ROUTT COUNTY BOARD OF ADJUSTMENT AGENDA

June 8, 2020
6:00 PM

Due to the COVID-19 pandemic, this hearing will be conducted through the Zoom application. You may access this meeting by clicking here.
Live audio is available by calling (669) 900-6833.
Meeting ID: 858 7213 6030
Password: 599173

1. **CALL TO ORDER**

2. **ITEMS FOR CONSIDERATION**

   A. **Zirkel Wireless Setback Variance**

Activity #:	PL-19-190
Applicant:	Yampa Valley Engineering on behalf of Zirkel Wireless
Petition:	Proposal to construct a telecommunication equipment within the property setback
Legal:	Secs 8,9-10-85 & 10/16 Tom Thumb Claim Sec 9-10-85
Location:	West slope of Hahn's Peak via USFS access road 490

Documents:

Pl-19-190 Zirkel Staff Report Variance.pdf

3. **ADMINISTRATOR'S REPORT**
   Administrator's Report may include the reading of future Board of Adjustments agendas.

4. **ADJOURNMENT**

Agenda packets can be accessed at www.co.routt.co.us/AgendaCenter.

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Zirkel Wireless Setback

Variance

ACTIVITY #:	**PL-19-190**
BOARD OF ADJUSTMENT HEARING DATE:	June 8, 2020 at 6:00 pm

PETITIONER:	Zirkel Wireless
PETITION:	Proposal to construct a telecommunication equipment within the property setback
LEGAL:	Secs 8,9-10-85 & 10/16 Tom Thumb Claim Sec 9-10-85
LOCATION:	West slope of Hahn's Peak via USFS access road 490
ZONE DISTRICT:	Agricultural / Forestry (A/F)
AREA OF PARCEL:	19.7 acres
PROPOSED SETBACK VARIANCE:	Required: 50' Proposed: 25'
STAFF CONTACT:	Tegan Ebbert tebbert@co.routt.co.us
ATTACHMENTS:	• Application • Site plan and slope analysis • Site photo

History:
The Tom Thumb mining claim was staked in 1898 and was once a part of Routt County's ore-mining industry. Over the decades, the property has been divided into fractional ownership deeds. All known interest holders submitted consent for the proposed structure to be built on the site. The parcel is currently vacant.

Site Description:
The nearly 20 acre parcel is located on the western slope of Hahn's Peak. The overall site is a steep, rocky slope, with trees on the southern portion of the parcel. One factor that must be noted regarding this site is that there are overlapping parcel lines across the property as some neighboring mining claims describe some of the same area as the subject parcel. The proposed development on this site meets a 50' setback from the overlapping mining claims. It does not, however, meet the property setback on the east side of the parcel adjacent to the US Forest Service owned property.

Project Description:

The applicant is proposing to construct a telecommunication tower and accessory building on the property. While the telecommunications tower will meet the required 50' setback, the accessory, shed-style building will encroach into the east property setback. The proposed accessory building will be approximately 340 sq. ft. in area. The telecommunication tower requires a Conditional Use Permit (CUP) that will be reviewed by the Routt County Planning Commission on June 4th, 2020. At the time this staff report is being written the outcome of that CUP hearing is unknown. However, when the Board of Adjustments meets on June 8th, the applicant and staff will know the outcome of that hearing.

Item of note

The purpose of this hearing is simply to determine if the proposed location of development meets the criteria in order to be granted a variance for setback relief. Planning Commission will determine through a Conditional Use Permit application the appropriateness of the proposed use on this parcel.

Setbacks for A/F District

Property Line Setback	Proposed	Required	Variance
East:	25'	50'	25'

Section 3.4.6 – Standards for Grant of Denial of Variances

B. Under no circumstances shall a variance be granted on the sole basis of personal convenience, profit or special privilege to the applicant.

C. Under no circumstance shall the BOA grant a variance to allow a use not permissible under the terms of this Resolution in the appropriate Zone District.

D. Variances shall be granted with respect to specific plans or within defined parameters. Unless otherwise specified by the BOA, a variance may be transferred to successive owners prior to construction if no changes are made to the approved plan. Variances shall run with the land after the construction of any authorized structures and only for the life of such structures.

E. The BOA may condition the granting of a variance on the issuance of a building permit within a specific time period and may require the applicant to pursue completion of the construction with due diligence. If such conditions are not satisfied, the variance shall become null and void.

F. In order to insure that the protection of the public good and the intent and purpose of these Regulations are preserved, the BOA may impose any other condition upon the granting of a variance, including those categories of conditions which may be placed upon Land Use Approvals under Section 3.2.6.

Applicable Regulations – Routt County Zoning Resolution

3.4.6 The Board may grant such variance if <u>all</u> of the following are found to exist:

3.4.6.A.1 Peculiar and exceptional practical difficulties or an unnecessary and unreasonable hardship will be imposed on the property owner if the provisions of this Resolution are strictly *enforced.*

Petitioner Comments: Routt County either prohibits or discourages improvements on slopes over 30%. There is only one buildable area on the site as shown on the site photo and slope analysis above. Exceptional practical difficulties such as severe grading with major cuts and fills into the mountain side would result if the proposed improvements were forced to be constructed outside the setback. Because the proposed antenna and building are in an indentation in the landscape, visual impact may increase if the improvements were built outside the setback. The access to the improvements may not meet RC standards if not constructed within the setback.

Staff Comments: The applicant has selected the only proposed development location on the parcel that is under 30% slope. Additionally, this is one of the few areas on the site that can be accessed by a vehicle or equipment via the existing Forest Service Road. It would be unreasonable to expect the applicant to develop on other areas of the site that range from 30-70+% in slope without safe access.

3.4.6.A.2 Circumstances creating the hardship were in existence on the effective date of the regulations from which a variance is requested, or created subsequently through no fault of the appellant.

Petitioner Comments: Circumstances creating the hardship is the site topography which were in existence on the effective date of the regulations.

Staff Comments: This mining claim originated in 1898, well before the adoption of the Routt County Zoning Regulations in 1972 therefore it is granted the status of a legal, non-conforming parcel. This contributes to its inability to meet setbacks because any parcel subject to the current subdivision regulations would be considered unbuildable if it didn't possess area under 30% slope that complied with all other regulations.

3.4.6.A.3 That the property for which a variance is requested possesses exceptional narrowness, shallowness, shape or topography or other extraordinary and exceptional situation or condition which does not occur generally in other property in the same Zone District.

Petitioner Comments: This site has exceptionally steep topography, mostly over 70% as shown in the slope analysis and images. This represents an exceptional situation and condition.

Staff Comments: The severe topography limits both feasible development and access on this parcel. The majority of the site has approximately 70% slope making access not only difficult, but also unsafe. Based upon the current Routt County Subdivision Regulations, any area that exceeds 30% slope is considered "unbuildable".

3.4.6.A.4 That the variance, if granted, will not diminish the value, use or enjoyment of the adjacent properties, nor curtail desirable light, air and open space in the neighborhood, nor change the character of the neighborhood.

Petitioner Comments: The distances to the nearest cabins, which are not adjacent and likely used seasonally, are .36-.5 miles. The improvements are screened from view by a mountain ridge from RCR 129 near Steamboat Lake and the closest part of Steamboat Lake. Distances are over 2 miles to RCR 129 and the lake. Thus, the proposal will not diminish the value, use or enjoyment of the adjacent properties, nor curtail desirable light, air and open space in the neighborhood, nor change the character of the neighborhood.

Staff Comments: No comments were received from neighboring owners or community members expressing concerns. There are no nearby residences and it is unlikely that the

accessory structure being proposed in the setback will be highly visible from distant homes. Additionally, this proposal is being reviewed by the Routt County Planning Commission, which will review the visual impacts on surrounding properties and require mitigation if necessary.

3.4.6.A.5 The variance, if granted, will not be directly contrary to the intent and purpose of this Resolution or the Routt County Master Plan.

Petitioner Comments: The proposal is not directly contrary, in any way, to the intent and purpose of the Zoning Code or the Routt County Master Plan.

