

- I. CALL TO ORDER

- II. ROLL CALL

- III. REVIEW AGENDA

- IV. CONSENT OF SEPTEMBER 10, 2013, MINUTES

- V. OLD BUSINESS
 - a. Update Rio Grande Avenue Vacation Planning

- VI. NEW BUSINESS
 - a. North Creede – Keith Lutrell
 - b. Review + Action/Direction Commercial Building Permit – Kip’s Grill
 - c. Review + Action/Direction Commercial Building Permit – Club at the Cliffs B & B

- VII. ONGOING BUSINESS
 - a. Address Alley Access Through Blocks 47, 48, 49, 50 [PZ Members asked to visit alley in question prior to meeting]

- VIII. ADJOURN

POSTED 10/3/13

OPEN TO THE PUBLIC

**PLANNING & ZONING COMMISSION
CITY OF CREEDE, COLORADO – A TOWN
September 10, 2013**

REGULAR MEETING

The Planning and Zoning Commission of the City of Creede – a Town, County of Mineral, State of Colorado, met in the Creede Town Hall at the hour of 5:33 p.m. There being present at the call of the roll the following persons:

COMMISSIONERS PRESENT: Frank Freer, Rex Shepperd, Eric Grossman (by telephone), Kay Wyley,
Lauri Jordan

Commissioner Jordan, presiding, declared a quorum present:

Those members of staff also present were as follows: Clyde Dooley, Town Manager
Randi DePriest, Town Clerk/Treasurer

AGENDA

Commissioner Wyley moved and Commissioner Freer seconded to approve the agenda as presented. The vote was unanimous. Commission Chair Jordan declared the motion carried.

CONSENT OF AUGUST 13, 2013 MINUTES

Commissioner Wyley moved and Commissioner Grossman seconded to approve the August 13, 2013 minutes as presented. The vote was unanimous. Commission Chair Jordan declared the motion carried.

OLD BUSINESS

UPDATE RIO GRANDE AVENUE VACATION PLANNING

Manager Dooley has been in contact with a surveyor to find helpful existing maps and to create a topography survey of the property.

UPDATE ON NEW MAINTENANCE BUILDING/TOPOGRAPHY MAP

A new quote for the prefabricated building is being prepared. The Board of Trustees has not yet made a decision on whether to move the project to next year or not.

UPDATE ON DEACON PROPERTY

A survey of the property is underway and the Land Use Application due process will begin once it is received.

NEW BUSINESS

ADDRESS ALLEY ACCESS THROUGH BLOCKS 47, 48, 49, 50

The Commission discussed the property at length. Improvements are needed to improve access for emergency services and some property owners had requested extension or improvement of the alley. A recent land use application requested the vacation of part of the alley. Some PZ members requested a map of the area. Members were encouraged to walk through the area and speak to affected owners to get ideas for remedying the problem. The alley will be revisited during the October meeting.

ADJOURN

There being no further business to come before the Planning and Zoning Commission at this time, Commissioner Freer moved and Commissioner Wyley seconded that the meeting be adjourned at 6:07 p.m. The vote was unanimous. Commission Chair Jordan declared the motion carried.

Respectfully submitted:

Randi DePriest
City Clerk/Treasurer

City of Creede Building Permit Application

Permit Number: _____ Application Date: 12-3-12 Expiration Date: _____
 Property Owner(s): KIP NAGY Phone: 719 580 0749
 Address: 101 E 5th ST City/State/Zip: CREEDE CO 81130
 Address of Job Site: 101 E 5th ST
 Contractor: CHEV YUND Phone: 719 830-8976
 Subdivision: SOUTH CREEDE Block: 16 Lot(s): 16-20 Zoning: _____

Will you need Water Tap? Y/N, Sewer Tap Y/N, Water Meter Y/N, Cross-Connection Control? Y/N.
 Attach a Utility Permit, if applicable. If not applicable, explain. _____

Type of Building/Construction (check all that apply)

<u>Type of Construction</u>	<u>Construction Material (B)</u>	<u>Type of Heating</u>
New Building _____	Wood / Metal <u>X</u>	Propane <u>NA</u>
Remodel <u>X</u>	Masonry _____	Electricity _____

Other (Ex. New house, addition, deck, accessory building, remodel etc.)

ADDITIONAL ROOF STRUCTURE TO PROTECT WALKWAY

Proposed Use: Residential: Single Family _____ Multi-Family _____ Other _____
Commercial (Explain) _____

Provide Site & Building Plans. Please see item 2 of Building & Utility Permit Procedures for clarification on plan requirements.

