



# 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.gov](http://www.bouldercounty.gov)

## 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

### PACKET CONTENTS

Item	Pages
○ Staff Memo	1 - 6
○ Complete 2021 Staff Recommendation Packet	ORG1 – ORG301
○ EPA pre-CERCLA Screening and Sampling Study	EPA1 – EPA21
○ BLM Easement Illustration	BLM1
○ Revised Hardship Statement	STA1 – STA3
○ 2023 Referral Agency Responses	REF1 – REF7
○ 2023 Public Comments	COM1 – COM2

## **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.

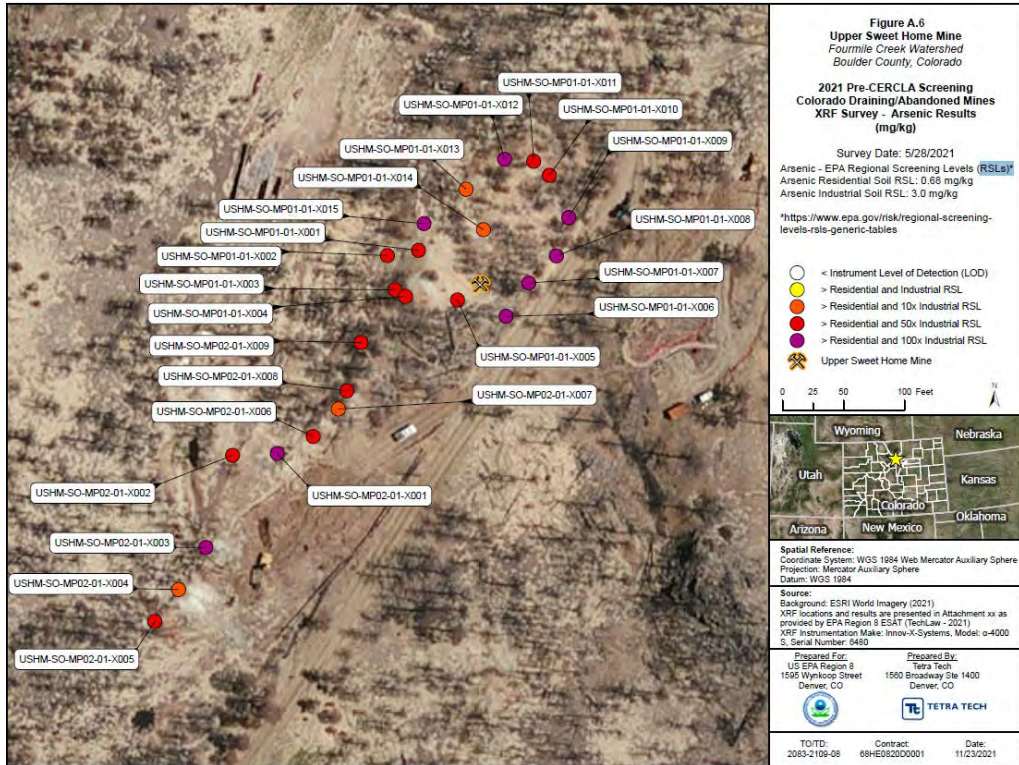


Figure 1: EPA pre-CERCLA screening and sampling study sample-taking locations

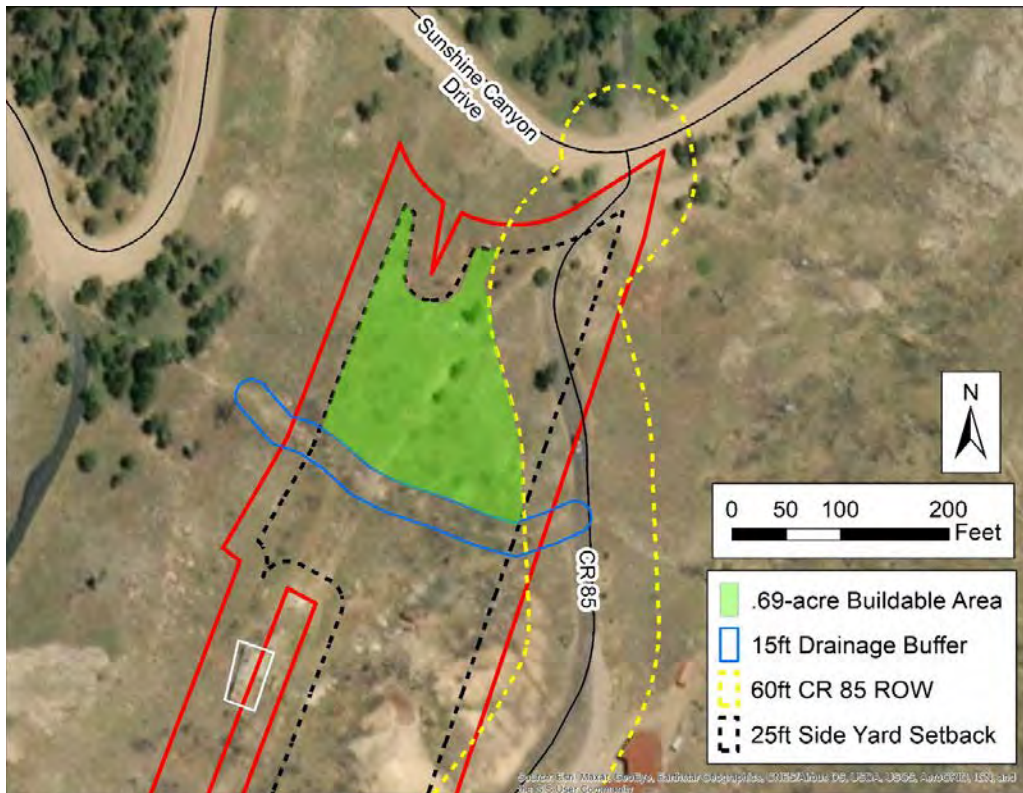


Figure 2: Staff identified buildable portion of subject property



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)

#### PACKET CONTENTS:

Item	Pages
○ Staff Recommendation	1 – 6
○ Application Materials (Attachment A)	A1 – A38
○ Referral Responses (Attachment B)	B1 – B15
○ Public Comments (Attachment C)	C1 – C4
○ Previous Land Use Dockets on Subject Parcel (Attachment D, E, F)	

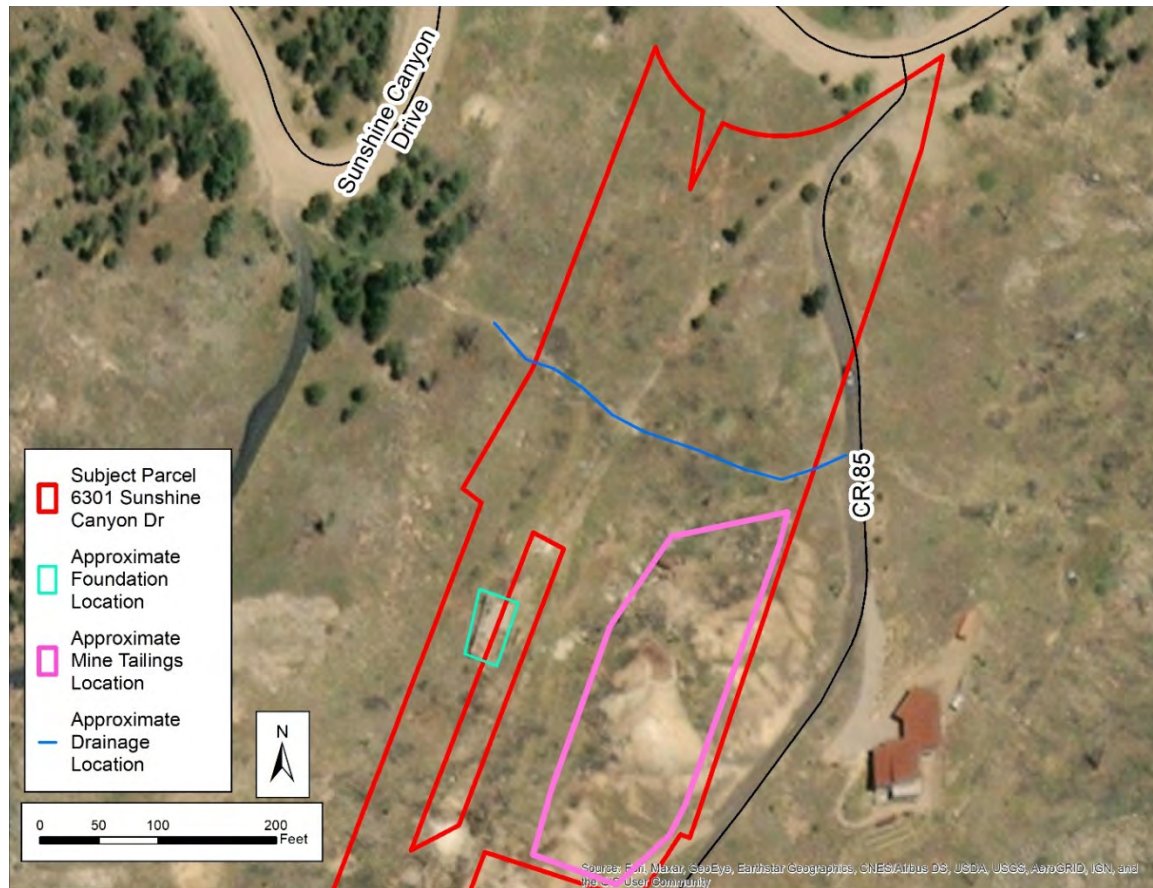
#### SUMMARY

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

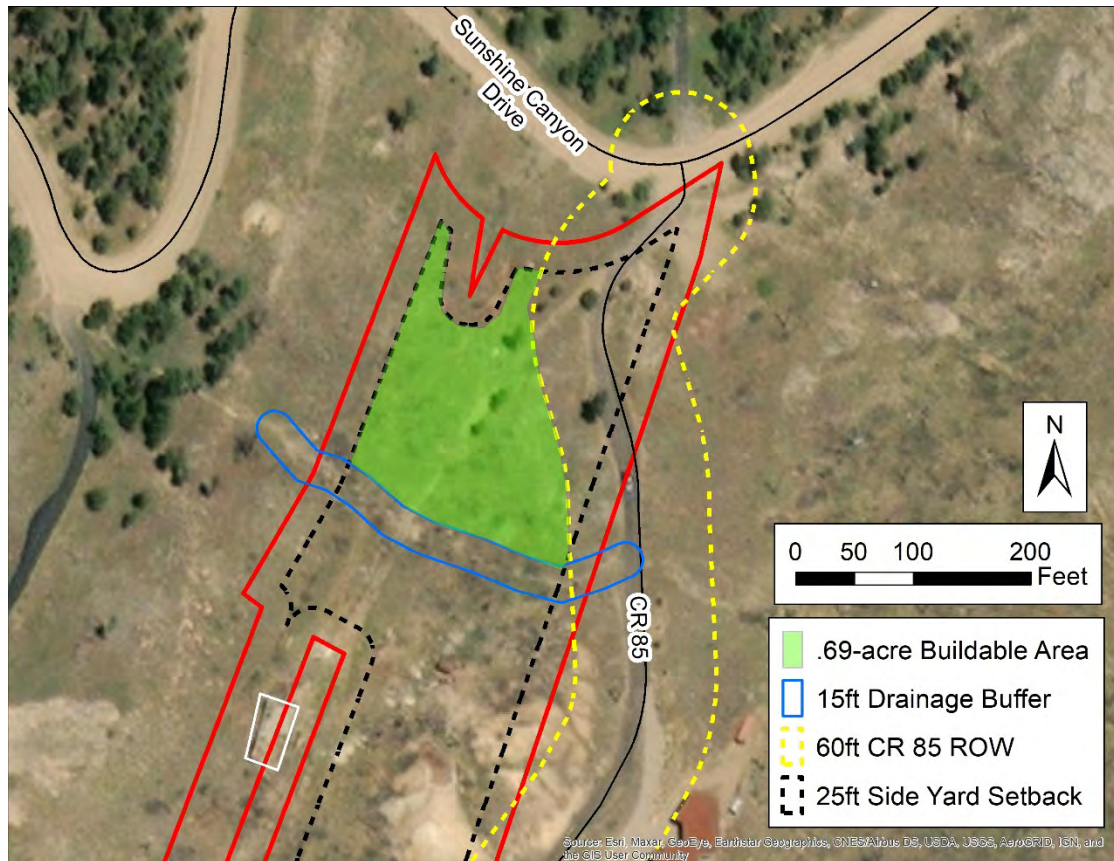
former residence was 3,105 square feet (1,809-square-foot first floor and 1,296-square-foot second floor) and was approved through Building Permit BP-86-0467 in the location approved by VAR-86-0617. The staff memo for docket VAR-86-0617 included analysis that the subject property at the time was only 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 8<sup>th</sup> 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.

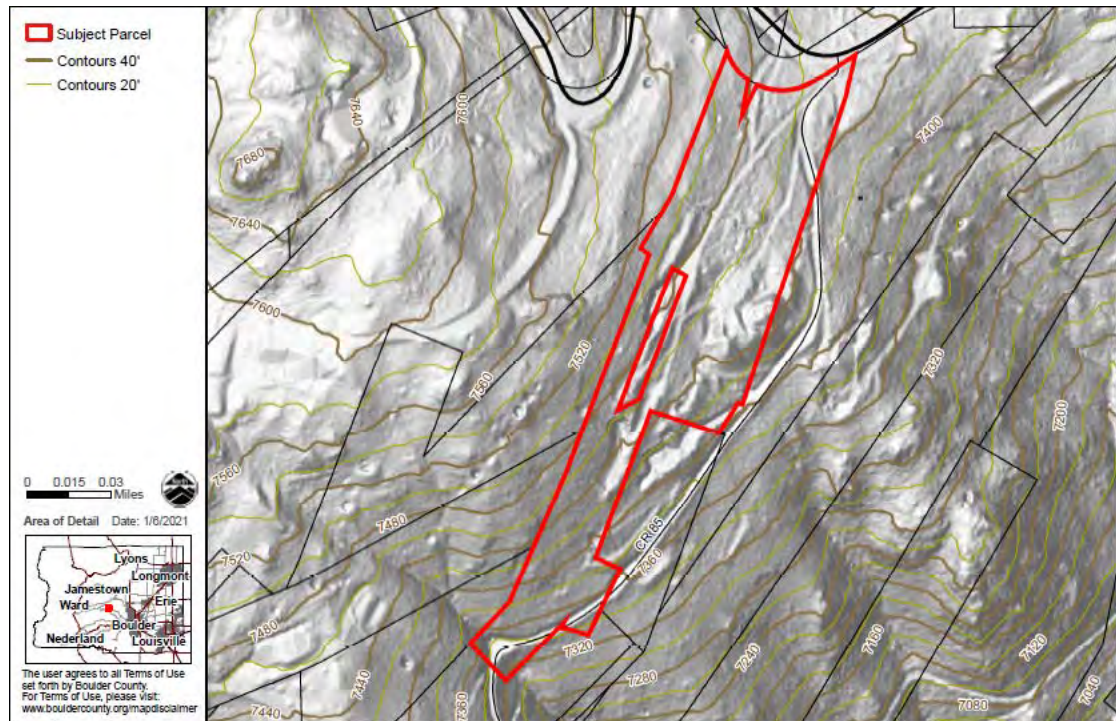
**Adjacent Property Owners** – Of 132 referrals, three public comments were received. Two of the comments expressed no objection to the proposal. One comment expressed opposition to the proposal. The opposing commenter stated opposition to reducing the front yard setback from 25 feet to 0 feet. The application 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:

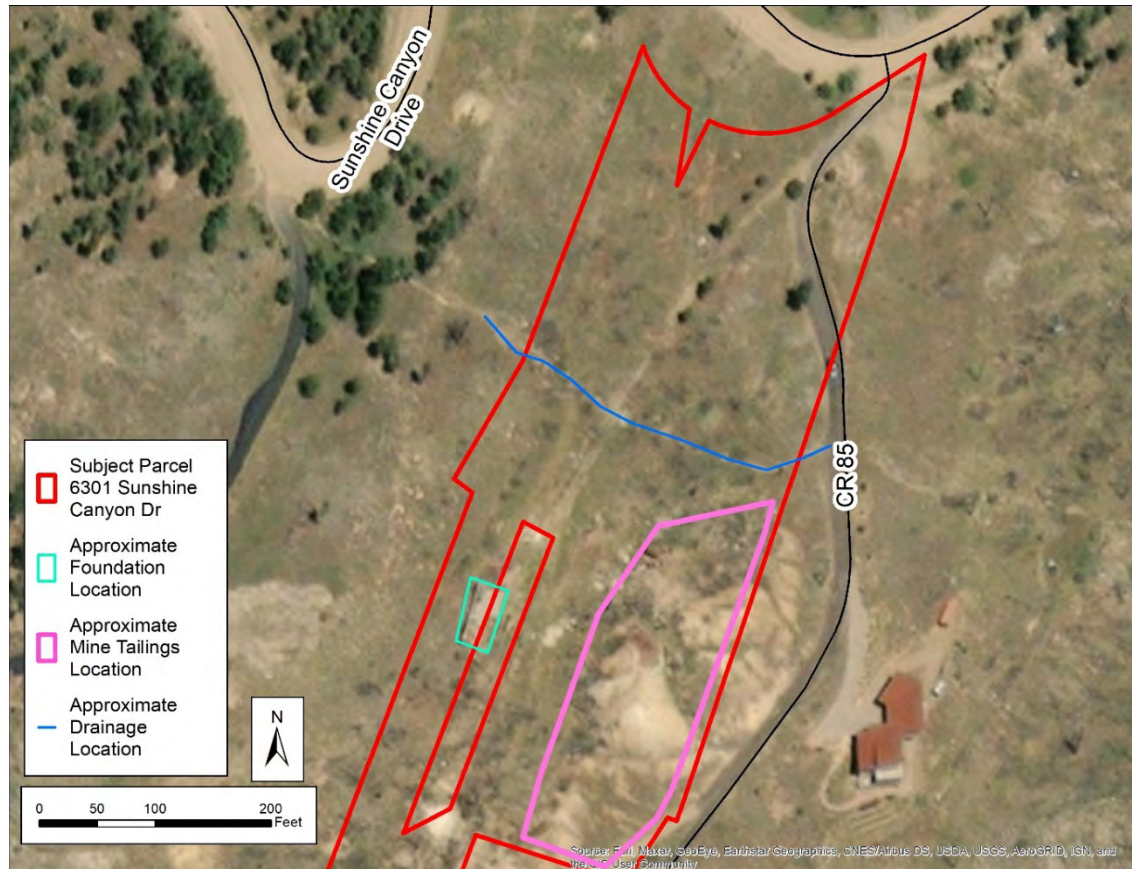
- (a) *There exist exceptional or extraordinary physical circumstances of the subject property such as irregularity, narrowness, shallowness, or slope;*

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.**

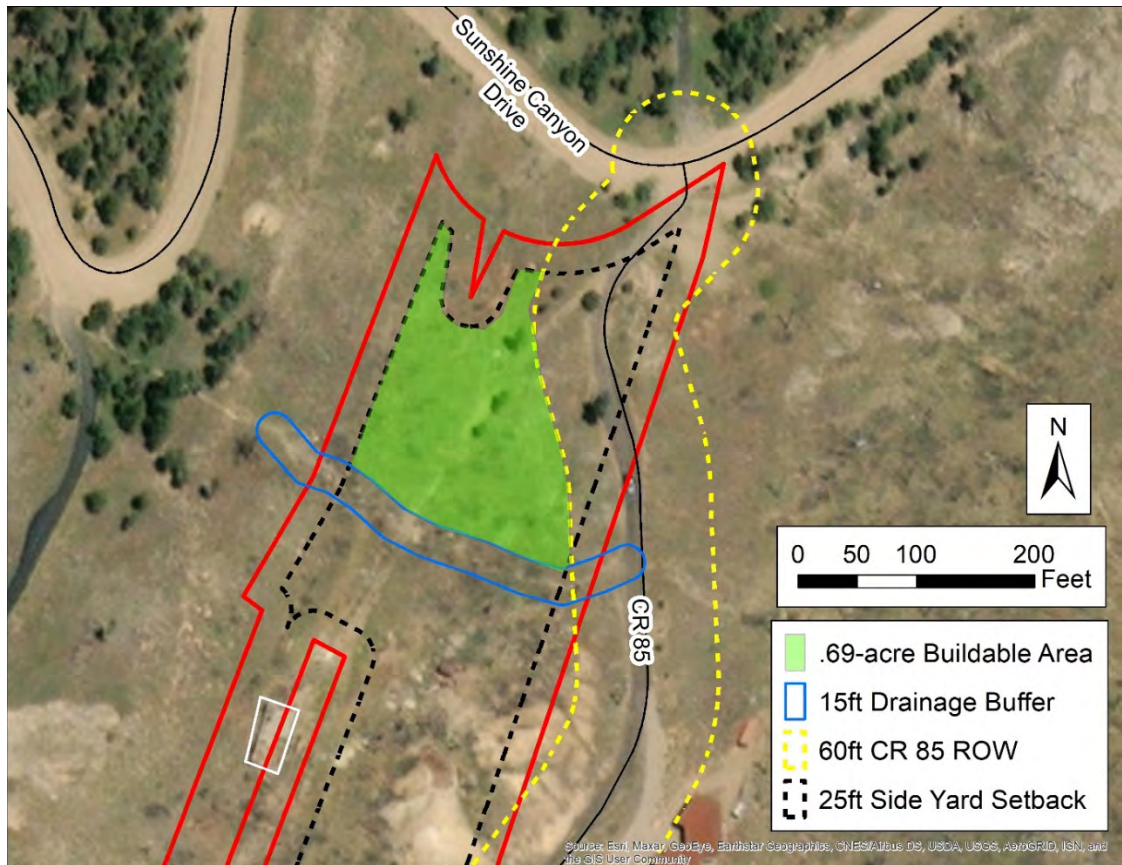
The subject parcel is approximately 240 feet wide on the northern half and is narrower on the south end. There are mine tailings in the southeast portion of the parcel, which is an area that should be avoided for development. A small parcel owned by the Bureau of Land Management (BLM) exists within the middle of the subject parcel. A drainage bisects the parcel and runs west to east, north of the BLM parcel. Figure 4 illustrates these constraints. The setbacks on the subject parcel are 25 feet from each of the property lines, including those from the BLM parcel, and 60 feet from County Road 85.



**Figure 4. Location of constraints on 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.

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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) <b>6301 Sunshine Canyon Dr.</b>			
Boulder, CO, 80302			
Subdivision Name <b>n/a</b>			
Lot(s) <b>n/a</b>	Block(s) <b>n/a</b>	Section(s) <b>8</b>	Township(s) <b>1N</b>
Area in Acres <b>4.434</b>	Existing Zoning <b>F</b>	Existing Use of Property <b>Residential</b>	Number of Proposed Lots <b>1</b>
Proposed Water Supply <b>Existing Well</b>		Proposed Sewage Disposal Method <b>Septic System</b>	

### Applicants:


Applicant/Property Owner <b>Fred Ells</b>		Email Address <b>sunshinefred@msn.com</b>	
Mailing Address <b>6116 Misty Way</b>			
City <b>Longmont</b>	State <b>CO</b>	Zip Code <b>80503</b>	Phone <b>(720) 453-5648</b>
Applicant/Property Owner/Agent/Consultant <b>Jason Ruby Architecture, LLC</b>		Email Address <b>rubyjar@yahoo.com</b>	
Mailing Address <b>5 Blue Spruce Rd S</b>			
City <b>Nederland</b>	State <b>CO</b>	Zip Code <b>80466</b>	Phone <b>(303) 399-3303</b>
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 <b>Fred Ells</b>	Date <b>4/30/21</b>
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.





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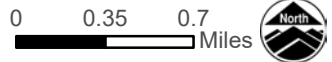
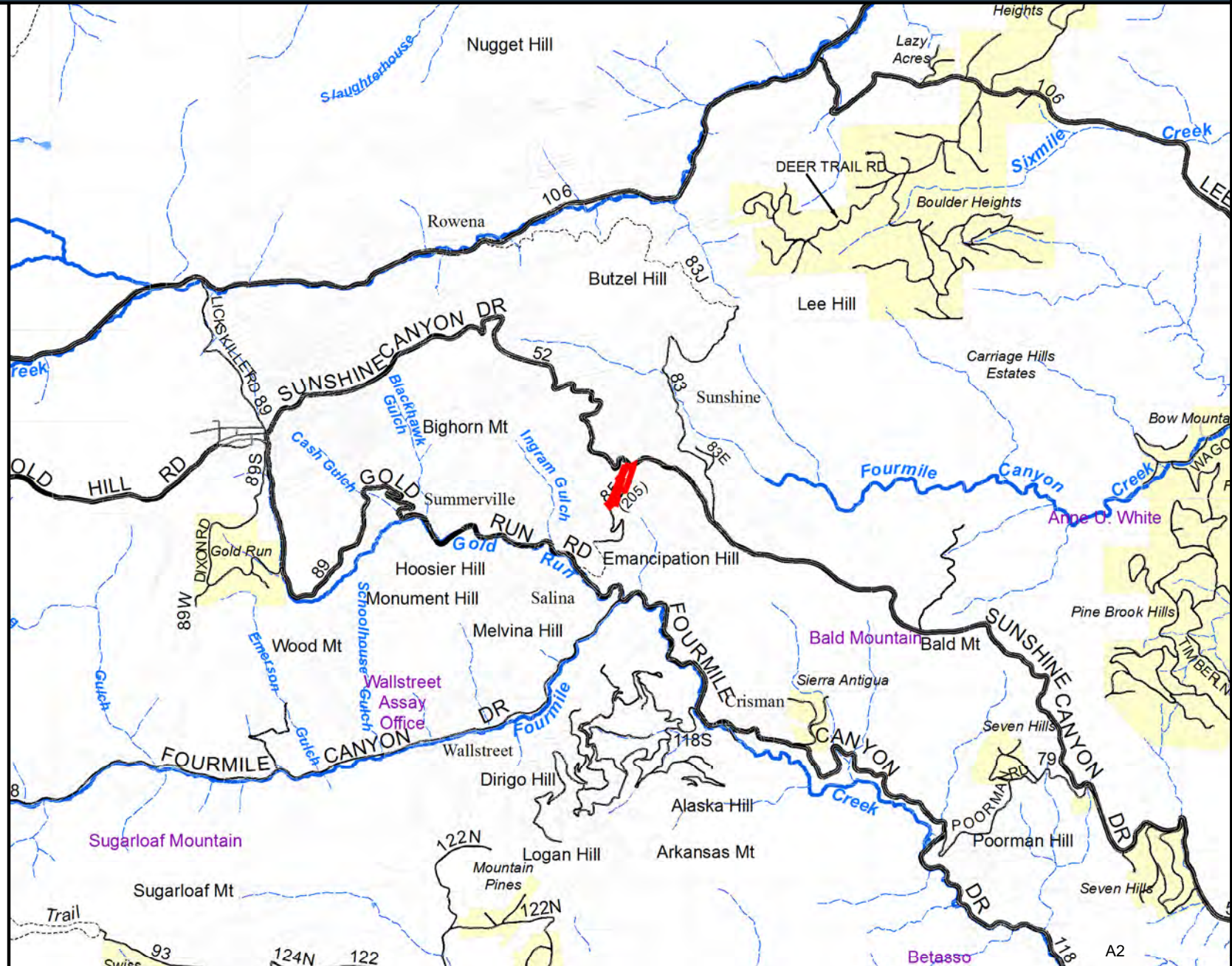
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6301 SUNSHINE CANYON DR

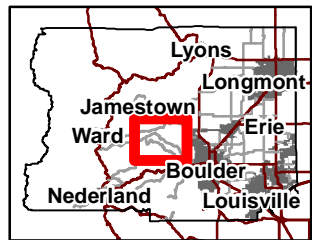
Subject Parcel

**Subdivisions**

Subdivisions



Area of Detail Date: 1/6/2021



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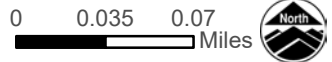
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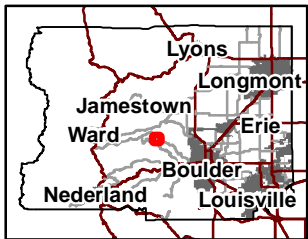
Location

6301 SUNSHINE CANYON DR

 Subject Parcel



Area of Detail Date: 1/6/2021



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Aerial

6301 SUNSHINE CANYON DR

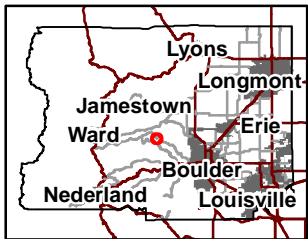
 Subject Parcel



0 0.015 0.03 Miles



Area of Detail Date: 1/6/2021



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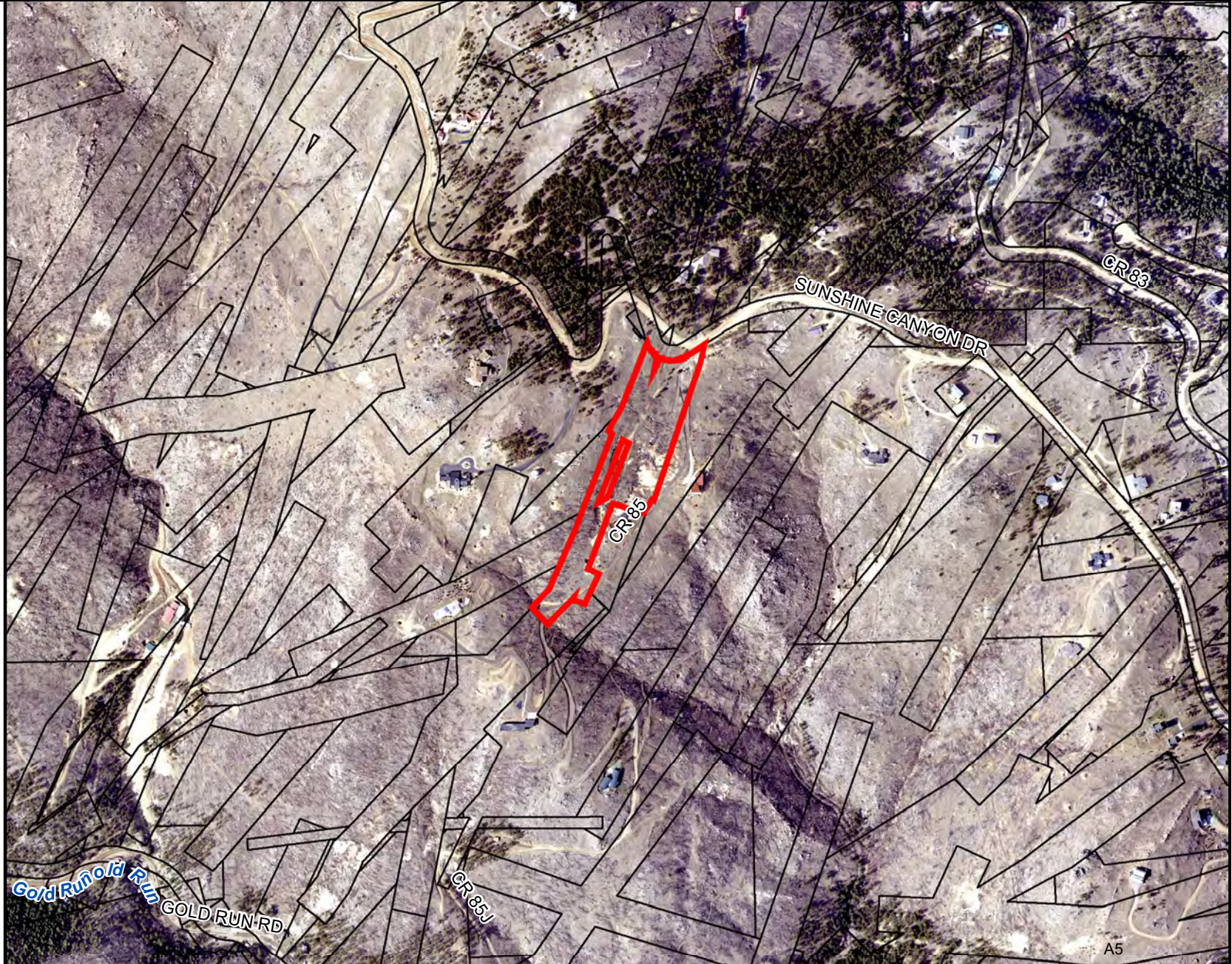
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Aerial

6301 SUNSHINE CANYON DR

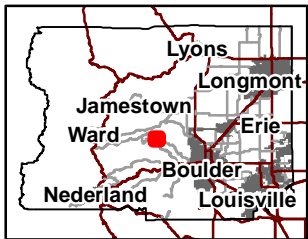
 Subject Parcel



0 0.05 0.1 Miles



Area of Detail Date: 1/6/2021



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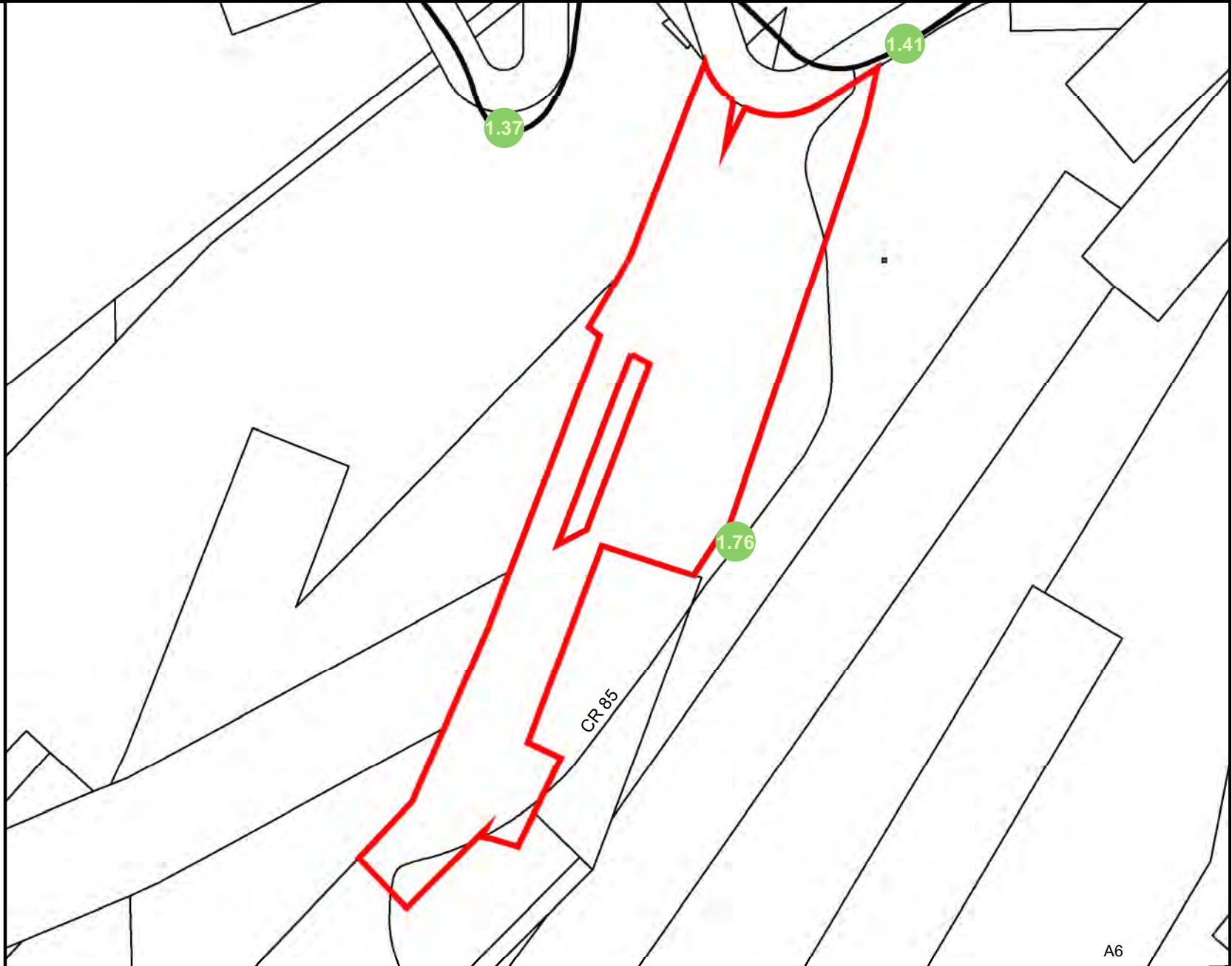
# Community Planning & Permitting

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

Comprehensive Plan

6301 SUNSHINE CANYON DR

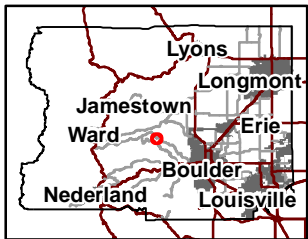
 Subject Parcel



0 0.015 0.03 Miles



Area of Detail Date: 1/6/2021



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# Community Planning & Permitting

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Public Lands & CEs  
6301 SUNSHINE CANYON DR

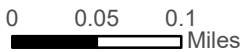
Subject Parcel

### Boulder County Open Space

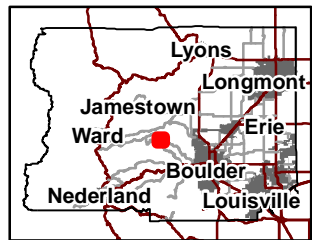
- County Open Space
- County Conservation Easement

### Federal Lands

- BLM Land



Area of Detail Date: 1/6/2021



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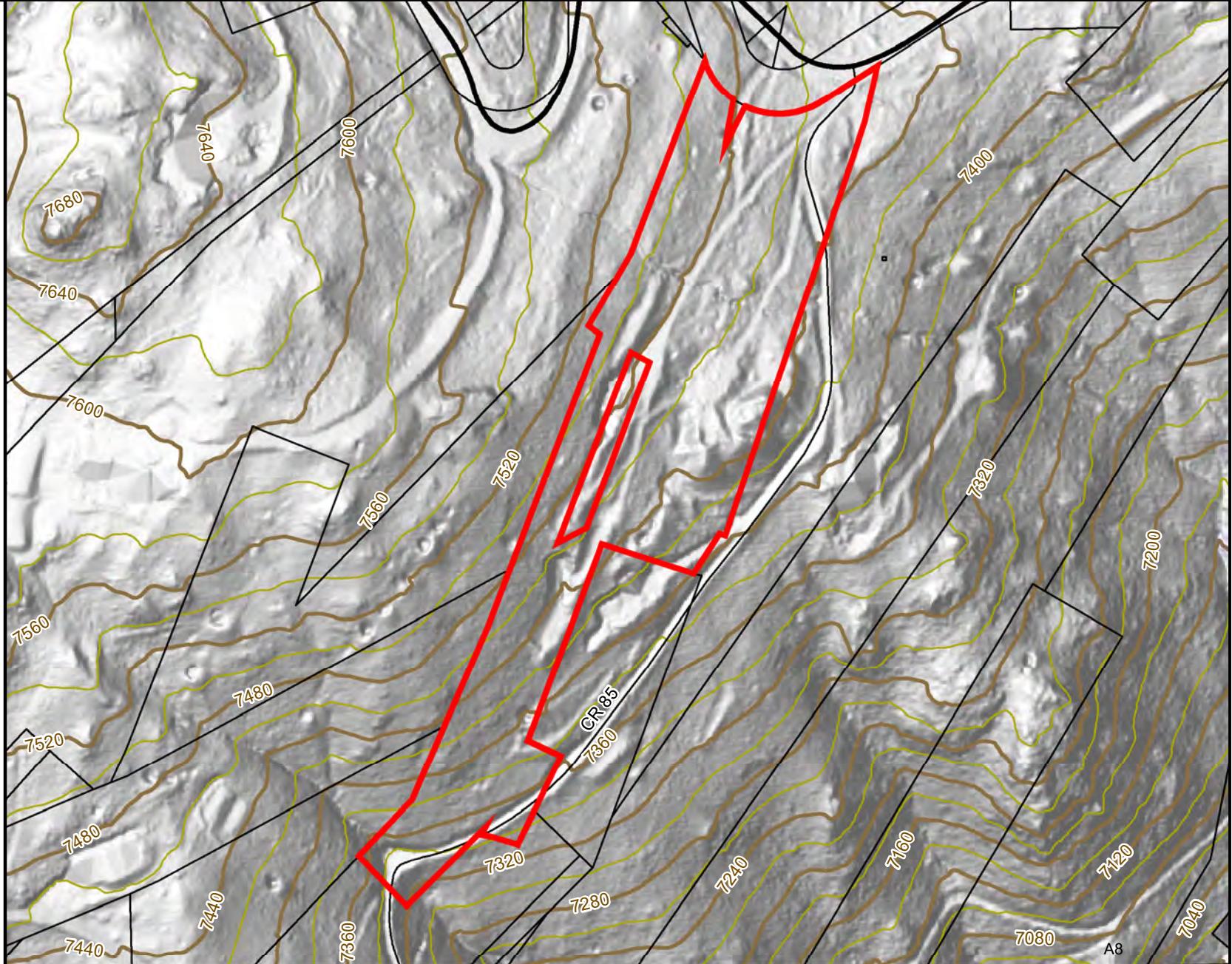
# Community Planning & Permitting

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## Elevation Contours

6301 SUNSHINE CANYON DR

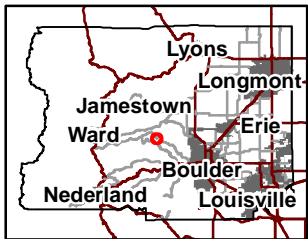
-  Subject Parcel
-  Contours 40'
-  Contours 20'



0 0.015 0.03 Miles



Area of Detail Date: 1/6/2021



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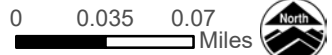
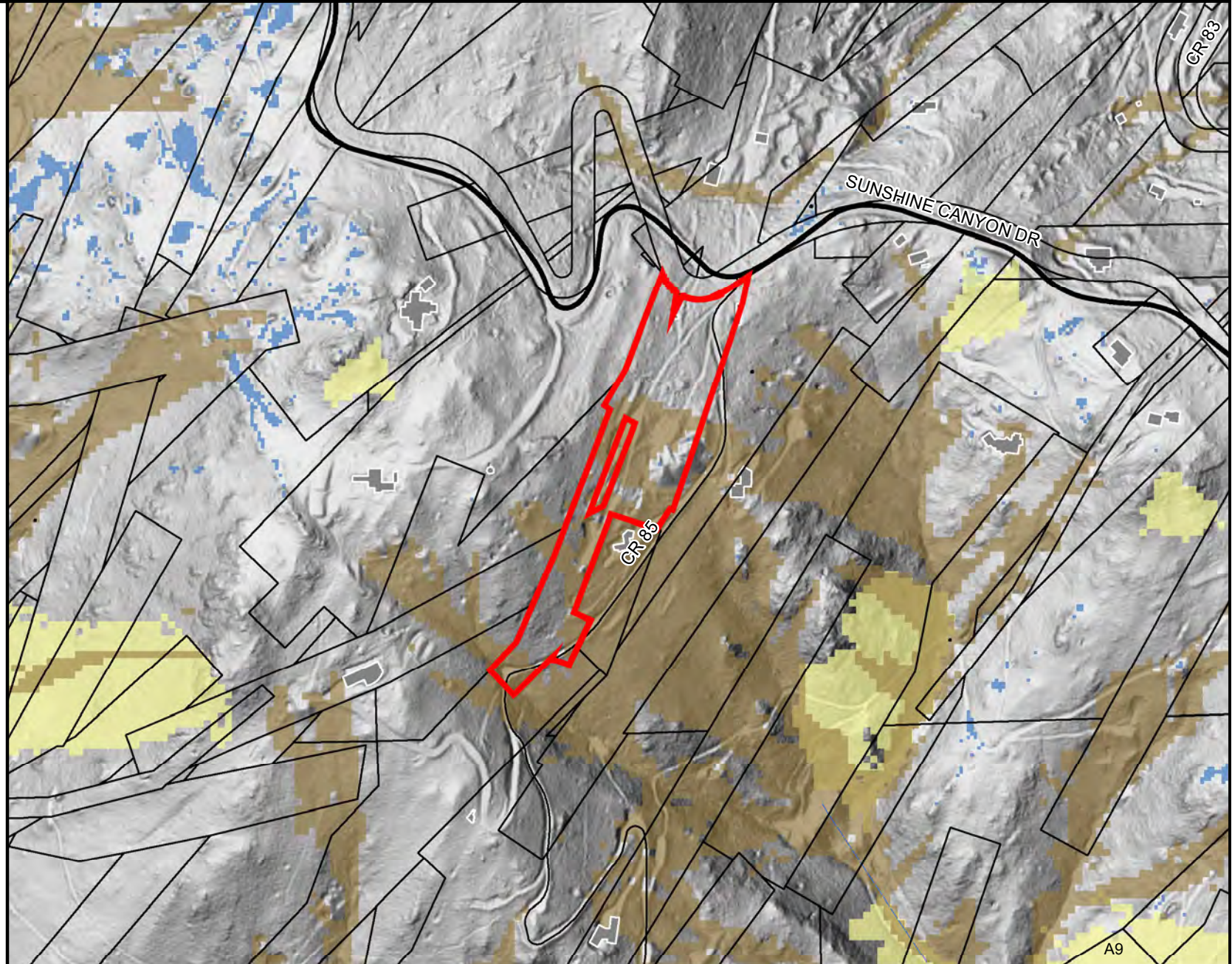
# Community Planning & Permitting

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

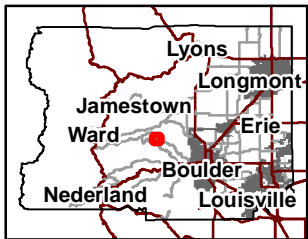
## Geologic Hazards

6301 SUNSHINE CANYON DR

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



Area of Detail Date: 1/6/2021



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# Community Planning & Permitting

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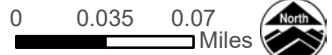
Zoning

6301 SUNSHINE CANYON DR

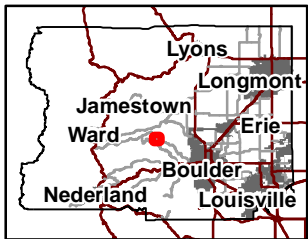
Subject Parcel

**Zoning Districts**

Forestry



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 <b>146108000158</b>	Section <b>8</b>	Township <b>1N</b>	Range <b>71</b>
Subdivision <b>SUNSHINE CANYON AREA</b>			

## SITE ADDRESS (1)

R0611901 6301 SUNSHINE CANYON DR UNINCORPORATED, 80302

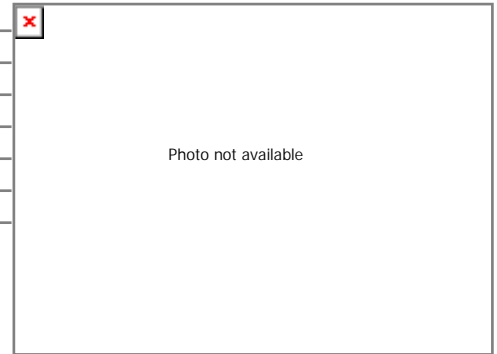
## OWNER INFORMATION (1)

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	
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)

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

## ACRES

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
<b>PAC-21-0006</b> 146108000158	PreApplication Conference 6301 SUNSHINE CANYON	Ruby 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				
<b>MAJP-1900-</b> 146108000158	OWTS Major Repair 6301 SUNSHINE CANYON	1/1/1900	System Approved	1/1/2010
<b>MAJP-1900-</b> 146108000158	OWTS Major Repair 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

Permit/Docket Parcel Number(s)	Type Permit/Docket Address(es)	Application Name Application Date	Application Status	Status Date Permit Value
<b>LS-19-0114</b> 146108000153 146108000157	Land Survey Plat 6301 SUNSHINE CANYON	LAND SURVEY 6/18/2019	Application Received	6/18/2019
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				

<b>SE-18-0010</b>	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.

<b>PAC-10-0097</b>	PreApplication Conference	Ells, Fred		
146108000153	6301 SUNSHINE CANYON	9/27/2010	PAC Not Held	3/21/2011

SE BLA Pre-application

<b>FMF-10-0114</b>	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

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

146108000153

(CLOSED) Addition w/o permit.

<b>BP-04-1981</b>	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

<b>BP-02-1885</b>	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

<b>VAR-02-0015</b>	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.

<b>BP-02-1624</b>	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

<b>BP-02-1510</b>	Residential Addition			
146108000074	6301 SUNSHINE CANYON	9/5/2002	Expired	1/17/2006

146108000153

REMOVE GREENHOUSE & REMODEL & PARTIAL STUCCO (EXPIRED)

<b>SE-91-0040</b>	Subdivision Exemption	ELLS/BATTANY/KISSELL BLA	
14610800011	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.

<b>BP-87-0621</b>	Accessory Agricultural Building		
146108000153	6301 SUNSHINE CANYON	6/2/1987	

NEW STORAGE SHED

<b>VAR-86-0617</b>	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

<b>BP-86-0467</b>	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	Size	Account	Bld	Rooms	Bed	Bath	Bath 3/4	Bath 1/2
		R0611901						

**ROOMS**

**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

# ATTACHMENT ORG

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](mailto: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.

