

ORIGINAL IN RED

**City of Stanley
Special Meeting
March 31, 2014**

The Council Meeting is called to order at 1:09 p.m. in the Stanley City Office.

IN ATTENDANCE FOR THE CITY:

Mayor Herb Mumford, Council President Steve Botti by phone, Councilmember Melinda Hadzor, Councilmember Laurii Gadwa, Councilmember Lem Sentz, and City Clerk/Treasurer Cari Tassano.

PERMIT DISCUSSION:

Mayor Mumford notes that we have an email from Rebecca Arnold sent to us on 3/31/2014 at 12:30 p.m., council members had not yet reviewed this email. They were provided with copies so they could review the email and attachments in the meeting. Mayor Mumford points out that Rebecca had previously said Permit #831 is just like permit #789 and now she says it is just like permit #637, Mayor Mumford disagrees. Neither permit asked to do a lot of work on city streets and from what we observed there was little or no work on the city streets under permit #637. Permit #831 was denied because no adequate information was provided on what they want to do on the city streets.

Councilmember Gadwa reads Permit #637 noting that permit was not a permit to do work on the city streets. It was for construction of the access drive. It does not say work can be done on the city streets. Mayor Mumford agrees.

Findings of Fact Conclusions of Law, final version, unless otherwise stated in this meeting, this is the final version. One of the reason we are having this meeting is to make sure noticing and information for the meeting was taken care of properly. Mayor Mumford submitted photos that were supplied to help illustrated some of the issues. Mayor Mumford points out the diagram, Building on a Slope, everybody needs to understands the SMC references there, are all references from our code, but they aren't code requirements that say this is what Stanley requires for doing work on the city streets, because we don't have a whole bunch of codes to do work on the city streets, so these requirements are in the code from the standpoint of subdivision development or other requirements. It gives us some kind of standard to use, rather than having no standard at all. We do want it to be done properly and these are the codes that would be relevant, the setbacks of the fill from the adjacent property line, the slope of that fill up to the higher elevation and the set back of any roadbed, driveway or access road from the top of the fill. Those are all things that can be found in the SMC and the references are there on the document. That is what that drawing is intended to show, to put it all together. Those are the problems we have with the work that was done on the city streets which doesn't appear to follow any codes.

Mayor Mumford continues to point out you cannot put many, many cubic yards of dirt on the city street without having a permit for doing something that substantial. Also you either need to have a custom engineered design explaining why this is a good plan with all the documentation to back it up, or try to grab some of the existing standards that apply to that kind of situation. That is what is illustrated on

APPROVED

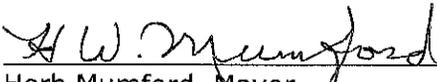
the Building on a Slope document where we respect our own standards, and say those standards can be acceptable. We have not seen, from this applicant, any proposal that has any details of what they plan to do, or how we know it's not going to be an ongoing problem. We don't want water blocked or diverted onto neighboring properties, or erosion, or safety issues.

Council President Botti wanted to add that In addition to specifying acceptable engineering for placing the fill of the gravel, there would also be the question, of how that affects the drainage off of the city street onto her property or onto others.

The council had previously approved a motion to have the mayor work with the city attorney to finalize the Findings of Fact. The mayor asked the council if they had any changes to the draft reviewed today or any changes to the direction previously provided to the Mayor. No changes in content or changes to previous motion are identified by the council. Council President Botti notes his satisfaction with the Findings of Fact and Conclusions of Law as reviewed today.

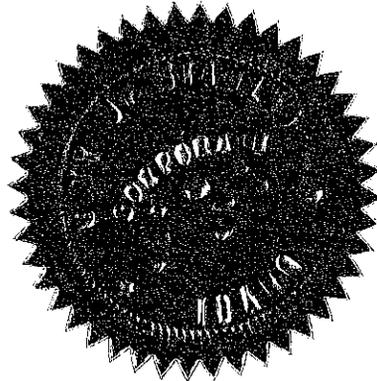
ADJOURNMENT:

Mayor Mumford adjourns the meeting at 1:22 pm.


Herb Mumford, Mayor

ATTEST

City Clerk, Cari Tassano



List of attachments:

- Communication, sent by email from Rebecca Arnold dated March 31, 2014: which includes permit #637, permit #638, letter from the city to Rebecca Arnold dated June 15, 2006, and permit #638 R1.
- Building on a Slope, a sketch showing how the fill profile should relate to setbacks and maximum slope, and providing SMC code references for where those standards are described.
- Annotated photo showing city property with natural vegetation prior to 9-28-13.
- Annotated photo showing vegetation removal from city property as of 9-28-13.
- Photo looking north showing fill material placed on city property as of 10-2-13 subsequently removed in response to trespass investigation.

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- Photo looking south showing fill material placed on city property as of 10-2-13 subsequently removed in response to trespass investigation.
- Annotated photo showing fill again placed on city property as of 12-1-13.
- Stanley Townsite Drainage drawing highlighting drainage at west end of Ace of Diamonds Street.
- Findings of Fact and Conclusions of Law

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Rebecca Arnold
3973 Erick LN, Boise, ID 83704

March 31, 2014

City of Stanley

Re: Building Permit 831 – denied at February 13, 2013 meeting

Mayor and Council:

We continued to remain baffled as to why the City denied this permit. This building permit is no different than a previous permit #637 (see copy attached), which allowed work on the city street to construct accesses on both Critchfield and Ace of Diamonds. Although Permit 637 on its face referenced only the Arnold Property legal description with that legal description attached, the Site Plan attached to 637 clearly showed the work to be done on both the Arnold Property and the referenced city streets. There were no setbacks from any property lines required. There was no separate permit required for the work done on the City streets and the Stanley Municipal Code ("SMC") does not have a permitting process for constructing accesses onto city streets. Permit 637 was not only initially approved in 2004 by the City of Stanley, it was also renewed twice. No changes in the relevant ordinances have taken place since that time.