(1) Dwelling/Main Building Total Height: 17' Floors: NA Lawn Area: NA s.f.(Est.)

1st floor W 10 x D 24 = 240 s.f.
 2nd floor W _____ x D _____ = _____ s.f.

(2) Garage/Storage/Accessory W _____ x D _____ = _____ s.f.

(3) Carport W _____ x D _____ = _____ s.f.

(4) Deck W _____ x D _____ = _____ s.f.

Total S. F. 240 S.F.

To calculate Valuation, take Construction Material amount from Valuation Data and multiply by the Square Footage. (calculate different construction material separately.)

(1) Construction Material _____	X	Total SF _____	= \$ _____
(2) Construction Material _____	X	Total SF _____	= \$ _____
(3) Construction Material _____	X	Total SF _____	= \$ _____
(4) Construction Material _____	X	Total SF _____	= \$ _____
(1) + (2) + (3) = (4) = Total Valuation			= \$ _____

(continued on next page)

If you are not building a new structure, but simply reconstructing or remodeling, obtain an estimate from your contractor(s) for your Valuation and use the same formula shown above.

Other Valuation: \$ _____

To calculate your building permit fee, use the Valuation Table provided in your packet. Add all your Valuations together for your Total Valuation. Use the following formula to arrive at your Building Permit Fee.

Base \$ _____ + (_____ x _____) \$ _____ = Total Fee: \$ _____

Notice

The undersigned hereby declares that they are the legal owner(s) or legal representative(s) of the subject property and holds the City of Creede harmless of attesting or recognizing for the purpose of this permit any private ownership. In consideration of the issuance of this permit, the undersigned hereby agrees to comply with all applicable regulations, ordinances and codes in the construction of the proposed structure for which this permit is granted and further agrees to allow reasonable access for inspection per 104.6 of the 2003 IBC and that if the regulations, ordinances and/or codes applicable to this permit and construction hereunder are not fully complied with, this permit may be revoked by written notice from the Building Inspector. The undersigned also agrees to be responsible and pay for any cross-connection control/backflow prevention inspections per Resolution 2010-10.

THIS PERMIT IS NOT VALID UNTIL PAID IN FULL AND SIGNED BY ALL PARTIES BELOW.

Applicant: _____ Date: _____

Use Tax Paid to County: _____ By: _____ Date: _____

Town Approval: _____ Date: _____

Building Inspector: _____ Date: _____

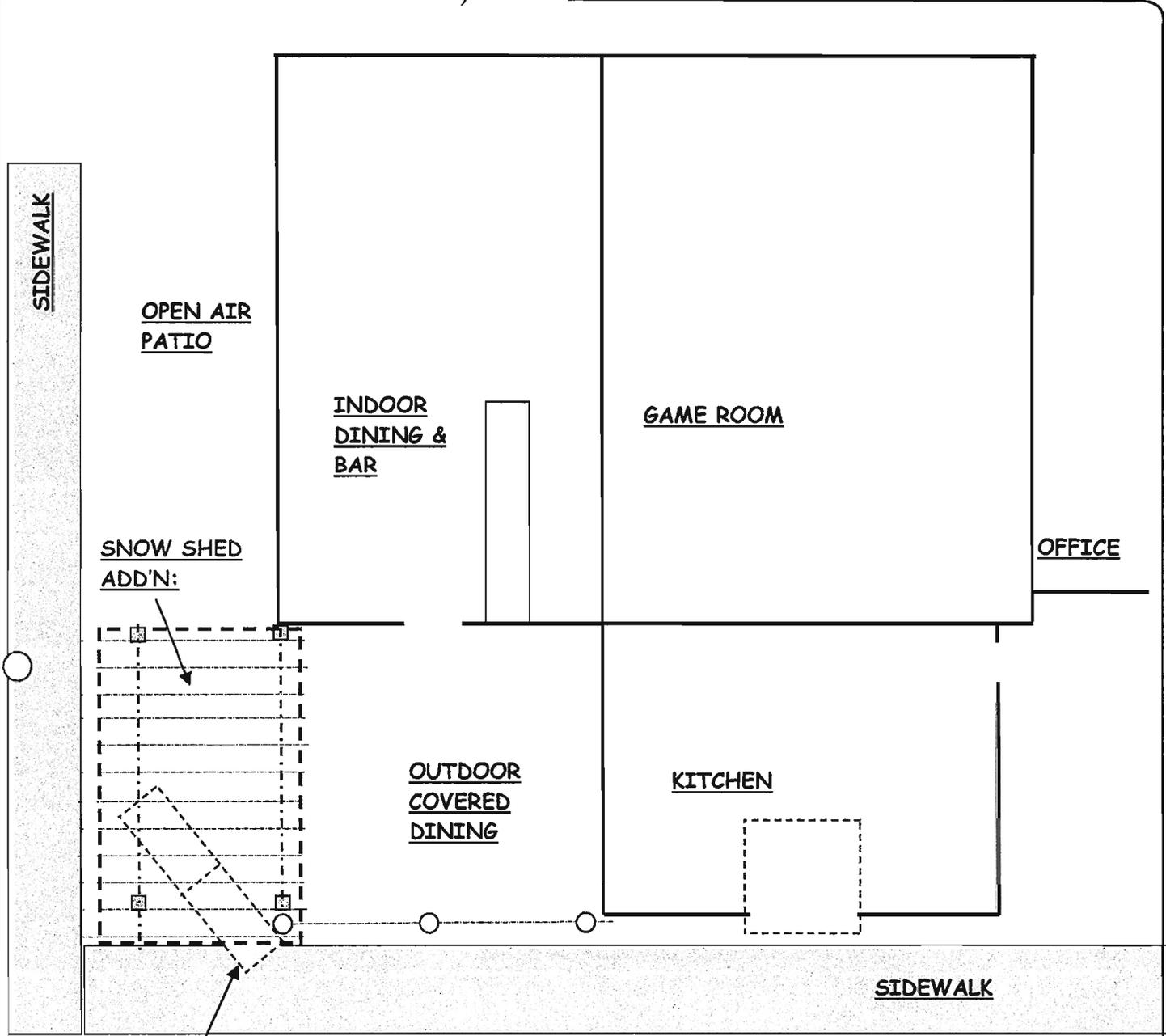
EQR (Equal Residential Unit) estimate: _____ This figure may be adjusted as necessary

