

CITY OF HOMER  
HOMER, ALASKA

ORDINANCE 83-30

AN ORDINANCE OF THE CITY OF HOMER AMENDING TITLE  
21, ZONING, OF THE HOMER MUNICIPAL CODE.

WHEREAS, the Homer Advisory Planning Commission has recently considered and approved a number of amendments to Title 21, Zoning, of the Homer Municipal Code; and

WHEREAS, a public hearing on such amendments was held on November 2, 1983 before the Homer Advisory Planning Commission, as required under law; and

WHEREAS, the approved amendments are to be enacted in ordinance form;

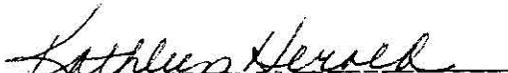
NOW THEREFORE, THE CITY OF HOMER ORDAINS:

**Section 1.** The proposed zoning ordinance amendments, as recommended November 2, 1983 by the Homer Advisory Planning Commission, as attached hereto and made a part hereof by this reference, are hereby enacted as amendments to Title 21 of the Homer Municipal Code (see attachments).

CITY OF HOMER

  
Erle Cooper, Mayor

ATTEST:

  
Kathleen Herold, City Clerk

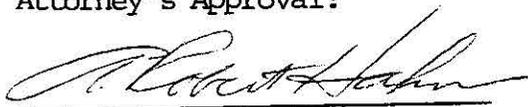
First Reading: 11/14/83

Public Hearing: 11/28/83

Second Reading: 12/12/83

Effective Date: 12/13/83

Attorney's Approval:



**EXHIBIT 1**

**PROPOSED ZONING ORDINANCE AMENDMENTS  
AS RECOMMENDED BY THE HOMER ADVISORY PLANNING COMMISSION  
NOVEMBER 2, 1983**

## Definitions

### 21.32.020 Terms Defined

Day Care - change to read:

**Day Care.** Any home, place or institution which provides babysitting care for compensation and is duly licensed by the State.

**Effect:** Eliminates the phrase "for three or more children" since the State requires a license for day care homes for five or more children.

Babysitting services for four or fewer children will be considered as "home occupations". This change will make administrative interpretation of day care facilities clearer since we can use the State licensing procedure for clarification.

Add definition:

**Nonconforming Use.** A use which was lawfully established in compliance with all applicable ordinances and laws, but which no longer conforms because of the applications of a subsequent zoning ordinance.

**Effect:** This defines a term previously undefined.

Add definition:

**Mini Storage.** Mini storage means a completely enclosed structure available for lease or rent to any individual or group of individuals for the purpose of the general storage of household goods and personal property. Each individual rental area shall be separated from all other such units and shall be fully enclosed. No storage unit may have an area greater than 600 square feet.

**Effect:** This defines a term previously undefined and recently reviewed by the Commission.

Change definition:

**Parking space, private.** Private parking space means any automobile parking spaces not less than 9 (10) feet wide and 20 feet long.

**Effect:** This brings the parking ordinance and zoning ordinance into agreement.

**Setback.** Setback means the distance between the lot line and the ~~front~~ building line.

**Effect:** Eliminates the distinction between front, side and rear building lines since setbacks occur on all sides.

General Provisions

Add:

**21.40.060 Zoning Along District Boundaries.** District boundaries shown as following the rights-of-way streets, highways, alleys, shall be interpreted as following the centerlines and district boundaries following platted lot lines shall be interpreted as following the lot lines.

Rural Residential

21.44.020 Permitted Uses

Change to read:

- B. Duplex, attached dwelling structures.
- C. Multi-family structures, containing three or more dwelling units, provided the structure conforms to Chapter 21.45.040 (A) (2).

Effect: These changes allow the development of multi-family structures on nonconforming lots subject to open space requirements and floor/lot area ratios. Previously, it was unclear how nonconforming lots could be developed. These changes will require lots to be minimum 10,000 square feet, but also require the development to meet the open space and floor/lot area ratio.

Add:

- M. Temporary (seasonal) roadside stands for the sale of produce grown on the premises.

Effect: This change allows temporary stands as a permitted use since they are "temporary" in nature.

21.44.030 Conditional Uses and Structures

Change to read:

- F. Commercial greenhouses and tree nurseries for sale of produce grown on the premises.

Effect: This change allows for commercial greenhouses and tree nurseries since the district is designed for limited agricultural pursuits, and retail sales would be subordinate to the primary use.

Page 3

Change to read:

G. Multi-family structures containing three or more units which exceed the density requirements in Section 21.45.040 (A) (2).

Add:

N. Day Care Facilities.

Effect: Added to allow for day care in residential district. Day care as defined by the State license, requires "an occupied residence" for a day care facility.

Add:

O. Group Care Home

Effect: This change reflects recent Commission action.

#### Urban Residential District

21.45.030 Conditional Uses and Structures

Add:

O. Group Care Home

Effect: This change reflects recent Commission action.

#### Central Business District

21.48.020 Permitted Uses and Structures

Change to read:

M. Mobile **commercial** structures on a temporary basis for a maximum of one year during construction of a permanent structure.

Effect: This change is based on recent Commission action.

Add:

Q. Home Occupations provided they conform to the standards in Chapter 21.44.020 (F).

Effect: This allows for home occupations in residences, therefore not discriminating CBD residences from other districts.

Page 4

Add:

R. Mini Storage

Effect: This change reflects recent Commission action.

Add:

S. Other similar uses as determined by the Planning Commission.

Effect: This change allows flexibility for the Commission to review uses that are not defined.

21.48.030 Conditional Uses and Structures

Change to read:

B. Indoor recreation facilities such as theaters, bowling alleys, skating rinks or similar uses. (delete commercial).

Effect: This change eliminates an unnecessary qualifier.

Change to read:

D. Apartment units located in buildings primarily devoted to commercial uses.

Effect: This change allows for more than one apartment unit in a commercial building; proposed since multi-family dwellings are a conditional use.

#### General Commercial 1

21.49.020 Permitted Uses and Structures

Change to read:

AA. Warehousing, commercial storage and **mini storage**.

Effect: This change reflects recent Commission action.

Change to read:

CC. Mobile **commercial** structures on a temporary basis for a maximum of one year during construction of a permanent structure.

Effect: This change reflects recent Commission action.

General Commercial 2

21.50.020 Permitted Uses and Structures

Delete:

- K. Public utility installations and buildings (listed under 21.50.030 (I))

Effect: Eliminates duplication.

Change to read:

- T. "Accessory Uses to the uses permitted in the GC2 district which are clearly subordinate to the main use of the lot or building, such as **wharves, docks, restaurant or cafeteria...**"

Effect: This change adds "wharves and docks" as an accessory use.

Marine Commercial

21.52.040 Performance Standards

Add:

- D. Point source discharges to a waterway shall be in conformance with the Alaska Department of Environmental Conservation regulations.

21.52.050 Dimensional Requirements

Change to read:

- B. Buildings shall be setback **20 feet from all dedicated rights-of-way** and 10 feet from all other lot boundary lines.

Open Space Recreation

21.54.020 Permitted Uses and Structures

Change to read:

- B. Park, playground and related recreation activities. (delete campground, already listed under 21.54.030)

Effect: Eliminates duplication.

Conditional Use Permits

21.61.060 Standards for Planned Unit Developments

Change to read:

"C. In order to determine the possible acceptability of a proposed Conditional Use, the applicant may prepare a preliminary Concept Plan for review by the City. At the option of the applicant, concept approval may be waived and the proposed Conditional Use may be submitted for final approval. All information listed as required for concept approval shall be required before final approval. The concept plan shall include..."

Effect: This change allows the developer to eliminate the Concept Plan review stage if all necessary information is submitted.

Change Step D.(1) to D.(6) to read:

D.(1) If the conditional use application is approved with modifications the applicant shall proceed with preparation of a revised Final Plan. A Final Plan ...

Effect: See above. This change will only require a revised Final Plan if modifications are attached.

Change Step D.(4) to D.(1).

Change Step D.(5) to D.(4) to read:

D.(4) Upon receipt of the administrative review and recommendation, the Homer Planning Commission shall establish a finding that the Final Plan is consistent with the Conditional Use, or that it is inconsistent.

Effect: See above.

Change Step D.(6) to D.(5) to read:

D.(5) "In the event it is determined that the Final Plan is consistent with the Conditional Use, the Homer Planning Commission shall approve the Final Plan with modifications or conditions."

Nonconformity

21.64.035 Proof of Nonconforming Use

Spelling mistake, corrected to read "nonconforming".

## Appeals

Procedures for appeals have been completely revised as follows:

### Chapter 21.68

**21.68.010 Purpose.** This chapter governs all appellate actions and determinations taken under the Homer City Zoning Ordinance.

**21.68.020 Who may appeal.** Any person or persons with interests in land which is affected by an action or determination taken under Chapters 21.28 through 21.70, may appeal said action or determination.

**21.68.030 Period for appeal.** An appeal to the Planning Commission or City Council must be filed within 15 days of the action or determination being appealed. Any party participating in an appeal to the court, shall have 30 days to appeal the decision. Any decision not appealed within that period shall become final.

**21.68.040 Appeal application.** A. All applications for an Administrative appeal shall be filed with the City Manager; all applications for appeals from the Planning Commission will be filed with the City Clerk. All appeals shall be in writing and shall contain, but are not limited to, the following information:

1. The name and address of the applicant;
2. A description of the action or determination from which the appeal is sought;
3. The reason for the appeal which must include a description of detailed and specific allegations of error.

B. The period for decisions specified in Section 21.68.060A shall begin immediately upon receipt of the appeal by the City Manager or City Clerk.

**21.68.060 General appeals procedure.** A. All appeals must be decided by the agency with whom the appeal has been filed within 60 days after the appeal has been filed with that agency.

B. The appellant and all parties who have participated in the decision shall be provided with 15 days notice of the scheduling of the appeal hearing. Affected property owners shall be notified as set forth in Section 21.69.030.

C. An electronic recording shall be kept of the entire proceeding and shall be reduced to written minutes. The electronic recording shall be preserved for 1 year unless required for further appeals.

D. All decisions shall be in writing and made solely upon the record before the agency hearing the appeal and shall make reference to evidence contained in the record. The agency shall include in its record the officially adopted minutes and decisions of the agency from which the appeal was taken.

E. The agency deciding an appeal shall adopt as part of its decision an official statement of findings and reasons supporting its decision. This statement shall refer to specific evidence in the record and to the controlling sections of Chapters 21.28 through 21.70. Upon express vote, the agency may adopt, as its statement of findings and reasons, those findings and reasons officially adopted by the agency below from which the appeal was taken.

F. Copies of the agency's decision and official statement shall be promptly mailed to all parties participating in the appeal hearing.

**21.68.070 Appeal to the Board of Adjustment.** A. New Evidence - Appeals alleging new evidence or changed circumstances shall not be heard but will be remanded by the Clerk forthwith to the lower administrative body.

B. Preparation of Record - Upon timely submittal of an appeal, the Clerk shall:

1. Prepare an appeal record consisting of all relevant documents involved in the original decision including any staff reports, minutes, and appellant documents utilized in the original decision.

2. Allow an additional written brief from the appellant and/or appellee in support of or denying those allegations of error specified in the notice of appeal, without introducing any new evidence or change of circumstance.

3. Notify the Board of Adjustment immediately of the intent to appeal.

C. Appeal Hearing:

1. The meeting at which the Board of Adjustment deliberates and decides an appeal shall be open to the public.

2. The Board of Adjustment shall not hear arguments nor take testimony or other evidence. It may consider only the material contained in the record prepared by the Clerk.

3. The Board of Adjustment may exercise its independent judgement on legal issues raised by the appellant. The City Attorney shall be present at all Board of Adjustment proceedings. Legal issues as used in this section are those matters that relate to the interpretation or construction of ordinances or other provisions of law.

4. The Board of Adjustment shall defer to the judgement of the lower administrative body regarding disputed issues of fact. Findings of fact adopted expressly or by necessary implication by the lower body shall be considered as true if they are supported by substantial evidence. Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

**21.68.080 Appeals to the Homer Advisory Planning Commission.** A. An appeal may be filed by any party adversely affected by any action of the Administration.

B. A public hearing shall be scheduled as per Section 21.68.060 of this document.

C. The Commission may prescribe rules of procedure for

additional public notification in cases where a decision of the board would have a substantial effect on the surrounding neighborhood.

Amendment Procedures

21.70.010 Initiation of Zoning Ordinance Amendments

Add "appropriate fee":

- E. The zoning amendment request shall include the name and address of the applicant, a map showing the area involved, the present zoning and proposed zoning, **the appropriate fee, if applicable,** and any other pertinent information requested by the City.

Effect: This change makes the zoning ordinance and Resolution 82-30(S) comply.

**EXHIBIT 2**

**PROPOSED ZONING MAP AMENDMENTS  
AS RECOMMENDED BY THE HOMER ADVISORY PLANNING COMMISSION  
NOVEMBER 2, 1983**

1. LOT(S): Lots 166A and 166B, Bay View Subdivision  
PARCEL NUMBER: 179-220-09, 10  
PRESENT ZONING: General Commercial 2  
PROPOSED ZONING: General Commercial 1  
NAME & ADDRESS  
OF OWNER(S): James C. Manley

Box 955  
Homer, AK 99603

LOT(S): Ocean Drive Right-of-Way  
PARCEL NUMBER: 179-220-04  
PRESENT ZONING: General Commercial 2  
PROPOSED ZONING: General Commercial 1  
NAME & ADDRESS  
OF OWNER(S): Tesoro Alaskan Petroleum Corp.

Box 16290  
Houston, TX 77022

2. LOT(S): Lot 1, Bay View Subdivision  
PARCEL NUMBER: 179-193-01  
PRESENT ZONING: General Commercial 2  
PROPOSED ZONING: General Commercial 1  
NAME & ADDRESS  
OF OWNER(S): M. Stephens, T. Gerstner,

R. Weber  
Box 1144  
Homer, AK 99603

LOT(S): Lots 2 and 3, 166B, Bay View Subdivision  
PARCEL NUMBER: 179-193-02, 03  
PRESENT ZONING: General Commercial 2  
PROPOSED ZONING: General Commercial 1  
NAME & ADDRESS  
OF OWNER(S): Jordan's Carpet Center, Inc.