Staff Comments: The Routt County Master Plan does not directly address Variance requests. Property line setback variances are in place to ensure adequate spacing between structures and neighboring properties and the County has determined the minimum for the A/F zone district is 50'. The Zoning Regulations are in place to mitigate significant negative impacts. Due to the remoteness of this location and its adjacency to the undeveloped USFS land, it does not appear that there are any significant negative impacts created by its location.

Board of Adjustment Options:

Approve the variance if the above noted tests are met.

Approve conditionally if the above noted tests are met or can be met by the application of certain conditions, or if certain conditions are necessary to mitigate concerns.

Table for specific reasons; e.g. more information, site review, etc.

Deny the variance if it does not meet the criteria stated above or if the variance would create a health or safety hazard or would negatively impact public welfare.

STAFF RECOMMENDATION
Staff recommends **approving** the variance as requested with conditions of approval, based on the following findings of fact.

FINDINGS OF FACT that may be appropriate if the **Variance** is **APPROVED**:

1. Peculiar and exceptional practical difficulties or an unnecessary and unreasonable hardship will be imposed on the property owner if the provisions of this Resolution are strictly enforced because **of the severe topographical constraints of this parcel.**
2. Circumstances creating the hardship were created subsequently through no fault of the appellant because the present nonconformity was created in the early to mid 1970s.
3. The property for which a variance is requested possesses an extraordinary and exceptional situation or condition which does not occur generally in other property in the same Zone District in that the site has a physical constraint limiting the building envelope. This physical constraint is **severe slope of the parcel and the limited accessibility.**
4. The variance, if granted, will not diminish the value, use or enjoyment of the adjacent properties, nor curtail desirable light, air and open space in the neighborhood, nor change

the character of the neighborhood because the configuration and size of the structure is generally in conformity with the adjacent properties and neighborhood.

5. The variance is not directly contrary to the intent and purpose of this Resolution or the Routt County Master Plan as there are no apparent conflicts with RCZR standards or RCMP policies.

CONDITIONS that may be appropriate include the following:

1. The building shall comply with all applicable requirements of the Routt County Building Department.
2. If construction of the building does not commence within 1 year, this variance shall be subject to another review with full submittal. A 12 month extension may be approved administratively without notice.
3. This approval is specific to the plans submitted in the application. Any change in footprint, size, height or site location that increases the level on non-conformance will be subject to a new application. Minor variations that do not increase the level of non-conformance can be approved administratively, without notice.
4. A foundation only building permit will initially be signed off on by Planning. Prior to Planning signing off on the full building permit, a certified survey of the location of the foundation forms must be submitted.
5. Best Management Practices (BMP's) shall be utilized during construction to prevent erosion and drainage flow onto adjacent properties, drainage to the east of the parcel and the county road right of way.
6. A Grading and Excavation Permit will be required if necessary.
7. All exterior lighting will be downcast and opaquely shielded.
8. Revegetation of disturbed areas shall occur within one growing season with a seed mix which avoids the use of aggressive grasses. See the Colorado State University Extension Office for appropriate grass seed mixes.

ROUTT COUNTY
GEOGRAPHIC INFORMATION SYSTEM

This map is for planning purposes only. It was prepared from publicly available information. Any other use or recompilation of the information is the sole repsponsibility of the user. This map should not be used to establish legal title, boundary lines, locations of improvements or utilities, or relied upon in any flight activity. Routt County expressly disclaims all liability regarding accurracy or completeness of this map.

Author:

Date Saved: 12/31/1969 5:00 PM

Planning

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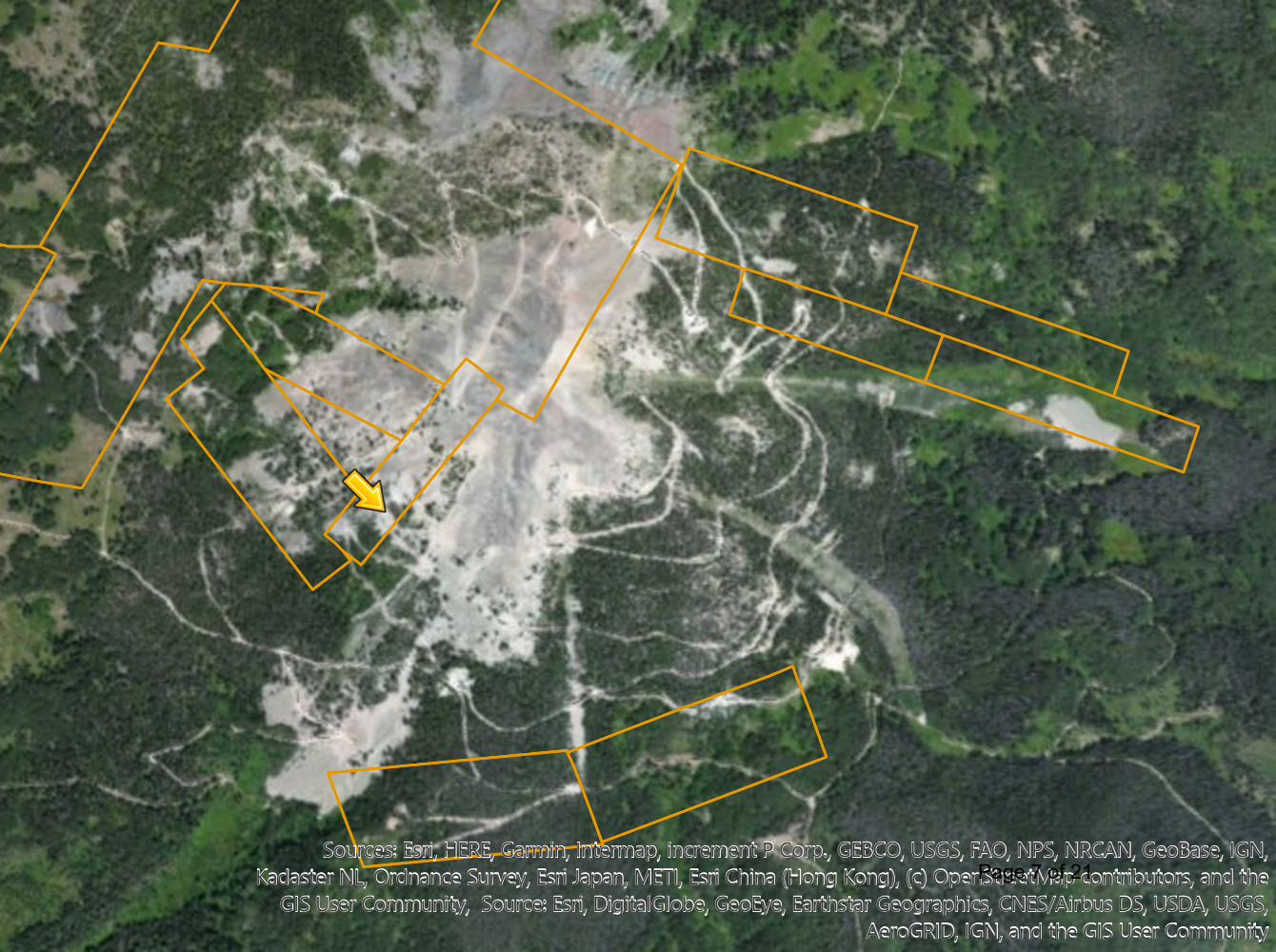
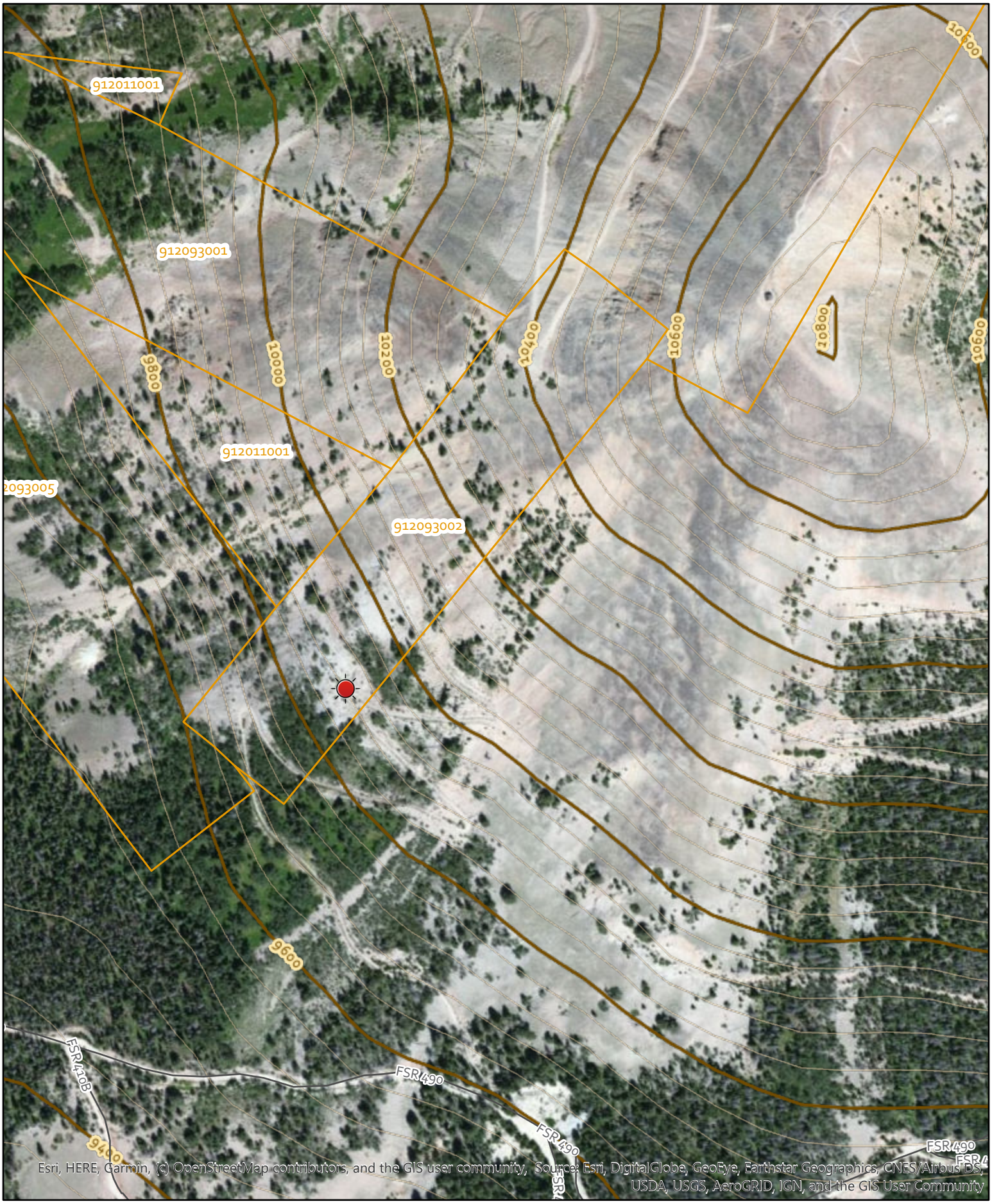
N

