

Record on Appeal
Index
Frank Griswold vs. Planning Commission Decision
Conditional Use Permit 2018-02
OAH No. 18-0321-MUN

Notice of Appeal from Melissa Jacobsen, City Clerk	Page 3
Planning Commission Agenda – March 7, 2018	Page 9
Staff Report PL 18-14 re: CUP 2018-02 for a reduced front building setback at 302 E. Pioneer Avenue and attachments:	Page 10
• Application • Asbuilt • Photographs and Drawings • Public Notice • Aerial Photograph	
Homer Advisory Planning Commission Meeting of March 7, 2018 Laydown Comments	Page 37
• Sue Post, Homer Bookstore email comments received March 6, 2018 • Frank Griswold email comments received March 6, 2018 • Frank Griswold email exchange with City Planner Abboud received March 7, 2018 • Frank Griswold written comments received March 7, 2018	
Minutes excerpt from March 7, 2018 Advisory Planning Commission Regular Meeting	Page 49
Decision and Findings of the Homer Advisory Commission for CUP 2018-02	Page 53



City of Homer

www.cityofhomer-ak.gov

Office of the City Clerk

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Homer, Alaska 99603

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April 6, 2018

Dear Parties of Record:

A **Notice of Appeal** has been filed Re: Planning Commission Decision – Conditional Use Permit 2018-02 for a reduced front building setback at 302 E. Pioneer Avenue, Homer, Alaska, has been filed by Frank Griswold. Mr. Griswold has requested this appeal be decided by a hearing officer in accordance with HCC 21.93.080(b)(7).

I find the Notice of Appeal to be compliant with Homer City Code Sections § 21.93.070 and 21.93.080. Attached is a copy of the appeal.

Homer City Code Section § 21.93.500 states that

- a. Only persons who actively and substantively participated in the matter before the Commission and who would be qualified to appeal under HCC § 21.93.060 may participate as parties in an appeal from the Commission to the Board of Adjustment or hearing officer; and
- b. Any person so qualified who desires to participate in the appeal as a party, other than the appellant, the applicant for the action or determination that is the subject of the appeal and the owner of the property that is the subject of the action or determination, must, not less than 14 days before the date set for the appeal hearing, file with the City Clerk a written and signed notice of appearance containing that party's name and address, and proof that the person would be qualified under HCC § 21.93.060 to have filed an appeal.

The appeal record will now be prepared in accordance with HCC §21.93.520 and you will be notified when the record is complete. A hearing date will be scheduled for the hearing officer to hear the appeal.

If you have any questions about this process please contact the City Clerk's Office.

Thank you,

Melissa Jacobsen, MMC

City Clerk

Cc: Frank Griswold
Derek and Catriona Reynolds
Office of Administrative Hearings
City Manager Koester
City Planner Abboud

**AMENDED NOTICE OF APPEAL TO HEARING OFFICER OF THE HOMER
ADVISORY PLANNING COMMISSION'S APPROVAL OF CUP 2018-02**

This appeal concerns the Homer Advisory Planning Commission's Decision approving CUP 2018-02 pertaining to activities at 302 E. Pioneer Avenue, Homer, Alaska (KPB Parcel # 17719115; T 6S R 13W SEC 20 Seward Meridian HM 0540251A NILS O SVEDLUND SUB AMD LOT 2 TRACT A) which lies within Homer's Central Business District. The Commission's Decision was distributed on March 22, 2018. The owners of the subject property are Derek and Catriona Reynolds whose address is 4658 Tamara Street, Homer Alaska. Appellant Frank Griswold resides at 519 Klondike Avenue in Homer Alaska and owns seven additional lots within the Central Business District¹, all in close proximity to the subject CBD property. Mr. Griswold actively participated in the proceedings before the Commission by providing written testimony. Mr. Griswold believes the "use" approved via CUP 2018-02 will increase congestion, diminish open space for air and light, adversely affect the general character and development of the CBD, and adversely affect the value of his eight CBD properties. Mr. Griswold drives past the subject property daily and occasionally walks or bikes past it. Mr. Griswold appreciates and enjoys the buffer of open space between the sidewalk and the structures fronting Pioneer Avenue. The approval of CUP 2018-02 would further a pernicious precedent facilitating future setback reductions directly impacting Mr. Griswold's neighborhood which lies within the surrounding area of the subject property. Setback reductions in the CBD clearly could have an adverse effect on the value of Mr. Griswold's properties and his enjoyment of them. Previously, Mr. Griswold challenged the City Clerk's denial of his standing to appeal the nonconforming status granted to Don Blackwell whose property at 1440 East End Road which is located over a mile from Mr. Griswold's properties and in a different zoning district. In that case (3HO-08-148CI), the Superior Court determined that Mr. Griswold had standing to appeal under HCC 21.93.060 and otherwise. In an appeal of CUP 97-60 which pertained to the parcel at 305 East Pioneer Avenue, Mr. Griswold was not only deemed by the City to have standing, but to be an indispensable party as well. It is not the City Clerk's (ministerial) role to determine the validity of Mr. Griswold's proof/evidence of standing, but merely to determine whether it has been submitted herein. As indicated above, Mr. Griswold wishes this appeal to be decided by a hearing officer.

¹ Mr. Griswold's other CBD lots are located at 479 Klondike Avenue, 507 Klondike Avenue, 529 Klondike Avenue, 542 Klondike Avenue, 561 Klondike Avenue, 508 Bonanza Avenue, and 520 Bonanza Avenue.

ALLEGATIONS OF ERROR

1. The Homer Advisory Planning Commission is an advisory body and therefore did not have the authority under HCC 2.72.050(a)(2) or any other provision of law to unilaterally approve CUP 2018-02. HCC 21.91.010 mandates that "[t]here shall be a Planning Commission established and functioning pursuant to Chapter 2.72 HCC." It does not say there shall be an Advisory Planning Commission established. Furthermore, the volunteer Commissioners collectively lacked the training and/or expertise to competently decide the myriad complex issues before them and were not provided adequate guidance to compensate for their lack of training and expertise. City Planner Rick Abboud erroneously advised the quasi-judicial Commission that it did not have the authority/responsibility to decide issues of law. A function is "quasi-judicial when it directly affects an individual or small identifiable group in its private capacity rather than the community at large. See *Cabana v. Kenai Peninsula Borough*, 21 P.3 833, 835-836 (Alaska 2001). A grant of judicial power to an administrative agency is acceptable when the administrative body "resolve[s] factual issues underlying a purely statutory right." *Alaska Public Interest Research Group v. State of Alaska*, 167 p.3d 27 (citing *McKay v. N.H. Comp. Appeals Bd.*, 143 N.H. 722, 732 A.2d 1025, 1029 (1999)). Delegation of quasi-judicial powers to an administrative agency is upheld as long as the administrative tribunal stays within the bounds of its authority. *Alaska Public Interest Research Group v. State of Alaska*, 167 P.3d 27 (citing *Quam v. State*, 391 N.W.2d 803, 809 (Minn. 1986)).

2. Applicants failed to provide the Commission with sufficient evidence to enable meaningful review of their application (as required under HCC 21.71.030) and the Commission erred in not requiring the Applicants to meet their burden of proof. The lack of countervailing evidence does not alone establish that this burden has been met. *Hazelton v. Zoning Board of Appeals*, 48 Ill. App.3d 348, 6 Ill. Dec. 515, 363 N.E.2d 44, 48 (1977)(cited in *Fields v. Kodiak City Council*, 628 P.2d 927 (1981)).

3. It was inappropriate for City Planner Rick Abboud to sign the Commission's Decision since he is not a member of the Homer Advisory Planning Commission. HCC 21.71.050(b) provides that the Commission, not the City Planner, shall issue written findings and reasons supporting its decision.

4. It was discriminatory and prejudicial for the Commission not to hold the Applicant to the same 3-minute time limit as others during public hearing. The Fourteenth Amendment to the US Constitution

mandates that all citizens be afforded equal protection of the laws.

5. Staff's biased Findings, which were ultimately adopted by the Commission as its own, were drafted and submitted before the public hearing was held so evidence presented at that public hearing and/or after Staff's Findings were made was not adequately considered by the Commission or reflected in "its" biased Decision. HCC 1.18.020 states in relevant part that "partiality" applies only in quasi-judicial proceedings and means the ability of a member of the quasi-judicial body to make an impartial decision is actually impaired or the circumstances are such that reasonable persons would conclude the ability of the member to make an impartial decision is impaired.

6. Notwithstanding HCC 21.18.040(b)(4), the Commission did not have the authority to apply the conditional use criteria under HCC 21.71 when considering CUP 2018-02 because the "use" being applied for is a setback reduction i.e., a dimensional requirement which does not constitute a use. Delegation of quasi-judicial powers to an administrative agency is upheld as long as the administrative tribunal stays within the bounds of its authority. *Alaska Public Interest Research Group v. State of Alaska*, 167 P.3d 27 (citing *Quam v. State*, 391 N.W.2d 803, 809 (Minn. 1986)).

7. The Commission violated HCC 21.71.030(c)(d)(f)(g) and related provisions by erroneously considering the effects of the retail bicycle store and its proposed appurtenances on neighborhood character, property values, etc., instead of focusing on the effects of the proposed setback reduction.

8. The Commission erred by arbitrarily and capriciously granting a de-facto "use" variance in violation of AS 29.40 and HCC 21.72.

9. The Commission's findings are non-objective, circular/conclusionary, inadequate, irrelevant and/or not supported by substantial evidence. HCC 21.71.050(b) requires the Commission to issue written findings. The duty of the Commission was to reach a decision on the request that is supported by substantial evidence. Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Keiner*, 378 P.2d at 411. In *Fields v. Kodiak City Council*, 628 P.2d 927 (Alaska 1981) the Alaska Supreme Court stated that findings must be "sufficient both to enable the parties to determine whether and on what basis they should seek review and, in the event of review, to apprise a reviewing court of the basis for the board's actions."

10. The Commission erred in finding that the proposal is compatible with the purpose of the zoning district per HCC 21.71.030(b) and failed to identify the purpose of the zoning district.

11. The Commission erred in finding that the proposal will not negatively affect adjoining property values more than other permitted or conditionally permitted uses in the district per HCC 21.71.030(c) and it failed to identify what permitted uses or conditionally permitted uses it considered. Furthermore, the Commission failed to recognize the difference between conditionally permitted uses and conditionally *permissible* uses.

12. The Commission erred in finding that the proposal is compatible with existing uses of surrounding land per HCC 21.71.030(d) and failed to identify the existing uses considered or what constitutes the "surrounding land."

13. The Commission erred in finding that the proposal will not cause undue harmful effect upon desirable neighborhood character per HCC 21.71.030(f) and failed to identify what effects were considered and/or whether they were desirable or undesirable.

14. The Commission erred in finding that with an approved CUP and issuance of a zoning permit, the proposal will comply with the applicable regulations of HCC Title 21 as required per HCC 21.71.030(h).

15. The Commission's approval of CUP-2018-02 is in direct conflict with HCC 11.80.110 which provides in relevant part that there shall be a minimum 20-foot building setback which shall apply to any property line abutting any dedicated road or street right-of-way. Thus, the Commission erroneously ignored HCC 21.71.040(b)(13) which provides in relevant part as follows: "Dimensional requirements may not be altered by conditional use permit when and to the extent other provisions of the zoning code expressly prohibit such alterations by conditional use permit."

16. The Commission erred in finding that the proposal is not contrary to the applicable land use goals and objectives of the Comprehensive Plan per HCC 21.71.030(i). Furthermore, the Commission failed to identify what land use goals it considered applicable and made no effort to determine whether the proposal was contrary to them.

17. The Commission erred by finding that the proposal will comply with the applicable provisions of the Community Design Manual,

failed to identify what provisions of the CDM were applicable and misinterpreted the meaning of "applicable provisions" under HCC 21.71.030(j). In effect, the Commission waived HCC 21.71.030(j) despite the fact that it had no authority to grant a waiver, variance, or deviation from the requirements of the zoning code or other applicable laws and regulations. (See HCC 21.70.030(c)). Furthermore, the Commission failed to recognize that an 8-foot setback reduction directly conflicts with the landscaping and screening requirements at pages 27-28 of the CDM which mandate that natural vegetation and existing views of the water and land shall be preserved.

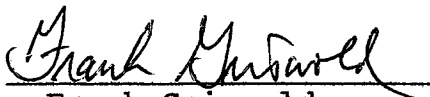
18. The Commission violated HCC 21.71.050(b) and HCC 21.71.030 by subjectively finding that the proposed activity "will enhance the aesthetic environment of the community, providing gracious human scale entryways and public ways orienting the entryway toward the street" and failed to identify why the approval of CUP 2018-02 was necessary to fulfill this wishy-washy/ambiguous standard or where in the Homer Comprehensive Plan or zoning code this is deemed to be a valid zoning objective. The duty of the Commission was to reach a decision on the request that is supported by **substantial evidence**. Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Keiner*, 378 P.2d at 411. In *Fields v. Kodiak City Council*, 628 P.2d 927 (Alaska 1981) the Alaska Supreme Court stated that findings must be "sufficient both to enable the parties to determine whether and on what basis they should seek review and, in the event of review, to apprise a reviewing court of the basis for the board's actions."

19. The Commission erred by not including in the Conclusion of its Decision the condition that "[r]ental bicycles displayed outdoors must be screened from public view when remaining outdoors outside of open business hours, per HCC 21.18.080(b)."

RELIEF SOUGHT

HCC 21.71.010(c) states: "[n]othing in the zoning code shall be construed to require the granting of a conditional use permit." Appellant Frank Griswold respectfully requests that the Commission's Decision approving CUP 2018-02 be reversed and CUP 2018-02 be denied.

Resubmitted: April 3, 2018.

By: 
Frank Griswold

Amended Notice of Appeal Re: CUP 2018-02/Page 5

REGULAR MEETING AGENDA

1. Call to Order

2. Approval of Agenda

3. Public Comment

The public may speak to the Commission regarding matters on the agenda that are not scheduled for public hearing or plat consideration. (3 minute time limit).

4. Reconsiderations

5. Adoption of Consent Agenda

All items on the consent agenda are considered routine and non-controversial by the Planning Commission and are approved in one motion. There will be no separate discussion of these items unless requested by a Planning Commissioner or someone from the public, in which case the item will be moved to the regular agenda.

A. Approval of minutes of February 21, 2018 **p. 1**

6. Presentations

7. Reports

A. Staff Report 18-13, City Planner's Report **p. 9**

8. Public Hearings

Testimony limited to 3 minutes per speaker. The Commission conducts Public Hearings by hearing a staff report, presentation by the applicant, hearing public testimony and then acting on the Public Hearing items. The Commission may question the public. Once the public hearing is closed the Commission cannot hear additional comments on the topic. The applicant is not held to the 3 minute time limit.

A. Staff Report 18-14, Conditional Use Permit 2018-02 for a reduced front building setback at 302 E Pioneer Ave. **p. 15**

9. Plat Consideration

10. Pending Business

11. New Business

12. Informational Materials

A. City Manager's Reports for the February 26, 2018 City Council Meeting **p. 43**

13. Comments of the Audience

Members of the audience may address the Commission on any subject. (3 min limit)

14. Comments of Staff

15. Comments of the Commission

16. Adjournment

The next regular meeting is scheduled for Wednesday March 21, 2018. Meetings will adjourn promptly at 9:30 p.m. An extension is allowed by a vote of the Commission.



City of Homer

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Staff Report 18-14

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Travis Brown, Planning Technician
DATE: March 7, 2018
SUBJECT: CUP 2018-02

Synopsis The applicant proposes to construct a covered outdoor space and entryway, extending up to 8 feet into the 20-foot building setback, along Pioneer Avenue. A Conditional Use Permit (CUP) is required per HCC 21.18.040(b)(4).

Applicant: Derek Reynolds
4658 Tamara Street
Homer, AK 99603

Location: 302 E Pioneer Ave.

Parcel ID: 17719115

Size of Existing Lot: 0.5 acres

Zoning Designation: Central Business District (CBD)

Existing Land Use: Vacant Building

Surrounding Land Use: North: Residential apartments
South: Business office, coffee shop/apartment
East: Bookstore
West: Secondhand store

Wetland Status: No designated wetlands on this parcel.

Flood Plain Status: Not in a floodplain.

BCWPD: Not within the Bridge Creek Watershed Protection District

Utilities: Public utilities service the site.

Public Notice: Notice was sent to 22 property owners of 25 parcels as shown on the KPB tax assessor rolls.

