



2014

Minturn Council Meeting

Wednesday June 4, 2014

Work Session: **5:00pm**
(Town Center)

Regular Session: **6:30pm**
(Town Center)

TOP COUNCIL PRIORITIES:

- Street and Drainage Projects Eagle Street, Toledo, Norman, Nelson
- Submit Grants for Infrastructure and Prioritize/Create a Regular Schedule
- 100 Block Streetscape
- Sidewalks/ Engineering South Minturn
- Submit DOLA Grant for Microfiltration Plant
- Electronic Packets (I-Pads or Comparable)
- Loop Water Lines



Agenda

MEETING OF THE MINTURN TOWN COUNCIL
Minturn Town Center, 302 Pine Street
Minturn, CO 81645 • (970) 827-5645

Wednesday June 4, 2014

Work Session – 5:00 pm
Regular Session – 6:30 pm

MAYOR – Gordon “Hawkeye” Flaherty
MAYOR PRO TEM – George Brodin

COUNCIL MEMBERS:

Shelley Bellm
Earle Bidez
John Rosenfeld
Matt Scherr
Jason Osborne

When addressing the Council, please state your name and your address for the record prior to providing your comments. Please address the Council as a whole through the Mayor. All supporting documents are available for public review in the Town Offices – located at 302 Pine Street, Minturn CO 81645 – during regular business hours between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

Work Session – 5:00 pm

- Work Session: Town Council CIRSA training – Powell
- Discussion regarding 2015 World Cup – Metteer Pg 4

Regular Session – 6:30pm

1. Call to Order

- Roll Call
- Pledge of Allegiance

2. Approval of Agenda

- Items to be Pulled or Added

3. Liquor Authority

- Town of Minturn 4th of July Request for Special Event Permit; 800 Cemetery Rd.;
Michelle Metteer, Town Economic Dev Coordinator – Brunvand Pg 10

4. Approval of Minutes and Action Report

- May 21, 2014 Pg 18
- Action Item Report Pg 27

5. Public comments on items, which are NOT on the agenda (5 minute time limit per person)

6. Special Presentations

PUBLIC HEARINGS AND DISCUSSION/ACTION ITEMS

7. Discussion/Action Item: Presentation and Update on the Minturn Fitness Center – Powell/Rosenfeld

8. Discussion/Action Item: 494 Eagle Street Design Review Call-up by Council – Hawkinson Pg 28

COUNCIL AND STAFF REPORTS

9. Town Planner Pg 69

10. Town Attorney

- Definition of “present” for purposes of decision making

11. Town Manager Pg 72

- Resignation by Lisa Osborne
- Code Enforcement Activities

12. Town Council Comments

FUTURE AGENDA ITEMS

13. Next Meeting – June 18, 2014

- Discussion/Action Item: Marijuana legislation update
- Acceptance of the 2013 Annual Audit

14. Future Meetings:

- County Commissioners

15. Set Future Meeting Dates

- a) Council Meetings:
 - June 18, 2014
 - July 2, 2014

- b) Planning & Zoning Commission Meetings:
- June 25, 2014
 - July 23, 2014

16. Other Dates:

- June 14, 2014 – Minturn Market begins

17. Adjournment

Michelle Metteer
Economic Development Coordinator
Deputy Clerk
P.O. Box 309 ♦ 302 Pine St
Minturn, CO 81645
970-827-5645
mmetteer@minturn.org
www.downtownminturn.com



Town Council
Mayor – Gordon “Hawkeye” Flaherty
Mayor Pro Tem – George Brodin
Councilwoman – Shelley Bellm
Councilman – Earl Bidez
Councilman – John Rosenfeld
Councilman – Matt Scherr
Councilman – Jason “Ozzy” Osborne

AGENDA ITEM COVER SHEET

AGENDA TITLE: 2015 FIS World Cup Championship support
MEETING DATE: June 4, 2014
PRESENTER: Metteer
BACKGROUND: Council has reviewed this topic from both a financial and a community support level. Mike Imhof with the Vail Valley Foundation has attended two Council meetings to present and answer Council questions. A local survey was emailed to Minturn business owners regarding the 2015 World Cup event and the results are included for review. The original support request from the VVF with event statistics has also been included for review.
CORE ISSUES: <ul style="list-style-type: none">• Final decision on level of support. The Vail Valley Foundation understands Minturn’s concerns regarding the ability to provide any kind of in-kind contributions given our limited resources. The Foundation has offered the original sponsorship package at a reduced cost (35K) and no necessary in-kind contribution.
STAFF RECOMMENDATION/MOTION: Review, discuss and determine contribution level.

2015 Impacts



- **Approximately \$3.8 million generated in tax revenues county wide**
- **2.5 billion marketing impressions**
- **Estimated economic impact in the County of over \$100 million dollars**
- **Market value of marketing impressions conservatively estimated at \$630 million**
- **Expected television audience of nearly 800 Million viewers**

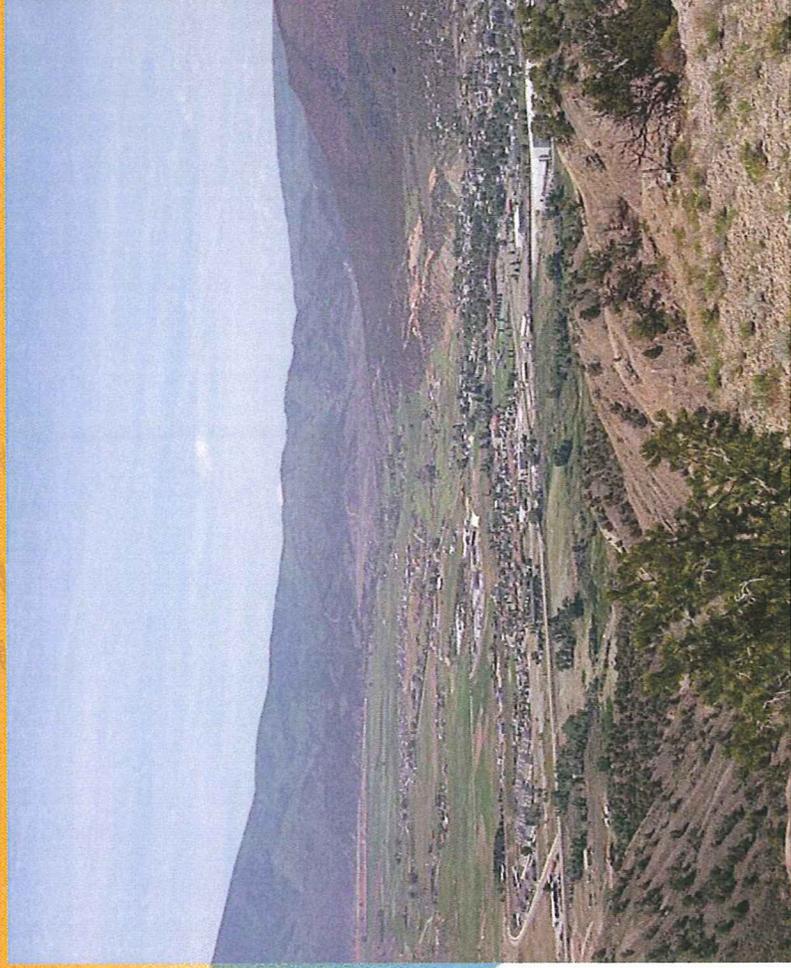


FIS ALPINE WORLD SKI CHAMPIONSHIPS



Town Of Minturn Rights and Benefits

- Use of the 2015 Official Logo locally; For example. Town Of Minturn Proudly Supports 2015 in select newsletters, website and Mktg materials.
- 12 Silver Level VIP Tickets (no more than 4 may be used on any one day) that Town Of Minturn may use for staff, council and or as a community raffle.
- Logo/name listing on the 2015 website and official event program as a Governmental Supporter.
- 2 Complimentary Tickets to the 2015 Opening Ceremonies in Vail
- VVF will encourage its key 2015 partners, sponsors, industry, etc. to look to Minturn for a special evening out during 2015 Event to help drive local business.



Support Request

- **In Kind Trade Support:**
 - Town Of Minturn would provide in kind trade as support for 2015 up to a total value of \$18,000. The types of In Kind trade which may be used include:
 - Use of the Town's Loader during the Event
 - Police support for select peak days/times during the Event
 - Warehouse space
 - Use of Generators and or space heaters during the Event
 - Town Of Minturn would support a 2015 Volunteer home stay program which would allow important and valuable event volunteers a place to stay at no costs during the event dates.
 - Other In Kind Trade opportunities may be discussed and agreed to by Town Of Minturn and VVF.
- **Financial Cash Support:**
 - \$38,000 cash payable to VVF as \$20,000 in 2014 and \$18,000 in 2015.

Q1

Are you aware of the 2015 FIS World Cup Championship event taking place in Eagle County next year?

- Answered: 11
- Skipped: 0

YesNo

Answer Choices	Responses
Yes	100.00% 11
No	0.00% 0
Total	11

Q2

Do you feel this event has the opportunity to benefit the businesses of Minturn?

- Answered: 11
- Skipped: 0

YesNo

Answer Choices	Responses
Yes	100.00% 11
No	0.00% 0
Total	11

Q3

As a Minturn business owner, would you be interested in co-op advertising opportunities for marketing directly to the media and participating teams?

- Answered: 11
- Skipped: 0

YesNo

Answer Choices	Responses
Yes	63.64% 7
No	36.36% 4
Total	11

Q4

The Minturn Town Council is considering a cash, as well as an in-kind contribution for support of the 2015 FIS World Cup event in return for sponsorship recognition, direct marketing access, and more. Do you believe such a contribution could benefit the businesses of Minturn?

- Answered: 11
- Skipped: 0

YesNo

Answer Choices	Responses
Yes	81.82% 9
No	18.18% 2
Total	11

Additional Comments from Survey:

Mostly geared toward restaurants and retail businesses downtown. Not much benefit to service businesses. A marketing piece would be beneficial to bring people to Minturn that could be given to media, etc. A 5 minute infomercial would be a benefit too.

5/29/2014 7:15 AM [View respondent's answers](#)

DO it! get transportation INTO TOWN FOR ALL THESE VISITORS!

5/28/2014 4:24 PM [View respondent's answers](#)

I think people will come here w/o a huge marketing expense. But I do favor marketing the town as a whole to maximize funds.

5/28/2014 2:43 PM [View respondent's answers](#)

It is critically important that we do our best to market Minturn opportunities to Vail Valley visitors. We need to put our best foot forward when the World Championships are here and town council should realize that it is important to support in a financially serious way. More importantly we have to create an on-going strategic plan on marketing Minturn and make an serious, focused, and ongoing effort to grow our town. Currently Minturn does not have the bed base or population to support much business. With other towns in the Vail area growing, it becomes harder each year to sustain a business in Minturn. It would be helpful if Battle Mt. Resort actually happened, but making a serious effort to develop the rail yard should be priority #1 for town council. With an active business community comes the tax revenue to fix up our town and give citizen's the services they expect.

5/28/2014 1:57 PM [View respondent's answers](#)



TOWN OF MINTURN
P.O. Box 309 (302 Pine Street)
Minturn, Colorado 81645-0309
970-827-5645 Fax: 970-827-5545
treasurer@minturn.org

**FROM THE DESK OF
JAY BRUNVAND, TREASURER/FINANCE**

MEMORANDUM

TO: Mayor, and Council
FROM: Jay Brunvand, Treasurer/Clerk
CC:
DATE: Tuesday, May 27, 2014
RE: Special Event Permit – July 5, 2014

SUMMARY:

At tonight's meeting the Council is asked to approve a Special Event Permit for the 4th of July event presented by the Town of Minturn scheduled for July 5, 2014. The location of this license is at Little Beach Park. The attached documentation indicates the compliance with the posting of the site and the event.

PREVIOUS COUNCIL ACTION:

None.

STAFF RECOMMENDATION:

Approve the request as presented with the detailed conditions.

RECOMMENDED MOTION:

I move to approve the proposed Special Event Permit to sell malt, vinous and spirituous liquor beverages to be located at Little Beach Park as defined on the attached location map as presented with the following conditions:

- The application was received on May 13, 2014 and the Notice of Public Hearing on this matter was posted on the premises by the Town Treasurer on May 22, 2014 at least 10 days prior to the Council Meeting consideration.
- That the selling liquor in the manner currently proposed in the application is not in violation of the Minturn Municipal Code.
- Staff requests that at least one experienced T.I.P.S certified, or equivalent, server be present at all times while alcoholic beverages are sold. We would like that those servers and certifications be identified to us in advance.
- Staff requests each entrance/exit be monitored to ensure no outside liquor is introduced to the event and that no liquor is removed from the premises.

ATTACHMENTS:

- Application

APPLICATION FOR A SPECIAL EVENTS PERMIT

Department Use Only

IN ORDER TO QUALIFY FOR A SPECIAL EVENTS PERMIT, YOU MUST BE NONPROFIT AND ONE OF THE FOLLOWING (See back for details.)

- | | | |
|---|--|--|
| <input type="checkbox"/> SOCIAL | <input type="checkbox"/> ATHLETIC | <input type="checkbox"/> PHILANTHROPIC INSTITUTION |
| <input type="checkbox"/> FRATERNAL | <input type="checkbox"/> CHARTERED BRANCH, LODGE OR CHAPTER | <input type="checkbox"/> POLITICAL CANDIDATE |
| <input checked="" type="checkbox"/> PATRIOTIC | <input type="checkbox"/> OF A NATIONAL ORGANIZATION OR SOCIETY | <input type="checkbox"/> MUNICIPALITY OWNING ARTS FACILITIES |
| <input type="checkbox"/> POLITICAL | <input type="checkbox"/> RELIGIOUS INSTITUTION | |

LIAB TYPE OF SPECIAL EVENT APPLICANT IS APPLYING FOR:	DO NOT WRITE IN THIS SPACE
2110 <input checked="" type="checkbox"/> MALT, VINOUS AND SPIRITUOUS LIQUOR \$25.00 PER DAY	LIQUOR PERMIT NUMBER
2170 <input type="checkbox"/> FERMENTED MALT BEVERAGE (3.2 Beer) \$10.00 PER DAY	

1. NAME OF APPLICANT ORGANIZATION OR POLITICAL CANDIDATE Town of Minturn	State Sales Tax Number (Required) 98-07290-0000
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2. MAILING ADDRESS OF ORGANIZATION OR POLITICAL CANDIDATE (include street, city/town and ZIP) PO Box 309 Minturn, CO 81645	3. ADDRESS OF PLACE TO HAVE SPECIAL EVENT (include street, city/town and ZIP) 800 Cemetery Rd Minturn, CO 81645
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NAME	DATE OF BIRTH	HOME ADDRESS (Street, City, State, ZIP)	PHONE NUMBER
4. PRES./SEC'Y OF ORG. or POLITICAL CANDIDATE Michelle Metteer	4/7/74	2100 Old Trail Rd, Avon, CO 81645	970-343-9122
5. EVENT MANAGER Michelle Metteer	4/7/74	2100 Old Trail Rd, Avon, CO 81645	970-343-9122
6. HAS APPLICANT ORGANIZATION OR POLITICAL CANDIDATE BEEN ISSUED A SPECIAL EVENT PERMIT THIS CALENDAR YEAR? <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES HOW MANY DAYS? <u>2</u>		7. IS PREMISES NOW LICENSED UNDER STATE LIQUOR OR BEER CODE? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES TO WHOM? _____	

8. DOES THE APPLICANT HAVE POSSESSION OR WRITTEN PERMISSION FOR THE USE OF THE PREMISES TO BE LICENSED? Yes No

LIST BELOW THE EXACT DATE(S) FOR WHICH APPLICATION IS BEING MADE FOR PERMIT

Date	Date	Date	Date	Date
Hours From .m. To .p.m.	Hours From .m. To .m.			
July 5, 2014 From 2:00 p.m. To 7:00 p.m.				

OATH OF APPLICANT

I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge.

SIGNATURE 	TITLE Economic Development Coordinator	DATE 5/13/14
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REPORT AND APPROVAL OF LOCAL LICENSING AUTHORITY (CITY OR COUNTY)

The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the provisions of Title 12, Article 48, C.R.S., as amended.
THEREFORE, THIS APPLICATION IS APPROVED.

LOCAL LICENSING AUTHORITY (CITY OR COUNTY) Town of Minturn	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY	TELEPHONE NUMBER OF CITY/COUNTY CLERK 970-827-5645
---	---	---

SIGNATURE	TITLE	DATE
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DO NOT WRITE IN THIS SPACE - FOR DEPARTMENT OF REVENUE USE ONLY

LIABILITY INFORMATION			
License Account Number	Liability Date	State	TOTAL
		-750 (999)	\$.

APPLICATION INFORMATION AND CHECKLIST

THE FOLLOWING SUPPORTING DOCUMENTS MUST BE ATTACHED TO THIS APPLICATION FOR A PERMIT TO BE ISSUED:

- Appropriate fee.
- Diagram of the area to be licensed (not larger than 8 1/2" X 11" reflecting bars, walls, partitions, ingress, egress and dimensions.
Note: If the event is to be held outside, please submit evidence of intended control, i.e., fencing, ropes, barriers, etc.
- Copy of deed, lease, or written permission of owner for use of the premises.
- Certificate of good corporate standing (NONPROFIT) issued by Secretary of State within last two years; **or**
- If not incorporated, a NONPROFIT charter; **or**
- If a political Candidate, attach copies of reports and statements that were filed with the Secretary of State.

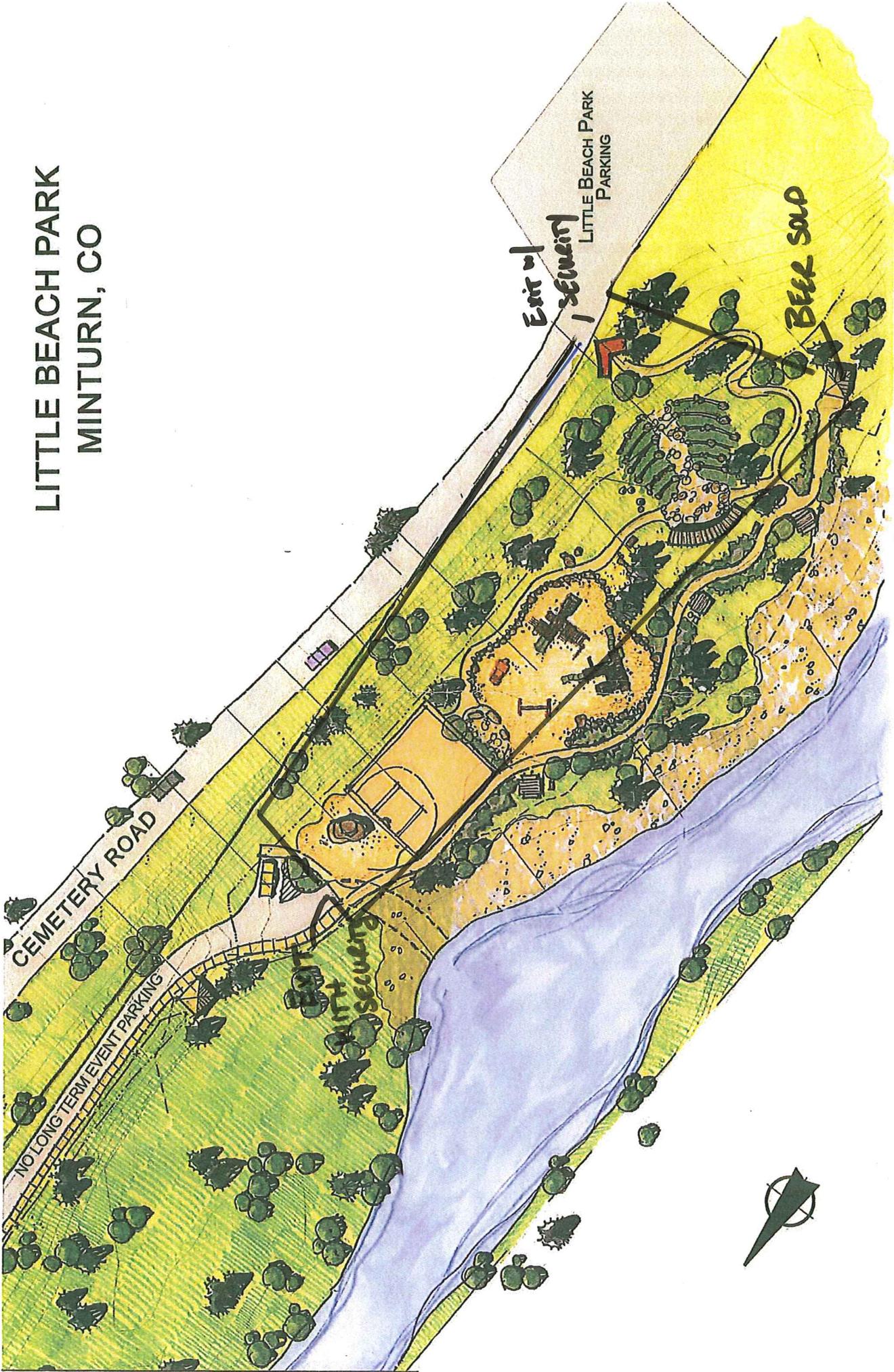
- APPLICATION MUST FIRST BE SUBMITTED TO THE LOCAL LICENSING AUTHORITY (CITY OR COUNTY) AT LEAST THIRTY (30) DAYS PRIOR TO THE EVENT.
- THE PREMISES TO BE LICENSED MUST BE POSTED AT LEAST TEN (10) DAYS BEFORE A HEARING CAN BE HELD. (12-48-106 C.R.S.)
- AN APPROVED APPLICATION MUST BE RECEIVED BY THE LIQUOR ENFORCEMENT DIVISION AT LEAST TEN (10) DAYS PRIOR TO THE EVENT.
- CHECK PAYABLE TO THE COLORADO DEPARTMENT OF REVENUE

(12-48-102 C.R.S.)

