

CITY OF POLSON COMMISSION PUBLIC HEARING AGENDA

Via Zoom

August 17, 2020

6:30 P.M.

Link to meeting: <https://zoom.us/j/95887295692>-- OR --
dial in by phone: 253-215-8782, meeting ID: 958-8729-5692

1. CALL TO ORDER

Mayor Briney

2. PLEDGE OF ALLEGIANCE

Mayor Briney

3. APPROVAL OF PROPOSED AGENDA

Mayor Briney

4. PUBLIC COMMENT ON SIGNIFICANT MATTERS TO THE PUBLIC **NOT ON THE AGENDA (address items to the Chair. Commission takes no action on items discussed)**

NEW BUSINESS

5. OPEN PUBLIC HEARING

Mayor Briney

6. ZONING VARIANCE REQUEST (VA #21-01); REDUCTION OF FRONT YARD SETBACK ALONG 1ST STREET WEST AT 101 4TH AVENUE WEST

City Planner Kyle Roberts

7. CLOSE PUBLIC HEARING

Mayor Briney

8. ADJOURN

The City of Polson encourages public participation in its public meetings and hearings. In doing so the City holds its meetings in handicapped accessible facilities. Any persons desiring accommodations for a handicapping condition should call the City Clerk at 883-8203 for more information.

*The Polson City Commission is holding a virtual meeting as part of the City of Polson's COVID-19 transmission mitigation efforts.

POLSON CITY COMMISSION STAFF REPORT

DATE: AUGUST 17, 2020

APPLICATION TYPE: ZONING VARIANCE REQUEST (VA #21-01): REDUCTION OF FRONT YARD SETBACK ALONG 1st STREET WEST AT 101 4th AVENUE WEST

APPLICANT: JOHN KELLOGG, PCI
PO BOX 1750
MISSOULA, MT 59806

TECHNICAL ASSISTANCE: JOHN KELLOGG, PCI
PO BOX 1750
MISSOULA, MT 59806

PROPERTY OWNER: SOFT ROCK, LLC
131 HOLLAND ROAD
LOPEZ ISLAND, WA 98261

LOCATION: 101 4th AVENUE WEST

APPLICABLE REGULATIONS	PUBLIC NOTICE	WRITTEN PUBLIC COMMENTS
♦ Polson Development Code: Chapter 6, Article 2, Section 220 (Old Town Residential Zoning District); Chapter 6, Article 3, Section 320 (Zoning Variances); and Chapter 6, Article 7 ('Collector Street' and 'Setback' definitions).	♦ <i>Lake County Leader</i> ad published July 30, 2020 ♦ Notices mailed to adjoining landowners: July 21, 2020 ♦ Notice posted on City website July 17, 2020	One written comment was received as of August 6 th and is included as Attachment 'A' to this staff report

APPLICATION TIMELINE:

- Zoning Variance Application was received on July 7, 2020
- Sufficiency Review letter mailed to applicant on July 9, 2020
- City Commission public hearing review and vote scheduled for August 17, 2020

LOCATION / DESCRIPTION:

The location of the subject property is at 101 4th Avenue West, or Lot 1 of Block 21 of Polson Original Townsite. The property is a corner lot and is 7,000 square feet in size. The property is zoned Old Town Residential Zoning (OTZD) and is undeveloped.

VICINITY MAP:

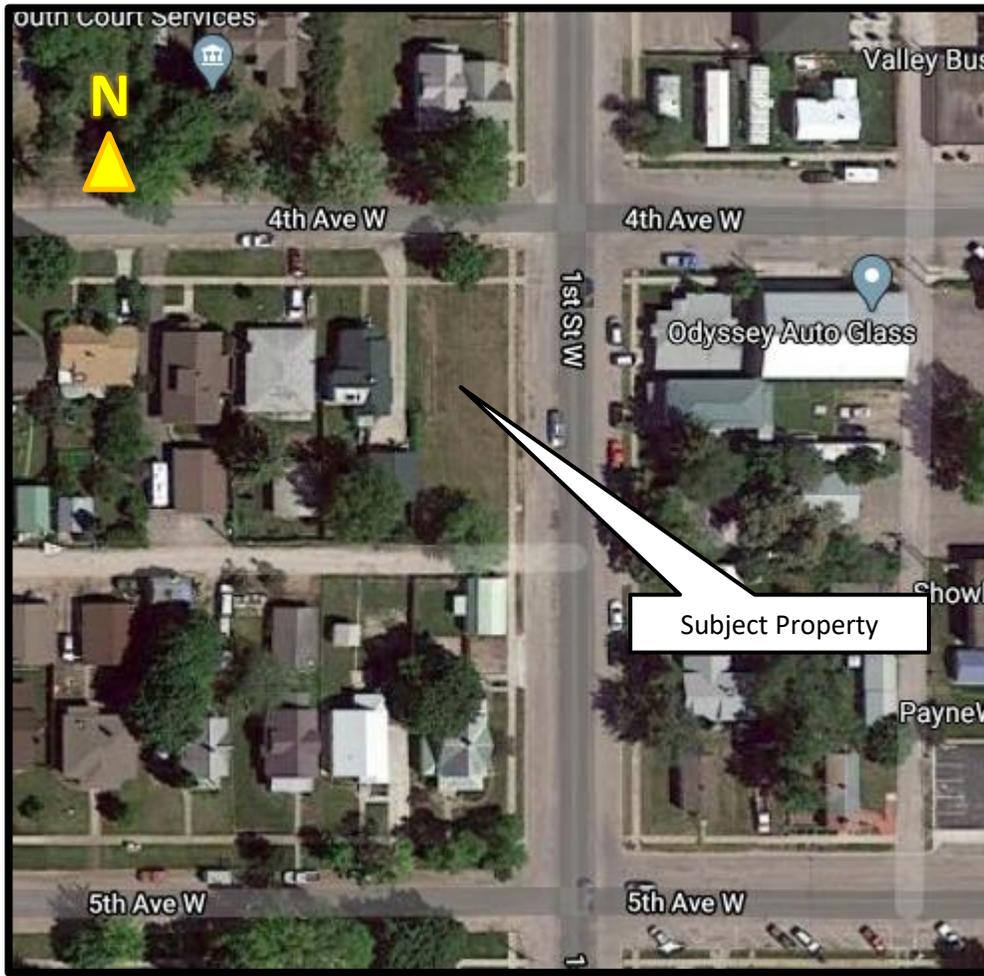


Figure 1 – Subject property located at 101 4th Avenue West. Google Maps

BACKGROUND:

The subject property, although a vacant parcel, has direct access to City water and sewer services. The property has been vacant for many years. A potential challenge in developing the lot is due to its lot size and because it is a corner lot located along 1st Street West, a collector street.

The dimensions of the lot are 50 feet in width and 140 feet in length. It is a corner lot that borders 1st Street West to the east. Per the Polson Development Code (PDC), 1st Street West is considered a collector street as it has the equally important functions of moving traffic and providing access to adjacent land. It also has two moving traffic lanes and two parking lanes ('Collector street' definition, [Sec. 6.07.040](#)). This reduces the width of the lot's buildable footprint as, per the PDC, the yard on a collector street shall be the front yard setback ('Setback' definition, [Sec. 6.07.040](#)). As shown in Figure 2 below, because the

OTZD Setback Requirements	
Front yard	25 feet
Side yard	5 feet
Rear yard	15 feet

front yard setback in OTZD is 25 feet and the side yard setback is 5 feet¹, this would only allow for a maximum of 20 feet in buildable width on the property, which is quite restrictive for development.