Request: The Conditional Use Permit request is to allow a building addition to encroach into the 20-foot building setback along the Pioneer Ave. right-of-way. The setback from a dedicated right-of-way may be reduced if approved by a CUP in the Central Business District, per HCC 21.18.040(b)(4).

Proposal: The proposed building addition consists of a new entryway and covered outdoor space. The entryway will encroach up to 8 feet into the 20-foot setback, while the remaining width of the building will encroach up to 3 feet into the 20-foot setback. The proposal will create a new building façade that reorients the entryway to Pioneer Ave. and creates a covered outdoor space to be utilized by a bicycle retail, repair, and rental business.

The criteria for granting a Conditional Use Permit is set forth in HCC 21.71.030, Review criteria, and establishes the following conditions:

a. The applicable code authorizes each proposed use and structure by conditional use permit in that zoning district;

Analysis: The applicant will operate a bicycle repair, retail, rental, and tour business. Although the use of the property is not a subject of this CUP, retail business and personal service establishments are permitted outright in this district. A setback reduction for structures may be approved by a Conditional Use Permit.

Finding 1: HCC 21.18.020(a) authorizes retail business and HCC 21.18.020(b) authorizes personal service establishments. HCC 21.18.040(b)(4) authorizes a setback reduction from a dedicated right-of-way if approved by a Conditional Use Permit.

b. The proposed use(s) and structure(s) are compatible with the purpose of the zoning district in which the lot is located.

Applicant: A bicycle retail and rental store matches well with the CBD.

Analysis: The purpose of the Central Business District includes providing for general retail shopping, personal services, and encourages pedestrian-friendly design and amenities. The pedestrian-friendly design elements of the proposal include a human scale roofline and an entryway that is reoriented to the street. These two design elements combine to create a stronger visual and physical connection to the street.

Finding 2: The proposal is compatible with the purpose of the zoning district.

c. The value of the adjoining property will not be negatively affected greater than that anticipated from other permitted or conditionally permitted uses in this district.

Applicant: We assume that any improvement to what was a derelict property will cause adjoining property values to increase.

Analysis: Conditionally permitted mobile home parks or auto fueling stations would negatively affect the property more so than this proposal.

Finding 3: The proposal will not negatively affect adjoining property values more than other permitted or conditionally permitted uses in the district.

d. The proposal is compatible with existing uses of surrounding land.

Applicant: All adjoining Pioneer Avenue properties are retail business as well. To rear are residential properties, owners have stated they are supportive of derelict eyesore being renovated and repurposed to house a productive business.

Analysis: The proposal is compatible with other nearby buildings that have covered outdoor spaces and entrances that face the street including the Salvation Army, the Homer Bookstore, and Bay Realty. Additionally, the building at 265 E. Pioneer Ave. has a covered entrance that was approved within the setback in 2013.

Finding 4: The proposal is compatible with existing uses of surrounding land.

e. Public services and facilities are or will be, prior to occupancy, adequate to serve the proposed use and structure.

Finding 5: Existing public, water, sewer, and fire services are adequate to serve the structure.

f. Considering harmony in scale, bulk, coverage and density, generation of traffic, the nature and intensity of the proposed use, and other relevant effects, the proposal will not cause undue harmful effect upon desirable neighborhood character.

Applicant: The addition of a bike store to downtown will add to the harmony, providing a boost to revitalization and beautification efforts. The additional traffic generated should not negatively affect the neighborhood and will be comparable to when the property was last in use as a pawn shop, and to other neighboring businesses.

Analysis: The nature and intensity of the proposal will not significantly affect the scale, bulk, coverage and density of the site. The proposed covered outdoor space and entryway will be in harmony with other facades along Pioneer Avenue, including the adjacent covered porches of the Salvation Army and the Homer Bookstore.

Finding 6: The proposal will not cause undue harmful effect upon desirable neighborhood character.

g. The proposal will not be unduly detrimental to the health, safety or welfare of the surrounding area or the city as a whole.

Applicant: No, on the contrary, our business promotes riding bicycles as a means of transportation and recreation which has a beneficial effect on people's health as well as reduces vehicle traffic congestion.

Finding 7: The covered outdoor space and entryway will not be unduly detrimental to the health, safety or welfare of the surrounding area or the City as a whole.

h. The proposal does or will comply with the applicable regulations and conditions specified in this title for such use.

Finding 8: Following CUP approval and issuance of a zoning permit, this proposal will comply with applicable regulations of HCC Title 21.

i. The proposal is not contrary to the applicable land use goals and objectives of the Comprehensive Plan.

Analysis: Chapter 4, Goal 4, Objective A states: "Encourage a concentrated, pedestrian oriented, attractive business/commerce district in the Central Business District (CBD) following the guidelines found in the Town Center Development Plan." The Town Center Development Guide includes the following goals: "buildings engage street with minimal or no setback," "Gracious human scale entry ways and public ways," and "scale and massing are oriented to the human scale."

Finding 9: No evidence has been found that the proposal is contrary to the applicable land use goals and objectives of the Comprehensive Plan.

j. The proposal will comply with the applicable provisions of the Community Design Manual (CDM).

Analysis: The proposal complies with the applicable provisions of the Community Design Manual which are:

Provide consistent architectural interest to all prominent facades (p. 20 #5) The shed-style roofline of the covered outdoor area extends the entire width of the building face, providing consistent architectural interest on the front of the building.

Provide direct access to common areas with pedestrian walkways (p. 26 #4) The proposed covered entryway provides easy and direct access to Pioneer Avenue.

Provide covering over walkways where appropriate (p. 28 #6) The proposal includes a covering over the walkway in front of the building entrance.

Landscaping and screening (p. 28) The purpose of landscaping, according to the CDM, is to provide a pleasing transition between the natural setting and the built

environment and between adjacent built environments. The proposal includes retaining an existing grass area, of approximately 20 feet in width, between the building and Pioneer Ave. as well as between the parking area and Pioneer Ave. The proposal does not disturb existing trees, impede existing views, or otherwise contradict landscaping elements sought by the CDM.

Outdoor lighting (p. 35) The proposal does not include a lighting plan. The CDM standards prescribe light sources to be hidden from public view, avoid excessive light throw, and be downward directional lighting.

Finding 10: The proposal will comply with the applicable provisions of the Community Design Manual.

Condition 1: Any new outdoor lighting must follow the guidelines of the Community Design Manual and include downward directional lighting.

HCC 21.71.040(b). b. In approving a conditional use, the Commission may impose such conditions on the use as may be deemed necessary to ensure the proposal does and will continue to satisfy the applicable review criteria. Such conditions may include, but are not limited to, one or more of the following:

- 1. Special yards and spaces:** No specific conditions deemed necessary
- 2. Fences and walls:** Rental bicycles displayed outdoors must be screened from public view when remaining outdoors outside of open business hours, per HCC 21.18.080(b).
- 3. Surfacing of parking areas:** No specific conditions deemed necessary.
- 4. Street and road dedications and improvements:** No specific conditions deemed necessary.
- 5. Control of points of vehicular ingress and egress:** No specific conditions deemed necessary.
- 6. Special provisions on signs:** No specific conditions deemed necessary.
- 7. Landscaping:** No specific conditions deemed necessary.
- 8. Maintenance of the grounds, building, or structures:** No specific conditions deemed necessary.
- 9. Control of noise, vibration, odors or other similar nuisances:** No specific conditions deemed necessary.
- 10. Limitation of time for certain activities:** No specific conditions deemed necessary.
- 11. A time period within which the proposed use shall be developed:** No specific conditions deemed necessary.
- 12. A limit on total duration of use:** No specific conditions deemed necessary.
- 13. More stringent dimensional requirements,** such as lot area or dimensions, setbacks, and building height limitations. Dimensional requirements may be made more lenient by conditional use permit only when such relaxation is authorized by other provisions of the

zoning code. Dimensional requirements may not be altered by conditional use permit when and to the extent other provisions of the zoning code expressly prohibit such alterations by conditional use permit.

14. Other conditions necessary to protect the interests of the community and surrounding area, or to protect the health, safety, or welfare of persons residing or working in the vicinity of the subject lot.

PUBLIC WORKS COMMENTS: PW has no comments.

FIRE DEPARTMENT COMMENTS: [The Interim-Chief of the Homer Volunteer Fire Department, in review of the attached plans for the](#) Conditional Use Permit Request 2018-02, has no comments with regard to public safety or fire department access.—Sincerely, Interim-Chief Terry Kadel

PUBLIC COMMENTS: None

STAFF COMMENTS/RECOMMENDATIONS:

Planning Commission approve Conditional Use Permit 2018-02 with findings 1-10 and Condition 1 to allow the building at 302 E Pioneer Avenue to extend 8 feet into the 20-foot building setback along Pioneer Avenue.

Condition 1: Any new outdoor lighting must follow the guidelines of the Community Design Manual and include downward directional lighting.

Attachments

Application

Public Notice

Aerial Photograph



City of Homer

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RECEIVED

FEB 14 2018

**CITY OF HOMER
PLANNING/ZONING**

Applicant

Name: *Derek Reynolds*

Telephone No.: 907.299.7746

Address: *4658 Tamara Street, Homer, AK 99603*

Email: *derekinsonreynolds@gmail.com*

Property Owner (if different than the applicant):

Name: *Catriona and Derek Reynolds*

Telephone No.: *Same*

Address:

Email:

PROPERTY INFORMATION:

Address: *302 East Pioneer Avenue* Lot Size: *0.5 acres* KPB Tax ID # *17719115*

Legal Description: *T 6S R 13W SEC 20 SEWARD MERIDIAN HM 054251A NILS O SVEDLUND SUB AMD LOT 2 TRACT A*

For staff use:

Date: _____ Fee submittal: Amount _____

Received by: _____ Date application accepted as complete _____

Planning Commission Public Hearing Date: _____

Conditional Use Permit Application Requirements:

1. A Site Plan
2. Right of Way Access Plan
3. Parking Plan
4. A map showing neighboring lots and a narrative description of the existing uses of all neighboring lots. (Planning can provide a blank map for you to fill in).
5. Completed Application Form
6. Payment of application fee (nonrefundable)
7. Any other information required by code or staff, to review your project

Circle Your Zoning District

	RR	UR	RO	CBD	TCD	GBD	GC1	GC2	MC	MI	EEMU	BCWPD
Level 1 Site Plan	x	x	x			x			x			x
Level 1 ROW Access Plan	x	x							x			
Level 1 Site Development Standards	x	x										
Level 1 Lighting			x	x	x	x	x	x	x	x	x	
Level 2 Site Plan			x	x	x		x	x		x	x	
Level 2 ROW Access Plan			x	x	x		x	x		x	x	
Level 2 Site Development Standards			x*	x	x	x	x	x			x	
Level 3 Site Development Standards									x	x		
Level 3 ROW Access Plan						x						
DAP/SWP questionnaire				x	x	x	x	x			x	

Circle applicable permits. Planning staff will be glad to assist with these questions.

- ☒ Y ☐ N Are you building or remodeling a commercial structure, or multifamily building with more than 3 apartments? If yes, Fire Marshal Certification is required. Status: *To be submitted when contractor returns from vacation and completes structural drawings*
- ☒ Y ☐ N Will your development trigger a Development Activity Plan?
Application Status: _____
- ☒ Y ☐ N Will your development trigger a Storm water Plan?
Application Status: _____
- ☒ Y ☐ N Does your site contain wetlands? If yes, Army Corps of Engineers Wetlands Permit is required.
Application Status: _____
- ☒ Y ☐ N Is your development in a floodplain? If yes, a Flood Development Permit is required.
- ☒ Y ☐ N Does your project trigger a Community Design Manual review?
If yes, complete the design review application form. The Community Design Manual is online at: <http://www.ci.homer.ak.us/documentsandforms>
- ☒ Y ☐ N Do you need a traffic impact analysis?
- ☒ Y ☐ N Are there any nonconforming uses or structures on the property?
- ☒ Y ☐ N Have they been formally accepted by the Homer Advisory Planning Commission? *Do not know, have been in place for many years*
- ☒ Y ☐ N Do you have a state or city driveway permit? *existing driveway with curb-cuts on Pioneer Avenue*
- ☒ Y ☐ N Do you have active City water and sewer permits? *Water and sewer was already hooked up when we purchased*

1. Currently, how is the property used? Are there buildings on the property? How many square feet?
Uses within the building(s)?

This property has been vacant and neglected for at least 5 years. It is zoned Central Business District and the single building on the property will be used for retail space, specifically a bicycle repair, retail, rental, and tour business. 1500 SQUARE FT.

2. What is the proposed use of the property? How do you intend to develop the property? (Attach additional sheet if needed. Provide as much information as possible).

The intended use of the property is as a bicycle repair, retail, rental, and tour business. We intend to construct a lean-to structure on the front of the building, effectively continuing the roofline of the present entry, re-orient the entry to face Pioneer (it currently faces to the west), and continue its roof 6' towards Pioneer. This covered space will be used for the rental fleet.

CONDITIONAL USE INFORMATION: Please use additional sheets if necessary. HCC21.71.030

- a. What code citation authorizes each proposed use and structure by conditional use permit?
21.18.020 (a) Retail business where the principal activity is the sale of merchandise and incidental services in an enclosed building
21.18.030 (a) Planned unit developments, excluding all industrial uses
21.18.040 (b)(1) Buildings shall be set back 20 feet from all dedicated rights-of-way, except as allowed by subsection (b)(4) of this section.
21.18.040 (b)(4) If approved by a conditional use permit, the setback from a dedicated right-of-way, except from the Sterling Highway or Lake Street, May be reduced.
- b. Describe how the proposed uses(s) and structures(s) are compatible with the purpose of the zoning district.
A bicycle retail and rental store matches well with the CBD.
- c. How will your proposed project affect adjoining property values?
We assume that any improvement to what was a derelict property will cause adjoining property values to increase.
- d. How is your proposal compatible with existing uses of the surrounding land?
All adjoining Pioneer Avenue properties are retail business as well. To rear are residential properties, owners have stated they are supportive of derelict eyesore being renovated and repurposed to house a productive business.
- e. Are/will public services adequate to serve the proposed uses and structures?
Yes
- f. How will the development affect the harmony in scale, bulk, coverage and density upon the desirable neighborhood character, and will the generation of traffic and the capacity of surrounding streets and roads be negatively affected?
The addition of a bike store to downtown will add to the harmony, providing a boost to revitalization and beautification efforts.
The additional traffic generated should not negatively affect the neighborhood and will be comparable to when the property was last in use as a pawn shop, and to other neighboring businesses.
- g. Will your proposal be detrimental to the health, safety or welfare of the surrounding area or the city as a whole?
No, on the contrary, our business promotes riding bicycles as a means of transportation and recreation which has a beneficial effect on people's health as well as reduces vehicle traffic congestion.
- h. How does your project relate to the goals of the Comprehensive Plan?
While there are many aspects of the Comprehensive Plan that relate to our project, we would like to highlight that from Chapter 5, Transportation, page 5-12; Invest in more fuel-efficient forms of transportation such as pedestrian and bicycle alternatives and land use patterns that support those options.

- i. The Planning Commission may require you to make some special improvements. Are you planning on doing any of the following, or do you have suggestions on special improvements you would be willing to make? (circle each answer)

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FEB 14 2018

CITY OF HOMER
PLANNING/ZONING

1. ☒ Y ☐ N Special yards and spaces.
2. ☒ Y ☐ N Fences, walls and screening.
3. ☒ Y ☐ N Surfacing of parking areas. *non-paved improvements are planned, pending funds*
4. ☒ Y ☐ N Street and road dedications and improvements (or bonds).
5. ☒ Y ☐ N Control of points of vehicular ingress & egress.
6. ☒ Y ☐ N Special provisions on signs.
7. ☒ Y ☐ N Landscaping.
8. ☒ Y ☐ N Maintenance of the grounds, buildings, or structures.
9. ☒ Y ☐ N Control of noise, vibration, odors, lighting, heat, glare, water and solid waste pollution, dangerous materials, material and equipment storage, or other similar nuisances.
10. ☒ Y ☐ N Time for certain activities.
11. ☒ Y ☐ N A time period within which the proposed use shall be developed. *ASAP*
12. ☒ Y ☐ N A limit on total duration of use.
13. ☒ Y ☐ N Special dimensional requirements such as lot area, setbacks, building height.
14. ☒ Y ☐ N Other conditions deemed necessary to protect the interest of the community.

