

## MEMORANDUM

TO: San Miguel County Board of Adjustment  
FROM: County Planning Department Staff  
RE: Setback Variance: Lot 23, Fall Creek Subdivision #3  
DATE: September 22, 2016 [text.word/fc.lot23.boa.setback]

Benjamin and Meagan Preece (applicant), owners of Lot 23, Fall Creek Subdivision #3 (22515 Highway 145) a 2.03 acre parcel zoned Forestry, Agriculture & Open (F), seek to reduce the west side yard from 20 feet to 5 feet to add a 400 square foot two story addition to the existing home. The lot is located on the south side State Highway 145 adjacent to and east of the San Miguel County Down Valley Park, approximately 2 miles west of Sawpit.

The two most recent surveys of Lot 23 and the adjacent County park property, Lot B2 Placer Valley Village, show an approximate 5-foot overlap between the two parcels. The applicants are not contesting this discrepancy and propose to conform to the more restrictive boundary as shown on the recent Improvements Location Certificate prepared by Foley Associates, (attached). There is a 440 sq. ft. two story storage shed, that contains the only access to the house, attached to the residence that crosses over the property line into the overlap area. This external unheated stairwell and overall condition of the home prohibits the applicants from obtaining conventional financing for the purchase of the property.

The applicants are proposing to remove the existing storage area and stairwell addition that crosses the property line and construct a new two story 200 sq. ft. footprint addition for the stairwell, entry area, and a new kitchen for a total of 400 sq. ft. The new addition will not encroach into the overlap area and will be 5-feet off the property line. The applicant states they are unable to move the stairwell to the northeast due to the location of the well, to the southeast due to access and parking and or to the northwest due to the western lot line.

Land Use Code Section 5-307 G. II. in the Forestry, Agriculture & Open zone district as follows:

- II. Minimum Setbacks
  - a. Front Yard - 30 feet
  - b. Side Yard - 20 feet
  - c. Rear Yard - 20 feet

### Referral Agents and Noticing

The applicant was referred to the County Attorney, the County Parks Director and the County Environmental Health Specialist. All property owners within 500 feet of the subject parcel have received notice of the proposed application and meeting date. No objection or comments have been received by neighboring property owners.

### Review Process

Variations require a One-step Board of Adjustment Review process pursuant to Land Use Code Section 1-14 Board of Adjustment.

## County Parks & Open Space Director Comments

In a September 12, 2016 email, Janet Kask, County Parks Director states she has no objection to the proposed application.

## County Planning Department Staff Comments and Recommendation

The F Zone District standards call for a 35-acre minimum lot size and the setbacks in the F zone district are based upon this larger lot size. The Fall Creek Subdivision #3 was filed in 1970 prior to County subdivision regulations. This lot is a legal pre-existing non-conforming lot in the F zone district. The Building Department has no record of a building permit for the existing residence although there is a permit on record for the existing garage. The residence is currently being used by two separate renters, one on the first floor and another on the second floor and there is apparently a second kitchen set up on the first floor. The applicants are proposing to eliminate this "kitchenette". While Staff has not been able to determine when the house was constructed it is considered a pre-existing nonconforming structure due to the setback encroachment but will be considered a conforming use, i.e. single-family residence, once the second unit is removed.

If the Board of Adjustment chooses to grant a setback variance, it must find that the applicants have demonstrated an exceptional situation or condition and that the application meets the criteria of Land Use Code Section 1-1403 A. III. in particular recognizing the limitations of development on the smaller F zoned lots.

In 2002 a previous owner applied for a replacement septic permit and the records indicate that the replacement permit was issued for a 2 bedroom house. While the Environmental Health Director reviewed the OWTS design per the representation on the application, the design calculations by Buckhorn Geotech assumed 3 bedrooms and the OWS absorption bed replacement was sized for 4 bedrooms. If the applicant applies for improvements to the residence in the future the OWTS may need to be reviewed by an engineer prior to issuance of additional Development and Building permits.

Included in your packet is a Quit Claim deed from San Miguel County to La Mont Wozzley quit claiming the Rio Grande Southern Rail Road right-of-way across Lot 23, Fall Creek Subdivision #3 to Mr. Wozzley and a copy of a Warranty Deed that references access to Lot 23 across Lots 21 and 21, Fall Creek Subdivision #3.

Staff recommends approval of the proposed setback variance from 20 feet to 5 feet finding removal of the existing shed brings the lot into greater conformance with the F zone district standards than currently exists. If the BOA approves the application, it should consider limiting the setback variance for the purposes of construction of the proposed residential addition and overhang as submitted on the specific site plan and no other construction should be allowed within the 20-foot side yard setback area. Staff also finds that the strict application of any regulation would result in an exceptional and undue hardship upon, the owner of such property, and where relief in the form of a variance from zoning may be granted without substantial

detriment to the public good and substantial impairment of the intent and purpose of zoning, and where the hardship was not created or caused by the owner.

### Review Standards

Land Use Code Section 1-14 establishes the standards for the Board of Adjustment to use in reviewing setback variance applications:

## **SECTION 1-14: BOARD OF ADJUSTMENT**

### **1-1401 Establishment and Membership**

The Board of Adjustment of San Miguel County is hereby established. Board establishment and membership is subject to applicable State law and Board of County Commissioner resolution. The Board of Adjustment consists of five members. The term of each member shall be set by the Board of County Commissioners, with the term of at least one member expiring each year. The Board of County Commissioners may appoint alternate Board members. Any member of the Board may be removed for cause by the Board of County Commissioners.

### **1-1402 Organization**

The Board of Adjustment shall adopt by-laws establishing its organization and procedures. A copy of such by-laws shall be available in the San Miguel County Planning Office. The Board shall elect a chairperson from its members to serve a one-year term.

### **1-1403 Powers**

The Board of Adjustment shall have authority provided by the Board of County Commissioners, the Code, and State law. Authority under State law includes, but is not limited to C.R.S. Section 30-28-117 et seq., as it may be amended from time to time.

#### **1-1403 A. Variances**

Appeals to the Board of Adjustment may be taken by any person aggrieved by inability to obtain a building permit or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of zoning. Appeals shall be heard only where:

- I. The Board of Adjustment is authorized by a Board of Commissioners resolution to hear and decide, in accordance with the provision of the resolution, requests for special exceptions, interpretations of a zoning map or decisions of specific questions authorized by the resolution; or

- II. It is alleged by the appellant that there is error in any order, requirement, decision, or refusal made by an administrative official or agency based on or made in the enforcement of zoning where no other administrative remedy exists pursuant to Land Use Code Sections 1-19, 1-20 and/or the Board of Building Appeals rules of procedure; or
  
- III. By reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of any regulation or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of such property, and where relief in the form of a variance from zoning may be granted without substantial detriment to the public good and substantial impairment of the intent and purpose of zoning, and where the hardship was not created or caused by the owner.

In addition, demonstration by the applicant that access to sunlight for solar-driven devices would be unduly restricted without the variance requested may serve as cause for granting a variance.

RECEIVED  
9-1-16

Benjamin & Meagan Preece

Post Office Box 3606 Telluride, Colorado 81435  
mtougher@hotmail.com

September 1, 2016

San Miguel County  
Post Office Box 548  
Telluride, Colorado 81435

San Miguel County Board of Adjustment:

We are in the process of purchasing the property at 22515 Highway 145, Placerville, Colorado, Fall Creek Subdivision #3, lot 23. This lot occurs at the transition to the Placer Valley Village Subdivision, to the west and a slight discrepancy occurs at the "overlap" of the two Sub Divisions. We are not contesting this discrepancy and propose to conform to the more restrictive boundary as shown on the attached ILC. The current structure has an ramshackle addition which includes the only stairwell in the house. The stairwell in the appraisal was considered an external stairwell with no heat and subpar construction. Due to the overall quality of the home, we were unable to obtain conventional financing. We were able to obtain seller financing for one year.

In order to meet the banks requirement to refinance this property with a conventional loan, the stairwell must be replaced. In order to repair we must remove the current stairwell and replace it with a new one. In doing this, we encroach on the current lot line set back regulations.

We are proposing to remove the substandard "ramshackle" addition with a footprint of 440 square feet. This addition crosses the property line and sits on the Down Valley Park property by 4.9'. We are unable to move the stairwell to the northeast due to the location of the well, to the southeast due to access and parking and to the northwest due to the lot line.

We have designed a 200 s.f. footprint that reduces the encroachments both to the south and west. This new proposed stairwell houses a small kitchen and is 5'-0" off the more restrictive of the two western property lines adjoining the Down Valley Park. As part of this re-organization, we are proposing to eliminate the non-conforming "kitchenette" on the ground level.

We thank you in advance for your consideration of this request. We have lived in the Telluride area for 16 years and are blessed to call it home. We are excited about the opportunity to purchase so great piece of property, however in order to make it work for us we could only afford a true fixer upper. With hard work, lots of sweat and help from you we look forward to raising our two boys here.