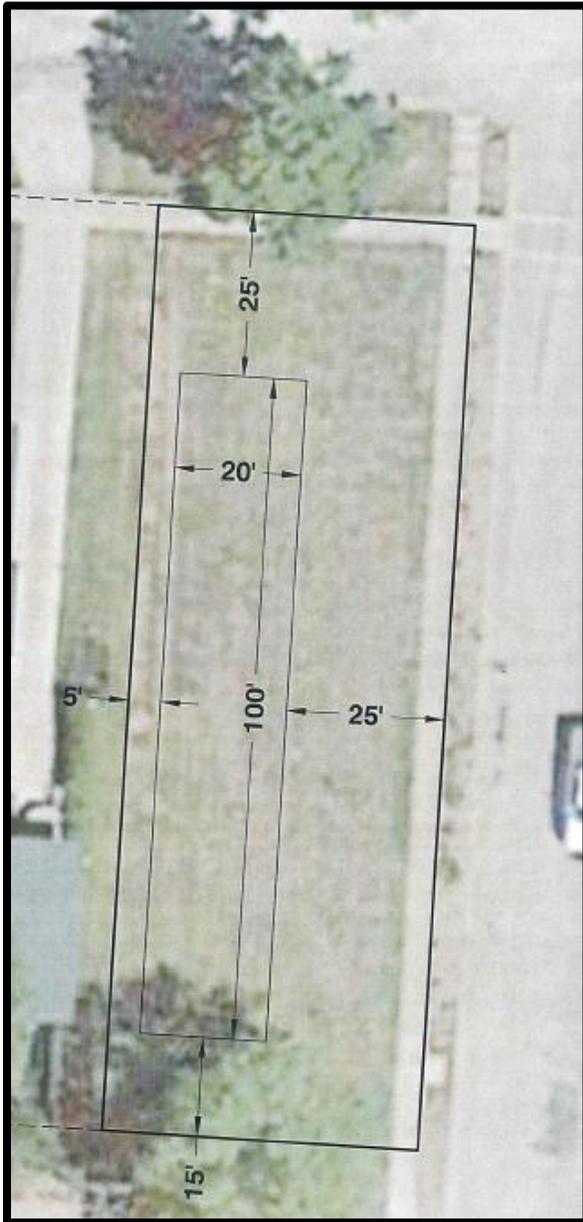


Figure 2 – Lot layout of subject property without a variance.

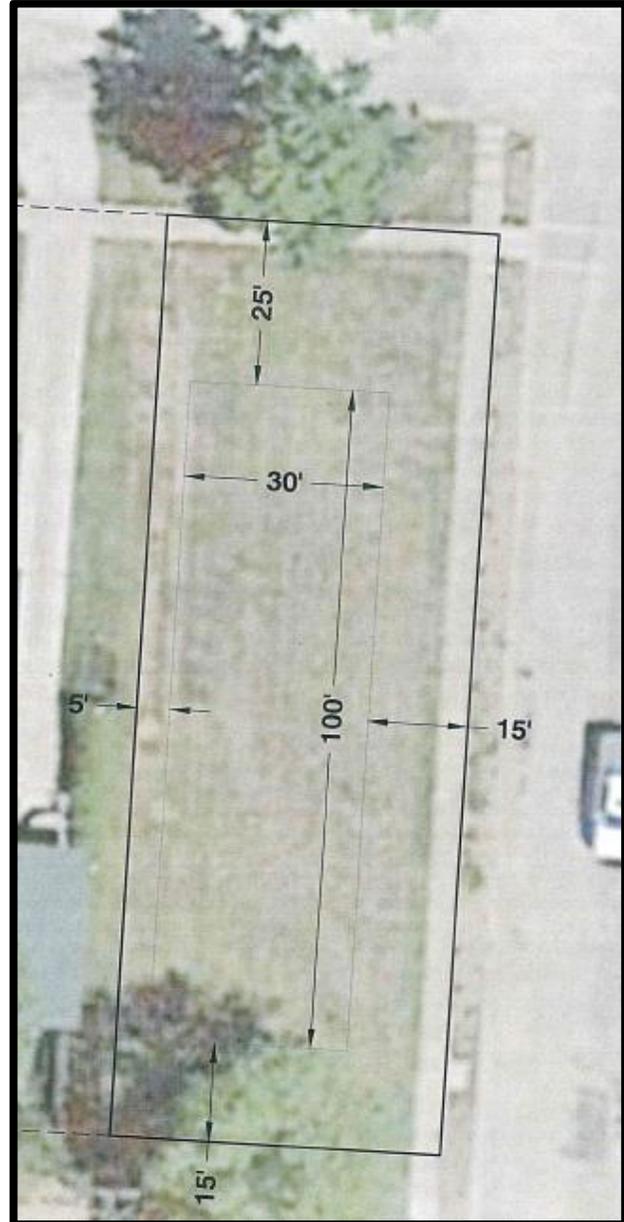


Figure 3 – Lot layout of subject property with an approved variance
Source: Professional Consultants, Inc., June 2020