PARKING

1. How many parking spaces are required for your development? 5

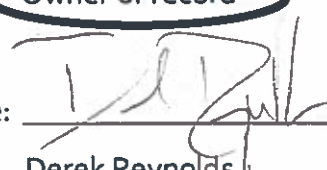
If more than 24 spaces are required see HCC 21.50.030(f)(1)(b). _____

2. How many spaces are shown on your parking plan? 5

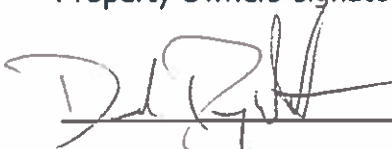
3. Are you requesting any reductions? No

I hereby certify that the above statements and other information submitted are true and accurate to the best of my knowledge, and that I, as applicant, have the following legal interest in the property:

CIRCLE ONE: ☒ Owner of record ☐ Lessee ☐ Contract purchaser

Applicant signature:  Date: 2/13/2018
Derek Reynolds

Property Owners' signatures:

 Date: 02/13/2018  Date: 02/13/2018
Derek Reynolds Catriona Reynolds

JOB #2017-48
PREPARED FOR:
DEREK AND CATRIONA REYNOLDS
4658 TAMARA STREET
HOMER, AK 99603

RECEIVED

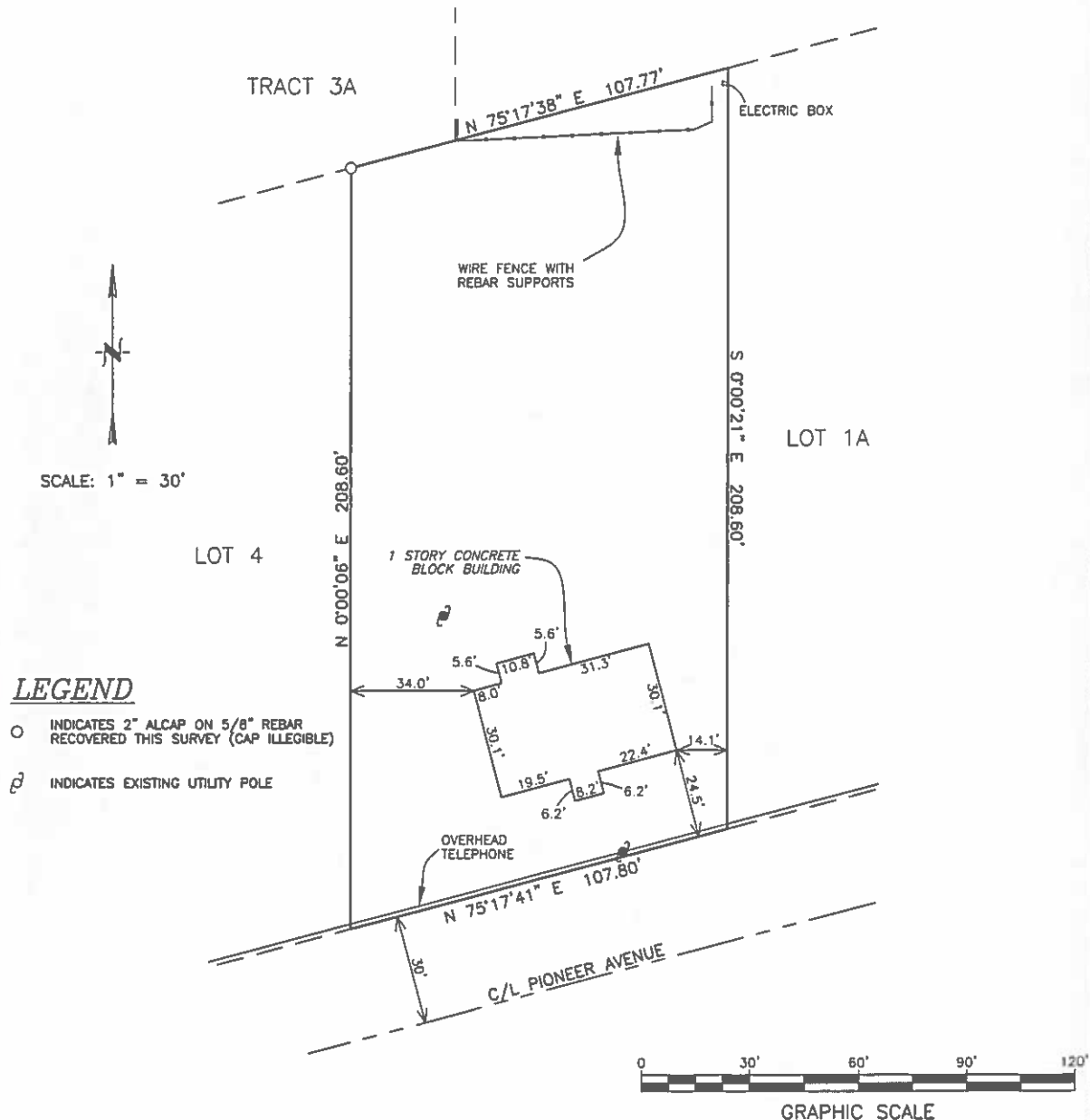
NOTES:

1. BASIS OF BEARING FOR THIS ASBUILT SURVEY IS N 75°17'41" E ALONG THE CENTERLINE OF PIONEER AVENUE ACCORDING TO THE PIONEER AVENUE RECORD OF SURVEY (87-40RS HRD). LOT DIMENSIONS ARE PER THE PIONEER AVENUE RECORD OF SURVEY (87-40RS HRD).

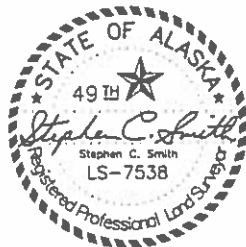
2. THIS ASBUILT SHALL NOT BE USED FOR ANY PURPOSE OTHER THAN THAT WHICH WOULD GIVE A GRAPHIC REPRESENTATION OF THE LOCATION OF IMPROVEMENTS ON THIS LOT. UNDER NO CIRCUMSTANCES SHOULD THE LOCATION OF FUTURE IMPROVEMENTS BE BASED ON THIS DRAWING.

3. IT IS THE RESPONSIBILITY OF THE OWNER TO DETERMINE THE EXISTENCE OF ANY EASEMENTS, RESERVATIONS OR RESTRICTIONS WHICH DO NOT APPEAR ON THE RECORDED SUBDIVISION PLAT.

CITY OF HOMER
PLANNING/ZONING



I HEREBY CERTIFY THAT LOT 2, TRACT A, AMENDED PLAT OF NILS O. SVEDLUND SUBDIVISION (251-A - BOOK 4, PAGE 251, HOMER RECORDING DISTRICT) HAS BEEN SURVEYED BY ME OR UNDER MY DIRECT SUPERVISION, AND THAT THE IMPROVEMENTS SITUATED THEREON DO NOT ENCROACH ON ADJACENT PROPERTY, THAT IMPROVEMENTS ON ADJACENT PROPERTY DO NOT ENCROACH ON THE SURVEYED PREMISES, AND THAT THERE ARE NO POWER LINES, TRANSMISSION LINES OR OTHER VISIBLE EASEMENTS OR RIGHTS OF WAY EXCEPT AS SHOWN.



10/24/17

ASBUILT SURVEY

LOT 2, TRACT A
AMENDED PLAT OF
NILS O. SVEDLUND SUBDIVISION
251-A (BOOK 4, PAGE 251)
(HOMER RECORDING DISTRICT)

GEOVERA, LLC
PO BOX 3235
HOMER, ALASKA 99603

DATE: 10/24/2017	SCALE: 1" = 30'
JOB #2017-48	DRAWN BY: SCS

N 0°00'06" E 20

208.60'

RECEIVED

11-14-2000

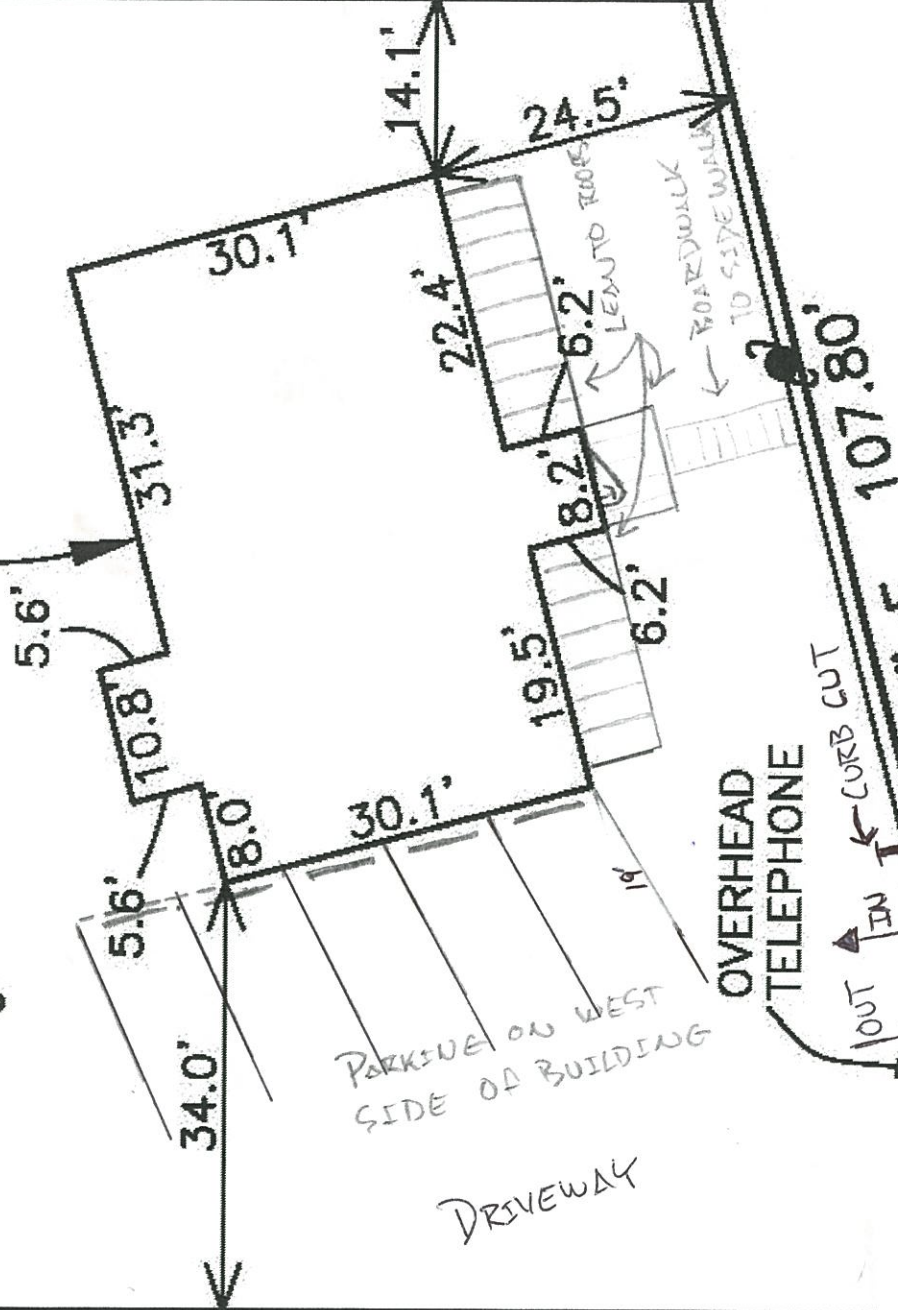
1 STORY CONCRETE
BLOCK BUILDING

CITY OF HOMER
PLANNING/ZONING

1" = 15ft

THE PURPOSE OF
LEAD-TO ROOFS
EAST & WEST OF
ENTRY ARE TO
SHELTER OUR FLEET
OF RENTAL BIKES.

THE PURPOSE OF
LEAD-TO ROOF
EXTENDING TOWARDS
SIDEWALK IS TO
PROVIDE SHELTER ON
EASTLY AND A PLACE
FOR PATRONS TO PARK
THEIR BIKES.



OVERHEAD
TELEPHONE

IN ← CURB CUT

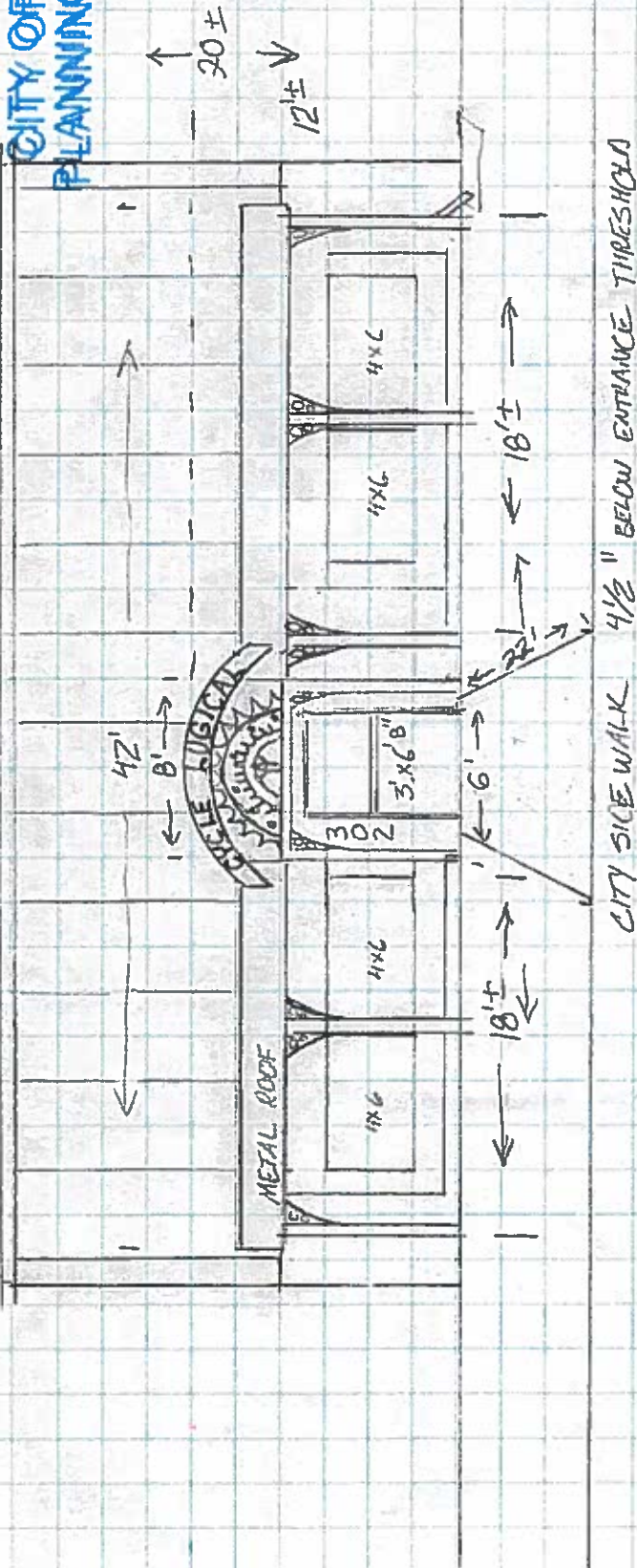
OUT

107.80'

N 75°17'41" E

FEB 14 2008

CITY OF HOMER
PLANNING/ZONING



PROPOSED ADDITION TO 302 PIONEER AVE "CYCLOPEICAL"

ADDING SUNSHADE ROOF & ENTRY
STANDARD CONSTRUCTION & MATERIALS
REINFORCEMENTS ADDED TO BASE/RAFTERS/EXISTING BUILDING
METAL ROOF ON "BROW" & GUANSET STYLE ENTRY
SIMPSON PIER BOLTS SET WITH ADJUSTABLE BASE
SIMPSON TIES AS REQUIRED AT RAFTERS/BEAMS/POSTS
TREATED WOOD BOARDWALK SET TO GRADE 6' X 22' TO ENTRY
GUTTERS & DRAINS DIRECTED APPROPRIATELY