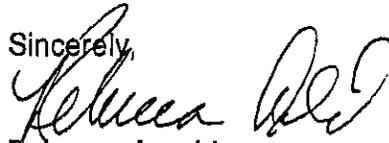
Under Permit 637, the access from Critchfield Avenue onto the Arnold property, including improvements to the north 35 feet of Critchfield Avenue was completed (no setbacks from any property lines were required by the City) and an access from the south half of Ace of Diamonds onto the Arnold Property, including improvement to approximately 25-30 feet of the south half of Ace of Diamonds was initially constructed (no setbacks from any property lines were required by the City). The access from the south half of Ace of Diamonds was later widened (including improvements to the end of Ace of Diamonds) under Building Permits 690 and the current Building Permit 789 (and again no setbacks from any property lines were required by the City). Improvements for the Access into the Arnold Property from the north half of Ace of Diamonds under Permit 789 and we are simply seeking a new permit to allow us additional time to complete the work. Again, no changes in the relevant ordinances have been made since 637, 690 and 789 were issued.

SMC does not require setback for fences nor for retaining walls nor for placement of fill and the City has not attempted to require such setbacks in other permits. This is clearly evidenced in Building Permit 724 which was issued to Jim and Michelle Wetzel for the placement of fill material and constructing a retaining wall (which we ask that you incorporate into the record of today's meeting) where the City did not require any setbacks for the placement of the fill material and did not require any setback for the retaining wall. In fact, the Wetzel's fill material and retaining wall abut the Arnold Property on the south side of the Arnold Property. Numerous permits, including Permits 638 and 671, have been issued by the City for fences without any setback requirements because there are no setback requirements in the SMC for fences. We would like to be given the opportunity to provide other examples where the City issued permits for a particular piece of property that allowed work on the adjacent City street as we are aware of several but have not had time to research and copy because the City office has been closed and there was little prior notice for today's meeting.

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I can be available during the council meeting by phone at (208) 841-2530 if you have questions or comments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rebecca Arnold".

Rebecca Arnold



CITY OF STANLEY

Permit # 637
Date _____

BUILDING PERMIT APPLICATION

Owner: Thomas L. Arnold & Rebecca W. Arnold Phone: 208 841-2530

Mailing Address: 3973 Erick LN Boise ID 83704

Builder: _____ Architect: _____

Property Location: Block _____ Lot _____ Subdivision _____ See attached

Structure: New _____ Remodel _____ Addition _____ Repair _____
Fire Damage _____ Water/Snow Damage _____ Renewal: _____

Type: Residence _____ Commercial _____ Educational _____ Govt. _____ Religious _____
Fence _____ Sign _____ Excavation

Please describe in detail, the structure and its use:

No structure. Permit is for grading & addition of fill material and construction of access drive from Critchfield ~~Street~~ ^{Avenue} into property.

Please describe in detail, the exterior of the structure: and from Ace of Diamonds into the property.

R. Type: _____ Roof Color: _____ Building Height: _____
Siding Type: _____ Siding Color: _____
Sq. Ft. - Living Area: _____ Sq. Ft. - Garage: _____ Sq. Ft. - Other: _____
Value of Completed Project: _____
Completion Date: _____

- ♦ Applicant must submit a Site Plan showing where the building sits on the property. Building plans and all specifications must also be attached to this permit application. Applicant is responsible for location of all property lines and set backs as well as ground water tables for a dry floor in a crawl space or basement. The City of Stanley reserves the right to review all permit applications for 30 days.
- ♦ This permit is issued subject to the ordinances contained in the Stanley Municipal Code, as amended, and It is hereby agreed that the work will be done as shown on the plans and specifications submitted with this application for a building permit as well as the description and completion date shown above and it will be completed in accordance with the ordinances pertaining and applicable thereto. Any building permit issued by the City of Stanley addresses only the requirements of the Stanley Municipal Code. Applicant is responsible for obtaining all other permits and certifications required by applicable law as promulgated by federal, state, county, or other local government authority.

Approved By: R. Neustadt Fire Dept: _____ Sewer Assoc./Health Dept.: _____
City Official: _____ Date: Oct 7, 04 Date: _____ Date: _____

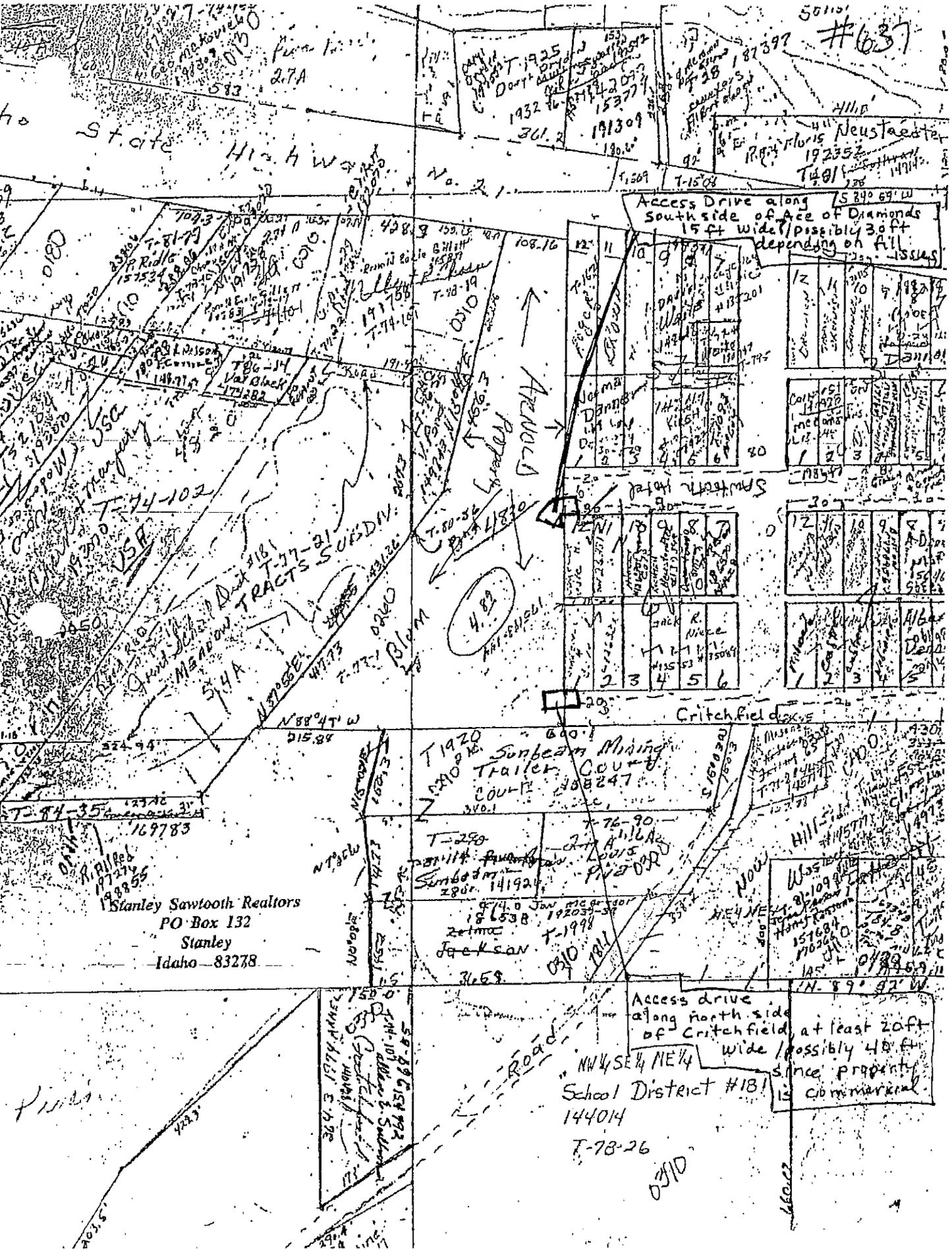
Denied: Code Section: _____ Description: _____

