



7 Firehouse Road
Post Office Box 100
Taos Ski Valley
New Mexico 87525

(575) 776-8220

E-mail: vtsv@vtsv.org
Web Site: www.vtsv.org

**PLANNING & ZONING
COMMISSION:**

Thomas P. Wittman, Chair
Henry Caldwell
Richard Duffy
Yvette Klinkmann
Susan Nichols
J. Christopher Stagg
Jim Woodard

VILLAGE ADMINISTRATOR:
John Avila

**DIRECTOR OF PLANNING &
COMMUNITY DEVELOPMENT:**
Patrick Nicholson

VILLAGE CLERK:
Ann Marie Wooldridge

**PLANNING & ZONING COMMISSION
REGULAR MEETING AGENDA**

Monday, August 3, 2020 1:00 P.M.

Via Zoom TeleConference

Email vtsv@vtsv.org for information to attend the meeting
TAOS SKI VALLEY, NEW MEXICO

AGENDA

- I. **CALL TO ORDER & ROLL CALL**
- II. **APPROVAL OF THE AGENDA**
- III. **APPROVAL OF THE MINUTES OF THE JULY 13, 2020 P&Z COMMISSION MEETING**
- IV. **NEW BUSINESS**
 - A. **PUBLIC HEARING:** Consideration to Approve a Variance Request to the Perennial Stream Setback for a New Residence at 121 Twining Road.
 - B. **DISCUSSION:** Consideration to Recommend Approval to the Village Council of the 2022-2026 Village of Taos Ski Valley Infrastructure & Capital Improvement Plan (ICIP)
- V. **OLD BUSINESS**
- VI. **MISCELLANEOUS**
- VII. **ANNOUNCEMENT OF THE DATE, TIME, AND PLACE OF THE NEXT MEETING**
- VIII. **ADJOURNMENT**



**PLANNING & ZONING COMMISSION
DRAFT MEETING MINUTES
MEETING HELD VIA ZOOM
TAOS SKI VALLEY, NEW MEXICO
MONDAY, JULY 13, 2020 1:00 P.M.**

I. CALL TO ORDER & ROLL CALL

Commission Chair Tom Wittman called the meeting to order at 1:00 p.m. Roll call was taken, and a quorum was established. All Commission members were present: Henry Caldwell, Richard Duffy, Yvette Klinkmann, Susan Nichols Chris Stagg, Tom Wittman, and Jim Woodard. Staff members present: Planning Director Patrick Nicholson, Village Administrator John Avila, Village Clerk Ann Wooldridge, Building Inspector Jalmar Bowden, and Attorney Susan Baker.

II. APPROVAL OF THE AGENDA

MOTION: To approve the agenda with the addition of 1. Administrative Approvals, 2. a PUD Ordinance, and 3. Food Cart under Miscellaneous, and the addition of Firewise Ordinance under Old Business.

Motion: Commissioner Duffy Second: Commissioner Caldwell Passed: 7-0

III. APPROVAL OF THE MINUTES OF THE JUNE 1, 2020 P&Z COMMISSION MEETING

MOTION: To approve the minutes with the amendment to change the words "Planned Unit Development ordinance" to "Kachina Master Plan" on page 2 under Commissioner Nichols' comments.

Motion: Commissioner Caldwell Second: Commissioner Stagg Passed: 7-0

IV. NEW BUSINESS

A. PUBLIC HEARING: Consideration to Approve a Variance Request to the Perennial Stream Setback to install supporting posts for a new residential home at 121 Twining Road Planning Director Nicholson explained that to minimize the impact on the Gunsite Stream and construct a new residential home, the property owners are requesting a perennial stream setback variance. The project team is proposing to cantilever the western end of the residence over the stream. The supporting columns or posts are within the minimum fifteen-foot perennial stream setback requirement, necessitating consideration and approval of a Variance.

The stream crosses the property through an incised channel in an open grassy field. The channel is virtually straight; it averages 12" wide, 10"-12" deep, and has an average of 3" of medium velocity flowing water. Director Nicholson pointed out that this is not the Lake Fork, but a small stream running through the property.

Staff recommends a motion to Approve the Variance with the following Conditions:

- A. Take all necessary measures to protect Gunsite Stream from on-site construction activity, debris, and erosion.

B. Provide stamped structural engineered plans for the revised building design.

Project Architect Jonah Sanford explained the details of the proposed house and answered questions. He said that the design is very suited to an alpine environment. Mr. Sanford said that they would be able to excavate for the footings without disturbing the stream and that it would not be possible to move the building to get farther from the stream. There is not a danger of flooding which would impact the building or adjacent properties, even in a strong storm, said Mr. Sanford and Builder Jed Magee. Mr. Magee explained that he had been building houses in Taos Ski Valley for four years and this will be his fifth house. He said that his company follows best practices and has a good track record in the ski valley for safety and following the rules. He said that here would not be a problem of erosion around the posts.

PUBLIC HEARING: The public hearing was opened by Commission Chair Wittman. Speaking in favor was Jonah Sanford who said that this project would be respectful of the stream and was a well-designed project. The house will showcase the beauty of Taos Ski Valley, he said. Mr. Magee spoke in favor saying that he is very familiar with Taos Ski Valley, both personally and as a builder, and that he has a great sensitivity to the unique environment of the ski valley. He is very familiar with the stream and he built another house which was near this creek and never bothered the course of the water during construction. He said that he has been and will be a steward of the water flow. Christine Lowry said that she was speaking on behalf of downstreamers and asked that all projects in Taos Ski Valley be mindful of water and how it might affect people living downstream. She said that she was not against the project. Director Nicholson presented four letters in support of the project from neighbors in the area. One of the subcontractors who works with Jed Magee said that he was in favor of the house which would complement the natural beauty of the area. Homeowner Francie Parker asked if the house could be moved away from the stream but said that his looked like a beautiful design. Don Schieber spoke against the project saying that it does not follow the intent of the subdivision ordinance. Homeowner David Margarone, a neighbor to the proposed house, spoke against it because he had not been allowed to build close to the stream and had to change plans for his garage 20 years ago. He asked if a Certificate of Compatibility had been submitted. The Public Hearing was closed.

MOTION: To approve a Variance Request to the Perennial Stream Setback to install supporting posts for a new residential home at 121 Twining Road

Motion: Commissioner Duffy Second: Commissioner Woodard

Attorney Baker quoted from a State Statute concerning the guidelines for granting a variance. Director Nicholson said that if the Village would begin following the Statutes mentioned by Attorney Baker, there would be a new set of standards for the Village which have not been considered in the past. Commissioner Stagg said that the owner is not applying for a cantilever over the Lake Fork, just the Gunsite stream. Commission Chair Wittman agreed with Commissioner Stagg. Discussion on granting variances followed, especially for riparian setbacks. A site visit was suggested. Director Nicholson said that variances do not set precedent, that each one stands on its own. The Gunsite Stream has been built over in other locations and goes through several culverts, it was noted. Several Commissioners asked whether the house could be re-oriented. Mr. Sanford said that a cantilever for the house lessens site disturbance at the

site. The Army Corps of Engineers did not require a study for wetlands. The adjacent house was built over the stream. Mr. Magee hired Glorieta Geoscience to determine that there were no wetlands being intruded upon.

Commissioner Stagg called the question and Commissioner Woodard seconded the motion. Chairman Wittman called for a vote.

Failed: 2-5 (Commissioners Caldwell, Duffy, Klinkmann, Nichols, and Woodard dissenting)

B. WORK-STUDY SESSION on Village Facilities, including New Village Hall, Fire Stations, and Public Safety Building by Village Administrator John Avila

Administrator Avila made a presentation about the Village's mission and the types of facilities provided by the Village including services such as roads and drainage, community services such as Police, Fire, and EMS, system services such as water, wastewater, and solid waste, and economic development services such as parks and recreation, workforce housing, and infrastructure projects, some through the TIDD. He mentioned planning methods that are being used including ICIP plans, the Comprehensive Plan, Village Ordinances and Resolutions, and facility projects such as the updated treatment plant, the Kachina tank project, Kit Carson undergrounding, road improvements, and the Village Complex. The ICIP lists projects that the Village wishes to accomplish including upgrading water and wastewater lines, road improvements, extending natural gas lines, and many more. He said that the Village improves roadways where there is a clear benefit to public safety, convenience, and public welfare. Improved roadways benefit the entire community of residents, business owners, and visitors due to increased safety while traveling within the Village, but also during emergency situations and natural hazards for evacuation purposes.

The current plan for the Village Complex is to use Law Enforcement Protection Funds and Public Safety impact fees to remodel the main building into an office for the Village's Police Department, as well as for ambulance shelter and EMS housing. 10 units have been converted to apartments, with 2 units being reserved for Fire Department and EMS use. A Public Safety Office would cost around \$90,000, while a Village Office remodel would be a minimum of a \$300,000 remodel. General Administrative impact fees could be used for funding purposes.

Administrator Avila said that community involvement is needed to continue working on a plan for this Village Complex property.

V. OLD BUSINESS

A. Firewise Ordinance

Building Official Bowden said that he did not have any comments at this time. Commissioner Duffy said that the Village should move ahead with the Firewise process. He recommended that a committee be formed to work on this, to consist of three P&Z Commissioners, two Firewise Board members, and three Village staff members. He suggested that the committee meet two times a month and develop a plan and an ordinance. Building Official Bowden agreed that a Firewise plan would be good, and that looking into hiring a forester would also be a good step.

VI. MISCELLANEOUS

A. Director Nicholson said that he had been looking through several Certificate of Compatibility submissions, including for 121 Twining Road, and for a deck in Amizette.

B. Director Nicholson said that a Planned Unit Development Ordinance was needed for the Village.

C. Director Nicholson reported that a food cart had been approved on the Alpine Village Suites deck for the summer. After such time, an application for conditional use will be required to continue operations.

The Shopoff project is still in the works with regulatory approvals being sought. TSVI's Peter Talty advised being cautious about implementing a Planned Unit Development ordinance as it would add another layer of regulations. He urged the Commission to move ahead with developing a Kachina Master Plan now that Shopoff has been delayed.

VII. ANNOUNCEMENT OF THE DATE, TIME & PLACE OF THE NEXT MEETING:

The next meeting of the Planning & Zoning Commission is a Regular meeting on August 3, 2020 at 1:00 p.m. via Zoom.

VIII. ADJOURNMENT

MOTION: To adjourn.

Motion: Commissioner Duffy Second: Commissioner Woodard Passed: 7-0

The meeting adjourned at 3:15 p.m.

Tom Wittman, Chairperson

ATTEST: _____
Ann M. Wooldridge, Village Clerk



Planning & Zoning Commission

Thomas P. Wittman, Chair
Henry Caldwell
Richard Duffy
Yvette Klinkmann
Susan Nichols
J. Christopher Staggs
Jim Woodard

Staff Report

Variance Request: Perennial Stream Setback 121 Twining Road

1. Case Summary

Date of Hearing: August 3, 2020
Application Received: July 17, 2020
Date of Posting: July 17, 2020
Plan Review Fees: \$800 - Variance Request

Project Description: The applicant has submitted revised residential construction plans, which require approval of a Perennial Stream Setback Variance to proceed. The principle change is the repositioning of the entire structure an additional two feet away from Gunsite Stream and east toward Twining Road.

Site disturbance from the structural foundation is within the minimum fifteen (15) foot perennial stream setback requirement, necessitating consideration and approval of a Variance. The project team is again proposing to cantilever the western end of the residence over Gunsite Stream.

The Gunsite Stream crosses the property through an incised channel in an open grassy field, the channel is virtually straight, it averages 12" wide, 10"-12" deep, and has an average of 3" of medium velocity flowing water at present.

The applicant has provided a thorough description of the proposed project layout and justification for the Variance, which is included as Exhibits A-C.

Prior Actions/Approvals: On July 13, 2020, the Planning Commission denied the

applicant's request for a Perennial Stream Setback Variance.

2. Zoning Analysis:

- A.** The subject property is located along (Upper) Twining Road and is zoned Residential (R).

The application as presented, complies with all pertinent zoning regulations and conditions.