Sincerely,  
Ben & Meagan Preece



**Warranty Deed**  
(Pursuant to 38-30-113 C.R.S.)

State Documentary Fee  
Date: September 06, 2016  
\$ 54.00

THIS DEED, made on September 06, 2016 by LIBERTY LOT 23, LLC, A COLORADO LIMITED LIABILITY COMPANY Grantor(s), of the County of COOK and State of ILLINOIS for the consideration of (\$540,000.00) \*\*\* Five Hundred Forty Thousand and 00/100 \*\*\* dollars in hand paid, hereby sells and conveys to BENJAMIN K. PREECE AND MEAGAN T. PREECE Grantee(s), as Joint Tenants whose street address is PO BOX 3606 TELLURIDE, CO 81435, County of SAN MIGUEL, and State of COLORADO, the following real property in the County of San Miguel, and State of Colorado, to wit:

LOT 23, FALL CREEK SUBDIVISION NUMBER THREE, ACCORDING TO THE PLAT OF AMENDED FALL CREEK SUBDIVISION NUMBER THREE RECORDED JUNE 15, 1970 UNDER RECEPTION NO. 178907, COUNTY OF SAN MIGUEL, STATE OF COLORADO.

also known by street and number as: 22515 HIGHWAY 145 PLACERVILLE CO 81430

with all its appurtenances and warrants the title to the same, subject to taxes for the year 2016 and subsequent years and those specific Exceptions attached hereto as Exhibit B2, and incorporated herein by this reference.

LIBERTY LOT 23, LLC, A COLORADO LIMITED LIABILITY COMPANY

  
GERALD S. PETROW, MANAGER

State of IL )  
County of Cook ) ss.

The foregoing instrument was acknowledged before me on this day of September 6, 2016 by GERALD S. PETROW AS MANAGER OF LIBERTY LOT 23, LLC, A COLORADO LIMITED LIABILITY COMPANY.

  
Notary Public  
My commission expires \_\_\_\_\_



When Recorded Return to: BENJAMIN K. PREECE AND MEAGAN T. PREECE  
PO BOX 3606 TELLURIDE, CO 81435



**EXHIBIT B2**

Property Address: 22515 HIGHWAY 145 PLACERVILLE CO 91430

**CONDITIONS AND STIPULATIONS IN PATENT FROM THE UNITED STATES RECORDED APRIL 8, 1919 IN BOOK 118 AT PAGE 518 AS FOLLOWS:**

**FIRST, THAT THE GRANT HEREBY MADE IS RESTRICTED IN ITS EXTERIOR LIMITS TO THE BOUNDARIES OF THE SAID MINING PREMISES, AND TO ANY VEINS OR LODES OF QUARTZ OR OTHER ROCK IN PLACE BEARING GOLD, SILVER, CINNABAR, LEAD, TIN, COPPER OR OTHER VALUABLE DEPOSITS, WHICH MAY HAVE BEEN DISCOVERED WITHIN SAID LIMITS SUBSEQUENT TO AND WHICH WERE NOT KNOWN TO EXIST ON JUNE 1, 1891**

**SECOND, THAT SHOULD ANY VEIN OR LODE OF QUARTZ OR OTHER ROCK IN PLACE BEARING GOLD, SILVER, CINNABAR, LEAD, TIN, COPPER OR OTHER VALUABLE DEPOSITS, BE CLAIMED OR KNOWN TO EXIST WITHIN THE ABOVE DESCRIBED PREMISES AT SAID LAST NAMED DATE, THE SAME IS EXPRESSLY EXCEPTED AND EXCLUDED FROM THESE PRESENTS.**

**THIRD, THAT THE PREMISES HEREBY CONVEYED MAY BE ENTERED BY THE PROPRIETOR OF ANY VEIN OR LODE OF QUARTZ OR OTHER ROCK IN PLACE BEARING GOLD, SILVER, CINNABAR, LEAD, TIN, COPPER OR OTHER VALUABLE DEPOSITS FOR THE PURPOSE OF EXTRACTING AND REMOVING THE ORE FROM SUCH VEIN OR LODE SHOULD THE SAME OR ANY PART THEREOF BE FOUND TO PENETRATE, INTERSECT, PASS THROUGH OR DIP INTO THE MINING GROUND OR PREMISES GRANTED.**

**FOURTH, THERE IS RESERVED FROM THE LANDS HEREBY GRANTED A RIGHT OF WAY THEREON FOR DITCHES OR CANALS CONSTRUCTED BY THE AUTHORITY OF THE UNITED STATES.**

**FIFTH, THAT IN THE ABSENCE OF NECESSARY LEGISLATION BY CONGRESS, THE LEGISLATURE OF COLORADO MAY PROVIDE RULES FOR WORKING THE MINING CLAIM OR PREMISES HEREBY GRANTED, INVOLVING EASEMENTS, DRAINAGE AND OTHER NECESSARY MEANS TO THE COMPLETE DEVELOPMENT THEREOF.**

**EASEMENTS, CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS AND NOTES ON THE PLAT OF AMENDED FALL CREEK SUBDIVISION NUMBER THREE RECORDED JUNE 15, 1970 UNDER RECEPTION NO. 178907.**

**RESTRICTIONS AS CONTAINED IN INSTRUMENT RECORDED AUGUST 04, 1976, IN BOOK 308 AT PAGE 631.**

**TERMS, CONDITIONS AND PROVISIONS OF LETTER FROM SAN MIGUEL COUNTY REGARDING OLD RIO GRAND SOUTHERN RAILROAD RIGHT OF WAY RECORDED OCTOBER 7, 1992 IN BOOK 499 AT PAGE 472 AND THE EFFECT OF THE QUIT CLAIM DEED RECORDED NOVEMBER 1, 1994 IN BOOK 537 AT PAGE 386.**

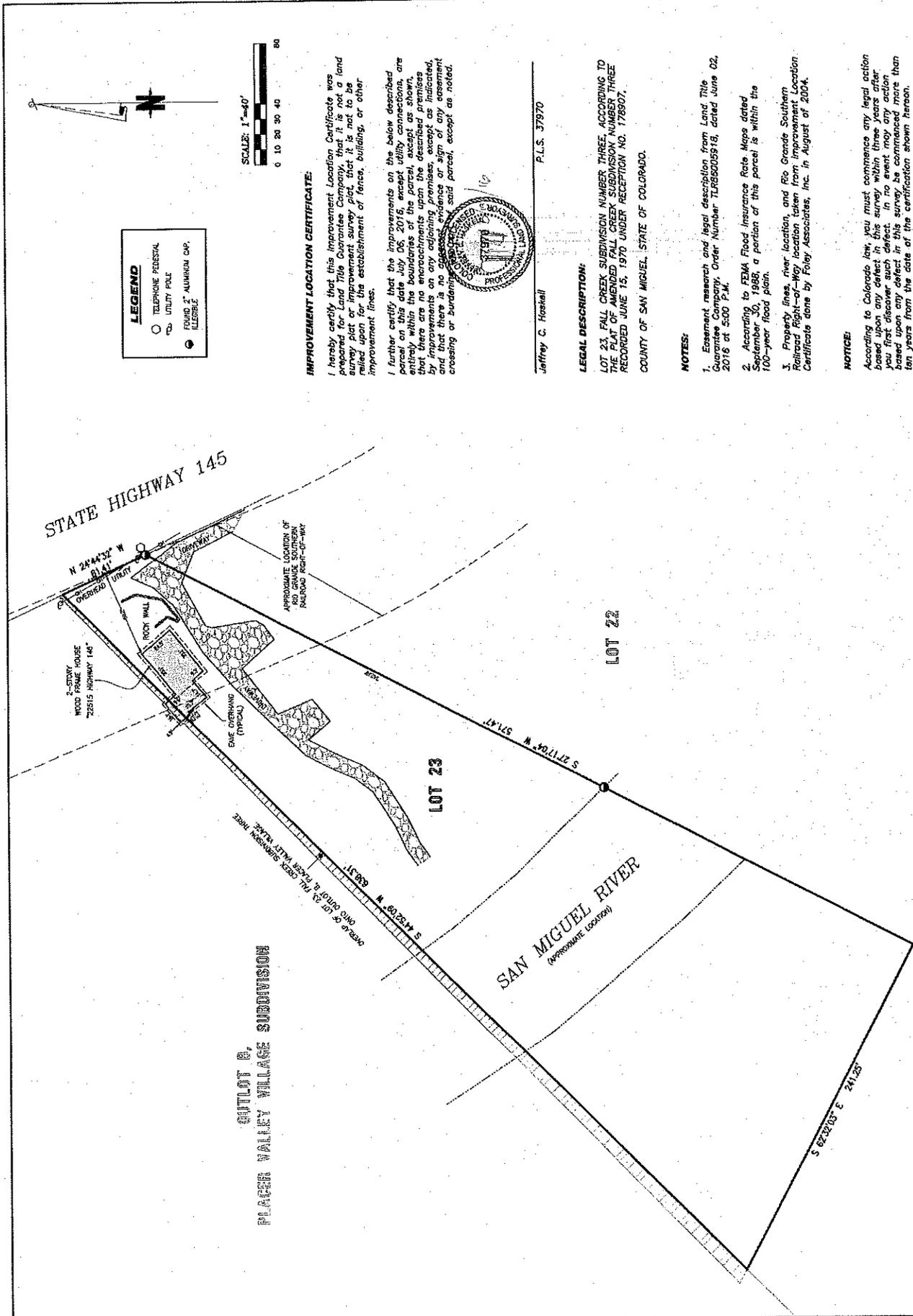
**NOTE: REFERS TO THAT RIGHT OF WAY ACQUIRED BY THE COUNTY BY RECEIVER'S DEED RECORDED MARCH 27, 1953 IN BOOK 220 AT PAGE 33 INSOFAR AS SAID RIGHT OF WAY AFFECTS SUBJECT PROPERTY.**

**TERMS, CONDITIONS, PROVISIONS, BURDENS AND OBLIGATIONS AS SET FORTH IN RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF SAN MIGUEL COUNTY #1995-3 RECORDED JANUARY 4, 1995 IN BOOK 539 AT PAGE 963.**

**ALL OIL, GAS, MINERALS AND OTHER MINERAL RIGHTS AS RESERVED IN INSTRUMENT RECORDED JANUARY 04, 2002, UNDER RECEPTION NO. 346245, AND ANY AND ALL ASSIGNMENTS THEREOF OR INTERESTS THEREIN.**

**(ITEM INTENTIONALLY DELETED)**

**MATTERS DISCLOSED ON IMPROVEMENT LOCATION CERTIFICATE ISSUED BY FOLEY ASSOCIATES, INC. CERTIFIED AUGUST 15, 2016. SAID DOCUMENT STORED AS OUR ESI 28920497.**



**LEGEND**

- TELEPHONE PEDIESTAL
- ⊕ UTILITY POLE
- FOUND 2" ALUMINUM CAP
- ▬ FENCE LINE

SCALE: 1"=40'

0 10 20 30 40 50

**IMPROVEMENT LOCATION CERTIFICATE:**

I hereby certify that this Improvement Location Certificate was prepared for Land Title Guarantee Company, that it is not a land survey plot or improvement survey plot, that it is not to be relied upon for the establishment of fence, building, or other improvement lines.