VARIANCE REQUEST:

As shown in Figure 3 above, the applicant is requesting that the 25-foot front yard setback along 1st Street West be decreased by 10 feet, from 25 feet to 15 feet. This will allow for a 30-foot wide building site as opposed to 20 feet, and thus would increase development options for the property. It is unknown as to how the applicant plans to develop the property; however, as the property is zoned Old Town

¹ Corner lots have two rear yards, but may treat either as a side yard for the purposes of the zoning regulations ('Setback' definition, [Sec. 6.07.040](#)).

Residential, permitted uses are limited to residential uses. Moreover, due to the small size of the lot, it is likely that only a single-family dwelling could be developed on the lot.

REVIEW PROCESS:

As this is a Variance request from a provision of the Polson Development Code, the City Commission (acting on behalf of the Board of Adjustment) is required to conduct a public hearing and evaluate the request under the terms of the Polson Development Code (including, but not limited to [Sec. 6.03.320](#)) and any applicable State, Federal, and Tribal requirements.

After consideration of the staff report and input from the public, the City Commission will review and make a motion to approve, approve with Conditions, or deny the Variance request. Should the applicant or any person(s) aggrieved by the City Commission's decision decide to appeal the Commission's decision, please refer to [76-2-327 MCA](#).

STAFF ANALYSIS:

A zoning variance request must be evaluated under the variance review criteria as set forth in [Sec. 6.03.320\(6\)](#) of the PDC. What follows is a staff analysis of each review criteria:

a. The need for a variance results from physical limitations or unique circumstances related to the lot or parcel on which the variance is requested.

The subject property is located in Polson's original townsite and was created prior to the enactment of Polson's zoning regulations. Applying the 25-foot front yard setback along 1st Street West to the small, original lot significantly reduces the buildable width of the property. A common option used to increase a lot's size is to aggregate with an adjoining lot; however, this is not an option for the applicant as the adjoining property to the west is developed by a different owner.

b. The failure to approve the variance will result in undue hardship because without a variance, strict compliance with the terms of these regulations will limit the reasonable use of the property and deprive the applicant of the rights enjoyed by other properties similarly situated in the district.

Failure to approve the variance request will leave the applicant with a 20-foot wide buildable area on the property. While this does not preclude development potential of the lot, it significantly reduces development options. This *may* explain why the property has been vacant for many years.

Also, worthy of discussion is the fact that no existing structure that fronts 1st Street West from 3rd Avenue West down to 7th Avenue West meet the 25-foot front yard setback. It is likely that these structures were constructed prior to the enactment of Polson's zoning regulations. However, because there are numerous existing structures that do not comply with the front yard setback, it could be argued the applicant is being deprived of the rights enjoyed by other property owners similarly situated. Lastly, considering the existing development pattern along 1st Street West, it would be reasonable to maintain the pattern for the sake of aesthetic uniformity.

c. The alleged hardship has not been created by action of the owner or occupants.

The alleged hardship has not been created by action of the owner or occupants.

d. Approval of the variance will not have a substantial adverse impact on neighboring properties or the public.

Approval of the variance will not have a substantial adverse impact on neighboring properties or the public. As shown in Figure 3 on page 3, the applicant will utilize the full 25-foot front yard setback along 4th Avenue West to maintain uniformity with the 4th Avenue West development pattern. Additionally, decreasing the front yard setback to 15 feet along 1st Street West will not violate a clear vision triangle at the corner of 1st Street West and 4th Avenue West. If an approved variance incentivizes development of the vacant lot, there is the potential that neighboring property values will increase.

e. The variance is necessary to permit a reasonable conforming use.

As discussed previously, due to the size the lot, development of the lot would be limited to a single-family dwelling as the lot size would not meet the minimum lot size requirement for a two-family or multiple-family dwelling. Without approval of the variance, the buildable width of the lot would only be 20 feet. Approving the variance request would allow for 30 feet, which would be more conducive for constructing a single-family dwelling.

f. Granting of the variance will observe the spirit of these regulations and provide substantial justice.

