



*Town of Carbondale
511 Colorado Avenue
Carbondale, CO 81623*

**AGENDA
PLANNING & ZONING COMMISSION
THURSDAY, MARCH 14, 2019
7:00 P.M. TOWN HALL**

1. CALL TO ORDER
2. ROLL CALL
3. 7:00 p.m. – 7:05 p.m.
Minutes of the February 28, 2019 meeting.....Attachment A
4. 7:05 p.m. – 7:10 p.m.
Public Comment – Persons present not on the agenda
5. 7:10 p.m. – 7:15 p.m.
Resolution 3, Series of 2019, approving SUP – 296 S. Third Street.....Attachment B
6. 7:15 p.m. – 7:35 p.m.
CONTINUED PUBLIC HEARING – Minor Site Plan Review, Special Use Permit and
Variances.....Attachment C
Applicant: Jerod & Sharon Samuelson
Location: 159 Sopris Avenue
7. 7:35 p.m. – 8:20 p.m.
PUBLIC HEARING -UDC Zone Text Amendment- Wireless FacilitiesAttachment D
- ..
8. 8:20 p.m. – 8:25 p.m.
Staff Update
9. 8:25 p.m. – 8:30 p.m.
Commissioner Comments
10. 8:30 p.m. – ADJOURN

*** Please note all times are approx.**

Upcoming P & Z Meetings: Mar. 28, 2019 – VCAP Report & Continued Public Hearing
April 11, 2019 – Brother's Subdivision Exemption – 415 N. 8th Street
Triple Canna LLC/Retail Cultivation & MIP – 220 N. 12th

MINUTES
CARBONDALE PLANNING AND ZONING COMMISSION
Thursday February 28, 2019

Commissioners Present:

Ken Harrington, Vice-Chair
Nicholas DiFrank (1st Alternate)
Jay Engstrom
Nick Miscione
Jeff Davlyn
Tristan Francis (2nd Alternate)

Staff Present:

Janet Buck, Planning Director
John Leybourne, Planner
Mary Sikes, Planning Assistant

Commissioners Absent:

Michael Durant, Chair
Jade Wimberley
Marina Skiles

Other Persons Present

Mark Chain, 811 Garfield Avenue
Robin Scher, 198 N. 10th Street
Dan Bullock, 682 Euclid Avenue
Chris Beebe, 1149 Vitos Way
Ramsey Fulton, 671 North Bridge Drive

The meeting was called to order at 7:00 p.m. by Ken Harrington.

February 14, 2019 Minutes:

Jay made a motion to approve the February 14, 2019 minutes. Tristan seconded the motion and they were approved unanimously with Nick abstaining.

Public Comment – Persons Present Not on the Agenda

There were no persons present to speak on a non-agenda item.

Jeff arrived at 7:04 p.m.

**Continued Public Hearing – Minor Site Plan Review, Special Use Permit,
Conditional Use Permit & Variances – 296 Third Street - Applicants: Kristin Carroll,
Kurtis Sparrow & Pamela Maguire**

Janet began by saying that the Planning Commission held a public hearing on this item on January 24, 2019. She stated that at that meeting, the Commission continued the hearing to February 28, 2019 with the request for revisions to the application.

Janet explained that the original request was for a Minor Site Plan Review and Special Use Permit for a new Single Family Dwelling with an Accessory Dwelling Unit, Variances and Conditional Use Permit.

Janet said that since then, the application has been amended. She stated that the main changes are reducing the building footprint and eliminating the ADU. She noted that while the number of variances have been reduced, there are still four or five which are requested. She outlined the following:

1. Variance from the street side setback of 10 ft. to allow a 2 ft. setback for the structure and 0 ft. setback for the roof eave along 3rd Street.
2. Variance from the allowed height of a vertical wall that is parallel to and within five feet of a side yard setback to exceed 20 ft.
3. Variance to allow the projection of eave into side yard setback on east side.
4. Variance to exceed the allowed maximum impervious lot coverage of 44%.
5. Variance from the required off-street parking requirement of one parking space to allow the use of on-street parking.

Janet stated that the Planning Commission is required to hold a public hearing and approve the application, approve it with conditions, or deny the application. She said that the Commission may also continue the public hearing.

Janet explained that she did a zoning review on the revised application.

Janet said that as previously discussed, this is a legal non-conforming lot. She said that with the exception of the variances, the proposed development is in compliance with the balance of the development standards.

Janet stated that the one item Staff requested clarification on is in the maximum impervious surface of 42%. She said that the applicant will clarify this during their presentation.

Janet continued by saying that the lot is very challenging; however, she feels that the applicants have been successful in designing a viable, attractive single family structure while minimizing the variances required to do so. She stated that she recommends approval of the application with the exception of the request for the parking variance.

Janet stated that she has included the findings and conditions in the Staff report. She noted that we received comments from the Tree Board and Town Arborist after we sent the packet out. She said that in response to those comments, she added some conditions of approval. She said that the revised conditions are at your table.

Jay asked Staff about the impervious calculations.

Janet said that the building, stoops and parking will be included in the total impervious calculations.

Ken asked if the parking was impervious.

Janet stated that the applicant would be explaining parking as well as impervious surface in their presentation.

Mark Chain introduced himself, the applicants, Kristin Carroll and Kurtis Sparrow and Designer Robin Scher.

Mark said that there are new designs to come into conformance as much as possible and to reduce the number of variances, which are displayed on the wall.

Mark gave a PowerPoint presentation outlining the following:

- Revised design/ layout
 - Ø Rear yard, which could have parking
 - Ø Height reduction
 - Ø Building step-down to the alley
 - Ø Fence variance removed for the front yard
 - Ø ADU has been removed
 - Ø Vertical side wall reduction
- Two variances with the revisions, eave projections and side yard setback
- Drainage improvements

Mark explained the impervious calculations and said that they are at 62.5%. He said that he agrees with the Staff memo.

Mark referenced a Commissioner's email regarding the awning extension that would encroach into the street right-of-way. He explained the lot constraints and said that there have been numerous changes. He added that the applicants have decided to make their stoops impervious and that the eaves would be in the setback.

Marina's email was read with her concerns of the following;

- The long unbroken façade on 3rd Street and if it meets the OTR standards.
- Could they be allowed a variance for a barrel awning over the 3rd Street door to be extended 3-4 feet into the setback?
- She said that she supports the applicants and their efforts to have a sustainable house on a challenging lot.

Robin explained the vertical wall on the east side and said that it was under twenty feet.

Kristin explained her points;

- Impervious stoops
- Their compliance and changes
- The width of their home on a narrow lot and the need for a variance
- The step down and the façade proposal possibilities
- Roof over entry
- The current home's toxicity

The following items were discussed;

- Fence materials on Sopris Avenue, wrought iron requirement.
- Third Street façade and vertical line separation.
- Straw bale stacking to make 4" difference in façade.
- Rain pipe to break up façade.
- Projection of eaves on east side.
- Feasibility of basement and shoring needed.
- Historical preservation concerns of the current home.
- Strawbale building principles.
- Abatement in lieu of condemnation.

There were no public comments.

Motion to Close Public Hearing

A motion was made by Jeff to close the public hearing. Nicholas seconded the motion and it was approved unanimously.

Janet explained that only one parking space was required with their current proposal.

Ken stated that they would still need a variance for the one parking space being impervious.

Mark answered yes with the stoops being impervious.

Jay asked if the window well in the setback would require a variance.

Janet answered that it would not require a variance.

Further discussion ensued regarding pervious pavers and other options.

Ken suggested a condition for a change in the color of the west wall to break up the mass.

Jeff asked if the wall on the east side needed a variance.

Further discussion ensued regarding the west elevation and its façade.

Motion

Jay made a motion to approve the Site Plan, including the conditions and findings with variances. Tristan seconded the motion and it was approved.

Yes: Jay, Tristan, Ken, Jeff

No: Nick, Nicholas

PUBLIC HEARING – Unified Development Code (UDC) Amendments/Redlines

Janet explained that this is a public hearing for the purpose of considering amendments to the Unified Development Code.

Janet stated that the Commission is required to hold a public hearing and recommend approval of the amendments or recommend denial. She said that the Commission may also continue the public hearing.

Janet said that the UDC process started in July of 2013 with the intent to re-write the subdivision and zoning code so that it was in harmony with the 2013 Comprehensive Plan. She stated that it was adopted in May of 2016.

Janet said that overall, the UDC has provided a clear development code. She stated that it is well written and that to date it has provided guidance during review of land use applications.

Janet stated that since the adoption, Staff and the Commission have been working on amendments to the UDC. She said that we also solicited comments from Town Staff, Boards and Commissions in 2017. She stated that Planning and Building Staff have requested a number of revisions over the last year. She said that we also had Clarion review Development Standards as they relate to impervious coverage, lot size and common open space. Janet stated that the Clarion findings were presented to the Commission in December of 2018 at the Planning Commission meeting. She said that members of the public were present at that meeting and provided feedback on amendments. Janet said that these were incorporated into the redlines.

Janet said that there are formatting changes that will need to be made at a certain point. She stated that she spoke to Clarion today about getting a scope of work put together.

Janet stated that she will walk through the main changes. She recommended approval of the amendments to the UDC. She said that she has included findings.

Janet said that there are letters from Olivia Emery and another member of the public from the OTR zone district that have been distributed tonight.

Dan Bullock, 682 Euclid Avenue suggested that referencing the Tree Ordinance if there are questions in the UDC and to add a cross reference.

Chris Beebe, 1149 Vitos Way thanked Janet and said that he was probably late to the party. He said that he has two comments;

- 1) For a solar fence landscaping that it should be considered at its mature height as blue spruce trees get to be several hundred feet high.
- 2) Lumping walkways with driveways is challenging. R/MD and R/HD leaves a lot of yard to get to the street. He said for the site design the impervious regulations are challenging.

Mark Chain, 811 Garfield Avenue said that he was still looking at the redlines. He said that the majority of his concerns from his letter in July of 2017 have been addressed. He said that for the OTR that either a Special Use Permit or a Minor Site Plan Review, not both should be required. He said that he has mixed feelings of the lot area requirements for the R/HD zone district. He said that Clarion's examples for height could have unintended consequences and that there should be further conversation.

Ramsey Fulton, 671 North Bridge Drive commented that R/HD with 1050 square feet per unit at the Clarion presentation didn't seem appropriate. He asked what has changed.

Janet answered that that the required lot area in R/HD per dwelling unit was taken out. She said that Clarion tested the standards of impervious, setbacks etc. and that the standards create a density cap.

Motion to Close Public Hearing

A motion was made by Jeff to close the public hearing. Nicholas seconded the motion and it was approved unanimously.

The following items were discussed;

- Pervious/impervious percentages.
- Page 128, be more blunt as shown on Table 3.7.2
- 8.3, add planting materials, 60% live planting materials. Hardscapes could be attractive with drought.
- We may want to reserve water for trees instead of grass.
- Page 140, hard surface interior streets in mobile home parks.
- Parking in mobile home parks, require visitor parking, one space for every five units, which are the same in multi-family standards.
- Cannot have a single new mobile home, they have to be in a mobile home park?

Motion

Jay made a motion to recommend amendments with findings. Nicholas seconded the motion and they were recommended unanimously.

Yes: Jay, Tristan, Ken, Jeff, Nick, Nicholas

No: none

Small Cell Antenna Amendment Discussion

Janet explained that the purpose of this is to introduce the Planning Commission to small cell technology and wireless communications facilities (WCF). She said that Staff's understanding is that there have been Federal and State rule changes that will require updates to the UDC.

Janet said that she has attached a number of items which provide a backdrop of what the various issues are. She stated that bottom line, Staff's understanding is that pursuant to the FCC order, local governments have until April 14, 2019 to adopt design standards for small cell facilities.

Janet stated that it appears that the main changes would be:

- Ø Adding definitions to reflect new technology such as small cell antennas.
- Ø Establishing the uses in the Land Use Table and the associated review process.
- Ø Adding design standards for wireless communications facilities.

Janet continued by saying that because of the deadline, Staff has set a public hearing to consider amendments which address WCF regulations for the March 14, 2019 Planning Commission meeting. She said that because of the short turnaround, Staff wanted to provide the Commission resource material to help get up to speed on what other communities are doing.

Janet said that Staff asked Tareq Wafaie from Clarion if they had any feedback regarding the WCF regulations. She stated that Tareq said that Clarion generally does not become involved with WCF regulations. She said that he did, however, suggest that we look at Glenwood's regulations. She said that she has attached those to this packet. She said that she has also included a memo from Glenwood's City Attorney which provides City Council information of cell tower regulations.

Janet stated that she has also included a memo from Aspen Staff members to their City Council which provides a very good description of issues related to WCF regulations.

Janet said that the one difference between Glenwood, Aspen and Carbondale is that Carbondale does not run its own electric department. She said that in addition, none of the street lights are owned by Carbondale. She explained that they are owned by Holy

Cross on the north side of the Rio Grande Trail and Excel on the south side of the Rio Grande Trail.

Janet stated that at this time, Staff is unclear of any fiscal impacts to the Town related to WCF.

Janet said that Staff would recommend that the Planning Commission review the attached resource material to become familiar with the terminology and technology.

A short discussion followed.

Staff Update

John said that we have been busy with the Town's house renovations at Gateway Park.

Janet said that 1st Bank had their ground breaking this week.

Janet said Thompson Park building permits would be submitted soon.

Janet said that west Main Street would be closed for ditch work.

Janet said that Sopris Lodge was working with RFTA on their licenses.

Commissioner Comments

There were no Commissioner comments.

Motion to Adjourn

A motion was made by Jeff to adjourn. Nicholas seconded the motion and the meeting was adjourned at 9:30 p.m.

RESOLUTION NO. 3
SERIES OF 2019

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE TOWN
OF CARBONDALE, COLORADO, APPROVING A MINOR SITE PLAN REVIEW,
CONDITIONAL USE PERMIT AND VARIANCES FOR PROPERTY LOCATED IN THE
TOWN OF CARBONDALE, COLORADO

WHEREAS, Kristen Carroll, Kurtis Sparrow and Pamela Maguire (“Applicants”) requested approval of a Minor Site Plan Review, Conditional Use Permit and Variances to allow a single family residence to be constructed at 296 S. 3rd Street Carbondale, Colorado (aka as Lot 13, Block 7 in the Original Townsite);

WHEREAS, in addition to the request for a new single family residence, the application included the following variances:

1. Variance from the street side setback of 10 ft. to allow a 2 ft. setback for the structure and 0 ft. setback for the roof eave along 3rd Street.
2. Variance from the allowed height of a vertical wall that is parallel to and within five feet of a side yard setback to exceed 20 ft.
3. Variance to allow the projection of eave into side yard setback on east side.
4. Variance to exceed the allowed maximum impervious lot coverage to allow a maximum impervious coverage of 62.5%.