6112 Collins Way  
Anchorage, AK 99502

LOT(S): Lots 4 and 5, Bay View Subdivision  
PARCEL NUMBER: 179-193-04, 179-195-03  
PRESENT ZONING: General Commercial 2  
PROPOSED ZONING: General Commercial 1  
NAME & ADDRESS  
OF OWNER(S): Kenneth A. Ballingrud

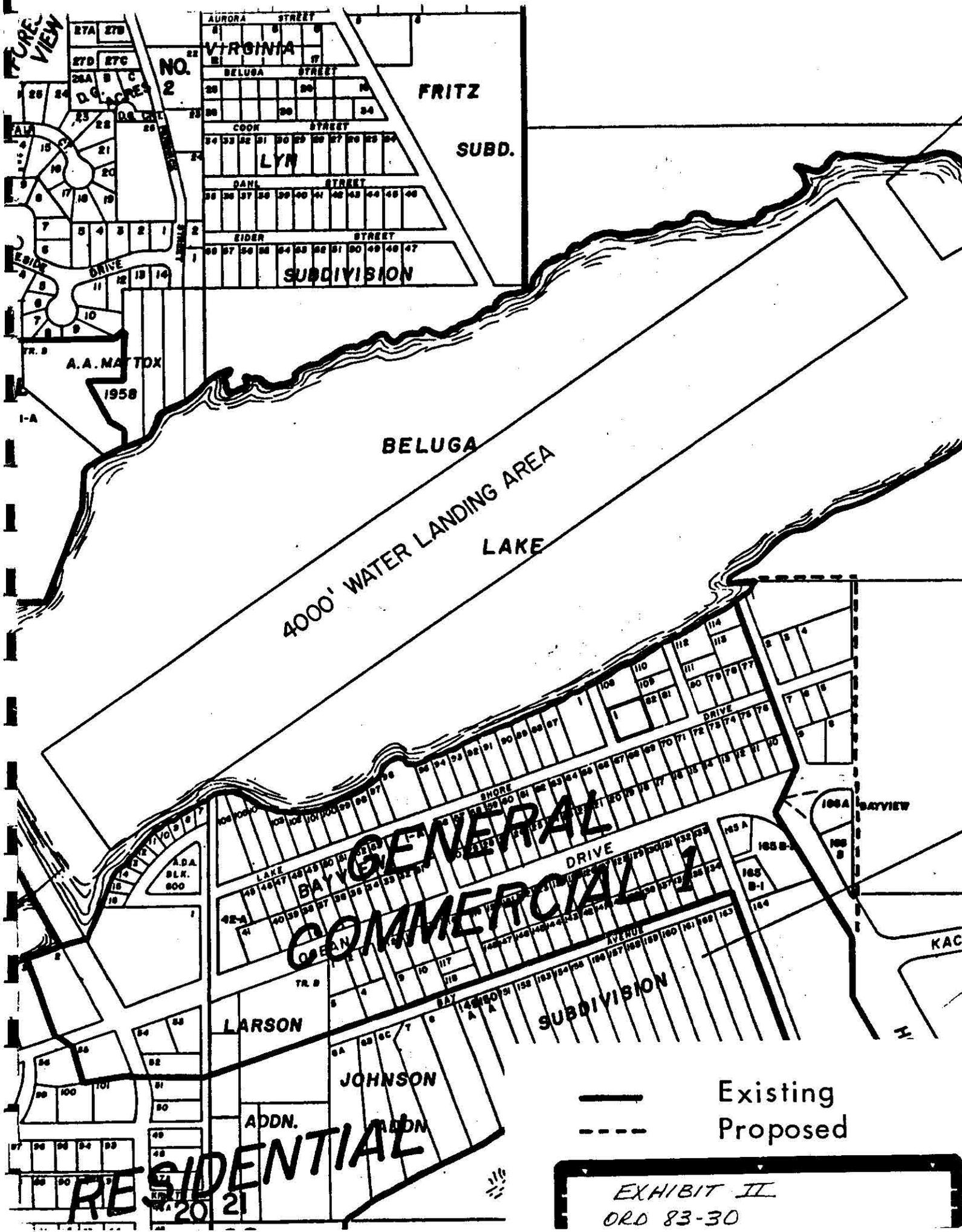
14315 81st Avenue N.E.  
Arlington, WA 98223

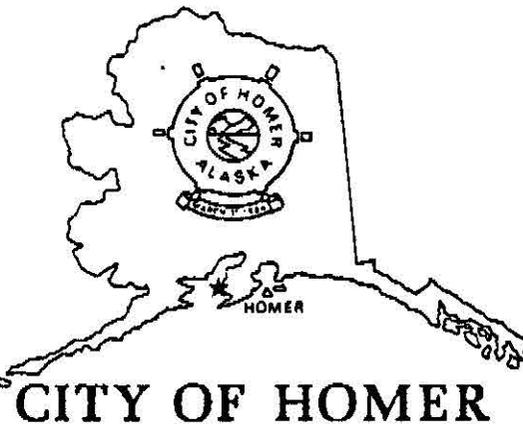
LOT(S): Lots 6 and 7, Bay View Subdivision  
PARCEL NUMBER: 179-195-01, 02  
PRESENT ZONING: General Commercial 2  
PROPOSED ZONING: General Commercial 1  
NAME & ADDRESS  
OF OWNER(S):

Hugh Learned  
General Delivery  
Homer, AK 99603

LOT(S): Lots 8 and 9, Bay View Subdivision  
PARCEL NUMBER: 179-195-04, 05  
PRESENT ZONING: General Commercial 2  
PROPOSED ZONING: General Commercial 1  
NAME & ADDRESS  
OF OWNER(S):

Don Bailey, Inc.  
Box 76  
Soldotna, AK 99669





Box 335  
Homer, Alaska 99603

REPLY TO:

- City Hall  
Ph. (907) 235-8121
- Port of Homer  
Ph. (907) 235-8597
- Harbor Master  
Ph. (907) 235-8959
- Public Works Dept.  
Ph. (907) 235-8120
- City Engineer  
Ph. (907) 235-6368

MEMORANDUM 83-A-87

C/C  P/C  P/H  P/R

TO: CITY COUNCIL

FROM: ADMINISTRATION *L.C.A.*

DATE: NOVEMBER 7, 1983

SUBJECT: PROPOSED ZONING ORDINANCE AND ZONING MAP AMENDMENTS

NOV 14 1983

AGENDA ITEM  
# 11-C

The following amendments to the zoning ordinance, Title 21, were considered by the Homer Advisory Planning Commission at their October 5, October 19, and November 2, 1983 meetings. A public hearing was held on November 2, 1983 as required by the zoning amendment process, Section 21.70.020. After the public hearing, the Planning Commission must submit its written recommendations to the City Council along with certified copies of the minutes and public records relating to the proposed amendments.

Exhibit 1 is the recommended ordinance amendments. Many of the amendments are "housecleaning" items. Those amendments that reflect more substantial changes include:

1. "Zoning along district boundaries" clarifies that the district boundary lines run along centerlines of rights-of-way and along platted lot lines when shown as such.
2. Day care facilities, group care home, commercial greenhouses and tree nurseries are added under Conditional Uses in the Rural Residential district.
3. Group care home is added as a Conditional Use under the Urban Residential district.
4. Home occupations and mini storage are added as permitted uses in the Central Business District.
5. Mini storage is added as a permitted use in the General Commercial 1 district.

6. Delete "Hotels, motels" from the Marine Commercial district and substitute planned unit "non-residential" developments. Require buildings be setback 20 feet from all dedicated rights-of-way in the Marine Commercial district.
7. The procedure for obtaining a conditional use permit for a planned unit development has been simplified, see Staff Report 83-90 (Revised) for chart, which shows the existing procedure and proposed procedure.
8. The appeal procedure is re-written to clarify and simplify the process. Appeal deadline is extended from 10 days to 15 days on initial appeal. Appeals to the Board of Adjustment may not introduce new evidence, but will be decided upon the record.
9. Zoning district boundary changes as recommended include:  
  
Rezoning Lots 1-9, Bay View Subdivision and Lot 166A and 166B, Bay View Subdivision from General Commercial 2 to General Commercial 1.

Exhibit 2 is the recommended zoning map amendments, including legal description, current zoning, proposed rezoning and location map.

Exhibit 3 is the requested zoning map amendments.

#### ATTACHMENTS

1. Exhibit 1 - Recommended Zoning Ordinance amendments from the Homer Advisory Planning Commission.
2. Exhibit 2 - Recommended Zoning Map amendments from the Homer Advisory Planning Commission.
3. Exhibit 3 - Requested zoning map amendments.
4. Exhibit 4 - Unapproved minutes of the Homer Advisory Planning Commission meeting and public hearing November 2, 1983.
5. Exhibit 5 - Staff Report PL 83-90 (Revised) containing the recommended amendments that the Planning Commission held a public hearing on and acted upon at their November 2, 1983 meeting.
6. Exhibit 6 - Original Staff Report PL 83-90 as submitted to Homer Advisory Planning Commission for consideration from Administration for their October 19, 1983 meeting.
7. Exhibit 7 - Staff Report PL 83-84 which alerted Planning Commission to proposed amendments under consideration by Administration.

EXHIBIT 1

PROPOSED ZONING ORDINANCE AMENDMENTS  
AS RECOMMENDED BY THE HOMER ADVISORY PLANNING COMMISSION  
NOVEMBER 2, 1983

## Definitions

### 21.32.020 Terms Defined

Day Care - change to read:

**Day Care.** Any home, place or institution which provides babysitting care for compensation and is duly licensed by the State.

**Effect:** Eliminates the phrase "for three or more children" since the State requires a license for day care homes for five or more children.

Babysitting services for four or fewer children will be considered as "home occupations". This change will make administrative interpretation of day care facilities clearer since we can use the State licensing procedure for clarification.

Add definition:

**Nonconforming Use.** A use which was lawfully established in compliance with all applicable ordinances and laws, but which no longer conforms because of the applications of a subsequent zoning ordinance.

**Effect:** This defines a term previously undefined.

Add definition:

**Mini Storage.** Mini storage means a completely enclosed structure available for lease or rent to any individual or group of individuals for the purpose of the general storage of household goods and personal property. Each individual rental area shall be separated from all other such units and shall be fully enclosed. No storage unit may have an area greater than 600 square feet.

**Effect:** This defines a term previously undefined and recently reviewed by the Commission.

Change definition:

**Parking space, private.** Private parking space means any automobile parking spaces not less than 9 (10) feet wide and 20 feet long.

**Effect:** This brings the parking ordinance and zoning ordinance into agreement.

**Setback.** Setback means the distance between the lot line and the ~~front~~ building line.

**Effect:** Eliminates the distinction between front, side and rear building lines since setbacks occur on all sides.

General Provisions

Add:

~~21.40.060~~ **Zoning Along District Boundaries.** District boundaries shown as following the rights-of-way streets, highways, alleys, shall be interpreted as following the centerlines and district boundaries following platted lot lines shall be interpreted as following the lot lines.

Rural Residential

~~21.44.020~~ Permitted Uses

Change to read:

- B. Duplex, attached dwelling structures.
- C. Multi-family structures, containing three or more dwelling units, provided the structure conforms to Chapter 21.45.040 (A) (2).

Effect: These changes allow the development of multi-family structures on nonconforming lots subject to open space requirements and floor/lot area ratios. Previously, it was unclear how nonconforming lots could be developed. These changes will require lots to be minimum 10,000 square feet, but also require the development to meet the open space and floor/lot area ratio.

Add:

- M. Temporary (seasonal) roadside stands for the sale of produce grown on the premises.

Effect: This change allows temporary stands as a permitted use since they are "temporary" in nature.

~~21.44.030~~ Conditional Uses and Structures

Change to read:

- F. Commercial greenhouses and tree nurseries for sale of produce grown on the premises.

Effect: This change allows for commercial greenhouses and tree nurseries since the district is designed for limited agricultural pursuits, and retail sales would be subordinate to the primary use.

Change to read:

G. Multi-family structures containing three or more units which exceed the density requirements in Section 21.45.040 (A) (2).

Add:

N. Day Care Facilities.

Effect: Added to allow for day care in residential district. Day care as defined by the State license, requires "an occupied residence" for a day care facility.

Add:

C. Group Care Home

Effect: This change reflects recent Commission action.

Urban Residential District

21.45.030 Conditional Uses and Structures

Add:

O. Group Care Home

Effect: This change reflects recent Commission action.

Central Business District

21.48.020 Permitted Uses and Structures

Change to read:

M. Mobile commercial structures on a temporary basis for a maximum of one year during construction of a permanent structure.

Effect: This change is based on recent Commission action.

Add:

Q. Home Occupations provided they conform to the standards in Chapter 21.44.020 (F).

Effect: This allows for home occupations in residences, therefore not discriminating CBD residences from other districts.

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Add:

R. Mini Storage

Effect: This change reflects recent Commission action.

Add:

S. Other similar uses as determined by the Planning Commission.

Effect: This change allows flexibility for the Commission to review uses that are not defined.

21.48.030 Conditional Uses and Structures

Change to read:

B. Indoor recreation facilities such as theaters, bowling alleys, skating rinks or similar uses. (delete commercial).

Effect: This change eliminates an unnecessary qualifier.

Change to read:

D. Apartment units located in buildings primarily devoted to commercial uses.

Effect: This change allows for more than one apartment unit in a commercial building; proposed since multi-family dwellings are a conditional use.

#### General Commercial 1

21.49.020 Permitted Uses and Structures

Change to read:

AA. Warehousing, commercial storage and mini storage.

Effect: This change reflects recent Commission action.

Change to read:

CC. Mobile commercial structures on a temporary basis for a maximum of one year during construction of a permanent structure.

Effect: This change reflects recent Commission action.

General Commercial 2

21.50.020 Permitted Uses and Structures

Delete:

- K. Public utility installations and buildings (listed under 21.50.030 (I)).

Effect: Eliminates duplication.

Change to read:

- T. "Accessory Uses to the uses permitted in the GC2 district which are clearly subordinate to the main use of the lot or building, such as wharves, docks, restaurant or cafeteria..."

Effect: This change adds "wharves and docks" as an accessory use.

Marine Commercial

21.52.030 Conditional Uses and Structures

Delete:

- I. Hotels and Motels

This change is based on Policy 16.1 (Homer Spit Plan) of the Comprehensive Plan that recommends residences and hotel/motels not be allowed (except those existing). This recommendation in the Comprehensive Plan is based on the results of the public opinion poll which shows a clear majority feeling the use is a low priority on the spit.

Substitute:

- I. Planned Unit Non-residential Developments

Effect: This change is based upon the Homer Comprehensive Plan, Action 16.1, Homer Spit Plan. The change would allow for PUD's but would not allow residential uses in the development.

21.52.040 Performance Standards

Add:

- D. Point source discharges to a waterway shall be in conformance

with the Alaska Department of Environmental Conservation regulations.

21.52.050 Dimensional Requirements

Change to read:

- B. Buildings shall be setback 20 feet from all dedicated ~~rights-of-way~~ and 10 feet from all other lot boundary lines.

Open Space Recreation

21.54.020 Permitted Uses and Structures

Change to read:

- B. Park, playground and related recreation activities. (delete campground, already listed under 21.54.030)

Effect: Eliminates duplication.

Conditional Use Permits

21.61.060 Standards for Planned Unit Developments

Change to read:

- "C. In order to determine the possible acceptability of a proposed Conditional Use, the applicant may prepare a preliminary Concept Plan for review by the City. At the option of the applicant, concept approval may be waived and the proposed Conditional Use may be submitted for final approval. All information listed as required for concept approval shall be required before final approval. The concept plan shall include..."

Effect: This change allows the developer to eliminate the Concept Plan review stage if all necessary information is submitted.

Change Step D.(1) to D.(6) to read:

- D.(1) If the conditional use application is approved with modifications the applicant shall proceed with preparation of a revised Final Plan. A Final Plan ...

Effect: See above. This change will only require a revised Final Plan if modifications are attached.

Change Step D.(4) to D.(1).

Change Step D.(5) to D.(4) to read:

D.(4) Upon receipt of the administrative review and recommendation, the Homer Planning Commission shall establish a finding that the Final Plan is consistent with the Conditional Use, or that it is inconsistent.

Effect: See above.

Change Step D.(6) to D.(5) to read:

D.(5) "In the event it is determined that the Final Plan is consistent with the Conditional Use, the Homer Planning Commission shall approve the Final Plan with modifications or conditions."

#### Nonconformity

21.64.035 Proof of Nonconforming Use

Spelling mistake, corrected to read "nonconforming".

#### Appeals

Procedures for appeals have been completely revised as follows:

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1. The name and address of the applicant;
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3. The reason for the appeal which must include a description of detailed and specific allegations of error.

B. The period for decisions specified in Section 21.68.060A shall begin immediately upon receipt of the appeal by the City Manager or City Clerk.

**21.68.060 General appeals procedure.** A. All appeals must be decided by the agency with whom the appeal has been filed within 60 days after the appeal has been filed with that agency.

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C. An electronic recording shall be kept of the entire proceeding and shall be reduced to written minutes. The electronic recording shall be preserved for 1 year unless required for further appeals.

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F. Copies of the agency's decision and official statement shall be promptly mailed to all parties participating in the appeal hearing.

**21.68.070 Appeal to the Board of Adjustment.** A. New Evidence - Appeals alleging new evidence or changed circumstances shall not be heard but will be remanded by the Clerk forthwith to the lower administrative body.

