



GREATER SALT LAKE
**Municipal Services
District**

Planning and Development Services

2001 S. State Street N3-600 • Salt Lake City, UT 84190-4050

Phone: (385) 468-6700 • Fax: (385) 468-6674

msd.utah.gov

File # NCE2022-000658

Relocate and Rebuild a noncomplying structure (Revised request: proposal of retaining wall to be built within 50' setback of a perennial stream corridor)

Meeting Date: May 21, 2024

Parcel ID: 24-16-356-001-0000

Property FR-1 (Foothills and Canyon Overlay zone)

Property Address: 10806 E Moose Run, Brighton Utah

Request: Revision of previous approval to tear down rebuild FCOZ SFD (addition of Retaining wall within the 50' of high-water mark of BCC)

Planner: Jim Nakamura

Applicant Name: Mike Kessler

SITE & VICINITY DESCRIPTION



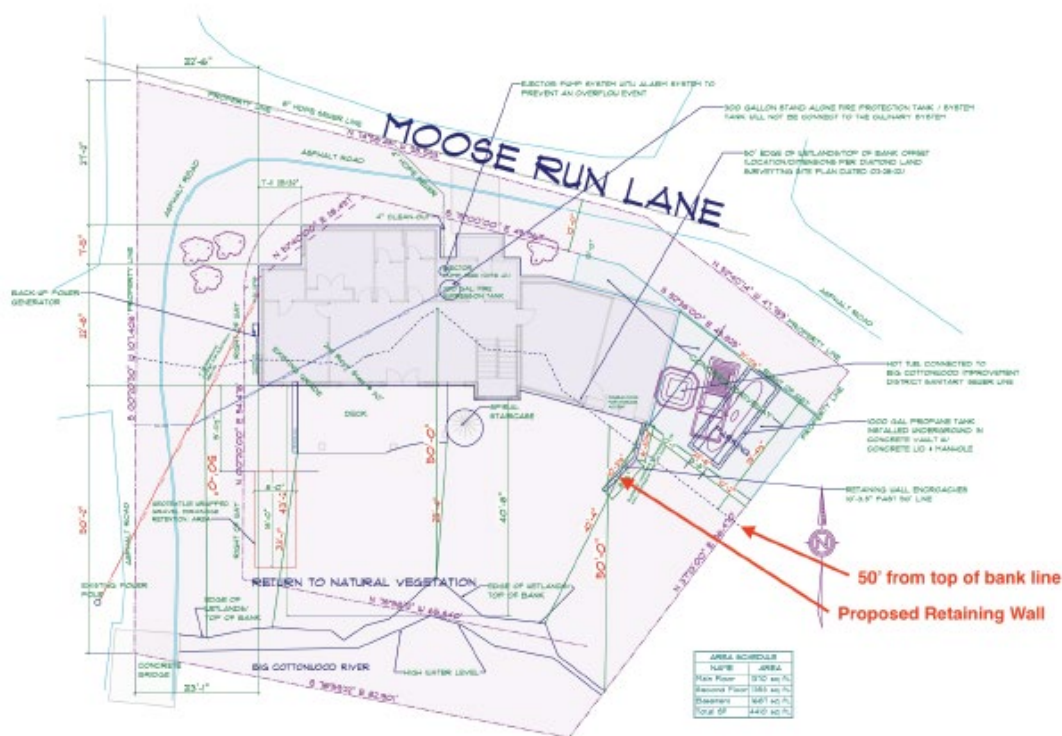
10806 E Moose Run, Brighton Utah

The surrounding properties are zoned Forest & Recreation, FR-1. The Foothills and Canyons Overlay Zone (FCOZ) applies to all properties in this area. This neighborhood includes other single family cabin dwellings of a similar size and nature. (See Exhibit C)

PROJECT DESCRIPTION

The applicant, Mike Kessler, previously received approval to relocate/rebuild a noncomplying structure on Parcel #2416356001 which is known as 10806 E Moose Run (Exhibit B). The applicant is proposing the addition of a retaining wall on the East side (running south) of the structure (exhibit), partially being proposed within the 50' high water mark of Big Cottonwood Canyon Creek. The reason for this request is that while the original architectural drawings showed a ground-level entrance to the basement of the new home, the applicant's engineer did not include the necessary retaining wall on the plans. When the updated civil drawings were submitted, staff noted that the Salt Lake City Public Utilities approval would need to be updated (per Brighton's code) and legal counsel for Brighton recommended ALJ review due to the additional encroachment in to the 50' setback.

Figure 1. Proposed Retaining Wall (from Applicant)



EXECUTIVE SUMMARY

On January 23, 2023, a Land Use Hearing was held concerning the potential tear down and reconstruction of a small cabin built in 1964. The existing building did not meet the required 50' setback from a perennial stream. The applicants proposed the removal of that existing building, which would be replaced by a new single family home. The new structure would be located farther from the stream but not the full 50' from the stream. Chapter 19.88.070(B) allows a non-conforming structure to be reconstructed at a new site if:

- B. A building occupied by a nonconforming use or a noncomplying structure may be added to or enlarged or moved to a new location on the lot or reconstructed at a new location on the lot upon a*

permit authorized by the land use hearing officer, provided that the land use hearing officer shall find:

- 1. The addition to, enlargement of, moving of, or reconstruction of the structure at a new location on the lot is in harmony with one or more of the purposes of this title as stated in Section 19.02.020 of this title, and is in keeping with the intent of this title;*
- 2. That the proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or structure.*

The Land Use Hearing Officer granted the applicant approval of the request for relief from the 50' perennial stream setback, "subject to the following terms and conditions:

1. All terms and conditions set forth in the joint letter from Salt Lake County Health Department and Salt Lake City Department of Public Utilities dated May 18, 2022. Such letter is attached hereto as Exhibit 4.
2. Any new dwelling must be connected to the sanitary sewer. The outhouse must be removed and abandoned in accordance with Utah Administrative Code R31-7-4.
3. The original cabin must be removed in accordance with the Salt Lake County Health Department pre-demolition requirements.
4. All construction and demolition activities must be accomplished using best management practices as outlined by the state, county and/or local municipality.
5. This property is located within a mapped floodplain. A floodplain development permit from the Planning & Development office is required to perform any work (including demolition) within the floodplain.
6. A demolition permit is required to take down the existing structures from the property.
7. A building permit, including a separate permit for the construction of any site retaining walls, and structures must be issued.
8. Wildland Urban Interface requirements must be satisfied during the building permit application process."

