



**Planning & Zoning Commission
Tuesday, August 2, 2022, 6:00 PM
Public Meeting Room / Eagle Town Hall
200 Broadway, Eagle, CO 81631**

This agenda and the meetings can be viewed at www.Townofeagle.org.

PUBLIC WIFI – Eagle Guest

MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION

1. This will be an in-person meeting with access via Microsoft Teams. First-time users of Teams will need to download the app.

Microsoft Teams meeting

Join on your computer or mobile app: [Click here to join the meeting](#)

Or call in (audio only): [+1 469-770-0416](tel:+14697700416), [122048615#](tel:+122048615)

Phone Conference ID: 122 048 615#

Please Note: All participants must remain muted until they are requested to speak. This will reduce background noise disruptions for all meeting attendees. When it is your turn to speak, you will have three (3) minutes for public comment. For technical difficulties, please email Nikki.Davis@townofeagle.org and we will do our best to assist you.

PUBLIC COMMENTS: If you are unable to attend, public comments regarding any items on this agenda can be submitted to the Planning Department at Planning@townofeagle.org and will be included as part of the record.

6:00 PM - REGULAR MEETING CALLED TO ORDER

APPROVAL OF MINUTES *Approval of minutes from the following meeting(s) of the Planning & Zoning Commission.*

1. Minutes dated July 19, 2022

PUBLIC COMMENT

Citizens are invited to comment on any item not on the agenda subject to a public hearing. Please limit your comments to three (3) minutes per person. Those who are speaking are requested to state their name & address for the record.

PUBLIC HEARINGS

1. Project: 435 Eby Creek Apartments Building Height Variance
File # V22-01
Applicant: Rick Patriacca of SON RAY LLC
Location 435 Eby Creek Road
Staff Contact: Peyton Heitzman, Planner II

Request: A zoning variance to increase the building height beyond the 35-foot maximum by up to 36 inches.

OPEN DISCUSSION

ADJOURN

I hereby certify that the above Notice of Meeting was posted by me in the designated location at least 24 hours prior to said meeting.

A handwritten signature in cursive script that reads "Nikki Davis".

Nikki Davis
Administrative Technician II



MEETING MINUTES
Planning & Zoning Commission
Tuesday, July 19, 2022, 6:00 PM
Public Meeting Room / Eagle Town Hall
200 Broadway, Eagle, CO 81631

This agenda and the meetings can be viewed at www.Townofeagle.org.

PUBLIC WIFI – Eagle Guest

MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION

This was an in-person meeting with option for the public to attend via Teams.

6:00 PM - REGULAR MEETING CALLED TO ORDER

Meeting called to order at 6:01pm.

COMMISSIONERS PRESENT

Matt Hood, Keith Klesner, Keegan Winkeller,
Charlie Perkins, Kyle Hoiland (via Teams),
Jennifer Filipowski (via Teams)

STAFF

Jim White – Interim Town Manager
Nikki Davis - Administrative Tech II

COMMISSIONERS ABSENT

Jesse Gregg, Bill Nutkins

APPROVAL OF MINUTES

1. Minutes dated July 5, 2022

The minutes were approved without change.

PUBLIC COMMENT

Public comment opened at 6:01pm. There was no public comment.

PUBLIC HEARINGS

1. Project: Downtown Development Authority (DDA) Amended Plan of Development

Staff Presentation

White presented this item. There is a procedural step that requires the Planning and Zoning Commission to also review the Plan of Development. White added that the tax incremental financing (TIF) won't be established until 2024.

Q & A

Hoiland asked if the Town attorneys have reviewed the document. White replied, yes.

Discussion

No further discussion.

MOTION: PERKINS MOTIONED TO APPROVE RESOLUTION NO. 64, SERIES 2022 "A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE TOWN OF EAGLE, COLORADO RECOMMENDING APPROVAL OF EAGLE DOWNTOWN DEVELOPMENT AUTHORITY PLAN OF DEVELOPMENT". MOTION WAS SECONDED AND PASSED UNANIMOUSLY.

COMMUNITY DEVELOPMENT DEPARTMENT AND TOWN COUNCIL UPDATE

Perkins volunteered to run the August 2, 2022, Planning & Zoning Commission meeting. He also commented the new lights on Broadway are appealing.

Hood added that Whitewater Wednesdays at the River Park seemed well attended and is eager to see the rapid blocks installed.

OPEN DISCUSSION

No additional discussion items.

ADJOURN

MOTION/SECOND: PERKINS MOTIONED TO ADJOURN. MOTION WAS SECONDED AND PASSED UNANIMOUSLY.

MEETING ADJOURNED AT 6:10pm.