I further certify that the improvements on the below described parcel on this date are as follows: 2x4 aluminum cap, utility pole, telephone pedestal, body wall, wood frame house, and fence line. 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 encroachment, crossing or burden upon said parcel, except as noted.



Jeffrey C. Haskell  
P.L.S. 37970

**LEGAL DESCRIPTION:**

LOT 23, FALL CREEK SUBDIVISION NUMBER THREE, ACCORDING TO THE PLAT OF AMENDED FALL CREEK SUBDIVISION NUMBER THREE RECORDED JUNE 15, 1970 UNDER RECEPTION NO. 178907, COUNTY OF SAN MIGUEL, STATE OF COLORADO.

**NOTES:**

1. Easement research and legal description from Land Title Guarantee Company, Order Number TLR98005918, dated June 02, 2018 at 5:00 P.M.
2. According to FEMA Flood Insurance Rate Maps dated September 1988, a portion of this parcel is within the 100-year flood plain.
3. Property lines, river location, and Rio Grande Southern Railroad Right-of-Way location taken from Improvement Location Certificate done by Foley Associates, Inc. in August of 2004.

**NOTICE:**

According to Colorado law, you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.



Project Mgr.: JH  
Technician: MC  
Checked by:  
Start date: 08/15/2018  
Drawing path: c:\eg\98113\12-08-16.dwg

**Improvement Location Certificate**  
Lot 23, Fall Creek Subdivision Number Three,  
San Miguel County, Colorado.

970-728-6153 970-728-6050 fax  
125 W. Pacific Ave., Suite B-1  
Telluride, Colorado, 81435  
Sheet of 1 Project #: 98113

PREECE SITE PLAN: 9.1.10

STATE HIGHWAY 145

N 24°44'32" W  
61.41'

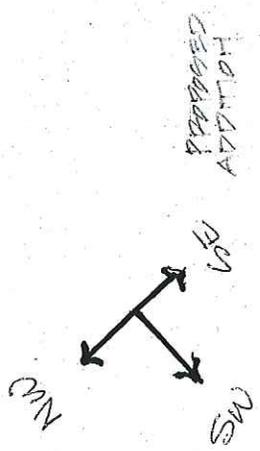
2-STORY  
WOOD FRAME HOUSE  
"22515 HIGHWAY 145"

ROCK WALL

DRIVEWAY

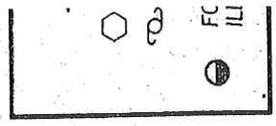
EAVE OVERHANG  
(TYPICAL)

APPROXIMATE LOCATION OF  
RIO GRANDE SOUTHERN  
RAILROAD RIGHT-OF-WAY.



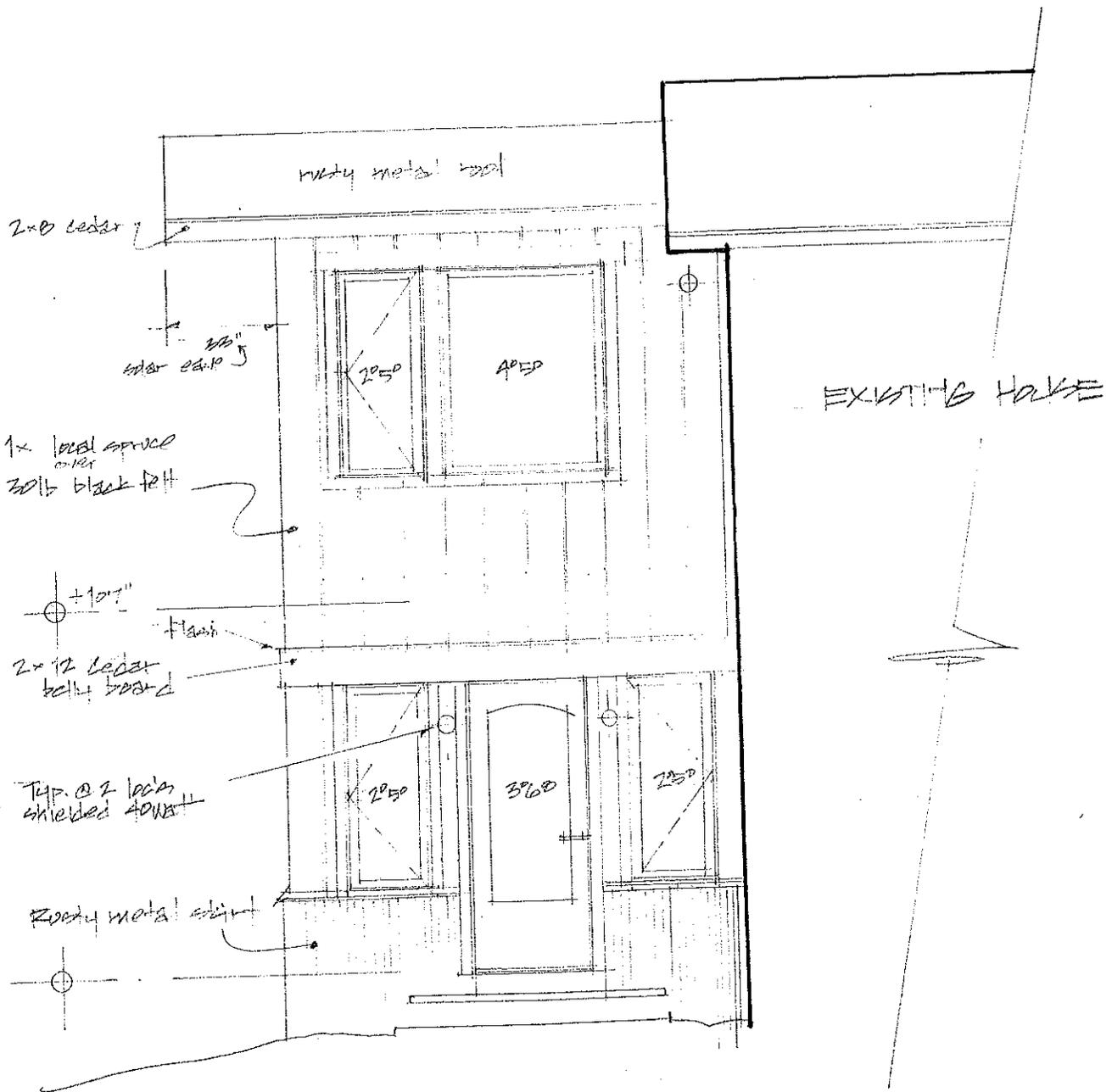
OVERLAP OF LOT 23, FALL CREEK SUBDIVISION THREE  
ONTO OUTLOT B, PLACER VALLEY VILLAGE  
638.31'

