



GENERAL DEVELOPMENT APPLICATION

448 East First Street, Suite 112

Salida, CO 81201

Phone: 719-530-2626 Fax: 719-539-5271

Email: planning@cityofsalida.com

1. TYPE OF APPLICATION (Check-off as appropriate)

- ☐ Annexation
- ☐ Pre-Annexation Agreement
- ☐ Appeal Application (Interpretation)
- ☐ Certificate of Approval
- ☐ Creative Sign Permit
- ☐ Historic Landmark/District
- ☐ License to Encroach
- ☐ Text Amendment to Land Use Code
- ☐ Watershed Protection Permit
- ☐ Conditional Use

- ☐ Administrative Review:
(Type) _____
- ☐ Limited Impact Review:
(Type) _____
- ☐ Major Impact Review:
(Type) _____
- ☒ Other: Variance

2. GENERAL DATA (To be completed by the applicant)

A. Applicant Information

Name of Applicant: Adriane and Martin Kuhn

Mailing Address: 147 W 4th ST Salida CO

Telephone Number: 206-769-2805 FAX: _____

Email Address: Kuhlandia@gmail.com

Power of Attorney/ Authorized Representative: _____
(Provide a letter authorizing agent to represent you, include representative's name, street and mailing address, telephone number, and FAX)

B. Site Data

Name of Development: Kuhn Variance

Street Address: 147 W 4th ST

Legal Description: Lot _____ Block _____ Subdivision _____ (attach description)

Disclosure of Ownership: List all owners' names, mortgages, liens, easements, judgments, contracts and agreements that run with the land. (May be in the form of a current certificate from a title insurance company, deed, ownership and encumbrance report, attorney's opinion, or other documentation acceptable to the City Attorney)

I certify that I have read the application form and that the information and exhibits herewith submitted are true and correct to the best of my knowledge.

Signature of applicant/agent _____ Date _____

Signature of property owner Adriane Kuhn _____ Date 6-9-23



VARIANCE APPLICATION

448 East First Street, Suite 112

Salida, CO 81201

Phone: 719-530-2626 Fax: 719-539-5271

Email: planning@cityofsalida.com

A. TYPE OF VARIANCE REQUESTED (Fill In Applicable Requests)

1. **Variance from Maximum Height:** Existing Height (in feet): N/A Proposed Height (in feet): N/A
2. **Minimum Variance from Floor Area:** Required Floor Area: N/A Proposed Floor Area: N/A
3. **Variance from Maximum Lot Coverage:** Allowed Lot Coverage: N/A Proposed Lot Coverage: N/A
4. **Variance from Parking Requirements:** Existing Spaces: N/A Required Spaces: N/A
Total Spaces Proposed: N/A Percent Reduction Proposed: N/A

5. Variance from Minimum Setback Requirements

a. Setback Variance Information:

- i. Type of setback: ☐ Front yard ☐ Rear yard ☒ Side yard
- ii. Which direction: ☐ North ☐ South ☐ East ☐ West
☐ Northeast ☐ Northwest ☐ Southeast ☒ Southwest
- iii. Type of Building: ☐ Principal ☒ Accessory Building
- iv. Current Setback: 16''
- v. Proposed Setback: 16''
- vi. Required Setback: 36''

b. Second Setback Variance Information (if applicable):

- i. Type of setback: ☐ Front yard ☐ Rear yard ☐ Side yard
- ii. Which direction: ☐ North ☐ South ☐ East ☐ West
☐ Northeast ☐ Northwest ☐ Southeast ☐ Southwest
- iii. Type of Building: ☐ Principal ☐ Accessory Building
- iv. Current Setback: _____
- v. Proposed Setback: _____
- vi. Required Setback: _____

6. **Variance from Land Use Code Section:** 16-4-180

B. DEVELOPMENT PROCESS (City Code Section 16-4-180)

1. Pre-Application Conference. Optional.
2. Submit Application.
3. Staff Review. Schedule Hearing. Forward Report to Applicant and Board.
4. Public Notice Provided For Hearing.
5. Public Hearing Conducted by Board and Action Taken.



C. APPLICATION CONTENTS

A digital copy of all application materials is required.