WHEREAS, the Planning and Zoning Commission of the Town of Carbondale reviewed this application during a Public Hearing on January 24, 2019 and February 28, 2019 and approved said application on the terms and conditions set forth below;

NOW, THEREFORE BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF CARBONDALE, COLORADO, that the Minor Site Plan Review, Conditional Use Permit and Variances are hereby approved, subject to the following conditions and findings:

Conditions of Approval

1. All development shall comply with the Site Plan, Landscaping Plan and Building Elevations submitted in the Addendum to Land Use Application dated February 8, 2019, including the architectural features, the wrought iron fence and the wrought iron balcony railing.
2. The north portion of the westerly façade shall include a physical, structural setback to break up the expanse of the façade.

3. The two elms on the south and west side of the parcel shall be removed prior to commencement of the excavation work for the basement.
4. The landscape plan shall be revised to reflect the following:
 - a. The elimination of the boulders.
 - b. No shrubs, berm or other obstructions which exceed 24 inches in height within the landscaped area within a triangular area formed by the curb lines and a line connecting them at points ten feet from the intersection of the curb lines.
 - c. The species of trees to be planted within the Town's rights-of-ways shall comply with the Street Tree list.
 - d. The new trees to be planted on the parcel shall be non-fruiting or an insignificant fruiting varieties due to the proximity of the trees to the Town's right-of-way.
5. The new construction shall comply with the letter from Evolve Structure Design dated February 5, 2019.
6. The applicant shall be responsible for all building permit fees, tap fees and other associated fees at the time of building permit.
7. All other representations of the Applicant in written submittals to the Town or in public hearings concerning this project shall also be binding as conditions of approval.
8. The Applicant shall also pay and reimburse the Town for all other applicable professional and Staff fees pursuant to the Carbondale Municipal Code.

Findings for Approval

Variances

1. The structure is a residential dwelling unit;
2. The lot is located in the Old Town site;
3. The applicant did not cause the situation or hardship by his/her own actions as the lot was subdivided prior to subdivision or zoning regulations being instituted in the town;

4. The new construction could not be reasonably placed in another location;
5. The new construction is designed in a reasonable fashion and results in the variance requested being the minimum amount required in order to achieve the purpose of the variance request;
6. The variance requested does not harm the public or injure the value of adjacent properties;
7. The granting of a variance is consistent with the spirit and purpose of the Code

Site Plan Review

1. The site plan is consistent with the Comprehensive Plan as it utilizes a small, non-conforming lot near the downtown;
2. There are no previous applicable land-use approvals;
3. The site plan complies with all practical development and design standards set forth in this code with the exception of the variances which are the minimum necessary to utilize the non-conforming lot; and
4. Traffic generated by the proposed development will be adequately served by existing streets within Carbondale.

Conditional Use Permit

1. The site, building(s), and use meet all criteria specified for the use and all applicable regulations and development standards as specified in this Code and for the zone district in which the use is located with the exception of the variances granted by the Planning Commission due to the pre-existing, non-conforming size of the lot;
2. The proposed use is consistent with the Comprehensive Plan as it utilizes a small lot near the downtown for a residential dwelling;
3. The site is being developed in a reasonable fashion and with the minimum amount of variances in order to construct a viable residence;
4. The proposed use is planned in a manner that will minimize adverse impacts on the traffic in the neighborhood or surrounding uses; and
5. The proposed use is compatible with adjacent uses in terms of scale and site design.

INTRODUCED, READ, AND PASSED THIS ____ day of _____, 2019.

PLANNING AND ZONING COMMISSION OF
TOWN OF CARBONDALE

By: _____
Michael Durant
Chair



**TOWN OF CARBONDALE
511 COLORADO AVENUE
CARBONDALE, CO 81623**

Planning Commission Agenda Memorandum

Meeting Date: 3-14-2019

TITLE: 159 Sopris Avenue - Minor Site Plan Review, Special Use Permit
and Front and Side Yard Setback Variances

SUBMITTING DEPARTMENT: Planning Department

ATTACHMENTS: Amended Land Use Application
Planning Commission Minutes 1-10-2019 Excerpt

BACKGROUND

This is a continued public hearing to consider a Special Use Permit and a Minor Site Plan Review to renovate the abandoned CMU structure and convert it into an additional detached single family residential dwelling at 159 Sopris Avenue. The request will require a variance from the minimum front yard setback of 5 ft. to allow a 0 ft. setback and a variance from the minimum side yard setback of 5 ft. to allow a 0 ft. setback. The variances are required to maintain and improve the existing structure.

The Commission first considered this item at its January 10, 2019 meeting. The public hearing was continued to February 14, 2019 to allow time for the applicant to address concerns regarding the building's encroachment onto the property to the east. The applicant wasn't able to resolve the encroachment in time for the February 14, 2019 meeting. Because of that, the Planning Commission continued the public hearing until this evening.

Attached please find revised plans which show that the applicants plan to remove 3.5 along the length of the easterly side of the building. This eliminates an encroachment and provides 3.5 ft. setback to allow room for maintenance of the structure.

The applicant has also submitted some additional information in response to the Planning Commission's comments:

- Ø ILC prepared when the applicants purchased the property. It does not show the encroachment.
- Ø New ILC prepared by Sopris Engineering.

- Ø Details on distance from distance from the front door to the driving lanes of Sopris Avenue (22 feet).
- Ø South building elevation, letter noting the use of stucco and the addition of landscaping along the south side of the building façade.

Below is an updated Staff report which reflects the changes.

DISCUSSION

The lot is an 8,250 sq. ft. parcel. It has an existing single family house on the parcel which is currently occupied. This residential unit is a three bedroom, 2100 sq. ft. residence which was built in 1978.

The abandoned CMU structure was the original 1946 residence which was damaged in a fire in the early 1970's. It was never restored and has remained as is since that time. The applicants would like to convert the abandoned CMU structure into a two bedroom, 760 sq. ft. single family residence.

This would result in two detached single family dwelling units on one lot.

Zoning

The property is located in the Residential High Density (R/HD) zone district. Detached Single Family Dwellings are permitted uses in this zone district. However, UDC Section 4.3.2.D. includes a use-specific standard which requires a special use permit for two or more single family dwellings on one parcel. The special use permit criteria are in UDC Section 2.5.2.C.3.b.ii.

The minimum lot area is 3,000 sq. ft. in the R/HD zone district. This has been met with the 8,250 sq. ft. parcel.

The lot area per dwelling unit has been met as follows:

One three-bedroom	1,850 sq. ft. of lot area required
One two-bedroom	1,650 sq. ft. of lot area required
Total required	3,500 sq. ft. of lot area required
Total provided	8,250 sq. ft. provided

Setbacks for Renovated Single Family Dwelling

Setback	Required	Proposed
Front	5 ft.	0.6 ft.

Side (east)	5 ft.	3.5 ft.
Side (west)	5 ft.	41 ft.
Rear	5 ft.	32.5 ft.

Building Height

The allowed building height is 35 ft. The proposed height of the renovated structure is 12.5 ft.

Maximum Impervious Lot Coverage

The maximum allowed impervious surface is 4,950 sq. ft. The applicants propose to provide 4,467 sq. ft. The UDC requires 3,300 sq. ft. of pervious surface and 4,569 sq. ft. is proposed. *(Note: This is the initial calculation from January. The pervious surface has been increased due to the removal of a portion of the building. This is in compliance.)*

Parking

The code requires 2.5 parking spaces for the existing single family residence and 1.5 spaces for the renovated single family for a total of four parking spaces. Five off-street parking spaces are proposed off of the alley. The size of the parking spaces are generous and more than meet the minimum parking space dimensions of 8-1/2 ft. x 18 ft.

Private Outdoor Space

The site plan shows private outdoor space for each residential unit. The existing single family residence is required to have 210 sq. ft. The plan shows 187 sq. ft. on the south side of the house. This can easily be increased since there is plentiful room. The new single family is required to have 80 sq. ft. There is 108 sq. ft. shown on the north side of residence.

Variances

Approval of a variance from the minimum 5 ft. front yard setback to allow a 0.6 ft. setback and a variance from the minimum 5 ft. side yard setback to allow a 3.5 ft. setback is required to allow this project to proceed. Initially, Staff debated whether variances would be required since the walls of the structure were constructed prior to adoption of a zoning code in the Town. However, it determined that the addition of a new roof structure would increase the non-conformity within the setbacks, establishing the need for variances.

The structure currently extends 0.2 ft. onto the property to the east. The applicant intends to move the wall off the property line 3.5 ft. to the west. This eliminates the encroachment and provides a 3.5 ft. setback. This is adequate room for the roof

structure and future maintenance of the building. It also allows adequate room to retain drainage on the applicant's property.

On the south side, the wall is 0.6 ft. from the Town's right-of-way. In this case, the roof structure should not extend into the right-of-way and drainage should be retained on the site. This has also been made a condition of approval.

The existing single family residence meets the setback requirements.

In order to approve a variance, the Commission would need to make the following findings:

1. The structure to be built or altered is a residential dwelling unit or an accessory structure to the residential unit;
2. The lot must be located in the Old Town site or Weaver's Addition;
3. The applicant may not have caused the situation or hardship by his/her own actions. An exception may be granted if the owner/applicant built or placed the structure, or split the lot prior to subdivision or zoning regulations being instituted in the Town;
4. The new construction, alteration or addition could not be reasonably placed in another location;
5. The new construction, alteration or addition is designed in a reasonable fashion and results in the variance requested being the minimum amount required in order to achieve the purpose of the variance request;
6. The variance requested does not harm the public or injure the value of adjacent properties; and
7. The granting of a variance will be consistent with the spirit and purpose of the Code.

FISCAL ANALYSIS

There would no fiscal impacts on the Town if this application is approved.

RECOMMENDATION

Staff recommends that the following motion be approved: **Move to approve the Minor Site Plan Review, Special Use Permit, Front and Side Yard Variances with the following findings and conditions:**

Conditions

1. All development shall comply with the Site Plans and Building Elevations submitted with the application.
2. The roof system on the south side of the new single family dwelling shall not extend into the Town's right-of-way. All drainage shall be retained on-site.
3. Fees in lieu of water rights for the new single family dwelling may be due at the time of building permit.
4. The applicant shall be responsible for all building permit fees, tap fees and other associated fees at the time of building permit.
5. All other representations of the Applicant in written submittals to the Town or in public hearings concerning this project shall also be binding as conditions of approval.
6. The Applicant shall pay and reimburse the Town for all other applicable professional and Staff fees pursuant to the Carbondale Municipal Code.

Findings

Special Use Permit for Two Single Family Dwellings on One Parcel

1. The proposal meets the purposes of the zone district in the R/HD zone district, specifically care has been taken to meet all criteria, regulations and dimensional requirements that could possibly be met with the exception of the front and side yard setback for the new single family dwelling. The new single family dwelling will be contained within the existing walls of the CMU walls which were constructed in 1946, prior to the adoption of a zoning code in the Town.
2. The special use shall comply with all applicable fire, building, occupancy and other municipal code provisions as a building permit will be required for the new single family residence;
3. The special use shall not have a significant traffic impact within the neighborhood.
4. The special use shall not otherwise have an adverse effect upon the character of surrounding uses; and in fact will enhance the character by renovating and improving an abandoned structure.
5. The impacts of the proposed use on adjacent properties and the surrounding neighborhood or such impacts have been minimized in a satisfactory manner.

6. The use shall not create a nuisance and such impacts shall be borne by the property owners of the property on which the proposed use is located rather than by adjacent properties or the neighborhood.
7. Access to the site is adequate for the proposed use, considering the width of adjacent streets and alleys, and safety.
8. The project is in scale with the existing neighborhood as no new structures are being built.
9. The project maximizes the use of the site's desirable characteristics, specifically the existing mass and scale of structures on the property and retaining the yard area.

Front and Side Yard Setback Variances

1. The structure to be altered is a residential dwelling unit;
2. The lot is located in the Old Town site;
3. The applicants did not cause the situation or hardship by their own actions as the CMU building was constructed in 1946, prior to establishment of zoning regulations in the Town.
4. The new construction or alteration could not be reasonably placed in another location as it already exists in its current location;
5. The new construction is designed in a reasonable fashion and results in the variance requested being the minimum amount required in order to achieve the purpose of the variance request;
6. The variance requested does not harm the public or injure the value of adjacent properties;
7. The granting of a variance will be consistent with the spirit and purpose of the Code

Site Plan Review

1. The site plan is consistent with the Comprehensive Plan as it provides a smaller residential unit near the downtown;
2. The site plan is consistent with the previously approved subdivision plat;

3. The site plan complies with all practical development and design standards set forth in this code with the exception of the front and side yard setbacks due to the pre-existing location of the CMU walls;
4. Traffic generated by the proposed development will be adequately served by existing streets within Carbondale,

Prepared By: Janet Buck, Planning Director

Attention Planning and Zoning,

Regarding the encroachment of the cmu structure onto the east neighbor's property:

Sharon and I researched the neighbors plat and it shows the same encroachment as our plat.

Also, we searched our title and mortgage documents and found an ILC that our mortgage company used to approve the loan. The ILC **does not** show an encroachment.

We contacted the Dubey condominium owners and asked if they would be willing to provide us a maintenance / encroachment easement for the east side of the building.

Their response and list of demands prompted us to decide that the best thing was to move the east wall of the building off the property line. We propose to move the wall off the line 3'6".

This will eliminate the encroachment and allow room for construction.

There was a request to provide information on building outside finishes. Our preference would be stucco all the way around. However, with moving the wall and losing the square footage, our budget to renovate this house may be more than we want to spend. As a result, we would need to look into cost savings and lap siding on that side would be less expensive. Regardless of what material is used, how would this affect the decision to move forward? Are you wanting to know what paint color we are choosing?