- B.** In Planning & Zoning Ordinance 17-30 Section 11:4 Supplemental Regulations within a R Zone - Minimum Setback requirements for a Perennial Stream are as follows:

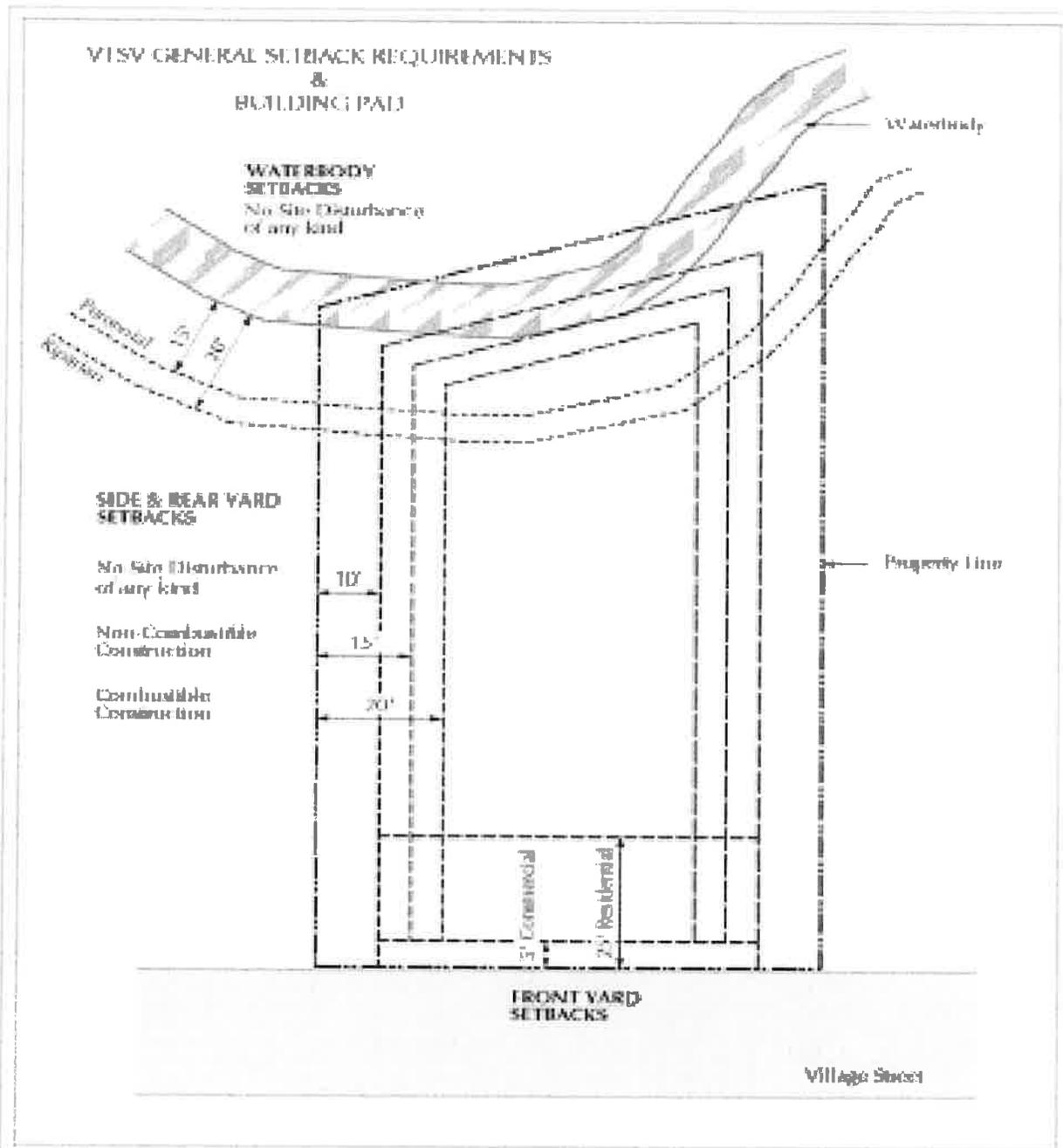
The setback from any perennial stream shall be the top of the bank or be fifteen feet from the high-water mark, whichever is greater.

To properly calculate the setback, the diagram shown for *General Setback Requirements and Building Pad in the Definitions section* is very useful and informative. As indicated in the diagram below, there is to be no site disturbance of any kind within the first fifteen feet of the Perennial Stream Setback area. The intent is to protect the stream from any site disturbance, which could reasonably impact or affect the ecological health of a natural stream.

The proposed design submittals indicate a small area, 61 sq. ft., of site disturbance for the structural foundation within the stream setback. The closest linear impact is 7'5" to the building corner.

At the last Hearing, there was some confusion as to whether the proposed cantilevered section of the building should be considered. This was due in part to the Village Ordinance definition of a *Building Footprint*, which includes the cantilevered building elements. The term best applies to the Ordinance design guidelines found in Section 9.1.1. It could also be utilized in assessing and calculating a Variance encroachment.

The applicant has stated that they now wish to include the more restrictive interpretation in their request, thus including the cantilevered building section. This would greatly expand the encroachment area within the Perennial Stream Setback, as the building would extend and cross the stream at a height of approx. 4'5". The area of encroachment was not calculated by the applicant but could be estimated at a few hundred square feet.



C. The Planning and Zoning Ordinance instructs the Commission in Section 25 - Variances, subsection 4: to follow the criteria below when evaluating and permitting a variance request:

1. *Will cause no significant hazard, annoyance, or inconvenience to the owners or occupants of nearby properties.*
2. *Will not significantly change the character of the neighborhood or reduce the value of nearby property.*
3. *Will not impose significant cost burden upon the Village; and*
4. *Will be in harmony with the general purpose and intent of the Ordinance and with the Comprehensive Plan.*
5. *Financial hardships to the applicant will not be the determinative factor granting variances.*

The applicant has replied in their submittal packet and generally complies with the intentions of all the above variance criteria. Furthermore, the applicant has adequately addressed the NM State statute variance criteria in their submittal.

3. Recommendation: Staff recommends a motion to **Approve** the Variance with the following **Conditions**:

- A. Take all necessary measures to protect Gunsite Stream from on-site construction activity, debris, and erosion.
- B. Provide stamped structural engineered plans for the revised building design.

4. Public Notice & Public Comments

The notice of public hearing was mailed to all abutting property owners within 100 feet on July 17, 2020. A public notice sign was placed on the property on July 17, 2020.

The application and Staff Report were made available at the Villages Office for public review. The following written comments were received by the public:

- A. Four letters of support from neighbors to the subject property.

5. Staff Endorsements

Submitted By:



Patrick Nicholson
Director, Planning & Community Development Department

6. Attachments

- A. Justification letter from applicant
- B. Site plan and design documents
- C. Gunsite Spring Stream Impacts Summary
- D. Wendy Trevisani, property owner, letter
- E. Letters of support from four neighbors
- F. US COE Determination Letter

Graeser & McQueen

— ATTORNEYS AT LAW —

Friday, July 17, 2020

Planning and Zoning Commission
Village of Taos Ski Valley
c/o Patrick Nicholson, Planning & Community Development Director

via: email to pnicholson@vtsv.org

Re: 121 Twining Road Variance Request

Dear Commissioners

The Trevisani family asked my assistance in obtaining the approvals needed for their new home. We appreciate your review of their application, and respectfully request that it be granted.

VTSV staff recommended approval of the prior application to the Planning and Zoning Commission. However, some confusion arose at the Commission meeting and the Commission did not approve the application. The current application reduces the scale of the variance requested, We would like to address the previous confusion and clarify the application.

1. The application meets all VTSV variance criteria

We would like to specifically address how the Application meets all applicable variance criteria of Ordinance 17-30 (zoning regulations), Sections 25.4 (Variances) and 6.2.109 (Definition of Variance)

Section 25.4: The Commission may impose any necessary conditions in approving a Variance to assure that the requested Variance:

- 1. Will cause no significant hazard, annoyance, or inconvenience to the owners or occupants of nearby property;*
- 2. Will not significantly change the character of the neighborhood or reduce the value of nearby property;*
- 3. Will not impose any significant cost burden upon the Village; and*
- 4. Will be in harmony with the general purpose and intent of this Ordinance and with the Comprehensive Plan.*
- 5. Financial hardships to the applicant will not be the determinative factor in granting variances.*

Response:

1. There is no outward impact of the requested variance whatsoever. It will not increase noise, light, traffic, massing of the building (in fact, it will reduce it), or impacts on privacy. To the contrary, many of the surrounding property owners have come forth with letters of support which should be included in your packet.

2. The requested variance will not change the character of the neighborhood. In fact, it is entirely consistent in size, scale, proportion and total lot coverage with other homes in the immediate vicinity. Clearly, past land use practices have been quite permissive, allowing significantly greater incursions into the perennial setbacks, including much of the garage and driveway of the house immediately next door.

It is worth repeating that this small watercourse has undergone significant re-routing and culverting for the past 50 years. There are officially 8 different locations where the stream is conveyed under the main village roads through culverts and many locations where the stream has been re-routed for single family developments. It could be argued that every inch of this stream has been manufactured into its current condition. Finally, this the stream that has been part of a lengthy discussion with the property owners where the stream surfaces for use by the Village to satisfy their growing need for municipal water.

There is no evidence that the variance will reduce property values. In fact, it will be a high-end home constructed to the highest levels of design and construction details.

3. There is no fiscal impact to the Village.

4. The intent of the ordinance is to insure that the stream be protected from site disturbance. The proposed plan is a direct response to that intent. The original authors of the ordinance, some of whom are current sitting members of the Commission and the Village Council, wrote the code with the full understanding that it would be open to variance requests as the code was meant to accommodate unique site conditions. The village incorporated after having been governed by the land codes of Taos County. Many of the vacant lots and previously developed properties instantly become non-conforming when the village zoning ordinance was adopted. The authors simply could not accommodate all of the nuances and therefore expected the variance process to be a mechanism for addressing individual accommodations. The variance request process is an inherent process in the Comprehensive Plan

The proposed home meets the Purpose section of the **zoning code** (§2). In particular, it assists in the “orderly development of property within the Village” by meeting the following standards:

The development site is suitable. In fact, the home is almost entirely within the very constrained building envelope on a small and challenging lot. (§2.1)

All affected agencies, including the Army Corps of Engineers, have been consulted. (§2.2)

There is no interference with ridgelines, prominent landforms, rock outcroppings, open space areas, hydrologic features, wildlife communities, unique and sensitive habitats and vegetation communities, and other natural, biological, and scenic resources. (§2.3)

It forms an integral part of a cohesive neighborhood of similarly designed and constructed, but unique, homes and it promotes a beneficial sense of space within this hillside setting through sensitive and appropriate massing, materials and site layout. (§2.4)

It perfectly meets the code's purpose of promoting appropriate and high quality, alternative architectural and development designs and concepts. (§2.5) The applicants welcome the Council to view other homes built by Mr. Magee (for whom this will be the 5th significant house in TSV) and Mr. Stanford (who will be teaming up with Mr. Magee on their 3rd collaboration) in the vicinity as proof of this point. The other projects are all highly regarded examples of houses that harmonize with the Village, were executed without complications and whose sites have been carefully returned and revegetated to fit back into their natural surroundings.

Neither the home nor the requested variance will contribute in any way to seismic, geologic or fire hazards. (§2.6)

The proposed design is also fully sympathetic to furthering the goals of the **Comprehensive Plan Development Criteria**, achieving the following:

1: The proposed home is consistent with the parcel's zoning.

2: The proposed single-family residence on a small but legally conforming lot is closely aligned with or superior to the massing of surrounding development, and the requested variance will help achieve this by not forcing increased massing elsewhere in the design. There are elements or massing relief that actually bring the primary masses as much as 5 feet inside the proponent setbacks. This design consideration creates a more pleasing multiple massing design and in turn a smaller occupation of the building envelope. The design declines to max out the ground floor with a monolithic extrusion of every available piece of the property or stacking additional stories across the building, dwarfing those around it.

3: There are no applicable master plans

4: The proposed home unifies the streetscape and connects with the adjacent properties in an appropriate manner through siting, massing and materials, which the variance will assist in achieving.

5: The design works within the existing lot slope, including very minimal site disturbance in the perennial setback. Due to site constraints and the layout of neighboring properties there is no opportunity for shared driveways.

6-9,12-13: All public facilities and services are accessible and adequate to serve the new home.

10: The plan is fully sensitive to existing drainage patterns, even at the cost of significant design complication to respect the perennial setback.

11: The plan minimizes grading and employs appropriate siting on a small and challenging lot. The minimal site disturbance within the perennial setback help meet this goal.

14: Outdoor lighting will be minimized within; there are no public spaces.

15: All non-combustible setbacks are observed and defensible space provided.

16: The plan is sensitive to the site and requires minimal cut and fill. Full revegetation will be done. The grading has been designed to balance cut and fill so no import or export of soil is required.

17: The variance will not contribute to any natural hazards.

18: No ADA facilities are required.

19: There is a small watercourse on the property, which requires the variance. It will be fully protected within the context of the planned variance.

20,21: PWD and PSD review, snow management plan, not necessary.

22: It is a private residence so no public amenities are required or planned. Rock outcroppings, watercourses, vegetation and views are all protected.

23: There are no deed restrictions or other limitations affecting the proposed home or variance.

24: The building height, massing, finishes and materials are specifically designed to be sensitive to and enhance the natural surroundings, as this was a specific goal of the Trevisani family and direction to the designer.

25: The building to designed to PASSIVE HOUSE standards, with R-61 walls, R-100 roof, R-50 floors and triple-pane argon filled windows this home is expected to use 80% less energy for heating and cooling than a code built home in the same location. Low flow water fixtures will be used throughout.

26: Excessive snowdrifts are not expected as a result of the variance, and windbreaks are not needed for this single family residence.

27: The building to designed to PASSIVE HOUSE standards, with R-61 walls, R-100 roof, R-50 floors and triple-pane argon filled windows this home is expected to use 80% less energy for heating and cooling than a code built home in the same location.

28: All engineering has been reviewed by a licensed structural engineer, including the cantilevering necessary to minimize the variance request.

29: Night sky clarity will not be compromised, as a specific goal of the construction.

5. Financial hardship is not a basis for the variance request.

Section 6.2.109: "Variance" means a relaxation of the terms of this Ordinance where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of this Ordinance would result in practical difficulty and unnecessary hardship. Financial gain or loss shall not be the determining factor in deciding a Variance.