<b>*SEE ATTACHED STATEMENT*</b>

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: <b>4/30/21</b>
---	----------------------

**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:

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Comments:

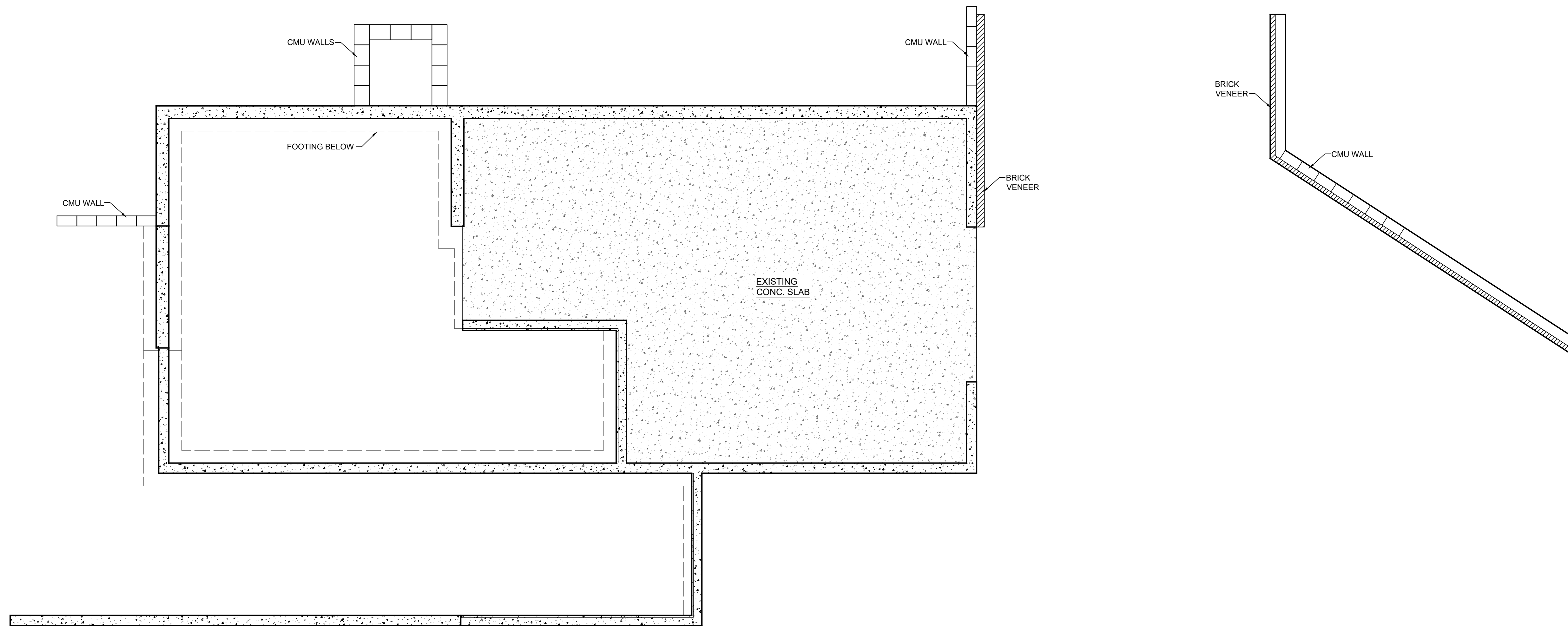
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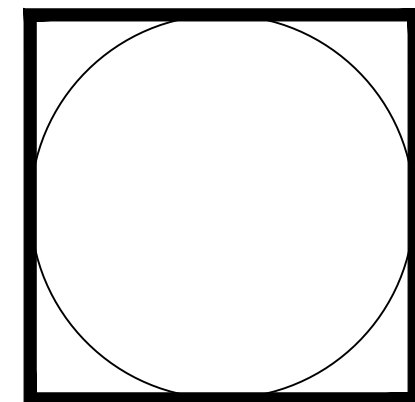
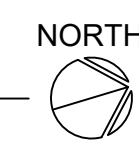
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**Please scan and email form to [wyatt.jean@epa.gov](mailto:wyatt.jean@epa.gov), or mail form to: Jean Wyatt, 8SEM-EM/SA, Environmental Protection Agency, 1595 Wynkoop Street, Denver, Colorado 80202**



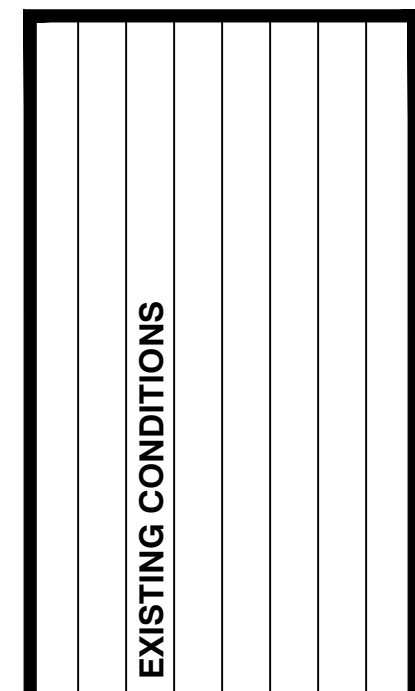


EXISTING FOUNDATION PLAN  
 1/4" = 1'-0"



JASON RUBY  
 ARCHITECTURE, LLC

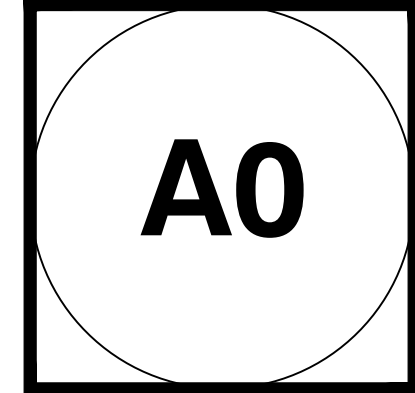
5 BLUE SPRUCE RD. S.  
 NEDERLAND, CO 80466  
 (303)399-3303  
 rubyjar@yahoo.com



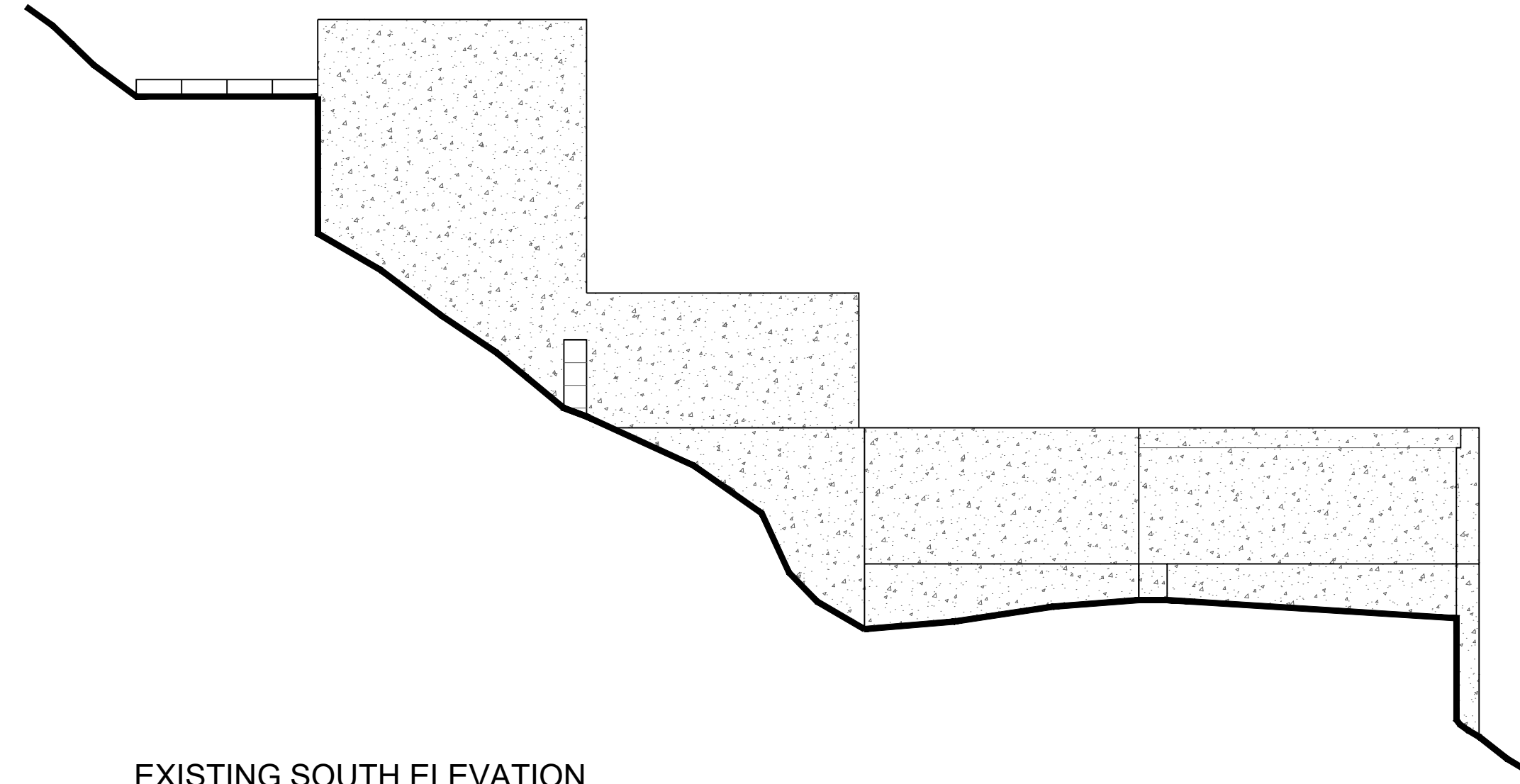
**FRED ELLS RESIDENCE REBUILD**  
**6301 SUNSHINE CANYON DRIVE**  
**BOULDER COUNTY, COLORADO 80302**

DATE:  
 APRIL 30, 2021

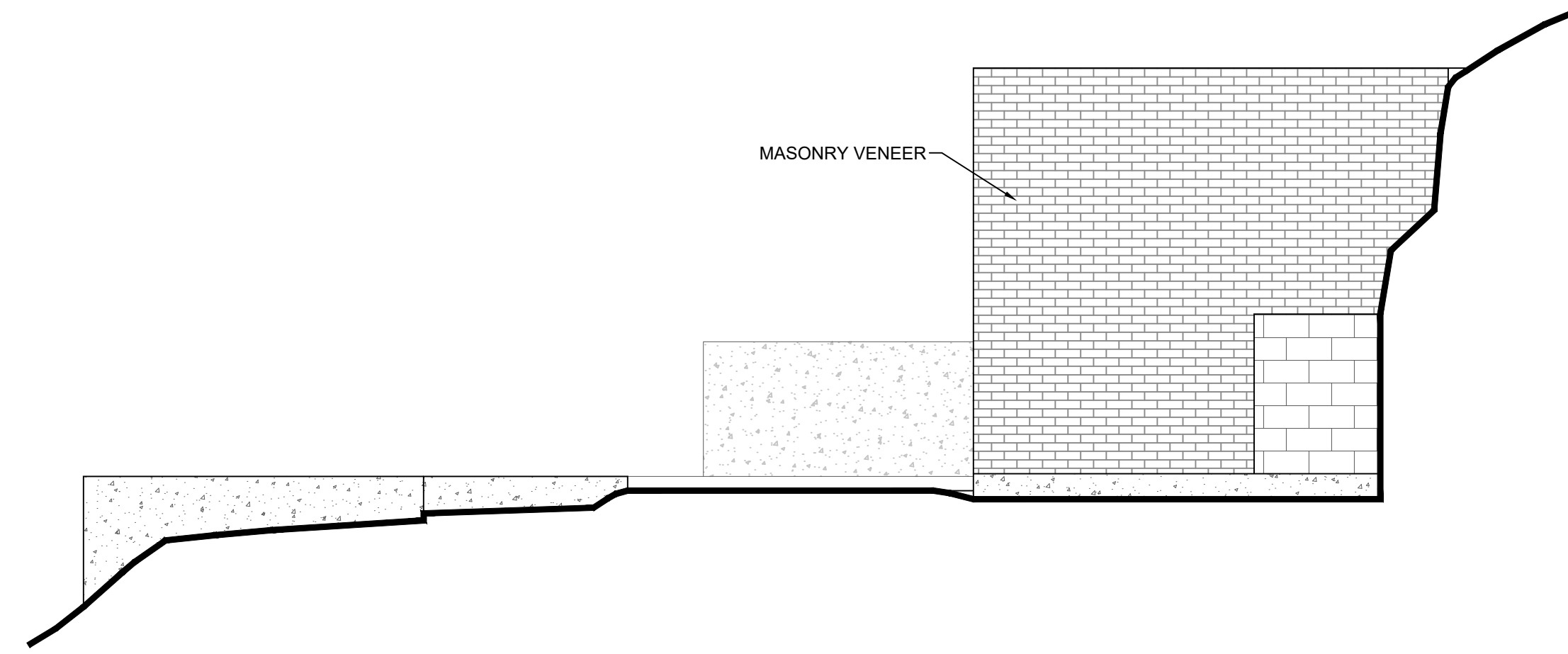
DRAWN BY: JAR  
 EXISTING PLAN







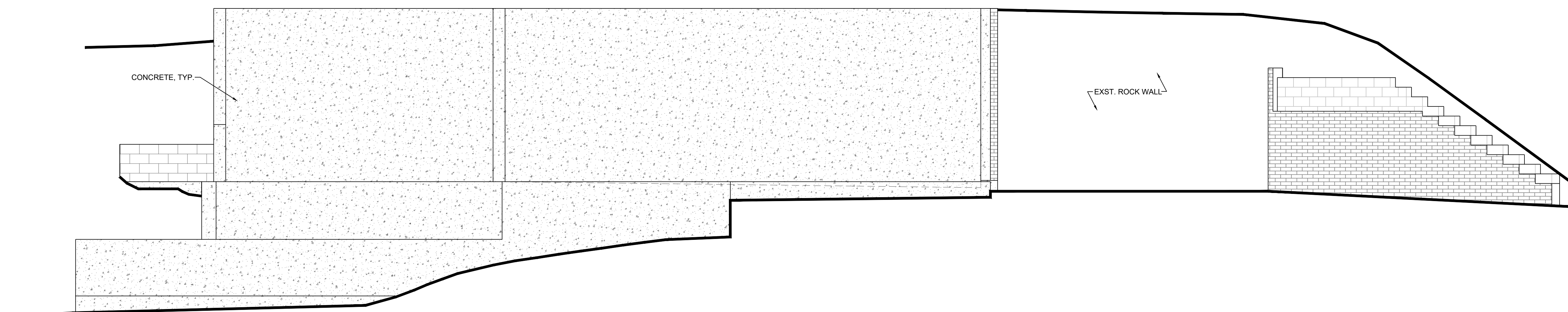
EXISTING SOUTH ELEVATION  
1/4" = 1'-0"



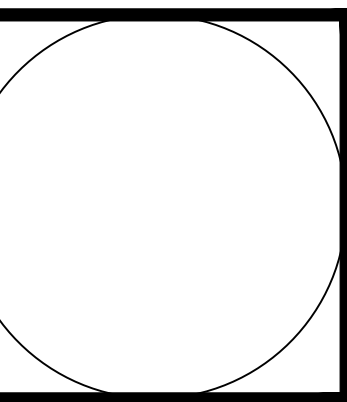
EXISTING NORTH ELEVATION  
1/4" = 1'-0"



EXISTING WEST ELEVATION  
1/4" = 1'-0"



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



JASON RUBY  
ARCHITECTURE, LLC

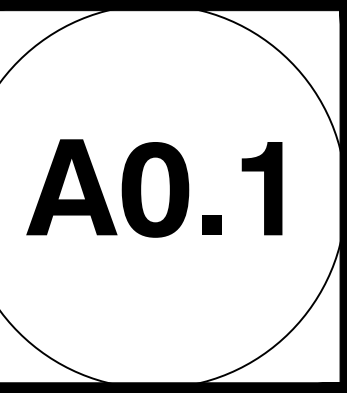
5 BLUE SPRUCE RD. S.  
NEDERLAND, CO 80466  
(303)399-3303  
rubyjar@yahoo.com

EXISTING CONDITIONS

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

DATE:  
APRIL 30, 2021

DRAWN BY: JAR  
EXISTING ELEVATIONS



**ZONING: F - FORESTRY**

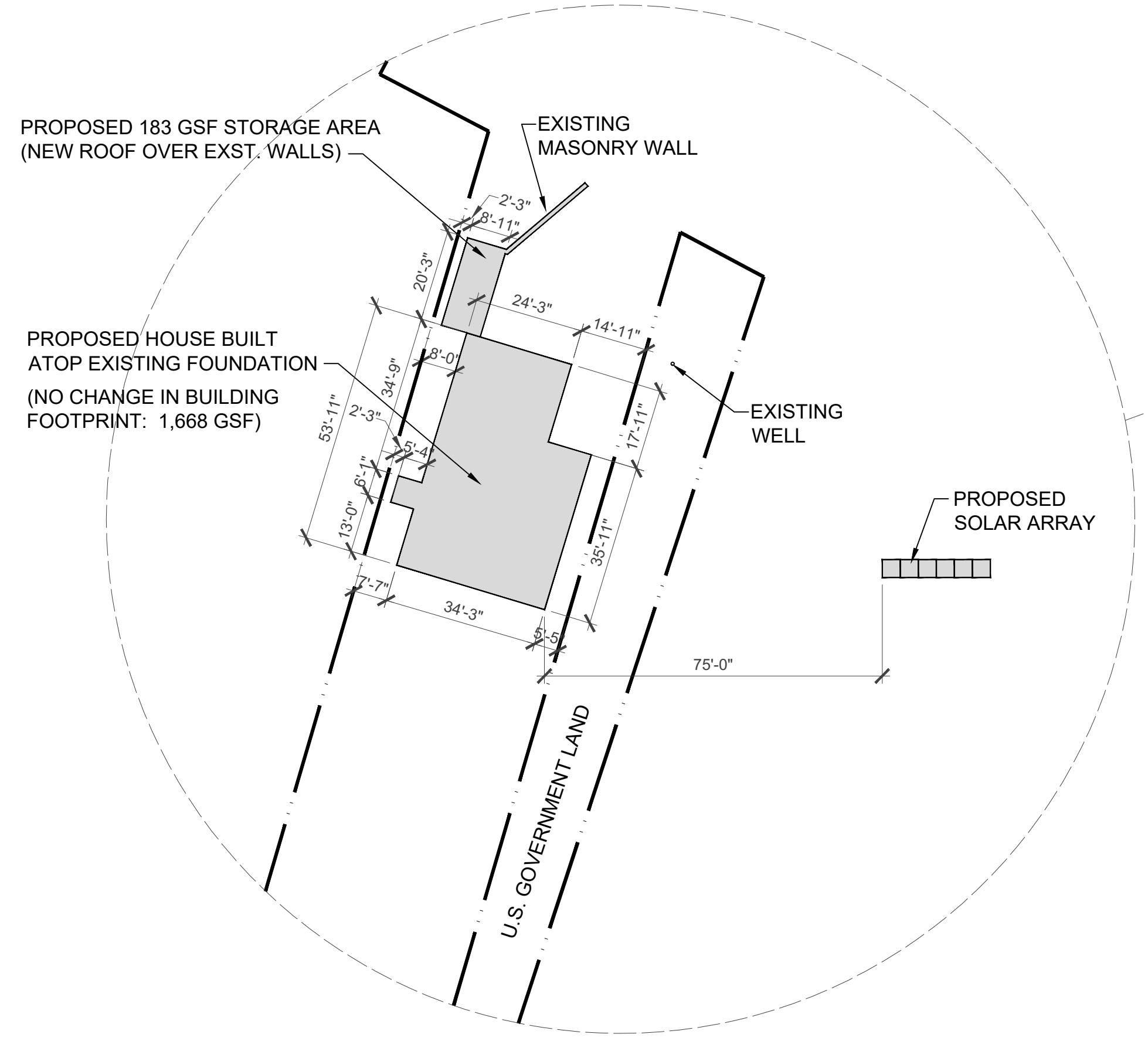
WIND LOAD (VULT): 170

GROUND SNOW LOAD (LBS/SQFT): 50

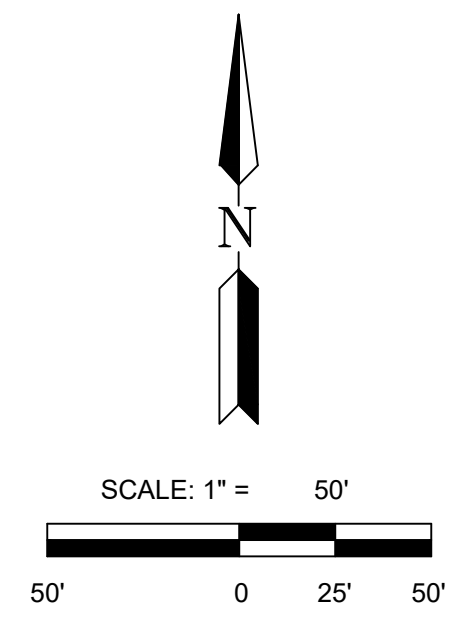
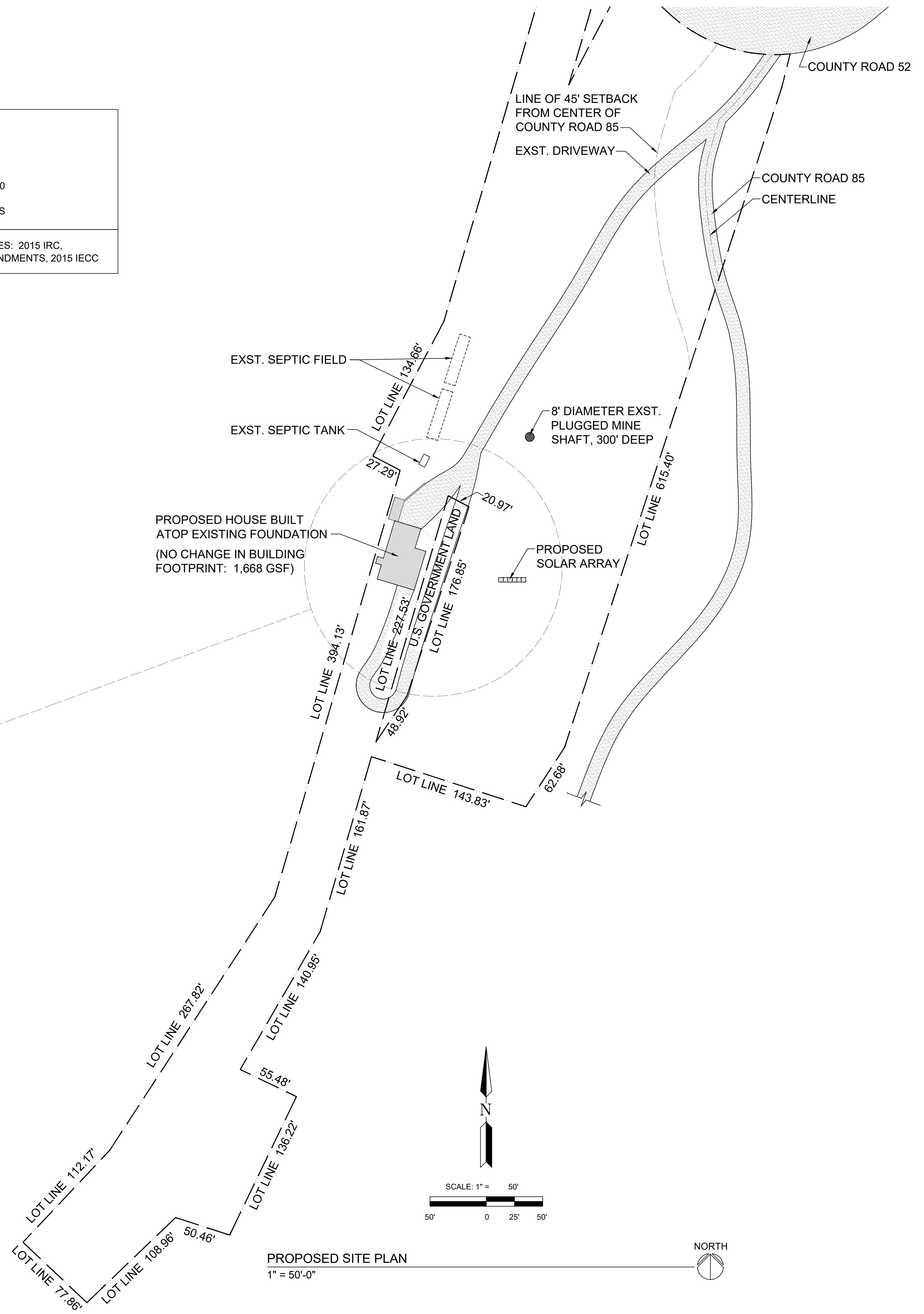
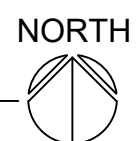
LOT SIZE (UNSUBDIVIDED): 35 ACRES

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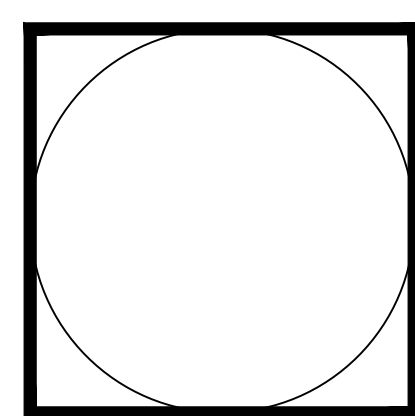
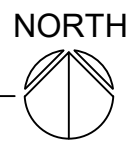
CURRENT ADOPTED BUILDING CODES: 2015 IRC,  
2015 BOULDER COUNTY CODE AMENDMENTS, 2015 IECC



PROPOSED SITE PLAN DETAIL  
1" = 25'-0"



PROPOSED SITE PLAN  
1" = 50'-0"



**JASON RUBY**  
ARCHITECTURE, LLC

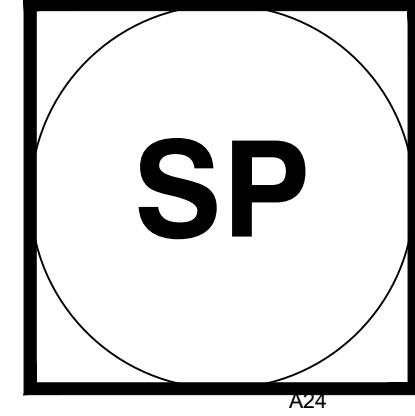
5 BLUE SPRUCE RD. S.  
NEDERLAND, CO 80466  
(303)399-3303  
rubyjar@yahoo.com

SCHEMATIC DESIGN

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

DATE:  
APRIL 30, 2021

DRAWN BY: JAR  
PROPOSED ELEVATIONS





JASON RUBY  
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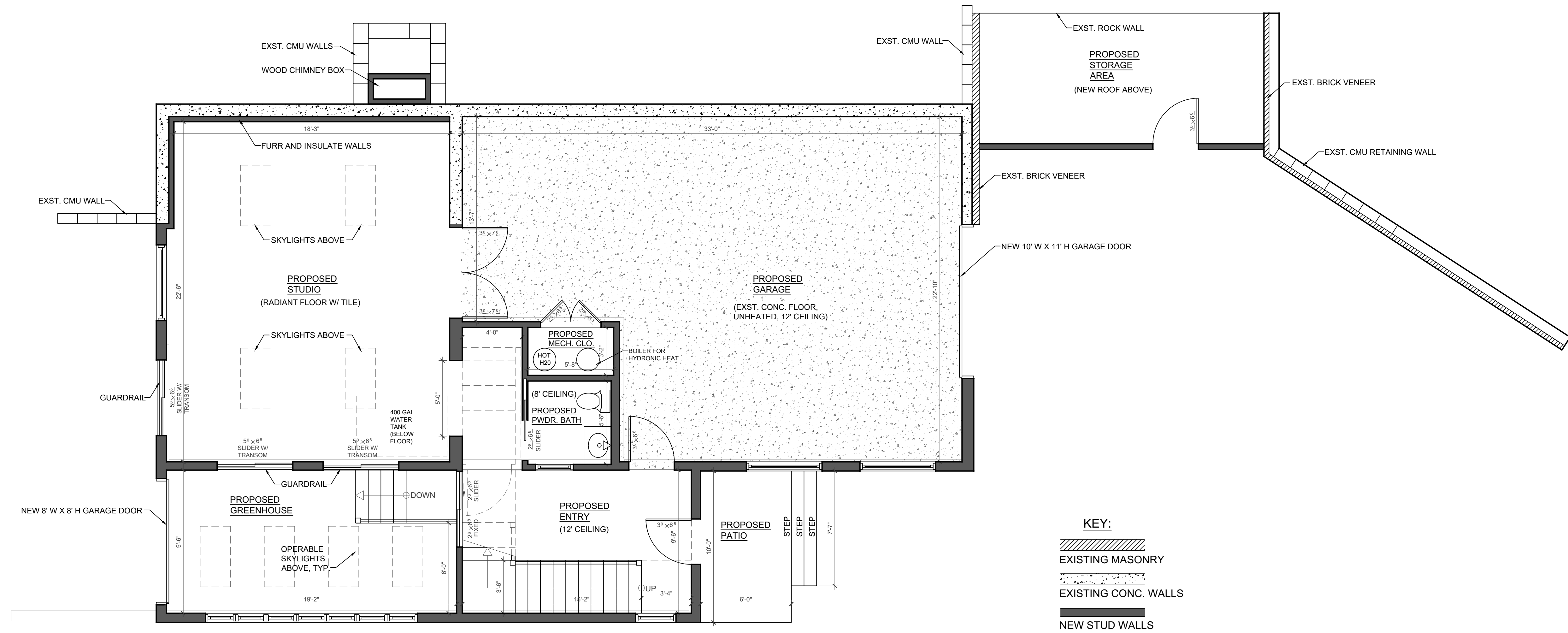
SCHEMATIC DESIGN

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

DATE:  
APRIL 30, 2021

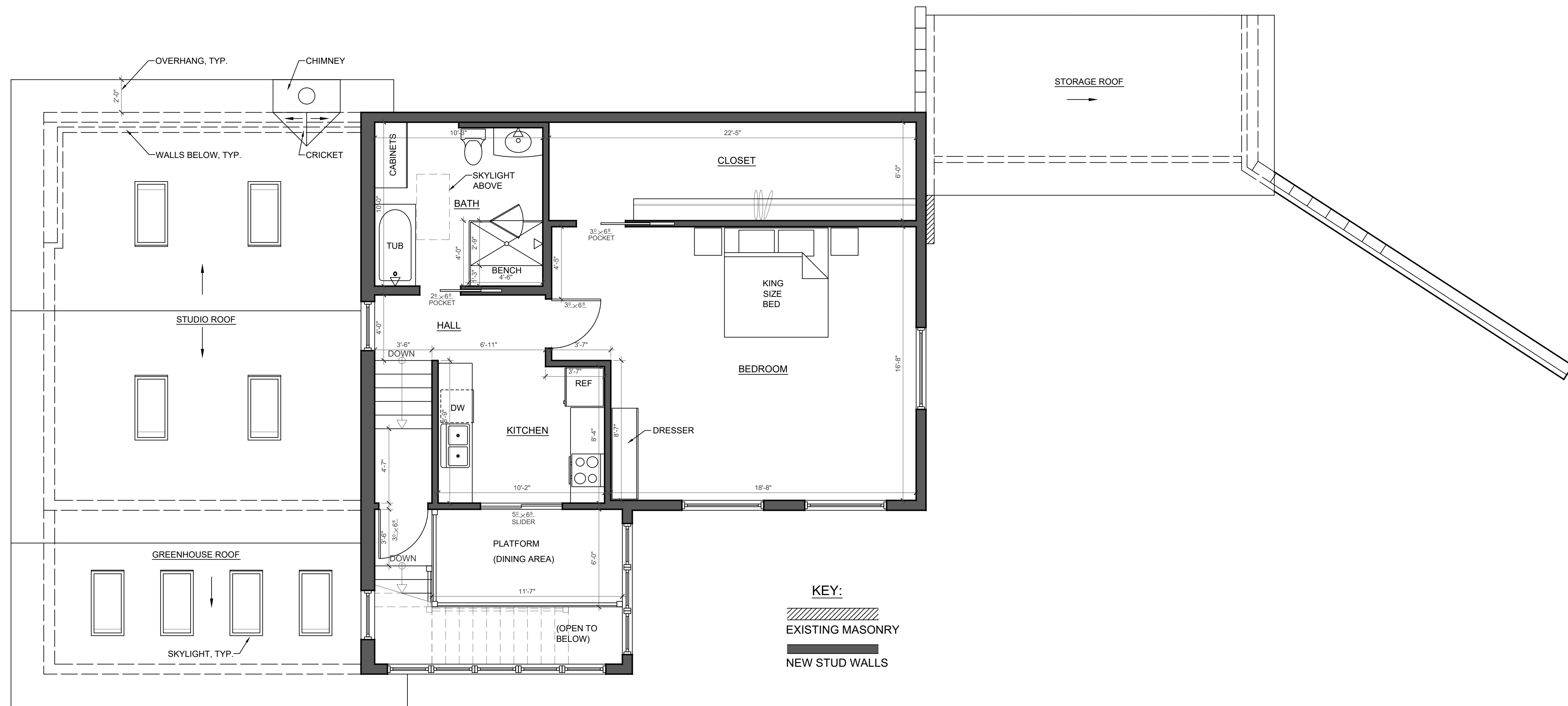
DRAWN BY: JAR  
PROPOSED PLANS

A1



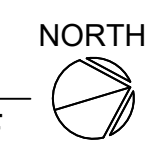
PROPOSED MAIN FLOOR PLAN  
1/4" = 1'-0"

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



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

TOTAL AREA = 1,004 GSF



JASON RUBY  
ARCHITECTURE, LLC

5 BLUE SPRUCE RD. S.  
NEDERLAND, CO 80466  
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rubyjar@yahoo.com

SCHEMATIC DESIGN

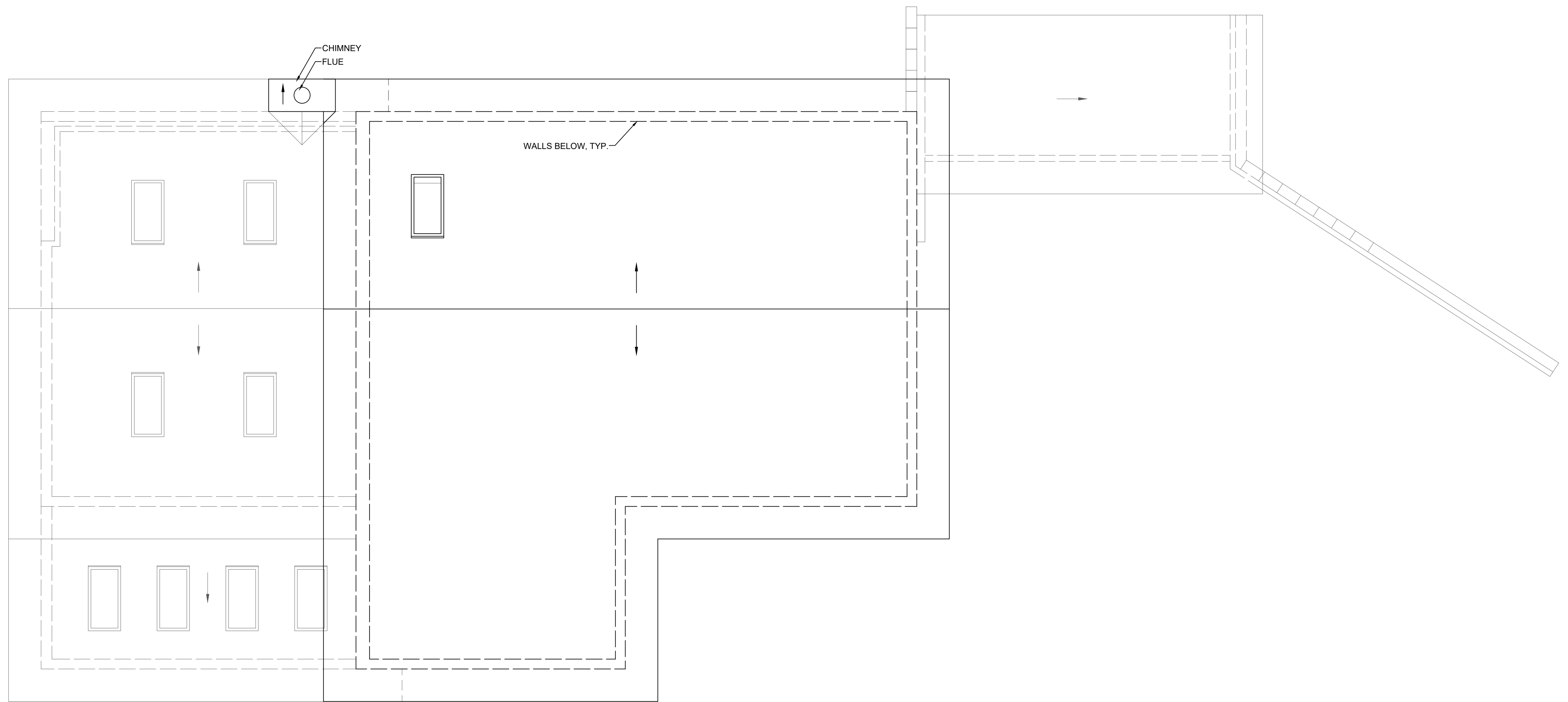
FRED ELLS RESIDENCE REBUILD  
6301 SUNSHINE CANYON DRIVE  
BOULDER COUNTY, COLORADO 80302

DATE:  
APRIL 30, 2021

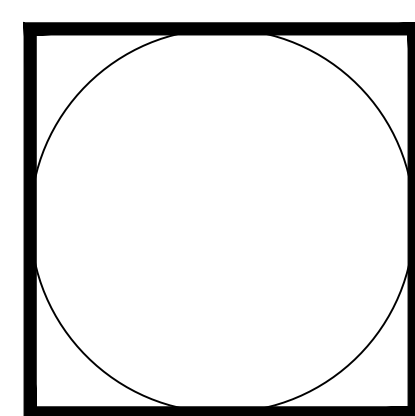
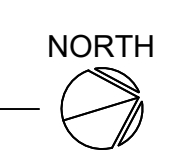
DRAWN BY: JAR  
PROPOSED PLANS

A2





PROPOSED UPPER ROOF PLAN  
 1/4" = 1'-0"

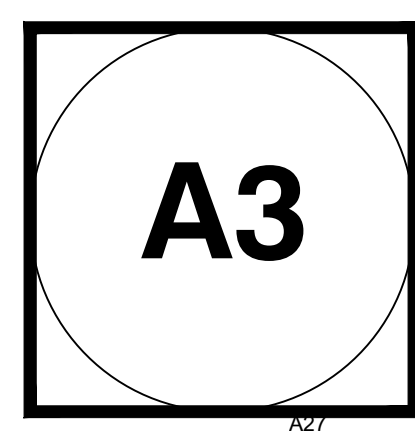


**JASON RUBY**  
 ARCHITECTURE, LLC  
 5 BLUE SPRUCE RD. S.  
 NEDERLAND, CO 80466  
 (303)399-3303  
 rubyjar@yahoo.com

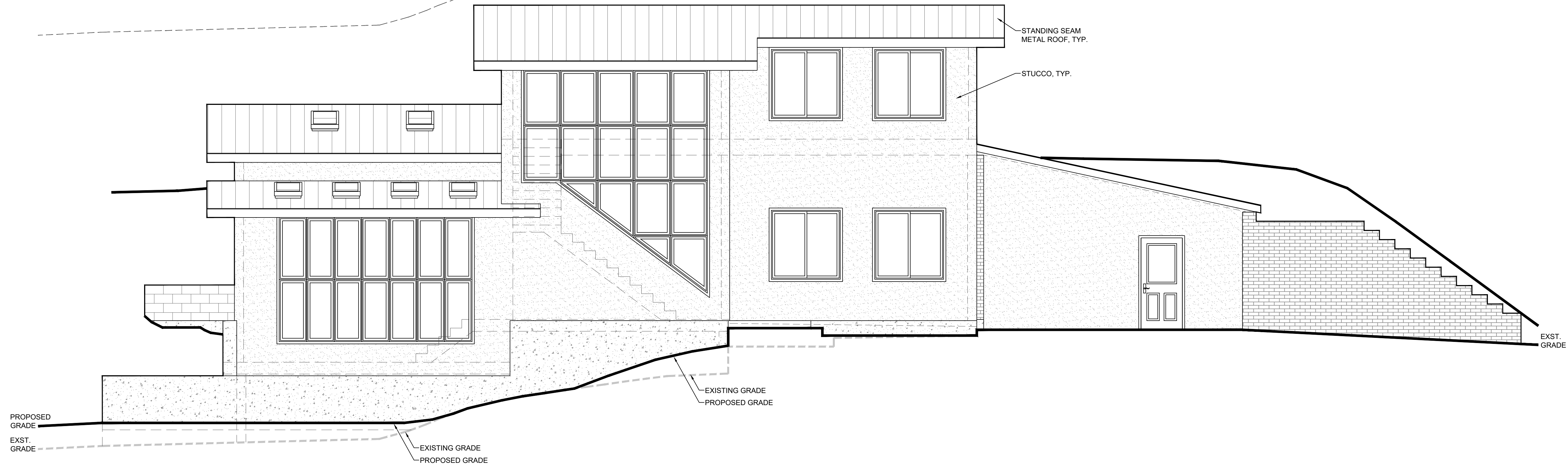
SCHEMATIC DESIGN

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

DATE:  
 APRIL 30, 2021  
 DRAWN BY: JAR  
 PROPOSED PLANS

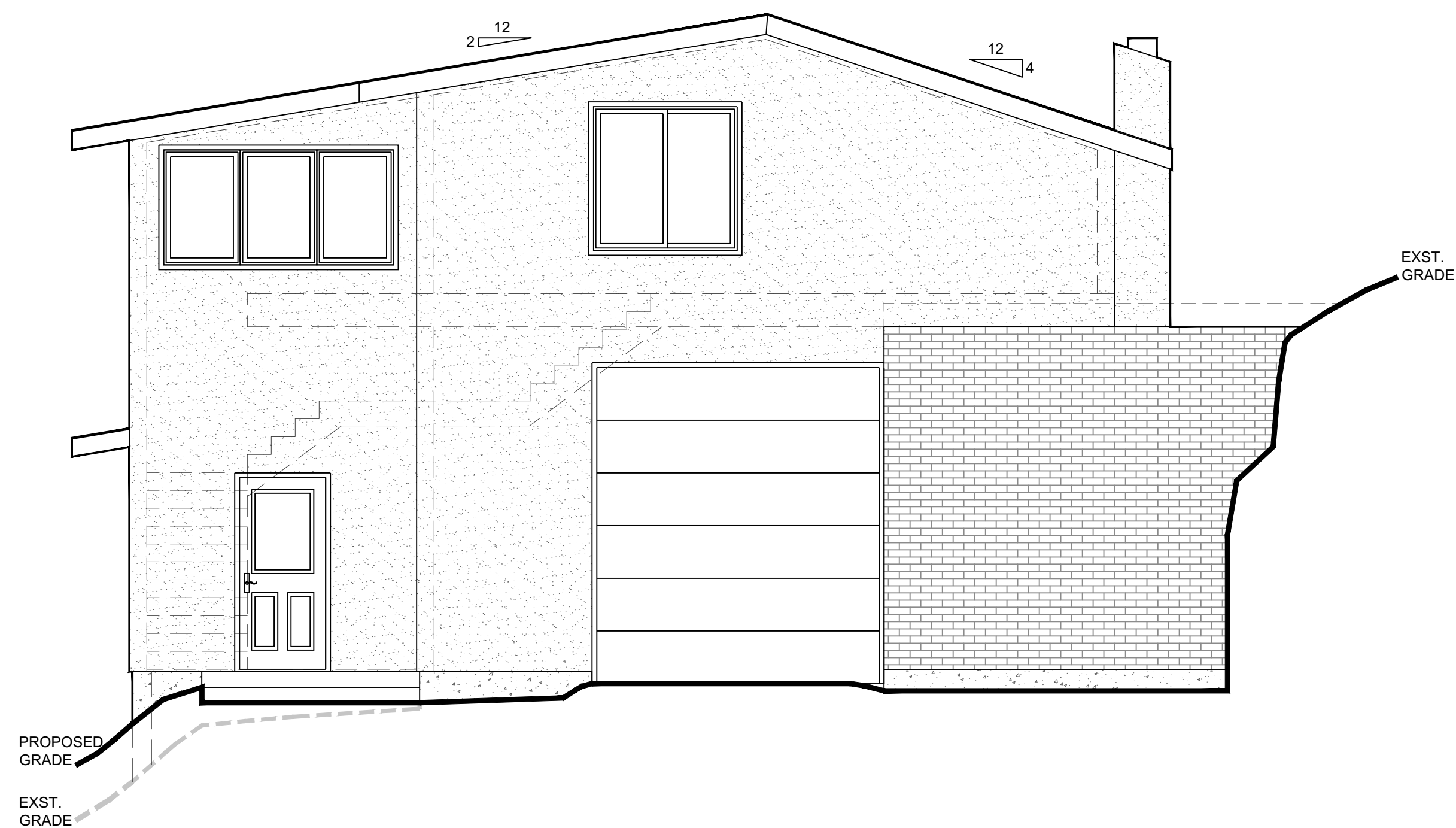


LINE AT 30' ABOVE  
EXST. GRADE

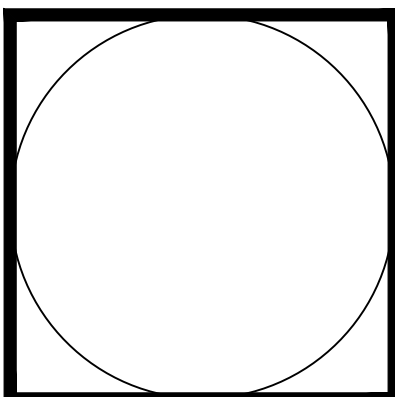


PROPOSED EAST ELEVATION  
1/4" = 1'-0"

LINE AT 30' ABOVE  
EXST. GRADE



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



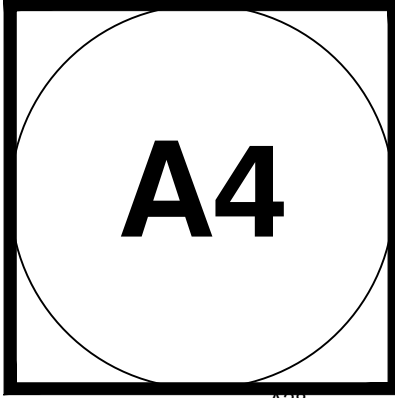
JASON RUBY  
ARCHITECTURE, LLC

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 ELEVATIONS



JASON RUBY  
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rubyjar@yahoo.com

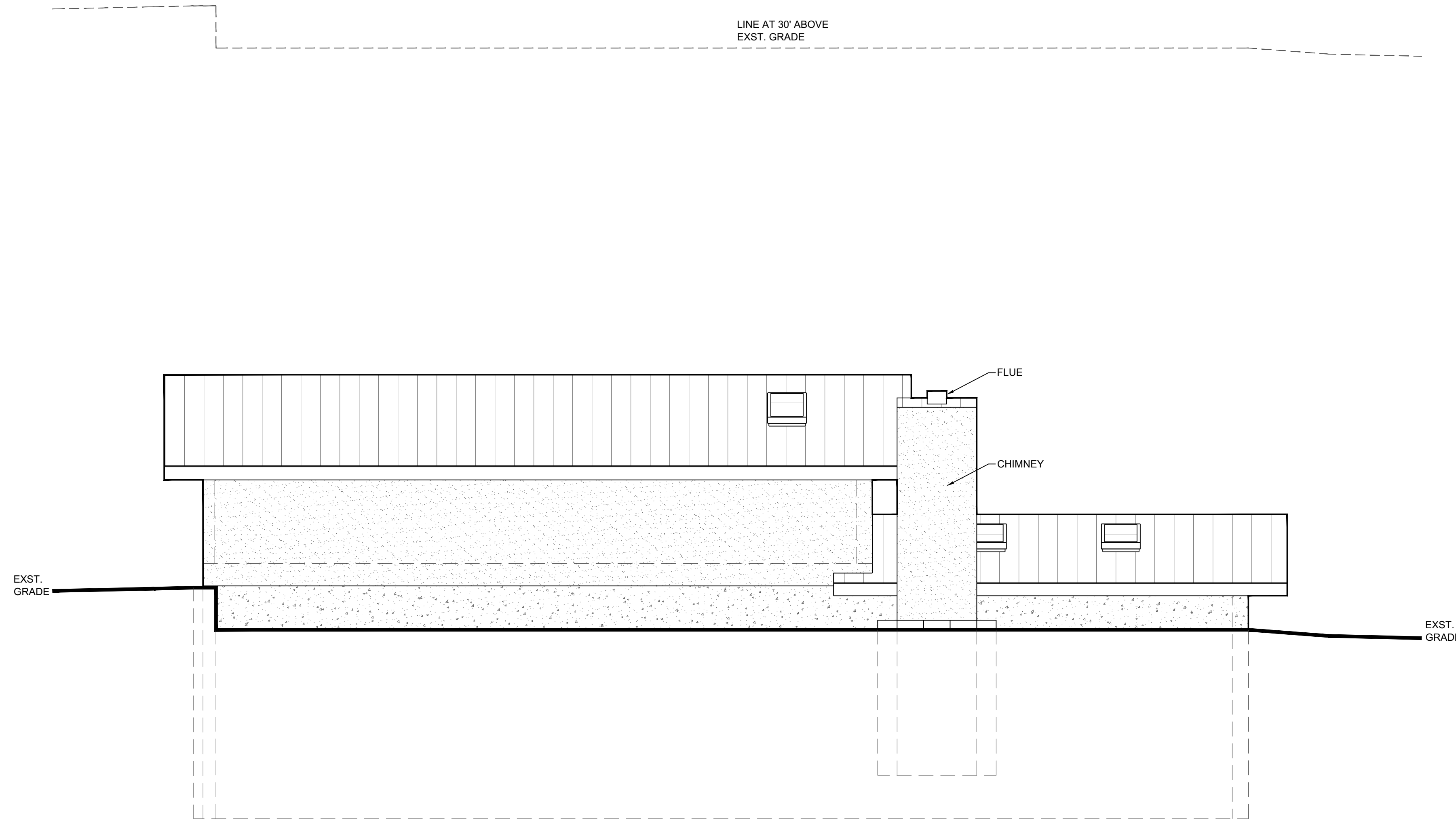
SCHEMATIC DESIGN

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

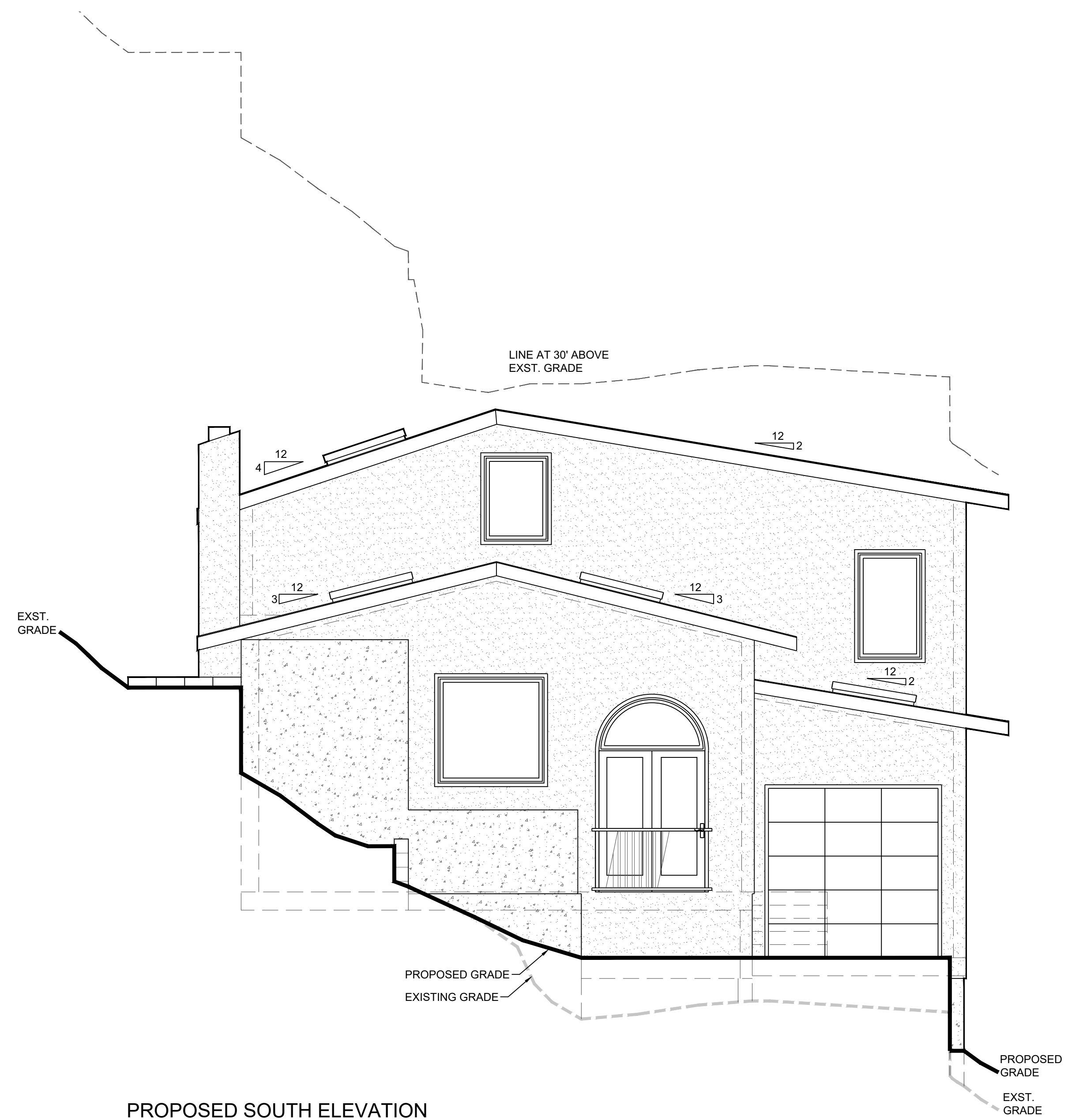
DATE:  
APRIL 30, 2021

DRAWN BY: JAR  
PROPOSED ELEVATIONS

A5



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



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





**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

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

<b>Applicant (Please Print)</b> Fred Ells	<b>Signature</b> 	<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Contractor <input type="checkbox"/> Agent	<b>Date</b> 4/30/21
--	----------------------	--	------------------------

<b>Project Includes:</b> <input checked="" type="checkbox"/> Plumbing <input checked="" type="checkbox"/> Mechanical <input checked="" type="checkbox"/> Electrical	<b>Project Valuation</b> \$ 280,000
<b>Project Description:</b> Rebuild 2-story house atop existing foundation that remained after 2010 Fourmile Fire.	

