create a nonconformity; therefore, staff finds this criterion can be met.

- (2) No exemption shall be approved if development will occur on a topographic or geologic hazard.**

The northern half of the proposed Parcel B is in an area identified as having Post-Flood Debris Flow Susceptibility. However, the southern portion of the parcel (6300 Sunshine Canyon Dr.) is already developed outside the geologic hazard area and no future development has been proposed by the owner. Consequently, staff finds this criterion can be met.

- (3) No exemption shall be approved by the Board within a Floodplain Overlay District, unless it is determined by the County Engineer that all proposed uses are capable of receiving a floodplain development permit.**

The subject properties are not within the Floodplain Overlay District; therefore, staff finds this criterion can be met.

- (4) All proposals for the development of parcels created shall conform to the provisions of Article 7 of the Land Use Code, including but not necessarily limited to access.**

No additional development is proposed on the subject parcels at this time. Proposed Parcels A and B are directly adjacent to a public right-of-way and will maintain legal access from Sunshine Canyon Dr. The Proposed Parcel C is not adjacent to any public right-of-way; therefore, staff recommends a condition of approval that an access easement be recorded for Parcel C, through Parcel B, to ensure legal access for Parcel C if future development is proposed. Additionally, the existing driveway serving the residences at 6300, 6310 and 6320 Sunshine Canyon Dr. does not meet the County MMTS. If future development is proposed on any one of parcels A, B or C, the existing accesses shall be upgraded to meet the MMTS.

The Colorado Division of Water Resources has indicated a new well permit could be issued for Parcel C for ordinary single-family household use. The previously permitted wells on Parcels A and B have been abandoned by the owners and the owner of Parcel B currently has water delivered and stored on site for household use. Permits could be issued by the state for new wells on those parcels once the existing wells are properly plugged and abandoned.

As conditioned, staff finds this criterion can be met.

- (5) Proposed parcel boundaries and development shall be suitably located and sized with respect to the physical characteristics of the land, the character of the neighborhood, and the County's goals of preserving agricultural and forestry lands.**

Staff finds the proposed parcel boundaries and sizes of 4.63 acres, 6.23 acres and 1.30 acres consistent with the character of the neighborhood, which includes many mining claims of similar size. It is not anticipated the proposal will conflict with the County's preservation goals for agricultural and forestry lands.

Therefore, staff finds this criterion can be met.

- (6) Proposed subdivisions involving subdivided land shall go through an exemption plat process if applicable under Section 9-200, below, or subdivision review pursuant to the Subdivision Regulations of Article 5 of this Code.**

The subject properties are not within an approved subdivision; therefore, staff finds this criterion can be met.

- (7) The proposal shall be in accordance with the Comprehensive Plan, any applicable intergovernmental agreement affecting land use or development, and this Code.**

This proposal does not propose an additional unit of density as no new legal building lots will be created; therefore, staff finds this criterion can be met.

Additional Criteria for Boundary Line Adjustments Divisions which create any number of parcels equal to or less than the number of original unsubdivided parcels are subject to the following conditions:

- a. Where the original building lot is in conformance with the lot requirements of the zoning district in which the parcel is located, any parcels created shall also conform to those requirements.**

The subject properties are less than the current minimum lot size of 35 acres in the Forestry zoning district and are not in conformance with the lot requirements of the zoning district. Consequently, staff finds this criterion can be met.

- b. Where original building lots are nonconforming with respect to the lot requirements of the zoning district in which located, any parcels created should not increase the degree of nonconformity.**

As stated above, the existing parcels are nonconforming; however, the proposed configuration will not increase the degree of nonconformance. In fact, the proposed Parcel A configuration will allow for the possible redevelopment of the fire-impacted parcel without the need for a setback variance. Consequently, staff finds this criterion can be met.

- c. A boundary line adjustment shall not be approved primarily for convenience of construction and shall substantially advance a legitimate land use purpose under this Code.**

No construction is proposed as part of this application. Although all three existing legal building lots are developable in their current configuration, the proposed boundary line adjustment will enable future development on the proposed parcels to better meet the requirements of the Code. The recommended conditions of approval would ensure that any future proposed development meets the County codes and standards in place at that time. As conditioned, staff finds this criterion can be met.

RECOMMENDATION:

Staff has determined that the proposal meets all the applicable criteria of the Boulder County Land Use Code. Therefore, Staff recommends that the Board of County Commissioners

CONDITIONALLY APPROVE SE-18-0010: Fischer - Ells Boundary Line Adjustment, with the following conditions:

- 1) No structures may be built on the northern half of Parcel B that is within an area identified as Susceptible to Post-Flood Debris Flow.
- 2) Prior to the required recordation of deeds, an access easement must be secured to grant access to Parcel C through Parcel B via the existing driveway that serves the residences at 6300, 6310 and 6320 Sunshine Canyon Dr.
- 3) If future development is proposed on Parcel A, B or C, the existing accesses must be upgraded to meet the County Multimodal Transportation Standards.
- 4) The applicants shall comply with all applicable post-approval requirements for a subdivision exemption (regarding taxes, title report, deeds, and the like) as listed in Article 3-206(C) of the Land Use Code, and also including Article 9-300 of the Land Use Code (which sets a one-year deadline for completing such requirements).

- 5) The applicants shall be subject to the terms, conditions and commitments of record and in the file for **Docket SE-18-0010: Fischer - Ells Boundary Line Adjustment.**

For Your Information:

- The Colorado Division of Water Resources has indicated a new well permit could be issued for Parcel C for ordinary single-family household use. The previously permitted wells on Parcels A and B have been abandoned by the owners and the owner of Parcel B currently has water delivered and stored on site for household use. Permits could be issued by the state for new wells on those parcels once the existing wells are properly plugged and abandoned. Please see attached referral letter dated August 6, 2018 for additional details about groundwater well permitting requirements.
- Xcel Energy has indicated there is no apparent conflict provided their existing overhead and underground electric facilities and all land rights that are within the proposal area remain in place. Please see attached referral letter dated August 8, 2018 for additional details regarding existing Xcel facilities.



Land Use

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303.441.3930 • Fax: 303.441.4856
Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.org

MEMO TO: Agencies and adjacent property owners
FROM: Jennifer Severson, AICP, Senior Planner
DATE: July 24, 2018
RE: Docket SE-18-0010

Docket SE-18-0010: Fischer - Ells Boundary Line Adjustment

Request: Subdivision Exemption request for a Boundary Line Adjustment involving a 4.14-acre parcel at 6317/ 6319 Sunshine Canyon Drive, a 2.52-acre parcel at 6301 Sunshine Canyon Drive, a 5.16-acre parcel at 6300 Sunshine Canyon Drive, and a 0.98-acre parcel at 7288 Sunshine Canyon Drive resulting in a 4.63-acre parcel, a 6.23-acre parcel and a 1.30-acre parcel.

Location: On Sunshine Canyon Drive roughly 0.6 miles northwest of its intersection with County Road 83, in Section 8, Township 1N, Range 71W.

Zoning: Forestry (F)

Applicants/Property Owners: Eugene & Christine Fischer and Fred Ells

A Subdivision Exemption is a waiver of the usual subdivision requirements to allow a Boundary Line Adjustment, a Lot Recognition, a Lot Split, or a Community Facility Lot Split.

This process includes a public hearing before the Boulder County Board of County Commissioners. Adjacent property owners and holders of liens, mortgages, easements or other rights in the subject property are notified of these hearings.

The Land Use staff and County Commissioners value comments from individuals and referral agencies. Please check the appropriate response below or send a letter. Late responses will be reviewed as the process permits; all comments will be made part of the public record and given to the applicant. Only a portion of the submitted documents may have been enclosed; you are welcome to review the entire file at the Land Use Department, 13th and Spruce, Boulder. If you have any questions regarding this application, please contact me at (303) 441-1735 or jseverson@bouldercounty.org.

Please return responses to the above address by **August 8, 2018**.

_____ We have reviewed the proposal and have no conflicts.
_____ Letter is enclosed.

Signed _____ PRINTED Name _____

Agency or Address _____

Please note that all Land Use Department property owner's mailing lists and parcel maps are generated from the records maintained by the County Assessor and Treasurer Office. We are required to use this list to send notices to the "property owner" of land in Boulder County. If you feel that you should not be considered a "property owner," or if the mailing address used is incorrect, please contact the County Assessor's Office at (303) 441-3530.

\$225.00 - clerk 1061 URB



Boulder County Land Use Department

Courthouse Annex Building
2045 13th Street • PO Box 471 • Boulder, Colorado 80302
Phone: 303-441-3930 • Fax: 303-441-4856
Email: planner@bouldercounty.org
Web: www.bouldercounty.org/lu
Office Hours: Mon., Wed., Thurs., Fri. 8 a.m. to 4:30 p.m.
Tuesday 10 a.m. to 4:30 p.m.

| | |
|-----------------------------|-------------|
| Shaded Areas for Staff Only | |
| Intake Stamp | PAID |
| JUL 09 2018 | |
| BOULDER COUNTY LAND USE | |

Application Form

| | | | |
|--|---|--|--------------------------|
| Project Number SE-18-0010 | | Project Name | |
| <input type="checkbox"/> Limited Impact Special Use <input type="checkbox"/> Limited Impact Special Use Waiver <input type="checkbox"/> Modification of Special Use <input type="checkbox"/> Site Plan Review <input type="checkbox"/> Site Plan Review Waiver <input checked="" type="checkbox"/> Subdivision Exemption <input type="checkbox"/> Exemption Plat <input type="checkbox"/> 1041 State Interest Review <input type="checkbox"/> Other: | | Application Deadline: First Wednesday of the Month <input type="checkbox"/> Variance <input type="checkbox"/> Appeal | |
| | | Application Deadline: Second Wednesday of the Month <input type="checkbox"/> Sketch Plan <input type="checkbox"/> Preliminary Plan <input type="checkbox"/> Final Plat <input type="checkbox"/> Resubdivision (Replat) <input type="checkbox"/> Special Use/SSDP | |
| | | <input type="checkbox"/> Rezoning <input type="checkbox"/> Road/Easement Vacation <input type="checkbox"/> Location and Extent <input type="checkbox"/> Road Name Change | |
| Location(s)/Street Address(es) 6300 Sunshine Canyon Dr, 6301 Sunshine Canyon Dr., 6319 Sunshine Canyon Dr., 7288 Sunshine Canyon Dr. | | | |
| Subdivision Name | | | |
| Lot(s) | Block(s) | Section(s) 8 | Township(s) T-1-N |
| Area in Acres | Existing Zoning SFD | Existing Use of Property SFD or undeveloped | Range(s) R-71-W |
| Proposed Water Supply well | Proposed Sewage Disposal Method septic systems | | |

Applicants:

| | | | |
|--|--------------------|--|------------------------------|
| Applicant/Property Owner Eugene + Christine Fischer | | Email Address ganz.fischer@yahoo.com | |
| Mailing Address 6300 Sunshine Canyon Dr. | | | |
| City Boulder | State CO | Zip Code 80302 | Phone 303-444-2134 |
| Applicant/Property Owner/Agent/Consultant Fred Ellis | | Email Address sunshinefred@msn.com | |
| Mailing Address 6116 Misty Way | | | |
| City Longmont | State CO | Zip Code 80503 | Phone 303-442-5340 |
| Agent/Consultant | | Email Address | |
| Mailing Address | | | |
| City | State | Zip Code | Phone |
| | | | Fax |

Certification (Please refer to the Regulations and Application Submittal Package for complete application requirements.)

I certify that I am signing this Application Form as an owner of record of the property included in the Application. I certify that the information and exhibits I have submitted are true and correct to the best of my knowledge. I understand that all materials required by Boulder County must be submitted prior to having this matter processed. I understand that public hearings or meetings may be required. I understand that I must sign an Agreement of Payment for Application processing fees, and that additional fees or materials may be required as a result of considerations which may arise in the processing of this docket. I understand that the road, school, and park dedications may be required as a condition of approval. I understand that I am consenting to allow the County Staff involved in this application or their designees to enter onto and inspect the subject property at any reasonable time, without obtaining any prior consent.

All landowners are required to sign application. If additional space is needed, attach additional sheet signed and dated.

| | | |
|---|--|------------------------|
| Signature of Property Owner <i>Eugene Fischer</i> | Printed Name Eugene Fischer | Date 5/24/18 |
| Signature of Property Owner <i>Christine Fischer</i> | Printed Name Christine Fischer | Date 5/24/18 |
| Signature of Property Owner <i>Fred Ellis</i> | Printed Name FRED ELLIS | Date 5/24/18 |

The Land Use Director may waive the landowner signature requirement for good cause, under the applicable provisions of the Land Use Code.



Boulder County Land Use Department

Courthouse Annex Building
2045 13th Street • PO Box 471
Boulder, Colorado 80302

Phone: 303-441-3930 • Fax: 303-441-4856
Email: planner@bouldercounty.org •
http://www.BoulderCounty.org/lu/

Office Hours: Monday — Friday 8:00 AM to 4:30 PM

Intake Stamp

Subdivision Exemption Parcel Form

Existing Parcel(s)

| Description | One | Two | Three | Four | Five |
|-----------------------|------------|-----------------------|--------------|-------------|------|
| Acreage | 4.14 | 2.52 | 5.16 | .98 | |
| Frontage | | | | | |
| Date Acquired | 6/25/05 | 8/1985 | 4/9/03 | 6/23/15 | |
| Owners | Fred Ellis | Fred Ellis | E+C Fischer | E+C Fischer | |
| Date Created | | | | | |
| Existing Improvements | none | burned out foundation | house + shop | none | |
| Date Constructed | | | 1996 | | |
| Setbacks Front/Rear | / | / | / | / | / |
| Setbacks Side/Side | / | / | / | / | / |

Proposed Parcel(s)

| Description | One A | Two B | Three C | Four | Five |
|---------------------|-------|-------|---------|------|------|
| Acreage | 4.63 | 6.23 | 1.30 | | |
| Frontage | | | | | |
| Setbacks Front/Rear | / | / | / | / | / |
| Setbacks Side/Side | / | / | / | / | / |

Property Owners

| Parcel | Address Information | | Phone/Fax |
|--------|---------------------|----------------------------------|-------------------------|
| One | Name | FRED ELLS | 303-442-5340 |
| | Address | 6116 Misty Way, Longmont | State CO Zip Code 80503 |
| Two | Name | Fred Ellis | 303-442-5340 |
| | Address | 6116 Misty Way, Longmont | State CO Zip Code 80503 |
| Three | Name | Eugene + Christine Fischer | 303-444-2134 |
| | Address | 6300 Sunshine Canyon Dr. Boulder | State CO Zip Code 80302 |
| Four | Name | Eugene + Christine Fischer | 303-444-2134 |
| | Address | 6300 Sunshine Canyon Dr. Boulder | State CO Zip Code 80302 |
| Five | Name | | Phone/Fax |
| | Address | | State Zip Code |

Remarks:

See PROJECT DESCRIPTION

PROJECT DESCRIPTION
Subdivision Exemption Application (PAC-18-0176)
Eugene & Christine Fischer and Fred Ells

Eugene J. And Christine M. Fischer (the "Applicants") have entered into a contract with Fred Ells ("Co-applicant") to purchase the 1.8 acre portion of parcel 146108000075 (Grand View Lode) which lies on the north side of Sunshine Canyon Drive adjacent to the north and south sides of parcel #146108000052 (White Crow Lode) which the Applicants own and reside at. The purchase contract is subject to the approval of this Subdivision Exemption - lot line adjustment application by the Board of Commissioners.

The four parcels involved in this application are mining claims consisting of:

- Parcel one (parcel #146108000075, Grandview Lode) which is designated a Buildable Lot but has no improvements.
- Parcel two (parcel #146108000153, Dead Medicine Lode) which is a non-conforming Buildable Lot (50 ft. width does not allow setback minimums). Prior single family dwelling was destroyed in Four Mile Canyon fire.
- Parcel three (parcel #146108000157, White Crow Lode) which currently has a single family dwelling and one accessory building, septic system and an abandoned well.
- Parcel four (parcel #146108000093, Young American Lode) which is not a buildable lot and has no improvements.

The Applicants and Co-applicant wish to reconfigure these properties into 2 undeveloped legal Buildable Lots and one enlarged developed property. We are requesting the Board of Commissioners approve lot line adjustments to form the 3 lots as shown on the attached "Proposed Property Acquisition – After" map as parcels A, B, and C. There are currently no development plans for the 2 proposed Buildable Lots. The logic for the reconfigured lots is as follows:

- Parcel A: This parcel is the result of combining the Dead Medicine Lode with the portions of Grandview and Young American Lodes lying south of Sunshine Canyon Drive. All of these properties were heavily impacted by the Four Mile Canyon Fire and are almost treeless. Dead Medicine is only 50 feet wide and would require setback waivers for development. The proposed combined lot would be large enough to place a future home a significant distance from Sunshine Canyon Drive so as to minimally impact the aesthetics of the area. This lot would not require setback waivers for future construction.
- Parcel B: This parcel is the result of combining the White Crow Lode with the portion of Grandview between White Crow and Sunshine Canyon Drive + a contiguous .5 acre portion of Grandview north of White Crow and .02 acre portion of Young American. The main reason for the expansion of White Crow is to provide a location for a new well that is approximately 200 feet from the 6 layered horizontal shafts of the White Crow mine. The existing well was abandoned in 2004 due to hazardous materials from the mine making the well unusable. The Applicants have been trucking water to a cistern since the well was abandoned. A new well not in proximity to the mine will provide a much healthier environment for the residents of 6300. The new well will flow water to the 3,000 gallon cistern

which is configured with an above ground fire hose connection providing additional safety. Adding the portion of Grandview between White Crow and Sunshine Canyon Drive results in a more logical lot configuration.

- Parcel C: This parcel is the result of combining the remaining portions of Grandview and Young American into a legal Buildable Lot. The proposed lot has excellent access from an existing asphalt driveway currently serving 3 homes: 6300, 6310, and 6320 Sunshine Canyon Drive. The new lot is already included in the driveway easement and lies between 6310 and 6300. The proposed lot was barely touched in the Four Mile Canyon fire. It has excellent tree coverage which shields it from the view of the 3 existing homes as well as other homes in the area and from Sunshine Canyon Drive (see Google Earth image in packet). The Applicants applied to the BLM on 3/23/2016 to purchase the BLM property shown intruding on Parcel C on the enclosed maps. The BLM approval time is running several years due to staff shortages. If the BLM property is acquired, the Applicants intend to submit another Subdivision Exemption Application to merge it with Parcel C.



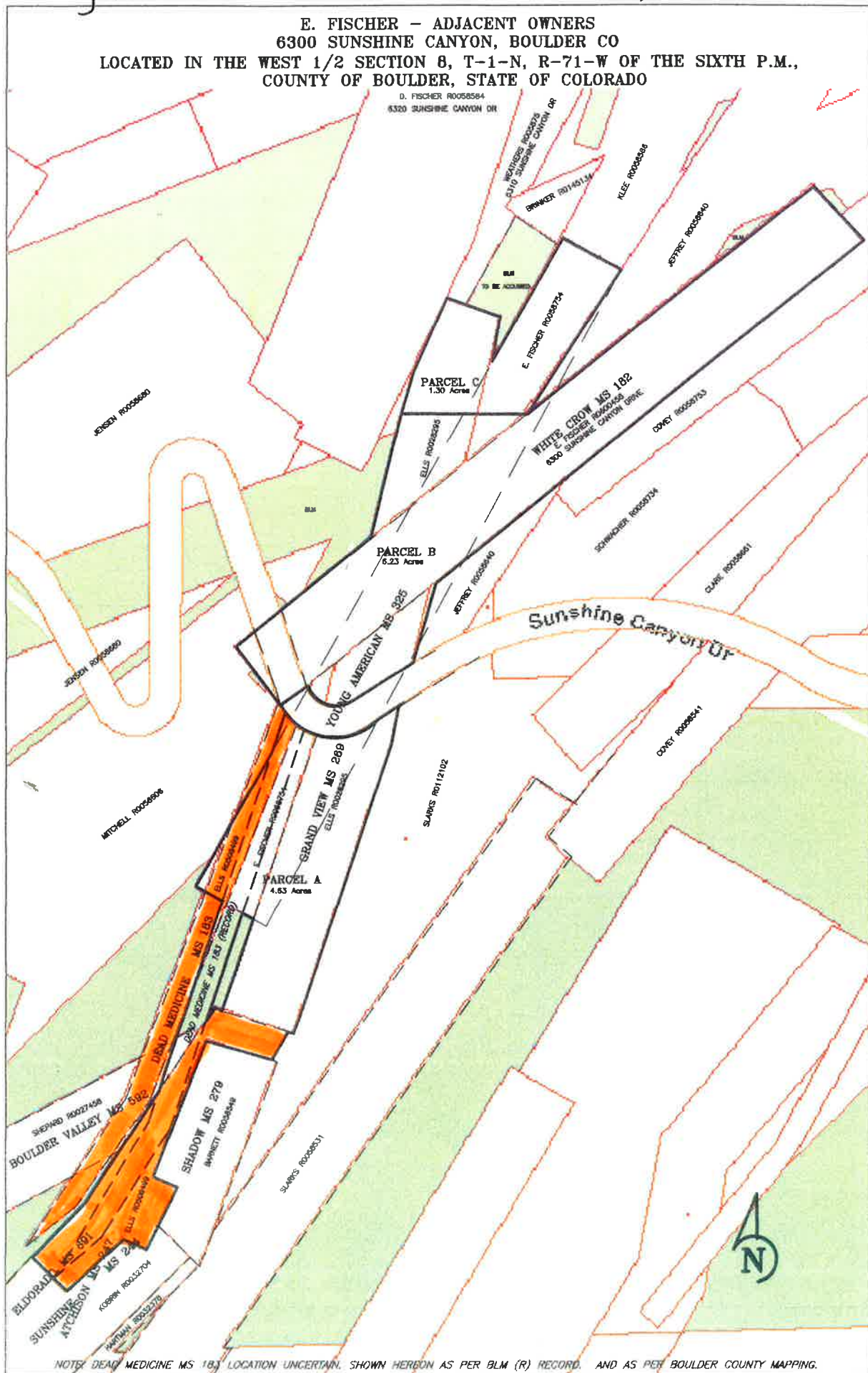
6300 SUNSHINE CANYON DR

A6



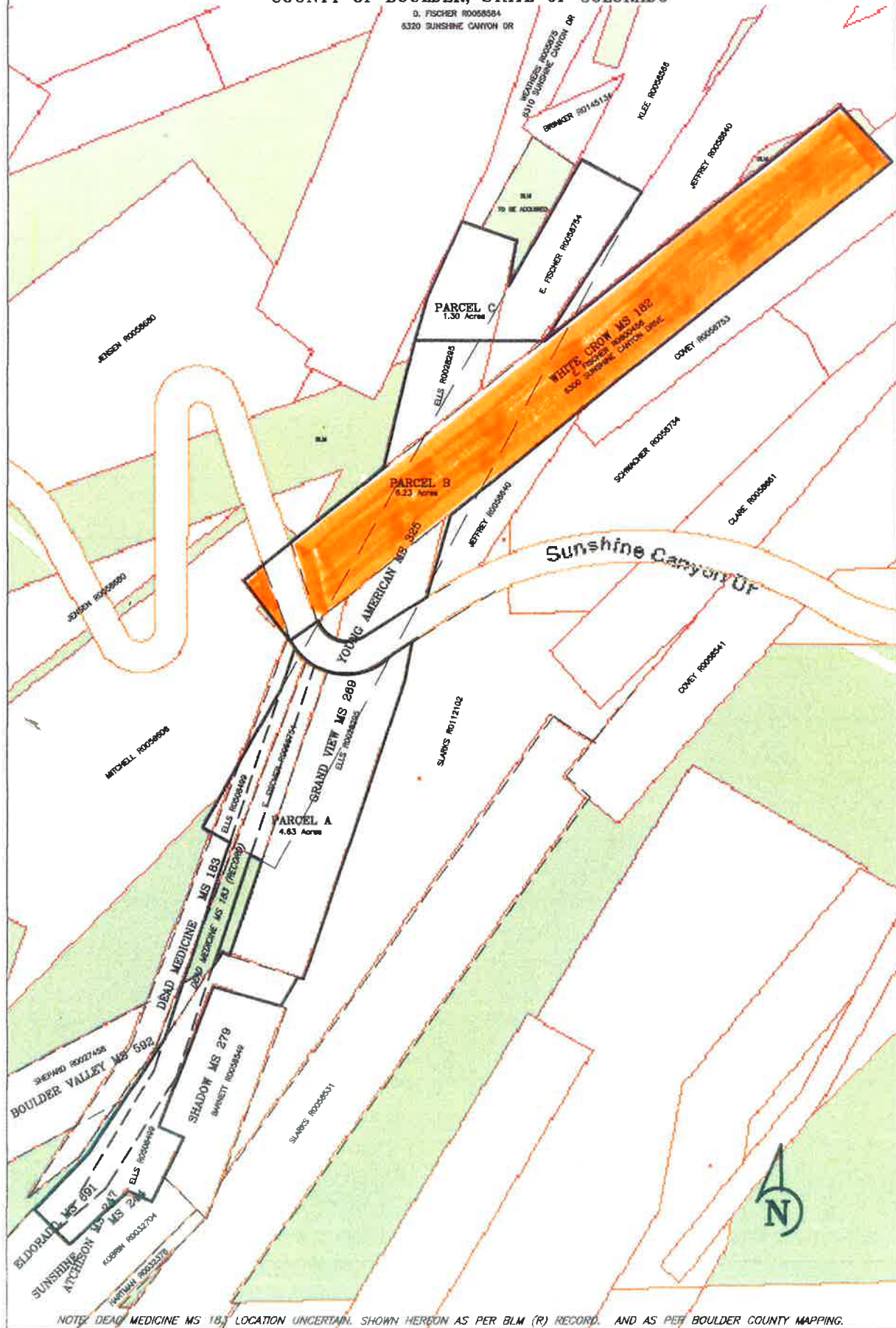


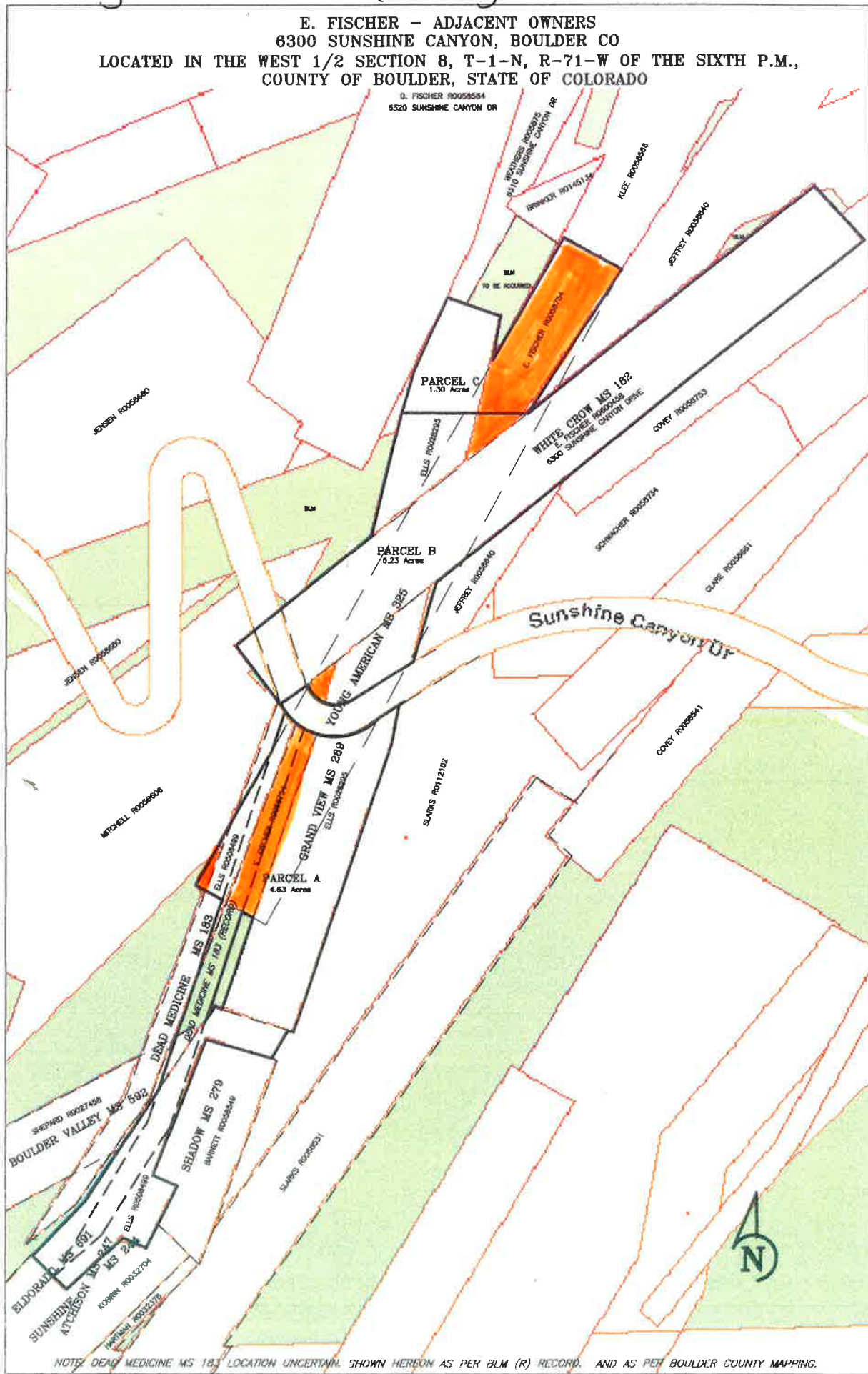
Existing Parcel Two (Dead Medicine Lodge)



Existing Parcel Three (White Crow Lodge)

E. FISCHER - ADJACENT OWNERS
6300 SUNSHINE CANYON, BOULDER CO
LOCATED IN THE WEST 1/2 SECTION 8, T-1-N, R-71-W OF THE SIXTH P.M.,
COUNTY OF BOULDER, STATE OF COLORADO





6300 SUNSHINE CANYON, BOULDER CO
LOCATED IN THE WEST 1/2 SECTION 8, T-1-N, R-71-W OF THE SIXTH P.M.,
COUNTY OF BOULDER, STATE OF COLORADO

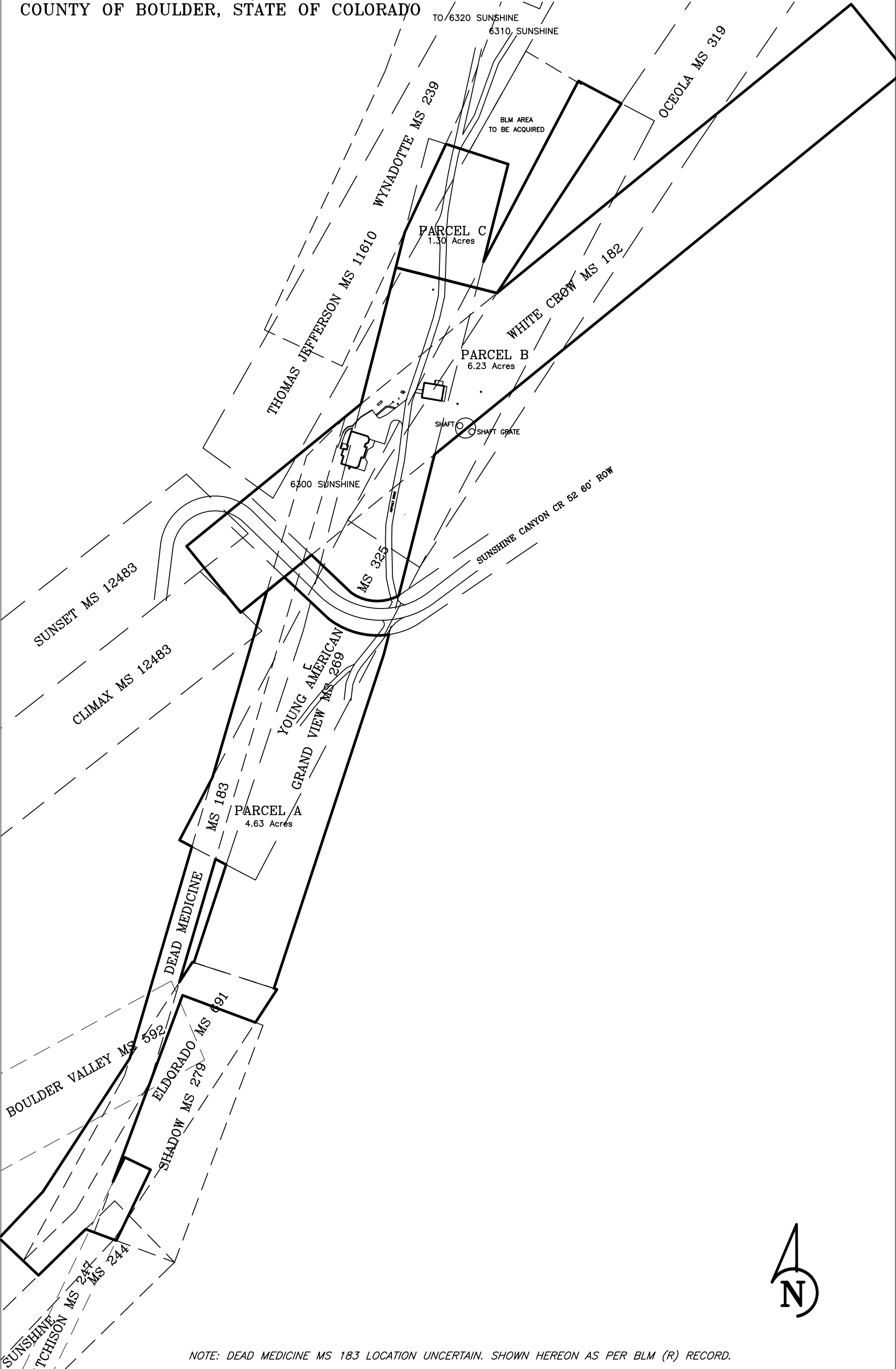
GOOGLE EARTH VIEW

Showing proposed lot line adjustments and distances

- From 6320 to 6310
- From 6310 to new BLOT
- From 6300 to new BLOT



E. FISCHER – EXISTING IMPROVEMENTS – 6300 SUNSHINE CANYON, BOULDER CO
LOCATED IN THE WEST 1/2 SECTION 8, T-1-N, R-71-W OF THE SIXTH P.M.,
COUNTY OF BOULDER, STATE OF COLORADO



NOTE: DEAD MEDICINE MS 183 LOCATION UNCERTAIN. SHOWN HEREON AS PER BLM (R) RECORD.



Transportation Department

2525 13th Street, Suite 203 • Boulder, Colorado 80304 • Tel: 303.441.3900 • Fax: 303.441.4594
Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.org

August 7, 2018

TO: Jennifer Severson, Senior Planner; Land Use Department
FROM: Hélène Levaufré, Development Review Coordinator
SUBJECT: Docket SE-18-0010 Fischer - Ells Boundary Line Adjustment

The Transportation Department has reviewed the above referenced docket and has the following comments:

1. Proposed parcels A and B are directly adjacent to Sunshine Canyon Drive, a County owned and maintained right-of-way (ROW) with a Functional Classification of Collector. These new parcels will have legal access from this public ROW.
2. Proposed parcel C is not adjacent to any public ROW. Should this parcel be sold, then an access easement shall be recorded to ensure legal access to Parcel C through Parcel B.
3. The existing driveway serving the residences at 6300, 6310 and 6320 Sunshine Canyon Drive is 12 feet wide at the junction with Sunshine Canyon Drive and narrows to 11 feet as it gets further from the road. Moreover, there are no compliant pullouts along the existing driveway as required in the Boulder County Multimodal Standards (hereafter referred to as “the Standards”). No driveway upgrade will be required at this time.
4. If any future development is proposed on parcels A, B and C, the existing accesses shall be upgraded to meet the Standards, including without limitations :
 - a. Section 5.5 – Parcel Access Design Standards
 - b. Standard Drawing 11 – One-Lane Private Access Section
 - c. Standard Drawing 14 – Access With Roadside Ditch
 - d. Standard Drawing 15 – Access Profiles Detail
 - e. Standard Drawing 16 – Access Grade & Clearance
 - f. Standard Drawing 17 – Access Pull-Out
 - g. Standard Drawing 18 – Access Turnaround
 - h. Standard Drawing 19 - Typical Turnaround and Pullouts Locations

This concludes our comments at this time.



Land Use

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303.441.3930 • Fax: 303.441.4856
Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.org

Wildfire Mitigation Team

MEMO

TO: Jennifer Severson, Senior Planner II
FROM: Benjamin Yellin, Wildfire Mitigation Specialist
DATE: August 22, 2018
RE: Referral packet and Public Notice for SE-18-0010, Fischer - Ells Boundary Line Adjustment project at 6317/ 6319 Sunshine Canyon Drive, 7288 Sunshine Canyon Drive, 6301 Sunshine Canyon Drive, and 6300 Sunshine Canyon Drive

Thank you for the referral. We have the following comments for the applicants:

No conflicts have been identified with this proposal. However, the distance needed for minimally effective defensible space for any new development on Lot C could significantly reduce the “tree coverage which shields it from the view of the 3 existing homes,” as cited in the proposal.

For minimally effective defensible space, Zone 1 (a buffer of at least 30 feet free of conifer trees and other highly combustible vegetation immediately surrounding any new development on Lot C, including all attachments and accessory structures within 30 feet) may need to begin at the home’s dripline where the property boundary limits Zone 2 (at least 100 feet from structures). More information can be found by referring to the Colorado State Forest Service publication [Protecting Your Home from Wildfire: Creating Wildfire-Defensible Zones – 2012 Quick Guide](#).



August 6, 2018

Jennifer Severson, Senior Planner
Boulder County Land Use
Transmission via email: jseverson@bouldercounty.org

Re: Fischer-Ells Boundary Line Adjustment
Docket SE-18-0010
SW¼ Sec. 8, T1N, R71W, 6th P.M.
Water Division 1, Water District 6

Dear Ms. Severson:

We have reviewed the above referenced Subdivision Exemption request for a boundary line adjustment. The submitted material does not qualify as a "subdivision" as defined in Section 30-28-101(10)(a), C.R.S. Therefore, pursuant to the State Engineer's March 4, 2005 and March 11, 2011 memorandums to county planning directors, this office will only perform a cursory review of the referral information and provide comments. The comments will not address the adequacy of the water supply plan for this property or the ability of the water supply plan to satisfy any County regulations or requirements.

The subject proposal seeks to reconfigure four existing parcels, known as the Grandview, Dead Medicine, White Crow, and Young American lodes, into three new parcels. Parcel A will be 4.63 acres consisting of the portion of the subject lodes lying south of Sunshine Canyon Drive, and is proposed to be used as a future residence site. This property contains a burned-out foundation remaining from a single-family dwelling that was destroyed in the Four Mile Canyon fire. Parcel B will be 6.23 acres consisting of the White Crow lode and the southern portions of the Grandview and Young American lodes. This parcel will contain an existing residence, accessory building, and a well which has become contaminated and is no longer used. Parcel C will be 1.30 acres consisting of the remaining northern portions of the Grandview and Young American lodes to create a legal buildable lot.

According to records available in this office, well permit no. 212307 was constructed on the Dead Medicine lode, which will become a part of Parcel A, on February 26, 1999.¹ If this well is no longer in existence, the property owner should submit a Well Abandonment Report (form no. GWS-09) to confirm that the well was properly plugged and abandoned.

According to records available in this office, the "abandoned" well on Parcel B was constructed under well permit no. 173334. This office has not received a Well Abandonment Report for this well. The property owner should submit a Well

¹ A replacement well permit (212307-A) was issued on August 25, 2000, however, no construction information was received for this well and this permit is therefore believed to be expired.



Fischer-Ells Boundary Line Adjustment
Docket SE-18-0010

August 6, 2018
Page 2 of 2

Abandonment Report (form no. GWS-09) to confirm that the well was properly plugged and abandoned.

It is anticipated that this office could issue a permit to construct a new well on Parcel C that would be limited to ordinary household use inside one single-family dwelling, with no irrigation or other outside use allowed. Similar permits would be available for Parcels A and B on the condition that the previously constructed wells are properly plugged and abandoned. The ability of the landowner to obtain a new well permit or permits and the allowable use of the well(s) will be determined at the time a well permit application is submitted to this office.

This office has no concerns regarding the proposed subdivision exemption for a boundary line adjustment. Should you or the applicants have any questions regarding this matter, please contact me at this office.

Sincerely,



Sarah Brucker, P.E.
Water Resources Engineer

Cc: Well permit file no. 173334
Well permit file no. 212307
Referral file no. 24658



Right of Way & Permits
1123 West 3rd Avenue
Denver, Colorado 80223
Telephone: **303.571.3306**
Facsimile: 303. 571.3284
donna.l.george@xcelenergy.com

August 8, 2018

Boulder County Land Use
PO Box 471
Boulder, CO 80306

Attn: Jennifer Severson

Re: Fischer-Ells Boundary Line Adjustment, Case # SE-18-0010

Public Service Company of Colorado's (PSCo) Right of Way & Permits Referral Desk has reviewed the subdivision exemption documentation for **Fischer-Ells Boundary Line Adjustment** and has **no apparent conflict** PROVIDED THAT PSCo's existing overhead and underground electric facilities and all land rights that are within this area remain in place.

As a safety precaution, PSCo would like to remind the developer to call the **Utility Notification Center** at 1-800-922-1987 to have all utilities located prior to any construction.

Please contact me at donna.l.george@xcelenergy.com or 303-571-3306 if there are any questions with this referral response.

Donna George
Right of Way and Permits
Public Service Company of Colorado



Land Use

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303.441.3930 • Fax: 303.441.4856
Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.org

Building Safety & Inspection Services Team

MEMO

TO: Jennifer Severson, Staff Planner
FROM: Ron Flax, Chief Building Official
DATE: August 3, 2018

RE: Referral Response, Docket SE-18-0010: Fischer - Ells Boundary Line Adjustment.

Request: Subdivision Exemption request for a Boundary Line Adjustment involving a 4.14-acre parcel at 6317/ 6319 Sunshine Canyon Drive, a 2.52-acre parcel at 6301 Sunshine Canyon Drive, a 5.16-acre parcel at 6300 Sunshine Canyon Drive, and a 0.98-acre parcel at 7288 Sunshine Canyon Drive resulting in a 4.63-acre parcel, a 6.23-acre parcel and a 1.30-acre parcel.

Location: On Sunshine Canyon Drive roughly 0.6 miles northwest of its intersection with County Road 83, in Section 8, Township 1N, Range 71W.

Thank you for the referral. We have no conflicts with the proposal.

If the applicants should have questions or need additional information, we'd be happy to work with them toward solutions that meet minimum building code requirements. We can be reached at 720-564-2640 or via e-mail at building_official@bouldercounty.org.



Parks and Open Space

5201 St. Vrain Road • Longmont, Colorado 80503
303.678.6200 • Fax: 303.678.6177 • www.bouldercounty.org


TO: Jennifer Severson, Land Use Department
FROM: Ron West, Natural Resource Planner
DATE: August 14, 2018
SUBJECT: Docket SE-18-0010, Fischer-Ells

























Staff has reviewed the submitted materials. This area of complex mining claims has already been rather heavily developed with residences, and impacted by wildfire. From a natural resource perspective, the proposal would not significantly change the existing situation.

SE-18-0010

Cancel

Help

 **Workflow Tasks**

-  ✓ [Application Submittal](#)
-  ✓ [Intake](#)
-  ✓ [Schedule BOCC Hearing](#)
-  ✓ [BOCC Public Notice](#)
-  ✓ [Send Referrals](#)
-  Historic Preservation Review
-  Floodplain Review
-  ✓ [Field Visit](#)
-  ✓ [Transportation/Engineering Review](#)
-  ✓ [Parks and Open Space Review](#)
-  ✓ [Building Division Review](#)
-  ✓ [Wildfire Review](#)
-  ✓ [Public Health Water Quality - Environmental Review](#)
-  Staff Meeting
-  BOCC Staff Recommendation
-  BOCC Packet Distributed
-  Post BOCC Packets Online
-  BOCC Hearing
-  Prepare Action Letter
-  Send Action Letter
-  Post Approvals
-  Recording
-  File to Admin for Scanning
-  Prep and Scan File

There currently are no ad hoc tasks defined.

Task Details Public Health Water Quality - Environmental Review

| | |
|---|--|
| Assigned Date | Due Date |
| 07/24/2018 | 07/24/2018 |
| Assigned to | Assigned to Department |
| | Public Health Planning Review |
| Current Status | Status Date |
| No Comments/No Conflict | 07/25/2018 |
| Action By | Overtime |
| LU Review Public Health | No |
| Comments | Start Time |
| Jessica Epstein | |
| End Time | Hours Spent |
| | 30.0 |
| Billable | Action by Department |
| No | Public Health Planning Review |
| Time Tracking Start Date | Est. Completion Date |
| In Possession Time (hrs) | <input type="checkbox"/> Display E-mail Address in ACA |
| Estimated Hours | <input checked="" type="checkbox"/> Display Comment in AC |
| 0.0 | |
| Comment Display in ACA | |
| <input checked="" type="checkbox"/> | |
| <input checked="" type="checkbox"/> Record Creator | |
| <input checked="" type="checkbox"/> Licensed Professional | |
| <input checked="" type="checkbox"/> Contact | |
| <input checked="" type="checkbox"/> | |



Land Use

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Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.org

MEMO TO: Agencies and adjacent property owners
FROM: Jennifer Severson, AICP, Senior Planner
DATE: July 24, 2018
RE: Docket SE-18-0010

Docket SE-18-0010: Fischer - Ells Boundary Line Adjustment

Request: Subdivision Exemption request for a Boundary Line Adjustment involving a 4.14-acre parcel at 6317/ 6319 Sunshine Canyon Drive, a 2.52-acre parcel at 6301 Sunshine Canyon Drive, a 5.16-acre parcel at 6300 Sunshine Canyon Drive, and a 0.98-acre parcel at 7288 Sunshine Canyon Drive resulting in a 4.63-acre parcel, a 6.23-acre parcel and a 1.30-acre parcel.

Location: On Sunshine Canyon Drive roughly 0.6 miles northwest of its intersection with County Road 83, in Section 8, Township 1N, Range 71W.

Zoning: Forestry (F)

Applicants/Property Owners: Eugene & Christine Fischer and Fred Ells

A Subdivision Exemption is a waiver of the usual subdivision requirements to allow a Boundary Line Adjustment, a Lot Recognition, a Lot Split, or a Community Facility Lot Split.

This process includes a public hearing before the Boulder County Board of County Commissioners. Adjacent property owners and holders of liens, mortgages, easements or other rights in the subject property are notified of these hearings.

The Land Use staff and County Commissioners value comments from individuals and referral agencies. Please check the appropriate response below or send a letter. Late responses will be reviewed as the process permits; all comments will be made part of the public record and given to the applicant. Only a portion of the submitted documents may have been enclosed; you are welcome to review the entire file at the Land Use Department, 13th and Spruce, Boulder. If you have any questions regarding this application, please contact me at (303) 441-1735 or jseverson@bouldercounty.org.

Please return responses to the above address by **August 8, 2018**.

☒ We have reviewed the proposal and have no conflicts.
☐ Letter is enclosed

Signed [Signature] PRINTED Name LEE STADELE
Agency or Address BOCO SURVEYOR

Please note that all Land Use Department property owner's mailing lists and parcel maps are generated from the records maintained by the County Assessor and Treasurer Office. We are required to use this list to send notices to the "property owner" of land in Boulder County. If you feel that you should not be considered a "property owner," or if the mailing address used is incorrect, please contact the County Assessor's Office at (303) 441-3530.

Pre-CERCLA Screening Checklist/Decision Document

Upper Sweet Home Mine Boulder County, Colorado

May 28, 2021

**EPA Region 8
Site Assessment Program
1595 Wynkoop Street
Denver, CO 80202**

Pre-CERCLA Screening – Upper Sweet Home Mine

Pre-CERCLA¹ Screening (PCS) and sampling was conducted at the Upper Sweet Home Mine on May 28, 2021, by Region 8 Environmental Protection Agency (EPA) Site Assessment Program and other federal and state members of the Colorado Mixed-Ownership Team. Sampling and analysis were completed in accordance with the EPA-approved Sampling and Analysis Plan/Quality Assurance Project Plan: 2021 Colorado Draining Mines Pre- CERCLA Field Screening, prepared by the Colorado Department of Public Health and Environment, April 2021.

The PCS Checklist/Decision Document, as required by EPA Pre-CERCLA Guidance (Office of Land and Emergency Management (OLEMJ) Directive# 9200.3-107, is included as Attachment A. A sample location figure and summary of soil and water analytical results as reported by the EPA Contract Laboratory is included in Attachment B.

¹ Comprehensive Environmental Response, Compensation, and Liability Act

Upper Sweet Home Mine Boulder County, Colorado

Attachment A: Pre-CERCLA Screening Checklist Decision Form

Pre-CERCLA Screening Checklist/Decision Form



This form is used in conjunction with a site map and any additional information required by the EPA Region to document completion of a Pre-CERCLA Screening (PCS). The form includes a decision on whether a site should be added to the Superfund program's active site inventory for further investigation.

EPA Region: 8 **State:** Colorado

EPA ID No. (If Available): Not Applicable

| | |
|---|---|
| Site Category: Draining Mines | Select a Site Name (Primary): Upper Sweet Home |
| Site Number: Not Applicable | |
| Date of Site Visit: May 28, 2021 | Time of Site Visit: 11:00 |

Checklist Preparer

Title: USFWS Liaison to EPA

Name: Robyn Blackburn

Organization: US Fish and Wildlife Service

Street Address: 1595 Wynkoop Street

City: Denver

State: Colorado **Zip Code:** 80202

Phone: (303) 312-6663

Email: Blackburn.Robyn@epa.com

Site Information - Preliminary

Site Name (Alternate 1): N/A

Site Name (Alternate 2): N/A

Region: 8

State: Colorado **County:** Boulder

Congressional District: 2nd

Township & Range:

Section:

Section (1/4):

Section (1/16):

Spatial Location

Latitude: 40.0595722441003

Longitude: -105.371926445612

Collection Method: GPS (handheld, Smartphone, other device with < 25m accuracy)

Horizontal Accuracy in Meters: 5

Site Description (of this Spatial Location):

Approximate Center of Site

Site Contact

Title: N/A

Name: N/A

Organization: N/A

Street Address: N/A

City: N/A

State: N/A **Zip Code:** N/A

Phone: N/A

Email: N/A

Preliminary Assessment - Historical Data

CERCLA 105d Petition for Preliminary Assessment: No

Petition Date: Not Applicable

RCRA Subtitle C Site Status: Is site in RCRA Info?: No

RCRAInfo Handler ID #: Not Applicable

Additional RCRAInfo ID #: Not Applicable

State ID: None

Other ID: DRMS-248

Ownership Type: Mixed Ownership

Site Type: Abandoned Mine Site

Site Sub-Type: Hard Rock Mining

Federal Facility: No

Federal Facility Owner: Not Applicable

Federal Facility Operator: Not Applicable

Formerly Used Defense Site (FUDS): No

Federal Facility Docket: No

Federal Facility Docket Listing Date: Not Applicable

Federal Facility Docket Reporting Mechanism: Not Applicable

Native American Interest: Unknown

Tribe: Not Applicable

Additional Tribe: Not Applicable

Site Description - Physical Setting

Abandoned Mine Site: No

Buildings: No

Mill or Milling Equipment or Tailing Present: Yes

Steep Waste Piles: Yes

Safety Hazards Present: Yes

Safety Hazards Dangerous slide potential or steep vertical face/wall/cliff (caused by mining operations), Hazardous abandoned equipment or facilities, Miscellaneous Debris, Steep Vertical Inclines, Surface subsidence such as open stope, pit, caving, potholes, troughs, cracks, vaults, underground mine void, Vertical or steeply inclined shaft or inclined subsidence open/partially unrestricted opening

Accessibility (provide details with regard to ability to access the site) Located Along Main Road

Time it takes to reach this site (Hours:Minutes): Located approximately 6.3 miles, about 15 minutes from the town of Boulder up Sunshine Canyon Drive. The site is located immediately along the driveway at 6305 Sunshine Canyon Drive.

Detailed description of how the site was accessed: The site is a 15-minute drive from downtown Boulder up Sunshine Canyon Drive. Numerous waste piles are located immediately along the driveway at 6305 Sunshine Canyon Drive. Parking is at the beginning of the driveway then walk about 5 minutes to waste pile next to driveway.

Adjacent to Resident(s): Yes

Adjacent Residential Features: Multiple residences within ¼ mile away, Town > ¼ mile away

Mountainous Steep Terrain: Yes

Vegetation Present: Yes

Vegetation Density: Sparse

Surface Water Body on or Adjacent to the Site: No

Open Fields: No

Waste Pile Erosion Observed: Yes

Describe Waste Pile Run Off: Solid/soil from waste pile observed in drainage channel below pile. No apparent/limited runoff from precipitation.

Tailings Erosion Observed: No

Describe Tailings Run Off: Not Applicable

Draining Adits or Seeps Discharge from the Site: No

Adits Flow Rate from Site: Not Applicable

Describe Adit Flow from Site: Not Applicable

Draining Adits or Seeps Discharge Across Waste Piles: No

Draining Adits or Seeps Discharge to Adjacent Habitat: No

Adit Flows into what habitat: Not Applicable

Habitat Name: Not Applicable

Physical Setting and Access Features: Accessible with public/trespasser recreation use

Physical Setting (Field Notes - provide a brief summary of physical setting including notable safety concerns, waste types, human uses/exposures to wastes, runoff/drainage, and notable habitat/ecological use):

Multiple piles in mountainous residential neighborhood. Piles are along driveway and road adjacent to 3 homes. Picnic table/use of mine waste area. No adits/water on pile. Foundation located on the site is from a home that was burned in the 2010 wildfire.

Site Description - Land Use

| | |
|---------------------------------|--|
| Roads/Trails: Yes | Road/Trail Type: Dirt Road |
| Human Activity: Yes | Human Activity Type: Moderate |
| Residential: Yes | Residential Density: Several Residences |
| Recreational Use: Yes | Recreational Density: Minimal |
| Camping: No | Camping Frequency: Not Applicable |
| Fishing: No | Fishing Frequency: Not Applicable |
| Hiking: Yes | Hiking Frequency: Moderate |
| Biking: Yes | Biking Frequency: Moderate |
| Picnicking: Yes | Picnicking Frequency: Moderate |
| Ecological Activity: Yes | Ecological Activity: Minimal |

Observed/likely fishing/consumption of fish/aquatic organisms at the mine site or within ¼ miles downstream:
No

Are there other observed sensitive environments on-site or downstream of the waste area(s) within ¼ mile? No

Sensitive Environment (wetland, stream, creek, river, known to be in the vicinity of a National Park, designated federal/state wildlife or scenic area, fish hatchery/spawning area, designated for wildlife or game management, known to be used by or designated critical habitat for Threatened or Endangered Species, or any other sensitive environment critical to supporting wildlife):

Other Sensitive Environments:

Land Use (Field Notes – provide a brief summary of human/ecological type of use and use level (e.g., heavily used for biking and camping; observed camp fire rings and picnic tables at the site immediately adjacent to the waste runoff; narrow foot trail with difficult steep access to the waste areas and minimal use of the area, etc.):
Easy to access, visible/open access to mine waste along Sunshine Canyon Road within relatively remote residential area. Active use by residents.

Site Surface Description

Draining Adit: No

Draining Adit Type: Not Applicable

Waste Piles: Yes

Number of Waste Piles: 3

Airborne Release of Fine Material/Dust: No

Surface Water on or Immediately Adjacent: No

Water Body Name: Not Applicable

Wetlands on or Adjacent to Site: No

Forested on or Adjacent to the Site: No

Riparian on or Adjacent to the Site: No

Site Surface (Field Notes): Waste area with piles and miscellaneous debris are located adjacent to and as part of residential yard along driveway. Picnic table and other areas on the piles are used by residents. Piles are dispersed next to yards and driveway.

Site Description - Other

Groundwater Seeps Observed: No

Primary Drainage Name:

Groundwater Seeps (Field Notes):

Previous Investigations: No

Investigation Type: Not Applicable

Who Completed Investigations at this Site: Not Applicable

Cleanup Activities: No **Cleanup Type:** Not Applicable

Site Description Cleanup Field Notes: Not Applicable

Who Completed Cleanup Activities at this Site: Not Applicable

Previous Regulatory Actions (Permitting and Enforcement): No

Previous Regulatory Type: Not Applicable

Site Feature Name(s): Not Applicable

Field Note(s): Not Applicable

Who Completed Regulatory Actions at this Site: Not Applicable

Institutional Controls: No **Institutional Control Type:** Not Applicable

Institutional Controls (indicate name/entity on signs/controls):

Community Interest: Yes **Community Interest Type:** Watershed Group Activity

Community Interest (Indicate watershed group or other interest group): Boulder Watershed Collective, Trout Unlimited, and homeowners interest

Survey Form

| | |
|--|-----|
| 1. An initial search for the site in EPA's Superfund active, archive and non-site inventories should be performed prior to starting a PCS. Is this a new site that does not already exist in these site inventories? | Yes |
| 2. Is there evidence of an actual release or a potential to release? Evidence of Potential Release Waste pile material observed in water body or other surrounding environment, Evidence of waste pile runoff/erosion (channels, rills, run off) | Yes |
| 3. Are there possible targets that could be impacted by a release of contamination at the site? | Yes |
| 4. Is there documentation indicating that a target has been exposed to a hazardous substance released from the site? | No |
| 5. Is the release of a naturally occurring substance in its unaltered form, or is it altered solely through naturally occurring processes or phenomena, from a location where it is naturally found? | No |
| 6. Is the release from products which are part of the structure of, and result in exposure within, residential buildings or business or community structures? | No |
| 7. If there has been a release into a public or private drinking water supply, is it due to deterioration of the system through ordinary use? | No |
| 8. Are the hazardous substances possibly released at the site, or is the release itself, excluded from being addressed under CERCLA? | No |
| 9. Is the site being addressed under RCRA corrective action or by the Nuclear Regulatory Commission? | No |
| 10. Is another federal, state, tribe or local government environmental cleanup program other than site assessment actively involved with the site (e.g., state voluntary cleanup program)? | No |
| 11. Is there sufficient documentation or evidence that demonstrates there is no likelihood of a significant release that could cause adverse environmental or human health impacts? | No |
| 12. Are there OTHER site-specific situations or factors that warrant further CERCLA remedial/integrated assessment or response? | No |

US EPA Pre-CERCLA Checklist/Decision Form OLEM 9355.1-119, February 2018.

Current version of the PCS checklist and additional information is available at:

<https://www.epa.gov/superfund/pre-cercla-screening>.

Preparer's Recommendation

Preparer's Recommendation: Refer to EPA Removal Program for further consideration

Please explain recommendation below: The mine/waste area is located within and surrounded by several residential properties. A picnic table and fire ring were observed on the waste pile and the area is actively used by nearby residents. The waste pile is a denuded pile, flat on the top portion, and elevated above the adjacent residential homes; one home is above the pile. Pathways leading to the flat top portion of the pile are present from several of the residential properties.

Total arsenic concentrations observed in XRF measurements at individual locations on the pile ranged from 94 mg/kg to 980 mg/kg, and analytical results from a composite sample of waste material (485 mg/kg) indicate that arsenic is detected significantly above background and 100 times greater than the EPA Industrial RSL. Total lead XRF measurements of the waste area included 24 XRF locations, all were reported well below EPA Residential RSLs; The total lead laboratory result for the composite waste soil sample was reported at 99.2 mg/kg, also below the Residential RSL and slightly above 3x background concentration of 31.6 mg/kg.

No draining or standing water was observed at the site, however, along the dirt driveway below the pile an apparent incised drainage channel exists in the Sweet Home drainage area. No water was present in the channel and no water samples were collected at this site.