The first objective of goal #1 of the Polson Growth Policy calls for promoting infill development. Approving this variance request will provide the owner greater ability to develop the subject property, and as such, developing the property would be considered infill development. Infill development meets a visionary goal of Polson.

g. Additional findings may be required for variances in airport overlay zones and shoreline buffers.

This criterion is not applicable to this variance request.

h. Conditions may be attached to the approval of any variances, as provided in section [6.03.230](#)

SUMMARY:

The subject property is a corner lot adjacent to 1st Street West, a collector street. Per the PDC, the yard on a collector street shall be the front yard. The front yard setback requirement is 25 feet. Applying it to the 50-foot wide property would result in a very narrow buildable area. The applicant is requesting the 25-foot front yard setback be decreased by 10 feet, resulting in a 15-foot front yard setback to allow for greater width in buildable area.

STAFF RECOMMENDATION:

After review of the variance request to decrease the 25-foot front yard setback along 1st Street West to 15 feet, staff recommends that the Polson City Commission approve the variance request without conditions.

Per PDC, [Sec. 6.03.320\(9\)](#), an approved variance shall be valid for three years from the date of approval, during which time all construction associated with the variance must be completed and compliance with any conditions demonstrated, unless extended by the Board of Adjustment for a period not to exceed one year.

The City Commission is encouraged to visit the site, ask questions, and request additional information (if necessary) from the Planning Department before the hearing.

DISCLAIMER: The Planning Department is an advisory agent and mediator between Boards/Commission and the applicant. The Planning Department covers the applicants' adherence to the Polson Development Code, the Polson Growth Policy, and other governmental standards. The Planning Department is not responsible and accepts no responsibility for the applicants' proposals, designs, plans/maps, calculations, etc. or lack thereof.

From: [Jack Duffey](#)
To: [City of Polson Planner](#)
Subject: Soft Rock LLC
Date: Tuesday, August 4, 2020 12:57:24 PM

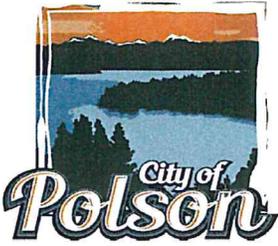
Kyle,

This email is to comment on the proposed variance to the front yard setback requirement for the subject property located at 101 4th Ave. West.

I am in favor of granting this variance. The granting of this variance will not create any public safety concerns. Plus, there are several existing structures along 1st Street W that do not meet the setback requirement.

Thank you for your time.

Jack Duffey, PLS
308 1st Street W
Polson, MT 59860



CITY OF POLSON

Planning & Building Department
106 1st Street E. | Polson, MT 59860
T: 406-883-8214 | F: 406-883-8238
E: bp@cityofpolson.com
W: www.cityofpolson.com

Date Rec'd: 7.7.20
Fee: 376.00
VA #: 21-01

ZONING VARIANCE APPLICATION

FEE SCHEDULE: Residential Variance Fee \$250, Commercial Variance Fee \$500; plus \$6 per address for adjoining landowner notifications.

PURPOSE & PROCEDURE: A Variance provides relief for landowners who, due to some unique characteristic of their property, would suffer unnecessary hardship if the regulations are strongly enforced. A Variance request must go through a public hearing process with the Board of Adjustment (refer to page 4 for procedure flow chart). The Board of Adjustment shall approve a Variance only upon finding that it meets the criteria on page 3.

