

# Mulliken Weiner Berg & Jolivet P.C.

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June 22, 2021

El Paso County Board of Adjustment  
2880 International Circle  
Colorado Springs, CO 80910

Re: Application for Set Back Variance, Parcel ID 52054-00-007

Dear Members of the Board:

Please accept this letter as attached to and made a part of the Application for a Set Back Variance for El Paso County Assessor Parcel ID 52054-00-007, also known as 7575 Pinery Circle, Colorado Springs, CO 80908 (the "Property").

## HISTORY OF PROJECT

This project is in front of the Board on an application to approve a setback variance to allow for and legalize an existing structure (the barn) located on the Property. The Property is owned by Russell and Brianne Mallery (the "Mallerys"). The Mallerys purchased the Property in August of 2016. The Property is zoned RR-5 and consists of 9.09 acres that burned in the Black Forest Fire and a 4600 square foot home plus attached garage that was built in 2014 by Goetzmann Homes. Later in 2016, the Mallerys had the detached barn constructed. A copy of the 2016 approved site plan for the barn is attached to this letter as **Exhibit A**. When the barn was constructed on the north side of the Mallerys' house, it was believed to be 27 feet from the nearest lot line.

In 2021, when the Mallerys attempted to obtain approval for an addition to be constructed on the southside of the existing home (the "Addition"), they were initially told their project could not be approved because the barn had been constructed in County right of way. This contention turned out to be incorrect, and was cleared up through research by a local title company, confirmation by a licensed surveyor, final confirmation by Mr. Rick Van Dyke of the El Paso County Assessor's GIS department and then correction of the applicable GIS maps. Copies of the email chain outlining the title company research, conformation by the surveyor and final confirmation by Mr. Van Dyke are attached to this letter as **Exhibit B**.

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El Paso County Board of Adjustment

June 22, 2021

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During this investigation, the Mallerys did order an improvement location certificate ("ILC") of the Property, which was completed and certified by Colorado PLS Jim Lenz. A copy of the ILC is attached to this letter as **Exhibit C**. The ILC discloses the barn is within the required setback and actually encroaches onto the neighboring property. It appears that when the site plan for the 2016 barn construction project was done (which was based on the 2014 site plan prepared by Runge Architecture for the construction of the main residence), it was assumed the lot line was at the fence line. However, the ILC establishes the fence line is on the section line, which is actually 30 feet north of the lot line. Consequently, the main residence and the barn are actually 30 feet north of where they appear to be on the site plan in relation to the lot line.

Upon discovering the error, the Mallerys discussed the matter with the affected neighbor, Mr. William Livingston. Mr. Livingston has given his permission for the encroachment into the required setback and onto his lot. An easement agreement was entered into between the neighbors whereby Mr. Livingston granted an easement over the southerly 30 feet of his property for the encroachments, and the Mallerys and all future owners of the Property accept responsibility for maintaining the various encroaching improvements and also agree to indemnify the burdened property owner. The easement agreement has been recorded and is binding on future property owners. A copy of the easement agreement is attached to this letter as **Exhibit D**.

## RELIEF REQUESTED

The Mallerys are requesting approval of the application for a setback variance to allow for and legalize the location of the barn within the setback, as shown the current site plan, which is attached to this letter as **Exhibit E**. The setback variance is required for the existing barn, which is in the 25 feet rear lot line setback, to legalize the location for the barn within the set and in order for the final building permit and certificate of occupancy for the Addition to be issued. If this application is approved, the Mallerys will seek final approval of a building permit and certificate of occupancy for the Addition from the Pikes Peak Regional Building Department.

## STATEMENTS IN SUPPORT

The Mallery's barn was constructed in honest reliance on a professionally prepared site plan. The original barn was fully permitted and approved by the appropriate County departments. It wasn't until the Mallerys submitted the plans for the Addition that the setback problem was discovered. Once the problem was discovered, the Mallerys disclosed the problem to their affected neighbor, and he agreed to give them an easement across the southerly 30 feet of his property for the various encroachments and the setback. The easement agreement has been recorded in the real property records of El Paso County, runs with the land and is binding on all future owners of the affected properties.

If granted the requested variance will permit only already permitted uses for the RR-5 zoning district. As set forth above, the circumstances leading up the barn being built in the setback

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El Paso County Board of Adjustment

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were extraordinary and uncommon and resulted in a practical difficulty and hardship that were not self-created. The applicants relied on their professionals and previous County approvals. The unique circumstances caught both the applicants and County officials unaware. We believe that the burden of strict compliance with the Code outweigh any benefits of strict compliance. The Mallerys have obtained an easement for the encroachments from the affected neighbor. In addition, the Malleys have provided notice to, and obtained the consent of, each of their adjoining neighbors. The requested variance is narrow in application and represents the minimum relief necessary, it does not injure or interfere with the use of adjoining properties or rights of way and will not alter the character or the neighborhood nor impair the intent and purpose of the Code.

## CONCLUSION

Pursuant to Section 5.5.2 (B) (2) (a) of the El Paso County, Colorado Land Development Code, the Board of Adjustment is authorized to grant a variance from the strict application of any physical requirement of the Code "... based upon equitable consideration, finding that the burdens of strict compliance with the zoning requirement(s) significantly exceed the benefits of such compliance for the specific piece of property and ... [t]he variance request includes an alternative plan, standards or conditions that substantially and satisfactorily mitigate the anticipated impacts or serve as reasonably equivalent substitute for current zoning requirements...." In addition, granting the requested variance would not result in any of the actions prohibited under Section 5.5.2 (3).

In support of this application for a setback variance, the Mallerys put forward that the Board's approval of this application is equitable in light of their particular parcel and the easement agreement serves as a reasonably equivalent substitute for the current setback requirements. The requested variance would not be detrimental to anyone and these unique circumstances compel that strict application of the requirement of the Code not be required.

Sincerely,



Sara M. Frear

SMF:mjf

**APPROVED**

**DENIED**

BY ph DATE 10/14/16  
FOR 1860 1D Detached  
NOTES Garage

**SITE DATA**

ADDRESS OF PROPERTY:  
1915 PINERY CIRCLE  
COLORADO SPRINGS CO 80908  
PROPERTY OWNER:  
JOHN J. SCHRAEDEL  
LEGAL DESCRIPTION: UNDIVIDED EX 14.80 FT. EX 14.80 FT. EX 8.80 FT. OF E 80 FT. SEC 9-24S  
EL PASO COUNTY, COLORADO SPRINGS CO  
TAX PARCEL NO.: 52054-00-001  
ZONE: COUNTY R-1S  
LOT SIZE:  
# OF ACRES: 0.56 (24,000 S.F.)  
AREA OF DISTURBANCE: 25,550 S.F. (0.58 ACRE)  
SETBACKS:  
FRONT: 25'-0"  
SIDE: 25'-0"  
REAR: 25'-0"  
**HOUSE AREA CALC.**  
STRUCTURE SIZE:  
MAIN LEVEL: 2800 SQ. FT.  
GARAGE: 108 SQ. FT.  
PORCH: 238 SQ. FT.  
DISC: 2048 SQ. FT. (GARAGE)  
COVERAGE: 2248 SQ. FT.  
LOT COVERAGE: 54%  
MAX. ALLOWABLE HEIGHT: 35'  
CALCULATED HEIGHT: 37'-5"  
GROSS SQUARE FOOTAGE OF HOME: 3828 SQ. FT.  
HOUSE ALL FLOOR AREA: 3828 SQ. FT.  
MAX. ALLOWABLE HEIGHT: 36'  
CALCULATED MAXIMUM HEIGHT: 37'  
MAXIMUM 3 BEDROOM HOUSE

**NOTES**

- ALL DISTURBED AREAS SHALL BE RE-VEGETATED WITH NATIVE GRASSES AS SOON AS POSSIBLE.
- FINAL GRADING OF SITE SHALL BE SUCH THAT SURFACE WATER SHALL DRAIN AWAY FROM STRUCTURE IN A POSITIVE MANNER.
- CONTRACTOR SHALL FIELD VERIFY AND CONFIRM WITH DEVELOPMENT SERVICES DIVISION UTILITIES PRIOR TO EXCAVATION AND CONSTRUCTION.
- LANDSCAPING SHALL BE PROVIDED BY OTHERS.
- FIELD VERIFY ALL DIMENSIONS.
- CONTRACTOR SHALL FIELD VERIFY AND CONFIRM STAKE OUT OF BUILDING CORNERS PRIOR TO EXCAVATION AND CONSTRUCTION.
- LOCATION OF NEW AND EXISTING UTILITIES TO BE FIELD VERIFIED.
- ALL BASEMENTS, RETRACTIONS, GRADERS AND HEIGHTS SHALL BE FIELD VERIFIED BY TITLE SEARCH AND CONTRACTOR.
- ALL GRADERS SHALL SCOPE AWAY FROM STRUCTURE A MINIMUM OF 10 FEET. ALL UTILITIES SHALL BE LOCATED ON A 10'x10' REPORT. SCOPE REPORT SHALL SHOW: ALL SLAB, DESIGN AND POSITION ON DRAINAGE.
- USE EROSION CONTROL, FENCE DURING EXCAVATION TO EXISTENCE AND PREVENT THE EROSION OF SOIL.
- DEVELOPMENT SERVICES APPROVAL IS CONTINGENT UPON COMPLIANCE WITH ALL APPLICABLE NOTES ON THE RECORDED PLAT.
- AN ACCESS PERMIT MUST BE GRANTED BY THE DEVELOPMENT SERVICES DIVISION PRIOR TO THE ESTABLISHMENT OF ANY DRIVEWAY ONTO A COUNTY ROAD.
- DIVERSION OF BLOCKAGE OF ANY DRAINAGEWAY IS NOT PERMITTED WITHOUT THE APPROVAL OF THE DEVELOPMENT SERVICES ENGINEERING DIVISION.

