



Council Agenda Report

From: David Athey, City Engineer

Subject: Consider a request from the applicant of the Cheval Hotel II to use portions of the Pine Street public right of way to accommodate hotel access and development

Date: August 15, 2017

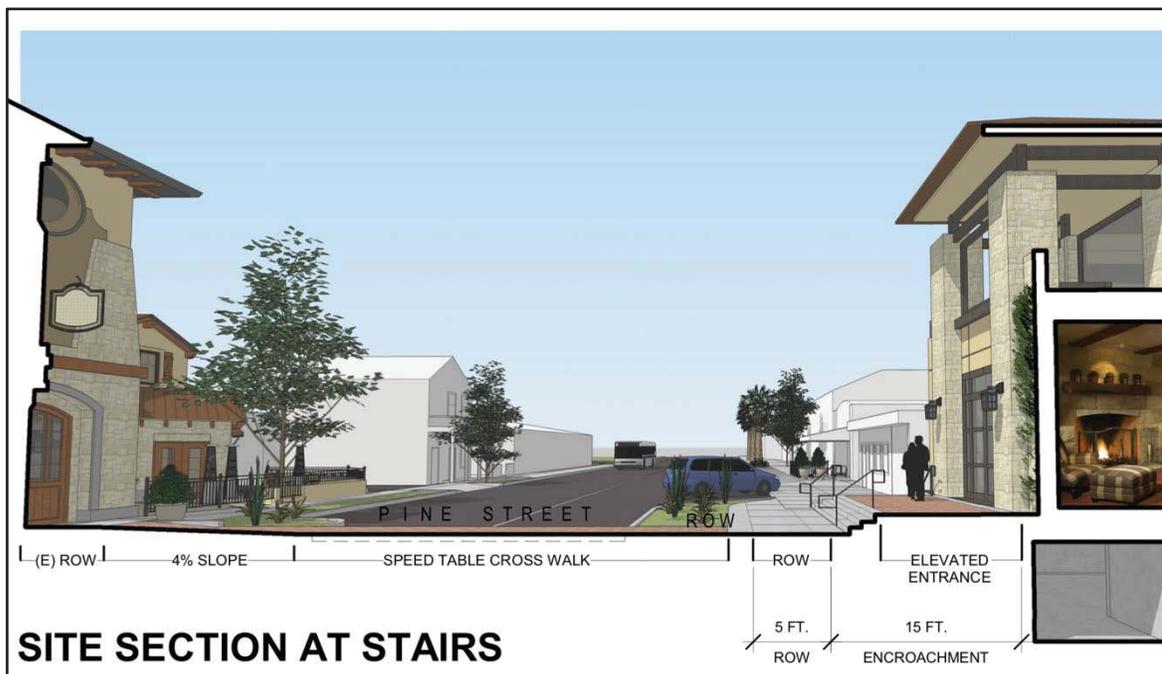
Facts

1. Hotel Cheval II is a proposed new 20 room luxury hotel that will be located across the street from the existing Hotel Cheval I at the NE corner Pine and 10th Street.
2. The building will include an underground parking structure that takes access from Railroad Ave. Due to topographic issues related to the underground parking, the applicant is proposing to use 1,000± square feet of the public right of way in front of the proposed hotel for a raised access and café for the exclusive use of the hotel. The feature will include steps, disabled access ramp, railings, and an outside café.



3. The proposed right of way use will require that the sidewalk be moved out into Pine Street. The applicant is proposing a 5½ foot sidewalk along Pine Street.

