

## TEMPORARY CONSTRUCTION ACCESS EASEMENT AGREEMENT

**THIS TEMPORARY CONSTRUCTION ACCESS EASEMENT AGREEMENT** (this "Agreement") is entered into this \_\_\_th day of March, 2023, by **Lyons Valley Townhomes, LP**, whose legal address is 2525 Palmer Street, Suite 1, Missoula, MT 59808 (collectively, the "Grantee"), and the **TOWN OF LYONS**, a statutory municipality of the State of Colorado, whose address is 432 5<sup>th</sup> Avenue, Lyons, CO 80540 ("Town" or "Grantor") (collectively, the "Parties").

In consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, and the further consideration of the covenants and agreements set forth below, Grantor hereby sells, conveys, transfers, and delivers to the Grantee its contractors, consultants, subcontractors, subconsultants, materialmen, suppliers, workers, successor and assigns, a non-exclusive Temporary Construction Access Easement (the "Temporary Construction Easement") for the real property described in **Exhibit A**, a copy of which is attached and incorporated by this reference (the "Temporary Easement Property"), to facilitate the Developers grading of Lots 29-17 on Town Property in the vicinity of the Temporary Easement Property (the "Project").

This Temporary Construction Easement is granted in accordance with, and subject to, the following terms, conditions, requirements, and limitations:

1. The Temporary Construction Easement is granted for the purpose of grading the Temporary Easement Property as depicted on the attached **Exhibit B**, a copy of which is attached hereto and incorporated by reference. Grantee is specifically permitted to grade no more than twenty-five feet into the Temporary Easement Property. Grantee is prohibited from grading the portion of the Temporary Easement Property occupied by the South Ledge Ditch and 20 feet on either side of the ditch as measured from the centerline of the ditch. For the purposes of performing the grading Grantee is also permitted vehicular and pedestrian ingress and egress to and from the Temporary Easement Property and for Grantee's use to do all things reasonably necessary to grade the Temporary Easement Property including, but not limited to, the transport, stockpiling and storage of construction materials, soil, equipment and vehicles.

2. Upon expiration of the Temporary Construction Easement, Grantee, at its sole cost and expense, shall restore the Temporary Easement Property to substantially the same condition it was in prior to Grantee's use with topsoil and seed; provided, however, that trees and shrubs and other vegetation will not be replaced. Grantee shall re-seed the Temporary Easement Property, at Grantee's sole cost and expense, with the seed mix and soil amendments provided by Grantor as listed in the attached **Exhibit C**, a copy of which is attached hereto and incorporated by reference. Grantee shall not leave any rubbish or debris on or about the Temporary Easement Property. The term of this Agreement shall begin upon the date of mutual execution hereof and shall extend until June 30, 2023, or until the Project has been completed, whichever first occurs. Grantee may extend the Temporary Construction Easement for one (1) additional Three (3) month period (September 30, 2023) by giving written notice to Grantor on or before June 30, 2023.

3. Upon termination of this Agreement, all covenants in this instrument are released (other than Grantee's restoration obligations set forth in Paragraph 1, , and the cost recovery provision set forth in Paragraph 13, all of which shall survive the expiration or termination of this Agreement) and the Temporary Easement Property shall be considered free and clear of any restriction or any right or privilege attaching to the grant of the Temporary Construction Easement set forth in this Agreement. Upon request by Grantor, Grantee shall execute any documents reasonably requested by Grantee to confirm the termination of this Agreement.

4. Grantor covenants and agrees that it is the fee owner of the Temporary Easement Property and that it has the authority to grant this Temporary Construction Easement to the Grantee.

5. Grantor reserves all rights attendant to its ownership of the Temporary Easement Property, including but not limited to the use and enjoyment of the Temporary Easement Property for all purposes not inconsistent with the terms and conditions of this Agreement.

6. All notices provided for herein shall be in writing and shall be personally delivered or mailed by registered or certified United States mail, postage prepaid, return receipt requested, to the parties at the addresses given below or at such other address that may be specified by written notice in accordance with this paragraph:

If to Grantor:

Lyons Valley Townhomes, LP  
2525 Palmer Street, Suite 1,  
Missoula, MT 59808

If to Grantee:

Town of Lyons  
Attn: <sup>th</sup> Town Administrator  
432 5 Avenue  
P.O. Box 49  
Lyons, CO 80540

With a copy to:

Town of Lyons

Town Attorney  
c/o Kissinger & Fellman, P.C.  
3773 Cherry Creek N Dr Ste 900,  
Denver, CO 80209

7. This Agreement represents the entire agreement between Grantor and Grantee as relates to the Temporary Construction Easement and supersedes all prior negotiations, representations,

or agreements, either written or oral. Any amendments to this Agreement must be in writing and signed by both the Mayor and the Grantor.

8. Each and every term, condition, or covenant of this Agreement is subject to and shall be construed in accordance with the provisions of Colorado law. Venue for any action arising out of this Agreement shall be in the District Court in the County of Boulder, Colorado.

9. The benefits and burdens of the Temporary Construction Easement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

10. This Agreement shall not be recorded but shall nevertheless become effective upon full execution by all parties and delivery of same to the Grantee.

11. In the event of litigation between the parties in connection with this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs from the non-prevailing party. The obligation in the immediately preceding sentence shall survive any termination or expiration of this Agreement.

