



**Town of Green Mountain Falls  
Planning Commission Regular Meeting  
Agenda  
February 9, 2021 • 6:30 PM • Virtual Meeting\***

[\\*Zoom Meeting Link](#)

Meeting ID: 814 997 1940

Passcode: 774139

\*\*Register for public comment by 4:00 PM the day of the meeting: [staff@gmfco.us](mailto:staff@gmfco.us); [planner@gmfco.us](mailto:planner@gmfco.us)

TIME		ITEM	DESIRED OUTCOME
6:30	1.	CALL TO ORDER	
6:32	2.	ADDITIONS, DELETIONS, OR CORRECTION TO THE AGENDA	
6:34	3.	APPROVAL OF MINUTES January 12, 2021 Regular Meeting Minutes	Action Recommended
	4.	PUBLIC COMMENT**	
		NEW BUSINESS	
6:40	5.	GR2021-02 Grading and Erosion Control Plan - Retaining Wall and Erosion Control at 10860 Ora Street. Drake Carter, Solid Earth Civil Constructors on Behalf of Michael Butts, Owner.	Action Recommended
6:50	6.	REV2021-01 Revocable Permit - Retaining Wall Constructed in Right-of-Way at 10400 El Paso Avenue	Action Recommended
7:05	7.	Election of Secretary	
		OTHER BUSINESS	
7:10	8.	Trustee Liaison Report on Board Action and Matters of Comprehensive Plan Implementation. Katharine Guthrie, Board of Trustees Planning Liaison	Information
	9.	Housekeeping and Announcements	Information
	10.	Adjournment	

*Planning Commissioners are Appointed by Board of Trustees:*

*Todd Dixon, Chair*

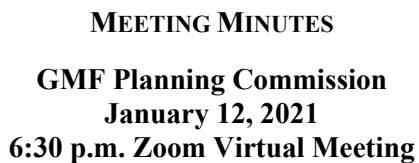
*Lamar Matthews, Commissioner*

*Sean Ives, Commissioner*

*Gregory Williamson, Vice Chair*

*Paul Yingling, Commissioner*





[Link to Zoom Video Recording](#)

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# MEETING MINUTES

## GMF Planning Commission

January 12, 2021

6:30 p.m. Zoom Virtual Meeting

6. Ordinance 2021-03 AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF GREEN MOUNTAIN FALLS ZONING CERTAIN RECENTLY ANNEXED PROPERTY TO BUSINESS DISTRICT (JOYLAND CHURCH PARCEL ANNEXATION). Public Hearing and Consideration of a Zoning Ordinance for Recommendation to the Board of Trustees. Jesse Stroope on Behalf of Green Mountain Road, LLC.	Public testimony: Dick Bratton spoke to raise a question regarding a perceived calendar error. Withdrawn. Dick Bratton spoke in support of requested zoning change and support of agenda items 5,6,7. Testimony can be viewed on the Zoom video recording, posted on Town Website.  Motion to recommend approval of Ordinance 2021-03 Zoning Joyland Church parcel as Business.	LM/PY	Aye	Aye	Aye	Aye	Aye	
7. Ordinance 2021-04 AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF GREEN MOUNTAIN FALLS ZONING CERTAIN RECENTLY ANNEXED PROPERTY TO PUBLIC LANDS DISTRICT (RED DEVIL MOUNTAIN PARCEL ANNEXATION). Public Hearing and Consideration of a Zoning Ordinance for Recommendation to the Board of Trustees. Jesse Stroope on Behalf of Historic Green Mountain Falls Foundation, LLC.	Chair Dixon asked the Petitioner, Jesse Stroope, questions regarding fencing, charging admission, and zoning the parcel. Testimony and dicussion can be viewed on the Zoom video recording, posted on Town Website.  Motion to recommend approval of Ordinance 2021-04 Zoning Red Devil Mountain parcel as Public Lands.	PY/SI	Aye	Aye	Aye	Aye	Aye	
8. Special Use Permit. Public Hearing and Consideration of a Special Use Permit for Recommendation to the Board of Trustees on the Development of a Public Building in R-1 5-Acre Hillside Single-Family Residential District at 10400 El Paso Avenue. Jesse Stroope on Behalf of Historic Green Mountain Falls Foundation, LLC.	Motion to recommend approval of the Special Use permit for public restrooms at 10400 El Paso with the condition that the applicant work with staff to site restroom to meet zoning development requirements.	GW/LM	Aye	Aye	Aye	Aye	Aye	
OTHER BUSINESS								



**MEETING MINUTES**

**GMF Planning Commission**

**January 12, 2021**

**6:30 p.m. Zoom Virtual Meeting**

9. Trustee Liaison Report on Board Action and Matters of Comprehensive Plan Implementation. Katharine Guthrie, Board of Trustees Planning Liaison	Trustee Guthrie gave a report on grants and coordinating with the PC on future opportunities for volunteers to work on grant funding. The PC and BoT will hold a coordination and communication retreat during the 1Q2021	
10. Housekeeping and Announcements; 11. Next Regular Meeting is February 9, 2021	Chair Dixon suggests staff publish and post information regarding the annexation on the Town Website. No action taken.	
12. Adjournment	Chair Dixon adjourned the meeting at 7:23 PM	





To: Planning Commission  
From: GMF Planning & Land Use  
Date: February 3, 2021  
Re: Grading Permit GR2021-02 for Retaining Wall and Erosion Control at 10860 Ora Street

### **Background**

The Applicant is requesting the Planning Commission's consideration for a grading and erosion control permit and LU approval for the construction of a retaining wall at the subject property.

Planning Commission Recommended Actions:

- Public hearing
- Review proposed project application for compliance with Green Mountain Falls Zoning Code
- Approve, approve subject to conditions, or disapprove

### **Discussion**

#### **Sec. 16-306. - R-1 10,000 Single-Family Residential District.**

The subject property is a 10,380 SF parcel in the Hillside Overlay Zone.

#### **Sec. 17-83 – 17-89. - Grading permit and erosion control plan; when required.**

The proposed project is to grade, fill, and construct a retaining wall beneath the single-family residence (see Letter of Intent, attached) and will disturb approximately 1,490 SF. All earth disturbance will take place on the subject parcel and not encroach the ROW, which appears to have been partially vacated at one time. Staging for equipment will be on the homeowner's parking area. Some additional clarification will help determine whether this would be in the ROW.

#### **Sec. 17-92. - Erosion control plan.**

The code requires all earth disturbance of 300 SF or 50 CY require an erosion control plan. GMF Zoning Code gives Planning Commission authority over this review and recommendation for approval:

*For land-disturbing activity of three hundred (300) square feet or fifty (50) cubic yards or more, whichever is applicable, and having no proposed road construction, the Town may waive the submission of an erosion control plan if, upon site inspection, determination is made that the site does not have the potential to cause erosion or off-site damage. However, a plan is required for all land-disturbing activity involving one (1) acre or more, or involving the construction of any public road, or any commercial construction.*

The existing public process, while timely for contractors prepared to mobilize, allows the PC to place the burden and liability on the applicant's engineer and Town Engineer. Staff believes that third party review for projects having the potential to cause off-site drainage and erosion is a reasonable condition for development and can be done relatively quickly with any additional erosion control measures required by the Town Engineer.

**Sec 17-93 – Conditions of Issuance**

The Planning Commission may place additional conditions on the applicant and project regarding the construction, staging, hours of operation, insurance requirement, etc.

**Recommendation**

Staff believes the proposed project is in compliance with the policies and standards in Section 17 and recommends approval of GR2021-02 with the condition that Town Engineer review grading plan and erosion control measures.

Contact: Drake Carter  
719-582-3044  
drakecarter@solidearth.co



1/25/2021

Project:  
10860 Ora St Retaining Wall  
Letter of Explanation

- i. The purpose of this proposed project is to construct a more permanent and better reinforced retaining wall at the 10860 residence. The wall will provide stabilized sub soils for existing patio, deck, and foundation as well as reduce sluffing of soils and subsequent loss of fines downstream. The wall will also help retain soils for a new staircase for access to the home. Adequate drainage has been designed into wall as well to ensure ponding of water does not take place. As seen on C1 relocation of wall will help improve driveway access as well as improve useable space in that area.0
- ii. Proposed start date has been set as 2/8/2021, with project completion scheduled for 3/28/2021

Solid Earth hereby proposes to furnish the material and perform the labor necessary for the completion of the above stated work as outlined in this proposal. Material and labor are guaranteed for a period of one year. Any damages due to severe weather, vandalism, animals, or acts beyond the control of Solid Earth Civil Constructors Inc. are not covered under warranty.

Acceptance of this proposal binds the recipient to making progress payments upon receipt of invoice. Collection fees and/or legal fees will be the responsibility of the project owner and/or prime contractor.

Any alteration or deviation from the above stated scope of work will be executed upon owners' approval and may or may not affect the pricing listed in this contract.

This proposal shall become an exhibit of any contract/change order resulting from it.

Respectfully submitted,

Drake B. Carter  
Solid Earth Civil Constructors Inc.

