

AGENDA

Planning and Zoning Commission

February 7, 2024 – REGULAR MEETING

5:30 PM

The New Business items have been placed on the agenda in the order they were received. Please note that at 8:00 p.m., the Commission will evaluate the remainder of the agenda to determine if time constraints will permit the full agenda to be heard at this meeting. All items not heard at this meeting will be postponed to the next regularly scheduled PC/BOA meeting.

NOTICE: THE VIDEO AND AUDIO FOR THIS MEETING ARE STREAMED TO THE PUBLIC VIA THE INTERNET AND MOBILE DEVICES WITH VIEWS THAT ENCOMPASS ALL AREAS, PARTICIPANTS AND AUDIENCE MEMBERS

PLEASE SILENCE ALL ELECTRONIC DEVICES DURING THE MEETING

1. ZOOM LINK

I. Please click the link below to join the webinar:

<https://us02web.zoom.us/j/82761755827?pwd=Tjc2STVwNUI2Z3FFaW9XVkJVoZUlpQT09>

If the link does not work, join at zoom.com with **Webinar ID:** 827 6175 5827

Passcode: 83001

2. CALL TO ORDER

3. ROLL CALL

4. MATTERS FROM THE PUBLIC

5. APPROVAL OF MINUTES

I. January 17, 2024 PC/BOA Regular Meeting Minutes

6. OLD BUSINESS

7. NEW BUSINESS

8. BOARD OF ADJUSTMENT

I. **P23-148** - 555 Scott Lane - Variance

9. PLANNING COMMISSION

10. MATTERS FROM THE COMMISSION

11. AGENDA FOLLOWUP

12. MATTERS FROM STAFF

13. ADJOURNMENT

MINUTES
PLANNING AND ZONING COMMISSION
TOWN OF JACKSON, WYOMING
January 17, 2024
UNAPPROVED

The Planning and Zoning Commission met in a regular session on January 17, 2024, in the Town Council Chambers located at 150 E. Pearl in Jackson, at 5:30 pm. This meeting was held in-person and via Zoom.

Upon roll call the following were found to be present:

BOARD: Laura Bonich, Katie Wilson, Anne Schuler, Thomas Smits, Steph Wise

STAFF: Paul Anthony, Tyler Valentine, Lynsey Lenamond

MATTERS FROM THE PUBLIC: None.

APPROVAL of MINUTES: A motion was made by Thomas Smits and seconded by Steph Wise to approve the November 15, 2023, regular meeting minutes. Katie Wilson called for the vote. The vote showed all in favor. The motion carried.

A motion was made by Anne Schuler and seconded by Laura Bonich to approve the December 12, 2023, special meeting minutes. Katie Wilson called for the vote. The vote showed all in favor. The motion carried.

OLD BUSINESS: None.

PLANNING COMMISSION:

ITEM P23-213,214: CWC Jackson Campus – Sketch Plan and CUP

STAFF PRESENTATION: Tyler Valentine

QUESTIONS FOR STAFF: The Board asked if parking would be available on High School Road. Staff confirmed that there is no planned parking on the private access road or High School Road and that a minimum of two parking spaces will have to be handicapped. The Board asked about snow storage, and staff confirmed that they have room to expand that area if needed. EV charging was discussed, and staff confirmed they will be required to provide two EV installed and nine capable EV charging spaces. Emergency access was a concern, that it leads to trees and barbed wire fence. Staff pointed out that it leads to a loading area. The Board asked about the traffic study and what CWC is required to present moving forward in regard to a traffic plan. Staff said that the Town's Regional Transportation Director is working on a more robust plan to address how heavier traffic should be handled.

APPLICANT PRESENTATION: Brendan Schulte, Jorgensen Associates

QUESTIONS FOR APPLICANT: The Board asked how many students are at the high school also.

Applicant answered 286 students were concurrently enrolled last year. Currently the number is low, around five per semester. The Board commented on sidewalk improvements and 60 foot right of way. One Board member felt that the parking is severely inadequate, many students commute from Idaho. Applicant confirmed there is one college car that is parked on site. They are discussing a free bus pass being available to commuters. Applicant stressed that they have the flexibility to adjust schedules, etc. to accommodate parking issues.

PUBLIC COMMENT: None.

COMMISSION DISCUSSION: One Board member believes now is the time to plan for adequate parking. Other board members felt they applicant is addressing this the best they can. The Board asked staff if applicant could squeeze out another 20 spaces from the easement. Staff said spatially they could but couldn't confirm if this would work based on other factors. The Board discussed the flexibility the applicant has to adjust schedules and parking requirements of staff and students to accommodate any parking issues that arise.

ITEM A: A motion was made by Anne Schuler and seconded by Thomas Smits to recommend approval of the Sketch Plan P23-213 for a new 20,500 sf school building at the CWC Parcel located on High School Road based upon the findings and conditions as modified at the meeting, the departmental reviews, and subject to the staff report dated January 17, 2024. Katie Wilson called for the vote. The vote showed all in favor. The motion carried.

ITEM B: A motion was made by Anne Schuler and seconded by Thomas Smits to move to continue a Conditional Use Permit P23-214 for a new Institutional use (i.e., CWC Jackson Center school) to be run concurrently with the Development Plan. Katie Wilson called for the vote. The vote showed all in favor. The motion carried.

MATTERS FROM COMMISSION: None.

MATTERS FROM STAFF: Paul Anthony updated the Board on the LDR cleanup ordinances. Council retreat is coming up January 29th and 30th. Big building discussion will be on the February 14th DRC agenda. Staff will send out a schedule of upcoming Planning Conferences to Board members.

Adjourn: A motion was made by Anne Schuler and seconded by Thomas Smits to adjourn the meeting. Katie Wilson called for the vote. The vote showed all in favor. The motion carried. The meeting adjourned at 6:52 pm.

minutes:ll

STAFF REPORT



Meeting Date:	February 7, 2024	Meeting Title:	Board of Adjustment
Submitting Department:	Planning Department	Presenter:	Katelyn Page
Agenda Item:	P23-148 Variance Request to Natural Resource Setback at 555 Scott Lane	Public Comment:	Yes

Purpose & Policy Considerations.

A variance allows a specific deviation from the Town's Land Development Regulations ("LDRs") when strict application of the LDRs would result in undue and unique hardship due to the special circumstances of the land. The Board of Adjustment ("BOA") is the body authorized to approve or deny a variance request following a review of the request at a public hearing.

Requested Action.

The applicant requests a variance from LDR Section 5.1.1.D.2.c.ii.b. to allow a 10' and 20' natural resource setback from Flat Creek where a 50' (min.) natural resource setback is required for the property addressed as 555 Scott Lane. The applicant also asserts that the current deck on the property that does not comply with the 50' (min.) setback may remain as an existing nonconformity.

Recommendations.

The Planning Director recommends the following:

1. **Denial** of the requested variance to allow a 10' (for existing house) and 20' (for proposed garage and proposed house addition) natural resource setback from Flat Creek where a 50' natural resource setback is required by LDR Section 5.1.1.D.2.c.ii.b. for the property addressed as 555 Scott Lane.
2. **Approval** of a variance to allow a 30' natural resource setback from Flat Creek where a 50' natural resource setback is required by LDR Section 5.1.1.D.2.c.ii.b. for the property addressed as 555 Scott Lane.

Project Location.

The property is addressed as 555 Scott Lane and is legally known as LOT 10, SOUTHGATE ADDITION. (PIDN: 22-41-16-32-4-09-008).

Aerial View of Property



Background/Project Description.