12. Nothing in this Agreement in no way waives or limits Grantees rights under the Colorado Governmental Immunity Act, C.R.S. § 24-20-101, et. seq.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the day and year first set forth above.

**GRANTEE:**

  
\_\_\_\_\_  
Lyons Valley Townhomes, LP

**GRANTOR:**

**TOWN OF LYONS, COLORADO**

By: \_\_\_\_\_  
Hollie Rogin, Mayor

Attest: \_\_\_\_\_  
Dolores Vasquez, Town Clerk

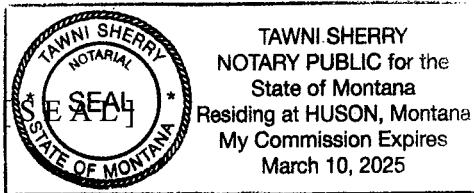
[Notary blocks for all signatories to this document follow].

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF Missoula

The foregoing instrument was acknowledged before me this 17 day of March, 2023, by **Paul Capps**.

Witness my hand and official seal.

My commission expires: March 10, 2025



Tawni Sherry

Notary Public

[illegible]

The foregoing instrument was subscribed to and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by **Hollie Rogin** as the Mayor of the TOWN OF LYONS, COLORADO, for and on behalf of the Town.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

[SEAL]

Notary Public



# Property Report for Account R0515223

Today's Date: 3/12/2023

No picture available

Property Address: 0 CARTER DR  
City: LYONS  
Owner: TOWN OF LYONS  
Parcel Number: 120320210009  
Mailing Address: P O BOX 49  
City, State, Zip: LYONS CO, 80540-0049  
Sec-Town-Range: 20 -3N -70  
Subdivision: LYONS VALLEY PARK FLG 8 - LY  
Jurisdiction: Lyons  
Legal Description: OUTLOT B LYONS VALLEY PARK 8  
Square Feet: 380,195  
Acres: 8.73




## Deeds

Deed#	Sale Date	Recorded	Sale Price
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[illegible]

1. EXIST. CURB STREET SIDEWALK SIDEWALK CONCRETE 2" THICK. DASHED AREA INDICATES TO BE RECONSTRUCTED WITH PUBLIC SIDEWALK. DOTTED AREA INDICATES TO BE CONSIDERED WITH PUBLIC SIDEWALK.
2. EXISTING CONCRETE SIDEWALK TO REMAIN
3. PROPOSED 4" CONCRETE SIDEWALK
4. PROPOSED 4" CONCRETE SIDEWALK
5. PROPOSED 4" CONCRETE SIDEWALK
6. PROPOSED 4" CONCRETE SIDEWALK
7. LANDSCAPE GRAVEL WITH EXPOSURE FOR JUNE 2008 RE. LANDSCAPE
8. MATCH GRADE AT BACK OF WALK
9. EXISTING SIDEWALK TO REMAIN. DOTTED AREA INDICATES TO BE PART OF EXISTING SIDEWALK
10. CONCRETE TO EXISTING 3/4" WATER STOP, METAL AND METAL PLATE
11. EXISTING SIDEWALK TO REMAIN. DOTTED AREA INDICATES TO BE PART OF EXISTING SIDEWALK
12. EXISTING SIDEWALK TO REMAIN. DOTTED AREA INDICATES TO BE PART OF EXISTING SIDEWALK
13. PROPOSED STREET LIGHT
14. EXISTING SIDEWALK TO REMAIN. DOTTED AREA INDICATES TO BE PART OF EXISTING SIDEWALK
15. PROPOSED DRAINAGE SHALE
16. PROPOSED CUT AT 2.1' SLOPE FOR GEOTECHNICAL REPORT

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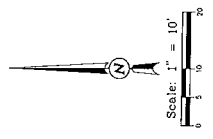