A Special Event Permit issued under this article may be issued to an organization, whether or not presently licensed under Articles 46 and 47 of this title, which has been incorporated under the laws of this state for the purpose of a social, fraternal, patriotic, political or athletic nature, and not for pecuniary gain or which is a regularly chartered branch, lodge or chapter of a national organization or society organized for such purposes and being non profit in nature, or which is a regularly established religious or philanthropic institution, and to any political candidate who has filed the necessary reports and statements with the Secretary of State pursuant to Article 45 of Title 1, C.R.S. A Special Event permit may be issued to any municipality owning arts facilities at which productions or performances of an artistic or cultural nature are presented for use at such facilities.

If an event is cancelled, the application fees and the day(s) are forfeited.

LITTLE BEACH PARK MINTURN, CO



TOWN OF MINTURN / PO BOX 309 / MINTURN, CO 81645
(970) 827-5645 / INFO@MINTURN.ORG / WWW.MINTURN.ORG



TOWN OF MINTURN
P.O. Box 309 (302 Pine Street)
Minturn, Colorado 81645-0309
970-827-5645 Fax: 970-827-5545
treasurer@minturn.org

**FROM THE DESK OF
JAY BRUNVAND, CLERK/TREASURER/FINANCE**

MEMORANDUM

TO: Town of Minturn
FROM: Jay Brunvand, Treasurer/Clerk
CC:
DATE: Thursday, May 15, 2014
RE: Special Event Liquor Permit

I am in receipt of your Special Event Permit application for an event to be held on July 5, 2014 at Little Beach Park as defined in your submitted application.

This location is a Town owned venue. In order to serve liquor you will need the Town's permission and approval of the event as back up detail for your permit application. Please consider this letter authorization from the Town of Minturn to utilize the venue as requested.

Please feel free to contact me in the event you have any questions.

Sincerely,

Jay Brunvand
Town Clerk/Treasurer



TOWN OF MINTURN
P.O. Box 309 (302 Pine Street)
Minturn, Colorado 81645-0309
970-827-5645 Fax: 970-827-4049
treasurer@minturn.org

**FROM THE DESK OF
JAY BRUNVAND, TREASURER/FINANCE**

MEMORANDUM

To: Lisa Osborne, Code Enforcement Officer

Mike Sawyer, Town Attorney

CC:

Date: 5/15/14 11:59 AM

RE: Liquor License

Attached please find a copy of a Special Event Permit for the Town of Minturn's 4th of July Event to be held on July 5, 2014 at Little Beach Park. I have reviewed the application and am forwarding it on to you for further review and your report.

Please let me know if you have any questions or concerns, which I may be able to answer.

Thanks, jay



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**FROM THE DESK OF
JAY BRUNVAND, CLERK/TREASURER/FINANCE**

MEMORANDUM

TO: Lisa Osborne, Code Enforcement Officer
Mike Sawyer, Town Attorney
FROM: Jay Brunvand, Treasurer/Clerk
CC:
DATE: Tuesday, May 27, 2014
RE: Special Event Permit

I am in receipt of a Special Event Permit submitted by the Town of Minturn for an event at Little Beach Park on July 5, 2014. Could you please conduct your review and report back in writing your findings. I will be available to work with you in the event you have any questions.

I have preliminarily scheduled this for Council review on June 4th. If this date does not work for you let me know. Note, because this is a Special Event Permit, only the Town approves the application, the State is informed of the event but they do not approve the application as is done with a Liquor License application.

Please feel free to contact me in the event you have any questions.

Sincerely,

Jay Brunvand
Town Clerk/Treasurer

Lisa Osborne
Police/Court Clerk
P.O. Box 309 ♦ 302 Pine St
Minturn, CO 81645
970-827-5645
losborne@minturn.org
www.minturn.org



Town Council
Mayor – Gordon “Hawkeye” Flaherty
Mayor Pro Tem – George Brodin
Councilwoman – Shelley Bellm
Councilman – Earle Bidez
Councilman – Jason “Ozzy” Osborne
Councilman – John Rosenfeld
Councilman – Matt Scherr

TO: Jay Brunvand, Town Clerk/Treasurer

FROM: Lisa Osborne

SUBJECT: Special Event Permit/Liquor License

DATE: May 27, 2014

Minturn Police Department staff reviewed the Special Event Permit/Liquor License submitted by Michelle Metteer in the course of her duties as the Economic Development Coordinator for the Independence Day Celebration to be held on Saturday, July 5, 2014. After careful evaluation of the application, staff does not have any areas of concern as long as there will be measures in place to ensure compliance with liquor laws.

In addition, a criminal background/history was conducted and nothing was found that would prevent the Special Event Permit/Liquor License from moving forward.



Official Minutes

MEETING OF THE MINTURN TOWN COUNCIL
Minturn Town Center, 302 Pine Street
Minturn, CO 81645 • (970) 827-5645

Wednesday May 21, 2014

Work Session – 5:30 pm
Regular Session – 6:30 pm

MAYOR – Gordon “Hawkeye” Flaherty
MAYOR PRO TEM – George Brodin

COUNCIL MEMBERS:

Shelley Bellm
Earle Bidez
John Rosenfeld
Matt Scherr
Jason Osborne

These minutes are formally submitted to the Town of Minturn Town Council for approval as the official written record of the proceedings at the identified Council Meeting. Additionally, all Council meetings are tape-recorded and are available to the public for listening at the Town Center Offices from 8:30am – 2:00 pm, Monday through Friday, by contacting the Town Clerk at 970/827-5645 302 Pine St. Minturn, CO 81645

Work Session – 5:30 pm

- Discussion regarding Willy Powell

Proposed changes as outlined and discussed:

- Willy P. will be allowed limited non conflicting work activities in addition to his contract with the Town of Minturn
- The Town will provide Indemnification and Workers Compensation coverage the same as for any other employee
- The Town will provide an Office and office equipment
- Council agreed to have this on the agenda for approval as revised at the worksession.

- Discussion regarding 2015 World Cup – Metteer

Michelle M. outlined a meeting held by the Subcommittee held on May 16th. Shelley B. reviewed the information that Michelle M. had provided and it was felt a financial contribution was more appropriate for the Town than in-kind donations do to our limited staff. Matt M. stated the true question is the amount to donate and how would that correlate with any return on the investment. All felt participation was important but at what level. Michelle M. was directed to

discuss with the 2015 group alternative levels of contribution. Ozzy felt it was important to ensure ECO Transit coverage.

The Sub Committee will meet with 2015 Organization, then meet again as just the Subcommittee, and then report back at the June 4th meeting to the Council with a funding level recommendation.

- Eagle Park restroom design – Hawkinson

The Council discussed cleaning/maintenance concerns including the potential of freezing water lines. Janet H. stated the Park Committee is leaning towards a more modern look with the waving walls. John R. stated he liked the wood look better than the metal look as it fit the Town better; there was consensus on this. Concern was expressed to ensure there was sufficient lighting in the area for safety. Janet H. stated the grant is \$50,000 and is not a match grant. The total cost of the bathroom project (men's and women's restrooms, outdoor classroom, and educational signage) is estimated not to exceed \$125,000 (Town share not to exceed \$75,000).

Shelley B. asked of the snow removal and the affect this project would have on Public Works; Arnold M. stated the snow removal would not be dramatically affected as it is to the side of the existing basketball court/snow storage area.

Regular Session – 6:30pm

1. Call to Order

The meeting was called to order by Mayor Hawkeye Flaherty 6:41pm.

- Roll Call

Those present included: Mayor Hawkeye Flaherty, Town Council members, George Brodin, John Rosenfeld, Matt Scherr, Earle Bidez, Ozzy Osborne, and Shelley Bellm.

Staff present: Interim Town Manager Willy Powell, Interim Town Attorney Mike Sawyer, Town Planner Janet Hawkinson, Economic Dev Coordinator Michelle Metteer, and Town Clerk/Treasurer Jay Brunvand.

- Pledge of Allegiance

2. Approval of Agenda

- Items to be Pulled or Added

Motion by Shelley B., second by John R., to approve the agenda as presented. Motion passed 7-0

3. Liquor Authority

- The Minturn Country Club Inc., Hotel/Restaurant Liquor License annual renewal; 131 Main St, Tom Ricci, Secretary/Manager – Brunvand

Motion by John R., second by Jason O., to approve the Minturn Country Club Inc., Hotel/Restaurant Liquor License annual renewal; 131 Main St, Tom Ricci, Secretary/Manager as presented. Motion passed 7-0

4. Approval of Minutes and Action Report

- May 7, 2014
- Clarify that Willy would be contacted and if he did not want it then Kevin B. do this at the end of the EX Session.

Motion by George B., second John R., to approve the minutes of April 16, 2014 Council Meeting as amended. Motion passed 6-0. (Note: Shelley B. abstained as she was absent.)

- Action Item Report

Shelley B. asked for feedback on the Memorialization process. She felt it important that the information be presented to the Council too. Janet H. stated they had met twice but it has not moving much further than conceptual. Shelley B. asked this be made clear in the Action Plan.

John R. asked about the police department and the code enforcement officer. What is the position, who does it report to? Janet H. stated it had fallen to Lisa O. because she had been sent to training at significant cost by the former Town manager. It is part of the ECO SO's contract proposal that we would have the position. The budget for the position is included in the police budget and the ECO SO negotiation budget.

Willy P. stated Staff would review the issue and report back at the next meeting.

5. Public comments on items, which are NOT on the agenda (5 minute time limit per person)

Mr. Mike Heaffy, 821 Main St., asked what the Town would receive in return for the monetary contribution to the 2015 World Cup sponsorship.

Mr. Greg Honan, 225 Eagle View Dr. Eagle Vail, asked the Town's intentions regarding the medical and/or retail marijuana within the Town of Minturn. He stated he is familiar with the Town, the area, and the law. He stated he would be willing to work with the Town to work on a viable plan that would protect the Town if they opted to allow. Hawkeye asked what the tax is: 25% state excise in addition to state, county, and city taxes.

Shelley B. stated the Town should send a representative to the next working group meeting which are held in Vail and are open to the public.

The consensus of the Council was to bring this forward as a presentation to the Council to learn of the existing laws and issues and to reconsider the current ban on medical and retail sales once the Council has been informed.

6. Special Presentations

PUBLIC HEARINGS AND DISCUSSION/ACTION ITEMS

7. Discussion/Action Item: Presentation on DOLA Grant regarding Water Study by TST – Hawkinson

Janet H. highlighted the DOLA grant and introduced Mr. Don Toronto of TST Consulting Engineers. Mr. Toronto stated he had the draft of the water treatment facility completed and the document he had tonight would cover the technical portion, the strategy going forward needs to be developed, and his report will allow the Town to still make the next grant cycle due on August 1.

Earle B. asked of the cost estimates. Mr. Toronto stated the \$2.5m membrane system is the most affordable and most flexible for future needs. Mr. Toronto stated the proposed future DOLA grant would be a 50/50 grant and then we would pursue other grants and low interest loans to complete the project.

Shelley B. asked how this would improve our water; Mr. Toronto stated the quality and taste of the Town's water supply is based on the high quality of the raw water.

If approved for the DOLA grant we would have 12-18 months to finish the new plant. Hawkeye stated that our current plant is working fine and the new plant should be paid for by the BMR development as stated in the negotiated plans. Discussion ensued as to the quality of our water and our filters that work well with little cost to the town. Mr. Toronto stated the current filters are labor intensive and are not able to be automated. Council felt the cost should be passed on to the development not the current citizens. Council felt the costs that we might incur are already part of our current operating costs. It was discussed that our current system is working well, although there is a maintenance cost it is significantly less than the cost of a new plant, and the

Earle B. stated he felt an analysis of the costs we currently have vs the costs of a new plant is important, Mr. Toronto will provide that analysis as part and cost of the project report.

Shelley B. stated this report was a Council request from last year and we should finish the study. Mr. Toronto stated we would have all needed information by the end of June or mid-July.

8. Discussion/Action Item: Resolution 11 - Series 2014 to appoint Karp, Neu, Hanlon P.C. as the Town of Minturn's legal counsel – Brunvand

Hawkeye stated he had had a discussion with Mike S. regarding his rates. The Firm is open to a flat rate for regular Council Meetings and an hourly rate for other business. Mike S. stated he would also work with the Town on how we can work together once time passes enough to establish a pattern. In discussion it was noted that travel time could be billed at half the hourly rate and stated additionally he would consider not charging for drive time for the two regularly scheduled standard Council

Earle B. stated we should have a process on how the Town uses the attorney so that he is not called on every little item. Willy P. stated it is best for routine items to go to the Manager and then he would involve the attorney as needed.

Mr. Mike Heaffy, 821 Main, felt the fees should be agreed to prior to the approval of the agreement.

After discussion, Mike S. stated he will memorialize the travel agreement to reflect half the hourly cost and would not bill for up to two regular Council meetings, mileage cost would remain. He also noted that his firm works with other municipalities and any common issues would cost less simply by volume.

Motion by George B., second by Earle B., to approve Resolution 11 - Series 2014 to appoint Karp, Neu, Hanlon P.C. as the Town of Minturn's legal counsel as amended, to further review the documents in three months as to cost and the Mayor is authorized to sign such agreement. Motion passed 7-0.

9. Discussion/Action Item: Resolution 12 - Series 2014 to appoint William Powell as the Town of Minturn's Interim Town Administrator – Brunvand

Hawkeye recommended that in the first month more time would be necessary in order to bring Willy P. up to speed. Willy P. stated that it will take time to come up to speed and he will be scheduling time with the staff and council to learn of the Town.

Willy P. will be working on a financial plan for the costs incurred to terminate the previous manager, his own interim costs, and the cost of a permanent manager search and contract.

Motion by Shelley B., second by John R., to approve Resolution 12 – Series 2014 to appoint William Powel as the Town of Minturn's Interim Town Manager as presented. Motion passed 7-0.

10. Discussion/Action Item: Resolution 13 - Series 2014 to appoint check signers – Brunvand

Shelley B. and Earle B. would be added to the current signers of Hawkeye and George B. All other previous signers will be removed.

Motion by George B., second by Shelley B., to approve Resolution 13 - Series 2014 to appoint check signers as presented. Motion passed 7-0.

COUNCIL AND STAFF REPORTS

11. Town Planner

- Design Review – 2 homes

Hawkeye asked about the house at 494 Eagle St. could be improved if it was currently a nonconforming use? Janet H. stated that the portion of the property that was being improved was not the nonconforming portion; therefore, as interpreted by the Planning Commission and the Interim Town Attorney's it could be. Hawkeye felt the code was quite clear and noted had the Planning Commissioner not voted by phone the project would not have advanced.

Earle B. stated that the existing encroachment agreement does not allow this change either. It was also noted by Shelley B. that the new development needed to meet the setbacks, it could not create more nonconformance. Janet H. stated as interpreted by the Planning Commission and the Interim Town Attorney it could be.

Matt S. noted that the addition would cause the nonconformance to come down from 50% because now the building is bigger so it is a smaller percentage and the owner needed to be informed of this.

Hawkeye asked if a Planning Commissioner could vote by phone and not be present? Janet H. had confirmed with CIRSA that this was legal prior to the meeting. Hawkeye stated it is not allowed in our Charter for Council and it should be the same for the other boards and commissions of the Town.

Shelley B. stated the landscaping and clear vision is a concern and a reason for Council to call this decision up. She stated that it is not a private street and she does not want it to be considered a private street.

Motion by Shelley B., second by John R., to call up the 494 Eagle Street Design Review for Council Review. Motion Passed 4-3. Note: Ozzy O., Earle B., and Matt S. voted nay.

- Parks Committee
- Boneyard Conservation

Hawkeye stated we have some slash piles on the land and we need to get a cost to haul or mulch; Willy P. will review. John R. stated he had an Eagle Scout that might be able to assist; Janet H. or Willy P. will follow up with John R. Janet H. stated she is working on the draft Site Plan and all discussion will be considered for inclusion in the final Conservation Site Plan.

- Tap Grant

12. Co-Acting Town Managers

- Code Compliance Officer
- Public Works

- Railroad street crossing and paving report

Janet H. reported she has several RR contacts and will be working with them on solutions.

- County road grading
- DOLA Grant Management

Minturn Fitness Center

The website platform has been selected, EZ Facility. This platform will allow for online access, class scheduling, membership information, and provides the convenience of a mobile app option. Meetings with the website designer begin next week. The MFC Board will be meeting on April 22 to review and confirm operation logistics of the fitness center. Any questions Council may have should be submitted to Johnie or Earle before the 22nd.

Comment Box

Town Hall now has a comment box available to residents and visitors for leaving feedback or suggestions. The box is located on the first floor lobby and checked for comments regularly.

Trail Reclamation

Volunteer work for local area mountain biking trails, including Game Creek Trail and Cougar Ridge Trail is needed. Any interested volunteers in helping to improve the usability of these trails should contact Jamie Malin with the Vail Valley Mountain Bike Association at jamiemalin@yahoo.com.

Upcoming Events

The Minturn **Town Clean-up** day is **Saturday, May 31st**. This year, the event will be held in the upper parking lot of Little Beach Park on Cemetery Road.

The annual Clean-Up event provides the citizens of Minturn with a free and convenient receptacle to deposit their appliances, debris and undesired items from their property and home. The Minturn Public Works Department staff will be at Little Beach Park parking lot to help unload vehicles.

As in years past, there will be volunteers from Battle Mountain Development Company, and the Town of Minturn with trucks to assist residents with transporting their large, unwanted items to the dumpsters. If residents, especially senior citizens, are interested in taking advantage of this opportunity, items for disposal should be prepared and ready for pick-up in an accessible area. To sign up for this free service, please contact Lisa Osborne at the Minturn Town Offices at (970) 827-5645, extension 105 by Friday, May 30, 2014. An e-mail may also be sent to Ms. Osborne at losborne@minturn.org. Keep in mind, the Eagle Valley Community Fund will gladly take items in good condition for their annual fundraiser Rummage Sale at Maloit Park.