The original application was found to meet the criteria found in section 19.88.070 of the Brighton code. This requested application for relief is an extension of the earlier request and would be subject to the same criteria (the land use code regarding non-conforming uses was amended in December 2023 however Staff is applying the code from when the applicant first applied for relief).

PLANNING STAFF ANALYSIS

Chapter 19.72 of the Brighton Zoning Ordinance regulates the use of land within the Foothills and Canyons Overlay Zone (FCOZ). The purposes of FCOZ are many, but as it pertains to this application, Subsection 19.72.010(D) states that FCOZ is intended to:

- D. Encourage development that conforms to the natural contours of the land and minimizes the scarring and erosion effects of cutting, filling and grading on hillsides, ridgelines, and steep slopes.*

The home that was approved as part of the January 23rd Land Use Hearing included a deck with a walk out basement and a 1 car garage accessed from the back of the house. (see pages 19 and 22 of the 1/23/23 packet). The walk out basement and the garage entrance were included in the exhibits of staff

report for the January 23rd Land Use Hearing as page 2/10 of Exhibit B. What was not included was a grading plan that included a retaining wall. This was an oversight because a retaining wall of some sort is necessary to create both of these “walk out” elements, given that natural grade slopes on the back of the house. This application is seeking to add the retaining element to address the change in elevation.

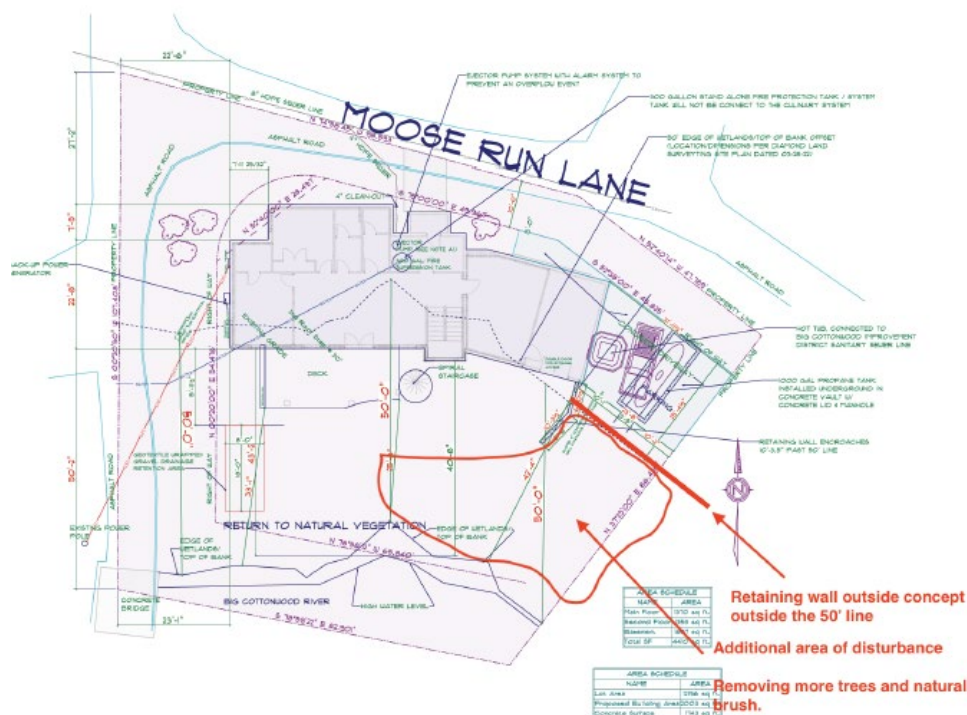
The applicant was informed by Salt Lake City Public Utilities that accessing the garage from the back was not permitted under their code. The owner updated the plans to turn the 1 car garage area into a storage area with outside access using a 6' double door. There is access to the storage area from within the house.

The ordinance does not prohibit grading, it encourages development that conforms to the natural contours of the land and requires that the “scarring and erosion effects of cutting, filling and grading” be minimized. Grading standards are listed in Brighton Code 19.72.070. The retaining wall could be placed in a position that complies with the 50' perennial stream setback which would retain the parking pad on the east of the house, but this requires much more cut and fill because the two accesses were permitted from the basement level, resulting in a final grade that differs from the natural contours even more than the proposed retaining wall in question (See figure 2, setback conforming retaining wall). The proposed retaining wall (see figure 1, proposed retaining wall) results in the least amount of cut and fill possible, given that the “walk out” elements are part of the approved plan. The proposed configuration therefore minimizes the effects of the cutting, filling, and grading to the extent possible.

The proposed retaining wall does not add additional floor space to the home nor any additional parking area to the site. Its purpose is to allow for a flattened area behind the whole length of the back of the house to accommodate the two basement entrances.

The retaining wall as proposed does not meet the requirements of 19.72.070 due to its being over 8 feet tall (Brighton Code 19.72.070(H)(1)). It also causes the grading to be lowered more than 8' (19.72.070(c)) along the south elevation of the house and more than 8' along the east elevation of the house.

Figure 2. Setback Conforming Retaining Wall (from Applicant)



NEIGHBORHOOD RESPONSE

None as of the date of this report.

REVIEWING AGENCIES RESPONSE

AGENCY: Salt Lake City Public Utilities/ Salt Lake County Health Department (approved)

DATE: 4.15.24 (Exhibit D)

Approval: Relief to construct the retaining wall within the 50-foot setback.

** Conditions below applicable**

The dwelling must be connected to sewer.

1. The outhouse must be removed and abandoned in accordance with Utah Administrative Code R31 7-4. And reclaimed to natural state.
2. The original cabin must be removed in accordance with the Salt Lake County Health Department pre-demolition requirements (for details, call 385-468-3862 ask for John Hoggan). And reclaimed back to natural state.
3. All construction and demolition activities must be accomplished using best management practices as outlined by the state, county, and/or local municipality.