- ☐ 1. **General Development Application**
- ☐ 2. **Site Plan.** A site plan of the subject property, showing existing and proposed features, buildings, etc. which are relevant to the review of the application. **The copies shall be accepted on 8½" x 11", 11" x 17" or 24"x 36" paper or electronically.**
- ☐ 3. **Required Showing.** The applicant shall indicate the way the proposal meets the required showing as outlined in the application.
- ☐ 4. **Public Notice**
 - a) **List.** A list shall be submitted by the applicant to the city of adjoining property owners' names and addresses. A property owner is considered adjoining if it is within 175 feet of the subject property regardless of public ways. The list shall be created using the current Chaffee County tax records.
 - b) **Postage Paid Envelopes.** Each name on the list shall be written on a postage-paid envelope. Postage is required for up to one ounce. Return Address shall be: City of Salida, 448 E. First Street, Suite 112, Salida, CO 81201.
 - c) Applicant is responsible for posting the property and submittal of proof of posting the public notice.
- ☐ 5. **Application Fee.** \$500 cash or check made out to City of Salida.

D. REQUIRED SHOWING (If necessary, attach additional sheets)

Variance Approval Criteria. Variances from requirements of this Chapter shall be considered an extraordinary remedy. When considering, reviewing and deciding on whether to approve a variance application, the Board of Adjustment must find that all of the following criteria have been met:

1. **Special Circumstances Exist.** Strict application of the standards adopted in this Chapter would result in undue hardship or practical difficulties for the owner of such property. Special circumstances include, but are not limited to, exceptional or peculiar limitations to the dimension, shape or topography of the property, such as slope, standing or moving water, wetlands, floodplain, rock features, narrowness, shallowness or irregular shape of a lot.

See attached

2. **Substantial Detriment.** The requested variance would not create a substantial detriment to the public good and would not substantially impair the intent and purpose of this Chapter, this Code or the City's Comprehensive Plan.

See attached

3. **Adverse Impacts.** The requested variance would not result in significantly adverse impacts to the natural environment or to the surrounding properties and neighborhoods.

See attached

4. Minimum Variance Necessary for Reasonable Use. The granting of the request is the minimum variance necessary for reasonable use of the property or building and the least deviation required from the applicable zoning standard to afford relief.

See attached

Additional Information:

See attached

Additional Information:

Our house at 147 W 4th street was built in 1887. We like to say that as owners we are really just the current caretakers of this old house. As you can imagine there is not a lot of storage area. Certainly not for a modern family of 4. We have no garage and there is no room for one due a 12 ft wide easement on the SE lot line that serves as driveway access to our neighbors' lot at 435 G St. There used to be a garage but it was converted to a studio apartment by a prior owner and serves as long term affordable housing for a home-grown Salidan. This shed is very necessary for us for all the things you would expect: yard and maintenance tools, camping and rafting gear, kids' stuff. There is nowhere else practical on our lot for the shed, and we can't imagine figuring out what we would do without it.

We moved to our home in August 2017. The utility shed in question was already here. We had no idea for how long. We were concerned about the shed being over the property line and discussed this with our realtor (see attached email). An ILC was required. It showed that the shed was not encroaching. However, when the property line was surveyed in 2020, we discovered the ILC was in error and the shed did encroach by about 6 inches, more with the eave.

In early 2021 we began preparing for a backyard improvement project. We feel it is important to say that we don't have deep pockets. Someday we hope to do some remodeling to improve on the 1970s kitchen and bathroom and fixing the floors in the dining and living room. But with our beautiful weather we decided we first wanted to make our backyard space special - and secure. We put all of our available resources into this project.

We knew that first we should address the shed. At the time, we just assumed it was "grandfathered" in like all the other sheds in the neighborhood that don't have proper setbacks, including our neighbors' shed along the same property line. We did what we thought made sense at the time by shifting it about 4 feet to the SE to clear the corner of the house, enabling us to shift it 2 feet to the NE and off the property line. Any more and the shed would have been obstructing a house window. In addition to moving the shed, we improved its appearance at this time by re-siding it on all sides, to match other elements of the project.