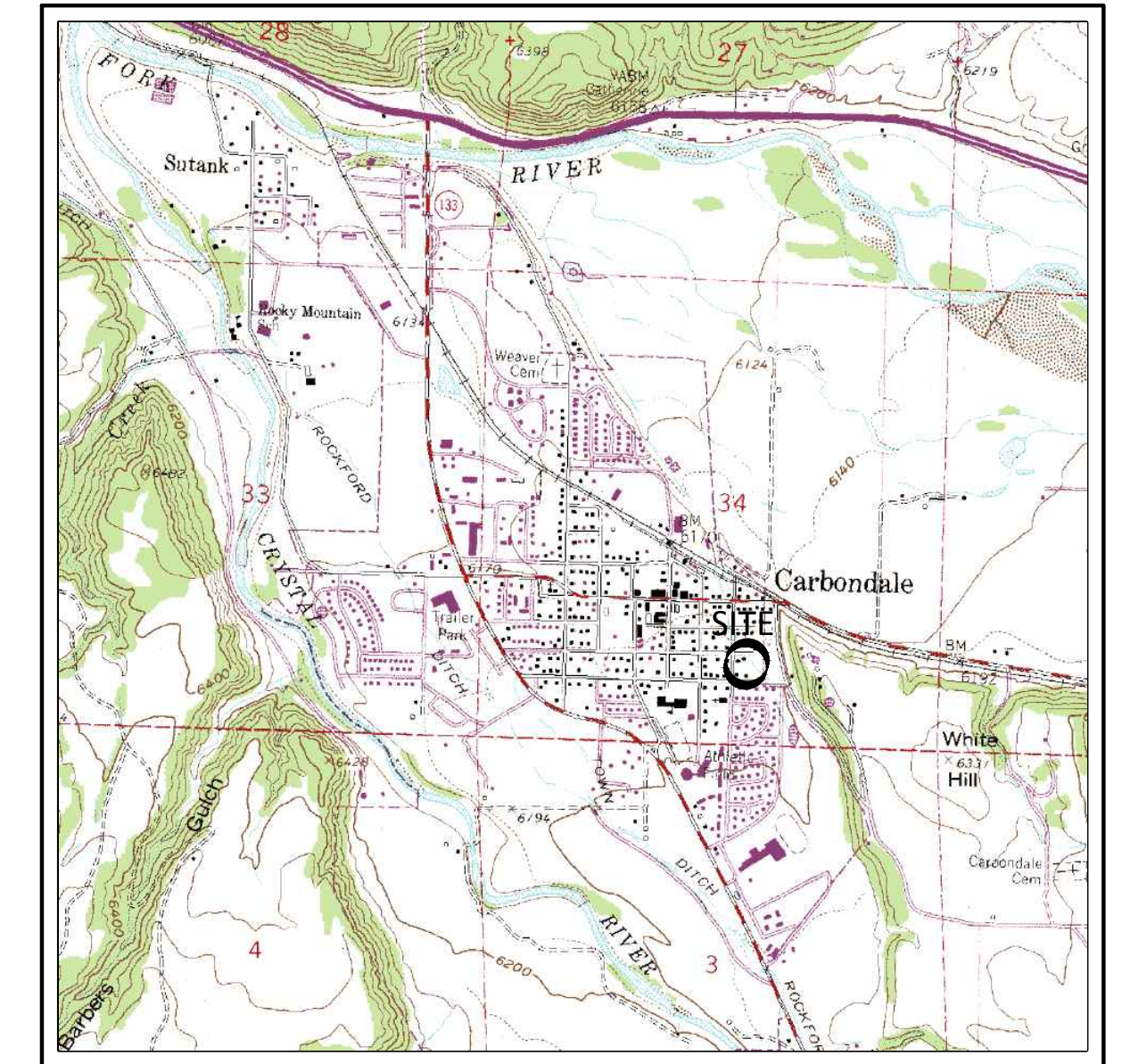
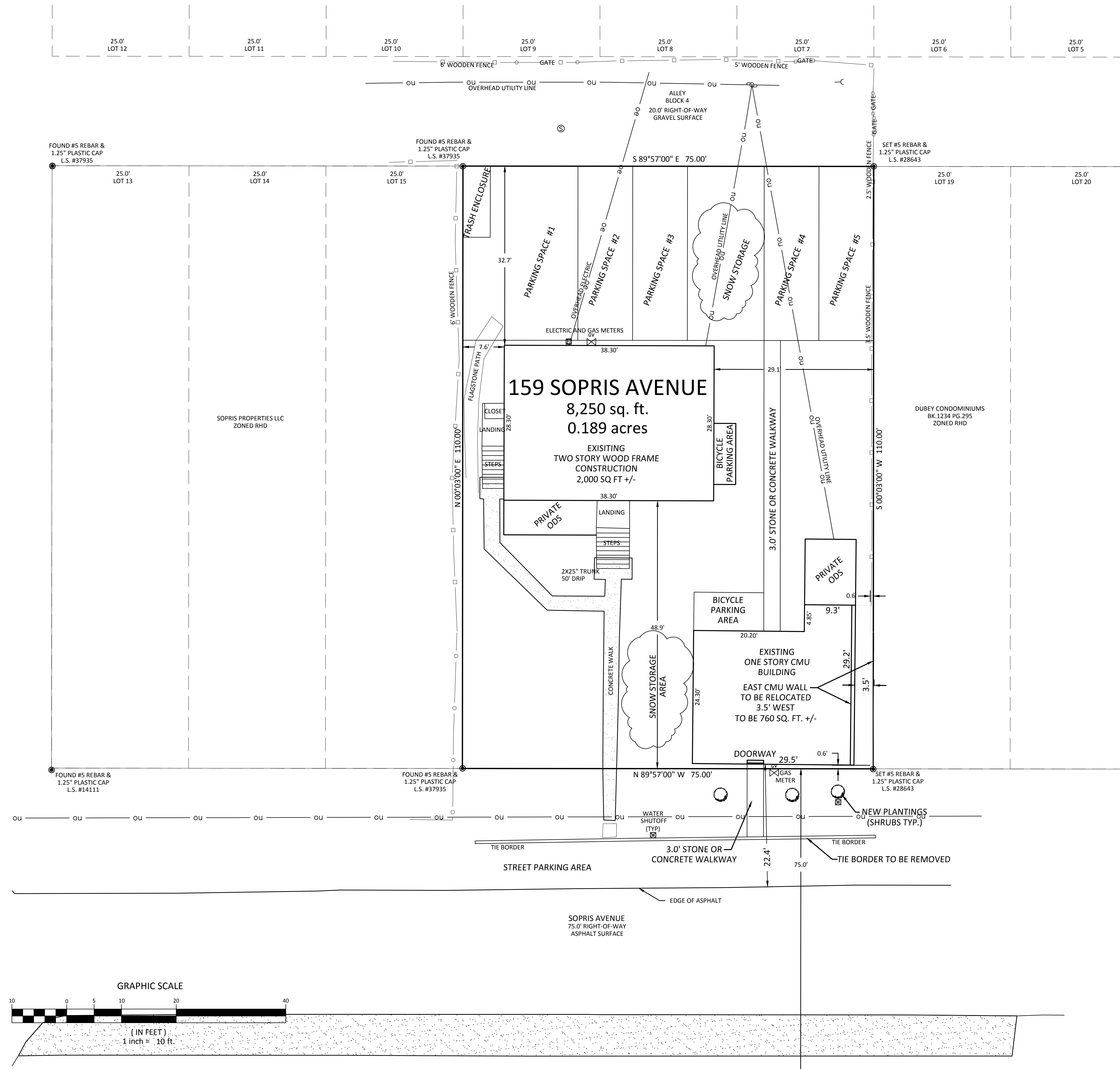
Egress will be on the south side facing Sopris Ave. The front door is 22' from the asphalt with off street parking and there will be some small shrubs planted in front of the house. We believe this allows a large enough buffer to traffic on Sopris Avenue.

Thank you,

Jerod and Sharon Samuelson

LOTS 16, 17, & 18, BLOCK 4, TOWN OF CARBONDALE

A PARCEL OF LAND SITUATED IN THE SW¹/₄ OF SECTION 34
TOWNSHIP 8 SOUTH, RANGE 88 WEST OF THE 6th P.M.
TOWN OF CARBONDALE, COUNTY OF GARFIELD, STATE OF COLORADO
SHEET 1 OF 1



VICINITY MAP
SCALE: 1" = 2000'

TITLE PROPERTY DESCRIPTION

LOTS 16, 17, & 18,
BLOCK 4,
TOWN OF CARBONDALE

COUNTY OF GARFIELD
STATE OF COLORADO

NOTES

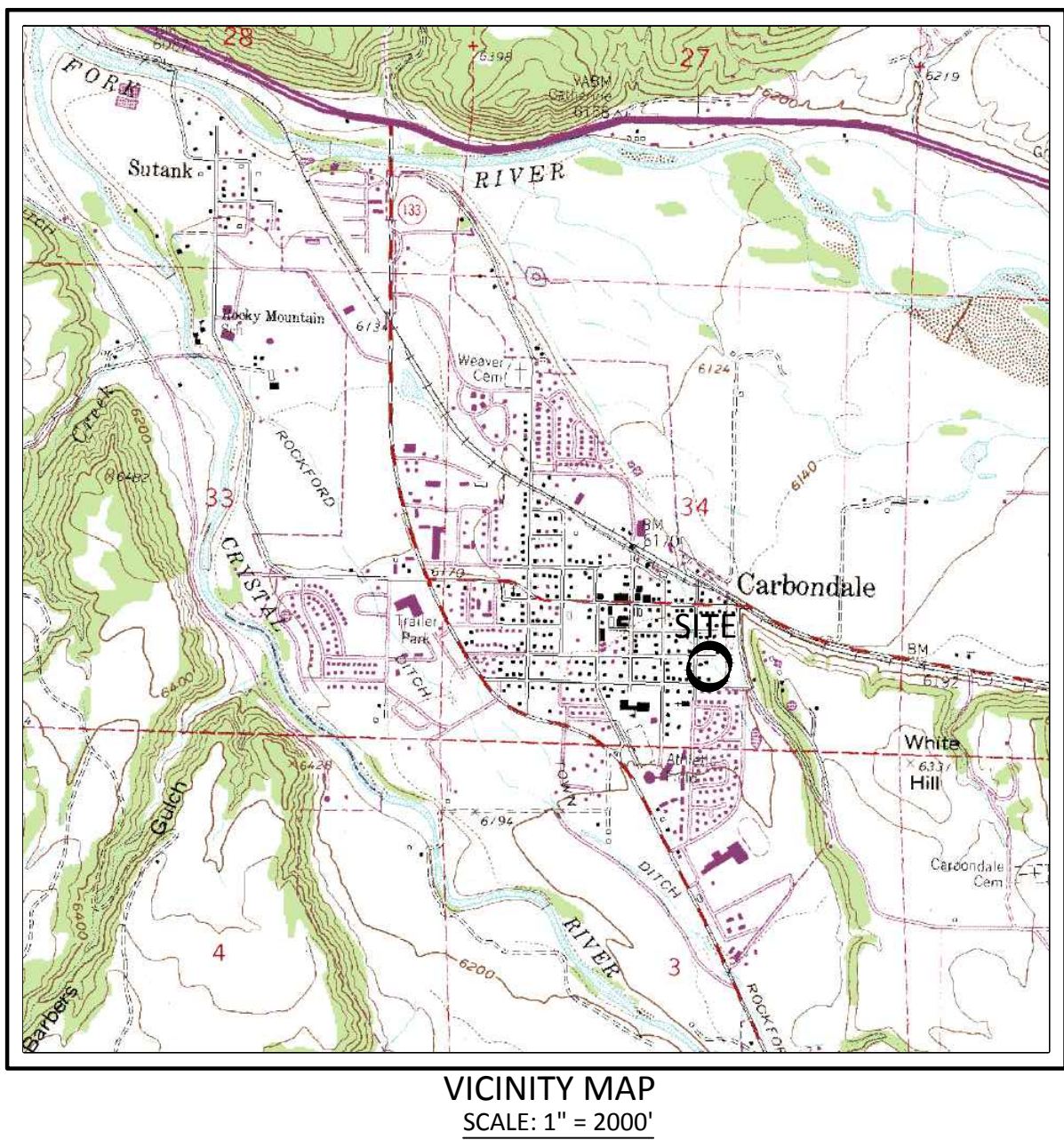
- 1) Date of Survey: July 18, 2014.
- 2) Date of Preparation: July 25, 2014 & March 07, 2019.
- 3) Basis of Bearing: A bearing of S 89°57'00" E between the found town control monuments found inside monument boxes at the intersections of Euclid Avenue & 8th Street and the intesection of Euclid Avenue and 4th Street.
- 4) Basis of Survey: The plat of the Town of Carbondale recorded December 17, 1887 in Plat Book 3 at Page 13 as Reception No. 5889.
- 5) This survey does not constitute a title search by Sopris Engineering, LLC (SE) to determine ownership or easements of record. For all information regarding easements, rights of way and/or title of record, SE relied upon the above said plat described in note 4 and the title commitment prepared by Commonwealth Title Company of Garfield County, Inc. under File No. 1407014, effective June 30, 2014.

SOPRIS ENGINEERING - LLC

CIVIL CONSULTANTS
502 MAIN STREET, SUITE A3
CARBONDALE, COLORADO 81623
(970) 704-0311

IMPROVEMENT SURVEY PLAT OF:
LOTS 16, 17, & 18, BLOCK 4, TOWN OF CARBONDALE

A PARCEL OF LAND SITUATED IN THE SW¹/₄ OF SECTION 34
TOWNSHIP 8 SOUTH, RANGE 88 WEST OF THE 6th P.M.
TOWN OF CARBONDALE, COUNTY OF GARFIELD, STATE OF COLORADO
SHEET 1 OF 1



TITLE PROPERTY DESCRIPTION

LOTS 16, 17, & 18,
BLOCK 4,
TOWN OF CARBONDALE

COUNTY OF GARFIELD
STATE OF COLORADO

NOTES

- 1) Date of Survey: July 18, 2014, Site inspection January 22, 2019.
- 2) Date of Preparation: July 25, 2014, Updated March 07-2019.
- 3) Basis of Bearing: A bearing of S 89°57'00" E between the found town control monuments found inside monument boxes at the intersections of Euclid Avenue & 8th Street and the intesection of Euclid Avenue and 4th Street.
- 4) Basis of Survey: The plat of the Town of Carbonade recorded December 17, 1887 in Plat Book 3 at Page 13 as Reception No. 5889.
- 5) This survey does not constitute a title search by Sopris Engineering, LLC (SE) to determine ownership or easements of record. For all information regarding easements, rights of way and/or title of record, SE relied upon the above said plat described in note 4 and the title commitment prepared by Commonwealth Title Company of Garfield County, Inc. under File No. 1407014, effective June 30, 2014.