4. Pine Street is an important pedestrian corridor between the Downtown and the Train Station, Pine Street Promenade Hotel (proposed), and Oxford Suites Hotel (under construction).
5. The property's redevelopment will eliminate a driveway on Pine Street. The applicant is proposing to move parking along the project frontage southward on Pine to accommodate the proposed right of way usage.
6. Six angled parking spots currently exist along the project frontage. Two angled parking spots will be eliminated as part of the steps, ramp, and café area. The remaining four spots will be moved south along the frontage where the current driveway is located. The new spots are proposed as parallel parking spots. The applicant is proposing the City designate one of the spots as a ride for hire or taxi drop off location (white curb zone).
7. The applicant's proposal will create a perpetual non-public use within the public right-of-way. The building's entrance is being designed two feet above the adjacent sidewalk grade to accommodate parking underneath the building. City staff has met with the applicant's architect and engineer on-site to discuss options to reduce or eliminate the need for steps and a ramp in front of the building. Several options are available including lowering street and sidewalk elevations along Railroad Street, increasing the slope in the basement parking garage, and designing a thinner first floor podium deck in the building. Staff has requested that the applicant consider these options in the design to lower the grade differential, but the applicant has not provided any alternative options and wishes to pursue the original concept.
8. Once installed, the stairs and ramp will be needed for the life of the building. The stair, patio, ramp, and associated improvements will require an irrevocable encroachment permit or the public right-of-way abandonment and sale of the land to the applicant.
9. The applicant is also requesting that a raised mid-block crosswalk be included in the project. The midblock crosswalk would connect the existing Hotel Cheval I front door to the proposed Cheval II front entry. The applicant's idea is to have one check-in location at the existing hotel and connect the



two lobbies with the midblock crosswalk. The applicant is proposing to install a ramp out into Pine Street from the Cheval Hotel I. The ramp would transition into a raised crosswalk in Pine Street and would be approximately 3 inches above the existing road surface, with smooth transitions to accommodate traffic.

10. Engineering plans have not been submitted for the ramp or raised mid-block crosswalk. It is unclear if it will be possible to ramp down from the Hotel Cheval I front door to a raised crosswalk in the street because of elevation differences.
11. The proposed ramp and associated improvements will block stormwater flows along Pine Street. Stormwater gutter flow in this location is significant during intense rain events. Water is contained in the gutter, but the spread in the street is significant. The City has received complaints about the gutter flow from the applicant in the past.



Stormwater flow on February 17, 2017.

12. The City currently does not have any plans to install a new storm drain system along the Hotel Cheval I, Pine Street frontage. The proposed ramp and crosswalk will require that either the City, the applicant, or a partnership of the City and applicant install a 280-foot storm drain pipe. Staff estimates the cost of the project at \$75,000 to \$100,000. Costs could be higher or lower depending on the bidding climate and utility conflicts.

Options

1. Refer the project back to staff with the following direction:
 1. To further refine the project and submit additional information that:
 - a. Considers additional options to lower the first floor elevation of the hotel to reduce eliminated the steps and ramp on Pine Street.

- b. Reduces the overall size of the public right of way encroachment.
 - c. Requires any structure with stairs to include ramps dual directional accessibility ramps, similar to the Powell's Candy Store ramp.
 - d. Maintains a minimum 10-foot public sidewalk on Pine Street.
 - e. Provides engineering details of the mid-block crosswalk and ramps on Pine Street that demonstrate the feasibility with existing grades, disabled access requirements and stormwater drainage issues.
2. To work with the City Attorney to evaluate the issues and options of either granting an irrevocable encroachment permit or process a right of way abandonment to accommodate the project
 2. Provide direction to staff to move forward with the proposed schematic design and process a right of way abandonment for the stairs, ramp, and raised crosswalk as part of the entitlement process.
 3. Provide direction to staff to move forward with the proposed schematic design and prepare a perpetual encroachment agreement with the applicant as part of the entitlement process.

Analysis and Conclusions

Hotel Cheval II (Hotel) is being proposed on the corner of Pine and 10th streets, across from Hotel Cheval (see Location Map Attachment 1,). The proposed project consists of a 20 room luxury hotel and includes basement parking, a pool, and new frontage improvements. The hotel is consistent with the City's Uptown / Town Center Specific Plan and economic development goals and would be an excellent addition to the Downtown.

