Foxx, Drew

From: Foxx, Drew
Sent: Monday, August 12, 2024 12:41 PM
To: Foxx, Drew
Subject: RE: Record number NAVAR-24-0007

From: Kathy Rountree <kdztree@yahoo.com>
Sent: Friday, August 9, 2024 2:32 PM
To: Foxx, Drew <Drew.Foxx@coloradosprings.gov>
Subject: Re: Record number NAVAR-24-0007

Hey Drew,

Another thought. Their request for a 9-foot accessory structure, on the property line, we are opposed to. It would no doubt affect our property value.

Thank you.

Dan and Kathy Rountree

On Friday, August 9, 2024 at 02:05:45 PM MDT, Kathy Rountree <kdztree@yahoo.com> wrote:

Hi Drew,

It was nice speaking with you the other day. I appreciate all the information about the non-use variance that is being requested under the record number NVAR-24-0007. We wanted to give you some of our preliminary comments, concerns and objections.

We are opposed to their request of eliminating of the 10 -foot setback requirement. We feel that without the 10-foot set-back requirement remaining in place, it could have a major impact on our property value. Also, if an enlarged turnaround is the goal, there should be enough space to do so without eliminating the setback requirement. There is only so much that can be done on the side of a hill.

Thank you.

Dan and Kathy Rountree

October 28, 2024

VIA EMAIL (drew.foxx@coloradosprings.gov)

City of Colorado Springs
Planning and Development
Attn: Drew Foxx
30 S. Nevada Ave., Ste. 701
Colorado Springs, CO 80903

RE: Non-Use Variance Request – Application No. NVAR-24-0007 (1220 Eagle Rock Rd, Colorado Springs, CO 80918)
Kathy & Dan Rountree Submission in Opposition to Variance Request

Dear Mr. Foxx:

As we have discussed, this Submission is made in opposition to the Non-Use Variance Request No. NVAR-24-0007 (the "Request") made by John Fernandez for his property located at 1220 Eagle Rock Rd in Colorado Springs (the "Property"). We live in the neighboring property, 1210 Eagle Rock Rd.

The Request relates to the property line between our property and the Property. In 2003, both properties had common ownership, and a shotcrete retaining wall was created on our property for erosion control. Unrealized at the time, a portion of that wall continued over the property line onto the Property (the "Encroachment").

The Request is to allow for a single-tier 9-foot high wall located within 2 feet of the property line between our property and the Property, in conjunction with removal of the Encroachment. For the reasons set forth in this Submission, we do not believe that the variance is appropriate, and request that it be denied. [Note: we are not arguing that the Encroachment should not be removed. In fact, we have been attempting to resolve this issue with the Fernandezes for many months.]

Mr. Fernandez's purported justifications for the variance include the following:

1. The Encroachment is "extraordinary," "unsafe," renders the Property "unusable," and has caused "damage" because it was "unapproved and unpermitted."
2. The Request is necessary to maintain privacy.
3. The Request (single-tier, 9-ft high, within 2 feet of property line) is the superior solution.

None of these justifications support granting the Request.

A. Overview

We believe that a timeline of relevant events is helpful in attempting to properly evaluate the Request and put it in relevant context [Note: the referenced Exhibits are attached to this Submission]:

Date	Action
12/26/16	John Fernandez confirmed knowledge of encroachment • "Part of the southern retaining wall is built on the other side of the parcel. I am unsure of the impacts at this time from both a construction and city perspective as the final site developmental plan is still in draft. It is roughly 6 feet on the other side of the land boundary." [Ex. 2]
1/3/19	John Fernandez confirmed that he chose not to remove the encroachment and convinced the city not to require it: • "**We had to make some compromises both with the city and the builder so as not to inconvenience our individual property boundaries.** I sent the previous information about part of your concrete wall crossing over based on the latest survey that was done as part of our city required site development plan. **The city initially wanted us to work with you to remove the wall since it disturbed the respective property.** The second option was for us to work together and pay to have each land accomplish a new survey to draw new property boundary lines so the wall would be included on your side. **We did not agree with either of these options and worked with our builder and the city to show that we could have a reasonable excavation plan without disturbing the area.**" [Ex. 3]
10/4/23	Ethan Shafer email re: signed Improvement Location Certificate • Purchased the lot in 2016 with the existing condition [Ex. 4]
4/8/24	Kerri Schott email to John Fernandez • Wall built as 2-tier, altered with shotcrete to further fortify the larger wall • Purchased the property in 2016 with the existing conditions • "And you need to consider how you will construct this wall without crossing neighbor property lines (communication with the neighbor will be important due to the challenges of construction of a tall wall from the other side if the wall is to be located right on the property line)" [Ex. 5]
~5/4/24	Mr. Fernandez removes trees providing privacy [Ex. 6]
5/28/24	Mr. Fernandez submits plan R189939 (two tiered retaining wall system that did not exceed 7' height and fencing) [Ex. 12]

5/31/24	Pikes Peak Regional Building Department approves permit R189939 (two tiered retaining wall system that did not exceed 7' height and fencing) [Ex. 12]
8/8/24	Colorado Springs Planning and Development Report on nonuse variance application • Explain/justify why wall need to exceed 4' • Every effort should be made to limit cut/fall and wall to be no more than 4' or tiered with 4' separation • "**Additional driveway space is not justification.**" [Ex. 8]
8/8/24	Fernandez nonuse variance request/Project Statement • "The geological/physical damage to the property was not due to our fault or negligence on our part. It is considered extraordinary given the physical conditions are measured at 75' long x 15' wide x 5-12' high." • "The end goal is to safely reconstitute the damaged area while minimizing distribution to Hillside features to a functioning and usable conditions that meets city code." • "We would like to safely remove and remediate the area with an approved and documented site plan as part of our property. There is an unknown safety, maintenance, and reliability risk we inherit by the continued existence of the structure on our property." • NOTE: NO mention of driveway • However… attached site plan shows "proposed concrete driveway area: 1,728 sq. ft." [Ex. 7 & 9]
8/27/24	Fernandez nonuse variance request/Project Statement • "The current encroached retaining wall does not align with the goal of '**maintaining the privacy** of homes and safe streets for families' until reconstitution of the area by this request." • NOTE: NO mention of driveway [Ex. 10]
9/10/24	Colorado Springs Planning and Development Report on nonuse variance application • "[P]lease elaborate what aspects of the existing shotcrete wall are 'damaged' or problematic as you refer to it as 'damaged area'." • "**Please clarify why previously approved permit R189939 approved on 5/31/24 as designed/approved is no longer a suitable alternative** (two tiered retaining wall system that did not exceed 7' height and fencing)." [Ex. 11-12]

9/19/24	Entech engineering letter: • "It is the opinion of Entech Engineering, Inc. that a single tiered cast-in-place concrete wall will provide the most structurally sound and economical earth retention system in this area to support the existing conditions **and anticipated driveway expansion**." [Ex. 13]
9/24/24	Colorado Springs Planning and Development Report on nonuse variance application • "Discuss the potential to have to relocate the wall within two-feet of the proposed wall. Please clarify the request to have the option to relocate the wall at or within two-feet of the property line." [Ex. 14]
9/24/24	Fernandez nonuse variance request/Project Statement • Two-tier wall design map • NOTE: NO mention of driveway [Ex. 14 & 15]
10/15/24	Fernandez nonuse variance request/Project Statement • Encroached area is "physically unusable for any purposes until reconstituted." • "A two-tiered wall design requires unnecessary removal of additional native vegetation and trees." ○ 2-tier design will disturb more of the natural vegetation • "unapproved and unpermitted shotcrete" • "must remediate the area disturbed by 1210 Eagle Rock residents" • "unnatural land form ('shotcrete' structure) on the property" • "restore reasonable use of the damaged area" • "extraordinary geological feature" • "project design DOES NOT change any property boundary lines with the surrounding property" • doesn't maintain privacy • encroachment is "unsafe for existing residents and anyone accessing the property" because it was constructed without a permit and violated city code [Ex. 16]

B. Unified Development Code Requirements

The Request is contrary to the requirements of UDC code 7.2.610, which provides that retaining walls are limited to 4 feet in height with no more than two piers separated by 4-6

feet. [Ex. 1 & 8] The Request seeks approval for a wall *over double the height* of the established limit, and within 2 feet of the property line.

C. Mr. Fernandez knew of and had no objection to the Encroachment since shortly after he purchased the Property

Mr. Fernandez's argument—that the Encroachment is unsafe and has damaged the Property—is belied by his admitted knowledge and prior actions. Mr. Fernandez was fully aware of the Encroachment as early as December 26, 2016. [Ex. 2] And as the City has noted on at least 2 occasions, Mr. Fernandez bought the Property with the Encroachment as an existing condition. [Ex.4-5]

Notably, in or around January of 2019, *Mr. Fernandez resisted the City's request that the Encroachment be removed* as part of a proposed Site Development Plan for the Property:

> "**We had to make some compromises both with the city and the builder so as not to inconvenience our individual property boundaries.** I sent the previous information about part of your concrete wall crossing over based on the latest survey that was done as part of our city required site development plan. **The city initially wanted us to work with you to remove the wall since it disturbed the respective property.** The second option was for us to work together and pay to have each land accomplish a new survey to draw new property boundary lines so the wall would be included on your side. **We did not agree with either of these options and worked with our builder and the city to show that we could have a reasonable excavation plan without disturbing the area.**" [Ex. 3]

In light of these facts, Mr. Fernandez's current assertions are insincere at best, and do not justify the Request.

D. The actual reason for the Request

When viewed in context, the Request appears to be driven by Mr. Fernandez's desire to expand the driveway on the Property. Indeed, In May of 2024, Mr. Fernandez requested and received a permit for a two-tiered retaining wall system. [Ex. 12] However, he let that permit expire and requested the variance several months later. Notably, the site plan attached to the initial Request shows an addition of "proposed concrete driveway area: 1,728 sq. ft." [Ex. 9, at p.5]

In its initial response to the Request, however, the City correctly informed Mr. Fernandez that "[a]dditional driveway space is not justification." [Ex. 8] As a result, none of Mr. Fernandez's subsequent submissions mention the driveway. [Ex. 10, 14, 15 & 16] Mr.

Fernandez's engineer, however, confirmed what is driving the Request: the proposed retaining wall is to support "the existing conditions **and anticipated driveway expansion**." [Ex. 13]

E. Mr. Fernandez's is not legitimately concerned with privacy

While Mr. Fernandez identifies the need for privacy as a justification for the Request, again his actions prove otherwise. The area around the Encroachment previously contained several large trees that provided significant privacy between our property and theirs. In or around early May of 2025, however, Mr. Fernandez removed these trees and the privacy they provided. [Ex. 6] Accordingly, Mr. Fernandez's newfound desire for privacy does not justify the Request.

F. The requested 9-ft high single-tier retaining wall is not necessary

Mr. Fernandez initially requested and received a permit for a two-tiered retaining wall. [Ex. 12] In fact, a two-tiered wall would be consistent with existing conditions on the Property, where there it a tiered timber retaining wall on the west side. [Ex. 15]

Yet the Request seeks approval for a wall over double the allowed height, with essentially no set-back from the property line. As discussed above, the only thing that this extreme variance is "necessary" for is the Fernandez's desired driveway expansion.

Based on the reasons set forth in this Submission, we respectfully ask that the Request be denied. We will look forward to further discussing our position at the November 13, 2024 public meeting with the Commissioners.

Kathy & Dan Rountree
1210 Eagle Rock Rd
Colorado Springs, CO 80918

Hillside

UNIFIED DEVELOPMENT CODE (UDC)

(Ord. 23-03)

ARTICLE 7.2 ZONE DISTRICTS

7.2.6 OVERLAY DISTRICTS

7.2.610 HS-O: Hillside Overlay

1. A.

Purpose

The purpose of the HS-O district is to ensure that hillside areas retain their unique character, to safeguard the natural heritage of the City, and to protect the public health, welfare, and safety. Review of development proposals for property within the overlay should recognize the various City Code requirements and the need to balance their application with the physical attributes of the property. The HS-O district may be used with any zone district in the City to meet the following objectives:

1. 1.

   To conserve the unique natural features and aesthetic qualities of the hillside areas;

2. 2.

   To provide safe and convenient access to hillside areas;

3. 3.

   To minimize water runoff and soil erosion problems incurred in adjustment of the terrain to meet development needs;

4. 4.

   To ensure that new development is compatible with the natural systems, the terrain, and the geologic character of hillside areas;

5. 5.

   To encourage innovative design solutions that meet the purpose of the HS-O district; and

6. 6.

   To preserve wildlife habitat and wetland areas that provide wildlife migration corridors.

2. B.

Applicability

1. 1.

   General

   1. a.

      In case of a conflict between the provisions of the HS-O district and the WUI-O district, the provisions of the WUI-O district shall apply.

   2. b.

The standards in the HS-O district apply on a lot-by-lot basis to single-family residential dwellings, and on a development-wide basis to other types of applications.

3. **c.**
No building or structure may be erected, reconstructed, or structurally altered on land in the HS-O district, and land in this overlay district may not be subdivided, graded, or otherwise disturbed for development, subdivision, or any other purpose, unless such construction, subdivision, disturbance, or development complies with the provisions of this Section 7.2.610.

4. **d.**
In the HS-O district, no Building Permits shall be issued and no grading, land disturbance, removal of vegetation, or construction activity may occur on any lot or parcel until:

    1. **(1)**
    A Development Plan for the site is approved;

    2. **(2)**
    A Hillside Site and Grading Plan for the site is approved; and

    3. **(3)**
    The Final Plat is recorded.

2. **2.**
Exemption

The provisions of this Section 7.2.610 shall not apply to:

1. **a.**
Land that is removed from the HS-O district through rezoning pursuant to the procedure in Section 7.5.703 (Zoning Map Amendment (Rezoning)).

2. **b.**
Property that is the subject of an application for a Building Permit, Development Plan, or Subdivision Plat and that the Manager, upon consultation with the City Engineer, the Stormwater Enterprise, Fire Code Official, Traffic Engineering, and Utilities, determines is not characteristic of the hillside area landscape features this Section 7.2.610 is intended to protect and that the exemption will not compromise the ability of the HS-O district to achieve its intended purposes.

3. **c.**
Lots created prior to the original adoption of these hillside regulations on June 6, 1996, and the Manager determines cannot reasonably comply with some of the standards in this Section 7.2.610, in which case the Manager may adjust or exempt the lot from the requirement of compliance with that standard at the time of Building Permit issuance.

3. C.
Land Suitability Analysis

1. **1.**
Purpose

Land Suitability Analysis provides information about the physical characteristics and features of a site to assess impact of proposed development and determine buildable areas. This analysis further determines if preservation areas should be identified to better preserve unique hillside characteristics.

2. 2.

Standards

Each new Land Use Plan, Major Modification to a Land Use Plan, and Hillside Development Plan for any proposed development shall include a Land Suitability Analysis. If the applicant submits a written request for waiver of exceptions to elements of required Land Suitability Analysis, the Manager may waive those elements or approve those exceptions that are not necessary to achieve the purposes of the HS-O district. The Manager may also require additional analysis based on unique location, character, or potential impacts of development on the property.

3. 3.

Components of Land Suitability Analysis

In addition to technical requirements listed on the City's website, the Land Suitability Analysis shall include the following components

1. a.

   Slope Analysis

   Identification of slope ranges for parcels in order to assess the potential number of sites and preservation areas. The evaluation for this Section should consider the intensity of the development, the ability to provide infrastructure and emergency services access. Slope analysis shall be provided in the following increments and use a contour interval of two (2) feet:

   1. (1)

      Zero (0) to eight (8) percent generally suitable for development;

   2. (2)

      Eight (8) to twelve (12) percent increased potential for engineering difficulties; moderate potential for activating site hazards;

   3. (3)

      Twelve (12) to fifteen (15) percent increased potential for engineering difficulties; moderately high potential for activating site hazards;

   4. (4)

      Fifteen (15) to twenty-five (25) percent high potential for activating hazard potential; and

   5. (5)

      Twenty-five (25) and over percent very high potential for development difficulty and severe hazard potential. Development on slopes over twenty-five (25) percent will not be supported.

2. b.

   Vegetation and Wildlife

Grasslands, scrub oak and similar shrubs, and coniferous tree cover are major components of hillside areas. Analysis shall show the physical location of vegetation and the following items:

1. **(1)**
   Identify major vegetation in native ecosystems;
   a. **(a)**
      Scrub Oak (Gambrel Oak);
   b. **(b)**
      Deciduous and evergreen trees between four (4) inches and twelve (12) inches or greater caliper size depending on density of trees onsite; and
   c. **(c)**
      Native grass, ground cover, and shrub massing.
2. **(2)**
   Assessment of the WUI-O district, if applicable; and
3. **(3)**
   Interface of development and native wildlife habitat and migration corridors.

3. **c.**
   Geology Analysis

   Development shall comply with regulations pursuant to Part 7.4.5 GEOLOGICAL HAZARDS.

4. **d.**
   Analysis Package

   Composite map with the various components of the Land Suitability Analysis overlaid on a map to show a composite of opportunities and constraints, along with a written analysis of the existing site features and constraints and how the development of the site will occur in a manner which considers both the opportunities and constraints. The analysis shall also include mitigation for the site's physical constraints and hazards.

4. **D.**
   Hillside Development Plan

In addition to the normal Development Plan submittal requirements, applications for Development Plans in the HS-O district shall also include a Hillside Development Plan showing the following information in compliance with the submission and technical requirements located on the City's website.

1. **1.**
   Building Lots

   The location of building lots and building envelopes on each lot shall comply with the following:

   1. **a.**

Development on slopes greater than twenty-five (25) percent in building envelopes shall be avoided;

2. **b.**
   Preserve significant vegetation and features in preservation easements;
3. **c.**
   Allow variation in front and side yard setbacks along the street frontage where significant vegetation, geologic hazard concerns, or slopes over twenty-five (25) percent exist on the site. Approval of a Non-Use Variance pursuant to Section 7.5.525 (Non-Use Variance) is required to allow setback variation; and
4. **d.**
   Only use retaining walls where necessary. Retaining walls are to be limited to four (4) feet in height with no more than two (2) piers separated by four (4) to six (6) feet.

2. **2.**
   Street Type and Placement

   Streets and driveways must provide adequate vehicular access to each individual building lot. Adequate access will be evaluated based upon compliance with the following standards to the maximum extent feasible:

   1. **a.**
      Driveways should follow the natural contour of the land and should generally minimize the need for cut and/or fill for driveway construction. Cut and fill slopes should be limited to four (4) feet in height and no more than two (2) four- (4) foot tiers in total;
   2. **b.**
      Where retaining walls are used, there should be a minimum horizontal separation of four (4) feet between each tier and the face of the retaining wall shall be screened by vegetation. However, a taller single wall of up to seven (7) feet may be approved when necessary to reduce vegetation removal;
   3. **c.**
      Individual driveways should have a maximum slope of twenty (20) percent and shared driveways should have a maximum slope of fifteen (15) percent. When the driveway serves a required Fire Department access, the width shall be a minimum of twelve (12) feet and the maximum grade shall be twelve (12) percent;
   4. **d.**
      The amount of significant vegetation proposed to be removed should be minimized;
   5. **e.**
      Driveway locations shall facilitate emergency service response. On streets with less than twenty-eight (28) foot mat widths, driveways should be offset to facilitate emergency response; and
   6. **f.**

The inclusion of shared driveways where possible to reduce grading, paving, and site disturbance.

3. 3.

Individual Utility Service Lines

Service lines should be located to minimize the need for grading and for disturbance of significant vegetation and natural features. The retention of the significant vegetation will be the main factor in the evaluation of the utility service line location. A proposed lot may not be approved if a satisfactory utility service line location cannot be agreed upon.

4. 4.

Retention of the Significant Vegetation on Individual Building Lots

On lots with significant existing vegetation the placement of the home should use existing vegetation, particularly in the front yard and streetscape areas, to soften structural mass and maintain vegetation.

5. 5.

Hillside Development Plan Review Criteria

In addition to the criteria in Section 7.5.515 (Development Plan), a Development Plan in the HS-O district shall comply with the following review criteria:

1. **a.**

   The plan is consistent with the spirit and intent of the Hillside Design Manual;

2. **b.**

   The streetscape will retain a hillside character after the street is constructed, including but not limited to retaining existing vegetation and rock features;

3. **c.**

   Disturbance of the existing terrain is minimized;

4. **d.**

   The visual impacts upon offsite areas been reduced or mitigated;

5. **e.**

   Significant ridgelines and other prominent sites within the City have been preserved;

6. **f.**

   Additional measures to mitigate environmental and visual impacts of the development have been included as necessary, based on the nature and location of the development:

   1. **(1)**

      Alternate siting of structures to include increased setbacks from ridgelines;

   2. **(2)**

      Use of significant vegetation to soften structural mass when building sites are located in highly visible areas;

   3. **(3)**

Designation of special height restrictions;

4. **(4)**
   Use of native vegetative cover and retaining walls faced with stone or earth-colored materials as stabilization measures for cuts and fills; and
5. **(5)**
   Alternate street placement to reduce visibility of structures.

7. **g.**
   Significant natural features and the significant vegetation been placed in preservation area easements and any impacts of necessary utility easements through the preservation areas been mitigated to the maximum extent feasible. Because of the terrain in hillside areas, it is recognized that utilities and some drainage improvements may have to be located within an easement. The review will consider the necessity of locating these facilities within the preservation area easement with least amount of disturbance and impact;
8. **h.**
   Geologic, soil, and other natural hazards been identified and mitigated to the maximum extent feasible; and
9. **i.**
   The results of any geologic hazards study required by Part 7.4.5 (Geological Hazards) have been reflected in the plan through avoidance of, or mitigation of impacts related to, those hazards.

5. **E.**

Hillside Site and Grading Plan

1. **1.**
   No construction activity, including grading or removal of vegetation, shall occur on lots or parcels within the HS-O district until a Hillside Site and Grading Plan has been approved by the Manager. The requirement for a Hillside Site and Grading Plan may be waived by the Manager if the change is determined to be a minor disturbance with no grading or removal of vegetation.
2. **2.**
   The Hillside Site and Grading Plan shall contain the content required by the Hillside Design Manual and the approved Development Plan and shall be consistent with the following site design review criteria:
   1. **a.**
      The Plan complies with the development standards of the applicable zone district or Development Plan;
   2. **b.**
      Terrain disturbance has been minimized by minimizing cut and fill, retaining natural land forms, including visually compatible cut and fill stabilization measures, and the incorporation of existing slopes and rock formations into the site design, to the maximum extent feasible. If cut and fill occurs, make every effort to limit the retaining walls to four (4) feet in height with four (4) feet horizontal separation;

3. c.

   Natural vegetation has been preserved and incorporated into the project design, with particular emphasis on preserving healthy and significant stands of scrub oak and pine trees and scrub oak and pine trees in front yard areas; and

4. d.

   Visual impacts upon off-site areas been avoided or reasonably mitigated by locating structures to avoid ridgelines and preserve a mountain or hillside backdrop, and by preserving existing vegetation and/or incorporating supplementary native landscaping to soften the structural mass of buildings located in highly visible areas.

6. F.

Illegal Land Disturbance, Grading, and Vegetation Removal

1. 1.

   No grading or removal of vegetation shall occur on properties subject to the HS-O district unless authorized by a City approved Hillside Site and Grading Plan.

2. 2.

   In addition to any other remedies provided for in this UDC, the Manager may issue a stop work order pursuant to Subsection 7.5.904C (Stop Work Order for Hillside Site and Grading Plan) for violations of this Subsection F.

7. G.

Wildfire Risk Mitigation

1. 1.

   Requirement

   1. a.

      Within the HS-O district, development shall comply with the following provisions for reduction of wildfire risks when located within the WUI-O district.

   2. b.

      Wildfire risk reduction techniques may include measures such as monitored smoke alarm systems and sprinkler systems for all residential occupancies, a minimum Class B on all other occupancies, and fuels management measures within the Safety Zone of applicable new building construction.

2. 2.

   Disclosure Statements

   All Development Plans and Subdivision Plats within the WUI-O district approved on or after April 1, 1993, and Wildland Urban Interface Site Plan/Lot Grading Plans shall contain the following disclosure statements referencing Appendix K of the City of Colorado Springs Fire Prevention Code and Standards:

   "Residing in or near wildland interface or intermix areas involves increased fire risks that may not apply in urban or more urbanized types of developed communities."; and

   "All lots within this development are subject to fuels management requirements. It is the responsibility of the builder to implement the fuels management procedures as

defined in Chapter 8 of the City Code for each lot. Approval inspection must be obtained from the Planning Department prior to Final inspection by the Building Department and allowing occupancy of the residence. The initial fuels management inspection must be requested from the Planning Department prior to framing inspection with subsequent approval obtained prior to building final."

3. 3.

Roof Materials

A Class A roof covering (excluding solid wood roofing products) shall be installed on all residential occupancies and a minimum Class B roof covering shall be installed on all remaining occupancies (not to replace Class A where already required by the Regional Building Code) at the time a permitted roofing or reroofing application is completed.

8. H.

Hillside Building Height

Within the HS-O district permitted heights are as follows:

1. 1.

Maximum building height shall be determined at the time of zoning and Development Plan review and may be reduced based upon consideration of site factors including visual analysis, topography, and proposed height relative to existing vegetation.

2. 2.

For multi-family uses, height shall be determined at the time of zoning and Development Plan review. Maximum building height will be based upon consideration of site factors including visual analysis, topography, and proposed height relative to existing vegetation.

3. 3.

For nonresidential uses, maximum structure height is as permitted in the underlying zone, subject to final determination at the time of Development Plan review. Maximum building height may be reduced based upon consideration of site factors including visual analysis, topography, and proposed height relative to existing vegetation.

4. 4.

Existing single-family zoned lots with approved, unexpired Development Plans or Subdivision Plats approved prior to the original adoption of these building height regulations on June 6, 1996, shall have a maximum permitted height of thirty-five (35) feet. In the event an approved Development Plan restricts building height to less than thirty (30) feet, the maximum height required by the Development Plan shall apply.

Topography of land - south retaining wall

From: John Fernandez (john.fernandez2@gmail.com)

To: kdztree@yahoo.com; jami.fernandez@gmail.com

Date: Tuesday, December 26, 2017 03:45 PM MST

Kathy, I hope you and your family had a great Christmas!