SURVEYOR'S CERTIFICATE

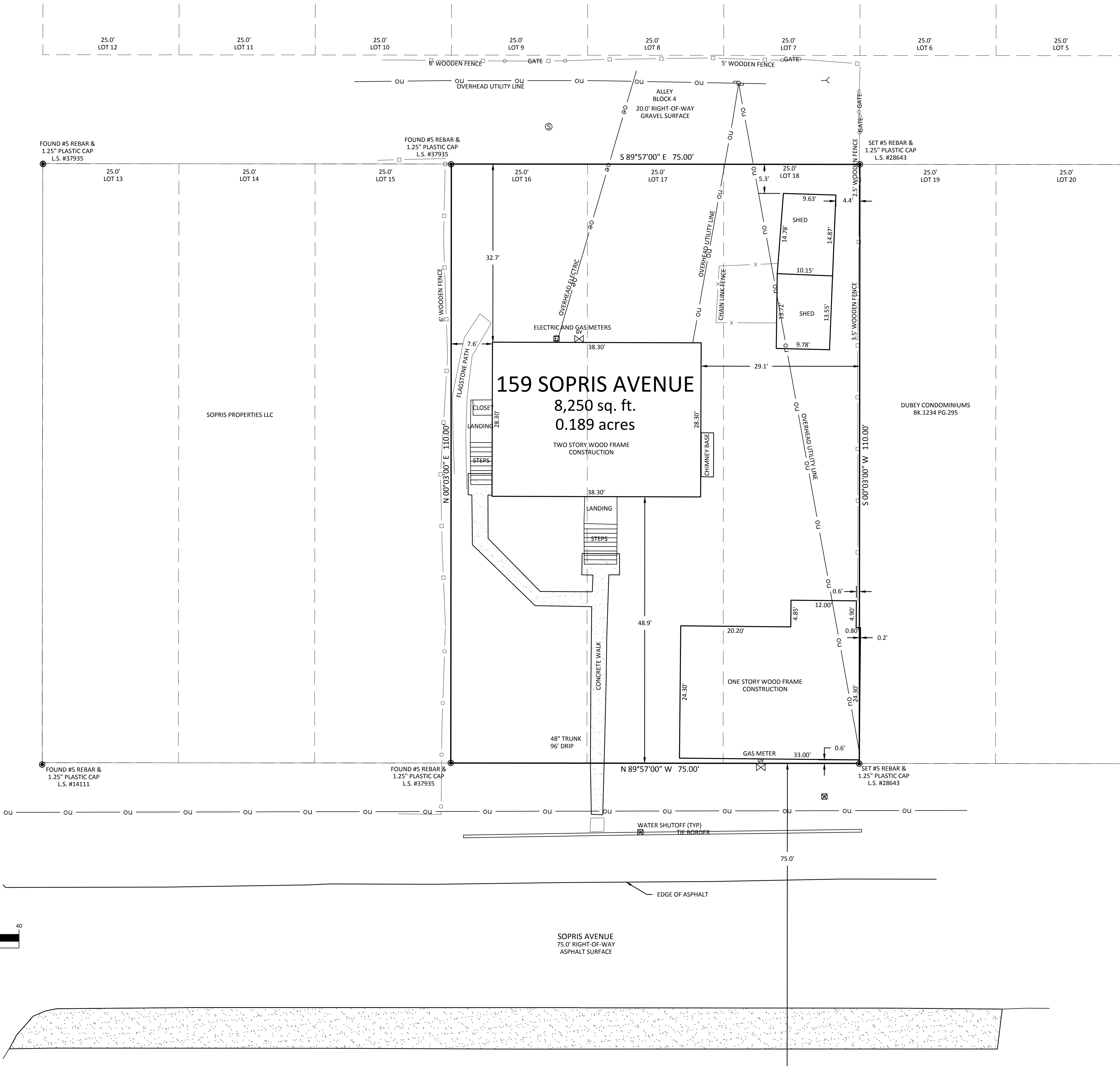
I hereby state that this Improvement Survey Plat was prepared by Sopris Engineering, LLC (SE) for

Jerod & Sharon Samuelson

I furthermore state that the improvements on the above described parcel on this date, January 22, 2019, 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. I furthermore state that this property is subject to reservations, restrictions, covenants and easements of record or in place.

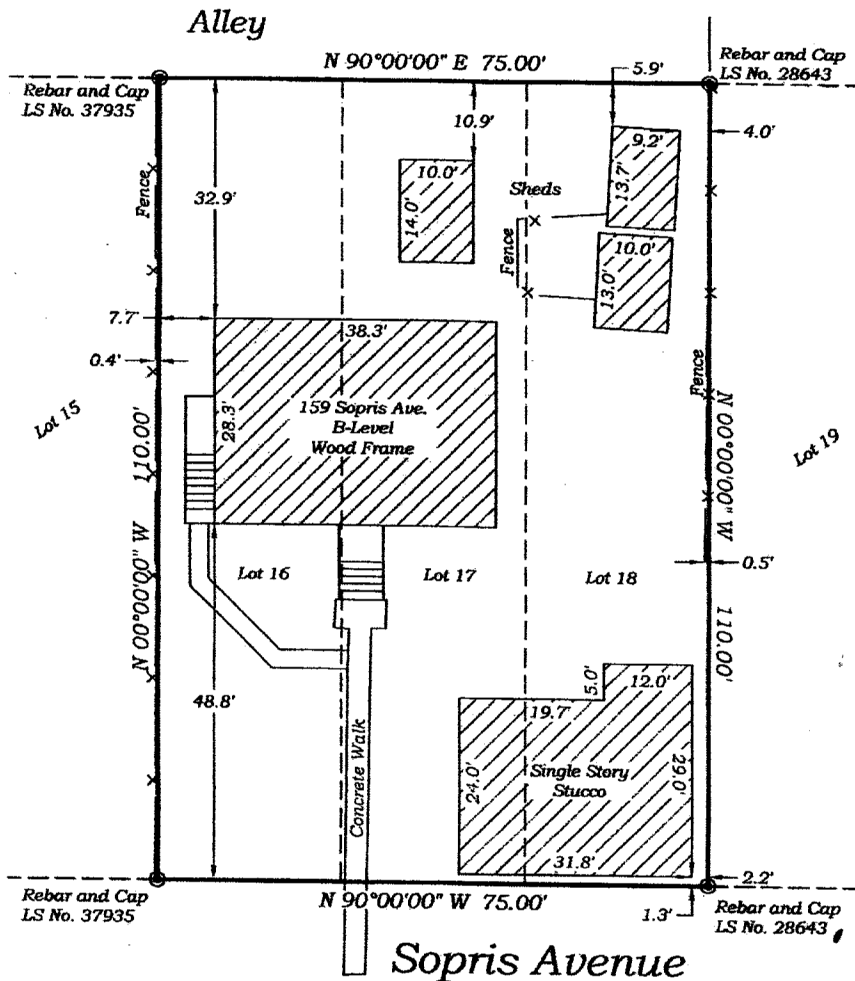
Mark S. Becker L.S. #28643

SOPRIS ENGINEERING - LLC
CIVIL CONSULTANTS
502 MAIN STREET, SUITE A3
CARBONDALE, COLORADO 81623
(970) 704-0311



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 CERTIFICATION SHOWN HEREON.

IMPROVEMENT LOCATION CERTIFICATE



NOTE: THIS PROPERTY IS SUBJECT TO RESERVATIONS, RESTRICTIONS, COVENANTS AND EASEMENTS OF RECORD OR IN PLACE.

SCALE: 1"=20'

PROPERTY DESCRIPTION

LOTS 16, 17 AND 18, BLOCK 4 TOWN OF CARBONDALE

IMPROVEMENT LOCATION CERTIFICATE

I HEREBY CERTIFY THAT THIS IMPROVEMENT LOCATION CERTIFICATE WAS PREPARED FOR, ALPINE BANK AND COMMONWEALTH TITLE COMPANY OF GARFIELD COUNTY, INC. 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 IMPROVEMENT LINES. THIS CERTIFICATE IS VALID ONLY FOR USE BY ALPINE BANK AND COMMONWEALTH TITLE COMPANY OF GARFIELD COUNTY, INC. AND DESCRIBES THE PARCELS APPEARANCE ON MARCH 7, 2017.

I FURTHER CERTIFY THAT THE IMPROVEMENTS ON THE ABOVE DESCRIBED PARCEL ON THIS DATE, MARCH 7, 2017, 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.

Michael Langhorne

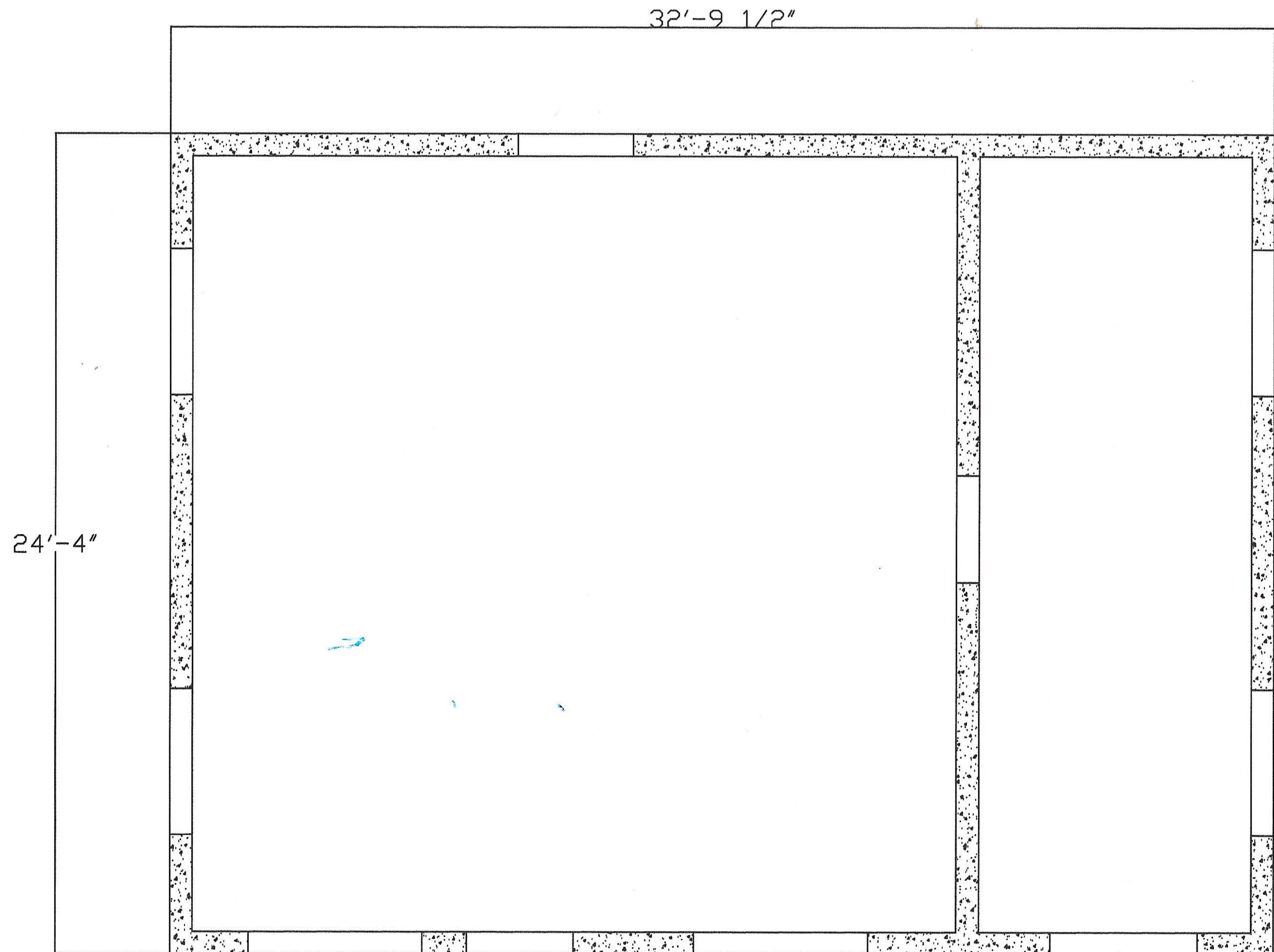
MICHAEL J. LANGHORNE COLORADO REGISTRATION NO. 36572
FOR AND ON BEHALF OF
BOOKCLIFF SURVEY SERVICES, INC.

136 East Third Street
Rifle, Colorado 81650
Ph. (970) 625-1330
Fax (970) 625-2773

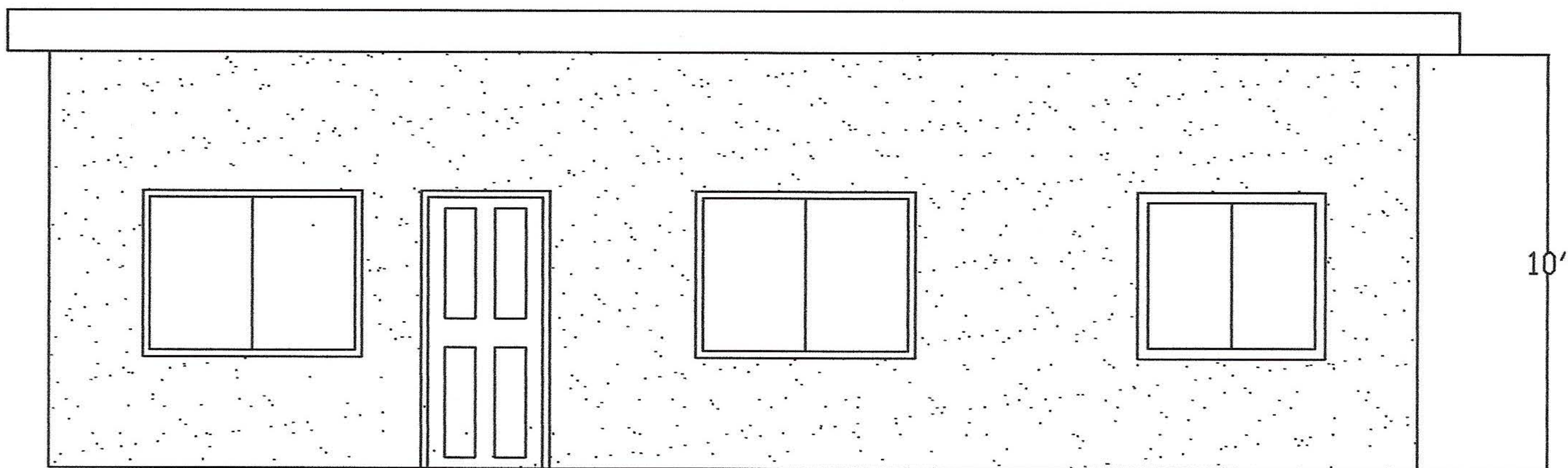
BOOKCLIFF
Survey Services, Inc.