CITY OF HOMER
PLANNING/ZONING

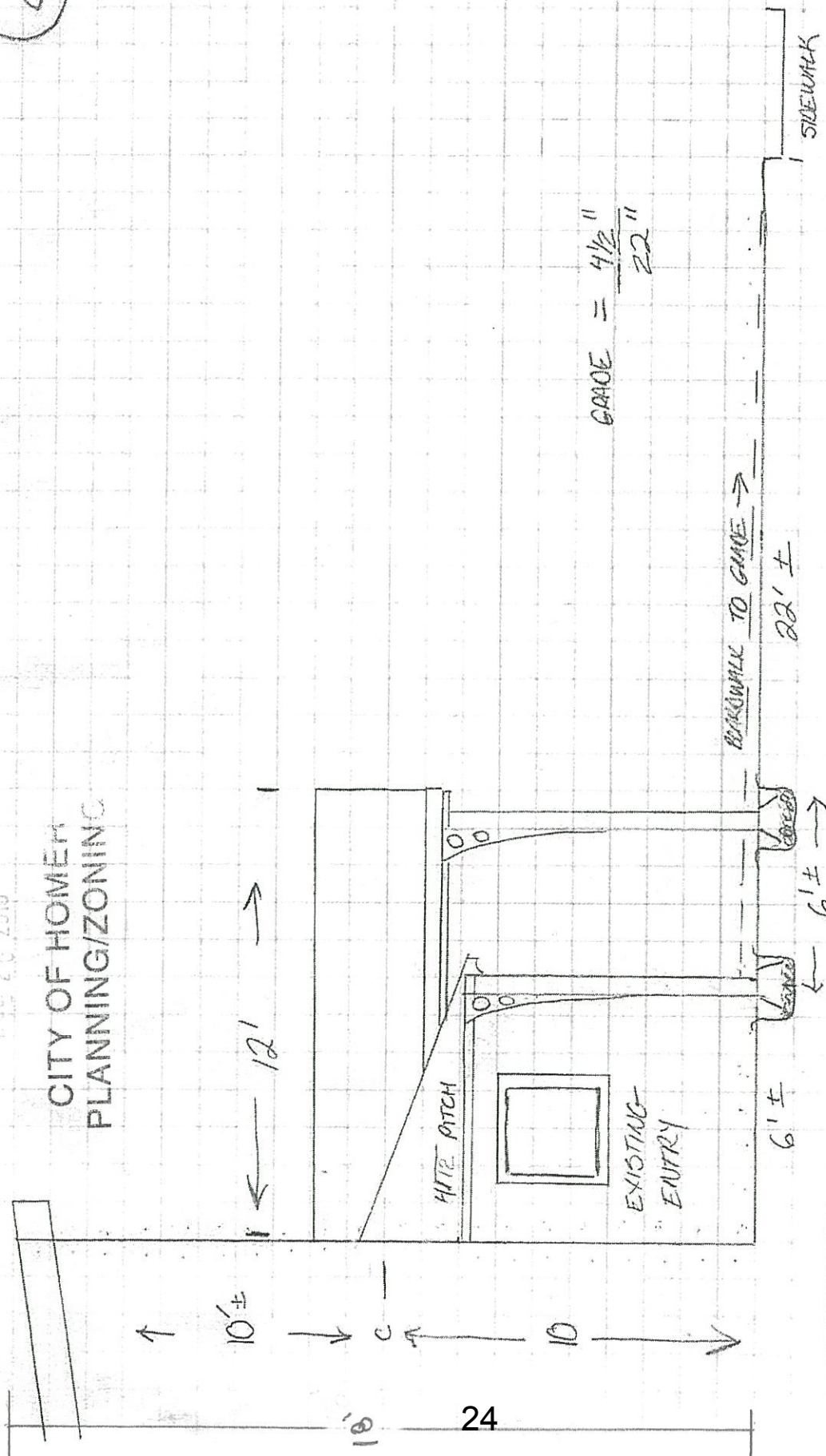
EXISTING- SIDE WALK

RECEIVED

2

FEB 20 2013

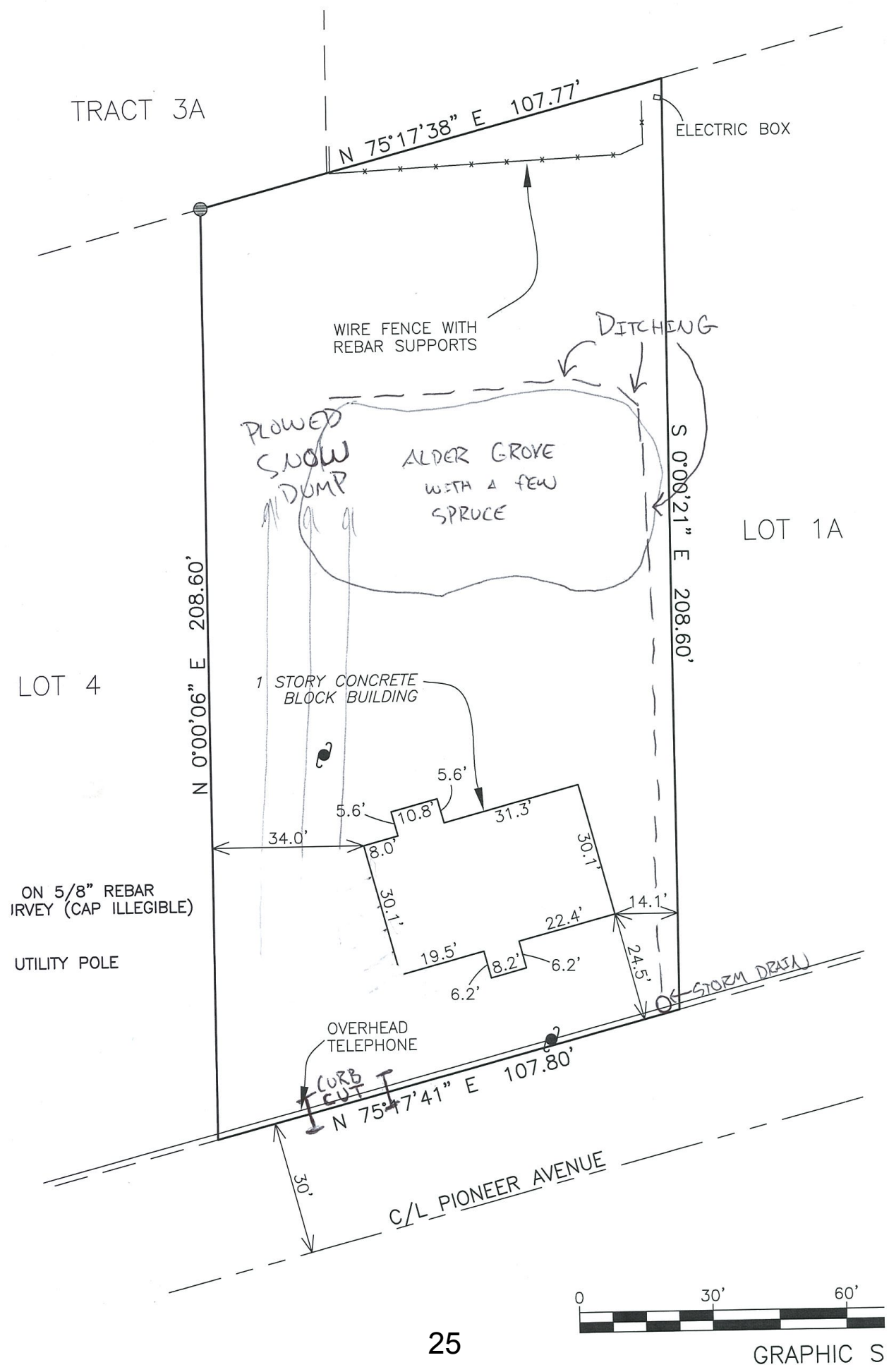
CITY OF HOMER
PLANNING/ZONING

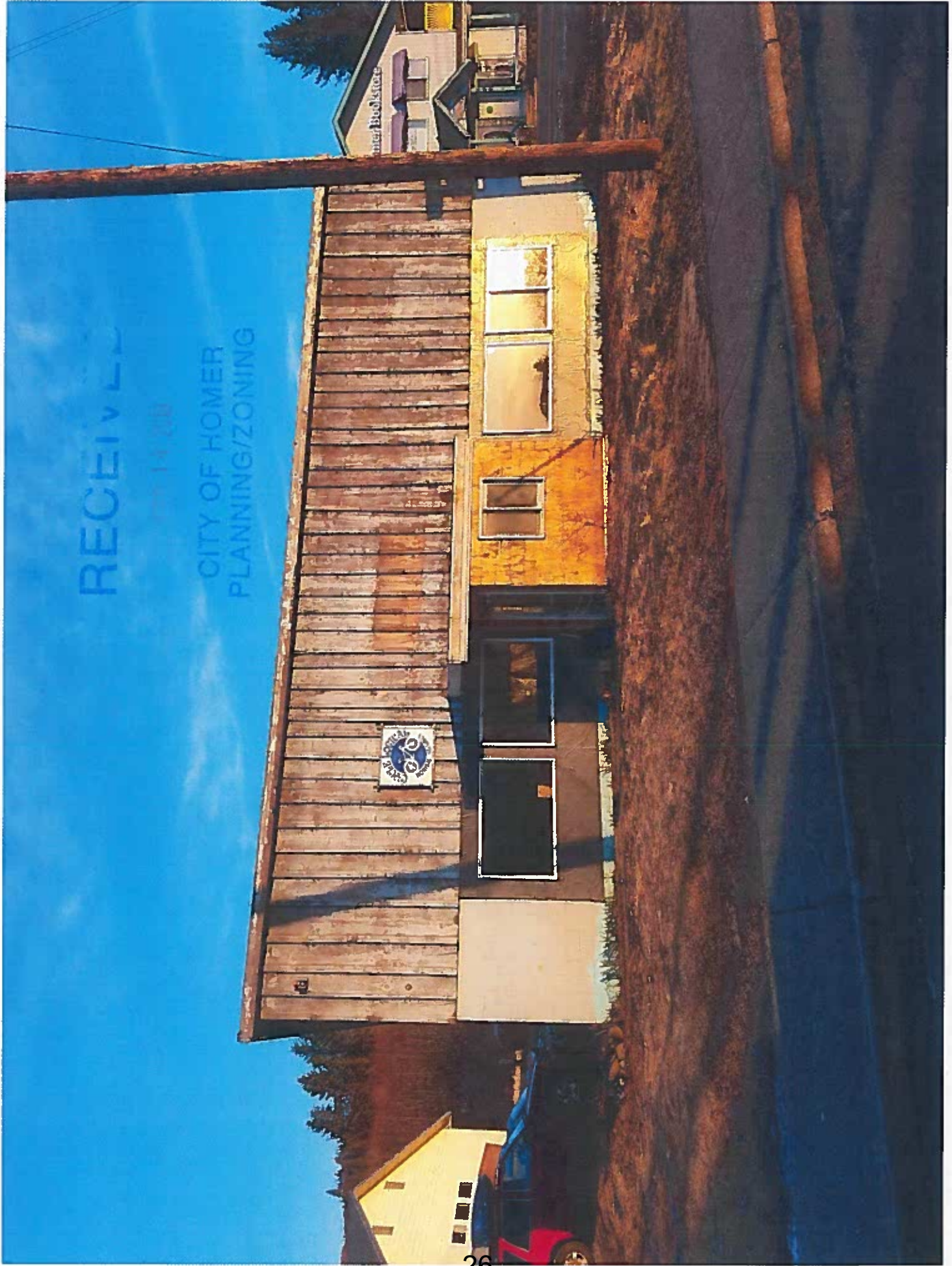


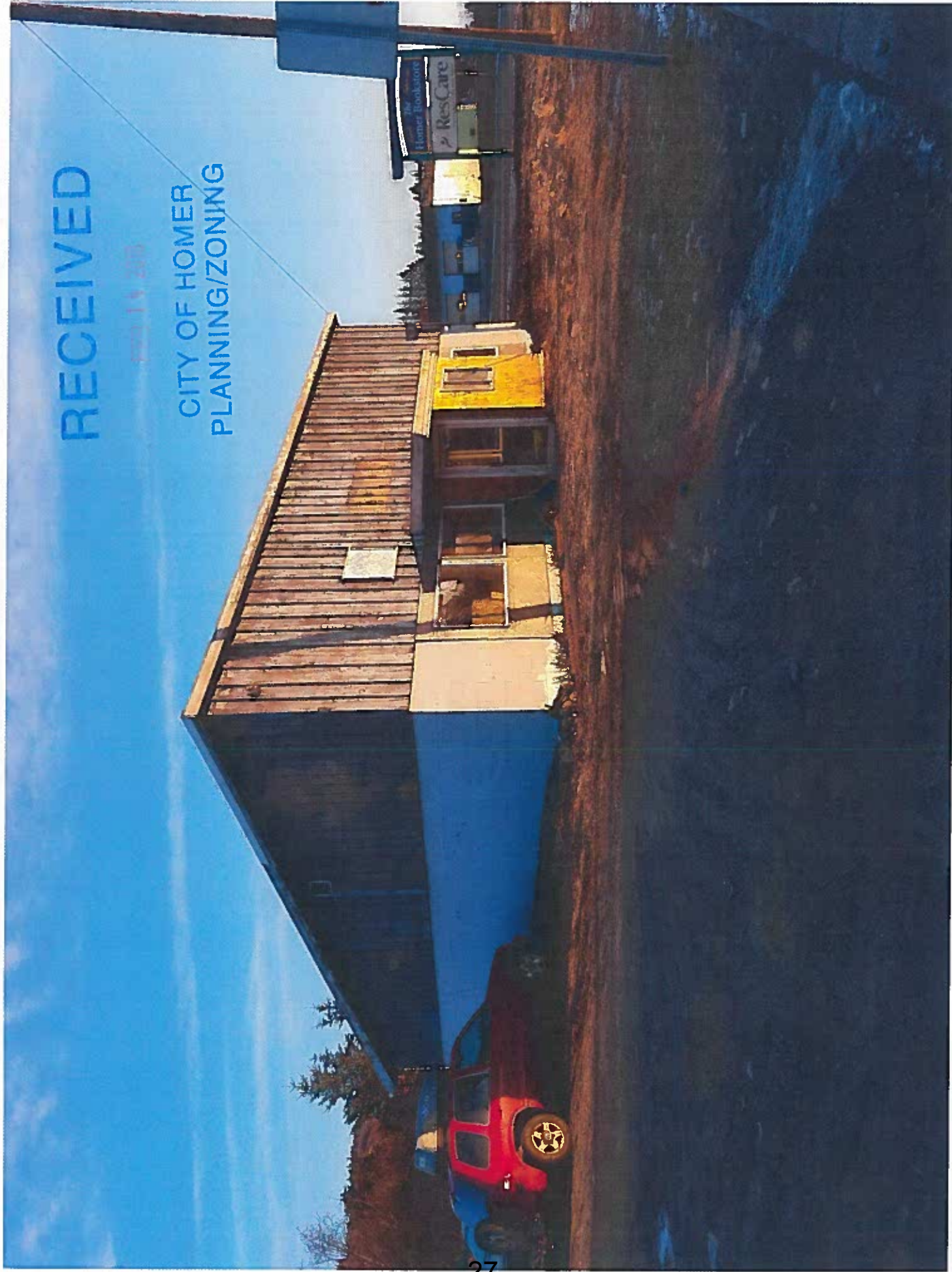
VIEW FROM WEST

STANDARD CONSTRUCTION (PAGE 1)
REINFORCED @ BASE & RAFTERS/SIMPLE TIES
TREATED MATERIAL WHEN SUBMIT
GUTTERS & DRAINAGE TO DIRECT H2O