ACCEPTANCE OF PROPOSAL

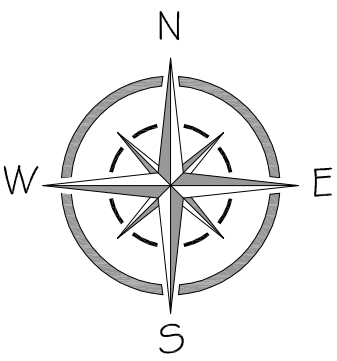
***Pricing is void 30 days from date of proposal.***

The above specifications, prices, and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

Signature	Date

# TOPOGRAPHIC SURVEY

10860 ORA STREET  
GREEN MOUNTAIN FALLS, COLORADO.



SCALE 1" = 10'



## LEGEND

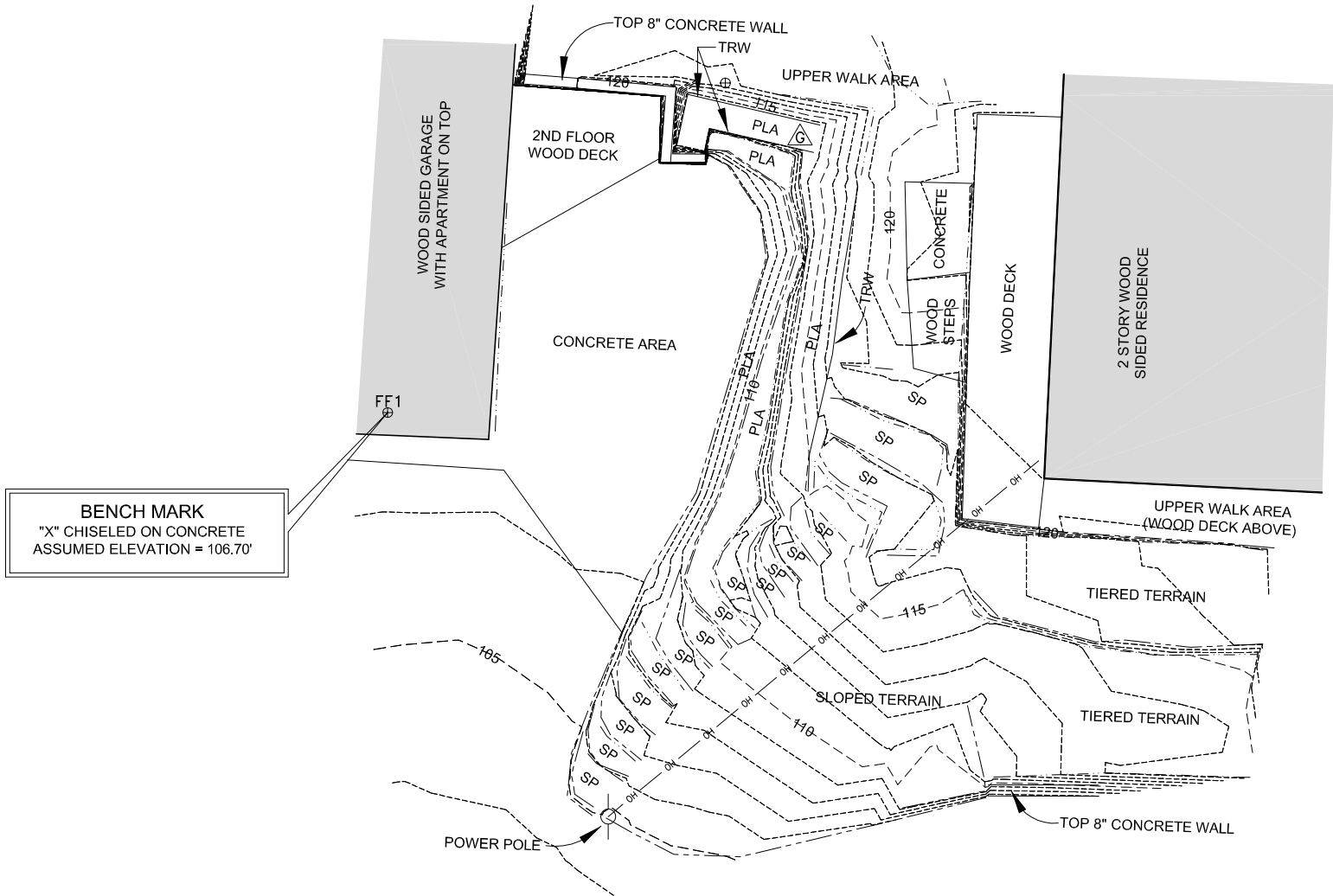
- TRW = TIMBER RETAINING WALL  
SP = STEP (CONCRETE/CONCRETE BLOCKS)  
PLA = PLANTER AREA (TIERED AREA)  
FF1 = FINISHED FLOOR ELEVATION = 106.70'  
⚠ = GAS METER  
⊕ = STORM DRAIN

EDGE OF TERRAIN

RETAINING WALL (CONCRETE BLOCKS)

OVERHEAD POWER LINE

— HO — HO — HO — HO — HO — HO — HO —

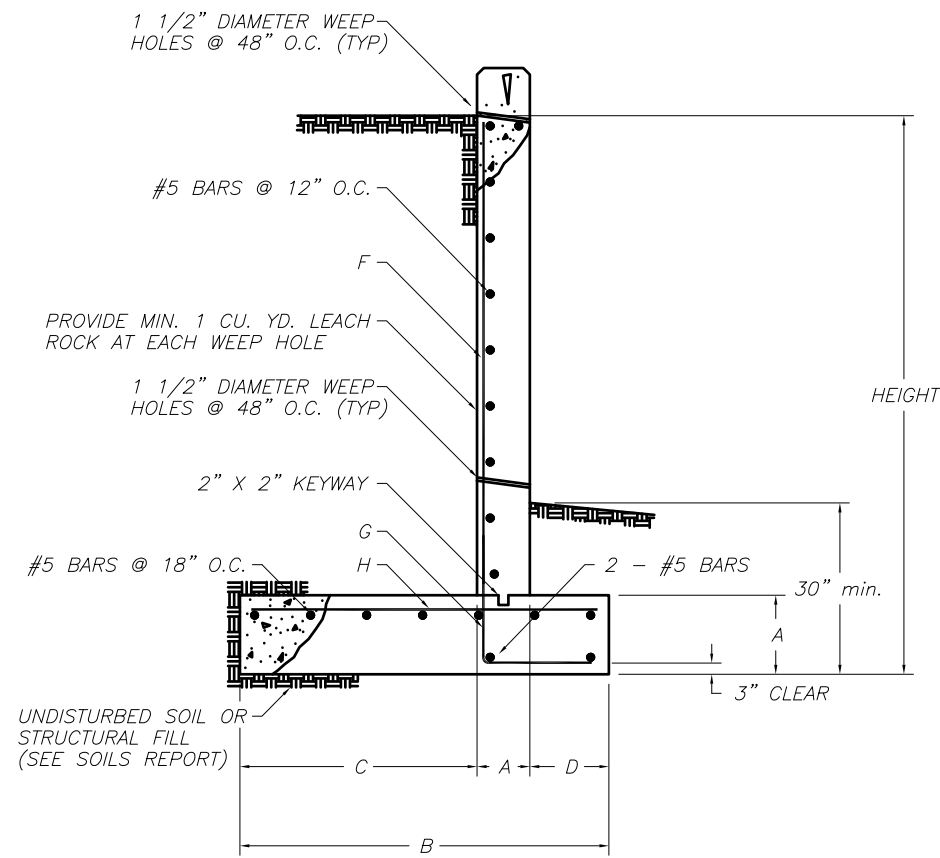
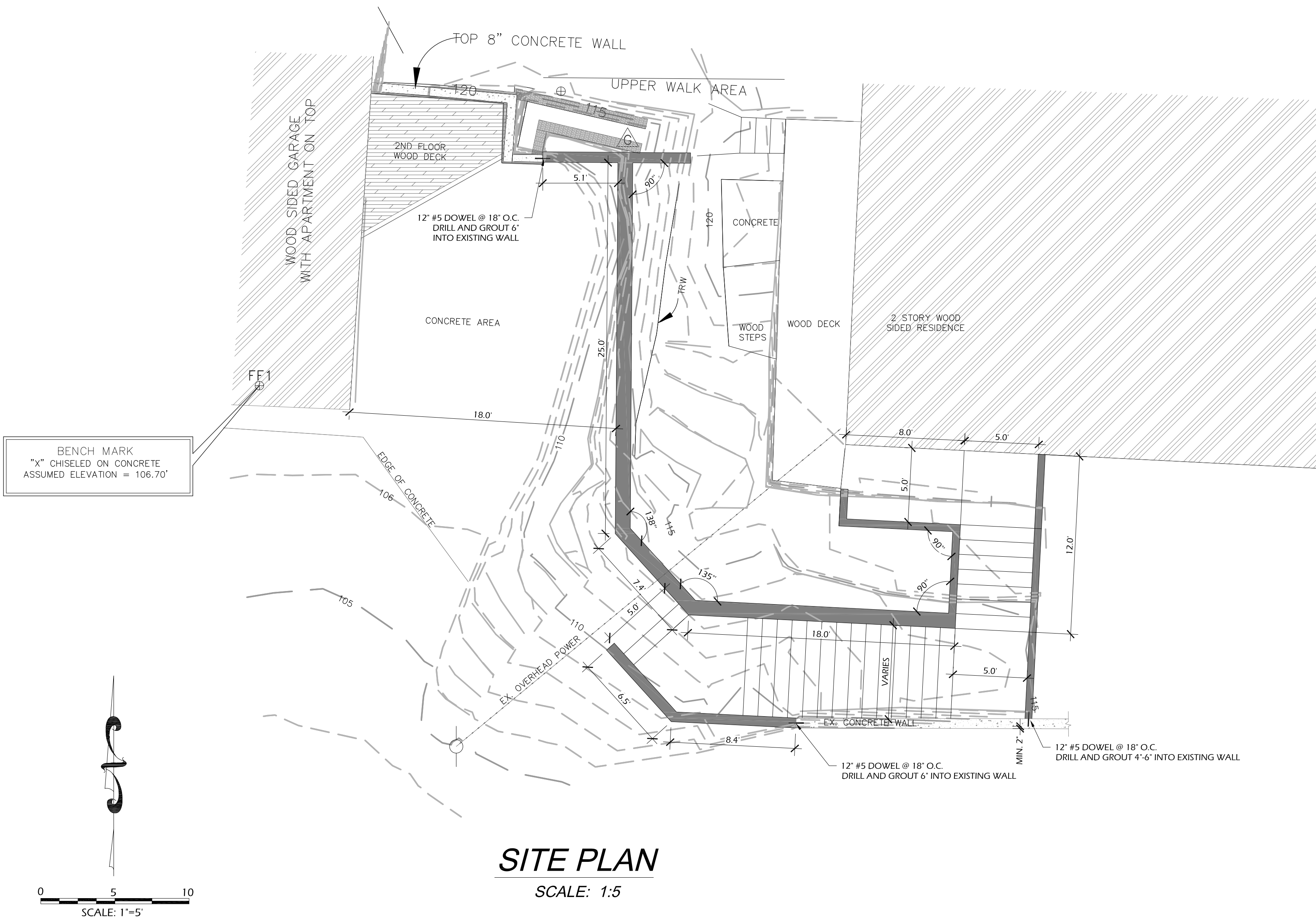