**ELEVATION KEY**

6860.0' FIN. 5th GRADE  
6860.0' EXISTING GRADE

CLIENT REQUIREMENTS TO BE COMPLIED BY PLANNING DEPT. IF TYPE OF DRIVEWAY ACCESS PERMIT (CONNECTION DRIVEWAY) ACCESS MAY BE PERMITTED.  
NOTE: CONTRACTOR SHALL APPLY FOR DRIVEWAY ACCESS PERMIT ON LOWER AND CONFORM TO BEING FOLLOWED THROUGH A RECORDATION QUALITY CONTROL PERMIT. THE PLANNING DEPT. SHALL BE NOTIFIED OF ANY DRIVEWAY ACCESS PERMIT. 100-440

Approval is contingent upon compliance with all applicable notes on the recorded plat.

An access permit must be granted by the Planning and Community Development Engineering Division prior to the establishment of any driveway onto a County Road.

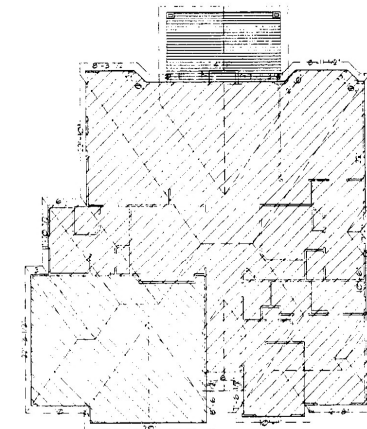
Diversion of blockage of any drainageway is not permitted without the approval of the Planning and Community Development Engineering Division.

Any approval given by El Paso County does not obviate the need to comply with applicable Federal, State or Local laws and/or regulations.



HIGHEST ELEVATION  
SITE ELEVATION: 7'  
MEDIAN GRADE HEIGHT  
SITE ELEVATION: 15'  
GRADE LINE  
SITE ELEVATION: 15'  
TOP OF FINISHED FLOOR  
SITE ELEVATION: 60'  
4.0' FINISHED GRADE  
SITE ELEVATION: 37'-4"

**HEIGHT CALCULATION DIAGRAM**



**FOOTPRINT DIMENSIONS**

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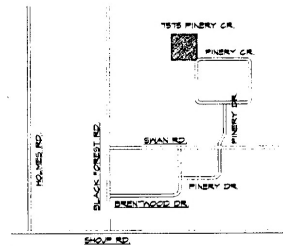
RUNGE ARCHITECTURE

CHARLES W. RUNGE, JR., ARCHITECT  
5315 GERMAINE CT.  
COLORADO SPRINGS CO 80909  
PHONE (719) 280-0000 FAX (719) 280-0021

SCHRAEDEL RESIDENCE  
7375  
PINERY CIRCLE  
COLORADO SPRINGS, CO

JOB NO. 1435  
DATE 8/5/2014  
REVISED  
SHEET NO. SP11

VICINITY MAP  
NORTH



EL PASO COUNTY  
PLANNING AND COMMUNITY DEVELOPMENT

AREA OF DISTURBANCE  
25,550 S.F. (0.58 ACRE)

APPROX. LOCATION OF SEPTIC AND LEACH FIELD

APPROVED ph DENIED  
DATE 10/14/16  
NOTES Garage

BESQCP APPROVED/DENIED  
by ph on 10/14/16

NOTE: AN ACCESS PERMIT MUST BE GRANTED BY THE DEVELOPMENT SERVICES DIVISION PRIOR TO THE ESTABLISHMENT OF ANY DRIVEWAY ONTO A COUNTY ROAD. CONTRACTOR SHALL APPLY FOR PERMIT AND MAKE ADJUSTMENTS AS REQUIRED.  
DIVERSION OF BLOCKAGE OF ANY DRAINAGEWAY IS NOT PERMITTED WITHOUT THE APPROVAL OF THE DEVELOPMENT SERVICES ENGINEERING DIVISION.

52054-00-001  
RR-5

APPROVED  
AUG 28 2014  
FSL Enumeration

N/A  
AUG 28 2014  
FSL RSD Floodplain

CO: 7/10/162  
REC 243494  
ADD 14604

**SITE PLAN**

SCALE: 1" = 40'-0"

20' 0" 40' 0" 60' 0" 80' 0" 100' 0"

BESQCP Not Required  
by ph on 10/14/16

# RESIDENTIAL

2011 PPRBC



Parcel: 5205400007

Resubmittals: 1st \_\_\_\_\_ 2nd \_\_\_\_\_ 3rd \_\_\_\_\_

**Address: 7575 PINERY CIR, COLORADO SPRINGS**

**Plan Track #: 92965** 

**Received: 14-Oct-2016 (REBECCA)**

## Description:

## Required PPRBD Departments (2)

**DETACHED GARAGE(UNHEATED)**

**App Dis N/A By**

Contractor: H DIAMOND J TRADING

**Floodplain** ☐ ☐ ☐ ☒ RBD GIS

Permit # \_\_\_\_\_ Zone: RR-5 EL PASO COUNTY

**Construction** ☐ ☐ ☐ ☐ \_\_\_\_\_

APPROVED FOR CONSTRUCTION

## Required Outside Departments (1)

Date \_\_\_\_\_ By \_\_\_\_\_

**County Zoning** ☒ ☐ ☐ ☐ ☐ PR 10/14/16

Type of Unit:

Release of this plan does not preclude compliance with all applicable codes, ordinances and other pertinent regulations.  
This plan set must be present on the job site for every inspection.

Plan-check Fee: \$14.00

(0)

**Sara Frear**

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**From:** Sara Frear  
**Sent:** Wednesday, May 19, 2021 4:53 PM  
**To:** Rick VanDyke  
**Cc:** Sophie Kiepe; RUSSELL BRIANNE MALLERY JR  
**Subject:** RE: 7575 Pinery Circle

Thanks, Rick! I appreciate your help as always, and don't be silly. I'm always happy to share the info I have. No sense reinventing the wheel. I am ccing Sophie Kiepe with county planning and the property owner's on this email so we're all on the same page and I think your confirmation will be helpful in Sophie's review process.

Sara

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**From:** Rick VanDyke <RickVanDyke@elpasoco.com>  
**Sent:** Wednesday, May 19, 2021 4:43 PM  
**To:** Sara Frear <sfrear@mullikenlaw.com>  
**Subject:** 7575 Pinery Circle

Sara

After reviewing the information you forwarded to me, it has been determined the geographical rendition for 7575 Pinery Circle was not accurate.

It appears that the GIS technicians who originally drew this geographical area did not realize that the adjacent recorded subdivisions did NOT align with the quarter section lines. Thus, when the legal descriptions, along Pinery Circle, excepted out those 30 ft it erroneously created said 30 ft gap. When in reality that 30 ft gap was previously absorbed into adjacent subdivisions per Book 2073 Page 819 (1965).

We have subsequently corrected the geographical portrayal and you should be able to see it referenced on the Assessor's website.

With the demands of the current real estate development, unfortunately I did not have the resources to dedicate to this project. So thank you for forwarding the information from the title Companies and Surveyors – it expedited the review process.

***Thanks***  
***Rick Van Dyke***  
GIS Manager  
El Paso County Assessor's office  
(719) 520-6523  
[rickvandyke@elpasoco.com](mailto:rickvandyke@elpasoco.com)

**Sara Frear**

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**From:** Rick VanDyke <RickVanDyke@elpasoco.com>  
**Sent:** Thursday, May 13, 2021 9:47 AM  
**To:** Sara Frear  
**Subject:** RE: Emailing: 571 55 (Road Order), A 78 (Road Order) 44228UTC

Sara

We'll look into the documents you forwarded. The premise you advocate is not unreasonable, we'll just need to follow up.

However, I may not have you a resolution until sometime next week.

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**From:** Sara Frear <sfrear@mullikenlaw.com>  
**Sent:** Wednesday, May 12, 2021 5:10 PM  
**To:** Rick VanDyke <RickVanDyke@elpasoco.com>  
**Subject:** FW: Emailing: 571 55 (Road Order), A 78 (Road Order) 44228UTC

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Hi Rick – so this is the first of five emails I am going to forward to you. I apologize in advance.

This has to do with the “strip” that is shown on the GIS maps between 52054-00-007 and 52051-01-013. My clients are Russ and Bri Mallery, who are trying to get a building permit for a mother in law suite over their barn. The planning department initially told them no based on the belief their barn currently encroaches into county right of way. I think we've established that there is no gap or right of way between the two parcels and I am sending you the back up from the title company and the surveyor (hence the multiple emails).

My client is going to have to go BOA for relief from the 25 foot setback, but if you are able to review all this and let me know whether you agree the strip is really part of Lot 10 and can be removed from the GIS map, I would really appreciate it. Also, if the strip really is there, if you can help me understand why, I would really appreciate that too.

Call with any questions.

Sara

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**From:** Sophie Kiepe <[SophieKiepe@elpasoco.com](mailto:SophieKiepe@elpasoco.com)>  
**Sent:** Wednesday, May 12, 2021 3:37 PM  
**To:** Sara Frear <[sfrear@mullikenlaw.com](mailto:sfrear@mullikenlaw.com)>  
**Subject:** RE: Emailing: 571 55 (Road Order), A 78 (Road Order) 44228UTC

Sara,

My manager has said that if it is an assessor GIS map issue, then we would feel more comfortable with the Assessor's GIS Dept. giving an informal "okay" or assessment, rather than us. And if that is what it turns out to be, then maybe a

formal determination is not needed and we could just have the Assessor fix the mapping error. Please reach out to Rick at the Assessor's GIS Dept. to have them take a look at the information provided and determine whether a map revision is what's needed here.