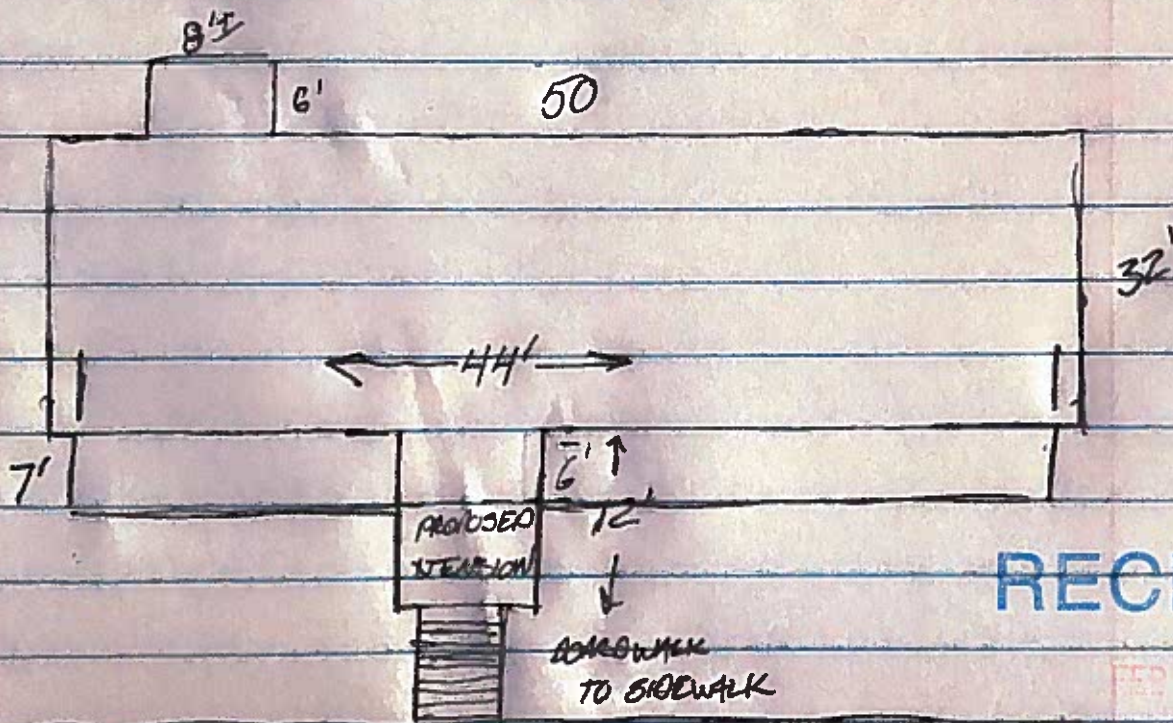
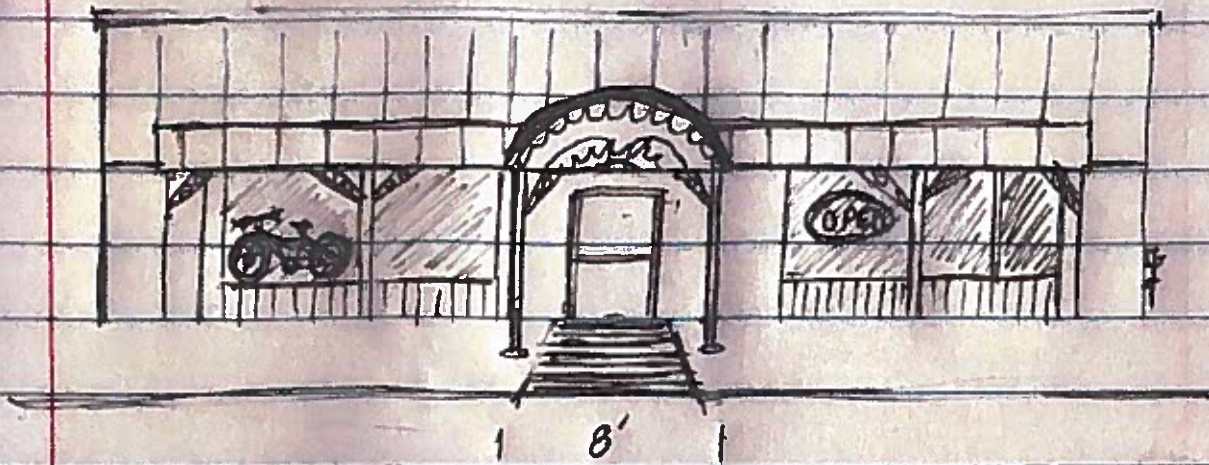
ABILITY OF THE OWNER TO DETERMINE THE EXISTENCE OF ANY EASEMENTS, RESER
DO NOT APPEAR ON THE RECORDED SUBDIVISION PLAT.







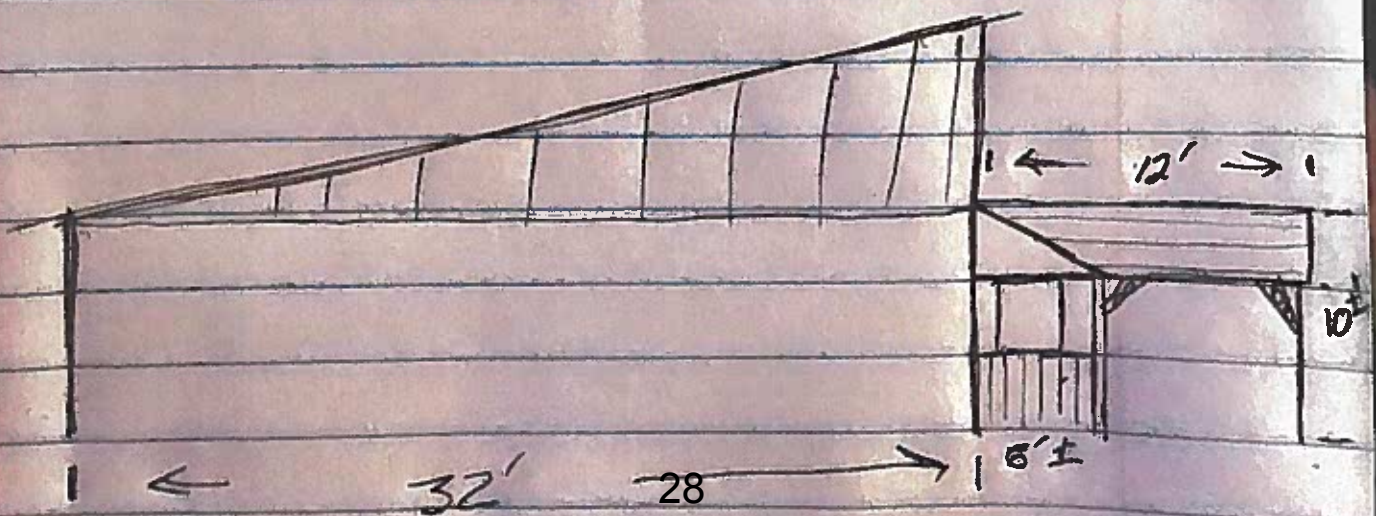
← 50' →

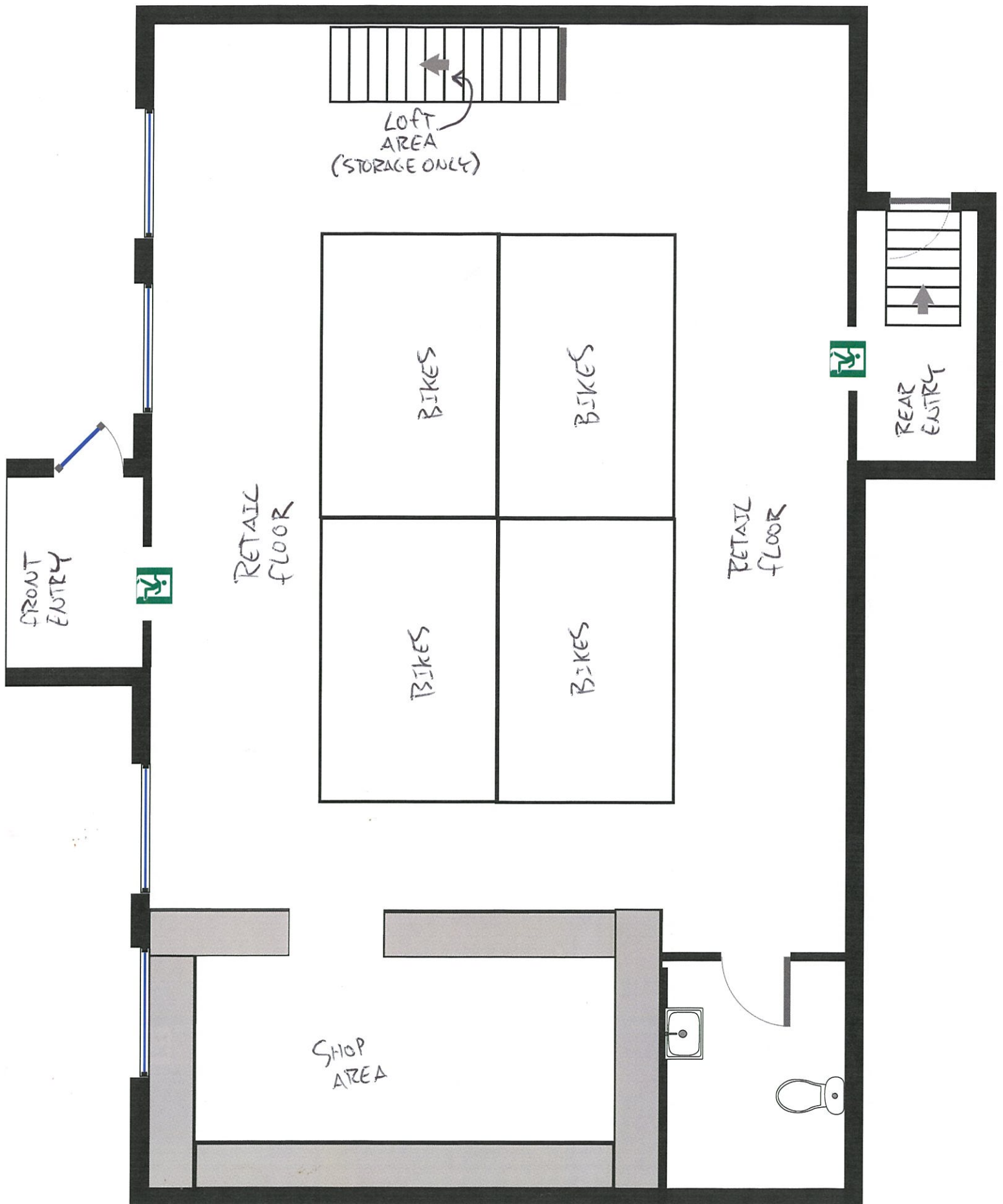


RECEIVED

FEB 14 2018

CITY OF HOME
PLANNING/ZONING







KPB Parcel Viewer
4' contours



Printed: Feb 27, 2018

JOB #2017-48
 PREPARED FOR:
 DEREK AND CATRIONA REYNOLDS
 4658 TAMARA STREET
 HOMER, AK 99603

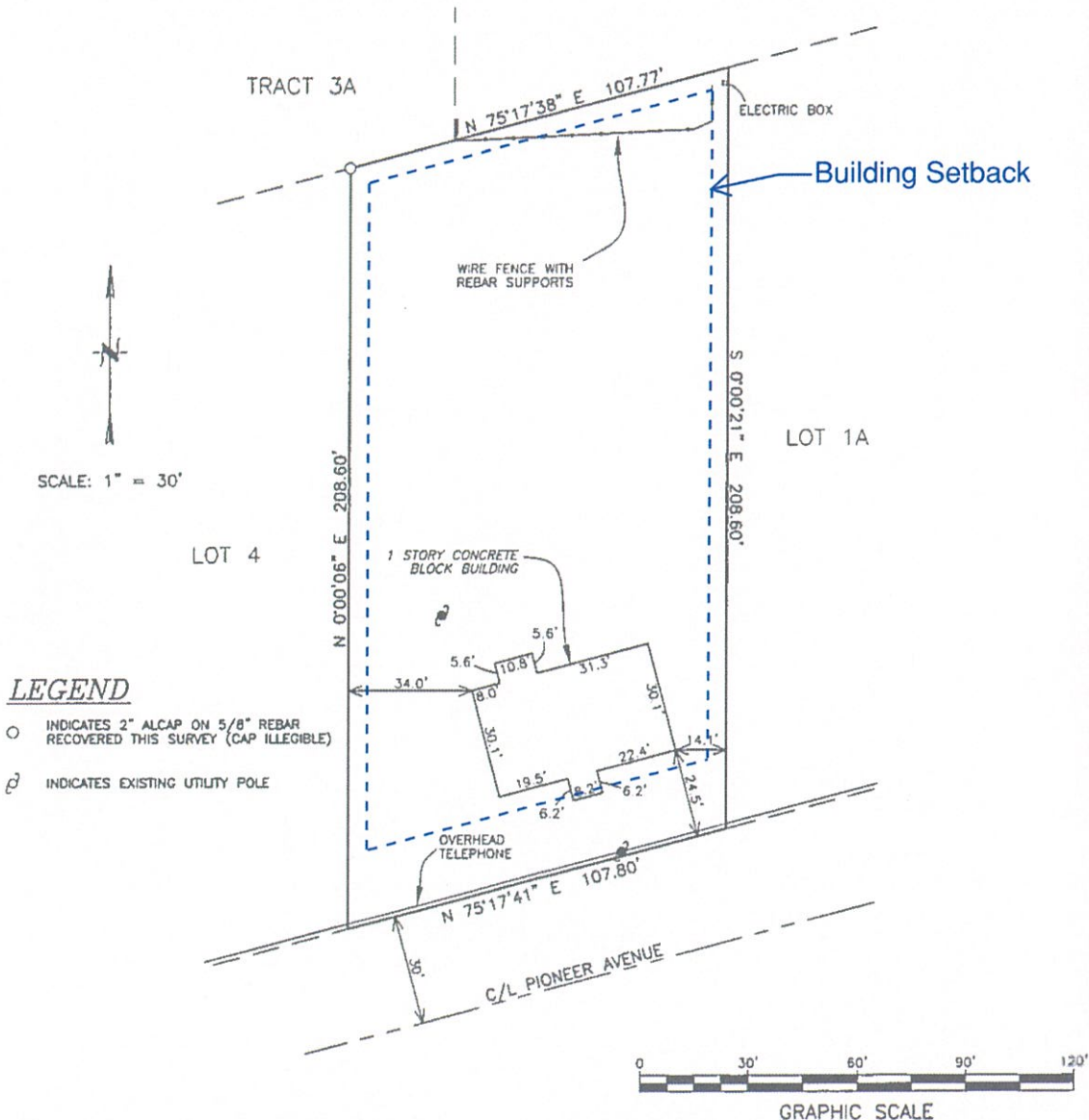
RECEIVED

FEB 14 2018

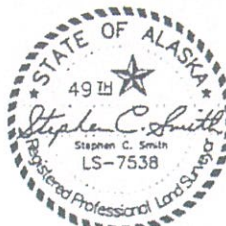
CITY OF HOMER
 PLANNING/ZONING

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10/24/17

ASBUILT SURVEY

LOT 2, TRACT A
 AMENDED PLAT OF
 NILS O. SVEDLUND SUBDIVISION
 251-A (BOOK 4, PAGE 251)
 (HOMER RECORDING DISTRICT)

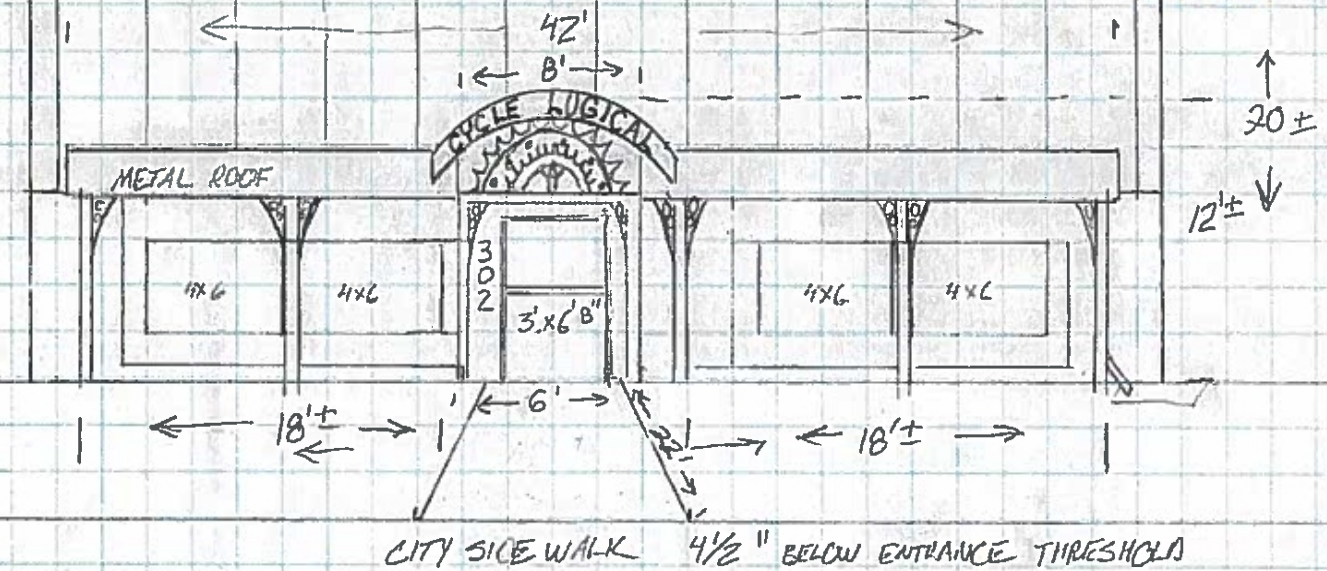
GEOVERA, LLC
 PO BOX 3235
 HOMER, ALASKA 99603