Site Plan Submitted Date: _____
 Building Plan Submitted Date: _____
 Boundary Agreement for Boundary Fence Date: _____

Permit Fee: \$ _____
Plan Check: \$ _____
Total Paid: \$ _____

Please send white copy to:
City of Stanley
P.O. Box 53, Stanley, Idaho 83278
Tel: 208.774.2286 / Fax: 208.774.2278
www.stanley-idaho.org

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5010 #637

State Highway No. 2

Access Drive along south side of Ace of Diamonds 15 ft wide/possibly 30ft depending on fill

ARVALA

Critchfield

T-1920 Sunbeam Mining
Trailer County
COURT 188247

T-280
Sunbeam
141921
T-1998
JACKSON
3058

Access drive along north side of Critchfield, at least 20ft wide/possibly 40 ft since property is commercial

NW 1/4 SE 1/4 NE 1/4 School District #181 144014

T-78-26

Stanley Sawtooth Realtors
PO Box 132
Stanley
Idaho 83278

River

0310

#687



(NOT TO SCALE)

HIGHWAY "21"

SE'LY
108.16'

N13°46'E
456.3'

COMMERCIAL
ZONING

S00°08'W
813.30'

"STANLEY TOWNSITE"

APPROX.
4.9 acres +/-

N37°55'E
494.5'

N88°49'W
215.88'

N89°58'W
300.1'

P.O.B.
SW'LY COR.
STANLEY TOWN



CITY OF STANLEY

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Permit # 638
Date _____

BUILDING PERMIT APPLICATION

Owner: Thomas L Arnold & Rebecca W Arnold Phone: 208 841-2530

Mailing Address: 3973 ERICK LN Boise ID 83704

Builder: _____ Architect: _____

Property Location: Block _____ Lot _____ Subdivision _____ See attached

Structure: New _____ Remodel _____ Addition _____ Repair _____
Fire Damage _____ Water/Snow Damage _____ Renewal: _____

Type: Residence _____ Commercial _____ Educational _____ Govt. _____ Religious _____
Fence Sign _____ Excavation _____

Please describe in detail, the structure and its use:
perimeter fence to be constructed inside property line
to be constructed of natural cedar and not to exceed 6 ft in height

Please describe in detail, the exterior of the structure:

Roof type: _____ Roof Color: _____ Building Height: _____
Siding Type: _____ Siding Color: _____
Sq. Ft. - Living Area: _____ Sq. Ft. - Garage: _____ Sq. Ft. - Other: _____
Value of Completed Project: _____
Completion Date: _____

- ♦ Applicant must submit a Site Plan showing where the building sits on the property. Building plans and all specifications must also be attached to this permit application. Applicant is responsible for location of all property lines and set backs as well as ground water tables for a dry floor in a crawl space or basement. The City of Stanley reserves the right to review all permit applications for 30 days.
- ♦ This permit is issued subject to the ordinances contained in the Stanley Municipal Code, as amended, and it is hereby agreed that the work will be done as shown on the plans and specifications submitted with this application for a building permit as well as the description and completion date shown above and it will be completed in accordance with the ordinances pertaining and applicable thereto. Any building permit issued by the City of Stanley addresses only the requirements of the Stanley Municipal Code. Applicant is responsible for obtaining all other permits and certifications required by applicable law as promulgated by federal, state, county, or other local government authority.

Approved By: R. Kestner
City Official: _____ Fire Dept: _____ Sewer Assoc./Health Dept.: _____
Date: Oct 7, 04 Date: _____ Date: _____

Denied: Code Section: _____ Description: _____

- Site Plan Submitted Date: _____
- Building Plan Submitted Date: _____
- Boundary Agreement for Boundary Fence Date: _____

Permit Fee: \$ _____
Plan Check: \$ _____
Total Paid: \$ _____

Please send white copy to:
City of Stanley
P.O. Box 53, Stanley, Idaho 83278
Tel: 208.774.2286 / Fax: 208.774.2278
www.stanley-idaho.org



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CITY OF STANLEY

June 15, 2006

Rebecca Arnold
3915 Erick Lane
Boise, ID 83704

Dear Rebecca:

The City of Stanley is pleased to let you know Dick Neustaedter approved your request for Building Permit #671 at the Regular Council Meeting June 14, 2006. Your permit is good for one year. If the project is not complete, you can apply for a renewal. The fee for a fence within the city limits is \$20.00. This letter serves as approval notice and invoice. Please make your check payable to the City of Stanley.

If you have any questions please contact the city office at (208) 774-2286 between 8:00 a.m. and 4:00 p.m. Monday through Friday.