BENCH MARK  
"X" CHISELED ON CONCRETE  
ASSUMED ELEVATION = 106.70'

PROJECT: SOLID EARTH DESCRIPTION: TOPO 10860 ORA STREET GREEN MOUNTAIN FALLS, CO	
SHEET: 1 OF 1	JOB NUMBER: 2020-196
DATE: 5-5-2020	FILE NAME: 2020-196 FIELDTOPO
SCALE: 1" = 10'	REF. JOB NO.

Cardinal Points  
Surveying Inc.

(719) 253-0874 • (719) 253-0878 fax  
4601 Eaglendale Place, Suite 110  
Pueblo, Colorado 81008

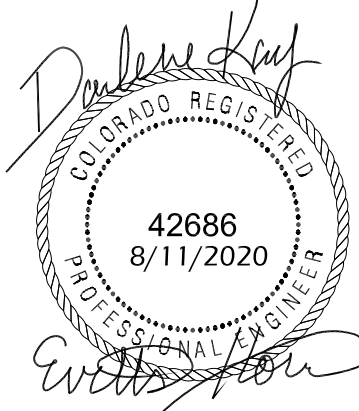


HEIGHT OF WALL	A	B	C	D	E	F	G	H
4'	8"	3'-0"	1'-8"	8"	#5 @ 18"	#5 @ 18"	20"	18"
6'	12"	4'-6"	2'-8"	10"	#5 @ 18"	#5 @ 18"	24"	18"
8'	12"	5'-6"	3'-6"	12"	#5 @ 18"	#5 @ 18"	30"	22"
10'	12"	6'-8"	4'-6"	14"	#5 @ 10"	#5 @ 10"	36"	24"
12'	14"	8'-0"	5'-6"	16"	#6 @ 10"	#6 @ 10"	42"	30"

- NOTES:
- ALL CONCRETE SHALL ATTAIN 4000 PSI COMPRESSIVE STRENGTH AT 28 DAYS.
  - ALL REBAR SHALL CONFORM TO ASTM STANDARD A615, GRADE 60.
  - ALL REBAR SHALL HAVE A MINIMUM OF 1 1/2" CONCRETE COVERAGE.
  - BACKFILL SHALL BE LEVEL AS SHOWN, WITH NO SURCHARGE.
  - RETAINING WALL SHALL BE KEPT INDEPENDENT OF RESIDENTIAL FOUNDATION.
  - SOIL BEARING CAPACITY SHALL BE A MINIMUM OF 3000 PSF.



1910 ASPEN CIRCLE  
PUEBLO, CO 81006  
TEL 719.696.8274



STAMP:

**GRADING MODIFICATION -  
RETAINING WALLS**

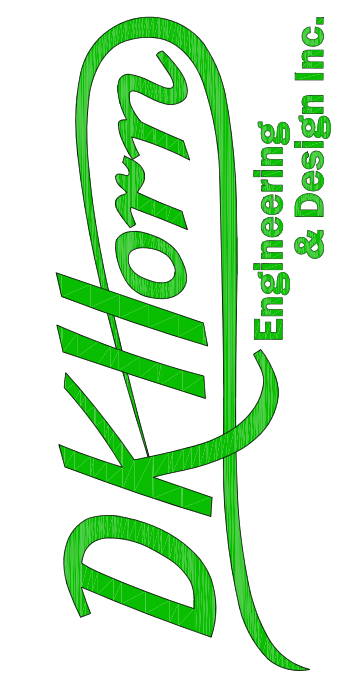
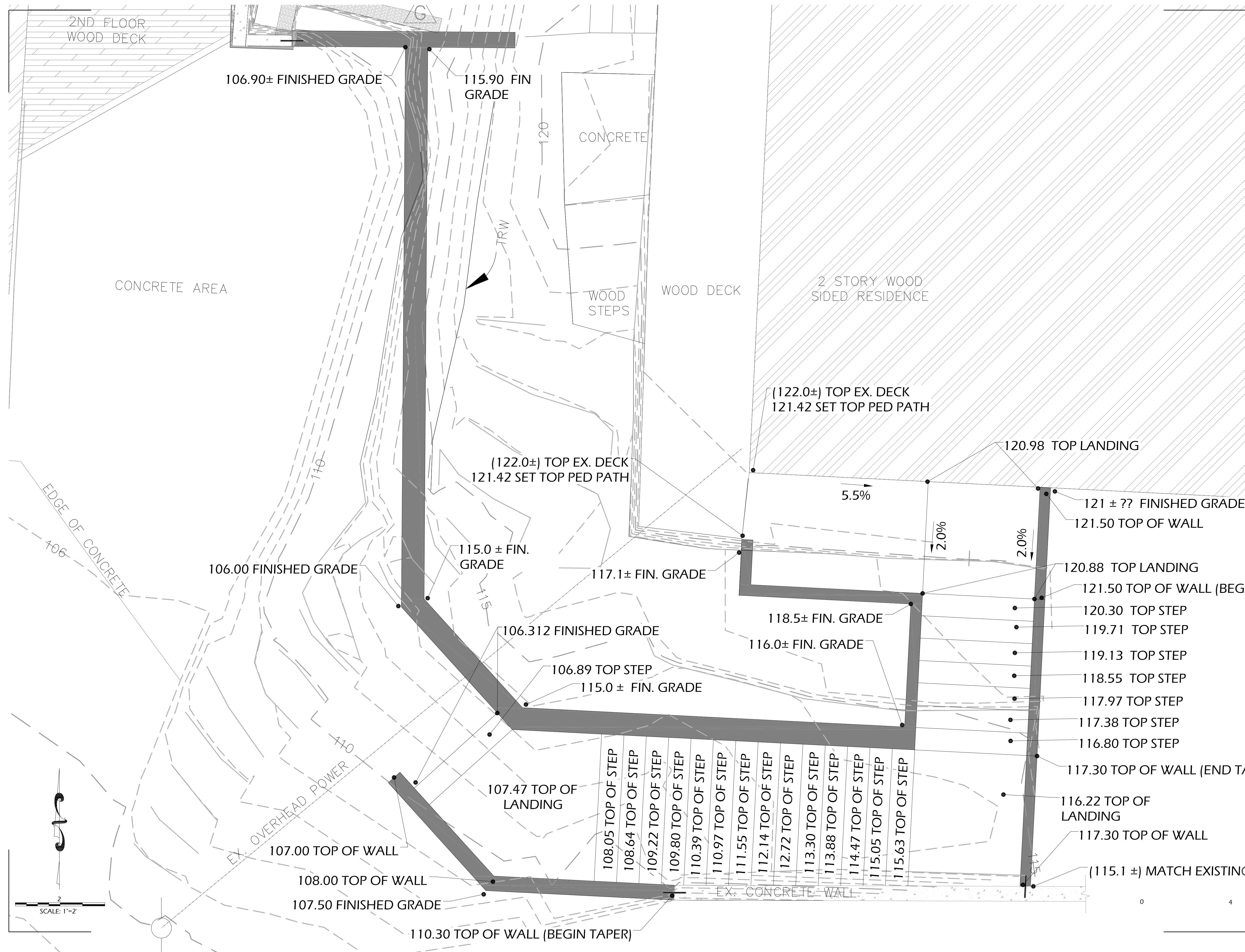
PROJECT NUMBER: 2020-L007-18  
DRAWN BY: [blank]  
CHECKED BY: [blank]  
DATE: JULY 2020