The frontages on Pine, 10th and Railroad Streets will be reconstructed to accommodate Hotel development. Most of the proposed frontage improvements are standard and do not warrant review. However, the applicant is proposing two non-standard improvements that will permanently affect the use of the right of way on Pine Street. The first is the inclusion of a stair, ramp and raised patio eating area fronting the Hotel, see Figure 1, below. The second is a raised mid-block crosswalk that will connect the Hotel with the existing Hotel Cheval I (See Attachment 2). The two proposals are out of the ordinary since they will require perpetual use of the right of way (for the steps, ramp and patio) and a raised mid-block crosswalk on Pine Street and will create precedents for future use of the public right-of-way. Therefore, staff is seeking direction from Council on how to proceed with application processing.

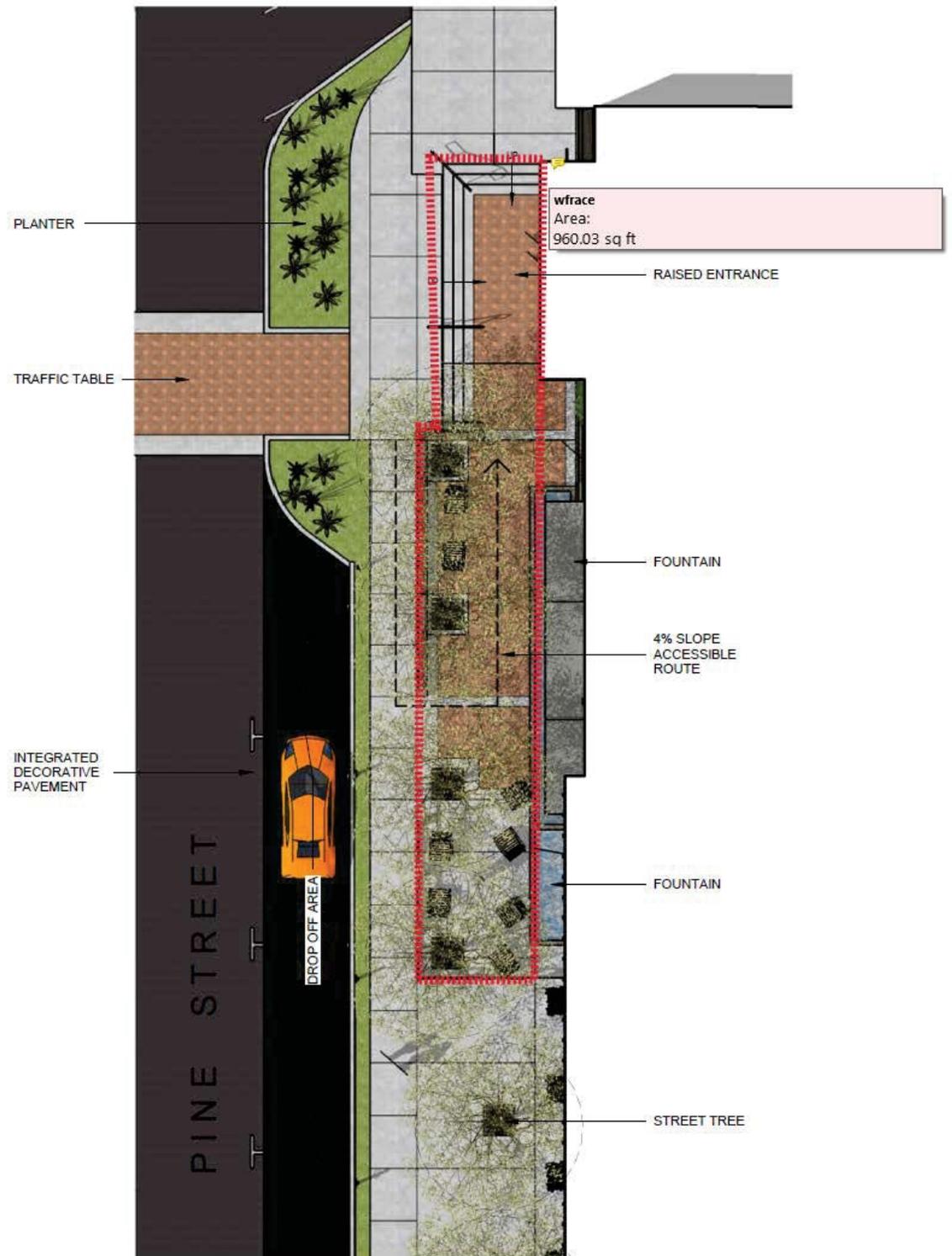


Figure 1 - Stairs, Accessible Ramp, and Raised Patio Encroachment Area – 1,000 sq. ft.