**Engineering & Design**  
 Robert C. Lyons  
 2020 17 1102

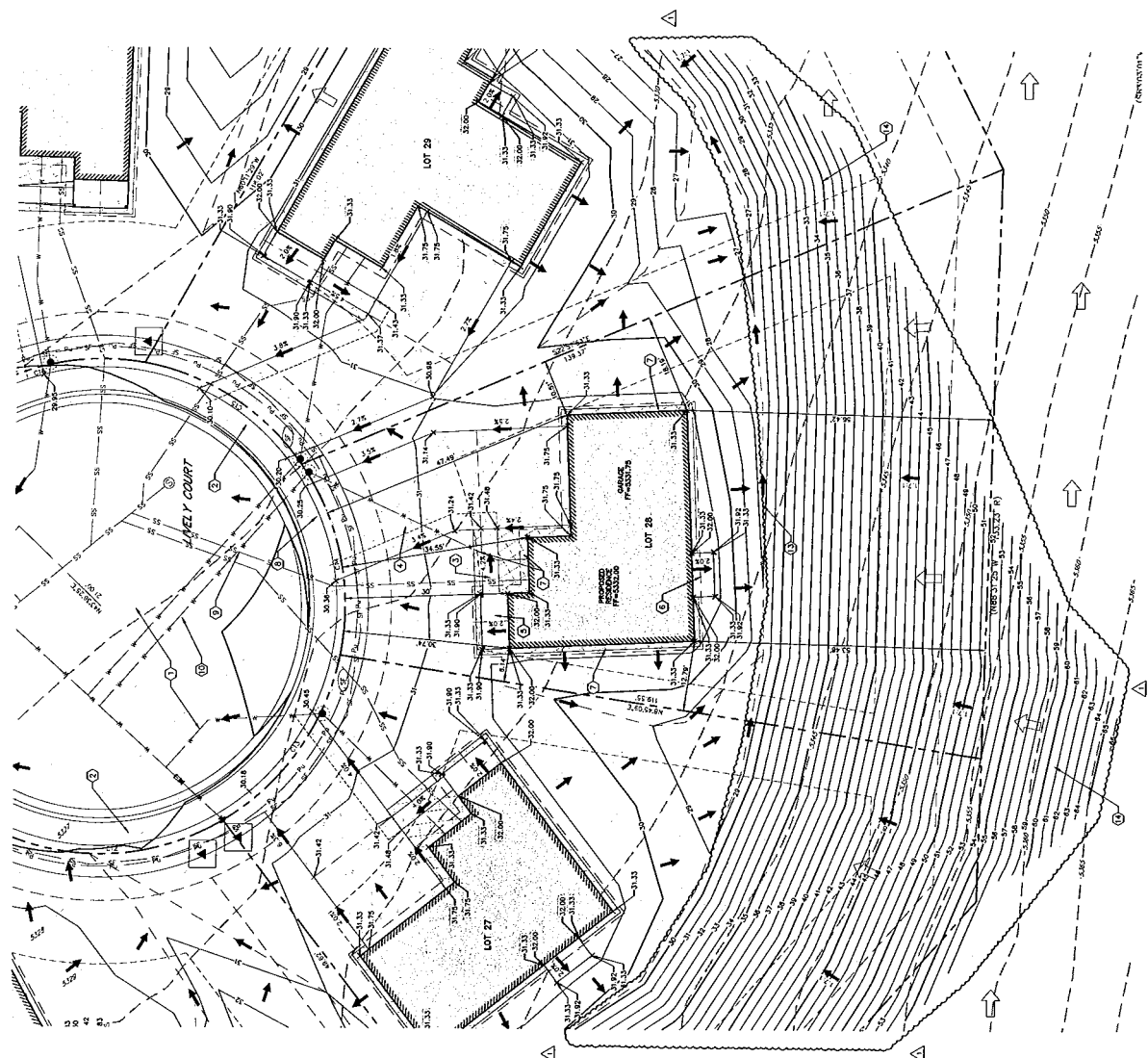
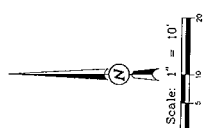
**LYONS VALLEY TOWNHOMES**  
 A NEW 40 UNIT AFFORDABLE HOUSING PROJECT  
 LYONS, CO  
 SINGLE FAMILY BUILDINGS - LOT 29

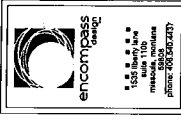
**GRADING PLAN**  
 03/20/20  
 11/14/20  
 02/04/2020  
 03/20/20