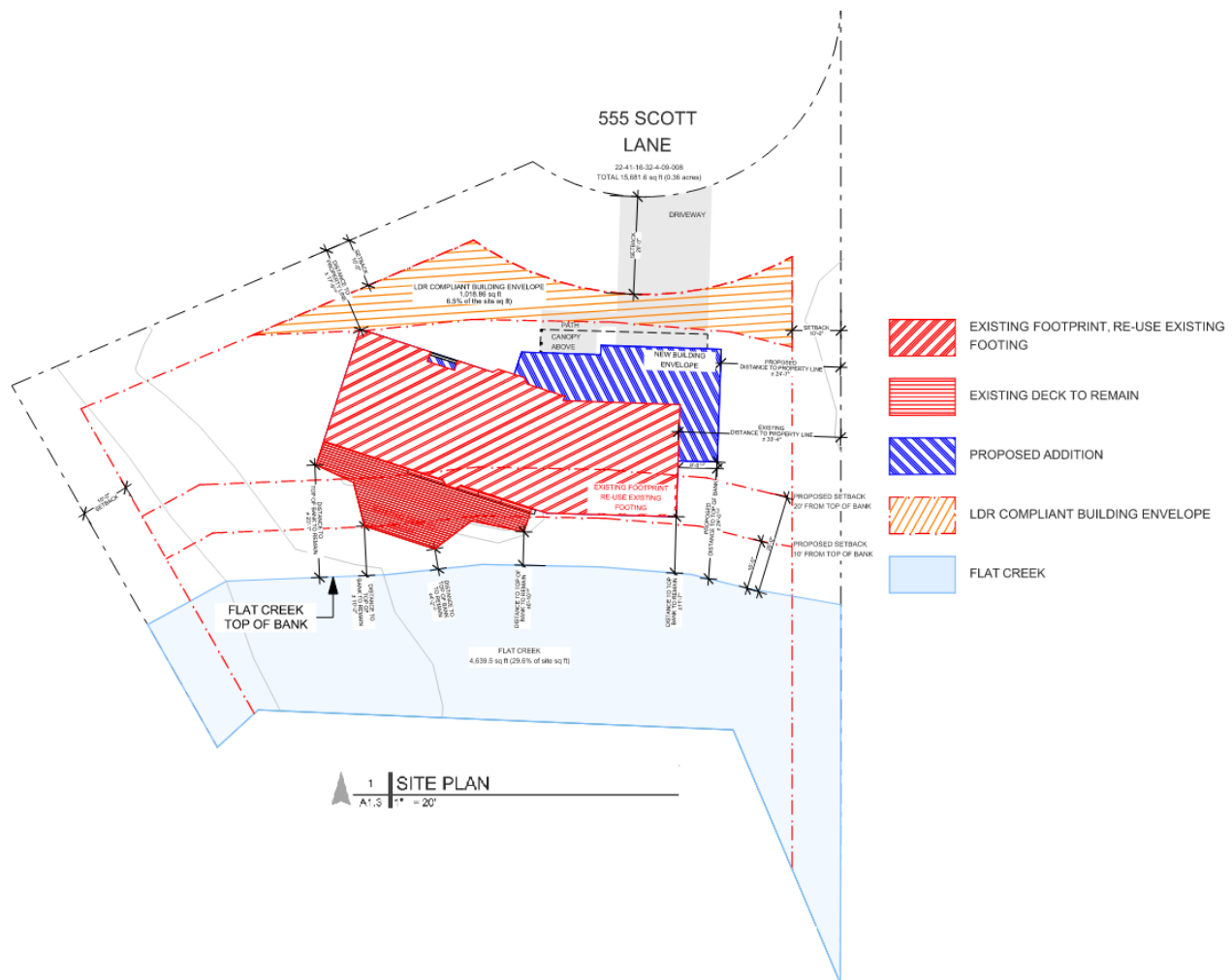
Existing Site Characteristics

This property is located within the Neighborhood Low Density – 3 (NL-3) zoning district and is 0.36 acres or 15,682 sf in size of which approximately 4,640 sf is located within Flat Creek leaving a difference of 11,042 sf of land.

The property contains an existing detached dwelling that is nonconforming to the required 50' natural resource setback that includes 1,067 sf below grade and 1,076 sf above ground, a 616 sf garage (non-habitable floor area), and an attached 424 sf deck. The house sits as near as 11'-7" from the creek and the deck is as close as 4'-2" from the creek.

The site plan – also provided in greater detail in the applicant’s submittal – shows the “LDR compliant” building envelope for the property, which is represented by orange hash lines.

Exhibit A: Site Plan



Neighboring Properties Along Flat Creek

Properties surrounding the subject lot are also zoned NL-3. Structures on neighboring properties generally range from roughly 15' to 40' from Flat Creek with some exceptions. This means several properties along this portion of Flat Creek contain structures that are nonconforming to the required minimum 50' natural resource setback.

Proposed Construction

The applicant proposes to demolish the existing house and garage to the foundation. The applicant seeks to construct a new larger house and garage by utilizing the existing foundation and adding new foundation to the existing foundation. The proposed development would add approximately 103 sf to the basement level, 839 sf

to above-ground habitable floor area, and 139 sf to above-ground non-habitable floor area (garage). They propose to preserve the existing nonconforming deck and reuse it for the newly constructed structure. The proposed site plan includes the following setbacks:

- Existing Deck – 4'-2" from Flat Creek
- Existing Foundation – 11'-7" from Flat Creek
- New Foundation – 24' from Flat Creek

Applicant's Request

The applicant's requests in Item #P23-148 has three parts:

1. Existing House Foundation: A request to allow a 10' natural resource setback from Flat Creek for the existing house foundation to be reused for the construction of a portion of the proposed expanded house where a 50' natural resource setback is required by LDR Section 5.1.1.D.2.c.ii.b.
2. New House and Garage: A request to allow a 20' natural resource setback from Flat Creek for new foundation for the construction of the proposed house addition and garage where a 50' natural resource setback is required by LDR Section 5.1.1.D.2.c.ii.b.
3. Existing Deck: A request to allow the existing deck to remain in its current location at 4'2" from Flat Creek to be reused as an existing nonconformity to the required 50' natural resource setback from Flat Creek required by LDR Section 5.1.1.D.2.c.ii.b.

Staff Analysis.

Purpose & Policy

A variance is a quasi-judicial process which requires the BOA to approve or deny a request based on the legal findings required by LDR Section 8.8.3.C. and W.S. § 15-1-608(b)(ii). Staff finds and concludes the applicant's variance requests **do not** meet the necessary findings to approve the variance *as requested*. However, should the BOA consider allowing relief to the required natural resource setback at the property, staff recommends a 30' natural resource setback.

LDR Section 5.1.1 (Waterbodies and Wetland Buffers) establishes protection standards for waterbodies and wetlands to protect the community from potential negative impacts caused by physical development and use that may affect these resources or their functions. Section 5.1.1 prohibits physical development and use on and within a certain distance of these resources. Protection of waterbodies and wetlands is important as they provide critical functions in controlling flood waters, providing wildlife habitat, cleansing the water resources, and contributing to the special scenic quality of the Town of Jackson. LDR Section 5.1.1.D. specifically prohibits development in and near waterbodies and wetlands and requires setbacks due to the risk of severe negative impacts on the community at large and the necessity to protect the natural functions of these resources.

The terms "natural resource setback" and "creek setback" are used interchangeably in this Staff Report and analysis. Both structure and natural resource setbacks referenced herein, are the minimum required dimensions under the LDRs.

Analysis

Nonconformities

Before staff addresses the applicant's requested setback variances, the applicant's request regarding the nonconforming deck must be addressed. Nonconformities are developments or uses that complied with the LDRs at the time they were built but which, because of subsequent changes to the LDRs, no longer comply with those regulations. Nonconformities are permitted to continue until they are discontinued or replaced. The expansion or replacement of nonconformities is not allowed unless it complies with the standards set forth in Division 1.9.2 of the LDRs.

The current structure on the property – a house with an attached garage and deck – is a nonconformity under the LDRs. The house and deck, the latter of which is an attached appurtenance to the house, are considered one building, and consequently a single structure pursuant to the definitions of the LDRs. Therefore, the house and deck are one nonconforming physical development.

The LDRs permit the maintenance, alteration, expansion, and replacement of a nonconforming physical development only if all the standards set forth in LDR Division 1.9.2.B. are met. The applicant's intended demolition and new construction does not meet the standards set forth in Division 1.9.2.B.4. (Replacement). LDR Section 1.9.2.B.4 states that "a nonconforming physical development shall be brought into compliance with all applicable standards of these LDRs upon willful demolition of any structural support for the portion of the physical development that is nonconforming." The applicant's proposed demolition of the existing house would result in the willful demolition of a structural support of the nonconforming physical structure, including the deck. Consequently, the nonconforming physical development would be discontinued upon the demolition, and the entire nonconforming physical development (existing foundation and deck) would need to be fully removed and replaced with a new compliant physical development located within the legal building envelope.

Accordingly, the current deck cannot remain as an existing nonconformity based on the applicant's intended demolition and new construction. This conclusion would change significantly if the applicant stated their plan was to keep the existing structure and only do maintenance, alteration, or expansion of the structure pursuant to the limits in LDR Section 1.9.2.

Notably, since the applicant's proposed development will require the entire physical development to be brought into compliance with the setback requirement, the distance of the variance allowed for the creek setback on the applicant's property should not be influenced by the location of the existing noncompliant physical development but by what setback is best and most reasonable for the property considering the purposes for the setback requirement.

Determining the Appropriate Creek Setback

Staff acknowledges the property is constrained significantly by the 50' creek setback and the NL-3 minimum structure setbacks (20' front, 10' side, 25' rear). These setbacks leave a small compliant building envelope of approximately 1,018 sf on the property. Furthermore, as shown in the site plan, the building envelope is configured in a way that makes reasonable development practically infeasible as it is approximately only 6' wide in places. Accordingly, staff concludes that strict application of the 50' creek setback in the LDRs would result in

a limited building envelope that is an undue and unique hardship for the property owner and that some level of variance is justified. The critical question for the BOA to identify is what level of reduced creek setback (i.e., something less than 50') is the minimum variance necessary that best balances reasonable use of the property for the landowner with the purpose and protection the 50' setback requirement.

First, the applicant's proposed conceptual design proposes a location for new floor area that does not fully utilize available building area closer to the primary street (Scott Lane) and farther from Flat Creek and shifts the potential building envelope towards the creek. Thus, the applicant can reasonably adjust their desired new building towards the street and maintain a larger creek setback than what the applicant requested.

Staff recommends that a 30' natural resource setback from Flat Creek is the minimum variance necessary for the applicant to make reasonable use of the property while maintaining adequate protection to Flat Creek. The recommendation of a 30' setback is based on the following facts and rationale determining it is possible for the applicant to reasonably use the property under a natural resource setback of 30' rather than the setbacks requested by the applicant of 10' and 20'.