Response: There is no public interest that will be harmed by granting the variance. The minor perennial watercourse will not be affected at all, and there will only be three columns placed within the setback. There will be no interference with the course or volume of the watercourse. The peculiar condition is that this is a small lot bisected by a (small) watercourse. The water body set backs cover over 27% of the property and reduce the buildable area by over 20%, from 5,551 square feet to 4,389 square feet. The proposed home is a reasonable size, and consistent with other homes in the vicinity. If the subdivision had been approved and platted under the current regulations, the lots would certainly have been laid out differently. This is not the result of any of the applicant's actions. Denying the variance would result in an unnecessary hardship due to the consequent need to reduce the home's footprint significantly in order to retain a usable design, or would result in a non-conforming building mass that would be out of character with the intent of the Architectural Design guidelines of the community (As stated in Section 9.2.1 - "Building massing should be broken up or stepped along a slope." And Section 9.2.2 "Buildings should be sited so that their longest frontage are not on their longest visual sides")

As you know, the Council's decision must be based on substantial evidence, and the application contains that substantial evidence in support of the requested variance. In contrast, there is no substantial evidence in the record that would support a denial.

2. The application meets all State statute variance criteria

Section 3-21-8(C)(1) allows variances that meet the following guidelines:

- (a) that are not contrary to the public interest;*
- (b) where, owing to special conditions, a literal enforcement of the zoning ordinance will result in unnecessary hardship;*
- (c) so that the spirit of the zoning ordinance is observed and substantial justice done; and*
- (d) so that the goals and policies of the comprehensive plan are implemented;*

Response:

(a) There is no public interest that will be harmed by granting the variance. The minor perennial watercourse will not be affected at all, and there will only be minimal disturbance within the setback. There will be no interference with the course or volume of the watercourse.

(b) The peculiar condition is that this is a small lot bisected by a (small) watercourse. The water body set backs cover over 27% of the property and reduce the buildable area by over 20%, from 5,551 square feet to 4,389 square feet. The proposed home is a reasonable size, and consistent with other homes in the vicinity. Denying the variance would result in an unnecessary hardship due to the consequent need to reduce the home's footprint significantly in order to retain a usable design, or would result in a non-conforming building mass that would be out of character with the intent of the Architectural Design guidelines of the community (As stated in Section 9.2.1 – "Building massing should be broken up or stepped along a slope." And Section 9.2.2 "Buildings should be sited so that their longest frontage are not on their longest visual sides")

(c) The intent of the ordinance is to insure that the stream be protected from site disturbance. The proposed plan is a direct response to that intent. The original authors of the ordinance, some of whom are current sitting members of the Commission and the Village Council, wrote the code with the full understanding that it would be open variance requests as the code was meant to accommodate unique site conditions. The village incorporated after having been governed by the land codes of Taos County. Many of the vacant lots and previously developed properties instantly become non-conforming when the village zoning ordinance was adopted. The authors simply could not accommodate all of the nuances and therefore expected the variance process to be a mechanism for addressing individual accommodations. The variance request process is an inherent process in the Comprehensive Plan

(d) The variance request process is an inherent process in the Comprehensive Plan

3. The definition of "footprint" does not apply to the setback requirements

The term "footprint" is defined by the §6.2.46 of the zoning regulations as "the horizontal extent to which a structure covers the ground plane as represented in the plan view including cantilevered building elements..." However, the term is used only with respect to site design and preservation of natural features in §9.1.1. The design is compliant with this design recommendation, and no variance is required to this provision.

This matter was admittedly confused because when they application was filed we did not know that the term "footprint" is a defined term of art in the zoning regulations and it was used in a more general sense to describe the mass of the home. That terminology has been revised accordingly.

The setback requirements in §11.4 do not refer to the building “footprint.” The requirement is simply that “The setback from any perennial stream shall be the top of the bank or be fifteen feet from the high water mark, whichever is greater.” This section does not give any indication how the setback is calculated, however VTSV has issued interpretive guidance in the form of the *VTSV General Setback Requirements & Building Pad* diagram at §6.2.21. The diagram clarifies the meaning of the various setbacks, including that waterbody setbacks (perennial or riparian) mean “No Site Disturbance of any kind.”

In this context, the proposed design of the Trevisani family home requires a small area of site disturbance for a structural foundation within the perennial setback, which is the basis for the variance request.

Regardless, out of prudence and efficiency we are also requesting that the variance apply to the cantilevered portion of the structure as well. Both the justification and the evidence supporting the variance request is the same as for the portion of the building that actually disturbs the perennial setback.

4. Only a Minimal Variance is requested

Under Section 25.1.1 of the zoning regulations, a minimal variance is appropriate for any one of the following reasons:

1. *A height increase up to an additional five feet;*
2. *A setback encroachment that does not increase the size of the building envelope;*
3. *Any lighting request that does not increase the lighting reflected towards the night sky;*
4. *An increase in the height of a fence up to three feet above the maximum allowable height;*
5. *The height or length of a retaining wall.*

The Trevisani family is only requesting a variance under No. 2, a setback encroachment that does not increase the size of the building envelope. The lot currently has a building envelope, meaning “the three-dimensional volume on a site, which is bounded by the required front, side, rear, and water body setbacks, and by the allowable building height,” (§6.2.20), of 4,389 square feet. The gross lot coverage of the project is 4,053 square feet, including the variance request. Therefore, the building envelope is not being increased by grant of the variance.

We believe that the requested variance is minimal, appropriate and fully supported by the evidence. We respectfully request that you grant the variance, so that the Trevisani family can proceed with building a home that they, their designer, builder and TSV can be proud of.

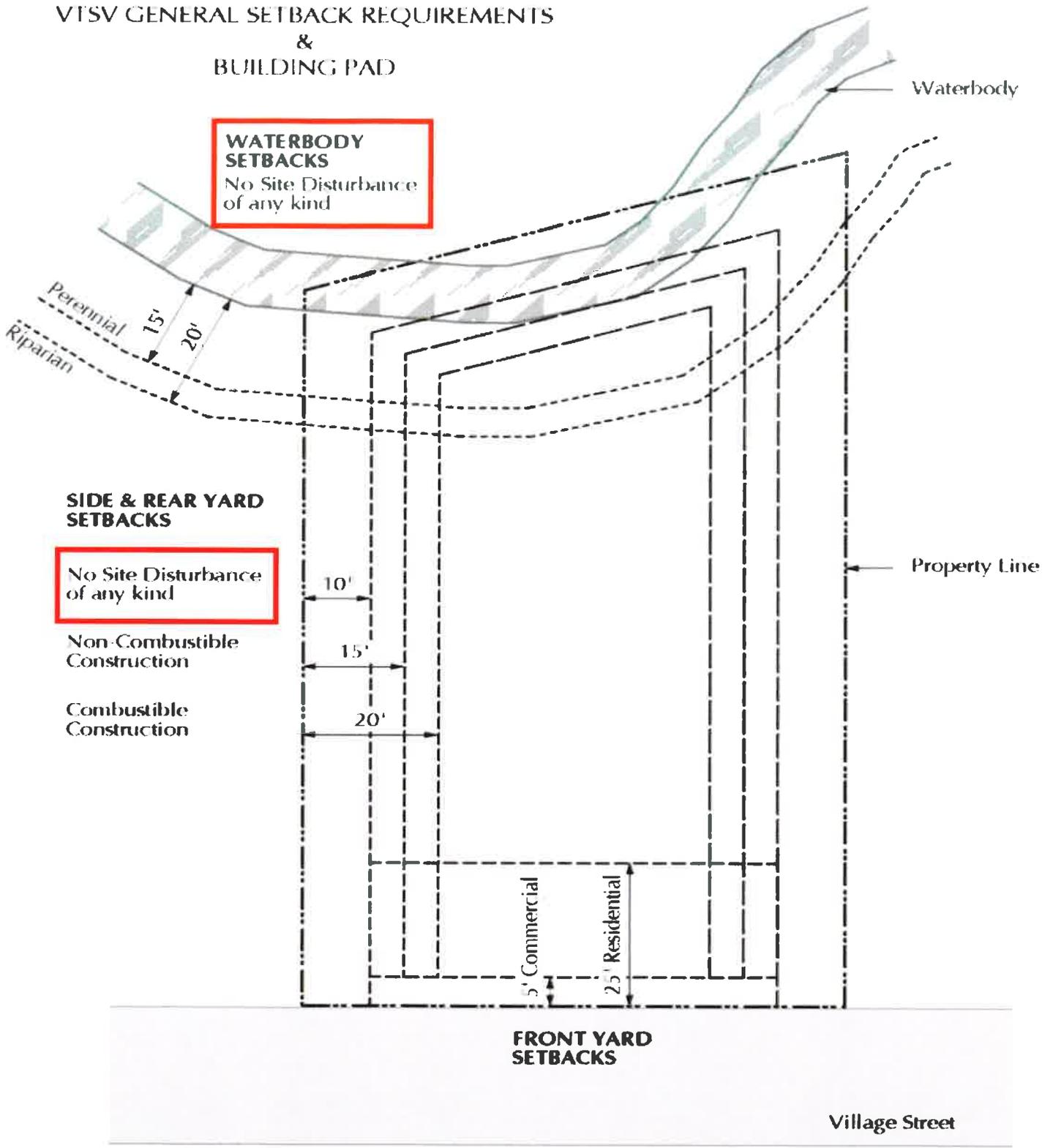
Thank you.