Primary Public Road
Primary Public Road
Primary Public Road
Local Public Road
Local Public Road
Private
Other
Routt County Boundary


Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



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Author:

Date Saved: 12/31/1969 5:00 PM

Planning

0 0.05 0.1 mi

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Other

Routt County Boundary

Parcels

40 Foot Contours

Index

Intermediate

Index

Intermediate

Zirkel Wireless Tower
Setback Variance
Project Narrative
October 2019

I. Background and Project Description

Project Description and Need

Zirkel Wireless proposes to provide improved internet service in North Routt County by installing an antenna attached to a small structure on private property. The property is a 19.7 acre mining claim owned by SHAB Holdings, LLC (the applicant) located on Hahn's Peak. The property owner will lease a portion of the property to Zirkel Wireless for the purpose of installing and operating the antenna site, which will be powered by solar panels. The property is zoned AF and is located on the southeast slope of Hahn's Peak. Access is via an existing unmarked USFS access road. The access road connects only to the applicant's property and is a dead end. Routt County Planning Staff have determined that the proposed use requires Conditional Use Permit for the antenna and a setback variance for the proposed location within the setback.

There is a significant need for improved internet service in North Routt. The expected public benefit of providing fast and reliable internet connectivity is huge. According to Diane Kruse with Neo Connect, who prepared the Routt County Strategic Broadband Plan in 2016, "we do not yet know the far-reaching impacts that the internet will have on our lives and on generations to come. However, it is certain that NOT having access to advanced broadband networks would be equivalent to being in the dark without electricity." The 2016 Broadband plan targeted North Routt as an underserved and unserved area.

Many communities in Colorado find they are lacking adequate internet service or do not have access at all, creating a "digital divide" among those with access and those without. The digital divide typically exists between those in cities and those in rural areas. Rural areas are costlier and more difficult to provide advanced broadband networks, reducing the opportunity to build a business case doing so.

Advanced broadband infrastructure has the potential to create more jobs, increase the community's competitive ability globally, create new technologies, increase opportunities for our community's companies, enhance public safety, provide better and less expensive healthcare, and provide greater educational opportunities throughout our communities. Having access to fast and reliable internet would allow children to engage more with their education from home and allow parents to work from home. These two facts alone would most likely increase North Routt's population and property values.

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Development & Land Planning Consultants
Resort Drive Suite 109 Steamboat Springs CO 4271 Horse Gulch Loop Colorado Springs CO 80132
(970) 846-9111 ppatten@pattenassociates.com

The disturbance area for the structure is very small - approximately 1,000 sf (42.5' x 25') for the building and connected antenna (see elevation below).

The site is very steep except for a small flat area directly off the access road within the setback (see site photo below). This is the only area that is considered "buildable" under the zoning regulations and the only possible location for the improvements. This represents only about .12% of the site. No disturbance of the steep slopes would occur. There are no mapped geologic hazards on the site based on RC GIS mapping. Please see Site Plan and Slope Analysis on next page.

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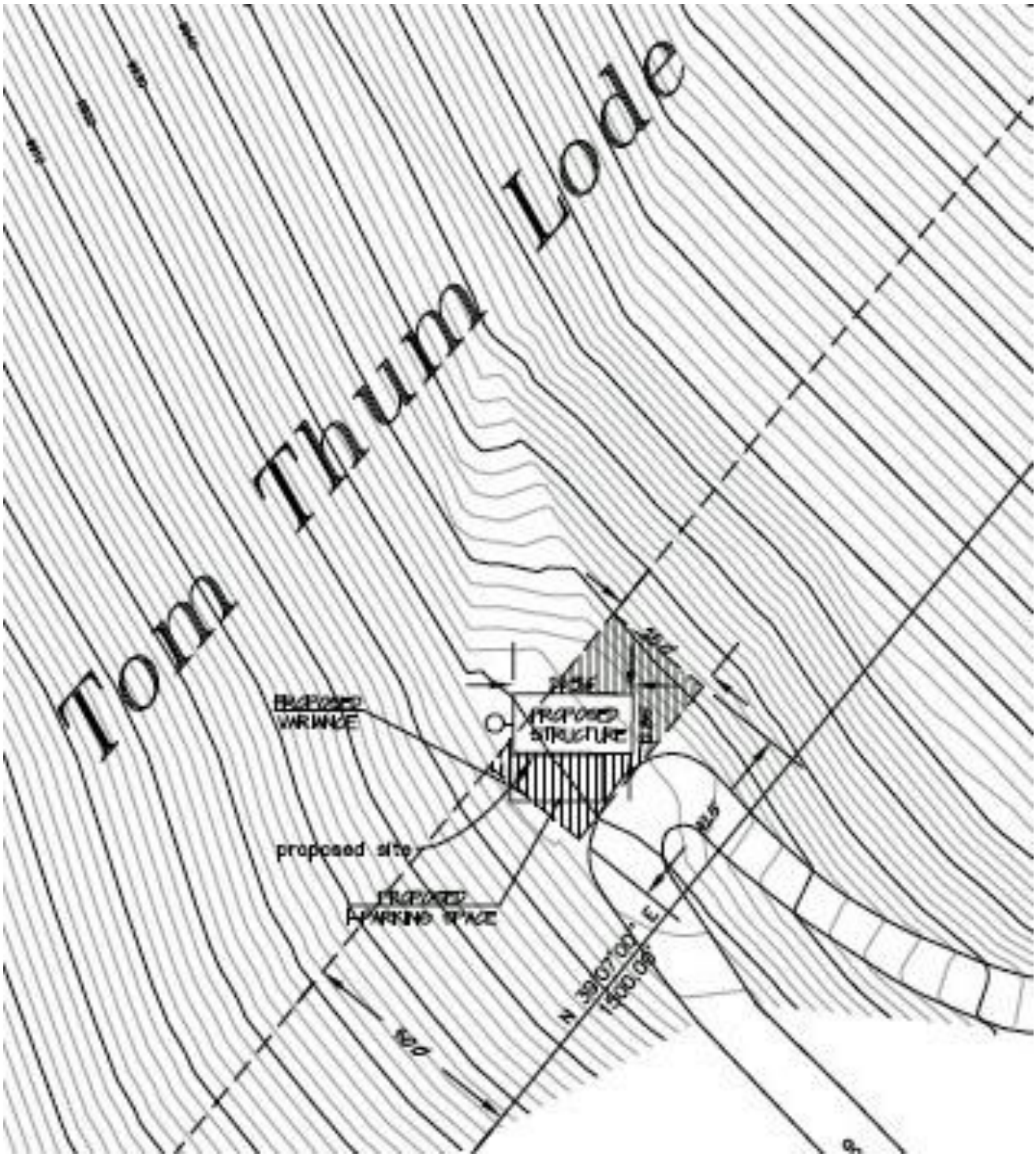