ISSUE RECORD:

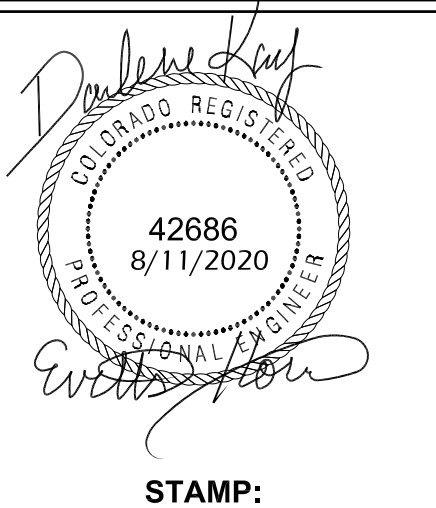
SITE  
PLAN

C1





1910 ASPEN CIRCLE  
PUEBLO, CO 81006  
TEL 719.696.8274

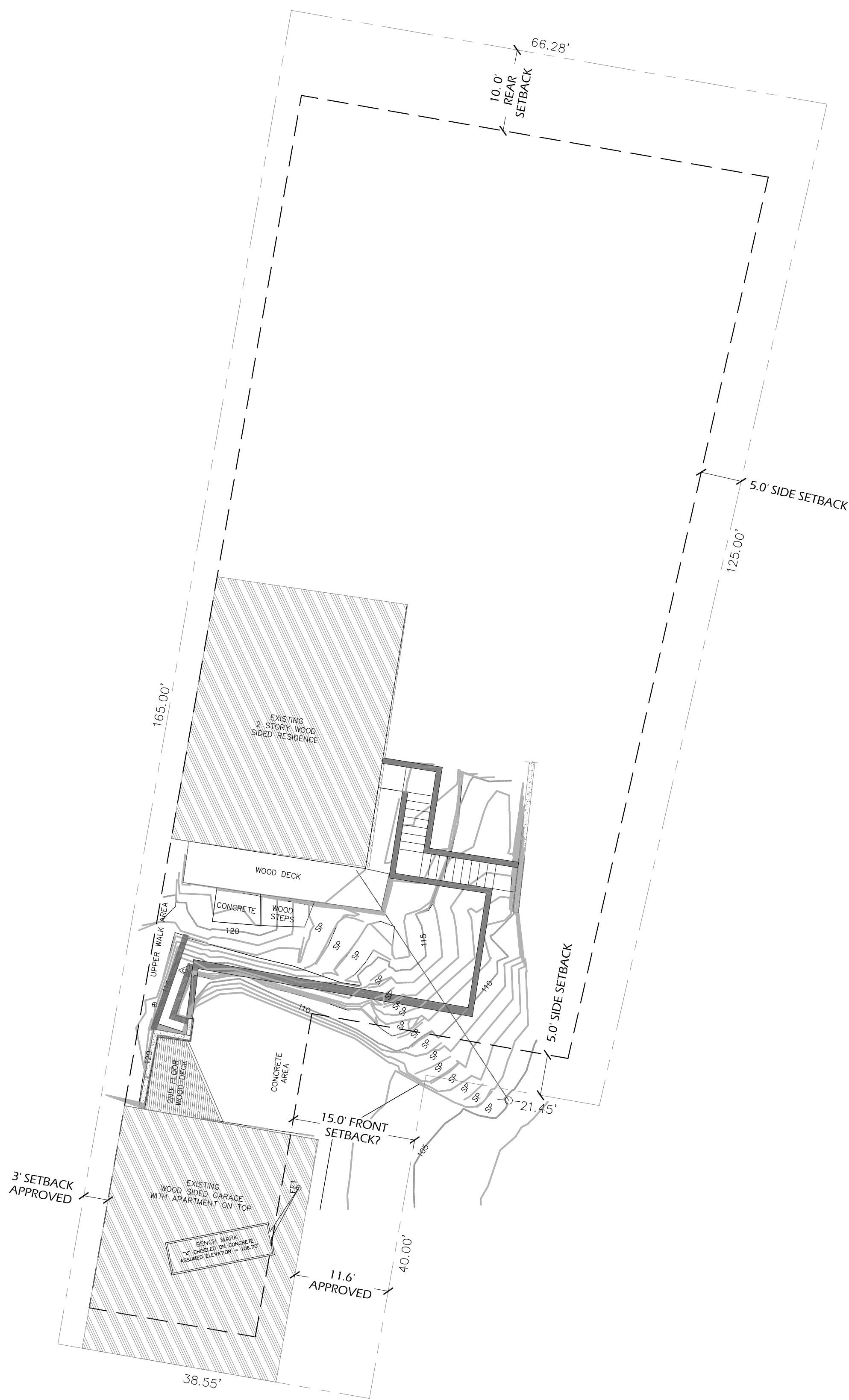


# GRADING MODIFICATION - RETAINING WALLS

PROJECT NUMBER:	2020-0007-18
DRAWN BY:	
CHECKED BY:	
DATE:	JULY 2020
ISSUE RECORD:	

SPOT  
ELEVATIONS  
PLAN





**SITE PLAN**  
SCALE: 1:10

PROJECT NUMBER: 2020-D007-B  
DRAWN BY:  
REVIEWED BY:  
DATE: JAN 2021

ISSUE RECORD:  
\_\_\_\_\_  
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## GRADING MODIFICATION - RETAINING WALLS

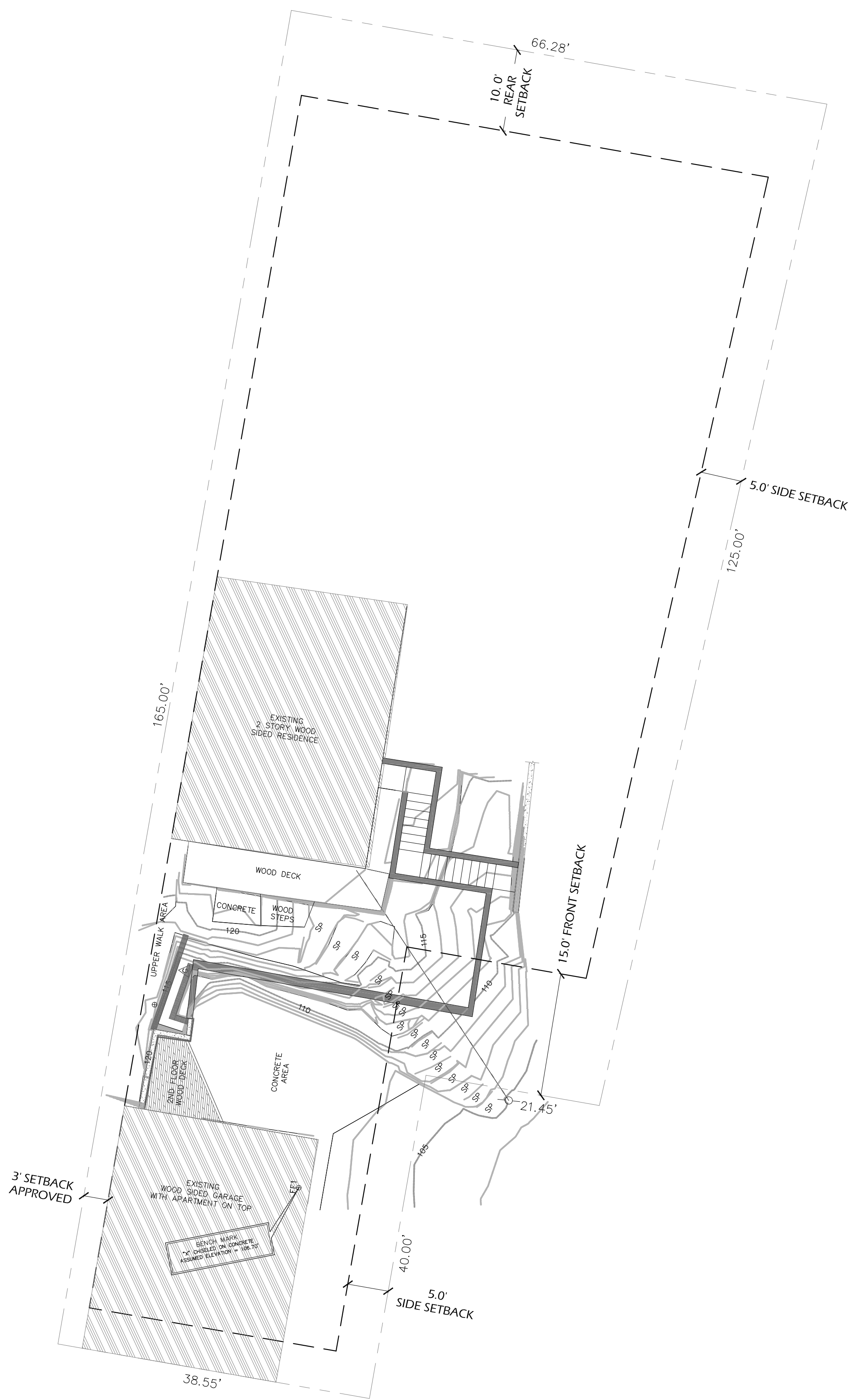
10860 ORA STREET  
GREEN MOUNTAIN FALLS  
EL PASO COUNTY, COLORADO