DATE: MARCH 20, 2017

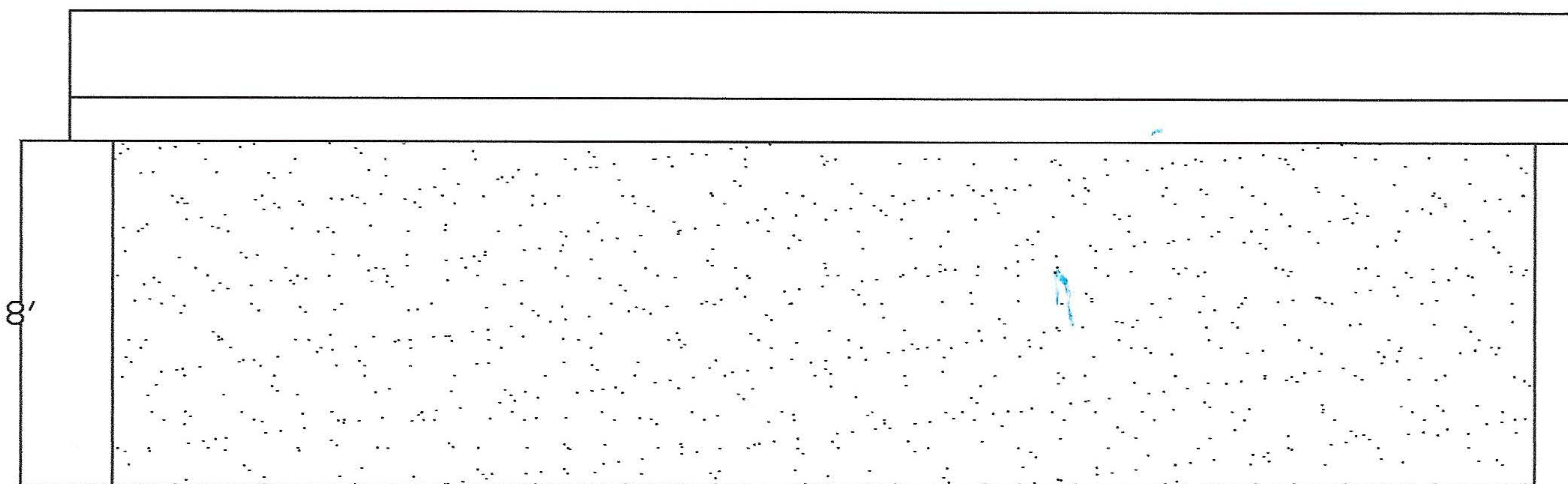
JOB NO: 17027-01



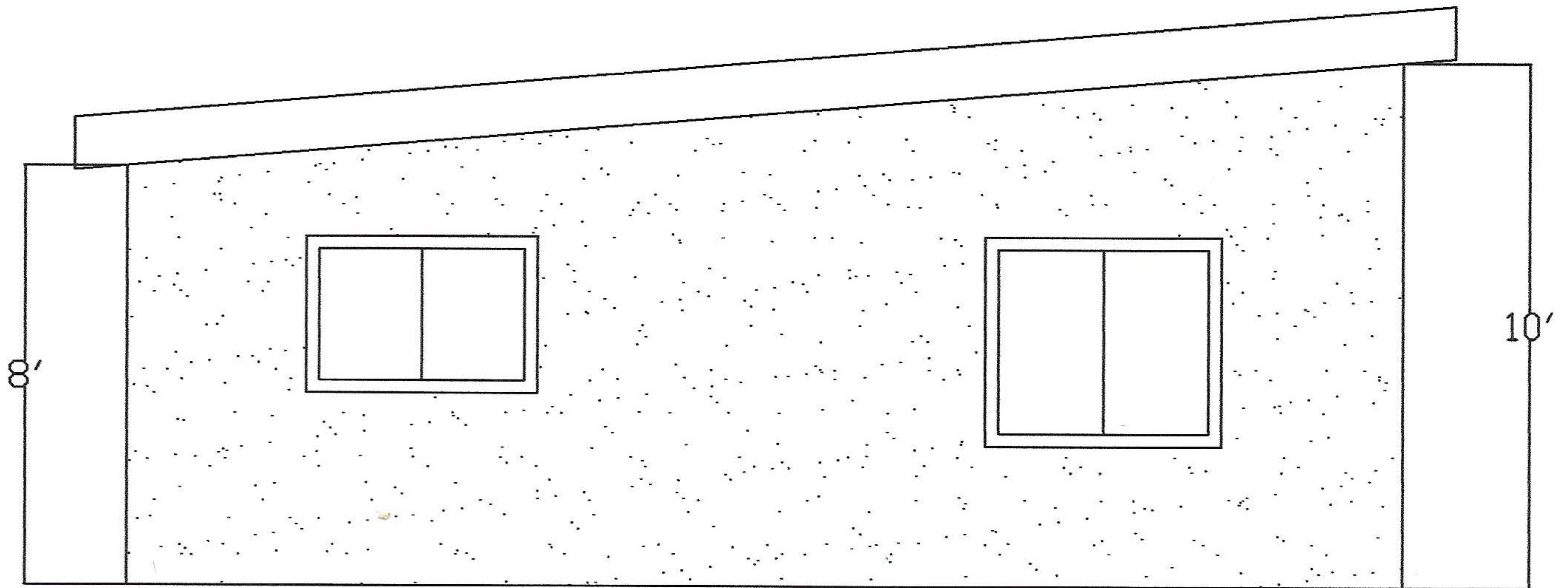
EXISTING PLAN



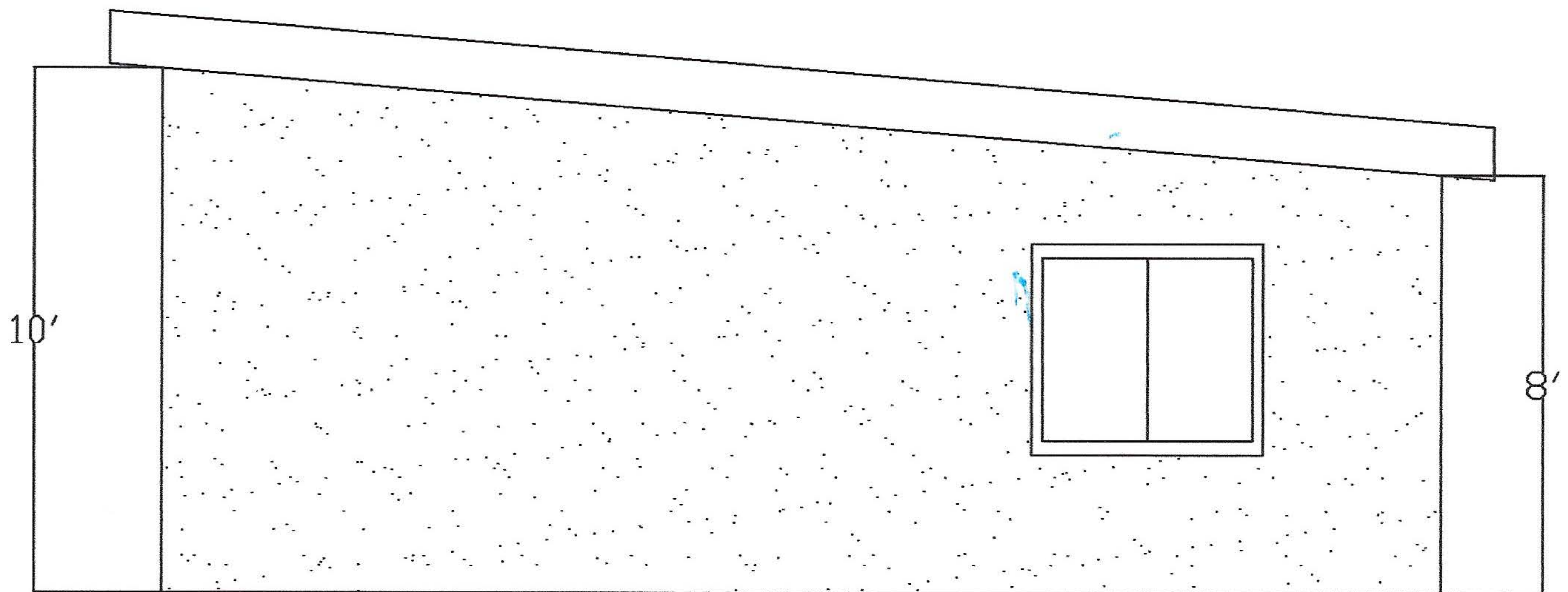
FRONT ELEVATION



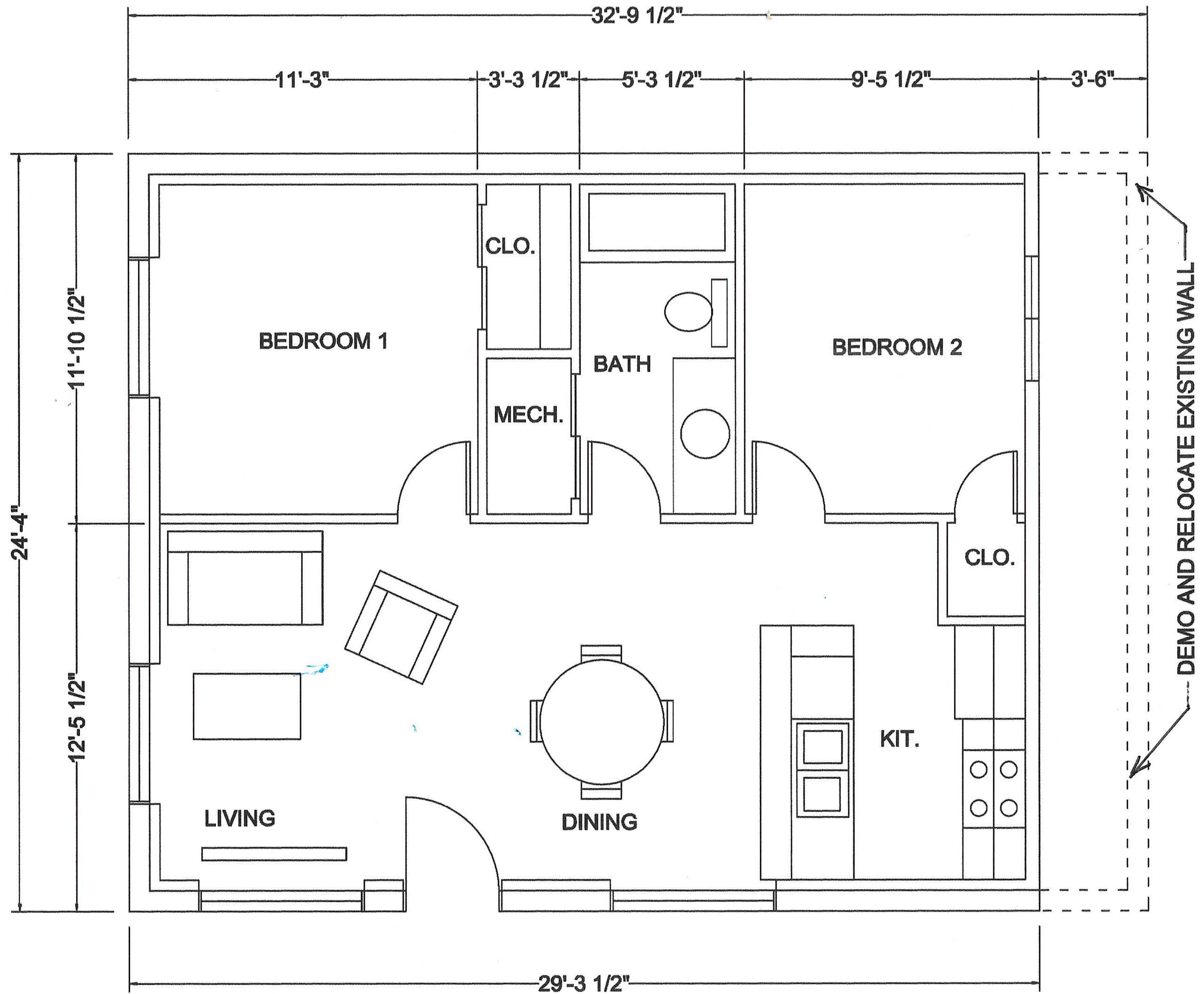
REAR ELEVATION



LEFT ELEVATION



RIGHT ELEVATION



FLOOR PLAN

Resolution 1, Series of 2019, approving an ADU at 275 S. 4th Street (Revised)

Ken made a motion to approve Resolution 1, Series of 2019. Jeff seconded the motion and it was approved unanimously.

Jade commented that the covenants are still filed with the State regarding this ADU approval for 17 Maroon Place and that could be a concern. She said that she wasn't sure if this was a P&Z issue.

Janet agreed with Jade and she said that they are agreements between private property owners. She said that she always tells applicants that they are doing this at their own risk because other owners could contact a lawyer.

Michael stated that we did talk about this at the previous meeting and it was determined that it was not our role to enforce the covenants.

Janet added that we do not enforce covenants unless the covenants state that it is enforceable by the Town.

Resolution 2, Series of 2019, approving an ADU at 17 Maroon Place

Ken made a motion to approve Resolution 2, Series of 2019. Jade seconded the motion and it was approved unanimously.

Public Hearing – Minor Site Plan Review, Special Use Permit and Variances - 159 Sopris Avenue- Applicants Sharon and Jarod Samuelson

Janet stated that this is a public hearing to consider a Special Use Permit and a Minor Site Plan Review to renovate the abandoned CMU structure that was built in 1946. She said that it was the original residence on this Lot. She said that sometime in the 1970's it burned and that it has remained as is since then. She said that the applicants would like to convert the CMU structure into a two bedroom single family dwelling. Janet stated that the property is located in the R/HD zone district and that a special use permit is required to allow two single family residential units on one Lot. She said that the proposal meets all of the zoning requirements of building height, pervious coverage, and the parking requirements. She said that four parking spaces are required and that they are providing five. She said that the only place that it deviates from the zoning is the variances because of the pre-existing location of the building within the front and side yard setbacks. Janet said that she debated whether variances were necessary because these are pre-existing walls, which were built prior to zoning code adoption. She said she realized that when the roof was added that it would increase the non-conformity. She said that this application was noticed as two variances. She said the existing structure extends .2 feet onto the neighboring property to the east. She said that this is usually an issue between the two property owners but that a resolution was needed due to the need of entering the neighbor's property to maintain this structure. Janet stated that it was also increasing the encroachment onto the neighboring property. She said that after speaking to the Town Attorney it was decided that continuing the public hearing would be the best avenue to work through some of these

issues. She said that overall she is in favor of the application and that it would provide a nice single family residence near the downtown. She said that this structure has been an eye sore ever since she moved here and that she would love to see it reused. She said that she is recommending a continuance. She stated that for the record we did get a letter from Ellen Sassano and Jeff Maus, a neighbor at 315 S. 2nd Street and that they were in favor of this application.

Ken asked if there was a plat showing the encroachment.

Janet passed a large plat to the Commission for review.

Further discussion ensued regarding the encroachment shown on the plat and creative ideas for resolution.