Christopher L. Graeser

VTSV GENERAL SETBACK REQUIREMENTS
&
BUILDING PAD

**WATERBODY
SETBACKS**
No Site Disturbance
of any kind



**SIDE & REAR YARD
SETBACKS**

No Site Disturbance
of any kind

Non-Combustible
Construction

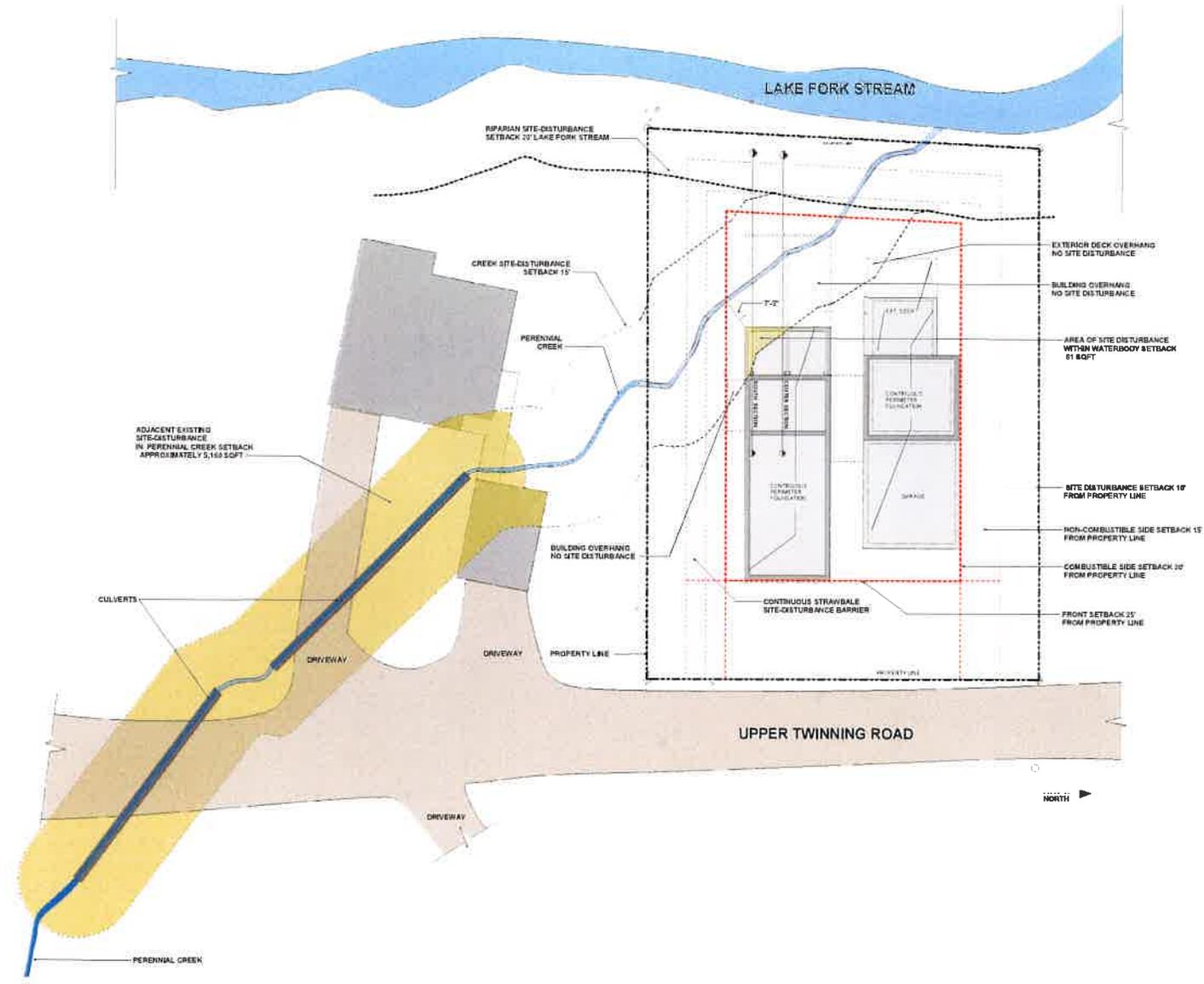
Combustible
Construction

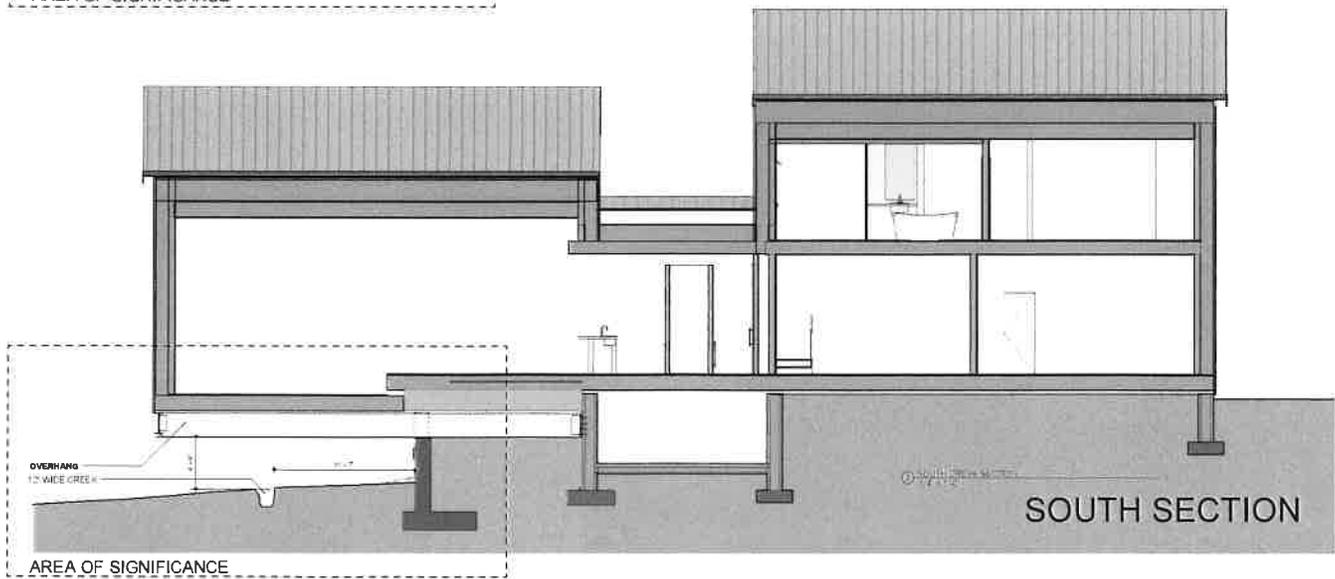
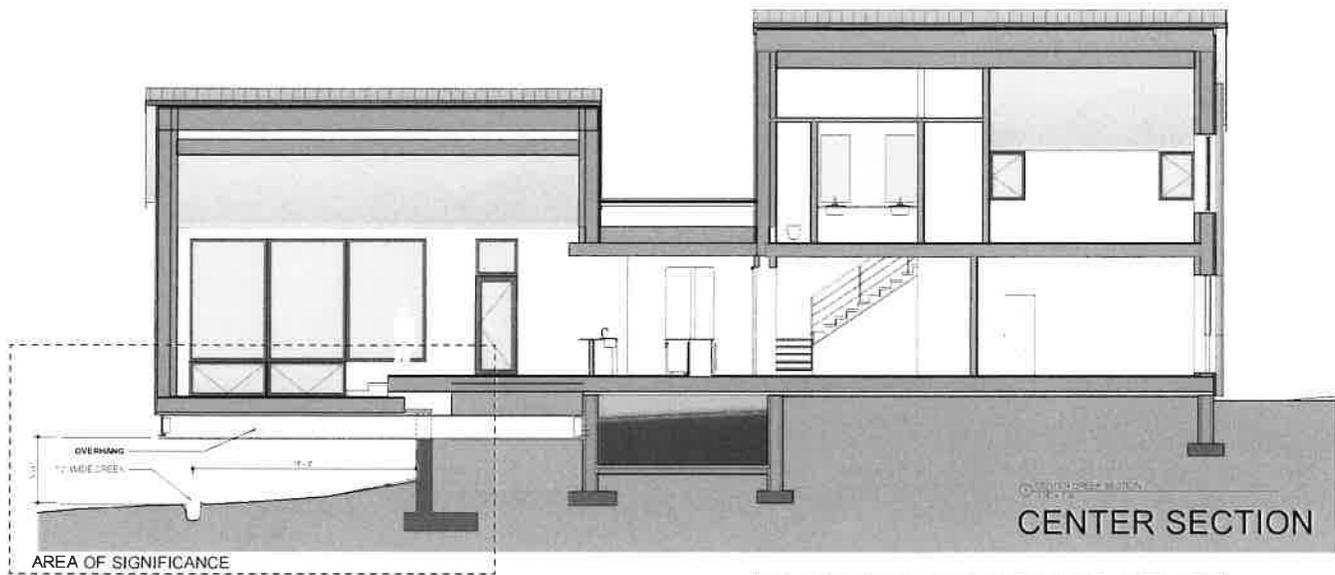
**FRONT YARD
SETBACKS**

5' Commercial

25' Residential

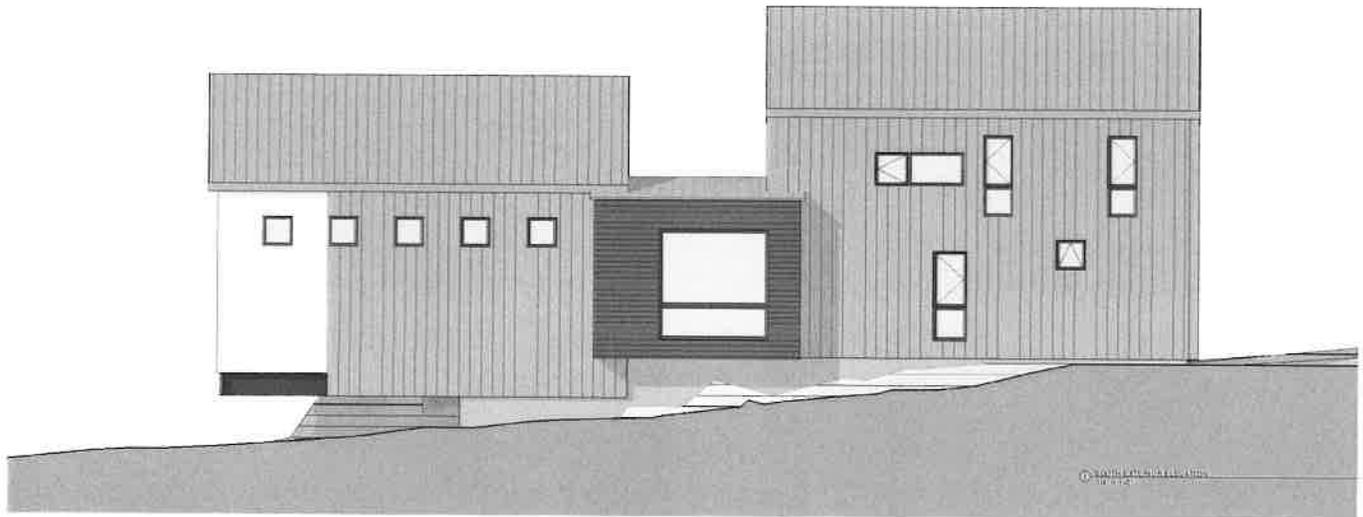
Village Street







STREET VIEW



FROM SOUTH



VIEW FROM NORTHWEST



VIEW FROM SOUTHWEST

Gunsight Springs Stream Summary.

Gunsight Spring Stream originates on the West facing slope of the forest behind the Wheeler Peak Condominiums. From as far back the Valley's history as a mining village over 100 years ago this stream has been impacted by human intervention in one way or another.

The stream begins as a series of springs seeping from the mountain side.

There is a historical infiltration gallery soon after it becomes a flowing creek. Near that location a gauging device was recently placed in the stream to measure the flow, presumably as part of the efforts and negotiations to dedicate, capture and route the water into the Village's municipal system to satisfy their growing demand on infrastructure. See "Gauging Device" photos.

As the stream makes it decent across a combination of Private Land and the Village Public Right of Way, it crosses through a total of (8) 50' culverts. See "Overview" photos for specific locations and specific "Culvert" pages for details.

At a number of locations along the Village road, either by way of surface drainage ditches or by manufactured storm drains, surface run-off is conveyed into the stream. Specifics locations are found at Culvert #2, #3, #4, #5, and #8.

By the time the stream has entered into the Trevisani's property the stream has no significant features found at higher elevations and by now has been greatly reduced in size and flow. There is approximately 85 feet of a virtually straight streambed before the confluence with Lake Fork Stream, less than 20 feet of which is being considered in this application. See "Proximity" photos.

Along this section the stream is a narrow as 8", it averages 12" wide 12" deep and has an average of 3" of water along the extents. There are no trees or significant vegetation found in the section under consideration. The stream is so inconspicuous that it is not visible from ground level a mere 5 feet away. See "Scale" photos.

Currently this stream is considered a perennial waterbody, but let there be no mistake, the stream is also a de-facto storm water drainage system utilized by the Village for conveyance of surface storm water. It is not a pristine, naturally existent mountain stream like those found along the frequented recreational sites down valley. It has been captured, culverted, moved, manipulated and used for human activity since the old sluice ditches used by the mining village that first settled the in the Valley over a hundred years ago.

There is an inherent conflict of interest in imposing a sense of sacredness and a disproportional effort to "protect" less than 1% of the total stream when the totality of the conditions upstream and across the property line have not been held to the same standard, initial disturbances created by installing culverts and continuing every spring when the snow melts and in the run-off events of the summer monsoons.

Furthermore, the complaints issued by the neighbor and their representative are an inherent conflict of interest, the very basis for their concerns have been executed upon their own property, and all stand as an example of safely grandfathered non-conformance(s). They have culverted the stream, built a portion of the house over the stream, and have two structures disturbing the ground well within the current waterbody setbacks.

The irony is that nobody is pointing a finger across the fence and up the road demanding consideration on the basis of precedent, but rather as an answer to the question; "what is the harm?" It is incumbent on the commission to recognize that the harms that are being speculated by this opposing party simply do not exist, if they did, the entire 99% of the upstream conditions would be a glaring example of a total environmental disaster.

Finally, the comments presented by the neighbors and their representative are also in direct conflict with other interests that they are involved with, again imposing a sense of sacredness to the miniscule tail end of the stream while simultaneously lobbying for a major developer who is using their rights to the headwaters as a bargaining chip for approvals for a proposed major private development. These opposing ideals are simply at odds with one another and should be discarded by the commission in their considerations of the matter at hand.

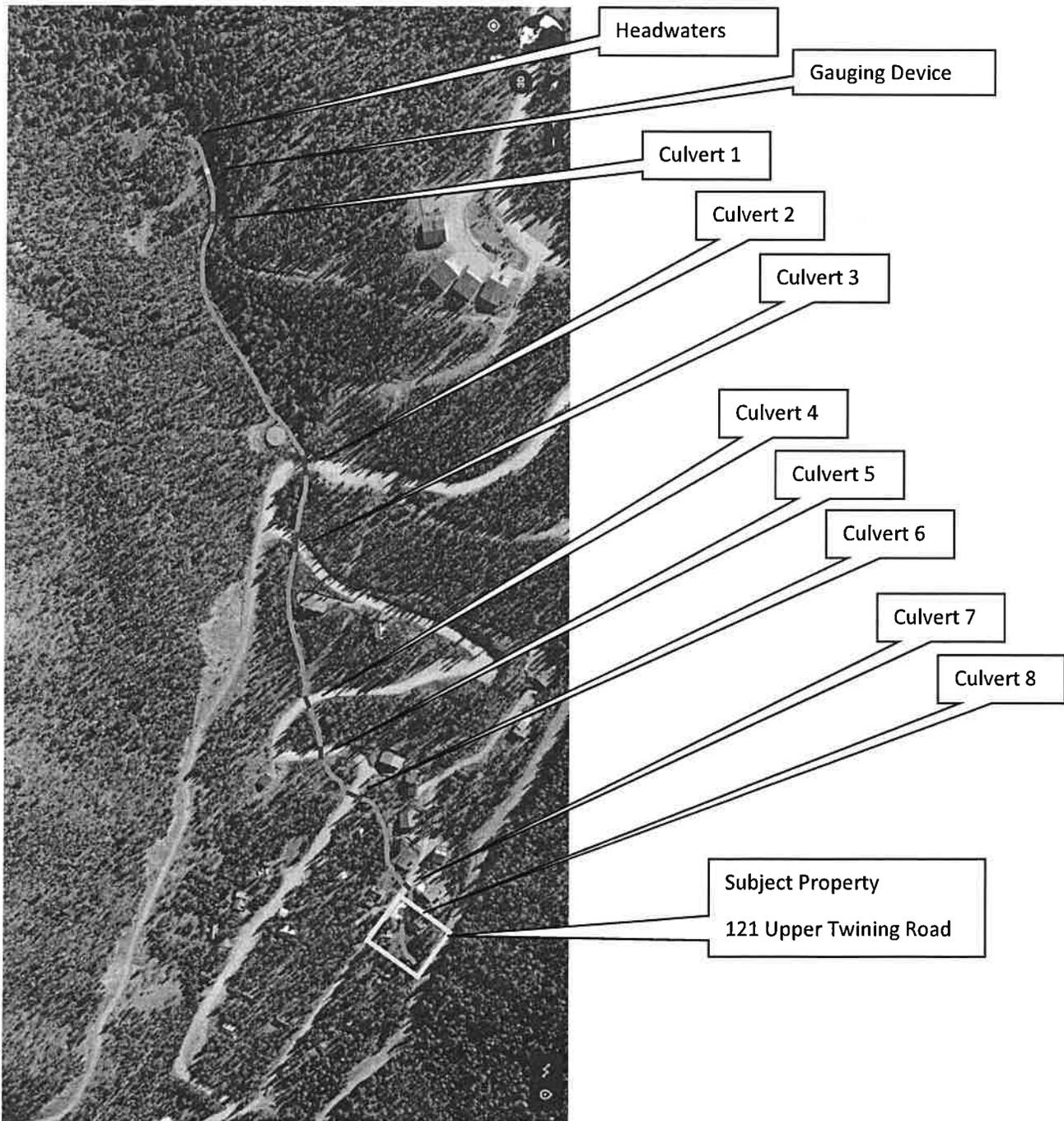
Gunsight Springs Stream, Overview

Total length approx. 2500ft.