Volunteers are needed to team up with town staff to clean-up litter and debris in all areas of

town. Volunteers will be meeting at the Little Beach Park upper parking lot at 9:00 a.m. All volunteers are asked to sign-in and then will be provided garbage bags and safety vests. Please remember to bring gloves to protect your hands. Once signed-in and outfitted with the necessary gear, each volunteer will be assigned a specific area to work for litter pick-up.

Minturn Market begins June 14th.

Independence Day Celebration is July 5, 2014. An application has been submitted to the Colorado State Patrol and the Colorado Department of Transportation for a parade down Main Street starting at approximately 3:00 on July 5th. We are currently accepting free registration for participants to enter the parade. Registration forms can be found online at www.downtownminturn.com or www.minturn.org. Space in the parade is limited, so get signed up!

Code Compliance Officer: Lisa Osborne has ordered a uniform and will be utilizing one of the Town's police pick-up trucks for duty. We have already had great success with the Code Compliance from banners to clear vision setbacks to trash cans. The railroad property on 4th & Minturn Road has been cleaned up.

Railroad Street Crossing Repair: We have been in conversation with Jason Mashek, Manager of Road Projects and Shermin Spear, Road and Tracks Maintenance, to have the tracks repaired in Minturn. Shermin Spear is out of Denver office.

DOLA Grant Management: Public Works has started the Harrison Water Loop project. It is scheduled to be complete in 2 weeks. A-Peak asphalt won the paving contract and is scheduled to pave upon completion of water loop. The project is scheduled to be completed by June 20, 2014. The grant report and final invoicing is due June 30, 2014.

13. Town Council Comments

Council requested the rubber seasonal speed bumps be installed on Boulder St. near the carwash and that the seasonal "Yield to Pedestrian" signs be put up on Hwy 24.

FUTURE AGENDA ITEMS

14. Next Meeting – June 4, 2014

- Work Session: Town Council CIRSA training – 6/4/14
- Work Session: Discussion regarding 2015 World Cup – 6/4/14
- Town of Minturn 4th of July Request for Special Event Permit; 800 Cemetery Rd; Michelle Metteer, Town Economic Dev Coordinator – Brunvand

15. Future Meetings:

- Discussion/Action Item: Marijuana legislation update – June 18 start in work session and move as needed
- Acceptance of the 2013 Annual Audit – 6/18/14

- County Commissioners
- Work session on I-annotate 6/18/14

16. Set Future Meeting Dates

- a) Council Meetings:
- June 4, 2014
 - June 18, 2014
 - July 2, 2014
- b) Planning & Zoning Commission Meetings:
- May 28, 2014
 - June 25, 2014
 - July 23, 2014

17. Other Dates:

- May 26, 2014 – Memorial Day Office Closed
- May 31, 2014 – Town Clean-up

18. Adjournment

Motion by George B., second by Jason O., to adjourn at 9:00pm.

Mayor Hawkeye Flaherty

ATTEST:

Town Clerk, Jay Brunvand

Town of Minturn - Action Item Memo

TO: Council Members/Staff Members
FROM: Co-Acting Managers
DATE: June 4, 2014
SUBJECT: Status of Action Items and projects

Action Item	Responsible Party	Progress Report
Eagle River Park – Grant – ‘History Walk in the Park’ & Public Restrooms	Janet Hawkinson Michelle Metteer Earle Bidez Darell Wegert	Eagle River Park sub-committee met to review designs. Took a tour of the LGM facility for review of 3D topography map of the Minturn Valley and building design options. Architect hired to work with Planner in digital fabrication and design. Design choices to be presented to Planning Commission and Town Council
Rec property clean-up / Berm	Arnold Martinez Janet Hawkinson	Berm constructed. Continue grading, clean-up and beautification of site.
Code enforcement	Lisa Osborne	Policies and forms are now being created to coincide with the enforcement of town code. Has begun addressing code issues. Update with Council on 6/4
Boneyard Conservation Easement	Janet Hawkinson	Begin drafting of site plan with Eagle County Open Space Director, to be presented for review by Planning Commission and Town Council in May meetings. Council voted Boneyard for name.
Memorialization Guidelines	All Staff Cliff Thompson	Draft of procedures have been developed. Move forward with process with a memorialization of Allen Christianson
ECSO IGA	Michelle Metteer Lisa Osborne George Brodin	The proposed IGA is under review with Town and Eagle County attorneys. They are taking the evidence in evidence room.
Isolation Valve at Toledo and Main St	Arnold Martinez Janet Hawkinson	Final DOLA grant work for 12” main valves. Council approved 2” overlay on Harrison 4/29/14
TAP Grant – South Minturn Sidewalks *Longer term project. Expect updates to begin early summer.	Janet Hawkinson Michelle Metteer	Requesting letters of support from Town citizens Waiting for grant to Post
2014 Community Master Plan *Longer term project.	Janet Hawkinson	5-year update to the Community Plan per the State of Colorado. Community involvement required. Scheduling design meetings. 1 st meeting scheduled for 2 nd Wed in July

Project Review Report

Planning Commission

May 17, 2014



Project Name: MPP Architecture - 494 Eagle & Meek Street
Project Number: 14DBR005

Project Request: Add an addition on to the existing home. This addition includes a 1 car garage, a play room above the garage, a new entrance to the home and a new 2nd story bedroom. The design will limit access onto the lot with 1 entrance instead of the existing 2. The entrance to the lot will be from Meek Street and the front door will face Meek Street.

As defined by the American Planning Association and the Planner, this property is a corner lot that has 2 front yards, 1 side yard and 1 backyard. The only Minturn corner lot zoning code is Section 16-16-90 Clear Vision Area Requirements 'a clear vision area shall be maintained on the corners of all property at the intersection of 2 streets' - 'in residential zone the minimum distance of the 'triangle' shall be 15' long - access to driveways is 20' of clear vision.'

The front yard setback is required on both front yards of the lot. This means there needs to be a 10' setback on both Eagle and Meek. The design meets this requirement. The legal non-conforming part of the home meets code as per the code book under 'legal non-conforming' Section 16-22-10-80 and from a law case in 1993 and the Town Attorneys review and ruling May 9, 2014 (please see attached documents).

As per the legal document between the Town of Minturn and a previous owner, there is an encroachment agreement that does respect the front yard setbacks. Because the homeowner is not changing or adding onto this portion of the house and as it is determined in the legal document, a variance is not needed for this non-conforming structure because it has already been to court and has an encroachment agreement with the Town. The owners pay \$40.00 a year for this encroachment and the property is current on payment. Please see attached site plans of the various additions to this home under this encroachment agreement.

The project meets the required Minturn zoning codes:

Sec 16-17-90 Setbacks for Residential in Old Town Character:

Maximum lot coverage is 40%

Front setback 10' Rear setback 10' Side setback 5' River setback 30'

Sec 16-17-190 Garage door setbacks: facing Main Street is 18' - facing other streets is 15'

Sec 16-16-20 – Parking Required for Single Family Residence:

2 spaces per dwelling unit for up to 3 bedrooms - 3 spaces for more than 3 bedrooms

Sec 16-17-50 - Building height Old Town Residential is 28' mid line to grade

Sec 16-16-110 Location of required parking spaces: 'to be on the same lot as the structure the spaces are intended to serve'

Sec 16-16-120 Minimum parking area dimensions – the standard is 9' x 18'

(g) (1) access driveways designed and constructed to facilitate the flow of traffic

(g) (2) the minimum width shall be 12'

Sec 16-16-130 Snow Storage: (1) Minimum area of 2.5% of the total area, inclusive of access drives shall be designated to serve as snow storage area

The Legal Document regarding the Encroachment Agreement meets the below codes:

Article 22 Legal Non-Conforming Uses, Structures and Lots -

Section 16-22-30 Non-conforming uses and structures - (1) an increase in the total amount of space devoted to a nonconforming use or (2) Greater nonconformity with respect to dimensional restrictions, such as setback requirements, height limitation or density requirements, or other requirements such as parking requirements. (b) A legal nonconforming use shall not be changed to any other use except a conforming use.

Planner Recommendation: to approve the plans with 2 parking spaces in front of the garage, limiting the asphalt, creating a safer street and corner because of additional landscape, create a more attractive street on Eagle Street because of landscaping and windows added to the building at Planning Commissioners request.

Existing home with 2 entrances - 494 Eagle Street:

- lacks pedestrian safety due to asphalt strip parking combining with neighbors driveway
- lacks 'street scape' on Eagle Street - neighborhood beautification Appendix B of Code book
- large amount of impervious surface

Eagle Street is one way

Meek Street dead ends and there is no parking allowed on the street

Eagle Street is a back alley to businesses on Main Street

Eagle is a dead end street when it meets Meek Street

Only 2 residents reside on the NE side of Eagle & Meek street.





end of Meek Street where home is -
no parking - dead end - pedestrian
river access.

legal non-conforming structure



Eagle Street

Private Drive for 494 Eagle

???? Merge of private driveway
and Eagle Street



**Eagle Street - front street to some
residents - back alley to others**

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[com](http://michael@mppdesignshop.com)

February 20, 2014

Town of Minturn

Attention: Planning Department

302 Pine Street

P.O. Box 309

Minturn, CO 81645

Tel: (970) 827-5645

Fax: (970) 827-5545

e-mail: planner@minturn.org

Regarding: Calabrese Residence Addition
Pre-Design Submission
Changing the front door from Eagle Street to Meek Avenue
Changing corresponding front and side yard setbacks

Location: Parcel Number: 2103-263-02-027
Booco's 2nd Addition to Minturn, Lot 12, Block 2
494 Eagle Street
Minturn, CO 81645

Intentions and background

Part of the intentions for designing an addition to the above mentioned residence includes changing the existing front door from facing Eagle Street to face Meek Avenue, thus changing the corresponding front and side yards and associated setbacks.

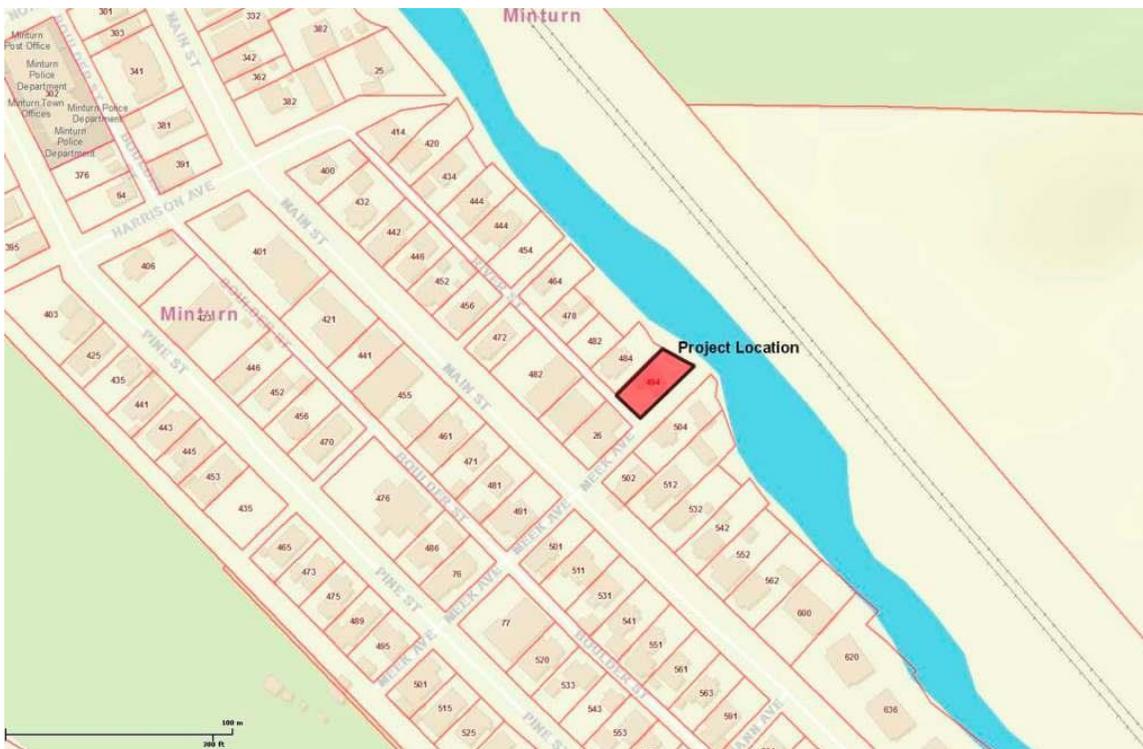
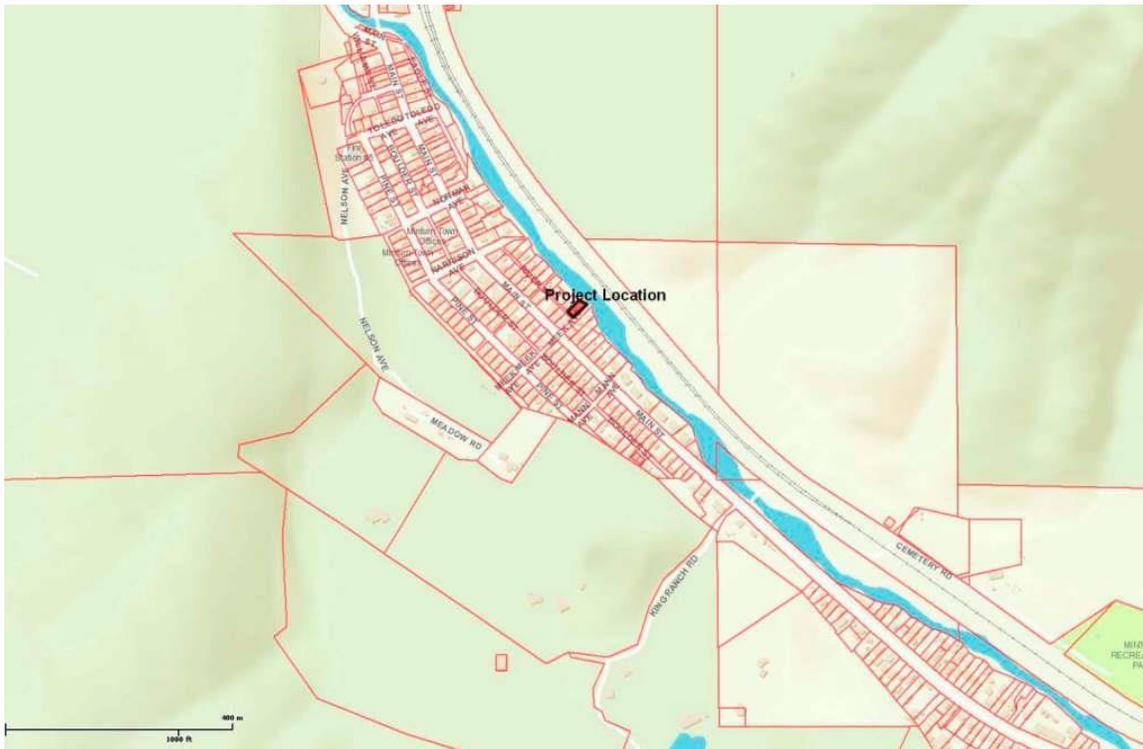
The existing structure is located on the Northeast corner of Eagle Street (also called River Street on some Eagle County maps) and Meek Avenue. The front door faces Eagle Street. The current existing structure is an addition and renovation to an original structure. The orientation of the front door of the original structure is unknown.

The scope of the Project includes an addition consisting of a 1-car, 2-story garage in the area between the existing structure and Eagle Street, and a new bedroom suite located above the existing 1-story kitchen-dining area. The existing front door would be removed and a new front door would be installed to face Meek Avenue. The front yard and 10' front yard setback would then change to face Meek Avenue, and a 5' side yard setback would face Eagle Street.

The existing lot size is 5,554 square feet. Existing lot coverage is 1,110 square feet, 20% of the lot size. The proposed garage addition would have a site coverage of approximately 624 square feet, 11% of the lot size. The bedroom suite addition above the kitchen-dining area would have no impact on the lot coverage as it will fall within the existing building footprint.

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Front yard facing Eagle Street.



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Side yard facing Meek Avenue.



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Existing Neighborhood Context

The buildings that are on the lots between Main Street and Eagle Street face Main Street, with their back yards and back doors facing Eagle Street.

The residences to the south of the project, on the North side of Meek Avenue.



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The building that is on the opposite corner of Eagle Street and Meek Avenue, on the Northwest corner, directly opposite the Project, is orientated such that its front door and 2-car garage faces Meek Avenue.



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The next building to the north-west, on west side of Eagle Street, faces Main Street and has its back door & back yard, parking area and dumpster area facing the Project.



The residences on the east side of Eagle Street, to the Northwest of the Project, do have their front doors facing Eagle Street.

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It is the applicant's and owner's feeling that the proposed change to the front yard is in keeping with the existing neighborhood context and will complement the Town of Minturn's historic character of building size and orientation.

Thank you for your consideration.

Respectfully,

SIGNED: Michael P Pukas

Cc:

Janet Hawkinson

From: Michael J. Sawyer <mjs@mountainlawfirm.com>
Sent: Tuesday, May 27, 2014 3:10 PM
To: Willy Powell; Janet Hawkinson
Subject: Minturn P&Z Vote

Janet and Willy,

I have reviewed state statutes, the Town Charter, and the Town Code related to the participation of a P&Z member by telephone in a meeting. Initially, I would note that state law does not preclude an elected or appointed board member from participating and voting in a meeting by telephone. The Open Meetings law specifically applies to any meeting of elected or appointed boards that is held telephonically.

C.R.S. § 31-23-204, which addresses the organization and rules of a municipal planning and zoning commission, provides that the Commission “shall adopt rules for transaction of business....” Section 16-21-40(e) of the Minturn Code mirrors this section, providing that the Minturn Planning Commission “shall adopt rules for transaction of business” It is my understanding that the Minturn P&Z does not have any adopted rules.

The Town Charter contains no restrictions on a board member participating by telephone. In Section 7.2 (a) of the Charter, it states that “All board, commission and committee meetings shall be open to the public, and copies of all records and minutes of all meetings shall be kept and placed in the office of the Town Clerk for public inspection.” The charter also states that boards must be created by an ordinance of the council (although the P&Z is specifically created in the charter). I have not seen an ordinance creating the P&Z – it could have some description of procedures related to participation in P&Z meetings.

Thus, it appears that a P&Z commissioner may appear and participate by telephone in a meeting. If telephone participation is going to happen with more frequency, it would be good for Council and the P&Z to adopt guidelines. We have drafts of guidelines on our system from other municipalities related to telephone participation in official meetings.

Michael

Karp.Neu.Hanlon^{PC}
ATTORNEYS AT LAW

Michael J. Sawyer
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Charissa A. Johnston
B. Brittany Scantland Lall

John E. Hayes (Retired)

TOWN OF MINTURN
MEMORANDUM

**TO: PLANNING COMMISSION
JANET HAWKINSON, TOWN PLANNER**

**FROM: KENDRA L. CARBERRY, ESQ. ^{WC}
RYAN S. MALARKY, ESQ.**

DATE: MAY 9, 2014

RE: 494 EAGLE STREET – CORRECTED

This memorandum addresses a question raised by the Planning Commission regarding design plans submitted to the Town Planner. This memorandum corrects an error in our earlier memorandum of today's date. The plans propose an addition to 494 Eagle Street (the "Property"), which sits on the corner of Eagle Street and Meek Street. As explained to us by the Town Planner, the primary change to the Property that is at issue is the relocation of the residence's primary entrance from its current location facing Eagle Street to an orientation facing Meek Street. We understand that the current residence does not meet setback requirements on its Meek Street side where it passes the lot line and encroaches onto Meek Street. Because the relocation of the primary entrance from Eagle Street to Meek Street may result in a violation of setback requirements, the question is whether the residence may continue as a legal nonconforming structure. Another issue is whether the addition is an impermissible enlargement of the nonconforming structure.