STAMP:

1910 ASPEN CIRCLE  
PUEBLO, CO 81006  
TEL 719.696.8274

**DKHorn**  
Engineering  
& Design Inc.

SITE PLOT  
PLAN  
C1



**SITE PLAN**

SCALE: 1:10



PROJECT NUMBER: 2020-D007-B  
DRAWN BY:  
REVIEWED BY:  
DATE: JAN 2021

**ISSUE RECORD:**


**GRADING MODIFICATION -  
RETAINING WALLS**

10860 ORA STREET  
GREEN MOUNTAIN FALLS  
EL PASO COUNTY, COLORADO

STAMP:

1910 ASPEN CIRCLE  
PUEBLO, CO 81006  
TEL 719.696.8274



SITE PLOT  
PLAN  
C1

EL PASO COUNTY - COLORADO

8308201046  
10860 ORA ST

Total Market Value  
\$302,863

OVERVIEW

Owner:	BUTTS MICHAEL, BUTTS KELLY
Mailing Address:	PO BOX 845 GREEN MTN FLS CO, 80819-0845
Location:	10860 ORA ST
Tax Status:	Taxable
Zoning:	-
Plat No:	381
Legal Description:	LOT 4 BLK 35 GREEN MOUNTAIN FALLS ADD 4, TOG WITH PT OF NW4 SEC 8-13-68 DESC AS FOLS: BEG AT NW COR OF LOT 4 BLK 34 OF SD SUB, TH NWLY 46.80 FT TO SW COR OF LOT 4 BLK 35, TH ANG R 30<47'21" NELY 125.00 FT TO NW COR OF SD LOT 4 BLK 35, TH ANG L 90<00' & ALG ARC OF CUR TO L HAVING A RAD OF 1590.62 FT A C/A OF 00<35'11" AN ARC DIST OF 16.28 FT, TH ANG L 90<00' TO THE TANG OF SD CUR, SWLY ALG A LN RAD TO SD CUR 165.00 FT, TH ANG L 90<00' SELY ALG A CUR TO R HAVING A RAD OF 1425.62 FT A C/A OF 01<32'57" AN ARC DIST OF 38.55 FT TO POB, TOG WITH A PT OF ORA ST DESC AS FOLS: BEG AT NW COR OF LOT 4 BLK 34 IN GREEN MOUNTAIN FALLS 4TH ADD, TH NWLY 46.80 FT TO SW COR OF LOT 4 BLK 35, ANG R 120<47'21" ELY ALG A CUR HAVING A RAD OF 465.62 FT A C/A OF 00<57'46" AN ARC DIST OF 24.63 FT, ANG R 90<00' FROM THE TANG TO SD CUR SWLY 40.00 FT TO POB

MARKET & ASSESSMENT DETAILS

	Market Value	Assessed Value
Land	\$34,700	\$2,480
Improvement	\$268,163	\$19,170
Total	\$302,863	\$21,650

RESIDENTIAL - TWO STORY (1)

Market Value \$268,163

Assessment Rate	7.15	Above Grade Area	1,612
Bldg #	1	First Floor Area	768
Style Description	TWO STORY	Above First Floor Area	844
Property Description	FRAME AVERAGE QUALITY	Lower Level Living Area	0
Year Built	1983	Total Basement Area	-
Dwelling Units	1	Finished Basement Area	
Number of Rooms	7	Garage Description	Detached
Number of Bedrooms	4	Garage Area	720
Number of Baths	1.75	Carport Area	-

LAND DETAILS

Sequence Number	Land Use	Assessment Rate	Area	Market Value
1	SINGLE FAMILY RES.	7.150	10130 SQFT	\$34,700

SALES HISTORY

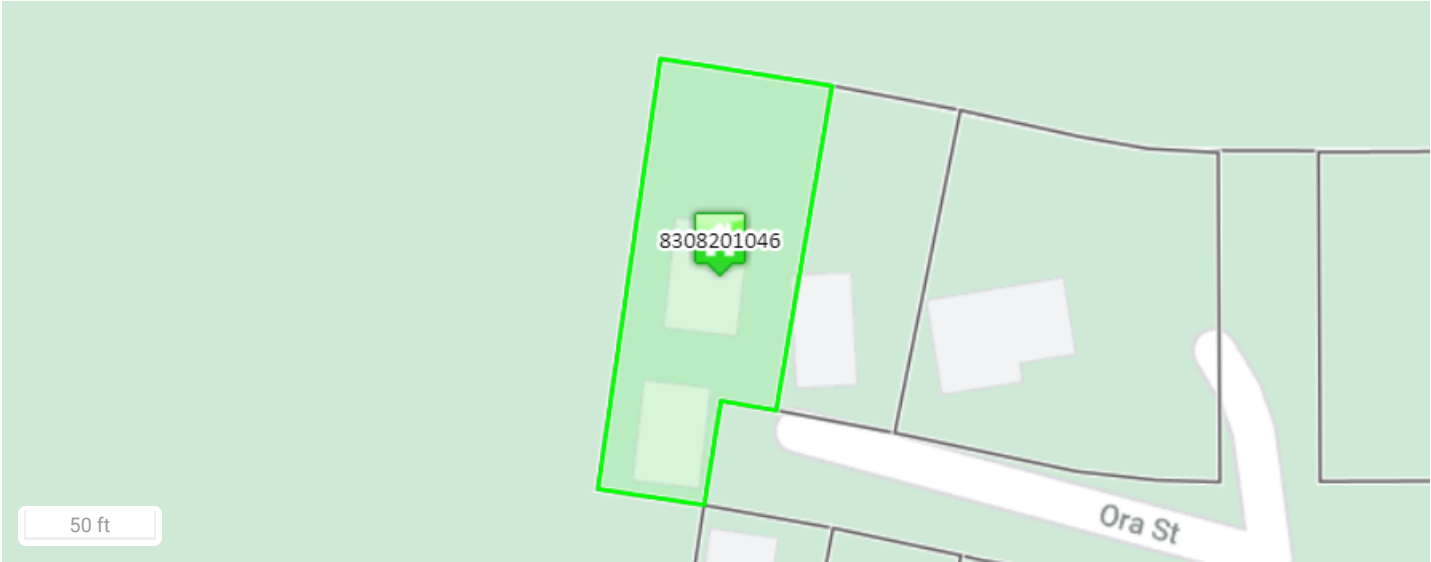
	Sale Date	Sale Price	Sale Type	Reception
+	07/02/2009	\$205,000	Good sale	209076506
+	11/24/1998	\$0	-	98173119

TAX ENTITY AND LEVY INFORMATION

County Treasurer Tax Information

Tax Area Code: **HBG**    Levy Year: **2020**    Mill Levy: **99.762**

Taxing Entity	Levy	Contact Name/Organization	Contact Phone
EL PASO COUNTY	7.755	FINANCIAL SERVICES	(719) 520-6400
EPC ROAD & BRIDGE SHARE	0.165	-	(719) 520-6498
TOWN OF GREEN MOUNTAIN FALLS	17.588	LAURA KOTEWA	(719) 684-9414
EPC-GREEN MTN FALLS ROAD & BRIDGE SHARE	0.165	-	(719) 520-6498
MANITOU SPRINGS SCHOOL NO 14	53.144	SUZI THOMPSON	(719) 685-2011
PIKES PEAK LIBRARY	3.855	MIKE VARNET	(719) 531-6333
GREEN MTN FALLS/CHIPITA PARK FIRE	17.090	JEFF IDLEMAN	(719) 684-2293



Disclaimer

We have made a good-faith effort to provide you with the most recent and most accurate information available. However, if you need to use this information in any legal or official venue, you will need to obtain official copies from the Assessor's Office. Do be aware that this data is subject to change on a daily basis. If you believe that any of this information is incorrect, please call us at (719) 520-6600.







To: Planning Commission  
From: GMF Planning & Land Use  
Date: February 8, 2021  
Re: Revocable Permit Rev2021-01, Resolution 2021-09

### **Background**

The Applicant is requesting the Planning Commission's consideration of a Revocable Permit for grading and construction of a retaining wall in the Right-of-Way, south of 10330 El Paso Avenue. The Applicant appeared before the PC in October 2020 for a grading permit and zoning variance to construct a single-family home addition at the subject property. The Town Engineer approved (January 2021) the grading plan for the project but could not include the unpermitted construction of the retaining wall because of its location in the Town ROW. The Applicant is requesting the structure, which was constructed in early Fall 2020, be approved by the PC and BoT for compliance with GMF Zoning Code.