To help identify the size of a reasonable building envelope and a recommended natural resource setback, staff considered several combinations of setbacks for the property and then analyzed the resulting building envelopes to determine if they were reasonable on which to construct a home.

Exhibit B, produced by staff, depicts the various setback polygons described later in Table 1. The polygons are purely illustrative of possible setback combinations and are approximate and not to scale.

Exhibit B: Setback Polygons

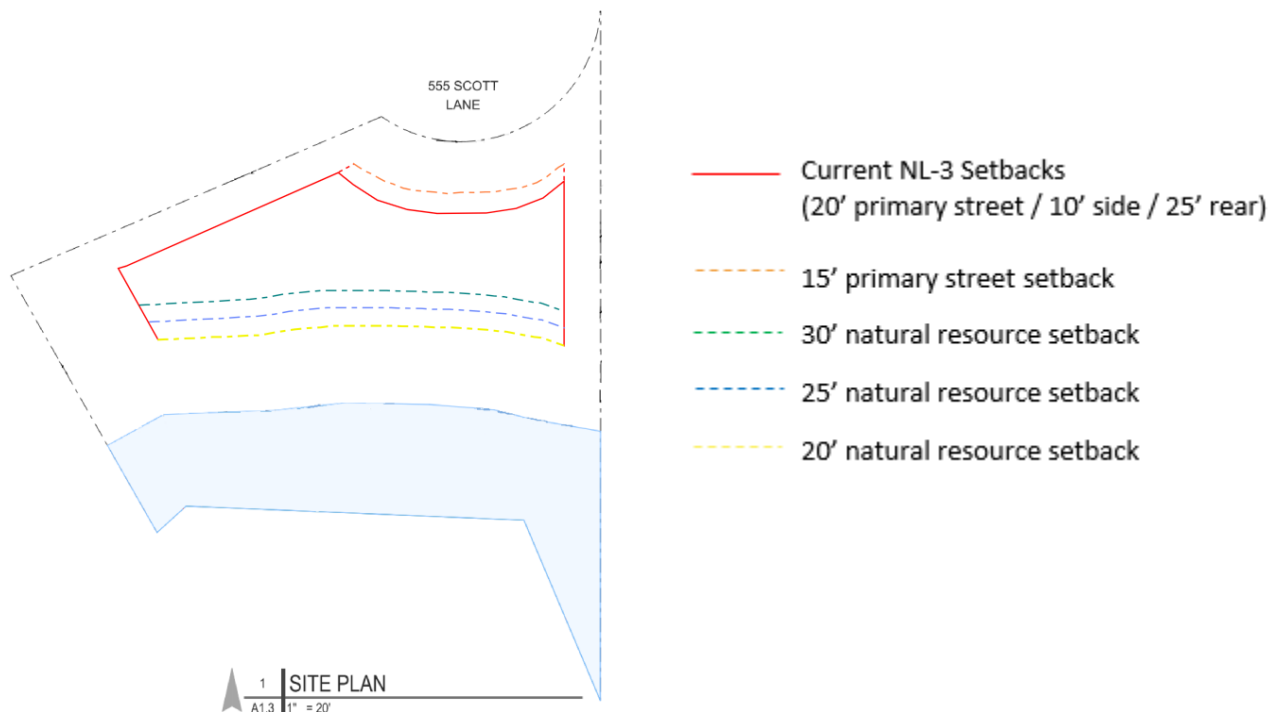


Table 1, produced by staff, lists maximum potential building envelopes, 2 story floor area (gross), and resulting FAR under various setback combinations at 555 Scott Lane. The table also includes setback combinations using relief from the required 20' (min.) primary street setback as a preference over developing near the creek. Staff stresses the below calculations are approximate and, based on geometry of the site, it may not be practical for floor plans to fully maximize the resulting floor areas and FAR of various setback options.

Table 1: Setback Combinations

	Natural Resource Setback	Primary Street Setback	Approximate envelope (max)	Resulting 2 story gross floor area (max)	Resulting FAR (0.40 or 6,272.8sf max)
Compliant	50'	20'	1,018 sf	2,036 sf	0.13
	20'	20'	4,823 sf	9,646 sf	0.62
	25'	20'	4,182 sf	8,364 sf	0.53
	25'	15'*	4,522 sf	9,044 sf	0.58
	30'	15'*	3,901 sf	7,802 sf	0.50
Staff Rec.	30'	20'	3,552 sf	7,104 sf	0.45

*option requires variance to primary street setback

As shown in Table 1, it is possible to reasonably use the property under a greater natural resource setback than requested by applicant while also maintaining the 20' primary street setback. Notably, staff's recommendation yields a potential building envelope that exceeds the maximum FAR allowed in the NL-3 and thus does not reduce the development potential at the property.

Finally, a comparison of different setback requirements elsewhere in Town illustrates the applicant's request, especially the request for a 10' setback, is closer to a water source than otherwise allowed in Town. The shortest natural resource setbacks permitted in Town are 20' from Cache Creek and 15' from all irrigation ditches. Specifically on Flat Creek, the shortest setbacks allowed are for properties along Flat Creek north of Hansen Avenue and they are required to have a 25' setback. It is logical that the allowed setback for the applicant would be greater than the 15' that is required for irrigation ditches and *at least* equal to the 25' that is required for Flat Creek north of Hansen Avenue. However, the LDRs found that Flat Creek south of Hansen Avenue needs greater protection than north of Hansen Avenue and doubled the setback requirement for properties south of Hansen Avenue to 50'. It reasons that any variation from the 50' setback requirement to properties south of Hansen Avenue would still be greater than the 25' setback requirement to properties north of Hansen Avenue to provide the maximum protection to Flat Creek that was contemplated under the LDRs. Therefore, it is recommended that 555 Scott Lane, which is south of Hansen Avenue, have at minimum a 30' setback, which will provide necessary protection to Flat Creek while still granting relief to the applicant.

Analysis Summary

Staff concludes that strict application of the 50' creek setback for 555 Scott Lane as required by the LDRs would result in undue and unique hardship at the property and that some level of variance is warranted. However, the

natural resource setbacks requested by the applicant would result in potential buildable floor area that far exceeds the allowed 0.40 in the NL-3 and are not the minimum setbacks possible to provide reasonable use of the property. Therefore, if the BOA considers allowing relief from the 50' setback requirement and granting a variance, staff does not recommend approval of the variance as requested, but recommends a variance for a natural resource setback of 30' that best balances reasonable use and potential hardship on the applicant with protecting Flat Creek.

Analysis of Findings for Approval

Land Development Regulations

Pursuant to Section 8.8.3.C. of the Land Development Regulations, the BOA is required to make the following findings prior to approving a variance.

1. ***Special conditions and circumstances exist.*** *There are special circumstances or conditions which are peculiar to the land or building for which the variance is sought that do not apply generally to land or buildings in the neighborhood.*

Complies. Staff finds that this finding is met. The presence of Flat Creek, the 50' creek setback, and geometry of the site constitute special circumstances and conditions which are peculiar to the land at 555 Scott Lane. While some of the neighboring properties have similar setback constraints along Flat Creek, most NL-3 properties in the neighborhood are not contiguous to the creek and so do not share the same constraints and are more uniformly shaped and so have more feasible building envelopes.

2. ***Not result of applicant.*** *The special circumstances and conditions have not resulted from any willful modification of the land or building.*

Complies. Staff finds this finding is met because the special circumstances and conditions created by the shape of the property and the creek are not a result of willful modification of the land.

3. ***Strict application deprives reasonable use.*** *The special circumstances and conditions are such that strict application of the regulation sought to be varied would create a hardship on the applicant far greater than the protection afforded to the community.*

Complies. Staff finds that this finding is met. Strict application of the 50' creek setback in the LDRs would result in a significantly constrained building envelope that creates a hardship on the applicant. In particular, the required building setbacks coupled with the required creek setback result in a building envelope that is roughly 6' wide in areas and creates an impractical shape to reasonably construct a new structure. In short, strict application creates an inability to construct a new home. Simultaneously, requiring the full 50' setback on 555 Scott Lane protects a small percentage of the total Flat Creek waterbody frontage. As a result, the significant hardship on the applicant (not being able to build a new home) outweighs the protection afforded the community (protecting a small percentage of the total creek frontage of Flat Creek), meaning *a degree of variance from this regulation is warranted.*

4. **Minimum Variance.** *The variance sought is the minimum variance necessary to provide balance between the purpose of the regulation sought to be varied and its impact on the applicant.*

Does not Comply. Staff finds this finding is **not** met by the applicant's request for both a 10' natural resource setback and a 20' natural resource setback but **is** met by the recommended variance to allow a 30' natural resource setback. The requested setbacks are not the minimum variance necessary to provide reasonable use of their property while also protecting the natural resource. Flat Creek has been designated as an "impaired" stream by the Wyoming Department of Environmental Quality so enforcing the LDR creek buffers to protect its water quality is a major goal of the Town, as is moving existing nonconforming development away from the creek when possible. Allowing a variance for a 10' and a 20' setback would negatively impact the public benefit that protection of Flat Creek provides. Moreover, as explained previously in the staff report (see Table 1), a 10' to 20' setback is not necessary to provide a practical building envelope for reasonable use of the property. In fact, the natural resource setbacks requested by the applicant would result in a potential buildable floor area that far exceeds the allowed maximum 0.40 in the NL-3 area. Overall, a 10' and 20' setbacks have greater potential negative impact to the natural resource of Flat Creek, while creating a building envelope that is larger than necessary to achieve reasonable use of the property by the applicant.