Arsenic was detected in the waste pile area with concentrations in soil/waste over 100 times greater than EPA Residential and Industrial RSLs. The top of the waste pile appears to have active use by the adjacent residences. No water was observed at the site, but it appears that intermittent run off from the piles may contribute to a drainage channel located at the base of the pile. Because of the high potential to exposures this is being referred to EPA Removal Program for further consideration.

Site Assessor's Name: Jean Wyatt

Date: May 28, 2021

EPA Regional Review and Pre-CERCLA Screening Decision

EPAs Recommendation: Refer to EPA Removal Program for further consideration.

Add site to the Superfund active site inventory for completion of a:

- ☐ Standard/full preliminary assessment (PA)
- ☐ Abbreviated preliminary assessment (APA)
- ☐ Combined Preliminary Assessment/Site Inspection (PA/SI)
- ☐ Integrated Removal Assessment and Preliminary Assessment
- ☐ Integrated Removal Assessment and Combined PA/SI
- ☒ Other Description – Refer to EPA Removal Program

Do not add site to the Superfund active site inventory. Site is:

- ☐ Not a valid site or incident
- ☐ Refer to/being addressed by EPA's Removal Program
- ☐ Refer to/being addressed by a State cleanup program
- ☐ Refer to/being addressed by Tribal cleanup program
- ☐ Refer to/being addressed under Resource Conservation and Recovery Act (RCRA)
- ☐ Refer to/being addressed by the Nuclear Regulatory Commission (NRC)
- ☐ Other Description

EPA Region 8 Approver's Name: Jean Wyatt

EPA Region 8 Approver's Signature:

:

Site Location



Photographs



Upper Sweet Home: Overview from driveway



Upper Sweet Home: Remnant equipment/debris with picnic table



Upper Sweet Home: Mine pile MP-01 lobe with residence in background



Upper Sweet Home: Looking uphill from MP-01 at foundation with residence in background



Residence below MP-02



MP-01 on left/MP-02 on right from road (foundation in background)



Trail area above waste area



Waste pile 01 with residential property below

Upper Sweet Home Mine Boulder County, Colorado

Attachment B: Pre-CERCLA Sampling and Analysis Summary

Table A.4. 2021 Pre-CERCLA Screening Colorado Draining/Abandoned Mines Upper Sweet Home Mine Sampling Analytical and Field Data Results

No Surface Water Samples Collected at Upper Sweet Home Mine

| Mine Waste and Surface Soil | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|-----------------------------|--------------------------|--------|-------------|-------------|----------|----------|---------|--------|-----------|---------|---------|----------|---------|--------|----------|--------|-----------|-----------|---------|------------|--------|-----------|----------|--------------|---------|--------|----------|---------|----------|--------|
| Location ID | Analysis | Matrix | Sample Date | Sample Time | Aluminum | Antimony | Arsenic | Barium | Beryllium | Cadmium | Calcium | Chromium | Cobalt | Copper | Iron | Lead | Magnesium | Manganese | Mercury | Molybdenum | Nickel | Potassium | Selenium | Silica (SiO2 | Silver | Sodium | Thallium | Uranium | Vanadium | Zinc |
| | | | | | mg/kg | mg/kg | mg/kg | mg/kg | mg/kg | mg/kg | mg/kg | mg/kg | mg/kg | mg/kg | mg/kg | mg/kg | mg/kg | mg/kg | mg/kg | mg/kg | mg/kg | mg/kg | mg/kg | mg/kg | mg/kg | mg/kg | mg/kg | mg/kg | mg/kg | mg/kg |
| USHM-SO-MP01-01 | Total Recoverable Metals | Soil | 5/28/2021 | 11:50 | 2300 D | 2.85 D | 485 D | 81.6 D | <0.999 U | 0.454 D | 1830 D | 17.6 BD | 7.99 BD | 17 D | 32500 JD | 99.2 D | 1850 D | 278 D | 0.47 D | 1.77 D | 17.5 D | 3070 D | <1.5 U | 2940 D | 3.65 D | 174 JD | 2.8 D | 3.35 D | 16 D | 60.7 D |
| USHM-SO-MP02-01 | Total Recoverable Metals | Soil | 5/28/2021 | 12:20 | 2500 D | 3.46 D | 451 D | 75.9 D | <1.00 U | 0.315 D | 1720 D | 12.2 BD | 8.42 BD | 15.7 D | 27600 JD | 87.2 D | 1840 D | 259 D | 0.38 D | 1.96 D | 15.2 D | 2610 D | <1.5 U | 2830 D | 3.07 D | <125 U | 3.52 D | 5.29 D | 13.7 D | 53.8 D |
| USHM-SO-BKG-01 | Total Recoverable Metals | Soil | 5/28/2021 | 12:30 | 6080 D | <0.25 U | 14.1 D | 117 D | <1.00 U | 0.42 D | 2900 D | 23 BD | 7.24 BD | 11.4 D | 11400 JD | 31.6 D | 4770 D | 382 D | <0.05 U | <0.5 U | 19.2 D | 3610 D | <0.75 U | 5580 D | <0.25 U | <125 U | <0.5 U | 0.896 D | 22 D | 50.3 D |

D = Sample diluted prior to analysis; reported result is for undiluted sample
U = Laboratory analysis indicates that the analyte was undetected at the concentration shown
J = Laboratory quality control review indicates that this result is considered estimated

| Soil Synthetic Precipitation Leaching Procedure (SPLP) Leachate | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|----------|----------|-------------|-------------|----------|----------|---------|--------|-----------|---------|---------|----------|--------|--------|----------|------|-----------|-----------|--------|-----------|----------|---------|--------|----------|----------|------|------|
| Location ID | Analysis | Matrix | Sample Date | Sample Time | Aluminum | Antimony | Arsenic | Barium | Beryllium | Cadmium | Calcium | Chromium | Cobalt | Copper | Iron | Lead | Magnesium | Manganese | Nickel | Potassium | Selenium | Silver | Sodium | Thallium | Vanadium | Zinc | |
| | | | | | µg/L | µg/L | µg/L | µg/L | µg/L | µg/L | µg/L | µg/L | µg/L | µg/L | µg/L | µg/L | µg/L | µg/L | µg/L | µg/L | µg/L | µg/L | µg/L | µg/L | µg/L | µg/L | µg/L |
| USHM-SO-MP01-01 | SPLP | Leachate | 5/28/2021 | 11:50 | 3300 | <7.7 U | 190 | 66 J | <0.53 U | 3.3 J | 1600 J | 11 | <7 U | <3.8 U | 13000 J+ | 36 | <770 U | 56 | <6 U | 3300 J | <8.9 U | 1.6 J | 19000 | <5.7 U | 12 J | 23 J | |
| USHM-SO-MP02-01 | SPLP | Leachate | 5/28/2021 | 12:20 | 1600 | <7.7 U | 79 | 39 J | <0.53 U | 1.3 J | 2100 J | 3.4 J | <7 U | <3.8 U | 5000 J+ | 16 | <770 U | 180 | <6 U | 3700 J | <8.9 U | <0.88 U | 4100 J | <5.7 U | <5.9 U | 18 J | |

U = Laboratory analysis indicates that the analyte was undetected at the concentration shown
J = Laboratory quality control review indicates that this result is considered estimated
J+ = Laboratory quality control review indicates that this result is considered estimated and biased high

| Soil Toxicity Characteristic Leaching Procedure (TCLP) Leachate | | | | | | | | | | | | |
|---|----------|----------|-------------|-------------|-----------------|----------------|-----------------|------------------|--------------|-------------------|------------------|----------------|
| Location ID | Analysis | Matrix | Sample Date | Sample Time | Arsenic µg/L | Barium µg/L | Cadmium µg/L | Chromium µg/L | Lead µg/L | Manganese µg/L | Selenium µg/L | Silver µg/L |
| USHM-SO-MP01-01 | TCLP | Leachate | 5/28/2021 | 11:50 | 17 | 150 J | 2.2 J | <3.2 U | <3.6 U | <0.032 U | <8.9 U | <0.88 U |
| USHM-SO-MP02-01 | TCLP | Leachate | 5/28/2021 | 12:20 | 11 | 67 J | 1.9 J | <3.2 U | <3.6 U | <0.032 U | <8.9 U | <0.88 U |

U = Laboratory analysis indicates that the analyte was undetected at the concentration shown
J = Laboratory quality control review indicates that this result is considered estimated

| X-Ray Fluorescence (XRF) Spectrometry Soil Survey Results | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|----------------------|-----------|-------------|-----------|-------|-------|------|--------|------|--------|------|--------|-------|--------|------|--------|------|--------|------|--------|-----|--------|-----|--------|------|--------|-----|--------|
| Mine Name | XRF Sample ID | Latitude | Longitude | Date | Time | Units | Ti | Ti +/- | Cr | Cr +/- | Mn | Mn +/- | Fe | Fe +/- | Co | Co +/- | Ni | Ni +/- | Cu | Cu +/- | Zn | Zn +/- | As | As +/- | Se | Se +/- | Rb | Rb +/- |
| Upper Sweet Home | USHM-SO-MP01-01-X001 | 40.059411 | -105.371968 | 5/28/2021 | 11:09 | mg/kg | 4362 | 503 | <LOD | 160 | <LOD | 193 | 42072 | 529 | <LOD | 241 | <LOD | 61 | 66 | 11 | 181 | 10 | 251 | 9 | 12 | 2 | 275 | 6 |
| Upper Sweet Home | USHM-SO-MP01-01-X002 | 40.059402 | -105.372059 | 5/28/2021 | 11:11 | mg/kg | 3254 | 405 | <LOD | 118 | 153 | 48 | 18814 | 249 | <LOD | 150 | <LOD | 48 | <LOD | 27 | 81 | 7 | 223 | 7 | 9 | 2 | 266 | 5 |
| Upper Sweet Home | USHM-SO-MP01-01-X003 | 40.059325 | -105.372042 | 5/28/2021 | 11:13 | mg/kg | 4725 | 510 | <LOD | 154 | 340 | 72 | 50418 | 609 | <LOD | 256 | <LOD | 60 | 38 | 10 | 98 | 8 | 224 | 8 | 14 | 2 | 236 | 5 |
| Upper Sweet Home | USHM-SO-MP01-01-X004 | 40.059309 | -105.372013 | 5/28/2021 | 11:14 | mg/kg | 4417 | 468 | <LOD | 137 | 187 | 61 | 37857 | 460 | <LOD | 220 | <LOD | 56 | 36 | 10 | 106 | 8 | 260 | 8 | 6 | 2 | 202 | 4 |
| Upper Sweet Home | USHM-SO-MP01-01-X005 | 40.059295 | -105.371862 | 5/28/2021 | 11:17 | mg/kg | 3768 | 461 | <LOD | 126 | <LOD | 151 | 25697 | 333 | <LOD | 176 | <LOD | 50 | <LOD | 27 | 46 | 6 | 172 | 7 | <LOD | 5 | 322 | 6 |
| Upper Sweet Home | USHM-SO-MP01-01-X006 | 40.059253 | -105.371724 | 5/28/2021 | 11:19 | mg/kg | 4044 | 461 | <LOD | 153 | <LOD | 187 | 41732 | 503 | <LOD | 230 | <LOD | 58 | <LOD | 28 | 64 | 6 | 321 | 9 | <LOD | 5 | 254 | 5 |
| Upper Sweet Home | USHM-SO-MP01-01-X007 | 40.059325 | -105.371653 | 5/28/2021 | 11:21 | mg/kg | 2890 | 463 | <LOD | 158 | 430 | 73 | 41539 | 529 | <LOD | 242 | <LOD | 60 | <LOD | 31 | 108 | 8 | 367 | 10 | <LOD | 4 | 193 | 5 |
| Upper Sweet Home | USHM-SO-MP01-01-X008 | 40.059382 | -105.371568 | 5/28/2021 | 11:24 | mg/kg | 4090 | 444 | <LOD | 142 | <LOD | 174 | 35965 | 430 | <LOD | 206 | <LOD | 52 | <LOD | 28 | 93 | 7 | 348 | 10 | <LOD | 4 | 227 | 5 |
| Upper Sweet Home | USHM-SO-MP01-01-X009 | 40.059466 | -105.371527 | 5/28/2021 | 11:26 | mg/kg | 3964 | 440 | <LOD | 136 | <LOD | 172 | 34470 | 415 | <LOD | 200 | <LOD | 51 | <LOD | 27 | 39 | 5 | 368 | 9 | <LOD | 4 | 243 | 5 |
| Upper Sweet Home | USHM-SO-MP01-01-X010 | 40.059563 | -105.371576 | 5/28/2021 | 11:28 | mg/kg | 4256 | 469 | 164 | 52 | 233 | 65 | 43537 | 514 | <LOD | 229 | <LOD | 54 | 29 | 10 | 75 | 7 | 219 | 7 | <LOD | 4 | 175 | 4 |
| Upper Sweet Home | USHM-SO-MP01-01-X011 | 40.059596 | -105.371620 | 5/28/2021 | 11:31 | mg/kg | 7746 | 613 | 231 | 64 | 797 | 92 | 66966 | 813 | 447 | 104 | <LOD | 71 | 38 | 11 | 165 | 10 | 273 | 9 | <LOD | 5 | 193 | 5 |
| Upper Sweet Home | USHM-SO-MP01-01-X012 | 40.059604 | -105.371704 | 5/28/2021 | 11:33 | mg/kg | 4191 | 481 | <LOD | 146 | 218 | 61 | 33084 | 415 | <LOD | 206 | <LOD | 53 | <LOD | 28 | 129 | 8 | 340 | 11 | <LOD | 4 | 244 | 5 |
| Upper Sweet Home | USHM-SO-MP01-01-X013 | 40.059541 | -105.371821 | 5/28/2021 | 11:35 | mg/kg | 4008 | 425 | <LOD | 128 | <LOD | 123 | 13846 | 201 | <LOD | 133 | <LOD | 44 | <LOD | 27 | 58 | 6 | 90 | 8 | <LOD | 5 | 294 | 6 |
| Upper Sweet Home | USHM-SO-MP01-01-X014 | 40.059449 | -105.371776 | 5/28/2021 | 11:39 | mg/kg | 3519 | 372 | <LOD | 110 | <LOD | 114 | 10127 | 154 | <LOD | 110 | <LOD | 41 | <LOD | 25 | 58 | 6 | 118 | 5 | <LOD | 4 | 376 | 6 |
| Upper Sweet Home | USHM-SO-MP01-01-X015 | 40.059470 | -105.371948 | 5/28/2021 | 11:42 | mg/kg | 5056 | 546 | <LOD | 180 | <LOD | 230 | 62555 | 766 | <LOD | 295 | <LOD | 66 | <LOD | 32 | 76 | 7 | 671 | 14 | <LOD | 5 | 343 | 7 |
| Upper Sweet Home | USHM-SO-MP02-01-X001 | 40.058974 | -105.372410 | 5/28/2021 | 11:57 | mg/kg | 5124 | 489 | <LOD | 142 | 214 | 61 | 36608 | 441 | <LOD | 211 | <LOD | 56 | 52 | 10 | 134 | 8 | 396 | 10 | <LOD | 5 | 227 | 5 |
| Upper Sweet Home | USHM-SO-MP02-01-X002 | 40.058975 | -105.372540 | 5/28/2021 | 12:00 | mg/kg | 6154 | 529 | <LOD | 158 | 423 | 74 | 51734 | 613 | <LOD | 254 | 110 | 22 | 42 | 11 | 138 | 9 | 274 | 8 | <LOD | 4 | 112 | 3 |
| Upper Sweet Home | USHM-SO-MP02-01-X003 | 40.058772 | -105.372632 | 5/28/2021 | 12:02 | mg/kg | 6134 | 508 | <LOD | 135 | <LOD | 160 | 24457 | 326 | <LOD | 182 | <LOD | 51 | <LOD | 27 | 35 | 6 | 980 | 17 | <LOD | 5 | 360 | 7 |
| Upper Sweet Home | USHM-SO-MP02-01-X004 | 40.058681 | -105.372717 | 5/28/2021 | 12:04 | mg/kg | 5295 | 467 | 376 | 49 | <LOD | 122 | 9240 | 144 | <LOD | 105 | 46 | 15 | <LOD | 26 | 24 | 5 | 120 | 6 | <LOD | 4 | 399 | 7 |
| Upper Sweet Home | USHM-SO-MP02-01-X005 | 40.058613 | -105.372792 | 5/28/2021 | 12:06 | mg/kg | 3671 | 441 | <LOD | 133 | <LOD | 150 | 24650 | 325 | <LOD | 176 | <LOD | 50 | <LOD | 27 | 28 | 5 | 173 | 7 | <LOD | 4 | 256 | 5 |
| Upper Sweet Home | USHM-SO-MP02-01-X006 | 40.059007 | -105.372303 | 5/28/2021 | 12:09 | mg/kg | 3439 | 451 | <LOD | 140 | 1266 | 83 | 39529 | 470 | 287 | 74 | <LOD | 57 | <LOD | 27 | 135 | 8 | 257 | 7 | <LOD | 4 | 155 | 4 |
| Upper Sweet Home | USHM-SO-MP02-01-X007 | 40.059066 | -105.372226 | 5/28/2021 | 12:12 | mg/kg | 6348 | 532 | <LOD | 154 | 1116 | 84 | 44857 | 535 | <LOD | 238 | <LOD | 61 | 35 | 10 | 192 | 10 | 94 | 5 | <LOD | 4 | 185 | 4 |
| Upper Sweet Home | USHM-SO-MP02-01-X008 | 40.059105 | -105.372198 | 5/28/2021 | 12:12 | mg/kg | 3984 | 431 | <LOD | 134 | <LOD | 160 | 31753 | 381 | <LOD | 192 | <LOD | 51 | 38 | 10 | 124 | 8 | 251 | 7 | 7 | 2 | 276 | 5 |
| Upper Sweet Home | USHM-SO-MP02-01-X009 | 40.059211 | -105.372149 | 5/28/2021 | 12:20 | mg/kg | <LOD | 1144 | <LOD | 129 | 387 | 63 | 32716 | 410 | <LOD | 199 | 77 | 19 | <LOD | 27 | 101 | 7 | 174 | 7 | <LOD | 5 | 268 | 5 |

| X-Ray Fluorescence (XRF) Spectrometry Soil Survey Results Continued | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|----------------------|-----------|-------------|-----------|-------|-------|-----|--------|-----|--------|------|--------|------|--------|------|--------|------|--------|------|--------|------|--------|------|--------|-----|--------|--|
| Mine Name | XRF Sample ID | Latitude | Longitude | Date | Time | Units | Sr | Sr +/- | Zr | Zr +/- | Mo | Mo +/- | Ag | Ag +/- | Cd | Cd +/- | Sn | Sn +/- | Sb | Sb +/- | Ba | Ba +/- | Hg | Hg +/- | Pb | Pb +/- | |
| Upper Sweet Home | USHM-SO-MP01-01-X001 | 40.059411 | -105.371968 | 5/28/2021 | 11:09 | mg/kg | 252 | 5 | 294 | 6 | 15 | 3 | <LOD | 39 | <LOD | 46 | <LOD | 74 | <LOD | 82 | <LOD | 668 | 172 | 10 | 95 | 6 | |
| Upper Sweet Home | USHM-SO-MP01-01-X002 | 40.059402 | -105.372059 | 5/28/2021 | 11:11 | mg/kg | 221 | 5 | 266 | 5 | <LOD | 9 | <LOD | 36 | <LOD | 43 | <LOD | 69 | <LOD | 76 | 620 | 181 | 78 | 7 | 44 | 5 | |
| Upper Sweet Home | USHM-SO-MP01-01-X003 | 40.059325 | -105.372042 | 5/28/2021 | 11:13 | mg/kg | 163 | 4 | 184 | 4 | <LOD | 9 | <LOD | 38 | <LOD | 45 | <LOD | 72 | <LOD | 80 | <LOD | 672 | 108 | 8 | 48 | 5 | |
| Upper Sweet Home | USHM-SO-MP01-01-X004 | 40.059309 | -105.372013 | 5/28/2021 | 11:14 | mg/kg | 200 | 4 | 212 | 4 | <LOD | 9 | <LOD | 37 | <LOD | 44 | <LOD | 72 | <LOD | 78 | <LOD | 612 | 55 | 6 | 29 | 4 | |
| Upper Sweet Home | USHM-SO-MP01-01-X005 | 40.059295 | -105.371862 | 5/28/2021 | 11:17 | mg/kg | 225 | 5 | 129 | 4 | <LOD | 9 | <LOD | 38 | <LOD | 45 | <LOD | 72 | <LOD | 80 | 1008 | 209 | 32 | 5 | 60 | 5 | |
| Upper Sweet Home | USHM-SO-MP01-01-X006 | 40.059253 | -105.371724 | 5/28/2021 | 11:19 | mg/kg | 197 | 4 | 138 | 4 | <LOD | 9 | <LOD | 38 | <LOD | 45 | <LOD | 73 | <LOD | 80 | <LOD | 603 | 32 | 6 | 72 | 5 | |
| Upper Sweet Home | USHM-SO-MP01-01-X007 | 40.059325 | -105.371653 | 5/28/2021 | 11:21 | mg/kg | 284 | 6 | 257 | 5 | 15 | 3 | <LOD | 39 | <LOD | 46 | <LOD | 74 | <LOD | 81 | <LOD | 632 | <LOD | 15 | 72 | 6 | |
| Upper Sweet Home | USHM-SO-MP01-01-X008 | 40.059382 | -105.371568 | 5/28/2021 | 11:24 | mg/kg | 265 | 5 | 128 | 4 | 10 | 3 | <LOD | 36 | <LOD | 43 | <LOD | 69 | <LOD | 76 | <LOD | 580 | 15 | 5 | 182 | 8 | |
| Upper Sweet Home | USHM-SO-MP01-01-X009 | 40.059466 | -105.371527 | 5/28/2021 | 11:26 | mg/kg | 165 | 4 | 102 | 3 | <LOD | 9 | <LOD | 37 | <LOD | 43 | <LOD | 70 | <LOD | 77 | <LOD | 576 | <LOD | 14 | 60 | 5 | |
| Upper Sweet Home | USHM-SO-MP01-01-X010 | 40.059563 | -105.371576 | 5/28/2021 | 11:28 | mg/kg | 234 | 5 | 146 | 4 | <LOD | 9 | <LOD | 37 | <LOD | 43 | <LOD | 70 | <LOD | 77 | <LOD | 621 | <LOD | 13 | 75 | 5 | |
| Upper Sweet Home | USHM-SO-MP01-01-X011 | 40.059596 | -105.371620 | 5/28/2021 | 11:31 | mg/kg | 221 | 5 | 424 | 7 | 14 | 4 | <LOD | 40 | <LOD | 47 | <LOD | 76 | <LOD | 83 | <LOD | 774 | <LOD | 15 | 59 | 5 | |
| Upper Sweet Home | USHM-SO-MP01-01-X012 | 40.059604 | -105.371704 | 5/28/2021 | 11:33 | mg/kg | 206 | 5 | 171 | 4 | 14 | 3 | <LOD | 38 | <LOD | 45 | <LOD | 72 | <LOD | 80 | 869 | 215 | <LOD | 15 | 256 | 9 | |
| Upper Sweet Home | USHM-SO-MP01-01-X013 | 40.059541 | -105.371821 | 5/28/2021 | 11:35 | mg/kg | 788 | 11 | 467 | 7 | 17 | 3 | <LOD | 37 | <LOD | 43 | <LOD | 70 | <LOD | 76 | <LOD | 554 | 22 | 5 | 327 | 10 | |
| Upper Sweet Home | USHM-SO-MP01-01-X014 | 40.059449 | -105.371776 | 5/28/2021 | 11:39 | mg/kg | 130 | 3 | 230 | 4 | <LOD | 9 | <LOD | 35 | <LOD | 42 | <LOD | 68 | <LOD | 75 | <LOD | 473 | 15 | 4 | 40 | 4 | |
| Upper Sweet Home | USHM-SO-MP01-01-X015 | 40.059470 | -105.371948 | 5/28/2021 | 11:42 | mg/kg | 210 | 5 | 185 | 4 | <LOD | 10 | <LOD | 40 | <LOD | 47 | <LOD | 77 | <LOD | 84 | <LOD | 714 | <LOD | 16 | 42 | 5 | |
| Upper Sweet Home | USHM-SO-MP02-01-X001 | 40.058974 | -105.372410 | 5/28/2021 | 11:57 | mg/kg | 331 | 6 | 269 | 5 | <LOD | 9 | <LOD | 37 | <LOD | 44 | <LOD | 71 | <LOD | 78 | 718 | 213 | <LOD | 14 | 65 | 5 | |
| Upper Sweet Home | USHM-SO-MP02-01-X002 | 40.058975 | -105.372540 | 5/28/2021 | 12:00 | mg/kg | 400 | 7 | 177 | 4 | <LOD | 9 | <LOD | 38 | <LOD | 45 | <LOD | 73 | <LOD | 80 | <LOD | 673 | <LOD | 13 | 23 | 4 | |
| Upper Sweet Home | USHM-SO-MP02-01-X003 | 40.058772 | -105.372632 | 5/28/2021 | 12:02 | mg/kg | 185 | 4 | 319 | 6 | <LOD | 10 | <LOD | 38 | <LOD | 45 | <LOD | 73 | <LOD | 80 | <LOD | 638 | <LOD | 17 | 33 | 5 | |
| Upper Sweet Home | USHM-SO-MP02-01-X004 | 40.058681 | -105.372717 | 5/28/2021 | 12:04 | mg/kg | 245 | 5 | 291 | 5 | 11 | 3 | <LOD | 35 | <LOD | 42 | <LOD | 69 | <LOD | 75 | 1400 | 207 | 30 | 5 | 59 | 5 | |
| Upper Sweet Home | USHM-SO-MP02-01-X005 | 40.058613 | -105.372792 | 5/28/2021 | 12:06 | mg/kg | 243 | 5 | 153 | 4 | <LOD | 9 | <LOD | 38 | <LOD | 46 | <LOD | 74 | <LOD | 81 | <LOD | 583 | <LOD | 13 | 73 | 5 | |
| Upper Sweet Home | USHM-SO-MP02-01-X006 | 40.059007 | -105.372303 | 5/28/2021 | 12:09 | mg/kg | 203 | 4 | 132 | 4 | 9 | 3 | <LOD | 37 | <LOD | 44 | <LOD | 70 | <LOD | 77 | 725 | 204 | 23 | 5 | 31 | 4 | |
| Upper Sweet Home | USHM-SO-MP02-01-X007 | 40.059066 | -105.372226 | 5/28/2021 | 12:12 | mg/kg | 185 | 4 | 230 | 5 | <LOD | 9 | <LOD | 37 | <LOD | 45 | 76 | 24 | <LOD | 78 | 724 | 227 | 42 | 6 | 26 | 4 | |
| Upper Sweet Home | USHM-SO-MP02-01-X008 | 40.059105 | -105.372198 | 5/28/2021 | 12:12 | mg/kg | 147 | 4 | 155 | 4 | <LOD | 9 | <LOD | 36 | <LOD | 42 | <LOD | 69 | <LOD | 75 | <LOD | 564 | 50 | 6 | 33 | 4 | |
| Upper Sweet Home | USHM-SO-MP02-01-X009 | 40.059211 | -105.372149 | 5/28/2021 | 12:20 | mg/kg | 183 | 4 | 79 | 3 | <LOD | 9 | <LOD | 37 | <LOD | 44 | <LOD | 71 | <LOD | 78 | <LOD | 551 | 38 | 6 | 57 | 5 | |

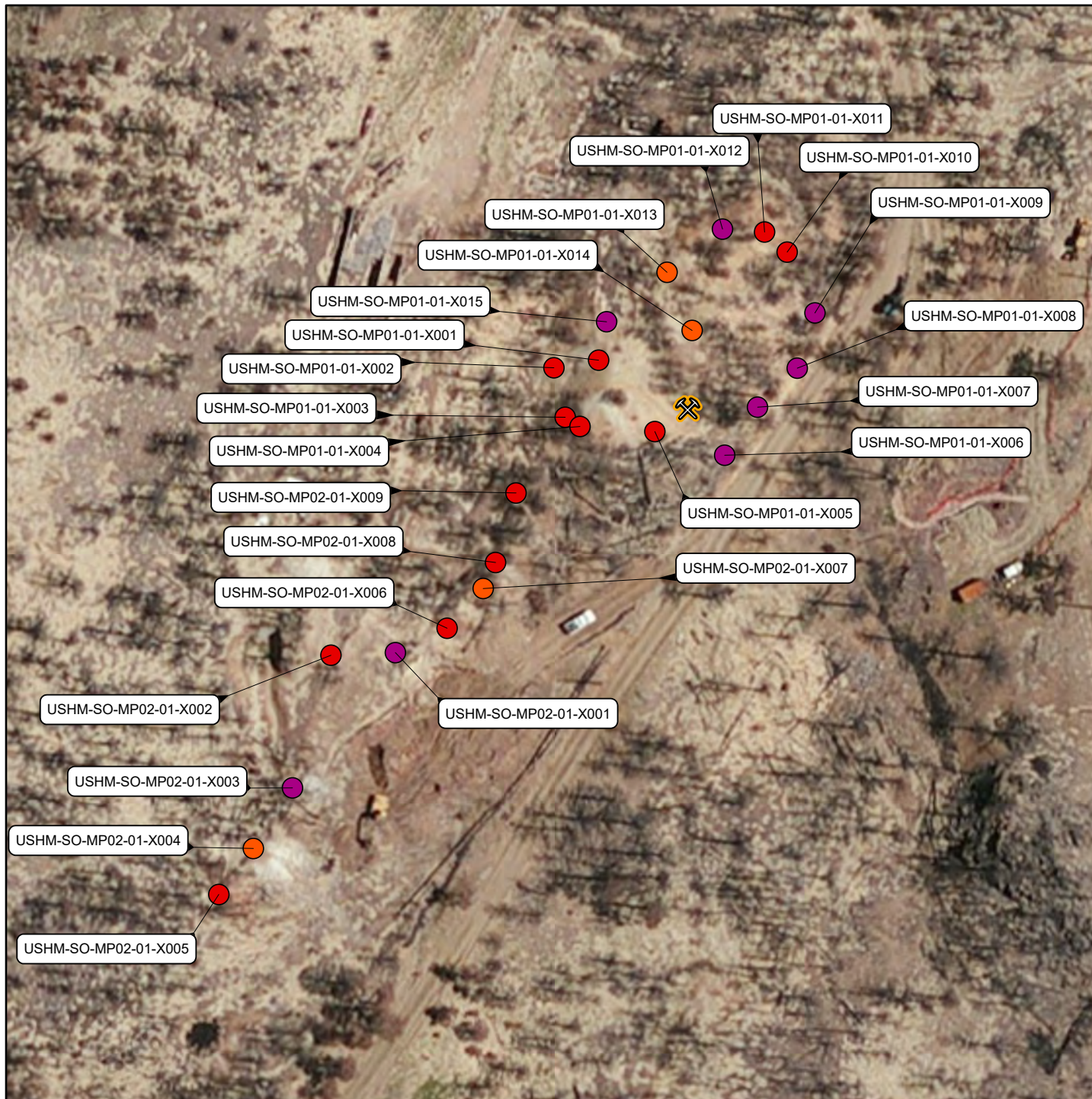


Figure A.6
Upper Sweet Home Mine
 Fourmile Creek Watershed
 Boulder County, Colorado

2021 Pre-CERCLA Screening
Colorado Draining/Abandoned Mines
XRF Survey - Arsenic Results
(mg/kg)

Survey Date: 5/28/2021

Arsenic - EPA Regional Screening Levels (RSLs)*

Arsenic Residential Soil RSL: 0.68 mg/kg

Arsenic Industrial Soil RSL: 3.0 mg/kg

*<https://www.epa.gov/risk/regional-screening-levels-rsls-generic-tables>

- < Instrument Level of Detection (LOD)
- > Residential and Industrial RSL
- > Residential and 10x Industrial RSL
- > Residential and 50x Industrial RSL
- > Residential and 100x Industrial RSL
- ⚡ Upper Sweet Home Mine



Spatial Reference:
 Coordinate System: WGS 1984 Web Mercator Auxiliary Sphere
 Projection: Mercator Auxiliary Sphere
 Datum: WGS 1984

Source:
 Background: ESRI World Imagery (2021)
 XRF locations and results are presented in Attachment xx as provided by EPA Region 8 ESAT (TechLaw - 2021)
 XRF Instrumentation Make: Innov-X-Systems, Model: α-4000 S, Serial Number: 6480

Prepared For:
 US EPA Region 8
 1595 Wynkoop Street
 Denver, CO

Prepared By:
 Tetra Tech
 1560 Broadway Ste 1400
 Denver, CO



TO/TD:
 2083-2109-08

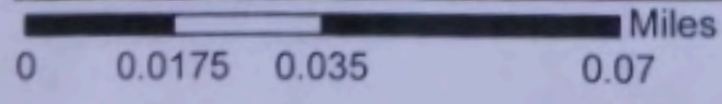
Contract:
 68HE0820D0001

Date:
 11/23/2021

Applicant's BLM Easement Illustration



Source: Esri, Maxar, Earthstar Geographics, and t



6th Principal Meridian
T. 1N., R. 71W., sec. 8.

2022-0019-CX

- COC-80634_Well
- COC-80634_PowerLine
- COC-80634_Driveway
- BLM_Ells
- Bureau of Land Management
- First Division (Sections)



NOTE TO MAP USERS
No warrantee is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of the data layers shown on this map. The official land records of the data providers should be checked or current status on any specific tract of land.

**6301 SUNSHINE CANYON DR.
BOARD OF ADJUSTMENT (BOA) HARDSHIP STATEMENT**

A. There exists exceptional or extraordinary physical circumstances of the subject property such as irregularity, narrowness, shallowness, or slope.

The existing foundation was built on a 50' wide mining claim, which had a variance for the setbacks from when the house was originally built in 1986. Since the subject property consists of former mining claims it is both irregular and narrow. Also, the property is on a steep slope (typically between 45°- 60°), except for where the original house and driveway are located. The only other portion of the site which has a lower slope is within 50' of County Road 52 and is not feasible for building a new residence (see "B" below).

After the 2010 Fourmile Fire, rebuilding regulations adopted by the County would have allowed the owner to rebuild an existing structure without a variance until 2012, with an option to extend until 2014. The owner was not financially ready to rebuild during this period. Due to the trauma of losing his home in the Fourmile Fire, the owner has also not been emotionally ready to rebuild until the present time.

The owner is currently supporting mining reclamation efforts on the property. The Fourmile Watershed Coalition, EPA, Colorado Department of Reclamation, Mining, and Safety, and other agencies have been taking mine waste soil samples on a portion of the property east of the existing foundation. They have been and will be continuing to investigate and evaluate hazardous substances, pollutants, and contaminants, and will need continued access to the property for the next several years (see attached letter). They are also re-contouring the land back to the original contours before the mining occurred. The owner intends to retain this area as open space. This region also contains an 8' diameter former mine shaft which has been plugged with foam- see site plan.

One additional irregular feature of the site is a 12' high rock cliff which is 2' east of the property line, along the back wall of the proposed storage area addition.

Lastly, the BOA has expressed interest in extending their authority under this Criteria A to consider environmental impacts of disturbing additional land, requiring applicants to do things that are more costly to them and their neighborhood, and to the physical environment. A variance will allow the owner to do what is most practical and environmentally sensitive, ensuring the existing foundation structure, septic system/ leach field, well, and utility connections will be utilized. Without a variance, these resources will be completely wasted, resulting in the owner being allowed to build only a new structure on part of the property that previously had no development. This will create an exponentially larger disturbance to the environment, the land, and the neighborhood, and require a much greater financial cost as well.

B. Because of these physical circumstances, the strict application of this Code would create an exceptional or undue hardship upon the property owner.

The strict application of the code would not allow the owner to rebuild a smaller version of the original house that burned down in the 2010 Fourmile Fire due to setback encroachments. 25' side setbacks on a lot that is 50' wide leaves no buildable area on the property. This is why a variance was given in 1986 for 8' side setbacks for the construction of the original 47' wide

house (destroyed in the fire). This current variance would be aligned with the original variance to allow greatly reduced setbacks.

The general purpose of setbacks is to ensure one building does not infringe on another property's/ building's right to sunlight, ventilation, greenery and vehicular access. In this case, the properties adjacent to the existing house site are owned by the BLM. There will never be a possibility of building occurring on them, so the owner rebuilding on the site of his original home with a reduced side setback will have no practical adverse effect on neighboring properties.

Also, there are no other feasible portions of the site to build on due to the physical circumstances mentioned in "A" above. Locating a new residence on the flatter area within 50' of County Road 52 has a number of disadvantages. Most importantly, it is hazardous due to dust from the road potentially containing heavy metals and other contaminants from mining tailings. This area is also less private, and prone to headlights from cars shining into the house at night. Also, County Road 85 runs through this part of the property. The width of the right-of-way is 60 feet, which means any structures would need to be at least 45 feet away from the centerline to meet the 15-foot front setback requirement from the edge of the right-of-way. Thus, the flatter area could still not be built upon without violating setback requirements.

Regarding wildfire mitigation, there are no wildfire fuels on the property, or within 30' of the property line and further out on any neighboring properties due to the Fourmile Fire.

C. The hardship is not self-imposed.

The hardships are completely due to the physical circumstances of the site mentioned above, and the infeasibility of building within 50' of County Road 52.

D. The variance, if granted, will not adversely affect the use of adjacent property as permitted under this Code.

The majority of adjacent property is BLM land, and the owner sent a certified letter to the BLM 4 years ago to inquire about them selling the two lots to the east and west of property. The BLM's response indicated that they do not have the personnel to dispose of the lots, so by default there will not be any future building on these lots. Additionally, the neighbor to west has a ROW for the driveway on their lot (BLM lot #163).

The owner has applied for ROW easements on the lots to the east and west of property. The easement on the east side of the existing foundation has been granted, and is for the existing well and driveway. The easement on the west side is for a 10' wide area where the soil was disturbed when the foundation was backfilled.

A 2018 Boundary Line Adjustment with the neighbor to the north functioned to give the owner legal access to the existing driveway. Boulder County's policy at the time prohibited acquiring property to add to the existing property in order to make a better building site, so this was not a goal of the Boundary Line Adjustment.

The closest neighboring structure, a single family residence, is more than 500 ft away and will not be adversely affected by the rebuilding of the house. All neighboring lots that can be built upon have been, and have ROW's to prevent any further building on the lots.

E. That the variance, if granted, will not change the character of the zoning district in which the property is located, and is in keeping with the intent of this Code and the Boulder County Comprehensive Plan; and,

Rebuilding a small single family dwelling in its original location on the property is consistent with the Forestry zoning designation. The vast majority of the property will remain open space. It is also consistent with the Boulder County Comprehensive plan's emphasis on environmental preservation. The existing foundation has recently been inspected by a structural engineer who determined it to be sound for reconstruction. Reusing it avoids the need to disturb the existing landscape on other portions of the property, as no new excavation will be necessary. Reuse also conserves resources and eliminates the embodied energy in building materials that creating a new foundation would require.

Additionally, further disturbance of the site will not be necessary for utilities. The existing septic system and well are still functional and connected to the house. Reusing the existing buried electrical, phone, and internet lines which go from the existing foundation to County Road 52 will avoid the need to dig trenches for a new line.

Lastly, rebuilding on the existing foundation is consistent with the Comprehensive Plan's goal of avoiding hazardous areas of the site where the land has been destabilized and contaminated by past mining.

F. That the variance, if granted, does not adversely affect the health, safety, and welfare of the citizens of Boulder County.

There are no potential adverse health safety, and welfare effects in rebuilding the house where it stood from 1986 – 2010. As mentioned, this property had this same variance proposal approved when the original structure was built in 1986. The present hardships are identical to those that existed then.

Walker, Samuel

From: Cavaleri, Keli
Sent: Tuesday, January 31, 2023 3:41 PM
To: Walker, Samuel
Subject: FW: Re-Referral for VAR-21-0003: Ells Residence in Setback project at 6301 Sunshine Canyon Drive
Attachments: var-21-0003-re-referral-packet-red.pdf

Hi Sam,
 Parks and Open Space has reviewed this request and has no issues, or comments regarding ownership or real estate.
 Thank you for the opportunity to review and comment on this docket.

Keli Cavaleri
kcavaleri@bouldercounty.org

From: Milner, Anna <amilner@bouldercounty.org>
Sent: Tuesday, January 31, 2023 10:15 AM
To: Flax, Ron <rflax@bouldercounty.org>; #WildfireMitigation <WildfireMitigation@bouldercounty.org>; #AssessorReferral <AssessorReferral@bouldercounty.org>; #CAREferral <CAREferral@bouldercounty.org>; #CEreferral <CEreferral@bouldercounty.org>; Johnson, Curtis <cjohnson@bouldercounty.org>; Kiepe, Bob <bkiepe@bouldercounty.org>; Allshouse, Alycia <aallshouse@bouldercounty.org>; Stadele, Lee <leestadele@bouldercounty.org>; Stadele, Lee <leestadele@flagstaffsurveying.com>; Stadele, Lee <leestadele@bouldercounty.org>; Stadele, Lee <leestadele@flagstaffsurveying.com>; BDRCO@xcelenergy.com; Donna.L.George@xcelenergy.com; Vanessa McCracken <bldrvalleyandlongmontcds@gmail.com>; kberger@blm.gov; chief@sunshine-fpd.org; reginadaly01@gmail.com; bdhoneymen@gmail.com; marshal@sunshine-fpd.org; pthourihan@gmail.com; ropegun@hotmail.com; drms_info@state.co.us; Abner, Ethan <eabner@bouldercounty.org>; Hippely, Hannah <hhippely@bouldercounty.org>; Sheehan, Jack <jsheehan@bouldercounty.org>; Vaughn, Andrea <avaughn@bouldercounty.org>; Moline, Jeffrey <jmoline@bouldercounty.org>; Streng, Ernst <estrenge@bouldercounty.org>; Cavaleri, Keli <kcavaleri@bouldercounty.org>; Frederick, Summer <sfriderick@bouldercounty.org>; Goldstein, Andrew <agoldstein@bouldercounty.org>; HealthWaterQuality-EnvironmentalBP LU <HealthWQ-EnvironBPLU@bouldercounty.org>; Huebner, Michelle <mhuebner@bouldercounty.org>; Sanchez, Kimberly <ksanchez@bouldercounty.org>; Transportation Development Review <TransDevReview@bouldercounty.org>; West, Ron <rowest@bouldercounty.org>
Cc: Walker, Samuel <swalker@bouldercounty.org>
Subject: Re-Referral for VAR-21-0003: Ells Residence in Setback project at 6301 Sunshine Canyon Drive

Please find attached the electronic re-referral packet for **VAR-21-0003: Ells Residence in Setback** project at **6301 Sunshine Canyon Drive**.

Please return responses and direct any questions to [Sam Walker](#) by **February 16, 2023**. (Boulder County internal departments and agencies: Please attach the referral comments in Accela.)

Anna Milner | Admin. Lead Tech.
Boulder County Community Planning & Permitting
 Pronouns: she/her/hers
 Physical address: 2045 13th St., Boulder CO 80302
 Mailing address: PO Box 471, Boulder, CO 80306
 (720) 564-2638 (Direct)
amilner@bouldercounty.org

Service hours are 8 a.m.-4:30 p.m. Monday, Wednesday, Thursday, Friday, and 10 a.m.-4:30 p.m. Tuesday

*My core working hours are 7am-5:30pm Tues - Fri

New: Boulder County has a new website: BoulderCounty.gov! Bookmark it today. Email addresses will transition at a later date.

www.bouldercounty.gov



Walker, Samuel

From: Arnold, Melissa
Sent: Wednesday, February 1, 2023 10:38 AM
To: Walker, Samuel
Cc: Carden, Timothy; Northrup, Elizabeth (Liz)
Subject: RE: Re-Referral for VAR-21-0003: Ells Residence in Setback project at 6301 Sunshine Canyon Drive

Hi Sam,

The Conservation Easement Program does not have a comment on this docket at this time, as the proposal should not affect the nearby Correll conservation easement property.

Thanks for the opportunity to review this,

Melissa

Melissa Arnold | Land Officer
 Pronouns | she/her/hers
 Boulder County Parks & Open Space
 303.678.6266 Office
 5201 St. Vrain Road, Longmont, CO 80503
marnold@bouldercounty.org
[BoulderCounty.gov](https://www.bouldercounty.gov)

New: Boulder County has a new website: [BoulderCounty.gov](https://www.bouldercounty.gov)! Bookmark it today. Email addresses will transition at a later date.

From: Milner, Anna <amilner@bouldercounty.org>
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To: Flax, Ron <rflax@bouldercounty.org>; #WildfireMitigation <WildfireMitigation@bouldercounty.org>; #AssessorReferral <AssessorReferral@bouldercounty.org>; #CAREferral <CAREferral@bouldercounty.org>; #CEreferral <CEreferral@bouldercounty.org>; Johnson, Curtis <cjohnson@bouldercounty.org>; Kiepe, Bob <bkiepe@bouldercounty.org>; Allshouse, Alycia <aallshouse@bouldercounty.org>; Stadele, Lee <leestadele@bouldercounty.org>; Stadele, Lee <leestadele@flagstaffsurveying.com>; Stadele, Lee <leestadele@bouldercounty.org>; Stadele, Lee <leestadele@flagstaffsurveying.com>; BDRCO@xcelenergy.com; Donna.L.George@xcelenergy.com; Vanessa McCracken <bldrvalleyandlongmontcds@gmail.com>; kberger@blm.gov; chief@sunshine-fpd.org; reginadaly01@gmail.com; bdhoneymann@gmail.com; marshal@sunshine-fpd.org; pthourihan@gmail.com; ropegun@hotmail.com; drms_info@state.co.us; Abner, Ethan <eabner@bouldercounty.org>; Hippely, Hannah <hhippely@bouldercounty.org>; Sheehan, Jack <jsheehan@bouldercounty.org>; Vaughn, Andrea <avaughn@bouldercounty.org>; Moline, Jeffrey <jmoline@bouldercounty.org>; Strenge, Ernst <estrenge@bouldercounty.org>; Cavaleri, Keli <kcavaleri@bouldercounty.org>; Frederick, Summer <sfriderick@bouldercounty.org>; Goldstein, Andrew <agoldstein@bouldercounty.org>; HealthWaterQuality-EnvironmentalBP LU <HealthWQ-EnvironBPLU@bouldercounty.org>; Huebner, Michelle <mhuebner@bouldercounty.org>; Sanchez, Kimberly <ksanchez@bouldercounty.org>; Transportation Development Review <TransDevReview@bouldercounty.org>; West, Ron <rowest@bouldercounty.org>
Cc: Walker, Samuel <swalker@bouldercounty.org>
Subject: Re-Referral for VAR-21-0003: Ells Residence in Setback project at 6301 Sunshine Canyon Drive

Please find attached the electronic re-referral packet for **VAR-21-0003: Ells Residence in Setback** project at **6301 Sunshine Canyon Drive**.

Please return responses and direct any questions to [Sam Walker](#) by **February 16, 2023**. (Boulder County internal departments and agencies: Please attach the referral comments in Accela.)

Anna Milner | Admin. Lead Tech.

Boulder County Community Planning & Permitting

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www.bouldercounty.gov



**Right of Way & Permits**

1123 West 3rd Avenue
Denver, Colorado 80223
Telephone: **303.571.3306**
Facsimile: 303. 571. 3284
donna.l.george@xcelenergy.com

February 13, 2023

Boulder County Community Planning and Permitting
PO Box 471
Boulder, CO 80306

Attn: Sam Walker

Re: Ells Residence in Setback Re-Notice, Case # VAR-21-0003

Public Service Company of Colorado's (PSCo) Right of Way & Permits Referral Desk has reviewed the documentation for **Ells Residence in Setback** and has no apparent issues with the variance request, provided it does not affect any existing electric utilities.

Please be aware PSCo owns and operates existing overhead and underground electric facilities on and/or crossing the subject property and must be shown on the plan.

In relation to the proposed solar array and the overhead electric facilities, note that per the National Electric Safety Code, a minimum 10-foot radial clearance must be maintained at all times from all overhead electric facilities including, but not limited to, construction activities and permanent structures.

The property owner/developer/contractor must complete the application process for any new natural gas or electric service, or modification to existing facilities via [xcelenergy.com/InstallAndConnect](https://www.xcelenergy.com/InstallAndConnect). It is then the responsibility of the developer to contact the Designer assigned to the project for approval of design details.

As a safety precaution, PSCo would like to remind the developer to call the Utility Notification Center by dialing 811 for utility locates prior to construction.

Donna George
Right of Way and Permits
Public Service Company of Colorado dba Xcel Energy
Office: 303-571-3306 – Email: donna.l.george@xcelenergy.com

TO: Sam Walker, Community Planning & Permitting Department
FROM: Ron West, Natural Resource Planner
DATE: February 10, 2023
SUBJECT: Docket VAR-21-0003, Ells, 6301 Sunshine Canyon Drive

Staff still has no natural resource concerns with the proposal, as in the original referral memo below.

TO: Ryan Kacirek, Community Planning & Permitting Department
FROM: Ron West, Natural Resource Planner
DATE: May 25, 2021
SUBJECT: Docket VAR-21-0003, Ells, 6301 Sunshine Canyon Drive

Staff has reviewed the submitted materials, and has no particular natural resource concerns with this variance.

Walker, Samuel

From: Brooke Weathers <brooke.weathers@compass.com>
Sent: Friday, February 17, 2023 9:21 AM
To: LU Land Use Planner
Subject: [EXTERNAL] 6301 Sunshine Canyon Dr. Variance

I live at 6310 Sunshine Canyon Drive and am writing in response to the postcard received for the above. I am not in objection to the residence being built, but I do object to it being placed close to Sunshine Canyon Drive. To maintain the character of the neighborhood, it should be set back from SCD, not right next to it.

Lorrie Weathers
 6310 Sunshine Canyon Drive
 Boulder, CO 80302
 303-898-6564

From: Walker, Samuel <swalker@bouldercounty.org>
Sent: Thursday, February 16, 2023 3:53 PM
To: Jason Ruby <rubyjar@yahoo.com>
Cc: Fred J. <sunshinefred@msn.com>
Subject: RE: [EXTERNAL] 6301 Sunshine Canyon Dr. Variance

Fred & Jason,
 Glad we were able to chat this afternoon. Attached are several documents I promised, including a copy of the notification postcard that was sent out and the three additional referral responses I received from our referral agencies. Also attached is the only public comment I've received so far, which came in yesterday.

Sam Walker
 Planner II | Boulder County Community Planning & Permitting
 2045 13th Street, Boulder, CO 80302
 Ph: 720-564-2738
swalker@bouldercounty.org
 <image001.png>

<var-21-0003notification postcard.pdf>
 <BCPOS Real Estate.pdf>
 <CE Team.pdf>
 <special letter (008).doc>
 <Eugene and Christine Fischer.pdf>
 <image001.png>

Walker, Samuel

From: Eugene Fischer <genefischer@yahoo.com>
Sent: Wednesday, February 15, 2023 1:58 PM
To: LU Land Use Planner
Cc: Fred Ells
Subject: [EXTERNAL] Docket # VAR-21-0003: Ells

We are writing with respect to the above application to inform the Board of Adjustment that we do not oppose applicant's request. We would prefer that the new home not be built too close to Sunshine Canyon Drive.

Eugene Fischer
Christine Fischer
Eugene J. and Christine M. Fischer Trust
6300 Sunshine Canyon Drive
Boulder, CO 80302
303-444-2134



Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303.441.3930 • Fax: 303.441.4856
Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.gov

BOULDER COUNTY BOARD OF ADJUSTMENT

AGENDA ITEM

Wednesday June 7, 2023 4:00 P.M.

PUBLIC HEARING

STAFF PLANNER: Jonathan Tardif, Planner II

RECOMMENDATION: Staff recommends denial of the requested variance.

Docket VAR-23-0001: Sombrero Ranch HOA Setback Variance

Request: Variance request to reduce the side setback along the western property line from 7' to approximately 1' 6" for the location of a fence line associated with the redevelopment of a community pool area.

Location: 6298 Reserve Drive, Property no. 146334108022, approximately 0.40 miles east of the intersection of Cherryvale Road and Reserve Drive, in Section 34, T1N, R70.

Zoning: Rural Residential (RR) Zoning District

Agent: Blake Sullivan

Property Owners: Sombrero Ranch Homeowners & Recreational Association

PACKET CONTENTS:

| Item | Pages |
|---|----------|
| ○ Staff Recommendation | 1 – 5 |
| ○ Application Materials (Attachment A) | A1 – A37 |
| ○ Referral Agency Responses (Attachment B) | B1 – B5 |
| ○ Adjacent Property Owner Comments (Attachment C) | C1 – C7 |

SUMMARY

The applicants request a 5-foot 5-inch reduction in the side setback from the western property line to facilitate the construction of a fence line surrounding the community pool at the Sombrero Ranch HOA recreation area. Staff recommends that this variance request be denied because the

applicable review criteria in Article 4-1202(B)(2) of the Boulder County Land Use Code (the Code) cannot be met.

DISCUSSION

The subject property is located approximately 0.40 miles east of the intersection of Cherryvale Road and Reserve Drive within the Sombrero Ranch subdivision. The property is approximately 0.7 acres in size, is located in the Rural Residential zoning district, and is a legal building lot (Outlot H of the Sombrero Ranch subdivision). The property is accessed off Reserve Drive.

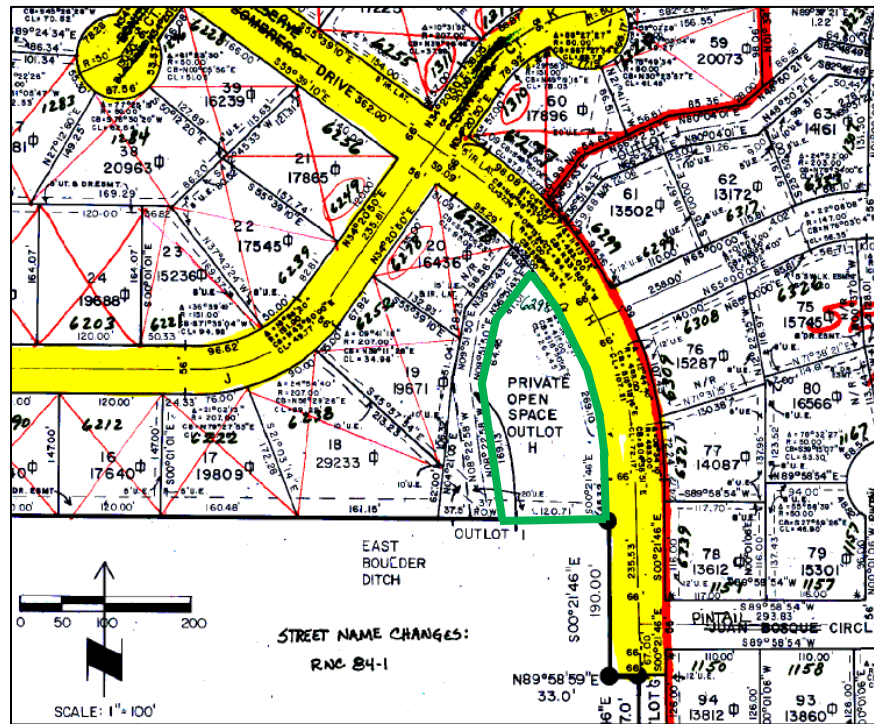


Figure 1: Zoomed in image of the recorded Sombrero Ranch subdivision plat. Outlot H is identified with a green border.

Article 18-175 of the Code defines lot lines for subdivided land in plats recorded prior to October 19, 1994 as follows:

- Front lot line: "That part of a property line dividing a lot from a road. On a corner lot, only one property line shall be considered as a front line."
- Rear lot line: "The line opposite and parallel to the front line. In the event no lot line is opposite and parallel to the front lot line, there shall be no rear."
- Side lot line: "All lot lines other than front lot lines or rear lot lines. A triangular lot has two side lot lines and no rear lot line."

In this case, the front property line is the eastern side of the property directly adjacent to Reserve Drive, and the remaining western and southern property lines are side property lines. As such, the required setback to the western and southern sides is a minimum 7-feet.

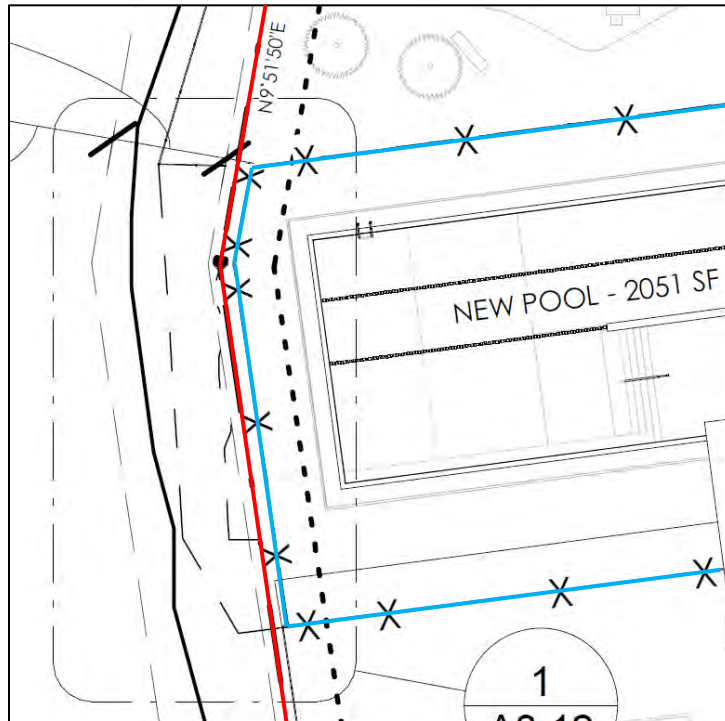


Figure 2: Zoomed in image of the submitted Site Plan showing proposed improvements. The property boundary is indicated by red line. The proposed fence line is indicated by blue line.

The applicants request a variance from this required side setback to facilitate the construction of a fence surrounding the proposed pool deck. The fence is located within the required 7-foot setback to provide the minimum required distance for safe circulation around the pool. The construction of the proposed fence would encroach approximately 5 feet 5 inches into the required side setback, with the remainder of the fence being located outside of the side setback.

The applicants have stated that the proposed pool redevelopment is a high-priority item for the members of the Homeowners Association, and one of the key design components of the pool renovation is to include the standard 25-yard lap lanes for dedicated fitness space.

REFERRALS

The variance request information was sent to property owners within 1,500 feet of the subject property, as well as all applicable referral agencies. Responses received by staff are attached to this staff recommendation (Attachments B and C) and summarized below.

Boulder County Parks & Open Space (BCPOS) Natural Resource Planner – The natural resource planner noted that no additional impact to riparian habitats is anticipated and suggested that reducing the length of the proposed pool would resolve the proposed setback encroachment.

Boulder County Building Safety & Inspection Services Team – Boulder County Building Safety and Inspection Services had no conflicts. A building permit, plan review, and inspection approvals are required for the proposed fence.

Agencies indicating no conflicts: Boulder County Development Review Team – Access & Engineering, Boulder County Public Health, and Xcel Energy.

Agencies that did not respond: Boulder County Long Range Planning, East Boulder Ditch Co., City of Boulder Planning & Development Services, and Mountain View FPD.

Adjacent Property Owners – 244 referrals were sent to nearby property owners, and staff received seven responses in support of the applicant’s proposal.

CRITERIA ANALYSIS

Per Article 3-100.A.18 of the Code the BOA may approve a variance from the terms of the Code as set forth in Article 4-1200. To grant a variance, the BOA must find that the following criteria from **Article 4-1202(B)(2)** of the Code have been satisfied:

- (a) *There exist exceptional or extraordinary physical circumstances of the subject property such as irregularity, narrowness, shallowness, or slope;*

The subject property is the platted Outlot H in the Sombrero Ranch subdivision, approximately 0.7 acres in size, and is larger than the typical residential lots. Figure 3, below, provides a zoomed in map of the Sombrero Ranch subdivision with the subject property outlined in red.