DATE: 10/24/2017 SCALE: 1" = 30'
 JOB #2017-48 DRAWN BY: SCS

← 50' →
Proposed Building Frontage

REC'D 11/4/2011

CITY OF HO
PLANNING/ZC



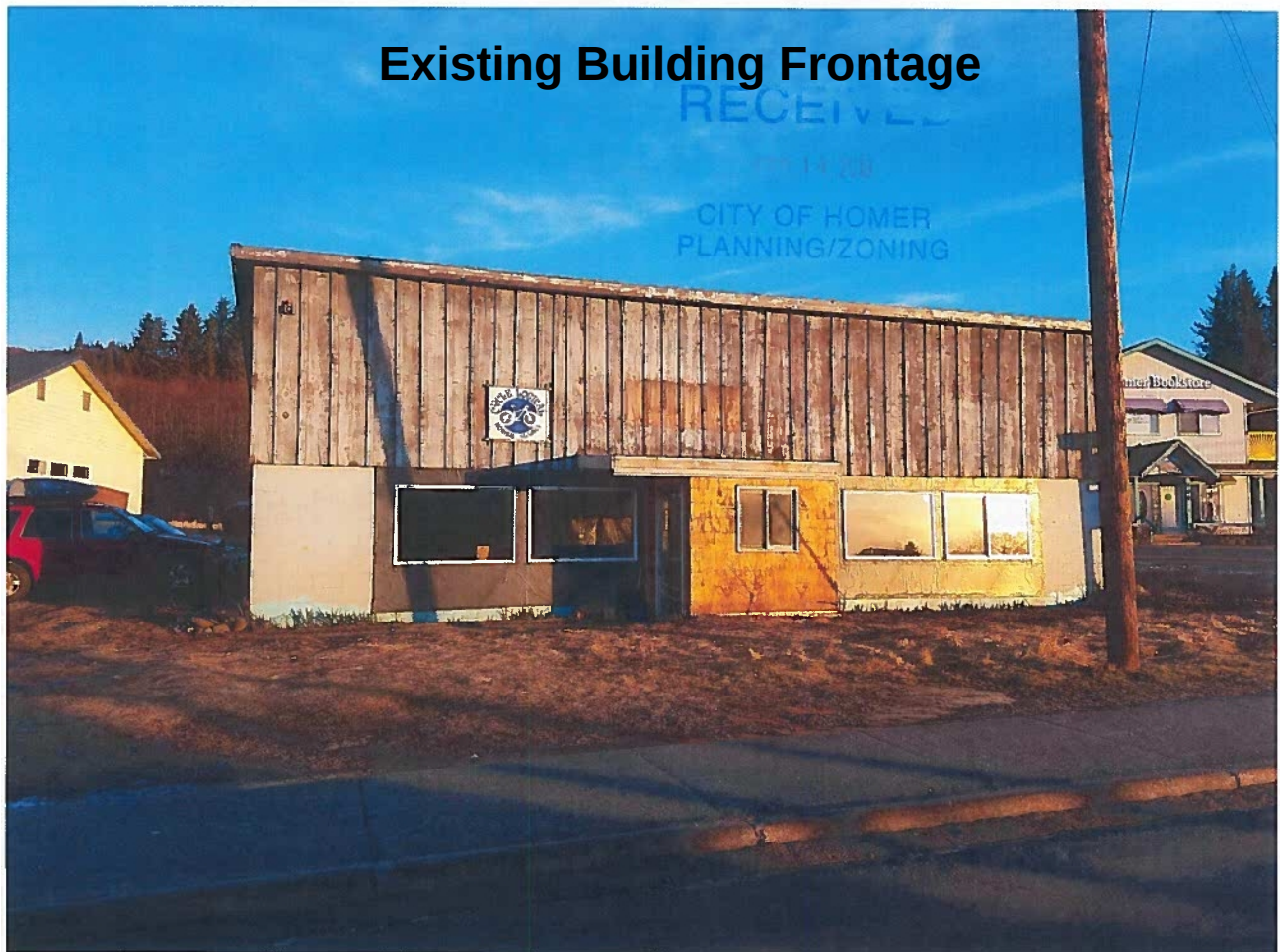
□ = 2'

PROPOSED ADDITION TO 302 PICNEER AVE "CYCLE LOGICAL"

Existing Building Frontage

RECEIVED

CITY OF HOMER
PLANNING/ZONING



208.60'

N 0°00'06" E 20

RECEIVED

FEB 14 2018

CITY OF HOMER
PLANNING/ZONING

1 STORY CONCRETE
BLOCK BUILDING

THE PURPOSE OF
LEAD-TO ROOFS
EAST & WEST OF
ENTRY ARE TO
SHELTER OUR FLEET
OF RENTAL BIKES.

THE PURPOSE OF
LEAD-TO ROOF
EXTENDING TOWARDS
SIDEWALK IS TO
PROVIDE SHELTER ON
ENTRY AND A PLACE
FOR PATRONS TO PARK
THEIR BIKES.



5.6'

5.6'

31.3'

34.0'

8.0'

30.1'

19.5'

6.2'

8.2'

22.4'

24.5'

14.1'

107.80'

N 75°17'41" E

PARKING ON WEST
SIDE OF BUILDING

20 ft. Front Building Setback

BOARDWALK
TO SIDEWALK

LEAD-TO ROOFS

LEAD-TO ROOFS

2 ft

8 ft

12 ft

PUBLIC HEARING NOTICE

Public notice is hereby given that the City of Homer will hold a public hearing by the Homer Advisory Planning Commission on Wednesday, March 07, 2018 at 6:30 p.m. at Homer City Hall, 491 East Pioneer Avenue, Homer, Alaska, on the following matter:

A request for Conditional Use Permit (CUP) 2018-02 to extend the front of a building and a covered entrance into the 20-foot building setback at 302 East Pioneer Ave., per Homer City Code 21.18.040(b)(4). The legal description of the property is Lot 2, Tract A of Nils O Svedlund Subdivision Amended, T6S, R13W, SEC. 20, S.M.

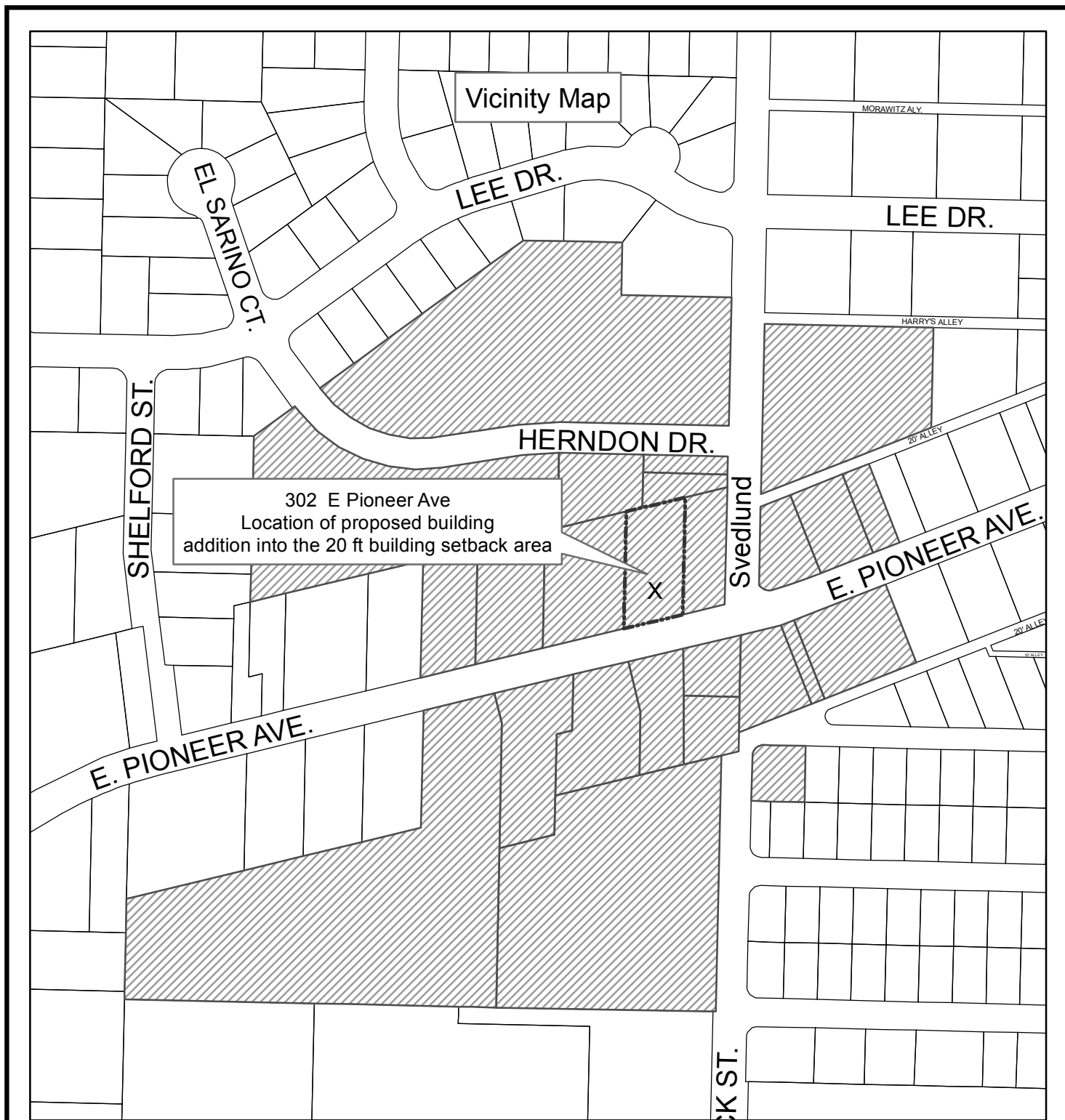
Anyone wishing to present testimony concerning this matter may do so at the meeting or by submitting a written statement to the Homer Advisory Planning Commission, 491 East Pioneer Avenue, Homer, Alaska 99603, by 4:00 p.m. on the day of the meeting.

The complete proposal is available for review at the City of Homer Planning and Zoning Office located at Homer City Hall. For additional information, please contact Rick Abboudat the Planning and Zoning Office, 235-3106.

NOTICE TO BE SENT TO PROPERTY OWNERS WITHIN 300 FEET OF PROPERTY.

.....

VICINITY MAP ON REVERSE



City of Homer
Planning and Zoning Department

2/21/18

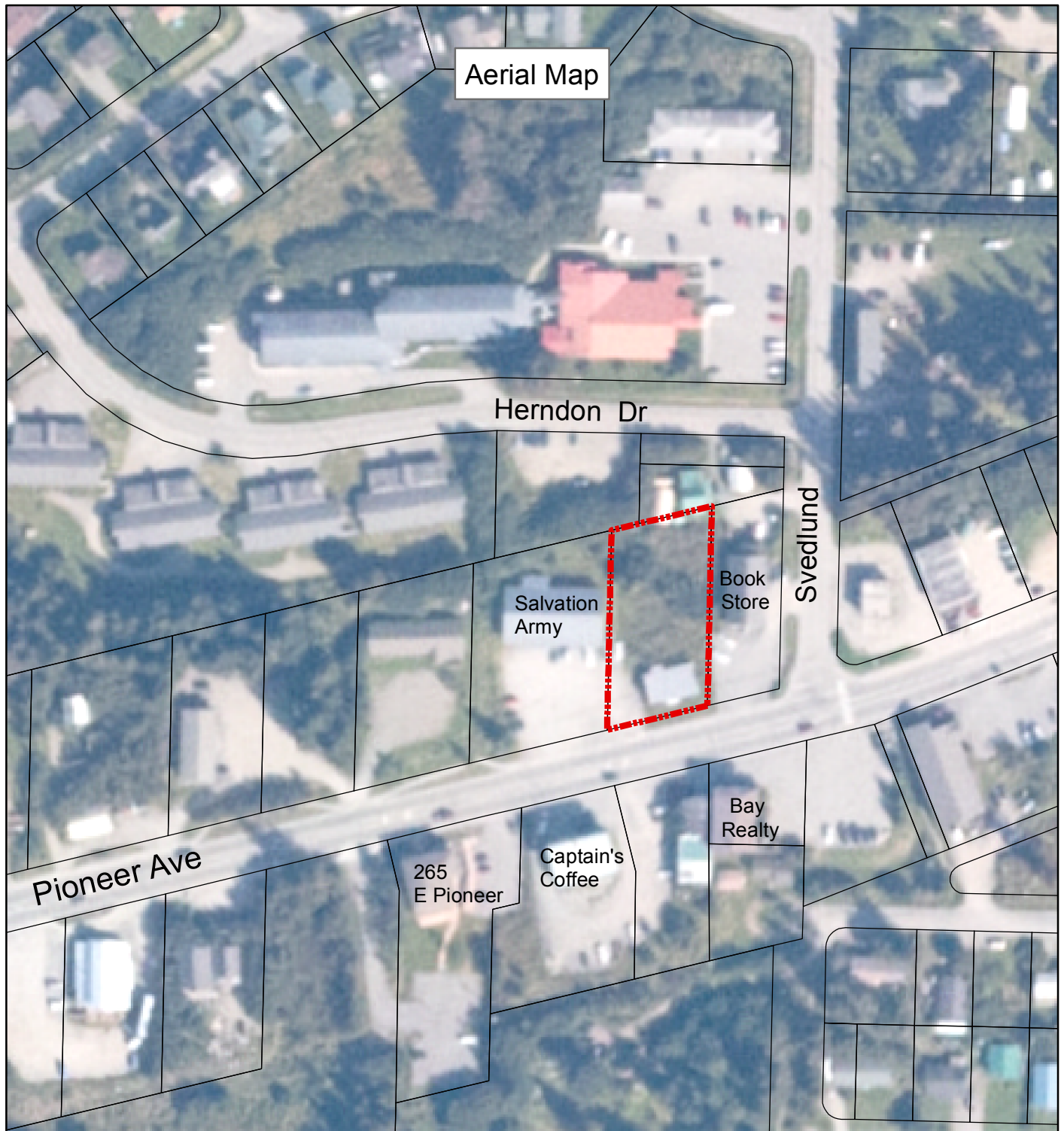
Request for CUP 18-02
302 E Pioneer Ave
Request for reduced building setback

Marked lots are within 300 feet and
property owners are notified.

0 150 300 600 Feet



Disclaimer:
It is expressly understood the City of
Homer, its council, board,
departments, employees and agents are
not responsible for any errors or omissions
contained herein, or deductions, interpretations
or conclusions drawn therefrom.



City of Homer
Planning and Zoning Department

2/21/18

Request for CUP 18-02
302 E Pioneer Ave
Request for reduced building setback

0 150 300 Feet



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Homer, its council, board,
departments, employees and agents are
not responsible for any errors or omissions
contained herein, or deductions, interpretations
or conclusions drawn therefrom.*

Julie Engebretsen

From: Homer Bookstore <homerbookstore@ak.net>
Sent: Monday, March 05, 2018 5:51 PM
To: Department Planning
Subject: Proposed Building Frontage- Cycle Logical

Hello,

We at the Homer Bookstore would like to express our support of the proposed building frontage for Cycle Logical. We are thrilled to be seeing this eyesore of a building cleaned up. We feel this will be a great addition to this neighborhood and we look forward to the improvements that we expect to see. We do not have a problem with the proposed frontage.

Across the road, however, the old garage has a tar roof that was blowing off last week... Is there a way the city can contact the owner and find a way to keep tar paper from littering Pioneer Avenue on the next big windstorm we have. I do have photos of the roof materials blowing off if you need them.