On the other hand, as explained previously in this staff report (see Table 1), the recommended setback distance of 30'— along with maintaining required primary street, side interior, and rear setbacks — provides a reasonable building footprint area for construction of a new structure on the property. A 30' setback also provides the greater protection to Flat Creek that is necessary to address the water quality concerns of that natural resource and ensure it can perform its necessary function. Therefore, a 30' setback distance is necessary to balance the applicant's need for reasonable use of their property while providing protection to Flat Creek.

5. **Not injurious to neighborhood.** *The granting of the Variance will not be injurious to the neighborhood surrounding the land where the variance is proposed, and it is otherwise not detrimental to the public welfare.*

Does not Comply. Staff finds this finding is **not** met by the applicant's request of a 10' natural resource setback and a 20' natural resource setback but **is** met by the recommended variance to allow a 30' natural resource setback. In general, a lesser variance from the 50' setback will not be injurious to the neighborhood surrounding the land and is not detrimental to the public welfare. The applicant's requested variance for a 10' and a 20' setback has a greater potential to negatively impact both the surrounding land and public welfare due to the close distance to the creek. A development that close to a natural resource negatively impacts the natural functions of creek and increases the risk of flood damage and runoff to the waterbody, which poses a threat to the public welfare and public asset of Flat Creek.

On the other hand, staff finds that a variance to allow a 30' natural resource setback alleviates some of these risks as it retains a more substantial buffer to the natural resource. Therefore, the 30' setback is

less likely to be injurious or detrimental to the surrounding neighborhood and to public welfare as it better protects against the risks of a development near a waterway.

6. ***Consistent with the LDRs.*** *The granting of the variance is consistent with the general purpose and intent of the Land Development Regulations.*

Does not Comply. Staff finds this finding is **not** met by the applicant's request of a 10' natural resource setback and a 20' natural resource setback but **is** met by the recommended variance to allow a 30' natural resource setback. A variance from the 50' setback is consistent with the general purpose of the LDRs to implement the Jackson/Teton County Comprehensive Plan and promote the health, safety, and general welfare of the present and future inhabitants of the community or with the intent to implement community vision, character, and predictable regulations, incentives, and allowances while assuring that property owners have reasonable use of their property. However, staff finds that a variance to allow a 30' natural resource setback, as opposed to a 10' and a 20' setback, balances the reasonable use of the applicant's property with the LDRs purpose of maintaining a predictable and necessary buffer of the creek that supports the natural resource and the Creek's critical functions, including controlling flood waters and providing wildlife habitat.

Wyoming State Statute

The BOA is also required to make specific and detailed findings to approve a variance that are set forth in W.S. § 15-1-608(b)(ii). This statute provides the following:

(b) The board has the power to:

(ii) Vary or adjust the strict application of any of the requirements of any ordinance adopted pursuant to this article in the case of any physical condition applying to a lot or building if the strict application would deprive the owner of the reasonable use of the land or building involved. No adjustment in the strict application of any provision of an ordinance may be granted unless:

(A) There are special circumstances or conditions, fully described in the board's findings, which are peculiar to the land or building for which the adjustment is sought and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant subsequent to the adoption of the ordinance;

(B) For reasons fully set forth in the board's findings, the circumstances or conditions are such that the strict application of the provisions of the ordinance would deprive the applicant of the reasonable use of the land or building, the granting of the adjustment is necessary for the reasonable use thereof and the adjustment as granted is the minimum adjustment that will accomplish this purpose; and

(C) The granting of the adjustment is in harmony with the general purposes and intent of the ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

1. ***Special conditions and circumstances (Criteria A).*** No adjustment in the strict application of any provision of an ordinance may be granted unless there are special circumstances or conditions, fully described in the board's findings, which are peculiar to the land or building for which the adjustment is sought and do not apply generally to land or buildings in the neighborhood. (W.S. § 15-1-608(b)(ii)(A)).

Complies. Staff finds this finding is met. The property has special circumstances and conditions peculiar to the land based on the geometrical shape of the land coupled with the presence of the creek and the 50' creek setback requirement. While some of the neighboring properties have similar setback constraints along Flat Creek, most NL-3 properties in the neighborhood are not contiguous to the creek and so do not share the same constraints and are more uniformly shaped and so have more feasible building envelopes.

2. ***Not result of applicant (Criteria A).*** No adjustment in the strict application of any provision of an ordinance may be granted unless there are special circumstances or conditions, fully described in the board's findings, which have not resulted from any act of the applicant subsequent to the adoption of the ordinance. (W.S. § 15-1-608(b)(ii)(A)).

Complies. Staff finds this finding is met. The special circumstances and conditions derive from the natural circumstances of the property and are not a result of any act of the applicant.

3. ***Strict application would deprive reasonable use (Criteria B).*** No adjustment in the strict application of any provision of an ordinance may be granted unless the circumstances or conditions are such that the strict application of the provisions of the ordinance would deprive the applicant of the reasonable use of the land or building, [and] the granting of the adjustment is necessary for the reasonable use thereof. (W.S. § 15-1-608(b)(ii)(B)).

Complies. Staff finds that this finding is met. 555 Scott Lane is constrained significantly by the 50' creek setback and the NL-3 minimum structure setbacks, which leaves a compliant building envelope of approximately 1,018 sf on the property. Furthermore, as shown in the site plan, the building envelope is configured in a way that makes reasonable development practically infeasible as it is approximately only 6' wide in places. The strict application of the 50' creek setback requirement would result in a limited building envelope and would deprive the applicant of the reasonable use of their property for development purposes. Thus, the granting of a variance is necessary for the reasonable use of the property.

4. ***Minimum adjustment that would accomplish purpose (Criteria B).*** No adjustment in the strict application of any provision of an ordinance may be granted unless the circumstances or conditions are such the adjustment as granted is the minimum adjustment that will accomplish this purpose [reasonable use]. (W.S. § 15-1-608(b)(ii)(B)).

Does not Comply. Staff finds that this finding is **not** met for the requested 10' and 20' setbacks but is met for the recommended 30' setback. The applicant's request for a 10' natural resource setback and a 20' natural resource setback is not the minimum variance necessary to provide reasonable use of their property. The 10' and 20' setbacks requested by the applicant result in a floor area that far exceeds the

allowed 0.40 in the NL-3 area and is not necessary to achieve a reasonable building envelope. However, as explained previously in this staff report, a 30' setback provides a reasonable building envelope for the construction of a new structure on the property while providing greater protection to Flat Creek than a 10' and 20' setback and does not deprive the property of development potential. Therefore, a 30' setback is the minimum adjustment that will accomplish reasonable use of the property while continuing to protect Flat Creek.

5. ***Harmony with purpose of ordinance (Criteria C).*** *No adjustment in the strict application of any provision of an ordinance may be granted unless the granting of the adjustment is in harmony with the general purposes and intent of the ordinance. (W.S. § 15-1-608(b)(ii)(C)).*

Does not Comply. Staff finds this finding is **not** met for the requested 10' and 20' setbacks but **is** met for the recommended 30' setback. The 30' setback still adheres to the purpose of the setback requirement by maintaining a necessary buffer to the creek that supports the natural resource and the Creek's critical functions, including controlling flood waters and providing wildlife habitat. A 30' setback provides added distance and an increased buffer as opposed to a 10' or 20' setback to better adhere to the purposes and necessities of the setback requirement under the LDRs.

6. ***Injurious to the neighborhood or detrimental to public welfare (Criteria C).*** *No adjustment in the strict application of any provision of an ordinance may be granted unless the granting of the adjustment will not be injurious to the neighborhood or otherwise detrimental to the public welfare. (W.S. § 15-1-608(b)(ii)(C)).*

Does not Comply. Staff finds this finding is **not** met for the requested 10' and 20' setbacks but **is** met for the recommended 30' setback. A *conservative* variance from the 50' setback, in general, will not be injurious to the neighborhood surrounding the land and is not detrimental to the public welfare. The applicant's requested variance for a 10' and a 20' setback has a greater potential to negatively impact both the surrounding land and public welfare due to the close distance to the creek. A development that close to a natural resource negatively impacts the natural functions of creek and increases the risk of flood damage and runoff to the waterbody, which poses a threat to the public welfare and public asset of Flat Creek. On the other hand, a variance to allow a 30' natural resource setback alleviates some of these risks as it retains a more substantial buffer to the natural resource. Therefore, the 30' setback is less likely to be injurious or detrimental to the surrounding neighborhood and to public welfare as it better protects against the risks of a development near a waterway.

Public Comment

Staff received one written public comment on this item from the property owner at 445 Scott Lane, which is attached hereto.

Fiscal Impact.

No fiscal impact is identified at this time.

Staff Impact.