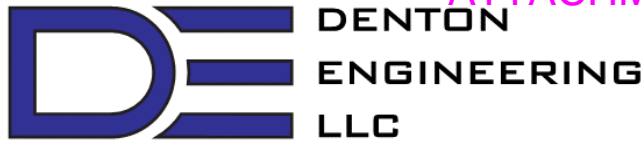
<b>Type of Project (Check Only One)</b>	<b>Type of Structure (Check Only One)</b>	
<input type="checkbox"/> New Structure <input checked="" type="checkbox"/> Addition to: <small>built atop existing foundation</small> <input type="checkbox"/> Remodel <input type="checkbox"/> Electrical <input type="checkbox"/> 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.

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.

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

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

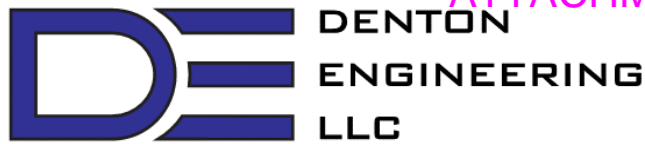
As requested, Denton Engineering (DE) was present at the above referenced address on 08/07/2020 to observe the condition of the existing concrete foundation structure. As you reported to DE, many years prior to our observation, all the framing of the home had been destroyed in a fire and removed. The 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 our 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 means 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.

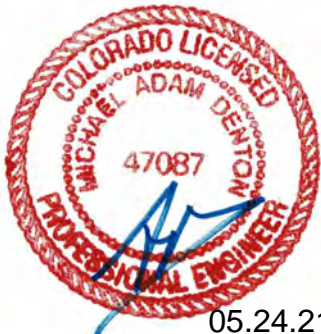
Limitations:

- 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









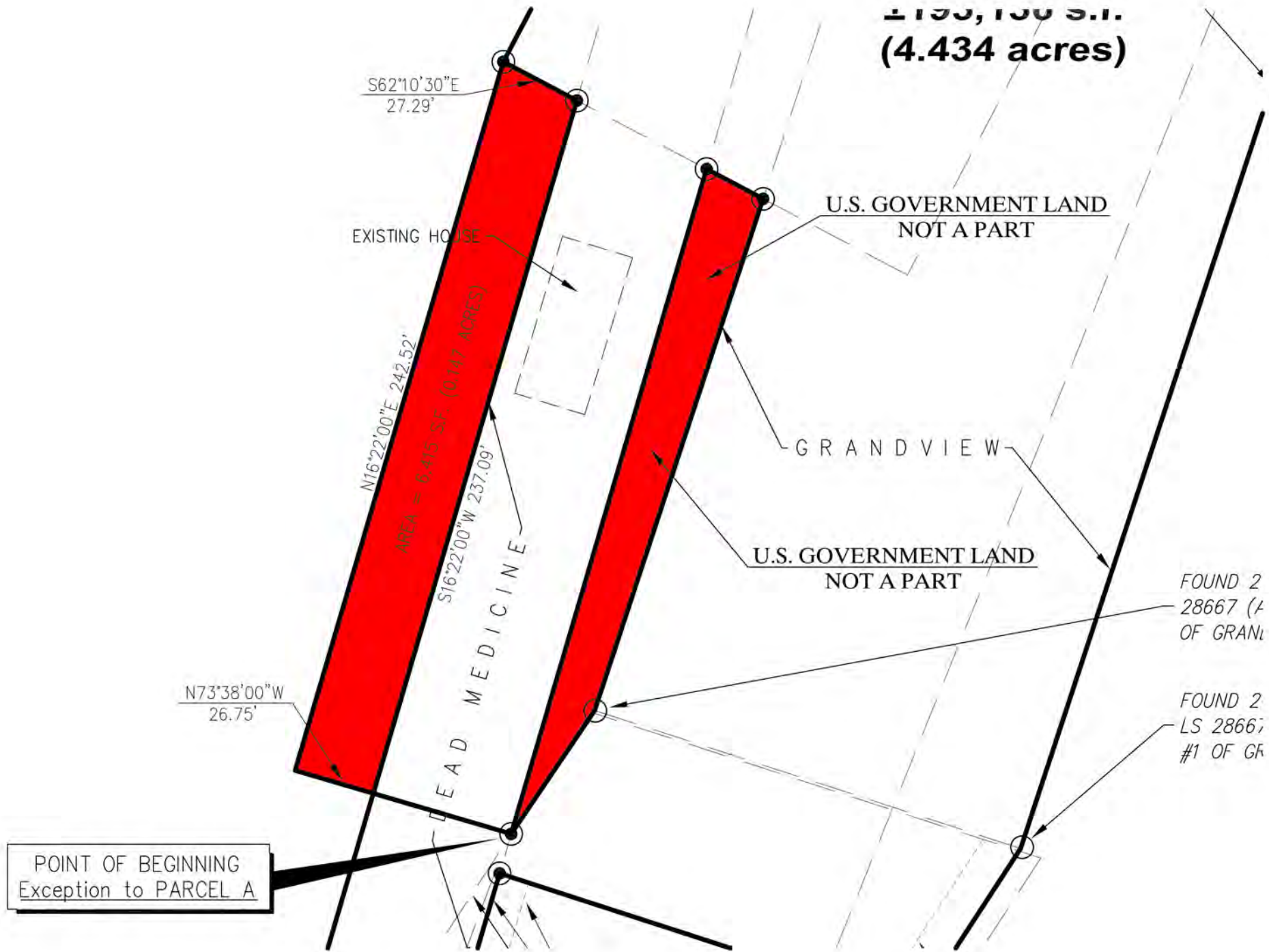


ATTACHMENT ORG



A35

ORG44



**ZONING: F - FORESTRY**

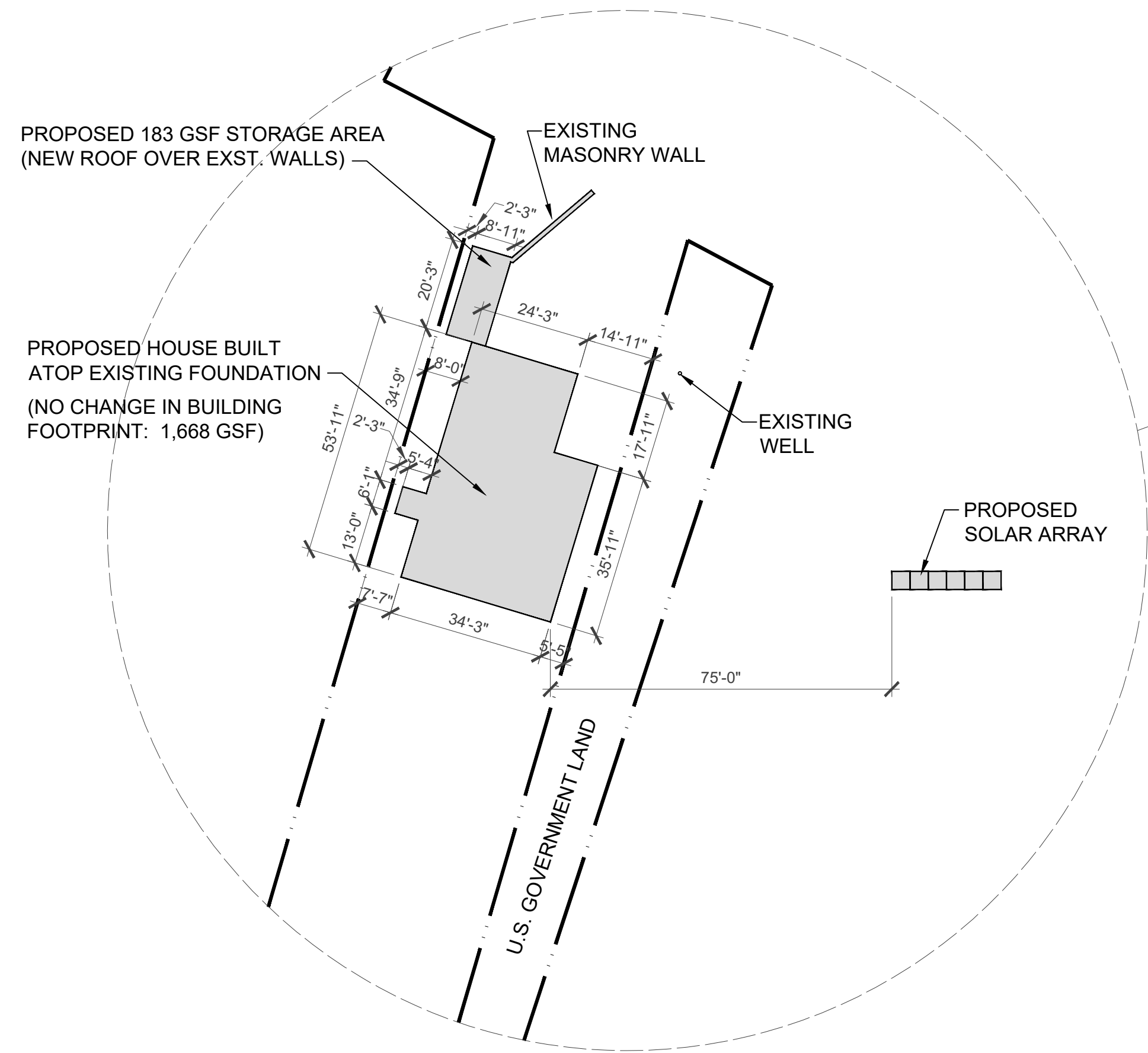
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GROUND SNOW LOAD (LBS/SQFT): 50

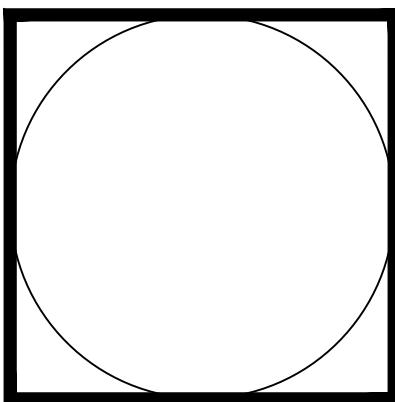
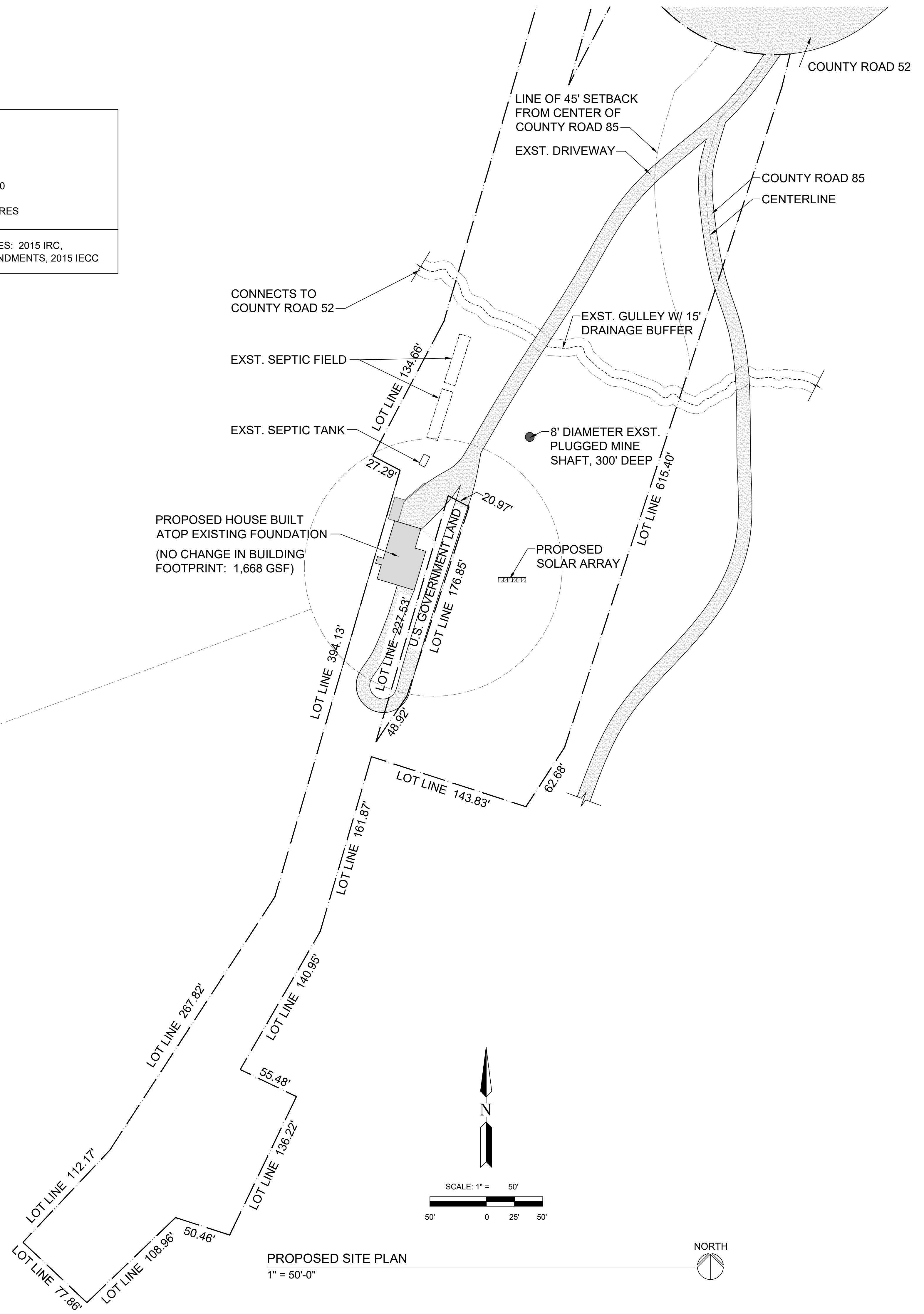
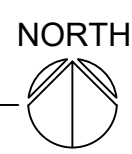
LOT SIZE (UNSUBDIVIDED): 4.434 ACRES

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



PROPOSED SITE PLAN DETAIL  
1" = 25'-0"



**JASON RUBY**  
ARCHITECTURE, LLC

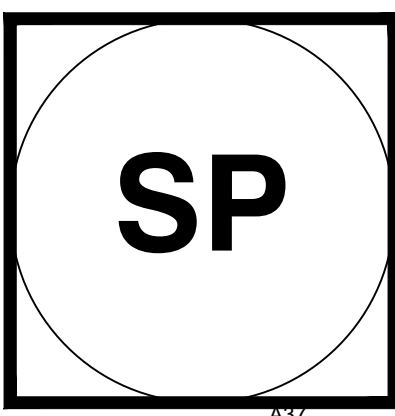
5 BLUE SPRUCE RD. S.  
NEDERLAND, CO 80466  
(303)399-3303  
rubyjar@yahoo.com

SCHEMATIC DESIGN

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

DATE:  
MAY 25, 2021

DRAWN BY: JAR  
PROPOSED SITE PLAN







**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](http://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 <sup>a</sup>
Projections	Not allowed	N/A	< 2 feet
	Fire-resistance rated	1 hour on the underside <sup>b, c</sup>	2 feet <sup>a</sup>
Openings in walls	Not fire-resistance rated	0 hours	3 feet
	Not allowed	N/A	< 3 feet
Penetrations	Unlimited	0 hours	3 feet <sup>a</sup>
	All	Comply with Section R302.4	< 3 feet
		None required	3 feet <sup>a</sup>

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

# ATTACHMENT ORG

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](mailto:building@bouldercounty.org)





## 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](http://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 8<sup>th</sup> 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 <sup>1</sup>		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. <sup>2</sup>	12	12 or up to 14 for 200' max.
Max. Grade through curve	6% <sup>3</sup>		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 <sup>4</sup>		Per geotechnical recommendations to design stability and facilitate revegetation <sup>4</sup>	
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	

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

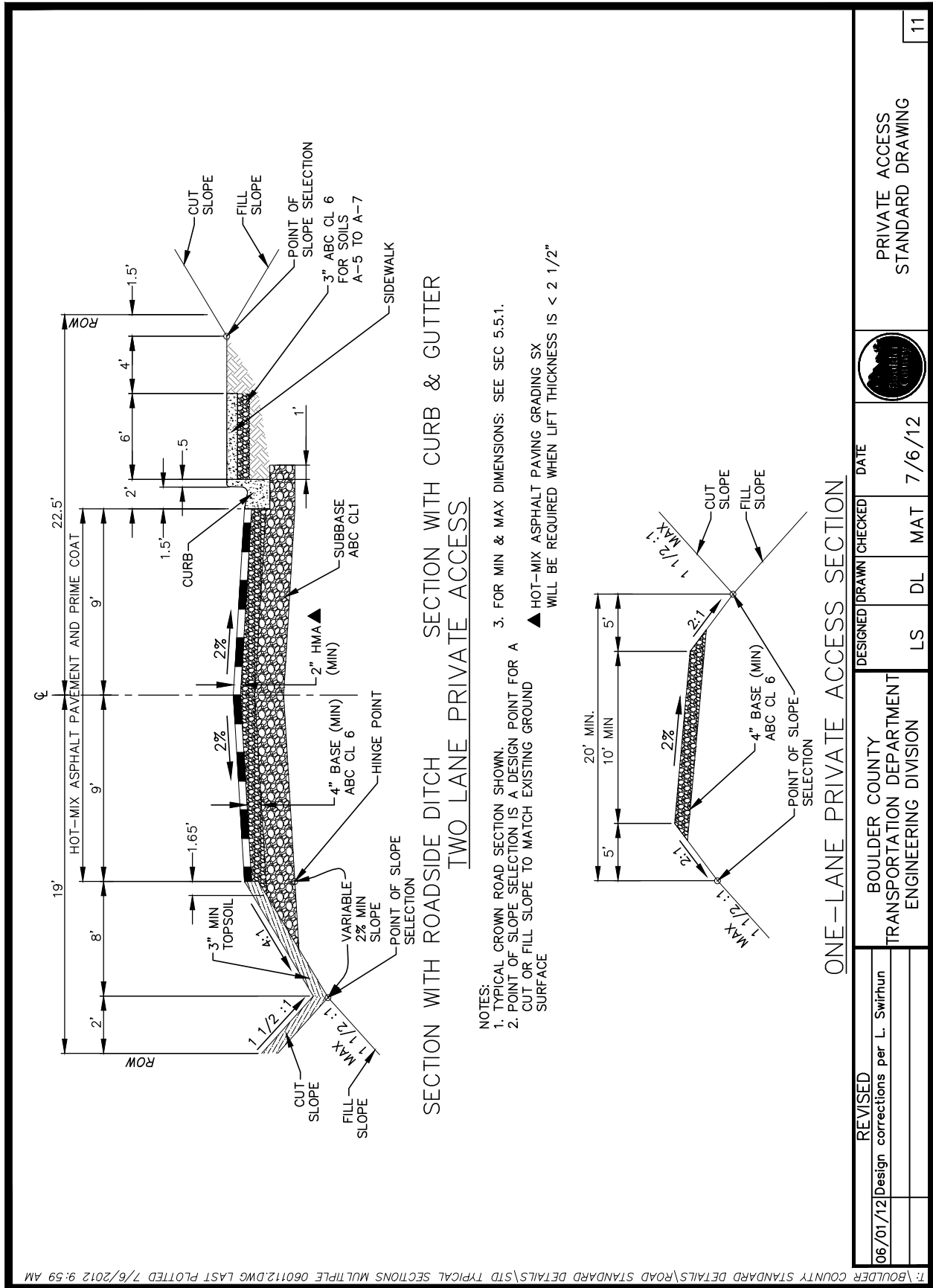
<sup>2</sup> Accesses serving one dwelling unit may use 16% for 200' max.

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


<sup>4</sup> 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.



Standard Drawing 11

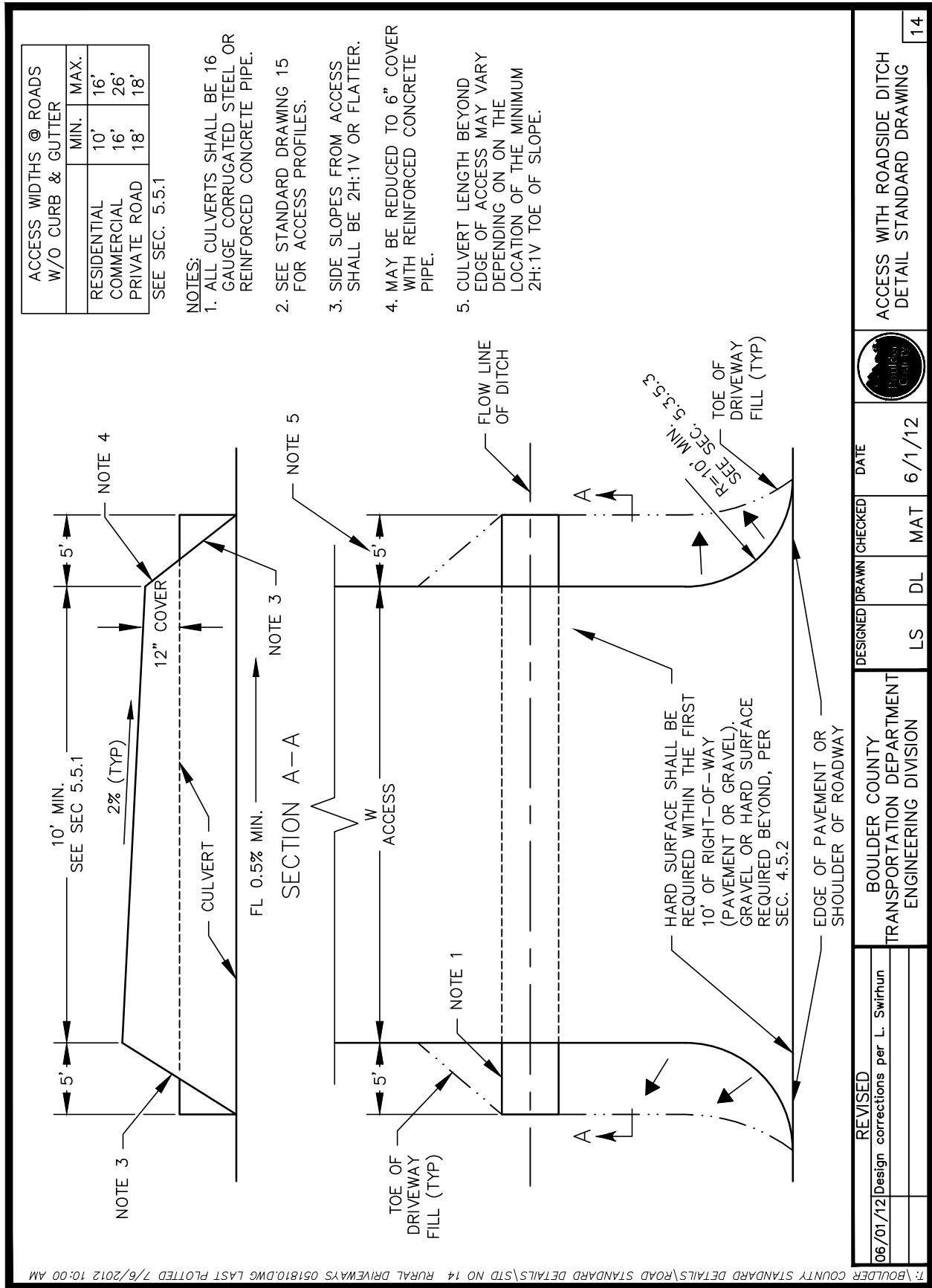


- NOTES:
1. TYPICAL CROWN ROAD SECTION SHOWN.
  2. POINT OF SLOPE SELECTION IS A DESIGN POINT FOR A CUT OR FILL SLOPE TO MATCH EXISTING GROUND SURFACE
  3. FOR MIN & MAX DIMENSIONS: SEE SEC 5.5.1.
- ▲ HOT-MIX ASPHALT PAVING GRADING SX WILL BE REQUIRED WHEN LIFT THICKNESS IS < 2 1/2"

06/01/12	DESIGNED	DRAWN	CHECKED	DATE		PRIVATE ACCESS STANDARD DRAWING	11
Design	LS	DL	MAT	7/6/12			



Standard Drawing 14



ACCESS WIDTHS @ ROADS W/O CURB & GUTTER		
	MIN.	MAX.
RESIDENTIAL	10'	16'
COMMERCIAL	16'	26'
PRIVATE ROAD	18'	18'

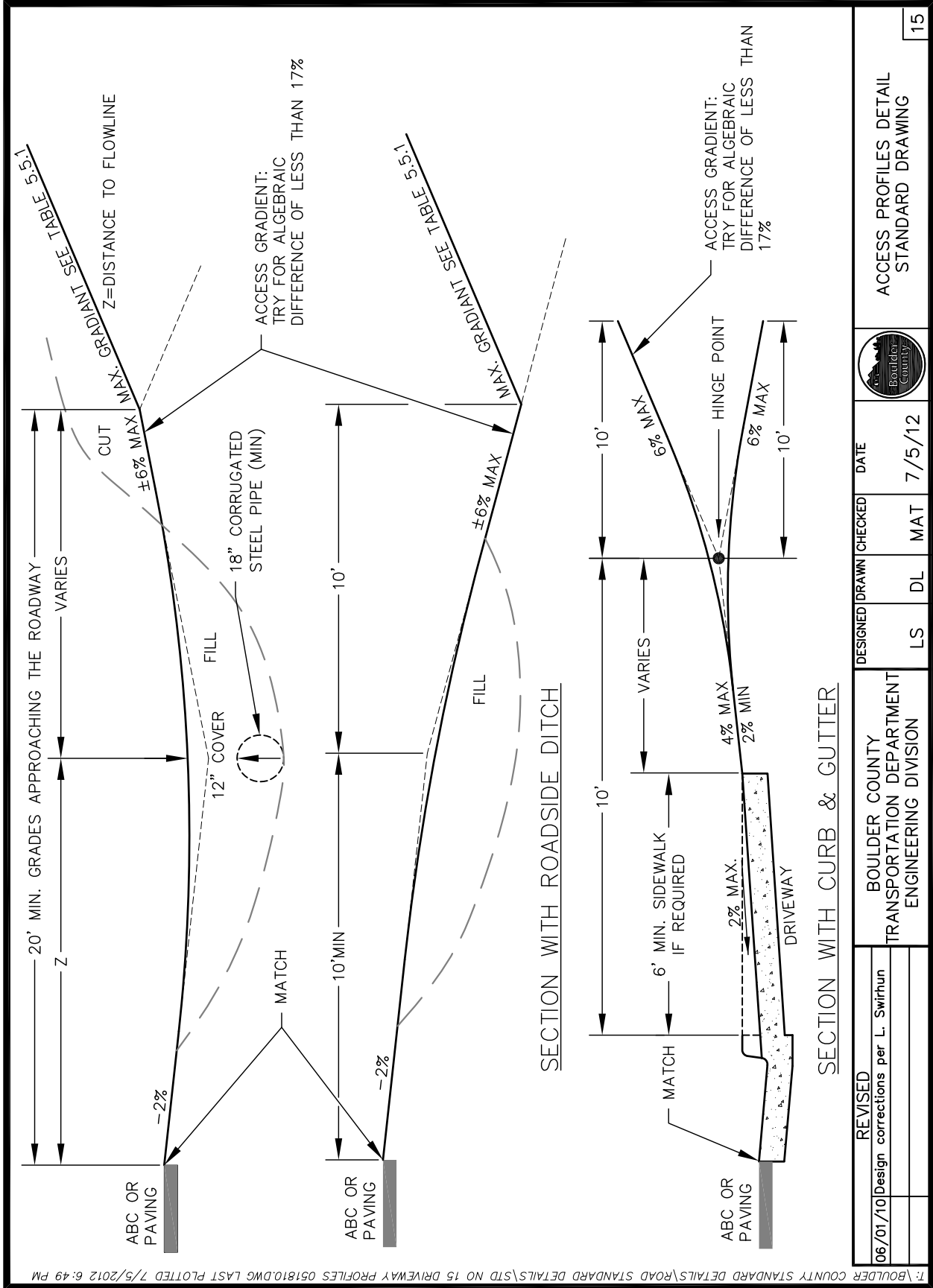
SEE SEC. 5.5.1

- NOTES:
- ALL CULVERTS SHALL BE 16 GAUGE CORRUGATED STEEL OR REINFORCED CONCRETE PIPE.
  - SEE STANDARD DRAWING 15 FOR ACCESS PROFILES.
  - SIDE SLOPES FROM ACCESS SHALL BE 2H:1V OR FLATTER.
  - MAY BE REDUCED TO 6" COVER WITH REINFORCED CONCRETE PIPE.
  - CULVERT LENGTH BEYOND EDGE OF ACCESS MAY VARY DEPENDING ON THE LOCATION OF THE MINIMUM 2H:1V TOE OF SLOPE.

REVISED	DESIGNED	DRAWN	CHECKED	DATE
06/01/12	LS	DL	MAT	6/1/12
BOULDER COUNTY TRANSPORTATION DEPARTMENT ENGINEERING DIVISION				
ACCESS WITH ROADSIDE DITCH DETAIL STANDARD DRAWING				
				14



Standard Drawing 15

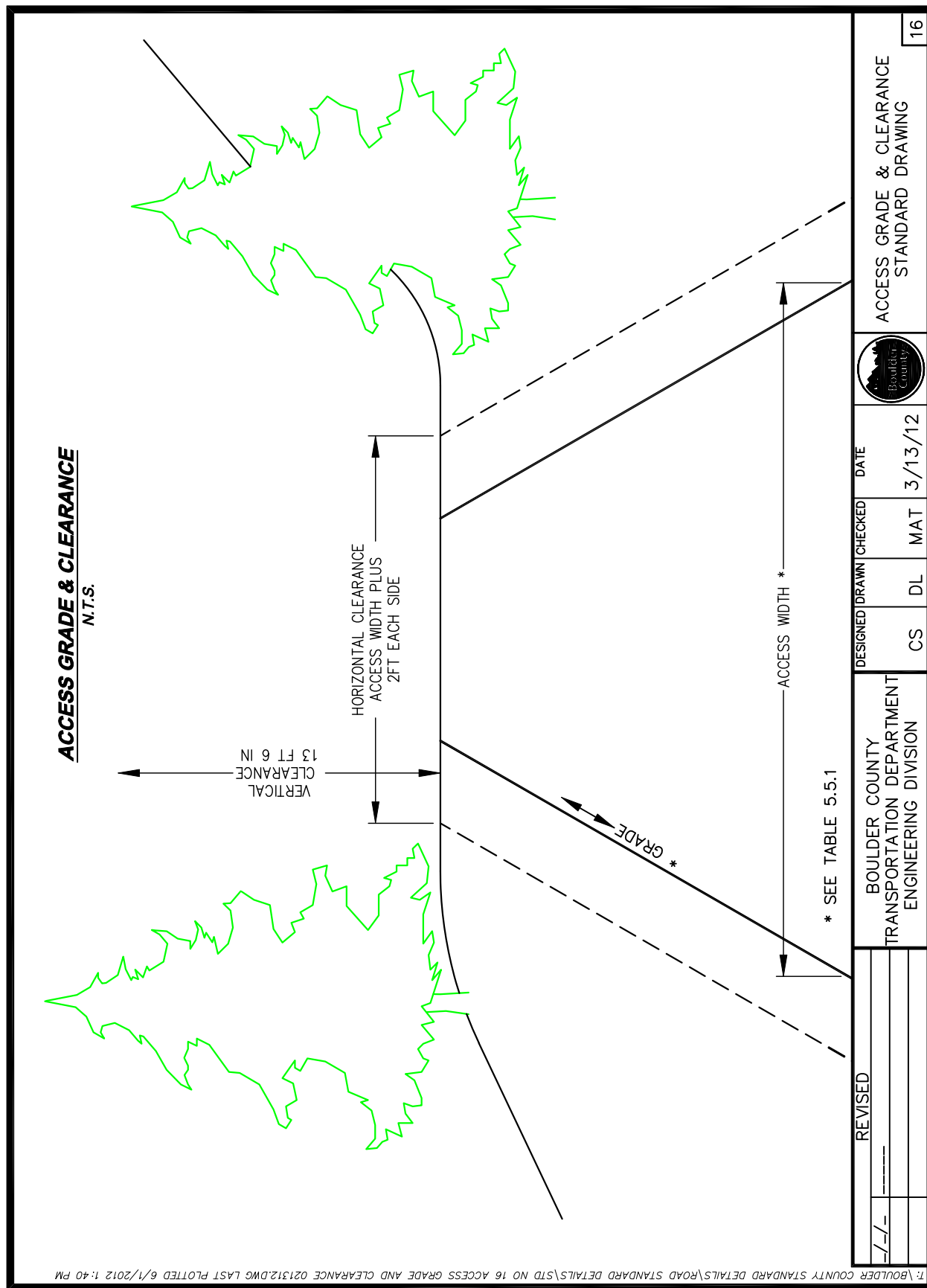


I:\BOULDER COUNTY STANDARD DETAILS\ROAD STANDARD DETAILS\STD NO 15 DRIVEWAY PROFILES 051810.DWG LAST PLOTTED 7/5/2012 6:49 PM

DESIGNED	DRAWN	CHECKED	DATE
LS	DL	MAT	7/5/12
BOULDER COUNTY TRANSPORTATION DEPARTMENT ENGINEERING DIVISION			
REVISIONS	06/01/10 Design corrections per L. Swirhun		
ACCESS PROFILES DETAIL STANDARD DRAWING			
15			

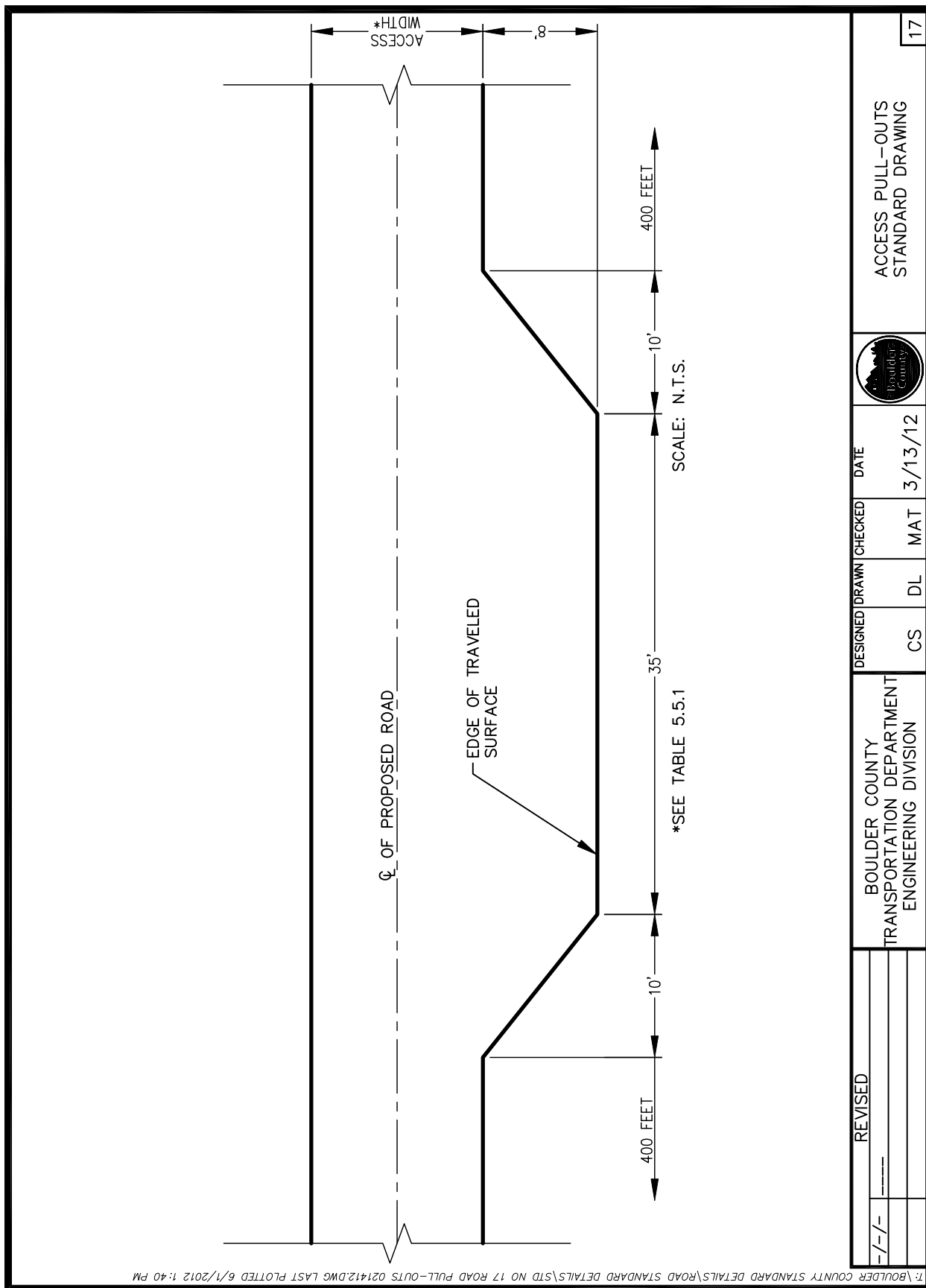



Standard Drawing 16





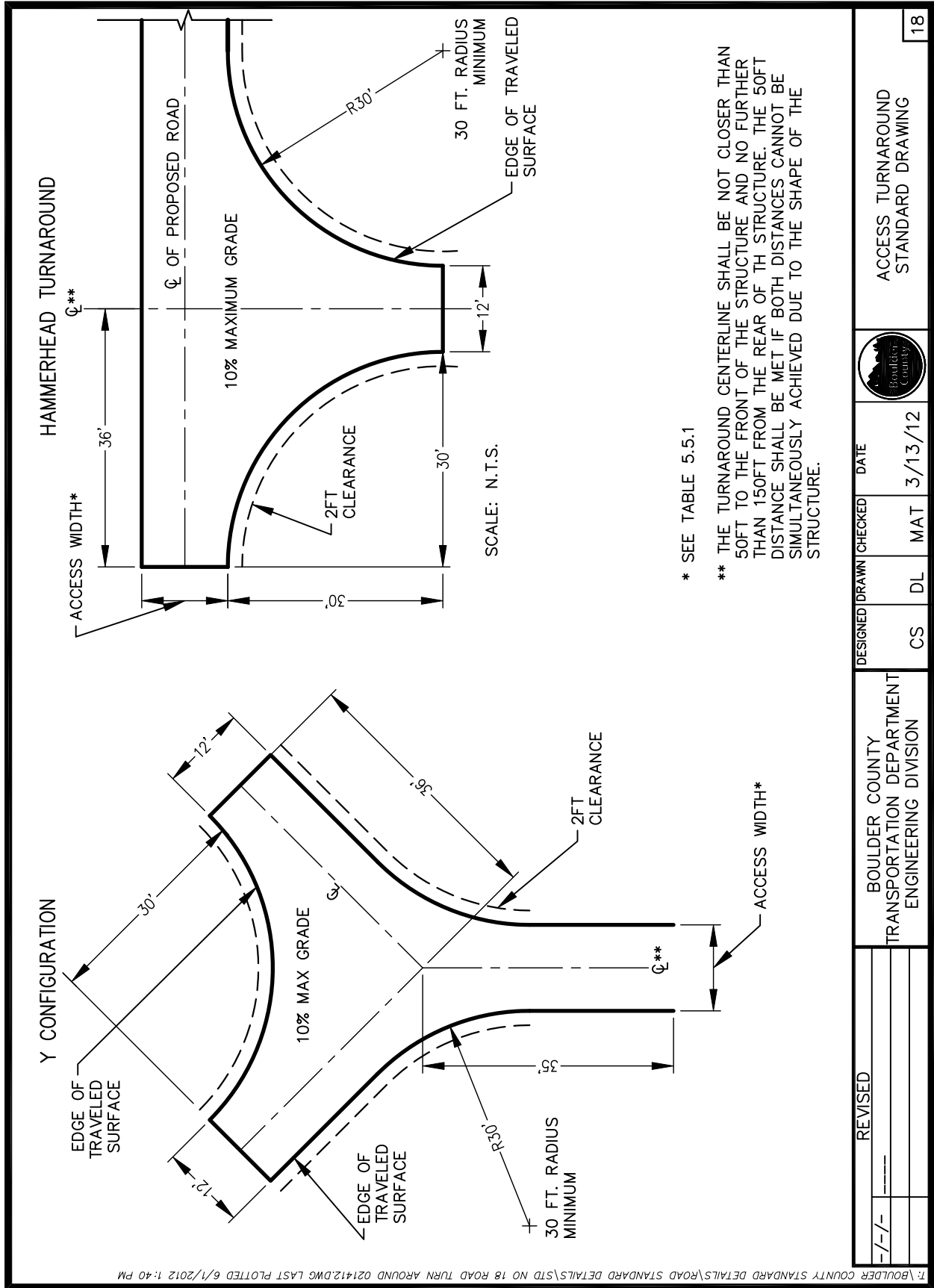
Standard Drawing 17




REVISIONS		DESIGNED (DRAWN) CHECKED		DATE		ACCESS PULL-OUTS STANDARD DRAWING	
-/-/-		CS	DL	MAT	3/13/12	17	
BOULDER COUNTY TRANSPORTATION DEPARTMENT ENGINEERING DIVISION							



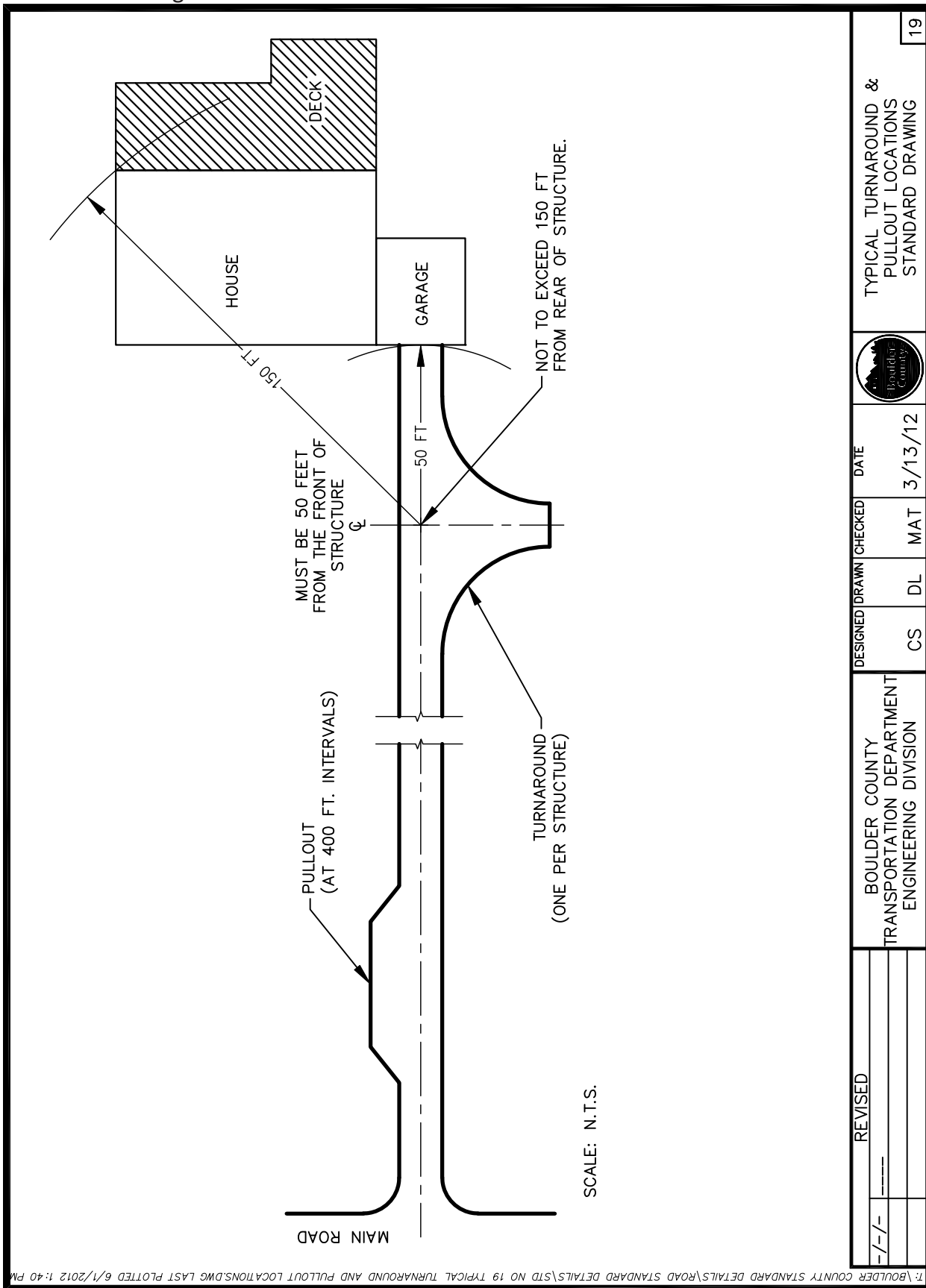
Standard Drawing 18




DESIGNED	DRAWN	CHECKED	DATE	ACCESS TURNAROUND STANDARD DRAWING	18
CS	DL	MAT	3/13/12		
BOULDER COUNTY TRANSPORTATION DEPARTMENT ENGINEERING DIVISION					
REVISED					



Standard Drawing 19



DESIGNED		DRAWN		CHECKED	DATE		TYPICAL TURNAROUND & PULLOUT LOCATIONS STANDARD DRAWING	19
CS	DL	MAT	3/13/12					
BOULDER COUNTY TRANSPORTATION DEPARTMENT ENGINEERING DIVISION								
REVISED								

I:\BOULDER COUNTY STANDARD DETAILS\ROAD STANDARD DETAILS\STD NO 19 TYPICAL TURNAROUND AND PULLOUT LOCATIONS.DWG LAST PLOTTED 6/1/2012 1:40 PM





## 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 3<sup>rd</sup> Avenue  
Denver, Colorado 80223  
Telephone: **303.571.3306**  
Facsimile: 303. 571. 3284  
[donna.l.george@xcelenergy.com](mailto: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](http://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](mailto: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](http://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



## ATTACHMENT ORG

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](mailto: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](mailto:brooke@mwluxuryhomes.com)>  
**Sent:** Monday, May 24, 2021 12:05 PM  
**To:** LU Land Use Planner <[planner@bouldercounty.org](mailto: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

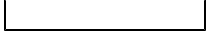


# ATTACHMENT ORG

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.