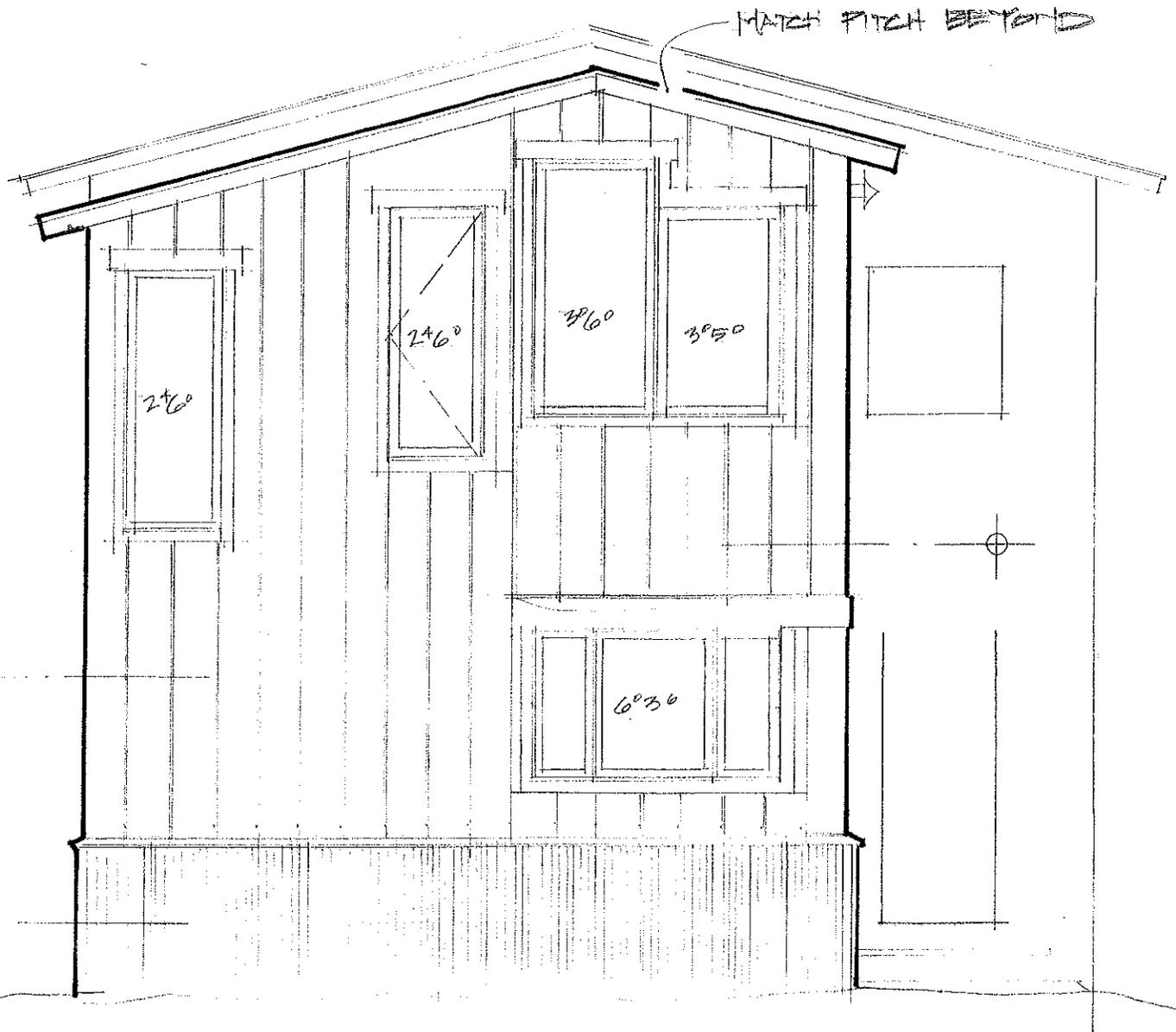
S 44°52'09" W  
638.31'



**IMPROVED**  
I hereby certify that I have prepared this survey plat and I further certify that I have not relied upon any other survey or map of the parcel on which this plat is based.

IND

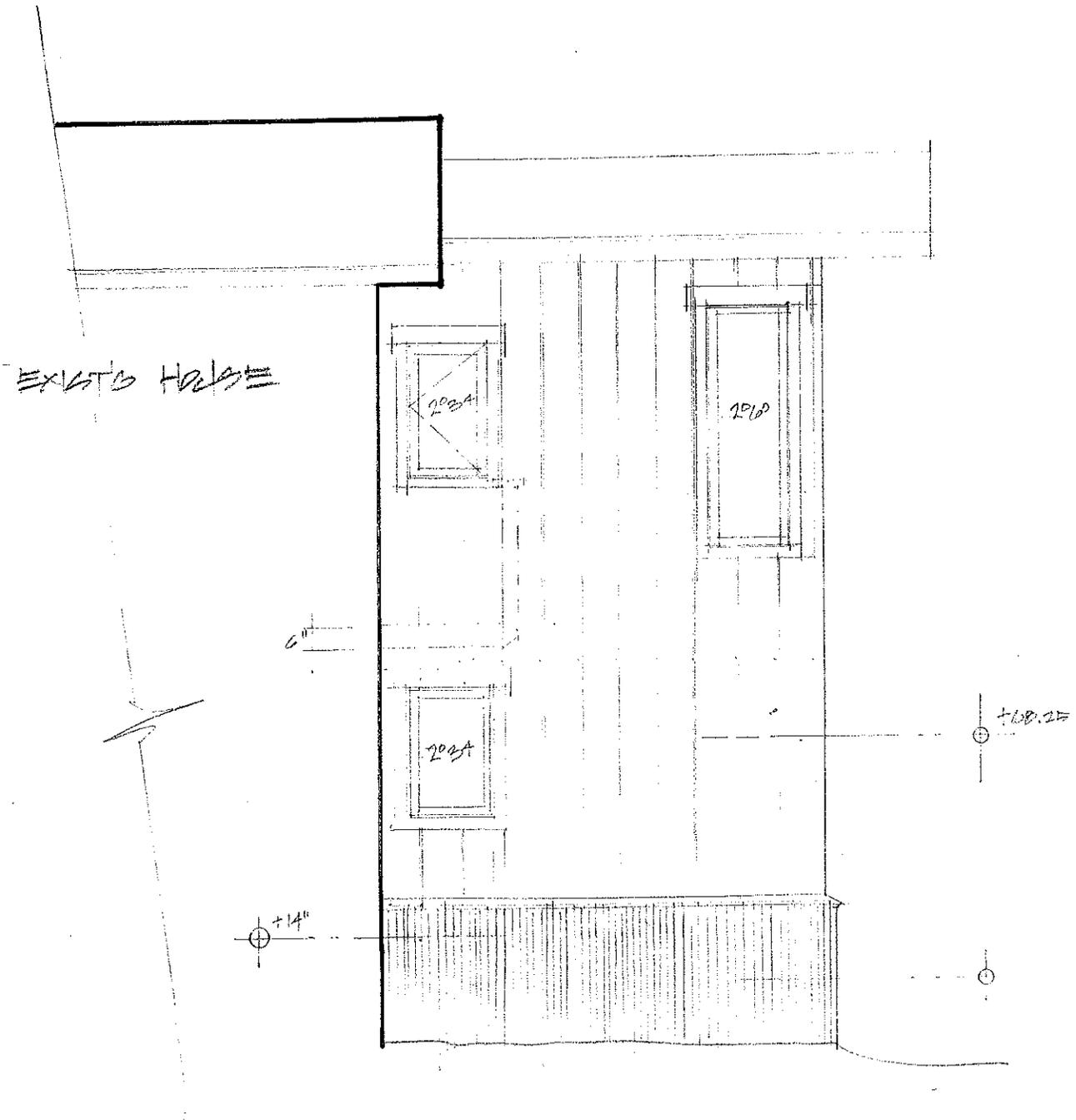




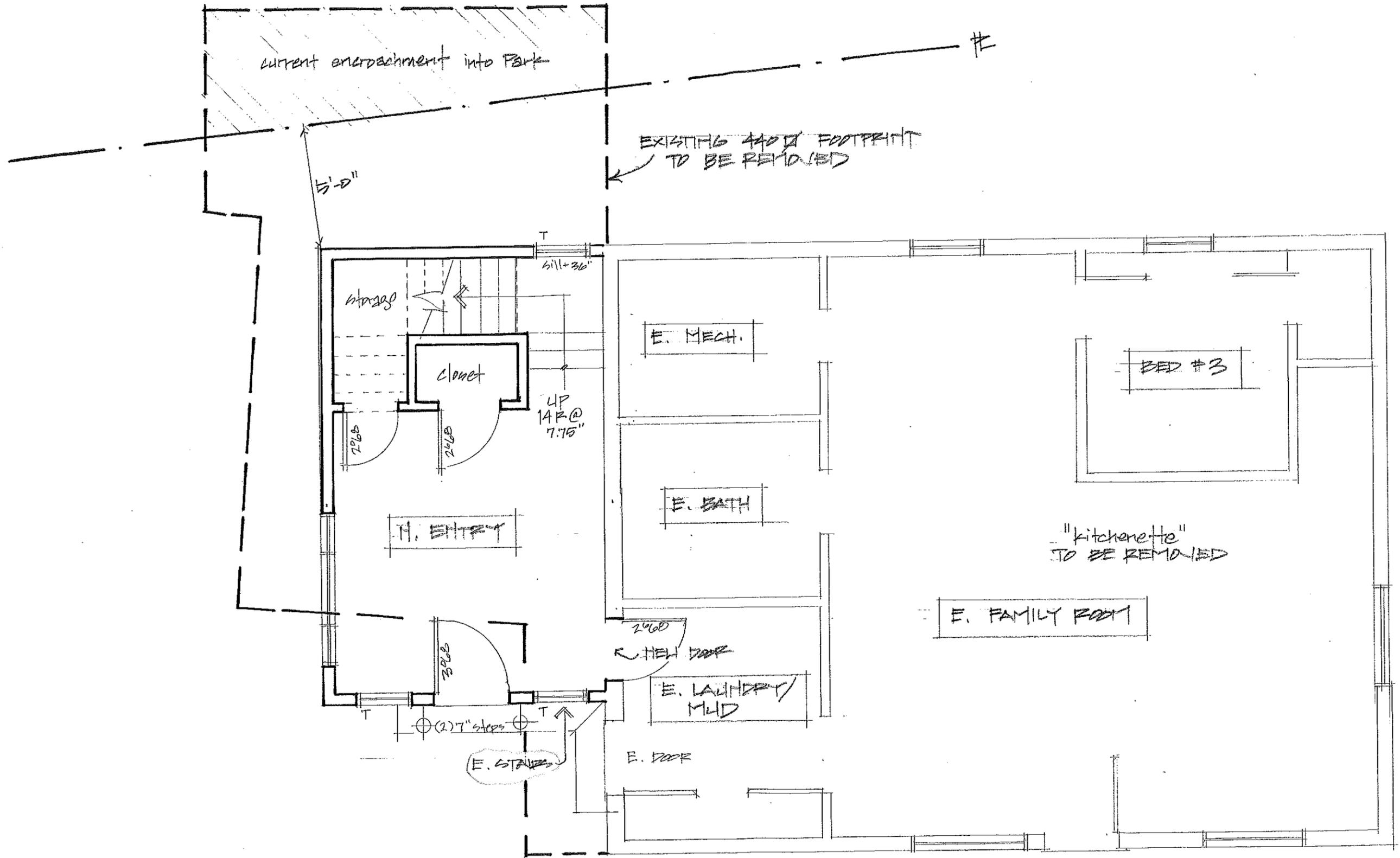
SOUTHWEST ELEVATION

SCALE: 1/4" = 1'-0"

