



**CITY OF CORNING  
PLANNING COMMISSION AGENDA  
TUESDAY, OCTOBER 21, 2008  
CITY COUNCIL CHAMBERS  
794 THIRD STREET**

- A. **CALL TO ORDER:** at 6:30 p.m.
- B. **ROLL CALL:** Commissioners: Robertson  
Reilly  
Lopez  
Hatley  
Armstrong
- C. **MINUTES:**  
1. **Waive the Reading and Approve the Minutes of the September 16, 2008 meeting with any necessary corrections.**
- D. **BUSINESS FROM THE FLOOR:** If there is anyone in the audience wishing to speak on items not already set on the Agenda, please come to the podium, give your name and address, and briefly identify the matter you wish to have placed on the Agenda. The Commission will then determine if such matter will be placed on the Agenda for this meeting, scheduled for a subsequent meeting, or recommend other appropriate action. If the matter is placed on tonight's Agenda, you will have the opportunity later in the meeting to return to the podium to discuss the issue. The law prohibits the Commission from taking formal action on the issue, however, unless it is placed on the Agenda for a later meeting so that interested members of the public will have a chance to appear and speak on the subject.
- E. **PUBLIC HEARINGS AND MEETINGS:** Any person may speak on items scheduled for hearing at the time the Chairman declares the Hearing open. **ALL LEGAL NOTICES PUBLISHED IN ACCORDANCE WITH LAW.**  
2. **Variance 2008-1 – Mike Coffron:** Requesting Variance to Section 17.10.040(E) of the City Zoning Code in order to reduce the minimum sideyard setback from 6 feet to 5 feet for an existing residence located at 619 Almond Street, APN: 73-145-02.  
3. **Continued from September Meeting - Amendment to Condition #2, Variance 2007-1:** Amend Condition No. 2 that prohibits eave encroachment to 5'-0" from the side property line. The amendment would allow eave encroachment to 4'-6" from the side property line. Property owner: Charles Nace, APN: 73-141-08, 712 Almond Street.
- F. **REGULAR AGENDA:** All items listed below are in the order which we believe are of most interest to the public at this meeting. However, if anyone in the audience wishes to have the order of the Agenda changed, please come to the podium, state your name and address, and explain the reason you are asking for the order of the Agenda to be changed.  
4. **Study Matter No. 2008-1; Discussion of Possible Ordinance to Amend Chapter 17.10 of the Corning Municipal Code Regarding Lot Standards for Building.**
- F. **ITEMS PLACED ON THE AGENDA FROM THE FLOOR:**
- G. **ADJOURNMENT:**

**POSTED: OCTOBER 17, 2008**



**CITY OF CORNING  
PLANNING COMMISSION MINUTES**

**TUESDAY, SEPTEMBER 16, 2008  
CITY COUNCIL CHAMBERS  
794 THIRD STREET**

**A. CALL TO ORDER: at 6:30 p.m.**

**B. ROLL CALL:**

**Commissioners:** Robertson  
Reilly  
Lopez  
Hatley  
Armstrong

All Commissioners were present.

**C. MINUTES:**

- 1. Waive the Reading and Approve the Minutes of the August 19, 2008 meeting with any necessary corrections.**

Commissioner Hatley motioned approval of the Minutes as written. Commissioner Reilly seconded the motion. **Ayes: Lopez, Robertson, Reilly, Hatley and Armstrong. Opposed: None. Absent/Abstain: None. Motion approved by a 5-0 vote.**

**D. BUSINESS FROM THE FLOOR:**

Noble Engle approached the Commission and presented them with a letter regarding development of his property south of Fig Lane. He noted that he had previously presented his development to the Commission and they did not approve the project. During Mr. Engles presentation to the Commission he referenced a \$100,000 Grant offered to the City by he and his investors, stating the City had rejected this offer of free money. At this point, Planning Director Stoufer cautioned the Commissioners, informing them that no application is currently on file for this project, this item had not been agendized, and therefore no action can be taken at this time.

**E. PUBLIC HEARINGS AND MEETINGS: Any person may speak on items scheduled for hearing at the time the Chairman declares the Hearing open. ALL LEGAL NOTICES PUBLISHED IN ACCORDANCE WITH LAW.**

- 2. Amendment to Condition #2, Variance 2007-1: Amend Condition No. 2 that prohibits eave encroachment to 5'-0" from the side property line. The amendment would allow eave encroachment to 4'-6" from the side property line. Property owner: Charles Nace, APN: 73-141-08, 712 Almond Street.**

Chairman Lopez introduced this item by title and briefed the Commission on the information presented by City Staff in the Staff report, a history of the project and acknowledged that Mr. Nace was present in the audience. Chairman Lopez then opened the public hearing. Mr. Nace addressed the Commission acknowledging that he met with Planning Director John Stoufer and Building Official Terry Hoofard. Mr. Stoufer presented information and a history of the project and previous discussions relating to this project. Mr. Stoufer stated for the record that City Staff had made an error relating to set backs on a property near Mr. Nace's.

Chairman Lopez stated his hesitation in approving this request, stating that yes a residence was constructed that didn't conform to City Standards, it was an error on the part of City Staff, however where do we draw the line. Other Commissioners stated concerns related to fire hazard, etc. Commissioner Reilly asked what the status was with the review of Standards. Mr. Stoufer stated that Staff is still working with the City Attorney and will present a final report to the Commission once everything is finalized. Commissioner Reilly suggested that the applicant move the exterior walls by 6" on each side, which would possibly allow him to have the overhang without futher reducing the

setbacks. Commissioner Reilly stated that the Commission had already, via the original Variance, reduced the setbacks, and in his opinion met Mr. Nace halfway.

Public Works Director John Brewer reminded the Commission of the 800' minimum floor area of living space requirement, stating that without knowing the size of this building, this suggestion might not be possible. Mr. Stoufer suggested continuing the public hearing to allow Mr. Nace and City Staff to meet and discuss the suggested options.

Commissioner Reilly motioned to continue the Public Hearing and Commissioner Hatley seconded the motion. **Ayes: Lopez, Robertson, Reilly, Hatley and Armstrong. Opposed: None. Absent/Abstain: None. Motion approved by a 5-0 vote.**

**3. Use Permit Application 2008-254: Applicant Lyman Pong proposes to establish a facility that provides body scrubs, body wraps, and body and feet care. Location is along the east side of Hwy. 99W, approximately 700 feet north of the South Avenue/Hwy.99W Intersection. APN: 87-050-35, 2985 Hwy. 99W.**

Chairman Lopez introduced this item by title briefing the Commission on the information provided in the Staff Report prepared by City Staff. He acknowledged the presence of the applicant and opened the public hearing.

The applicant addressed the Commission stating the various sites on the property for parking. Mr. Stoufer informed the Commission that the applicant only received the Staff Report today and was informed of the City regulations relating to parking, landscape and lighting. Mr. Stoufer stated that this property was on a septic tank with leach line and they will be required to check with Tehama County Health and possibly required to hook up to City Sewer Service.

Commissioner Robertson asked if the City has in the past required paving on other projects; she was informed yes on some, no on others dependant upon the situation and needs. Commissioner Lopez asked if handicap parking currently exists at this location, if not will we be requiring ADA compliant parking. Mr. Stoufer responded yes, it is addressed within Condition of Approval #3, Parking Lot Paving.

With no further discussion, Commission Reilly motioned to close the Public Hearing. Commissioner Robertson seconded the motion. **Ayes: Lopez, Robertson, Reilly, Hatley and Armstrong. Opposed: None. Absent/Abstain: None. Motion approved by a 5-0 vote.**

Commissioner Reilly motioned to adopt Findings and Subfindings 1-5 as presented for Use Permit 2008-254. Commissioner Robertson seconded the motion. **Ayes: Lopez, Robertson, Reilly, Hatley and Armstrong. Opposed: None. Absent/Abstain: None. Motion approved by a 5-0 vote.**

Commissioner Reilly motioned to approve Use Permit 2008-254 subject to Conditions of Approval 1-8. Commissioner Hatley seconded the motion. **Ayes: Lopez, Robertson, Reilly, Hatley and Armstrong. Opposed: None. Absent/Abstain: None. Motion approved by a 5-0 vote.**

**4. Use Permit Application 2008-255: Lucero Olive Oil has applied to obtain a Use Permit to establish an Olive Oil Processing and Storage Facility in a warehouse building that was previously used as a metal fabrication/machine shop. The subject property is zoned SPMU – CBDZ, Specific Plan-Mixed Use and Corning Business Development Zone. Site is located along the north side of Loleta Avenue approximately 350 feet east of the Hwy. 99W/Loleta Avenue Intersection. APN: 71-300-26, 2120 Loleta Avenue.**

Chairman Lopez introduced this item by title and briefed the Commission on the information provided in the associated Staff Report. He acknowledged the presence of the applicant. Mr. Stoufer provided the Commission with a brief history of the site and further information on the project. He informed the Commission of the poor status of the access road (Loleta Avenue) stating that there is a Deferred Agreement on file for this location. He informed the Commission that the Deferred Agreement could be revisited and activated in the future, at that time the property owner/applicant could be required to

pay their fare share of the cost for the street improvements necessary due to the activity and use caused by this business.