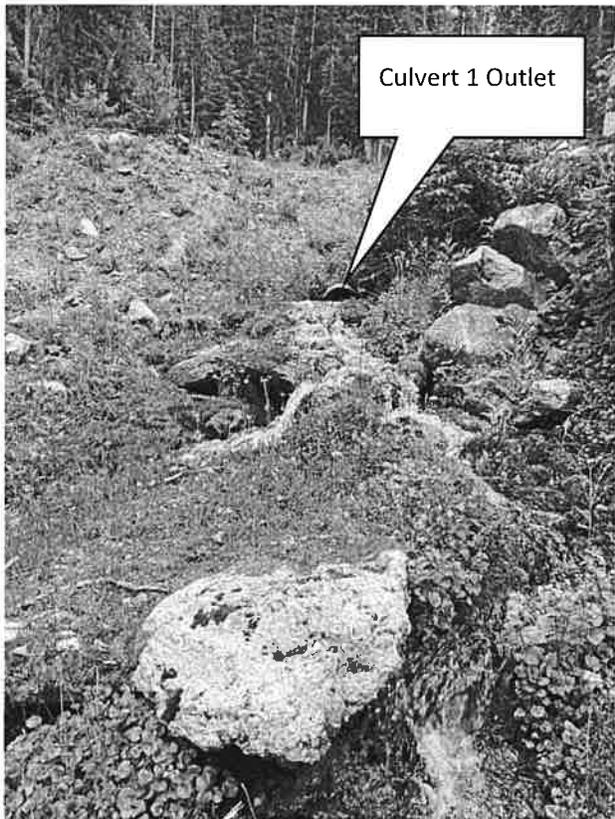
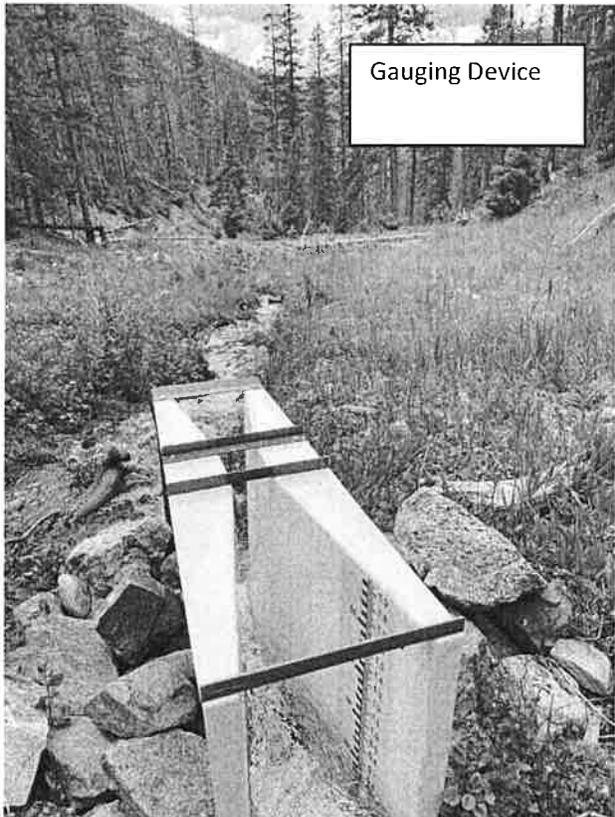
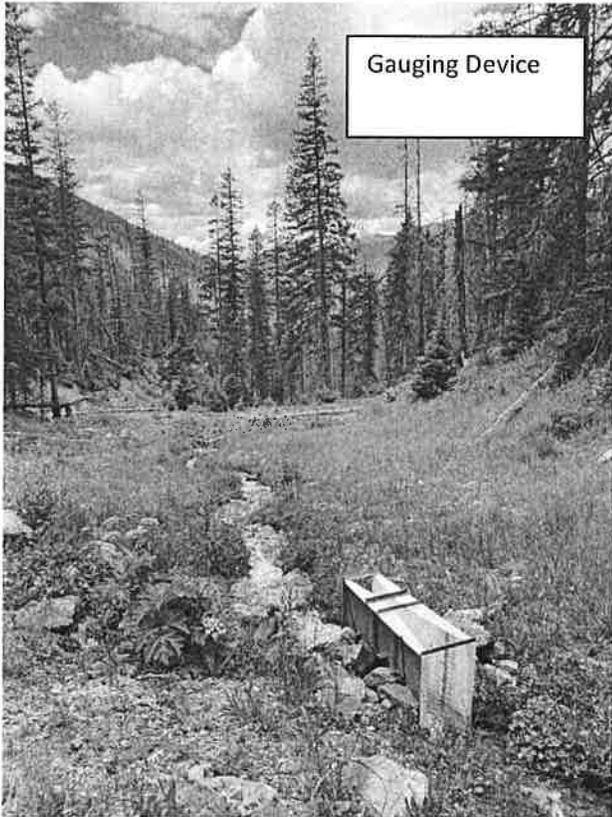
7 road crossing culverts.

1 private driveway culverts.

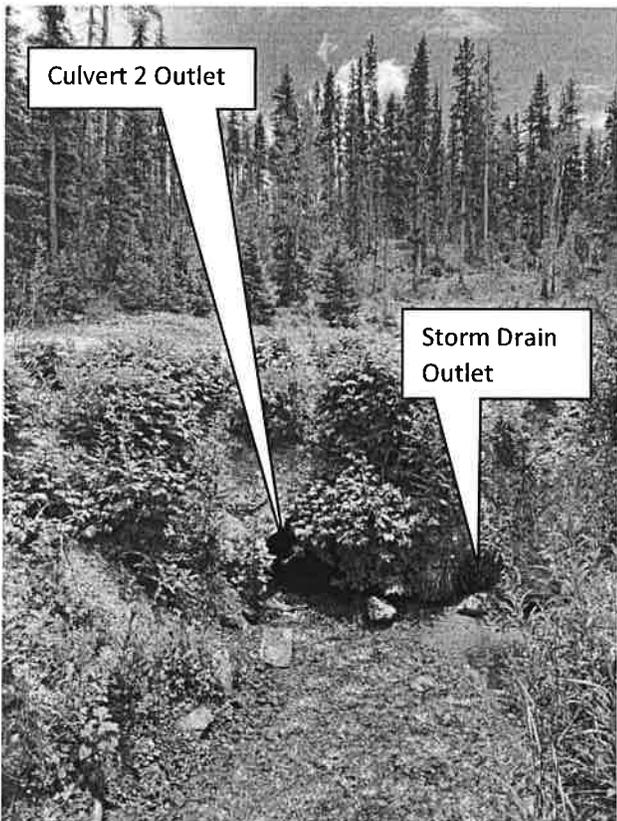
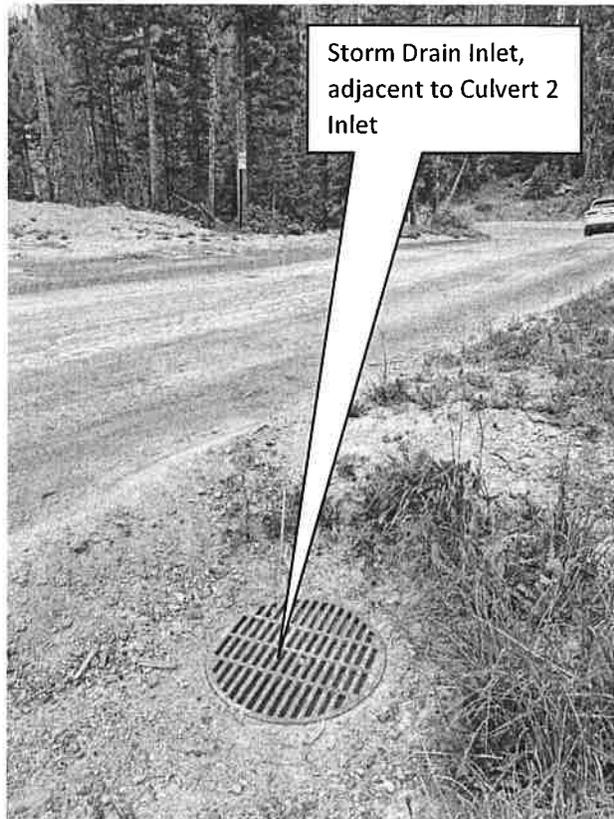
2 known locations where the stream was deliberately moved to accommodate residential development.



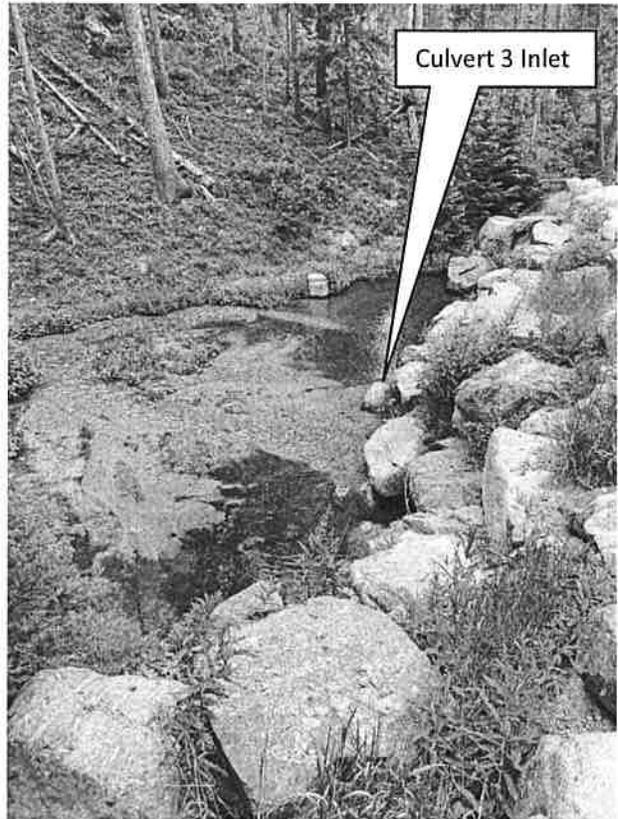
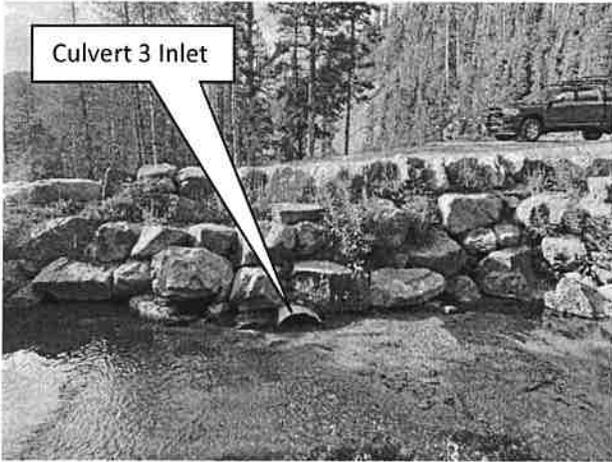
Headwaters Gauging Device, Culvert No. 1