Respectfully yours,


Rocky James
City Clerk/Treasurer

cc: file



CITY OF STANLEY

Permit # 638R1
Date 12/12/05

BUILDING PERMIT APPLICATION

Owner: Thomas L. Arnold & Rebecca W. Arnold Phone: 208 841-2530

Mailing Address: 3973 ERICK LN Boise ID 83704

Builder: _____ Architect: _____

Property Location: Block _____ Lot _____ Subdivision _____ See attached

Structure: New _____ Remodel _____ Addition _____ Repair _____
Fire Damage _____ Water/Snow Damage _____ Renewal: _____

Type: Residence _____ Commercial _____ Educational _____ Govt. _____ Religious _____
Fence Sign _____ Excavation _____

Please describe in detail, the structure and its use:
perimeter fence to be constructed inside property line
to be constructed of natural cedar and not to exceed 6-ft in height

Please describe in detail, the exterior of the structure:

R type: _____ Roof Color: _____ Building Height: _____
Siding Type: _____ Siding Color: _____
Sq. Ft. - Living Area: _____ Sq. Ft. - Garage: _____ Sq. Ft. - Other: _____
Value of Completed Project: _____
Completion Date: _____

- ♦ Applicant must submit a Site Plan showing where the building sits on the property. Building plans and all specifications must also be attached to this permit application. Applicant is responsible for location of all property lines and set backs as well as ground water tables for a dry floor in a crawl space or basement. The City of Stanley reserves the right to review all permit applications for 30 days.
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Approved By: R. Nussba
City Official: _____ Fire Dept: _____ Sewer Assoc./Health Dept.: _____
Date: 12/7/05 Date: _____ Date: _____

Denied: Code Section: _____ Description: _____

Site Plan Submitted Date: _____

Building Plan Submitted Date: _____

Boundary Agreement for Boundary Fence Date: _____

Permit Fee: \$ _____
Plan Check: \$ 20
Total Paid: \$ 20 5363

Please send white copy to:
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Tel: 208.774.2286 / Fax: 208.774.2278
www.stanley-idaho.org

R. Nussba

Building on a slope

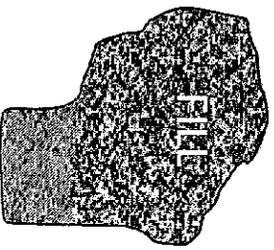
SMC 17.44.050
Residential C
Minimum 24'

SMC 16.36.060.B.3

minimum

Roadbed

3'



Slope no steeper than
2:1 (2 horizontal to 1 vertical)