OWNER(S) OF RECORD:

Name: Soft Rock, LLC Phone #: 503-260-5406
Mailing Address: 131 Holland Rd.
City: Lopez Island State: WA Zip code: 98261-8555

PERSON(S) AUTHORIZED TO REPRESENT THE OWNER(S) AND TO WHOM ALL CORRESPONDENCE IS TO BE SENT:

Name: John Kellogg, PCI Phone #: 406-728-1880
Mailing Address: PO Box 1750
City: Missoula State: MT Zip code: 59806

INTEREST IN PROPERTY: Owner Contract Buyer Other: _____

DATE PROPERTY WAS ACQUIRED: April, 2011

LEGAL DESCRIPTION OF PROPERTY:

Street	Sec.	Township	Range
Address: <u>101 4th Avenue West, Polson, MT 59860</u>	No. <u>4</u>	<u>22N</u>	No. <u>20W</u>
Subdivision	Tract	Lot	Block
Name: <u>Polson Original Townsite</u>	No(s). _____	No(s). <u>1</u>	No. <u>21</u>

1. **This is a Variance from the provisions of:** Polson Development Code 2016

2. **This is a request for a Variance relating to:**

Setbacks Parking Lot Area Lot Coverage Building Height

Other: _____

3. Specifically identify the Variance that is being requested, and state the reasons that the Variance is needed (please be specific and complete as possible): We are requesting a variance from the front yard setback requirement of 25 feet in the Old Town Zoning District. Although our lot fronts on 4th Avenue, it is a corner lot. The Development Code in Section VII - Definitions, under "Setback" states that "The yard on an arterial or collector shall, however, be the front yard, regardless of whether the structure is addressed on that street." Our lot is 50 feet in width, similar to nearly all the lots on the block. If we apply the 25 foot setback for the 1st Street frontage, plus a 5 foot side yard to the west, that leaves only 20 feet of width for our building site. We are requesting that the setback be decreased by 10 feet down to a 15 foot setback, allowing a 30 foot wide building site. It should be noted that other lots fronting 1st Street within this zoning district have setbacks ranging from about 5 feet to 15 feet.

SUBMITTAL REQUIREMENTS:

1. A dimensioned site plan, drawn to scale, showing all existing improvements (buildings, utilities, driveways and parking areas, trees and landscaping) on both the subject property and adjacent parcels. The site plan must also include adjacent right-of-ways and any easements. If the variance request involves signs, complete drawings of the signs must be submitted. If the variance request is to exceed the allowable building height, building elevation drawings are required.
2. A copy of the deed for the property.
3. Additional information may be necessary based on the specific Variance requested.
4. Application fee and adjoining landowner addresses fee.
5. A certified list of all property owners within 150 feet of the subject property is required with the information listed below.

<u>Assessor No.</u>	<u>Sec-Twn-Rng</u>	<u>Lot/Tract No.</u>	<u>Property Owner & Mailing Address</u>
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In reviewing the application and materials submitted by the applicant, the City of Polson may determine that it may require extraordinary review and incur additional, expenses, costs and staff time on behalf of the applicant. The staff will advise the applicant of anticipated additional time and anticipated costs, including expenses for outside consultants, prior to incurring the same. The applicant is expected to pay such anticipated costs and hereby waives all statutory or ordinance time frames imposed upon the City until such fees and costs are paid.

During the course of review of the application and after final determination by the City of Polson, the Owner/Developer hereby agrees to hold the City of Polson harmless from all claims, expenses, costs and attorney's fees that may arise as a result of the actions or process taken by the Owner/Developer. This "hold harmless" responsibility does not indemnify the City from its acts of negligence, violation of codes or ordinances, or defense of its codes or ordinances.

I hereby certify under penalty of perjury and the laws of the State of Montana that the information submitted herein, on all other submitted forms, documents, plans or any other information submitted as a part of this application, to be true, complete, and accurate to the best of my knowledge. Should any information or representation submitted in connection with this application be untrue, I understand that any approval based thereon may be rescinded, and other appropriate action taken. The signing of this application signifies approval for the Polson Planning staff to be present on the property for routine monitoring and inspection during the approval and development process.



 (Applicant)

7/1/20

 (Date)

After Recording Return to:

Soft Rock, LLC
131 Holland Road
Lopez Island, WA 98261

513897 DEED Pages: 1
STATE OF MONTANA LAKE COUNTY
RECORDED: 04/29/2011 4:38 KOI: DEED
PAULA A HOLLE CLERK AND RECORDER
FEE: \$7.00 BY: *Carla J. Buep, Dep.*
TO: ,

RAV44765
LCA2011271
Parcel No. 8196

WARRANTY DEED – Short Form

FOR VALUE RECEIVED, Mark R. Partridge and Sue Partridge, hereinafter called Grantors, does hereby grant, bargain, sell and convey unto: Soft Rock, LLC, whose address is: 131 Holland Road, Lopez Island, WA, 98261, hereinafter called Grantee, the following described premises situated in Lake County, Montana, to-wit:

Lot 1 in Block 21 of the original Townsite of Polson, Lake County, Montana, according to the map or plat on file in the office of the Clerk and Recorder of Lake County, Montana.