The Encroachment Agreement

The encroachment onto Meek Street was addressed in a 1993 Encroachment Agreement (the "Agreement") between the Town and the then-current owner. Under the Encroachment Agreement, the Town and the owner acknowledged the encroachment and agreed to allow the

property owner to maintain the residence as it existed, provided the owner pay an annual rental fee of \$40.00. The Agreement provides that it would run with the land and extend to future landowners. The Agreement continues until the residence is "removed, destroyed or damaged to the extent of 50% of its present size and/or value or until the encroachment is removed." The Agreement prohibits the owner from expanding or increasing the encroachment upon Meek Street, and prohibits the portion of the house that encroaches onto Meek Street from being used in violation of any law. While the Agreement allows the homeowner to "maintain" the residence, the Agreement makes no specific reference to setback requirements or enlargement of the residence other than the particular portion of the residence that encroaches on Meek Street.

It is our understanding that the property owner has continuously paid the annual rental fee, so that is not a basis to invalidate the Agreement. It is also our understanding that the residence has not been removed, destroyed, or damaged to the extent of 50% of its present size or value since the Agreement was executed. In the proposed design plans, there is no indication that the residence will be "removed, destroyed, or damaged," so the proposed changes would not result in an invalidation of the Agreement. Accordingly, under the Agreement, the residence may continue to encroach upon Meek Street.

A question then arises with regard to the Agreement's effect on the setbacks. Whether or not there were setback requirements in place at the time of the Agreement is unclear based on the information we have received. However, it may reasonably be implied from the Agreement that the Town has consented to the encroachment as long as the conditions of the Agreement are met. Accordingly, by approving the encroachment, the Town has impliedly consented to a modification of the setback for that portion of the Property. It would be illogical to allow the owner to maintain the residence as it encroaches on Meek Street, and to also suggest the residence is in violation of a setback requirement on that same street.

One issue is whether a change in the primary entrance location may result in an increased infringement onto setback requirements, because side and front yards have different setbacks. The minimum setbacks for residential uses in the Old Town Character Area are 10' for a front yard, 10' for a rear yard, and 5' for a side yard. Minturn Municipal Code (the "Code") § 16-17-90. For purposes of determining what qualifies as a front, rear or side yard, the Code provides the following:

1. Front yard: that portion of yard between the street line and the building and between the 2 side lot lines, the depth of which shall be the least distance between the front lot line and the building.
2. Rear yard: that portion of a yard between the rear of a building and a rear lot line, and between 2 side lot lines, the depth of which shall be the least distance between the building and the rear lot line.

3. Side yard: all the yard between the front and rear yards, the width of which shall be the least distance between the side lot lines and the building.

Code § 16-2-20. The Code does not have provisions directly designating yard types for corner lots that are bordered on two sides by streets. However, based on the plain language of the Code, it is reasonable to conclude the yard bordering Eagle Street would qualify as a front yard, and the yard bordering Meek Street would also qualify as a front yard. This is because the yards are between the street lines and the building. Code § 16-6-20.¹ This would mean that the presumptive 10 feet setback requirement applies for both Eagle Street and Meek Street. The location of the primary entrance, facing Eagle Street, does not influence the determination of what constitutes a front yard as defined in the Code.

Legal Nonconforming Structure

The residence is a legal nonconforming structure if the setback restrictions were created after the residence was already in place. It is our understanding that is the case with the Property. The Minturn Code allows legal nonconforming structures to exist under certain conditions. Code §§ 16-22-10 to 16-22-80. A legal nonconforming structure may continue so long as any physical alteration of the structure:

1. Does not result in an increase in the total amount of space devoted to a nonconforming use; and
2. Does not result in greater nonconformity with respect to dimensional restrictions, such as setback requirements, height limitation or density requirements, or other requirements such as parking requirements.

Code § 16-22-30(a).

Here, the proposed design plans show that the external structure of the residence will be changed resulting in increased square footage. While this is an increase in the total amount of space of the structure, we are not dealing with a nonconforming use in this instance. Therefore the increased square footage does not provide a basis for the invalidation of the legal nature of the nonconforming structure.

The next question is whether the change in the orientation of the primary entrance and the additional square footage will result in greater nonconformity with respect to dimensional restrictions. It is our understanding that the addition will respect the 10' setback requirement from both Eagle Street and Meek Street, and otherwise comply with dimensional requirements. Accordingly, the remaining concern is whether the relocation of the primary entrance will result in greater nonconformity. As stated above, the location of the primary entrance does not

¹ The authority to interpret the Town's zoning regulations is vested in the Town Planner, and his or her interpretations may be appealed by the applicant to the Planning Commission. Code §§ 16-21-110; 16-21-280.

influence the determination of what constitutes a front or side yard. Regardless of the change of location of the primary entrance, the setback requirements will remain the same as they do now – 10 feet from Eagle Street and 10 feet from Meek Street. The proposed plans show there is no proposed change to the footprint of that portion of the residence that currently extends into the setback requirements off Meek Street. Therefore, based on the plans, the residence will extend into the setback requirements off of Meek Street to the same degree it does today. Because the proposed changes to the residence do not result in a greater nonconformity with respect to dimensional requirements, including the setback requirements, the legal nonconforming structure may continue.

Conclusion

In sum, the encroachment across the lot line and onto Meek Street makes the residence a legal nonconforming structure. Based upon the proposed design plans, the addition will result in an enlargement of the nonconforming structure and a change in the location of the primary entrance. Neither of these changes will result in an increase of the total amount of space devoted to a nonconforming use or a greater nonconformity with respect to dimensional restrictions. We make this conclusion regardless of the 1993 Encroachment Agreement. Accordingly, the residence may continue as a legal nonconforming structure based on the submitted design plans.

THOMAS BOYLE
HAROLD M. GOLZ
DOUGLAS J. REICH
STANLEY F. FREEDMAN, P.C.
RUSSELL K. BEAN

JEFFREY J. SCOTT
SPECIAL COUNSEL

JOSEPH F. KRYS
(RETIRED)

KRYS, BOYLE, GOLZ, REICH & FREEDMAN

ATTORNEYS AT LAW
DOMINION PLAZA, SUITE 2700 SOUTH TOWER
600 SEVENTEENTH STREET
DENVER, COLORADO 80202-5427

TELEPHONE
(303) 893-2300

FACSIMILE
(303) 893-2882

January 19, 1993

Kent Mueller
Town of Minturn
Box 309
Minturn, Colorado 81645

Re: Lynn Feiger/Encroachment Agreement

Dear Kent:

Enclosed are two Encroachment Agreements originally executed by Ms. Feiger. Please date the Agreements when the Town executes them, and return one to me. I will record the Agreement with the Clerk and Recorder's Office.

I would also appreciate it if you would call me when the Agreements are signed. As you know, Ms. Feiger is prepared to begin construction and is awaiting signing of this Agreement.

Thank you for your time.

Sincerely,

KRYS BOYLE GOLZ
REICH FREEDMAN BEAN & SCOTT, P.C.
By



Russell K Bean

Enclosures

cc: Lynn Feiger

ENCROACHMENT AGREEMENT

This Agreement entered into this 28 day of January, 1993, by and between the Town of Minturn, A Colorado Home Rule Municipality, (hereafter "Minturn") and Lynn D. Feiger, (hereafter "Feiger").

RECITALS

WHEREAS, Minturn owns a parcel of property within the Town of Minturn, Eagle County, Colorado, known and surveyed as Meek Avenue, upon a portion of which is located a part of a house structure primarily located on Lot 12, Block 2 of Boocos 2d Addition to the Town of Minturn also known as 494 Eagle Street (the "House") Minturn, Colorado 81645; and

WHEREAS, the House has encroached upon Meek Street for many years and Feiger now seeks to enter into an agreement with Minturn due to the extreme financial hardship to remove the encroachment. Feiger proposes to use the area of the aforementioned portion of Meek Avenue upon which the portion of the House is located for the maintenance of the House and Feiger is agreeable to the use of such property under the terms and conditions as set forth below. The encroachment does not interfere with public use of the remaining portions of the right of way.

NOW, THEREFORE, for and in consideration of the performing of the covenants and agreements by the parties to this Agreement. Minturn by these presents does hereby permit Feiger to use the following described property (the "Site") for the maintenance of the aforementioned House as set forth in this Agreement:

A tract of land being a portion of Meek Avenue as it lies between its intersection with Eagle Street and its abutment to the Eagle River within Boocos 2nd Addition to the Town of Minturn, said tract being more particularly described as a triangle area extending at the widest point 1.3 feet into Meek Avenue from Lot 12, and angling back to Lot 12, a distance of 15.4 feet, shown on the attached survey map as highlighted.

PARTICULARS

- 1. **USE OF THE SITE.** The Site is to be used for the maintenance of the aforementioned House and for no other purpose whatsoever.

2. **TERM.** This Agreement shall extend from the date of the execution of this Agreement until the aforementioned House is removed, destroyed or damaged to the extent of 50% of its present size and/or value or until the encroachment is removed.

- 3. **USE OF SITE.** The Site shall only be used for domicile purposes and generally accepted ancillary uses connected with normal household operations. The Site

shall not be used in violation of any law, statute, ordinance or regulation. Feiger may maintain the House but shall not be permitted to expand or increase the encroachment upon Meek Street other than construction previously approved by the Planning and Zoning Commission and the Minturn Town Council.

4. **CONDITION OF SITE.** During the term of this Agreement, Feiger agrees to keep the Site in good and safe condition.

5. **RELEASE FROM LIABILITY.** Feiger hereby releases and discharges Minturn from any and all liability arising from the execution and performance of this Agreement and all other matters to which the indemnification of paragraph 6 relates.

6. **INDEMNIFICATION.** Feiger hereby agrees that she shall indemnify, defend and hold harmless Minturn and its officers, employees and agents from, against from and with respect to any claim, liability, obligation, loss, damage, assessments, judgment, cost or expense (including, without limitation, reasonable attorneys fees and expenses and costs and expenses reasonably incurred in the investigating, preparing, or defending against any litigation or claim, action, suit, proceeding or demand, of any kind or character) of or in any manner relating or attributable to any claims or damages arising from the execution or performance of this Agreement or Feiger's activities upon the Site.

7. **DISCLAIMER.** Feiger hereby disclaims any and all rights, now and in the future, against any and all parts of the property owned by Minturn, by virtue of adverse possession or easement by prescription.

8. **RUNS WITH LAND.** The parties acknowledge this encroachment agreement is for the benefit of the property described as:

Lot 12, Block 2
Boocos 2nd Addition
Town of Minturn
Eagle County, Colorado
(also known as 494 Eagle Street)

and subject to the terms of this Agreement, the Agreement shall run with the land and shall be transferred automatically on conveyance of the House whether or not specific reference is made to this Agreement.

9. **RECORDING.** The town of Minturn and Feiger shall be permitted to record this Agreement with the Eagle County Clerk and Recorder in the real property records.

10. RENT. Feiger, her heirs, successors and/or assigns agree to pay the Town of Minturn the annual rental fee of \$40.00 per year on or before January 15, 1993 and on or before January 15, of each year thereafter.

11. If Feiger, her heirs, successor and/or assigns default in this Agreement or the Town of Minturn must hire an attorney to enforce this Agreement, Feiger, her heirs, successors and/or assigns will pay all costs and reasonable attorneys fees associated therewith.

12. NOTICES. All notices and communications required herein shall be in writing and shall be sent by certified mail to the following addresses:

Minturn:	Town of Minturn Post Office Box 309 Minturn, Colorado 81645-0309
Feiger:	Lynn D. Feiger 511 - 16th Street, Suite 300 Denver, Colorado 80202

Notices shall be deemed as properly given when mailed, by certified mail, in a sealed envelope, postage prepaid, addressed to the above addresses. Any such notice or demand shall be deemed to have been given or made at the time it is deposited in the U.S. Post Office. Any party may change its address of record by giving written notice of the change to the other party.

13. WAIVER. Failure or delay on the part of Minturn or Feiger to exercise any right, power or privilege hereunder shall not operate as a waiver thereof.

14. PRIOR NEGOTIATIONS. This Agreement constitutes the entire agreement of the parties hereto and shall supersede all prior offers, negotiations and agreements.

15. AMENDMENTS. No amendments of this Agreement shall be valid unless made in writing and signed by Minturn and Feiger.

16. APPLICABLE LAW. This Agreement is entered into in Minturn, Eagle County, Colorado, and it is agreed that proper jurisdiction and venue of any action pertaining to the interpretation or enforcement of this Agreement shall be in the County or District Court of Eagle County, Colorado.

17. BINDING AGREEMENT. It is understood and agreed that this Agreement shall be binding upon the assigns and successors in interest of the parties hereto.

TOWN OF MINTURN

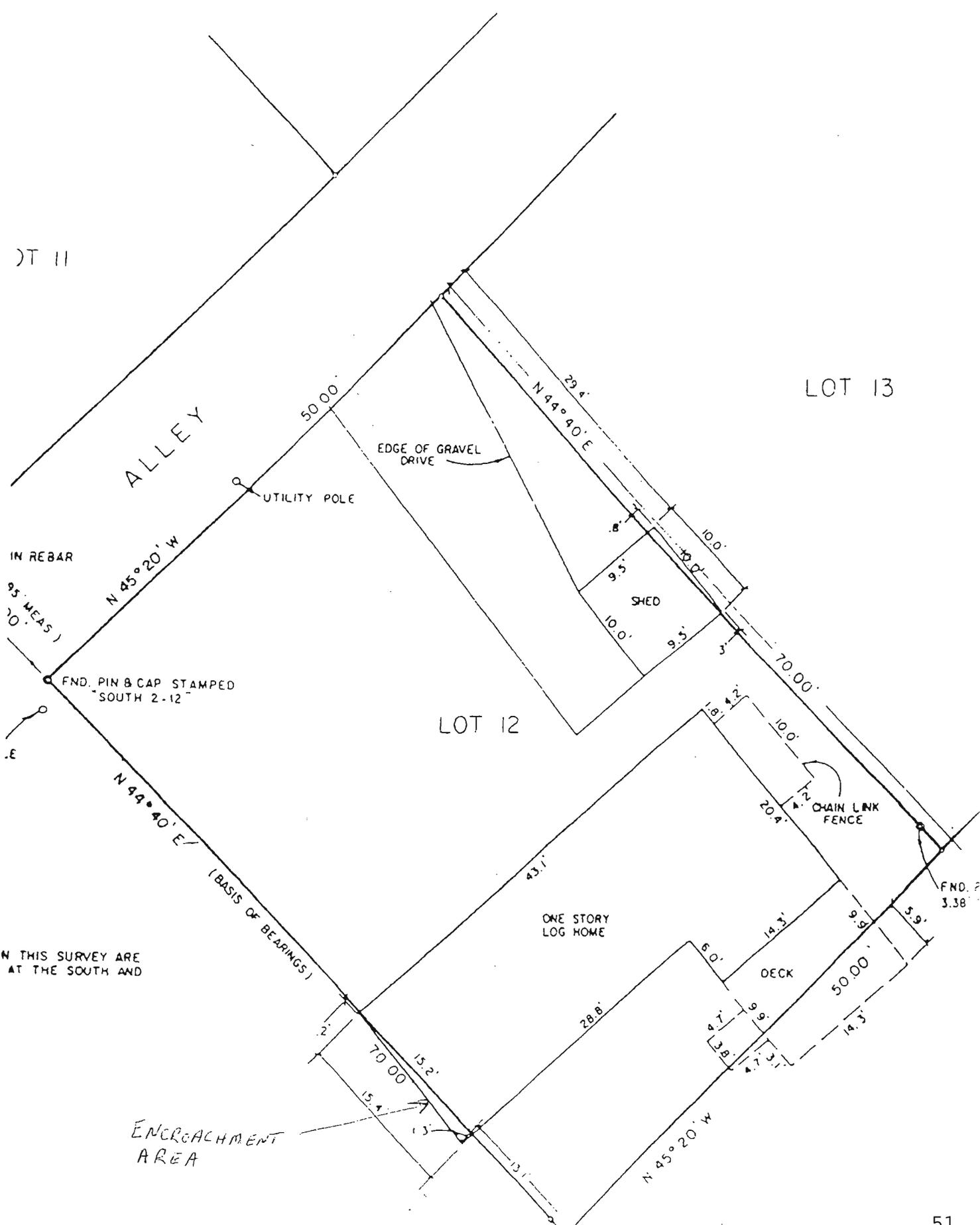
By: Paul G. Chang
Mayor

ATTEST:

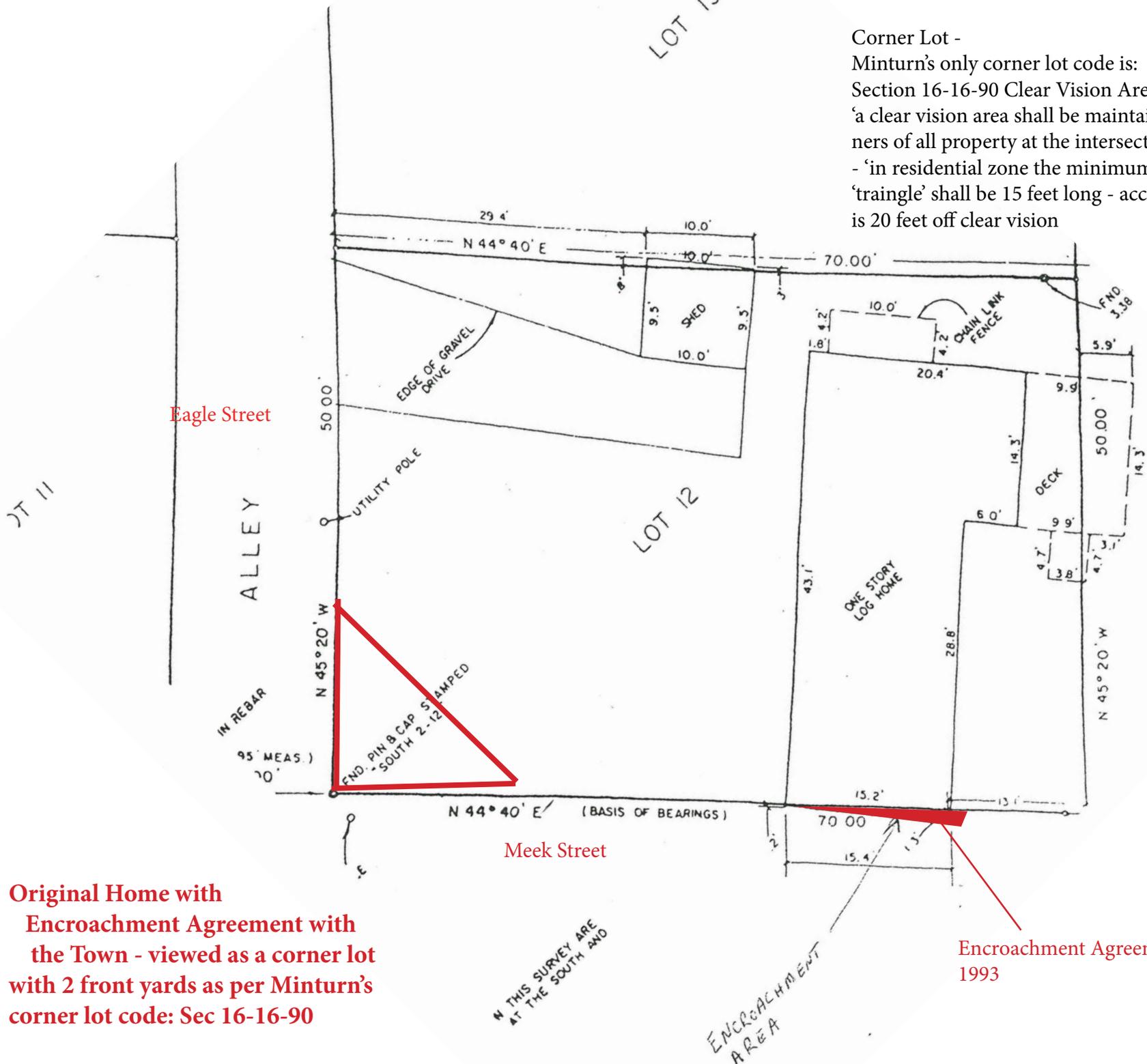
Kelly Peters
Town Clerk

FEIGER

Lynn D. Feiger
Lynn D. Feiger

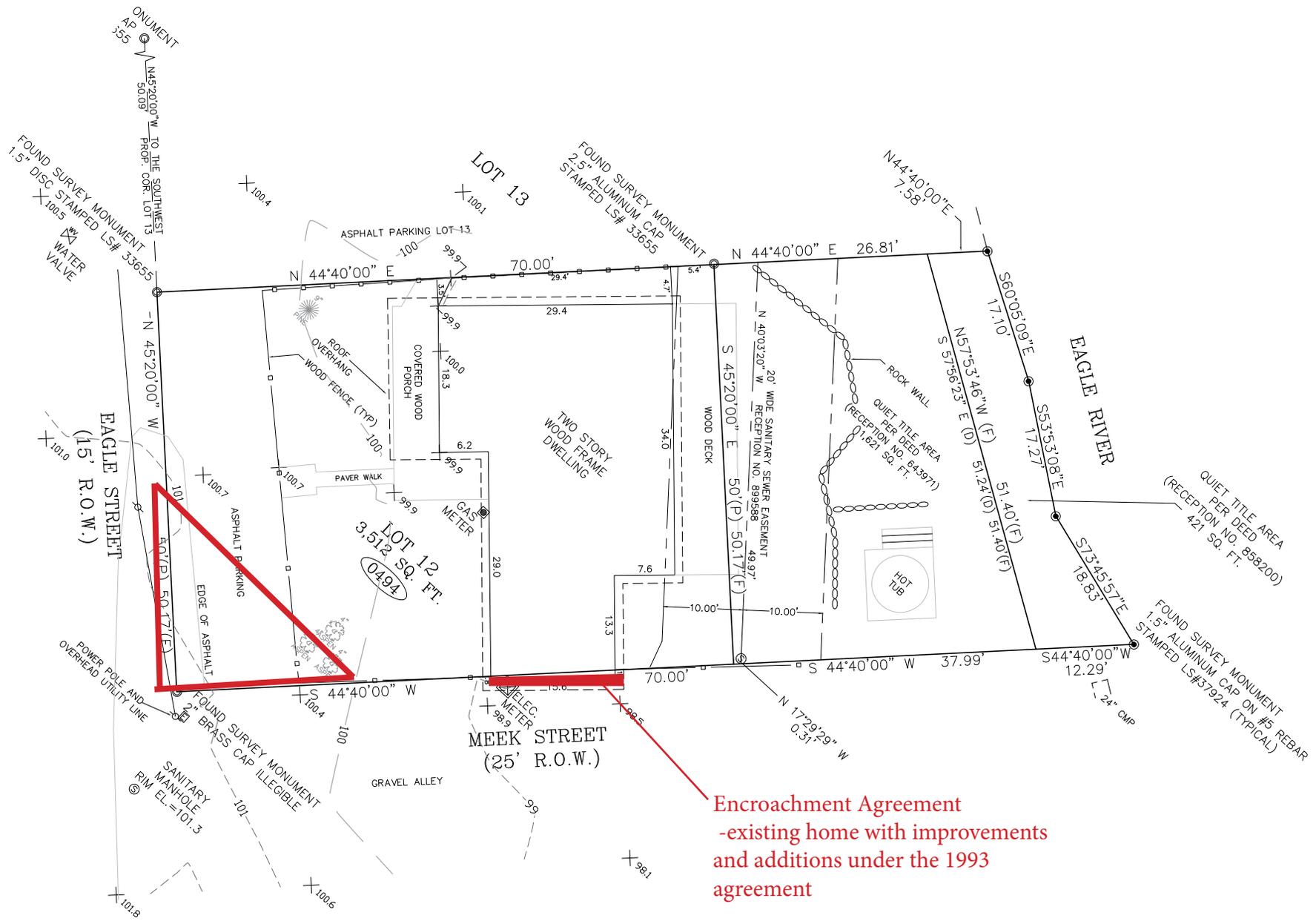


Corner Lot -
 Minturn's only corner lot code is:
 Section 16-16-90 Clear Vision Area Requirements:
 'a clear vision area shall be maintained on the corners of all property at the intersection of 2 streets'
 - 'in residential zone the minimum distance of the 'traingle' shall be 15 feet long - access to driveways is 20 feet off clear vision



**Original Home with
 Encroachment Agreement with
 the Town - viewed as a corner lot
 with 2 front yards as per Minturn's
 corner lot code: Sec 16-16-90**

**Encroachment Agreement
 1993**



Corner Lot -

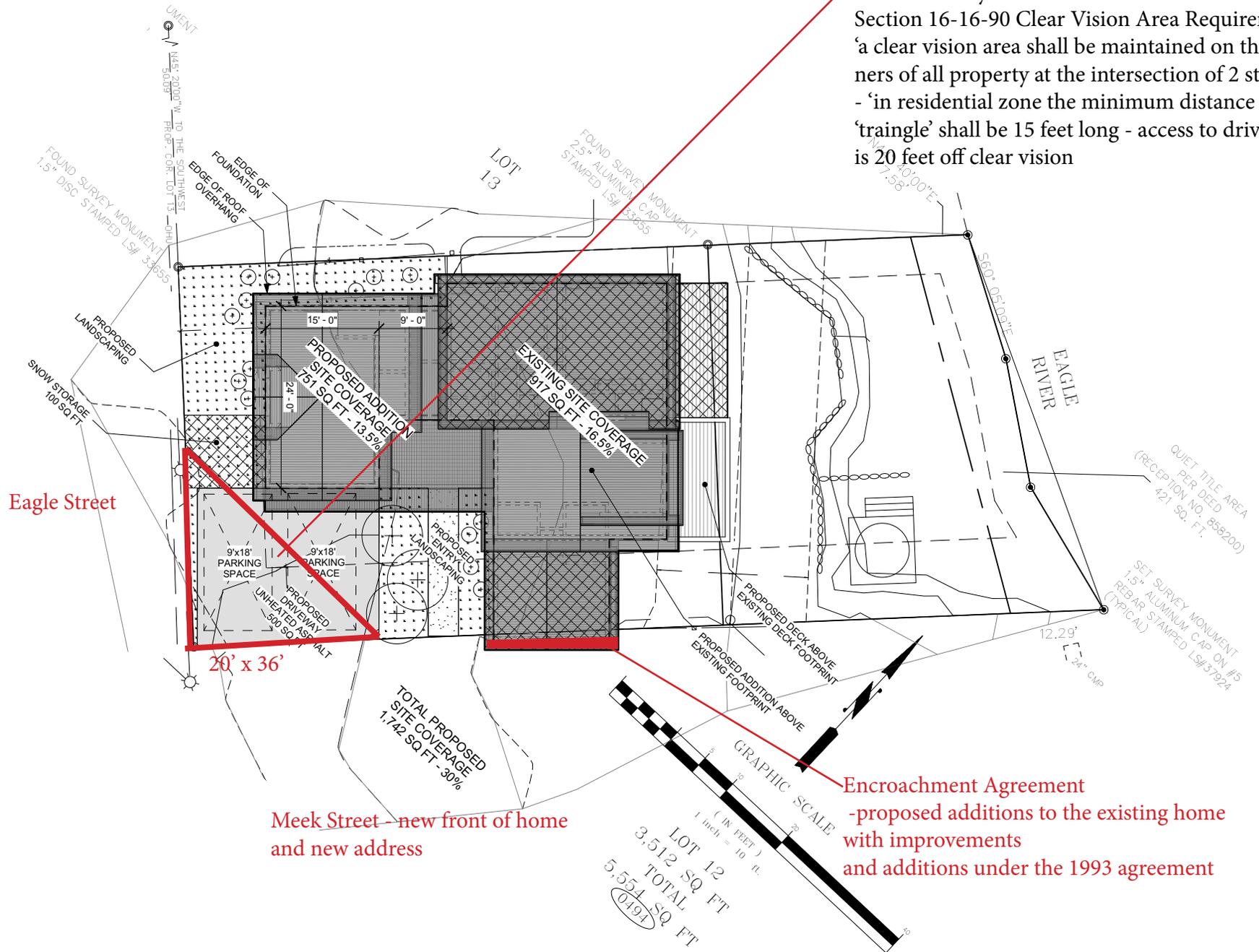
Minturn's only corner lot code is:

Section 16-16-90 Clear Vision Area Requirements:

'a clear vision area shall be maintained on the corners of all property at the intersection of 2 streets'

- 'in residential zone the minimum distance of the 'triangle' shall be 15 feet long - access to driveways

is 20 feet off clear vision

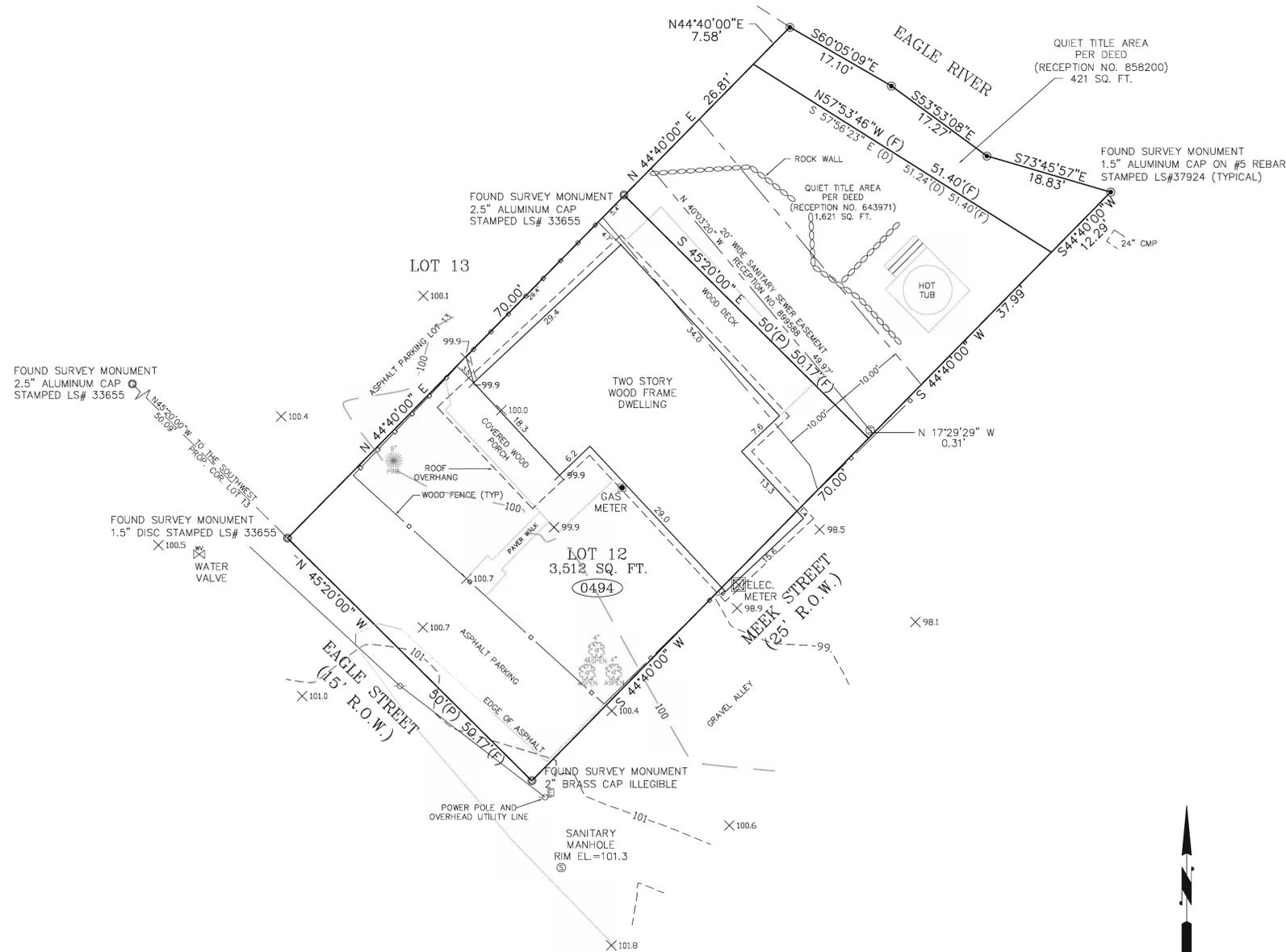


Encroachment Agreement - proposed additions to the existing home with improvements and additions under the 1993 agreement

TOPOGRAPHIC MAP

LOT 12, BLOCK 2, BOOCO'S 2nd ADDITION TO MINTURN

Town of Minturn, County of Eagle, State of Colorado



LEGAL DESCRIPTION:

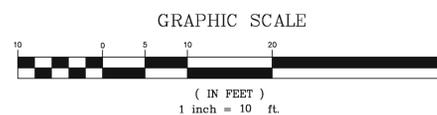
Lot 12, Block 2, Booco's 2nd Addition to Minturn, according to the Final Plat of Booco's 2nd Addition to Minturn, Eagle County, Colorado, Dated October 9th, 1901, and the Quiet Title Deed's Recorded at Reception No. 643971 and Reception No. 85200 in Office of the Clerk and Recorder, Eagle County, State of Colorado.

NOTES:

- 1) Survey Date: March 13, 2014.
- 2) Street Address: 0494 Eagle Street (posted)
3. Elevation Datum: First Floor Entry Assumed Elevation=100.0
- 4) Record easements, legal description, and rights-of-way shown for this plat were derived from Title Commitment Order No. V50034025-2, provided by Land Title Guaranty Company with a policy date of August 01, 2012, and the Final Plat of Boocos 2nd Addition to the Town of Minturn, recorded October 08, 1901, in the office of the Clerk and Recorder, County of Eagle, State of Colorado.
- 5) This property may be subject to building setback restrictions enforced by the Town of Minturn.
- 6) 2'-3' of snow was on the ground at the time of the survey. All improvements may not be shown.
- 7) 1' Contour intervals shown hereon.
- 8) Utilities are shown approximately and should be field verified prior to excavation.
- 9) This is not a monumented survey, Land Survey Plat, or Improvement Survey plat. No boundary resolution was performed in making this survey. All lot lines, setback lines, and easement lines shown hereon should be considered approximate and should not be relied upon for the placement of any future improvements.

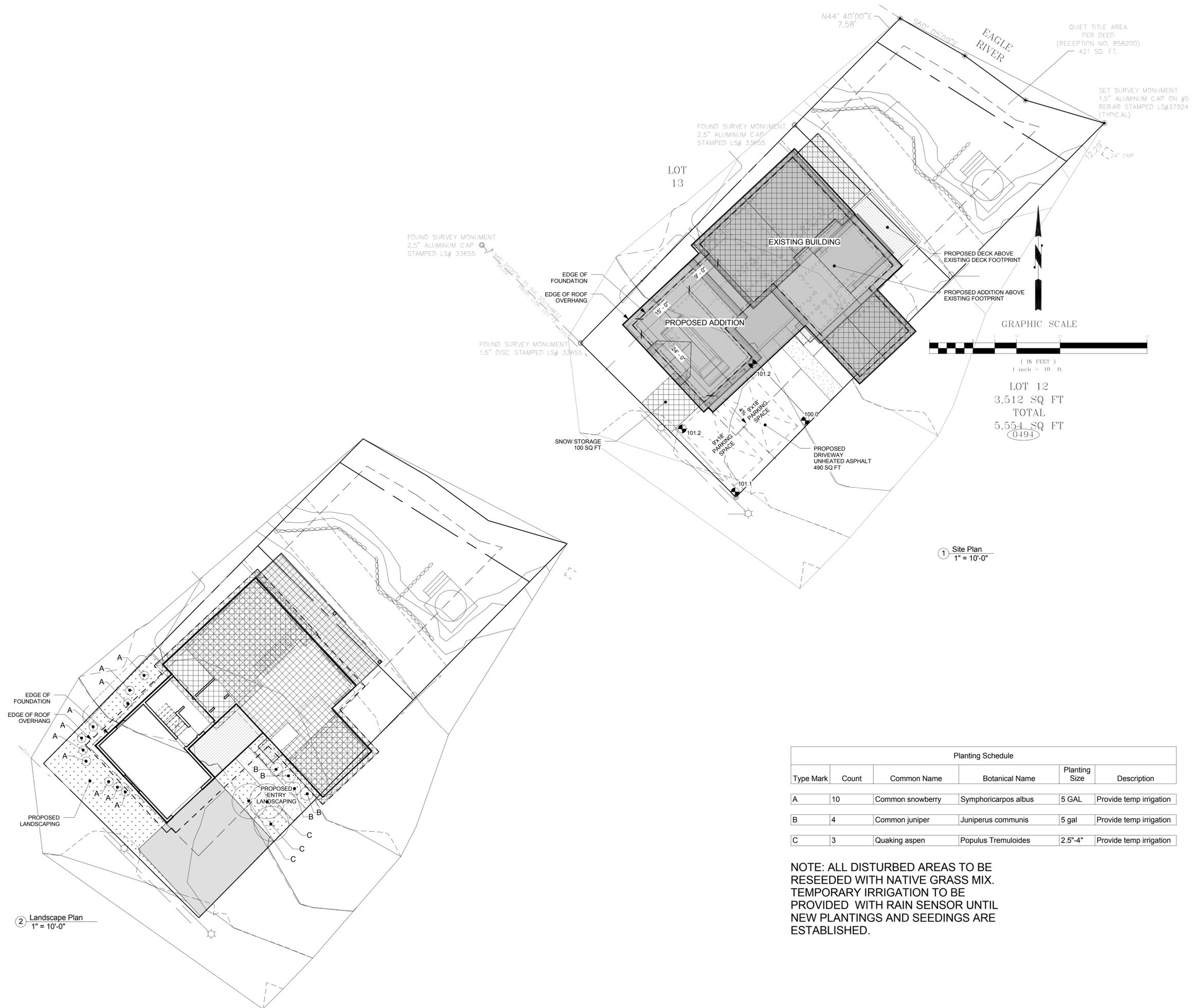
I, Randall P. Kipp, a Professional Land Surveyor in the State of Colorado, hereby certify that this TOPOGRAPHIC SURVEY was done by me or under my direct supervision, and that it was performed using the standard care and practice used in the area at the time of the survey. The Notes hereon are a part of this certification.

Randall P. Kipp, PLS 38079
Colorado Professional
Land Surveyor



NOTICE: According to Colorado law you MUST commence any legal action based upon any defect in this survey within three years after you first discovered 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.