SMC 16.36.060.A.4

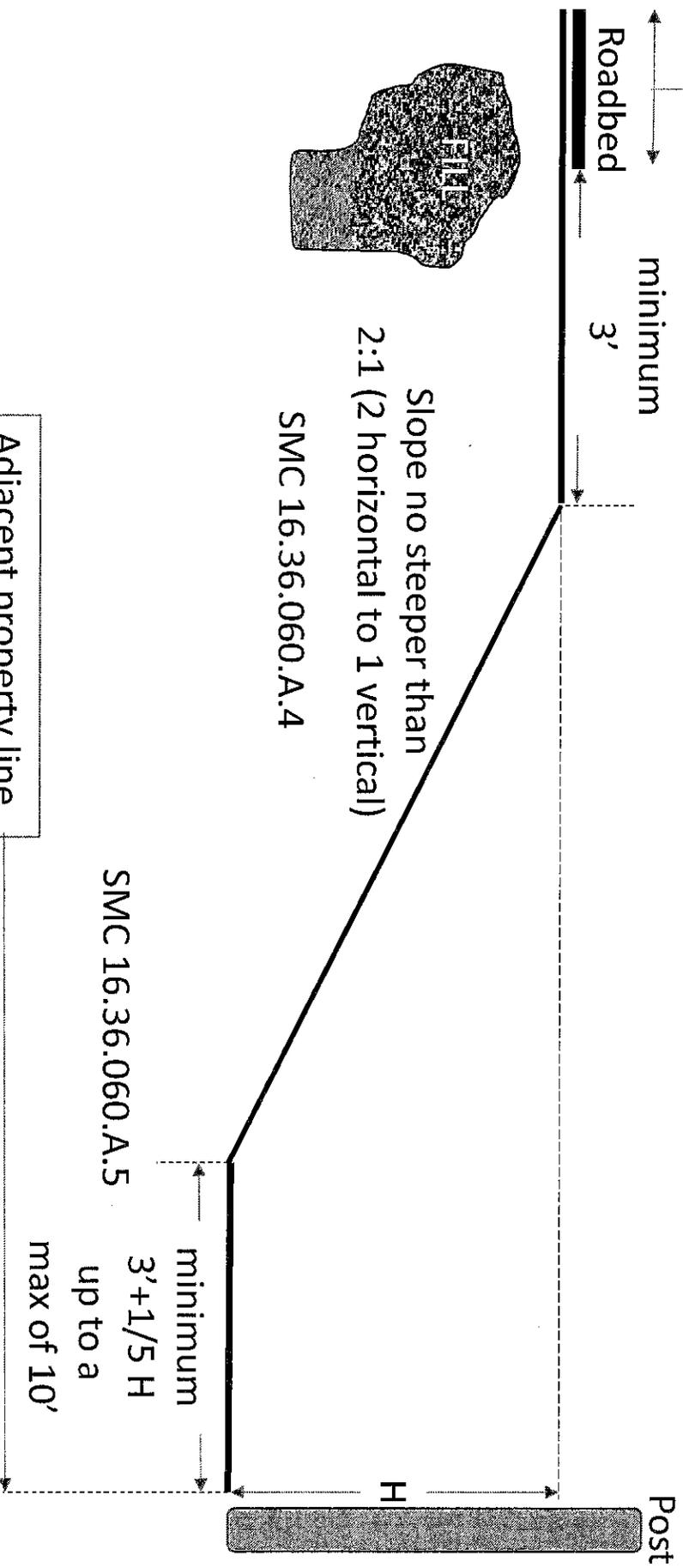
SMC 16.36.060.A.5

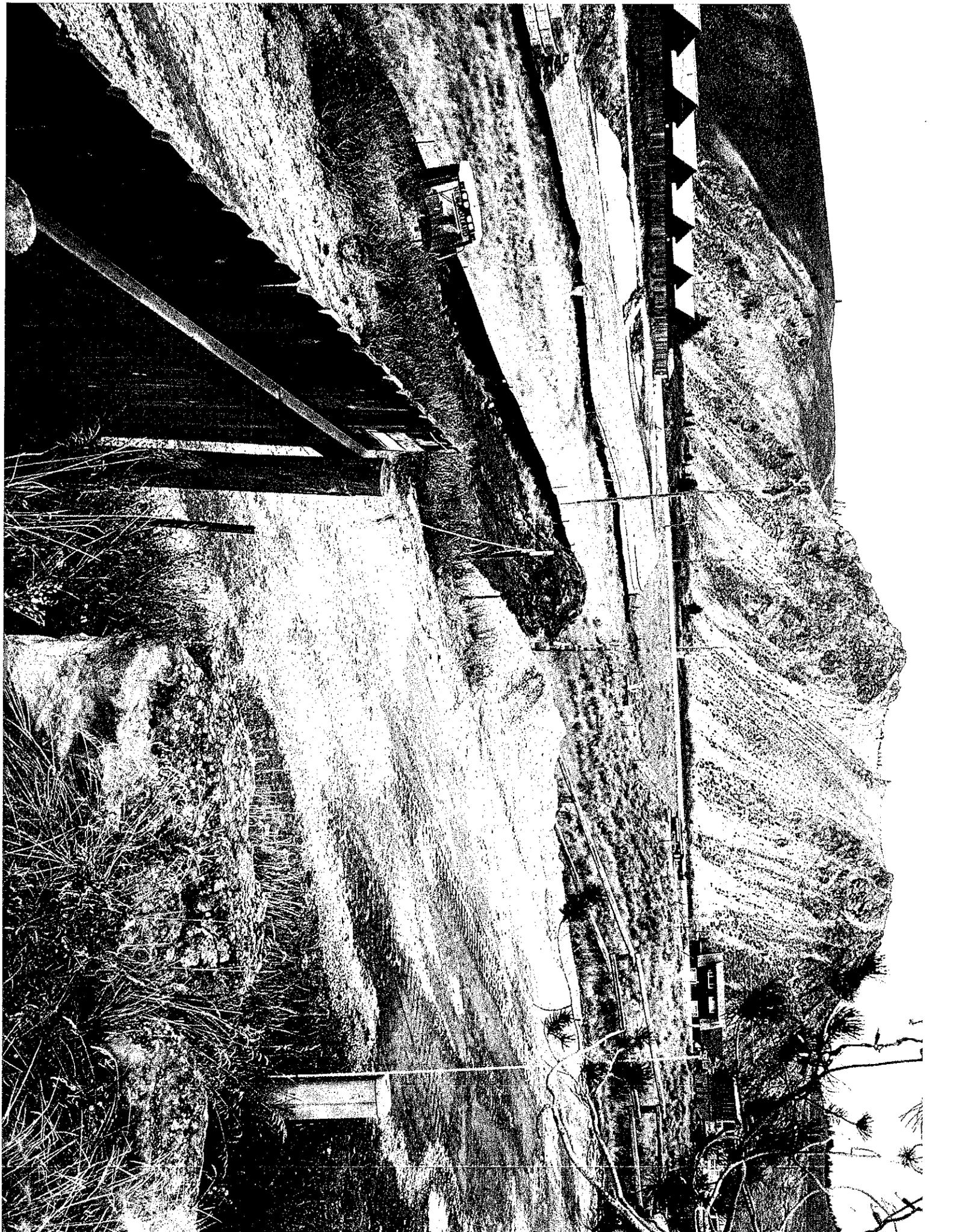
minimum
 $3' + 1/5 H$
up to a
max of 10'

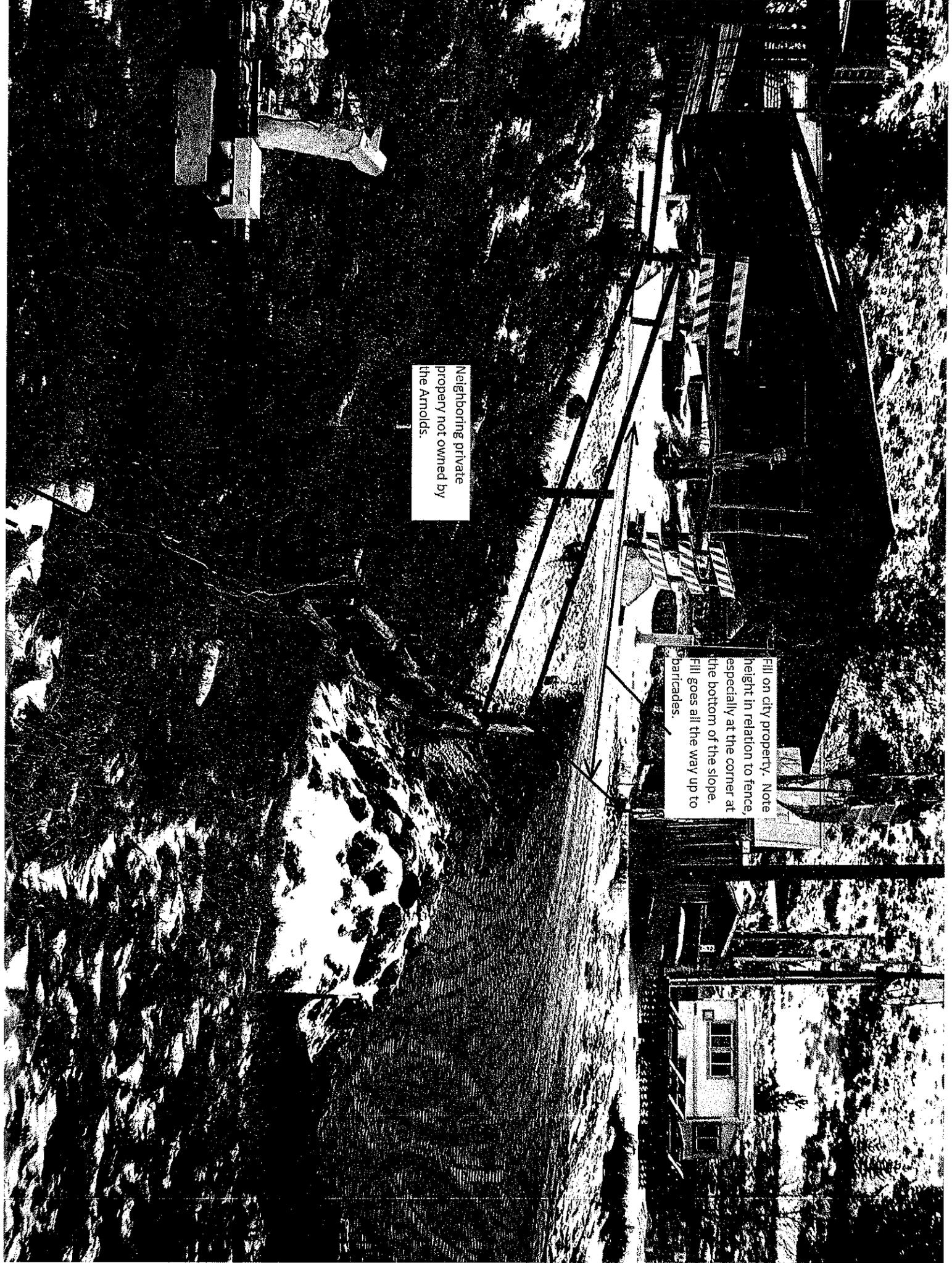
Fence
Post

H

Adjacent property line.