B. Preparation of Record - Upon timely submittal of an appeal, the Clerk shall:

1. Prepare an appeal record consisting of all relevant documents involved in the original decision including any staff reports, minutes, and appellant documents utilized in the original decision.

2. Allow an additional written brief from the appellant and/or appellee in support of or denying those allegations of error specified in the notice of appeal, without introducing any new evidence or change of circumstance.

3. Notify the Board of Adjustment at the next regular or special meeting of the City Council of the intent to appeal.

C. Appeal Hearing:

1. The meeting at which the Board of Adjustment deliberates and decides an appeal shall be open to the public.

2. The Board of Adjustment shall not hear arguments nor take testimony or other evidence. It may consider only the material contained in the record prepared by the Clerk.

3. The Board of Adjustment may exercise its independent judgement on legal issues raised by the appellant. Legal issues as used in this section are those matters that relate to the interpretation or construction of ordinances or other provisions of law.

4. The Board of Adjustment shall defer to the judgement of the lower administrative body regarding disputed issues of fact. Findings of fact adopted expressly or by necessary implication by the lower body shall be considered as true if they are supported by substantial evidence. Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

**21.68.080 Appeals to the Homer Advisory Planning Commission.** A. An appeal may be filed by any party adversely affected by any action of the Administration.

B. A public hearing shall be scheduled as per Section 21.68.060 of this document.

C. The Commission may prescribe rules of procedure for additional public notification in cases where a decision of the board would have a substantial effect on the surrounding neighborhood.

#### Amendment Procedures

#### 21.70.010 Initiation of Zoning Ordinance Amendments

Add "appropriate fee":

E. The zoning amendment request shall include the name and address of the applicant, a map showing the area involved, the present zoning and proposed zoning, the appropriate fee, if applicable, and any other pertinent information requested by the City.

Effect: This change makes the zoning ordinance and Resolution 82-30(S) comply.

**EXHIBIT 2**

**PROPOSED ZONING MAP AMENDMENTS  
AS RECOMMENDED BY THE HOMER ADVISORY PLANNING COMMISSION  
NOVEMBER 2, 1983**

1. LOT(S): Lots 166A and 166B, Bay View Subdivision  
PARCEL NUMBER: 179-220-09, 10  
PRESENT ZONING: General Commercial 2  
PROPOSED ZONING: General Commercial 1  
NAME & ADDRESS  
OF OWNER(S): James C. Manley  
Box 955  
Homer, AK 99603

LOT(S): Ocean Drive Right-of-Way  
PARCEL NUMBER: 179-220-04  
PRESENT ZONING: General Commercial 2  
PROPOSED ZONING: General Commercial 1  
NAME & ADDRESS  
OF OWNER(S): Tesoro Alaskan Petroleum Corp.  
Box 16290  
Houston, TX 77022

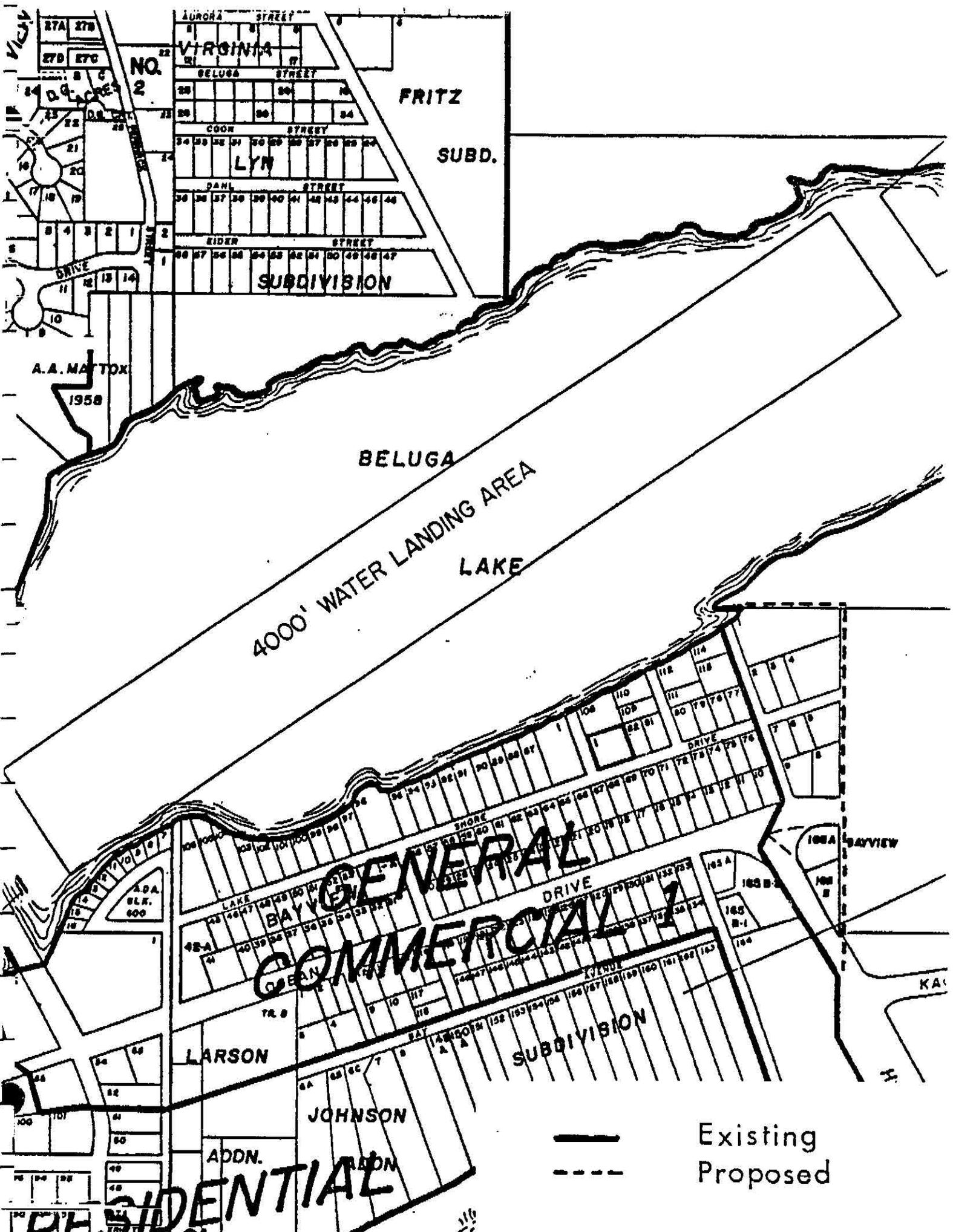
2. LOT(S): Lot 1, Bay View Subdivision  
PARCEL NUMBER: 179-193-01  
PRESENT ZONING: General Commercial 2  
PROPOSED ZONING: General Commercial 1  
NAME & ADDRESS  
OF OWNER(S): M. Stephens, T. Gerstner,  
R. Weber  
Box 1144  
Homer, AK 99603

LOT(S): Lots 2 and 3, 166B, Bay View Subdivision  
PARCEL NUMBER: 179-193-02, 03  
PRESENT ZONING: General Commercial 2  
PROPOSED ZONING: General Commercial 1  
NAME & ADDRESS  
OF OWNER(S): Jordan's Carpet Center, Inc.  
6112 Collins Way  
Anchorage, AK 99502

LOT(S): Lots 4 and 5, Bay View Subdivision  
PARCEL NUMBER: 179-193-04, 179-195-03  
PRESENT ZONING: General Commercial 2  
PROPOSED ZONING: General Commercial 1  
NAME & ADDRESS  
OF OWNER(S): Kenneth A. Ballingrud  
14315 81st Avenue N.E.  
Arlington, WA 98223

LOT(S): Lots 6 and 7, Bay View Subdivision  
PARCEL NUMBER: 179-195-01, 02  
PRESENT ZONING: General Commercial 2  
PROPOSED ZONING: General Commercial 1  
NAME & ADDRESS  
OF OWNER(S): Hugh Learned  
General Delivery  
Homer, AK 99603

LOT(S): Lots 8 and 9, Bay View Subdivision  
PARCEL NUMBER: 179-195-04, 05  
PRESENT ZONING: General Commercial 2  
PROPOSED ZONING: General Commercial 1  
NAME & ADDRESS  
OF OWNER(S): Don Bailey, Inc..  
Box 76  
Soldotna, AK 99669



**EXHIBIT 3**  
**REQUESTED ZONING MAP AMENDMENTS**

The following rezoning map requests were received by the City:

1. Rezone Lots 166A and 166B, Bay View Subdivision.
2. Rezone Tract B, Bay View Subdivision, Larson Addition (south half) from Rural Residential to General Commercial 1.

A public hearing was held on the requests on November 2, 1983. The Homer Advisory Planning Commission is not recommending the rezoning of the south half of Tract B, Bay View Subdivision, Larson Addition (or its adjoining property to the west, Sporter Arms, which is also divided into two zones) at this time, due to the adverse public testimony from adjoining property owners.

#### Attachments

1. Letter and map from Anderson to Farnen dated 9/14/83 requesting rezoning Lots 166A and 166B, Bay View Subdivision.
2. Letter and map from Arndt and Berg to Homer Advisory Planning Commission dated 10/19/83 requesting rezoning Tract B, Bay View Subdivision, Larson Addition (south half).

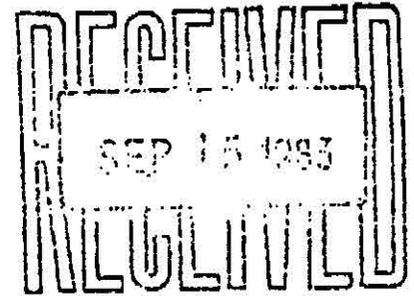
ABILITY SURVEYS  
REGISTERED LAND SURVEYORS & CIVIL ENGINEERS  
JERRY ANDERSON RLS (907)235-8440 BOX 378 HOMER, ALASKA 99603

City of Homer  
Box 335  
Homer, Alaska 99603

9/14/83

Attn: Larry Farnen City Manager

Re: Rezoning petition, Lots 166A, 166B,  
and the vacated street area adjacent to lot 166A



Dear Mr. Farnen,

On behalf of my clients, Mr. James C. Manley, Box 955, Homer Alaska, owner of lot 166B and Mr. Dennis Rollins, Box 1158, Homer Alaska, owner of lot 166A, I hereby petition for a zoning map amendment for the above mentioned property.

Specifically, we request that the property be taken from the General Commercial two, and included in the area zoned general commercial one

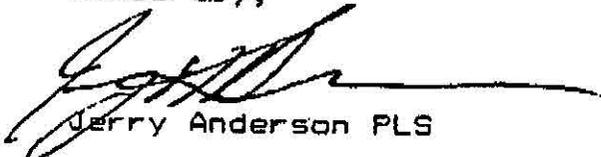
The current uses of all the property involved is compatible with the uses defined in the ordinance for the proposed change.

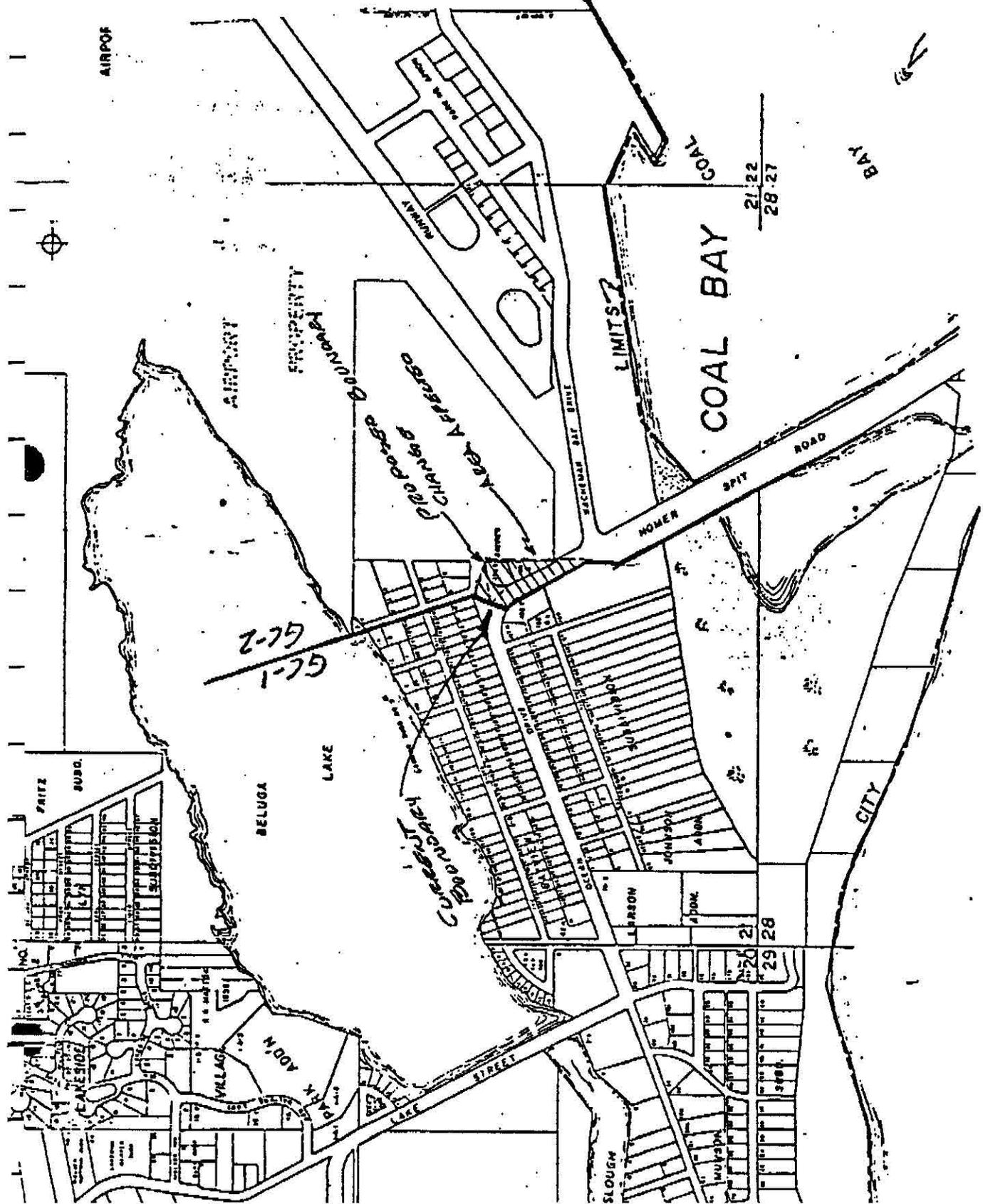
Professional office, which is one of the present uses of the structure on lot 166B, is allowed only by the "grand-father" clause of the ordinance, but would be allowed outright if the change is granted.

The other current uses of the property, i.e. Warehousing and commercial storage, (Lot 166A) and automobile service stations, (the vacated area) are allowed outright under either zone.

Please schedule this matter for the first regular meeting in October.