9.1.16  
CH

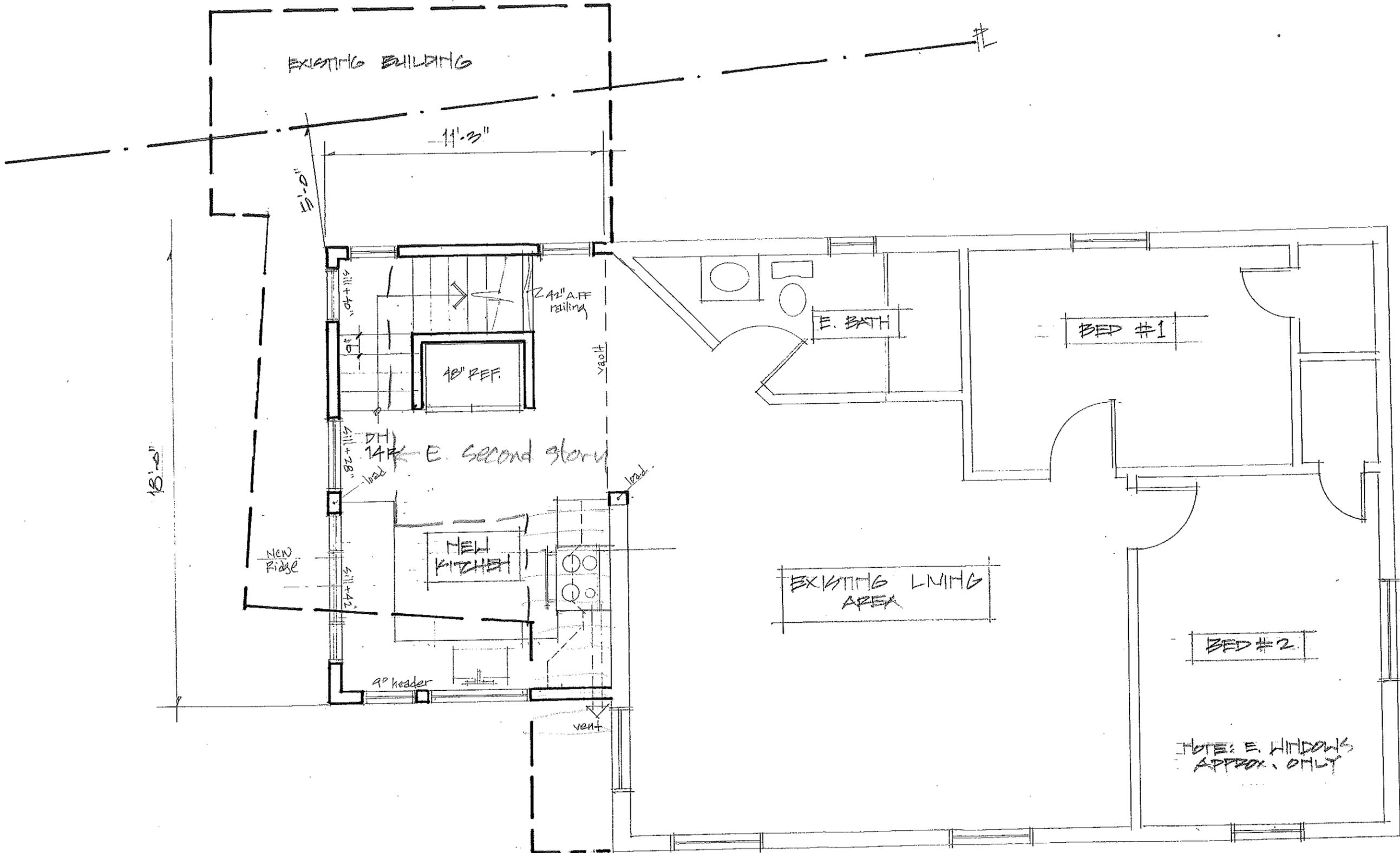


NORTHWEST ELEVATION  
SCALE: 1/4" = 1'-0"



LOWER LEVEL PLAN (NEW 200 sq FOOTPRINT)  
 SCALE: 1/4" = 1'-0"

9.1.16  
 CBJ



UPPER LEVEL PLAN  
 SCALE: 1/4" = 1'-0"

9.1.16  
 CH

NOTE: E. WINDOWS  
 APPROX. ONLY

031940  
P.E.P.A.3  
KURTZ & DALE L. ARMSTRONG  
16  
PLACER VALLEY VILLAGE SUB  
LOT 8-1 & 8-2

2004-04-01  
Map of Section 10, T.43N., R.11W., N.M.P.M.  
Placer Valley Village Sub  
Map No. 2219-2741  
Date of Survey: 10/11/99  
By: Dale L. Armstrong, Surveyor  
Checked by: Kurtz & Dale L. Armstrong, Surveyors

**TITLE INSURANCE COMPANY CERTIFICATE**  
Security Title Insurance Company, does hereby certify that it has reviewed the title to the land herein shown on this plat and that the title to the land is in the name of those persons shown in the Certificate of Ownership, which is as the facts hereon and in the plat and copy of all encumbrances, liens, and taxes, except as follows: as of 10/11/99 in P.M.P. 3.

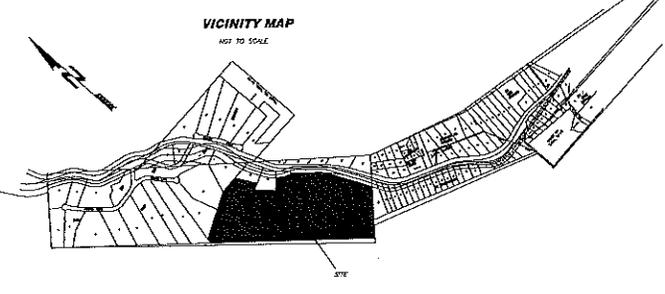
*[Signature]*  
The Insurance Company Representative

**ESQUIRE ATTORNEY HOLDER'S COMMENT**  
The undersigned is a holder of a deed of trust with encumbrance in fee upon the estate's property, recorded in Book \_\_\_\_\_ Page \_\_\_\_\_ in the San Miguel County Clerk and Recorder's and properly records, hereby certifies to the fact that the real property as indicated on this plat and the location of land as shown, maps, notes and other public records, as registered on the Plat, are hereby released and detached from the fee created by said instrument.

Name: \_\_\_\_\_  
Date: \_\_\_\_\_  
Address: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Title: \_\_\_\_\_

**ACKNOWLEDGMENT**  
State of \_\_\_\_\_ )  
County of \_\_\_\_\_ )  
The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2004.  
My commission expires \_\_\_\_\_.

Witness My Hand and Seal of Office  
Notary Public



**PLEASING COMMISSIONER'S APPROVAL**  
This plat has been approved by the San Miguel County Planning Commission on the \_\_\_\_\_ day of \_\_\_\_\_, 2004.  
Date: \_\_\_\_\_  
City: \_\_\_\_\_

**COUNTY COMMISSIONER'S APPROVAL**  
This plat has been approved for filing by the San Miguel County Board of Commissioners. County acceptance of any deviation for public use of streets, roads, utility or other public uses required upon this plat, shall not constitute acceptance of such deviation for County maintenance purposes. Compliance with the provisions of section 6-204 of the San Miguel County Code is required for County acceptance of deviation for maintenance purposes.  
Date: \_\_\_\_\_  
City: \_\_\_\_\_

**NOTICE**  
1. Approval of this plan may create a vested property right pursuant to Article 68 of the 1876 C.R.S., as amended.  
2. Eminent domain and legal description from Security Title Insurance Company is required for compliance with the provisions of section 6-204 of the San Miguel County Code.  
3. NOTES OF CLARIFICATION  
a. The configuration of the following lots (list lot numbers) have been modified by this plat.  
b. The following lots have been created by this plat (list B-1, B-2, B-3).  
c. The following lots have been deleted by this plat (list B-4).  
4. A 20 foot wide Public Access Easement is reserved for utility and access to lot B-1 and in the San Miguel River. The location of the easement will be determined when a permanent road is built from State Highway 143 to the existing bridge over the San Miguel River.

**SUBDIVISION CERTIFICATE**  
1. A 20 foot wide Public Access Easement, hereby being a Colorado Licensed Surveyor, do hereby certify that the plat and survey of SUBDIVISION EXEMPTION FOR ESSENTIAL COMMUNITY FACILITIES OF OUTLOT B, PLACER VALLEY VILLAGE SUBDIVISION, PLANO NO. 1, AMENDMENT #2 was made by me and under my direct supervision, supervision and checking is complete with the applicable provisions of the 1876 C.R.S., and that both are true and correct to the best of my knowledge and belief.