Figure 3: Zoomed in image of the Location Map identifying the Sombrero Ranch subdivision, lot layouts, and the subject property identified by red border.

The topography on the outlot is flat, with a slight decrease in elevation along the northern side of the property where the existing playground is located. The property measures approximately 288 feet traveling from the northern tip to the southern property line, and approximately 125 feet at its longest point between the east and west property lines. Figure 4, below, provides a site plan noting the property boundaries in blue, the required 25-foot front setback in red, and the required 7-foot side setbacks in orange.

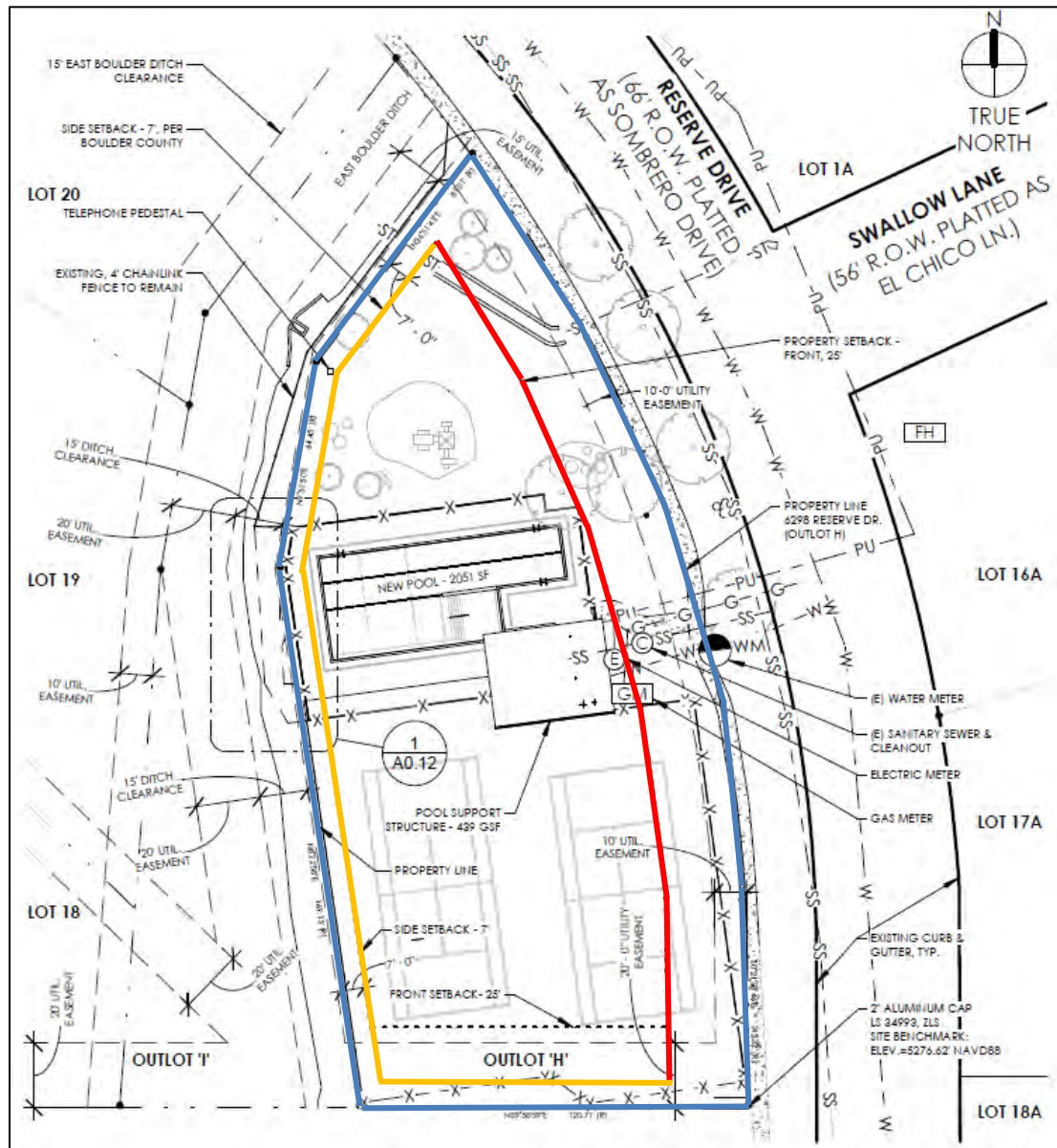


Figure 3: Site Plan showing the property boundaries in blue, the required front setback in red, and the required side setbacks in orange.

The design of the proposed pool with 25-yard lap lanes causes the fence to encroach within the required side setback for the subject property. Staff finds that the physical circumstances are not exceptional or extraordinary on this property, given that the property is developable with compliance to setback requirements.

Therefore, staff finds this criterion is not met.

(b) Because of these physical circumstances, the strict application of the Code creates an exceptional or undue hardship upon the property owner;

Staff finds that the physical circumstances of the property are not exceptional, consequently no exceptional or undue hardship upon the property owner is created. Redesign of the pool is possible to reduce the length of the swimming lanes and comply with required setbacks.

Therefore, staff finds this criterion is not met.

(c) The hardship is not self-imposed;

Staff does not find that a hardship upon the property owner is created, therefore there is no hardship to be self-imposed. Additionally, as stated above, there are alternative designs that would allow for development that is compliant with zoning and the Land Use Code.

Therefore, staff finds this criterion is not met.

(d) The variance, if granted, will not adversely affect the uses of adjacent property as permitted under this code;

Staff does not anticipate that the proposed variance, if granted, will adversely affect the uses of adjacent properties as permitted under the Code, nor has any referral agency or nearby property owner responded with such a concern.

Therefore, staff finds this criterion is met.

(e) The variance, if granted, will not change the character of the zoning district in which the property is located, and is in keeping with the intent of the Code and the Boulder County Comprehensive Plan;

Staff do not have concerns that the variance will change the character of the zoning district in which the property is located if granted.

Therefore, staff finds that this criterion is met.

(f) The variance, if granted, does not adversely affect the health, safety, and welfare of the citizens of Boulder County and is in accordance with the Comprehensive Plan and any applicable intergovernmental agreement affecting land use or development.

There is no indication that the proposed variance would adversely affect the health, safety, or welfare of Boulder County citizens, and no referral agency or nearby property owners responded with such concerns.

Therefore, staff finds this criterion is met.

RECOMMENDATION

As discussed above, staff find that the criteria for a variance cannot be met. Therefore, Community Planning & Permitting staff recommend that the Board of Adjustment **DENY Docket VAR-23-0001: Sombrero Ranch HOA Setback Variance.**



Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302
 Mailing Address: P.O. Box 471 • Boulder, Colorado 80306
 303-441-3930 • www.BoulderCounty.gov

MEMO TO: Whom It May Concern
 FROM: Jonathan Tardif, Planner II
 DATE: April 7, 2023
 RE: Docket VAR-23-0001

The following zoning variance request has been submitted to the office of the Secretary to the Board of Adjustment for consideration at the next regular meeting:

Docket VAR-23-0001: Sombrero Ranch HOA

Request: Variance request to reduce the side setback along the western property line from 7' to approximately 1' 6" for the location of a fence line associated with the redevelopment of a community pool area.

Location: 6298 Reserve Drive, Parcel no. 146334108022, approximately 0.40 miles east of the intersection of Cherryvale Road and Reserve Drive, in Section 34, Township 1N, Range 70W.

Zoning: Rural Residential (RR) Zoning District

Applicant/Property Owner: Sombrero Ranch Homeowners & Recreational Association, c/o Charles Roberts

Agent: Blake Sullivan, Rodwin Architecture

We would appreciate any comments you may have concerning this request for a variance from the Boulder County Land Use Code. Please respond to this request via a letter (mail to the Community Planning & Permitting Department at PO Box 471, Boulder, CO 80306), by phone at (303-441-3930), or an email to planner@bouldercounty.org by **April 24, 2023**, so that the Board of Adjustment may give full consideration to your recommendation. *A lack of response will be assumed to indicate that you have "NO CONFLICT" with the request.* If you have questions concerning this request, please contact our office.

Should you wish to attend the public hearing to voice your comments or present additional information on the proposed variance, the hearing is scheduled for review by the Board of Adjustment on:

Wednesday, June 7, 2023 at 4:00 p.m.

Boulder County BOA meetings are convened in a hybrid format where attendees can join through Zoom or participate in person at the Downtown Boulder County Courthouse, 3rd Floor, 1325 Pearl St., Boulder. Information regarding how to participate will be available on the docket webpage (www.boco.org/VAR-23-0001).

If you plan to attend the hearing, please confirm the details by visiting the docket webpage before the scheduled hearing. A staff report will be available at www.boco.org/VAR-23-0001 approximately one week prior to the hearing.



Boulder County Land Use Department

Courthouse Annex Building
2045 13th Street • PO Box 471 • Boulder, Colorado 80302
Phone: 303-441-3930 • Fax: 303-441-4856
Email: planner@bouldercounty.org
Web: www.bouldercounty.org/lu
Office Hours: Mon., Wed., Thurs., Fri. 8 a.m. to 4:30 p.m.
Tuesday 10 a.m. to 4:30 p.m.

Shaded Areas for Staff Only

Intake Stamp

Application Form

| | | | |
|---|---|--|-----------------------|
| Project Number | | Project Name | |
| <input type="checkbox"/> Limited Impact Special Use <input type="checkbox"/> Limited Impact Special Use Waiver <input type="checkbox"/> Modification of Special Use <input type="checkbox"/> Site Plan Review <input type="checkbox"/> Site Plan Review Waiver <input type="checkbox"/> Subdivision Exemption <input type="checkbox"/> Exemption Plat <input type="checkbox"/> 1041 State Interest Review <input type="checkbox"/> Other: | Application Deadline: First Wednesday of the Month <input checked="" type="checkbox"/> Variance <input type="checkbox"/> Appeal | Application Deadline: Second Wednesday of the Month <input type="checkbox"/> Sketch Plan <input type="checkbox"/> Preliminary Plan <input type="checkbox"/> Final Plat <input type="checkbox"/> Resubdivision (Replat) <input type="checkbox"/> Special Use/SSDP | |
| <input type="checkbox"/> Rezoning <input type="checkbox"/> Road/Easement Vacation <input type="checkbox"/> Location and Extent <input type="checkbox"/> Road Name Change | | | |
| Location(s)/Street Address(es) 6908 Reserve Dr., Boulder, CO 80303 | | | |
| Subdivision Name SOMBRERO RANCH - BOV | | | |
| Lot(s) 34 -1N -70 | Block(s) OUTLOT 'H' | Section(s) 34 | Township(s) 1N |
| Area in Acres 0.71 AC | Existing Zoning RR | Existing Use of Property PRIVATE RESIDENTIAL RECREATION | Range(s) 70 |
| Proposed Water Supply MUNICIPAL | | Proposed Sewage Disposal Method MUNICIPAL | |
| Number of Proposed Lots 1 | | | |

Applicants:

| | | | | |
|---|-----------------|-----------------------|---|-----|
| Applicant/Property Owner SOMBRERO RANCH HOMEOWNERS & RECREATIONAL ASSOCIATION - Charles Roberts | | | Email Address charles.j.roberts@gmail.com | |
| Mailing Address 6298 Reserve Dr., Boulder, CO 80303 | | | | |
| City Boulder | State CO | Zip Code 80303 | Phone 303.579.9456 | Fax |
| Applicant/Property Owner/Agent/Consultant Rodwin Architecture - Blake Sullivan | | | Email Address blake@rodwinarch.com | |
| Mailing Address 1245 Pearl St., Suite 202 | | | | |
| City Boulder | State CO | Zip Code 80302 | Phone 303.413.8556 | Fax |
| Agent/Consultant | | | Email Address | |
| Mailing Address | | | | |
| City | State | Zip Code | Phone | Fax |

Certification (Please refer to the Regulations and Application Submittal Package for complete application requirements.)

I certify that I am signing this Application Form as an owner of record of the property included in the Application. I certify that the information and exhibits I have submitted are true and correct to the best of my knowledge. I understand that all materials required by Boulder County must be submitted prior to having this matter processed. I understand that public hearings or meetings may be required. I understand that I must sign an Agreement of Payment for Application processing fees, and that additional fees or materials may be required as a result of considerations which may arise in the processing of this docket. I understand that the road, school, and park dedications may be required as a condition of approval.

I understand that I am consenting to allow the County Staff involved in this application or their designees to enter onto and inspect the subject property at any reasonable time, without obtaining any prior consent.

All landowners are required to sign application. If additional space is needed, attach additional sheet signed and dated.

| | | |
|-----------------------------|--------------|------|
| Signature of Property Owner | Printed Name | Date |
| Signature of Property Owner | Printed Name | Date |

The Land Use Director may waive the landowner signature requirement for good cause, under the applicable provisions of the Land Use Code.



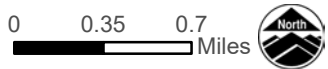
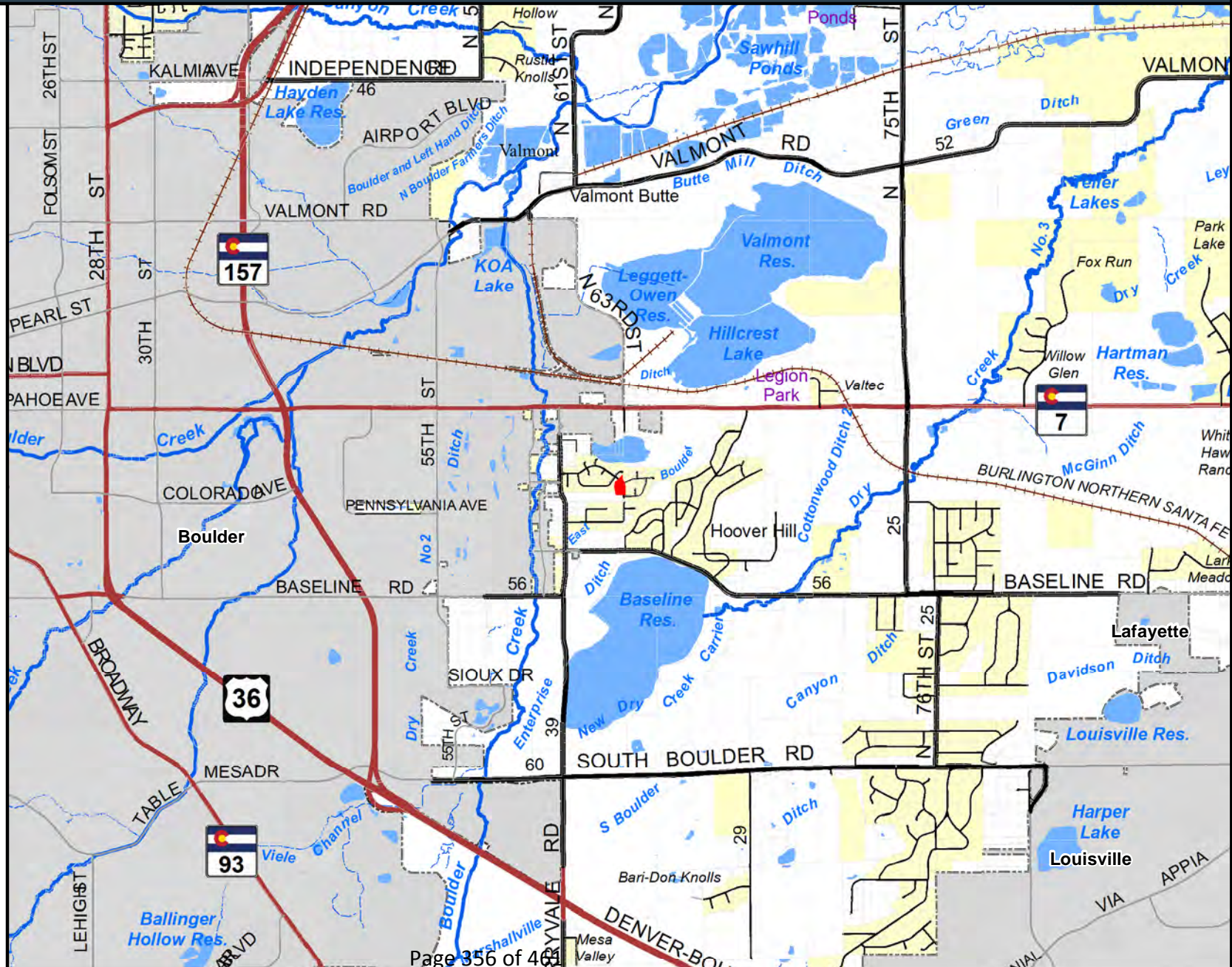
Community Planning & Permitting

2045 13th Street, Boulder, CO 80302 303-441-3930 www.bouldercounty.org

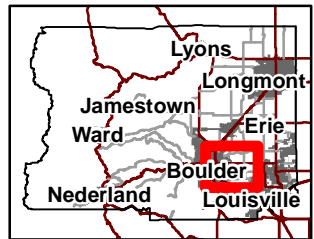
Vicinity

6298 RESERVE

- Subject Parcel
- Municipalities
- Subdivisions**
- Subdivisions



Area of Detail Date: 4/25/2022



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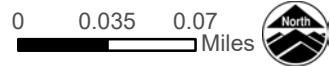
Location

6298 RESERVE

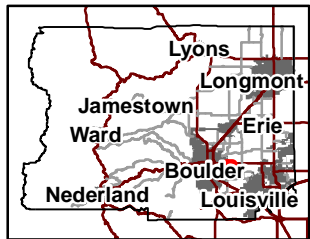
Subject Parcel

Subdivisions

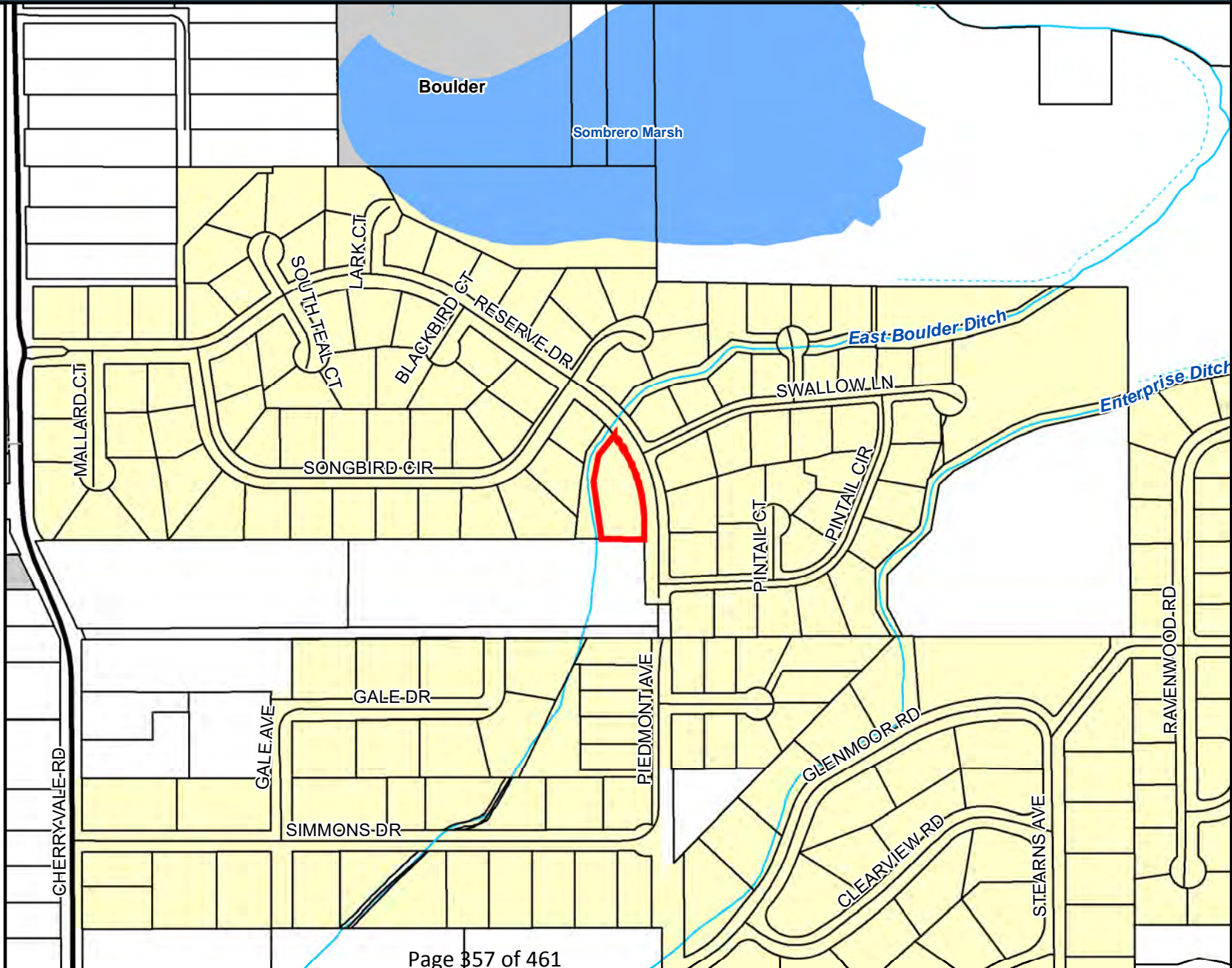
Subdivisions



Area of Detail Date: 4/25/2022



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Aerial

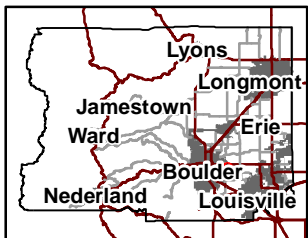
6298 RESERVE

 Subject Parcel

0 0.004 0.008
Miles



Area of Detail Date: 4/25/2022



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Aerial

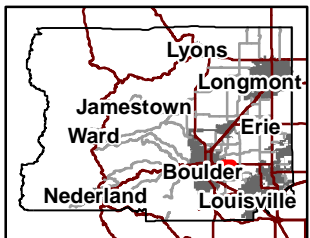
6298 RESERVE

 Subject Parcel

0 0.05 0.1 Miles



Area of Detail Date: 4/25/2022



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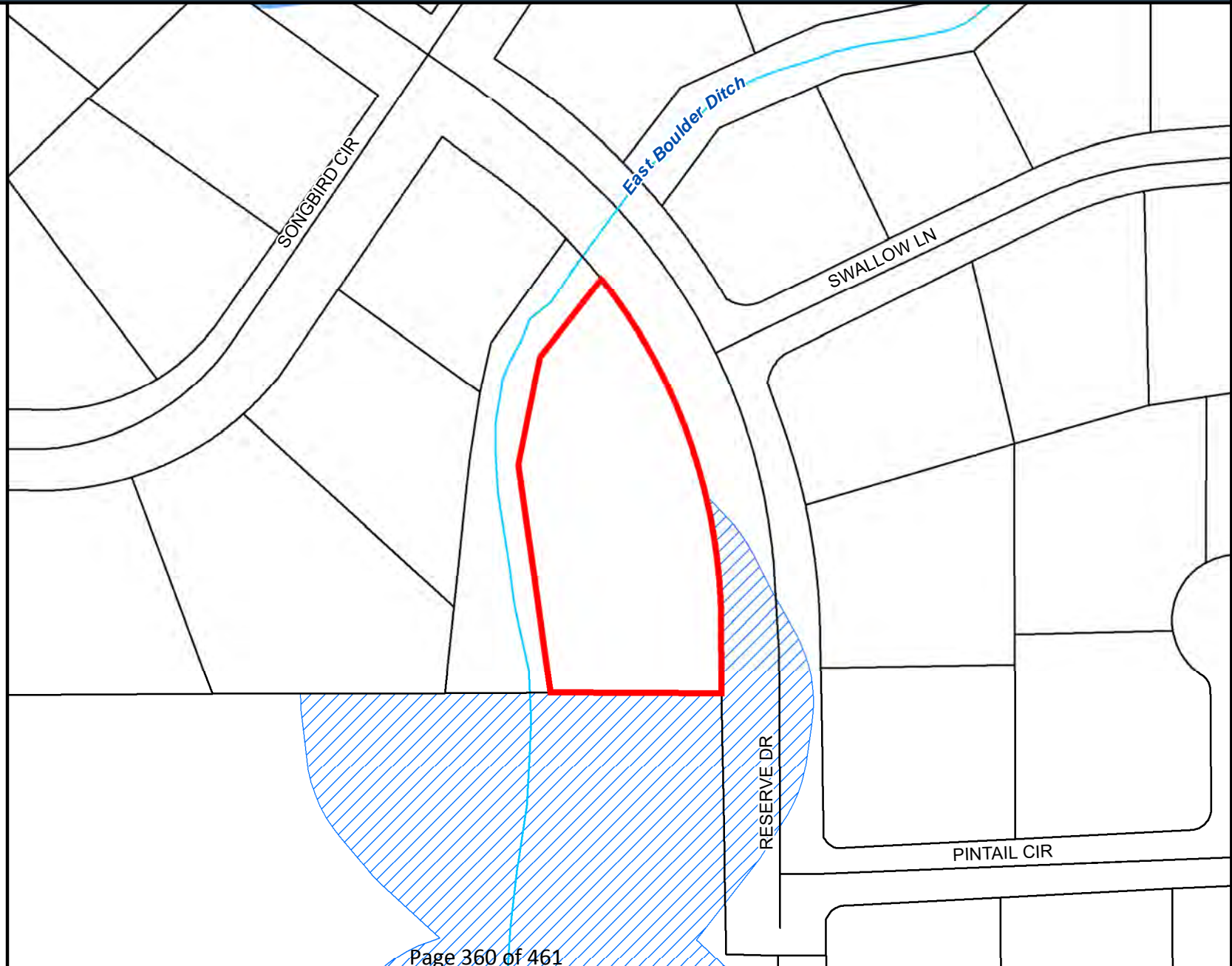
Community Planning & Permitting

2045 13th Street, Boulder, CO 80302 303-441-3930 www.bouldercounty.org

Comprehensive Plan

6298 RESERVE

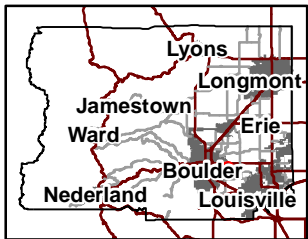
- Subject Parcel
- Riparian Areas
- Wetlands



0 0.0085 0.017
Miles



Area of Detail Date: 4/25/2022



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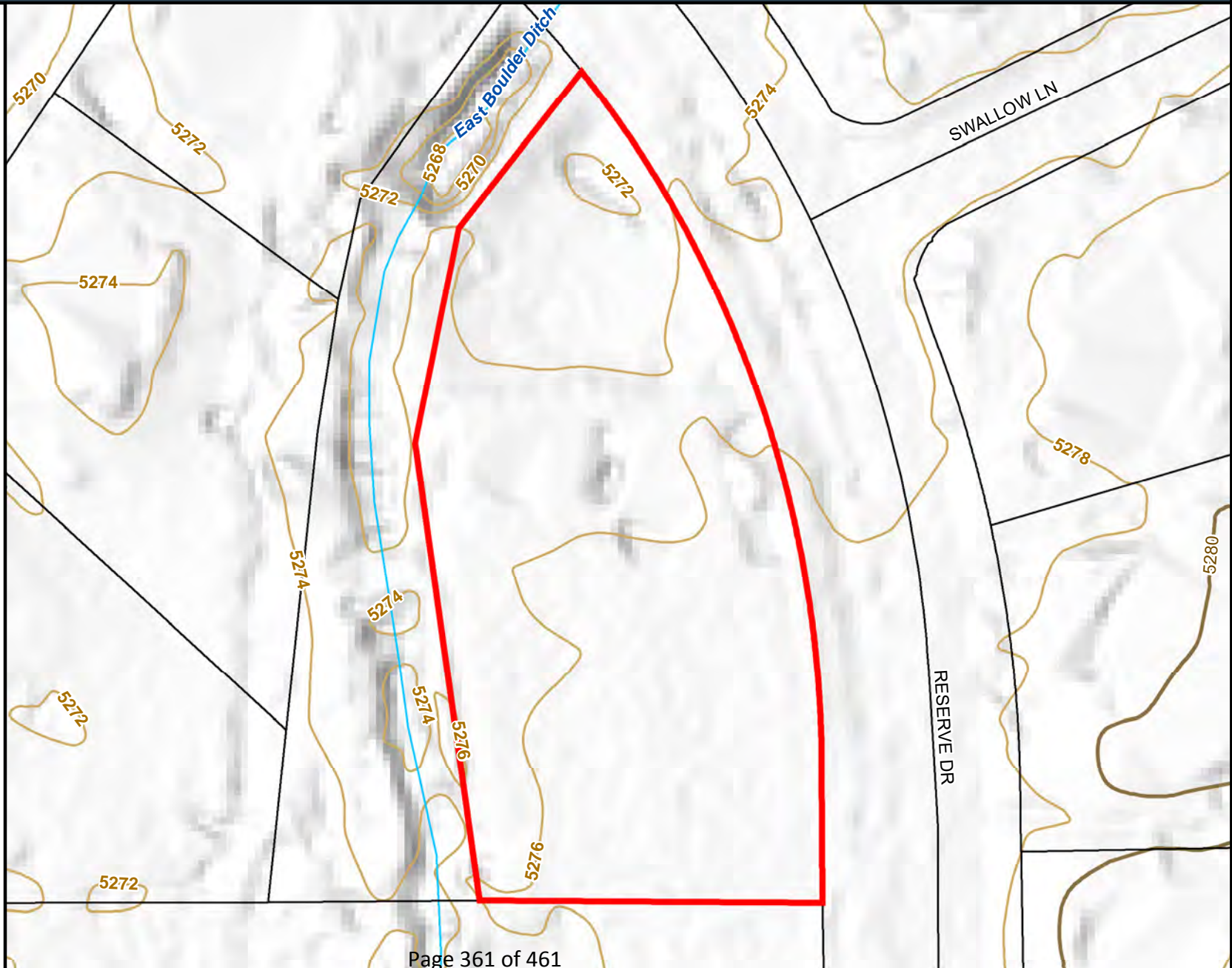
Community Planning & Permitting

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Elevation Contours

6298 RESERVE

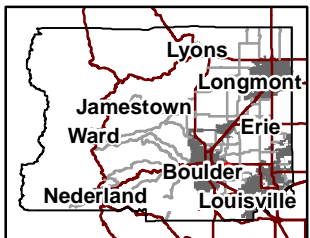
- ▭ Subject Parcel
- Contours 40'
- Contours 2'



0 0.004 0.008
Miles



Area of Detail Date: 4/25/2022



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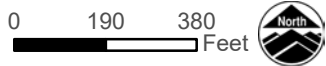
Community Planning & Permitting

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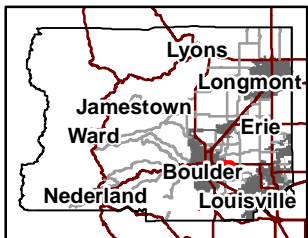
Geologic Hazards

6298 RESERVE

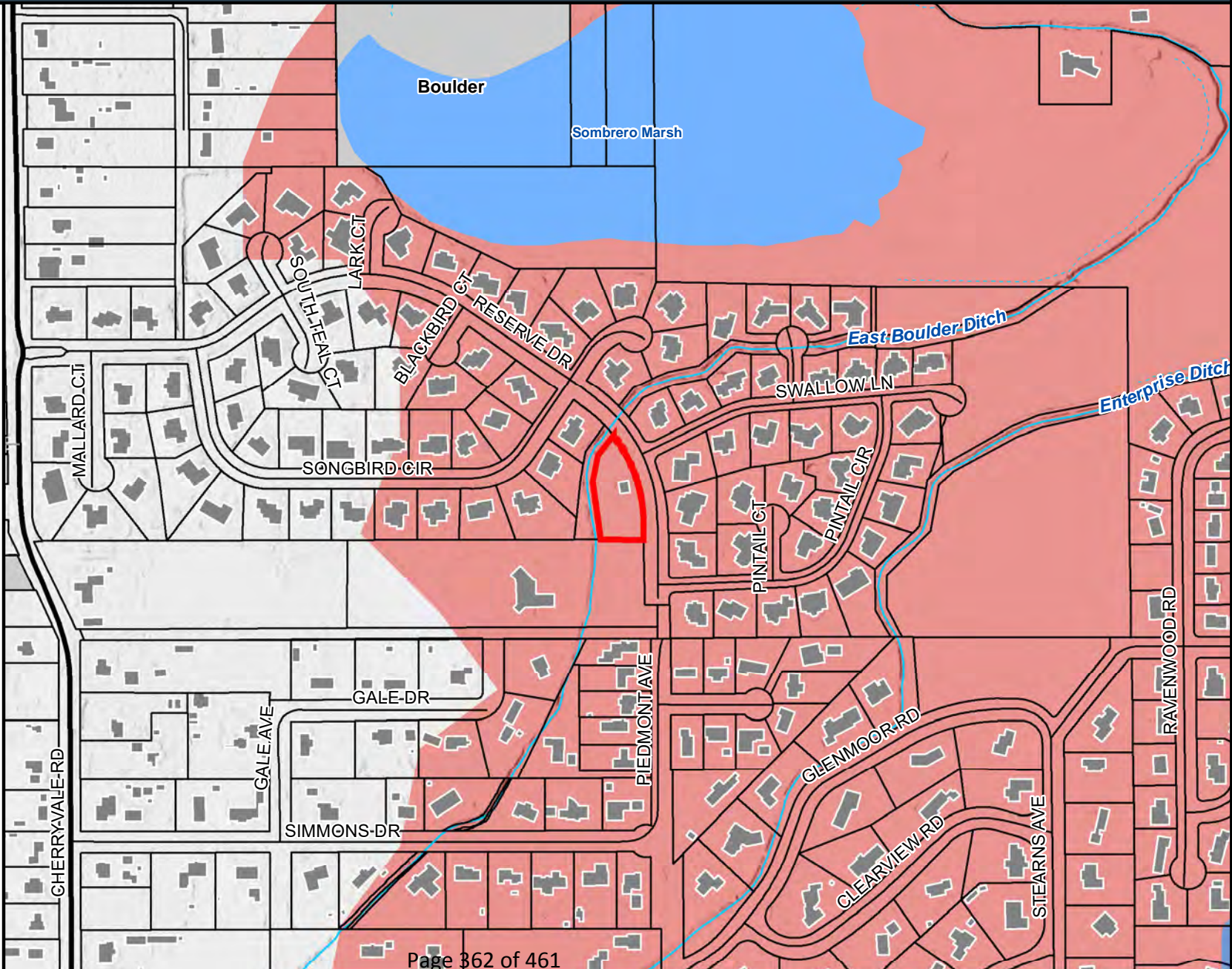
- Subject Parcel
- Very High Swelling Soil Potential



Area of Detail Date: 4/25/2022



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Planning Areas

6298 RESERVE

Subject Parcel

Active IGA
Boundary

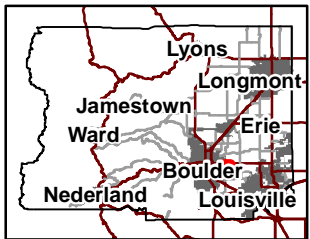
**Active IGA
Designation**

BVCP

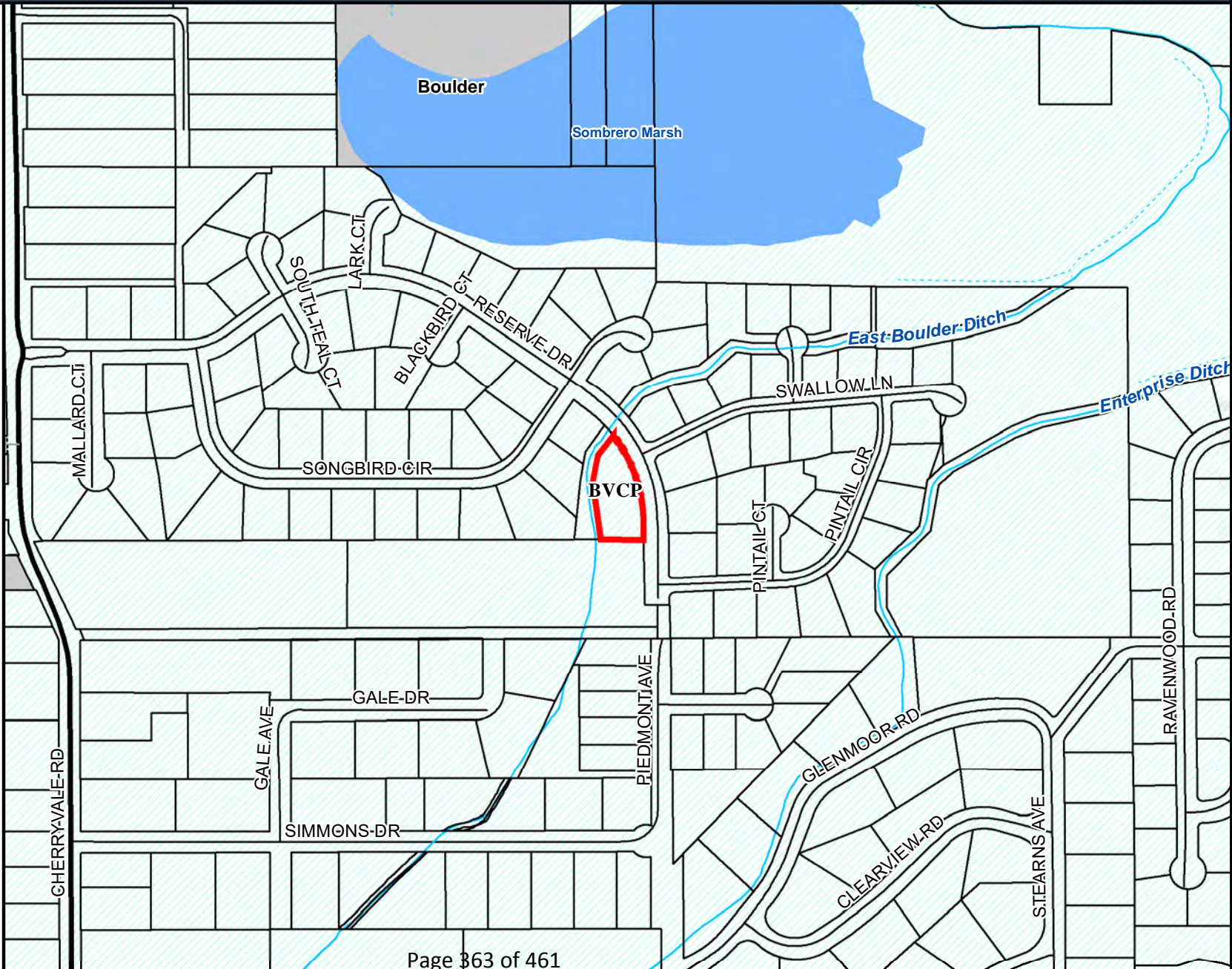
0 0.035 0.07
Miles



Area of Detail Date: 4/25/2022



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Prebles
6298 RESERVE

Subject Parcel

Note: This map's legend shows all Preble's Priority Zones as mapped by Boulder County. The subject property may not contain all zones. Refer to the USFWS Memo dated 9/17/03 to determine when projects require review by USFWS for Preble's.

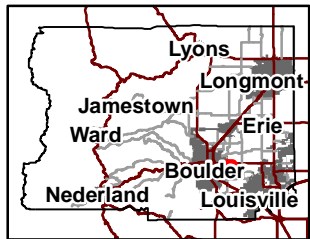
Prebles

Zone 1 Mouse
Management Area

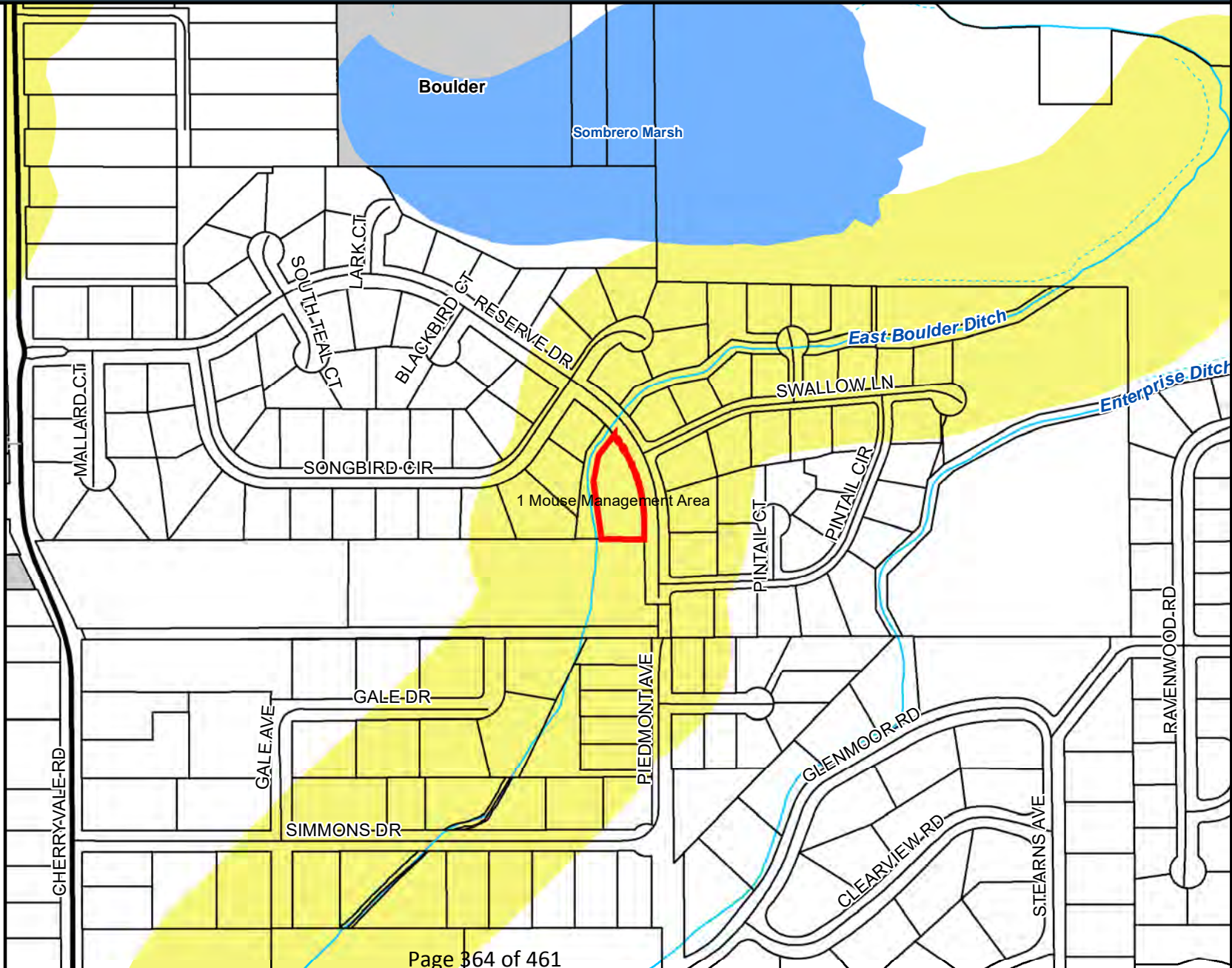
0 0.035 0.07
Miles



Area of Detail Date: 4/25/2022



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Public Lands & CEs

6298 RESERVE

Subject Parcel

Boulder County Open Space

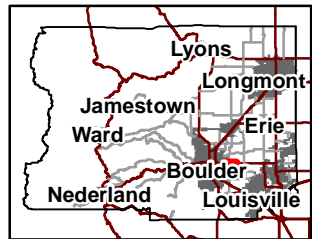
County Open Space

OSM Properties

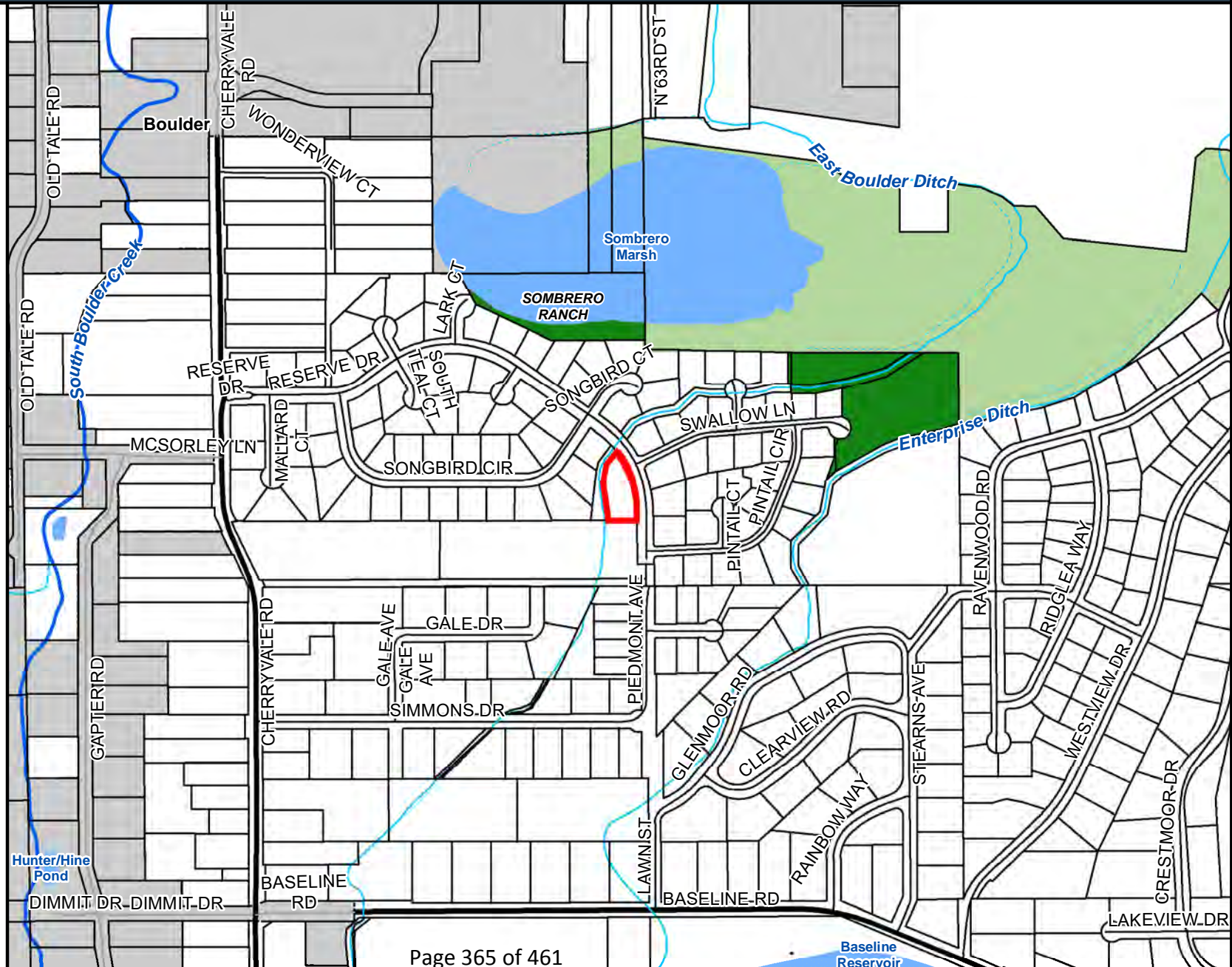
0 0.05 0.1 Miles



Area of Detail Date: 4/25/2022



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Zoning

6298 RESERVE

Subject Parcel

Major Road Setbacks

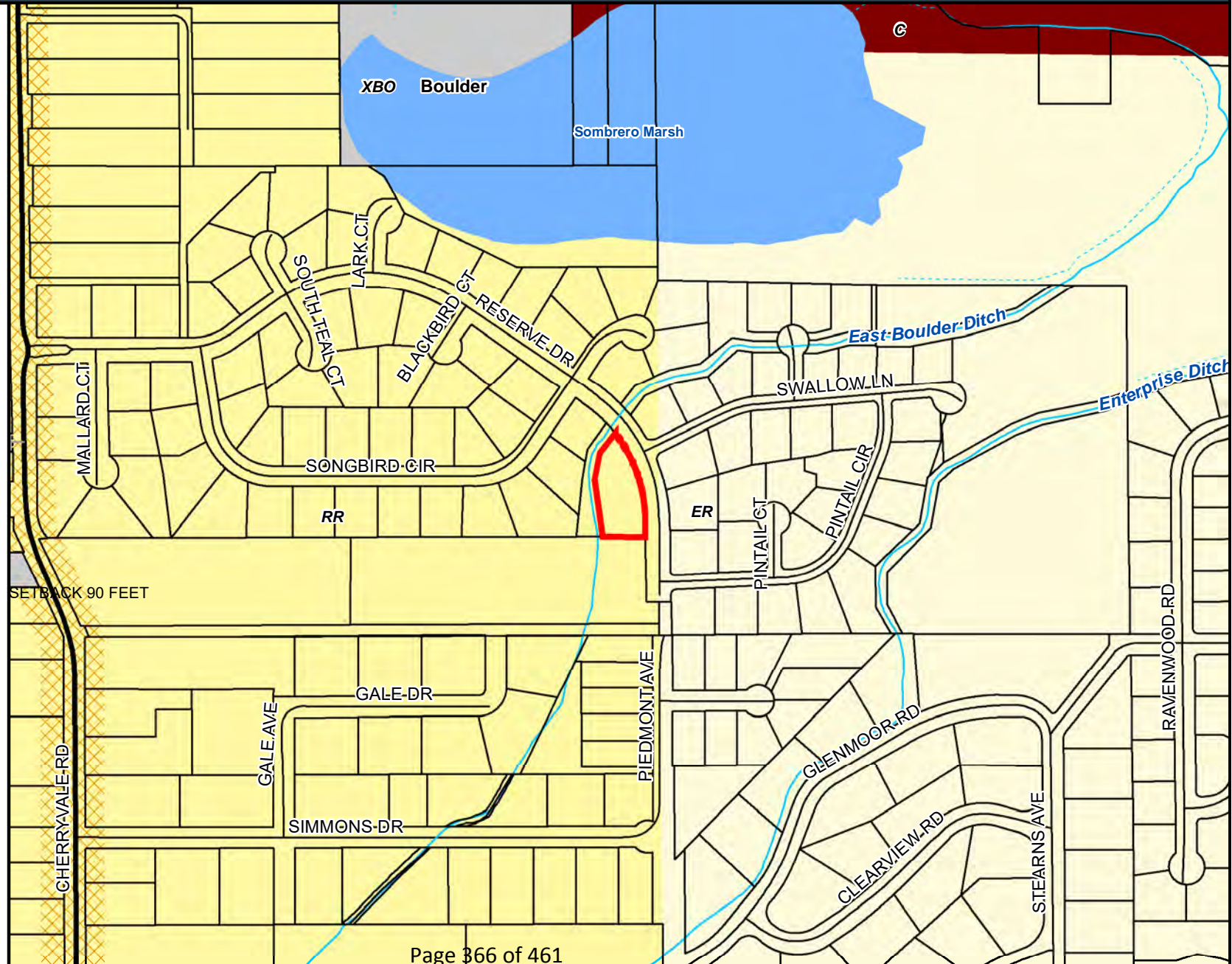
90 feet

Zoning Districts

Commercial

Estate Residential

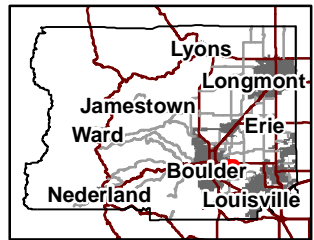
Rural Residential



0 0.035 0.07 Miles



Area of Detail Date: 4/25/2022



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Reserve HOA Pool Facility

1.3.23

Board of Adjustment (BOA) Hardship Statement

A. There exists exceptional or extraordinary physical circumstances of the subject property such as irregularity, narrowness, shallowness, or slope.

- The subject property at 6298 Reserve Dr. is an odd shaped elongated wedge getting more narrow from south to north. This gradual constriction pinches the proposed program at the northwest corner threatening to impede the accessible path around the pool.
- The existing facility's occupied area will be reduced along the western edge to fall completely within the property lines, vacating the adjacent property it currently occupies.

Due to the irregular shape of the lot and the bend in the northeast corner a variance is requested to maintain safe clearances around the entire pool for all bathers.

The wider proposed walkway and the 8' tall fence will provide safe navigation of the pool deck as well as providing higher levels of security; a major objective of the Homeowner's Association and neighborhood. It is the intention of the Homeowner's Association to vacate the utility easement while still providing the same facilities for its members.

- The adjacent property to the west is part of unincorporated Boulder County used as a utility easement for the East Boulder Ditch. This variance will allow the project to vacate the easement while allowing no disruption of the ditch, associated drainage, or inlet. An objective of the project is to be sensitive to the needs of all neighbors while providing recreational space for the community.

B. Because of these physical circumstances, the strict application of this code would create an exceptional or undue hardship to the property owner.

- In order to execute the desired program of the pool and maintain a quality experience for all users, the orientation of the existing pool is proposed to be



modified to bring the entire facility into code compliance. This rotation, in addition to pushing the pool as far east as possible, gains enough space to fit the desired program within the property line and required setbacks with the minor exception of the western fence line. While the proposed solution will need a minor variance, the existing flatwork and chain link fence will be removed from the East Boulder Ditch easement they currently occupy. This variance will allow the neighborhood to maintain the size of its current facility while also allowing them to be in conformance with current zoning.

C. The hardship is not self-imposed

- This hardship is physical in nature and impedes the neighborhood's ability to update their facility to current standards while ensuring full functionality and accessibility throughout. The natural flowline of the ditch constricts the property in a manner that cannot be adjusted.

This variance will allow the community to construct the proposed fence within their property line while allowing them to update the deteriorating amenities. As the neighborhood updates its amenities, it remains important to maintain programmatic functionality and user safety throughout the facility at all times.

D. The variance, if granted, will not adversely affect the use of the adjacent property as permitted under this Code.

- Granting this variance will have no adverse effects on the adjacent property and will alleviate the current non-compliant condition. Conversely, granting this variance will improve existing conditions while bringing this property into compliance with Boulder County Codes. The current large chain link fence, installed over the western property line, serves as the western boundary of the existing facility and has for approximately 29 years. Granting this variance will move the fence line approximately 1' - 6" to 1' - 11" inside the western property line, vacating the entire East Boulder Ditch easement. This shift in the location of the current fence will allow each property to be in full compliance with Boulder County Zoning Code.



E. The variance, if granted, will not change the character of the zoning district in which the property is located, and is in keeping with the intent of this Code and the Boulder County Comprehensive Plan; and,

- This variance will not change the character of the zoning district and will ultimately conform more closely to the Code and Comprehensive Plan than the existing condition. Allowing the fence to be constructed within the prescribed side setback stands to improve the character of this zoning district for all adjacent property owners. The character of the fence itself will be a sectional decorative aluminum to enhance the neighborhood and the East Boulder Ditch boundary while providing the level of safety required by the Homeowner's Association and Board Members. This project will have the ability to strengthen the neighborhood character while improving the user experience on all adjacent properties.

F. That the variance, if granted, does not adversely affect the health, safety, and welfare of the citizens of Boulder County.

- This variance, if granted, will not adversely affect health, safety, or welfare of any Boulder County citizen. This variance will allow the installation of the fence within the boundaries of the property line while improving existing site conditions. This variance will enable the HOA to vacate the currently occupied buffer zone desired by the ditch company for regular or emergency maintenance. We believe that granting this variance will allow the homeowner's association and East Boulder Ditch to achieve the objectives of their communities while increasing safety and welfare throughout the facility and neighborhood.

Tardif, Jonathan

From: Blake Sullivan <blake@rodwinarch.com>
Sent: Friday, February 24, 2023 11:40 AM
To: Tardif, Jonathan
Subject: [EXTERNAL] 6298 Reserve Drive - Fence Variance - Reserve HOA Pool Facility

Jonathan,

When we spoke you requested that we submit additional language addressing the size (length) of the pool and why it cannot be shortened.

The proposed configuration of the pool meets all programmatic goals with the least disruption to the overall site. It is the intention of the HOA to replace their current facility while being sensitive to all disruption on the site.

The size of the pool is a high priority for the homeowners association members. One of the goals of the project is to include standard 25 yard lap lanes to allow the residents dedicated space for fitness while still providing a recreational area. The current pool does not allow these activities and does not provide adequate length for lap swimming. The pool could not be moved away from the East Boulder Ditch property line as it is on the front setback as well. The patio area around the pool is the minimum required for safe circulation around the pool.

We have contacted the Ditch Company regarding the proposed plans and they have voiced no objection to the proposed location of the fence.

Please let us know if you have any additional questions or concerns and we will be happy to discuss.

Thank you, have a wonderful weekend!