I wanted to give you a friendly heads up that the recent topography survey we had to accomplish on the land as part of the overall site development (grading, erosion, control) plan. Part of the southern retaining wall is built on the other side of the parcel. I an unsure of the impacts at this time from both a construction and city perspective as the final site developmental plan is still in draft. It is roughly 6 feet on the other side of the land boundary. The builder thought it was worth passing along to you given the distance across the boundary and how sensitive the city might be when reviewing our plan. I will keep you updated on the potential impacts. Thanks

John

TOPO; Fernandez; 071217.pdf
173kB

NOTES:

1) Bench Mark: 12" spike set flush with grade as shown hereon. Elevation = 6471.29 (Assumed).

2) No research was performed for easements or rights of way. Easements shown hereon are from the recorded plat.

3) El Paso County Schedule No. 6320002005

4) Address: 1220 Eagle Rock Road, Colorado Springs, CO.

5) This is a topographic map, it is not a Land Survey Plat or Improvement Survey Plat.

SURVEYORS STATEMENT:

I hereby state to John & Sara Fernandez exclusively that this topographic map was prepared by me to the normal standard of care of surveyors practicing in El Paso County, Colorado and is true and correct to the best of my professional knowledge, information and belief.

This statement is neither a warranty or guarantee, either expressed or implied.

Kenneth Gould, Jr.
Colorado Professional Land Surveyor No. 38535
For and on behalf of Compass Surveying and Mapping, LLC

COMPASS SURVEYING & MAPPING, LLC 6015 CHANCELLOR DRIVE COLORADO SPRINGS, CO 80920 719.354.4120 www.compassllc.com	TOPOGRAPHIC MAP	LOT 2, RILEY SUBDIVISION CITY OF COLORADO SPRINGS, EL PASO COUNTY, COLORADO	GRAPHIC SCALE 20 0 10 20 (IN FEET) 1 INCH = 20 FT.	REVISIONS: PROJECT NO. 17-095 JULY 10, 2017 SHEET 1 OF 1

Next Tuesday - Meet/Greet with Excavator

From: John Fernandez (john.fernandez2@gmail.com)

To: kdztree@yahoo.com

Date: Thursday, January 3, 2019 10:45 PM MST

Kathy/Dan,

I hope you had a good Christmas/New Year's holiday season. We had some setbacks with the house both with the state in reviewing the geological report and the builder in charging us more for the long delay before starting to dig. We have overcome the hurdles and look to start digging in the next two weeks. I was hoping either of you were available next Tuesday at 9:00am to review the excavation plan and meet the excavator/construction manager.

We had to make some compromises both with the city and the builder so as not to inconvenience our individual property boundaries. I sent the previous information about part of your concrete wall crossing over based on the latest survey that was done as part of our city required site development plan. The city initially wanted us to work with you to remove the wall since it disturbed the respective property. The second option was for us to work together and pay to have each land accomplish a new survey to draw new property boundary lines so the wall would be included on your side. We did not agree with either of these options and worked with our builder and the city to show that we could have a reasonable excavation plan without disturbing the area. Attached picture shows the plan.

Without removing the wall it did cause us to have a smaller stockpile area for excavation and us having a reduced driveway/turnaround area. As part of our discussion Tuesday, if you are available, we would like to propose an opportunity to move excess dirt directly to the west of your house to not only help reduce our trucking cost but also provide a flat long term parking area for family/friends. This could also be used for parking of construction workers this year. More discussion on Tuesday of that option if you are available Tuesday. Please let me know. Thanks

John

Excavation Plan.JPG
281.2kB

GRADING, EROSION & STORMWATER QUALITY CONTROL PLAN

Lot 2 Rifle Subdivision
El Paso County, Colorado
Tax No. 6132000008

NOTE:
GRADING PLAN SHOWS ONLY PROPOSED IMPROVEMENTS - FINAL CONSTRUCTION MAY VARY.

Warning!!

1. LOCATE UNDERGROUND UTILITIES PRIOR TO EXCAVATION.
2. THIS PLOT PLAN SHOWS IMPROVEMENTS AT GRADE AND GRADING ONLY. SEE FOUNDATION PLANS FOR STRUCTURAL INFORMATION.

LEGEND

- 123 = PROPOSED SPOT ELEVATION
- = LANDSCAPE WALL 4' HIGH OR LESS THAN
- = FINISH GRADES
- = EXISTING CONTOURS

THE LANDSCAPE WALLS AS SHOWN HEREON ARE FOR SITE GRADING PURPOSES. THE SOILS ENGINEER SHOULD BE CONSULTED FOR STRUCTURAL INTEGRITY.

TYPE I RIP RAP SWALE CROSS SECTION DETAIL

GRADING PLANS PREPARED BY:
DAVID E. SPICHER & ASSOCIATES, INC.
PROFESSIONAL ENGINEER NO. 19309

APPLICANT
JOHN AND JAY FERNANDEZ
2482 NORWICH DRIVE
COLORADO SPRINGS, COLORADO 80920-5007

EXISTING TOPOGRAPHY WAS BY LDC, INC.
3500 AUSTIN BLUFFS PARKWAY
COLORADO SPRINGS, COLORADO
719-528-6133

DAVID E. SPICHER & ASSOCIATES, INC.
LAND DEVELOPMENT CONSULTING
PLANNING & ENGINEERING

GRADING

OF 3

Improvement Location Certificate

RE: SIGNED ILC 1220 EAGLE.pdf

2 messages

Shafer, Ethan <Ethan.Shafer@coloradosprings.gov>
To: John Fernandez <john.fernandez2@gmail.com>
Cc: Jami Fernandez <jami.fernandez@gmail.com>, "Schott, Kerri" <Kerri.Schott@coloradosprings.gov>

Wed, Oct 4, 2023 at 11:38 AM

Good morning John,

Thank you for speaking with me on the phone. A recap of our conversation is below:

- Retaining wall
  - It appears that somewhere between the building of the home on 1210 Eagle rock Rd (1999) and 2002 (our oldest aerial imagery), there was a two tier retaining wall that was built across property lines. It appears to later have been improved sometime between 2002-2007 which removed the smaller wall and appeared to use shotcrete to further fortify the larger wall. At this time, both lots were under separate ownership however, the owner of your current lot (or their estate) at the time does not appear to have taken any action on that existing condition. As you purchased this lot in 2016 with the existing condition, we do not have the ability to take any code action on that wall existing across the property line. If it were to have been improved further after your ownership of the lot without your permission, then there may be a possibility for code enforcement action. I have attached a file with aerial imagery from 2002-2023 for reference.
  - Options:
    - As this falls into a civil matter, you would need to work with the other property owner to come to an agreement to do the following:
      - Grant an easement for that wall across your property. This easement could include language that defined responsibility for the wall and maintenance responsibilities for either property owner. As I cannot provide legal advice, I would recommend working with a legal professional on this.
      - Agree to exchange ownership of that portion of the property and do a property boundary adjustment application with our office.

I have cc'd Kerri Schott who is the Planner of the hillside area and can assist with any further planning matters here. Let us know if you have any further questions.

Best,

A picture containing company name. Description automatically generated

Ethan Shafer (he/him)

Planner I – South & Urban Planning Teams

Development Review Enterprise

PM

(719) 385-2234

Links:

Planning & Community Development Home

Land Use Applications Online (LUBOS)

Pre-Application Meeting Request

1

From: John Fernandez
Sent: Tuesday, October 3, 2023 5:10 PM
To: Shafer, Ethan
Cc: John Fernandez
Subject: Re: SIGNED ILC 1220 EAGLE.pdf

CAUTION! - External Email: Malware is most commonly spread through unknown email attachments and links. DO NOT open attachments or click links from unknown senders or unexpected email!

Further, by chance any update on the review?

Thanks

John Fernandez

719-963-6412

On Mon, Oct 2, 2023, 3:26 PM John Fernandez wrote:

---------- Forwarded message ---------
From: John Fernandez
Date: Mon, Oct 2, 2023, 3:26 PM
Subject: SIGNED ILC 1220 EAGLE.pdf
To:

1220 Eagle Rock

1210 & 1220 Eagle Rock Rd.zip
94MB

Cc: Jami Fernandez <jami.fernandez@gmail.com>, "Scholl, Kerri" <Kerri.Scholl@coloradosprings.gov>
Bcc: Erica Smith <Erica@jbakerlawgroup.com>

2023.JPG
Ethan/Kerri, thank you again for taking the time to compile the historical information. We are working the issue through the civil process and are requesting additional information from your office with regard to the identified road access/easement (Parcel B & Orig Survey/8057DP). Attached is the original survey (what was provided to me in purchase of the land at 1220 Eagle Rock) and Parcel B Easement that identifies the road access/easement vastly different than what is currently utilized by 1210 Eagle Rock. Satellite image (2023) from your office detailing road access is provided.

A few questions we would like help on:
Is there a new/approved survey dated after 1998 on file with the city for 1210 Eagle Rock? Or an equivalent ILC post build of the home?
Is there an amended Parcel B (post 1999) access/easement granted to 1210 Eagle Rock approving the alternative road path to the home on file with city?
If there is no record of approved change to the original driveway access/easement is there any sort of city enforcement due to 1210 Eagle Rock not following the approved access requirement? The current road access necessitating a retaining wall that encroaches on my property (1220 Eagle Rock) is the crux of the problem. If the road was never originally intended to be there per the property requirements the retaining wall encroachment would not have happened.
Thank you

John Fernandez
[illegible]
[illegible]

2 attachments

Copy of Parcel B - Easement and Maintenance Agreement.pdf
144K

8057DP.pdf
337K

Mail Delivery Subsystem <mailer-daemon@googlemail.com> Fri, Nov 17, 2023 at 11:37 AM
To: john.fernandez2@gmail.com

Error Icon

Message blocked

Your message to Ethan.Shafer@coloradosprings.gov has been blocked. See technical details below for more information.

The response from the remote server was:

550 5.4.1 Recipient address rejected: Access denied. AS(201806281) [[illegible] 2023-11-17T18:37:14.060Z 08DBE788EA834498]

[illegible] Recipient: 4c822; Ethan.Shafer@coloradosprings.gov
[illegible]

FERNANDEZ_000049

[illegible]
(104.47.54.110, the server for the domain [illegible])
Diagnostic-Code: smtp; 550 5.4.1 Recipient address rejected: Access denied. AS(201806281) [illegible]
[illegible] 2023-11-17T18:37:14.080Z 08DBE78BFAB2A498]
Last-Attempt-Date: Fri, 17 Nov 2023 10:37:15 -0800 (PST)

---------- Forwarded message ----------
From: John Fernandez <john.fernandez2@gmail.com>
To: "Shafer, Ethan" <Ethan.Shafer@coloradosprings.gov>
Cc: Jami Fernandez <jami.fernandez@gmail.com>, "Schott, Kerri" <Kerri.Schott@coloradosprings.gov>
Bcc:
Date: Fri, 17 Nov 2023 17:37:01 -0700
Subject: Re: SIGNED ILC 1220 EAGLE.pdf
----- Message truncated -----

John Fernandez <john.fernandez2@gmail.com> Fri, Nov 17, 2023 at 11:45 AM
To: "Schott, Kerri" <Kerri.Schott@coloradosprings.gov>, Jami Fernandez <jami.fernandez@gmail.com>

Kerri, I did not know that Ethan was no longer with the city. I appreciate your help with my requests or pointing me in the right direction. Thank you

[illegible]
[illegible]

2 attachments

Copy of Parcel B - Easement and Maintenance Agreement.pdf
144K

8057DP.pdf
137K

John Fernandez <john.fernandez2@gmail.com> Mon, Nov 20, 2023 at 9:09 AM
To: [illegible]@coloradosprings.gov

---------- Forwarded message ----------
From: **Shafer, Ethan** <[illegible]>
Date: Wed, Oct 4, 2023 [illegible] AM
Subject: RE: SIGNED ILC 1220 EAGLE.pdf
To: [illegible]
Cc: Jami Fernandez <[illegible]>, Schott, Kerri <Kerri.Schott@coloradosprings.gov>

[illegible]

3 attachments

COLORADO SPRINGS
[illegible] CITY USA

image001.png
29K

COLORADO SPRINGS

image001.png
29K

1210 & 1220 Eagle Rock Rd.zip
948K

John Fernandez <john.fernandez2@gmail.com>
To: not.your.pr@coloradosprings.gov

Mon, Nov 20, 2023 at 9:59 AM

Forward

2 attachments

Copy of Parcel B - Easement and Maintenance Agreement.pdf
144K

8057DP.pdf
337K

OBrien, Molly <MollyOBrien@coloradosprings.gov>
To: John Fernandez <john.fernandez2@gmail.com>

Mon, Nov 20, 2023 at 4:53 PM

Hi John

After looking into this, I think Ethan's original answer still stands in terms of information that I am able to give you. Surveys and ILC's are both privately performed by licensed professionals—we don't have them on file for properties unless there are separate applications being submitted that require a survey or ILC. In this case, I looked at land use applications and building permit sets for both properties, and I couldn't locate any documents relevant to your inquiry. In addition, I was unable to locate anything that would have amended the original subdivision plat or associated access easements. The Riley Subdivision Plat appears to be the most recent action taken through our office, as far as I can tell. I have attached it for reference in case you do not have a copy.

Let me know if you have any questions!

Best,

A picture containing company name Description automatically generated

Molly O'Brien (she/her/hers)

Planner I

Development Review Enterprise

City of Colorado Springs

Office: (719) 385-5562

Gmail John Fernandez <john.fernandez2@gmail.com>

1220 Eagle Rock Rd - Geohaz Report

Schott, Kerri <Kerri.Schott@coloradosprings.gov> Mon, Apr 8, 2024 at 3:41 PM
To: John Fernandez <john.fernandez2@gmail.com>

Hi John,

Nice speaking with you today and thank you for the history and explanation. I did bring this up to my supervisor this afternoon and he is familiar with this property and neighboring property. The following is reiterated:

- While I understand that the neighbor's wall is not in accordance with the original plans, City cannot take code enforcement action on something from 1999 when at the time the owner constructed the walls, they owned both properties. And through the aerial images over time it appears that the wall was built as a two tier retaining wall that was later altered with shotcrete to further fortify the larger wall. And you purchased the property in 2016 with the existing conditions.
- Moving forward, you have two options:
  - Work with your engineer to figure out a way to tier the wall and not exceed 7' height within your property boundaries since code requirement is a 10' side yard setback if you exceed that wall height (best case scenario) or
  - Apply for a non use variance application to allow for a > 7' wall within the side yard setback. This is a 3 week initial review, $575 review fee, public notice to neighbors within 1000 feet of your property boundaries. Followed by a hearing at Planning Commission. You would need to justify as to why you can't meet the code requirements and how you meet the review criteria for a non use variance. And ultimately it would be Planning Commission's discretion whether to approve or not because City Planning staff no longer provides support or denial of an application. This application could take up to a few months and there is not guarantee of an approval. And with public notice, a neighbor could contest to Planning Commission. (See link below to understand the nonuse variance checklist requirements).
- Remember any retaining walls > 4' must be structurally engineered and separately permitted and as mentioned in my previous email would require a hillside site plan stamped by a PE.
- Administrative adjustment (15% relief) is not an option because this application type applies to dimensions standards such as setbacks. Therefore it would only allow a > 7' wall to be located 8.5 feet from the side yard property line instead of the required 10' side yard setback.
- And you need to consider how you will construct this wall without crossing neighbor property lines (communication with the neighbor will be important due to the challenges of construction of a tall wall from the other side if the wall is to be located right on the property line)

Let me know if you have further questions and how you want to proceed. But again working this out with your engineer is best case scenario and maintain 7'.

Thanks

Application & Checklists | City of Colorado Springs

A picture containing company name Description automatically generated

Kerri Schott

Planner II

Development Review Enterprise

City of Colorado Springs

Office: (719) 385-5602

Email: kerri.schott@coloradosprings.gov

Links:

Planning & Community Development Home

Hillside Overlay | City of Colorado Springs

Pre-Application Meeting Request

Please consider the environment before printing this e-mail.

From: John Fernandez <john.fernandez2@gmail.com>
Sent: Thursday, April 4, 2024 9:08 AM

[Quoted text hidden]

[Quoted text hidden]

January 19, 2024

May 4, 2024

Project Statement - 8/8/24

Colorado Springs Planning Commission,

The residents of 1220 Eagle Rock Rd, Colorado Springs CO 80918; John & Jami Fernandez request a non-use variance of allowing a 9 foot high wall within the side yard setback where a 7 foot wall is allowed per City Code 7.4.910.

The 9 ft high wall is required (Fernandez's) to safely retain and reconstitute our property boundary line from a non-permitted encroachment and damaging structure constructed by the residents of 1210 Eagle Rock Rd. The encroachment has caused an approximately 75' long x 15' wide x 5-12' high excavated area within our building envelope (Pic 1). The encroached area is approximately 6% of our building envelope rendering it physically unusable for any purposes until reconstituted. Professional engineering (Retaining Wall Design) assessment, State of Colorado Geological Hazard Report, and property Soils Report have identified the most effective and minimal disturbance to the surrounding geological area is to remediate the property with a 9ft high retaining wall at/or near the highest vertical part of the damaged area. The 9ft high engineered wall safely retains the existing soil while re-establishing the property boundary line. Any lesser height wall or alternative tiered retaining wall variant that meets 10' side yard setback causes unstable and unretainable soil conditions within 1220 Eagle Rock Rd property.

In review of 7.5.526.E Nonuse Variance Review Criteria we provide the following assessment:

1. *The application complies with any standards for the use in Part 7.3.3 (Use-Specific Standards)*
    a. The application complies with Part 7.3.304: Accessory Uses
2. *The property has extraordinary physical conditions that do not generally exist in nearby properties in the same zone district.*
    a. The geological/physical damage to the property was not due to our fault or negligence on our part. It is considered extraordinary given the physical conditions are measured at 75' long x 15' wide x 5-12' high. The area is zoned and governed under City of Colorado Springs Hillside Overlay code which means unique geological features. The end goal is to safely reconstitute the damaged area while minimizing distribution to Hillside features to a functioning and usable conditions that meets city code.
3. *That the extraordinary or exceptional physical condition of the property will not allow a reasonable use of the property in the current zone in the absence of relief.*
    a. The geological/physical damage to the property is part of the building envelope and therefore prohibiting any current use of the area in its existing state. In addition, the "concrete" or "shotcrete" structure that was established has no approved Pikes Peak Regional Biuilding Department permit, City of Colorado Springs Hillside Overlay site plan, or design as part of Residential Certificate of Occupancy documenting the structural soundness or construction of the structure. We would like to safely remove and remediate the area with an approved and documented site plan as part of our property. There is an unknown safety, maintenance, and reliability risk we inherit by the continued existence of the structure on our property.
4. *That the granting of the Non-Use Variance will not have an adverse impact upon surrounding properties.*
    a. The non-use variance will positively impact the surrounding properties by correcting a known non-compliant code issue; constructing/documenting a Hillside Overlay plan that meets Pikes Peak Regional Building Department & City of Colorado Springs

Colorado Springs, CO

Planning and Development
30 S. Nevada Ave., Suite 701
Colorado Springs, CO 80903

Final Report - Corrections Required
Application No. NVAR-24-0007

Report Date: 08/08/2024
Description : Nonuse variance application to allow for a nine (9) foot retaining wall within the required 25-foot front yard setback.
Address : 1220 EAGLE ROCK RD COLORADO SPRINGS CO 80918
Record Type : Non-Use Variance
Document Filename : Project Statement

Comment Author Contact Information:

Reviewer Name	Reviewer Email	Reviewer Phone No.:
Drew Foxx	Drew.Foxx@coloradosprings.gov	-
Jonathan Scherer	Jonathan.Scherer@coloradosprings.gov	-

General Comments

Comment ID	Reviewer : Department	Review Comments
9	Jonathan Scherer : City Engineering - SWENT	Info Only: Please contact the Lead Reviewer, Jonathan, with any questions. Please reference the Planning review number in all communications. Jonathan Scherer (jonathan.scherer@coloradosprings.gov)
10	Jonathan Scherer : City Engineering - SWENT	Info Only: The Stormwater Enterprise (SWENT) has recently updated Criteria regarding required submittals. For all Development Plans (DPs) which previously required a Final Drainage Report (FDR) submittal (generally, all DPs with 1 acre or more of earth disturbance proposed), a Preliminary Drainage Report (PDR) submittal is now acceptable instead of an FDR submittal. This change in Criteria allows for such DPs to be approved without requiring detailed, final drainage design calculations at the planning stage of the project. For DPs with less than 1 acre of earth disturbance proposed, a Final Drainage Letter (FDL) submittal is required. A PDR submittal is now acceptable instead of an FDR submittal in support of a Final Plat (FP). The PDR must be approved before the FP can be recorded. An FDR may still be submitted in support of DP or FP approval if final design information is available at the time of the DP or FP submittal. FDR Addendums are no longer accepted. All required final calculations must be included in the FDR

Comment ID	Reviewer : Department	Review Comments
		prior to FDR approval. FDR approval is still a prerequisite for Construction Drawing (CD) approval (e.g., GEC Plan, Drainage Plan/Profile, PCM Plan, etc.). Master Development Drainage Plans (MDDPs) are no longer required for DPs with 10 or more acres of earth disturbance proposed. Please see SWENT's website for updated checklists: https://coloradosprings.gov/stormwater-enterprise/page/stormwater-review
11	Jonathan Scherer : City Engineering - SWENT	Add non-use variance statement to coversheet.
18	Drew Foxx : Planning	Please consolidate drawings into one plan set.
20	Drew Foxx : Planning	Provide signed posting affidavit

Corrections in the following table need to be applied before a permit can be issued

Comment ID	Page Reference	Reviewer : Department	Review Comments
22	1	Drew Foxx : Planning	Please include an explanation in this project statement as to how it supports goals and policies included in PlanCOS: https://coloradosprings.gov/plancos

Colorado Springs, CO

Planning and Development
30 S. Nevada Ave., Suite 701
Colorado Springs, CO 80903

COLORADO SPRINGS USA

Final Report - Corrections Required
Application No. NVAR-24-0007

Report Date: 08/08/2024
Description : Nonuse variance application to allow for a nine (9) foot retaining wall within the required 25-foot front yard setback.
Address : 1220 EAGLE ROCK RD COLORADO SPRINGS CO 80918
Record Type : Non-Use Variance
Document Filename : Hillside Site Plan_V1_07-16-24

Comment Author Contact Information:

Reviewer Name	Reviewer Email	Reviewer Phone No.:
Zaker Alazzeh	Zaker.Alazzeh@coloradosprings.gov	-
Kerri Schott	Kerri.Schott@coloradosprings.gov	-
James Trimble	James.Trimble@coloradosprings.gov	-
Drew Foxx	Drew.Foxx@coloradosprings.gov	-
Jonathan Scherer	Jonathan.Scherer@coloradosprings.gov	-

General Comments

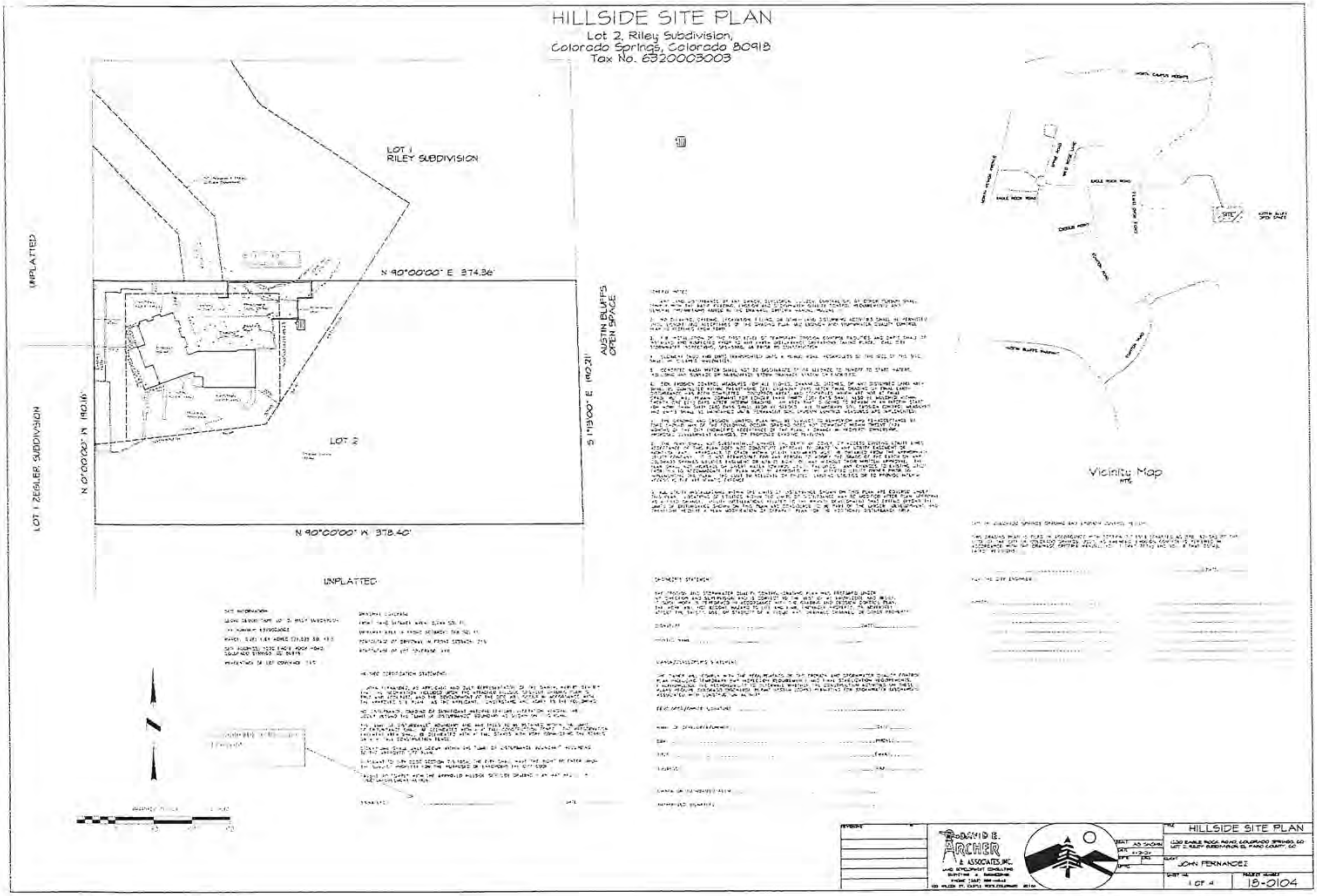
Comment ID	Reviewer : Department	Review Comments
9	Jonathan Scherer : City Engineering - SWENT	Info Only: Please contact the Lead Reviewer, Jonathan, with any questions. Please reference the Planning review number in all communications. Jonathan Scherer (jonathan.scherer@coloradosprings.gov)
10	Jonathan Scherer : City Engineering - SWENT	Info Only: The Stormwater Enterprise (SWENT) has recently updated Criteria regarding required submittals. For all Development Plans (DPs) which previously required a Final Drainage Report (FDR) submittal (generaliy, all DPs with 1 acre or more of earth disturbance proposed), a Preliminary Drainage Report (PDR) submittal is now acceptable instead of an FDR submittal. This change in Criteria allows for such DPs to be approved without requiring detailed, final drainage design calculations at the planning stage of the project. For DPs with less than 1 acre of earth disturbance proposed, a Final Drainage Letter (FDL) submittal is required. A PDR submittal is now acceptable instead of an FDR submittal in support of a Final Plat (FP). The PDR must be approved