Sincerely,

  
Jerry Anderson PLS



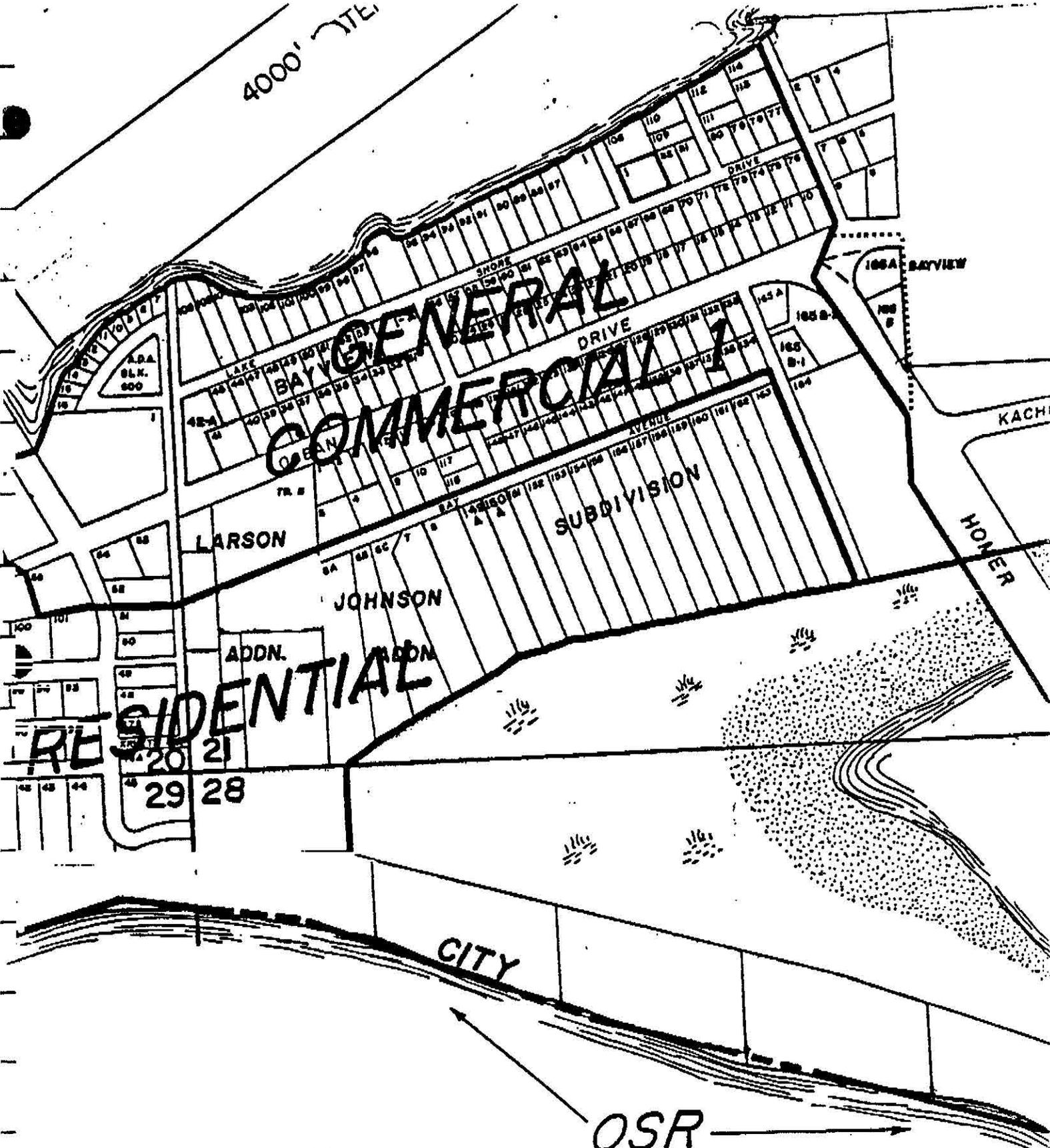
# ABILITY SURVEYS

REGISTERED LAND SURVEYORS & CIVIL ENGINEERS

JERRY ANDERSON L. S. BOX 1763 HOMER, ALASKA

ZONING PETITION  
 JAMES C. MANLEY

4000' TIE



- EXISTING
- ..... PROPOSED

# Alaska Gold Cache Realty Inc.

Box 588 • Homer, Alaska 99603 • (907) 235-6141

19 October, 1983

City of Homer  
Homer Advisory Planning Commission

Ladies and Gentlemen:

Being the sole, fee simple owners of all of the property described as follows:

Lot # 1, 2, 3, 4, & 5  
Bayview Subdivision

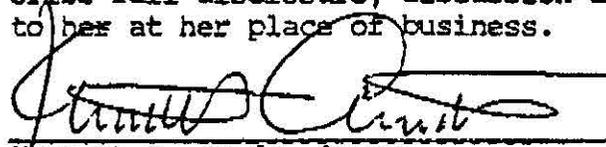
Borough Parcel #'s 179-230-0100  
179-230-0200  
179-230-0300  
179-230-0600  
179-230-0700

and Tract B, Bayview Subdivision, Larson Addition, Borough Parcel # 179-230-1500.

We wish to petition the City of Homer via the Homer Advisory Planning Commission and in accordance with Chapter 21.70 Amendment Procedures of the City of Homer Zoning Ordinance for a Zoning Map amendment.

The Map Amendment requested directly effects Tract B, Bayview Subdivision, Larson Addition; (as delineated on attached map) as to the current and future marketability of property value with relation to a continuous and contiguous permitted zoning use. The current zoning map divides one singly owned property for no apparent reason; places a portion of this parcel in Rural Residential and the major portion of said parcel in General Commercial 1. The General Commercial 1 portion of said parcel has 396.93 feet fronting on Ocean Drive with a non constructed, however dedicated access to the back portion of the parcel in Rural Residential; via Bay Avenue.

We herewith appoint as our Agent and Representative on this property Karen R. Berg, GRI, Broker, Alaska Gold Cache Realty, Inc. and authorize full disclosure, discussion and any documentation to be directed to her at her place of business.



Kenneth D. Arndt, Owner

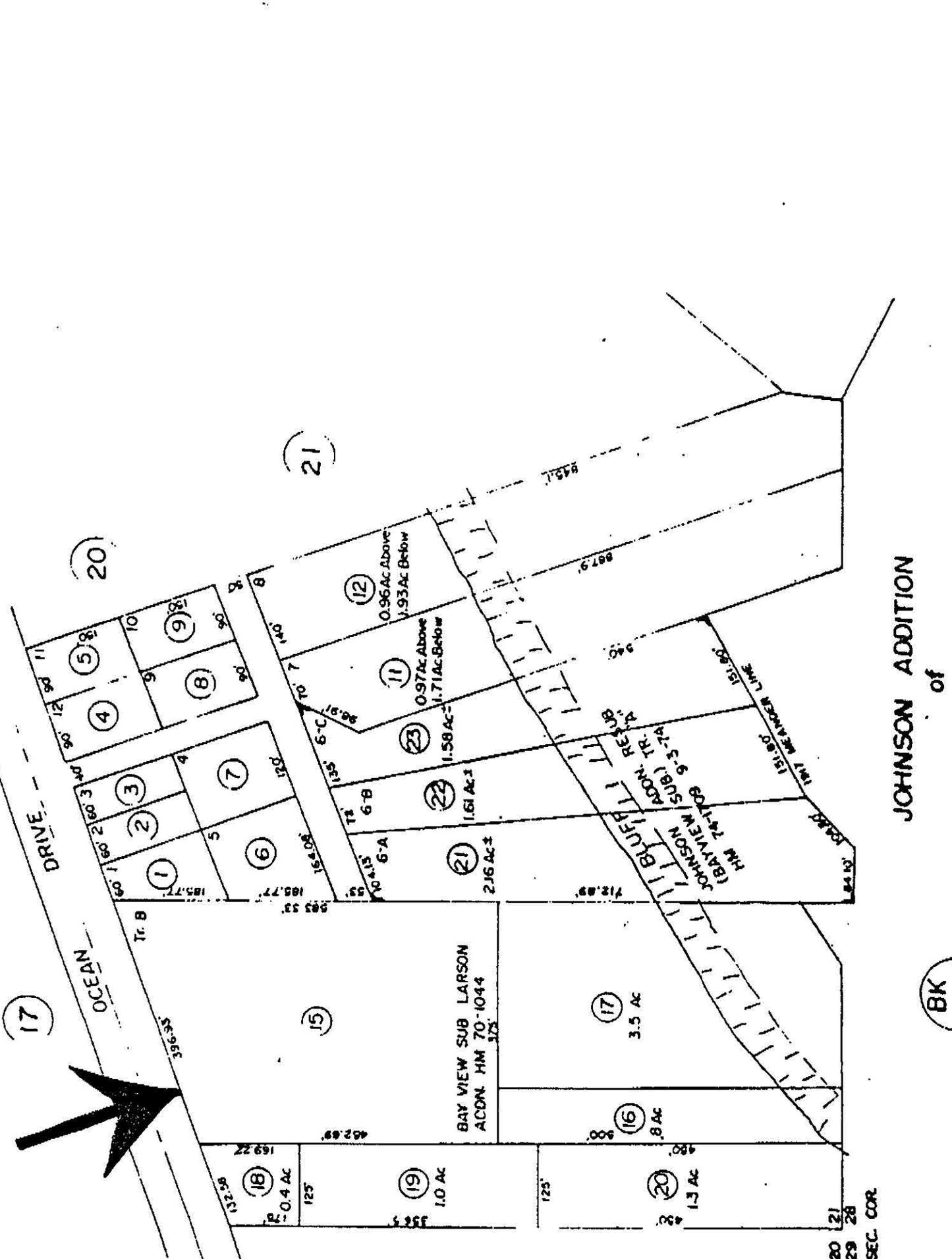


Shirley Arndt, Owner



Karen R. Berg, GRI, Broker  
Box 588

Homer, Alaska 99603



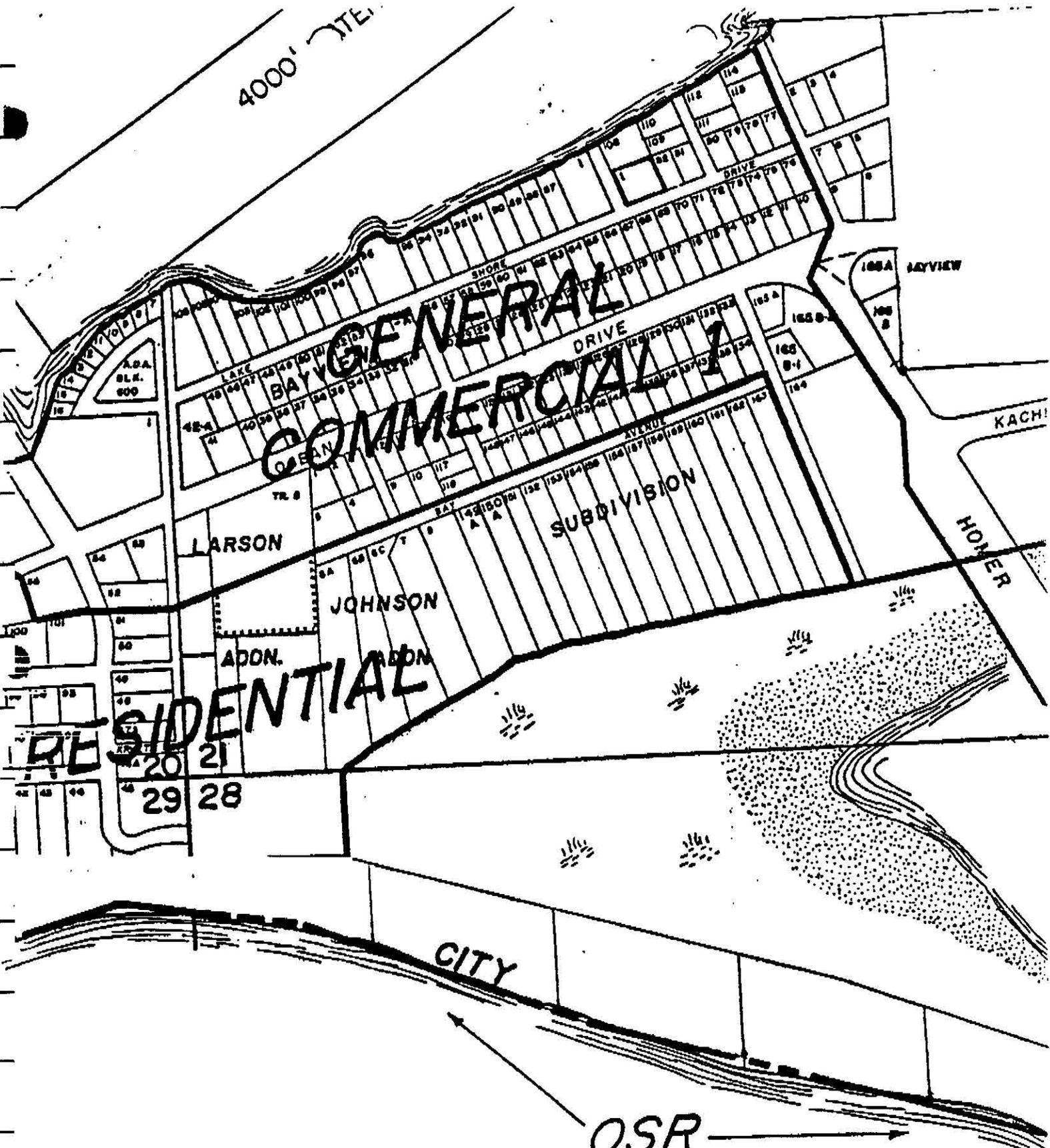
JOHNSON ADDITION  
of  
TRACT A OF BAYVIEW SUB.

BK  
181

20 21  
29 28  
SEC. COR.

K  
7

4000' WTE



- EXISTING
- ..... PROPOSED

OSR

EXHIBIT 4

UNAPPROVED MINUTES OF THE HOMER ADVISORY PLANNING COMMISSION  
MEETING AND PUBLIC HEARING NOVEMBER 2, 1983

1 The regular meeting of the Homer Advisory Planning  
2 Commission was held on Wednesday, November 2, 1983, at  
3 Homer City Hall, Lakeside Professional Center, 3670 Lake  
Street, Homer, Alaska. The meeting was called to order  
at 7:30 PM, by Chairman Butler.

4 PRESENT: Commissioners: Cooper, Thompson, Wray,  
Butler, Pate, Daily (arrived  
5 7:40 PM)

6 Staff: Dir. of Administration Klein  
Planner Helminiak

7 ABSENT: Commissioners: Snowden

8 APPROVAL OF THE AGENDA

9 There being no objections heard, the agenda was approved  
10 by order of the Chairman.

11 APPROVAL OF THE MINUTES

12 There being no objections heard, the minutes of the  
13 October 19, 1983 Special Meeting were approved as  
submitted by order of the Chairman.

14 PUBLIC COMMENTS REGARDING ITEMS ON THE AGENDA

15 Mary Raymond, R.N., Kinlein, commented regarding the  
16 difference in concepts between Kinlein/Detente and group  
17 care home as defined by the Planning Commission. She  
18 stated that Detente is not for dependent persons, but  
rather residential living for those individuals who are  
able to exercise their own self care. She asked that a  
category be established in the Zoning Ordinance  
specifically defining "Detente" as opposed to "group care  
home."

19 Director of Administration Klein commented that in  
20 actuality, Detente falls between the definitions of  
"boarding house" and "nursing home." Group care falls  
21 into this category. He then informed Mrs. Raymond of the  
processes whereby the Zoning Ordinance can be amended,  
22 encouraging her to consider this avenue.

23 Mrs. Raymond further reported that Detente/Homer is the  
24 only one of its kind in the country. She would like to  
see a precedence set in determining a zoning definition  
of "Detente."

25 There were no other public comments offered at this time.

26 PUBLIC HEARINGS

27 By order of the Chairman, the floor was then opened for  
28 the hearing of public testimony concerning the following:  
(Commissioner Daily arrived at this time)

29 Conditional Use Permit - Group Care Home - Staff Report  
PL 83-101

30 Director of Administration Klein reported that the  
31 petitioner requests a conditional use permit under  
32 Section 21.44.030 of the Zoning Ordinance for the  
development of a group care facility. The applicant  
proposes to construct a ranch-style house as detente  
housing for dependent persons. Additionally, Mr. Klein  
reviewed the public notification process.