We did this of our own accord. The neighbors had never complained or said a word about the shed. We weren't trying to circumvent the rules. We thought what we did was okay and made sense. We became aware of setback requirements during our backyard project planning process, but didn't realize they applied to the shed. Again, we thought it was "grandfathered" in. There had always been a shed there (and again, we didn't know when this shed was placed). In fact the 2017 ILC was incorrect because Landmark Survey made an assumption that the shed in question was the same shed that was present when a previous ILC was done. That previous shed, which is (incorrectly) shown in the attached 2017 ILC, was in the same location, with no setback, but was not as wide so it did not encroach. Our shed, which by 2021 had apparently been there for 5 years had never been a problem. In our conversations with the neighbors at 435 G St over the years, it had never been brought up, except in one conversation

a few years ago where Aaron Stephens said it was odd that the prior owner put his shed over the property line. Because of the incorrect ILC, we shared with him that we believed it wasn't encroaching, but regardless, he didn't indicate he had any problem with it.

As we started our backyard project we wanted to take this opportunity to fix the encroachment. We thought getting it off the neighbors' property was the only consideration, since we believe it to be "grandfathered". Our intention was to be thoughtful, considerate, and proper by doing this unasked.

All of our incorrect assumptions about the legality of this shed were further strengthened by the several permits we obtained for elements of our project. A site plan, showing the current location of the utility shed, was submitted for a permit for the new craft shed (see attached). Permitted electrical infrastructure is mounted to the shed, in 2022 the site plan was again submitted for an 8 ft fence that was permitted to be "connecting to the shed" (see attached). Speaking with Franco in late May, he admitted that he didn't know how long the shed had been there and, like us, assumed it was "grandfathered".

If the shed was a problem, and if a legitimate complaint was to be made, it should have been made when it was placed (apparently in 2016). We believe shifting the shed only had a positive impact on the neighboring property. Why is this complaint made now in 2023, after we've finished our backyard improvements? Why is this complaint made two years after the shed was shifted off their property and 7 years after it was initially placed by a previous owner with a negative setback?

Now a concrete slab and walkway to the door have been poured right up to and adhered to the shed's skirting. A hot tub was placed in early 2022 (with a permitted electrical panel connected to the shed), a permitted fence that attaches to the shed has been constructed, and the deck was just completed this past winter going between the hot tub and the house, filling the space and leaving no room to move the shed (see attached site plan). Is it fair or reasonable to uphold the Land Use Code to the letter, now that our project is complete?

If the shed were to be removed, the custom fence could not be extended in the same fashion because it is constructed with reclaimed boards from our old fence, the rest of the boards have been given away, and the fence builder just moved to Wisconsin.

We ask you to consider the practical difficulties, hardship, and cost that would obviously ensue if we are forced to adhere to the 3 foot setback.

1. Special Circumstances Exist. Strict application of the standards adopted in this Chapter would result in undue hardship or practical difficulties for the owner of such property...

The special circumstances are:

- Our house is old, with limited storage. We need the storage space.

- Our lot is constrained by an easement for our neighbors.
- The shed has been there for many years without complaint.
- Our master plan for our backyard space is now complete.
 - We were granted multiple permits related to this project and a site plan showing the location of the shed was submitted and approved twice. The fence permit specifically spelled out that the fence was to be attached to this shed.
 - Concrete has been poured right up to and adhering to the skirting of the shed on 2 sides.
 - A hot tub has been placed next to the shed, according to the site plan, and permitted electrical has been installed on the side of the shed.
 - A small deck was just completed this winter that fills up the remaining space between the house and the shed.
 - Custom fencing attached to the shed by permit could not be extended in the same fashion if the shed were removed.

2. Substantial Detriment. The requested variance would not create a substantial detriment to the public good and would not substantially impair the intent and purpose of this Chapter, this Code or the City's Comprehensive Plan.

- No impact. The shed has been in about the same location for years and there was a shed with no setback in the same place for years before that. Many other properties in the neighborhoods around downtown have similar sheds with no setbacks, including our neighbors. We now understand that our shed is not considered nonconforming according to the Land Use Code. We've learned that it was placed by the prior owner after the setback requirements went into effect. However, we believe allowing the shed to remain where it is satisfies the spirit, though not the letter, of Section 16-4-160 because there has historically been a shed in basically the same location for a long time.