Sophie Kiepe, Planner  
El Paso Planning and Community Development  
2880 International Circle, Colorado Springs, CO 80910  
[sophiekiepe@elpasoco.com](mailto:sophiekiepe@elpasoco.com)  
719.520.7943 (Direct) 719.322.6135 (Mobile)



**The Master Plan is Wrapping Up!** The Planning and Community Development Department has been working on revising the Master Plan for El Paso County. Once adopted, this plan will help guide development for the next 20 years. Two hearings have been scheduled before the Planning Commission for the Master Plan on May 5 and May 26. For additional information regarding the Plan, please visit the project website here: <https://elpaso.hiplanning.com/pages/draft-plan-outreach>

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**From:** Sara Frear <[sfrear@mullikenlaw.com](mailto:sfrear@mullikenlaw.com)>  
**Sent:** Wednesday, May 12, 2021 3:14 PM  
**To:** Sophie Kiepe <[SophieKiepe@elpasoco.com](mailto:SophieKiepe@elpasoco.com)>  
**Subject:** RE: Emailing: 571 55 (Road Order), A 78 (Road Order) 44228UTC

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No, but please see the second certification on page one. The surveyor is certifying he has located all the encroachments. And our easement covers the entire south 30 feet of Lot 10. If you can review it based on the assumption the ILC is correct, I am sure the property owner will go back and get a ISP if you decide to require that as part of the process.

Thank you.

Sara

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**From:** Sophie Kiepe <[SophieKiepe@elpasoco.com](mailto:SophieKiepe@elpasoco.com)>  
**Sent:** Wednesday, May 12, 2021 3:07 PM  
**To:** Sara Frear <[sfrear@mullikenlaw.com](mailto:sfrear@mullikenlaw.com)>  
**Subject:** RE: Emailing: 571 55 (Road Order), A 78 (Road Order) 44228UTC

Do you have an actual survey? We don't accept ILCs or consider them legitimate.

Sophie Kiepe, Planner  
El Paso Planning and Community Development  
2880 International Circle, Colorado Springs, CO 80910  
[sophiekiepe@elpasoco.com](mailto:sophiekiepe@elpasoco.com)



719.520.7943 (Direct) 719.322.6135 (Mobile)



**The Master Plan is Wrapping Up!** The Planning and Community Development Department has been working on revising the Master Plan for El Paso County. Once adopted, this plan will help guide development for the next 20 years. Two hearings have been scheduled before the Planning Commission for the Master Plan on May 5 and May 26. For additional information regarding the Plan, please visit the project website here: <https://elpaso.hiplanning.com/pages/draft-plan-outreach>

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**From:** Sara Frear <[sfrear@mullikenlaw.com](mailto:sfrear@mullikenlaw.com)>  
**Sent:** Wednesday, May 12, 2021 3:03 PM  
**To:** Sophie Kiepe <[SophieKiepe@elpasoco.com](mailto:SophieKiepe@elpasoco.com)>  
**Subject:** FW: Emailing: 571 55 (Road Order), A 78 (Road Order) 44228UTC

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**From:** Sara Frear  
**Sent:** Monday, May 10, 2021 10:26 AM  
**To:** [sophiekiepe@elpaso.com](mailto:sophiekiepe@elpaso.com)  
**Subject:** FW: Emailing: 571 55 (Road Order), A 78 (Road Order) 44228UTC

Three of Four

Hi again – attached is the survey and below are comments from the surveyor about the “gap” that is showing up on the GIS maps. Let me know if you have any questions, but I think between the title company and the surveyor, it’s clear that north 30 feet that is excepted from the Mallery’s deed is actually part of Wildwood Ranch Estates. I am not sure why the GIS map was drawn the way it was, but I am happy to share all this with the mapping department and hopefully get it cleared up for the other neighbors too.

The next email I am going to send is an easement we had signed on Friday and will record today. The owner of Lot 10, Block 2, Wildwood Ranch Estates Filing No. 9 granted the Mallerys an easement over that north 30 feet for the encroachment, the set back requirement, the utility line and a to be constructed fence.

Sara

**From:** Jim Lenz <[jlenz.ridgeline@gmail.com](mailto:jlenz.ridgeline@gmail.com)>  
**Sent:** Friday, April 30, 2021 9:38 AM  
**To:** RUSSELL BRIANNE MALLERY JR <[russandbri@msn.com](mailto:russandbri@msn.com)>  
**Cc:** Sara Frear <[sfrear@mullikenlaw.com](mailto:sfrear@mullikenlaw.com)>  
**Subject:** Re: Emailing: 571 55 (Road Order), A 78 (Road Order) 44228UTC

Russ,

Please find the attached ILC survey.

- 1) Unfortunately as you know the concrete around the barn encroaches onto Dave's lot and per my recent fieldwork I have determined that the NE corner of the barn is only 1.34' S. of your North property line.
- 2) The area between your barn and the North fence is the North 30' of the 1/4 section that is excepted out of your property description and is part of Lot 10, (daves property), of Wildwood Ranch estates Filing no.9.
- 3) I agree with the title in that there is no Public Right of Way by reservation or Gap in Legal descriptions. The Right of Way reservation in Road Book A is for exterior section lines and not interior 1/4 lines that define your north property line. Furthermore, the Legal description for Wildwood Estates Filing no.2 specifically calls out the south line of the subdivision being 30' south of and parallel to the east-west 1/4 line that defines your property.
- 4) I believe that the assessors office GIS mapping is in error. There should not be a gap between Wildwood Estates and any property, including yours, that is located in the SE 1/4 of sec. 5.

This is all true unless there is a recorded document that can be found that proves otherwise.

Please feel free to call to discuss.

--

Regards,  
Jim Lenz  
Ridgeline Land Surveying LLC  
31 E Platte Ave. Suite 206  
Colorado Springs, CO 80903  
719-238-2917

IRS CIRCULAR 230 DISCLOSURE: To ensure compliance with requirements imposed by the Internal Revenue Service, we inform you that any U.S. Federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code or promoting, marketing or recommending to another party any transaction or matter addressed herein.

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**Sara Frear**

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**From:** Jim Lenz <jlenz.ridgeline@gmail.com>  
**Sent:** Friday, April 30, 2021 9:38 AM  
**To:** RUSSELL BRIANNE MALLERY JR  
**Cc:** Sara Frear  
**Subject:** Re: Emailing: 571 55 (Road Order), A 78 (Road Order) 44228UTC  
**Attachments:** ILC - 7575 Pinery Circle 4-23-21.pdf

Russ,

Please find the attached ILC survey.

- 1) Unfortunately as you know the concrete around the barn encroaches onto Dave's lot and per my recent fieldwork I have determined that the NE corner of the barn is only 1.34' S. of your North property line.
- 2) The area between your barn and the North fence is the North 30' of the 1/4 section that is excepted out of your property description and is part of Lot 10, (daves property), of Wildwood Ranch estates Filing no.9.
- 3) I agree with the title in that there is no Public Right of Way by reservation or Gap in Legal descriptions. The Right of Way reservation in Road Book A is for exterior section lines and not interior 1/4 lines that define your north property line. Furthermore, the Legal description for Wildwood Estates Filing no.2 specifically calls out the south line of the subdivision being 30' south of and parallel to the east-west 1/4 line that defines your property.
- 4) I believe that the assessors office GIS mapping is in error. There should not be a gap between Wildwood Estates and any property, including yours, that is located in the SE 1/4 of sec. 5.

This is all true unless there is a recorded document that can be found that proves otherwise.

Please feel free to call to discuss.

On Thu, Apr 15, 2021 at 1:42 PM RUSSELL BRIANNE MALLERY JR <[russandbri@msn.com](mailto:russandbri@msn.com)> wrote:

Begin forwarded message:

**From:** Sara Frear <[sfrear@mullikenlaw.com](mailto:sfrear@mullikenlaw.com)>  
**Subject:** FW: Emailing: 571 55 (Road Order), A 78 (Road Order) 44228UTC  
**Date:** April 9, 2021 at 8:57:41 AM MDT  
**To:** RUSSELL BRIANNE MALLERY JR <[russandbri@msn.com](mailto:russandbri@msn.com)>

Russ and Bri – here is the email from the title company regarding the 30 feet. Please share this with the surveyor and ask him or her to call me after the field work is complete and they've have a chance to review this email. Thank you!

Sara

**From:** Simon, Alicia <[ASimon@etinv.com](mailto:ASimon@etinv.com)>  
**Sent:** Thursday, April 8, 2021 9:12 AM  
**To:** Sara Frear <[sfrear@mullikenlaw.com](mailto:sfrear@mullikenlaw.com)>; Bird, Pam <[PBird@etinv.com](mailto:PBird@etinv.com)>  
**Cc:** Simon, Alicia <[ASimon@etinv.com](mailto:ASimon@etinv.com)>  
**Subject:** RE: Emailing: 571 55 (Road Order), A 78 (Road Order) 44228UTC

This message was sent securely using Zix®

Hey Sara,

Pam and I both thought this sounded a little too familiar. My first thought was that the County has really started to hassle people about 30 ', but it's the same one we recently did some research for our insured on this (by we, I mean Pam). Here is what we found:

Burrows owned all of Section 5 in 1956. The chain is clear on this.