Stair, Ramp, and Patio

A stair, ramp, and patio are being proposed on Pine Street to allow the building first floor to be raised to accommodate parking under the structure see Figure 1, above. According to the applicant’s architect, the

building's first floor needs to be raised approximately two feet at the Pine Street right-of-way in order to accommodate three parking spaces under the building. The parking spaces will be a mix of accessible and normal parking spaces. According to the applicant's architect, the thickness of the first floor podium deck and the depth of the basement floor slab both contribute to the need to raise the first floor approximately 2 feet above the back of sidewalk on Pine Street. The first floor deck is thick to accommodate the structural loading and the basement floor slab elevation cannot be lowered any further. Therefore in order for guests to access the building, a stair and ramp will need to be provided on the Pine Street frontage. The applicant is proposing to install the stair and ramp in the right-of-way, rather than interior to the building, Figure 1. The applicant does not want to install the stair and ramp interior to the building because it will take space away from the front waiting room area, and will eliminate parking in the basement.

This proposal requires perpetual right-of-way usage since building entrance is predicated on the stair and ramp. Use of the right-of-way for building access has occurred in the past in the downtown. Usually, the building is historic and modifying the building is not often an option. However, this is a new building that could be built with the stair and ramp internal to the project or engineered to achieve street level access. Staff met with the applicant's architect and engineer on July 28th to discuss options for lowering the basement slab in order to eliminate or reduce the stairs and ramp. Ideas discussed include changing the cross grade on Railroad Street, lowering the curb height on Railroad Street, increasing the slope in the garage's interior and designing a thinner first floor podium deck. In addition, options such as raising the Pine Street sidewalk was also discussed. Staff has requested that the applicant consider these options in the design to lower the grade differential, but the applicant has not been provided with any alternative options and wishes to pursue the original concept.

The proposed project would establish a perpetual private right-of-way use. This is different from most sidewalk uses in the downtown. Currently, café seating uses are temporary. The café seating and railing can be removed and the sidewalk can be restored. In this case, the sidewalk use would last the life of the project. Therefore, staff is requesting that Council provide direction about how to proceed with the project in terms of:

- 1) Is Council comfortable with the perpetual private right-of-way use?
- 2) Is the total square footage of the encroachment acceptable?
- 3) What legal method to allow the proposed right-of-way use, is acceptable?
- 4) Is a raised mid-block crosswalk acceptable?

Staff is seeking direction from Council if use of the right-of-way for the proposed Hotel's access is acceptable. If the use is acceptable, staff is also seeking direction on the Council's comfort with amount of space the applicant is proposing to use. The current proposal consists of approximately 1,000 square feet of sidewalk. Options include decreasing the stair width and depth to minimum required for access, as well as eliminating the café seating area and just including bi-directional ramps. Another option is to move forward with the proposed use or a version between the proposed and absolute minimum discussed above. Staff recommends that any option chosen should leave enough space for a 10' sidewalk.

Allowing the right-of-way use will require that the City and applicant enter into a long-term agreement or the abandonment and sale of the right-of-way to the applicant. There are benefits and drawbacks to each alternative. The benefits of signing a long-term agreement is that would be straight forward and could be completed quicker than a right-of-way abandonment. The agreement would be written by the City Attorney and address legal indemnification, maintenance responsibilities and remedies for hazardous conditions. The drawback to a written agreement is that the City is still a party to the agreement and therefore could be drawn into a lawsuit over the use. In addition, the City will need to periodically review the agreement for non-compliance with the terms. Lastly, unlike sidewalk cafes where the improvements can be removed and the sidewalk restored, these improvements would be required for the life of the project since they are required for access.