3. Adverse Impacts. The requested variance would not result in significantly adverse impacts to the natural environment or to the surrounding properties and neighborhoods.

- No adverse impact. The neighbors have expressed a desire for privacy at prior points in time. In addition they approved our request to build an 8 foot tall fence along the property line. The shed continues this line of privacy and as you can see in the attached pictures, it is minimally higher than the fence in the required setback area.

4. Minimum Variance Necessary for Reasonable Use.

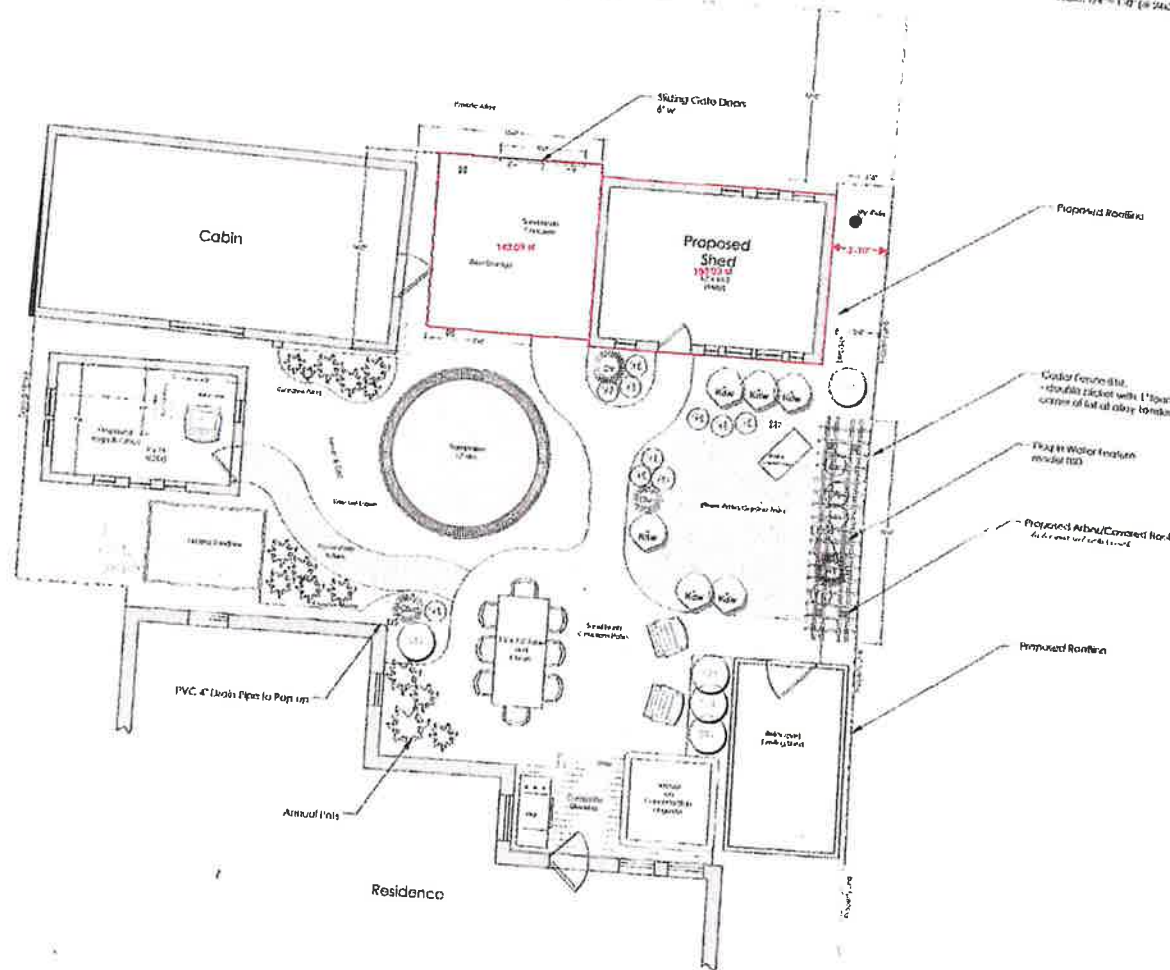
The minimum variance necessary for continued reasonable use is to allow the shed to stay where it is. I am unable to be as precise as I would like by placing a string line along the lot line due to the neighbors' encroaching fence. The shed is approximately 16 inches from the lot line. The setback should be 36 inches. Please grant a variance for a setback of 16 inches and allow the shed to stay where it is.