Book 1816 at page 594: Burrows to Suddath.

In 1959 (1816/594), he conveys this very tract, and excepts out as follows: "...except the West 30 feet and the North 30 feet; also excepting the South 30 feet of the East 30 feet thereof...".

The deed goes on to set out some restrictions/covenants: .... "100 foot setback from the East, South and West lines, in addition trailers, cesspools and laterals must be 50 feet from property lines and 100 feet from existing wells".

In 1986 the excepted pieces, of our tract, are left off when conveyed to Carducci. The deed out of Carducci, picks it back up again. So, the title company must have discovered their error, since it now reads correctly.

The excepted pieces, shown in our legal, are then conveyed to Wildwood Land and Cattle Company in Deed recorded in Book 2073 at page 819, (1965). This property is then incorporated into Wildwood Ranch Estates Filing No. 9, (also part of Filing No. 2), and becomes a part of Lots 10; 7 and 6 in Block 2. With the exception of the piece identified as the "South 30 feet of the East 30 feet".

The "South 30 feet of the East 30" excepted piece, becomes part of the parcel conveyed to El Paso County for road purposes. This was done in the deed recorded in Book 1778 at page 330, (1959). This later becomes Pinery Circle and Pinery Drive. I drew it out and it matches these roads.

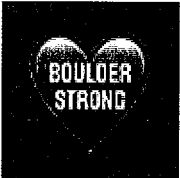
I did not find in the search, a deed where there is any kind of "setback or easement" is conveyed to the county.

I hope this helps.



**Alicia Y. Simon**

President/Title Operations Manager



"For there is always light if only we're brave enough to see it, if only we're brave enough to be it." – Amanda Gorman

**From:** Sara Frear <[sfrear@mullikenlaw.com](mailto:sfrear@mullikenlaw.com)>  
**Sent:** Wednesday, April 7, 2021 5:39 PM  
**To:** Simon, Alicia <[ASimon@etinv.com](mailto:ASimon@etinv.com)>; Bird, Pam <[PBird@etinv.com](mailto:PBird@etinv.com)>  
**Cc:** Plank, Lori <[LPlank@unifiedtitle.com](mailto:LPlank@unifiedtitle.com)>  
**Subject:** Re: Emailing: 571 55 (Road Order), A 78 (Road Order)

I don't think so, but I will let you know. The owner is being told by the county that their barn violates the set back requirements and is too close to an easement, but I can't figure out what easement the county is talking about. I wonder if they are actually talking about the 30 foot exceptions from the legal description.

Do you mind looking back at the chain to see when those 30 foot exceptions were created?

Get Outlook for Android

---

**From:** Simon, Alicia <[ASimon@etinv.com](mailto:ASimon@etinv.com)>  
**Sent:** Wednesday, April 7, 2021 5:30:33 PM  
**To:** Bird, Pam <[PBird@etinv.com](mailto:PBird@etinv.com)>  
**Cc:** Plank, Lori <[LPlank@unifiedtitle.com](mailto:LPlank@unifiedtitle.com)>; Sara Frear <[sfrear@mullikenlaw.com](mailto:sfrear@mullikenlaw.com)>  
**Subject:** RE: Emailing: 571 55 (Road Order), A 78 (Road Order)

Hi Sara,

Is there a problem that has been brought to your attention?

I see that the Examiner took exception to the Road Order and shouldn't have which we can correct, but if there's something else we need to take care of, please let us know.

Thank you,

Alicia Y. Simon  
President/Title Operations Manager

"For there is always light if only we're brave enough to see it, if only we're brave enough to be it." -  
Amanda Gorman

-----Original Message-----

From: Bird, Pam <[PBird@etinv.com](mailto:PBird@etinv.com)>  
Sent: Wednesday, April 7, 2021 5:22 PM  
To: Simon, Alicia <[ASimon@etinv.com](mailto:ASimon@etinv.com)>  
Cc: Plank, Lori <[LPlank@unifiedtitle.com](mailto:LPlank@unifiedtitle.com)>; [sfrear@mullikenlaw.com](mailto:sfrear@mullikenlaw.com)  
Subject: RE: Emailing: 571 55 (Road Order), A 78 (Road Order)

Sara and Lori:

The road order would not affect an interior quarter, quarter. It only affects the exterior section lines.

Pam Bird  
Title Examiner  
ET Production Services, LLC  
"OUR COMMITMENT IS EXCELLENCE"

etsecure

-----Original Message-----

From: Simon, Alicia <[ASimon@etinv.com](mailto:ASimon@etinv.com)>  
Sent: Wednesday, April 7, 2021 5:15 PM  
To: Bird, Pam <[PBird@etinv.com](mailto:PBird@etinv.com)>  
Subject: FW: Emailing: 571 55 (Road Order), A 78 (Road Order)

Would you take a look at this when you get a chance - it's for Sara Frear (see below) - Lori is out tomorrow and Friday.

Alicia Y. Simon  
President/Title Operations Manager

"For there is always light if only we're brave enough to see it, if only we're brave enough to be it." -  
Amanda Gorman

-----Original Message-----

From: Plank, Lori <[LPlank@unifiedtitle.com](mailto:LPlank@unifiedtitle.com)>  
Sent: Wednesday, April 7, 2021 5:14 PM  
To: Simon, Alicia <[ASimon@etinv.com](mailto:ASimon@etinv.com)>  
Subject: FW: Emailing: 571 55 (Road Order), A 78 (Road Order)

Sorry to do this but... This is an old file - Pam Michalko was the examiner and Mulliken Law has questions. I know Heidi won't be able to assist so I'm asking you. I have sent Sara the 2 docs she requested but would you be able to take a look and see if the road order applies to this property and let Sara Frear know? I told her I would ask but that this may not get answered till next week.

Thanks!

Lori Plank  
Title Specialist  
Direct: 719-955-7045 | Main: 719-578-5900  
Fax: 866-533-5654  
101 S. Sahwatch St., #110, Colorado Springs, CO  
80903 [lplank@unifiedtitle.com](mailto:lplank@unifiedtitle.com) | [www.unifiedtitle.com](http://www.unifiedtitle.com) Excellence in Work, Integrity in Everything

-----Original Message-----

From: Sara Frear <[sfrear@mullikenlaw.com](mailto:sfrear@mullikenlaw.com)>  
Sent: Wednesday, April 7, 2021 4:53 PM  
To: Plank, Lori <[LPlank@unifiedtitle.com](mailto:LPlank@unifiedtitle.com)>  
Cc: Brianne Mallery <[russandbri@msn.com](mailto:russandbri@msn.com)>  
Subject: RE: Emailing: 571 55 (Road Order), A 78 (Road Order)

Thank you, Lori. So I am trying to help Russ and Bri Mallery with an issue they are having with the County and a setback requirement. A copy of their title commitment is attached.

Will you please send a copy of the deed into their seller and copy of exception 13 (an easement recorded at reception no. 214077990).

Then, will you double check with the examiner, but I don't think exception 9 (the road order) actually applies to this property. We are the NW1/4 of the NW1/4 of the SE1/4 of Section 5, so this parcel is entirely interior and not on a section line.

Thanks!!

Sara

-----Original Message-----

From: Plank, Lori <[LPlank@unifiedtitle.com](mailto:LPlank@unifiedtitle.com)>  
Sent: Tuesday, April 6, 2021 8:41 AM  
To: Sara Frear <[sfrear@mullikenlaw.com](mailto:sfrear@mullikenlaw.com)>  
Subject: Emailing: 571 55 (Road Order), A 78 (Road Order)

We've Moved! Same Address - New Floor!  
Please note the new address information below

Lori Plank  
Title Specialist  
Direct: 719-955-7045 | Main: 719-578-5900  
Fax: 866-533-5654  
101 S. Sahwatch St., #110, Colorado Springs, CO  
80903 [lplank@unifiedtitle.com](mailto:lplank@unifiedtitle.com) | [www.unifiedtitle.com](http://www.unifiedtitle.com) Excellence in Work, Integrity in Everything

IRS CIRCULAR 230 DISCLOSURE: To ensure compliance with requirements imposed by the Internal Revenue Service, we inform you that any U.S. Federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code or promoting, marketing or recommending to another party any transaction or matter addressed herein.

MODIFICATION DISCLAIMER: Any modifications you make to any documents enclosed with this correspondence may change their legal significance, including their interpretation and enforceability. We are not responsible for any modifications made to these documents which have not been approved by our office. We encourage you to consult with us regarding any proposed changes to the attached documents.