**C1.01**









LYONS, CO  
SINGLE FAMILY BUILDINGS - LOT 27  
A NEW 40 UNIT AFFORDABLE HOUSING PROJECT

PROJECT NO. 2017-001  
DATE: 11/16/2017  
DRAWN BY: J. L. LEE  
CHECKED BY: J. L. LEE  
DATE: 06/16/2018

GRADING  
PLAN

C1.01

LEGEND

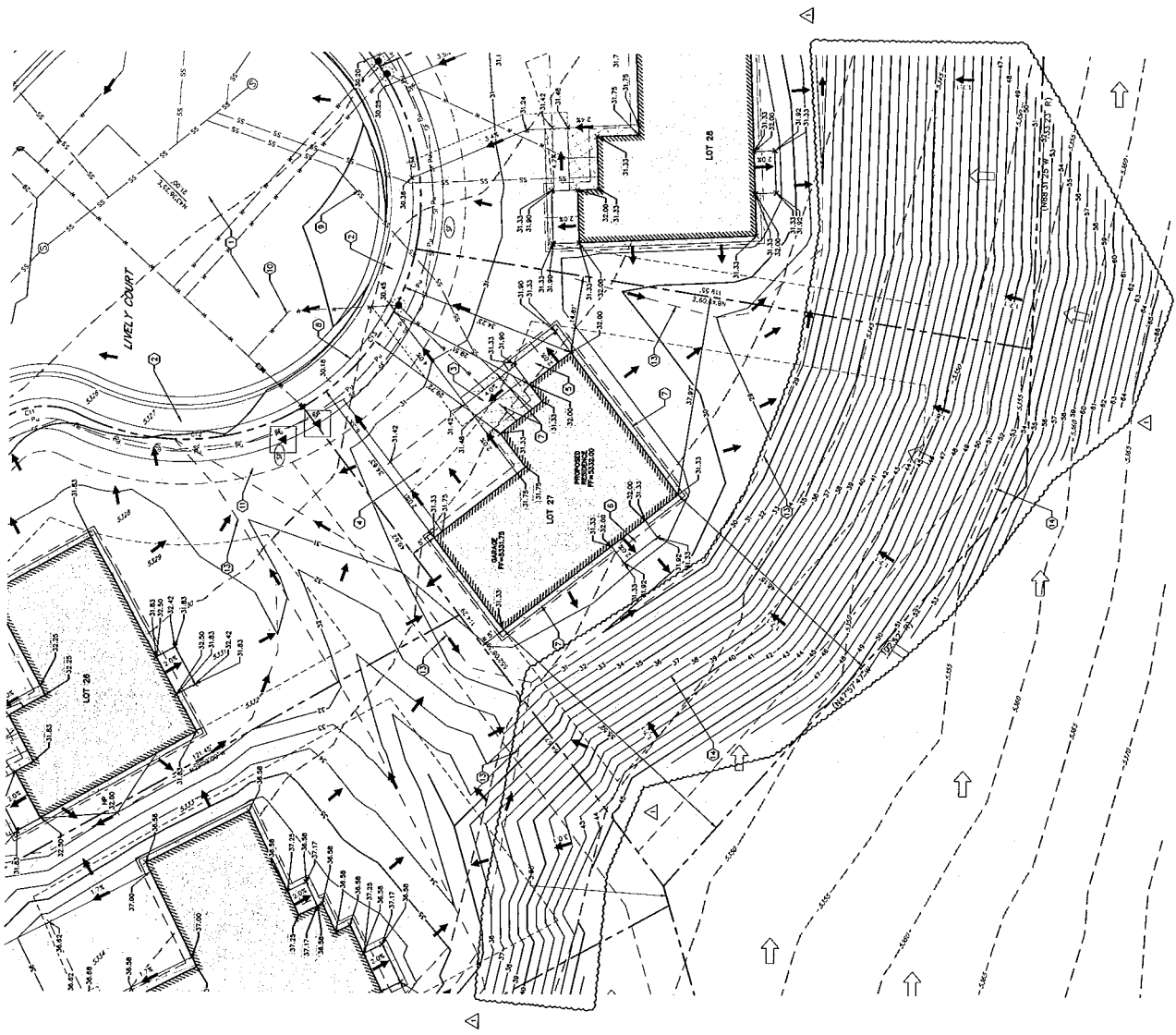
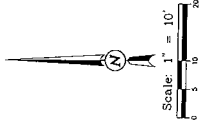
- EXISTING CONTOUR
- EXISTING WATER VALVE
- EXISTING WATER METER
- CONTROL POINT
- EXISTING POWER POLE
- EXISTING FIRE HYDRANT
- EXISTING FENCE
- EXISTING UNDERGROUND POWER LINE
- EXISTING SANITARY SEWER MANHOLE
- EXISTING WATER W/RE HYDRANT
- EXISTING STORM SEWER MANHOLE
- PROPOSED CONTOUR
- PROPOSED SANITARY SEWER
- PROPOSED WATER W/RE
- PROPOSED POWER POLE
- PROPOSED FIRE HYDRANT
- PROPOSED FENCE
- PROPOSED UNDERGROUND POWER LINE
- PROPOSED SANITARY SEWER MANHOLE
- PROPOSED WATER W/RE HYDRANT
- PROPOSED STORM SEWER MANHOLE
- PROPOSED SPOT ELEVATION
- PROPOSED SHEET ELEVATION
- PROPOSED FLOW DIRECTION

KEYED NOTES

1. EXISTING CONTOUR SHALL BE SET AT LEAST 8" ABOVE THE PROPOSED FINISH GRADE AT THE EXTENSION OF THE FORMATION AREAS.
2. EXISTING CONTOUR SHALL BE SET AT LEAST 8" ABOVE THE PROPOSED FINISH GRADE AT THE EXTENSION OF THE FORMATION AREAS.
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14. EXISTING CONTOUR SHALL BE SET AT LEAST 8" ABOVE THE PROPOSED FINISH GRADE AT THE EXTENSION OF THE FORMATION AREAS.

GRADING NOTES

1. GRADE AWAY FROM BUILDINGS AT A MINIMUM 2% SLOPE IN THE FIRST 10 FEET AT THE EXTERIOR OF THE FOUNDATION AREAS.
2. TOP OF FOUNDATION ELEVATION SHALL BE SET AT LEAST 8" ABOVE THE PROPOSED FINISH GRADE AT THE EXTENSION OF THE FORMATION AREAS.
3. EXISTING CONTOUR SHALL BE SET AT LEAST 8" ABOVE THE PROPOSED FINISH GRADE AT THE EXTENSION OF THE FORMATION AREAS.
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13. EXISTING CONTOUR SHALL BE SET AT LEAST 8" ABOVE THE PROPOSED FINISH GRADE AT THE EXTENSION OF THE FORMATION AREAS.
14. EXISTING CONTOUR SHALL BE SET AT LEAST 8" ABOVE THE PROPOSED FINISH GRADE AT THE EXTENSION OF THE FORMATION AREAS.