STAFF REPORT AND CERTIFICATE OF RECOMMENDATION

TO: Planning & Zoning Commission

FROM: Community Development Department

DATE: August 2, 2022

PROJECT: 435 Eby Creek Apartments

REQUEST: A zoning variance to increase the building height beyond the 35-foot maximum by up to 36 inches.

FILE NUMBER: V22-01

APPLICANT: Rick Patriacca of SON RAY LLC

LOCATION: 435 Eby Creek Road

CODE: Chapter 4.04 Zoning
Chapter 4.05 Zoning Review

ZONING: Residential Multi-Family (RMF) Zone District

EXHIBITS: A: Application and Project Narrative
B: Building Height Plans
C: Site Plan and Topographic Survey

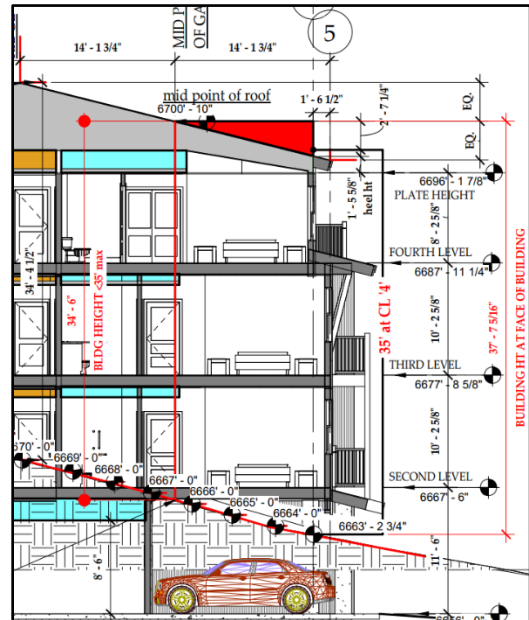
PUBLIC COMMENT: Staff has not received public comment as of July 28, 2022. Letters received after this time will be gathered and entered into the public record at the hearing.

STAFF: Peyton Heitzman, Planner – peyton.heiztman@townofeagle.org

INTRODUCTION

Rick Patriacca (Applicant) is requesting a zoning variance to increase the building height beyond the 35-foot maximum for a proposed 30-unit apartment building that is going through the Town's Major Development Permit review process. The Major Development Permit was brought before the Planning & Zoning Commission for review on July 5, 2022. The staff report from this meeting can be accessed through this [LINK](#). Town Council reviewed the application on July 26, 2022, and continued the file to the August 9, 2022, meeting, requesting modifications to the Development Agreement. The staff report for the Council meeting can be accessed through this [LINK](#).

Per Section 4.04.090 and Section 4.07.040 of the Municipal Code, *The maximum height allowed is 35 feet to any point on the building. On a gable, hip, or gambrel roof, any selected reference point on the roof surface that sits directly above the interior of the building must be measured from existing grade to the average distance between the eaves and the apex of the roof. If the selected reference point is outside of the building footprint (such as eaves and overhangs), then the height measurement is from the existing or proposed finished grade, whichever is more restrictive.*



The Code states that the building height is measured from existing grade to the average distance between the eaves and apex of the roof when the selected reference point is a point on the roof surface that sits directly above the interior of the building. Once that midpoint on the roof surface (average distance between eaves and apex) is determined, as shown in Exhibit C and the graphic above, that midpoint acts as a plane from which the 35 feet is measured down from. This measurement leads the building to be over 2 feet too high on the western portion of the building.

Through this zoning variance request, the Applicant is requesting that the building height exceed the maximum height by 36 inches at the eastern, front end of the building.

ISSUES FOR DISCUSSION

1. Does the zoning variance request meet the conditions for a zoning variance?

STANDARDS FOR ZONING VARIANCE

Section 4.05.020.A.1.

The Planning Commission may grant a variance provided it finds both Subsections (A)(1)(a) and (b) of this section and either Subsection (A)(1)(c) or (d) of this section are applicable.

(A)(1)(a) That the variance granted is without substantial detriment to the public good and does not impair the intent and purposes of the Town's regulations, goals, policies and plans, including the specific regulation in question.

Applicant Comment: We feel that this variance will cause no detriment to the public good, and is in line with the intent of the Town's regulations, goals, policies and plan. The variance will allow the Owner to maintain the gable roof on the building, which is more in line with the general character of the adjacent properties than a flat roof would be.

Staff Comment: Staff agrees with the Applicant that there is no anticipated detriment to the public good. In general, the purpose of a building height maximum is to protect neighboring property's viewsheds, neighborhood and community character, and protection from fire and aviation accidents. The location of the proposed building and variance request (of up to 36 inches) does not impair the intent of the building height regulations. The building is set back against the hillside, with little to no impact on adjacent property viewsheds. The building scale is similar to adjacent properties and in line with the neighborhood character. Staff does not anticipate the variance request resulting in a greater potential for hazards from fire or aviation accidents.