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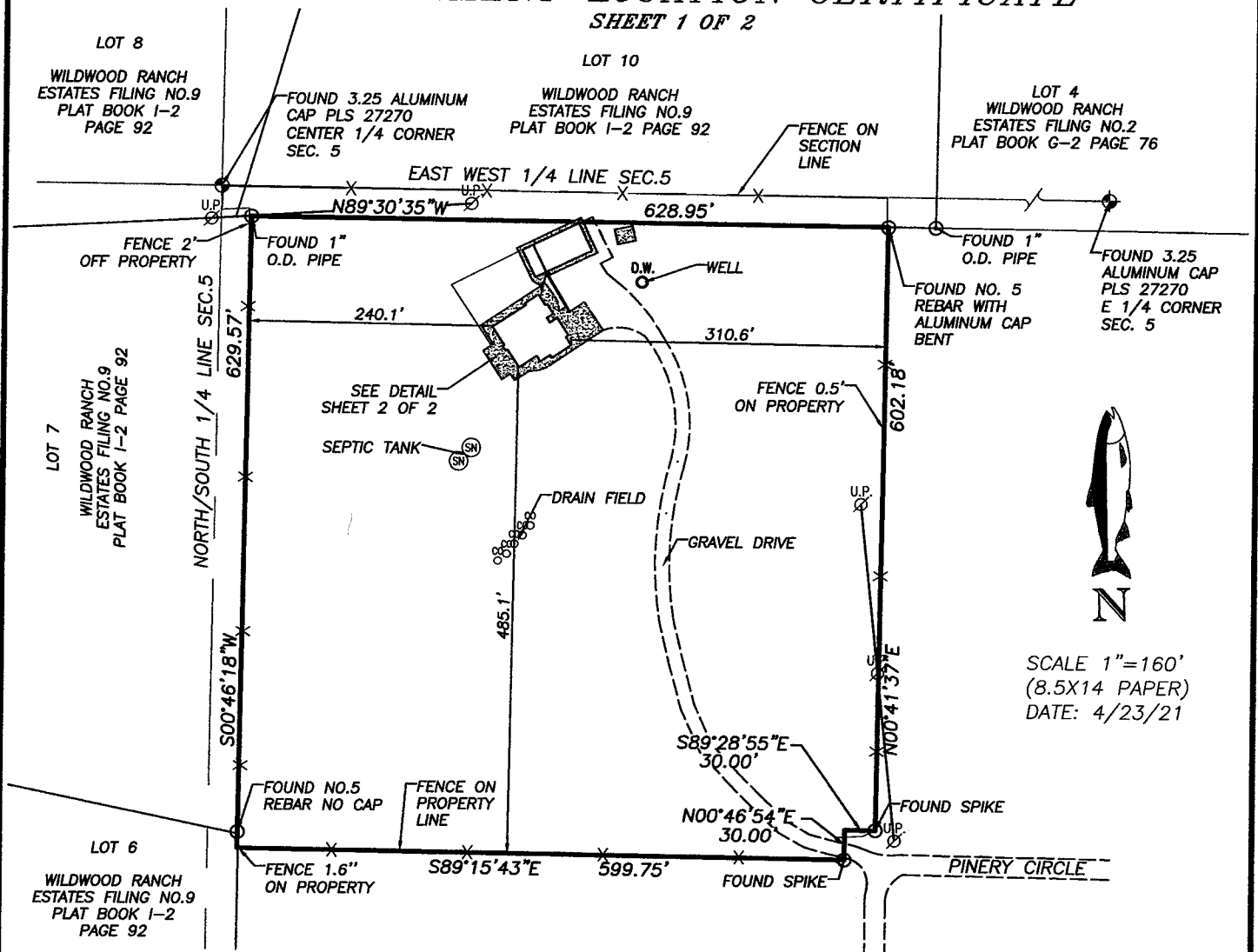
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Regards,  
Jim Lenz  
Ridgeline Land Surveying LLC  
31 E Platte Ave. Suite 206  
Colorado Springs, CO 80903  
719-238-2917



# IMPROVEMENT LOCATION CERTIFICATE

SHEET 1 OF 2



CERTIFIED TO: RUSSELL AND BRIANNE MALLERY AND LAND TITLE GUARANTY COMPANY, I HAVE MADE AN IMPROVEMENT LOCATION CERTIFICATE OF THE FOLLOWING DESCRIBED PROPERTY LOCATED IN THE COUNTY OF EL PASO, STATE OF COLORADO, AND LOCALLY KNOWN AS 7575 PINERY CIRCLE, COLORADO SPRINGS, COLORADO 80908.

## LEGAL DESCRIPTION:

THE NORTHWEST QUARTER, OF THE NORTHWEST QUARTER, OF THE SOUTHEAST QUARTER, OF SECTION 5, IN TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE 6TH P.M., EXCEPT THE WEST 30 FEET AND THE NORTH 30 FEET THEREOF, ALSO EXCEPTING THE SOUTH 30 FEET OF THE EAST 30 FEET THEREOF.

I HEREBY CERTIFY THAT THIS IMPROVEMENT LOCATION CERTIFICATE WAS PREPARED FOR RUSSELL AND BRIANNE MALLERY, AND THE IMPROVEMENT LOCATION BEING BASED ON MY OWN SURVEY AT THE TIME I PREPARED THIS IMPROVEMENT LOCATION CERTIFICATE AND THAT IT IS NOT TO BE RELIED UPON FOR THE ESTABLISHMENT OF FENCE, BUILDING, OR OTHER FUTURE IMPROVEMENTS LINES.

I FURTHER CERTIFY THAT THE IMPROVEMENTS ON THE ABOVE DESCRIBED PARCEL ON THIS DATE, APRIL 23, 2021, EXCEPT UTILITY CONNECTIONS, ARE ENTIRELY WITHIN THE BOUNDARIES OF THE PARCEL, EXCEPT AS SHOWN, THAT THERE ARE NO ENCROACHMENTS UPON THE DESCRIBED PREMISES BY IMPROVEMENTS ON ANY ADJOINING PREMISES, EXCEPT AS INDICATED, AND THAT THERE IS NO APPARENT EVIDENCE OR SIGN OF ANY EASEMENT CROSSING OR BURDENING ANY PART OF SAID PARCEL, EXCEPT AS SHOWN.

THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY RIDGELINE LAND SURVEYING LLC., TO DETERMINE OWNERSHIP OR EASEMENTS OF RECORD.

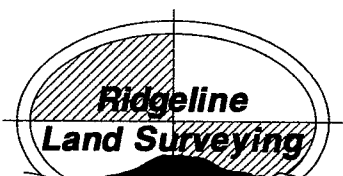
NOTE: CONCRETE PATH AROUND POLE BARN ENCROACHES ONTO LOT 10, WILDWOOD RANCH ESTATES FILING NO.9.

IMPROVEMENTS: SINGLE FAMILY RESIDENCE AND POLE BARN

BY: JAMES F. LENZ  
COLORADO, PLS NO. 34583  
FOR AND ON BEHALF OF  
RIDGELINE LAND SURVEYING LLC.



FOR:  
RUSSELL AND BRIANNE MALLERY

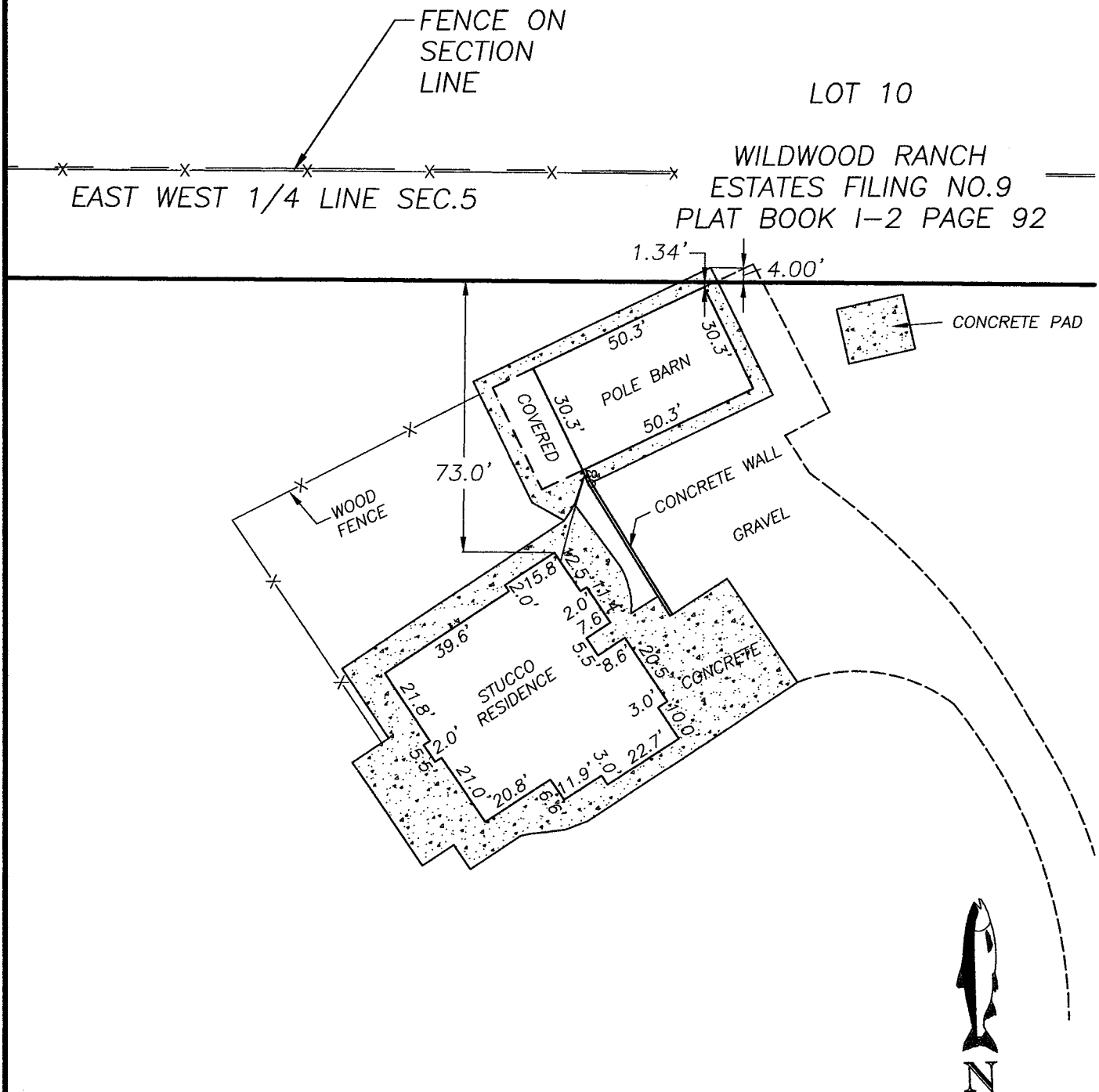


31 E. PLATTE AVE, SUITE 206  
COLORADO SPRINGS, CO 80903  
TEL: 719.238.2917

NOTICE: ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF CERTIFICATION SHOWN HEREON.