Chairman Lopez confirmed with the applicant that this site was a production site only, not for retail. Mr. Lopez also asked about the ADA compliance to which Public Works Director John Brewer responded explaining the various issues required for compliance and why the City imposes Conditions such as done on this project.

With no further discussion, Commissioner Robertson motioned to close the Public Hearing. Commissioner Armstrong seconded the motion. **Ayes: Lopez, Robertson, Reilly, Hatley and Armstrong. Opposed: None. Absent/Abstain: None. Motion approved by a 5-0 vote.**

Commissioner Reilly motioned to approve Subfindings and Findings 1-5 for Use Permit 2008-255. Commissioner Robertson seconded the motion. **Ayes: Lopez, Robertson, Reilly, Hatley and Armstrong. Opposed: None. Absent/Abstain: None. Motion approved by a 5-0 vote.**

Commissioner Reilly motioned to approve the following Conditions of Approval: 1, and 3-7 and remove recommended Condition of Approval #2. Commissioner Robertson seconded the motion. **Ayes: Lopez, Robertson, Reilly, Hatley and Armstrong. Opposed: None. Absent/Abstain: None. Motion approved by a 5-0 vote.**

F. **ITEMS PLACED ON THE AGENDA FROM THE FLOOR: 7:30 p.m.**

G. **ADJOURNMENT: 7:18 p.m.**

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**Lisa M. Linnet, City Clerk**

**ITEM NO. E-2  
VARIANCE NO. 2008-1; TO REDUCE  
THE REQUIRED SIDEYARD  
SETBACK FROM 6 FEET TO 5 FEET  
IN AN R-1-2 ZONING DISTRICT.  
APN 73-145-02; MIKE COFFRON**

OCTOBER 21, 2008

**TO: PLANNING COMMISSION OF THE CITY OF CORNING**

**FROM: JOHN STOUFER; PLANNING DIRECTOR**

**SUMMARY:**

This Planning Application seeks a Variance to the normal City standard for 6'-0" minimum sideyard setback to a minimum 5'-0" sideyard setback for an existing residence constructed on the parcel.

On February 14, 2006 the City of Corning Building Department issued a permit to construct the existing residence while inadvertently allowing 5'-0" sideyard setbacks with 6" eaves. The residence received a final inspection on April 24, 2007.

The parcel is 38'X140' the residence is 28'X82' (1512 sq. ft.), as depicted on the plot map (Exhibit "A"). The current property owner is Mike Coffron who purchased the residence from Harold Sack, the owner of the parcel when the residence was constructed. Staff contacted Mr. Coffron to discuss the situation and asked him to submit an application for a Variance so the residence, as constructed, could conform to the Zoning Code. Pursuant to staff's request Mr. Coffron submitted the Variance application for consideration by the Commission.

**DISCRETION:**

The Planning Commission's authority regarding Variance applications stems from Chapter 17.58 of Title 17 (Zoning Code) of the Corning Municipal Code, and the State Planning and Zoning Law (Government Code Section 65906-Exhibit "E").

City Code Section 17.58.020 lists the "findings", or "statement of facts" that the Commission must make in order to approve a Variance. A copy of Chapter 17.58 is attached as Exhibit "F".

**CEQA:**

Section 15305, Minor Alterations in Land Use Limitations, Class 5 allows an exemption for minor alteration in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use density, including but not limited to: *Minor lot line adjustments, side yard, and setback variances not resulting in the creation of any new parcels.*

**STAFF RECOMMENDATION:**

Staff realizes that this application puts the Commission in a difficult situation due to staff error in issuing the building permit and allowing the residence to be constructed prior to the approval of a Variance. To assure that future errors of this nature are prevented, the Building Official, Public Works Director and Planning Director are working together to establish a more thorough review of plot plans prior to the issuance of a building permit.

To correct the situation and bring the existing residence in conformance with the Zoning Code staff recommends that the Commission adopt the following Subfindings & Findings and approve Variance 2008-1 allowing a 5' sideyard setback with 6" eaves.

**SUBFINDINGS & FINDINGS:**

**Subfinding #1**

The parcel on which the existing residence is located on is in an area with a slope of less than 20% and zoned for single-family residential use. Approval of Variance 2008-1 will not result in a land use or density change of the parcel.

**Finding #1**

Variance 2008-1 will allow the minimum sideyard setback to be reduced from 6' to 5' and therefore is exempt from CEQA pursuant to Section 15305 (a).

**Subfinding #2**

Of the six parcels located on the south side of Almond Street, in between Peach Street and Pear Street, four of them are 50 feet wide or larger. The parcel for which Variance 2008-1 is proposed for is only 38 feet wide.

**Finding #2**

The narrowness of the existing lot, constitutes exceptional or extraordinary circumstances or conditions applying to the land, building, or use referred to in the application, which circumstances or conditions do not apply generally to other land, buildings, and/or uses in the district.

**Subfinding #3**

The City of Corning issued a building permit on February 14, 2006 permitting the construction of the existing residence located on APN 73-145-02 with a 5'0" sideyard setback.

**Finding #3**

That the granting of the reduced sideyard setback from 6' 0" to 5'0" is necessary for the preservation and enjoyment of substantial property rights of the petitioner.

**Subfinding #4**

The City of Corning conducted a final inspection of the residence on April 24, 2007 and it has been occupied and used for residential purposes since this final inspection.

**Finding #4**

That the granting of the variance permitting the reduced (from 6'-0" to 5'-0") sideyard setbacks will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant, and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.

**ACTION**

**MAKE A MOTION TO ADOPT THE FOUR SUBFINDINGS AND FINDINGS AS PRESENTED IN THE STAFF REPORT. (PLEASE NOTE THAT THE COMMISSION HAS THE ABILITY TO ADD, DELETE OR MODIFY THE SUBFINDINGS OR FINDINGS IF SO DESIRED BY A MAJORITY OF THE COMMISSION).**

**VOTE**

**PROJECT:**

**MAKE A MOTION TO APPROVE VARIANCE 2008-1.**

**VOTE**

**OR;**

**MAKE A MOTION THAT THE COMMISSION CANNOT MAKE THE REQUIRED FINDINGS AND MOVE TO DENY VARIANCE 2008-1**

**VOTE**

## LIST OF EXHIBITS

Exhibit "A".....Plot Plan Map submitted with building permit application in 2006

Exhibit "B".....Vicinity Map

Exhibit "C".....Assessor's Map

Exhibit "D".....CEQA Section 15305

Exhibit "E".....CA. Govt. Code Section 65906

Exhibit "F".... City Code Chapter 17.58-Variances

Exhibit "G".....Backyard view of existing residence – 619 Almond St.

Exhibit "H".....Westside view of existing residence – 619 Almond St.

Exhibit "I".....Eastside view of existing residence – 619 Almond St.

HAROLD

529-2147 SACK  
619 ALMOND 38'

CEMENT DRIVEWAY

↑  
20' SETBACK  
↓

28'

GARAGE

ENTRANCE

140'



PROPOSED VARIANCE SETBACK

5'

3BD./2BTH  
1512  $\phi$   
SLAB

82'

5'

ROOF OVER HANG  
MAX. 6"-8" INCHES

BACK PORCH

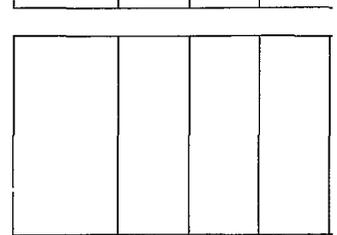
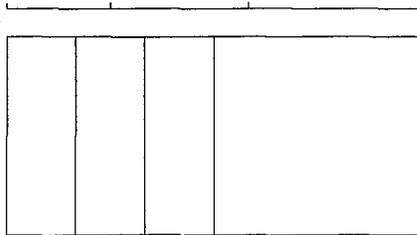
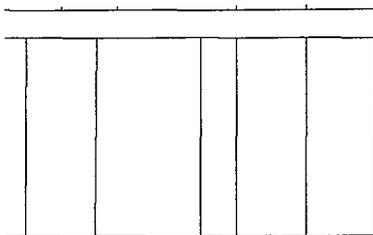
Drainage shall flow to the street