Kuhn Residence

147 W. South Street | Salida, CO 81210
 Landscape Improvement Plan - Back
 Feb. 4.2020 REV. 3.12.21 REV. 3.16.21
 Scale: 1/4" = 1'-0" (8 Sheets total)

Plant List

- Bachman
- Cornus rugosa
- Hydrangea Double Rubella Mini
- Self Healer
- Gaura - Blue Avenue
- Gaura - Feather Road K.F.
- Eubry Origwood
- Rhododendron
- Dianthus
- Dianthus
- Straight Fork Plant
- R.H. Montgomery Spruce



City of Salida requirements:
 Number of trees required per Section 16-3-906(b)
3 TREES REQUIRED

City of Salida requirements:
 All exterior light fixtures must be fully shielded
 per Section 16-8-100 (c)

APPROVED
 FRANCO PALUMBO
 08/21/2021

REVIEWED AND APPROVED FOR CODE
 COMPLIANCE UNDER THE 2015 IBC AND
 2018 NEC. PLANS ARE APPROVED AS
 CORRECTED
 09/14/2021
 Chad Crickwick

Approved plans shall be on site during all inspections
 per IRC R105.3.1

Proposed 8' fence at 147 W 4th St, Salida - Kuhn residence

This fence will be near the back (south) corner of our lot from the west corner of our recently built structure up to (but not on) the property line, and then along (but not on) the property line for 23.5 to 24.5' to a point 3 - 4' past the nearest (south) corner of the existing shed, and from there (with a right angle) connecting to the existing shed.

The fence will be constructed with 4x4 cedar posts with 8' spacing, sunk 32" below grade in concrete. It will have 1 inch foam board insulation (for sound dampening) sandwiched between some combination of metal roofing and wood boards on the inside of the fence and painted plywood on the outside. The foam board insulation will be covered with a dark fabric to prevent it from showing through with any board shrinkage.

APPROVED

FRANCO PALUMBO

01/04/2022

City of Salida requirements:

All exterior light fixtures must be fully shielded
per Section 16-8-100 (2)

City of Salida requirements:

Number of trees required per Section 16-8-90(6)