The applicant, Jarod, stated that the house has been there since 1946 and that there hasn't been anyone asking them to get the existing structure off their land. He said that they are hoping to build on it and get it back to a livable structure and that is why we are deciding to go this direction. He said that they had thought about removing the structure or leaving it as is if they can't build on it. Jarod asked if they removed the wall on the other property would that change the scope of the building permit from a remodel.

Janet suggested that it would be an amendment to the plan with drawings reflecting bringing the wall in and reducing construction on the neighboring property. She said that the meeting should be continued while requesting additional information to eliminate or reduce the encroachment.

Sharon said that the wall was in the neighbors' parking area next to a tree. She said that there isn't anyone walking right there and that it has been a non-issue until now.

Jarod said that they do not know any of the owners next door but that they have met some renters. He said that they do share a Town easement in the back where a fence has been removed by someone.

Ken asked if there were overhangs on the structure shown on the drawing and how far over they were.

Jarod said that the original roof was on the blocks of the wall, capped with mortar and that the roof lines were actually inside the CMU so they were not overhanging. He said that he understands that the overhang is not acceptable because we are already overhanging.

Michael said it looked like this structure had some cleanup done in recent years.

Sharon and Jarod stated that they had done some asbestos mitigation.

Nicholas said that he would love to see their project completed but that it is our job to protect our community and the legal ramifications.

Jarod said that they have three children and if they are going to want to live in the valley that they are going to need some assistance and that this is an investment for the future.

Nicholas stated that he has two recommendations, one would be moving the wall and the other would be a design plan for the façade.

Jarod said that they wanted to get some direction from this group before they hired an architect.

Janet said that the applicants had an idea or concept of moving the inside wall so nothing would change on the neighbor's property by creating a new wall within the existing structure.

Jarod clarified that they would move the wall.

There was no public present.

Ken said that he was reluctant to vote for this with an intrusion on the neighboring property. He said that you are going to have to move the property line or move the wall.

Michael stated that another option would be to create an easement between the two parties. He said that he would be in favor of however the two neighbors figured out a resolution and that he wouldn't want to tell them how that would be done.

Jarod asked if the Town had a survey to show something different.

Nicholas noted that their ILC was not stamped by Sopris Engineering.

Ken said that he had some concerns with the front yard setback, as they are for safety of people. He said that he would like to know where the doors and access will be.

Nicholas stated that he has no problem with the structure being toward the street. He said that it looks like there is a lot of public right-of-way space in front of the structure.

Jade asked when the applicant knew that part of the building was on the neighbor's property.

Jarod stated that he probably didn't know until they had done the mitigation.

Michael stated that he would like to see a site plan showing the egress and the right-of-way.

Sharon stated that they bought their home from a fifth generation family and that they trusted this property owner and that this problem wasn't a red flag.

Michael stated that the Commission is just looking for a resolution however that looks.

Further discussion ensued regarding easements and encroachments.

Motion to Continue the Public Hearing

Ken made a motion to continue the public hearing to February 14, 2019. Nicholas seconded the motion and it was approved unanimously.

Public Hearing – Medical Marijuana Cultivation – Special Use Permit – P & C Express/Durango Alternatives - 615 Buggy Circle

John Leybourne outlined the following and stated that these are two separate public hearings with two special use permits but that they are located in the same location.

Rocky Mountain High DBA P & C Express and Durango Alternative have submitted two license applications (one for each operation) to add an additional two medical marijuana cultivation licenses to the 615 Buggy Circle location. These applications would be in addition to the one retail cultivation on site and one medical cultivation at the same address.

The applicants have stated that no additional plants would be added to the facility as the existing operations would reduce the amount of plants to accommodate the two new operations.

This application was originally submitted on February 9, 2018 and was scheduled for a noticed public hearing on April 12, 2018. Due to ongoing odor issues the two applications were continued until the odor issues could be resolved by way of an issued notice of violation and at the applicant's request.

The applicant took steps to control the odor by chinking the exterior of the building and also working on establishing more negative pressure inside the building to eliminate the odor. Upon a re-inspection, Staff determined that the steps taken were adequate. Staff and the applicant then re-noticed the application for the meeting this evening.

John noted that the State requirement of providing medical marijuana from an associated grow to a medical dispensary would be going away on 7-1-2019 as a bill was recently passed to eliminate this requirement.

John stated that there was an error with the recommendations in the packet, which went before the Board previously. He said that it should read "move to approve", not "recommend" as the Commission is the approving body.

DISCUSSION

As the two licenses are being added to an existing facility the distancing requirements from schools and such have been met and confirmed.



**TOWN OF CARBONDALE
511 COLORADO AVENUE
CARBONDALE, CO 81623**

Planning Commission Agenda Memorandum

Meeting Date: 3-14-2019

TITLE: Public Hearing - Unified Development Code (UDC) Zone Text
Amendments - Wireless Facilities

SUBMITTING DEPARTMENT: Planning Department

ATTACHMENTS: Draft Wireless Facilities Regulations

BACKGROUND

This is a public hearing for the purpose of considering amendments to the Unified Development Code (Chapter 17 of the Carbondale Municipal Code) to include regulations related to Wireless Facilities, including Small Cell Antenna regulations.

The Commission is required to hold a public hearing and recommend approval of the amendments or recommend denial. The Commission may also continue the public hearing.

DISCUSSION

The latest generation of wireless technology is called Fifth Generation or 5G. 5G is intended to provide faster wireless service and support more wireless connections. 5G utilizes small cell antenna technology.

As a result, wireless providers such as Verizon, AT&T, T-Mobile, etc., will most likely be requesting approval to allow the installation of small cell antennas. Because of their small coverage area, there needs to be a greater number of small cell facility sites than traditional cellular towers. The small cell antennas can be placed on buildings, light poles, towers and new base stations or alternative towers. They are generally three cubic feet in size.

There have been recent developments in federal and state law which requires that the Town address wireless facilities in the UDC.

State law was created in 2017 to allow small cell facilities as a use-by-right in any zone district and created a 90 day timeframe in which the Town must act on a small cell

facility application. The law also gives wireless providers the right to locate or collocate small cell facilities on light poles, traffic signals and similar infrastructure in the Town's rights-of-way.

Recently the FCC approved new rules which took effect on January 14, 2019 imposing new "shot clocks" for the processing an application for small cell facilities. The timeline established by the FCC is 90 days from the date a complete application is submitted for new stand-alone facilities or 60 days for small cell facilities on city infrastructure.

In addition, under the FCC regulations, local governments have until April 14, 2019 to adopt regulations and design standards for new small cell antenna facilities. This means the Town will need to pass an ordinance at the April 9, 2019 Board meeting.

As a result, Staff and Tarn Udall, the Town Attorney, began drafting language to address wireless facilities. As we began this work, we found that the UDC is mostly silent on wireless facilities. In order to bring the UDC up to date with wireless facility technology, the draft code amendments also include regulations on other wireless facilities.

The draft regulations are in a work in progress. We anticipate it will take two meetings for the Planning Commission to review them, provide direction to Staff and finalize them for the Board's consideration. There are some threshold questions which we would like the Commission to weigh in on so Staff can complete the draft regulations.

AMENDMENTS

The main changes to the UDC would be:

- Ø Adding definitions
- Ø Establishing new uses in the Land Use Table
- Ø Creating new review processes
- Ø Adding design standards for wireless facilities and infrastructure associated with those facilities, i.e., base stations, towers, etc.

As noted above, the Town is only required to address small cell wireless facilities in the Town's right-of-way by April 14, 2019. We are not required to address other regulations related to wireless facilities. So one threshold question for the Commission is whether it is appropriate that the draft regulations address wireless facilities in general or should we limit new regulations to small cell facilities?

CHAPTER 17.08 DEFINITIONS

A number of definitions need to be added to this chapter to address wireless facilities. Because this is so specialized, it is difficult to understand how the various facilities will appear and their potential impacts on the Town.

To try to gain a better understanding, Staff searched “small cell antenna images” on the internet. A significant amount of material comes up and it was very helpful. It is interesting to see how small cell wireless facilities are being deployed in other communities.

TABLE 4.2-1 ALLOWED USES

We have included a new section in Table 4.2-1 called “Wireless Facilities.” This lists the various uses associated with small and non-small wireless facilities. We made the small cell antenna and associated infrastructure (base station, alternative tower structure and base station) permitted uses if they are in the Town’s right-of-way. On the flip side, other facilities such as towers on private property, base stations on private property, and non-small antenna are listed as special review uses. The intention is to provide an incentive to the providers to utilize the least-impactful type of facilities.

The one exception is allowing wall-mounted and roof-mounted wires facilities as a conditional use in all zone districts with the exception of OTR and R/LD. (This would, of course, require permission from property owners). These types of facilities may provide more options for providers when deploying small cell facilities.

This threshold question is are we on the right track with the land use table?

CHAPTER 17.05 DEVELOPMENT STANDARDS

The draft regulations also include design standards for wireless communication facilities. There are several methods to accommodate the infrastructure necessary for small cell wireless facilities while trying to maintain community aesthetics. Design standards in the draft regulations include the following techniques:

- Ø Screening and matching architecture, colors and texture of buildings and matching or mimicking building materials.
- Ø Landscape screening requirements.
- Ø Maximum heights.
- Ø Maximum setbacks.
- Ø Maximum projections from sides of structures and buildings.

- Ø Utilizing existing poles, traffic signals, street lights.
- Ø Allowing alternative tower, i.e., clock tower, artificial trees, light poles, etc.
- Ø Colocation (requiring that providers share infrastructure)
- Ø Spacing requirements between wireless facilities

The regulations include design standards for most of the wireless facilities but still need some additional work, i.e., base stations and towers.

Other communities allow the roof- and wall-mounted facilities to exceed the allowed building height and extend into setbacks. The Planning Commission should provide feedback on that. Staff would anticipate that those exceptions would be similar to those in Section 3.8.3. Setbacks and Section 3.8.4. Building Heights. These two tables allow setback and height exceptions.

CHAPTER 17.02 ADMINISTRATION

Another item which needs to be addressed is how land use applications for wireless facilities are processed. Staff originally tried to utilize existing processes. However, because of the uniqueness of submittal requirements and review processes set out under State and Federal law, we chose to create a new process section in Chapter 17.02 called UDC Section 2.5.5. Wireless Facilities.

This section is still rough. We have been working to match it up to the other process sections in Chapter 17.02 but it is not quite there yet. In addition, changes will need to be made based on the Planning Commission's feedback at this meeting. This section includes:

- Ø Purpose Section
- Ø Applicability
- Ø Summary Flowchart
- Ø Submittal Requirements
- Ø Review and Action
- Ø Criteria
- Ø Lapsing Period for Approval

AMENDMENTS REQUIRED FOR OTHER SECTIONS OF THE UDC

In addition to the sections discussed above, there are other sections of the UDC which will need some amendments as a result of new wireless facility regulations. These sections include:

- Ø Table Contents
- Ø Table 2.2-1 Summary Table of Carbondale Review Procedures

- Ø Section 2.3.1.B. – Adding Wireless Facilities to required pre-application meeting
- Ø Section 3.8.4. Building height Exception for Roof-Mounted Facilities
- Ø Section 3.8.3. Setback Exceptions for Wall-Mounted Facilities
- Ø Section 4.3 – Does any of this belong in Use-Specific Standards?

AMENDMENTS TO THE UNIFIED DEVELOPMENT CODE

Section 2.4.1.C.3.b. states amendments to the UDC may be approved if the Town finds that all of the following approval criteria have been met:

1. The proposed amendment will promote the public health, safety, and general welfare;
2. The proposed amendment is consistent with the Comprehensive Plan and the stated purposes of this Unified Development Code; and
3. The proposed amendment is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions.

FISCAL ANALYSIS

The fiscal impacts have not been explored. The Town may charge a fee to allow use of the Town's right-of-way but that has not been discussed.

RECOMMENDATION

Staff recommends the following motion: **Move to continue the public hearing to the March 28, 2019 meeting.**

Prepared By: Janet Buck, Planning Director

DRAFT WIRELESS FACILITIES REGULATIONS
UNIFIED DEVELOPMENT CODE - CARBONDALE

UDC Chapter 17.08

8.3 Other Terms Defined

Accessory equipment

Any equipment serving or being used in conjunction with a wireless facility, including utility or transmission equipment, power supplies, generators, batteries cables, equipment buildings, cabinets and storage shelters or other structures.

Alternative tower structure

An existing or proposed wireless facility that is compatible with the natural setting and surrounding structures and that uses camouflage and concealment design techniques to significantly reduce the visual impacts of such facilities and can be used to house or mount antenna. Examples include man-made trees, clock towers, bell steeples, light poles, traffic signals, buildings, existing utility poles and transmission towers and similar alternative design mounting structures. The term also includes any antenna or antenna array attached to an alternative tower structure or a stand-alone pole in the right-of-way that accommodates small cell facilities to the extent the pole meets the camouflage and concealment standards of Subsection____.

Antenna

An exterior transmitting or receiving device used in communications that radiates or captures wireless signals.

Base station

A structure or equipment at a fixed location that enables Federal Communications Commission (FCC)-licensed or authorized wireless communications between user equipment and a communications structure. The definition of base station does not include or encompass a tower as defined herein or any equipment associated with a tower. Base station includes:

1. Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul that, at the time the relevant application is filed with the Town under this chapter, has been reviewed and approved by the Town under the applicable zoning and approval process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
2. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks) that, at the time the relevant application is filed with the Town under this chapter, has been reviewed and approved by the Town under the applicable zoning or approval

process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

The definition of base station does not include any structure that does not support or house equipment described in subparagraphs 1 and 2, above.

Camouflage and concealment design techniques

Measures used in the design and siting of wireless facilities with the intent to significantly reduce the visual impacts of such facilities to surrounding uses so that the presence of the wireless communications facility is not readily apparent. A wireless facility utilizes camouflage and concealment design techniques when:

1. The facility is integrated within, or incorporated on, an architectural feature of an existing structure, such as a tower, clock tower, bell steeple, cupola, penthouse, architectural feature or other similar structure and is not readily apparent;
2. The facility is integrated within, or incorporated on, vertical infrastructure located in the right-of-way such as a traffic signal, flag pole, light pole or other similar structure and is not readily apparent; or
3. The facility uses a design which mimics and is consistent with landscaping features (such as artificial rocks, trees, and other vegetation), maintains authenticity in its application and is not readily apparent.

Collocation

The mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

Eligible facilities request

Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station involving:

1. Collocation of new transmission equipment;
2. Removal of transmission equipment; or
3. Replacement of transmission equipment.

Eligible support structure

Any tower or base station, provided that it is existing at the time the eligible facilities application is filed with the Town.

Existing or pre-existing

A constructed tower or base station that was reviewed, approved and lawfully constructed in accordance with all requirements of applicable law as of the time of an eligible facilities request, provided that a tower that exists as a legal, non-conforming use and was lawfully constructed, is existing.