# 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)

- '14 section of Section 8 \*Exhibit\* notes 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 <sup>supply</sup> 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 - 2<sup>nd</sup>

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 - 2<sup>nd</sup>

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~~ certifies 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 - 2<sup>nd</sup>

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





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

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

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

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

18 **Interested Others:** 3-5

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

22 **HAL OSTEEEN (BOA Chair):** Next item, we will now open the public hearing for Docket VAR-02-15: Ells  
 24 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  
 26 the Board will talk about things. So we would like to start with staff, please.

28 **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.  
 30 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.

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

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

38 **HAL:** Okay.

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

42 **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?

44 **GREG:** As I've noted in the recommendation that was presented for the hearing today, it indicated that staff  
 46 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 6<sup>th</sup>. And staff would  
 48 continue to maintain that position today.

50 **JAMES:** Okay. Thank you.



*Transcript for Docket VAR-02-15: ELLS Variance  
November 6, 2002  
Page 2*

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

4  
6 **GREG:** This would be for the same reasons that were discussed in the staff memorandum, dated November  
6<sup>th</sup>, and the review of the criteria. In summary, we just felt that the County doesn't have the same opinion as it  
8 there is no guarantee in the Land Use Code that the proposed garage would be approved.

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

12 **BOA MEMBERS:** Yes.

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

16 **GREG:** Okay. The other new information that was previously provided to you was with regards to a building  
18 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  
20 owners with this new information. We did receive one response as of the date of writing of the  
recommendation on the 22<sup>nd</sup> of November noting their support for the proposal, and we also received another  
22 email from adjacent property that also notes support for the applicant's requested variances.

24 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  
26 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  
28 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  
30 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,  
32 2002 staff recommendation.

34 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  
36 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.

38  
40 **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)  
42 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  
44 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  
46 somebody else's property. So I'm still puzzled by this, and the wording of that letter is sufficiently obtuse to

*Transcript for Docket VAR-02-15: ELLS Variance*  
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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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*Page 4*

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 tanks at the garage that would be used to fill the fire truck up. And any other fire truck that was also there.

14

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

18

**THOMPSON:** I think it's mostly for speed. When you have a fire, you don't want to just sit there and wait while water is being pumped into a fire truck. You want to fill that fire truck up as fast as you can. Because 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.

22

24

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

26

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

28

**BEN:** Okay—okay.

30

**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. 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. They're just—the only thing they're opposing there is the width of the garage.

36

**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 the garage, I mean, there's not much sense in building the garage.

42

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

46



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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.

46

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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.

26

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 6<sup>th</sup> 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



*Transcript for Docket VAR-02-15: ELLS Variance*  
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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  
4 they resurveyed all these mining claims and most importantly the Grandview, which is right next to me, which  
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  
20 **ELLS:** There's a Mark Heath and Kellogg who are doing all those improvements down County Road 85.  
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  
38 **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  
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  
42 **JOHN:** How wide is the truck?

44 **ELLS:** 8-feet.

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

*Transcript for Docket VAR-02-15: ELLS Variance*  
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2 **ELLS:** 24. Because the garage door is 14-foot 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-foot 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 to 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  
4 **HENRY BALLARD:** I'm Henry Ballard. I live at 170 Misty Vale. The fire department is very anxious to get  
6 access to this water. It fits well with our plan of having water available every have mile or so along the road.  
8 And it looks great! We think there's a lot of water down there. And want to work figuring out how much  
10 there is, and figuring on how to get it to the road. Those are both significant projects we haven't had time to  
12 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  
14 of the solution then it will be great to have a variance to be allowed to build it. That's pretty much where we  
16 stand, and we've loved to get the water.

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

22 **BALLARD:** No.

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

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

34 **HAL:** Okay.

36 **BALLARD:** It hasn't been an issue. I would think that anyone that is going to bring fire trucks would feel the  
38 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  
40 then we could use his fire truck as well as ours.

42 **HAL:** Okay. Questions?

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

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

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

**BALLARD:** Our station is at 311 County Road 83. That would be about three-tenths of a mile down the  
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  
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  
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.

**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  
18 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  
20 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  
22 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  
26 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  
44 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

10 **BALLARD:** And if there's more water down then we might push for getting the pump, if we're going to use 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 all the mine—acid mine?

18

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

20

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 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.

26

**BEN:** Okay.

28

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 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.

32

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

34

**JOHN:** Okay.

36

38 **HAL:** So basically, the fire department's position is if all of this stuff can be worked out, it might be a very 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?

40

**BALLARD:** Yes.

42

**HAL:** Okay.

44

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

46



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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  
12 lends a great deal of order to your deliberations was to sort of say "There's these three different issues, and  
14 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  
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  
24 number one. Any preferences on number two and three from anybody? Okay, then why don't we do number--

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

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  
4 **GREG:** Well, the applicant did provide a location map as part of the packet, which is basically opposite of  
6 where the garage would be located on the property, and he's showing the 10-foot side yard setbacks at that  
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 they voted. Let's start on your end.

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

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

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

24          **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 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 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 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 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."

30          **JOHN:** I voted "no" because of what Ben said. Everything needs to be registered, documented. Everything 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.

32          **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 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 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--?

*Transcript for Docket VAR-02-15: ELLS Variance*  
*November 6, 2002*  
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2  
4 **BEN:** No. I'm not going to offer a motion. I'm going to tell that unless there's more information out there  
6 than what we've got, I can't support a variance. It's a pretty fundamental problem that I have with it. It turns  
8 out after listening to testimony tonight that there isn't a concrete plan for this, and we don't even know if this is  
10 the right spot. Without a plan we can't grant a variance. So I'm not going to support one. I mean unless  
12 somebody comes up with some more information that says, "Yeah, this is the spot. This is where the building  
14 is going to go." Because this was what was noticed, this is what the neighbors saw. This is the legal basis for  
16 it. If he comes in and builds it somewhere else then he and County are going to be opened to a challenge.

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

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

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

24 **HAL:** Yeah.

26 **JOHN:** Okay. Just making sure. Being architect myself I have never heard of building more than 19-feet for  
28 one fire truck. But I feel strongly that the staff offering 19-feet wide, I think that's pretty comfortable. And for  
30 safety, for welfare of the neighbors, etc., and the truck being 8-feet wide, I know he wants to use his personal  
32 vehicle as well in the garage for whatever purpose, but the purpose of the variance was for the fire truck. And  
34 you know, he's saying he's using his—he never said that he was using his personal vehicle until today, and that  
36 isn't in any of the documentation. So opposed to 24 or 25 feet, but I do support the staff's recommendation for  
38 19-feet wide the garage. And that is it!

40 **HAL:** Okay. Ben?

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

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

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

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

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

**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  
effectively what you would be doing is denying the applicant's request for a variance to the 25-foot side yard  
setback.



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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

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

6

**GREG:** Yes, they are. So as part of the motion you're identifying each one of the requests as part variance  
8 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

**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.

36

**MICHAEL:** I would agree.

38

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

40

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

42

**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?

46

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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  
addition, to recognize basically what's on the ground.

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

16 **PAT:** Gentlemen, if can refer to your Minutes from the last hearing you will find on the 4<sup>th</sup> page at the bottom  
18 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.

46



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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,  
14 not a new survey of the property. The assumption is that the original survey that we get is correct. It's  
16 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  
28 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  
32 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  
34 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  
36 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  
38 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  
40 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  
44 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.

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

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

**JOHN:** Okay. Graham. Let me remind you at the last meeting James and I withdrew our proposal because of the property surveyor prior to this December 4<sup>th</sup> meeting. The reason we asked for the property surveyor is because the bay window was so close the adjacent property line. So the Improvement Location Certificate was .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.

**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 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.

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

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

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

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

**BEN:** Well, I think those comments are helpful. I think mostly about the policies of the County. Mr. Ells I 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.

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

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

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

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

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

**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  
30 it is. That was that. Now for me the question is the bay window—the new bay window whether or not we give  
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*  
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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  
the property line. I think if the bay window did not exist and someone came in and wanted to put one there, I  
38 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



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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  
and consider that this evening I would request that you look at those.

8 **HAL:** Okay.

10 **BAY WINDOW ADDITION:**

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

16 **JOHN DICKINSON (BOA Member):** I second it.

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

40 **JAMES:** No comments.

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

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

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

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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.*



Post Office Box 471 • Boulder, Colorado 80306

# 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).

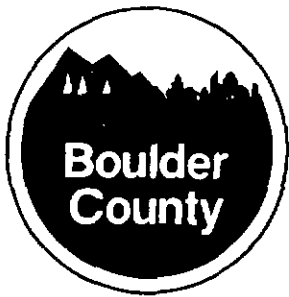
Free Parking in the City of Boulder CAGID lots is available for Board of Adjustment hearing participants. See the staff at the hearing for city parking vouchers.

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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# Land Use Department

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

## 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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# 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 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.



**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).





# 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: 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](mailto: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.

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

RECEIVED  
NOV 26 2002

**RMCS SURVEYING & ENGINEERING**

LAND SURVEYS      CIVIL ENGINEERING  
303-448-1870      303-499-6755

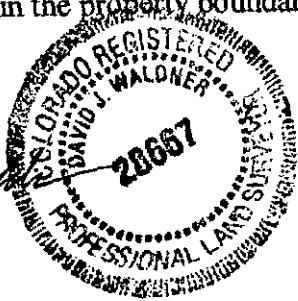
**4535 North Broadway, #101, Boulder, CO 80304**  
**FAX # 720-565-1488**

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*  
David Waldner



~~Number of pages (including cover): 3~~

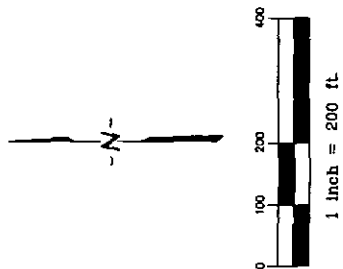
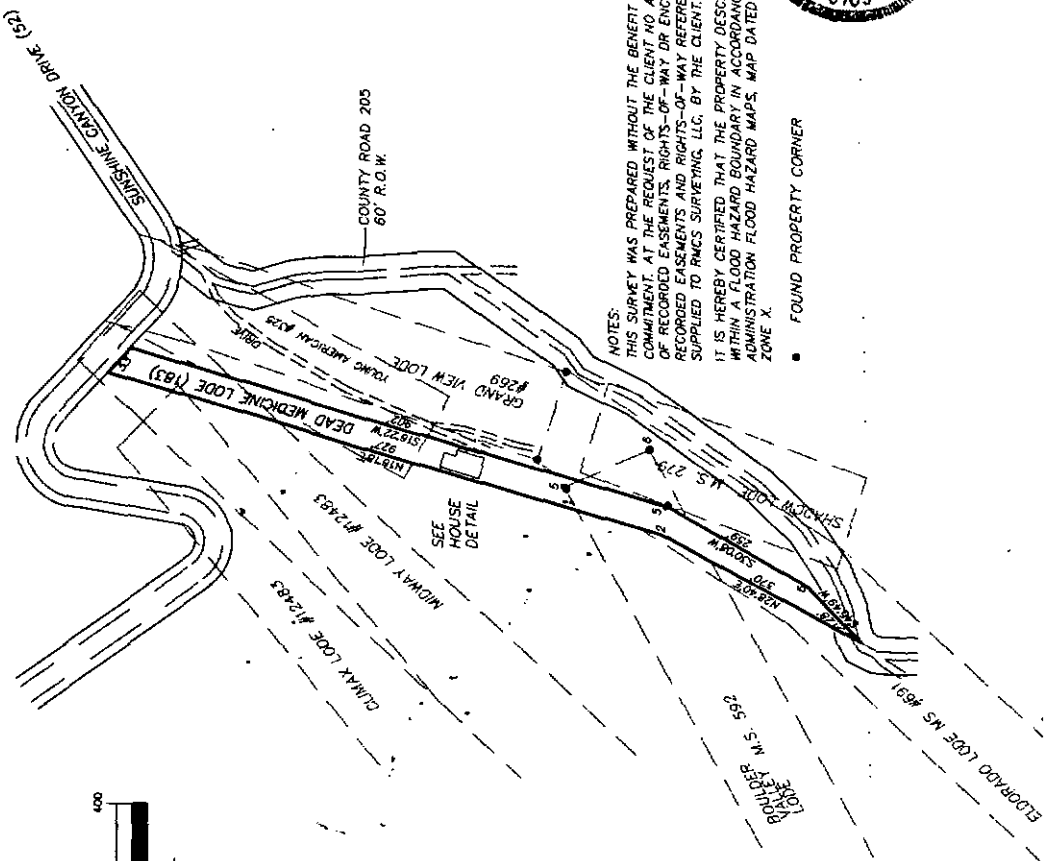
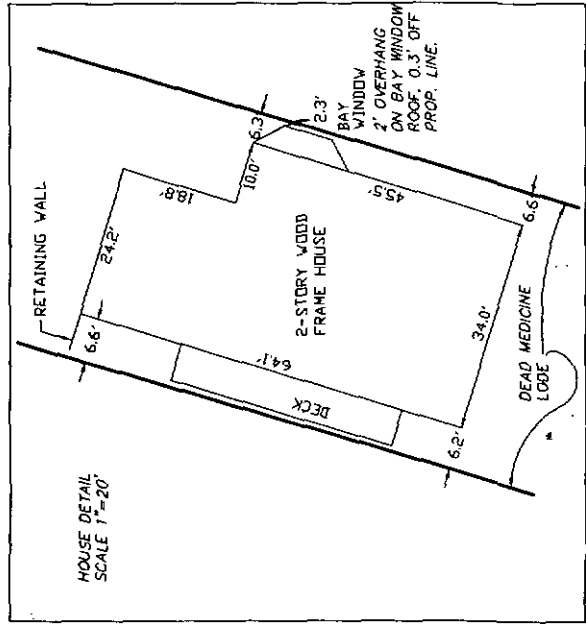
*Ells Vars 02-15*



**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



PROPERTY OWNER: FRED ELLS  
 PROPERTY ADDRESS: SUNSHINE CANYON DRIVE, BOULDER, CO. 80302

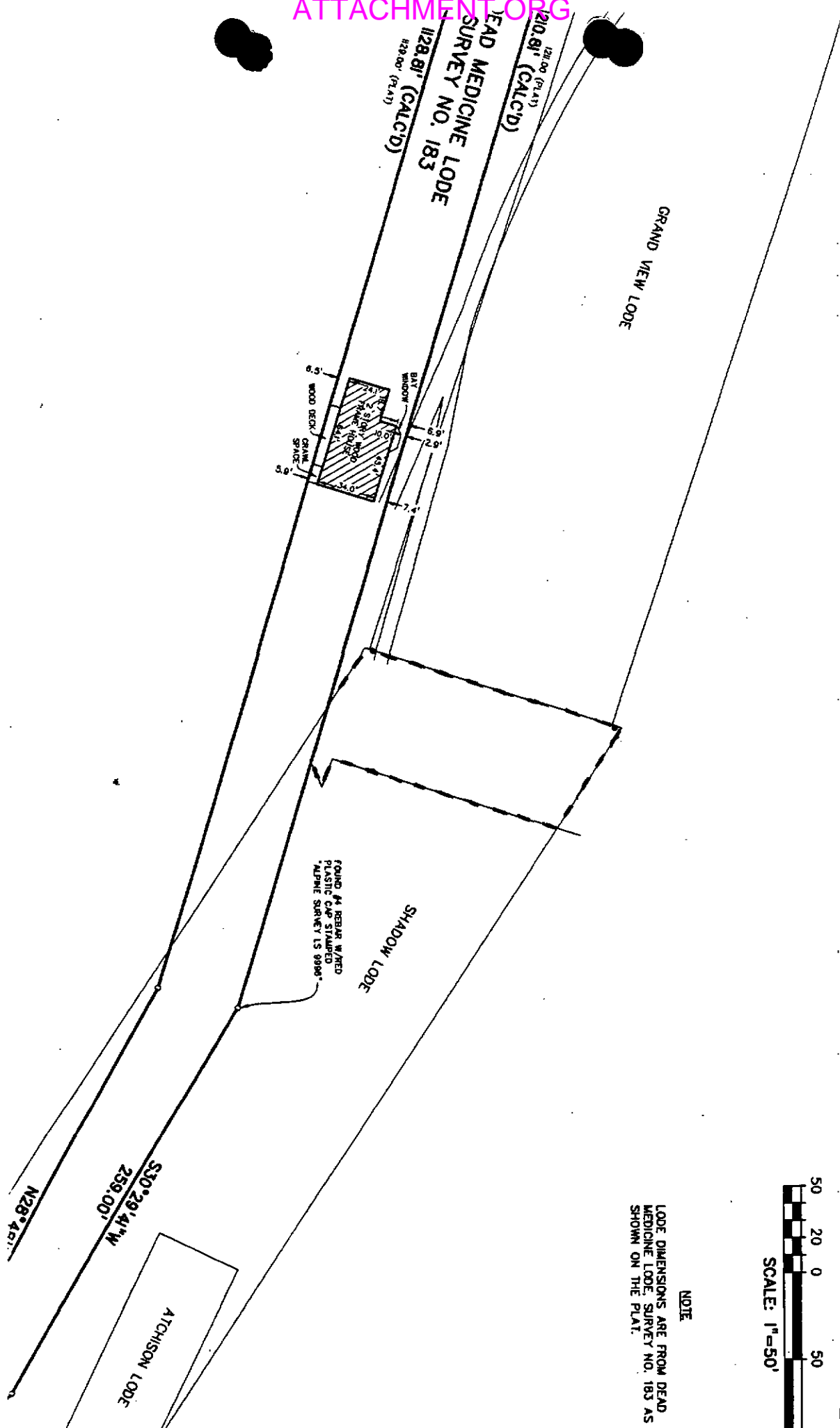
**IMPROVEMENT LOCATION CERTIFICATE**  
 I, hereby certify, that the improvement location certificate was prepared for FRED ELLS, THAT THIS IS NOT AN ADVISORY SURVEY.  
 PLAT OR AN IMPROVEMENT SURVEY PLAT and that it is not to be relied upon for the establishment of fence, building, or other future improvements.  
 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. 08013CD484 F, ZONE X.

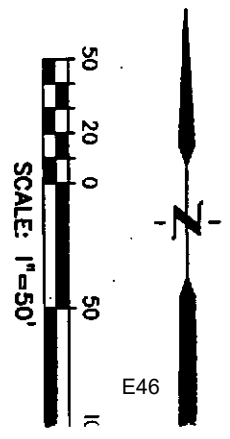


DAVID WALDNER  
 COLORADO REGISTERED  
 LAND SURVEYOR #28667

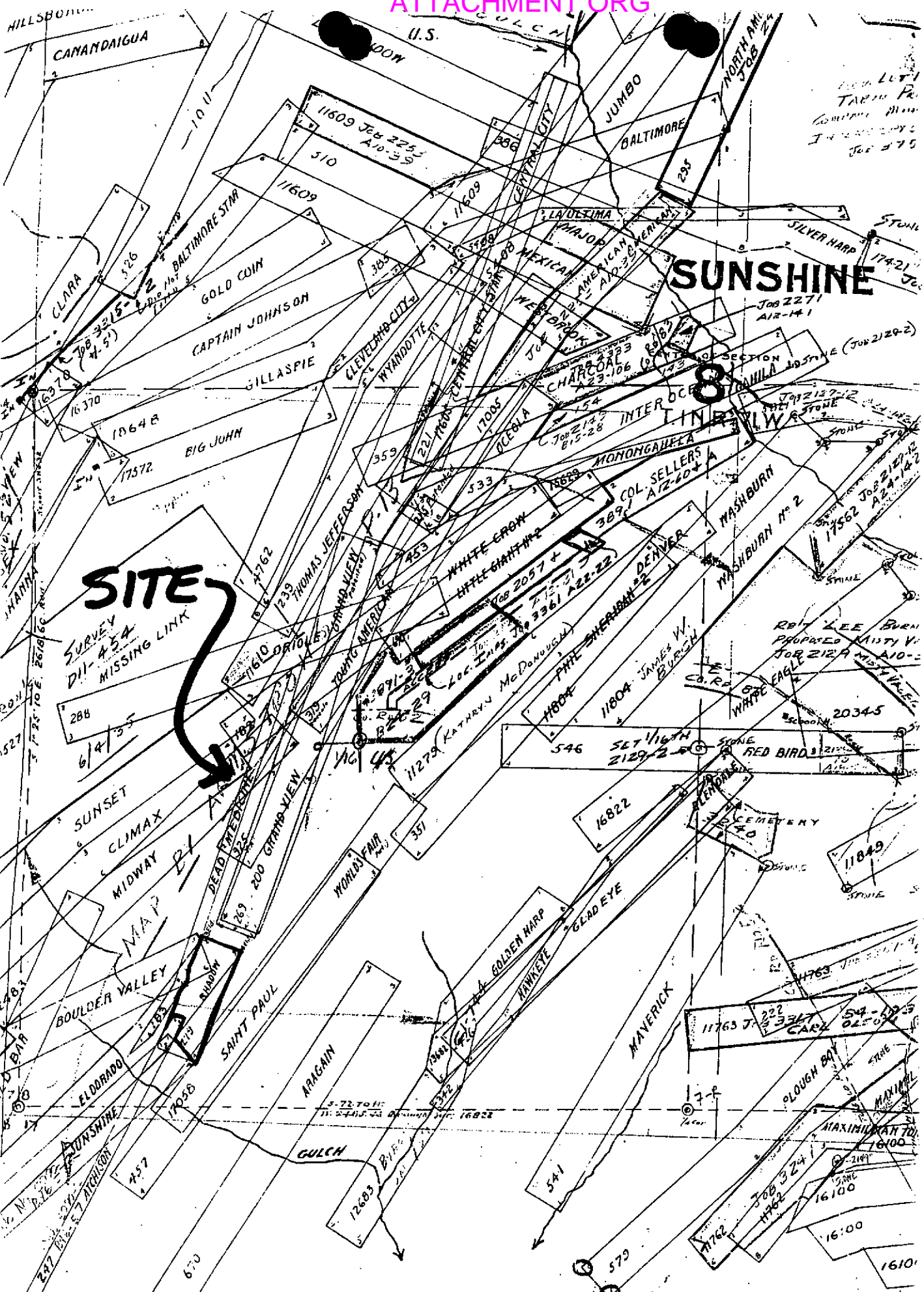
**RMCS SURVEYING & ENGINEERING, LLC**  
 4535 NORTH BROADWAY, SUITE 101  
 BOULDER, COLORADO 80304  
 (303) 448-1670  
 (303) 499-6755  
 720-565-1488 FAX  
 11/21/02  
 19311



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







**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>

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

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

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

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

18 **Interested Others:** 10 - 15

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

24 

---

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

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

34 The applicant has submitted two building permits including a permit for an addition to the existing residence  
 35 and a detached garage. Staff would note that the existing dwelling was constructed in 1986, basically been  
 36 ongoing. A variance for an 8-foot side yard setback, where 25 feet is required was approved by the Board of  
 37 Adjustment in June of 1986 prior to the issuance of that building permit. A recent Improvement Location  
 38 Certificate shows that the house was actually constructed just over 4 feet from the east property line at the  
 39 northern end of the house. And the applicant has indicated that he desires to reconstruct a portion of the east  
 40 side of the house, but did begin the project without a building permit. As part of the reconstruction project the  
 41 applicant decided to include a bay window that encroaches further into the setback and the application is  
 42 basically requesting a zero-foot setback along the east side of the house. The Location Certificate also shows  
 43 the existing dwelling is about eight feet from the west property line, however, the applicant constructed a deck  
 44 which is shown on the 1986 building permit on the west side of the house that is 6-foot wide and 5-feet high,  
 45 therefore, the deck is in violation of approved 8-foot side yard setback approved by the Board of Adjustment in  
 46 1986. And the applicant is requesting that the Board recognize and approve a side-yard setback from the west  
 47 boundary of 2.3-feet.

48 The applicant is also requesting to construct a detached garage that is part of the subject property, and this area  
 49 of the property is approximately 69-feet wide. The garage is proposed be 24 feet X 30 feet, and so therefore,  
 50 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*  
*November 6, 2002*  
*Page 2*

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

8  
9 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  
11 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  
13 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  
15 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  
17 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  
19 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  
23 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  
25 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  
27 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  
31 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  
33 citizens of the County.

34  
35 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,  
37 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  
39 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  
41 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  
43 request.

44  
45 *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*  
*November 6, 2002*  
*Page 3*

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.

46

*Transcript for Docket VAR-02-15: ELLS Variance*  
*November 6, 2002*  
*Page 4*

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.

30 **BEN:** Okay.

32 **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.

34 **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.

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

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

40 **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.



*Transcript for Docket VAR-02-15: ELLS Variance*  
*November 6, 2002*  
*Page 5*

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.

16 **PUBLIC HEARING OPENED.**

18 **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.

20 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 28 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 32 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 34 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 36 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 38 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 40 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 42 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 46 condensation problems that weren't planned on. It was part of the original process. It caused mold, and it

*Transcript for Docket VAR-02-15: ELLS Variance*

*November 6, 2002*

*Page 6*

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  
18 number of carpenter ants, a large amount of mold, and so he decided to repair this. The bay window part, if  
20 you noticed in the picture where the stairway is, there's a great view here by the way. The view route that is  
22 covered there, and you can't see, what he decided to do was simply to built a bay window there. It didn't make  
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  
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.  
32 And by the way he was invited in and asked to look at it on another issue. But what this shows is the walls  
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  
38 the outer extreme of the bay window. And what that would do is that it would put it close to the lot line, but  
remember there is a BLM 25-feet there, there's the driveway, and again this is not visible to any other neighbor  
40 in any other direction. Now let me handle some objections. I think as far as I know there's only one objection  
for one neighbor, and she is here present here today, and I guess she can address it. Apparently, her objection,  
42 she's not objecting to this bay window. She's saying there's a right-of-way problem. Let me discuss for a  
second the right-of-way problem. We don't have any problem with making proof of the right-of-way a  
44 condition of anything we're asking here for because this right-of-way has existed since the 1870s. There are  
reports from the Colorado Mining, an inspection that dates back to the 1870s. I have one here from 1938 that  
46 describes the road. The road is in good condition. In 1986 when he built this property there was no issue

*Transcript for Docket VAR-02-15: ELLS Variance*  
*November 6, 2002*  
*Page 7*

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  
24 15 shed there—pump shed, and a couple of 500 gallon tanks. So that it a variance because the setback, the  
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 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 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 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.
- 20
- 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
- 32 **THOMPSON:** Is there a good chance that we can get this done by the spring then?
- 34 **HAL:** One of the problems here is that we are only responsible for a very, very small section of this. So I 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 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 what you want to do.
- 38
- 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 may be 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.

46

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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
- 18    **HAL:** Is that the consensus of the Board understands this?
- 20
- 22    **BEN:** The second and third requests.
- 24    **THOMPSON:** Right.
- 26    **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.
- 28    **THOMPSON:** Right. And also the deck is part of that footprint, I know you understand that.
- 30    **HAL:** Yes.
- 32    **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.
- 40    **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.
- 42
- 44    **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
- 46



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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,  
8 and whether the hot tub violates any Codes is not an issue. The question is the footprint and the deck—  
actually that's what we're asking for your approval is Part A. I'm going to quit using numbers. Part B is the  
10 bay window and the extension out beyond the footprint. Did I mess it up, or did I clarify it?

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  
3 CONTINUE those until the next meeting, and separate them from Part 1, which is the approval of the footprint  
4 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  
9 next week so that we can send those out to the adjacent property owners for comment and consideration so that  
10 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  
15 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}*  
39 pump shed.

40 **HAL:** But see that's all between you.

42 **BEN:** Yeah, you guys work that out.

44 **HAL:** Are we in the boundaries here? Okay, those in favor?

46

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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 Ortega}:** "Aye."

12  
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 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 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  
28 **HAL:** Okay. I have a question for staff. Don't go away—you can sit down if you want. I want to make sure 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 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 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, 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  
42 **BEN:** Well, we have to decide both of those things.

44 **HAL:** Yeah. We have to decide if we want to follow staff's recommendation about the other part. From the 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.

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?

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?

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--.

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



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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  
under the greenhouse was structurally deteriorated. I mean there was no structure holding up the greenhouse.  
4 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  
square box, architecturally it looked terrible. And so I just cannily built a bay window out four feet because I  
6 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  
8 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  
10 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  
he did not realize that a bay window would be such a problem. And Greg was invited to his house. He  
14 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  
16 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  
20 **JOHN:** Okay.

22 **HAL:** If there are no more immediate questions, I'd like to open the public section of the hearing. Is everyone  
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.  
And I live in Denver. My mailing address or my home address?

32 **HAL:** Your home address.

34 **GOLDSTEIN:** 844 Humble. I'm not good in front of a lot of people so I'll do my best.

36 **MEMBERS OF THE BOARD:** Neither are we. And we're just a few people.

38 **GOLDSTEIN:** I'll give you a brief history because this is extremely complex mess that has been going off  
and on for a number of years. When I was young, I moved into a cabin up on Sunshine Canyon, which sat on  
40 the Grandview mining claim, and it was an improvement only on a mining claim. And over a period of—in the  
42 '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  
44 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  
3 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  
5 whatever interest they had, and I went through a quiet title action.

6  
7 So in 1986 when Fred began building, I had no authority whatsoever to deal with the issue of access over the  
8 Grandview mine. But he did ask the owners of the mining claim for an easement at that point, and they didn't  
9 give him an easement. I finally got clear title in the early '90s and at that point I approached Fred and talked  
10 about "let's resolve the easement issue," because he was crossing the Grandview to get to his mining claim.  
11 Which as I understand it, is long and skinny, and he could have built his own road to access his home, but he  
12 went over a grown over area of land that had been a road to the mine. In the following years, Fred and I had  
13 conversations about issues that came up on numerous occasions. And I tried to be a cooperative neighbor in as  
14 many ways as I could. He had stored maybe the fire truck that he is talking about on my property, and I had to  
15 ask him to remove it. There may have been a second truck. He used a plow of some sort to actually cut the  
16 road that crosses the Grandview; made it wider and caused some erosion problems for me, without permission.  
17 And had stored a lot of building material on the driveway in front of his house, which I thought was probably  
18 may land, but it turns out it may have been BLM.

19  
20 The final straw happened this summer, apparently, during the fire season. Fred found himself very much afraid  
21 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  
23 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  
25 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  
27 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  
29 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  
31 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  
33 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 tired to get this resolved, and I want to go on record that I am not against having that water be  
35 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  
37 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  
39 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  
41 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,  
43 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  
45 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  
3 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  
5 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  
7 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  
9 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  
11 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  
13 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  
15 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,  
17 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  
19 *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*  
21 *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*  
23 *anything out.*

24  
25 **HAL:** I have a quick question.

26  
27 **GOLDSTEIN:** Uh-huh.

28  
29 **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  
31 variance is it basically comes down, for me, it comes down to the bay window.

32  
33 **GOLDSTEIN:** Um-hum.

34  
35 **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  
37 about the bay window?

38  
39 **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  
41 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  
43 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.

45  
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,  
36 said that the road he uses hasn't been widened and when the equipment was brought in, I don't know if he drove it or somebody else drove. It did widen the area going over the Grandview. I live there in the early '70s  
38 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 tell you.

40 **HAL:** Okay. Thank you very much. Is there anyone else from the public who would like to address this  
42 matter this evening? Please come forward. And could you state your name and address, please?

44 **RICHARD STARKS:** (Adjacent Property Owner) Yes. My name is Al Starks. And my wife and I live at  
46 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 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  
4 esthetically with what's going on there.

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  
10 property owner to Fred Ells. I'll keep it quick. In terms of the bay window and the footprint, this isn't a  
12 subdivision on the plains where the homes are only six feet apart. Mr. Ells nearest neighbor is 400-feet distant  
14 with BLM holdings in between, and I'm a better part of a half mile away. We all see these a definite  
16 improvements to Mr. Ells, except that we can't see them. On the other point of the trees, I realize that's  
18 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  
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  
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,  
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  
22 consider basically.

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  
32 as I understand it you're recommendation is that the Board approve the existing footprint of the house only. Is  
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  
40 applicant, there's a slight overhang over the bay window. And I'm not real clear on whether or not that is the  
42 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  
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  
46 ver 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?

**GREG:** No. Well, for setbacks we can exclude sections of eaves, but we cannot approve any structure that  
34 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  
would have to move it back and have to put inside his property line.

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

40 **HAL:** Okay.

42 **THOMPSON:** I agree.

44 **BEN:** I think John's right. And I don't think that the--.

46 **JOHN:** To me the measurements are all off. We need more clear, legal descriptions of what this all is—these

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*Page 28*

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 property—his property is over the line, I mean, what are his rights then. Can he bring the whole house back to the line? I mean, I don't--

8

**HAL:** If we approve the 1980—if we follow staff's recommendation and improve—I mean, approve the setbacks for the structure constructed in 1986 that's accepting to the fact that there was a surveying error, 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.

**JOHN:** Hal, if you look at the plans the survey itself is certified stamped and it shows clearly that the existing building is 4 feet—4.2 feet, which doesn't include the bay window over the line already.

18

**HAL:** So you think it's over the line already?

20

**BEN:** Well, it might be. And it's—now we have testimony that there's still uncertainties in the survey. I mean what happens, let me just ask this question. What happens if it turns out that the boundary is off, and 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?

26

**HAL:** There is that side of it, yeah. *{Laughter among the Board}* Let's make it a little more complicated. *{Laughter among the Board}*

28

**BEN:** I mean, it sounds like there's a property line dispute here. It sounds like they haven't figured out, I 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?

32

**HAL:** Well, from my point of view I'm not sure we do because the house exists.

34

**BEN:** Yeah, but if we grant him a zero line variance, or setback variance, against a line that's not precise, we don't really know what the result is going to be.

36

**JAMES:** Well, Ben, I think it goes back to the—what the applicant, or the applicant's representative, has asked. That you actually separate it into two separate issues, point "A" – the existing footprint of the 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.

42

**BEN:** Well, I don't know.

44

46

*Transcript for Docket VAR-02-15: ELLS Variance*  
*November 6, 2002*  
*Page 30*

2  
3 **ELLS:** Can I make one statement?

4  
5 **HAL:** Sure.

6  
7 **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,  
9 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  
11 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.  
13 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  
15 be on my property.

16  
17 **HAL:** Well, I'm going to make it more complicated. Which side of the property might that extra footage  
18 be?

19  
20 **ELLS:** It's on the front side. Because the--.

21  
22 **HAL:** You're absolutely sure of that?

23  
24 **ELLS:** Yeah. And Drexel will certify that because the back line I had that certified in by Glen True and  
25 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  
27 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  
29 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  
31 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.

33  
34 **THOMPSON:** I think to make it easier, you could make a condition, understanding that if you approve it  
35 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.  
37 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  
39 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,--.

41  
42 **HAL:** And prove it, yeah.

43  
44 **THOMPSON:** --and if they say the bay window now as it exist is in the wrong place, he's got to take it  
45 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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**GREG:** That would be correct.

**HAL:** Okay. *{Laughter and long pause}* I'm inclined to follow the staff recommendation and approve the setback variance for the structure constructed in 1986. I think that—I'm fine with that. I don't even have any problem with putting the bay window on as long as it doesn't violate any property line. How about somebody else?

**JAMES:** I would be in support of the staff recommendation, but not to exceed the existing footprint of the building.

**BEN:** You mean, existing footprint as it's--.

**JAMES:** As it was approved.

**BEN:** As it was approved in the 1986 footprint?

**JAMES:** '86 footprint, that's correct.

**BEN:** Okay. I think what would be good would be to separate this if we're going to offer motions. I'm 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.

**HAL:** Can we do that?

**PAT:** Yes.

**HAL:** Okay.

**MOTION FOR THE 1986 FOOTPRINT OF THE RESIDENCE:**

**JAMES:** Okay, Mr. Chairman, in the—I move that in the matter of Docket VAR-02-15 the Ells Variance 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.

**HAL:** I second that. All those in favor "aye."

**BEN:** Wait. Wait. Wait.

**HAL:** I'm sorry.

**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 action is necessary to make sure even that footprint is on his property. If there's any doubt about that. Okay?



Transcript for Docket VAR-02-15: ELLS Variance  
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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  
hearing.

46

*Transcript for Docket VAR-02-15: ELLS Variance*  
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- 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 next--.
- 12
- 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 not to.
- 32
- 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 request is to table and the second is to withdraw.
- 42
- 44 **THOMPSON:** Yes.
- 46 **HAL:** Well, I'd like to poll the Board about how people feel about doing more this with this.

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*November 6, 2002*  
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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?

46



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

ADJOURNED

12

*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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# 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

E84

VAR-02-15: ELLS

BOA

11/6/02

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 ~~to~~ 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' <sup>pump</sup> shed at the site → not requesting this be approved at this time for 2-5000 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 2<sup>nd</sup> & 3<sup>rd</sup> 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<sup>±</sup>-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 Barwell will certify that the structure (bay window) is within the 47<sup>±</sup>-foot wide property

James Ortega - approve footprint of structure as approved in the 1986 building permit

Hal Osteen - 2<sup>nd</sup> Approved 5-0

\* making sure the existing structure is within the subject property

James Ortega - denial of the bay window portion

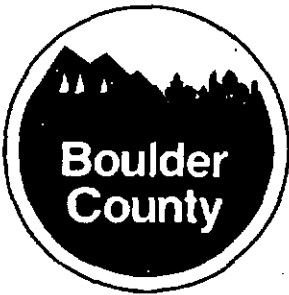
John Dickinson - 2<sup>nd</sup>

Ben Thompson - request the BOA "table" to allow <sup>additional</sup> ~~the~~ information  
be provided

Ben Harding - request a letter confirming an adequate  
survey and boundary

Table to <sup>Dr.</sup> Approve 5-0





# 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 P.M.

- 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)

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 3<sup>rd</sup> 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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# 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.



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.*

**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.

***(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).

G:\LUD\LUSHARED\Dockets\VAR0215\15BREC.doc



EXHIBIT  
1  
ECL5

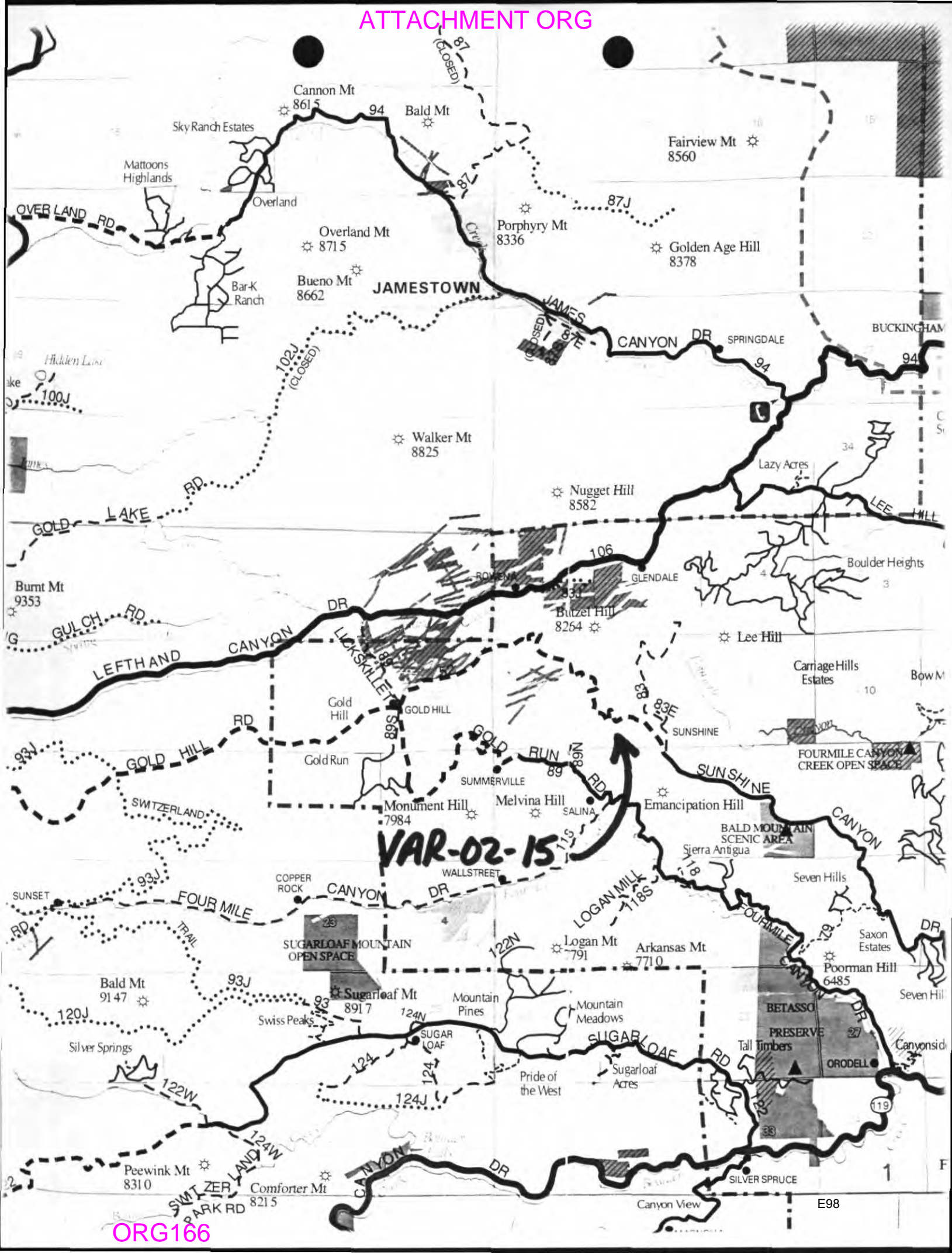




ORG165

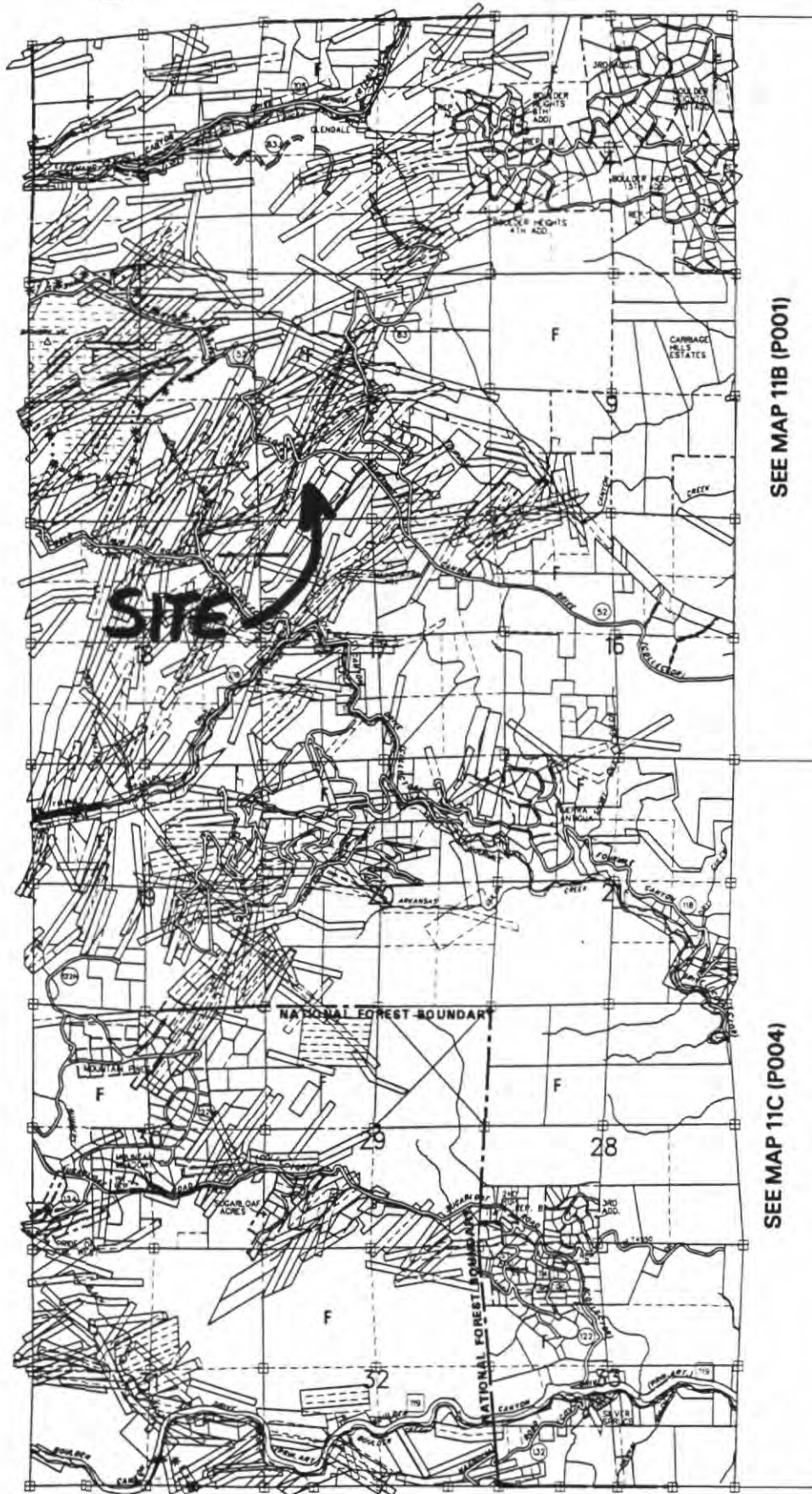
EXHIBIT  
2  
E97





VAR-02-15





SEE MAP 11B (P001)

SEE MAP 11C (P004)







ELLS FRED JOHN


PID: 146108000074 TAX ID: 58634

SEARCH RADIUS: 1500 FEET

Avg. Struc. SqFt: 2374

 Subject Parcel

 Zone to Notify

 Unidentified Owner

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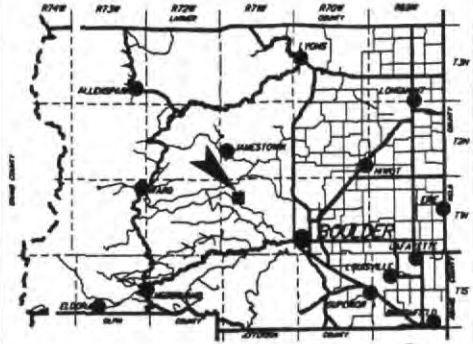