Planning Commission Recommended Actions:

- Public hearing
- Review proposed project application for compliance with Green Mountain Falls Zoning Code
- Recommend approval, disapproval, or approval subject to conditions to the Board

### **Discussion**

#### **Sec. 18-61 -72 – Revocable Permits; Permits Required**

Summarily, it is unlawful for anyone to occupy the subsurface, surface, or above-surface of the public property without first requesting permission from the Board of Trustees. Staff has been exploring amended language for Section 18 to facilitate permitting and enforcement. A Revocable Permit is established by code to be limited to one year and carries a minimum insurance requirement. *The Planning Commission or the Board of Trustees is authorized to impose on the permittee at any time additional conditions or provisions relating to the revocable permit for the use or occupancy of public property that are reasonable and necessary to protect the public health, safety and welfare.*

#### **Sec. 18-74. - Surface uses.**

GMF Zoning outlines the uses and requirements for occupying the surface (see link, above). Sec. (f)(1)(a) prohibiting any structure from interrupting the flow of traffic could be a concern and was flagged by the Town Engineer for public service access. Public Works staff did not express an issue regarding plowing or maintenance and as of this report, Town Marshal had not commented on EMS access. The Applicant has provided the safety reasons for constructing the retaining wall and should provide additional explanation to the PC regarding its maintenance and whether it could cause any interruption to traffic or town services. Code allows for a structure to be permitted and the Board can revoke such permission at any time.

### **Conclusion and Recommendation**

Staff believes this structure can be reasonably permitted after Town Engineer reviews the grading and fill for the wall and establishes that it will not cause off-site erosion concerns or additional sediment loading into the waterway, south of the property and recommends the Planning Commission forward approval to the Board.

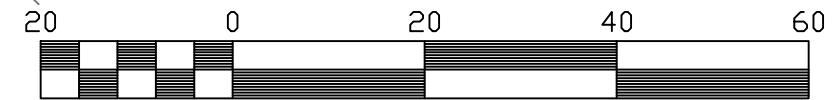
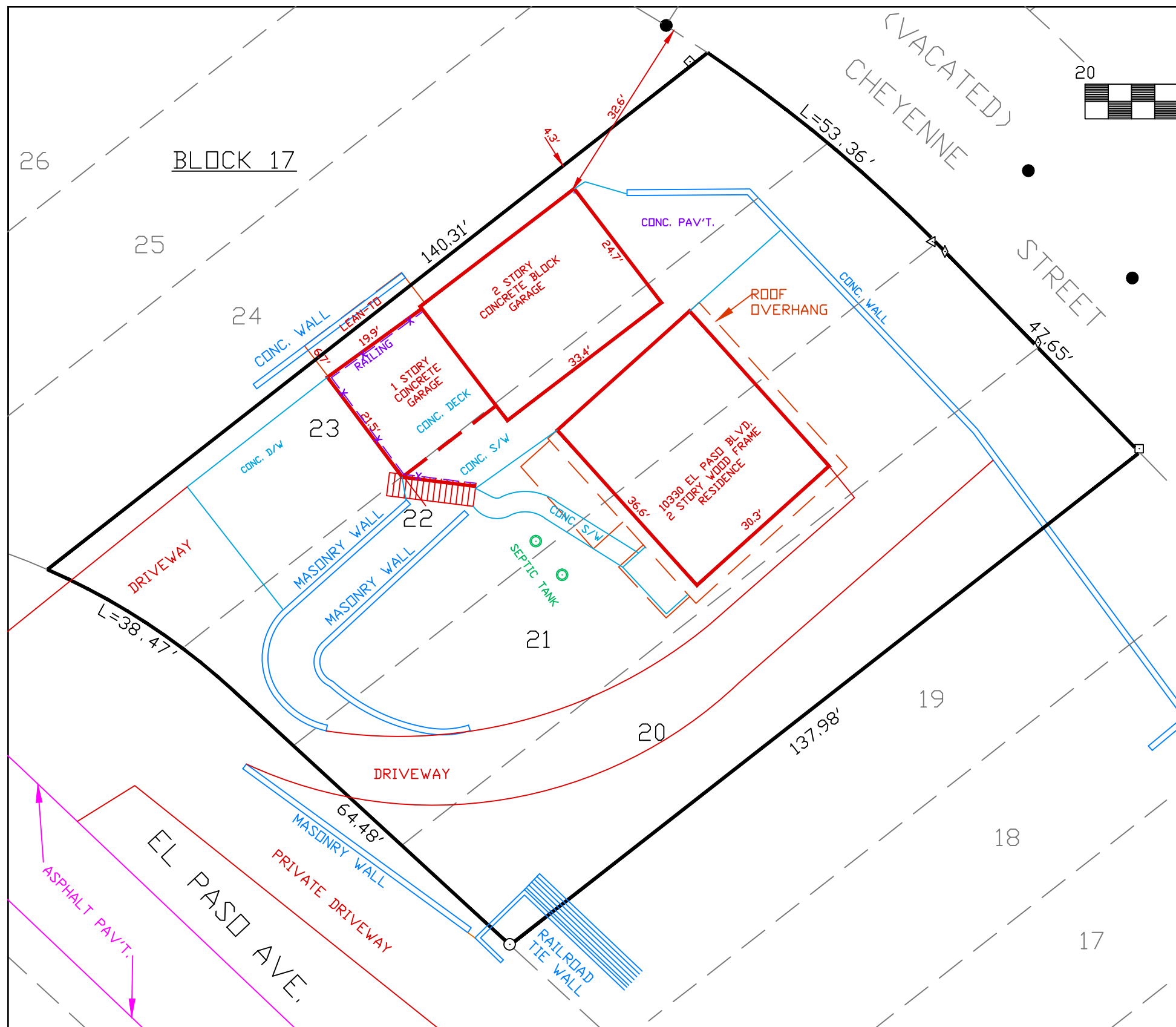
December 21, 2020

To The  
Town of Green Mountain Falls,

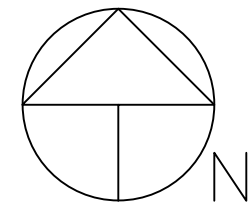
This letter is for reasoning of why the Retaining Wall was placed where it is to shore up existing front yard of 10330 El Paso Avenue, and making front driveway at the same time, and not disturbing the Private or Public Right of Way.

I used the electrical power pole as a starting point to be able to shore up the existing Disconnect for 10330 El Paso & 10320 El Paso & Gas Meter for 10330 El Paso only. This wall helps protect anyone from driving into or damaging either of these Main services, and still leaving Public Right of Way with 22 Feet at top and 25 Feet at the bottom.

Thankyou  
Cord Smith



Scale 1" = 20'



### IMPROVEMENT LOCATION CERTIFICATE

Title information was not provided by the client  
This survey does not constitute a title search or opinion.

Legal description: Lots 20-23 inclusive, Block 17, Green Mountain Falls Addition No. 2

I hereby certify that this Improvement Location Certificate was prepared for, Cord Smith, that it is not a land survey plat or improvement survey plat, and that it is not to be relied upon for the establishment of fence, building, or other future improvement lines. I further certify that the improvements on the above described parcel on this date, September 25, 2020 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.

September 25, 2020

Oliver E. Watts Colo PE-LS 9853 Date  
For and on behalf of Oliver E. Watts, Consulting Engineer, Inc.  
614 Elkton Drive Colorado Springs, CO 80907 (719) 593-0173  
olliewatts@aol.com  
Celebrating over 41 years in business