Blake Sullivan

Project Manager / Senior Architect

RODWIN ARCHITECTURE + SKYCASTLE CONSTRUCTION
DESIGN [BUILD] GREEN

1245 Pearl Street, Suite 202

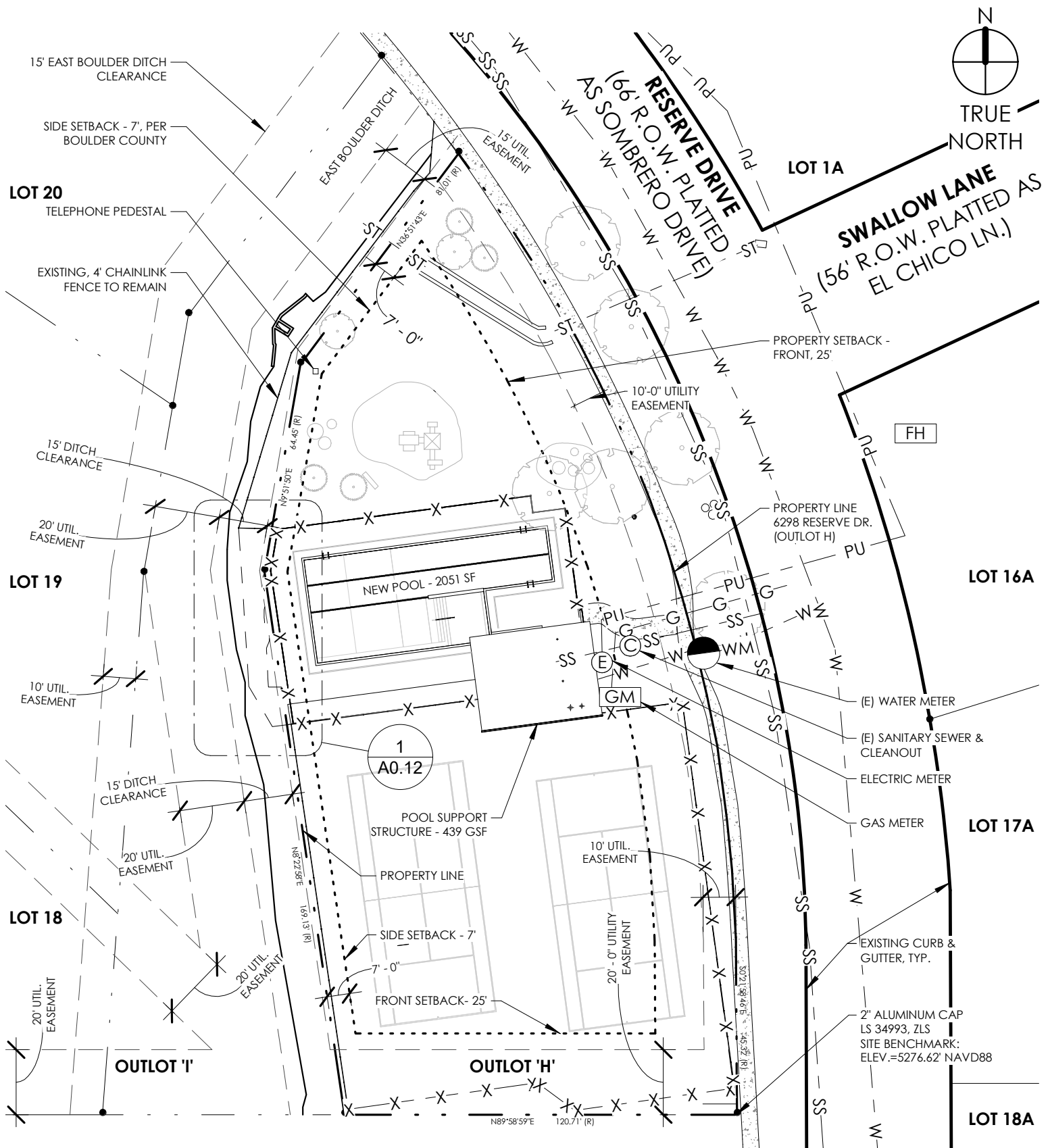
Boulder, CO 80302

p 303.413.8556 x113

c 720.317.7800

www.rodwinarch.com

www.skycastleconstruction.com

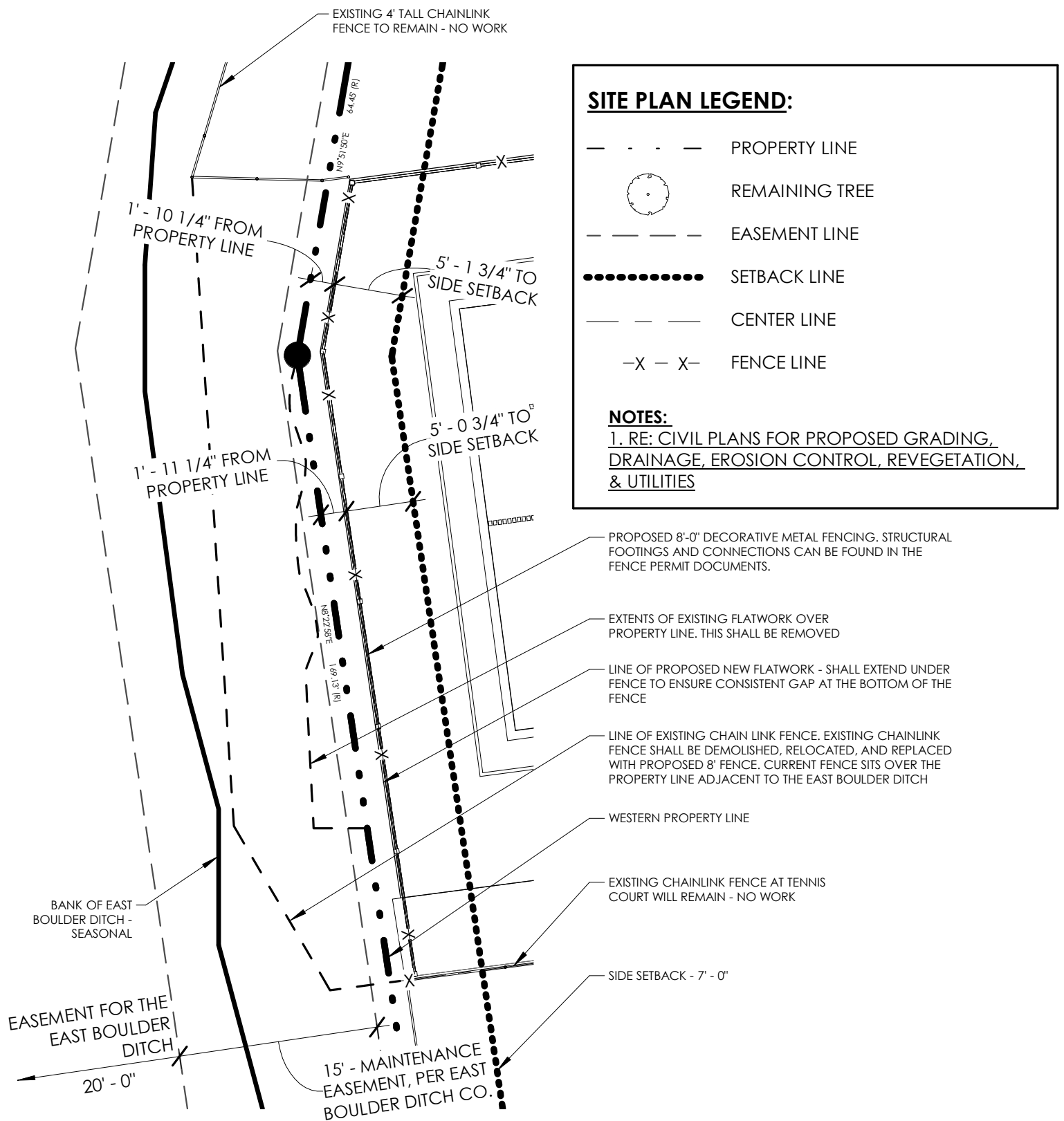


www.rodwinarch.com

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Scale: 1" = 40'-0"

A0.11


RODWIN ARCHITECTURE

1245 Pearl St., Suite 202
 Boulder, Colorado 80302
 (p) 303.413.8556
 (f) 303.413.8557
 www.rodwinarch.com

Reserve HOA Pool Facility

6298 RESERVE DR., BOULDER,
 CO 80303

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Enlarged Plan - Fence Variance
FENCE PERMIT - VARIANCE

Date: 7.11.2022

Prepared by: BS

Scale:

A0.12

GENERAL CONDITIONS

1. Do not scale these drawings, verify all dimensions and conditions.
Any variation should be brought to the attention of the Architect and Owner prior to the commencement of work.
2. Dimensions and conditions at the job site shall be verified by all Builders.
It is the responsibility of the Bulder to examine the existing conditions prior to submitting bid to the Owner since proposals must take into account all such conditions which may affect the work.
Discrepancies in the drawings and actual field conditions shall be reported to the Architect and Owner. Corrected drawings or instructions shall be issued by the Owner prior to the commencement of the work.
3. This project shall comply with all current local municipal codes. If the municipality in question does not have codes, the project shall comply with the following codes as applicable * :

BOULDER COUNTY CODE AMENDMENTS
2015 INTERNATIONAL BUILDING CODE (the "IBC"), including specifically Appendix Chapters C, I, J and K;
2015 INTERNATIONAL SWIMMING POOL AND SPA CODE (the "ISPS");

*It is responsibility of anyone supplying labor, materials or both to bring to the attention of the Architect and Owner any discrepancies or conflicts between requirements of these codes and drawings.

4. All dimensions are to the face of the foundation or wood frame studs or centerline of rough opening U.O.N.

5. The General Contractor (GC) shall coordinate and field verify utility connections, their routing, meter locations, hose bibs, and other associated items.

6. The GC to coordinate top of foundation wall/ slab elevations with information indicated in these plans and with final grading.

7. The GC shall provide the Owner with a list of the heating and cooling, water heating and lighting systems or solar devices to be installed in the building and instructions on how to use and maintain them efficiently. All warranties of all materials are to be furnished to the Owner upon completion of the project.

8. The details shown are intended to further illustrate the visual design concept and minimum weather protection requirements for this project. The GC shall incorporate the requirements of the local building codes, structural considerations, trade association manuals, publications and recommendations and the manufacturer's written instructions for complete construction of details. All possible field conditions that may be encountered are not necessarily described. Field conditions encountered that require clarification shall be brought to the Builder's attention.

9. Reinforced Concrete slab:
-See structural set and notes for thickness and reinforcement.
-All wood in direct contact with concrete shall be treated and rated for this use.
-Sub-slab drainage per Civil Soils Report

10. Foundations, Concrete, & Reinforcement:
-See Structural Drawings, general structural notes, Typical Wall Section, and soils report.
-Foundation waterproofing and damp proofing per code
-EPA-compliant passive radon mitigation system (ar active w/ fan) per code
-Perimeter drainage per Civil Soils Report

11. Typical Wall Types:
-Exterior Building: Structural split face concrete masonry units per structural plans

12. Exterior Materials:
-All ext. materials to meet Boulder County Regs. for Ignition Resistent Construction
-All exterior materials per architectural elevations and specifications

13. General:
-Siting of Pool & Pool Building: Per Site Plan & Surveyor staking
-Storage of building materials on site: Subcontractors to cover and protect all building materials stored on site from water and UV/ sun degradation.
-New Construction must comply with Construction Waste Recycling. An applicant shall demonstrate that all recyclable wood, metal, and cardboard materials will be donated, reused, or recycled.
-Deconstruction waste recycling must comply with all County deconstruction and recycling requirements



VICINITY MAP: NTS

| Architectural Sheet Index | | |
|---------------------------|---|-------------|
| Sheet Number | Sheet Name | Sheet Order |
| -CVR- | Gen. Notes + Project Info | 000 |
| TOPO 1 | Topographical Survey | 100 |
| C1.01 | Cover Sheet | 101 |
| C2.01 | Existing Conditions Plan | 101 |
| C2.02 | Civil Site Plan | 101 |
| C2.03 | Grading, Drainage, and Erosion Control Plan | 101 |
| C2.04 | Utility Plan | 101 |
| C3.01 | Civil Details | 101 |
| A0.1 | Architectural Site Plan | 111 |

PROJECT NARRATIVE:

THIS PROJECT SHALL CONSIST OF A FENCE STRUCTURE, 8' HIGH, TO PROVIDE A BARRIER AND SECURITY TO THE NEIGHBORHOOD HOA POOL FACILITY. THE FENCE AND GATE SHALL CONFORM TO ALL STANDARDS SET FORTH IN THE 2015 ISPS, SECTIONS 305 - BARRIERS AND 305.3 - GATES.
THE ASSOCIATED POOL AND POOL ACCESSORY BUILDING WILL BE UNDER SEPARATE PERMITS.

| Architectural Sheet Index | | |
|---------------------------|--------------------------------|-------------|
| Sheet Number | Sheet Name | Sheet Order |
| A0.6 | Product Specification | 111 |
| A1.0 | Deconstruction Plan | 111 |
| A1.1 | 1st Floor Plan | 111 |
| A4.1 | Pool Deck Clearance & Drainage | 111 |
| A4.2 | Site Fencing & Detailing | 111 |
| A4.3 | Site Fencing & Detailing | 111 |
| A9.3 | ACCESSIBILITY DETAILS | 111 |
| S1.1 | Fence Foundation Plan | 112 |
| S2.1 | Foundation Details | 112 |
| Total Sheets: 18 | | |

PROPERTY INFORMATION

6298 RESERVE DR.
BOULDER, CO 80303

STR: 34 -1N -7O

SUBDIVISION: SOMBRERO RANCH - BOV

LEGAL DESC: OUTLOT H SOMBRERO RANCH VALUE
DIST TO HOMEOWNERS HB 1346

ESTIMATED PARCEL AREA:
SQUARE FEET: 30,719
ACRES: 0.71

PROJECT TEAM CONTACT INFO

OWNERS:

SOMBRERO RANCH HOMEOWNERS &
RECREATIONAL ASSOCIATION
CHUCK ROBERTS - HOA BOARD REPRESENTATIVE
6298 RESERVE DR., BOULDER, CO 80302
P: 303.579.9456
CHARLES.J.ROBERTS@GMAIL.COM

ARCHITECT: RODWIN ARCHITECTURE

SCOTT RODWIN, AIA, LEED AP
1245 PEARL STREET, SUITE 202
BOULDER, CO 80302
P: 303-413-8556
SCOTT@RODWINARCH.COM
BLAKE SULLIVAN, PROJECT MANAGER
BLAKE@RODWINARCH.COM
P: 720.317.7800

STRUCTURAL ENGINEER: GEBAU ENGINEERING

PAUL GALLAGHER
2450 CENTRAL AVE, STE. P-5
BOULDER, CO 80301
P: 303-554-9591
F: 303-554-9592
PAUL@GEBAU.COM

CIVIL & GEOTECHNICAL ENGINEERS: SCOTT, COX & ASSOCIATES

1530 55TH ST.
BOULDER, CO 80303
P: 303-444-3051
F: 303-444-3387
CIVIL: DON ASH - ASH@SCOTTCOX.COM
GEOTECH: RYNE METTLER - METTLER@SCOTTCOX.COM
SURVEYOR: JOHN BURI - BURI@SCOTTCOX.COM

MECHANICAL, ELECTRICAL & PLUMBING ENGINEERS: RAMIREZ, JOHNSON, AND ASSOCIATES

CHRIS WOOD
3295 BLAKE ST., #104
DENVER, CO 80205
P: 720.598.0774
chris@rja-eng.com
http://www.rja-eng.com

ABBREVIATIONS:

AFF - ABOVE FINISHED FLOOR
ABV - ABOVE
AL - ALUMINUM
ALT - ALTERNATE
APPROX - APPROXIMATE
ARCH - ARCHITECT/ ARCHITECTURAL
BD - BOARD
BLDG - BUILDING
BOH - BOTTOM OF HEADER
B.O. - BOTTOM OF
BOT - BOTTOM
B/W - BETWEEN
CIVIL - CIVIL DRAWINGS, CIVIL ENGINEER
CLG - CEILING
CONC - CONCRETE
CONT - CONTINUOUS
CPT - CARPET
CT - CERAMIC TILE
CTR - CENTER
DBL - DOUBLE
DEMO - DEMOLITION/ DEMOLISH
DIM - DIMENSION
DN - DOWN
DS - DOWN SPOUT
DWG - DRAWING
EA - EACH
ELEC - ELECTRICAL
ELEV(S) - ELEVATION(S)
(E) - EXISTING
EQ - EQUAL
EXT - EXTERIOR
(EG) - EGRESS
FD - FLOOR DRAIN
FDN - FOUNDATION
FF - FINISH FLOOR
FIN - FINISH/ FINISHES
FT - FOOT/ FEET
FTG - FOOTING
FURN - FURNITURE/ FURNISHINGS
FV - FIELD VERIFY
GSU - GRASS SIDE UP
GYP BD - GYPSUM BOARD
INSUL - INSULATION
INT - INTERIOR
MAS - MASONRY
MECH - MECHANICAL
MEP - MECHANICAL, ELECTRICAL, & PLUMBING
MIN - MINIMUM
MAX - MAXIMUM
MTL - METAL
(N) - NEW
NTS - NOT TO SCALE
OPNG - OPENING
PIA - A BIG PROBLEM
PLBG - PLUMBING
QTY - QUANTITY
PTD - PAINTED
SPEC - SPECIFICATIONS
STD - STAINED
STRUCT - STRUCTURALS, STRUCTURAL ENGINEER
(T) - TEMPERED
T.O. - TOP OF
TOW - TOP OF WALL
TYP - TYPICAL
UN - UNLESS OTHERWISE NOTED
WD - WOOD
WW - WINDOW WELL
W/ - WITH
W/O - WITHOUT



RODWIN ARCHITECTURE

1245 Pearl St., Suite 202
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(p) 303.413.8556
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6298 RESERVE DR., BOULDER, CO 80303

NOTICE: DUTY OF COOPERATION
Release of these plans contemplates further cooperation among the owner, his contractor and the architect. Design and construction are complex. Although the architect and his consultants have performed their services with due care and diligence, they cannot guarantee perfection. Communication is imperfect and every contingency cannot be anticipated. Any ambiguity or discrepancy discovered by the use of these plans shall be reported immediately to the architect. Failure to notify the architect compounds misunderstanding and increases construction costs. A failure to cooperate by a simple notice to the architect shall relieve the architect from responsibility for all consequences. Changes made from the plans without consent of the architect are unauthorized, and shall relieve the architect of responsibility for all consequences arising out of such changes.

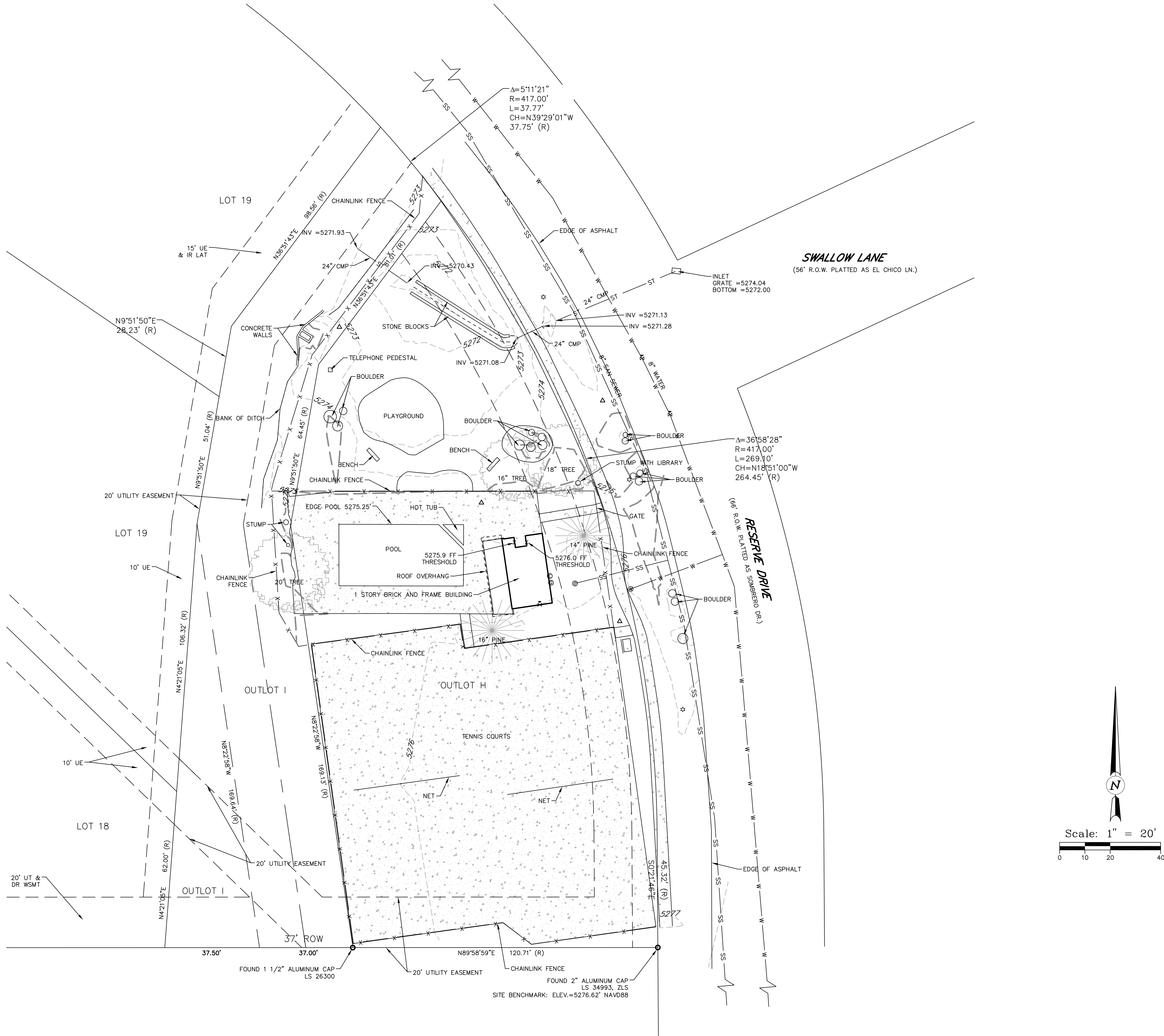
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DRAWN: Author
CHECKED: Checker
DATE: 7.11.2022
REVISED:
No. Description Date

FENCE PERMIT - VARIANCE

-CVR- 2.0

Gen. Notes + Project Info - FENCE



LEGEND

- EXISTING DECIDUOUS TREE
- EXISTING PINE TREE
- EXISTING CONTOUR
- FOUND MONUMENT AS NOTED
- EXISTING ELECTRIC METER
- EXISTING WATER VALVE
- EXISTING CLEANOUT
- EXISTING GAS METER
- EXISTING WATER METER
- CONTROL POINT
- EXISTING LIGHT POLE
- EXISTING FENCE
- EXISTING SANITARY SEWER W/MANHOLE
- EXISTING WATER W/FIRE HYDRANT
- EXISTING STORM SEWER W/MANHOLE
- RECORD COURSE PER PLAT

LEGAL DESCRIPTION

OUTLOTS H, SOMBRERO RANCH, COUNTY OF BOULDER, STATE OF COLORADO.

NOTES

- BENCH MARK: CITY OF BOULDER Z-2-5; FND 3IN ALUM PIPE 0.7' ABOVE GND-1/4 S34/S35, BETWEEN RESERVE DR & PIEDMONT ELEVATION=5282.33' NAVD88. SITE BENCH MARK AS SHOWN.
- THIS TOPOGRAPHIC SURVEY IS NOT AN "IMPROVEMENT SURVEY PLAT OR "LAND SURVEY PLAT". NO BOUNDARY DETERMINATIONS HAVE BEEN MADE, OR TITLE SEARCHES PREPARED.
- THE LOCATION OF THE ABOVE GROUND UTILITIES SHOWN HEREON ARE BASED ON THE FIELD SURVEY BY SCOTT, COX & ASSOCIATES, INC. THE LOCATIONS OF THE UNDERGROUND UTILITIES SHOWN HEREON ARE BASED ON SAID SURVEY AND INFORMATION PROVIDED BY OTHERS (WHICH MAY INCLUDE THE UTILITY OWNER OR UTILITY LOCATING SERVICES). SCOTT, COX & ASSOCIATES, INC. IS NOT RESPONSIBLE FOR UTILITY INFORMATION PROVIDED BY OTHERS. SCOTT, COX & ASSOCIATES, INC. RECOMMENDS THAT THE LOCATION OF THE UTILITIES BE FIELD VERIFIED PRIOR TO ANY DIGGING ON, OR ADJACENT TO THE SUBJECT PROPERTY.
- THE TREES IDENTIFIED ON THIS DRAWING MAY REPRESENT A SINGLE TREE OR THE CENTRAL POINT WITHIN A CLUSTER OF OTHER, SMALLER TREES. WHILE AN EFFORT WAS MADE TO LOCATE ALL TREES WITHIN THE CLIENT'S DIRECTED PARAMETERS, NO GUARANTEE IS PROVIDED THAT ALL TREES WITHIN THESE PARAMETERS HAVE BEEN LOCATED. TREES SHOWN PER DIRECTION OF THE ARCHITECT.
- THIS DRAWING IS BASED ON A FIELD SURVEY COMPLETED ON 10/20/21.
- NOTICE: ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY LEGAL ACTION BASED ON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE SHOWN HEREON. CRS-13-80-105(3)g.
- FLOOD PLAIN DESIGNATION OF THE SURVEYED PROPERTY PER FIRM MAP NUMBER 08013C0414K, MAP REVISED DECEMBER 07, 2017 IS ZONE X, BEING AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN.

TOPOGRAPHIC MAP
6298 RESERVE DRIVE
BOULDER, COLORADO

SCOTT, COX & ASSOCIATES, INC.
consulting engineers • surveyors
1530 55th Street • Boulder, Colorado 80303
(303) 444 - 3051

| | | | | | | | | | |
|-------------|-----|----------|----------|-------------|--------|-------------|--------|-------------|--------|
| Designed by | AJB | Date | 11/11/21 | Scale | 1"=20' | Drawing no. | 21306A | Sheet | 1 |
| Drawn by | JAS | Revision | | Description | | Date | | Project no. | 21306A |
| Checked by | AJB | | | | | | | | |

FINAL ENGINEERING PLANS

FOR

6298 RESERVE DRIVE
BOULDER, COUNTY, COLORADO

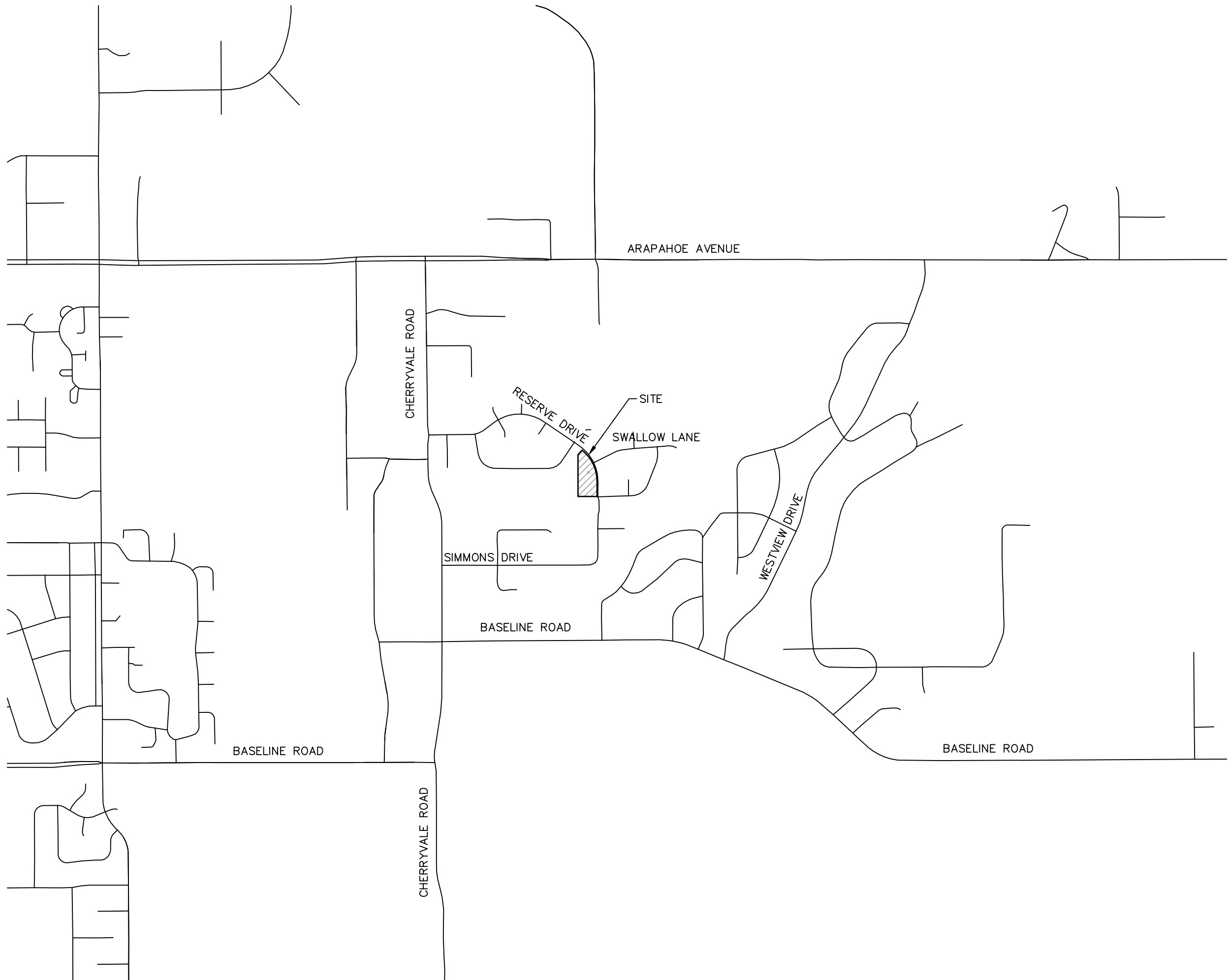
GENERAL NOTES

(APPLIES TO ALL SHEETS)

- BENCH MARK: CITY OF BOULDER Z-2-5; FND 3IN ALUM PIPE 0.7 ABOVE GND--1/4 S34/S35, BETWEEN RESERVE DR & PIEDMONT ELEVATION=5282.33' NAVD88. SITE BENCH MARK AS SHOWN.
- THIS DRAWING IS BASED ON A SURVEY BY SCOTT, COX AND ASSOCIATES. ALL WORK WAS COMPLETED 10/20/21.
- ALL CUT AND FILL SLOPES IN SHALL BE MINIMUM OF 1.5:1.
- GRADE AWAY FROM BUILDINGS AT A MINIMUM 10% SLOPE IN THE FIRST TEN FEET AT LANDSCAPE AREAS AND AT A MINIMUM 2% SLOPE IN THE FIRST TEN FEET AT IMPERVIOUS AREAS, EXCEPT AS NOTED.
- FOUNDATION HEIGHT SHALL BE RAISED TO A MINIMUM OF 8" ABOVE EXISTING OR PROPOSED GRADE AT EXTERIOR OF BUILDING.
- FLOOD PLAIN DESIGNATION OF THE SURVEYED PROPERTY PER FIRM MAP NUMBER 08013C0414K, MAP REVISED DECEMBER 07, 2017 IS ZONE X, BEING AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN.
- LAYOUT OF LANDSCAPING AND OTHER ARCHITECTURAL FEATURES MAY VARY FROM THIS PLAN BASED ON FINAL SITE DESIGN AND FROM SITE CONDITIONS.
- ALL CONSTRUCTION SHALL CONFORM TO THE BOULDER COUNTY MULTIMODAL TRANSPORTATION STANDARDS (BCMTS).

LEGAL DESCRIPTION

OUTLOTS H, SOMBRERO RANCH, COUNTY OF
BOULDER, STATE OF COLORADO.



VICINITY MAP

SCALE: 1" = 1000'

SHEET INDEX

| | |
|--|-------|
| COVER SHEET | C1.01 |
| EXISTING CONDITIONS PLAN | C2.01 |
| CIVIL SITE PLAN | C2.02 |
| GRADING DRAINAGE AND EROSION CONTROL PLAN | C2.03 |
| UTILITY PLAN | C2.04 |
| CIVIL DETAILS | C3.01 |

LEGEND

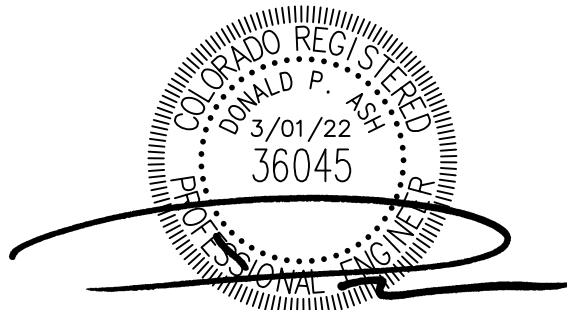
| | |
|--|---|
| | EXISTING DECIDUOUS TREE |
| | EXISTING PINE TREE |
| | FOUND MONUMENT AS NOTED |
| | EXISTING ELECTRIC METER |
| | EXISTING WATER VALVE |
| | EXISTING CLEANOUT |
| | EXISTING GAS METER |
| | EXISTING WATER METER |
| | CONTROL POINT |
| | EXISTING LIGHT POLE |
| | EXISTING FENCE |
| | EXISTING SANITARY SEWER W/MANHOLE |
| | EXISTING WATER W/FIRE HYDRANT |
| | EXISTING STORM SEWER W/MANHOLE |
| | RECORD COURSE PER PLAT |
| | PROPOSED CONTOUR |
| | EXISTING CONTOUR |
| | POINT WHERE PROPOSED GRADE MEETS EXISTING GRADE |
| | PROPOSED SPOT ELEVATION |
| | EXISTING SPOT ELEVATION |
| | HISTORIC SHEET FLOW |
| | PROPOSED FLOW DIRECTION |
| | FINISHED FLOOR ELEVATION |
| | CATCH FENCE |
| | SILT FENCE |
| | STRAW BALE BARRIER |
| | EROSION CONTROL MATTING |
| | VEHICLE TRACKING CONTROL |
| | INLET PROTECTION |
| | INLET PROTECTION |
| | CONCRETE WASHOUT AREA |
| | ROCK SOCK |

COVER SHEET
HOA POOL FACILITY
6298 RESERVE DRIVE
BOULDER, COLORADO



SCOTT, COX & ASSOCIATES, INC.
consulting engineers • surveyors
1530 55th Street • Boulder, Colorado 80303
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| | | | | | | | | | |
|-------------|-----|----------|----------|-------------|--------|-------------|----------|-------------|--------|
| Designed by | DRS | Date | 01/27/22 | Scale | 1"=20' | Drawing no. | 21306B-1 | Sheet | C1.01 |
| Drawn by | DRS | Revision | | Description | | Date | | Project no. | 21306B |
| Checked by | DMS | | | | | | | | |

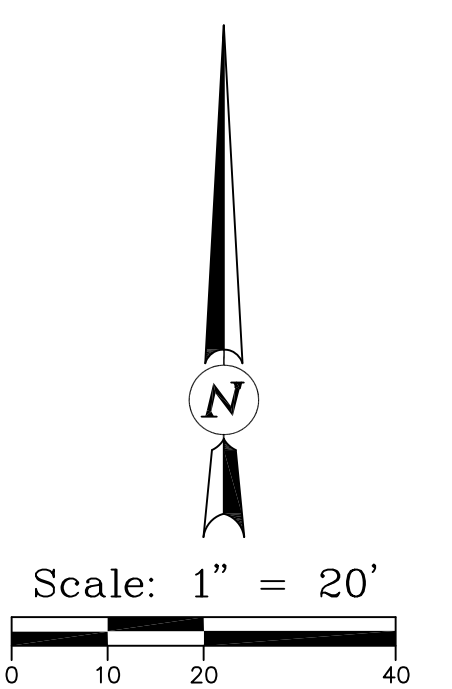


LEGEND

| | |
|--|-----------------------------------|
| | EXISTING DECIDUOUS TREE |
| | EXISTING PINE TREE |
| | EXISTING CONTOUR |
| | FOUND MONUMENT AS NOTED |
| | EXISTING ELECTRIC METER |
| | EXISTING WATER VALVE |
| | EXISTING CLEANOUT |
| | EXISTING GAS METER |
| | EXISTING WATER METER |
| | CONTROL POINT |
| | EXISTING LIGHT POLE |
| | EXISTING FENCE |
| | EXISTING SANITARY SEWER W/MANHOLE |
| | EXISTING WATER W/FIRE HYDRANT |
| | EXISTING STORM SEWER W/MANHOLE |
| | RECORD COURSE PER PLAT |

KEYED NOTES

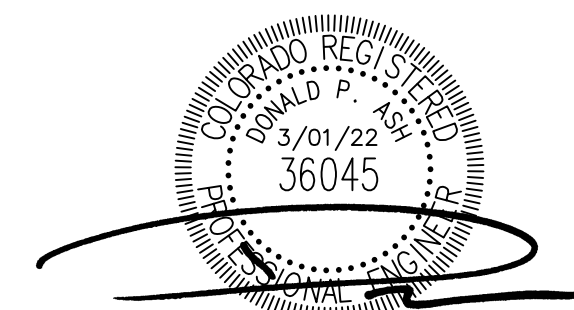
1. EXISTING PLAYGROUND TO REMAIN.
2. EXISTING TENNIS COURTS TO REMAIN.
3. EXISTING POOL TO BE REMOVED AND REPLACED.
4. EXISTING STRUCTURE TO BE REMOVED.

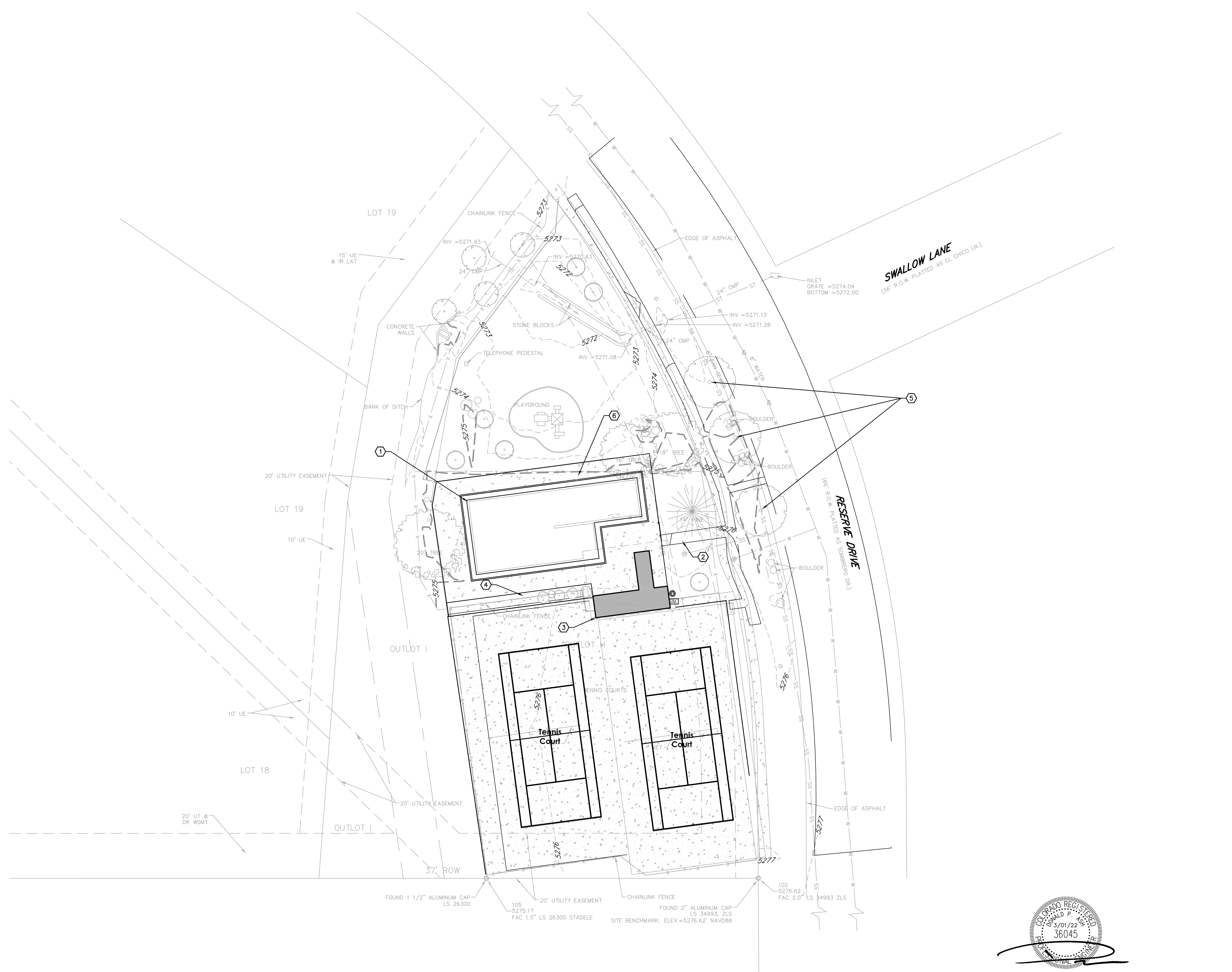


**EXISTING CONDITIONS PLAN
HOA POOL FACILITY
6298 RESERVE DRIVE
BOULDER, COLORADO**

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consulting engineers • surveyors
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(303) 444 - 3051

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|-------------|-----|----------|----------|-------------|--------|-------------|----------|-------------|--------------|
| Designed by | DRS | Date | 01/27/22 | Scale | 1"=20' | Drawing no. | 21306B-1 | Sheet | C2.01 |
| Drawn by | DRS | Revision | | Description | | Date | | Project no. | 21306B |
| Checked by | DMS | | | | | | | | |





LEGEND

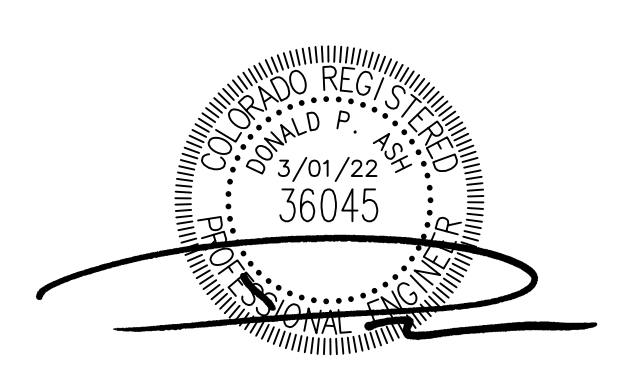
- EXISTING DECIDUOUS TREE
- EXISTING PINE TREE
- EXISTING CONTOUR
- FOUND MONUMENT AS NOTED
- EXISTING ELECTRIC METER
- EXISTING WATER VALVE
- EXISTING CLEANOUT
- EXISTING GAS METER
- EXISTING WATER METER
- CONTROL POINT
- EXISTING LIGHT POLE
- EXISTING FENCE
- EXISTING SANITARY SEWER W/MANHOLE
- EXISTING WATER W/FIRE HYDRANT
- EXISTING STORM SEWER W/MANHOLE
- RECORD COURSE PER PLAT

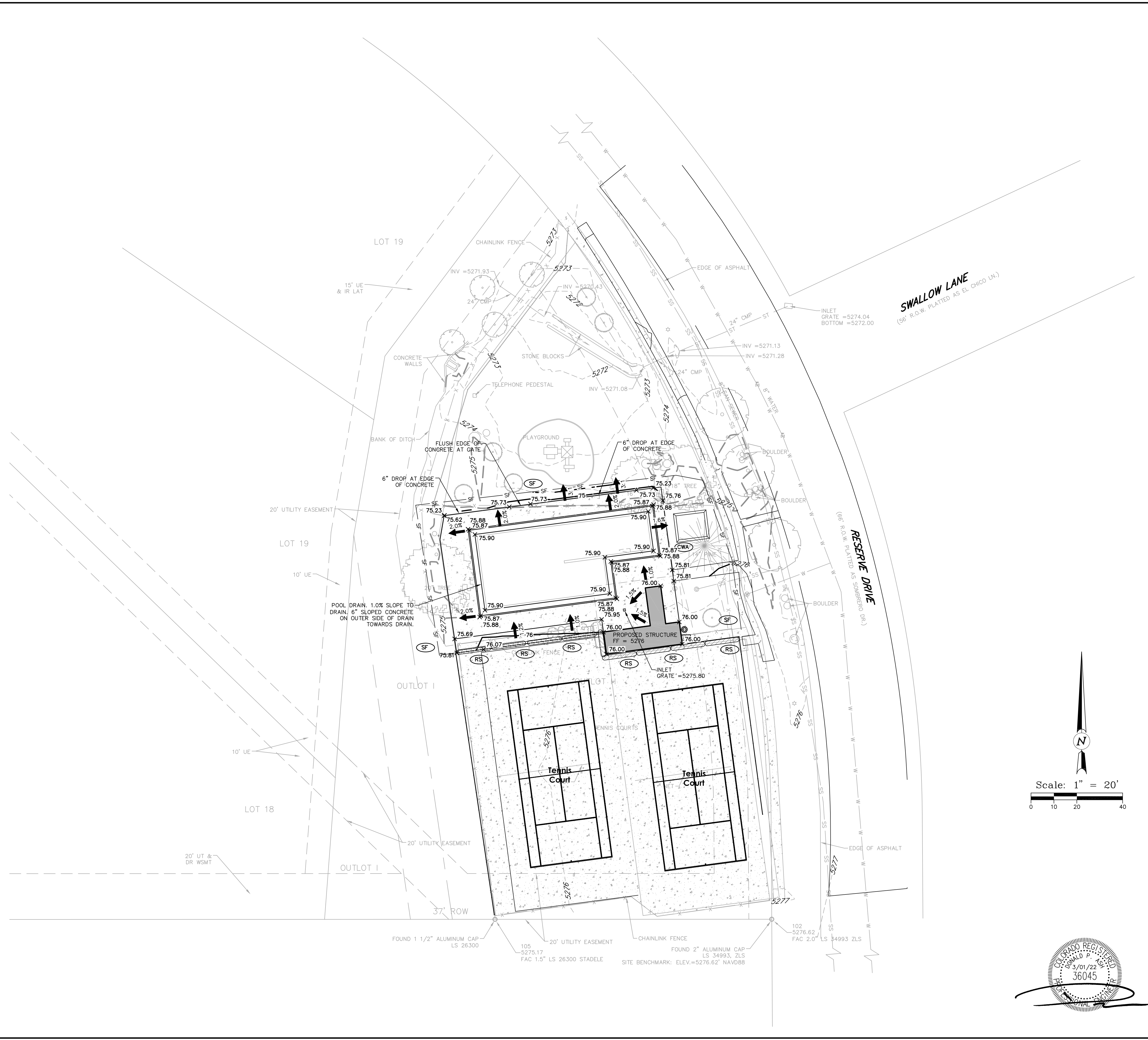
- KEYED NOTES**
1. PROPOSED POOL.
 2. PROPOSED SIDEWALK.
 3. PROPOSED STRUCTURE.
 4. PROPOSED LANDSCAPING.
 5. EXISTING TREES TO REMAIN.
 6. REMOVE AND REPLACE CONCRETE POOL PAD.

CIVIL SITE PLAN
HOA POOL FACILITY
6298 RESERVE DRIVE
BOULDER, COLORADO

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| Designed by | DRS | Date | 01/27/22 | Scale | 1"=20' | Drawing no. | 21306B-1 | Sheet | C2.02 |
| Drawn by | DRS | Revision | | Description | | Date | | Project no. | 21306B |
| Checked by | DMS | | | | | | | | |





LEGEND

- 25 PROPOSED CONTOUR
ADD 5500 TO ALL CONTOURS
- 5225 EXISTING CONTOUR
- POINT WHERE PROPOSED GRADE MEETS EXISTING GRADE
- 25.8 PROPOSED SPOT ELEVATION
ADD 5500 TO ALL SPOT ELEVATIONS
- 25.8 EXISTING SPOT ELEVATION
- HISTORIC SHEET FLOW
- PROPOSED FLOW DIRECTION
- FF FINISHED FLOOR ELEVATION
- CF CATCH FENCE (CF)
- SF SILT FENCE (SF)
- STRAW BALE BARRIER (SB)
- EROSION CONTROL MATTING (EM)
- VEHICLE TRACKING CONTROL (VTC)
- INLET PROTECTION (IP)
- INLET PROTECTION (IP)
- CONCRETE WASHOUT AREA (CWA)
- ROCK SOCK (RS)

GRADING NOTES

- GRADE AWAY FROM BUILDINGS AT A MINIMUM 10% SLOPE IN THE FIRST 10 FEET AT LANDSCAPE AREAS AND AT A MINIMUM 2% SLOPE IN THE FIRST 10 FEET AT IMPERVIOUS AREAS, EXCEPT AS NOTED.
- TOP OF FOUNDATION ELEVATION SHALL BE SET AT LEAST 8" ABOVE THE PROPOSED GRADING AT THE EXTERIOR OF THE FOUNDATION AT LANDSCAPE AREAS.
- ALL CITY UTILITIES SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE CITY OF BOULDER STANDARD SPECIFICATIONS.
- THE LOCATION OF THE ABOVE GROUND UTILITIES SHOWN HEREON ARE BASED ON THE FIELD SURVEY BY SCOTT, COX & ASSOCIATES, INC. THE LOCATIONS OF THE UNDERGROUND UTILITIES SHOWN HEREON ARE BASED ON SAID SURVEY AND INFORMATION PROVIDED BY OTHERS (WHICH MAY INCLUDE THE UTILITY OWNER OR UTILITY LOCATING SERVICES). SCOTT, COX & ASSOCIATES, INC. IS NOT RESPONSIBLE FOR UTILITY INFORMATION PROVIDED BY OTHERS. SCOTT, COX & ASSOCIATES, INC. RECOMMENDS THAT THE LOCATION OF THE UTILITIES BE FIELD VERIFIED PRIOR TO ANY DIGGING ON, OR ADJACENT TO THE SUBJECT PROPERTY.
- BENCH MARK: CITY OF BOULDER Z-2-5; FND 3IN ALUM PIPE 0.7' ABOVE GND-1/4 S34/S35, BETWEEN RESERVE DR & PIEDMONT ELEVATION=5282.33' NAVD88. SITE BENCH MARK AS SHOWN.

EROSION CONTROL NOTES

- TO THE EXTENT PRACTICABLE, EROSION AND SEDIMENT CONTROL MEASURES SHALL BE INSTALLED PRIOR TO GRADING ACTIVITIES. AT ALL TIMES DURING PROJECT CONSTRUCTION, ALL TEMPORARY AND PERMANENT EROSION AND SEDIMENT CONTROL MEASURES SHALL BE MAINTAINED AND REPAIRED AS NEEDED TO PREVENT ACCELERATED EROSION ON THE SITE AND ANY ADJACENT PROPERTIES.
- ALL TOPSOIL, WHERE PHYSICALLY PRACTICABLE, SHALL BE SALVAGED AND NO TOPSOIL SHALL BE REMOVED FROM THE SITE. TOPSOIL AND OVERBURDEN SHALL BE SEGREGATED AND STOCKPILED SEPARATELY. TOPSOIL AND OVERBURDEN SHALL BE REDISTRIBUTED WITHIN THE GRADED AREA AFTER ROUGH GRADING TO PROVIDE A SUITABLE BASE FOR AREAS WHICH WILL BE SEEDED AND PLANTED. RUNOFF FROM STOCKPILED AREA SHALL BE CONTROLLED TO PREVENT EROSION AND RESULTANT SEDIMENTATION OF RECEIVING WATER.
- ALL DISTURBED AREAS SHALL RECEIVE PERMANENT VEGETATIVE COVER AS DESCRIBED ABOVE. ALL CUT OR FILL SLOPES WITH 3 TO 1 OR GREATER SLOPE SHALL BE COVERED WITH EROSION CONTROL MATTING OR HYDROMULCHED WITH A WOOD FIBER AND TACKIFIER AT 1 TON/ACRE.
- ALL EROSION CONTROL MEASURES SHALL BE INSPECTED BY THE OWNER, OR OWNER APPROVED AGENT, AFTER ALL STORM EVENTS. ANY EROSION CONTROL MEASURES WHICH ARE DAMAGED PRIOR TO RE-ESTABLISHMENT OF VEGETATIVE COVER SHALL BE REPLACED IMMEDIATELY.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE REMOVAL OF ALL TEMPORARY EROSION CONTROL DEVICES AFTER THE ESTABLISHMENT OF FULL VEGETATION, INCLUDING BUT NOT LIMITED TO SILT FENCE AND POSTS, HAY BALES, AND REGRADING TEMPORARY SEDIMENT BASINS.

GRADING, DRAINAGE AND
EROSION CONTROL PLAN
HOA POOL FACILITY
6298 RESERVE DRIVE
BOULDER, COLORADO

| | | | |
|-------------|-----|---|-------------|
| | | SCOTT, COX & ASSOCIATES, INC. consulting engineers • surveyors 1530 55th Street • Boulder, Colorado 80303 (303) 444 - 3051 | |
| Designed by | DRS | Date | 01/27/22 |
| Drawn by | DRS | Scale | 1"=20' |
| Checked by | DMS | Drawing no. | 21306B-1 |
| | | Revision | Description |
| | | Date | 21306B |
| | | Sheet | C203 |
| | | Project no. | 21306B |

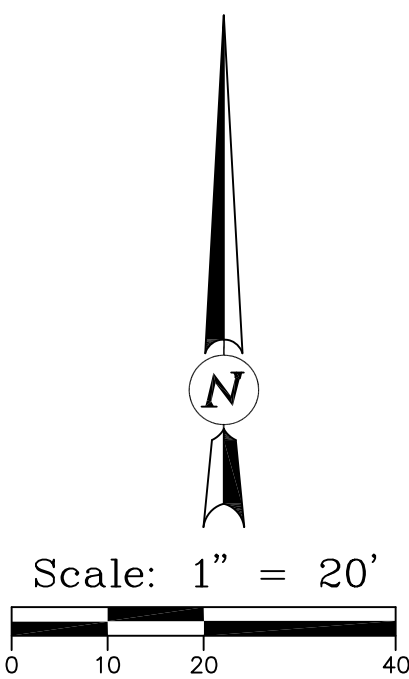


LEGEND

| | |
|--|-----------------------------------|
| | EXISTING DECIDUOUS TREE |
| | EXISTING PINE TREE |
| | EXISTING UNDERGROUND TELEPHONE |
| | EXISTING OVERHEAD TELEPHONE |
| | EXISTING UNDERGROUND POWER LINE |
| | EXISTING OVERHEAD POWER LINE |
| | EXISTING GAS LINE |
| | EXISTING SANITARY SEWER W/MANHOLE |
| | PROPOSED SANITARY SEWER W/MANHOLE |
| | EXISTING WATER W/FIRE HYDRANT |
| | PROPOSED WATER W/FIRE HYDRANT |
| | EXISTING STORM SEWER W/MANHOLE |
| | PROPOSED STORM SEWER W/MANHOLE |
| | EXISTING SWALE |
| | EXISTING CONTOUR |
| | EXISTING SPOT ELEVATION |
| | EXISTING WATER VALVE |
| | EXISTING WATER METER |
| | EXISTING GAS METER |
| | EXISTING POWER POLE |
| | PROPOSED WATER VALVE |
| | PROPOSED WATER METER |
| | PROPOSED POWER POLE |

KEYED NOTES

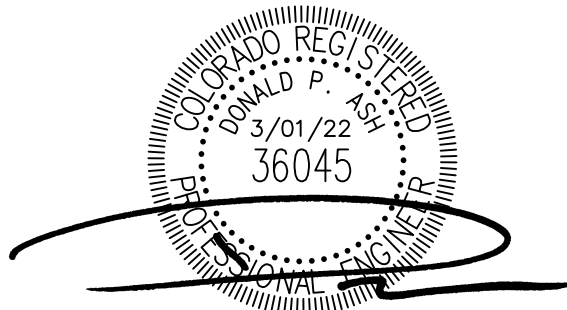
1. RELOCATED ELECTRIC METER.
2. RELOCATED GAS METER.
3. EXISTING WATER TO REMAIN.
4. EXISTING SANITARY SEWER TO REMAIN.

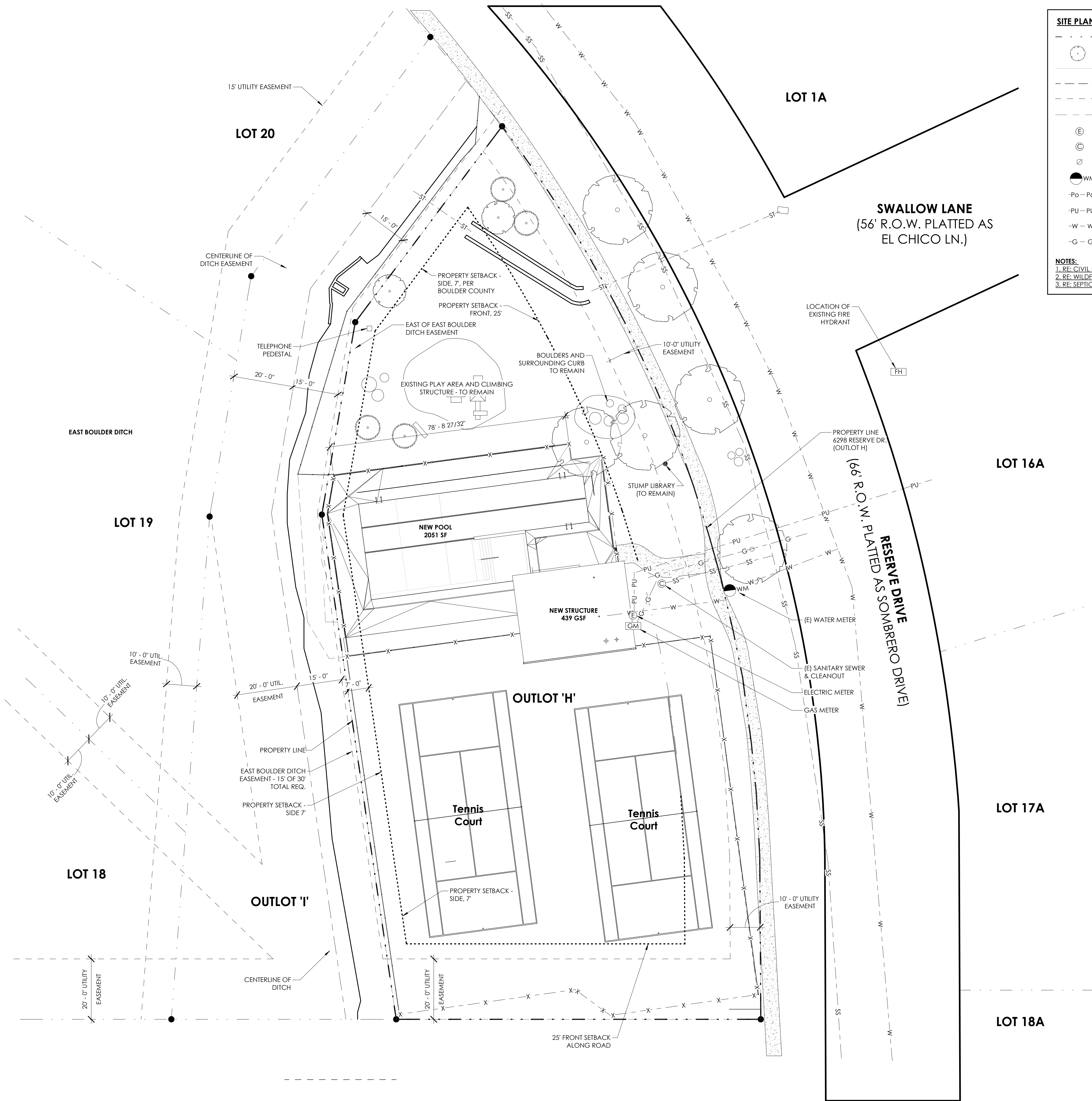


UTILITY PLAN
HOA POOL FACILITY
6298 RESERVE DRIVE
BOULDER, COLORADO

SCOTT, COX & ASSOCIATES, INC.
consulting engineers • surveyors
1530 55th Street • Boulder, Colorado 80303
(303) 444 - 3051

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| Designed by | DRS | Date | 01/27/22 | Scale | 1"=20' | Drawing no. | 21306B-1 | Sheet | C2.04 |
| Drawn by | DRS | Revision | | Description | | Date | | Project no. | 21306B |
| Checked by | DMS | | | | | | | | |





SITE PLAN LEGEND:

| | | | |
|-----------|------------------------|---------------|--------------------------------|
| - - - - | PROPERTY LINE | -DI - DI- | DRIP IRRIGATION |
| (C) | REMAINING TREE | -SS - SS- | SANITARY SEWER SERVICE |
| - - - - | CONTOUR LINE | -ST - ST- | STORM CULVERT |
| - - - - | EASEMENT LINE | -C/I - C/I- | UNDERGROUND INTERNET/ CABLE |
| - - - - | SETBACK LINE | [GM] | GAS METER |
| - - - - | CENTER LINE | (M) | WATER MANHOLE |
| (E) | ELECTRICAL METER | [FH] | EXISTING FIRE HYDRANT LOCATION |
| (C) | CLEAN OUT | [MB] | MAILBOX |
| Ø | POWER POLE | -CF - CF- | CONSTRUCTION FENCE LINE |
| WM | WATER METER | -X - X- | FENCE LINE |
| -Po - Po- | OVERHEAD POWER LINE | [IMPERMEABLE] | IMPERMEABLE SURFACE |
| -PU - PU- | UNDERGROUND POWER LINE | [PERMEABLE] | PERMEABLE SURFACE |
| -W - W- | UNDERGROUND WATER LINE | | |
| -G - G- | UNDERGROUND GAS LINE | | |

NOTES:
1. RE: CIVIL PLANS FOR PROPOSED GRADING, DRAINAGE, EROSION CONTROL & REVEGETATION, & UTILITIES
2. RE: WILDFIRE MITIGATION PLAN FOR TREE REMOVAL
3. RE: SEPTIC DESIGN FOR LEACH FIELD & SEPTIC DESIGN



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www.rodwinarch.com

Reserve HOA - POOL

6298 RESERVE DR., BOULDER, CO 80303

NOTICE: DUTY OF COOPERATION
Release of these plans contemplates further cooperation among the owner, his contractor and the architect. Design and construction are complex. Although the architect and his consultants have performed their services with due care and diligence, they cannot guarantee perfection. Communication is imperfect and every contingency cannot be anticipated. Any ambiguity or discrepancy discovered by the use of these plans shall be reported immediately to the architect. Failure to notify the architect compounds misunderstanding and increases construction costs. A failure to cooperate by a simple notice to the architect shall relieve the architect from responsibility for all consequences. Changes made from the plans without consent of the architect are unauthorized, and shall relieve the architect of responsibility for all consequences arising out of such changes.