HOMER ADVISORY PLANNING COMMISSION  
REGULAR MEETING MINUTES  
NOVEMBER 2, 1983 - 2

1  
2 DAVID SCHROER  
Homer, Alaska

3 Mr. Schroer stated that even though he resides at  
4 6.5 mile East End Road, he owns property adjacent to  
5 the area of proposed group care home development.  
6 He commented he wonders why a conditional use permit  
7 is even required, since it appears to him that this  
8 concept fits the accepted uses for that area.

9 He further stated that he is not really opposed to  
10 this type of development, however desires assurance  
11 that the 20' access easement will be properly  
12 maintained by the applicant should the permit be  
13 issued. Mr. Schroer expressed concern over the  
14 regulation of future use of the structure should  
15 Detente not continue, as well as increased traffic.  
16 There was brief discussion with the Commission of  
17 Krueh Street and routes of ingress and egress for  
18 the subject property.

19 JUDY CALHOUN  
20 Homer, Alaska

21 Mrs. Calhoun stated that she is an RN, and a  
22 Kinleiner, and lives in the vicinity of the present  
23 Detente location. She feels this is a residential  
24 type home and should not be defined as a "group care  
25 home." She referenced the accepted State definition  
26 of "group care home" as being one for incapacitated  
27 persons. Detente residents, she stated, are not  
28 incapacitated. She believes the Kinleiner residential  
29 living to be closer in definition to that of a  
30 boarding house. The staff at Detente provides  
31 assistance to the residents in maintaining their  
32 independence and daily living activities. One of  
33 the main conditions for residing at Detente, Mrs.  
34 Calhoun reported, is the fact that the individuals  
35 must elect to live there -- they are not placed in  
36 this living situation by family or any community  
37 agency.

38 Commissioner Pate asked Mrs. Calhoun about the traffic  
39 and parking patterns at the present site. Mrs. Calhoun  
40 comments she had visited there many times and had not  
41 noticed there to be any specific problems.

42 Commissioner Thompson inquired if there were any  
43 incapacitated persons living at Detente at the present  
44 time. Mrs. Calhoun was not aware of any.

45 MICHAEL HOPSON  
46 Homer, Alaska

47 Mr. Hopson stated he lives on West Soundview in the  
48 vicinity of the existing Detente. As far as his  
49 family is concerned, he stated, Detente is just  
50 another home in the neighborhood. He and his family  
51 have visited the residence often and feels the  
52 traffic flow to be negligible. He strongly supports  
53 the issuance of a conditional use permit for Detente  
54 housing.

55 BOB GAMBLE  
56 Homer, Alaska

57 Mr. Gamble stated he owns adjacent property to  
58 the proposed site of Detente development. Speaking  
59 against Detente would be like speaking out against  
60 Mom and apple pie. However, he commented, he  
61 opposes the issuance of a conditional use permit for

HOMER ADVISORY PLANNING COMMISSION  
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1 this particular location, stating it was not in the  
2 best interests of the residents of Detente. He  
3 questioned the traffic load and whether or not that  
4 25' easement/driveway would be adequate to carry the  
5 increased flow. He questioned the economic  
6 feasibility of this particular development, and  
7 asked the Planning Commission to examine the  
8 performance of the applicant.

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MARTI ANDERSON  
Homer, Alaska

Mrs. Anderson stated she owns adjoining property. She expressed concern about the development of this type of home in the area -- felt this is the wrong place for this type of facility. She asked if the permit is issued, what would happen if Detente's plans change -- would it revert back to single family dwelling or would the 5-bedroom structure become an apartment or boarding house.

Director of Administration Klein answered that a new conditional use permit would be necessary for operations other than a single family dwelling.

Mrs. Anderson then commented briefly concerning increase in traffic flow.

NANCY KOSCH  
Homer, Alaska

Mrs. Kosch advised the Commission that she is a property owner in the area, and spoke on the possibility increased traffic. She is opposed to the issuance of the conditional use permit for a Detente housing development.

Commissioner Daily asked if the present Detente would be moving to the proposed location, or would the conditional use permit, if issued, be for the construction of a second Detente. Mrs. Raymond, Kinlein, responded that there will still only be one Detente. The facility on Soundview Street will no longer be a Detente.

Director of Administration Klein read for the record two letters received in response to the public notice:

DONALD & MARY ANN FELL

"In regards to the conditional use permit application for Lot 3, Section 21, T6S, R13W, S.M. located at 1137 Kreuth Street: We are opposed to granting this application because we feel the area offers inadequate access and expansion potential. We do not feel a commercial venture should be placed in a residential area."

SANDRA L. GLIDDEN

"I have lived across the street from Detente for the three years they have been on Soundview Avenue. Maintaining their household in a residential district is an integral part of Detente, based on the Kinlein philosophies. The Detente family fits very well into our neighborhood, being friendly, considerate, and helpful. I believe any residential area would be fortunate to include a Detente and I urge you to issue a conditional use permit on their behalf for location at 1137 Kreuth Street."

HOMER ADVISORY PLANNING COMMISSION  
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1  
2 It was clarified for the record that Mr. and Mrs. Fell  
3 owned property in the area of the proposed Detente  
4 facility.

5 Chairman Butler then opened the floor for the hearing of  
6 testimony concerning the following:

7 Proposed Zoning Amendments - Staff Report PL 83-100

8 Director of Administration Klein reviewed the public  
9 notification process. He advised the Commission that  
10 notice had been mailed to property owners adjacent to or  
11 within 300 feet of the properties involved in the  
12 following recommended changes:

13 Rezoning Lots 166A and 166B, Bay View Subdivision  
14 (9 property owners representing 13 parcels - no  
15 comment received)

16 Rezoning Tract B, Bay View Subdivision and Lot  
17 179-230-1900 (22 property owners representing 37  
18 parcels - one letter of objection received)

19 Rezoning Lot 1-9, Bay View Subdivision (11  
20 property owners representing 23 parcels - no comment  
21 received)

22 DAVID SCHROER  
23 Homer, Alaska

24 Mr. Schroer stated he owns adjoining property and is  
25 opposed to the changing of residential to commercial  
26 as indicated on the map before the Commission.

27 Mr. Schroer stated that he did not receive written  
28 notice of this public hearing. He was not aware of  
29 it until the day before when he heard about it from  
30 someone else. He referred to a previous conditional  
31 use permit matter in which he was involved, and at  
32 that time there were occasions of non-notification  
of property owners. He has been under the opinion  
that Administration was to have taken steps to  
assure that this would not happen. Somehow, Mr.  
Schroer stated, it's still falling through the  
cracks.

MARTI ANDERSON  
Homer, Alaska

Mrs. Anderson stated that she is adamantly opposed  
to this one too. The reason being that it would  
adjoin her property. A lot of the property in that  
area has been clear cut and filled with heavy  
equipment. It is not the most attractive site --  
except for the little barrier of trees between the  
lots. She felt this would be a poor thing to start.

JERRY ANDERSON  
Homer, Alaska

Mr. Anderson, Ability Surveys, stated he represents  
Mr. James Manley in this endeavor -- they requested  
the change from General Commercial 2 to General  
Commercial 1. All the uses on the lots are  
allowable under General Commercial 1, and under the  
current zoning for General Commercial 2 one of the  
uses (a residence) is not allowed.

1 BOB GAMBLE  
2 Homer, Alaska

3 Commented that he is in opposition to only the  
4 zoning change concerning Tract B, Bay View  
5 Subdivision. The lots are all residential lots  
6 located on the bluff. The owners invested in this  
7 property with the intent of building residences.  
8 New residences have been built. If this were  
9 changed as proposed, it would bring about a definite  
10 decline in the value of these residential lots. Mr.  
11 Gamble pointed out that the property is listed for  
12 sale at the present time. He did not believe  
13 rezoning should take place to bring a profit to the  
14 seller. He asked that the rezoning had been  
15 requested previously and was denied. If the  
16 Commission cannot definitely deny the current  
17 request, the only alternative would be to have it  
18 delayed until such time as a definite plan is  
19 presented for use of that property including  
20 adequate buffer zones.

12 JAMES C. MANLEY  
13 Homer, Alaska

14 He stated is the owner of lot 166B of the Bay View  
15 Subdivision. He further stated that he concurred  
16 completely with the zoning change from Commercial 2  
17 to Commercial 1. He has been at this location for  
18 17 years, and believes that this lot (166B) .43  
19 acre, as well as being his home, as General  
20 Commercial 2 does not lend itself to heavy industry.

17 LINDA BEST  
18 Homer, Alaska

19 Initially, Ms. Best reported that she owns two lots  
20 in the area, but had not been notified of the public  
21 hearing. After brief discussion, it was suggested  
22 that perhaps her property was not within the 300  
23 foot radius used for notification. She suggested  
24 that more than 300 feet be considered for  
25 notification, especially when considering zoning  
26 changes such as these. She further commented that  
27 she does not oppose the zoning change concerning the  
28 Manley property (GC2 to GC1), but does oppose the  
29 change concerning Larson Addition, Bay View  
30 Subdivision, from Rural Residential to General  
31 Commercial 1.

25 KACE MCDOWELL  
26 Homer, Alaska

27 Ms. McDowell reported that she was present on behalf  
28 of Karen Berg, Alaska Gold Cache Realty, who  
29 represents Mr. and Mrs. Arndt who are seeking a  
30 rezoning from Rural Residential to General  
31 Commercial 1. The property, as it stands, is  
32 divided in two, the smaller section being  
33 residential and the larger being commercial. At  
34 this time, it is requested that this all be zoned  
35 commercial, so that it can be sold as one piece of  
36 property. Unless this takes place, there will be a  
37 negative result on the resale value of the property.

38 Ms. McDowell then read for the record a letter  
39 previously submitted to the Commission by the  
40 Arndts:

41 "The current zoning map divides one singly owned  
42 property for no apparent reason and places a portion

HOMER ADVISORY PLANNING COMMISSION  
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1 of this parcel in Rural Residential and the major  
2 portion of said parcel in General Commercial 1."

3 Ms. McDowell then commented that Mr. Arndt had  
4 designated Karen Berg his agent, and any contact can  
5 be made through her at Alaska Gold Cache Realty.

6 NANCY KOSCH  
7 Homer, Alaska

8 Mrs. Kosch reported that they had purchased their  
9 property for residential purposes and was opposed to  
10 having a commercial lot just behind theirs.

11 Director of Administration Klein read for the record the  
12 following letter:

13 DONALD & MARY ANN FELL  
14 Homer, Alaska

15 "In regards to the zoning change of Tract B, Bay  
16 View Subdivision, Larson Addition, and lot #  
17 179-128-1900 from Rural Residential to General  
18 Commercial: We are opposed to this change as we  
19 feel it would encroach on the existing rural  
20 residential lots on Bay Avenue and its logical  
21 extension westward. We are totally opposed to any  
22 rezoning south of Bay Avenue and the westward  
23 extension of this street. We have invested  
24 extensively in our dwelling in the existing rural  
25 residential district and feel the City should not  
26 change the zoning.'

27 Mr. Klein reminded those present that the Planning  
28 Commission acts as an advisory board to the City Council  
29 regarding zoning ordinance amendments. The amendments  
30 can only be made by the City Council. Any time the  
31 zoning ordinance is amended, there are two public  
32 hearings — one for the Planning Commission and one for  
the City Council. Also concerning zoning changes, Mr.  
Klein reported that the City is not legally required to  
notify individual property owners of proposed zoning  
changes, but rather to post in three conspicuous public  
places those changes and the public hearing notice.

There being no further public testimony offered, the  
public hearings were closed by order of the Chairman.

Chairman Butler called for a brief recess at 8:35 PM.  
The meeting was reconvened at 8:45 PM and the regular  
order of business was resumed.

CONSIDERATION OF PLATS

Johnson 1983 Subdivision of Tract A, Murch 1981 Deed of  
Record Survey - Staff Report pl 83-92

The purpose of the plat, as reported by Director of  
Administration Klein, was to clarify the 1981 Deed of  
Record and to subdivide Tract A into four lots and  
dedicate a frontage road along the Sterling Highway. He  
reported that all lots meet the required minimum lot size  
of the Rural Residential district where city water and  
sewer are not available, although the actual usable lot  
area is less than 40,000 square feet. (Lot 2 is only  
about 12,500 square feet.) Lot configurations are such  
that they do not meet the depth-to-width ratio as  
required by KPBC 20.20.180. He pointed out that since the  
City has no regulations controlling any setback from the  
bluff (the subdivision occurs on an eroding bluff line),  
building setback from the bluff is at the discretion of  
the property owner.

HOMER ADVISORY PLANNING COMMISSION  
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1 It is the recommendation of Administration to approve the  
2 preliminary plat subject to the following conditions:

- 3 1. Compliance with all City, Borough and State laws;
- 4 2. Grant exception to lot dimensions as required by  
KPBC 28.28.180;
- 5 3. Add a note to the plat to read: All wastewater  
systems shall comply with existing law at the time  
6 of construction; and
- 7 4. Clarify existing note to read: All lots use one  
ingress/egress access to highway.

8 DAILY/THOMPSON - MOVED FOR APPROVAL OF THE PRELIMINARY  
9 PLAT SUBJECT TO STAFF RECOMMENDATIONS.

10 VOTE: YES: Daily, Wray, Thompson,  
Cooper, Butler, Pate

11 The motion carried.

12 COMMISSION BUSINESS

13 Conditional Use Permit - Group Care Home - Staff  
14 Report PL 83-98

15 Director of Administration Klein reported that the  
16 purpose of the request is to construct a group care home  
17 in the Rural Residential district. The size of the lot  
18 is approximately 3.5 acres. There is an existing  
19 residential dwelling on the lot. City water is available  
20 to the lot; City sewer is not available. There is no  
21 dedicated access to the lot except for private easements  
providing access.

22 Mr. Klein reviewed the information contained in Staff  
23 Report PL 83-98, pointing out the following  
24 recommendation:

25 Administration recommends granting the conditional use  
26 permit provided no adverse comment is received from the  
27 grantees providing the ingress/egress to the lot, and  
28 subject to the following conditions:

- 29 1. Department of Environmental Conservation approval in  
writing of a sewage system if not on City sewer  
30 before the issuance of a building permit.
- 31 2. State Fire Marshal approval of the building.
- 32 3. Parking provided and maintained for six parking  
spaces.
4. Approval will allow more than one permitted  
principle use on one lot
5. Ingress/egress will be maintained by the developer.
6. A tree buffer will be provided and maintained on the  
northern and western property lines as indicated on  
the site plan.
7. Maintenance of the grounds will be provided.
8. This conditional use permit will be issued for one  
year, within which time the proposed use will be  
developed. If after one year the use is not  
developed, the permit will be void and must be  
re-evaluated before re-issuance.

33 DAILY/COOPER - MOVED FOR APPROVAL OF THE CONDITIONAL USE  
34 PERMIT SUBJECT TO STAFF RECOMMENDATIONS.

Discussion followed concerning easement/road use,  
safeguards to neighboring properties, adequate fire and  
emergency services over the private easement access  
route, whether or not this development can be considered  
a commercial venture, and difficulties in enforcing the  
maintenance of access route condition.

HOMER ADVISORY PLANNING COMMISSION  
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1 With the approval of the second, Commissioner Daily  
2 requested to amend his motion as follows:

3 "Moved for approval of the conditional use permit  
4 subject to staff recommendations, including  
5 ingress/egress be maintained at all times by the  
6 developer, and State Fire Marshal approval in  
7 writing before the issuance of a building permit."

8 VOTE: YES: Butler, Cooper, Thompson, Daily  
9 NO: Wray, Pate

10 Chairman Butler pointed out that because it requires a  
11 "quorum plus one" affirmative vote (5) to approve the  
12 issuance of a conditional use permit, the motion failed.

13 He reminded the applicant of the 18-day appeal process to  
14 the City Council.

15 There was discussion concerning the difference in time  
16 frames between a call for reconsideration by a  
17 Commissioner and the appeal process, should the applicant  
18 desire to file an appeal. It was pointed out that there  
19 is some urgency on the part of the applicant because of  
20 the upcoming winter months.