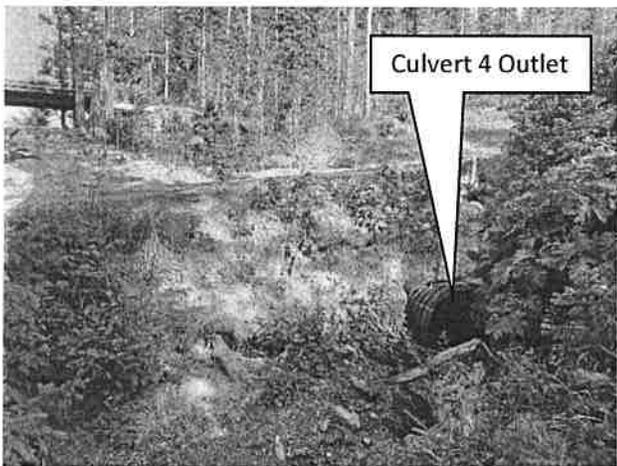
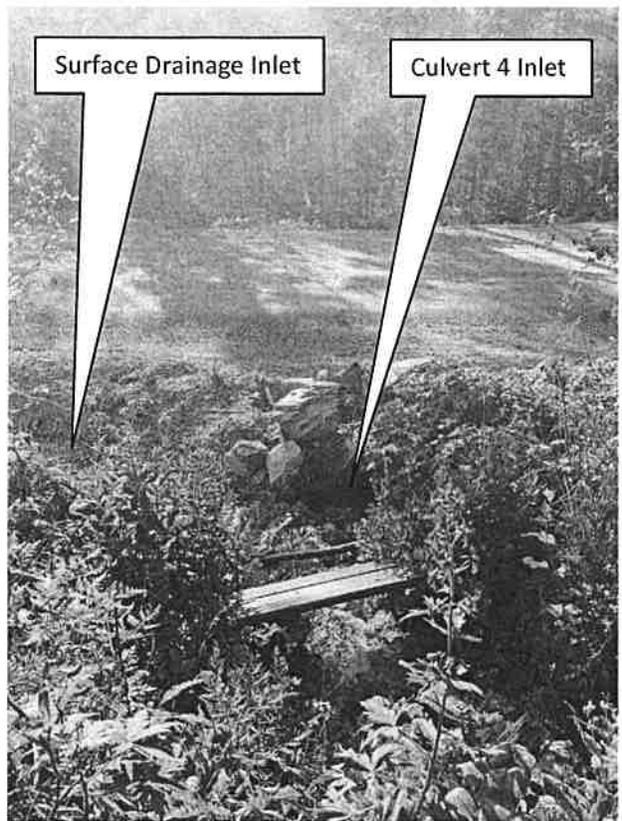
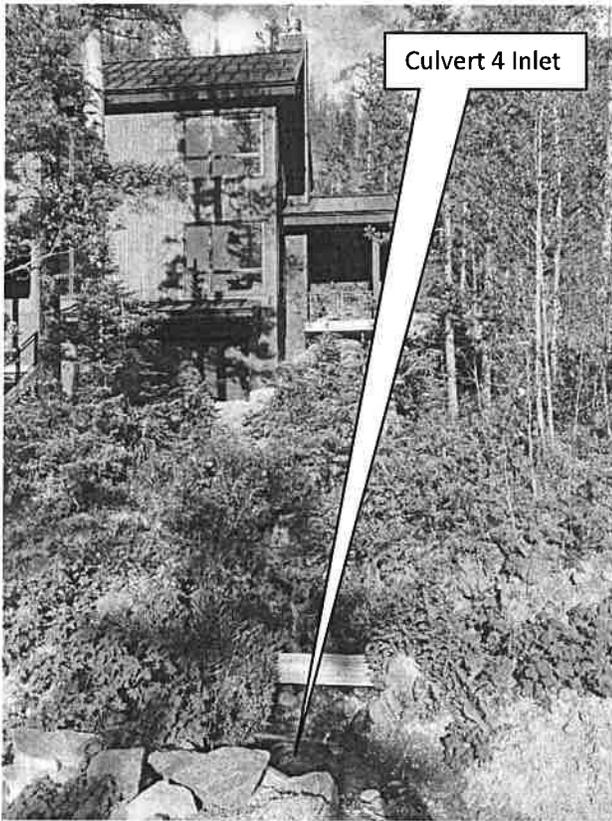
Culvert No. 2



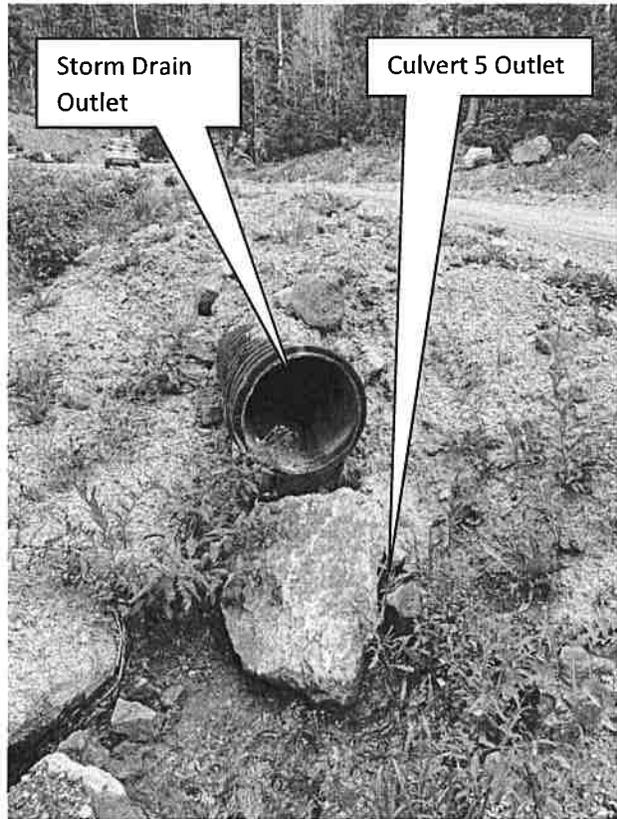
Culvert No. 3



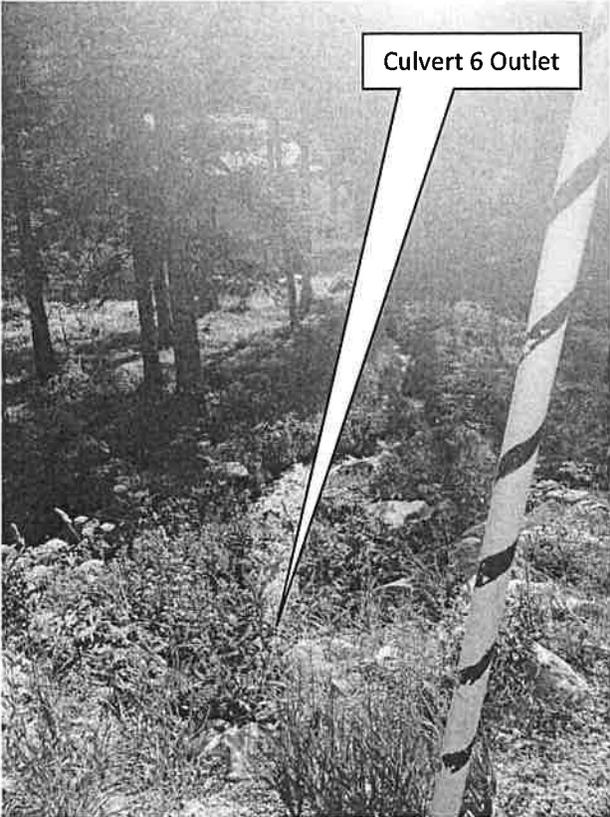
Culvert No. 4



Culvert No. 5



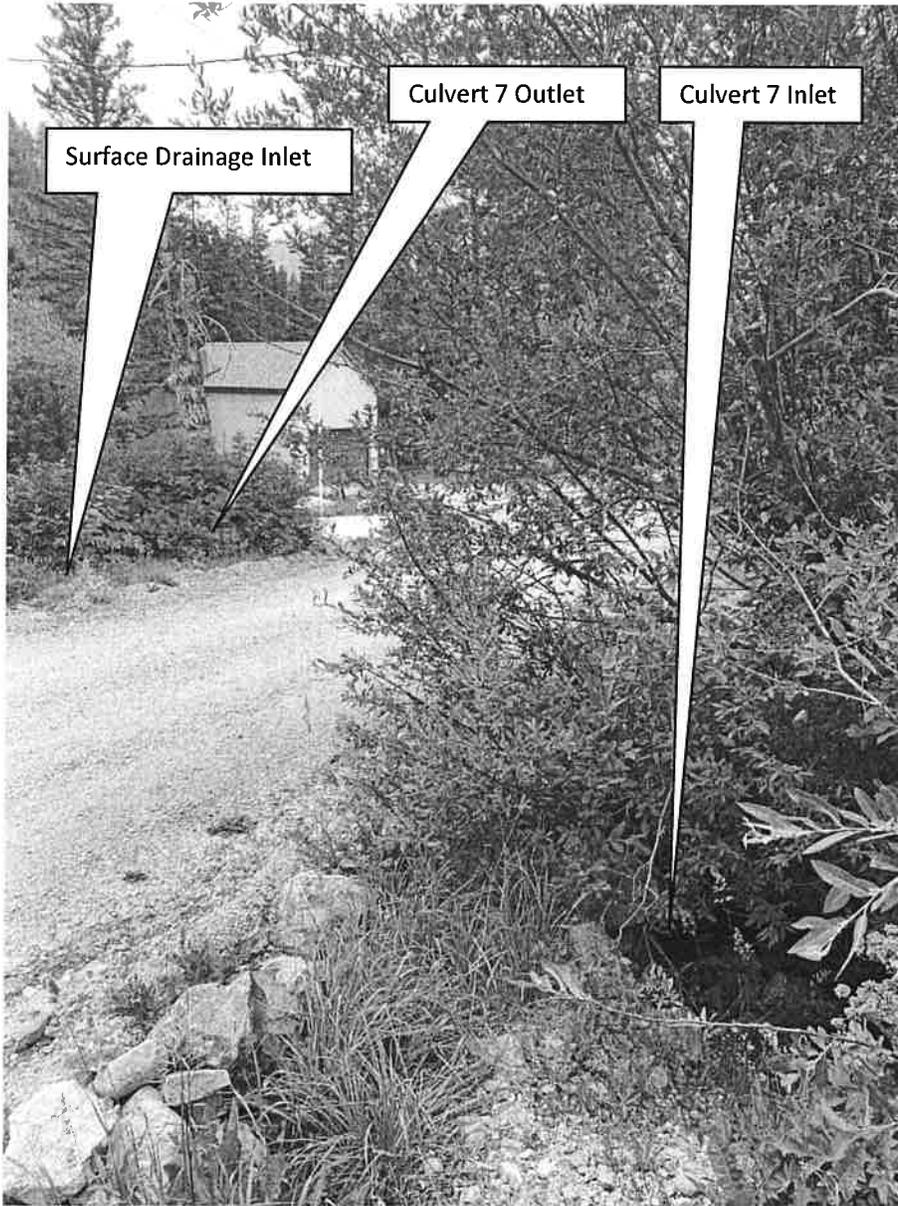
Culvert No. 6



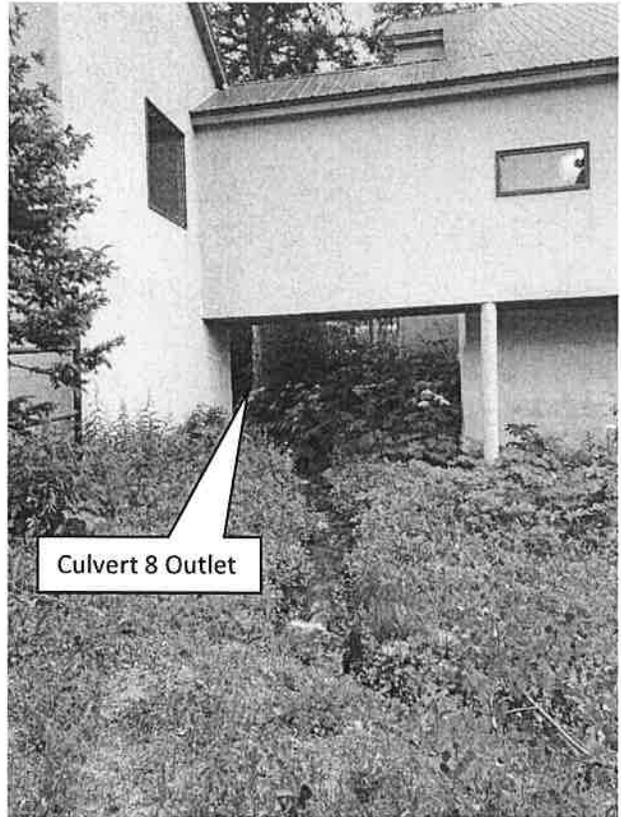
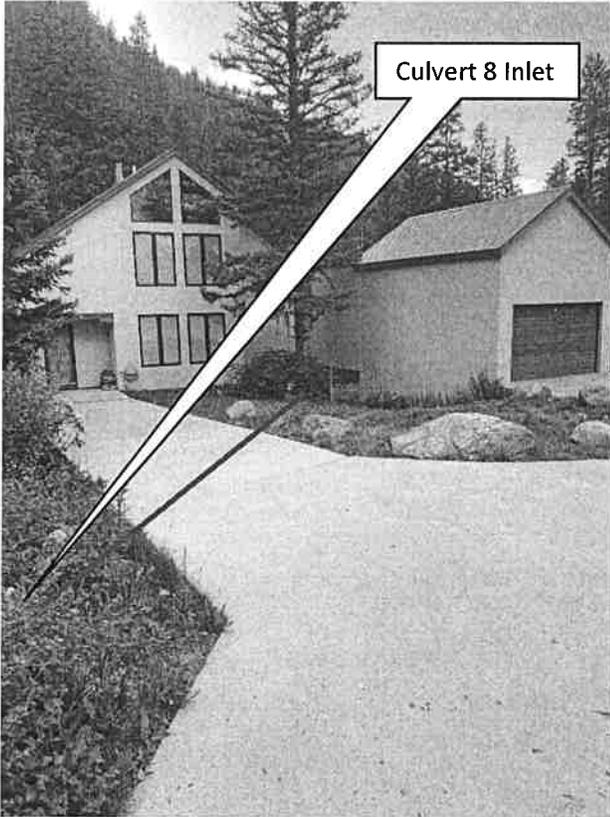
Denton Cabin