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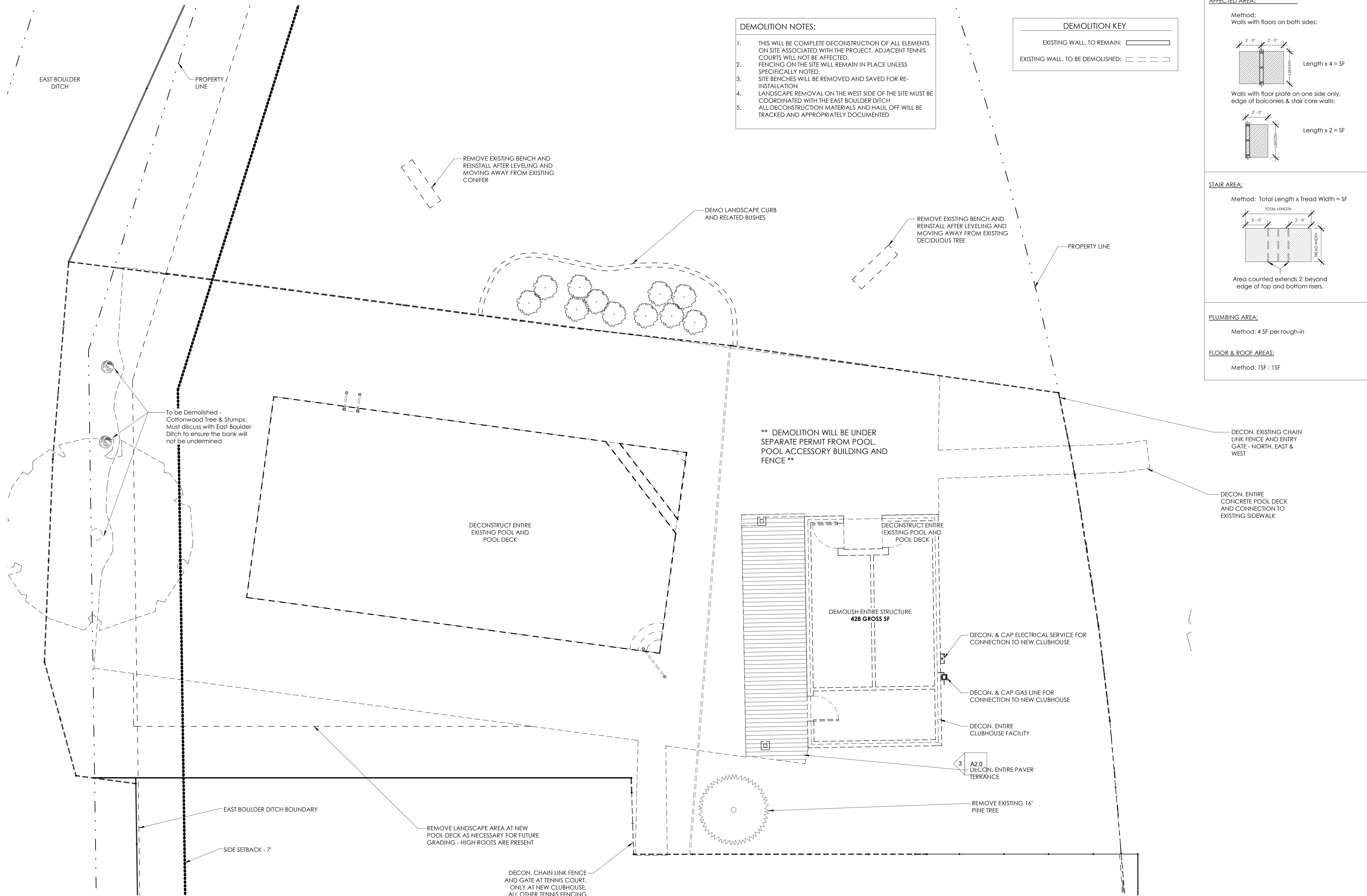
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DATE: 7.11.2022
REVISED:

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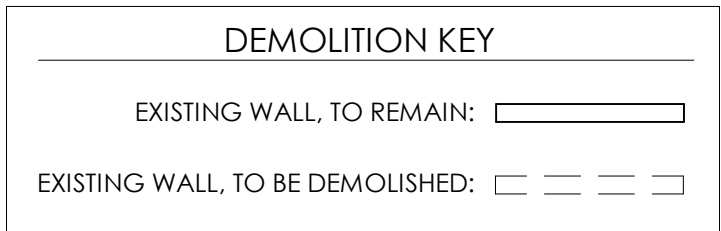
FENCE PERMIT - VARIANCE

A0.1

Architectural Site Plan



- DEMOLITION NOTES:
1. THIS WILL BE COMPLETE DECONSTRUCTION OF ALL ELEMENTS ON SITE ASSOCIATED WITH THE PROJECT. ADJACENT TENNIS COURTS WILL NOT BE AFFECTED.
 2. FENCING ON THE SITE WILL REMAIN IN PLACE UNLESS SPECIFICALLY NOTED.
 3. SITE BENCHES WILL BE REMOVED AND SAVED FOR RE-INSTALLATION.
 4. LANDSCAPE REMOVAL ON THE WEST SIDE OF THE SITE MUST BE COORDINATED WITH THE EAST BOULDER DITCH.
 5. ALL DECONSTRUCTION MATERIALS AND HAUL OFF WILL BE TRACKED AND APPROPRIATELY DOCUMENTED.



SELECTIVE DEMOLITION AREA CALCULATION
Methods used to calculate demo and new construction areas.

TOTAL BUILDING DEMO: 428 SF

AFFECTED AREA:

Method:
Walls with floors on both sides:

Length x 4 = SF

Walls with floor plate on one side only, edge of balconies & stair core walls:

Length x 2 = SF

STAIR AREA:

Method: Total Length x Tread Width = SF

Area counted extends 2' beyond edge of top and bottom risers.

PLUMBING AREA:

Method: 4 SF per rough-in

FLOOR & ROOF AREAS:

Method: 1SF : 1SF

STATE OF COLORADO
SCOTT E. HAN
RODWIN
B-3386
7.11.2022
LICENSED ARCHITECT

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Reserve HOA - POOL

6298 RESERVE DR., BOULDER, CO 80303

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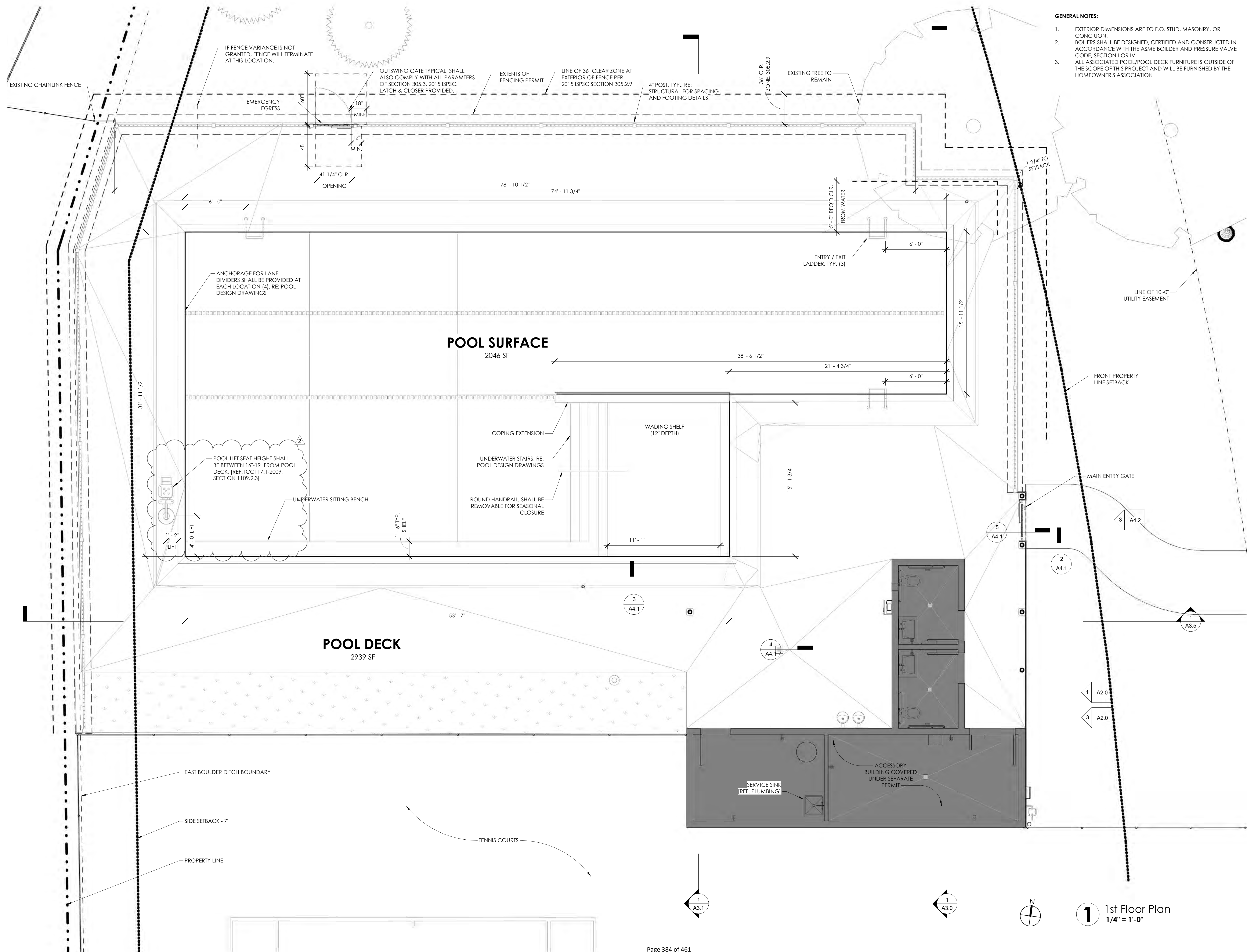
| No. | Description | Date |
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FENCE PERMIT - VARIANCE

A1.0

Deconstruction Plan

1 1st Floor - Demolition Plan
3/16" = 1'-0"



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| 2 | Permit Review Comments No. 1 | 9.29.2022 |

FENCE PERMIT - VARIANCE

A1.1

1st Floor Plan



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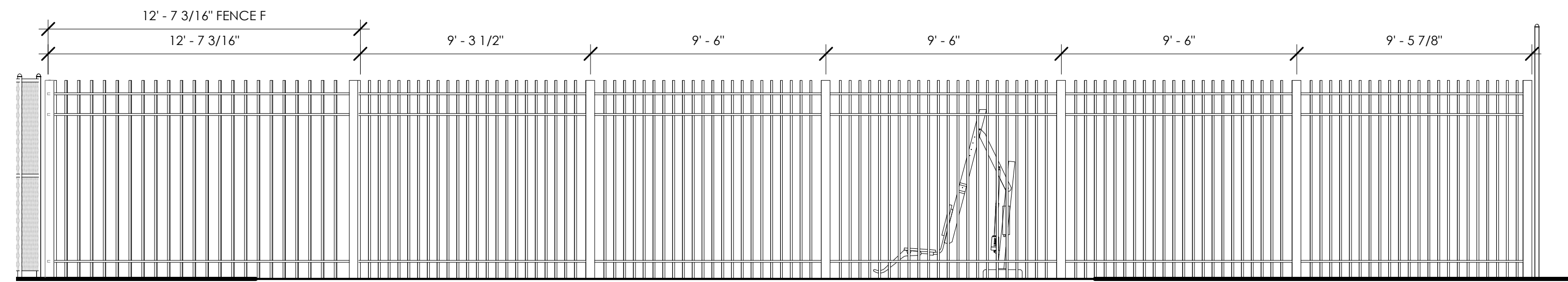
DRAWN: Author
CHECKED: Checker
DATE: 7.11.2022
REVISED:

| No. | Description | Date |
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| 2 | Permit Review Comments No. 1 | 9.29.202 2 |

FENCE PERMIT - VARIANCE

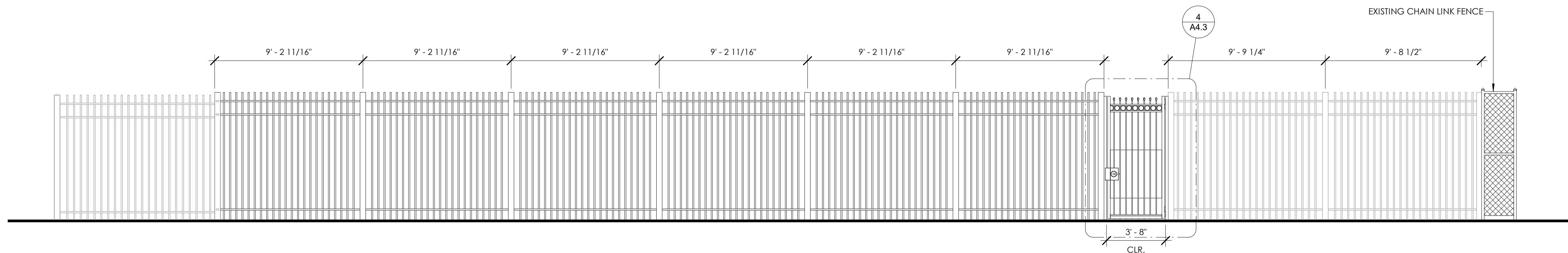
A4.2

Site Fencing & Detailing

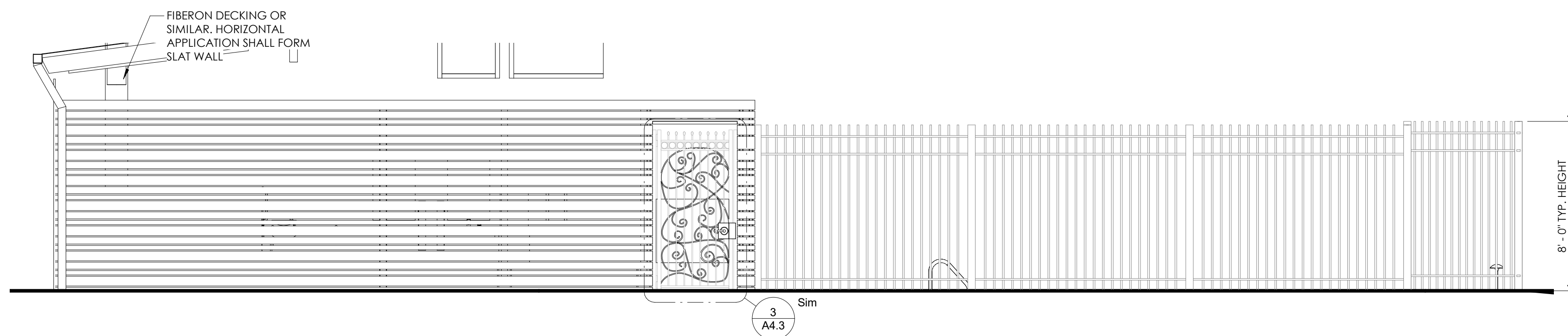


** FENCING WILL BE UNDER
SEPARATE PERMIT FROM POOL AND
POOL ACCESSORY BUILDING **

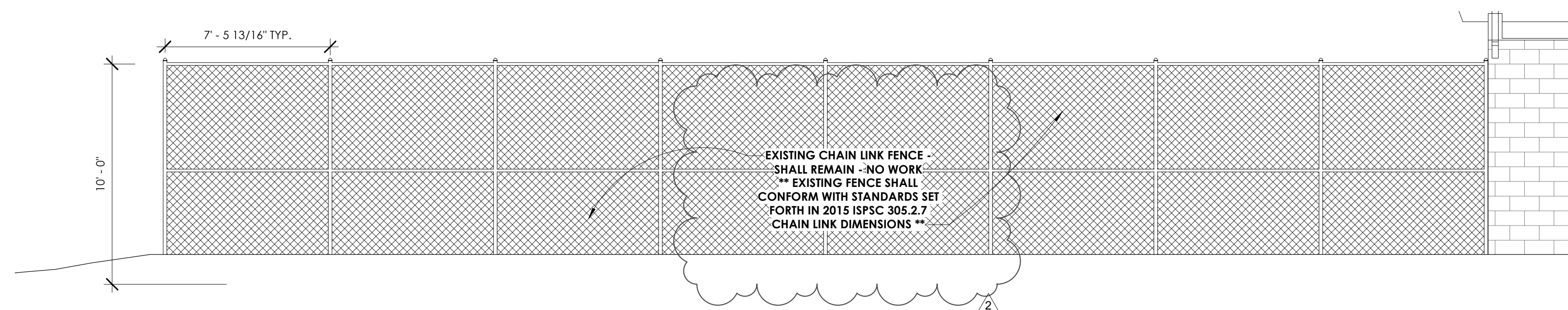
1 Railing_West
1/4" = 1'-0"



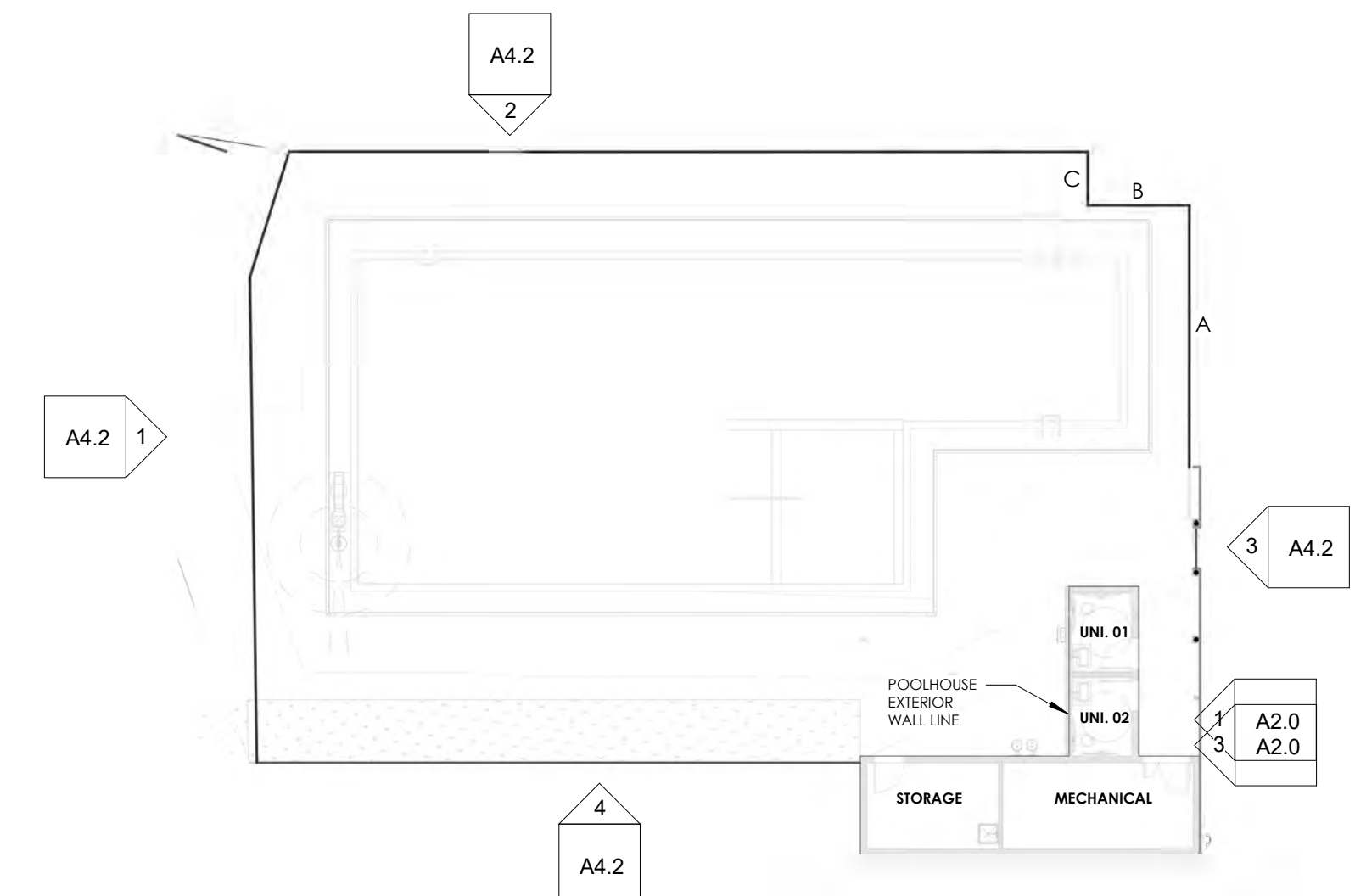
2 Railing_North
1/4" = 1'-0"



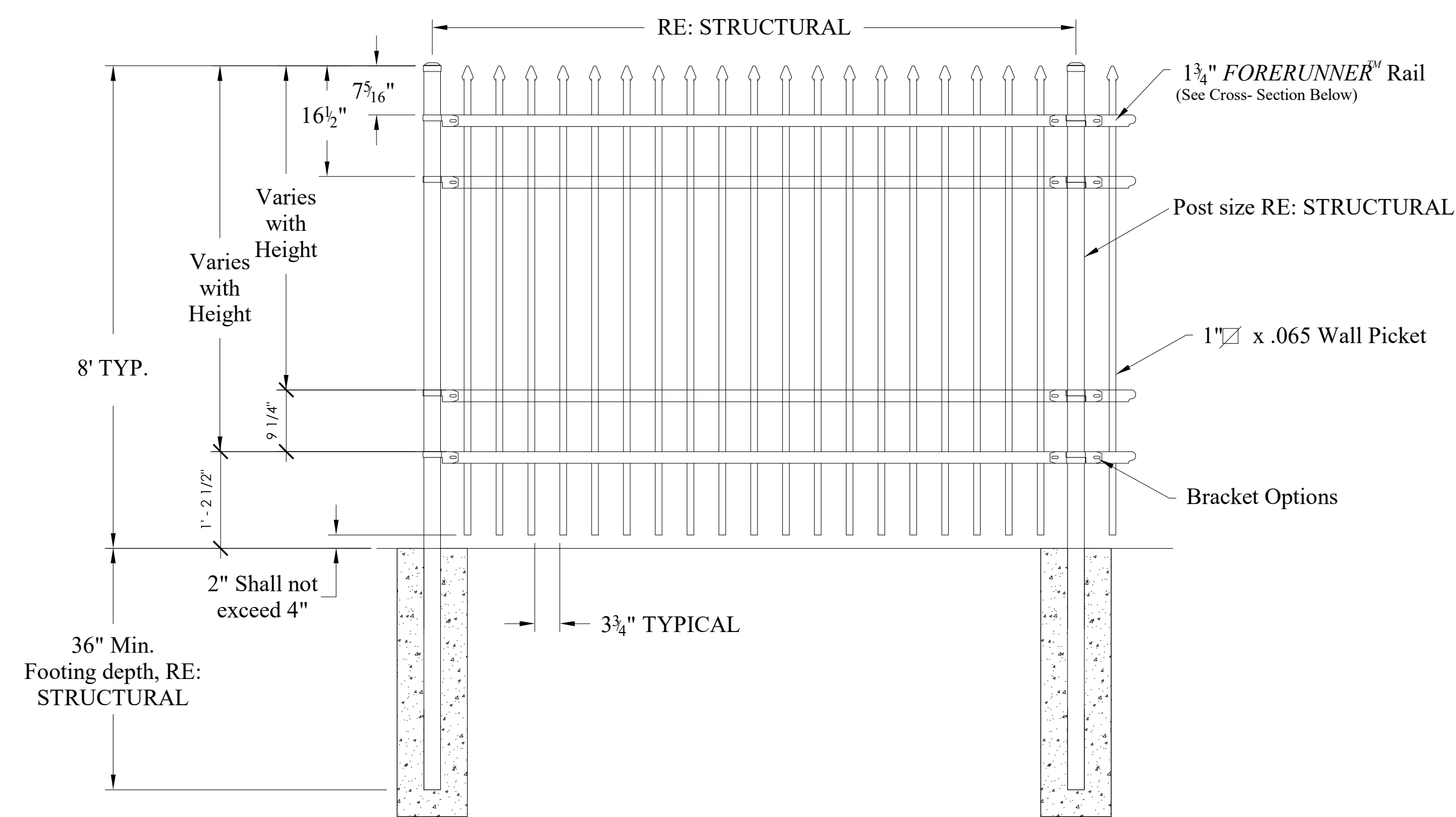
3 Railing_East
1/4" = 1'-0"



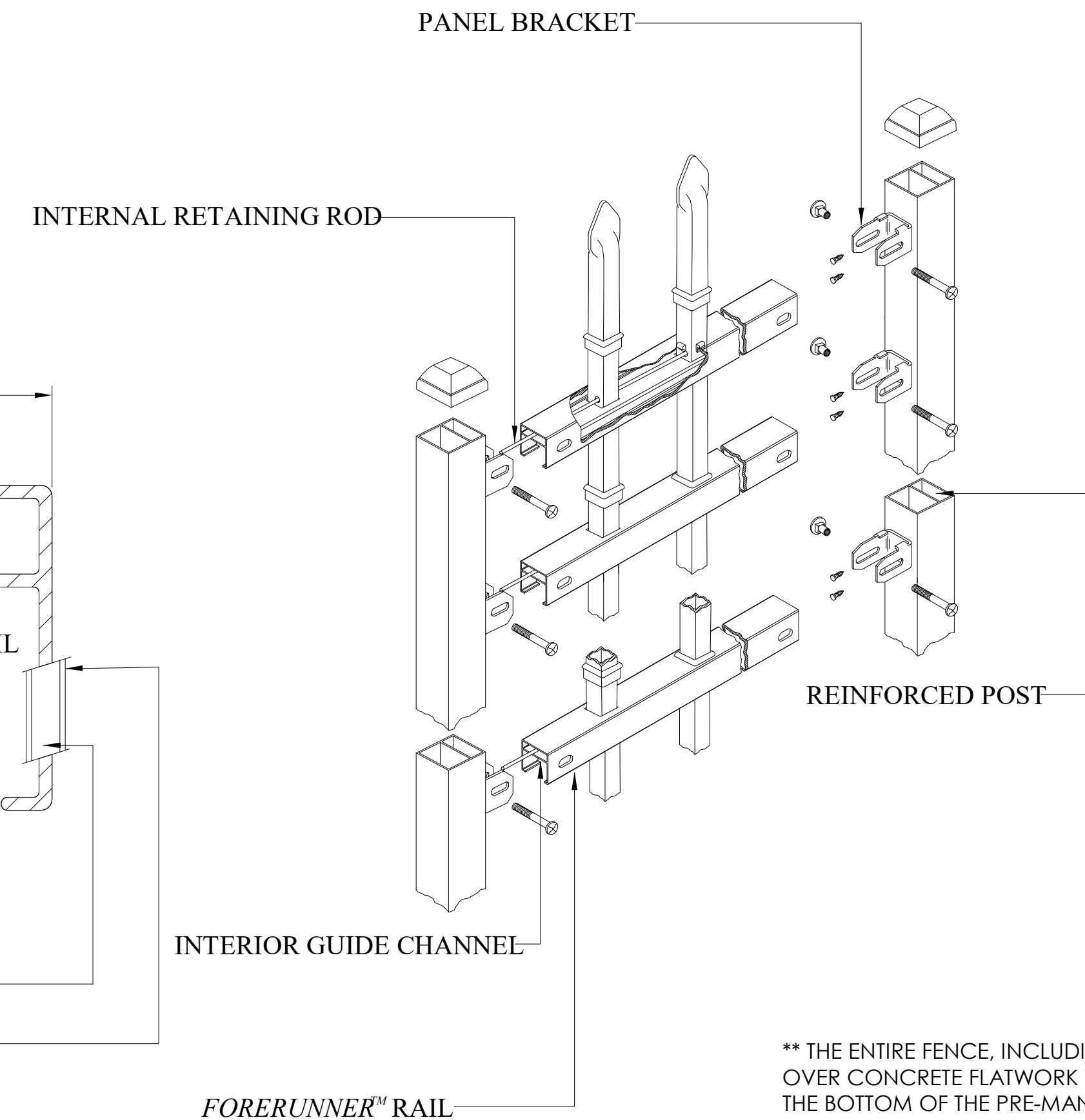
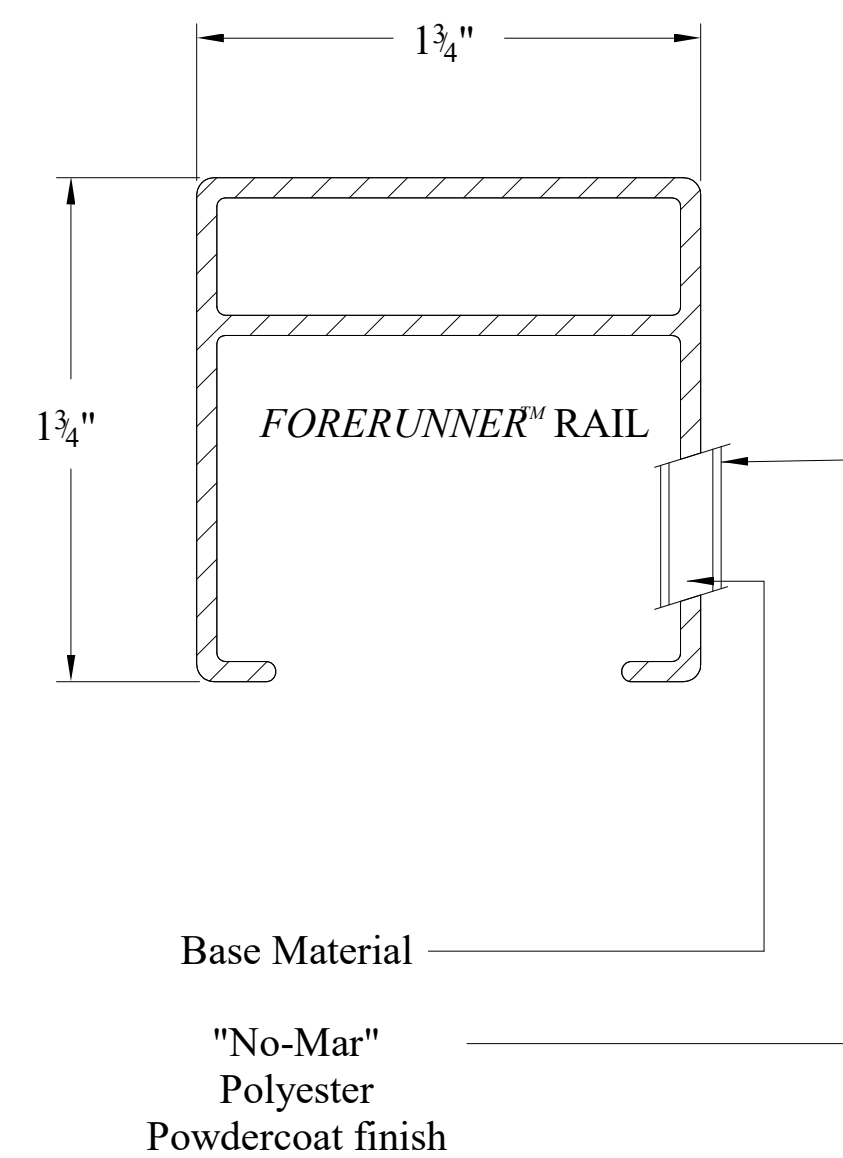
4 Railing_South
1/4" = 1'-0"



5 Pool Deck Plan - Fencing
& Detailing
1/16" = 1'-0"

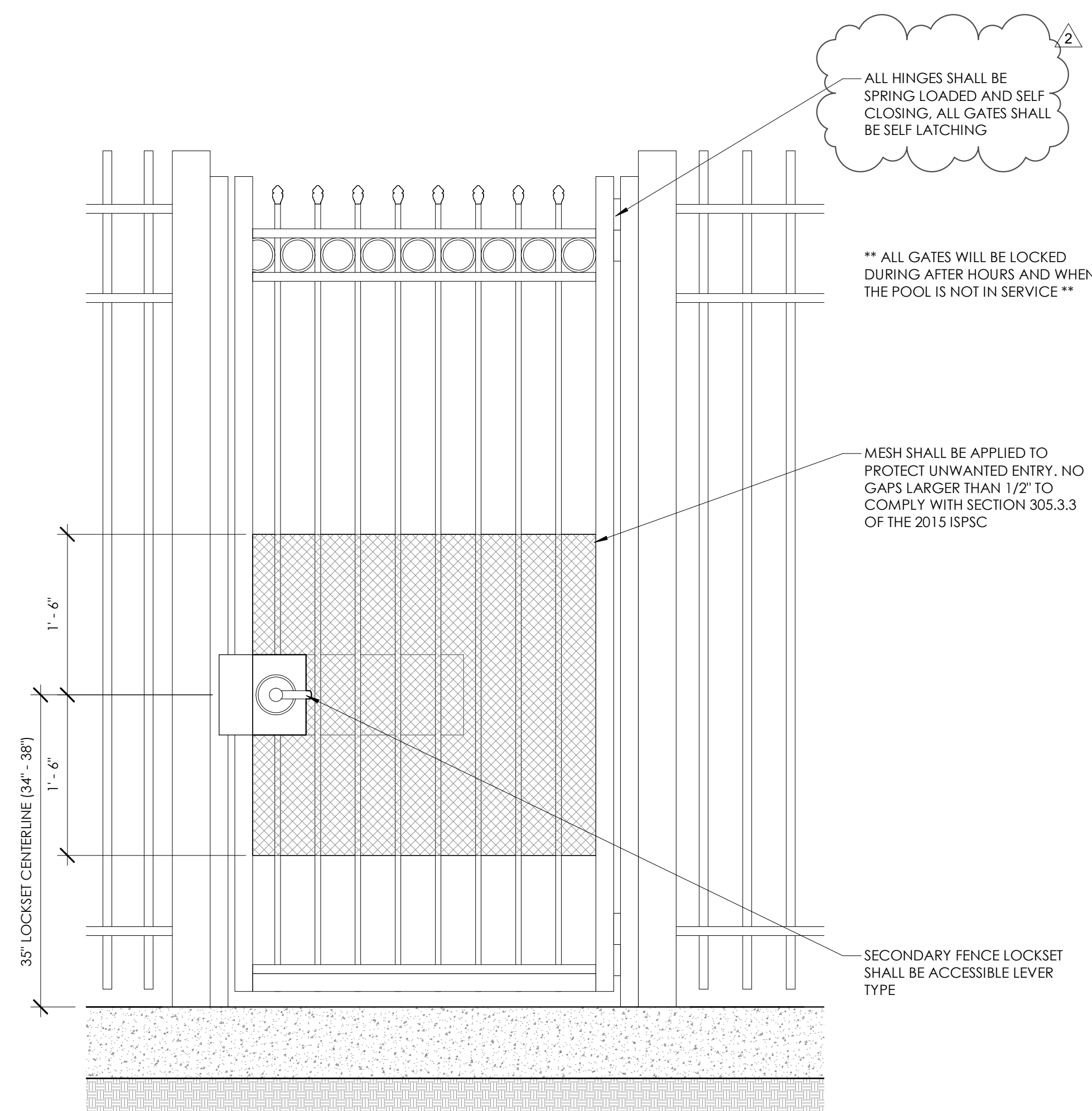


1 FENCE DETAIL
3/4" = 1'-0"

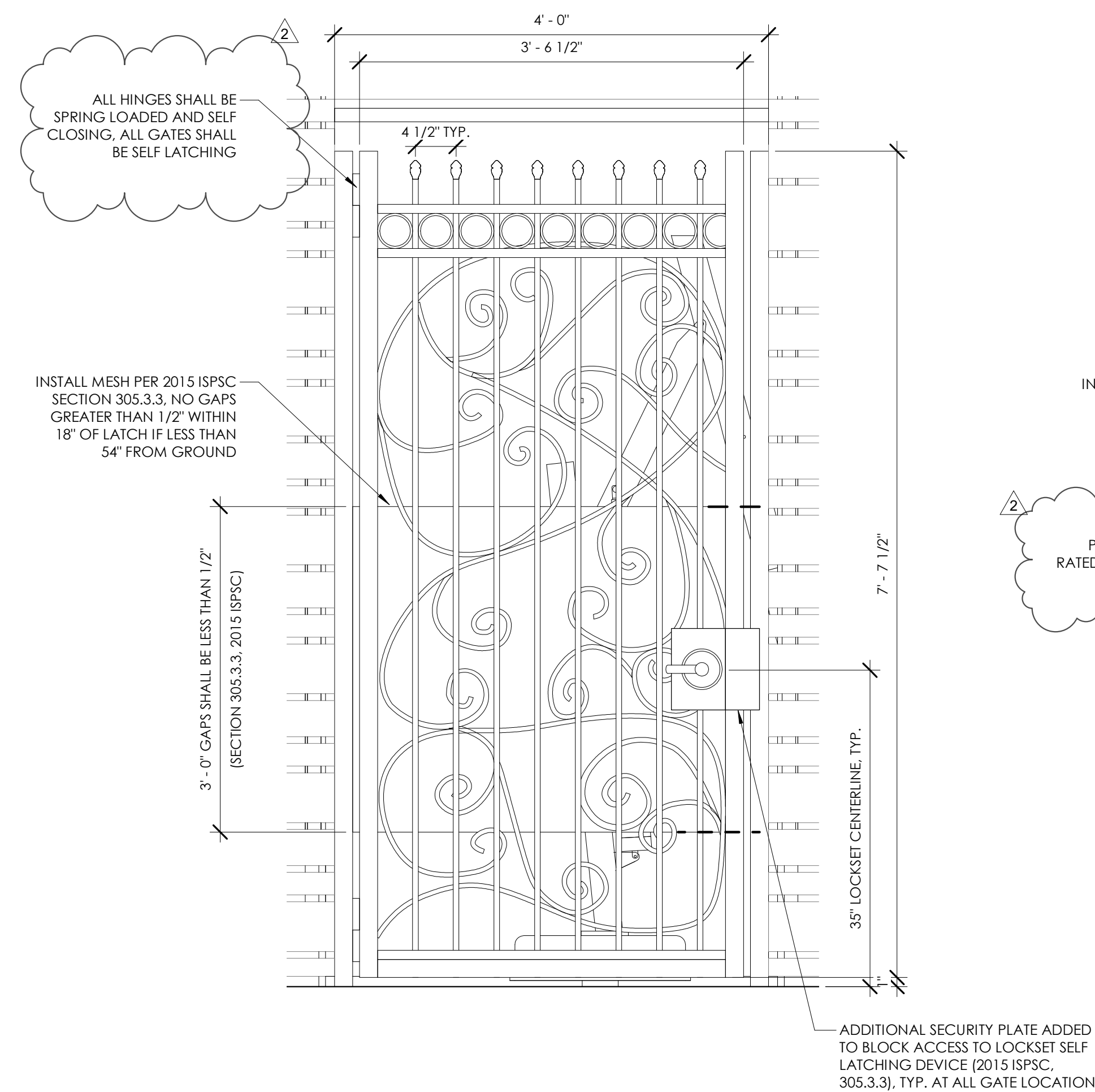


** FENCING WILL BE UNDER SEPARATE PERMIT FROM POOL AND POOL ACCESSORY BUILDING **

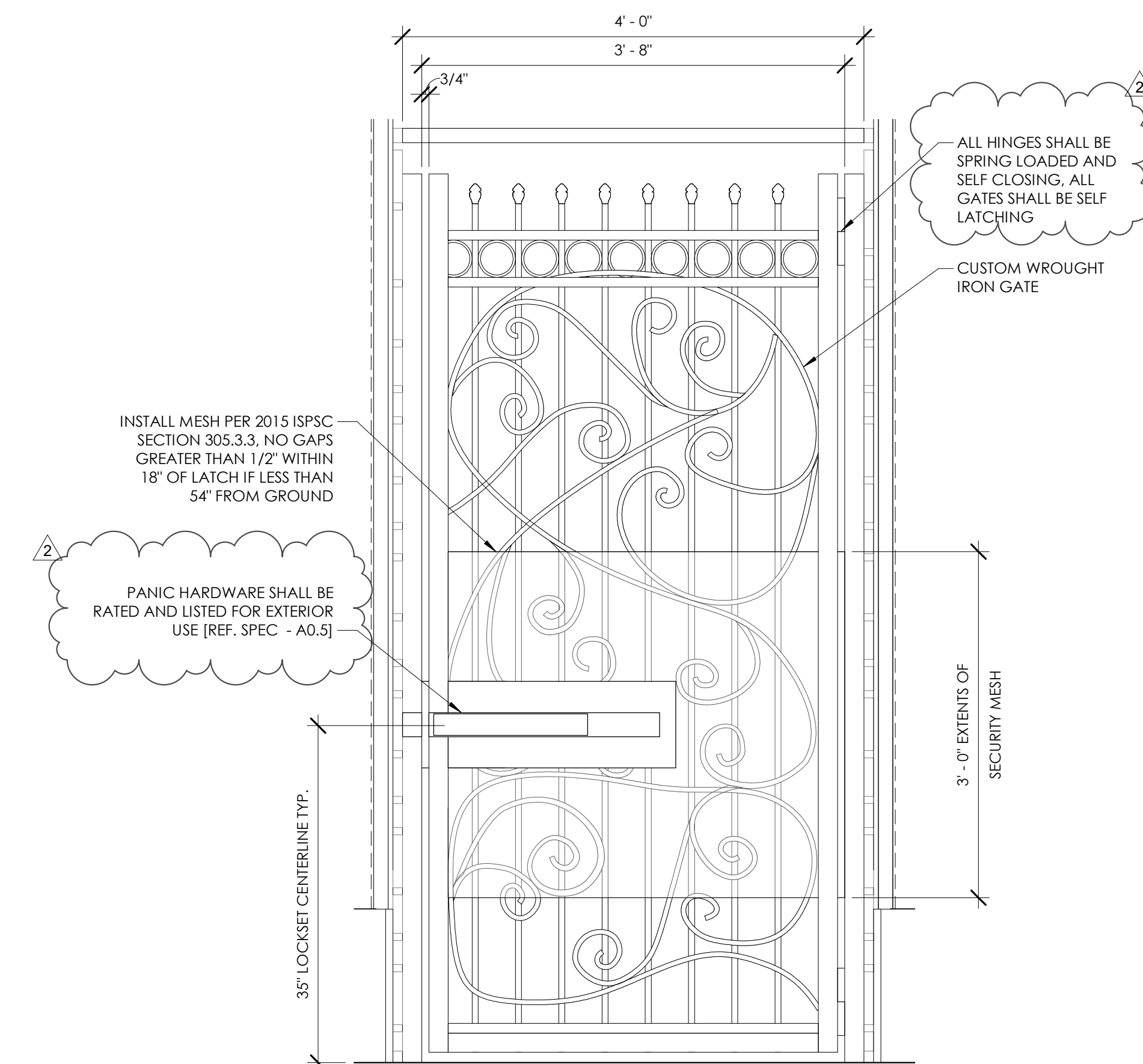
** THE ENTIRE FENCE, INCLUDING GATES, SHALL BE INSTALLED OVER CONCRETE FLATWORK TO ENSURE A CONSISTENT GAP TO THE BOTTOM OF THE PRE-MANUFACTURED FENCE SECTIONS. **



4 Fencing Detail -
Emergency Exit
1" = 1'-0"



3 Detail - Decorative Gate -
Exterior
1" = 1'-0"



2 Detail - Decorative Gate -
Interior
1" = 1'-0"



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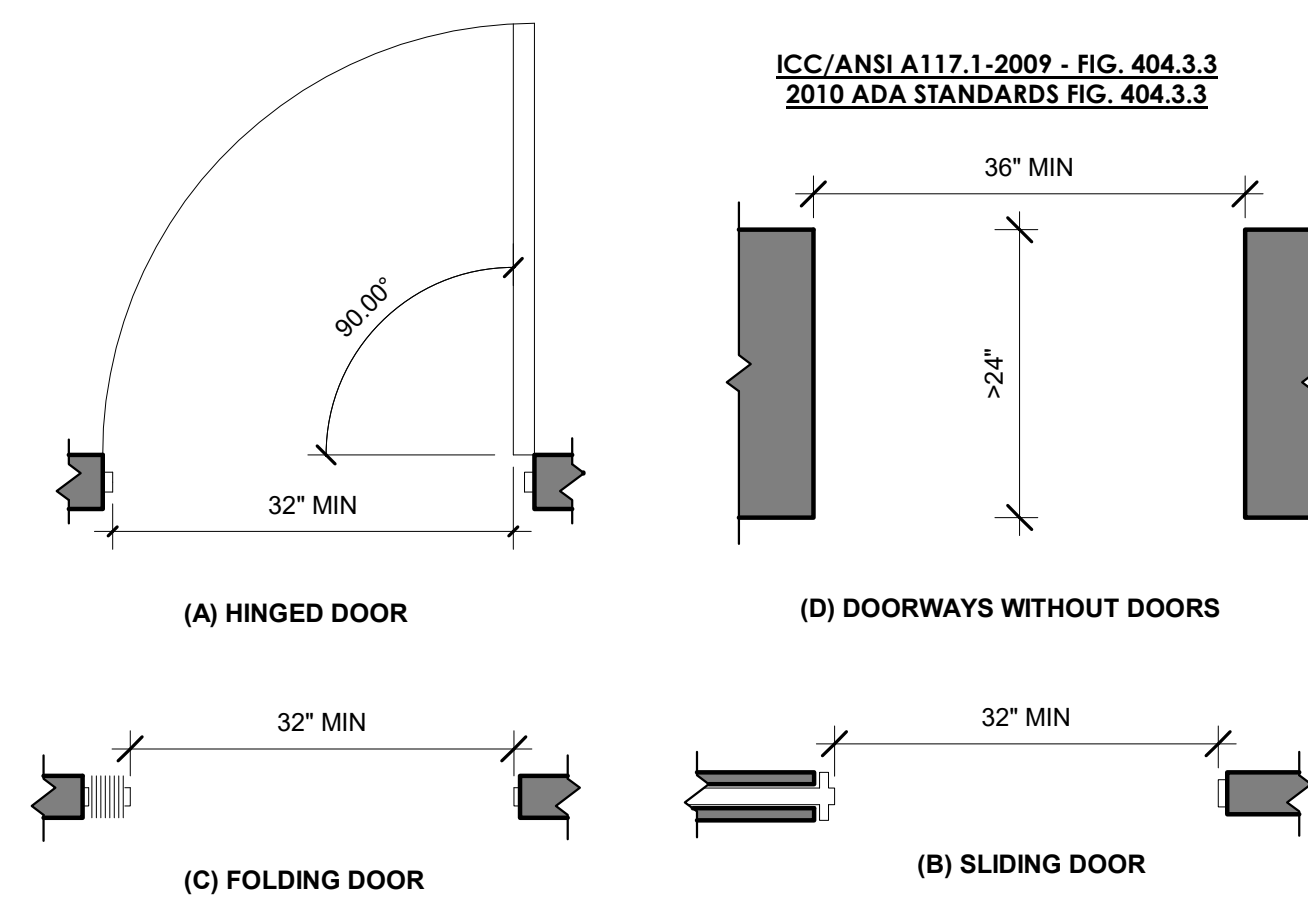
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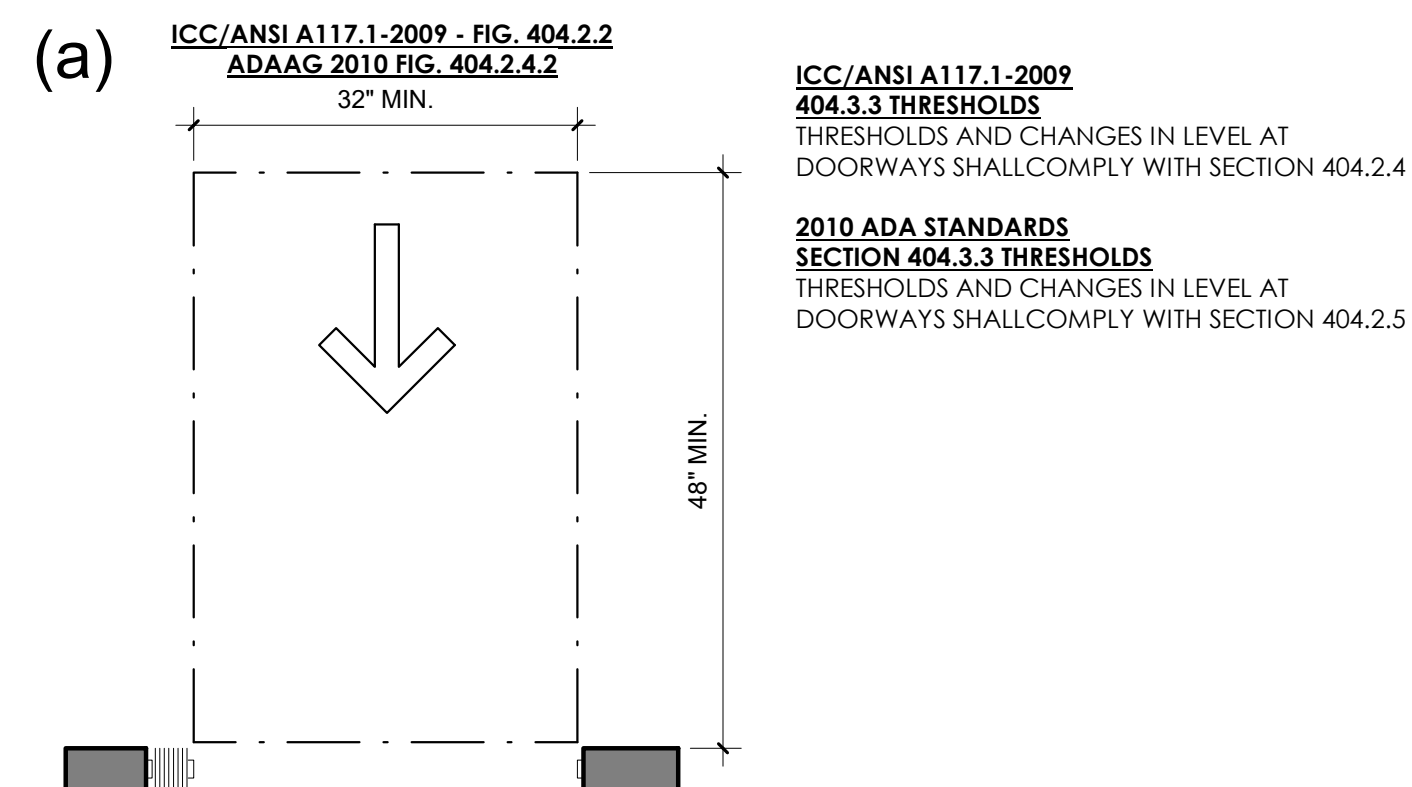
FENCE PERMIT - VARIANCE

A4.3

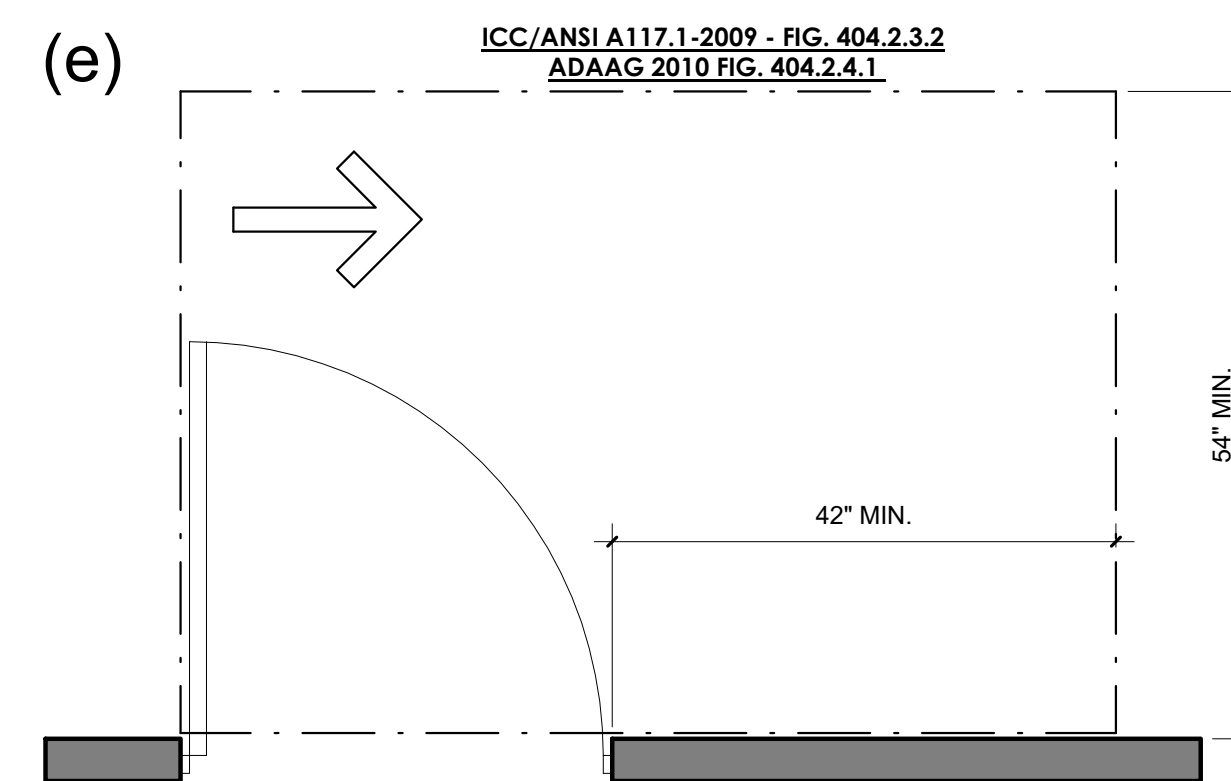
Site Fencing & Detailing



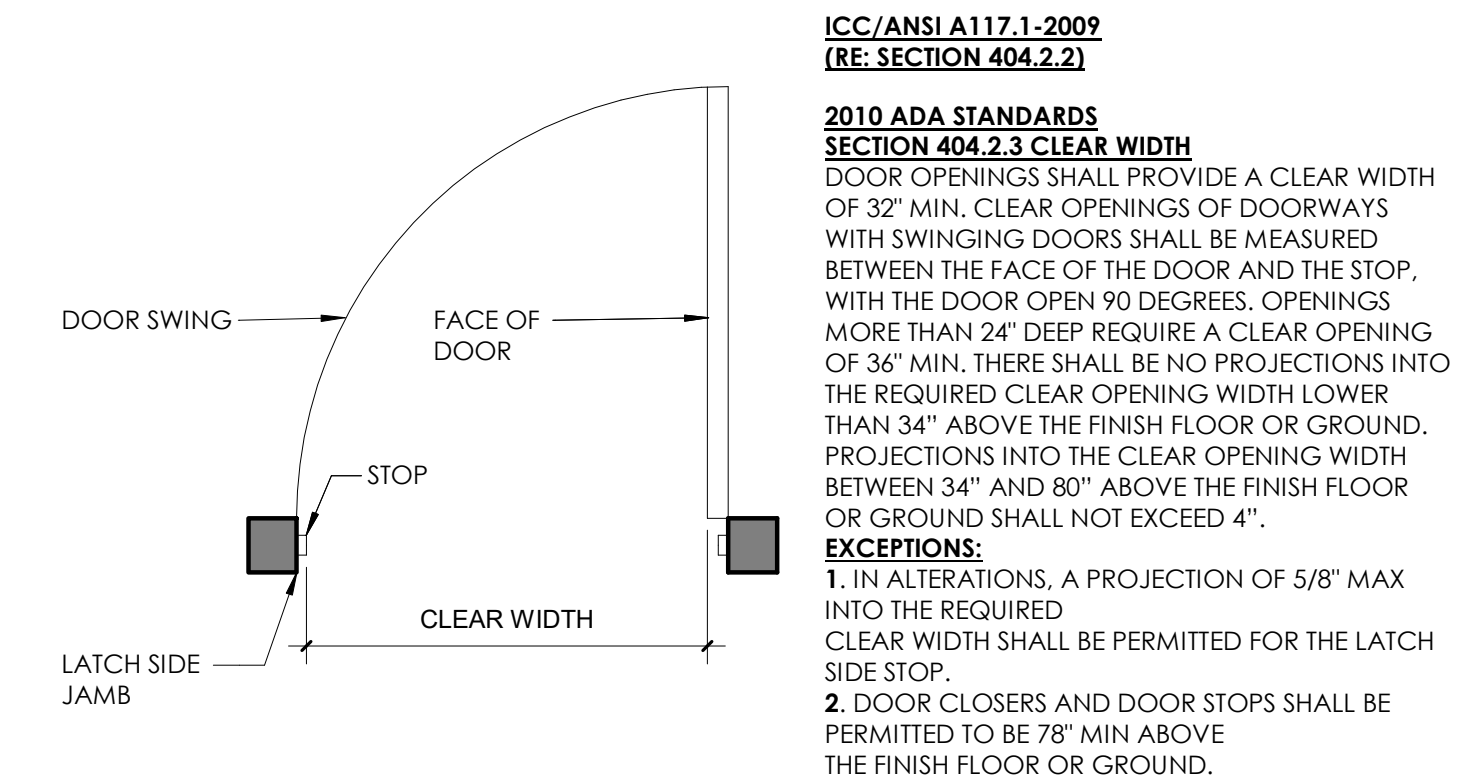
16 DOORWAY CLEARANCES



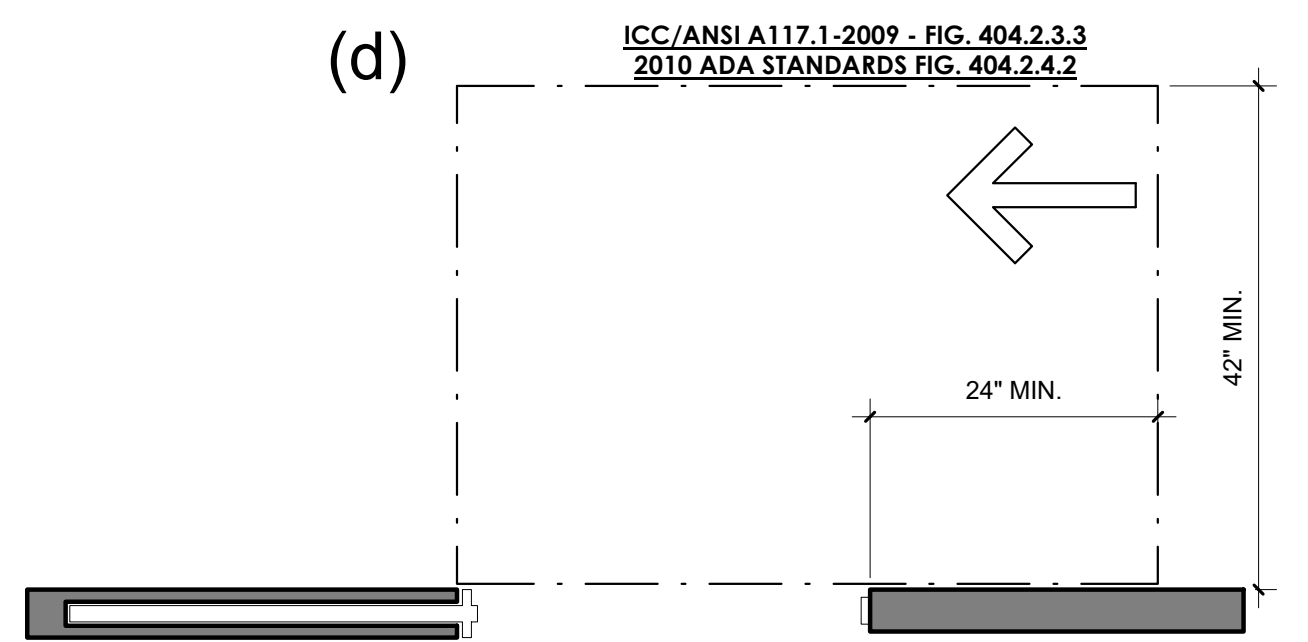
12 FRONT APPROACH AT SLIDING AND FOLDING DOORS