Staff reviewed the variance request against relevant policies in the 2021 Amended Elevate Eagle Comprehensive Plan. Analysis for each policy is provided below.

Policy 2-3.3. Ensure new development builds upon and adds value to Eagle's unique community character through adherence to high quality standards of design and constructions. Ensure residential infill and redevelopment blend appropriately with the character and scale of surrounding neighborhoods. Utilize infill and conservation-oriented development to accommodate growth while retaining open lands and protecting environmentally sensitive areas.

Staff Comment: Staff also agrees with the Applicant's comment that the variance further supports a roof design with visual interest that aligns with the character of the North Interchange Area. The proposed location of the building was chosen to limit the disturbance of the hillside behind the building.

Policy 2-5.4. Preserve viewsheds and view corridors in key areas throughout Town.

Staff Comment: The location of the Property does not impact any viewsheds or view corridors.

(A)(1)(b) That the variance granted is the minimum necessary to alleviate the hardship.

Applicant Comment: This variance is the minimum variance to the code necessary to alleviate this hardship.

Staff Comment: In order to maintain the building aesthetic and character that aligns with the surrounding area, staff believes the variance is the minimum necessary to alleviate the hardship.

The Applicant believes the project will need the allowance of up to 36 inches for the building height based on the topography of the site and unanticipated challenges that could arise during construction. By granting the variance request of up to 36 inches, the Applicant could avoid additional zoning variance requests should the final height of the building be a few inches taller than anticipated/designed.

(A)(1)(c) That there exists on the property in question exceptional topography, shape, size or other extraordinary and exceptional situation or condition peculiar to the site, existing buildings, or lot configuration such that strict application of the zone district requirements from which the variance is requested would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property in question;

Applicant Comment: This site has approx. 50% of the area with a slope greater than 30%. The position of the building on the site has been pushed as far to the East as possible (where the slope is not as drastic) and moving it any further cannot be achieved due to the requirements for adequate parking, vehicle circulation, and fire protection. This is resulting in exceptional practical difficulties to the Owner and their goals for the property of exercising their developable rights while maintaining a building form that is in line with the general character of the other buildings in the North Interchange Area.

Staff Comment: Staff agrees with the Applicant's analysis that there exists exceptional topography on the site that would result in exceptional practical difficulties if strict application of zone district requirements were applied.

(A)(1)(d) That such exceptional situation or condition was not induced by any action of the applicant and is not a general condition throughout the zone district.

Applicant Comment: Not Applicable.

Staff Comment: The topography and site constraints were not induced by any action of the applicant and is not a general condition throughout the RMF zone district.

STAFF RECOMMENDATION

Staff recommends APPROVAL of the zoning variance for File #V22-01 based on Standards (1), (2), (3) and (4) of Section 4.05.020. of the Municipal Code.

PLANNING AND ZONING COMMISSION POTENTIAL MOTIONS

Below are the Planning and Zoning Commission options related to File #V22-01:

1. Approve the application with no conditions.
2. Approve the application with conditions.
3. Continue (table) the application. (Provide staff and the application detail regarding information needed for a decision).
4. Deny the application. (Cite all Code sections and/or Plan policies that resulted in motion for denial)

FINDINGS OF FACT

The zoning variance request complies with Subsection (A)(1)(a), (b), (c) and (d) of Section 4.05.020 of the Land Use and Development Code. Specifically, that the application:

- a. Does not impair the intent of the height regulation in Section 4.04.090 and supports policies in the Elevate Eagle Comprehensive Plan.
- b. Is the minimum necessary to alleviate hardship based on roof design and character as well as topography of the site.
- c. That the strict application of the requirement would result in an exceptional situation that would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property in question because of limitations on the buildability of the lot based on topography.
- d. The existing site constraints were not induced by any action of the applicant and is not a general condition throughout the RMF zone district.