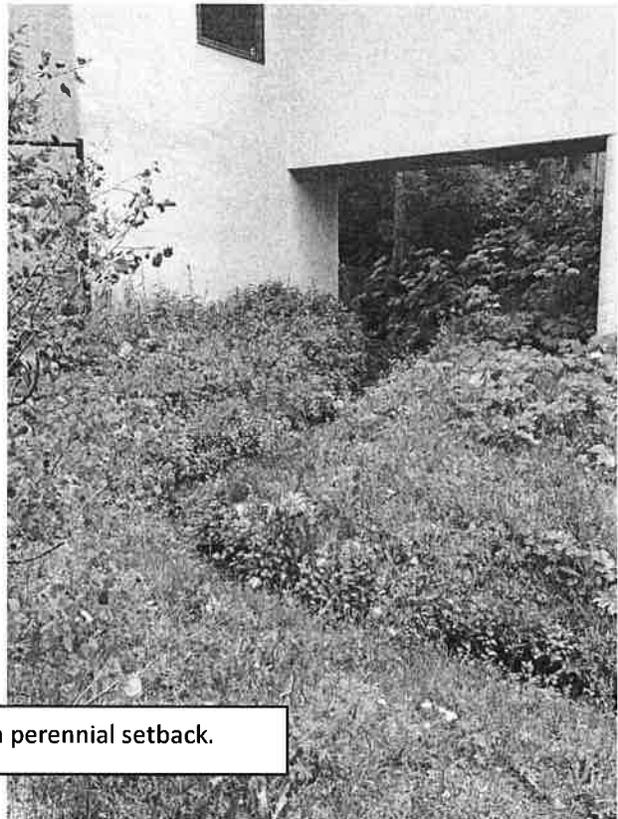
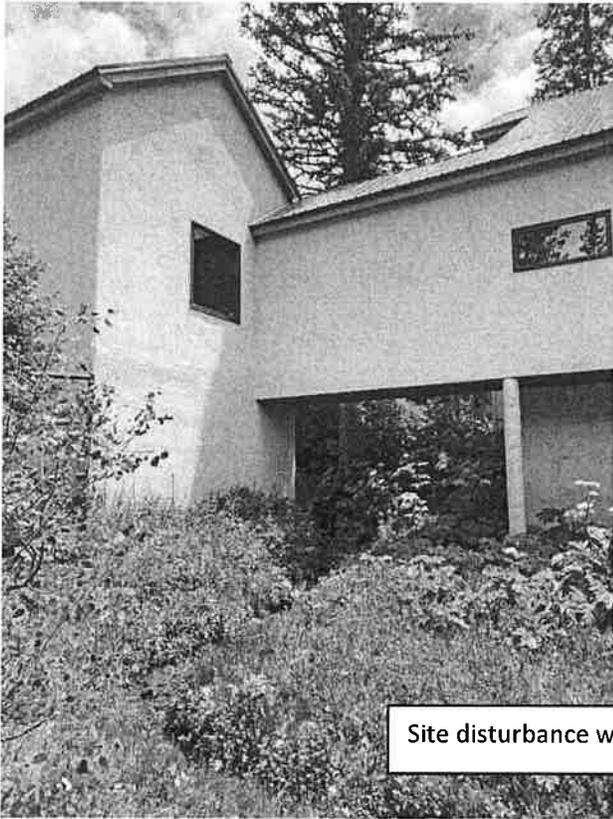
Culvert No. 7



Culvert 8 (Under Driveway)



South of Subject Property



Site disturbance within perennial setback.

Proximity



Straw bales mark location of proposed site disturbance.



Scale



Site measurements and indications of scale of stream on subject property.

Past, Present and Future at the Base



Past, Present and Future at the Base



From: [Wendy Trevisani](#)
To: [Patrick Nicholson](#)
Cc: [Peter Trevisani](#); jed@jedmagee.com
Subject: 121 Twining Road variance
Date: Thursday, July 2, 2020 10:24:45 PM

Dear Patrick,

I am writing as the owner of 121 Twining Road in reference to the variance to the riparian setback. I will leave the engineering, architectural and building details to the experts (including Jed Magee, cc'd here), but know that the design is in harmony with the size, scale and style of existing homes in the immediate vicinity. There is nothing about the request that might cause disruption or inconvenience to the neighbors, property values or the day-to-day operations of the Village Public Works nor will it cause any inconvenience or hardship to the village during construction.

I would like to give you some insight into our vision of the project and our commitment to New Mexico and it's environment. My husband Peter and I have lived in Santa Fe for 20 years. We have raised our 3 children here, all skiers at TSV, and each of them ski team participants once they "graduated" from the Rio Hondo Children's Learning Center. Our youngest is now 14 and still part of the Big Mountain Team. Our oldest has both taught small children and coached older skiers during her winter breaks. We have had a condo at the Bavarian for 10 years. Peter founded and is CEO of the NM United soccer team furthering pride and unity to this state. I am on the boards of United Way and Christus St Vincent Hospital and the majority of our philanthropic efforts are local.

This home is something we have been planning for many years. We are so excited to have a place our children can bring their friends and that will eventually be theirs. The river and beauty of the return trail are unmatched in our opinion and we jumped at the opportunity to acquire land there. We have been working with Needbased (Jonah Stanford) for nearly a year on plans that would mirror the beauty of the surrounding area while being very conscientious of our neighbors, trees, setbacks, etc. It was a sad surprise to learn of the controversy surrounding the 12" tributary running alongside the creek. We believe we have addressed it in earnest and have a wonderful plan to keep impact at a minimum. We do not want to have to remove additional trees. We do not want to have to prolong construction as it will be a disturbance to our neighbors and a pity not to be able to take advantage of our new home sooner rather than later. This is a family dream - we have 3 teenagers - time is of the essence given the seasonality of TSV, from both a building and a recreational standpoint. Further, we believe trying to alter plans will cause a greater impact on the land and the neighborhood and have worked hard to create a structure with minimal visual and environmental issues and a focus on elegance. Preserving the charm of Taos Ski Valley is of the utmost importance to us, and why we chose it to be our family getaway.

I hope that this helps you understand who we are as a family, and how committed we are to preservation of the community we hold so close. I trust that this issue will be resolved in a timely manner so we might continue to make progress with our dream. Please let me know if you need anything further.

Sincerely,
Wendy Trevisani
505 670-6342

From: [William Feinberg](#)
To: [Patrick Nicholson](#)
Cc: [AAK](#)
Subject: 121 Upper Twining Variance Request
Date: Thursday, July 2, 2020 4:16:40 PM

Patrick,

We recently completed a home in TSV on upper Twining Road that had a similar issue to 121 Upper Twining (that I noticed while walking on Upper Twining today) which we appreciated neighbors supporting. As an uphill neighbor, we support this and see no significant hazard, annoyance, or inconvenience to the owners or occupants near the property nor will it (in our opinion) significantly change the character of the neighborhood or reduce the value of nearby properties. I also do not see any significant cost burdens to the VTSV and will be in harmony with the general purpose and intent of this ordinance and with the overall plan from the VTSV.

Happy to discuss at your convenience if it would be helpful.

Regards,
Bill and Ariana Feinberg
131 Upper Twining

From: [Wilson Scanlan](#)
To: [Patrick Nicholson](#)
Cc: [Jenna Scanlan](#)
Subject: Variance Request for 121 Upper Twining Road
Date: Friday, July 3, 2020 10:23:40 AM

Dear Mr. Nicholson,

This letter is written in support of the variance request for Wendy and Peter Trevisani whose building project is located at 121 Upper Twining Road. We support the recommendation from the Army Corps of Engineers to allow their building to span the intermittent (seasonal) "Gunsight" Spring which crosses their property. There is already precedent to this approach by their neighbors at 123 Upper Twining Road.

Thank you for your consideration and all you do for the TSV community.

Our very best,

Wilson & Jenna Scanlan
107 Upper Twining Road
505-603-0479

From: [Greg McAlister](#)
To: [Patrick Nicholson](#)
Subject: RE: 121 Upper Twining Variance
Date: Tuesday, July 7, 2020 7:08:51 PM

To Whom It May Concern:

My name is Greg McAlister. I own the residence at 8 Porcupine Rd in Taos Ski Valley, a few blocks up the way from Upper Twining. I'm writing this email to show my support of the variance application at 121 Upper Twining. As the Village of TSV is aware, there are many challenges faced when building in the valley. In this case, I believe a variance will not diminish the properties surrounding nor will it provide any hazard or inconvenience for those around this property. This variance doesn't appear to impose any additional burden or anyone surrounding the property or upon the Village itself. I do think a variance in this case is in harmony with the overall purpose and intent of this Ordinance. Please know that the Village has my full support in approving this variance.

Sincerely,

Greg McAlister
Wheeler District
c: (405) 361-2332
e: greg@wheelerdistrict.com
w: <http://wheelerdistrict.com/home>

From: [Kate Ferlic](#)
To: [Patrick Nicholson](#)
Cc: [Stanek, Chris](#)
Subject: support for Variance at 121 Upper Twining Rd.
Date: Wednesday, July 8, 2020 10:07:08 PM

Patrick: I am writing to express our support for the variance at 121 Upper Twining Rd. My husband Chris and I live at 119 Upper Twining Rd. and so are the neighbors of this property to the north. We spend a lot of time in the ski valley and I am familiar with Gunsight Spring running through the property at 121. This variance will cause no significant hazard, annoyance or inconvenience to us as neighbors of the property. It certainly will not change the character of the neighborhood or reduce values. The design proposal that I have seen looks amazing and will generally benefit the ski valley with its thoughtfulness in design. I have reviewed the relevant ordinance and the Comprehensive Plan for the ski valley and the variance is in general harmony with both. Chris Stanek and I fully support the variance and hope the decision-makers will do the same.

Thanks,
Kate Ferlic
119 Upper Twining
(505)699-0705



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, ALBUQUERQUE DISTRICT
4101 JEFFERSON PLAZA NE
ALBUQUERQUE, NM 87109-3435

July 10, 2020

Regulatory Division

SUBJECT: No Permit Required – Action No. SPA-2020-00147-ABQ, Magee Design Works/Upper Taos Ski Valley Residential Property Development

Wendy Trevasani
1556 Wilderness Gate Road
Santa Fe, NM 87505

Dear Mrs. Trevasani:

This letter responds to your request for a determination of Department of the Army permit requirements for your residential property development located at approximately latitude 36.58492, longitude -105.44291, in Taos Ski Valley, Taos County, New Mexico. The work, as described in your letter, will consist of the construction of a single-family home. The western portion of the home will be cantilevered over a stream and potential wetlands located on the western portion of the property (Figure 1). We have assigned Action No. SPA-2020-00147-ABQ to this project. Please reference this number in all future correspondence concerning the project.

Based on the information provided, we have determined that a Department of the Army permit is not required since the project activity does not involve a discharge of dredged or fill material into waters of the U.S.

Please note that the Corps did not make a determination of geographic jurisdiction under any of our permitting authorities for this project.

Please also note that a Corps permit decision does not constitute approval of project design features, nor does it imply that the construction is adequate for its intended purpose. Additionally, a Corps permit decision does not authorize any injury to property or invasion of rights or any infringement of federal, state, or local laws or regulations. The responsible party and/or any contractors acting on behalf of the responsible party must possess the authority and any other approvals required by law, including property rights, in order to undertake the proposed work.

Be advised that the project area contains potential waters of the U.S., including wetlands. This determination applies only to this project. Other project proposals require a new determination. If your plans change, please contact our office for a reevaluation of permit requirements.

If you have any questions, please contact me at (505) 342-3220 or by e-mail at Daniel.i.Delgado@usace.army.mil. At your convenience, please complete a Customer Service Survey on-line available at http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey.