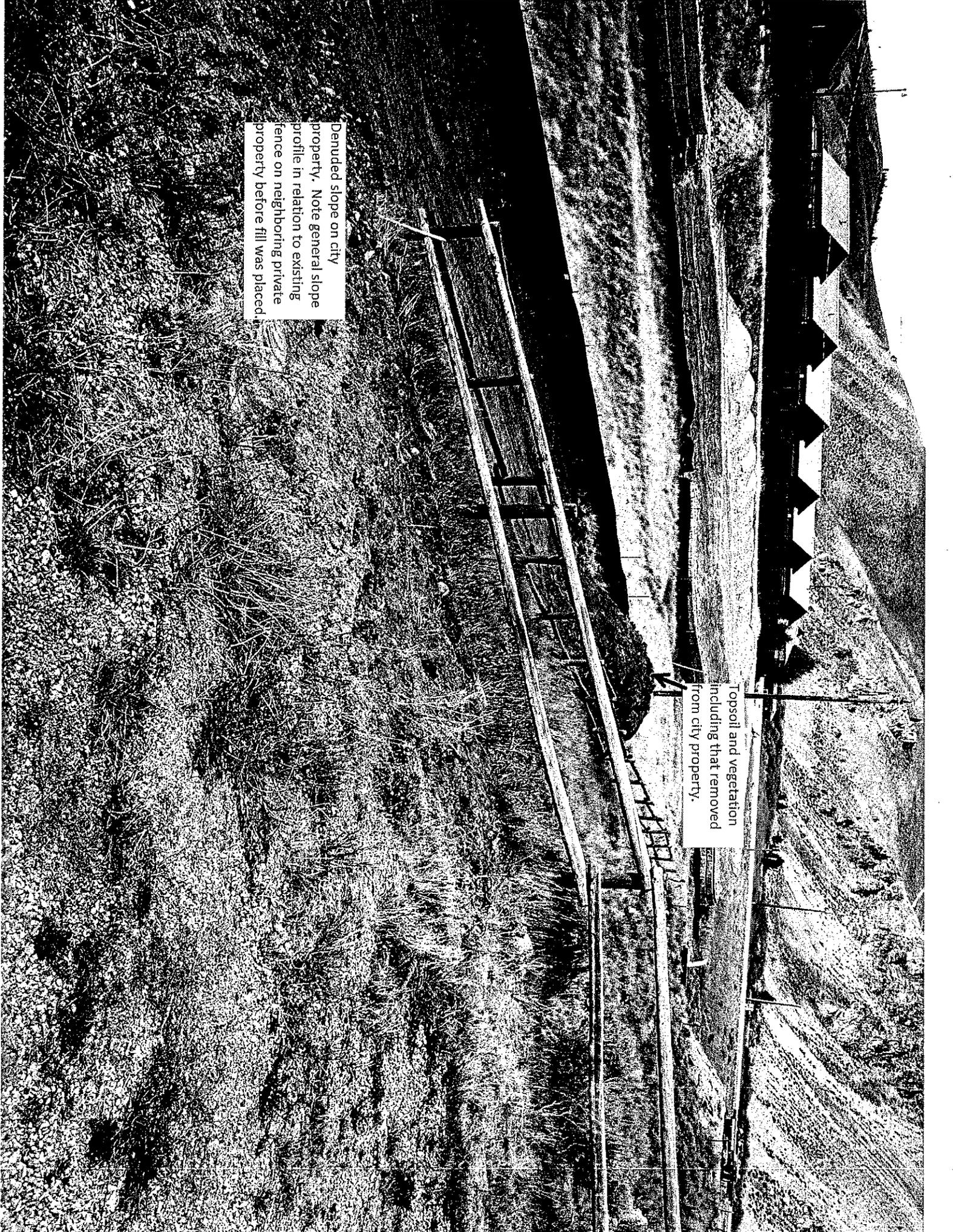




Fill on city property. Note height in relation to fence, especially at the corner at the bottom of the slope. Fill goes all the way up to barricades.

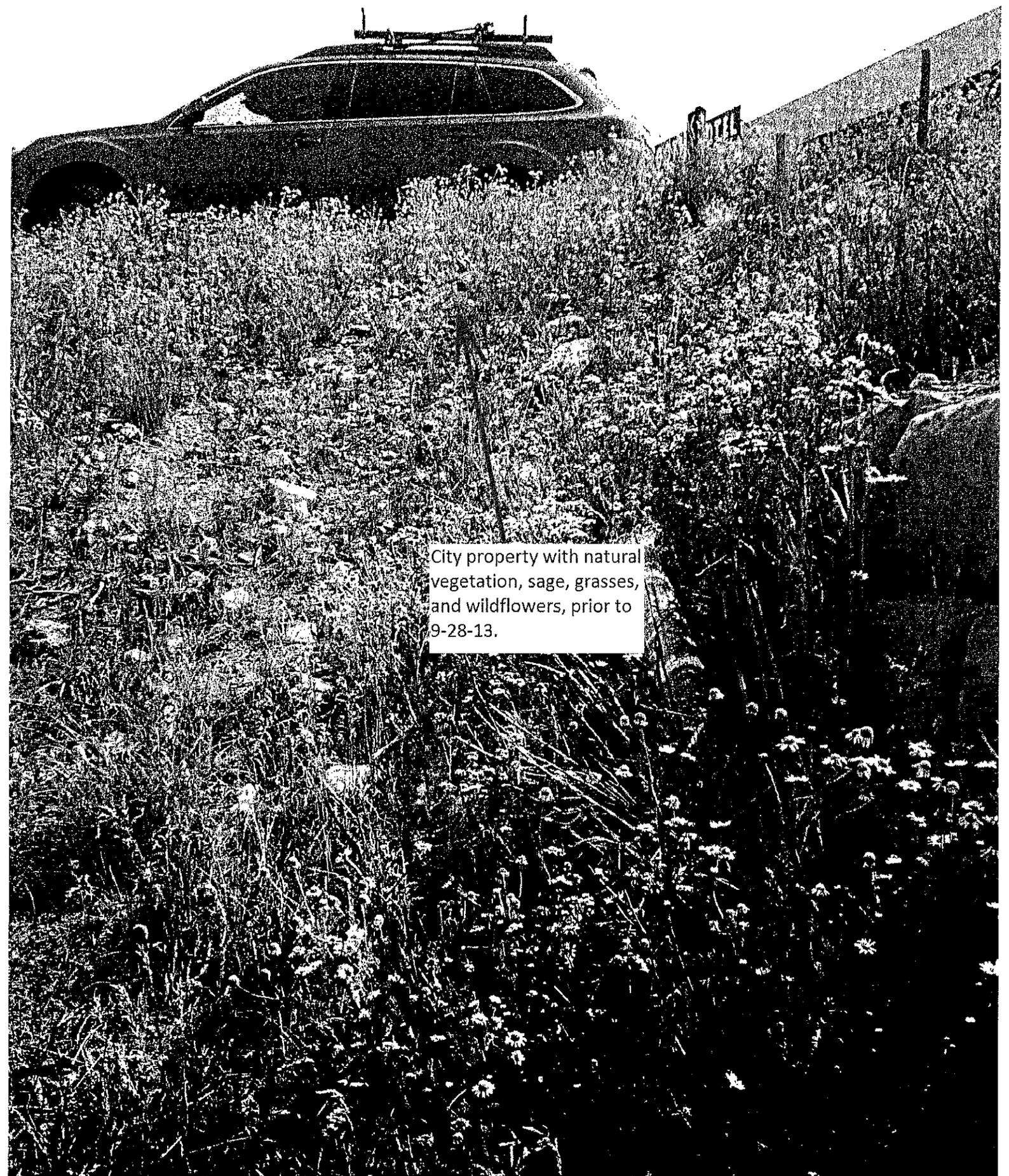
Neighboring private property not owned by the Arnolds.