FOR ADMINISTRATIVE USE ONLY	
DATE APPLICATION RECEIVED <u>12-3-12</u>	
COMMERCIAL <input checked="" type="checkbox"/>	RESIDENTIAL <input type="checkbox"/>
COMMERCIAL PLANNING & ZONING REVIEW DATE <u>12/11/12</u>	
RESULT _____	

COMPLETION & CO DATE _____	
FEES PAID IN FULL DATE _____	



HERNDON ENGINEERING, INC.



EXISTING GABLE ENTRY

SITE PLAN

SCALE: 3/32"=1'-0"



KIP'S GRILL—SNOW SHED ADDITION
 101 5TH ST
 CREEDE, CO
 FILE # 13433 KG

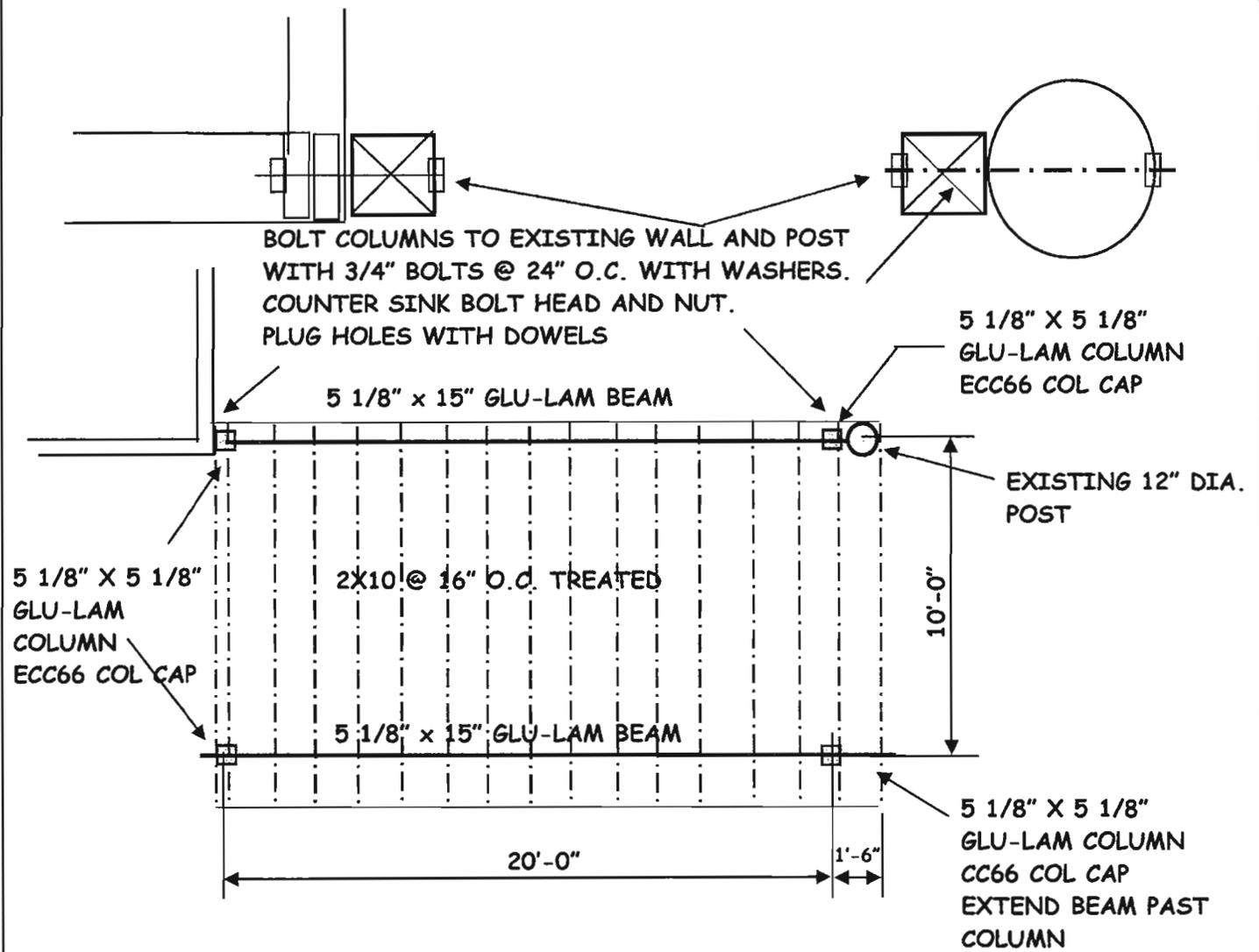
SEPTEMBER 9, 2013

MCH

SP1

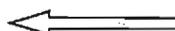


**HERNDON
ENGINEERING, INC.**

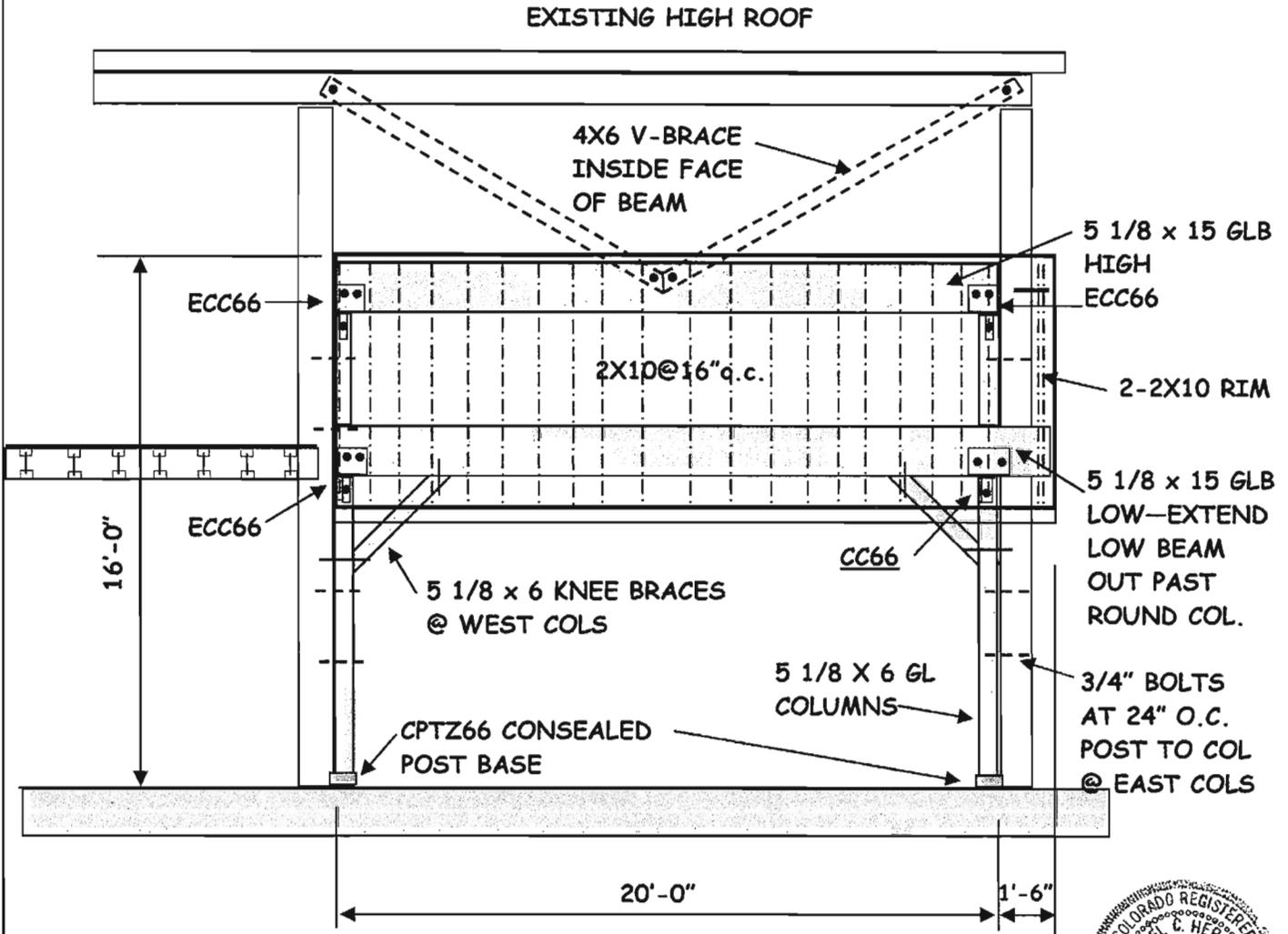


SNOW SHED PLAN

SCALE: 3/16"=1'-0"



<p>KIP'S GRILL-SNOW SHED ADDITION 101 5TH ST CREEDE, CO FILE # 13433 KG SEPTEMBER 9, 2013 MCH</p>	<p><u>S1</u></p>
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WEST ELEVATION—SNOW SHED

SCALE: 3/16"=1'-0"