3 TREE(S) REQUIRED

**Schedule inspection of concrete
post footings prior to placing
concrete**

**REVIEWED AND APPROVED FOR CODE
COMPLIANCE UNDER THE 2015 I-CODES AND
2020 NEC. PLANS ARE APPROVED AS
CORRECTED**

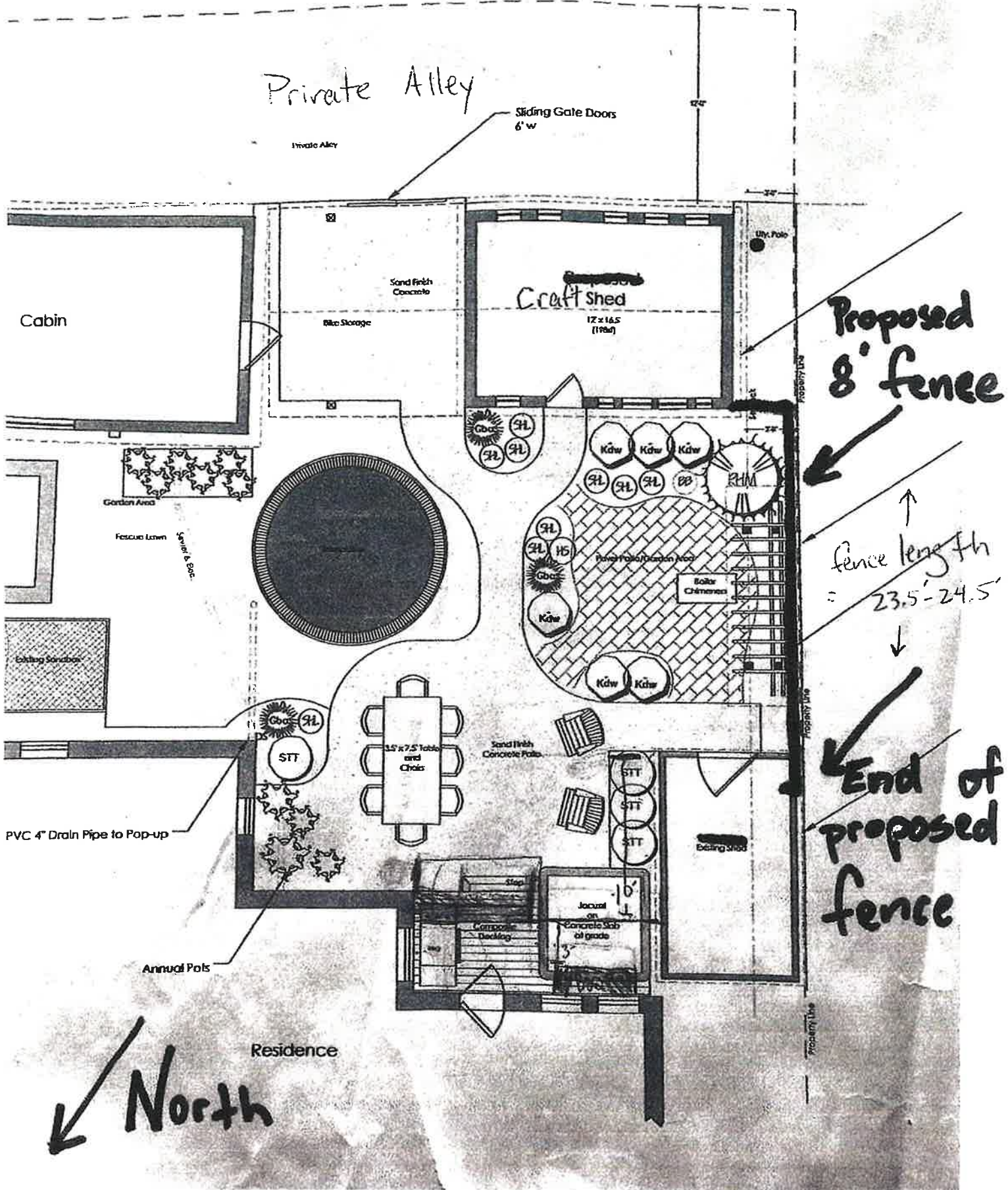
01/18/2022

Chad Chadwick

**Schedule inspection of all framing
connections prior to covering**

Approved plans shall be on site during all inspections
per IRC R106.3.1

Identity lot lines accurately from surveyor pins prior to footing inspection. Surveyor may be required to set pins prior to footing approval



5:13

5G

< 66

^ v

**Kim Boudin**

5/24/17

To: Marty, Adriane >

ILC

Hi Marty and Adriane,

I've attached the ILC and Invoice. I've also forwarded to the title company. Landmark may prefer payment prior to closing since it's so far out, but generally payment can happen at settlement. Should you have any questions, you can contact Syd at Landmark Survey, at [719-539-4021](tel:719-539-4021). It doesn't look to me like the shed is encroaching, so that is good news!

*Asked about
Shed in person*

Can you please send me your lender information?

Thanks,

--

Kim Boudin, Broker Associate
kbouldin@pinonrealestate.com
www.pinonrealestate.com

Pinon Real Estate Group







From: Kim Bouldin kbouldin@pinonrealestate.com
Subject: ILC
Date: May 24, 2017 at 4:01:41 PM
To: Marty Kuhn thekuhndog@gmail.com, Adriane Kuhn
adriane@johnlscott.com

Hi Marty and Adriane,

I've attached the ILC and Invoice. I've also forwarded to the title company. Landmark may prefer payment prior to closing since it's so payment can happen at settlement. Should you have any questions, you can contact Syd at Landmark Survey, at [719-539-4021](tel:719-539-4021). It do shed is encroaching, so that is good news!

Can you please send me your lender information?

Thanks,

--

Kim Bouldin, Broker Associate
kbouldin@pinonrealestate.com
www.pinonrealestate.com

Pinon Real Estate Group
201 F Street, Salida, CO 81201 Cell: [719-539-7135](tel:719-539-7135)
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