BOULDER COUNTY LAND USE  
Data Compiled: 10/08/02



775 feet

Map Location





N 45° 49' E 96' +/-

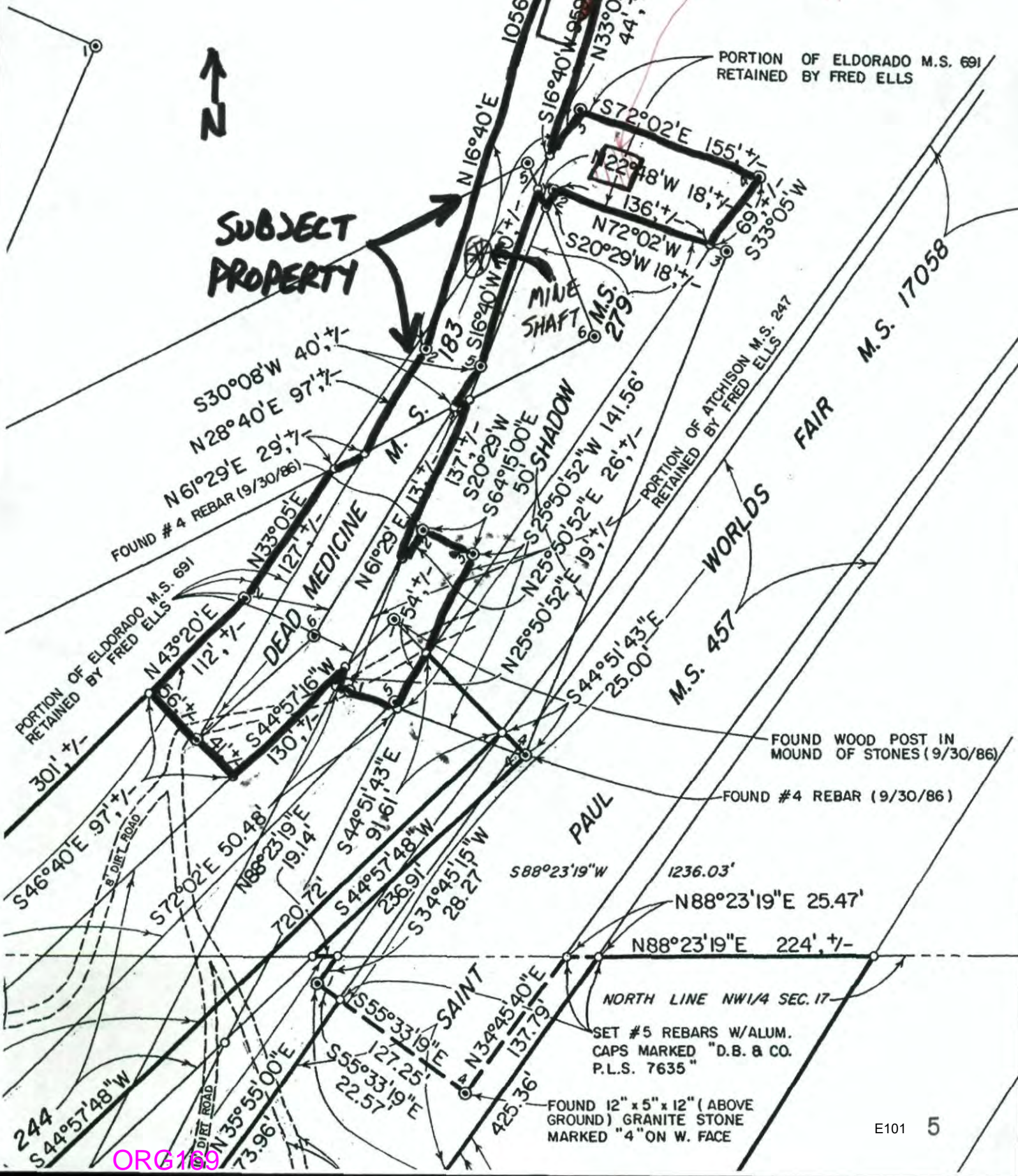
PROPOSED BAY WINDOW

PROPOSED DETACHED GARAGE



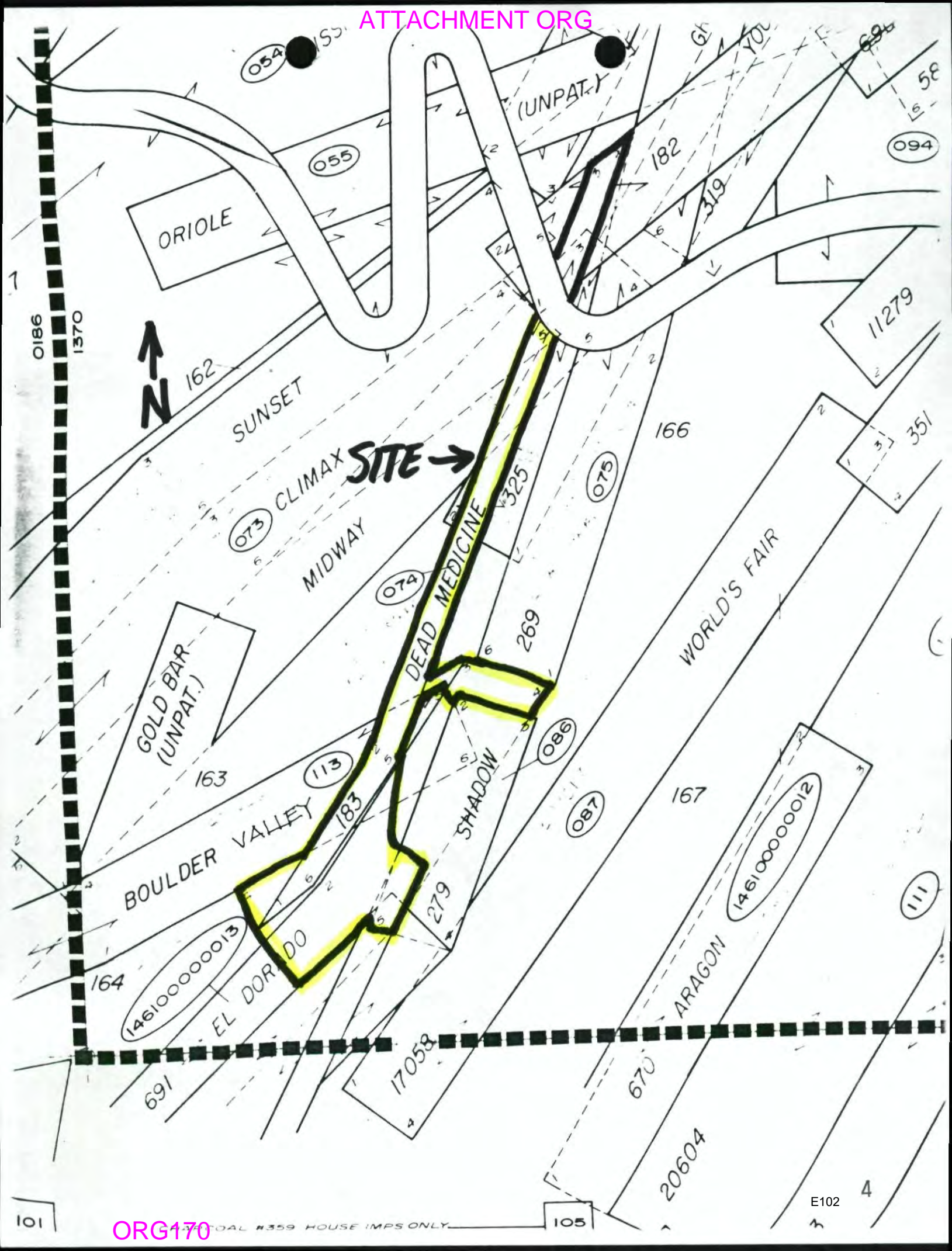
SUBJECT PROPERTY

PORTION OF ELDORADO M.S. 691 RETAINED BY FRED ELLS

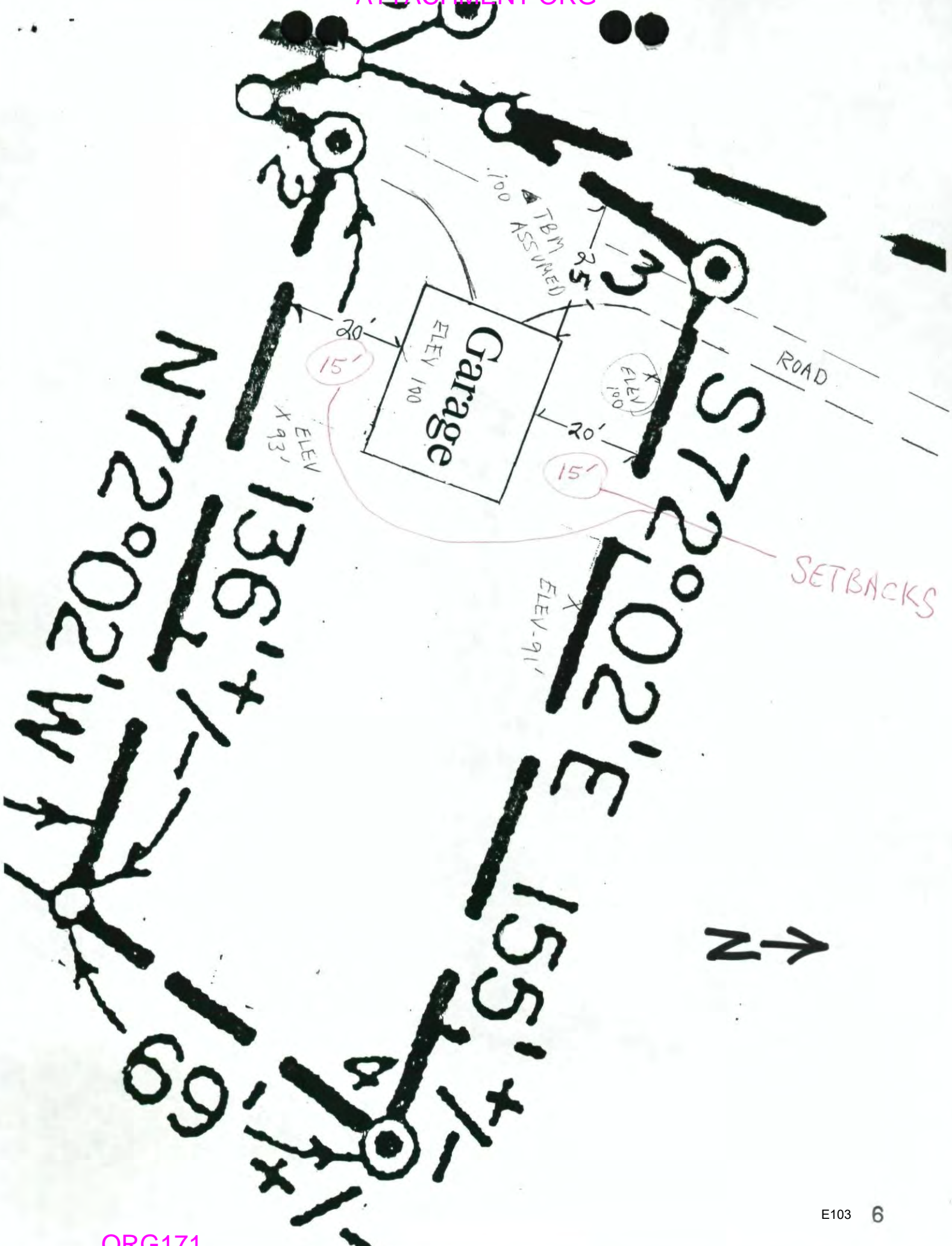


ORG169

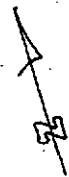




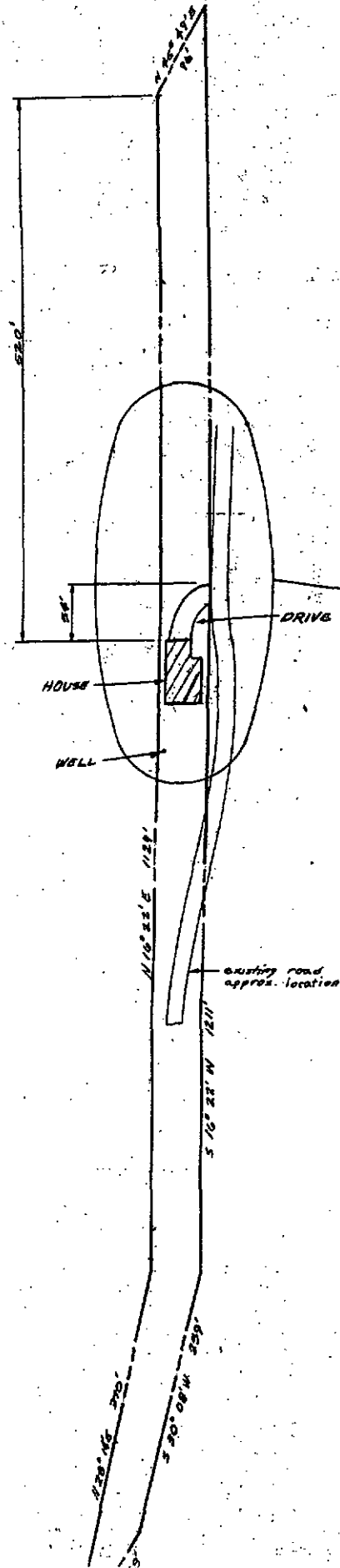




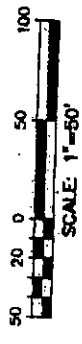
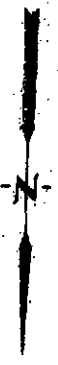




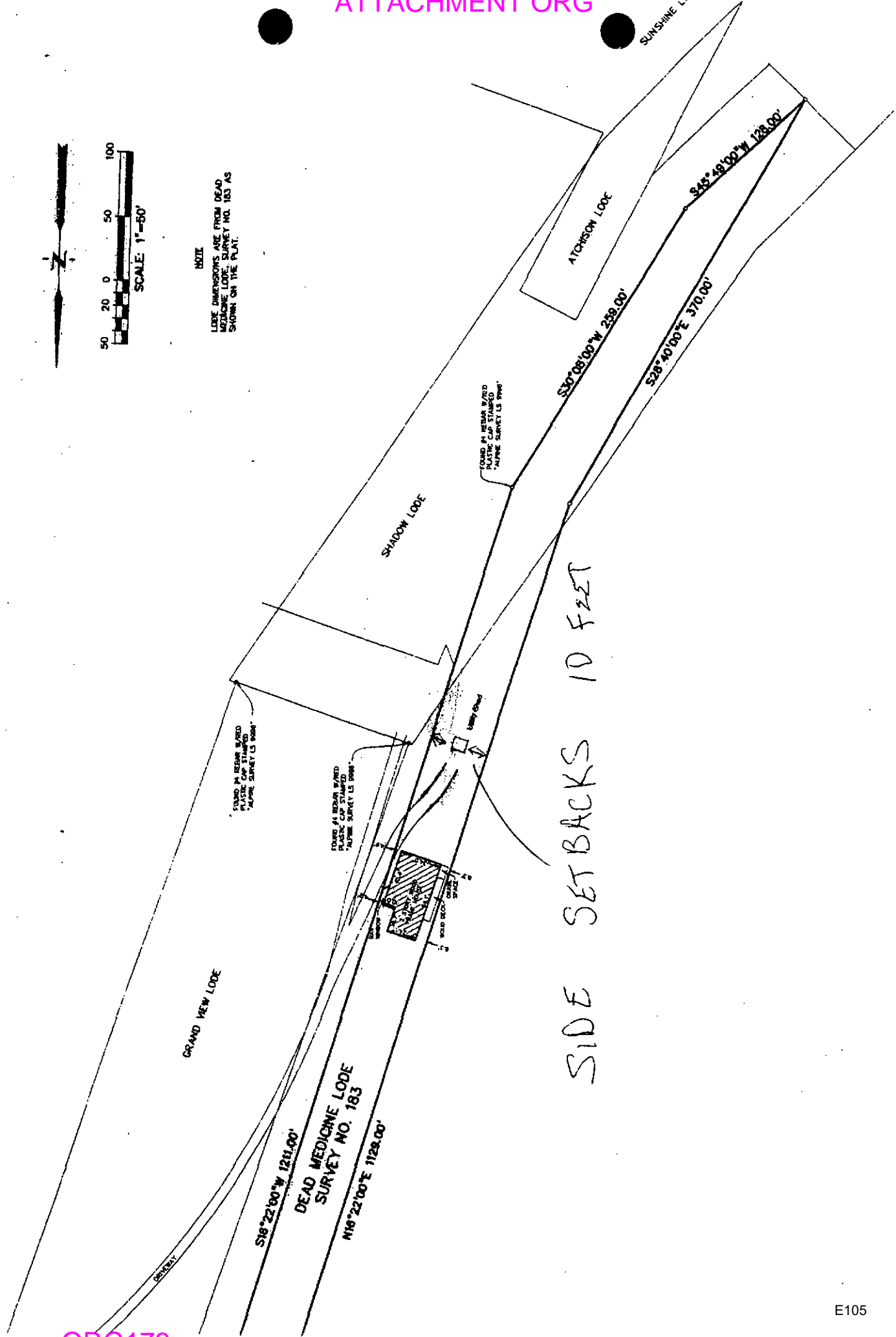
SCALE 1"=100'



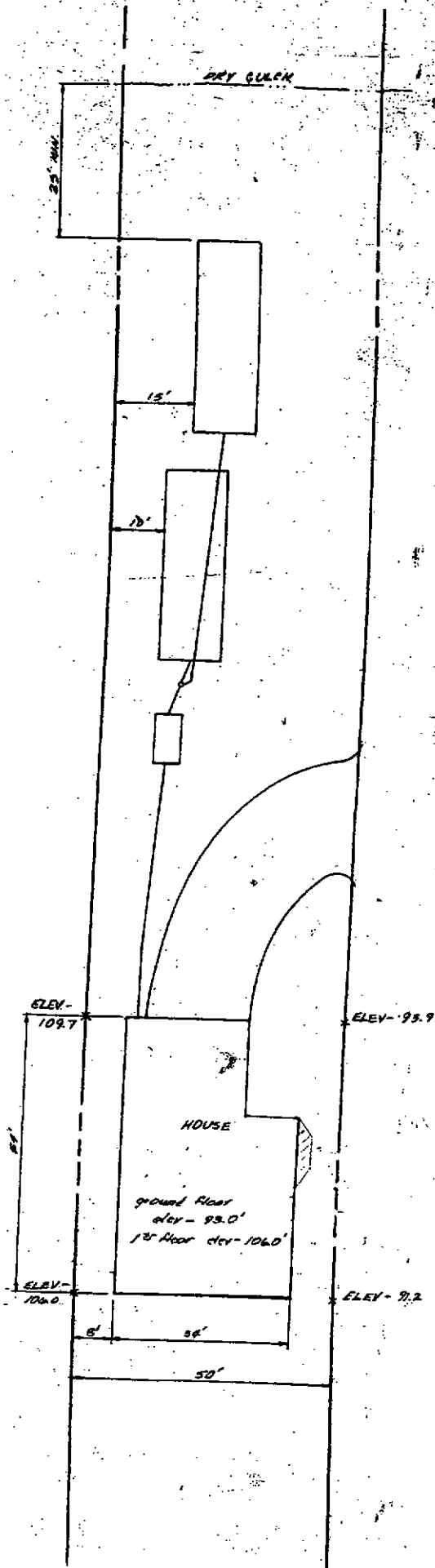
SUNSHINE L.



NOTE  
LOBE DIMENSIONS ARE FROM DEAD  
MEDICINE LOBE SURVEY NO. 183 AS  
SHOWN ON THE PLAN.



SIDE SETBACKS 10 FEET



SCALE 1" = 20'





**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**

SHADED AREAS FOR STAFF ONLY

INTAKE STAMP

**P A I D**

OCT 02 2002

BOULDER COUNTY  
LAND USE

#250 - #5090

**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

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
PROPOSED WATER SUPPLY WELL		EXISTING USE OF PROPERTY FORESTRY	NUMBER OF PROPOSED LOTS
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 ( )			
APPLICANT/PROPERTY OWNER SAME		STREET ADDRESS	
CITY	STATE	ZIP CODE	PHONE NUMBER
FAX NUMBER			
APPLICANT/PROPERTY OWNER		STREET ADDRESS	
CITY	STATE	ZIP CODE	PHONE NUMBER
FAX NUMBER			
AGENT/CONSULTANT		STREET ADDRESS	
CITY	STATE	ZIP CODE	PHONE NUMBER
FAX NUMBER			
AGENT/CONSULTANT		STREET ADDRESS	
CITY	STATE	ZIP CODE	PHONE 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 ●

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.

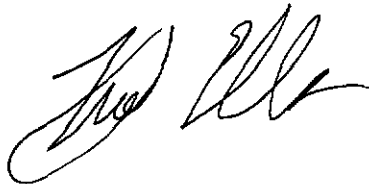
**The second variance request is for a 15 foot setback (both sides) for the proposed detached garage located on the El Dorado mining claim.**

**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

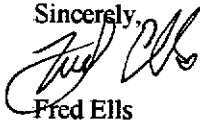
The 4' x 8' bay window in no way will change the house from a single-family two-bedroom home. The garage with attached greenhouse is very typical in a mountain neighborhood.

- 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 Ells



*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



# 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 <b>6301 Sunshine Cyn</b>			APARTMENT #	CITY <b>Bldg</b>	ZIP CODE <b>80302</b>
LOT	BLOCK	SUBDIVISION NAME	SECTION <b>8</b>	TOWNSHIP <b>1N</b>	RANGE <b>71</b>

### OWNERSHIP

OWNER'S NAME <b>FRED ELLIS 303</b>	DAY PHONE <b>442 5340</b>
ADDRESS <b>6301 Sunshine Cyn</b>	NIGHT PHONE <b>442 5340</b>
CITY <b>Boulder</b>	STATE <b>Co</b>
	ZIP CODE <b>80302</b>

### CONTRACTOR

CONTRACTOR'S NAME <b>SAME</b>	DAY PHONE
ADDRESS	NIGHT PHONE
CITY	STATE
	ZIP CODE

DESCRIBE THE PROJECT <b>Bay Window Remodel BP-02-1510</b>	<b>Detached Garage BP-02-1624</b>	ESTIMATED COST \$
--	---------------------------------------	----------------------

### TYPE OF PROJECT (Check One)

- (01) NEW STRUCTURE
  - (02) ADDITION TO EXISTING STRUCTURE
  - (03) REMODEL EXISTING STRUCTURE
  - (04) ELECTRICAL ONLY
  - (09) MOBILE HOME (in Mobile Home Park Only)
  - (01) MOBILE HOME (outside Mobile Home Park Only)
  - (01) MODULAR
  - (05) GRADING AND EXCAVATION ONLY
  - (06) SIGN
  - (07) OIL AND GAS EXPLORATION ONLY
  - (12) OIL AND GAS PRODUCTION ONLY
  - (11) UNDERGROUND MINING
  - 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
- (19) FIVE OR MORE FAMILY DWELLING
- (16) MOBILE HOME
- (10) DETACHED GARAGE OR CARPORT FOR A DWELLING
- (07) CHURCH OR RELIGIOUS BUILDING
- (08) INDUSTRIAL BUILDING
- (09) SERVICE STATION OR REPAIR GARAGE
- (12) OFFICE BUILDING
- (13) SCHOOL OR EDUCATION BUILDING
- (14) STORE OR MERCANTILE BUILDING
- (15) OTHER BUILDING (Barn, Poultry Building, etc.)
- (23) OTHER STRUCTURES (Pool, Hot Tub, Fence, etc.)
- OTHER:

### STRUCTURE DATA

EXISTING		TO BE CONSTRUCTED	
HEIGHT OF STRUCTURE	FT	FT	FT
NUMBER OF STORIES			
NUMBER OF DWELLINGS			
NUMBER OF BEDROOMS			
NUMBER OF BATHROOMS			
PROPERTY SIZE:	ACRE(S)		
FRONT SETBACK EXISTING	FT	SIDE SETBACK EXISTING	FT
FRONT SETBACK PROPOSED	FT	SIDE SETBACK PROPOSED	FT
		REAR SETBACK EXISTING	FT
		REAR SETBACK PROPOSED	FT

STRUCTURE SIZE (for New construction & additions Only)	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
<b>TOTAL(S)</b>	<b>SO FT</b>	<b>SO FT</b>
GARAGE	SO FT	SO FT
DECK	SO FT	SO FT
GREENHOUSE	SO FT	SO FT

### WATER SERVICE (✓ One)

### SEWER SERVICE (✓ One)

### ELECTRICAL SERVICE (✓ One)

### GAS SERVICE (✓ One)

### ACCESS (✓ One)

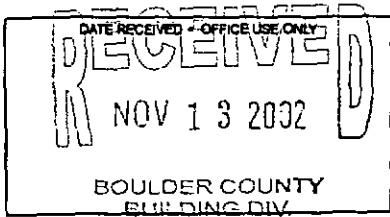
<input checked="" type="checkbox"/> INDIVIDUAL WELL <input type="checkbox"/> COMMUNITY WELL <input type="checkbox"/> NOT APPLICABLE (None) <input type="checkbox"/> PUBLIC (Name)	<input checked="" type="checkbox"/> SEPTIC TANK <input type="checkbox"/> VAULT <input type="checkbox"/> NOT APPLICABLE (None) <input type="checkbox"/> PUBLIC (Name)	<input checked="" type="checkbox"/> PUBLIC SERVICE CO. <input type="checkbox"/> UNION REA <input type="checkbox"/> ESTES PARK <input type="checkbox"/> POUDDRE VALLEY REA <input type="checkbox"/> LONGMONT <input type="checkbox"/> NONE	<input type="checkbox"/> PUBLIC SERVICE CO. <input checked="" type="checkbox"/> PROPANE <input type="checkbox"/> NONE <input type="checkbox"/> OTHER (Name)	<input checked="" type="checkbox"/> EXISTING DRIVEWAY <input type="checkbox"/> NEW DRIVEWAY <input type="checkbox"/> 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 <i>[Signature]</i>	DATE <b>10-1-2002</b>	TITLE <b>owner/builder</b>
---	--------------------------	-------------------------------





# 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 <b>6301 Sunshine Cyn</b>	LOT	BLOCK	SUBDIVISION		
CITY/ZIP CODE	SECTION	TOWNSHIP	RANGE		

OWNERSHIP				CONTRACTOR			
OWNER'S NAME <b>FRED ELLIS</b>	DAY PHONE NUMBER <b>303 442 5390</b>	CONTRACTOR'S NAME		DAY PHONE NUMBER		NIGHT PHONE NUMBER	
ADDRESS <b>6301 Sunshine Cyn</b>	NIGHT PHONE NUMBER	ADDRESS		NIGHT PHONE NUMBER		FAX NUMBER	
CITY <b>Bldr</b>	STATE <b>Co</b>	ZIP CODE <b>80302</b>	FAX NUMBER	CITY	STATE	ZIP CODE	FAX NUMBER

<p><b>DESCRIBE THE PROJECT</b></p> <p><b>Utility Shed</b></p> <p><b>13 X 15</b></p>	<p><b>ESTIMATED COST</b></p> <p><b>\$ 1000.00</b></p>
---	---

TYPE OF PROJECT (✓ One)	TYPE OF STRUCTURE (✓ One)
<input checked="" type="checkbox"/> (01) New Structure <input type="checkbox"/> (02) Addition To: <input type="checkbox"/> (03) Remodel <input type="checkbox"/> (04) Electrical <input type="checkbox"/> (07) Demolition of Structure <input type="checkbox"/> (08) Change of Use <input type="checkbox"/> (09) Moved-In Structure	<input type="checkbox"/> (01) One Family Dwelling <input type="checkbox"/> (02) Two Family or Attached Dwelling (Including Townhouse) <input type="checkbox"/> (03) Three & Four Family Dwelling <input type="checkbox"/> (04) Hotel or Motel <input type="checkbox"/> (05) Amusement & Recreation Building <input type="checkbox"/> (07) Church & Other Religious Building <input type="checkbox"/> (08) Industrial Building, Manufacturing Plant, Factory <input type="checkbox"/> (09) Service Station & Repair Garage <input type="checkbox"/> (10) Detached Garage <input type="checkbox"/> (12) Office, Bank, and Professional Building <input type="checkbox"/> (13) School <input type="checkbox"/> (14) Store, Customer Service <input checked="" type="checkbox"/> (15) Barn, Storage Shed, Outbuilding <input type="checkbox"/> (16) Mobile/Manufactured Home <input type="checkbox"/> (22) Public Works, Utility Building <input type="checkbox"/> (23) Pool, Hot Tub, Fence, Retaining Wall, Pump (Non-Structure) <input type="checkbox"/> Other: _____

EXISTING	TO BE CONSTRUCTED	COMPLETE ONLY FOR NEW PROJECT		
HEIGHT OF STRUCTURE	FT. <b>10</b> FT.	STRUCTURE SIZE	FINISHED	UNFINISHED
NUMBER OF BEDROOMS	<b>1</b>	BASEMENT	SO. FT.	SO. FT.
NUMBER OF BATHROOMS	<b>0</b>	1ST STORY	SO. FT.	SO. FT.
PROPERTY SIZE:		2ND STORY	SO. FT.	SO. FT.
		3RD STORY	SO. FT.	SO. FT.
		OTHER STORIES	SO. FT.	SO. FT.
		GARAGE <b>Shed</b>	SO. FT. <b>795</b>	SO. FT.
		DECK	SO. FT.	COVERED DECK
			SO. FT.	SO. FT.

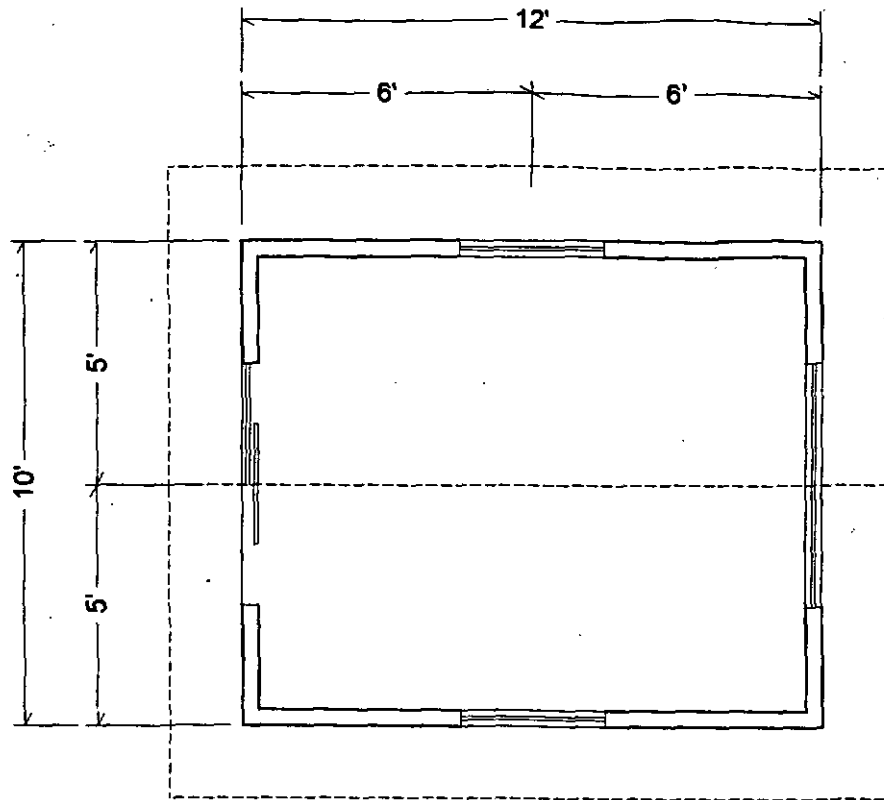
SETBACKS (Distance of Project to Property Lines)			
FRONT SETBACK EXISTING	SIDE SETBACK EXISTING	REAR SETBACK EXISTING	
FRONT SETBACK PROPOSED	SIDE SETBACK PROPOSED	REAR SETBACK PROPOSED	

WATER SERVICE (✓ One)	SEWER SERVICE (✓ One)	ELECTRICAL SERVICE (✓ One)	GAS SERVICE (✓ One)	ACCESS (✓ 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"/> POWDER 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

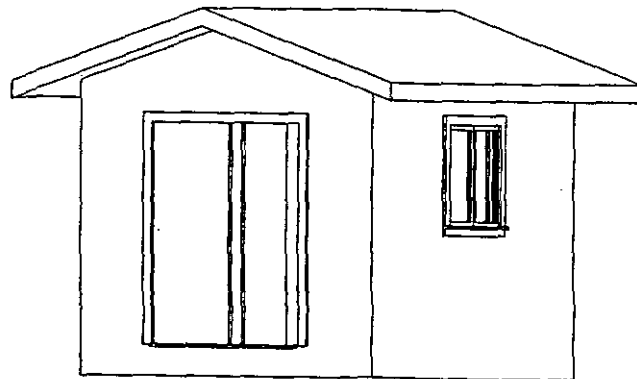
I hereby certify that the above information is correct and agree to construct this building in accordance with the plot, building plans and specifications submitted herewith, and in strict compliance with all the provisions of the Zoning Ordinance, Building Code, Electrical Code, and Health and Plumbing Regulations of the County of Boulder.

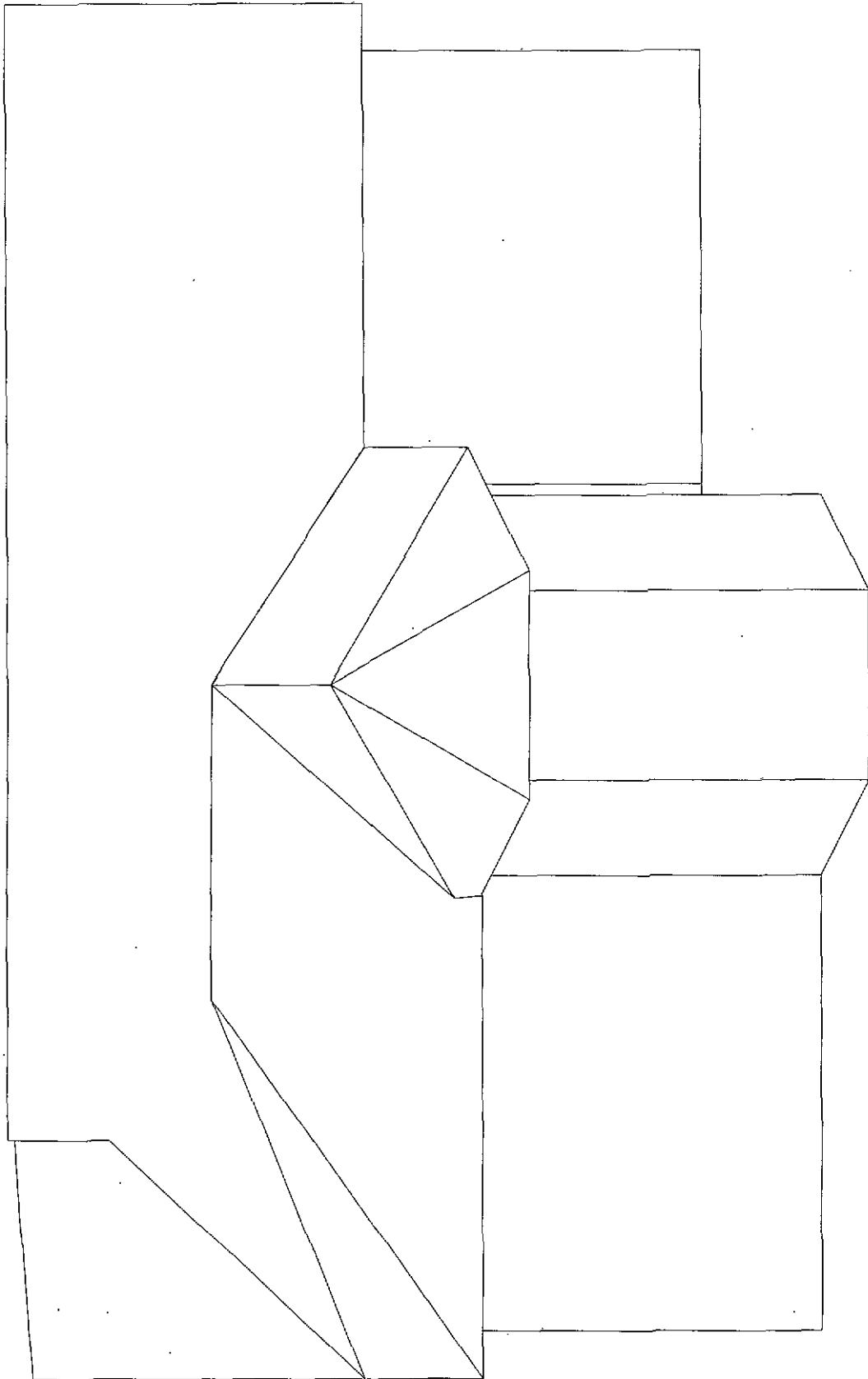
OWNER/AGENT'S SIGNATURE <b>X</b> <i>[Signature]</i>	DATE <b>11-13/2002</b>	TITLE <b>owner/owner</b>
--	---------------------------	-----------------------------



Utility Shed

- 3-tab shingles
- 3/4 plywood roof sheathing
- 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

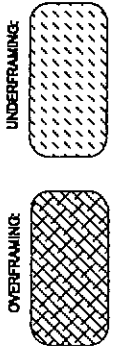






**HANGER LIST**

(A) - LUS28	(E) - HJUS28-3	(1) - L330
(B) - HUS28	(F) - HJUS210-3	(2) - L7812 STRAP
(C) - HUS28	(G) - LTH-L	(X) - MTS28 STRAP
(D) - HJUS28-2	(H) - LTH-R	



**NOTES:**

1. SEE HIB-91 FOR BRACING AND INSTALLATION RECOMMENDATIONS.
2. ALL AREAS NOT INDICATED AS TRUSSES ARE CONSIDERED CONVENTIONAL FRAMING BY OTHERS.
3. TRUSS SPACING IS 24" O.C. (U.N.O.)
4. ALL WALLS SHOWN ON LAYOUT ARE USED FOR BEARING. REFER TO TRUSS ENGINEERING FOR REACTIONS.
5. ALL HEADERS ASSUMED DROPPED (U.N.O.)
6. TRUSS ANCHOR TO BE INSTALLED AT EACH END OF TRUSS (U.N.O.)
7. ALL DIMENSIONS INDICATED ARE FROM FACE OF WALL, OR FROM THE FACE OF TRUSS TO TRUSS (U.N.O.)
8. DO NOT CUT, ALTER, OR USE DAMAGED TRUSSES WITHOUT ENGINEERING APPROVAL

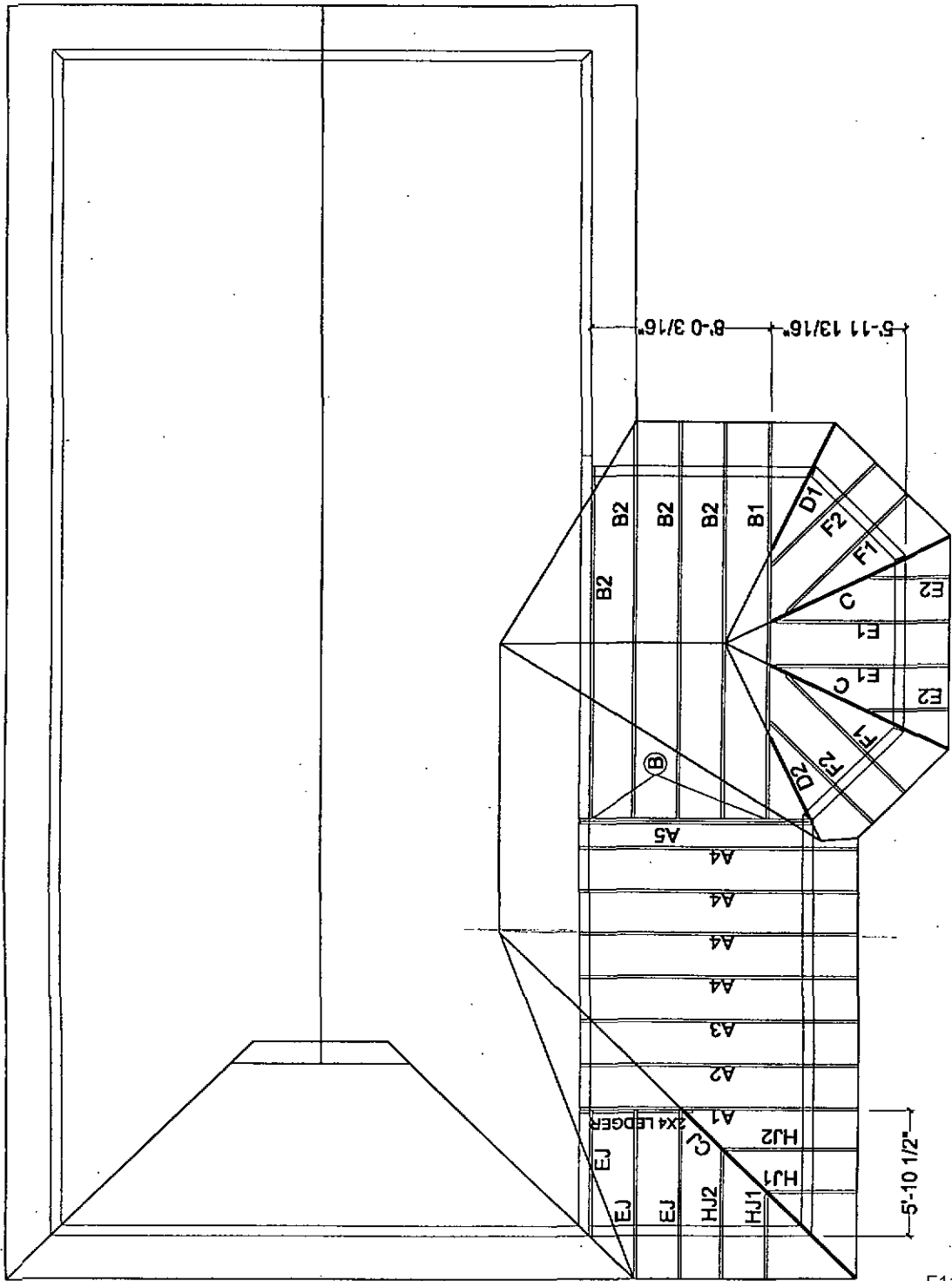
JOB #: 3628 COMPUTER NO.: 02-0462 DRAWN BY: DD

**JOB INFORMATION:**

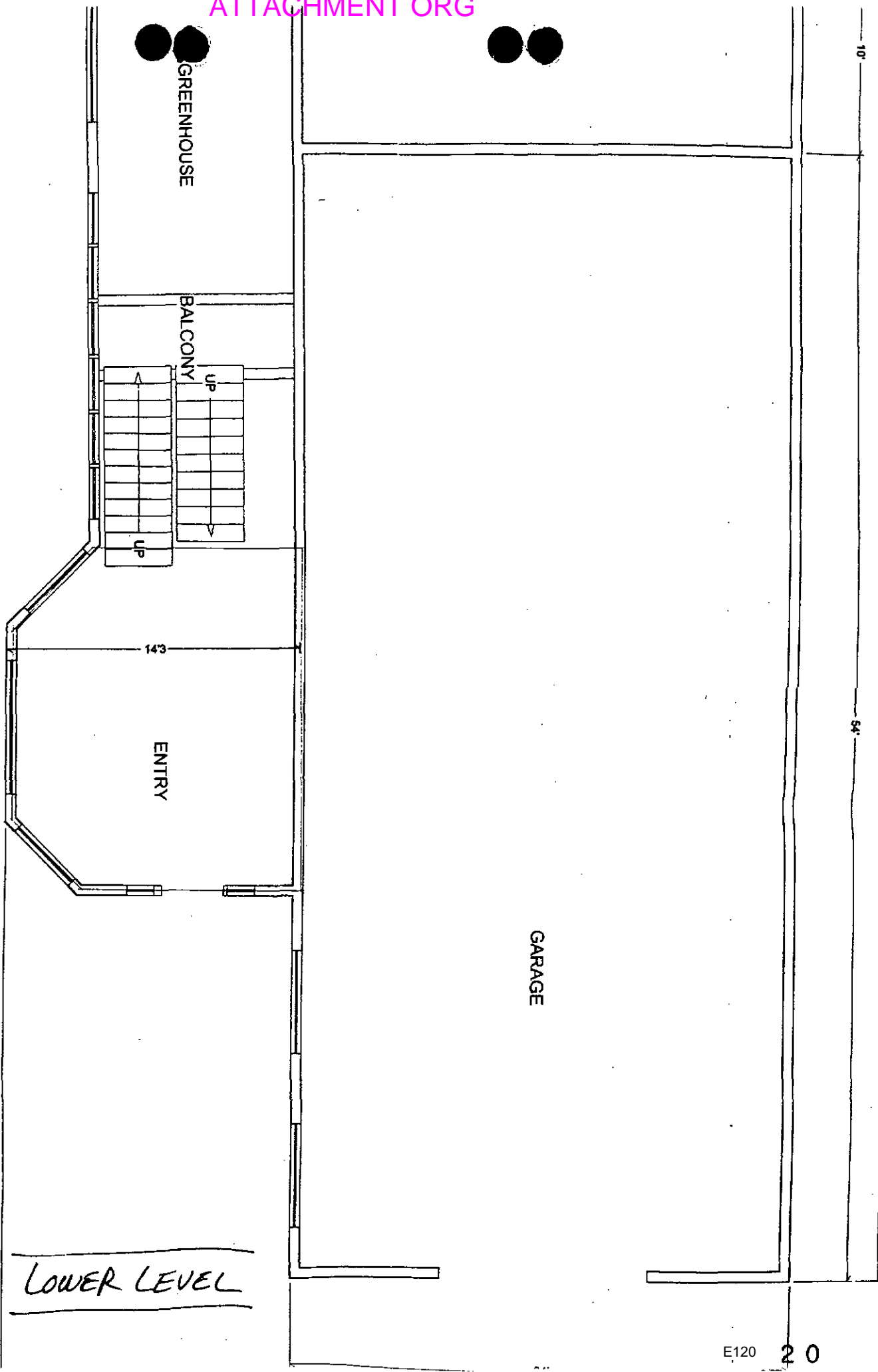
FRED ELLS  
6301 SUNSHINE CANYON DR  
BOULDER, CO 80502