Scale:  $1'' = 10'$



# LYONS VALLEY TOWNHOMES

A NEW 40 UNIT AFFORDABLE HOUSING PROJECT  
SINGLE FAMILY BUILDINGS - LOT 25  
LYONS, CO

PERMIT SET: 03.23.2021  
TOWN ID: 11.19.2021  
DRAINAGE DESIGN: 08.18.2022

PROJECT NO.: 15.171  
OWNER: LYONS VALLEY TOWNHOMES

C1.01

## LEGEND

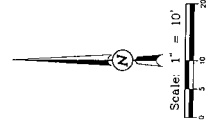
- EXISTING CONTOUR
- EXISTING WATER VALVE
- EXISTING WATER METER
- CONTROL POINT
- EXISTING PUMP POLE
- EXISTING FIRE HYDRANT
- EXISTING FENCE
- EXISTING UNDERGROUND POWER LINE
- EXISTING SANITARY SEWER MANHOLE
- EXISTING WATER W/RE HYDRANT
- EXISTING STORM SEWER MANHOLE
- PROPOSED CONTOUR
- PROPOSED SANITARY SEWER
- PROPOSED WATER MAIN
- MEETS EXISTING GRADE
- PROPOSED SPOT ELEVATION
- ADD 5.00 TO ALL SPOT ELEVATIONS
- EXISTING SPOT ELEVATION
- EXISTING FLOW DIRECTION
- PROPOSED FLOW DIRECTION

## KEYED NOTES

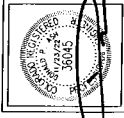
1. CONTOUR INTERVALS SHALL BE 2' UNLESS OTHERWISE NOTED.
2. PROPOSED CONCRETE STAIR TO NEARBY
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6. PROPOSED CONCRETE STAIR TO NEARBY
7. PROPOSED CONCRETE STAIR TO NEARBY
8. MATCH GRADE AT BACK OF WALK
9. TOP OF EXISTING SANITARY SEWER SHALL BE INSTALLED AS PART OF
10. CONNECT TO EXISTING 14" WATER MAIN, WATER METER AND WATER PIT
11. INSTALLED AS PART OF THE CENTER DRINK PUBLIC IMPROVEMENT PLANS
12. PROPOSED ELECTRICAL TRANSFORMER
13. PROPOSED BRANCH SHALE
14. PROPOSED CUT AT 2:1 SLOPE PER GEOTECHNICAL REPORT.

## GRADING NOTES

1. GRADE AWAY FROM BUILDINGS AT A MINIMUM 10% SLOPE IN THE FIRST 10 FEET AT
2. TOP OF FOUNDATION ELEVATIONS SHALL BE SET AT LEAST 8" ABOVE THE PROPOSED
3. DRAINAGE AT THE EXTERIOR OF THE FOUNDATION AT LANDSCAPE AREAS
4. ALL WAREHOUSES SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE TOWN
5. THE LOCATION OF THE ABOVE GROUND UTILITIES SHOWN HEREON ARE BASED ON
6. THE RECORD DRAWINGS OF THE UNDERGROUND UTILITIES SHOWN HEREON ARE BASED ON
7. THE RECORD DRAWINGS OF THE UNDERGROUND UTILITIES SHOWN HEREON ARE BASED ON
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40. THE RECORD DRAWINGS OF THE UNDERGROUND UTILITIES SHOWN HEREON ARE BASED ON







enconpass  
Engineering  
1000 N. W. 10th St.  
Miami, FL 33136  
Phone: 305.555.1234