POTENTIAL FINDINGS IF APPROVED

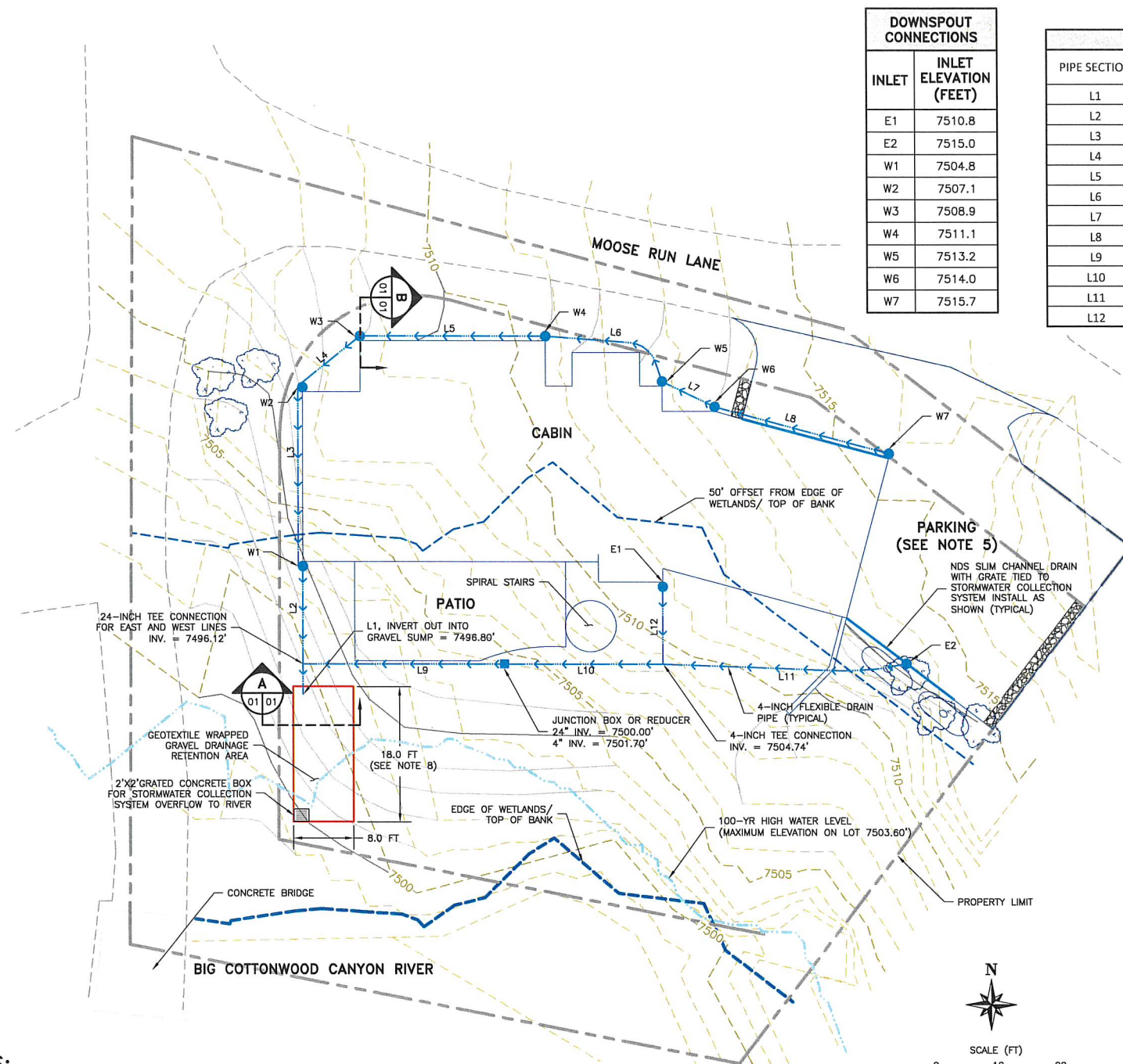
1. The amended plan as proposed is not only in harmony with the purposes of the Foothills and Canyons Overlay Zone as stated above, but it is also in harmony with the intent of the original approval of the land use hearing officer for the rebuild project.
2. The retaining wall will not pose any new threat to the health/safety of those occupying and neighbors located within the vicinity of the new structure as it will be reviewed and inspected for compliance with the International Building Code.
3. The application meets the requirements of the Town of Brighton Ordinance, Section 19.88.070.
4. Salt Lake City Public Utilities has approved a waiver allowing building near a water source subject to conditions.
5. The Salt Lake County Health Department has approved this request subject to the conditions.

Note: project conceptually approved, review pending LUHO decision. Prior to final approval of the proposed rebuild of the single family dwelling all requirements noted in section 19.72 (Foothills and Canyons overlay zone) must be met.

Attachments:

- A. Map View
- B. Grading Plan
- C. Vicinity View
- D. Retaining Wall Exhibits
- E. Applicant's Narrative
- F. Salt Lake Public Works updated approval letter
- G. [Link to Land Use Hearing Officer Decision 1/23/23.](#)