TOGETHER WITH all water, water rights, ditches, dams, flumes and easements appurtenant to said lands or usually had and enjoyed with the same.

SUBJECT TO any restrictions, reservations, exceptions or easements and rights of way of record or apparent on the premises.

TO HAVE AND TO HOLD, the said premises, with its appurtenances unto the said Grantee, and to the Grantee's successors and assigns forever. And the said Grantors do hereby covenant to and with the said Grantee, that the Grantors are the owners in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all lawful claims whatsoever.

Dated: 4/29/11

Mark R. Partridge

Mark R. Partridge

Sue Partridge

Sue Partridge

STATE OF MONTANA)
)SS.
COUNTY OF MISSOULA)

This instrument was acknowledged before me on April 29, 2011, by Mark R. Partridge and Sue Partridge.

Heidi R. Heitmann

HEIDI R. HEITMANN
NOTARY PUBLIC for the
State of Montana
Residing at Missoula, MT
My Commission Expires
February 24, 2013.

NOTARY PUBLIC for the State of Montana
Print Name _____
Residing at _____
My commission expires _____

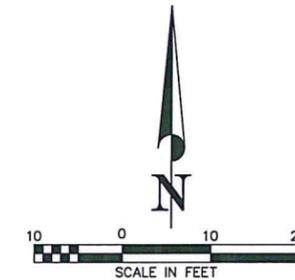


SOFT ROCK, LLC

CERTIFIED LIST OF ADJACENT OWNERS WITHIN 150 FEET

<u>Assessor No.</u>	<u>Sec-Twn-Rng</u>	<u>Lot/Tract No.</u>	<u>Property Owner & Mailing Address</u>
000009030	4-22N-20W	BLOCK 13, Lot 8	BRAZIL, CLARENCE JOSEPH, LIVING TRUST 33663 S FINLEY POINT RD POLSON, MT 59860-8015
000008116	4-22N-20W	BLOCK 13, Lot 7	13TH AVE PROPERTIES, LLC PO BOX 186 POLSON, MT 59860-0186
000008703	4-22N-20W	BLOCK 20, LT A/AMND PLAT LT 12	ESLICK, CASS L 110 DIVISION ST POLSON, MT 59860-3011
0000023111	4-22N-20W	BLOCK 20, LT B/AMND PLAT LT 12	HOME FLOOR COVERING, INC 322 MAIN ST POLSON, MT 59860-2122
000008187	4-22N-20W	BLOCK 20, Lot 11	PEEPLS, CRAIG & CHRISTINA, TRUSTEES MAIL TO: LAKE COUNTY RENTAL POLSON, MT 59860-0452
000008489	4-22N-20W	BLOCK 20, Lot 10	MILLER, STEPHEN P & DEBORAH R 44765 BACK RD RONAN, MT 59864-8943
000007954	4-22N-20W	BLOCK 20, Lot 9	RAYMOND, DAWN P 263 FOREST LANE RD FREDERICKSBURG, VA 22405-3182
000008859	4-22N-20W	BLOCK 20, Lot 8	BISHOP, ROYALEE J 409 1ST ST W POLSON, MT 59860-2626
000008216	4-22N-20W	BLOCK 20, Lot 7	BIG RAVINE, LLC PO BOX 186 POLSON, MT 59860-0186
000008810	4-22N-20W	BLOCK 21, Lot 16	JOBE, FRANK E 901 11TH ST E J1 POLSON, MT 59860-3334