# LYONS VALLEY TOWNHOMES SINGLE FAMILY BUILDINGS - LOT 23

DATE: 03.22.2021  
BY: JLD  
CHECKED: JLD  
DATE: 03.22.2021

GRADING  
PLAN

C1.01

## LEGEND

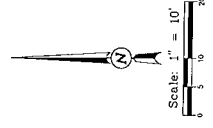
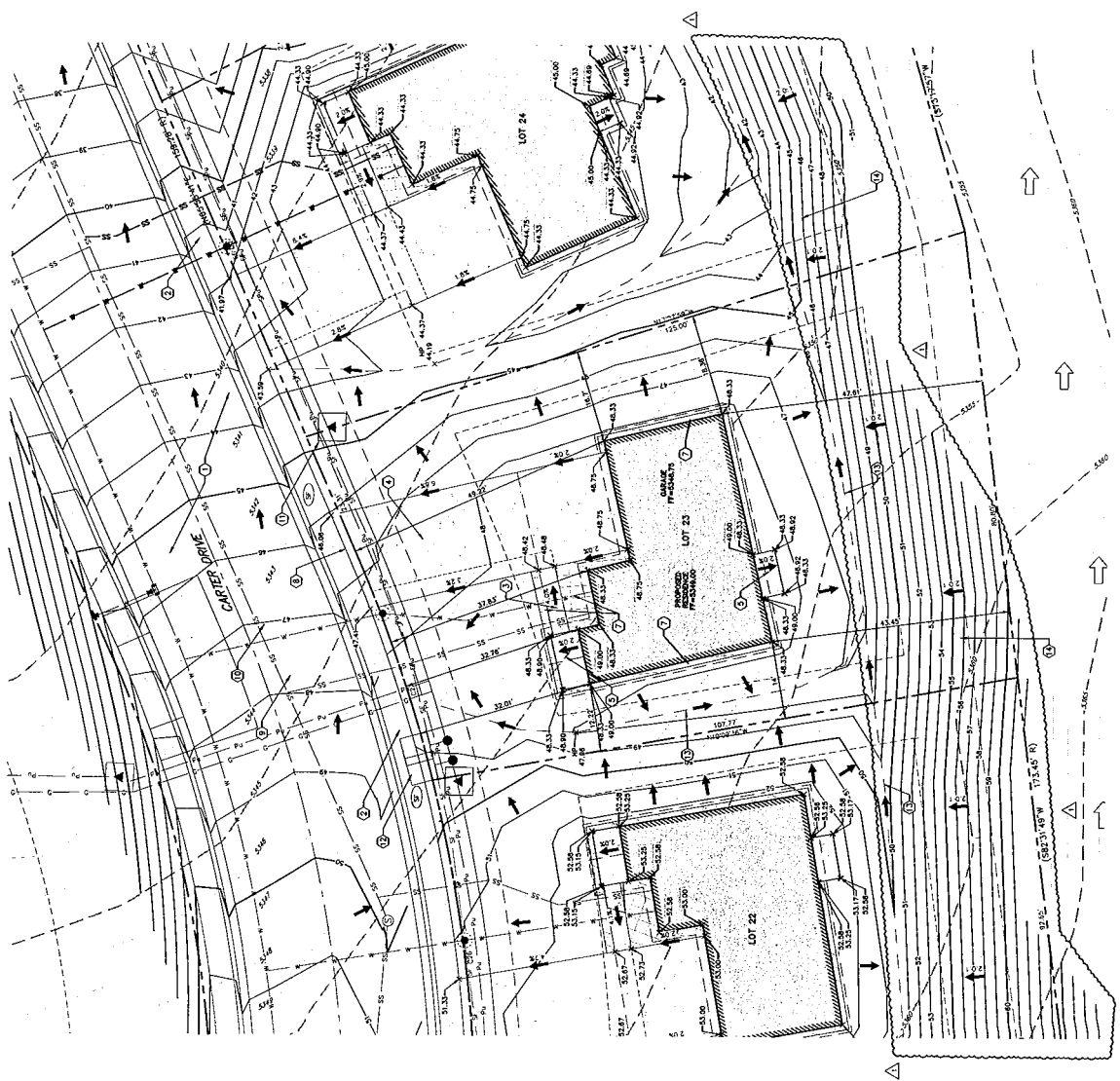
- EXISTING CENTERLINE
- EXISTING WATER VALVE
- EXISTING WATER METER
- CONTROL POINT
- EXISTING POND POLE
- EXISTING FIRE HYDRANT
- EXISTING FENCE
- EXISTING UNDERGROUND POWER LINE
- EXISTING SANITARY SEWER MAIN/POLE
- EXISTING WATER W/RE HYDRANT
- EXISTING STORM SEWER MAIN/POLE
- EXISTING CONCRETE DRIVEWAY
- POINT WHERE PROPOSED GRADE MEETS EXISTING GRADE
- PROPOSED SPOT ELEVATION
- ADD 500 TO ALL SPOT ELEVATIONS
- EXISTING SHEET ELEVATION
- PROPOSED FLOW DIRECTION

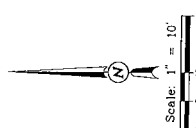
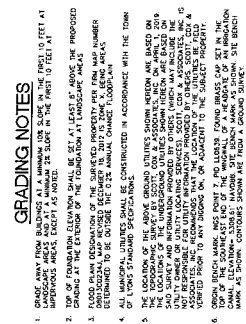
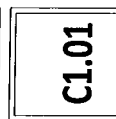
## KEYED NOTES

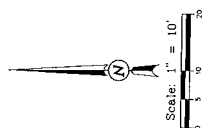
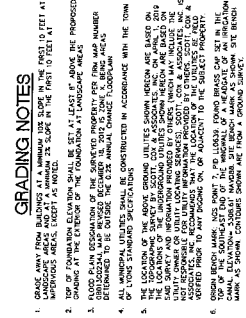
1. CATCH BASIN, 18" DIA. SET IN PLACE AT THE INTERSECTION OF THE PROPOSED DRIVEWAY AND THE EXISTING DRIVEWAY. SEE NOTE 14 FOR DETAILS.
2. EXISTING CONCRETE DRIVEWAY TO REMAIN.
3. PROPOSED 4" CONCRETE DRIVEWAY.
4. PROPOSED 4" CONCRETE DRIVEWAY.
5. PROPOSED CONCRETE DRIVEWAY.
6. MATCH GRADE AT BACK OF YARD.
7. LANDSCAPE DRIVEWAY WITH CURBING FOR AUTO STOP. SEE LANDSCAPE PLAN.
8. MATCH GRADE AT BACK OF YARD.
9. THE CATCH BASIN SHALL BE INSTALLED AS PART OF THE DRIVEWAY. SEE NOTE 14 FOR DETAILS.
10. CONNECT TO EXISTING 4" WATER MAIN, WATER METER AND WATER PIPING INSTALLED AS PART OF THE DRIVEWAY. SEE PUBLIC WORKS DEPARTMENT PLANS.
11. PROPOSED DRIVEWAY, 4" DIA.
12. PROPOSED DRIVEWAY, 4" DIA.
13. PROPOSED DRIVEWAY, 4" DIA.
14. PROPOSED DRIVEWAY, 4" DIA.