The amount of staff time to review this variance request, including response to public comment and report drafting, is approximately 25 hours.

Attachments or Links.

Department Reviews

Applicant Submittal

Public Comment

Suggested Motions

Variances

Motion 1:

Based upon the findings for a variance required by LDR Section 8.8.3.C. and W.S. § 15-1-608(b)(ii), I move to deny a variance to LDR Section 5.1.1.D.2.c.ii.b (50' natural resource setback required for properties along Flat Creek South of Hansen Avenue) to allow a 10' and 20' natural resource setback at the property addressed at 555 Scott Lane, subject to the Land Development Regulations, and the department reviews, and this staff report dated February 7, 2024.

Motion 2:

Based upon the findings for a variance required by LDR Section 8.8.3.C. and W.S. § 15-1-608(b)(ii), I move to **approve** a variance to LDR Section 5.1.1.D.2.c.ii.b (50' natural resource setback required for properties along Flat Creek South of Hansen Avenue) to allow a 30' natural resource setback at the property addressed at 555 Scott Lane, subject to the Land Development Regulations, and the department reviews, and this staff report dated February 7, 2024.



PERMIT NOTES

Permit # P23-148 Parcel # : 22-41-16-32-4-09-008
Site Address: 555 SCOTT LANE
Project Name: Variance - 555 Scott Ln.

Note Type	Note Code	Text	Created By	Begin Date	End Date
DEFICIENCY		See final staff report for Planning Commission Review for comprehensive Planning Department recommendation . Please revise or clarify the following elements prior to resubmittal for Planning Commission review. Site area Revise application to clarify area of property that is within the creek boundaries. Buildable area Revise application to clarify total area of current LDR compliant building footprint. This includes area compliant with current creek setback and structure setbacks (shown in orange hash marks on page 5 of submittal). Clarify Drawings Show proposed variance lines on exhibit with current setback line Clarify Drawings Revise application to label proposed setbacks of structure on submittal pages A2.1-A2.3. Clarify Drawings Clarify new vs old foundation on drawings to easily visible on exhibit for Planning Commission reviewers. Clarify Drawings Revise application to clarify A2.1. Based on conversation with applicant, exhibits show landscaping features around basement foundation. Staff suggests removing landscape symbols as reviewers may confuse those landscape elements with foundation elements. Clarify Drawings Verify whether portion of structure connecting split level floor area to garage/master suite will be existing foundation or new foundation Verify point of measurement of creek A1.3 shows edge of creek however measurement of Natural Resource setback is measured from the mean high water or top of bank, whichever is farthest from the thread of the watercourse or the center of the waterbody. (LDR Sec. 5.1.1.D.2.f). Additionally, Top of bank is defined as The elevation of the top of bank shall be determined by the observed high water mark, or one foot above the maximum discharge elevation of an outlet control structure that controls the water elevation of a body of water. Posted notice: Applicant is required to place posted notice on property a minimum of 10 days prior to date of Planning Commission meeting. See LDR Sec. Section 8.2.14.C.4. for signage requirements. Additional staff comments regarding nonconforming structures: Per LDR Section 1.9.2 (nonconforming physical development), specifically subsection 1.9.2.B.4 (Replacement) " A nonconforming physical development shall be brought into compliance	KPAGE@JACKS ONWY.GOV	10/16/23	10/17/23



PERMIT NOTES

with all applicable standards of these LDRs upon willful demolition of any structural support for the portion of the physical development that is nonconforming. Except that this subsection shall not prohibit any of the following." Staff notes that if willful demolition of existing structure occurs, even if portions of that foundation remain, would mean that replacement of the structure or any structural support must meet LDR standard for natural resource setback either by meeting the current 50' setback or by meeting a different natural resource setback distance if approved via variance. This effectively means applicant will not have option to rebuild to "current foundation" line in the event of willful demolition but instead would rebuild to a compliant setback line.

CONDITIONS	VARIANCE REQUEST APPROVED w CONDITIONS P23-148 Residential Variance Request ADDRESS: 555 Scott Lane OWNER: Chris & MaryLou Peters APPLICANT: Brysan Gleason Architects 10/5/2023 Scott Mohror, (307) 733-3079 DATE OF SUBMITTAL: 10/04/2023 DATE OF MATERIALS: 09/18/2023 (Plans) REVISION NO.: 01 The Engineering Division has reviewed your application for a RESIDENTIAL VARIANCE submitted on and with application materials as dated above. ENGINEERING REVIEW: 1. Engineering deals with the public rights-of-way. The variance request is outside the public right-of-way and engineering will defer to planning on this request. 2. Engineering would have concerns with disturbance of creek habitat, flooding and access during flooding. NOTES FOR APPROVAL 3. Should a variance be granted, additional Water or Sewer Capacity fees may be assessed with the building permit.	SMOHROR@JA CKSONWY.GOV	09/01/23	9/1/23
DEFICIENCY	see insufficiency letter	KPAGE@JACKS ONWY.GOV	08/16/23	8/16/23



Project Narrative:

Bryan Gleason Architects (BGA) on behalf of the owner, is requesting a variance from the Town of Jackson, Land Development Regulations so that we can build a new single family residence. The site's building area is confined with the setback imposed by Flat Creek. BGA request a reduction in the Natural Resource setback of Flat Creek (Sec. 5.1.1) from 50' to 10' within the existing footprint, and 20' for new foundations outside the existing footprint.

The existing structure composed of 1,067 sf below grade 1076 sf above grade and a 616 sf garage, the new proposed structure would add approximately 103 sf below grade, 839 sf above grade and 139 sf to the garage. An existing 424 sf deck is to remain in place while demolition occurs and be reattached to the new proposed structure. The maximum height of the structure will comply with the LDRs and be less than 26' tall. Asbestos and radon have been found in the existing structure and through this renovation and rebuild process, the owner aims to remove all asbestos and mitigate radon in the home. BGA explored options of following the LDR sections for adding to non-conforming structures and it was determined the 20% additional area was a significant limitation of the development potential of the property.

	Existing	Proposed	Total
Below Grade Non-Habitable	0 SF	0 SF	0 SF
Above Grade Non-Habitable	616 SF	139 SF	755 SF
Below Grade Habitable	1067 SF	103 SF	1170 SF
Above Grade Habitable	1076 SF	839 SF	1915 SF
Total	2759 SF	1081 SF	3840 SF

Variance Application Findings For Approval

LDR Section for Variance: Natural Resource Setback

Sec. 5.1.1.

Reduce requirement from a 50' setback to 10' set back, allowing re-use of the existing foundation within the existing footprint

Reduce requirement from a 50' setback to 20' setback for new foundations outside of the existing footprint

Existing deck to remain in place and be reused as an existing non-conformity

1. There are special circumstances or conditions which are peculiar to the land or building for which the variance is sought that do not apply generally to land or buildings in the neighborhood;

555 Scott Lane possesses a distinctive feature with Flat Creek occupying 4,639 square feet (29.6%) of property, which gives rise to special circumstances and unique conditions. However, the implementation of a 50' setback as per the Land Development Regulations (LDRs) creates an unusually constrained building envelope, of 1,018 square feet (6.5%) of the property. This situation is visually evident in the attached site plan, showing an irregular and relatively small footprint for the building envelope. Flat Creek's presence and setback requirements significantly impacts the site's design potential.



2. The special circumstances and conditions have not resulted from any willful modification of the land or building;

The special circumstances are created by flat creek and not the willful modification of the land or building.

3. The special circumstances and conditions are such that the strict application of the regulation sought to be varied would create a hardship on the applicant far greater than the protection afforded to the community;

Flat Creek's positioning on the property and the prescribed setback enforced by the Land Development Regulations (LDRs), a challenging situation arises for the applicant. This circumstance diminishes the permissible building envelope to an area that is both limited and irregular, making it unsuitable for the construction of a reasonable home. The resulting 1,018 square foot envelope measures 15' deep at its widest segment, with an average width of 8'. This configuration poses considerable difficulties in developing the lot effectively.

4. The variance sought is the minimum variance necessary to provide balance between the purpose of the regulation sought to be varied and its impact on the applicant;

The requested variance aims to reduce the setback requirement of Flat Creek to 10' at existing footprint and new foundation outside the existing footprint to be 20', thereby permitting the reuse of the existing foundation as the base for constructing a new home atop it. Additionally, there is a possibility of expanding the building footprint away from the creek, ensuring no further encroachment occurs. Granting this variance offers several advantages to the design team, foremost being the ability to preserve and utilize the existing foundation, which, in turn, minimizes disruption to the land adjacent to Flat Creek. This approach obviates the need for foundation removal, a process that could otherwise entail significant disturbance in close proximity to the creek's sensitive ecosystem. By reusing the existing foundation and strategically expanding the building footprint, we can strike a balance between development and environmental conservation.

5. The granting of the variance will not be injurious to the neighborhood surrounding the land where the variance is proposed, and is otherwise not detrimental to the public welfare; and

The approval of the variance will have no adverse impact on the neighborhood, as the proposed development aligns with the existing presence of a home in the designated area.

