



March 13, 2026

Nathan Chavez  
Commerce City  
Planning Department  
7190 Colorado Boulevard, Suite 600  
Commerce City, CO 80022

**RE: Oxenfree  
Retaining Wall Variance  
Project No. AV25-0016  
HKS Project No. 211055**

Dear Mr. Chavez:

This letter serves as a formal request for a criteria variance related to the maximum height of retaining walls. Section 21-7735(1) of the Commerce City Municipal Code states:

“The maximum height of any retaining wall that is not attached to a primary structure and not necessary to compensate for a change in grade on the site shall not exceed four feet... A series of low retaining walls (instead of one taller retaining wall) should be used whenever possible.”

#### **Project Background**

This request pertains to the CanAm Filing Number 3 development, located at the southeast corner of East 112<sup>th</sup> Avenue and Belle Creek Boulevard. The Site is bounded by East 112<sup>th</sup> Avenue to the north, Belle Creek Boulevard to the west, State Highway 85 to the east and Belle Creek Subdivision Filing Number 2 (“Belle Creek Subdivision”) to the south.

The retaining wall proposed to exceed the maximum height allowance is located in the southwest corner of the Site, adjacent to Belle Creek Boulevard and the Belle Creek Subdivision.

The Site historically slopes from the northeast corner toward a low point along the western property boundary, along Belle Creek Boulevard. However, the Site’s sanitary sewer outfall is located to the northeast, which ultimately dictated the grading design. To accommodate the sewer outfall, a significant amount of fill material was imported to raise the southern portion of the Site- historically the low area – so that the sanitary sewer would gravity drain to the northeast, historically the high point, as required by the Water and Sanitation District. Consequently, a retaining wall is required in the southwest corner of the Site that exceeds the maximum height as permitted by code.

### **Variance Request**

Per Section 21-7735 (1), the maximum allowable retaining wall height is 4 feet. The design includes a single tier retaining wall of varying height and a maximum height of approximately 8 feet at its tallest point.

The CanAM Filing No. 3 (Phase 2) Construction Drawings, approved May 29, 2024, include approximately 1,030 linear feet of retaining wall, of which about 525 linear feet exceeds the four-foot maximum. The tallest portion of the wall is located along the southern property boundary, fronting the existing Belle Creek Subdivision detention pond. As the wall extends west towards the single-family homes along the shared property line, the height decreases and does not exceed five (5) feet behind those homes. It should also be noted that the wall adjacent to the Belle Creek Boulevard right-of-way does not exceed four (4) feet in height.

The CANAM PUD Zone Document states that a 20-foot building setback from public right-of-way to front of patio homes is required, which sets the patio homes approximately 18 feet away from the property line to the south. In order to provide the residents of the patio homes with a useable backyard and patio space, while also maintaining a consistent fence line that adheres to the approved PUD Development Permit (minimum 4' fence height), a single-tiered wall is proposed. Constructing a tiered wall at this location will result in a larger retaining area, which could present significant issues with drainage, along with structural longevity and maintenance challenges over time.

This height increase is limited to a localized area and is necessary to achieve positive drainage and ensure site functionality. The retaining wall will be designed, stamped, and constructed under the supervision of a licensed professional engineer, in full compliance with all applicable structural and safety standards.

### **Variance Approval Criteria**

Section 21-3222(3) of the Commerce City Municipal Code states that an application for a variance may be approved if:

- a. All of the following criteria are met:
  - i. The physical character of the property, including dimensions, topography or other extraordinary situation or condition of the property, create a situation where the strict enforcement of the standards in this land development code will deprive the property of privileges generally enjoyed by property of the same classification in the same zoning district (hardship);  
*As mentioned in the Project Background above, this request for a height variance for the retaining wall is due to the elevation of the existing sanitary sewer outfall connection point, which is located at the historic high side of the property. If not for the additional fill material needed to raise this portion of the property for sanitary sewer connection, and the resulting retaining wall, the Site would be unable to have a sanitary sewer service and thus be undevelopable.*
  - ii. The hardship is not self-imposed;  
*The hardship is a result of the location of the existing sanitary sewer outfall and is not self-imposed.*
  - iii. The variance will not be of substantial detriment to adjacent property; and  
*The variance is not of substantial detriment to the adjacent property; the architecture and character of the proposed structure is compatible with existing development on the adjacent parcels. The structure is proposed to be standard concrete retaining block wall, in grey.*

- b. One of the following criteria is met:
  - i. The variance granted is the minimum needed for reasonable use of the land, building, or structure; or  
*This retaining wall at the requested height is the minimum needed to provide sanitary sewer service to the development while adhering to the site constraints as outlined in the CANAM PUD Zone Document.*
  - ii. The character of the district will not be changed by the granting of the variance.