**NOTICE**  
According to Colorado law you must commence any legal action based upon this survey within three years after you first discover such error. If no party may any action based upon any defect in this survey is commenced more than ten years from the date of the certification of this survey.

**MAP OF BOUNDARIES**  
The North as determined by GPS observations using a Trimble 4600 RTK system. The point collection was set of the State Action. Printed at approximately latitude 37°55'31" N and longitude 107°04'36" W.

P.L.S. No. 2755  
Date: \_\_\_\_\_  
City: \_\_\_\_\_

**NOTICE**  
According to Colorado law you must commence any legal action based upon this survey within three years after you first discover such error. If no party may any action based upon any defect in this survey is commenced more than ten years from the date of the certification of this survey.

**MAP OF BOUNDARIES**  
The North as determined by GPS observations using a Trimble 4600 RTK system. The point collection was set of the State Action. Printed at approximately latitude 37°55'31" N and longitude 107°04'36" W.

**OWNER'S CERTIFICATE**  
I, the undersigned, as owner of the property described herein, do hereby certify that the facts herein are true and correct to the best of my knowledge and belief.

**OWNER'S CERTIFICATE**  
I, the undersigned, as owner of the property described herein, do hereby certify that the facts herein are true and correct to the best of my knowledge and belief.

**ACKNOWLEDGMENT**  
State of NEVADA )  
County of CLARK )  
The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2004.  
My commission expires \_\_\_\_\_.

**ACKNOWLEDGMENT**  
State of NEVADA )  
County of CLARK )  
The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2004.  
My commission expires \_\_\_\_\_.

**ACKNOWLEDGMENT**  
State of NEVADA )  
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County of CLARK )  
The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2004.  
My commission expires \_\_\_\_\_.

**TAXPAYER'S CERTIFICATE**  
I, the undersigned, Treasurer of the County of San Miguel, do hereby certify that according to the records of the San Miguel County Treasurer there are no taxes against the subdivision or any part thereof for unpaid state, county, municipal or local taxes or special assessments due and payable in accordance with said the Code Section 3-102.

Date: \_\_\_\_\_  
City: \_\_\_\_\_

**RECORDER'S CERTIFICATE**  
This plat was filed for record in the Office of the San Miguel County Clerk and Recorder on this \_\_\_\_\_ day of \_\_\_\_\_, 2004.  
Recorded by \_\_\_\_\_  
San Miguel County Clerk and Recorder

**RECORDER'S CERTIFICATE**  
This plat was filed for record in the Office of the San Miguel County Clerk and Recorder on this \_\_\_\_\_ day of \_\_\_\_\_, 2004.  
Recorded by \_\_\_\_\_  
San Miguel County Clerk and Recorder



Karen Henderson <karenh@sanmiguelcountyco.gov>

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**Liberty Lot 23 LLC**

1 message

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**Janet Kask** <janetk@sanmiguelcountyco.gov>  
To: Karen Henderson <karenh@sanmiguelcountyco.gov>

Mon, Sep 12, 2016 at 11:33 AM

Hi Karen,  
Reference is made to your memo of 9/2.  
This pertains to the Liberty Lot 23 LLC property.  
The property abuts the Down Valley Park.

I understand the property recently sold to new owners.  
Our dept. has no objection to the proposed renovations.  
Please let me know if you need anything else.  
Thanks.  
Janet

--

**Janet Kask**  
San Miguel County  
Director, Parks & Open Space  
P.O. Box 1170  
Telluride, CO 81435  
Phone: (970)369-5469  
Fax: (970)728-3718  
[janetk@sanmiguelcountyco.gov](mailto:janetk@sanmiguelcountyco.gov)

456.12302027

# Septic Permit

San Miguel County  
Department of Building and Environmental Health  
P.O. Box 2676, Telluride Co 81435 728-0447

Permit ID:	2002-S-70
Date of Application:	10/15/02
Date of Issuance:	

Owner: Anette Kula	Phone Number:
Address: P.O. 5	729-2984
Property Address: 22515 HWY 145	<i>Lot 23 FALLCK #3</i>

Directions to Site:

General Contractor: Steve Hendrickson	Phone Number:
Address: PO 304 Redvail, CO 81431	327-4366

New Tank:  Replace Tank:  New Leach System:  Replace Leach System:

Type of Structure: Single Family Residence Number of Bedrooms: 2

Clothes Washer:  Disposal:  Other:

Lot Size: Water Supply:

Septic Permit Fee: \$150.00 Check #: *Pd. Cash* Date: *10/15/02*  
Received by: *K.P.*

### TO BE FILLED IN BY SANITARIAN

Soil Type: \* Bedrock Depth: \*

Perc Rate: \* Water Table Depth: \*

Engineer Design Required: *yes*  Type of System: \*

Treatment Tank:  Size: \* Type: \*

Soil Absorption System:  Size: \*

Comments: *See engineered septic plans for details on site and system design.*

Plans and specifications given above are approved for installation:  
Signed: *David Schmeck* Date: *4/21/02*

Installed system found to comply with above approved plans and specifications:  
Signed: *David Schmeck* Date: *3/11/03*

Sketch of installed system:

SAN MIGUEL COUNTY  
ENVIRONMENTAL HEALTH DEPARTMENT

SEPTIC APPLICATION

P.O. Box 4130 · Telluride, CO 81435 · Phone 970.728.0447 · Fax 970.728.6325

OWNER: Anette Kula

MAILING ADDRESS: P.O. 5 Placerville, CO 81430

SITE ADDRESS: 22575 Hwy 145 PHONE: 970-708-1042  
<sup>329 2984</sup>

CONTRACTOR / INSTALLER: Pioneer Gravel Excavation PHONE: 327-4366

CONTRACTOR ADDRESS: Steve Hendrickson P.O. 304 Red Vail CO  
81431

NEW TANK  REPLACE TANK   
NEW LEACH FIELD  REPLACE LEACH FIELD

TYPE OF STRUCTURE: SFR

# OF PEOPLE:      # OF BEDROOMS:     

WASHER  DISPOSAL NO OTHER     

WATER SUPPLY: Private well

LEGAL DESCRIPTION:      ¼ of sect.     , T      N.R.      W

LOT SIZE:      or SUBDIVISION # AND BLOCK OR FILING:     

DIRECTIONS TO SITE:       
      
    

Applicant acknowledges that approval of a septic permit does not guarantee the system against failure. This permit is void if not used within 12 months after application date.

SIGNATURE OF APPLICANT OR AUTHORIZED AGENT William A. Noyes  
DATE

SAN MIGUEL COUNTY ENVIRONMENTAL HEALTH PERMIT APPLICATION  
CHECK LIST

YES / NO

- ( ) /  Does this project include any **NEW** solid-fuel burning devices, gas log fireplaces, or gas fireplace appliances? If yes, please supply make and model #.
- ( ) /  Does this project involve any **CHANGE** to an existing solid-fuel burning device, gas log fireplace, or gas fireplace appliance?
- / ( ) Will this project involve installation of a new individual sewage disposal system, or modification or an existing sewage disposal system?
- ( ) /  If connected to an existing individual sewage disposal system, will this project involve any additions of bedrooms or increase water use?
- ( ) /  Does this project include plans for a darkroom or other activities involving use of chemicals?
- What is the proposed water supply source?  
Private Well  , Municipal \_\_\_\_\_ , or Other \_\_\_\_\_ (please specify)
- ( ) /  Does this project include plans for any water treatment equipment?
- ( ) /  Does this project include a swimming pool, hot tub, or spa?
- ( ) /  Does this project include a restaurant, catering business, retail food market, or any commercial food service?
- ( ) /  If the project includes an existing restaurant or retail food market, are any changes being made to the commercial food service establishment?

APPLICANT SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

222 South Park Ave.  
(970) 249-6828Montrose, CO 81401  
FAX (970) 249-0945

March 10, 2003

Mr. Dave Schneck  
San Miguel County Sanitarian  
P.O. Box 4130  
Telluride, Colorado 81435

RE: Sand Filter Absorption Bed Inspection  
Annette Kula, Lot 23, Fall Creek, San Miguel County

Dear Dave,

On Dec. 9, 2002, and Jan. 9, 2003, we performed inspections of the sand filter being constructed for the Annette Kula residence at Lot 23, Fall Creek. Based on observations and measurements, it appears the absorption bed has been installed in general compliance with the intent of the design drawings dated Sept. 13, 2002.

Please keep in mind that this verification applies only to the size, shape, depth of sand, and position of the piping for the absorption bed. We cannot verify other elements of the construction that are dependent on the workmanship of the installer and/or the quality of the materials utilized.

It must be realized that septic systems have a finite life cycle. Longevity depends, to varying degrees, on workmanship during construction, frequency of septic tank pumping, the chemical and organic composition of incoming waste, and resultant chemical and physical reactions between the effluent and the receiving soil. No warranty for the performance of the septic system is extended or implied through our design and inspection. We do provide each client with a user manual to aid in their understanding of how to use and care for their ISDS.