- GAS
- SEWER
- WATER

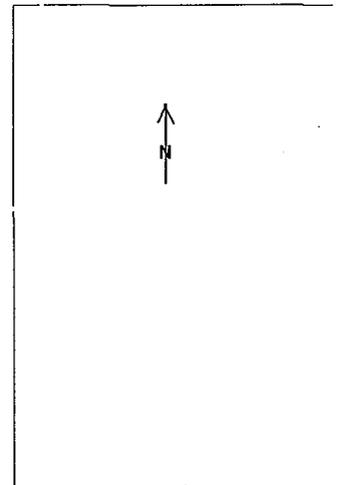
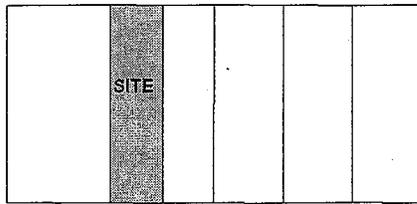
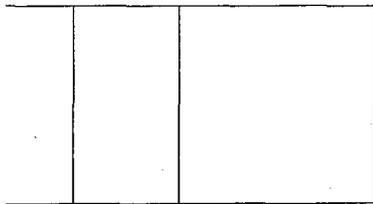
38'

EXHIBIT "A"

ALLEY WAY

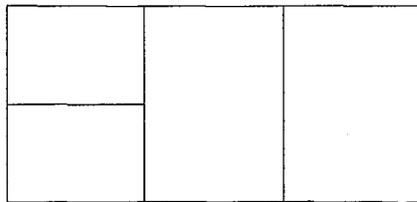
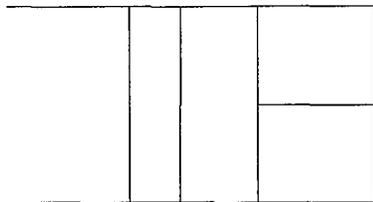


ALMOND STREET



PEACH STREET

PEAR STREET



HICKORY STREET

**EXHIBIT "B"**

SUBDIVIDED LAND IN NW 1/4, SEC. 23, T. 24N., R. 3W., M.D.B. & M.

Tax Area Code

73-14

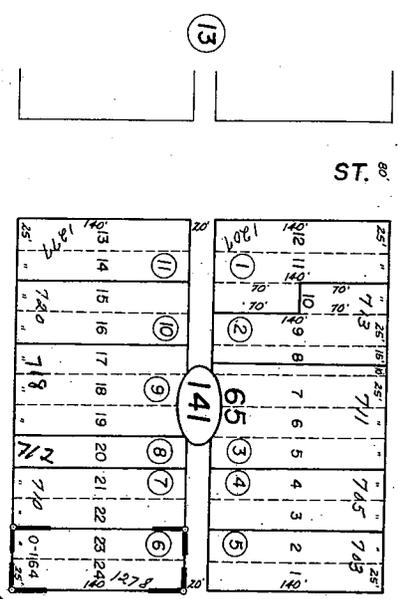
CHESTNUT

ST. 8

ST. 8

EXHIBIT "C"

1" = 100'

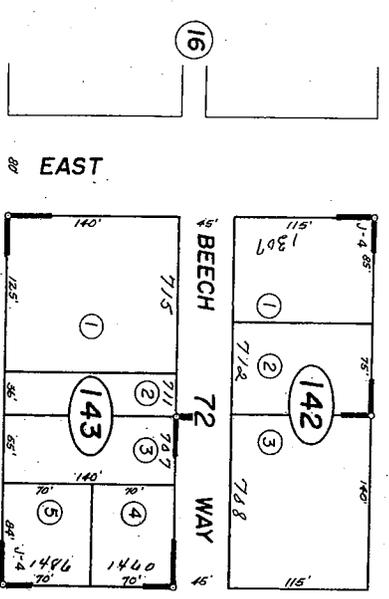


ALMOND

SITE

ST. 8

15



EAST

HICKORY

PEACH

ST. 8

PEAR

R. S. Bk. J, Pg. 4  
 R. S. Bk. J, Pg. 7  
 R. S. Bk. Q, Pg. 164  
 R. M. Bk. B, Pg. 5-Maywood Addition

NOTE - Assessor's Block Numbers Shown in Ellipses.  
 Assessor's Parcel Numbers Shown in Circles

Assessor's Map Bk. 73 - Pg. 14  
 County of Tehama, Calif.

and federal regulatory agencies;

(h) The creation of bicycle lanes on existing rights-of-way.

(i) Fuel management activities within 30 feet of structures to reduce the volume of flammable vegetation, provided that the activities will not result in the taking of endangered, rare, or threatened plant or animal species or significant erosion and sedimentation of surface waters. This exemption shall apply to fuel management activities within 100 feet of a structure if the public agency having fire protection responsibility for the area has determined that 100 feet of fuel clearance is required due to extra hazardous fire conditions.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

### **15305. Minor Alterations in Land Use Limitations**

Class 5 consists of minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density, including but not limited to:

(a) Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel;

(b) Issuance of minor encroachment permits;

(c) Reversion to acreage in accordance with the Subdivision Map Act.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

### **15306. Information Collection**

Class 6 consists of basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. These may be strictly for information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted, or funded.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

### **15307. Actions by Regulatory Agencies for Protection of Natural Resources**

Class 7 consists of actions taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment. Examples include but are not limited to wildlife preservation activities of the State Department of Fish and Game. Construction activities are not included in this exemption.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

**EXHIBIT "D"**

#### 03700. VARIANCES

Variations from the terms of the zoning ordinances shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

A variance shall not be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

The provisions of this section shall not apply to conditional use permits.

*(Amended by Stats. 1974, Ch. 607.)*

**EXHIBIT "E"**

VARIANCES\*

Sections:

- 17.58.010 Applicability.
- 17.58.020 Application--Fee.
- 17.58.030 Public hearing.
- 17.58.040 Action by planning commission.
- 17.58.050 Appeal.
- 17.58.060 Revocation.

17.58.010 Applicability. Where practical difficulties, unnecessary hardship, or results inconsistent with the purposes and intent of this title may result from the strict application of certain area, height, yard and space requirements thereof, variances in such requirements may be granted as provided in this section. (Ord. 153 §23.01, 1959).

17.58.020 Application--Fee. Application for a variance shall be made in writing on a form prescribed by the planning commission and shall be accompanied by a fee of twenty-five dollars plus costs, no part of which shall be returnable to the applicant, and by statements, plans and other evidence showing:

- A. That there are exceptional or extraordinary circumstances or conditions applying to the land, building, or use referred to in the application, which circumstances or conditions do not apply generally to other land, buildings, and/or uses in the district;
- B. That the granting of the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner;
- C. That the granting of such application will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant, and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood. (Ord. 340 §1(c), 1979; Ord. 153 §23.02, 1959).

17.58.030 Public hearing. A public hearing shall be held within sixty days after filing of application, notice

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\* For statutory provisions on variances, see Gov. Code §65906.

of which shall be given by one publication in a newspaper of general circulation in the city and/or by posting notice on the property involved or adjacent thereto at least ten days prior to such hearing. (Ord. 153 §23.03, 1959).

17.58.040 Action by planning commission. Following the public hearing, the planning commission shall make findings of fact showing whether the qualifications under Section 17.58.020 apply to the land for which a variance is sought, and whether such variances shall be in harmony with the general purposes of this title. If such findings are in the affirmative, then the planning commission shall by resolution approve such variance. The planning commission may designate conditions and guarantees in connection with the variance to secure the purpose of this title. (Ord. 478 §1, 1988: Ord. 153 §23.04, 1959).

17.58.050 Appeal. Appeal from the findings and decision of the planning commission may be made, in writing, to the city council within ten days from the date of the commission's action, and shall be accompanied by a fee of ten dollars. (Ord. 478 §2, 1988: Ord. 153 §23.05, 1959).

17.58.060 Revocation. A. In any case where the conditions of granting of a variance have not or are not complied with, the city council shall give notice to the permittee of intention to revoke such variance of at least ten days prior to hearing thereon. After conclusion of the hearing the council may revoke such variances.

B. In any case where a variance has not been used within one year after the date of granting thereof, then, without further action by the council, the variance granted shall be null and void. (Ord. 153 §23.06, 1959).