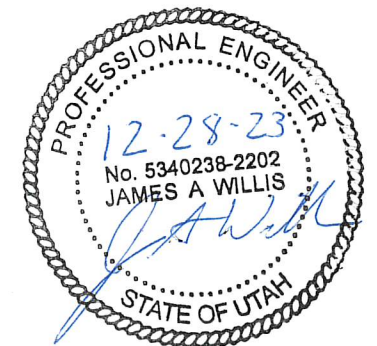
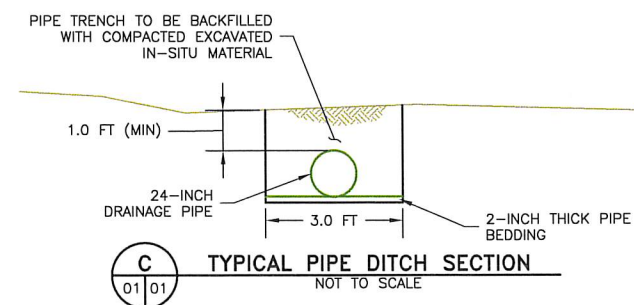
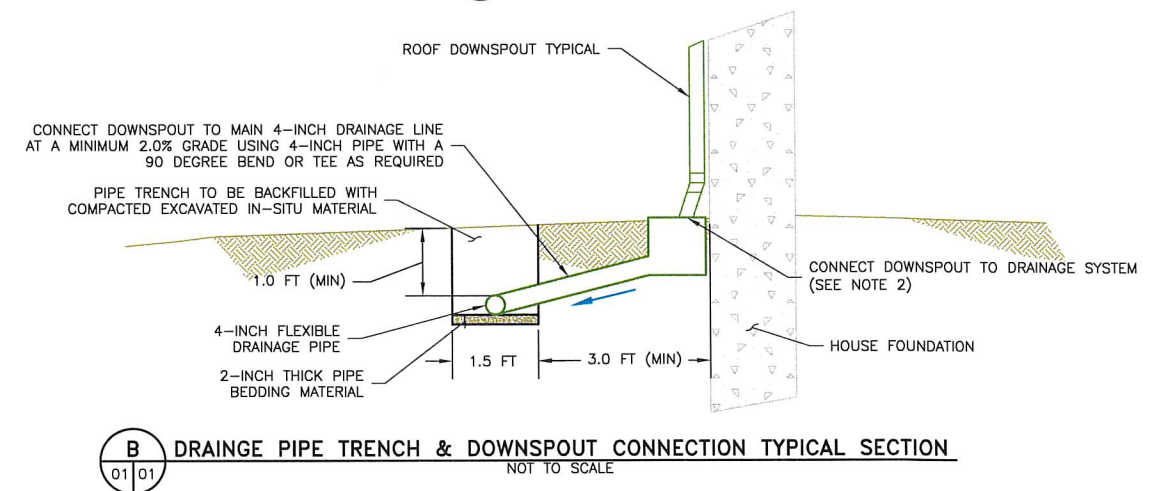
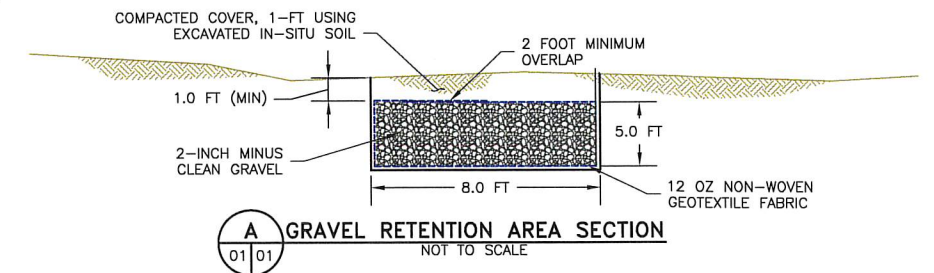
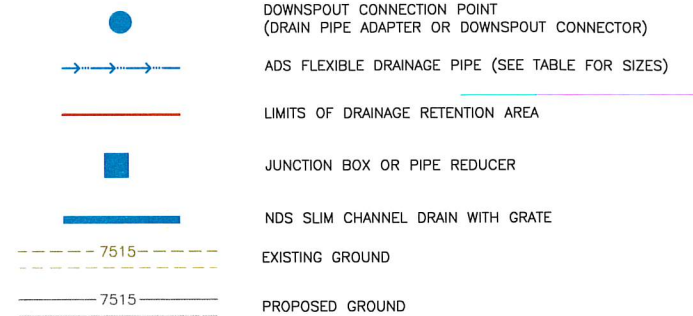
- NOTES:



1. ROOF DRAINS AND OTHER STORMWATER COLLECTION SOURCES FROM THE HOUSE WILL BE CAPTURED AND DIRECTED INTO THE GRAVEL RETENTION AREA USING 4" AND 24" DRAINAGE PIPE.
2. DOWNSPOUTS ARE TO BE CONNECTED TO DRAINAGE SYSTEM USING DRAIN PIPE ADAPTOR OR DOWNSPOUT CONNECTOR PER OWNER'S DIRECTION.
3. DRAINAGE CALCULATIONS ASSUME THAT FOLLOWING CONSTRUCTION AREAS OUTSIDE HOUSE AND PATIO FOOTPRINTS WILL BE REGRADED AND SEEDED TO MATCH CONDITIONS PRIOR TO CONSTRUCTION.
4. DRAINAGE PIPELINE SLOPES MAY BE ADJUSTED BASED ON CONDITIONS ENCOUNTERED IN THE FIELD. HOWEVER A MINIMUM SLOPE OF 2.0% WILL BE MAINTAINED.
5. DRIVEWAY PARKING AREA IS TO BE GRADED TO DRAIN TO SLIM CHANNEL DRAINS INSTALLED AS SHOWN ON PLANS. THESE DRAINS ARE TO BE CONNECTED TO THE COLLECTION SYSTEM AT THEIR RESPECTIVE DOWNSPOUT.
6. THE FLOWS FROM THE 100-YR STORM EVENT WILL NATURALLY DRAIN TO BIG COTTONWOOD CANYON RIVER. STORMWATER FLOWS FROM THE COLLECTION SYSTEM'S GRAVEL DRAINAGE AREA WILL ALSO BE DIRECTED TO THE RIVER.
7. 10-YR STORMWATER STORAGE INCLUDE VOLUME FOR THE 24" PIPE AND THE GRAVEL DRAINAGE SUMP.
8. A GRADE OF -1.0% TO BE MAINTAINED ALONG LONG AXIS OF GRAVEL DRAINAGE RETENTION AREA IN THE DIRECTION OF BIG COTTONWOOD CREEK.

DOWNSPOUT CONNECTIONS	
INLET	INLET ELEVATION (FEET)
E1	7510.8
E2	7515.0
W1	7504.8
W2	7507.1
W3	7508.9
W4	7511.1
W5	7513.2
W6	7514.0
W7	7515.7