7500 Johnson Drive  
P.O. Box 779  
Frederick, CO 80530  
303-485-7500  
303-485-7555 (fax)

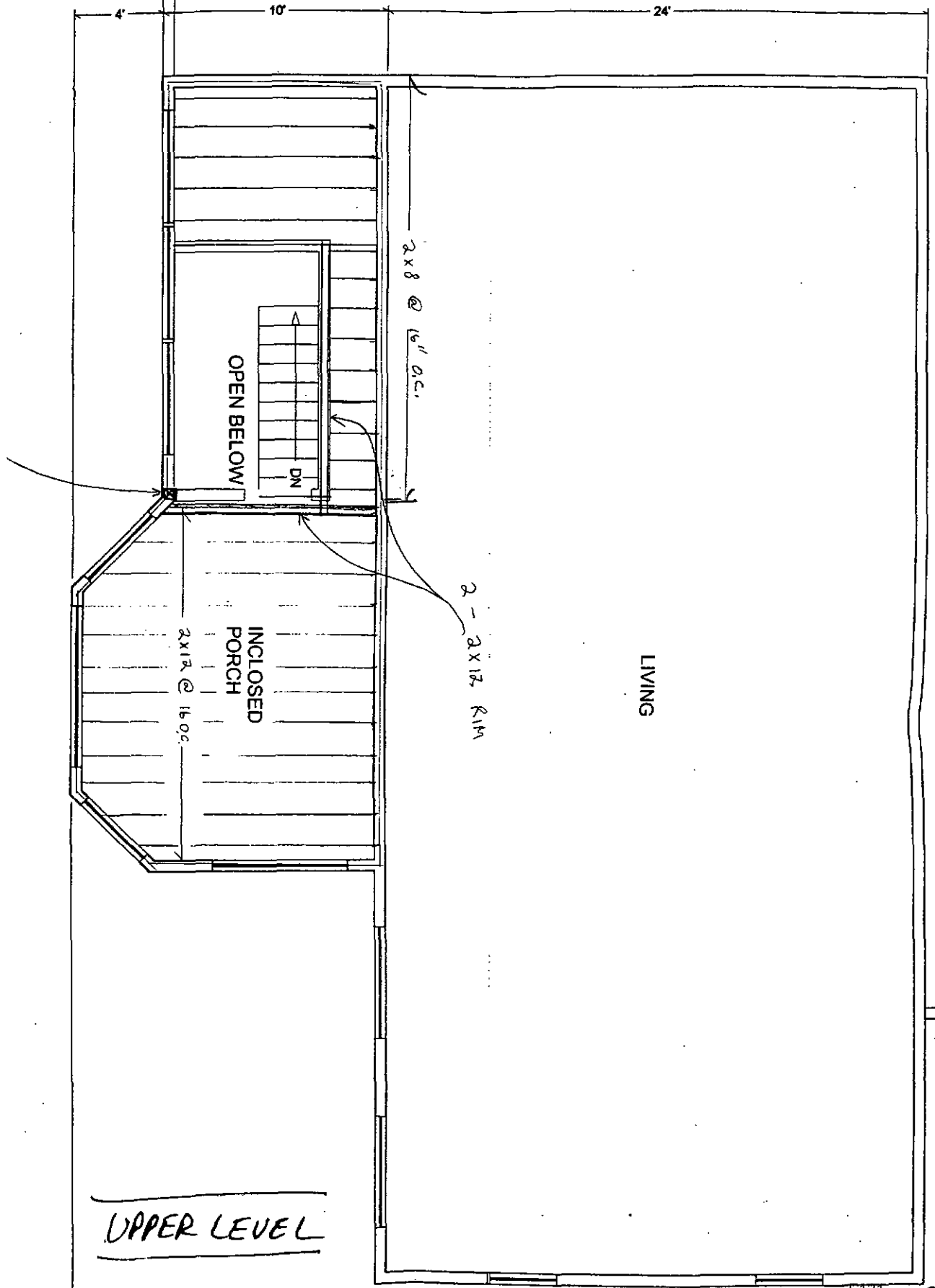


TRUSS LAYOUT  
NOT TO SCALE

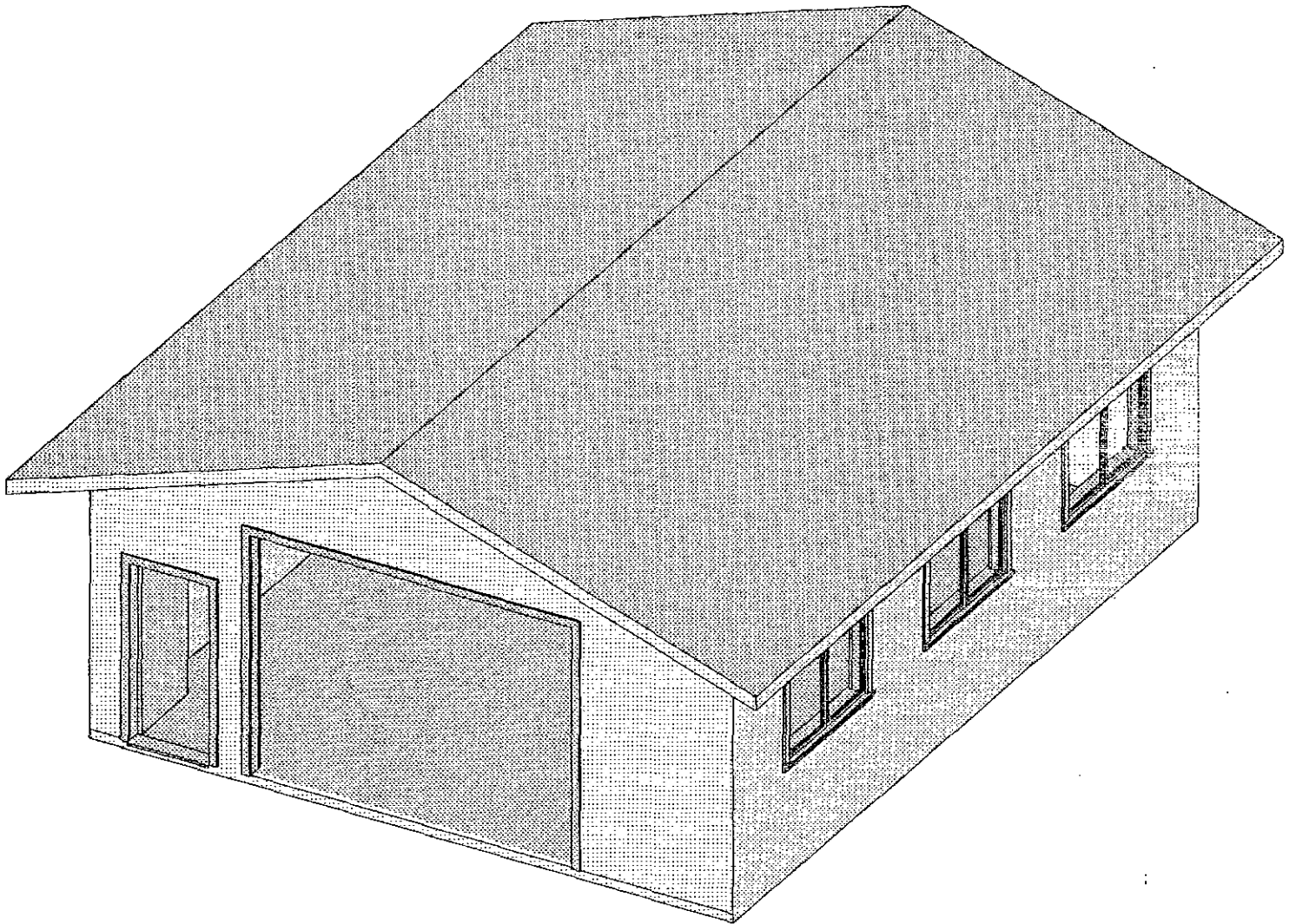


LOWER LEVEL

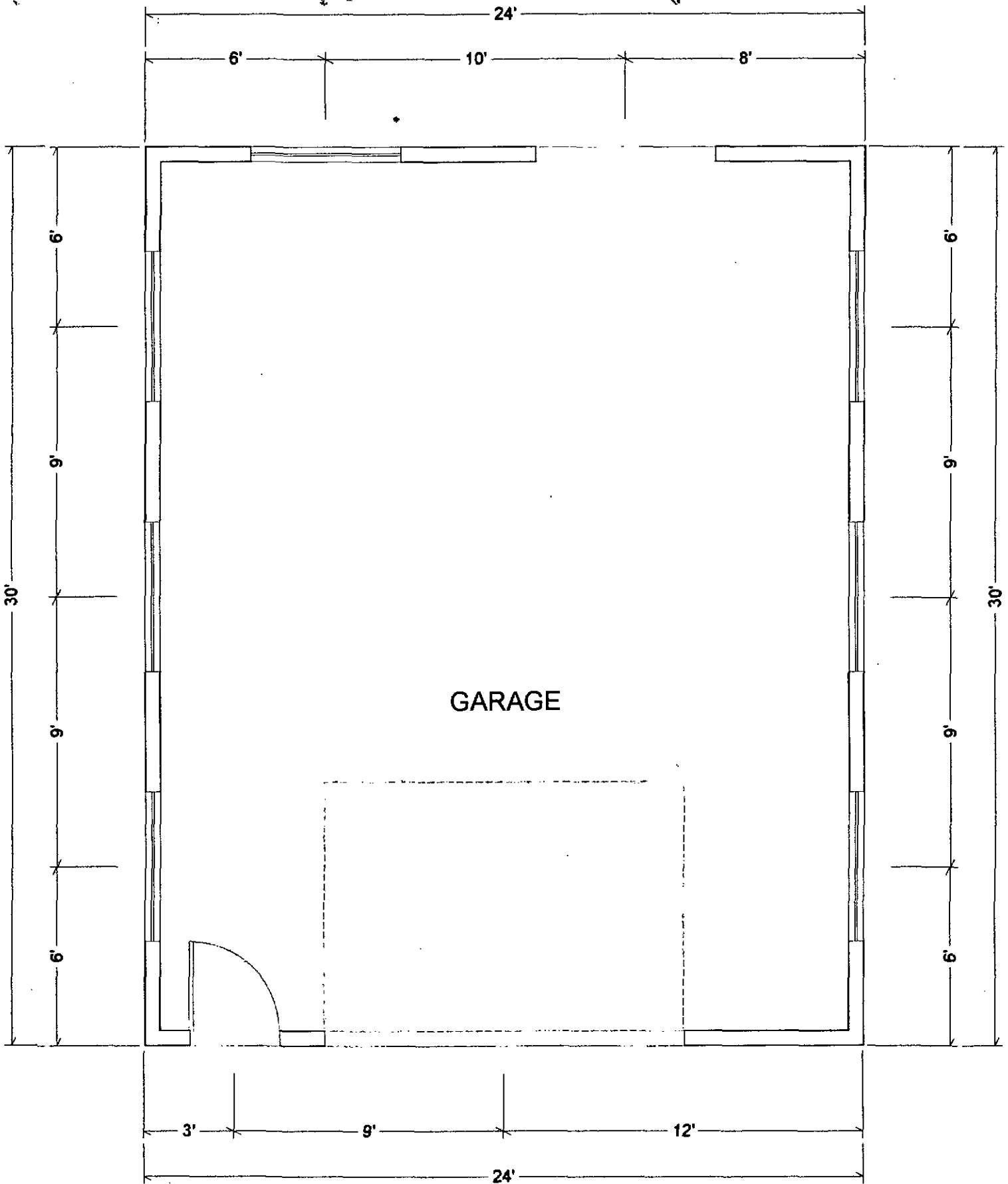
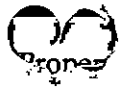
CK







PROPOSED GARAGE

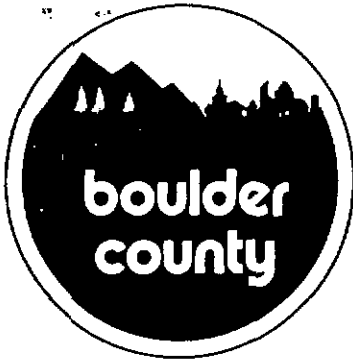


# Property Description

6301 Sunshine Canyon				
<b>City:</b>	Mountains	<b>ID:</b>	0058634-01	
<b>Neighborhood:</b>	Pine Bk Hills	<b>Parcel:</b>	146108000074	
<b>Subdivision:</b>	Tr. Nbr 940 Gold Hill Area	<b>STR:</b>	08-1N-71	
<b>Class:</b>	Single Family	<b>Tax Area:</b>	1370	
<b>Design:</b>	One Story	<b>Built:</b>	1987	
<b>Legal Dsc:</b>	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 Id 32657 Combined Here Per Owner 1987 Property Address: 006301 Sun			
Square Footage			Rooms	
<b>Level</b>	<b>Total</b>	<b>Finished</b>	<b>Total:</b>	6
<b>Main:</b>	1296	1296	<b>Bedrooms:</b>	3
<b>Above:</b>	0	0	<b>Baths-Full:</b>	1
<b>Basement:</b>	694	694	<b>3/4:</b>	0
<b>Other:</b>	0	0	<b>Half:</b>	0
<b>Garage:</b>	602	602		
Deeds			Current Value	
<b>Deed #</b>	<b>Date</b>	<b>Fee</b>	<b>Actual:</b>	447,600
1149453-8:	12/18/91	0.80	<b>Assessed:</b>	40,960
742229:	02/14/86	0.73	<b>Mill Levy:</b>	60.908
Owner				
<b>Name:</b>	Ells Fred John			
<b>Address:</b>	6301 Sunshine Canyon Dr			
<b>City/St/Zip:</b>	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

APPLICATION FORM



land use department

DEPARTMENT USE ONLY

DOCKET NUMBER
DATE SUBMITTED
HEALTH DEPT. INT.

PROJECT NAME: **Ells's (house) single family dwelling**

APPLICANT'S NAME: **Mr. Fred J. Ells** STREET ADDRESS: **5000 Butte #101**

CITY: **Boulder** STATE: **Co** ZIP CODE: **80301** 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	TOWNSHIP	RANGE
			<b>8</b>	<b>7N</b>	<b>1N 71</b>

TYPE OF REQUEST

APPLICATION TYPE	MONTHLY DEADLINE <sup>1</sup>	SUBMITTAL FEE <sup>2</sup>	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 <sup>3</sup>	1,3,6,8,11b,12,13abfg,22
<input type="checkbox"/> Special Use	3rd Wed.	\$600.00 <sup>4</sup>	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:			

<sup>1</sup> Application deadline on noon of the stated day  
<sup>2</sup> Additional consultants fees and fees established by review agencies may be charged to the applicant. On multiple requests, applicant pays highest single fee.  
<sup>3</sup> MEO Rezoning Application Fee: \$600.00 + \$6.00 per acre, maximum fee \$1,500.00.  
<sup>4</sup> 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: <b>5-5-86</b>	TITLE: <b>owner</b>
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:
------------	------------

OVER

E126 6



DEVELOPMENT SUMMARY FORM

DEPARTMENT USE ONLY

DOCKET NUMBER

SUBJECT

EXE. TYPE

S.U. TYPE

D.U. TYPE

PROJECT NAME  
Ells's (house)      single family dwelling

APPLICANT  
Mr. Fred J. Ells

PROPERTY 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 ½ mile above Sunshine on Gold hill road			ADDRESS 63?? Sunshine canyon		
LGT	BLOCK	SUBDIVISION	SECTION 8	TOWNSHIP 71 IN	RANGE 71 N
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 none		
WATER well	SEWAGE septic		ELECTRIC Public Service		
TELEPHONE	GAS propane	DITCHES	CITY OR TOWN WITHIN 2 MILES Sunshine		
FIRE RESPONSE AREA Sunshine		SCHOOL DISTRICT Bl dr. 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		

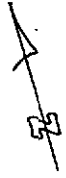
SUBDIVISION INFORMATION

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

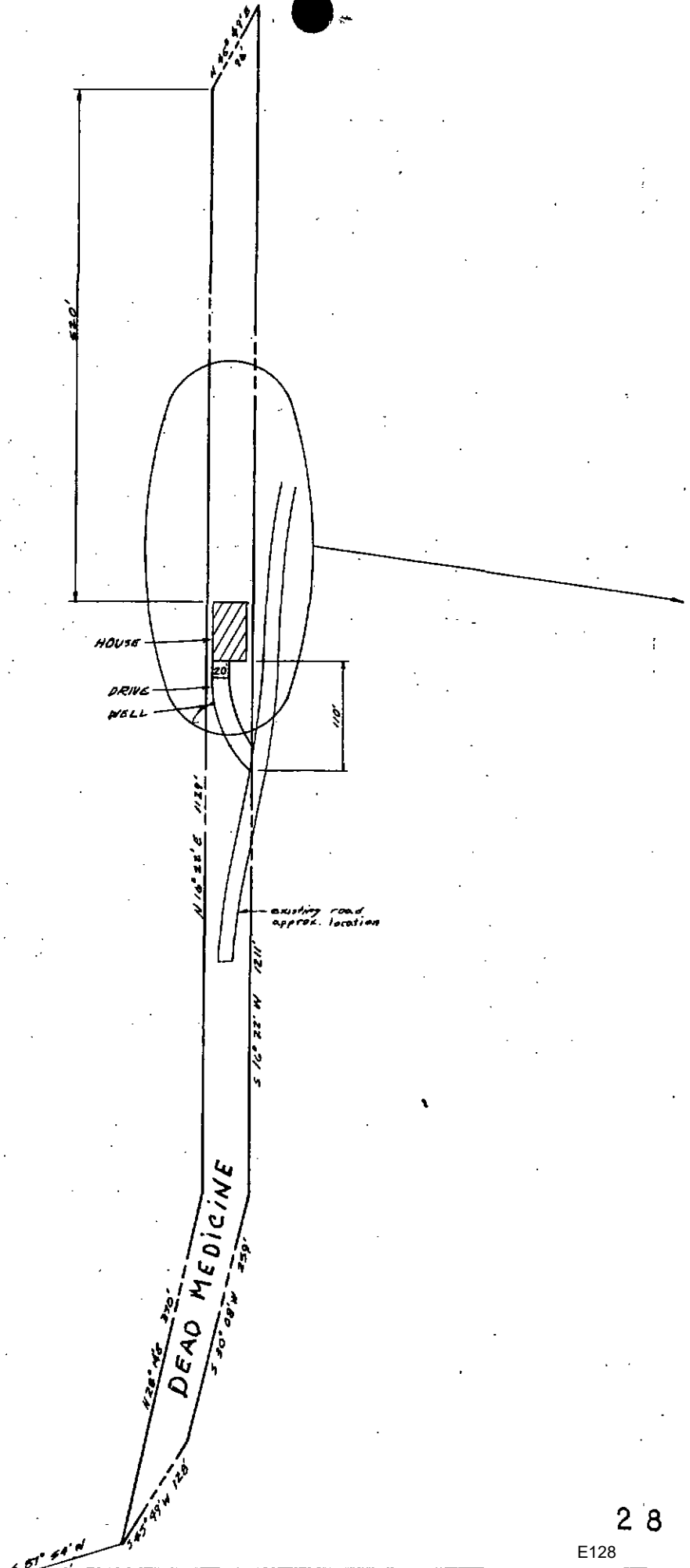
OTHER

DOCKET NUMBER





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.



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.

  
SIGNATURE

# 1986 BLD. PERMIT

No. 34056



**building division**

p.o. box 471 boulder, colorado 80306

SECTION	TOWNSHIP	RANGE
DATE	12-22-86	
PERMIT NUMBER	86-467	

## building permit

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. 74229 Tax 58634			
LEGAL DESCRIPTION Sec. 8, T1N, R71W	I.D. 1461-04-0-00-074		
PERMIT IS HEREBY ISSUED FOR	<input checked="" type="checkbox"/> NEW <input type="checkbox"/> ADDITION	<input type="checkbox"/> REMODEL <input type="checkbox"/> ELECTRICAL	<input checked="" type="checkbox"/> RESIDENCE <input type="checkbox"/> COMMERCIAL <input type="checkbox"/> OTHER (Describe)
ZONING DISTRICT F	SETBACKS	FRONT 100+	SIDE 8"
OCCUPANCY GROUP R3-M1	AREA OF BUILDING	FINISHED FLOOR 1296	BEDROOMS 2
VALUATION \$ 88,061	PERMIT FEE \$ 397.00	TOTAL \$ 496.25	<input checked="" type="checkbox"/> GARAGE att. and greenhouse (200 s/f) TYPE OF CONST. Vn

REMARKS: Plan check fee: 99.25

Maintenance Waiver  
EOA Docket #617

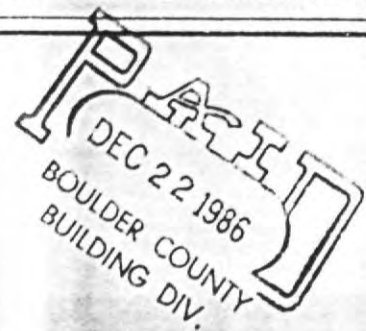
Gary R. Goodell/hb  
APPROVED BY: Chief Building Inspector

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.**





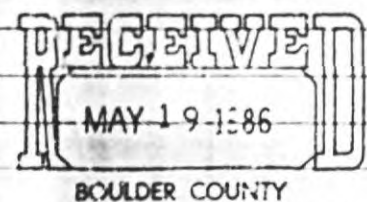
# building permit application

PERMIT NUMBER <b>86-467</b>	DATE <b>5-19-86</b>
OWNER <b>ELLS FRED</b>	CONTRACTOR <b>ELLS</b>
ADDRESS <b>5000 Batt #101</b>	ADDRESS <b>COMX</b>
CITY <b>BOL</b>	PHONE <b>442 5340</b>

TYPE OF STRUCTURE		STRUCTURE DATA	
<input type="checkbox"/> COMMERCIAL	<input checked="" type="checkbox"/> NEW <b>397</b>	VALUATION <b>\$ 87,001<sup>00</sup></b>	AREA (SQ. FT.) <b>1296<sup>0</sup></b>
<input checked="" type="checkbox"/> RESIDENCE	<input type="checkbox"/> ADDITION <b>94.2<sup>0</sup></b>	STORIES <b>2</b>	OCCUPANCY <b>R-3</b>
<input checked="" type="checkbox"/> GARAGE <b>UNDER GES<sup>4</sup></b>	<input type="checkbox"/> REMODEL <b>496.2<sup>0</sup></b>	BEDROOMS <b>2 BATHS - 1</b>	TYPE OF CONST. <b>V-N</b>
<input checked="" type="checkbox"/> OTHER <b>GREENHOUSE 200<sup>0</sup></b>	<input type="checkbox"/> ELECTRICAL	BASEMENT <b>FINISHED (110<sup>0</sup>)</b>	

SITE DATA			
LOT	BLOCK	SUBDIVISION	
SECTION <b>8</b>	TOWNSHIP <b>1 N</b>	RANGE <b>71</b>	
ADDRESS OF PROPOSED BUILDING (Address will be assigned by county for new sites) <b>6301 Sunburst Canyon Dr.</b>			
LOT AREA <b>5.27 ac.</b>	ZONING <b>F</b>	FRONTAGE	
SET BACKS: FRONT <b>25' 100+</b>	SIDE <b>8'</b>	SIDE <b>8'</b>	REAR <b>25' 100+</b>

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 <b>Panel Access #076</b>	



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) <b># 143874</b>	
<input type="checkbox"/> OTHER DESCRIBE	
<input checked="" type="checkbox"/> SANITATION APPROVAL FROM HEALTH DEPARTMENT (Attach copy) <b>septic</b>	

**PLOT PLAN (Attach Copy)**

ALL THE FOLLOWING DATA TO BE SHOWN TO SCALE AND PROPERLY DIMENSIONED

- DEED (COPY) SHOWING OWNERSHIP OF PARCEL AND LEGAL DESCRIPTION, DATE RECORDED AND RECEPTION NO.
- BUILDING LOCATION & APPURTENANCES (Driveways, retaining walls etc.)
- LOT GRADING CONTOURS (Lot grading permit will not be required if sufficient detail is shown on plot plan.)
- SURFACE DRAINAGE PATTERNS AND REQUIRED STRUCTURES.
- 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** *[Signature]*  
General 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. 96-0467

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.

The 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 Ellis

STATE OF COLORADO)  
COUNTY OF BOULDER) SS:

The foregoing instrument was acknowledged before me this 10 day of January, 1990.

My Commission Expires: 2/14/93 Fred Ellis  
2080 14th Boulder  
Address

Approved by (with attached corrections)  
Gary R. Goodell  
Chief Building Official



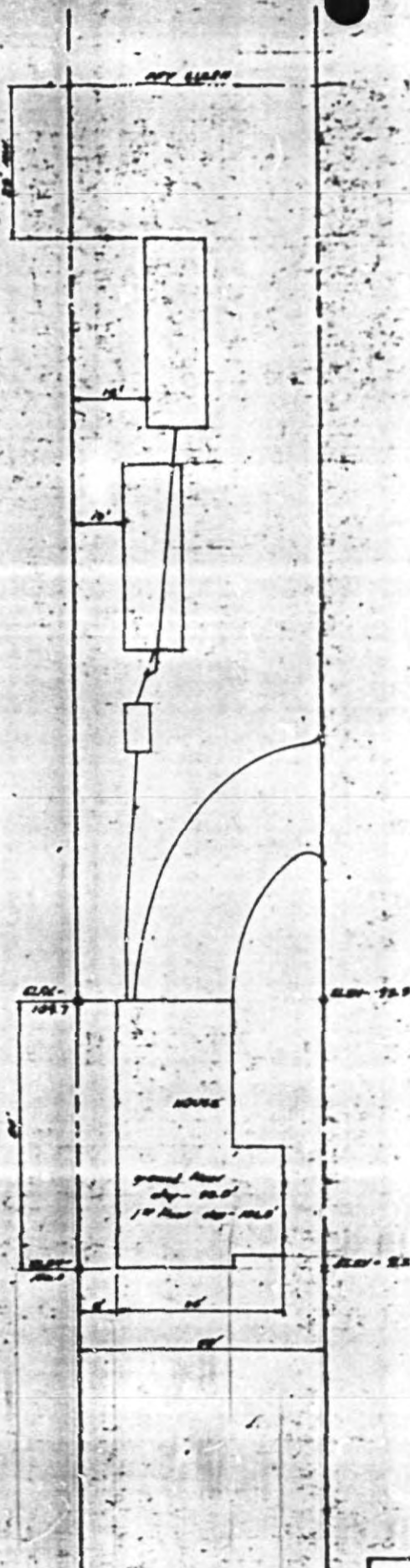
Corrections to be made and items to be completed before final inspection and issuance of final Certificate of Occupancy:

- 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 ~~XLARGE KITCHEN~~ 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.

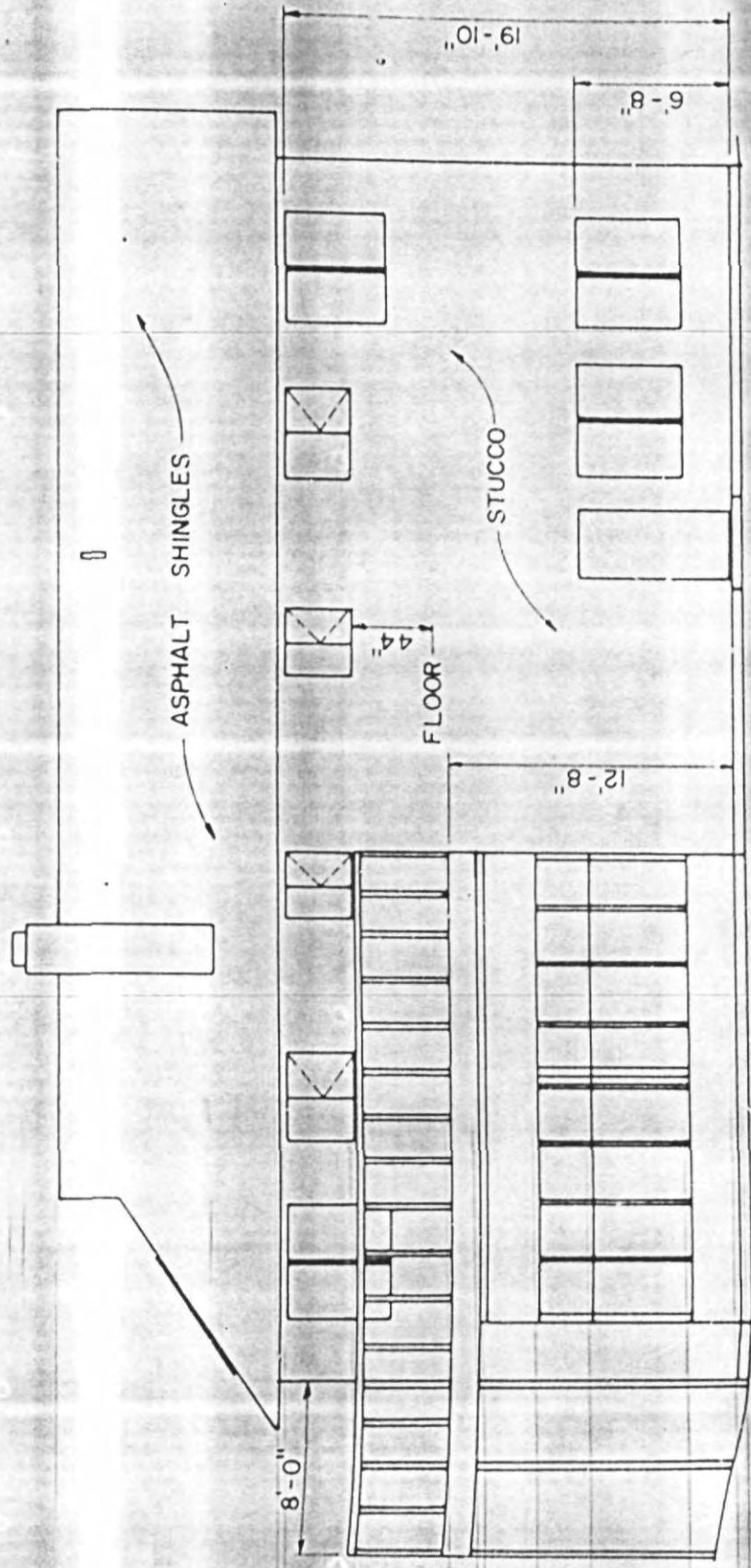




GSV HOMES



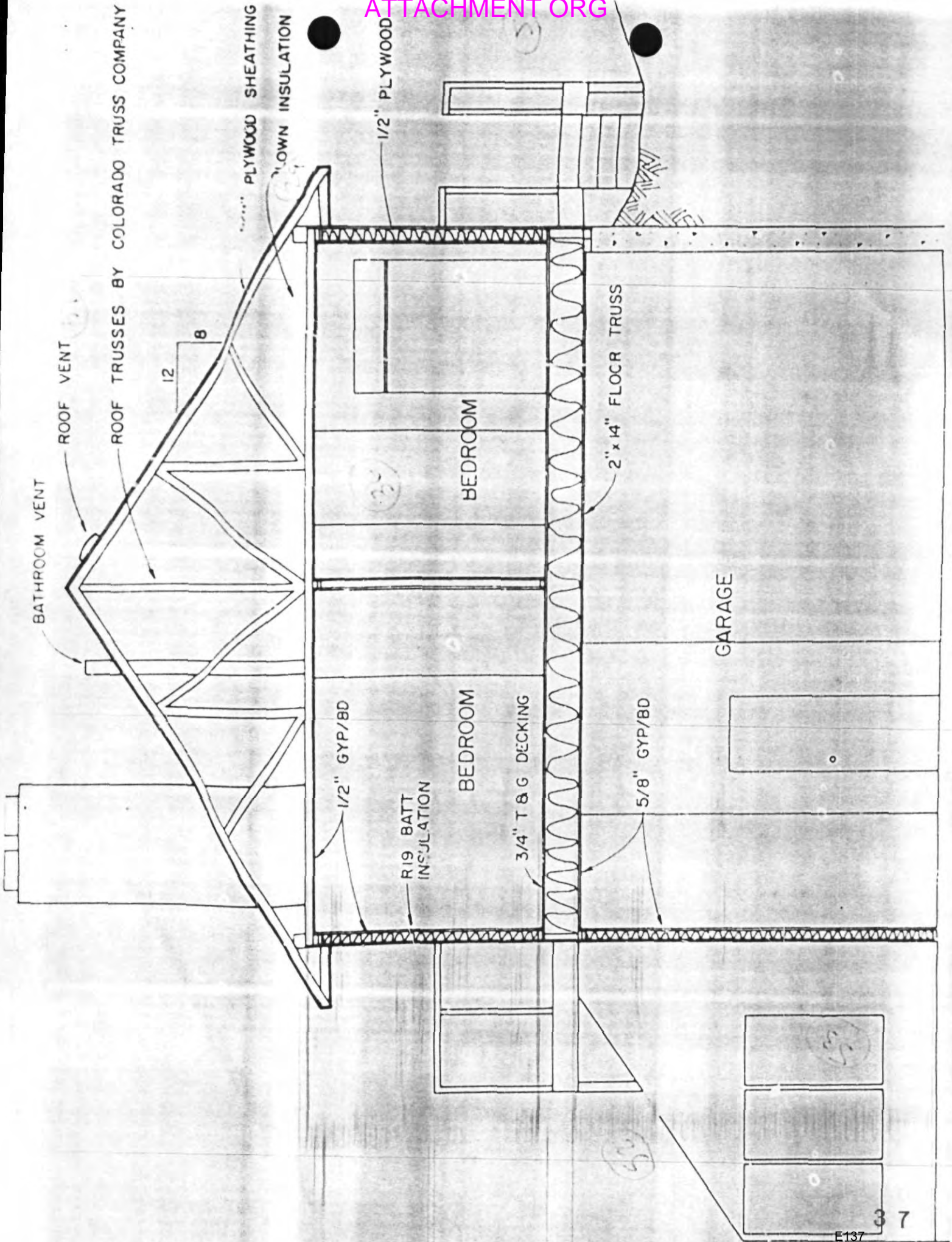
4-98-86



EAST ELEVATION



ROOF TRUSSES BY COLORADO TRUSS COMPANY



BATHROOM VENT

ROOF TRUSSES BY COLORADO TRUSS COMPANY

12  
8

PLYWOOD SHEATHING  
DOWN INSULATION

1/2" PLYWOOD

BEDROOM

2" x 14" FLOOR TRUSS

GARAGE

1/2" GYP/BD

BEDROOM

R19 BATT INSULATION

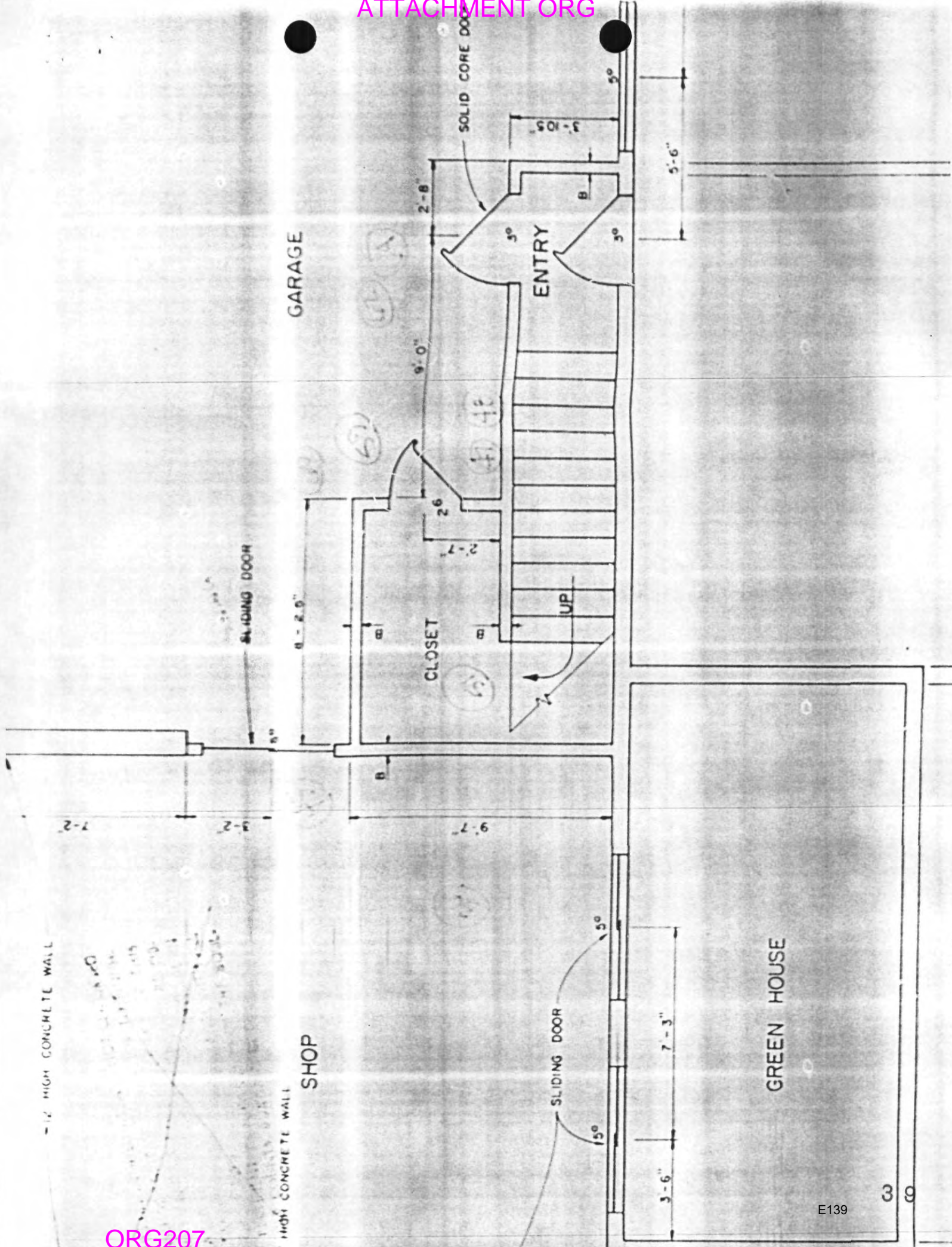
3/4" T & G DECKING

5/8" GYP/BD











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 & HARRIS**LIMITED LIABILITY COMPANY  
ATTORNEYS AT LAW2336 CANYON BOULEVARD, SUITE 200  
BOULDER, CO 80302

VOICE 303-442-0165

WEB SITE [www.oshlaw.com](http://www.oshlaw.com)

FAX 303-442-6115

**FAX TRANSMISSION**RUSSELL K. OSGOOD  
STEVEN E. HARRIS  
SCOTT R. OSGOOD[russ@oshlaw.com](mailto:russ@oshlaw.com)  
[steve@oshlaw.com](mailto:steve@oshlaw.com)  
[scott@oshlaw.com](mailto:scott@oshlaw.com)

October 25, 2002

Boulder County Land Use Department  
Greg Oxenfeld  
2045 13<sup>th</sup> 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 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.

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-foot 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:** <JESchull@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

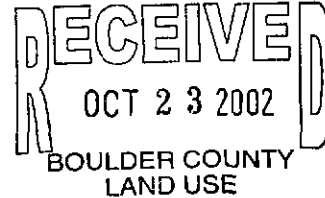
**From:** <JESchulll@aol.com>  
**To:** <gnolu@co.boulder.co.us>  
**Date:** 10/28/02 6:12AM  
**Subject:** Fred Ells home,docket VAR-02015:ELLS variance

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 that reads "BD Johnson". The signature is written in a cursive, somewhat stylized font.

Billy D. Johnson

---

**B. D. (Bill) Johnson**  
6300 Sunshine Canyon Drive, Boulder, Colorado 80302  
Telephone: (303) 413-9171 Email: [bill@groveok.com](mailto: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

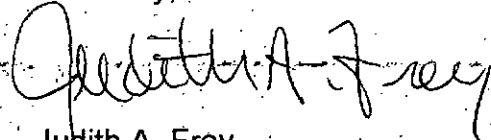
To Whom It May Concern:

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



**From:** "Kellogg, Joe" <Joe.Kellogg@ic.frcc.ccco.es.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 & HARRIS**

LIMITED LIABILITY COMPANY  
ATTORNEYS AT LAW

2336 CANYON BOULEVARD, SUITE 200  
BOULDER, CO 80302

VOICE 303-442-0165

WEB SITE [www.oshlaw.com](http://www.oshlaw.com)

FAX 303-442-6115

RUSSELL K. OSGOOD  
STEVEN E. HARRIS  
SCOTT R. OSGOOD

[russ@oshlaw.com](mailto:russ@oshlaw.com)  
[steve@oshlaw.com](mailto:steve@oshlaw.com)  
[scott@oshlaw.com](mailto: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 13<sup>th</sup> Spruce St.  
Boulder, CO 80302

**FAX#:** 303-441-4856

**FROM:** Steven E. Harris

Number of pages including cover:

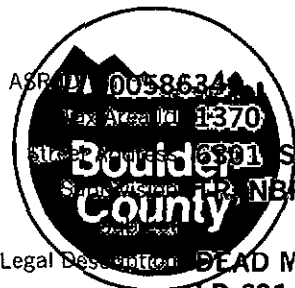
**TIME:** 4:38pm Mountain time zone Mountain Time Zone

**3**

PLEASE CALL 442-0165

IF THE FAX TRANSMISSION IS INCOMPLETE OR ILLEGIBLE.

Notes:



Suffix **01** Parcel No **146108000074** Post Office Box 471 City of Boulder, Colorado 80506 172

# Land Use Department

Sub Block **183** S. Courthouse Annex  
 2045 13th Street • 13th & Spruce Streets • Boulder, Colorado 80302 • (303) 441-3930  
 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 . 91 .  
between

FRED JOHN ELLS

County of Boulder of the 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

5/90

of the County of State of Colorado, grantees  
WITNESSETH, That the grantor(s), for and in consideration of the sum of (\$5,000.00)  
FIVE THOUSAND AND 00/100THS DOLLARS

the receipt and sufficiency of which is hereby acknowledged, he granted, bargained, sold and conveyed, and by these presents do give, grant, bargain, sell, convey, and confirm, unto the grantees, 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.N., 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 county as:

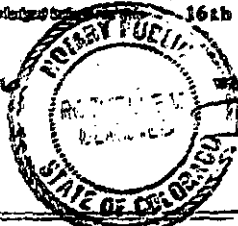
TOGETHER with all and singular the tenements and appurtenances thereto belonging, or in anywise appertaining, and the covenants and reversion, remainder and reversion, even, uses and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the grantor(s), either in 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 grantees, his heirs and assigns forever. And the grantees, for him as if 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 executing and delivery of these presents, he is well seized of the premises above conveyed, by good, sole, 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 taxes and other grants, bargains, sales, leases, uses, encumbrances, 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 grantees, 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) by S executed this deed on the day set forth above.

*Fred John Ells*  
FRED JOHN ELLS

STATE OF COLORADO  
County of Boulder  
The foregoing instrument was acknowledged before me on this 16th day of December . 91  
by FRED JOHN ELLS



*Donna M. Olson*  
Notary Public

Recorded 901149454 12/18/91 02:52 PM REAL ESTATE RECORDS  
Receipts F1707 CHARLOTTE HOUSTON BOULDER CNTRY CO RECORDER

WARRANTY DEED

THIS DEED, made this 16th day of December, 19 91,  
between:

FRED ELLS also known as FRED JOHN ELLS  
of the  
County of Boulder, State of Colorado, grantor(s) and  
HUGH H. KYSSSELL  
whose legal address is 1296 Vista Del Cima, Camarillo, CA

STATE COMMISSIONERS FEE  
DEC 18 1991  
30

5/30

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)-----  
THREE THOUSAND AND NO/100THS-----DOLLARS.

the receipt and sufficiency of which is hereby acknowledged, has 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 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 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 as covenant, grant, bargain, and agree to and with the grantee(s), his heirs and assigns, that as the time of the executing and delivery of these presents,

he is well seized of the premises above conveyed, he is a good, sane, 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.

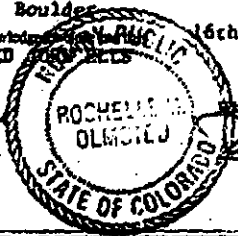
*Fred Ellis*  
Fred Ellis also known as  
*Fred John Ellis*  
Fred John Ellis

STATE OF COLORADO

County of Boulder

The foregoing instrument was acknowledged before me this 16th day of December, 19 91 by FRED ELLS aka FRED JOHN ELLS

My commission expires 1/13/92



*Rochelle M. O'Muse*  
Rochelle M. O'Muse  
My Notary Public

\*If in Denver, insert "City and"

Records 001149455 12/18/91 02:52 PM REAL ESTATE RECORDS  
Receipts F1707 CHARLOTTE MOUNTAIN BOULDER CNTY CO RECORDER

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

DATE RECORDED AS

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 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 a good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and he 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, 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.

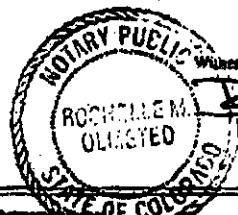
*Fred John Ells*  
FRED JOHN ELLS

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  
*Edmunt*

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 ~~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 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 ~~as~~ 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, 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, trusts, encumbrances, and  
restrictions of whatever kind or nature, 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) he ~~is~~ executed this deed on the date set forth above.

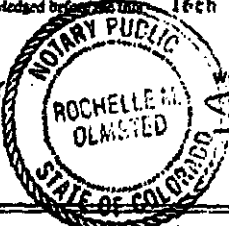
*Fred John Ells*  
FRED JOHN ELLS

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 1/3/94



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 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.

WARRANTY DEED

THIS DEED, Made this 16th day of December 19 91, between

HUGH M. KISSELL of the County of State of Colorado, grantor(s) and

HUGH M. KISSELL whose legal address is 1296 Vista Del Cima, Camarillo, CA

THIS INSTRUMENT FE  
DEC 18 1991  
*[Signature]*

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, has 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:

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 12

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, does 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, sane, 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 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.

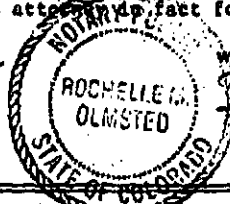
*[Signature]*  
HUGH M. KISSELL by RODNEY FELZIEN as attorney in fact

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. *[Signature]*  
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. KISSELL

of the County of State of Colorado, grantor(s) and

HUGH M. KISSELL

whose legal address is 1296 Vista Del Cima, Camarillo, CA

STATE REGISTRATION FEE  
DEC 18 1991  
*E. H. ...*

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, he 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 remainders, 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 appurtenances and appurtenances.

TO HAVE AND TO HOLD (the said premises above bargained and described with the covenants, conditions, and warranties, 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 like force, 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.

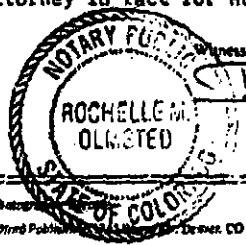
HUGH M. KISSELL by *Rodney Felzien* as attorney in fact  
HUGH M. KISSELL BY RODNEY FELZIEN  
as attorney in fact

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 4/3/96



*Rochelle M. Olgsted*  
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

PLIING STAMP  
STATE OF COLORADO FEE  
FEB 14 1986  
\$ .73

THIS DEED, Made this 14<sup>th</sup> 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 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 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 indefensible 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 aboves 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.

FILET F. STATE OF COLORADO  
County of Boulder

NOTARY

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of February 1986, by John M. Banman, as agent and attorney-in-fact for Nina Kuhn and Virginia K. Caulwell.

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 LODE Mining Claim, Mineral Survey No. 183, THE  
ATCHISON LODE Mining Claim, Mineral Survey No. 247, and THE ELDORADO  
LODE 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. 704831, all in the County of  
Boulder, State of Colorado.

NK/UK  
by JES.

## 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.

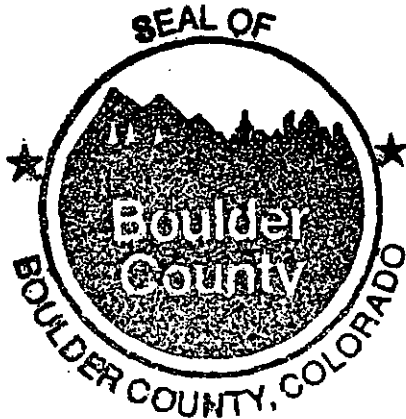


4. Prior to recordation, the Applicants shall comply with all applicable post-approval requirements as stated in this approval, above, and in Article 3-206 of the Land Use Code, which requirements shall be completed within one year after the date of adoption of this Resolution (see Article 9-300 of the 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 10<sup>th</sup> day of September, 2002, nunc pro tunc the 3rd day of September, 2002.

BOARD OF COUNTY COMMISSIONERS  
OF BOULDER COUNTY:



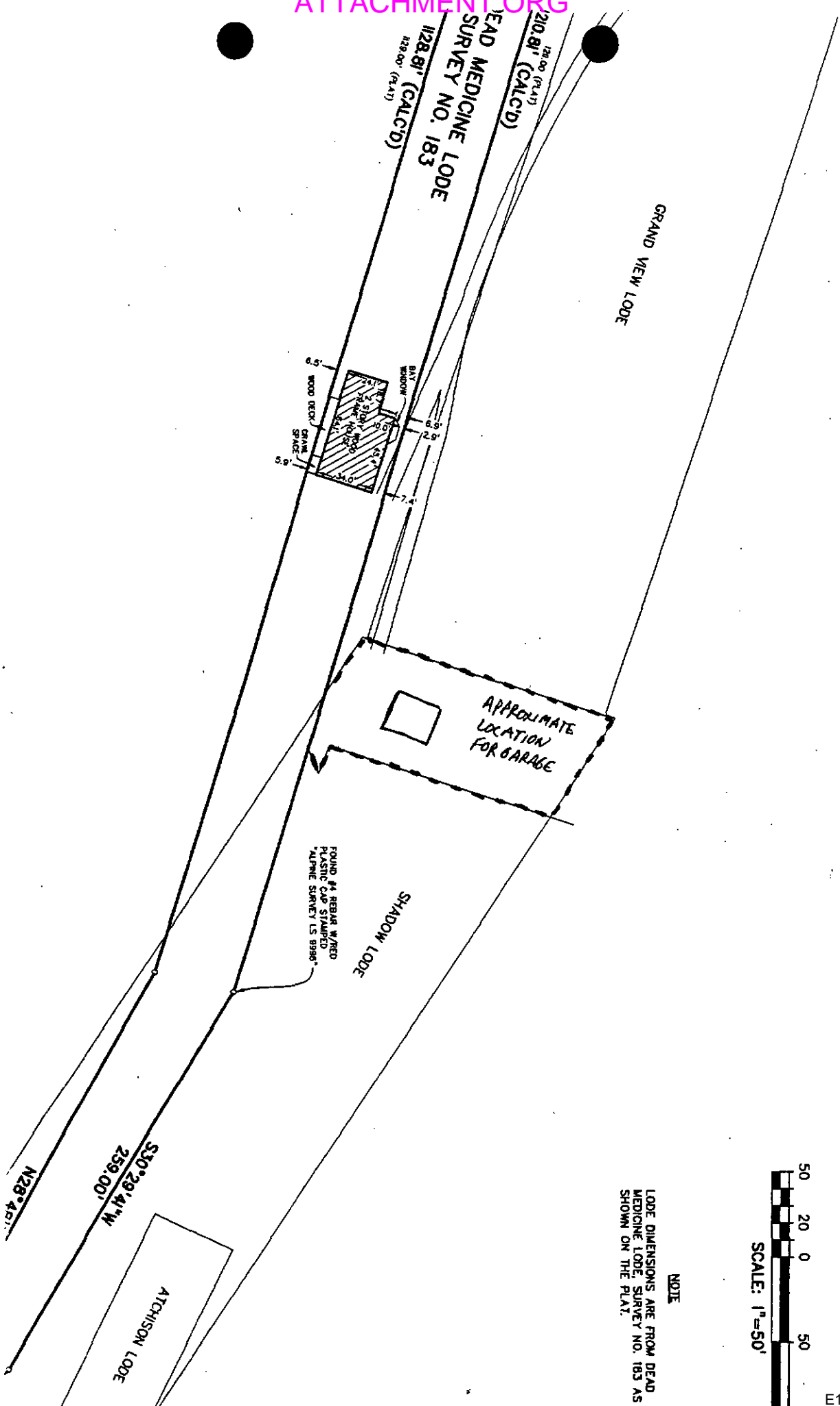
*Jana L. Mendez*  
Jana L. Mendez, Chair

*Paul D. Danish*  
Paul D. Danish, Vice Chair

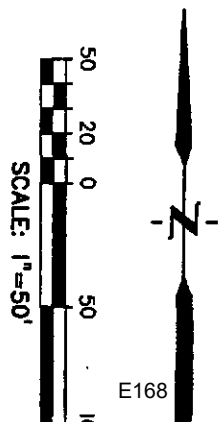
*Ronald K. Stewart*  
Ronald K. Stewart, Commissioner

ATTEST:

*Mike Lyda*  
Deputy Clerk to the Board



NOTE  
 LODGE DIMENSIONS ARE FROM DEAD  
 MEDICINE LODGE SURVEY NO. 183 AS  
 SHOWN ON THE PLAN.