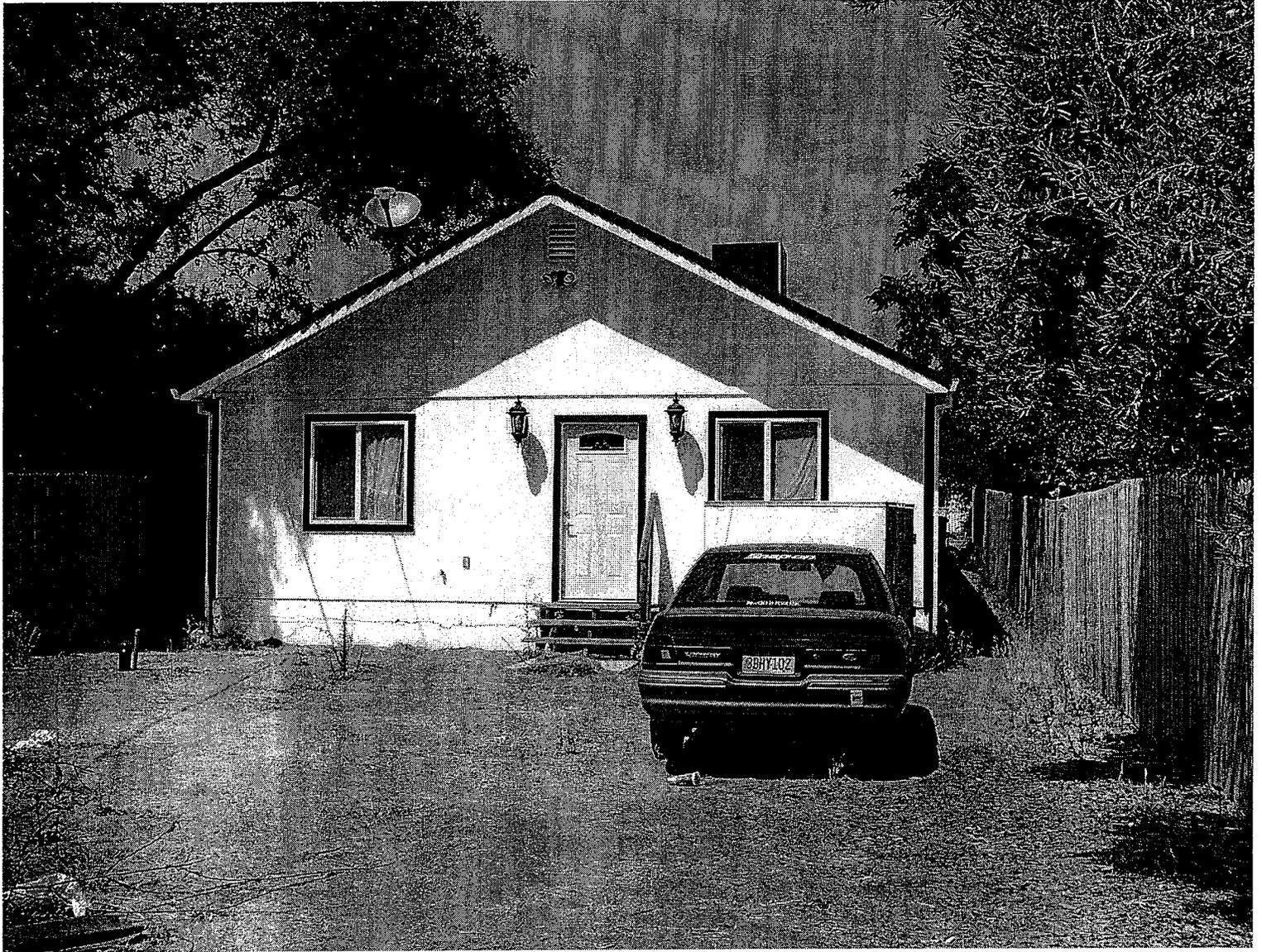


EXHIBIT "G"

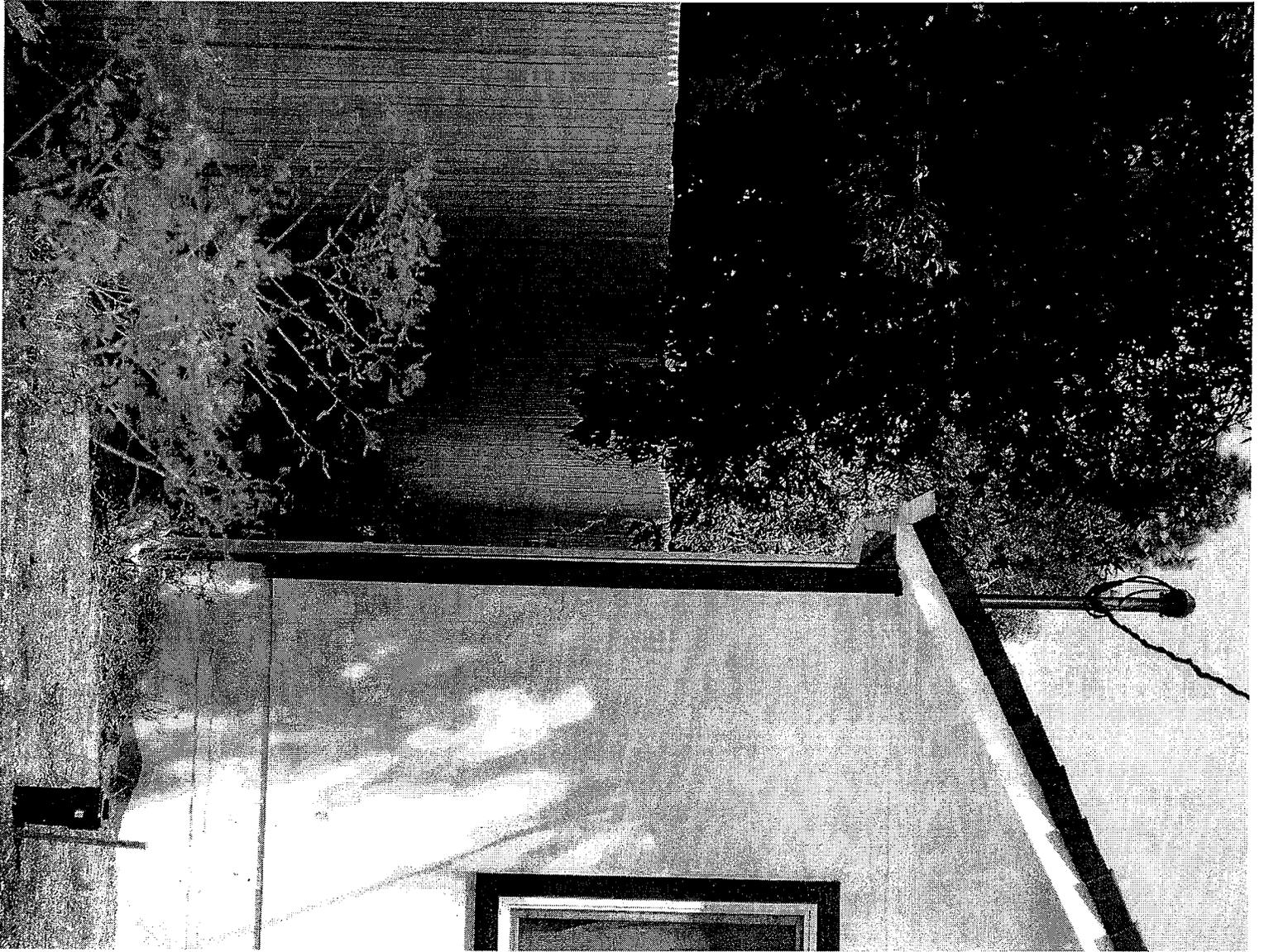


EXHIBIT "H"