TOWN OF EAGLE
COMMUNITY DEVELOPMENT
200 BROADWAY • PO BOX 609 • EAGLE, CO 81631
PHONE: 970-328-9655 • FAX: 970-328-9656
www.townofeagle.org

LAND USE & DEVELOPMENT PERMIT APPLICATION

Pursuant to the Land Use & Development Code, Title 4

ZONING REVIEW	DEVELOPMENT REVIEW	SUBDIVISION OR PLANNED UNIT DEVELOPMENT REVIEW
☐ Special Use Permit ☒ Zoning Variance ☐ Rezoning ☐ Temporary Use Permit ☐ Amendment to Zone District Regulations	☐ Minor Development Review ☐ Major Development Review	☐ Concept Plan ☐ Preliminary Plan ☐ Final Plat ☐ Lot Line Adjustment ☐ Condominium / Townhouse ☐ Minor Subdivision ☐ P.U.D. Zoning Plan

PROJECT NAME 435 Eby Creek Apartments

PRESENT ZONE DISTRICT RMF

PROPOSED ZONE DISTRICT _____

(if applicable)

LOCATION

STREET ADDRESS 435 Eby Creek Road

PROPERTY DESCRIPTION

SUBDIVISION Perry Subdivision

LOT(S) 3

BLOCK _____

(attach legal description if not part of a subdivision)

DESCRIPTION / PURPOSE Zoning variance for height restriction based on the exceptional topography of the project site.

APPLICANT NAME Son Ray LLC

PHONE 970-328-7751

ADDRESS PO Box 4556, Eagle, CO 81631

EMAIL ryan@pcivail.com

OWNER OF RECORD (see Applicant)

PHONE _____

ADDRESS _____

EMAIL _____

REPRESENTATIVE (see applicant)

PHONE _____

ADDRESS _____

EMAIL _____

The above information is correct and accurate to the best of my knowledge.

Signature _____

Date 7/8/22

In addition to the Application Fee payable at time of Land Use Application, costs related to public notices, postage, Town Attorney Fees and any related outside consultant fees required to review the application shall be billed to the applicant.

FOR OFFICE USE ONLY

DATE RECEIVED _____

BY _____

FILE NUMBER _____

REVIEW FEE _____

DATE PAID _____

RECEIVED BY _____

DATE CERTIFIED COMPLETE _____

BY _____

P&Z HEARING DATE _____

DECISION _____

TBOT HEARING DATE _____

DECISION _____

SON RAY LLC

Chad Phillips, Town Planner
Town of Eagle
P.O. Box 609
Eagle, Colorado 81631

Subject: 435 Eby Creek Apartments Request for Zoning Variance

Chad,

The Town of Eagle Municipal Code Section 4.07.040.2 defines the method for calculating the maximum building height for structures with either a flat or shed roof. While we find that the method provided is agreeable for the vast majority of building sites within the Town (which are predominantly flat), this particular site features an exceptional topography (approx.. 50% of the site has a slope greater than 30%) that most of the other sites in similarly zoned districts do not. This particular method for roof height limitations is vastly more restrictive to buildings on steep sites because the change in existing elevation can vary greatly from one side of the building to another (in the case of this site it changes by 14 feet from west to east). By restricting the building height to the downhill grade, much of the uphill side of the lot becomes unusable for its intended purpose when using a pitched roof, and a flat roof becomes the only practical way to meet the height restrictions.

In light of this, and in an effort to keep the building form in line with the general character of the buildings in the North Interchange Area, the Owner is requesting a Zoning Variance for the Project in accordance with Town of Eagle Municipal Code Section 4.05.020. The Planning Commission may grant a variance provided it finds both Subsections (A)(1)(a) and (b) of this section and either Subsection (A)(1)(c) or (d) of this section are applicable.

- a. That the variance granted is without substantial detriment to the public good and does not impair the intent and purposes of the Town's regulations, goals, policies and plan, including the specific regulation in question; *We feel that this variance will cause no detriment to the public good, and is in line with the intent of the Town's regulations, goals, policies and plan. The variance will allow the Owner to maintain the gable roof on the building, which is more in line with the general character of the adjacent properties than a flat roof would be.*

and

- b. That the variance granted is the minimum necessary to alleviate the hardship; *This variance is the minimum variance to the code necessary to alleviate this hardship.*

and

That there exists on the property in question exceptional topography, shape, size or other extraordinary and exceptional situation or condition peculiar to the site, existing buildings, or lot configuration such that strict application of the zone district requirements from which the variance is requested would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property in question; *This site has approx. 50% of the area with a slope greater than 30%. The position of the building on the site has been pushed as far to the East as possible (where the slope is not as drastic) and moving it any further cannot be achieved due to the requirements for adequate parking, vehicle*

SON RAY LLC

circulation, and fire protection. This is resulting in exceptional practical difficulties to the Owner and their goals for the property of exercising their developable rights while maintaining a building form that is in line with the general character of the other buildings in the North Interchange Area

or

- c. That such exceptional situation or condition was not induced by any action of the applicant and is not a general condition throughout the zone district. [Not Applicable](#)

We respectfully request that you grant this zoning variance based on the above information.