## 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 14<sup>th</sup> 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

ATTACHMENT ORG

#01 12/18/91 02:52 PM RE ESTATE RECORDS  
F1707 CHARLOTTE 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 8.47 ACRES, OUT OF  
3 PARCEL(S), TOTALING \_\_\_\_\_ ACRES,

LOCATED IN THE \_\_\_\_\_ & S 17, T 1N, R 71.

- BOUNDARY LINE ADJUSTMENT
- PARCEL DIVISION (COMMUNITY FACILITY ) (OTHER )
- LEASE RECOGNITION (COMMUNITY FACILITY ) (OTHER )

LEGAL DESCRIPTION OF PROPERTY (SEE ATTACHED DEEDS)

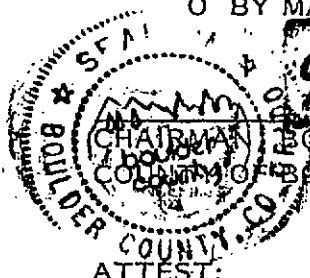
COMMISSIONER HUME MOVED,

COMMISSIONER PAGE SECONDED TO:

- APPROVE
- CONDITIONAL APPROVE (CONDITION: \_\_\_\_\_.)
- DISAPPROVE

THE ABOVE REQUEST. THE MOTION WAS PASSED:

- UNANIMOUSLY (STEWART ABSENT)
- BY MAJORITY



*Homepage*

CHAIRMAN BOARD OF COUNTY COMMISSIONERS  
COUNTY OF BOULDER, STATE OF COLORADO

DEC. 12, 1991  
DATE

ATTEST:  
Kathleen M. Cook  
DEPUTY COUNTY CLERK

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 ensembling 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.

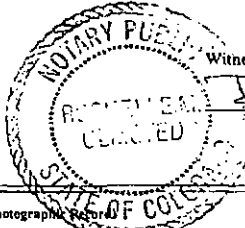
*Fred John Ells*  
FRED JOHN ELLS

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. Jones*

Notary Public

\*If in Denver, insert "City and".





## 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 80305 • (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 <b>BLA</b>	
APPLICANT'S NAME Patrick J. Hammerle, Agent	STREET ADDRESS 1911 11th St. Ste. 107
CITY Boulder	STATE CO
ZIP 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, CO
CITY Boulder	STATE CO
ZIP CODE 80302	PHONE NUMBER (303) 442-5340
PLANNING CONSULTANT Rodney Felzien, Attorney	STREET ADDRESS 595 Canyon Blvd.
CITY Boulder	STATE CO
ZIP CODE 80302	PHONE NUMBER (303) 449-6649
ENGINEERING CONSULTANT James L. Pusch P.E.	STREET ADDRESS 345 Evergreen Ave.
CITY Boulder	STATE CO
ZIP 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 DEADLINE <sup>1</sup>	SUBMITTAL FEE <sup>2,3</sup>	NUMBERS 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)
<input type="checkbox"/> 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
<input type="checkbox"/> 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
<input type="checkbox"/> Subdivision Plan - Preliminary	3rd Wed.	1,000.00	1,2,4,6,7,8,10,11b,14,22
<input type="checkbox"/> Subdivision Plan - Final	3rd Wed.	1,500.00	1,2,5,7,8,10,11abd,12,14,15,17,18,19,20,22
<input type="checkbox"/> 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
<input type="checkbox"/> Subdivision Exemption - Preliminary		350.00	1,3,6,11ab,12,13g,22
<input checked="" type="checkbox"/> Subdivision Exemption - Final		350.00	1,3,6,8,11ab,12,13gh,15,16,22
<input type="checkbox"/> Rezoning	3rd Wed.	1,000.00	1,3,6,8,11b,12,13abfg,22
<input type="checkbox"/> Special Use	3rd Wed.	1,700.00	1,2,3,6,7,8,9,10,11,12,13aefg,18,22
<input type="checkbox"/> 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
<input type="checkbox"/> Special Use - Group Care Facility	3rd Wed.	600.00	1,6,8,13a,16,21,22
<input type="checkbox"/> Vacation Easement/Road	3rd Wed.	400.00	1,6,8,22
<input type="checkbox"/> Road Name Change	3rd Wed.	300.00	1,2,3,6,8,13cf,22
<input type="checkbox"/> Board of Adjustment Variance	3rd Wed.	600.00	1,13d,22
<input type="checkbox"/> Board of Adjustment Appeal of Administrative Decision	3rd Wed.	600.00	1,13d,22
<input type="checkbox"/> Board of Review		400.00	1,3,6,7,8,13af,14,22
<input type="checkbox"/> Location and Extent Review	3rd Wed.	750.00	1,8,22
<input type="checkbox"/> Request for Extension of Approval	3rd Wed.	200.00	1,10,14,17,18,22
<input type="checkbox"/> Flood Plain Development Permit		50.00	See Regulations - Article 17 B.C.Z.R.
<input type="checkbox"/> Special Use Monitoring		150.00	1,8,22 (Per Review)
<input type="checkbox"/> Expired Plan Review		350.00	1,7,22
<input type="checkbox"/> Historic Zone Permit Review		150.00	See Regulations - Article 10 B.C.Z.R.
<input type="checkbox"/> Clerical Assistance		17.00 <sup>3</sup> /Hr. Plus Copying & Material Costs	
<input type="checkbox"/> Other			

<sup>1</sup> Application deadline on noon of the stated day  
<sup>2</sup> Additional consultants fees and fees established by review agencies may be changed to the applicant. On multiple requests, applicant pays highest single fee  
<sup>3</sup> 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.

SIGNATURE 	DATE 11/21/91	TITLE Real Estate Agent
SIGNATURE	DATE	TITLE 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 agents right to submit and process application

• OVER •

# ATTACHMENT ORG

## SUBDIVISION EXEMPTION INFORMATION

EXISTING PARCEL(S)					
DESCRIPTION	ONE	TWO	THREE	FOUR	FIVE
ACREAGE	6.47 acres	<del>3.75</del> <sup>5.27</sup> acres	6.5 acres		
FRONTAGE	Govt. Lots 129, 130, 131, 132	Eldorado and Atchison Lodes + DEAD MEDICINE	Sunshine/Black Swan Lodes		
DATE ACQUIRED	1987	1985	1983		
OWNER	Fred Ells	Fred Ells	Haydee Battany		
DATE CREATED	Prior to 1972 (Govt. Lots)	Patent # 691	Patent # 244		
EXISTING IMPROVEMENTS	-0-	1	0		
DATE CONSTRUCTED	--				
SETBACKS FRONT/REAR	--				
SETBACKS SIDE/SIDE	--				

PROPOSED PARCEL(S)					
ACREAGE	a.) 8.25 acres	<del>b.) 8.47</del> <sup>~ 1.52</sup>	8.47		
FRONTAGE	--				
SETBACKS FRONT/REAR	--				
SETBACKS SIDE/SIDE	--				
OWNER	Hugh Kissell	<del>Hugh Kissell</del> <sup>ELLS</sup>	KISSELL		

PROPERTY OWNERS					
1	NAME Fred Ells	STREET ADDRESS 6301 Sunshine Canyon			
	CITY Boulder	STATE CO	ZIP CODE 80302	PHONE NUMBER 303 442-5340	
2	NAME Same as #1 above	STREET ADDRESS			
	CITY	STATE	ZIP CODE	PHONE NUMBER	
3	NAME <del>Haydee Battany</del> HUGH KISSELL	STREET ADDRESS 209 W. Simpson			
	CITY Lafayette	STATE CO	ZIP CODE 80026	PHONE NUMBER 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

DEPARTMENT USE ONLY	
DOCKET NUMBER	SE 91-40
SUB. TYPE	
EXE. TYPE	
S.U. TYPE	
D.U. TYPE	

PROJECT NAME  
**Is/Battany - Kissell Consolidation** **BLA**

AGENT  
**Patrick J. Hammerle, Licensed Real Estate Agent**

PROPERTY OWNER  
**Representing Fred Ells and Haydee Battany**

**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 checked="" type="checkbox"/> SUBDIVISION EXEMPTION | <input type="checkbox"/> SUBDIVISION FINAL PLAT       |
| <input type="checkbox"/> BOA VARIANCE/APPEAL | <input type="checkbox"/> OTHER: _____                     | <input type="checkbox"/> 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 <b>1.) 6301 Sunshine Canyon, Boulder and 2.) 554 Gold Run</b>			ADDRESS		
LOT	BLOCK	SUBDIVISION	SECTION	TOWNSHIP	RANGE
--	--	--	17	1N	71W
AREA IN ACRES <b>47 acres</b>	EXISTING ZONING <b>forestry</b>	PROPOSED ZONING <b>no change</b>			
PERCENT SINGLE FAMILY <b>n/a</b>	PERCENT MULTIFAMILY <b>none</b>	PERCENT OPEN OR UNDEVELOPED <b>100%</b>			
EXISTING USE OF PROPERTY <b>vacant land</b>	NUMBER OF EXISTING LOTS <b>8</b>	NUMBER OF PROPOSED LOTS <b>2</b>			
NUMBER OF EXISTING DWELLINGS <b>none</b>	NUMBER OF PROPOSED DWELLINGS <b>2</b>	PROPOSED SQUARE FEET COMMERCIAL INDUSTRIAL <b>--</b>			
WATER <b>well drilled on 554 Gold Run</b>	SEWAGE <b>engineered septic for 554 Gold Run</b>	ELECTRIC <b>PSC estimated</b>			
TELEPHONE <b>on site</b>	GAS <b>--</b>	DITCHES <b>--</b>			
FIRE RESPONSE AREA <b>Sunshine Canyon</b>		SCHOOL DISTRICT <b>Boulder</b>		PARCEL I.D. NUMBER(S) <b>Tax ID #0032378</b> <b>P# 010-0900-1461-17-0-00-024</b>	
COMPREHENSIVE PLAN LAND USE DESIGNATION <b>forestry</b>		BOULDER COUNTY COMPREHENSIVE PLAN ANALYSIS AREA <b>forestry</b>		ACRES OF AGRICULTURAL LAND REMOVED FROM PRODUCTION <b>none</b>	

**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			

OVER

PROJECT NAME  
DOCKET NUMBER

## 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.

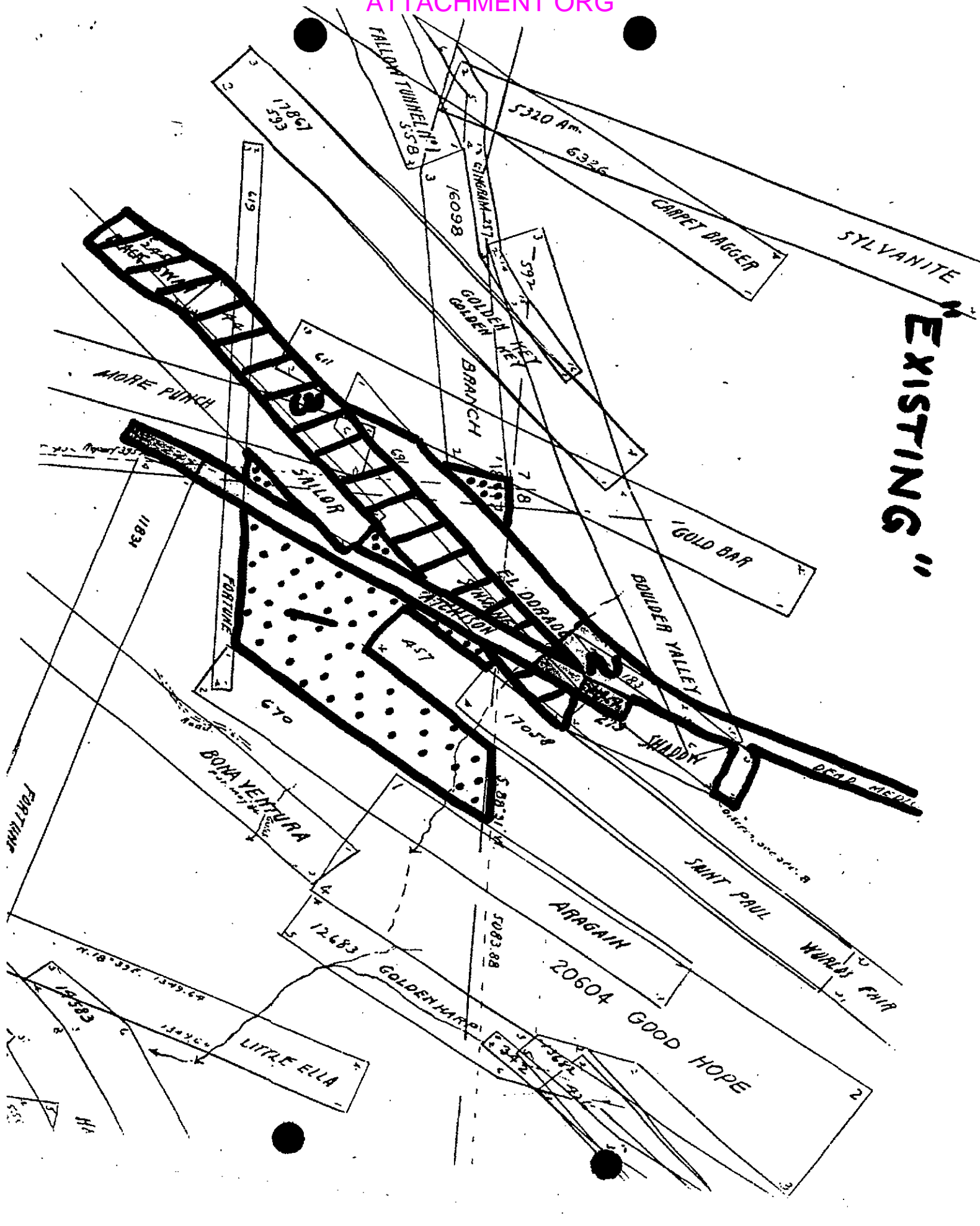
The area which is buildable with the least environmental impact and with the maximum solar and geothermal gains on Building Site A is the part of Lots 129 and 130 and the Atchison Lode which abuts the Sunshine Lode. In fact, to adequately minimize the environmental impact and maximize solar and geothermal 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.

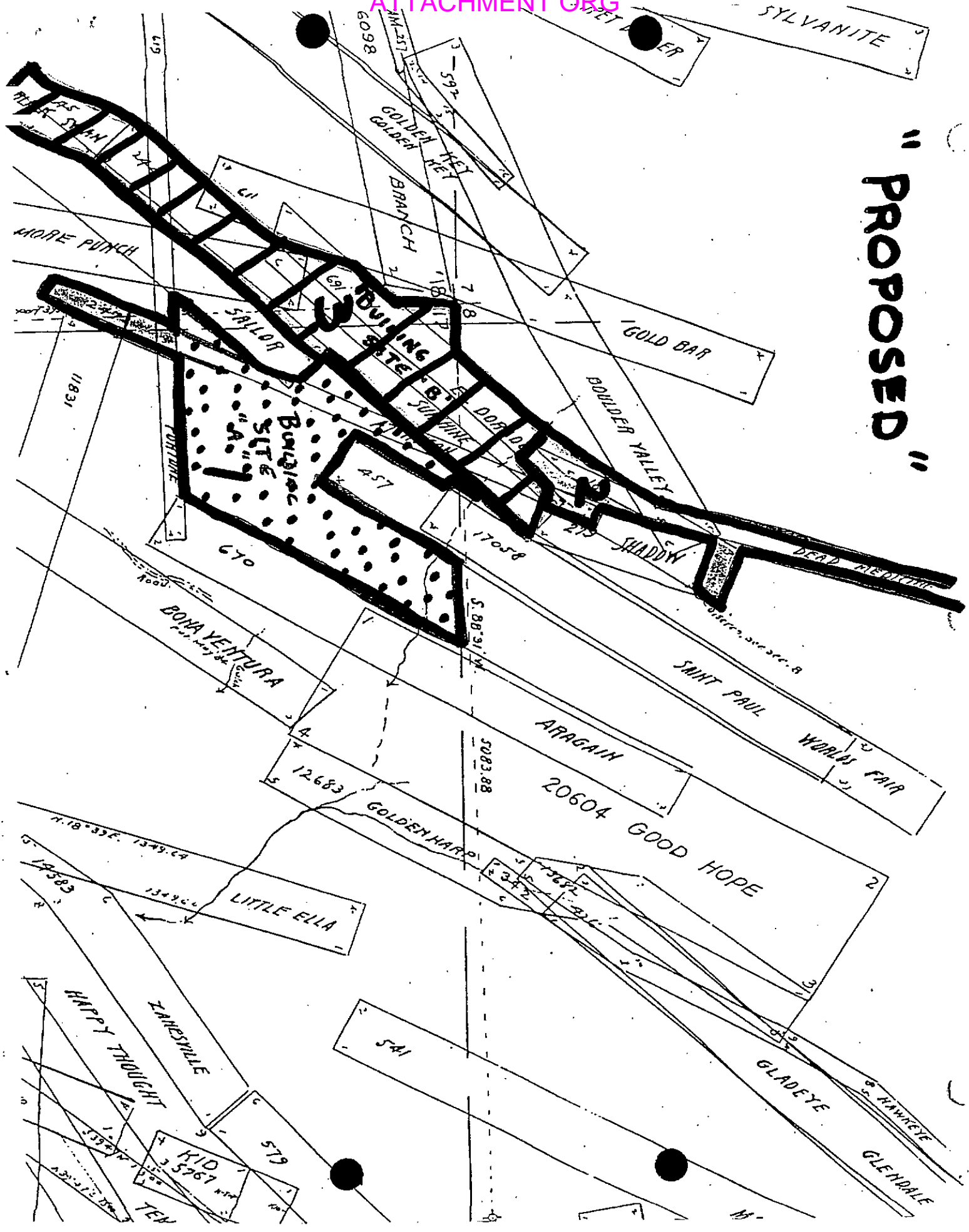
Final legal descriptions will be submitted as a condition of the County's post approval requirements.

EXISTING





" PROPOSED "





Access Review Form

Issuance No. 91-20

Information To Be Supplied By Applicant

Parcel Location

Section(s): 17  
Lot: 129-130-131-132

Township: 1N  
Block: 32378

Range: 71W  
Parcel Sub: 14617000024

Fred Ellis  
OWNER  
5000 Butte St  
ADDRESS  
Boulder, CO 80301  
CITY, STATE, ZIP  
TELEPHONE

Heidi M. Kissel  
AGENT  
2525 Rainbow St. 84-127  
ADDRESS  
BOULDER CO 80302  
CITY, STATE, ZIP  
449-9922 ext. 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 future 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: John F. Hamilton  
LAND OFFICER  
DATE: 9/30/91

- 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 (8X60') 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: Linda Criswell  
Inspector  
Date: 10/4/91

III Signed: Heidi M. Kissel 9/30/91  
Applicant Date  
\$50.00 Fee Paid 9-30-91-HEK Date  
Expiration 9/30/92 Date

200816730 01/05/87 11 43 AM REAL ESTATE RECORDS  
1450 CHARLOTTE HOUSTON BOULDER CNTY CO RECORDER

(non-subdivision)

ROAD MAINTENANCE WAIVER

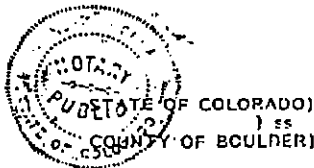
I, the undersigned as owner of the parcel of land located in Section 8, Township 1N, Range 71W described on deed, Film No# 1395, Reception # 742229 Boulder County on behalf of myself, my successors, heirs and assigns hereby acknowledge and agree that the lot for which I have applied for a building permit 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 22<sup>nd</sup> day of December, 1984 by Fred Ellis

Witness my hand and seal:

My Commission expires on: 3-23-88

*Joyce Bealton*  
Notary Public

2040 14<sup>th</sup> 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 ELDERADO 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 26, 1988  
WITNESS my hand and official seal.



*John Wolny*  
JOHN WOLNY JUL 16 1987  
ASSISTANT CASHIER Notary Public

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

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SEC-TW-RG PROPERTY NO AREA	NBR SUBD ADDRESS LEGAL	PARCEL NUMBER	OWNER NAME OWNER ADDRESS OWNER ADDRESS OWNER ADDRESS	RCPT NO DATE DOC SDDCBLLPPP	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 HAWTHORN AV BO TRACT 402-D-3 BO 24-1N-71 BOOK 988 PAGE 404 BCR	1461-24-00-073	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, 10C N- A- 242 1- 1134, F- 1134
03-1S-69 1125 0076615 0110 01	450 1517 SPARTA DR LA LOT 150 CENTAUR VILLAGE NORTH 2	1575-03-13-006	ELLISTON KEITH F 1125 SPARTA DR LAFAYETTE CO 80026 1128	1001167 09/01/89 .00	12,100-L 53,900-I 72,000**	1112 1212	LOTS 1.00	A, F 1978 04, 5, 2, 100 P- 876, F- 440 1- 956, F- 956
05-1S-70 3346 0010783 0010 01	198 2353 DARTMOUTH AV BO LOT 2 ERNEST MT VIEW	1577-05-3-36-002	ELLMAN DEBRA KING 3340 DARTMOUTH BOULDER CO 80303	1077907 12/10/90 1.50	50,200-L 46,600-I 96,800**	2130 2230	SOFT 11,025.00	A, B 1955, 1965 C N- 1- 1326, F- 1326
05-1S-70 755 0010819 0010 01	150 5009 S 46TH ST BO LOT 21 LESS N 1.20 FT BLK 2 MARTIN ACRES 3	1577-08-1-02-021	ELLMAN JAMES DAVID & DEBRA KIN G 755 S 46TH ST BOULDER CO 80303 6041	529059 01/18/83 7.80	33,900-L 44,400-J 78,300**	1112 1212	LOTS 1.00	A, M 1958 04, 5, 3, 110 P- 526 1- 1150, F- 1426
30-1N-70 1330 0000542 0010 01	115 7981 ALPINE AV BO LOT 4 BLK 5 SUNSET HILL	1463-30-2-25-004	ELLMERS LAURENE 1330 ALPINE AVE BOULDER CO 80304 3504	684287 04/23/85 10.00	42,700-L 54,600-I 97,300**	1112 1212	SOFT 10,156.00	A, M 1954 01, 6, 3, 101 N- D- 280 1- 1284, F- 1284
33-1N-70 811 0037742 0010 01	146 1801 CRESCENT DR BO LOT 6 BLK 1 COUNTRY CLUB PARK	1463-33-4-20-006	ELLMERS LAURENE & ELAINE 811 CRESCENT DR BOULDER CO 80303 2714	643616 08/31/84 12.50	45,000-L 21,800-I 136,800**	1112 1212	LOTS 1.00	A, M 1957 01, 6, 3, 110 N- C- 320 1- 2002, F- 2002
33-1N-70 811 0037742 0010 02	MORE 146 1801 CRESCENT DR BO LOT 6 BLK 1 COUNTRY CLUB PARK	1463-33-4-20-006	MORE ELLMERS LAURENE & ELAINE 811 CRESCENT DR BOULDER CO 80303 2714	643618 08/31/84 12.50	MORE 26,700-I 26,700**	0000 1212	MORE 6.47	MORE 01, 4, 1962 N- 2, 100 1- 786, F- 786
17-1N-71 554 0032378 0350 01	940 9900 GOLD RIV ** MT LOTS 12C-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	1461-17-0-00-024	ELLS FRED 5000 BUTTE ST LOT 101 BOULDER CO 80301 2238	707335 08/20/85 1.10	10,900-L 10,900**	1111 0000	ACRES 6.47	.000 1- F-

D 14

ELLS FRED JOHN

BAS1

BOULDER ASSESSOR OWNER LIST

10/10/91

PAGE 3,277

SEC-TW-RG PROPERTY ID NO TAX AREA	NBR SUBD ADDRESS LEGAL	PARCEL NUMBER	OWNER NAME OWNER ADDRESS OWNER ADDRESS OWNER ADDRESS	RCPT NO DATE DOC SDDCBLLPPP	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.
08-1S-69 500 0019195 0100 01	940 9950 SUNSHINE CANYON MT DEAO MEDICINE LD 183 GOLD HILL 1.52 AND ATCHISON LD 247 1.72 ACS M/L & ELDERADO 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	1461-08-00-074	ELLS FRED JOHN 6301 SUNSHINE CANYON DR BOULDER CO 80302 9774	1026150 02/01/90 .00	39,000-L 80,200-I 119,200**	1112 1212	ACRES 5.27	A, F 1987 01, 6, 3, 10C F- B- 602 1- 1296, F- 1990
08-1S-69 500 0019195 0100 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	17,600-L 29,400-I 47,000**	1112 1212	SOFT 6,000.00	F, F 1900 01, 3, 2, 100 N- D- 252 1- 702, F- 702
12-3N-73 659 0058107 1365 01	960 9900 COYOTE HILL ** MT TR 146B 12-3N-73 6.50 AC M/L	1197-12-00-001	ELLSWORTH JOHN D FOX CREEK -1378 COBBLER RD QUAKERTOWN PA 18951	567666 08/10/83 .00	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 UNV 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	26,900-L 41,000-I 67,900**	1130 1230	UNITS 1.00	A, M 1967 12, 4, 2, 101 N- 1- 930, F- 930
12-3N-73 515 0058107	960 9900 COYOTE HILL ** MT TR 1463 12-3N-73 7.28 AC M/L PER DEED 1041042 5/7/90 BCR	1197-12-00-021	ELLSWORTH PETER C PO BOX 42 JELM WY 82063 0042	1041042 05/07/90 .00	4,100-L 4,100**	1111 0000	ACRES 1.28	.000 1- F-
12-3N-73 515 0058107	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	1197-12-00-020	ELLSWORTH PETER CHAPMAN PO BOX 42 JELM WY 82063 0042	951547 11/04/88 .00	10,200-L 17,500-I 27,700**	1112 1212	ACRES 1.00	L, F 1957 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



## ATTACHMENT ORG

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

## ATTACHMENT ORG

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



ATTACHMENT ORG

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 ETTEN JEANINE H  
588 I SUNSHINE CANYON DR  
BOULDER CO 80302



## 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](mailto: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



# Land Use Department

Courthouse Annex

2045 13th Street • 13th &amp; 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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**ATTACHMENT ORG**  
**BOULDER COUNTY BOARD OF ADJUSTMENT**  
**HARDSHIP STATEMENT**

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTACHMENT ORG

f. That the [redacted] finance, if granted, does not adversely affect [redacted] health, safety, and welfare of the citizens of Boulder County.

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\_\_\_\_\_  
Signature: Owner or Agent

Revised: June 14, 2000

g:\ud\ushared\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
G3D1 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

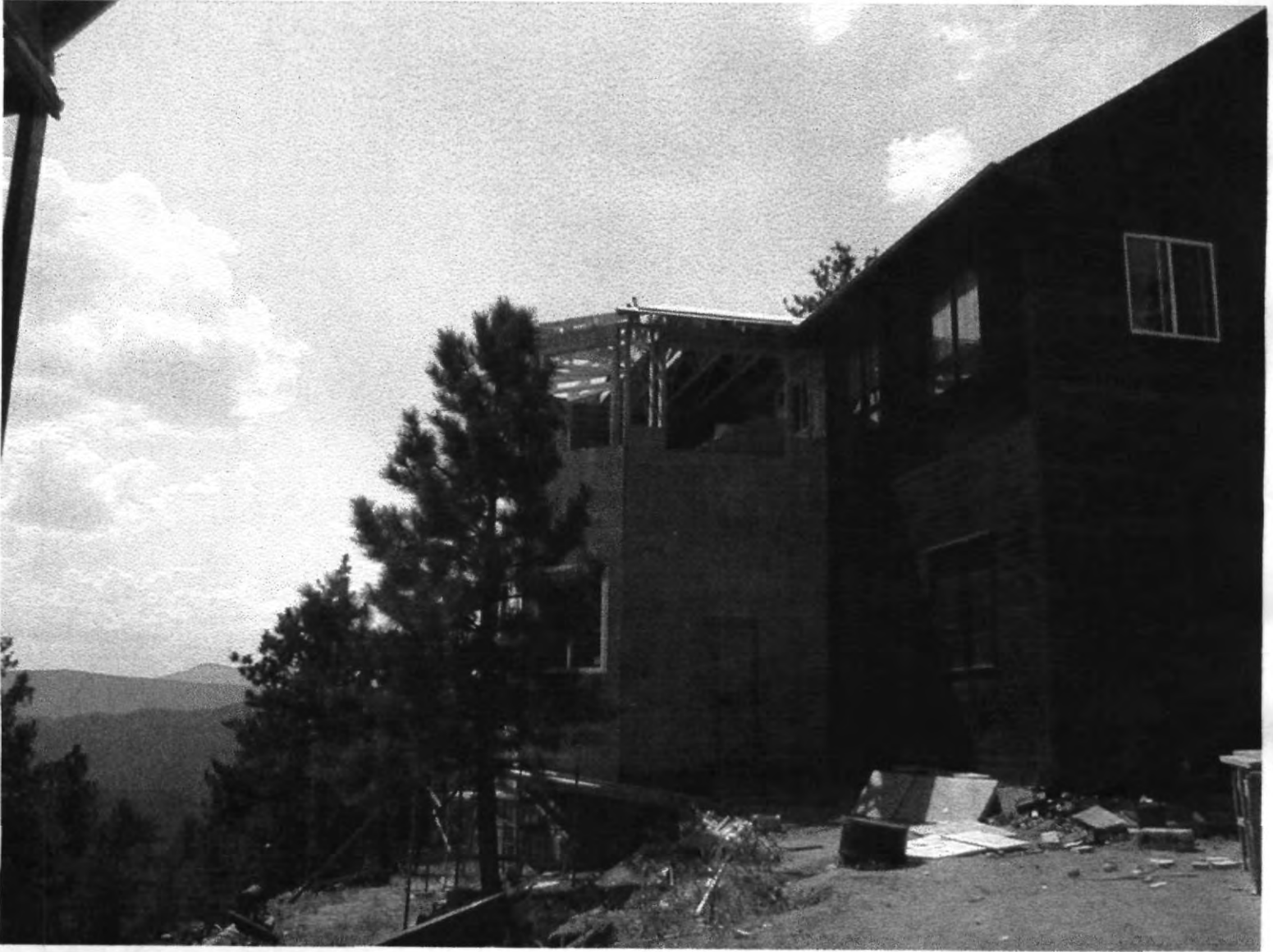
Docket Name: \_\_\_\_\_

Deposit Amount and Date Received: \$250 (10/2/02)







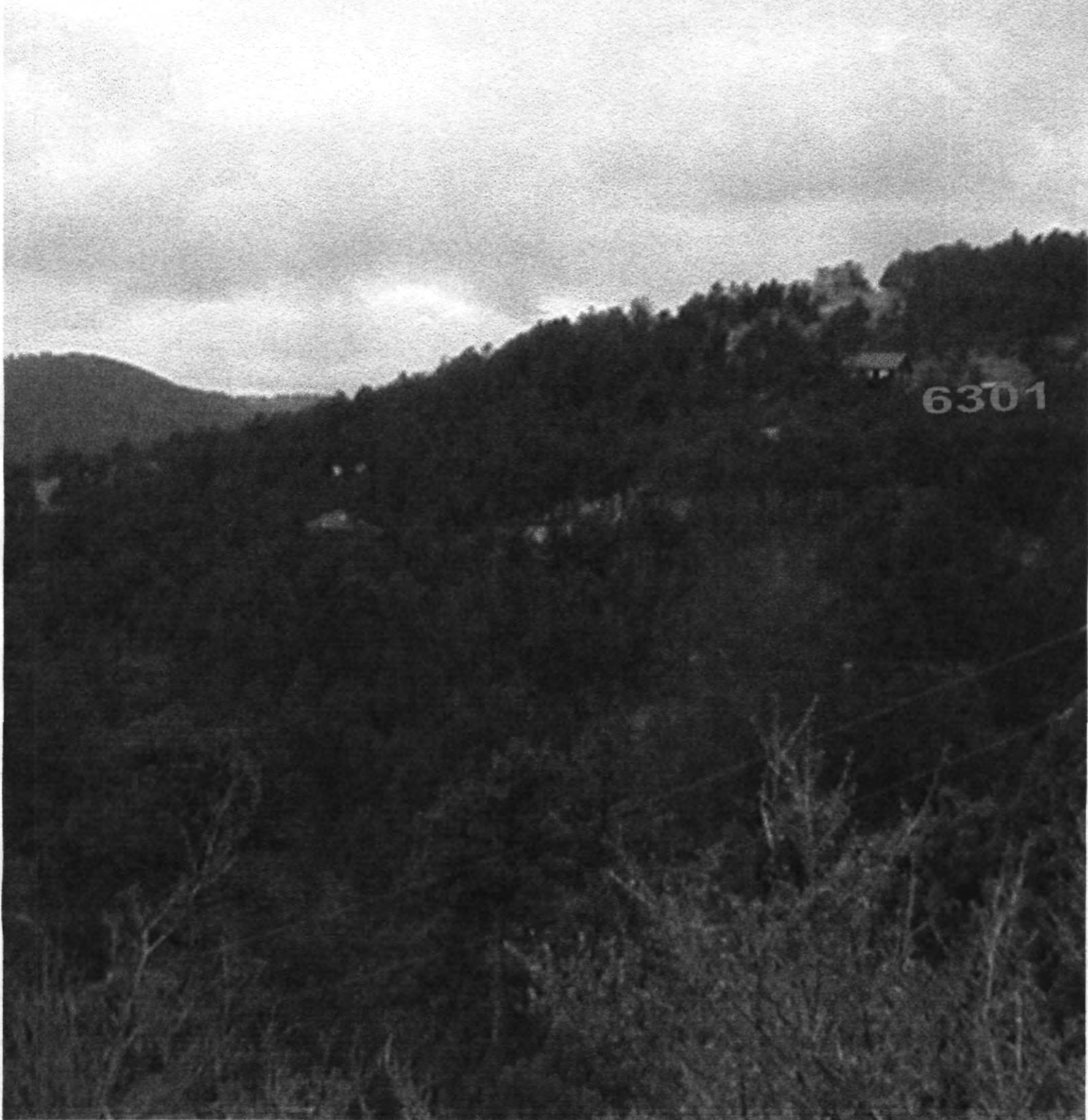








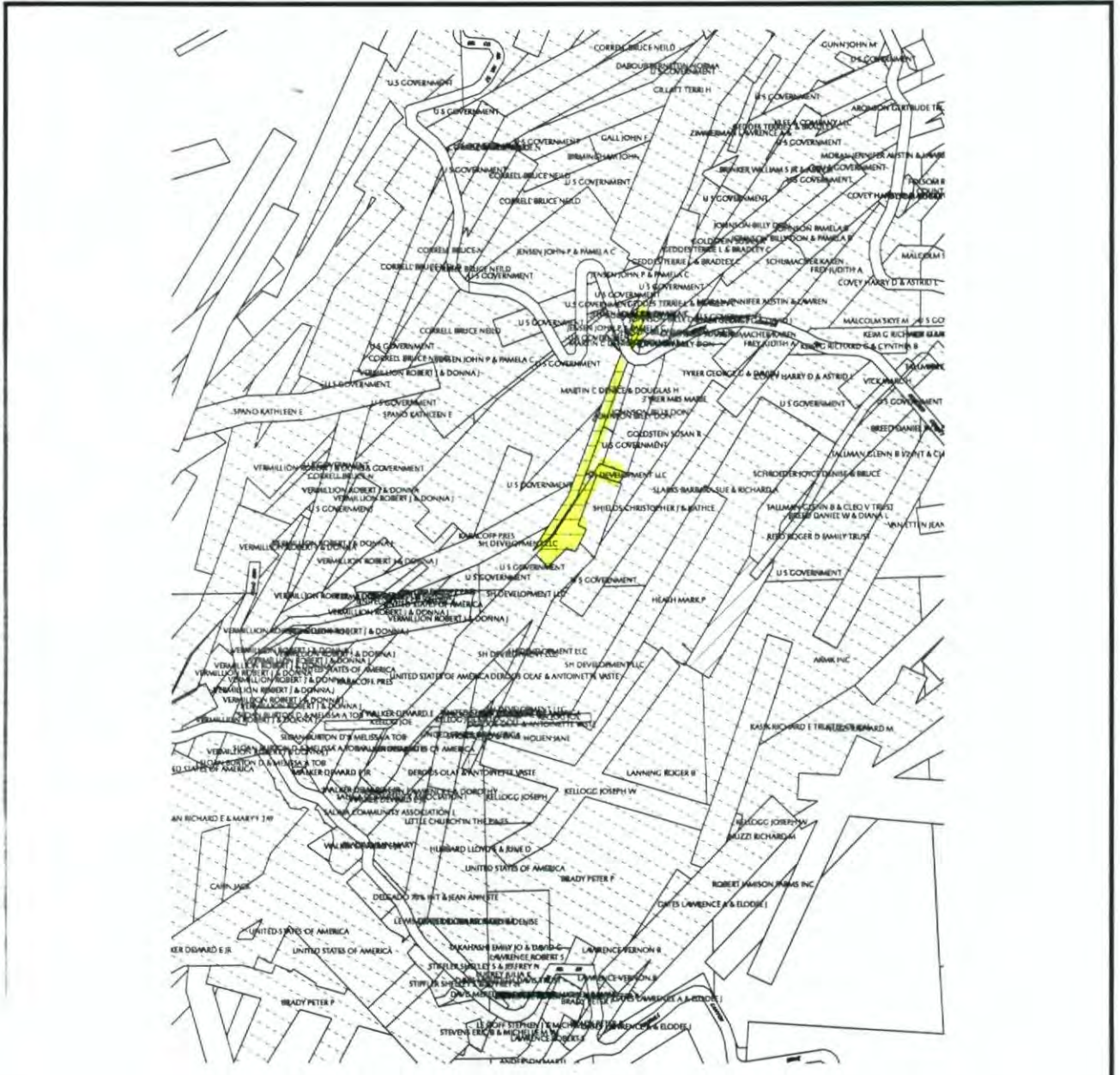




6301



8-11-71W

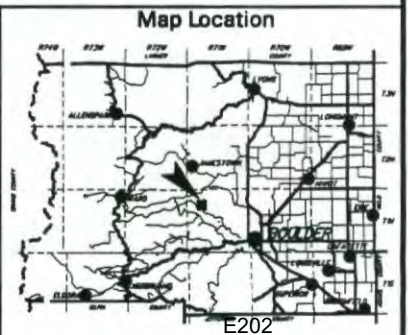


**ELLS FRED JOHN**  
 PID: 146108000074    TAX ID: 058634  
 SEARCH RADIUS: 1500 FEET  
 Avg. Struc. SqFt: 2374

 Subject Parcel   
  Zone to Notify  
 Unidentified Owner

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**Boulder County**  
 BOULDER COUNTY LAND USE  
 Data Compiled: 10/30/02  
  
 770 feet

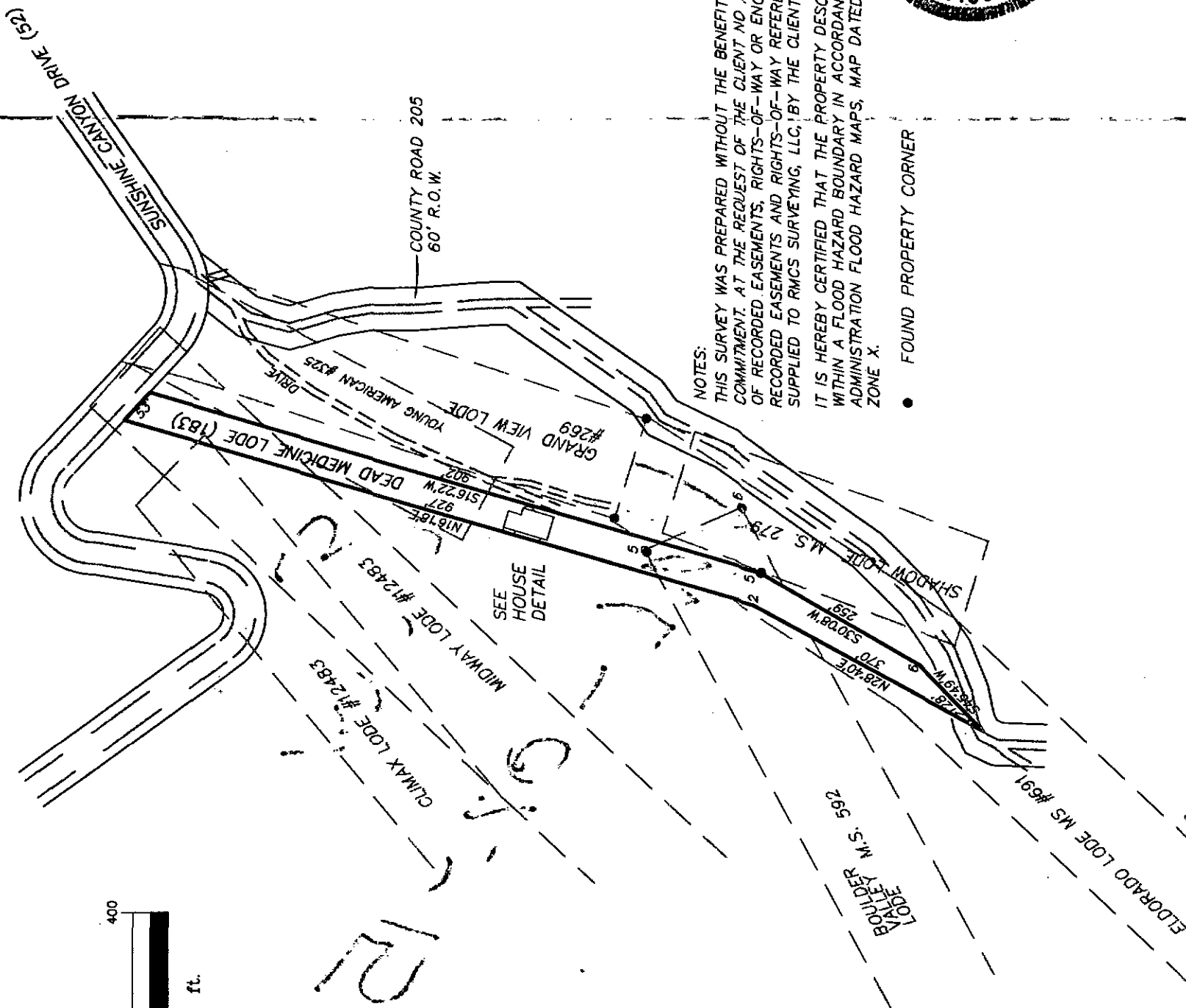




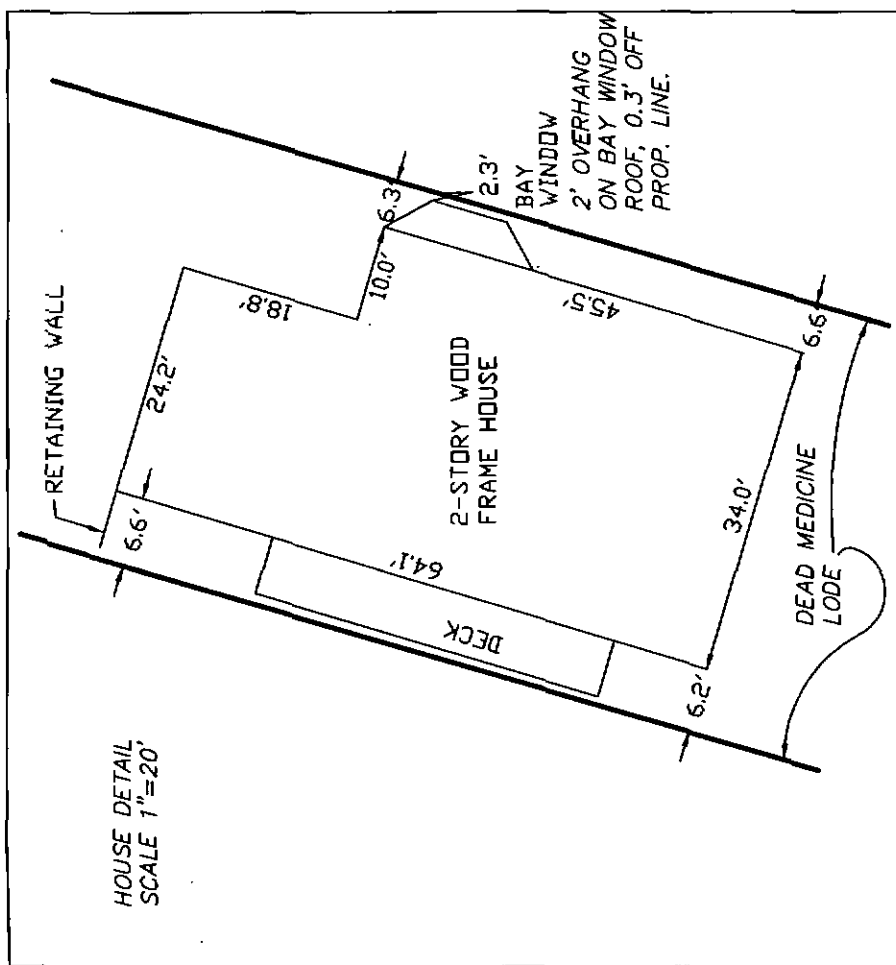
# IMPROVEMENT LOCATION CERTIFICATE

**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'



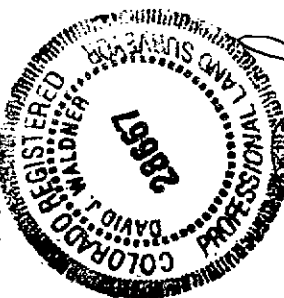
PROPERTY OWNER: FRED ELLS  
PROPERTY ADDRESS: SUNSHINE CANYON DRIVE, BOULDER, CO. 80302

**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

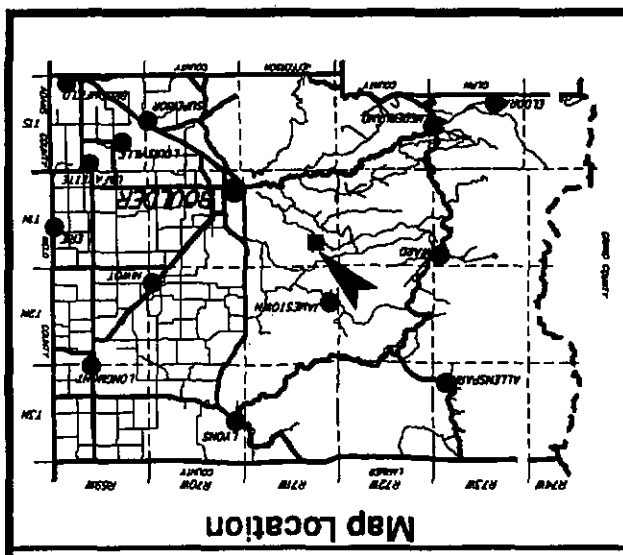
## RMCS SURVEYING & ENGINEERING, LLC

4535 NORTH BROADWAY, SUITE 101  
BOULDER, COLORADO 80304

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

11/21/02

19311



775 Feet

North

Boulder County

BOULDER COUNTY LAND USE

Data Compiled 10/10/02

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Zone to Notify

Owner

Subject Parcel

Unidentified

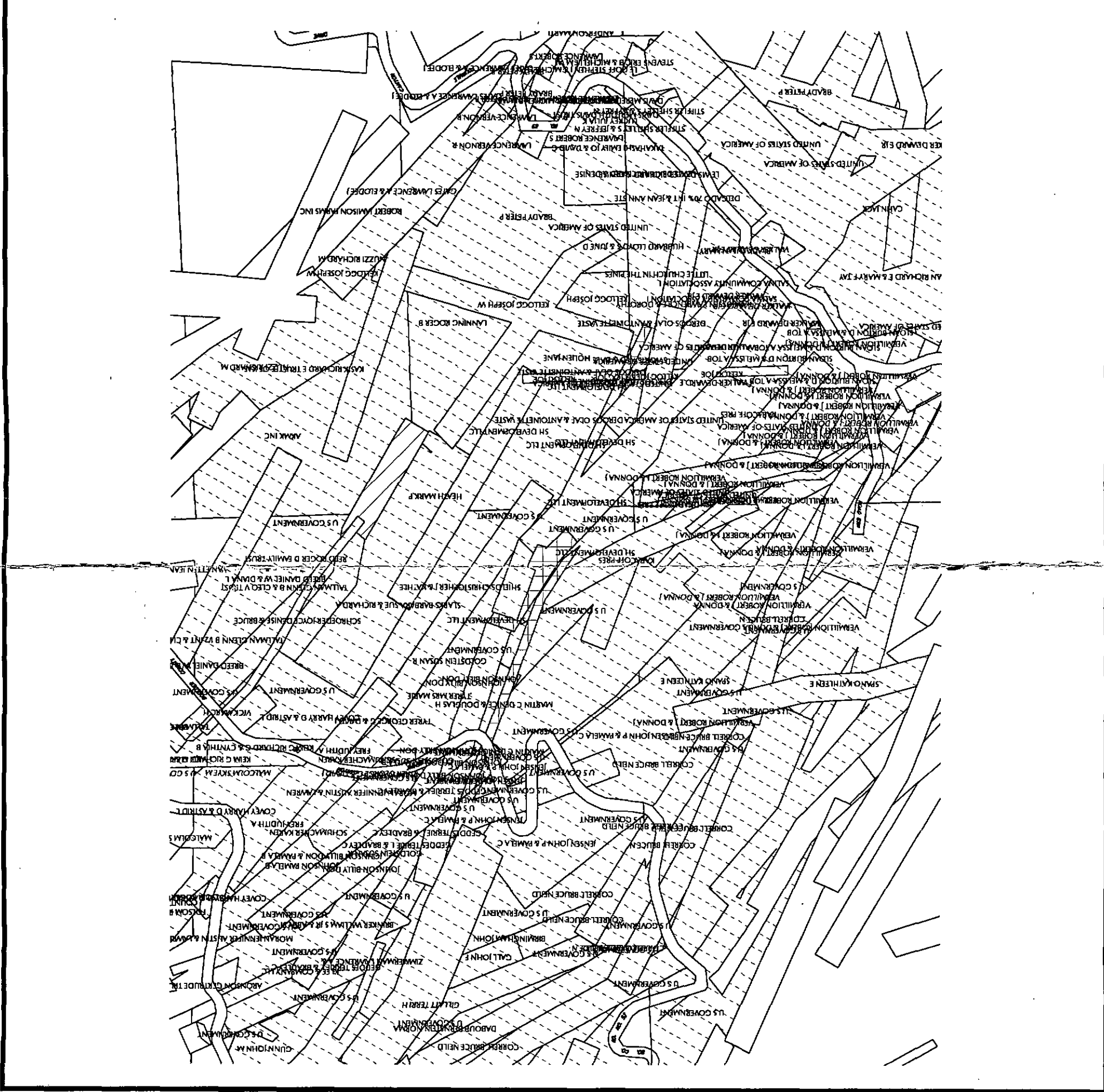
ELLS FRED JOHN

PID: 14610800074

TAX ID: 058634

SEARCH RADIUS: 1500 FEET

Avg. Struc. SqFt: 2374





## 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](http://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
o Staff Recommendation	1 – 6
o Application Materials (Attachment A)	A1 – A14
o Referral Responses (Attachment B)	B1 – B9

#### PROPOSAL:

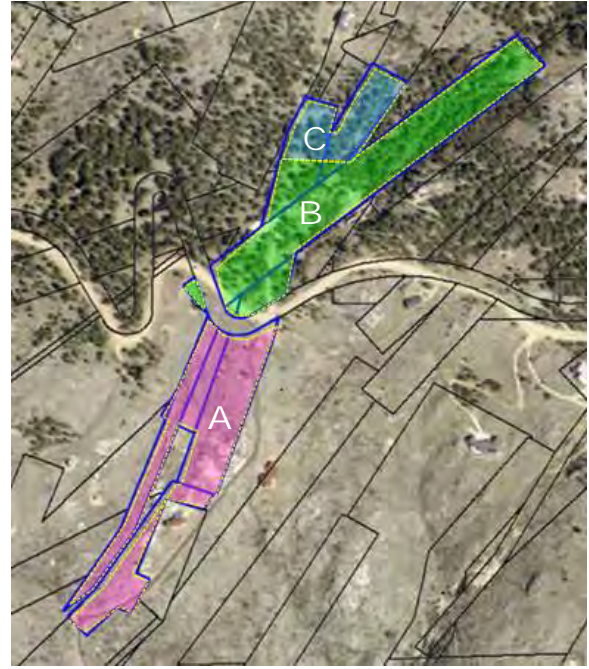
The applicants are requesting a boundary line adjustment that would transform four parcels into three parcels as shown below and in Figures 1 and 2:

	<b><u>Existing</u></b>	<b><u>Proposed</u></b>
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](http://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](mailto: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.