Site Plan

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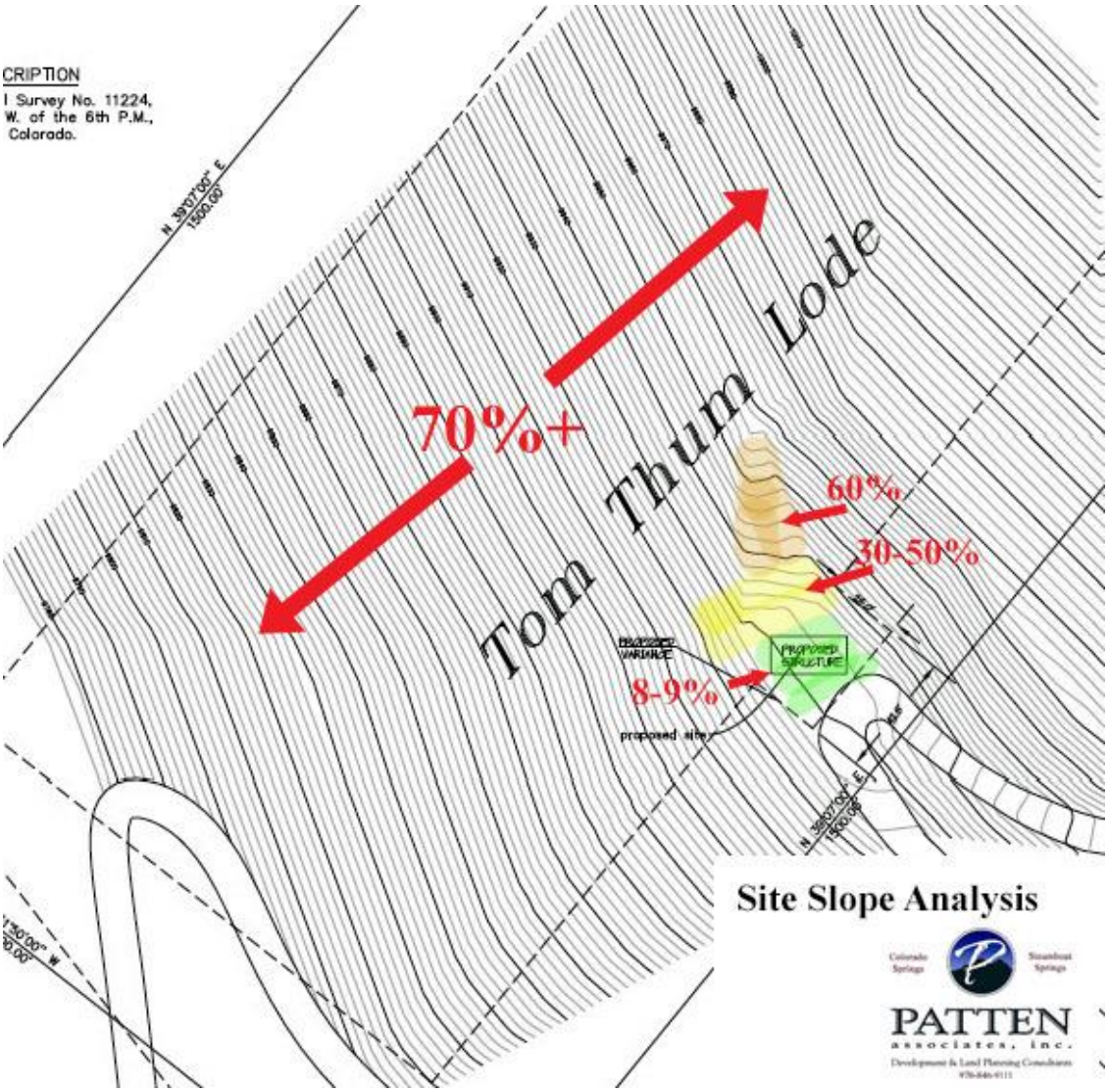

The equipment will operate year-round with 4 employees on-site only during the installation (less than 4 weeks) and during periods of maintenance. No employees will be stationed at this location. Traffic will be very minimal. Once built, site visits will only occur when performing maintenance, to refill the propane tanks, and during an internet outage. Site visitation is expected to be less than 6 times per year. Access to the property in the summer and fall will be via truck or UTV and by snowmobile during winter.

Regarding wildlife impacts, the equipment does not endanger or cause harm to wildlife and will be closed off to wildlife inside a shelter. During the installation process, food attractants from the site will be secured and removed to avoid conflict with black bears. Vehicles will be kept locked if they are left on site without anyone around to avoid human-black bear conflict. If any trash or recycling from food/drink is stored on site, they will be stored in an IGBC (Interagency Grizzly Bear Committee) certified container. To protect raccoon, skunk, and squirrel habitats, tree branches that overhang buildings will be removed and any potential chimneys will be