Respectfully,



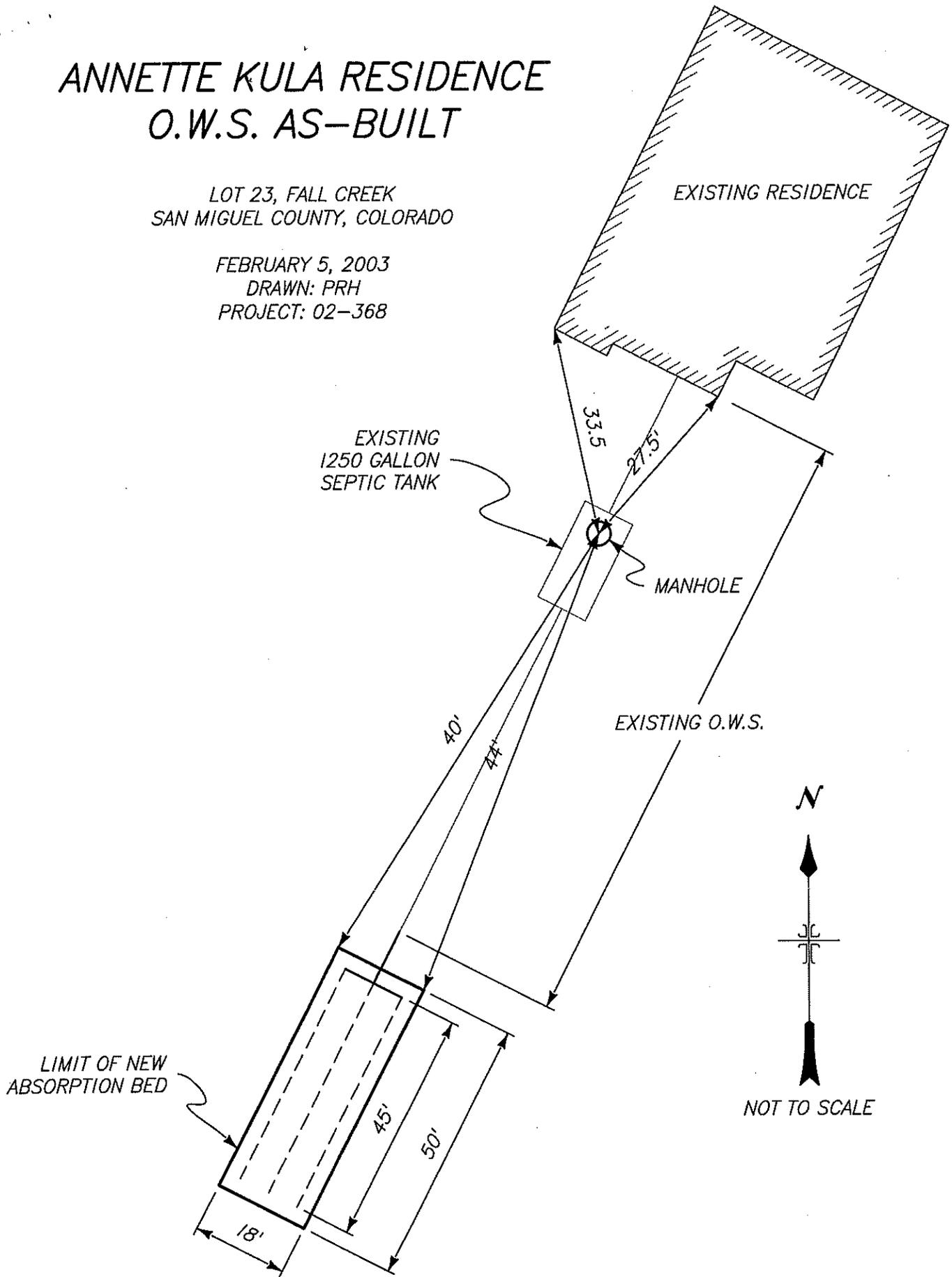
Norman J. Aufderheide, P.E.

OKSEPTICFND/ ISDSOkay /SMC #2002368  
Cc: Annette Kula

# ANNETTE KULA RESIDENCE O.W.S. AS-BUILT

LOT 23, FALL CREEK  
SAN MIGUEL COUNTY, COLORADO

FEBRUARY 5, 2003  
DRAWN: PRH  
PROJECT: 02-368



(CONTINUED)

### PROJECT SPECIFICATIONS (CONTINUED)

- AREA SHALL BE SCARIFIED ED SOIL REMAINS TO A WHEN THE SOILS ARE MOIST.
- ENGINEER IMMEDIATELY
- SEA, SEPTIC TANK, PUMP GREATER THAN 0.1 FEET
- MAINTAIN A DRY EXCAVATION, UNLESS THE PROJECT COST, LI TYPE:
- 1 SHOWN ON PLANS PLUS IMPACTED USING EXCAVATOR CLAY FILL.
- ON PLANS, WATER SETTLE BY 3TH OF 3 INCHES. ALLOW DESIGN DEPTH. REPEAT AS
- V ON PLANS, COMPACT BY ADJUST TO FINAL GRADE 3 IS PERMITTED
- 0 PERCENT TO ALLOW FOR IL IS SATURATED. PLACE
- 1. DEPRESSIONS OF MORE RECTED BY THE PROJECT 2. A DEDICATED DRAINAGE 3. DISTURBED VEGETATED AREA,
- AREAS DISTURBED BY THESE PLANS.
- RESE PLANS, SWALES TO AREA AND DRAIN TO RADE UNLESS OTHERWISE
- 0 PREVENT DAMAGE FROM
- SHALL BE REVEGETATED

- 9. SEPTIC TANKS & VAULTS
  - ALL BELOW GROUND TANKS AND VAULTS SHALL BE CONSTRUCTED OF REINFORCED CONCRETE UNLESS SHOWN OTHERWISE ON THIS DRAWING SET AND BE RATED TO HANDLE 400 PSF FOR NON-TRAFFIC AREAS OR H-20-44 RATED FOR AREAS TO RECEIVE VEHICLE TRAFFIC. SEE CONCRETE SECTION FOR STRENGTH AND REINFORCING REQUIREMENTS.
  - SEPTIC TANKS SHALL BE CONFIGURED AS SHOWN ON THESE PLANS, WITH SUBSTITUTIONS CONSIDERED BASED ON LOCAL AVAILABILITY.
  - ALL TANKS AND VAULTS SHALL BE WATERTIGHT AND HAVE AT LEAST ONE 20 INCH DIAMETER ACCESS PORT WITH LID OVER EACH COMPARTMENT.
  - MANHOLES AND LIDS SHALL BE PROVIDED FOR ALL PUMPING VAULTS AND FOR SEPTIC TANKS WHEN BURIAL DEPTH EXCEEDS 8 INCHES. THESE TOO SHALL BE WATERTIGHT.
  - FOR TANKS AT SITES WITH FINE GRAINED, SC, AND SM SOILS NO CAST IN PLACE OUTLET WILL BE PERMITTED. AN EFFLUENT FILTER IS REQUIRED IN THESE SOILS & AS SHOWN ON THESE PLANS.
  - TANKS SHALL BE NON-BUOYANT WHEN EMPTY.
  - ALL TANKS WILL UNDERGO A FIELD TEST FOR WATERTIGHTNESS. THIS TEST WILL CONSIST OF FILLING EACH TANK TO ITS RIM OR TOP OF MANHOLE WITH WATER. LET IT STAND OVERNIGHT AND REFILL TANK TO THE SAME LEVEL. THE FOLLOWING DAY THE WATER LEVEL WILL BE CHECKED TO DETERMINE TIGHTNESS. THIS TEST SHALL BE PERFORMED PRIOR TO PLACING BACK FILL AROUND EACH TANK. TANK(S) FAILING THIS TEST WILL BE REJECTED BY THE ENGINEER AT NO ADDITIONAL EXPENSE TO THE OWNER OR ENGINEER. THE DEFECTIVE TANK(S) SHALL BE REMOVED FROM THE OWNERS PROPERTY.
  - INSTALL EFFLUENT FILTER AND HIGH WATER ALARMS WHEN SHOWN ON THESE PLANS, IN ACCORDANCE WITH MFRS. RECOMMENDATIONS EXCEPT WHEN NOTED OTHERWISE.
  - ALL TANK PENETRATIONS SHALL BE WATER TIGHT.
  - THESE REQUIREMENTS ARE SUPERSEDED BY LOCAL OWS GUIDELINES WHERE APPLICABLE.
  - TANK(S) WITH CONCRETE OUTLET BAFFLES ARE NOT PERMITTED.
- 10. CONCRETE
  - ALL CONCRETE SHALL CONFORM TO THE SPECIFICATIONS FOR STRUCTURAL CRETE FOR BUILDINGS, ACI 301.
  - ALL CONCRETE SHALL BE MADE WITH STONE AGGREGATE AND SHALL DEVELOP 3000 PSI COMPRESSIVE 28-DAY STRENGTH. CONCRETE MIX DESIGN: 5-1/2 SACKS MINIMUM PER CUBIC YARD, 4 INCHES MAXIMUM SLUMP, 3/4 INCH MAXIMUM AGGREGATE. USE TYPE II CEMENT.
  - ALL REINFORCING STEEL SHALL BE HIGH STRENGTH DEFORMED BARS, GRADE 60, ASTM 1615-89 WITH 60,000 PSI MINIMUM YIELD STRENGTH, EXCEPT NO. 3 COLUMN TIES, BEAM STIRRUPS, FIELD-BENT AND FIELD WELDED BARS WHICH SHALL BE GRADE 40.
  - DETAIL BARS IN ACCORDANCE WITH ACI DETAILING MANUAL AND ACI BUILDING CODE REQUIREMENTS FOR REINFORCED CONCRETE. PROVIDE CORNER BARS.
- 11. PUMPING SYSTEMS
  - WHEN SHOWN ON THESE PLANS A PUMPED DOSING SYSTEM IS REQUIRED. AS A MINIMUM THIS SYSTEM WILL INCLUDE A BELOW GRADE PUMP VAULT WITH ACCESS WAY, EFFLUENT PUMP, CONTROL PANEL, 3 FLAT CONTROLS, ALARM, VENT, CONTROL WIRING, PULL CABLE, AND PIPING. OTHER ELEMENTS INCLUDE CONDUNIT POWER SUPPLY, AND CONNECTION TO PRIMARY BREAKER PANEL.
  - PRIOR TO ACCEPTANCE THE PUMPING SYSTEM MUST BE TESTED AND SHOWN TO