21 Commissioner Pate called for reconsideration of this  
22 issue at the next regular meeting.

23 Ray Bluff Camper Park - Staff Report PL 83-98

24 Director of Administration Klein reviewed the plans  
25 concept design and plan for the development of a 73-unit  
26 recreational vehicle campground with 42 additional  
27 parking spaces. The park, he stated, will also include  
28 an office, laundry, showers and toilet and dumping  
29 station. Approximate size of the units are 40' x 20' or  
30 800 square feet. The required dimensions are 1500 square  
31 feet. Mr. Klein reported that the General Commercial 1  
32 district allows for recreational vehicle parks as a  
conditional use. He then reviewed the criteria for  
recreational parks under the conditional use permit  
guidelines:

1. Provide 1500 square feet per recreational vehicle
2. 18 feet minimum separation
3. Identify each vehicle space
4. 128 days maximum park occupancy per vehicle
5. Graveled or paved surfaces
6. 50% must be provided electricity
7. Wastewater holding tanks
8. One toilet per 15 vehicles
9. Solid Waste disposal receptacles for each 5 spaces

Mr. Klein reported that the developer has increased the  
density, but has provided the following in exchange:

1. 32 of the units are serviced by water and sewer
2. Two picnic areas proposed
3. One child play area proposed
4. Fence around the west and north side
5. Additional parking for 41 vehicles
6. Laundry and shower facilities
7. RV dump station
8. Fish cleaning tables

Mr. Klein reported that the general conditions precedent  
to the granting of a conditional use permit appear to be  
met except for the density proposed for the park.

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1 It is recommended that Public Works also critically  
2 review the development since water and sewer will be  
extended to the lot.

3 It appears probable to review the development under the  
4 conditional use permit process for recreational vehicle  
5 parks since the developer has provided additional  
amenities in exchange for increased density. The  
6 development provides 75% of the required lot dimensions.

7 Mr. Klein further recommended:

1. Provide approximately 35 feet of aisle width
2. Provide 24' backup space for parking
3. Landscape and screen the lot

8 The applicant, Mr. Klein stated, is seeking concept  
9 approval, before he submits a final design and the  
10 Planning Commission holds a public hearing as a  
conditional use in General Commercial 1.

11 DAILY/COOPER MOVED THAT THE PLANNING COMMISSION APPROVE  
12 THE CONCEPT IDEA FOR THIS CAMPER AREA AND TO HAVE THE  
APPLICANT WORK WITH THE STAFF ON THE DEVELOPMENT.

13 VOTE: YES: Butler, Thompson, Cooper,  
Pate, Daily, Wray

14 The motion carried.

15 Zoning Ordinance and Map Amendments - Staff Report  
16 PL 83-90 (revised)

17 Upon the recommendation of Chairman Butler, the  
18 Commission agreed to consider the proposed zoning map  
changes separately from the language amendments.

19 Mr. Klein reported that a request has been received to  
20 rezone Lots 166A and 166B of Bay View Subdivision from  
General Commercial 2 to General Commercial 1. The  
21 majority of the property owners of this area have  
submitted the petition. The Planning Commission may also  
22 consider the rezoning of Lots 1, 2, 3, 4, 5, 6, 7, 8, and  
9 of Bay View Subdivision from General Commercial 2 to  
General Commercial 1.

23 THOMPSON/DAILY - MOVED TO RECOMMEND TO THE CITY COUNCIL  
24 CHANGING THE DESIGNATION OF LOTS 166 A & B AND THE GROUP  
OF LOTS IMMEDIATELY TO THE NORTH FROM GENERAL COMMERCIAL  
2 TO GENERAL COMMERCIAL 1.

25 VOTE: YES: Pate, Wray, Daily,  
26 Butler, Thompson, Cooper

27 The motion carried.

28 Mr. Klein reported that a request has been received to  
29 rezone Tract B, Bay View Subdivision, Larson Addition and  
the Planning Commission must consider rezoning Lot  
30 #179-23-19 in addition, from Rural Residential to General  
Commercial 1. Currently the north half of the lots are  
31 zoned General Commercial 1, and the south half are zoned  
Rural Residential.

32 COOPER/DAILY - MOVED THAT THE ZONING LINE BE CHANGED ON  
TRACT B AS INDICATED ON THE PLAT TO THE PROPOSED LINE.

Mr. Klein reported that the zoning line in question is  
the same as the zoning line in the old ordinance.

Commissioner Cooper stated that he feels the Commission  
should not approve this change in view of the public

## REGULAR MEETING MINUTES

NOVEMBER 2, 1983 - 18

1 testimony, and a clear reason for changing it was not  
2 received -- there was no development plan and no proposal  
-- other than monetary consideration.

3 There was brief discussion concerning the need for buffer  
4 zones when a commercial district abuts a residential  
district. Mr. Klein read the following for the record  
concerning buffers, composition and height:

5 "When the side or rear lot lines abut land within a  
6 residential district, and when yard areas are to be  
7 used for parking, loading, unloading or servicing  
8 then the side and rear yard areas shall be  
9 effectively screened by a wall, fence or other site  
10 obscuring screening. Such screening shall be of a  
11 height adequate to screen the enclosed parking,  
12 loading or servicing activity."

13 Commissioner Daily asked Ms. Kace McDowell about the  
14 proposed use of the Arndt property. She indicated  
15 prospective buyers would like to develop a multi-family  
16 dwelling on the site.

17 VOTE: NO: Cooper, Thompson, Wray,  
18 Butler, Daily, Pate

19 The motion failed.

20 Language Amendments to the Zoning Ordinance

21 Mr. Klein pointed out that the appeal section had been  
22 revised since the Commission worksession. He felt the  
23 procedures were better defined and will be easier  
24 administer. The procedures for appeals to the Commission  
25 and appeals to the City Council as a Board of Adjustment  
26 have been separated and more clearly defined.

27 Of importance is the fact that an appeal hearing there  
28 will be no new evidence introduced. All evidence will be  
29 on the record when it goes before the City Council. When  
30 an appeal is made to the Commission on an administrative  
31 decision, however, a public hearing will be held. If  
32 there is new evidence to be considered, Administration  
automatically remands the issue back to the Planning  
Commission for further review.

Regarding the conditional use permit application for  
Detente housing, Commissioner Thompson pointed out that  
there had been a call for reconsideration of the vote  
which failed to approve the project. The applicant has  
18 days in which to appeal the Commission decision. The  
next meeting is about 38 days away. Does the applicant  
know if they will be reconsidered at the next meeting or  
should they file an appeal. If they don't file an appeal  
in the prescribed time period then they lose out.

Mr. Klein stated the question is whether the appeal  
process would begin after the reconsideration is heard,  
or all they have to do is notify the City Clerk that they  
want to appeal to the City Council in writing within ten  
days. They could cover themselves by appealing within  
the time period, and in the letter they could state that  
there is to be reconsideration of the issue. The  
applicant was present and stated this was understood by  
them.

HOMER ADVISORY PLANNING COMMISSION  
REGULAR MEETING MINUTES  
NOVEMBER 2, 1983 - 11

1  
2 THOMPSON/PATE - MOVED TO RECOMMEND TO THE CITY COUNCIL  
3 APPROVAL OF THE PROPOSED ZONING ORDINANCE AND MAP  
4 AMENDMENTS AS PROPOSED.

5  
6 VOTE: YES: Thompson, Daily, Cooper,  
7 Wray, Pate  
8 NO: Butler

9 It was pointed out that the map amendments had already  
10 been acted upon and one of the amendments had been voted  
11 down. Commissioner Thompson agreed that he would drop  
12 the phrase "and map" to read "ordinance amendments."  
13 There was approval of the second. Chairman Butler then  
14 stated he would like to change his vote and asked others  
15 if they wished to do so. The following is the vote  
16 results on this motion:

17 VOTE: YES: Thompson, Daily, Cooper,  
18 Wray, Pate, Butler

19 The motion carried.

20 **BOROUGH REPORT**

21 Chairman Butler reported that the Borough had passed a  
22 couple of plats referred to them by the City. Also, he  
23 commented that the Borough is working on vacation  
24 requirements for rights-of-way, etc. He provided copies  
25 of proposed requirements that will go before the Assembly  
26 in the near future as an ordinance.

27 **PORT & HARBOR REPORT**

28 Commissioner Wray reported on the bid award for the Small  
29 Boat Harbor expansion. He provided a memorandum from  
30 Port Director Daily listing the various bids that were  
31 received. He pointed out that the apparent low bid was  
32 approximately \$3,000,000 below the engineering estimate.

He reported that Foss Alaska had unloaded approximately  
2,000,000 pounds of freight over the dock last week.

Mr. Wray encouraged Planning Commission attendance at a  
joint meeting between the Port & Harbor Commission and  
the City Council, Wednesday, November 9, 1983, at 7:30  
PM, to discuss land use on the Spit.

**INFORMATIONAL MATERIALS**

- a. Kinlein letter to Klein dated 10/19/83
- b. Building Permit Summary - October 1983
- c. KPB Planning Commission Approved Minutes 9/26/83

**STAFF REPORTS**

Director of Administration Klein reported that at present  
there have been 126 building permits issued -- just one  
short of the record set in 1977.

Mr. Klein encouraged attendance at the Port & Harbor/City  
Council joint meeting on November 9, 1983.

Of interest, Mr. Klein pointed out, is the informational  
sign to be placed at the Coal Point Monument Park on the  
Spit. The Commission briefly reviewed this sign.

**COMMENTS OF THE AUDIENCE**

Jerry Anderson, Ability Surveys, commented that he  
believed the new appeals procedures to be too involved  
for the average citizen to follow. He stated he thought

HOMER ADVISORY PLANNING COMMISSION  
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1 they were written by bureaucrats who want to make sure  
2 that they are as complicated as possible. He further  
3 stated that everyone knows that it is very difficult to  
4 get the City Council to overturn a Commission decision  
5 once it has been made. He encouraged the Commissioners,  
6 as individuals, to look through the appeals process again  
7 from the eye of someone who has never run up against a  
8 zoning ordinance or planning commission; to see how much  
9 sense it makes. Mr. Anderson believes that Mr. Citizen  
10 should have every possible way he knows how to get his  
11 story told. The clause about not allowing new evidence  
12 does not afford this.

13  
14 Judy Calhoun asked to clarify why Detente is wanting to  
15 move from its present Soundview location. She commented  
16 that at the present time one of the residents is sleeping  
17 in the living room because there are not enough bedrooms  
18 to go around. She also indicated that the proposed site  
19 was chosen because of the ocean view.

20  
21 **COMMENTS OF THE COMMISSION**

22 Pate - no comment.

23 Wray - no comment.

24 Thompson - buy silver it isn't going to get any cheaper.

25 Cooper - we are still counting the freight across the  
26 main dock in pounds. He would like to see the day when  
27 it can no longer be counted in pounds but in tons.

28 Daily - suggested that the Commission take a look at the  
29 proposed Detente site concerning the road access.

30  
31 **ADJOURNMENT**

32 There being no further business to come before the  
Commission, the meeting was adjourned at 9:47 PM.

\_\_\_\_\_  
Leah C. Rich, Deputy City Clerk

EXHIBIT 5

STAFF REPORT PL 83-90 (REVISED)



REPLY TO:

- City Hall  
Ph. (907) 235-8121
- Port of Homer  
Ph. (907) 235-8597
- Harbor Master  
Ph. (907) 235-8959
- Public Works Dept.  
Ph. (907) 235-8120
- City Engineer  
Ph. (907) 235-6368

Box 335  
Homer, Alaska 99603

STAFF REPORT PL 83-90 (Revised)

TO: HOMER ADVISORY PLANNING COMMISSION

FROM: ADMINISTRATION <sup>RIC</sup>

DATE: OCTOBER 27, 1983

SUBJECT: ZONING ORDINANCE AND MAP AMENDMENTS

The following amendments to the zoning ordinance and map are proposed for your consideration. Most of the amendments are "house cleaning" items. Justification for the proposed amendments are included under the changes.

→ Definitions

21.32.020 Terms Defined

Day Care - change to read:

Day Care. Any home, place or institution which provides babysitting care for compensation and is duly licensed by the State.

Effect: Eliminates the phrase "for three or more children" since the State requires a license for day care homes for five or more children.

Babysitting services for four or fewer children will be considered as "home occupations". This change will make administrative interpretation of day care facilities clearer since we can use the State licensing procedure for clarification.

Add definition:

Nonconforming Use. A use which was lawfully established in compliance with all applicable ordinances and laws, but which no longer conforms because of the applications of a subsequent zoning ordinance.

Effect: This defines a term previously undefined.

Add definition:

**Mini Storage.** Mini storage means a completely enclosed structure available for lease or rent to any individual or group of individuals for the purpose of the general storage of household goods and personal property. Each individual rental area shall be separated from all other such units and shall be fully enclosed. No storage unit may have an area greater than 600 square feet.

**Effect:** This defines a term previously undefined and recently reviewed by the Commission.

Change definition:

**Parking space, private.** Private parking space means any automobile parking spaces not less than 9 (10) feet wide and 20 feet long.

**Effect:** This brings the parking ordinance and zoning ordinance into agreement.

**Setback.** Setback means the distance between the lot line and the ~~front~~ building line.

**Effect:** Eliminates the distinction between front, side and rear building lines since setbacks occur on all sides.

General Provisions

Add:

**21.40.060 Zoning Along District Boundaries.** District boundaries shown as following the rights-of-way streets, highways, alleys, shall be interpreted as following the centerlines and district boundaries following platted lot lines shall be interpreted as following the lot lines.

Rural Residential

21.44.020 Permitted Uses

Change to read:

- B. Duplex, attached dwelling structures.
- C. Multi-family structures, containing three or more dwelling units, provided the structure conforms to Chapter 21.45.040 (A) (2).

Effect: These changes allow the development of multi-family structures on nonconforming lots subject to open space requirements and floor/lot area ratios. Previously, it was unclear how nonconforming lots could be developed. These changes will require lots to be minimum 10,000 square feet, but also require the development to meet the open space and floor/lot area ratio.

Add:

M. Temporary (seasonal) roadside stands for the sale of produce grown on the premises.

Effect: This change allows temporary stands as a permitted use since they are "temporary" in nature.

#### 21.44.030 Conditional Uses and Structures

Change to read:

F. Commercial greenhouses and tree nurseries for sale of produce grown on the premises.

Effect: This change allows for commercial greenhouses and tree nurseries since the district is designed for limited agricultural pursuits, and retail sales would be subordinate to the primary use.

Change to read:

G. Multi-family structures containing three or more units which exceed the density requirements in Section 21.45.040 (A) (2).

Add:

N. Day Care Facilities.

Effect: Added to allow for day care in residential district. Day care as defined by the State license, requires "an occupied residence" for a day care facility.

Add:

O. Group Care Home

Effect: This change reflects recent Commission action.

Urban Residential District

21.45.030 Conditional Uses and Structures

Add:

O. Group Care Home

Effect: This change reflects recent Commission action.

Central Business District

21.48.020 Permitted Uses and Structures

Change to read:

M. Mobile commercial structures on a temporary basis for a maximum of one year during construction of a permanent structure.

Effect: This change is based on recent Commission action.

Add:

Q. Home Occupations provided they conform to the standards in Chapter 21.44.020 (F).

Effect: This allows for home occupations in residences, therefore not discriminating CBD residences from other districts.

Add:

R. Mini Storage

Effect: This change reflects recent Commission action.

Add:

S. Other similar uses as determined by the Planning Commission.

Effect: This change allows flexibility for the Commission to review uses that are not defined.

21.48.030 Conditional Uses and Structures

Change to read:

- B. Indoor recreation facilities such as theaters, bowling alleys, skating rinks or similar uses. (delete commercial).

Effect: This change eliminates an unnecessary qualifier.

Change to read:

- D. Apartment units located in buildings primarily devoted to commercial uses.