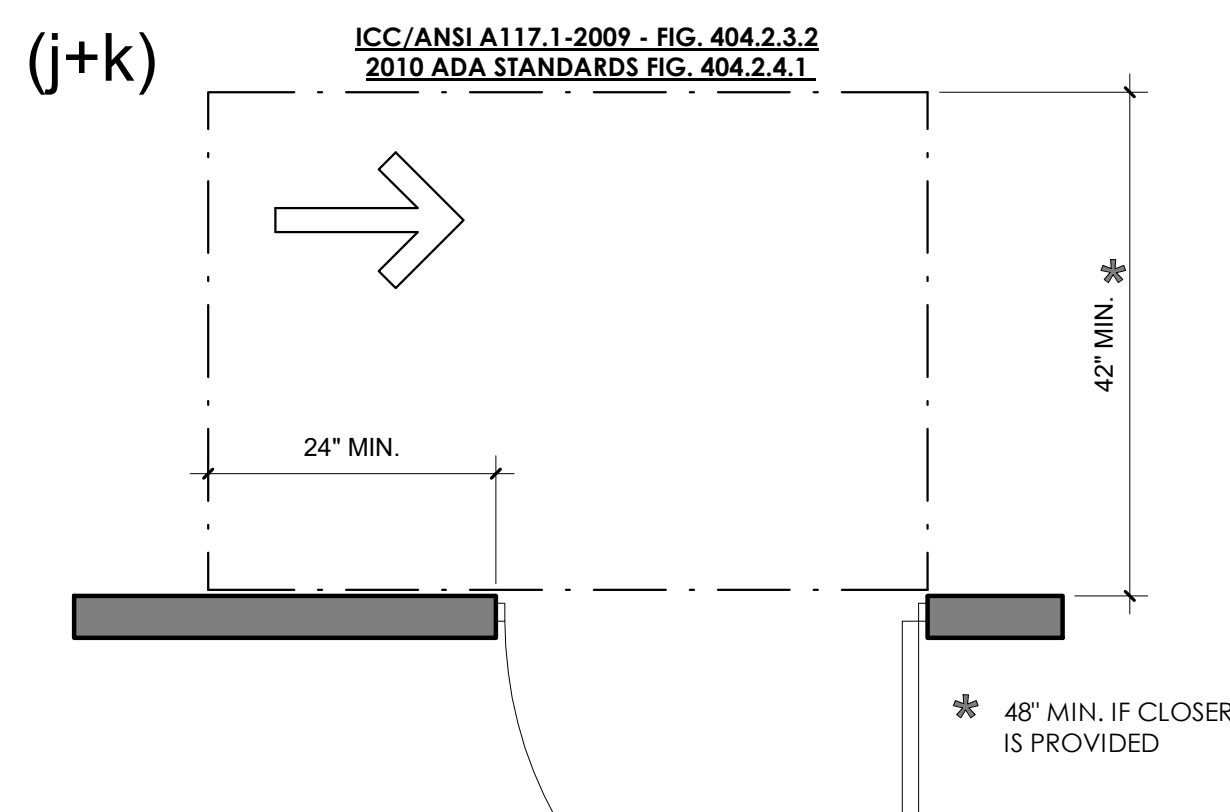
8 HINGE APPROACH, PULL SIDE ALT



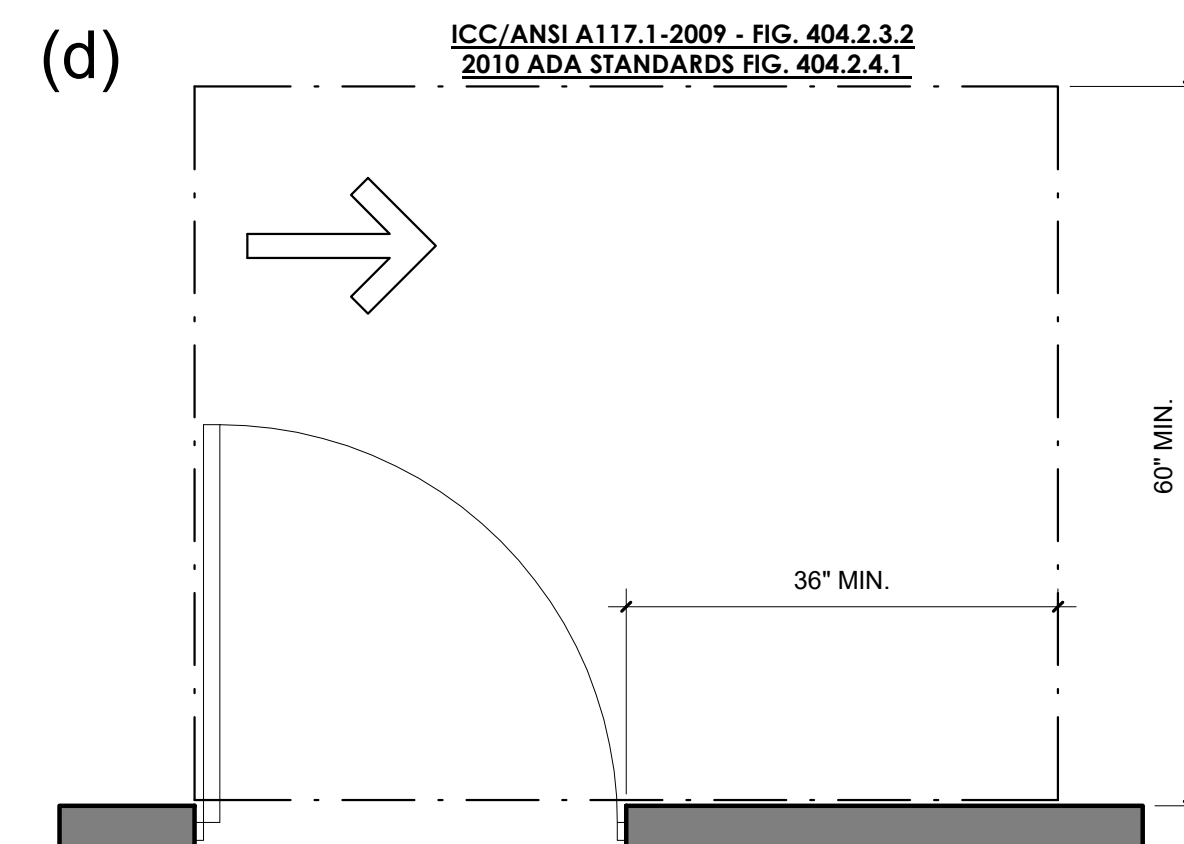
4 MEASURING CLEAR WIDTH AT DOORS AND DOORWAYS



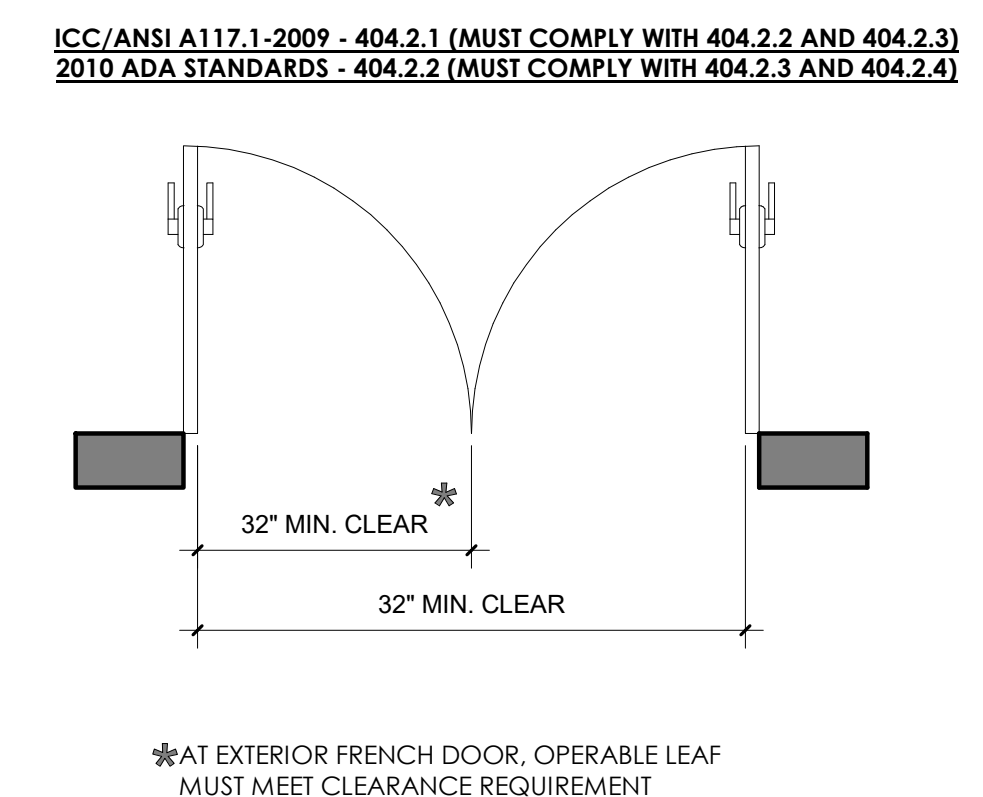
15 POCKET DOOR, STOP OR LATCH SIDE APPROACH



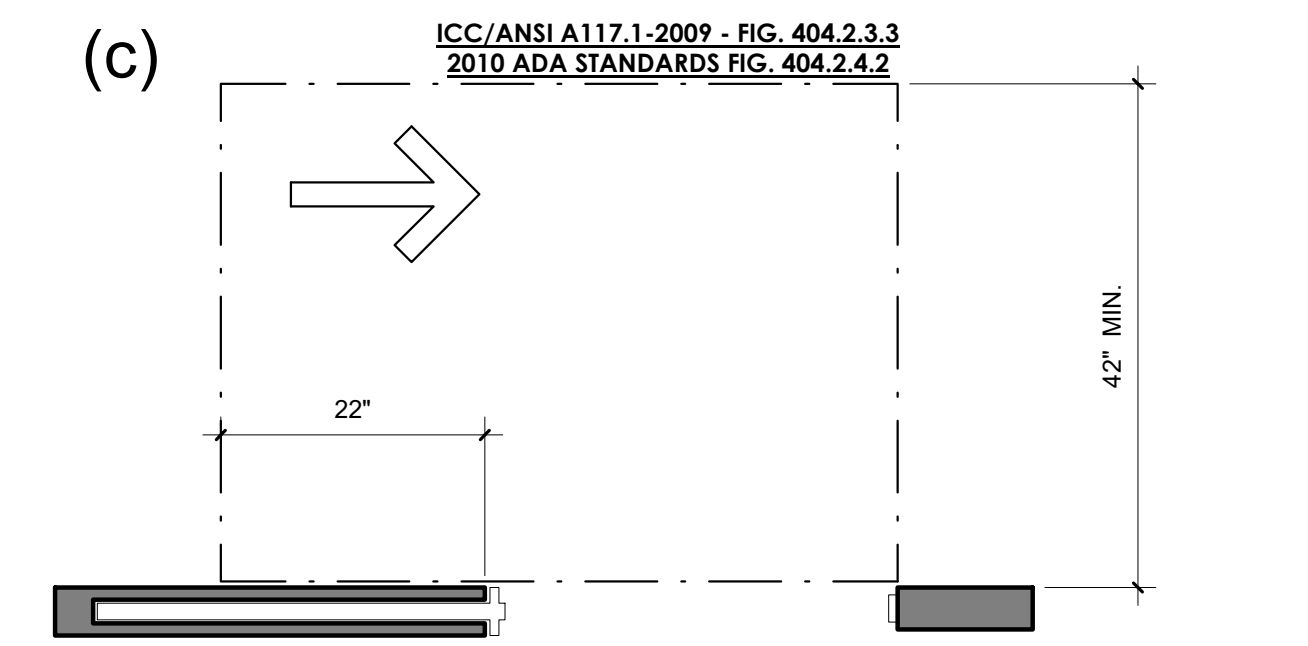
11 LATCH APPROACH, PUSH SIDE



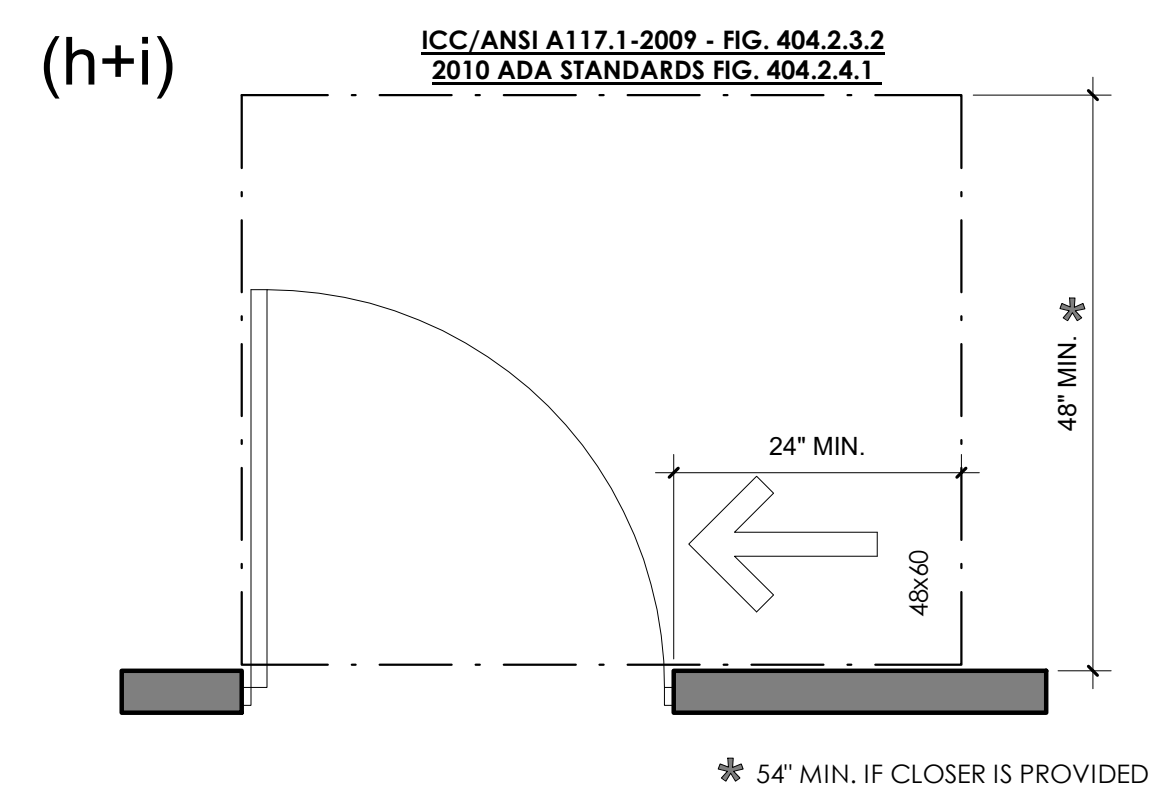
7 HINGE APPROACH, PULL SIDE



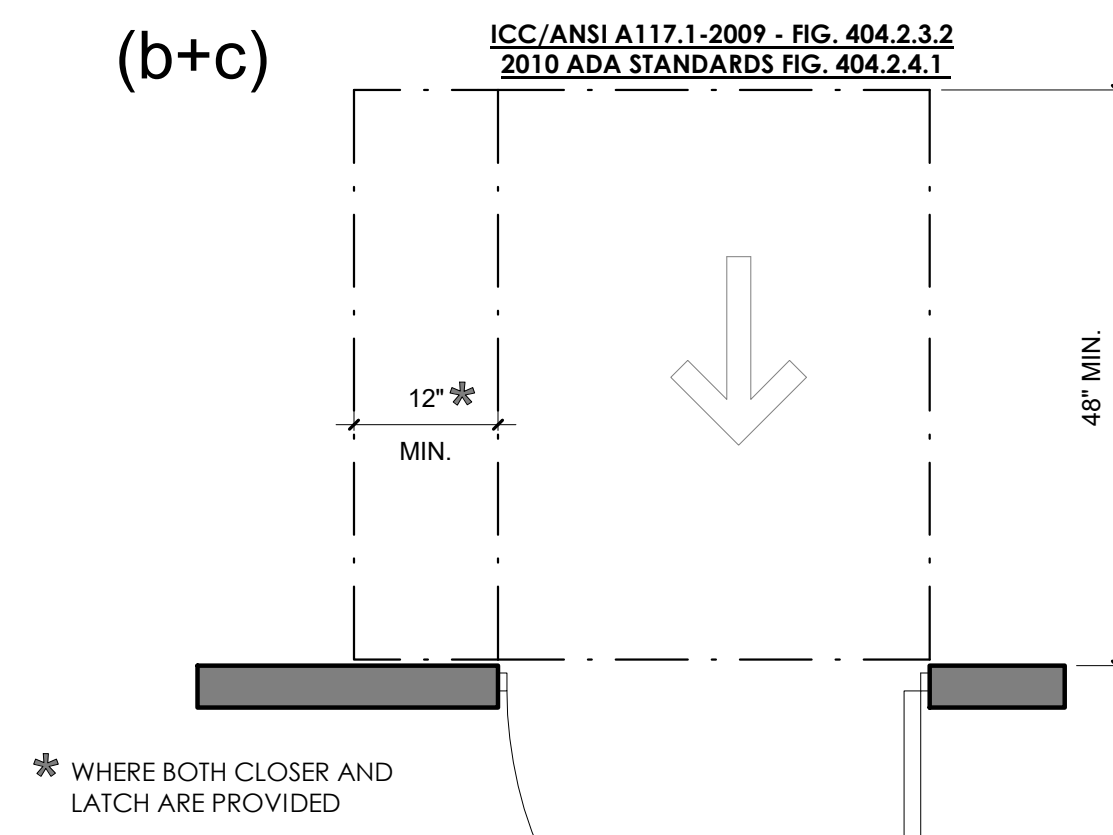
3 DOUBLE DOOR CLEARANCES



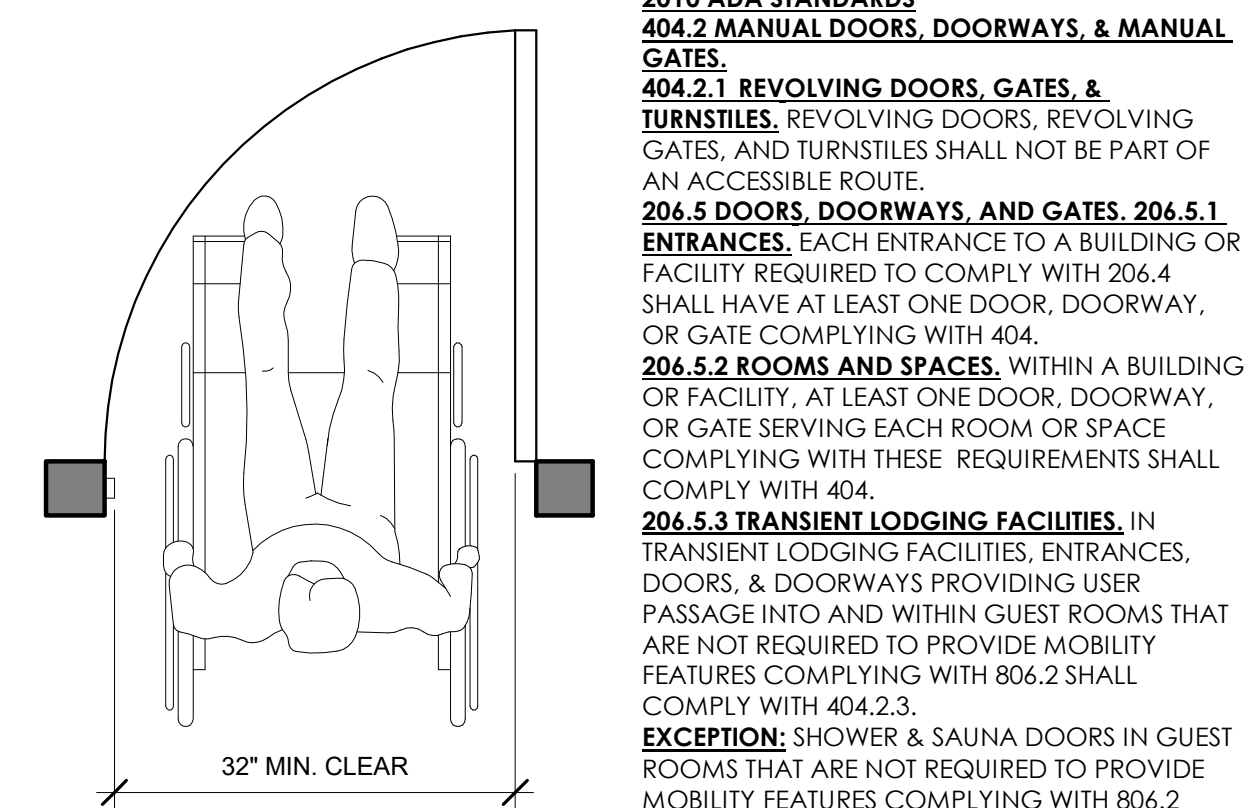
14 POCKET, HINGE APPROACH



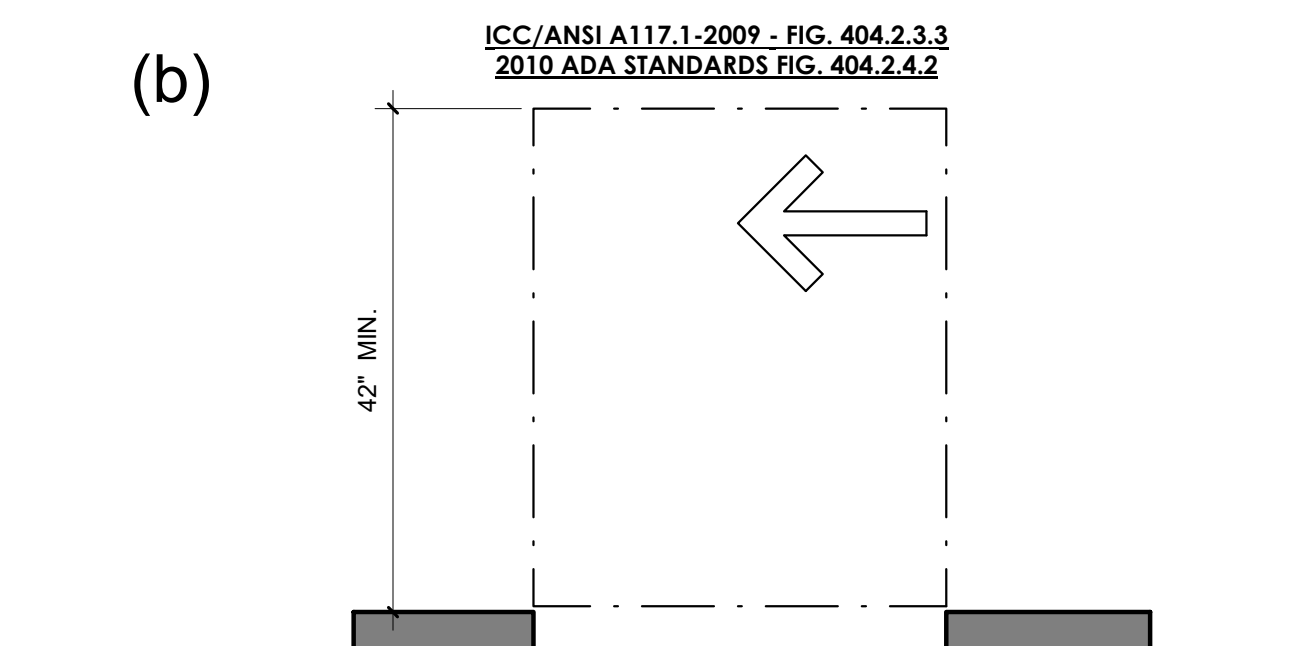
10 LATCH APPROACH, PULL SIDE



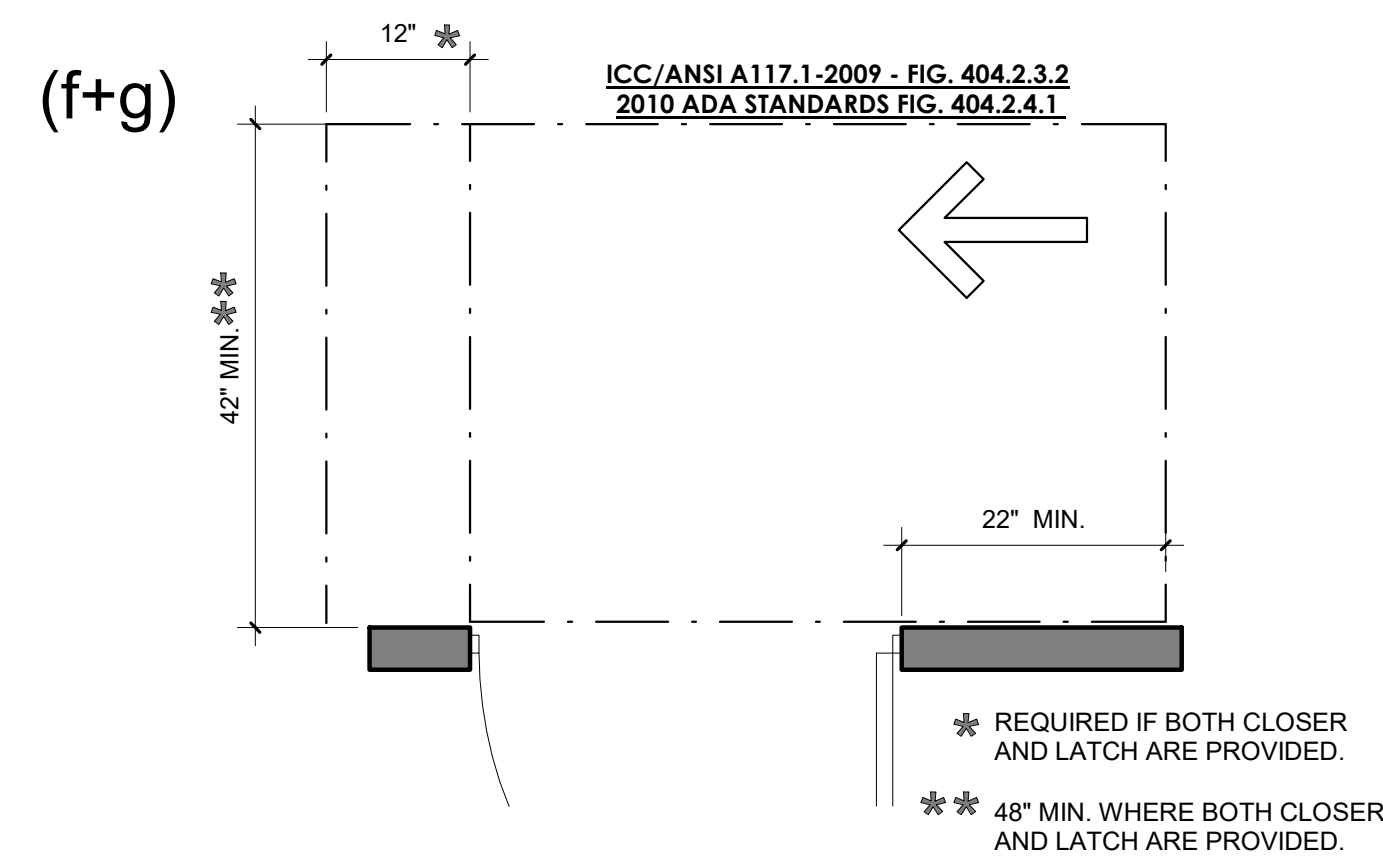
6 FRONT APPROACH, PUSH SIDE



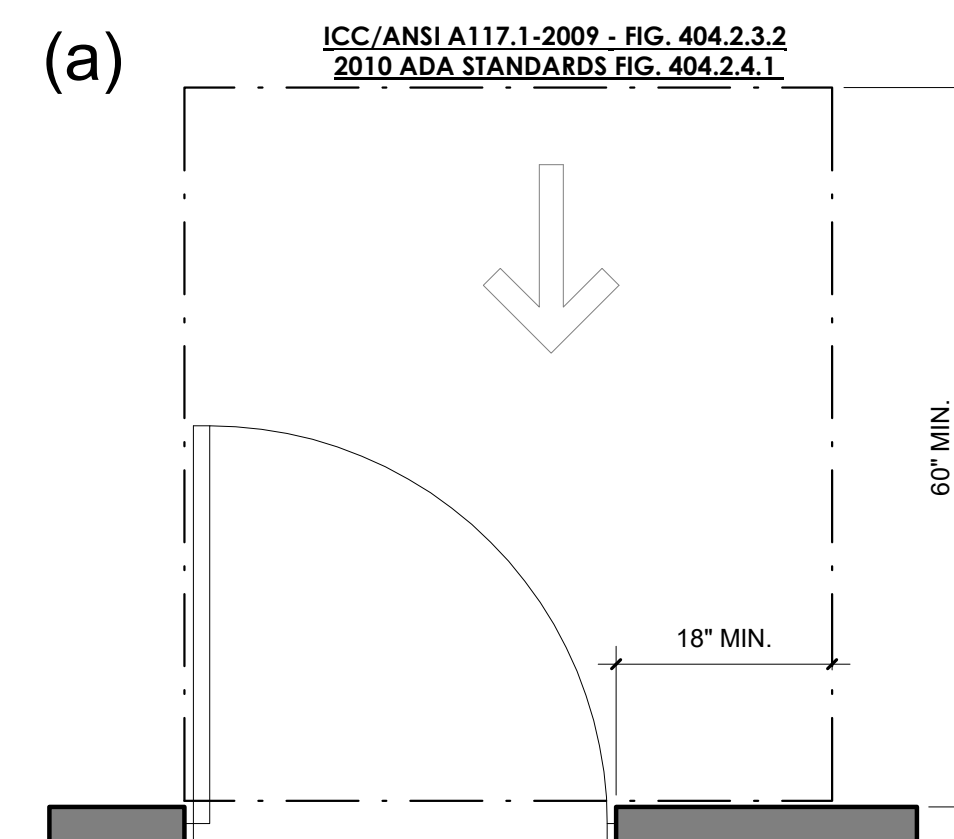
2 ACCESSIBLE USER PASSAGE DOORS



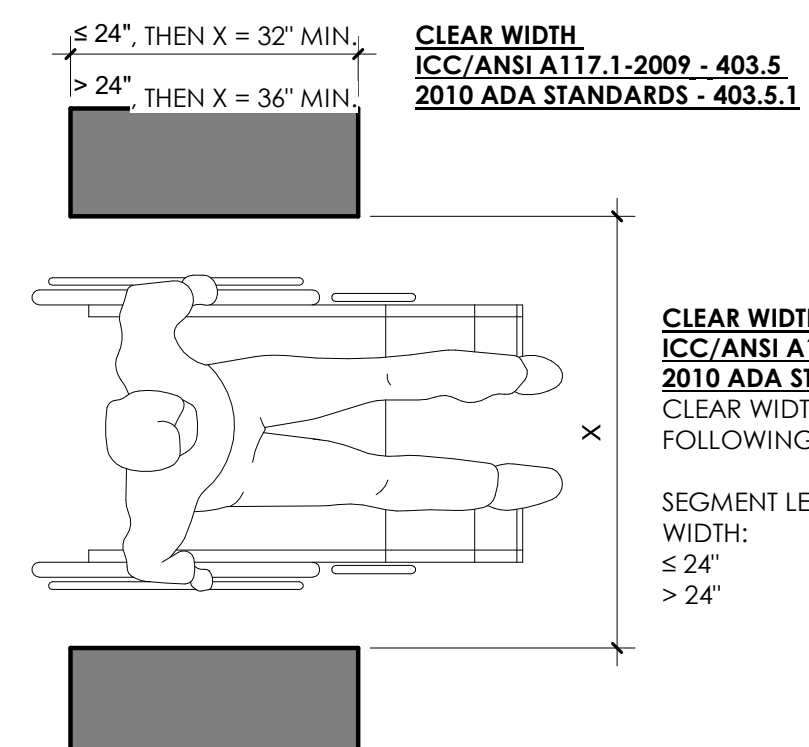
13 DOORWAYS WITHOUT DOORS - SIDE APPROACH



9 HINGE APPROACH, PUSH SIDE



5 FRONT APPROACH, PULL SIDE



1 MEASURING CLEAR WIDTH AT ACCESSIBLE ROUTE

ICC/ANSI A117.1-2009
(RE: SECTION 404.2)

2010 ADA STANDARDS SECTION 404.2.3 CLEAR WIDTH
DOOR OPENINGS SHALL PROVIDE A CLEAR WIDTH OF 32" MIN. CLEAR OPENINGS OF DOORWAYS WITH SWINGING DOORS SHALL BE MEASURED BETWEEN THE FACE OF THE DOOR AND THE STOP, WITH THE DOOR OPEN 90 DEGREES. OPENINGS MORE THAN 24" DEEP REQUIRE A CLEAR OPENING OF 36" MIN. THERE SHALL BE NO PROJECTIONS INTO THE REQUIRED CLEAR OPENING WIDTH LOWER THAN 34" ABOVE THE FINISH FLOOR OR GROUND. PROJECTIONS INTO THE CLEAR OPENING WIDTH BETWEEN 34" AND 80" ABOVE THE FINISH FLOOR OR GROUND SHALL NOT EXCEED 4".

EXCEPTIONS:
1. IN ALTERATIONS, A PROJECTION OF 5/8" MAX INTO THE REQUIRED CLEAR WIDTH SHALL BE PERMITTED FOR THE LATCH SIDE STOP.
2. DOOR CLOSERS AND DOOR STOPS SHALL BE PERMITTED TO BE 78" MIN ABOVE THE FINISH FLOOR OR GROUND.

ICC/ANSI A117.1-2009
(RE: SECTION 404.2)

2010 ADA STANDARDS 404.2 MANUAL DOORS, DOORWAYS, & MANUAL GATES.
404.2.1 REVOLVING DOORS, GATES, & TURNSTILES. REVOLVING DOORS, REVOLVING GATES, AND TURNSTILES SHALL NOT BE PART OF AN ACCESSIBLE ROUTE.
206.5 DOORS, DOORWAYS, AND GATES. 206.5.1 ENTRANCES. EACH ENTRANCE TO A BUILDING OR FACILITY REQUIRED TO COMPLY WITH 206.4 SHALL HAVE AT LEAST ONE DOOR, DOORWAY, OR GATE COMPLYING WITH 404.
206.5.2 ROOMS AND SPACES. WITHIN A BUILDING OR FACILITY, AT LEAST ONE DOOR, DOORWAY, OR GATE SERVING EACH ROOM OR SPACE COMPLYING WITH THESE REQUIREMENTS SHALL COMPLY WITH 404.
206.5.3 TRANSIENT LODGING FACILITIES. IN TRANSIENT LODGING FACILITIES, ENTRANCES, DOORS, & DOORWAYS PROVIDING USER PASSAGE INTO AND WITHIN GUEST ROOMS THAT ARE NOT REQUIRED TO PROVIDE MOBILITY FEATURES COMPLYING WITH 806.2 SHALL COMPLY WITH 404.2.3.
EXCEPTION: SHOWER & SAUNA DOORS IN GUEST ROOMS THAT ARE NOT REQUIRED TO PROVIDE MOBILITY FEATURES COMPLYING WITH 806.2 SHALL NOT BE REQUIRED TO COMPLY WITH 404.2.3.

CLEAR WIDTH
ICC/ANSI A117.1-2009 - 403.5
2010 ADA STANDARDS - 403.5.1

CLEAR WIDTH
ICC/ANSI A117.1-2009 - 404.2.2
2010 ADA STANDARDS - 404.2.3
CLEAR WIDTH SHALL COMPLY WITH THE FOLLOWING:

| SEGMENT LENGTH: | MIN. SEGMENT WIDTH: |
|-----------------|---------------------|
| ≤ 24" | 32" MIN. |
| > 24" | 36" MIN. |



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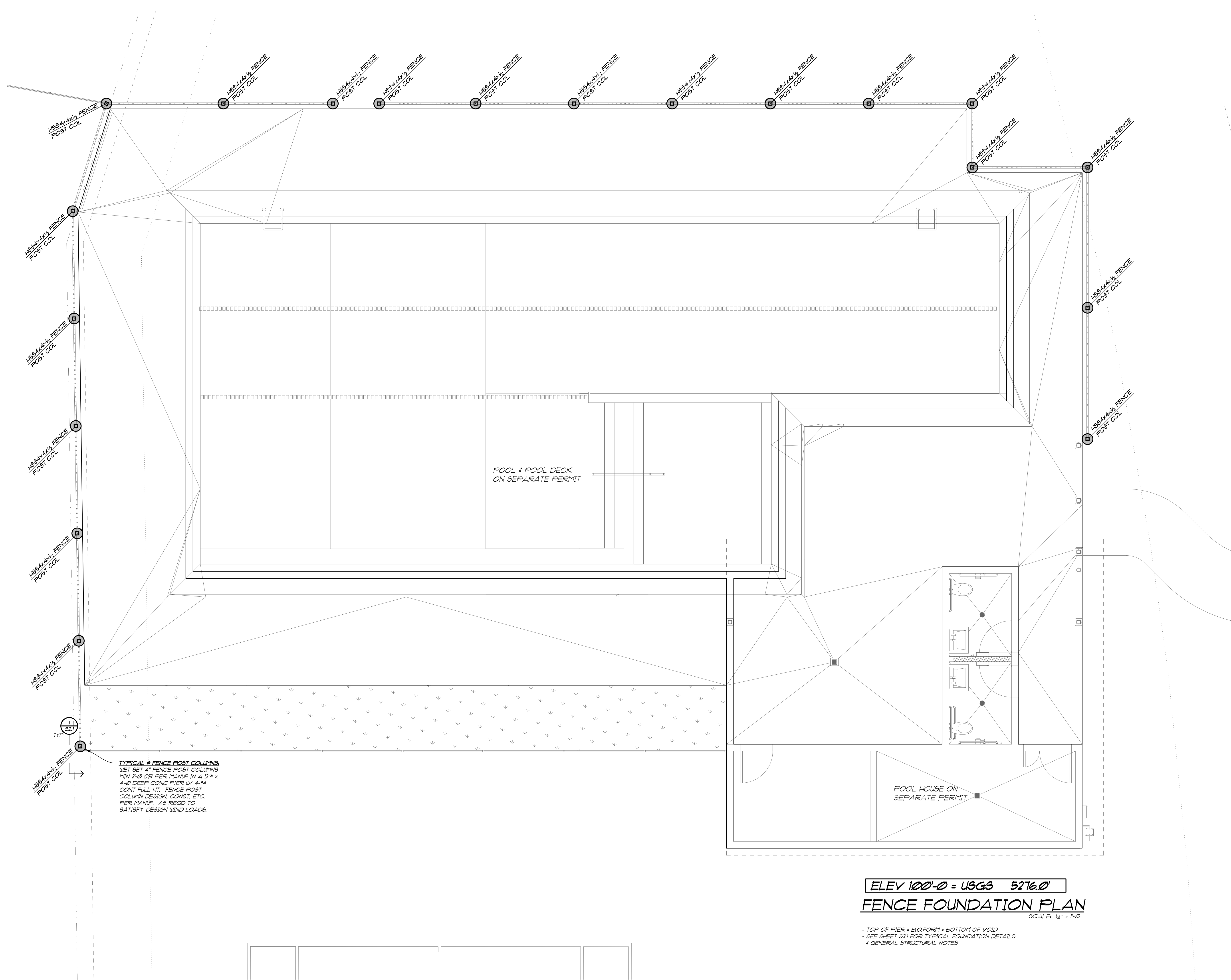
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| No. | Description | Date |
|-----|-------------|------|
| | | |

FENCE PERMIT - VARIANCE

A9.3

ACCESSIBILITY DETAILS



TYPICAL • FENCE POST COLUMNS:
WET SET 4" FENCE POST COLUMNS
MIN 2'-0" OR PER MANUF. IN 4 12" x
4'-0" DEEP CONC. PIER W/ 4-4
CONT. FULL HT. FENCE POST
COLUMN DESIGN, CONST, ETC.
PER MANUF. AS REQD TO
SATISFY DESIGN WIND LOADS.

ELEV 100'-0" = USGS 5276.0'

FENCE FOUNDATION PLAN

SCALE: 1/4" = 1'-0"

- TOP OF PIER = B.O. FORM + BOTTOM OF VOID
- SEE SHEET S2.1 FOR TYPICAL FOUNDATION DETAILS
- GENERAL STRUCTURAL NOTES

GEBAU
INC.
CONSULTING STRUCTURAL ENGINEERS
1151 BROADWAY, STE. 201
BOULDER, CO 80502
(303)444-8545, FAX (303)444-3140
mail@gebau.com

6298 RESERVE DRIVE
RESERVE HOA - POOL FACILITY
BOULDER, COLORADO

DATE: 4/7/22
JOB #: 21193
DRAWN BY: PJG
CHECKED BY: PJG
REVISED:
9/14/22

PROFESSIONAL ENGINEER
34194
9/14/22

S1.1

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Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302

Mailing Address: P.O. Box 471 • Boulder, Colorado 80306

303-441-3930 • www.BoulderCounty.gov

April 19, 2023

TO: Jonathan Tardif, Planner II; Community Planning & Permitting, Development Review

FROM: Ian Brighton, Planner II; Community Planning & Permitting, Access & Engineering

SUBJECT: Docket # VAR-23-0001: Sombrero Ranch HOA
6298 Reserve Drive

The Development Review Team – Access & Engineering staff has reviewed the above referenced docket and has no concerns with this proposal.

This concludes our comments at this time.



Community Planning & Permitting

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Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.gov

Building Safety & Inspection Services Team

MEMO

TO: Jonathan Tardif, Planner II
FROM: Michelle Huebner, Plans Examiner Supervisor
DATE: April 10, 2023

RE: Referral Response, VAR-23-0001: Sombrero Ranch HOA. Variance request to reduce the side setback along the western property line from 7' to approximately 1' 6" for the location of a fence line associated with the redevelopment of a community pool area.

Location: 6298 Reserve Drive

Thank you for the referral. We have the following comments for the applicants:

1. **Building Permit.** A building permit, plan review, and inspection approvals are required for the proposed fence.

Please refer to the county's [adopted 2015 editions of the International Codes and code amendments](#), which can be found via the internet under the link:

2015 Building Code Adoption & Amendments, at the following URL:
[Amendments to Boulder County Building Code effective June 6, 2022](#)

2. **Design Wind and Snow Loads.** The design wind and ground snow loads for the property are 155 mph (Vult) and 40 psf, respectively.
3. **Ignition-Resistant Construction and Defensible Space.** Please refer to Section R327 of the Boulder County Building Code for wildfire hazard mitigation requirements, including ignition-resistant construction and defensible space.
4. **Plan Review.** The items listed above are a general summary of some of the county's building code requirements. A much more detailed plan review will be performed at the time of building permit application, when full details are available for review, to assure that all applicable minimum building codes requirements are to be met. Our Building Safety publications can be found at: [Building Publications, Applications and Forms - Boulder County](#)

If the applicants should have questions or need additional information, we'd be happy to work with them toward solutions that meet minimum building code requirements. Please call (720) 564-2640 or contact us via e-mail at building@bouldercounty.org



Parks & Open Space

5201 St. Vrain Road • Longmont, CO 80503
 303-678-6200 • POSinfo@bouldercounty.org
www.BoulderCountyOpenSpace.org

TO: Jonathan Tardif, Community Planning & Permitting Department
FROM: Ron West, Natural Resource Planner
DATE: April 27, 2023
SUBJECT: Docket VAR-23-0001, Sombrero Ranch HOA, 6298 Reserve Drive

Staff has reviewed the submitted materials, and has mixed opinions about the proposal. Sheet A0.11 shows that an “existing 4’ chainlink fence [is] to remain.” However, it is staff’s understanding that this fence has already been removed. A commitment of record should be that it is not replaced, if the proposal is approved.

That said, a new location of a fence would be an “improvement” since it would be closer to the developments and further from the ditch, with its riparian habitat. (The Comprehensive Plan mapping is incomplete here; there *is* riparian habitat on the parcel(s).) Staff’s main concern is to maximize the amount and the “naturalness” of the riparian area. Ditches function in the county as riparian movement corridors for many species of wildlife.

That said, staff doesn’t see how the variance criteria can be met. A shorter lap pool is the simplest answer.

Tardif, Jonathan

From: Do Not Reply
Sent: Tuesday, April 18, 2023 12:44 PM
To: Tardif, Jonathan
Subject: VAR-23-0001 - Public Health Water Quality - Environmental Review

The Public Health Water Quality - Environmental Review workflow task for VAR-23-0001 has been updated to **No Comments/No Conflict** and the following comments entered:

null

Please see the Accela record for more information.

email sent by EMSE: PLN_Referrals_Entered

**Right of Way & Permits**

1123 West 3rd Avenue
 Denver, Colorado 80223
 Telephone: **303.571.3306**
 Facsimile: 303.571.3284
 Donna.L.George@xcelenergy.com

April 21, 2023

Boulder County Community Planning and Permitting
 PO Box 471
 Boulder, CO 80306

Attn: Jonathan Tardiff

Re: Sombrero Ranch HOA, Case # VAR-23-0001

Public Service Company of Colorado's (PSCo) Right of Way & Permits Referral Desk has reviewed the documentation for **Sombrero Ranch HOA** and has **no apparent conflict** with the variance request.

Please be aware PSCo owns and operates existing underground electric distribution facilities along Reserve Drive and within the subject property, and natural gas distribution along Reserve Drive. The property owner/developer/contractor must complete the application process for any new natural gas or electric service, or modification to existing facilities via xcelenergy.com/InstallAndConnect. It is then the responsibility of the developer to contact the Designer assigned to the project for approval of design details.

If additional easements need to be acquired by separate PSCo document, a Right-of-Way Agent will need to be contacted.

As a safety precaution, PSCo would like to remind the developer to call the Utility Notification Center by dialing 811 for utility locates prior to construction.

Donna George
 Right of Way and Permits
 Public Service Company of Colorado dba Xcel Energy
 Office: 303-571-3306 – Email: Donna.L.George@xcelenergy.com

Tardif, Jonathan

From: Reserve Secretary <secretaryreservehoa@gmail.com>
Sent: Monday, April 24, 2023 6:11 PM
To: LU Land Use Planner
Cc: Reserve Secretary
Subject: [EXTERNAL] Support for Variance: VAR-23-0001

To: Jonathan Tardif
Community Planning & Permitting Department
Boulder County

Hello Jonathan,

We are residents of the Reserve HOA. (Sombrero Ranch HOA). Our home is close to the community pool renovation project - within a few hundred yards - a one minute walk from our house.

We are writing in support of the variance described in docket VAR-23-0001. The placement of the fence will align with the existing fence behind the tennis court and provide more space for the pool area. The old fence that was removed was in the location requested by the variance for the last 30+ years with no impacts to neighbors. Also, the property and the other side of the property line is owned by the HOA.

We urge you to approve this variance.

Thank you,

Rebecca and Hunter Albright
1311 Songbird Ct.
Boulder, Co 80303

Tardif, Jonathan

From: daddyhosk@comcast.net
Sent: Monday, April 24, 2023 5:55 PM
To: LU Land Use Planner
Cc: 'amy hoskins'
Subject: [EXTERNAL] Docket # VAR-23-0001

Attention: Mr. Jonathan Tardif
Boulder County Community Planning and Permitting Department

We have lived at 6320 Reserve Drive in Boulder for over 20 years. We are members of the Reserve Homeowners and Recreational Association (the "RHRA"). And our home is directly across the street from the RHRA's recreation facilities where a location variance has been requested (VAR-23-0001) associated with a project to renovate those recreation facilities. The variance is important for our neighborhood's recreational facilities, and it will have no impact on neighbors. We therefore support the variance request. Please approve it.

Sincerely

Dan and Amy Hoskins
m 303-807-2865

Tardif, Jonathan

From: Elena Kurbatova <lena.kurbatova@gmail.com>
Sent: Monday, April 24, 2023 10:10 PM
To: LU Land Use Planner
Subject: [EXTERNAL] Support for Variance: VAR-23-0001

Hello Jonathan,

I am a resident of the Reserve HOA. (Sombrero Ranch HOA). My home is adjacent to the community pool renovation project. I am writing in support of the variance described in docket VAR-23-0001. The placement of the fence will align with the existing fence behind the tennis court and provide more space for the pool area. The old fence that was removed, was in the location requested by the variance for the last 30+ years with no impacts to neighbors. Also, the property and the other side of the property line is also owned by the HOA.

I urge you to approve this variance,

Thanks,
Elena Kurbatova and
Stanislav Kurbatov
6301 Swallow Ln, Boulder, CO

Tardif, Jonathan

From: Bethann Myers <bethann_myers@yahoo.com>
Sent: Monday, April 24, 2023 5:06 PM
To: LU Land Use Planner
Subject: [EXTERNAL] Docket #VAR-23-0001

I am a homeowner and resident at 6238 Songbird Circle which is located directly behind our neighborhood recreation site. I am writing in support of docket #VAR-23-0001 requesting a variance for the location of the new fence on the west side of our neighborhood recreation site.

Sincerely,
Bethann Clow Myers

Tardif, Jonathan

From: Chuck Roberts <charles.j.roberts@gmail.com>
Sent: Monday, April 24, 2023 6:34 PM
To: LU Land Use Planner
Subject: [EXTERNAL] Support for Variance: VAR-23-0001

To:
Jonathan Tardif
Community planning & permitting department
Boulder County

Hello Jonathan, I am a resident of the Reserve HOA. (Sombrero Ranch HOA).

My home is close to the community pool renovation project. I am writing in support of the variance described in docket VAR-23-0001. The placement of the new fence will align with the existing fence behind the tennis court providing continuity of the existing fence line. The old fence, that was removed, was actually further west than what is being requested with the variance. It had been in place for the last 30+ years with no impacts to neighbors. Also, the property on both sides of the property line is owned by the HOA.

I urge you to approve this variance,

Thank you,
Charles and Leann Roberts
6326 Swallow Lane, Boulder CO 80303

--

Chuck Roberts
Cell Phone: 303-579-9456

Tardif, Jonathan

From: Leigh Sneddon <leigh_sneddon@yahoo.com>
Sent: Monday, April 24, 2023 6:30 PM
To: LU Land Use Planner
Subject: [EXTERNAL] To: Johnathan Tardiff. Re Sombrero Ranch, VAR-23-0001

Jonathan Tardif
Community planning & permitting department
Boulder County

Hello Jonathan, I am a resident of the Reserve HOA. (Sombrero Ranch HOA). My home is adjacent to the community pool renovation project. I am writing in support of the variance described in docket VAR-23-0001. The placement of the new fence will align with the existing fence behind the tennis court and provide more space for the pool area. The location of the new fence with the variance approved will not change how the pool impacts my property..

I urge you to approve this variance,

Thank you,

Leigh Sneddon

Tardif, Jonathan

From: Cindy Young <cindypyoung@yahoo.com>
Sent: Monday, April 24, 2023 7:49 PM
To: LU Land Use Planner
Subject: [EXTERNAL] Support for Variance: VAR-23-0001

Jonathan Tardif
Community planning & permitting department
Boulder County

Hello Jonathan, I am a resident of the Reserve HOA. (Sombrero Ranch HOA). My home is close to the community pool renovation project. I am writing in support of the variance described in docket VAR-23-0001. The placement of the fence will align with the existing fence behind the tennis court and provide more space for the pool area. The old fence that was removed, was in the location requested by the variance for the last 30+ years with no impacts to neighbors. Also, the property and the other side of the property line is also owned by the HOA.

I urge you to approve this variance,

Thank you,
Cindy & Steve Young
1180 Pintail Circle
303-817-9613

Sent from my ipad



Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303.441.3930 • Fax: 303.441.4856
Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.org

BOULDER COUNTY BOARD OF ADJUSTMENT

AGENDA ITEM

Wednesday June 7, 2023 4:00 P.M.

PUBLIC HEARING

STAFF PLANNER: Sam Walker, Planner II

RECOMMENDATION: Staff recommends denial of the variance request

Docket VAR-23-0003: Danaher Setback Reductions

Request: Variance request to reduce the required supplemental setback from 110 feet (required) to 86 feet (proposed) to allow a front porch built without permits, and reduce the rear-yard setback from 15 feet (required) to 9' 6" (proposed) for a windmill also built without permits.

Location: 5745 Jay Road, approximately 300 feet east of the intersection of Jay Road and N. 57th Street.

Zoning: Rural Residential (RR) Zoning District

Agent: Charlie Danaher

Property Owners: Danaher & Valentine Living Trust

PACKET CONTENTS:

| Item | Pages |
|---|----------|
| o Staff Recommendation | 1 – 11 |
| o Application Materials (Attachment A) | A1 – A20 |
| o Referral Agency Responses (Attachment B) | B1 – B8 |
| o Adjacent Property Owner Comments (Attachment C) | C1 – C20 |

SUMMARY

The applicant requests a reduction in the required supplemental setback along Jay Road from 110 feet to 86 feet to allow for the construction of a front porch addition to the main residence, as well as a reduction in the required rear-yard setback from 15 feet to 9 feet 6 inches for the construction of a windmill. Both the front porch and the windmill currently exist on the subject parcel, and were constructed without building permits. Staff recommends that this variance request be denied

because the applicable review criteria in Article 4-1202(B)(2) of the Boulder County Land Use Code (the Code) cannot be met.

DISCUSSION

The subject property is located on the north side of Jay Road, approximately 300 feet east of the intersection of Jay Road and N. 57th Street. The property is approximately 1.5 acres in size, is located in the Rural Residential zoning district, and is a legal building lot. Access to the parcel is via an existing driveway onto Jay Road.

Research conducted by the Boulder County Historic Preservation Team indicates that the existing residence was originally constructed around 1920, although a specific date could not be determined. By 1949, a covered and enclosed porch had been added to the south side of the residence, although it appears that the porch was removed sometime before 1966.

Because the residence was constructed prior to 1985, it predates the adoption of the supplemental setback that the applicant seeks to reduce. However, the current covered porch does not. Historic aerial photography indicates that the current porch was constructed sometime between 2020 and 2022. Prior to 2020, a covered porch had not been present since at least 1977 (see Figures 1-3, below).



Figure 1: 1977 Aerial photo of subject parcel, no covered porch shown on the south side of the residence.



Figure 2: 2020 Aerial photo, again showing no covered porch on the south side of the residence



Figure 3: 2022 Aerial photo where new covered porch has been added.

The timeline of construction for the windmill is equally unclear. It is not apparently visible in aerial photographs from 2022 or earlier, but appears to have been constructed after the covered porch addition based on Google Streetview imagery as shown in Figures 4 and 5, below.



Figure 4: View north from Jay Road in September 2021, image taken from Google Streetview

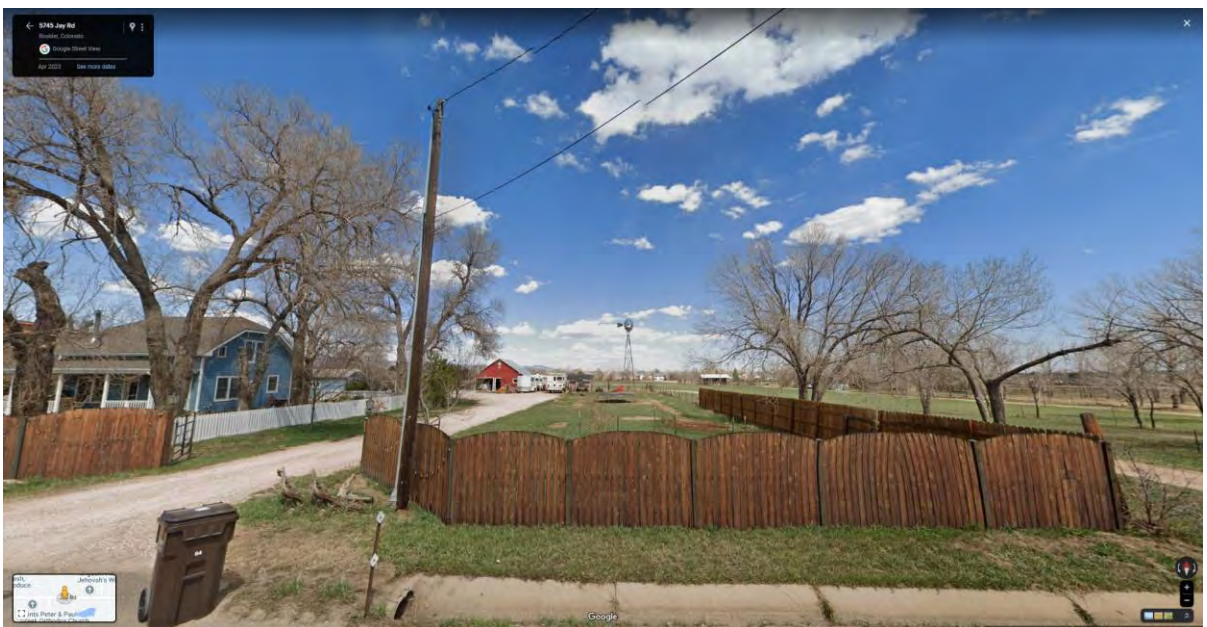


Figure 5: View north from Jay Road in April 2023, image taken from Google Streetview

Both the new covered porch and windmill were constructed without building permits. The applicant's hardship statement indicates that "remodeling the front porch within the current setbacks would be impossible" and that the existing leach field on the parcel prevented construction of the windmill in a location that could meet all required setbacks. Staff contend that characterization of the porch construction as a "remodel" is inaccurate at best. Figures 6-10, below, illustrate changes to the southern façade of the existing residence over the years.



Figure 6: Southern façade of the residence including covered porch, circa 1949



Figure 7: Southern façade of the residence without covered porch, circa 1966



Figure 9: Southern façade of the residence without covered porch, circa September 2018 via Google Streetview



Figure 10: Southern façade of the residence with unpermitted porch addition, staff photo taken April 6, 2023

Staff also contend that there are areas of the subject property where the windmill could have been constructed without encroaching required setbacks while simultaneously avoiding negative impacts to

the leach field that occupies most of the northeastern yard. Figure 11, below, illustrates the current location of the OWTS based on the septic permit records for the subject parcel.