Thank you,
Sue Post
The Homer Bookstore
332 E. Pioneer Ave. #1
Homer, AK 99603
(907) 235-7496
homerbookstore@ak.net

RECEIVED

MAR 06 2018

CITY OF HOMER
PLANNING/ZONING

Julie Engebretsen

From: Frank Griswold <fsgriz@alaska.net>
Sent: Tuesday, March 06, 2018 2:29 PM
To: Department Planning
Cc: Julie Engebretsen; Melissa Jacobsen; Renee Krause; Katie Koester
Subject: CUP 2018-02

Dear Commissioners,

The entire focus of Planning Staff's review of the application for CUP 2018-02 is erroneously on the retail bicycle shop use, which is a use that is permitted outright within the Central Business District and therefore *one that does not require a conditional use permit*. Applicant points out that "[a] bicycle retail and rental store matches well with the CBD" but this is totally irrelevant. Of course it does, it is a permitted use. The proposed entryway and covered outdoor space are all part of the bicycle store and, whether constructed within the 20-foot setback or elsewhere on the subject property, do not constitute a distinct use. Accordingly, the Commission's discussion and findings would ordinarily focus solely on the effects of allowing that use and its proposed appurtenances to encroach 8 feet into the 20-foot setback. However, because encroachment into a setback is not a use of any kind, it cannot even be considered under the City's conditional *use* criteria. The Commission does not have legal authority to apply HCC 21.18.040(b)(4) to this application. This matter should be postponed until the Commission seeks and receives *impartial* legal advice regarding the legality of HCC 21.18.040(b)(4) "as applied" to CUP 2018-02. Note that the Homer city attorneys have long been defending CUP 14-05, involving a similar application for setback reduction, which is pending on appeal in the Alaska Supreme Court. (See S-16267).

Neither Staff nor Applicant presented statistics or analysis regarding the effects of setback reductions on property values. Not only do setback restrictions promote the community's health, safety, and welfare under the provisions prescribed by HCC 21.01.030, but they generate a "scarcity effect" as well. By increasing the scarcity of land available for particular uses in a particular location, the prices for those lands are bid up in the market. (See William Jaeger, The Effects of Land-use Regulations on Property Values, Environmental Law Vol. 36:105 at 106). Zoning waivers/exemptions/variances have economic value to the recipient so while waiving the setback requirement via the approval of CUP 14-05 would have the initial effect of increasing the value of the subject property, this is contingent on setback requirements remaining in place for most other properties. Setback reduction via conditional use permit creates a slippery slope and as more and more exceptions/variances are inevitably granted within the highly desirable but relatively small Central Business Zoning District, the land available for development increases thereby reducing its scarcity and market value. A study of Milwaukee found that requiring an additional 10-foot setback was associated with a price increase of 6.1% – 7.8%. Richard K. Green, *Land Use Regulation and the Price of Housing in a Suburban Wisconsin County*, 8 J. Housing Econ. 144, 156 (1999).

Frank Griswold

RECEIVED

MAR 06 2018

CITY OF HOMER
PLANNING/ZONING

Rick Abboud

From: Rick Abboud
Sent: Wednesday, March 7, 2018 3:53 PM
To: 'Frank Griswold'
Subject: RE: CUP 2018-02

Mr. Griswold,

Forgive my misreading of the **SUBURBAN** housing example. This is neither suburban nor housing.

Sincerely,

Rick Abboud

From: Frank Griswold [mailto:fsgriz@alaska.net]
Sent: Wednesday, March 7, 2018 3:32 PM
To: Rick Abboud <RAbboud@ci.homer.ak.us>
Cc: Katie Koester <kkoester@ci.homer.ak.us>; Department Planning <Planning@ci.homer.ak.us>; Julie Engebretsen <JEngebretsen@ci.homer.ak.us>; Renee Krause <RKrause@ci.homer.ak.us>; Melissa Jacobsen <MJacobsen@ci.homer.ak.us>
Subject: Re: CUP 2018-02

Mr. Abboud,

I never stated or implied that setback reductions would have the overall effect of increasing property values; the sources I cited indicate that setback reductions would, over time, *decrease* property values. Homer's CBD setback requirements were duly adopted by the City Council years ago to regulate the size of yards and other open spaces, regulate and limit the density of population, conserve and stabilize the value of property, provide adequate open spaces for light and air, prevent fires, prevent undue concentration of population, lessen congestion on streets and highways, preserve and enhance the aesthetic environment of the community, and promote health, safety, and general welfare. See HCC 21.01.030. The 20-foot setback along Pioneer Avenue therefore has a presumption of validity. After you rezone the "ridiculous [sic] large" CBD to GC1 to make it more "walkable" there will be no pedestrian interactions. The beauty of a vaguely worded Comprehensive Plan is that its provisions can be deliberately scrambled and regurgitated to support any foolish whim that you want them to. A diligent, knowledgeable City Planner would have a meaningful interaction with Planning Commissioners discussing the merits of front yard setbacks and why communities nationwide have embraced them.

Frank

On Mar 7, 2018, at 2:32 PM, Rick Abboud <RAbboud@ci.homer.ak.us> wrote:

Mr. Griswold,

In a nutshell, would you say that you are opposed to setback reductions because it may increase property values? Everything we do effects property values in some form. Should we only consider things that have a neutral or negative effect? The reduction in setback in a business district tends to enhance the pedestrian environment. It brings the streetscape to pedestrians and enhances pedestrian interaction. It is this pedestrian interaction, perhaps being in an identifiable view or within earshot, that enhances safety. A person walking by is not just some anonymous object far in the distance, they become 'part of the action' and actions are influenced by those present. Wouldn't you rather walk by a store and look in the window to see things of interest? It is the business district, I do not believe that most are looking for privacy. In today's world I believe it is more important than ever to create meaningful interactions.

Hopefully, you may give this some considerate thought. Court cases are generally not going to present the intrinsic values that make a community great or a neighborhood that people want to be a part of.

Sincerely,

RICK ABBOUD, AICP

City Planner
491 E Pioneer Ave
Homer, AK 99603
(o) 907-235-3106
(f) 907-235-3118

From: Julie Engebretsen
Sent: Tuesday, March 6, 2018 2:51 PM
To: Rick Abboud <RAbboud@ci.homer.ak.us>; Travis Brown <tbrown@ci.homer.ak.us>
Subject: FW: CUP 2018-02

From: Frank Griswold [<mailto:fsgriz@alaska.net>]
Sent: Tuesday, March 06, 2018 2:29 PM
To: Department Planning <Planning@ci.homer.ak.us>
Cc: Julie Engebretsen <JEngebretsen@ci.homer.ak.us>; Melissa Jacobsen <MJacobsen@ci.homer.ak.us>;
Renee Krause <RKrause@ci.homer.ak.us>; Katie Koester <kkoester@ci.homer.ak.us>
Subject: CUP 2018-02

Dear Commissioners,

The entire focus of Planning Staff's review of the application for CUP 2018-02 is erroneously on the retail bicycle shop use, which is a use that is permitted outright within the Central Business District and therefore ***one that does not require a conditional use permit***. Applicant points out that "[a] bicycle retail and rental store matches well with the CBD" but this is totally irrelevant. Of course it does, it is a permitted use. The proposed entryway and covered outdoor space are all part of the bicycle store and, whether constructed within the 20-foot setback or elsewhere on the subject property, do not constitute a distinct use. Accordingly, the Commission's discussion and findings would ordinarily focus solely on the effects of allowing that use and its proposed appurtenances to encroach 8 feet into the 20-foot setback. However, because encroachment into a setback is not a use of any kind, it cannot even be considered under the City's conditional *use* criteria. The Commission does not have legal authority to apply HCC 21.18.040(b)(4) to this application. This matter should be postponed until the Commission seeks and receives ***impartial*** legal advice

regarding the legality of HCC 21.18.040(b)(4) "as applied" to CUP 2018-02. Note that the Homer city attorneys have long been defending CUP 14-05, involving a similar application for setback reduction, which is pending on appeal in the Alaska Supreme Court. (See S-16267).

Neither Staff nor Applicant presented statistics or analysis regarding the effects of setback reductions on property values. Not only do setback restrictions promote the community's health, safety, and welfare under the provisions prescribed by HCC 21.01.030, but they generate a "scarcity effect" as well. By increasing the scarcity of land available for particular uses in a particular location, the prices for those lands are bid up in the market. (See William Jaeger, The Effects of Land-use Regulations on Property Values, Environmental Law Vol. 36:105 at 106). Zoning waivers/exemptions/variances have economic value to the recipient so while waiving the setback requirement via the approval of CUP 14-05 would have the initial effect of increasing the value of the subject property, this is contingent on setback requirements remaining in place for most other properties. Setback reduction via conditional use permit creates a slippery slope and as more and more exceptions/variances are inevitably granted within the highly desirable but relatively small Central Business Zoning District, the land available for development increases thereby reducing its scarcity and market value. A study of Milwaukee found that requiring an additional 10-foot setback was associated with a price increase of 6.1% – 7.8%. Richard K. Green, *Land Use Regulation and the Price of Housing in a Suburban Wisconsin County*, 8 J. Housing Econ. 144, 156 (1999).

Frank Griswold

MAR 07 2018

Dear Commissioners,

CITY OF HOMER
PLANNING/ZONING

HCC 21.18.040(b)(4) applies the conditional *use* process to "setback reduction" which does not constitute a use; it is therefore impossible for the Commission to consider whether a setback reduction (a non-use) meets the conditions pertaining to uses under HCC 21.71.030 and HCC 21.71.040. HCC 21.48.040(b)(4) was enacted in 2004 as part of Ordinance 04-11(A) and re-codified in 2008 as HCC 21.18.040(b)(4). It pertains to dimensional requirements and applies only to Homer's Central Business District (CBD). HCC 21.18.040(b)(4) states: "If approved by a conditional use permit, the setback from a dedicated right of way, except from the Sterling Highway or Lake Street, may be reduced. Alleys are not subject to a 20 foot setback requirement." There is a fundamental difference between a variance and a conditional use permit. A variance is an authority to vary/violate the dimensional requirements of a land use ordinance (such as setback and height restrictions) while a conditional use permit is an authority to put property to a use expressly but conditionally permitted by a land use ordinance. Conditional uses for the CBD are listed under HCC 21.18.030 and they include *uses* such as service stations, greenhouses and homeless shelters. "Setback reduction" is not listed as a conditional use under HCC 21.18.030. Applying the **conditional** use analysis to a retail bicycle shop, a permitted use, and/or to an 8-foot setback reduction, a non-use, constitutes an exercise in absurdity. HCC 21.71.030 states, "Prior to granting a conditional use permit, it shall be established that the **use** satisfies

the following conditions:" (citing conditions (a)-(j)). Notwithstanding HCC 21.18.040(b)(4), the Commission cannot apply the criteria for considering an application for a conditional use permit when the "use" being applied for is a setback reduction, which by definition can never constitute a "use." HCC 21.03.040 defines "use" as follows: "Use' means the purpose for which land or a structure is occupied, arranged, designed or intended, or for which either land or a structure is or may be occupied or maintained." The land and structure at the subject site were never occupied, arranged, designed, intended, or maintained for the purpose of setback reduction. If appurtenances were added to a bicycle store anywhere on its lot, the purpose for which the structure is occupied would remain the same i.e., the appurtenances would not become a distinct use just because they were constructed within the front yard setback. HCC 21.18.040(b)(4) conflicts with Alaska Statutes regarding Variances, conflicts with and/or circumvents HCC 21.72.020, and promotes spot zoning. Just because the Homer zoning code provides for setback reduction via conditional use permit does not mean it is legal or proper to do so regarding CUP 2018-02 i.e., "as applied." Dimensional requirements such as setbacks are subject to an area variance application. See *In the Matter of Real Holding Corp. v. Alan Lehigh, et al*, 2N.Y.3d 297 (2004). So requests for exceptions to setback requirements, height restrictions, lot coverage limits, or other dimensional requirements require an area (or bulk) variance, not a conditional use permit. The conditional **use** permitting process is not applicable to "area" variances because the exception under consideration, in this case a setback reduction, does not constitute a use. There is another

type of variance known as a “*use*” variance that authorizes a land use not normally permitted by the zoning ordinance. While a use variance is very similar to a conditional use permit (also sometimes referred to as a special-use permit), granting a use permit for a single parcel is, in effect, granting a zoning change for that parcel and this constitutes spot zoning. The Alaska Planning Commission Handbook states that area variances provide relief from setback requirements: “Variances can be “use variances” or “area variances.” As the name implies, a use variance permits a use otherwise prohibited in a given zoning district. AS 29.40.040(b)(2) prohibits use variances for general law municipalities; however, home rule municipalities are not prohibited from allowing them. **Area variances provide relief from setback**, frontage, height, density, and similar requirements and are permitted by AS 29.40.” (APCH, Chapter 8, page 2)(emphasis added). The prerequisite conditions for a proper granting of a use variance are very stringent. Both HCC 21.72 and AS 29.40.040 restrict deviations from dimensional land use regulations. HCC 21.72.010 provides that a variance may be granted by the Planning Commission to provide relief when a literal interpretation of the provisions of the Homer Zoning Code would deprive a property owner of the reasonable use of a lot. (Note that a setback reduction is clearly not required to insure the Applicant for CUP 2018-02 the reasonable use of his property). HCC 21.72.020 sets forth other prerequisite conditions for granting variance:

- a. All of the following conditions shall exist before a variance may be granted:

1. A literal interpretation of the provisions of the Homer Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same district;
 2. Special conditions and circumstances exist that are peculiar to the land or structures involved and are not applicable to other lands and structures in the same district;
 3. The special conditions and circumstances that require the variance have not been caused by the applicant.
- b. Financial hardship or inconvenience shall not be the sole reason for granting a variance.
 - c. Other nonconforming land use or structures within the district shall not be considered grounds for granting a variance.
 - d. If approved, a variance shall be the minimum variance necessary to permit the reasonable use of the land or structure.
 - e. A variance shall not be granted that will permit a land use in a district in which that use is otherwise prohibited.

AS 29.40.040(b) provides that a variance may not be granted if: (1) special conditions that require the variance are caused by the person seeking the variance; (2) the variance will permit a land use in a district in which that use is prohibited; or (3) the variance is sought solely to relieve pecuniary hardship or inconvenience. HCC 21.18.040(b)(4) circumvents these standards and allows a de-facto area variance to be granted by conditional use permit. Use variances and spot zoning are illegal in Alaska. De facto use variances are also illegal in Alaska. If a setback variance is prohibited under HCC Chapter 21.72, it cannot simply be called a conditional

use and granted under HCC Chapter 21.71. It is not the intent of HCC Chapter 21.71 to circumvent the restrictions which apply to the granting of variances under HCC Chapter 21.72.

At page 9 of its Decision regarding CUP 05-11 (Foster/Harness) dated November 14, 2005, the Board of Adjustment stated in relevant part as follows: "The Commission did not discuss and made no findings concerning the reduced setback's consistency with the overall purposes of the zoning code. The Commission said "the use is consistent with the purpose of the zoning code as it complies with a conditionally permitted use per HCC 21.48.040(b)(4)." This is a circular conclusion that is not adequate. A reduced setback is permitted under this code section only if it is found to be consistent with the purposes of the zoning code, HCC 21.60.020." If approved, CUP 2018-02 would be in direct conflict with HCC 11.08.110 Driveway Construction Permits which provides, in relevant part, as follows: "There shall be a minimum twenty foot building setback required which shall apply to any property line abutting any dedicated road or street right-of-way." When there is a conflict of code, the provisions which frustrate a longstanding underlying policy should be avoided. Maintaining 20-foot front yard setbacks promotes public safety and general welfare, especially where driveways, pedestrians, and heavy traffic are involved. A longstanding, general law which promotes public safety takes precedent over a new, local law that promotes private interests to the detriment of the general public. Local legislation enters an area that is "fully occupied" by general law when the Legislature has expressly or implicitly manifested its intent to "fully occupy" the area. *Sherwin-*

Williams Co. v. City of Los Angeles, 4 Cal 4th 893, 897-898 (1993). Local legislation is "contradictory" to general law when it is inimical thereto. (See *ex parte Daniels* (1920) 183 Cal. 636, 641-648 [192 P. 442, 21 A.L.R. 1172] [finding "contradiction" where local legislation purported to fix a lower maximum speed limit for motor vehicles than that which general law fixed]. The fundamental objectives of Chapter 11.08 are identified in HCC 11.08.010 as follows:

- a. To provide maximum protection to the public through the orderly control of traffic moving onto and off of a road or street;
- b. To provide a uniform practice in the design and construction of entrances and exits;
- c. To provide the necessary drainage.