Effect: This change allows for more than one apartment unit in a commercial building; proposed since multi-family dwellings are a conditional use.

#### General Commercial 1

##### 21.49.020 Permitted Uses and Structures

Change to read:

- AA. Warehousing, commercial storage and mini storage.

Effect: This change reflects recent Commission action.

Change to read:

- CC. Mobile commercial structures on a temporary basis for a maximum of one year during construction of a permanent structure.

Effect: This change reflects recent Commission action.

#### General Commercial 2

##### 21.50.020 Permitted Uses and Structures

Delete:

- K. Public utility installations and buildings (listed under 21.50.030 (I))

Effect: Eliminates duplication.

Change to read:

- T. "Accessory Uses to the uses permitted in the GC2 district which are clearly subordinate to the main use of the lot or building,

such as wharves, docks, restaurant or cafeteria..."

Effect: This change adds "wharves and docks" as an accessory use.

### Marine Commercial

#### 21.52.030 Conditional Uses and Structures

Delete:

##### I. Hotels and Motels

This change is based on Policy 16.1 (Homer Spit Plan) of the Comprehensive Plan that recommends residences and hotel/motels not be allowed (except those existing). This recommendation in the Comprehensive Plan is based on the results of the public opinion poll which shows a clear majority feeling the use is a low priority on the spit.

Substitute:

##### I. Planned Unit Non-residential Developments

Effect: This change is based upon the Homer Comprehensive Plan, Action 16.1, Homer Spit Plan. The change would allow for PUD's but would not allow residential uses in the development.

#### 21.52.040 Performance Standards

Add:

D. Point source discharges to a waterway shall be in conformance with the Alaska Department of Environmental Conservation regulations.

#### 21.52.050 Dimensional Requirements

Change to read:

B. Buildings shall be setback 20 feet from all dedicated rights-of-way and 10 feet from all other lot boundary lines.

### Open Space Recreation

#### 21.54.020 Permitted Uses and Structures

Change to read:

B. Park, playground and related recreation activities. (delete campground, already listed under 21.54.030)

Effect: Eliminates duplication.

#### Conditional Use Permits

21.61.060 Standards for Planned Unit Developments

Change to read:

"C. In order to determine the possible acceptability of a proposed Conditional Use, the applicant may prepare a preliminary Concept Plan for review by the City. At the option of the applicant, concept approval may be waived and the proposed Conditional Use may be submitted for final approval. All information listed as required for concept approval shall be required before final approval. The concept plan shall include..."

Effect: This change allows the developer to eliminate the Concept Plan review stage if all necessary information is submitted.

Change Step D.(1) to D.(6) to read:

D.(1) If the conditional use application is approved with modifications the applicant shall proceed with preparation of a revised Final Plan. A Final Plan ...

Effect: See above. This change will only require a revised Final Plan if modifications are attached.

Change Step D.(4) to D.(1).

Change Step D.(5) to D.(4) to read:

D.(4) Upon receipt of the administrative review and recommendation, the Homer Planning Commission shall establish a finding that the Final Plan is consistent with the Conditional Use, or that it is inconsistent.

Effect: See above.

Change Step D.(6) to D.(5) to read:

- D. (5) "In the event it is determined that the Final Plan is consistent with the Conditional Use, the Homer Planning Commission shall approve the Final Plan with modifications or conditions."

#### Nonconformity

##### 21.64.035 Proof of Nonconforming Use

Spelling mistake, corrected to read "nonconforming".

#### Appeals

Procedures for appeals have been completely revised as follows:

##### Chapter 21.68

**21.68.010 Purpose.** This chapter governs all appellate actions and determinations taken under the Homer City Zoning Ordinance.

**21.68.020 Who may appeal.** Any person or persons with interests in land which is affected by an action or determination taken under Chapters 21.28 through 21.70, may appeal said action or determination.

**21.68.030 Period for appeal.** An appeal to the Planning Commission or City Council must be filed within 15 days of the action or determination being appealed. Any party participating in an appeal to the court, shall have 30 days to appeal the decision. Any decision not appealed within that period shall become final.

**21.68.040 Appeal application.** A. All applications for an Administrative appeal shall be filed with the City Manager; all applications for appeals from the Planning Commission will be filed with the City Clerk. All appeals shall be in writing and shall contain, but are not limited to, the following information:

1. The name and address of the applicant;
2. A description of the action or determination from which the appeal is sought;
3. The reason for the appeal which must include a description of detailed and specific allegations of error.

B. The period for decisions specified in Section 21.68.060A shall begin immediately upon receipt of the appeal by the City Manager or City Clerk.

**21.68.060 General appeals procedure.** A. All appeals must be decided by the agency with whom the appeal has been filed within 60 days after the appeal has been filed with that agency.

B. The appellant and all parties who have participated in the decision shall be provided with 15 days notice of the scheduling of the appeal hearing. Affected property owners shall be notified as set forth in Section 21.69.030.

C. An electronic recording shall be kept of the entire proceeding and shall be reduced to written minutes. The electronic recording shall be preserved for 1 year unless required for further appeals.

D. All decisions shall be in writing and made solely upon the record before the agency hearing the appeal and shall make reference to evidence contained in the record. The agency shall include in its record the officially adopted minutes and decisions of the agency from which the appeal was taken.

E. The agency deciding an appeal shall adopt as part of its decision an official statement of findings and reasons supporting its decision. This statement shall refer to specific evidence in the record and to the controlling sections of Chapters 21.28 through 21.70. Upon express vote, the agency may adopt, as its statement of findings and reasons, those findings and reasons officially adopted by the agency below from which the appeal was taken.

F. Copies of the agency's decision and official statement shall be promptly mailed to all parties participating in the appeal hearing.

**21.68.070 Appeal to the Board of Adjustment.** A. New Evidence - Appeals alleging new evidence or changed circumstances shall not be heard but will be remanded by the Clerk forthwith to the lower administrative body.

B. Preparation of Record - Upon timely submittal of an appeal, the Clerk shall:

1. Prepare an appeal record consisting of all relevant documents involved in the original decision including any staff reports, minutes, and appellant documents utilized in the original decision.

2. Allow an additional written brief from the appellant and/or appellee in support of or denying those allegations of error specified in the notice of appeal, without introducing any new evidence or change of circumstance.

3. Notify the Board of Adjustment at the next regular or special meeting of the City Council of the intent to appeal.

C. Appeal Hearing:

1. The meeting at which the Board of Adjustment deliberates and decides an appeal shall be open to the public.

2. The Board of Adjustment shall not hear arguments nor take testimony or other evidence. It may consider only the material contained in the record prepared by the Clerk.

3. The Board of Adjustment may exercise its independent judgement on legal issues raised by the appellant. Legal issues as used in this section are those matters that relate to the interpretation or construction of ordinances or other provisions of law.

4. The Board of Adjustment shall defer to the judgement of the lower administrative body regarding disputed issues of fact. Findings of fact adopted expressly or by necessary implication by the lower body shall be considered as true if they are supported by substantial evidence. Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

21.68.080 Appeals to the Homer Advisory Planning Commission. A. An appeal may be filed by any party adversely affected by any action of the Administration.

B. A public hearing shall be scheduled as per Section 21.68.060 of this document.

C. The Commission may prescribe rules of procedure for additional public notification in cases where a decision of the board would have a substantial effect on the surrounding neighborhood.

#### Amendment Procedures

21.70.010 Initiation of Zoning Ordinance Amendments

Add "appropriate fee":

E. The zoning amendment request shall include the name and address of the applicant, a map showing the area involved, the present zoning and proposed zoning, the appropriate fee, if applicable, and any other pertinent information requested by the City.

Effect: This change makes the zoning ordinance and Resolution 82-30(S) comply.

#### Zoning Map Amendment

A request has been received to rezone Lots 166A and 166B of Bay View Subdivision from General Commercial 2 to General Commercial 1. The majority of the property owners of this area have submitted the petition.

The Planning Commission will also consider rezoning Lots 1, 2, 3, 4, 5, 6, 7, 8, and 9 of Bay View Subdivision from General Commercial 2 to General Commercial 1.

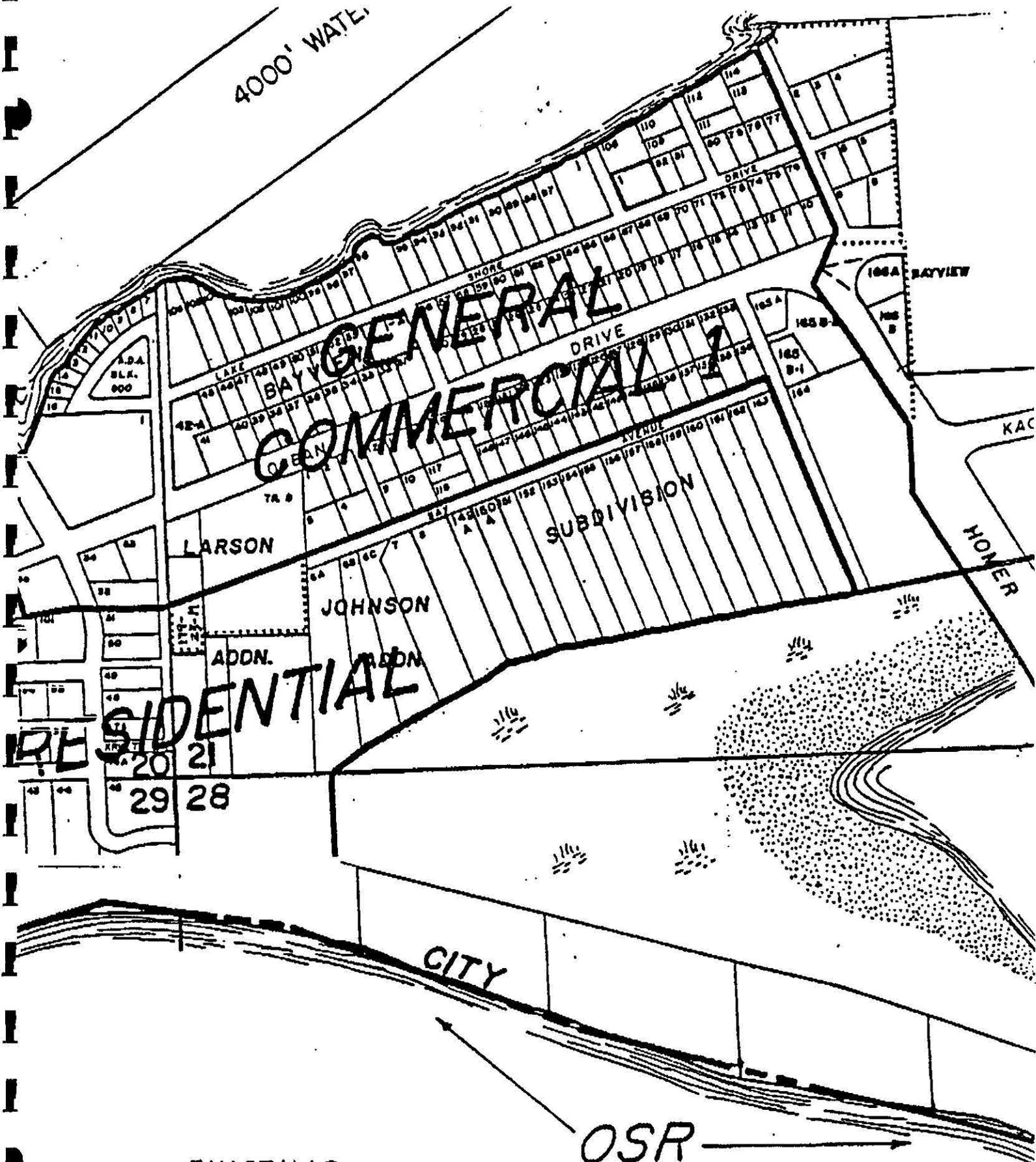
A request has been received to rezone Tract B, Bay View Subdivision,

Staff Report PL 83-90

Page 11

Larson Addition and the Planning Commission will consider rezoning lot #179-23-19 in addition, from Rural Residential to General Commercial 1. Currently the north half of the lots are zoned General Commercial 1 and the south half are zoned Rural Residential.