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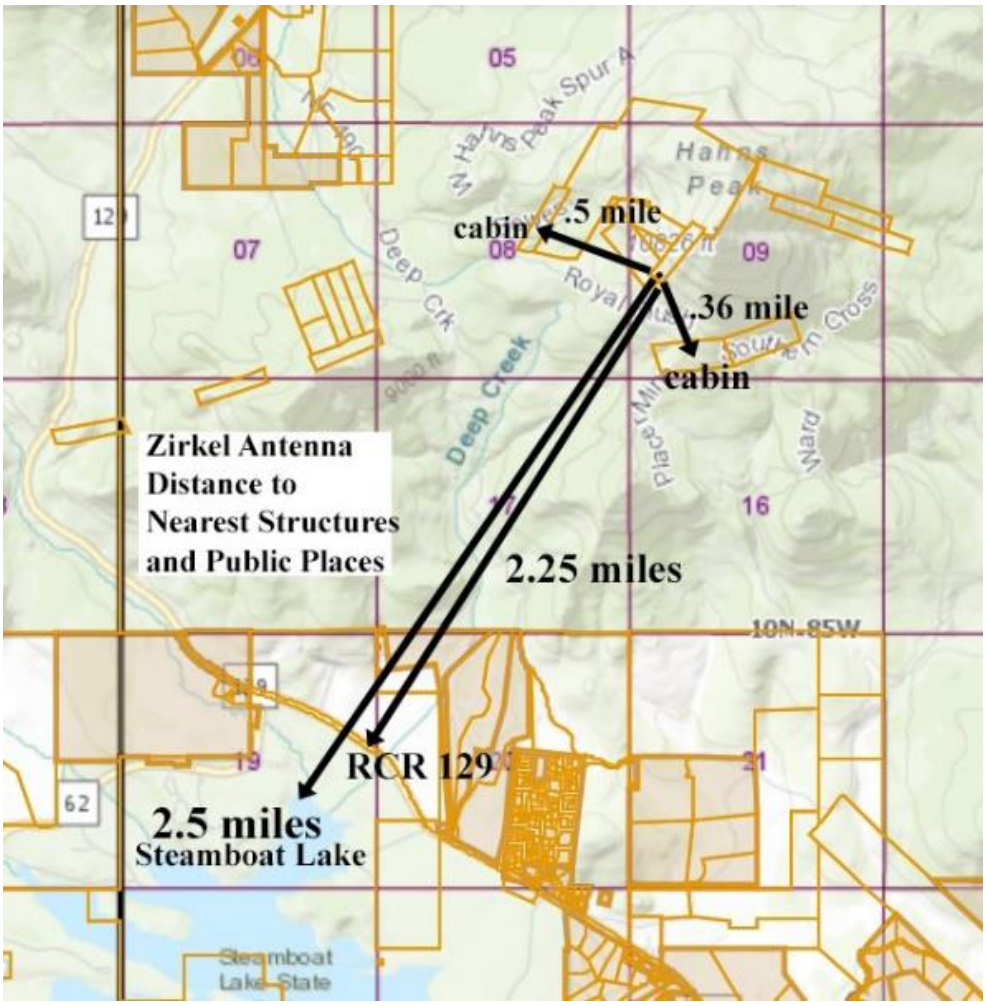
capped as well as regular repair of potential attic holes to prevent entry. Surrounding mesh fencing will be buried at least 18" underground to prevent small mammals from invading desirable locations. All containers and enclosures will be secured with tight fitting lids and tie downs. Food sources will be kept away from the site. Jack Taylor, District Wildlife Manager for this area has agreed to these wildlife mitigation provisions.

Co-location has been encouraged by Routt County for similar proposals. The applicant is open to having other entities co-locate equipment on the antenna to minimize future impacts of similar facilities.

Visual Impact

There will be very little visual impact because the building and antenna will be situated in an indentation of the hillside. Additionally, the distances to the nearest residences are large and the distances to RCR 129 and Steamboat Lake are over 2 miles. Views from Steamboat Lake and RCR near Steamboat Lake are screened because the improvements are hidden by a ridge on Hahn's Peak. Please see the graphics below demonstrating visual impact and distances to nearest cabins and public places.



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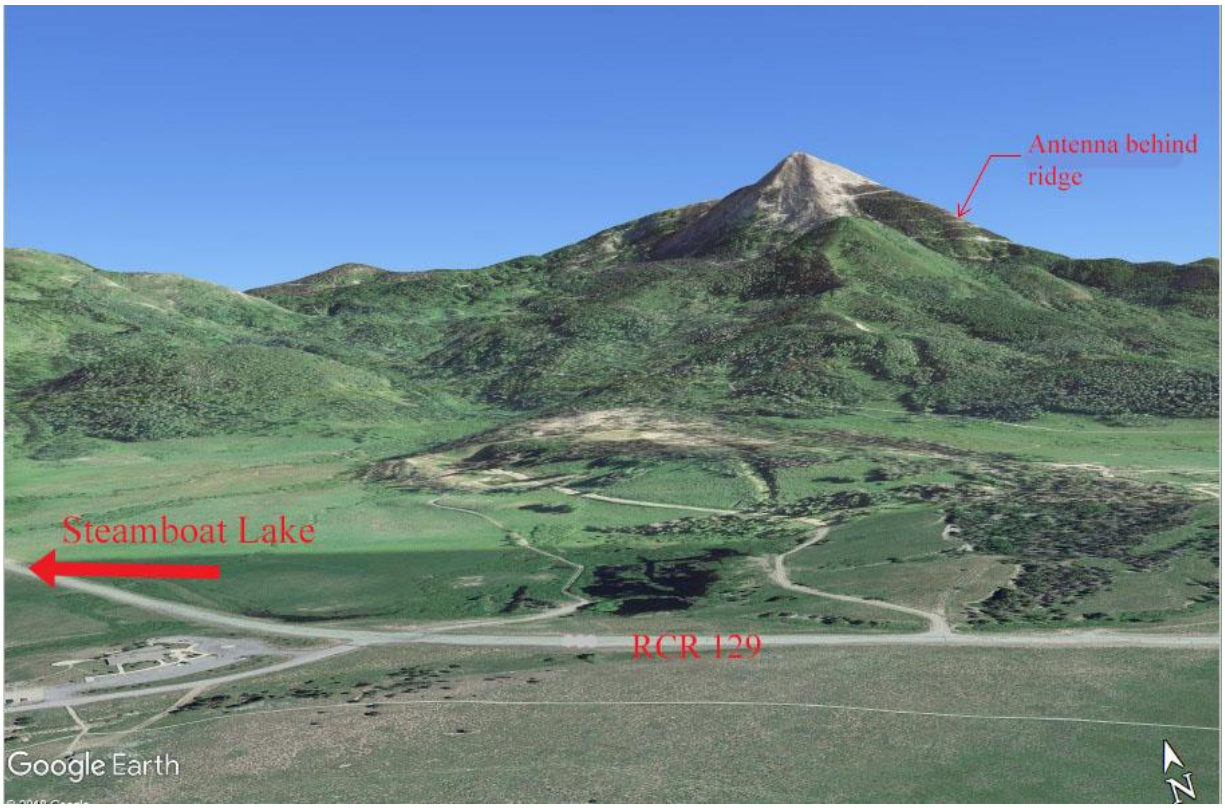

II. Criteria Evaluation

Below are the applicant's responses (in italics) to the criteria for evaluation of the requested variance:

1. Peculiar and exceptional practical difficulties or an unnecessary and unreasonable hardship will be imposed on the property owner if the provisions of this Resolution are strictly enforced.

Routt County either prohibits or discourages improvements on slopes over 30%. There is only one buildable area on the site as shown on the site photo and slope analysis above. Exceptional practical difficulties such as severe grading with major cuts and fills into the mountain side would result if the proposed improvements were forced to be constructed outside the setback. Because the proposed antenna and building are in an indentation in the landscape, visual impact may increase if the improvements were built outside the setback. The access to the improvements may not meet RC standards if not constructed within the setback.

2. Circumstances creating the hardship were in existence on the effective date of the regulations from which a variance is requested or created subsequently through no fault of the appellant.

Circumstances creating the hardship is the site topography which were in existence on the effective date of the regulations.

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3. That the property for which a variance is requested possesses exceptional narrowness, shallowness, shape or topography or other extraordinary and exceptional situation or condition which does not occur generally in other property in the same Zone District.

This site has exceptionally steep topography, mostly over 70% as shown in the slope analysis and images. This represents an exceptional situation and condition.

4. That the variance, if granted, will not diminish the value, use or enjoyment of the adjacent properties, nor curtail desirable light, air and open space in the neighborhood, nor change the character of the neighborhood.

The distances to the nearest cabins, which are not adjacent and likely used seasonally, are .36-.5 miles. The improvements are screened from view by a mountain ridge from RCR 129 near Steamboat Lake and the closest part of Steamboat Lake. Distances are over 2 miles to RCR 129 and the lake. Thus, the proposal will not diminish the value, use or enjoyment of the adjacent properties, nor curtail desirable light, air and open space in the neighborhood, nor change the character of the neighborhood.

5. The variance, if granted, will not be directly contrary to the intent and purpose of this Resolution or the Routt County Master Plan.

The proposal is not directly contrary, in any way, to the intent and purpose of the Zoning Code or the Routt County Master Plan.

III. Under no circumstances shall a variance be granted on the sole basis of personal convenience, profit or special privilege to the applicant.

The variance, if granted, would be not be on the sole basis of personal convenience, profit or special privilege to the applicant.

IV. Under no circumstance shall the BOA grant a variance to allow a use not permissible under the terms of this Resolution in the appropriate Zone District.

The proposal requires a Conditional Use Permit which has been submitted and will be considered by staff and the RC Planning Commission. The application for the CUP meets all applicable criteria.