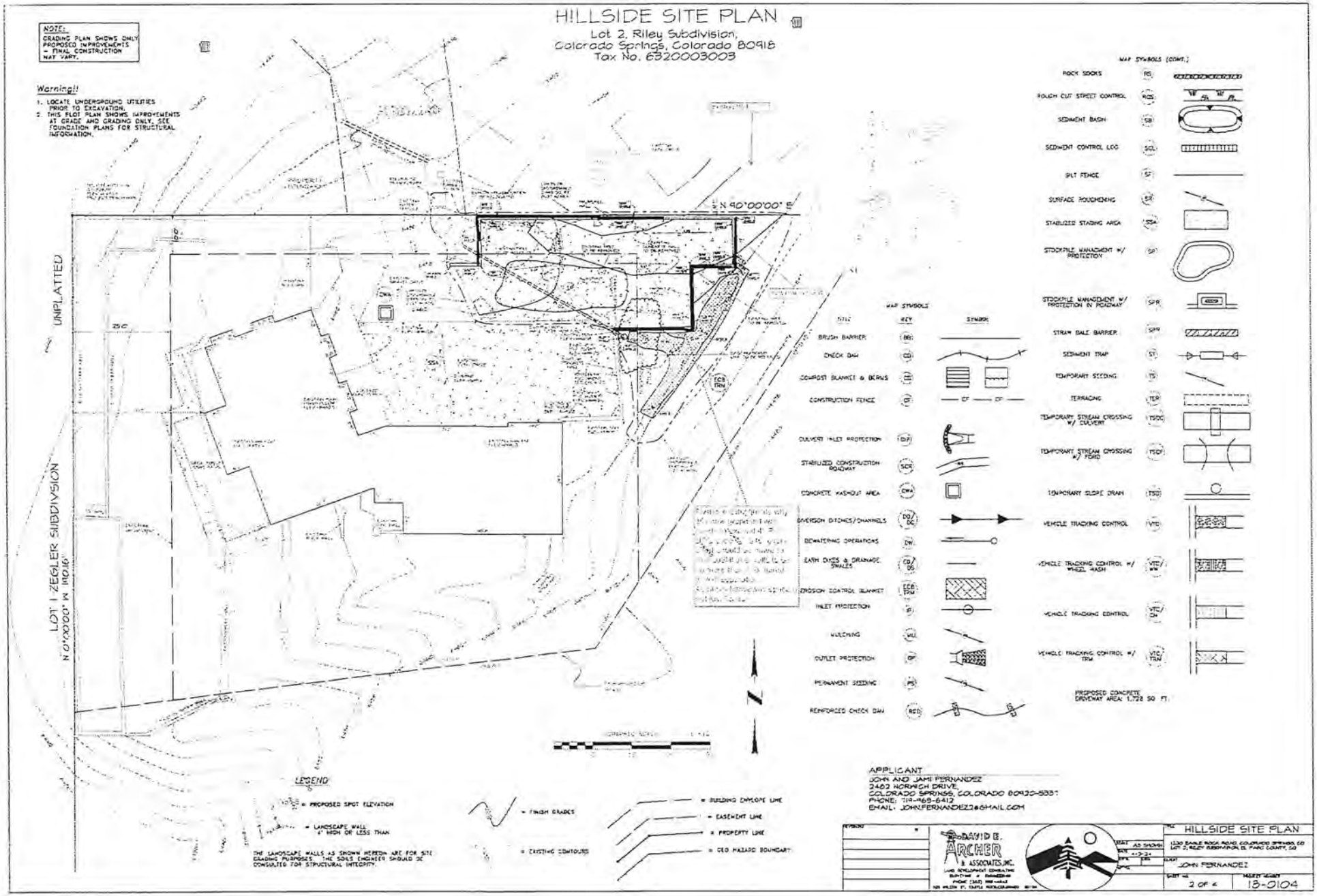
Comment ID	Reviewer : Department	Review Comments
		before the FP can be recorded. An FDR may still be submitted in support of DP or FP approval if final design information is available at the time of the DP or FP submittal. FDR Addendums are no longer accepted. All required final calculations must be included in the FDR prior to FDR approval. FDR approval is still a prerequisite for Construction Drawing (CD) approval (e.g., GEC Plan, Drainage Plan/Profile, PCM Plan, etc.). Master Development Drainage Plans (MDDPs) are no longer required for DPs with 10 or more acres of earth disturbance proposed. Please see SWENT's website for updated checklists: https://coloradosprings.gov/stormwater-enterprise/page/stormwater-review
11	Jonathan Scherer : City Engineering - SWENT	Add non-use variance statement to coversheet.
18	Drew Foxx : Planning	Please consolidate drawings into one plan set.
20	Drew Foxx : Planning	Provide signed posting affidavit

Corrections in the following table need to be applied before a permit can be issued

Comment ID	Page Reference	Reviewer : Department	Review Comments
3	1	Zaker Alazzeh : City Eng - Traffic Engineering	Traffic Engineering has no comments on this item. DP Staff Report final comments: The horizontal sight distance of the access point mee
1	1	James Trimble : Fire	FYI - Reach out to Pikes Peak Regional Building Depa permits that may be required
14	1	Kerri Schott : Planning	Sign/date HS certification statement
15	2	Kerri Schott : Planning	This Hillside Site Plan with the proposed grading needs to be stamped by a P.E.
16	2	Kerri Schott : Planning	Please explain/justify why this new proposed wall needs to exceed 4'. Per UDC code 7.2.610, every effort should be made to limit cut/fill and walls to be no more than 4' or tiered with 4' separation. Additional driveway space is not justification.
17	2	Kerri Schott : Planning	For both the existing/re-engineered wall in the side yard setback as well as the new proposed walls that exceed 4', provide Hillside criteria justification on site plan per UDC 7.2.610: 1. Has terrain disturbance been limited by minimizing cut and fill, retaining natural landforms, including visually compatible cut and fill stabilization measures. If cut and fill occurs, has every effort been made to limit the retaining walls to four (4) feet in height with four (4) feet horizontal separation 2. How has natural vegetation been preserved and incorporated into the project design, with particular emphasis on preserving healthy and significant stands of scrub oak? 3. Has visual impacts upon off-site areas been avoided or reasonably mitigated?

Important


HILLSIDE SITE PLAN
Lot 2, Riley Subdivision,
Colorado Springs, Colorado 80918
Tax No. 6320003003
LOT 1
RILEY SUBDIVISION
UNPLATTED
N 90°00'00" E 374.36'
AUSTIN BLUFFS OPEN SPACE
S 1°13'00" E 190.21'
LOT 2
N 0°00'00" W 190.16'
LOT 1 ZEGLER SUBDIVISION
N 90°00'00" W 378.40'
UNPLATTED
Vicinity Map
DAVID E. ARCHER & ASSOCIATES, INC.
HILLSIDE SITE PLAN
JOHN FERNANDEZ
1 OF 4
18-0104


HILLSIDE SITE PLAN
Lot 2, Riley Subdivision,
Colorado Springs, Colorado 80918
Tax No. 6320003003
NOTE:
GRADING PLAN SHOWS ONLY PROPOSED IMPROVEMENTS - FINAL CONSTRUCTION MAY VARY.
Warning!!
1. LOCATE UNDERGROUND UTILITIES PRIOR TO EXCAVATION.
2. THIS PLOT PLAN SHOWS IMPROVEMENTS AT GRADE AND GRADING ONLY. SEE FOUNDATION PLANS FOR STRUCTURAL INFORMATION.
UNPLATTED
LOT 1 ZEGLER SUBDIVISION
N 90°00'00" E
N 0°00'00" W 190.16'
MAP SYMBOLS
MAP SYMBOLS (CONT.)
ROCK SOCKS
ROUGH CUT STREET CONTROL
SEDIMENT BASIN
SEDIMENT CONTROL LOG
SILT FENCE
SURFACE ROUGHENING
STABILIZED STAGING AREA
STOCKPILE MANAGEMENT W/ PROTECTION
STOCKPILE MANAGEMENT W/ PROTECTION IN ROADWAY
STRAW BALE BARRIER
SEDIMENT TRAP
TEMPORARY SEEDING
TERRACING
TEMPORARY STREAM CROSSING W/ CULVERT
TEMPORARY STREAM CROSSING W/ FORD
TEMPORARY SLOPE DRAIN
VEHICLE TRACKING CONTROL
VEHICLE TRACKING CONTROL W/ WHEEL WASH
VEHICLE TRACKING CONTROL
VEHICLE TRACKING CONTROL W/ TRM
BRUSH BARRIER
CHECK DAM
COMPOST BLANKET & BERMS
CONSTRUCTION FENCE
CULVERT INLET PROTECTION
STABILIZED CONSTRUCTION ROADWAY
CONCRETE WASHOUT AREA
DIVERSION DITCHES/CHANNELS
DEWATERING OPERATIONS
EARTH DIKES & DRAINAGE SWALES
EROSION CONTROL BLANKET
INLET PROTECTION
MULCHING
OUTLET PROTECTION
PERMANENT SEEDING
REINFORCED CHECK DAM
PROPOSED CONCRETE DRIVEWAY AREA: 1,728 SQ. FT.
LEGEND
= PROPOSED SPOT ELEVATION
= LANDSCAPE WALL 4' HIGH OR LESS THAN
THE LANDSCAPE WALLS AS SHOWN HEREON ARE FOR SITE GRADING PURPOSES. THE SOILS ENGINEER SHOULD BE CONSULTED FOR STRUCTURAL INTEGRITY.
= FINISH GRADES
= EXISTING CONTOURS
= BUILDING ENVELOPE LINE
= EASEMENT LINE
= PROPERTY LINE
= GEO HAZARD BOUNDARY
APPLICANT
JOHN AND JAMI FERNANDEZ
2402 NORWICH DRIVE
COLORADO SPRINGS, COLORADO 80920-5837
PHONE: 719-465-6412
EMAIL: JOHNFERNANDEZ2@GMAIL.COM
DAVID R. ARCHER & ASSOCIATES, INC.
HILLSIDE SITE PLAN
1330 EAGLE ROCK ROAD, COLORADO SPRINGS, CO
LOT 2, RILEY SUBDIVISION EL PASO COUNTY, CO
JOHN FERNANDEZ
2 OF 4
18-0104

Project Statement 8/27/24 updated

PLANNING & NEIGHBORHOOD SERVICES – Land Use Review / Non-Use Variance Request – NVAR-24-0007

Colorado Springs Planning Commission,

The residents of 1220 Eagle Rock Rd, Colorado Springs CO 80918; John & Jami Fernandez request a nonuse variance of allowing a 9 foot high wall within the side yard setback where a 7 foot wall is allowed perCity Code 7.4.910.

The 9 ft high wall is required (Fernandez's) to safely retain and reconstitute our property boundary line from a non-permitted encroachment and damaging structure constructed by the residents of 1210 Eagle Rock Rd. The encroachment has caused an approximately 75' long x 15' wide x 5-12' high excavated area within our building envelope (Pic 1). The encroached area is approximately 6% of our building envelope rendering it physically unusable for any purposes until reconstituted. Professional engineering (Retaining Wall Design) assessment, State of Colorado Geological Hazard Report, and property Soils Report have identified the most effective and minimal disturbance to the surrounding geological area is to remediate the property with a 9ft high retaining wall at/or near the highest vertical part of the damaged area. The 9ft high engineered wall safely retains the existing soil while re-establishing the property boundary line. Any lesser height wall or alternative tiered retaining wall variant that meets 10' side yard setback causes unstable and unretainable soil conditions within 1220 Eagle Rock Rd property.

In review of 7.5.526.E Nonuse Variance Review Criteria we provide the following assessment:

1. The application complies with any standards for the use in Part 7.3.3 (Use-Specific Standards)

a. The application complies with Part 7.3.304: Accessory Uses

2. The property has extraordinary physical conditions that do not generally exist in nearby properties in the same zone district.

a. The geological/physical damage to the property was not due to our fault or negligence on our part. It is considered extraordinary given the physical conditions are measured at 75' long x 15' wide x 5-12' high. The area is zoned and governed under City of Colorado Springs Hillside Overlay code which means unique geological features. The end goal is to safely reconstitute the damaged area while minimizing distribution to Hillside features to a functioning and usable conditions that meets city code.

3. That the extraordinary or exceptional physical condition of the property will not allow a reasonable use of the property in the current zone in the absence of relief.

a. The geological/physical damage to the property is part of the building envelope and therefore prohibiting any current use of the area in its existing state. In addition, the "concrete" or "shotcrete" structure that was established has no approved Pikes Peak

Regional Biuilding Department permit, City of Colorado Springs Hillside Overlay site plan, or design as part of Residential Certificate of Occupancy documenting the structural soundness or construction of the structure. We would like to safely remove and remediate the area with an approved and documented site plan as part of our property. There is an unknown safety, maintenance, and reliability risk we inherit by the continued existence of the structure on our property.

4. That the granting of the Non-Use Variance will not have an adverse impact upon surrounding properties.

a. The non-use variance will positively impact the surrounding properties by correcting a known non-compliant code issue; constructing/documenting a Hillside Overlay plan that meets Pikes Peak Regional Building Department & City of Colorado Springs requirements. In addition, the non-use variance re-establishes the property boundary line with the surrounding property.

City Engineering Statement

Note to Colorado Springs City Engineering Development Review (Joel Dagnillo): "The private retaining wall system shall be designed by a Colorado registered professional engineer and the responsibility of the construction and maintenance lies with the developer and property owner. The City of Colorado Springs has not reviewed or approved the design, and the Owner(s) hereby releases and forever discharges, and agrees to indemnify, defend and hold harmless, the City of Colorado Springs, its officers, employees, administrators, representatives, agents, successors and assigns, from any and all damages, injuries or accidents which might arise from the retaining wall system or the Project after issuance of a Building Permit."

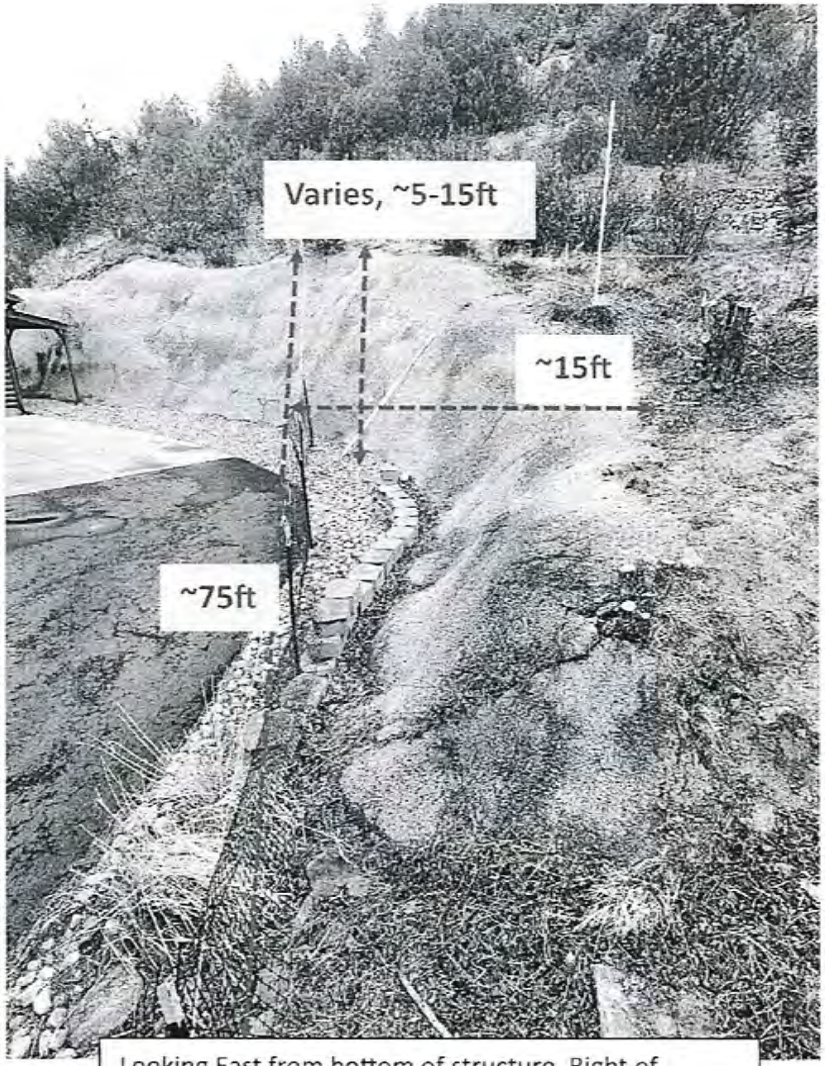
PlanCOS Leading The Way To Our Future Review / Goals & Policies Review

In review of the PlanCOS the "Pulpit Rock" area where 1220 Eagle Rock Rd is located is considered an Established Suburban Neighborhood (Page 45) with the goals: "Suburban Neighborhoods includes those that developed with a suburban pattern, including curvilinear streets with cul-de-sacs. These neighborhoods have matured to the point where they are not actively being developed and no longer have actively managed privately initiated master plans, and ordinarily do not yet have public initiated master plans. These neighborhoods have a high value in maintain the privacy of homes and safe streets for families. New development should focus on safe connections into and within these neighborhoods (Page 40)".

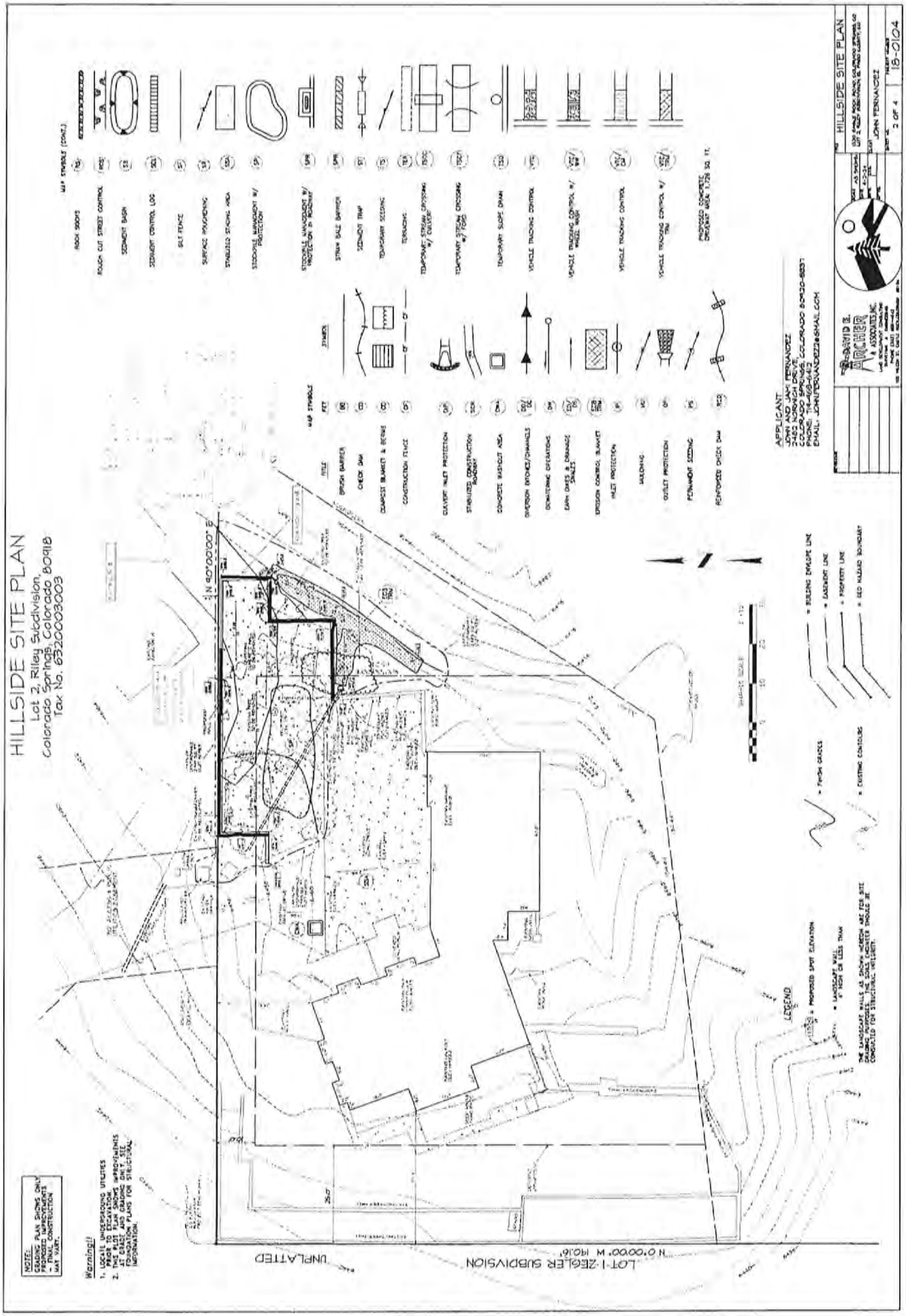
1) Proposed request directly aligns with the goal that there is no existing or planned master plan for Pulpit Rock neighborhood and that individual homeowners are responsible for complying with existing County/City requirements by the submission of this request.
2) The current encroached retaining wall does not align with the goal of "maintaining the privacy of homes and safe streets for families" until reconstitution of the area by this request.
    a. To maintain privacy of homeowners the encroached retaining wall needs to be reconstituted to re-establish property boundary lines and maintain privacy.
    b. To maintain safe streets, the encroached retaining wall needs to be properly and safely constructed to meet City of Colorado Springs and Piked Peak Regional Building Department code. The encroached structure is not safe for existing residents or the safety of others as it was constructed without a permit and against city code.
3) The proposed "new development" by this Non-Use Variance request aligns with the focus to provide "safe connections into and within these neighborhoods" as the request will reconstitute a known safety issue and be City of Colorado Springs/Pikes Peak Regional Building Department Compliant.