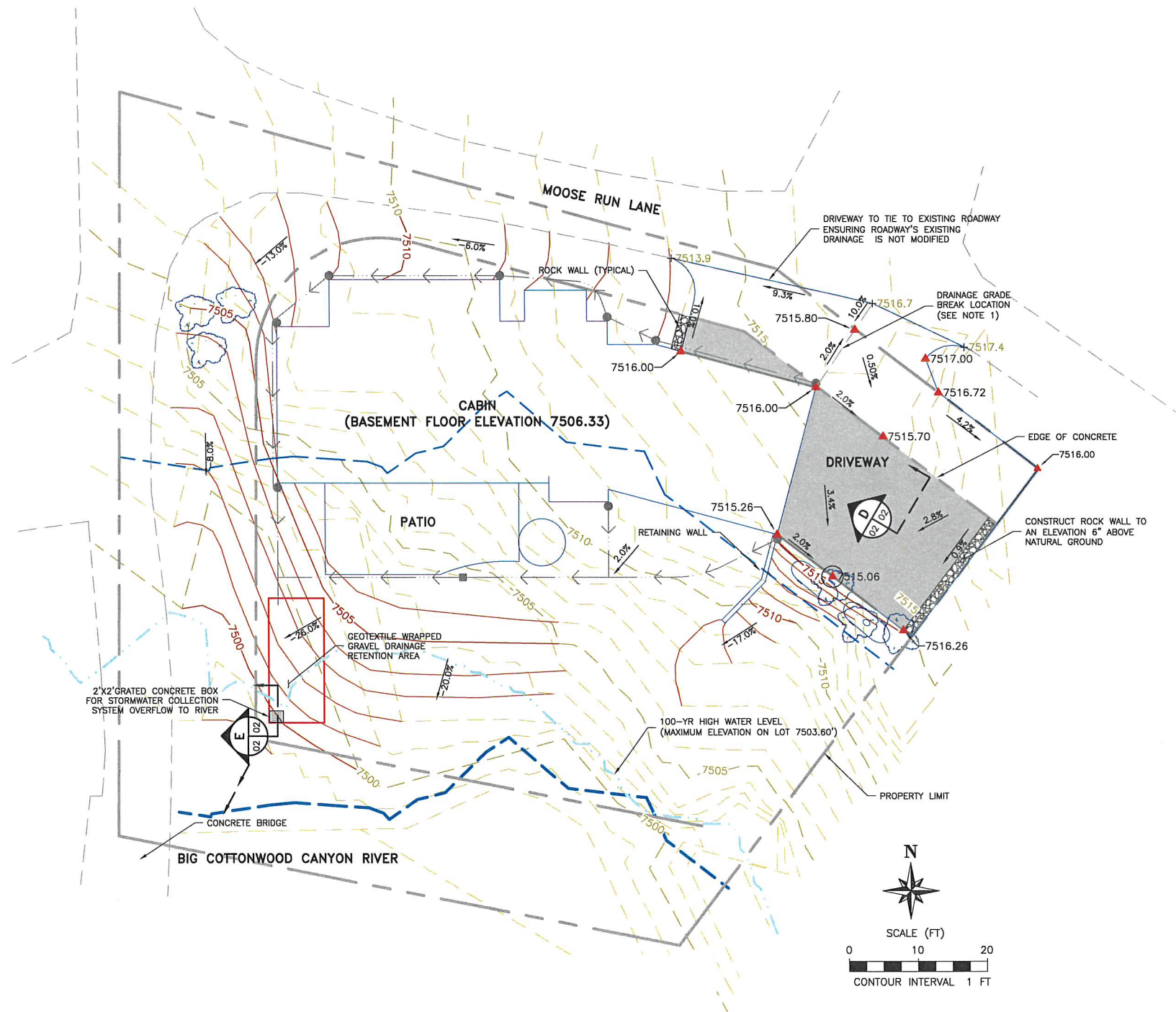
DRAINAGE PIPELINE DESIGN					
PIPE SECTION	LENGTH (ft)	INVERT IN (FT)	INVERT OUT (FT)	GRADE (%)	DIAMETER (IN)
L1	6	7,496.92	7,496.80	2.0%	24
L2	13	7,499.10	7,496.92	16.8%	24
L3	24	7,506.27	7,500.77	22.9%	4
L4	10	7,507.27	7,506.27	10.0%	4
L5	25	7,509.37	7,507.27	8.4%	4
L6	19	7,510.32	7,509.37	5.0%	4
L7	8	7,510.72	7,510.32	5.0%	4
L8	11	7,511.82	7,510.72	10.0%	4
L9	28	7,500.00	7,496.92	11.0%	24
L10	20	7,504.74	7,501.7	15.2%	4
L11	33	7,505.07	7,504.74	1.0%	4
L12	11	7,505.00	7,504.74	2.9%	4

LEGEND:



REFERENCE: C:\Users\William Willms\Documents\2023\23-001\23-001.dwg 1 William Willms	ENGINEER'S SEAL	REVISIONS:				DESIGNED BY: JAW		PREPARED FOR: 	PREPARED BY:	TITLE:					
		REV	DESCRIPTION	BY	DATE	DRAWN BY: JAW	CABIN STORMWATER PLAN MOOSE RUN LANE			 REVISION					
		0	ISSUED FOR PERMITTING	JAW	06/22	CHECKED BY: JAW	PROJECT #: 001 DRAWING #: 01								
		1	ISSUED FOR PERMITTING	JAW	11/22	APPROVED BY: JAW									
		2	ISSUED FOR PERMITTING	JAW	04/23										
		3	ISSUED FOR PERMITTING	JAW	11/23										
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J:\Users\jwillis\OneDrive\Desktop\Mike's Place 2\CAD\Moose Run\Figures\DWG 02 Surface Drainage and Driveway Pln.dwg -- 11/24/2023 1:30 PM

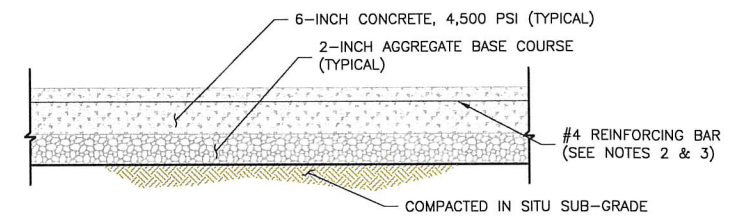


NOTES:

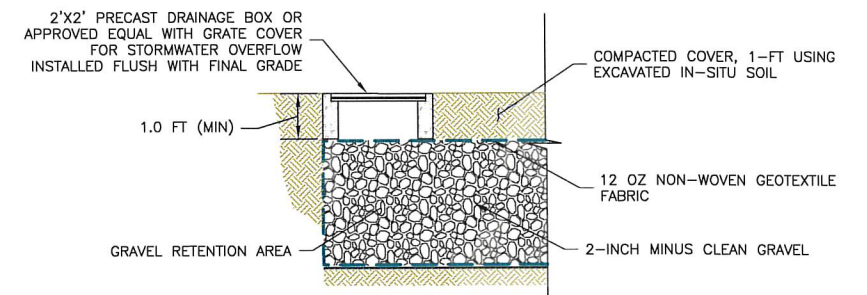
1. DRIVEWAY MAXIMUM GRADE IS 10%. ACTUAL GRADES TO BE ESTABLISHED IN THE FIELD BASED ON NATURAL GROUND ELEVATIONS AND FINISHED FLOOR ELEVATIONS AS APPROVED BY THE ENGINEER OR OWNER.
2. REINFORCING BAR TO BE POSITIONED IN THE UPPER THIRD OF THE SLAB OR 2-INCHES BELOW SLABS TOP SURFACE.
3. REBAR TO BE INSTALLED ON 24"x24" GRID AND BE SUPPORTED AND SUFFICIENTLY TIED TOGETHER TO MINIMIZE MOVEMENT DURING CONCRETE PLACEMENT AND FINISHING.

