

ORDINANCE NO. 6164, AS AMENDED

**AN ORDINANCE AUTHORIZING CONVEYANCE OF AN EASEMENT
OVER A PORTION OF THE RIGHT-OF-WAY BORDERING 410
CUSHMAN STREET**

WHEREAS, in 2014, pursuant to Ordinance No. 5885, as Amended (7/23/2012) and Resolution No. 4633 (6/9/2014), the City sold the building then known as Old City Hall, 410 Cushman Street, comprising a portion of Lot 4, Block 66A, to Patrick Levy, d/b/a Fairbanks Distilling Company; and

WHEREAS, Fairbanks Distilling Company wishes to establish an outside seating area on the east side of the business (Cushman Street side) and in drawing up plans for the area discovered that the dividing line between its property and the adjacent City right-of-way bisects the building's front steps and flower beds, thus not allowing room for the proposed outside seating area (see Exhibit A-1); and

WHEREAS, as an interim measure, the Fairbanks Distilling Company has requested that the City grant it an easement over a portion of the right-of-way (see Exhibit A-2 and A-3) so that the outside seating area can be put in place in time for the 2021 summer season, while giving the parties time to negotiate a full transfer of this parcel; and

WHEREAS, the Council believes that this easement is an appropriate interim step as it would allow for the expansion of this downtown business enterprise while giving the parties time to develop a possible long-term solution.

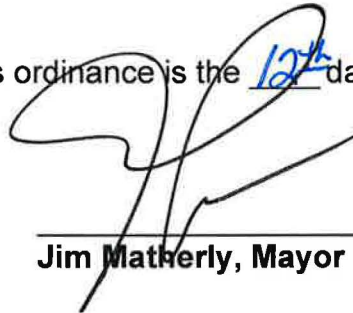
NOW THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:

SECTION 1. That the Mayor is authorized to execute the conveyance of an easement in a form substantially similar to Exhibit B hereto over an area comprising a five-foot portion of the right-of-way along the eastern lot line of Lot 4A, Block 66A, as shown generally in Exhibits A-1, A-2, and A-3, and as described in Exhibit B, as Amended, with the following conditions and restrictions:

- 1. No improvement may be located in the easement parcel within 1.65 feet of Lot 3A;**
- 2. No structure in the easement parcel within 5 feet of Lot 3A may be over 6 feet in height;**

3. The City will cooperate with Patrick Levy in a replat of Lot 4A, whereby the easement parcel would be transferred to him, with Levy to pay all costs of the replat;
4. The grant of easement will terminate 5 years from the date of execution unless extended by Council ordinance and will automatically expire upon transfer of the parcel; and
5. The grant of easement is contingent upon the owners of Lots 3A and 4A executing an agreement whereby the owners of Lot 3A agree to waive any reversionary interest in the easement parcel if the right-of-way is vacated by the City, and whereby the owner of Lot 4A agrees that the restrictions in 1 and 2 above will be made permanent if the easement parcel is transferred.

SECTION 2. The effective date of this ordinance is the 12th day of May 2021.



Jim Matherly, Mayor

AYES: Marney, Clark, Therrien, Gibson, Kun
NAYS: None
ABSTAIN: Rogers
ADOPTED: May 10, 2021

ATTEST:

APPROVED AS TO FORM:



D. Danyielle Snider, MMC, City Clerk



Paul Ewers, City Attorney

Exhibit A-1 to Ordinance No. 6164

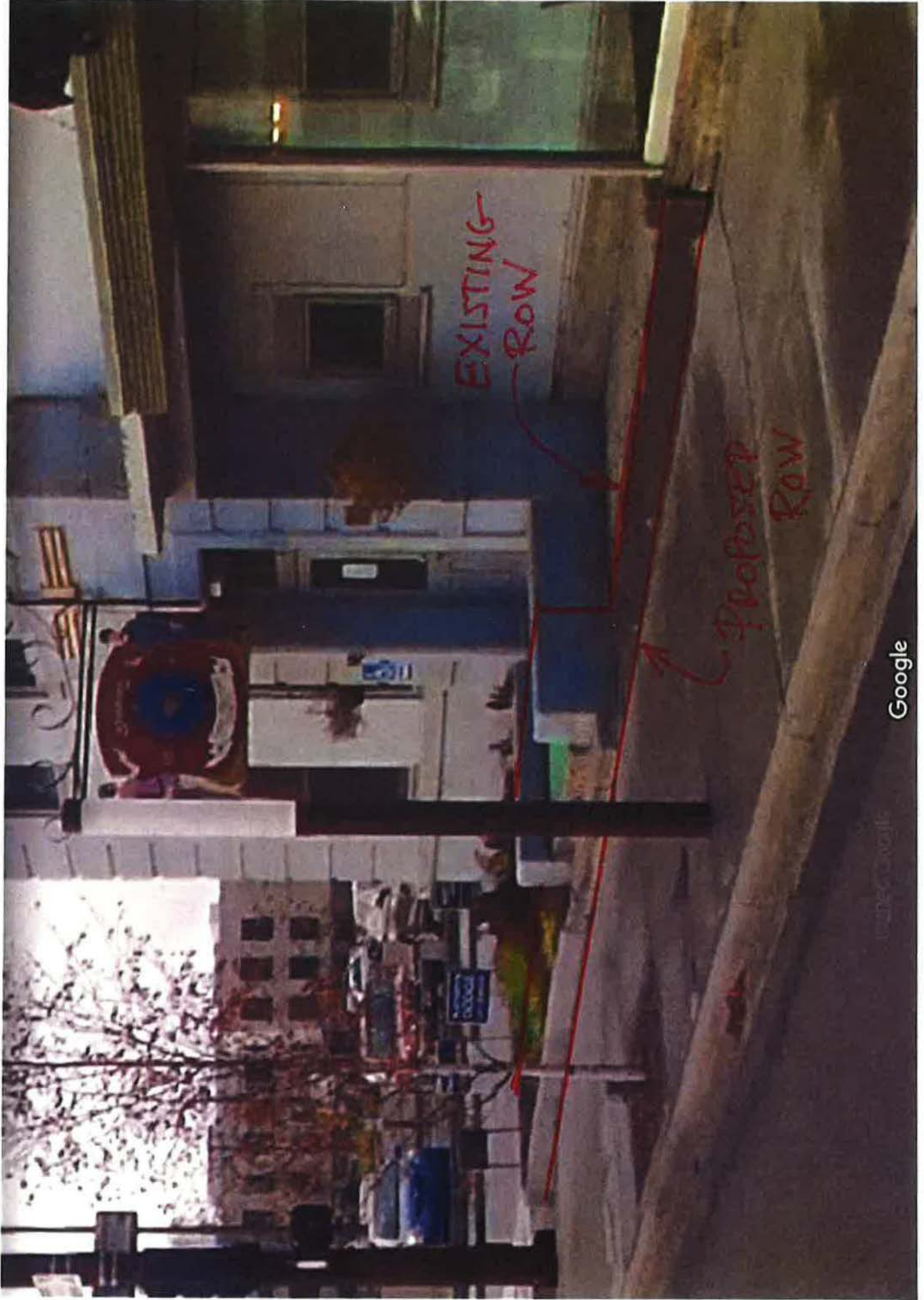


Exhibit A-2 to Ordinance No. 6164

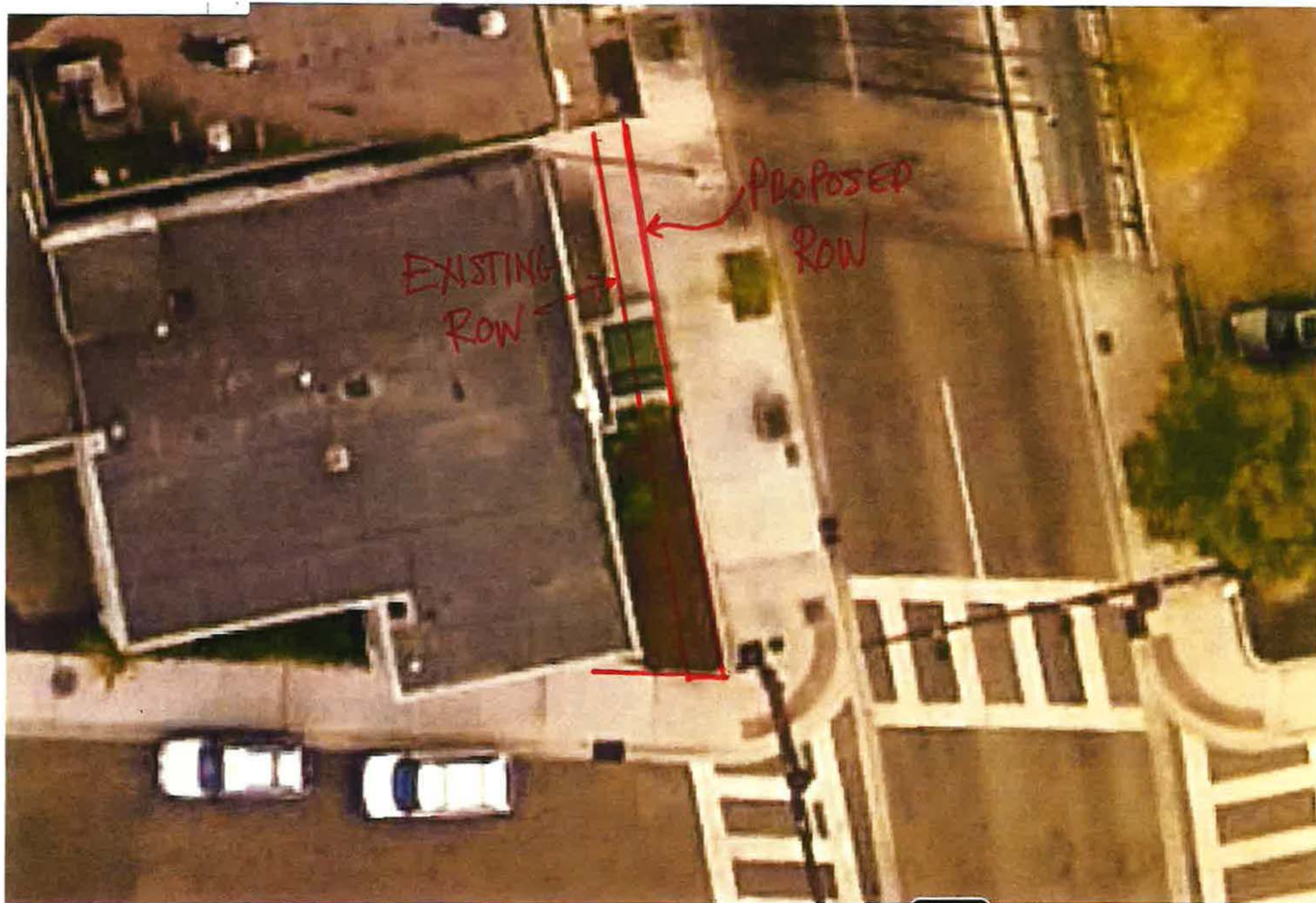
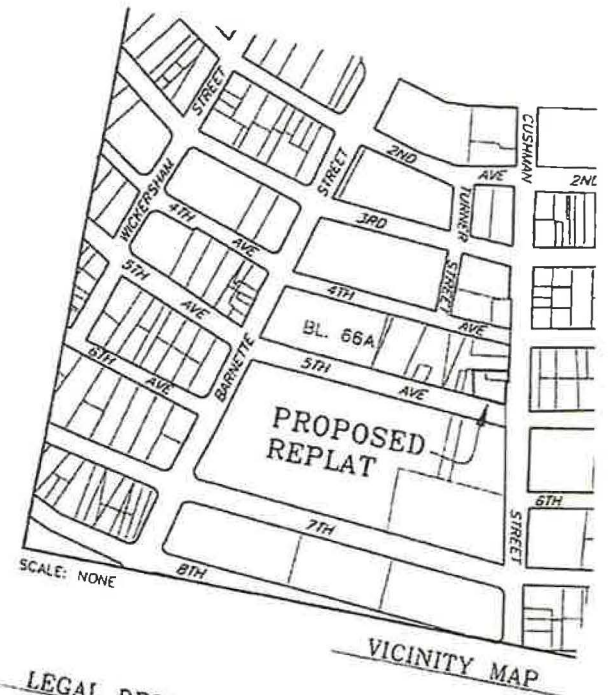
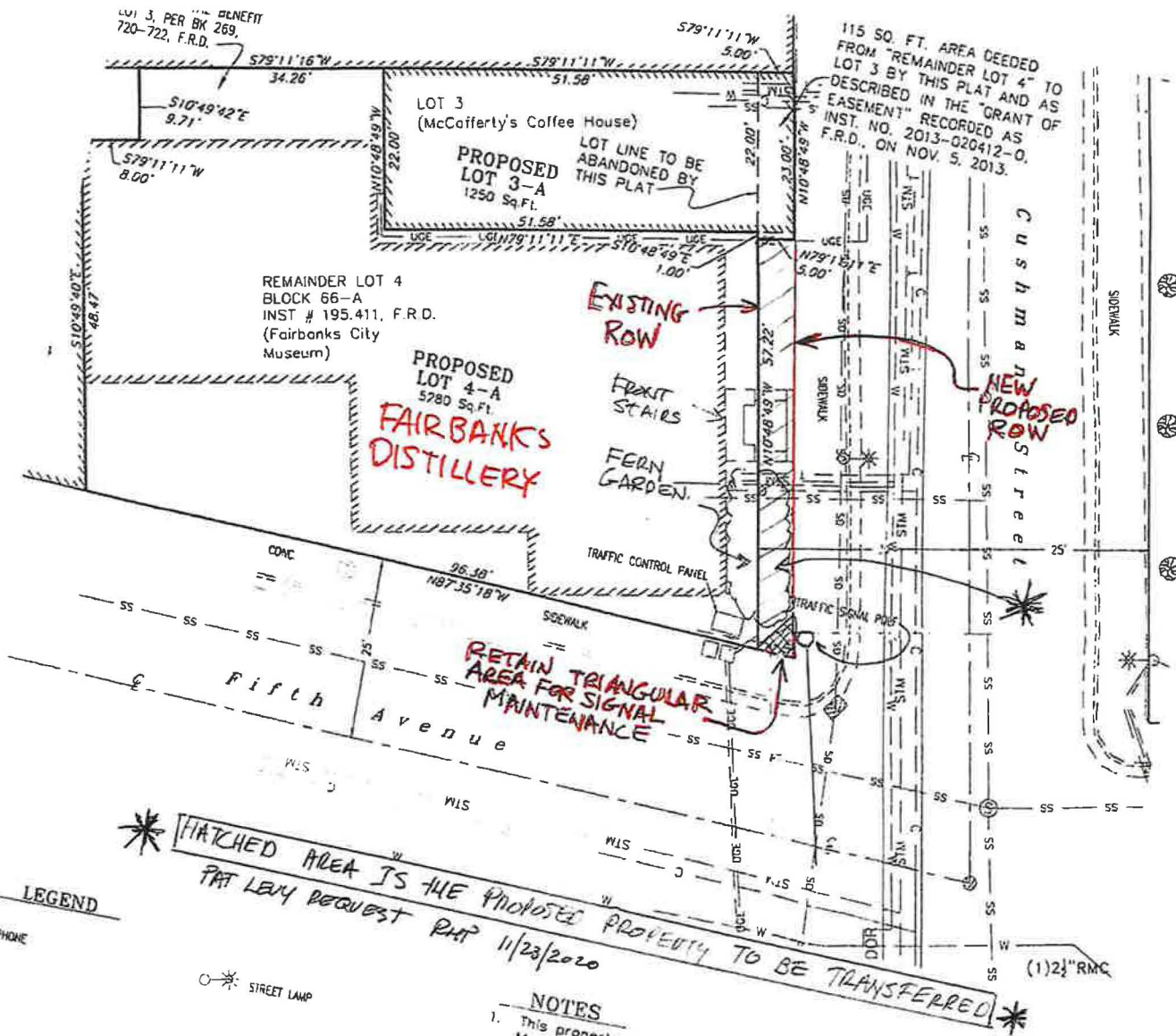


Exhibit A-3 to Ordinance No. 6164



LEGAL DESCRIPTION

Lot 3, Block 66-A of the Plat of the Resubdivision of Block TOWNSITE OF FAIRBANKS, according to the plat filed November Instrument No. 195.411, Fairbanks Recording District, Fairbanks, Alaska. OWNERS: William K. Rogers and Betty J. Rogers

AND

Lot 4, Block 66-A of the Plat of the Resubdivision of Block TOWNSITE OF FAIRBANKS, according to the plat filed November Instrument No. 195.411, Fairbanks Recording District, Fairbanks, Alaska. EXCEPTING THEREFROM that portion conveyed to Charles E. Cole by deed recorded June 2, 1972 in Book 269, Page 72, District, Fairbanks, Alaska. OWNER: City of Fairbanks, Alaska

FNSB
PLATTING BOARD
Preliminary Approval

LEGEND

○* STREET LAMP

NOTES

1. This property lies within Flood Zone "X" (shaded) as per the Flood Insurance Map #02090C4378J, dated March 17, 2014.
2. This property is not within the limits of the...