DRAWN BY: O.E. WATTS

DATE: 9-23-20

DWG. NO.: 20-5520-03

THRU 9-25-20

SURVEYED BY: DVF, GG, 1987 DEW, ESW

REVISIONS

OLIVER E. WATTS  
CONSULTING ENGINEER  
COLORADO SPRINGS

PROJECT

10330 EL PASO BOULEVARD  
LOTS 20-23  
ADD. NO. 2 TO GREEN MTN. FALLS  
EL PASO COUNTY, COLORADO

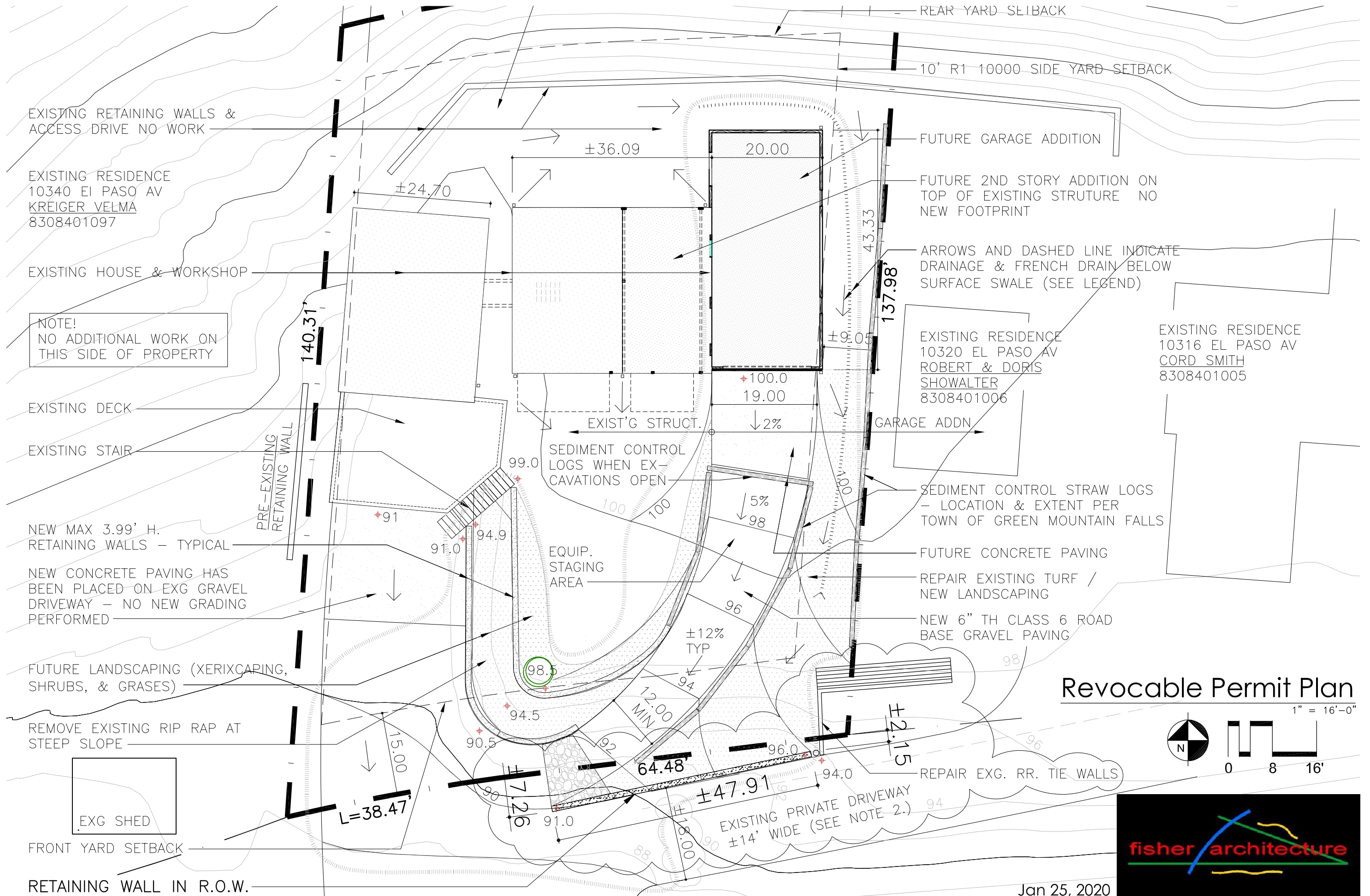
SHT. NAME

IMPROVEMENT  
LOCATION  
CERTIFICATE

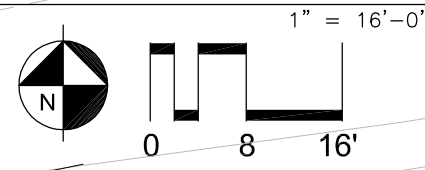
SHT. NO.

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OF  
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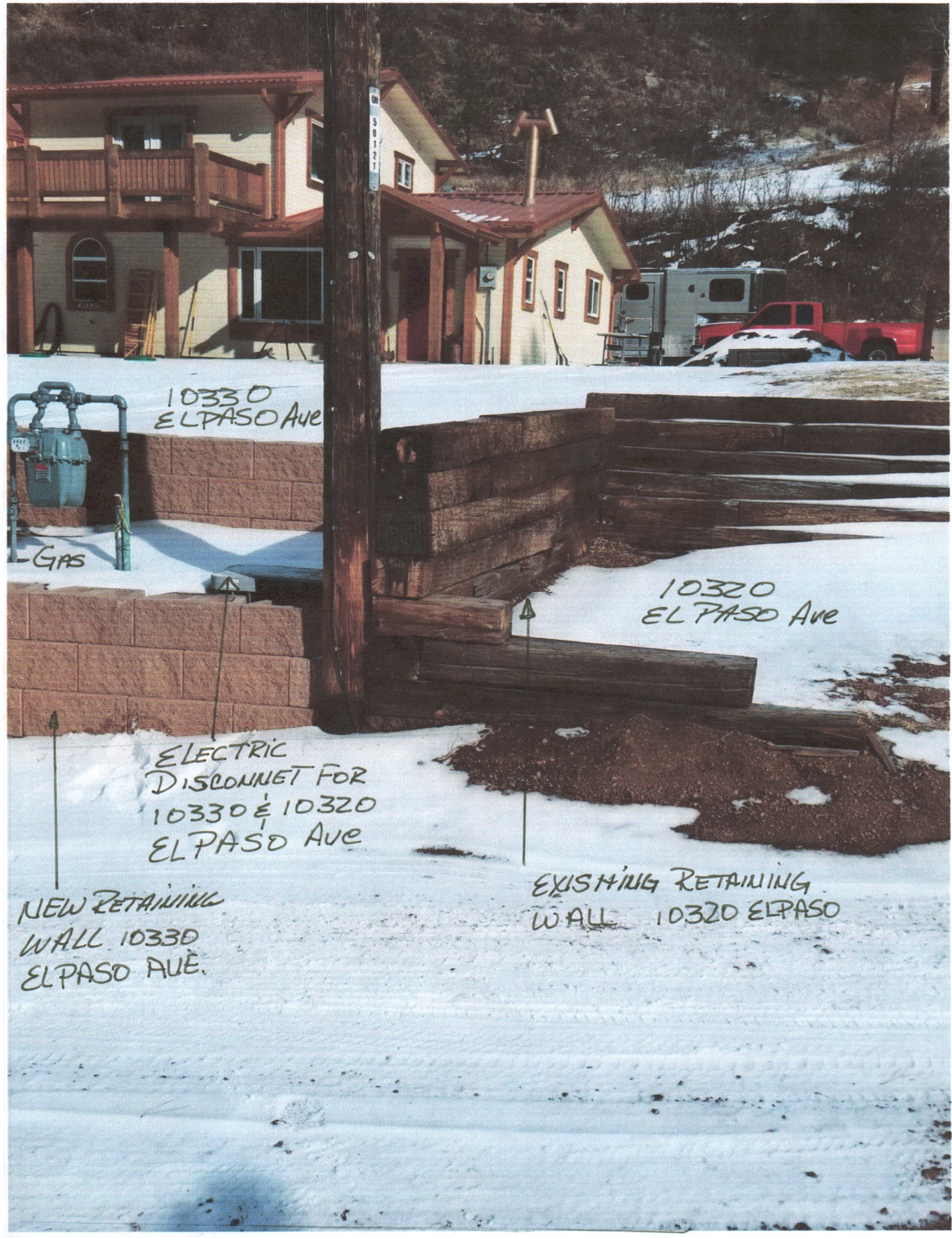


Revocable Permit Plan



Jan 25, 2020





10330  
EL PASO Ave

GAS

10320  
EL PASO Ave

ELECTRIC  
DISCONNECT FOR  
10330 & 10320  
EL PASO Ave

NEW RETAINING  
WALL 10330  
EL PASO AVE.