6. The granting of the variance is consistent with the general purpose and intent of these LDRs.

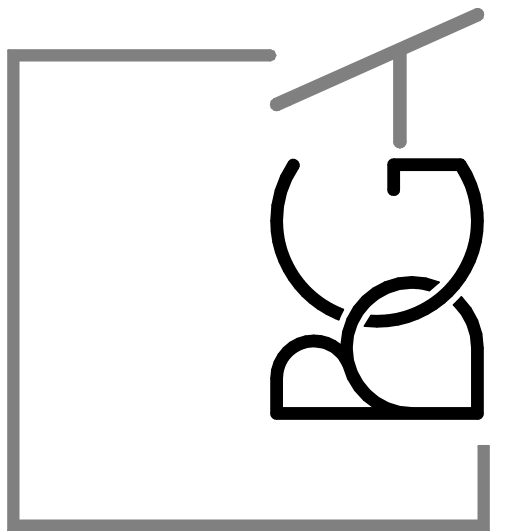
In consideration of the site being located in the NL-3 zone, granting this variance remains consistent with the general purpose of the LDRs, as it facilitates development that adheres to the specific requirements and guidelines outlined for the NL-3 zone. An excerpt from the LDRs can be found below and in the appendix. This approach ensures a well-integrated and contextually appropriate development that aligns with both the site's



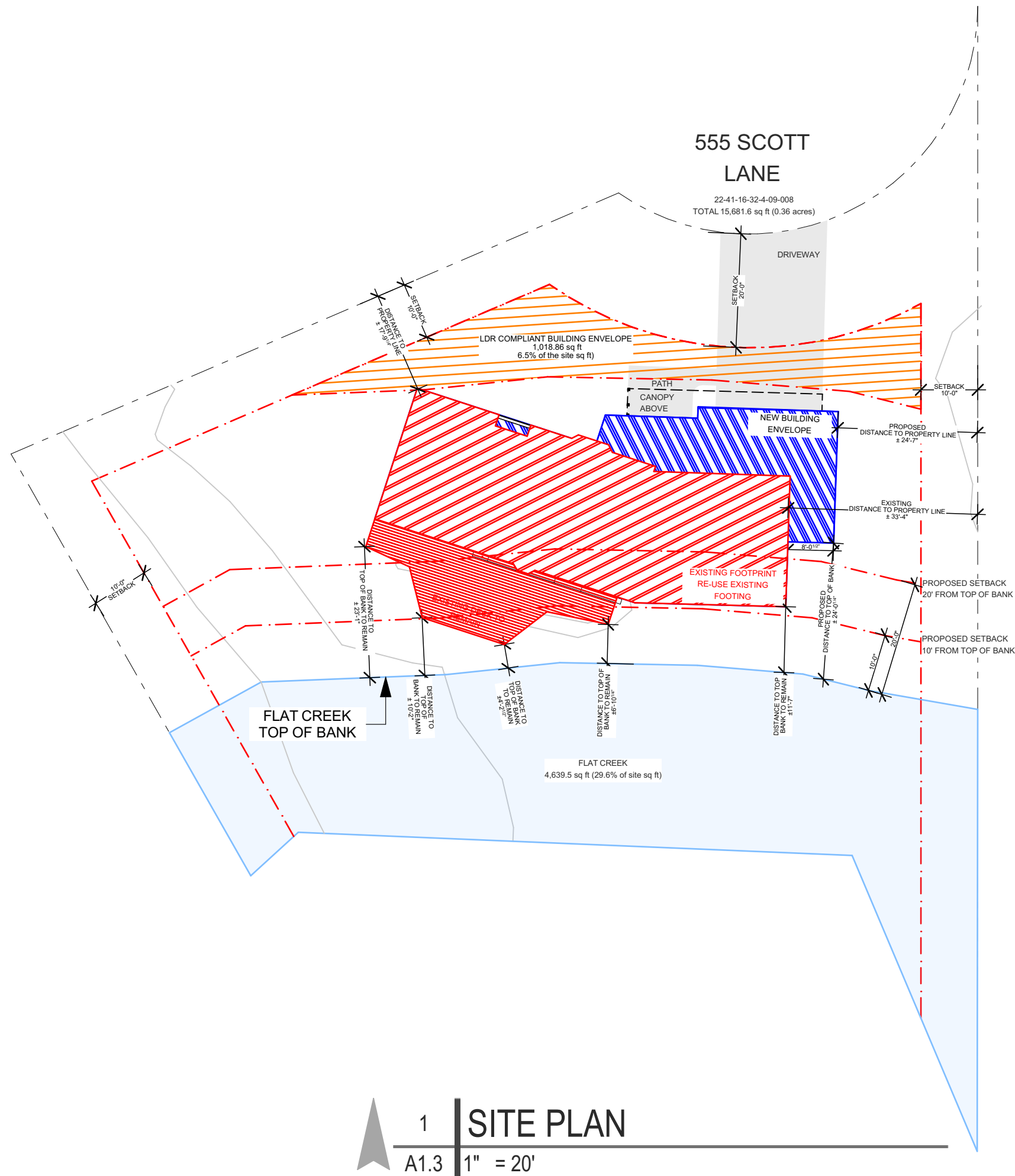
1. General Intent: The intent of the Neighborhood Low Density-3 (NL-3) zone is to recognize existing residential neighborhoods and subdivisions and allow development of Single-Family detached homes with up to one Accessory Residential Unit (ARU) in a way that is consistent with the existing neighborhood character. This zone is intended for Stable neighborhoods where increased residential density is not intended.
2. Buildings: Buildings can be up to 2 stories in height. Multiple buildings on a site is common. Incentives are provided to encourage variety in roof pitch and design.
3. Parking: Parking is provided primarily on-site in garages or with surface spaces. Parking is typically accessed from a primary street.
4. Land Use: Single-family detached homes, accessory structures, and ARUs are the primary land uses.
5. Comprehensive Plan: Based primarily on Subareas 3.1, 5.5, and 6.1 in the Comprehensive Plan



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ARCHITECTS
P.O. BOX 12271, JACKSON, WY 83002
307-413-2949
WWW.BRYANGLEASONARCHITECTS.COM



555 SCOTT LN JACKSON WY, 83001	
SET TITLE:	
PREVIOUS SETS:	
DRAWING: 3D	
SCALE:	
DRAWN BY:	CHECKED BY:
DATE: October 19 2023	
SHEET NUMBER: A1.1	



- EXISTING FOOTPRINT, RE-USE EXISTING FOOTING
- EXISTING DECK TO REMAIN
- PROPOSED ADDITION
- LDR COMPLIANT BUILDING ENVELOPE
- FLAT CREEK

- NOTES:
- FOUNDATION LOCATED IN AREA SHADED RED TO BE RE-USED, OR ADDED TO.
 - NEW PROPOSED STRUCTURE W/ NEW FOUNDATIONS SHOWN SHADED IN BLUE.
 - SITE PLAN DERIVED FROM INFORMATION PROVIDED BY Y2 CONSULTANTS, SURVEY # 17370, JANUARY 4TH 2018.
 - EXISTING LDR COMPLIANT BUILDING ENVELOPE IS 1,018 SQ FT, WHICH IS 6.5% OF SITE AREA.
 - FLAT CREAK AREA IS 4,639.5 SQ FT, WHICH IS 29.6% OF SITE

	EXISTING	PROPOSED	TOTAL
BELOW GRADE NON-HABITABLE	0 SF	0 SF	0 SF
ABOVE GRADE NON-HABITABLE	616 SF	139 SF	755 SF
BELOW GRADE HABITABLE	1067 SF	103 SF	1170 SF
ABOVE GRADE HABITABLE	1076 SF	839 SF	1915 SF
TOTAL	2759 SF	1081 SF	3840 SF

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BCA

555 SCOTT LN
JACKSON WY, 83001

SET TITLE:

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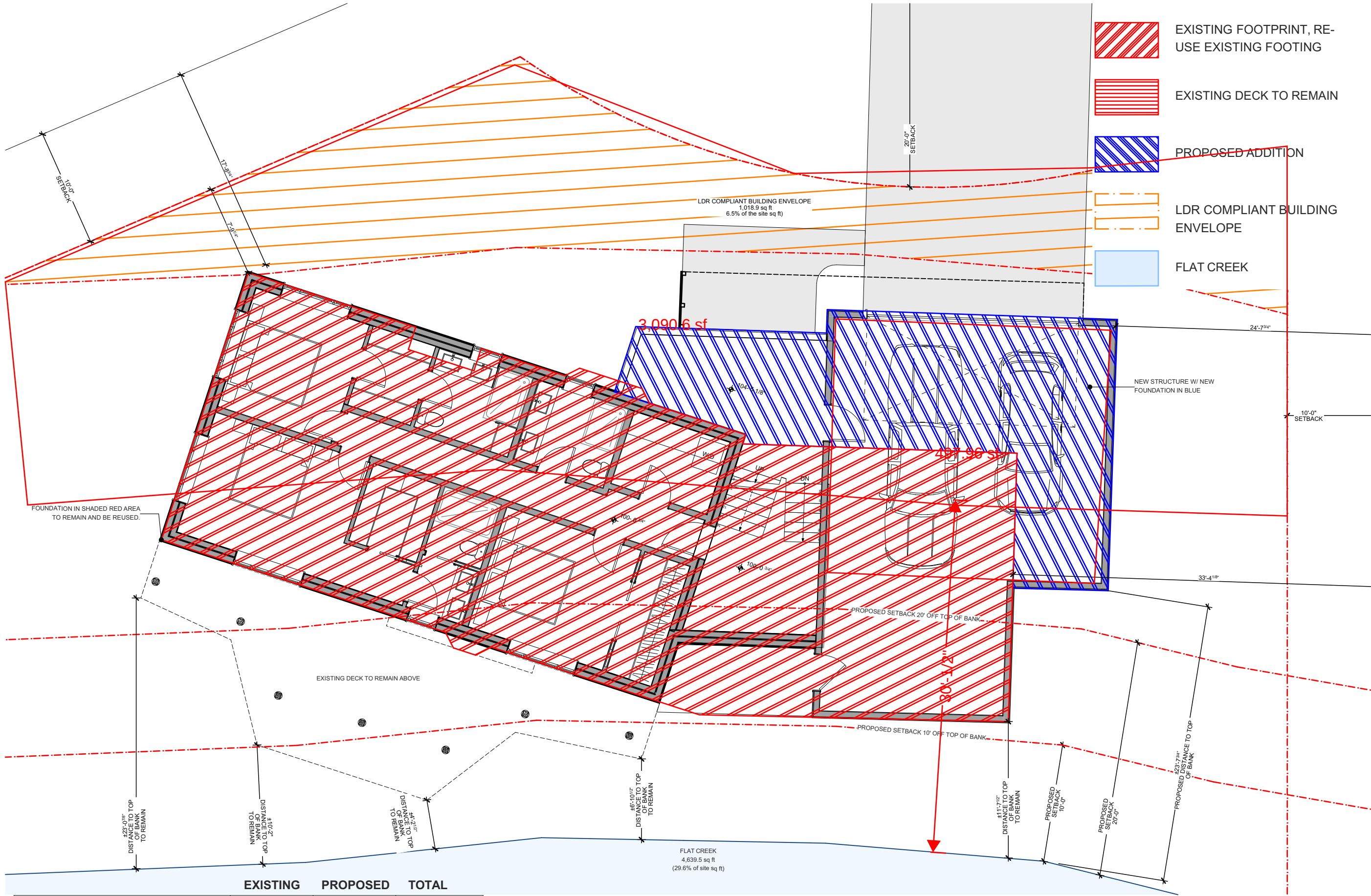
DRAWING:
SITE PLAN

SCALE:

DRAWN BY: CHECKED BY:

DATE: October 19 2023

SHEET NUMBER:
A1.3



- EXISTING FOOTPRINT, RE-USE EXISTING FOOTING
- EXISTING DECK TO REMAIN
- PROPOSED ADDITION
- LDR COMPLIANT BUILDING ENVELOPE
- FLAT CREEK

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JACKSON WY, 83001

SET TITLE:

PREVIOUS SETS:

DRAWING:
BASEMENT T.O. S.F.

SCALE:

DRAWN BY: CHECKED BY:

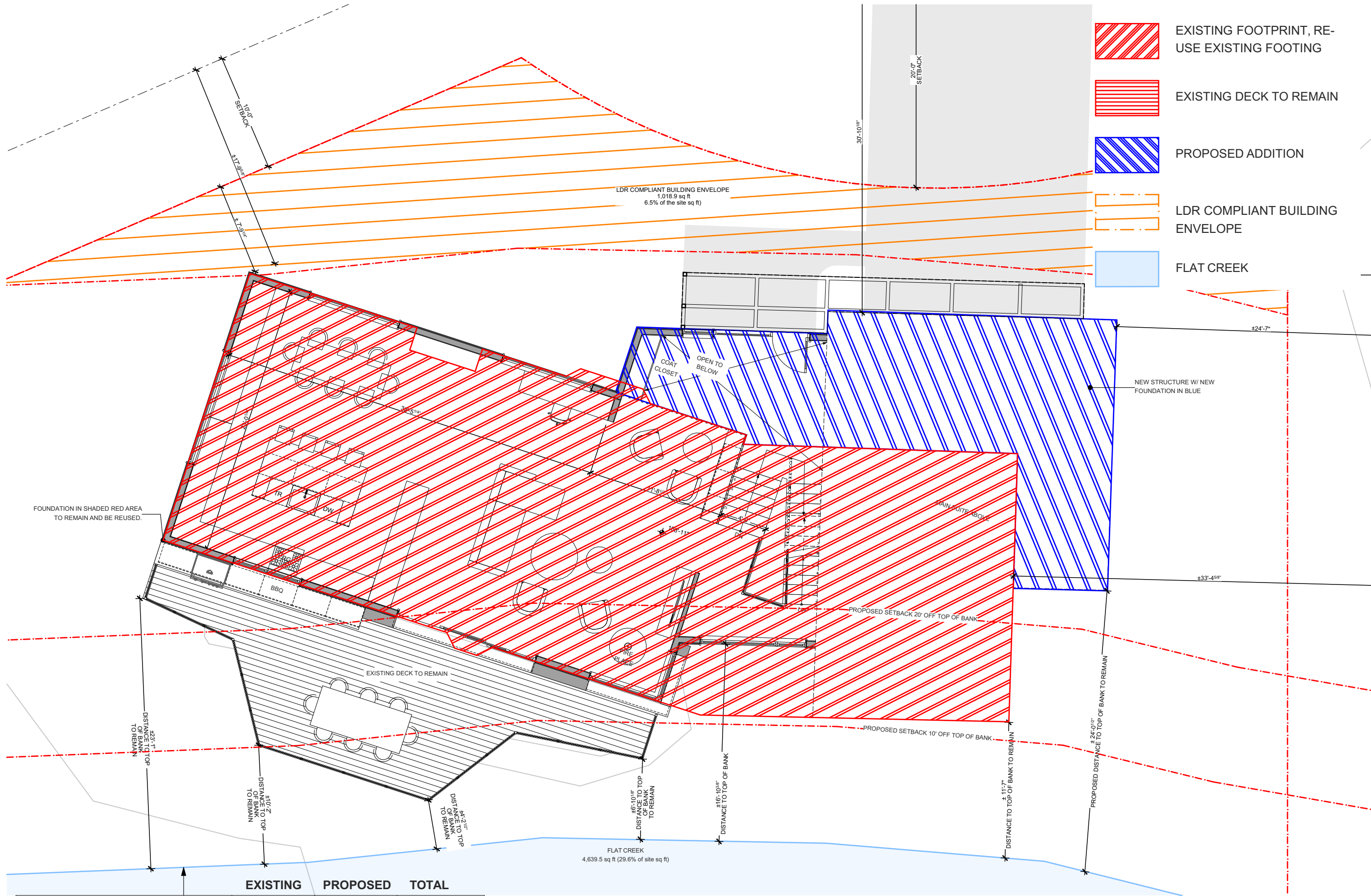
DATE: October 19 2023

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A2.1

	EXISTING	PROPOSED	TOTAL
BELOW GRADE NON-HABITABLE	0 SF	0 SF	0 SF
ABOVE GRADE NON-HABITABLE	616 SF	139 SF	755 SF
BELOW GRADE HABITABLE	1067 SF	103 SF	1170 SF
ABOVE GRADE HABITABLE	1076 SF	839 SF	1915 SF
TOTAL	2759 SF	1081 SF	3840 SF

1 **BASEMENT T.O SF**
A2.1 1/8" = 1'-0"



- EXISTING FOOTPRINT, RE-USE EXISTING FOOTING
- EXISTING DECK TO REMAIN
- PROPOSED ADDITION
- LDR COMPLIANT BUILDING ENVELOPE
- FLAT CREEK

FOUNDATION IN SHADED RED AREA TO REMAIN AND BE REUSED.

	EXISTING	PROPOSED	TOTAL
BELOW GRADE NON-HABITABLE	0 SF	0 SF	0 SF
ABOVE GRADE NON-HABITABLE	616 SF	139 SF	755 SF
BELOW GRADE HABITABLE	1067 SF	103 SF	1170 SF
ABOVE GRADE HABITABLE	1076 SF	839 SF	1915 SF
TOTAL	2759 SF	1081 SF	3840 SF

1

MAIN FLOOR T.O.S.F.