# IMPROVEMENT LOCATION CERTIFICATE

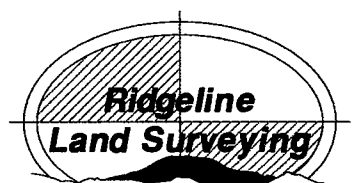
SHEET 2 OF 2



SCALE 1"=40'  
(8.5X14 PAPER)  
DATE: 4/23/21

FOR:  
RUSSELL AND BRIANNE MALLERY

NOTICE: ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF CERTIFICATION SHOWN HEREON.



31 E. PLATTE AVE, SUITE 206  
COLORADO SPRINGS, CO 80903  
TEL: 719.238.2917

## EASEMENT AGREEMENT

This Easement Agreement ("Agreement") is made and entered into this 7th day of May, 2020, by and between **William D. Livingston**, whose address is 7385 Snow Mass Drive, Colorado Springs, CO 80908 ("Grantor"), and **Russell T. Mallery Jr.** and **Brianne M. Mallery** whose address is 7575 Pinery Circle, Colorado Springs, CO 80908 ("Grantee").

### Recitals

WHEREAS, Grantor is the owner of real property legally described as Lot 10, Block 2, Wildwood Ranch Estates Filing No. 9, located in El Paso County, Colorado ("Grantors Property"); and

WHEREAS, Grantee is the owner of real property legally described as the Northwest quarter of the Northwest quarter of the Southeast quarter of Section 5, Township 12 South, Range 65 West of the 6<sup>th</sup> P.M., except the West 30 feet, the North 30 feet and the South 30 feet of the East 30 feet thereof, located in El Paso County, Colorado and located adjacent to and directly south of Grantors Property ("Grantees Property"); and

WHEREAS, Grantee desires to acquire a permanent easement across Grantors Property for the Improvements (as defined herein), and Grantor desires to grant such easement, on the terms and conditions contained herein.

NOW, THEREFORE, IN CONSIDERATION of the promises, mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### AGREEMENT

1. Conveyance of Easement. For good and valuable consideration, Grantor hereby grants and conveys to Grantee a perpetual non-exclusive easement (the "Easement") over and across the southerly 30 feet of the Grantor's Property for the purposes of installing, maintaining, replacing, repairing, reconstructing and operating the portion of Grantee's building which is encroaching onto Grantor's Property as shown on the Improvement Location Certificate attached hereto and incorporated herein as **Exhibit A**, the sidewalk adjacent to Grantee's building as shown on Exhibit A, allowing for and accommodating any setback requirements of the applicable governmental authority, the existing utility lines and appurtenant facilities and a to be constructed fence (collectively, the "Improvements"), and no other purposes. No easement is granted for drainage flows (quantity or rate) in excess of historic flows (quantity or rate) across the surface of Grantors Property.

2. Ingress and Egress. Upon reasonable advance notice to Grantor, Grantee shall have and exercise the right of reasonable ingress and egress over and across Grantors

Property for access from any roads, to and from the Easement Area. Grantee shall have the right of access to operate, maintain, or repair the Improvements, provided that Grantee, to the maximum practicable extent, shall avoid disruption of activities and operations on Grantors Property. Grantor shall have the reasonable right to designate the route(s) for access.

3. Surface Restoration to Land. Grantee shall repair and restore any physical damage done by or resulting from actions or operations of Grantee to Grantors Property outside the Easement Area. Grantee, in maintaining, replacing, repairing, reconstructing, or operating the Improvements, shall, at Grantee's expense, promptly restore the surface of the Easement Area to the condition immediately prior to the entry resulting in physical damage, reasonable wear and tear excepted, including re-seeding the Easement Area. Grantee shall use commercially reasonable efforts to avoid disturbing trees or vegetation within the Easement Area; provided that Grantee shall have the reasonable right to trim trees, brush and other obstructions which injure or interfere with Grantee's use of the Easement Area without liability therefore.

4. Grantor's Rights. Grantor retains the right to make full use of the Easement Area, provided, however, that such use does not materially interfere with the operation of the Improvements. Grantor reserves use of the Easement Area for installing fencing and landscaping, and other similar installations which do not materially interfere with the Improvements and are reasonably capable of being temporarily removed or reinstalled by Grantee at Grantee's expense.

5. Subjacent and Lateral Support. Grantee shall not impair the lateral or subjacent support for any improvements located on Grantors Property, and Grantor shall not impair the lateral or subjacent support for the Improvements.

6. General Rights of Enforcement. This Agreement may be enforced by any party hereto. Each party shall have the right to bring an action against the other(s) to cause any violation of this Agreement to be remedied or enjoined, and to recover damages caused by such violation. The action may be brought against the party or the person or entity who has caused the damage or violated this Agreement. In the event of such action, the prevailing party shall be awarded all costs and expenses, including reasonable attorneys' fees.

7. No Waiver. The failure of a party to enforce any of the conditions contained herein shall in no event be deemed to be a waiver of the right to do so for subsequent violations or the right to enforce any other conditions contained herein.

8. Amendments and Termination. This Agreement, and any provision hereof or any easement granted herein, may only be amended or terminated by the unanimous written consent of Grantor and Grantee. No amendment or termination shall be effective until a written instrument setting forth the terms of such amendment or termination has been duly executed, acknowledged and recorded in the office of the Clerk and Recorder of El Paso County, Colorado.

9. Binding Effect. Each and every one of the benefits and burdens of this Agreement shall inure to the benefit of and be binding upon the respective legal representatives, heirs, executors, administrators, successors and assigns of the parties. The Easement shall be permanent and shall run with the land and burden Grantors Property for the benefit of Grantee and Grantees Property.

10. Indemnity. Grantee shall fully protect, defend, indemnify and hold harmless Grantor from and against any and all claims, costs (including but not limited to all reasonable attorney's fees), losses, damages, or liability of any nature whatsoever resulting from Grantee's use of the Easement Area or from the installation, maintenance, repair, replacement, use or operation of the Improvements.

11. Governing Law and Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. The parties consent to venue and jurisdiction in the District Court in and for El Paso County, Colorado in any action commenced relating to this Agreement.

12. Mechanics Liens. In no event shall Grantee allow any mechanic's or materialman's liens to attach against Grantors Property for materials supplied or work performed at Grantee's request, and Grantee shall indemnify and hold Grantor harmless from any cost or expense incurred by Grantor to release any such mechanic's or materialmen's liens against Grantors Property.

13. Severability. The provisions of this Agreement are severable. Illegality or unenforceability of a provision herein shall not affect the validity or enforceability of the remaining provisions in this Agreement.

14. Entire Agreement. This Agreement represents the entire agreement between the parties and no additional or different oral representation, promise or agreement shall be binding on any of the parties hereto with respect to the subject matter of this instrument, unless stated in a writing signed by such parties.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement as of the day and year first above written.

*[Signatures on following page]*

GRANTOR:

William D. Livingston  
William D. Livingston

GRANTEE:

Russell T. Mallery Jr.  
Russell T. Mallery Jr.

Brianne M. Mallery  
Brianne M. Mallery

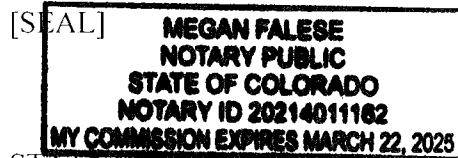
STATE OF COLORADO     )  
  ) ss.  
COUNTY OF EL PASO     )

The foregoing instrument was acknowledged before me on May 7, 2021, by William D. Livingston.

WITNESS my hand and official seal.

My Commission expires: March 22, 2025

Megan Falese  
Notary Public



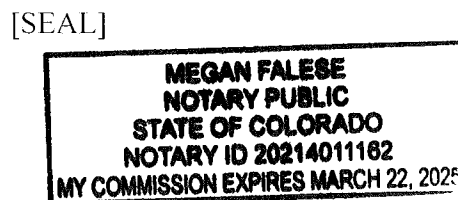
STATE OF COLORADO     )  
  ) ss.  
COUNTY OF EL PASO     )

The foregoing instrument was acknowledged before me on May 7, 2021, Russell T. Mallery and Brianne M. Mallery.

WITNESS my hand and official seal.