Denuded slope on city property. Note general slope profile in relation to existing fence on neighboring private property before fill was placed.

Topsoil and vegetation including that removed from city property.



City property with natural
vegetation, sage, grasses,
and wildflowers, prior to
9-28-13.

BEFORE THE CITY COUNCIL OF THE CITY OF STANLEY, IDAHO

In the matter of:)	
)	
)	
BUILDING PERMIT 831,)	FINDINGS OF FACT AND
)	CONCLUSIONS OF LAW
Rebecca and Thomas Arnold,)	
)	
Applicants.)	
_____)	

This matter came before the City Council of the City of Stanley, Idaho, for consideration on February 13, at a duly noticed public meeting. Having reviewed the application and associated information, the City Council hereby issues the following findings of fact and conclusions of law. The application is denied.

I. FINDINGS OF FACT

A. Project Summary

This application is for the issuance of building permit #831 pertaining to Lot 5 of the Mountain View Subdivision¹. This is one of several building permits issued for development of this particular lot, which is subject to the approved preliminary and final plat of the Mountain View Subdivision; all on file at the City. In some respects this application reiterates the already issued and still valid Building Permit 789², which permits the applicant to proceed with excavation, grading and fill material and for the construction of an access road on Lot 5 consistent with the Mountain View Subdivision Plat. This building permit is valid until May, 2014. Building Permit 831 differs substantially from Building Permit 789 in other respects.

¹ Attached. The preliminary plat for the Mountain View subdivision was approved at a meeting of the City Council on September 13, 2006. The final plat for the Mountain View subdivision was signed by the then-City Clerk on April 11, 2007.

² Attached. Building Permit 789 is essentially a reissuance of building permits 690 – 690-R2.

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Building Permit 789 allows for the construction of an access road contained entirely on the Applicant's property pursuant to the approved preliminary plat approval for the Mountain View Subdivision. In contrast, the application for building permit 831 shows an entirely new access connecting to Ace of Diamonds Street; an access which is not contemplated in the preliminary plat. Further, Building Permit 831 shows cross hatching on the city's right-of-way merely providing that Ace of Diamonds is to be "graveled" and that "gravel to be placed as needed to provide access to/from the property to/from Ace of Diamonds by all types of vehicles". The application fails to address the utilization of fill material (other than gravel) on Ace of Diamonds nor does it demonstrate the satisfaction of any and all applicable road or fill standards.

As depicted on the approved plat for the Mountain View Subdivision, Lot 5 has clearly been granted access on its north-west side via an access road depicted along the western edge of Lot 6. This is further reiterated in prior building permit approvals (BP # 690, 690R-1³, 744, etc) wherein access and utilities are clearly depicted along this western edge.

Building Permit 831 diverges from these prior approvals by seeking to access the eastern edge of Lot 5 from the west end of Ace of Diamonds street. This is not depicted on the approved Mountain View Plat and an application to amend the plat has not been submitted. Further, there is a considerable change in elevation (steep downslope) between Ace of Diamonds and Lot 5. The applicant contends that merely because she is permitted to build an access road on *her*

³ Permit 690 was approved, with conditions, at a public meeting of the City Council of the City of Stanley on November 8, 2006. Permit 690 was renewed, thus becoming designated as 690R-1 at a public meeting of the City Council on November 14, 2007. Building permit 690R-2 was approved on or about May 11, 2010. That permit sought the following work:

No structure; excavation, grading and fill material, construction of Mountain View Subdivision Utilities (underground); silt fencing and/or retaining walls ...; *construction of access roads; utilities, etc. to be installed per preliminary plat approval for Mountain View Subdivision.*

Emphasis added. Permit 789 was approved (and renewed as 789-R2 on May 14, 2013) which encompassed the work sought to be accomplished in 690R-2. Building Permit 789-R2 is valid through May 12, 2014.

property, she is entitled to place great quantities of fill material on the City's right of way changing the slope of Ace of Diamonds as an incidental right. The Applicant submitted the application without drawings or sketches or other details necessary to clarify what was proposed to be done on the City's right of way. Further, the Applicant submitted the application without any details or engineered plans pertaining to fill material, setbacks, slope stabilization, drainage, etc. thereby potentially jeopardizing the public health and safety.

Incidental to this Application is the fact that the Applicant has already begun construction placing great amounts of fill into the City Right of Way without prior approval.

B. Site Data

1. Location

The area to which this project applies is the Mountain View subdivision, approximately 4.88 acres located south of Highway 21 and east of Benner Street.