V. Variances shall be granted with respect to specific plans or within defined parameters. Unless otherwise specified by the BOA, a variance may be transferred to successive owners prior to construction if no changes are made to the approved plan. Variances shall run with the land after the construction of any authorized structures and only for the life of such structures.

The applicant requests approval of the specific plans submitted.

VI. The BOA may condition the granting of a variance on the issuance of a building permit within a specific time period and may require the applicant to pursue completion of the construction with due diligence. If such conditions are not satisfied, the variance shall become null and void.

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The applicant understands this requirement.

VII. In order to insure that the protection of the public good and the intent and purpose of these Regulations are preserved, the BOA may impose any other condition upon the grant of a variance, including those categories of conditions which may be placed upon Land Use Approvals under Section 3.2.6.

The applicant is willing to accept reasonable conditions of approval.

III. Conclusion

The applicant respectfully requests that the setback variance be granted on the basis that the proposal meets the all criteria for evaluation. Here is a list of factors to consider when considering the merits of this request:

1. There is a strong public need for this facility.
2. The site's topography is severe and the only possible location for the improvements is within the setback as proposed.
3. Public safety has been negatively impacted in North Routt due to lack of dependable internet service and these improvements will improve the situation.
4. This is private property – not USFS land.

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A VARIANCE FOR:

ZIRKEL WIRELESS

63600 FOREST SERVICE ROAD 490
CLARK, COLORADO

LEGAL DESCRIPTION

$\frac{11}{16}$ INT IN NEW DISCOVERY LODE & NEW DISCOVERY NII LODE SECS 8,9-10-85 & $\frac{10}{16}$ IN TOM THUMB CLAIM SEC 9-10-85 TOTAL 19.68 AC

ZONING = AF

YVE,
YAMPA VALLEY ENGINEERING, INC.

STRUCTURAL
MECHANICAL
ENGINEERING
DESIGN
DRAFTING
SERVICES

JAMES STEGMAIER, P.E.
1794 KAMAR PLAZA
P.O. BOX 772192
STEAMBOAT SPRINGS, CO 80477
970-870-9229
yvengr@yvengr.com

PLANS FOR:
ZIRKEL TELECOMMUNICATION BUILDING
63600 FOREST SERVICE ROAD 490
CLARK, COLORADO

JOB NO: 19-042
DRAWN: ECS
DATE: 10-29-19

REVISIONS

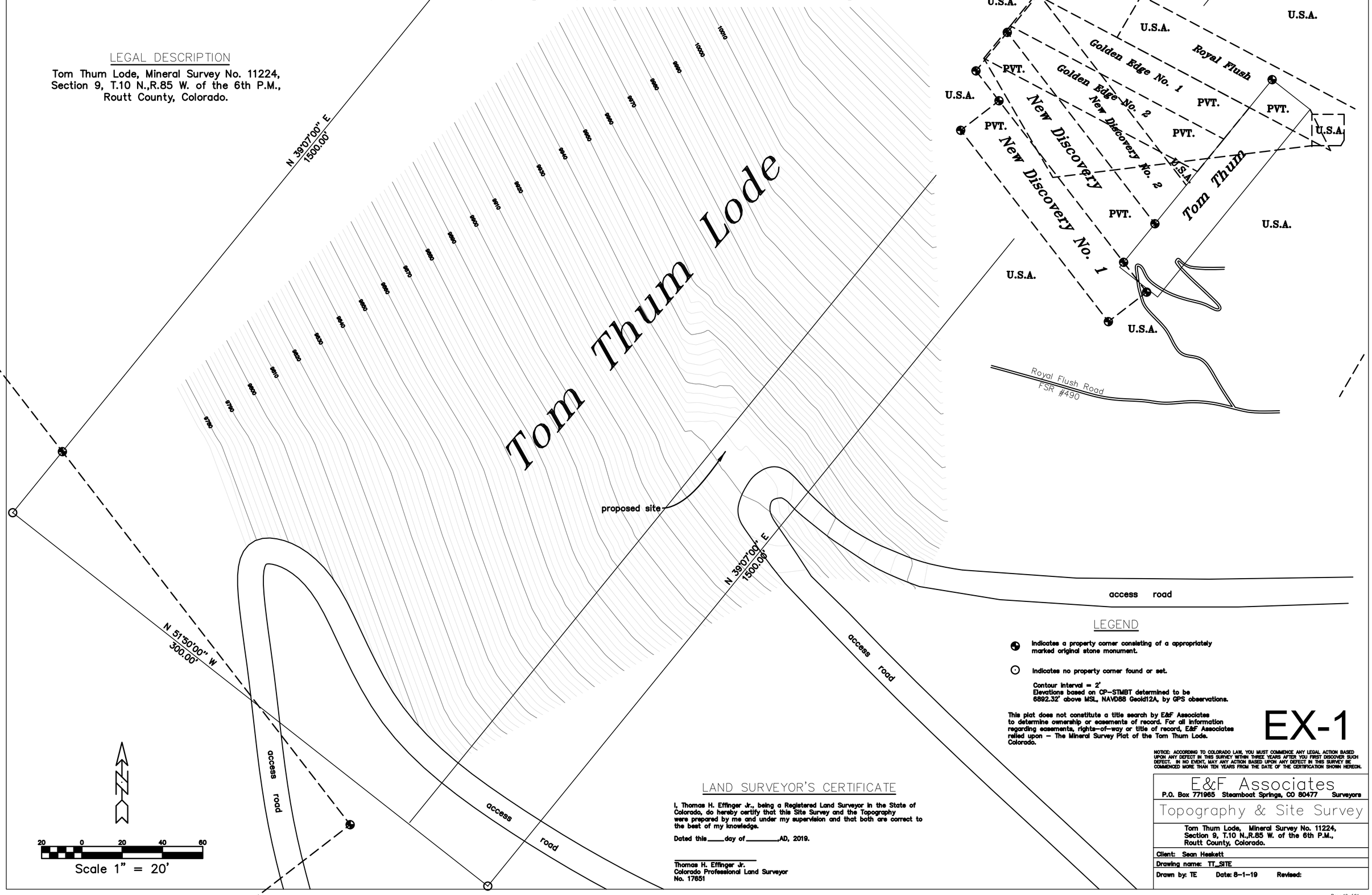
NO.	DATE	DRAWN

SHEET NUMBER
T-1

Topography & Site Survey

LEGAL DESCRIPTION

Tom Thum Lode, Mineral Survey No. 11224,
Section 9, T.10 N.,R.85 W. of the 6th P.M.,
Routt County, Colorado.



VICINITY MAP

LEGEND

Indicates a property corner consisting of a appropriately marked original stone monument.

Indicates no property corner found or set.

Contour interval = 2'
Elevations based on CP-STMBT determined to be 6892.32' above MSL, NAVD88 Geoid12A, by GPS observations.

This plat does not constitute a title search by E&F Associates to determine ownership or easements of record. For all information regarding easements, rights-of-way or title of record, E&F Associates relied upon – The Mineral Survey Plat of the Tom Thum Lode, Colorado.

EX-1

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 THE CERTIFICATION SHOWN HEREON.

LAND SURVEYOR'S CERTIFICATE

I, Thomas H. Effinger Jr., being a Registered Land Surveyor in the State of Colorado, do hereby certify that this Site Survey and the Topography were prepared by me and under my supervision and that both are correct to the best of my knowledge.

Dated this_____day of_____,AD, 2019.

_____
Thomas H. Effinger Jr.
Colorado Professional Land Surveyor
No. 17651

E&F Associates
P.O. Box 771965 Steamboat Springs, CO 80477 Surveyors

Topography & Site Survey

Tom Thum Lode, Mineral Survey No. 11224,
Section 9, T.10 N.,R.85 W. of the 6th P.M.,
Routt County, Colorado.