## GRADING NOTES

1. GRADE ANY FILL FROM BUILDING AT A MINIMUM 10% SLOPE IN THE FIRST 10 FEET AT THE BUILDING. SEE NOTE 14 FOR DETAILS.
2. TOP OF FINISH GRADE SHALL BE SET AT LEAST 8" ABOVE THE PROPOSED FINISH GRADE. SEE NOTE 14 FOR DETAILS.
3. FLOOD 6" AND ELEVATION OF THE FLOODING AT LANDSCAPE AREAS.
4. FLOOD 6" AND ELEVATION OF THE FLOODING AT LANDSCAPE AREAS.
5. FLOOD 6" AND ELEVATION OF THE FLOODING AT LANDSCAPE AREAS.
6. FLOOD 6" AND ELEVATION OF THE FLOODING AT LANDSCAPE AREAS.
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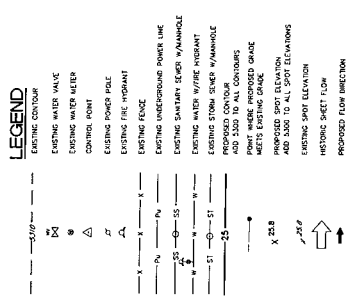










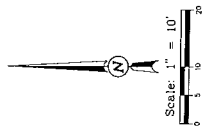


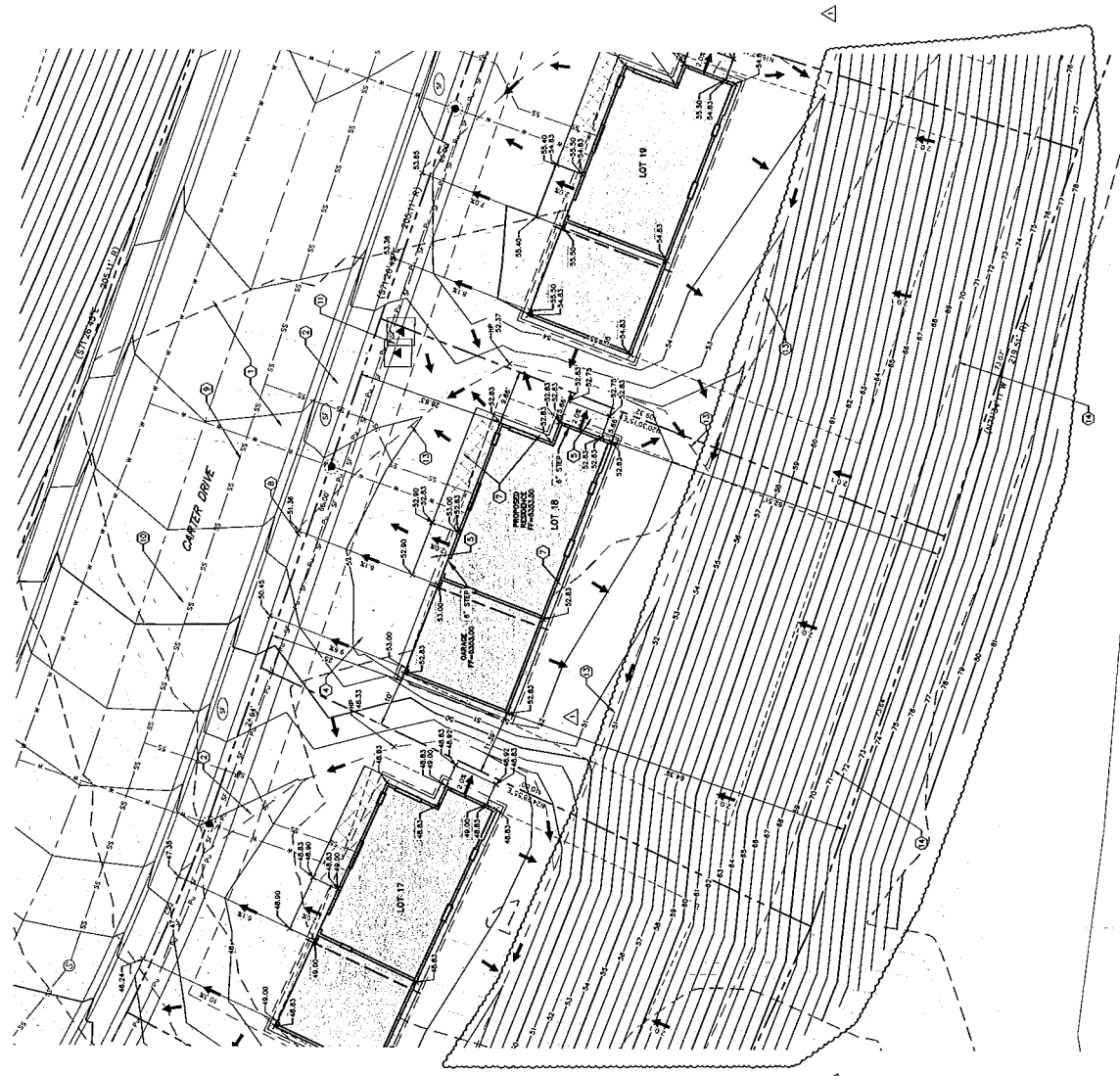
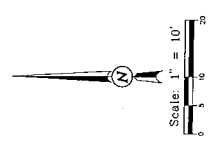
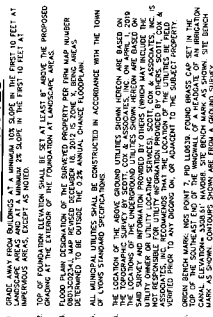
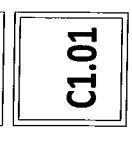
**KEYED NOTES** ①