Freestanding wireless facility

A wireless facility that consists of a stand-alone support structure or tower, antennas and accessory equipment that is not considered an alternative tower structure.

Micro cell wireless facility

A small cell wireless facility that is no larger in dimensions than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, that is no more than 11 inches in length.

Pole-mounted small cell facility

A small cell facility with an antenna that is mounted and supported on an alternative tower structure, which includes a replacement pole.

Radio frequency emissions letter

A letter from the applicant certifying that the proposed wireless facility will comply with federal law on radio frequency emissions.

Readily apparent

For purposes of determining whether a wireless facility is readily apparent, the phrase means that the facility, in the discretion of the Director, will not be easily recognizable as a wireless facility to a reasonable person viewing the facility as a whole and in the context of any adjacent improvements and landscaping from publicly accessible locations. Methods of design and construction that may assist in reducing the visibility of a facility and reaching a conclusion that a facility is not readily apparent include the use of color mimicking surrounding structures and landscaping, minimizing facility size to the greatest extent feasible, integrating the facility into any adjacent or attached improvements, and positioning the facility in a manner that limits the degree to which the facility projects away from any adjacent structures or landscaping. Due to differences in site characteristics, a determination that a particular wireless facility will not be readily apparent at one location shall not establish a precedent for the same determination for a facility of the same or similar design or construction at a different location.

Replacement pole

An alternative tower structure that is a newly constructed and permitted traffic signal, utility pole, street light, flagpole, electric distribution, or other similar structure of proportions and of equal height or such other height that would not constitute a substantial change to a pre-existing pole or structure in order to support a wireless facility or small cell facility or micro cell facility or to accommodate collocation, and replaces a pre-existing pole or structure.

Roof-mounted wireless facility

A wireless facility that is mounted on the roof or any rooftop appurtenance of a legally existing building or structure.

Site

The current boundaries of the leased or owned property surrounding the tower (other than towers in the right-of way) or eligible support structure and any access or utility easements currently related to the site. A site, for other alternative tower structures, base stations, micro cell facilities, and small cell facilities in the right- of-way, is further restricted to that

area comprising the base of the structure and to other related accessory equipment already deployed on the ground.

Small cell wireless facility

A wireless facility where each antenna is located inside an enclosure of no more than three cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements that could fit within an imaginary enclosure of no more than three cubic feet; and primary equipment enclosures are not larger than 17 cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosure, back-up power systems, grounding equipment, power transfer switch and cut-off switch. A small cell facility includes a micro cell wireless facility. Small cells may be attached to alternative tower structures, replacement poles, and base stations.

Signal interference letter

A letter from the applicant certifying that the proposed wireless facility will comply with federal law on signal interference.

Substantial change

A modification that substantially changes the physical dimensions of an eligible support structure if after the modification, the structure meets any of the following criteria:

1. For towers other than alternative tower structures or towers in the right-of-way, it increases the height of the tower by more than ten percent or by the height of one additional antenna array, with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten percent or more than ten feet, whichever is greater;
2. For towers other than towers in the right-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the side of the structure by more than six feet;
3. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or for towers in the right-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structure;
4. For any eligible support structure, it entails any excavation or deployment outside the current site;
5. For any eligible support structure, it would defeat the concealment elements of the eligible support structure. For purposes of this definition, any change that

undermines concealment elements of an eligible support structure shall be interpreted as defeating the concealment elements of that structure; or

6. For any eligible support structure, it does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure equipment, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that would not exceed the thresholds identified in paragraphs (1), (2), and (3) of this definition. For purposes of determining whether a substantial change exists, changes in height are measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height are measured from the dimensions of the tower or base station.

Tower

Any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

Transmission equipment

Equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Wall-mounted communication facility

A communication facility that is mounted and supported entirely on the wall of a legally existing building, including the walls of architectural features such as parapets, but does not include mechanical screens, chimneys and similar appurtenances.

Wireless facility

A facility used to provide personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services. A wireless facility does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the Code. A wireless facility includes an antenna or antennas, including without limitation, directional, omni-directional and parabolic antennas, base stations, support equipment, and towers. It does not include the support structure to which the wireless facility or its components are attached if the use of such structures for wireless facilities is not the primary use. The term does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or hand held

radios/telephones and their associated transmitting antennas, nor does it include other facilities specifically excluded from the coverage of this chapter.

Table 4.2-1 Allowed Uses – Town of Carbondale

Table 4.2-1: Allowed Uses – Town of Carbondale		Residential Districts					Commercial and Mixed-Use				Other Non-Residential				Use-Specific Standards					
P = permitted use C = conditional		S = special use Blank cell = prohibited use					AG	OTR	R/LD	R/MD	R/H/D	C/T	CRW	HCC		MU	O	T	PF	I
Use Category	Use Type																			
WIRELESS FACILITIES																				
	Small cell facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Alternative tower structure for non-small cell facility in right-of-way	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
	Alternative tower structure for small cell facility in right-of-way	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Alternative tower structure out of right-of-way [Discuss residential]	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
	Base station in right-of-way	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Base station not in right-of-way [Discuss residential]	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
	Wall-mounted or roof-mounted wireless facilities	C			C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
	Tower						S	S	S	S	S	S	S	S	S	S	S	S	S	S
	Eligible Facilities Request	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

Chapter 17.05 Development Standards

UDC Section 5.13 Wireless Facilities

5.13.1 Purpose

In order to accommodate the communication needs of residents and businesses while protecting the public, health, safety, and general welfare of the community, the Town finds that these regulations are necessary to:

- A. Provide for the managed development and installation, maintenance, modification, and removal of wireless facilities infrastructure in the Town with the fewest number of wireless facilities to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services, including all of those who install, maintain, operate, and remove wireless facilities;
- B. Promote and protect the public health, safety, and welfare by reducing the visibility of wireless facilities to the fullest extent possible through techniques including but not limited to camouflage design techniques and undergrounding of the equipment associated with wireless facilities;

- C. Encourage the deployment of smaller, less-intrusive wireless facilities to supplement existing larger wireless facilities;
- D. Encourage design and locations standards so that facilities have a negligible impact to the community;
- E. Encourage the location of towers in non-residential areas in a manner that minimizes the total number of towers needed throughout the community;
- F. Encourage the collocation of wireless facilities on new and existing sites;
- G. Enhance the ability of wireless communications service providers to provide such services to the community quickly, effectively and efficiently;
- H. Effectively manage wireless facilities in the right-of-way; and
- I. Manage amateur radio facilities and over-the-air devices in the Town.

5.13.2. Applicability

The requirements set forth in this section shall apply to all wireless facility applications for base stations, alternative tower structures, towers, micro cells, and small cell wireless facilities, all as defined in Chapter 17.08 *Definitions* and further addressed herein, and all other wireless facilities unless exempt under (paragraph below exempting certain wireless facilities).

The requirements set forth in this section shall not apply to:

- A. Federally licensed amateur radio antenna, over-the-air receiving device (OTARD), and residential television reception/antenna towers provided that the requirement that the height be no more than the distance from the base of the antenna to the property line is met.
- B. Pre-existing wireless facilities. Any wireless facility for which a building permit or special review use has been properly issued, shall not be required to meet the requirements of this chapter, other than those in Section 5.13.3 *General Standards for all Wireless Facilities*. Changes and additions to pre-existing wireless facilities (including trading out of antennas for an equal number of antennas) shall meet applicable requirements of this chapter.
- C. Miscellaneous antennas. Antennas used for reception of television, multi-channel video programming and radio such as OTARD antennas, television broadcast band antennas, and broadcast radio antennas, provided the height be no more than the distance from the base to the property line and that any generally applicable requirements contained in this title are met.
- D. A temporary wireless facility serving the general health, safety and welfare of the residents of the Town installed upon the declaration of a state of emergency by the federal, state, or local government or other written determination of need by the federal, state or local government.
- E. A temporary wireless facility installed for the purpose of providing sufficient coverage for a special event, subject to administrative approval by the Town through the special event permit process.

5.13.3 General Standards for all Wireless Facilities.

A. Federal requirements

All wireless facilities shall meet the current standards and regulations of the Federal Aviation Administration (FAA), the FCC and any other agency of the federal government with the authority to regulate wireless facilities. If such standards and regulations are changed, then the owners of the wireless facility shall bring such facility into compliance with such revised standards and regulations within the time period mandated by the controlling federal agency. Failure to meet such revised standards and regulations shall constitute grounds for the removal of the facility at the owner's expense.

B. Signal Interference

All wireless facilities shall be designed and sited, consistent with applicable federal regulations, so as not to cause interference with the normal operation of radio, television, telephone and other communication services utilized by adjacent residential and non-residential properties; nor shall any facilities interfere with public safety communications. The applicant shall provide a written statement from a qualified radio frequency engineer, certifying that a technical evaluation of existing and proposed facilities indicates no potential interference problems and shall allow the Town to monitor interference levels with public safety communications during this process. Additionally, the Applicant shall notify the Town at least ten calendar days prior to the introduction of new service or changes in existing service, and shall allow the Town to monitor interference levels with public safety communications during the testing.

C. Operation and maintenance.

To ensure the structural integrity of wireless facilities, the owner of a wireless facility shall ensure it is maintained in compliance with the standards contained in the international building codes and national electric code, as applicable and adopted by the Town from time to time. The owner of a wireless facility shall ensure ongoing compliance, operation and maintenance consistent with the Town's approval, including but not limited to the upkeep of site landscaping, paint and surface treatments, litter removal, fence or screening repair, and general maintenance to assure a clean, well-kept wireless facility.

D. Abandonment and removal

If a wireless facility has not been in use for a period of three months, the owner of the wireless facility shall notify the Town of the non-use and shall indicate whether re-use is expected within the ensuing three months. Any wireless facility that is not operated for a continuous period of six months shall be considered abandoned. The Town, in its sole discretion, may require an abandoned wireless facility to be removed. The owner of such wireless facility shall remove the same within 30 days of receipt of written notice from the Town. If such wireless facility is not removed within said 30 days, the Town may remove it at the owner's expense and any approved permits for the wireless facility shall be deemed to have expired. Additionally, the Town, in its sole discretion, shall not approve any new wireless

facility application until the applicant who is also the owner or operator of any such abandoned wireless facility has removed such wireless facility or payment for such removal has been made to the Town. Nothing in this subsection shall limit an applicant for applying for an eligible facilities request on an existing eligible support structure.

E. Collocation

No wireless facility owner or operator shall unreasonably exclude a wireless competitor from using the same facility or location. Upon request by the Town, the owner or operator shall provide evidence explaining why collocation is not possible at a particular facility or site.

F. Lighting

Wireless facilities shall not be artificially lighted, unless required by the FAA or other applicable governmental authority, or the wireless facility is mounted on a light pole or other similar structure primarily used for lighting purposes. If lighting is required, the Town may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Lighting shall be shielded or directed to the greatest extent possible so as to minimize the amount of glare and light falling onto nearby properties, particularly residences.

G. Eligible facilities request for existing towers and base stations.

All eligible facilities request applications shall be reviewed and approved in compliance with federal rules in effect at the time the application is received.

H. Site Selection

Except for small cell facilities in the public rights-of-way, wireless facilities shall be located in the following order of preference:

1. First: Collocated on existing structures such as buildings, communication towers, flagpoles, cupolas, ball field lights, non-ornamental street lights such as highway lighting, etc.
2. Second: In locations where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening.
3. Least: On vacant ground or highly visible sites without significant visual mitigation and where screening/buffering is difficult at best.

I. Prohibitions

1. Lattice towers (i.e. a structure, with three or four steel support legs, used to support a variety of antennae; these towers generally range in height from sixty (60) to two hundred (200) feet and are constructed in areas where great height is needed, microwave antennas are required or where the weather demands a more structurally sound design) are prohibited within the Town.

2. Installation of wireless facilities on public art is prohibited.

5.13.4. Supplemental Standards: Wireless Facilities in the Right-of-Way

A. Applicability

Any wireless facilities in the right-of-way shall comply with Section 5.13.3 General Standards for all Wireless Facilities in addition to the standards of this section.

B. Small Cell Facility

Attachment of small cell facilities on an existing or replacement traffic light pole, street light standard, or other vertical infrastructure shall be permitted following administrative review by the Director for conformance with this chapter, and provided that:

1. The facility utilizes camouflage and concealment design techniques; and
2. The facility does not exceed the height of the existing infrastructure on which it is mounted by more than five (5) feet.

B. Non-Small Cell Facility

A new alternative tower structure may be permitted for non-small cell facilities through a special review use and provided that:

1. The new structure is architecturally compatible with the surrounding area through application of camouflage and concealment design techniques; and
2. The facility height is not more than:
25 feet when the facility is within 250 feet of a property, as measured from the property line, containing a single-family or multi-family residential use;
25 feet when the facility is within 250 of a property, as measured from the property line, zoned open space or agricultural;
25 feet in all other areas; or
The facility does not exceed the average height of the existing infrastructure in the right-of-way within 600 feet by more than five feet.
3. The facility is separated from all other freestanding wireless facilities within right-of- way by a distance of at least 600 feet, unless the facility replaces an existing traffic signal, street light pole, or similar structure as determined by the Director.
4. When placed near a residential property, the facility shall be placed adjacent to a common property line between adjoining residential properties, such that the facility minimizes visual impacts equitably among adjacent properties, unless landscaping, topography, other structures, or other considerations minimize visual impacts to a greater extent at a different location.
5. The facility shall not alter vehicular circulation or parking within the right-of-way or impede vehicular, bicycle, or pedestrian access or visibility along the right-of-way or interfere with the Americans with Disabilities Act regulations.

6. No alternative tower structure may be located or maintained in a manner that causes unreasonable interference. Unreasonable interference means any use of the right-of-way that disrupts or interferes with its use by the Town, the general public, or other person authorized to use or be present upon the right-of-way, when there exists an alternative that would result in less disruption or interference. Unreasonable interference includes any use of the right-of-way that disrupts vehicular or pedestrian traffic, any interference with public utilities, and any other activity that will present a hazard to public health, safety, or welfare.

All ground-based accessory equipment shall be installed in an underground vault, or above ground with nothing projecting more than 36 inches above grade, or collocated within a traffic cabinet, unless the applicant demonstrates to the Director that it is not feasible. Ground-based accessory equipment located within a vision clearance area shall be no taller than 30 inches above grade. All above-grade ground based accessory equipment shall be setback from trails and sidewalks a minimum of three feet.

Any necessary wiring or cabling shall be located within the pole or, if not technically feasible, located within a fully enclosed sheathing attached to the pole. Such sheathing shall be the same color as the pole, shall be limited in size to that necessary to cover the wiring or cabling and may not extend out from the pole more than four inches.