2. Current use (including zoning)

The land is a platted subdivision consisting of seven lots located within the Commercial and Residential A Districts. No homes or structures of any kind currently exist on the property. Some road construction along with grading, excavation, fill work, underground utilities, and retaining walls has been started, but is as yet uncompleted. Silt fencing has also been placed along the creek to keep construction spoils and other materials out of wetland areas.

3. Public uses

There are no public uses on this property.

4. Public services

The area is served by the Sawtooth Valley Rural Fire District, Stanley-area volunteer E.M.S., the Salmon River Clinic, and the Stanley Sewer Association.

5. Special features

The subdivision is partially impacted by a FEMA "A" flood zone. The subdivision is characterized by slopes that may exceed 15 per cent and this particular slope from Ace of Diamonds is quite steep in nature although the Applicant has not provided this information.

F. Responses from Affected Jurisdictions and/or Agencies

None.

G. Information and Testimony Submitted by the Public

None.

H. Additional Information Submitted by the Applicant

In response to the City's enforcement efforts to require the Applicant to remove the fill material placed on the City's right of way, the Applicant submitted numerous emails and correspondence essentially claiming she had the right to place the access road wherever she wished to do so and could modify adjacent properties including the City's as needed as an incidental right in order to complete the access road with proper grades etc.

Specifically, the Applicant did not provide any information demonstrating that should she be permitted to build an access road connecting to Ace of Diamonds, necessitating modifying the City's right of way; that said construction would be accomplished with adequate consideration of hillside stabilization, drainage, fill material and compaction, setback of fill from neighboring properties, access road setback from top of fill slope as defined in the SMC or other sound engineering basis. All of these emails, correspondence, etc. are on file with the City.

I. Relevant Standards

1. Constitutional and statutory standards

The authority to issue building permits of the type here is grounded in the City's constitutional and statutory powers to protect the health, safety, and welfare of its inhabitants. *See, e.g.,* Idaho Const. art. XII, § 2; I.C. § 50-301. It should be noted that the issuance or denial of a building permit does not constitute an application for a subdivision, variance, special use permit or other such similar application authorized pursuant to the Idaho Local Land Use Planning Act, I.C. §§ 67-6501 *et seq.* (hereinafter "LLUPA")

2. Local standards

Stanley Municipal Code (hereinafter "SMC") 15.04 governs the process for the issuance of a building permit. SMC 15.04.010 provides that "[n]o ... lot [shall] be excavated for ... roads... nor shall fill be placed on any lot, nor shall any lot be cleared, or fenced unless a building permit therefor has been issued by the city council." Further the Code requires that a "Permittee shall follow good engineering practices relating to fill compaction for structural support and for preventing collapse and/or erosion of fill not used for structural support." *Id.* The application additionally must include "[d]evelopment and construction drawings and technical support material ... in sufficient detail to allow a technical or engineering review to determine whether the proposed development complies with all zoning requirements". SMC 15.04.020. In all other respects, building permits must comply with all relevant SMC provisions. In general, the City considers the following titles of the SMC relevant to this application: Titles 16 (subdivision) and 17 (zoning).

II. CONCLUSIONS OF LAW

The City has jurisdiction over this matter pursuant to its authority under the constitutional, statutory, and ordinance provisions cited above. This proceeding complies with all state open meeting and other notice provisions. The information and fee required by SMC § 17.56.02 have been supplied and are deemed adequate to allow the City to render a decision on the application. All notices required by statute and SMC have complied with state law.

This decision is based on the information and testimony compiled during the application process for permit numbers 690, 690R-1, 690R-2, 789, 831 and the Mountain View subdivision. It is also based on the statutes, constitutional provisions, and ordinances discussed herein. The interpretation and application of a city's ordinance is within the City's reasoned discretion.

The City denies the application for Building Permit 831 on the basis that the application fails to comply with the Stanley Municipal Code and the aforementioned Mountain View Subdivision Plat. First, the installation of an access road at this location to access Lot 5 is inconsistent with the approved Mountain View Subdivision Plat and prior approved building permits; all of which depict access on Lot 5's north-west side along the western edge of Lot 6. The Applicant has not sought to amend the preliminary plat nor seeks a variance, etc. if the proposed lot access has become unacceptable. Applicant appears to present the argument that because she has already installed improvements inconsistent with her preliminary plat and without prior approval; she has the inherent right to continue to do so pursuant to the City's acquiescence. This is not a valid argument.

Second, the Applicant's building permit application is not limited to construction of an access road upon her own property, but rather seeks to render improvements on adjacent property; i.e. the City's right of way. In the absence of an amended preliminary plat /

development agreement with the City, the Applicant may not change the point of access to her property nor render modifications to the property not her own. There is no incidental right to modify the city's right-of-way nor is a building permit the proper medium in which to grant the applicant the right to modify property not her own.

Third, even if such approval were to be granted, the Applicant has failed to provide the technical information necessary to even evaluate her request. The difference in elevation between that portion of Lot 5 and Ace of Diamonds Street is considerable. That portion of Lot 5 is in a ravine; the historical drainage for that entire region. In contravention of SMC 15.04.020, the Applicant submitted its application bereft of any information pertaining to hillside stabilization, drainage, fill material and proposed compaction, slope of fill, retaining walls (if applicable), setback of the fill from neighboring properties, and access road setback from top of fill slope, enabling the Council to conduct a review to determine whether the proposed improvements comply with good engineering practice or the Stanley Municipal Code.⁴ In the absence of such information, the City has no way to determine if the work sought to be performed would comply with good engineering standards ensuring the protection of the public health and safety of its citizenry. The work already performed at the location does not, as it threatens to affect the adjacent private property to the north of Ace of Diamonds among other potential deficiencies.

⁴ See SMC 16.08.190, SMC 16.36.060, 17.40.32.D governing slope standards and building on a slope.

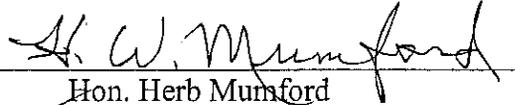
ORIGINAL IN RED

III. DECISION

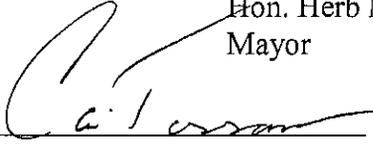
The application for building permit #831 is hereby denied.

Approved this 31st day of March 2014.

CITY OF STANLEY, IDAHO



Hon. Herb Mumford
Mayor

Attest: 
Cari Tassano
City Clerk

Date: 3-31-14

APPROVED