619 Almond

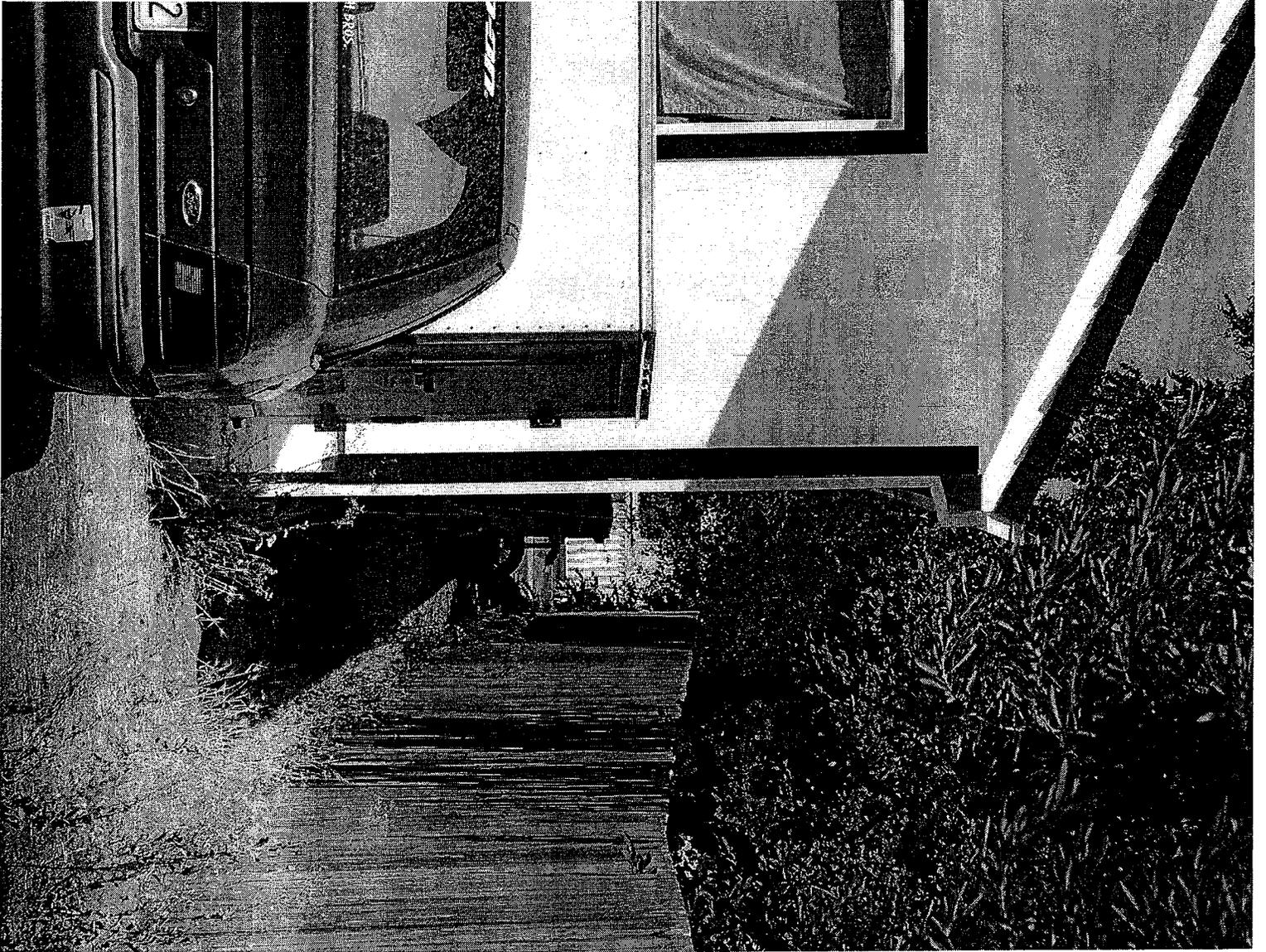


EXHIBIT "I"

**SUPPLEMENTAL STAFF REPORT  
VARINACE 2007-1, AMENDMENT TO CONDITION #2**

**TO: CITY OF CORNING PLANNING COMMISSION**

**FROM: JOHN STOUFER, PLANNING DIRECTOR**

At the September 16, 2008 the Commission discussed the revised application to modify Condition #2 for Variance 2007-1 submitted by Charles Nace. The Commission asked Mr. Nace to consider reducing the width of the residence so that the eaves would be 5 feet from the property line. The Commission voted to continue the public hearing until the October 21, 2008 meeting so that Mr. Nace could meet with staff to discuss possible modifications to residence.

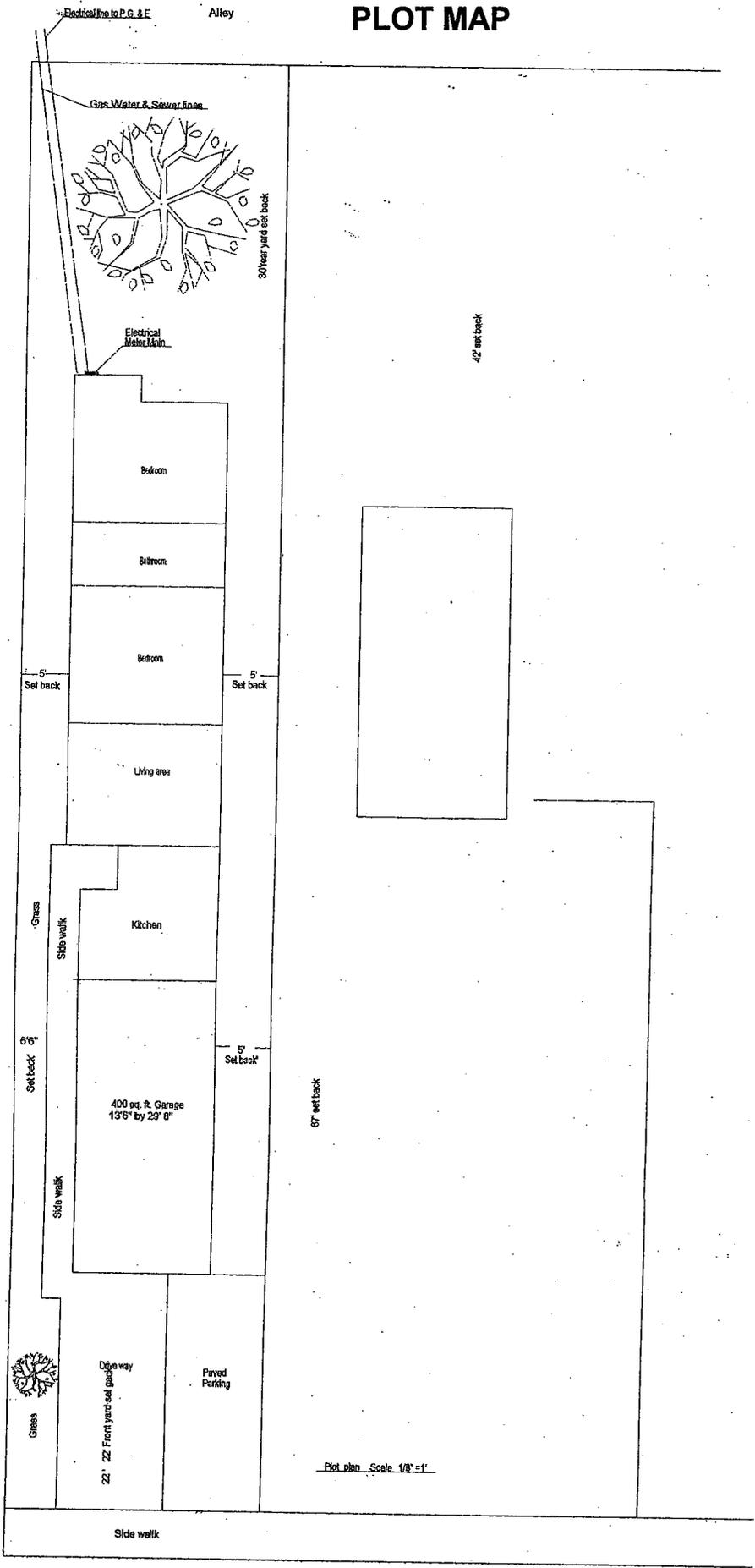
Attached is a reduced copy of the floor plan and plot map for the proposed residence as submitted by Mr. Nace. Section 17.10.040 (H) of the Corning Zoning Code requires that the main building area must have a minimum floor area of 800 sq. ft. of living space. Staff has calculated that the plan submitted by Mr. Nace has 823.17 sq. ft. of living space. If the floor plan was narrowed by 6", on both sides of that portion that is currently 15' wide, and by 6" on that portion that is 13' 6" and 8' 8" wide, the kitchen and entrance door area, the total square footage of the residence would be 769.35 sq. ft.

To comply with the minimum 800 sq. ft. of living space the residence would have to be lengthened by 3 feet. The plot map indicates that the residence, as proposed, will have a 30' rear yard setback. Section 17.10.040 (F) of the Zoning Code requires the rear yard setback to be *"ten percent of average lot depth, except that no such rear yard may be less than ten feet (10) or need be more than twenty-five (25) feet."*

The addition of three (3) feet to the residence in the rear yard would reduce the setback to 27 feet, therefore, the residence could be extended by 3 feet and still comply with current code.



# PLOT MAP



Plot plan Scale 1/8"=1'

**BUILDING DEPARTMENT**  
All Set Backs Measured  
From Property Lines

ITEM NO. E-3

VARIANCE NO. 2007-1; AMEND CONDITION  
No. 2 THAT PROHIBITS EAVE  
ENCROACHMENT TO 5'-0" FROM THE SIDE  
PROPERTY LINE. THE AMENDMENT  
WOULD ALLOW EAVE ENCROACHMENT  
TO 4'-6" FROM THE SIDE PROPERTY LINE.  
APN 73-141-08; CHARLES NACE

SEPTEMBER 16, 2008 continued until  
OCTOBER 21, 2008

TO: PLANNING COMMISSION OF THE CITY OF CORNING  
FROM: JOHN STOUFER; PLANNING DIRECTOR

**SUMMARY:** On September 18, 2007, the Planning Commission granted approval of Variance 2007-1 allowing a sideyard setback of 5'-0" , instead of a 6'-0" minimum sideyard setback as required by Title 17 (Zoning Code), Section 17.10.040(E) of the Corning Municipal Code, for the construction of a single-family residence on APN 71-141-08, owned by Charles Nace. The Commission adopted the following five (5) findings (A through E) and nine (9) conditions of approval in their decision to grant the variance.

**FINDINGS**

- A. The narrowness of the existing lot, constitutes exceptional or extraordinary circumstances or conditions applying to the land, building, or use referred to in the application, which circumstances or conditions do not apply generally to other land, buildings, and/or uses in the district;
- B. That the granting of the reduced sideyard setback element of Variance application 2007-1 is necessary for the preservation and enjoyment of substantial property rights of the petitioner;
- C. That the granting of the variance permitting the reduced (from 6'-0" to 5'-0") sideyard setbacks will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant, and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.
- D. The findings necessary to approve a variance to the two enclosed parking space requirement listed as Corning City Code Section 17.58.020 "A" through "C", are not supported in the case of this particular application.