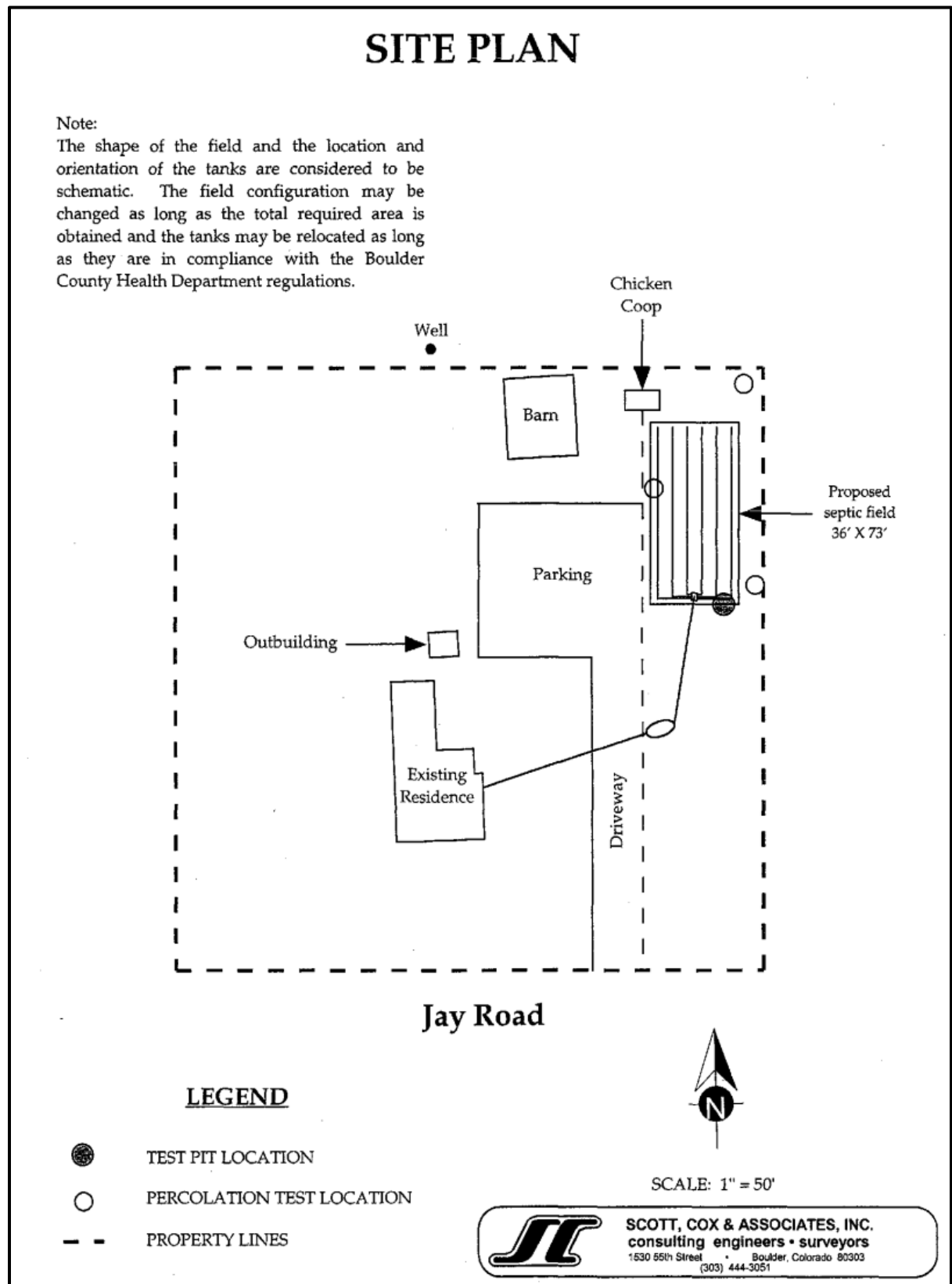


Figure 11: Septic system design for subject parcel

For these reasons, staff find that the proposal cannot meet the Variance criteria described in the Code, and therefore recommend that both requested setback reductions be denied.

REFERRALS

The variance request was sent to property owners within 1,500 feet of the subject property, as well as all applicable referral agencies. Responses received by staff are attached to this staff recommendation (Attachments B and C) and summarized below.

Boulder County Building Safety & Inspection Services Team – This team expressed no concerns with the variance request, and noted requirements for the porch and windmill if approved, including building permits, wind and snow loads, ignition-resistant materials and defensible space, and Plan Review.

Boulder County Development Review Team – Access & Engineering – This team confirmed the property is legally accessed via Jay Road, that no improvements to the access drive would be required as part of the Variance process, and noted no conflicts with the proposed variance.

Xcel Energy – The Xcel referral response noted concerns regarding the placement of the windmill in relationship to overhead powerlines that run along the south side of the property, but indicated no concerns after staff followed up with site images showing the distance between the windmill and powerlines.

Agencies indicating no conflicts: Boulder County Parks & Open Space, Boulder County Conservation Easement Team, Boulder County Public Health, Boulder Rural Fire Protection District.

Agencies that did not respond: Boulder County Long Range Planning, Boulder County Code Compliance, Boulder County Assessor, Boulder County Attorney's Office, Boulder County Sheriff, Boulder County Treasurer, Boulder County Surveyor, Left Hand Water District, Northern Colorado Water conservancy District, City of Boulder Planning & Development Services, History Colorado.

Adjacent Property Owners – 101 referrals were sent to nearby property owners, and staff received seven responses from members of the public.

Two comments raised issues regarding the proposal, expressing concerns that allowing unpermitted work to receive approval after-the-fact is unfair to those that follow the correct process, and would encourage other property owners to avoid proper permitting, as well as that the windmill poses a safety issue for the adjacent property in high winds because its unpermitted installation does not guaranteed that it meets the required wind load.

Five comments expressed support for the proposal, indicating that the proposed improvements would benefit the neighborhood character and aesthetic and that the proposed setback reductions were reasonable.

CRITERIA ANALYSIS

Per Article 3-100.A.18 of the Code the Board of Adjustment (BOA) may approve a variance from the terms of the Code as set forth in Article 4-1200. To grant a variance, the BOA must find that all of the following criteria from **Article 4-1202(B)(2)** of the Code are satisfied:

(a) There exist exceptional or extraordinary physical circumstances of the subject property such as irregularity, narrowness, shallowness, or slope;

Staff do not find that the subject parcel is encumbered by extraordinary or exceptional physical circumstances. The subject parcel is completely flat, and is of a similar size and configuration to

other nearby residential parcels along the north side of Jay Road. Although the required 110-foot supplemental setback extends into the parcel, approximately half of the parcel remains outside of this setback and could conceivably be developed without the requested setback reduction. Similarly, the staff do not find that the location of the septic system drain field constitutes an extraordinary physical circumstance of the property. There are areas in the northern and northwestern sections of the parcel where the windmill could have been placed without encroaching on the required setbacks or impacting the septic system.

Therefore, staff finds this criterion is not met.

(b) Because of these physical circumstances, the strict application of the Code creates an exceptional or undue hardship upon the property owner;

Because staff do not find that there are exceptional or extraordinary physical circumstances on the parcel, the strict application of the Code does not create an exceptional or undue hardship on the property owner.

Therefore, staff finds this criterion is not met.

(c) The hardship is not self-imposed;

Staff have not identified a hardship on the parcel that would justify the proposed setback reduction.

Therefore, staff finds this criterion is not met.

(d) The variance, if granted, will not adversely affect the uses of adjacent property as permitted under this code;

Staff do not anticipate that the proposed variance will adversely affect the uses of adjacent properties as permitted under the Code, nor has any referral agency responded with such a concern. One adjacent property owner expressed concern that the windmill poses a fall risk to their driveway, and could limit their access to and from their property in a high wind event. However, staff do not share this concern because the structure could be issued a permit certifying that it meets the appropriate wind load for the area and building it outside of the required setback would not necessarily eliminate the fall risk for the neighboring driveway.

Therefore, staff finds this criterion is met.

(e) The variance, if granted, will not change the character of the zoning district in which the property is located, and is in keeping with the intent of the Code and the Boulder County Comprehensive Plan;

Staff do not have concerns that the variance will change the character of the zoning district in which the property is located if granted. Aerial photographs of the area around the subject parcel indicate that many nearby properties also have development that approaches or possibly encroaches on the required supplemental or rear-yard setbacks.

Therefore, as conditioned, staff finds that this criterion is met.

(f) The variance, if granted, does not adversely affect the health, safety, and welfare of the citizens of Boulder County and is in accordance with the Comprehensive Plan and any applicable intergovernmental agreement affecting land use or development.

There is no indication that the proposed setback reductions would adversely affect the health, safety, or welfare of Boulder County citizens, and no referral agency or nearby property owners responded with such concerns.

Therefore, staff finds this criterion is met.

RECOMMENDATION

As discussed above, staff find that three of the criteria for a variance cannot be met. Therefore, Community Planning & Permitting staff recommend that the Board of Adjustment **DENY Docket VAR-23-0003: Danaher Setback Reductions.**



Boulder County Land Use Department

Courthouse Annex Building
2045 13th Street • PO Box 471 • Boulder, Colorado 80302
Phone: 303-441-3930
Email: planner@bouldercounty.org
Web: www.bouldercounty.org/lu
Office Hours: Mon., Wed., Thurs., Fri. 8 a.m. to 4:30 p.m.
Tuesday 10 a.m. to 4:30 p.m.

Shaded Areas for Staff Use Only

Intake Stamp

Planning Application Form

The Land Use Department maintains a submittal schedule for accepting applications. Planning applications are accepted on Mondays, by appointment only. Please call 303-441-3930 to schedule a submittal appointment.

| | | | |
|--|--|--|---|
| Project Number | | Project Name | |
| <input type="checkbox"/> Appeal <input type="checkbox"/> Correction Plat <input type="checkbox"/> Exemption Plat <input type="checkbox"/> Final Plat <input type="checkbox"/> Limited Impact Special Use <input type="checkbox"/> Limited Impact Special Use Waiver <input type="checkbox"/> Location and Extent | <input type="checkbox"/> Modification of Site Plan Review <input type="checkbox"/> Modification of Special Use <input type="checkbox"/> Preliminary Plan <input type="checkbox"/> Resubdivision (Replat) <input type="checkbox"/> Rezoning | <input type="checkbox"/> Road Name Change <input type="checkbox"/> Road/Easement Vacation <input type="checkbox"/> Site Plan Review <input type="checkbox"/> Site Plan Review Waiver <input type="checkbox"/> Sketch Plan <input type="checkbox"/> Special Use/SSDP | <input type="checkbox"/> Special Use (Oil & Gas development) <input type="checkbox"/> State Interest Review (1041) <input type="checkbox"/> Subdivision Exemption <input type="checkbox"/> Variance <input type="checkbox"/> Other: |
| Location(s)/Street Address(es) | | | |
| 5745 Jay Road, Boulder, Colorado | | | |
| Subdivision Name | | | |
| Lot(s) | Block(s) | Section(s) | Township(s) |
| Area in Acres | Existing Zoning | Existing Use of Property | Number of Proposed Lots |
| Proposed Water Supply | | Proposed Sewage Disposal Method | |

Applicants:

| | | | | | |
|--|--------------|----------------------------------|----|----------|-------------------|
| Applicant/Property Owner | | Charlie Danaher & Rose Valentine | | Email | cadanaher@aol.com |
| Mailing Address 5745 Jay Road, Boulder, Colorado | | | | | |
| City | Boulder | State | CO | Zip Code | 80301 |
| Phone | 303-530-5500 | | | | |
| Applicant/Property Owner/Agent/Consultant | | | | Email | |
| Mailing Address | | | | | |
| City | | State | | Zip Code | |
| Phone | | | | | |
| Agent/Consultant | | | | Email | |
| Mailing Address | | | | | |
| City | | State | | Zip Code | |
| Phone | | | | | |

Certification (Please refer to the Regulations and Application Submittal Package for complete application requirements.)

I certify that I am signing this Application Form as an owner of record of the property included in the Application. I certify that the information and exhibits I have submitted are true and correct to the best of my knowledge. I understand that all materials required by Boulder County must be submitted prior to having this matter processed. I understand that public hearings or meetings may be required. I understand that I must sign an Agreement of Payment for Application processing fees, and that additional fees or materials may be required as a result of considerations which may arise in the processing of this docket. I understand that the road, school, and park dedications may be required as a condition of approval.

I understand that I am consenting to allow the County Staff involved in this application or their designees to enter onto and inspect the subject property at any reasonable time, without obtaining any prior consent.

All landowners are required to sign application. If additional space is needed, attach additional sheet signed and dated.

| | | | | | |
|-----------------------------|--|--------------|-----------------|------|----------|
| Signature of Property Owner | | Printed Name | Charlie Danaher | Date | 3/5/2023 |
| Signature of Property Owner | | Printed Name | Rose Valentine | Date | 3/5/2023 |

The Land Use Director may waive the landowner signature requirement for good cause, under the applicable provisions of the Land Use Code.



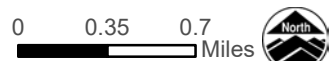
Community Planning & Permitting

2045 13th Street, Boulder, CO 80302 303-441-3930 www.bouldercounty.org

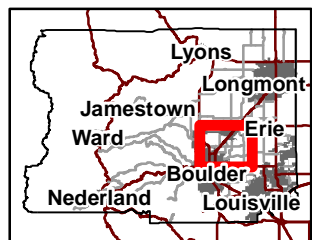
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5745 JAY RD

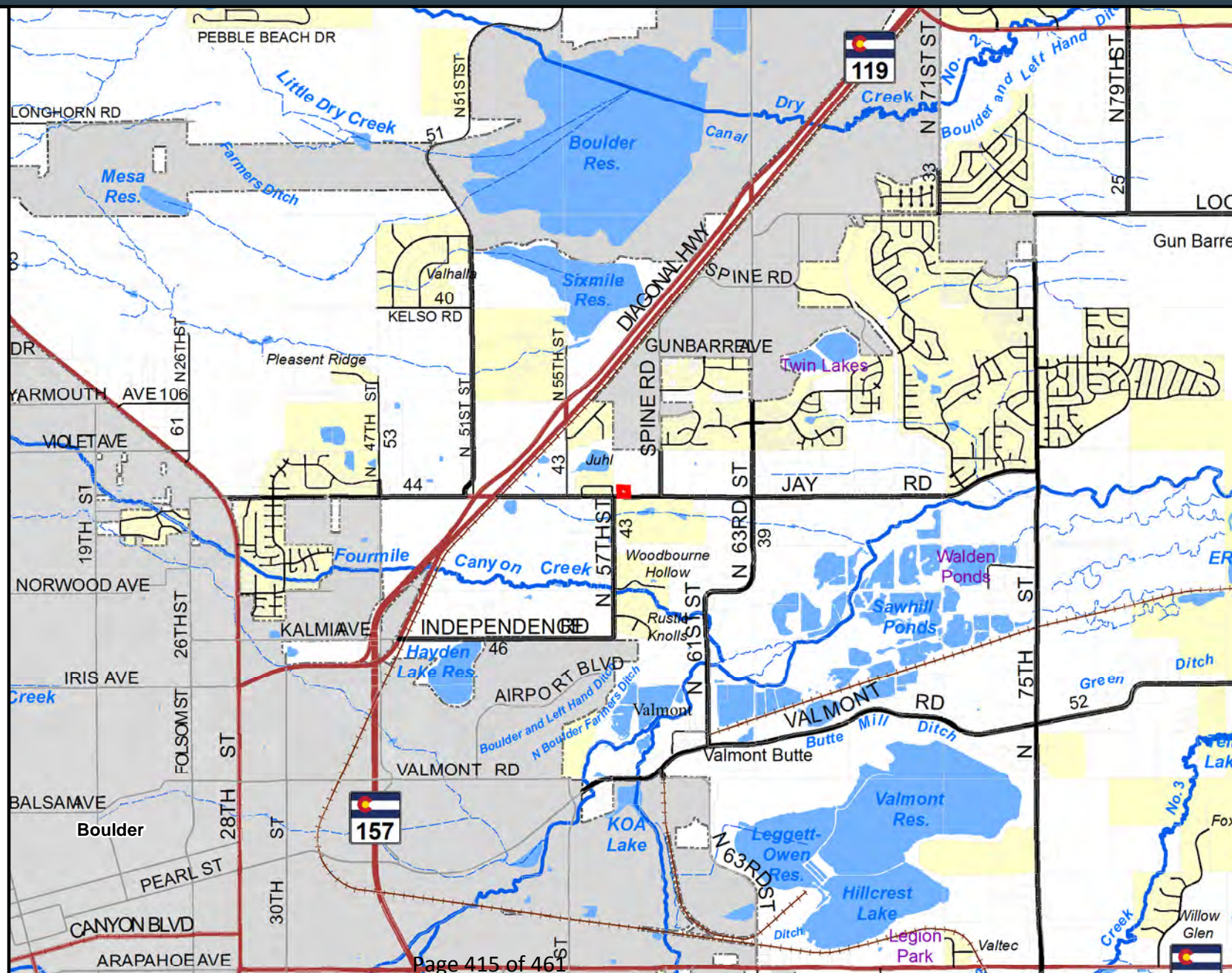
- Subject Parcel
- Municipalities
- Subdivisions**
- Subdivisions



Area of Detail Date: 6/24/2022



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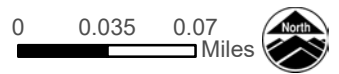
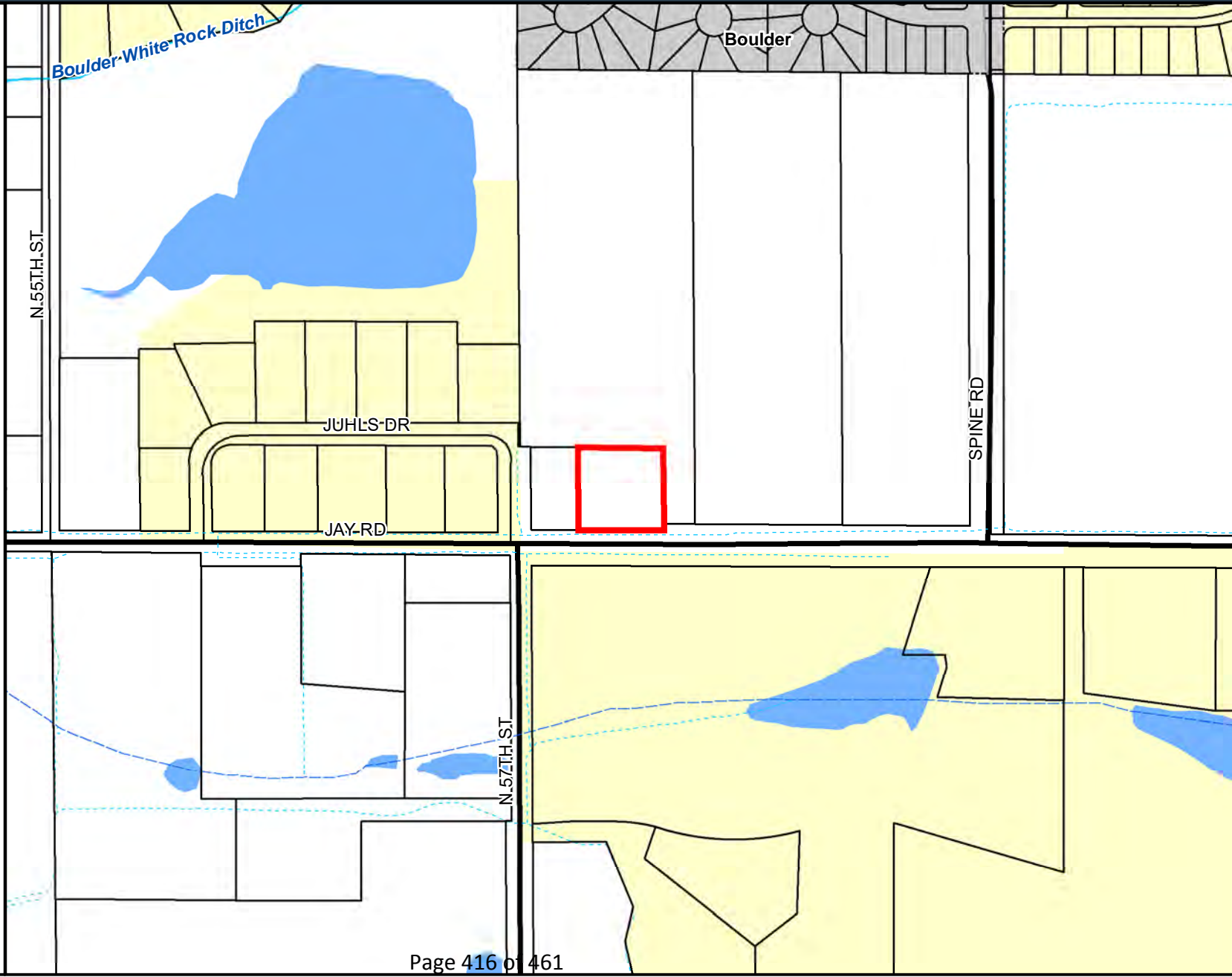
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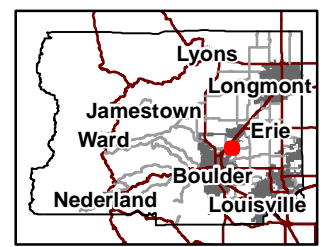
Location

5745 JAY RD

-  Subject Parcel
- Subdivisions**
-  Subdivisions



Area of Detail Date: 6/24/2022



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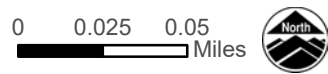


Community Planning & Permitting

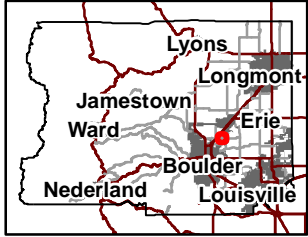
2045 13th Street, Boulder, CO 80302 303-441-3930 www.bouldercounty.org

Aerial
5745 JAY RD

 Subject Parcel



Area of Detail Date: 6/24/2022

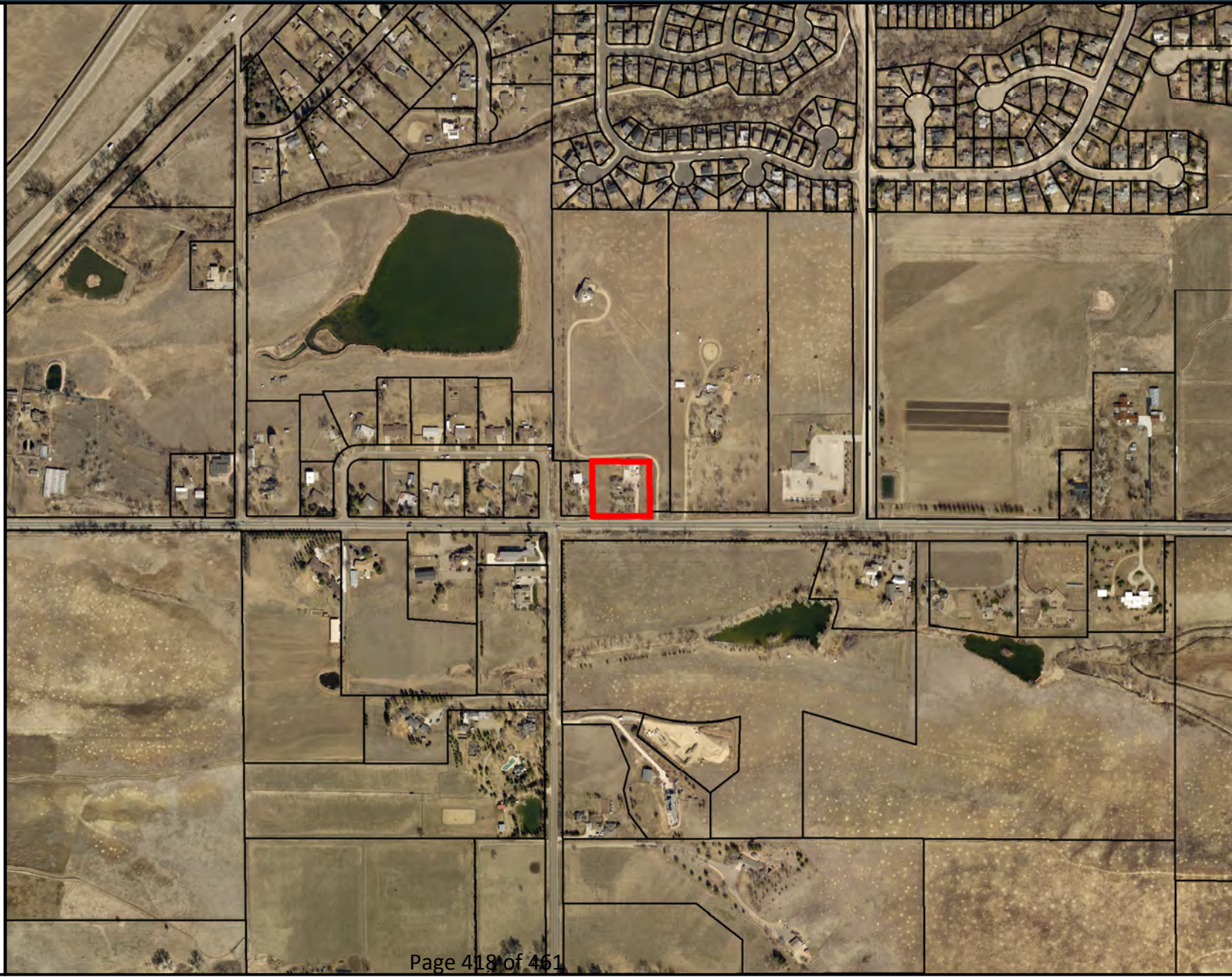


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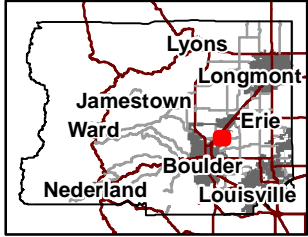
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Miles



Area of Detail Date: 6/24/2022



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Comprehensive Plan

5745 JAY RD

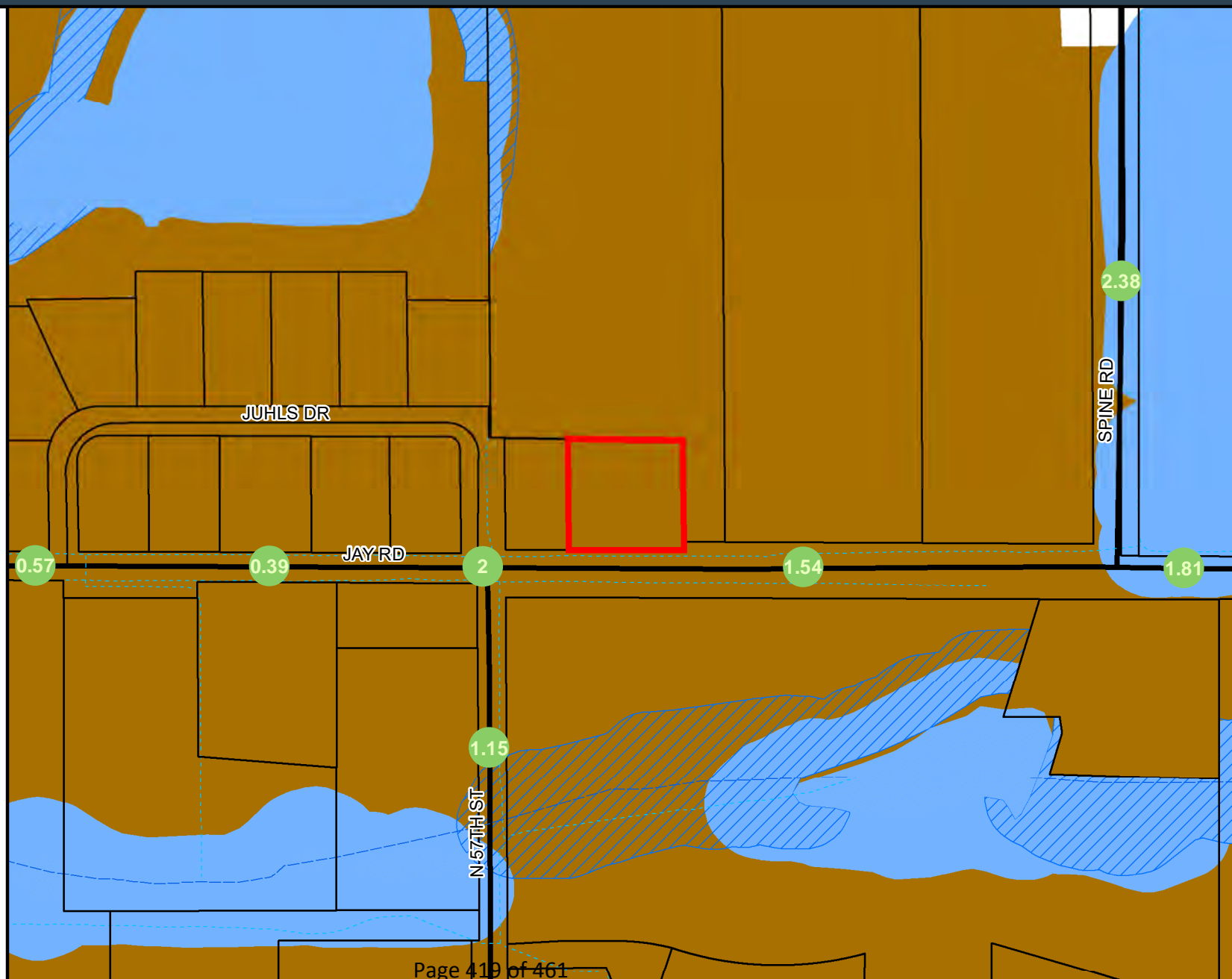
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Riparian Areas

Wetlands

Significant Agricultural Land

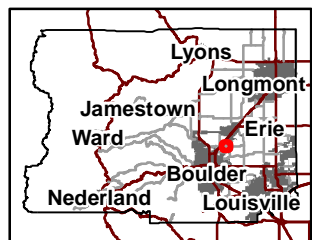
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Area of Detail Date: 6/24/2022



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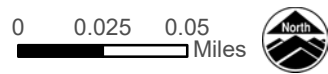
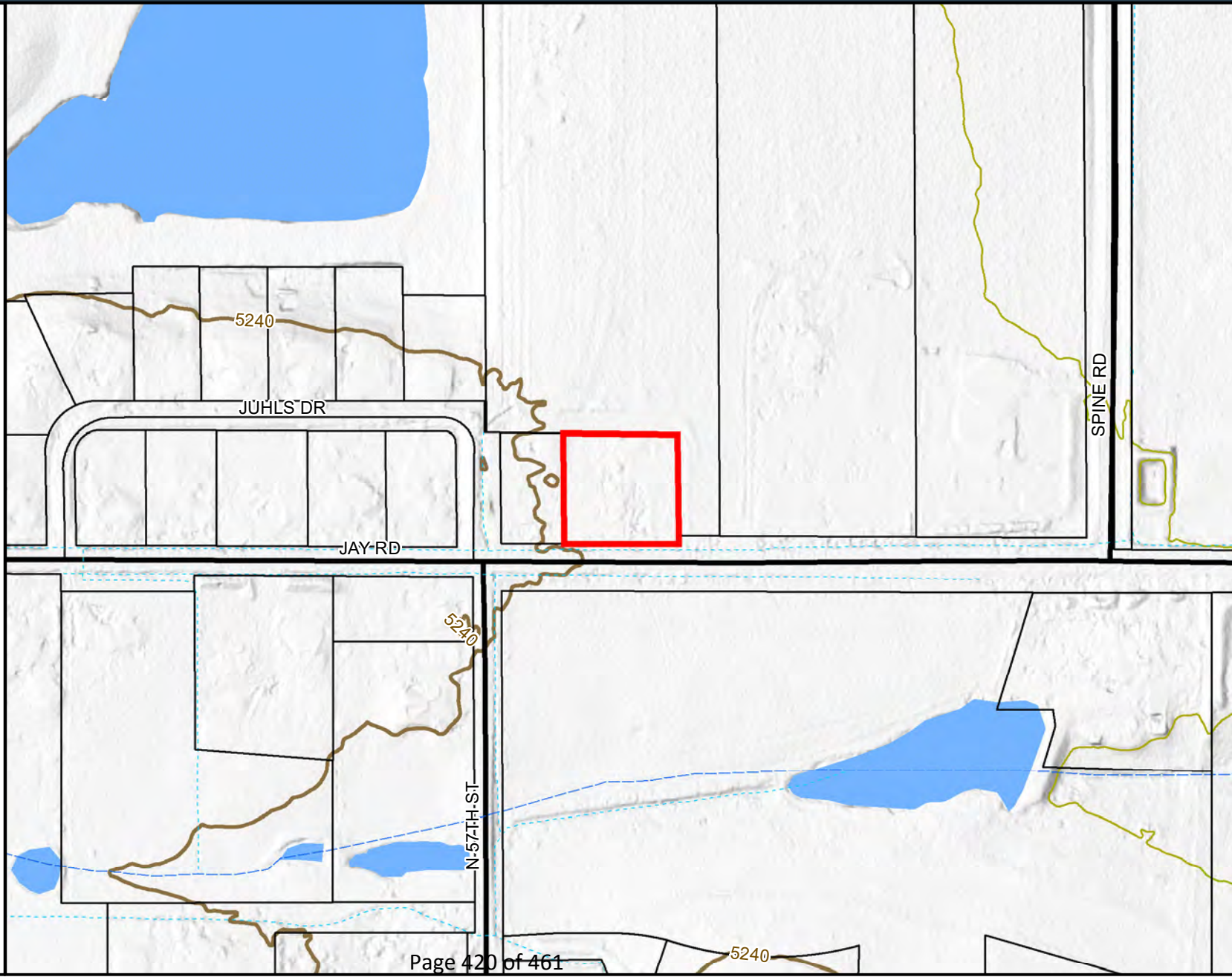
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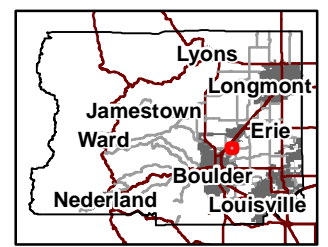
Elevation Contours

5745 JAY RD

-  Subject Parcel
-  Contours 40'
-  Contours 20'



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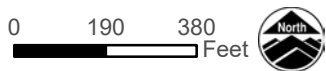
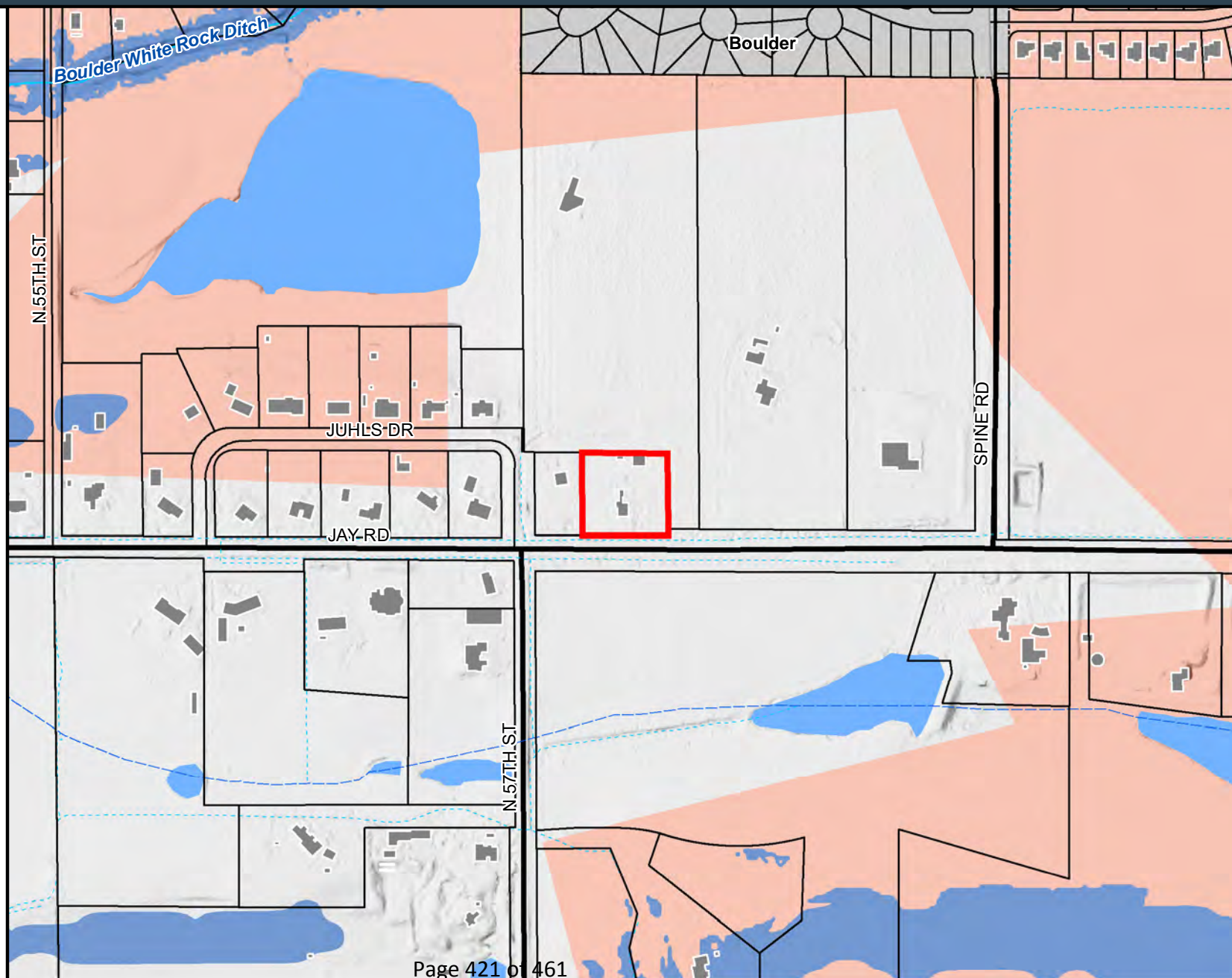
Community Planning & Permitting

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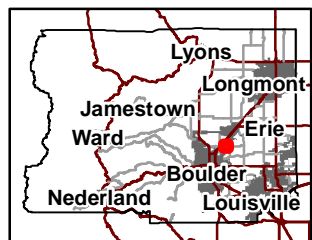
Geologic Hazards

5745 JAY RD

- Subject Parcel
- High Swelling Soil Potential



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Community Planning & Permitting


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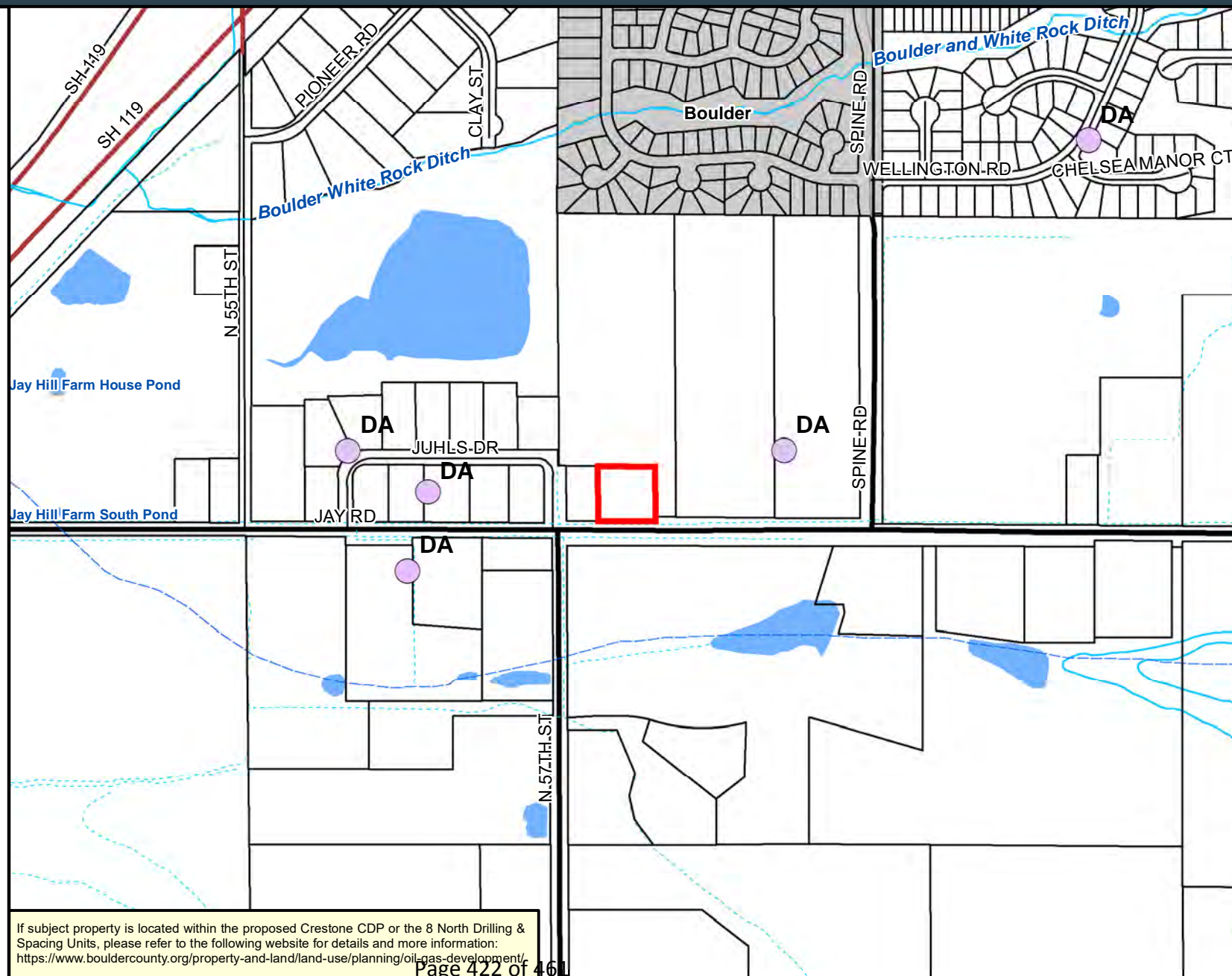
Oil & Gas Facilities

5745 JAY RD

 Subject Parcel

Oil & Gas Well

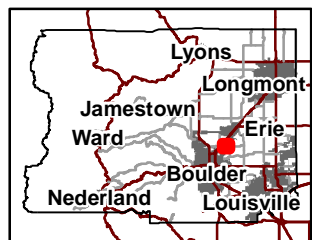
 Dry & Abandoned (DA)



0 0.05 0.1 Miles



Area of Detail Date: 6/24/2022



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If subject property is located within the proposed Crestone CDP or the 8 North Drilling & Spacing Units, please refer to the following website for details and more information: <https://www.bouldercounty.org/property-and-land/land-use/planning/oil-gas-development/>



Community Planning & Permitting

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Planning Areas

5745 JAY RD

Subject Parcel

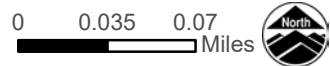
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Airport Influence

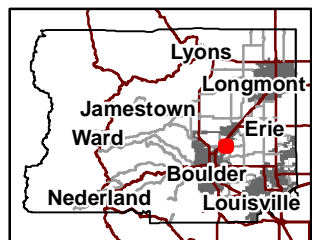
Active IGA
Boundary

**Active IGA
Designation**

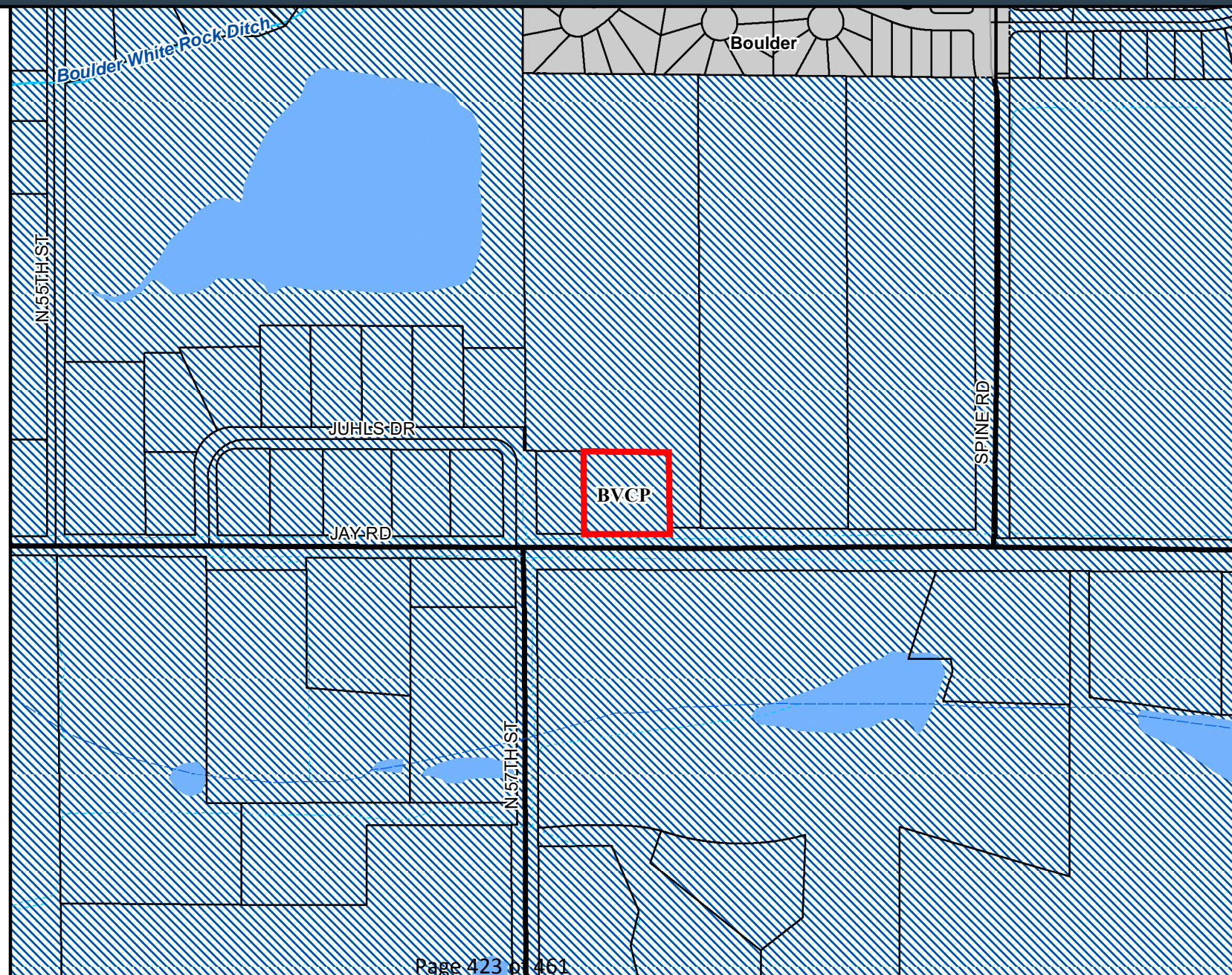
BVCP



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Community Planning & Permitting

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Public Lands & CEs

5745 JAY RD

Subject Parcel

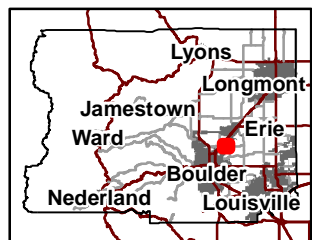
Boulder County Open Space

- County Open Space
- Joint
- County/Municipal Open Space
- County Conservation Easement
- OSMP Properties

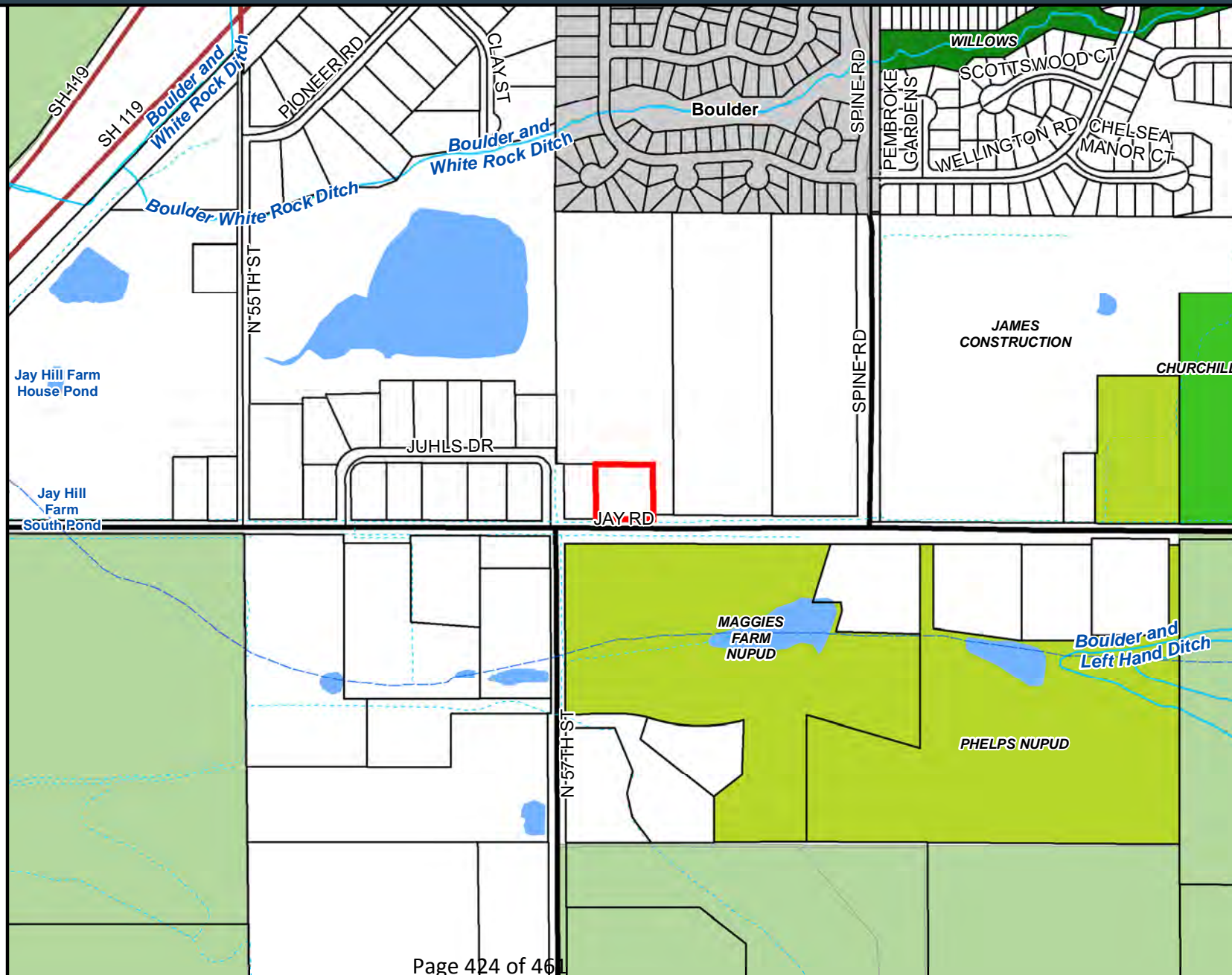
0 0.05 0.1 Miles



Area of Detail Date: 6/24/2022



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Community Planning & Permitting

2045 13th Street, Boulder, CO 80302 303-441-3930 www.bouldercounty.org

Zoning

5745 JAY RD

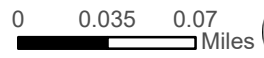
Subject Parcel

Major Road Setbacks

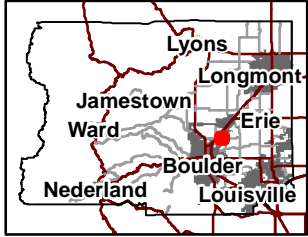
- 90 feet
- 110 feet

Zoning Districts

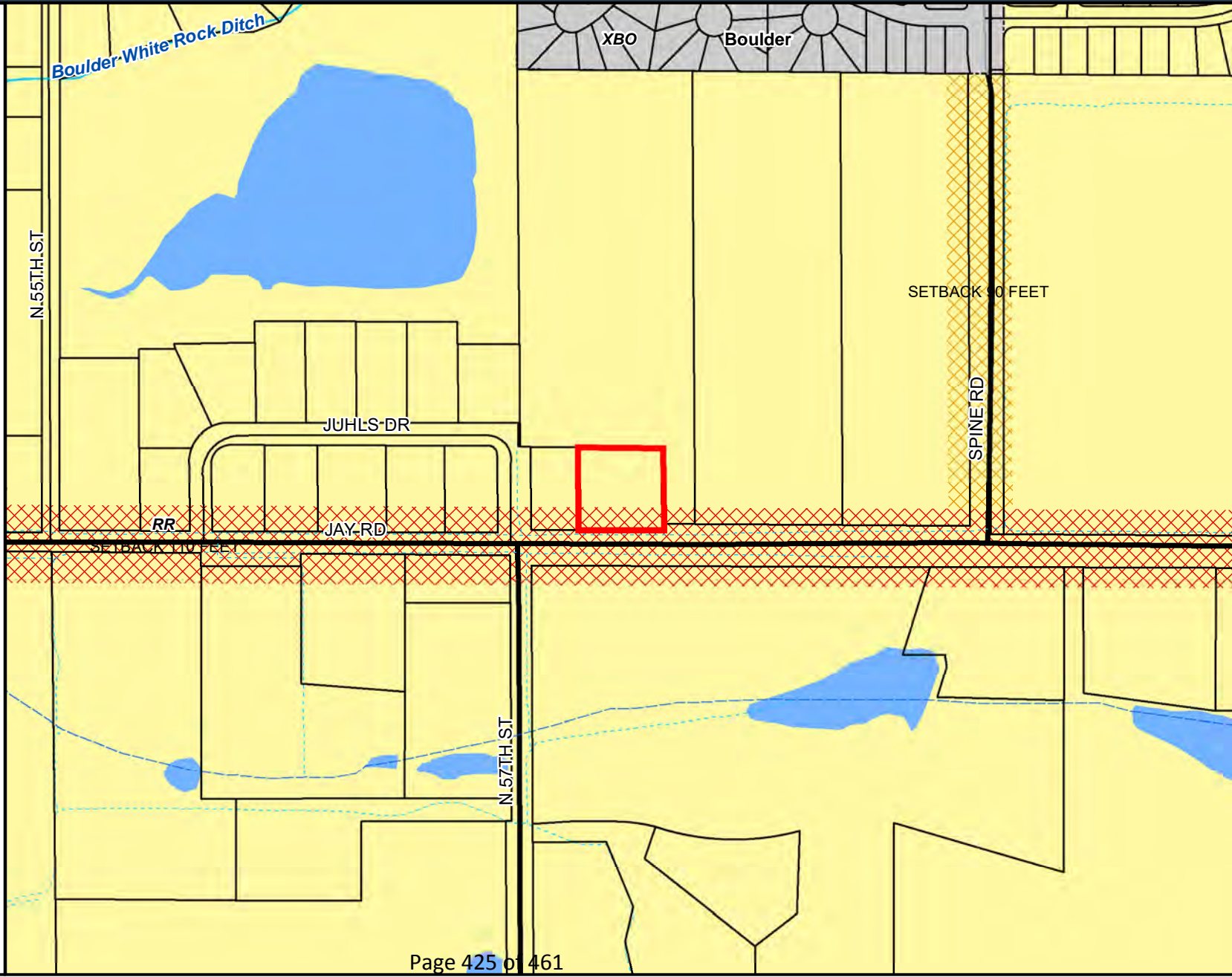
- Rural Residential



Area of Detail Date: 6/24/2022



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Boulder County Land Use Department

Courthouse Annex Building • 2045 13th Street • PO Box 471
Boulder, Colorado 80302

Phone: 303-441-3930 • Fax: 303-441-4856
Email: planner@bouldercounty.org
<http://www.bouldercounty.org/lu/>

Office Hours: Monday — Friday 8:00 AM to 4:30 PM

Intake Stamp:

Docket #:

Board of Adjustment (BOA) Hardship Statement

Explain how the following hardship criteria for granting a variance have been satisfied. Please feel free to attach your statements using a separate piece of paper.

- A.** There exists exceptional or extraordinary physical circumstances of the subject property such as irregularity, narrowness, shallowness, or slope.

The house was built in 1920, long before the current setbacks existed. Remodeling the front porch within the current setbacks would be impossible. Regarding the windmill, the location of the existing leach field prevented the construction to take place further from the back property line.

- B.** Because of these physical circumstances, the strict application of this Code would create an exceptional or undue hardship up the property owner.

It seems that the only way to remodel the front porch within the current (extended) setback would entail moving the house to be further from the Jay Road right-of-way. Application of the rear setback would prevent the construction of the windmill.

- C.** The hardship is not self-imposed.

At some point between 1920 and now, the setbacks, both front and rear, were extended to the point where initial construction of the house would have been precluded. At some point the rear setback was extended so as to make the current location of the old barn to be impossible. The current location of the windmill is about twice as far from the back line as is the old barn.

- D.** The variance, if granted, will not adversely affect the use of adjacent property as permitted under this Code.

The additions to the property do not adversely affect the adjacent properties. On the front, the house looks pleasing to passersby. The windmill is located as far from the road and the neighbors houses as feasible, resulting in >200', >300' & >600'. It was our intention to place the windmill in the most appropriate and pleasing location possible.

- E.** That the variance, if granted, will not change the character of the zoning district in which the property is located, and is in keeping with the intent of this Code and the *Boulder County Comprehensive Plan*; and,

The addition of the front porch and the windmill enhance the character of the area in general, and the farm specifically. In determining the location of the windmill, we chose the location that was as far from the road and all neighboring homes. In this manner, we believe that the character of the area is best preserved. It has been noted that a windmill existed previously.

- F.** That the variance, if granted, does not adversely affect the health, safety, and welfare of the citizens of Boulder County.

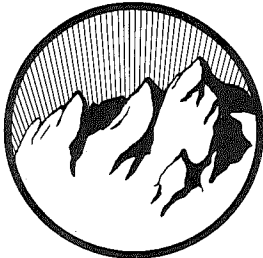
The granting of a variance for the front porch and the windmill definitely does not adversely affect the citizens of Boulder County. It is our goal that the granting of the variance would actually enhance the safety and welfare of the citizens of Boulder County. The addition of the covered front porch improves the quality of life of the residents as well as regular elderly visitors.

Applicant or Agent Signature:

Charlie Daraker

Date:

Nov 11, 2022

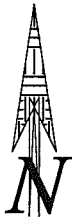
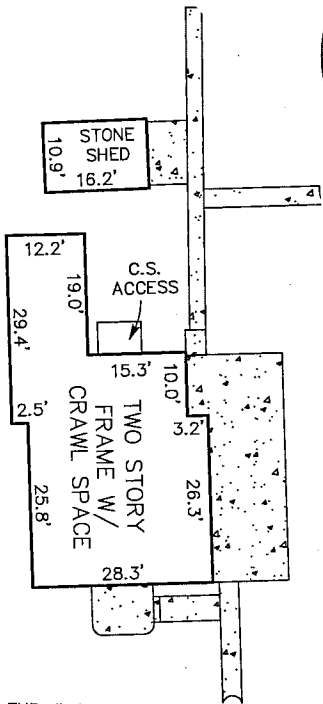


FLATIRONS SURVEYING, INC.

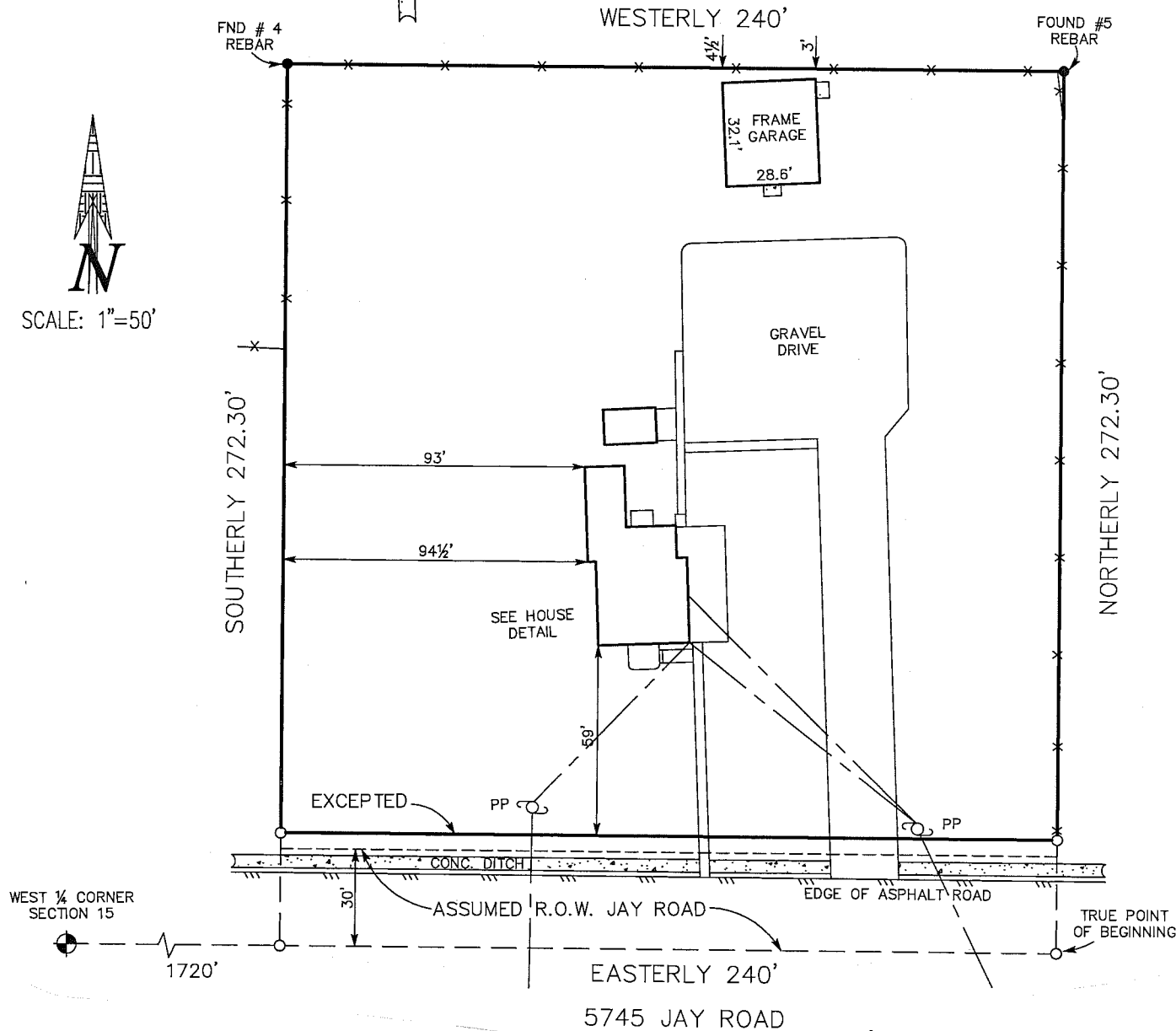
5717 Arapahoe Road
Boulder, Colorado 80303
(303) 443-7001

Sheet 1 of 2: Lot Overview
See Sheet 2 for LEGAL DESCRIPTION
and NOTES.