LEGEND:

- DOWNSPOUT CONNECTION POINT (DRAIN PIPE ADAPTER OR DOWNSPOUT CONNECTOR)
- ADS FLEXIBLE DRAINAGE PIPE (SEE TABLE FOR SIZES)
- LIMITS OF DRAINAGE RETENTION AREA
- JUNCTION BOX OR PIPE REDUCER
- NDS SLIM CHANNEL DRAIN WITH GRATE
- SURFACE WATER DRAINAGE ARROW
- - - 7515 EXISTING GROUND
- 7515 PROPOSED GROUND



D DRIVEWAY TYPICAL SECTION
02 02 NOT TO SCALE



E CONCRETE BOX WITH GRATE
02 02 NOT TO SCALE



REFERENCE:	ENGINEER'S SEAL	REVISIONS:				DESIGNED BY: JAW		PREPARED FOR:	PREPARED BY:	<div>TITLE: CABIN GRADING PLAN MOOSE RUN LANE</div> <div>2 REVISION</div>			
		REV	DESCRIPTION	BY	DATE	DRAWN BY: JAW							
		0	ISSUED FOR PERMITTING	JAW	03/23	CHECKED BY: JAW							
		1	ISSUED FOR PERMITTING	JAW	04/23	APPROVED BY: JAW							
		2	ISSUED FOR PERMITTING	JAW	11/23								
										<div>AXESS HOME BUYERS</div> <div>JAWS CIVIL DESIGN</div>			
										<div>PROJECT: KESSLER'S PLACE</div> <div>PROJECT #: 001</div> <div>DRAWING #: 02</div> <div>LOCATION: BRIGHTON, UT</div> <div>DATE: NOVEMBER 2023</div> <div>SHEET: 02 OF 02</div>			



10806 E Moose Run Ln

BIG COTTONWOOD CANYON ROAD

Exhibit D



Mike Kessler

801-856-5754

10806 E Moose Run Lane

Salt Lake City

Utah 84102

Lot# 51

Pine Tree Subdivision



550 Harmony Place | Brigham City, UT 84302
801.860.4687 | Dave@DasnCo.com

Kessler Custom

Perspective

SCALE: As Noted

DATE: 4/5/2023

PAGE:

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Retaining Wall Narrative

5/4/24

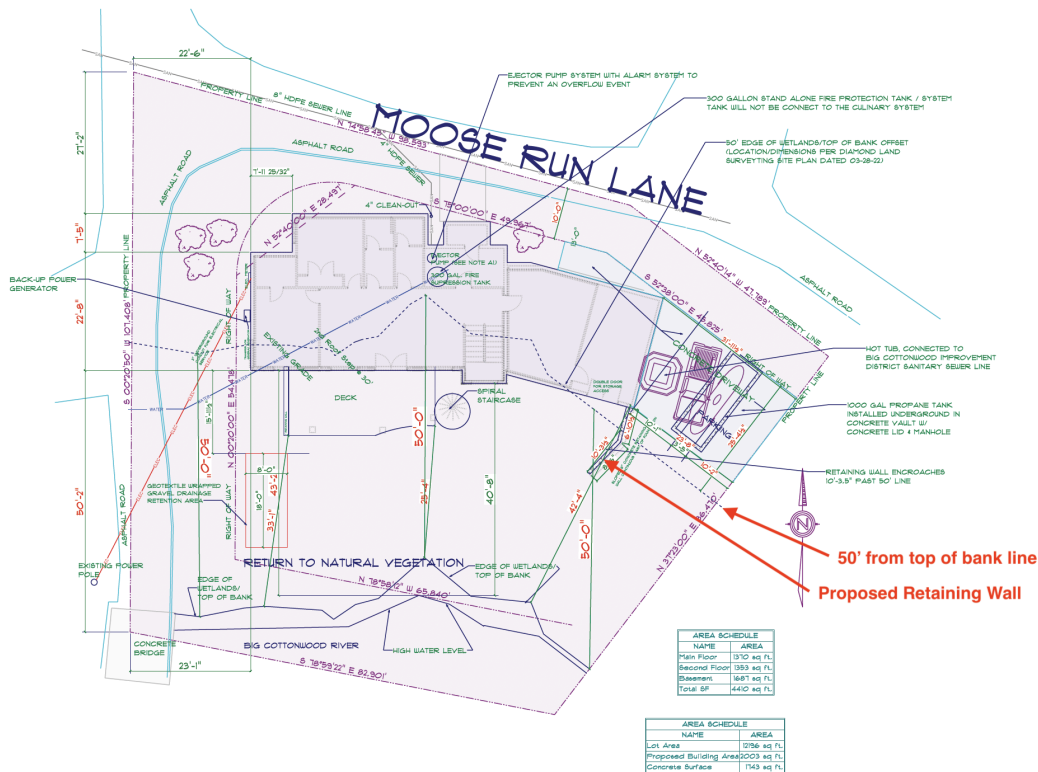
Re:
10806 Moose Run Lane
Brighton, UT 84121

Application: NCE 2022-658
MSD permitted use permit: PER2020-000110
Building Permit # SFD23-1105
Parcel ID 24-16-356-001-000