TOPOGRAPHIC MAP LOT 12, BLK2, BOOCO'S 2ND ADD. TOWN OF MINTURN EAGLE COUNTY, COLORADO		KIPP LAND SURVEYING P.O. Box 3154 Eagle, Colorado, 81631 (970) 390-9540		
DRAWN BY:	RPK		DATE:	3-13-14
CHECKED BY:	RPK		DRAWING NO.:	LOT_12_TOPO2014
JOB NO.:	LOT_12_BOOCOS		SHEET	1 OF 1



mpp design shop, inc.
 PO Box 288
 95 Willowstone Place
 Gypsum, CO 81637
 (970) 390-4931
 michael@mppdesignshop.com

Calabrese Residence Addition
 Parcel Number: 2103-263-02-027
 Booco's 2nd Addition to Minturn
 Lot 12, Block 2
 494 Eagle Street
 Minturn, CO 81645

#	Description	Date
1	DRB Submission	03/21/14
2	DRB Preliminary	04/23/14
3	DRB Submission	05/08/14

Project Number: 1401
 Drawn by: mpp
 Checked by: mpp

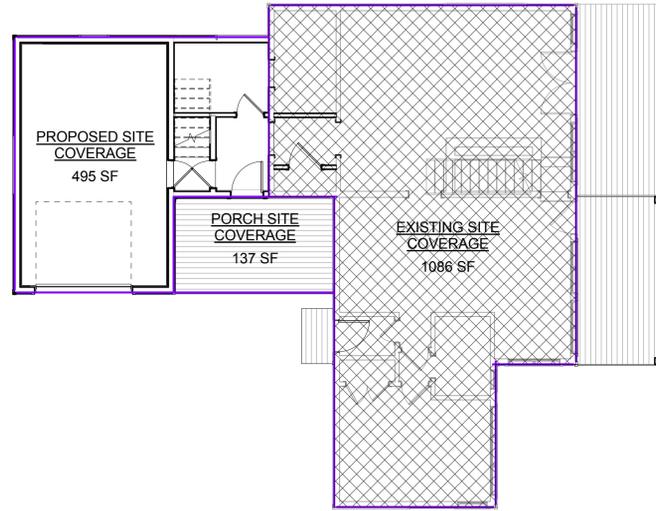
Site & Landscape Plans

A1.1

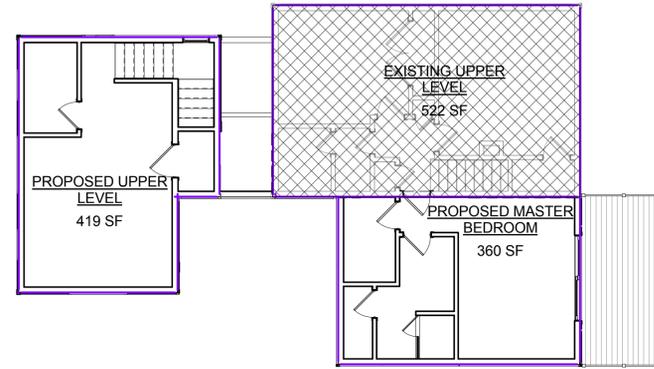
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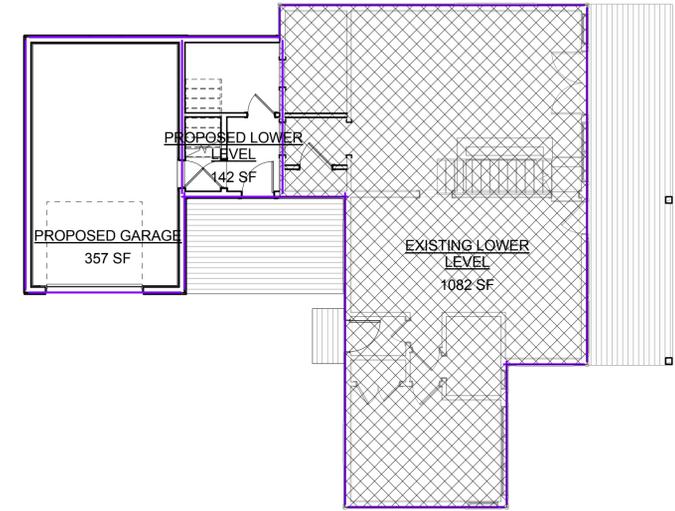
5/8/2014 4:08:52 PM



③ SITE COVERAGE
1/8" = 1'-0"



② UPPER LEVEL AREA
1/8" = 1'-0"



① LOWER LEVEL AREA
1/8" = 1'-0"

TOTAL AREA	
PROPOSED UPPER LEVEL	419 SF
PROPOSED MASTER BEDROOM	360 SF
PROPOSED LOWER LEVEL	142 SF
PROPOSED GARAGE	357 SF
EXISTING UPPER LEVEL	522 SF
EXISTING LOWER LEVEL	1082 SF
Grand total	2882 SF

SITE COVERAGE PROPOSED	
PORCH SITE COVERAGE	137 SF
PROPOSED SITE COVERAGE	495 SF
Total	632 SF

SITE COVERAGE EXISTING	
EXISTING SITE COVERAGE	1086 SF
Total	1086 SF

SITE COVERAGE TOTAL	
EXISTING SITE COVERAGE	1086 SF
PORCH SITE COVERAGE	137 SF
PROPOSED SITE COVERAGE	495 SF
Total	1718 SF

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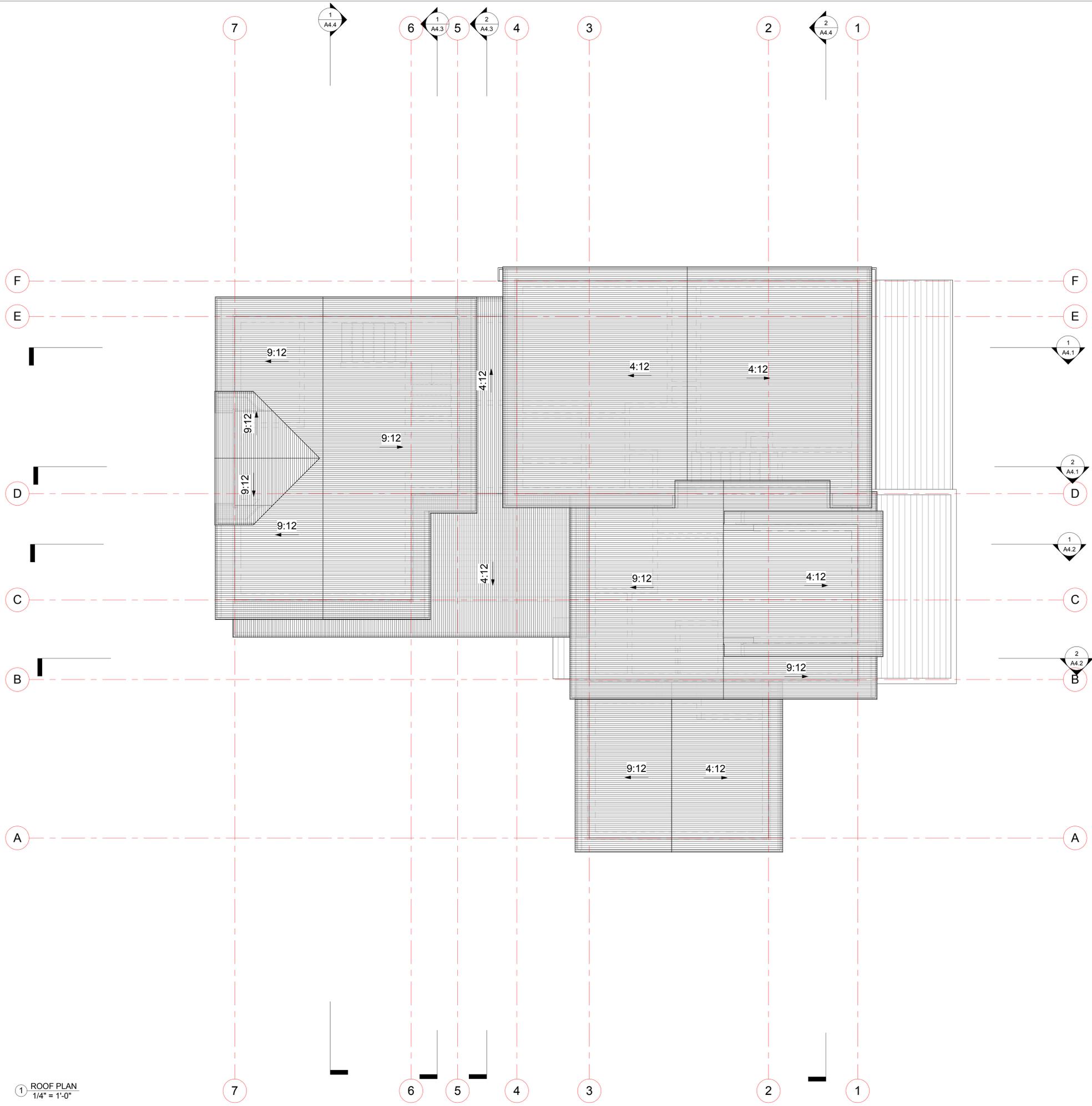
Project Number:	1401
Drawn by:	mpp
Checked by:	mpp

Area Plans

A2.0

58
Scale 1/8" = 1'-0"

5/8/2014 4:03:35 PM



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

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Checked by: mpp

Roof Plan

A2.4

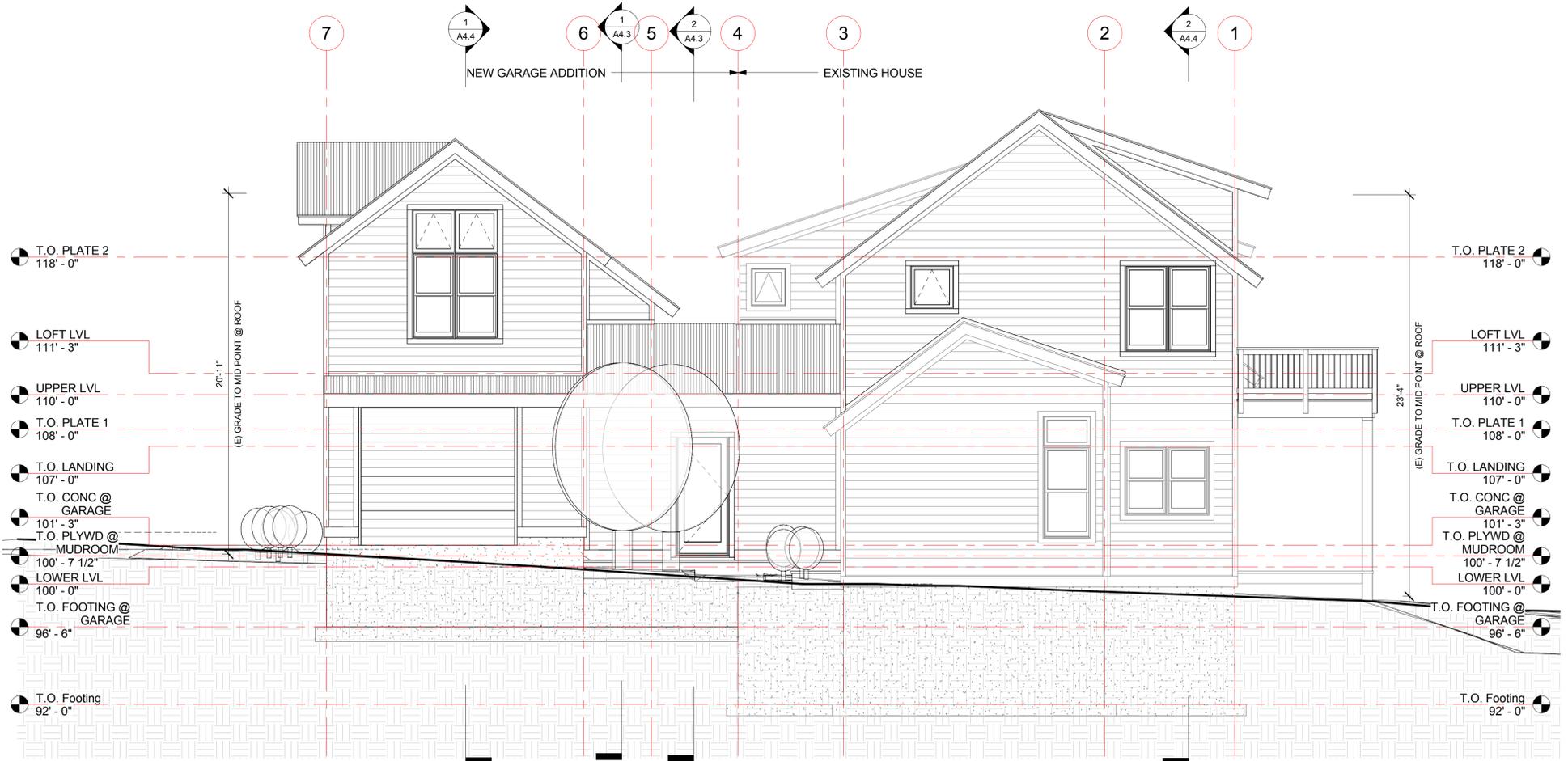
61

Scale 1/4" = 1'-0"

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② West Elevation
1/4" = 1'-0"



① South Elevation
1/4" = 1'-0"

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Drawn by: mpp
Checked by: mpp

South & West Elevations

A3.1

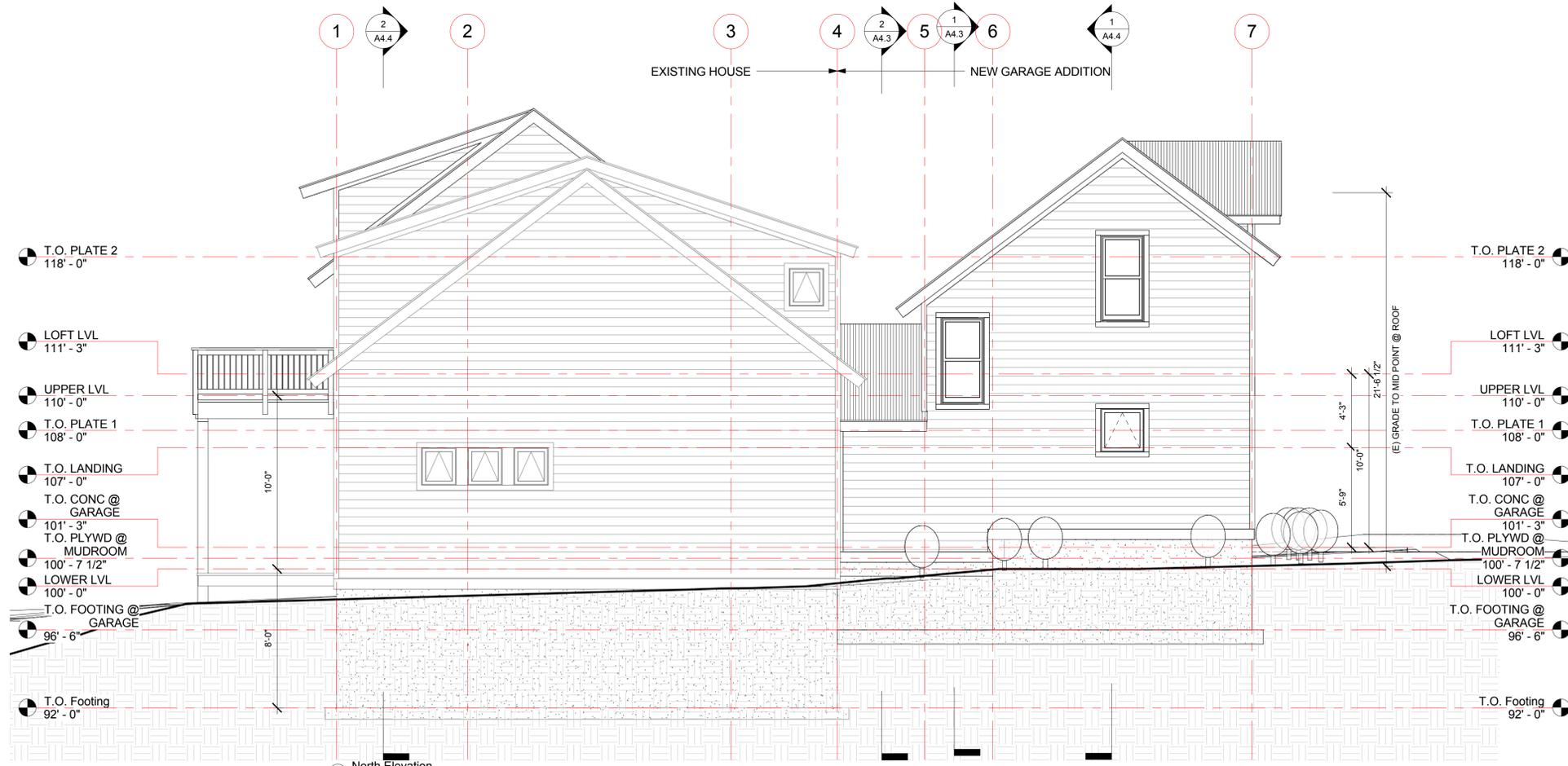
62

Scale 1/4" = 1'-0"

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② East Elevation
1/4" = 1'-0"



① North Elevation
1/4" = 1'-0"

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Calabrese Residence Addition

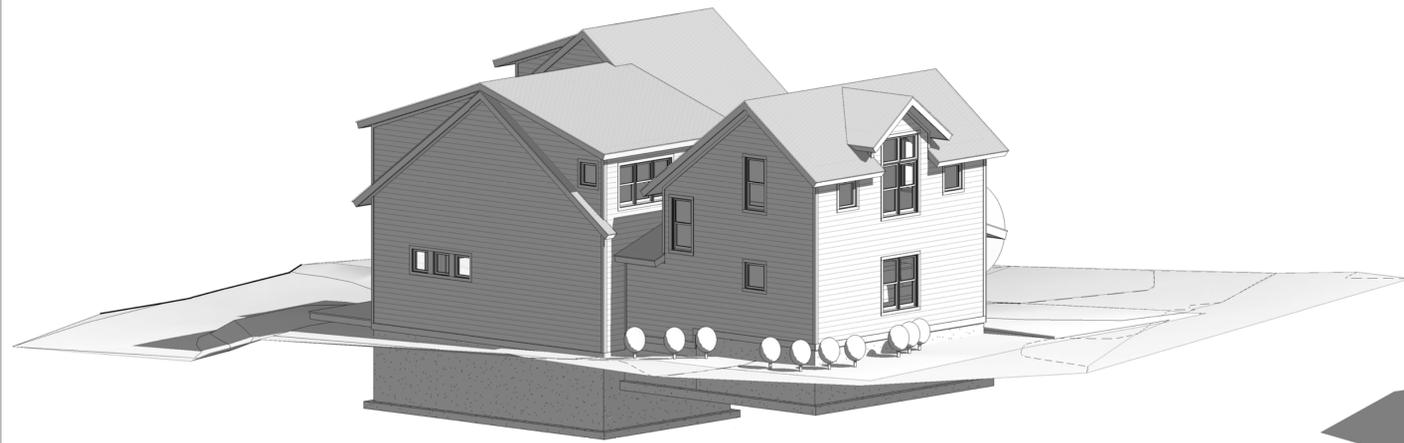
Parcel Number: 2103-263-02-027
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Project Number:	1401
Drawn by:	mpp
Checked by:	mpp