Client: Sean Heskett

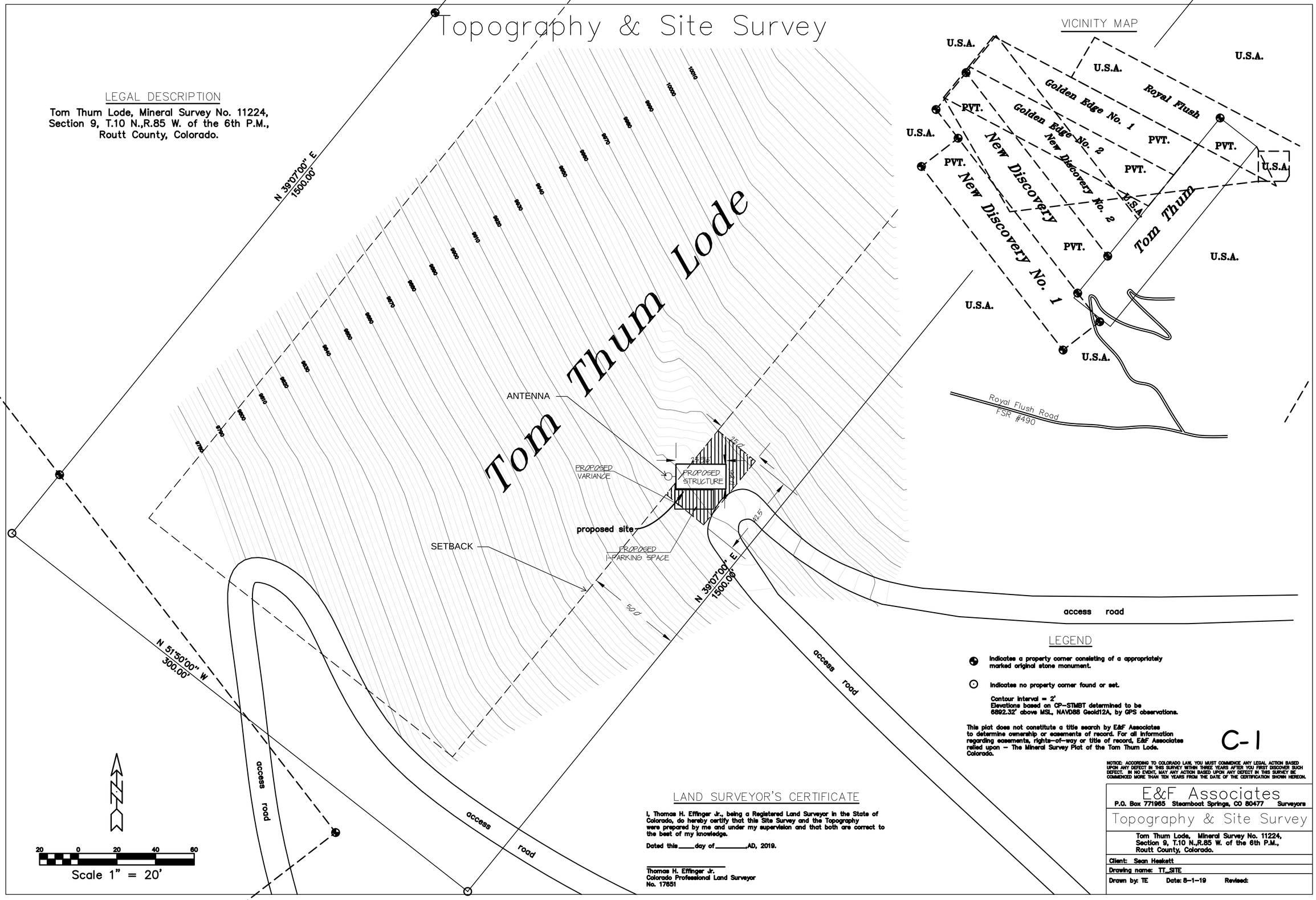
Drawing name: TT_SITE

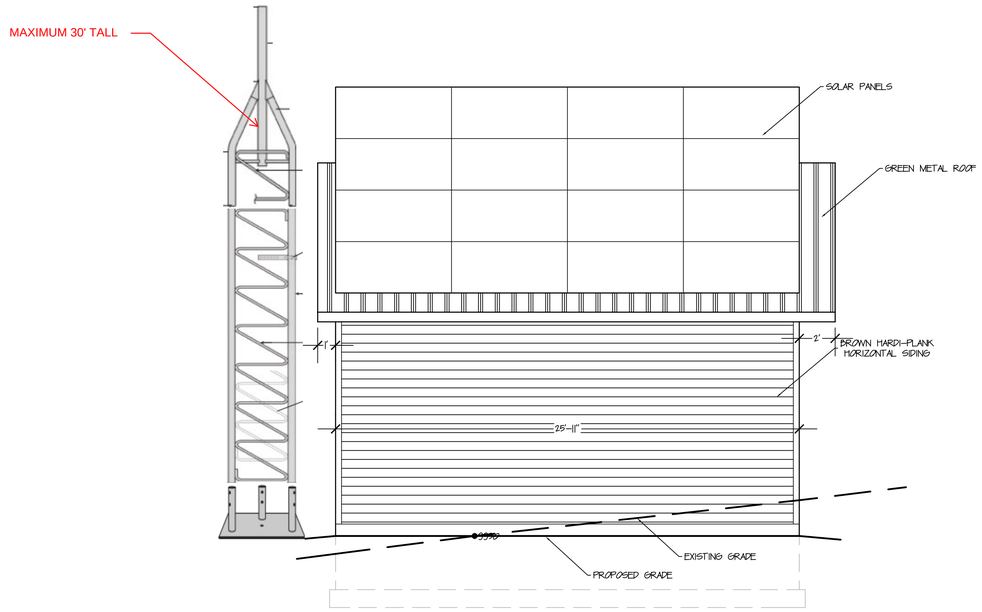
Drawn by: TE Date: 8-1-19 Revised:

Topography & Site Survey

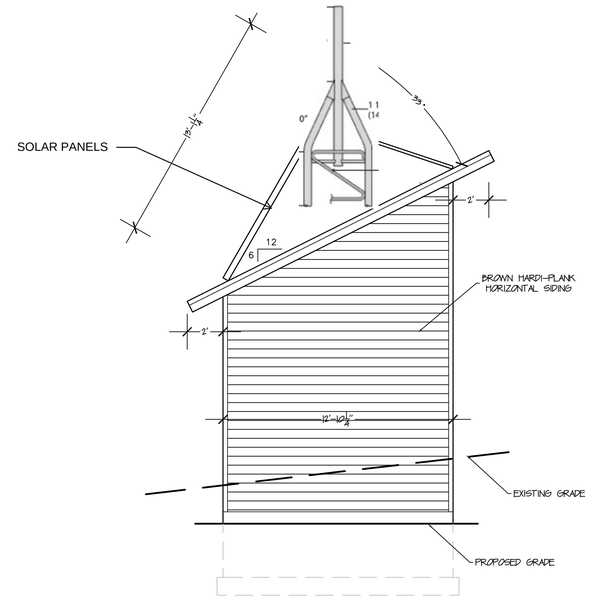
LEGAL DESCRIPTION

Tom Thum Lode, Mineral Survey No. 11224,
Section 9, T.10 N.,R.85 W. of the 6th P.M.,
Routt County, Colorado.





1 / A-1 PROPOSED SOUTH ELEVATION
SCALE 1/4" = 1'-0"