To whom it may concern,

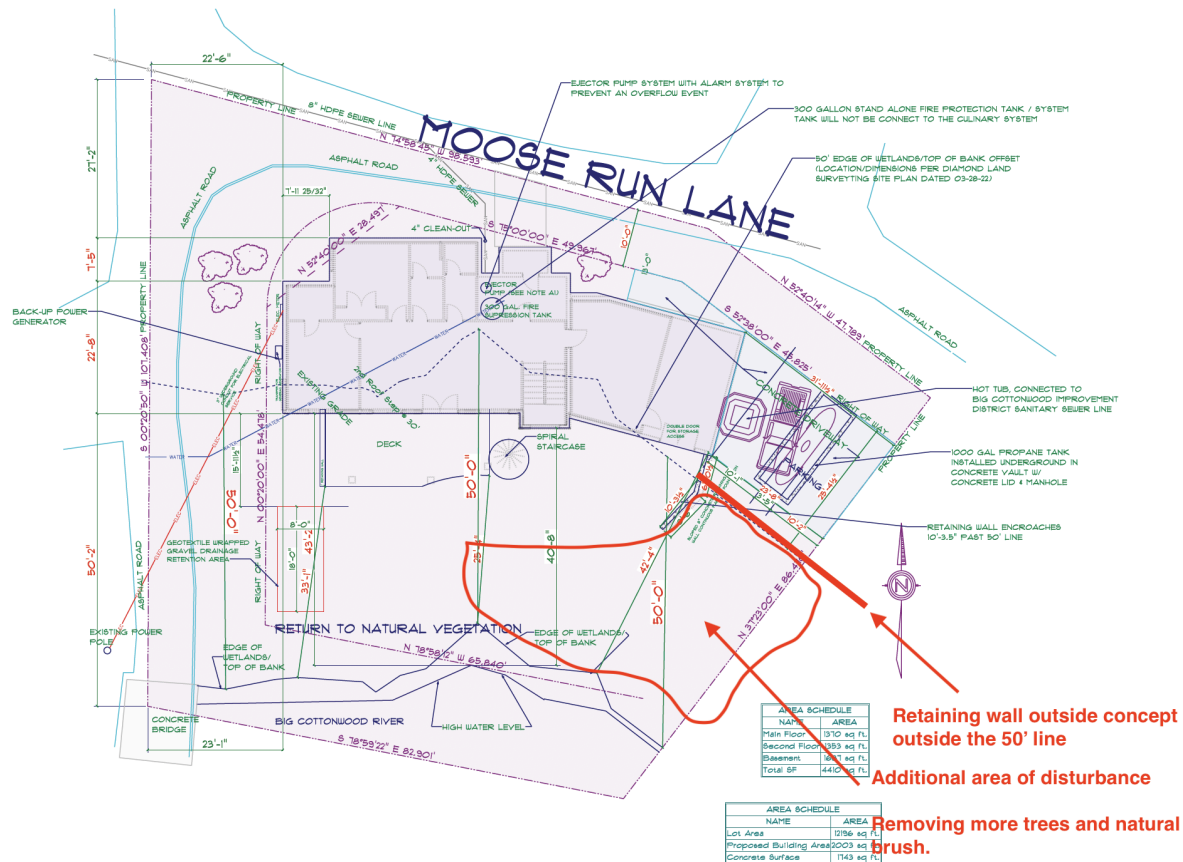
This Narrative is for use in an upcoming Land Use hearing with the Municipal Service District of Salt Lake City and to address the comments from Polly Mclean, the Attorney from Brighton Township.

The Comment from Polly as I understand it, she requested more clarification as to why the retaining wall needs to be installed within the 50' zone shown on the Building Plat, rather than a retaining wall that would stay outside of the 50' line marked on the plat. You can see both of the options below:



SITE PLAN NO GRADING

SCALE: 1" = 20'-0"



SITE PLAN NO GRADING

SCALE: 1" = 20'-0"

The reason why the retaining wall is placed in the current location, is because this follows the natural grade of the existing ground. As requested by Salt Lake County Public Utilities and the Health Department, they wanted to have as little impact as possible on the natural and existing vegetation, thus we provided a retaining wall that follows the natural grade. This allows us to preserve as much vegetation on the lot as possible.

If we put the retaining outside of the 50' line to stay within the Ordinance, this would force us to remove more trees and natural vegetation in the area marked above. In additional, we would have to remove additional hillside and grade the ground to a slope that is safe. This is contrary to the requests made by public utilities and health departments.

Salt Lake County Public Utilities and Health Departments have reviewed and approved the 1st site plan as of April 13th, 2024. Their approvals show that they agree that this is the best approach to minimize the impact on the natural and existing grade.

We look forward to the final Land Use approval.

Thank you

Mike Kessler



April 3, 2024

Great Day Investments, LLC
C/O Alfred and Hazel Kessler
2303 Smith Legacy Cove
Taylorsville, UT 84129

RE: Updated Request for Waiver for Building near Water Source –
10806 East Moose Run Lane
Parcel No. 24-16-356-001
Request for relief for New Residential Structure
within 50 foot of stream/wetland protection area

Dear Mr. and Mrs. Kessler:

The Salt Lake County Health Department, Division of Environmental Health, and Salt Lake City Corporation have reviewed your request to allow a portion of your new residence and deck to be located on the above property to be constructed within the 50-foot setback created for the protection of watercourse as required by the Salt Lake County Health Department's *Watershed Regulation #14*. After careful review it has been decided that the request can be approved with the following stipulations:

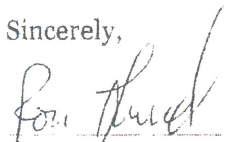
1. The Limit of Disturbance (LOD) for construction of the proposed residence shall be no closer than the one point 25-feet from the edge of wetland/top of bank and as indicated in Exhibit A. This approval is per the site plan attached herewith only. Under the current rules decks and patios are considered part of the living space structure.
 - a. As a condition of this approval the existing structure(s) located within the 50-foot setback is to be removed and the ground returned to its natural state as a betterment of the protection area.
 - b. Any demolition of the original structures must be removed in accordance with Salt Lake County Health Department pre-demolition requirements.
 - c. The outhouse located on the property must be removed and abandoned in accordance with Utah Administrative Code R317-4.
 - d. No hot tubs are allowed within 50' of the watercourse and any hot tubs approved with this project must be connected to the public sewer.
2. The location of the dwelling and the LOD, as shown in the attached site plan, shall be located in the field by a licensed land surveyor and approved by Salt Lake City Watershed or Salt Lake County staff before construction begins.

Great Day Investments, LLC
April 3, 2024
Page 2

3. For long-term protection of the watercourse and wetlands and to maintain the required buffer areas, this approval and site plan is to be recorded at the Salt Lake County Recorder's Office under the current parcel number.
4. At no time will additional encroachments, including such items as decks, patios, hot tubs, bridges, paths, fire pits, etc., be allowed within the 50-foot setback area under any other use or request except to make repairs to the existing structure as approved under this approval.
5. All utility connections for this lot will exit from the structure furthest from the watercourse.
6. Groundwater and surface water will be protected from runoff or contamination, no direct drainage into the watercourse or the 50-foot buffer area is allowed, except for the approved storm water retention basin as shown on exhibit A. Best management practices must be used during construction to protect the watercourse.

Please note, that the approval of this request will expire if construction has not started within one (1) year of the date of this approval letter.