North & East Elevations

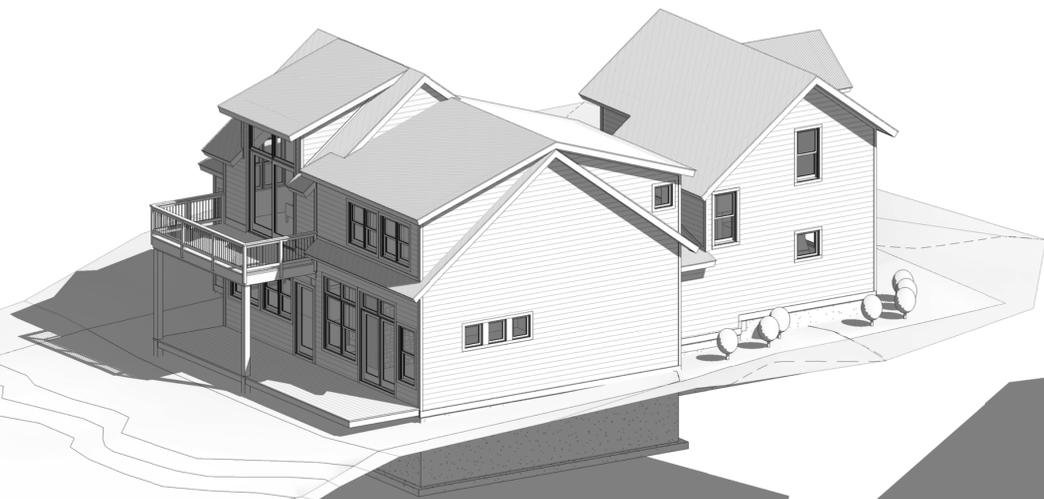
A3.2



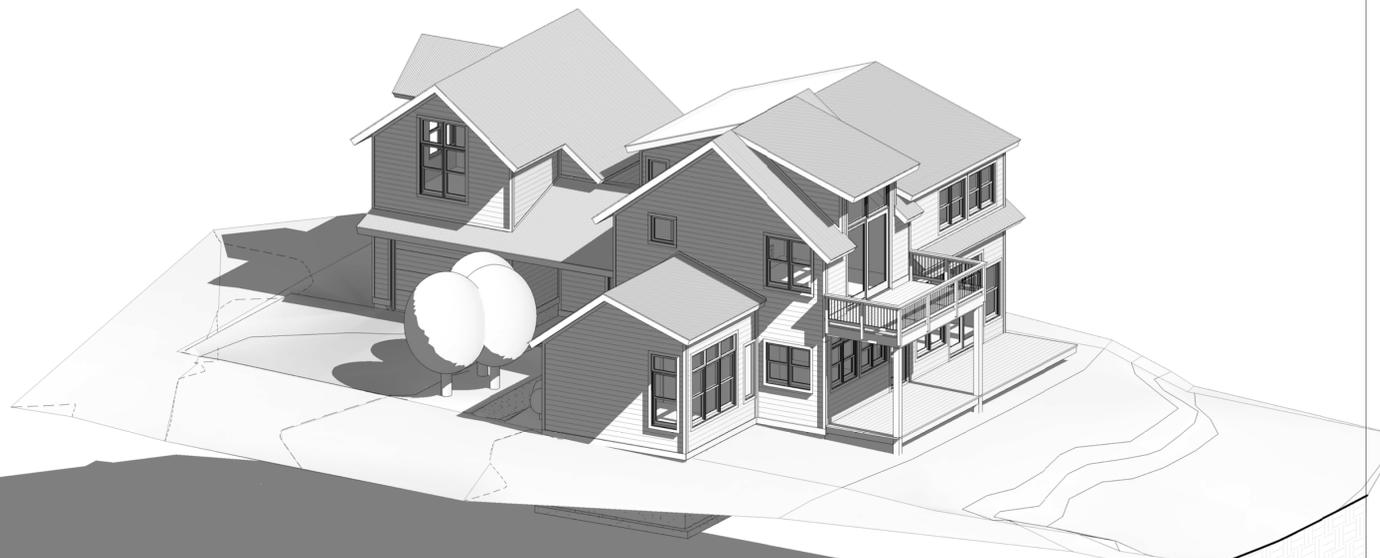
① Northwest Model View



④ Southwest Model View



② Northeast Model View



③ Southeast Model View

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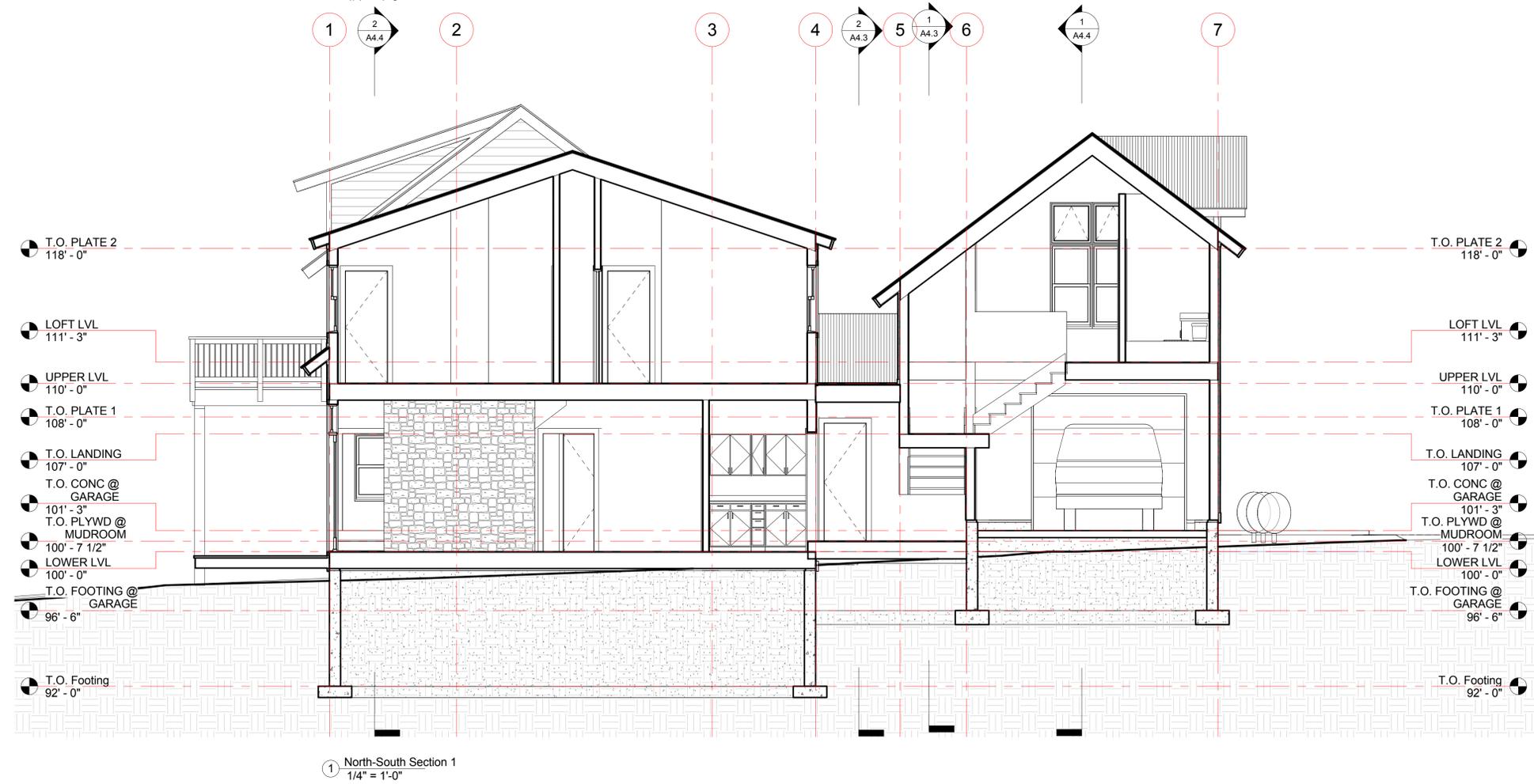
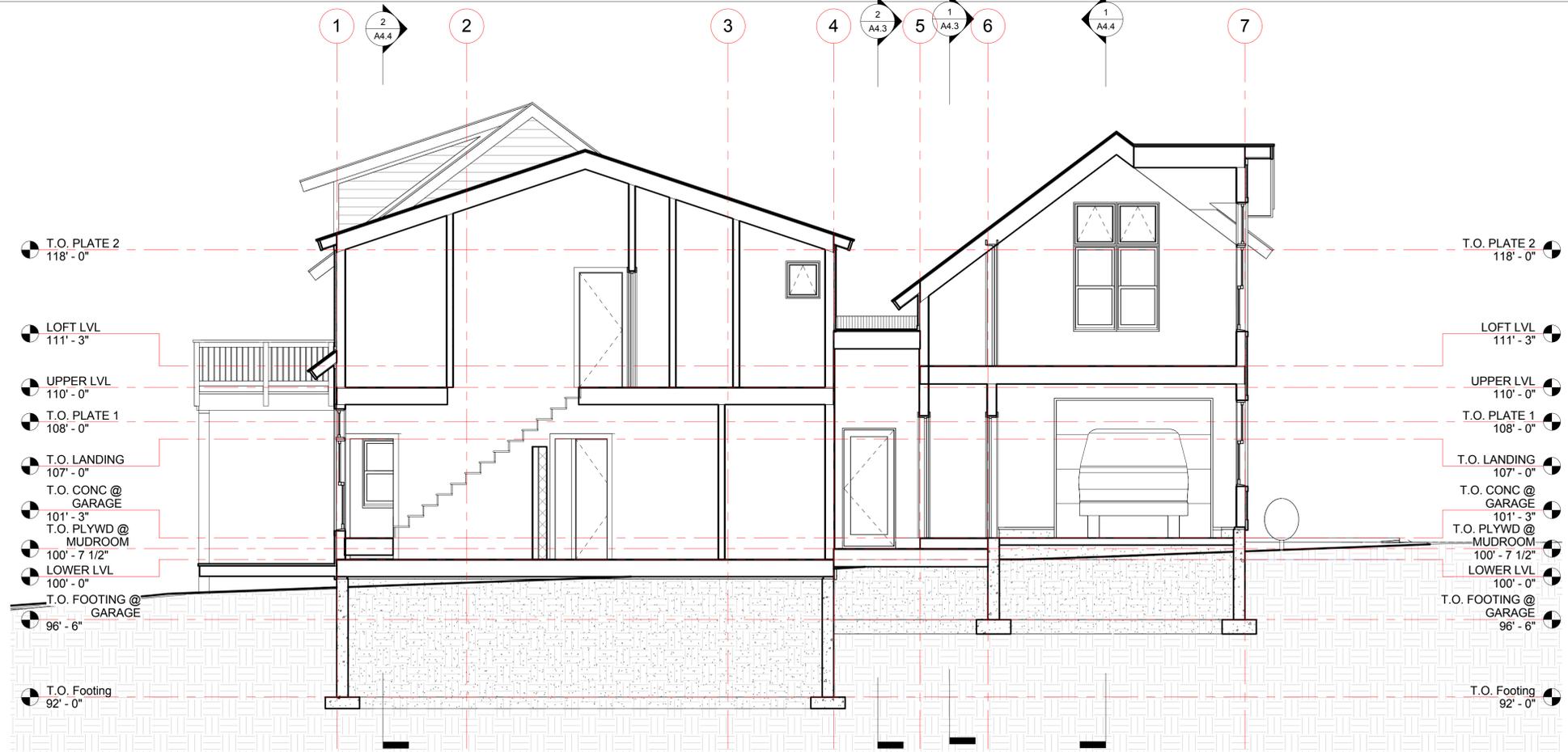
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Drawn by:	mpp
Checked by:	mpp

Model Views



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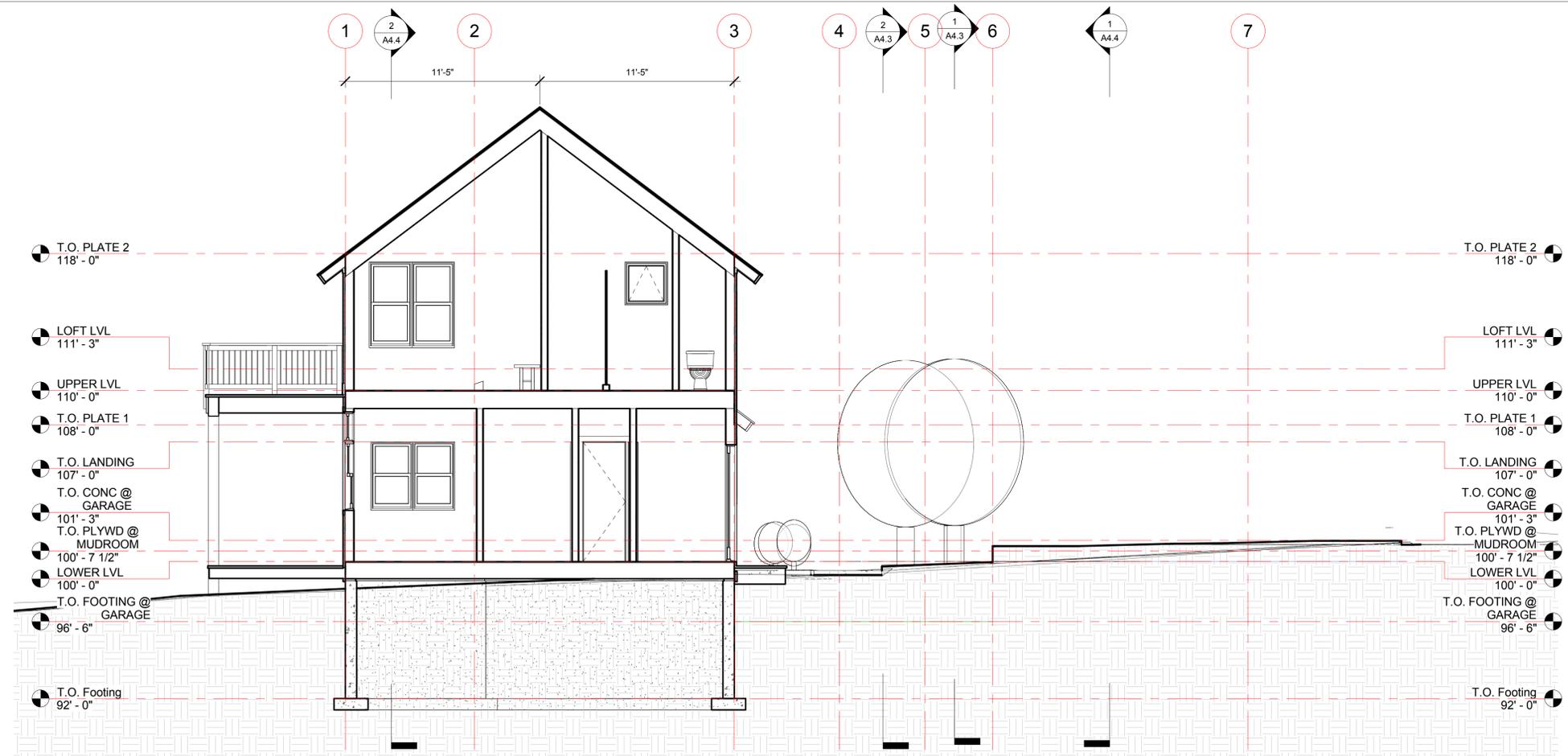
Building Sections

A4.1

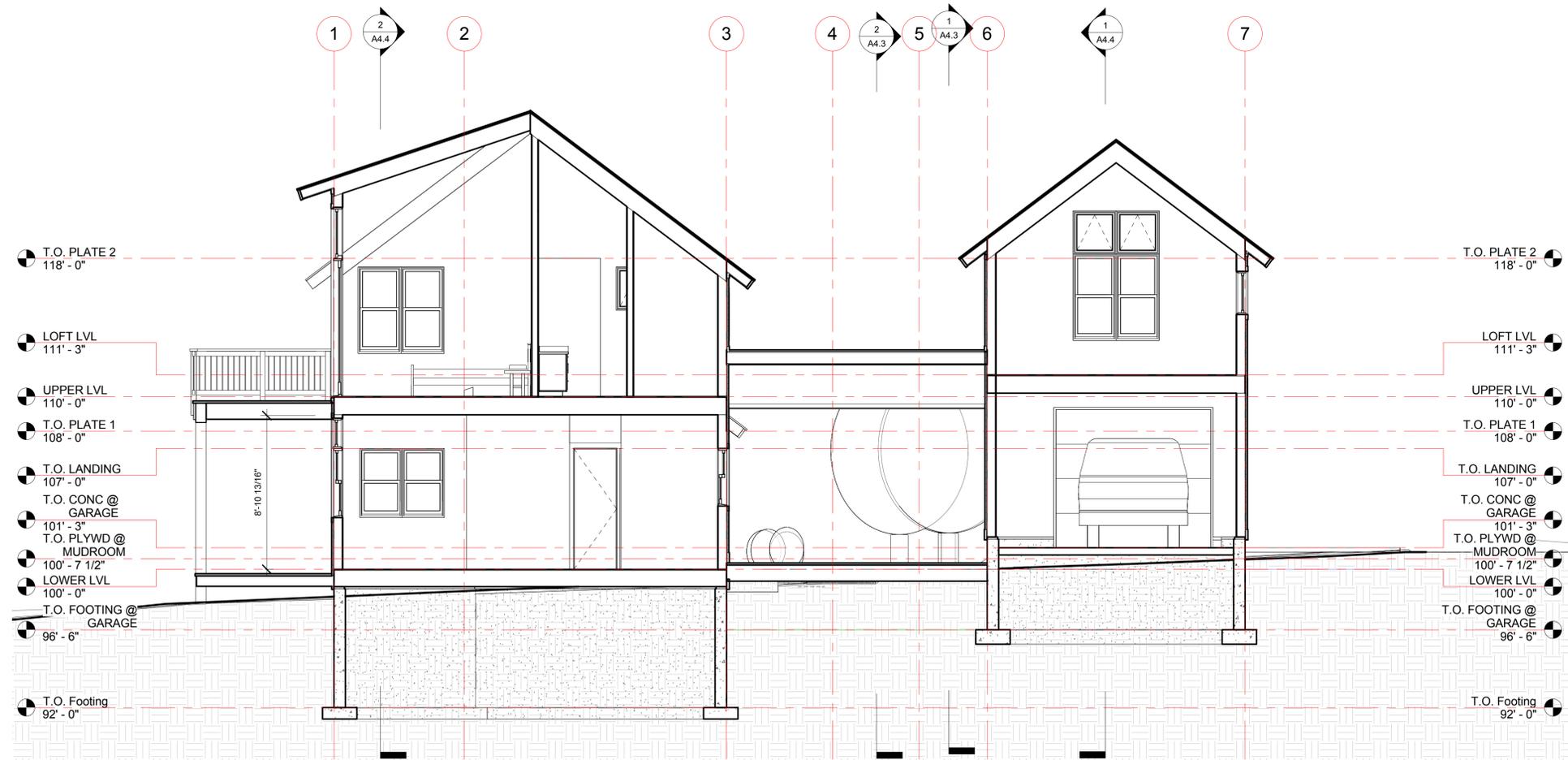
65

Scale 1/4" = 1'-0"

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2 North-South Section 4
1/4" = 1'-0"



1 North-South Section 3
1/4" = 1'-0"

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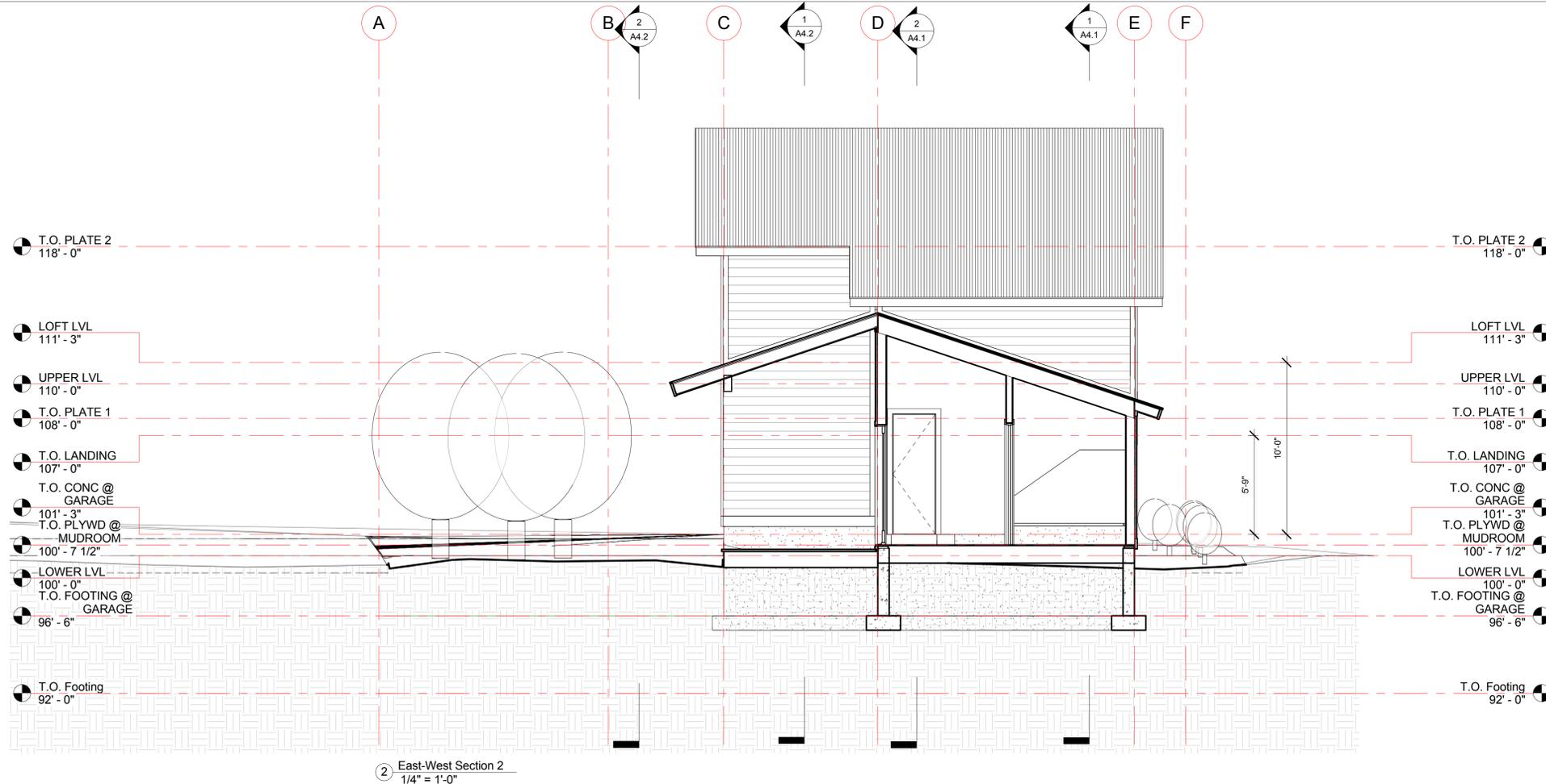
Building Sections