The Director may allow a reduction in the separation requirement or an increase in the maximum height requirement if the applicant demonstrates through technical network documentation that the requirement cannot result in a feasible network. The Town may require that a Town-retained technical consultant complete a study at the applicant's expense to evaluate the applicant's technical network documentation and provide an independent opinion regarding the impact on network feasibility. The request must also result in a facility that meets the following criteria:

1. The request will not alter the essential character of the neighborhood or district in which the facility is located, nor substantially or permanently impairs the appropriate use or development of adjacent property.
2. Approval of the request is warranted by the design incorporated in the proposal and the benefit provided to the Town.

5.13.5. Wireless facilities not in the right-of-way.

In the mixed-use residential zone district and all other residential zone districts or residentially developed property, wireless facilities are permitted only on institutional structures or multi-family structures containing eight or more dwelling units. Towers are not permitted in any residential zone districts.

Design standards. All wireless facilities shall be located and designed to be compatible and blend in with surrounding buildings and existing or planned uses in the area through the use of camouflage and concealment design techniques.

A. Wall-mounted communication facility.

1. Such facilities shall be architecturally compatible with and textured and colored to match the building or structure to which they are attached.
2. The antenna shall be mounted as flush to the wall as technically possible. The maximum protrusion of such facilities from the building or structure face to which they are attached shall be two feet.
3. Panel antenna shall not extend above the building wall or parapet to which they are attached.
4. Wall-mounted facilities meeting the standards above meet the camouflage and concealment design requirement.

B. Roof-mounted communication facility.

All roof-mounted wireless facilities and accessory equipment shall be fully screened from view with existing parapets or with the addition of architecturally compatible screening walls or other structures as viewed at ground level at all adjacent property boundaries, including property lines across adjacent rights of way.

Any screen walls shall be set back from the parapet or roof edge so that visibility from the street or adjacent residential properties is minimized to the greatest extent possible.

Roof-mounted communication facilities and accessory equipment shall not be permitted on a sloped roof, unless it can be demonstrated that it is not visible from the street or adjacent residential areas.

Roof-mounted communication facilities are subject to the following height regulations:

Roof-mounted antenna and accessory equipment can be located behind an existing parapet or existing screen wall that is at least as tall as the antenna and accessory equipment. Expansions to existing screen walls may be authorized by the Director, if the applicant can demonstrate that any expansion does not result in any additional height and is in compliance with the design standards above.

Roof-mounted antenna and accessory equipment not meeting the standard above are subject to the maximum building height for the zoning district or applicable design standards, whichever is stricter.

Roof-mounted panel antenna shall not extend more than six feet above the roof parapet.

Roof-mounted whip antenna shall not extend more than ten feet above the building to which they are mounted.

C. Freestanding and Alternative Tower Communication Facilities.

The applicant shall demonstrate that freestanding wireless facilities are necessitated by exceptional circumstances which prohibit the installation of a wall-mounted structure, roof-mounted structure or alternative tower structure

and that the visual impact of a freestanding wireless facility is negligible from surrounding properties and streets.

Freestanding wireless facilities shall not be permitted between the principal structure and the street.

The minimum setback from property lines for freestanding and alternative tower structures shall be one of the following:

The facility height, when the facility is within 250 feet of an existing residential structure;

The setback applicable to principal structures in the zoning district; or

An alternative setback, approved by the Director, for alternative tower structures where the facility replaces or proposes an accessory structure to an established principal use, to include, but not limited to, signs, light poles, and flagpoles, where it is evidenced that the siting and location of the alternative tower structure allows for camouflage and concealment design techniques to a greater extent than would be achieved by application of the principal structure setback.

Freestanding and alternative tower structures are subject to the maximum building height for principal structures for the zoning district or applicable design standards, whichever is stricter, unless a waiver is obtained through the special review use procedures set forth in UDC Section _____.

D. Ground Based Accessory Equipment.

All ground based accessory equipment that is associated with freestanding, alternative tower structures, roof-mounted or wall-mounted facilities are subject to the following requirements:

1. Ground based accessory equipment shall be subject to the accessory structure setback requirements in the underlying zone district or the applicable design standards, whichever is stricter.
2. Ground based accessory equipment or buildings constructed for the primary purpose of containing accessory equipment shall not exceed 12 feet in height.
3. Ground based accessory equipment not fully enclosed in a building shall be fully screened with landscaping from adjacent residential property and public rights-of-way with a screen wall constructed of high-quality materials to be architecturally compatible with existing structures on the property and character of the neighborhood.
4. Buildings containing ground based accessory equipment shall be architecturally compatible with the existing structures on the property and character of the neighborhood.

UDC Section 2.5.5. Wireless Facilities (Process)

A. Purpose

The administrative review for permitted uses and special review procedure site plan review and approval procedure is intended to ensure compliance with the development and design standards of this Code and to encourage quality development reflective of the goals and objectives of the Comprehensive Plan. For land uses requiring site plan review, such uses may be established in the Town, and building or land use permits may be issued, only after a site plan showing the proposed development has been approved in accordance with the procedures and requirements of this Section 2.5.3. The site plan review procedures ensure that the Town has the ability to address and mitigate any adverse impacts that may result from development projects.

B. Applicability

No new wireless facility shall be constructed, and no collocation or modification to any existing wireless facility may occur except after submittal of an application and approval by the Town to ensure compliance with the applicable provisions of the UDC and Municipal Code. All work done pursuant to wireless facility applications must be completed in accordance with all applicable building and safety requirements and any other applicable regulations. The review process varies according to the type and location of the proposed facility. The review process is intended to ensure that the facility will be designed and sited in a manner that complies with the provisions on this chapter, and in such a way to minimize negative impacts on surrounding property.

C. Procedures for Eligible Facilities Requests

Figure 2.5.5.C-A shows the steps of the common review procedures that apply in the review of the applications for administrative review. The common review procedures are described in Section 2.3. Specific additions and modifications to the common review procedures are identified below the figure.

Add figure 2.5.5.C-A

Step 2 – Application Submittal

The applicant shall submit to the Director all of the information required in the application packet, along with any information identified in the pre-application meeting and all required information stated elsewhere in this Code for an administrative review. At minimum, the application shall include the following:

- a. Application form.
- b. Scaled site plans, scaled elevations, and other supporting documentation sufficient to demonstrate that the facilities meet the eligible facilities request requirements.
- c. Photo simulations which show “before and after” photographs.

Eligible facilities request review procedure:

Within 30 days of receipt of the application, the Director shall provide written comments to the applicant determining completeness of the application and setting forth any modifications required to complete the application and to demonstrate compliance as an eligible facilities request.

The Director shall review the complete application for conformance with the provisions in this chapter and may approve or deny an application within 60 days of the date the application is submitted and complete.

D Procedures for Administrative Review Wireless Facilities Not in the Right-of-Way

New wall-mounted, roof-mounted or alternative tower structures in certain zone districts for properties not in the right-of-way, provided all standards in this chapter are met.

Modifications to existing wireless facilities that do not qualify as an eligible facilities request, provided all standards in this section are met.

- 2 Figure 2.5.5.D-A shows the steps of the common review procedures that apply in the review of the applications for administrative review. The common review procedures are described in Section 2.3. Specific additions and modifications to the common review procedures are identified below the figure.

Add Figure 2.5.5.D.-A Summary of Procedure for Administrative Review

1. Step 2- Application Submittal

The applicant shall submit to the Director all of the information required in the application packet, along with any information identified in the pre-application meeting and all required information stated elsewhere in this Code for an administrative site plan review. At minimum, the application shall include the following:

- a. A site plan on a dimensioned plat of the property clearly indicating the following information:
 - i. The site location and dimensions;
 - ii. The immediately adjoining properties and an indication of the land uses existing on adjoining properties;
 - iii. The location on the site of all existing and proposed buildings and structures;
 - iv. The location of all parking areas (vehicle and bicycle), driveways, and sidewalks;
 - v. The location of all proposed landscaping and fencing or walls. Elevations of fences and walls shall be provided if proposed;
 - vi. The location of existing and/or proposed drainage facilities;
 - vii. The location of streets, alleys, trails;

- viii. The location and size of existing and proposed utilities, existing and proposed easements and an indication of any changes in these utilities which will be necessitated by the proposed project.
- b. Conceptual building elevations with notes indicating type of construction, exterior finishes, location of entry doors, decks, and other external structures.
- c. Photo simulations which show “before and after” photographs.

Within 30 days of receipt of the application, the Director shall provide written comments to the applicant determining completeness of the application and setting forth any modifications required to complete the application bring the proposal into full compliance with the requirements of this chapter.

The Director shall review the application for conformance with the provisions in this chapter and with the criteria in UDC Section 2.5.1.C.3.a. and may approve, approve with conditions, or deny an application.

The Town shall review the completed application for conformance with the provisions in this chapter and may approve or deny a complete application for a new structure (other than a collocation) within 150 days of the date the application is submitted.

E Small cell facilities submittal requirements and review procedure.

Figure 2.5.5.E-A shows the steps of the common review procedures that apply in the review of the applications for administrative review. The common review procedures are described in Section 2.3. Specific additions and modifications to the common review procedures are identified below the figure.

Add Figure 2.5.5.-A Summary of Procedure for Administrative Review

1. Application Submittal

The applicant shall submit to the Director all of the information required in the application packet, along with any information identified in the pre-application meeting and all required information stated elsewhere in this Code for an administrative review. At minimum, the application shall include the following:

- a. Written authorization from the owner of the property or infrastructure.
- b. Signal interference letter.
- c. Radio frequency emissions letter.
- d. Scaled site plan drawn to scale specifying the location of antennas, support structures, transmission buildings and/or other access uses, setbacks, access, parking, fences, signs, lighting, landscape areas, topography, drainage, utilities and all adjacent land uses.
- e. Photo simulations which show “before and after” photographs.

- f. Scaled building elevations.
- g. Structural Integrity Report from a professional engineer licensed in the State documenting the following:
 - i. Tower height and design, including technical, engineering, economic and other pertinent factors governing selection of the proposed design;
 - ii. Total anticipated capacity of the structure, including number and types of antennas which can be accommodated;
 - iii. Failure characteristics of the tower and demonstration that site and setbacks are of adequate size to contain debris in the event of failure; and
 - iv. Specific design and reconstruction plans to allow shared use. This submission is only required in the event that the applicant intends to share use of the facility by subsequent reinforcement and reconstruction of the facility.
 - v. Specific design considerations for impact or breakway characteristics as required in specific roadway right-of-ways.

2. Small cell facilities request review procedure:

An applicant shall submit a complete application.

Within 30 days of receipt of the application, the Town shall provide written comments to the applicant determining completeness of the application and setting forth any modifications required to complete the application bring the proposal into full compliance with the requirements of this chapter.

The Town shall review the completed application for conformance with the provisions in this chapter may approve or deny an application within 90 days of the date the application is submitted. The Director shall render a decision within 90 days of the date upon which an applicant submits a complete application.

The review begins to run upon the filing of an application, and may be tolled only by mutual agreement of the Town and the applicant, or in cases where the Town determines that the application is incomplete and provides written notice of same to the applicant.

Consolidated applications. The Town shall allow a wireless provider to file a consolidated application for up to 10 small cell facilities and receive a single permit for the small cell network. The Town's denial of any individual small cell facility is not a basis to deny the application as a whole or any other small cell facility incorporated within the consolidated application.

License Agreement

An applicant shall be required to execute a license agreement before the installation of any wireless facility within the right-of-way. The **manager** shall be authorized to execute said license agreements on behalf of the Town.

Lapse of Approval

A permit for any wireless facility shall expire nine months after approval unless construction of the permitted structure has been initiated unless otherwise set forth in the license agreement between the Town and applicant.

F. Special review use submittal requirements and review procedure.

Non-small cell facilities are discouraged in right-of-way.

Available for non-small cell facilities in the right-of-way, alternative tower structure non-small cell facilities in the right-of-way, and alternative tower structure for small cell facilities not in the right-of-way.

All other wireless facilities that do not meet the provisions of this chapter, or applications for wireless facilities that require waivers.

Applications for wireless facilities that require a special review use shall be considered by the Planning Commission through the special review use public hearing process set forth in UDC Section 2.5.2.

- 3 Figure 2.5.5.F-A shows the steps of the common review procedures that apply in the review of the applications for administrative review. The common review procedures are described in Section 2.3. Specific additions and modifications to the common review procedures are identified below the figure.

4 Add Figure 2.5.5.F.-A Summary of Procedure for Administrative Review

1. Step 2- Application Submittal

The applicant shall submit to the Director all of the information required in the application packet, along with any information identified in the pre-application meeting and all required information stated elsewhere in this Code for an administrative site plan review. At minimum, the application shall include the following:

- a. Written authorization from the owner of the property or infrastructure.
- b. Signal interference letter.
- c. Radio frequency emissions letter.
- d. Application fee(s).
- e. Scaled site plan drawn to scale specifying the location of antennas, support structures, transmission buildings and/or other access uses, setbacks, access, parking, fences, signs, lighting, landscape areas, topography, drainage, utilities and all adjacent land uses.
- f. Photo simulations which show “before and after” photographs.

- g. Scaled building elevations.
- h. Structural Integrity Report from a professional engineer licensed in the State documenting the following:
 - i. Tower height and design, including technical, engineering, economic and other pertinent factors governing selection of the proposed design;
 - ii. Total anticipated capacity of the structure, including number and types of antennas which can be accommodated;
 - iii. Failure characteristics of the tower and demonstration that site and setbacks are of adequate size to contain debris in the event of failure; and
 - iv. Specific design and reconstruction plans to allow shared use. This submission is only required in the event that the applicant intends to share use of the facility by subsequent reinforcement and reconstruction of the facility.
 - v. Specific design considerations for impact or breakway characteristics as required in specific roadway right-of-ways.
- i. Other supporting documentation, including radio frequency coverage, tower height, and other information deemed necessary by the Director to assess compliance with this chapter.

Applications that do not meet the standards in this chapter shall require a waiver, subject to the following criteria:

The waiver, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use of development of adjacent property.

There are no reasonable design alternatives that would remove the need for the requested waiver or would reduce the amount of the waiver required.

The waiver is warranted by the design incorporated in the proposal and the benefit to the Director provided through approval of the waiver.

Approval Criteria

The Planning Commission shall review the application for conformance with the provisions in this chapter and with the criteria in Section 2.5.2.C.3. Special Use Permit Approval Criteria and the following criteria:

- a. There are exceptional circumstances which prohibit installation of a small cell facility; and
- b. There are no feasible alternatives to locate the wireless facility outside of the right-of-way.

The Town shall review all completed applications for conformance with the provisions in this chapter and may approve or deny a complete application for a new structure (other than a colocation) within 150 days of the date the application is submitted.