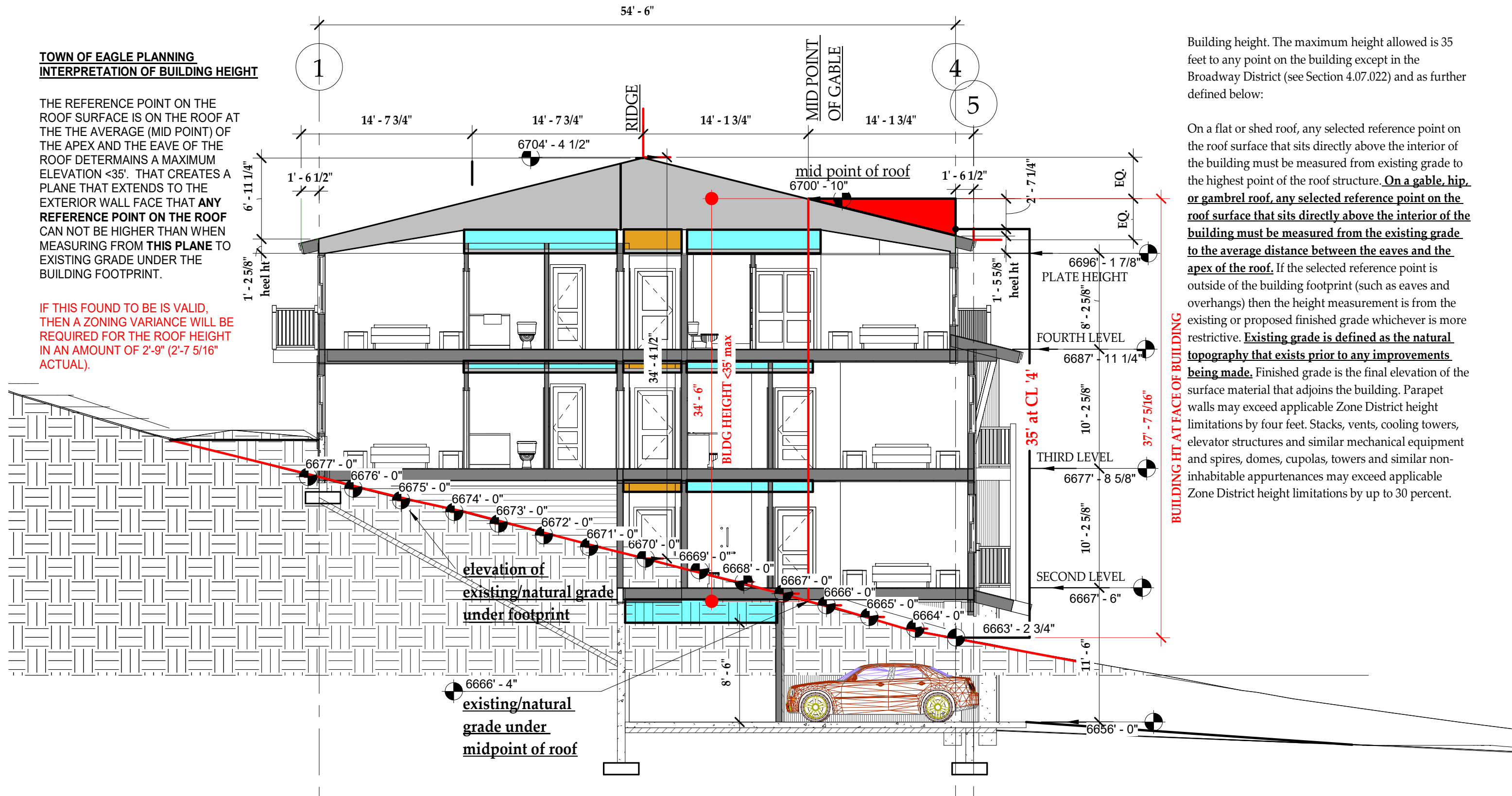
Thank you,

Rick Patriacca

TOWN OF EAGLE PLANNING INTERPRETATION OF BUILDING HEIGHT

THE REFERENCE POINT ON THE ROOF SURFACE IS ON THE ROOF AT THE THE AVERAGE (MID POINT) OF THE APEX AND THE EAVE OF THE ROOF DETERMAINS A MAXIMUM ELEVATION <35'. THAT CREATES A PLANE THAT EXTENDS TO THE EXTERIOR WALL FACE THAT **ANY REFERENCE POINT ON THE ROOF** CAN NOT BE HIGHER THAN WHEN MEASURING FROM **THIS PLANE** TO EXISTING GRADE UNDER THE BUILDING FOOTPRINT.

IF THIS FOUND TO BE IS VALID, THEN A ZONING VARIANCE WILL BE REQUIRED FOR THE ROOF HEIGHT IN AN AMOUNT OF 2'-9" (2'-7 5/16" ACTUAL).