John Fernandez Jami Fernandez

Looking West from on top of structure. Left of rope/fence property line is 1220 Eagle Rock (Fernandez) property



Looking East from bottom of structure. Right of rope/fence property line is 1220 Eagle Rock (Fernandez) property

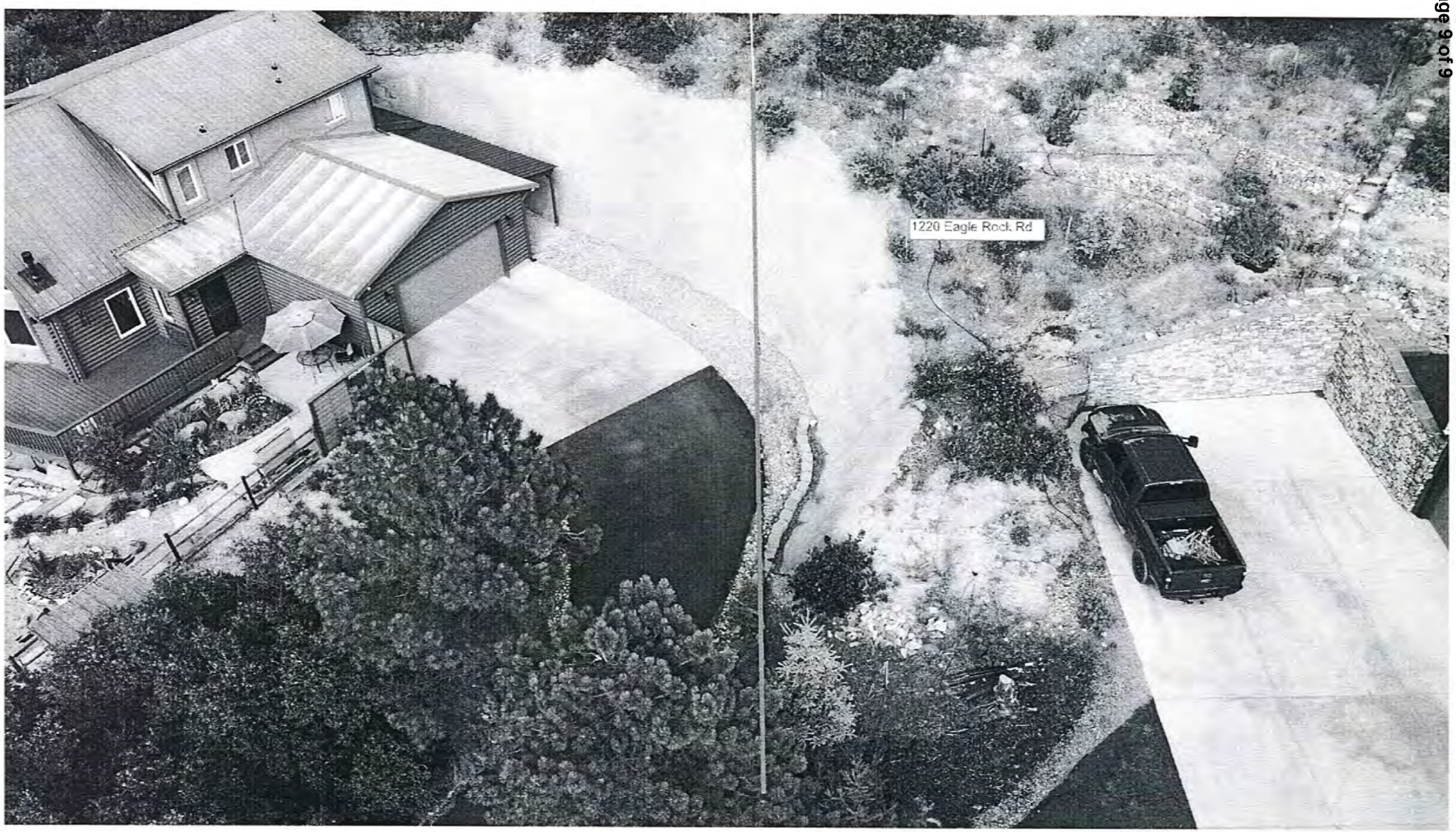

HILLSIDE SITE PLAN
Lot 2, Riley Subdivision
Colorado Springs, Colorado 80918
Tax No. 6320003003
LOT-1-ZEIGLER SUBDIVISION
UNPLATTED
N 0°00'00" W 190.16'
LEGEND
18-0104

Drone Shot

Drone Shot

Drone Shot

Drone Shot



Project Statement 8/8/24 updated

Colorado Springs Planning Commission,

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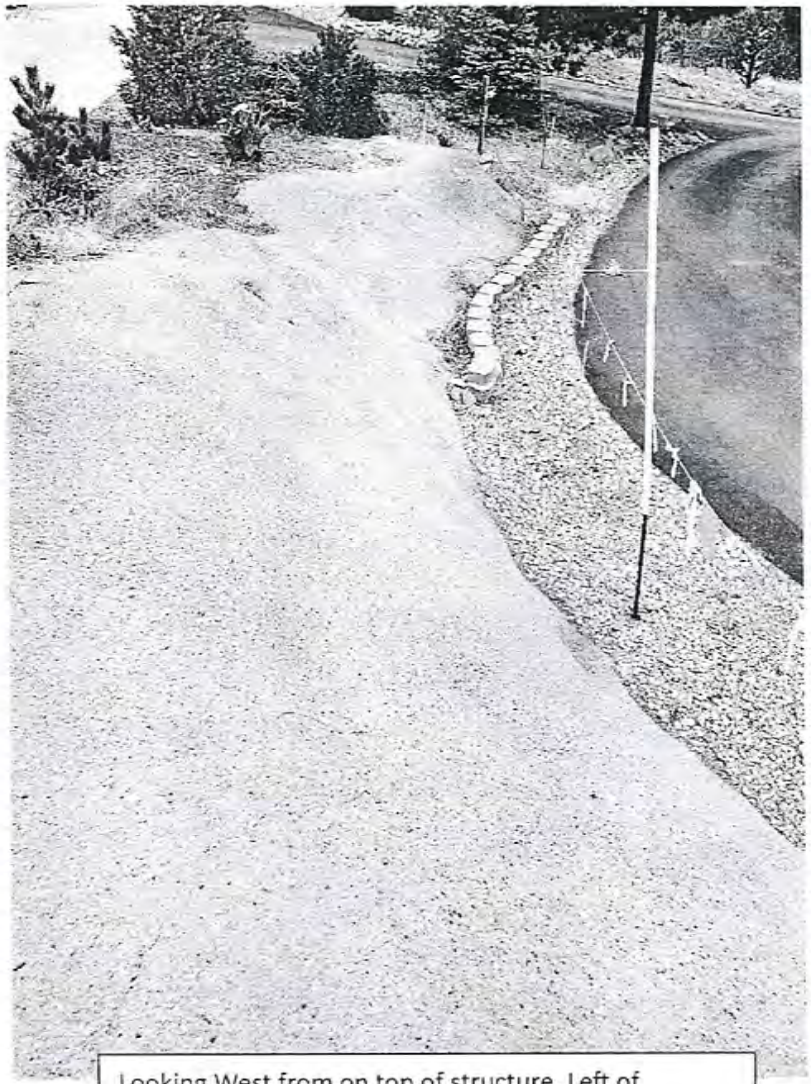
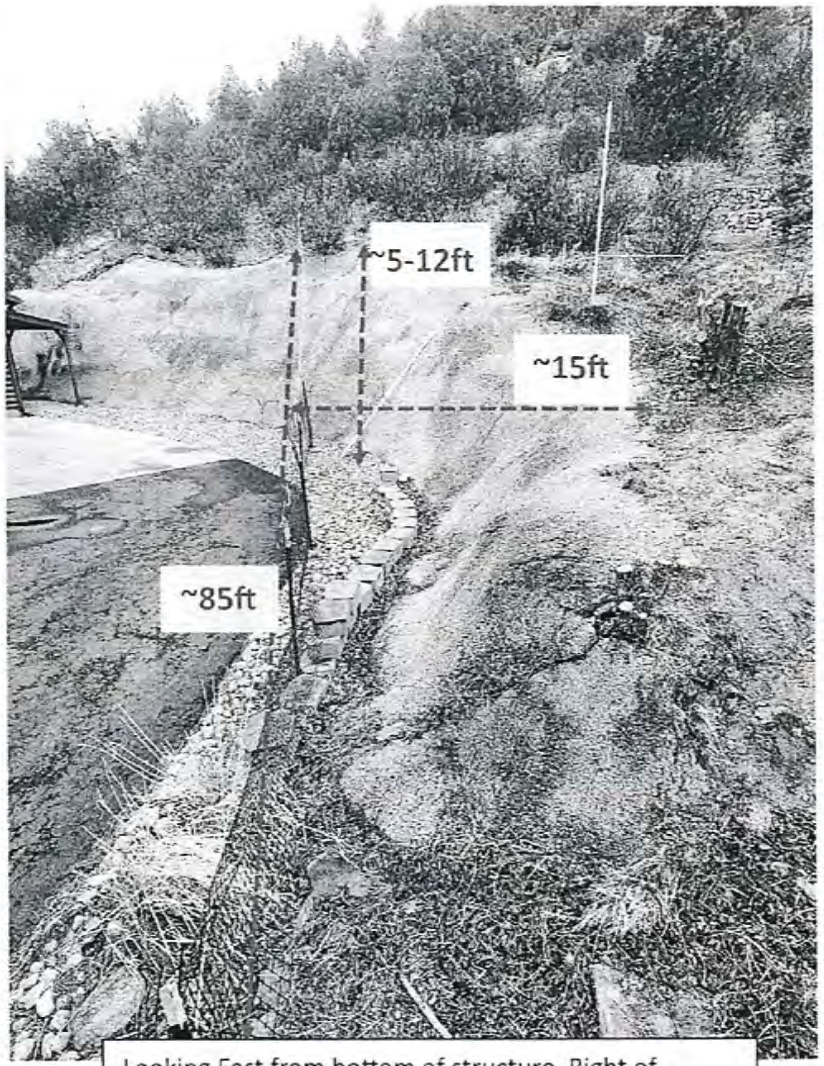
John Fernandez

Jami Fernandez



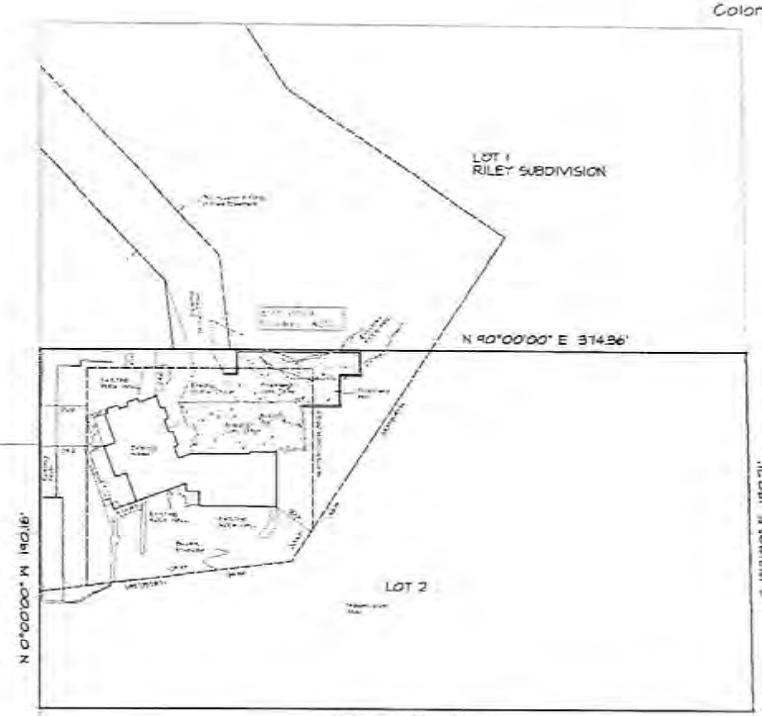
Looking West from on top of structure. Left of rope/fence property line is 1220 Eagle Rock (Fernandez) property



Looking East from bottom of structure. Right of rope/fence property line is 1220 Eagle Rock (Fernandez) property

HILLSIDE SITE PLAN

Lot 2, Riley Subdivision,
Colorado Springs, Colorado 80918
Tax No. 6320003003



Vicinity Map
NTS

GENERAL NOTES:

1. ANY LAND DISTURBANCE BY ANY OWNER, DEVELOPER, BUILDER, CONTRACTOR, OR OTHER PERSON SHALL COMPLY WITH CITY BUILDING, GRADING AND STORMWATER QUALITY CONTROL REGULATIONS AND GRADING AND EROSION CONTROL MANUAL, 'BMM'.

2. NO GRADING, BERMING, EXCAVATION, FILLING, OR OTHER LAND DISTURBING ACTIVITIES SHALL BE PERMITTED UNTIL SPECIFIC AND ADEQUATE DETAILS OF THE GRADING PLAN AND EROSION AND STORMWATER QUALITY CONTROL PLAN IS RELEASED FOR ISSUE.

3. THE INSTALLATION OF ALL FINAL LEVEL OF STORMWATER EROSION CONTROL FACILITIES AND BMPS SHALL BE APPROVED AND ACCEPTED PRIOR TO ANY EARTH DISTURBING OPERATIONS BEING PLACED. CALL CITY ENGINEERING INSPECTION, 385-5980, 48 HOUR NOTIFICATION.

4. SEDIMENT SHALL NOT BE TRACKED ONTO A PUBLIC ROAD, ROADWORKS OF THE SIZE OF THIS SITE SHALL BE CLEANED IMMEDIATELY.

5. CONCRETE WASH WATER SHALL NOT BE DISCHARGED TO BE ADJACENT TO, REACH OF, TO STORM WATER, INCLUDING ANY SURFACE OR SUBSURFACE STORM DRAINAGE SYSTEM OR FACILITIES.

6. NON-EROSION CONTROL MEASURES SUCH AS SURFACE CHANNELS, DITCHES, OR ANY DISTURBED LAND AREA SHALL BE COMPLETED WITHIN SEVENTY-TWO (72) CALENDAR DAYS AFTER FINAL GRADING OF FINAL EARTH DISTURBANCE HAS BEEN COMPLETED. ESTABLISHED MEANS HAVE CONSISTED OF WORK AND MEET ALL FINAL GRADE, PIT, AND, RESERVOIR CONSTRUCTION HAS CEASED FOR MORE THAN THIRTY (30) DAYS, NOTE IN WRITING WITHIN SEVENTY-TWO (72) DAY, STATE WATERS CONCERN. ON AREA THAT IS GOING TO REMAIN IN ITS NATIVE STATE FOR MORE THAN THIRTY (30) DAYS SHALL NOTE AS ABOVE. ALL TEMPORARY SEDIMENT CONTROL MEASURES AND BMP'S SHALL BE MAINTAINED UNTIL PERMANENT SOIL EROSION CONTROL MEASURES ARE IMPLEMENTED.

7. THE GRADING AND EROSION CONTROL PLAN MAY BE SUBJECT TO REVISION AND RESUBMITTAL BY THE CITY IF DEEMED BY THE CITY ENGINEER THAT ON-SITE OR OFF-SITE HAZARDS EXIST NOT CONSIDERED IN THE ORIGINAL PLAN. APPROVAL OF THE CITY ENGINEER'S ACCEPTANCE OF THE PLAN, I CANNOT BE RESPONSIBLE FOR ADDITIONAL PROPOSED CORRECTIVE MEASURES OR ENFORCE GRADING TECHNIQUES.

8. ANY DEVIATION FROM THE APPROVED GRADING PLAN, EROSION CONTROL REPORT, OR STORMWATER QUALITY CONTROL PLAN MAY REQUIRE A RESUBMITTAL OF THE PLAN. ALL REVISIONS MUST BE DISCUSSED AND AUTHORIZED BY THE CITY ENGINEER PRIOR TO IMPLEMENTATION. FAILURE TO OBTAIN APPROVAL FOR REVISIONS MAY RESULT IN A STOP WORK ORDER ON THE PROJECT.

9. ALL EARTH DISTURBANCE WITHIN THE LIMITS OF DISTURBANCE SHOWN ON THIS PLAN ARE SUBJECT TO THE TERMS, CONDITIONS OF SPECIFIC NOTES ON THE LIMITS OF DISTURBANCE MAY BE MODIFIED WHERE PLAN APPROVAL AS A FIELD CHANGE. DEVIATIONS PRIOR TO THE PHYSICAL DISTURBANCE TAKE PLACE REQUIRE THE LIMITS OF DISTURBANCE SHOWN ON THIS PLAN ARE CONSIDERED TO BE PART OF THE OVERALL DEVELOPMENT, THE PROPOSED REVISION IS NOT CONSIDERED AS A SIGNIFICANT REVISION FOR THE ADDITIONAL DISTURBANCE AREA.

OWNER'S STATEMENT:

I/WE HEREBY CERTIFY THAT THE GRADING AND STORMWATER QUALITY CONTROL GRADING PLAN AND PREPARED UNDER MY/OUR DIRECTION AND SUPERVISION AND WAS DESIGNED TO COMPLY WITH THE INTENT OF APPROVED PLANS. IF SUCH WORK IS PERFORMED IN ACCORDANCE WITH THE GRADING AND EROSION CONTROL PLAN, I/WE AGREE TO NOTIFY THE CITY ENGINEER AT LEAST 48 HOURS PRIOR TO THE START OF CONSTRUCTION AFFECT THE WATER, SOIL, OR STRUCTURE SHALL BE MADE AT THE PUBLIC WAY, DRAINAGE STRUCTURE, OR OTHER PROPERTY.

SIGNATURE: _____ DATE: _____

OWNER'S NAME: _____

CONTRACTOR'S STATEMENT:

THE OWNER HAS COMPLETE WITH THE RESPONSIBILITIES OF THIS GRADING AND STORMWATER QUALITY CONTROL PLAN INCLUDING TEMPORARY AND PERMANENT REQUIREMENTS AND FINAL STABILIZATION REQUIREMENTS. I ACKNOWLEDGE THE RESPONSIBILITY OF THE CONTRACTOR AS DEFINED IN THE CONSTRUCTION PLANS. THE PLANS MUST BE DESIGNED BEFORE ANY PERMIT TO BEGIN WORK IS RELEASED FOR ISSUANCE OF ASSOCIATED WITH CONSTRUCTION ACTIVITY.

BY (SIGNATURE/OWNER'S SIGNATURE): _____

NAME OF CONTRACTOR/OWNER: _____ DATE: _____

TITLE: _____ PHONE: _____

FIRM: _____ FAX: _____

ADDRESS: _____ EMAIL: _____

NAME OF AUTHORIZED AGENT: _____

AUTHORIZED SIGNATURE: _____

CITY OF COLORADO SPRINGS GRADING AND EROSION CONTROL REVIEW:

THIS GRADING PLAN IS FILED IN ACCORDANCE WITH SECTION 7.7.101 (CHAPTER 40 OF THE CODE OF THE CITY OF COLORADO SPRINGS, 2001, AS AMENDED, ZONING CONTROL 7.0 ADVANCED IN THE GRADING AND EROSION CONTROL MANUAL, VOL. 1 (MAY 2014) AND VOL. 2 (MAY 2014), AS AMENDED.

FOR THE CITY ENGINEER: _____ DATE: _____

NOTE: _____

SITE INFORMATION

LEGAL DESCRIPTION: LOT 2, RILEY SUBDIVISION

TAX NUMBER: 6320003003

PARCEL SIZE: TAX ACRES (20,909 SQ. FT.)

SITE ADDRESS: 1330 EAGLE ROCK ROAD, COLORADO SPRINGS, CO 80919

PERCENTAGE OF LOT COVERAGE: 11%

DRIVEWAY CALCULATIONS

FRONT YARD SETBACK AREA: 2,474 SQ. FT.

DRIVEWAY AREA IN FRONT SETBACK: 783 SQ. FT.

PERCENTAGE OF DRIVEWAY IN FRONT SETBACK: 31%

PERCENTAGE OF LOT COVERAGE: 11%

I/WE, THE UNDERSIGNED, AS APPLICANT HAS DULY REPRESENTATIVE OF THE OWNER HEREBY STATE BY SIGNING THE "RESPONSIBLE PERSON" BELOW AND ENTERING ALL SITE, LOT GRADING PLAN & PRIOR AND DETAILED, AND FOR DEVELOPMENT OF THE SITE AND, PRIOR TO ANY DISTURBANCE WITH THE APPROVED SITE PLAN, AS THE APPLICANT, I UNDERSTAND AND AGREE TO THE FOLLOWING:

THE SITE SUBMITTED, GRADED BY SIGNATURE INSTALL TEMPORARY/PERMANENT EROSION AND SEDIMENT CONTROL AND, SHOWN BEFORE THE "DATE OF SITE APPROVAL" AS SHOWN ON THIS PLAN.

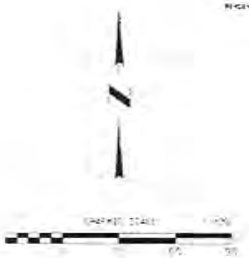
THE "DATE OF SITE APPROVAL" REQUIREMENT AND HAS FAILED TO BE RESTORED WITHIN THE LAST OF DISTURBANCE LINE, OF SITE GRADED WITH A 4" TOPSOIL PROTECTION STRIPS. THE REVEGETATION ENCHANTED AREA SHALL BE DISTURBED WITH A 4" TOPSOIL STRIPPED WITH WORK COMMENCING THE STRIPPED OR A 4" TOPSOIL CONSTRUCTION STRIPS.

EXCEPTIONAL STRIPS WHICH EXCEED WITHIN THE "LIMIT OF DISTURBANCE SHOWN" ACCORDING TO THE APPROVED SITE PLAN.

PURSUANT TO CRS 1201 SECTION 24 WITHIN THE CITY SHALL HAVE THE RIGHT TO ENTER UPON THE SUBJECT PROPERTY FOR THE PURPOSE OF ENFORCING THE 24TH CODE.

FAILURE TO COMPLY WITH THE APPROVED MASTER GRADING PLAN WILL RESULT IN CODE ENFORCEMENT NOTICE.

SIGNATURE: _____ DATE: _____



DAVID J. ARCHER & ASSOCIATES, INC.
LAND DEVELOPMENT CONSULTING
SURVEYING & ENGINEERING
PHONE (719) 635-1450
115 NELSON ST. SUITE 100 COLORADO 80909

SCALE	AS SHOWN
DATE	4-23-24
DRN.	JJH
CHK.	

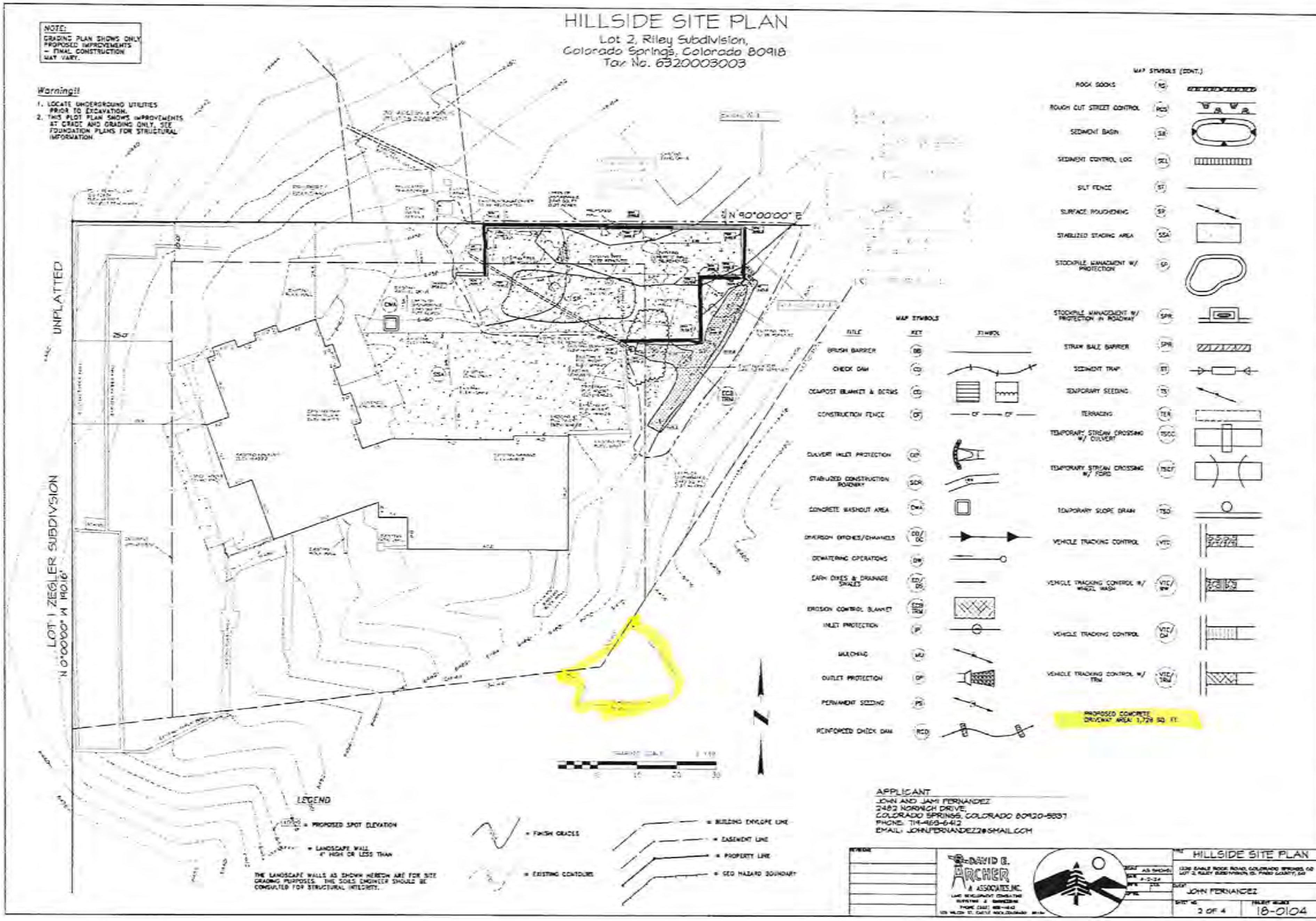
HILLSIDE SITE PLAN

1330 EAGLE ROCK ROAD, COLORADO SPRINGS, CO
LOT 2, RILEY SUBDIVISION, EL PASO COUNTY, CO

JOHN FERNANDEZ

SHEET NO. 1 OF 4

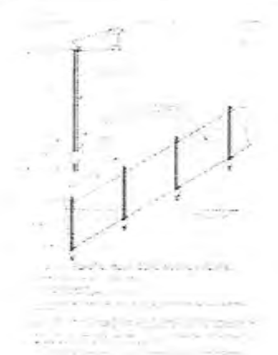
PROJECT NUMBER 18-0104


HILLSIDE SITE PLAN
Lot 2, Riley Subdivision,
Colorado Springs, Colorado 80918
Tax No. 6320003003
NOTE:
GRADING PLAN SHOWS ONLY PROPOSED IMPROVEMENTS – FINAL CONSTRUCTION MAY VARY.
Warning!!
1. LOCATE UNDERGROUND UTILITIES PRIOR TO EXCAVATION.
2. THIS PLOT PLAN SHOWS IMPROVEMENTS AT GRADE AND GRADING ONLY. SEE FOUNDATION PLANS FOR STRUCTURAL INFORMATION.
UNPLATTED
LOT 1 ZEGLER SUBDIVSION
N 0°00'00" W 190.16'
N 90°00'00" E
MAP SYMBOLS
TITLE
KEY
SYMBOL
BRUSH BARRIER
CHECK DAM
COMPOST BLANKET & BERMS
CONSTRUCTION FENCE
CULVERT INLET PROTECTION
STABILIZED CONSTRUCTION ROADWAY
CONCRETE WASHOUT AREA
DIVERSION DITCHES/CHANNELS
DEWATERING OPERATIONS
EARTH DIKES & DRAINAGE SWALES
EROSION CONTROL BLANKET
INLET PROTECTION
MULCHING
OUTLET PROTECTION
PERMANENT SEEDING
REINFORCED CHECK DAM
MAP SYMBOLS (CONT.)
ROCK SOCKS
ROUGH CUT STREET CONTROL
SEDIMENT BASIN
SEDIMENT CONTROL LOG
SILT FENCE
SURFACE ROUGHENING
STABILIZED STAGING AREA
STOCKPILE MANAGEMENT W/ PROTECTION
STOCKPILE MANAGEMENT W/ PROTECTION IN ROADWAY
STRAW BALE BARRIER
SEDIMENT TRAP
TEMPORARY SEEDING
TERRACING
TEMPORARY STREAM CROSSING W/ CULVERT
TEMPORARY STREAM CROSSING W/ FORD
TEMPORARY SLOPE DRAIN
VEHICLE TRACKING CONTROL
VEHICLE TRACKING CONTROL W/ WHEEL WASH
VEHICLE TRACKING CONTROL
VEHICLE TRACKING CONTROL W/ TRM
PROPOSED CONCRETE DRIVEWAY AREA: 1,729 SQ. FT.
N
LEGEND
= PROPOSED SPOT ELEVATION
= LANDSCAPE WALL 4' HIGH OR LESS THAN
= FINISH GRADES
= EXISTING CONTOURS
= BUILDING ENVELOPE LINE
= EASEMENT LINE
= PROPERTY LINE
= GEO HAZARD BOUNDARY
THE LANDSCAPE WALLS AS SHOWN HEREON ARE FOR SITE GRADING PURPOSES. THE SOILS ENGINEER SHOULD BE CONSULTED FOR STRUCTURAL INTEGRITY.
APPLICANT
JOHN AND JAMI FERNANDEZ
2482 NORWICH DRIVE
COLORADO SPRINGS, COLORADO 80920-5837
PHONE: 719-469-6412
EMAIL: JOHNFERNANDEZ2@GMAIL.COM
DAVID E. ARCHER & ASSOCIATES, INC.
HILLSIDE SITE PLAN
JOHN FERNANDEZ
2 OF 4
18-0104