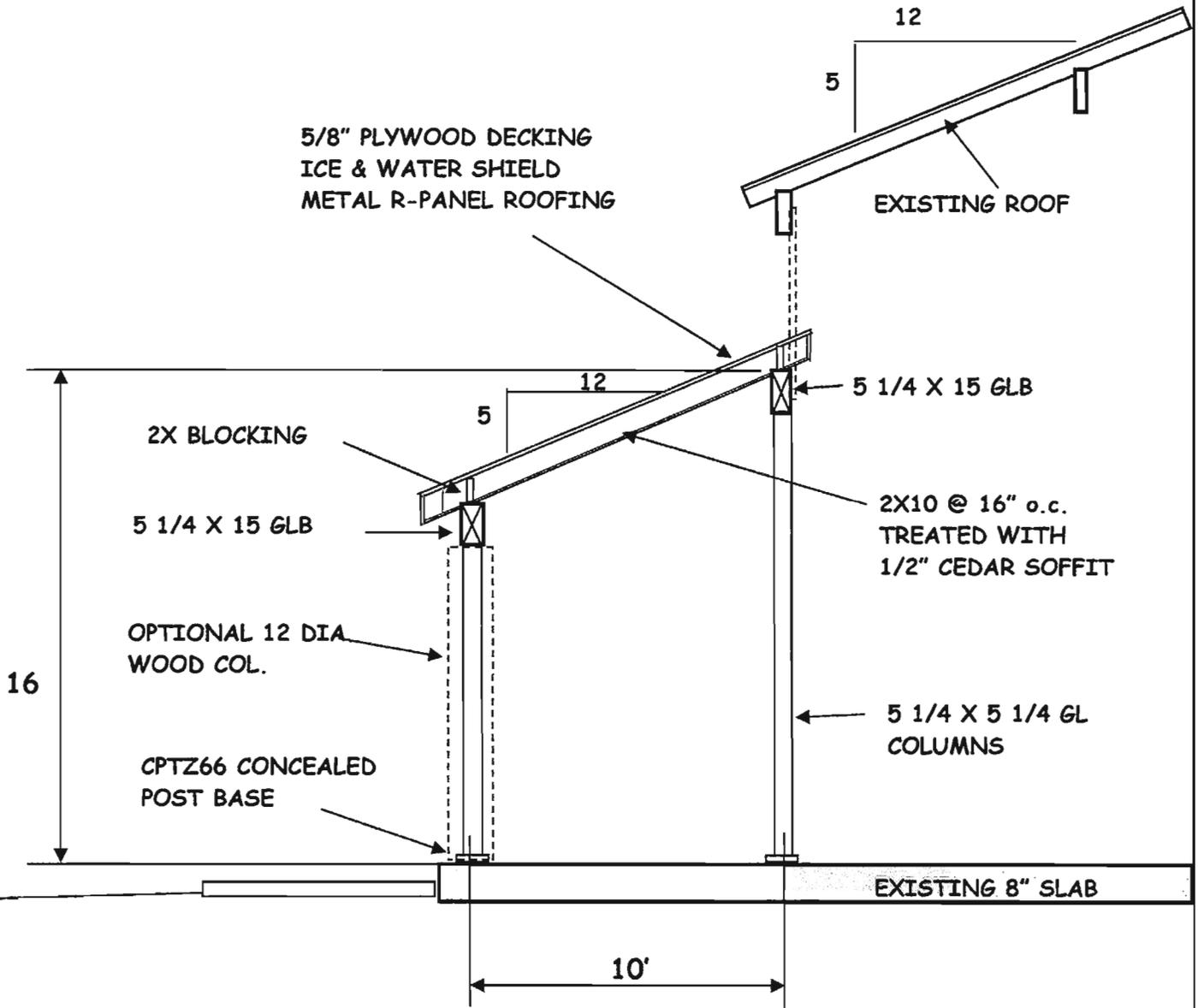


KIP'S GRILL—SNOW SHED ADDITION
101 5TH ST
CREEDE, CO
FILE # 13433 KG

SEPTEMBER 9, 2013

MCH

S2



SECTION

SCALE: 3/16"=1'-0"