Building height. The maximum height allowed is 35 feet to any point on the building except in the Broadway District (see Section 4.07.022) and as further defined below:

On a flat or shed roof, any selected reference point on the roof surface that sits directly above the interior of the building must be measured from existing grade to the highest point of the roof structure. **On a gable, hip, or gambrel roof, any selected reference point on the roof surface that sits directly above the interior of the building must be measured from the existing grade to the average distance between the eaves and the apex of the roof.** If the selected reference point is outside of the building footprint (such as eaves and overhangs) then the height measurement is from the existing or proposed finished grade whichever is more restrictive. **Existing grade is defined as the natural topography that exists prior to any improvements being made.** Finished grade is the final elevation of the surface material that adjoins the building. Parapet walls may exceed applicable Zone District height limitations by four feet. Stacks, vents, cooling towers, elevator structures and similar mechanical equipment and spires, domes, cupolas, towers and similar non-inhabitable appurtenances may exceed applicable Zone District height limitations by up to 30 percent.

1 BUILDING SECTION AT BLDG HEIGHT PER TOE PLANNING
1/8" = 1'-0"

4335 EBY CREEK APARTMENTS

435 EBY CREEK ROAD
Subdivision: PERRY SUBDIVISION Lot: 3, PHASE II
UPDATED DEVELOPMENT PERMIT SET

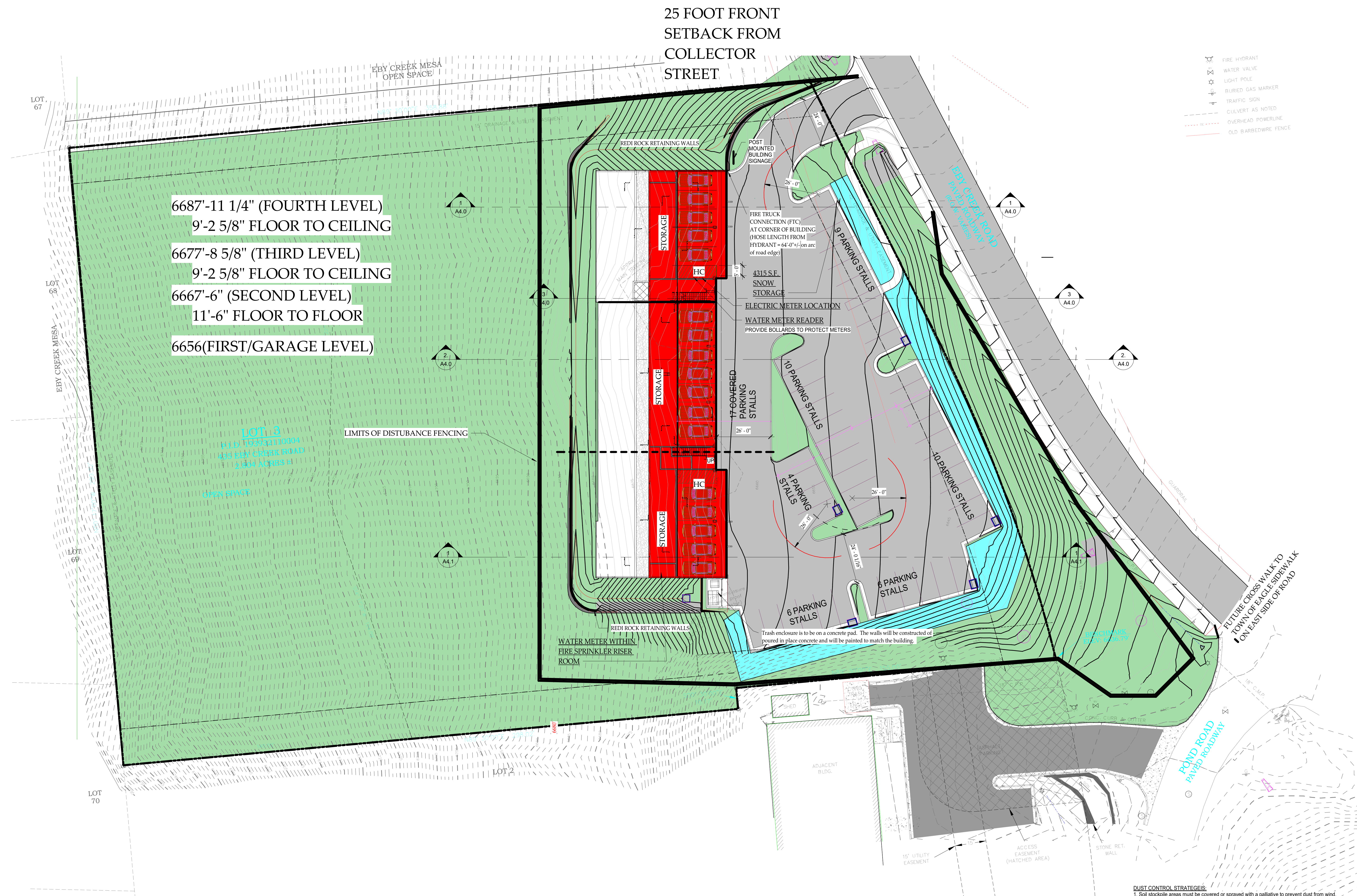