HILLSIDE SITE PLAN

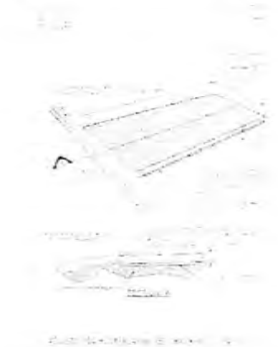
Lot 2, Riley Subdivision,
Colorado Springs, Colorado 80918
Tax No. 6320003003

SM-3 Construction Fence (CF)



Silt Fence (SF) SC-1

Vehicle Tracking Control (VTC) SM-4



Stabilized Staging Area (SSA) SM-6

Concrete Washout Area (CWA) MM-1

Construction Fence (CF) SM-3

SC-1 Silt Fence (SF)

SM-4 Vehicle Tracking Control (VTC)

SM-6 Stabilized Staging Area (SSA)

MM-1 Concrete Washout Area (CWA)

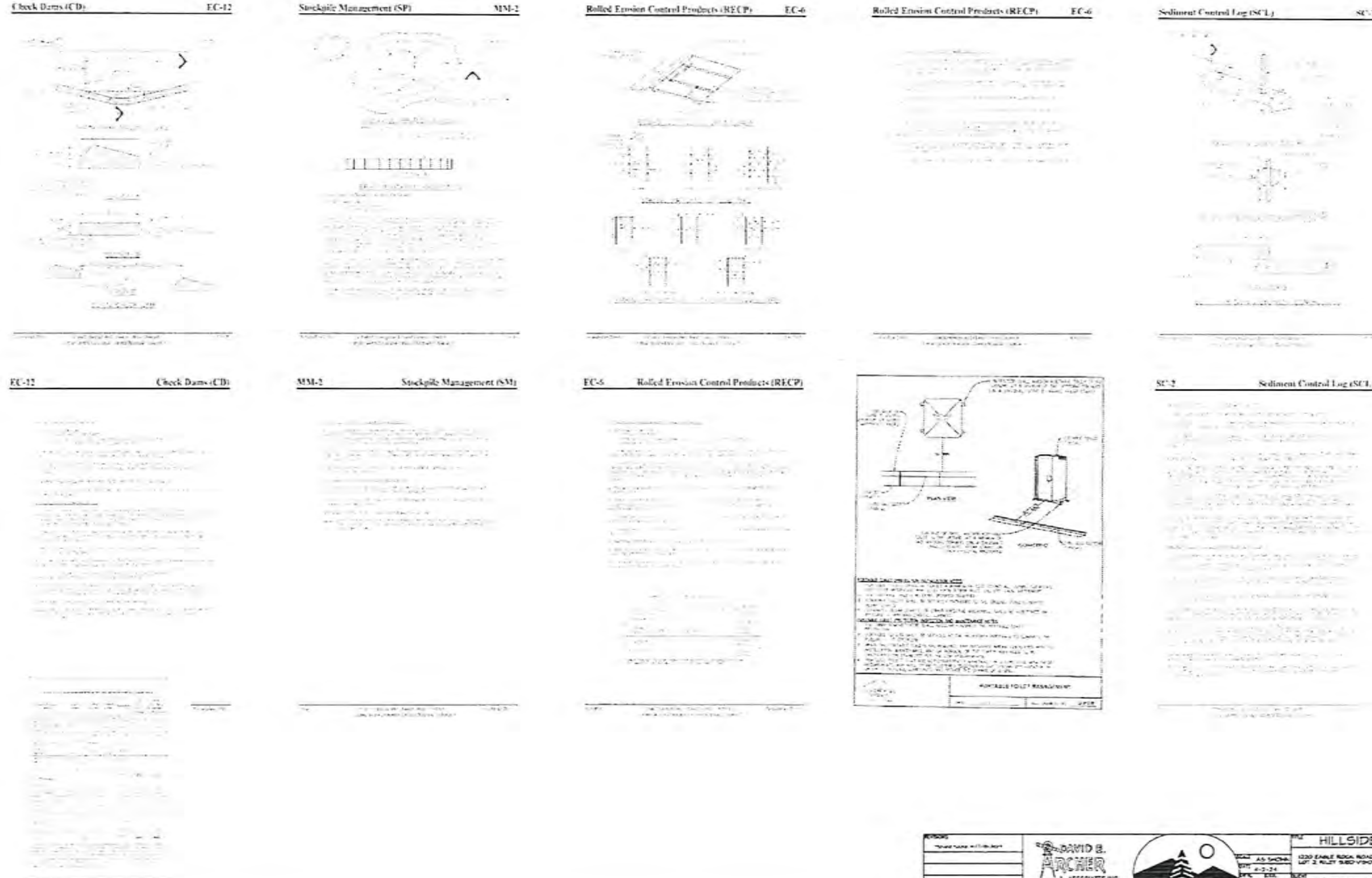
DAVID E. ARCHER & ASSOCIATES, INC. LAND DEVELOPMENT CONSULTING SURVEYING & ENGINEERING	SCALE: AS SHOWN	HILLSIDE SITE PLAN
	DATE: 4-3-24	1020 EAGLE ROCK ROAD, COLORADO SPRINGS, CO LOT 2, RILEY SUBDIVISION, EL PASO COUNTY, CO
		CLIENT: JOHN FERNANDEZ
		SHEET NO. 3 OF 4
		PROJECT NUMBER 18-0104

HILLSIDE SITE PLAN

Lot 2, Riley Subdivision,
Colorado Springs, Colorado 80918
Tax No. 6320003003

Check Dams (CD) EC-12 | Stockpile Management (SP) MM-2 | Rolled Erosion Control Products (RECP) EC-6 | Rolled Erosion Control Products (RECP) EC-6 | Sediment Control Log (SCL) SC-2

EC-12 Check Dams (CD) | MM-2 Stockpile Management (SM) | EC-6 Rolled Erosion Control Products (RECP) | PORTABLE TOILET MANAGEMENT | SC-2 Sediment Control Log (SCL)



DAVID B. ARCHER & ASSOCIATES, INC.

HILLSIDE SITE PLAN

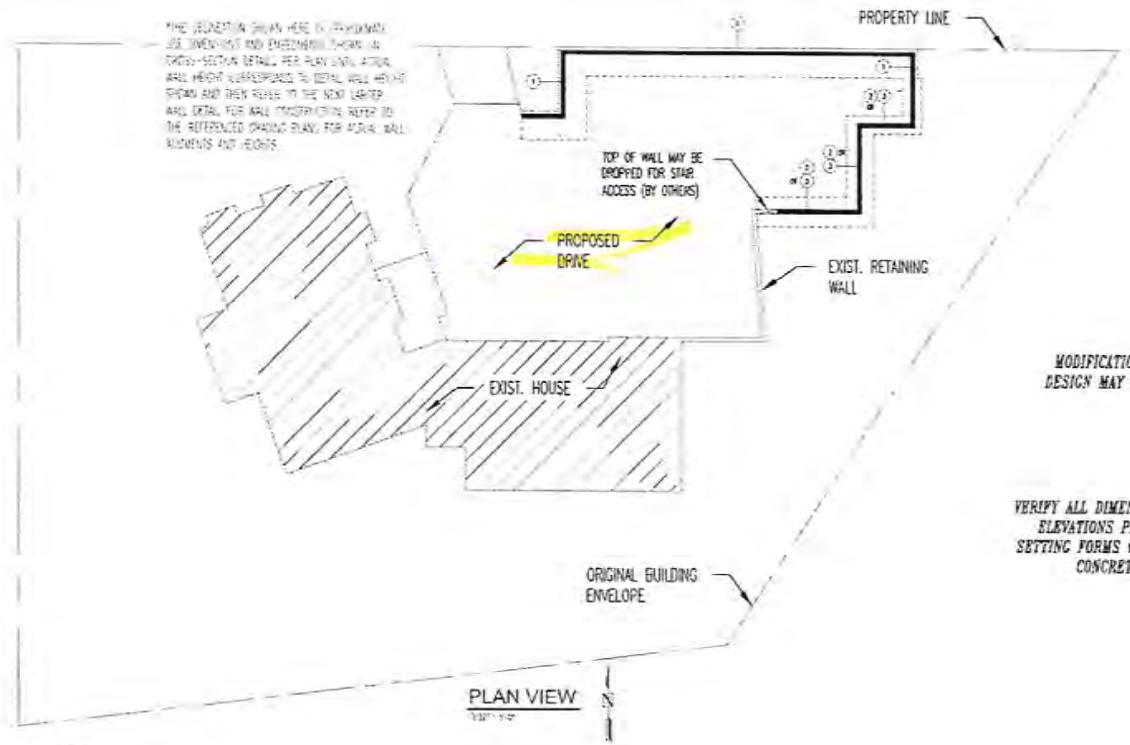
LOT 2 RILEY SUBDIVISION, EL PASO COUNTY, CO

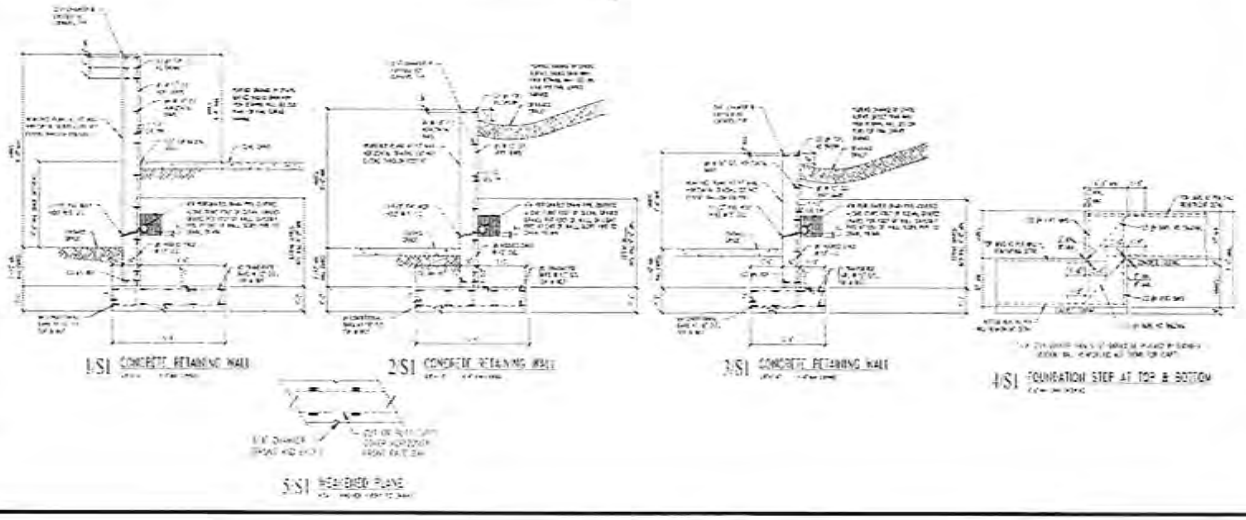
JOHN FERNANDEZ

SCALE: AS SHOWN

SHEET NO. 4 OF 4

PROJECT NUMBER 18-0104



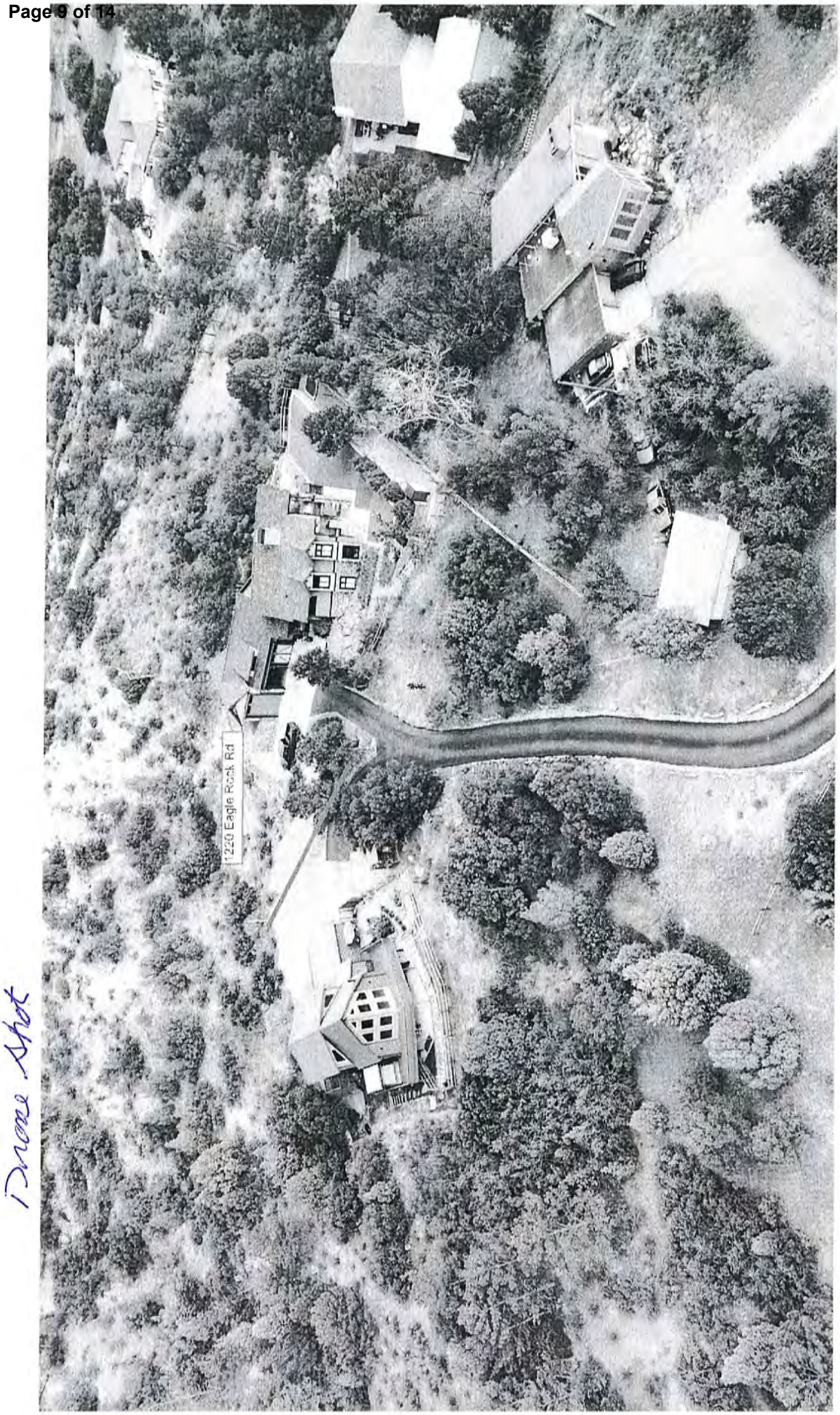


RETAINING WALL DESIGN
1220 EAGLE ROCK ROAD
COLORADO SPRINGS
JOHN FERNANDEZ

ENTECH ENGINEERING, INC.

STATE OF COLORADO

1



Drone Shot

Drone Shot

Drone Shot

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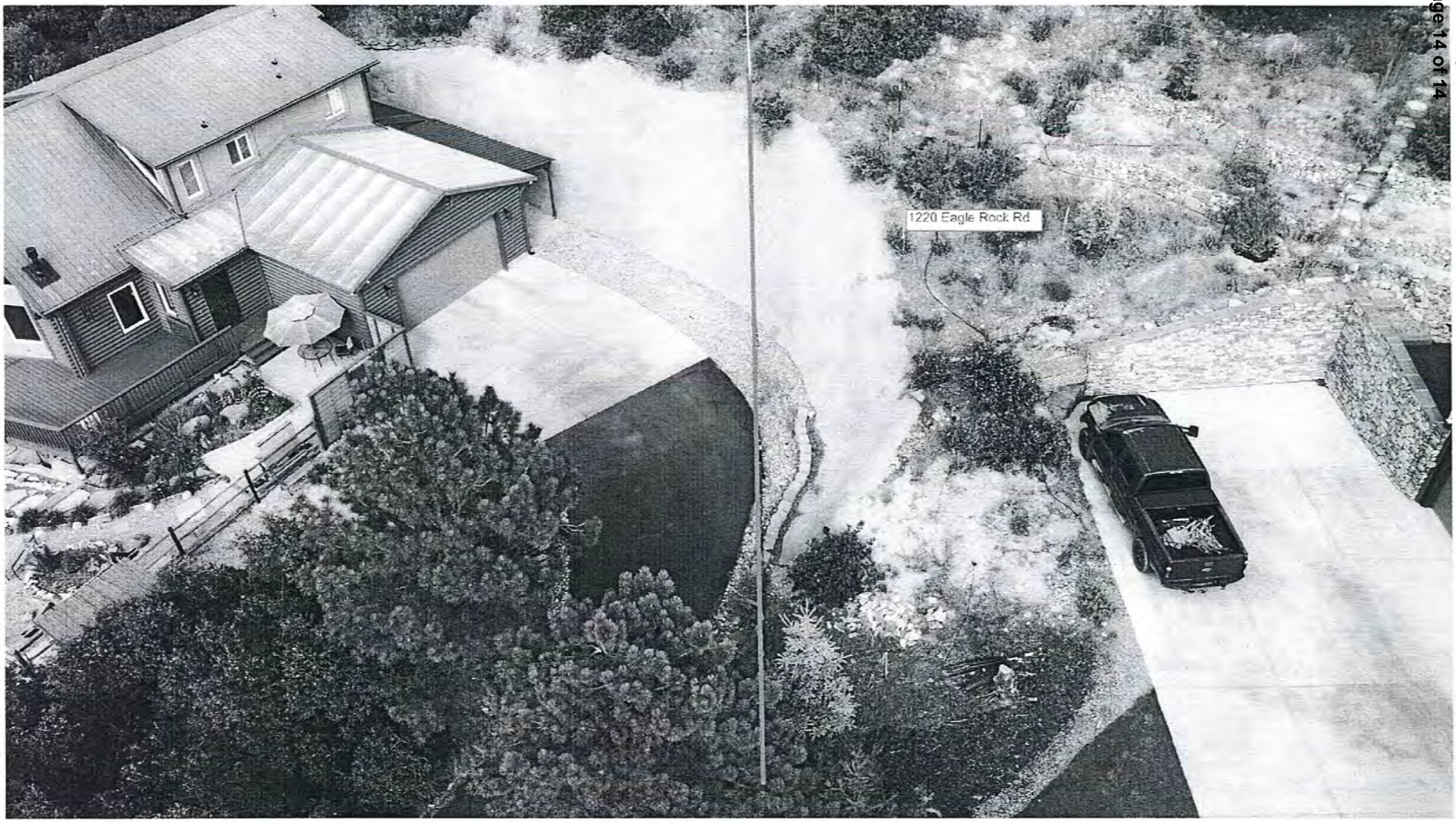


updated 10-15-24.

Project Statement

PLANNING & NEIGHBORHOOD SERVICES – Land Use Review / Non-Use Variance Request – NVAR-24-0007

Updated Request effective 9/30 from City of Colorado Springs Land Use/Hillside Development Team:

The residents of 1220 Eagle Rock Rd, Colorado Springs CO 80918; John & Jami Fernandez request a nonuse variance allowing a 9 foot high wall where a maximum of 4 feet in height for retaining walls within 7.2.6 Overlay Districts, 7.2.610 Section D Hillside Development Plan. This request includes the ability locate the wall along the north property boundary to be within two feet of the property line.

Original Request:

The residents of 1220 Eagle Rock Rd, Colorado Springs CO 80918; John & Jami Fernandez request a nonuse variance of allowing a 9 foot high wall within the side yard setback where a 7 foot wall is allowed per City Code 7.4.910.

Colorado Springs Planning Commission,

The 9 ft high single-wall design is required to safely retain and reconstitute our (Fernandez's) property boundary line from an encroaching "shockrete" structure constructed by the residents of 1210 Eagle Rock Rd. The encroachment has caused an approximately 75' long x 15' wide x 5-12' high excavated area within our building envelope (Picture 1). The encroached area is approximately 6% of our building envelope rendering it physically unusable for any purposes until reconstituted. Pikes Peak Regional Building Department (PPRBD) Deputy Building Official – Plans, Jay Eenhuis PE, confirmed via email (Sept 2024, NVAR-24-007 inclusion) correspondence that unfortunately there is no documentation or approved permits to properly assess the original design, construction, and structural soundness for future remediation incorporation. In addition, we have consulted and received guidance from Colorado Springs Land Use Review team Daniel Sexton, Kerri Schott, and Drew Foxx (May 2024, NVAR-24-007 inclusion) that existing conditions do not currently meet City of Colorado Springs and Hillside Overlay Requirements, nor did they meet requirements at the time of construction.

This nonuse variance request is a culmination of over 8 months of detailed planning, design, evaluation, and requirements review with the City of Colorado Springs Land Use, City Engineering, Storm Water Management, private industry professional geological/structural engineers, and Pikes Peak Regional Building Department officials all with the goal to remediate the area and comply with city code.

We have spent over $3,000 dollars on professional engineers to assess and develop the best suited design to reconstitute this damaged area of our property.

The ideal solution to remediate the area is a single-wall retaining system that removes and incorporates as much of the existing structure while minimizing any additional land disturbance. Austin

Nisokhoff, PE of Entech Engineering professionally designed (Apr 2024, NVAR-24-007 inclusion) a single retaining wall that accomplishes this goal. In support of the design, the City of Colorado Springs City Engineering team (Joel Dagnaillo, Sep 2024 – NVAR-24-007 inclusion, COS Geologic Hazards Study Application) has approved an addendum to existing State of Colorado Geological Hazard Report codifying that the designed wall is best suited for this area. In further support of the design, the City of Colorado Springs Land Use team has approved an addendum (May 2024, NVAR-24-007 inclusion) to the professional engineered stamped (Logan Langford, PE, Entech Engineering) existing Soils Report codifying that the designed wall is best suited for this area. Finally, a formal Site Plan/Grading Erosion Control Plan (Apr 2024, NVAR-24-007 inclusion) was professionally engineered and stamped by Kevin Archer, PE of Archer Engineering in support of the wall design. The formal Grading Erosion Control plan not only complies with Hillside Overlay code but also validates that the single retaining wall design is a necessity for water erosion control as a previous plan for this specific area is not in existence.

Hillside Overlay 7.2.610 Objectives Review

PURPOSE: THE PURPOSE OF THE HS-O DISTRICT IS TO ENSURE THAT HILLSIDE AREAS RETAIN THEIR UNIQUE CHARACTER, TO SAFEGUARD THE NATURAL HERITAGE OF THE CITY, AND TO PROTECT THE PUBLIC HEALTH, WELFARE, AND SAFETY. REVIEW OF DEVELOPMENT PROPOSALS FOR PROPERTY WITHIN THE OVERLAY SHOULD RECOGNIZE THE VARIOUS CITY CODE REQUIREMENTS AND THE NEED TO BALANCE THEIR APPLICATION WITH THE PHYSICAL ATTRIBUTES OF THE PROPERTY. THE HS-O DISTRICT MAY BE USED WITH ANY ZONE DISTRICT IN THE CITY TO MEET THE FOLLOWING OBJECTIVES:

Objective 1: Conserve the unique natural features and aesthetic qualities of the hillside areas

1) This project's goal is to retain as many unique-natural features/aesthetic qualities while remediating the unnatural structure to comply with City of Colorado Springs Hillside Code – Grading, Erosion, Control Plan - Pikes Peak Regional Building Department engineering standards.

Objective 2: Provide safe and convenient access to hillside areas

1) This project's goal is to remediate the area with an engineered and City Colorado Springs/Pike Peak Regional Building Department approved design that meets all safety and engineering standards. The current unnatural area does not provide safe management and access, as it does not meet Hillside Overlay requirements.

Objective 3: Minimize water runoff and soil erosion problems incurred in adjustment of the terrain to meet development needs

1) This project limits terrain disturbance with a design that minimizes cut/fill. The "staggered/stair step" design retains natural landforms, including compatible cut/fill stabilization measures and drainage. This design makes every effort to limit the retaining wall height (varying height design) and to meet Hillside Overlay requirements while also reconstituting identified damaged area from non-permitted "shotcrete" structure.

2) The ability to remediate this area with a City of Colorado Springs/Pike Peak Regional Building Department compliant Grading, Erosion, Soil Control plan is imperative to "minimize water runoff and soil erosion problems" as a previous/current plan does not exist for this area.

3) The staggered/stair step retaining wall design retains as much vegetation as possible, preserving existing scrub oak, native juniper/pine trees in the drainage area. There is no vegetation in the "shockrete" structure area, and the majority of the area is "dead" air space due to the structure.

4) Visual impacts were assessed. This retaining wall design preserves the ridgeline and backdrop views, and does not alter, impact, or change any existing visibility in off-site areas. The new proposed retaining wall will visually match existing 1220 Eagle Rock City of Colorado Springs compliant retaining wall with veneer stone.

Objective 4: To ensure that new development is compatible with the natural systems, the terrain, and the geologic character of hillside areas

1) This design strives to blend in with the natural environment both by being faced with veneer stone and by minimizing wall height to retain the mountainside. In contrast, the existing unnatural and un-permitted "shockrete" in the project area is incompatible with the geological character of the hillside area.