### DESIGN CALCULATIONS

#### DESIGN CRITERIA:

- EXISTING RESIDENCE - NUMBER OF BEDROOM UNKNOWN (3 ASSUMED)
- TWO OCCUPANTS PER BEDROOM
- 75 GALLONS PER DAY (GPD) PER PERSON AVERAGE FLOW

#### EFFLUENT:

$Q_a = 4(2) \times 75 \text{ GPD} = 600 \text{ GPD (AVERAGE FLOW)}$   
 $Q_d = 600(1.5) = 900 \text{ GPD (PEAK FLOW)}$

#### SEPTIC TANK:

EXISTING 1250 GALLON SEPTIC TANK WITH PUMP IN SECOND CHAMBER, SUFFICIENT FOR 3 BEDROOM HOUSE. FOR 4 BEDROOM DESIGN, ENGINEER RECOMMENDS THAT THE PUMP BE REMOVED FROM THE SEPTIC TANK AND INSTALLED IN A SEPARATE PUMP VAULT/MANHOLE.

#### DISPOSAL AREA:

##### PERCOLATION RATE

TH	MIN/INCH	DEPTH
1	40	11"
2	26	15"
3	40	19"

$t = 35 \text{ MPD}$   
 $R = \frac{900 \sqrt{35}}{5}$   
 $R = 1065$

SAND FILTER DESIGN SIZED FOR 4 BEDROOMS.

AREA = 900 SQ. FT.

USE 18" WIDE X 50' LONG ABSORPTION BED.

Per Norm sized as a Sand

filter using

loading rate for 4BR

could be

soil replacement

@ 5MPD also.

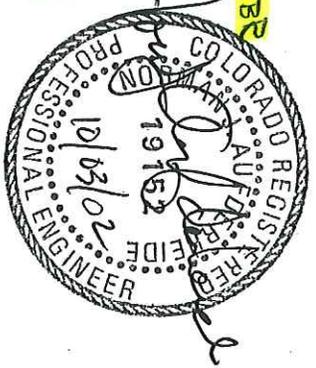
Reviewed as

2 BR design

Per representation on

Application

Pop



REVISIONS	DATE

DESIGNED	N/A
DRAWN	PRH
CHECKED	-
APPROVED	-
CADD NAME	02

**ANNETTE KULA - LOT 23, FALL CREEK SUBDIVISION**  
**O.W.S. MOUNDED ABSORPTION BED REPLACEMENT**  
**O.W.S. NOTES & SPECIFICATIONS**

DATE	9/13/02
PROJ. NO.	02-368
DRAWING NUMBER	1
OF	2 DWGS.

NOTE: THIS O.W.S. HAS BEEN DESIGNED IN ACCORDANCE WITH THE CURRENT COUNTY DEPARTMENT OF HEALTH "GUIDELINES ON INDIVIDUAL SEWAGE DISPOSAL SYSTEMS". IT MUST BE REALIZED THAT AN O.W.S. DOES NOT LAST INDEFINITELY. LONGEVITY DEPENDS ON VARYING DEGREES, ON WORKMANSHIP DURING CONSTRUCTION, FREQUENCY OF SEPTIC TANK PUMPING, THE CHEMICAL AND ORGANIC COMPOSITION OF INCOMING WASTE, AND RESULTANT CHEMICAL AND PHYSICAL REACTIONS BETWEEN THE EFFLUENT AND THE RECEIVING SOIL. NO WARRANTY FOR THE PERFORMANCE OF THE O.W.S. IS EXTENDED OR IMPLIED THROUGH THIS DESIGN.

**SAN MIGUEL COUNTY**  
**ENVIRONMENTAL HEALTH DEPARTMENT**  
**APPROVED PLANS**

Permit #: 2002 570 Date: 11/21/02

Address: 22515 Hwy 145

Approved By: *David Johnson*

**CALL UTILITY NOTIFICATION**  
**CENTER OF COLORADO**  
**1-800-922-1987**  
 CALL 2-BUSINESS DAYS IN ADVANCE BEFORE YOU DIG, GRADE, OR EXCAVATE FOR THE MARKING OF UNDERGROUND MEMBER UTILITIES

**PROJECT LOCATION**  
 LOT 23, FALL CREEK  
 SAN MIGUEL COUNTY, COLORADO

- WATER FROM JACUZZI'S AND SPAS.

- SPECIFIC INSPECTION REQUIREMENTS.
- PRIOR TO FINAL ACCEPTANCE THE CONTRACTOR SHALL PROVIDE "AS-CONSTRUCTED" SKETCH OF THE INSTALLED OWS. FOR FUTURE LOCATION PURPOSES. THIS SKETCH SHALL TIE TO THE PRIMARY STRUCTURE ON THE SITE EACH INSTALLED COMPONENT (i.e. SEPTIC TANK, DISPOSAL SITE, PUMP TANK...). EACH LOCATED COMPONENT SHALL BE TIED TO TWO CORNERS ON THE PRIMARY STRUCTURE. THE SKETCH SHALL BE LEGIBLY DRAWN ON EITHER THE FIELD PLAN OR SEPARATE SHEET AND SUBMITTED TO THE ENGINEER.
- CALL FOR INSPECTIONS AT LEAST 2 WORKING DAYS PRIOR TO DAY OF EACH NEEDED INSPECTION.
- THE CONTRACTOR SHALL COMPILE ALL PRODUCT LITERATURE, SHIPPED WITH THE OWS COMPONENTS AND PLACE IN A THREE RING PLASTIC COVER BINDER. THIS INCLUDES WARRANTY, OPERATION MAINTENANCE INFORMATION. THIS INFORMATION SHALL BE PROVIDED TO THE OWNER PRIOR TO CERTIFICATION TO THE COUNTY.

**INSPECTION SCHEDULE**

- A.) BOTTOM OF EXCAVATION FOR SAND FILTER, ADDITIONAL PERCOLATION TESTS MAY BE REQUIRED.
- B.) ALL PIPING, SAND LAYER INSTALLED, AND SIDE WALL CONSTRUCTION OF PERIMETER BERM. PROVIDE AS-BUILT DRAWING AT TIME OF INSPECTION.

**SOIL CLASSIFICATIONS**

**COARSE GRAINED SOILS**  
 LESS THAN 50% FINES

SYMBOL	DESCRIPTION
GW	WELL-GRADED GRAVELS OR GRAVEL-SAND MIXTURES
GP	POORLY GRADED GRAVELS OR GRAVEL-SAND MIXTURES
GM	SILTY-GRAVELS, GRAVEL-SAND-SILT MIXTURES
GC	CLAYEY GRAVELS, GRAVEL-SAND-CLAY MIXTURES
SW	WELL-GRADED SANDS OR GRAVELLY SANDS
SP	POORLY-GRADED SANDS OR GRAVELLY SANDS
SM	SILTY SANDS, SAND-SILT MIXTURES
SC	CLAYEY SANDS, SAND-CLAY MIXTURES

**ROCK & SOIL SIZES**

ITEM	SIZE RANGE
BOULDERS	ABOVE 12 IN.
COBBLES	3 IN. TO 12 IN.
GRAVEL	No. 4 TO 2-1/2 IN.
COARSE FINE	3/4 IN. TO 2-1/2 IN.
SAND	No. 4 TO 3/4 IN.
COARSE	No. 200 TO No. 4
MEDIUM	No. 10 TO No. 4
FINE	No. 40 TO No. 10
FINES (SILT OR CLAY)	No. 200 TO No. 40
	BELOW No. 200

**DEFINITION OF MOISTURE CONTENT**

DRY
SLIGHTLY DAMP
DAMP
MOIST
WET
SATURATED

CK, RIAL

RED



EXHIBIT WD-KUL-1

1. Taxes for the year 2001 and subsequent years, a lien not yet due and payable.
2. All easements and rights of way of a public or private nature, as shown or stated on the plat of said subdivision.
3. Rights of the upper and lower riparian owners in and to the free and unobstructed flow of water of the San Miguel River extending through the subject land, without diminution or pollution.
4. Right of way for State Highway No. 145, as disclosed by the plat of Fall Creek Subdivision Number Three.
5. Resolution No. 1995-3 of the Board of Commissioners of San Miguel County, acknowledging customary treatment of individual lots in the Fall Creek and Hidden Lakes Estates Subdivisions, as separately developable parcels and continuing that policy, recorded January 4, 1995 in Book 539 at page 963; SUBJECT TO the terms, conditions, provisions and obligations contained therein.
6. Driveway to access for Lot 23 to Colorado Highway 145 through Lots 21 and 22 and the San Miguel River as disclosed by Improvement Location Certificate dated May 12, 1997 by Alan E. Jacobsen, P.L.S. 28652, Jacobsen Associates.
7. Any leases and/or tenancies.