DETAIL SCALE: 1"=30'



SCALE: 1"=50'



John B. Guyton

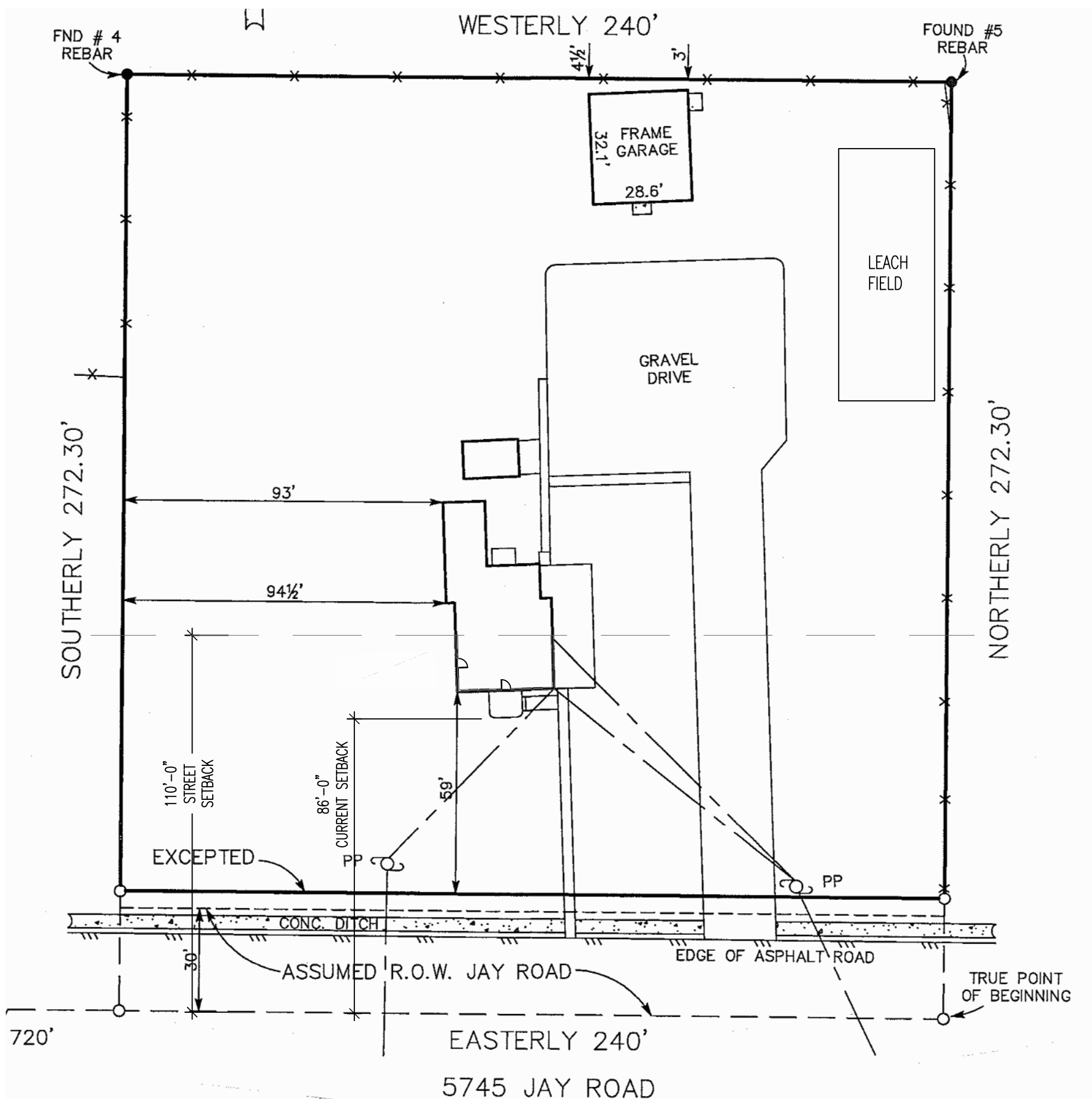
John B. Guyton, Colorado L.S. #16406

IMPROVEMENT LOCATION CERTIFICATE

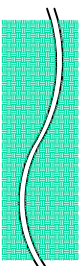
I hereby certify that this improvement location certificate was prepared for BOULDER WEST FINANCIAL SERVICES and COMMONWEALTH LAND TITLE INS. CO., that it is not a land survey plat or improvement survey plat, and that it is not to be relied upon for the establishment of fence, building or other future improvement lines. I further certify that the improvements on the above described parcel on this date, September 5, 2000, except utility connections, are entirely within the boundaries of the parcel, except as shown, that there are no encroachments upon the described premises by improvements on any adjoining premises, except as indicated, and that there is no apparent evidence or sign of any easement crossing or burdening any part of said parcel, except as noted.

NOTICE: This Improvement Location Certificate is prepared for the sole purpose of use by the parties stated hereon. It is not a Land Survey Plat as defined by C.R.S 38-51-102(12) or an Improvement Survey Plat as defined by C.R.S 38-51-102(9). It does not establish property corners. A more precise relationship of the improvements to the boundary lines can be determined by a Land Survey or Improvement Survey. The improvements are generally situated as shown and only apparent (visible at the time of fieldwork) improvements and encroachments are noted. Flatirons Surveying, Inc. and John B. Guyton will not be liable for more than the cost of this Improvement Location Certificate, and then only to the parties specifically shown hereon. Acceptance and/or use of this Improvement Location Certificate for any purpose constitutes acknowledgement and agreement to all terms stated hereon.

Title Co. No. K122740 Borrower Danaher & Valentine
Flatirons No. 00-37,195 Cost \$175.00

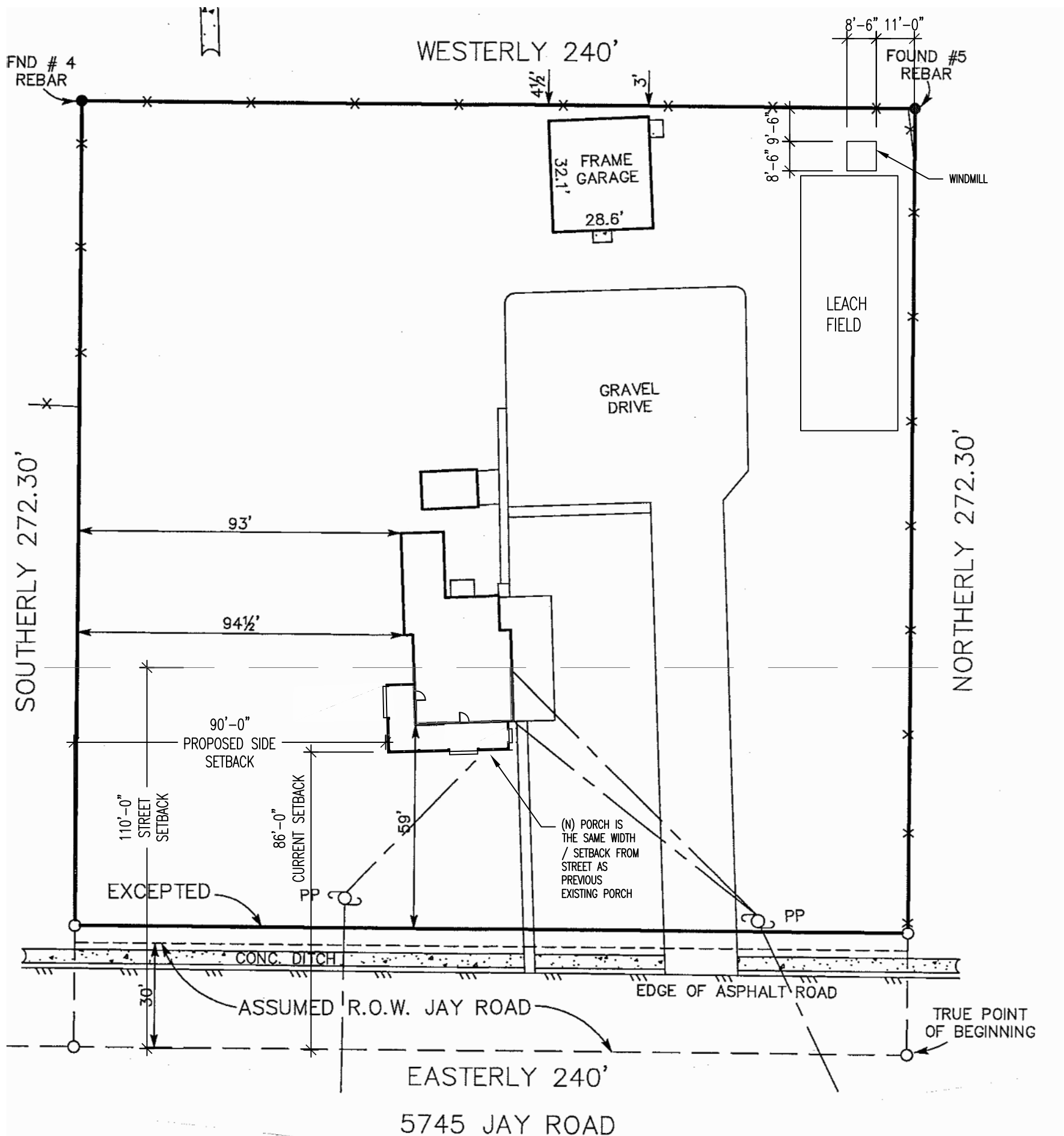


5745 JAY ROAD - EXISTING SITE PLAN
1"=400'-0"

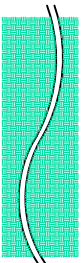


Blue Creek
Design

8831 SNOWBUNTING CT.
LITTLETON, COLORADO 80126
PH: 303.472.1311
EM: bluecreekdesign@gmail.com

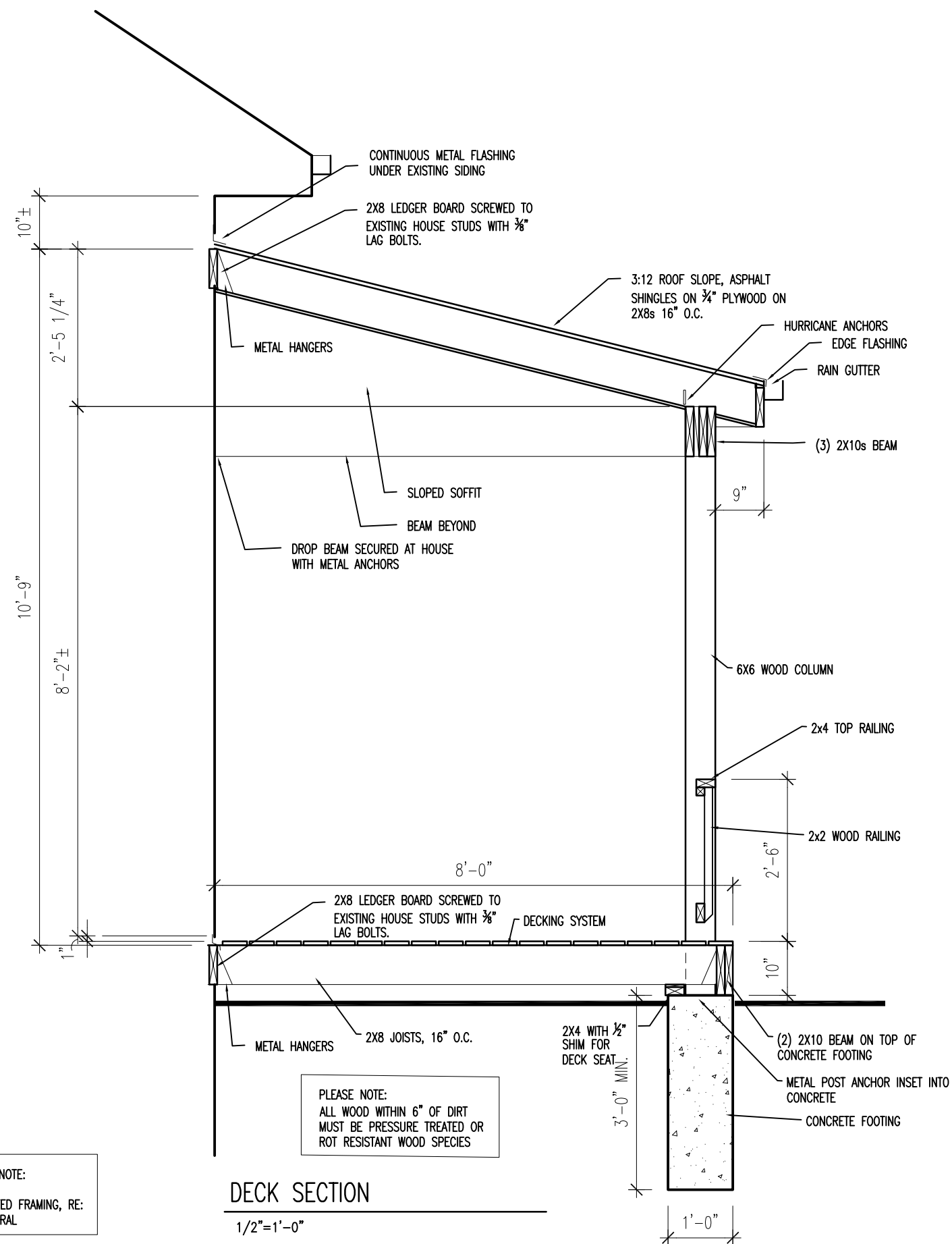


5745 JAY ROAD - PROPOSED SITE PLAN
1"=400'-0"

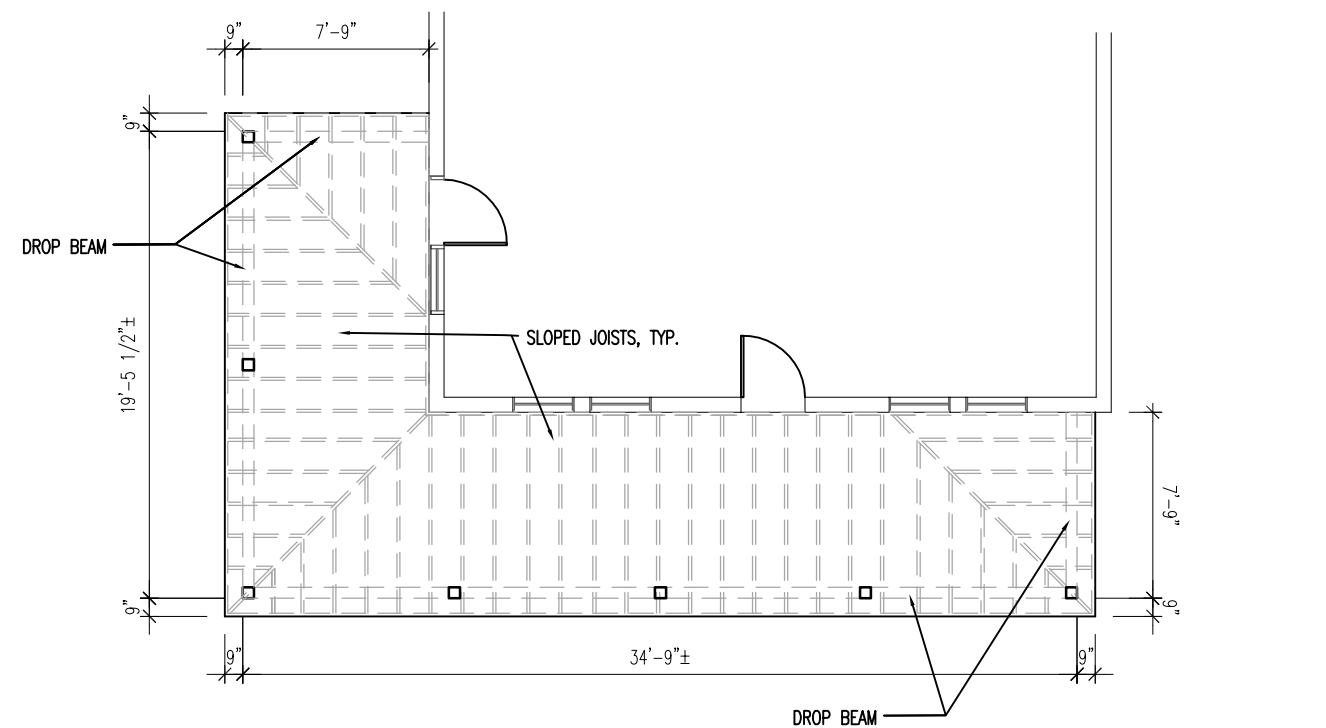


**Blue Creek
Design**

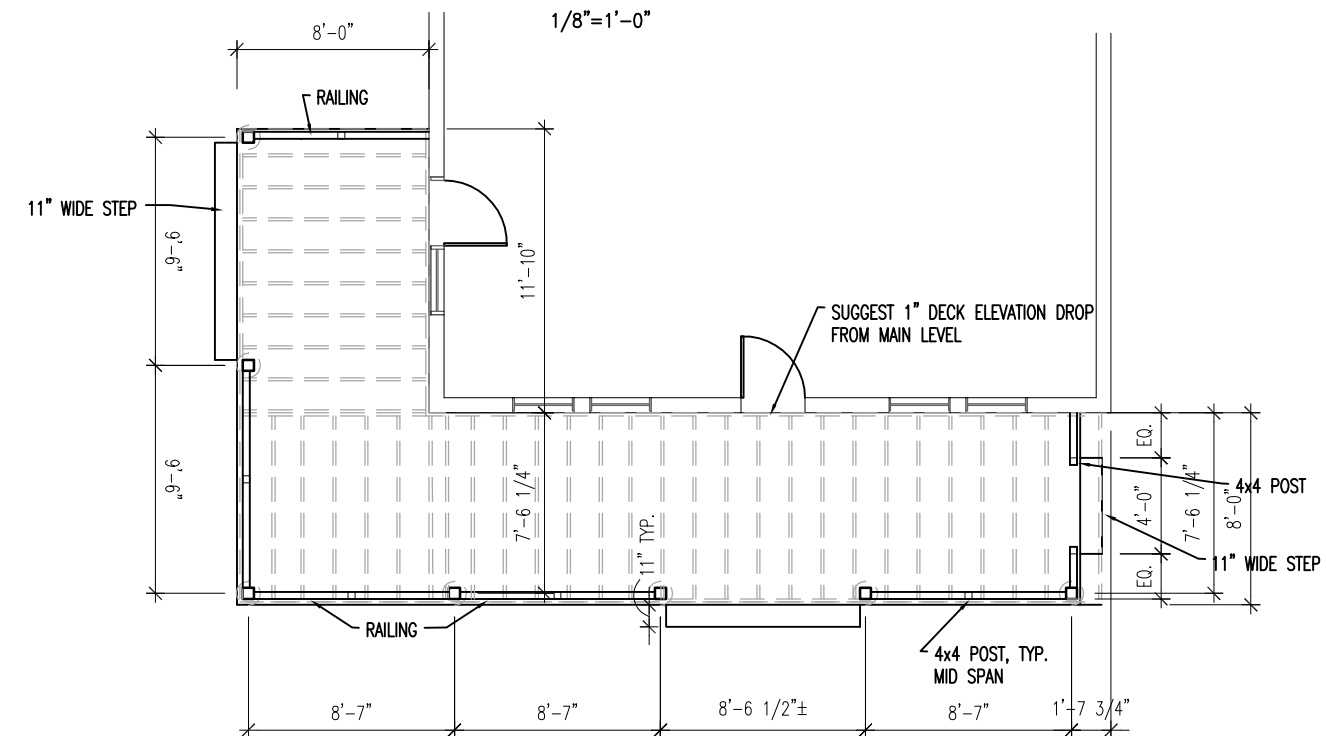
8831 SNOWBUNTING CT.
LITTLETON, COLORADO 80126
PH: 303.472.1311
EM: bluecreekdesign@gmail.com



PLEASE NOTE:
SUGGESTED FRAMING, RE:
STRUCTURAL



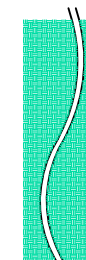
ROOF FRAMING PLAN

$$1/8'' = 1' - 0''$$


DECK FRAMING PLAN

$$1/8'' = 1' - 0''$$

PLEASE NOTE:
SUGGESTED FRAMING, RE:
STRUCTURAL



Blue Creek Design

8831 SNOWBUNTING CT.
LITTLETON, COLORADO 80126
PH: 303.472.1311

EM: bluecreekdesign@gmail.com







Walker, Samuel

From: Carden, Timothy
Sent: Friday, March 31, 2023 10:57 AM
To: Walker, Samuel
Cc: Northrup, Elizabeth (Liz)
Subject: RE: Referral packet for VAR-23-0003: Danaher Setback Reductions project at 5745 Jay Road

Hi Sam,

Thank you for the opportunity to review VAR-23-0003. I have completed my review of the referral packet and as proposed this project should not impact the nearby conservation easements.

Best,

Tim Carden | Conservation Easement Stewardship Specialist
 Boulder County Parks & Open Space
 Pronouns: he/him/his
 5201 St. Vrain Road
 Longmont, CO 80503
 303-413-7533 (office)
tcarden@bouldercounty.org
[Boulder County Open Space Website](#)



New: Boulder County has a new website: [BoulderCounty.gov](https://www.bouldercounty.gov/)! Bookmark it today. Email addresses will transition at a later date.

From: Milner, Anna <amilner@bouldercounty.org>
Sent: Friday, March 31, 2023 8:58 AM
To: Historic <historic@bouldercounty.org>; #CodeCompliance <codecompliance@bouldercounty.org>; #AssessorReferral <AssessorReferral@bouldercounty.org>; #CAreferral <CAreferral@bouldercounty.org>; #CEreferral <CEreferral@bouldercounty.org>; Johnson, Curtis <cjohnson@bouldercounty.org>; Allshouse, Alycia <aallshouse@bouldercounty.org>; Stadele, Lee <leestadele@bouldercounty.org>; Stadele, Lee <leestadele@flagstaffsurveying.com>; Stadele, Lee <leestadele@bouldercounty.org>; Stadele, Lee <leestadele@flagstaffsurveying.com>; Steve Buckbee <sbuckbee@lefthandwater.org>; chrissmith@lefthandwater.org; jstruble@northernwater.org; bflockhart@northernwater.org; BDRCO@xcelenergy.com; Donna.L.George@xcelenergy.com; RanglosC@bouldercolorado.gov; hc_filesearch@state.co.us; drogers@brfr.org; Abner, Ethan <eabner@bouldercounty.org>; Hippely, Hannah <hhippely@bouldercounty.org>; Sheehan, Jack <jsheehan@bouldercounty.org>; Vaughn, Andrea <avaughn@bouldercounty.org>; Atherton-Wood, Justin <jathertonwood@bouldercounty.org>; Moline, Jeffrey <jmoline@bouldercounty.org>; Flax, Ron <rflax@bouldercounty.org>; Frederick, Summer <sfriderick@bouldercounty.org>; Goldstein, Andrew <agoldstein@bouldercounty.org>; HealthWaterQuality-EnvironmentalBP LU <HealthWQ-EnvironBPLU@bouldercounty.org>; Huebner, Michelle <mhuebner@bouldercounty.org>; Northrup, Elizabeth (Liz) <enorthrup@bouldercounty.org>; Sanchez, Kimberly <ksanchez@bouldercounty.org>; Transportation Development Review <TransDevReview@bouldercounty.org>; West,

Ron <rowest@bouldercounty.org>

Cc: Walker, Samuel <swalker@bouldercounty.org>

Subject: Referral packet for VAR-23-0003: Danaher Setback Reductions project at 5745 Jay Road

Please find attached the referral packet for **VAR-23-0003: Danaher Setback Reductions** project at **5745 Jay Road**.

Please return responses and direct any questions to [Sam Walker](#) by **April 17, 2023**. (Boulder County internal departments and agencies: Please attach the referral comments in Accela.)

Best Regards,
Anna

Anna Milner | Admin. Lead Tech.
Boulder County Community Planning & Permitting

Pronouns: she/her/hers

Physical address: 2045 13th St., Boulder CO 80302

Mailing address: PO Box 471, Boulder, CO 80306

(720) 564-2638 (Direct)

amilner@bouldercounty.org

Service hours are 8 a.m.-4:30 p.m. Monday, Wednesday, Thursday, Friday, and 10 a.m.-4:30 p.m. Tuesday

*My core working hours are 7am-5:30pm Tues - Fri

New: Boulder County has a new website: [BoulderCounty.gov](https://www.bouldercounty.gov)! Bookmark it today. Email addresses will transition at a later date.

www.bouldercounty.gov



**Right of Way & Permits**

1123 West 3rd Avenue
 Denver, Colorado 80223
 Telephone: **303.571.3306**
 Facsimile: 303.571.3284
 Donna.L.George@xcelenergy.com

April 17, 2023

Boulder County Community Planning and Permitting
 PO Box 471
 Boulder, CO 80306

Attn: Sam Walker

Re: Danaher Setback Reductions, Case # VAR-23-0003

Public Service Company of Colorado's (PSCo) Right of Way & Permits Referral Desk has determined there is a **possible conflict** with the above captioned project. How far away will the proposed windmill be from the existing overhead electric structures? It is not made clear on the drawings where the windmill is to be located.

Bear in mind that per the National Electric Safety Code, a minimum 10-foot radial clearance must be maintained at all times from all overhead electric distribution facilities including, but not limited to, construction activities and permanent structures; a 3-foot clearance must be maintained away from service lines.

Donna George
 Right of Way and Permits
 Public Service Company of Colorado dba Xcel Energy
 Office: 303-571-3306 – Email: Donna.L.George@xcelenergy.com

Walker, Samuel

From: Dean Rogers <drogers@brfr.org>
Sent: Sunday, April 9, 2023 3:06 PM
To: Walker, Samuel
Subject: [EXTERNAL] VAR-23-0003

Sam,
Boulder Rural has no recommendations regarding LU-23-0003, the Danaher Setback Reductions Project at 5745 Jay Road.
Thank you,

Dean Rogers, Engineer

Boulder Rural Fire Rescue
6230 Lookout Road, Boulder, CO 80301
Office: 303-530-9575 | Cell: 720-498-0019
drogers@brfr.org | www.brfr.org





Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303.441.3930 • Fax: 303.441.4856
 Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.gov

Building Safety & Inspection Services Team

MEMO

TO: Sam Walker, Planner II
 FROM: Michelle Huebner, Plans Examiner Supervisor
 DATE: April 3, 2023

RE: Referral Response, VAR-23-0003: Danaher Setback Reductions. Variance request to reduce the required supplemental setback from 110 feet (required) to 86 feet (proposed) for construction of a new front porch and reduce the rear-yard setback from 15 feet (required) to 9' 6" (proposed) for a windmill.

Location: 5745 Jay Road

Thank you for the referral. We have the following comments for the applicants:

1. **Building Permit.** A building permit, plan review, and inspection approvals are required for the proposed front porch addition. A separate building permit is required for the windmill

Please refer to the county's adopted 2015 editions of the International Codes and code amendments, which can be found via the internet under the link:

2015 Building Code Adoption & Amendments, at the following URL:

<https://assets.bouldercounty.org/wp-content/uploads/2017/03/building-code-2015.pdf>

2. **Design Wind and Snow Loads.** The design wind and ground snow loads for the property are 155 mph (Vult) and 40 psf, respectively.
3. **Ignition-Resistant Construction and Defensible Space.** Please refer to Section R327 of the Boulder County Building Code for wildfire hazard mitigation requirements, including ignition-resistant construction and defensible space.
4. **Plan Review.** The items listed above are a general summary of some of the county's building code requirements. A much more detailed plan review will be performed at the time of building permit application, when full details are available for review, to assure that all applicable minimum building codes requirements are to be met. Our Building Safety publications can be found at: <https://assets.bouldercounty.org/wp-content/uploads/2017/03/b24-residential-plan-check-list.pdf>

If the applicants should have questions or need additional information, we'd be happy to work with them toward solutions that meet minimum building code requirements. Please call (720) 564-2640 or contact us via e-mail at building@bouldercounty.org



Parks & Open Space

5201 St. Vrain Road • Longmont, CO 80503
303-678-6200 • POSinfo@bouldercounty.org
www.BoulderCountyOpenSpace.org

TO: Sam Walker, Community Planning & Permitting Department
FROM: Ron West, Natural Resource Planner
DATE: April 5, 2023
SUBJECT: Docket VAR-23-0003, Danaher, 5745 Jay Road

Staff has no natural resource concerns with the proposed variances.



Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302
 Mailing Address: P.O. Box 471 • Boulder, Colorado 80306
 303-441-3930 • www.BoulderCounty.gov

February 27, 2023

TO: Sam Walker, Planner II; Community Planning & Permitting, Development Review

FROM: Ian Brighton, Planner II; Community Planning & Permitting, Access & Engineering

SUBJECT: Docket VAR-23-0002: Stevenson Variance

32050 Coal Creek Canyon Drive

The Development Review Team – Access & Engineering staff has reviewed the above referenced docket and has the following comments:

1. The subject property is accessed via State Highway 72 (SH72), also known as Coal Creek Canyon Drive, a Colorado Department of Transportation (CDOT) owned and maintained right-of-way (ROW). Legal access has been demonstrated via adjacency to this public ROW.
2. No site improvements have been proposed as part of the Variance Request. Future improvements to the access drive may require a Land Use review process.
3. Staff has reviewed the proposed variance and has no concerns.

This concludes comments our comments at this time.

Walker, Samuel

From: Barb Rogers <sugarxtr@gmail.com>
Sent: Friday, April 7, 2023 9:17 AM
To: LU Land Use Planner
Subject: [EXTERNAL] VR-23-0003

Hi Sam,

I am writing in response to docket # VR-23-0003 indicated in subject line. I am not clear why this is being requested now rather than not requiring them to be compliant after the fact? The porch has been completed and the Windmill has been erected some time ago, obviously without going through the process and paying for the proper permits and this was brought to your attention over a year ago.

The consistency or lack thereof with the Planning and Permitting department here is simply unacceptable and will create a big problem within our communities. The small remodel we just completed and paid thousands for, NOT just for the proper permits but thousands more to be able to even apply for the permits. There are several similar situations with current neighbors where we all had to "jump through" Boulder's over the top hoops.

It is your job to ensure that any variance and planning requests are approved not overlooked when brought to your attention. This sets an unfair precedent for those of us who go through the proper channels while others do not and then hope to not get caught.

Favoritism and looking the other way should not be accepted by our community planners. Be consistent so we have trust in what you are deciding to approve or not.

Best,

BR

Walker, Samuel

From: jessica brooks <jeccabrooks12@yahoo.com>
Sent: Monday, April 17, 2023 2:41 PM
To: LU Land Use Planner
Subject: [EXTERNAL] Docket VAR-23-0003

Dear Boulder County Planning and Permitting,

Reference Docket # VAR-23-0003

I am writing in support of my neighbors at 5745 Jay RD. They have requested a variance to reduce the required setback. Any upgrades to a neighbor's house helps the whole neighborhood. I have no concerns with their variance request.

Sincerely,

Jessica and Jim Hammerstone

5617 Jay Rd

Boulder CO, 80301

720-422-6436

Walker, Samuel

From: kamuran@aol.com
Sent: Friday, April 14, 2023 6:13 AM
To: LU Land Use Planner
Subject: [EXTERNAL] docket #VAR-23-0003

Dear Planner,

Please let this communication serve to support the upgrades made reference docket #VAR-23-0003 for the following reasons.

The house and property in question is in a pocket of unincorporated Boulder County. It is an old farm house, that we believe has been there for more than 50 years, when Jay rd was still a dirt road, and most of the surrounding properties were actively Ag properties. The constructed wrap around porch in my opinion totally upgrades the farm house look, and in no way impacts any of the neighbors either in a physical sense or visual sense. In our opinion, it compliments the look of the old farm house. The porch can't even be viewed from Jay rd, as there is a privacy fence blocking the view. Most of the adjacent properties are still active Ag properties, growing hay, and raising livestock. We see no safety, or health hazards occurring to any adjacent neighbors, and we feel it keeps within the Rural Residential look of unincorporated Boulder County.

We feel the same way about the windmill. It compliments the look of a rural farmhouse, in a time when we are losing too many adjacent properties to tear downs and modern houses while abandoning the rural Ag feel. Because of the windmills location, it doesn't appear to be a health or safety issue. Nor do we see it physically impacting neighboring or adjacent properties. We enjoy seeing the windmill, and hope you will allow it to stay.

In summary, we are totally supportive of both of the items in question, and feel it has upgraded the look of their property, while keeping with the rural residential and agricultural feel that we would like preserved in our neighborhood.

respectfully,

Kamuran Tepedelen
Sheri Marks
5554 Jay Rd
Boulder, CO 80301

Walker, Samuel

From: Kent Campbell <kentling@alumni.rice.edu>
Sent: Sunday, April 9, 2023 5:52 PM
To: LU Land Use Planner
Subject: [EXTERNAL] Docket # VAR-23-003

Docket # VAR-23-003

April 9, 2023

We wholeheartedly support the variance requests and improvements made to 5745 Jay Road.

The house at 5745 Jay Rd is one of the few remaining original “homes of the neighborhood”, built in 1920 along what one can presume was once a 2 rut, graveled at best, farm road. Allowances should be made to allow this house, built close to a century before the 110’ setback regulations were enacted, to have a viable front door and historically accurate windmill.

Previously, the house had no useable front door; the front door was a set of deteriorating concrete steps with no shelter from the elements. To be blunt, the front door was inhospitable and uninviting, and we’d visit through the back door, via a mudroom, which was less exposed to the elements. The current front door and porch is protected and inviting. This porch is 100% authentic and in alignment with the character of the original farmhouse in what was once an agricultural ‘neighborhood’ filled with hard working families. The front porch poses no threat to anyone from a safety perspective, and it’s unlikely any maintenance will be conducted in this arbitrary 110’ foot offset area as this would require working inside the house’s kitchen, living room and perhaps upstairs bedroom. What the current porch provides is a sense of community, family, and openness. It is so neat to see the family on the porch sitting and enjoying the company of what I presume are family, friends, or guests. When the future LOBO trail is established countless ‘slow travelers’ will look over and likely see the same thing – a cute original farmhouse filled with family and all of the associated life and excitement on the front porch and an inviting front door.

The variance requests at hand are quite equivalent to the implicit variance request being asked of the Boulder White Rock irrigation lateral owners on the south side of Jay. Here, BOCO is requesting encroachment onto the historical BWR lateral for the development of the future BOCO trail at a great, real imposition to the lateral owners/neighbors’ quality of life.

The messaging of a variance denial is that it’s better to tear down artifacts of the historical agricultural and rural nature of BOCO and build ‘sustainable’ monstrosities that have no character nor sense of place than to make improvements for quality of life even if it perhaps puts oneself at odd with modern regulations. I could have sworn the mandate of the county was sustainability and denial of the variance would require the improvements to be taken to the landfill. 7426 Jay Rd not

too long ago had the original farmhouse, now, it could be any house, anywhere. There is nothing inviting about this new build, though it's clearly 100% in zoning compliance (at the expense of a farmhouse's worth of landfill waste and the energy and resource consumption to build the new house.)

As to the windmill's offset, our property, not the complainant's, is the most impacted by its placement and we 100% fully love it. Our house is the closest structure of any nature to this location.

The windmill's site placement has no impact on the adjacent property. The windmill resides in a corner/elbow location and the impact of it being 1.2' from the property line or 12' or 25' has no impact. It's clearly congruent in style and siting with what are 'grandfathered' structures. For 100's of feet is a field and there will never be any future structures sited even remotely close to this spot – the current owner or future owners would have to block their only road access to this property to pursue such an improvement. The complainant who initiated this clearly has no objection to the 0' offset of a different neighbor with a likely unpermitted structure.

To any outside perspective the windmill could have been there for the last 100 years. I'd venture a guess there was once a windmill on the original farm.

What this windmill does provide is a reminder of what Boulder Valley once was. The view of the setting sun through this is so striking, it should be a movie scene with an original barn and farmhouse below. The rural viewshed is only improved by adding this authentic piece of history. It's humorous that the complainant initiating this zoning violation is using a viewshed argument provided by someone else's property as a selling point but finds this historical improvement a detriment. [And the 'selling' viewshed contains several illegal structures the County has known about for several years and yet refuses to act upon.]

So, how do neighbor properties impact property values? Either by sale prices or improvements. This is a case of 5745 Jay Rd's improvements providing a beautiful improvement, sense of history, community and authentic viewshed. These actions are only positive influencers on all our property's values. These owners have the option of selling their property, scraping the house, or staying and making improvements on this historical property. They've chosen to stay and improve. Kudos to them!

To summarize, we wholeheartedly support this neighbor and anyone else in their attempt to preserve the historical nature and character of what was once an agricultural and family centric 'neighborhood'. Both improvements will only improve the neighborhood regarding a sense of history and community and also property values.

Common sense would dictate compromise. Charge a permit fee, maybe a penalty, and move on.

Thanks,

5801 Jay Rd Neighbors

Walker, Samuel

From: Richard Luna <rluna51@gmail.com>
Sent: Friday, April 14, 2023 12:16 PM
To: Walker, Samuel
Subject: Re: [EXTERNAL] Fwd: 5745 Jay Rd. - Windmill, Bus, Etc.

Mr. Walker,

I'd like to submit the following comments for the record (I'm OK with also including the email chain after these comments):

Dear Boulder County Planning:

I filed the complaint(s) regarding the windmill and porch addition at 5745 Jay Rd. and I received the notification of the Public Hearing Notice taking place on May 5 (and have seen the info. that appears on the Boulder County website) and think that the description ('Proposal' in the letter and online) is misleading, it states:

Project Description as Proposed:

Danaher Setback Reductions

Variance request to reduce the required supplemental setback from 110 feet (required) to 86 feet (proposed) for construction of a new front porch, and reduce the rear-yard setback from 15 feet (required) to 9' 6" (proposed) for a windmill.

This suggests that Mr. Danaher is requesting the variances to construct "a new front porch" and put up "a windmill." **Both of these were constructed over a year ago without permits - these are not 'new' to be built structures.**



photo 5:37pm 11/6/2021

The windmill was installed over the weekend of November 6, 2021 and, to the best of my recollection, the porch was completed in the spring of 2022 - well over a year ago.

It appears that Mr. Danaher made the decision that he didn't need permits (even though there's a significant history of permits for his property during the time he's owned it) - a visit to the County website or call to the Planning Department would have answered any questions. Instead he appears to have decided to go with the odds that he could escape being noticed and thereby avoid the: applications, conditions, inspections, current setbacks, fees and and re-assessment of the value of his property (and likely increase in property taxes) that would come with getting a permit. It seems he rolled the dice with the hope that he wouldn't get reported. He took the chance that in the worst case he'd ask for 'forgiveness instead of permission' because the structures are already built and would the County *really* require him to remove them because of no permits and a few feet of encroachment into current setbacks?

If the County is not prepared to require Mr. Danaher to remove and/or relocate the windmill and new porch then, I believe that you're giving him preferential treatment that's not given to all other applicants who play by the rules and live with the County's decisions; see the recent County denial of a variance of the same 110' setback - to 90' not 86' - to build a garage at 4189 57th St. - about 200' yards to the W of Mr. Danaher's property.

Regarding the windmill specifically:

- Mr. Danaher concludes that since the setback of the barn is allowed to be 3' because it is a non-conforming structure, then that means that new structures (i.e. the windmill) can also be 3' from the back property line. If you concur with that reasoning, then the 15' setback is never going into effect as long as there's non-conforming barn, chicken coop, etc., that remains standing along 5745's back property line.
- The height limit according to what I find in the County regulations is 30', has the County obtained its own measurement of how tall the windmill is?
- In his narrative he mentions: "we recently installed (Nov. 6 of 2021) an antique Aemotor windmill." What condition is it in? What does the tower and windmill weigh? How was it installed and should the County have inspected the foundation before it was buried?
- And even though far-fetched (until you see it on the 10pm news); we get strong winds and if the windmill tower were to fail and topple over it would likely be toward the E and likely land on our driveway. I think having some assurance as to the integrity of the windmill and how it was installed would be prudent.

Thank you for your time and I'd be happy to respond to any questions.

Richard Luna
5775 Jay Rd.
303-931-5625
rjluna51@gmail.com

On Tue, Mar 28, 2023 at 2:00 PM Walker, Samuel <swalker@bouldercounty.org> wrote:

Good afternoon Richard,

As Dale said, I'm the planner assigned to conduct the review for Mr. Danaher's request for a zoning Variance at 5745 Jay Road. I'd like to incorporate your comments into the record for the application, and I can do so by including the

email chain below or a distilled version of it from your perspective. All comments are publicly available, and are included in the packet sent to the applicant as well as the Board of Adjustment one week prior to the public hearing (the packet is also made available to the public at the same time).

Currently, I'm anticipating that this item will be heard by the Board of Adjustment on May 5th unless it's delayed for some reason. I have begun (but not yet completed) the application review, and anticipate conducting a site visit sometime within the next two weeks. Please let me know if you have any questions in the meantime.

Sam Walker

Planner II | Boulder County Community Planning & Permitting

2045 13th Street, Boulder, CO 80302

Ph: 720-564-2738

swalker@bouldercounty.org



From: Case, Dale <dcase@bouldercounty.org>
Sent: Tuesday, March 28, 2023 11:26 AM
To: Richard Luna <rjluna51@gmail.com>
Cc: Walker, Samuel <swalker@bouldercounty.org>; Frederick, Summer <sfrederick@bouldercounty.org>
Subject: RE: [EXTERNAL] Fwd: 5745 Jay Rd. - Windmill, Bus, Etc.

Hi Richard,

The application was submitted and Sam Walker is the assigned planner. I have copied him on this e-mail. He can help you with timing of referral and hearing questions. Thanks.

Dale Case

From: Richard Luna <rjluna51@gmail.com>
Sent: Monday, March 27, 2023 11:07 AM
To: Case, Dale <dcase@bouldercounty.org>
Subject: Re: [EXTERNAL] Fwd: 5745 Jay Rd. - Windmill, Bus, Etc.

Mr. Case,

Hope you are well. I'm checking in regarding the status of the windmill at 5745 Jay Rd.; in your last email of Feb. 7 you mentioned that "The application for their variance is on our submittal schedule for March 13." Since that was 2 weeks ago should I expect to see a 'variance request' sign in front of 5745 and a postcard in the mail in the near future?

Thank you for your time.

Richard Luna

On Tue, Feb 7, 2023 at 1:56 PM Case, Dale <dcase@bouldercounty.org> wrote:

Richard,

Variances are a very high bar to get in the County. A proposal must meet all the variance criteria in 4-1202 of the code to be granted a variance. That said, I don't have the ability to approve or deny variances. That power rests with the Board of Adjustment, and Mr. Danaher has the ability and is on the schedule to apply for that process. During that review the proposal will be fully evaluated based on the criteria, a sign will be posted on-site, and neighbors will be notified of the process. Public comment will be taken both during the review and at a public hearing held by the Board of Adjustment. The application for their variance is on our submittal schedule for March 13. We will continue to stay enforcement until the process is complete. Feel free to check back on the progress and if we have received an application.

Thank you

Dale Case

From: Richard Luna <rjluna51@gmail.com>
Sent: Thursday, February 02, 2023 7:03 PM
To: Case, Dale <dcase@bouldercounty.org>
Subject: [EXTERNAL] Fwd: 5745 Jay Rd. - Windmill, Bus, Etc.

Mr. Case,

I'm sure there are extensive demands on your time in the new year, in case you overlooked it, I'm forwarding the email that I sent to you on January 12.

As I have consistently stated: I object to any variance to the setbacks for Mr. Danaher's **spontaneous and unpermitted installation** of the windmill at the NE corner of his property. By my measurements it is 5' into the 15' back setback and I suspect might be taller than the stated limit of 30'. **As I mentioned in my email of Jan. 12: on 3 occasions I was told that there are no variances for setbacks, 2 times by Mr. Rounds and once by the Planner on call - she indicated the answer is no except in situations with extenuating circumstances (physical obstacles, terrain....) of which I don't think Mr. Danaher's project has.**

Below are the notes I took of each conversation: (VT = Voicemail To) (VM = Voicemail) (TT = Telephone Call To)

Contact details

irounds@bouldercounty.org • Work

[303-441-3984](tel:303-441-3984) • Work

[2045 13th St](#)
[Boulder, CO 80302-5201](#)
[US](#)

[Add birthday](#)

2022-06-06 VT: I was under the impression that he was leaving this post - maybe even BoCo; but since his name is on the VM greeting: I want to talk about 5745 Jay Rd. - letter to comply was sent end of March, they had 30 days to come to some agreement/resolution, it is now more than 2 months. **In 2 past conversations he confirmed that the rear setback is 15' and the windmill is 10' and he also indicated variance aren't granted for that. I also talked with a planner on 5/26 (don't remember her name) and she confirmed setbacks and also that variances would only be in unusual circumstances like a steep slope, etc.** I'd like to talk and I think you know where I'm going with this.

2022-05-26 TT: Planner on Call - confirmed that setbacks are: 25' front, 7' side, 15' back. Jesse Rounds is leaving so Scott Weeks will take over this file and he's out of the office until June 6.

Verified that the County doesn't care if a license plate is from out of state?!

2022-05-06 TT: (Had left him VM) Wanted to follow up on Danaher's violations; particularly the windmill. I recapped that I recall during our earlier conversation: I asked what setbacks applied to the windmill and he paused to confirm them and told me that they are 7' from the side lot line and 15' from the back. And also asked if there were variances granted to setbacks? He had said no. On this conversation he confirmed that was correct. I told him that I measured it to be 10+/- from the side and the back both. Told him as I understood it they had 30 days to respond to the letter of complaint dated the end of March (3/31/22); he seemed to suggest that he wasn't sure of the date and sort of implied that there was some wiggle room. I told him the 30 days was up the end of April. I told him that based on the 'no variance' statement, then the windmill has to be moved, correct? He said or removed. He said that they have a heavy workload and try to prioritize matters of a more serious nature. I told him that my complaints about the unlicensed bus go back years (to at least 2018). He said the it is licensed and operational - I told him that it doesn't have a CO license plate as vehicles are required to have after 90 days by Colorado law. He said that the bus is operational, has a license plate and the County doesn't enforce the state law, just that it has a license plate!? Told him that regarding the windmill I'd be 'squealing like a pig' if BoCo doesn't require it to be moved or removed. Thanked him for his time and apologized if it got a little excited.

2022-04-22 TT: (His name was on the form from the online complaint that I submitted about 5745's windmill on 11/8/2021). Asked about status of my complaint? Waiting for 30 day notice to respond to expire (end of April). Do you need permit for windmill? Yes. Does application notice need to be posted and can neighbors have input? No. Are there setbacks? Yes, 7' from the side (I measured 10'+/-) and 15' from the back (I measured 10'+/-). Can you get a variance from setbacks? No. Are inspections of the installation required? Yes (sounded not certain). Do you make him dig up foundation to make sure it meets requirements? No necessarily - engineer could certify that it is OK.

I'd appreciate a response and an update on what's happening with my complaints regarding Mr. Danaher's violations. It seems to me that there's been ample time for this to be resolved.

Thank you for your time.

Richard Luna

----- Forwarded message -----

From: **Richard Luna** <rjluna51@gmail.com>

Date: Thu, Jan 12, 2023 at 11:34 AM

Subject: RE: 5745 Jay Rd. - Windmill, Bus, Etc.

To: Dale Case <dcase@bouldercounty.org>

Mr. Case,

I hope that you, your family and friends had a nice holiday season and that your new year is off to a good start and has interesting possibilities to look forward to.

I purposely waited until after the first of the new year to touch base.

As you may recall, we first met on August 3 when you came to our property (5775 Jay Rd.) and I went over my complaints regarding Mr. Danaher's activities: the unlicensed vehicles, improvements/additions to his home without permits and the installation of 'the windmill' in early November of 2021. I filed complaints (some items more than one) via the BoCo website, and before filing a complaint I always talked to someone to verify that what I was complaining about was indeed a violation of BoCo regulations.

During that meeting I walked away with the understanding that Mr. Danaher would have to make application(s) for the work that he'd done and the installation of the windmill and the process would include requesting any variances needed - namely the rear setback violation for the windmill and possibly the height of it. And I, and any nearby and/or interested parties, would be notified via mail and the somewhat common signs placed in front of properties notifying the public of a variance request.

On October 4, 2022 I followed up with you to get an update on the status of Mr. Danaher's violations; the emails between us follow:

5745 Jay Rd. - Windmill, Bus, Porch and Siding Additions Update?

Richard Luna <rluna51@gmail.com>
to Dale, bcc: me

Oct 4, 2022, 9:34 AM

Mr. Case,

I'm following up on our meeting of August 3rd regarding my complaints regarding Mr. Danaher's county code and permit violations.

As I recall, you indicated that there would be an opportunity for public input regarding the windmill installation and that there would be a process regarding the failure for him to get permits for the siding that was replaced and the wrap-around porch that was added. And there's still the unlicensed bus being used for storage and, at present, at least one other unlicensed vehicle.

I haven't received any notification from the County or seen any signs notifying the public of some sort of zoning exception being requested. Could you let me know where things stand and the approximate timeline.

Thank you,

Richard Luna

5775 Jay Rd.
Boulder, CO 80301
(Mail to: P.O. Box 20188, Boulder, CO 80308)
303-831-5525

Case, Dale <dcase@bouldercounty.org>
to me

Oct 7, 2022, 11:58 AM

Richard,

The property owner was on our submittal schedule to get in a process to potentially get approval so they would be in compliance. They are not currently on the schedule. We will follow up next week in our code enforcement meeting and move the violation forward for further action.

Dale Case

Richard Luna <rluna51@gmail.com>
to Dale, bcc: me

Oct 7, 2022, 6:31 PM

Mr. Case,

Thank you for the update.

If I understood correctly what you said when we met at our property, Mr. Danaher will not be granted a variance for his permitless installation of the windmill via an internal process, but it would instead require public notice (via mail and a sign in front of 5845 Jay Rd.) and the opportunity for public comment before any decision is made by the appropriate County entity. Am I correct in my understanding of the process ahead?

Something that I don't think we talked about is who will establish the height of the windmill (as I understand it the BoCo limit is 30')? I assume it will be the County. I don't believe that Mr. Danaher would be a reliable source for an accurate dimension. Maybe the BoCo surveyor could come up with an accurate number. If it is taller than 30' then he can shorten the supports or bury it deeper into the ground.

According to the County setbacks, the windmill is 5' too close to our S property line - I strenuously object; if the County is remotely considering granting Mr. Danaher a variance, then it should be after he moves the windmill 5' to the south and all the windmill is reinstalled with all required permits and inspections.

If you go through Mr. Danaher's history with the County, I don't think he can plead that "I didn't know I needed a permit" with any semblance of credibility; he could have gone online or made a phone call to confirm what was required by the County before his hurried installation on a weekend.

Thanks for your time and I look forward to your response.

Richard Luna

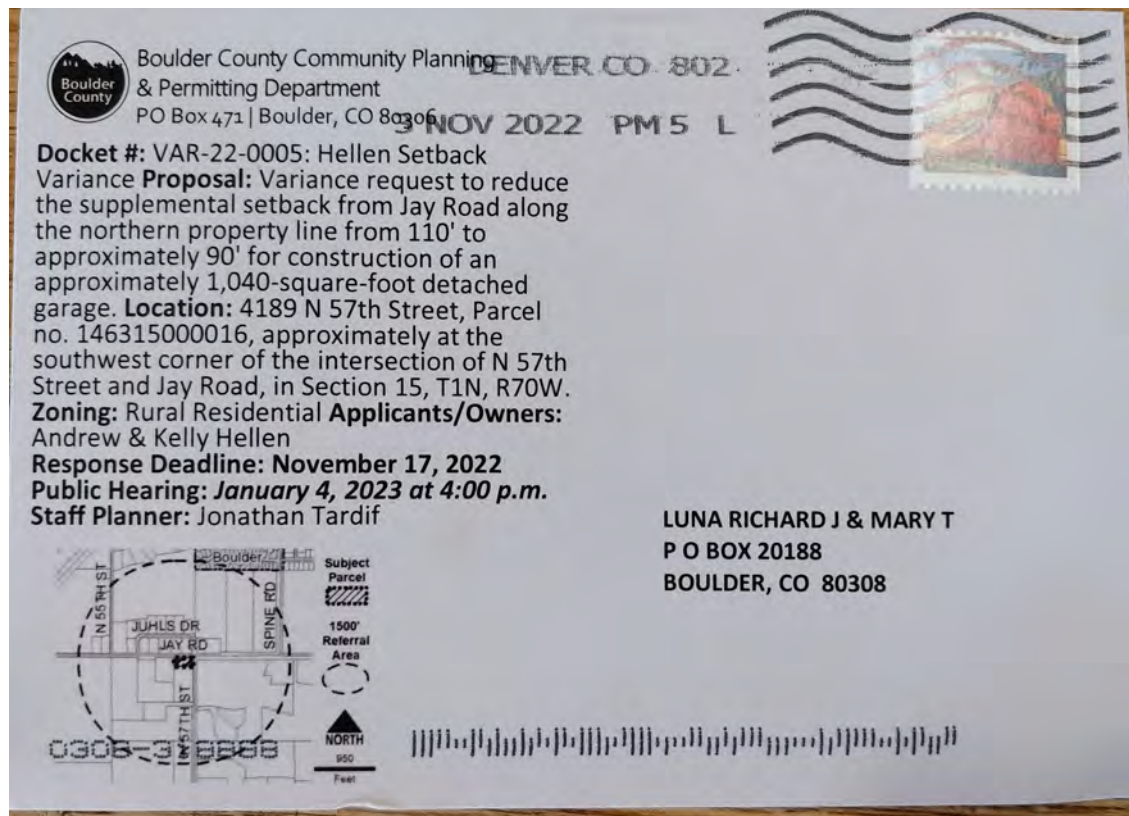
I've never heard anything since then, not via notification of a variance request via mail or sign in front of Mr. Danaher's property or from you or someone in your department.

I can see that getting a building permit for the siding and new porch might be appropriate via an internal process (and I would hope that there would be some financial penalty to discourage future violations) but not for the installation of the windmill and its violation of the rear setback and possibly its height. In my notes of conversations with members of your staff I was told 3 separate times that setback variances are not granted (told that 2 times), or only granted for unusual circumstances about a particular location, elevation variations, etc. (told that once) - things that don't apply to Mr. Danaher's property.

Here's a photo that I took of Mr. Danaher's windmill on 11/1/22 a couple of days after I noticed that they had brought in soil enhancements as though a tulip bed was being prepared for next spring. You wouldn't ordinarily do that if there's any chance that you might have to move your windmill 5' to the south because you're in violation of the rear setback. Did Mr. Danaher know something that I don't?



Here's a typical BoCo postcard that I've gotten a number of times about a requested variance or other issue regarding a nearby property, I received this one around 11/4/22 regarding a variance for a to-be-built garage at 4189 N 57th St. - less than 150 yards to the W from the entrance 5745 Jay's driveway.



Would these applicants have been smarter to have done 'a Danaher' and have poured a pad for their garage (the work would take place behind an existing fence and would be unlikely to be noticed or complained about by someone casually driving or walking past the property) and then on a weekend (like Mr. Danaher did with his windmill) have their garage installed from pre-built wall sections and wait to see if they could escape the variance and permitting process and related costs and revision to the assessed value of their property and subsequent increase in property taxes?

Except for the the cheating part, my wife and I had a structure built in Denver in the span of 2 days:



Feb. 22, 2011



Feb. 24, 2011

Correct me if I'm wrong, but given the time that's elapsed and the 'tulip bed' preparation, I suspect that you (your department) have cut a deal with Mr. Danaher and the terms and extent of that deal are not intended for dissemination to the public. If I'm wrong, then when can I expect to see a 'variance' sign in front of 5745 and to get a postcard from Boulder County notifying me? After all, the windmill was installed 14+ months ago.

If what I suspect has taken place - or is in the process of taking place - then it is evidence that not all citizens are treated equally and adds fuel to the belief that corruption and 'good 'ol boy' agreements are sometimes a part of how our government agencies operate. If I'm right, then what does this say about the future of our society and country and the integrity of the laws and agencies that we pay for and rely on? My wife and I have 7 grandchildren, this is not the kind country that I want to pass on to them.

If Mr. Danaher's windmill is not over 30' high and is located in accordance with BoCo *setbacks* and any required permits, inspections and public input, then I don't care. But if that's not the case and 'a deal' has been made, who should I contact next in the hierarchy of Boulder County to air my grievance?

Thank you for your time.

Richard Luna

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5775 Jay Rd.

Boulder, CO 80301

(Mail to: PO Box 20188, Boulder, CO 80308)
303-931-5625

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303-931-5625

Walker, Samuel

From: Tracy White <twtracywhite@gmail.com>
Sent: Monday, April 17, 2023 8:12 AM
To: LU Land Use Planner
Subject: [EXTERNAL] Docket VAR-23-0003;Danaher Setback Reductions

Dear Planner,

I would like to support the upgrades made to Var 23-0003.

The porch and windmill are aesthetically pleasing. It is nice to have original architecture with subtle updates.

Regards,

Tracy White

Walker, Samuel

From: William D Bowman <william.bowman@colorado.edu>
Sent: Sunday, April 16, 2023 12:04 PM
To: LU Land Use Planner
Subject: [EXTERNAL] VAR-23-0003- Danaher setback

Community Planning and Permitting Department
 Boulder County

To Whom It May Concern:

We write in support of the variance request of Charlie Danaher and Rose Valentine for reduced required setbacks for porch construction and a windmill. We live north of their house, which is visible from our property (5828 S Orchard Creek Circle).

The setbacks they request are reasonable and will not have any adverse visual or environmental impacts. The Danaher/ Valentine house was constructed prior to the designation of the current required setbacks. The front of the house is too close to Jay road to allow porch construction with the current setback requirement. The proposed porch is the same dimension as the existing porch, and will be 86 feet from the Jay road right of way. The proposed porch will provide an attractive front to the house, and is not visible from the road due to a fence.

The windmill is consistent with the rural context of the area, and provides an attractive feature. We have included the Danaher/ Valentine windmill in photographs of sky elements (e.g. full moon, sunset clouds), and hope to continue to in the future. We understand the windmill can not be re-sited to the setback requirement (15 feet) due to the presence of a leach field.

We support the proposed changes.

William D. Bowman
 Jenifer Hall-Bowman

*William D. Bowman
 Emeritus Professor
 Department of Ecology and Evolutionary Biology
 University of Colorado, Boulder*