Structures in close proximity to dedicated rights-of-way hamper snow removal operations and affect drainage to and from the streets. Setback reductions certainly do not further the goal of providing "maximum protection to the public through the orderly control of traffic moving onto and off of a road or street." The approval of CUP 2018-02 would create an immediate code violation. HCC 21.90.030 states: "No permit may be issued under the Homer Zoning Code regulations unless all structures on and uses of the property conform to the Homer Zoning Code, regulations, and any previously issued permits that are applicable to the property and remain in effect. Any permit issued in violation of this section is voidable upon written notice from the City Planner or City Manager." HCC 21.70.030(c) states in relevant part as follows: "In granting a zoning permit, no City official or employee has authority to grant a waiver, variance, or deviation from the requirements of the zoning code and other applicable laws

and regulations, unless such authority is expressly contained therein.”

The Commission does not have the authority to waive the requirements of HCC 11.08.110 and no permit may be issued unless all structures on and uses of the subject property conform to that code provision. CUP 2018-02 is manifestly inconsistent with HCC Chapter 71 (Conditional Use Permits), HCC Chapter 72 (Variances), AS 29.40.040(b), and HCC 11.08.110 and therefore cannot be sustained.

Frank Griswold

A. Staff Report 18-13, City Planner's report

City Planner Abboud reviewed his staff report and noted that two Ordinances were introduced at the City Council Meeting on February 26th. One regarding Marijuana Retail Facilities in the Marine Commercial District and one to disband the Cannabis Advisory Commission. Both of these Ordinances have a Public Hearing and Second Reading at the March 12th, 2018 City Council Meeting. He also mentioned that a Resolution to re-instate the Transportation Advisory Commission failed.

City Planner Abboud stated that 10 people attended the Comprehensive Plan Open House and that the public seemed very responsive.

City Planner Abboud explained that they will be short staffed for the next three weeks due to Travis Brown being on vacation.

City Council Meeting attendance is as follows:

March 12: Mandy Bernard

March 27th: Franco Venuti

April 9th: Tom Bos

Chair Stead called a recess at 6:36pm to review the laydowns provided for the Public Hearing. The meeting was called back to order at 6:45pm.

Commissioner Highland inquired about Mr. Griswold's comments in the staff report on page 12 and 13 about GC1. She asked if the Commission needed to respond to Mr. Griswold or if the Planning Department has responded.

City Planner Abboud stated that he responded to Mr. Griswold, he just provided the comments in the packet for informational purposes.

PUBLIC HEARINGS

Testimony limited to 3 minutes per speaker. The Commission conducts Public Hearings by hearing a staff report, presentation by the applicant, hearing public testimony and then acting on the Public Hearing items. The Commission may question the public. Once the public hearing is closed the Commission cannot hear additional comments on the topic. The applicant is not held to the 3 minute time limit.

A. Staff Report 18-14, Conditional Use Permit 2018-02 for a reduced front building setback at 302 E Pioneer Ave.

City Planner Abboud summarized his report and recommended an additional finding #11. That the proposed activity will enhance the aesthetic environment of the community, providing gracious human scale entry ways and public ways, orienting the entry way toward the street.

City Planner Abboud addressed Mr. Griswold's comments on the Conditional Use Permit and stated that this process is outlined in Homer City Code and is the best way to process this setback request, at this time. City Planner Abboud addressed Mr. Griswold's safety concerns about snow removal and drainage. He stated that safety is a very valid concern, but Mr. Griswold did not provide any specific examples about how this proposal could hamper snow removal and drainage. City Planner Abboud mentioned initially being concerned with the line of sight for pedestrians and cars pulling onto the highway but after evaluating the property, he found no apparent safety issues. However, he encouraged the Commission to bring forward any issues they may foresee.

Derek Reynolds, co-applicant, commented that he moved into the Homer area in 2004 and started Cycle Logical in 2006. They are very excited to move into town and have had a lot of encouragement from the public, especially about the building they are moving into. The building has been vacant for a long time and has been a "bit of an eye sore". He explained that the rose bushes that once surrounded the building went out as far as the new entry is proposed to go. They expect that the traffic pattern should not change greatly and that the line of sight would not greatly be affected. He expects that the roof itself will help contain snow and the gutter system they will have in place, will help improve the drainage in this area. Mr. Reynolds mentioned a study that was conducted in San Francisco which found that orienting buildings to the street had a large impact on making the city more pedestrian friendly.

Catriona Reynolds, co-applicant, commented that they reached out to their surrounding neighbors and everyone was very encouraging and excited to see the building's finished product. She explained that before they bought the building, there was trash and rose bushes that extended past their proposed addition to the building, so she feels that any arguments for snow removal or line of sight are invalid. She explained that this building feels like "the missing piece" in this section of town and they hope to greatly impact the city as a whole by encouraging people to ride their bikes instead of using motor vehicles, which in turn will make their vehicular traffic much less. Everyone has been so positive about their remodel so far and they hope that they can progress, because a busy bike season is coming up in a matter of weeks.

Chair Stead opened the Public Hearing.

Marc Romano, city resident, spoke in support of CUP 2018-02. He stated if he had been asked about 302. E. Pioneer Avenue a year ago, his recommendation would have been to remove the building because it was not doing anything to improve the central business district of our community. Today, the building has been improved greatly by the applicant. This business will bring both residents and non-residents/tourists to this area and it will benefit all the adjacent businesses. Personally he feels that a business that fronts to the street is more approachable, and would work really well with this business that is promoting non-motorized use of the central business district. As a city resident, he has a vision for Homer that he thinks most of the community

shares. He wants it to be vibrant, approachable, and aesthetic, particularly in the central business district and he believes these improvements to this building will add to that aesthetic.

Jason Herreman, city resident, spoke in support of CUP 2018-02 and thanked the Homer Advisory Planning Commission for their time. Upon coming to the city in 2012, 302 E. Pioneer Avenue was quite the derelict building. He is glad to see the improvements that the applicant has already made and looks forward to the completion of the project. From what he has heard from the City Planner and the applicants, he does not believe that the addition will cause any problems in this area and the improvements that have already been made have improved the overall appearance and usage of the area. He believes that it would be compatible with what most people would like to see in this area as far as walkability and friendliness.

Wes Schocht, city resident, spoke in support of CUP 2018-02. He really appreciated the applicants buying and renovating this old historic building and believes that a bicycle shop is a commodity that the city needs. He explained that biking is his preferred way of transportation, so he wanted to come out to show support and he hopes they are able to move along with the project.

There were no additional public comments. Chair Stead closed the Public Hearing and opened up the floor for questions.

Commissioner Venuti inquired if this project needed fire marshal approval, since it will be a commercial establishment.

Mr. Reynolds responded that the Interim Fire Chief has received their application and they are just waiting to hear back from him.

Commissioner Banks inquired if there was already a precedent set about using a Conditional Use Permit to reduce a setback.

City Planner Abboud responded that they have used Conditional Use Permits to reduce setbacks for years. There are a couple specific cases that he would have to look up and bring back at a later time.

Commissioner Banks asked if there are other setback reductions or encroachments along Pioneer.

City Planner Abboud responded that there are.

Commissioner Banks asked if they needed a Conditional Use Permit to have the boardwalk extend all the way to the sidewalk.

City Planner Abboud explained that they would only need a Conditional Use Permit for a structure being built in that area and that they don't need one for a boardwalk or pathway.

Chair Stead requested a motion.

BENTZ/VENUTI-MOVED TO APPROVE THE STAFF REPORT PL 18-14 AND CONDITIONAL USE PERMIT 2018-02 WITH FINDINGS 1-10, CONDITION 1, AND AN ADDITIONAL FINDING #11 THAT THE PROPOSED ACTIVITY WILL ENHANCE THE AESTHETIC ENVIRONMENT OF THE COMMUNITY, PROVIDING GRACIOUS HUMAN SCALE ENTRY WAYS AND PUBLIC WAYS ORIENTING THE ENTRY WAY TOWARD THE STREET.

There was a brief discussion in support of the renovations the applicants have done to the property thus far.

VOTE. NON-OBJECTION.UNANIMOUS CONSENT

Motion carried.

PLAT CONSIDERATION

PENDING BUSINESS

NEW BUSINESS

INFORMATIONAL MATERIALS

A. City Manager's Reports for the February 26, 2018 City Council Meeting

COMMENTS OF THE AUDIENCE

COMMENTS OF THE STAFF

COMMENTS OF THE COMMISSION

Commissioner Highland inquired if there was anything that the Commission can do about Sue Post's comments about the building across the street from the bookstore.

City Planner Abboud responded that he will look into it.

Commissioner Bos stated that this was a good meeting. The building looks very nice and he is sure that it will continue to improve. He wishes that we could do more improvements like this along Pioneer Avenue to help bring people into the city. He also wanted to mention that the roof over the entry way at the Pier One theatre on the spit has "blown back". He hopes that someone is able to fix it before it causes any significant damage.



City of Homer

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HOMER ADVISORY PLANNING COMMISSION

Approved CUP 2018-02 at the Meeting of March 7, 2018

RE: Conditional Use Permit (CUP) 2018-02
Address: 302 E. Pioneer Ave.

Legal Description: T 6S R 13W SEC 20 SEWARD MERIDIAN HM 0540251A NILS O SVEDLUND SUB AMD LOT 2 TRACT A

DECISION

Introduction

Derek & Catriona Reynolds, (the "Applicants") applied to the Homer Advisory Planning Commission (the "Commission") for a Conditional Use Permit (CUP) to construct a covered outdoor space and entryway, extending up to 8 feet into the 20-foot building setback, along Pioneer Avenue under Homer City Code 21.18.040(b)(4).

A public hearing was held for the application before the Commission on March 7, 2018 as required by Homer City Code 21.94. Notice the public hearing was published in the local newspaper and sent to 22 property owners of 25 parcels as shown on the Kenai Peninsula Borough tax assessor rolls.

At the March 7, 2018 meeting of the Commission, there were seven commissioners present. The Commission voted 7-0 to approve CUP 2018-02 with findings 1-11 and conditions 1.

Evidence Presented

At the meeting of March 7, 2018, City Planner Abboud summarized the staff report and responded to the written laydown provided by Mr. Griswold. City Planner Abboud pointed out that no examples or evidence was presented in the laydown about just how drainage and snow removal might be more of a problem in consideration of the proposal. City Planner Abboud also stated that he had evaluated the site for line of sight problems and found no safety issues. The applicants made a presentation. Marc Romano, Jason Herreman, and Wes Schocht, city residents, testified in favor of the proposal. The applicants and the City Planner responded to questions of the Commissioners.

Findings of Fact

After careful review of the record and consideration of testimony and evidence presented at the hearing, the Commission determined Condition Use Permit 2018-02, to build a covered outdoor space and entryway, extending up to 8 feet into the 20-foot building setback, along Pioneer Avenue under Homer City Code 21.18.040(b)(4) is hereby approved.

The criteria for granting a Conditional Use Permit is set forth in HCC 21.71.020, General conditions, and establishes the following conditions:

a. The applicable code authorizes each proposed use and structure by conditional use permit in that zoning district;

Finding 1: HCC 21.18.020(a) authorizes retail business and HCC 21.18.020(b) authorizes personal service establishments. HCC 21.18.040(b)(4) authorizes a setback reduction from a dedicated right-of-way if approved by a Conditional Use Permit.

b. The proposed use(s) and structure(s) are compatible with the purpose of the zoning district in which the lot is located.

Finding 2: The proposal is compatible with the purpose of the zoning district.

c. The value of the adjoining property will not be negatively affected greater than that anticipated from other permitted or conditionally permitted uses in this district.

Finding 3: The proposal will not negatively affect adjoining property values more than other permitted or conditionally permitted uses in the district.

d. The proposal is compatible with existing uses of surrounding land.

Finding 4: The proposal is compatible with existing uses of surrounding land.

e. Public services and facilities are or will be, prior to occupancy, adequate to serve the proposed use and structure.

Finding 5: Existing public, water, sewer, and fire services are adequate to serve the structure.

f. Considering harmony in scale, bulk, coverage and density, generation of traffic, the nature and intensity of the proposed use, and other relevant effects, the proposal will not cause undue harmful effect upon desirable neighborhood character.

Finding 6: The proposal will not cause undue harmful effect upon desirable neighborhood character.

g. The proposal will not be unduly detrimental to the health, safety or welfare of the surrounding area or the city as a whole.

Finding 7: The covered outdoor space and entryway will not be unduly detrimental to the health, safety or welfare of the surrounding area or the City as a whole.

h. The proposal does or will comply with the applicable regulations and conditions specified in this title for such use.

Finding 8: Following CUP approval and issuance of a zoning permit, this proposal will comply with applicable regulations of HCC Title 21.

i. The proposal is not contrary to the applicable land use goals and objectives of the Comprehensive Plan.

Finding 9: No evidence has been found that the proposal is contrary to the applicable land use goals and objectives of the Comprehensive Plan.

j. The proposal will comply with the applicable provisions of the Community Design Manual (CDM).

Finding 10: The proposal will comply with the applicable provisions of the Community Design Manual.

HCC 21.71.040(b). b. In approving a conditional use, the Commission may impose such conditions on the use as may be deemed necessary to ensure the proposal does and will continue to satisfy the applicable review criteria. Such conditions may include, but are not limited to, one or more of the following:

- 1. Special yards and spaces:** No specific conditions deemed necessary
- 2. Fences and walls:** Rental bicycles displayed outdoors must be screened from public view when remaining outdoors outside of open business hours, per HCC 21.18.080(b).
- 3. Surfacing of parking areas:** No specific conditions deemed necessary.
- 4. Street and road dedications and improvements:** No specific conditions deemed necessary.
- 5. Control of points of vehicular ingress and egress:** No specific conditions deemed necessary.
- 6. Special provisions on signs:** No specific conditions deemed necessary.
- 7. Landscaping:** No specific conditions deemed necessary.
- 8. Maintenance of the grounds, building, or structures:** No specific conditions deemed necessary.
- 9. Control of noise, vibration, odors or other similar nuisances:** No specific conditions deemed necessary.
- 10. Limitation of time for certain activities:** No specific conditions deemed necessary.

- 11. A time period within which the proposed use shall be developed:** No specific conditions deemed necessary.
- 12. A limit on total duration of use:** No specific conditions deemed necessary.
- 13. More stringent dimensional requirements,** such as lot area or dimensions, setbacks, and building height limitations. Dimensional requirements may be made more lenient by conditional use permit only when such relaxation is authorized by other provisions of the zoning code. Dimensional requirements may not be altered by conditional use permit when and to the extent other provisions of the zoning code expressly prohibit such alterations by conditional use permit.
- 14. Other conditions necessary** to protect the interests of the community and surrounding area, or to protect the health, safety, or welfare of persons residing or working in the vicinity of the subject lot.

Condition 1: Any new outdoor lighting must follow the guidelines of the Community Design Manual and include downward directional lighting.

Finding 11: The proposed activity will enhance the aesthetic environment of the community, providing gracious human scale entryways and public ways orienting the entryway toward the street.

Conclusion: Based on the foregoing findings of fact and law, Conditional Use Permit 2018-02 is hereby approved, with Findings 1-11 and Condition 1.

3/21/2018
Date


Vice Chair, Syverine Bentz

3/21/18
Date


City Planner, Rick Abboud

NOTICE OF APPEAL RIGHTS

Pursuant to Homer City Code, Chapter 21.93.060, any person with standing that is affected by this decision may appeal this decision to the Homer Board of Adjustment within thirty (30) days of the date of distribution indicated below. Any decision not appealed within that time shall be final. A notice of appeal shall be in writing, shall contain all the information required by Homer City Code, Section

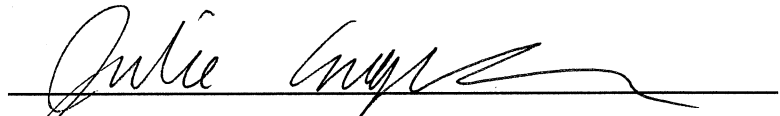
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CERTIFICATION OF DISTRIBUTION

I certify that a copy of this Decision was mailed to the below listed recipients on 3/22 2018. A copy was also delivered to the City of Homer Planning Department and Homer City Clerk on the same date.

3/22/18
Date


Julie Engebretsen, Deputy City Planner

Derek & Catriona Reynolds
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Homer, AK 99603

Frank Griswold
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Homer, AK 99603

Holly C. Wells
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