**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	<b>PAID</b>
JUL 09 2018	
BOULDER COUNTY LAND USE	

**Application Form**

Project Number <b>SE-18-0010</b>		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) <b>6300 Sunshine Canyon Dr, 6301 Sunshine Canyon Dr., 6319 Sunshine Canyon Dr., 7288 Sunshine Canyon Dr.</b>				
Subdivision Name				
Lot(s)	Block(s)	Section(s) <b>8</b>	Township(s) <b>T-1-N</b>	Range(s) <b>R-71-W</b>
Area in Acres	Existing Zoning <b>SFD</b>	Existing Use of Property <b>SFD or undeveloped</b>	Number of Proposed Lots <b>3</b>	
Proposed Water Supply <b>well</b>	Proposed Sewage Disposal Method <b>septic systems</b>			

**Applicants:**

Applicant/Property Owner <b>Eugene + Christine Fischer</b>			Email Address <b>gene.fischer@yahoo.com</b>	
Mailing Address <b>6300 Sunshine Canyon Dr.</b>				
City <b>Boulder</b>	State <b>CO</b>	Zip Code <b>80302</b>	Phone <b>303-444-2134</b>	Fax
Applicant/Property Owner/Agent/Consultant <b>Fred Ellis</b>			Email Address <b>sunshinefred@msn.com</b>	
Mailing Address <b>6116 Misty Way</b>				
City <b>Longmont</b>	State <b>CO</b>	Zip Code <b>80503</b>	Phone <b>303-442-5340</b>	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 <i>Eugene Fischer</i>	Printed Name <b>Eugene Fischer</b>	Date <b>5/24/18</b>
Signature of Property Owner <i>Christine Fischer</i>	Printed Name <b>Christine Fischer</b>	Date <b>5/24/18</b>
Signature of Property Owner <i>Fred Ellis</i>	Printed Name <b>FRED ELLIS</b>	Date <b>5/24/18</b>

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**

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 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
Acres	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
Acres	4.63	6.23	1.30		
Frontage					
Setbacks Front/Rear	/	/	/	/	/
Setbacks Side/Side	/	/	/	/	/

**Property Owners**

Parcel	Address Information		Phone/Fax
One	Name FRED ELLS	Address 6116 Misty Way, Longmont	303-442-5340 CO 80503
Two	Name Fred Ellis	Address 6116 Misty Way, Longmont	303-442-5340 CO 80503
Three	Name Eugene + Christine Fischer	Address 6300 Sunshine Canyon Dr. Boulder	303-444-2134 CO 80302
Four	Name Eugene + Christine Fischer	Address 6300 Sunshine Canyon Dr. Boulder	303-444-2134 CO 80302
Five	Name	Address	Phone/Fax 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.



# Boulder County Land Use Department

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

Vicinity

6300 SUNSHINE CANYON DR

## Legend

Subject Parcel

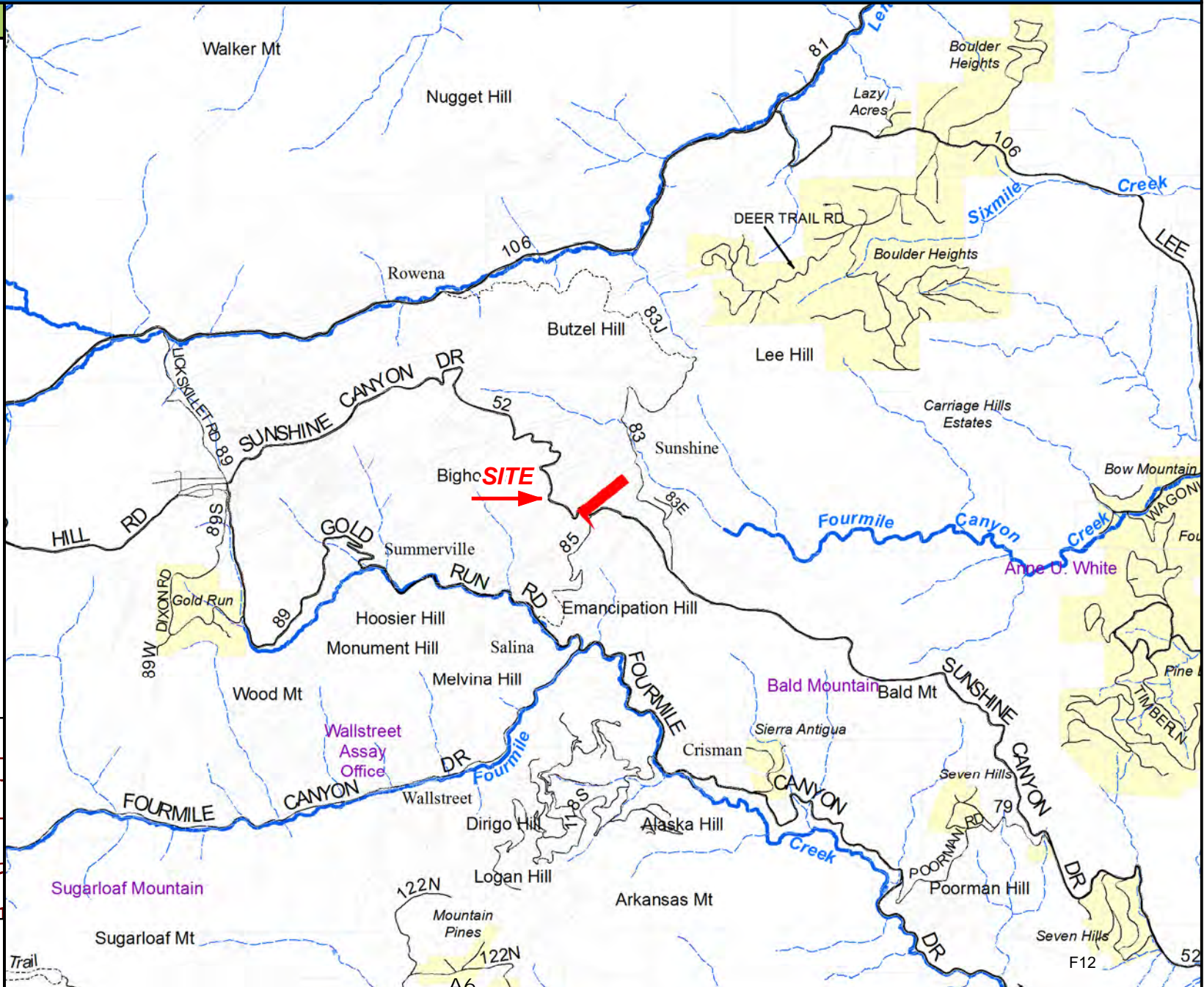
### Streams

Intermittent Stream

Perennial Stream

### Subdivisions

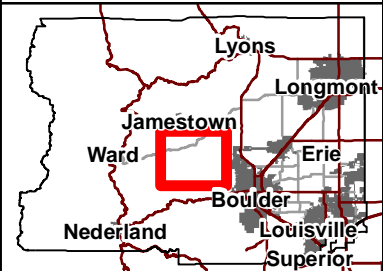
Subdivisions



0 4,000 Feet

NORTH 1 inch = 4,000 feet

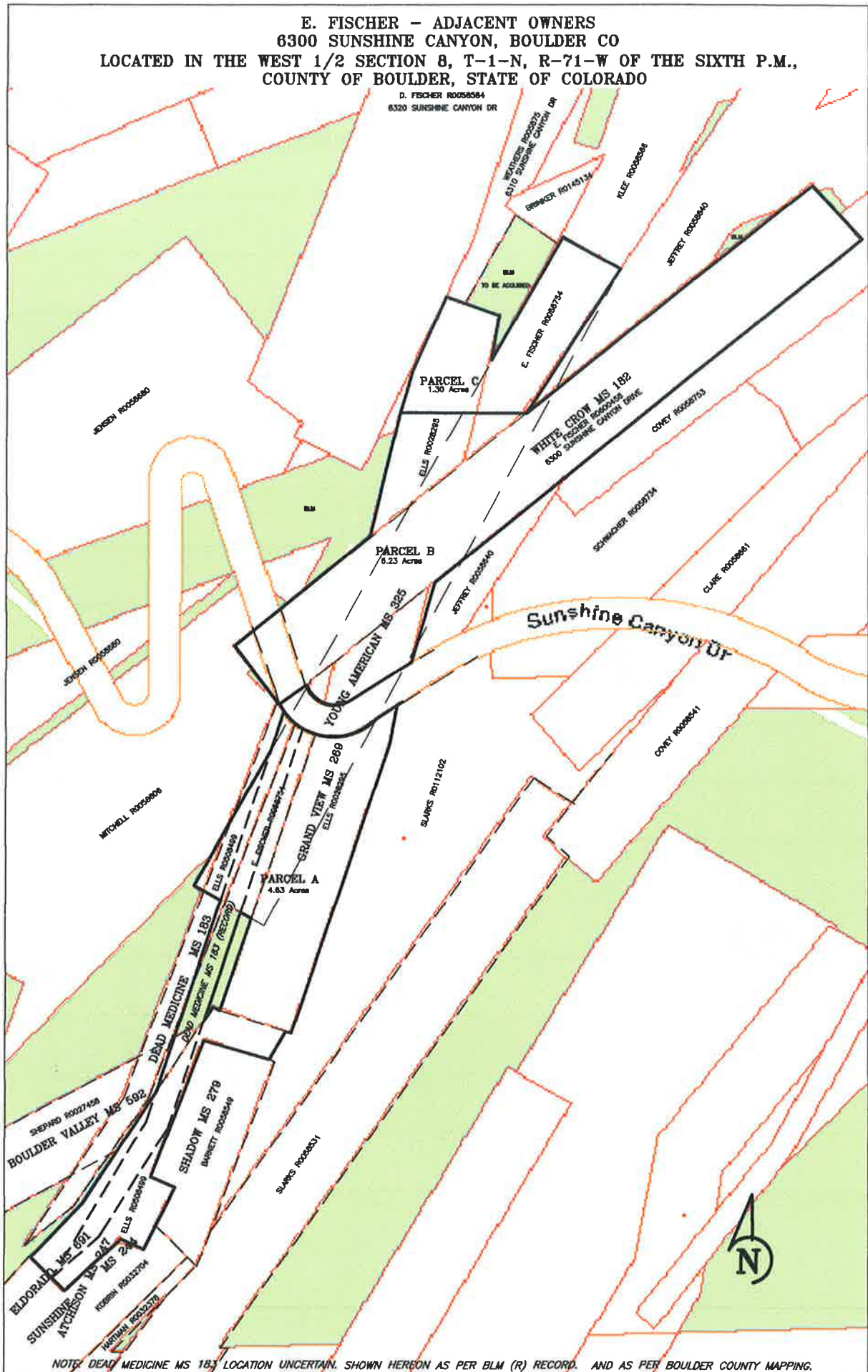
Area of Detail Date: 4/19/2018



The user agrees to all Terms of Use set forth by Boulder County. For Terms of Use, please visit: www.bouldercounty.org/mapdisclaimer



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

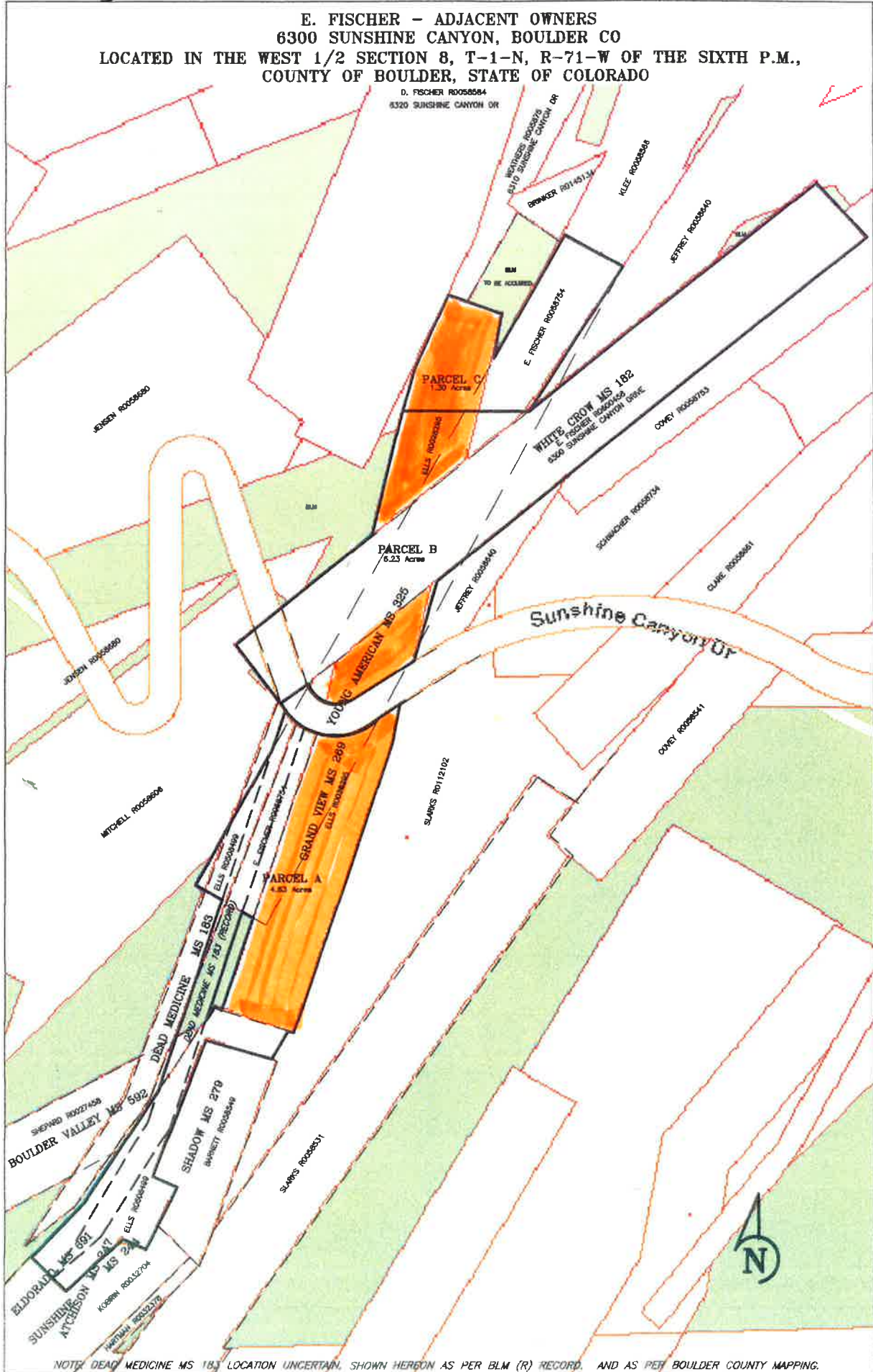


NOTE: DEAD MEDICINE MS 183 LOCATION UNCERTAIN. SHOWN HEREON AS PER BLM (R) RECORD. AND AS PER BOULDER COUNTY MAPPING.

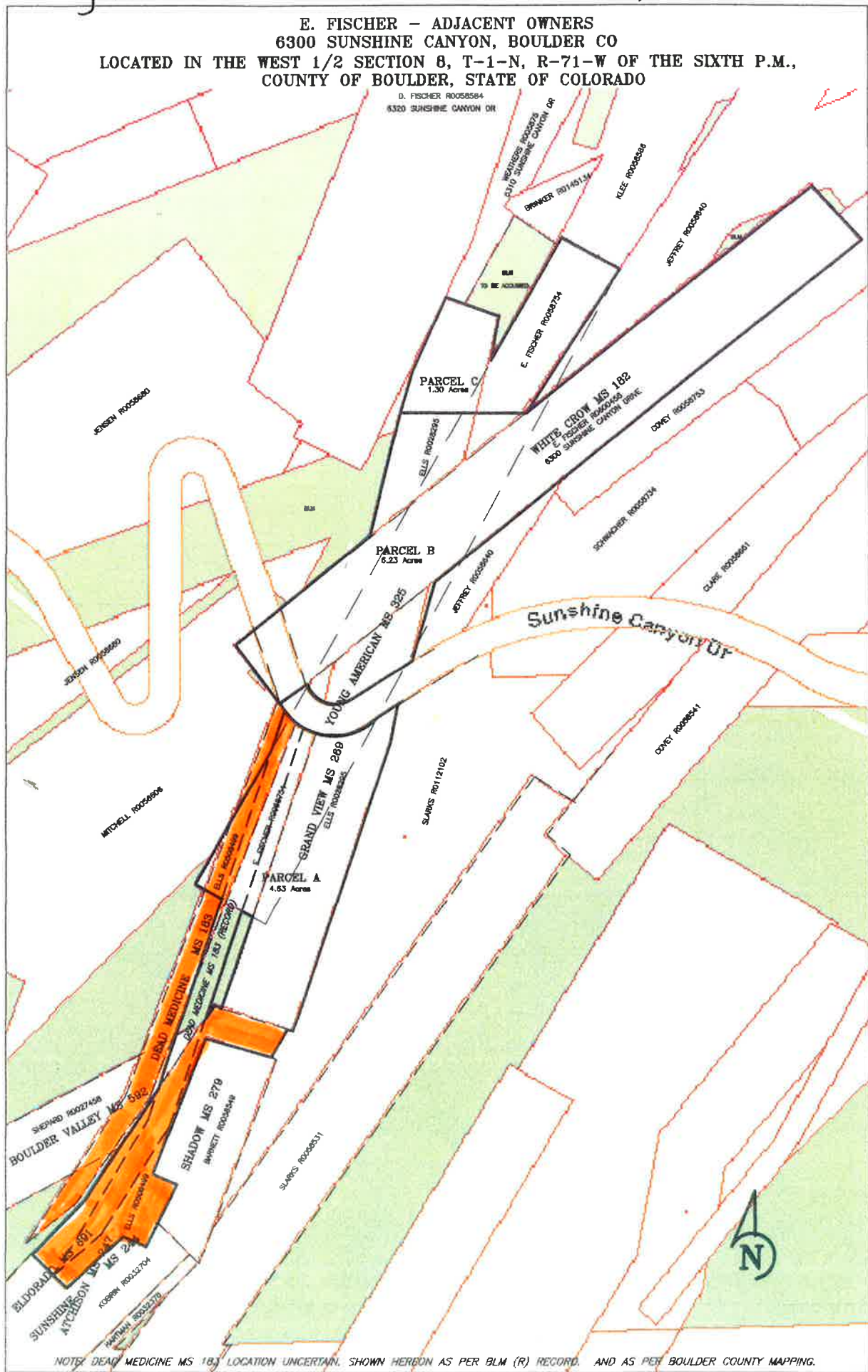


# Existing Parcel One (GrandView Lane) ATTACHMENT ORG

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



# Existing Parcel Two (Dead Medicine Lode) ATTACHMENT ORG

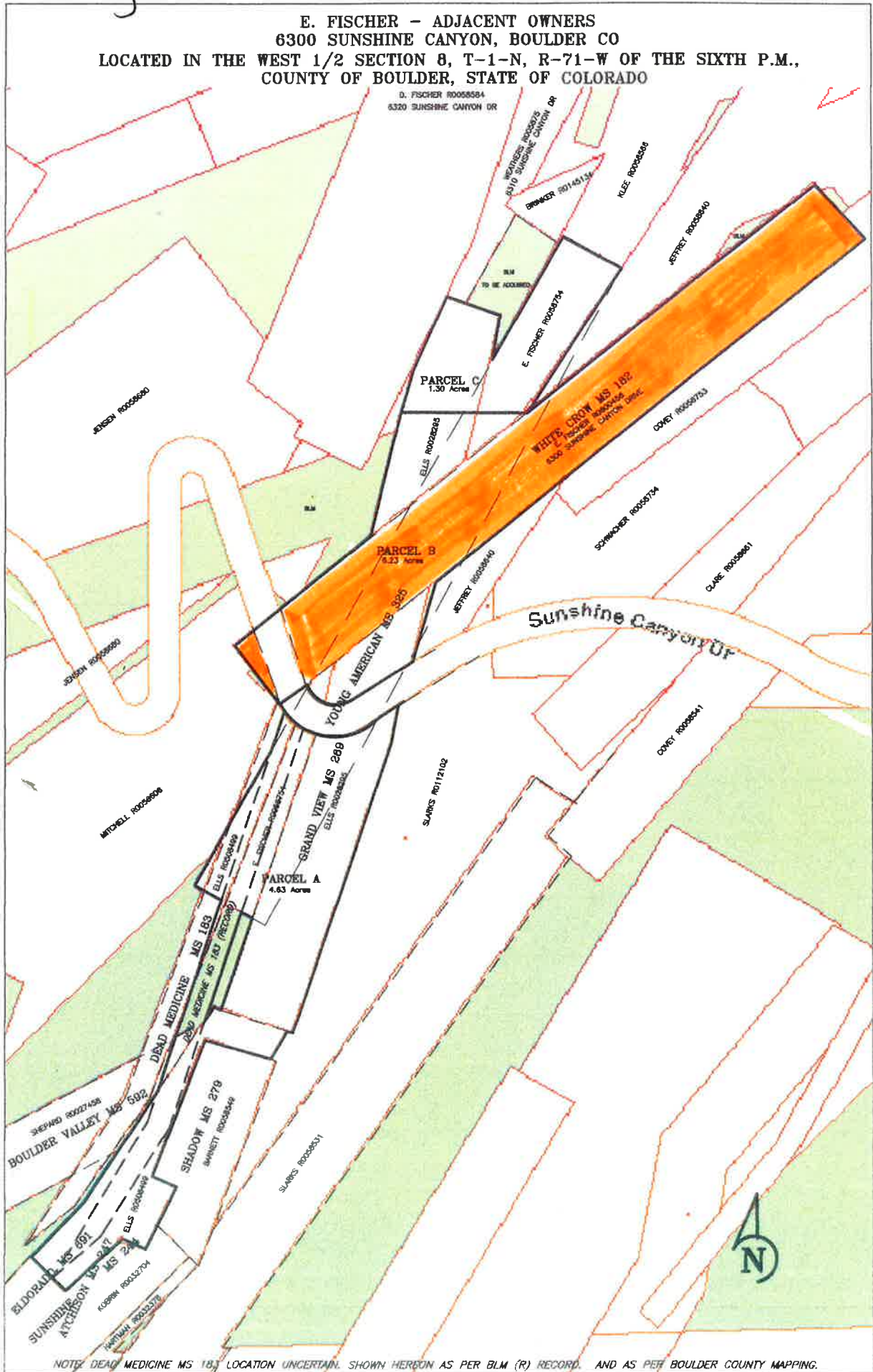




# Existing Parcel Three (White Crow Lode)

ATTACHMENT ORG

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



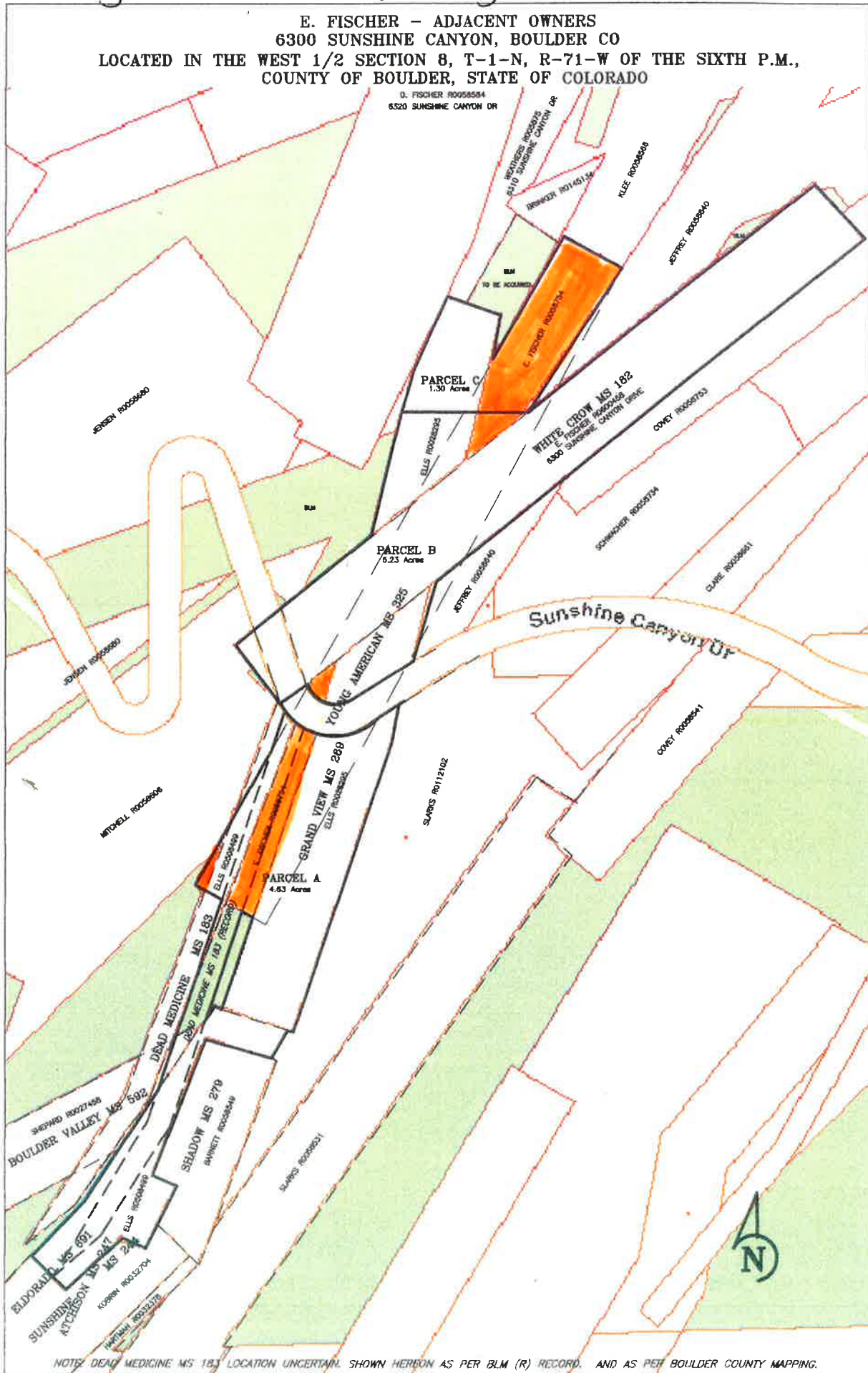
NOTE: DEAD MEDICINE MS 183 LOCATION UNCERTAIN. SHOWN HEREIN AS PER BLM (R) RECORD. AND AS PER BOULDER COUNTY MAPPING.



Existing Parcel Four (Young American Lodge)

ATTACHMENT ORG

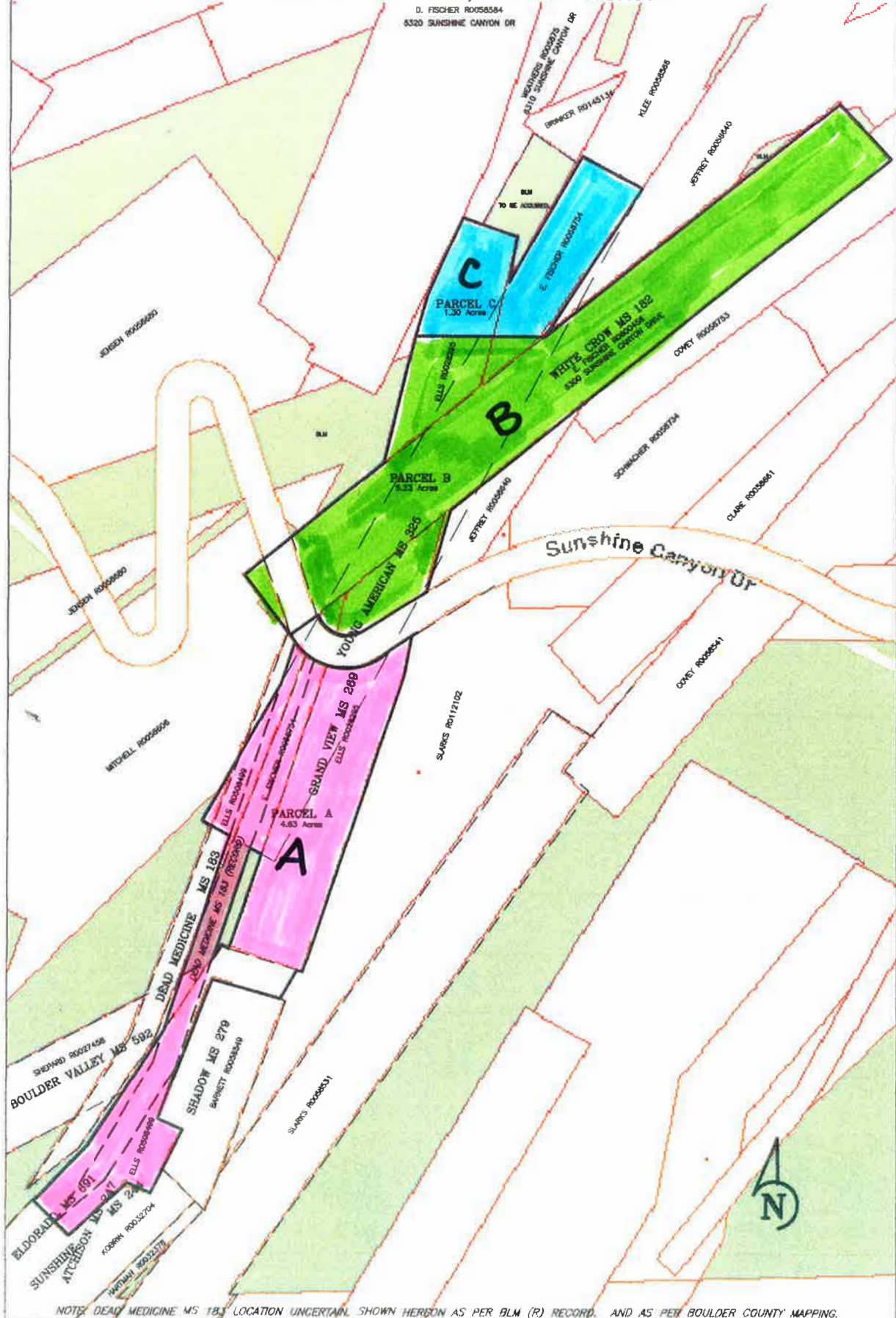
E. FISCHER - ADJACENT OWNERS  
6300 SUNSHINE CANYON, BOULDER CO  
LOCATED IN THE WEST 1/2 SECTION 8, T-1-N, R-71-W OF THE SIXTH P.M.,  
COUNTY OF BOULDER, STATE OF COLORADO



NOTE: DEAD MEDICINE MS 183 LOCATION UNCERTAIN. SHOWN HEREON AS PER BLM (R) RECORD, AND AS PER BOULDER COUNTY MAPPING.

ATTACHMENT ORG  
 Proposed Parcels A, B and C

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 123 LOCATION UNCERTAIN, SHOWN HEREON AS PER BLM (R) RECORD, AND AS PER BOULDER COUNTY MAPPING.



# GOOGLE EARTH VIEW

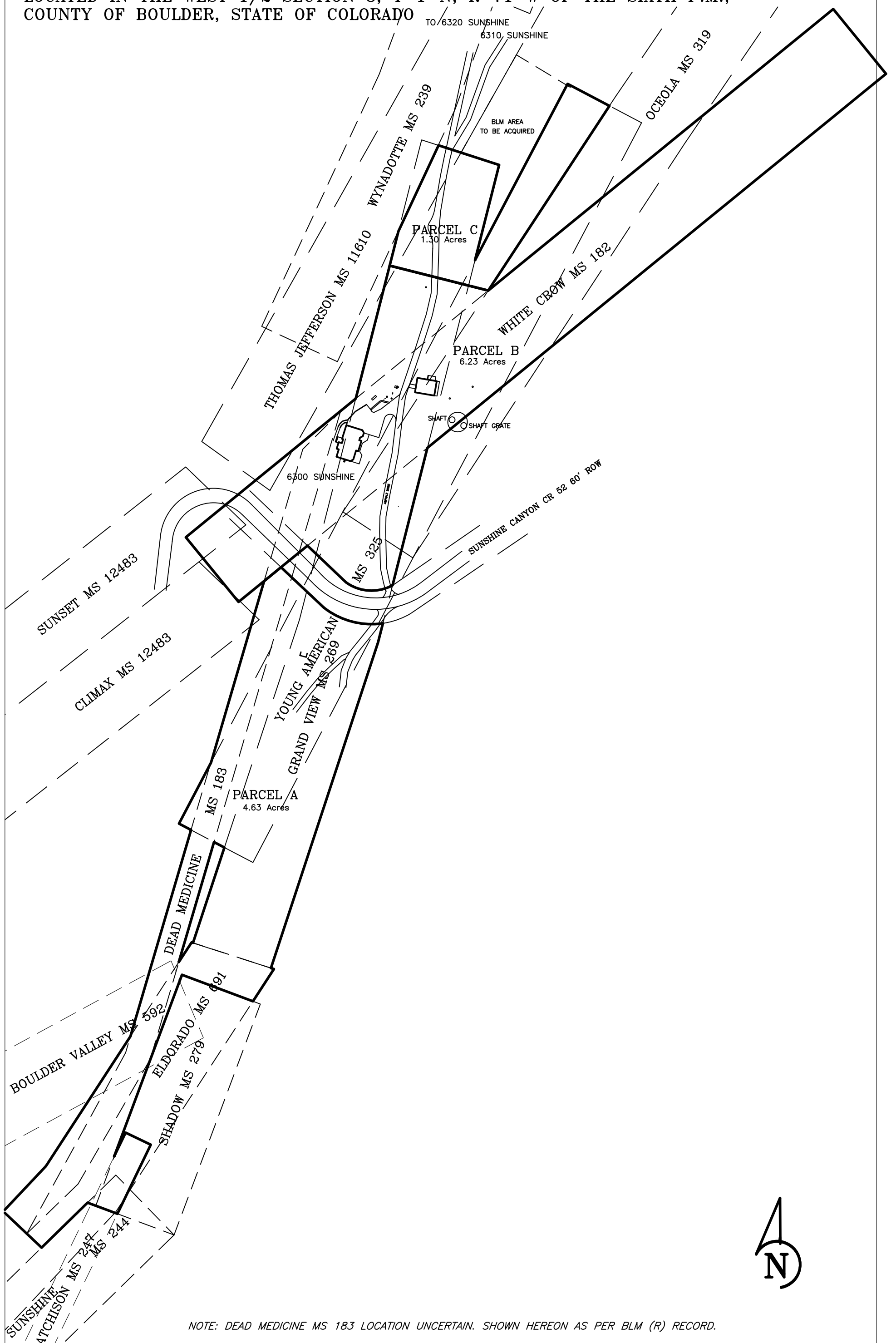
Showing proposed lot line adjustments and distances

- 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](http://www.bouldercounty.org)

August 7, 2018

TO: Jennifer Severson, Senior Planner; Land Use Department  
 FROM: H el ene Levaufre, 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

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 Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • [www.bouldercounty.org](http://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](mailto:jseverson@bouldercounty.org)

Re: Fischer-Ells Boundary Line Adjustment  
 Docket SE-18-0010  
 SW¼ Sec. 8, T1N, R71W, 6<sup>th</sup> 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.<sup>1</sup> 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

<sup>1</sup> 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.



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 3<sup>rd</sup> 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](http://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](mailto: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](http://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 - Environme**
- + 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

<b>Assigned Date</b>	07/24/2018	<b>Due Date</b>	07/24/2018
<b>Assigned to</b>	LU Review Public Health	<b>Assigned to Department</b>	Public Health Planning Review
<b>Current Status</b>	No Comments/No Conflict	<b>Status Date</b>	07/25/2018
<b>Action By</b>	Jessica Epstein	<b>Overtime</b>	No
<b>Comments</b>	Jessica Epstein	<b>Start Time</b>	
<b>End Time</b>		<b>Hours Spent</b>	30.0
<b>Billable</b>	No	<b>Action by Department</b>	Public Health Planning Review
<b>Time Tracking Start Date</b>		<b>Est. Completion Date</b>	
<b>In Possession Time (hrs)</b>		<input type="checkbox"/> Display E-mail Address in ACA	
<b>Estimated Hours</b>	0.0	<input checked="" type="checkbox"/> Display Comment in AC	
<b>Comment Display in ACA</b>	<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

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](http://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

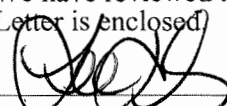
A Subdivision Exemption is a waiver of the usual subdivision requirements to allow a Boundary Line Adjustment, a Lot Recognition, a Lot Split, or a Community Facility Lot Split.

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.

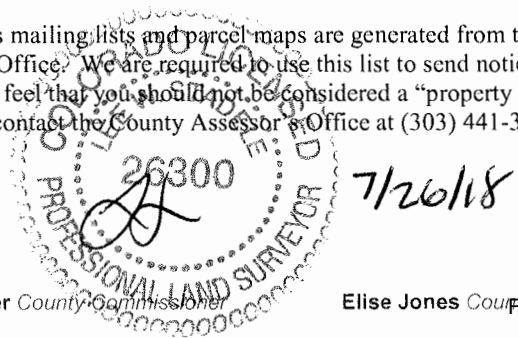
The Land Use staff and County Commissioners value comments from individuals and referral agencies. Please check the appropriate response below or send a letter. Late responses will be reviewed as the process permits; all comments will be made part of the public record and given to the applicant. Only 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](mailto: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 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-CERCLA<sup>1</sup> 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.

<sup>1</sup> 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

<b>Site Category:</b> Draining Mines	<b>Select a Site Name (Primary):</b> Upper Sweet Home
<b>Site Number:</b> Not Applicable	
<b>Date of Site Visit:</b> May 28, 2021	<b>Time of Site Visit:</b> 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

**Riparian on or Adjacent to the Site:** No

**Forested 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

<b>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?</b>	Yes
<b>2. Is there evidence of an actual release or a potential to release?</b> <b>Evidence of Potential Release</b> Waste pile material observed in water body or other surrounding environment, Evidence of waste pile runoff/erosion (channels, rills, run off)	Yes
<b>3. Are there possible targets that could be impacted by a release of contamination at the site?</b>	Yes
<b>4. Is there documentation indicating that a target has been exposed to a hazardous substance released from the site?</b>	No
<b>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?</b>	No
<b>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?</b>	No
<b>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?</b>	No
<b>8. Are the hazardous substances possibly released at the site, or is the release itself, excluded from being addressed under CERCLA?</b>	No
<b>9. Is the site being addressed under RCRA corrective action or by the Nuclear Regulatory Commission?</b>	No
<b>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)?</b>	No
<b>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?</b>	No
<b>12. Are there OTHER site-specific situations or factors that warrant further CERCLA remedial/integrated assessment or response?</b>	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>.

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## Preparer's Recommendation

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**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

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## EPA Regional Review and Pre-CERCLA Screening Decision

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**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:**

:

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## Site Location

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## Photographs

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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 (SiO <sub>2</sub> )	Silver	Sodium	Thallium	Uranium	Vanadium	Zinc
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	17.6 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
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	2.2 J	<3.2 U	<3.6 U	<0.032 U	<8.9 U	<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	Barium	Cadmium	Chromium	Lead	Manganese	Selenium	Silver
USHM-SO-MP01-01	TCLP	Leachate	5/28/2021	11:50	17	150 J	190	66 J	<0.53 U	3.3 J	1600 J	11
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

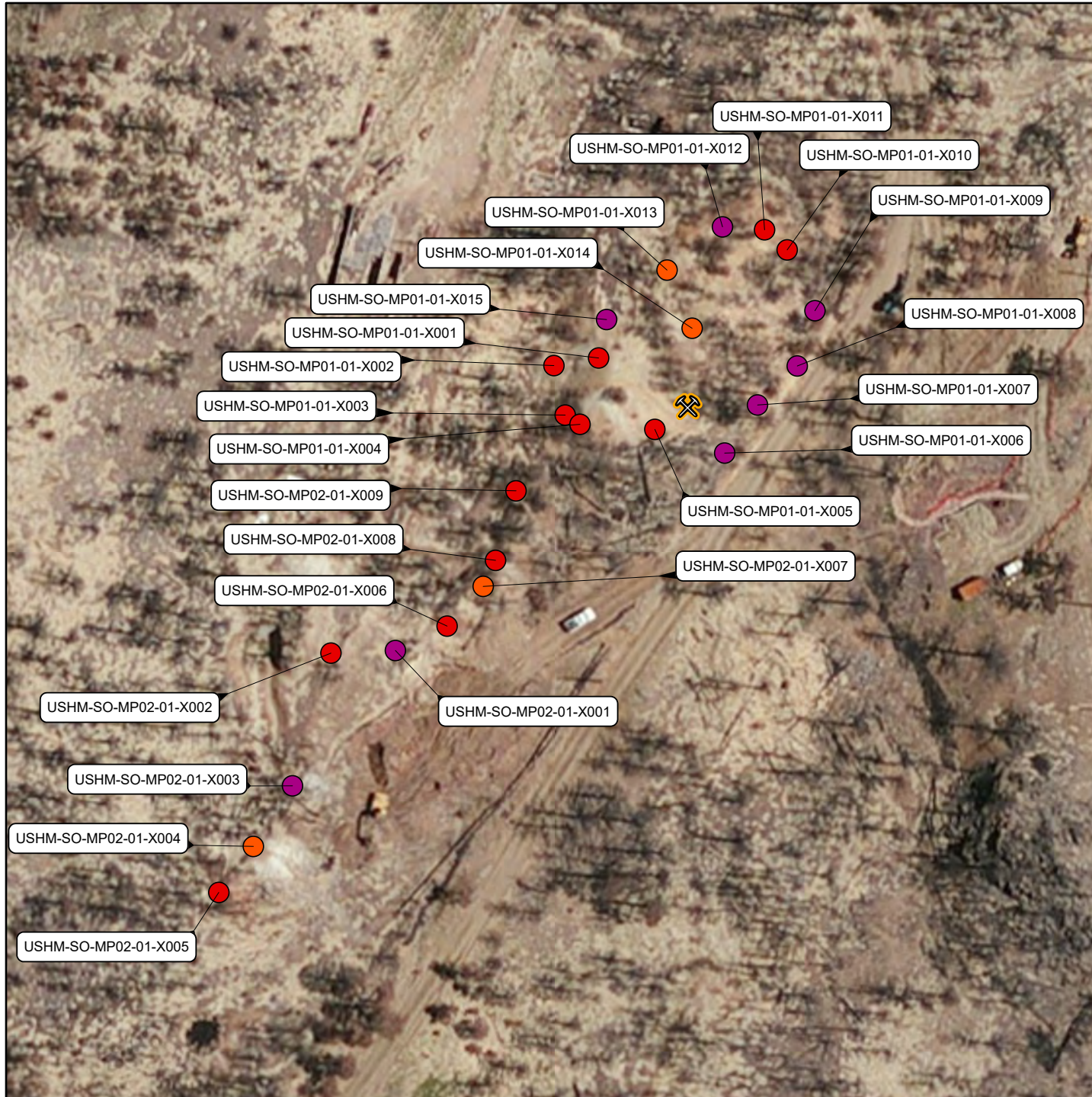
**X-Ray Fluorescence (XRF) Spectrometry Soil Survey Results**

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	27	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	28	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	<LOD	620	181	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</																





**Figure A.6**  
**Upper Sweet Home Mine**  
 Fourmile Creek Watershed  
 Boulder County, Colorado

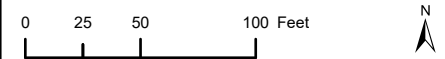
**2021 Pre-CERCLA Screening**  
**Colorado Draining/Abandoned Mines**  
**XRF Survey - Arsenic Results**  
**(mg/kg)**

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

0 0.0175 0.035 0.07 Miles

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](mailto: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 <bldrvalleyandlongmontcads@gmail.com>; kberger@blm.gov; chief@sunshine-fpd.org; reginadaly01@gmail.com; bdhoneyman@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 <sfrederick@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](mailto: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

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[www.bouldercounty.gov](http://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](mailto:marnold@bouldercounty.org)  
[BoulderCounty.gov](http://BoulderCounty.gov)

*New: Boulder County has a new website: [BoulderCounty.gov](http://BoulderCounty.gov)! Bookmark it today. Email addresses will transition at a later date.*

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**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 <bldrvalleyandlongmontcads@gmail.com>; kberger@blm.gov; chief@sunshine-fpd.org; reginadaly01@gmail.com; bdhoneyman@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 <sfrederick@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](mailto: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](http://BoulderCounty.gov)! Bookmark it today. Email addresses will transition at a later date.*

[www.bouldercounty.gov](http://www.bouldercounty.gov)



**Right of Way & Permits**

1123 West 3<sup>rd</sup> 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](http://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](mailto: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.

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**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**

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**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

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**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](mailto: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**

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**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