- E. This Project is exempt from the California Environmental Quality Act requirements, under Section 15305 (attached), based upon the "Preliminary Review" mandated by the State CEQA Guidelines, because the project consists of a minor setback variance affecting a parcel with less than 20% slope.

**CONDITIONS OF APPROVAL:**

1. **COMPLIANCE WITH CITY STANDARDS.** The approved variance entitles only a 1'-0" encroachment into the normal 6'-0" sideyard requirement of the R-1-2 Zoning District. Applicant shall comply with all other applicable City development standards except as expressly provided in these conditions of approval.
2. **NO EAVE ENCROACHMENT.** No roof eave shall be closer than 5'-0" from the side property line. Metal roof gutters may encroach into the reduced sideyards, but shall not be closer than 4'-6" to the side property lines.
3. **PAVED FRONT DRIVEWAY.** If a front yard driveway is provided, it shall be paved with asphalt concrete or concrete. The driveway width shall not be less than 9'-0", nor more than 10'-0" in width.
4. **SITE PLAN.** Prior to approving the construction permits for the project, the applicant shall provide a site plan for Planning Department approval. That site plan shall address compliance with all City standards, including the parking standards of Corning Municipal Code Section 17.51.040.D, which require not fewer than four off-street parking spaces; two of which shall be enclosed within one or more garage structures.

Total building coverage may not exceed 35% of the lot area (3,500 sq. ft.) or 1,225 sq. ft.

5. **PAVE ONE ALLEY TRAVEL LANE.** If any required parking spaces are provided in the rear of the lot, construct and pave one 12'-0" (min.) travel lane within the alley right of way connecting the rear driveway to either Peach or East Street (at owner's discretion and in accordance with City standards).
6. **LANDSCAPE FRONT YARD.** Prior to approving occupancy, landscape and provide permanent underground and automatic irrigation to within the front yard. Landscaping shall extend to all property outside the paved driveway within the front yard and shall include sod or groundcover and not fewer than two street trees. Street trees shall be from the City's approved street tree list and shall be not smaller than 24" box size at time of planting.

7. **CONSTRUCTION HOURS.** Excavation and construction work shall occur only between the hours of 7:00 AM to 7:00 PM, Monday through Friday, and between the hours of 8:00 AM to 6:00 PM on weekends and federally observed holidays.
8. **RESIDENCE ELEVATION.** Residence within Flood Hazard Zone "A" shall have the lowest floor elevation at least one foot above the Base Flood Elevation that shall be determined by a registered Civil Engineer.
9. **RESIDENTIAL GARAGE ELEVATION.** Residential Garages within Flood Hazard Zone "A" shall have the lowest floor elevation at least six inches above the Base Flood Elevation as determined by a registered Civil Engineer.

On June 17, 2008 Mr. Nace submitted a letter requesting an amendment to Condition #2, along with explanations as to the reasoning behind requesting the amendment. At the same time he submitted a sketch of the residence he is proposing to construct with 12' eaves. Pursuant to Condition #2, the residence, as proposed in the sketch, could not be constructed. The wall of the building would remain at 5'-0' as originally approved, and the eave would protrude 12' into the setback, or 4'-0' feet from the side property line.

**On July 15, 2008 the Planning Commission voted 3:0:2 to deny the request to allow 12" eaves on the residence. Mr. Nace appealed the denial to the City Council but withdrew his appeal after meeting with staff and agreeing to amend his request from 12" eaves to 6" eaves. Staff agreed to schedule a rehearing before the Planning Commission to consider 6" eaves similar to an existing residence constructed at 619 Almond Street.**

The project site is a 25' X 140' lot, totaling 3,500 sq. ft., or 0.08 acres. See the attached copy of the Assessor's Map (Exhibit "C"). The site is located on the north side of Almond Street and within the R-1-2 zoning district. A copy of the Zoning Map is attached as Exhibit "D".

#### **DISCRETION:**

The Planning Commission's authority regarding Variance applications stems from Chapter 17.58 of Title 17 (Zoning Code) of the Corning Municipal Code, and the State Planning and Zoning Law (Government Code Section 65906-Exhibit "E").

City Code Section 17.58.020 lists the "findings", or "statement of facts" that the Commission must make in order to approve a Variance. Section 17.58.040 provides the Commission with the authority to designate conditions and guarantees in connection with the approval of a variance. A copy of Chapter 17.58 is attached as Exhibit "F".

In Mr. Nace's initial application he also requested a variance to CMC Section 17.51.040.D that requires "two parking spaces enclosed in a garage, and two additional spaces". The Commission did not grant a variance to the parking requirement.

**Staff Recommendation:**

Staff supported a variance for the minor side yard encroachment with the nine conditions. For the following reasons staff did not support amending condition #2;

1. Sideyard setbacks were established for providing defensible space between structures in case of a fire and preventing flames from spreading between structures. The existing structure to the east is approximately 8 ft. from the property line. If this structure was ever remodeled or reconstructed it could be located within 6 ft. of the property line. This would reduce the spacing between the eave and residence to 10 ft. which is not considered adequate defensible space
2. Mr. Nace has submitted building plans that show a continuous ridge vent that will provide adequate ventilation and in compliance with the Uniform Building Code. Therefore staff recommends that the Planning Commission take the following action:

**Although staff did not support amending condition #2 and allowing 12" eaves as previously requested, we have reconsidered our position and have agreed that since there is a residence, in the vicinity of the project site that has the same setback with a 6" eave, it would only be fair to have this option considered by the Planning Commission.**

**As previously mentioned the existing residence to the east is approximately 8 ft. from the property line which would provide for 12' 6" of spacing between the two residences. But also, as previously mentioned, this residence could be remodeled or reconstructed allowing a 6 ft. setback from the property line which would then be a setback of 10' 6" which provides for marginal defensible spacing between the eave and the modified structure. For this reason staff feels that if the Commission does approve an amendment to Condition #2 that it be mandatory that a metal gutter be constructed along the east and west roof lines.**

**For aesthetic reasons, and also to give the residence an opportunity for better cross ventilation, staff supports an amendment to Condition #2 subject to the mandatory requirement to have metal gutters attached to the east and west rooflines of the residence. Therefore staff recommends that the Commission take the following action:**

**ACTION:**

**FINDINGS:**

**Subfinding #1**

On September 18, 2007 the City of Corning Planning Commission found that Variance 2007-1 was categorically exempt from CEQA pursuant to Section 15305, Minor Alterations in Land Use Limitations.

**Finding #1**

Amending Condition #2 of Variance 2007-1 is a minor alteration in a land use limitation on a parcel with an average slope of less than 20% and therefore categorically exempt from CEQA pursuant to Section 15305.

**Subfinding #2**

For aesthetic and ventilation purposes typical single-family residential construction has eaves from 12 to 24 inches in length.

**Finding #2**

Amending Condition #2 of Variance 2007-1 and allowing 6" eaves will enhance the aesthetics of the proposed residence and allow for additional cross ventilation.

**MAKE A MOTION TO ADOPT THE TWO SUBFINDINGS AND FINDINGS AS PRESENTED IN THE STAFF REPORT. (PLEASE NOTE THAT THE COMMISSION HAS THE ABILITY TO ADD, DELETE OR MODIFY THE SUBFINDINGS OR FINDINGS IF SO DESIRED BY A MAJORITY OF THE COMMISSION).**

**VOTE**

**PROJECT:**

**MAKE A MOTION TO AMEND CONDITION #2 OF VARIANCE 2007-1 TO READ AS FOLLOWS:**

**No roof eave shall be closer than 4'-6" from the side property line. Metal roof gutters must be constructed along the east and west roof line, but shall not be closer than 4'-0" to the side property lines.**

**VOTE**

**OR;**

**FINDINGS:**

**Subfinding #1**

Sideyard setbacks were adopted into the City of Corning Municipal Code to provide defensible space between structures.

**Finding #1**

Minimum sideyard setbacks are established at six (6) ft. and on September 18, 2007, the City of Corning Planning Commission approved Variance 2007-1 allowing Charles Nace to construct a single family residence on APN 73-141-08 within 5 feet of the side property line. Amending Condition #2 of Variance 2007-1 will further reduce the sideyard setback to 4 feet 6 inches at the eave and will not provide adequate defensible space from neighboring properties.

**Subfinding #2**

The applicant has submitted a set of building plans to the City of Corning Building Department that show a continuous ridge vent for ventilation of the structure.

**Finding #2**

A continuous ridge vent will provide adequate ventilation that will comply with the requirements of the Uniform Building Code.