The benefits of abandoning the right-of-way and selling the land to the applicant is that the City would not be a party to the improvements and therefore not liable for anything that happens on the stair, café, or ramp. In addition, the landowner would be solely responsible for monitoring and maintenance. The City would not need to periodically check to see if the facilities are being kept up. The downside to a right-of-way abandonment is that it will take additional time to process and secure an appraisal of the property. In addition, once the property is sold, the right of way would be costly to re-acquire if the land use on the parcel changed, or the City needed the right of way for future public improvements.

Mid-Block Crosswalk

The applicant is proposing a mid-block crosswalk on Pine Street. The applicant is proposing that a ramp be installed from the current sidewalk fronting Hotel Cheval I down to a raised mid-block crosswalk on Pine Street (See Attachment 2). The raised crosswalk would be about three inches high with tapered sides to allow cars to smoothly mount and dismount the raised crosswalk. A raised crosswalk is similar to a speed hump, but the crosswalk is flat on top. Raised crosswalks are often used in parking lots to deal with grades and other parking lot elevation problems in order to allow accessible routes of travel. Raised crosswalks also serve as traffic calming measures since the raised crosswalk would require motorists to slow down, much like most motorists do when traversing a speed hump. In this instance the proposed mid-block cross walk will be solely used as a means to make up for the grade between both sides of the street.

The applicant has submitted schematic plans showing the ramp/crosswalk on pine, but it is unclear to staff if the proposed improvements will actually work in the right of way. Challenges with the proposal include drainage, accessibility, and feasibility. The proposed ramp will extend into the right of way. This means that the current gutter drainage would be blocked without either a pipe extending through the ramp or the installation of a new stormdrain from the corner of 10th and Pine to 11th and Pine Street. The installation of a pipe extending through the ramp would be problematic since it does not deal with the existing drainage, only allows it to pass. The surface runoff will still spread in the street during high intensity rain events. A new underground storm drain pipe is also problematic in that it will cost \$75-100,000 to construct. This improvement is not included in the City's current Capital Improvement Plan Budget so discussion of who will participate in this cost will be required as the project progresses.

The Hotel Cheval II will be a great addition to the downtown. Staff believes that it is worth taking the time to work out the details prior to getting too far along the entitlement process and finding out that the proposed right-of-way improvements do not work with accessibility, drainage and existing grades.

Fiscal Impact

The total fiscal impact from this option could be substantial depending on the direction Council provides to staff. The applicant will be responsible for most of the project costs, however, if the City decides to partner or install a new stormdrain pipe to allow the improvements, the cost could range from \$75,000 to 100,000 or more depending on the City's level of participation. In addition, there are unknown long-term legal costs associated with perpetual right of way usage. Even if the City and the applicant sign a risk transfer agreement, the City could be brought into a lawsuit associated with the ramp, raised crosswalk, stair, and patio area. Luxury hotels are a source of TOT revenues that are a significant fiscal benefit to the City.

Recommendation

Refer the project back to staff with the following direction:

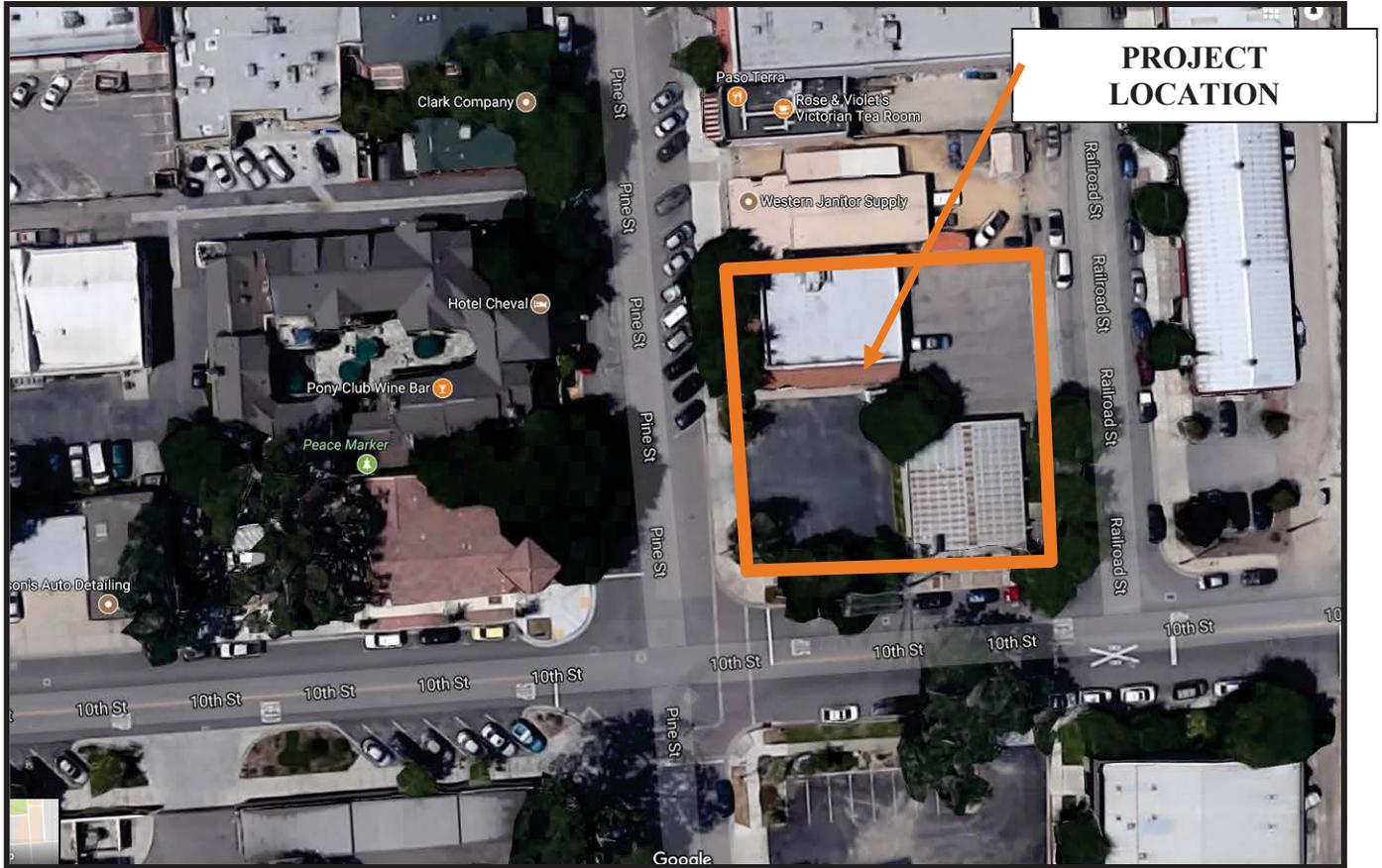
1. To further refine the project and require the applicant to submit additional information that:
 - a. Considers additional options to lower the first floor elevation of the hotel to reduce eliminated the steps and ramp on Pine Street.

- b. Requires any structure with stairs to include ramps dual directional accessibility ramps, similar to the Powell's Candy Store ramp.
 - c. Reduces the overall size of the public right of way encroachment.
 - d. Maintains a minimum 10-foot public sidewalk on Pine Street.
 - e. Provides engineering details of the mid-block crosswalk and ramps on Pine Street that demonstrate the feasibility with existing grades, disabled access requirements, and stormwater drainage issues.
2. To work with the City Attorney to evaluate the issues and options of either granting an irrevocable encroachment permit or process a right of way abandonment to accommodate the project.

Attachments

1. Location Map
2. Mid-Block Crosswalk

LOCATION MAP



ATTACHMENT 2