My Commission expires: March 22, 2025

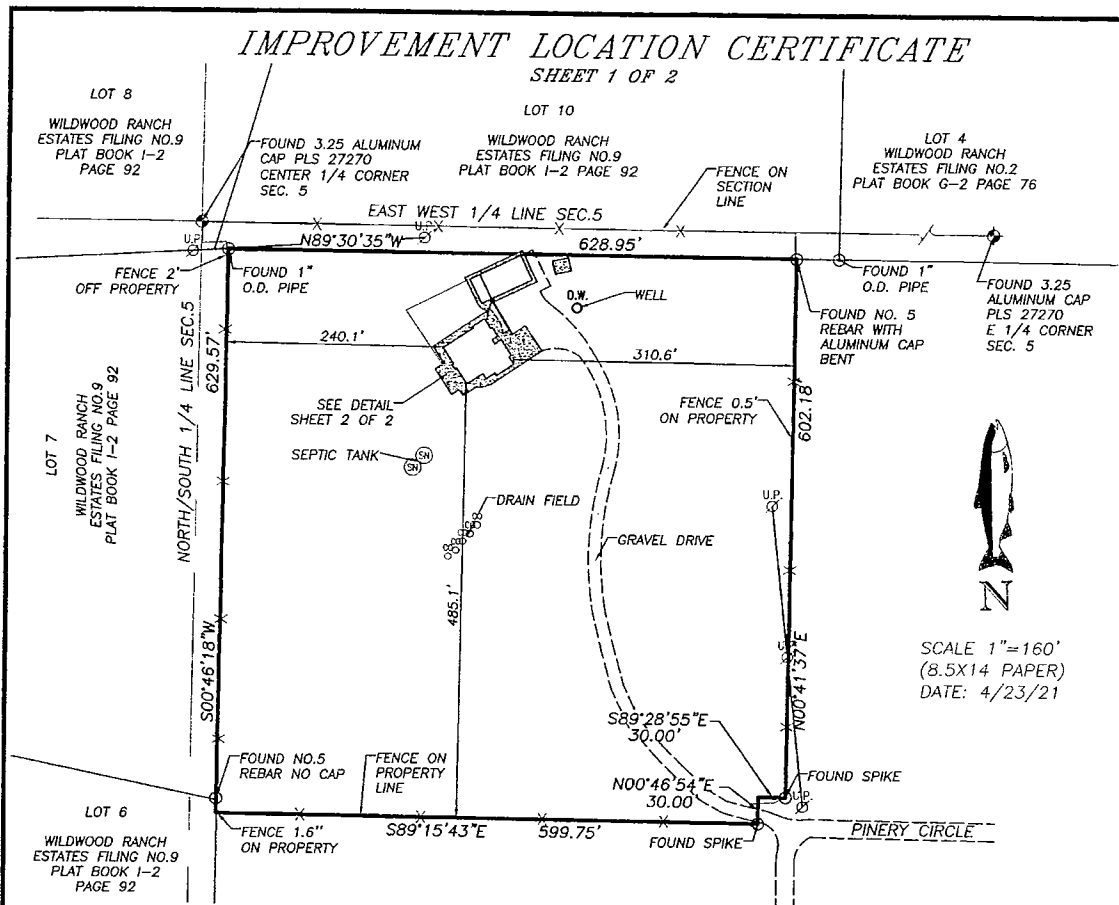
Megan Falese  
Notary Public



## EXHIBIT A

# IMPROVEMENT LOCATION CERTIFICATE

SHEET 1 OF 2



CERTIFIED TO: RUSSELL AND BRIANNE MALLERY AND LAND TITLE GUARANTY COMPANY, I HAVE MADE AN IMPROVEMENT LOCATION CERTIFICATE OF THE FOLLOWING DESCRIBED PROPERTY LOCATED IN THE COUNTY OF EL PASO, STATE OF COLORADO, AND LOCALLY KNOWN AS 7575 PINERY CIRCLE, COLORADO SPRINGS, COLORADO 80908.

## LEGAL DESCRIPTION:

THE NORTHWEST QUARTER, OF THE NORTHWEST QUARTER, OF THE SOUTHEAST QUARTER, OF SECTION 5, IN TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE 6TH P.M., EXCEPT THE WEST 30 FEET AND THE NORTH 30 FEET THEREOF, ALSO EXCEPTING THE SOUTH 30 FEET OF THE EAST 30 FEET THEREOF.

I HEREBY CERTIFY THAT THIS IMPROVEMENT LOCATION CERTIFICATE WAS PREPARED FOR RUSSELL AND BRIANNE MALLERY, AND THE IMPROVEMENT LOCATION BEING BASED ON MY OWN SURVEY AT THE TIME I PREPARED THIS IMPROVEMENT LOCATION CERTIFICATE AND THAT IT IS NOT TO BE RELIED UPON FOR THE ESTABLISHMENT OF FENCE, BUILDING, OR OTHER FUTURE IMPROVEMENTS LINES.

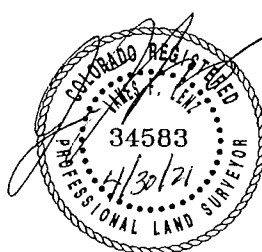
I FURTHER CERTIFY THAT THE IMPROVEMENTS ON THE ABOVE DESCRIBED PARCEL ON THIS DATE, APRIL 23, 2021, EXCEPT UTILITY CONNECTIONS, ARE ENTIRELY WITHIN THE BOUNDARIES OF THE PARCEL, EXCEPT AS SHOWN, THAT THERE ARE NO ENCROACHMENTS UPON THE DESCRIBED PREMISES BY IMPROVEMENTS ON ANY ADJOINING PREMISES, EXCEPT AS INDICATED, AND THAT THERE IS NO APPARENT EVIDENCE OR SIGN OF ANY EASEMENT CROSSING OR BURDENING ANY PART OF SAID PARCEL, EXCEPT AS SHOWN.

THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY RIDGELINE LAND SURVEYING LLC., TO DETERMINE OWNERSHIP OR EASEMENTS OF RECORD.

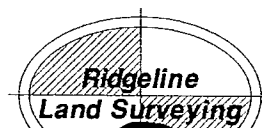
NOTE: CONCRETE PATH AROUND POLE BARN ENCROACHES ONTO LOT 10, WILDWOOD RANCH ESTATES FILING NO. 9.

IMPROVEMENTS: SINGLE FAMILY RESIDENCE AND POLE BARN

BY: JAMES F. LENZ  
COLORADO, PLS NO. 34583  
FOR AND ON BEHALF OF  
RIDGELINE LAND SURVEYING LLC.



FOR:  
RUSSELL AND BRIANNE MALLERY

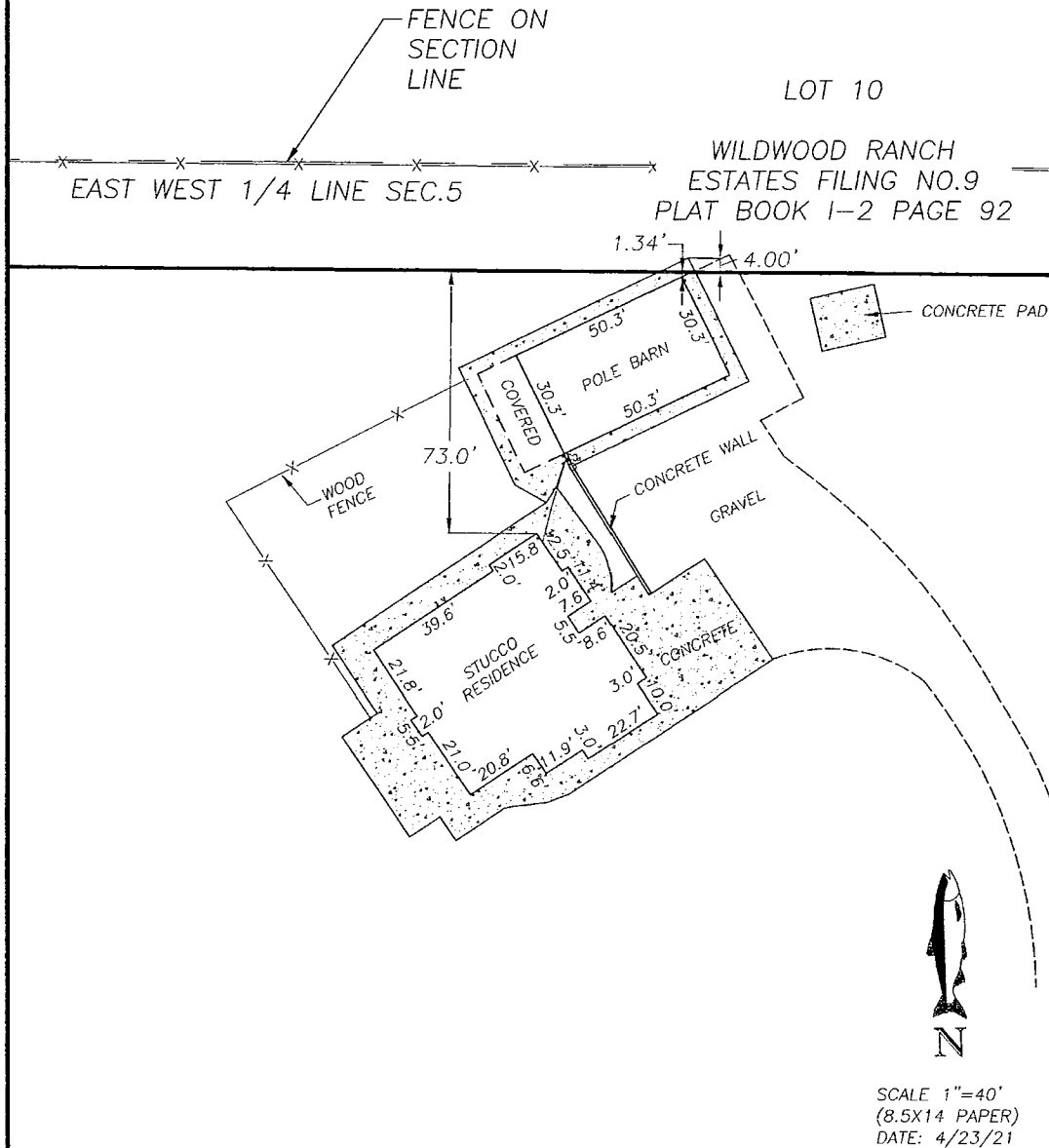


NOTICE: ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF CERTIFICATION SHOWN HEREON.