**Conclusion**

Granting this variance will allow the project to proceed in a manner that is both technically sound and consistent with the intent of the City's development regulations and the approved civil construction plans. The proposed design represents the most practical engineering solution given the existing site constraints and infrastructure requirements.

We respectfully request consideration and approval of this variance to allow a maximum retaining wall height of 8 feet.

Please contact me if you have any questions or require additional information. We appreciate your consideration in this matter.

Sincerely,

**HARRIS KOCHER SMITH**

Rachel Patton, PE  
Project Manager

**NARRATIVE QUESTIONNAIRE**  
**VARIANCE**

<b>A. General Property Information:</b>		
1.	Property Address or Parcel Identification Number (PIN):	0172110109019 // 9712 E 110TH AVE
2.	Applicant's Name:	CORE PBSFR COMMERCE BELLE LLC
3.	Property Owner's Name:	CORE PBSFR COMMERCE BELLE LLC
4.	Current Zoning of the Subject Property:	PUD
5.	Future Land Use Plan Designation:	PUD

<b>B. Background Information:</b>	<b>Yes</b>	<b>No</b>	
1. Is this request an amendment to an existing variance?		X	If yes, what was the previous case number? Case # <u>N/A</u>
2. Is this application an attempt to correct a violation of some kind?		X	If yes, please provide a copy of the violation.
3. Do you anticipate having employees at this location?		X	If yes, how many employees do you anticipate? <u>N/A</u> employees

The following pages contain specific questions about the nature of your request. Therefore, it is in your best interest to answer them in as much detail as possible to help limit the number of questions and review cycles.

**DO NOT ANSWER WITH A 'YES' OR 'NO' OR 'N/A' - BE SPECIFIC!**

## NARRATIVE QUESTIONNAIRE

### C. Specific Requests for Information

1.	What is your hardship? Describe in <b>detail</b> what makes your property or circumstance so unique that it is unfeasible for you to meet the applicable standard? <i>(A hardship <b>does not</b> include: (1) it would increase the value of the property; (2) it would cost too much; or (3) the land could produce more profit, supply jobs, or increase the tax base.)</i>
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The sanitary sewer outfall for this project is located at the northeast corner of the Site, while the Site historically slopes from the northeast to the southwest. In order to gravity drain the sanitary sewer services to the buildings, a significant amount of imported dirt is necessary to bring the southern portion of the site up. This causes a grade difference between the proposed site and the existing land to the south and west boundary which is proposed to be retained with a wall that exceeds the maximum height as allowed by Commerce City Land Development Code.

The CanAM Filing No. 3 (Phase 2) Construction Drawings, approved May 29, 2024, include approximately 1,030 linear feet of retaining wall, of which about 525 linear feet exceeds the four-foot maximum. The tallest portion of the wall is located along the southern property boundary, fronting the existing Belle Creek Subdivision detention pond. As the wall extends west towards the single-family homes along the shared property line, the height decreases and does not exceed eight (8) feet behind those homes. The wall adjacent to the Belle Creek Boulevard right-of-way does not exceed four (4) feet in height.



## NARRATIVE QUESTIONNAIRE

3b. Will the variance cause a real or perceived loss in surrounding property values?

No, the variance will not cause a real or perceived loss in surrounding property values.

3c. Will the variance substantially or permanently injure the legal use of any adjacent conforming property?

No, the variance will not substantially or permanently injure the legal use of any adjacent conforming property.

## NARRATIVE QUESTIONNAIRE

4. Will the requested variance alter the character of the neighborhood?

No the variance will not alter the character of the neighborhood.

5. Will the requested variance block solar access, create glare, or produce air pollution impacting the surrounding area?

No, the variance will not block solar access, create glare or produce air pollution impacting the surrounding area.

## NARRATIVE QUESTIONNAIRE

6. Will the requested variance create or increase traffic and/or parking problems in the area?

No, the requested variance will not create or increase traffic and/or parking problems.

7. Will the construction or operation for which the variance is needed create a police, fire, or building safety hazard?

No, the requested variance will not create a police, fire or building safety hazard. The retaining wall will be designed, stamped, and constructed under the supervision of a licensed professional engineer, in full compliance with all applicable structural and safety standards.