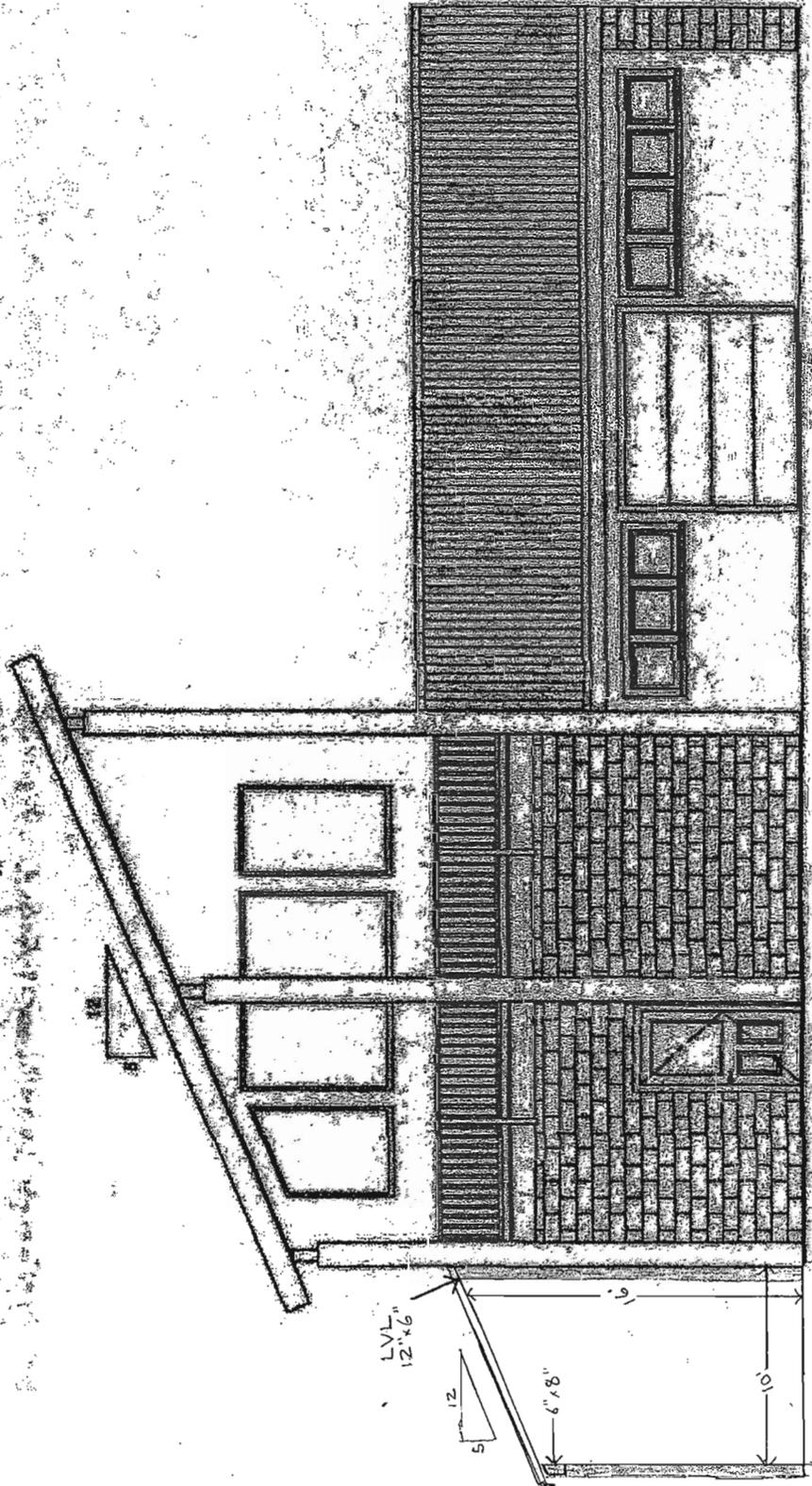


KIP'S GRILL—SNOW SHED ADDITION
101 5TH ST
CREEDE, CO
FILE # 13433 KG

SEPTEMBER 9, 2013

MCH

S3



SOUTH ELEVATION

LVL
12"x6"



2"x10"
JOIST

EXISTING 7" 6000
PSI CONCRETE W/
1/2" REBAR 2' OK

EASEMENT AGREEMENT

This AGREEMENT (“**Agreement**”) is made and entered into as of this 16th day of July, 2013, (**Effective Date**), by and between the **CITY OF CREEDE**, a Colorado statutory town, by and through its Board of Trustees (the “**Grantor**”) and **KIPS GRILL** (the “**Grantee**”). Hereinafter, the Grantor and Grantee are sometimes referred to individually as a “**Party**” or collectively as “**Parties**”.

WITNESSETH

WHEREAS, the Grantor owns Main and Fifth Street as platted in the South Creede, subdivision, City of Creede, Colorado (“**Property**”); and

WHEREAS, Grantee owns a restaurant on Lots 16, 17, 18, 19, and 20, Block 16, South Creede, Creede, Colorado and desires to obtain an Easement allowing the encroachment of approximately 630 square feet of a commercial building onto the Property; and

WHEREAS, Grantor desires to grant an Easement to Grantee on the terms, covenants, and conditions more fully set forth in this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. **Easement Granted.** Grantor for good and valuable consideration, the receipt and sufficiency of which are hereby confessed and acknowledged, does hereby sell, convey, and quitclaim unto Grantee, and Grantees’ heirs, successors, assigns, and personal representative, an easement (“**the Easement**”) on:

A tract of land being approximately 106.40 square feet south of Lots 16, & 17, Block 16, South Creede, encroaching into Fifth Street AND approximately 523.60 square feet west of Lot 16, Block 16, South Creede, encroaching into main Street, for a total encroachment of approximately 630 square feet by a commercial structure.. More particularly described on **Exhibit A**, consisting of one page, attached hereto and by this reference incorporated herein and made a part hereof.