A4.2

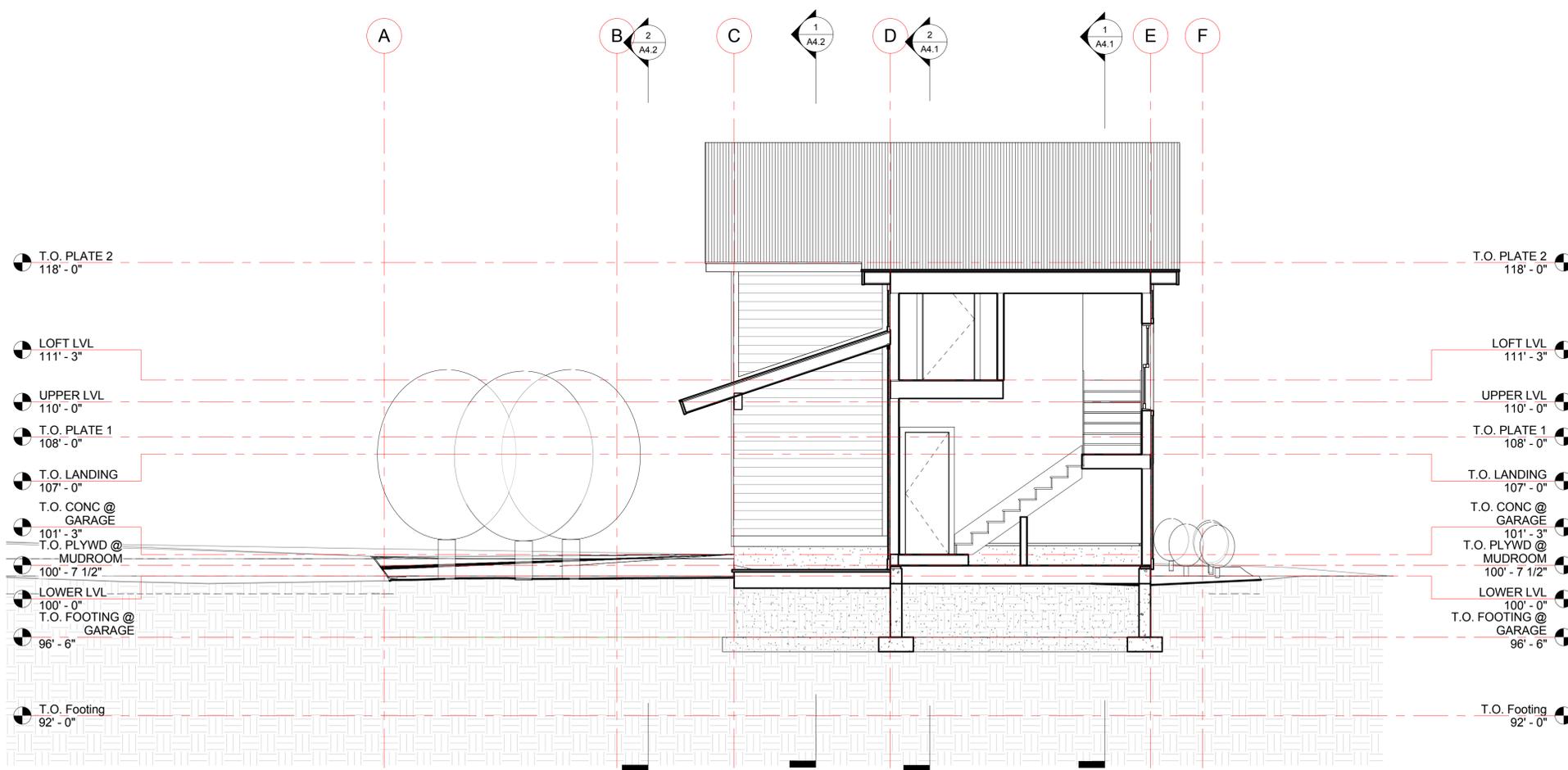
66

Scale 1/4" = 1'-0"

9/8/2014 4:11:55 PM



② East-West Section 2
1/4" = 1'-0"



① East-West Section 1
1/4" = 1'-0"

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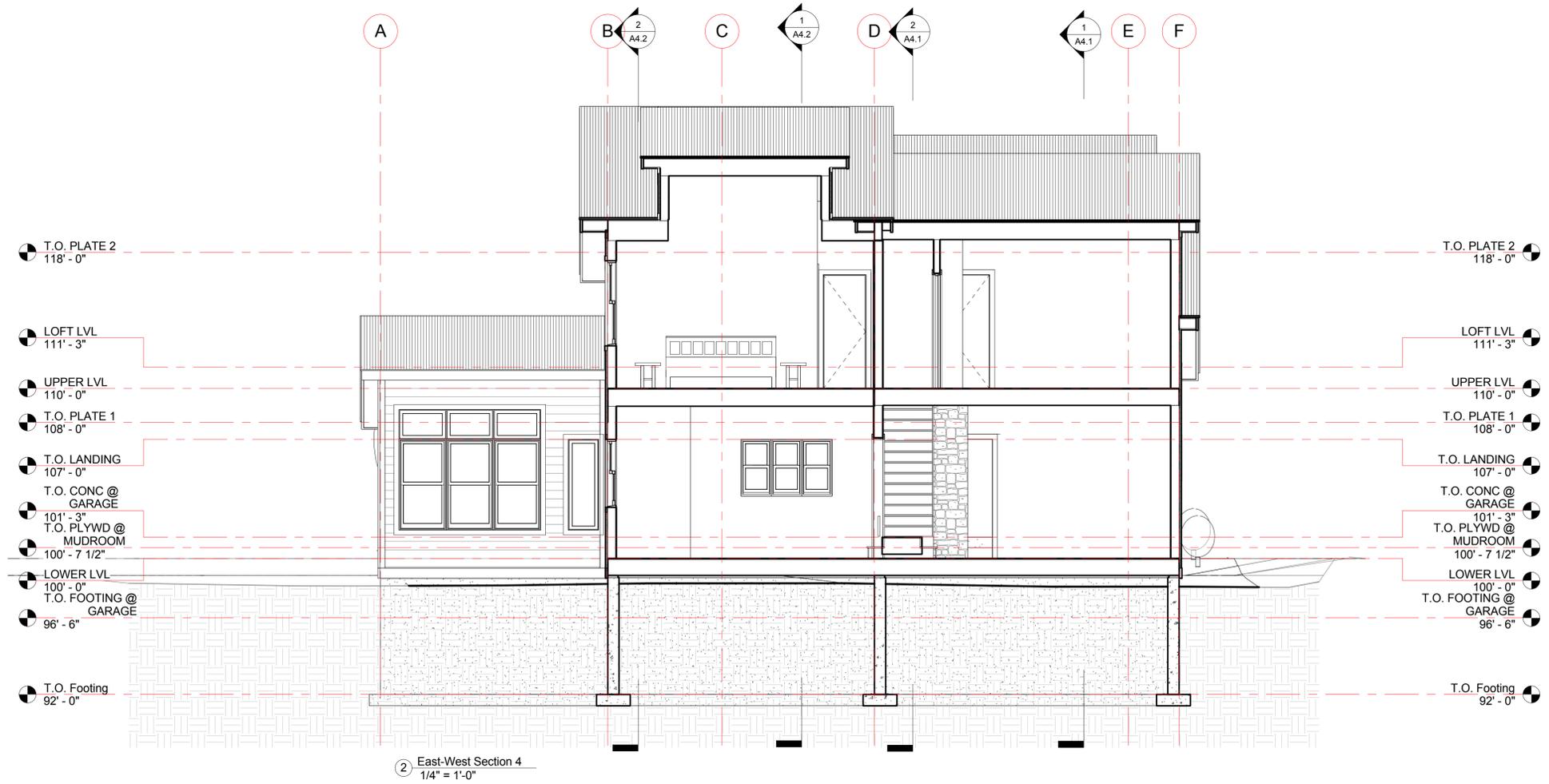
Building Sections

A4.3

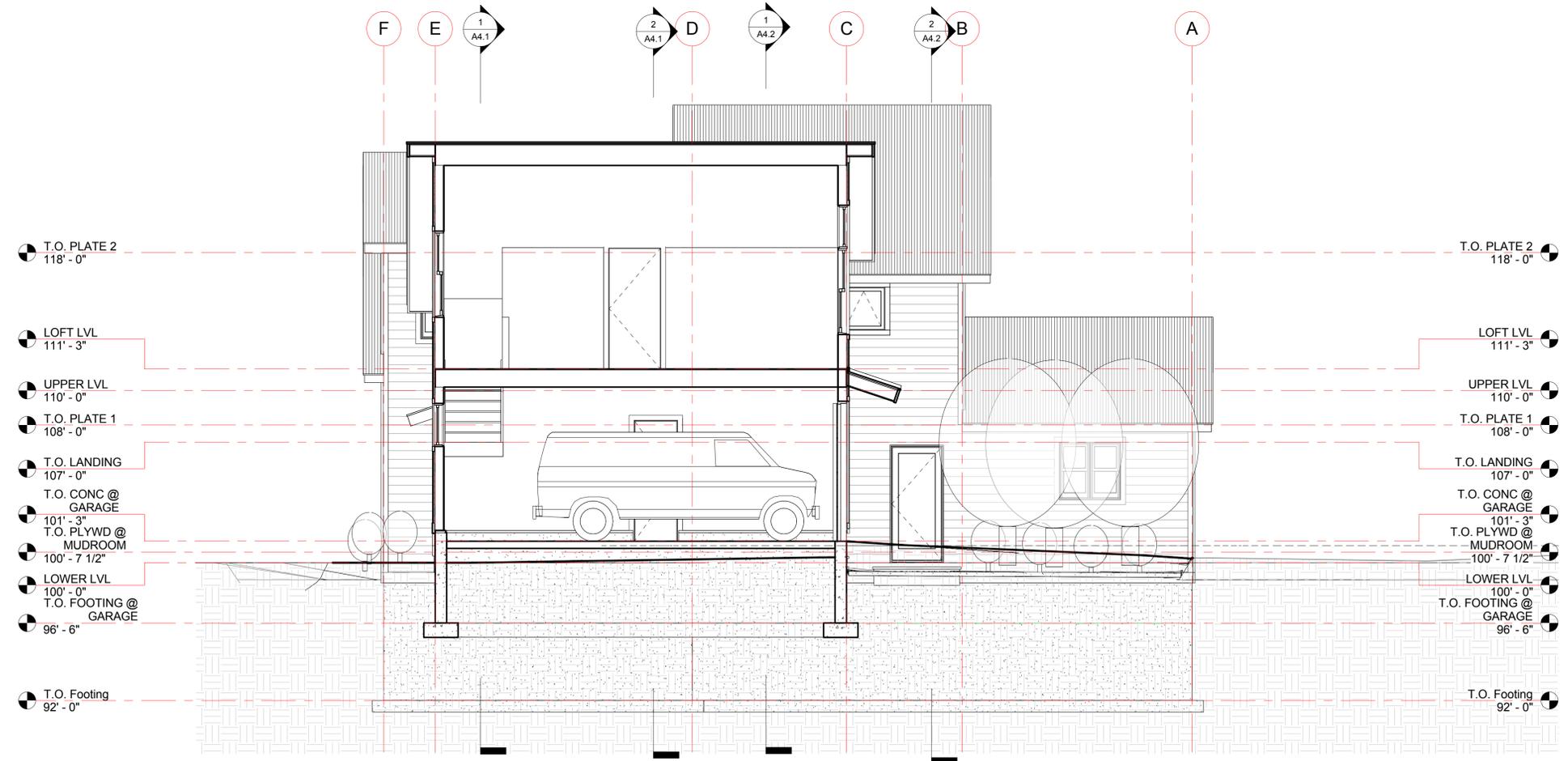
67

Scale 1/4" = 1'-0"

5/2/2014 4:15:57 PM



② East-West Section 4
1/4" = 1'-0"



① East-West Section 3
1/4" = 1'-0"

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Project Number: 1401
Drawn by: mpp
Checked by: mpp

Building Sections

A4.4

68

Scale 1/4" = 1'-0"

5/8/2014 4:12:10 PM

Planning Department Update:

- The new garage for Barry Clark on 974 Main Street, South Minturn, passed final inspection.
- The new business, Mountain Development Services at 472 Main Street (the old First Bank Building) has requested final inspection. Operations to begin soon. This is the main office for their county wide business in assisting with training people with disabilities.
- The DOLA Grant:
 1. the water loop project on Harrison is being successfully completed. It has been completed with the agreed bid and within the budget. Paving to begin June 5 or 6.
 2. the isolation valve on Main Street has been completed successfully.

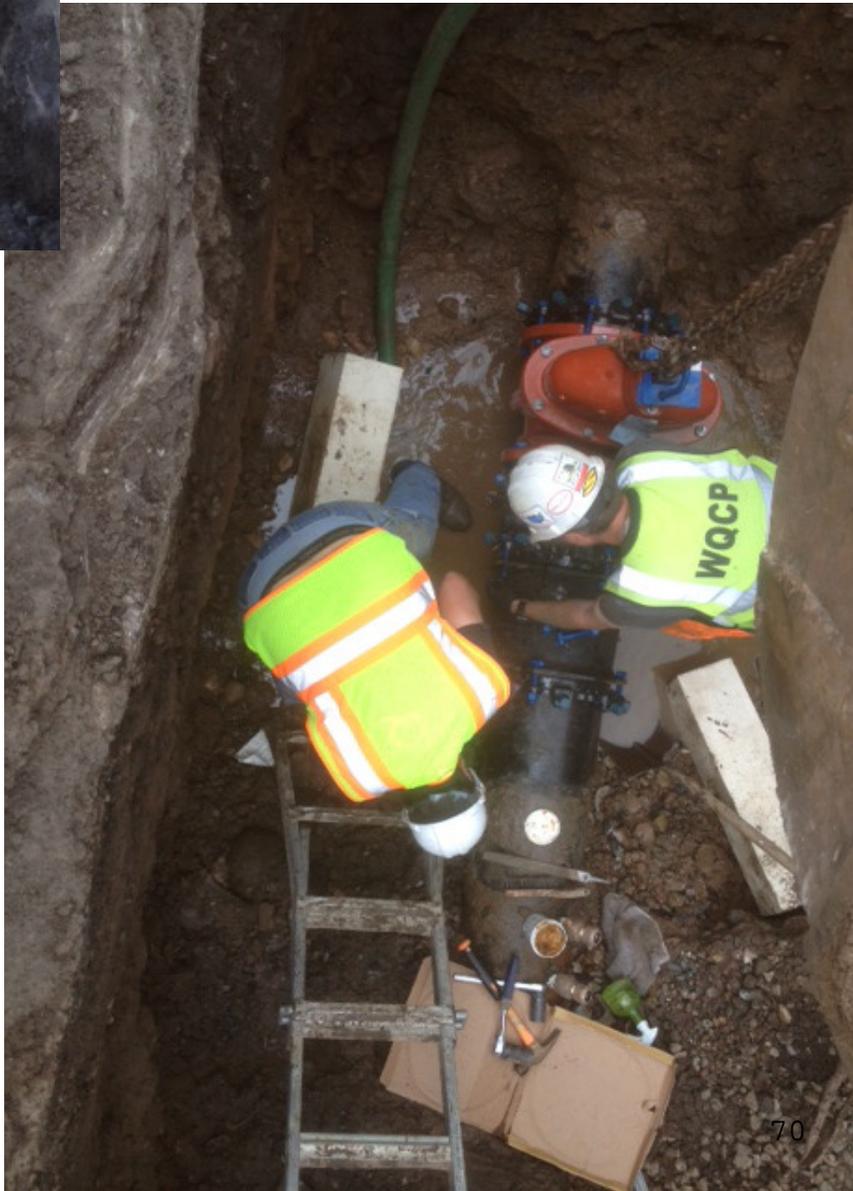
Icon, Inc donated \$5,000.00 in a 1" service line up to 391 Harrison Avenue. THANK YOU ICON!

Public Works Report:

- Harrison Street Looping Project:
Public Works Supervisor, Arnold Martinez did a great job gathering 6 bids for the project and the management of the construction. The Public Works Staff worked with the sub-contractors and did an excellent job. The project was constructed efficiently and cost effective and within a great time frame.
- Public Works set up sand bags on Eagle Park Friday, May 30 due to flooding.
- Public Works has been busy with the preperition and then the managing of Minturn Clean-up on Saturday.

Images of Harrison
Loop Project:





Isolation Valve on Main Street



Town Manager Report

June 4, 2014

Lisa Osborne Resignation

Lisa has announced her resignation, effective sometime before July 1 and giving at least a two week notice. Lisa's departure is for personal reasons, as she and her family are moving to Grand Junction. At my request, Lisa has provided a detailed list of job duties which Staff is reviewing. As you are aware, Lisa is a valuable employee and provides a wide and lengthy list of services. In general, these services can be broken down to the following areas: Police Records Clerk, Police Property Technician, Court Clerk, Public Information Officer, Emergency Management technician, Code Enforcement, and a variety of other duties. Some of the duties will be handled under the contract with ECSO, most particularly Police Property Management.

Code Enforcement

In evaluating the needs for a replacement employee I would like to know from Council their policy direction as it relates to Code Enforcement. Currently it appears that code enforcement is being handled primarily on a complaint basis. Is this the manner in which Council desires for enforcement to be handled? Or does Counsel desire to take a more aggressive approach of: "let's clean up the town. "

At the June 4 meeting we will have a more detailed discussion regarding Council's policy toward code enforcement. In preparation I would offer the following to think about.

- If code enforcement is handled on complaint basis only, certain cases (largely zoning infractions) could lead to a situation of selective enforcement, which can lead to legal problems.
- Code enforcement is somewhat labor intensive. Much documentation and procedure need to be followed. The Code Enforcement Officer will not be successful in court unless careful procedures are followed.
 - Review that the complaint is valid or not.
 - If valid, thoroughly document the infraction.
 - Notify property owner and request voluntary compliance.
 - If no voluntary compliance, demand compliance with a deadline (which can vary depending on the resources required to rectify).
 - Perhaps a second chance.
 - If no compliance issue a citation for Municipal Court.

Other Items

1. It is customary to hold a retreat for Council after council elections and before final preparation of the 2015 budget. We should be thinking of a date so everyone can arrange their schedules accordingly.
2. I would like to meet individually with all Council members. If you can give me a time to meet I would appreciate.