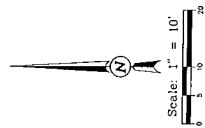
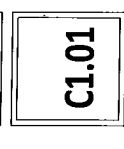
1. CURB AND SIDEWALK SECTION WITH USUAL PAVEMENT, CONCRETE OR ASPHALT, TO BE CONSTRUCTED IN ACCORDANCE WITH THE PUBLIC WORKS DEPARTMENT PLAN SET.
2. EXISTING CONCRETE SIDEWALK TO REMAIN
3. PROPOSED 4" CONCRETE SIDEWALK
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100. PROPOSED CONCRETE SIDEWALK

## GRADING NOTES

- [illegible]







## Exhibit C

Seed Mix				
Common Name	Latin name	Preferred Variety	% of mix	PLS#/Acre
<b>Grasses</b>				
Side Oats Grama	<i>Bouteloua curtipendula</i>	Vaughn	7	2.28
Blue Grama	<i>Bouteloua gracilis</i>	Native or Alma or Hachita	12	0.79
Canada Wildrye	<i>Elymus canadensis</i>	Mandan	8	3.03
Squirreltail	<i>Elymus elymoides</i>	Pueblo or Wapiti	10	3.18
Thickspike Wheatgrass	<i>Elymus lanceolatus</i>	Critana	12	3.35
Slender Wheatgrass	<i>Elymus trachycaulus</i>	San Luis	9	2.47
Little Bluestem	<i>Schizachyrium scoparium</i>	Cimarron or Pastura	8	1.34
Sand Dropseed	<i>Sporobolus cryptandrus</i>	VNS	4	0.06
Needle and Thread Grass	<i>Stipa comata</i>	VNS	10	3.79
<b>Totals</b>			<b>80</b>	<b>20.29</b>
<b>Forbs and Shrubs</b>				
Prairie Sage	<i>Artemisia ludoviciana</i>	VNS	3	0.03
Rabbitbrush	<i>Ericameria nauseosus</i>	VNS	6	0.76
Blanketflower	<i>Gaillardia aristata</i>	VNS	3	0.99
Golden Aster	<i>Heterotheca villosa</i>	VNS	4	0.25
Yellow Coneflower	<i>Ratibida columnifera</i>	VNS	4	0.14
<b>Totals</b>			<b>20</b>	<b>2.17</b>
<b>Overall Total</b>			<b>100</b>	<b>22.46</b>
VNS = Variety Not Stated - Wild Native Collections				
Rates are for broadcasting. If using seed drill, reduce rate by 50%				

All seed supplied will be in compliance with State and Federal Seed noxious weed laws, with proper labeling and documentation.

### Soil Amendments:

Soil amendment shall be composted material shall consist of aged organic matter, free of weed or other noxious plant seeds, lumps, stones, or other foreign contaminants harmful to plant life, and having the following characteristics based on a nutrient test performed no longer than 3 months prior to its incorporation into the project:

1. Organic matter: 25% maximum.
2. Salt content: 5.0 mmhos/cm maximum.
3. pH: 7.5, maximum.



4. Carbon to nitrogen ratio shall be less than 20:1.
2. Mountain peat, aspen humus, gypsum and sand will not be accepted.
3. Acceptable product: Class I compost, such as Ecogro or Bio-comp, as produced by A1 Organics, Eaton, CO, or approved equal.
4. If a site is unable to be tilled as determined by the Project Manager, then the following products shall be used as a soil conditioner:
  1. Organic slow release fertilizer (6-1-1), acceptable product: "Biosol" or approved equal.
  2. Granular Humic Acid soil conditioner, acceptable product: "Menefee Humate Soil Conditioner".
  3. Mycorrhizal Granular Inoculum. Acceptable product: "MycoApply Endo Granular.
  4. Mycorrhizal Fungi: Dry, granular inoculant containing at least 5300 spores per lb (0.45 kg) of vesicular-arbuscular mycorrhizal fungi and 95 million spores per lb (0.45 kg) of ectomycorrhizal fungi, 33 percent hydrogel, and a maximum of 5.5 percent inert material.
  5. Mycorrhizal Inoculant: AM-120, as manufactured by Reforestation Technologies International, locally available from Pawnee Buttes Seed, Greeley, CO, (970)356-7002.

Application rate: Application of soil amendments shall be at a rate of 100 CY per Acre for native seed area, and 4 cubic yards of soil amendment per 1000 SF of irrigated area.

Sod and Grass Areas: Rip or scarify compacted subgrade to a 12" depth to bond topsoil to subsoil. Place amended topsoil to a minimum depth of 8" after settlement in sod areas. After applying soil condition and fertilizer, thoroughly till area to depth of 6" minimum by plowing, rototilling, harrowing, or disking until soil is well pulverized and thoroughly mixed.

Native Grass Areas: Rip or scarify compacted subgrade to a 12" depth to bond topsoil to subsoil. Place amended topsoil to a minimum depth of 6" after settlement in native areas. After applying soil condition and fertilizer, thoroughly till area to depth of 6" minimum by plowing, rototilling, harrowing, or disking until soil is well pulverized and thoroughly mixed. Utilize an approved hydromulcher to apply cellulose fiber at a rate of 3,000 pounds per acre.