2. **Term.** This Agreement shall commence on the Effective Date and be extinguished when the aforementioned existing encroaching structure is removed, destroyed or damaged to the extent of 50% of its present size or value. From and after the Termination, this Agreement shall be deemed terminated and neither Party shall have any further rights or obligations hereunder.

3. **Use of Site.** The site will be used for the occupancy of a commercial business. Grantee, at Grantee’s expense, shall have the right to access, operate, use, maintain, and repair a commercial structure within the Easement over Grantor’s adjoining real property.

4. **Consideration.** The consideration for use of the Easement by the Grantee shall be **SIXTY-ONE DOLLARS AND THREE CENTS (\$61.03) per year.** This amount shall be calculated as follows: based on the assessed value in Mineral County of \$4.92 per square foot times the assessment percentage of twenty-nine percent (29.00%) times the City's mill levy of 12.271 (630 sq ft. x \$4.92 x 29.00% x 12.271 = \$11.03 plus a \$50.00 administrative fee. This formula will be calculated annually based on the current values and mill levy. The Grantor will invoice the Grantee on **July 5th** of each year and if payment is not received within 30 calendar days, a penalty of \$10.00 per month will be added.

5. **Condition of Site.** During the term of this Agreement, Grantee shall keep the premises under this Agreement in good condition and free from any other encroachment(s). Grantee agrees to undertake no activity which could be hazardous or in any way detrimental to the community.

6. **Indemnification.** Grantee agrees to protect, defend, indemnify and hold Grantor (inclusive of its parent companies, subsidiaries and affiliates) harmless from and against any and all liabilities, claims, expenses, demands, actions losses and damages (including reasonable attorney fees and costs), that may at any time be asserted against Grantor by reason of: (i) the use of the Easement by Grantee, or its agents, servants, employees, customers, guests, visitors, contractor, invitees or licensees; or (ii) any reason relating to or arising from this Agreement, except in the event that any of the aforementioned claims arise directly out of the gross negligence or willful misconduct of Grantor.