NOT FOR CONSTRUCTION

Date:	6-22-22
Project number:	2175
SITE PLAN	
A1.1	

Parking Matrix: Section 4.07.140. - Parking standards.
Multiple-family dwelling: 1½ per dwelling unit for units with one bedroom, two per dwelling unit for units with two bedrooms, 2½ per dwelling unit for units with three or more bedrooms, plus one additional space per six dwelling units.

(7) 1 bedroom X 1 ½ per dwelling unit = 10.5 Parking stalls
 (2) 2 bedroom X 2 per dwelling unit = 42 Parking stalls
 (2) 3 bedroom X 2 ½ per dwelling unit = 5 Parking stalls
 1 stall per 5 units (30 units/6) = 5 Parking stalls
Total Parking Required **62.5 Parking stalls or 63 Parking stalls**

63 parking stalls shown,



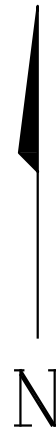
DUST CONTROL STRATEGIES:

1. Soil stockpile areas must be covered or sprayed with a palliative to prevent dust from wind and all travel routes shall be treated to prevent dust during dry periods.
2. During construction, all driveway, parking and lay-down areas must be covered with at least three inches of three quarter inch screened rock.
3. During construction, all sediment control features and fencing must be maintained in good working order.
4. If needed, public roads adjacent to the Construction Site must be scraped and/or broomed at the end of the workday to remove transported material.

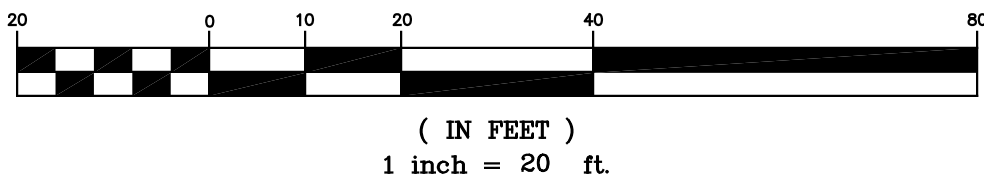
1 0 SITE PLAN
1" = 20'-0"

TOPOGRAPHIC SURVEY

LOT 3, PERRY SUBDIVISION, PHASE II
Located in Section 32, Township 4 South,
Range 84 West of the 6th P.M.
Town of Eagle, Eagle County, Colorado