Sincerely,

**Daniel
Delgado**

Daniel Delgado
Regulatory Specialist

Digitally signed by Daniel
Delgado
Date: 2020.07.10 12:51:08
-06'00'

Enclosure

Figure 1

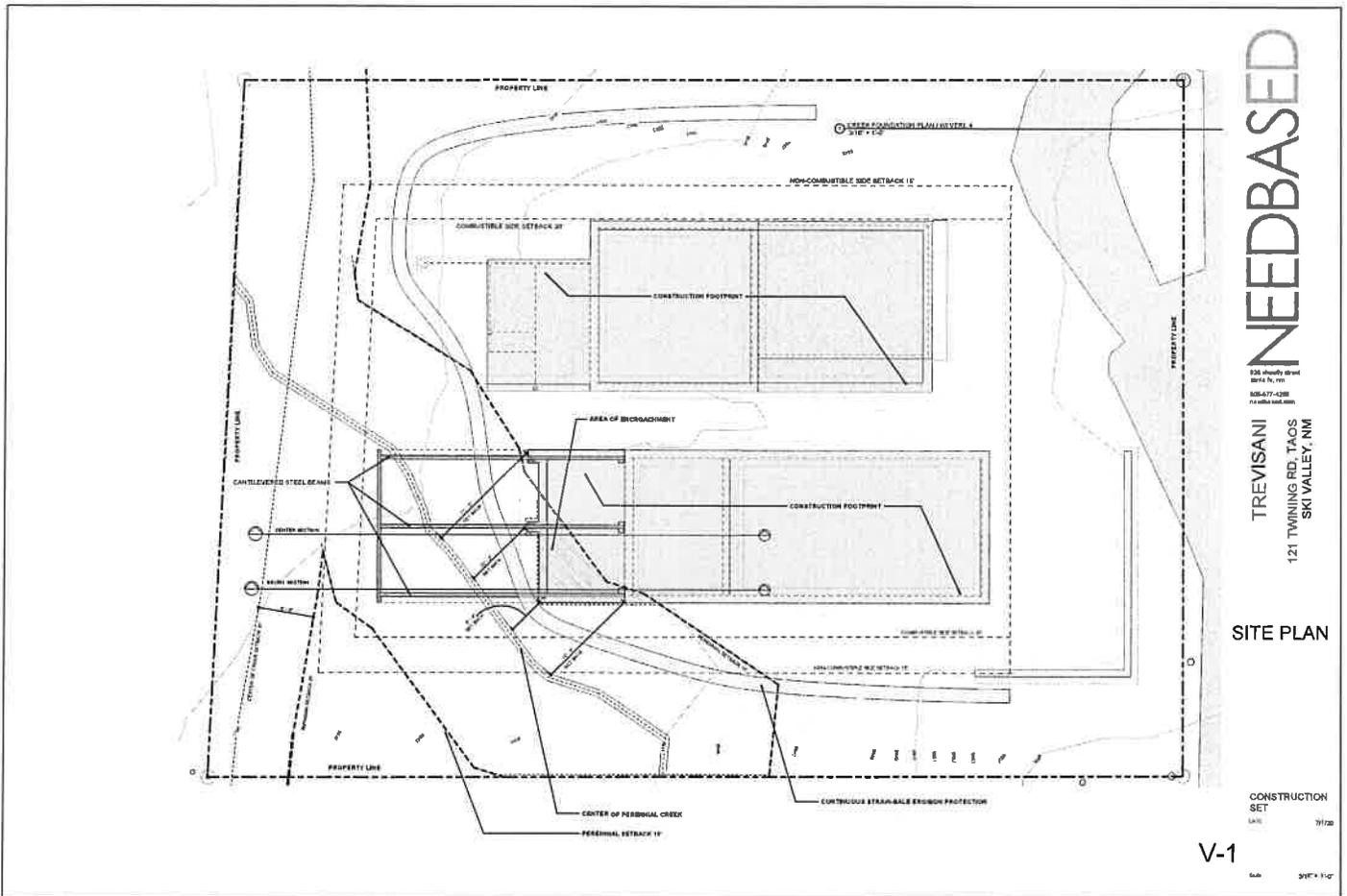
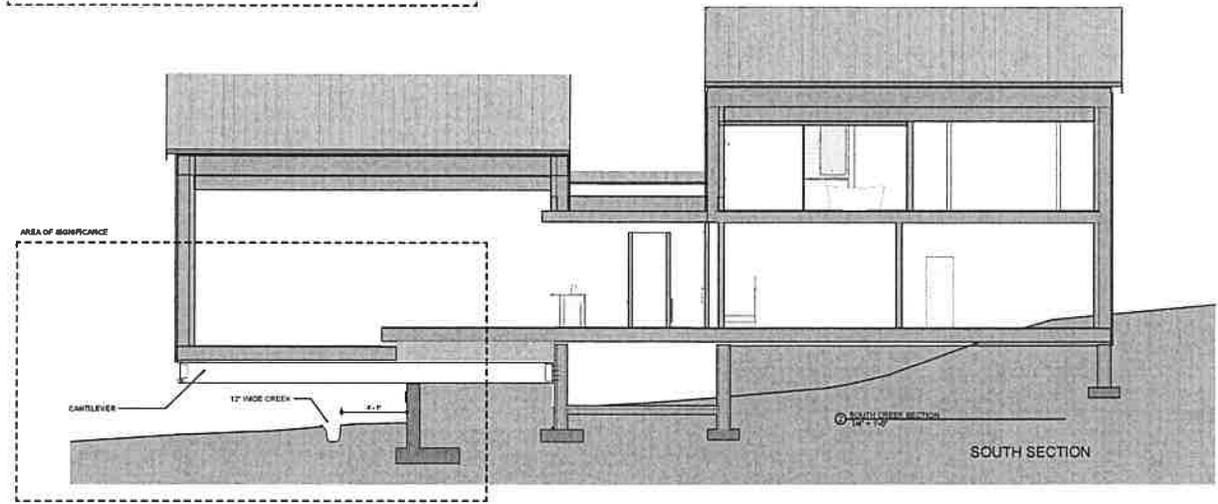
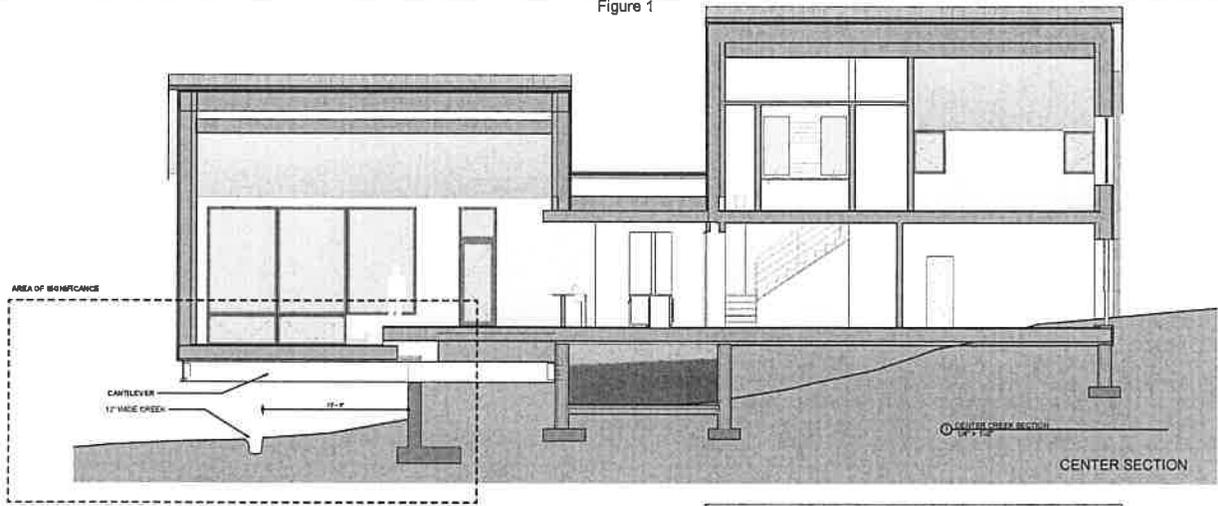


Figure 1



TREVISANI
 NEEDBASED
 828 Shady Street
 April 16, 1978
 805-877-4296
 trevisani.com

TREVISANI
 121 TWINING RD, TAOS
 SKI VALLEY, NM

SECTIONS

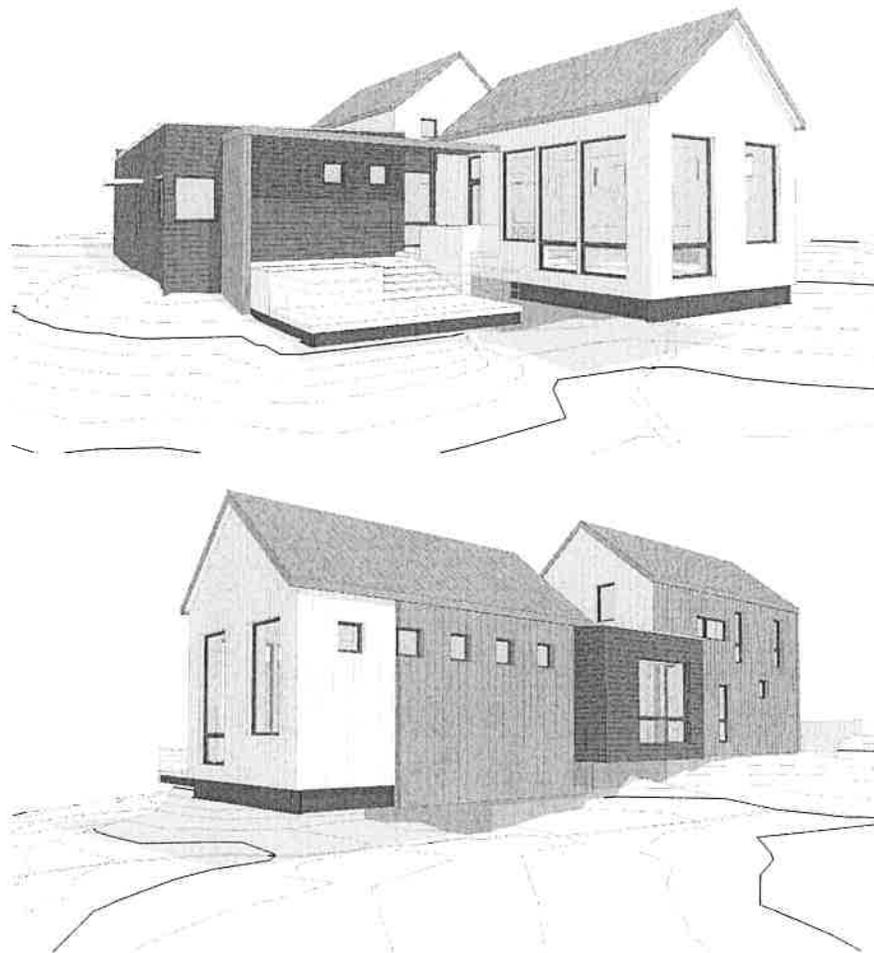
VARIANCE SET

DATE: 7/2000

V-2

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

Figure 1



NEEDBASED

523 shively street
santa fe, nm
505-977-4295
needbased.com

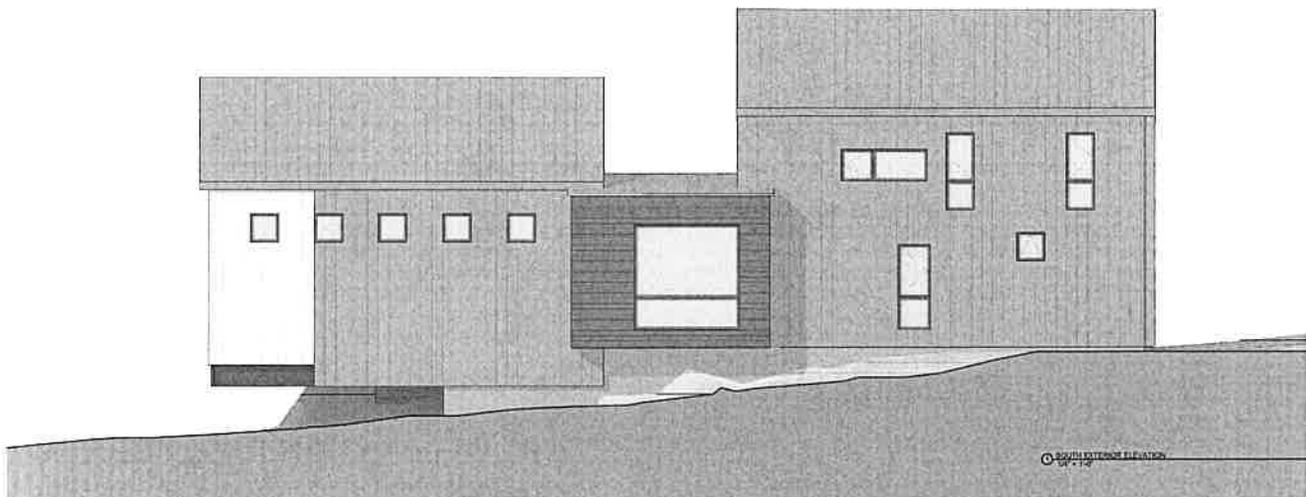
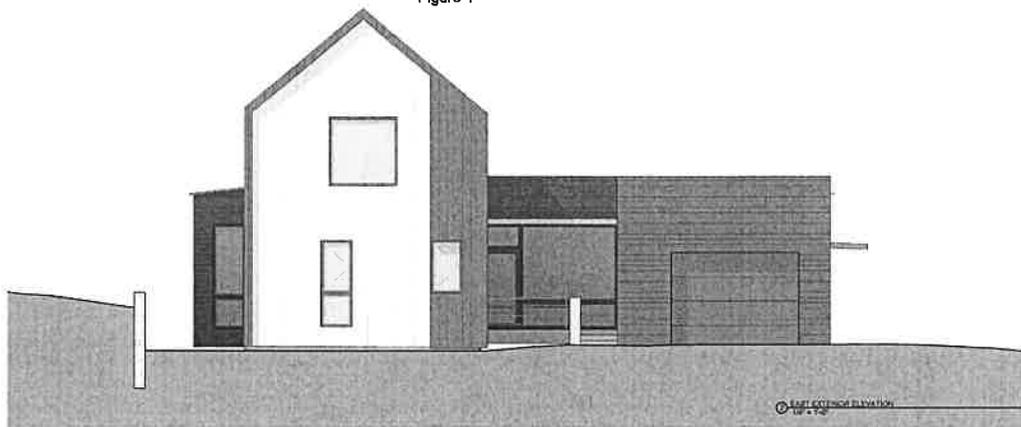
TREVISANI
121 TWINING RD, TAOS
SKI VALLEY, NM

RENDERS

VARIANCE SET
DATE: 7/2/20
SCALE:

V-3

Figure 1



NEEDBASED

123 shady street
santa fe, nm
505-477-4296
needbased.com

TREVISANI
121 TWINING RD, TAGOS
SKI VALLEY, NM

ELEVATIONS

VARIANCE SET
DATE: 7/2019

V-4

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