**MAKE A MOTION TO ADOPT THE TWO SUBFINDINGS AND FINDINGS AS PRESENTED IN THE STAFF REPORT. (PLEASE NOTE THAT THE COMMISSION HAS THE ABILITY TO ADD, DELETE OR MODIFY THE SUBFINDINGS OR FINDINGS IF SO DESIRED BY A MAJORITY OF THE COMMISSION).**

**VOTE**

**PROJECT:**

**MAKE A MOTION TO DENY AN AMENDMENT TO CONDITION #2 OF VARIANCE 2007-1.**

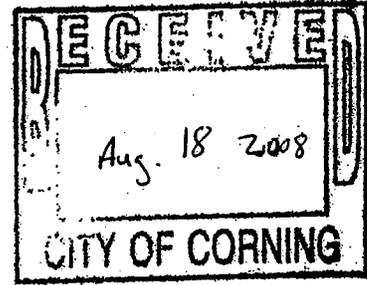
**VOTE**

## EXHIBITS

- EXHIBIT "A" LETTER SUBMITTED BY CHARLES NACE DATED 8-18-08
- EXHIBIT "B" TWO COPIES OF 6' EAVES AT 619 ALMOND STREET
- EXHIBIT "C" COPY OF ASSESSOR'S MAP
- EXHIBIT "D" COPY OF ZONING MAP
- EXHIBIT "E" CA. COV. CODE SECTION 65906
- EXHIBIT "F" CHAPTER 17.58 CITY OF CORNING ZONING CODE

**EXHIBIT "A"**

**Charles Nace  
7170 Truckee Ave  
Corning, CA 96021  
530-824-5901**



August 18, 2008

Dear City Council of Corning:

I request my appeal of the Planning Commissions decision be withdrawn and a refund of the fees I have paid be issued. I would like a rehearing before the Planning Commission to consider a 6 (six)- inch eave similar to the one located at 619 Almond St. in Corning, CA.

Sincerely,

A handwritten signature in black ink, appearing to be "Charles Nace", written over the word "Sincerely,".

Exhibit "B"

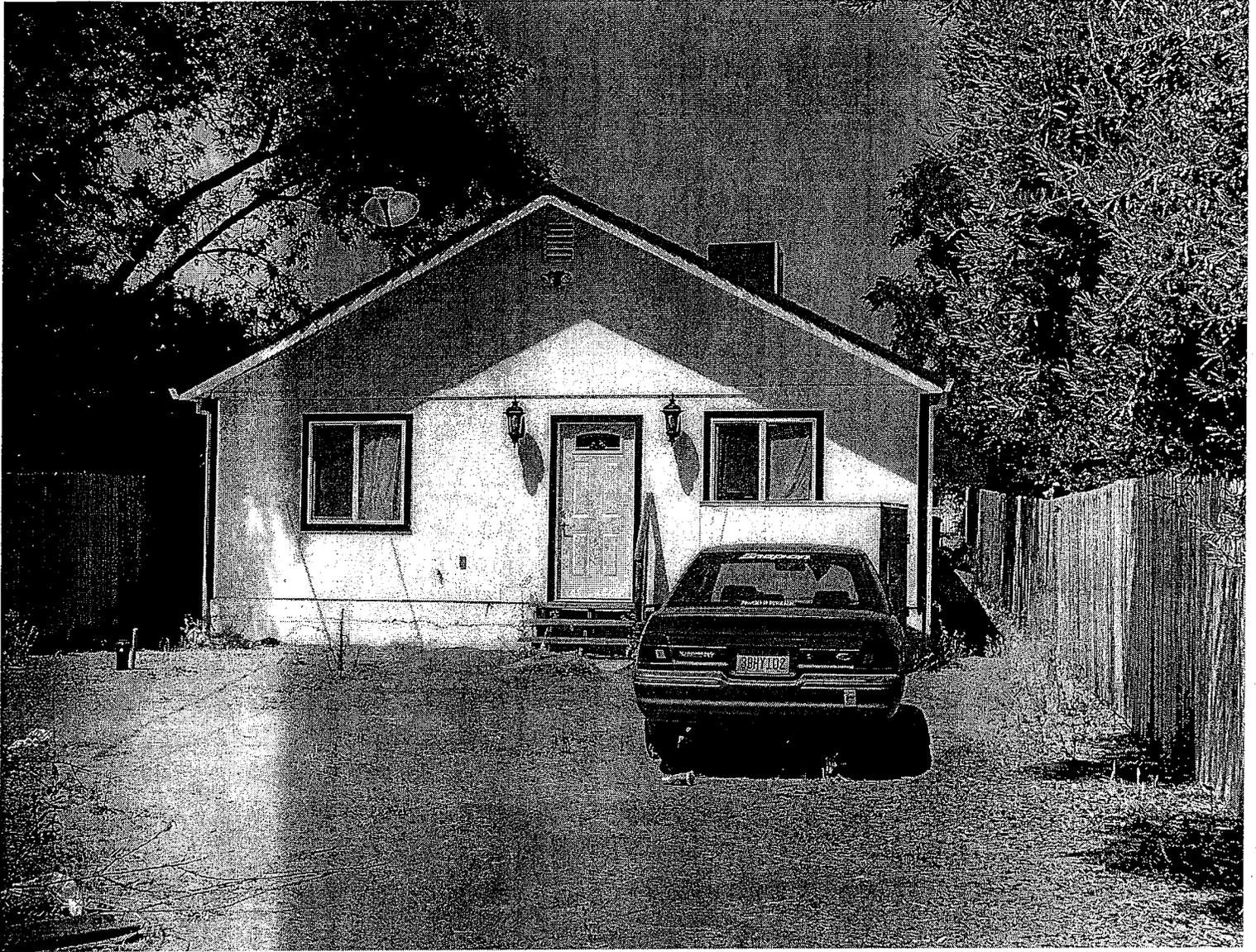
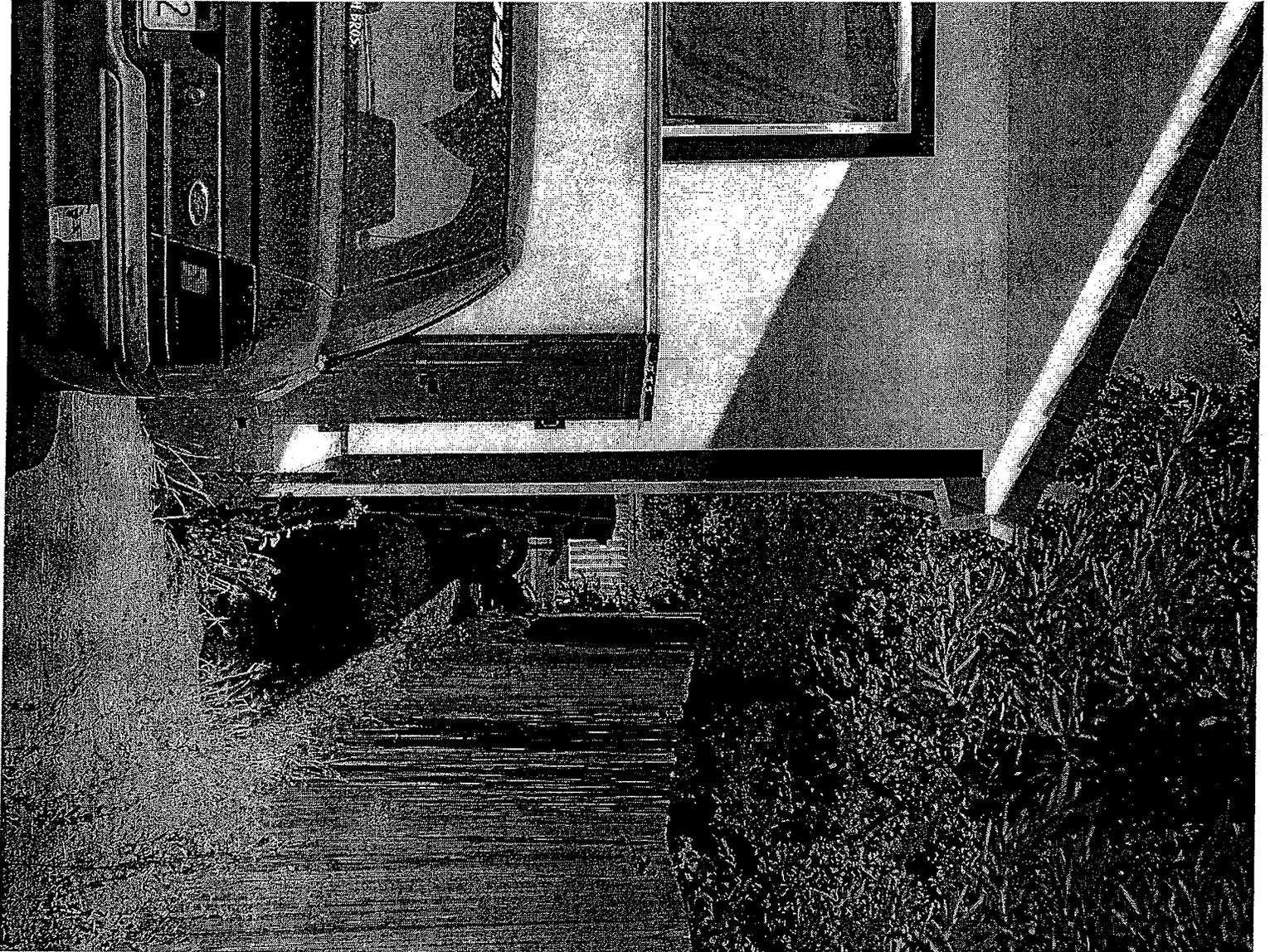


Exhibit "B"



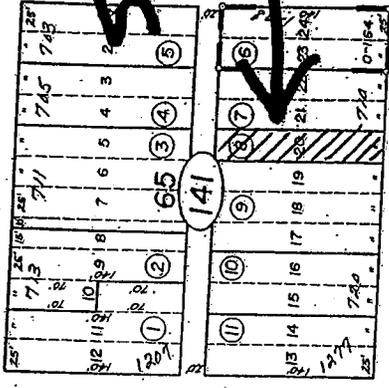
SUBDIVIDED LAND IN NW 1/4,

24N., R.3W., M.D.B.&M.