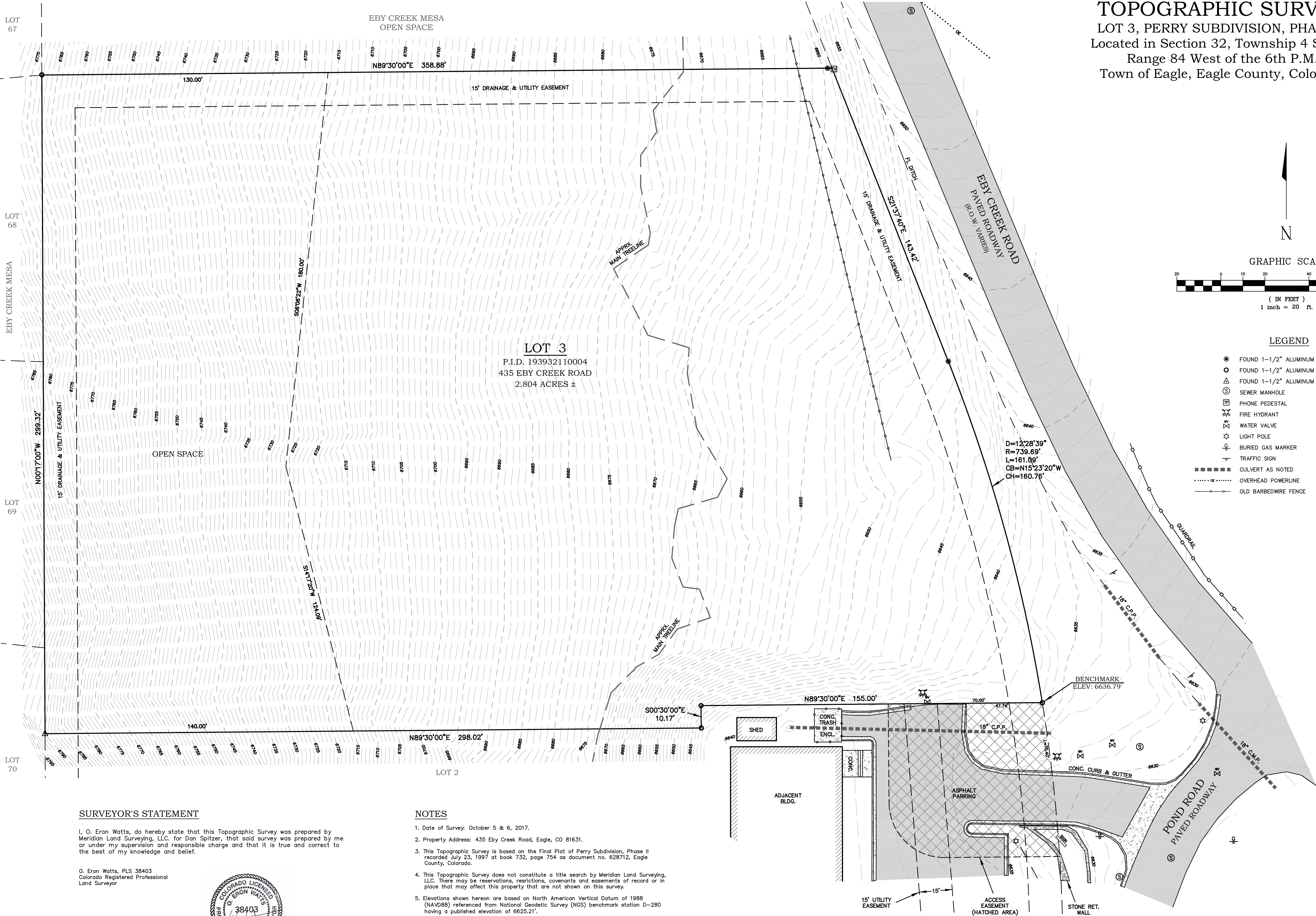


GRAPHIC SCALE



LEGEND

- FOUND 1-1/2" ALUMINUM CAP LS25630
- FOUND 1-1/2" ALUMINUM CAP LS30093
- △ FOUND 1-1/2" ALUMINUM CAP LS26967
- ⊙ SEWER MANHOLE
- ☎ PHONE PEDESTAL
- ⛑ FIRE HYDRANT
- ⛑ WATER VALVE
- ☆ LIGHT POLE
- ⊙ BURIED GAS MARKER
- ⊙ TRAFFIC SIGN
- ▬ CULVERT AS NOTED
- ⋯ OVERHEAD POWERLINE
- OLD BARBEDWIRE FENCE



SURVEYOR'S STATEMENT

I, O. Eron Watts, do hereby state that this Topographic Survey was prepared by Meridian Land Surveying, LLC, for Dan Spitzer, that said survey was prepared by me or under my supervision and responsible charge and that it is true and correct to the best of my knowledge and belief.

O. Eron Watts, PLS 38403
Colorado Registered Professional
Land Surveyor



NOTES

- Date of Survey: October 5 & 6, 2017.
- Property Address: 435 Eby Creek Road, Eagle, CO 81631.
- This Topographic Survey is based on the Final Plat of Perry Subdivision, Phase II recorded July 23, 1997 at book 732, page 754 as document no. 628712, Eagle County, Colorado.
- This Topographic Survey does not constitute a title search by Meridian Land Surveying, LLC. There may be reservations, restrictions, covenants and easements of record or in place that may affect this property that are not shown on this survey.
- Elevations shown herein are based on North American Vertical Datum of 1988 (NAVD88) referenced from National Geodetic Survey (NGS) benchmark station D-280 having a published elevation of 6625.21'.
- Contour interval equals 1 foot.

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 herein.

TOPOGRAPHIC SURVEY
LOT 3, PERRY SUBDIVISION, PHASE II
ACCORDING TO THE FINAL PLAT RECORDED JULY 23, 1997
AT BOOK 732, PAGE 754 AS DOCUMENT NO. 628712
LOCATED IN SEC. 32, T4S, R84W, 6TH P.M.
TOWN OF EAGLE, EAGLE COUNTY, COLORADO
435 EBY CREEK ROAD ROAD

SHEET:
1 OF 1
DATE:
10/11/2017
PLS/PTS:
EW/EW
DWG NO:
17007-R1
REVISION:
TYPD 10/16/17

MERIDIAN
LAND SURVEYING, L.L.C.
P.O. Box 2225 Gypsum, CO 81637
(970) 524-0963