<u>Assessor No.</u>	<u>Sec-Twn-Rng</u>	<u>Lot/Tract No.</u>	<u>Property Owner & Mailing Address</u>
0000008580	4-22N-20W	BLOCK 21, Lot 15	MILLER, KEITH & CHANTEL PO BOX 32 POLSON, MT 59860-0032
0000008272	4-22N-20W	BLOCK 21, Lot 14	HARROD, GEORGE BRADLEY 106 5TH AVE W POLSON, MT 59860-2633
0000007842	4-22N-20W	BLOCK 21, Lot 13	AYERSMAN, CALVIN EUGENE 108 5TH AVE W POLSON, MT 59860-2633
0000008282	4-22N-20W	BLOCK 21, Lot 4	DUCE, KIRK & PATRICIA; JEAN OLSON 315 MOUNT AVE MISSOULA, MT 59801-5704
0000008896	4-22N-20W	BLOCK 21, Lot 3	FAIRCHILD, WENDY RAE & MARK 40660 WHITETAIL DR POLSON, MT 59860-7594
0000008197	4-22N-20W	BLOCK 21, Lot 2	BRASCH, CHRISTOPHER & KAITLIN A 103 4TH AVE W POLSON, MT 59860-2632
0000009018	4-22N-20W	BLOCK 12, Lot 4	SHRIVER, ROCKY T 106 4TH AVE W POLSON, MT 59860-2631
0000008858	4-22N-20W	BLOCK 12, Lot 3	BONJORNI, MARY ANN 20000 LEO HANSEN RD FLORENCE, MT 59833-6114
0000007805	4-22N-20W	BLOCK 12, Lot 2, LOT B	HALLSTROM, LYNN MARIE 5419 64TH ST SE SNOHOMISH, WA 98290-6000
0000007806	4-22N-20W	BLOCK 12, Lot 2, LOT C	MONTANA RENTAL PROPERTIES LLC PO BOX 1047 CONDON, MT 59826-1047
0000007807	4-22N-20W	BLOCK 12, Lot 2, LOT A	DUFFEY, JOHN M & HOLLY A 43330 CANAL RD RONAN, MT 59864-9198



P:\2020\001-20 Soft Rock LLC\Drawing & City\001-20 Misc.dwg 6/23/20

PROJECT #	8001-20
DRAWN	ISC
CHECKED	JK
REVISION	

SOFT ROCK LLC

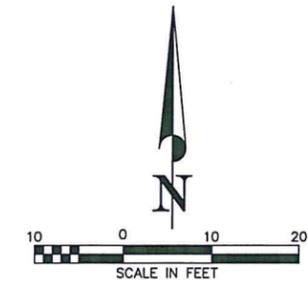
POLSON, MT

Professional Consultants Inc.
 115 E. 7th St Suite C
 Helena, Montana 59501
 Phone 406-253-1271
 Fax 406-253-1275

JUNE 2020

EXISTING SETBACKS

2



F:\2020\001-20 Soft Rock LLC\Drawing & City\001-20 BUC.dwg 6/23/20

PROJECT #	001-20
DRAWN	SK
CHECKED	SK
REVISION	

SOFT ROCK LLC

POLSON, MT


Professional Consultants Inc.
 101 E. 3RD ST SUITE C
 HELENA, MONTANA 59101
 PHONE 406-251-1111
 FAX 406-251-1115

JUNE 2020

PROPOSED SETBACKS

3

July 9, 2020

John Kellogg, PCI
PO Box 1750
Missoula, MT 59806

RE: 101 4th Avenue West Variance Request (VA #21-01) Sufficiency Review Letter

Dear Mr. Kellogg,

Upon a completeness and sufficiency review of your variance application submitted on July 7th, staff has deemed the application sufficient for review at this time. Although not required, it may be worthwhile to include in your narrative what your plans are for developing the property.

All variance requests must go through a public hearing process with the City Commission within 60 days from the date an application is deemed sufficient for review. To fulfill required public hearing notice timeframes, this application will be scheduled for a public hearing with the City Commission on **Monday, August 17th at 6:30 PM.**

If you have any questions, please do not hesitate to call, email, or stop by City Hall and visit with the Building and Planning Department.

Sincerely,

A handwritten signature in cursive script that reads "Kyle Roberts". The signature is written in black ink and includes a long horizontal flourish extending to the right.

Kyle Roberts
City Planner