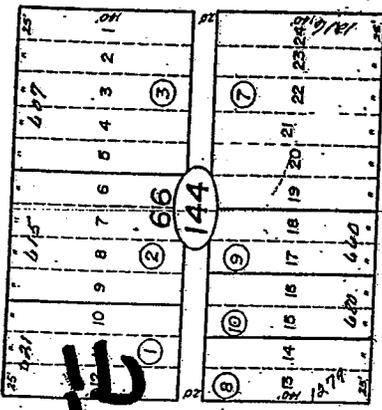
Tax Area C

(10)

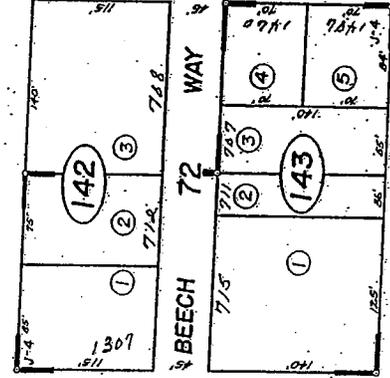
CHESTNUT



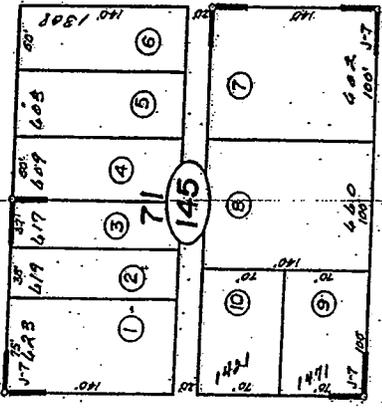
ST. 2



ALMOND



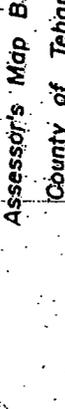
ST. 2



HICKORY



ST. 2



NOTE - Assessor's Block Numbers Shown in Ellipses.  
 Assessor's Parcel Numbers Shown in Circles.

R. S. Bk. J, Pg. 4  
 R. S. Bk. J, Pg. 7  
 R. S. Bk. G, Pg. 164  
 R. M. Bk. B, Pg. 5-Maywood Addition

Assessor's Map Bk. 73 -Pg  
 County of Tehama, Calif.

EXHIBIT "C"



**SITE**



**EXHIBIT "D"**

## 65906. Variances

Variances from the terms of the zoning ordinances shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

A variance shall not be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

The provisions of this section shall not apply to conditional use permits.

*(Amended by Stats. 1974, Ch. 607.)*

**EXHIBIT "E"**

VARIANCES\*

Sections:

- 17.58.010 Applicability.
- 17.58.020 Application--Fee.
- 17.58.030 Public hearing.
- 17.58.040 Action by planning commission.
- 17.58.050 Appeal.
- 17.58.060 Revocation.

17.58.010 Applicability. Where practical difficulties, unnecessary hardship, or results inconsistent with the purposes and intent of this title may result from the strict application of certain area, height, yard and space requirements thereof, variances in such requirements may be granted as provided in this section: (Ord. 153 §23.01, 1959).

17.58.020 Application--Fee. Application for a variance shall be made in writing on a form prescribed by the planning commission and shall be accompanied by a fee of twenty-five dollars plus costs, no part of which shall be returnable to the applicant, and by statements, plans and other evidence showing:

A. That there are exceptional or extraordinary circumstances or conditions applying to the land, building, or use referred to in the application, which circumstances or conditions do not apply generally to other land, buildings, and/or uses in the district;

B. That the granting of the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner;

C. That the granting of such application will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant, and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood. (Ord. 340 §1(c), 1979; Ord. 153 §23.02, 1959).

17.58.030 Public hearing. A public hearing shall be held within sixty days after filing of application, notice

\* For statutory provisions on variances, see Gov. Code §65906.

of which shall be given by one publication in a newspaper of general circulation in the city and/or by posting notice on the property involved or adjacent thereto at least ten days prior to such hearing. (Ord. 153 §23.03, 1959).

17.58.040 Action by planning commission. Following the public hearing, the planning commission shall make findings of fact showing whether the qualifications under Section 17.58.020 apply to the land for which a variance is sought, and whether such variances shall be in harmony with the general purposes of this title. If such findings are in the affirmative, then the planning commission shall by resolution approve such variance. The planning commission may designate conditions and guarantees in connection with the variance to secure the purpose of this title. (Ord. 478 §1, 1988: Ord. 153 §23.04, 1959).

17.58.050 Appeal. Appeal from the findings and decision of the planning commission may be made, in writing, to the city council within ten days from the date of the commission's action, and shall be accompanied by a fee of ten dollars. (Ord. 478 §2, 1988: Ord. 153 §23.05, 1959).

17.58.060 Revocation. A. In any case where the conditions of granting of a variance have not or are not complied with, the city council shall give notice to the permittee of intention to revoke such variance of at least ten days prior to hearing thereon. After conclusion of the hearing the council may revoke such variances.

B. In any case where a variance has not been used within one year after the date of granting thereof, then, without further action by the council, the variance granted shall be null and void. (Ord. 153 §23.06, 1959).

ITEM NO. F-4

**STUDY MATTER NO. 2008-1;  
DISCUSS WITH STAFF AN ORDINANCE  
AMENDING CHAPTER 17.10 OF THE  
CORNING MUNICIPAL CODE. REGARDING  
LOT STANDARDS FOR BUILDING**

OCTOBER 21, 2008

**TO: PLANNING COMMISSION OF THE CITY OF CORNING**

**FROM: JOHN STOUFER; PLANNING DIRECTOR**

**SUMMARY:**

Pursuant to previous direction from the Commission staff has been working with Mike Fitzpatrick, Corning City Attorney, on establishing standards for residential construction in relation to the numerous 25 foot wide lots that exist throughout the city. Mr. Fitzpatrick has prepared a draft ordinance for discussion with the Commission. This ordinance would require that the main building be a minimum 20 feet wide which would restrict residential construction on a parcel less than 32 feet wide unless a variance is approved.

Staff concurs with Mr. Fitzpatrick that this would be the most appropriate approach to preventing unattractive residential development on these 25 foot wide lots and at the same time protecting the City from possible future litigation in relation to property rights. Attached for your review is a draft copy of the ordinance prepared by Mr. Fitzpatrick. At this time staff is requesting that the Commissioners review this draft for discussion at the October 21, 2008 Commission meeting. No action will be taken on the ordinance at this meeting.

ORDINANCE NO.

# Draft

AN ORDINANCE OF THE CITY OF CORNING  
AMENDING CHAPTER 17.10 OF THE CORNING MUNICIPAL CODE  
REGARDING LOT STANDARDS FOR BUILDING

The City Council of the City of Corning does ordain as follows:

- Section 1.** Section 17.10.040 of the Corning Municipal Code is hereby amended by changing subparagraph C to read, "Maximum main building coverage, thirty-five percent of lot area and have a minimum width of twenty feet;"
- Section 2.** Section 17.12.040 of the Corning Municipal Code is hereby amended by changing subparagraph C to read, "Maximum main building coverage, forty percent of lot area and have a minimum width of twenty feet;"
- Section 3.** Section 17.14.040 of the Corning Municipal Code is hereby amended by changing subparagraph C to read, "Maximum main building coverage, sixty percent of lot area and have a minimum width of twenty feet;"
- Section 4.** Section 17.16.030 of the Corning Municipal Code is hereby amended by changing subparagraph C to read, "Maximum main building coverage, sixty percent of lot area and have a minimum width of twenty feet;"
- Section 5.** The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Corning held on November , 2008 and adopted at a regular meeting of the City Council of the City of Corning held on November , 2008 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

It shall take effect and be in force thirty (30) days from the date of its passage, and before the expiration of fifteen (15) days after its passage, it or a summary of it, shall be published once, with the names of the Council persons voting for and against the same, in a newspaper of general circulation in the County of Tehama.

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GARY STRACK,  
MAYOR OF THE CITY OF CORNING

ATTEST:

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LISA LINNET,  
CITY CLERK OF THE CITY OF CORNING