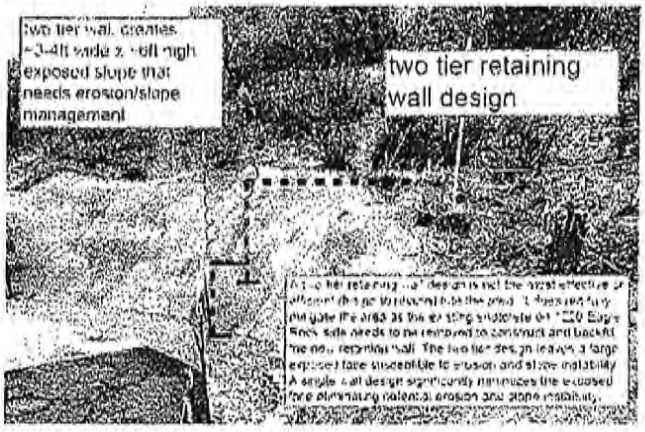
Objective 5: To encourage innovative design solutions that meet the purpose of the HS-O district; and to preserve wildlife habitat and wetland areas that provide wildlife migration corridors

1) This single-wall design is the most innovative design solution to remediate the area and to meet the purposes/intent of the Hillside Overlay. There is minimum wildlife habitat in the defined area as it is predominantly an unnatural landscape feature/shotcrete wall.

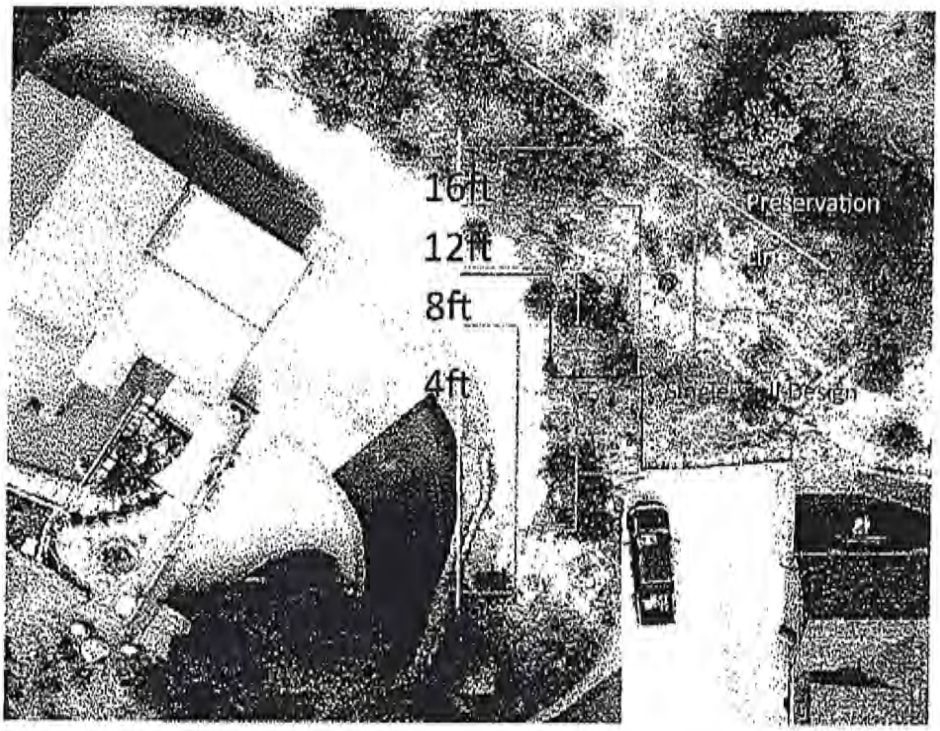
Hillside Overlay and Alternative Designs

Throughout the 8 month design process, we conducted a comprehensive review of the Hillside Design Guide and Overlay requirements in consultation with professional engineers to ensure this design is the most effective and meets all requirements. While a two-tiered wall design satisfactorily meets all Hillside and City code requirements, this project's proposed single-wall design more effectively meets objective 3 of Hillside Overlay by better minimizing water runoff and soil erosion problems incurred in adjustment of the terrain to meet development needs. Because we must remediate the area disturbed by 1210 Eagle Rock residents, a two-tiered wall design makes minimizing water runoff and soil erosion more difficult. **Entech Engineering has provided professional engineering assessment (Sep 24, attachment) that the single-wall design "will provide the most structurally sound and economical earth retention system in this area to support the existing conditions" (Entech Engineering, 19 Sep 2024)**

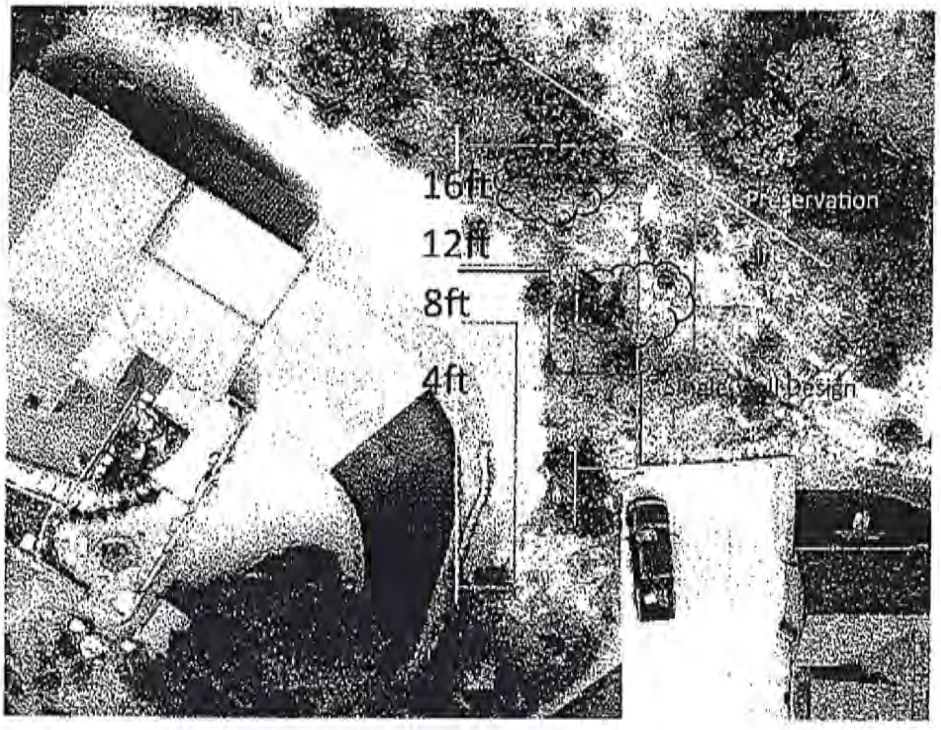
1) **A TWO-TIERED WALL DESIGN CREATES A LARGER THAN NECESSARY EXPOSED FACE ON THE MOUNTAIN SIDE CREATING AN AREA PRONE TO EROSION AND UNSTABLE SOILS**



2) A TWO-TIERED WALL DESIGN REQUIRES ADDITIONAL CUT & FILL DISTURBANCE IN NATIVE/UNDISTURBED AREAS OF THE PROPERTY. THERE IS A POTENTIAL THAT A TWO-TIERED WALL SYSTEM DISTURBS PRESERVATION AREA.

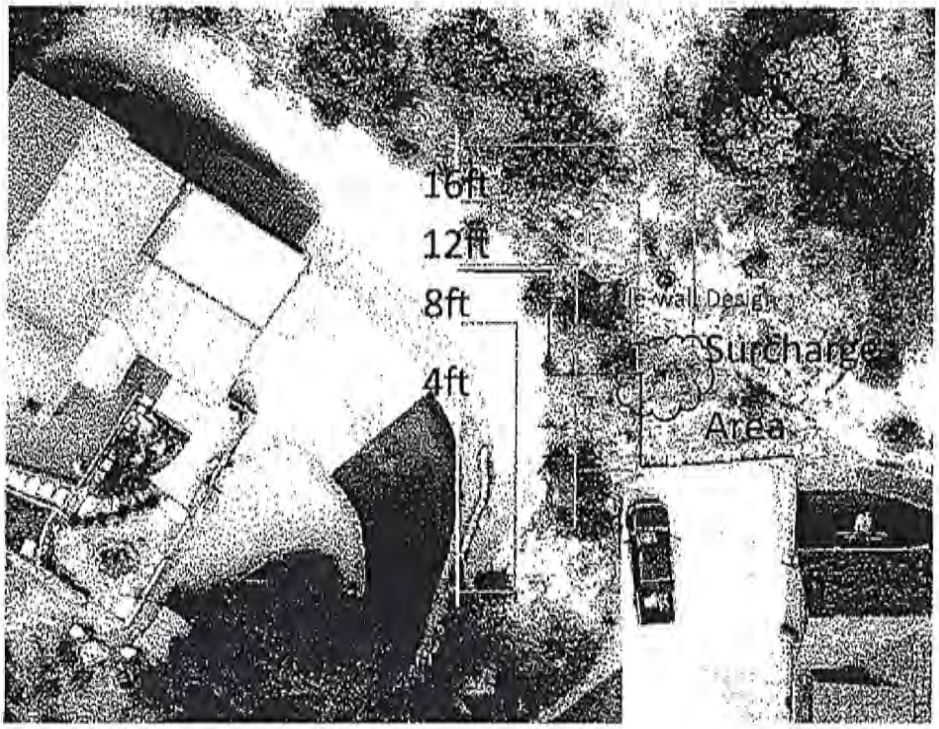


3) A TWO-TIERED WALL DESIGN REQUIRES UNNECESSARY REMOVAL OF ADDITIONAL NATIVE VEGETATION AND TREES.

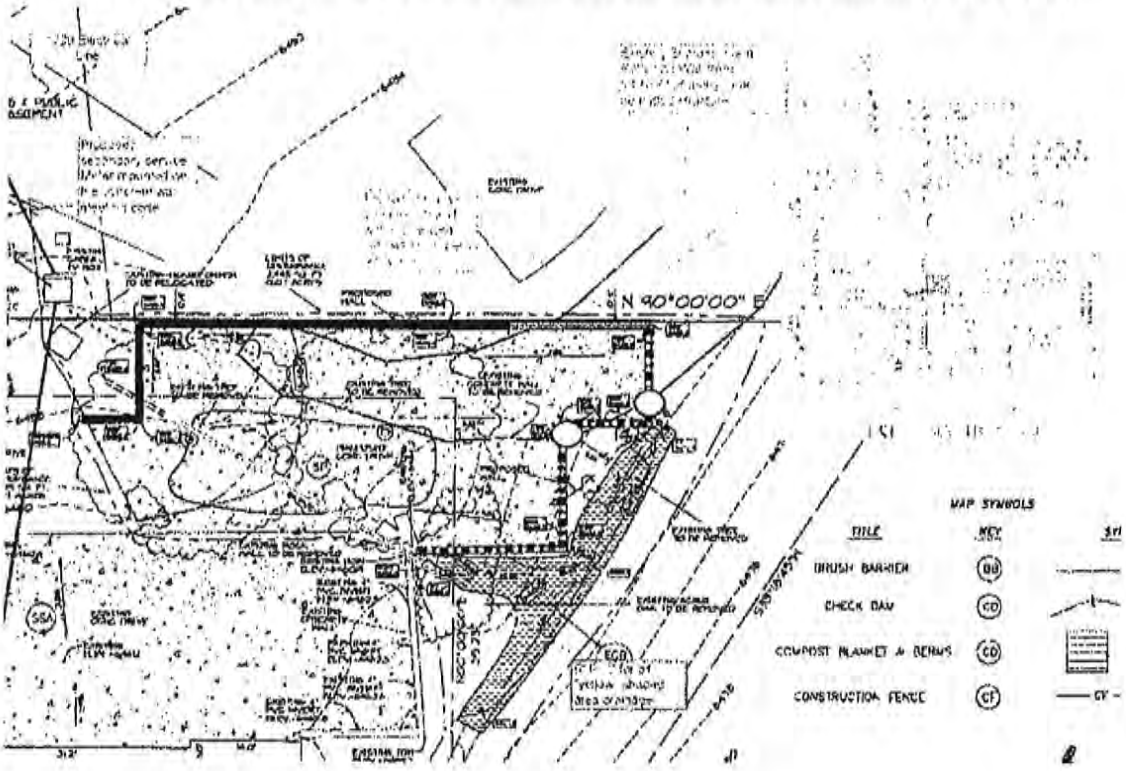


4) A TWO-TIERED WALL DESIGN REQUIRES ADDITIONAL EROSION AND SOIL CONTROL FEATURES AS THE NATURAL GRADE IS COMPROMISED TO DIRECT THE FLOW OF WATER.

5) A TWO-TIERED WALL DESIGN CREATES A HYDROSTATIC SURCHARGE AGAINST THE RETAINING WALLS DUE TO THE THE INABILITY TO TIE INTO THE EXISTING "SHOCKRETE" STRUCTURE.



In support of Hillside Overlay Requirement 7.2.610, the single-wall design minimizes height by allowing a variation (4.5' - 6.5') and what is minimally required during excavation to maintain proper drainage flow and reconstitute the area from the existing structure (dashed blue line). The height variation allowance is necessary to remediate the area in the specific corner areas (yellow circles) as the encroaching structure is greater than 4' in these areas (12'). A 4.5' - 6.5' wall is required to maintain proper drainage per outlined area (yellow) and hillside overlay requirements (6" PVC outlet) with the height of the existing "shockrete" structure on the property (pink). At a max height of 9' only in the corner common to the north side of the property this height in this specific area successfully remediates the property (red).



Hillside Development Plan Review Criteria

In reviewing and meeting Hillside Overlay Requirements per Hillside Overlay 7.2.610 – Hillside Development Plan Review Criteria, the professional engineering staff (Entech Engineering & Archer Engineering) provided the following review and assessments via the previously identified approved documents (Entech Engineering Wall Design, Entech Engineering Geological Hazard Report Addendum, Entech Engineering Soils Report Addendum, and Archer Engineering Grading Erosion Control Plan/Site Plan).

1) *The plan is consistent with the spirit and intent of the Hillside Design Manual*
    a. This single-wall design and all supporting documents strive to meet Hillside Design requirements. In addition, the project will remediate a known area that currently does not meet Hillside Overlay requirements.

2) *The streetscape will retain a hillside character after the street is constructed, including but not limited to retaining existing vegetation and rock features*
    a. The retaining wall will be faced with veneer stone to retain hillside character and rock features. The single-wall design maximizes vegetation preservation and minimizes earth disturbance.
    b. Mr. Patrick Dosh, City of Colorado Springs Hillside Inspector, inspected the project area on-site in June 2024 and confirmed that no disturbance, grading or significant natural feature/vegetation removal will occur beyond the limit of disturbance boundary.
3) *Disturbance of the existing terrain is minimized*
    a. A single-wall design is the most structurally sound and efficient design to minimize cut & fill requirements and minimize soil disturbance.
4) *The visual impacts upon offsite areas been reduced or mitigated*
    a. The visual impacts upon offsite areas are close to equal with either a two-wall design or single-wall design. However, a two-wall design will disturb more of the natural vegetation in the northeast corner of the project area than will a single-wall design, thus the single-wall design best reduces visual impacts to offsite areas.
5) *Significant ridgelines and other prominent sites within the City have been preserved*
    a. There is no disturbance to the defined preservation area or ridgelines/prominent sites.
6) *Additional measures to mitigate environmental and visual impacts of the development have been included as necessary, based on the nature and location of the development.*
    a. The current "shotcrete" structure in the development area does not have an approved Hillside Overlay approval and was not permitted or approved by the City of Colorado Springs as required. Therefore it is difficult to determine if the City of Colorado Springs determines the existing structure as "visually" suitable for the area.
    b. The single biggest impact of the single-wall design is its ability to maintain and manage erosion. As it is, the current area does not have a documented Grading, Erosion, Soil Control Plan. Therefore, unmanaged erosion is mitigated by remediating the area.
    c. The visual impacts upon offsite areas are close to equal with either a two-wall design or single-wall design. However, a two-wall design will disturb more of the natural vegetation in the northeast corner of the project area than will a single-wall design, thus the single-wall design best reduces visual impacts to offsite areas.
    d. Mr. Patrick Dosh, City of Colorado Springs Hillside Inspector, inspected the project area on-site in June 2024 and confirmed that no disturbance, grading or significant natural feature/vegetation removal will occur beyond the limit of disturbance boundary. The limit of disturbance boundary and any trees to be retained within the limit of disturbance shall be delineated with a 4' tall construction fence. The preservation easement area shall be delineated with 4' tall stakes with rope connecting the stakes or a 4' tall construction fence.
7) *Significant natural features and the significant vegetation been places in the preservation area easements and any impacts of necessary utility easements through the preservation areas been mitigated to the maximum extend feasible. Because of the terrain in hillside areas, it is recognized that utilities and some drainage improvements may have to be located within an easement. The review will consider the necessity of locating these facilities within the preservation area easement with the least amount of disturbance and impact.*

a. The defined preservation area will remain undisturbed. The preservation easement area will be delineated with 4' tall stakes with rope connecting the stakes or a 4' tall construction fence.
b. All residential utilities are located outside of the defined remediation area.

8) *Geologic, soil and other natural hazards been identified and mitigated to the maximum extent feasible.*
   a. Unfortunately, the current geological and soil hazards caused by the unapproved and unpermitted "shockrete" structure in the development area are not natural. This plan remediates the area and mitigates the current hazards and poor erosion and soil retainment management caused by the unnatural construction.
9) *The results of any geologic hazards study required by Part 7.4.5 (Geologic Hazards) have been reflected in the plan through avoidance of, or mitigation of impacts related to, those hazards*
   a. A Geological Study was completed and addendum approved in April 2024 for the impacted area.

Hillside Site and Grading Plan

THE HILLSIDE SITE AND GRADING PLAN SHALL CONTAIN THE CONTENT REQUIRED BY THE HILLSIDE DESIGN MANUAL AND THE APPROVED DEVELOPMENT PLAN SHALL BE CONSISTENT WITH HE FOLLOWING SITE DESIGN REVIEW CRITERIA:

1) *The Plan complies with the development standards of the applicable zone district or Development Plan*
   a. The 1.64 acre property is zoned R-E/HS (Single Family - Estate with Hillside Overlay). The plan complies with the development standards of this zone district and the requirements and intent for Hillside criteria.
2) *Terrain disturbance has been minimized by minimizing cut and fill, retaining natural land forms, including visually compatible cut and fill stabilization measures, and the incorporation of existing sloped and rock formations into the site design, to the maximum extent feasible. If cut and fill occurs, make every effort to limit the retaining walls to four (4) feet in height with four (4) feet horizontal separation.*
   a. Given the existence of an unnatural land form ("shotcrete" structure) on the property in the development area, the most efficient and effective design to minimize 1) terrain disturbance, 2) cut and fill requirements, and 3) management of existing sloped areas, a single-wall design at a maximum of 9' is necessary.
   b. By contrast, a two-tiered wall design with two 4-feet high walls with 4 feet of separation increases cut and fill, and makes minimizing water runoff and soil erosion more difficult.
3) *Natural vegetation has been persevered and incorporated into the project design, with particular emphasis on preserving healthy and significant stands of scrub oak and pine trees and in front yard areas.*
   a. Natural vegetation along the limit of disturbance will be preserved to the maximum extent. The single retaining wall design best preserves existing vegetation, as it minimizes cut and fill requirements.
   b. No disturbance, grading or significant natural feature/vegetation removal will occur beyond the limit of disturbance boundary. The limit of disturbance boundary and all trees to be

retained within the limit of disturbance will be delineated with a 4' tall construction fence. The preservation easement area will be delineated with 4' tall stakes with rope connecting the stakes or a 4' tall construction fence.

4) *Visual impacts upon off-site areas been avoided or reasonably mitigated by location structures to avoid ridgelines and preserve a mountain or hillside backdrop, and by preserving existing vegetation and/or incorporating supplementary native landscaping to soften the structural mass of buildings located in highly visible areas.*
   a. All mountain/hillside backdrop is preserved and unobstructed. The retaining wall will be faced with veneer stone to incorporate natural rock features and soften the structural mass of the visible area.
   b. The visual impacts upon offsite areas are close to equal with either a two-wall design or single-wall design. However, a two-wall design will disturb more of the natural vegetation in the northeast corner of the project area than will a single-wall design, thus the single-wall design best reduces visual impacts to offsite areas.

In review of 7.5.526.E Nonuse Variance Review Criteria, we provide the following assessment:

1. THE APPLICATION COMPLIES WITH ANY STANDARDS FOR THE USE IN PART 7.3.3 (USE-SPECIFIC STANDARDS)

   1) The application complies with Part 7.3.304: Accessory Uses

2. THE PROPERTY HAS EXTRAORDINARY PHYSICAL CONDITIONS THAT DO NOT GENERALLY EXIST IN NEARBY PROPERTIES IN THE SAME ZONE DISTRICT.

   1) The geological/physical damage to the property was not our fault, was not caused by us, and was not constructed due to any negligence on our part. It is considered extraordinary given that the physical conditions are measured at 75' long x 15' wide x 5-12' high. The area is zoned and governed under City of Colorado Springs Hillside Overlay code, and the "shockrete" structure does not meet that code (either the current code or the city code in place when the "shockrete" structure was constructed, making it an extraordinary geological feature. This project's end goal is to safely reconstitute the damaged area while minimizing disturbance to Hillside features to create safe and usable conditions that meet all city code requirements.

3. THAT THE EXTRAORDINARY OR EXCEPTIONAL PHYSICAL CONDITION OF THE PROPERTY WILL NOT ALLOW A REASONABLE USE OF THE PROPERTY IN THE CURRENT ZONE IN THE ABSENCE OF RELIEF.

   1) The extraordinary "shockrete" geological/physical damage to the building envelope portion of our property prohibits any reasonable current use of the area in its existing state.
   2) The "shotcrete" structure in the development area has no approved Pikes Peak Regional Building Department permit, City of Colorado Springs Hillside Overlay site plan, or design as part of Residential Certificate of Occupancy documenting the structural soundness or construction of the structure. We would like to safely remove and remediate the area with an approved and documented site plan so that we can restore reasonable use of the damaged area.

3) There is an unknown safety, maintenance, and reliability risk we inherit by the continued existence of the structure on our property.

4. THAT THE GRANTING OF THE NON-USE VARIANCE WILL NOT HAVE AN ADVERSE IMPACT UPON SURROUNDING PROPERTIES.

1) The non-use variance will positively impact the surrounding properties by correcting a known non-compliant code issue with an a design and Hillside Overlay plan that meets Pikes Peak Regional Building Department & City of Colorado Springs requirements.
2) The visual impacts upon offsite areas are close to equal with either a two-wall design or single-wall design. However, a two-wall design will disturb more of the natural vegetation in the northeast corner of the project area than will a single-wall design, thus the single-wall design best reduces visual impacts to offsite areas.
3) Per the El Paso County Land Manager, Ms. Melissa Combs (melissacombs@elpasoco.com), from the El Paso County Assessor's Office, in her email dated August 15th, 2024, the land value of 1210 Eagle Rock "will not change" with this design. Ms. Combs further assessed that "the properties in this area are all valued the same and minor changes in topography and/or lot side do not affect that value." *Note: this project design DOES NOT change any property boundary lines with the surrounding property.*

City Engineering Statement

Note to Colorado Springs City Engineering Development Review (Joel Dagnillo):

"The private retaining wall system shall be designed by a Colorado registered professional engineer and the responsibility of the construction and maintenance lies with the developer and property owner. The City of Colorado Springs has not reviewed or approved the design, and the Owner(s) hereby releases and forever discharges, and agrees to indemnify, defend and hold harmless, the City of Colorado Springs, its officers, employees, administrators, representatives, agents, successors and assigns, from any and all damages, injuries or accidents which might arise from the retaining wall system or the Project after issuance of a Building Permit."

"This property is subject to the findings, summary and conclusions of a geologic hazard report prepared by Entech Engineering, dated October 22, 2018, and a geologic hazard validation letter, dated August 28, 2024, which identified the following specific hazards: expansive soils, potentially unstable slopes, rockfall hazards and erosion. A copy of said report and validation has been placed within file NVAR-24-0007, or within the subdivision file of the City of Colorado Springs Planning and Development Team. Contact the Planning and Development Team, 30 South Nevada Ave., Suite 701, Colorado Springs, CO, if you would like to review said report and validation."