Sincerely,



Ron Lund, MPH, LEHS, Director
Salt Lake County Health Department
Environmental Health Division



Laura Kriefer, Director
Salt Lake City Corporation
Department of Public Utilities

Cc: mike@axesshomebuyers.com
file

Great Day Investments, LLC
April 3, 2024
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Acknowledge and Accepted:

Alfred George Kessler
Alfred George Kessler, Manager
Great Day Investments, LLC

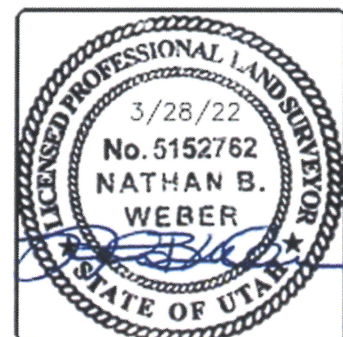
Date April 18, 2024

Hazel Ann Clark Kessler
Hazel Ann Clark Kessler, Manager
Great Day Investments, LLC

Date April 18, 2024

Exhibit A

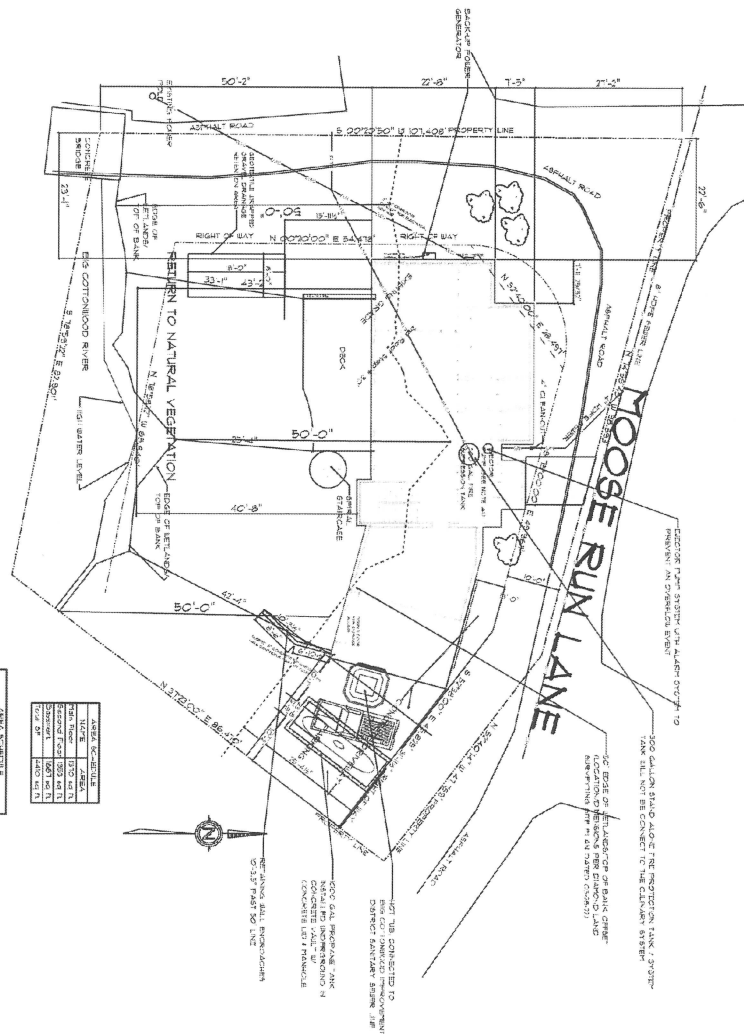
BUILDING AREA WITHIN 50' SETBACK FROM TOP OF BANK	
SQ. FT.	787
DESCRIPTION	<p>An area of building located in Lot 51, Pine Tree Subdivision as recorded in the Office of the Salt Lake County Recorder in Book S Page 96 located in the Southwest Quarter of Section 16, Township 2 South, Range 3 East, Salt Lake Base and Meridian, more particularly described as follow:</p> <p>Beginning at a point on a corner of a building, said point being North 24°37'17" East 54.85 feet from the southwest corner of Lot 51 and running;</p> <p>Thence North 4.16 feet to the 50 foot wetland off set line;</p> <p>Thence along 50 foot wetland off set line the following thirteen(13) courses; North 84°35'30" East 2.91 feet; thence South 85°58'52" East 5.47 feet; thence South 86°16'05" East 5.25 feet; thence South 69°56'15" East 2.25 feet;</p> <p>thence South 41°52'04" East 1.21 feet; thence North 55°03'33" East 4.99 feet; thence North 76°00'51" East 4.20 feet;</p> <p>thence North 45°21'21" East 8.30 feet; thence North 57°35'42" East 3.95 feet; thence South 49°31'22" East 11.32 feet;</p> <p>thence South 83°13'39" East 11.42 feet; thence South 24°51'02" East 6.87 feet; thence South 52°38'00" East 4.84 feet to a point on a building;</p> <p>Thence along said building the following ten(10) courses; North 74°59'45" West 12.02 feet; thence South 1.82 feet; thence West 8.58 feet; thence North 2.72 feet; thence West 4.74 feet; thence South 6.82 feet to a point of curvature; thence 19.52 feet along the arc of a 3.5 foot radius curve to the right through a central angle of 319°35'11" (Long Chord Bears South 2.42 feet); thence south 1.97 feet to a point of curvature; thence 11.57 feet along the arc of a 25.00 foot radius curve to the left through a central angle of 26°30'33" (Long Chord Bears South 80°45'57" West 11.46 feet); thence West 16.83 feet; thence North 13.05 feet; thence West 7.51 feet to the point of beginning.</p> <p>Area contains 787 square feet.</p>



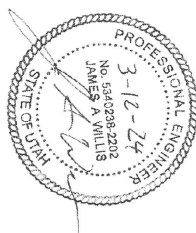
Attachments

Site Plan
SCALE: 1" = 20'-0"

SCALE: 1" = 20'-0"



AREA OF STUDY	
NAME	AREA
First Floor	1970 sq ft
Second Floor	1952 sq ft
Basement	1067 sq ft
TOTAL OF	4989 sq ft



Mike Kessler

801-856-5754

10806 E Moose Run Lane

Salt Lake City

Utah 84102

Lot# 51

Pine Tree Subdivision



550 Harmony Place | Brigham City, UT 84302
801.860.4687 | Dave@DasnCo.com

Kessler Custom

Site Plan

SCALE: 1" = 20'-0"

DATE: 3/11/2024

PAGE:

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Attachments