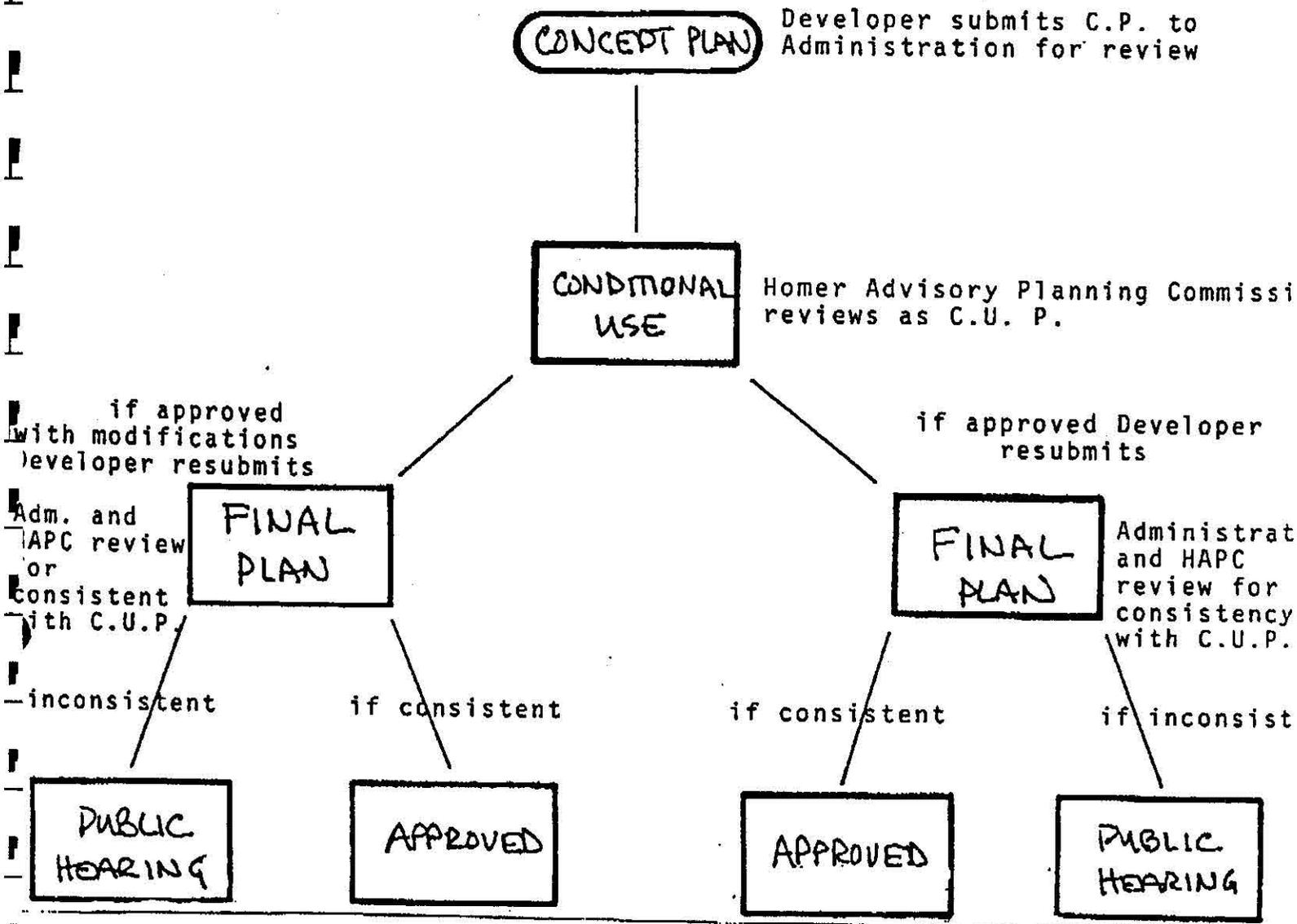
4000' WATER



——— EXISTING  
 ..... PROPOSED

OSR →

REQUIRED PROCEDURES FOR PLANNED UNIT DEVELOPMENTS



RECOMMENDED PROCEDURES FOR PLANNED UNIT DEVELOPMENTS

OPTIONAL-- Developer submits Concept Plan to Administration for review

Submits Final Plan for C.U.P. review

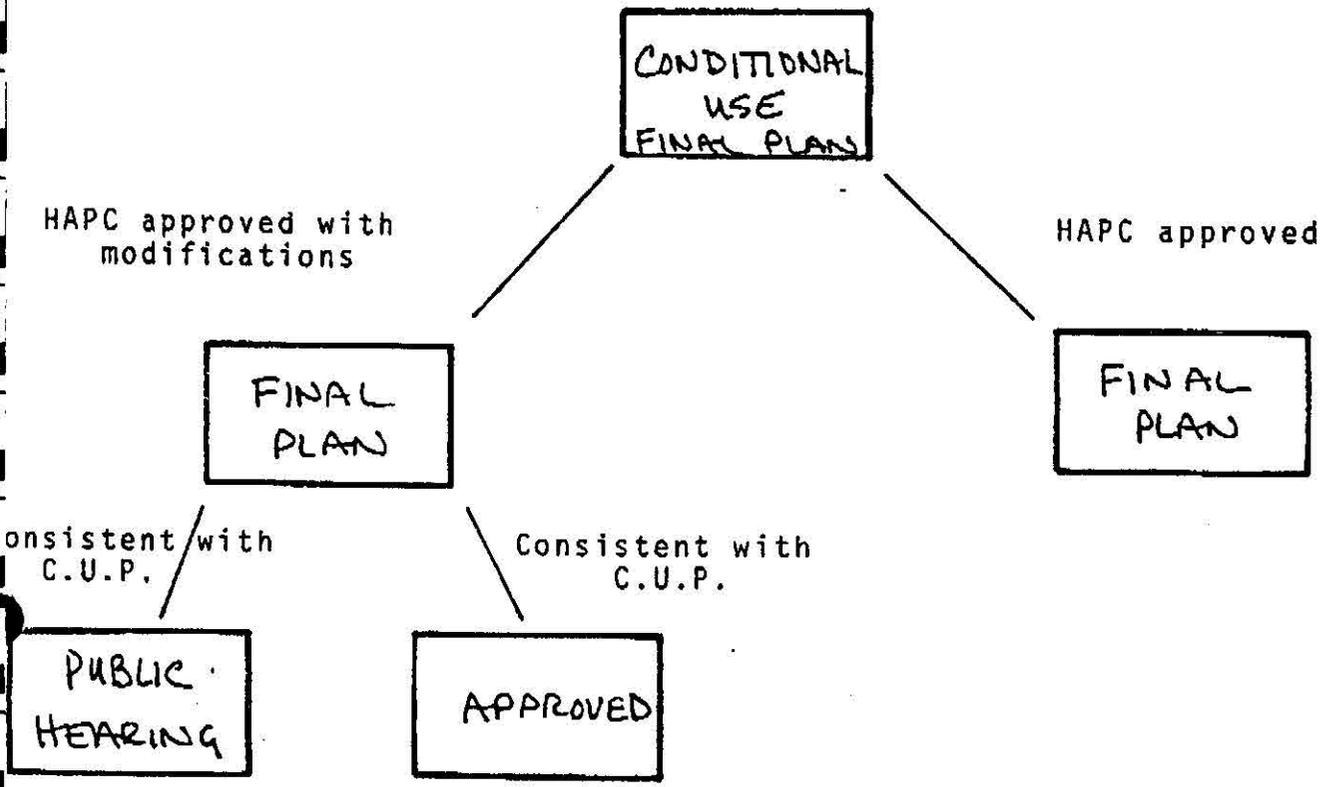


EXHIBIT 6

STAFF REPORT PL 83-90

EXHIBIT 6

Box 335  
Homer, Alaska 99603



REPLY TO:

- City Hall  
Ph. (907) 235-8121
- Port of Homer  
Ph. (907) 235-8597
- Harbor Master  
Ph. (907) 235-8959
- Public Works Dept.  
Ph. (907) 235-8120
- City Engineer  
Ph. (907) 235-6388

STAFF REPORT PL 83-90

TO: HOMER ADVISORY PLANNING COMMISSION  
FROM: ADMINISTRATION *RK*  
DATE: OCTOBER 11, 1983  
SUBJECT: ZONING ORDINANCE AND MAP AMENDMENTS

The following amendments to the zoning ordinance and map are proposed for your consideration. Most of the amendments are "house cleaning" items. Justification for the proposed amendments are included under the changes.

Definitions

Day Care - change to read:

**Day Care.** Any home, place or institution which provides babysitting care for compensation and is duly licensed by the State.

**Effect:** Eliminates the phrase "for three or more children" since the State requires a license for day care homes for five or more children.

Babysitting services for four or fewer children will be considered as "home occupations". This change will make administrative interpretation of day care facilities clearer since we can use the State licensing procedure for clarification.

Add definition:

**Nonconforming Use.** A use which was lawfully established in compliance with all applicable ordinances and laws, but which no longer conforms because of the applications of a subsequent zoning ordinance.

**Effect:** This defines a term previously undefined.

Add:

- M. Temporary (seasonal) roadside stands for the sale of produce grown on the premises.

Effect: This change allows temporary stands as a permitted use since they are "temporary" in nature.

21.44.030 Conditional Uses and Structures

Change to read:

- F. Commercial greenhouses and tree nurseries for sale of produce grown on the premises.

Effect: This change allows for commercial greenhouses and tree nurseries since the district is designed for limited agricultural pursuits, and retail sales would be subordinate to the primary use.

Change to read:

- G. Multi-family structures containing three or more units which exceed the density requirements in Section 21.45.040 (A)(2).

Add:

- N. Day Care Facilities.

Effect: Added to allow for day care in residential district. Day care as defined by the State license, requires "an occupied residence" for a day care facility.

Central Business District

21.48.020 Permitted Uses and Structures

Change to read:

- M. Mobile commercial structures on a temporary basis for a maximum of one year during construction of a permanent structure.

Effect: This change is based on recent Commission action.

Add:

Q. Home Occupations provided they conform to the standards in Chapter 21.44.020 (F).

Effect: This allows for home occupations in residences, therefore not discriminating CBD residences from other districts.

Add:

R. Mini Storage

Effect: This change reflects recent Commission action.

Add:

S. Other similar uses as determined by the Planning Commission.

Effect: This change allows flexibility for the Commission to review uses that are not defined.

21.48.030 Conditional Uses and Structures

Change to read:

B. Indoor recreation facilities such as theaters, bowling alleys, skating rinks or similar uses. (delete commercial).

Effect: This change eliminates an unnecessary qualifier.

Change to read:

D. Apartment units located in buildings primarily devoted to commercial uses.

Effect: This change allows for more than one apartment unit in a commercial building; proposed since multi-family dwellings are a conditional use.

#### General Commercial 1

21.49.020 Permitted Uses and Structures

Change to read:

AA. Warehousing, commercial storage and mini storage.

Effect: This change reflects recent Commission action.

Change to read:

CC. Mobile commercial structures on a temporary basis for a maximum of one year during construction of a permanent structure.

Effect: This change reflects recent Commission action.

#### General Commercial 2

21.50.020 Permitted Uses and Structures

Delete:

K. Public utility installations and buildings (listed under 21.50.030 (I))

Effect: Eliminates duplication.

Change to read:

T. "Accessory Uses to the uses permitted in the GC2 district which are clearly subordinate to the main use of the lot or building, such as wharves, docks, restaurant or cafeteria..."

Effect: This change adds "wharves and docks" as an accessory use.

#### Marine Commercial

21.52.030 Conditional Uses and Structures

Delete:

I. Hotels and Motels

This change is based on Policy 16.1 (Homer Spit Plan) of the Comprehensive Plan that recommends residences and hotel/motels not be allowed (except those existing). This recommendation in the Comprehensive Plan is based on the results of the public opinion poll which shows a clear majority feeling the use is a low priority on the spit.

Substitute:

I. Planned Unit Non-residential Developments

Effect: This change is based upon the Homer Comprehensive Plan, Action 16.1, Homer Spit Plan. The change would allow for PUD's but would not allow residential uses in the development.

21.52.040 Performance Standards

Add:

D. Point source discharges to a waterway shall be in conformance with the Alaska Department of Environmental Conservation regulations.

21.52.050 Dimensional Requirements

Change to read:

B. Buildings shall be setback 20 feet from all dedicated rights-of-way and 10 feet from all other lot boundary lines.

Open Space Recreation

21.54.020 Permitted Uses and Structures

Change to read:

B. Park, playground and related recreation activities. (delete campground, already listed under 21.54.030)

Effect: Eliminates duplication.

Conditional Use Permits

21.61.060 Standards for Planned Unit Developments

Change to read:

"C. In order to determine the possible acceptability of a proposed Conditional Use, the applicant may prepare a preliminary Concept Plan for review by the City. At the option of the applicant, concept approval may be waived and the proposed Conditional Use may be submitted for final approval. All information listed as required for concept approval shall be required before final approval. The concept plan shall include..."

Effect: This change allows the developer to eliminate the Concept Plan review stage if all necessary information is submitted.

Change Step D.(1) to D.(6) to read:

D.(1) If the conditional use application is approved with modifications the applicant shall proceed with preparation of a revised Final Plan.

Effect: See above. This change will only require a revised Final Plan if modifications are attached.

Change Step D.(4) to D.(1).

Change Step D.(5) to D.(4) to read:

D.(4) Upon receipt of the administrative review and recommendation, the Homer Planning Commission shall establish a finding that the Final Plan is consistent with the Conditional Use, or that it is inconsistent.

Effect: See above.

Change Step D.(6) to D.(5) to read:

D.(5) "In the event it is determined that the Final Plan is consistent with the Conditional Use, the Homer Planning Commission shall approve the Final Plan with modifications or conditions."

#### Contract Rezoning

Report from the City Attorney.

#### Nonconformity

21.64.035 Proof of Nonconforming Use

Spelling mistake, corrected to read "nonconforming".

#### Appeals

21.68.030 Period for Appeal

Change period of appeal from 10 days to 15 days to allow more time for

response; to read: "The initial appeal must be filed within 15 days of the action or determination being appealed."

Also add: "Any party participating in a subsequent appeal of a decision to a higher agency or court, shall have 30 days to appeal the decision. Any decision not appealed within that period shall become final."

Effect: This change clarifies the time period for appeal and allows additional time for the initial appeal.

Change 21.48.040 to read:

Appeal Application. A. All applications for an Administrative appeal shall be filed with the City Manager, all applications for appeals from the Planning Commission will be filed with the City Clerk. All appeals shall be in writing..."

Change B. to read:

"The period for decisions specified in Section 21.68.060 B shall begin immediately upon receipt of the appeal by the City Manager or City Clerk."

21.68.060 Appeals Procedure

Change to read:

E. All persons taking part in the appeal may be represented by such persons as they desire; no new evidence shall be introduced.

Effect: This change will not allow new evidence to be submitted at a later stage in the appeal hearing, in fairness to all participants in the earlier hearings.

Delete:

J. Added under 21.68.030.

#### Amendment Procedures

21.70.010 Initiation of Zoning Ordinance Amendments

Add "appropriate fee":

E. The zoning amendment request shall include the name and address of the applicant, a map showing the area involved, the present

zoning and proposed zoning, the appropriate fee, if applicable, and any other pertinent information requested by the City.

Effect: This change makes the zoning ordinance and Resolution 82-30(S) comply.

#### Zoning Map Amendment

A request has been received to rezone Lots 166A and 166B of Bayview Subdivision from General Commercial 2 to General Commercial 1. The majority of the property owners of this area have submitted the petition. A public hearing is required and adjoining property owners will be notified.

Part two of Regular Meeting 11/14/83

**EXHIBIT 7**

**STAFF REPORT PL 83-84**

EXHIBIT 7



Box 335  
Homer, Alaska 99603

REPLY TO:

- City Hall  
Ph. (907) 235-8121
- Port of Homer  
Ph. (907) 235-8597
- Harbor Master  
Ph. (907) 235-8959
- Public Works Dept.  
Ph. (907) 235-8120
- City Engineer  
Ph. (907) 235-6368

STAFF REPORT PL 83-84

TO: HOMER ADVISORY PLANNING COMMISSION  
FROM: ADMINISTRATION *PK*  
DATE: SEPTEMBER 30, 1983  
SUBJECT: ZONING ORDINANCE AND ZONING MAP PROPOSED AMENDMENTS

After working with the revised zoning ordinance for one year, Administration is requesting that several amendments be considered, as follows:

**Definition of Terms, Chapter 21.32.020**

1. Add definition for mini storage, camping.
2. Revise definition for campground, day care facilities.

**Rural Residential District, Chapter 21.44**

1. Revise multi-family structures to include conformance with standards as required in the Urban Residential District, 21.45.042 A(2).
2. Nonconforming lots are grandfathered and can be developed, but at what density? Propose to allow development of nonconforming lots under standards of Section 21.45.040 A(2).
3. Add day care facilities as a permitted accessory use to district and use state standards defining limitations on facilities.
4. Address private/public schools; may want public schools to be a conditional use, same as private.

**Urban Residential District, Chapter 21.45**

1. Revise day care facilities as a permitted accessory use.
2. Address private/public schools.

**Central Business District, Chapter 21.48**

1. Consider allowing home occupations since residential uses are allowed.
2. Add "Other similar uses as determined by Planning Commission" under permitted uses to allow flexibility.
3. Under conditional uses, consider allowing apartment units (more than one) when located in buildings primarily devoted to commercial uses - to allow second story rentals.
4. Add mini storage as permitted accessory use.

**General Commercial 1, Chapter 21.49**

1. Under permitted uses, consider allowing apartment units (more than one) in buildings primarily devoted to commercial uses.
2. Add mini storage to "Warehousing and commercial storage" as permitted use.

**General Commercial 2, Chapter 21.50**

1. Public utility installations and buildings are listed as permitted, and public utility facilities and structures are listed as conditional use - they are the same.
2. Add wharves and docks as conditional use subject to standards of Section 21.52.050.

**Marine Commercial, Chapter 21.52**

1. Delete hotel/motels from conditional uses.

**Open Space Recreation, Chapter 21.54**

1. Campground is listed under permitted and conditionally permitted uses; revise conditional to read: D. Recreation vehicle and/or tent campground.

**Supplemental Regulations, Chapter 21.60**

1. Revise sign standards.
2. Yard projections - include decks.

**Conditional Uses, Chapter 21.61**

1. Under Standards for Planned Unit Developments, allow developer to submit final plan rather than require concept plan, if the developer has all information ready. Allow administrative review of final plan and administrative approval provided plans conform to Commission recommendations.

### Contract Rezoning, Chapter 21.63

1. Review legality of contract rezoning in light of recent state legislation.

### Appeals, Chapter 21.68

1. Extend period of initial appeal to 15 days since administrative actions are done by mail and appeal period is short.
2. If new evidence is introduced in the appeal hearing, the case should be remanded to the lower body to hear the new evidence. Do not allow new evidence to be introduced in any appeal.

### Zoning Map Amendments

1. Consider rezoning Lots 166A and 166B of Bayview Subdivision to General Commercial 1 from General Commercial 2. Consider moving General Commercial 1 district line further east to abut state airport property.

In order to have the zoning ordinance and camping ordinance compatible, several changes to both ordinances will be needed, specifically allowing one camper to locate on private property in apparent violation of the zoning ordinance.

Administration recommends the Planning Commission schedule a worksession to address the proposed amendments. Prior to the worksession, a packet will be prepared detailing the specifics of each amendment.