7. **No Warranty of Title.** This Easement grant is without warranty of title and is subject to all prior liens, encumbrances, easements, restrictions, reservations, and rights of way affecting Grantor's property.

8. **Notices.** All notices and communications required herein shall be in writing and shall be sent by certified mail to the following addresses:

Grantor:
City of Creede
Attn: Town Manager
P.O. Box 457
Creede, Colorado 81130

Grantee:
Kips Grill
Attn: Kip Nagy
P.O. Box 547
Creede, Colorado 81130

Notices shall be deemed properly given when mailed by certified mail in a sealed envelope, postage prepaid, addressed to the above addresses. Any such notice or demand shall be deemed to have been given or made at the time it is deposited in the United States Post Office. Any party may change its address of record by giving written notice of the change to the other party.

9. **General Provisions.**

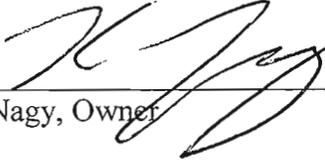
- (a) *Severability.* If any provision of this Agreement or the application of any provision of this Agreement to any person or circumstance is, to an extent, held to be invalid or unenforceable, the remainder of this Agreement or the application of that provision to persons or circumstance other than those as to which it is held invalid or enforceable, will not be affected, and each provision of this Agreement will be valid and be enforced to the fullest extent permitted by law.
- (b) *Captions.* Headings and captions to the paragraphs in this Agreement are included for convenience only and do not modify and of the terms of this Agreement.
- (c) *Further Assurances.* Each Party to this Agreement will, at its own cost and expense, execute and deliver such further documents and instruments and will take such other actions as may be reasonably required or appropriated to evidence or carry out the intent and purposes of this Agreement.
- (d) *No Waiver.* No term, covenant, representation, warranty or condition of this Agreement may be waived without the execution of a written instrument signed by the Grantor. The failure of Grantor at any time to require performance of any provision under this Agreement, or to exercise any remedy available to it hereunder or at law, shall in no manner affect the right of Grantor to enforce or exercise the same at any later date. Further, no waiver by Grantor of any condition, term, covenant, representation, remedy or warranty contained in this Agreement or available at law, whether by conduct or otherwise, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of the same.
- (e) *Construction.* This Agreement is a fully negotiated agreement, and both Parties participated in its drafting and negotiation. As such, the Parties hereby agree that the rule of construction that an agreement be construed harshly against the drafting party does not apply and should not be applied in the event that this Agreement should be construed by a third party, including but not limited to a Trier of fact.
- (f) *Authority.* Each Party hereby represents and warrants to the other that it has full right, power and authority to enter into and perform its duties under this Agreement in accordance with the provisions hereof and that the execution and delivery of this Agreement has been duly authorized.
- (g) *Governing Law and Venue.* This Agreement will be governed by, and in all respects construed in accordance with, the laws of the State of Colorado, without regard to principles of conflict of laws. The proper jurisdiction and venue for any action pertaining to this Agreement shall be in the county of district court of Mineral County.
- (h) *Counterparts.* This Agreement may be executed in one or more counterparts, all of which shall, for all purposes of this Agreement, when taken together be deemed one

and the same agreement and shall become effective when all counterparts have been signed and delivered to each Party hereto.

- (i) *Entire Agreement.* This Agreement constitutes the final, complete and exclusive statement between the Parties to this Agreement pertaining to the Vacant Lot, and it supersedes any and all prior and contemporaneous understandings or agreements between the Parties, whether written or oral. This Agreement is binding on and inures to the benefit of the Parties, their respective heirs, representatives, successor and permitted assigns. No Party has been induced to enter into this Agreement by, nor is any Party relying upon, any representation or warranty outside those expressly set forth in this Agreement. Any agreement made after the date of this Agreement is ineffective to amend, modify, waive, release, or terminate this Agreement, in whole or in part, unless that agreement is in writing, is signed by both Parties to this Agreement, and specifically states that the agreement modifies this Agreement.

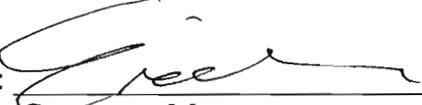
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first stated above.

Grantee:
KIPS GRILL

By: 
Kip Nagy, Owner

7-16-2013
Date

Grantor:
CITY OF CREEDE

By: 
Eric Grossman, Mayor

7/16/2013
Date

ATTEST:

By: 
Randi DePriest, City Clerk

7/16/13
Date