A2.2

1/8" = 1'-0"

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SET TITLE:

PREVIOUS SETS:

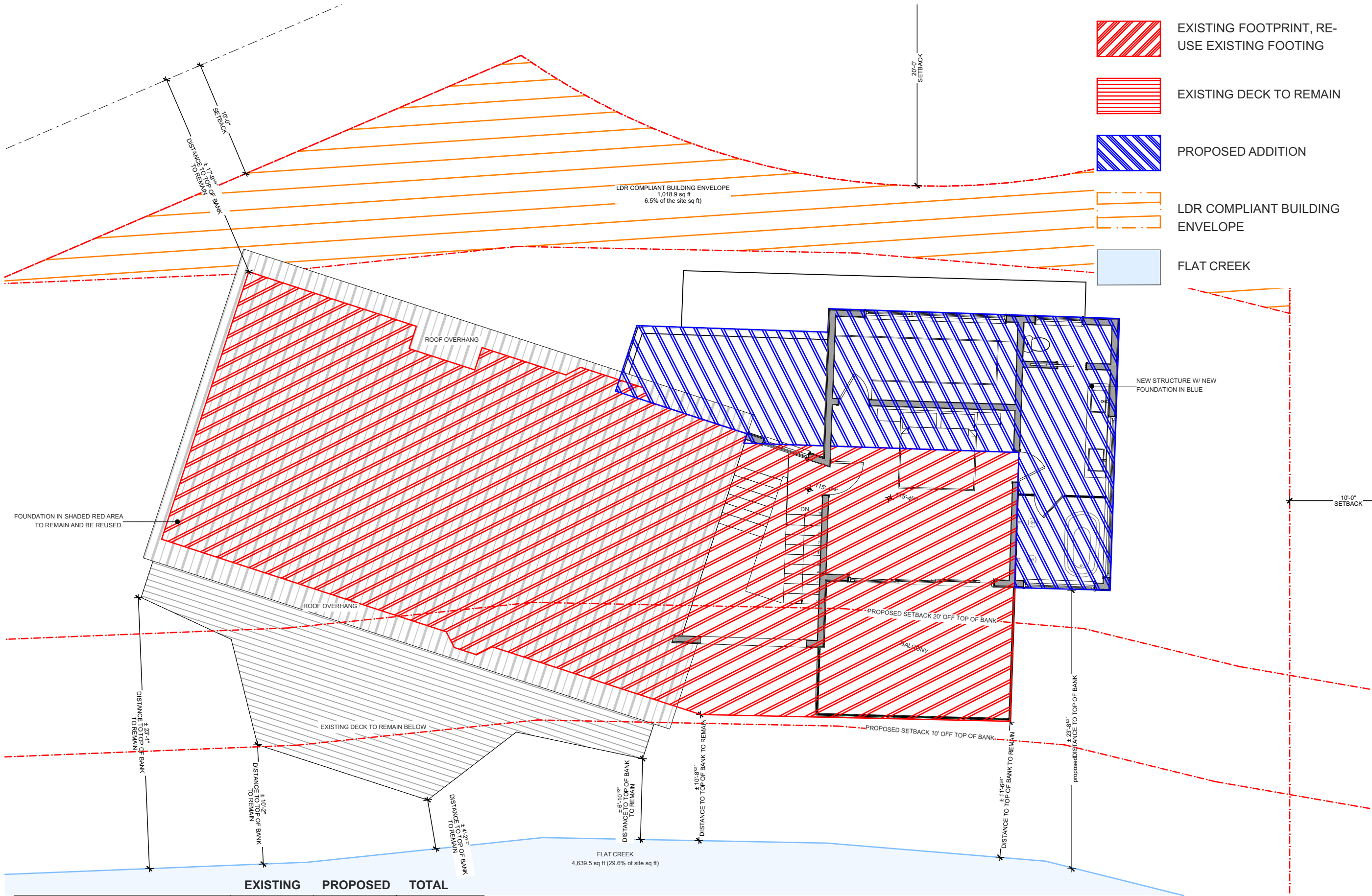
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MAIN FLOOR
T.O.S.F.

SCALE:

DRAWN BY: CHECKED BY:

DATE: October 19 2023

SHEET NUMBER:
A2.2



- EXISTING FOOTPRINT, RE-USE EXISTING FOOTING
- EXISTING DECK TO REMAIN
- PROPOSED ADDITION
- LDR COMPLIANT BUILDING ENVELOPE
- FLAT CREEK

FOUNDATION IN SHADED RED AREA TO REMAIN AND BE REUSED.

NEW STRUCTURE W/ NEW FOUNDATION IN BLUE

	EXISTING	PROPOSED	TOTAL
BELOW GRADE NON-HABITABLE	0 SF	0 SF	0 SF
ABOVE GRADE NON-HABITABLE	616 SF	139 SF	755 SF
BELOW GRADE HABITABLE	1067 SF	103 SF	1170 SF
ABOVE GRADE HABITABLE	1076 SF	839 SF	1915 SF
TOTAL	2759 SF	1081 SF	3840 SF

1

MASTER BED T.O. S.F.

A2.3

1/8" = 1'-0"

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BCA

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JACKSON WY, 83001

SET TITLE:

PREVIOUS SETS:

DRAWING:
MASTER BED
T.O. S.F.

SCALE:

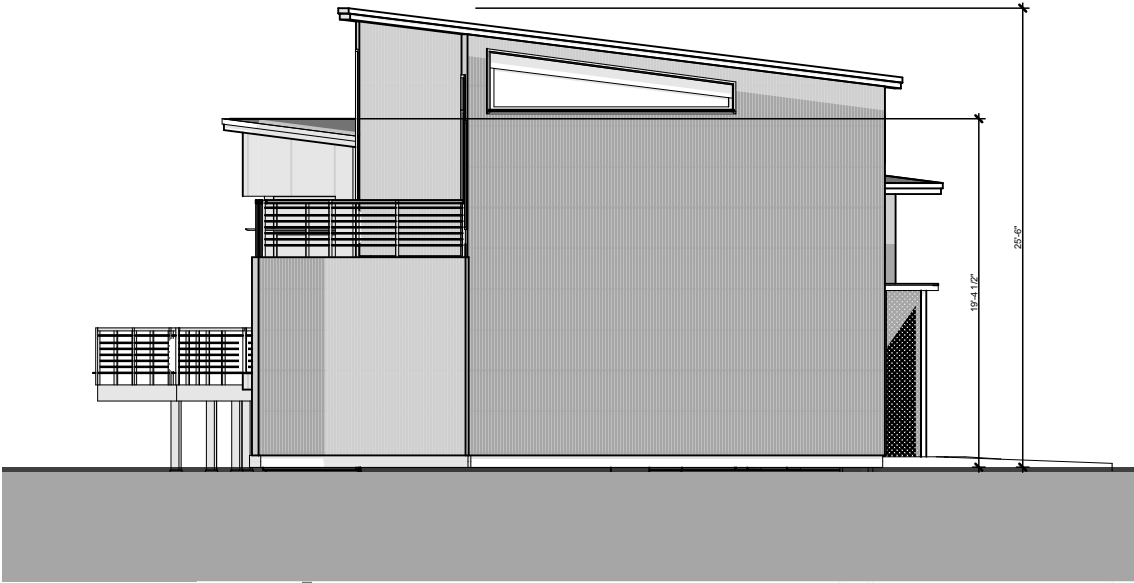
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DATE: October 19 2023

SHEET NUMBER:
A2.3



1 | SOUTH ELEVATION
A3.1 | 3/32" = 1'-0"



3 | EAST ELEVATION
A3.1 | 3/32" = 1'-0"



2 | NORTH ELEVATION
A3.1 | 3/32" = 1'-0"



4 | WEST ELEVATION
A3.1 | 3/32" = 1'-0"

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555 SCOTT LN
JACKSON WY, 83001

SET TITLE:

PREVIOUS SETS:

DRAWING:
ELEVATIONS

SCALE:

DRAWN BY: CHECKED BY:

DATE: October 19 2023

SHEET NUMBER:

A3.1

Katelyn Page

From: Forest Wakefield <forestwakefield@gmail.com>
Sent: Thursday, October 26, 2023 11:33 AM
To: Katelyn Page
Cc: Sofia Wakefield
Subject: Variance Request for 555 Scott Lane, legally known as LOT 10, SOUTHGATE ADDITION, PIDN: 22-41-16-32-4-09-008



Hello Katelyn,

Thank You for giving us the opportunity to comment on the variance request for 555 Scott Lane, legally known as LOT 10, SOUTHGATE ADDITION, PIDN: 22-41-16-32-4-09-008. We are grateful to be part of the process that gives voice and agency to the incredible natural resource that is at the heart of this community. We are owners at 445 Scott Lane and are one of 4 homes in this cul de sac. We have read the thoughtful variance request and viewed the plans submitted by the Architect Brian Gleason.

We firmly ask for the Variance to be denied. Our reason is that current and past residents have spent countless hours working to preserve the natural resources of Teton County and the Town of Jackson. Flat Creek deserves to be protected from this piece by piece degradation of the environment that approving this variance allows, and sets a new precedent of what money can buy if allowed.

The existing home can be remodeled without changing the footprint, something the owners knew when they bought the property. This is a key point, any impact or hardship to the applicant is self imposed as Flat Creek existed in its current location when they purchased their property. That they want to keep the grandfathered deck in place that is just feet from Flat Creek shows that they don't value the environment as much as their enjoyment of it. Additionally the drawings submitted show a deck that looks like the new home, not the grandfathered deck that is currently in place.

We disagree with the applicant that this variance will not be injurious to the neighborhood and public. Anyone who walks or bikes South on Scott Lane catches a glimpse of Flat Creek between the existing garage and the property line to the East. The reminder of this natural resource, Flat Creek is a powerful connection to place that will be lost if this variance is allowed. Additionally, this variance does impact public welfare, this scrape and rebuild approach is incrementally destroying the neighborhoods of Jackson and is a significant reason that property taxes have gone up and continue to go up.

Years ago the motto was "Town as Heart" in guiding growth in the valley and Town. Please take to heart our concerns.

Regards,

Forest and Sofia Wakefield
Neighbors