PlanCOS Leading The Way To Our Future Review / Goals & Policies Review:

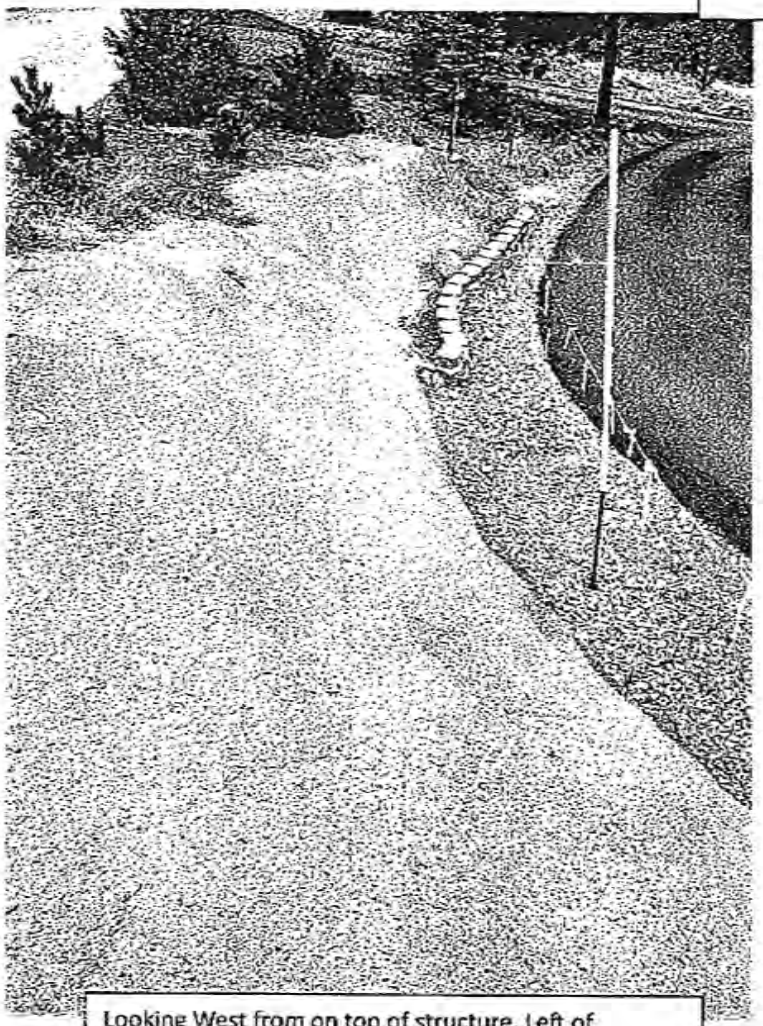
In review of the PlanCOS, the "Pulpit Rock" area where 1220 Eagle Rock Rd is located is considered an Established Suburban Neighborhood (Page 45) with the goals:

"SUBURBAN NEIGHBORHOODS INCLUDES THOSE THAT DEVELOPED WITH A SUBURBAN PATTERN, INCLUDING CURVILINEAR STREETS WITH CUL-DE-SACS. THESE NEIGHBORHOODS HAVE MATURED TO THE POINT WHERE THEY ARE NOT ACTIVELY BEING DEVELOPED AND NO LONGER HAVE ACTIVELY MANAGED PRIVATELY INITIATED MASTER PLANS, AND ORDINARILY DO NOT YET HAVE PUBLIC INITIATED MASTER PLANS. THESE NEIGHBORHOODS HAVE A HIGH VALUE IN MAINTAINING THE PRIVACY OF HOMES AND SAFE STREETS FOR FAMILIES. NEW DEVELOPMENT SHOULD FOCUS ON SAFE CONNECTIONS INTO AND WITHIN THESE NEIGHBORHOODS (PAGE 40)".

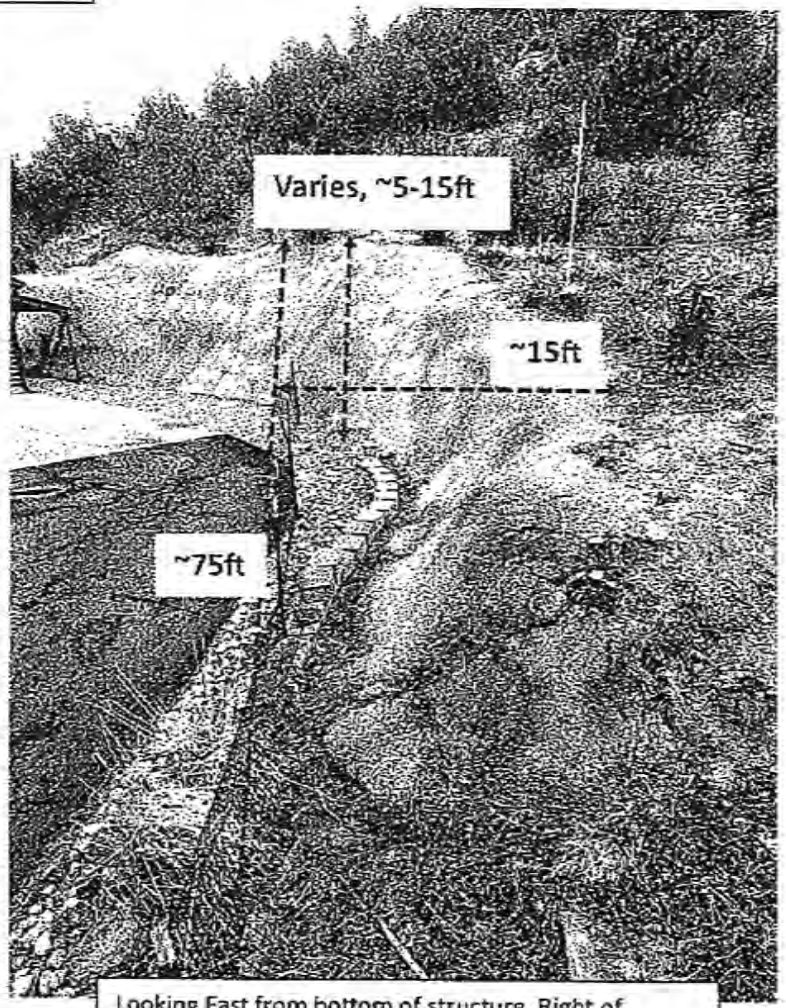
1220 Eagle Rock Rd Non-Use Variance Assessment in review of PlanCOS:

1) Proposed non-use variance design request directly aligns with the fact that there is no existing or planned master plan for Pulpit Rock neighborhood, and that individual homeowners are responsible for complying with existing County/City requirements by the submission of this request.
2) The current "shockrete" structure encroachment in the development area does not align with goal of "maintaining the privacy of homes and safe streets for families".
    a. With this design, the encroaching "shockrete" structure will be reconstituted in such a way that maintains the privacy of homeowners.
    b. While the development area does not include any neighborhood streets, the encroaching "shockcrete" wall and consequently damaged area needs to be properly and safely remediated to meet City of Colorado Springs and Piked Peak Regional Building Department code. The encroaching structure is unsafe for existing residents and anyone accessing the property, as it was constructed without a permit and its structure directly against city code for safety.
3) The "new development" proposed in this Non-Use Variance request aligns with the PlanCOS focus on providing "safe connections into and within these neighborhoods," as the request will reconstitute a known safety issue and will be City of Colorado Springs/Pikes Peak Regional Building Department Compliant.

Picture 1



Looking West from on top of structure. Left of rope/fence property line is 1220 Eagle Rock (Fernandez) property



Looking East from bottom of structure. Right of rope/fence property line is 1220 Eagle Rock (Fernandez) property

ENTECH

September 19, 2024

John Fernandez
1220 Eagle Rock Road
Colorado Springs, Colorado [illegible]

Attn: John Fernandez

Re: Additional Recommendations
Site Cast-in-Place Concrete Retaining Wall
1220 Eagle Rock Road
Colorado Springs, Colorado
Entech Job No. [illegible]

Dear Mr. Fernandez:

This letter is in response to a request from the client to provide additional retaining wall recommendations for the proposed site walls at the address referenced above.

Records Research

Entech Engineering, Inc. performed a Subsurface Soils Investigation for the property in our report dated January 6, 2017, Entech Job No. 162484. An update letter was also written dated May 16, 2024. Overexcavation of expansive site soils and replacement with granular structural fill was recommended.

Entech Engineering, Inc. also performed a geologic hazard study at the above-referenced address, which is presented in our Geologic Hazard Investigation dated August 9, 2016, Entech Job No. 162484. A Geologic Hazards validation letter was also provided, dated August 23, 2024. The study recommended overexcavation of expansive soils, as well as rockfall mitigation for the site.

Retaining Wall Recommendations

It is our understanding that a cast-in-place retaining wall is proposed on the north end of the site to mitigate existing conditions associated with an existing cementitious stabilized slope on the property at the address referenced above. It is the opinion of Entech Engineering, Inc. that a single tiered cast-in-place concrete wall will provide the most structurally sound and economical earth retention system in this area to support the existing conditions and anticipated driveway expansion.

The retaining wall should be designed in accordance with the 2023 Pikes Peak Regional Building Code and constructed by a qualified contractor.

John Fernandez
Additional Recommendations
Site Cast-in-Place Concrete Retaining Wall
1220 Eagle Rock Road
Colorado Springs, Colorado
Page 2

ENTECH

We trust this has provided you with the information you required. If you have any questions or need additional information, please do not hesitate to contact us.

Respectfully Submitted,

ENTECH ENGINEERING, INC.

[illegible]

Austin M. [illegible], P.E.
AMN/[illegible]
Entech Job No. [illegible]
[illegible]

Entech Job No. [illegible]

Colorado Springs, CO

Planning and Development
30 S. Nevada Ave., Suite 701
Colorado Springs, CO 80903

Final Report - Corrections Required
Application No. NVAR-24-0007

Report Date: 09/10/2024
Description : Nonuse variance application to allow for a nine (9) foot retaining wall within the required 25-foot front yard setback.
Address : 1220 EAGLE ROCK RD COLORADO SPRINGS CO 80918
Record Type : Non-Use Variance
Document Filename : Site Plan_V2_08-28-24

Comment Author Contact Information:

Reviewer Name	Reviewer Email	Reviewer Phone No.:
Kerri Schott	Kerri.Schott@coloradosprings.gov	-
Joel Dagnillo	Joel.Dagnillo@coloradosprings.gov	-

General Comments

Corrections in the following table need to be applied before a permit can be issued

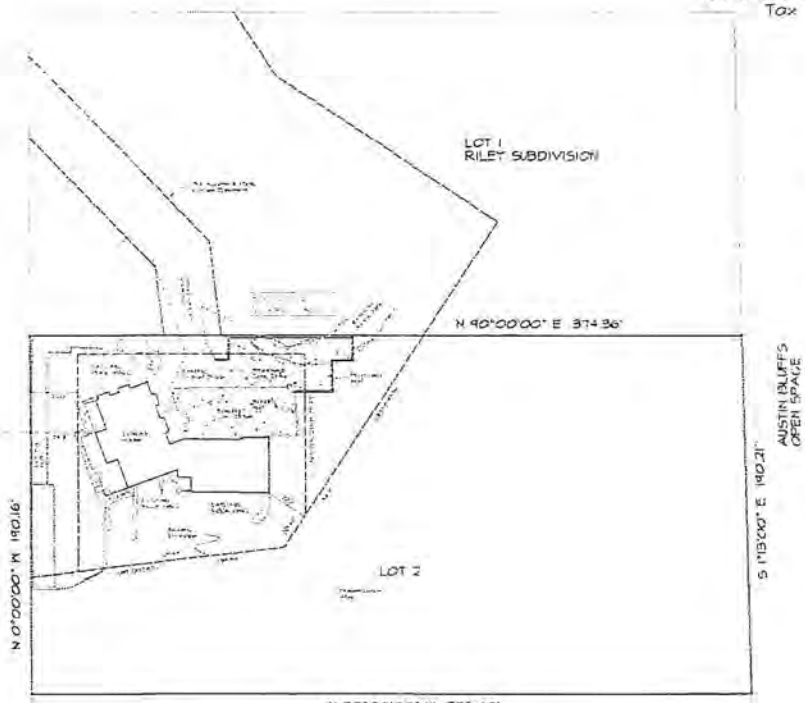
Comment ID	Page Reference	Reviewer : Department	Review Comments
13	1	Joel Dagnillo : City Engineering Dev Review	Please add the following note to the Cover Sheet: "The private retaining wall system shall be designed by a Colorado registered professional engineer and the responsibility of the construction and maintenance lies with the developer and property owner. The City of Colorado Springs has not reviewed or approved the design, and the Owner(s) hereby releases and forever discharges, and agrees to indemnify, defend and hold harmless, the City of Colorado Springs, its officers, employees, administrators, representatives, agents, successors and assigns, from any and all damages, injuries or accidents which might arise from the retaining wall system or the Project after issuance of a Building Permit."
24	1	Joel Dagnillo : City Engineering Dev Review	"This property is subject to the findings, summary and conclusions of a geologic hazard report prepared by Entech Engineering, dated October 22, 2018 and a geologic hazard validation letter, dated August 28, 2024, which identified the following specific hazards: expansive soils, potentially unstable slopes, rockfall hazards and erosion. A copy of said report and validation has been placed within file NVAR-24-0007, or within the subdivision file of the City of Colorado Springs Planning and Development Team. Contact the Planning and Development Team, 30 South Nevada Ave., Suite 701, Colorado Springs, CO, if you would like to review said report and validation."
25	1	Joel Dagnillo : City Engineering Dev Review	Please upload a copy of the City-signed Geological Hazard Report Validation Letter (Project Dox #STM-REV24-1122) into Accela with the other NVAR-24-0007 documents. Thank you.

Comment ID	Page Reference	Reviewer : Department	Review Comments
26	2	Kerri Schott : Planning	Per the revised submitted project statement, please elaborate what aspects of the existing shotcrete wall are "damaged" or problematic as you refer to it as "damaged area".
27	2	Kerri Schott : Planning	Please clarify why previously approved permit R189939 approved on 5/31/24 as designed/approved is no longer a suitable alternative (two tiered retaining wall system that did not exceed 7' height and fencing).
28	2	Kerri Schott : Planning	Informational: at time of building permit submittal, an LOD (limit of disturbance boundary) inspection with Preservation easement marked on site needs to occur prior to permit approval

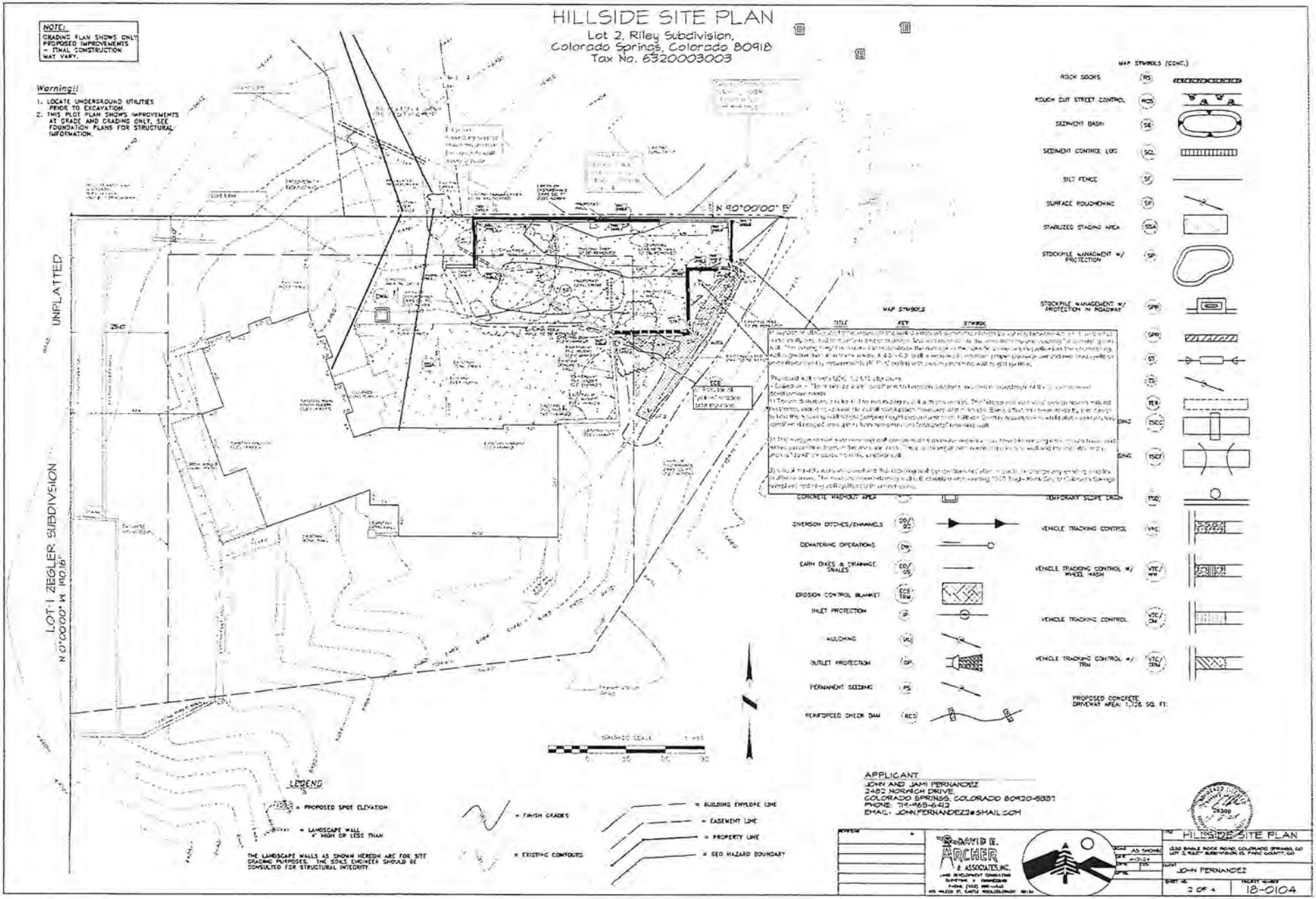
Fernandez responded and said the "damage" referred to the wall itself.

HILLSIDE SITE PLAN

Lot 2, Riley Subdivision,
Colorado Springs, Colorado 80918
Tax No. 6320003003



	DAVID E. ARCHER & ASSOCIATES, INC.	HILLSIDE SITE PLAN
		SCALE: AS SHOWN
		DATE: 4-2-24
		DRAWN BY: JOHN FERNANDEZ
		SHEET NO: 1 OF 4
		PROJECT NUMBER: 18-0104


HILLSIDE SITE PLAN
Lot 2, Riley Subdivision,
Colorado Springs, Colorado 80918
Tax No. 6320003003
NOTE:
GRADING PLAN SHOWS ONLY PROPOSED IMPROVEMENTS - FINAL CONSTRUCTION MAY VARY.
Warning!!
1. LOCATE UNDERGROUND UTILITIES PRIOR TO EXCAVATION.
2. THIS PLOT PLAN SHOWS IMPROVEMENTS AT GRADE AND GRADING ONLY. SEE FOUNDATION PLANS FOR STRUCTURAL INFORMATION.
N 90°00'00" E
UNPLATTED
LOT 1 ZEGLER SUBDIVISION
N 0°00'00" W 190.16'
MAP SYMBOLS (CONT.)
ROCK SOCKS
ROUGH CUT STREET CONTROL
SEDIMENT BASIN
SEDIMENT CONTROL LOG
SILT FENCE
SURFACE ROUGHENING
STABILIZED STAGING AREA
STOCKPILE MANAGEMENT W/ PROTECTION
STOCKPILE MANAGEMENT W/ PROTECTION IN ROADWAY
MAP SYMBOLS
TITLE
KEY
SYMBOL
CONCRETE WASHOUT AREA
DIVERSION DITCHES/CHANNELS
DEWATERING OPERATIONS
EARTH DIKES & DRAINAGE SWALES
EROSION CONTROL BLANKET
INLET PROTECTION
MULCHING
OUTLET PROTECTION
PERMANENT SEEDING
REINFORCED CHECK DAM
TEMPORARY SLOPE DRAIN
VEHICLE TRACKING CONTROL
VEHICLE TRACKING CONTROL W/ WHEEL WASH
VEHICLE TRACKING CONTROL
VEHICLE TRACKING CONTROL W/ TRM
PROPOSED CONCRETE DRIVEWAY AREA: 1,726 SQ. FT.
LEGEND
= PROPOSED SPOT ELEVATION
= LANDSCAPE WALL 4' HIGH OR LESS THAN
= FINISH GRADES
= EXISTING CONTOURS
= BUILDING ENVELOPE LINE
= EASEMENT LINE
= PROPERTY LINE
= GEO HAZARD BOUNDARY
THE LANDSCAPE WALLS AS SHOWN HEREON ARE FOR SITE GRADING PURPOSES. THE SOILS ENGINEER SHOULD BE CONSULTED FOR STRUCTURAL INTEGRITY.
APPLICANT
JOHN AND JAMI FERNANDEZ
2482 NORAGH DRIVE
COLORADO SPRINGS, COLORADO 80920-5837
PHONE: 719-465-6412
EMAIL: JOHN.FERNANDEZ2@SMAIL.COM
DAVID E. ARCHER & ASSOCIATES, INC.
HILLSIDE SITE PLAN
JOHN FERNANDEZ
2 OF 4
18-0104

Colorado Springs, CO

Planning and Development
30 S. Nevada Ave., Suite 701
Colorado Springs, CO 80903

COLORADO SPRINGS
OLYMPIC CITY USA

Final Report - Corrections Required
Application No. NVAR-24-0007

Report Date: 09/10/2024
Description : Nonuse variance application to allow for a nine (9) foot retaining wall within the required 25-foot front yard setback.
Address : 1220 EAGLE ROCK RD COLORADO SPRINGS CO 80918
Record Type : Non-Use Variance
Document Filename : Site Plan_V2_08-28-24

Comment Author Contact Information:

Reviewer Name	Reviewer Email	Reviewer Phone No.:
Kerri Schott	Kerri.Schott@coloradosprings.gov	-
Joel Dagnillo	joel.Dagnillo@coloradosprings.gov	-

General Comments

Corrections in the following table need to be applied before a permit can be issued

Comment ID	Page Reference	Reviewer : Department	Review Comments
13	1	Joel Dagnillo : City Engineering Dev Review	Please add the following note to the Cover Sheet: "The private retaining wall system shall be designed by a Colorado registered professional engineer and the responsibility of the construction and maintenance lies with the developer and property owner. The City of Colorado Springs has not reviewed or approved the design, and the Owner(s) hereby releases and forever discharges, and agrees to indemnify, defend and hold harmless, the City of Colorado Springs, its officers, employees, administrators, representatives, agents, successors and assigns, from any and all damages, injuries or accidents which might arise from the retaining wall system or the Project after issuance of a Building Permit."
24	1	Joel Dagnillo : City Engineering Dev Review	"This property is subject to the findings, summary and conclusions of a geologic hazard report prepared by Entech Engineering, dated October 22, 2018 and a geologic hazard validation letter, dated August 28, 2024, which identified the following specific hazards: expansive soils, potentially unstable slopes, rockfall hazards and erosion. A copy of said report and validation has been placed within file NVAR-24-0007, or within the subdivision file of the City of Colorado Springs Planning and Development Team. Contact the Planning and Development Team, 30 South Nevada Ave., Suite 701, Colorado Springs, CO, if you would like to review said report and validation."
25	1	Joel Dagnillo : City Engineering Dev Review	Please upload a copy of the City-signed Geological Hazard Report Validation Letter (Project Dox #STM-REV24-1122) into Accela with the other NVAR-24-0007 documents. Thank you.

Comment ID	Page Reference	Reviewer : Department	Review Comments
26	2	Kerri Schott : Planning	Per the revised submitted project statement, please elaborate what aspects of the existing shotcrete wall are "damaged" or problematic as you refer to it as "damaged area".
27	2	Kerri Schott : Planning	Please clarify why previously approved permit R189939 approved on 5/31/24 as designed/approved is no longer a suitable alternative (two tiered retaining wall system that did not exceed 7' height and fencing).
28	2	Kerri Schott : Planning	Informational: at time of building permit submittal, an LOD (limit of disturbance boundary) inspection with Preservation easement marked on site needs to occur prior to permit approval

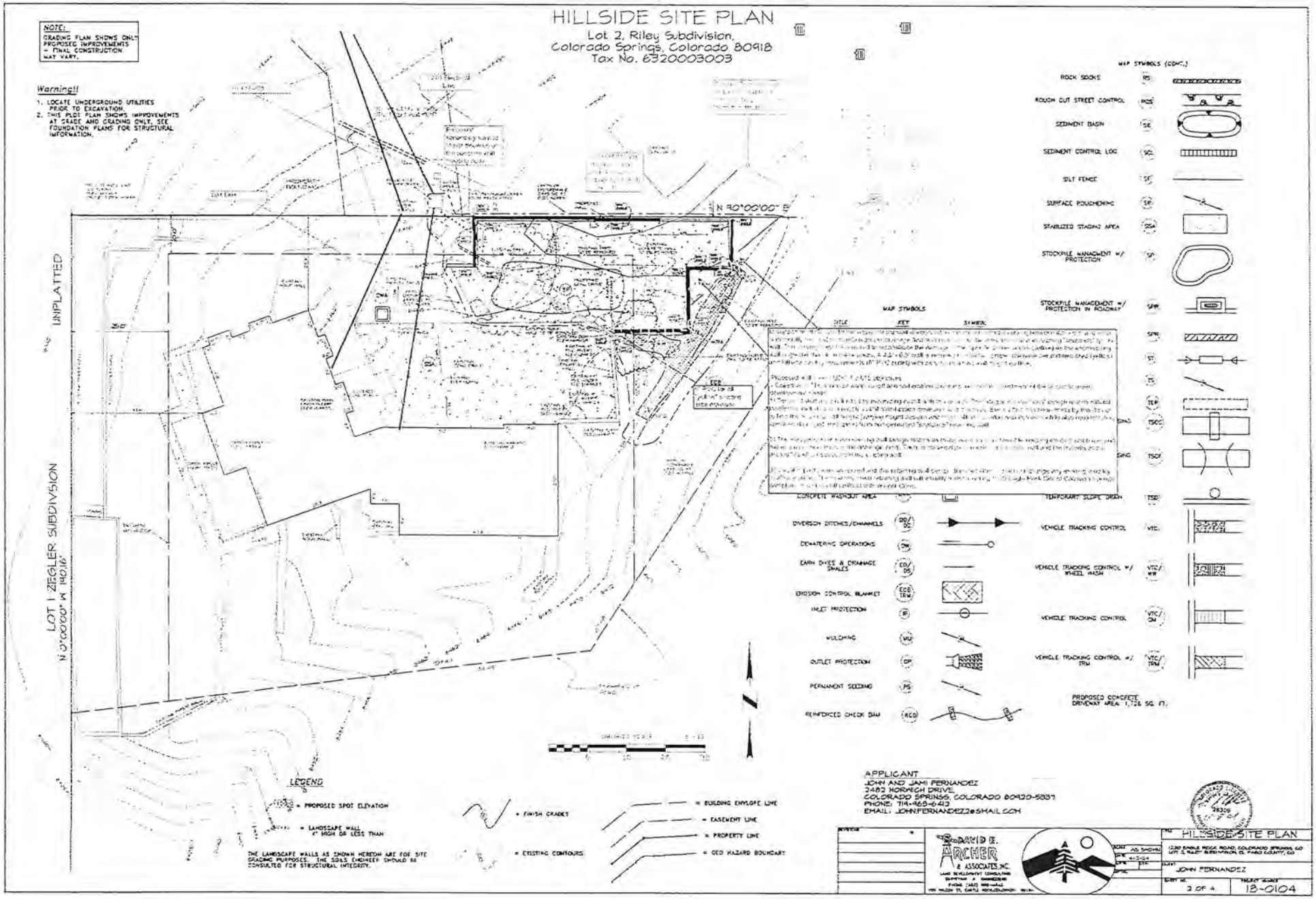
HILLSIDE SITE PLAN

Lot 2, Riley Subdivision,
Colorado Springs, Colorado 80918
Tax No. 6320003003

UNPLATTED

Vicinity Map
NTS

HILLSIDE SITE PLAN
JOHN FERNANDEZ
DAVID E. ARCHER & ASSOCIATES, INC.
1 OF 4
18-5104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Lot 2, Riley Subdivision,
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UNPLATTED
LOT 1 ZEGLER SUBDIVISION
N 0°00'00" W 140.16'
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MAP SYMBOLS
MAP SYMBOLS (CONT.)
ROCK SOCKS
ROUGH CUT STREET CONTROL
SEDIMENT BASIN
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STABILIZED STAGING AREA
STOCKPILE MANAGEMENT W/ PROTECTION
STOCKPILE MANAGEMENT W/ PROTECTION IN ROADWAY
TEMPORARY SLOPE DRAIN
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VEHICLE TRACKING CONTROL W/ WHEEL WASH
VEHICLE TRACKING CONTROL
VEHICLE TRACKING CONTROL W/ TRM
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DEWATERING OPERATIONS
EARTH DIKES & DRAINAGE SWALES
EROSION CONTROL BLANKET
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DAVID E. ARCHER & ASSOCIATES, INC.
HILLSIDE SITE PLAN
JOHN FERNANDEZ
2 OF 4
18-0104