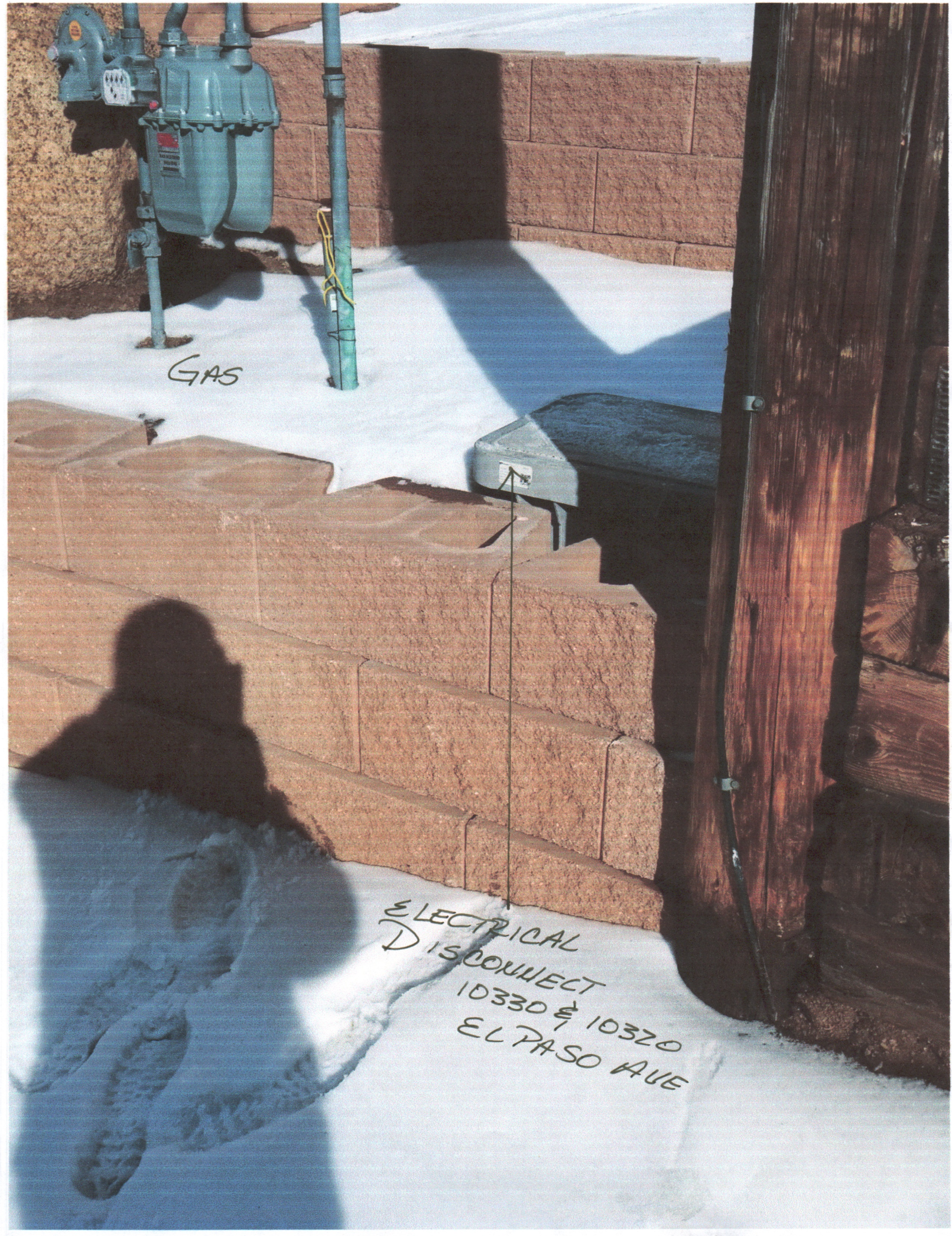
EXISTING RETAINING  
WALL 10320 EL PASO



ELECTRICAL  
DISCONNECT  
FOR 10330 & 10320  
EL PASO AVE







GAS

ELECTRICAL  
DISCONNECT  
10330 & 10320  
EL PASO AVE





22 ft Drive Way





10330 EL PASO AVE.

10320 EL PASO AVE.



DRIVE  
WAY

25 FT

EL PASO Ave



### **NONEXCLUSIVE REVOCABLE LICENSE AGREEMENT**

THIS NONEXCLUSIVE REVOCABLE LICENSE AGREEMENT is made **this \_\_\_\_ day of \_\_\_\_, 20\_\_**, by and between the Town of Green Mountain Falls, a Colorado municipal corporation having an address of 10615 Unit B, Green Mountain Falls Road, Green Mountain Falls, Colorado, 80819 (the "Town"), and Cord Smith with an address of \_\_\_\_ 10330 El Paso Avenue\_\_ ("Licensee").

WHEREAS, Town owns certain real property described in **Exhibit A** attached hereto and incorporated herein by this reference (the "Property");

WHEREAS, Licensee desires to place certain improvements in, on, under, and/or above the Property as described and/or depicted in **Exhibit A** attached hereto and incorporated herein by this reference (the "Improvements"); and

WHEREAS, the Town is agreeable to Licensee's use of the Property for location of the Improvements subject to the terms and conditions of this Agreement, which are in accordance with the requirements of Article III of Chapter 18 of the Green Mountain Falls Municipal Code.

NOW THEREFORE, in consideration of the mutual promises and conditions herein contained, the parties covenant and agree as follows:

#### **SECTION 1. THE LICENSE**

Subject to the terms and conditions of this Agreement, the Town hereby grants Licensee a nonexclusive revocable license (the "License") allowing Licensee to use the Property solely for the Improvements.

#### **SECTION 2. USE OF PROPERTY**

1. This License is deemed to be a nonexclusive revocable license for the Improvements. This License shall not prohibit or prevent the Town from using the Property or from granting other and further rights for uses of the Property, provided such uses do not unreasonably interfere with the Improvements.

2. Licensee shall not install any improvements on the Property other than the Improvements.

3. Licensee acknowledges that its use and occupancy hereunder is of the Property in its present, as-is condition with all faults, whether patent or latent, and without warranties or covenants, express or implied. Licensee acknowledges that the Town shall have no obligation to repair, replace, or improve any portion of the Property to make such Property suitable for Licensee's Improvements.



4. Within thirty (30) days of termination of this Agreement, if directed by the Town, Licensee shall remove the Improvements and return the Property to substantially its original condition at Licensee's sole expense

### **SECTION 3. TERM AND TERMINATION**

1. The License granted herein shall expire on December 31 of the current year, provided that Licensee shall be deemed to have requested the annual renewal of the License for each and every subsequent year and the License shall renew every year with no further notice by Licensee being required until Licensee provides written notice of Licensee's desire to not renew the License granted herein.

2. Either party may terminate the License by giving written notice to the other party specifying the date of termination, such notice to be given not less than fourteen (14) days prior to the date specified therein, except if the Town determines there is a present existing or imminent danger to the public health, safety or welfare, the License may be revoked upon less notice as determined by the Town in its sole discretion.

### **SECTION 4. MAINTENANCE**

Licensee shall, at its own expense, keep and maintain in good repair the Improvements.

### **SECTION 5. DAMAGE TO PROPERTY**

Licensee shall be solely responsible for all damage to the Property arising out of or resulting from the use of the Property by Licensee. Licensee shall correct and repair any damage to the Town's satisfaction within seven (7) days of notification or of Licensee's knowledge of the damage unless otherwise directed by the Town.

### **SECTION 6. INSURANCE**

Licensee agrees to procure an insurance policy which includes and covers the Property that is the subject of this Agreement, and to name the Town as an additional insured thereon. Such insurance policy shall at a minimum include liability and property damage insurance, with a combined single limit for bodily injury and property damage in amounts no less than the limits set forth in the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as they may change from time-to-time. A Certificate of Insurance showing the Town as an additional insured thereon shall be provided to the Town within thirty (30) days of execution of this Agreement. The failure to provide the Certificate of Insurance shall be grounds for immediate revocation of this License Agreement.

### **SECTION 7. INDEMNIFICATION**

Licensee agrees to indemnify and hold harmless the Town, its officers, employees and insurers, from and against all liability, claims and demands arising out of the existence of the Improvements on the Property. Licensee agrees to investigate, handle, respond to, and to provide

defense for and defend against any such liability with legal counsel of the Town's sole choice, claims or demands at his sole expense, or, at the option of the Town, agrees to pay the Town or reimburse the Town for the defense costs incurred by the Town in connection with any such liability, claims or demands. Licensee also agrees to bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims or demands alleged are groundless, false or fraudulent.

### **SECTION 8. GOVERNMENTAL IMMUNITY**

Both parties are relying on and do not waive or intend to waive by any provision of this Agreement the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. §24-10-101 *et seq.*, as from time to time amended, or otherwise available to either part, and their officers and employees.

### **SECTION 9. NOTICES**

Any notice given pursuant to this Agreement by either party to the other shall be in writing and mailed by certified mail, return receipt requested, postage prepaid, and addressed to the other party at the addresses first set forth above.

### **SECTION 10. MISCELLANEOUS**

1. Agreement Binding. This Agreement shall inure to the benefit of and be binding upon the heirs, successors and assigns of the parties hereto, subject to any other conditions and covenants contained herein.

2. Governing Law and Venue. The laws of the State of Colorado and applicable federal, state and local laws, rules, regulations and guidelines shall govern this Agreement. Any action arising out of this Agreement shall be brought in a court of competent jurisdiction in El Paso County, Colorado.

3. Amendment. This Agreement may not be amended except in writing by mutual agreement of the parties, nor may rights be waived except by an instrument in writing signed by the party charged with such waiver.

4. Headings. The headings of the sections of this Agreement are inserted for reference purposes only and are not restrictive as to content.

5. Assignment. Licensee may not assign or transfer this Agreement, except upon the express written authorization of the Town.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date first set forth above.

*[Remainder of page intentionally blank. Signatures on following page.]*

# TOWN OF GREEN MOUNTAIN FALLS, COLORADO

Revocable Permit Rev2021-01  
10330 El Paso Avenue  
Cord Smith, Applicant

**EXHIBIT A**

Revocable Permit Rev2021-01  
10330 El Paso Avenue  
Cord Smith, Applicant

**EXHIBIT B**



To: Planning Commission  
From: GMF Planning & Land Use  
Date: February 8, 2021  
Re: Election of Secretary – Staff Recommendation

**Background**

Planning Commission recently reviewed and recommended approval of its own bylaws to the Board of Trustees, which gave final approval on the document. Per Ordinance 2020-03 and PC Bylaws (January 2021) the Commission is to elect a Secretary for keeping a record of minutes of all meetings and present them to the Clerk.

**Discussion and Recommendation**

The occasional staff shortages, common in municipal offices, have long been filled by volunteers who have played a critical role assisting with tasks and deliverables- especially in GMF public meetings. Planning Commission has been fortunate to have Trustee Guthrie's generous volunteerism for several years as Secretary. During the transition to 100% remote meetings, Trustee Guthrie continued to support staff so that the presentations and meeting management could run smoothly. We appreciate her committing to the Planning Liaison role and hope the additional staff allows her to focus on these reports and coordination between bodies.

Staff is recommending the Planning Commission decline to elect a secretary and/or appoint as interim meeting recorder, Town Hall personnel. If there is a future need, PC can revisit this agenda item and solicit volunteers.