2 / A-1 PROPOSED EAST ELEVATION
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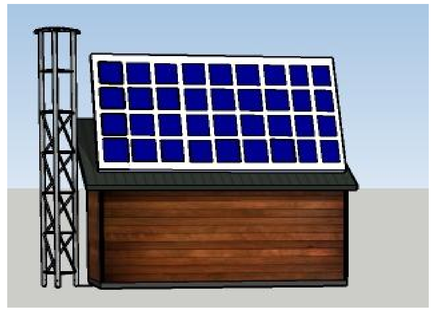
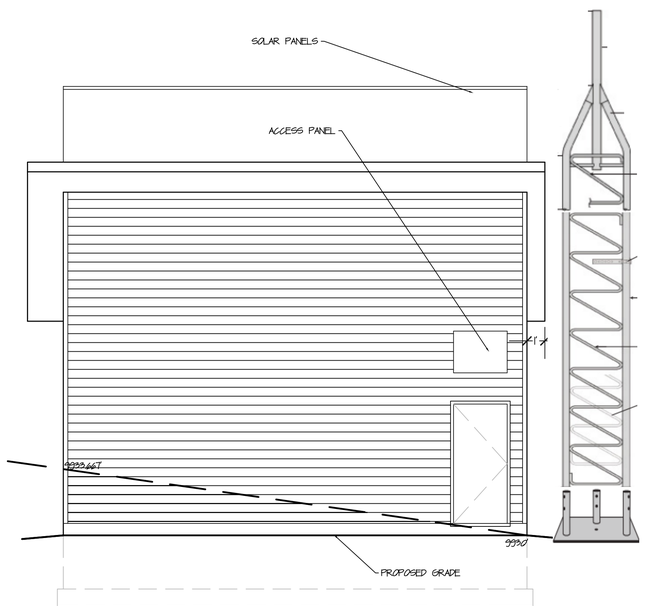
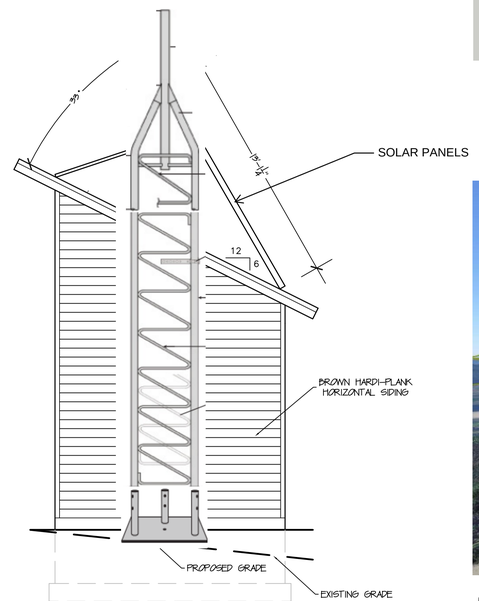


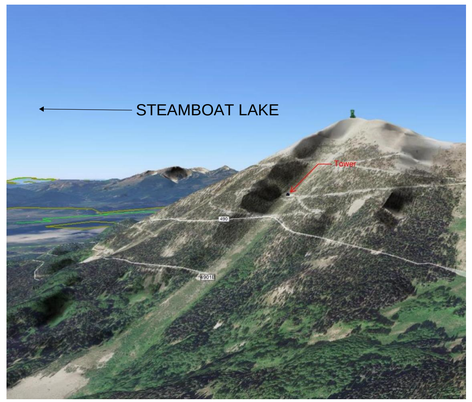
NOT TO SCALE
REFERENCE FOR COLORS AND MATERIAL ONLY



3 / A-1 PROPOSED NORTH ELEVATION
SCALE 1/4" = 1'-0"



4 / A-1 PROPOSED WEST ELEVATION
SCALE 1/4" = 1'-0"



NOT TO SCALE
FOR REFERENCE ONLY

YVE
YAMPA VALLEY ENGINEERING, INC.

STRUCTURAL
MECHANICAL
ENGINEERING
DESIGN
DRAFTING
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PLANS FOR:

ZIRKEL TELECOMMUNICATION BUILDING

63600 FOREST SERVICE ROAD 490
CLARK, COLORADO

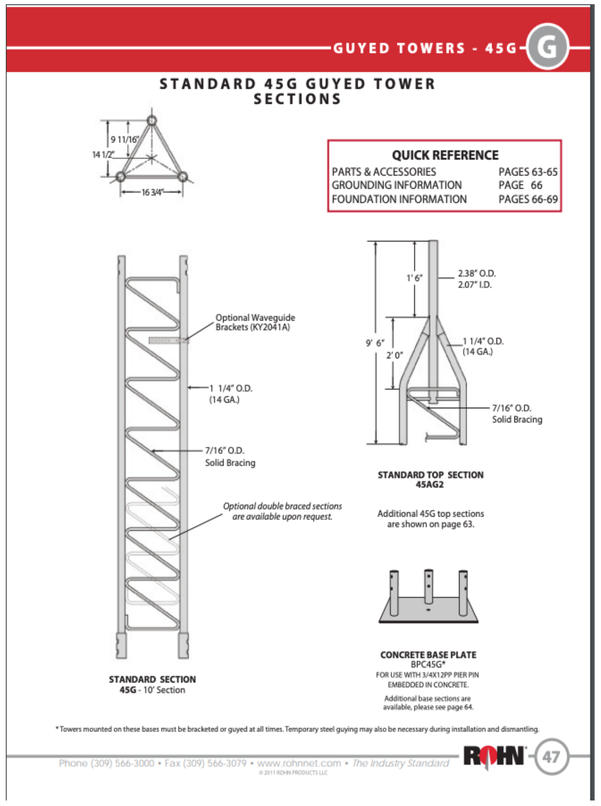
JOB NO: 19-042
DRAWN: ECS
DATE: 10-29-19

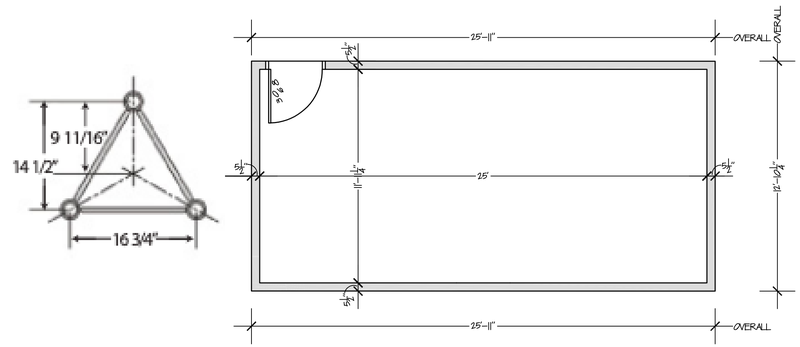
REVISIONS

NO.	DATE	DRAWN

SHEET NUMBER

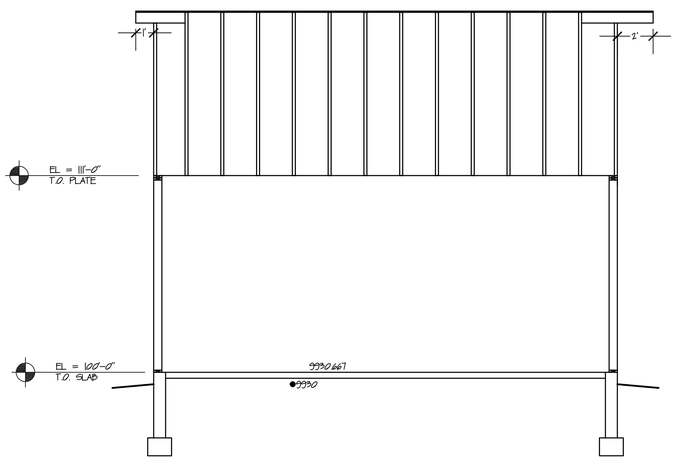
A-1





1 A-2 PROPOSED MAIN LEVEL FLOOR PLAN
SCALE 1/4" = 1'-0"

CONTRACTOR TO VERIFY EXISTING DIMENSIONS IF DISCREPANCIES ARISE, NOTIFY YAMPA VALLEY ENG. PRIOR TO CONSTRUCTION



2 A-2 PROPOSED SECTION
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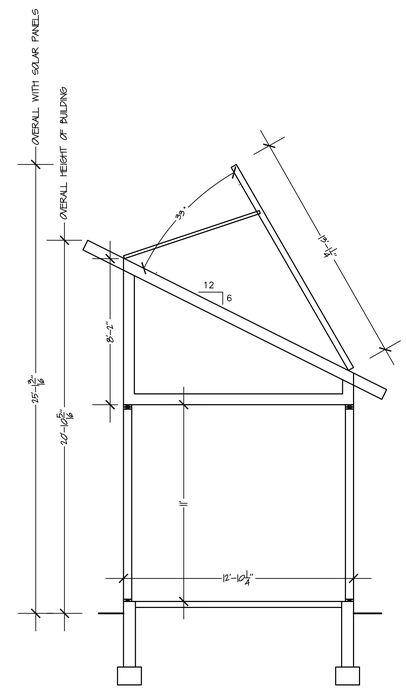

3 A-2 PROPOSED SECTION
SCALE 1/4" = 1'-0"

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