Plan Details

Plan # R 189939 - was voided

Owner

Address 1220 EAGLE ROCK RD, COLORADO SPRINGS, CO 80918

Parcel Info 6320003003

Truss P/SF 30 (Elevation: 6,556 Feet)

Project Retaining Wall - Residential (434)

Type Of Plan Normal

Review Type Electronic

Fire District COLORADO SPRINGS FIRE DIST

Submit Date
5/28/2024 7:57 AM

Approval Date
5/31/2024 4:15 PM

Location
Electronic Plan

Resubmittal

Required Departments: 5

Department	S
Construction	A
Energy	N
Floodplain	N
Stormwater	A
CO Springs DRE	A

Log Entries: 12

Department	S	Date	Reviewer	Comment
CO Springs DRE	A	5/31/2024	KSCHOTT	approval for retaining walls per this hillside site and grading plan. LOD to remain on this property per plan, no walls proposed greater than 7' in height above grade. (see full review)
CO Springs DRE	/	5/31/2024	PDOSCH	LOD, PAE, and temporary erosion control measures, Hillside Overlay Inspection 2, is compliant (see full review)
Zoning/Planning	/	5/28/2024	KSCHOTT	In Current Review by KSCHOTT
Submittal 2	/	5/28/2024	SIERRAC	Submittal #2
CO Springs DRE	D	5/24/2024	KSCHOTT	1. Include hillside certification statement and sign/date on this plan (to be found on hillside site plan checklist found on City's website for Hillside Overlay) 2. Please highlight/better identify the walls that are > 7 feet tall 3. Show the side yard setback line of 10' (to ensure any walls > 7' are meeting accessory structure setback) 4. LOD boundary can't encroach into neighboring property without owner consent; adjust to be within property boundaries or provide written neighbor consent 5. LOD inspection required prior to permit approval by contacting patrick.dosch@coloradosprings.gov Informational: Please note that because this lot is within the hillside overlay; no land disturbance (including vegetation removal, excavation, grading) can occur until building permit is approved and includes an approved hillside site plan. Hillside inspections will occur throughout the permitting and construction process to

				ensure compliance with the hillside site plan (see full review)
Zoning/Planning	/	5/24/2024	KSCHOTT	In Current Review by KSCHOTT
Stormwater	A	5/22/2024	JLANDON	
Construction	A	5/22/2024	SHELLEY	
Electronic Plan	/	5/22/2024	SHELLEY	In Current Review by SHELLEY
Energy	N	5/20/2024	SYSTEM	Energy Department review not required under 2023 PPRBC when IECC is N/A
Floodplain	N	5/20/2024	RBD GIS	Autogenerated Review: Outside 100 Year Floodplain. (Parcel: 6320003003)
Stormwater	/	5/20/2024	SYSTEM	Parcel 6320003003 is within the Hillside Overlay (HS). Stormwater Review is required.

ENTECH
ENGINEERING, INC
[illegible] ELKTON DRIVE
[illegible] COLORADO SPRINGS, CO [illegible]
PHONE [illegible]

September 19, 2024

John Fernandez
1220 Eagle Rock Road
Colorado Springs, Colorado 80918

Attn: John Fernandez

Re: Additional Recommendations
Site Cast-in-Place Concrete Retaining Wall
1220 Eagle Rock Road
Colorado Springs, Colorado
Entech Job No. 240426

Dear Mr. Fernandez:

This letter is in response to a request from the client to provide additional retaining wall recommendations for the proposed site walls at the address referenced above.

Records Research

Entech Engineering, Inc. performed a Subsurface Soils Investigation for the property in our report dated January 6, 2017, Entech Job No. 162484. An update letter was also written dated May 16, 2024. Overexcavation of expansive site soils and replacement with granular structural fill was recommended.

Entech Engineering, Inc. also performed a geologic hazard study at the above-referenced address, which is presented in our Geologic Hazard Investigation dated August 8, 2018, Entech Job No. 162484. A Geologic Hazard Validation letter was also provided, dated August 28, 2024. The study recommended overexcavation of expansive soils, as well as rockfall mitigation for the site.

Retaining Wall Recommendations

It is our understanding that a cast-in-place retaining wall is proposed on the north end of the site to mitigate existing conditions associated with an existing cementitious stabilized slope on the property at the address referenced above. It is the opinion of Entech Engineering, Inc. that a single tiered cast-in-place concrete wall will provide the most structurally sound and economical earth retention system in this area to support the existing conditions and anticipated driveway expansion.

The retaining wall should be designed in accordance with the 2023 Pikes Peak Regional Building Code and constructed by a qualified contractor.

ENTECH ENGINEERING, INC

We trust this has provided you with the information you required. If you have any questions or need additional information, please do not hesitate to contact us.

Respectfully Submitted,

ENTECH ENGINEERING, INC.

Austin M. Nossokoff, P.E.
AMN/amn
Entech Job No. 240246
F:\AA Projects\2024\240246-John Fernandez-1220 Eagle Rock-Ret Wall\09-Reports\240426-Single Tiered Wall.doc

Project Statement 9/24/24 updated

PLANNING & NEIGHBORHOOD SERVICES – Land Use Review / Non-Use Variance Request – NVAR-24-0007

Colorado Springs Planning Commission,

The residents of 1220 Eagle Rock Rd, Colorado Springs CO 80918; John & Jami Fernandez request a nonuse variance of allowing a 9 foot high wall within the side yard setback where a 7 foot wall is allowed per City Code 7.4.910.

The 9 ft high wall is required (Fernandez's) to safely retain and reconstitute our property boundary line from a non-permitted encroachment and damaging structure constructed by the residents of 1210 Eagle Rock Rd. The encroachment has caused an approximately 75' long x 15' wide x 5-12' high excavated area within our building envelope (Pic 1). The encroached area is approximately 6% of our building envelope rendering it physically unusable for any purposes until reconstituted. Professional engineering (Retaining Wall Design) assessment, State of Colorado Geological Hazard Report, and property Soils Report have identified the most effective and minimal disturbance to the surrounding geological area is to remediate the property with a 9ft high retaining wall at/or near the highest vertical part of the damaged area. The 9ft high engineered wall safely retains the existing soil while re-establishing the property boundary line. Any lesser height wall or alternative tiered retaining wall variant that meets 10' side yard setback causes unstable and unretainable soil conditions within 1220 Eagle Rock Rd property (Please see last page for additional information on limitations of tiered wall design).

"Damage" terminology reference for this request: The term "damage" in this request refers to damage caused to our property when 1210 Eagle Rock Rd residents constructed an unauthorized, non-engineered, and non-compliant structure on our property which gravely altered the natural landscape. "Damage" is referencing the conditions that no approved documentation exists to determine the construction, life span, maintenance, and design to satisfactorily assess the safety of the structure.

In review of 7.5.526.E Nonuse Variance Review Criteria we provide the following assessment:

1. The application complies with any standards for the use in Part 7.3.3 (Use-Specific Standards)

a. The application complies with Part 7.3.304: Accessory Uses

2. The property has extraordinary physical conditions that do not generally exist in nearby properties in the same zone district.

a. The geological/physical damage to the property was not due to our fault or negligence on our part. It is considered extraordinary given the physical conditions are measured at 75' long x 15' wide x 5-12' high. The area is zoned and governed under City of Colorado Springs Hillside Overlay code which means unique geological features. The end goal is to safely reconstitute the damaged area while minimizing distribution to Hillside features to a functioning and usable conditions that meets city code.

3. That the extraordinary or exceptional physical condition of the property will not allow a

Colorado Springs, CO

Planning and Development
30 S. Nevada Ave., Suite 701
Colorado Springs, CO 80903

COLORADO SPRINGS
OLYMPIC CITY USA

Final Report - Corrections Required
Application No. NVAR-24-0007

Report Date: 09/24/2024
Description : Nonuse variance application to allow for a nine (9) foot retaining wall within the hillside overlay.
Address : 1220 EAGLE ROCK RD COLORADO SPRINGS CO 80918
Record Type : Non-Use Variance
Document Filename : Project Statement_V3_09-11-24

Comment Author Contact Information:

Reviewer Name	Reviewer Email	Reviewer Phone No.:
Kerri Schott	Kerri.Schott@coloradosprings.gov	-
Drew Foxx	Drew.Foxx@coloradosprings.gov	-

General Comments

Corrections in the following table need to be applied before a permit can be issued

Comment ID	Page Reference	Reviewer : Department	Review Comments
37	1	Drew Foxx : Planning	Revise: A request for approval of a Non-Use Variance application to allow a nine (9) foot retaining wall where a maximum of four (4) feet in height for retaining walls within the hillside overlay is usually required located at 1220 Eagle Rock Road. The 1.64 acre property is zoned R-E/HS (Single Family - Estate with Hillside Overlay).
38	1	Drew Foxx : Planning	Discuss hillside criteria per UDC 7.2.610.D and the efforts put forth through design and location of the wall to meet the hillside criteria.
39	1	Drew Foxx : Planning	Reference recommendation from Entech Engineering.
40	1	Drew Foxx : Planning	Discuss the potential to have to relocate the wall within two-feet of the proposed wall. Please clarify the request to have the option to relocate the wall at or within two-feet of the property line.
48	1	Kerri Schott : Planning	To reiterate case planner's comment: please move the hillside criteria justification that was shown on the site plan to the project statement instead. Emphasizing on minimizing terrain disturbance, visual impacts, preserving vegetation/preservation easement still untouched, and slopes > 25% avoided with the one wall system proposed

Project Statement 9/24/24 updated

PLANNING & NEIGHBORHOOD SERVICES – Land Use Review / Non-Use Variance Request – NVAR-24-0007

Colorado Springs Planning Commission,

The residents of 1220 Eagle Rock Rd, Colorado Springs CO 80918; John & Jami Fernandez request a nonuse variance of allowing a 9 foot high wall within the side yard setback where a 7 foot wall is allowed per City Code 7.4.910.

The 9 ft high wall is required (Fernandez's) to safely retain and reconstitute our property boundary line from a non-permitted encroachment and damaging structure constructed by the residents of 1210 Eagle Rock Rd. The encroachment has caused an approximately 75' long x 15' wide x 5-12' high excavated area within our building envelope (Pic 1). The encroached area is approximately 6% of our building envelope rendering it physically unusable for any purposes until reconstituted. Professional engineering (Retaining Wall Design) assessment, State of Colorado Geological Hazard Report, and property Soils Report have identified the most effective and minimal disturbance to the surrounding geological area is to remediate the property with a 9ft high retaining wall at/or near the highest vertical part of the damaged area. The 9ft high engineered wall safely retains the existing soil while re-establishing the property boundary line. Any lesser height wall or alternative tiered retaining wall variant that meets 10' side yard setback causes unstable and unretainable soil conditions within 1220 Eagle Rock Rd property (Please see last page for additional information on limitations of tiered wall design).

"Damage" terminology reference for this request: The term "damage" in this request refers to damage caused to our property when 1210 Eagle Rock Rd residents constructed an unauthorized, non-engineered, and non-compliant structure on our property which gravely altered the natural landscape. "Damage" is referencing the conditions that no approved documentation exists to determine the construction, life span, maintenance, and design to satisfactorily assess the safety of the structure.

In review of 7.5.526.E Nonuse Variance Review Criteria we provide the following assessment:

1. The application complies with any standards for the use in Part 7.3.3 (Use-Specific Standards)

a. The application complies with Part 7.3.304: Accessory Uses

2. The property has extraordinary physical conditions that do not generally exist in nearby properties in the same zone district.

a. The geological/physical damage to the property was not due to our fault or negligence on our part. It is considered extraordinary given the physical conditions are measured at 75' long x 15' wide x 5-12' high. The area is zoned and governed under City of Colorado Springs Hillside Overlay code which means unique geological features. The end goal is to safely reconstitute the damaged area while minimizing distribution to Hillside features to a functioning and usable conditions that meets city code.

3. That the extraordinary or exceptional physical condition of the property will not allow a

reasonable use of the property in the current zone in the absence of relief.

a. The geological/physical damage to the property is part of the building envelope and therefore prohibiting any current use of the area in its existing state. In addition, the "concrete" or "shotcrete" structure that was established has no approved Pikes Peak Regional Building Department permit, City of Colorado Springs Hillside Overlay site plan, or design as part of Residential Certificate of Occupancy documenting the structural soundness or construction of the structure. We would like to safely remove and remediate the area with an approved and documented site plan as part of our property. There is an unknown safety, maintenance, and reliability risk we inherit by the continued existence of the structure on our property.

4. That the granting of the Non-Use Variance will not have an adverse impact upon surrounding properties.

a. The non-use variance will positively impact the surrounding properties by correcting a known non-compliant code issue; constructing/documenting a Hillside Overlay plan that meets Pikes Peak Regional Building Department & City of Colorado Springs requirements. In addition, the non-use variance re-establishes the property boundary line with the surrounding property.

City Engineering Statement

Note to Colorado Springs City Engineering Development Review (Joel Dagnillo): "The private retaining wall system shall be designed by a Colorado registered professional engineer and the responsibility of the construction and maintenance lies with the developer and property owner. The City of Colorado Springs has not reviewed or approved the design, and the Owner(s) hereby releases and forever discharges, and agrees to indemnify, defend and hold harmless, the City of Colorado Springs, its officers, employees, administrators, representatives, agents, successors and assigns, from any and all damages, injuries or accidents which might arise from the retaining wall system or the Project after issuance of a Building Permit."

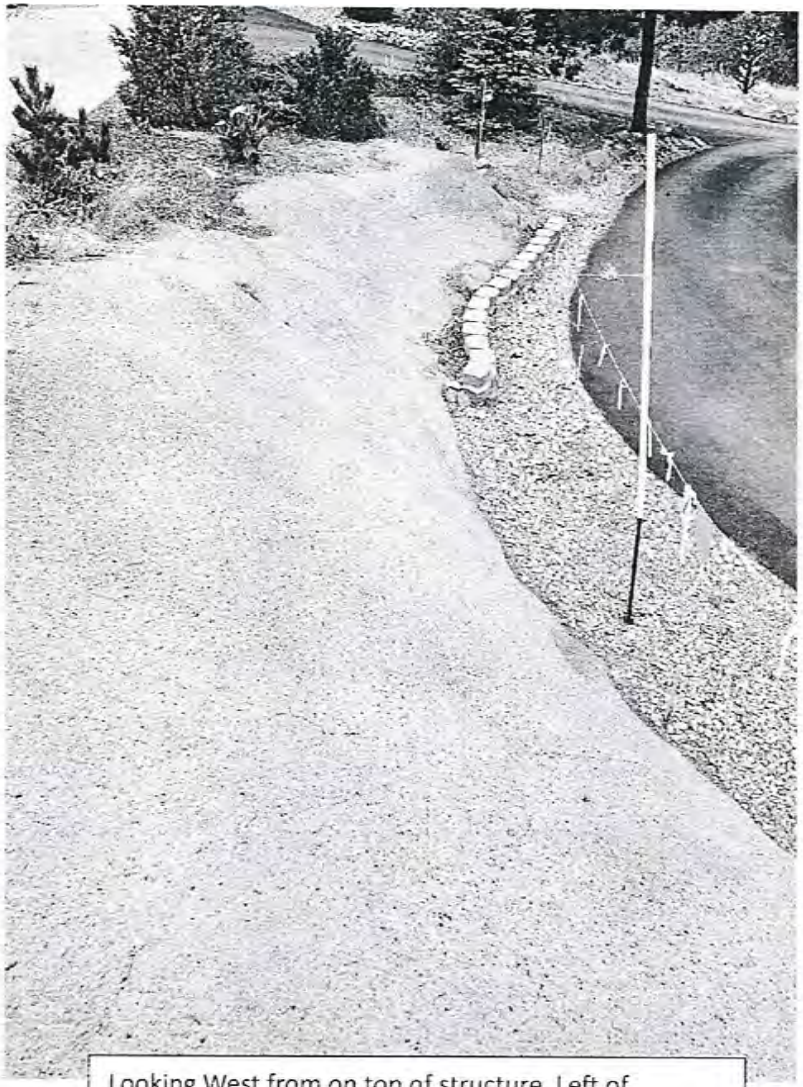
PlanCOS Leading The Way To Our Future Review / Goals & Policies Review

In review of the PlanCOS the "Pulpit Rock" area where 1220 Eagle Rock Rd is located is considered an Established Suburban Neighborhood (Page 45) with the goals: "Suburban Neighborhoods includes those that developed with a suburban pattern, including curvilinear streets with cul-de-sacs. These neighborhoods have matured to the point where they are not actively being developed and no longer have actively managed privately initiated master plans, and ordinarily do not yet have public initiated master plans. These neighborhoods have a high value in maintain the privacy of homes and safe streets

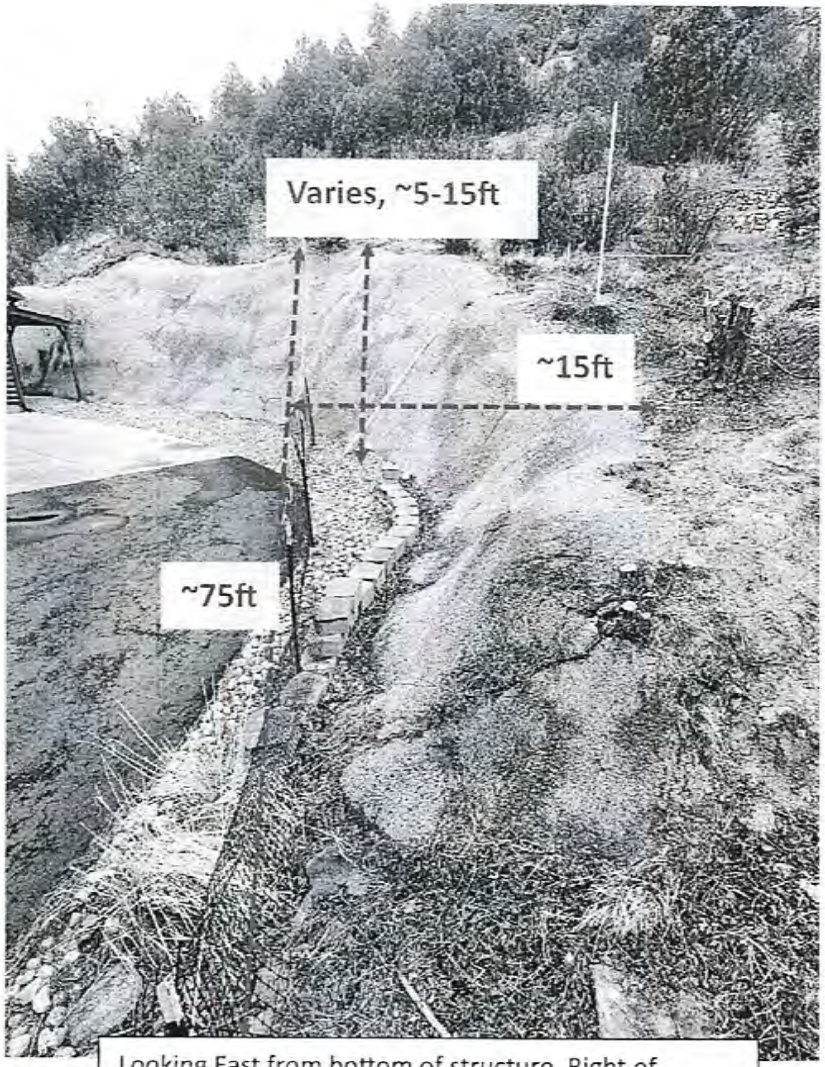
for families. New development should focus on safe connections into and within these neighborhoods (Page 40)".

1220 Eagle Rock Rd Non-Use Variance Assessment in review of PlanCOS

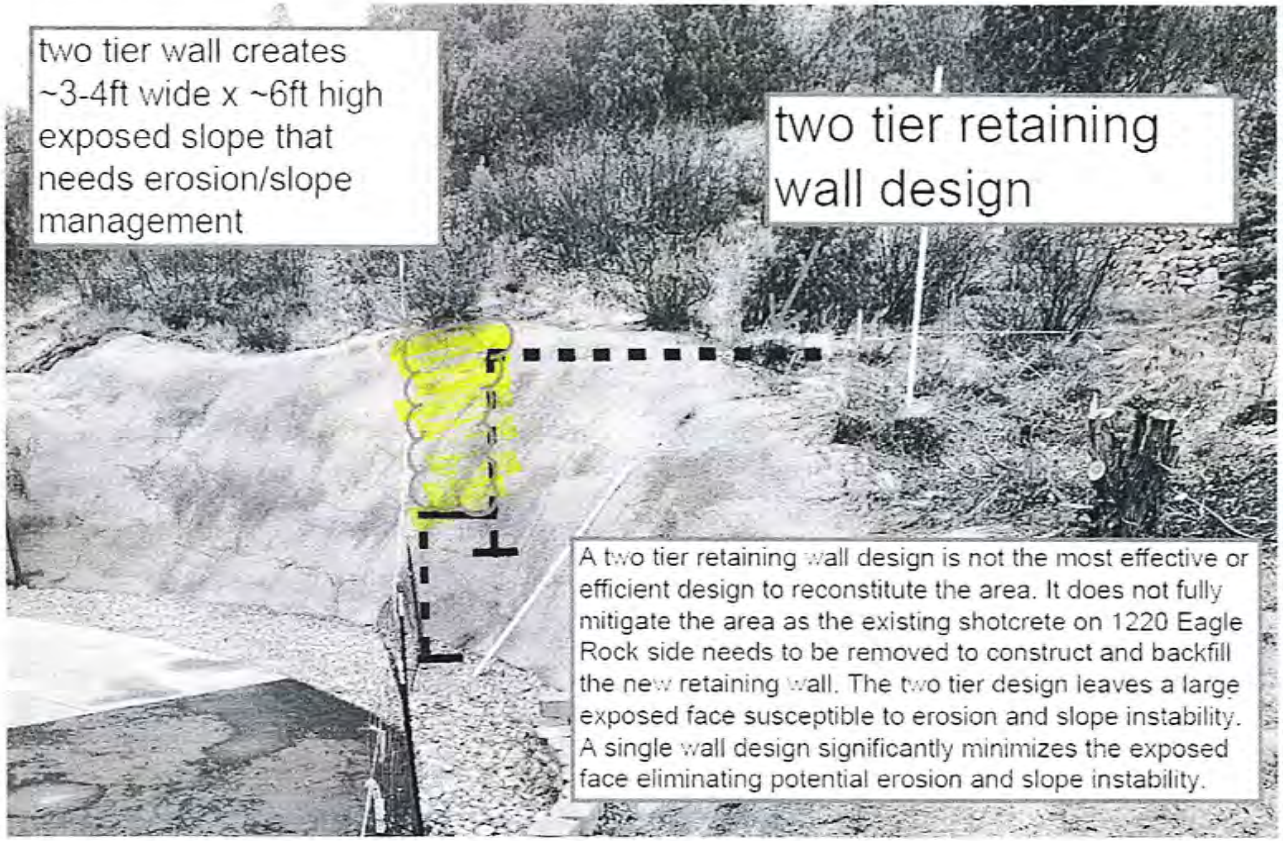
1) Proposed request directly aligns that there is no existing or planned master plan for Pulpit Rock neighborhood and that individual homeowners are responsible for complying with existing County/City requirements by the submission of this request.
2) The current encroached retaining wall does not align with goal of "maintaining the privacy of homes and safe streets for families".
    a. To maintain privacy of homeowners the encroached retaining wall needs to be reconstituted to re-establish property boundary lines and maintain privacy
    b. To maintain safe streets, the encroached retaining wall needs to be properly and safely constructed to meet City of Colorado Springs and Piked Peak Regional Building Department code. The encroached structure is not safe for existing residents or the safety of others as it was constructed without a permit and against city code
3) The proposed "new development" by this Non-Use Variance request aligns with focus to provide "safe connections into and within these neighborhoods" as the request will reconstitute a known safety issue and be City of Colorado Springs/Pikes Peak Regional Building Department Compliant.



Looking West from on top of structure. Left of rope/fence property line is 1220 Eagle Rock (Fernandez) property



Looking East from bottom of structure. Right of rope/fence property line is 1220 Eagle Rock (Fernandez) property


two tier wall creates ~3-4ft wide x ~6ft high exposed slope that needs erosion/slope management
two tier retaining wall design
A two tier retaining wall design is not the most effective or efficient design to reconstitute the area. It does not fully mitigate the area as the existing shotcrete on 1220 Eagle Rock side needs to be removed to construct and backfill the new retaining wall. The two tier design leaves a large exposed face susceptible to erosion and slope instability. A single wall design significantly minimizes the exposed face eliminating potential erosion and slope instability.