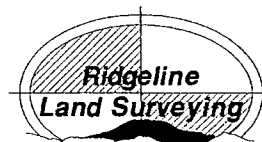
31 E. PLATTE AVE, SUITE 206  
COLORADO SPRINGS, CO 80903  
TEL: 719.238.2917



*SHEET 2 OF 2*

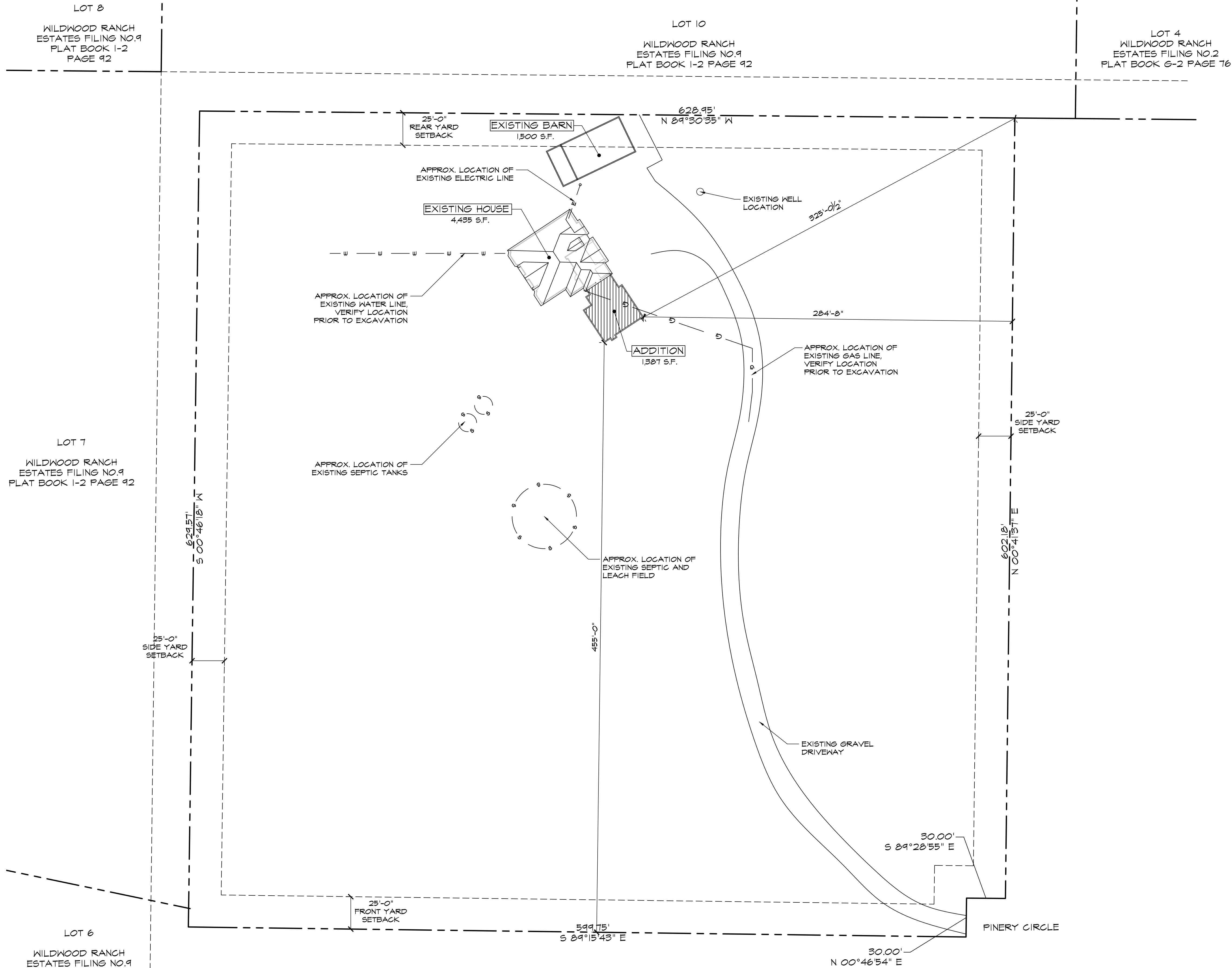


FOR:  
RUSSELL AND BRIANNE MALLERY

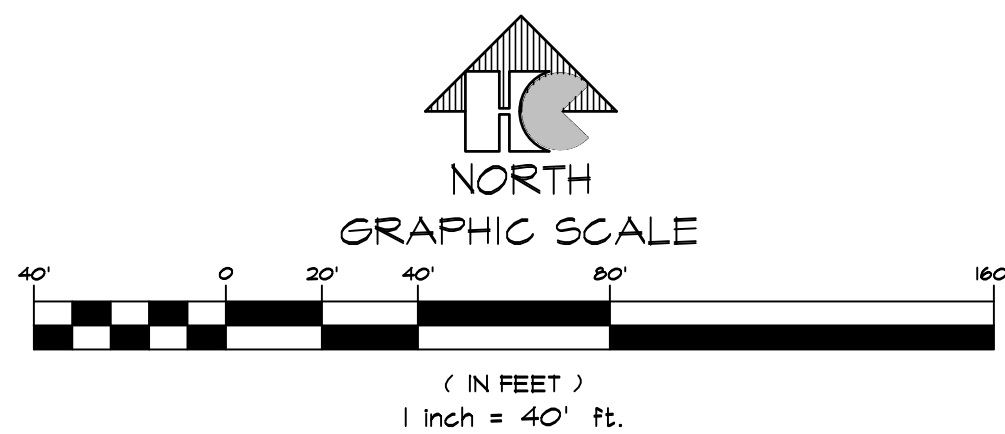


31 E. PLATTE AVE, SUITE 206  
COLORADO SPRINGS, CO 80903  
TEL: 719.238.2917

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1 SITE PLAN  
SCALE: 1"=40'-0"



## DRAWING INDEX

1 OF 1 - SITE PLAN

## VICINITY MAP

NOT TO SCALE



## PROJECT INFORMATION

<b>PROPERTY INFORMATION</b>	
OWNER NAME:	RUSSELL & BRIANNE MALLERY 1575 PINERY CIRCLE COLORADO SPRINGS, CO 80908
LEGAL DESCRIPTION:	NK4NK45E4 EX N 30 FT, EX W 30 FT, EX S 30 FT OF E 30 FT SEC 5-12-65
PARCEL NUMBER :	52054-00-007
ZONING:	RR-5
LOT SIZE:	345,960 SF (9.09 ACRES)
CURRENT USE:	RESIDENCE
FLOODPLAIN STATEMENT:	ZONE X (MAP NO: 08041C03156, DATED DECEMBER 1, 2018)
<b>ZONING CODE STUDY</b>	
PROPOSED PRINCIPAL USE:	RESIDENCE
EXISTING BUILDING S.F.:	3,005 S.F.
ADDITION S.F.:	1,381 S.F.
TOTAL LOT COVERAGE:	1%
BUILDING STRUCTURE HEIGHT:	19'-0" (30'-0" MAX)
FRONT YARD SETBACK:	25'-0"
SIDE YARD SETBACK:	25'-0"
REAR YARD SETBACK:	25'-0"
<b>DEVELOPMENT SCHEDULE</b>	
CONSTRUCTION:	SPRING 2021
LANDSCAPING:	N/A
<b>DEVELOPMENT APPLICANT</b>	
COMPANY:	HAMMERS CONSTRUCTION, INC. 1411 WOOLSEY HEIGHTS COLO. SPRGS, CO 80915
PHONE NUMBER:	(719)-570-1599
FAX NUMBER:	(719)-570-1008
APPLICANT NAME:	LISA PETERSON
APPLICANT E-MAIL:	lpeterson@hammersconstruction.com

## SITE LEGEND

---	PROPERTY LINE
---	RIGHT OF WAY
---	BUILDING SETBACK
---	LANDSCAPE SETBACK
---	UTILITY/DRAINAGE EASEMENT
---	ELECTRICAL EASEMENT
---	ACCESS EASEMENT
---	OPAQUE CHAINLINK FENCE
---	6' HIGH WROUGHT IRON FENCE
---	GAS LINE (EXISTING)
---	WATER LINE (EXISTING)
---	ELECTRICAL LINE (EXISTING)
---	SANITARY SEWER LINE (EXISTING)
---	STORM SEWER LINE
---	RETAINING WALL
---	NEW SIDEWALK LOCATIONS W/ CONTROL JOINTS @ 5'-0" O.C.
●	PROPERTY CORNER
→	TRAFFIC FLOW
□	WALL PACK LIGHTING
+	SIGN
○	MANHOLE
□	ELECTRICAL TRANSFORMER
○	EXISTING FIRE HYDRANT
●	PROPOSED FIRE HYDRANT

**HAMMERS**  
CONSTRUCTION INC.

COMMERCIAL GENERAL CONTRACTORS SPECIALIZING IN DESIGN/BUILD

PRESIDENT: STEVE R. HAMMERS  
VICE PRES: DAVID J. HAMMERS  
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**PIXLER ADDITION**  
MOTHER-IN-LAW SUITE  
1575 PINERY CIRCLE  
COLORADO SPRINGS, CO 80908  
EL PASO COUNTY, COLORADO

DATE: JUN. 22, 2021  
DRAWN BY: J. LATHAM  
PROJ. MGR: J. SLOAN  
SCALE: SEE PLAN  
APPROVED BY:  
JOB NO: 1215

△ RESUBMITTALS:

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1 of 1  
SITE PLAN